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CONGRESSIONAL RECORD,

SIXTY-SECOND CONGRESS, THIRD SESSION.

SENATE.

MONDAY, *January 6, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

Mr. BACON took the chair as President pro tempore under the order of the Senate of December 16, 1912.

CLARENCE W. WATSON, a Senator from the State of West Virginia, appeared in his seat to-day.

The Journal of the proceedings of Saturday last was read and approved.

Mr. SMOOT. I move that the Senate proceed to the consideration of executive business.

Mr. BRISTOW. Why should we not transact morning business before that motion is made?

Mr. GALLINGER. The motion is not debatable.

The PRESIDENT pro tempore. The motion is not debatable.

Mr. BRADLEY. What is the motion before the Senate?

The PRESIDENT pro tempore. The Senator from Utah moves that the Senate proceed to the consideration of executive business. [Putting the question.] The ayes appear to have it.

Mr. TILLMAN. I ask for the yeas and nays.

The PRESIDENT pro tempore. The Senator from South Carolina demands the yeas and nays. Is there a second? [After a pause.] Only six Senators voting in the affirmative, unless there is a call for a division the Chair will state that not a sufficient number have seconded the demand for the yeas and nays.

Mr. CLAPP. I suggest the want of a quorum.

The PRESIDENT pro tempore. The Senator from Minnesota suggests the absence of a quorum, and the Secretary will proceed to call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cummins	McCumber	Smith, Ga.
Bacon	Curtis	Martin, Va.	Smith, Md.
Bankhead	Dillingham	Nelson	Smoot
Borah	Dixon	Newlands	Stephenson
Bourne	du Pont	Oliver	Sutherland
Bradley	Fletcher	Page	Swanson
Bristow	Foster	Paynter	Thornton
Brown	Gallinger	Perkins	Tillman
Burnham	Gore	Perky	Townsend
Burton	Gronna	Pomerene	Warren
Chamberlain	Jackson	Richardson	Watson
Clapp	Jones	Root	Wetmore
Clark, Wyo.	Kenyon	Sanders	Works
Crane	Kern	Shively	
Crawford	Lippitt	Simmons	
Cullom	Lodge	Smith, Ariz.	

Mr. TOWNSEND. I desire to state that the senior Senator from Michigan [Mr. SMITH] is absent on business of the Senate. I will let this statement stand for the day.

Mr. BANKHEAD. I wish to state that my colleague [Mr. JOHNSTON of Alabama] is detained from the Senate on account of illness.

Mr. SHIVELY. I wish to announce that the junior Senator from New York [Mr. O'GORMAN], the junior Senator from New Jersey [Mr. MARTINE], the senior Senator from Arkansas [Mr. CLARKE], and the junior Senator from Florida [Mr. BRYAN] are absent attending the funeral of the late Senator from Arkansas, Mr. DAVIS.

Mr. SIMMONS. I wish to announce that my colleague [Mr. OVERMAN] is absent on account of illness.

Mr. FLETCHER. I wish to state that the junior Senator from Florida [Mr. BRYAN] is absent on business of the Senate.

The PRESIDENT pro tempore. Upon the call of the roll of the Senate 61 Senators have responded to their names. A quorum is present. The question is on agreeing to the motion of the Senator from Utah that the Senate proceed to the consideration of executive business.

Mr. SMOOT. I ask the unanimous consent of the Senate to withdraw the motion for an executive session, as the Senator from Kansas [Mr. BRISTOW] has an important bill to introduce, and he wishes to make a few remarks upon it.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Utah?

Mr. CLARK of Wyoming. I ask the Senator from Utah if it is not his intention to include other morning business.

Mr. GALLINGER. I suggest that the morning business shall be first transacted.

The PRESIDENT pro tempore. If the motion is withdrawn it is withdrawn for all purposes and will have to be renewed. There being no objection, the motion is withdrawn.

EXPENSES OF ATTENDANCE AT MEETINGS OR CONVENTIONS (H. DOC. NO. 1227).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a statement showing all expenses incurred from June 30, 1912, until December 1, 1912, by officers or employees of the Interior Department in attending meetings or conventions of any society or association, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

GEORGE W. LUTTRELL V. THE UNITED STATES (S. DOC. NO. 994).

The PRESIDENT pro tempore laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact and conclusion filed by the court in the cause of George W. Luttrell *v.* The United States, which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. OLIVER presented a petition of members of the Nanticoke District Mining Institute, of Nanticoke, Pa., praying for the passage of the so-called Page vocational education bill, which was ordered to lie on the table.

He also presented a petition of Local Branch No. 113, National Association of Letter Carriers, of Sharon, Pa., praying for the enactment of legislation providing for the retirement of certain employees in the civil service, which was referred to the Committee on Civil Service and Retrenchment.

He also presented a petition of the Board of Trade of Philadelphia, Pa., praying for the enactment of legislation providing for the holding of an international conference on the subject of the high cost of living, which was referred to the Committee on Finance.

Mr. BRISTOW presented a petition of sundry citizens of Kansas City, Kans., praying that an investigation be made into the methods used in the prosecution of the socialist paper, Appeal to Reason, published at Girard, Kans., which was referred to the Committee on the Judiciary.

Mr. GALLINGER presented resolutions adopted by the Washington Chapter of the American Institute of Architects, favoring the enactment of certain legislation relative to the construction of reviewing stands, etc., for the inauguration of the President elect, which were referred to the Committee on Public Buildings and Grounds.

Mr. GRONNA presented a petition of sundry citizens of Aneta, N. Dak., and a petition of sundry citizens of Park River, N. Dak., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. WARREN presented sundry papers to accompany the bill (S. 7604) granting an increase of pension to Mary E. Lafontaine, which were referred to the Committee on Pensions.

Mr. LODGE presented petitions of members of the Cooper League of the Washington Street Baptist Church, of Lynn; of members of sundry men's clubs of Newton; of the congregation of the First Baptist Church of Hudson; of members of the Adult Bible Class of the Methodist Episcopal Church of Newton Center; of members of the John P. Freese Memorial Bible Class, of the Grace Congregational Church, of Framingham; of members of the Claflin Club of the Methodist Episcopal Church of Newtonville; of Rev. A. J. Dyer, of Sharon; and of sundry citizens of Lawrence, all in the State of Masachusetts, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a petition of the Woman's Christian Temperance Union of Newton, Mass., and a petition of members of the Cooper League of the Washington Street Baptist Church, of Lynn, Mass., praying for the passage of the so-called Kenyon "red-light" injunction bill, which were referred to the Committee on the District of Columbia.

Mr. WETMORE presented a petition of Old Warwick Grange, Patrons of Husbandry, of Warwick, R. I., praying for the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which was ordered to lie on the table.

He also presented a petition of Rear Admiral Charles M. Thomas Camp, No. 3, United Spanish War Veterans, of Newport, R. I., and a petition of Sidney F. Hoar Camp, No. 4, United Spanish War Veterans, of Providence, R. I., praying for the enactment of legislation to pension widows and minor children of any officer or enlisted man who served in the War with Spain or the Philippine insurrection, which were referred to the Committee on Pensions.

Mr. ROOT presented petitions of the Cayuga County No License League, of Port Byron; of the congregation of the Bushwick Avenue Methodist Episcopal Church, of Brooklyn; of the Herkimer County Woman's Christian Temperance Union, of Frankfort; of the Woman's Christian Temperance Union of Horseheads; of the congregation of the First Presbyterian

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Church of Wolcott; of the Onondaga County Baptist Social and Missionary Union, of Syracuse; of the congregations of the Methodist Episcopal Church of Montour Falls; the Methodist Episcopal Church of West Frankfort; the Methodist Episcopal Church of West Schuyler; the American Reformed Church; the St. Johns Methodist Episcopal Church, and the Moulton Memorial Baptist Church, of Newburgh; and of sundry citizens of Champlain, Cincinnatus, Collamer, Chazy, Delhi, La Fayette, Perry Mills, Silver Springs, Syracuse, Tully, and Wolcott, all in the State of New York, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CLARK of Wyoming:

A bill (S. 7968) to increase the limit of cost for the purchase of a site and the construction of a public building in Honolulu, Territory of Hawaii; to the Committee on Public Buildings and Grounds.

By Mr. GORE:

A bill (S. 7969) to make Oklahoma City, Okla., a subport of entry under the jurisdiction of the surveyor of customs at Kansas City, Mo., and extending the privileges of the seventh section of the act of June 10, 1880, thereto; to the Committee on Commerce.

By Mr. CHAMBERLAIN:

A bill (S. 7971) to cause certain lands to revert to the State of Oregon; and

A bill (S. 7972) to regulate homestead entries in cases where persons otherwise entitled as heirs or devisees of a deceased applicant are disqualified by reason of alienage; to the Committee on Public Lands.

By Mr. SMOOT:

A bill (S. 7973) to amend an act entitled "An act relating to rights of way through certain parks, reservations, and other public lands," approved February 15, 1901; and

A bill (S. 7974) to amend the act entitled "An act relating to rights of way through certain parks, reservations, and other public lands," approved February 15, 1901; to the Committee on Public Lands.

By Mr. OLIVER:

A bill (S. 7975) granting a pension to Florence Bayler (with accompanying papers); to the Committee on Pensions.

By Mr. GRONNA:

A bill (S. 7976) to amend section 1 of an act entitled "An act to provide for agricultural entries on coal lands," approved June 22, 1910; to the Committee on Indian Affairs.

By Mr. KENYON:

A bill (S. 7977) granting an increase of pension to Charles W. Bowles;

A bill (S. 7978) granting an increase of pension to Milissa A. McGowan;

A bill (S. 7979) granting an increase of pension to Louis H. Ruehle;

A bill (S. 7980) granting an increase of pension to Isaac O. Foote;

A bill (S. 7981) granting an increase of pension to Francis W. Crumpton; and

A bill (S. 7982) granting an increase of pension to William Guhl; to the Committee on Pensions.

By Mr. ASHURST:

A bill (S. 7983) granting a pension to John T. O'Brien; to the Committee on Pensions.

By Mr. BURNHAM:

A bill (S. 7984) granting an increase of pension to Hannah Peavey; to the Committee on Pensions.

By Mr. WETMORE:

A bill (S. 7985) granting an increase of pension to Benjamin F. Corey (with accompanying papers); and

A bill (S. 7986) granting an increase of pension to John Wells (with accompanying paper); to the Committee on Pensions.

By Mr. STEPHENSON:

A bill (S. 7987) granting an increase of pension to Charles Brown (with accompanying papers); and

A bill (S. 7988) granting an increase of pension to John Eagan (with accompanying papers); to the Committee on Pensions.

By Mr. LA FOLLETTE:

A bill (S. 7989) granting a pension to Mary MacArthur; to the Committee on Pensions.

CREATION OF INDUSTRIAL COMMISSION.

Mr. BRISTOW. Mr. President, I introduce a bill to create an industrial commission and defining its powers and duties, and I desire briefly to explain the bill.

The bill (S. 7970) to create an industrial commission and defining its powers and duties was read twice by its title.

Mr. BRISTOW. Mr. President, the bill which I have introduced creates an industrial commission and defines its powers and duties.

The commission is to consist of seven members. They are to be appointed by the President and subject to removal by him for inefficiency, neglect of duty, or malfeasance in office. The term of the office is seven years.

The bill further provides for the removal by Congress of any commissioner by a vote of three-fifths of each House. This is to be a congressional commission of the same nature as the Interstate Commerce Commission, and, since it is created to carry out the policy and intention of Congress, according to rules which it prescribes, it seems to me that Congress should have the power to remove the commissioners if they fail to properly discharge the functions of their office. This proposed policy may meet opposition because it is an innovation, but, in my opinion, it is not only reasonable but desirable. It may be argued that Congress might act from partisan motives, as it frequently does in determining contests for membership in its own body, but the bill provides that the vacancy caused by a congressional removal is to be filled by the President in the usual way, so that while Congress can create a vacancy it can not fill it. That duty is left with the President, which, in my judgment, would make removals for partisan purposes improbable. They would be no more likely to occur than if removals were left wholly in the hands of the Executive.

The first 12 sections of the bill provide for the organization of the commission, define the scope of its operations, and give it the authority to secure the information necessary to carry out the purposes for which it is created. The Bureau of Corporations is merged into and made a part of the commission. The commission is given authority over every person, firm, copartnership, corporation, or joint-stock association that is doing an interstate business whose gross receipts exceed $5,000,000 per annum, and it is given authority to investigate the financial conditions, business operations, and management of all such concerns. It can require of them any information which it deems necessary for the proper discharge of its duties, and anyone refusing to comply with such demand is liable to punishment. To make a false report to the commission or to knowingly give it false information is made a penal offense.

Section 13 is intended to prevent the watering of stock, and requires that within three years the water be squeezed out of existing overcapitalized industries.

Section 14 limits the fees that may be paid to promoters for merging smaller corporations into larger ones, and is intended to prevent the evil practices so common in this character of corporation combinations.

Section 15 declares that any contract, combination in the form of trust or otherwise, or a conspiracy in restraint of trade shall be presumed to be unreasonable, and the burden of proof is placed on the corporation or joint-stock association to show that such combination or agreement or contract is not an unreasonable restraint of trade. This is intended to remedy as nearly as possible the evil which grows out of the decisions of the Supreme Court in the Standard Oil and Tobacco cases, wherein the court legislated the word "reasonable" into the Sherman antitrust law.

Sections 16, 17, 18, and 19 define certain acts and practices that are commonly indulged in by corporations in creating monopolies as unreasonable restraints of trade and violations of law.

The sections following 19 give the commission its drastic power and authorize it to investigate the operations of any of these concerns doing an interstate business, and to find whether or not they have violated the provisions of this act or of any other law of the United States against the restraint of trade. The commission is given authority to submit the result of these investigations to the Department of Justice for its action or to bring suits upon its own motion, either in its own name or in the name of the United States; that is, the act confers upon an industrial commission the authority over industrial concerns that the Interstate Commerce Commission now has with respect to the railroads.

The commission can bring suits under this law or under the Sherman antitrust law, or under any other law of the United States that seeks to regulate interstate and foreign commerce, except an act to regulate commerce approved February 4, 1887, commonly known as the interstate-commerce act. Any investigation in regard to the conduct of any one subject to the jurisdiction of the bill may be made by the commission either upon complaint or upon its own initiative, and if the commission finds that a corporation, copartnership, firm, person, or joint-stock association is violating the provisions of this act, or any of the

laws relating to the restraint of trade other than the interstate-commerce law referred to, it is directed to order such concern to desist and prescribe rules for it to follow in the operation of its business. If the party continues to violate the law, fails to obey the orders of the commission, or to follow the rules laid down by it, authority is given the commission to appoint a receiver for the concern and take possession of its property and wind up the business. This will probably be regarded as the most radical feature of the bill, but I am prepared to defend its wisdom. In case a receiver is appointed for a corporation or joint-stock association, it becomes his duty to call a meeting of the stockholders of the corporation, and they are required to determine whether or not they will elect officers for the corporation who will conduct its business in harmony with the law and the rules prescribed by the commission; and in the event that the stockholders refuse to elect such officers, then the receiver is directed to wind up the business of the corporation and distribute the proceeds among the stockholders pro rata, according to their several interests.

This bill, in short, creates an industrial commission, giving it the power over industrial concerns that the Interstate Commerce Commission has over transportation companies and which the Comptroller of the Currency has over national banks. It has combined the power and authority of these two governmental agencies into one commission and given it supervision over industrial establishments that engage in interstate trade.

The appointment of a receiver is not to interfere with any criminal prosecutions that may be determined upon. Suits brought by the Department of Justice or by the commission proceed as usual, but while these suits are pending and dragging their weary way for years through the courts the violations of the law will not be permitted to go on as they do now. They will be immediately stopped. The commission is authorized, if the interest of the public requires, to take possession of the property and operate it, and in the meantime the stockholders are given an opportunity to elect officers who will conduct the business in a legal way, and then the property is turned over to these new officers, while the criminal prosecution against the violators of the law is in no way interfered with. The purpose is to protect the people with some degree of promptness from the extortionate practices of powerful corporations without destroying the business which they represent. Because of the relation of some of these concerns to our industrial life, the continuance of their business might be a public necessity, so the bill undertakes to cure the evil without destroying the business.

Neither will it interfere with big business operations if such operations are along honest and creditable lines. It will not stop the growth of any big concern, provided that concern grows by honest methods. If it can produce a commodity in the fair and open field of competition at a less cost than its rivals, then it has the widest opportunity for success. The bill imposes no handicap upon energy, intelligence, or genius, but it does impose drastic restraints upon the use of intrigue and dishonesty to destroy business competitors.

The ineffectiveness of the courts or the Department of Justice to supervise big business has been clearly demonstrated in the Standard Oil and Tobacco cases. I do not believe that it is the province of the courts to supervise business. Their function is to decide what the law is, not to administer it in a legislative or executive capacity. It is not the province of the court or of the Attorney General, but of Congress, to fix the rules and prescribe the methods which such concerns shall follow in the management of their business when it affects interstate commerce.

I believe that the appointment of a receiver for a corporation that persistently violates the law will be far more effective in stopping the abuse that is growing out of the monopolization of our market place by giant industries than have been the indictments under the Sherman antitrust law. This bill, however, does not in any way weaken the power of the Sherman antitrust law. That law stands intact with all the potency that the courts have permitted it to retain. Every power which that law now has is preserved. We are simply providing additional means for more effectively controlling trusts, combinations, and monopolies.

Aside from the powers which are conferred upon the commission, there are two distinct features of the bill that have not heretofore been proposed in legislation of this kind. I refer to the provision enabling Congress to remove members of a commission by resolution and the authority for the commission to appoint a receiver to take possession of an industrial institution if those in control have refused to obey the law, and to require the stockholders to elect officers who will run it in a lawful way or to wind up its affairs.

I commend this bill to the careful consideration of every Senator and hope that the Committee on Interstate Commerce, to which it has been referred, will give it prompt consideration. The American people will not much longer submit to a few men monopolizing the business of the country. Some remedy must be provided speedily, and I am convinced that this bill offers an effective and safe way of curing these growing evils without endangering our industrial stability or prosperity.

Mr. SUTHERLAND. Mr. President, I desire to ask the Senator from Kansas a question with reference to one phase of his bill. I understood him to say that his bill provided that the proposed industrial commission—which, of course, is to be purely an administrative body—should be given the power to appoint a receiver. Is that correct?

Mr. BRISTOW. Yes.

Mr. SUTHERLAND. Has the Senator investigated the question as to whether or not it would be competent for Congress to confer that power upon an administrative body, and whether it is not purely a judicial function?

Mr. BRISTOW. Well, the Comptroller of the Currency appoints receivers for national banks; such receivers are executive officers, and I do not see why a commission could not be authorized to do the same thing. If Congress can authorize the Comptroller of the Currency to appoint a receiver for a national bank, which is a corporation, why can it not authorize a commission to appoint a receiver for any other corporation?

The PRESIDENT pro tempore. The bill will be referred to the Committee on Interstate Commerce.

AMENDMENT TO AGRICULTURAL APPROPRIATION BILL.

Mr. WARREN submitted an amendment authorizing the Secretary of Agriculture to expend an additional 20 per cent of the moneys received from the national forests during the fiscal year ending June 30, 1913, and also an additional 20 per cent of all moneys received during the fiscal year ending June 30, 1914, for the construction and maintenance of roads and trails within the national forests in the State from which such proceeds are derived, etc., intended to be proposed by him to the agricultural appropriation bill, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

HEALTH STATISTICS.

Mr. WORKS submitted the following resolution (S. Res. 420), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be, and he is hereby, instructed to furnish to the Senate, at his earliest convenience, the following information:

1. The total expense to the Government for the year 1912 of its health departments, bureaus, and all other health activities, in its various branches, including the Public Health and National Quarantine, Public Health Service, medical departments of the Departments of War, Navy, and other departments, hospitals, hygienic laboratories, medical schools, attending surgeons, surgeons general, bureau of medicine and surgery, boards of examinations of officers, board of medical examiners, Children's Bureau, medical service in Bureau of Immigration, and all other bureaus or branches of the health and medical service of the Government, giving the expense of each separately and the total expense of the whole of them.

2. The number of officers and employees of such service, in each and all branches thereof, and their salaries and other compensation.

TRANSPORTATION OF FRANKABLE MATTER.

Mr. KENYON submitted the following resolution (S. Res. 421), which was read, ordered to lie on the table, and be printed:

Resolved, That the Postmaster General furnish to the Senate, if possible for him to do so, a statement showing the amount of mail franked from the headquarters of all candidates in all parties for the presidential nominations of their respective parties in 1912 in the pre-convention campaign; and also a statement, if possible for him to do so, showing the amount of mail franked from the headquarters of the various political parties in the political campaign of 1912, and an estimate of the cost to the Government of the transportation of such mail.

EXPENSE OF CARRYING SEEDS, ETC.

Mr. KENYON submitted the following resolution (S. Res. 422), which was read, ordered to lie on the table, and be printed:

Resolved, That the Postmaster General furnish to the Senate an estimate, if possible for him so to do, of the expense to the Government for the last four years of the carrying of seeds, plants, and bulbs franked through the mails.

FREE DISTRIBUTION OF SEED.

Mr. KENYON submitted the following resolution (S. Res. 423), which was read, ordered to lie on the table, and be printed:

Resolved, That the Secretary of Agriculture furnish to the Senate an estimate of the expense to the Government for the last four years of purchasing or securing seeds, bulbs, plants, trees, etc., for free distribution by Members of Congress and the total number of packages so furnished. Also the expense of preparing the same for such free distribution and delivery of same to the mails.

INVESTIGATION OF CAMPAIGN CONTRIBUTIONS.

The PRESIDENT pro tempore. The Chair lays before the Senate a resolution coming over from a previous day, which will be read.

The Secretary read the resolution (S. Res. 418) submitted by Mr. CLAPP on the 4th instant, as follows:

Resolved, That Senate resolution 79, agreed to August 26, 1912, be, and the same is hereby, amended by inserting, in line 2, page 2, of said resolution, after the word "eight," the words "November 5, 1912."

Mr. OLIVER. Mr. President, I make the point of order that this resolution calls for the expenditure of money, and, under Rule XXV, should go to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. CLAPP. Mr. President, I had, of course, anticipated that that point of order would be made. I desire to call the attention of the Senate to the fact that this is simply an amendment to a resolution which did go to the Committee to Audit and Control the Contingent Expenses of the Senate. If the point made by the Senator from Pennsylvania is well taken, then whenever a resolution involving an expenditure goes to the Committee to Audit and Control the Contingent Expenses of the Senate and comes back before this body for action, no motion to amend that resolution can be entertained until the motion to amend has in turn been referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

I have not myself looked the matter up, but I had my clerk this morning look it up with a good deal of care, and he assures me that, while the original resolution, Senate resolution 79, went to the Committee to Audit and Control the Contingent Expenses of the Senate and was reported back, the subsequent resolution, Senate resolution 386, the resolution submitted by the senior Senator from Pennsylvania [Mr. PENROSE], amending the original resolution and very materially enlarging the duties and the possible expenditures to be incurred by the committee, was passed by the Senate without any action on the part of the Committee to Audit and Control the Contingent Expenses of the Senate.

All that the pending resolution does is to amend a resolution which in regular form went to that committee, was reported back by that committee, and adopted by the Senate. That resolution omitted from the scope of the inquiry of the committee the expenditures in the presidential campaign and congressional campaign of 1912; it covered the campaigns of 1904 and 1908 and also the primary campaign of 1912, but it left the committee without authority to inquire into the expenses of the presidential and congressional campaigns in the election held on the 5th of November, 1912. Inasmuch as the committee during some three or four months upon the authority of the resolution No. 79 has been obliged to delve amidst the catacombs of the past, it strikes me that it is within the power of the Senate, and clearly within the duty of the Senate, to authorize the committee to include in their investigations the expenses of the campaign itself of 1912.

I submit, Mr. President, that the point of order is not well taken.

Mr. GALLINGER. Mr. President, I have no disposition to obstruct the committee, which has been so industriously endeavoring to ascertain whether or not an undue amount of money has been spent in our presidential campaigns; and I confess I was very much startled when I read of the enormous contributions that had been made to the campaign of 1904. It was illuminating to me.

On the point of order, Mr. President, the function of the Committee to Audit and Control the Contingent Expenses of the Senate—and their authority does not go beyond that fact—is to ascertain whether or not there is money in the contingent fund to prosecute an inquiry.

When the original resolution was offered, the Committee on Contingent Expenses satisfied themselves of the fact that the money would be forthcoming, if called for. It is true that that resolution was subsequently amended without dissent, and to that extent the Senator has a precedent for asking that we further amend it. But it does seem to me, Mr. President, considering what is the function of that committee, and its only function, that when we propose to expend more money, that committee ought to be given an opportunity to say whether or not it is a wise investment of the public funds; and for that reason it seems to me very clear that the point of order having been made the resolution ought to go to that committee, as it would if this was an original proposition.

In saying this, Mr. President, I want to be distinctly understood as not putting myself in any attitude of obstruction to this proposed further investigation, if it is thought desirable to make it; but if we pass a simple resolution asking for an investigation that will cost $500 we might continue by amending that resolution to authorize an expenditure of $50,000, and the Committee to Audit and Control the Contingent Expenses of the Senate would have no opportunity to ascertain from the proper official whether or not the money was in hand.

And so, Mr. President, viewing it in that light, it seems to me that the matter ought to go to that committee, although personally I have very little interest in it. Whatever the Chair decides, of course, will be right.

Mr. MARTIN of Virginia. Mr. President, I have not heard all that has been said in respect to this matter. The point of order was made by the Senator from Pennsylvania [Mr. OLIVER], and he has not pointed out, nor have I heard pointed out by anyone else, anything in any of the rules of the Senate that deprives the Senate of its right to pass a resolution of this character. Surely a majority of the Senate has a right to pass a resolution of this sort unless there is some rule that explicitly forbids it.

Mr. GALLINGER. The statute.

Mr. MARTIN of Virginia. I have not had an opportunity to examine it, and the provision, if any there is, that forbids it has not been pointed out. Everybody knows that the Senate will provide the funds, if any are necessary, and it does seem to me that this is an obstruction, whether so intended or not. It is simply interposing a barrier against an investigation that can not be hurtful to the right. Certainly the country is entitled to know the facts. It can do no harm to those who have had charge of campaigns to give publicity to what they have done. I had hoped that there would be no technical barrier attempted to be interposed here to deprive the Senate of the privilege of enlarging the jurisdiction of a committee which has already been authorized to take up this general subject, and I know of no rule against it. As I said, I have not given any particular scrutiny to the rules, and I am very much surprised that a technical rule should be resorted to to prevent the light of day from shining on whatever has taken place in the last campaign or any other campaign.

I feel that the resolution is in order, and whether in order or not, I would regret very much to see it hindered and delayed by a technical objection.

Mr. GALLINGER. Mr. President, if the Senator from Virginia means that I have raised any technical objection, I want now to disclaim that. During my service here a great many resolutions have been offered proposing to take money from the contingent fund, and immediate consideration has been asked. The fact is that there is not any rule governing it, but there is a statute law governing it, providing that all such resolutions shall go to the Committee to Audit and Control the Contingent Expenses of the Senate.

Now, if the Senate wishes to put itself on record as saying that when a resolution is passed providing for taking a small amount of money from the contingent fund, that resolution can from time to time be amended without any action on the part of the Committee to Audit and Control the Contingent Expenses of the Senate, so it can be multiplied tenfold or a hundredfold, I have no objection to the Senate establishing that principle. But I can not fail to think that it is not a correct procedure when a point of order is made against the resolution. I did not make the point of order, and I speak simply because I think the rule, if construed as I think it ought to be, would recognize that the point of order is well taken. However it may be decided by the Chair, I shall be content.

Mr. CLAPP. I should like to ask the Senator from New Hampshire a question.

Mr. GALLINGER. Certainly.

Mr. CLAPP. What is the difference between this form of amendment and if, when the original resolution had come back from the Committee to Audit and Control the Contingent Expenses of the Senate, an amendment had been offered, not only probably but quite surely increasing the expenses as compared with the expenses possible under the resolution as reported by the Committee to Audit and Control the Contingent Expenses of the Senate? If the contention here maintained is tenable, no resolution reported by that committee could be amended on the floor of the Senate so as to increase the expenses without being referred back to the committee.

Mr. GALLINGER. My answer to that, Mr. President, is that I do not think it is the function of that committee to suggest legislation. The function of that committee is simply to inquire of the disbursing officer of the Senate—and I served a long time on that committee and know the procedure—whether or not the fund is at hand to warrant the inquiry; and if the committee reports that, in its judgment, the money is in hand or will be provided, then action is taken.

But I do not care to go into technicalities or refinements about the question. It is in the hands of the Presiding Officer to decide, and I know he will decide it very wisely.

Mr. OLIVER. Mr. President——

The PRESIDENT pro tempore. If the Senator from Pennsylvania will indulge me, the Chair is ready to rule, unless the Senator has something additional to say.

Mr. OLIVER. I rather think, Mr. President, in view of what has been said by the senior Senator from Virginia, that I ought to disclaim any intention to interpose what he terms a technical objection to this proposition. My only objection to the adoption of the resolution at this time is that if we are going to adopt a resolution of this kind, we ought to do it according to the rules of the Senate; and the rule of the Senate is distinct, and it is mandatory.

Rule XXV states that among the standing committees of the Senate shall be—

A Committee to Audit and Control the Contingent Expenses of the Senate, to consist of five Senators, to which shall be referred all resolutions directing the payment of money out of the contingent fund of the Senate or creating a charge upon the same.

Now, Mr. President, that is distinct in that it gives the Committee to Audit and Control the Contingent Expenses of the Senate the right to say whether any money shall be expended for an investigation by any committee.

The Senator from Minnesota refers to the original resolution and the resolution enlarging the duties of this committee, and he says that the latter was not referred to the Committee to Audit and Control the Contingent Expenses of the Senate. Two wrongs do not make a right, and if this point of order had been made at that time I think unquestionably it would have been sustained by the Chair and that the resolution enlarging the duties of the committee would have been referred at that time to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. CLAPP. Mr. President——

Mr. OLIVER. I am going to speak only a minute or two, and I desire to conclude.

I want to disclaim, Mr. President, any intention to obstruct or prevent the passage of this resolution. I am free to say that I think it is absolutely unnecessary. The reason for investigation connected with the campaigns of 1904 and 1908 does not exist with regard to the campaign of 1912. There is a publicity law now in force which compels the different committees to report. They have made their reports.

The PRESIDENT pro tempore. The Chair calls the attention of the Senator to the fact that the merits of the resolution are not before the Senate. It is simply a question of order.

Mr. OLIVER. I beg pardon, Mr. President. Now, I wish to say that if it shall not be considered a precedent for future action, and I can do so, I am perfectly willing to withdraw the point of order and to allow the resolution to pass, so far as I am concerned; but I will submit to the Chair in that respect.

Mr. SMITH of Georgia. Then the point of order is withdrawn, is it not?

SEVERAL SENATORS. No.

The PRESIDENT pro tempore. The Chair feels that it is its duty to give direction to the resolution according to the rules governing the Senate; and the Chair will have the law read; not the rule of the Senate which has already been read, but the statute law enacted by Congress. The Secretary will read the extract from the statute law.

The Secretary read as follows:

Hereafter no payment shall be made from the contingent fund of the Senate unless sanctioned by the Committee to Audit and Control the Contingent Expenses of the Senate, or from the contingent fund of the House of Representatives unless sanctioned by the Committee on Accounts of the House of Representatives. And hereafter payments made upon vouchers approved by the aforesaid respective committees shall be deemed, held, and taken and are hereby declared to be conclusive upon all the departments and officers of the Government: *Provided*, That no payment shall be made from said contingent funds as additional salary or compensation to any officer or employee of the Senate or House of Representatives. (25 Stats., p. 546.)

Mr. CULBERSON. Mr. President, may I ask that the statute be read again, so far as the Senate is concerned? My attention was diverted a moment and I did not hear it.

The Secretary read as follows:

Hereafter no payment shall be made from the contingent fund of the Senate unless sanctioned by the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. MARTIN of Virginia. Mr. President——

Mr. CULBERSON. I call the attention of the Chair to the fact that this purports to be an amendment to a resolution which has already been reported favorably by the Committee to Audit and Control the Contingent Expenses. This is a proposition to amend that resolution, which has been reported by a committee and passed by the Senate.

Mr. LODGE. Mr. President, if I may ask a question, does the resolution make a charge on the contingent fund, whether it is an amendment or not? I ask for information, as I was not here when the debate began. Does the resolution make an additional charge?

The PRESIDENT pro tempore. It enlarges the scope of the duties of the committee.

Mr. LODGE. Does it make an additional charge upon the contingent fund?

The PRESIDENT pro tempore. The resolution speaks for itself, and the Chair will have it read. It is not the duty of the Chair to interpret the resolution. The Secretary will again read the resolution.

The Secretary read as follows:

Resolved, That Senate resolution 79, agreed to August 26, 1912, be, and the same is hereby, amended by inserting, in line 2, page 2, of said resolution, after the word "eight," the words "November 5, 1912."

Mr. LODGE. Then it makes an additional charge on the contingent fund?

Mr. MARTIN of Virginia. Mr. President, I desire to call attention to the fact that there is nothing at all in the resolution about paying the expenses. The law which has been read simply provides that certain payments shall not be made from that fund except by the authority of the Committee to Audit and Control the Contingent Expenses of the Senate. Now, if the chairman of this committee can not get along without an additional act by the Senate, he can ask for it, but I can not see in the statute which has been read anything that deprives the Senate of its jurisdiction and power to pass a resolution for an investigation.

The matter of paying any expenses which may be necessary for the conduct of that investigation is a separate proposition entirely. I do not see in the statute anything that deprives the Senate of its right and jurisdiction to pass a resolution of this character or any other resolution that it sees fit to pass.

Mr. LODGE. May I ask the Senator from Virginia a question?

Mr. MARTIN of Virginia. Certainly.

Mr. LODGE. Does the Senator think that committees can incur expenses and then come and ask that they be paid out of the contingent fund?

Mr. MARTIN of Virginia. If they do so, they do it on their own responsibility. If a committee can not find anywhere a law to meet a necessary expense, then they can come back to the Senate.

Mr. LODGE. Of course, if a committee can involve itself in expenses before receiving authority to do so, the statute is valueless; that is, if a committee can incur expense and then after incurring it simply come and get an order therefor from the Senate.

Mr. MARTIN of Virginia. That is a matter for the committee to determine.

Mr. LODGE. Certainly. It leaves it to the Senate.

Mr. MARTIN of Virginia. But what I am insisting upon is the power of the Senate—the jurisdiction of the Senate—to pass this resolution, if it sees fit, and make no provision now for the payment of expenses.

Mr. CULBERSON. I call the attention of the Senator from Virginia to the fact that the resolution which is pending before the Committee on Privileges and Elections, or the subcommittee, provides for the payment out of the contingent fund of the expenses of this investigation. Now, this proposed amendment which is pending is to amend that resolution so as to provide for an examination as to the election of 1912, and if that is done the same proposition will still be before the committee to pay out of the contingent fund the expenses of the investigation as to the election of 1912.

Mr. LODGE. That is precisely what I understood. It enlarges the charge on the fund.

Mr. MARTIN of Virginia. Mr. President, I suspect the committee will find under the provisions of the original resolution sufficient authority to pay these expenses. If it does not, it is a problem not involved in the passage of this resolution now. It can come up later, and in some other way. What I am insisting upon is the power of the Senate to pass the resolution, if it sees fit, and make no provision, unless it sees fit to make provision, for the payment of the expenses to be incurred.

The PRESIDENT pro tempore. The Chair understands the point of order is withdrawn. The statute has been read to the Senate, and it is not the province of the Chair to insist upon its consideration in the absence of objection.

Mr. MARTIN of Virginia. It was exactly my contention, that the Senate had the power to dispose of the resolution as it saw fit.

Mr. CLARK of Wyoming. Do I correctly understand that the point of order is withdrawn unconditionally?

Mr. OLIVER. I merely testified to my willingness to withdraw the point of order. I think this is rather an important question and may govern the Senate hereafter, and I think there should be a ruling upon it. The Committee to Audit and Control the Contingent Expenses of the Senate can report to-morrow, and but little delay will occur. I think we ought to have a ruling on the question. I do not withdraw the point of order.

Mr. CLARK of Wyoming. I simply want to say as to the point of order that, while I do not doubt the authority of the Senate to proceed in the way suggested by the Senator from Virginia, the only question is as to its advisability.

If a rule of the Senate can be broken in one proceeding, that can be cited for breaking it in another proceeding. In other words, if to further a good end we will trample upon our rules, we may very well be asked in future to do the same to accomplish a purpose that is not so clearly good.

It seems to me that this is clearly an infraction of the rule. I myself introduced a bill this morning that I think presents an analogous case. At the last session of Congress, or the one before, Congress passed a law providing for the erection of a public building in Honolulu, limiting the cost. I introduced this morning an amendment to that bill providing for an increase of the cost, and it went to the Committee on Public Buildings and Grounds, as it properly should. This motion of the Senator from Minnesota not only amends a past action of this body, but it incurs additional expense, and in addition to that extends the jurisdiction of the committee to inquire into something to which its inquiry was not directed by the former resolution. I think we should proceed carefully.

Mr. BORAH. Mr. President, has the point of order been withdrawn?

Mr. OLIVER. No.

The PRESIDENT pro tempore. It has not.

Mr. CLARK of Wyoming. It occurs to me that the Senate having authorized an investigation of the campaigns of 1904 and 1908, the committee could not well expend money from the contingent fund which authorized that investigation to investigate another and altogether different campaign.

Mr. LODGE. Which had not occurred.

Mr. CLARK of Wyoming. Which had not occurred at the time the resolution was adopted.

Mr. WORKS. Mr. President, the original resolution provided for the expenditure of money for specific purposes; that is to say, for the investigation of expenditures for political purposes, covering certain years. The committee determined upon that resolution whether it was appropriate and expedient to expend the necessary money for that investigation. Now, we are proposing to extend the scope, covering the political expenditures during another and a different year, which would involve additional expenses. That question has never been before the Committee on Contingent Expenses at all and has never been considered.

Perhaps, if the original resolution had provided for this additional investigation the committee might have refused to approve it, for the very reason that it would involve the expenditure of a greater sum than should be paid out of the contingent fund.

This question has never been before the committee and has never been investigated. It seems to me that it is clearly within the prohibition of the statute which has been read.

Mr. WARREN rose.

Mr. CRAWFORD. I understood the President was ready to rule some time ago. I ask for the ruling of the Chair.

The PRESIDENT pro tempore. The Chair will hear Senators if they desire to be heard.

Mr. WARREN. Mr. President, I was not in my seat when the matter first came up. I have nothing to say on the merits of the case, as to whether we should go into the investigation or not, but I think it is a very unusual proceeding to provide for an expenditure from the contingent fund when there is no special authority for it except to revert to a resolution passed at another time and to say nothing of an appropriation to cover the same. The Appropriation Committee is supposed, in appropriating for the contingent fund, to have some basis or estimate or authority, the same as when appropriating for other purposes. At the present time——

Mr. CLAPP. Will the Senator yield for a question?

Mr. WARREN. After a moment. At the present time it may be—while that will not affect the merits of the case—that there is no money available to pay anything of consequence until we make further appropriations; and there might be the embarrassment of some vouchers of the committee being unpaid for a time, until the matter could be acted upon. I think it an unsafe way to proceed without accompanying the proposition with the necessary authority to pay, and therefore the measure ought to go to the Committee on Contingent Expenses of the Senate, and if approved by that committee the Appropriation Committees of the Senate and House would have that authority before them and would know what to provide for.

Mr. CLAPP. I want simply to remind the Senator from Wyoming—I do not know whether he was here at the time or not—that on the 24th day of August the Senate did just what they are asked now to do. They amended resolution No. 79 by resolution No. 386, covering practically all the expenses the committee incurred without submitting it to the Committee on Contingent Expenses. Pending the consideration of that resolution, that resolution itself, No. 386, was amended by inserting the words "an attorney," which would possibly materially enlarge the expenses to be incurred by the committee.

If the position taken is right, then I submit that no matter whether the Committee to Audit and Control the Contingent Expenses of the Senate have passed on it or not, if they have reported favorably on a resolution the Senate would be absolutely powerless to insert a word of amendment increasing possibly the expense of the investigation without sending that question of amendment back to the same committee for its action on the amendment. I do not believe the law is susceptible of any such construction.

The PRESIDENT pro tempore. The Chair is ready to rule on the question.

Mr. GALLINGER. Let the Chair rule on it.

The PRESIDENT pro tempore. Before doing so, the Chair will direct the Secretary to read another section of the statute law, illustrative of this question rather than bearing directly on the precise point involved.

The Secretary read from the Thirty-second Statutes, page 26, as follows:

That hereafter appropriations made for contingent expenses of the House of Representatives or the Senate shall not be used for the payment of personal services, except upon the express and specific authorization of the House or Senate in whose behalf such services are rendered. Nor shall such appropriations be used for any expenses not intimately and directly connected with the routine legislative business of either House of Congress, and the accounting officers of the Treasury shall apply the provisions of this paragraph in the settlement of the accounts of expenditures from said appropriations incurred for services or materials subsequent to the approval of this act.

The PRESIDENT pro tempore. The Chair will also direct that section 76 of the Revised Statutes be read.

The Secretary read as follows:

SEC. 76. No payment shall be made from the contingent fund of either House of Congress unless sanctioned by the Committee to Audit and Control the Contingent Expenses of the Senate or the Committee on Accounts of the House of Representatives, respectively.

The PRESIDENT pro tempore. In passing upon the question, the Chair, of course, can not be influenced in any degree by the question whether or not he favors the purpose of the resolution. It must be decided exclusively upon the question whether or not it is in order under the rules of the Senate and the statute law.

In the opinion of the Chair, the resolution should go to the Committee to Audit and Control the Contingent Expenses of the Senate. The reasons have been fully stated by several Senators, and among others the Chair desires to say that the statement made by the Senator from California [Mr. WORKS] in his opinion briefly and clearly expresses the necessity for a reference of the resolution to the Committee to Audit and Control the Contingent Expenses of the Senate.

The original resolution was one which authorized an investigation of a certain expenditure in a certain campaign, and was limited to that campaign; that matter was referred to the Committee to Audit and Control the Contingent Expenses of the Senate. This amendment provides for an altogether new investigation of expenditures in an altogether different campaign. In the opinion of the Chair, this amendment stands in exactly the same position before the Senate as if an independent resolution had been offered for the investigation of the expenses in the campaign of 1912. Therefore the Chair sustains the point of order. The resolution will be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. Is the morning business closed?

The PRESIDENT pro tempore. The morning business is closed.

Mr. CRAWFORD. I ask the Senate to resume consideration of House bill 19115, the omnibus claims bill, and I would like to have the reading of the pending amendment finished, because we have spent four days now in trying to get the amendment read. It will take only a very short time to complete the

reading, and then I desire to yield to the Senator from Idaho [Mr. BORAH], who wishes to make some remarks.

There being no objection, the Senate, as in Committee of the Whole, resumed consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from South Dakota [Mr. CRAWFORD] to the amendment offered by the Senator from Massachusetts [Mr. LODGE]. The Secretary will continue the reading of the pending amendment.

The Secretary resumed the reading of the amendment to the amendment on page 75, line 11, and concluded the reading.

The amendment to the amendment proposes to insert the following:

(Omit the part in brackets and insert the part printed in italic.)

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to claimants named in this act the several sums appropriated herein, the same being in full for and the receipt of the same to be taken and accepted in each case as a full and final release and discharge of their respective claims, namely:

FRENCH SPOLIATION CLAIMS.

To pay the findings of the Court of Claims on the following claims for indemnity for spoliations by the French prior to July thirty-first, eighteen hundred and one, under the act entitled "An act to provide for the ascertainment of claims of American citizens for spoliations committed by the French prior to the thirty-first day of July, eighteen hundred and one," approved January twentieth, eighteen hundred and eighty-five: *Provided*, That in all cases where the original sufferers were adjudicated bankrupts the awards shall be made on behalf of the next of kin instead of to assignees in bankruptcy, and that awards in the cases of individual claimants shall not be paid until the Court of Claims shall certify to the Secretary of the Treasury that the personal representatives on whose behalf the awards are made represent the next of kin, and the courts which granted the administrations, respectively, shall have certified that the legal representatives have given adequate security for the legal disbursements of the awards, namely:

On the vessel schooner Hetty, William Manson, master, namely:

Payton S. Coles and David Stewart, administrators of John Stricker, [one thousand nine hundred and five] *one thousand two hundred and thirty* dollars.

On the vessel ship Washington, Aaron Foster, master, namely:

Lucy Franklin Read McDonnell, executrix, etc., of George Pollock, surviving partner of Hugh Pollock and Company, [nine hundred and eight] *eight hundred and thirty* dollars.

On the vessel sloop Two Friends, Peter Pond, master, namely:

[George G. Sill, administrator of Peter Pond, nine hundred and twenty-five dollars and twenty-five cents.]

Charles F. Adams, administrator of Peter C. Brooks, [one thousand eight hundred] *one thousand two hundred and fifty* dollars.

Seth P. Snow, administrator of Crowell Hatch, [one thousand] *seven hundred* dollars.

George G. Sill, administrator of William Leavenworth, [one thousand one hundred and ninety-nine dollars and twenty-five cents] *eight hundred and forty-three dollars.*

On the vessel ship Sally Butler, Alexander Chisolm, master, namely:

Archibald Smith, administrator de bonis non of the estate of James Seagrove, deceased, six thousand three hundred and eleven dollars and forty-one cents.

On the vessel brig Neptune, Hezekiah Flint, master, namely:

[David Pingree, administrator of Thomas Perkins, deceased, four hundred and nine dollars and thirty-four cents.]

Francis M. Boutwell, administrator of John McLean, deceased, [five hundred] *four hundred and forty* dollars.

Arthur D. Hill, administrator of Benjamin Homer, deceased, [one thousand] *eight hundred and eighty* dollars.

Thomas N. Perkins, administrator of John C. Jones, deceased, [one thousand] *eight hundred and eighty* dollars.

On the vessel ketch John, Henry Tibbetts, master, namely:

Hasket Derby, administrator of Elias Hasket Derby, twelve thousand nine hundred and sixty-two dollars and ninety-two cents.

On the vessel ship Ceres, Roswell Roath, master, namely:

Donald G. Perkins, administrator of Daniel Dunham, [seven thousand five hundred and twenty-two dollars and eighty-two] *six thousand six hundred and eighty-eight dollars and sixty-one* cents.

Donald G. Perkins, administrator of Alpheus Dunham, six thousand and three dollars and eighty-four cents.

Edmund D. Roath, administrator of Roswell Roath, [one thousand five hundred and eighteen dollars and ninety-eight] *six hundred and eighty-four dollars and seventy-seven* cents.

Asahel Willet, administrator of Jedediah Willet, [one thousand five hundred and eighteen dollars and ninety-eight] *six hundred and eighty-four dollars and seventy-seven* cents.

Charles Francis Adams, administrator of Peter C. Brooks, [seven hundred] *six hundred and two* dollars.

A. Lawrence Lowell, administrator of Nathaniel Fellowes, [eight hundred] *six hundred and eighty-eight* dollars.

H. Burr Crandall, administrator of Thomas Dickason, [one thousand] *eight hundred and sixty* dollars.

William P. Perkins, executor, etc., of Thomas Perkins, [five hundred] *four hundred and thirty* dollars.

On the vessel brig Eliza, Thomas Woodbury, jr., master, namely:

Arthur L. Huntington, administrator of William Orme, [twenty-nine thousand seven hundred and ninety-two] *twenty-six thousand seven hundred and forty-two* dollars and forty-six cents.

Bayard Tuckerman, administrator of Walter Channing, surviving partner of Gibbs & Channing, [seven hundred and fifty dollars] *five hundred and sixty-two dollars and fifty cents.*

Arthur L. Huntington, administrator of James Dunlap, [five hundred] *three hundred and seventy-five* dollars.

William Ropes Trask, administrator of Thomas Amory, [one thousand] *seven hundred and fifty* dollars.

Archibald M. Howe, administrator of Francis Green, [five hundred] *three hundred and seventy-five* dollars.

Harriet E. Sebor, administratrix of Jacob Sebor, [two hundred and fifty dollars] *one hundred and eighty-seven dollars and fifty cents.*

Sarah L. Farnum, administratrix of Leffert Lefferts, [five hundred] *three hundred and seventy-five* dollars.

Louisa A. Starkweather, administratrix of Richard S. Hallett, [six hundred and twenty-five] *three hundred and seventy-five* dollars.

Walter Bowne, administrator of Walter Bowne, [six hundred and twenty-five] *three hundred and seventy-five* dollars.

Robert B. Lawrence, administrator of John B. Bowne, [one hundred and twenty-five dollars] *ninety-three dollars and seventy-five cents.*

Walter S. Church and Walter S. Church, administrators of John Barker Church, [two thousand] *one thousand five hundred* dollars.

Thomas W. Ludlow, administrator of Thomas Ludlow, [five hundred] *three hundred and seventy-five* dollars.

Francis R. Shaw, administrator of J. C. Shaw, [two hundred and fifty dollars] *one hundred and eighty-seven dollars and fifty cents.*

On the vessel brig General Warren, Issachar Stowell, master, namely:

Charles F. Adams, administrator of Peter C. Brooks, [six thousand four hundred and six dollars and sixty-eight] *five thousand seven hundred and seventy-three dollars and fifty-five* cents.

Edmond D. Codman, administrator of William Gray, jr., [one thousand eight hundred and fifty] *one thousand six hundred and twenty-eight* dollars.

George G. King, administrator of Crowell Hatch, [nine hundred and sixty] *eight hundred and seventy-five* dollars.

On the vessel ship Cincinnatus, William Martin, master, namely:

Richard H. Pleasants, administrator of Aquila Brown, jr., [two thousand four hundred and eighty-six dollars and seventy-five cents] *one thousand six hundred and sixty-five dollars.*

William A. Glasgow, jr., administrator of William P. Tebbs, two thousand five hundred and sixty dollars and twenty cents.

On the vessel brig Pilgrim, Priam Pease, master, namely:

Nathaniel H. Stone, administrator of John M. Forbes, surviving partner of the firm of J. M. and R. B. Forbes, [twenty thousand six hundred and ninety-two] *seventeen thousand five hundred and ninety-two* dollars and twenty cents.

Russell Bradford, administrator of Joseph Russell, two thousand seven hundred and seventy-four dollars and forty-four cents.

On the vessel ship Venus, Henry Dashiell, master, namely:

David Stewart, administrator of William P. Stewart, surviving partner of the firm of David Stewart and Sons, [six thousand seven hundred and sixty-six dollars and fifty cents] *three thousand nine hundred dollars.*

Elizabeth Campbell Murdock, administratrix of Archibald Campbell, [six thousand seven hundred and sixty-six dollars and fifty cents] *three thousand nine hundred dollars.*

Elizabeth H. Penn, administratrix of Thomas Higinbotham, [three thousand eight hundred] *two thousand six hundred* dollars.

Nicholas L. Dashiell, administrator of Henry Dashiell, one thousand five hundred and seventy dollars.

On the vessel sloop Geneva, Giles Savage, master, namely:

Charles F. Adams, administrator, etc., of Peter C. Brooks, [one thousand three hundred] *one thousand one hundred and five* dollars.

George G. King, administrator, etc., of Crowell Hatch, [eight hundred] *six hundred and eighty* dollars.

Thomas N. Perkins, administrator, etc., of John C. Jones, [seven hundred] *five hundred and ninety-five* dollars.

Francis M. Boutwell, administrator, etc., of Benjamin Cobb, [five hundred] *four hundred and twenty-five* dollars.

Margaret R. Riley, administratrix, etc., of Luther Savage, surviving partner of the firm of Riley, Savage and Company, [four thousand eight hundred and fifty] *three thousand four hundred and seventy* dollars.

On the vessel ship Aurora, Stephen Butman, master, namely:

Charles Francis Adams, administrator of Peter C. Brooks, [two thousand five hundred] *one thousand seven hundred and fifty* dollars.

Frank Dabney, administrator of Samuel W. Pomeroy, [four hundred] *two hundred and eighty* dollars.

Henry Parkman, administrator of John Duballet, [one thousand] *seven hundred and twenty-five* dollars.

George G. King, administrator of Crowell Hatch, [six hundred] *four hundred and twenty* dollars.

William S. Perry, administrator of Nicholas Gilman [one thousand] *seven hundred and fifty* dollars.

John W. Apthorp, administrator of Caleb Hopkins, [one thousand five hundred] *one thousand one hundred and twenty* dollars.

Edward I. Browne, administrator of Moses Brown, [four] *three* hundred dollars.

Walter Hunnewell, administrator of Arnold Welles, jr., [three hundred] *two hundred and ten* dollars.

Nathan Matthews, administrator of Daniel Sargent, [five hundred] *three hundred and fifty* dollars.

A. Lawrence Lowell, administrator of Nathaniel Fellowes, [five hundred] *three hundred and fifty* dollars.

Daniel D. Slade, administrator of Daniel D. Rogers, [five hundred] *three hundred and fifty* dollars.

Walter Hunnewell, administrator of John Welles, [three hundred] *two hundred and ten* dollars.

William S. Carter, administrator of William Smith, [five hundred] *three hundred and fifty* dollars.

William I. Monroe, administrator of John Brazer, [four hundred] *two hundred and eighty* dollars.

A. H. Loring, administrator of William Boardman, [one hundred and five dollars] *seventy-three dollars and fifty cents.*

Lawrence Bond, administrator of Nathan Bond, [four hundred] *two hundred and eighty* dollars.

[On the vessel ship Jane, James Barron, master, namely:]

[James L. Hubard, administrator of the estate of William Pennock, four thousand six hundred and one dollars and sixty-seven cents.]

On the vessel schooner Amelia, Timothy Hall, master, namely:

Julius C. Cable, administrator of William Walter, [one thousand one] *seven* hundred and sixty dollars.

On the vessel brig Isabella and Ann, William Duer, master, namely:

Alexander Proudfit, administrator of Robert P. Iston, [two thousand seven hundred and sixteen dollars and fifty] *eight hundred and twenty-seven dollars and thirty-seven* cents.

On the vessel schooner Zilpha, Samuel Briard, master, namely:

Sarah N. Burleigh, administratrix, and so forth, estate of Samuel Briard, [five thousand two hundred and thirty-six dollars and twenty-

four] *four thousand eight hundred and forty dollars and seventy-four cents.*

Joseph H. Thacher, administrator estate of John Wardrobe, [five thousand two hundred and thirty-six dollars and twenty-four] *four thousand eight hundred and forty dollars and seventy-four* cents.

On the vessel sloop Abigail, Silas Jones, master, namely:

Brooks Adams, administrator of Peter C. Brooks, [seven hundred] *five hundred and seventy-four* dollars.

A Lawrence Lowell, administrator of Nathaniel Fellowes, [eight hundred] *six hundred and fifty-six* dollars.

On the vessel schooner Active, Patrick Drummond, master, namely:

William D. Hill, administrator of Mark L. Hill, [one thousand six hundred and forty dollars and two] *one thousand five hundred and eighteen dollars and fifty-five* cents.

On the vessel ship Bristol, Edward Smith, master, namely:

Caroline A. Woodard and Frank Woodard, administrators of Thomas Smith, six thousand five hundred and ninety dollars.

On the vessel schooner Brothers, James Vinson, master, namely:

David Stewart, administrator of James Jaffray, [six] *four* thousand four hundred and eighty-eight dollars.

Mary Jane Thurston, administratrix of John Hollis, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

Edward C. Noyes and David Stewart, administrators of James Clark, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

Cumberland Dugan, administrator of Cumberland Dugan, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

David Stewart, administrator of William Wood, junior, [seven hundred and thirty-five dollars] *six hundred and forty-one dollars and twenty-five cents.*

Charles J. Bonaparte, administrator of Benjamin Williams, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

J. Savage Williams, administrator of Samuel Williams, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

James Lawson, administrator of Richard Lawson, [three hundred and sixty-seven dollars and fifty] *three hundred and twenty dollars and sixty-three* cents.

[On the vessel ship Chace, Thomas Johnston, master, namely:]

[George G. King, administrator of James Tisdale, eighteen thousand nine hundred and forty-seven dollars.]

[On the vessel brig Delaware, James Dunphy, master, namely:]

[C. D. Vasse, administrator of Ambrose Vasse, eight hundred and fourteen dollars and sixty-two cents.]

[William D. Squires, administrator of Henry Pratt, surviving partner of Pratt and Kintzing, one hundred and ninety-one dollars and sixty-five cents.]

[J. Bayard Henry, administrator of Andrew Pettit, surviving partner of Pettit and Bayard, one hundred and eighty-two dollars and ten cents.]

[George W. Guthrie, administrator of Alexander Murray, surviving partner of Miller and Murray, one hundred and eighty-two dollars and ten cents.]

[J. Bayard Henry, administrator of George Rundle and Thomas Leech, two hundred and twenty-two dollars and thirty-three cents.]

[Francis A. Lewis, administrator of John Miller, junior, one hundred and eighty-two dollars and ten cents.]

[J. Albert Smyth, administrator of Jacob Baker, surviving partner of Baker and Comegys, one hundred and eighty-two dollars and ten cents.]

[Craig D. Ritchie, administrator of Joseph Summeri, surviving partner of Summeri and Brown, one hundred and fifty-three dollars and forty-four cents.]

[Charles Prager, administrator of Mark Prager, junior, surviving member of Prager and Company, one hundred and ninety-one dollars and sixty-four cents.]

[William Brooke Waln, administrator of Jesse Waln, one hundred and eighty-two dollars and nine cents.]

[Sara Leaming, administratrix of Thomas Murgatroyd, one hundred and eighty-two dollars and nine cents.]

[D. Fitzhugh Savage, administrator of John Savage, one hundred and forty-one dollars and eighty-six cents.]

[Francis R. Pemberton, administrator of John Clifford, surviving partner of Thomas and John Clifford, one hundred and fifty-three dollars and forty-four cents.]

[The Pennsylvania Company for Insurance on Lives, and so forth, administrator of Thomas M. Willing, surviving partner of Willing and Francis, two hundred and eighty-three dollars and seventy cents.]

[Robert W. Smith, administrator of Robert Smith, surviving partner of Robert Smith and Company, one hundred and eighty-two dollars and nine cents.]

[John Lyman Cox and Howard Wurts Page, administrators of James Cox, one hundred and twenty dollars and seventy-two cents.]

[Henry Pettit, administrator of Charles Pettit, one hundred and eleven dollars and seventeen cents.]

[George Harrison Fisher, administrator of Jacob Ridgway, ninety-two dollars and seven cents.]

[George McCall, administrator of William McMurtrie, ninety-two dollars and seven cents.]

[The City of Philadelphia, administrator of Stephen Girard, twenty-eight dollars and sixty-five cents.]

On the vessel brig Eleanor, George Price, master, namely:

David Stewart, administrator of Francis Johonnet, one hundred and thirty-three dollars and sixty cents.

James Lawson, administrator of Richard Lawson, one hundred and thirty-three dollars and sixty cents.

J. Savage Williams, administrator of Samuel Williams, two hundred and four dollars and thirty-one cents.

Charles J. Bonaparte, administrator of Benjamin Williams, two hundred and four dollars and thirty-one cents.

On the vessel brig Eliza, Benjamin English, master, namely:

George P. Marvin, administrator of Ebenezer Peck, [nine hundred and fifty-two dollars and eight-two] *one hundred and sixty-seven dollars and fifteen* cents.

George P. Marvin, administrator of Stephen Alling, four hundred and seventy-six dollars and forty-two cents.

Elihu L. Mix, administrator of Thomas Atwater, [four hundred and seventy-six dollars and forty-two] *eighty-three dollars and fifty-nine* cents.

John C. Hollister, administrator of Elias Shipman, [two hundred and thirty-eight dollars and twenty-one] *forty-one dollars and eighty* cents.

John C. Hollister, administrator of Austin Denison, [two hundred and thirty-eight dollars and twenty-one] *forty-one dollars and eighty* cents.

On the vessel brig Fair Columbian, Joseph Myrick, master, namely:

Sarah C. Tilghman, administratrix of Joseph Forman, [five thousand one hundred and fifty-seven] *one thousand three hundred and twenty-one* dollars and thirty-three cents.

Gustav W. Lurman, administrator of John Donnell, one thousand [four hundred and seventy] *three hundred* dollars.

Mary Jane Thurston, administratrix of John Hollins, [nine hundred and eighty] *eight hundred and seventy* dollars.

Cumberland Dugan, administrator of Cumberland Dugan, [nine hundred and eighty] *eight hundred and seventy* dollars.

Susan R. Groverman, administratrix of Anthony Groverman, for and on behalf of the firm of D'Werhagen & Groverman, [nine hundred and eighty] *eight hundred and sixty* dollars.

David Stewart, administrator of Edward Johnson, [nine hundred and eighty] *eight hundred and seventy* dollars.

David Stewart, administrator of Robert C. Boislandry, four hundred and [ninety] *thirty* dollars.

Charles J. Bonaparte, administrator of Benjamin Williams, four hundred and [ninety] *thirty* dollars.

David Stewart and Isabella Rutter, administrators of Thomas Rutter, [nine hundred and eighty] *eight hundred and sixty* dollars.

Nathaniel Morton, administrator of Nathaniel Morton, for and on behalf of the firm of Bedford & Morton, [nine hundred and eighty] *eight hundred and seventy* dollars.

Katharine S. Montell, administratrix of Robert McKim, [nine hundred and eighty] *eight hundred and sixty* dollars.

David Stewart, administrator of William Lorman, [nine] *eight* hundred and eighty dollars.

Louisa T. Carroll, administratrix of William Van Wyck, [three hundred and twenty] *two hundred* dollars.

On the vessel sloop Flora, Francis Bourn, master, namely:

George F. Chace, administrator of James Chace, [six hundred and sixty-two dollars and four] *five hundred and twenty-seven dollars and twenty-nine* cents.

On the vessel schooner Huldah, Robert Strong, master, namely:

Edmond D. Codman, administrator, etc., of William Gray, jr., [two thousand] *one thousand eight hundred and twenty* dollars.

Brooks Adams, administrator, etc., of Peter C. Brooks, [seven hundred] *six hundred and thirty-seven* dollars.

A. Lawrence Lowell, administrator, etc., of Nathaniel Fellowes, [eight hundred] *seven hundred and twenty-eight* dollars.

On the vessel brig Jane, Robert Knox, master, namely:

Crawford D. Hening, administrator of James Crawford, surviving partner of James Crawford and Company, [three thousand eight hundred and sixty-six] *four hundred and forty-one* dollars.

On the vessel brig Jason, Edward Smith, master, namely:

James Emerton, administrator of Benjamin West, [two thousand three hundred and seventy-four dollars and eighty-eight] *one thousand two hundred and fifty-five dollars and seventy-six* cents.

James Emerton, administrator of Benjamin West, jr., [two thousand three hundred and seventy-four dollars and eighty-nine] *one thousand two hundred and fifty-five dollars and seventy-six* cents.

Ferdnand C. Latrobe, receiver of Aquila Brown, John Sherlock, and George Grundy, representing all the partners underwriting in the Marine Insurance Office, [five thousand eight hundred and fifty dollars] *five thousand three hundred and sixty-seven dollars and fifty cents.*

On the vessel brig John, James Scott, jr., master, namely:

James F. Adams, administrator of Seth Adams, [eleven thousand four hundred and thirty-nine dollars and twelve] *ten thousand two hundred and seventy-two dollars and forty-six* cents.

James F. Adams, administrator of Seth Adams, assignee of Thomas Dickason, jr., William C. Martin, James Scott, William Boardman, Arnold Welles, Arnold Welles, jr., and John Brazer, [ten thousand two hundred and seventy-five dollars and eighty three cents] *two thousand one hundred and seventy-six dollars*, the same not being an assigned claim within the meaning of this act, but an asset transferred by the assignors hereinbefore named to Seth Adams prior to the ratification of the treaty of September 30, 1800.

Brooks Adams, administrator of Peter C. Brooks, [one thousand five hundred] *one thousand three hundred and ninety-five* dollars.

On the vessel ship Liberty, William Caldwell, master, namely:

[Crawford Dawes Henning, administrator of James Crawford, eight thousand nine hundred and ninety dollars.]

On the vessel brig Little John Butler, James Smith, jr., master, namely:

Sarah E. Conover, administratrix of John Reed, surviving partner of Reed & Forde, [eight thousand one hundred and thirty-nine dollars and thirty-four cents] *two thousand dollars.*

Samuel A. Custer, administrator of Joseph Ball, [five hundred and eighty-eight] *four hundred and sixty-eight* dollars.

Sarah Leaming, administratrix of Thomas Murgatroyd, for and on behalf of the firm of Thomas Murgatroyd & Sons, [nine] *seven* hundred and eighty dollars.

Henry Pettit, administrator of Andrew Pettit, surviving partner of Pettit & Bayard, [five hundred and eighty-eight] *four hundred and sixty-eight* dollars.

William D. Squires, administrator of Henry Pratt, surviving partner of Pratt & Kintzing, [five hundred and eighty-eight] *four hundred and sixty-eight* dollars.

Francis Brooke Rawle, administrator of Jesse Waln, [nine] *seven* hundred and eighty dollars.

James Crawford Dawes, administrator of Abijah Dawes, [four] *three* hundred and ninety dollars.

Cyrus T. Smith, administrator of William Jones, surviving partner of Jones & Clarke, [five hundred and eighty-eight] *four hundred and sixty-eight* dollars.

Augustus J. Pleasanton, administrator of Joseph Dugan, surviving partner of Savage and Dugan, [four] *three* hundred and ninety dollars.

Francis A. Lewis, administrator of Peter Blight, [nine] *seven* hundred and eighty dollars.

Richard Delafield, administrator of John Delafield, [nine hundred and eighty dollars] *two hundred and ninety-five dollars and twenty-one cents.*

Benjamin M. Hartshorne and Charles N. Black, executors of Richard Hartshorne, surviving partner of Rhinelander, Hartshorne and Company, [two thousand four hundred and fifty] *two thousand two hundred* dollars.

John A. Foley, administrator of John Shaw, [nine] *eight* hundred and eighty dollars.

George W. Guthrie, administrator of Alexander Murray, surviving partner of Miller and Murray, [five hundred and eighty-eight] *four hundred and sixty-eight* dollars.

Thomas W. Ludlow, administrator of Thomas Ludlow, four hundred and [ninety] *forty* dollars.

Walter S. Church, administrator of John B. Church, one thousand [nine] *seven* hundred and sixty dollars.

John L. Rutgers, surviving executor of Nicholas G. Rutgers, surviving partner of Benjamin Seaman and Company, four hundred and [ninety] *forty* dollars.

Frances R. Shaw, administratrix of John C. Shaw, for and on behalf of the first of George Knox and John C. Shaw, four hundred and [ninety] *forty* dollars.

Henry E. Young, administrator of William Craig, surviving partner of Henry Sadler and Company, four hundred and [ninety] *forty* dollars.

[Elijah K. Hubbard, administrator of Jacob Sebor, four hundred and ninety dollars.]

Walter Bowne, administrator of Walter Bowne, two hundred and [forty-five] *twenty* dollars.

Louisa A. Starkweather, administratrix of Richard S. Hallett, two hundred and [forty-five] *twenty* dollars.

[Julia Battersby, administratrix of John B. Desdoity, four hundred and ninety dollars.]

[George F. Scriba, administrator of George Scriba, for and on behalf of the firm of George Scriba and William Henderson, four hundred and ninety dollars.]

On the vessel schooner Lovely Lass, William Moore, master, namely:

George H. Barrett, administrator of John Foster, deceased, [four thousand six hundred and thirty] *three thousand six hundred and ninety* dollars.

C. Whittle Sams, administrator of Conway Whittle, deceased, [three hundred] *two hundred and twenty-five* dollars.

C. Whittle Sams, administrator of Francis Whittle, deceased, [three hundred] *two hundred and twenty-five* dollars.

R. Manson Smith, administrator of Francis Smith, deceased, [three hundred] *two hundred and twenty-five* dollars.

James L. Hubard, administrator of William Pannock, deceased, [three hundred] *two hundred and twenty-five* dollars.

Barton Myers, administrator of Moses Myers, deceased, [two hundred] *one hundred and fifty* dollars.

Bassett A. Marsden, administrator of Benjamin Pollard, deceased, [two hundred] *one hundred and fifty* dollars.

On the vessel ship Madison, Samuel Hancock, master, namely:

Richard S. Whitney, administrator of John Skinner, junior, *surviving partner of John Skinner and Sons,* [nine] *eight* thousand two hundred and seventy-four dollars.

On the vessel brig Pamela, Samuel Colby, master, namely:

Harry R. Virgin, administrator of Josiah Cox, [one thousand four hundred and eighty-three dollars and forty-eight] *seventy-one dollars and sixty-one* cents.

Henry B. Cleaves, administrator of William Chadwick, [one thousand eight hundred and eighty-three dollars and forty-eight] *five hundred and seventy-one dollars and sixty-one* cents.

[Bassett A. Marsden, administrator of Benjamin Pollard, four hundred and five dollars and forty-two cents.]

Joseph S. Webster, administrator of Thomas Webster, [two hundred] *one hundred and sixty* dollars.

Sarah H. Southwick, administratrix of Samuel F. Hussey, surviving partner of the firm of Hussey, Tabor and Company, [six hundred] *four hundred and eighty* dollars.

Harry R. Virgin, administrator of Arthur McLellan, [five] *four* hundred dollars.

Harry R. Virgin, administrator of Jonathan Stevens and Thomas Hovey, composing the firm of Stevens and Hovey, [two hundred] *one hundred and sixty* dollars.

Harry R. Virgin, administrator of David Smith, [three hundred] *two hundred and forty* dollars.

Stephen Thacher, administrator of Woodbury Storer, [four hundred] *three hundred and twenty* dollars.

Harry R. Virgin, administrator of Robert Boyd, [four hundred and fifty] *three hundred and sixty* dollars.

Harry R. Virgin, administrator of Hugh McLellan, surviving partner of the firm of Joseph McLellan and Son, [six hundred] *four hundred and eighty* dollars.

[Edmund D. Codman, administrator of William Gray, five hundred dollars.]

On the vessel brig Polly, Joseph Clements, master, namely:

Harry R. Virgin, administrator of Thomas Cross, [three thousand six hundred and forty dollars] *two thousand one hundred and twenty-three dollars and thirty-three cents.*

Harry R. Virgin, administrator of Greeley Hannaford, [three thousand three hundred and forty-seven dollars] *one thousand seven hundred and ninety dollars and thirty-three cents.*

On the vessel brig Rebecca, John B. Thurston, master, namely:

Sarah N. Haines and B. F. Haywood Shreve, administrators of William Bowne, [twelve thousand eight] *ten thousand six* hundred and eighty dollars.

On the vessel brig Ruby, Luke Keefe, master, namely:

Arthur P. Cushing, administrator of Marston Watson, one thousand [five hundred and ninety-six dollars and thirty cents] *two hundred and thirty dollars.*

Frederic Dodge, administrator of Matthew Bridge, [nine thousand two hundred and forty dollars and thirty-four cents] *three thousand three hundred and seventy-three dollars and fifty-six cents.*

[Thomas H. Perkins, surviving executor of Thomas H. Perkins, for and on behalf of the firm of James and Thomas H. Perkins, one hundred and seventeen dollars and twenty-five cents.]

George G. King, administrator of James Scott, [one thousand and sixty-four dollars and twenty cents] *eight hundred and twenty dollars.*

Edward I. Browne, administrator of Israel Thorndike, [five hundred and thirty-two dollars and ten cents] *four hundred and ten dollars.*

William Ropes Trask, administrator of Thomas Amory, one thousand [seven hundred and four dollars and seventy cents] *three hundred and twenty-four dollars.*

Charles G. Davis, administrator of Isaac P. Davis, [five hundred and thirty-two dollars and ten cents] *four hundred and ten dollars.*

Francis M. Boutwell, administrator of Charles Sigourney, [four hundred and twenty-five dollars and sixty-eight cents] *three hundred and twenty-eight dollars.*

Julia A. Cotting, administratrix of Uriah Cotting, [five hundred and thirty-two dollars and ten cents] *four hundred and ten dollars.*

William G. Perry, administrator of Nicholas Gilman, [five hundred and thirty-two dollars and ten cents] *four hundred and ten dollars.*

John Lowell, administrator of Tuthill Hubbart, [five hundred and thirty-two dollars and ten cents] *four hundred and ten dollars.*

Frank Dabney, administrator of Samuel W. Pomeroy, [two thousand one hundred and twenty-eight dollars and forty cents] *one thousand six hundred and forty dollars.*

Charles A. Welch, administrator of William Stackpole, [six hundred and forty] *five hundred and four* dollars and fifty cents.

Brooks Adams, administrator of Peter C. Brooks, [fifteen thousand eight hundred and fifty-six dollars and sixty] *eleven thousand one hundred and sixty-three dollars and two* cents.

Walter Hunnewell, administrator of John Welles, [five hundred and thirty-two dollars and ten cents] *four hundred and ten dollars.*

James S. English, administrator of Thomas English, [three hundred and nineteen dollars and twenty-six cents] *two hundred and forty-six dollars.*

Nathan Matthews, junior, administrator of Daniel Sargent, [six hundred and thirty-eight dollars and fifty-two cents] *four hundred and ninety-two dollars.*

Francis M. Boutwell, administrator of Eben Preble, [five hundred and thirty-two dollars and ten cents] *four hundred and ten dollars.*

Thomas N. Perkins, administrator of John C. Jones, [one thousand five hundred and ninety-six dollars and thirty cents] *one thousand two hundred and thirty dollars.*

Charles A. Davis, administrator of Samuel Brown, [three thousand one hundred and ninety-two dollars and sixty cents] *two thousand four hundred and sixty dollars.*

Robert Grant, administrator of Will Powell, [one thousand and sixty-four dollars and twenty cents] *eight hundred and twenty dollars.*

Morton Prince, administrator of James Prince, [five hundred and thirty-two dollars and ten cents] *four hundred and ten dollars.*

Gordon Dexter, administrator of Samuel Dexter, [five hundred and thirty-two dollars and ten cents], *four hundred and ten dollars.*

George G. King, administrator of Crowell Hatch, [one thousand and sixty-four dollars and twenty cents] *eight hundred and twenty dollars.*

Chandler Robbins, administrator of Joseph Russell, for and on behalf of the firm of Jeffrey and Russell, [one thousand and sixty-four dollars and twenty cents] *eight hundred and twenty dollars.*

Daniel W. Waldron, administrator of Jacob Sheafe, [five hundred and thirty-two dollars and ten cents] *four hundred and ten dollars.*

Edmund D. Codman, administrator of William Gray, [two thousand one hundred and twenty-eight dollars and forty cents] *one thousand six hundred and forty dollars.*

Francis M. Boutwell, administrator of Benjamin Cobb, [one thousand and sixty-four dollars and twenty cents] *eight hundred and twenty dollars.*

Archibald M. Howe, administrator of Francis Green, [one thousand and sixty-four dollars and twenty cents] *eight hundred and twenty dollars.*

[On the vessel brig Sally, John V. Villett, master, namely:]

[Henry Audley Clark, administrator de bonis non of Peleg Clark, six thousand six hundred dollars.]

On the vessel brig Sally, Eden Wadsworth, master, namely:

James F. Adams, administrator of Seth Adams, [seventeen thousand six hundred and twenty-four dollars and forty-six cents] *sixteen thousand nine hundred and eighteen dollars.*

On the vessel schooner Union, Micajah Lunt, master, namely:

Nathaniel Moody, administrator of John Moody, [one thousand eight hundred and sixty-eight dollars and twenty-five cents] *one thousand four hundred and ninety-eight dollars.*

Frances E. Andrews, administratrix of Stephen Tilton, [one thousand eight hundred and sixty-eight dollars and twenty-five cents] *one thousand four hundred and ninety-eight dollars.*

Amos Noyes, administrator of Zebedee Cook, [two hundred and fifty] *one hundred and eighty-five* dollars.

Amos Noyes, administrator of William Cook, [one hundred] *seventy-four* dollars.

Joseph A. Titcomb, administrator of John Wells, [two hundred] *one hundred and forty-eight* dollars.

Franklin A. Wilson, administrator of John Pearson, jr., [two hundred] *one hundred and forty-eight* dollars.

Edmund D. Codman, administrator of William Gray, jr., [one thousand] *seven hundred and forty* dollars.

Charles C. Donnell, administrator of Joseph Toppan, [two hundred] *one hundred and forty-eight* dollars.

On the vessel schooner Whim, John Boyd, master, namely:

Frances Hickell Ridout, administratrix de bonis non of William Wilson, deceased, [ten thousand four hundred and forty-three] *eight thousand seven hundred and seventy-three* dollars.

On the vessel brig William, David Smith, master, namely:

Fritz H. Jordan, administrator of Leonard Smith, [three thousand three hundred and forty-three dollars and sixty-six cents] *one thousand nine hundred and eighty-five dollars.*

Joseph A. Titcomb, administrator of John Wells, [ninety] *sixty* dollars.

Francis A. Jewett, administrator of James Prince, [three] *two* hundred dollars.

William A. Hayes, second, administrator of Nathaniel A. Haven, [two hundred dollars] *one hundred and thirty-three dollars and thirty-three cents.*

Franklin A. Wilson, administrator of John Pearson, [forty-five] *thirty-six* dollars.

Benjamin F. Peach, administrator of Moses Savory, [forty-five] *thirty* dollars.

Jeremiah Nelson, administrator of Jeremiah Nelson, [ninety] *sixty-six* dollars.

Charles E. Plummer, administrator of William Cook, [forty-five] *thirty* dollars.

Arthur A. Noyes, administrator of Zebedee Cook, [ninety] *sixty* dollars.

Jane S. Gerrish, administratrix of Edward Tappan, [forty-five] *thirty* dollars.

Helen A. Pike, administratrix of John Pettingill, [one hundred and thirty-five] *one hundred and eight* dollars.

Lawrence H. H. Johnson, administrator of William Bartlet, [one thousand] *eight hundred* dollars.

Eben F. Stone, administrator of Nathan Hoyt, [forty-five] *thirty-six* dollars.

Augusta H. Chapman, administratrix of Reuben Shapley, [two hundred dollars] *one hundred and thirty-three dollars and thirty-three cents.*

[Henry B. Reed, administrator of Andrew Frothingham, fifty dollars.]

On the vessel brig Abigail, Jeremiah Tibbetts, jr., master, namely:

William H. Sise, administrator of Ebenezer Tibbetts, [three thousand one hundred and fifteen dollars] *one hundred and twenty-five dollars and twenty-seven cents.*

On the vessel sloop Anna Corbin, Thomas Justice, master, namely:

John J. Wise, administrator of John Cropper, [three thousand three hundred] *two thousand nine hundred and twenty-five* dollars and seventy-five cents.

Henry G. White, administrator of Thomas Cropper, [three hundred and seventy-five] *two hundred and fifty* dollars.

On the vessel brig Aurora, James Phillips, jr., master, namely:

Henry E. Young, administrator of William Craig, surviving partner of Henry Sadler and Company, four hundred and [ninety dollars] *twelve dollars and fifty cents.*

George F. Scriba, administrator of George Scriba, surviving partner of the firm of George Scriba and William Henderson, [nine hundred and eighty] *eight hundred and twenty-five* dollars.

John L. Rutgers, surviving executor of Nicholas G. Rutgers, surviving partner of the firm of Benjamin Seaman and Company, four hundred and [ninety dollars] *twelve dollars and fifty cents.*

Union Trust Company of New York, administrator of William Ogden, four hundred and [ninety dollars] *twelve dollars and fifty cents.*

D. Fitzhugh Savage, administrator of John Savage, [five hundred and ninety dollars and sixty-eight] *four hundred and seventy-two dollars and fifty-four* cents.

Charlotte F. Smith, administratrix of William Jones, surviving partner of Jones and Clarke, [seven hundred and thirty-eight dollars and thirty-six] *five hundred and ninety dollars and sixty-eight* cents.

Francis D. Lewis, administrator of John Miller, junior, [seven hundred and thirty-eight dollars and thirty-six] *five hundred and ninety dollars and sixty-eight* cents.

Sarah Leaming, administratrix of Thomas Murgatroyd, surviving partner of Thomas Murgatroyd and Sons, [seven hundred and thirty-eight dollars and thirty-six] *five hundred and ninety dollars and sixty-eight* cents.

Charles Prager, administrator of Mark Prager, jr., surviving partner of Pragers and Company, [seven hundred and thirty-eight dollars and thirty-five] *five hundred and ninety dollars and sixty-eight* cents.

William D. Squires, administrator of Henry Pratt, surviving partner of Pratt and Kintzing, [seven hundred and thirty-eight dollars and thirty-five] *five hundred and ninety dollars and sixty-eight* cents.

Francis D. Lewis, administrator of Peter Blight, [seven hundred and thirty-eight dollars and thirty-five] *five hundred and ninety dollars and sixty-eight* cents.

A. Louis Eakin, administrator of Chandler Price, surviving partner of Morgan and Price, [seven hundred and thirty-eight dollars and thirty-five] *five hundred and ninety dollars and sixty-eight* cents.

William Brooke Rawle, administrator of Jesse Waln, [seven hundred and thirty-eight dollars and thirty-five] *five hundred and ninety dollars and sixty-eight* cents.

Frederick W. Meeker, administrator of Samuel Meeker, [five hundred and ninety dollars and sixty-eight] *four hundred and seventy-two dollars and fifty-four* cents.

Charles D. Vasse, administrator of Ambrose Vasse, [seven hundred and thirty-eight dollars and thirty-five] *five hundred and ninety dollars and sixty-eight* cents.

Craig D. Ritchie, administrator of Joseph Summerl, surviving partner of Summerl and Brown, [five hundred and thirty-one dollars and sixty-two] *four hundred and three dollars and fourteen* cents.

On the vessel schooner Benja. Samuel O. Row, master, namely:

Charles F. Adams, administrator of Peter C. Brooks, [seven hundred] *five hundred and seventy-four* dollars.

George G. King, administrator of Crowell Hatch, [six hundred] *four hundred and ninety-two* dollars.

Thomas N. Perkins, administrator of John C. Jones, [five hundred] *four hundred and ten* dollars.

John Lowell, junior, administrator of Tuthill Hubbart, [five hundred] *four hundred and ten* dollars.

Chandler Robbins, administrator of Joseph Russell, surviving partner of Jeffrey and Russell, [five hundred] *four hundred and ten* dollars.

Nathan Matthews, junior, administrator of Daniel Sargent, [five hundred] *four hundred and ten* dollars.

William G. Perry, administrator of Nicholas Gilman, [four hundred] *three hundred and twenty-eight* dollars.

On the vessel brig Betsey, Daniel Boyer, master, namely:

Samuel Abbott Fowle, administrator of the estate of George Makepeace, deceased, assignee of Samuel Dowse, eleven thousand two hundred and fifty dollars and seventy-five cents, the same not being an assigned claim within the meaning of this act but an asset transferred by Samuel Dowse to George Makepeace on the seventeenth day of May, seventeen hundred and ninety-eight, for the sum of eleven thousand four hundred dollars and prior to the ratification of the treaty of September thirtieth, eighteen hundred.

On the vessel schooner Betsie, George Hastie, master, namely:

Frederick W. Meeker, administrator of Samuel Meeker, [four hundred and forty] *three hundred and fifty-nine* dollars and ninety-six cents.

Charles D. Vasse, administrator of Ambrose Vasse, [seven hundred and thirty-five dollars] *six hundred and thirty-three dollars and seventy-five cents.*

A. Louis Eakin, administrator of Chandler Price, surviving partner of Morgan and Price, [seven hundred and thirty-five dollars] *six hundred and thirty-three dollars and seventy-five cents.*

George W. Guthrie, administrator of Alexander Murray, surviving partner of Miller and Murray, [eight hundred and eighty-seven] *seven hundred and fifty-two* dollars and fifty-five cents.

William Mifflin, administrator of Ebenezer Large, [four hundred and forty-three dollars and seventy-eight] *three hundred and seventy-six dollars and twenty-eight* cents.

Henry Pettit, administrator of Andrew Pettit, surviving partner of Pettit and Bayard, [seven hundred and ten] *six hundred and two* dollars and four cents.

Richard C. McMurtrie, administrator of Daniel W. Coxe, [four hundred and forty-three dollars and seventy-seven] *three hundred and seventy-six dollars and twenty-eight* cents.

William R. Fisher, administrator of William Read, surviving partner of William Read and Company, [six hundred and twenty-one dollars and twenty-nine] *five hundred and twenty-six dollars and seventy-nine* cents.

On the vessel brig Brothers, George Parsons, master, namely:

Brooks Adams, administrator of Peter C. Brooks, [two thousand one hundred] *one thousand seven hundred and twenty-two* dollars.

Chandler Robbins, administrator of Joseph Russell, surviving partner of Jeffrey and Russell, [five hundred] *four hundred and ten* dollars.

Thomas N. Perkins, administrator of John C. Jones, [one thousand one hundred and thirty-six dollars and seventy] *nine hundred and thirty-seven dollars and ten* cents.

David G. Haskins, administrator of David Greene, [one thousand and forty-eight] *four hundred* dollars.

On the vessel schooner Centurian, Philip Greely, master, namely:

Stuyvesant T. V. Jackson, administrator of Levi Cutter, [seven hundred and seventy-seven dollars and fourteen] *two hundred and twenty-one dollars and eighty-one* cents.

Mabel Sargent, administratrix of Jacob Mitchell, surviving partner of Buxton and Mitchell, [seven hundred and seventy-seven dollars and fourteen] *two hundred and twenty-one dollars and eighty-one* cents.

On the vessel schooner Colly, William Mariner, master, namely:

Brooks Adams, administrator of Peter C. Brooks, [four thousand five] *three thousand three* hundred and sixteen dollars and six cents.

George G. King, administrator of Crowell Hatch, [seven] *five* hundred and fifty-two dollars and sixty-eight cents.

A. Lawrence Lowell, administrator of Nathaniel Fellowes, one thousand [five] *one* hundred and five dollars and thirty-six cents.

George G. King, administrator of James Scott, [three] *two* hundred and seventy-six dollars and thirty-four cents.

William P. Perkins, administrator of Thomas Perkins, [three] *two* hundred and seventy-six dollars and thirty-four cents.

Charles A. Welsh, administrator of William Stackpole, [three] *two* hundred and seventy-six dollars and thirty-four cents.

Walter Hunnewell, administrator of John Wells [three] *two* hundred and seventy-six dollars and thirty-four cents.

Walter Hunnewell, administrator of Arnold Wells, junior, [three] *two* hundred and seventy-six dollars and thirty-four cents.

Frank Dabney, administrator of Samuel W. Pomeroy, [three] *two* hundred and seventy-six dollars and thirty-three cents.

David G. Haskins, administrator of David Greene, [seven] *five* hundred and fifty-two dollars and sixty-seven cents.

On the vessel schooner Columbus, Benjamin Mason, master, namely:

Samuel M. Came, administrator of John Low, [one thousand five hundred and eighty-three] *nine hundred and fifty-six* dollars.

Brooks Adams, administrator of Peter C. Brooks, [four hundred and twenty-five dollars] *three hundred and eighteen dollars and seventy cents.*

George G. King, administrator of Crowell Hatch, [two hundred and fifty dollars] *one hundred and eighty-seven dollars and fifty cents.*

On the vessel brig Diana, John Walker, master, namely:

Francis M. Boutwell, administrator of Thomas Geyer, [two thousand two hundred and eighty-five dollars and seventy] *nine hundred and seventy-seven dollars and twenty* cents.

Edmund D. Codman, administrator of William Gray, [two thousand] *one thousand seven hundred* dollars.

Thomas N. Perkins, administrator of John C. Jones, [five hundred] *four hundred and twenty-five* dollars.

Frank Dabney, administrator of Samuel W. Pomeroy, [five hundred] *four hundred and twenty-five* dollars.

William Ropes Trask, administrator of Thomas Amory, [two hundred and fifty dollars] *two hundred and twelve dollars and fifty cents.*

William G. Perry, administrator of Nicholas Gilman, [two hundred and fifty dollars] *two hundred and twelve dollars and fifty cents.*

On the vessel brig Dove, William McN. Watts, master, namely:

George G. King, administrator of Crowell Hatch, [one thousand] *seven hundred* dollars.

Brooks Adams, administrator of Peter C. Brooks, [three thousand] *two thousand one hundred* dollars.

A. Lawrence Lowell, administrator of Nathaniel Fellowes, [one thousand] *seven hundred* dollars.

William R. Trask, administrator of Thomas Amory, [five hundred] *three hundred and fifty* dollars.

William G. Perry, administrator of Nicholas Gilman, [five hundred] *three hundred and fifty* dollars.

On the vessel brig Eliza, Christopher O'Conner, master, namely:

Samuel Bell, administrator, and so forth, of John Godfrey Wachsmuth, two thousand seven hundred and ninety-three dollars.

On the vessel brig Fanny, John Gould, master, namely:

Mary Wise Moody, administratrix of Daniel Wise, [seven hundred and eighty-eight dollars and eighteen] *four hundred and twenty-five dollars and sixty-eight* cents.

Albert M. Welch, administrator of Thomas Perkins, third, [one thousand eight hundred and forty-five dollars] *eight hundred and seventy-eight dollars and thirty-four cents.*

Edmund D. Codman, administrator of William Gray, [one thousand eight hundred and eighty-three dollars and thirty-three] *one thousand six hundred dollars and eighty-three* cents.

On the vessel sloop Farmer, John Grow, master, namely:

Francis M. Boutwell, administrator of William Marshall, jr., [two thousand four hundred and eighteen dollars and thirty-two] *four hundred and forty dollars and fifty-seven* cents.

Francis M. Boutwell, administrator of Benjamin Cobb, [four hundred and sixty-five] *three hundred and eighty* dollars.

William G. Perry, administrator of Nicholas Gilman, [nine hundred and thirty] *seven hundred and sixty* dollars.

Nathan Matthews, junior, administrator of Daniel Sargent, [four hundred and sixty-five] *three hundred and eighty* dollars.

Thomas N. Perkins, administrator of John C. Jones, [four hundred and sixty-five] *three hundred and eighty* dollars.

Frank Dabney, administrator of Samuel W. Pomeroy, [four hundred and sixty-five] *three hundred and eighty* dollars.

James C. Davis, administrator of Cornelius Durant, [four hundred and sixty-five] *three hundred and eighty* dollars.

Arthur D. Hill, administrator of Benjamin Homer, [four hundred and sixty-five] *three hundred and eighty* dollars.

William R. Trask, administrator of Thomas Amory, [six hundred and fifty-one] *five hundred and thirty-two* dollars.

George G. King, administrator of James Scott, [four hundred and sixty-five] *three hundred and eighty* dollars.

Charles K. Cobb, administrator of Stephen Codman, [four hundred and sixty-five] *three hundred and eighty* dollars.

On the vessel schooner Fortune, William Hubbard, master, namely:

[Mary W. Moody, administratrix of Daniel Wise, one hundred and eight dollars.]

Edmund D. Codman, administrator of William Gray, [six hundred] *four hundred and ninety-two* dollars.

On the vessel sloop Fox, Nathaniel Dennis, master, namely:

Edmund D. Codman, administrator of William Gray, jr., [six] *four* hundred dollars.

Brooks Adams, administrator of Peter C. Brooks, [one thousand dollars] *six hundred and sixty-six dollars and sixty-eight cents.*

George G. King, administrator of Crowell Hatch, [four hundred dollars] *two hundred and sixty-one dollars and sixty-seven cents.*

On the vessel schooner Friendship, William Blanchard, master, namely:

Charles F. Adams, administrator of Peter C. Brooks, [two thousand one hundred] *one thousand seven hundred and twenty-two* dollars.

Daniel W. Waldron, administrator of Jacob Sheafe, [five hundred] *four hundred and fifty* dollars.

Thomas N. Perkins, administrator of John C. Jones, [seven hundred] *six hundred and thirty* dollars.

Arthur D. Hill, administrator of Benjamin Homer, [five hundred] *four hundred and fifty* dollars.

James C. Davis, administrator of Cornelius Durant, [five hundred] *four hundred and fifty* dollars.

Frank Dabney, administrator of Samuel W. Pomeroy, [eight hundred] *seven hundred and twenty* dollars.

George G. King, administrator of James Scott, [five hundred] *four hundred and fifty* dollars.

William G. Perry, administrator of Nicholas Gilman, [five hundred] *four hundred and fifty* dollars.

On the vessel brig George, Jacob Greenleaf, master, namely:

Helen N. Pike, administratrix of John Pettingel, [five thousand one hundred and fifty-three dollars and three] *three thousand two hundred and fifty-nine dollars and eighty-eight* cents.

Joseph W. Thompson, administrator of David Coffin, [one hundred] *ninety-one* dollars.

Joseph L. Wheelwright, administrator of Moses Savory, [two hundred] *one hundred and eighty-two* dollars.

James S. Gerrish, administrator of Edward Toppan, [three hundred] *two hundred and seventy-three* dollars.

George Otis, administrator of Joseph Marquand, [one hundred] *ninety-one* dollars.

Amos Noyes, administrator of Zebedee Cook, [two hundred] *one hundred and eighty-two* dollars.

Amos Noyes, administrator of William Cook, [one hundred] *ninety-one* dollars.

Eben F. Stone, administrator of Nathan Hoyt, [one hundred] *ninety-one* dollars.

Henry B. Reed, administrator of Andrew Frothingham, [one hundred] *ninety-one* dollars.

Luther R. Moore, administrator of William Boardman, [one hundred] *ninety-one* dollars.

Charles C. Donnelly, administrator of Joseph Toppan, [one hundred] *ninety-one* dollars.

Francis A. Jewett, administrator of James Prince, [five hundred] *four hundred and fifty-five* dollars.

Fritz H. Jordan, administrator of Leonard Smith, [five hundred] *four hundred and fifty-five* dollars.

Franklin A. Wilson, administrator of John Pearson, jr., [three hundred] *two hundred and seventy-three* dollars.

Jeremiah Nelson, administrator of Jeremiah Nelson, [two hundred] *one hundred and eighty-two* dollars.

Henry P. Toppan, administrator of Joshua Toppan, [one hundred] *ninety-one* dollars.

Brooks Adams, administrator of Peter C. Brooks, [two thousand] *one thousand seven hundred and sixty* dollars.

William Ropes Trask, administrator of Thomas Amory, [one thousand] *eight hundred and eighty* dollars.

Thomas N. Perkins, administrator of John C. Jones, [one thousand] *eight hundred and eighty* dollars.

On the vessel schooner Greyhound, Sylvanus Snow, master, namely:

George G. King, administrator of Crowell Hatch, [seven hundred] *five hundred and twenty-five* dollars.

A Lawrence Lowell, administrator of Nathaniel Fellowes, [seven hundred and fifty dollars] *five hundred and sixty-two dollars and fifty cents.*

On the vessel schooner Hannah, James H. Voax, master, namely:

[Charles U. Cotting, administrator of David W. Child, three hundred and nine dollars and twenty-seven cents.]

[Francis M. Boutwell, administrator of William Marshall, junior, three hundred and nine dollars and twenty-eight cents.]

Brooks Adams, administrator of Peter C. Brooks, [two thousand] *one thousand eight hundred* dollars.

Morton Prince, administrator of James Prince, [five hundred] *four hundred and fifty* dollars.

A. Lawrence Lowell, administrator of Nathaniel Fellowes, [one thousand] *nine hundred* dollars.

Chandler Robbins, administrator of Joseph Russell, for and on behalf of the firm of Jeffrey and Russell, [one thousand] *nine hundred* dollars.

Thomas N. Perkins, administrator of John C. Jones, [one thousand] *nine hundred* dollars.

George G. King, administrator of Crowell Hatch, [one thousand] *nine hundred* dollars.

Nathan Matthews, junior, administrator of Daniel Sargent, [four hundred and sixteen] *three hundred and fifty-six* dollars and sixty-seven cents.

Edward I. Browne, administrator of Israel Thorndike, [five hundred and eighty-three] *four hundred and ninety-nine* dollars and thirty-three cents.

Henry Parkman, administrator of John Lovett, two hundred and [fifty] *fourteen* dollars.

On the vessel schooner Hazard, Barnabus Young, master, namely:

Joshua D. Upton, administrator of Eben Parsons, [seven thousand two hundred and eighteen dollars and fifty-nine] *six thousand four hundred and thirty-five dollars and fifty* cents.

On the vessel schooner Hero, Convers Lilly, master, namely:

Walter L. Hall, administrator of Samuel Davis, [two thousand eight hundred and fifty-eight dollars and fifty cents] *one thousand six hundred dollars.*

Ann W. Davis, administratrix of Jonathan Davis, [two thousand eight hundred and fifty-eight dollars and fifty cents] *one thousand six hundred dollars.*

William G. Perry, administrator of Nicholas Gilman, [two hundred and fifty dollars] *two hundred and six dollars and twenty-five cents.*

Daniel W. Waldron, administrator of Jacob Sheafe, [one hundred and twenty-five dollars] *one hundred and three dollars and twelve cents.*

Elisha Whitney, administrator of Thomas Stevens, for and on behalf of the firm of John and Thomas Stevens, [one hundred and fifty dollars] *one hundred and twenty-three dollars and seventy-five cents.*

Thomas H. Perkins, administrator of John C. Jones, [one hundred and fifty dollars] *one hundred and twenty-three dollars and seventy-five cents.*

William Ropes Trask, administrator of Thomas Amory, [two hundred and fifty dollars] *two hundred and six dollars and twenty-five cents.*

George G. King, administrator of James Scott, [one hundred and twenty-five dollars] *one hundred and three dollars and twelve cents.*

Nathan Matthews, administrator of Daniel Sargent, [one hundred and twenty-five dollars] *one hundred and three dollars and twelve cents.*

Henry B. Cabot, administrator of Daniel D. Rogers, [one hundred and twenty-five dollars] *one hundred and three dollars and twelve cents.*

James C. Davis, administrator of Cornelius Durant, [two hundred and fifty dollars] *two hundred and six dollars and twenty-five cents.*

Edward I. Browne, administrator of Israel Thorndike, [one hundred and twenty-five dollars] *one hundred and three dollars and thirteen cents.*

A. Lawrence Lowell, administrator of Tuthill Hubbart, [one hundred and fifty dollars] *one hundred and twenty-three dollars and seventy-five cents.*

On the vessel schooner Hiram, Ebenezer Barker, master, namely:

Moses Sherwood, administrator for the estate of David Coley, jr., two thousand dollars.

On the vessel sloop Honor, William Kimball, master, namely:

Charles F. Adams, administrator of Peter C. Brooks, [two thousand and ninety] *one thousand eight hundred and ninety-eight* dollars.

A. Lawrence Lowell, administrator of Nathaniel Fellowes, [four hundred and seventy-five] *four hundred and twenty-five* dollars.

George G. King, administrator of James Tisdale, [three hundred and eighty] *three hundred and fifty-six* dollars.

Francis M. Boutwell, administrator of Joseph Cordis, [three hundred and eighty] *three hundred and fifty-six* dollars.

George G. King, administrator of Crowell Hatch, [four hundred and seventy-five] *four hundred and twenty-five* dollars.

On the vessel brig Hope, Joseph Bright, master, namely:

E. Francis Riggs, administrator of James Lawrason, deceased, surviving partner of Shreve and Lawrason, [seven hundred and forty-nine dollars and fifty] *two hundred and thirty-six dollars and sixty-seven* cents.

Lawrence Stabler, administrator of William Hartshorne, deceased, remaining partner of William Hartshorne and Sons, [three thousand three hundred and forty-five] *two thousand* dollars.

D. Fitzhugh Savage, administrator of John Savage, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

Francis A. Lewis, administrator of Peter Blight, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

Charles McCafferty, administrator of Samuel Blodgett, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

Sarah Leaming, administratrix of Thomas Murgatroyd, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

J. Bayard Henry, administrator of John Leamy, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

Francis R. Pemberton, administrator of John Clifford, surviving partner of Thomas and John Clifford, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

Samuel Bell, administrator of John G. Wachsmuth, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

Crawford D. Hening, administrator of James Crawford, surviving partner of James Crawford and Company, [four hundred and ninety dollars] *four hundred and twenty-seven dollars and fifty cents.*

Crawford D. Hening, administrator of Abijah Dawes, three hundred and [ninety-two] *forty-two* dollars.

Henry Pettit, administrator of Charles Pettit, [eight hundred and thirty-three dollars] *seven hundred and forty-three dollars and seventy-five cents.*

On the vessel ship Hope, Sylvester Bill, master, namely:

Brooks Adams, administrator of Peter C. Brooks, [seven thousand] *six thousand three hundred* dollars.

Chandler Robbins, administrator of Joseph Russell, surviving partner of Jeffrey and Russell, [one thousand] *nine hundred* dollars.

Thomas N. Perkins, administrator of John C. Jones, [one thousand] *nine hundred* dollars.

George G. King, administrator of Crowell Hatch, [one thousand] *nine hundred* dollars.

On the vessel schooner Isabella, Lewis Lombard, master, namely:

Charles L. De Normandie, administrator of Benjamin Smith, [one thousand seven hundred and sixty dollars and twenty-five] *eight hundred and eight dollars and fifty-nine* cents.

[Nathan Matthews, administrator of Daniel Sargent, three hundred and thirty-eight dollars and six cents.]

Thomas N. Perkins, administrator of John C. Jones, [one hundred] *eighty* dollars.

George G. King, administrator of James Scott, [six hundred] *five hundred and forty* dollars.

William G. Perry, administrator of Nicholas Gilman, [six hundred] *five hundred and forty* dollars.

Jonathan I. Bowditch, administrator of Benjamin Pickman, [five hundred] *four hundred and fifty* dollars.

Edward I. Browne, administrator of Israel Thorndike, [five hundred] *four hundred and fifty* dollars.

Augustus P. Loring, administrator of William H. Boardman, [four hundred] *three hundred and sixty* dollars.

David G. Haskins, administrator of David Greene, [five hundred] *four hundred and fifty* dollars.

Charles K. Cobb, administrator of Stephen Codman, [four hundred] *three hundred and sixty* dollars.

A. Lawrence Lowell, administrator of Tuthill Hubbart, [five hundred] *four hundred and fifty* dollars.

On the vessel sloop James, Robert Palmer, master, namely:

George Meade, administrator of the estate of Anthony Butler, [four thousand five hundred and thirty-three] *three thousand two hundred* dollars.

On the vessel schooner Jenny, George Walker, master, namely:

Brooks Adams, administrator of Peter C. Brooks, [five hundred] *four hundred and twenty-five* dollars.

George G. King, administrator of Crowell Hatch, [five hundred] *four hundred and twenty-five* dollars.

Alice S. Wheeler, administratrix of Abiel Winship, [three thousand six hundred and seventy dollars and six] *two thousand eight hundred and eighty-two dollars and fifty* cents.

On the vessel sloop Julia, William Green, master, namely:

Silas R. Holmes, administrator of Ebenezer Holmes, [eight hundred and fifty-one dollars and fifty cents] *six hundred dollars.*

Wilbur S. Comstock, administrator of Phineas Parmalee, [eight hundred and fifty-one dollars and fifty cents] *six hundred dollars.*

Stephen L. Selden, administrator of Richard E. Selden, [eight hundred and fifty-one dollars and fifty cents] *six hundred dollars.*

Franklin Little, executor of Noah Bulkley, [eight hundred and fifty-one dollars and fifty cents] *six hundred dollars.*

On the vessel schooner Juno, William Burgess, master, namely:

Cazenove G. Lee, administrator of James Patton, surviving partner of the firm of Patton and Dykes, [seven thousand and sixty-six dollars and sixty-six cents] *seven thousand dollars.*

John W. Apthorp, administrator of William Foster, [one thousand] *nine hundred and thirty* dollars.

William I. Monroe, administrator of John Brazer, [one thousand] *nine hundred and thirty* dollars.

William S. Carter, administrator of William Smith, [eight hundred] *seven hundred and forty-four* dollars.

H. Burr Crandall, administrator of Thomas Dickason, jr., [five hundred] *four hundred and sixty-five* dollars.

Nathan Matthews, administrator of Daniel Sargent, [five hundred] *four hundred and sixty-five* dollars.

Augustus P. Loring, administrator of William Boardman, [one thousand] *nine hundred and thirty* dollars.

Lawrence Bond, administrator of Nathan Bond, [five hundred] *four hundred and sixty-five* dollars.

David Greene Haskins, administrator of David Greene, [five hundred] *four hundred and sixty-five* dollars.

William G. Perry, administrator of Nicholas Gilman, [five hundred] *four hundred and sixty-five* dollars.

William A. Hayes, second, administrator of Eliphalet Ladd, [five hundred] *four hundred and sixty-five* dollars.

Montgomery Fletcher, administrator of John Walter Fletcher, for and on behalf of the firm of Fletcher and Otway, three hundred and thirty-three dollars and thirty-three cents.

[On the vessel schooner Kitty, Jacob Singleton, master, namely:]

[Ormes B. Keith, surviving executor of Samuel Keith, surviving partner of the firm of William and Samuel Keith, one thousand four hundred and sixty-one dollars and seventy-six cents.]

On the vessel schooner Liberty, Asa Williams, master, namely:

Brooks Adams, administrator of the estate of Peter Chardon Brooks, deceased, two thousand [five] *two* hundred dollars.

George G. King, administrator of the estate of Crowell Hatch, deceased, [five hundred] *four hundred and eighty* dollars.

David Greene Haskins, administrator of the estate of David Greene, deceased, [one thousand nine hundred and sixty] *one thousand six hundred* dollars.

On the vessel schooner Little Fannie, Peter Fosdick, master, namely:

Samuel J. Randall, administrator of Matthew Randall, [two thousand two] *one* hundred and sixty dollars.

Charles D. Vasse, administrator of Ambrose Vasse, [four] *three* hundred and ninety dollars.

Charles Prager, administrator of Mark Prager, jr., for and on behalf of Pragers and Company, [nine] *eight* hundred and eighty dollars.

Francis A. Lewis, administrator of Peter Blight, [nine] *eight* hundred and eighty dollars.

On the vessel brig Lucy, Christoper Grant, master, namely:

[Daniel W. Salisbury, surviving executor of Samuel Salisbury, two thousand and eighty-nine dollars and eighty-three cents.]

[Louis Higginson, administrator of Stephen Higginson, two thousand and eighty-nine dollars and eighty-three cents.]

Charles F. Adams, administrator of Peter C. Brooks, [four thousand five hundred] *three thousand* dollars.

Robert Codman, administrator of William Gray, [one thousand dollars] *six hundred and sixty-six dollars and sixty-six cents.*

George G. King, administrator of Crowell Hatch, [one thousand dollars] *six hundred and sixty-six dollars and sixty-six cents.*

A. Lawrence Lowell, administrator of Nathaniel Fellowes, [one thousand dollars] *six hundred and sixty-six dollars and sixty-six cents.*

On the vessel brig Mary, Robert Holmes, master, namely:

Edmund D. Codman, administrator of the estate of William Gray, deceased, [three] *two* thousand nine hundred and sixty dollars.

William I. Monroe, administrator of the estate of John Brazer, deceased, [one hundred and fifteen dollars] *eighty-six dollars and twenty-five cents.*

On the vessel schooner Neptune, Comfort Bird, master, namely:

Brooks Adams, administrator of Peter C. Brooks, [two thousand one hundred and twenty-nine dollars and eight] *one thousand one hundred and fifty-nine dollars and twenty-two* cents.

George G. King, administrator of Crowell Hatch, [eight] *six* hundred and fifty-one dollars and sixty-three cents.

A. Lawrence Lowell, administrator of Nathaniel Fellowes, [four] *three* hundred and twenty-five dollars and eighty-two cents.

Thomas N. Perkins, administrator of John C. Jones, [six hundred] *five hundred and ten* dollars.

Frank Dabney, administrator of Samuel W. Pomeroy, [six hundred] *five hundred and ten* dollars.

William S. Carter, administrator of William Smith, [five hundred and thirty-two] *four hundred and twenty-four* dollars.

John Lowell, administrator of Tuthill Hubbart, [five hundred and thirty-two] *four hundred and twenty-four* dollars.

Francis M. Boutwell, administrator of John McLean, two hundred and [sixty-six dollars] *twenty-eight dollars and fifty cents.*

Samuel Abbott Fowle, administrator of George Makepeace [four hundred and eighty-nine] *three hundred and nine* dollars and eighty-six cents.

[On the vessel brig Peggy, John Hourston, master, namely:]

[Charles F. Mayer, administrator of Henry Konig, three thousand seven hundred and ninety-seven dollars and eighty-seven cents.]

[Charles F. Mayer, surviving executor of Frederick Konig, three thousand seven hundred and ninety-seven dollars and eighty-seven cents.]

On the vessel schooner Rebecca, Mildmay Smith, master, namely:

Lewis Christian Mayer, administrator of Christian Mayer [eight thousand seven hundred and seventy-nine dollars and seventy-seven] *seven thousand seven hundred and eighty-five dollars and twenty-seven* cents.

Leigh Bonsal, administrator of Adrian Valck, [eight thousand seven hundred and seventy-nine dollars and seventy-seven] *seven thousand seven hundred and eighty-five dollars and twenty-seven* cents.

On the vessel schooner Sally, Timothy Davis, master, namely:

Charles F. Trask, administrator of Samuel Babson, [two thousand six hundred] *one thousand six hundred and fifty* dollars.

On the vessel ship Sarah, Joseph Breck, master, namely:

Brooks Adams, administrator of Peter C. Brooks, [one thousand one hundred and seventy-four dollars and sixty] *four hundred and sixty-six dollars and eighty* cents.

Thomas N. Perkins, administrator of John C. Jones, [two hundred and fifty] *one hundred and fifteen* dollars and eighty cents.

Francis M. Boutwell, administrator of Benjamin Cobb, [one hundred and sixty-seven] *seventy-seven* dollars and eighty cents.

James S. English, administrator of Thomas English, [eighty-three] *thirty-eight* dollars and ninety cents.

Arthur P. Cushing, administrator of Marston Watson, [one hundred and sixty-seven] *seventy-seven* dollars and eighty cents.

Walter Hunnewell, administrator of John Welles, [eighty-three] *thirty-eight* dollars and ninety cents.

Morton Prince, administrator of James Prince, [eighty-three] *thirty-eight* dollars and ninety cents.

Gordon Dexter, administrator of Samuel Dexter, [eighty-three] *thirty-eight* dollars and ninety cents.

Nathan Matthews, jr., administrator of Daniel Sargent, [one hundred and sixteen] *fifty-three* dollars and twenty cents.

Daniel W. Waldron, administrator of Jacob Sheafe, [eighty-three] *thirty-eight* dollars.

Charles E. Cobb, administrator of Stephen Codman, [eighty-three] *thirty-eight* dollars.

George G. King, administrator of James Scott, [eighty-three] *thirty-eight* dollars.

Edward I. Browne, administrator of Israel Thorndike, [eighty-three] *thirty-eight* dollars.

Arthur D. Hill, administrator of Benjamin Homer, [eighty-three] *thirty-eight* dollars.

Henry W. Edes, administrator of John May, [eighty-three] *thirty-eight* dollars.

John O. Shaw, administrator of Josiah Knapp, [eighty-three] *thirty-eight* dollars.

William Ropes Trask, administrator of Thomas Amory, [one hundred and sixty-six] *seventy-six* dollars.

H. Burr Crandall, administrator of Thomas Cushing, [sixty-six] *thirty* dollars and forty cents.

Jonathan I. Bowditch, administrator of Benjamin Pickman, [eighty-three] *thirty-eight* dollars.

Arthur T. Lyman, administrator of Theodore Lyman, [eighty-three] *thirty-eight* dollars.

Charles K. Cobb, administrator of John Codman, [one hundred and sixty-six] *seventy-six* dollars.

William G. Perry, administrator of Nicholas Gilman, [one hundred and sixty-six] *seventy-six* dollars.

Elisha Whitney, administrator of Thomas Stephens, for and on behalf of the firm of John and Thomas Stephens, [ninety-nine] *forty-five* dollars and sixty cents.

John Lowell, administrator of Tuthill Hubbart, [eighty-three] *thirty-eight* dollars.

Frank Dabney, administrator of Samuel W. Pomeroy, [one hundred and sixty-six] *seventy-six* dollars.

W. Rodman Peabody, administrator of Daniel D. Rogers, [one hundred and thirty-two] *sixty* dollars and eighty cents.

On the vessel sloop Scrub, John Russell, master, namely:

Newton Dexter, administrator of the estate of Joseph Martin, deceased, three hundred dollars.

On the vessel brig Sophia, Ambrose Shirley, master, namely:

[James L. Hubard, administrator of William Pennock, four hundred and seventy-three dollars and eleven cents.]

Bassett A. Marsden, administrator of Benjamin Pollard, [two hundred and ninety-four dollars] *two hundred and forty-one dollars and fifty* cents.

John Neely, administrator of John Cowper, surviving partner of John Cowper and Company, [four hundred and ninety dollars] *four hundred and two dollars and fifty cents.*

R. Manson Smith, administrator of Francis Smith, [one hundred and ninety-six] *one hundred and sixty-one* dollars.

Alexander Proudfit, administrator of John Proudfit, for and on behalf of the firm of John Proudfit and Company, [three hundred and ninety-two] *three hundred and twenty-two* dollars.

George H. Gorman, administrator of Mat Anderson, [two hundred and ninety-four dollars] *two hundred and forty-one dollars and fifty cents.*

George H. Gorman, administrator of Ben. Dabney, [two hundred and ninety-four dollars] *two hundred and forty-one dollars and fifty cents.*

On the vessel schooner Swan, Samuel Shaw, master, namely:

George G. King, administrator of Crowell Hatch, [five hundred] *three hundred and seventy-five* dollars.

Morton Prince, administrator of James Prince, [three hundred] *two hundred and twenty-five* dollars.

William P. Dexter, administrator of Samuel Dexter, [three hundred] *two hundred and twenty-five* dollars.

Thomas N. Perkins, administrator of John C. Jones, [four hundred] *three hundred* dollars.

On the vessel schooner Sylvanus, Edward D. Baker, master, namely:

Nathan Matthews, junior, administrator of Daniel Sargeant, [six hundred] *five hundred and ten* dollars.

Thomas N. Perkins, administrator of John C. Jones, [one thousand seven hundred] *eight hundred and fifty* dollars.

Charles K. Cobb, administrator of Stephen Codman, [seven hundred] *five hundred and ninety-five* dollars.

William G. Perry, administrator of Nicholas Gilman, [seven hundred] *five hundred and ninety-five* dollars.

Edward I. Browne, administrator of Israel Thorndike, [six hundred] *five hundred and ten* dollars.

Henry Parkman, administrator of John Lovett, [three hundred] *two hundred and fifty-five* dollars.

John Lowell, junior, administrator of Tuthill Hubbart, [eight hundred] *six hundred and eighty* dollars.

Arthur D. Hill, administrator of Benjamin Homer, [five hundred] *four hundred and twenty-five* dollars.

James C. Davis, administrator of Cornelius Durant, [one thousand four hundred] *one thousand two hundred and ten* dollars.

Chandler Robbins, administrator of Joseph Russell, *surviving partner of Jeffrey and Russell,* [eight hundred] *six hundred and eighty* dollars.

George G. King, administrator of Crowell Hatch, [five hundred] *four hundred and fifty* dollars.

On the vessel schooner Syren, Jared Arnold, master, namely:

Charles J. Bonaparte, administrator of Benjamin Williams, [three thousand and sixty-four dollars and fifty-eight] *two thousand six hundred and sixty-two dollars and eight* cents.

David Stewart, administrator of William Wood, junior, [three thousand and sixty-four dollars and fifty-eight] *two thousand six hundred and sixty-two dollars and eight* cents.

David Stewart, administrator of Henry Payson, [three thousand and sixty-four dollars and fifty-eight] *two thousand six hundred and sixty-two dollars and eight* cents.

Henry W. Ellicott, administrator of William McFadon, [five hundred and thirty-two dollars and sixty] *three hundred and fifteen dollars and thirty* cents.

James Lawson, administrator of Richard Lawson, [five hundred and thirty-two dollars and sixty] *three hundred and fifteen dollars and thirty* cents.

Richard Dalafield, administrator of John Dalafield, surviving partner of Church and Dalafield, [one thousand seven hundred and sixteen] *one thousand four hundred and sixty-six* dollars and eighty cents.

On the vessel sloop Townsend, Daniel Campbell, master, namely:

William O. McCobb, administrator of the estate of William McCobb, [two thousand one hundred and eleven dollars and eleven] *one thousand five hundred and four dollars and sixty* cents.

William O. McCobb, administrator of the estate of Joseph Campbell, [one thousand one hundred and eleven dollars and eleven] *five hundred and four dollars and sixty* cents.

Jennie E. McFarland, administratrix of the estate of Ephraim McFarland, [four hundred and eighty-three dollars and ninety-six] *seventy-nine dollars and sixty-one* cents.

Francis M. Boutwell, administrator of the estate of Benjamin Cobb, junior, [five] *two* hundred dollars.

Archibald M. Howe, administrator of the estate of Francis Green, [five] *two* hundred dollars.

William Ropes Trask, administrator of the estate of Thomas Amory, [five] *two* hundred dollars.

Thomas N. Perkins, administrator of the estate of John C. Jones, [five] *two* hundred dollars.

On the vessel schooner Two Cousins, Elijah Devall, master, namely:

Horace E. Hayden, administrator of David H. Conyngham, surviving partner of Conyngham, Nesbit and Company, [eight thousand and twelve dollars and thirteen] *six thousand six hundred and seventy-eight dollars and eighty* cents.

On the vessel schooner Unity, J. W. Latouche, master, namely:

David Stewart, administrator of Henry Messonnier, [four thousand four] *three thousand five* hundred and sixty-seven dollars and eight cents.

On the vessel schooner Venus, Benjamin Hooper, master, namely:

Brooks Adams, administrator of Peter C. Brooks, [two thousand] *one thousand six hundred* dollars.

James S. English, administrator of Thomas English, [five] *four* hundred dollars.

George G. King, administrator of Crowell Hatch, [one thousand] *eight hundred* dollars.

Daniel W. Waldron, administrator of Jacob Sheafe, [five hundred dollars] *four hundred and twelve dollars and fifty cents.*

Francis M. Boutwell, administrator of Benjamin Cobb, [one thousand dollars] *eight hundred and twelve dollars and fifty cents.*

Francis M. Boutwell, administrator of John McLean, [one thousand] *eight hundred and twenty-five* dollars.

W. Rodman Peabody, administrator of Daniel D. Rogers, [five hundred dollars] *four hundred and twelve dollars and fifty cents.*

Frank Dabney, administrator of Samuel W Pomeroy, [one thousand] *eight hundred and twenty-five* dollars.

William G. Perry, administrator of Nicholas Gilman, [one thousand] *eight hundred and twenty-five* dollars.

Elisha Whitney, administrator of Thomas Stevens, for and on behalf of the firm of John and Thomas Stevens, [six hundred] *four hundred and ninety-five* dollars.

William R. Trask, administrator of Thomas Amory, [five hundred dollars] *four hundred and twelve dollars and fifty cents.*

Edward I. Browne, administrator of Moses Brown, [five hundred dollars] *four hundred and twelve dollars and fifty cents.*

Charles K. Cobb, administrator of Stephen Codman, [four hundred] *three hundred and thirty* dollars.

Thomas N. Perkins, administrator of John C. Jones, [one thousand nine hundred dollars] *seven hundred and forty-two dollars and fifty cents.*

A. Lawrence Lowell, administrator of Tuthill Hubbart, [four hundred] *three hundred and thirty* dollars.

George G. King, administrator of James Scott, [six hundred] *four hundred and ninety-five* dollars.

On the vessel schooner William Lovel, John K. Hill, master, namely:

William D. Lee, Thomas D. Lee, Henry A. Lee, Joseph A. Lee, and Virginia Waters, administrators of William Duncan, [six hundred and twenty-eight] *one hundred and three* dollars and seventy-one cents.

On the vessel schooner Betsey, Francis Bulkeley, master, namely:

Francis B. Field, administrator of Francis Bulkley, [six thousand eight hundred and forty-three dollars and seventy] *five thousand six hundred and eighty-seven dollars and forty-five* cents.

Robert Ogden Glover, administrator of John Morgan, [two thousand two hundred and sixty-eight dollars and eleven] *one thousand three hundred and ninety-nine dollars and thirty-six* cents.

Benjamin M. Hartshorne and Charles N. Black, executors of Richard Hartshorne, surviving partner of Rhinelander, Hartshorne and Company, four hundred and [ninety] *forty* dollars.

Thomas W. Ludlow, administrator of Thomas Ludlow, four hundred and [ninety] *forty* dollars.

Gordon Norrie, administrator of Gerret Van Horne, surviving partner of Van Horne and Clarkson, four hundred and [ninety] *forty* dollars.

Harriet E. Sebor, administratrix of Jacob Sebor, four hundred and [ninety] *forty* dollars.

[On the vessel schooner Sally, John D. Farley, master, namely:

Frederick H. Allen, administrator of Charles Goodrich, four hundred and five dollars and sixty-seven cents.]

On the vessel brig Drake, Jonathan M. Tredick, master, namely:

Charles E. Batchelder, administrator of William Tredick, [seven thousand and seventy-three] *four thousand seven hundred and sixteen* dollars and two cents.

George W. Haven, administrator of Moses Woodward, one hundred and [eighty-two] *forty-two* dollars and eighty-six cents.

Francis E. Langdon, administrator of Clement Storer, two hundred and [seventy-four] *fourteen* dollars and twenty-eight cents.

J. Hamilton Shapley, administrator of Edward Cutts, [two hundred and twenty-eight] *one hundred and seventy-eight* dollars and fifty-seven cents.

James W. Emery, administrator of Thomas Manning, two hundred and [seventy-four] *fourteen* dollars and twenty-eight cents.

Mary Pickering Harris, administratrix of Jonathan Goddard, one hundred and [eighty-two] *forty-two* dollars and eighty-six cents.

Josephine Richter, administratrix of John McClintock, [ninety-one] *seventy-one* dollars and forty-three cents.

Charles H. Batchelder, administrator of Daniel Huntress, one hundred and [thirty-seven] *seven* dollars and fourteen cents.

Frederick P. Jones, administrator of Martin Parry, two hundred and [seventy-four] *fourteen* dollars and twenty-eight cents.

Charles H. Batchelder, administrator of Abel Harris, [forty-five] *thirty-five* dollars and seventy-two cents.

Alfred L. Elwyn, administrator of John Langdon, two hundred and [seventy-four] *fourteen* dollars and twenty-eight cents.

William Hall Williams, administrator of Elijah Hall, two hundred and [seventy-four] *fourteen* dollars and twenty-eight cents.

On the vessel brig Two Brothers, Alexander Forrester, master, namely:

Brooks Adams, administrator of Peter C. Brooks, two thousand [seven hundred and sixty-eight] *and eighteen* dollars and forty-nine cents.

Nathaniel P. Hamlin, administrator of Thomas Perkins, [three] *two* hundred and sixty-nine dollars and fourteen cents.

Walter Hunnewell, administrator of John Welles, [three] *two* hundred and sixty-nine dollars and fourteen cents.

A. Lawrence Lowell, administrator of Nathaniel Fellowes, [one thousand one] *eight* hundred and seven dollars and forty cents.

George G. King, administrator of Crowell Hatch, [nine hundred and twenty-two] *six hundred and seventy-two* dollars and eighty-three cents.

William G. Perry, administrator of Nicholas Gilman, [two hundred and fourteen] *eighty-nine* dollars.

Frank Dabney, administrator of Samuel W. Pomeroy, [two hundred and fourteen] *eighty-nine* dollars.

On the vessel schooner Willing Maid, Comfort Bird, master, namely:

George G. King, administrator of Crowell Hatch, [eight hundred and six dollars and eighty-two] *four hundred and seventy-three dollars and forty-nine* cents.

Thomas N. Perkins, administrator of John C. Jones, [four hundred and three dollars and forty-one] *two hundred and thirty-six dollars and seventy-five* cents.

Frank Dabney, administrator of Samuel W. Pomeroy, [four hundred and three dollars and forty-one] *two hundred and thirty-six dollars and seventy-five* cents.

William S. Carter, administrator of William Smith, [eight hundred and six dollars and eighty-two] *four hundred and seventy-three dollars and forty-nine* cents.

Henry B. Cabot, administrator of Daniel D. Rogers, [four hundred and three dollars and forty-one] *two hundred and thirty-six dollars and seventy-five* cents.

A. Lawrence Lowell, administrator of Nathaniel Fellowes, [one thousand seven hundred and six dollars and eighty-two] *one thousand one hundred and three dollars and forty-nine* cents.

John Lowell, administrator of Tuthill Hubbart, [four hundred and three dollars and forty-one] *two hundred and thirty-six dollars and seventy-five* cents.

Charles A. Welch, administrator of William Stackpole, [four hundred and three dollars and forty-one] *two hundred and thirty-six dollars and seventy-five* cents.

Charles K. Cobb, administrator of Stephen Codman, [two] *one* hundred and forty-two dollars and five cents.

On the vessel schooner Friendship, Patrick Drummond, master, namely:

William D. Hill, administrator of Mark L. Hill, [four hundred and sixteen dollars and seventy cents] *two hundred and fifty dollars.*

Francis Adams, administrator of Josiah Batcheider, [four hundred and sixteen dollars and seventy cents] *two hundred and fifty dollars.*

Charles K. Cobb, administrator of John Codman, [four hundred and sixteen] *two hundred and fifty* dollars and seventy cents.

James W. Crawford, administrator of Samuel Mareen, [two hundred and ninety-six dollars and seventy cents] *one hundred dollars.*

Francis Adams, administrator of John Mareen, [two hundred and ninety-six dollars and seventy cents] *one hundred dollars.*

Francis M. Boutwell, administrator of John McLean, [nine hundred] *seven hundred and twenty* dollars.

On the vessel sloop George, John Grant, master, namely:

Joseph Titcomb, administrator of Michael Wise, surviving partner of Wise and Grant, [seven thousand two hundred and thirty-one dollars and seventy-seven] *six thousand one hundred and fifty-four dollars and ninety* cents.

John C. Soley, administrator of John Soley, five hundred dollars.

Augustus P. Loring, administrator of William Boardman, three hundred dollars.

Francis M. Boutwell, administrator of Joseph Cordis, three hundred dollars.

Francis M. Boutwell, administrator of William Shattuck, five hundred dollars.

On the vessel ship Minerva, Solomon Hopkins, master, namely:

George S. Boutwell, administrator of Thomas Cutts, nine hundred and eighty-six dollars and five cents.

George S. Boutwell, administrator of Thomas Cutts, jr., nine hundred and eighty-six dollars and five cents.

On the vessel schooner Nancy, Henry H. Kennedy, master, namely:

[Charles D. Vasse, administrator of Ambrose Vasse, one thousand two hundred and ninety-five dollars and ninety-two cents.]

William Mifflin, administrator of Ebenezer Large, four hundred and [ninety dollars] *two dollars and fifty cents.*

A. Louis Eakin, administrator of Chandler Price, surviving partner of Morgan and Price, four hundred and [ninety dollars] *two dollars and fifty cents.*

Crawford D. Henning, administrator of Abijah Dawes, four hundred and [ninety dollars] *two dollars and fifty cents.*

George W. Guthrie, administrator of Alexander Murray, surviving partner of Miller and Murray, [six hundred and eighty-six dollars] *five hundred and sixty-three dollars and fifty cents.*

J. Bayard Henry, administrator of John Leamy, [seven hundred and eighty-four] *six hundred and forty-four* dollars.

Henry Pettit, administrator of Andrew Pettit, surviving partner of Pettit and Bayard, [five hundred and eighty-eight] *four hundred and eighty-three* dollars.

William R. Fisher, administrator of William Read, surviving partner of William Read and Company, four hundred and [ninety dollars] *two dollars and fifty cents.*

Mary Jackson, administratrix of Robert Smith, surviving partner of Robert Smith and Company, four hundred and [ninety dollars] *two dollars and fifty cents.*

Craig D. Ritchie, administrator of Joseph Summerl, surviving partner of Summerl and Brown, [four hundred and ninety dollars] *four hundred and two dollars and fifty cents.*

Janet G. Elbert, administratrix of Paul Beck, jr., [three hundred and ninety-two] *three hundred and two* dollars.

Mary Vanuxem, administratrix of James Vanuxem, surviving partner of Vanuxem and Clark, [four hundred and ninety dollars] *four hundred and two dollars and fifty cents.*

John Cadwalader, jr., administrator of Thomas W. Francis, [four hundred and ninety dollars] *four hundred and two dollars and fifty cents.*

J. Bayard Henry, administrator of Charles Ross, [three hundred and ninety-two] *three hundred and twenty-two* dollars.

J. Bayard Henry, administrator of John Simson, [three hundred and ninety-two] *three hundred and twenty-two* dollars.

Frederick W. Meeker, administrator of Samuel Meeker, [four hundred and ninety dollars] *four hundred and two dollars and fifty cents.*

The City of Philadelphia, administrator of Stephen Girard, [four hundred and ninety dollars] *four hundred and two dollars and fifty cents.*

Robert Wells, administrator of Gideon H. Wells, [nine hundred and eighty] *eight hundred and five* dollars.

The Pennsylvania Company for Insurance on Lives, and so forth, administrator of Thomas M. Willing, surviving partner of Willings and Francis, [nine hundred and eighty] *eight hundred and five* dollars.

William Brooke Rawle, administrator of Jesse Waln, [nine hundred and eighty] *eight hundred and five* dollars.

Samuel Bell, administrator of John G. Wachsmuth, [four hundred and ninety dollars] *four hundred and two dollars and fifty cents.*

James S. Cox, administrator of James S. Cox, [three hundred and ninety-two] *three hundred and twenty-two* dollars.

George H. Fisher, administrator of Joshua Fisher, [four hundred and ninety dollars] *four hundred and two dollars and fifty cents.*

George McCall, administrator of William McMurtrie, [four hundred and ninety dollars] *four hundred and two dollars and fifty cents.*

[On the vessel brig Anna, Benjamin Chase, master, namely:]

[Mary E. Carter, administratrix of Thomas Carter, three hundred dollars.]

On the vessel schooner Betsey Holland, Samuel Cassan, master, namely:

J. Bayard Henry, administrator of Charles Ross and John Simson, composing the firm of Ross and Simson, [one hundred and twenty-one dollars and sixty-two] *one hundred dollars and thirty-four* cents.

George W. Guthrie, administrator of Alexander Murray, for and on behalf of the firm of Miller and Murray, [one hundred and twenty-one dollars and sixty-two] *one hundred dollars and thirty-four* cents.

Samuel Bell, administrator of John G. Wachsmuth, [one hundred and twenty-one dollars and sixty-two] *one hundred dollars and thirty-four* cents.

Francis R. Pemberton, administrator of John Clifford, for and on behalf of the firm of Thomas and John Clifford, [one hundred and twenty-one dollars and sixty-two] *one hundred dollars and thirty-four* cents.

G. Albert Smyth, administrator of Jacob Baker, for and on behalf of the firm of Baker and Comegys, one hundred [and twenty-one dollars and sixty-two] *dollars and thirty-four* cents.

The Pennsylvania Company for Insurance on Lives, and so forth, administrator of Thomas M. Willing, for and on behalf of the firm of Willings and Francis, two hundred [and forty-three dollars and twenty-four] *dollars and sixty-seven* cents.

George Willing, administrator of George Willing, one hundred [and twenty-one dollars and sixty-two] *dollars and thirty-three* cents.

Thomas F. Bayard, administrator of Thomas W. Francis, one hundred [and twenty-one dollars and sixty-two] *dollars and thirty-three* cents.

Lorin Blodget, administrator of Samuel Blodget, [one hundred and ninety-four dollars and sixty] *one hundred dollars and fifty-five* cents.

On the vessel sloop Hiram, Sylvester Baldwin, master, namely:

Sarah R. Shaw, administratrix of Pelatiah Fitch, two thousand [nine hundred and twenty-five] *one hundred and ten* dollars.

On the vessel sloop New York and Philadelphia Packet, Caspar Faulk, master, namely:

[George A. Faulk, administrator of Caspar Faulk, four hundred and seventeen dollars.]

Richard C. McMurtrie, administrator of Daniel W. Coxe, [five hundred and eighty-eight] *four hundred and fifty-three* dollars.

Charles Willing, administrator of Thomas M. Willing, surviving partner of Williams and Francis, three hundred and [ninety-two] *two* dollars.

William Brooke Rawle, administrator of Jesse Waln, [seven hundred and eighty-four] *six hundred and four* dollars.

J. Bayard Henry, administrator of John Leamy, [four hundred and ninety dollars] *three hundred and seventy-seven dollars and fifty cents.*

John Cadwalader, jr., administrator of Thomas W. Francis, two hundred and [ninety-four dollars] *twenty-six dollars and fifty cents.*

On the vessel schooner Hannah, Gerald Byrne, master, namely:

Charles D. Vasse, administrator of Ambrose Vasse, seven hundred and [eighty-four] *twenty* dollars.

Charles Prager, administrator of Mark Prager, jr., surviving partner of the firm of Prager and Company, four hundred and [ninety] *forty* dollars.

George Harrison Fisher, administrator of Jacob Ridgway, surviving partner of the firm of Smith & Ridgway, [four hundred and seventy-four dollars and thirty-two] *two hundred and ninety-one dollars and sixty* cents.

William D. Squires, administrator of Henry Pratt, surviving partner of the firm of Pratt and Kintzing, four hundred and [ninety] *forty* dollars.

J. Bayard Henry, administrator of George Rundle, three hundred and [ninety-two] *sixty* dollars.

J. Bayard Henry, administrator of Thomas Leech, three hundred and [ninety-two] *sixty* dollars.

Robert W. Smith, administrator of Robert Smith, surviving partner of the firm of Robert Smith and Company, seven hundred and [eighty-four] *twenty* dollars.

On the vessel brig Lively, Michael Alcorn, master, namely:

George W. Guthrie, administrator of Alexander Murray, surviving partner of Miller and Murray, [one hundred and fourteen dollars and twenty-nine cents] *ninety-four dollars.*

Charles Prager, administrator of Mark Prager, jr., surviving partner of Pragers and Company, two hundred and [eighty-five] *twenty-five* dollars and seventy-one cents.

A. Louis Eakin, administrator of Chandler Price, surviving partner of Morgan and Price, one hundred and [seventy-one] *forty-one* dollars and forty-three cents.

Charles D. Vasse, administrator of Ambrose Vasse, two hundred and [eighty-five] *twenty-five dollars* and seventy-one cents.

Francis A. Lewis, administrator of Peter Blight, two hundred and [eighty-five] *twenty-five* dollars and seventy-two cents.

William D. Squires, administrator of Henry Pratt, surviving partner of Pratt and Kintzing, two hundred and [eighty-five] *twenty-five* dollars and seventy-two cents.

Atwood Smith, administrator of Daniel Smith, surviving partner of Gurney and Smith, two hundred and [eighty-five] *twenty-five* dollars and seventy-one cents.

William Brooke Rawle, administrator of Jesse Wayn, two hundred and [eighty-five] *twenty-five* dollars and seventy-two cents.

Francis A. Lewis, administrator of John Miller, jr., two hundred and [eighty-five] *twenty-five* dollars and seventy-one cents.

J. Bayard Henry, administrator of Charles Ross, [one hundred and forty-two] *sixty-two* dollars and eighty-five cents.

J. Bayard Henry, administrator of John Simson, [one hundred and forty-two] *sixty-two* dollars and eighty-six cents.

Charlotte F. Smith, administratrix of William Jones, surviving partner of Jones and Clarke, two hundred and [eighty-five] *twenty-five* dollars and seventy-one cents.

Sara Leaming, administratrix of Thomas Murgatroyd, surviving partner of Thomas Murgatroyd and Son, two hundred and [eighty-five] *twenty-five* dollars and seventy-one cents.

Frederick W. Meeker, administrator of Samuel Meeker, two hundred and [eighty-five] *twenty-five* dollars and seventy-two cents.

On the vessel brig Kitty, William Waters, master, namely:

The city of Philadelphia, administrator of Stephen Girard, [fourteen thousand three hundred and twenty-eight] *twelve thousand and eighty* dollars.

On the vessel brig William, James Gilmore, master, namely:

David Greene Haskins, junior, administrator de bonis non of David Greene, deceased, [four thousand five hundred and thirty-three] *two thousand* dollars.

[On the vessel schooner Yeatman, Roger Crane, master, namely:]

[J. Bayard Henry, administrator of Charles Ross, seven hundred and fifty dollars.]

[J. Bayard Henry, administrator of John Simson, seven hundred and fifty dollars.]

On the vessel brig Sally, James Wallace, master, namely:

The Fidelity Trust Company, administrator of John Gardiner, junior, seven thousand seven hundred and ninety-eight dollars.

On the vessel schooner Apollo, Richard H. Richards, master, namely:

Francis R. Pemberton, administrator of John Clifford, surviving member of Thomas and John Clifford, four hundred and [ninety] *fifteen* dollars.

Crawford D. Hening, administrator of Abijah Dawes, four hundred and [ninety] *fifteen* dollars.

Charles Prager, administrator of Mark Prager, junior, surviving partner of Pragers and Company, four hunded and [ninety] *fifteen* dollars.

John Lyman Cox and Howard W. Page, administrators of James S. Cox, four hundred and [ninety] *fifteen* dollars.

Francis A. Lewis, administrator of John Miller, junior, four hundred and [ninety] *fifteen* dollars.

Charles D. Vasse, administrator of Ambrose Vasse, [seven hundred and eighty-four] *six hundred and sixty-four* dollars.

William D. Squires, administrator of Henry Pratt, surviving partner of Pratt and Kintzing, [seven hundred and eighty-four] *six hundred and sixty-four* dollars.

The Pennsylvania Company for Insurance on Lives and Granting Annuities, administrator of Thomas M. Willing, surviving partner of Willings and Francis, [eight hundred and eighty-two] *seven hundred and forty-seven* dollars.

[On the vessel schooner Alciope, Robert Rice, master, namely:]

[John A. Dougherty and Catherine McCourt, administrators of Louis Crousillat, one thousand nine hundred and sixty-two dollars and sixty-seven cents.]

[On the vessel ship Goddess of Plenty, Thomas Chirnside, master, namely:]

[John A. Dougherty and Catharine McCourt, administrators of Louis Crousillat, two thousand and fifty-nine dollars and twenty-seven cents.]

On the vessel schooner Kitty and Maria, John Logan, master, namely:

Charles P. Keith and Thomas Stokes, administrators of Jacob G. Koch, [six hundred and forty dollars] *five hundred and twenty-three dollars and sixty cents.*

On the vessel schooner Nantasket, Asa Higgins, master, namely:

[Sally I. S. Wright, administratix of David Spear, otherwise called Davis S. Spear, jr., two hundred and ninety-nine dollars and twenty cents.]

Charles F. Adams, administrator of Peter C. Brooks, [one thousand one hundred and seventy-three dollars and ninety] *one thousand and fifty-six dollars and fifty-one* cents.

Chandler Robbins, administrator of Joseph Russell, surviving partner of Jeffrey and Russell, [one hundred and ninety-five dollars and sixty-five] *one hundred and seventy-six dollars and nine* cents.

Thomas N. Perkins, administrator of John C. Jones, [one hundred and ninety-five dollars and sixty-five] *one hundred and seventy-six dollars and nine* cents.

On the vessel brig Hope, John Gould, master, namely:

Mary W. Moody, administratrix of Daniel Wise, [two thousand six hundred and eighty-three dollars and fifty cents] *one thousand seven hundred and twenty-five dollars.*

On the vessel ship Sally, Seth Webber, master, namely:

Arthur P. Teele, administrator of Thomas Page, one thousand and seventy-eight dollars.

William L. Candler, administrator of Seth Webber, one thousand and seventy-eight dollars.

On the vessel schooner Paragon, Nathaniel Wattles, master, namely:

Montgomery Fletcher, administrator of John Walter Fletcher, for and on behalf of the firm of Fletcher and Otway, one thousand nine hundred and ten dollars and thirty-four cents.

On the vessel schooner Phoenix, John D. Farley, master, namely:

Lemuel Coffin, administrator of Daniel Farley, [one thousand eight hundred and seventy-nine dollars and forty-seven] *eight hundred and forty-six dollars and twenty-two* cents.

Abby C. Farley, administratrix of John D. Farley, [two thousand two hundred and thirty-two dollars and sixty-seven] *one thousand three hundred and forty-nine dollars and forty-two* cents.

James M. Stewart, administrator of Samuel Swett, [one thousand eight hundred and seventy-nine dollars and forty-eight] *eight hundred and forty-six dollars and twenty-two* cents.

Thomas N. Perkins, administrator of John C. Jones, [five hundred and three] *three hundred and fifty-three* dollars and nineteen cents.

David Greene Haskins, administrator of David Greene, [one thousand] *seven hundred* and six dollars and thirty-nine cents.

Edward I. Browne, administrator of Moses Brown, [five hundred and three] *three hundred and fifty-three* dollars and nineteen cents.

John Lowell, administrator of Tuthill Hubbart, [five hundred and three] *three hundred and fifty-three* dollars and nineteen cents.

Arthur T. Lyman, administrator of Theodore Lyman, [one thousand] *seven hundred* and six dollars and thirty-nine cents.

William Ropes Trask, administrator of Thomas Amory, [seven hundred and fifty-four] *five hundred and twenty-nine* dollars and seventy-nine cents.

William G. Perry, administrator of Nicholas Gilman, [seven hundred and fifty-four] *five hundred and twenty-nine* dollars and seventy-nine cents.

William Smith Carter, administrator of William Smith, [eight hundred and five] *five hundred and sixty-five* dollars and eleven cents.

Charles A. Welch, administrator of William Stackpole, [four hundred and two] *two hundred and eighty-two* dollars and fifty-six cents.

Edward I. Browne, administrator of Israel Thorndike, [three hundred and one] *two hundred and eleven* dollars and ninety-two cents.

Lawrence Bond, administrator of Nathan Bond, [five hundred and three] *three hundred and fifty-three* dollars and nineteen cents.

George G. King, administrator of James Scott, [five hundred and three] *three hundred and fifty-three* dollars and nineteen cents.

On the vessel schooner Harmony, Enoch Lee, master, namely:

[Hester E. Raymond, administrator of Enoch Lee, eight hundred and sixty-five dollars.]

Benjamin M. Hartshorne and Charles N. Black, executors of Richard Hartshorne, surviving partner of Rhinelander, Hartshorne and Company, two thousand [four hundred and fifty] *and seventy-five* dollars.

On the vessel schooner Mermaid, Church C. Trouant, master, namely:

Thomas N. Perkins, administrator of John C. Jones, one hundred and [sixty-four] *forty-seven* dollars and three cents.

Arthur L. Huntington, administrator of James Dunlap, [eighty-two dollars and one cent] *seventy-three dollars and eighty-one cents.*

A. Lawrence Lowell, administrator of Nathaniel Fellowes, one hundred and [sixty-four dollars and three] *forty-seven dollars and sixty-three* cents.

Henry B. Cabot, administrator of Daniel D. Rogers, one hundred and [sixty-four dollars and three] *forty-seven dollars and sixty-three* cents.

George G. King, administrator of James Scott, [eighty-two dollars and two] *seventy-three dollars and eighty-one* cents.

On the vessel brig Sophia, Ambrose Shirley, master, namely:

[James L. Hubard, administrator of William Pennock, four hundred and seventy-three dollars and eleven cents.

Bassett A. Marsden, administrator of Benjamin Pollard, two hundred and [ninety-four dollars] *forty-one dollars and fifty cents.*

John Neely, administrator of John Cowper, surviving partner of John Cowper and Company, four hundred and [ninety dollars] *two dollars and fifty cents.*

R. Mason Smith, administrator of Francis Smith, one hundred and [ninety-six] *sixty-one* dollars.

On the vessel brig Franklin, Joshua Walker, master, namely:

Brooks Adams, administrator of Peter C. Brooks, three hundred and twenty dollars.

Thomas N. Perkins, administrator of John C. Jones, eighty dollars.

Chandler Robbins, administrator of Joseph Russell, for and on behalf of the firm of Jeffrey and Russell, eighty dollars.

Morton Prince, administrator of James Prince, eighty dollars.

Gordon Dexter, administrator of Samuel Dexter, eighty dollars.

George G. King, administrator of Crowell Hatch, one hundred and sixty dollars.

On the vessel brig Peyton Randolph, Benjamin Cozzens and William Cozzens, masters, namely.

[Bayard Tuckerman, administrator of Walter Channing, surviving partner of Gibbs and Channing, two thousand one hundred and ninety-four dollars.]

Frederic A. de Peyster and Edward de P. Livingston, administrators of Frederic de Peyster, surviving partner of the firm of Frederic de Peyster and Company, [five hundred] *four hundred and ten* dollars.

Kortright Cruger, administrator of Benjamin Seaman, for and on behalf of the firm of Benjamin Seaman and Company, [five hundred] *four hundred and ten* dollars.

Henry E. Young, administrator of William Craig, surviving partner of Henry Sadler and Company, [five hundred] *four hundred and ten* dollars.

On the vessel brig William and Mary, Moses Springer, master, namely:

Jason Collins, administrator of Moses Springer, [two thousand four hundred and thirty] *six hundred and fifty-five* dollars.

Jason Collins, administrator of William Springer, [two thousand four hundred and thirty] *six hundred and fifty-five* dollars.

Chandler Robbins, administrator of Joseph Russell, surviving partner of Jeffrey and Russell, six hundred and [ninety-seven] *seventeen* dollars and fifty cents.

William S. Carter, administrator of William Smith, three hundred and [forty-eight] *eight* dollars and seventy-five cents.

H. Burr Crandall, administrator of Samuel Prince, [two hundred and nine] *one hundred and eighty-five* dollars and twenty-five cents.

Morton Prince, administrator of James Prince, two hundred and [seventy-nine] *forty-seven* dollars.

John Lowell, administrator of Tuthill Hubbart, six hundred and [ninety-seven] *seventeen* dollars and fifty cents.

John Morton Clinch, administrator of Perez Morton, [two hundred and nine] *one hundred and eighty-five* dollars and twenty-five cents.

Nathan Matthews, junior, administrator of Daniel Sargent, [five hundred] *four hundred and twenty-five* dollars.

Francis M. Boutwell, administrator of Benjamin Cobb, three hundred and [forty-eight] *eight* dollars and seventy-five cents.

Arthur D. Hill, administrator of Benjamin Homer, three hundred and [forty-eight] *eight* dollars and seventy-five cents.

Thomas N. Perkins, administrator of John C. Jones, six hundred and [ninety-seven] *seventeen* dollars and fifty cents.

William Ropes Trask, administrator of Thomas Amory, six hundred and [ninety-seven] *seventeen* dollars and fifty cents.

James C. Davis, administrator of Cornelius Durant, six hundred and [ninety-seven] *seventeen* dollars and fifty cents.

William G. Perry, administrator of Nicholas Gilman, [five hundred] *four hundred and twenty-five* dollars.

Augustus P. Loring, administrator of William H. Boardman, [five hundred] *four hundred and twenty-five* dollars.

John O. Shaw, administrator of Josiah Knapp, five hundred dollars.

Edward I. Browne, administrator of Israel Thorndike, [five hundred] *four hundred and twenty-five* dollars.

Frank Dabney, administrator of Samuel W. Pomeroy, [one thousand] *eight hundred and fifty* dollars.

Archibald M. Howe, administrator of Francis Green, three hundred and [forty-eight] *eight* dollars and seventy-five cents.

Francis M. Boutwell, administrator of John McLean, [five hundred and fifty-eight] *four hundred and ninety-four* dollars.

George G. King, administrator of James Scott, [five hundred] *four hundred and twenty-five* dollars.

On the vessel snow Nancy, William Emmons, master, namely:

[Montgomery Fletcher, administrator of John Walter Fletcher, for and on behalf of the firm of Fletcher and Otway, four hundred and seventy-eight dollars and ninety-four cents.]

John Newport Green, administrator of Francis Whittle, [seven hundred and thirty-five dollars] *six hundred and three dollars and seventy-five cents.*

John Newport Green, administrator of Conway Whittle, [nine hundred and eighty] *eight hundred and five* dollars.

James Young, administrator of James Young, one hundred and [ninety-six] *sixty-one* dollars.

R. Manson Smith, administrator of Francis Smith, two hundred and [ninety-four dollars] *forty-one dollars and fifty cents.*

A. P. Warrington, administrator of John Cowper, surviving partner of John Cowper and Company, four hundred and [ninety dollars] *two dollars and fifty cents.*

Barton Myers, administrator of Moses Myers, four hundred and [ninety dollars] *two dollars and fifty cents.*

J. L. Hubard, administrator of William Pennock, four hundred and [ninety dollars] *two dollars and fifty cents.*

On the vessel ship Six Sisters, Daniel Baker, master, namely:

Brooks Adams, administrator of Peter C. Brooks, [two hundred and seventy-eight] *twenty-eight* dollars and ten cents.

A. Lawrence Lowell, administrator of Nathaniel Fellowes, [one hundred and thirty-nine] *fourteen* dollars and five cents.

George G. King, administrator of Crowell Hatch, [one hundred and thirty-nine] *fourteen* dollars and five cents.

William Ropes Trask, administrator of Thomas Amory, [two] *one* hundred and ninety-six dollars and ten cents.

William G. Perry, administrator of Nicholas Gilman, [ninety-eight dollars and sixty] *sixty-five dollars and twenty-seven* cents.

On the vessel schooner Alfred, Eldridge Drinkwater, master, namely:

Brooks Adams, administrator of Peter C. Brooks, [two thousand four hundred and twenty-six dollars and seventy-five cents] *two thousand dollars.*

Thomas N. Perkins, administrator of John C. Jones, [one thousand one hundred and sixty-three dollars and eighty-four] *nine hundred and fifty-two dollars and forty-nine* cents.

[Augustus P. Loring, administrator of William H. Bordman, three hundred and eighty-seven dollars and seventy-two cents.]

Nathan Matthews, jr., administrator of Daniel Sargent, [four hundred and seven dollars and sixty-nine] *three hundred and thirty-two dollars and nine* cents.

William G. Perry, administrator of Nicholas Gilman, [four hundred and seven dollars and sixty-nine] *three hundred and thirty-two dollars and nine* cents.

Elisha Whitney, administrator of Thomas Stevens, surviving partner of the firm of John and Thomas Stevens, two hundred and [ninety-one] *thirty-seven* dollars and twenty-one cents.

On the vessel schooner Rhoda, Uriah Green, master, namely:

Thomas N. Perkins, administrator of John C. Jones, [eight hundred] *six hundred and fifty-six* dollars.

William R. Trask, administrator of Thomas Amory, [one thousand] *eight hundred and twenty* dollars.

Nathan Matthews, administrator of Daniel Sargent, [five hundred] *four hundred and ten* dollars.

Daniel W. Waldron, administrator of Jacob Sheafe, [five hundred] *four hundred and ten* dollars.

Francis M. Boutwell, administrator of John McLean, [five hundred] *four hundred and ten* dollars.

George G. King, administrator of James Scott, [five hundred] *four hundred and ten* dollars.

William G. Perry, administrator of Nicholas Gilman, [seven hundred] *five hundred and seventy-four* dollars.

Provided, however, That no French spoliation claim appropriated for in this act shall be paid if held by assignment. But this limitation shall not apply to any claim of a class heretofore paid under the act approved March third, eighteen hundred and ninety-one, entitled "An act making appropriations to supply deficiencies in appropriations for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for prior years, and for other purposes," and paid under the act approved May twenty-seventh, nineteen hundred and two, entitled "An act for the allowance of certain claims for stores and supplies reported by the Court of Claims under the provisions of the act approved March third, eighteen hundred and eighty-three, and commonly known as the Bowman Act, and for other purposes."

Mr. CRAWFORD. The Senator from Pennsylvania [Mr. OLIVER] has a couple of amendments which I have examined and which come within the clear rule followed by the committee with reference to longevity claims. I am willing to accept them.

Mr. OLIVER. I offer these amendments on behalf of my colleague [Mr. PENROSE].

The PRESIDING OFFICER (Mr. CHAMBERLAIN in the chair). The amendments will be stated in their order.

The SECRETARY. On page 266, after line 19, insert:

To Lucy May Castor, administratrix of the estate of Thomas Foster Castor, deceased, of Philadelphia, $671.40.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the bill.

The amendment was agreed to.

The PRESIDING OFFICER. The next amendment submitted by the Senator from Pennsylvania will be read.

The SECRETARY. On page 218, after line 18, under "Pennsylvania," insert:

Mary L. Cummings, widow of Cornelius Cummings, deceased, $256.25.
Mary Sullivan, widow of John Sullivan, deceased, $443.49.

The amendment was agreed to.

Mr. CRAWFORD. I ask that the findings of the Court of Claims may be printed in the RECORD in connection with these amendments.

There being no objection, the findings were ordered to be printed in the RECORD, as follows:

[Senate Document No. 861, Sixty-second Congress, second session.]

LUCY MAY CASTOR, ADMINISTRATRIX.

Letter from the chief clerk of the Court of Claims transmitting a copy of the findings of the court in the case of Lucy May Castor, administratrix of the estate of Thomas Foster Castor, deceased, against the United States.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, June 24, 1912.

Hon. JAMES S. SHERMAN,
President of the Senate.

SIR: Pursuant to the order of the court I transmit herewith a certified copy of the findings of fact and conclusion filed by the court in the aforesaid cause, which case was referred to this court by resolution of the United States Senate under the act of March 3, 1887, known as the Tucker Act.

I am, very respectfully, yours,

ARCHIBALD HOPKINS,
Chief Clerk Court of Claims.

—

[Court of Claims. Congressional. No. 15002–2. Lucy May Castor, administratrix of the estate of Thomas Foster Castor, deceased, v. The United States.]

STATEMENT OF CASE.

This is a claim for longevity pay alleged to be due on account of the service of Thomas Foster Castor, late an officer in the United States Army. On the 21st day of June, 1910, the United States Senate referred to the court a bill in the following words:

"[S. 8513, Sixty-first Congress, second session.]

"A bill for the relief of John Egan and certain other Army officers and their heirs and legal representatives.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of Treasury be, and he is hereby, authorized and directed to settle, adjust, and pay, out of any money in the Treasury not otherwise appropriated, the claims of * * * Thomas F. Castor * * *, officers of the Army of the United States, or their heirs or legal representatives where dead, for longevity pay, according to the decisions of the Supreme Court of the United States in the cases of the United States *v.* Tyler (105 U. S., 244); The United States *v.* Morton (112 U. S., 1); and The United States *v.* Watson (130 U. S., 80)."

The said Lucy May Castor appeared in this court April 20, 1911, and filed her petition, in which it is substantially averred that—

She is the administratrix of the estate of Thomas Foster Castor, who entered military service of the United States as a cadet at the Military Academy July 1, 1841, and served continuously until the date of his death, September 8, 1855; that longevity pay computed on a basis that his service began on entering said Military Academy was never paid said officer or the claimant; and that additional longevity pay should be paid the claimant reckoned on a basis that his service began on entering said Military Academy, in accordance with the decisions of the United States Supreme Court in the cases of Tyler *v.* United States (105 U. S., 244), of Morton *v.* United States (112 U. S., 1), and of United States *v.* Watson (130 U. S., 80); that a claim for all pay and allowances due was filed with the Auditor for the War Department and disallowed by that officer, and the claimant claimed $671.40.

The case was brought to a hearing on its merits on the 3d day of June, 1912. Frederick A. Fenning, Esq., apeared for the claimant, and the Attorney General, by George M. Anderson, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. The claimant herein, Lucy May Castor, is a citizen of the United States, residing at Philadelphia, State of Pennsylvania, and is the duly appointed administratrix of the estate of Thomas Foster Castor, deceased, who during his lifetime was an officer in the United States Army, having entered the Military Academy as a cadet July 1, 1841. He graduated therefrom and was appointed a second lieutenant, Second United States Dragoons, July 1, 1846; was promoted to first lieutenant October 9, 1851, and died September 8, 1855.

II. Said decedent was paid his first longevity ration from July 1, 1851.

Under the decision of the Supreme Court in the case of United States *v.* Watson (130 U. S., 80), said decedent would be entitled to additional allowances, as reported by the Auditor for the War Department, amounting to $671.40.

III. The claim was presented to the accounting officers of the Treasury and was disallowed November 12, 1890. Except as above stated, the claim was never presented to any officer or department of the Government prior to its presentation to Congress and reference to this court, as hereinbefore set forth, and no evidence is adduced showing why claimant did not earlier prosecute said claim.

CONCLUSION.

Upon the foregoing findings of fact, the court concludes that the claim herein, not having been filed for prosecution before any court within six years from the time it accrued, is barred.

The claim is an equitable one against the United States in so far as they received the benefit of the service of said decedent while a cadet at the Military Academy, which service the Supreme Court in the case of United States *v.* Watson (130 U. S., 80) decided was service in the Army.

BY THE COURT.

Filed June 17, 1912.
A true copy.
Test this 22d day of June, 1912.
[SEAL.]

ARCHIBALD HOPKINS,
Chief Clerk Court of Claims.

[Senate Document No. 714, Sixty-second Congress, second session.]

WILLIAM H. CONGER AND OTHERS.

Letter from the assistant clerk of the Court of Claims transmitting a copy of the findings of the court in the case of William H. Conger and Mary L. Cummings, widow of Cornelius Cummings, and Mary Sullivan, widow of John Sullivan, against The United States.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, May 24, 1912.

Hon. JAMES S. SHERMAN,
President of the Senate.

SIR: Pursuant to the order of the court I transmit herewith a certified copy of the findings of fact and conclusion filed by the court in the aforesaid cause, which case was referred to this court by resolution of the United States Senate under the act of March 3, 1887, known as the Tucker Act.

I am, very respectfully, yours,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

—

[Court of Claims. Congressional, No. 14860. Subnumbers as below. (League Island Navy Yard, Philadelphia, Pa.) 8, William H. Conger; 29, Mary L. Cummings, widow of Cornelius Cummings; 37, Mary Sullivan, widow of John Sullivan, *v.* The United States.]

STATEMENT OF CASE.

This is a claim for the payment to the above-named claimants for services rendered at the League Island Navy Yard, Philadelphia, Pa., between March 21, 1878, and September 22, 1882, for extra labor above the legal day of eight hours.

On June 21, 1910, the United States Senate by resolution referred to the court, under the act of March 3, 1887, known as the Tucker Act, Senate bill No. 5123, which, so far as it pertains to the claims herein, reads as follows:

"A bill for the relief of William A. Ashe and others.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to * * * William H. Conger, * * * Mary L. Cummings, widow of John Cornelius Cummings; * * * Mary Sullivan, widow of John Sullivan; * * * the amounts that may be found due each of them, respectively, for extra labor above the legal day of eight hours while employed by the United States as workmen, laborers, or mechanics at the various navy yards of the United States performed by them by reason of and under the provisions of circular numbered eight, issued by the Secretary of the Navy on March twenty-first, eighteen hundred and seventy-eight."

Thereafter the claimants named above and each of them offered and filed their respective petitions herein, in which they and each of them aver substantially as follows:

That between March 21, 1878, and the 21st day of September, 1882, they and each of them were employed by the Government of the United States at the navy yard at League Island, Philadelphia, Pa.; that on the 21st day of March, 1878, the Secretary of the Navy issued the order referred to in claimants' petition, known as Circular No. 8, and set forth in Finding I here.

That during the six months in each year from the date of said order to the 21st day of September, 1882, they worked during all or a portion of the time they were so employed in excess of eight working hours per day, and that they, and each of them, were paid for only eight hours' work per day for the time they were so employed during said period, and that they, and each of them, are entitled to the amounts set forth in their respective petitions, being the pay for all time worked during said period in excess of eight hours per day.

The case was brought to a hearing on the evidence and merits May 13, 1912. Messrs. Herbert & Micou appeared for the claimants, and the Attorney General, by Percy M. Cox, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The court, upon the evidence and after considering the briefs and arguments on both sides, makes the following

FINDINGS OF FACT.

I. Between the 21st day of March, 1878, and the 22d day of September, 1882, the claimants herein, or their decedents, and each of them, were in the employ of the United States in the navy yard at League Island, Philadelphia, Pa., during which time the following order was in force:

[Circular No. 8.]

NAVY DEPARTMENT,
Washington, D. C., March 21, 1878.

The following is hereby substituted, to take effect from this date, for the circular of October 25, 1877, in relation to the working hours at the several navy yards and shore stations:

The working hours will be—

From March 21 to September 21, from 7 a. m. to 6 p. m.; from September 22 to March 20, from 7.40 a. m. to 4.30 p. m., with the usual intermission of one hour for dinner.

The departments will contract for the labor of mechanics, foremen, leading men, and laborers on the basis of eight hours a day. All workmen electing to labor 10 hours a day will receive a proportionate increase of their wages.

The commandants will notify the men employed, or to be employed, of these conditions, and they are at liberty to continue or accept employment under them or not.

R. W. THOMPSON,
Secretary of the Navy.

II. Said claimants and each of them, or their decedents, while in the employ of the United States as aforesaid worked on the average the number of hours set opposite their respective names in excess of eight hours a day and at the wages below stated, to wit:

No. 29. Cornelius Cummings	683½ hours, at $3 per day.
No. 37. John Sullivan	238 hours, at $2 per day.
	118 hours, at 3.50 per day.
	1,063$\frac{7}{12}$ hours, at $2.50 per day.

The claimant, William Conger, was employed during said period as a messenger and does not appear to have been governed by the above circular fixing the hours of labor for mechanics, foremen, leading men, and laborers.

III. If it is considered that eight hours constituted a day's work during the period from March 21, 1878, to September 22, 1882, under said Circular No. 8, then the claimants herein have been underpaid, as follows:

Maria L. Cummings, widow of Cornelius Cummings, deceased, two hundred and fifty-six dollars and twenty-five cents ($256.25).

Mary Sullivan, widow of John Sullivan, deceased, four hundred and forty-three dollars and forty-nine cents ($443.49).

IV. The claimants' decedents, Cornelius Cummings and John Sullivan, hereinbefore named, filed their claims in this court in 1888 under No. 16327, and in 1906 same were dismissed for want of prosecution, and no reason is given why said claimants did not prosecute their said claims to a final judgment in this court.

Except as above stated the claims were never presented to any department or officer of the Government prior to the presentation to Congress as set forth in the statement of the case, and no evidence is adduced to show why they did not earlier prosecute said claims.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claims herein are not legal ones against the United States and are equitable only in the sense that the United States received the benefit of the services of claimants' decedents in excess of eight hours a day, as above set forth.

BY THE COURT.

Filed May 20, 1912.
A true copy.
Test this 24th day of May, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

INTERSTATE SHIPMENT OF LIQUORS.

Mr. SANDERS. Mr. President, I ask unanimous consent that on Monday, January 13, at 3 o'clock p. m., the bill (S. 4043) to prohibit interstate commerce in intoxicating liquors be taken up for consideration, not to interfere with the impeachment proceedings if they shall not be concluded, and that the vote be taken on all amendments pending and amendments to be offered, and upon the bill itself, not later than the hour of 6 o'clock on that day.

Mr. SUTHERLAND. What date does the Senator from Tennessee suggest?

Mr. SANDERS. Next Monday. That is supposed to be after the impeachment trial has been concluded.

Mr. SUTHERLAND. There are a number of Senators who desire to be heard on the bill before it is voted on.

Mr. SANDERS. I propose that one week shall be given, and my idea is that there will be time enough for everyone to be heard between now and then.

Mr. SUTHERLAND. Probably during that time there will be no opportunity at all to be heard. The impeachment trial, with which we are engaged every day, and which occupies our attention pretty fully, probably will not be concluded before that time. For the present I must object to fixing a time.

The PRESIDING OFFICER. The Senator from Utah objects to fixing a time.

Mr. SANDERS. I will withdraw the request then.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I desire to yield to the Senator from Idaho [Mr. BORAH], and I announce that to-morrow at the conclusion of the morning business I will ask the Senate to resume the consideration of the omnibus claims bill.

SUBMISSION OF CONSTITUTIONAL AMENDMENT.

Mr. BORAH. Mr. President, a short time ago the legislature of one of the States sent a memorial to Congress protesting against the manner in which the Congress submitted the proposed amendment to the Constitution relative to the election of Senators by popular vote. The contention upon the part of the memorialists was to the effect that the joint resolution had not passed the Congress by a sufficient vote, or the vote required by the Constitution, and that, therefore, the States should not be called upon to vote upon the question of whether they would ratify the amendment. I want, in the very brief time which is allowed during this morning hour, to put into the RECORD some of the precedents with reference to this matter. The Constitution provides that—

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, etc.

Similar language is used in the Constitution relative to the President's veto, wherein it is stated:

If, after such reconsideration, two-thirds of that House shall agree to pass the bill—

And so forth.

The specific question which is raised by the memorial is, What constitutes the "House," and what does the Constitution mean when it says "two-thirds of the House"? It is unnecessary to argue this as an original proposition, because it has been settled by a long line of precedents, all establishing one proposition, and that is, that the Constitution is satisfied in its terms when two-thirds of the vote cast favor the resolution, a quorum being present.

When the first constitutional amendment was passed by Congress there was a membership, I think, of 65 in the other House, and the resolution passed the House by a vote of 37, which was manifestly not a two-thirds vote of the membership. I do not find any discussion or debate at the time, but as a precedent it clearly established that it was regarded as sufficient that a two-thirds vote of those voting favored the resolution, a quorum being present.

The next precedent is one which was established during the administration of Mr. Buchanan, in which a proposed amendment to the Constitution passed the Senate. At that time the matter was debated, and the question was raised as to what was a compliance with the Constitution as to whether it required two-thirds of the membership or two-thirds of the vote cast, a quorum being present. It was established by an almost unanimous vote of the Senate that it was sufficient if the vote disclosed as favorable two-thirds of those voting, a quorum being present.

The next precedent was one which was established after the Civil War and at the time that the amendments which followed as a result of that war were before Congress. At that time the question was debated at some length, and again it was established as a precedent upon the part of the Senate that it did not require a two-thirds vote of the total membership, but two-thirds of those who voted, of course a quorum being present. The yeas in favor of that resolution were 39 and the nays were 13. After the vote was announced Mr. Davis said:

Mr. DAVIS. The question of order that I make is that the decision of this question has not been announced by the Chair according to the Constitution. The Chair has announced that the proposition has received the vote of two-thirds of the Senate, and therefore that it has passed. I controvert that fact. There are now 37 States in the Union. They are entitled to 74 Members of the Senate.

The President pro tempore then said:

The PRESIDENT pro tempore. The Chair desires the Senator to understand what the Chair said in the announcement of the vote. It was that two-thirds of the Senators present had voted in the affirmative. That is the way in which it was announced by the Chair.

* * * * * * *

Mr. DAVIS. That is just as I understood it. Now, the conclusion does not follow the vote which the Chair announced, because the Senate consists of 74 Members, and to constitute two-thirds of the Senate a vote of 50 is necessary. My point of order is, that when a less number than two-thirds of the Senate is required by the Constitution for any purpose; for instance, to ratify a treaty or to confirm a nomination, the Constitution expressly says that it shall be two-thirds of the Members present. In voting upon a proposition to amend the Constitution, the Constitution does not limit the number of two-thirds by reciting that it is two-thirds of the Members present. Here is the language of the Constitution:

"The Congress, whenever two-thirds of both Houses shall deem it necessary," etc.

Now, if Senators will look to that part of the Constitution which regulates the ratification of treaties by the Senate, or the confirmation of nominations to office by the President, they will perceive that the Constitution declares expressly that the two-thirds meant to effect those purposes are two-thirds of the Members present. In relation to this important matter of amending the Constitution there is no such restricted definition of two-thirds; but the Constitution in broad language provides that "Congress, whenever two-thirds of both Houses shall deem it necessary," etc., shall propose amendments of the Constitution. Now, the question is, What is two-thirds of both Houses?

Senator Trumbull on the same occasion said:

Mr. TRUMBULL. If the Chair will indulge me a moment, this very point was raised in regard to a constitutional amendment some years ago, and the Senate decided by a vote, almost unanimously, that two-thirds of the Senators present were sufficient to carry a constitutional amendment. I think that the Presiding Officer upon reflection will recollect it. It was the constitutional amendment that was proposed before the war. I myself made the point for the purpose of having it decided, and it was decided, I think, by a nearly unanimous vote, that two-thirds of the Senators present, a quorum being present, was sufficient to carry a constitutional amendment.

The President pro tempore then ruled:

I believe it has been decided according to all the precedents.

The President pro tempore having so ruled, the resolution passed.

The same question was raised during the Speakership of Mr. Reed, at a time when a resolution similar to the resolution which is now under consideration was passed by Congress, and Speaker Reed ruled upon the question. His ruling is found in Hinds' Precedents, in volume 5, page 1010. I have not time, Mr. President, to read this decision, and I ask, therefore, to insert it in the RECORD.

The PRESIDING OFFICER. If there is no objection, the matter referred to will be inserted.

The matter is as follows:

The Speaker said: "The question is one that has been so often decided that it seems hardly necessary to dwell upon it. The provision of the Constitution says 'two-thirds of both Houses.' What constitutes a House? A quorum of the membership, a majority, one-half and no more. That is all that is necessary to constitute a House to do all the business that comes before the House. Among the business that comes before the House is the reconsideration of a bill which has been vetoed by the President; another is a proposed amendment to the Constitution;

and the practice is uniform in both cases, that if a quorum of the House is present the House is constituted, and two-thirds of those voting are sufficient in order to accomplish the object. It has nothing to do with the question of what States are present and represented or what States are present and vote for it. It is the House of Representatives, in this instance, that votes and performs its part of the functions. If the Senate does the same thing, then the matter is submitted to the States directly, and they pass upon it. The First Congress, I think, had about 65 Members, and the first amendment that was proposed to the Constitution was voted for by 37 Members—obviously not two-thirds of the entire House. So the question seems to have been met right on the very threshold of our Government and disposed of that way."

Mr. BORAH. This question was raised at the time that the resolution under discussion passed the other House, and it is the record of the House which is involved in this memorial, and not the record in the Senate. I call attention to the record briefly. That record is found in the CONGRESSIONAL RECORD of the Sixty-second Congress, second session, at page 6368; and, for the sake of brevity, I will also ask to insert that ruling in the RECORD.

The PRESIDING OFFICER. If there be no objection, permission is granted.

The matter is as follows:

After the Speaker had announced the result, the following occurred:

"Mr. SISSON. Article V of the Constitution requires that two-thirds of both Houses when they deem it necessary may propose amendments to the Federal Constitution. Now, two-thirds of both Houses have not voted for this proposition. * * *

"The SPEAKER. The gentleman will be heard on the point of order. The Chair wishes to state the ruling. It has been held uniformly so far as the Chair knows that two-thirds of the House means two-thirds of those voting, a quorum being present."

Again the Speaker said:

"It has been held time out of mind that when the phrase or collocation of words 'House of Representatives' is used it means a quorum of the House; that is, 198 Members in this House. If it can do one thing with a bare quorum it can do anything."

Again, further on, the Speaker said:

"The Chair will state to the gentleman and to the House that if the question had never been raised before and Speaker Reed had never decided it the present occupant of the chair would decide it the very same way that Speaker Reed decided it. By the vote just taken the House votes to recede from its disagreement to the Senate amendment and to concur in the Senate amendment, two-thirds having voted therefor."

Mr. BORAH. Now, Mr. President, the language of the Constitution with reference to the vote which is required to pass a bill over the President's veto was passed upon by the Supreme Court in a case found in One hundred and forty-fourth United States Reports. The Supreme Court held in that case that "two-thirds" meant two-thirds of those voting, a quorum being present; and we will remember that the language of the Constitution is practically the same in both instances. I will also ask leave to insert in the RECORD some excerpts from that opinion.

The PRESIDING OFFICER. If there be no objection, permission to do so will be granted.

The matter referred to is as follows:

One of the questions presented by this case was whether the act of May 9, 1890, was legally passed. This was the important question. Among other things, the court said: "The Constitution provides that a majority of each House shall constitute a quorum to do business. In other words, when a majority are present the House is in a position to do business. Its capacity to transact business is then established, created by the mere presence of a majority, and does not depend upon the disposition or assent or action of any single Member or fraction of the majority present. All the Constitution requires is the presence of a majority, and when that majority are present the power of the House arises. * * * The other branch of the question is whether, a quorum being present, the bill received a sufficient number of votes; and here the general rule of all parliamentary bodies is that when a quorum is present the act of a majority of a quorum is the act of the body."

Again, it is said: "If all the members of a select body or committee or if all the agents are assembled or if all have been duly notified and the minority refuses or neglects to meet with the others, a majority of those present may act, provided those present constitute a majority of the whole number. In other words, in such a case a major part of the whole is necessary to constitute a quorum, and a majority of the quorum may act. * * * For, according to the principle of all the cases referred to, a quorum possesses all the powers of the whole body, a majority of which quorum must, of course, govern."

Mr. BORAH. Mr. President, this question as to the construction which should be placed upon the Constitution relative to the President's veto was decided by the present Speaker of the House of Representatives, Hon. CHAMP CLARK, upon the 14th day of August, 1912. The Speaker rendered an extensive opinion, and that I also ask leave to insert in the RECORD.

The PRESIDENT pro tempore. Without objection, permission to do so will be granted.

The matter referred to is as follows:

The SPEAKER. The Chair thinks that the question which was decided yesterday is of such far-reaching importance that he owes it to himself, as well as to the House and to future Speakers, to restate his opinion after an examination of the authorities. The parliamentary question in issue was this: On a roll call on passing a bill over the President's veto, in determining whether two-thirds have voted for it, should those answering "present" be taken into consideration or excluded therefrom?

The Chair has accepted the suggestion of the gentleman from Massachusetts [Mr. GARDNER], for whose knowledge of parliamentary law the Chair has very great respect, and that is to give a more elaborate opinion than just simply announcing a decision one way or the other. The importance of the question demanded and has received closest examination. The situation about it is this: Touching the passage of a bill over the President's veto, or the attempt to pass it, the constitutional provision is as follows:

"Every bill which shall have passed the House of Representatives and the Senate shall, before it becomes a law, be presented to the President of the United States; if he approves, he shall sign it; but if not, he shall return it with his objections to that House in which it shall have originated"—

In this case the House of Representatives—

"who shall enter the objections at large on their Journal and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the Journal of each House, respectively."

The Chair could very well adopt the remarks of the gentleman from Illinois [Mr. MANN] as his opinion. The Chair takes it that no Speaker is ever going to render an opinion for partisan political effect which he can not stand by whenever the same kind of a question arises again, whether it goes against his political friends or foes.

The first point in the excerpt from the Constitution which attracts attention in this case is "if after reconsideration two-thirds of that House," and so forth. There have been all sorts of contentions about what constitutes "the House." Some gentlemen of eminent ability have contended it means all the Members elect and qualified; others have contended it means simply a quorum, and several decisions, not on this particular question of passing bills over the President's vetoes but on questions practically involving the same question as to the count, have been rendered, but finally it has come to be accepted that "the House" does not mean all the Members elected and qualified, but only a quorum. The full membership of the present House is 394, a quorum of which is 198; but there are four vacancies, reducing the membership to 390, of which 196 constitute a quorum. That is proposition No. 1.

The second constitutional proposition is stated in these words:

"But in all such cases the votes of both Houses shall be determined by the yeas and nays—"

That is, in veto cases—

"and the names of the persons voting for and against the bill shall be entered on the Journal of each House respectively."

The Chair answered the inquiry of the gentleman from Illinois [Mr. CANNON] inadvisedly, that the names of those present ought to be in the Journal. The Constitution does not require any such thing. The Chair has investigated that matter since, and it is entirely immaterial whether the names of the 10 gentlemen who answered "present" go in the Journal or not. The Constitution does not provide for a Member voting "present," but the rules of the House, in order to eke out a quorum, have provided that they can vote "present." They have to answer "aye" or "nay" on the roll call in order to be counted on passing a bill over the President's veto. That is the requirement of the Constitution, and if the contention were on a proposition which required only a majority it would be the same way. In fact, that is one unvarying rule of procedure whenever the roll is called on any proposition. The Chair announces: "So many 'ayes,' so many 'nays,' so many 'present'; the 'ayes'—or 'nays,' as the case may be—have it." Those voting "present" are disregarded, except for the sole purpose of making a quorum.

In this case 174 Members voted "aye," 80 voted "no," and 10 answered "present"; 174 plus 80 equal 254, a quorum, without counting the 10 who answered "present." One hundred and seventy-four is more than two-thirds of 254.

These 10 gentlemen were here simply for the purpose of making a quorum. It is clear that to count them on this vote would be to count them in the negative, and the chair does not believe that any such contention as that is tenable. The Chair holds that, if there is a quorum present on a roll call to determine whether the House will agree to pass a bill over the President's veto, and two-thirds of those voting vote "yea," that is sufficient and is a compliance with the constitutional requirement.

To show that the view expressed by the Chair is correct, there is a fact dehors the record which tends to clarify the situation. Of the 10 Members who answered "present," 7 were Democrats and 3 Republicans. Of course every one of the 7 Democrats, if not paired, would have voted "aye"; so that to have counted in the 7 Democrats who answered "present" in determining the two-thirds would have put them down as voting "no," precisely opposite to the way they would have voted, which amounts to a reductio ad absurdum.

The Chair has hunted up the authorities. There are several of them, but there is no use in citing but one. I take it that political friend and foe alike will admit that when the Hon. Thomas B. Reed expressed an opinion he expressed it so one could understand what it meant, and therefore I will read section 7027, volume 5, Hinds' Precedents, and this is the headline or syllabus:

"The vote required on a joint resolution proposing an amendment to the Constitution is two-thirds of those voting, a quorum being present, and not two-thirds of the entire membership. On May 11, 1898, Mr. John B. Corliss, of Michigan, called up the joint resolution (H. Res. 5) proposing an amendment to the Constitution providing for the election of Senators of the United States.

"The question being taken on the passage of the resolution, there were—yeas 184, nays 11, and the Speaker announced that the joint resolution was passed, two-thirds having voted in favor thereof.

"Mr. EBENEZER J. HILL, of Connecticut, called attention to this clause of the Constitution:

"'The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or on the application of the legislatures of two-thirds of the several States shall call a convention for proposing amendments'; and made the point of order that the vote required was two-thirds of the entire membership, not two-thirds of a quorum.

Mr. Speaker Reed said:

"The question is one that has been so often decided that it seems hardly necessary to dwell upon it. The provision of the Constitution says 'two-thirds of both Houses.' What constitutes a House? A quorum of the membership, a majority, one-half and one more. That is all that is necessary to constitute a House to do all the business that comes before the House. Among the business that comes before the House is the reconsideration of a bill which has been vetoed by the President; another is a proposed amendment to the Constitution; and the practice is uniform in both cases that, if a quorum of the House is present, the House is constituted, and two-thirds of those voting are sufficient in order to accomplish the object. It has nothing to do with the question of what States are present and represented, or what States are present and vote for it. It is the House of Repre-

sentatives in this instance that votes and performs its part of the function. If the Senate does the same thing, then the matter is submitted to the States directly, and they pass upon it.

"The First Congress, I think, had about 65 Members, and the first amendment that was proposed to the Constitution was voted for by 37 Members, obviously not two-thirds of the entire House. So the question seems to have been met right on the very threshold of our Government and disposed of in that way."

It turned out in the evolution of things that when Mr. Speaker Reed made his ruling that he had the right to count the Members who were present and who would not vote, it created a great deal of bitterness, the question finally got into the Supreme Court of the United States, and in the case of the United States v. Ballin, in One hundred and forty-fourth United States Supreme Court Reports, this question is gone into, Mr. Justice Brewer rendering the opinion of the Supreme Court. He gives a statement of the matters in controversy:

"That the Journal of the House of Representatives shows the facts attending the passage of the act of May 9, 1890, thus:

"'The Speaker laid before the House the bill of the House (H. R. 9548) providing for the classification of worsted cloths as woolens, coming over from last night as unfinished business, with the previous question, and the yeas and nays ordered.

"'The House having proceeded to the consideration, and the question being put,

"'Shall the bill pass?

"'There appeared: Yeas 138, nays 0, not voting 189.

"'The said roll call having been recapitulated, the Speaker announced, from a list noted and furnished by the Clerk, at the suggestion of the Speaker, the following-named Members as present in the Hall when their names were called and not voting, viz:

(Here follows an alphabetical list of the names of 74 Members.)

"'The Speaker thereupon stated that the said Members present and refusing to vote—74 in number—together with those recorded as voting—138 in number—showed a total of 212 Members present, constituting a quorum present to do business; and that, the yeas being 138 and the nays none, the said bill was passed.'"

Mr. Justice Brewer delivered the opinion of the court. He said inter alia:

"Two questions only are presented: First, was the act of May 9, 1890, legally passed; and, second, what is its meaning? The first is the important question. The enrolled bill is found in the proper office, that of the Secretary of State, authenticated and approved in the customary and legal form. There is nothing on the face of it to suggest any invalidity. Is there anything in the facts disclosed by the Journal of the House, as found by the general appraisers, which vitiates it? We are not unmindful of the general observations found in Gardner v. The Collector (6 Wall., pp. 499, 511), 'that whenever a question arises in a court of law of the existence of a statute, or of the time when a statute took effect, or of the precise terms of a statute, the judges who are called upon to decide it have a right to resort to any source of information which in its nature is capable of conveying to the judicial mind a clear and satisfactory answer to such question; always seeking first for that which in its nature is most appropriate, unless the positive law has enacted a different rule.' And we have at the present term, in the case of Field v. Clark (143 U. S., p. 649), had occasion to consider the subject of an appeal to the Journal in a disputed matter of this nature. It is unnecessary to add anything here to that general discussion. The Constitution (Art. I, sec. 5) provides that 'each House shall keep a Journal of its proceedings'; and that 'the yeas and nays of the Members of either House on any question shall, at the desire of one-fifth of those present, be entered on the Journal.' Assuming that by reason of this latter clause reference may be had to the Journal, to see whether the yeas and nays were ordered; and if so, what was the vote disclosed thereby; and assuming, though without deciding, that the facts which the Constitution requires to be placed on the Journal may be appealed to on the question whether a law has been legally enacted; yet, if reference may be had to such Journal, it must be assumed to speak the truth. It can not be that we can refer to the Journal for the purpose of impeaching a statute properly authenticated and approved, and then supplement and strengthen that impeachment by parol evidence that the facts stated on the Journal are not true, or that other facts existed which, if stated on the Journal, would give force to the impeachment. If it be suggested that the Speaker might have made a mistake as to some one or more of these 74 Members, or that the Clerk may have falsified the Journal in entering therein a record of their presence, it is equally possible that in reference to a roll call and the yeas and nays there should be a like mistake or falsification. The possibility of such inaccuracy or falsehood only suggests the unreliability of the evidence and the danger of appealing to it to overthrow that furnished by the bill enrolled and authenticated by the signatures of the presiding officers of the two Houses and the President of the United States. The facts, then, as appearing from this Journal, are that at the time of the roll call there were present 212 Members of the House, more than a quorum; and that 138 voted in favor of the bill, which was a majority of those present. The Constitution, in the same section, provides that 'each House may determine the rules of its proceedings.' It appears that in pursuance of this authority the House had, prior to that day, passed this as one of its rules:

"RULE XV.

"3. On the demand of any Member, or at the suggestion of the Speaker, the names of Members sufficient to make a quorum in the Hall of the House who do not vote shall be noted by the Clerk and recorded in the Journal, and reported to the Speaker with the names of the Members voting, and be counted and announced in determining the presence of a quorum to do business." (H. Jour., p. 230, Feb. 14, 1890.)

The action taken was in direct compliance with this rule. The question, therefore, is as to the validity of this rule, and not what methods the Speaker may of his own motion resort to for determining the presence of a quorum, nor what matters the Speaker or Clerk may of their own volition place upon the Journal. Neither do the advantages or disadvantages, the wisdom or folly, of such a rule present any matters for judicial consideration. With the courts the question is only one of power. The Constitution empowers each House to determine its rules of proceedings. It may not by its rules ignore constitutional restraints or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceeding established by the rule and the result which is sought to be attained. But within these limitations all matters of method are open to the determination of the House, and it is no impeachment of the rule to say that some other way would be better, more accurate, or even more just. It is no objection to the validity of a rule that a different one has been prescribed and in force for a length of time. The power to make rules is not one which once exercised is exhausted. It is a continuous power, always subject to be exercised by the House, and, within the limitations suggested, absolute and beyond the challenge of any other body or tribunal.

The Constitution provides that "a majority of each (House) shall constitute a quorum to do business." In other words, when a majority are present the House is in a position to do business. Its capacity to transact business is then established, created by the mere presence of a majority, and does not depend upon the disposition or assent or action of any single Member or fraction of the majority present. All that the Constitution requires is the presence of a majority, and when that majority are present the power of the House arises.

But how shall the presence of a majority be determined? The Constitution has prescribed no method of making this determination, and it is therefore within the competency of the House to prescribe any method which shall be reasonably certain to ascertain the fact. It may prescribe answer to roll call as the only method of determination, or require the passage of Members between tellers and their count as the sole test, or the count of the Speaker or the Clerk and an announcement from the desk of the names of those who are present. Any one of these methods, it must be conceded, is reasonably certain of ascertaining the fact, and as there is no constitutional method prescribed and no constitutional inhibition of any of those and no violation of fundamental rights in any, it follows that the House may adopt either or all, or it may provide for a combination of any two of the methods. That was done by the rule in question, and all that rule attempts to do is to prescribe a method for ascertaining the presence of a majority and thus establishing the fact that the House is in a condition to transact business.

As appears from the Journal, at the time this bill passed the House there was present a majority, a quorum, and the House was authorized to transact any and all business. It was in a position to act on the bill if it desired. The other branch of the question is whether, a quorum being present, the bill received a sufficient number of votes; and here the general rule of all parliamentary bodies is that when a quorum is present the act of a majority of the quorum is the act of the body. This has been the rule for all time, except so far as in any given case the terms of the organic act under which the body is assembled have prescribed specific limitations, as, for instance, in those States where the constitution provides that a majority of all the members elected to either house shall be necessary for the passage of any bill. No such limitation is found in the Federal Constitution, and therefore the general law of such bodies obtains.

* * * * * * *

Summing up this matter, this law is found in the Secretary of State's office, properly authenticated. If we appeal to the Journal of the House, we find that a majority of its Members were present when the bill passed, a majority creating by the Constitution a quorum, with authority to act upon any measure; that the presence of that quorum was determined in accordance with a valid rule theretofore adopted by the House; and that of that quorum a majority voted in favor of the bill. It therefore legally passed the House, and the law as found in the office of the Secretary of State is beyond challenge.

Mr. BORAH. The vote to which the objection is made by the memorialists occurred in the House. By reference to the vote there it will be seen that more than a quorum was present and that there were 238 votes in favor of the amendment and 39 against it. The record with reference to the passing of this resolution for the amendment to the Constitution is clearly and unquestionably within all the precedents which have been established from the beginning of the Government. It was legally and constitutionally submitted to the States and the States have but to ratify or reject it, as in their respective judgments seems proper. There can be no technical objection to the manner of its submission fairly raised. I doubt if the submission of any amendment to the Constitution was ever submitted in accordance with the rule sought to be invoked by those who are now objecting to the manner of submission in this instance. There does not seem to be, either in reason or in precedent, any ground for the objection.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, Mr. Robert W. Archbald, jr., and Mr. Martin.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

Mr. JONES. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Washington suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Curtis	Lippitt	Smith, Ariz.
Bacon	Dillingham	Lodge	Smoot
Borah	Dixon	Myers	Stephenson
Bourne	du Pont	Nelson	Sutherland
Bradley	Fletcher	Page	Thornton
Bristow	Gallinger	Paynter	Tillman
Brown	Gore	Perkins	Townsend
Burnham	Gronna	Perky	Warren
Burton	Hitchcock	Pomerene	Watson
Chamberlain	Jones	Richardson	Williams
Clapp	Kenyon	Root	Works
Clark, Wyo.	Kern	Sanders	
Cummins	La Follette	Shively	

Mr. KERN. I again announce that the Senator from South Carolina [Mr. SMITH] is detained at home on account of a death in his family. He is paired, I think, with the junior Senator from Delaware [Mr. RICHARDSON].

The PRESIDENT pro tempore. On the call of the roll of the Senate 50 Senators have responded to their names. A quorum is present. The Secretary will read the Journal of the last session of the Senate sitting as a Court of Impeachment.

The Secretary read the Journal of the proceedings of Saturday, January 4, 1913.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will stand approved.

Mr. Manager CLAYTON. Mr. President, I should like for the witness, Mr. Tracy, to be recalled for the purpose of cross-examining him. Saturday evening he was examined touching a matter coming under his observation and knowledge as an officer of one of the departments of the Government and I desire to ask him a question.

The PRESIDENT pro tempore. The witness will be recalled.

Mr. MARTIN. The witness is not here at the present time. Is he here?

Mr. WORTHINGTON. Is he here?

Mr. Manager CLAYTON. He is here.

Mr. WORTHINGTON. Oh.

Mr. Manager CLAYTON. He is in the Sergeant at Arms' office, I am told.

TESTIMONY OF ROBERT C. TRACY—RECALLED.

Robert C. Tracy, having been heretofore duly sworn, was examined and testified as follows:

Q. (By Mr. Manager CLAYTON.) You are the gentleman, Robert C. Tracy, who was examined here by the respondent's counsel on Saturday last, are you?—A. Yes, sir.

Q. You furnished a list showing the occupations of the various jury commissioners appointed by the United States courts throughout the country, and in that list I observe you put down, of the 126, if I make no mistake in the number, 19 as lawyers?—A. Yes, sir.

Q. I desire now to ask you if you can state to the Senate how many of those 19 lawyers were railroad attorneys?—A. I do not know that any of them were.

Q. What is your information on it—the same information that you had in making this list?—A. I have knowledge of only 17.

Q. And are they railroad lawyers?—A. No, sir.

Q. Seventeen of them are not railroad lawyers?—A. No, sir.

Q. You, then, have information as to how many were railroad lawyers at the time of their appointment?—A. I do not know whether those other two were or were not.

Q. But you ascertained that 17 of them were not railroad attorneys?—A. Yes, sir.

Q. Now, you will observe that among the papers produced Saturday—and I suppose as a part of your testimony—is a letter headed "Department of Justice, United States District Court, Northern District of West Virginia, Parkersburg, October 7, 1912," addressed to the Attorney General and signed by C. B. Kefanver. The jury commissioner therein referred to is one of the two that you designate as a railroad attorney at the time of his appointment. Who was the other one?—A. I did not see that letter.

Q. You did not?—A. No, sir.

Mr. Manager CLAYTON. Then, Mr. President, that is all we desire to ask the witness, but we ask to put in evidence this letter dated October 3, 1911, and addressed to the Attorney General. It is written from the United States district court clerk's office, Seattle, Wash., and is signed Frank L. Crosby.

Mr. SIMPSON. I should like to see that. We do not know what it is.

Mr. Manager CLAYTON. I offer that as germane to this subject, wherein they schedule the vocations of the different jury commissioners, and it is simply to account for the other one of the two lawyers who were appointed whose vocation the witness did not remember.

The PRESIDENT pro tempore. Without objection the letter will be read.

Mr. Manager CLAYTON. I have no further questions to ask the witness.

Mr. SIMPSON. I have one or two questions which I desire to ask after the letter has been read.

Mr. Manager CLAYTON. Let the letter be read.

The PRESIDENT pro tempore. The letter will be read.

The Secretary read as follows:

[U. S. S. Exhibit 99.]

CLERK UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF WASHINGTON,
Seattle, October 3, 1912.

The ATTORNEY GENERAL,
Washington, D. C.

SIR: Referring to your letter of the 26th ultimo, initials E. M. K., I have the honor to advise you that Earl R. Jenner, jury commissioner for the western district of Washington (northern division), whose occupation is given as a lawyer, advises me that he is chief examiner for the Washington Title Insurance Co., also for the Seattle Trust Co. I presume these companies are likely at some time to have litigation before this court.

Mr. Jenner states to me that he wishes very much to resign from service as jury commissioner, and I have advised him to present the matter to the judge, and I presume the resignation will be accepted and some person appointed in his place.

Very respectfully,

FRANK L. CROSBY, *Clerk.*

Mr. Manager CLAYTON. We have no further questions to ask of this witness at the present time.

Q. (By Mr. SIMPSON.) What exactly do you mean by a railroad lawyer?—A. I presume a man who has something to do with railroads.

Q. Was that what you meant when you were answering Judge CLAYTON's questions on the subject?—A. I might have had that in mind.

Q. You said there were 17 of them who were not railroad lawyers. I want to know what knowledge you have on that point.—A. I received letters—or the department did, rather—from 17 clerks of courts, saying that those jury commissioners had no connection or affiliations as lawyers with railroads.

Q. Then all you know on the subject is that the clerks of courts wrote letters stating that in their opinion, or from some information they had, as the fact may be, certain jury commissioners were not connected with railroads.—A. Yes, sir.

Q. And you were giving simply the information thus acquired?—A. Yes, sir.

Q. Where are those letters, if you know? Are they all here?—A. All except two. There were 19, and I have 17 of them.

Q. Where are the others?—A. I do not know. I heard one of them read. I do not know where the others are.

Q. Is the other one the one that was attached to the record as handed in on Saturday?—A. I do not know; I do not believe so.

Q. Will you look at this one, please?—A. (After examination.) I never saw that letter until it was printed this morning; until I got the printed copy this morning. Is that the other one you have reference to?

Q. Here is a letter, dated October 7, 1912, signed by C. B. Kefaner, clerk.—A. This is one of the missing ones.

Q. This is one of the missing ones, and the one produced by Judge CLAYTON is the second missing one, is it?—A. Yes, sir.

Q. Will you produce those 17 letters, please?

(The witness produced the letters.)

Mr. SIMPSON. Mr. President, we offer these letters in evidence, although we do not care to detain the Senate now for the time which would be required to read them.

The PRESIDENT pro tempore. Without objection they will be received and filed.

Mr. Manager CLAYTON. Mr. President, I desire to say that I have not had an opportunity to examine those letters critically, and therefore at this time I do not make any objection. I made my objection in the beginning, and the Chair sees what this has led to. As I said on Saturday, the very gravamen of the charge is that these 17 or 19 lawyers were connected with railroads; and I suppose if the other part of the testimony is admissible this ought to go along with it.

The letters referred to are as follows:

[U. S. S. Exhibit HH.]

[Carbon copy for the files.]

MAKING INQUIRIES ABOUT JAMES H. JUDKINS.

DEPARTMENT OF JUSTICE,
September 25, 1912.

CLERK UNITED STATES DISTRICT COURT,
Montgomery, Ala.

SIR: Please advise the department at the earliest practicable date as to whether James H. Judkins, jury commissioner for the middle district of Alabama, whose occupation is given as a lawyer, is regularly retained or employed by any railroad or large corporation likely to have litigation before the court with which he is connected.

Respectfully,

_____, _____,
Acting Attorney General.

CLERK'S OFFICE, UNITED STATES COURTS,
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION,
Montgomery, Ala., September 28, 1912.

The ATTORNEY GENERAL,
Washington, D. C.

SIR: Replying to your letter of the 25th instant, E. M. K. 163028, I have the honor to state that "James H. Judkins, jury commissioner for the middle district of Alabama, is not retained or employed by any railroad or large corporation likely to have litigation before the court with which he is connected," nor has he ever been so employed. In fact, Capt. Judkins has practically retired from the practice of law and is engaged in farming.

Respectfully,

HARVEY E. JONES, *Clerk.*

[Carbon copy for the files.]

MAKING INQUIRIES AS TO H. W. DANFORTH.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
Springfield, Ill.

SIR: Please advise the department at the earliest practicable date as to whether H. W. Danforth, jury commissioner for the southern dis-

trict of Illinois (northern division), whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

_____ _____,
Acting Attorney General.

CLERK'S OFFICE, DISTRICT COURT UNITED STATES,
SOUTHERN DISTRICT OF ILLINOIS, SOUTHERN DIVISION,
Springfield, Ill., October 1, 1912.

The ATTORNEY GENERAL,
Washington, D. C.

SIR: I have your communication of September 26 (E. M. K., J. J. G., A. G. M., H. A. F.), in relation to H. W. Danforth, our jury commissioner for the northern division, and in reply to same would say that I have had my deputy at Peoria investigate the matter, and he informs me that Mr. Danforth is not practicing law and is not connected with any firm of lawyers, but is devoting all of his time and attention to the business of farming.

Respectfully,

R. C. BROWN, *Clerk.*

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[Carbon copy for the files.]

MAKING INQUIRIES AS TO A. Q. JONES.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
Indianapolis, Ind.

SIR: Please advise the department at the earliest practicable date as to whether A. Q. Jones, jury commissioner for the district of Indiana, whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

_____ _____,
Acting Attorney General.

UNITED STATES COURTS,
Indianapolis, September 28, 1912.

To the ATTORNEY GENERAL,
Washington, D. C.

SIR: I have your letter of the 26th instant with reference to A. Q. Jones, Esq., jury commissioner for the district of Indiana. It does not appear that he is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Yours, truly,

NOBLE C. BUTLER, *Clerk.*

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[Carbon copy for the files.]

MAKING INQUIRIES AS TO JOHN MILEHAM.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
Topeka, Kans.

SIR: Please advise the department at the earliest practicable date as to whether John Mileham, jury commissioner for the district of Kansas, whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

_____ _____,
Acting Attorney General.

DEPARTMENT OF JUSTICE,
UNITED STATES DISTRICT COURT, DISTRICT OF KANSAS.

The ATTORNEY GENERAL, *Washington, D. C.*

SIR: In reply to your letter of the 26th instant, I beg to advise that Mr. John Mileham, jury commissioner for the district of Kansas, is a retired attorney. He has not been in the active practice for many years. To my knowledge he was never retained or employed by any railroad or large corporation, and I know that he has not been during the last 12 years or more.

Respectfully,

MORTON ALBAUGH, *Clerk.*

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[Carbon copy for the files.]

MAKING INQUIRIES AS TO JOHN R. DONOHUE.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
St. Paul, Minn.

SIR: Please advise the department at the earliest practicable date as to whether John R. Donohue, jury commissioner for the district of Minnesota, whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

_____ _____,
Acting Attorney General.

DEPARTMENT OF JUSTICE,
DISTRICT COURT OF THE UNITED STATES,
DISTRICT OF MINNESOTA,
St. Paul, Minn., September 30, 1912.

The ATTORNEY GENERAL,
Washington, D. C.

SIR: Answering yours of the 26th instant, initials J. J. G., A. G. M., H. A. F., I have to say that John R. Donohue, jury commissioner for the district of Minnesota, is not regularly retained or employed by any railroad or other large corporation likely to have litigation before this court.

Respectfully,

CHARLES L. SPENCER, *Clerk.*

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[Carbon copy for the files.]

MAKING INQUIRIES AS TO ROLAND HOMER.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
St. Louis, Mo.

SIR: Please advise the department at the earliest practicable date as to whether Roland Homer, jury commissioner for the eastern district of Missouri, whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

_____ _____,
Acting Attorney General.

DEPARTMENT OF JUSTICE,
UNITED STATES DISTRICT COURTS,
EASTERN DISTRICT OF MISSOURI,
September 28, 1912.

The ATTORNEY GENERAL,
Washington, D. C.

SIR: Replying to your inquiry under date of September 26, 1912 (J. J. F., A. G. M., H. A. F., E. M. K.), I beg to say, from information, that Jury Commissioner Roland Homer is not regularly retained by any railroad or other large corporation likely to have litigation before the court. Inquiry can be made directly of him, if you desire.

Respectfully,

W. W. NALL, *Clerk.*

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[Carbon copy for the files.]

MAKING INQUIRIES AS TO JOSEPH S. RUST.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
Kansas City, Mo.

SIR: Please advise the department at the earliest practicable date as to whether Joseph S. Rust, jury commissioner for the western district of Missouri, whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

_____ _____,
Acting Attorney General.

DEPARTMENT OF JUSTICE,
UNITED STATES DISTRICT COURT,
WESTERN DIVISION OF THE WESTERN DISTRICT OF MISSOURI,
Kansas City, Mo., October 5, 1912.

The ATTORNEY GENERAL,
Washington, D. C.

SIR: Replying to yours of September 26, initialed E. M. K., I beg to advise you that Joseph S. Rust, jury commissioner for the western district of Missouri, is not regularly retained or employed by any railroad or other large corporations.

Respectfully,

JOHN B. WARNER,
Clerk, United States District Court.

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[Carbon copy for the files.]

MAKING INQUIRIES AS TO EDWARD L. PATTERSON.

DEPARTMENT OF JUSTICE, *September 26, 1912.*

CLERK UNITED STATES DISTRICT COURT,
New York City.

SIR: Please advise the department at the earliest practicable date as to whether Edward L. Patterson, jury commissioner for the southern district of New York, whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

_____ _____,
Acting Attorney General.

CLERK'S OFFICE, DISTRICT COURT OF THE UNITED STATES,
SOUTHERN DISTRICT OF NEW YORK,
New York City, September 28, 1912.

The ATTORNEY GENERAL,
Washington, D. C.

SIR: I have the honor to reply to your letter of the 26th instant (E. M. K.), and beg to say that, so far as my knowledge goes, and upon inquiry of Mr. Edward L. Patterson himself, he is not now, nor is he likely to be, retained or employed by any railroad or other large corporation likely to have litigation before this court.

Very respectfully,

THOS. ALEXANDER, *Clerk.*

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[Carbon copy for the files.]

MAKING INQUIRIES AS TO HY. H. SEYMOUR.

DEPARTMENT OF JUSTICE, *September 26, 1912.*

CLERK UNITED STATES DISTRICT COURT,
Buffalo, N. Y.

SIR: Please advise the department at the earliest practicable date as to whether Hy. H. Seymour, jury commissioner for the western district of New York, whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

_____ _____,
Acting Attorney General.

OFFICE OF THE CLERK UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF NEW YORK,
Buffalo, N. Y., September 27, 1912.

The ATTORNEY GENERAL,
Department of Justice, Washington, D. C.

SIR: In response to your favor of the 26th instant (J. J. G., A. G. M.) I beg to advise you that Henry H. Seymour, the jury commissioner of the United States District Court for the Western District of New York, while being a lawyer by profession is not actively engaged in the practice of the law and is not from any knowledge or information that I can obtain, which includes his own statement, regularly retained or employed by any railroad or other large corporation likely to have litigation before this court. His principal and practically sole present occupation is that of jury commissioner for the county of Erie, under a salary of $4,000 or $5,000, and his time is practically entirely taken up with his duties in connection with that office. In fact I know of no other occupation in which he is engaged at present, except what work he performs in connection with his duties as jury commissioner for this court.

Respectfully,

S. W. PETRIE, *Clerk.*

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[Carbon copy for the files.]

MAKING INQUIRIES AS TO CHARLES H. MATTHEWS.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
Philadelphia, Pa.

SIR: Please advise the department at the earliest practicable date as to whether Charles H. Matthews, jury commissioner for the eastern

district of Pennsylvania, whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

_____ _____,
Acting Attorney General.

CLERK'S OFFICE, DISTRICT COURT UNITED STATES,
EASTERN DISTRICT OF PENNSYLVANIA,
Philadelphia, September 28, 1912.

Hon. GEORGE W. WICKERSHAM,
United States Attorney General, Washington, D. C.

SIR: Your letter of the 26th instant asking that I advise you "whether Charles H. Matthews, jury commissioner for the eastern district of Pennsylvania, whose occupation is lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected," duly received.

Mr. Matthews has been for many years a member of the Philadelphia bar in the highest standing, and, so far as I know, his legal practice is not along the lines suggested in your letter.

Respectfully,

WM. E. CRAIG, *Clerk.*

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[Carbon copy for the files.]

MAKING INQUIRIES AS TO GEORGE C. BURGWIN.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
Pittsburgh, Pa.

SIR: Please advise the department at the earliest practicable date as to whether George C. Burgwin, jury commissioner for the western district of Pennsylvania, whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

_____ _____,
Acting Attorney General.

OFFICE OF THE CLERK, UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF PENNSYLVANIA,
Pittsburgh, September 30, 1912.

The ATTORNEY GENERAL,
Washington, D. C.

SIR: Replying to yours of the 26th instant (initials E. M. K.), I beg to state that George C. Burgwin, jury commissioner for the said court, whose occupation is that of lawyer, is president of a national bank in the city of Pittsburgh, in said district. I have no knowledge of him being regularly retained or employed by any railroad or other large corporation (except as noted) likely to have litigation before the court with which he is connected.

Respectfully,

WM. T. LINDSEY, *Clerk.*

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[Carbon copy for the files.]

MAKING INQUIRIES AS TO HY. R. GIBSON.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
Knoxville, Tenn.

SIR: Please advise the department at the earliest practicable date as to whether Hy. R. Gibson, jury commissioner for the eastern district of Tennessee (northern division), whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

_____ _____,
Acting Attorney General.

CLERK'S OFFICE, UNITED STATES DISTRICT COURT,
EASTERN DISTRICT OF TENNESSEE,
Knoxville, Tenn., September 28, 1912.

The honorable the ATTORNEY GENERAL,
Washington, D. C.

SIR: Pursuant to directions contained in your letter of the 26th instant, initialed "E. M. K.," as to whether I have any knowledge of the Hon. Henry R. Gibson, jury commissioner for the northern division of the eastern district of Tennessee, being regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected, I beg to report that I do not believe that Judge Gibson is regularly retained as an attorney or counselor by any individual or corporation.

I wrote you on July 27, 1912, replying to your circular No. 313, that Judge Gibson had retired from active practice of his profession as an attorney at law and that for a long term of years he was chancellor of the State court of equity at this place and was for many years Congressman from the second congressional district of Tennessee.

I think his principal occupation now is writing law books, he being the author of Gibson's Suits in Chancery, which has reached its second edition.

You are respectfully referred to rule 21 of the rules of this court relating to placing names of talesmen in the jury box by the jury commissioner, and the provisions of this rule have been embodied in a new rule recently promulgated by Judge Sanford. I beg to state, with all due respect, that Judge Sanford would not permit a practicing attorney or one retained by any individual or corporation to act as jury commissioner of any of the divisions over which he presides for a single instant.

Yours, respectfully, HORACE VAN DEVENTER, *Clerk.*

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[Carbon copy for the files.]

MAKING INQUIRIES AS TO HARVEY WILLSON.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
Richmond, Va.

SIR: Please advise the department at the earliest practicable date as to whether Harvey Willson, jury commissioner for the eastern district of Virginia, whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

_____ _____,
Acting Attorney General.

OFFICE OF THE CLERK UNITED STATES COURTS,
EASTERN DISTRICT OF VIRGINIA,
Richmond, Va., September 28, 1912.

The ATTORNEY GENERAL,
Washington, D. C.

SIR: Replying to your letter (J. J. G., A. G. M., H. A. F.) of the 26th instant I beg to advise you that Mr. Harvey Willson, the jury commissioner for the eastern district of Virginia, is not now engaged in the practice of his profession as a lawyer, and has not been for five years or more.

Respectfully, JOSEPH P. BRADY, *Clerk.*

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[Carbon copy for the files.]

MAKING INQUIRIES AS TO ALFRED B. PERCY.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
Lynchburg, Va.

SIR: Please advise the department at the earliest practicable date as to whether Alfred B. Percy, jury commissioner for the western district of Virginia, whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

_____ _____,
Acting Attorney General.

CLERK'S OFFICE UNITED STATES DISTRICT COURT,
Lynchburg, Va., September 27, 1912.

Honorable ATTORNEY GENERAL,
Washington, D. C.

SIR: Replying to your letter of the 26th instant (E. M. K.) asking if Mr. Alfred B. Percy, jury commissioner for the western district of Virginia, "is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected."

Would say that I have seen Maj. Percy, and he tells me he is not employed or connected in any way with either a railroad or other large corporation.

Respectfully, STANLEY W. MARTIN, *Clerk.*

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[Carbon copy for the files.]

MAKING INQUIRIES AS TO JAMES F. CORK.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
Charleston, W. Va.

SIR: Please advise the department at the earliest practicable date as to whether James F. Cork, jury commissioner for the southern district of West Virginia (Charleston division), whose occupation is a lawyer, is regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

_____ _____,
Acting Attorney General.

DEPARTMENT OF JUSTICE,
UNITED STATES DISTRICT COURT, SOUTHERN
DISTRICT OF WEST VIRGINIA, OFFICES OF THE CLERK,
Charleston, W. Va., September 30, 1912.

The ATTORNEY GENERAL,
Washington, D. C.

SIR: Replying to your favor of September 27, 1912, in reference to James F. Cork, jury commissioner at Charleston, you are advised that Mr. Cork has never had any practice either of permanent employment or incidentally with railroads or other corporations. His practice has always been confined to real-estate matters locally in this county and among individuals as clients.

Yours, very truly, EDWIN M. KEATLEY, *Clerk.*

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[Carbon copy for the files.]

MAKING INQUIRIES AS TO JOHN F. DOHERTY AND CARL L. WILSON.

DEPARTMENT OF JUSTICE,
September 26, 1912.

CLERK UNITED STATES DISTRICT COURT,
Madison, Wis.

SIR: Please advise this department at the earliest practicable date as to whether John F. Doherty, jury commissioner for the western district of Wisconsin (La Crosse division), and Carl L. Wilson, jury commissioner for said district (Superior division), whose occupation is that of a lawyer, are regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which they are connected.

Respectfully,

_____ _____,
Acting Attorney General.

OFFICE OF THE CLERK,
DISTRICT COURT OF THE UNITED STATES,
WESTERN DISTRICT OF WISCONSIN,
Madison, October 2, 1912.

The ATTORNEY GENERAL,
Washington, D. C.

SIR: Replying to your communication of the 26th ultimo, initials J. J. G., A. G. M., H. A. F., and E. M. K., have to advise that Mr. Carl M. Wilson, jury commissioner for the western district of Wisconsin (Superior), informs me that he is not regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

F. W. OAKLEY, *Clerk.*

OFFICE OF THE CLERK,
DISTRICT COURT OF THE UNITED STATES,
WESTERN DISTRICT OF WISCONSIN,
Madison, October 1, 1912.

The ATTORNEY GENERAL,
Washington, D. C.

SIR: Replying to your communication of the 26th ultimo, initials J. J. G., A. G. M., H. A. F., and E. M. K., have to advise that Mr. John F. Doherty, jury commissioner for the western district of Wis-

consin (La Crosse), informs me that he is not regularly retained or employed by any railroad or other large corporation likely to have litigation before the court with which he is connected.

Respectfully,

F. W. OAKLEY, *Clerk.*

Mr. SIMPSON. You wanted to ask Mr. Tracy some questions, Mr. CLAYTON.

Mr. Manager CLAYTON. Yes.

Q. (By Mr. Manager CLAYTON.) Mr. Tracy, Mr. Simpson made some references to the way in which you got your knowledge of the vocations of these 19 lawyers, or these 17, that you say you ascertained not to have any connection or affiliation with railroads, and on Saturday you produced here this paper, marked "U. S. S. Exhibit GG." You made up that paper, and your testimony predicated upon that paper is derived from the same source of knowledge, to wit, from letters from clerks of courts, that the testimony you have given this morning is derived, is it not?—A. Yes, sir.

Mr. Manager CLAYTON. That is enough.

Mr. SIMPSON. That is all.

Mr. MARTIN. We will now call Mrs. R. W. Archbald.

TESTIMONY OF ELIZABETH C. ARCHBALD.

Elizabeth C. Archbald, being duly sworn, was examined and testified as follows:

Q. (By Mr. MARTIN.) You are the wife of the respondent, Judge R. W. Archbald?—A. I am.

Q. What was your name before you were married?—A. Elizabeth Cannon.

Q. You are a relative of Henry W. Cannon, are you not?—A. I am.

Q. State what relation, please.—A. Mr. Cannon's father was my father's only brother.

Q. So that you and Mr. Henry W. Cannon are first cousins?—A. We are.

Q. How intimately have you known Mr. Henry W. Cannon?—A. We have been associated more or less all our lives; brought up together; and we have been very closely associated all our lives.

Q. Does that intimacy continue to the present time?—A. It does.

Q. Mr. Cannon generally lives in New York, does he not?—A. His home is in New York.

Q. And your home is in Scranton, Pa.?—A. Yes.

Q. Have you and Mr. Henry W. Cannon visited frequently or not?—A. We have.

Q. You at his house?—A. I have been.

Q. Have you ever taken any trips in company with him or his family, or any members of his family?—A. I have.

Q. How frequently, Mrs. Archbald?—A. Well, within the last 12 years we have been with Mr. Cannon on several excursions; four or five, I think.

Q. Prior to that time do you know anything about Mr. Cannon's business engagements, or his attention to business?—A. Not definitely. I know he was a very busy man for a great many years, 25 or 30 years; that he was very much occupied.

Q. Can you state whether or not about 10 or 12 years ago he began to release the attention to business which theretofore had occupied him?—A. He did.

Q. What trips have you taken with him in the last 10 or 12 years?—A. Do you wish the dates?

Q. No; I am not particular about the dates. Give us the incidents, if you please; the places where you went.—A. We went to Chicago and took a lake trip with him, on a lake steamer; and to Bar Harbor, on a yacht; and one summer my daughter and myself were with him on the Sound, on a houseboat.

Q. Do you mean Long Island Sound?—A. Long Island Sound. Then, I think, the next trip was the Italian journey.

Q. The Italian journey is the one you took in 1910?—A. It is.

Q. Do you remember how that trip came about?—A. Mr. Cannon had this place near Florence that he was always very anxious for me to see. He spends every spring there; he has for the last 10 or 12 years; and for a good many years we had talked of going over and visiting him there, and in 1910 the time seemed promising, and he asked us to go, and we went.

Q. How was the invitation extended?—A. To me personally.

Q. By letter or telegram?—A. By letter.

Q. I show you a letter dated March 20, 1910, and ask you if that is the letter extending the invitation to take the trip to Europe in 1910?—A. (After examining.) Yes; it is.

Q. Will you hand it to the Secretary to be marked.

Mr. Manager CLAYTON. Let us see it, please.

(The letter was examined by the managers on the part of the House.)

Mr. MARTIN. The managers having read the letter we now offer it in evidence and ask to have it read.

The Secretary read as follows:

[U. S. S. Exhibit JJ.]

NEW SMYRNA, FLA., *March 20, 1910.*

DEAR ELIZABETH: For several years I have hoped the time would come when you could go to Italy with me for a visit at my place there. I appreciate that Judge Archbald can not leave his work, and I understand that you would not wish to leave him at home; but it seems to me if he can not leave his duties he would not object to your going abroad for a short trip, provided you could take Hugh or some lady companion. If Hugh could be detached for, say, 75 to 80 days from present work, a trip to Europe would add to his knowledge. I have found it very useful for Harry. Now, I have my room on the steamer of Hamburg-American Line sailing April 16 for Cherbourg. It's a very big, modern, slow boat, with every comfort, and so large few people ever suffer illness. If you and Hugh, or any companion you select, can go with me as my guests from New York to Europe and back to New York, to be gone, say, 80 days, returning in July, it would be a great pleasure to me. We would stay a couple of days in Paris and go to Florence to my place there, and little journeys would be made in Italy. Then if you and whoever was with you wished to travel a bit before returning, it would be arranged. You need not feel any responsibility about travel. There are many things, however, that you would wish to see that I have seen or do not care to, and you would be with your companion, independent to go about and still have my place as home. If Hugh can not go, perhaps Mrs. Lathrop or one of Rob's girls might; or you may have some other friend to take with you. You can with perfect propriety ask who you choose to go as your guest and you both will be my guests. It is a simple matter. I have extended this same invitation to others, who accepted and enjoyed the trip. It's not necessary to go into details with anybody except, of course, Judge Archbald. If he could go, that would be better yet. Think this over seriously. It seems to me this is the time for you to go abroad and store away in your mind the things you will see and enjoy to remember as years go by. I have found that one can do things if they "take the time by forelock" and just do them. I shall be in New York at my house on evening of 3d April and stay there until I sail. I will write my secretary to see what can be done about rooms on the ship, so in case you can go they can be reserved. I do hope you will arrange it.

Yours, faithfully,

H. W. CANNON.

Q. (By Mr. MARTIN.) Mrs. Archbald, what was done by you with reference to the invitation thus extended?—A. I talked it over with Mr. Archbald and urged him very strongly to go. He consulted with friends in regard to his going, who urged him also, and finally he decided that he would go, and I wrote Mr. Cannon to that effect.

Q. You did not, of course, keep a copy of that letter?—A. I did not.

Q. (Producing letter.) I show you a letter dated at Cocoa, Fla., March 29, 1910, and ask you if that was the next communication which was received by you or Judge Archbald from Mr. Cannon with reference to the European trip?—A. (Examining letter.) So far as I know, it is.

(The letter was handed to the managers.)

Mr. MARTIN. We offer this letter in evidence.

The PRESIDENT pro tempore. Without objection, it will be read.

The Secretary read as follows:

[U. S. S. Exhibit KK.]

(Ten Wall Street, New York.)

COCOA, FLA., *March 29, 1910.*

MY DEAR JUDGE: I have yours of 25th March and sent you a telegram. I am very glad you can accept my invitation on your own account and on Elizabeth's and mine. There will be no formality. Although guests of mine, you both are expected to have a good time in your own way with freedom in all things. About clothes, I usually wear on shipboard winter flannels and outer clothing, and thick overcoat or ulster, none of them new. I find "fall underflannels" about the thing until last of May anywhere in Europe, and you will need very few thin clothes, unless the season should prove exceptional. I usually take a couple of my last-summer suits, ordinary dark suits. I wore full dress twice last season. What we call tuxedo coat is used a great deal; some wear it on shipboard, but I am old-fashioned and stick to old clothes on ship as a rule. You could use a silk hat in Paris, but it's not necessary unless you expect to pay visits of ceremony. You can always buy a hat if needed. Take all the luggage you need; it's no trouble to me.

I am leaving for New York Friday; shall arrive there Sunday afternoon. As I telegraphed you I have wired my secretary to secure stateroom for you. I shall put you both in one room and look forward with pleasure to our trip together.

Yours, very truly,

H. W. CANNON.

Q. (By Mr. MARTIN.) Mrs. Archbald, who was the person designated as Hugh in the first letter?—A. My youngest son.

Q. Who was the Miss Lathrop?—A. A cousin of mine.

Q. By the way, how old was Hugh?—A. Twenty-nine.

Q. He is the one who was referred to as the friend of Mr. Cannon's son Harry?—A. I think he must have been. I do not recall just what you refer to.

Q. I refer to a sentence in the letter of his, if I correctly remember it. Who was the Rob referred to in the letter?—A. My brother.

Q. And the girl would be one of his daughters?—A. One of his daughters.

Q. Then there was another person referred to, Miss Lathrop. Who was she?—A. My cousin.

Q. After the receipt of this letter of March 29, did you have any further correspondence with Mr. Cannon with reference to

that trip?—A. I presume so, but I could not say positively. I doubtless did.

Q. (Producing letter.) I show you a letter dated April 5, 1910, and I ask if you recollect whether that was the next letter which was received by your family with reference to that trip?—A. (Examining letter.) I could not at all tell whether it was the next letter, but it was a letter that was received.

(The letter was handed to the managers.)

Mr. MARTIN. We offer this letter in evidence.

The PRESIDENT pro tempore. Without objection, it will be read.

The Secretary read as follows:

[U. S. S. Exhibit LL.]

(H. W. Cannon, 10 Wall Street, New York.)

APRIL 5, 1910.

MY DEAR JUDGE: Upon returning here Sunday night from the South I found your letter of March 29, and this morning I have yours of April 4. Please say to Elizabeth that I finally received her letter in Florida just before leaving for the North, or I should have replied to it before this.

I was under the impression I had given you the name of the ship in one of my letters to you. I think you will find that her name was given in my secretary's letter to Elizabeth. The name of the ship is *Kaiserin Auguste Victoria*, of the Hamburg-American Line, sailing at noon on April 16. I have tickets for you both for an excellent room, No. 236, on what is known as the lower promenade deck. My room is also on the same deck. I will hand you or Elizabeth the passage tickets on Thursday or Friday, together with labels for your baggage.

I think you are wise in taking quite a full supply of clothing, and upon consideration I think it may be well for you to take a frock coat and silk hat, as very likely they may be useful. Perhaps it might be wise to put a Tuxedo suit in your steamer trunk.

In reply to your inquiry, a letter of credit issued by any of our solvent banks or trust companies or express companies will answer your purposes.

You can make arrangements to have your mail forwarded through the bank in London on which drafts are drawn on account of your letter of credit, if desired. I suggest, however, that you use my address in Florence for your family and friends. Letters addressed as follows will reach you when in Florence, and, of course, will be promptly forwarded by my people at La Doccia:

"Care of H. W. Cannon, Villa Doccia, Fiesole, Florence, Italy."

I presume you and Elizabeth will have at least two large trunks for hold of ship and two steamer trunks for your stateroom, together with other small luggage. I will send the baggage that goes into hold over to the ship on Saturday morning. The wagon will call at the Chelsea soon after 9 a. m. (about 9.15 in the morning). I suggest that you and Elizabeth arrange for a small omnibus to take your steamer trunks and luggage down and across Twenty-third Street Ferry to the Hamburg-American pier, from which the ship will leave. By this arrangement you both will be independent as to time of starting, and you can easily find your way to the stateroom. I very likely will arrive a little late, as there are sure to be matters requiring my attention just before I sail.

All the necessary arrangements on board the ship have been made for seats at table and for deck chairs. The ship is one of the largest afloat and has a great many modern conveniences. It is a slow ship in spite of its great size. Many people who are not good sailors are able to cross in this large, slow ship in great comfort.

Yours, very truly,

H. W. CANNON.

Q. (By Mr. MARTIN.) Did you make arrangements to take the trip, and did you take the trip, Mrs. Archbald?—A. I did.

Q. Do you remember the date of sailing?—A. I am afraid I can not. April 16, it strikes me.

Q. April 16, 1910?—A. 1910.

Q. You remember how long you were gone on the trip?—A. I think we came home the second week in July.

Q. Of that same year?—A. Yes.

Q. Had you ever been to Europe before?—A. I never had.

Q. Had the judge been to Europe before, to your knowledge?—A. He had not.

Q. So that this was the first trip for both of you?—A. It was.

Q. Was there any special reason why you preferred that the judge should go with you?—A. Yes.

Q. Will you tell us briefly what it was?—A. It has been very difficult for a long term of years for me to go about alone, and Mr. Archbald could, of course, be of more assistance to me and make the journey much more comfortable for me than any other person possibly could. At the same time I would be less care to Mr. Cannon.

Q. Without going into the particulars, several years ago you had quite a severe illness?—A. Yes.

Q. And since then you have more or less depended upon the ministrations of your husband, Judge Archbald?—A. Yes, I have.

Q. So that was one of the particular reasons why you preferred that he should make the trip with you, rather than other members of your family?—A. It was a very strong reason. I was very anxious that he should have the pleasure; and, of course, it added to my pleasure as well as my comfort that he should go with me.

Q. Was there anything unusual in the invitation which you accepted from Mr. Cannon?—A. There was not.

Mr. MARTIN (to the managers). Cross-examine.

Mr. Manager NORRIS. That is all.

Mr. Manager CLAYTON. We have no questions to ask.

Mr. SIMPSON. Judge Archbald, will you take the stand, please?

TESTIMONY OF ROBERT W. ARCHBALD.

Robert W. Archbald, having been duly sworn, was examined and testified as follows:

Q. (By Mr. SIMPSON.) When and where were you born?—A. I was born in Carbondale City, Pa., about 16 miles from Scranton. I went to Scranton when I was a boy about 8 years old, and I have lived there ever since.

Q. When were you born?—A. I was born on the 10th of September, 1848, being now in my sixty-fifth year.

Q. When were you admitted to the bar?—A. In September, 1873.

Q. And when did you first go upon the bench?—A. I am beginning to-day my twenty-ninth year as a judge.

Q. Will you tell us, please, of what courts and what length of time in each court, very briefly?—A. I was elected to the State court as additional law judge of the forty-fifth judicial district of Pennsylvania in November, 1884, and I became president judge of that court by seniority of commission about three years afterwards. I was reelected to the same position for another term of 10 years in November, 1894, and I was serving in that capacity when the middle district of Pennsylvania was newly created, and I received the appointment of district judge of that district as a recess appointment by President McKinley in March, 1901. I was confirmed by the Senate, my name being sent in by President Roosevelt in December following, and I remained in that position until I was appointed to the Commerce Court in December, 1910, being confirmed by the Senate in January, 1911. I was sworn in on the 1st of February, 1911, and I have since been in that position.

Q. What was the size of the middle district of Pennsylvania?—A. There are 32 counties in the middle district of Pennsylvania, the majority of them taken from the western district and a few taken from the eastern district. Together they comprise probably one-half or nearly one-half in extent of the territory of the whole State.

Q. What did your family consist of at the time you were Federal judge and what were the ages of its members?—A. I had my wife and three children; My oldest son, who is here before the Senate, my daughter, and my younger son.

Q. Will you tell us just briefly what their ages were in 1901?—A. In 1901?

Q. Yes; in 1901, when you first went on the district bench, and tell us what their ages are now?—A. My oldest son was 35 and my daughter was 33, or nearly 33, and my youngest son was going on 30.

Q. When was it that they were these particular ages?—A. When I took my position as Federal judge.

Q. You mean in 1901?—A. In 1901.

Q. That is 11 years ago?—A. Yes.

Mr. SIMPSON. Your son says you are 10 years off on time, and I should judge from his looks that that is probably so. [To the witness:] How long have you known Edward J. Williams?

The WITNESS. I have known him for some time in a general way; I suppose a dozen yaers.

Q. How long prior to the time of the beginning of the negotiations for the Katydid culm dump did he come to your office?—A. Possibly beginning a couple of years before that he would come there, I should say, once in a while He might come there once in a couple of months, perhaps.

Q. And after these negotiations commenced how often would you see him?—A. He would come there as much as once a week.

Q. When did you first see the Katydid culm dump?—A. I first saw the Katydid culm dump long after these proceedings had been begun, in August of last summer.

Q. You mean August, 1912?—A. Of 1912.

Q. Will you tell us, please, as succinctly as you can, all that happened so far as you were concerned in relation to that dump?—A. Some time in the early spring of 1911 Mr. Williams came to me and spoke about this Katydid culm dump. He mentioned the fact that there was a sort of double or confused interest; that it had been made in the operations of Messrs. Robertson & Law; that Mr. Robertson and Mr. Law (Mr. Robertson succeeding to the firm) had secured title in it; that there was also a claim of title by the Hillside Coal & Iron Co., under whom Messrs. Robertson & Law had operated. He thought that Mr. Robertson would give an option upon it, and that if an option could also be secured from the Hillside Coal & Iron Co. that would unite both or all interests and the property could be sold and something made out of it. He stated that the dispute between Robertson and the Hillside Coal & Iron Co. had been submitted to counsel for the Hillside Coal & Iron Co., Mr. Willard, who is now dead, and that Mr.

Willard had sustained the claim of Mr. Robertson. He said he thought that Mr. Robertson's interest could be procured for $3,500, and an option obtained on that. Later on he informed me that Mr. Robertson was prepared to give an option for that amount verbally.

Then, the matter of securing the Hillside Coal & Iron Co.'s interest came up. I think I first talked with Capt. May over the telephone with regard to it and asked him about it. I received sufficient encouragement from him, although I can not tell exactly what he said upon that occasion, to address a letter to him. My impression is that he suggested that I should address a letter to him for the purpose of bringing the matter to a head. I accordingly did write a letter asking him whether the Hillside's interest could be purchased and at what price. That letter has been produced here and offered in evidence. I think that was not sent through the mail, but that Mr. Williams took it, and the reason of that was for the purpose of getting a speedier answer with regard to it. That is my remembrance now. In response to that letter and what immediately followed after that I do not remember with perhaps as much clearness as I ought, but I do know that I talked with Capt. May about it two or three times. I understood from him that the matter would be disposed of at a subsequent date when Mr. Richardson, the vice president of the company, was to be in Scranton and was going to look over the property. The date which he fixed came and I did not hear anything from him. I frequently met Capt. May on the streets of Scranton, because he lives within a block of where I do—above me—and goes back and forth to his business by my house. My remembrance is that I did meet him in that way and asked him about the conclusion of the matter. It dragged on, however, for some time without anything definitely being said about it.

Q. Just go on, please.—A. In July I was going down to New York. I was assigned by the chief justice to assist in the trial of criminal cases in that city, and I spent practically all of July in attendance on those duties. Mr. Williams, in talking over the submission of the question of the conflicting interests in this dump to Judge Willard had also spoken, as I remember, of the matter having been passed on to Mr. Brownell, counsel of the Erie Railroad and of the Hillside, in New York City. I had met Mr. Brownell in May of last year when there was argued before the Commerce Court what is sometimes spoken of as the Sugar Refinery case and sometimes spoken of as the Lighterage case. My remembrance is that, acting upon that idea, which Mr. Williams had stated, and the matter dragging along considerably without any definite answer from Capt. May, I concluded to see whether I could expedite in any way the disposition of the case.

Q. Before you go any further, I want to fix two items right at that point, if I can. Did you say anything to Mr. Brownell about the matter at the time you got acquainted with him in May?—A. Not at all.

Q. Did you know at that time that Mr. Willard's opinion had been passed on to Mr. Brownell?—A. I could not say. I really do not know. I think I had, because I think that was mentioned at the same time by Mr. Williams that he spoke of Judge Willard having given an opinion upon the subject.

Q. Just go on and take up the story where I interrupted you. I wanted to fix that point.—A. Mr. Robertson was getting restive. There was no definite arrangement with Mr. Robertson except verbally at that time. He had said that he would take a definite sum, but still I was anxious to have the matter brought to a head in some way. I therefore wrote to Mr. Brownell asking for an appointment in New York. That appointment was made, I think fixed by letter, for the 4th of August, that being the day I was to be in New York in attendance upon my duties in regard to the trial of the cases there. I saw Mr. Brownell upon that date at his office and I told him—if you wish me to go on——

Q. Just go right on, please.—A. I told Mr. Brownell as the reason for coming there that there was this conflict of title about the Katydid dump. Of course, I mentioned first that I had come there to see him with regard to the Katydid dump; that I had asked Capt. May whether the Hillside Co. was willing to sell its interest, and that it seemed difficult to get a response from him. I wanted to see whether the matter could be expedited in any way. I told him that I understood the diversified titles and the complicated titles or interests had been submitted not only to Judge Willard, the local counsel, but also had been submitted to him. I gave that as the reason for coming to see him. He told me that he himself had nothing to do with that, and also that it was not so about his having passed upon the title, but that the matter was to be disposed of by Mr. Richardson, the first vice president of the company, I think. I was not acquainted with Mr. Richardson. He said he would introduce me; and he did take me to and introduced me to Mr. Richardson. I then had a conversation with Mr. Richardson somewhat similar to that which I had with Mr. Brownell. I told him at the outstart that I was not there to try to do anything over Capt. May's head; that I recognized that the matter was to be disposed of by what Capt. May would recommend; that I did not come there to influence the decision with regard to it, but simply to expedite it and try to get the matter brought to a conclusion; that the matter had been brought up to Capt. May some time in March, it was then August; and that if the property was going to be disposed of I should like to know it, and if it was not going to be disposed of I should like to know it. That was the substance of the conversation that I had with Mr. Richardson.

Q. Then what happened after that in regard to the matter?—A. Mr. Richardson said, as I remember, that he would take it up again with Capt. May, and that there would be some disposition of it one way or the other. Whether I went back and thanked Mr. Brownell or whether I saw him again on that occasion I do not quite remember. I think very likely that I went back to his office and said "good day" to him, and there may have some things passed between us there. Then I went home. About three weeks after that Capt. May was going by my house. I met him. He stopped me and he said that the company had practically decided to sell their interest.

Q. Where, relatively to your house, does Capt. May live?—A. He lives a block and a half, I may say, above my house in Scranton.

Q. And does he pass your house in going to and from the railroad?—A. I think I have already stated that he frequently goes by my house; I should say every noon. I think it was about at the noon hour that I met him.

Q. Go on, then, and take the story up, please.—A. He told me that I should send Mr. Williams to him. I got hold of Mr. Williams and sent him up. Mr. Williams brought back from there the letter which has been put in evidence, in which Capt. May said he would recommend a sale at $4,500 of the interest of the Hillside.

Q. That is Exhibit No. 4, page 139. What was done after that?—A. The next thing was to get Mr. Robertson's option in proper shape so that the whole property would be within the control of Mr. Williams and myself. Mr. Williams brought Mr. Robertson to my office. I there drew up the agreement and had Mr. Robertson sign it, in which he gave an option for $3,500 on the interest of Robertson & Law in the Katydid dump. I think the option was to run for 60 days. I witnessed that option. That option is in my handwriting.

Q. What became of it after it was executed and witnessed?—A. It was given to Mr. Williams.

Q. Go on, please.—A. Well, after that came the question of disposing of the Katydid dump. The very first thing I asked Mr. Williams when he came with the Katydid dump to me was with regard to the possibility of disposing of it. I wanted to know what could be done about it. He suggested several parties who would be likely to be interested to buy. Among others, he spoke of an electric-light company in Pittston, a city about 9 miles from Scranton, and the electric railway there. He also spoke of what we know as the Laurel Line, of which Mr. Conn is the manager. The next thing, I think, he told me was that he had been to see Mr. Conn, and that he had an appointment with Mr. Conn to take him up to the Katydid culm dump, which was about a mile, I think, from a little station called Moosic, on the Laurel line. It was a hot July day—no; it must have been in September when that happened. I did not go along. He reported that he had taken Mr. Conn there; that they had had a discussion over it, and that nothing had been arrived at. Later on I saw Mr. Conn myself. He told me that Mr. Williams's ideas with regard to the value of the dump were very much exaggerated, and that he did not believe that he could make any deal or make any arrangement with Mr. Williams; that possibly he and I could talk it over with success. I then fixed a time when Mr. Williams and Mr. Conn could be together at my office. They came to my office and we discussed it. Mr. Conn said that he would not be willing to make any arrangement about buying the dump except upon a royalty basis; that he might be persuaded to do that. We talked over the question of what royalty he would be willing to pay, and I told him that I had understood that he had offered some 41 cents, I think it was, for a culm dump at Richmond Dale, that I knew of. He acknowledged that, but he stated that that was a better dump. It was finally suggested that 30 cents possibly would be what he would be willing to pay. He also said that he would recommend a cash payment on account of the royalties. The final outcome of our talk there was that I should submit a proposition to him in writing embodying our talk; and that I did. That letter, I think, has been produced here and put in evi-

dence. I offered, then, on behalf of Mr. Williams and myself, to sell him the Katydid dump on a royalty basis of 30 cents a ton, and he was to pay down $10,000.

Q. What followed the sending of that letter?—A. I had one or two more talks with him. I forget just when. I remember, however, going to his office in the Laurel line station and talking there with him about it, when he told me that, after talking the matter over with the president, I think, of the company, he had concluded that they had got to be at some expense in connection with handling this dump and that they were not willing to pay more than 27½ cents. He thought, however, that at that figure the transaction could be put through. After talking the matter over with Mr. Williams, I saw Mr. Conn again and agreed that we would dispose of it upon that basis. Then a contract was drawn up. I drew the contract, and I think that also has been put in evidence.

Q. There is a contract here, Exhibit 22, dated —— day of December, 1911, by and between yourself and Mr. Williams and the Erie & Wyoming Valley Railroad Co. Is that the one to which you refer?—A. Yes.

Q. That is found on page 288.—A. I drew that agreement in accordance with the conversation which Mr. Conn and I had had, and involving also some details—I have not mentioned all—that were necessary in order to make a working agreement. I sent that to Mr. Conn to look over after I had drawn it up. I arranged in that agreement, as you will see, that Mr. Williams's interest should be paid to him separately and that my interest, which was one-half, should be paid to me separately. Then we met together upon the specified time, or at least I think I then notified Capt. May either by telephone or by letter—I am not sure which—with regard to this disposition. In the letter in which Capt. May said that he would recommend selling this property, or their interest, for $4,500, he had said that the purchaser must be acceptable to his company. Therefore I felt called upon, of course, to notify him to see whether the Laurel line would be acceptable. I found out from him that the company would be acceptable to him. I think Mr. Conn had also himself seen Capt. May and found that that was the case.

Then we met to close the matter at the office of Mr. Conn's attorneys, Messrs. Welles & Torrey, and also, I think, prior to that at Judge Knapp's office, Judge Knapp representing the Hillside. I guess there was where we first went before we went to Messrs. Welles & Torrey, because when we came to discuss the matter there at Judge Knapp's we found that I had relied a little too much upon things straightening themselves out in a way that they did not do. I found that all that the Hillside Coal & Iron Co. would agree to dispose of was the interest of the Hillside Coal & Iron Co., and that they particularly would make no assurance with regard to the interest of the Everhart estate or the Everhart heirs. That is a very complicated matter, but if you desire me to do so I will go on and explain about it.

Mr. SIMPSON. Just let us know was that the first you knew of the complications in the title?

The WITNESS. Well, I can hardly say that was the first I knew of the complications of the title. It was the first time I realized that there were complications with regard to the Everhart interest in the title that might prevent a sale, and which eventually did prevent a sale.

Q. What did you do, if anything, in the endeavor to straighten out those complications that you then became acquainted with?—A. As I say, the Hillside would only dispose of their interest, and Messrs. Welles & Torrey immediately said that the Everhart interest was of such substance that they could not recommend a sale with that understanding unless it was taken care of in some way. There were two or three ways suggested of taking care of it, but none of them seemed to be practicable. The matter then was dropped practically for the time being in an effort to see what could be done to obtain the Everhart interest.

If I might be permitted to explain my idea about closing this matter with the Hillside and in that way getting what I thought would be a sufficient title, I would make an explanation. It involves a little law as well as some facts. I knew that this culm dump had been made from a coal property which was jointly owned, one half by the Hillside Coal & Iron Co. and the other half by parties whom I will designate for the moment as the Everhart estate, or the Everhart interests generally. The coal had been mined by the Hillside under an arrangement—I did not find out the particulars of that until we were together at Judge Knapp's office in which that was stated—and the Hillside Coal & Iron Co. had mined out, as coowner with the Everhart estate, accounting to them for their portion of the property entirely on a royalty basis, paying the Everhart people a half royalty, or a royalty on half of the quantity, whichever you please. That had been going on, as I understand, since 1874, without any definite writing or any lease. It all depended upon a letter written by Mr. Edward P. Darling, long since dead, to the Hillside Coal & Iron Co., and that letter had been lost. It is upon that insecure basis that the whole matter of the Hillside's operations rested. The Hillside, on the other hand, had undertaken to lease a part of this property with also a portion of an adjoining property, in which the Everharts had no interest, to Robertson & Law, also on a royalty basis; and Robertson & Law had paid royalty to the Hillside Coal & Iron Co., and the Hillside Coal & Iron Co. had accounted for that royalty as I understand to the Everhart people for their share. That had been going on for some time, until the breaker of Robertson & Law had burned down. The Robertson & Law had also at that time, I believe, a washery, and were washing the Katydid culm bank under a similar arrangement.

To explain a little further about the legal matter, I assumed that the Hillside Coal & Iron Co. and Messrs Robertson & Law would have a right to dispose of this dump, regardless of the Everhart interests, if they were willing to do so; that is to say, Messrs. Robertson & Law in making this culm bank could have disposed of every ton of coal in it without any further accounting than they did make to the Hillside Coal & Iron Co. under their lease arrangement; and if they could do that when the coal was being mined, as a lawyer I concluded that they could do that even though they had put it aside temporarily in this dump, if you please, until they wished to disposed of it. I understood also that Robertson & Law had never abandoned their claim there; that even after the washery which they built had burned down, they kept their scales there, and from time to time had sold off a few tons of coal. To use the expression of the law, they "kept their flag flying there" and kept their claim. It was my idea that, so far as the Everharts were concerned, Robertson & Law having accounted for what we know as the larger sizes or prepared sizes to the Everhart interest, in the mining of the coal themselves they had full liberty, authority, and legal power to dispose of this refuse dump without further accounting to them; and if they sold their interest, if they sold the dump, they sold a clear title to it, or a clear title, except so far as Robertson & Law were concerned, and that title was in the option which Mr. Robertson had signed. But Messrs. Welles & Torrey did not look at it in that way, and, as I have said, they advised Mr. Conn that he would not be secure in taking the property without some further assurance with regard to the Everhart interest. I thereupon started in to see what I could do about getting in the Everhart interest.

Q. What did you do?—A. I found that the Everhart interest was quite a complicated one. They seemed to have divided it into twenty-fourths. The interest in the property of the Hillside was twelve twenty-fourths; there were six twenty-fourths undivided belonging to the E. & G. Brooke Co., of Birdsboro, Pa., which left six twenty-fourths, five twenty-fourths of which belonged, as I now recall, to James Everhart or the James M. Everhart estate. That estate was represented by a gentleman by the name of Heckel, a witness who has been here upon the stand. The other one twenty-fourth belonged, if I get the names right, to the John T. Everhart estate, and the John T. Everhart estate was divided up into ramifications which I am not at this time able to follow; but among others was the interest of Mrs. Holden, wife of Mr. C. P. Holden, who was a witness here on Saturday. I got Mr. Heckel to come to my office and I talked with him in regard to getting that interest. I offered him $500 for the Everhart interest which he represented, and I also wrote a letter to the E. & G. Brooke Co. offering them $500 for their interest.

Q. Did you keep a copy of that letter?—A. Mr. Heckel was to write to the different parties, with whom he was in communication, to see whether they would accept that offer. Mr. Heckel was, as I assumed, the proper party to do this, because it was to him that the Hillside Coal & Iron Co. paid the royalty which was due to the Everharts, or to that portion of the Everharts that he represented, and every month he sent around the checks to the different people, and therefore knew them and was in communication with them.

Q. Were your offers accepted?—A. The offers were not accepted. The Brooke people wrote me a letter—I do not know whether or not it has been offered in evidence; I have it here—under date of December 13, 1911, in answer to my letter.

Mr. SIMPSON. I will hand the letter to Mr. Manager CLAYTON, and while the judge is looking it over I will ask the witness what happened in relation to the Brooke matter afterwards.

The WITNESS. I got another letter from them.

Q. Have you that letter with you?—A. I did not write them again, but I got a second letter from them after they had looked into the matter, and that is the letter which I now produce.

Mr. SIMPSON. I will also hand that letter to Mr. Manager CLAYTON. Mr. President, I offer these letters in evidence and ask that they may be marked and read by the Secretary at this time.

Mr. Manager CLAYTON. There is no objection, Mr. President.

The Secretary read the letters, marked "U. S. S. Exhibit MM" and "U. S. S. Exhibit NN," respectively, as follows:

[U. S. S. Exhibit MM.]

(Edward Brooke, president; George Brooke, jr., secretary; Robert E. Brooke, treasurer. The E. & G. Brooke Iron Co. Manufacturers of basic, foundry, and gray forge pig iron, anchor brand iron and steel-cut nails, muck bars, scrap bars, skelp. All agreements are contingent upon strikes, accidents, delay of carriers, and other causes beyond our control. Prices subject to change without notice. Address all communications to the company.)

BIRDSBORO, PA., *December 13, 1911.*

Hon. R. W. ARCHBALD, *Scranton, Pa.*

DEAR SIR: We are in receipt of your favor of the 12th in reference to the six twenty-fourths interest we have in what is known as Lot 46, which is operated by the Hillside Coal & Iron Co., and in reply would state that we appreciate very much your offer of $500, and will take the matter up, and if the same appears interesting will advise you.

Very respectfully,

E. & G. BROOKE LAND CO.,
D. OWEN BROOKE,
Assistant Treasurer.

[U. S. S. Exhibit NN.]

(Edward Brooke, president; George Brooke, jr., secretary; Robert E. Brooke, treasurer. The E. & G. Brooke Iron Co. Manufacturers of basic, foundry, and gray forge pig iron, anchor brand iron and steel-cut nails, muck bars, scrap bars, skelp. All agreements are contingent upon strikes, accidents, delay of carriers, and other causes beyond our control. Prices subject to change without notice. Address all communications to the company.)

BIRDSBORO, PA., *December 22, 1911.*

Hon. R. W. ARCHBALD, *Scranton, Pa.*

DEAR SIR: In further reply to your favor of the 12th in reference to our interest in a culm bank in the neighborhood of Dupont, Pa., beg to state that if you would make us an offer of $2,000 cash and an additional consideration of 30 cents per ton for all sizes above pea which may be discovered in washing the same would be presented to the proper parties for consideration.

Very respectfully,

E. & G. BROOKE LAND CO.,
D. OWEN BROOKE,
Assistant Treasurer.

Q. (By Mr. SIMPSON.) Did any agreement follow the communications you had with the E. & G. Brooke Iron Co.?—A. I had no further communications with them, and no agreement was made. I did not pursue that. I was not prepared to pursue that until I had seen whether I could do anything with the other six twenty-fourths of the Everhart interest.

Q. Was anything done with the other six twenty-fourths interest?—A. There was nothing further done with the other six twenty-fourths interest.

Q. You have told us that Welles & Torrey had advised Mr. Conn that he could not safely make an agreement as to the Katydid culm dump unless these interests were obtained. What afterwards followed when you found that no arrangement could be made with these people?—A. I myself also felt that I would not be willing to go any further with the matter until there had been some arrangement made with the Everhart people. I did not want to sell to anybody a lawsuit, and I did not feel as though it would be treating them properly without endeavoring to make a settlement with them. These letters from the Brooke Co. were along in the middle of December. About the last of December I went South, into Florida, and was gone about a month. I came back along in the latter part of January, 1912. I do not remember just the succession of events following, but the matter lay in abeyance without anything particular being done. I had a general idea, if I may be permitted to say so, that if the Everhart interests could be taken care of, Mr. Conn would carry out his part of the arrangement for buying the dump; and along in March I went to see Mr. Conn. I think also I had been away before that, in Washington, attending some session of the Commerce Court. I went to Mr. Conn's office really to see just how the matter stood. There he showed me a letter, dated March 13, which had been written by Mr. Williams to him. I had not seen that letter. I knew nothing about the writing of that letter, and it was somewhat of a surprise to me, because apparently Mr. Williams was doing something behind my back. After talking the matter over with Mr. Conn, I said we would consider the agreement, or the tentative agreement, off, and he would not be bound by what we had said, and I did not want to be bound. That was the conclusion reached. I took back at that time the proposed agreement which I had drawn up along in November.

Q. I notice that that agreement recites it is between Mr. Williams and yourself and the Erie & Wyoming Valley Railroad Co. Mr. Conn testified that was a mistake in the title; that it was the Lackawanna & Wyoming Valley?—A. Yes; that certainly was a mistake in the title. In the hurry of preparing it I confused the name of the Laurel line, which I am not quite sure of now, because we all speak of it by that term, with another railroad there which is called the Erie & Wyoming, which was pretty nearly on the same parallel with the Laurel line.

Q. Was anything ever done with Mr. Conn in regard to the matter after the interviews about which you have testified?—A. No.

Q. Now, there appears in evidence here an option dated April 6, 1912, Exhibit 26, page 357, given to Thomas Jones—an option on the Katydid culm dump for 10 days for $25,000. What knowledge have you in regard to that option?—A. I drew that option; at least I dictated that option to my stenographer in my office. Mr. Williams brought Mr. Jones to my office. The talk between him and Mr. Jones and me there was that Mr. Jones would like the property and was willing to take the risk of the title. That was the particular point, and that is the reason why the option was framed in the particular form in which it was framed. On the 1st of April the anthracite coal miners went on a suspension, coal began to be very scarce, and there was a good deal of scurrying around to get hold of such things as these culm dumps. I knew of Mr. Jones being active in the sale and disposition of such dumps. I also had heard of others, so that I realized somewhat how Mr. Jones came to be there upon that errand. The price was discussed between us. I think Mr. Jones came in twice. I think he had been in my office a few days before this option was drawn and that a price was talked over of $23,000, but when the option was drawn it was fixed at $25,000. In order to meet the Everhart interest, which, as I say, I felt ought to be protected in some way, Mr. Jones advanced the idea that he would put one-quarter of the purchase price in the bank to the credit of the Everharts, and in case they established their title to it it would go to them. That was one suggestion made. I think after considering that I was not willing, I did not feel as though that would be the way to dispose of it, and therefore the final arrangement was that Mr. Jones in this option was simply to get the interest or the title that Mr. Williams had by virtue of the two options which he held; and you will see, if you will examine it, as I remember it, that the option is framed with that distinctly in view—that he was to take the risk as to anything and to get in the Everhart interest if that became necessary.

Q. At the time that option to Jones was dictated who was present?—A. When we had talked over the form of the option I called in my stenographer, by a bell call, and she came in and I dictated it. Whether Mr. Jones and Mr. Williams were present during the immediate time it was being dictated I do not know. Very possibly they went out into the hall or the corridor adjoining my office and were there. I could not say about that. I have no remembrance about it. It is very possible; it is very likely.

Q. After the option was drawn what was done with it?—A. It was read over and Mr. Williams signed it, and, as I say, it was put in the particular form—I did not join in that option——

Q. I understand that. Go on.—A. I did not join in that option, because the understanding with Mr. Jones was it was simply what Mr. Williams had said that he took.

Q. And what was done with the paper itself after its execution?—A. It was delivered to Mr. Jones.

Q. What became of it afterwards?—A. I never heard, except in the most general way. I did not hear it was accepted. Almost immediately following that I was called down here to attend a session of the Commerce Court, and was here for some 10 days, I should say, in attendance upon the court. I think I came down here on the 8th of April and that I did not get back home, in Scranton, until about the 20th.

Q. Who was with you down here during that time?—A. Mrs. Archbald was with me all the time except the first two days.

Q. And you stopped at what hotel?—A. I stopped the first two days, when I was by myself, at the Hamilton Hotel. When she came we took rooms at the Grafton.

Q. What knowledge had you of the attempt to sell the dump to Mr. Bradley?—A. I had no knowledge whatever. I never had seen Bradley. I knew him by name, because he has been successful in culm dumps and because of his success in handling them that way, but I never had seen him, and I never heard of

the proposed sale to him until that was brought out in the hearings in May before the Judiciary Committee.

Q. Then I may assume, may I, that you knew nothing of the letters and draft of agreement, and so on?—A. Absolutely nothing.

Q. And I may assume, also, that you knew nothing of Capt. May's recalling that agreement and the memorandum he made in regard to it?—A. Absolutely nothing.

Q. What knowledge had you of the visit of Mr. Holden to Capt. May on April 11, 1912?—A. None whatever.

Q. And what knowledge had you of the notice given by Mr. Holden and Mr. Heckle and Mr. Bevan to Capt. May and to Robertson & Law?—A. I never heard of it until it was brought out in the hearings before the Judiciary Committee.

Q. And is that true, also, of the notices given by Mr. Saltonstall and Mr. Rice Taylor?—A. It is.

Q. Mr. Williams testified that he wanted to sell the dump to Bradley, but that you did not, because you thought you could get more for it later on. What is the fact in regard to that?—A. The only thing I can think of that that may possibly refer to is this: I should say that happened some time this summer. I remember that Mr. Bradley and Mr. Williams came to my office some time along during the summer.

Q. Of what year?—A. Of 1912. I should say along in July. Of course that was after the hearings before the committee had been completed. That was the first time I had seen Mr. Bradley in Scranton. I had seen him, of course, when he was testifying here before the Judiciary Committee. Mr. Williams brought Mr. Bradley there and the suggestion was made that Mr. Bradley would buy the property, and I deprecated that, because it could not be done unless the Everhart interest was taken care of, and that interest had not yet been obtained. And I told Mr. Williams at that time that there would be no loss upon it, because the values of these culm dumps were not depreciating and might possibly be more if he waited than they were at that time. I think that is the only explanation I can give.

Q. What knowledge had you of the value of the Katydid culm dump?—A. Personally I had none. I knew in a general way what section of the country it was, because I am pretty well familiar with the surroundings; but I actually never had seen it, and found that it really was located somewhat differently from what I had supposed. I am no expert on culm dumps. I had no idea what the value was. I got my idea only from what others said about it.

Q. You said you did not see the dump itself until the summer of 1912?—A. Until some time in August, the latter part of August, of this last year.

Q. That was when this matter was pending before the Senate?—A. After the present articles had been preferred to the Senate.

Q. Then I will ask what knowledge you had, if any, as to the quantity or quality of the coal in the dump prior to that visit?—A. I had no actual knowledge. Of course, the matter had been discussed as to how much there was in the dump. I had talked that over with Mr. Conn, and Mr. Conn had told me what estimates he had and what he believed there was in the dump. My remembrance is that he spoke of something like forty-five thousand to fifty thousand.

Q. Was that during the conversations when you were endeavoring to sell it to the Laurel line?—A. Yes.

Q. That was the first knowledge you had of any figures in regard to it?—A. I will not say that, because Mr. Williams had talked about it. Mr. Williams had a very much larger idea about it, but I learned from Mr. Conn, and I think also from Mr. Williams, that Mr. Williams had tried to persuade Mr. Conn that there was very much more in there than Mr. Conn was willing to believe, and tried to get Mr. Conn to make a cash offer, first wanting him to pay $25,000 for it and subsequently coming down to $18,000, without Mr. Conn being willing to close it.

Q. It has been testified here that at some time prior to the visit you made to Mr. Richardson in New York Mr. Richardson had concluded that he would not sell the culm dump. What knowledge had you of that?—A. I had not any knowledge of that. I had not heard definitely what the Hillside Coal & Iron Co. were willing to do about it.

Q. Did you have any further communication with either Mr. Brownell or Mr. Richardson after that interview of August 4, 1911?—A. None whatever.

Q. What knowledge had either May or Richardson or Brownell as to your interest in the purchase of the dump?—A. In my very first letter to Capt. May, I addressed him in my own name, asking him to fix a price. I spoke to Mr. Brownell and Mr. Richardson in regard to the matter in a way that they must have known that I was interested, because I told, for instance, Mr. Brownell, that I was trying to get the conflicting interests together, and in that way avoid any question or controversy between the Hillside and Mr. Robertson.

Q. It appears in evidence here that at some time after the giving of the option by Mr. Robertson to Mr. Williams that option was recorded. What knowledge had you on that point?—A. I had none. It was absurd to record that, because the recording was only good as to the grantor in such a matter as that, and the grantor did not acknowledge it. It was acknowledged by the grantee. It was not acknowledged by Mr. Robertson, but somebody had procured Mr. Williams to acknowledge it and put it on record. That amounted to nothing.

Q. There has been offered in evidence a paper marked "Exhibit No. 7," page 157, which we have spoken of as the silent-party paper, dated September 5, 1911, and executed by Mr. Williams, in which he purports to assign to "William P. Boland and a silent party, whose name for the present is only known to Edward J. Williams, W. P. Boland, John M. Robertson, and Capt. W. A. May," a two-thirds interest in the Katydid culm dump. Will you please tell us what knowledge you had of the paper?—A. I never heard of that paper until it was produced before the Judiciary Committee. I would not have submitted to any such paper being drawn if I had had any notice of it.

Q. What knowledge had you of any claim of W. P. Boland to it at any time?—A. Mr. Boland's name was mentioned in this way by Mr. Williams, at the first part: He said Mr. Boland could sell—as I said a few moments ago—I had asked as to the ability to dispose of this, and Mr. Williams, among other things, said that Mr. Boland would be able to dispose of it. I did not know what interest he was going to give Mr. Boland for that. I did not know whether he was going to give him any interest.

Q. Will you tell us, please, whether then, or at any other time, you concealed or asked anybody else to conceal or knew of any attempt to conceal your interest in this matter?—A. On the contrary, I appeared very prominently in it, and I know it was known that I had an interest, because several parties, independently of those whom I have mentioned, came to me to see whether they could get this property. Among others there comes to me now a man by the name of Col. Keck, who lives at Wilkes-Barre.

Q. You did not quite answer the question, I think, or perhaps you did—whether you made any attempt or was any party to any attempt to conceal?—A. Certainly not; certainly not.

Q. In the course of your general narrative, I think you failed to refer to a letter of September 20, 1911, marked "Exhibit No. 10," page 184, in which you introduced Mr. Williams to Mr. Conn. Do you remember the giving of that letter?—A. I do not remember particularly about that letter; but undoubtedly I wrote it, so as to have Mr. Williams speak with Mr. Conn; and I think it was in consequence of that letter that Mr. Conn went with Mr. Williams to look at the dump which I had spoken of.

Q. You spoke of an interview in Scranton with Welles & Torrey and with Judge Knapp. You mean Judge Knapp, of Scranton, and not Judge Knapp, of the Commerce Court?—A. Yes; Henry A. Knapp, of Scranton. He is one of the firm of Warren, Knapp & O'Malley.

Q. Is that the gentleman who testified here? I do not mean Judge Martin Knapp, of the Commerce Court, but the member of the firm of Warren, Knapp & O'Malley who testified here?—A. Yes, sir.

Q. When and from whom did you first learn that an investigation or examination was being made in regard to your conduct in relation to these various matters?—A. I learned that in this way: A lawyer by the name of John F. Scragg, who lives about a block above me, whom I have known a long while, came to me one evening and told me that complaint had been made by Mr. Boland to the Interstate Commerce Commission in regard to the disposition of the Marian Coal Co. matter. That was early in March, 1912. I was very much surprised at the matter, and he told me a good many things in connection with it. If you want me to go into it in detail, I will be very glad to do so. Among other things he said, referring to the attempted settlement, which I presume you will ask me about in a few minutes, of the Marian Coal Co.'s affairs with the Delaware, Lackawanna & Western, that it had been advanced by Mr. Boland and, I believe, also by his attorney, Mr. Harry C. Reynolds, that that was a scheme on my part to carry the matter along; that it was not undertaken in good faith, and that it was merely for the purpose of enabling the proceedings which were pending in the court by Mr. Peale against the Marian Coal Co. to come to a head and ruin that company in the interest of the Delaware, Lackawanna & Western Railroad or Mr. Peale, and that——

Q. Well, was there any truth in those statements?—A. Oh, absolutely none. As I say, Mr. Scragg went into a great many details of that kind. He suggested that Mr. C. G. Boland was

somewhat disturbed over it, this complaint having been made by his brother, and he also told me that Mr. W. P. Boland had sent for Mr. Williams and got him down and taken him before the Attorney General and taken Mr. Williams's statement in regard to the sale or attempted sale of the Katydid dump. I can hardly remember at this time, but he said that the Department of Justice were going to send up two detectives; he said—he called them that—that they were coming to Scranton to investigate the matter.

Q. It has been suggested here that the attempts to sell the Katydid culm dump ceased because of that investigation. What is the fact in regard to that matter?—A. There is no connection whatever with that.

Q. Why did the attempt cease?—A. Simply because the Everhart interests were outstanding, and, as I said before, I was not willing to participate in any disposition of the property which left them out.

Q. When did you first learn that Mr. Williams was coming to you and getting you to give letters and papers, and so on, at the suggestion of W. P. Boland?—A. When it came out in the hearing before the Judiciary Committee.

Q. Mr. Williams testified that at some one interview in your office he saw a brief or trial list or some paper there which had the word "lighterage" on it, and that he had a conversation with you in regard to it. Will you tell us, please, what paper, if any, he saw with that word on it?—A. There is no paper that I ever had in my office that had the word "lighterage" on it except one. If I may have my papers here I would show that one. That [exhibiting] is an argument list which was sent out for the October term of the Commerce Court.

Q. About when was that received by you?—A. I should say along about the middle of September, 1911.

Q. Did you have any conversation with Mr. Williams in relation to lighterage at all?—A. I do not remember any. I do not see how I could. I find, I might say, on that argument list in an obscure place the word "lighterage." It is on page 12.

Q. That is the same book or a copy of the same book, is it not, that was produced in evidence on behalf of the managers?—A. It is a copy of the same book except that this has my memoranda in it. I used that at the time of the argument in the Commerce Court in October.

Mr. Manager STERLING. Is that the October calendar?

Mr. SIMPSON. Yes. I think the same as you have produced. I do not think we need offer it in evidence.

Mr. WORTHINGTON. Have it marked for identification, at least.

Mr. SIMPSON. I will ask the Secretary to mark it, then, please. At the suggestion of my colleagues I will offer it in evidence, but not ask to have it printed or read, though we may use it in argument.

Mr. Manager CLAYTON. That is agreed to, Mr. President.

The PRESIDENT pro tempore. The paper will be marked as suggested but not printed.

Q. (By Mr. SIMPSON.) It is also claimed that on some occasion or other you said to Mr. Williams that you might do harm to some officials of the Erie Railroad Co. if what you desired done was not done. Will you tell us please whether any such conversation took place; and if so, what was said?—A. Impossible; absolutely not; there could not have been such a thing; I would never have thought of such a thing.

Q. It also appears in the examination of Mr. Williams at the time he was subpœnaed to appear before the Judiciary Committee of the House that you purchased his ticket to enable him to come down here. Please tell us the circumstances appertaining to that.—A. Mr. Williams came to my office, I think it was Monday morning, and showed me a subpœna. He had already been subpœnaed to come down here. That was the first I knew as to the starting of the hearings before the Judiciary Committee. He told me that he had absolutely no money. I knew he was in that condition as a rule. He wanted me to let him have enough money to take him down here. I told him I could not do that, but I further said to him that I would have to go down to Washington at once, and based upon that information I immediately formed the determination to go on the noon train, what we know as the noon train, leaving Scranton at 12.40. I told him if he would be at that train I would buy a ticket for him, and I did—down and back.

Q. Who brought the attention of the Judiciary Committee to that fact?—A. I stated that to Mr. Worthington and Mr. Worthington told the Judiciary Committee that fact. I might say——

Q. Go on, please, if there is anything else.—A. Well, I do not know whether your question involved that inquiry, but I wanted to say that I did not feel as though I wanted Mr. Williams to be put in the position of not going. I did not know but that an attachment would come out for him, as it probably would if he did not go. He is an old man, and I have sufficient respect for him——

Q. What did you tell him?—A. I told him I would buy the ticket and I did buy the ticket.

Q. What did you tell him regarding his testimony, if anything?—A. Oh, I said, "Edward, go down there and tell the truth. That is all there is to it."

Q. In testifying regarding the interview you had with Mr. Brownell and Mr. Richardson, you said after you left Mr. Richardson's office you might have gone back to Mr. Brownell and said something to him. Have you any recollection of having gone back or having said anything?—A. No clear recollection; no.

Q. Why did you get back the contract that was drawn, to be executed between Mr. Williams and yourself and Mr. Conn in relation to the Katydid dump?—A. Because we both declared the deal off.

Q. That was the only reason?—A. That was the only reason.

Q. The article we are now considering charges that you used your influence as a judge to obtain that Katydid culm dump. Will you tell us, please, what the fact is in regard to that?—A. That is absolutely untrue, if I may so speak. I used no influence nor did I endeavor to use any influence. I had no idea it would make any difference. I do not believe it did.

Q. The people to whom you spoke are the only ones who could tell about that. Did you use or attempt to use corruptly any influence in regard to the matter?—A. As I have already said, when I went to see Mr. Richardson I told him——

Mr. Manager STERLING. Mr. President, we object to this line of testimony for the reason that it is a conclusion. It is a conclusion the Senate must draw from the facts in the case, and for that reason it is not competent for the witness to draw the conclusion. Therefore we object to that line of testimony.

Mr. WORTHINGTON. I submit, Mr. President, that it is one thing that only this witness can testify to, and that is the most important thing in this whole case, and that is, what was his intent in the matter—what was going on in his mind.

The PRESIDENT pro tempore. The witness can testify to any affirmative acts on his part.

Mr. Manager STERLING. I desire to say that Mr. Worthington raises still a further question. We objected to this witness making these statements because they constitute a conclusion drawn by the witness. Mr. Worthington makes the point that he can testify as to his intent. We want to object to testimony along that line, too.

The PRESIDENT pro tempore. That has not been considered in ruling on the present point. The view of the Chair is that the testimony of the witness will not militate against the consideration of the contention of the managers as to what are proofs of a purpose of that kind. At the same time the respondent is entitled to negative the suggestion of any act on his part. It does not necessarily refer to the act which has been proven. It would go still further and would be a denial by him of any affirmative act on his part to accomplish that end.

Mr. Manager STERLING. I think there is a different understanding between the President and myself as to what the witness has said. The witness said he did not believe that he influenced him.

The PRESIDENT pro tempore. The Chair understood the question to be whether the witness had attempted to influence him. The Chair may be in error in that regard.

Mr. Manager STERLING. I should like to have that part of the answer read.

The Reporter read as follows:

Q. The article we are now considering charges that you used your influence as a judge to obtain that Katydid culm dump. Will you tell us, please, what the fact is in regard to that?—A. That is absolutely untrue, if I may so speak. I used no influence, nor did I endeavor to use any influence. I had no idea it would make any difference. I do not believe it did.

Q. The people to whom you spoke are the only ones who could tell about that. Did you use or attempt to use corruptly any influence in regard to the matter?—A. As I have already said, when I went to see Mr. Richardson I told him——

The PRESIDENT pro tempore. The last part of it the Chair does not think is legitimate.

Mr. SIMPSON. I interrupted him.

The PRESIDENT pro tempore. That is excluded.

Q. (By Mr. SIMPSON.) Returning, Judge Archbald, to the second article of impeachment, will you state to the Senate, please, your knowledge of and your connection with the attempt to settle the dispute between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co.?—A. That came about entirely in this way: Some time early in August of 1911 Mr. George M. Watson, an attorney of Scranton, came to me and said that he had been employed to settle the pending difficulties between the Marian Coal Co. and the Delaware, Lackawanna &

Western Railroad. He said that the time seemed opportune, because, as he understood it, the testimony had closed, or the last taking of testimony in that case, some time in the spring, and there had been a suggestion of a possible settlement, and he wanted to know whether I was acquainted with Mr. E. E. Loomis, first vice president of the Delaware, Lackawanna & Western Railroad. I told him that I was. He then asked me if I would see Mr. Loomis and suggest to him that if he, Mr. Loomis, would call on him, Watson, the case could be settled. He said that he wanted me to do this in order to make a favorable introduction of him to Mr. Loomis, and it was only upon that basis that I undertook to do what I did.

Q. Go right on, please, with the story.—A. I had occasion after that, within a day or two, to go to New York. It was on the concluding day that I was there in connection with my holding of court in that city that I went to see Mr. Loomis at the office of the D., L. & W. Railroad Co. Mr. Loomis formerly lived and was connected with the Lackawanna Railroad Co. as an official in Scranton. I knew him personally and socially as well as officially. I went to him and asked him whether he would care to settle the troubles that they had with the Marian Coal Co. He immediately began to rehearse those troubles to me, and I, after listening to him a little, told him the more he talked about it the more it seemed to me a very good thing if the difficulties could be settled, and that all I came there to suggest was that I understood Mr. George M. Watson, an attorney of Scranton, had been retained by the Bolands to try and effect the settlement, and if he would call on Mr. Watson or send for Mr. Watson they could talk it over. That was all that was said, and I left his office.

Q. Just go on and take up the narrative from that point to the end. Give us a full history of it chronologically.—A. I heard nothing more for, I should say, something like three weeks, when Mr. Watson came to me one day and asked me whether I had done as I said I would. I told him I certainly had; that I had seen Mr. Loomis and given his name, and I understood from Mr. Loomis he was going to send for him, Watson. Mr. Watson said he had not done so, and that the Bolands were very anxious to have him do something, and he wanted to know whether I would not undertake to see Mr. Loomis again. I was somewhat reluctant about it, but I told him that I would. I found out that Mr. Loomis was to be in Scranton on one of his regular visits of business of the company that day. I called up his office in the Delaware, Lackawanna & Western station, and I finally, through that telephone communication, obtained an appointment with Mr. Loomis at the Scranton Club that evening. I went and saw him there and had a somewhat similar talk, perhaps a little more extended with him than I had the first time, but in purport the same. He said he was rather surprised that Mr. Watson had not been spoken to, because he had given directions to that effect, and he said that he would see that Mr. Watson was notified.

Q. Go right on.—A. Well, I really do not know exactly the next step in the matter, but I think it came about that Mr. C. G. Boland came to see me. I had known Mr. Boland 30 or 40 years; I can not tell just how long. I knew him familiarly enough to speak of him by his name. People call him "Christy." I talked with him in a friendly and familiar way every time we met. He came to me in my office on one occasion (I can not fix the exact date; I have no means of doing it) and told me about this settlement. He said that the matter was preying on the mind of his brother, W. P. Boland, and he expected if it went on further that it would end in his brother going to an asylum. My impression is that tears came to his eyes, and he drew upon my sympathy in that way by what he said and in his appearance. He asked and spoke about this settlement, and wanted me to see what I could do with regard to it. He came two or three other times in a similar way at a later date. I can not fix the time when that occurred. The next thing I think I did was a letter that I wrote to Mr. Loomis. That I did at the instance of Mr. Watson particularly, in which I suggested an interview with Mr. Watson. Perhaps I am not clear about that or about those letters.

Q. Go right on, as you now recall it, and give us the story in chronological order up to the end, and then I will fill in the gaps, perhaps.—A. I came down here to Washington. My duties as judge of the Commerce Court called upon me to do that. I was here from the very first day of October until the very last day of October. I remember distinctly that just before I came the interview that Col. Phillips has testified to.

Q. You testify to it. Let us get your version of it.—A. I wanted to see Col. Phillips about the matter. I think it was either through Mr. Watson or Mr. Boland; I can not tell you which now.

Q. You mean C. G. Boland?—A. Yes; C. G. Boland. I never had anything to do with Mr. W. P. Boland. Mr. Phillips was to see me Saturday morning. Saturday morning I got a telephone communication that he would see me Saturday afternoon. I told him Saturday afternoon was my holiday, and that I could not see him then; so an appointment was made to see me at my house in the evening. He came to my house and we discussed the matter there. He did most of the talking. His suggestion was that there was no chance, as I remember about it—no hope of settlement—because the ideas of the Bolands were very high as to the value of the thing, and the idea of the company was that they did not have very much to dispose of. The next thing that occurred, I think, was when I wrote a letter, after coming down to Washington, to Mr. Loomis, which was suggested, at the request of Mr. Watson, asking for an interview, that there might be another interview in which Mr. Truesdale as well as Mr. Loomis would be present. I learned afterwards that that interview took place. Then I got the telegram from Mr. Watson saying he wanted to see me and asking when he could see me down here. I made the answer, which has been put in evidence, that he could see me at almost any time. A subsequent telegram advised me that he was going to be at the Raleigh. I went to the Raleigh that Saturday afternoon between 1 and 2 o'clock and saw him there. We talked for a while there and then went up to my office in the Commerce Court chamber. We talked there all the afternoon. He suggested as a reason for his coming down that the Bolands wanted him to come. They wanted him to come and see me and see whether something additional could not be done to that which had been done about settling this case. I did not have anything to suggest and did not suggest anything. He also wanted a copy of the record in the Meeker case—the case brought by Mr. Meeker against the Lehigh Valley Railroad with regard to coal rates there and similar points to that from which the Marian Coal Co. were shipping their coal. I got him that record so far as it was then on file. I subsequently secured for him the briefs which were filed and sent them to him. A friendly intercourse with a party such as he was, from Scranton, consumed the afternoon. I also took him and introduced him to some of the judges of the Commerce Court.

Q. What happened in relation to this question of settlement after that date?—A. As I said a few minutes ago, I was here until the last of October, and then I went back to Scranton. Then Mr. Boland came to me and talked with me about seeing Mr. Loomis again, and I made an appointment with Mr. Loomis and saw him along, I think, about the middle of November, and to see whether the D., L. & W. Co. would make any definite offer of any kind, small or large, so as to see whether there was any prospect or hope that the parties could get together. The talk of Mr. Loomis at that time as of Mr. Phillips in his interview with me was that there was nothing of value that the D., L. & W. Co. wished to take over.

Q. Did you communicate that fact to Mr. C. G. Boland?—A. I communicated that fact to Mr. Boland, in the letter which I produced at the hearing before the Judiciary Committee and which has been put in evidence here, I think it is of the 13th of November, in which I spoke of him as "Dear Christy."

Q. You returned to him, I think your letter says, certain papers. What were those papers?—A. For the use of Mr. Watson, as I understood it, in trying to make the negotiations with the D., L. & W. Railroad Co., a statement had been made up by the Bolands with regard to their claim. Mr. Watson wanted me to look over that and see what I thought of it. I did not look it over until after I had come back from the session of the Commerce Court in October, and I did then look it over just prior to my seeing Mr. Loomis. In that statement there were three things in particular that I remember now. I can not give you a great number of details about it, but I remember the aggregate amount of that statement and somewhat how it was made up. I remember that the aggregate amount of that claim was something over $160,000, and that one item of that claim was the so-called shipping claim for moving a certain part of the coal from the line of the D., L. & W. to some other road. I was quite surprised, and that is what called my attention to it, that that claim was so small, because I understood that it was of considerable magnitude; while there was 30 cents a ton switching charge, it was only for a few thousand tons and only amounted to three or four thousand dollars. But the particular thing that impressed itself upon me as I looked upon that statement was the fact that the aggregate was made up by taking the total tonnage that had been shipped by the Marian Coal Co. and multiplying it by an alleged excess charge of some forty-odd cents, and that with the small amount of the switching charge amounted to this aggregate of something over $160,000. The excess rate was something over 40 cents.

Q. Forty cents a ton, you mean?—A. Forty cents a ton. In the hearing before the Commerce Court, the hearing of the

Meeker case, the reduction by the Interstate Commerce Commission in favor of Mr. Meeker on coal shipped of similar character a similar distance to tidewater was 10, and I think in some instances 15, cents. The disparity between that which they had allowed to Mr. Meeker and that which was claimed on behalf of the Marian Coal Co. struck me at once and seemed to me to make the claim of the Bolands impossible of being supported. Those three things—the aggregate amount, the small amount of shipping charge, and the large amount as it seemed to me at the time of the excess claim of rate—were the three things that impressed themselves upon my mind and made me feel that the parties were too wide apart to ever get together.

Q. And that paper showing this data as you have given it to us was sent with your letter of November 13, 1911, back to Mr. C. G. Boland, was it?—A. It was.

Q. Did you ever see those papers afterwards?—A. Never.

Q. You have told us how long you had known Mr. Boland. Will you tell us, please, how long and how well you had known Mr. Watson at the time of this negotiation?—A. I had known Mr. Watson for about 30 years, and I esteem him exceedingly. He has come up from very humble beginnings in a way, of good family, but originally having to support himself at his trade as a carpenter. Subsequently he was a constable there in Scranton. Then he studied law, and he went on so that he became city solicitor of the city of Scranton. Later on he was nominated at the primaries and ran for judge of the county upon the death of Judge Gunston, one of my associates, and while he did not succeed, he made a very creditable showing. He is now county solicitor. As I said, Mr. Watson was an aspirant for the position which I subsequently filled when the district was created.

Mr. Manager STERLING. Mr. President, I do not like to object so often, but certainly this is improper evidence. I do not understand that it is the province of the respondent to give a good character to the men who testify in his behalf.

Mr. SIMPSON. I have not asked any questions of that kind. That is not one of the points in my question.

The PRESIDENT pro tempore. The Chair will suggest to counsel that under the peculiar circumstances, the witness testifying in his own behalf, his own counsel ought to guide him as to matters where he is disposed to go beyond a proper point, and not leave it to the managers to object.

Mr. SIMPSON. I asked a perfectly proper question and no objection was made to it.

The PRESIDENT pro tempore. The Chair is not criticizing the question at all.

Q. (By Mr. SIMPSON.) There appears in evidence as Exhibit 32, page 397, a paper signed by the Marian Coal Co., W. P. Boland, president, directed to C. G. Boland, dated August 23, 1911, in which the Marian Coal Co. agrees to pay to Mr. Watson $5,000 if a satisfactory settlement is made of their claim against the Delaware, Lackawanna & Western Railroad Co. Will you tell us, please, what knowledge you have of that paper?—A. I never heard of that paper until it was produced at the hearing before the Judiciary Committee.

Q. It was testified here that that paper was prepared as the result of an interview in your office at which you and Mr. C. G. Boland and Mr. Watson were present. Will you tell us, please, what the fact about that is?—A. It was not prepared in that way. I never heard of it, as I said. It is a letter, as I understand it, addressed by one Boland to the other.

Q. Yes; it is so addressed, I think; but do not go into that. You have no knowledge of it or of the intention to prepare such a paper? Is that correct?—A. Never.

Q. What knowledge had you of Mr. Watson's claim to $161,000 as a settlement?—A. I knew that that was the claim that he was to make to the Delaware, Lackawanna & Western Co., and I knew that is was substantiated apparently by the statement which I saw.

Q. You knew that was the claim he was to make, from whom?—A. That he was to make on behalf of Boland from the Delaware, Lackawanna & Western Co.

Q. From whom did you know that he was to make that claim?—A. Oh, I knew that that was the talk from Mr. Watson. I am not sure whether Mr. Boland referred to the amount in his several conversations with me or not.

Q. What knowledge had you of the value of the plant and assets of the Marian Coal Co.?—A. I had none. I never had. I had never seen it.

Q. What knowledge had you of the valuation put upon the plant and assets of the Delaware, Lackawanna & Western Railroad Co.?—A. None.

Q. Had you any knowledge, and if so what, of the valuation put upon the rate claimed by either the Marian Coal Co. or the Delaware, Lackawanna & Western Railroad Co.?—A. I only know what I have already said, that it was 43 cents, or something like that—forty-odd cents.

Q. Was there an interview between yourself and C. G. Boland and Mr. Watson in your office on or about August, 23, 1911?—A. I have no memory of any.

Q. Or at any other time?—A. I have no remembrance of any such at any time.

Q. Did you make any suggestion at any time to anybody or under any circumstances that the amount to be paid Mr. Watson for his services should be put in writing?—A. No; oh, no. Mr. Watson came to me and told me he was to get $5,000.

Q. You have already testified to an interview, though you have not fixed the date, as I recall it, at which Mr. Truesdale was present, October 5, 1911. Tell us, please, whether you were requested to be present at that interview.—A. No.

Q. Or at any other interview?—A. No.

Q. Or was any request ever made to you to be present at any interview between Mr. Watson and any official of the Delaware, Lackawanna & Western Co.?—A. No; no request of that kind.

Q. Tell us, please, what, if anything, you had to do with the case of Peale against the Marian Coal Co. except as appears in the record of the court.—A. None. I had none. I made two orders in that case; that is all.

Q. They appear of record?—A. Yes.

Q. Did you have any connection or do anything in regard to that case after you ceased to be judge of that court?—A. Certainly not.

Q. It appears in evidence—and some point has been made of it—that several of the letters which were written were written on paper which bore the Commerce Court title. Will you tell us, please, how that came about?—A. Very probably because I did not have any other paper.

Q. Where were those letters written?—A. I think they were written in my office by dictation. I think some of them appear in my handwriting; I am not sure about that. I have not examined them. So far as they appear by dictation, if they are dated Scranton, they were dictated to my stenographer and she took them off, using the paper that was at hand.

Q. Tell us, please, what object you had, if any, in using that paper instead of some other paper?—A. No object; no purpose in that.

Q. You have told us that you acted in these matters partially at the request of Mr. Watson and partially at the request of Mr. C. G. Boland. Did you act in it at the request of anyone else except those two gentlemen?—A. No.

Q. Tell us, please, whether or not there was any agreement or understanding of any kind or character, express or implied, that you were to receive any portion of the fee of $5,000 which Mr. Watson was to get if he satisfactorily settled that case?

Mr. Manager STERLING. Mr. President, I object. It calls for a conclusion. The witness can state what was said and done.

Mr. SIMPSON. I asked him if there was any agreement or understanding, express or implied. It calls for a statement as to a fact.

Mr. Manager STERLING. It calls for a conclusion. It is for the Senate to determine whether there was any agreement.

The PRESIDENT pro tempore. The stenographer will read the question.

The question was read by the Reporter.

The PRESIDENT pro tempore. The Chair thinks the counsel will be permitted to inquire of the respondent what agreement there was, if any.

Mr. SIMPSON. I am quite willing to put it in that way. [To the witness:] What agreement, if any, express or implied, was there between you and Mr. Watson or anybody else on the subject of your getting any part or portion of the fee of $5,000 if he settled satisfactorily the litigation between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co.?—A. None whatever. The matter was never suggested; never mentioned.

Q. Will you tell us, please, whether or not there was any conversation or letter with you or written to or by you that you were at any time or under any circumstances to get any part or portion of any sum over $95,000 which might be received by Mr. Watson in the settlement of the controversy?

The PRESIDENT pro tempore. The Chair thinks the counsel should put that question in the same way as the other.

Mr. SIMPSON. My colleague interrupted me when I was drafting it.

The PRESIDENT pro tempore. What, if anything.

Mr. SIMPSON. I thought it was put that way. [To the witness:] What, if any, conversation or correspondence was there in that regard?—A. None whatever; absolutely none.

Q. What knowledge, if any, had you, assuming it to exist, of any intention to give you any money or consideration whatsoever for the services which you rendered or that which you did in regard to that matter?—A. I had none. I do not believe anybody would have offered it.

Q. Will you tell us, please, then, if there was nothing to be paid to you of any kind or character?

Mr. Manager STERLING. Mr. President, as to the last answer of the witness——

The PRESIDENT pro tempore. The Chair will not desire to hear from counsel. The last answer was improper.

Mr. SIMPSON. The last part of the answer.

Mr. Manager STERLING. I should like to say, inasmuch as the one asking the question is a very able lawyer and the one answering it is a very distinguished judge, they ought to confine the examination within the required limit without any objection on the part of the managers being necessary.

Mr. SIMPSON. You can not say that the question asked was in the slightest degree objectionable.

Mr. Manager STERLING. The answer was quite improper.

The PRESIDENT pro tempore. The Chair will rule that the last sentence was not a legitimate answer to the question and is not to be considered as evidence.

Mr. SIMPSON. It was not even responsive to the question. [To the witness:] If there was no consideration to be paid to you for your services in relation to this matter, will you tell us, please, why you undertook to do what you did in that settlement?—A. What was asked me in the first place to do was a very inconsiderable matter. It was simply that I would speak of Mr. Watson to Mr. Loomis, that it would make a favorable introduction. That was the whole thing. There was never any idea of doing anything more. Whatever I did beyond that I was pressed to it by Mr. Watson and by Mr. Boland, and out of friendship to them, as much I might say out of friendship to Mr. C. G. Boland as out of friendship to Mr. Watson.

Q. State what if any influence as judge you exercised in relation to the matter.—A. None that I was conscious of.

Q. From whom did you first learn that the Oxford colliery was for sale?—A. I learned that from Mr. John Henry Jones.

Mr. NELSON. Mr. President, I submit the following question.

The PRESIDENT pro tempore. The Senator from Minnesota presents the following question, which he desires to have propounded to the witness. It will be read to him.

The Secretary read as follows:

Was this case, or any part of it, pending in the Commerce Court while you were helping to effect a settlement, as you have stated?

The WITNESS. It was not. The effort at settlement was to prevent it getting there.

Mr. Manager STERLING. Mr. President, in order that I may understand, I should like to inquire what case was referred to in the question. Is that the Peale case that was in the district court?

The WITNESS. I understood it was the case with regard to rates pending between the Marian Coal Co. and the D., L. & W. Railroad.

Mr. Manager STERLING. It was not the case, then, in which the Delaware, Lackawanna & Western Railroad Co. was a party in the Commerce Court?

The WITNESS. It was not in the Commerce Court.

Mr. SIMPSON. It was the rate case before the Interstate Commerce Commission.

Mr. Manager STERLING. The Delaware, Lackawanna & Western Railroad Co. was involved in two cases, one pending in the Interstate Commerce Commission and one pending in the Commerce Court. I think the witness ought to know which case he is referring to, and I doubt if he does.

The WITNESS. I would like the question again read to me, if I may have that done.

Mr. WORTHINGTON. I submit that the statement is quite objectionable, when the manager says that the witness does not know what he is talking about. I think he knows very much more about it than does the manager.

Mr. Manager STERLING. I did not say that with any idea but of fairness to the witness and so that we, too, might understand it.

The PRESIDENT pro tempore. The Chair understood the manager to make the suggestion in order to correct a mistake. The question will again be read to the witness.

The Secretary read the question, as follows:

Q. Was this case, or any part of it, pending in the Commerce Court while you were helping to effect a settlement of it, as you have stated?

The WITNESS. I understand that question is directed to the case that was pending before the Interstate Commerce Commission in which the Marian Coal Co. was the complainant and the D., L. & W. Railroad Co. was the respondent. It was with reference to the settlement of that case that the negotiations undertaken by Mr. Watson were carried on. That case was not in the Commerce Court, and is not there now, as I understand, though I do not know whether it is or not, but it was not there then. If it had been settled, it would never have come there.

Mr. SIMPSON. Is that all, Mr. Manager STERLING?

Mr. Manager STERLING. That is all.

Q. (By Mr. SIMPSON.) From whom did you first learn that the Oxford colliery was for sale?—A. I first learned that from Mr. John Henry Jones.

Q. What did you do in relation to that, stating it in a very brief way, please?—A. Mr. John Henry Jones said that the Oxford colliery, the Oxford washery, which was washing the dump belonging to the Girard estate at a place called Shaft, near Shenandoah, in Schuylkill County, Pa., was to be sold. He said that there were differences between the stockholders, and that the matter had been put in the hands of one of the stockholders, Mr. Schlosser, of Pittston, Pa., and that he was authorized to dispose of it.

Q. Did you have any correspondence with Mr. Schlosser on the subject?—A. I called up Mr. Schlosser on the telephone and asked him with regard to it. He confirmed what Mr. Jones said, and he told me that he would write a letter making a definite offer or giving an option upon the property.

Q. Did you have any correspondence with him in regard to it?—A. That was expressed in a letter. There were two or three letters from him on the subject.

Q. Where are those letters?—A. I forget whether I have them, though I think I have not. You may have them there. [After examining.] I find I have them here. [Producing letters.]

Mr. SIMPSON handed the letters to Mr. Manager STERLING.

Mr. Manager STERLING (after examining the letters). There is no objection to those letters, Mr. President.

Mr. SIMPSON. I will offer the letters in evidence, and not ask that they be read at this time, Mr. President.

Mr. WORTHINGTON. Why not read them?

Mr. SIMPSON. My colleague prefers that the letters be read. I ask that they be marked as exhibits and read.

The PRESIDENT pro tempore. The Secretary will read as requested.

The letters were marked as exhibits, as below indicated, and read as follows:

[U. S. S. Exhibit PP.]

(M. Schlosser, anthracite and bituminous coal, 8 South Main Street, P. O. Box 235.)

PITTSTON, PA., *March 7, 1911.*

Hon. R. W. ARCHBALD,
Federal Building, Scranton, Pa.

MY DEAR SIR: Confirming telephone conversation with reference to a sale of Oxford Coal Co., Shaft, Pa., beg to advise that I can option to you for a period of 30 days from date this company, free from debt, for the sum of $65,000, and on this I will agree to allow you a commission of 2½ per cent in case of a sale.

The owners feel they would not care to have it generally known in the trade that their property is on the market; therefore would like your parties, if interested, to act for themselves and not go from place to place offering same for sale.

I will expect to hear from you by Monday, March 13, 1911, if your parties desire an option or not.

Yours, very truly, M. SCHLOSSER.

(20 cars daily. 500 tons. 300,000 or 400,000 merchantable coal.)

[U. S. S. Exhibit QQ.]

(M. Schlosser, anthracite and bituminous coal, 8 South Main Street, P. O. Box 235.)

PITTSTON, PA., *May 9, 1911.*

Hon. R. W. ARCHBALD,
Scranton, Pa.

DEAR SIR: I beg to quote you on the entire stock of the Oxford Coal Co., with plant at Shaft, Pa., $65,000, less 2½ per cent.

Terms to be cash or part cash and negotiable paper satisfactory to the sellers.

Estimated quantity in dump, from 350,000 to 400,000 tons marketable coal.

Freight rate on small sizes from Shenandoah to Wilkes-Barre, beg to say that this rate can, no doubt, be arranged for between the P. & R. and C. R. R. of N. J.

Railroad connection at the plant is Philadelphia & Reading.

A large dump is adjoining the present property and is controlled by the Girard estate.

Inventory shows the following:

Breaker structure; breaker engine; 2 conveyor lines; 6 shakers; 4 spirals (in service); 3 spirals (not in service); 3 jigs; 2 pair rolls; 1 elevator, 18 by 18; 1 elevator, 8 by 12; shafts, belts, and pulleys; steam heat; 2 pumps; 4 boilers; 2 feed pumps and heater; 1,200 feet steam pipes and covering; 2 steam shovels; 2 locomotives; 18 mine cars; railroad track, 1½ miles; office; supply house; locomotive house and carpenter shop; stable; mule and cart.

CLEANER.

Structure; one 12 by 20 double hoisting engine; 1 breaker engine, 13 by 16; 2 shakers; 2 sets rolls; 2 Hazelton jigs; shafts and pulleys in cleaner; steam heat; extra parts machinery on hand.

The option of purchase to hold good to June 9, 1911.

Hoping to hear from you, I am,

Yours, very truly, M. SCHLOSSER.

[U. S. S. Exhibit RR.]

(M. Schlosser, anthracite and bituminous coal, 8 South Main Street, P. O. box 235.)

PITTSTON, PA., *June 12, 1911.*

Hon. R. W. ARCHBALD,
Federal Building, Scranton, Pa.

DEAR SIR: Again referring to your favor of the 6th instant with reference to the option of purchase of Oxford Coal Co. which expired June 9, 1911, beg to advise that I will extend this option for another 30 days, namely, to July 9, 1911, and trust you may be able to have results by that time.

Yours, very truly, M. SCHLOSSER.

[U. S. S. Exhibit SS.]

(M. Schlosser, anthracite and bituminous coal, 8 South Main Street, P. O. box 235.)

PITTSTON, PA., *August 2, 1911.*

Hon. R. W. ARCHBALD,
Federal Building, Scranton, Pa.

DEAR SIR: Referring to my letter to you of May 9, 1911, in which I gave you an option on the entire stock of the Oxford Coal Co. located at Shaft, Pa., and the original option expired June 9, 1911. Referring to the above, beg to advise that I will now extend the option of purchase of this company to September 2, 1911, on the same terms as mentioned in the original option.

Yours, very truly, M. SCHLOSSER.

[U. S. S. Exhibit TT.]

(M. Schlosser, anthracite and bituminous coal, 8 South Main Street, P. O. box 235.)

PITTSTON, PA., *August 5, 1911.*

Hon. R. W. ARCHBALD,
Federal Building, Scranton, Pa.

MY DEAR SIR: I beg to advise that the royalty on Oxford coal is as follows: Prepared sizes, 45 cents per gross ton; pea, 30 cents per gross ton; buckwheat, 15 cents per gross ton; rice, 7½ cents per gross ton, and barley, 5 cents per gross ton. The minimum royalty is $100 per month or $1,200 annually.

Yours, very truly, M. SCHLOSSER.

Q. (By Mr. SIMPSON.) To whom did the Oxford colliery belong?—A. It belonged to the Oxford Coal Co., as I remember, or to Maderia, Hill & Co., I am not sure which—I think Maderia, Hill & Co. were stockholders in it, and were the commission men who sold the coal.

Q. Had it any connection with any railroad company?—A. Oh, none whatever—none that I know of; it is an individual concern.

Q. It appears in evidence here that that was not purchased by you or that there was not a sale of it made by you. Why was that?—A. It was first offered to the Laurel line, but Mr. Conn told me that he could not get a proper rate on the coal from there, so he did not take it. Subsequently it was offered to Mr. Peale, according to letters which are in evidence here. That, I think, was at the instance of Mr. Jones after I had left the district court bench and was in the Commerce Court. Then it was offered to Mr. Thomas Howell Jones, whom we familiarly know as "Tom Star Jones." That was along in the summer of that year. He took an option on it in favor of himself, I think, and Mr. Howell Harris; but, upon examination of the property, he reported to me that the dump which was being used was so far depleted that it was not worth any such sum as was being asked, and that there could be no deal about it.

Q. That was the end of the matter, so far as that dump was concerned, was it?—A. That was the end of the matter, but not altogether—no; because that led on to something else.

Q. Well, I am speaking of that particular dump.—A. Yes; as to that particular dump.

Q. Now, from whom did you first learn that other culm dumps in the neighborhood of the Oxford washery might be bought?—A. That was stated to me at the very beginning by Mr. Schlosser. He said that there were other dumps belonging to the Girard estate, and he thought that the dump that the Oxford Coal Co. was washing could be helped out by getting some one of these other dumps.

Q. And these other dumps were what?—A. These other dumps were covered by a lease to the Lehigh Valley Coal Co., which lease expires on December 31, 1913.

Q. And that is what has been spoken of here as Packer No. 3?—A. Yes.

Q. Now, from whom did you first learn that it was possible that the Lehigh Valley Railroad Co. or Coal Co. would not object to the sale of Packer No. 3 or the leasing of it?—A. If I may anticipate that, I will say that Mr. Jones, upon going down there and looking over the property, had identified Packer No. 3 as the dump that was desirable to help out the workings of the Oxford colliery, and then I undertook to see whether that could not be obtained.

Q. You say "Mr. Jones." Which one of the Joneses do you mean?—A. Mr. Tom Star Jones.

Q. Tom Star Jones?—A. Yes.

Q. We have had in evidence here a large number of letters in relation to that, which I do not desire to go into because I do not think they can be added to in any material way; but it appears in one of those letters that you wrote to Mr. Kirkpatrick asking him for an interview. Will you tell us, please, where you were going on the occasion when you stopped off in Philadelphia to see Mr. Kirkpatrick in regard to it?—A. I was on my way to Washington here to attend a session of the Commerce Court.

Q. And what, if anything, has been done in relation to that matter since the date of that visit to Mr. Kirkpatrick on February 12, 1912?—A. Nothing whatever.

Q. Had you any knowledge in relation to the matter or any intention to apply for a lease of Packer No. 3 except as it was led up to in the way you have testified?—A. No; not independently of the Oxford. It was suggested in that connection that Packer No. 3 could be washed very much better by itself; that it was not worth while to tie up to the Oxford, but it was in connection with the Oxford attempted deal that I was led to look into the matter of obtaining Packer No. 3.

Q. What attempts, if any, were there to conceal the fact of your connection with this matter?—A. There were none. I was aiding the matter all the time and speaking of it myself, and my name figured in every transaction.

Q. It is stated in article No. 3 that you unlawfully and corruptly used your official position and office as judge to secure from the Lehigh Valley Coal Co. the agreement that the Girard Trust might lease to you Packer No. 3 dump. What is the fact in regard to that?—A. Why, there certainly is no fact of that character.

Q. Was there any intention on your part that it should have any such effect?—A. None whatever.

Q. Do you remember the case of the Louisville & Nashville Railroad Co. against the Interstate Commerce Commission, filed in the Commerce Court and referred to in article No. 4?—A. That was the first case, practically, that was argued before the Commerce Court—at its first argument in April, 1911.

Q. Were you present at its argument?—A. I was present, and participated in the hearing.

Q. How much of a record was there in that case?—A. The record was made up of a carbon copy, furnished by counsel and stipulated into the case, of the testimony that had been taken before the Interstate Commerce Commission, supplemented by testimony that was taken before an examiner appointed in the case before it came into the Commerce Court, when it was pending in the circuit court of the United States for the western district of Kentucky. There was considerable of a record.

Q. What were the respective claims of counsel for the parties in that suit?—A. Well, it is very difficult to give in a few words what their respective claims were. It was an extended argument, with very extended briefs, but the main contention on the part of the Louisville & Nashville attorneys was that the order of the commission reducing the rates there involved was not sustained by any of the reasons given by the Interstate Commerce Commission, and that, in fact, the reasons which the Interstate Commerce Commission gave as the basis of its order were not founded upon any facts. The contention on the part of the Interstate Commerce Commission, represented by Mr. Lamb, and the United States itself, represented by Mr. Fowler, assistant to the Attorney General, was that the Commerce Court could not go into that question; that the ruling of the Interstate Commerce Commission with regard to those rates was conclusive.

Q. Can you tell, in a few words, what is the difference between class rates and commodity rates, so that Senators may understand just the question arising out of that?—A. All rates are divided into classes, as I understand, except as specific commodities are taken out of the class to which they are assigned and given a rate by themselves. Class rates run by numbers, from 1 to 6, and also have some letter designation—A, B, C, D, E. I think the commodity rates would be for a special thing, like glassware or furniture or sand or coal or something specific like that.

Q. And the class rates would include a number of different commodities of the same general character?—A. Class rates apply to all the commodities that are put together in that class.

Q. Why did you write to Mr. Bruce the letters which have been produced and offered in evidence here?—A. That calls for somewhat of an extended explanation.

Mr. Manager STERLING. Mr. President, we object to the witness stating why he wrote the letters. The fact that he did write them is all that this witness has any right to tell.

Mr. SIMPSON. I submit, sir, that where we are in a court, in which the intention of the party is a vital thing, he has the right to say why he did a given thing, so that the judges of the facts and the law may determine whether there was an intention to commit wrong. He has a perfect right, I submit, to state

that, so that the Senate may know what his intention was. If he had no intention to do a wrong, then he has done no wrong, so far as the law goes.

The PRESIDENT pro tempore. If the Chair remembers correctly, the articles do not charge him with intent to do wrong. They charge him with specific acts.

Mr. SIMPSON. But, there is involved in every charge which involves an offense an intent, and there is a distinct charge that he did this thing corruptly. Unless there is an intent the law says there can be no wrong. A man may do innocently a thing about which no complaint can be made, and do the same thing corruptly or with a corrupt intent, and there may be a just complaint of it. That has ripened, sir, into a maxim of law, that until there is an intent to do wrong no wrong, legally speaking, has been done. That is one of the fundamental principles of Anglo-Saxon jurisprudence; it always has been, and I trust always will be. The question which the witness has before him is to reach to that fact, so that the Senate may determine whether or not there was such an intent.

Mr. Manager STERLING. I should like to say, Mr. President——

Mr. WORTHINGTON. Before the manager proceeds, if I may be permitted, it was suggested a while ago by Mr. Manager STERLING that the witness has no right to testify to what his intent was, although that is the matter in question. I sent for one of the textbooks of law, and I should like to read a section from it. Jones on Evidence, last edition, section 170, page 191, has this to say:

It is evident that the most satisfactory mode of proving the motives or intent with which an act is done is to show the facts and circumstances accompanying the act. It is not relevant for a witness to state the motives or intentions of another person. It has been held in a few cases that a party can not state directly his own motives or intent; that such testimony can not be directly contradicted, and because it must often be of little value, the proof must consist of the surrounding circumstances which illustrate the nature of the act.

That is what I understand to be the contention of Mr. Manager STERLING.

But it is the prevailing rule, sustained by the great weight of authority, that whenever the motive, intention, or belief of a person is relevant to the issue it is competent for such person to testify directly upon that point—

The words "testify directly upon that point" being in italics—

whether he is a party to the suit or not. To state the rule in another form, when the motive of a witness in performing a particular act or in making a particular declaration becomes a material issue in a cause or reflects important light upon such issue, he may himself be sworn in regard to it, notwithstanding the diminished credit to which his testimony may be entitled as coming from the mouth of an interested witness.

There is a note there, No. 10, which cites, I should judge, about 40 or 50 cases in support of that doctrine.

It is hardly necessary to add that such testimony is not conclusive.

Of course, we do not claim that it is conclusive.

Now, Mr. President, in this case the charge is made that Judge Archbald wrongfully entered into this correspondence with Mr. Bruce. After reciting what was done, the article charges that he did it secretly, wrongfully, and unlawfully. If the contention of the managers simply be that it is an impeachable and criminal offense for a judge to write a letter to one of the counsel in a case without any wrongful or improper intention, of course, then it would not be necessary for us to pursue this line of inquiry; but if it is claimed, or, indeed, if any Member of the Senate should think—and I submit that what the managers claim here is not conclusive at all—that it might be important to know whether he intended to aid this company and was trying wrongfully to help it, the witness ought to be permitted to testify as to what his intention was.

Mr. Manager STERLING. I think, Mr. President, the law read by counsel determines that the question is improper. There are two classes of criminal cases, in one of which the intent may be expressly testified to and in the other it must be inferred. In one class of cases the law conclusively presumes that the accused intended the reasonable consequences and results of his act. There is another class of cases where a specific intent is charged. To illustrate: If one is indicted for assault with intent to kill, a specific intent is charged in the indictment. In that kind of a case—and it is the kind of cases referred to in the authority just read—the courts have held that the witness could rebut that presumption and testify that he did not intend to kill; but in other cases, where no specific intent is charged, the law presumes that the accused intended the reasonable consequences of what he did. In this case, if it was the reasonable consequence of his letters to assist or aid this railroad company or to give them a secret advantage in the trial of this lawsuit against its opponents, then the law conclusively presumes that he intended that as the result of this correspondence, and he can not be heard to say that he had no such intent.

The WITNESS. If the Presiding Officer will permit me, I will state the facts and circumstances under which the letters were written and what the consequences were.

The PRESIDENT pro tempore. If counsel will vary the question so as to correspond with the suggestion of the witness, the Chair thinks that would be legitimate.

Mr. SIMPSON. I do not see how counsel can do otherwise when the witness has made the suggestion. I will vary the question accordingly. [To the witness:] Go on and state the facts and circumstances, please.

The WITNESS. When this case came up for consultation, after argument, the judges were not united in their views. There was quite a diversity of view, and I found myself in the minority. The view expressed at the final consultation before the judges separated for the summer was to dismiss the proceedings. I dissented from that view, and I understood that one of the other judges probably would join me in that dissent. During the summer vacation I undertook to formulate my views. I made an extended study of the case. I have here some of the many notes, or most of the notes, which I made upon that occasion. In writing that dissent the views that I expressed in that dissent were that the order of the Interstate Commerce Commission was not sustained in any particular by the evidence which they had before them. I read all the testimony and made an abstract of it. In the course of that I came upon the statement made by Mr. Compton in his testimony before two of the members of the Intestate Commerce Commission with regard to one point, and it was in order to see whether I apprehended what Mr. Compton intended in his testimony that I wrote the first letter to Mr. Bruce.

I understood Mr. Compton to negative a certain circumstance with regard to rates; and the Interstate Commerce Commission apparently, in drawing up their opinion, had taken the contrary view. It was simply to throw light upon that and to enable me to know whether I was proceeding upon proper grounds in the dissent which I intended to express that I wrote that letter. I wrote my dissenting opinion and sent copies of it around to the different judges along about the last of September, and when we gathered together again in October I found that apparently my dissenting opinion had made some impression upon the court. That dissenting opinion, with changes and adaptations, was finally made the opinion of the court, and all the judges coincided in that view with one exception. Judge Mack raised another question about the variations that had been made from what is spoken of in the opinion as the Cooley award, which figures somewhat in the opinion and in the case, by reason of the change that had been made in the tariffs into the southeastern territory from Ohio and Mississippi crossings, by reason of the change from class to commodity rates and by a number of commodity rates that were given. That question was one which had not been raised in argument, and for the purpose of doing justice to counsel, who had not had an opportunity to meet that question, which, as I say, was raised by Judge Mack and not by counsel on the other side, I wrote the second letter, so that counsel might be advised that that question was up. As it turned out, neither of those letters figured in the position taken by the opinion, and those letters really in the final disposition of the case never have had any effect upon it whatever.

Q. Why did you not send copies of those letters to counsel for the Interstate Commerce Commission and counsel for the United States?—A. Simply because, as I say, in the first place, it was simply for my own private guidance. The first letter, in formulating my dissenting opinion, which I had no idea would be more than a dissent, and afterwards, both with regard to that letter and what was spoken of in the second letter, amounted to nothing in the disposition of the case. It would take too long to point it out, but that is very clear to anybody who is acquainted with the case and who will look at that part of the opinion in which those two questions come up.

Mr. REED. Mr. President, I send an interrogatory to the desk.

The PRESIDENT pro tempore. The Senator from Missouri asks that a question be propounded to the witness. The Secretary will read it.

The Secretary read as follows:

Why did you write only to the lawyer in whose favor you had already made up your mind?

The WITNESS. The first letter was written in regard to the testimony of Mr. Compton, and for the purpose of clearing up what seemed to be an ambiguity, but I did not consider it so, but I wanted to confirm my own views about it.

Mr. JONES. Mr. President, I send to the desk the following question.

The PRESIDENT pro tempore. The Senator from Washington propounds an inquiry, which will be read to the witness.

The Secretary read as follows:

Why did you not call the attention of the members of the court to the correspondence you had with Mr. Bruce?

The WITNESS. The correspondence I had with Mr. Bruce became practically of no importance because of the views which were finally embodied in the opinion. As I say, I could point that out very readily. If anyone reads the opinion he will find that so far as Mr. Compton's testimony is concerned, in the opinion it is assumed that Mr. Compton's testimony was exactly as the Interstate Commerce Commission regarded it. That is assumed in the opinion and discussed upon that basis. In regard to the variation from the Cooley award by reason of the changes in commodity rates, that also is taken up and considered just as it was stated by Judge Mack, and without regard to anything suggested in the letter of Mr. Bruce.

Mr. CHAMBERLAIN. Mr. President, I submit a question.

The PRESIDENT pro tempore. The Senator from Oregon sends to the desk the following inquiry.

The Secretary read as follows:

Did you inform any of the associate judges of the fact of your having written the letters to which you have just referred and of the replies you received?

The WITNESS. I do not remember that, if I ever did.

Mr. SIMPSON. I want to say, Mr. President, that it is admitted in this case that the first letter was attached to the record and is attached to-day as the case is pending in the United States Supreme Court.

Q. (By Mr. SIMPSON.) Do you know who attached that letter to the record?—A. I assume I did, because I do not know how else it could have gotten there. I have no memory on the subject.

Q. There appear in the letter written by you to Mr. Bruce under date of March 8, 1912, and offered in evidence by the managers as Exhibit No. 61, these words:

A considerable portion of it—

That is the opinion—

if not, indeed, the best, is from the hand of another member of the court, and it is probably there that you find the enunciation of principles which you particularly commend.

Who was that other member of the court?—A. Judge Knapp.

Q. And what were those principles—the ones you have referred to?—A. In part, those which I have just referred to. It is Judge Knapp's entire composition in both the cases I have just spoken of, and there are other parts; there are a good many things in my dissenting opinion that were cut out at the suggestion of Judge Knapp and other members of the court, in order that the judges might get as nearly as possible together and agree together as nearly as possible.

Mr. REED. I have a question which I did not have time to write when we were on the subject, which I will send up.

The PRESIDENT pro tempore. The Senator from Missouri propounds the following inquiry, which will be submitted to the witness.

The Secretary read as follows:

Q. Did you consider it proper, in passing upon a doubtful point in evidence, to hear only from that lawyer who would certainly desire to concur in your view?

The WITNESS. I certainly should not have written the letter if I had supposed it was improper.

Mr. REED. I should like to have the question read again to the witness, so that he may answer all of it.

The PRESIDENT pro tempore. The question will be read.

The Secretary again read the question.

The WITNESS. I certainly do not consider it proper to do that, if that answers the question.

Q. (By Mr. SIMPSON.) Turning, now, to article 5, will you tell us, please, how long you have known Frederick Warnke?—A. I have known Mr. Frederick Warnke from the time he was elected recorder of deeds, I being president judge of the county at that time. I forget just the date of that; it must be 10 or 12 years ago, because I have been on the Federal bench 12 years.

Q. There is testimony here of a conversation had between you and him in relation to his claim against the Philadelphia & Reading Coal & Iron Co. Will you please tell us what that conversation was?—A. Mr. Frederick Warnke came to me and told me with regard to certain difficulties which he had had with the Reading Railroad Co. over an operation in Schuylkill County, Pa. He said that he had a lease which covered underground workings, and also, I think, some washing; that he had invested quite a sum of money there, and his washery or his breaker—I forget which—had burned down and he had rebuilt it, and then finally he was brought face to face with the fact that the Reading Railroad Co. told him he was acting under a lease that was not assignable, and that he had no rights there. He said that Mr. Richards was the person who had enforced this against him, and he wanted me to see Mr. Richards and see whether Mr. Richards would not reconsider that question.

Q. What did you do in consequence of that conversation?—A. I got into communication with Mr. Richards. I forget whether it was by telephone or by letter. I know I finally got a telegram and then, I think, a letter fixing the date, which my impression is I suggested, somewhere the last part of November a year ago, when I was to meet him at Pottsville in regard to this matter.

Q. It appears from the letter offered in evidence by the managers, dated November 24, 1911, Exhibit 85, page 744, that you said that you were going up to Pottsville on some other matter. What was the occasion of your visit?—A. I was going to Pottsville to confer with my nephew, Col. James Archbald, who is the engineer in charge of the Girard estate, with regard to the leasing of Packer No. 3 from the Girard estate.

Q. Did you go there on that occasion?—A. I went down there for that purpose.

Q. And did you see Mr. Richards?—A. I saw Mr. Richards.

Q. Tell us what occurred, please.—A. I went to his office and let it be known that I was there and he came to see me. Then I stated my errand, which was in substance what I have already said; what Mr. Warnke asked me to do. He then called for a budget which he had of numerous papers bearing upon the same subject, in which it appeared that the matter had been called to his attention and to Mr. Baer's attention, Mr. Baer being the president of the road, by several other parties, including ex-Congressman Howell, an attorney at law of Scranton, and he went into the matter at length, to show that, as he thought, Mr. Warnke had been given all the consideration he was entitled to.

Q. What afterwards, if anything, was done in regard to it?—A. I had to coincide in a large measure with what Mr. Richards said about the subject. I had no idea that this matter had been brought to their attention in any other way than by Mr. Warnke himself, and so I simply told Mr. Richards that I had nothing further to say, and I came home.

Q. What, if anything, was done by you in relation to the matter afterwards?—A. I told Mr. Warnke—just how soon I could not tell or in what way—that Mr. Richards would not reconsider the question.

Q. Did that close the matter so far as you were concerned?—A. Yes; that closed the matter.

Q. What knowledge, if any, had you that the Philadelphia & Reading Coal & Iron Co. had adopted a rule that they would not lease their culm dumps?—A. I knew of no such rule.

Q. What knowledge had you, if any, that the Philadelphia & Reading Railroad Co. had such a rule?—A. I knew nothing about that.

Q. It is charged in article 5 that you used your influence as a judge of the Federal court in relation to that matter. Will you tell us, please, what is the fact in regard to it?

Mr. Manager STERLING. We object to the question.

Mr. SIMPSON. I will change the form of the question to avoid, perhaps, one of the branches of the objection.

Q. (By Mr. SIMPSON.) What, if anything, was said or done by you to exercise any influence as a Federal judge in reference to this matter——

Mr. Manager STERLING. We object to that question.

The WITNESS. I have——

Mr. SIMPSON. Do not answer the question, please.

The PRESIDENT pro tempore. The Chair thinks a part of the question should be eliminated. You may ask what he did or said in regard to the matter, but as to the motive involved, that is another thing.

Q. (By Mr. SIMPSON.) What, if anything, was said or done by you as a Federal judge to influence anybody in regard to it?

The PRESIDENT pro tempore. No; the criticism that the Chair makes is with respect to asking him what he, as a Federal judge, did to influence anybody. That is not correct, in the opinion of the Chair.

Mr. SIMPSON. I am very much at a loss to know how to word the question in order to meet the charge which is made in this article. This article distinctly charges that he used his influence as a Federal judge in regard to this matter. Now, that either is or is not true. I have the right to meet it by evidence to show that it is not true; and the question which I am putting is directed expressly upon that ground.

The PRESIDENT pro tempore. The Chair thinks that counsel is authorized to prove everything said and done by the witness.

Mr. SIMPSON. That is undoubtedly my right. That I have done; and I have, sir, I submit, a right to go a step further. I have the right to show whether or not there was any intention on his part to do anything; whether his mind had in it the evil intent which is the necessary factor in reference to a charge of crime such as is made here.

Now, it is undoubtedly true, and I am answering just the point suggested by Mr. Manager STERLING a while ago in regard to that matter, that in that class of cases where, for instance, to use an illustration, if I point a loaded pistol at a human being and deliberately draw the trigger of that pistol, and I know it is loaded, and it goes off and kills a man, there is presumed from that fact an intent to do a wrong. But this is not the class of cases that belongs to that category at all. Here the whole purpose rests in the intent. Did I do a thing with an intent to do a wrong? It is not a necessary result of that which I do that a given thing shall be brought to pass. That may or may not be so. It is the purpose or the intent in the mind of the man who acts, and neither you nor I nor anyone else can know what that intent was except by producing the evidence of the witnesses in regard to it. That is the reason it is entirely outside of the class of cases to which Mr. Manager STERLING refers and is within the class referred to in the extract from Jones on Evidence, which was read by Mr. Worthington.

Mr. WORTHINGTON. Mr. President, may I add a word? This is a matter that applies to all the articles and to everything of a serious nature, it seems to me, which is charged against this respondent. I have in mind a transaction of which I have cognizance, which I think will illustrate this. A judge in this city, a Federal judge who held high station, went to the office of a lawyer in this city for the purpose of buying a house to live in—a lawyer who practiced and was liable to practice in the judge's court. I did not know anything about the transaction until it was over. If that judge should be indicted for going to that lawyer and trying to get that house on favorable terms or for less than it was worth, or charged with going there and trying to influence that lawyer to sell him that property, what earthly means would there be of determining whether he went there to use his influence as a judge with the lawyer, the lawyer thinking he might, in the future, get favors in the judge's court, or whether he went there in the ordinary way, just as this judge unquestionably did, for the purpose of buying the property, without such a thing as has been suggested ever entering his mind?

Now, in this particular transaction we have a single occurrence—Mr. Warnke asking his friend, Judge Archbald, to speak to Mr. Richards in his behalf, for the purpose of letting him have some relief, no matter what it was, and the judge having business at the place where Mr. Richards was, asked him to do it. Mr. Richards said he could not do it and explained why, and that was the end of it.

Now, Judge Archbald is brought here, subject to the possible penalty of being bereft of his office, and being prevented forever from holding any office under the United States, and being forever disgraced. And why? It must be because the managers intend to contend that when he did that he intended that Mr. Richards should be influenced by his position as judge to do something to favor Warnke. Now, if there is anything settled in the law, as shown by the decisions in the textbook from which I have read—

> Whenever the intention, motive, or belief of a person is relevant to the issue it is competent for such person to testify directly upon that point.

The PRESIDENT pro tempore. The Chair would suggest that that is not the exact question asked.

Mr. WORTHINGTON. I understood the Chair to say, in excluding the question, not to ask about the motive. Now, it is the motive we want to ask about, and it is the motive which, it seems to me, the Senate wants to know about.

The PRESIDENT pro tempore. The question was not asked what was the motive in certain acts put in evidence. The question, if the Chair remembers correctly, was in different form. The question was——

Mr. POMERENE. I ask to have the question repeated.

The PRESIDENT pro tempore. The question will be read by the Reporter.

Mr. SIMPSON. I will withdraw the question, if I may, because if we are fighting over words it is not worth while, and I will put the question directly, as the Chair suggests, and that is, What motive, if any, had you in seeing Mr. Richards in regard to this matter?

The PRESIDENT pro tempore. The Chair thinks that it may be answered——

Mr. Manager STERLING rose.

The PRESIDENT pro tempore. But if the manager objects, the witness will suspend for a moment. The Chair was premature in ruling upon the question. It did not know that the manager was going to object.

Mr. Manager STERLING. I think the question he asks now is objectionable. It seems to be an unnecessary question, because everybody knows his motive was to purchase this dump or have this transaction.

Mr. WORTHINGTON. Oh, no. There is nothing in regard to the dump in this transaction.

Mr. Manager STERLING. Well, his purpose was, of course, to accomplish what he went after. Everybody will agree to that. And if the question is to elicit an answer to that effect we do not object, but say it is immaterial. But if it is expected that this witness is to reply that it was not his motive to use his influence as a judge, then the quesion is improper.

Mr. WORTHINGTON. That is exactly what we do expect to ask him.

Mr. Manager STERLING. Then we object.

The PRESIDENT pro tempore. The Chair thinks it would be a matter of argument afterwards as to whether or not the testimony of the witness is in accord with the facts, but the Chair thinks there ought to be liberality in a case of this kind.

Mr. Manager STERLING. Before the Chair makes its final decision I should like to make reply to what these gentlemen have said.

I agree with the President that it is a matter of argument. We can argue the conclusions which the managers reach, and counsel can argue the conclusions which they reach, and they will draw their inferences. Therefore it is not proper for the witness to argue the case or give his conclusions or give his motives or give his purpose. The best argument that can be adduced in favor of the objection to this question is the illustration used by counsel, Mr. Simpson, who said this: That if one man direct a gun toward another and touch the trigger, and if the gun is discharged and the other man is killed, the law will presume that he intended to murder the man. And so if a judge directs his speech toward another along a certain line and convinces the other that he has accomplished that thing, then the law will conclusively presume that he intended to accomplish that thing. The illustration is in point, and it proves that the objection we make to the question is valid.

Mr. SIMPSON. Instead of that, sir——

The PRESIDENT pro tempore. The Chair thinks those presumptions are not conclusive presumptions. They are presumptions; there is no doubt about it; and are conclusive unless rebutted. The Chair will admit the evidence.

Q. (By Mr. SIMPSON.) Will you tell us, please, Judge, what was your motive in seeing Mr. Richards in regard to this matter?—A. I simply went there as a friend of Mr. Warnke to do a friendly act. I said nothing with regard to my mission, except just simply that—to get a reconsideration for Mr. Warnke of the question of his standing with that company. There was nothing said outside of that.

Q. Tell us, please, whether or not there was anything to be paid to you for seeing Mr. Richards on the subject.—A. Nothing whatever; nothing.

Q. What had your seeing Mr. Richards for Mr. Warnke in relation to that matter to do with the purchase and sale of the old gravity fill?—A. It had none.

Q. There appears in evidence in this case a note for $510, given on April 6, 1912, by the Premier Coal Co. to the order of its stockholders, and indorsed by them and handed over to you. Will you tell us, please, for what that note was given?—A. It was a commission on the sale of the old gravity fill. The gravity fill was on the abandoned line of what was originally known as the Washington Coal Co., as it happened, laid out by my father; and subsequently it was called the Pennsylvania Coal Co. It was a gravity road with planes, as they called them, on which the cars were drawn up and then run from the top of one plane to the next by gravity. I should say about 25 years ago that was given up for a locomotive road, and this was a fill, quite a large fill. I was acquainted with it. My brother and I at one time, about 18 or 20 years ago, had thought of washing it. It was on the property of the Lacoe & Shiffer Coal Co.

I became acquainted with that fact, and I corresponded with Mr. Berry and secured an option from him. That option was carried along from early in the spring of 1911 until about a year after that, not always in writing, but in part verbally. Among others who went to see it was Mr. Warnke, on behalf of the Standard Brewing Co. The Standard Brewing Co. did not take it, and then Mr. Warnke conceived the idea of taking it for himself. He finally got together Mr. Swingle and his brother-in-law, Mr. Kiser, and Mr. Schlager, who was a coal man, and they organized this company and made a deal for the property

with Mr. Berry. They met in my office and there the arrangement was practically consummated.

While I knew then about the gravity fill, it had been particularly called to my attention by John Henry Jones, and Mr. Jones had an arrangement with Mr. Warnke by which Mr. Warnke was to pay a commission in case of the sale. I think at one time Mr. Jones said he had an arrangement by which he was to pay as high as a thousand dollars. After the consummation of the sale, Mr. Jones—I have to state this on hearsay—talked with Mr. Warnke about it.

Q. Do not tell us about that.—A. Well, I will not, except to explain that as the result of what Mr. Jones had communicated to me that Mr. Warnke had communicated to his associates—no; I had a communication by telephone with Mr. Swingle or Mr. Kiser, one or the other, at least with their office, and they said that they would recognize the matter of the right to a commission. They were real estate men, and they understood how commissions were paid, and they would draw up a note and send it to me. They drew up a note for $510, including the discount, for four months. It was drawn to my order, and not to their own order, which was the correct way in order to make them the indorsers; and so I sent it back to them, and subsequently I called at their office and got the note in the final form. I took the note, indorsed it, and had it discounted at my bank, and I gave Mr. John Henry Jones a check for one-half of the money that realized. That check is here.

Q. What was the date when you gave to Mr. John Henry Jones his one-half of it?—A. Here is the check.

Q. Give us the date of it, please.—A. It is dated April 6. The stub shows to John Henry Jones, one-half commission on sale of old gravity fill, $250.

Q. Had any railroad company anything to do with the old gravity fill?—A. Nothing whatever.

Q. Did you know of the pendency of the investigation in this case at the time you received that note and had it discounted?—A. No; except what had been communicated to me, that there was an investigation by some one sent up to Scranton on the part of the Department of Justice, of which I had no other except this indirect notice.

Q. Had you any interview or conversation with Mr. Warnke about it prior to that time?—A. Yes. Mr. Warnke had told me that he had been called in by the representative. I do not know whether he gave me his name or not; I now know it was Mr. Wrisley Brown—and he wanted to know about some transaction; I forget what it was. He came to me to know whether he should go and testify. I said, "Of course; go ahead and tell them what you know."

Q. Was that before or after the giving of this note of April 6, 1912?—A. It must have been before.

Q. Before that?—A. Yes.

Q. Do you know W. W. Rissinger?—A. I have known Mr. Rissinger for over 20 years. I think I first got acquainted with him when he and Mrs. Rissinger were members of a Bible class which I taught in that remote time.

Q. We are now dealing with article 7, so that we may have the record straight about that. Did you know of the gold-mining claim in Honduras in which he was interested?—A. I first heard about that from Mr. Bernard Moses, who lives there in Scranton, and who was in attendance at the hearing before the Judiciary Committee in May, but he was not examined as a witness. He told me—I really can not tell how the matter came up, because it was nearly five years ago—he told me about Mr. Rissinger going down into or proposing to engage in placer mining in Honduras.

Q. What interest had you in that company or concern that was interested in a gold-mining claim in Honduras?—A. Subsequently to that, I think, he brought Mr. Rissinger to my office, and we talked the matter over. Still later Mr. Rissinger brought Mr. Russell and Mr. Hamilton, who had the main concession of which Mr. Rissinger had a very small fraction. They had maps and plans, and laid them before me, and also came to my house, and we discussed the matter there, with an idea of taking an interest in the concession—that is, in the large concession, the one that they had.

Q. Did you take any interest in it?—A. I did not.

Q. It appears in evidence that Mr. Rissinger gave a note for $2,500 to the order of yourself and Mrs. Hutchinson and that you and she indorsed that note. What became of it after you indorsed it?—A. I only know what I have known since. I indorsed that note as an accommodation to Mr. Rissinger, and what he would do with the proceeds I do not know.

Q. Did you get any of them?—A. I certainly did not, or any benefit from it.

Q. Why did you indorse it?—A. As a mere matter of accommodation and friendliness.

Q. Was it indorsed for any interest in the Honduras company of which we have spoken?—A. It was not.

Q. What became of it after it was indorsed, so far as you know?—A. I understood, I know from what has happened since, that it was discounted by the County Savings Bank.

Q. Did you know it was to be presented to John T. Lenahan?—A. I never heard it had been, or was to be, until I heard Mr. Lenahan testify.

Q. You mean testify before the Judiciary Committee?—A. Before the Judiciary Committee.

Q. It appears in evidence that there was later on given to you certain shares of stock in the Scranton-Honduras Mining Co. For what was that stock given?—A. That stock, as I understood it, was given to me for the purpose of securing my indorsement at the time that I indorsed the note in the first instance. I understood from what Mr. Rissinger said that he was going to put in as collateral his own stock or interest that he held in the Davis Coal Co., a coal company in which he was interested, and which was being operated, and which I believed proved a success. That was not done, but before the note came around for renewal, along in February, he came and brought the shares and stock. From what was said at the time I gathered that and I always had that impression.

Mr. Manager STERLING. Mr. President, this witness has stated several times in relating this matter that he understood so-and-so. I should think the witness ought to state what was said between these gentlemen and let others determine what they understand to be the logical inference.

Q. (By Mr. SIMPSON.) We want your recollection in regard to the matter. The word "understood" has two meanings.—A. It is nearly four years ago since this happened.

Q. State what your best recollection on the subject is; that is all.—A. My best recollection is that when Mr. Rissinger came to renew the note he brought this up and said that he had made this out for me for the purpose of securing me upon my indorsement.

Q. Who paid the interest on the note when it fell due?—A. Mr. Rissinger has paid the discount on it at all times.

Q. Who paid the principal?—A. I only know what Mr. Rissinger testified and what Mr. Ruth testified, that it had been paid.

Q. You did not pay it?—A. Oh, I did not pay it. I have not paid a cent on that thing.

Q. I am turning, now, to articles 8 and 9. You have several times testified to having met John Henry Jones. How long have you known him?—A. I think I had known him about five or six years, and I knew something about him before I had actually met him.

Q. It appears in evidence here that you drew a note for $500 to your own order, which was signed by Jones and then indorsed by you. For what was that note given?—A. I do not remember that I did draw the note. I indorsed the note. I indorsed a note that was made out in the form which is the correct form, as I understand it, made out to the payee. I did it for the accommodation of Mr. John Henry Jones, who had been to Venezuela and had an oil concession of some character which, he convinced me at the time, he had a good chance of negotiating in London. This note was for the purpose of raising money to get him there.

Q. After its indorsement, what was done with it?—A. I did not know what was done with it until Mr. Von Storch called me up and asked me whether I had indorsed such a note, which had been presented to him for discount. I will correct that to this extent: Some time before that, after the note had been indorsed and had left my hands, Mr. John Henry Jones told me that Mr. Edward Williams either was going to present it or had presented it to Mr. C. G. Boland to have it discounted.

Q. Did you tell him that he might do so?—A. I did not. I had nothing to do with it at that time. It was out of my hands.

Q. Tell us, please, what interview, if any, you had with Edward J. Williams in regard to the note.—A. No; I had no interview with him about it. The only one I spoke to in the matter was Mr. John Henry Jones, in the way I have stated.

Q. It has been suggested here that this note was given in order to obtain an interest on your part in this oil concession in Venezuela. What is the fact regarding that?—A. No; that is not the fact. After Mr. John Henry Jones was in London I got a letter from him, which I endeavored to find and have not been able to, in which it was suggested that I would have a certain interest as a result of the successful negotiations which he seemed to think he had consummated there.

Q. Did you take any interest in it?—A. I would have taken that interest if it had been consummated; yes, sir.

Q. But you did not? In point of fact, it was not consummated?—A. No.

Q. What knowledge had you, other than you have stated, that it ever, in fact, had been presented to either of the Bolands?—A. I know nothing except just what I have stated.

Q. The note as originally presented to Mr. Von Storch had upon it Mr. Edward J. Williams's indorsement. When did you first learn that Mr. Williams had indorsed the note?—A. I could not tell you really about that. I did not know that he was going to indorse it. I think I must have known something about it at the time of the first renewal. That is as near as I can get.

Q. You testified a while ago that on one occasion Mr. Jones said to you that it had been or would be presented to Mr. Boland. What knowledge or thought had you at the time of the pendency of the case of Peale against the Marian Coal Co.?—A. That case was decided on demurrer in September. This note was in November. I do not know the cases that are pending in my court. I never pay any attention to any case until it comes before me in court. I did not bear that case in mind. I had forgotten all about it after I had made the decision.

Q. Did you get any part of the proceeds of the note?—A. None.

Q. There appears in evidence here a paper signed by E. J. Williams, directed "To whom it may concern," and dated July 31, 1911. What knowledge had you of that paper?—A. I never heard of it until it was produced before the Judiciary Committee last May.

Q. Who paid the interest on that note?—A. Mr. Jones.

Q. Who paid so much of the principal as has, in fact, been paid?—A. Mr. Jones.

Q. Do you remember the case of the Risden Locomotive Iron Works against Von Storch?—A. That was a case that was heard before me without a jury. It was a suit to charge Mr. Von Storch and his cousin, Mr. T. Cramer Von Storch, as directors of a gold placer company that had been in operation in Montana. It was to charge them as directors because of the failure to file a statement. As I said, it was tried before me without a jury, and I disposed of the case. I think the claim was something like $10,000. I found against Mr. Von Storch and his cousin to the extent of about $800 or $1,000, I forget the exact amount. That case was disposed of along in January, 1909.

Q. That was how long before the giving of this note?—A. Pretty near a year.

Q. What connection had the giving of this note with that case?—A. None whatever.

Q. What connection, if any, had the discounting of it with this matter?—A. None whatever.

Q. It appears also in evidence that on one occasion you appointed Mr. Von Storch a receiver in bankruptcy. Will you tell us, please, the circumstances under which that appointment was made?—A. Mr. Von Storch is not in very active practice. He gives himself mainly to the presidency of his bank. Upon one occasion there was a bankrupt in that end of the city of Scranton which we commonly call the old borough of Providence. The Providence Bank were parties as indorsers upon the notes of this bankrupt, which made the Providence Bank somewhat concerned in the result. At the hearing before me, at which all sides were represented, Mr. Von Storch was either agreed on practically or I did appoint him receiver. At least I appointed him. I forget the immediate circumstances about it other than that.

Q. What connection, if any, had that with the giving or discounting of this note?—A. None whatever.

Q. It is averred in the articles we are here considering that you knew that this note could not be discounted in the usual commercial channels. Will you tell us, please, what the fact in regard to that is?—A. I know that my indorsement seemed to go.

Q. Did you or did you not know that it was discounted in the usual commercial channels?—A. I had reason to believe that it would be, and it was.

Q. What was your motive in giving the note?—A. Simply to accommodate Mr. Jones.

Q. Had you any other motive whatever?—A. None.

Q. Mr. Williams in his testimony said he told you that the note had been presented to the Bolands and that they had refused to discount it. Will you tell us, please, what the fact is on that subject?—A. As I have said, I think that Mr. John Henry Jones told me there that it was to be presented or had been presented. I do not remember that Mr. E. J. Williams ever said anything to me about it.

Q. Turning now to article 10, what relation are you, if any, to Henry W. Cannon?—A. Mr. Henry W. Cannon is own cousin of Mrs. Archbald.

Q. What have been the social relations between him and your family since you were married to Mrs. Archbald?—A. Mr. Cannon has visited at our house in Scranton. Mrs. Archbald and my children have visited at Mr. Cannon's house in New York.

Q. It appears in evidence here that in 1910 you and Mrs. Archbald became his guests on a trip to Europe. Will you tell us, please, how long before that time it was that you had taken a vacation?—A. The work in the middle district and the work that I had been called to do was very exacting. I had had no opportunity to take any vacation prior to that time since some time in August, 1903—nearly seven years.

Q. With whom did you consult prior to deciding whether or not you would go on that trip?—A. I consulted with my associates—the judges of the circuit. I remember that distinctly. I think I talked with Judge Gray——

Mr. Manager STERLING. Mr. President, we object to this testimony.

The PRESIDENT pro tempore. The Chair does not know what there is in the articles that this testimony will elucidate.

Mr. SIMPSON. If I were to be asked what issue is in this article, I would be unable to state, notwithstanding what I have heard from the managers from time to time in this case. But the article states this issue as nearly as I can get at it. They say that Judge Archbald accepted an invitation from Mr. Cannon for a trip to Europe, knowing at the time that Mr. Cannon was connected with certain railroads which might—the Lord knows when and I hope He knows how, if anyone knows—at some time or other have some litigation in some court with which Judge Archbald might some time be connected. I propose to show, sir, that before he accepted the invitation he consulted with the judges of the circuit in which his court was. This was while he was a member of the district court. I propose to show that he stated the circumstances to them, and that they advised him that it was a wise and proper thing and that he should go, and that they knew at the time that Mr. Cannon was to pay the expenses of that trip.

That is the purpose. It bears directly on the purpose as to whether or not there was anything wrongful in accepting that invitation. I can not, for the soul of me, see how it is possible that there could be anything wrongful, but I have to meet what is charged.

The PRESIDENT pro tempore. The question is whether in the opinion of the Senate it is wrong, not whether it is wrong in the opinion of others.

Mr. SIMPSON. But, of course, I have to produce evidence by which the Senate can reach its opinion.

The PRESIDENT pro tempore. The Senate will be its own judge of the facts proven, and will not be governed by the opinion of others.

Mr. SIMPSON. I am asking as to those facts whether he did consult with others and who they were.

The PRESIDENT pro tempore. The Chair does not think that it is legitimate evidence.

Q. (By Mr. SIMPSON.) What corporation, to your knowledge, was Mr. Cannon connected with at that time?—A. I never heard that he was connected with any corporation at that time, other than some that were on the Pacific coast.

Q. Will you tell us, please, whether or not any corporation with which he was connected had ever been a litigant in any court with which you were connected?—A. None to my knowledge.

Q. Had you any reason to believe that any corporation with which he was connected would likely be a litigant in your court?—A. Not certainly from the Pacific coast.

Q. Now, will you tell us, please, whether he ever made any suggestion to you, either then or at any precedent time, in favor of any corporation?—A. Mr. Cannon is quite reticent in business matters and never talks them over. He never talked them over with me.

Q. Did he ever make any suggestion——

Mr. Manager STERLING. We object.

The PRESIDENT pro tempore. Does the counsel insist on that question?

Mr. SIMPSON. No; I will not insist on it, sir. [To the witness:] Who was Edward R. W. Searle? This question, I will say, has reference to article 11.—A. He was the clerk of the district court and of the circuit court of the middle district of Pennsylvania.

Q. Who was J. Butler Woodward?—A. He was the jury commissioner of that district.

Q. What connection, if any, had either of them with the collection of the sum of money which was presented to you when you went to Europe in 1910?—A. None to my knowledge, except as contributors to it.

Q. When did you first learn of an intention to make that contribution to you?—A. About 10 or 15 minutes before the vessel sailed. As I was standing on the deck by my stateroom, Judge A. T. Searle, of Honesdale, who is no relative of Mr.

E. R. W. Searle, pulled out of his pocket a package and handed it to me, saying that these were sailing orders which I was to observe, and that I was not to open the package until I was a couple of days at sea. Mr. E. R. W. Searle was present there, and Mr. Bernhard Moses also—these three. Judge A. T. Searle was the one who spoke.

Q. When did you open the package?—A. After the boat had sailed. I did not wait the two days. I opened it and found that the package contained money. It also was accompanied by a letter.

Q. What knowledge had you that there was to be presented to you anything at the time of the sailing prior to the time to which you refer, 10 or 15 minutes before leaving the dock?—A. I had not the remotest idea.

Q. What knowledge had you, if any, of what there was in the paper prior to the time you opened it after sailing?—A. I did not know.

Q. You have produced here a paper. You say this [exhibiting] is the paper that was contained in that package?—A. That was the paper accompanying the gift.

Mr. SIMPSON. We offer this paper in evidence, and ask to have it marked and read.

The PRESIDENT pro tempore. The paper will be marked and read as requested.

The paper was marked "U. S. S. Exhibit UU" and read as follows:

[U. S. S. Exhibit UU.]

APRIL 16, 1910.

DEAR JUDGE: This is a greeting of your appreciative friends of the bar of Lackawanna, in the middle district, wishing you bon voyage.

Rather than fruit, books, or flowers, we trust you will be willing to accept this as our hearts' desire for your pleasure and enjoyment in your more than well-earned outing.

May all happiness attend you and yours.

Willard, Warren & Knapp, O'Brien & Kelly, Watson, Diehl & Watson, Welles & Torrey, Samuel B. Price, R. W. Rymer, M. J. Martin, L. A. Watres, J. Benjamin Dimmick, C. E. Sprout, E. R. W. Searle, A. T. Searle.

(Indorsed: Accompanying the gift of $525 from the bar, on my going abroad, Apr. 16, 1910.)

Q. (By Mr. SIMPSON). Who was A. T. Searle?—A. A. T. Searle had been assistant United States attorney for the middle district of Pennsylvania. At the time of this occurrence he had been elected or appointed, I forget which—he was elected finally—president judge of that judicial district of Pennsylvania of which Wayne is one of the counties and Honesdale is the county seat.

Q. What was your relation to the contributors to this fund?—A. It was very close personally and professionally.

Q. How long have you known J. Butler Woodward? I am dealings now with article 12.—A. I have known him for 30 years.

Q. In what way?—A. In the most favorable possible. He is a very fine lawyer and a very sterling man.

Q. Why did you appoint him as jury commissioner?—A. I thought it was the best possible selection that I could make at the time.

Q. What was his standing in the community?—A. The very highest as a lawyer, professionally and personally.

Q. And where did he reside?—A. He lived in Wilkes-Barre.

Mr. REED. Mr. President, I send a question to the desk to be propounded to the witness.

The PRESIDENT pro tempore. The Senator from Missouri presents a question which he desires to have propounded to the witness. It will be read by the Secretary.

The Secretary read the question, as follows:

Were you in any financial distress at the time you accepted the $500 donation?

The WITNESS. I was not. I expected to pay the matters incidental to the trip outside of those which Mr. Cannon took care of, and I did.

Q. (By Mr. SIMPSON.) You say Mr. Woodward resided in Wilkes-Barre. That was within the middle district of Pennsylvania, was it not?—A. Yes; it is a short distance from Scranton—about 20 miles.

Q. He continued to reside in the middle district during the time of your incumbency of the office of judge of that district?—A. He did.

Q. What was his politics?—A. He was a Democrat, as his father and grandfather had been before him.

Q. And what was Mr. Searle's politics?—A. Republican.

Q. What did you know, if anything, about Mr. Woodward's railroad connections at the time you appointed him?—A. I did not know that he was a railroad lawyer, as the saying is.

Mr. JONES. Mr. President, I desire to submit a question to the witness.

The PRESIDENT pro tempore. The Senator from Washington presents an inquiry which he desires to have propounded to the witness. The Secretary will read the question.

The Secretary read the question, as follows:

Did Mr. Woodward seek the jury commissionership?

The WITNESS. The jury commissionership sought him. I pressed it upon him as a favor.

Q. (By Mr. WORTHINGTON.) A favor to whom?—A. A favor to me and to the district.

Q. (By Mr. SIMPSON.) I turn now to article 13. There has been offered in evidence here a letter, dated August 3, 1911, written by you to Thomas Darling, Esq., introducing Mr. Williams to him. Do you remember the giving of that letter?—A. I do.

Q. Will you state the circumstances attending its giving?—A. Mr. Williams came and spoke about a dump that was controlled by Mr. Darling. I had known of that dump previously, I think; at all events, he said that Mr. John W. Peale, who had had a lease of it, had given up the lease, and he thought Mr. Darling would be willing to lease it to him. I wrote the letter and gave it to Mr. Williams to take to Mr. Darling.

Q. How long had you known Mr. Darling?—A. I had known Mr. Darling ever since he was in college. I think he graduated in 1886. I had know him very closely and intimately; and every Yale reunion there was in that vicinity I think we both of us attended. He belongs to the same college society that I do. I had entertained him at my house.

Q. How long did you say that you had known him?—A. Since he was in college. I think he graduated in 1886, if my memory serves me aright.

Q. That would be about 26 years?—A. Yes; I think about that time.

Q. You both went to the same college?—A. We were both gradutes of Yale.

Q. After this letter was given to Mr. Williams what, if anything, was done by you in relation to it?—A. Nothing whatever. I never heard of it afterwards.

Q. There appears in evidence a letter written by you to Mr. Darling as Exhibit No. 95, found on page 865, in which you ask a reference to the Hollenback culm-dump case. Will you tell us, please, what was referred to in that letter?—A. At some time, I can not tell you when, Mr. Darling and I had a conversation in regard to culm-dump titles. He informed me that there had been a controversy and lawsuit in which he had defended the right of the Hollenback Coal Co. against, I think it was, the Lehigh & Wilkes-Barre Coal Co. He represented one side and his partners represented the other; and he was particularly interested in the matter because he had won the case. It was a case which determined more or less culm-dump titles; and I wrote to him after that interview to get the report in which it could be found.

Q. For what purpose?—A. I simply wanted to know it as a matter of law.

Q. It is stated in article 13 that at divers times and places you, as United States judge, wrongfully sought to obtain credit from and through people who were interested in the result of suits that were pending or had been pending in your court. Will you kindly state the facts in regard to that matter?—A. There are no facts in regard to that matter that I know of.

Q. It is also stated in that article that you were engaged in carrying on a general business for speculation and profit in the purchase of culm dumps, culm lands, and other coal property. What are the facts regarding that?—A. Why, there are no facts with regard to that.

Q. It is also stated in that article that for a valuable consideration you were engaged in endeavoring to compromise litigation pending before the Interstate Commerce Commission. What are the facts touching that?—A. Absolutely there are no facts of that character.

Q. It is also therein stated that you willfully, unlawfully, and corruptly used your influence as a United States judge with the Erie Railroad Co.; the Delaware, Lackawanna & Western Railroad Co.; the Lackawanna & Wyoming Valley Railroad Co.; and other railroad companies engaged in interstate commerce, to induce them to enter into contracts and agreements in which you were financially interested with various persons, without disclosing your interest, but which interest was, in fact, known to the officers and agents of said railroad companies. Tell us, please, what the fact in regard to that is.

Mr. Manager STERLING. We object, Mr. President.

The PRESIDENT pro tempore. The Chair thinks that it would be improper to ask the witness whether or not that was true. The Chair also thinks it is competent for counsel to ask the witness what are the facts; in other words, in one case it

would be testifying to a conclusion and in the other case it would be testifying to the facts. Counsel can ask what the facts are, and if the witness knows those facts he can say so.

Mr. SIMPSON. I simply have asked what the facts are. That is the question. [To the witness:] State, please, what the facts are in regard to it.

The PRESIDENT pro tempore. The witness can state whether or not there are any facts.

The WITNESS. There are no facts that I know of to which that would apply.

Q. (By Mr. SIMPSON.) Tell us, please, whether or not at any time you asked anybody or knew of anybody being asked to conceal your connection with any of the matters to which you have testified in this case.—A. Never.

Mr. SIMPSON (to the managers). Cross-examine.

Mr. Manager CLAYTON. Mr. President, it is now within 25 minutes of the usual time of adjournment. The witness has been on the stand four hours and the Senate has been in session for five and a half hours or more. The managers suggest that, if it suits the convenience of the Senate, we are perfectly willing that the examination of this witness may be postponed until to-morrow. I may say that the counsel for the respondent themselves suggested to the managers that they thought that course would be proper, and we have agreed that it would be proper.

Mr. CLARK of Wyoming. Mr. President, I move that the Senate sitting as a Court of Impeachment do now adjourn.

The motion was agreed to.

Mr. LODGE. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 36 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, January 7, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

MONDAY, *January 6, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Our Father in heaven, source of life and light and love, mercy, justice, and truth, we wait upon Thee for that divine touch which shall enable us, amid the busy whirl and turmoil of life's activities, to hold our course to Thee and hallow Thy name, that at the close of this day we may lie down to peaceful slumber with the blessed assurance that whether we awake in this world or some other we are Thine, and that Thou wilt care for us there as Thou hast cared for us here. For Thine is the kingdom and the power and the glory forever. Amen.

The Journal of the proceedings of Saturday, January 4, 1913, was read and approved.

JOSEPH W. KING.

Mr. FOWLER. Mr. Speaker, I have a resolution which I desire to have read from the Clerk's desk.

The SPEAKER. Is it a privileged resolution?

Mr. FOWLER. I think it is, Mr. Speaker.

The SPEAKER. The Clerk will read it and we will see.

The Clerk read as follows:

Whereas on the 11th day of December, 1912, the Hon. Walter L. Fisher, Secretary of the Department of the Interior, issued to Capt. Joseph W. King, late captain of Company E, of the One hundred and Twentieth Regiment Illinois Volunteer Infantry, but now a guard in the Department of the Interior on a salary of $720 per annum, the following order of suspension:

Mr. JOSEPH W. KING, *of Illinois.*

SIR: On the recommendation of the Civil Service Commission, dated November 22, you are hereby suspended from duty for two months from January 1, 1913, without salary as a watchman at $720 in the office of the Secretary.

The commission states that its recommendation is the result of its investigation of your recent political activity in writing numerous personal letters soliciting votes for certain candidates for elective office in violation of——

The SPEAKER. The Clerk will suspend. The Chair will state to the gentleman that this is not a privileged matter, and that it will have to take the course of ordinary resolutions by going into the basket.

Mr. FOWLER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the resolution.

The SPEAKER. Since the Calendar for Unanimous Consent has been provided, the Chair is precluded from submitting that request. The Chair will take pains to state it over again so that everybody will understand.

Some three or four years ago the House rigged up what is called the Unanimous Consent Calendar. It is not necessary to tell how it happened, but it was done. Last summer there were certain little matters pending here that the Chair thought were of a good deal of public interest, such as public works, and so forth, and one day the Chair started to let gentlemen in with these matters. The Chair thinks yet that he was right about it, but one of the Members of the House objected to the proceeding in a rather vociferous manner, and the Chair announced that after that he would adhere to the rule which he has stated this morning. So this resolution will have to go into the basket and take the usual course.

Mr. FOWLER. Mr. Speaker, I ask that the resolution be referred to the Committee on Rules.

The SPEAKER. It will go into the basket, and the Chair will look into it and confer with the gentleman.

Mr. FOWLER. Very well, Mr. Speaker.

CALENDAR FOR UNANIMOUS CONSENT.

The SPEAKER. This is Unanimous Consent Calendar day, and the Clerk will report the first bill on that calendar.

CHOCTAW AND CHICKASAW INDIANS.

The first business on the Calendar for Unanimous Consent was the bill (H. R. 25507) to authorize certain changes in homestead allotments of the Choctaw and Chickasaw Indians in Oklahoma.

The Clerk read the title of the bill.

Mr. STEPHENS of Texas. Mr. Speaker, I ask unanimous consent that that bill be passed over, for the reason that the gentleman from Oklahoma [Mr. CARTER] is not present.

The SPEAKER. The gentleman from Texas asks unanimous consent to pass this bill without prejudice. Is there objection?

Mr. MANN. Reserving the right to object, how many times has this bill been passed without prejudice?

Mr. STEPHENS of Texas. I think this bill was passed the last time it was up.

Mr. MANN. My impression is that it has been passed over three or four times without prejudice.

Mr. STEPHENS of Texas. The gentleman from Oklahoma [Mr. CARTER] is the author of the bill, and it pertains to Indian affairs in his district.

Mr. MANN. The gentleman from Oklahoma is usually very wide awake. I am not disposed to object, although I should think that the gentleman might be present on some unanimous-consent day when the bill was reached.

The SPEAKER. Is there objection to passing the bill without prejudice?

There was no objection.

ENLARGED HOMESTEADS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 23351) to amend an act entitled "An act to provide for an enlarged homestead."

The Clerk read the title to the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. FERRIS. Mr. Speaker, I have received a request from the gentleman from Colorado, Mr. TAYLOR, who is sick in a hospital in Colorado, that this bill be passed without prejudice, and I ask unanimous consent that that course be pursued.

Mr. MONDELL. Mr. Speaker, reserving the right to object, many gentlemen here are very much interested in this legislation and desire that it be passed. I desire to accede to the wishes of the gentleman from Colorado, and still I think the legislation ought to be considered. If the final enactment of the legislation will be assured by letting it go over, of course I shall not object.

Mr. FERRIS. I can only give the gentleman the information that I have received from the gentleman from Colorado, Mr. TAYLOR, that he will be here in the course of a week.

Mr. MONDELL. On the theory that there will be objection made to the bill when it is taken up and that it will be stricken from the calendar, I shall not object.

The SPEAKER. Is there objection that the bill go over without prejudice?

There was no objection.

EXCHANGE OF LANDS FOR SCHOOL SECTIONS IN RESERVATIONS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 25738) to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, or for other purposes.

The Clerk read the bill by title.

The SPEAKER. This bill is on the Union Calendar.

Mr. RAKER. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The SPEAKER. Is there objection to the consideration of the bill?

Mr. MANN. Reserving the right to object, I would like to ask the gentleman from California if this is not the same bill that I have been compelled to object to several times before?

Mr. RAKER. This bill has many of the features that were in the original bill. This identical bill has already passed the Senate and is now on the Speaker's table. As I say, the features in the bill have been agreed upon by the Secretary of the Interior with the authorities of California and practically all parties concerned, as I am advised. There is nobody here from California making any objection to the matter. This matter was up last session, and after I returned home I took the matter up with the authorities again, and I found that there was quite a strong feeling in favor of the passage of the bill.

Mr. MANN. I would suggest to the gentleman from California that if there is a Senate bill on this subject which has already passed the Senate it might be well to refer it to the committee, have it reported back to the House, and let it go on the Unanimous Consent Calendar so that the House will have some idea of what is intended.

Mr. RAKER. I will say to the gentleman from Illinois that the Committee on Public Lands two weeks ago took up the Senate bill. While the Senate bill was not referred to the committee, I had the bill there and the matter was presented to them, and they unanimously authorized me to have this bill laid aside and to take up the Senate bill and have it passed at such time as the House will hear it.

Mr. MANN. The Members of the House do not have the Senate bill, and there is no opportunity for Members to examine the Senate bill until it is referred and printed. That is just what the gentleman desires now. Here is a House bill differing from the former House bill that was objected to. The Senate has passed the bill, and the gentleman knows what is in the Senate bill, and perhaps the Public Lands Committee may know. I do not know what is in the Senate bill. I prefer to have the Senate bill come up in the regular way. It ought to be referred to the committee and printed.

Mr. RAKER. Mr. Speaker, my idea was in saving printing on the matter by having the Senate bill take the place of the House bill, as it is the same bill.

Mr. MANN. Mr. Speaker, I appreciate the anxiety of my friend from California to save printing, and he can save it by not inserting in the RECORD some of the matter which he probably intends to on some other subject. That would save enough to print this bill over a number of times.

Mr. RAKER. Mr. Speaker, if the gentleman insists upon his objection, in order that I may have the Senate bill referred to the Committee on the Public Lands, and, as they have already authorized, that I may call up that bill, I ask unanimous consent that for the present this bill be passed over without prejudice.

Mr. MANN. If we are going to act on the Senate bill, why not strike this bill off the Calendar for Unanimous Consent?

Mr. RAKER. I think the House ought to have it when the Senate bill comes up, if the Committee on the Public Lands agrees, so that Members may know that my statement now as to the Senate and the House bill is correct. I think that is only fair.

The SPEAKER. The Chair will inquire of the gentleman from California what the parliamentary status of the Senate bill is.

Mr. RAKER. The Senate bill has passed the Senate and is now on the Speaker's table.

Mr. MANN. And I ask for its reference to the proper committee.

The SPEAKER. What does the gentleman from California say?

Mr. RAKER. Mr. Speaker, I would say that the Committee on the Public Lands has, by unanimous vote, authorized me, when the time comes, to ask unanimous consent that the Senate bill be taken up and passed—substituted for the House bill—which request I now most respectfully make.

The SPEAKER. What does the gentleman from Illinois say?

Mr. MANN. I shall object to the consideration of this bill.

The SPEAKER. Does the gentleman from Illinois object to this particular bill being passed without prejudice, which is the last request of the gentleman from California, so that the gentleman could get the Senate bill out?

Mr. MANN. I do not object to that request.

The SPEAKER. It is so ordered, and the Clerk will report the next bill.

Mr. RAKER. Mr. Speaker, in that connection may I now ask unanimous consent to call up the Senate bill 5068?

Mr. MANN. O Mr. Speaker, the gentleman from California knows perfectly well——

Mr. RAKER. Mr. Speaker, I withdraw the request.

The SPEAKER. The Clerk will report the next bill on the Calendar for Unanimous Consent.

BRIDGE ACROSS HUDSON RIVER AT NEW YORK CITY.

The next business on the Calendar for Unanimous Consent was the bill (S. 4978) to supplement and amend the act entitled "An act to incorporate the North River Bridge Co. and to authorize the construction of a bridge and approaches at New York City across the Hudson River, to regulate commerce in and over such bridge between the States of New York and New Jersey, and to establish such bridge a military and post road," approved July 11, 1890.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 2 of the act entitled "An act to incorporate the North River Bridge Co. and to authorize the construction of a bridge and approaches at New York City across the Hudson River, to regulate commerce in and over such bridge between the States of New York and New Jersey, and to establish such bridge a military and post road," be, and the same is hereby, so supplemented and amended as to extend the time for the completion of the construction of the bridge by the said act authorized until the 1st day of January, A. D. 1922: *Provided*, That the location of said bridge and all plans for its construction shall hereafter be submitted to the Secretary of War for his consideration and approval before the construction of said bridge shall be entered upon.

Amend by striking out all after the enacting clause and insert:

"That section 2 of the act entitled 'An act to incorporate the North River Bridge Co., and to authorize the construction of a bridge and approaches at New York City across the Hudson River, to regulate commerce in and over such bridge between the States of New York and New Jersey, and to establish such bridge a military and post road,' approved July 11, 1890, be, and the same is hereby, so amended as to extend the time for the completion of the said bridge and approaches thereof for 10 years from the date of the approval hereof: *Provided*, That this act shall not be construed as authorizing the building of said bridge in accordance with plans heretofore approved by the Secretary of War, but drawings showing the location and plans of said structure shall again be submitted to him, for his consideration and approval, before construction shall be entered upon: *And provided further*, That actual work hereunder and in accordance with such plans so approved must be commenced within three years after the approval of this act, or in default thereof the grantee shall forfeit all rights and privileges hereby and herein granted.

"SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved."

The SPEAKER. Is there objection?

Mr. SABATH. Mr. Speaker, reserving the right to object, I would like to know something about that bill. Notwithstanding the fact that this bill has been reported by my committee, it was done in my absence, and I do not know much about the bill. It is a very important matter, it seems to me, and I would like to know something about this company that desires to construct this bridge.

Mr. GOLDFOGLE. Mr. Speaker, the bill is practically to extend the life of the charter of the North River Bridge Co. In 1890 the charter was originally passed by the Fifty-first Congress, and 10 years fixed in it as the time within which to complete the bridge. The bridge is to be over the North River, connecting New York with New Jersey. At the expiration of the 10 years, and in February, 1901, Congress extended the time for completion, and since the bridge has not been completed within the period limited by the last extension, although work upon it was actually begun, the company now seeks another extension.

Mr. SABATH. Will the gentleman inform me how much work has been done upon this bridge in 20 years?

Mr. GOLDFOGLE. We have had hearings before the Committee on Interstate and Foreign Commerce. In those hearings the evidence showed property was, on application by the company, condemned for bridge purposes and considerable work done. Pending the performance of the work questions arose as to the validity of the charter. The matter was carried through the courts, finally to the Supreme Court of the United States. That court held that the charter was valid. Plans were made, and they were approved by the Secretary of War. Work of construction was actually begun. It has become a real public necessity to have such a bridge as the measure contemplates.

Mr. SABATH. This bridge is to be constructed by a private corporation?

Mr. GOLDFOGLE. Yes.

Mr. SABATH. For the benefit of the general public? Does the gentleman know anything about the tolls to be charged on this bridge?

Mr. GOLDFOGLE. No; I do not know what tolls are to be charged.

Mr. SABATH. Could the gentleman enlighten the House on what is to be the cost of the bridge?

Mr. GOLDFOGLE. It is a very large enterprise, Mr. Speaker, and will require a great deal of capital. I am assured by reliable gentlemen who are interested in the measure, and, among others, by the eminent engineer who appeared before the

committee and who is very well informed and an exceedingly skillful man in his profession, that it will take something over $40,000,000. At any rate, it is a very large sum of money, and I am assured and from reliable authority understand if this bill be now passed the company will be able to have the matter properly financed and the work will be at once begun after the War Department shall fix the location as the reported amendment provides and that before the end of the time limited by the amendment proposed by the Committee on Interstate and Foreign Commerce the bridge will be completed and ready for public use. The tremendous increase in freight and passenger traffic between New York and New Jersey makes the bridge a great necessity, and the public interests will be subserved and transportation facilitated if the company be given the opportunity under this bill to complete the bridge.

Mr. SABATH. But that does not give——

Mr. HAMILL. May I ask the gentleman a question?

Mr. GOLDFOGLE. Certainly.

Mr. HAMILL. Are not negotiations now pending, or rather is not the question of the advisability of building a bridge by the State of New York and the State of New Jersey being considered by a joint committee appointed by the legislatures of those States?

Mr. GOLDFOGLE. I know there was such a proposition made. How far the commission went I do not know. We were not advised in our committee just how much work the commission did. The commissioners did not appear before our committee. The record is devoid of anything pertaining to the inquiry of the gentleman, so that I can not give a definite reply to the gentleman from New Jersey.

Mr. HAMILL. Why did not this corporation build the bridge within the period of the life of their first charter?

Mr. GOLDFOGLE. In the first place, the company was delayed in its operations because of the extended litigation, which was finally determined in the company's favor in the Supreme Court of the United States. Then there were, years ago, engineering difficulties which now are overcome. Then, again, there were periods of financial panic and financial depression, which of course delayed the financing of the work. That situation has also passed, and, as I before stated, reliable authority informs me that capital stands ready if this bill be passed. You must bear in mind that the delay incident to the long litigation——

Mr. HAMILL. How was it determined?

Mr. GOLDFOGLE. It was determined favorably to the company. Again, it may be said the company was delayed because in years past there was question as to whether such a bridge as is contemplated by the company could be successfully built, but these engineering difficulties have, as I said, been overcome. Engineers of great skill and great reputation now say that such a bridge can be easily built and very well constructed. Conditions have arisen out of the automobile traffic that make such a bridge necessary. This is aside from all other traffic consideration. The McAdoo tunnels, it must be borne in mind, are for local passenger traffic only.

Mr. HAMILL. Would not it be far better to construct this bridge from public funds than from private capital, if it is feasible to construct it?

Mr. GOLDFOGLE. Well——

Mr. FITZGERALD. That would require an amendment to the constitution of the State of New York; that is my impression.

Mr. GOLDFOGLE. I think my colleague from New York [Mr. FITZGERALD] is right. I am inclined, however, to think that that question does not really enter into the discussion here this morning.

Mr. HAMILL. Mr. Speaker, I would like to get time to look into this question, and therefore I shall object to its present consideration. I ask that it be laid over without prejudice.

The SPEAKER. The gentleman from New Jersey asks that this bill be passed without prejudice.

Mr. HAMILL. That it be laid over.

Mr. GOLDFOGLE. Mr. Speaker, if the gentleman's request be granted, what will then be the status of the bill?

The SPEAKER. It will come up two weeks from to-day and be in the very same condition it is in now.

Mr. GOLDFOGLE. Does the gentleman think he ought to insist upon that this morning? I hope he will not.

Mr. HAMILL. Yes. It is one of immense importance, and we ought to be fully informed about it before we act.

Mr. GOLDFOGLE. Well, rather than incur the gentleman's displeasure and have an objection noted——

The SPEAKER. Is there objection to this bill being passed without prejudice?

Mr. MANN. Mr. Speaker, I object.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. SABATH. Mr. Speaker, I object.

HUDSON RIVER BRIDGE, NEW YORK.

The next business on the Calendar for Unanimous Consent was the bill (S. 5659) an act to supplement and amend an act entitled "An act to authorize the New York & New Jersey Bridge Cos. to construct and maintain a bridge across the Hudson River between New York City and the State of New Jersey," approved June 7, 1894.

The Clerk read the title of the bill.

Mr. SHERLEY. Mr. Speaker, in order to save time, as this is a similar bill to the one to which objection has just been made, I object to its consideration.

The SPEAKER. The gentleman from Kentucky objects, and the bill will be stricken from the calendar.

DAM ACROSS WHITE RIVER, MO.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 25035), granting to the Ozark Power and Water Co. authority to construct a dam across White River, Mo.

The SPEAKER. Is there objection?

Mr. FOSTER. Mr. Speaker, I reserve the right to object.

Mr. MANN. I reserve the right to object.

Mr. FITZGERALD. Let the bill be reported.

Mr. FOSTER. I have no objection to that.

Mr. FITZGERALD. Does the gentleman from Illinois [Mr. FOSTER] intend to object to the bill? If so, it should be reported.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the Ozark Power and Water Co., a corporation organized under the laws of the State of Missouri, with principal offices in the city of Joplin, Mo., its successors and assigns, be, and they are hereby, authorized to construct, maintain, and operate a dam across the White River at a point suitable to the interests of navigation, approximately three miles upstream from the towns of Hollister and Branson, in Taney County, Mo., in township 22 north, range 21 west, of the fifth principal meridian, in accordance with the provisions of the act approved June 23, 1910, entitled "An act to amend an act entitled 'An act to regulate construction of dams across navigable waters,' approved June 21, 1906."

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

Mr. MANN. Mr. Speaker, I reserve the right to object.

Mr. FOSTER. Mr. Speaker, I desire to say that I have been in consultation somewhat with the gentleman from Missouri [Mr. RUSSELL], and it was thought that we might arrive at a conclusion in reference to some amendment that would be offered to this bill, and for the benefit of the House I would like to have the amendment read, which is satisfactory, so far as I am concerned.

The SPEAKER. The Clerk will report the amendment for information.

Mr. FITZGERALD. Mr. Speaker, one moment. Does the gentleman object to the consideration of the bill? I do not know what the amendment is, but if the gentleman reserves the right to object to have amendments read for the information of the House, it will initiate a practice that will destroy the value of the Unanimous Consent Calendar.

Mr. FOSTER. I will say to the gentleman from New York [Mr. FITZGERALD] that if an amendment could be put on this bill that would safeguard the rights of the Government and the users of the water power, I will have no objection to the consideration of the bill. What I want is that this amendment be read for the information of the House, so that if the gentleman from New York or anyone else objects to it——

Mr. FITZGERALD. I object to the reading of the amendment. I do not believe that gentlemen should have the right to reserve the objection in order to have proposed amendments read, and then make their consent dependent upon whether unanimous consent be given to the adoption of the amendment or amendments they propose.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] objects to the reading of the amendment. Is there objection to the consideration of this bill?

Mr. FOSTER. Mr. Speaker, reserving the right to object, I would like to state to the gentleman from New York [Mr. FITZGERALD] that this is a matter that is important to the gentleman from Missouri [Mr. RUSSELL]. And the gentleman from New York [Mr. FITZGERALD] remembers that there has been some controversy here in reference to granting these water-power sites. And so I desire to take this matter up in this way. Of course, if the gentleman from Missouri——

Mr. FITZGERALD. Mr. Speaker, it seems to me that this is a matter of vital importance, and inasmuch as the amendment that the gentleman proposes, in his opinion, is one that is

essential properly to safeguard the interests of the Government and is one of the conditions that the report of the committee states it was unable to incorporate in the bill, then this is not a bill that should be considered by unanimous consent. I do not propose, if I can prevent, making absolutely futile the Calendar for Unanimous Consent by having initiated this practice and having gentlemen occupying time to have proposed amendments read and making their unanimous consent to the bill dependent upon whether unanimous consent be given to the adoption of the amendment they propose. In that way we would deprive this calendar of its usefulness. I shall object to that practice whenever I happen to be here and such a bill is before the House, regardless of what the amendment happens to be.

Mr. FOSTER. The gentleman from New York, no doubt, in his long service in the House can recall to mind that amendments are brought about in this manner, and thereby differences are arranged. While the gentleman may conclude it is unusual practice, I have no doubt that he, as chairman of the great Committee on Appropriations, has had informal arrangements of the same kind. I am not attempting to have any secrecy about this matter, but I wish the House to know my position on this subject. If the gentleman desires to object——

Mr. FITZGERALD. I will object to the reading of the amendment before consent is given to the consideration of the bill.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] has already objected to the reading of the amendment and that shuts it out.

Mr. SHERLEY. Mr. Speaker, I desire simply to say this word in regard to these bills relating to water power. In my judgment, there is no question before Congress of more value or concerning which there is a greater diversity of views. It is manifest that the Unanimous Consent Calendar was to take charge of such matters that there was likely to be no objection to. It was never intended for the consideration of matters that raise questions about which there are strong differences of view. For that reason I shall object not only to this bill, but, if I am present, to any other bill dealing with water-power matters put on the Unanimous Consent Calendar.

The SPEAKER. The gentleman from Kentucky [Mr. SHERLEY] objects.

Mr. RUSSELL. Will the gentleman reserve his objection for a moment?

Mr. SHERLEY. I have no objection to reserving it; but that is my position, and it is perfectly plain.

Mr. RUSSELL. This bill is altogether different from the other water-power bills pending in this House. Congress has already granted the right to build a dam across this river, and the company that seeks to get this permission now has already expended approximately a million and a half dollars in the building of that dam. This bill simply asks permission to build a supplemental dam for reservoir purposes, so as to regulate the flow of the water at all seasons and to make beneficial and profitable the dam that has already been constructed under the authority of an act of Congress.

We feel that this bill should not be governed by the strict rule that is to be applied by these gentlemen to other bills granting the right, as an original proposition, to build dams. This is a supplementary dam, and it is necessary for the purpose of utilizing the dam that has already been constructed. The prompt passage of this bill is very important to my district and is greatly desired by my constituents. I wish my friend from Kentucky would withdraw his objection and let this bill be considered. I do not think there will be any objection to it after it is submitted to the House and the amendment suggested has been offered and adopted.

The SPEAKER. Is there objection?

Mr. SHERLEY. I object.

Mr. COOPER. Mr. Speaker, I object.

The SPEAKER. The gentleman from Wisconsin [Mr. COOPER] objects and likewise the gentleman from Kentucky [Mr. SHERLEY]. The bill is stricken from the calendar. The Clerk will report the next one.

DISMISSAL OF CERTAIN WEST POINT CADETS.

The next business on the Calendar for Unanimous Consent was the resolution (S. J. Res. 99) authorizing the President to reassemble the court-martial which on August 16, 1911, tried Ralph I. Sasse, Ellicott H. Freeland, Tattnall D. Simkins, and James D. Christian, cadets of the Corps of Cadets of the United States Military Academy, and sentenced them.

The Clerk read the Senate joint resolution, as follows:

Resolved, etc., That the President be, and he is hereby, authorized to reassemble the court-martial, or as many members thereof as practicable, not less than the minimum prescribed by law, which on August 16, 1911, tried Ralph I. Sasse, Ellicott H. Freeland, Tattnall D. Simkins, and James D. Christian, cadets of the Corps of Cadets of the United States Military Academy at West Point, N. Y., for having violated on August 4, 1911, paragraph No. 132 of the former regulations of the said academy, and sentenced them to be dismissed from the service, and to resubmit the case of any one or more of said cadets upon his or their applications to said court for reconsideration of the sentence; and upon such reconsideration the court is authorized to construe said paragraph as not necessarily requiring a sentence of dismissal, but as permitting a lesser punishment, as provided in paragraph No. 142 of the current regulations approved June 15, 1911, and to modify the sentence accordingly; and that the President be, and he is hereby, authorized to carry such modified sentence or sentences into effect, notwithstanding the prior dismissal of said cadets, by reinstating them in accordance with the terms and conditions of the modified sentence as approved by the President.

The SPEAKER. Is there objection?

Mr. MANN. I reserve the right to object, Mr. Speaker; and I make the point of order, in addition, that this bill, being of a private character, has no place on the Unanimous Consent Calendar.

Mr. CLARK of Florida. Mr. Speaker, I can not hear the gentleman.

The SPEAKER. The gentleman from Florida complains that he can not hear the gentleman from Illinois.

Mr. MANN. I make the point of order that this is a Private Calendar bill, erroneously placed on the House Calendar, and as a Private Calendar bill it can not be placed on the Unanimous Consent Calendar. The rules provide for the three calendars—a Union Calendar, a House Calendar, and a Private Calendar. Paragraph 729, third clause, provides for—

A Calendar of the Committee of the Whole House, to which shall be referred all bills of a private character.

I think it is perfectly apparent to anyone who examines the bill that this is a bill of a private character.

The SPEAKER. Where is the gentleman reading?

Mr. MANN. From page 362 of the Manual, Rule XIII, section 1, clause 3:

A Calendar of the Committee of the Whole House, to which shall be referred all bills of a private character.

This bill is a bill for the relief of gentlemen who were formerly cadets at the Military Academy, and it is purely a bill of a private character, to relieve private individuals.

The SPEAKER. The point of order is well taken.

Mr. CLARK of Florida. Mr. Speaker, I want to be heard for just a moment, if the Chair will permit me.

The SPEAKER. The Chair will hear the gentleman.

Mr. CLARK of Florida. Mr. Speaker, this is not a resolution for the relief of anybody. It is not in its essential characteristics a private measure. If the Speaker will examine the report of the Committee on Military Affairs of this House accompanying this resolution, I think the Speaker will find that a great principle is involved in this resolution, aside from the relief of anybody. The resolution is not entitled a resolution for the relief of any individual, but it is entitled a resolution "authorizing the President to reassemble the court-martial which on August 16, 1911, tried" certain-named individuals then cadets at the West Point Military Academy.

Now, the facts are, Mr. Speaker, that there was a regulation of the Military Academy which provided that no cadet shall drink any spirituous or other intoxicating liquor or bring or cause to be brought within the academy limits or have the same within his room or otherwise within his possession, on the pain of being dismissed the service.

The SPEAKER. The rules provide for three calendars: First, a Calendar of the Committee of the Whole House on the state of the Union, to which shall be referred bills raising revenue, and so forth, of a public nature; second, a House Calendar, to which shall be referred all bills of a public character not raising the revenue and not appropriating money; third, a Calendar of the Committee of the Whole House, to which shall be referred all bills of a private character. Then section 3 of that same rule says:

After a bill which has been favorably reported shall be upon either the House or the Union Calendar—

And a private bill can not be on either one of those calendars—

any Member may file with the Clerk a notice—

And so forth, for the purpose of getting it on to the Calendar for Unanimous Consent.

Mr. CLARK of Florida. If the Speaker will just allow me to finish what I was about to say, I think I can show the Speaker wherein this resolution partakes more essentially of a public nature than of a private nature.

I have just stated to the Speaker what the regulation of the Military Academy was which was adopted in 1902. That remained the regulation until June, 1911. This regulation had always been construed by courts-martial to mean the summary

dismissal of cadets who violated it. In June, 1911, the department, thinking that was too harsh a rule, modified it by leaving it in the discretion of the court-martial as to what punishment should be inflicted in a given case.

The SPEAKER. Under which regulation were these boys tried?

Mr. CLARK of Florida. I am coming to that. The court-martial was assembled in August, 1911. These boys were tried on the 16th of August, 1911, and the new regulation did not reach the officials at West Point until August 29, 1911, and that court-martial tried these boys and sentenced them in absolute ignorance of the law which applied to their case. The Secretary of War of the United States said that, in his judgment, this was a matter of so much importance that he consented to this resolution in order that this court-martial might be reconvened and these four American citizens tried again, not for their relief but for the vindication of the law, in order that they might be tried as the law provided at the time the court was assembled and rendered its verdict. So I think it is essentially a matter of a public nature in which the whole United States, and particularly this Congress, are interested. That is all I have to say.

The SPEAKER. The Chair sustains the point of order.

Mr. MANN. I take it, then, that the bill is referred to the Private Calendar.

The SPEAKER. It goes to the Private Calendar.

Mr. RODDENBERY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RODDENBERY. It appears that the resolution just disposed of is to go to the Private Calendar. At present, in addition to being on the Calendar for Unanimous Consent, it is also on the House Calendar. What happens to the resolution as it appears on the House Calendar?

The SPEAKER. It will be stricken from both the House Calendar and the Unanimous Consent Calendar and will go to the Private Calendar.

Mr. CLARK of Florida. Mr. Speaker, this is a Senate resolution. As it goes off this calendar, would it be proper to ask that the Senate resolution lie on the table?

The SPEAKER. It has already been referred to the committee, and the committee has made a report. It is bound to be upon one of the three calendars. The Clerk will report the next bill.

MEAT INSPECTION.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 26329) to amend the proviso in meat-inspection law concerning products prepared according to directions of foreign purchasers.

The bill was read, as follows:

Be it enacted, etc., That the proviso in the act entitled "An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1907," approved June 30, 1906, which reads as follows: "*Provided*, That subject to the rules and regulations of the Secretary of Agriculture, the provisions hereof in regard to preservatives shall not apply to meat-food products for export to any foreign country and which are prepared or packed according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is to be exported; but if said article shall be in fact manufactured, sold, or offered for sale for domestic use or consumption then this proviso shall not exempt said article from the operation of all the other provisions of this act," be, and the same is hereby, amended by inserting after the word "preservatives" the words "and coloring matter," so that said proviso as amended shall read as follows: "*Provided*, That, subject to the rules and regulations of the Secretary of Agriculture, the provisions hereof in regard to preservatives and coloring matter shall not apply to meat-food products for export to any foreign country and which are prepared or packed according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is to be exported; but if said article shall be in fact sold or offered for sale for domestic use or consumption then this proviso shall not exempt said article from the operation of all the other provisions of this act."

With the following amendment:

In line 4, page 2, after the word "fact," insert the word "manufactured."

The SPEAKER. Is there objection?

Mr. FOWLER. Mr. Speaker, reserving the right to object, I desire to ask the author of the bill if it is intended by this amendment to give to meat-packing companies and butterine companies in this country the right to impose upon the people of other countries that which the law does not permit them to impose on the people of this country?

The SPEAKER. Who is the author of the bill?

Mr. MANN. I am the author of the bill.

The SPEAKER. The gentleman from Illinois [Mr. FOWLER] desires some information concerning it.

Mr. MANN. The bill does not give the right to impose upon the people of other countries what is not authorized in this country, but it authorizes the people of other countries to obtain what the people of those countries could not obtain without this legislation. This is the situation. I discovered a few years ago when making a trip to the West Indies that in some of the islands they use a red-colored butter or oleomargarine. They do not use the yellow butter or the yellow oleomargarine. We have been shipping to Barbados and some of the other islands for a good many years butter and oleomargarine colored with a reddish tinge, and to maintain that color it requires the use of a mineral dye, because the vegetable dye will not keep in that climate.

Recently the Agricultural Department has held that the use of a mineral dye was not permissible, even for export, because the law provides that only for the use of preservatives. Under the existing law they can use preservatives in these articles for export which can not be used for home consumption. The purpose of this bill is to permit them also to use mineral dyes in the preparation of these articles when they are ordered by the persons who order the product. The same law applies to the pure-food act, where we expressly provide that as to articles covered by the pure-food law, if they are prepared in accordance with the custom in the foreign country, certain things can be used which could not be used in this country. The bill would not apply to any article sold or manufactured or offered for sale or for use or consumption in our own country; but if a foreign purchaser orders butter or oleomargarine colored with a reddish dye, they would be permitted to do that. As a matter of fact, I am informed that in these islands where they formerly purchased from the United States our business is now stopped and their purchases are entirely from Europe.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. FOWLER. I object.

The SPEAKER. The gentleman from Illinois objects, and the bill will be stricken from the calendar.

MEMORIAL TABLET TO PENNSYLVANIA SOLDIERS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 22594) permitting the State of Pennsylvania to place a bronze tablet in the corridor of the National Capitol at Washington to the memory of the 530 Pennsylvania soldiers who reached Washington on the 18th day of April, 1861, for the defense of the National Capital.

The Clerk read the bill, as follows:

Be it enacted, etc., That the custodian of the Capitol be, and he is hereby, authorized to grant a permit to the State of Pennsylvania to place in the corridor of the National Capitol, Washington, at a place to be designated by the Vice President of the United States, the Speaker of the House of Representatives, the chairman of the Committee on the Library of the Senate, and the chairman of the Committee on the Library of the House of Representatives, a bronze tablet bearing as inscription the words of a resolution of the Thirty-seventh Congress of the United States, to wit:

XXXVII CONGRESS OF THE UNITED STATES, AT THE FIRST SESSION.

IN THE HOUSE OF REPRESENTATIVES,
July 22, 1861.

Resolved, That the thanks of this House are due, and are hereby tendered, to the 530 soldiers from Pennsylvania who passed through the mob of Baltimore and reached Washington on the 18th day of April last for the defense of the National Capital.

GALUSHA A. GROW,
Speaker of the House of Representatives.

Attest:

EM. ETHRIDGE, *Clerk.*

SEC. 2. That the said bronze tablet to be furnished and the entire cost of its installation to be borne by the State of Pennsylvania.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Texas whether he thinks it is desirable to put up an inscription which falsifies the record?

Mr. SLAYDEN. I do not think it would be desirable to put up an inscription that falsifies the record. Does the gentleman refer to what is omitted?

Mr. MANN. Here is a proposition to put up and recite a resolution of Congress as complete, and then proposes to take out of that resolution a part of it.

Mr. SLAYDEN. Where does the report say that the resolution is complete?

Mr. MANN. As I understand the proposition, it proposes to change a bronze tablet which now recites a complete resolution passed by Congress so as to still purport to recite a resolution which, in fact, never was passed by Congress. Does the gentleman think that is a proper way to record history?

Mr. SLAYDEN. I will say to the gentleman that I think anything that the Committee on the Library recommends, after a full consideration, is correct. I will say, in further explanation to the gentleman, that the committee thought that as the original resolution contained matter which might have a tendency to continue or revive certain feelings that were developed

during the Civil War period which, perhaps, it is wiser should not be revived or continued, they felt justified in recommending that the resolution be passed as amended.

I will say, further, that the resolution in this shape is satisfactory to the gentleman who introduced it—Mr. LEE—and that the committee gave the matter real consideration. They hedged it about with all possible precaution, and determined that it should only be put up when consented to by certain authorities that are named, and not then unless it measures up to a certain artistic standard.

Mr. MANN. As I understand the gentleman, the position of the Library Committee is that it is not desirable to erect this bronze tablet reciting what the resolution actually was because it might revive sectional feeling. The resolution was:

Resolved, That the thanks of this House are due, and are hereby tendered, to the 530 soldiers from Pennsylvania who passed through the mob of Baltimore and reached Washington on the 18th day of April last for the defense of the National Capital.

The only thing of note in connection with that resolution is that it thanks these soldiers for passing through the mob at Baltimore. If there had been no mob at Baltimore and they had not passed through a mob at Baltimore, there was no occasion for the resolution.

It may be desirable not to revive that sectional feeling. I am inclined to think, myself, it is not a wise thing to put in the Capitol a tablet referring to the mob at Baltimore, which did or did not exist; and to put into the Capitol a bronze tablet, leaving out the very essence of the resolution, falsifying the record which actually was made by Congress, seems to me to be a matter of very doubtful propriety, at least.

Mr. SLAYDEN. Mr. Speaker, I will say to the gentleman that my recollection is that those words which the committee recommended should be stricken out of the resolution were not the very essence of it as presented for the consideration of the committee; but the claim was advanced that this was the first military organization that reached the Capital for its defense, and because of the promptness of those men in volunteering their services and the speed with which they arrived in Washington—whether accelerated by dangers on the way I do not know—and being the first military organization that did so, the committee thought that they were entitled to this recognition.

Mr. MANN. They arrived at the Capital first, if they did so, because they were close by. They did not enlist any more quickly than other soldiers did in any other part of the country.

Mr. SLAYDEN. But they got there first.

Mr. GILLETT. But is that correct?

Mr. SLAYDEN. I do not know. I accepted Pennsylvanians as competent witnesses.

Mr. MANN. I do not know whether they got there first or not.

Mr. MOORE of Pennsylvania. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Texas yield to the gentleman from Pennsylvania [Mr. MOORE]?

Mr. SLAYDEN. Yes.

Mr. MOORE of Pennsylvania. Mr. Speaker, I would like to say to the gentleman that these men were known then and are actually known to-day as "First Defenders." They were the men coming out of Pennsylvania who were the first to reach the National Capital for its defense at the call of President Lincoln.

Mr. SLAYDEN. Mr. Speaker, I know that is the claim of Pennsylvanians, and their well-known veracity inclined me to believe that it was correct.

Mr. MOORE of Pennsylvania. As a rule, Mr. Speaker, Pennsylvanians are not any different from men of Texas or elsewhere in claiming credit for those things actually performed, and in this instance these men did promptly respond to the call, and did reach Washington, and have since been known throughout the country and in all military annals as "First Defenders."

Mr. SLAYDEN. The committee was so convinced.

Mr. MOORE of Pennsylvania. And the principal incident of their trip to Washington was the incident which occurred in Baltimore, which was incorporated in the resolution passed by Congress at that time and which is the substance of the request of the Legislature of Pennsylvania—that this tablet should be placed at the National Capitol. If the gentleman will read the resolution passed by the Legislature of Pennsylvania, signed by the governor of the State, as it appears on the second page of the report, he will find that that Commonwealth requested that the resolution as passed by Congress back in war times should be incorporated in this tablet, and that resolution is the resolution, it seems to me, that ought to be respected in this instance. It is the resolution which states a historical fact and which the people of Pennsylvania and these good old soldiers—the few who are remaining of the first defenders—desire in their declining days to have placed here as a permanent memorial of their having reached the Capital first. The tablet should state the facts.

Mr. GILLETT. Mr. Speaker, will the gentleman yield?

Mr. SLAYDEN. Yes.

Mr. GILLETT. On what date in April was it that they reached Washington?

Mr. SLAYDEN. The 18th of April, I think.

Mr. GILLETT. Was it not the 17th that the Sixth Massachusetts passed through Baltimore?

Mr. SLAYDEN. I will say to the gentleman that this is a statement of facts given us by Pennsylvanians:

These troops left their respective homes for Harrisburg, the place designated for the assembling of the first Pennsylvanians to take the field. On the morning of the 18th of April, 1861, after being sworn into the service of the United States, these five Pennsylvania companies left by train for Washington, arriving at 6 o'clock in the evening of that day, three days after the call went forth, and were escorted to the Capitol by order of the Secretary of War.

Mr. KENDALL. What does the record show as to the facts?

Mr. SLAYDEN. I must confess to the gentleman that I have never looked it up. I am letting the Pennsylvanians write their history, as Massachusetts has written hers, very largely.

Mr. MOORE of Pennsylvania. Would not the gentleman let the history remain as it was written and not change it at this late date, after half a century has passed since these men came down here?

Mr. SLAYDEN. My friend from Pennsylvania makes the statement that they were the first to arrive, does he?

Mr. MOORE of Pennsylvania. It is historically correct, as I am informed, that these were the first defenders of the National Capital, the men who first arrived at the call of Lincoln, when he feared the Capital might fall.

Mr. STEPHENS of Texas. I desire to ask my colleague from Texas if he does not think this would be a dangerous proceeding at this late day, 45 years or more from the Civil War, in view of the fact that Congress has always refrained from putting statues and pictures in this Capitol to commemorate any event of this nature for the reason stated so well by the gentleman from Illinois [Mr. MANN]? I think it is a very unwise move to make at the present time.

Mr. SLAYDEN. I think, Mr. Speaker, my colleague is mistaken in his statement that Congress has refrained from doing that sort of thing. If he will walk out into the room we commonly refer to as Statuary Hall he will see some evidences perhaps not as apparent to him as this.

The SPEAKER. Is there objection?

Mr. STEPHENS of Texas. Mr. Speaker, I shall have to object.

The SPEAKER. The gentleman from Texas objects, and the bill is stricken from the calendar.

COMMISSION IN REGARD TO FEDERAL PRISONERS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 21594) to appoint a commission to consider and report upon the general subject of the treatment of juvenile and first offenders, together with the best system of detention of Federal prisoners.

The Clerk read as follows:

A bill (H. R. 21594) to appoint a commission to consider and report upon the general subject of the treatment of juvenile and first offenders, together with the best system of detention of Federal prisoners.

Mr. HOUSTON. Mr. Speaker, this bill was introduced by the gentleman from Alabama [Mr. CLAYTON], the chairman of the Judiciary Committee, who is necessarily detained at the other end of the Capitol, and I ask that this bill be passed without prejudice.

The SPEAKER. The gentleman from Tennessee [Mr. HOUSTON] asks that this bill be passed without prejudice on account of the necessary absence of the author in the discharge of an important public duty.

Mr. MANN. Mr. Speaker, reserving the right to object, if the gentleman will pardon me, I understood a short time ago there was at least some thought on the part of the Committee of the House on Expenditures in the Department of Justice to investigate United States penitentiaries, and possibly other jails in which Federal prisoners were confined. I do not know whether it is intended to proceed with that, but that will probably be a more——

Mr. HOUSTON. I did not understand what the gentleman stated.

Mr. MANN. Such a proposition will probably be of more value to the House, so far as legislation is concerned, than the appointment of a commission whose report somebody might read.

Mr. HOUSTON. Mr. Speaker, I hope the matter may go over and let the gentleman from Alabama have an opportunity to explain it.

Mr. MANN. I shall not object to the request, but I call attention to this in the hope that the gentleman from Texas [Mr. BEALL], chairman of that committee, might have his attention attracted to this bill. I doubt whether it has been.

The SPEAKER. Is there objection to passing this bill without prejudice? [After a pause.] The Chair hears none.

COAL MINING COMPANIES, OKLAHOMA.

The next business on the Calendar for Unanimous Consent was the bill (S. 3843) granting to the coal mining companies in the State of Oklahoma the right to acquire additional acreage adjoining their mine leases, and for other purposes.

The Clerk read as follows:

S. 3843. An act granting to the coal mining companies in the State of Oklahoma the right to acquire additional acreage adjoining their mine leases, and for other purposes.

Mr. STEPHENS of Texas. Mr. Speaker, I ask that this bill may also be passed without prejudice.

The SPEAKER. The gentleman from Texas asks that this bill be passed without prejudice.

Mr. MANN. What bill is it?

Mr. STEPHENS of Texas. It is Senate 3843.

Mr. BURKE of South Dakota. Mr. Speaker, reserving the right to object, I would like to ask the gentleman for what purpose he desires to pass the bill without prejudice?

Mr. STEPHENS of Texas. I understand from certain quarters there will be objection. The committee has passed the bill. It is a Senate bill, and it has been reported from our committee unanimously; and I think the bill should become a law; but, owing to the fact that some of the coal-mining corporations are interested in it and there are some objections, I think they will be obviated if the bill be passed over for two weeks.

Mr. MANN. Reserving the right to object, I would like to attract the attention of gentlemen who are interested in this bill to the fact that section 2, which is the repealing clause of the bill, would, I am inclined to think, if passed, repeal a great deal more than is contemplated. As far as the bill itself is concerned, if it becomes a law and it repeals anything——

Mr. STEPHENS of Texas. If the gentleman will permit it to go over, the committee will meet on Friday and will amend it.

Mr. MANN. I hope the gentleman will look up that. I looked up the law which this apparently purports to repeal and it seems to cover a great deal more than is intended to be repealed.

Mr. STEPHENS of Texas. The reason I ask that it be passed without prejudice is that we can present an amendment to cover objections to the bill. We are very desirous of having the legislation.

The SPEAKER. Is there objection to passing this bill without prejudice?

There was no objection.

INDIAN TRIBAL FUNDS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 46) to amend section 2 of an act approved March 2, 1907, entitled "An act providing for the allotment and distribution of Indian tribal funds."

The bill was read in full.

The SPEAKER pro tempore (Mr. LITTLETON in the chair). Is there objection to the consideration of the bill?

Mr. MILLER. Mr. Speaker, I object.

The SPEAKER pro tempore. The Clerk will report the next bill.

CHAMBER OF COMMERCE, UNITED STATES OF AMERICA.

The next bill on the Calendar for Unanimous Consent was the bill (H. R. 25106) to incorporate the Chamber of Commerce of the United States of America.

The bill was read in full.

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. BARTLETT. Mr. Speaker——

Mr. GARRETT. Mr. Speaker——

The SPEAKER pro tempore. The Chair will first recognize the gentleman from Georgia [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I am going to object to the consideration of this bill. I do not think we have any power to pass it or a similar one. The gentleman from Kentucky [Mr. SHERLEY] also asked me to state that he would enter an objection to it if he were present.

Mr. GRAHAM. Mr. Speaker, I want to state in connection with this bill that it was up once before and was passed at my request, but I have learned from the gentleman from Kentucky [Mr. SHERLEY] and also from the gentleman from Tennessee [Mr. GARRETT] that there are objections to its consideration on this calendar which are insuperable. So I am willing that it go back on the calendar, where it can be fought out.

Mr. MOORE of Pennsylvania. Will the gentleman from Georgia [Mr. BARTLETT] reserve his objection for one moment, so that I may ask him one question?

Mr. BARTLETT. I am perfectly willing to reserve my objection.

Mr. MOORE of Pennsylvania. I want to know if the gentleman's objection is based on the ground that Congress has no power to grant this sort of a charter?

Mr. BARTLETT. Yes; that is one of the objections which I have to offer.

Mr. BUCHANAN. Mr. Speaker, I ask for the regular order.

VETERINARY SERVICE, UNITED STATES ARMY.

The SPEAKER pro tempore. The Clerk will report the next bill.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 16843) to consolidate the veterinary service, United States Army, and to increase its efficiency.

Mr. HAY. Mr. Speaker, I ask unanimous consent that the substitute reported by the Committee on Military Affairs may be read instead of the original bill.

The SPEAKER pro tempore. Is there objection to the reading of the substitute, as requested by the gentleman from Virginia [Mr. HAY]?

There was no objection.

The substitute was read, as follows:

Be it enacted, etc., That the President is hereby authorized, by and with the advice and consent of the Senate, to appoint veterinarians and assistant veterinarians in the Army, not to exceed 2 such officers for each regiment of Cavalry and Field Artillery, 15 as inspectors of horses and mules and as veterinarians in the Quartermaster's Department, and 5 as inspectors of meats for the Subsistence Department, not to exceed 62 in all.

SEC. 2. That hereafter a candidate for appointment as assistant veterinarian must be a citizen of the United States between the ages of 21 and 27 years, a graduate of a recognized veterinary college or university, and that he shall not be appointed until he shall have passed a satisfactory examination as to character, physical condition, general education, and professional qualifications.

SEC. 3. That an assistant veterinarian appointed under section 2 of this act shall have the rank, pay, and allowances of second lieutenant, mounted; that after five years of service an assistant veterinarian shall be promoted to the rank, pay, and allowances of first lieutenant, mounted: *Provided*, That he passes a satisfactory examination under such rules as the President may prescribe as to professional qualifications and adaptability for the mounted service; or, if found deficient, he shall be discharged from the Army with one year's pay and have no further claim on the Government.

SEC. 4. That the veterinarians of Cavalry and Field Artillery now in the Army, together with such of the veterinarians of the Quartermaster's and Subsistence Departments provided for in section 1 of this act, now employed, who at the date of the approval of this act shall have less than five years of service, be reappointed and commissioned as assistant veterinarians, with the rank, pay, and allowances of second lieutenant, mounted; that the veterinarians who have over five years of service be reappointed and commissioned as veterinarians, with the rank, pay, and allowances of first lieutenant, mounted: *Provided*, That they pass a prescribed practical professional examination and a physical examination as to fitness for mounted field service: *Provided further*, That veterinarians now in the Army and in the employ of the Quartermaster's Department and the Subsistence Department who fail to pass the prescribed physical examination, due to disability incident to the service, and who have been incapacitated from rendering satisfactory service to the Government, shall be retired from active service with 75 per cent of the pay corresponding to length of service as prescribed herein.

SEC. 5. That the Secretary of War, upon recommendation of the Quartermaster General, may appoint, for such time as their services may be required, such number of reserve veterinarians as may be necessary to attend public animals pertaining to the Quartermaster's or other departments or corps, who shall have the pay and allowances of second lieutenant, mounted, during such period of service and no longer: *Provided*, That such reserve veterinarians be graduates of a recognized veterinary college or university and have previously passed such moral, professional, and physical examination as may be deemed necessary by the Secretary of War for the proper performance of their duties in mounted field service.

SEC. 6. Candidates passing the examinations as prescribed in section 2 of this act shall be appointed, in the order of merit in which they passed such examinations, to vacancies as they occur, such appointment to be a probationary one of six months, after which time, if the services of the probationer have been satisfactory, he shall be permanently appointed, with commission antedated to embrace such probationary service. Probationary veterinarians whose services are found unsatisfactory shall be discharged at any time during the probationary period, or at the end thereof, without further claim against the Government.

SEC. 7. That the Secretary of War is authorized to appoint a board of examiners to conduct the examinations prescribed herein, one member of which shall be a field officer, one a surgeon, and two veterinarians.

SEC. 8. That all laws or parts of laws in conflict with the provisions of this act be, and are hereby, repealed.

The SPEAKER pro tempore. Is there objection to the present consideration of the substitute?

Mr. FOWLER. Mr. Speaker, reserving the right to object, I desire to inquire of the chairman of the committee in charge of this bill if there are not now a set of horse doctors in connection with the Army who go everywhere the Army goes?

Mr. HAY. I will state to the gentleman from Illinois that there are now veterinarians in the Army, but they occupy a position which does not give them opportunity to properly take care of the animals under their charge. And I would say to my friend from Illinois that the profession of veterinary surgery is one which has increased in importance and ability, and that veterinary surgeons are now men of excellent education and broad ideas, and the limitations of the service are such that the best veterinarians can not now be obtained for the Army, and will not be obtained, unless something is done in order to give them some standing in the Army. That is the purpose of this bill.

Mr. FOWLER. But these gentlemen are paid a salary now, are they not?

Mr. HAY. They are; yes. They are paid a salary, and those attached to the Cavalry and Field Artillery are placed on the retired list after a certain length of service.

Mr. FOWLER. What salary do they get now?

Mr. HAY. They get the salary of second lieutenant, $1,700 a year, with increase of pay for every five years which they serve.

Mr. FOWLER. And they are retired at what age on what salary?

Mr. HAY. Sixty-four years; or sooner, if they have incurred any physical disability in the line of duty.

Mr. FOWLER. And at what salary are they retired?

Mr. HAY. At three-fourths of the pay they are receiving when retired.

Mr. FOWLER. Will this bill increase the salary of these doctors?

Mr. HAY. It will increase the cost of this service $31,376 per annum.

Mr. FOWLER. Will it increase the salary? Does it provide for an increase of salary?

Mr. HAY. Exactly. That is what I said. It increases the combined salaries of all the veterinarians included in this bill by $31,376 per annum.

Mr. FOWLER. There are no wars now in the United States or elsewhere, where the United States Army is called, and why should we have an increase in time of peace?

Mr. HAY. We are not increasing the number of veterinarians. It is not a war measure. If we had a war we would probably ask for a great many more veterinarians, and a great many more would have to be provided. This bill is intended to increase the efficiency of the veterinary service of the Army.

Mr. FOWLER. Is it not true that the salary is sufficient now to get the best horse doctors that can be had?

Mr. HAY. It is not a matter of salary so much as the fact that these men have not the status in the Army which gives them authority to carry out what they believe to be the best plans for the care of the animals which come under their charge.

Mr. FOWLER. Then, why increase the salary if you can get good men for the salary now paid?

Mr. HAY. I have just said that you could not get the best men in the veterinary profession on account of the fact that they have not the standing in the Army that they ought to have—the standing that the dental surgeons have.

Mr. FOWLER. Have any gentlemen declined these positions when tendered to them that the gentleman knows of?

Mr. HAY. These positions are not tendered to them, so far as I know. That is not the way they are given out. The Government does not go around and ask people to take those positions.

Mr. FOWLER. How does a man get the position if it is not tendered to him?

Mr. HAY. He applies for it just as the gentleman himself applies to his constituents when he asks that he be sent to Congress.

Mr. FOWLER. They usually get what they want, don't they?

Mr. HAY. Not always. I will say to the gentleman further, that this measure has been pending for many years, and has been recommended by the War Department as essential for the proper development of this service.

Mr. FOWLER. Does the gentleman really think it is necessary that this bill should pass?

Mr. HAY. I do; otherwise I would not be trying to get it passed.

Mr. FOWLER. Does the gentleman think it would better prepare the United States Army for battle and the preservation of mules and horses?

Mr. HAY. I do; that is, it would prepare the animals used by the United States Army for battle; yes. I think it will save as much or more by the more expert treatment that animals would be given than the increase of salary will place upon the Government.

Mr. FOWLER. Well, it has been reported that the United States has lost a good many mules recently, because of the inefficiency of the veterinarians who have been in charge of this department of the Army. Now, is that true? Has the gentleman any information upon that question?

Mr. HAY. I have information which appears in the hearings had before the Committee on Military Affairs, to the effect that the veterinarians who are now in the Army are unable to have their commands or orders carried out in respect to the treatment of the horses and mules under their control. Having no status as officers, they are not able to get the men to carry out their orders.

Mr. FOWLER. Does the gentleman really think that if this bill should pass it will save the United States more money in the way of saving the lives of mules and horses than the increase of salary that is proposed by the bill?

Mr. HAY. Well, I could not guarantee that, but I believe that it will have that effect. I believe that the service will be so much improved that the animals will be better taken care of, and fewer of the animals will be lost on account of neglect than are lost now.

Mr. FOWLER. Then, Mr. Speaker, on the assurance of the gentleman of the improvement in the service and the great saving of life among mules and horses, I desire to withdraw my objection.

Mr. DIFENDERFER. You should include in that improvement along the line of human beings also.

Mr. MONDELL. Mr. Speaker, I reserve the right to object. I want to call the attention of the Chair to line 12, page 6, that part of the bill which provides for the retirement of veterinarians now in the service who fail to pass the prescribed physical examination, where their failure to pass the physical examination is due to disability incident to the service. Is that the term ordinarily used to warrant retirement with three-fourths pay—"incident to the service"?

Mr. HAY. Yes.

Mr. MONDELL. Not "disability incurred in the service"?

Mr. HAY. Incident to it, I understand.

Mr. MONDELL. There is a great deal of difference between a disability incurred in the service and a disability that might be incident to the service. As a matter of fact, that term might have a very wide application.

Mr. HAY. I understand that in order to obtain retirement for disability, that disability must be brought about incident to the service; that is, it must have happened in the service and must have happened from something which was being done by the person while in the service.

Mr. MONDELL. Is that the language you ordinarily employ in that connection? Is not the provision generally "disability incurred in the service and in line of duty"?

Mr. HAY. I do not think the word is "incurred," but if that suits the gentleman better I shall be very glad to amend the bill.

Mr. MONDELL. I have a very high regard for the members of the Military Committee and for its chairman and for their knowledge of military affairs. If this is the usual term used in cases of this sort, I shall not suggest any change; but my recollection was that ordinarily other language was used, and that the right to receive retired pay based on disability applied only in cases where that disability was incurred in the service and in the line of duty. The term "incident to the service" is a very broad one. If it is the term employed generally in military affairs, I shall not object.

Mr. HAY. I think that is the usual word, but I will offer an amendment at the proper time, using the word "incurred."

Mr. McLAUGHLIN. In the line of duty.

Mr. HAY. In the line of duty.

Mr. MONDELL. "Incurred in the service and in the line of duty" I think is the term more frequently used.

Mr. HAY. I do not know that there is any special term used, but if the gentleman thinks that will safeguard it more than the language used in the bill——

Mr. MONDELL. I think it would rather limit it.

Mr. HAY. I will offer it when it is reached, because I want to safeguard that as much as the gentleman does.

Mr. MONDELL. I realize that. This provides for certain classes of veterinarians who are to have the pay and allowances of certain officers mounted. It does not provide for any officials of high rank. Does the chairman of the Military Committee think the passage of this legislation would not lead to the introduction and the pressing of other legislation asking for the appointment of a number of officers of high rank at the head of this new organization.

Mr. HAY. I will state to the gentleman that this is not a staff organization at all. These veterinarians are to be attached to the Cavalry and Field Artillery, and 20 of them are to be

used as inspectors of meats, and so forth, in the Quartermaster Corps, and there is no staff about it. There is no bureau proposed or anything of that kind. The bill as originally introduced provided for that, but the committee were careful to eliminate everything of that sort from the bill.

Mr. MONDELL. I did not have time to read the original bill, and I am glad to have the information from the chairman that the bill as originally introduced provided for just what I have suggested.

Mr. CANNON. Did it provide for major generals?.

Mr. MONDELL. Is not this what will happen? The committee have not recommended what the advocates of this legislation have been endeavoring for 20 years to obtain, namely, legislation to give veterinarians actual military rank and hence added dignity and social advancement; to put shoulder straps on them so that when you salute a captain you will not know whether he received his shoulder straps for heroic action in a charge or by curing a corn on the foot of the charger of the colonel of the regiment. The committee have eliminated some of the fuss and feathers which the gentlemen who have long advocated something of this sort have proposed; but you have laid the foundation for it. Now, will it not be urged in the near future that the foundation has been laid for it, and that the further legislation ought to be enacted? The report of the committee quotes approvingly from monarchical military customs.

Mr. HAY. I do not think the report quotes that approvingly. It simply shows what has been done in other armies.

Mr. MONDELL. I realize that. We are now about to take the first step, and it is inevitable——

Mr. HAY. I can state a case in point. The gentleman from Wyoming was on the Committee on Military Affairs for a good many years, and knows that there was an effort made for some years before it was put into effect to establish a Dental Corps in the Army. That bill providing for a Dental Corps passed eight or nine years ago, and that Dental Corps has never developed into anything except what it was in the first place. Members of that corps—I call it a corps, but it is not, because they are distributed to different posts throughout this country, Hawaii, and the Philippines—the same objection was made then to giving these dental surgeons rank as the gentleman now makes to giving the veterinarians rank. The Dental Corps has not received anything more than they had at the beginning, except, I believe, that they have the rank and pay of a first lieutenant. I do not believe that the enactment of this law will be followed by any effort on the part of these men to have themselves increased in rank, or to have a bureau in the War Department for veterinary surgeons.

Mr. MONDELL. The gentleman from Virginia, with his wide knowledge and experience in military affairs, does not think that this is a step which is very likely to lead to the other step, which I assume he does not approve of—establishing a corps or bureau, or whatever you call it, with a lot of high offices?

Mr. HAY. I do not. I will say to my friend, who knows as much about military affairs as I do and is much more familiar with the Army than I am, that this bill stands on its own merits. The purpose of it is to give to veterinarians some authority by which they can discharge more efficiently the duties which they have to perform in the Army. Now, if they come in the future and ask for more rank or to have a bureau, or anything of that kind, let the Congress at that time, whenever it may occur, take care of that situation. I do not believe that we ought to defeat a meritorious bill because possibly at some future time somebody may ask for more than we now think they ought to have.

Mr. TILSON. May I interrupt the gentleman?

Mr. HAY. Certainly.

Mr. TILSON. Could we not obviate that, or the tendency in that direction, by now placing these veterinarians in the Medical Corps, as we did in the case of the dental surgeons? If we leave them as they are in this bill, we leave them orphans, as far as the Army is concerned.

Mr. HAY. The bill provides that there shall be two veterinarians in each regiment of Cavalry and each regiment of Field Artillery, and besides that 20 veterinarians attached to the Quartermaster Corps. These 20 veterinarians would come under the Chief of the Quartermaster Corps, and could not by any possibility be construed into having the status of a corps or a bureau. I hope my friend from Wyoming will realize the importance of this measure. Personally it is nothing to me. I am only advocating it because I believe it is for the interest of the Army and for the service that these men should be given what this bill provides for.

Mr. MONDELL. Does the gentleman recall offhand the increase of pay per man this bill provides for?

Mr. HAY. The whole increase would be $31,376 a year. Some of them would be paid as first lieutenants and some as second lieutenants, while all are now paid as second lieutenants.

Mr. MONDELL. Are they paid as second lieutenants mounted?

Mr. HAY. There is no difference under the law now between the pay of a lieutenant mounted and unmounted.

Mr. MONDELL. I am not disposed to object to the bill. I have, I believe, objected to the consideration by unanimous consent of but one bill in my service here. I should, however, object to the consideration of the bill if I thought that this was legislation leading to the creation of a bureau or of a corps with high officials and independent status. If it is simply a measure to increase the efficiency, and if it is necessary to increase the efficiency of the veterinaries, I have no objection to it. I am in favor of any act that will increase efficiency.

Mr. HAY. That is the purpose of it.

Mr. MONDELL. One more suggestion. I certainly would object to the passage of the bill without full consideration if I thought there was any probability that when the bill came before the House it would contain the very objectionable features to which I have referred, with a good deal of influence behind it.

Mr. HAY. So far as I am concerned, the bill will not again come before the House containing the objectionable features to which he has referred. The bill reported from the Military Committee shows that the committee was opposed to creating a corps or bureau.

Mr. MONDELL. Emphatically?

Mr. HAY. Emphatically.

Mr. MONDELL. Unanimously?

Mr. HAY. Unanimously, as far as I know, and the only purpose of the bill was to give these people authority over the men they have to control and for the purpose of making a career for these veterinarians who go into the Army. The best veterinarians will not go into the Army. You can not get them into the Army under the present conditions.

Mr. TILSON. Mr. Chairman, will the gentleman yield?

Mr. HAY. Certainly.

Mr. TILSON. Would the chairman of the committee object to making an amendment placing these veterinarians in the Medical Corps, and if so, what would the objection be?

Mr. HAY. I would object to that, because the veterinarians deal with the animals of the Army, and the Chief of the Quartermaster Corps has control of a very large number of those animals and he ought to have some of these veterinarians at his command. The other veterinarians—those attached to the Cavalry and the Field Artillery—would be under the control of the commanding officer of the regiment to which they may be attached, and I see no reason why we should put these under the Medical Corps.

Mr. TILSON. Does the gentleman propose to add them as additional staff officers on the staff of the colonel, for instance?

Mr. HAY. Not at all. They are simply attached as veterinarians, as the bill provides.

Mr. TILSON. Why would it not be better to put them in the Medical Corps and then assign them as the surgeons are assigned to the various regiments?

Mr. HAY. That matter was gone over fully in the committee, as the gentleman will recall, and the committee thought it would be unwise to do that.

Mr. MOORE of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. HAY. Certainly.

Mr. MOORE of Pennsylvania. The effect of the passage of this bill will be to give a military status to the veterinarians?

Mr. HAY. Yes.

Mr. MOORE of Pennsylvania. Just as it has been given to the dentists?

Mr. HAY. Yes.

Mr. MOORE of Pennsylvania. The gentleman knows that sooner or later we may be confronted with the question of civil-service pensions, and that the subject is being very much agitated throughout the country to-day, especially in the Federal departments.

Mr. HAY. I do not see what this has to do with civil pensions.

Mr. MOORE of Pennsylvania. I am going to ask the gentleman a question. I am in sympathy with the spirit of this bill if it gives veterinarians a military status, which I understand it does.

Mr. HAY. Yes.

Mr. MOORE of Pennsylvania. But, following up the question of the gentleman from Wyoming [Mr. MONDELL] with regard

to the language of the bill on page 6, where reference is made to disability incident to service, I would like to ask the gentleman how he interprets this line:

And who have been incapacitated from rendering satisfactory service to the Government.

Suppose one of these veterinarians should become insane?

Mr. HAY. He would be treated just like any other Army officer is treated when he becomes insane while in the service.

Mr. MOORE of Pennsylvania. But suppose while not in the service he should become insane or otherwise incapacitated?

Mr. HAY. If he is not in the service he would have no status.

Mr. MOORE of Pennsylvania. He would not have a retirement status?

Mr. HAY. No. I will say to the gentleman that veterinarians have retired pay now. They have the privilege now of being put upon the retired list.

Mr. MOORE of Pennsylvania. I understand. I am for the bill, but I wanted to know whether we were introducing any new language here, language different from that used in the bill, which provides retirement for these dental surgeons, for instance?

Mr. HAY. Not at all.

Mr. MOORE of Pennsylvania. There is no change in the language?

Mr. HAY. No.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. This bill is on the Union Calendar.

Mr. HAY. Mr. Speaker, I ask unanimous consent that the bill may be considered in the House as in Committee of the Whole.

Mr. MANN. I think we ought to go into committee on this bill.

Mr. HAY. Very well. I withdraw the request.

On motion of Mr. HAY the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 16843) to consolidate the veterinary service, United States Army, and to increase its efficiency, with Mr. CLARK of Florida in the chair.

The Clerk read as follows:

A bill (H. R. 16843) to consolidate the veterinary service, United States Army, and to increase its efficiency.

Mr. HAY. Mr. Chairman, I ask unanimous consent for the reading of the substitute offered by the committee.

Mr. MANN. That has already been read. I suggest that the gentleman ask unanimous consent to dispense with the first reading of it, as it has already been read.

Mr. HAY. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. HAY. Mr. Chairman, I do not care to make any remarks, and I would like to have the bill read for amendment unless somebody desires to ask some questions.

Mr. MANN. Mr. Chairman, just a moment. I notice in reference to that language in the bill on page 6:

That veterinarians now in the Army and in the employ of the Quartermaster's Department and the Subsistence Department who fail to pass the prescribed physical examination, due to disability incident to the service, and who have been incapacitated from rendering satisfactory service to the Government, shall be retired, etc.

I would like to ask, first, whether that is a proper description of the existing departments, Quartermaster's Department——

Mr. HAY. No; I am going to offer an amendment to change that.

Mr. MANN. That is what I supposed. I have before me the bill H. R. 23627, reported from the gentleman's committee, that is in reference to examination of line officers and medical officers, where I think in this language probably no change is made in the main. This is in relation to line officers below the rank of major:

If the officer fails in the physical examination and is found incapacitated for service by reason of physical disability contracted in the line of duty.

That language is used twice in reference to line officers, and in the section of the bill in reference to the Medical Corps is the language:

But if he is found disqualified by reason of physical disability incurred in the line of duty.

I take it the intention is to put either of those officers, as far as that is concerned, on the same footing?

Mr. HAY. Yes. I will have no objection to agreeing to an amendment and using that language. Now, I will say to the gentleman that the language—

And who have been incapacitated from rendering satisfactory service to the Government—

applies, as I understand it, to three veterinarians attached to the Quartermaster Corps and now in the service who are over 70 years of age, and who have been veterinarians for over 40 years, and that language was placed there for the purpose of taking care of those men.

Mr. MANN. I have no objection to the language remaining in so far as I am concerned, because I do not pretend to be an expert in reference to such matters; but, recalling the language in the other bill, I looked it up. What provision is there in this bill for not retiring these officers, but dismissing them?

Mr. HAY. Well, any officer of the Army can be dismissed who has been guilty of any——

Mr. MANN. I mean for lack——

Mr. HAY. You can not dismiss an officer of the Army except by court-martial.

Mr. MANN. Oh, an officer of the Army who does not pass the examination is dismissed.

Mr. HAY. Oh, yes. The gentleman means the provision of law which provides that when an officer is sent up for promotion and fails to pass the examination he is discharged, with one year's pay.

Mr. MANN. Yes; the man must be able to pass the examination or he is dismissed.

Mr. HAY. With one year's pay. Now, that is a general provision of law.

Mr. MANN. Well, the gentleman may say discharged; I should say he is dismissed from the Army.

Mr. HAY. He is discharged, but the effect is the same. That law is the general law which applies to all officers of the Army——

Mr. MANN. I do not know whether this would.

Mr. HAY. Who are brought up for promotion.

Mr. MANN. There is a separate provision of law for the Medical Corps.

Mr. HAY. Yes; that is the only exception I know of.

Mr. MANN. Well, that might apply possibly to these officers; and if so, then there is no use of putting that provision in the bill in reference to men who do not pass the physical examination, because that is in the existing law.

Mr. HAY. If the gentleman will look on page 5, section 3, he will see the language of the proviso; that is when he comes up for promotion to first lieutenant:

Provided, That he passes a satisfactory examination under such rules as the President may prescribe as to professional qualifications and adaptability for the mounted service; or, if found deficient, he shall be discharged from the Army with one year's pay and have no further claim on the Government.

Mr. MANN. Yes; but that does not cover what I am asking about. Suppose he can not pass a physical examination?

Mr. HAY. Then he can not get in.

Mr. MANN. He is already in, and he comes up for promotion. Suppose he can not pass a physical examination because of disability not incurred in the line of duty?

Mr. BUTLER. He is dismissed.

Mr. MANN. There is no provision here to do it. That is what I am trying to find out. The only provision I find in the bill—and I will be glad to be corrected if I am wrong—is if he can not pass an examination because of the service, then he shall be retired. Suppose he can not pass an examination because of other disabilities?

Mr. HAY. That only applies to veterinarians now in the Army. It does not apply to those who are to come in hereafter.

Mr. SLAYDEN. Mr. Speaker, as I understand it, any officer in the Army—and these men will become officers if this bill becomes a law—who is found physically disqualified for continuing in the service is retired.

Mr. MANN. Not at all.

Mr. SLAYDEN. Any Army officer?

Mr. MANN. No, sir; it must be physical disability incurred in the line of duty.

Mr. SLAYDEN. The presumption is——

Mr. MANN. There is no presumption in the law or in the fact.

Mr. SLAYDEN. As a matter of fact, all officers in the Army are examined for physical fitness when they go in, are they not? And when it comes to promotion, if they are found physically unfit, they are discharged?

Mr. HAY. They are not always discharged. They are retired with pay.

Mr. SLAYDEN. I have known it to happen.

Mr. KAHN. There was a provision in the last appropriation bill which holds up their pay if they are suffering from disabilities not incurred in the line of duty.

Mr. SLAYDEN. That is vicious.

Mr. HAY. I am calling the attention of the gentleman from Illinois [Mr. MANN] to the fact that this bill provides that ex-

aminations shall be prescribed by the Secretary of War or the President—I do not recall which now—and, of course, the physical part of the examination is just as much to be required as the mental part of the examination, and section 2 of the bill provides that they shall not be appointed unless they shall have passed a satisfactory examination as to character, physical condition, general education, and professional qualification.

Mr. MANN. I see no way under the bill, I will say to the gentleman, of getting an officer out of the Army under this provision if he is a veterinary officer for physical disability now incurred in line of duty or incident to the service.

Mr. HAY. I will say to the gentleman that when we reach that section, on line 16, after the word "satisfactory," I will offer an amendment inserting the words "mental and physical." It will then read:

Provided, That he passes a satisfactory mental and physical examination.

Mr. MANN. Let me ask the gentleman one more question. There is a provision, on page 6, in section 4, which refers to veterinarians now in the Army, and so forth, who have failed to pass the prescribed physical examination. I suppose the purpose of that is to apply only to the first physical examination?

Mr. HAY. Yes.

Mr. MANN. That is not intended to apply either to the physical examination taken 20 years from now of some young officer?

Mr. HAY. You will observe that section 4 provides that the veterinarians of the Cavalry and Field Artillery and the others now employed who at the date of the approval of this act shall have less than five years' service shall be reappointed and commissioned as assistant veterinarians, with the rank, pay, and allowances of second lieutenant, mounted; and that veterinarians who have over five years of service shall be reappointed and commissioned as veterinarians with the rank, pay, and allowances of first lieutenant, mounted. So that all these men now in the Army when they come up for examination will have to stand a physical examination; and by amending section 3, as I suggested to the gentleman a moment ago, it would apply to the men in the Army who go in as second lieutenants and who come up afterwards for promotion to first lieutenancies.

Mr. MANN. This section now applies to those who go into the service under the provisions of this bill?

Mr. HAY. And getting rid of all men now unfit for duty who are now in the service. There are three over 70 years of age.

Mr. MANN. I take it, then, that the language is well advised, and should not refer to disability incurred in the line of duty.

Mr. HAY. It only applies to the men who are now in the Army.

Mr. MANN. Who have been in 40 years?

Mr. HAY. Only as veterinarians.

Mr. MANN. And does not refer to the three actual cases?

Mr. HAY. They are taken care of under the language:

And who have been incapacitated from rendering actual service to the Government.

The gentleman's colleague, Mr. FOWLER, wanted to ask me a question, I believe.

Mr. MANN. Go ahead.

Mr. FOWLER. I desired to inquire as to the difference made between those who are candidates for these positions in section 2 and those who are already in the service in section 4. In section 2 the qualifications which are subject to examination are character, physical condition, general education, and professional qualifications. Now, the examination required of those who are in the service are a prescribed practical professional examination and a physical examination as to fitness for mounted field service. Why should not the examination of those who are already in the service extend to character and education?

Mr. HAY. Well, it does extend to education, because it says "a prescribed practical professional examination." But I am perfectly willing to insert the same provision as in the other section.

Mr. FOWLER. Why not the "character," also?

Mr. HAY. I say I am willing to do that.

Mr. FOWLER. All right. Now, when they are dismissed, it is on examination, beginning on line 11—

Who fail to pass the prescribed physical examination due to disability incident to the service.

Why not go further than that and get rid of those, if any, who may be incompetent because of their unfitness in character and education and in professional qualifications?

Mr. HAY. That is provided for, beginning in line 6, under that proviso, "That they pass a prescribed practical professional examination and a physical examination as to fitness for mounted field service." Now, if the gentleman desires to insert the word "character," I would be willing to do that.

Mr. FOWLER. "Education and character."

Mr. HAY. Yes.

Mr. FOWLER. Then there seems to be no way to get rid of those men unless they are deficient through disability incurred in the regular line of military service.

Mr. HAY. And unfit professionally.

Mr. FOWLER. I do not get that meaning from the reading. It says:

Provided further, That veterinarians now in the Army and in the employ of the Quartermaster's Department and the Subsistence Department who fail to pass the prescribed physical examination due to disability incident to the service, and who have been incapacitated from rendering satisfactory service to the Government, shall be retired from active service with 75 per cent of the pay corresponding to length of service as prescribed herein.

I do not quite see that the bill is specific enough to get rid of those who might be deficient otherwise than through disability contracted in the regular line of military duty.

Mr. HAY. They would have to pass a professional examination as well as a physical examination in order to get in as second lieutenants or first lieutenants, either one. But if the gentleman desires it, when we reach that section under the five minute rule, I would be very glad to consider any amendment that the gentleman might think would cure what he thinks ought to be cured.

Mr. FOWLER. Now, if I understand this section, it deals with promoting those of the grade of second lieutenant to the rank of first lieutenant, and if the men really are not efficient the bill would leave those who are in now in the rank of second lieutenant without any provision for retirement if they are incompetent.

Mr. HAY. Some of them would be second lieutenants and some would be first lieutenants.

Mr. FOWLER. And there is no way to get rid of them if they are incompetent otherwise.

Mr. HAY. Oh, yes. If they can not pass a proper professional and physical examination they will be gotten rid of.

Mr. FOWLER. But they will be promoted to first lieutenants if they do pass the examination provided in section 4.

Mr. HAY. Those who served five years will be promoted. Those who served under five years will be given only the rank of second lieutenant.

Mr. FOWLER. I do not quite see where you have authority to get rid of those who might not be competent—not saying that any of them are—except those who have incurred a disability in the regular line of duty.

Mr. HAY. Except that they can not be appointed to these positions unless they pass a prescribed professional examination and a physical examination.

Mr. FOWLER. That is, to promote them to first lieutenants.

Mr. HAY. No; if they do not pass the examination they cease to be members of the Veterinary Corps.

Mr. FOWLER. It says:

That the veterinarians who have over five years of service be reappointed and commissioned as veterinarians with the rank, pay, and allowances of first lieutenant, mounted.

Mr. HAY. Yes.

Mr. FOWLER. With a proviso as to the qualifications for the examination.

Mr. HAY. Yes; if they do not pass the examination, then they will not be admitted.

Mr. FOWLER. Your bill does not say so, does it?

Mr. HAY. It says, provided they pass the prescribed professional examination.

Mr. FOWLER. Then they are to pass from the position of second lieutenant to that of first lieutenant.

Mr. HAY. No; none of them are either first or second lieutenants now. They simply draw the pay and have the allowances of a second lieutenant.

Mr. FOWLER. I understand that.

Mr. HAY. They do not occupy the rank.

Mr. FOWLER. I understand that.

Mr. HAY. Therefore if a man has served more than five years, in order that he may come in under this law and be a first lieutenant, a veterinarian must pass this prescribed physical and professional examination. If he does not pass it, he does not get any rank at all. He goes out.

Mr. FOWLER. That is, he does not get the rank of first lieutenant.

Mr. HAY. He does not get any rank.

Mr. FOWLER. The bill does not say that.

Mr. HAY. I think it does.

Mr. FOWLER. Indeed, it does not.

Mr. HAY. It says so, so far as the English language can make it say so.

Mr. FOWLER. Your provision for the examination of those who are now in only provides for examination for promotion.

Mr. HAY. Not at all.

Mr. FOWLER. But not for the examination of those who are in in the rank of second lieutenant.

Mr. HAY. They are not in the rank of second lieutenant.

Mr. FOWLER. Or who draw the pay of second lieutenant.

Mr. HAY. Getting the pay of a second lieutenant and getting the rank of a second lieutenant are two entirely different and distinct propositions. If the gentleman will read section 4 he will find that all the veterinarians who are now in the Army in order to stay in either as first or second lieutenants must pass this prescribed professional and physical examination, and if they do not pass it they go out of the Army. They have no sort of tenure now. They can be dropped now by order of the Secretary of War, just like any other civil employees.

Mr. FOWLER. I have read section 4 carefully, and I do not find any provision in section 4 for the retirement of any of the veterinarians who are not asking for promotion to the rank of first lieutenant.

Mr. HAY. It does not propose to retire anybody unless he has been disabled incident to his service in the Army, or unless by his service his health is such that he has become incapacitated to render any service. The men who are now veterinarians all of them occupy the same status. There is no difference between them.

Mr. FOWLER. Your bill provides for that.

Mr. HAY. It provides that it shall be so hereafter.

Mr. FOWLER. Here is what it provides. In section 4 it says:

SEC. 4. That the veterinarians of Cavalry and Field Artillery now in the Army, together with such of the veterinarians of the Quartermaster's and Subsistence Departments provided for in section 1 of this act, now employed, who at the date of the approval of this act shall have less than five years of service, be reappointed and commissioned as assistant veterinarians with the rank, pay, and allowances of second lieutenant, mounted.

Mr. HAY. Provided they stand the examination.

Mr. FOWLER. Now wait. There is no provision for the examination at all. It says:

That the veterinarians who have over five years of service be reappointed and commissioned as veterinarians with the rank, pay, and allowances of first lieutenant, mounted: *Provided*, That they pass a prescribed practical professional examination and a physical examination as to fitness for mounted field service.

Mr. HAY. That proviso applies both to those who are to be appointed as second lieutenants and those who are to be appointed as first lieutenants. All of them must stand this examination.

Mr. FOWLER. I do not think the bill necessarily means that.

Mr. HAY. I think it does. I do not see how it can mean anything else. The proviso applies to all of these veterinarians who are now in the service.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. LINTHICUM having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed joint resolution of the following title, in which the concurrence of the House of Representatives was requested:

S. J. Res. 147. Joint resolution appropriating the sum of $7,245 out of money appropriated by Senate joint resolution No. 129, for the payment of transportation of American refugees from points in Mexico to the American border.

The message from the Senate also announced that, in compliance with Senate concurrent resolution No. 31, December 9, 1912, the President pro tempore of the Senate had appointed Mr. CRANE, Mr. BACON, and Mr. OVERMAN members of the joint committee on the part of the Senate to make necessary arrangements for the inauguration of the President elect of the United States on the 4th day of March next.

The message also announced that the Senate had passed the following resolutions:

Resolved, That the Senate has heard with deep sensibility the announcement of the death of Hon. WILLIAM W. WEDEMEYER, late a Representative from the State of Michigan.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of esteem and respect the Senate do now adjourn.

VETERINARY SERVICE, UNITED STATES ARMY.

The committee resumed its session.

Mr. MANN. May I ask the gentleman from Virginia another question or two?

Mr. HAY. Certainly.

Mr. MANN. I understood the gentleman to say that there were now in the service three veterinarians who were over 70 years of age.

Mr. HAY. That is my information. I am not positive about that.

Mr. MANN. I understood the gentleman also to say that veterinarians now in the service were subject to retirement. In answer to a question of my colleague [Mr. FOWLER] I understood him to say that they were retired at the age of 64.

Mr. HAY. Yes.

Mr. MANN. I do not reconcile those statements.

Mr. HAY. That statement may not be altogether consistent, but my explanation of it is this: The veterinaries that are over 70 years of age are employed in the Quartermaster's or Subsistence Department, and the law which places veterinaries on the retired list will not apply to them.

Mr. SLAYDEN. Was not there an age limit of 27 fixed for admission to the Army and they were too old to get in?

Mr. HAY. I know that these three men have not now the privilege of going on the retired list, and this language in the bill was placed there for the purpose of giving them that privilege.

Mr. MANN. That is what I wanted to get at. What reason is there for covering a man into the service by this bill and immediately placing him on the retired list when it is admitted that he is not competent to perform the duties of his office? Why should not he be retired from the service entirely without pay?

Mr. HAY. The gentleman knows as well as I do that there are a great many people in the Government service——

Mr. MANN. Who want to be retired at the proper age.

Mr. HAY (continuing). Who are not able to perform the duties of their office, and they are carried on from year to year and paid the salary notwithstanding. Now, these people have served in the Army for over 40 years, as I understand it, and it is proposed by this legislation to put these three people on the retired list. That is the whole of it. I am not defending it; I do not say that it is right. If the gentleman wishes to strike it out, I am willing.

Mr. MANN. There are a great many men in the Government service who have been there for 40 years who are as much incapacitated as these gentlemen in the full performance of their duties. As for myself, I am not opposed to a civil pension list, but I am opposed to one which pays too high a rate of retired pay or a retired pension, either one. It seems to me that this is like taking any other clerks of the War Department and putting them on the retired list.

Mr. HAY. This bill provides that all the veterinarians in the Army shall stand an examination.

Mr. MANN. I hope that the gentleman from Virginia will not misunderstand me. I think this bill is a good bill. I like what the committee did in reference to the original bill, and I agree with the committee in the changes which it made from the original bill. The only thing I am calling attention to is section 4, which proposes to place on the retired list men admittedly not competent to perform their duties.

Mr. HAY. Men who would not be able to stand an examination and remain in the Army.

Mr. KAHN. Stand a physical examination.

Mr. HAY. They are now veterinarians and employed in that capacity, but if this bill becomes a law they have got to get out.

Mr. MANN. They ought to get out whether the bill becomes a law or not. If the War Department would live up to the law, probably they would get out. That is always the argument that is made whenever there is a proposition to put men on the retired list. We have certain men in the service who can not fully perform the duties of their office, and therefore it is proposed to put them on the retired list. The retired pay is three-quarters of the pay, including, I take it, longevity pay.

Mr. BUTLER. Are they able to perform the service?

Mr. KAHN. They are still performing service.

Mr. MANN. It is perfectly evident to anyone that a man over 70 years of age is not fully capable of performing the duties of a veterinary surgeon in the Army.

Mr. BUTLER. Not fully capable, but they are employed. I will agree that none of us past the age of 70 would be able to perform full duties.

Mr. MANN. Oh, a man 70 years old may have a great capacity for many things. The gentleman from Pennsylvania, if he ever gets young enough to become 70, will have the capacity to perform the work of half a dozen ordinary men.

Mr. BUTLER. I wish I could give full credit to that statement, but I know the gentleman is honest in it.

Mr. KAHN. If the gentleman from Illinois will permit, the provision here does not provide that these men shall be taken

care of if they can not pass the necessary professional examination. The assumption therefore must be that these men are thoroughly accomplished veterinarians. They may not be able to pass the physical examination because of their advanced age. There is nothing in this provision that I can see that would affect them so far as their ability as veterinarians is concerned.

Mr. MANN. It is admitted that these men are not fully capable of performing the functions of their office now.

Mr. KAHN. The provision in the bill reads as follows:

Provided further, That veterinarians now in the Army, and in the employ of the Quartermaster's Department and the Subsistence Department, who fail to pass the prescribed physical examination, due to disability incident to the service, and who have been incapacitated from rendering satisfactory service to the Government, shall be retired from active service with 75 per cent of the pay corresponding to length of service as prescribed herein.

That refers only to physical disability.

Mr. MANN. But a man may be capable of performing certain mental duties if he is physically incapacitated, though I have sometimes found that mental incapacity in various branches of the Government did not count for very much; but physical inability to get to a certain place is of considerable importance. There are men who come into this House who, if they were physically unable to get here, would not be able to perform any functions. Of course, nobody draws the line on mental capacity here.

Mr. SLAYDEN. Mr. Chairman, the gentleman from Illinois has raised a point of importance with reference to the amount of retired pay. I would like to ask the chairman of the committee a question about that. The amount of retired pay that these three men referred to would draw would be how much? Would their length of service prior to admission under the terms of this law be included in their pay?

Mr. HAY. I think so.

Mr. SLAYDEN. Would they be given 40 per cent fogy pay?

Mr. HAY. I think so.

Mr. SLAYDEN. I am inclined to think that that ought not to be the case. I do not think they should be admitted to the Army and then be permitted to draw 40 per cent fogy pay on account of service rendered before they became officers of the Army.

Mr. KAHN. That can probably be cured by an amendment.

Mr. SLAYDEN. It is a fact, is it, that they would draw 40 per cent fogy pay?

Mr. HAY. I think so.

Mr. SLAYDEN. I think that ought to be amended.

Mr. HAY. I do not see how you could discriminate between them and any other.

Mr. SLAYDEN. Because you prescribe for young men otherwise.

Mr. HAY. There is nothing said there about age except when they first come in. This provision applies to these veterinarians who are now in the Army, and not to those coming in hereafter.

Mr. SLAYDEN. Frankly I do not think they ought to be taken in when over a certain reasonable age.

Mr. HAY. It is provided that 27 shall be the age of those who shall hereafter come in.

Mr. KINDRED. Mr. Chairman, I would like to ask the gentleman from Virginia a question. Will the gentleman from Illinois yield?

Mr. MANN. Certainly.

Mr. KINDRED. Mr. Chairman, going back to line 8, page 6, to the language which the gentleman from California [Mr. KAHN] has just read, we find a provision that veterinarians now in the Army and in the employ of the Quartermaster's Department and the Subsistence Department shall be exempt from physical examination under certain conditions. Why does not that provision also apply to the veterinarians in the Artillery service and in the field service?

Mr. HAY. For the reason that the veterinarians in the Cavalry service and in the Field Artillery service have now a right of retirement, and those in the Quartermaster's Department and the Subsistence Department have not.

I will state now to the gentleman from Illinois [Mr. MANN] that it is only those veterinarians attached to the Cavalry and Field Artillery service who are entitled to be retired under the present law, and that provision in the bill on page 6, in section 4, gives the veterinarians attached to the Quartermaster's Department and the Subsistence Department the right to retirement.

Mr. MANN. I can see no reason for extending the retired list in the Army. It is extended now beyond all reason. How much does it cost?

Mr. SLAYDEN. Two million and seven or eight hundred thousand dollars.

Mr. MANN. It costs more for the retired list in the Army and Navy now than it cost a few years ago for the entire running of the Government. Because some men are now in the Army, connected with the Army, it is now proposed to retire them. There is no reason given for it. They have nothing to do with dangerous duties, and have had nothing to do with them. While the ordinary rule is as to all these other officers that if physical disability is incurred in line of duty they may be retired, this provision is that they may be retired if the disability is incident to the service, which means if they become disabled while they are in the service. As they could not have been disabled when they went into the service, it means that all of these officers in these particular branches of the Quartermaster's Department or the reorganized Quartermaster's Department shall be subject to retirement.

I reserve the balance of my time.

Mr. HAY. Mr. Chairman, unless somebody desires further time, I will ask the Clerk to read the bill for amendment.

Mr. MONDELL. Mr. Chairman——

Mr. HAY. Does the gentleman desire some time?

Mr. MONDELL. Yes; I should like some time.

Mr. HAY. How much time?

Mr. MONDELL. Oh, I do not know.

Mr. HAY. Ten minutes?

Mr. MONDELL. I should like to be recognized in my own time, if I can. Does the gentleman have time that is not consumed?

Mr. HAY. I have control of an hour, and I will yield to the gentleman any time he desires.

Mr. MONDELL. I prefer to speak in my own time.

Mr. HAY. Does the gentleman propose to advocate the bill or is he opposed to the bill?

Mr. MONDELL. I am opposed to some provisions in the bill, and I desire to discuss some provisions in the bill.

Mr. HAY. I will say to the gentleman that the gentleman from Illinois has had one hour on one side and I on the other——

Mr. MONDELL. The gentleman from Illinois has announced himself as being in favor of the bill.

Mr. HAY. I do not desire to cut the gentleman from Wyoming off, and I will yield any time he wants, but I do think there ought to be some end to the debate.

Mr. MONDELL. Oh, I think that is true.

Mr. MANN. Let us agree upon the time for closing general debate.

Mr. MONDELL. I do not know that I shall want over 15 minutes.

Mr. HAY. I yield the gentleman from Wyoming 15 minutes and reserve the balance of my time.

Mr. MONDELL. Mr. Chairman, the gentleman from Illinois [Mr. MANN] assured the chairman of the committee that he was very favorable to the provisions of the bill, and then proceeded to shoot it all full of holes and call attention to its many faults and the unfortunate character of the legislation. I doubt if it is necessary, in order to have the horses of the Army cared for in a proper way, to have the men who care for them given quasi military rank. I have a very high regard for a fighting man, for the man who volunteers to go forth in the face of danger and fight for his country and undergo hardships, toil, and privation. It is no reflection on another man who does not agree to do that that he is not put in exactly the same class; that he is not entitled to the same treatment in some respects that the other man is. We pension soldiers because they are called upon when needed to face hostile fire, to go anywhere and everywhere on the order of their superior officers without regard to the discomforts or dangers of the situation. We give them in this country considerable pay, more than they receive anywhere else, and while I think we may have overdone the matter in the matter of pay and retirement in the case of the fighting men, I think there is a very great deal of danger of overdoing the matter when we come to the civilian employees of the Army, the collateral branches of the Army. There are many civilians employed in the Army and the operation of the Army. They come and they go when they please. Their duties are not such as to compel them to face hostile fire or to undergo many of the hardships that the officer or the private soldier must at times undergo. I think there ought to be some distinction. I do not know of any reason why an employee of the Government, because he happens to draw his pay through the Secretary of War, should have all of the benefits, emoluments, rank, and pay—fogy pay and retirement—that the enlisted man or the officer of the Army has, but for the last 20 years men connected with various nonfighting branches have been insisting on being given uniforms, rank, and so forth. In other words, they have been seeking to have their status and their appearance so fixed as to rank, pay, and uniform as to make them undistinguishable to the ordinary eye from the man who is

likely to be called upon at any time to perform the most dangerous and arduous service of a soldier.

Mr. KAHN. Will the gentleman from Wyoming yield?

Mr. MONDELL. I will be glad to do so.

Mr. KAHN. Is the gentleman from Wyoming aware of the fact that Germany, Austria, France, England, and even Canada have veterinarian corps practically on all fours with the corps that is proposed to be created by this bill?

Mr. MONDELL. Well, the gentleman is well informed and usually accurate and what he says is partly true, and the fact that it is partly true only is one of the reasons why I am opposed to it. If there is anything I do not take to kindly, without being sure that it is correct and proper under our conditions, it is the patterning after the services of monarchal Europe.

Mr. KAHN. Does not the gentleman concede——

Mr. MONDELL. The fact is, however, that so far as Germany is concerned, no man is an officer unless he is a fighting man. And I admire the German idea. It is not because we do not have a high regard for these other men and believe their services are honorable, and that their profession is honorable, but they are not soldiers——

Mr. KAHN. They are called military officials.

Mr. MONDELL (continuing). They may have pay based on rank, and I suppose they try to be recognized, but they are not recognized, as officers. In England, and to a certain extent in bureaucratic France, I think, they have the system which it is proposed to inaugurate here.

Mr. KAHN. And in Austria also.

Mr. MONDELL. And they go further than this bill does. This bill is, as I suggested, the first step in that direction.

Mr. KAHN. In Germany they pass as military officers.

Mr. MANN. Will the gentleman yield for a question?

Mr. MONDELL. In just a moment. We have recently had a great deal of talk of concentration, based, of course, on the monarchical idea that you must have your troops in large cities, where grape and canister can be poured down the main streets and overawe the people and sweep them from the face of the earth if they defy the monarchical power, and as they do that in Europe there are certain gentlemen who think we ought to do it in the United States. There is no argument for it at all.

It was argued on behalf of the doctors that on certain occasions they were exposed to fire, which is very true, and no greater acts of heroism have ever been performed on the field of carnage than have been performed by surgeons in rescuing men, caring for them, dressing their wounds, and attending to them under fire. But pray tell me can you conjure up a situation in which it will be necessary for a veterinary surgeon to place himself on the firing line? It was argued in behalf of the doctors that there were times when they ought to be in position of authority, and that is true. But can the gentleman imagine a situation where a veterinary surgeon should have precedence over a line officer? I assume that it is not the gentleman's notion that the veterinary surgeons of the first-lieutenant class ought to be in a position to countermand an order to charge given by a second lieutenant on the theory that the horses have corns, ringbone, or spavin, and are not in fit condition to charge. If that is the gentleman's idea, why, of course, he can carry it out and work it out through this legislation.

Now, the veterinary surgeon is as good a citizen as anybody. But he is not a fighting man, and, therefore, I am not now and never shall be in favor of any legislation the object of which or the tendency of which is to wipe out the line between the fighting men of the Military Establishment and the civil forces connected with it.

The gentleman from Illinois [Mr. MANN] is favorable to a civil pension. My sympathies all incline me that way. My judgment so far has been rather against it, but if a veterinary surgeon in the Army should be retired with two-thirds pay, why should not a veterinary surgeon in connection with the Reclamation Service, or other Government works here, there, and elsewhere, be retired on such pay? Why should not other employees doing equally meritorious service be retired in the same way? If we are to retire these men, we ought not to retire them in the way provided in this bill and give some of them the benefit of years of service that they never had. While I would like very much to follow the Military Committee, and generally have great confidence in its judgment, I do not believe veterinary service connected with the United States Army requires such legislation as this.

The CHAIRMAN. The time of the gentleman has expired. Without objection, the Clerk will read the bill for amendment.

The Clerk read as follows:

That the President is hereby authorized, by and with the advice and consent of the Senate, to appoint veterinarians and assistant veterinarians in the Army, not to exceed 2 such officers for each regiment of Cavalry and Field Artillery, 15 as inspectors of horses and mules and as veterinarians in the Quartermaster's Department, and 5 as inspectors of meats for the Subsistence Department, not to exceed 62 in all.

Mr. HAY. Mr. Chairman, on line 25, page 4, I move to strike out the word "fifteen" and insert the word "twenty."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Virginia [Mr. HAY].

The Clerk read as follows:

Amend, page 4, line 25, by striking out the word "fifteen" and inserting in lieu thereof the word "twenty."

Mr. HAY. I am going to follow that by offering an amendment also to strike out, in lines 1 and 2, page 5, the words "and five as inspectors of meats for the Subsistence Department." The reason I do that is because the two departments have been consolidated, and under the consolidation the two departments now form the Quartermaster Corps. I will follow that up and move to strike out, in line 1, page 5, the words "Quartermaster's Department" and insert "Quartermaster Corps."

The CHAIRMAN. The question is on agreeing to the first amendment just offered by the gentleman from Virginia [Mr. HAY].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read the next amendment.

The Clerk read as follows:

Amend, page 5, line 1, by striking out the word "five" and inserting the word "six."

Mr. HAY. No. Strike out, in line 1, page 5, first the words "Quartermaster's Department" and insert the words "Quartermaster Corps."

The Clerk read as follows:

Amend, page 5, line 1, by striking out the words "Quartermaster's Department."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HAY. And also on page 5, lines 1 and 2, strike out the words "and five as inspectors of meats for the Subsistence Department."

The CHAIRMAN. The Clerk will report the next amendment offered by the gentleman from Virginia [Mr. HAY].

The Clerk read as follows:

Amend, page 5, lines 1 and 2, by striking out the words "and five as inspectors of meats for the Subsistence Department."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HAY. Now, Mr. Chairman, let the Clerk read the section as it will read when amended.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

That the President is hereby authorized, by and with the advice and consent of the Senate, to appoint veterinarians and assistant veterinarians in the Army, not to exceed two such officers for each regiment of Cavalry and Field Artillery, 20 as inspectors of horses and mules and as veterinarians in the Quartermaster Corps Department, and 5 as inspectors of meats for the Subsistence Department, not to exceed 62 in all.

Mr. HAY. "Five inspectors of meats for the Subsistence Department" should be stricken out.

Mr. TILSON. Mr. Chairman, I suggest to the chairman of the Committee on Military Affairs the propriety of striking out also the words "as inspectors of horses and mules," so that it will read, "20 as veterinarians in the Quartermaster Corps," so that the chief of the Quartermaster Corps may use those veterinarians either as inspectors of horses and mules or as inspectors of meats, as he may choose. As the chairman has left the provision, they would all be inspectors of meats.

Mr. HAY. I accept that amendment. Strike out "inspectors of horses and mules and as."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Connecticut [Mr. TILSON].

The Clerk read as follows:

Amend, page 4, line 25, by striking out the words "as inspectors of horses and mules and as."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MANN. Mr. Chairman, the gentleman does not want to strike out the word "as."

Mr. HAY. So that it will read, "Twenty veterinarians in the Quartermaster Corps."

Mr. MANN. "Twenty as veterinarians in the Quartermaster Corps."

Mr. TILSON. Should not the word "as" be kept in?

Mr. TOWNSEND. The President is authorized to appoint them as veterinarians in the Quartermaster Corps.

Mr. TILSON. Under the amended language there is just as much reason to keep in the word "as" as before.

Mr. HAY. No. We are now fixing the number of veterinarians in the Quartermaster Corps, and we say "20 veterinarians in the Quartermaster Corps."

Mr. MANN. How many will be appointed under the provision "not to exceed two for each regiment of Cavalry and Field Artillery"?

Mr. HAY. Well, there are 15 regiments of Cavalry and 6 regiments of Field Artillery. That would be 40.

Mr. MANN. There ought to be some word in there to make good sense. It ought to read:

And 20 veterinarians in the Quartermaster Corps—

If those are different from the others.

Mr. HAY. Put in the word "and" before the word "twenty," so that it will read:

And 20 veterinarians in the Quartermaster Corps, not to exceed 62 in all.

Mr. MANN. Yes.

Mr. HAY. I move to amend, in line 25, by inserting the word "and" before the word "twenty."

The Clerk read as follows:

In line 25, before the word "twenty" and after the word "Artillery," insert the word "and."

The amendment was agreed to.

Mr. HAY. Now, if the Clerk will read the section as amended, I will be much obliged to him.

The Clerk read as follows:

That the President is hereby authorized, by and with the advice and consent of the Senate, to appoint veterinarians and assistant veterinarians in the Army, not to exceed 2 such officers for each regiment of Cavalry and Field Artillery, and 20 veterinarians in the Quartermaster Corps, not to exceed 62 in all.

Mr. HAY. That is all right.

The Clerk read as follows:

SEC. 3. That an assistant veterinarian appointed under section 2 of this act shall have the rank, pay, and allowances of second lieutenant, mounted; that after five years of service an assistant veterinarian shall be promoted to the rank, pay, and allowances of first lieutenant, mounted: *Provided*, That he passes a satisfactory examination under such rules as the President may prescribe as to professional qualifications and adaptability for the mounted service; or, if found deficient, he shall be discharged from the Army with one year's pay and have no further claim on the Government.

Mr. TILSON. I move to strike out the last word, for the purpose of asking the chairman of the committee if it would not be better to strike out the word "mounted" where it appears, as the distinction in pay between mounted and dismounted service has been done away with.

Mr. HAY. I have no objection.

Mr. TILSON. Then, Mr. Chairman, I move that in line 13, page 5, after the word "lieutenant," the word "mounted" be stricken out, and in line 15, after the word "lieutenant," the word "mounted" be stricken out.

The Clerk read as follows:

On page 5, in line 13, strike out the word "mounted" after the word "lieutenant," and on page 5, in line 15, strike out the word "mounted" after the word "lieutenant."

Mr. TILSON. That includes the comma and the word "mounted" in both cases.

The amendment was agreed to.

Mr. HAY. Mr. Chairman, I move to amend, in line 16, page 5, after the word "satisfactory," by inserting the words "mental and physical."

The Clerk read as follows:

Amend, page 5, line 16, by adding after the word "satisfactory" the words "mental and physical."

The amendment was agreed to.

The Clerk read as follows:

SEC. 4. That the veterinarians of Cavalry and Field Artillery now in the Army, together with such of the veterinarians of the Quartermaster's and Subsistence Departments provided for in section 1 of this act, now employed, who at the date of the approval of this act shall have less than five years of service, be reappointed and commissioned as assistant veterinarians with the rank, pay, and allowances of second lieutenant, mounted; that the veterinarians who have over five years of service be reappointed and commissioned as veterinarians with the rank, pay, and allowances of first lieutenant, mounted: *Provided*, That they pass a prescribed practical professional examination and a physical examination as to fitness for mounted field service: *Provided further*, That veterinarians now in the Army, and in the employ of the Quartermaster's Department and the Subsistence Department, who fail to pass the prescribed physical examination, due to disability incident to the service, and who have been incapacitated from rendering satisfactory service to the Government, shall be retired from active service with 75 per cent of the pay corresponding to length of service as prescribed herein.

Mr. TILSON. Mr. Chairman, I move to amend in line 23, page 5, by striking out the words "Quartermaster's and Subsistence Departments" and in inserting in lieu thereof the words "Quartermaster Corps."

The Clerk read as follows:

Amend, page 5, line 23, by striking out the words "Quartermaster's and Subsistence Departments" and inserting in lieu thereof the words "Quartermaster Corps."

The amendment was agreed to.

Mr. TILSON. In line 3, on page 6, I move to strike out the comma after the word "lieutenant," and the word "mounted."

The Clerk read as follows:

Page 6, line 3, after the word "lieutenant" strike out the comma and the word "mounted."

The amendment was agreed to.

Mr. TILSON. I move the same amendment in line 6, page 6.

The Clerk read as follows:

Page 6, line 6, strike out the comma after the word "lieutenant" and strike out the word "mounted."

The amendment was agreed to.

Mr. TILSON. Mr. Chairman, I move the amendment which I send to the Clerk's desk.

The Clerk read as follows:

In lines 10 and 11, page 6, strike out the words "Quartermaster's Department and the Subsistence Department" and insert in lieu thereof the words "Quartermaster Corps.

The amendment was agreed to.

Mr. HAY. I move to strike out the proviso beginning in line 8.

The Clerk read as follows:

Amend by striking out all of section 4 after the word "service" in line 8, page 6.

The amendment was agreed to.

The Clerk read as follows:

SEC. 5. That the Secretary of War, upon recommendation of the Quartermaster General, may appoint, for such time as their services may be required, such number of reserve veterinarians as may be necessary to attend public animals pertaining to the Quartermaster's or other departments or corps, who shall have the pay and allowances of second lieutenant, mounted, during such period of service and no longer: *Provided*, That such reserve veterinarians be graduates of a recognized veterinary college or university and have previously passed such moral, professional, and physical examination as may be deemed necessary by the Secretary of War for the proper performance of their duties in mounted field service.

Mr. TILSON. Mr. Chairman, I move to amend line 18, on page 6, by inserting the amendment which I send to the Clerk's desk.

The Clerk read as follows:

In line 18, page 6, strike out the words "Quartermaster General" and insert in lieu thereof the words "chief of the Quartermaster Corps."

The amendment was agreed to.

Mr. TILSON. Now, Mr. Chairman, in line 23, page 6, I move to amend by striking out the word "mounted" and the comma.

The amendment was agreed to.

Mr. HAY. Mr. Chairman, in line 21, page 6, after the word "Quartermaster," I move to strike out the "s" and apostrophe.

The amendment was agreed to.

Mr. HAY. I move to insert the word "Corps" after the word "Quartermaster."

The amendment was agreed to.

The Clerk, continuing the reading of the bill, read as follows:

SEC. 7. That the Secretary of War is authorized to appoint a board of examiners to conduct the examinations prescribed herein, one member of which shall be a field officer, one a surgeon, and two veterinarians.

Mr. TILSON. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Line 19, page 7, after the word "officer," insert the words "of the line."

Mr. TILSON. It seems to me this amendment ought to be adopted. I believe it was the intention that he should be an officer of the line.

Mr. HAY. A field officer could not be anything else than an officer of the line.

Mr. TILSON. Oh, yes; he might be a medical officer, for instance.

Mr. HAY. A medical officer is not an officer in the sense of an officer of the line.

Mr. TILSON. He may have field rank.

Mr. HAY. So has the quartermaster in the Quartermaster Corps or in the Ordnance Corps, but he is not a field officer.

Mr. MANN. The gentleman from Connecticut does not want to use the language "field officer of the line."

Mr. HAY. That is what he wants to say.

Mr. MANN. I never heard the expression.

Mr. TILSON. It is correct and proper.

Mr. SLAYDEN. You might say "a line officer not below the rank of major."

Mr. HAY. A field officer is above the rank of captain.

Mr. TILSON. I ask that my amendment be considered, Mr. Chairman.

Mr. HAY. Mr. Chairman, I am opposed to the amendment and do not think it ought to be agreed to. I am willing to agree to language that will embrace what the gentleman is after. I will agree that it shall be "a line officer not below the rank of major."

Mr. TILSON. That will answer my purpose.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 7, lines 18 and 19, by striking out the words "field officer" and insert in lieu thereof "officer of the line not below the rank of major."

The amendment was agreed to.

The Clerk completed the reading of the bill.

The CHAIRMAN. The question now is on the adoption of the substitute as amended.

The question was considered, and the substitute as amended was adopted.

Mr. HAY. Mr. Chairman, I move that the committee do now rise and report the bill with the amendment to the House, with the recommendation that the amendment be agreed to and the bill as amended passed.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. CLARK of Florida, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 16843) to consolidate the veterinary service, United States Army, and to increase its efficiency, and had directed him to report the same back to the House with an amendment, with the recommendation that the amendment be adopted and that the bill as amended do pass.

Mr. HAY. Mr. Speaker, I move the previous question on the bill and amendment to its final passage.

The motion was agreed to.

The SPEAKER. The question now is on the amendment.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. HAY, a motion to reconsider the vote whereby the bill was passed was laid on the table.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to—

Mr. MCMORRAN, for 10 days, on account of important business.

Mr. RANDELL of Texas, indefinitely, on account of sickness.

Mr. DICKINSON, for 10 days, on account of sickness in family.

STATE SELECTION OF PHOSPHATE AND OIL LANDS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 26812) to provide for State selection of phosphate and oil lands.

The Clerk read the bill, as follows:

Be it enacted, etc., That from and after the passage of this act unreserved public lands of the United States in the State of Idaho which have been withdrawn or classified as phosphate or oil lands, or are valuable for phosphates or oil, shall be subject to selection by the State of Idaho under indemnity and other land grants made to it by Congress whenever such selections shall be made with a view of obtaining or passing title, with a reservation to the United States of the phosphates and oil in such lands, and of the right to prospect for, mine, and remove the same.

SEC. 2. That the State of Idaho, when applying to select lands classified as phosphate or oil lands, or valuable for phosphates or oil, with a view to securing or passing title to the same in accordance with the provisions of the indemnity and other granting acts, shall state in the application for selection that same is made in accordance with and subject to the provisions and reservations of this act.

SEC. 3. That upon satisfactory proof of full compliance with the provisions of the laws under which selection is made and this act, the State shall be entitled to a patent to the lands selected by it, which patent shall contain a reservation to the United States of all the phosphates and oil in the land so patented, together with the right to prospect for, mine, and remove the same upon rendering compensation to the patentee for all damages that may be caused by prospecting for and removing such phosphates or oil. The reserved phosphate and oil deposits in such lands shall be disposed of only as shall be hereafter expressly directed by law.

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. MONDELL. Mr. Speaker, I reserve the right to object.

Mr. FOSTER. Mr. Speaker, I reserve the right to object.

The SPEAKER. The Chair will recognize the gentleman from Wyoming.

Mr. MONDELL. Mr. Speaker, I am in sympathy with the objects and purposes of this legislation, but the bill ought not to pass in its present form. We have heretofore legislated upon this subject—that is, we have legislated on the subject of selections and entries of coal lands. It is now proposed to legislate upon the subject of selections by the State of Idaho of oil and phosphate lands. Our legislation upon this subject ought to be uniform. Great confusion will occur if it is not uniform, and while this applies only to the State of Idaho, and therefore it might be said that perhaps our interest is a little remote, and that the legislation is satisfactory to the gentleman who is responsible directly to the people of Idaho, yet legislation of the character of this before us, following the legislation we have already had, becomes a precedent for other legislation.

The Secretary of the Interior has recommended an amendment. In lieu of section 3 of the bill he proposes that we place in the bill the provision of section 3 of the act of June 27, 1910, and he proceeds to set forth a part of the provisions of that section. The part of the provisions of that section which the Secretary quotes are incorporated in the bill, but exceedingly important provisions of that section are not incorporated in the bill. That section provides for two things—first, for a prospecting bond; and, second, for obtaining the right to enter and mine and remove from the United States, with a reserved right of reentry to retake the surface of the land or so much of it as may be necessary for actual operations. And it provides for procedures before the local courts in connection with those operations. All of those important provisions are omitted, I think unintentionally, from the Secretary's recommendation. They were not incorporated by the committee, I presume, because the committee assumed that the Secretary quoted all of the provisions, when, as a matter of fact, he quoted nothing but the prospecting provisions. This matter was very carefully worked out and very thoroughly discussed in committee at the time the act referred to was under consideration.

The committee discussed the provisions of that section, and it represents the view of the lawyers on the committee, of whom I was not one, as to what is necessary in order to fix and secure the right to go upon these lands to mine. The right of reentry is reserved, the right to take so much of the surface as is necessary, to occupy and use and pay for it, and settle damages in the local courts. None of that is contained in these provisions.

Mr. FERRIS. Is it the judgment of the gentleman that section 3, which is printed in italics in the bill, should be stricken out and that there should be substituted therefor the language of the bill that was more thoroughly worked out heretofore?

Mr. MONDELL. Modifying it by striking out the word "coal" and inserting "oil and phosphate," and striking out other language so that you would preserve identical legislation upon this general subject.

Mr. FRENCH. As the author of the bill, I will be very glad to entertain and support the proposition of the gentleman from Wyoming.

Mr. MONDELL. Mr. Speaker, I am sure that the gentleman from Wyoming could offer amendments that would be entirely satisfactory to him, and that would harmonize the bill with the legislation that the Secretary says it ought to correspond with, but whether, without further consideration than we could have here at this time, the House would be willing to accept that as being exactly what we should do, of course I do not know. I could easily offer amendments that would accomplish what I have in mind, which would be what the Secretary suggested should be done.

Mr. FRENCH. And the committee accepted the words of the proposed section 3 prepared by the Secretary of the Interior.

Mr. MONDELL. Then, through inadvertance no doubt, the Secretary of the Interior or some clerk in his department left out the more important part of the provisions of section 3.

Mr. FRENCH. Then why not let the matter go before the House for consideration, and I think that the section that the gentleman proposes is so thoroughly understood by the Members that it will be agreeable, and I will be glad to support it in lieu of section 3 as proposed.

Mr. MONDELL. It will require considerable modification, I will say to the gentleman, and I think this so highly important there should be no question but that when we adopt this legislation it shall be identical in procedure with the legislation that we adopted on the same subject. In other words, we will be working in one State under one piece of legislation and in another State under another.

Mr. FRENCH. I am in perfect harmony with that idea, but I think that the matter is one that we can very readily agree to without having the matter go over to another day.

Mr. MURRAY. Mr. Speaker, as a member of the committee in charge of the bill, I may say I am in perfect sympathy with the position of the gentleman from Wyoming and will accept the amendment, if he cares to offer it, and I hope he will offer it.

The SPEAKER. The Chair can not understand the gentleman.

Mr. MURRAY. I was trying to make the matter more clear to the gentleman from Wyoming than to the Speaker.

The SPEAKER. The gentleman was addressing the gentleman from Wyoming more than the Chair?

Mr. MURRAY. Yes; and I shall be very glad, Mr. Speaker, as the gentleman from Wyoming has suggested an amendment, as the Member in charge of the bill for the committee, to say that the committee will be happy to accept it if he cares to offer his amendment. If his purpose is to retard the progress of the bill we shall not waste any time about it, but if his purpose is to correct what may or may not be a mistake on the part of somebody we will be happy to accept his amendment.

Mr. MONDELL. Mr. Speaker, my only purpose is to perfect the legislation and aid in its enactment.

The SPEAKER. Is there objection?

Mr. LENROOT. Mr. Speaker, I reserve the right to object. In view of what has just transpired and the very great importance of this subject, I do not think that an amendment should be made contrary to the report of the Secretary of the Interior or contrary to the recommendation of the committee itself, and I suggest the gentleman pass this over without prejudice.

Mr. MURRAY. Mr. Speaker, does the gentleman from Wisconsin have in mind that the proposed modification is entirely similar to that in a bill which has already passed the House with regard to coal lands?

Mr. LENROOT. I appreciate that, but in the hurry of the moment here I question very seriously whether that should be undertaken now, it having been raised by the gentleman from Wyoming that a matter of such importance should be more carefully considered.

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. FRENCH. Mr. Speaker, I hope the gentleman will withhold his objection for a few moments. The matter of handling these lands is now under consideration by the present officers of the department and the officers of the State of Idaho, and it would certainly save a great deal of work if the matter could be expedited so that the whole question would not need to be thrashed over again. I think the gentleman knows that not an acre of land is granted to the State, but it simply provides for the selection of certain lands which were available for selection at the time the grants were made to the State and which have since that time been included within the reserve of the character indicated in the bill. I think that the reservations that have been made to the Government are ample, but I am very willing to accept the language of the bill which we passed a little over a year ago, nearly two years ago, on this same subject, in which a certain section is probably worked out with more care than this particular section is, and I believe it will be very satisfactory to have a consideration of this bill at this time, and I would like very much to have that done.

Mr. LENROOT. I will say to the gentleman, I say what I have said, because the gentleman from Wyoming has stated that it will require considerable work to fit the proposed section into this bill and it will require considerable thought as to the modification that may be necessary.

And even upon so important legislation of that kind the gentleman from Wyoming [Mr. MONDELL] himself, I understand, is not prepared to offer the amendment now, and I suggest that the matter go over without prejudice. Otherwise, I shall feel compelled to object.

Mr. MONDELL. I am in position to offer the amendment, but I agree with the gentleman from Wisconsin [Mr. LENROOT] that I can scarcely expect the House, without full consideration, to assume that all of this very considerable amendment which I am to offer is just what should be adopted. I have not any question but that the House would agree if we had time for discussion. I am simply proposing to make this section agree in general terms with the section that the Secretary suggests it should follow, but which the Secretary in his letter did not set forth in full.

Mr. LENROOT. Mr. Speaker, I feel compelled to object. It can be taken up two weeks from now, and then we shall have an opportunity to examine this matter. I object to the consideration of the matter in this way.

NATIONAL CONSERVATION EXPOSITION, KNOXVILLE, TENN.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 26190) to provide for participation by the Government of the United States in the National Conservation Exposition, to be held at Knoxville, Tenn., in the fall of 1913.

The bill was read, as follows:

Be it enacted, etc., That the Government of the United States participate in the National Conservation Exposition, to be held at Knoxville, Tenn., during the fall of 1913. That there shall be exhibited at said exposition from the executive departments of the United States such articles and materials as will illustrate the administrative functions of the Government and their educational value in connection with the development and wise use of the natural resources of the United States, especially the advancement of scientific agriculture and the increase of productivity of the soil through improved cultivation and crop selection and the prevention of avoidable wastes; the reclamation of wet and dry lands by drainage and irrigation, respectively; the more economical development and utilization of mineral wealth; the judicious use of and prevention of needless destruction in woodlands for maintaining timber supply and protecting headwaters of streams; the use and improvement of inland waterways; the preservation of fish and game; the preservation and protection of life in connection with industrial operations; and the economic investigations and operations of the Government with reference to mines and mining, geology, topographic and other surveys, public roads, experiment stations, rural life improvement, education, child welfare, and public health and sanitation. That these subjects shall be presented in exhibits and in illustrated lectures by representatives of the Government. That the President of the United States be, and he is hereby, authorized to invite the nations of the world to send delegates to an international convention at said exposition, to discuss the natural resources of the world and their distribution through commerce. To secure a complete and harmonious arrangement of such Government exhibit a United States Government board of managers is hereby authorized to be appointed to be charged with the selection, purchase, preparation, transportation, arrangement, safe-keeping, exhibition, and return of such articles and materials as the heads of the several departments, respectively, decide shall be embraced in the Government exhibit herein authorized. The President of the United States may also designate additional articles of peculiar interest for exhibition in connection with the said Government exhibit. Said Government board of managers shall be composed of three persons now in the employ of the Government and shall be appointed by the President, one of whom shall be designated by the President as chairman of the said board and one as secretary and disbursing officer. The members of said Government board, with other officers and employees of the Government who may be detailed to assist them, including officers of the Army and Navy, shall receive no compensation in addition to their regular salaries, but they shall be allowed their actual and necessary traveling expenses, together with a per diem in lieu of subsistence, to be fixed by the Secretary of the Treasury, while necessarily absent from their homes engaged upon the business of the board. Officers of the Army and Navy shall receive said allowance in lieu of the subsistence and mileage now allowed by law; and the Secretary of War and the Secretary of the Navy may, in their discretion, detail retired Army or Navy officers for such duty. Any provision of law which may prohibit the detail of persons in the employ of the United States to other service than that which they customarily perform shall not apply to persons detailed for duty in connection with said National Conservation Exposition. Employees of the board not otherwise employed by the Government shall be entitled to such compensation as the board may determine, and such employees may be selected and appointed by said board. The disbursing officer shall give bond in such sum as the Secretary of the Treasury may determine for the faithful performance of his duties, said bond to be approved by said Secretary. The Secretary of the Treasury shall advance to said officer from time to time, under such regulations as he may prescribe, a sum of money from the appropriation for the Government exhibit herein authorized, not exceeding at any one time three-fourths of the penalty of his bond, to enable him to pay the expenses of said exhibit as authorized by the United States Government board herein created. The Secretary of the Treasury is hereby authorized and directed to place on exhibition, in connection with the exhibit of his department, upon such grounds as shall be allotted for this purpose, one of the life-saving stations authorized to be constructed on the Atlantic coast of the United States by existing law, and to cause the same to be fully equipped with all apparatus, furniture, and appliances now in use in life-saving stations in the United States: *Provided*, That the cost of said exhibit herein authorized, including the selection, purchase, preparation, transportation, arrangement, safe-keeping, exhibition, and return of the articles and materials so exhibited, and the expenses and per diems of the officials and employees of the Government connected with the exhibit or assigned to deliver lectures, shall not exceed the sum of $100,000, which sum, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 2. That the Secretary of the Treasury shall cause a suitable, permanent building to be erected on the site of said National Conservation Exposition for said Government exhibit. Said building shall be erected from plans prepared by the Supervising Architect of the Treasury, to be approved by the Secretary of the Treasury; and the Secretary of the Treasury is hereby authorized and directed to contract for said building in the same manner and under the same regulations as for other buildings of the United States, but the contract for said building, including the preparation of ground therefor and the approaches thereto, and the interior and exterior decorative wiring and lighting, etc., therefor, shall not exceed the sum of $150,000, which sum, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated: *Provided*, That a suitable building site and grounds satisfactory to the Government board of managers herein established shall be deeded to the Government of the United States in fee simple for the purpose.

SEC. 3. That all articles that shall be imported from foreign countries for the sole purpose of exhibition at the National Conservation Exposition, to be held at Knoxville, Tenn., in the year 1913, upon which there shall be a tariff or customs duty shall be admitted free of the payment of duty, customs fees, or charges, under such regulations as the Secretary of the Treasury shall prescribe; but it shall be lawful at any time during the exposition to sell for delivery at the close thereof any goods or property imported for and actually on exhibition in the exposition buildings or on the grounds, subject to such regulations for the security of the revenue and for the collection of import duties as the Secretary of the Treasury may prescribe: *Provided*, That all such articles when sold or withdrawn for consumption or use in the United States shall be subject to the duty, if any, imposed upon such articles by the revenue laws in force at the date of withdrawal; and on such articles which shall have suffered diminution or deterioration from incidental handling and necessary exposure the duty, if paid, shall be assessed according to

the appraised value at the time of withdrawal for consumption or use, and the penalties prescribed by law shall be enforced against any person guilty of any illegal sale, use, or withdrawal.

SEC. 4. That medals with appropriate devices, emblems, and inscriptions commemorative of said National Conservation Exposition and of the awards to be made to the exhibitors thereat shall be prepared for the National Conservation Exposition Co. by the Secretary of the Treasury at some mint of the United States, subject to the provisions of the fifty-second section of the coinage act of 1893, upon the payment by the National Conservation Exposition of a sum equal to the cost thereof; and authority may be given by the Secretary of the Treasury to the holder of a medal properly awarded to him to have duplicates thereof made at any of the mints of the United States from gold, silver, or bronze, upon the payment by him for the same of a sum equal to the cost thereof.

SEC. 5. That the United States shall not be liable on account of said exposition for any expenses incident to or growing out of the same, except for the purpose of paying the expense incident to the selection, preparation, purchase, installation, transportation, care, custody, and safe return of the exhibits made by the Government, and for the employment of proper persons as officers and assistants by the Government board created by this act, and for other expenses to be approved by the chairman of the Government board, or, in the event of his absence or disability, by such officer as the board may designate, and the Secretary of the Treasury, upon itemized accounts and vouchers.

SEC. 6. That the United States shall not in any manner or under any circumstances be liable for any of the acts, doings, or representations of said National Conservation Exposition Co. (a corporation), its officers, agents, servants, or employees, or any of them, or for service, salaries, labor, or wages of said officers, agents, servants, or employees, or any of them, or for any subscriptions to the capital stock, or for any stock certificates, bonds, mortgages, or obligations of any kind issued by said corporation, or for any debts, liabilities, or expenses of any kind or nature whatever attending such exposition corporation or accruing by reason of the same.

SEC. 7. That nothing in this act shall be construed so as to create any liability upon the part of the United States, directly or indirectly, for any debt or obligation incurred or for any claim for aid or pecuniary assistance from Congress or the Treasury of the United States in support or liquidation of any debts or obligations created by said United States Government board in excess of appropriations herein made.

SEC. 8. That the United States shall not in any manner or under any circumstances make any loan, directly or indirectly, to the National Conservation Exposition Co., or for the benefit of said exposition, or for any of the purposes thereof, and shall not appropriate for any purpose whatsoever in connection with said exposition any sum of money other than that provided in this act.

The SPEAKER. Is there objection?

Mr. FITZGERALD. Reserving the right to object, Mr. Speaker, if there is anybody who has anything to say in defense of this bill I would like to hear it, otherwise I shall object.

Mr. AUSTIN. This bill needs no defense. I will be very glad to answer any questions the gentleman may ask.

Mr. FITZGERALD. Of course, if that is the way the gentleman feels about it, I shall feel compelled to object to it.

Mr. AUSTIN. What is the inquiry of the gentleman from New York?

Mr. FITZGERALD. I have read the bill and have examined the report, and from the information I have I think I am prepared to object.

Mr. AUSTIN. What is the information the gentleman seeks which is not embraced in the bill or in the report accompanying the bill?

Mr. FITZGERALD. I thought perhaps the gentleman might desire to make a brief statement in reference to the bill. May I ask the gentleman if he is a member of the Committee on Public Buildings and Grounds?

Mr. AUSTIN. I am.

Mr. FITZGERALD. Why is it necessary to provide for a public building in a bill of this character for his district? Is he unable to satisfy the demands made upon him in the omnibus bill that is expected? Provision is made in this bill for a permanent building at Knoxville, Tenn.

Mr. MANN. What makes the gentleman from New York [Mr. FITZGERALD] think that there will be an omnibus building bill? Is he advocating one?

Mr. FITZGERALD. I have not expressed the belief that there will be one.

Mr. AUSTIN. This bill is the usual bill passed by Congress for the aid of national expositions and carries a sufficient amount of money not only for an exhibit, but also for a building. This is to be a permanent exposition.

Mr. FITZGERALD. And the gentleman intends to locate a permanent conservation exposition at Knoxville, Tenn., regardless of the other cities of the United States?

Mr. AUSTIN. We think it is of sufficient importance to make it a permanent exposition so far as that section is concerned and so far as the people of the whole South are concerned, and our enterprising and progressive people are willing to finance and maintain it as a permanent exposition.

Mr. FITZGERALD. The report setting forth the purpose of making this a permanent building is not to permit the exposition association or company to maintain it, but to provide accommodations for such departments of the Federal Government as may be active in that particular part of the country. That is why I thought perhaps it would be desirable to have some information in addition to that contained in the report, some information as to the character of the exhibits to be made, the amount of money to be expended in preparing and setting them up, the amount to be expended for the salaries of employees, and the amount to be expended in other ways.

Mr. AUSTIN. In answer to that I will state to the gentleman that this report states when this building is no longer needed for exhibition purposes it can be used profitably by the Government on account of the crowded condition of the Knoxville post-office building.

Mr. FITZGERALD. No building that was ever erected for exposition purposes would be satisfactory as a post-office building, even in Knoxville, Tenn.

Mr. AUSTIN. But there are Government officials that could utilize this building just as well as they could a post-office building or a customhouse building.

Mr. FITZGERALD. I think that is a minor objection, if I may be permitted to say so. I am more interested in knowing in more detail the character of the exhibits to be made by the Government departments and the manner in which it was estimated that the $100,000 required in addition to the $150,000 for the building is to be expended.

Mr. AUSTIN. This bill has been submitted to the various officers of the Government that would be affected by the exhibits we propose to make at Knoxville by the Federal Government.

Mr. FITZGERALD. I have read the list, and every one of them can safely be set down as anything but economical in the expenditure of public funds.

Mr. AUSTIN. Not only is it the purpose of the Government officials to use these exhibits at Knoxville, but also to use them at other expositions in other places where the dates do not conflict.

Mr. FITZGERALD. I desire to inquire who has authorized these Government officials to determine in advance that they shall be permitted to make exhibits, not only at this exposition, but to various other expositions that they desire to participate in? I notice that the advisory board of this exposition consists of nine officers of the Federal Government and three others, two of whom were formerly associated with the Government. This exposition is to consist not only of Government exhibits, but a part of the Government exhibits is to consist of illustrated lectures to be given by officials of the various departments of the Government.

Mr. SLAYDEN. What is it? Is it a kind of Chautauqua?

Mr. FITZGERALD. Provision is also made for the detail of retired Army and Navy officers in connection with it.

Mr. SLAYDEN. For lectures?

Mr. FITZGERALD. I am unable to determine the purpose.

Mr. SLAYDEN. I thought the gentleman said there were to be entertainments or lectures or something of that sort.

Mr. FITZGERALD. The bill provides that these subjects shall be presented in exhibits and illustrated by lectures on the part of representatives of the Government.

Mr. SLAYDEN. I thought that was what the gentleman said. It seems to be a sort of Chautauqua, carried on at Government expense.

Mr. AUSTIN. I may say that work of this kind has been carried on by the Government not only in New York State, but also in the State of Texas, where the representatives of the departments have been called upon to deliver lectures; as, for example, at expositions at Cincinnati and at Pittsburgh and at other places. It was carried on also at Knoxville three years ago, when an exposition was held in that city. It is not a new departure. It is a very valuable and instructive method of imparting valuable information to the people of this country.

Mr. FITZGERALD. That may be. I do not challenge the accuracy of the gentleman's statement in the regard. But with the meager information that is given in this report, and in view of the fact that the Secretary of the Treasury estimates that regardless of any appropriations to supply deficiencies at this session of Congress, eliminating all provision for the Panama Canal, appropriations for which are to be reimbursed out of an issue of bonds, and eliminating about $60,000,000 required for sinking-fund purposes, there will still be a deficit of $25,000,000 in the coming fiscal year, it seems to me there should be some satisfactory reason assigned for an appropriation of $250,000 for a local exposition.

Mr. AUSTIN. It is not a local exposition. I beg the gentleman's pardon.

Mr. FITZGERALD. The gentleman is trying to convert it into something else; but it is a local exposition and has been

conducted as a local exposition for two years, and now it is desired to utilize the Federal Treasury to the extent of a quarter of a million dollars to assist it and make it permanent at Knoxville, Tenn.

Mr. AUSTIN. Will the gentleman yield for a moment?

Mr. FITZGERALD. Yes.

Mr. AUSTIN. I will state that the representatives of this country who have directed public sentiment in the direction of conservation legislation have proposed to establish an exposition of this kind in some part of the United States, and invited proposals. It was open to every city of the United States, but the city of Knoxville, Tenn., was the only city that submitted a proposition that was satisfactory.

Mr. FITZGERALD. What is the population of Knoxville?

Mr. AUSTIN. Eighty-five thousand, and that city has more enterprise in connection with movements of this kind than has the city—New York—which the gentleman represents.

Mr. GOLDFOGLE. The gentleman from Tennessee is mistaken about that.

Mr. AUSTIN. I know of no city in the United States more capable of establishing and successfully conducting such an exposition than Knoxville.

Mr. FITZGERALD. If the city of New York entered upon such an undertaking the people of that city would do it themselves.

Mr. AUSTIN. This exposition was indorsed by the National Conservation Congress, held at Indianapolis, Ind., where 35 States were represented. It was unanimously indorsed by the Southern Commercial Congress, represented by 2,000 delegates from every Southern State. It was also indorsed by the Southern Press Association.

Mr. FITZGERALD. It was also indorsed by the Woman's National River and Harbor Congress?

Mr. AUSTIN. Yes. And is not that a very proper and a very weighty indorsement, that should commend itself to the American Congress?

Mr. FITZGERALD. I am surprised that the gentleman limited the number of indorsements.

Mr. AUSTIN. I assert it cheerfully, because that organization is largely made up of the wives of Members of this Congress.

This proposition was considered so important by the members of the Committee on Industrial Arts and Expositions that they named a subcommittee to go to Knoxville, Tenn., and officially investigate the situation there. That subcommittee came back, and the committee had two meetings and reported out this bill by unanimous vote.

Of course, there may be a deficit in the Treasury, but here is a proposition which involves the expenditure of $250,000, affecting legislation which is far-reaching and to which all three political parties in this country were committed in their national platforms.

Mr. FITZGERALD. They were not committed to this exposition.

Mr. AUSTIN. No; but committed to the legislation that this exposition indorses, encourages, and advocates, not in theory, but in practice and by practical demonstration.

Mr. FITZGERALD. Then I think we might better occupy the time of the House in considering the legislation.

Mr. AUSTIN. Then let the gentleman "fish or cut bait."

Mr. FITZGERALD. I object, Mr. Speaker.

The SPEAKER. The gentleman from New York objects. The bill will be stricken from the calendar, and the Clerk will report the next bill.

SENATE BILL AND JOINT RESOLUTION REFERRED.

Under clause 2, Rule XXIV, Senate bill and joint resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 5068. An act to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, and for other purposes; to the Committee on the Public Lands.

S. J. Res. 147. Joint resolution appropriating the sum of $7,245 out of money appropriated by Senate joint resolution 129 for the payment of transportation of American refuges from points in Mexico to the American border; to the Committee on Appropriations.

INDIANS OCCUPYING RAILROAD LANDS.

The next business on the Calendar for Unanimous Consent was the bill (S. 5674) for the relief of Indians occupying railroad lands.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized to request of the present claimant under any railroad land grant a relinquishment or reconveyance of any lands passing under the grant which are shown to have been occupied for five years or more by an Indian entitled to receive the tract in allotment under existing law but for the grant to the railroad company, and upon the execution and filing of such relinquishment or reconveyance the lands shall thereupon become available for allotment, and the company relinquishing or reconveying shall be entitled to select and have patented to it other vacant public lands of equal value in the same State, as may be agreed upon with the Secretary of the Interior.

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, my recollection is that this bill was on the Unanimous Consent Calendar once before, and I objected to it at that time because there was no limitation upon the amount of public lands which might be taken up under the term "equal value." I understand the gentleman from Arizona is preparing an amendment to obviate that.

Mr. HAYDEN. I have an amendment that I will offer which will obviate that.

Mr. MANN. Very well, then; I do not object.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. This bill is on the Union Calendar.

Mr. HAYDEN. I ask unanimous consent to consider it in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Arizona asks unanimous consent to consider the bill in the House as in Committee of the Whole. Is there objection?

There was no objection.

Mr. HAYDEN. I offer the following amendment, Mr. Speaker.

Mr. MANN. There are some committee amendments which should be agreed to first.

Mr. HAYDEN. Yes.

The SPEAKER. The Clerk will read the bill by sections.

The Clerk read the bill.

The SPEAKER. The Clerk will report the first committee amendment.

The Clerk read as follows:

On page 1, in line 4, after the word "authorize," insert the words "in his discretion."

The amendment was agreed to.

The Clerk read the next committee amendment, as follows:

Page 1, line 6, after the word "lands," insert the words "situated within the States of Arizona or New Mexico."

The amendment was agreed to.

The Clerk read the next committee amendment, as follows:

Page 2, line 1, after the word "select," insert the words "within a period of two years after the passage of this act."

The amendment was agreed to.

Mr. HAYDEN. Mr. Speaker, I offer the following amendment.

The SPEAKER. The gentleman from Arizona offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, by striking out all after the word "act," in line 2, page 2, and insert the following:

"And have patented to it other vacant, nonmineral, nontimbered, surveyed public lands of equal area and value, situated in the same State, as may be agreed upon by the Secretary of the Interior: *Provided*, That the total area of land that may be exchanged under provisions of this act shall not exceed 4,000 acres."

[Mr. HAYDEN addressed the House. See Appendix.]

The amendment was agreed to.

The bill as amended was ordered to a third reading, and was accordingly read the third time and passed.

By unanimous consent the title was amended so as to read: "An act for the relief of Indians occupying railroad lands in Arizona or New Mexico."

On motion of Mr. HAYDEN, a motion to reconsider the vote by which the bill passed was laid on the table.

STANDING ROCK INDIAN RESERVATION.

Mr. BURKE of South Dakota. Mr. Speaker, I move to suspend the rules and pass the bill (S. 109) to authorize the sale and disposition of the surplus and unallotted lands in the Standing Rock Indian Reservation, in the States of South Dakota and North Dakota, and making appropriation and provision to carry the same into effect, as amended, and pending that I ask unanimous consent that the substitute be read in lieu of the bill, as the substitute is the amendment.

Mr. MANN. The gentleman can include that in his motion.

Mr. BURKE of South Dakota. I do.

The SPEAKER. The gentleman from South Dakota moves to suspend the rules and pass, as amended, the bill which the Clerk will report in its amended form.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed, as hereinafter provided, to sell and dispose of all that portion of the Standing Rock Indian Reservation, in the States of South Dakota and North Dakota, lying and being within

the following-described boundaries, to wit: Commencing at a point in the center of the main channel of the Missouri River where the township line between townships 18 and 19 north intersects the same; thence west on said township line to a point where the range line between ranges 22 and 23 east intersects the same; thence north along the said range line to the northwest corner of section 19, in township 21 north, of range 23 east; thence east on the section line north of sections 19, 20, 21, 22, 23, and 24 to a point where the same intersects the range line between ranges 23 and 24 east; thence north along said range line to a point where the same intersects the State line between the States of South Dakota and North Dakota; thence west on said State line to a point where the range line between ranges 84 and 85 west in North Dakota intersects the same; thence north on said range line between ranges 84 and 85 west to a point where it intersects the center of the main channel of the Cannon Ball River; thence in a northeasterly direction down and along the center of the main channel of said Cannon Ball River to a point where it intersects the center of the main channel of the Missouri River; thence in a southerly direction along the center of the main channel of the said Missouri River to the place of beginning, and including also entirely all islands, if any, in said river, except such portions thereof as have been allotted to Indians: *Provided*, That sections 16 and 36 of the lands in each township therein shall not be disposed of, but shall be reserved for the use of the common schools of the States of South Dakota and North Dakota, respectively: *Provided further*, That the Secretary of the Interior may reserve such lands as he may deem necessary for agency, school, and religious purposes, to remain reserved as long as needed and as long as agency, school, or religious institutions are maintained thereon for the benefit of said Indians: *Provided, however*, That the Secretary of the Interior is hereby authorized and directed to issue a patent in fee simple to the duly authorized missionary board, or other proper authority of any religious organization, heretofore engaged in mission or school work on said reservation, for such lands thereon (not included in any town site herein provided for) as have been heretofore set apart to such organization for mission or school purposes.

SEC. 2. That the lands shall be disposed of by proclamation under the general provisions of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which the lands may be settled upon, occupied, and entered by persons entitled to make entry thereof; and no person shall be permitted to settle upon, occupy, or enter any of said lands except as prescribed in said proclamation: *Provided*, That prior to said proclamation the Secretary of the Interior shall cause allotments to be made to every man, woman, and child belonging to or holding tribal relations in said reservations who have not heretofore received the allotments to which they are entitled under provisions of existing laws: *Provided, however*, That the said Secretary is hereby authorized to designate the superintendent of the Standing Rock Indian School to allot each child born subsequent to the completion of the allotments herein provided for and 60 days prior to the date set by said proclamation for the entry of said surplus lands: *Provided further*, That the Secretary of the Interior be, and he is hereby, authorized and directed to cause to be surveyed all the unsurveyed lands, if any, within said reservation, and to cause an examination to be made of the lands by experts of the Geological Survey, and if there be found any lands bearing coal or other valuable minerals the said Secretary is hereby authorized to reserve them from allotment or disposition until further action by Congress: *And provided further*, That the rights of honorably discharged Union soldiers and sailors of the late Civil and Spanish Wars or Philippine insurrection, as defined and described in sections 2304 and 2305 of the Revised Statutes, as amended by the act of March 1, 1901, shall not be abridged.

SEC. 3. That before any of the land is disposed of, as hereinafter provided, and before the States of South Dakota and North Dakota, respectively, shall be permitted to select or locate any lands to which it may be entitled by reason of the loss of sections 16 or 36, or any portions thereof, by reason of allotments thereof to any Indian or Indians, the Secretary of the Interior is authorized to reserve from said lands such tracts for town-site purposes as in his opinion may be required for the future public interests, and he may cause same to be surveyed into lots and blocks and disposed of under such regulations as he may prescribe, and he is hereby authorized to set apart and reserve for school, park, and other public purposes not more than 10 acres in any one town site, and patents shall be issued to the lands so set apart and reserved for school, park, and other public purposes to the municipality legally charged with the care and custody of lands donated for such purposes. The purchase price of all town lots sold in town sites, as hereinafter provided, shall be paid at such time and in such installments as the Secretary of the Interior may direct. He shall cause not more than 20 per cent of the net proceeds arising from such sales to be set apart and expended under his direction in the construction of schoolhouses and other public buildings, or in improvements within the town sites wherein such lots are located. The net proceeds derived from the sale of such lots and lands within the town sites as aforesaid shall be credited to the Indians as hereinafter provided: *Provided further*, That all children of school age and of Indian parentage shall be admitted at all times to the public schools within said town sites on an equal footing with all other children admitted to the said schools.

SEC. 4. That the price of said lands entered as homesteads under the provisions of this act shall be as follows: Upon all lands entered or filed upon within three months after the same shall be opened for settlement and entry, $6 per acre, and upon all lands entered or filed upon after the expiration of three months and within six months after the same shall have been opened for settlement and entry, $4 per acre; after the expiration of six months, after the same shall have been opened for settlement and entry, the price shall be $2.50 an acre.

SEC. 5. That the price of said lands shall be paid in accordance with the rules and regulations to be prescribed by the Secretary of the Interior upon the following terms: One-fifth of the purchase price to be paid in cash at the time of entry, and the balance in five equal installments, the first within two years and the remainder annually in three, four, five, and six years, respectively, from and after the date of entry. In case any entryman fails to make the annual payments, or any of them, when due, all rights in and to the land covered by his entry shall cease, and any payments theretofore made shall be forfeited and the entry canceled, and the lands shall be reoffered for sale and entry under the provisions of the homestead law at the price fixed herein: *Provided*, That nothing in this act shall prevent homestead settlers from commuting their entries under section 2301, Revised Statutes, by paying for the land entered the price fixed herein, receiving credit for the payments previously made. In addition to the price to be paid for the land the entryman shall pay the same fees and commissions at the time of commutation of final entry as now provided by law where the price of land is $1.25 per acre; and when the entryman shall have complied with all the requirements and terms of the homestead laws as to settlement and residence, and shall have made all the required payments aforesaid, he shall be entitled to patent for the lands entered: *Provided further*, That any lands remaining unsold after said lands have been opened to entry for five years may be sold to the highest bidder for cash, without regard to the prescribed price thereof fixed under the provisions of this act, under such rules and regulations as the Secretary of the Interior may prescribe, and patents therefor shall be issued to the purchasers.

SEC. 6. That from the proceeds arising from the sale and disposition of the lands aforesaid, exclusive of the customary fees and commissions, there shall be deposited in the Treasury of the United States, to the credit of the Indians belonging and having tribal rights on the said reservation, the sums of which the said tribe may be entitled, which shall draw interest at 3 per cent per annum; that the moneys derived from the sale of said lands and deposited in the Treasury of the United States to the credit of said Indians shall be at all times subject to appropriation by Congress for their education, support, and civilization: *Provided*, That from any moneys in the Treasury to the credit of the Standing Rock Indians derived from the proceeds arising from the sale and disposition of their portion of the surplus and unallotted lands disposed of under section 6 of the act approved May 29, 1908, the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to distribute and pay to each of the Indians belonging to said tribe and entitled thereto a sum not exceeding $40 per capita.

SEC. 7. That sections 16 and 36 of the land in each township within the tract described in section 1 of this act shall not be subject to entry, but shall be reserved for the use of the common schools and paid for by the United States at $2.50 per acre, and the same are hereby granted to the States of South Dakota and North Dakota, respectively, for such purpose, and in case any of said sections or parts thereof are lost to either of the said States by reason of allotments thereof to any Indian or Indians or otherwise, the governor of each of said States, respectively, with the approval of the Secretary of the Interior, is hereby authorized, within the area described in section 1 of this act, to locate other lands not otherwise appropriated, not exceeding two sections in any one township, which shall be paid for by the United States, as herein provided, in quantity equal to the loss, and such selections shall be made prior to the opening of such lands to settlement.

SEC. 8. That the lands allotted, those retained or reserved, and the surplus lands sold, set aside for town-site purposes, or granted to the State, or otherwise disposed of, shall be subject for a period of 25 years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country.

SEC. 9. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $180,000, or so much thereof as may be necessary, to pay for the lands granted to the States of South Dakota and North Dakota, as provided in section 7 of this act. And there is hereby appropriated the further sum of $10,000, or so much thereof as may be necessary, for the purpose of making the surveys and allotments provided for herein: *Provided*, That the said $10,000, or so much thereof as may be expended for the purpose of carrying out the provisions of this act, shall be reimbursed to the United States from the proceeds received from the sale of the lands described herein or from any money in the Treasury belonging to said Indian tribe.

SEC. 10. That nothing in this act contained shall in any manner bind the United States to purchase any portion of the land herein described, except sections 16 and 36, or the equivalent, in each township, or to dispose of said land except as provided herein, or to guarantee to find purchasers for said lands or any portion thereof, it being the intention of this act that the United States shall act as trustee for said Indians to dispose of the said lands and to expend and pay over the proceeds received from the sale thereof only as received and as herein provided: *Provided*, That nothing in this act shall be construed to deprive the said Indians of the Standing Rock Indian Reservation of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this act.

The SPEAKER. Is a second demanded?

Mr. FOSTER. Mr. Speaker, I demand a second.

Mr. BURKE of South Dakota. I ask unanimous consent, Mr. Speaker, that a second be considered as ordered.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The gentleman from South Dakota is entitled to 20 minutes and the gentleman from Illinois [Mr. FOSTER] to 20 minutes.

Mr. BURKE of South Dakota. Mr. Speaker, this bill proposes to authorize the sale of the surplus lands in the Standing Rock Reservation, in North and South Dakota. I will state that in the Sixtieth Congress a portion of the surplus lands of the Standing Rock Indians was authorized to be sold, and if this bill passes and becomes a law it will cover all the surplus lands belonging to those Indians.

The reservation affected by this legislation contains 1,131,280 acres, all of which has been allotted to the Indians with the exception of 219,000 acres. This bill proposes to authorize the sale of the 219,000 acres.

The Indians have already been allotted, but there is a provision in the bill that all the children that may be born up to within 60 days of the opening shall be allotted. The provisions of the bill are substantially the same as other laws which have been enacted for the sale of surplus lands in Indian reservations. This bill differs in one or two particulars from bills passed heretofore in reference to the Dakotas in that it does not provide for the appraisement of the lands. The reason for the change in that respect is because of the objection made by the Indians to the expense that would be incurred by reason of making an appraisement. They set forth the fact that the lands in a part of the reservation had so recently been appraised, and there being a report from the appraisers as to the general character of the land, namely, that it was only fit for grazing purposes and that probably $2.50 an acre would be an adequate

price, it was thought that we should provide, as the bill does provide, that for all lands disposed of in the first three months the price should be $6 an acre, and then after three months $4 an acre, and then $2.50 an acre. When this bill in its original form, providing that the lands should be appraised, was submitted to the Indians for consideration they objected to it largely because of the provision which provided for appraisement. So, as I have stated, believing that no good could come from an appraisement, and believing that the plan which the bill follows is really a better one than to fix the price by appraisement, we have changed it in that respect.

We have a precedent for this legislation in the law which was enacted some years ago for opening a portion of the Rosebud Reservation. That law provided that a certain price should be paid for all lands taken in the first three months, and then the price was reduced in the next three months, and finally after six months the price was reduced to $2.50 an acre, the same as this bill provides.

I want to say that under that legislation about all of the desirable land was taken at the high price, and that when it came to the minimum price of $2.50 an acre there was practically no land left that anyone would undertake to acquire title to under the homestead laws. The law provided that after a certain number of years the undisposed of land should be disposed of without regard to homestead requirements and sold at auction to the highest bidder, and the remnants were sold and at an average price of $4.87 an acre.

There was no further legislation required and the matter was closed up and the lands were paid for in full, and I think it is the most satisfactory opening of an Indian reservation we have had for some years.

I may say, as I have already said, that this bill was submitted to the Indians and a council was held. Maj. McLaughlin represented the United States and the Department of the Interior. Maj. McLaughlin has been in the Indian Service for a period of 40 years. For a number of years he was the agent of these Standing Rock Indians. While there was some objection to the bill by the Indians as introduced in the Senate, it has been amended by the Committee on Indian Affairs of the House, and as it is now presented practically every objection raised by the Indians has been met by an amendment. I submit that if anyone will take the trouble to examine this measure he will find very little to criticize in it. Now, Mr. Speaker, unless some one desires to ask me a question, I want to reserve the balance of my time.

Mr. MANN. Will the gentleman yield?

Mr. BURKE of South Dakota. Certainly.

Mr. MANN. First with reference to the different values placed upon the land according to the time they are entered, changing from $6 to $4 within three months, I believe. It may be that the Interior Department will open this land at some season very appropriate, and it may be that it will not. The truth is, public lands opened in recent years in the West to homestead settlement have been opened possibly in the best way it could be done, but certainly not at all to the satisfaction of the people living east of the western country who desired to obtain land. If it should be opened at this season of the year, of course, it would be wholly in the interest of the local people. Is there any way of determining when this land will be opened?

Mr. BURKE of South Dakota. I can only answer the gentleman by stating that heretofore the department has had these openings at the season of the year when it believed it would serve the interest of the greatest number of people. They have usually provided for registration in the fall of the year and the filings in the following spring. So far as people in the immediate locality are concerned, I may say that nearly all of them have exercised their homestead rights and have no privilege to enter these lands, and before a person can be a purchaser he must have the qualifications of a homestead entryman.

Mr. MANN. I think there are a great many people up there who have not exercised their homestead rights and who never intend to live on a homestead anywhere, but who will exercise their rights for the purpose of getting possession of the lands and relinquishing that right afterwards.

Mr. BURKE of South Dakota. Anyone who undertakes now to acquire title under a homestead is compelled to live upon the land in accordance with the law, or he does not succeed in getting the title.

Mr. MANN. He is not compelled to maintain his claim. He can relinquish that, as far as that is concerned.

Mr. STEPHENS of Texas. Mr. Speaker, is the gentleman from Illinois aware that the proclamation of the President can not be issued until the lands have been allotted to the Indians? This is the language in the bill, to be found on page 14:

Provided, That prior to said proclamation the Secretary of the Interior shall cause allotments to be made to every man, woman, and child belonging to or holding tribal relations in said reservations who have not heretofore received the allotments to which they are entitled under provisions of existing laws: *Provided, however*, That the said Secretary is hereby authorized to designate the superintendent of the Standing Rock Indian School to allot each child born subsequent to the completion of the allotments herein provided for and 60 days prior to the date set by said proclamation for the entry of said surplus lands.

Mr. MANN. I had assumed that the land which was to be sold to homesteaders was not to be allotted to Indians at all. Am I not correct in that assumption?

Mr. STEPHENS of Texas. The language is very plain—

That prior to the said proclamation the Secretary of the Interior shall cause allotments to be made to every man, etc., who have not heretofore received the allotments to which they are entitled under provisions of existing laws.

Mr. MANN. Does that cover the land to be sold to homesteaders?

Mr. STEPHENS of Texas. After the lands have been allotted and the Indians have taken their allotments, then this proclamation can be issued, and not before.

Mr. MANN. That is what I assumed, and that is the reason I was asking the question.

Is the gentleman from South Dakota able to tell the House how many people went up to the Dakotas at the opening of the Rosebud land?

Mr. BURKE of South Dakota. I will say to the gentleman, if he refers to the first opening, which was that portion in Gregory County, and which was opened, I think, by an act passed in the Fifty-eighth Congress, that there were something like 100,000 people.

Mr. MANN. How many people out of that number were permitted to get homesteads?

Mr. BURKE of South Dakota. There were about 2,500 160-acre tracts, as I remember.

Mr. MANN. That was a very profitable thing for the railroad companies.

Mr. BURKE of South Dakota. I want to say to the gentleman that there has been no opening since that time where there has been anything like that number of people. At the opening of the Cheyenne and the Standing Rock Reservations, which was next to the last one in our State, there were not sufficient people to begin to take anywhere near the land that was to be disposed of, and the reason they did not take it was the price of the land, which was undoubtedly too high.

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I notice a provision in the bill reserving 20 per cent of the amount sold for town lots to make improvements in the towns. On the same theory why should not this land itself or the proceeds of it pay for the sixteenth and the thirty-sixth sections reserved for school purposes in order to make the land of more value and sell the land for a higher price?

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Mr. MANN. The sixteenth and the thirty-sixth sections are reserved for school purposes, and in order to make the adjoining land of more value.

Mr. BURKE of South Dakota. Oh, not at all; that is not the theory.

Mr. MANN. I think that is the very reason it was done in the first place, and the reason it has been continued. It is a fact that it does make the land more valuable. It saves the expenditure for school purposes which otherwise would have to be made. Now you propose to reserve 20 per cent of the sale price in towns to build town buildings. Upon what theory? Why, upon the theory that that makes the land which was sold worth more.

Mr. BURKE of South Dakota. Certainly.

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was submitted to the Indians they were heartily in favor of the provision, and I want to call the gentleman's attention——

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Mr. FERRIS. Will the gentleman yield for just a moment? In lines 14 to 17, inclusive, page 16, I think it will be observed that this provision is not without consideration. This provision is on condition that the public-school authorities in these towns forever receive the Indian children in the public schools on the full standing and full footing with the white children, and that is the real consideration for this.

Mr. MANN. If we give them the lands for the public schools, why do we then put in a provision requiring that the land shall be used for their education when we pay them for the use of the land and pay them for the other lands sold besides.

Mr. FERRIS. You do not pay them for the use of the lands; we sell a certain portion——

Mr. MANN. I am talking about school lands. We do pay them for the school lands which we donate to the State. In other words, the public domain at present, as now administered under this provision, is a liability to the Government instead of an asset.

Mr. BURKE of South Dakota. If the gentleman will permit just a word. I desire to say under the treaty of 1877 the United States guaranteed in perpetuity to furnish these Indians with sufficient funds and until they became civilized, including cost of education and subsistence, and that under this bill the proceeds from the sale of sections 16 and 36 goes into the Treasury to the credit of the Indians, and then we appropriate it for their support and civilization and thereby relieve the Treasury from the obligation that exists under the treaty of 1877, under which we have appropriated millions of dollars. I may say that for the support of the Sioux, when I came to Congress, we were appropriating $900,000 annually out of the Public Treasury as against $250,000, I think it is now, or $350,000, in the pending Indian appropriation bill. Mr. Speaker, I reserve the balance of my time.

The SPEAKER. The gentleman reserves three minutes.

Mr. FOSTER. Mr. Speaker, this bill, Senate 109, as many Members will remember, flopped around here for a good while trying to get consideration. I think that the committee has had some difficulty, or likely there was some difficulty, I will not say the committee, in getting the Indians satisfied in reference to the opening of this reservation. When they first had this matter up I think it will be recalled by some of the Members who had something to do with it that this bill was not satisfactory to these Indians who are affected by this opening, but by providing in the bill, which comes before us at this time, that $40 shall be paid to each Indian it makes him more docile and ready to submit to whatever legislation may be necessary to deprive him of his land and sell it and put the money in the Treasury. I have before me statements which have been made by some of these Indians in which they say that this land very largely is needed by the Indians for grazing purposes; that the timber allotments on the part of the lands they have allotted and to which they are entitled have not been approved by the Department of the Interior; that a large number of heirs of deceased Indians, who are entitled to allotment, have not yet received their allotment. I do not know, of course, whether it is necessary for me to undertake to read these or whether it is worth anything at this particular time, but it seems to me a bill of this character, which involves 260,000 acres of public land, should not be taken up under suspension of the rules, where no one is given an opportunity to amend a bill of this character.

I see the gentleman's anxiety for wanting to pass this bill and get these lands thrown open for settlement.

Mr. MILLER. Will the gentleman yield?

Mr. FOSTER. In just a moment. But I regard not the interests of Dakota alone in this matter. I think the whole people of the United States, who I think have some interest in the Indians and the lands which they have, should be considered. And for that reason I do not believe a bill of this character ought ever to come up under suspension of the rules.

Mr. BURKE of South Dakota. I would like to ask the gentleman a question, if he will permit.

Mr. FOSTER. Yes, sir.

Mr. BURKE of South Dakota. Do I understand the gentleman from Illinois wants to keep these Indians forever in reservations?

Mr. FOSTER. I will say this. In the State from which the gentleman comes I have no doubt the land is becoming more valuable year by year, and if by holding these lands for a little while for the benefit of the Indians, with the increase of money which they might be able to secure for that land, it would go for their support and education in the future, and I submit to the gentleman if he does not think it a good thing for the Indians?

Mr. BURKE of South Dakota. I would most emphatically say no. And let me say that with these Standing Rock Indians the heads of families have been allotted 640 acres, the wife of each husband 320 acres, each adult unmarried person 320 acres, and each child 160 acres. Consequently, in almost every family there are from 900 to 2,000 acres of land. Now, many of these allottees have died, probably one-fourth of them, since the first allotments were made, and those living have inherited such lands, and consequently these Indians are rich in lands. Now, it would certainly enhance the value of these allotments if you could dispose of these unused surplus lands, and if they should be used and occupied by the white people it would be contributing to the opportunities of the Indian, inasmuch as he would have the opportunity of learning from the white man.

Mr. FOSTER. I think many of the Members of Congress who are serving here now and who have served here in the past will recall that year after year Congress is expected to appropriate a large sum of money for the education of the Indian and for his care and support in many parts of the United States. And it has occurred to me, in view of those facts, that if there is anything to be gained by holding these lands the increase will come to him, and that he should have a right to the increase in the value of his land. But the great trouble seems to be that when the Indian has some valuable land the first opportunity is sought to take it away from him. And, then, I will say further, that beyond and all around these Indian reservations, as I understand, there is a good deal of public land to-day that is not settled in the Dakotas, and there can be no crying necessity for taking these lands away from the Indian at this particular time. Let the Dakotas go and induce people to go upon these lands, if necessary, and homestead them, but let the Indian alone for a little while and let him have the land where it will be of some advantage to him.

Mr. BURKE of South Dakota. Let me call the gentleman's attention to this fact—and I know he is not aware of it: That under the very treaty made with these Indians in 1889 there is a provision that when the allotments are made the surplus lands shall be disposed of, and this bill is to carry out what this treaty provides. And as to the land around this section and territory, I will say to the gentleman there is not any public land for homestead purposes. There is some public land in Cheyenne and the Standing Rock sections that was not taken, because the price appraised on the land was more than it is worth.

Mr. FOSTER. Does the gentleman think that in 10 years from now, or 5 years from now, that because of that land being more valuable it will be time to open these lands for settlement?

Mr. BURKE of South Dakota. I want to say to the gentleman that I think there has nothing happened that has done more to pauperize the Indian than to build up constantly a fund in the Treasury, or to reserve something, so that he expects constantly that he is going to get something.

Mr. FOSTER. If he has his lands there, there will be no fund. Let him have the lands.

Mr. COOPER. Will the gentleman yield?

Mr. FOSTER. I yield.

Mr. COOPER. I observe on page 7 of the report, at the bottom, in the beginning of the letter addressed to the Secretary of the Interior by the Indian agent, it says:

> Under departmental instructions of August 11 last, I have the honor to report my conferences with the Indians of the Standing Rock Reservation in the States of North Dakota and South Dakota, with reference to the sale and disposition of the surplus land of their reservation.

But he says further:

> Owing to inclement weather, deep snow, and difficult traveling, the council was not so largely attended as it otherwise would undoubtedly have been.

Now, he received his instruction on the 11th of August, and he had this meeting or council in deep snow, when the traveling was so difficult that there were few Indians present. Why was it necessary, when the instructions were given in August, to postpone that council until there was deep snow, when it was difficult to attend it and when, as a matter of fact, few did attend it?

price, it was thought that we should provide, as the bill does provide, that for all lands disposed of in the first three months the price should be $6 an acre, and then after three months $4 an acre, and then $2.50 an acre. When this bill in its original form, providing that the lands should be appraised, was submitted to the Indians for consideration they objected to it largely because of the provision which provided for appraisement. So, as I have stated, believing that no good could come from an appraisement, and believing that the plan which the bill follows is really a better one than to fix the price by appraisement, we have changed it in that respect.

We have a precedent for this legislation in the law which was enacted some years ago for opening a portion of the Rosebud Reservation. That law provided that a certain price should be paid for all lands taken in the first three months, and then the price was reduced in the next three months, and finally after six months the price was reduced to $2.50 an acre, the same as this bill provides.

I want to say that under that legislation about all of the desirable land was taken at the high price, and that when it came to the minimum price of $2.50 an acre there was practically no land left that anyone would undertake to acquire title to under the homestead laws. The law provided that after a certain number of years the undisposed of land should be disposed of without regard to homestead requirements and sold at auction to the highest bidder, and the remnants were sold and at an average price of $4.87 an acre.

There was no further legislation required and the matter was closed up and the lands were paid for in full, and I think it is the most satisfactory opening of an Indian reservation we have had for some years.

I may say, as I have already said, that this bill was submitted to the Indians and a council was held. Maj. McLaughlin represented the United States and the Department of the Interior. Maj. McLaughlin has been in the Indian Service for a period of 40 years. For a number of years he was the agent of these Standing Rock Indians. While there was some objection to the bill by the Indians as introduced in the Senate, it has been amended by the Committee on Indian Affairs of the House, and as it is now presented practically every objection raised by the Indians has been met by an amendment. I submit that if anyone will take the trouble to examine this measure he will find very little to criticize in it. Now, Mr. Speaker, unless some one desires to ask me a question, I want to reserve the balance of my time.

Mr. MANN. Will the gentleman yield?

Mr. BURKE of South Dakota. Certainly.

Mr. MANN. First with reference to the different values placed upon the land according to the time they are entered, changing from $6 to $4 within three months, I believe. It may be that the Interior Department will open this land at some season very appropriate, and it may be that it will not. The truth is, public lands opened in recent years in the West to homestead settlement have been opened possibly in the best way it could be done, but certainly not at all to the satisfaction of the people living east of the western country who desired to obtain land. If it should be opened at this season of the year, of course, it would be wholly in the interest of the local people. Is there any way of determining when this land will be opened?

Mr. BURKE of South Dakota. I can only answer the gentleman by stating that heretofore the department has had these openings at the season of the year when it believed it would serve the interest of the greatest number of people. They have usually provided for registration in the fall of the year and the filings in the following spring. So far as people in the immediate locality are concerned, I may say that nearly all of them have exercised their homestead rights and have no privilege to enter these lands, and before a person can be a purchaser he must have the qualifications of a homestead entryman.

Mr. MANN. I think there are a great many people up there who have not exercised their homestead rights and who never intend to live on a homestead anywhere, but who will exercise their rights for the purpose of getting possession of the lands and relinquishing that right afterwards.

Mr. BURKE of South Dakota. Anyone who undertakes now to acquire title under a homestead is compelled to live upon the land in accordance with the law, or he does not succeed in getting the title.

Mr. MANN. He is not compelled to maintain his claim. He can relinquish that, as far as that is concerned.

Mr. STEPHENS of Texas. Mr. Speaker, is the gentleman from Illinois aware that the proclamation of the President can not be issued until the lands have been allotted to the Indians? This is the language in the bill, to be found on page 14:

Provided, That prior to said proclamation the Secretary of the Interior shall cause allotments to be made to every man, woman, and child belonging to or holding tribal relations in said reservations who have not heretofore received the allotments to which they are entitled under provisions of existing laws: *Provided, however*, That the said Secretary is hereby authorized to designate the superintendent of the Standing Rock Indian School to allot each child born subsequent to the completion of the allotments herein provided for and 60 days prior to the date set by said proclamation for the entry of said surplus lands.

Mr. MANN. I had assumed that the land which was to be sold to homesteaders was not to be allotted to Indians at all. Am I not correct in that assumption?

Mr. STEPHENS of Texas. The language is very plain—

That prior to the said proclamation the Secretary of the Interior shall cause allotments to be made to every man, etc., who have not heretofore received the allotments to which they are entitled under provisions of existing laws.

Mr. MANN. Does that cover the land to be sold to homesteaders?

Mr. STEPHENS of Texas. After the lands have been allotted and the Indians have taken their allotments, then this proclamation can be issued, and not before.

Mr. MANN. That is what I assumed, and that is the reason I was asking the question.

Is the gentleman from South Dakota able to tell the House how many people went up to the Dakotas at the opening of the Rosebud land?

Mr. BURKE of South Dakota. I will say to the gentleman, if he refers to the first opening, which was that portion in Gregory County, and which was opened, I think, by an act passed in the Fifty-eighth Congress, that there were something like 100,000 people.

Mr. MANN. How many people out of that number were permitted to get homesteads?

Mr. BURKE of South Dakota. There were about 2,500 160-acre tracts, as I remember.

Mr. MANN. That was a very profitable thing for the railroad companies.

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Mr. FOSTER. I will say this. In the State from which the gentleman comes I have no doubt the land is becoming more valuable year by year, and if by holding these lands for a little while for the benefit of the Indians, with the increase of money which they might be able to secure for that land, it would go for their support and education in the future, and I submit to the gentleman if he does not think it a good thing for the Indians?

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Mr. BURKE of South Dakota. Let me call the gentleman's attention to this fact—and I know he is not aware of it: That under the very treaty made with these Indians in 1889 there is a provision that when the allotments are made the surplus lands shall be disposed of, and this bill is to carry out what this treaty provides. And as to the land around this section and territory, I will say to the gentleman there is not any public land for homestead purposes. There is some public land in Cheyenne and the Standing Rock sections that was not taken, because the price appraised on the land was more than it is worth.

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Mr. FOSTER. If he has his lands there, there will be no fund. Let him have the lands.

Mr. COOPER. Will the gentleman yield?

Mr. FOSTER. I yield.

Mr. COOPER. I observe on page 7 of the report, at the bottom, in the beginning of the letter addressed to the Secretary of the Interior by the Indian agent, it says:

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But he says further:

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Now, he received his instruction on the 11th of August, and he had this meeting or council in deep snow, when the traveling was so difficult that there were few Indians present. Why was it necessary, when the instructions were given in August, to postpone that council until there was deep snow, when it was difficult to attend it and when, as a matter of fact, few did attend it?

Mr. FOSTER. And I will state to the gentleman that possibly in that way they secured the consent of the Indians to the opening.

Mr. COOPER. Will the gentleman permit me another question?

Mr. FOSTER. Yes.

Mr. COOPER. Does not the gentleman see that we ought to have a calendar for the suspension of the rules, and that the Committee on Rules ought to bring in a rule providing that there shall be a suspension of the rules calendar, which is just as important as a Calendar for Unanimous Consent, so that we will know what bills will be called up? This is an exceedingly important bill, and if it had been called up on the Unanimous Consent Calendar it would have been objected to promptly. Here it is brought up under suspension of the rules, and I am told that it has been twice objected to on the Calendar for Unanimous Consent.

Mr. BURKE of South Dakota. Mr. Speaker, I think the gentleman from Illinois [Mr. FOSTER] will corroborate me when I say that it was not promptly objected to, but was very reluctantly objected to by my good friend from Illinois, who made an objection only after some discussion of the matter, and concluded that it ought not to pass under unanimous consent.

I want to state to the gentleman from Wisconsin [Mr. COOPER] that this bill, as I have already stated, is in substantial conformity with the bills that we have been passing in the last 10 years in relation to the disposition of the surplus of Indian lands in reservations, with the exception that it is perfected, and is, therefore, a better measure——

Mr. COOPER. It ought to be——

Mr. BURKE of South Dakota. A better measure than any that we have heretofore passed. I call the attention of the gentleman to the fact that it has a unanimous report from the committee, which considered it very carefully.

Mr. COOPER. I notice in this letter, if the gentleman from Illinois [Mr. FOSTER] will permit a question——

Mr. FOSTER. Yes——

Mr. COOPER. That the Indians expressed themselves as despondent and as very much discouraged at not receiving any cash payment from the proceeds of the sale. The act was passed on May 29, 1908. That is four years and five months ago.

Mr. FOSTER. Yes. Let me state to the gentleman from Wisconsin——

Mr. COOPER. They were instructed to call the Indians together in August, and when they did call them together the snow was so deep that they could not get to the council.

Mr. FOSTER. It was provided that the Indians should receive $40 each out of this money, and of course they immediately concluded that $40 was worth something to them.

Mr. BURKE of South Dakota. Let me say, Mr. Speaker, in response to the suggestion of the gentleman from Wisconsin [Mr. COOPER] that the bill providing for the sale of the surplus lands that was passed in 1908 provided that the money should be paid into the Treasury and expended for the support, civilization, and education of these Indians, in accordance with the agreement of 1889, and the Secretary of the Interior, believing that he had the right to pay to these Indians a cash payment, when they asked for a $40 per capita payment because of two successive droughts, submitted the matter to the comptroller, and the comptroller held that under the law as it existed no money could be paid directly to the Indians; and therefore we put into this bill a provision, after the comptroller had ruled upon the question, that $40 per capita might be paid to the Indians.

Mr. FOSTER. Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore (Mr. FERRIS). Six minutes.

Mr. MILLER. Mr. Speaker, will the gentleman yield for a question?

Mr. FOSTER. I will, for just a short question.

Mr. MILLER. I thought the gentleman was about through. This is not very important. The gentleman observed, in the course of his remarks, that during the years past Members had noticed that the Government had annually to pay out quite large sums for the support and maintenance of various Indians. Has the gentleman ever observed exactly who those Indians are, and where they are, for whom these particular sums have been expended?

Mr. FOSTER. I do not know that I could enumerate them.

Mr. MILLER. I could tell the gentleman generally.

Mr. FOSTER. Let me state it. I do not care that the gentleman shall answer his own question.

Mr. MILLER. I can readily answer it.

Mr. FOSTER. I will suggest to the gentleman that if he will scan the appropriation bills of the past sessions of Congress he will find that for almost every section of the country where there are Indians there has been appropriated money for the support and education of the Indians.

Mr. MILLER. Oh, no; there are 11,000 Indians in my State, and not one penny has been spent by the Government for their support and education in 10 years.

Mr. FOSTER. We have here now a matter of appropriating money, it might be said, for the betterment of the Indians, but the Government is spending money all the time.

Mr. MILLER. It is, and it is spending large sums, too; but I want to direct the attention of the gentleman to the particular Indians for whom this money is intended.

Mr. FOSTER. I can not say as to these Indians; but I have no doubt if the record was looked up it would be found that a good deal has been spent for these Indians. I imagine that the State of Minnesota has not been too immodest in calling upon the Treasury for what it thought it wanted.

Mr. MILLER. The record speaks for itself.

Mr. FOSTER. The Representatives from the State of Minnesota have usually been active and alert on this floor.

Mr. MILLER. I do not agree with the gentleman that activity is to be measured by inroads upon the United States Treasury; but in passing, if the gentleman will permit——

Mr. FOSTER. Yes.

Mr. MILLER. I should like to call the attention of the gentleman to the fact that I think it is worthy of some thought, if not discussion at this time, that the Indians for whom the Government is forced to make these appropriations for support and maintenance are Indians who have been despoiled of their land, generally speaking, by acts of the Government twenty-five, thirty, fifty, sixty, or eighty years ago, and that it is never due to anything like opening up an unused portion of a reservation.

Mr. FOSTER. I think there was always some innocent looking bill. I am not casting any reflection on the gentleman from South Dakota in this respect, but usually the plea is made, "Why, this is for the benefit of the Indians themselves." And yet in the end the Indian's land is gone and his support has to be provided by the United States Government.

Mr. BURKE of South Dakota. Will the gentleman allow me to ask him if he has heard of any scandal in connection with any of the openings in South Dakota in the last few years?

Mr. FOSTER. No; and if I have intimated such a thing to the gentleman, I beg his pardon. I am not intimating it; but I would suggest to the gentleman, as suggested by the gentleman from Minnesota [Mr. MILLER], that these things have occurred in the past, and I have not specified any particular part of the country. I do not know whether he refers to Dakota or whether he refers to Minnesota, or some other State.

Mr. BURKE of South Dakota. I think he could perhaps not only refer to Dakota and Minnesota, but he might include Illinois, because he went back 80 years.

Mr. FOSTER. That may be true. I suppose in Illinois there were men who were just as anxious to take away from the Indian the lands that belonged to him as there are to take away the land that belongs to the Indians in other States, and those efforts probably have been just as successful in Illinois as they were in other States.

Mr. MANN. The people of Illinois may have robbed the Indians, but we did not rob both the Treasury and the Indians.

Mr. FOSTER. Yes; that is true.

Mr. BURKE of South Dakota. I wanted to call the attention of the gentleman to the fact that the Indians of South Dakota have been making great progress, and there has been no suggestion that by reason of any of the acts that have been passed in recent years they have been wronged or defrauded.

Mr. FITZGERALD. Will the gentleman yield for a question?

Mr. FOSTER. Yes.

Mr. FITZGERALD. How many Indians are there in Standing Rock?

Mr. BURKE of South Dakota. I think between 4,000 and 5,000.

Mr. FITZGERALD. How much does this $40 per capita payment amount to?

Mr. BURKE of South Dakota. I have not figured it up.

Mr. FITZGERALD. In round numbers?

Mr. MILLER. Four thousand times forty would be $160,000.

Mr. BURKE of South Dakota. Something between $150,000 and $200,000.

Mr. FITZGERALD. Why do they want this money?

Mr. BURKE of South Dakota. It is suggested that this money is necessary as the result of two successive severe droughts.

Mr. STEPHENS of Texas. It is necessary to improve their farms and improve their condition generally.

Mr. FITZGERALD. How much of the former reservation is undisposed of?

Mr. BURKE of South Dakota. I am not able to state just what portion of the Standing Rock Reservation is undisposed of, but I would say for a guess probably one-third. I am not able to state.

Mr. FITZGERALD. I do not recollect the extent of that area.

Mr. BURKE of South Dakota. The Standing Rock Reservation joins the Cheyenne, and a small portion of the Standing Rock was opened with the Cheyenne, but just what proportion I am not able to state.

Mr. FITZGERALD. How many acres are undisposed of?

Mr. BURKE of South Dakota. I am unable to state. The reason that it has not been disposed of is due to the price, which was too high, and, second, to the drought condition which prevails.

Mr. FITZGERALD. If that condition prevails now it would be unwise to open it.

Mr. BURKE of South Dakota. The conditions this past year have been better than the year before.

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. BURKE of South Dakota. Mr. Speaker, I yield the balance of my time to the gentleman from Oklahoma [Mr. FERRIS].

Mr. FERRIS. Mr. Speaker, I think the gentleman from South Dakota has covered the field pretty well in his remarks. I want to say that the Indians who appeared before the committee did express their views, and I think every objection they had was met fully by the committee, and I think that the bill is very well poised, indeed.

Mr. BUTLER. Will the gentleman yield?

Mr. FERRIS. Certainly.

Mr. BUTLER. What objection did the Indians make?

Mr. FERRIS. The objection in a nutshell, as I saw it, was that some of the cattlemen wanted to occupy or lease these surplus lands, and they induced these Indians to come down here at their expense and make a protest. That is the real information.

There is always the same two factions with reference to an Indian reservation. The cattle people want to rent the land undivided as a reservation for a few cents an acre, and never want it settled up. On the other hand, there are people who want to settle up the land, build houses, build fences, plow, cultivate, and make something of the country.

Mr. BURKE of South Dakota. These surplus lands are leased for about 4 cents an acre.

Mr. FERRIS. Now, this bill is in favor of the people who want to settle the country. Each Indian—big, little, old, and young—has 160 acres apiece, and that makes anywhere from 320 to 2,000 acres in a family. They personally do not cultivate and take care of any considerable part of it at all. All they do is to lease it.

Mr. FOSTER. Does not the Government have something to do with the leasing of it?

Mr. FERRIS. It does.

Mr. FOSTER. Then the Government ought to see that they did not rent it too cheaply, and you ought not to blame the Indians for it.

Mr. FERRIS. I am not blaming the Indians, I am simply stating the fact. Now, this wild domain, of course, is uncultivated and unsubdued, and that is the best deal the Indians could make. Of course, you can not afford to pay for grazing land as much as you would pay for land that could be cultivated. But the white people will buy these lands at a fair price. The final solution of the Indian question is bound to be the intermingling of the white people and gradually swallowing up the Indian, and the only way you can do it is to have the land allotted to the individual Indians and let the white settler come in and buy the surplus lands. There is much said about the white people going in and buying up Indian land, but there are two sides to the question. When the land is allotted it renders it more valuable. The white people who convert a cow pasture into fertile fields are entitled to some consideration. When cities and towns are built it creates value for the Indians also. This is a good bill. I think the bill ought to pass. So many people think there is but one side of these Indian questions, but the frontiersmen who are drawers of water and hewers of wood are entitled to some consideration. This bill in no manner affects their individual allotments. It only disposes of their surplus and creates value for their allotments.

The SPEAKER. The time of the gentleman from Oklahoma has expired and all time has expired. The question is on the motion of the gentleman from South Dakota to suspend the rules and pass the bill.

The question was taken; and on a division (demanded by Mr. FOSTER) there were 36 ayes and 8 noes.

So, two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

THE ROCKEFELLER FOUNDATION.

Mr. PETERS. Mr. Speaker, I move to suspend the rules and pass the bill H. R. 21532, to incorporate the Rockefeller Foundation.

The Clerk read the bill, as follows:

Be it enacted, etc., That John D. Rockefeller, John D. Rockefeller, jr., Frederick T. Gates, Starr J. Murphy, Harry Pratt Judson, Simon Flexner, Edwin A. Alderman, Wickliffe Rose, and Charles O. Heydt, together with such persons as they may associate with themselves, and their successors, be, and they hereby are, constituted a body corporate of the District of Columbia.

SEC. 2. That the name of such body corporate shall be "The Rockefeller Foundation," and by that name it shall have perpetual succession, save as hereinafter provided.

SEC. 3. That the object of the said corporation shall be to promote the well-being and to advance the civilization of the peoples of the United States and its Territories and possessions and of foreign lands in the acquisition and dissemination of knowledge; in the prevention and relief of suffering; and in the promotion, by eleemosynary and philanthropic means, of any and all of the elements of human progress: *Provided, however,* That the Congress of the United States may at any time impose such limitations upon the objects of the said corporation as it may deem the public interest demands, and any and all gifts, devises, bequeats, or property at any time received or held by said corporation shall be received and held subject to the terms of this proviso and to the terms and limitations which may be imposed by any act of Congress hereafter passed with reference thereto.

SEC. 4. That for the promotion of such objects the said corporation shall have power to establish, maintain, and endow, or to aid others, whether individuals, associations, or corporations, to establish, maintain, and endow institutions and other agencies for carrying on said objects, and any of them; to purchase, hold, sell, and convey real estate necessary or convenient for the said corporate objects, and to erect, improve, enlarge, and equip buildings and other structures necessary or convenient for said objects, or any of them, and to acquire, make, and furnish all necessary or convenient apparatus and other accessories; to employ and aid others to employ teachers, lecturers, assistants, and agents; to donate to any individual, association, or corporation engaged in similar work money or property, real or personal, which shall at any time be held by the said corporation hereby constituted, subject to the terms of any gift, grant, bequest, or devise by which the said corporation shall have received the same; to collect statistics and information, and to publish and distribute books, documents, and reports containing the same, and in general to do and perform all things necessary or convenient for the promotion of the object of the corporation.

SEC. 5. That the said corporation shall further have power to have and use a common seal and to alter and change the same at its pleasure; to sue and be sued in any court of the United States or other court of competent jurisdiction; to take or receive, whether by gift, grant, devise, bequest, or purchase, any real or personal estate, and to hold, grant, convey, transfer, hire, or lease the same for its corporate purposes; to accept and administer any trust of money, or of real or personal estate for any purpose within the object of the corporation as aforesaid: *Provided, however,* That the total amount of property held at any one time, including that which is held absolutely as well as that which is held in trust, shall not exceed the value of $100,000,000, exclusive of increases in the value of property subsequent to its receipt by said corporation; to prescribe, by by-laws, or otherwise, the terms and conditions upon which money, real estate, or personal estate shall be acquired or received by the said corporation, and for the grant, transfer, assignment, or donation of any or all property of the said corporation, real or personal, to any individual, society, or corporation for any of the said purposes for which the said corporation is hereby incorporated; to make by-laws, subject to the provisions of this act, for the admission or exclusion of its members; for the election of its trustees, officers, and agents; for the casting of votes by its members or trustees by proxy; for the purchase, management, sale, or transfer of its property; for the investment and control of its funds; and otherwise generally for the management of the property and the transaction of the business of the corporation. The enumeration of special powers in this act shall be deemed to be by way of amplification and not by way of limitation of the general powers hereby granted.

SEC. 6. That the income of the property of the said corporation shall not be accumulated or added to the principal, but shall be currently applied to the purposes for which the corporation is created, subject only to such reasonable delay as may be necessary in the wise administration of the fund.

SEC. 7. That at any time after the expiration of 50 years from the receipt by the said corporation of any property, whether by deed, grant, devise, or bequest, the said corporation may distribute the principal, or any part thereof, as well as the income thereof, in furtherance of the objects of said corporation, provided such action shall be authorized by a resolution passed by the affirmative vote of two-thirds of all those who shall at the time be members of the corporation, at a special meeting held on not less than 30 days' notice, given in writing, which shall state that the meeting is called for the purpose of considering a resolution to authorize the distribution of the whole or some part of the principal of said funds; and after the expiration of 100 years from the date of its receipt by said corporation the said corporation shall distribute the principal, in furtherance of the objects of said corporation, if so directed to do by the Congress of the United States; and all gifts, grants, devises, or bequests to the corporation shall be taken and held subject to the provisions of this section.

SEC. 8. That the members of the corporation shall be not less than 9 in number and not more than 25, as may be prescribed by the by-laws of the corporation: *Provided,* That if and when the number of members shall be less than 9 the members remaining shall have power to add, and shall add, to their number until the number shall not be less than 9: *And provided,* That no act of the corporation shall be void because at the time such act shall be done the number of the members of the corporation shall be less than 9, except that no gift to any individual, association, institution, or corporation, shall be made when the number of members is less than 9; that all the members of the corporation shall be its trustees; that no member of the said corporation shall, by reason of such membership or his trusteeship, be personally liable for any of its debts or obligations; that each member of the corporation shall hold his membership for a term of three years and until his successor shall be chosen: *Provided, however,*

That the members shall be at all times divided into three classes, equal numerically as nearly as may be, and that the original members shall at their first meeting, or as soon thereafter as shall be convenient, be divided into three classes, the members of the first class to hold their membership and office until the expiration of one year, the members of the second class until the expiration of two years, and the members of the third class until the expiration of three years from the 30th day of June next after the enactment of this law, and that in every case the member shall hold office after the expiration of his term until his successor shall be chosen: *And provided further*, That in case any member shall, by death, resignation, incapacity to act, or otherwise, cease to be a member during his term, his successor may be chosen to serve for the remainder of such term and until his successor shall be chosen.

SEC. 9. That the successors to the incorporators named herein and the additional members of the corporation and their successors shall be elected by the members of the corporation for the time being, but before such election shall become effective written notice thereof shall be mailed by said corporation to each of the following-named persons at his official post-office address, namely: The President of the United States, the Chief Justice of the Supreme Court, the President of the Senate, the Speaker of the House of Representatives, and the presidents of the following institutions, namely: Harvard University, Cambridge, Mass.; Yale University, New Haven, Conn.; Columbia University, New York City, N. Y.; Johns Hopkins University, Baltimore, Md.; and the University of Chicago, Chicago, Ill. If such election shall be disapproved by a majority of the persons above named, it shall be void; but it shall become effective if and when it shall be approved by such majority, or at the expiration of 60 days from the mailing of such notices if it shall not have been disapproved by such majority.

SEC. 10. That the principal office of the corporation shall be located in the District of Columbia, but offices may be maintained and meetings of the corporation, the trustees, and committees may be held in such other places as the by-laws may from time to time designate.

SEC. 11. That all personal property and funds of the corporation held, used, or invested for its purposes as aforesaid, or to produce income to be used for such purposes, shall be exempt from taxation by the United States or any Territory or District thereof.

SEC. 12. That no officer, trustee, member, or employee of said corporation shall receive any pecuniary benefit from the operations thereof, except reasonable compensation for services in effecting one or more of the purposes of the corporation.

SEC. 13. That the corporation shall annually file with the Secretary of the Interior of the United States a report in writing, stating in detail the property, real and personal, held by the corporation, and the expenditure or other use or disposition of the same or of the income thereof during the preceding year.

SEC. 14. That this charter shall be subject to alteration, amendment, or repeal at the pleasure of the Congress of the United States.

SEC. 15. That this act shall take effect immediately on its passage.

Mr. FITZGERALD. Mr. Speaker, I demand a second.

Mr. RODDENBERY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RODDENBERY. Is the gentleman from New York opposed to the bill?

The SPEAKER. The gentleman from New York is not obliged to answer.

Mr. RODDENBERY. I have a further question to ask. If the gentleman from New York is not opposed to the bill and another gentleman is opposed to the bill, which has the preference?

Mr. FITZGERALD. Is the gentleman from Georgia opposed to the bill?

Mr. RODDENBERY. The gentleman from New York will please answer my question first; I asked him the question first.

Mr. FITZGERALD. As at present informed I am. I may be convinced that the bill is a good bill. If the gentleman is opposed to it, I am satisfied to have him recognized.

The SPEAKER. The rule and the custom is that the Speaker or the Chairman, whoever happens to be in the chair, shall recognize the first Member up, excepting, of course, on the motion to recommit.

Mr. FITZGERALD. If the gentleman from Georgia is opposed to the bill and does not believe he is likely to be persuaded to favor it at all, I am perfectly willing that the Speaker should recognize him.

Mr. RODDENBERY. Not at all. As at present informed I am opposed to the bill. I merely wanted the information.

The SPEAKER. The gentleman from New York demands a second.

Mr. PETERS. Mr. Speaker, I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent that a second may be considered ordered. Is there objection?

Mr. WILLIS. Mr. Speaker, I object.

The SPEAKER. The gentleman from Ohio objects. The gentleman from Massachusetts [Mr. PETERS] and the gentleman from New York [Mr. FITZGERALD] will take their places as tellers. The question is on ordering a second.

The question was taken; and the tellers reported 41 in favor of and 4 opposed to ordering a second.

So a second was ordered.

The SPEAKER. The gentleman from Massachusetts is entitled to 20 minutes and the gentleman from New York is entitled to 20 minutes.

Mr. PETERS. Mr. Speaker, it is not necessary for me to long detain the House, but I shall call briefly to the attention of the House the purpose of the bill which we have before us for consideration. The first section provides for the incorporators. The second and third sections state the object and purposes of the bill. The object of the bill as set out in the section itself is—

to promote the well-being and to advance the civilization of the peoples of the United States and its Territories and possessions and of foreign lands in the acquisition and dissemination of knowledge; in the prevention and relief of suffering; and in the promotion, by eleemosynary and philanthropic means, of any and all of the elements of human progress.

Congress may at any time impose such limitations upon the objects of the said corporation as it deems public interest demands, and that all property received must be held by it subject to these provisions.

The corporation is to be granted power to establish, maintain, and endow any institutions or agencies for carrying on the purpose for which it is created, and for such purpose it has the ordinary corporate powers given to eleemosynary institutions by the general laws of the States.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield for a question?

Mr. PETERS. Certainly.

Mr. BARTLETT. Mr. Speaker, I desire the gentleman to tell me what is meant by certain language in the bill. On page 4, in line 17, we find this language:

The enumeration of special powers in this act shall be deemed to be by way of amplification and not by way of limitation of the general powers hereby granted.

That is to say that there is nothing in the act which can limit the powers of the corporation, and instead of limiting the powers of the corporation it is given unlimited power.

Mr. PETERS. I think that same provision has been in other special acts passed by this Congress granting similar corporate powers to other institutions, and its purpose is to provide that there shall be no question as to the rights of the people acting under the corporate powers to carry out the purposes for which the institution is incorporated.

Mr. BARTLETT. In other words, that it should be chartered for a pretended eleemosynary purpose, but that any purpose may be carried out by these incorporators or by the managers of the corporation.

Mr. PETERS. No; only to carry out purposes along the line indicated in the charter.

Mr. BARTLETT. In other words, while you apparently limit the power of the corporation to specific objects, yet this language means that you do not limit but you amplify the powers and give the corporation anything it wants. Is not that the meaning of it?

Mr. PETERS. Not at all. I tried to state that it is provided that the general powers granted in this bill shall not be limited by the terms of the act beyond the purposes for which it is incorporated. The failure to mention a specific charitable object in the bill shall not prevent them from going into that field of work if consistent with the limitations imposed in the bill.

Mr. BARTLETT. One other question, so that the gentleman may answer the suggestions that occur to my mind, and that is in reference to section 11.

That all personal property and funds of the corporation held, used, or invested for its purposes as aforesaid, or to produce income to be used for such purposes, shall be exempt from taxation by the United States or any Territory or district thereof.

Mr. PETERS. If the gentleman will permit me, I am taking up the bill section by section, and if I do not make it clear when we come to that number I will ask the gentleman to put the question again.

Mr. BARTLETT. Well, I did not know the gentleman intended to do that.

Mr. PETERS. Section 6 provides the income of the property shall not be added to the principal, and that the income shall be spent for the purposes for which it is incorporated, so that no larger amount shall be acquired. The number of members——

Mr. BARTLETT. As the gentleman has got beyond section 1, might I ask him a question in reference to it?

Mr. PETERS. Certainly.

Mr. BARTLETT. The gentleman calls this "a body corporate of the District of Columbia," and yet he proposes to give it powers to extend anywhere beyond the District of Columbia and all the States, and he also proposes to give it power to do certain things in foreign countries. That is true?

Mr. PETERS. Yes.

Mr. BARTLETT. Now, is not there a law in the District of Columbia that provides for the incorporation of all sorts of corporations?

Mr. PETERS. That law has been tried, and it is only drawn for the purposes of corporations whose intent it is to operate solely within the District, and it does not give sufficient powers for corporations who desire to do their field work outside of the District of Columbia. The Carnegie people tried originally an incorporation under the District, and found they were not able to operate in that way, and had to get a special act.

Mr. BARTLETT. Then I understand the whole purpose of this is to give it the sanction and seal of the United States instead of a corporation merely of the District of Columbia—to give it an incorporation by act of Congress—and the words "a body corporate of the District of Columbia" do not mean anything as put in the bill.

Mr. PETERS. The gentleman has correctly stated the purpose when he says it is to have the corporation operate all over the country. The limitations imposed by the general laws of the District make incorporation under them for these purposes impracticable, and also require that a majority of the incorporators be citizens of the District.

Mr. BARTLETT. Does the gentleman think that Congress does exercise any function of creating corporations to exercise public functions such as national banks or railroads to carry on interstate-commerce business or to build bridges, as in the North River Bridge case, in which the Supreme Court said Congress had the right to incorporate that sort of a charter because it was a navigable stream? Does the gentleman think that Congress has the constitutional power to grant charters, any sort of charters, to do any sort of business, national or international, anyway, whether it be confined to the United States or extended to foreign countries? Does the gentleman think we have that power?

Mr. PETERS. I think Congress clearly has power to grant corporate powers such as is intended to be granted by this act.

Mr. BATHRICK. May I ask the gentleman a question? Are not all the gentleman's questions, as expressed in his inferential fears, answered by section 14, which gives the Congress of the United States the power to alter, amend, or repeal this charter at pleasure?

Mr. PETERS. Certainly; I should think so.

Mr. BARTLETT. If the gentleman will permit, it certainly does not answer the question as to the power of Congress to enact the law.

Mr. PETERS. The number of members of the corporation are not to be less than 9 or more than 25, and should the number fall below 9 neither property can be acquired nor gifts made. The corporation can not act until the full number of at least 9 incorporators are elected. In order to preserve the high character of the men who shall handle this national eleemosynary institution it is provided that all members elected to the corporation shall only be elected subject to the approval of the President of the United States, the Chief Justice of the Supreme Court, the President of the Senate, the Speaker of the House of Representatives, and the presidents of five of our leading universities. Section 11 is that all personal property used for the purposes of corporation is to be exempt from taxation by the United States the same as it would be as if it were incorporated under the laws of the District of Columbia. This provision does not affect taxation outside the District of Columbia. All its real or personal property is subject to taxation under the laws of any State in which it may be situated. Then there is a provision that there shall be an annual report, and the further provision that no officer or trustee shall receive any pecuniary benefit except for his services.

The report is to be made annually to the Secretary of the Interior, and, further, this charter shall be subject to alteration, amendment, or repeal, at the pleasure of the Congress of the United States.

Mr. COX of Indiana and Mr. FITZGERALD rose.

The SPEAKER. To whom does the gentleman from Massachusetts [Mr. PETERS] yield?

Mr. PETERS. I yield first to the gentleman from New York [Mr. FITZGERALD].

Mr. FITZGERALD. The gentleman said that when he came to section 11 he would explain it at length.

Mr. PETERS. I mentioned when we came to section 11 that real and personal property is to be exempt from taxation in the District of Columbia, in the United States, or any Territory or District thereof. All property in any State shall be subject to the local taxation. Any property of the corporation, both real and personal, outside the District of Columbia will be subject to taxation in the same manner as if owned by a private individual. Not the slightest exemption from local taxation is contemplated.

Mr. FITZGERALD. Well, I think the gentleman is mistaken. This says:

That all personal property and funds of the corporation held, used, or invested for its purposes as aforesaid, or to produce income to be used for such purposes, shall be exempt from taxation by the United States or any Territory or District thereof.

Mr. PETERS. I understand that the wording is similar to that of the general law as to the charitable and eleemosynary institutions which may be established in the District. The act would not exempt the property of this corporation from taxation in any State, either real or personal.

Mr. COX of Indiana. I want to ask the gentleman a question, Mr. Speaker.

The SPEAKER. Does the gentleman from Massachusetts [Mr. PETERS] yield to the gentleman from Indiana?

Mr. PETERS. Certainly.

Mr. COX of Indiana. I want to know whether or not the proposed bill which the gentleman now has in charge is not in line with the similar kind of work which Mr. Rockefeller has been engaged in in New York for several years.

Mr. PETERS. The purpose of introducing this bill is to incorporate and make in permanent form the charitable work that is being now done in various parts of the United States by people who receive gifts from Mr. Rockefeller. It is not necessary to mention the sections in which research work is being done under the various gifts of Mr. Rockefeller in many parts of the United States. It is the purpose of this act to enable that work to be systematized and made permanent. While research is depending on the gift of any individual it is subject to the uncertainties hanging on a human life. Of course it is of tremendous advantage to the people of the whole country to have the investigations carried on by a permanent organization and to have a permanent endowment rather than depend on gifts from any benefactor, however generous.

Mr. COX of Indiana. It is to coordinate them and bring them all together into one organized body of men, is it not?

Mr. PETERS. Exactly.

Mr. COX of Indiana. Does the gentleman know or can he tell the House approximately about how much money Mr. Rockefeller has donated along this line? Has he any idea of it?

Mr. PETERS. I can not inform the House. The sums are so huge I would not wish to attempt it.

Mr. COX of Indiana. I see that one of the incorporators here is Simon Flexner, of New York. I would like to ask the gentleman whether or not he is at the head of the Flexner Institute in New York?

Mr. PETERS. He is.

Mr. COX of Indiana. I would like to know whether or not that is the institution that has been endowed by Mr. Rockefeller for several years, in order to continue the scientific work that Mr. Flexner had instituted?

Mr. PETERS. Exactly.

Mr. COX of Indiana. And so the scheme of this is to coordinate it and bring it under one class of men?

Mr. PETERS. To coordinate the work——

Mr. COX of Indiana. Not to cost the Government one penny?

Mr. PETERS. And not to cost the Government one penny.

Mr. COX of Indiana. But to disseminate knowledge and aid suffering humanity?

Mr. PETERS. And to make permanent the relief from the suffering which people are undergoing to-day.

Mr. WILLIS. I would like to ask the gentleman a question as to section 11, which says:

That all personal property and funds of the corporation held, used, or invested for its purposes as aforesaid, or to produce income to be used for such purposes, shall be exempt from taxation by the United States or any Territory or District thereof.

It may be that the gentleman has answered this in his colloquy with the gentleman from New York [Mr. FITZGERALD]. Now, I want to consider that in connection with section 5, which provides that the corporation "shall have power to take or receive, whether by Government grant, devise, bequest, or purchase, any real or personal estate, and to hold, grant, and have the same," and so forth, and then consider the provision on the following page, where it undertakes to limit the amount so that it shall not exceed the value of $100,000,000, inclusive of increases in the value of the property subsequent to its receipt by the said corporation. Now, I want to inquire whether the gentleman thinks that under those two sections, taken together, it will not be possible that the vast amount of property which now or hereafter might be subject to taxation by the Federal Government would be absolutely removed from the liability to taxation by the United States or by any Territory or district thereof? It might extend clear beyond $100,000,000. It might

be $500,000,000, because in this section provision is made not only for the original value of the property, but also for the possible potential increase of value. What is likely to be the effect of that?

Mr. PETERS. It is inconceivable that such circumstances should arise, but Congress has always the power by legislation here to meet that situation, should it be found that any undue increase in the capital fund was taking place. It is the desire and the intent of this act to expend the income as fast as it can be acquired. All property, real and personal, outside the District is subject to local taxation, and the entire income of the fund must be spent.

Mr. BARTLETT. Mr. Speaker, can I ask the gentleman a question in reference to section 11?

The SPEAKER. Does the gentleman from Massachusetts yield?

Mr. PETERS. Certainly.

Mr. BARTLETT. As far as I can gather from a reading of the bill and from the statement of the gentleman, the whole intention and purpose of the bill is to undertake to exempt this property from State taxation.

Mr. PETERS. There is no such intention whatever.

Mr. SLAYDEN. Mr. Speaker, will the gentleman permit me a question?

The SPEAKER. Does the gentleman yield?

Mr. PETERS. Certainly.

Mr. SLAYDEN. I would like to ask the gentleman if, as a matter of fact, all the income is not to be devoted to research in the interest of the great body of the people?

Mr. PETERS. All the income will be expended for that purpose.

Mr. SLAYDEN. Does the gentleman see any objection to a limitation of the amount?

Mr. PETERS. Large as this donation will be, I only wish we could get more for such purposes.

To indicate the plans of the incorporators I will read to the Members a portion of the statement of Jerome D. Greene, general manager of the Rockefeller Institute for Medical Research, and dated March 15, 1912, and sent to Members of the House:

> The incorporation of the Rockefeller foundation is intended as a means of maintaining, for as long a period in the future as the trustees or Congress may deem best, an approved method of careful philanthropic expenditure. The scope of the charter is purposely made wide, but wide only within the strict limits of charitable intent. The aggrandizement of the members of the corporation or of the corporation itself, through the administration of the trust, is expressly excluded by the provision that no person connected with the foundation shall derive any pecuniary benefit therefrom other than fair compensation for services, and that the income of the endowment shall be spent each year, not added to the principal.
>
> The characteristic of Mr. Rockefeller's benefactions in the past is that they have been the means of stimulating rather than replacing self-help and self-reliance. Thus the work of the Commission for the Eradication of the Hookworm has been carried on exclusively through State agencies with the cooperation of hundreds of local physicians, and has been made the occasion of permanently improving the local public health organizations. The promotion of improved methods of corn and cotton growing in the South by the general education board has not been by flooding the agricultural communities with money they have not earned as a substitute for local enterprise, but by showing, through a few farms here and there, with a moderate expenditure for instruction and demonstration, how a hundred neighboring farms could, with their own labor, double or quadruple their products. The endowment of education through schools, colleges, and universities has stimulated the sense of local responsibility instead of destroying it, as is graphically indicated by the fact that for about seven and a half millions of dollars contributed conditionally through the general education board to institutions of learning in all parts of the country since 1905 about thirty-eight millions of dollars have been raised by those institutions in fulfillment of the board's conditions. The sending of a single physician to Texas two months ago by the Rockefeller Institute for Medical Research has resulted in the effective instruction of the public health authorities and many private physicians in that State once for all as to the method of dealing with a virulent outbreak of epidemic cerebrospinal meningitis. Incidentally the new curative serum was administered to hundreds of persons, with a resulting decrease of the normal death rate from 75 per cent to less than 25 per cent.
>
> The question how the Rockefeller Foundation is to spend its money is a legitimate one for the public to ask before the charter is granted, especially in the light of ignorant forebodings lest a large sum of money might seek the protection of a charter for private rather than for public ends. This question is answered, first, by the unequivocal language of the charter, pledging the use of the money exclusively for charitable and humanitarian purposes, subject to the control of Congress; and, secondly, by the concrete illustration of how these same resources have been used while under private control through the general education board, the sanitary commission for the eradication of the hookworm disease, and the Rockefeller Institute for Medical Research. It may be confidently expected that far-reaching measures for the promotion of public health along both educational and medical lines will have the first attention of the trustees.

The results of the activities of the Rockefeller charities have brought already relief to many sufferers. I am reluctant to think that a Member of this House will choose to deny the suffering and sick of our country the benefits of this gift. Congress has now the opportunity to secure this huge organization permanently for the use of the poor of the country. Let us do it.

The SPEAKER. The time of the gentleman has expired.

Mr. FITZGERALD rose.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] is recognized.

Mr. FITZGERALD. Mr. Speaker, in view of the statement made by the gentleman from Massachusetts [Mr. PETERS], I shall support the bill, but if any gentleman is opposed to it I shall yield to him the time in opposition.

Mr. SAUNDERS. I would like to have five minutes, not to oppose the bill, but to support it.

Mr. FITZGERALD. I yield five minutes to the gentleman.

The SPEAKER. Does any gentleman desire to speak in opposition to this bill?

Mr. FITZGERALD. Does the gentleman from Virginia oppose it?

Mr. SAUNDERS. No. I stated that I would not oppose it, but would support it. Of course if anyone wishes to oppose it, I will yield.

The SPEAKER. Does any gentleman desire to oppose this bill?

Mr. BARTLETT. Mr. Speaker——

Mr. FITZGERALD. Mr. Speaker, I yield five minutes to the gentleman from Georgia [Mr. BARTLETT].

The SPEAKER. The gentleman from Georgia [Mr. BARTLETT] is recognized for five minutes.

Mr. BARTLETT. Mr. Speaker, I recognize that the ground upon which I oppose this bill may be old fashioned and not in accord with the very advanced spirit of the times. If we can grant a charter to a corporation like this—if Congress can grant such a charter—then there is no limit to the power of Congress to grant charters for any purpose. Even, Mr. Speaker, when the Supreme Court of the United States upheld the right of Congress to charter the United States Bank, it was held in that case by Chief Justice Marshall that the only reason why Congress had the power to charter the United States Bank was because it granted to the bank governmental functions and put upon the bank the duty to do certain things which the Government had the right to do and because the bank was its fiscal agent.

Going further, when the Supreme Court upheld the national-bank act they still adhered to that doctrine. Again, Mr. Speaker, in the case of Ogden against the bank, when the Supreme Court reaffirmed the right of Congress to charter a national bank it stated that it was only because Congress granted to the bank functions that were governmental in their nature that Congress had the right to grant such a charter, and that, of course, unless it did Congress had no such power.

Upon the same doctrine and with the same limitation that the Supreme Court of the United States upheld the right of Congress to charter the national banks, the court, incident to the opening up of vast tracts of land in the West, upheld the right of Congress to incorporate the Pacific Railroad companies on the ground that Congress had control of interstate commerce and traffic from one State to another. There was also involved in that case the right of the Government to build its post roads and military highways, and they were dedicated also to the use of the Government in carrying the military forces and supplies of the Government.

When it came to the charter of the North River Bridge Co., the court upheld the right of Congress to charter a company to build a bridge across a navigable river, and held then that the right of Congress was not because of any inherent right to grant a charter, but because Congress had the right to control the navigable rivers and streams of this country, and that was a navigable river and stream, and it was also a post road and a public highway, made so by the act incorporating the bridge company.

Now, I have on all these occasions, when charters of this kind have been applied for in Congress, voiced my objection to them upon this ground. Even when the Red Cross Society was being incorporated and when the act incorporating it was being amended I suggested the same objection. That was a commendable purpose, as this is, but I do not believe that Congress has the constitutional power and authority to grant charters of this character. I have no objection to the purposes for which it is intended to apply the funds which will be donated in this case. Of course I have no objection. But, Mr. Speaker, I repeat that with the law upon the statute books providing for the incorporation of any sort of organization like this in the District of Columbia, we have not the power, in my humble opinion, to pass any such law as this. So, Mr. Speaker, while I voiced my convictions, I am aware that they are in a great measure old-fashioned. I am aware that we live in an age when, if it is urged that something be done because it is commendable, because it may aid humanity, because it may uplift somebody

or something, we are asked to forget that we live in a Republic which is governed by a Constitution whose powers limit the authority and power of Congress. It is for this reason mainly that I shall not support the bill.

The SPEAKER. Does any other gentleman desire to speak?

Mr. FITZGERALD. I yield five minutes to the gentleman from Tennessee [Mr. GARRETT].

Mr. GARRETT. Mr. Speaker, I shall vote against this bill, but I do not concur in the reasoning of the gentleman from Georgia [Mr. BARTLETT]. It seems to me that the insertion of the words "of the District of Columbia," in lines 8 and 9, cures the technical objection made by the gentleman from Georgia [Mr. BARTLETT]. The reason why I shall vote against the bill is because I do not believe that special acts of incorporation should pass. I do not think this act creates the Rockefeller Foundation as a Federal incorporation. Upon the contrary, it makes it a corporation of the District of Columbia. That is its situs. It becomes a "citizen" of the District of Columbia, and it does not become a Federal incorporation. If it did become a Federal incorporation, I should agree with the reasoning of the gentleman from Georgia [Mr. BARTLETT] that the Congress would have no power to create it, because I think it is true that the Congress can not create a Federal corporation except where that corporation is to be an agent of the Government and to perform some governmental function. But undoubtedly the Congress does have the power to provide for the creation of corporations in the District of Columbia that shall be citizens of the District of Columbia.

Mr. BARTLETT. True.

Mr. GARRETT. It may provide for that in a general act, just as a State legislature may pass a general act of incorporation; or it may provide for it by special act, just as a State legislature may provide, unless it be prevented by the State constitution.

Therefore it does not seem to me that the legal objection suggested by the gentleman from Georgia [Mr. BARTLETT] is tenable or sound. But, Mr. Speaker, the policy that is involved in the passage of these special acts is, it seems to me, very objectionable. It seems to me that the Committee on the District of Columbia or the Committee on the Judiciary ought at some time to work out and bring in some general plan here whereby eleemosynary institutions may be incorporated under the general law, and let us have a cessation of this running to Congress for special acts to incorporate eleemosynary and charitable institutions.

The purposes of this act may be very good. There have been very many apparently good acts brought before the Congress since I have been here, incorporating certain companies as corporations of the District of Columbia. There is no reason why there should not be a general act worked out. There is no general act now. These incorporators who are named in this act are not residents of the District of Columbia. The general act for incorporation in the District of Columbia requires that at least three of those incorporating here, according to my recollection——

Mr. BARTLETT. A majority of them.

Mr. GARRETT. Perhaps a majority of them, shall be residents of the District of Columbia. Of course, that is easy on a business proposition; but it seldom happens that eleemosynary institutions such as this have a majority of the incorporators residents of the District. But it seems to me that it would be the part of wisdom for the Committee on the Judiciary, which reported this bill, I believe, or the District Committee, or some other committee having jurisdiction of the subject matter, to work out some general plan that would take care of such institutions as this, and lodges, and societies for archeological research, and all the various institutions that have been or have sought to be incorporated here by special act, in order to prevent the necessity of men having to come to the Congress and go through this long, tedious course, and subject us to a policy which is probably unwise of granting charters of incorporation by special acts of Congress.

[Mr. FOWLER addressed the House. See Appendix.]

Mr. FITZGERALD. Mr. Speaker, how much time have I remaining?

The SPEAKER. The gentleman has four minutes.

Mr. FITZGERALD. Mr. Speaker, I yield the balance of my time to the gentleman from Missouri [Mr. SHACKLEFORD].

[Mr. SHACKLEFORD addressed the House. See Appendix.]

The SPEAKER. The time of the gentleman has expired. All time has expired.

Mr. FOWLER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. SHACKLEFORD. Mr. Speaker, I make the same request.

Mr. SAUNDERS. I ask unanimous consent to have five minutes, that I may reply to some of the arguments that have been advanced against the proposition.

Mr. SHACKLEFORD. Mr. Speaker, with the understanding that I have five minutes in which to reply to the gentleman from Virginia, I shall not object.

Mr. SAUNDERS. But, Mr. Speaker, the gentleman has done all of the "argumentation," so to speak, against the proposition.

The SPEAKER. Does the gentleman from Virginia object to the limitation?

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that the time be extended so that each side may have five minutes.

The SPEAKER. The gentleman from New York asks unanimous consent that the time upon each side be extended for five minutes. Is there objection?

Mr. SHACKLEFORD. Who is to have the five minutes in opposition to the proposition?

The SPEAKER. The gentleman from New York will control the time.

Mr. SHACKLEFORD. I want five minutes in which to reply.

Mr. FITZGERALD. I do not know, but somebody else may be opposed to this.

Mr. SHACKLEFORD. But not as heroically as I.

The SPEAKER. Is there objection?

Mr. SHACKLEFORD. I object unless I may have five minutes in which to reply.

Mr. RODDENBERY. Mr. Speaker, reserving the right to object——

Mr. MANN. But the gentleman from Missouri has objected.

The SPEAKER. The gentleman from Missouri objects. The question is on suspending the rules and passing the bill.

The question was taken; and on a division (demanded by Mr. PETERS and Mr. COX of Indiana) there were—ayes 40, noes 25.

Mr. MANN. Mr. Speaker, I make the point of order that there is no quorum present.

ADJOURNMENT.

Mr. FITZGERALD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock and 47 minutes p. m.) the House adjourned until to-morrow, Tuesday, January 7, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Illinois River, Ill., between Hurricane Island and Calhoun County (H. Doc. No. 1224); to the Committee on Rivers and Harbors and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Wethersfield Cove, Connecticut River, Conn. (H. Doc. No. 1225); to the Committee on Rivers and Harbors and ordered to be printed.

3. A letter from the Acting Secretary of the Treasury, transmitting copy of communication from the Secretary of War submitting estimates of appropriations required by the War Department for the service for the fiscal year 1913 (H. Doc. No. 1226); to the Committee on Military Affairs and ordered to be printed.

4. A letter from the Secretary of the Interior, transmitting statement of expenses incurred by officers and employees of the Interior Department attending conventions or societies from June 30 to December 1, 1912 (H. Doc. No. 1227); to the Committee on Expenditures in the Interior Department and ordered to be printed.

5. A letter from the Acting Secretary of the Treasury, transmitting copy of communication from the Secretary of War submitting supplemental estimate of appropriation for the service of the fiscal year 1914 for the erection of a storehouse at Benicia Arsenal, Benicia, Cal. (H. Doc. No. 1228); to the Committee on Military Affairs and ordered to be printed.

6. A letter from the Acting Secretary of the Treasury, transmitting copy of communication from the Secretary of War submitting supplemental estimate of appropriation for installing independent water supply in the Executive Mansion grounds for

fire protection, for the fiscal year 1914 (H. Doc. No. 1229); to the Committee on Appropriations and ordered to be printed.

7. A letter from the Acting Secretary of the Treasury, transmitting copy of communication from the Secretary of Commerce and Labor submitting an estimate of appropriation, for the fiscal year 1913, for establishment and operation of an immigrant station in the city of Chicago, Ill. (H. Doc. No. 1230); to the Committee on Appropriations and ordered to be printed.

8. A letter from the Acting Secretary of the Treasury, transmitting copy of a communication from the Secretary of War submitting deficiency estimate of appropriation to allow credits in accounts of certain Army officers (H. Doc. No. 1231); to the Committee on Appropriations and ordered to be printed.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. NYE: A bill (H. R. 27722) to increase the limit of cost of new post-office building in Minneapolis, Minn., now under construction; to the Committee on Public Buildings and Grounds.

By Mr. GRAHAM: A bill (H. R. 27723) to authorize the construction of a railroad bridge across the Illinois River near Havana, Ill.; to the Committee on Interstate and Foreign Commerce.

By Mr. LAFFERTY: A bill (H. R. 27724) making it the duty of any common carrier or street railway company engaged in interstate traffic or traffic inside the District of Columbia to furnish to the plaintiff or his attorney in any action for damages for alleged negligence the names of witnesses taken by the carrier or street railway company at or near the time and place of the alleged act of negligence or accident upon which such action is based; to the Committee on the Judiciary.

By Mr. CALDER: A bill (H. R. 27725) to reorganize and increase the efficiency of the grades of commissioned chiefs and warrant officers of the Navy of the United States; to the Committee on Naval Affairs.

By Mr. TAGGART: A bill (H. R. 27726) validating the leases for oil and gas purposes made by the Osage National Council, May 25, 1912, to the Uncle Sam Oil Co. and to Wesley M. Dial and his assigns, and directing the Secretary of the Interior to approve the transfer of said lease from Wesley M. Dial to the Uncle Sam Oil Co.; to the Committee on Indian Affairs.

By Mr. CARLIN: A bill (H. R. 27727) for the construction of a public building at Leesburg, Va.; to the Committee on Public Buildings and Grounds.

By Mr. KALANIANAOLE: A bill (H. R. 27728) to increase the limit of cost for the purchase of a site and the erection of a public building in Honolulu, Territory of Hawaii; to the Committee on Public Buildings and Grounds.

By Mr. THAYER: A bill (H. R. 27729) making it unlawful for any society, order, or association to send or receive through the United States mails, or to deposit in the United States mails, any written or printed matter representing such society, fraternal order, or association to be named or designated or entitled by any name hereafter adopted, any word or part of which title shall be the name of any bird or animal the name of which bird or animal is already being used as a part of its title or name by any other society, fraternal order, or association; to the Committee on the Post Office and Post Roads.

By Mr. CARLIN: A bill (H. R. 27730) to provide for a sanitary survey of the Potomac River by the United States Public Health Service; to the Committee on Appropriations.

By Mr. GODWIN of North Carolina: A bill (H. R. 27780) to provide for a survey of the Northeast Branch of the Cape Fear River from the city of Wilmington, in the county of New Hanover, State of North Carolina, to the head of steamboat navigation in said river at a point about 3 miles above Hilton Bridge, near the city of Wilmington, N. C.; to the Committee on Rivers and Harbors.

By Mr. FOWLER: Resolution (H. Res. 765) requesting the Secretary of the Interior to furnish copy of all evidence concerning the suspension of Joseph W. King; to the Committee on Reform in the Civil Service.

By Mr. BORLAND: Resolution (H. Res. 766) directing the Committee on Banking and Currency to investigate American Beet Sugar Co.; to the Committee on Rules.

By Mr. JONES: Resolution (H. Res. 767) requesting from the President of the United States information concerning the exemption of American importers of manila hemp from payment of the export tax thereon; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANSBERRY: A bill (H. R. 27731) for the relief of Charles E. Shenk; to the Committee on War Claims.

Also, a bill (H. R. 27732) granting an increase of pension to James K. Andrews; to the Committee on Invalid Pensions.

By Mr. BARTHOLDT: A bill (H. R. 27733) granting a pension to Algernon Sidney Barnes; to the Committee on Invalid Pensions.

By Mr. BARTLETT: A bill (H. R. 27734) granting an increase of pension to Charles Myer; to the Committee on Pensions.

By Mr. BURKE of Wisconsin: A bill (H. R. 27735) granting an increase of pension to Kate S. Blodgett; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27736) granting an increase of pension to William Ashton; to the Committee on Invalid Pensions.

By Mr. DE FOREST: A bill (H. R. 27737) granting a pension to Mary L. Bach and minor children; to the Committee on Pensions.

By Mr. DENVER: A bill (H. R. 27738) granting an increase of pension to Francis M. Vantress; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27739) granting an increase of pension to Isaac N. Seal; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27740) granting an increase of pension to William A. Shrock; to the Committee on Invalid Pensions.

By Mr. DWIGHT: A bill (H. R. 27741) granting a pension to J. H. Sage; to the Committee on Invalid Pensions.

By Mr. FAIRCHILD: A bill (H. R. 27742) granting a pension to Mary R. Richards; to the Committee on Invalid Pensions.

By Mr. FOSTER: A bill (H. R. 27743) granting a pension to David Pruitt; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27744) granting an increase of pension to Julia A. Snedeker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27745) to remove the charge of desertion from the record of L. N. Mansfield; to the Committee on Military Affairs.

By Mr. FOWLER: A bill (H. R. 27746) for the relief of John L. Coy; to the Committee on Claims.

Also, a bill (H. R. 27747) granting an increase of pension to Rebekah Ann Hayes; to the Committee on Invalid Pensions.

By Mr. FRENCH: A bill (H. R. 27748) granting a pension to Currency A. Gummere; to the Committee on Invalid Pensions.

By Mr. GARDNER of Massachusetts: A bill (H. R. 27749) granting an increase of pension to Delia F. Homans; to the Committee on Invalid Pensions.

By Mr. HAMILTON of West Virginia: A bill (H. R. 27750) correcting the military record of Hiram Rollins; to the Committee on Military Affairs.

Also, a bill (H. R. 27751) granting an increase of pension to George W. Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27752) granting an increase of pension to Neoma McKee; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27753) granting an increase of pension to Reuben B. Taylor; to the Committee on Invalid Pensions.

By Mr. HOBSON: A bill (H. R. 27754) granting an increase of pension to Lucy M. Hord; to the Committee on Pensions.

By Mr. HOWELL: A bill (H. R. 27755) for the relief of James Lafferty; to the Committee on Claims.

By Mr. LAFFERTY: A bill (H. R. 27756) granting an increase of pension to Samuel W. McLean; to the Committee on Invalid Pensions.

By Mr. LANGHAM: A bill (H. R. 27757) granting an increase of pension to Permelia J. Lewis; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27758) granting an increase of pension to Elizabeth J. Milliken; to the Committee on Invalid Pensions.

By Mr. LANGLEY: A bill (H. R. 27759) granting an increase of pension to Cyrus Frazure; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27760) granting an increase of pension to William Smith; to the Committee on Invalid Pensions.

By Mr. McGILLICUDDY: A bill (H. R. 27761) granting an increase of pension to Albert Smith; to the Committee on Invalid Pensions.

By Mr. MAGUIRE of Nebraska: A bill (H. R. 27762) granting an increase of pension to William Bartlett; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27763) granting an increase of pension to William R. Sheeler; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27764) granting an increase of pension to Nathaniel Tutin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27765) granting an increase of pension to Thomas C. Diltz; to the Committee on Invalid Pensions.

By Mr. OLMSTED: A bill (H. R. 27766) granting a pension to Henry S. Matter; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27767) granting a pension to Sydney Kempton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27768) granting a pension to William D. Bowman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27769) granting an increase of pension to John E. Frymier; to the Committee on Invalid Pensions.

By Mr. RUCKER of Colorado: A bill (H. R. 27770) granting a pension to Francis E. Searway; to the Committee on Pensions.

Also, a bill (H. R. 27771) granting a pension to Mary A. Tracht; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27772) granting an increase of pension to Jacob A. Carter; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27773) granting a pension to Nancy Ellen Sutton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27774) granting a pension to Sarah P. Brown; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27775) granting an increase of pension to Rosiena Fischer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27776) granting an increase of pension to Overton E. Harris; to the Committee on Invalid Pensions.

By Mr. SPARKMAN: A bill (H. R. 27777) granting a pension to James K. Johnson; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Colorado: A bill (H. R. 27778) granting an increase of pension to Frisby D. Hutchinson; to the Committee on Invalid Pensions.

By Mr. TUTTLE: A bill (H. R. 27779) granting a pension to Jennie B. Bailey; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALLEN: Petition of merchants of Harrison, Ohio, favoring the passage of legislation requiring concerns doing mail-order business to contribute to taxes in local communities; to the Committee on Interstate and Foreign Commerce.

Also, petition of merchants of Cleves, Ohio, favoring the passage of legislation requiring concerns doing mail-order business to contribute to taxes in local communities; to the Committee on Interstate and Foreign Commerce.

By Mr. ASHBROOK: Petition of the select list of Ohio daily newspapers, protesting against the passage of the section of the postal appropriation bill relative to the filing and publishing of circulation lists, stockholders, etc.; to the Committee on the Post Office and Post Roads.

Also, petition of Local Chapter of the Socialist Party of Newark, N. J., asking for a congressional investigation of the prosecution by the Government of the Appeal to Reason; to the Committee on the Judiciary.

Also, petition of the Vermont Association of Sealers of Weights and Measures, favoring the passage of House bill 23113, establishing a standard barrel for the shipment of fruits, vegetables, etc.; to the Committee on Ways and Means.

Also, petition of W. S. Hutchinson and 15 other merchants of Coshocton, Ohio, favoring the passage of legislation giving the Interstate Commerce Commission further power toward controlling the express companies; to the Committee on Interstate and Foreign Commerce.

By Mr. BATES: Petition of Mrs. Samuel Semple, president State Federation of Patriotic Women; of F. B. Howland, E. O. Emerson, jr., and Prof. Henry Pease, of Titusville, Pa.; and of Prof. Frank E. Baker, president Northwestern State Normal School, Edinboro, Pa., favoring the passage of House bill 23581, for the establishment of vocational training in public schools; to the Committee on Agriculture.

By Mr. BURKE of Wisconsin: Papers to accompany bill granting an increase of pension to Kate S. Blodgett; to the Committee on Invalid Pensions.

Also, petition of F. J. Vollmer and 23 other citizens of Thiensville, Wis., protesting against the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the Marine Trades Association of New York, protesting against the passage of House bill 18228, relative to registering and enrolling of foreign vessels; to the Committee on the Merchant Marine and Fisheries.

By Mr. CALDER: Petition of the Chamber of Commerce of the State of New York, protesting against the passage of Senate bill 7208, proposing changes concerning the carriage of cargo at sea; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grain Dealers' National Association; T. M. Baldwin & Co., Detroit, Mich.; the Traffic Bureau of Knoxville, Tenn., favoring the passage of Senate bill 957, for the regulation of all bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Grain Dealers' National Association, favoring the passage of House bill 3010, for the regulation of the sending of telephone and telegraph messages; to the Committee on Interstate and Foreign Commerce.

By Mr. DONOHOE: Petition of the Philadelphia Board of Trade, favoring the passage of House bill 21479, appropriating money for an international conference to discuss the high cost of living; to the Committee on Foreign Affairs.

By Mr. DYER: Petition of H. E. Welker, St. Louis, Mo., favoring the passage of House bill 36, giving Federal protection to migratory birds; to the Committee on Agriculture.

Also, petition of the Associated Retailers of St. Louis, Mo., asking that Congress appropriate sufficient funds for the Post Office Department to give the parcel post a fair test; to the Committee on the Post Office and Post Roads.

Also, petition of Pine Bluff Lodge, No. 305, Brotherhood of Railroad Trainmen, protesting against the passage of the employees' compensation bill; to the Committee on the Judiciary.

Also, petition of the Chilton Co., Philadelphia, Pa., favoring the passage of the section of the Post Office appropriation bill requiring statements of circulation of all publications under Government supervision; to the Committee on the Post Office and Post Roads.

Also, petition of the Farmers' National Congress, Chicago, Ill., favoring the passage of the Page bill (S. 3) for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of Isaac Prouty & Co., Spencer, Mass., favoring the passage of the Kenyon-Sheppard liquor bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the Kansas City Southern Railway Co., favoring the passage of legislation providing temporarily for compensating the railway companies for carrying the increased tonnage caused by the parcel post going into effect; to the Committee on the Post Office and Post Roads.

Also, petition of the Swope Shoe Co., St. Louis, Mo., protesting against the passage of the Oldfield bill relative to the selling of boots and shoes; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Federation of Jewish Farmers' of America, New York, favoring the passage of legislation creating a system of farmer rural credits; to the Committee on Banking and Currency.

Also, petition of the Majestic Manufacturing Co., St. Louis, Mo., favoring the passage of legislation making as large an appropriation as possible by the Government for the Pan-Pacific International Exposition; to the Committee on Appropriations.

Also, petition of the Merchants' Exchange of St. Louis, Mo., favoring the passage of House bill 3010, for the regulation of the sending of messages by telegraph or telephone; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Brotherhood of Postal Workers, relative to not receiving the increase of salary as provided for in the Post Office appropriation bill; to the Committee on the Post Office and Post Roads.

Also, petition of the Mound City Paint & Color Co., St. Louis, Mo.; the Business Men's League, of St. Louis, Mo.; the Chamber of Commerce of the United States of America, Washington, D. C.; and the Merchants' Exchange, of St. Louis, Mo., favoring the passage of House bill 25106, to incorporate the Chamber of Commerce of the United States of America under a Federal charter; to the Committee on the Judiciary.

Also, petition of Fred G. Fussel, St. Louis, Mo.; the National Indian War Veterans, of Denver, Colo., and St. Louis, Mo.; and of Joseph Agey, Christ Fluen, Charles L. Dunrand, Efraim Honsley, George W. Stinebaker, George Kormann, and Margaret Cassidy, St. Louis, Mo., favoring the passage of legislation granting pensions to veterans of the Indian wars; to the Committee on Pensions.

Also, petition of the American Automobile Association, New York; the American Automobile Association, National Good Roads Board, and the Automobile Club of St. Louis, Mo., in favor of the passage of bill making an appropriation for the erection of a Lincoln memorial highway; to the Committee on the Library.

Also, petition of the National Federation Retail Merchants, Chicago, Ill., and the Association of National Advertising Managers, New York, protesting against the passage of House bill 23417, preventing the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the National Reclamation Association, New Orleans, La., favoring the passage of Senate bill 10900, to create a board of river regulation and to provide a fund for the regu-

lation and control of navigable rivers; to the Committee on Rivers and Harbors.

By Mr. FORNES: Petition of the North Side Board of Trade, New York, favoring the passage of House bill 26677, for the relocation of the pierhead line in the Hudson River between Pier 1 and West Thirtieth Street; to the Committee on Interstate and Foreign Commerce.

Also, petition of Kirtland Bros. & Co., New York, N. Y., and the Northwestern Mutual Life Insurance Co., favoring the passage of House bill 36, affording Federal protection to migratory birds; to the Committee on Agriculture.

By Mr. FULLER: Petition of Coleman Barber, Woodburn, Iowa, favoring the passage of House bill 1339, granting an increase of pension to veterans who lost a limb in the Civil War; to the Committee on Invalid Pensions.

By Mr. HINDS: Petition of Sagadahoc Grange, No. 31, Patrons of Husbandry, Bowdoin, Me., favoring the passage of the Page bill (S. 3) for Federal aid for vocational education; to the Committee on Agriculture.

By Mr. KALANIANAOLE: Petition of the Chamber of Commerce of Honolulu, protesting against the proposed removal of the lighthouse tender *Kukui* from Hawaiian waters; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Chamber of Commerce of Honolulu, favoring the passage of bill making appropriation for the improvement of the Honolulu Island; to the Committee on Rivers and Harbors.

Also, petition of the Chamber of Commerce of Honolulu, favoring the passage of legislation permanently stationing a properly equipped revenue cutter on the Pacific coast; to the Committee on Interstate and Foreign Commerce.

By Mr. LINDSAY: Petition of W. J. Hoggson, New York, favoring the passage of the bill making an appropriation for the Lincoln memorial; to the Committee on the Library.

Also, petition of the Chamber of Commerce of the United States, Washington, D. C., relative to the passage of bill for its incorporation under a Federal charter; to the Committee on the Judiciary.

Also, petition of the Chamber of Commerce of the State of New York, protesting against the passage of Senate bill 7208, proposing changes relative to the carriage of cargo by sea; to the Committee on Interstate and Foreign Commerce.

Also, petition of Coleman Barber, Woodburn, Iowa, favoring the passage of House bill 1339, granting an increase of pension to all veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

By Mr. LITTLETON: Petition of the Woman's Christian Temperance Union of Succasunna, N. J., favoring the passage of the Kenyon-Sheppard liquor bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. ROBERTS of Massachusetts: Petition of the Cooper League, of Washington Street Baptist Church, Lynn, Mass., favoring the passage of the Kenyon-Sheppard liquor bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. SCULLY: Petition of the Farmers' National Congress, Chicago, Ill., protesting against the passage of the section of the Post Office appropriation bill requiring the publishing of circulation lists, stockholders, etc.; to the Committee on the Post Office and Post Roads.

Also, petition of the American Federation of Labor, favoring the passage of Senate bill 3, giving Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of the Grain Dealers' National Association, favoring the passage of Senate bill 957, for the regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

By Mr. STEVENS of Minnesota: Petition of the Minnesota State Forestry Board, protesting against the passage of legislation transferring the control of national forests to States where such forests are situated; to the Committee on the Public Lands.

By Mr. THAYER: Petition of John E. Gilman, past commander in chief, Grand Army of the Republic, favoring legislation creating a memorial to Lincoln in the form of a "Lincoln way"; to the Committee on the Library.

By Mr. TILSON: Petition of the Connecticut State Board of Education, favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

By Mr. WICKERSHAM: Petition of resident Alaska fishermen at Ketchikan, favoring the passage of legislation by Congress preventing the setting of fish traps in tidal waters in Alaska; to the Committee on the Territories.

By Mr. WILSON of New York: Petition of Pine Bluff Lodge, No. 305, Brotherhood of Railroad Trainmen, protesting against the passage of the employees' compensation bill; to the Committee on the Judiciary.

SENATE.

TUESDAY, *January 7, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. LODGE and by unanimous consent, the further reading was dispensed with and the Journal was approved.

SENATOR FROM TEXAS.

Mr. CULBERSON. I present the credentials of R. M. JOHNSTON, appointed a Senator from Texas by the governor of that State, and ask that they be read and placed on file.

The PRESIDENT pro tempore (Mr. BACON). The Secretary will read the credentials.

The credentials of R. M. JOHNSTON, appointed by the governor of the State of Texas a Senator from that State to fill the unexpired portion of the term ending March 3, 1913, occasioned by the resignation of JOSEPH WELDON BAILEY, were read and ordered to be filed.

Mr. CULBERSON. The Senator appointed is present and ready to take the oath of office.

The PRESIDENT pro tempore. The Senator appointed will present himself at the desk for the purpose of taking the oath.

Mr. JOHNSTON was escorted to the Vice President's desk by Mr. CULBERSON, and the oath prescribed by law having been administered to him, he took his seat in the Senate.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of ascertainment of electors for President and Vice President appointed in the State of Rhode Island at the election held in that State November 5, 1912, which were ordered to be filed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had passed the bill (S. 109) to authorize the sale and disposition of the surplus and unallotted lands in the Standing Rock Indian Reservation, in the States of South Dakota and North Dakota, and making appropriation and provision to carry the same into effect, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. 5674) for the relief of Indians occupying railroad lands, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed a bill (H. R. 16843) to consolidate the veterinary service, United States Army, and to increase its efficiency, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

Mr. CLARK of Wyoming presented resolutions adopted by the Fremont County Wool Growers' Association at a meeting held at Lander, Wyo., favoring an appropriation for the extermination of predatory wild animals, which were referred to the Committee on Agriculture and Forestry.

Mr. BRISTOW presented a memorial of sundry citizens of Glen Elder, Kans., remonstrating against the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which was ordered to lie on the table.

Mr. PERKINS presented a memorial of sundry merchants of Sebastopol, Cal., remonstrating against the enactment of legislation providing for the removal of restricted prices on patented goods, etc., which was referred to the Committee on Patents.

He also presented the petition of Harrison Gray Otis, of Los Angeles, Cal., praying for the adoption of an amendment to the Constitution of the United States prohibiting a third term for President and Vice President, which was referred to the Committee on the Judiciary.

Mr. TOWNSEND (for Mr. SMITH of Michigan) presented a petition of the Christian Endeavor Society of the Congregational Church of Kalamazoo, Mich., and a petition of the congregation of the First United Brethren Church of Grand Rapids, Mich., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. BURTON. I present a petition of sundry citizens of the State of Ohio, residents of the National Military Home of that State, praying for the adoption of an amendment to the Constitution limiting the tenure of office of Presidents of the United States to one term. I move that the petition be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. PENROSE presented a petition of the Board of Trade of Philadelphia, Pa., praying for the enactment of legislation providing for the restoration of the American merchant marine, etc., which was referred to the Committee on Commerce.

Mr. BRANDEGEE presented a petition of members of the Rod and Gun Club of Naugatuck, Conn., praying for the enactment of legislation providing for the protection of migratory birds, which was ordered to lie on the table.

He also presented resolutions adopted by the Chamber of Commerce of New Haven, Conn., favoring the present management of the New York, New Haven & Hartford Railroad, which were referred to the Committee on Interstate Commerce.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. STEPHENSON:

A bill (S. 7990) for the relief of James Easson (with accompanying paper); to the Committee on Claims.

A bill (S. 7991) granting a pension to Mary MacArthur;

A bill (S. 7992) granting a pension to Anna M. Jones;

A bill (S. 7993) granting a pension to Georgianna Tyler (with accompanying paper); and

A bill (S. 7994) granting an increase of pension to Edward Cannavan (with accompanying paper); to the Committee on Pensions.

By Mr. TOWNSEND (for Mr. SMITH of Michigan):

A bill (S. 7995) granting an increase of pension to Charles Herbstreith; and

A bill (S. 7996) granting an increase of pension to Charles A. Voorheis; to the Committee on Pensions.

By Mr. OLIVER:

A bill (S. 7997) authorizing the Secretary of War to donate to the city of Lancaster, Pa., two bronze or brass fieldpieces for the use of the General William S. McCaskey Camp, United Spanish War Veterans; to the Committee on Military Affairs.

By Mr. CLARK of Wyoming:

A bill (S. 7998) to increase the maximum limit of the official bonds which may be required of United States marshals and clerks of United States district courts in certain cases; to the Committee on the Judiciary.

By Mr. NELSON:

A bill (S. 7999) to amend an act entitled "An act to expedite the hearing and determination of suits in equity pending or hereafter brought under the act of July 2, 1890, entitled 'An act to protect trade and commerce against unlawful restraints and monopolies,' 'An act to regulate commerce,' approved February 4, 1887, or any other acts having a like purpose that may be hereafter enacted," approved February 11, 1903, as amended by an act approved June 25, 1910; and

A bill (S. 8000) providing for publicity in taking evidence under act of July 2, 1890; to the Committee on the Judiciary.

(By request.) A bill (S. 8001) to authorize the adjustment of the accounts of Army officers in certain cases, and for other purposes; to the Committee on Claims.

By Mr. BURTON:

A bill (S. 8002) for the relief of Byron W. Canfield; to the Committee on Military Affairs.

By Mr. SWANSON:

A bill (S. 8003) to provide for the construction, maintenance, and improvement of post roads and rural-delivery routes through the cooperation and joint action of the National Government and the several States in which such post roads or rural-delivery routes may be established; to the Committee on Post Offices and Post Roads.

By Mr. McLEAN:

A bill (S. 8004) granting an increase of pension to Ellen S. Pember (with accompanying papers);

A bill (S. 8005) granting an increase of pension to Elmira H. Cowles (with accompanying papers); and

A bill (S. 8006) granting a pension to Elizabeth Blake (with accompanying papers); to the Committee on Pensions.

By Mr. BRADLEY:

A bill (S. 8008) for the relief of the estate of Leopold Harth, deceased;

A bill (S. 8009) for the relief of the estate of R. G. Potter, deceased;

A bill (S. 8010) for the relief of the fiscal court of Bourbon County, Ky.;

A bill (S. 8011) for the relief of the estate of James E. Morgan, deceased;

A bill (S. 8012) for the relief of the estate of James Sayre, deceased (with accompanying paper); and

A bill (S. 8013) for the relief of the estate of William Robinson, deceased (with accompanying paper); to the Committee on Claims.

A bill (S. 8014) granting an increase of pension to George W. Doan (with accompanying papers);

A bill (S. 8015) granting an increase of pension to Green Hines (with accompanying papers);

A bill (S. 8016) granting an increase of pension to Stephen B. Woodruff (with accompanying papers);

A bill (S. 8017) granting an increase of pension to Marion E. Taber (with accompanying papers);

A bill (S. 8018) granting an increase of pension to Joseph Girdler (with accompanying paper); and

A bill (S. 8019) granting an increase of pension to Nathaniel J. Smith (with accompanying papers); to the Committee on Pensions.

By Mr. LA FOLLETTE:

A bill (S. 8020) to make it unlawful for foreign corporations to own or control the capital stock, bonds, or indebtedness of local public-utility corporations in the District of Columbia; to the Committee on the District of Columbia.

LIMITATION ON CHARGES TO JURIES.

Mr. TILLMAN. I introduce a bill, which I ask may be read twice by its title and referred, with the accompanying papers, to the Committee on the Judiciary.

The bill (S. 8007) to limit United States judges to declaring the law when charging juries was read twice by its title, and, with the accompanying papers, referred to the Committee on the Judiciary.

Mr. TILLMAN. I ask that the bill and accompanying papers be printed in the RECORD.

There being no objection, the bill and accompanying papers were ordered to be printed in the RECORD, as follows:

A bill (S. 8007) to limit United States judges to declaring the law when charging juries.

Be it enacted, etc., That no judge of a court of the United States, in the trial of a civil cause before a jury, shall charge the jury in respect to matters of fact, but shall declare the law.

SEC. 2. That any order which modifies or sets aside the verdict or finding of a jury may be made the subject of judicial review in the same way and by like process as a final order in the cause, this section being intended to authorize a review of the exercise of discretion by the trial judge whenever such discretion is exercised upon a matter which it was the province of the jury to consider and determine.

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CORCORAN BUILDING,
Washington, D. C., December 23, 1912.

Hon. B. R. TILLMAN, *Senate Chamber.*

MY DEAR SENATOR: This letter is handed to you with two inclosures, to each of which I wish specially to ask your attention.

One of the inclosures is a copy of a petition which, in behalf of Walter Murphy, I submitted to-day to the Supreme Court of the United States. This petition is self-explanatory. It tells the story of how Walter Murphy has fared in the courts of the District of Columbia in a suit which he brought against the Capital Traction Co. for injuries resulting from an accident that happened to him in connection with one of the cars of that company while he was handling packages of newspapers that were to be transported from the Union Station to news stands in different parts of the city.

In the trial court the judge directed the jury to return a verdict in favor of the Capital Traction Co. The plaintiff appealed from the judgment that was entered against him upon the verdict so rendered, but he was denied a bill of exceptions, and a bill of exceptions in a case at law, as distinguished from a case in equity, is the only means by which to put the rulings of the trial judge upon record in the case; and, unless his exceptions, taken at the trial, were put into the record, the plaintiff's appeal was worthless. The denial to him of a bill of the exceptions which he had taken at the trial was so inappropriate to the facts of his case, so uncalled for by any just principle of law that governs the settlement of bills of exception, and the outcome of his trial and appeal, as approved by the Court of Appeals of the District, is so clearly violative of a sense of right and justice that I offer the case (described in this petition to the Supreme Court of the United States) as a sample of work by the judiciary, the like of which, by making the courts a means of defeating the hearing and determination of causes on their merits in the way that justice requires, has contributed in no small degree to the widespread popular discontent that is beginning to voice itself in a demand for the "recall" of judges and of judicial decisions.

Of course I am hopeful that the Supreme Court of the United States will grant the prayer of the petition and require the case to be certified up for review; but there is no legal duty resting on that court to review the case. The Supreme Court can not undertake to correct all the wrongs that are done in the courts of the United States. Indeed, it was to relieve the Supreme Court and lessen the number of cases to get upon its docket that Congress passed the act entitled "An act to establish circuit courts of appeals and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," approved March 3, 1891 (26 Stat. L., 826–830), by which act a circuit court of appeals is created in each of the judicial circuits of the United States, and certain classes of cases defined in which the judgments of the circuit courts of appeals are declared to be final, except that of such cases it is made competent for the Supreme Court in any case to require the case to be certified up to itself for review and determination. And the recent "judicial code," entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911 (36 Stat. L., Pt. I, pp. 1087–1169), puts the Court of Appeals of the District of Columbia upon a parity with the circuit courts of appeals so far as the reviewing of its decisions by the Supreme Court of the United States is concerned, section 251 of that act being as follows (p. 1159, ditto):

"In any case in which the judgment or decree of said Court of Appeals of the District of Columbia is made final by the section last preceding, it shall be competent for the Supreme Court of the United States to require, by certiorari or otherwise, any such case to be certified to it for its review and determination, with the same power and

authority in the case as if it had been carried by writ of error or appeal to said Supreme Court."

As may be seen from the statutes above cited, the Supreme Court of the United States may, of its own pleasure, on proper petition, order up for review a case which otherwise could not get into that tribunal; but the court is not easily persuaded to reach out in that way for new business, and thereby add to the burdens of its docket, already filled with cases which under the law are entitled to go upon its docket in regular course by appeal or writ of error, namely, cases, speaking generally, which involve the construction or application of the Constitution of the United States or the validity or construction of a statute or treaty of the United States. Twenty-eight petitions praying for writs of certiorari have been presented during the present term of the court, excluding to-day, from different parts of the country, including the District of Columbia, and of this number 27 have been denied and 1 granted; 4 were presented to-day.

If this petition of Walter Murphy should be denied by the Supreme Court of the United States, that will be the end of poor Walter Murphy and his case; but I wanted it to appear that the last word which it was possible for counsel to say in the courts had been said in his behalf. I wanted the case to be thus singled out and embalmed, to stand as a memorial of what it is possible for judges, using the machinery of the courts, to do with the most valued and sacred of personal rights when such rights are taken into the courts for adjudication.

Now, permit me a few words more concerning some of the work done in the courts of the District of Columbia, under the appellate authority and supervision of the Court of Appeals of the District, and I will be ready to speak specially of the second inclosure which this letter contains.

On the same day that the court of appeals announced its decision in the case of Walter Murphy it announced its decision in another negligence case, in which there had been a directed verdict in the trial court, namely, the case of Ross against the Washington Railway & Electric Co.

In the summer of 1909 the Washington Railway & Electric Co. had the streets torn up, relaying its tracks and roadbed from Fifth and F Streets NW. to P Street and Dupont Circle. The tracks from Fifth Street run along F Street to Fourteenth; then up Fourteenth to H; then along H from Fourteenth to Seventeenth, where they turn north until they enter Connecticut Avenue, which they follow to P and Dupont Circle. For weeks H Street was in a torn-up condition in the neighborhood of Vermont Avenue, where Miss Janet Ross daily crossed H Street on her way to and from the War Department, in which she was employed. Sometimes she crossed on a driveway placed for teams. On the day in question, there being no footway for pedestrians and no driveway for teams, and nothing in the way of a crossing appearing in sight as far as the eye could reach—east to Fourteenth Street and west to Seventeenth Street—she did as many other persons were doing at the time—it being about 4.35 p. m., immediately after the daily discharge of the hundreds of employees of the State, War, Navy, and Treasury Departments—namely, she started to cross the street, picking her way as carefully as she could. Suddenly, as she was in the act of stepping for the last rail in her passage across, she slipped and fell, seriously injuring herself in the fall.

It is the duty of the street car company, under the statutory terms of its charter, to keep the part of the street occupied by its tracks, including on each side of its tracks a space of 2 feet beyond the outer rail of the tracks, well paved and in good order; and it is also the duty of the street car company, when repairing its roadbed and tracks, so to conduct its work that the usefulness of the highway for the general public will be impaired in as small a degree as possible. At the time Miss Ross was hurt breaches of this duty were in evidence as far as the eye could reach, both to the east and to the west—no footways or temporary crossings in sight for either men or horses. In the midst of this negligence on the part of the street car company the lady, using such care as was possible in the crossing of the street under such circumstances, suddenly, so quickly that she was not aware of what particular feature or item of the situation caused it, finds that she has fallen and sustained bruises and strains and injuries such as could not have happened if the street had been in fit condition for use or provided with proper facilities for passage. Now, think of it. A jury under such circumstances is not to be trusted to pass upon the negligence or the lack of it in either plaintiff or defendant and to say whether it was the defendant's negligence that was responsible for the accident that befell the plaintiff. The trial judge, in directing a verdict for the street car company, himself drew the conclusion and acted upon it that the plaintiff was herself guilty of contributory negligence in undertaking to cross the street in the condition it was in, but the court of appeals, in affirming the judgment of the trial court, rests its decision upon the ground that the work of the street car company was under the supervision and subject to the control of the Commissioners of the District, and that it did not appear that the commissioners had ordered or directed anything to be done which the company had failed to do, and that the company was not therefore to be charged with negligence in the manner of doing its work.

Think of such an announcement of law given out to sustain a directed verdict in a negligence case. As well say that a street car company, where the speed limit in force is 8 miles an hour, can run a car along the street at a place where the street is congested with traffic at the rate, say, of 6 miles an hour, and, if sued by some one who has sustained damage by reason of the speed at which the car was going, plead in justification that the car was going only at the rate of 6 miles an hour, whereas under the municipal regulation it had the right to go as fast as 8 miles an hour, as if even 3 miles an hour at some times and places and under some circumstances might not be negligence of the grossest kind, the truth being that negligence, or what is the same thing—the lack of ordinary care befitting the circumstances—is essentially a fact determinable by the jury in the light of the facts and circumstances of the particular situation.

True, the Ross case might have been laid before the Supreme Court of the United States and a certiorari prayed for, but to what effect? Could it be reasonably expected of the Supreme Court that it would order the Ross case up for review? The utmost that could be done in the Ross case would be, in phrasing a petition to the Supreme Court, to keep in mind the frequency with which directed verdicts are ordered and approved in this jurisdiction, and, treating the Ross case only as a symptom of the trouble that needs attention, pray the court, since all such cases can not be ordered up for review, to make use of the Ross case and render a decision therein that shall thereafter be helpful to the lower courts. But to this course—overlooking for the moment the lady herself, who by this time might, like a great many others, be too much discouraged with the courts to go further in her efforts—there was a two-fold objection: First, if the case were ordered up and reviewed by the Supreme Court and the lower court reversed, there is no guaranty, judging the future by the past, that there would be any permanent or lasting good effects, as I will illustrate in a moment; second, the petition, if made, would in all probability be denied, and I did not propose—the client eliminated from consideration in the matter—that those who shall undertake to oppose what I shall suggest as a needed remedy, should have it in their power to say that the Supreme Court, by refusing on such a petition to review the case, had thereby given its tacit approval to the doings of the lower court. I did not want anybody to have opportunity thus to misinterpret the meaning of its action, if such action should be taken by the Supreme Court. Further, what constitutes negligence is so peculiar to each case, negligence being something which the facts and circumstances of the particular case must determine, that a decision in one case will not necessarily afford the criteria for deciding another case. And hence, if a judge has reached the point that he thinks it to be his duty himself to consider the force and effect of evidence, and himself to draw the deductions which, to his mind, all reasonable men must draw from the evidence, a reversal of him in one negligence case will not very seriously influence or affect him in another.

Let me illustrate this matter of directed verdicts with another case or two that may be seen in the reports. Take the case of Mosheuvel *v.* District of Columbia, reported in 17 App. D. C., 401, and in 191 U. S., 247. In this case, a hole resulting from an uncovered water box in the sidewalk was at the foot of three steps which led to the sidewalk from a brick-paved landing at the front of the house in which Mrs. Mosheuvel lived. The box was about 4 inches square, projecting irregularly above the level of the street, and was without covering of any kind. Its condition was well known both to Mrs. Mosheuvel, the plaintiff, and to the District authorities. It was situated about the middle of the steps from her house, and in going from the house it was necessary to go either to the right or to the left of the box, which it would be perfectly safe to do, or to step over the box and clear it. The plaintiff testified that, on the day in question, from the time she left her door, she had the box in view a part of the time, and had it in mind all the time, and remembered its dangerous character, but that, on this occasion, she attempted to step over it instead of going to one side; that she did not take a sufficiently long step, and her foot went into the hole, and she was thrown, with the result that she suffered serious injury.

In the trial court the judge directed the jury to return a verdict in favor of the defendant, and the Court of Appeals of the District, in affirming the judgment which had been entered on the verdict so directed, makes use of the following language (p. 406, ditto):

"Despite the fact that the negligence of the District has been great and is almost confessed on the record, we can find no difference in principle between this case and that of Brewer *v.* District of Columbia (7 App. D. C., 113) upon the authority of which the court below proceeded.

"In pursuance of the decision in the Brewer case, we must affirm, with costs, the judgment of the Supreme Court of the District of Columbia in the premises."

The case, on a writ of error, was taken to the Supreme Court of the United States, and that court in reversing the lower court concludes its opinion in these words (p. 266, ditto):

"Was the situation of the water box and the hazard to result from an attempt to step over it so great that the plaintiff, with the knowledge of the situation, could not, as a reasonably prudent person, have elected to step across the box instead of stepping to the sidewalk from either side of the tread of the last step? And this, we think, was, under the undisputed proof, a question for the jury and not for the court."

The jolt administered by the Supreme Court of the United States in the reversal of the above judgment was shortly followed by another jolt in the case of Chunn *v.* The City & Suburban Railway, reported in 23 Appeals District of Columbia, 551, and in 207 United States, 302. It was a writ of error also which took this case to the Supreme Court of the United States.

The plaintiff in this case was a young woman, who for a year or more before the accident which befell her had lived and worked at Riverdale, in Maryland, coming into Washington now and then on the cars of the City & Suburban Railway. The platform from which persons traveling from Riverdale to Washington boarded the cars, consisted of boards laid on the ground, with sleepers under them, and extended 30 feet lengthwise along the tracks. This platform covered the space between the tracks, also the space between the rails of the tracks, and extended the width of two boards outside the outer tracks. The distance between the inner rails of the two tracks was 7 feet and 10 inches. The steps of the cars projected 2 feet and 2 inches beyond the tracks, leaving, when two cars passed each other at that point, a clear space between them of 3 feet and 6 inches. One standing on the platform at that point could see or be seen for a distance of at least a quarter of a mile north or south along the tracks.

As the car for Washington approached from the north, the young woman who wished to board it went to the platform and stood between the tracks. There were other persons intending to take the car, one of whom was near her and also between the tracks. As the car for Washington came from the north, another of defendant's cars came from the south. The Washington car slowed down and came to a stop just as the latter car, without stopping, ran by "at a rapid rate of speed"; one witness said "12 to 15 miles an hour." No one saw exactly what happened to the plaintiff, who was standing near the north end of the platform, but the sound of "a shock" was heard, and the plaintiff was found unconscious between the tracks 10 or 15 feet north of the north end of the platform.

At the trial of the case in court the other person, who was standing between the tracks, testified, "There was ample room to stand if you were thinking what you were doing"; "I realized that I would have to hold myself strictly in the center of the two tracks."

The judge in the trial court directed the jury to render a verdict in favor of the railway company, and the Court of Appeals of the District, in affirming the judgment entered on that verdict, uses the following language (23 App. D. C., 564):

"Carefully considering the evidence in the light of all reasonable inferences that can be drawn from its undisputed facts, our conclusion is that the plaintiff's injuries were the result of her own want of ordinary care. * * * Plaintiff had no recollection of what she was doing or where she was standing at the time. It does not appear that she was deficient in intellect, and she ought to have seen the car and exercised her thought, as did her witness. * * * Being of the opinion that the trial court was right in directing the verdict upon the ground of the plaintiff's contributory negligence, the judgment will be affirmed with costs."

Look at the above language again and see with what assurance the judges undertook to perform the function of the jury, going so far as to say of the plaintiff, "It does not appear that she was deficient in intellect, and she ought to have seen the car and exercised her thought."

Read now what the Supreme Court of the United States had to say concerning the above judgment of the court of appeals, pronounced on an issue which was properly determinable by the jury in the trial court (207 U. S., 307):

"A jury might well say that under such circumstances reasonable care demanded—of the defendant company—the exercise of the utmost vigilance, foresight, and precaution. The motorman of the northbound car could see plainly that the car for Washington was about to stop and that passengers were standing upon the space between the tracks intending to enter it. He might readily have understood that the noise of the transit of the two cars would be commingled, and that those who intended to enter the other car would naturally direct their attention to it, and might fail to notice the approach of his own car. In point of fact, the motorman took no precaution whatever; he assumed that those who were standing on the platform would take care of themselves, and ran his car by them at full speed, as if oblivious of their existence. * * * Nor was the plaintiff necessarily wanting in due care by taking her place between the tracks. It was the usual place from which entrance to the Washington car was made. It was safe enough under ordinary circumstances. It was made unsafe only by reason of the defendant's negligent act in running another car rapidly by. The plaintiff had the right to assume that the defendant would not commit such an act of negligence, and that when it stopped one car and thereby invited her to enter it, it would not run another rapidly by the place of her entrance and put her in peril. We think that it can not be said, as a matter of law, that the plaintiff was guilty of contributory negligence. That issue with the others in the case should have been submitted to the jury with appropriate instructions. * * *

"The judgment is reversed and the case remanded to the court of appeals, with directions to reverse the judgment of the Supreme Court of the District of Columbia and remand the cause to that court with a direction to set aside the verdict and award a new trial."

While on the subject of directed verdicts, let me illustrate the matter further with a case or two which did not arise in the District of Columbia, for the evil to which I am now calling attention is not confined to the District of Columbia, the action of inferior judges of the courts of the United States, more than all other causes combined, being what primarily and chiefly is responsible for the demand, now heard in all parts of the country, that the judicial system be reformed. The case of Kane v. Northern Central Ry. Co. (128 U. S., 91) came before the Supreme Court of the United States on a writ of error to the Circuit Court of the United States for the Eastern District of Pensylvania.

In that case a missing step had caused a brakeman in clambering down between two cars of a freight train to fall and lose both legs. In his suit against the railroad company it appeared from the brakeman's own testimony that he knew that the step was missing, having called the attention of the conductor to the fact only a few hours before, and that, had he thought of the missing step at the moment he sought to use it, he might have pulled himself back with his hands or have "slid down" on the brake rod, for he had before climbed up and down by holding that rod with one hand and putting his foot against it and pulling himself up until he touched the running board. The trial judge at once saw contributory negligence, and directed a verdict for the defendant. Says the Supreme Court (p. 96):

"We are of the opinion that the court erred in not submitting to the jury to determine whether the plaintiff, in forgetting or not recalling at the precise moment the fact that the car from which he attempted to let himself down was the one from which a step was missing, was in the exercise of the degree of care and caution which was incumbent upon a man of ordinary prudence in the same calling and under the circumstances in which he was placed."

Likewise in Jones v. East Tennessee, Virginia & Georgia Railroad Co. (128 U. S., 443), in error to the Circuit Court of the United States for the Eastern District of Tennessee, the trial court, in directing a verdict for the defendant expressed itself as follows (p. 444):

"In the judgment of this court, based upon the facts shown in evidence and not controverted by the argument, touching the manner of plaintiff's collision with defendant's engine, the plaintiff was guilty of such contributory negligence as precludes him from all right to recover in this action. The court therefore instructs you to return a verdict for the defendant."

Says the Supreme Court (p. 446):

"Instead of the course here pursued a due regard for the respective functions of the court and the jury would seem to demand that these questions should have been submitted to the jury, accompanied by such instructions from the presiding judge as would have secured a sound verdict."

True, the Supreme Court of the United States has said that, where the facts are such that all reasonable men must draw from them the same conclusion, the question of negligence may properly be regarded as one of law for the court; it has also said that, if the evidence is such that the court would not permit a contrary verdict to stand if rendered, the court may itself direct the verdict without submitting the matter to the jury. But such words are to be read and understood in the light of the circumstances under which uttered and not given too broad or general an application. Once let a judge or a court, feeding on words such as may be found here and there in opinions of the courts of last resort, become imbued with the notion that it is the function of judges to consider what the inference or deduction is that all reasonable men must draw from the facts appearing in evidence, and you will soon have judicial exemplifications of the old Bible proverb, "Seest thou a man wise in his own conceit? There is more hope of a fool than of him."

Because I speak plainly on this subject, do not suppose for one moment that I am among those who advocate a popular recall as the necessary remedy to correct conditions which, in the courts, need correction, and which, in the end, most certainly will be corrected. It is because I want to see the remedy found (as it can be) without resort to so radical an innovation on the branch, which, of all others of our representative government, ought to be preserved from the turmoil of the hustings, that I am speaking as I am. Of course, every branch of our Government, the judiciary as well as the executive and the legislative, must find the highest law eventually in the will of the people which is back of the Constitution and which is competent to make constitutions and to amend them. But let us not put into the dust and contests of the arena questions which ought to be determined within the precincts of a temple dedicated to justice where the judges of the law and the triers of the fact can meet together as integral parts of the tribunal to whose findings and judgment are committed the dearest rights of the citizen.

However, our present system, it may be remarked in passing, is not limited, as concerns the recalling of judges, to the one method of an impeachment proceeding such as the House of Representatives, as to one judge, is now pursuing before the Senate of the United States. During the Civil War the whole of the District of Columbia judiciary, good as well as bad, was removed from office at one time. In the case I refer to, it was not an abolishment of a court and a saving of the judges, as in the case of the recent Court of Commerce, but the saving of the court, under another name, and the turning out of the judges. I will show you the matter by references.

The original organic act entitled, "An act concerning the District of Columbia," approved February 27, 1801 (2 Stat. L., 103), had provided in section 3:

"That there shall be a court in said District, which shall be called the circuit court of the District of Columbia; and the said court and the judges thereof shall have all the powers by law vested in the circuit courts and the judges of the circuit courts of the United States. Said court shall consist of one chief judge and two assistant judges, resident within said District, to hold their respective offices during good behavior."

The act entitled, "An act to amend the judicial system of the United States," approved April 29, 1802 (2 Stat. L., 156), had provided in section 24:

"That the chief judge of the District of Columbia shall hold a district court of the United States, in and for the said District, on the first Tuesday of April and on the first Tuesday of October in every year; which court shall have and exercise, within the said District, the same powers and jurisdiction which are by law vested in the district courts of the United States."

And the act entitled, "An act to establish a criminal court in the District of Columbia," approved July 7, 1838 (5 Stat. L., 306), transferred all criminal business pending in the circuit court to the criminal court then created and provided:

"The said criminal court shall have all the jurisdiction in the said counties, respectively (the county of Washington and the county of Alexandria, which then constituted the District of Columbia), now held by the said circuit court in the said counties, respectively, for the trial and punishment of all crimes and offenses, and the recovery of all fines, forfeitures, and recognizances."

Section 5 of the above act gave the circuit court authority to review, by writ of error, the judgments of the criminal court.

And then came the act entitled, "An act to reorganize the courts in the District of Columbia, and for other purposes," approved March 3, 1863 (12 Stat. L., 762), in section 1 of which act it was provided:

"That there shall be established in the District a court to be called the Supreme Court of the District of Columbia, which shall have general jurisdiction in law and equity. It shall consist of four justices, one of whom shall be denominated as chief justice."

And in section 16 of that act it was provided:

"That the Circuit Court, District Court, and Criminal Court of the District of Columbia are hereby abolished. All laws and parts of laws relating to said courts, so far as the same are applicable to the courts created by this act, are hereby continued in force in respect to such courts, and all other laws and parts of laws relating to said circuit, district, and criminal courts are repealed."

The Supreme Court of the District of Columbia, created with four judges, as above mentioned, is the present Supreme Court of the District, the judges having since been increased to six. The appellate jurisdiction, which, on its organization, was vested in the general term of the Supreme Court of the District, where the judges sat in banc (two or more), as distinguished from the special terms, where the individual judges sat to hear and try cases, was taken away by the act entitled "An act to establish a Court of Appeals for the District of Columbia, and for other purposes," approved February 9, 1893 (27 Stat. L., 434), this latter act being the one which called into existence the present Court of Appeals of the District of Columbia.

To recur to the matter of directed verdicts in negligence cases—a right of appeal, as already illustrated, does not afford of itself a sufficient remedy. Many parties against whom directed verdicts are rendered become disheartened at once, and many are wholly unable to pay the costs of even at first appeal, much less of a further appeal, such as was formerly permitted to the Supreme Court of the United States. As long as judges, whether the bench they sit on is in a trial court or in an appellate court, are allowed to make deductions and draw conclusions concerning issues whose determination is properly for the men who constitute the jury the evil will be present, and unless severely checked a constantly growing one, for the judges always declare their own deductions and conclusions to be what the law itself says concerning the facts in evidence; and every time an appellate court, in affirming a directed verdict, adds something to the already existing declarations of what is to be regarded as negligence in the view of the law—that is, in the view of the judges themselves—that much additional ground is taken from the jury and added to the domain of judge-made law, which law is itself made to do duty in future adjudications; and so the evil grows. I wish to suggest that the encroachment of judges upon the domain of the jury ought to be stopped by positive law. And this brings me to the second inclosure contained in this communication.

This second inclosure, as you will observe, is the draft of a bill to limit judges to declaring the law when charging juries. If such a bill as is here suggested were enacted into law, a judge who wished to decide the issue himself, thinking the plaintiff had not made out a case, would find that, instead of directing a verdict for the defendant, he must order a nonsuit of the plaintiff. And the act of the trial judge, viewed from the standpoint of a nonsuit, would appear in a very different light than when viewed from the standpoint of a directed verdict. Too often in the case of a directed verdict the question considered by the appellate court is, Did the trial judge draw the correct conclusion from the evidence? Whether he did or did not is the question which properly was answerable by the jury. In the case of a nonsuit, the question to be considered by the appellate court would be, Was there any evidence in the case for the consideration of the jury? If there was, the case should have gone to the jury, for it is immaterial, if there was evidence for the jury, whether the conclusion of the judge upon the evidence was correct or incorrect.

The inclosed draft provides also, as you will observe, that orders which modify or set aside the verdicts of juries may be reviewed. This provision is intended to meet the case where a judge, finding himself unable to direct a verdict, may submit the case to the jury, and then, if the verdict turned in by the jury does not suit him, set it aside. At present, the power of the trial judge in civil cases to set verdicts aside is absolute, and such power, no matter how arbitrarily

or capriciously used, is not subject to review or control. And the practice has become quite common for the judge, if he personally thinks that a verdict is too large, to order it set aside as excessive, unless the plaintiff will remit the amount which the judge shall say is excessive.

The provision of the inclosed draft on this point would not prevent judges from dealing with verdicts in such manner as may be proper; it simply makes the discretion of the trial judge a subject of judicial review when exercised upon work done by the jury.

No good reason exists why a bill of the kind here suggested should not be enacted into law. It would be the means of removing from trial judges all invitations, which motions to direct verdicts extend to them, to trespass upon the ground of the jury. It would also be the means of freeing the courts, in part at least, from the notion, which is fast taking hold of the popular mind, that judges of the lower courts of the United States, who are allowed to hold their office for life, arrogate to themselves too much authority in passing upon and disposing of the rights of the individual citizen.

Let me say, in conclusion, that in our common-law system of jurisprudence the jury is as much an integral part of the court as the judge on the bench, the two together constituting the tribunal whose function it is to pass upon and settle all issues raised by litigants, whether of law or of fact. The system does not contemplate that the judge on the bench shall make of himself a thirteenth juror, to displace with his own judgment the 12 other men to whose concurring judgment the law commits the finding upon all issues of fact. It is the province of the judge to say what shall and what shall not be admitted as evidence in the cause, but the credibility of the evidence, the weight to be given to it, the inferences and deductions to be drawn from it as affecting the issue of fact to be determined, are matters within the province of the jury. And that the functions of the jury may not be minimized, even though the facts in evidence may be undisputed, let me quote the following passage from the opinion of the Supreme Court of the United States in Railroad Co. *v.* Stout (17 Wall., 657, 664):

"Twelve men of the average of the community, comprising men of education and men of little education, men of learning and men whose learning consists only in what they have themselves seen and heard—the merchant, the mechanic, the farmer, the laborer—these sit together, consult, apply their separate experience of the affairs of life to the facts proven, and draw a unanimous conclusion. This average judgment thus given it is the great effort of the law to obtain. It is assumed that 12 men know more of the common affairs of life than does 1 man; that they can draw wiser and safer conclusions from admitted facts thus occurring than can a single judge."

If judges who sit in trial courts would only ponder more carefully the utterances above quoted concerning the functions of the jury, there would be fewer attempts to direct verdicts.

I am, yours, very truly,

JOHN ALTHEUS JOHNSON.

IN THE SUPREME COURT OF THE UNITED STATES.

(October term, 1912.)

Walter Murphy, petitioner, *v.* Ashley M. Gould, an associate justice of the Supreme Court of the District of Columbia, respondent.

MOTION THAT LEAVE BE GRANTED TO WALTER MURPHY TO PRESENT PETITION PRAYING FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

Comes now into this honorable court Mr. John Altheus Johnson, admitted by this honorable court as an attorney and counsellor at law. And he moves that leave be granted to Walter Murphy to present to this honorable court a petition praying for a writ of certiorari to the Court of Appeals of the District of Columbia.

And the counsellor aforesaid submits with his motion a copy of the said petition.

JOHN ALTHEUS JOHNSON.

Please take notice that the above is the tenor of a motion which, on Monday, the 23d day of December, 1912, at 12 o'clock noon, or as soon thereafter as counsel can be heard, I shall submit to the Supreme Court of the United States.

I hand you herewith a copy of the petition referred to in the said motion.

JOHN ALTHEUS JOHNSON.

DECEMBER 4, 1912.

To Mr. FREDERIC D. MCKENNEY,
Attorney for the Hon. Ashley M. Gould, and
To Mr. R. ROSS PERRY,
Attorney for the Capital Traction Co.

Copy received December 4, 1912.

R. ROSS PERRY.

Petition of Walter Murphy, a citizen of the United States, 26 years of age, born in the District of Columbia and resident therein.

To the honorable the Chief Justice and Associate Justices of the Supreme Court of the United States:

Humbly presenting myself before your honors, with this, my petition, I crave leave to state:

1. "Not to me returns
Day, or the sweet approach of ev'n or morn,
Or sight of vernal bloom, or summer's rose,
Or flocks, or herds, or human face divine;
But cloud instead, and ever-during dark
Surrounds me, from the cheerful ways of men
Cut off."

2. My blindness is the result of negligence by the Capital Traction Co. in the manipulation of one of its street cars near the Union Station, in the city of Washington, on December 2, 1909.

3. A suit in damages which I had brought on February 25, 1910, in the Supreme Court of the District of Columbia against the Capital Traction Co. for the injury I had received as the result of its negligent act came to trial in June, 1912, before Associate Justice Ashley M. Gould, of that court, and a jury, and ended on the 19th day of that month in a verdict, which the jury, *by direction of the court,* rendered in favor of the said Capital Traction Co. On July 2, 1912, judgment was entered on the said verdict in favor of the said company.

4. During the progress of the trial several rulings were made by the justice aforesaid upon questions of law arising upon the trial, to which rulings the counsel by whom I was represented at the time they were made and before the jury had retired took exceptions, and the exceptions thus taken, I am informed and believe, were duly noted on the minutes of the presiding justice aforesaid.

5. On July 19, 1912, through counsel I prayed in open court an appeal to the Court of Appeals of the District of Columbia from the judgment aforesaid of July 2, and the said appeal was duly perfected on July 26, 1912.

6. A rule of the Supreme Court of the District of Columbia says that the bill of exceptions, if not settled before the jury retires, "shall be submitted to the court within 38 days after judgment shall have been entered unless the court shall, for cause shown, extend the time."

The summer vacation period of the Supreme Court of the District of Columbia, as arranged by the justices of the said court, has consisted for several years past of the three months of July, August, and September, during which period each of the six justices performs a service upon the bench of two weeks, each justice knowing by prearrangement in the early part of the summer the portion of time he is to occupy the bench during the summer recess, and at such time he attends to business, so far as it is competent or proper for him to act thereon, in all the branches of the court. During the summer vacation of 1912 the bench, from Friday, August 16, to Friday, August 30, was occupied by Justice Ashley M. Gould, and from Monday, September 16, to and including Monday, September 30, by Chief Justice Harry M. Clabaugh.

On August 19, 1912, it being still the same term of the court at which the trial was had of my aforesaid suit against the Capital Traction Co., the said Supreme Court of the District entered an order in the cause in the words following, to wit:

"For good cause shown the time within which to submit to the court the bill of exceptions taken at the trial of this cause is hereby extended to and including the 20th day of September, 1912."

On September 19, 1912, one of the counsel by whom I was represented in the case, "rising in open court" (I quote from what is of record in the case in court, a copy of which record, to be hereinafter referred to, is attached to this petition), "with the bill of exceptions in his hand, stated to the court (Mr. Chief Justice Clabaugh sitting) that he had a bill of exceptions in a case which had been tried before Mr. Justice Gould, who would be the proper one to settle and sign it; that the matter would have to await the return of Justice Gould, but that the time to submit the bill would, under an order of the court, expire the next day; that counsel desired the record to show that the bill was then submitted, and that proper notice would be given to counsel on the other side of the time for settling it. The chief justice thereupon stated, as a direction to the clerk, 'Bill of exceptions submitted,' and counsel for the plaintiff then, in open court, handed the bill of exceptions to the clerk, who had received the order of the court in the premises." And the minute entry of the said submission, as made in the cause aforesaid, is in the words following, to wit:

"Comes now the plaintiff, by his attorneys of record, and submits to the court the bill of exceptions taken at the trial of this cause."

As the rule of the said supreme court contemplates that a bill of exceptions shall not be settled except upon notice to opposing counsel, that notice to be given for a time that shall be at least eight days after a copy of the bill shall have been presented to such counsel, I thereafter, to wit, on September 26, 1912, through my counsel, gave to counsel for the Capital Traction Co. a notice in writing of the time at which Justice Gould would be asked to settle and sign the said bill, that notice being in the words following, to wit:

"Take notice, that on Tuesday, October 1, 1912, at 11 o'clock a. m., or as soon thereafter as counsel can be heard, counsel for the plaintiff will ask Mr. Justice Gould to settle and sign the bill of exceptions which was submitted to the court in the above-entitled cause on September 19, 1912, a copy of which bill was presented to you on September 18, 1912."

October 1, the day designated in the said notice (and the earliest day, by reason of his absence from the city, at which Justice Gould, the only person who could settle and sign the bill, would be available), was the beginning of another term of the court, September 30 being the end of the April term, which was the trial term of the cause aforesaid, the first Tuesday in October, which in 1912 fell on the 1st day of the month, being the beginning of the next succeeding term, which is the October term of the court.

On September 26, 1912, the same day the aforesaid notice was given of the time at which it was proposed that the bill of exceptions should be settled, I filed through counsel a motion in the cause asking for a two-day extension of the April or trial term of the court, counsel explaining that the purpose of the motion was to enable the bill of exceptions, at the same term of the court at which the exceptions were taken, to be put actually, for settlement and signature, into the hands of the very judge who must settle and sign; and when this motion was considered and acted upon by the court it was ordered:

"That an extension be, and the same hereby is, made of the said April term of the circuit court, so as to cause the said term to extend to and include the 2d day of October, 1912."

On October 1, 1912, in accordance with the terms of the notice aforesaid, I presented, through counsel, my bill of exceptions to Justice Ashley M. Gould, with the request that he settle and sign the same.

7. On September 23, 1912, counsel for the Capital Traction Co. had filed a motion in the said Supreme Court of the District of Columbia to strike out the bill of exceptions, which I had tendered as aforesaid, on the ground (*a*) "that two days' notice in writing to counsel for the defendant of the time at which it was proposed to submit the said bill of exceptions to the court to be settled, as required by common-law rule No. 48 of this court, was not given to the said counsel for the defendant nor to any of them, nor was any other notice given in accordance with the said rule of court; and (*b*) that neither the said proposed bill nor a copy thereof was presented to counsel for the defendant nor to any of them at least eight days before the said 19th day of September, 1912, nor was the proposed bill or a copy thereof presented at any time to counsel for the defendant or to any of them prior to the 18th day of September, 1912."

Common-law rule 48 of the rules of the Supreme Court of the District of Columbia, thus referred to, reads as follows:

"48.

"1. The bill of exceptions shall be prepared by counsel. If not settled before the jury retires, counsel tendering it shall give two days' notice in writing to opposing counsel of the time at which it is proposed to submit the same to the court to be settled, and shall also at least eight days before the time designated in such notice present to opposing counsel the proposed bill or a copy thereof. The bill shall be submitted to the court within 38 days after judgment shall have been entered, unless the court shall, for cause shown, extend the time.

"2. The fact of the settling and filing of the bill of exceptions shall be noted in the minutes of the court.

"3. If the court is unable to settle the bill of exceptions, a new trial shall be granted.

"4. The submission, settling, signing, or filing of a bill of exceptions shall not be affected by the expiration of any term, provided this rule is complied with.

"5. This rule shall apply to pending cases."

The motion to strike out, made as above stated, was, on September 30, 1912, by the chief justice then holding the several branches of the Supreme Court of the District, set for hearing on October 11, 1912.

On October 1, 1912, Justice Ashley M. Gould, to whom on that day my said bill of exceptions, as hereinbefore stated, was tendered to be settled and signed under the submission of it which had been made to the court on September 19, 1912, and of the notice to opposing counsel of September 26, as hereinbefore mentioned, received the same into his personal custody, but delayed action thereon until October 11, 1912, when the aforesaid motion to strike out came before him for consideration; and he thereupon, to wit, on October 16, 1912, refused to consider the said bill of exceptions and ordered the same to be stricken from the files of the court, on the sole ground "that neither the said proposed bill of exceptions, nor a copy thereof, was presented to counsel for the defendant at least eight days before the said bill of exceptions was submitted to the court," the order which the court passed in the premises being in the words following, to wit:

"It appearing to the court that the said bill of exceptions was not settled before the jury retired in the above-entitled cause, and that the time for submitting the same was extended by the court until and including the 20th day of September, 1912, and that the same was submitted by counsel for the plaintiff to the court on the 19th day of September, 1912, and that the notice thereof prescribed by common law rule No. 48 of this court was not given to counsel for the defendant herein, and that neither the said proposed bill of exceptions nor a copy thereof was presented to counsel for the defendant at least eight days before the said bill of exceptions was submitted as aforesaid: it is by the court, this 16th day of October, 1912, ordered that the said bill of exceptions be, and the same is hereby, stricken from the files of this court."

8. Upon the making by Justice Gould of the order aforesaid of October 16, 1912, I was advised by counsel that the appeal I had taken from the judgment of the Supreme Court of the District of Columbia of July 2, 1912, would be worthless, the record in the case not disclosing reversible error, unless the rulings of the said justice, made during the progress of the trial, to which through counsel I had duly excepted, could be put into the record by a proper bill of exceptions. Having, as I have stated, sought of him such a bill and been refused the same, I thought to invoke in that regard the aid of the Court of Appeals of the District of Columbia. I therefore, on October 22, 1912, presented a petition to the said court of appeals, wherein I prayed the said court to make use of the writ of mandamus and command the said Ashley M. Gould, as an associate justice of the Supreme Court of the District of Columbia, to settle the bill of exceptions which I had tendered to him as aforesaid, according to the truth of the matters which took place before him on the trial of the cause at law, No. 52404, wherein your present petitioner, Walter Murphy, was plaintiff, and the Capital Traction Co., a corporation, was defendant, and, when so settled, to sign the same as of the 19th day of September, 1912, that being the day when the said bill of exceptions was submitted to the court, the case so described in the said petition to the Court of Appeals of the District of Columbia, being the case to which I have hereinbefore had reference.

The mandamus proceedings wherein I thus sought the aid of the Court of Appeals of the District of Columbia are entitled, "The United States ex relatione Walter Murphy, petitioner, *v.* Ashley M. Gould, an associate justice of the Supreme Court of the District of Columbia, respondent," and the case is entered on the docket of the said court of appeals as No. 393, original.

9. The Court of Appeals of the District of Columbia having in the aforesaid mandamus proceedings issued a rule for Justice Gould to show cause why he should not be required to settle and sign the bill of exceptions submitted to him to be settled and signed as aforesaid, the said justice, in answer to said rule, made response that "the respondent, in addition to the grounds of action specified in respondent's said order of October 16, 1912, above referred to, was largely moved with respect to the making of said order by the fact" that more than 40 days, exclusive of Sundays and legal holidays, had elapsed between the perfecting of plaintiff's appeal and the submission of plaintiff's exceptions to the court and that no order had been made or passed in the cause extending the time for filing the transcript of record in the Court of Appeals of the District, and the respondent, under such a state of fact, concluded that "the settling of any bill of exceptions in said cause would be ineffective and vain."

In other words, the return of Justice Gould to the rule to show cause set up that his action in making the aforesaid order of October 16, 1912, was determined, not solely by rule 48 of the Supreme Court of the District of Columbia (as had appeared to be the case, both from the terms of said order and from the terms of the motion upon which the said order was based), but also by the provision of a rule of the Court of Appeals of the District of Columbia, which reads as follows (Rule 15, par. 1), to wit:

"When an appeal is entered in the court below it shall be the duty of the appellant, within 40 days from the time of the appeal entered and perfected in said court (unless such time for special and sufficient cause be extended by the court below, or a judge thereof, such time to be definite and fixed), to produce and file with the clerk of this court a transcript of the record of such cause; and, if he shall fail to file the transcript within the time limited therefor, the appellee may, after the time limited for filing the transcript in this court by the appellant has expired, and upon his or her default in respect thereto, upon producing a certificate showing the entry of appeal and the date thereof, have said appeal docketed and dismissed."

Respecting this rule of the Court of Appeals of the District of Columbia, referred to by Justice Gould in his return as constituting a factor influencing him in his refusal to settle the bill of exceptions which I had tendered to him for settlement, I am advised by counsel that the record of the cause in the Supreme Court of the District of Columbia, so far as concerns the said rule of the court of appeals, is chiefly embarrassing to me in my appeal, because of an order in the case which Justice Gould himself, on the 16th day of October (an order duly excepted to, and the bill of exceptions ordered on record November 4, 1912), had made antecedently to the order of the same date, which, as hereinbefore mentioned, contained his refusal to settle the exceptions taken at the trial of the cause.

When the counsel by whom I was represented discovered, on September 18, 1912, that the minute entry of the hereinbefore mentioned order of August 19, 1912, which made an extension of time until September 20, 1912, was silent concerning the filing of the transcript of record in the court of appeals and only express concerning the submitting to the court of the bill of exceptions, they at once called the matter to the attention of counsel for the Capital Traction Co., with a view to having the minute entry corrected, the particular counsel on whose oral motion the order had been made being positive in his statements that the motion as made and allowed on the 19th day of August embraced the filing of the transcript in the court of appeals as well as the submission of the bill of exceptions in the lower court; and at the request of counsel representing me, who wished at the earliest moment possible to explain the situation to the court, counsel for the Capital Traction Co. came into court the next day and with my own counsel discussed to the court the two motions that day by me filed in court, one to correct the minute entry of August 19, the other to make an extension of time (further extension) within which to file the transcript of record in the court of appeals. The court did not make its formal order until the following day, September 20, 1912, when it set both the said motions for hearing on October 11, 1912, but the discussion on September 19 showed that the motion to correct would be opposed and that there would probably exist a difference of recollection as to the occurrence of August 19.

When the hearing of the application to correct the minute entry of the order of August 19, 1912, was thus set for a day within the following term of the court, I thought it the part of prudence, acting through and under the advice of counsel, while we were still within the same term of the court at which the order of August 19 had been made, to present, for alternative consideration with the application to correct, a motion for an amendment to be made, nunc pro tunc, to the order of August 19, to the end that, so far as the lower court was concerned, full opportunity should be given to it to exercise whatever of its discretion it might choose to use in the matter of aiding me to an accomplishment of the appeal which I had taken from its judgment of July 2. And when the court on September 30, at the closing of the trial term, and in the act of setting the hearing of this motion also for October 11, 1912, failed and refused to preserve to itself the power, if such motion should be granted, to act at its next term with fullness upon the motion I had made on September 19 for a further extension of time within which to file in the court of appeals the transcript of record for the appeal I had taken from the judgment of July 2, I duly, through counsel, excepted to such omission on the part of the court and had my exceptions recorded in a bill which is part of the record of that court touching the matter of extending time under the rule of the court of appeals aforementioned. And when Justice Gould, before whom for consideration on October 11 came the two motions, the one to correct the minute entry of the order of August 19, the other to amend, nunc pro tunc, the order itself, overruled both the said motions, I duly excepted by counsel and had my exceptions preserved by being put into the record by a bill which shows, among other things, that the judge who passed the order of August 19, the entry of which was thus sought to be corrected, and who also was the judge that overruled the application to correct, stated from the bench that he had no personal or independent recollection of either the order or the motion (which was oral) upon which the order was based; and that the person (one of the assistant clerks) who, during that part of the August recess of the court, made in a memorandum book in the court room the rough notes of proceedings (in all branches of the court as then conducted by one judge), which rough notes, so far as they pertained to proceedings in the circuit-court branch of the court, were afterwards by another person formally written up into the minutes of the court, stated that he had no recollection independently of the rough notes made by himself, and he was an assistant clerk whose duties have been generally performed in connection with business in one of the criminal court and not in one of the circuit court branches of the Supreme Court of the District. And this bill of exceptions, which puts upon record all the evidence before the court when it acted upon the two motions aforesaid, constitutes also part of the record of the Supreme Court of the District touching the matter of extending time under the aforementioned rule of the Court of Appeals of the District of Columbia.

The sum and substance, therefore, of the return made by Justice Gould to the court of appeals in answer to the rule to show cause why he should not be required to settle the bill of exceptions which had been submitted to the court on September 19 and to himself personally on October 1, seems to be that the respondent, having first made an order in which he refused either to correct the minute entry of an order or to amend the order itself, which had extended time, was by the fact that he had made that order "greatly moved to and aided in reaching the conclusion" to make the further order by which he refused to settle the exceptions that were vital to a review of the judgment of July 2 (from which judgment your petitioner was prosecuting an appeal), inasmuch as the said judgment rested for its validity upon a ruling of the said justice which directed the jury to find in favor of the Capital Traction Co. the issue of fact which existed between your petitioner and the said company, to wit, the issue whether the facts and circumstances besetting the accident that befell your petitioner on December 2, 1909, showed a lack of ordinary care in the Capital Traction Co., your petitioner having declared in his suit that the said company was guilty of actionable negligence in the premises.

10. When Justice Gould, on November 11, 1912, filed his aforesaid return to the court of appeals in the mandamus proceedings, the Capital Traction Co. simultaneously filed in that court a motion to docket and dismiss the appeal which had been taken by me from the aforementioned judgment of July 2, 1912, the motion thus made being based upon the rule of the court of appeals hereinbefore quoted, which rule, according to the aforesaid return of Justice Gould, had "greatly aided" the said trial judge "in reaching the conclusion" not to settle the exceptions which had been taken at the trial.

In opposition to the said motion counsel who acted for me filed in the court of appeals an authenticated copy of that part of the record of the cause in the lower court which showed the acts and proceedings had and done in that court in the matter of extending time for filing in the court of appeals the transcript of record for the appeal aforesaid, the two bills which embraced exceptions as hereinbefore mentioned to the orders of September 30 and of October 16, respectively, being included in the copy of the record thus filed in the court of appeals. Among the things shown in the record thus copied, additionally to things already specified, is the fact that one of the counsel for the Capital Traction Co., a few days after my appeal had been perfected, speaking with one of my own counsel (the one who afterwards asked for an extension of time), said that he was then about to leave the city on his summer vacation and did not expect to return before September 15; that he would like to have time to examine the bill of exceptions after his return; that it would be agreeable to him, therefore, if an extension of time should be taken, say, until October 1; and that he would speak with an associate who would be in the city and who would go into court with my counsel at any time for an order of extension.

Counsel representing me thereupon said he would ask for an extension until September 20, which he did, as hereinbefore stated, on August 19. Forty days, the period fixed by the rule of the court of appeals for filing in that court the transcript of record for an appeal, unless an extension of time is made by the lower court, would have expired for my aforesaid appeal September 12.

The motion of the Capital Traction Co. to docket and dismiss the appeal I had taken from the before-mentioned judgment of July 2, made in the Court of Appeals of the District of Columbia on November 11, 1912, as above stated, and the transcript of record from the lower court, filed as aforesaid in opposition to the said motion, were placed upon the general docket of the said court of appeals as cause No. 2478, which cause is entitled "Walter Murphy, appellant, v. The Capital Traction Co., appellee."

The double aspect in which my cause thus appeared in the said court of appeals, to wit, cause No. 393 on the original docket of the said court, wherein I was seeking to procure from the judge of the lower court the allowance of a bill of exceptions (without which my appeal from the judgment of the lower court of July 2, 1912, would be valueless), and cause No. 2478 on the general docket of the said court, wherein the Capital Traction Co. was seeking to have my said appeal docketed and dismissed because the lower court had entered no formal order making an extension of time for the filing in the said court of appeals of the transcript of record for the said appeal, came on for consideration, and the two aspects, or the two causes, involving, as I have explained, the fate of my appeal from the judgment of July 2, were viewed together before the said court of appeals, which heard argument on the same on November 21 and 22. And the said court of appeals thereafter, to wit, on the 2d day of December, 1912, filed its opinion and rendered its judgment in the premises.

A copy, properly certified, of the said opinion and judgment, and of all the acts and proceedings of that court in the premises, including a copy of the complete record of that court in both the causes aforesaid, to wit, No. 393 on its original docket and No. 2478 on its general docket, is attached to this petition to be read and referred to as a part of the petition. The petition is also accompanied by a copy of the brief which counsel presented to the said Court of Appeals in my behalf in each of the two cases aforesaid.

11. When the Court of Appeals decided that it would not require Justice Gould to settle the exceptions taken at the trial, which I had tendered to him in a bill to be settled and signed as aforementioned, and decided also that it would grant the motion of the Capital Traction Co. and docket and dismiss my said appeal, I longingly inquired of counsel if they would prosecute my said appeal into your honorable court. But counsel avised me that they were unable on the said appeal to sue out a writ of error to this honorable court; that they would be glad to represent me further, but that the law did not require your honors, at my instance or request, to review the judgment of the Court of Appeals of the District in the matter of my said appeal. Oh, what could I do? Had I lost my appeal without even the poor consolation of a hearing upon its merits? Where could I turn for help? At best I was but a poor newsboy whose savings at the time of the accident complained of had amounted to less than $900, and those savings long since gone by reason of the physical condition that came upon me as the result of the accident—sight gone and body at times so racked with pain that in my agony I cry out and pray to be put out of my misery, and then anesthetics deaden the pain—only a widowed mother and a few other friends, not great or strong, charged with my care and my only dependence. Who could help me?

It was in a negligence case that your great court, speaking of a jury, an integral part of a common-law trial court, used words which ought to be read and pondered by every trial judge when asked to direct a verdict, namely (Railroad Co. v. Stout, 17 Wall., 657, 664):

"Twelve men of the average of the community, comprising men of education and men of little education, men of learning and men whose learning consists only in what they have themselves seen and heard, the merchant, the mechanic, the farmer, the laborer; these sit together, consult, apply their separate experience of the affairs of life to the facts proven, and draw a unanimous conclusion. This average judgment, thus given, it is the great effort of the law to obtain. It is assumed that 12 men know more of the common affairs of life than does 1 man; that they can draw wiser and safer conclusions from admitted facts thus occurring than can a single judge."

When "one man," "a single judge," had assumed to pass upon the facts in my case and direct the conclusion to be therefrom drawn, thereby substituting his own judgment for the "average judgment" of the jury, I had hoped that his judgment thus rendered touching the determination of an issue of fact, would at least be made the subject of judicial review with a view to ascertaining whether it was proper in the particular case for the judge to perform the functions of the jury and render a verdict, which, if correct, is the verdict the jury would itself have rendered if the case had been submitted to them. At least, I am advised by counsel that the theory of a directed verdict is that the verdict which is directed is just what the jury would have found if the matter had been left to the deliberation of the jury. A review of the ruling of the trial judge in my case could not be had without a bill of the exceptions which had been taken at the trial, and it was your great court which said that the settling of a bill of exceptions did not involve any new or substantial right of the opposing party, the words in one of the cases before your honorable court being as follows (Hunnicutt v. Peyton, 102 U. S., 333, 353):

"When an exception has been taken at the trial and noted, reducing the exception to form afterwards and attesting it, is not making a new case; it is merely verifying the case as it appeared on the trial."

I am advised by counsel that no substantial right of the Capital Traction Co. required the trial judge, at the time and under the circumstances when the bill containing them was tendered, to refuse to settle the exceptions taken at the trial of my suit against the said company, and I am further advised by counsel that the action of the Court of Appeals of the District in the premises shows that that court sacrificed the substantial legal right of an appellant by a failure to see the difference between form and substance as applicable to the matter in hand. Oh! If your honors please, if the Court of Appeals of the District of Columbia, like Saul of Tarsus, of whom I heard with my mother when she took me a little boy to the Sabbath school to hear the Bible stories there told, thinks itself engaged in a good work, as did Saul when he stood by consenting unto the death of Stephen the martyr, keeping the raiment of them that slew him, can you not cause a light to shine round about and a voice to be heard that shall cause the scales to fall from its eyes that it may see clearly, and then perchance, instead of the Saul who wrought havoc in his blindness, it may be like the Paul, who, after the scales had fallen from his eyes, became the great apostle to the Gentiles, who wrote:

"Whatsoever things are true, whatsoever things are honest, whatsoever things are just, whatsoever things are pure, whatsoever things are lovely, whatsoever things are of good report, if there be any virtue and if there be any praise, think on these things."

If the legal vision of the Court of Appeals of the District of Columbia causes it to see things with too technical an eye and too little regard for the real merits of the controversies that come before it, can your honors not perceive the effect upon the judges of the lower courts, who, working under its appellate authority, are constrained to see things in the same light, to the obscuration of substance as distinguished from shadow?

I am told that your honors have the power, if you should choose to exercise it, of issuing to the said court of appeals a writ of certiorari, whereby the case I have described could be brought into this honorable court and reviewed, and such action had as the law and justice may require. And I am told that the fact that I am poor and weak and without influential friends will not operate against me in the eyes of your great court, every member of which when he entered upon his high office took an oath that he would "administer justice without respect to persons, and do equal right to the poor and to the rich," and sealed the oath by kissing the Book that was given to man for his guide and inspiration by the Great Judge before whom we must all finally appear and be judged according to that we have done, whether it be good or bad. And I am told, if your honors deny my petition, that there will then have been written on the judicial page the final chapter of the tragedy which destroyed my sight and wrecked my body, and that the cause of action which I had supposed I possessed against the Capital Traction Co. by reason of negligence on its part will then have been closed in the courts, and I denied consideration of the merits of my cause except at the hands of one man, who himself assumed the rôle of both judge and jury.

You have my petition. My appeal is before you. And I will ever pray.

WALTER MURPHY.

JOHN ALTHEUS JOHNSON, *of Counsel.*

(The following pages, written after the court of appeals had filed its opinion in the case, were appended to the foregoing petition when submitted to the Supreme Court of the United States. References to the record herein made are to the printed copies of the certified record which accompanies the petition wherein Walter Murphy lays his case before the Supreme Court of the United States, with a prayer that the latter court take cognizance of his cause and issue a writ of certiorari to the Court of Appeals of the District of Columbia.)

The rule of the Supreme Court of the District of Columbia on the subject of bills of exception provides that the party charged with the preparation of a bill of exceptions shall, at least eight days before submitting it to be settled, have presented a copy of it to opposing counsel. On this feature of the rule the court of appeals in its opinion remarks (p. 24 of the record in No. 393, original):

"His adversary shall have eight days within which to examine the same and express his agreement or his disagreement."

And the court then adds this startling statement:

"In case of agreement, either the justice trying the case or the justice sitting in his stead may sign the same."

This is probably the first time, either in this jurisdiction or any other, that a court of appellate power in common-law causes has ever made the statement that a bill of exceptions, even where the parties were agreed as to its contents, could be signed by any other than the judge to whose rulings the bill was an exception. Signing or attesting is the culminating act which gives to the bill the absolute verity that it has in the eye of the law. And how novel and foreign to all traditions of the law even to suggest that such authentication can be given by a judge who knows nothing whatever of the transactions or rulings referred to in the bill. A few of the States have statutes under which, in the event of the death or permanent disability of the trial judge, the clerk of the court or some other official may certify a bill of exceptions where the parties are agreed concerning it. But give to the rule of the Supreme Court of the District of Columbia the full force and effect of a statute (the effect which is claimed by the court of appeals to be proper for all the rules adopted by both the Supreme Court of the District and by itself) "binding upon the court, upon suitors, and upon those who represent suitors," and still we will examine the terms of the rule in vain for any hint or suggestion of such a thought even as that somebody else than the judge whose ruling is excepted to may sign a bill of exceptions therefor.

For a court of the United States that sits in the District of Columbia it would seem that the case of Malony v. Adsit (175 U. S., 281) might be accepted as authority on the question of who must sign a bill of exceptions. In that case counsel for the respective parties had signed a statement that the bill of exceptions was correct and in accordance with the proceedings had in the trial of the cause, and, appending the statement to the bill, had procured the signature of the judge who was then holding the court in which the trial had taken place. The paper so attested was disregarded by the court as not possessing the essential quality of a bill of exceptions.

And still the idea that "the justice sitting in his stead," if the adversary party "expresses his agreement," "may sign the bill of exceptions for the justice who tried the case," is necessary to the view which the Court of Appeals of the District of Columbia took of this case; for, if the justice who presided at the trial be absent and it be necessary to settle the bill (and settling, says the court of appeals, can only be done by the trial judge), then, says the court concerning the bill of exceptions:

"Its presentation to him (that is, to the justice who is sitting in the stead of the absent justice) within the time is all that counsel can do."

In such case, says the court:

"The bill may be submitted to the justice presiding in his stead, and acted upon, as of the date of its submission, by the trial justice upon his return to his court."

The words thus used by the court of appeals, spoken by reason of the facts encountered in this case, themselves show that "submitting the bill to the court within 38 days," or within the time to which the 38 days is extended, and "submitting the bill to the court to be settled" (both of which expressions are used in the rule of court) are different things and may be impossible, in a particular case, of occurring simultaneously, and it is only concerning the latter of these two things that any notice whatever to opposing counsel is prescribed by the rule of the court on the subject of bills of exception.

The chief justice, who wrote the opinion of the court, says (pp. 25–26 of the record in No. 393, original):

"In this case the time fixed for settlement of the bill was before the expiration of the extended time, and, though it is not certain, it may

be assumed that the two days' notice in writing was given. But the petition shows that the bill of exceptions was delivered to opposing counsel but two days before the expiration of the time."

There is nothing in the record (and certainly nothing outside of the record) to warrant either the doubt or the assumption (with the reasoning consequent thereon (with the court, in the words above quoted, expresses concerning the fact of the notice given or concerning the time designated in the notice for the settling of the bill.

The bill of exceptions was not submitted on September 20, two days after the 18th, when a copy of it had been presented to opposing counsel. It was submitted on September 19, with the express statement to the court that it was not then submitted to be settled; that the settlement of it would have to await the return of Justice Gould, who was the only person that could settle and sign it; that proper notice would be given of the time for settling it, but that the plaintiff desired at that time, under the order of August 19, to submit the bill to the court (see p. 2, also p. 6, of the record in No. 393, original; and p. 16, also pp. 18–19, of the record in No. 2478). And notice of the time for settling was given, not on September 19, but on September 26, and it was given for October 1, the earliest day at which Justice Gould would be available (see p. 3 of the record in No. 393, original; and pp. 19–20 of the record in No. 2478).

If a copy of the bill had been placed in the hands of opposing counsel eight days, instead of one, before September 19, and if the two days' notice had been given for September 19 as the time when the bill would be "submitted to the court to be settled," what would the procedure have amounted to more than the thing that was actually done? It would have been a vain procedure—known to be vain, unless the revolutionary statement, adverted to above, be accepted as correct law, announced for the first time in this case.

The right of appeal, when given by the law, is a right so valuable that the courts in guarding it have almost universally held that the proper course in cases at law is to award a new trial if, by reason of the death or confirmed illness of the trial judge, there is no one who can sign the bill of exceptions requisite to the appeal. For instance, in Henrichsen *v.* Smith (29 Oreg., 475) the trial judge had extended into the next succeeding term of the court the time within which the appellant could prepare and present his bill of exceptions. Within the time prescribed, but at the succeeding term of the court, the appellant presented his bill, but the trial judge had died and his successor, who was on the bench, set aside the judgment and granted a new trial, because otherwise the appellant, without a bill of exceptions, would have lost his appeal. And, though the owner of the judgment questioned the authority of the court at a subsequent term to set aside the judgment, the supreme court of the State approved what had been done. In like manner, in Crittenden *v.* Schermerhorn (35 Mich., 370) the trial judge, after his retirement from office, had by stipulation of the parties, signed the bill of exceptions. But the defendant in error raised the objection in the supreme court of the State that a stipulation of the parties could not confer authority to sign a bill of exceptions. Says the court (p. 370):

"The point is well taken. But it does not follow that the judgment should be affirmed. On the contrary, where a party has lost the benefit of his exceptions from causes beyond his control, it is proper to give him a new trial; and this we have done in some cases where the judge's term of office expired before exceptions could be settled. The judgment will therefore be reversed and a new trial ordered."

But in the District of Columbia, so technical in matters of mere procedure is the judicial mind becoming, working under the supervision and direction of the Court of Appeals of the District, that the question with the trial judge, concerning the bill of exceptions in the present case, seems to have been to act, not with a view to aiding the appeal, but to defeating it; and when he was cited to explain the reasons for his action, seeming doubtful of the propriety of his acts under the rule of his own court, he pointed to a rule of the Court of Appeals of the District and said that rule also had influenced him, a rule which prescribed the time within which an appellant must file in the Court of Appeals the transcript of record for his appeal, which time, by the rule referred to, is fixed, even in common law causes, with reference to the perfecting of the appeal and not with reference to the signing or certifying of bills of exception; and though the plaintiff, in the effort to prosecute his appeal, had kept that rule in mind also, both rules were put into action on his appeal in a decision by the Court of Appeals, under which, if that court had only before have gone the length it now has gone, there would have been no necessity or occasion for the trial judge to consider or be influenced by any other than the rule of his own court.

If there be an express order of the court allowing time "to and including the 20th day of September" within which "to submit to the court the bill of exceptions taken at the trial of this cause," and if the bill of exceptions is submitted to the court on September 19; and if there be the further facts that on Sepember 26 notice is given to opposing counsel, in whose hands a copy of the bill thus submitted had been placed on September 18, that the court would be asked to settle and sign the said bill on October 1, the earliest available day, by reason of absence from the city, on which the matter could be submitted to the judge who must settle and sign; and if that notice be gratified by actually placing the bill on October 1 before the judge with the request that he settle and sign; and if, by reason of the trial judge's absence from the city, a two-day extension of the trial term of the court had been asked for and obtained, so as to cause the trial term to embrace October 2; and if the court, whose judgment in most cases is a finality in the District of Columbia, should declare, in the face of such facts, that it was proper to refuse settlement and allowance of the bill of exceptions so submitted, on the sole ground that a copy of the bill had not been presented to opposing counsel at least eight days before September 20, and should base such declaration on the theory (a mere legal mirage) that some other than the trial judge might on September 20 have been able to sign the bill, would such action on the part of the court not indicate a morbid condition of inability to note the difference between matters which are of mere procedure only and matters which are of substantive right; such a condition as is likely, if not checked, soon to obliterate, within the jurisdiction of the court's authority, all differences between justice and flimsily spun legal technicalities, in the name of which justice is so often sacrificed in the courts?

Such facts, followed by such a judgment, are recited in the petition of Walter Murphy and shown in the judicial records upon which his petition is based. That the court, which in most cases is the court of last resort in the District of Columbia, should adjudge such a conclusion from the facts stated would seem to denote a condition which needs a remedy, such a remedy as the Supreme Court of the United States is competent to apply, if only it shall be pleased to do so.

JOHN ALTHEUS JOHNSON.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. LODGE submitted an amendment providing that all officers of the Navy or Marine Corps shall be credited with the actual time they may have served as officers, enlisted men, paymaster clerks, or clerks of commandants in the Regular or Volunteer Army or Navy, etc., intended to be proposed by him to the naval appropriation bill, which was referred to the Committee on Naval Affairs and ordered to be printed.

Mr. SUTHERLAND submitted an amendment providing that in the event of reductions being made in any force employed under the civil service or in any of the executive departments no honorably discharged soldier, sailor, or marine whose record is rated good shall be discharged or dropped or reduced in rank or salary, etc., intended to be proposed by him to the legislative appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. CURTIS submitted an amendment proposing to appropriate $5,000 for aid and support of the National Library for the Blind, intended to be proposed by him to the District of Columbia appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

FUNERAL EXPENSES OF THE LATE SENATOR DAVIS.

Mr. BRISTOW submitted the following resolution (S. Res. 425), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay from the miscellaneous items of the contingent fund of the Senate the actual and necessary expenses incurred by the committee appointed by the President of the Senate pro tempore in arranging for and attending the funeral of the late Senator JEFF DAVIS from the State of Arkansas, vouchers for the same to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

IMPRISONMENTS IN THE ARMY AND NAVY.

Mr. WORKS submitted the following resolution (S. Res. 424), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Secretaries of War and of the Navy be, and they are each, instructed to furnish to the Senate the following information:

1. The number of persons serving in the Army and Navy, respectively, imprisoned during the year 1912, for which offenses, and the term of imprisonment imposed in each case, and the prison or other place of such imprisonment, and the nature and kind of prisons in which incarcerated.

2. The number of such persons, so serving the Government, now serving prison sentences, and for what offense in each case, and the term of imprisonment imposed, for what offenses, and where imprisoned.

PROTECTION OF BIRDS.

Mr. McLEAN. I desire to give notice that on Tuesday, January 14, at the close of the morning business, I will address the Senate on the bill (S. 6497) to protect migratory game and insectivorous birds in the United States.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I move the Senate resume the consideration of House bill 19115, known as the omnibus claims bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

Mr. CULLOM. A day or two ago I attempted to introduce an amendment to be referred to the Committee on Claims, and I think it was lost in the shuffle. I do not know whether it was incorporated in the bill or not.

The PRESIDENT pro tempore. The amendment, the Chair is informed, is upon the clerk's desk.

Mr. CULLOM. I ask leave now to offer it.

The PRESIDENT pro tempore. As an amendment to the bill?

Mr. CULLOM. As an amendment to the bill under consideration.

Mr. CRAWFORD. What is the character of the amendment?

Mr. CULLOM. It is a longevity claim.

Mr. CRAWFORD. Is the report of the Court of Claims attached to it?

Mr. CULLOM. Yes.

Mr. CRAWFORD. So that it is the same as the other longevity cases?

Mr. CULLOM. It is exactly the same, as I understand it.

The PRESIDENT pro tempore. The Senator from Illinois asks unanimous consent that the amendment offered by him may be considered, there being a pending amendment which

would otherwise be in order. The Chair hears no objection, and the amendment will now be considered. It will be read.

The SECRETARY. On page 263 of the bill, after line 9, insert:

To Phil Mitchell, administrator de bonis non cum testamento annexo of the estate of William Hoffman, deceased, of Rock Island, Ill., $2,206.30.

The PRESIDENT pro tempore. The question is on the adoption of the amendment.

Mr. CRAWFORD. I understand from the Senator from Illinois that there accompanies this claim the report from the Court of Claims adjudicating it, and that it is in exactly the same class with similar amendments which the committee has accepted. With that understanding, I make no objection to it, but I ask that the report of the Court of Claims be printed in the proceedings so that we may examine it afterwards, and I reserve the right, if I find any good reason therefor, to ask for a reconsideration.

The PRESIDENT pro tempore. The report is not upon the desk.

Mr. CULLOM. It was attached to the amendment that I offered.

The PRESIDENT pro tempore. It will be procured and printed as requested. Without objection, the amendment is agreed to. The findings of the court will be printed in the RECORD.

The matter referred to is as follows:

[Senate Document No. 977, Sixty-second Congress, third session.]

PHIL MITCHELL, ADMINISTRATOR OF THE ESTATE OF WILLIAM HOFFMAN, DECEASED.

Letter from the assistant clerk of the Court of Claims transmitting a copy of the findings of the court in the case of Phil Mitchell, administrator of the estate of William Hoffman, deceased, against The United States.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, December 3, 1912.

Hon. AUGUSTUS O. BACON,
President pro tempore of the Senate.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact and conclusion filed by the court in the aforesaid cause, which case was referred to this court by resolution of the United States Senate under the act of March 3, 1887, known as the Tucker Act.

I am, very respectfully, yours, JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Court of Claims. Congressional, No. 14978–6. Phil Mitchell, administrator de bonis non cum testamento annexo of the estate of William Hoffman, deceased, *v.* The United States.

STATEMENT OF CASE.

This is a claim for longevity pay alleged to be due on account of the service of William Hoffman, late an officer in the United States Army. On the 21st day of June, 1910, the United States Senate referred to the court a bill in the following words:

"[S. 8238, Sixty-first Congress, second session.]

"A bill for the relief of Henry Prince and certain other Army officers and their heirs or legal representatives.

"*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to settle, adjust, and pay, out of any money in the Treasury not otherwise appropriated, the claims of * * * William Hoffman * * * officers of the Army of the United States, or their heirs or legal representatives where dead, for longevity pay, according to the decisions of the Supreme Court of the United States in the cases of The United States *v.* Tyler (105 U. S., 244), The United States *v.* Morton (112 U. S., 1), and The United States *v.* Watson (130 U. S., 80)."

Isabella Kobbe appeared in this court October 31, 1910, and filed her petition, in which it is substantially averred that:

She is the daughter and sole heir at law of William Hoffman, deceased, who entered military service of the United States as a cadet at the Military Academy July 1, 1825, and served continuously until the date of his death, August 12, 1884; that longevity pay computed on a basis that his service began on entering said Military Academy was never paid said officer or this claimant; and that additional longevity pay should be paid the claimant reckoned on a basis that his service began on entering said Military Academy, in accordance with the decisions of the Supreme Court of the United States in the cases of Tyler *v.* The United States (105 U. S., 244), of Morton *v.* The United States (112 U. S., 1), and of The United States *v.* Watson (130 U. S., 80); that a claim for all pay and allowances was filed with the Auditor for the War Department and disallowed by that officer; and the claimant claimed $2,451.65.

Phil Mitchell, administrator de bonis non cum testamento annexo of the estate of William Hoffman, deceased, was substituted as claimant by order of court October 17, 1912, upon his filing a certificate showing his appointment and qualification as such administrator.

The case was brought to a hearing on its merits on the — day of October, 1912. Frederick A. Fenning, Esq., appeared for the claimant, and the Attorney General, by George M. Anderson, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. The claimant, Phil Mitchell, is the duly appointed administrator de bonis non of the estate of William Hoffman, deceased, and is a citizen of the United States, residing at Rock Island, in the State of Illinois.

II. Said William Hoffman during his lifetime was an officer in the United States Army, having entered the Military Academy as a cadet on July 1, 1825. He graduated therefrom and was appointed second lieutenant July 1, 1829; promoted to be first lieutenant November 16, 1836; captain February 1, 1838; major April 15, 1851; lieutenant colonel October 17, 1860; colonel April 25, 1862; and was retired as such May 1, 1870, and died August 12, 1884.

III. Said decedent was paid his first longevity ration from July 5, 1838; second from July 1, 1839; third from July 1, 1844; fourth from July 1, 1849; fifth from July 1, 1854; sixth from July 1, 1856; seventh from July 1, 1864; and eighth from July 1, 1869.

Under the decisions of the United States Supreme Court in the case of United States *v.* Watson (130 U. S., 80), claimant would be entitled to additional allowances on account of the service of said decedent amounting to $2,220.25, as reported by the Auditor for the War Department, from which would be deducted overpayments amounting to $13.95, leaving a balance of $2,206.30.

IV. A claim for longevity increase under the act of July 5, 1838 (5 Stats., 256), on account of decedent's service was presented to the accounting officers of the Treasury and was disallowed by them November 29, 1890, for the reason that service as a cadet could not be counted in computing longevity pay and allowances for services prior to February 24, 1881, which disallowance was in accordance with the decisions of the accounting officers in force at the time. Except as above stated, the claim was never presented to any department or officer of the Government prior to its presentation to Congress and reference to this court as hereinbefore set forth in the statement of the case, and no evidence is adduced to show why the claim was not earlier prosecuted.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein not having been filed for prosecution before any court within six years from the time it accrued is barred.

The claim is an equitable one against the United States in so far as they received the benefit of the services of said decedent while a cadet at the Military Academy, which service the Supreme Court in the case of The United States *v.* Watson (130 U. S., 80), decided to be service in the Army.

BY THE COURT.

Filed November 18, 1912.
A true copy.
Test this 22d day of November, 1912.
[SEAL.]
JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. GALLINGER. I will ask the Senator from South Dakota to kindly permit me to offer an amendment which calls for only $163.69, for overdue work in the Washington Navy Yard. It is the case of a poor man, and the findings are here.

Mr. CRAWFORD. Will the Senator just let me glance at the report of the court?

Mr. GALLINGER. Certainly.

Mr. CRAWFORD (after a pause). There is no objection to it. It is regular.

Mr. GALLINGER. I offer the following amendment and submit the findings of fact, which I ask be printed in connection with it.

The PRESIDENT pro tempore. There being pending an amendment, the amendment is now offered by unanimous consent. It will be read.

The SECRETARY. After line 12, page 153, of the bill, insert:

Richard Allen, $163.69.

The amendment was agreed to.

The PRESIDING OFFICER (Mr. HITCHCOCK in the chair). The findings of the court will be printed in the RECORD.

The matter referred to is as follows:

[Senate Document No. 849, Sixty-second Congress, second session.]

RICHARD ALLEN.

Letter from the assistant clerk of the Court of Claims transmitting a copy of the findings of the court in the case of Richard Allen *v.* The United States.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, June 4, 1912.

Hon. JAMES S. SHERMAN,
President of the Senate.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact and conclusion filed by the court in the aforesaid cause, which case was referred to this court by resolution of the United States Senate under the act of March 3, 1887, known as the Tucker Act.

I am, very respectfully, yours, JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Court of Claims of the United States. Congressional, No. 13727–3. Richard Allen *v.* The United States.

The claim herein is for services rendered by claimant at the Washington Navy Yard between March 21, 1878, and September 22, 1882, for extra labor above the legal day of eight hours.

On the 19th day of February, 1908, the United States Senate by resolution referred to the court Senate bill No. 5528, which is in the following words:

"A bill for the relief of Joseph M. Padgett and others.

"*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Joseph M. Padgett and to the others who have joined with him in a petition to this Congress, dated February 17, 1908, the amounts that may be found due to each of them, respectively, for extra labor above the legal day of eight hours, while employed by the United States as workmen, laborers, or mechanics at the various navy yards of the United States, performed by them by reason and under the provisions of circular No. 8, issued by the Secretary of the Navy on March 21, 1878."

Thereafter the claimant above named appeared and filed his petition in this court, in which he avers substantially as follows:

That between March 21, 1878, and September 21, 1882, he was employed by the Government of the United States at the navy yard at Washington, D. C.; that on March 21, 1878, the Secretary of the Navy issued the order referred to in claimant's petition, known as circular No. 8 and hereinafter set forth in Finding I.

That during the six months in each year from the date of said order to the 21st of September, 1882, he worked during all or a portion of the time he was so employed during said period, and that he is entitled to the value of the time worked in excess of 8 hours a day.

The case was brought to a hearing on the evidence and merits on the 28th day of May, 1912.

Messrs. Brandenburg & Brandenburg and Clarence W. De Knight appeared for the claimant, and the Attorney General, by Percy M. Cox, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The court, upon the evidence and after considering briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. Between March 21, 1878, and September 22, 1882, the claimant herein was in the employ of the United States in the navy yard at Washington, D. C., during which time the following order was in force:

Circular No. 8.] NAVY DEPARTMENT,
Washington, D. C., March 21, 1878.

The following is hereby substituted to take effect from this date, for the circular of October 25, 1877, in relation to the working hours at the several navy yards and shore stations:

The working hours will be, from March 21 to September 21, from 7 a. m. to 6 p. m.; from September 22 to March 20, from 7.40 a. m. to 4.30 p. m., with the usual intermission of one hour for dinner.

The department will contract for the labor of mechanics, foremen, leading men, and laborers on the basis of 8 hours a day. All workmen electing to labor 10 hours a day will receive a proportionate increase of their wages.

The commandants will notify the men employed or to be employed of these conditions, and they are at liberty to continue or accept employment under them or not.

R. W. THOMPSON,
Secretary of the Navy.

II. Said claimant, while in the employ of the United States as aforesaid, worked on the average in excess of 8 hours a day as follows: 488½ hours, at $2.50 per day, and 39½ hours, at $2.25 per day.

III. If it is considered that 8 hours constituted a day's work during the period from March 21, 1878, to September 22, 1882, under said Circular No. 8, then the claimant has been underpaid $163.69.

IV. The claim herein was never presented to any department or officer of the Government prior to the presentation thereof to Congress and reference to this court as hereinbefore set forth, and no evidence is adduced to show why claimant did not earlier prosecute his said claim.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein is not a legal one against the United States and is equitable only in the sense that the Government received the benefit of the services of said claimant in excess of 8 hours a day as above set forth.

BY THE COURT.

Filed June 3, 1912.
A true copy.
Test this 13th day of June, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. CRAWFORD. I understand the Senator from Massachusetts [Mr. LODGE] desires to address the Senate further in relation to the pending amendment, which seeks to incorporate the French spoliation claims into the bill.

Mr. LODGE. Mr. President——

Mr. STONE. Before the Senator from Massachusetts begins his speech, I should like to offer an amendment. I desire to offer an amendment to the bill, to have added the claim of Harry Troll, administrator of the estate of Justis McKinstry, deceased. It is a longevity claim of exactly the same nature as others which have been embodied in the bill.

Mr. CRAWFORD. Is there accompanying that a report from the Court of Claims?

Mr. STONE. Fully; yes.

Mr. CRAWFORD. Then, Mr. President, there is no objection. I make the same statement in regard to it as to others, and I ask that the report be printed in the RECORD so that we may have an opportunity to examine it.

Mr. STONE. Very well.

The PRESIDING OFFICER. The amendment proposed by the Senator from Missouri [Mr. STONE] will be stated.

The SECRETARY. On page 264, after line 22, under the head of "Missouri," it is proposed to insert the following:

To Harry Troll, of St. Louis, administrator of the estate of Justis McKinstry, deceased, $1,939.11.

The amendment was agreed to.

The PRESIDING OFFICER. The findings of the Court of Claims will be printed in the RECORD.

The findings referred to are as follows:

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, December 7, 1912.

Hon. AUGUSTUS O. BACON,
President pro tempore of the Senate.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact and conclusion filed by the court in the aforesaid cause, which case was referred to this court by resolution of the United States Senate under the act of March 3, 1887, known as the Tucker Act.

I am, very respectfully, yours,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Court of Claims. Congressional, 15389, Sub. 4. Harry Troll, administrator of the estate of Justus McKinstry, v. The United States.

STATEMENT OF THE CASE.

On the 21st day of February, 1911, Senate bill 10806, Sixty-first Congress, third session, for the relief of Justus McKinstry, or his heirs or legal representatives, where dead, for longevity pay, was referred to this court by a resolution of the United States Senate for findings of fact under the terms of section 14 of the act approved March 3, 1887.

Said bill reads as follows:

"A bill for the relief of Christopher H. McNally and certain other Army officers and their heirs or legal representatives.

"*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to settle, adjust, and pay, out of any money in the Treasury not otherwise appropriated, the claims of Christopher H. McNally, William C. Forbush, John Nichols Coe, Alexander Logan Morton, Justus McKinstry, Arthur Hubert Burnham, Edward McK. Hudson, Joseph Hale, Wentz Curtis Miller, Redmond Tully, Augustus G. Tassin, and Edward Maxwell Wright, officers of the Army of the United States, or their heirs or legal representatives where dead, for longevity pay, according to section 15 of the act of July 5, 1838 (5 Stat. L., p. 258), and acts amendatory thereof, and the decisions of the Supreme Court of the United States in the cases of the United States against Tyler (105 U. S., p. 244), the United States against Morton (112 U. S., p. 1), and the United States against Watson (130 U. S., p. 80)."

That Harry Troll is the administrator of the estate of Justus McKinstry, late of St. Louis, State of Missouri, and that he is a citizen of the United States and a resident of the city of St. Louis, in the State of Missouri.

That Justus McKinstry served in the United States Army as follows:

"Cadet, M. A., July 1, 1833; second lieutenant, Second Infantry, July 1, 1838; first lieutenant, April 18, 1841; captain, January 12, 1848; captain acting quartermaster, March 3, 1847; major and quartermaster, August 3, 1861; brigadier general of Volunteers, September 2, 1861, which expired July 17, 1862; dismissed January 28, 1863; died December 11, 1897."

and by reason of such service is entitled to longevity pay, computing the time he served at the Military Academy as a cadet, in accordance with the decisions of the Supreme Court of the United States as laid down in the case of the United States *v.* Watson (130 U. S. Rep., p. 80) and United States *v.* Tyler (105 U. S. Rep., p. 244), which has never been paid to the deceased officer or his heirs.

That application for such longevity increase pay was made to the accounting officers of the Treasury Department, but said claim was disallowed on the 8th day of January, 1891, on the ground "Service as a cadet under the existing laws and decisions can not be counted in computing longevity pay and allowances for services prior to February 24, 1881," contrary to the decisions of the Supreme Court of the United States in the cases of Watson and Tyler, above stated.

Application was again made for same longevity increase pay in accordance with the decision of the Comptroller of the Treasury in the case of Alexander O. Brodie (14 Comp. Dec., p. 795), but this application was disallowed in May, 1909, on the ground that there was no authority of law to reopen an adverse settlement made by a predecessor, irrespective of the fact that the law now favors the settlement of this class of cases.

That there is due the claimant under the law as decided by the Supreme Court of the United States in the case of United States *v.* Watson and Tyler, above stated, the following amount of longevity increase pay:

First longevity ration from July 5, 1838, to June 30, 1843	$364.40
Second longevity ration from July 5, 1843, to June 30, 1848	365.40
Third longevity ration from July 5, 1848, to June 30, 1853	365.20
Fourth longevity ration from July 5, 1853, to June 30, 1858	438.20
Fifth longevity ration from July 5, 1858, to June 30, 1863	407.30
Total	1,940.50
Less tax	1.39
Balance	1,941.11

That the deceased, Justus McKinstry, was loyal to the United States throughout the War of the Rebellion, he having served during said rebellion until the 28th day of January, 1863, when his service from the Army of the United States was severed.

The case was brought to a hearing on loyalty and merits on the 23d day of October, 1912.

Lyon & Lyon appeared for the claimant, and the Attorney General, by George M. Anderson, Esq., his assistant, and under his direction, appeared for the defense and protection of the interest of the United States.

The court, upon the evidence and after considering the briefs and arguments of counsel upon both sides, makes the following

FINDINGS OF FACT.

I. Claimant's decedent, Justus McKinstry, was an officer in the United States Army, having entered the United States Military Academy as a cadet on July 1, 1833. He graduated therefrom and was appointed second lieutenant, Second United States Infantry, July 1, 1838; promoted first lieutenant April 18, 1841; captain and acting quartermaster March 3, 1847; major and quartermaster August 3, 1861; appointed brigadier general of Volunteers September 6, 1861, and served as such to July 17, 1862. He was dismissed January 28, 1863.

II. Said decedent was paid his first longevity ration from July 1, 1843, and one additional ration for each five years subsequent thereto. Under the Watson decision he would be entitled to additional allowances amounting to $1,939.11, as reported by the Auditor for the War Department.

III. The claim herein was presented to the accounting officers of the Treasury and the same was disallowed January 8, 1891, and again in 1910.

Except as above stated, the claim has never been presented to any department or officer of the Government prior to its presentation to Congress and reference to this court as aforesaid.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein, not having been filed for prosecution before any court within six years from the time it accrued, is barred.

The claim is an equitable one against the United States, in so far as they received the benefit of the service of said decedent while a cadet at the Military Academy, which service the Supreme Court, in the case of the United States *v.* Watson (130 U. S., 80), decided was service in the Army.

BY THE COURT.

Filed November 11, 1912.
True copy.
Attest this 30th day of November, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. LODGE. Mr. President, I ask, first, for the adoption of an amendment in a case of longevity pay, the same as those amendments that have already, I think, been adopted.

Mr. CRAWFORD. Is there a report accompanying it?

Mr. LODGE. There is a report accompanying it, and the findings of fact may be read, if the Senator desires, or placed in the RECORD.

Mr. CRAWFORD. I will not ask that they be read, but I ask that they be printed in the RECORD in connection with the amendment, so that we may examine them.

Mr. LODGE. This is precisely the same as all other longevity cases.

The PRESIDING OFFICER. The Senator from Massachusetts offers an amendment, which will be stated.

The SECRETARY. On page 241, after line 12, it is proposed to insert:

To Katharine B. Thomson, administratrix de bonis non cum testamento annexo of the estate of Francis Beach, deceased, of Plymouth, Mass., $1,612.33.

The amendment was agreed to.

The PRESIDING OFFICER. The findings of the Court of Claims in relation to the case will be printed in the RECORD.

The findings referred to are as follows:

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, December 3, 1912.

Hon. AUGUSTUS O. BACON,
President pro tempore of the Senate.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact and conclusion filed by the court in the aforesaid cause, which case was referred to this court by resolution of the United States Senate under the act of March 3, 1887, known as the Tucker Act.

I am, very respectfully, yours, JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Court of Claims. Congressional, No. 14199. Katharine B. Thomson, administratrix de bonis non cum testamento annexo of the estate of Francis Beach, deceased, *v.* The United States.

STATEMENT OF CASE.

This is a claim for longevity pay alleged to be due on account of the service of Francis Beach, late an officer in the United States Army. On the 3d day of March, 1909, the United States Senate referred to the court a bill in the following words;

"[S. 9529, Sixtieth Congress, second session.]

"A bill for the relief of Francis Beach and certain other Army officers and their heirs or legal representatives.

"*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to settle, adjust, and pay, out of any money in the Treasury not otherwise appropriated, the claims of Francis Beach * * * officers of the Army of the United States, or their heirs or legal representatives where dead, for longevity pay according to the decisions of the Supreme Court of the United States in the cases of The United States *v.* Tyler (105 U. S., 244), The United States *v.* Morton (112 U. S., 1), and The United States *v.* Watson (130 U. S., 80)."

Katharine B. Thomson appeared in this court December 1, 1910, and filed her petition, in which it is substantially avered that she is the daughter and heir at law of Francis Beach, who entered the military service of the United States as a cadet at the Military Academy July 1, 1853, and served continuously until the date of his death, February 5, 1873; that longevity pay computed on a basis that his service began on entering said Military Academy was never paid said officer or the claimant, and that additional longevity pay should be paid the claimant reckoned on a basis that his service began on entering said Military Academy, in accordance with the decisions of the United States Supreme Court in the cases of Tyler *v.* The United States (105 U. S., 244), of Morton *v.* The United States (112 U. S., 1), and of The United States *v.* Watson (130 U. S., 80); that a claim for all pay and allowances due was filed with the Auditor for the War Department and disallowed by that officer, and the claimant claimed $2,113.60.

By order of court of October 17, 1912, Katharine B. Thomson, administratrix de bonis non cum testamento annexo of the estate of Francis Beach, was substituted as claimant upon her filing a certificate showing her appointment and qualification as such administratrix.

The case was brought to a hearing on its merits on the 21st day of October, 1912. Messrs. Coldren & Fenning appeared for the claimant, and the Attorney General, by George M. Anderson, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. The claimant, Katharine B. Thomson, is a citizen of the United States, residing at Plymouth, Mass., and is the duly appointed administratrix of the estate of Francis Beach, deceased.

II. Said Francis Beach entered the United States military service as a cadet at the Military Academy July 1, 1853. He graduated therefrom and was appointed second lieutenant July 1, 1857; promoted to first lieutenant April 29, 1861; captain August 14, 1862, and died February 5, 1873. He was paid his first longevity ration from July 1, 1862, and one additional ration for each five years subsequent thereto.

III. Under the decision of the Supreme Court in the case of United States *v.* Watson (130 U. S., 80), claimant is entitled to additional longevity allowances amounting to $1,675, as reported by the Auditor for the War Department, from which should be deducted $63.45 due the United States on account of overpayments to said decedent, leaving a balance due of $1,612.33.

IV. A claim for longevity increase on account of cadet service of said decedent was presented to the accounting officers of the Treasury and was disallowed by them November 12, 1890, for the reason that as said decedent was not in the service after February 24, 1881, service as a cadet could not be counted in computing longevity pay under existing laws and decisions.

Except as above stated the claim was never presented to any department or officer of the Government prior to its presentation to Congress and reference to this court, as hereinbefore set forth in the statement of the case, and no evidence is adduced to show why claimant did not earlier presnt her said claim.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein, not having been filed for prosecution before any court within six years from the time it accrued, is barred.

The claim is an equitable one against the United States in so far as they received the benefit of the service of said decedent while a cadet at the Military Academy, which service the Supreme Court in the case of United States *v.* Watson (130 U. S., 80) decided was service in the Army.

BY THE COURT.

Filed November 11, 1912.
A true copy.
Test this 22d day of November, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. LODGE. Mr. President, before going on with a discussion of the amendment offered by the Senator from South Dakota [Mr. CRAWFORD] to my amendment, I desire to place in the RECORD, and call the attention of the Senator from South Dakota to it, a statement which I received in regard to another case which was voted on here and rejected by a vote of the Senate. I do this only in justice to the people involved. It is the Flower claim for the destruction of property in Virginia by forces of the United States during the Civil War. The Senator from South Dakota will probably recall the case, as we had some considerable discussion about it. Objection was then made, among other objections, that the owner of the property in whose name the claim was made by his heirs had never himself made the claim, and various other points were raised against the claim. In justice to the people who make the claim, I wish to call attention to some of the facts contained in the letter which I hold in my hand, which I will then ask to have printed in the RECORD. The writer is the son of the owner of the property. He says:

My father, Thomas Brinton Flower, was a clergyman of the Episcopal Church, and had charge of the Church of the Messiah at Woods Hole, Mass., for nine years previous to the opening of the war. In September, 1861, he removed with his family to Ashfield, in this county, where he died in June, 1862, nearly three years previous to the damage to his property in Virginia. A very conclusive reason, it seems to me, why he never himself laid claim for any damage.

He then goes on and gives an account of the whole thing. I think, in justice to the claimants, that the letter ought to be printed. It simply shows, in my opinion, that they were entitled to the claim. I ask the Senator from South Dakota to read the letter as it will appear in the RECORD. I will not detain the Senate to read it all, but it explains about the laches and gives the full details. I ask that the letter may be printed in the RECORD.

Mr. CRAWFORD. Mr. President, I simply want to say upon that point that the report of the committee is based entirely upon the result of an examination of the findings returned by the Court of Claims and the opinion given by the Court of Claims. The committee can not, and no Committee on Claims could, go outside of the findings returned by the Court of Claims and examine into matters beyond the record. To do so would be an utter physical impossibility. The Court of Claims was created to do that work for us, to make these findings and these conclusions for our guidance. If we were to go into that sort of investigation of this claim to which the Senator from Massachusetts calls attention, I dare say there are 1,500 other claims which it could be urged from one cause or another would justify an examination outside of the findings of the Court of Claims. My request is that we allow all matters of that kind to go to conference, and if the conferees feel in any particular case that a claim is unusual and that it demands some exception, they can give it that attention; but, as I have said, it is utterly impossible for the Senate to undertake to deal with such cases.

Mr. LODGE. I think the Senator from South Dakota misunderstood me. I did not mean to reopen the case or to move to reconsider the vote of the Senate, but the Senator heretofore, when debating the case, said the man who owned the property never made any claim. Well, the man who owned the property died three years before the damage occurred, and therefore could hardly have made the claim. I merely, as that was going outside of the record, sought only, in justice to the people who made the claim, to show that in that respect, at least, they were not to blame, and also to give a full account of the transaction. I do not suppose the claim will be in conference, as I do not understand it is embraced in the House bill.

Mr. CRAWFORD. Then, it is not in the House bill?

Mr. LODGE. No.

Mr. CRAWFORD. That will make it all the more impossible for us to act on it here, because, if we could put it in the bill, the House having never acted upon it, at this stage of the proceedings, with this session coming to an end on the 4th of

March, it would be utterly impossible. I would say to the Senator, for it to receive favorable consideration.

Mr. LODGE. I understand that. I told the Senator I did not expect it would be possible to reverse the action of the Senate.

The PRESIDING OFFICER. Does the Senator from South Dakota object to the publication in the RECORD of the letter?

Mr. CRAWFORD. Oh, no; certainly not.

The PRESIDING OFFICER. In the absence of objection, the letter will be printed in the RECORD.

The letter referred to is as follows:

GREENFIELD, MASS., *December 19, 1912.*

The Hon. HENRY CABOT LODGE,
Washington, D. C.

MY DEAR SENATOR LODGE:

* * * * * * *

The debate which you forwarded is conclusive to my mind that the facts which actually exist are not known either to you or the other Senators.

My father, Thomas Brinton Flower, was a clergyman of the Episcopal Church and had charge of the Church of the Messiah at Woods Hole, Mass., for nine years previous to the opening of the war. In September, 1861, he removed with his family to Ashfield, in this county, where he died in June, 1862, nearly three years previous to the damage to his property in Virginia—a very conclusive reason, it seems to me, why he never, himself, laid claim for any damage.

At that time I was a boy of 9; my mother was left with four small children, one older and two younger than myself. John Flower, who lived on the farm in Virginia, was brother to my father and was one of the men who voted that Virginia stay in the Union. He was arrested and placed in prison, from which he escaped, and for three months suffered untold hardship in his attempt to reach the North. He lived long enough after the war to go to Virginia and mark out the bounds of this farm and get it properly recorded. He informed my mother that everything had been done to protect her rights, the property having been taken by military authority for the preservation of the Army and had been properly appraised.

In the operations around Petersburg this farm was occupied by the Union forces and finally destroyed. The house was shelled by both armies while my Aunt Mary and 11 small children were in the cellar. After the engagement, the Union forces taking possession of the property, the family was sent North, with the exception of the oldest son, who was then about 16 and well acquainted with the surrounding country, who stayed for a time and aided Gen. Grant in his operations by showing the soldiers short cuts about the country.

There were three earth forts and hundreds of rods of earthworks throwa up on this farm.

In regard to laches in this matter, let me say that my mother went to Philadelphia, where my father was born, after his death, and that Col. Samuel B. Thomas, who married my father's sister, and who was secretary of state under Gov. Curtin during the war, told my mother that nothing could be done toward collecting the claim owing to the condition of the country; that appraisement of damages had been filed and that later the matter could be taken up.

She did later take the matter up in the seventies with some claim agent. What was done, I do not know. But the inclosed letter from Mr. Polluck will show you that I took the matter up with him in 1889.

Congressman Whiting, from this district, who is related by marriage to the family, took the matter up when in Congress and did not accomplish anything. Then Mr. Black, the present agent, took hold of the matter and has had it in charge for some years. You will see by this that there has been no neglect on our part toward pressing this claim. Mr. Black has always said that if we could interest you in the matter the thing would go through. So when Harold had the great pleasure of making your acquaintance the matter was brought to your attention.

My father, as I have learned from my mother, was a strong Union man. He voted, as I have been told, for Bell and Everett at the election when Mr. Lincoln was made President. The Flower family, or our branch of it, which came over with William Penn on his second trip, located in Delaware County, Pa., and have been there ever since. My father's sister was a very warm friend of Miller McKim, and was associated in some way with what was called the "underground railroad."

I have burdened you with this long letter, for which I hope you will excuse me, to show you if I could that it was impossible for any charge of disloyalty to be made against my father or any of the family, and to show that we have not been negligent in pressing this claim, but rather unfortunate.

Again thanking you for your great kindness in this matter, I am,

Sincerely, yours,

ARCHIBALD D. FLOWER.

Mr. LODGE. I think that some injustice, quite unintentionally, has been done to these most excellent people who are making the claim and who never would have made it unless they believed it was a thoroughly good one, as I believe it is. I wanted those facts placed before the Senate so that they could be before a subsequent committee and so that they may learn all the details, which are not without interest.

Mr. President, in discussing the amendment which the Senator from South Dakota proposed to the amendment offered by me I first showed how many grounds of claim put forward by the counsel for the French spoliation claimants have been satisfied by the court, in order to show that the court had not granted everything claimed, by any means, but that they had made a number of rulings which the claimants at least thought bore very hardly upon them.

I refer to what I have said previously, because so much time has elapsed since I first made those observations that I fear they have been forgotten even by the very small number of auditors I had the privilege of having.

I now want, Mr. President, to take up the question raised by the amendment of the Senator from South Dakota to the amendment which I introduced. I desire to refer to the claims included by the Court of Claims in their present decisions, and I wish to discuss the precedents of allowances by courts and commissions passing on international claims.

The French spoliation act of 1885, under which these claims are considered by the Court of Claims (23 Stat. L., 283), thus prescribed, in section 3, the rule of decision:

> And they shall decide upon the validity of said claims according to the rules of law, municipal and international, and the treaties of the United States applicable to the same.

It will hardly be denied that this requirement laid upon the court the obligation to decide these cases according to the rules of law which had received the approval of our own highest domestic tribunals, as well as of the various commissions and courts which had from time to time in our past history adjudicated upon international claims.

A careful examination of the published records and decisions of a number of these tribunals shows that the allowances made by the court have in no case gone beyond those made by past courts and commissions, which have considered these claims at various times during the last hundred years. In many instances they have been less liberal than the allowances made by past commissions.

The questions suggested by a number of the remarks made in the summaries given in the last part of the Senate report show that the question of the correctness of at least the three following classes of allowances has been under consideration by the committee, and the deduction of these items is at least suggested in the report:

First. The freight earnings of the vessel for the voyage. These have been allowed by the Court of Claims at the rate of two-thirds of a fair freight for the voyage.

Second. The premium of insurance paid by the owner of the cargo or of the vessel upon her for the voyage upon which she was bound, which is allowed by the Court of Claims as one element entering into the value, and which would undoubtedly have been charged by the owner as one element of the expenses he had incurred to the purchaser of the cargo if the vessel and cargo had safely arrived at their point of destination.

Third. The payment of the full amount of loss incurred and paid by individual underwriters on vessels and cargoes, the question here being whether the premium is not to be deducted from the insurer's loss. Various comments throughout the report make it evident that one thought in drafting this report has been that the underwriter did not lose the whole amount which he paid, and that his net loss was only the amount paid less the premium he received for incurring the risk.

My examination of the proceedings to which I have referred shows that all of these items have always been allowed in full by past commissions passing on international claims, and are sustained in principle by the decisions of the Supreme Court of the United States, while there are other important items of allowance arising out of losses which the Court of Claims has not allowed.

A question very similar to this occurred in the settlement of our claims against Great Britain before the mixed international commission appointed under the Jay treaty of 1794. These claims were for spoliations committed by the British under circumstances entirely analogous to those committed by the French now in question.

William Pinkney, of Maryland, was commissioner on the part of the United States in that commission, whose opinion, delivered on behalf of the majority of the commission, was as follows in answer to a very similar objection made by the British commissioner:

> The last question which occurred at the board in this case respected the rule of compensation to be applied to it in relation to the cargo. The majority were of opinion that the claimants were entitled not only to the value of their merchandise but to the net profits which would have been made on it at the port of destination if the voyage had not been interrupted. This opinion proceeded upon the supposition that the voyage was wrongfully interrupted, and upon that supposition would seem to be free from exception. It has been questioned, however, and I shall, of course, assign my reasons for adopting it.
>
> There can be no doubt that the illegal capture and condemnation of this vessel and cargo have given to the claimants a title to receive from the British Government the value of the things of which they were deprived; but the question is whether they have not also a title to receive the profits that might and would have arisen from them.
>
> The right of the claimants to the cargo was a perfect one; and for that reason they are authorized to demand compensation for its value; but this right was in no respect better or more perfect than their right to proceed upon the voyage, and to make such profit of the goods as the situation of the destined market would at the time of the vessel's arrival enable them under all circumstances to make.
>
> When the claimants show (and a majority of the board have determined that they have shown it) that the cargo belonged to them—

that the voyage which the vessel (also the property of one of them) had commenced was a lawful one; that there was no ground upon which she could justifiably be seized or detained, they prove a complete right to prosecute that voyage without molestation and to acquire such advantages therefrom as in the course of trade might fairly be calculated on.

According to a written opinion filed by one of the board on this occasion, no compensation is due for the violation of this latter right; for it states "that to reimburse the claimants the original cost of their property and all the expenses they have actually incurred, together with interest on the whole amount, would be a just and adequate compensation." But what substantial reason can be assigned why one of the claimant's rights shall be selected as a proper object of compensation, while another of their rights, equally indisputable and equally violated, shall be left without any compensation at all?

No compensation for an injury can be just and adequate which does not repair that injury, but he who wrongfully deprives me of a lawful profit which I am employed in making can not be said to afford reparation until he has given me an equivalent for the advantages of which he has deprived me; to which advantages my right was as unquestionable as the right I had in the things from which they were to arise.

Rutherforth (1 Inst. Nat. Law, p. 105, s. 5) lays down the rule that "in estimating the damages which anyone has sustained, where such things as he has a perfect right to, are unjustly taken from him, or withholden, or intercepted, we are to consider not only the value of the thing itself, but the value likewise of the fruits or profits that might have arisen from it. He who is the owner of the thing is likewise the owner of such fruits or profits. So that it is as properly a damage to be deprived of them as it is to be deprived of the thing itself. But it is to be considered whether he could have received these profits without any labor or expense; because if he could not, then in settling the damages for which reparation is to be made, the profits are not to be rated at their full worth; but an allowance is to be made for the labor or expense of collecting or receiving them, and when the labor or expense is deducted from their full worth the remainder is all that he has lost, and consequently is all that he has any title to demand.

"In rating the damages which a man has sustained we are to estimate something more than the present advantage which he has lost; for the hope or expectation of future advantage is worth something; and if such hope or expectation is cut off by the injury, the value of it is to be allowed him. We must, however, in estimating this hope be careful not to estimate it as if the advantage were in actual possession. Proper deductions are to be made for the accidents which might have happened to disappoint his expectations. And in proportion as these accidents are greater or more in number, or more likely to happen, a greater abatement is to be made in consideration of them," etc. (Id., p. 416.)

"Not only the damages which a man sustains from an unlawful act are chargeable to them who do the act, but these damages are likewise to be made amends for, which are the consequence of such act." (Id., p. 409, s. 8.)

The foregoing quotations are supported by Grotius (Lib., 2, c. 17, s. 4–5) and also by Puffendorf. It is to be admitted that in the case before the board, the claimants' prospect of profits (provided insurance had not been made upon both profits and cargo) was not entirely certain; for the cargo might have been damaged or lost, and, of course, in the language of Rutherforth, we should be careful "not to estimate those profits as if they were in actual possession." But it is also evident that the profits were just as secure as the cargo itself, and were subject to no other risk than the cargo was exposed to. With a view to prices, there was no risk at all, since we resort to the prices which are proved to have been those at which the cargo might have been sold if it had arrived. In that respect we have facts by which to regulate our estimate, and not possibilities. If then the danger of loss of, or injury to, the cargo was the only circumstance which rendered the claimants' profits precarious, it is extremely easy to make an allowance for that hazard in the same manner as in ascertaining the value of the cargo itself. We have only to make a proper deduction for the sea risk—and for this the rate of insurance upon such a voyage as the vessel was engaged in will furnish us with the best possible rule. The rate of insurance is the value of the hazard, and it is that criterion upon which we may safely rely, since it is that value which is uniformly paid and received for the sea risk by those who are able, from their pursuits, and induced by their interests to calculate it accurately. (Life, Writings, and Speeches of William Pinkney by Henry Wheaton, New York, 1826, pp. 259–264.)

That is an extremely able argument, and, as the Senate well knows, Mr. Pinkney was one of the ablest and most distinguished lawyers in our history, and it has a very important bearing upon the question of the profits of the voyage.

I merely call attention to the fact that of this commission of 1794, where the cases were precisely similar to the class of cases involved in the French spoliation cases, the majority of the commission, which was a very strong one, overruled the position taken on behalf of the British Government that the whole liability of that Government was discharged by reimbursing the claimants the original cost of their property, all the expenses they had incurred, and interest on the whole amount.

Under the Florida treaty of 1819 with Spain we had another commission for the settlement of claims against Spain. This commission, however, differed from the British commission of 1794, to which I have just been referring, in the fact that it was a domestic tribunal of the United States, like the Court of Claims, and like the board of commissioners who distributed the Alabama award. They adjudicated upon claims originally existing against a foreign government, but which had, for a valuable consideration, been released to that government and assumed by the United States. So the Florida commission is entirely similar in its jurisdiction to the Court of Claims, and it was dealing in claims almost identical with the class of claims we are considering here.

That commission in its final report of its proceedings to the Secretary of State thus stated its allowance of freight and insurance premiums and of the principles which governed it in making such allowances (Moore's International Arbitrations, vol. 5, p. 4516):

In adjusting the amount of the claims allowed the commission has adopted these principles: Regarding the fund provided by the treaty as designed to indemnify claimants for actual losses sustained and not to realize profits which might or might not have been made, the board has generally taken up the voyage at its commencement and allowed the value of the vessel and cargo at that time. To the value of the vessel two-thirds of a fair freight for the passage in which the loss occurred has been added. A fair premium of insurance for the risk of such a passage has been also added to each of these insurable subjects. And the costs and expenses incurred in defraying their rights have been allowed to all claimants who have paid such and have offered any evidence from which the sums so paid might be inferred. Such has been the general mode of estimating the quantum of loss to be indemnified in most of the cases where the loss has been total.

The following from the report of that commission (Moore's International Arbitrations, vol. 5, pp. 4516, 4517) states the ground on which the claims of underwriters were allowed and also shows that in so doing no deduction of the amount of the premium was made from the amount of the insurance actually paid by the underwriter and received by the assured. The commission say:

And it was only when the American citizen who had sustained a loss provided for by the treaty, having been indemnified against this loss by an American underwriter, had abandoned or was bound to abandon and assign his interest in the subject insured to the assurer, that the claims of underwriters have ever been received. But, claiming as assignees of a party who had a good claim, these their derivative claims have always been allowed for the sum by them insured and paid, where that sum did not exceed the true value of the subject insured according to the principles settled by the board for ascertaining this value, as above stated.

In making such allowances to underwriters the commission was well aware that its effect would be to allow them more than they had lost by the amount of the premium received from the party insured, which premium he had voluntarily paid and must have lost in any event. So, too, in making the allowance of freight the commission was well aware that the full wages of seamen had not been paid, probably, in any of the cases where such freight was given. But in these and many other cases which occurred the board, having ascertained the full amount of the loss, distributed this amount so ascertained amongst the different parties claiming it before them and seeming to have a right to receive it (no matter in what character) without deciding or believing itself possessed of the authority to decide upon the merits of conflicting claims to the same subject.

It will be observed that in that decision of the Florida commission they awarded the claimants the premiums, although the premiums would have been lost in any event, and they also made an allowance of freight without deduction, as they state—

For wages of seamen.

I ask particular attention to this last statement as bearing upon the point which has been made against a number of these claims in the report of the Committee on Claims, in which the amount allowed to an underwriter by the Court of Claims as insurance actually paid has been diminished by the amount of the premium. As I have pointed out, the commission, under the treaty of 1819, made no such deduction, but allowed the underwriters the full amount of the loss, which they paid.

Its reasons are given for so doing. It is not believed that any court or commission which has ever allowed to an underwriter or insurer by virtue of the doctrine of subrogation the amount which he paid has ever diminished that amount by deducting therefrom the premium paid for the insurance.

But there was another commission relative to certain other claims against the Spanish Government which sat many years later than the first, to wit, in 1836 and 1837. That commission laid down the following complete statement of the rules which guided them (Moore's International Arbitrations, vol. 5, pp. 4541, 4542):

First. As to vessels: The value of every vessel must be estimated at her actual cost to the owner where that can be ascertained, and if not ascertained, her value at the commencement of the voyage will be deemed to be her true value, deducting therefrom a reasonable percentage for subsequent deterioration.

To her value thus allowed add two-thirds of a fair freight where the voyage was not completed.

In cases of capture and release, where doubts exist as to the probable grounds of capture, nothing is to be allowed for the detention of the vessel after capture, unless the delay has been unreasonable, and then only for the wages of the crew, expenses of their support, and damages incurred by the vessel during the detention.

Second. As to cargo: In cases where the cargo has been taken at sea the invoice cost will be deemed to be its true value, adding thereto the usual and ordinary shipping charges, the customary brokerage on the purchase of the goods, and a reasonable or fair premium of insurance for the particular voyage, said premium to be rated with that usual or current at the time of the shipment, and this premium is to be allowed whether the owner was his own insurer or not.

Where the property was seized on shore at the place of destination, and the market price there at the time of seizure can be satisfactorily ascertained, that price shall be the criterion of value. If from any cause such market price can not be ascertained, recourse must be had to the actual cost and charges as in other cases.

Third. Charges and expenses in defending the property, whether vessel or cargo, will be allowed where they have been actually paid in all cases where there has been a reasonable effort to defend or reclaim the subject.

Fourth. Where the property was recaptured and restored on payment of salvage the amount so paid, with incidental expenses, is to be allowed. In cases of ransom the actual sum paid is to be allowed, and where the property has been sold after capture and a proportion of its proceeds given up as the price of a partial restitution the sum so given up is to be deducted from the indemnity to be allowed.

Fifth. As to freight: A fair premium of insurance is to be allowed on freight, as on other insurable interests.

Sixth. In the distribution of the amount awarded reference is to be had only to the claimant's actual loss. Nothing is to be allowed for profits or anticipated gains. Whatever he has received under contracts of insurance is to be deducted from the award in his favor; but where insurers are claimants their claims are generally to be allowed for the sums actually paid, except in cases of loss especially adjusted between the parties, and then the intention of the parties at the time of settling their contracts is to be carried into effect.

These rules exclude the possible profit on which Mr. Pinkney made his argument, but in many other respects they are more liberal than those adopted by the Court of Claims. Premiums of insurance, for instance, were allowed by that commission whether they were actually paid or not, whereas the Court of Claims allowed such premiums only when actually paid. Charges and expenses in connection with the property were allowed by this commission, whereas we find no case in which the Court of Claims allowed such charges.

The Court of Claims allowed no ransom voluntarily paid, but only salvage actually decreed by a court and paid under compulsion.

Insurance on freight is only allowed by the Court of Claims where actually paid. The commission above quoted allowed it in addition to the freight itself in all cases.

Now, Mr. President, that shows as clearly as possible that the Court of Claims in dealing with these cases has been stricter and more severe than past commissions dealing with similar claims made under the Spanish and British treaties.

I will take next the case of the distribution of the Danish indemnity. Our Government had made a treaty with Denmark for the adjudication of claims in the case of vessels illegally seized by that country. That commission, sitting in 1832–33, made these rules (Moore's International Arbitrations, vol. 5, p. 4568):

Considering the absence of proof in some cases, and its imperfection in others, in relation to freight, insurance, demurrage, and damage owing to detention, and consequently, that exact justice can not be done in each particular case, comparing, besides, the several claims for freight, insurance, demurrage, and damage, with each other, and finding no standard therein, it is—

2d. *Ordered*, That in all cases of condemnation or detention there shall be allowed two-thirds of a fair freight for the passage in which the loss occurred (and) a premium of insurance at the rate of — per cent upon the value of the vessel and cargo, respectively, at the commencement of the voyage.

That was in reference, as I remember, to the stoppage of vessels in regard to the question of tolls in the Skagerrack, passing through the straits north of Denmark.

There was also an indemnity paid by the Government of Naples for illegal seizures made by that Government.

The commission to distribute that indemnity, sitting in 1834, 1835, made the following rules (Moore's International Arbitrations, vol. 5, p. 4585):

Ordered, 1. That in cases of condemnation, indemnity shall be made according to the actual value of the vessel and cargo, respectively, at the commencement of the voyage.

2. That a commission of 2½ per cent be allowed on the value of the cargo in full satisfaction for the purchase and charges thereon at the port of exportation.

3. Freight according to the registered tonnage of the vessel at and after the rate of $40 per ton.

4. All necessary expenses incurred at Naples by reason of illegal capture and condemnation to be allowed in full.

5. Interest at the rate of 20 per cent on the amount awarded.

I wish to call attention to the allowance of interest at the rate of 20 per cent, the largest yet found, although in all cases of commissions to distribute international indemnities interest is invariably allowed, whereas the Court of Claims has never allowed interest on French spoliation claims.

THE MEXICAN COMMISSION OF 1868.

In 1868 there was a Mexican commission to settle certain claims against that Government.

Sir Edward Thornton, the British minister, who was the umpire under the treaty of 1868 for the settlement of claims of the citizens of the United States against Mexico, made the following allowance of freight in a case of unlawful seizure of goods imported by sea and seized at the port of importation:

The umpire therefore feels it incumbent upon him to decide this claim is a just one and to award on account of it the sum of $7,145.85 Mexican gold, with interest at 6 per cent per annum from the 1st of December, 1854, to the date of the final award. The umpire has allowed the original value of the goods, with the costs of freight, landing, etc.; but he has not taken into consideration the profit upon the sale of the goods, because he thinks that the loss of this is sufficiently compensated by the assured interest of 6 per cent per annum at the end of a number of years. (Moore's International Arbitrations, vol. 3, p. 3135.)

This decision is a particularly strong one because it not only allows freight and expenses of landing in addition to the original value of the goods, but its refusal to allow profits is based upon the distinct ground that these are compensated for by the interest, which in that case exceeded the amount of the principal. In these French spoliation cases neither profits nor interest are allowed, which, I think, shows the moderation of these claims and the strictness of the Court of Claims in dealing with them as compared with all similar claims dealt with by prior commissions in similar cases in which the Government was involved.

PROCEEDINGS OF COURT OF COMMISSIONERS OF ALABAMA CLAIMS.

The proceedings of the Court of Commissioners of Alabama Claims on this subject of the allowance of freights and insurance premiums throw great light on the questions involved.

The proceedings of this court offer a peculiarly instructive analogy to those now before use. The claims, like the French spoliation claims, were in their origin claims arising out of the wrongful acts of a foreign government. Like them, the claims had been assumed by the United States, although upon different grounds than the French spoliation claims, having been so assumed in consideration of the payment of a large lump sum by the foreign government. Like the French spoliation claims, they were referred by act of Congress to a domestic tribunal sitting under the authority of the laws of the United States, by which tribunal these claims were passed upon as international claims, depending upon rules of international law, although the judgment was to be paid by the United States.

I will take up first the questions of the allowance to the owner of the ship or cargo of the premium of insurance paid by him. The syllabus of the case in which this point was decided——

Mr. CRAWFORD. Will the Senator permit me a question right there?

Mr. LODGE. Yes.

Mr. CRAWFORD. Was not the amount of the Alabama award amply sufficient to cover all the items to which the Senator is addressing himself—that is, the lump sum?

Mr. LODGE. It was more than sufficient; but I do not think that has any bearing on the merits of the cases or the principles on which that money was awarded under the Geneva arbitration, which was provided for by the treaty of Washington. Fifteen and a half million dollars, as I recall it, was paid to the United States and was in the Treasury of the United States, and it was just as much the money of the United States as anything else in the Treasury. Then the claimants came forward with their claims, which, of course, were against that fund, but the rules on which those claims were decided are precisely the same, it seems to me, as those relating to any other claims. The fact that the United States had money especially paid to it by a foreign government to meet the claims does not seem to me to touch the case. In the case of the French spoliation claims the United States received in consideration of assuming the payment of the French spoliation claims indemnity, or they were relieved from the payment of the claims against them. They took up these claims because the claims of their citizens were used as a set-off to the claims of the citizens of France.

As I was saying, the syllabus of the case in which this point was decided, that of Hubbell against United States, contained in Moore's International Arbitrations, an official work published by authority of the United States at the Government Printing Office, volume 4, page 4242, is as follows:

The measure of damage for goods destroyed by the Confederate cruisers is the value of the goods at the place and time of shipment, with charges and marine insurance actually paid, with interest on the aggregate so produced from the time of shipment till the date of destruction, at 6 per cent.

In support of this ruling the court said (pp. 4255, 4256):

From the earliest period in our judicial history actions have been brought by the owners of goods against persons other than the parties to the contract of affreightment, growing out of torts committed against the goods while in transit on their way from the port of lading to an intended port of discharge.

The earliest of these which reached the Supreme Court of the United States was in 1794. (Del Col *v.* Arnold, 3 Dall., 333.)

This was a case of a vessel wrongfully captured by the commander of the *Constellation*, an American vessel of war, and brought into the port of Philadelphia, where the captain instituted proceedings for her condemnation. Pending these proceedings the cargo was sold, and the consul of Denmark intervened in the cause, claiming the vessel and cargo as the property of a Danish subject. The cause was heard by the Supreme Court upon appeal, and Chief Justice Marshall gave the opinion of the court, wherein they fixed the standard of damages by directing in their decree "that the cause be remanded to the circuit court with directions to refer it to commissioners to ascertain the damages sustained by the claimants, * * * and that the commissioners be instructed to take the actual prime cost of the cargo and vessel, with interest thereon, including the insurance actually paid, and such expenses as were necessarily sustained in consequence of bringing the vessel into the United States, as the standard by which damages ought to be measured."

A large sum was awarded against Capt. Murray in pursuance of this decree, which he was obliged to pay, and which was afterwards reimbursed to him by act of Congress from the Treasury of the United States. (Act Jan. 31, 1805.)

The rule of damages thus established has been followed from that day to the present through a series of decisions entirely unbroken and unchanged. (*The Charming Betsey*, 2 Cr., 64; Maley *v.* Shattuck, 3 Cr., 458 (1806); the schooner *Lively* and cargo, 1 Gallison, 315 (1812); the *Anna Maria*, 2 Wheat., 327 (1817); the *Amiable Nancy*, 3 Wheat., 546 (1818); *L'Amistad de Rues*, 5 Wheat., 385 (1820).)

The same rule was applied in the case of an unlawful and unjustifiable seizure of a vessel by the officers of the revenue in 1824. (The *Apollon*, 9 Wheat., 362.)

These were cases, of course, against our own Government.

From this statement it will be observed that the Alabama Claims Tribunal in every case allowed a premium of insurance in addition to the original prime cost of the cargo and vessel.

The rule as to freight is stated in an opinion of the court which is peculiarly instructive in view of the fact that the act constituting the Court of Commissioners of Alabama Claims prohibited it from allowing "unearned freight" as well as "gross freights."

Mr. Hackett, in his able work entitled "The Geneva Award Acts" (p. 50), thus quotes this opinion, the reasoning of which he terms "eminently satisfactory":

What are "unearned freights," as employed in the act? What do these terms, so unusual in the language of judges, shippers, carriers, and underwriters, require us to exclude? By forbidding the allowance of unearned freights it was certainly not intended to allow only freights fully earned. Freight is fully earned, in the judicial as well as popular sense, when the vessel has reached her port of destination and the cargo has been delivered; a place in which she would not be in much danger of destruction at the hands of an insurgent cruiser. If so destroyed, the question of freight could not have arisen at all, for her charterers would then have been her debtors, and the value of the vessel only would have been lost to her owners. It is impossible to suppose that Congress could have put so frivolous a thing into a serious statute. It is just as clear that freights wholly unearned could not have been intended; that is, where no expenses had been incurred, no stores supplied, no cargo taken on board, nothing done by shipper or owner toward the commencement of a voyage. Here, again, the vessel would have been found in her dock and out of the reach of the losses of which the statute treats. Even if she were not, her case is effectually provided for by forbidding any allowance for prospective freights. The provision respecting "unearned freights" was evidently intended to embrace something different from that of the inhibition of prospective gains, and to have some practical effect on the distribution of the money in hand. Let it observed, then, that between these extremes—of freight wholly earned and freight wholly unearned—there is an ample territory in which judicial investigation has gone on from the dawn of commerce to the present hour, and the results are found along the whole track of the commercial law. A ship is made ready for sea, a charter party more or less formal is executed, her cargo is shipped, and she starts on her voyage. She has not then earned her freight, and on the shipper or charterer she has no legal claim until after the lapse of many months and the endurance of many perils. But her owner has spent time and labor in fitting her out, has supplied the necessary stores, advanced the wages of the crew, and subjected her to the largest risk to which property is ever subjected or paid to others the required compensation for assuming such risk. Can it be maintained that her freight is unearned in the large and general sense in which this term is used in the statute—unearned, without qualification—wholly unearned? Can it be denied that some part of it has been earned? Not as against the shipper, if he has done nothing to change the contract, but even as against him if he has interrupted the voyage, and certainly as against everyone who willfully or carelessly stops her progress. Here the decisions, European and American, have a uniformity scarcely to be met with in any other department of the law. (Rep., 84.)

This shows that freight was always allowed by the Court of Commissioners of Alabama Claims on precisely the same principles as were adopted by the Court of Claims in these very cases involving French spoliations, and that the same is true in regard to premiums of insurance.

But the Alabama claims were not the only claims for seizure of ships that arose out of the Civil War. In addition to our grievances against Great Britain, her citizens had theirs against us. A large number of British vessels with their cargoes were seized by vessels of the United States Navy during the Civil War on the charge either of attempting to break the blockade of the southern coast or of carrying contraband to the Confederates.

These vessels were libeled before our admiralty courts. Some of them were condemned; others released without any damages for detention or loss of freight. In all such cases the British owners preferred claims before the Mixed Commission appointed under the treaty of 1871 for the value of the vessels and cargoes with all incidental damages where they were condemned and taken away or where the vessel and cargo were restored for incidental damages.

In the case of the *Sir William Peel* (5 Wall., 517), a ship and cargo were stopped on their way to Matamoros, Mexico, at the mouth of the Rio Grande and libeled as prize of war on the charges both of attempting to break the blockade and of carrying contraband. The Supreme Court of the United States held that neither charge was established and ordered the restitution of the vessel and cargo, although without costs to either party on the ground that there was some probable cause justifying the seizure.

If the theory which seems to underlie the analysis of these findings made by the Committee on Claims is sound—that the mere value of the vessel and cargo represents the "actual property loss" (see report, p. 416)—the case should have ended there, and they would have become entitled to nothing more; that is, the case of the *Sir William Peel* should have ended with the decision of the Supreme Court.

Before the Mixed Commission, however, under the British treaty of 1871, they made claim for the damages attending their detention and loss of market, and that commission allowed them the enormous sum of $272,920 for these incidental damages after the Supreme Court had by its judgment restored the whole of their vessel and cargo to them. See Report of Her Majesty's Agent of the Proceedings and Awards of the Mixed Commission on British and American Claims, published at London, 1874, pages 107 to 113, where the entire history of this case is given.

In the case of the *Circassian* (2 Wall., 135) a British vessel was condemned by the Supreme Court of the United States with her cargo as lawful prize, affirming in this respect the decree of the district court below. The owners of the vessel and cargo and her insurers then presented a claim before the Mixed Commission under the treaty of 1871 for the value of the vessel and cargo, as well as for her freight. One claim made before that commission, that of Overend Gurney & Co., was for the freight and nothing else. On this item of the freight for the voyage that claimant was allowed $20,540. (Report of Her Majesty's Agent of the Proceedings and Awards of the Mixed Commission on British and American Claims, published at London, 1874, pp. 124, 132.)

Insurance losses were allowed on the same vessel amounting to $133,296, without anything being said as to deduction of premiums paid for the insurance.

In the course of some of the remarks on these Matamoros cases, as they are called, in this report on the Mixed Commission of 1871, pages 106, 107, it is said:

Reference was made to several cases before the commission under the treaty of 1794, in which it was said that the commissioners, as indemnity for captures held to have been unlawfully made, allowed not merely the value of cargoes, but net profits which would have been received if the cargoes had reached their port of destination, and which in some cases amounted to nearly 100 per cent.

These decisions of that commission fully show that what they allowed in cases of wrongful capture of British vessels by United States vessels was not the mere net value of the vessel and her cargo, but also included other damages directly sustained by the party, prominent among which was the loss of freight.

THE CHINESE INDEMNITY.

An examination of the decision of the Court of Claims in the claims against the Chinese indemnity fund in 1880 (15 C. Cls., 546, affirmed by the Supreme Court, 16 C. Cls., 635) shows (p. 576) that insurers recovered against this fund the full amount of the losses as paid by them, without any deduction for premiums of insurance.

BERING SEA CLAIMS AGAINST RUSSIA.

In 1902 there was an arbitration at The Hague of claims of certain American vessels unlawfully captured by Russia in the Russian part of Bering Sea on charges of illegal sealing. The arbitrator was Mr. T. M. C. Asser, counselor to the minister of foreign affairs of the Kingdom of Netherlands. His decisions are found in the report of the counsel for the United States (printed as Appendix I to the Foreign Relations of the United States for 1902).

He allowed in all cases, in addition to the value of the property, damages for "loss of catch."

That is, the possible catch of fish on the fishing voyage, which comes very near allowing possible profit. This was, under the circumstances under which those claims arose, the equivalent not merely of freight in other cases, but of loss of profits in addition. He stated in the judgment the following reasons for making this allowance (Foreign Relations, Appendix I, p. 453):

Considering that the general principle of civil law, according to which the damages should include an indemnity not only for the loss suffered, but also for the profit of which one has been deprived, is equally applicable to international litigation, and that in order to apply it it is not necessary that the amount of the profit of which one is deprived should be exactly determined, but that it suffices to show that in the natural order of things one would be able to realize a profit of which one is deprived by the act which gives rise to the claim.

That is the decision of a foreign subject, of which we took full advantage. This rule is more liberal than any that has been applied by the Court of Claims in these cases.

I now want to take up the decisions of the Supreme Court.

In the case of Murray *v.* Schooner *Charming Betsey* (2 Cr., 64), where a vessel was improperly captured by a United States public armed vessel, the court thus laid down (pp. 125, 126) the rule for the ascertainment of damages, the opinion being by Chief Justice Marshall:

That the said commissioners be instructed to take the actual prime cost of the cargo and vessel, with interest thereon, including the insur-

ance actually paid, and such expenses as were necessarily sustained in consequence of bringing the vessel into the United States as the standard by which the damages ought to be measured.

In Comegys *v.* Vasse (1 Pet., 195) the claim was made by an underwriter for the recovery from the insured of money which the insured had obtained through an award of the commission of 1819 on claims with Spain. The court, in the opinion by Mr. Justice Story, held that the underwriter was entitled to recover back all that he had paid, and made no deduction for any insurance premium. The court says (p. 214):

The underwriter, then, stands in the place of the insured and becomes legally entitled to all that can be rescued from destruction.

And observe that no deduction was made of the premium.

Citing a New York decision made in the case of one of the insurers on a vessel captured by the French, the opinion says (p. 215):

The case of Gracie *v.* The New York Insurance Co. (8 Johns., 237) recognizes the same principle in its full extent. That was a case of abandonment after a capture and where there had been a final condemnation, not only by the courts in France, but an express confirmation of the condemnation by the sovereign himself. One question was whether the jury were at liberty to deduct from the total loss the value of the spes recuperandi. The court held that they were not. Mr. Chief Justice Kent, in delivering the opinion of the court, said: "If France should at any future period agree to and actually make compensation for the capture and condemnation in question, the Government of the United States, to whom the compensation would in the first instance be payable, would become trustee for the party having the equitable title to the reimbursement; and this would clearly be the defendants (the underwriters), if they should pay the amount," etc.

This case recognizes to the fullest extent the right of the underwriter to recover the entire amount paid by him.

In the case of the *Baltimore* (8 Wall., 377, 386) the Supreme Court laid down the rule as to damage where the voyage is broken up by the act of a wrongdoer in the following terms:

Restitution or compensation is the rule in all cases where repairs are practicable, but if the vessel of the libellants is totally lost, the rule of damage is the market value of the vessel (if the vessel is of a class which has such value) at the time of her destruction.

Allowance for freight is made in such a case, reckoning the gross freight less the charges which would necessarily have been incurred in earning the same and which were saved to the owner by the accident, together with interest on the same from the date of the probable termination of voyage.

The point is also well stated by the circuit court of appeals in Mason *v.* Marine Insurance Co. (110 Fed. Rep., 752, 754; Lawyers' Repts. Annotated, 700, 704, 705):

The earning power of the vessel was an incident inhering in her ownership.

In Hall & Long *v.* Railroad Companies (13 Wall., 367) the Supreme Court allowed a recovery by an insurer using the name of the shipper against the railroad companies which were responsible for the loss of the goods. The full amount of the insurance was thus allowed to be recovered. The very point was made in argument in that case (p. 367) that:

In equity the insurance company could have no claim to subrogation until it had fully reimbursed the merchant, not merely the actual losses but the premiums previously paid.

Also that the insurer "has been fully paid for the risk it has assumed."

The court, however, overruled these arguments and held in the opinion (p. 373):

That an underwriter who has paid a loss is entitled to recover what he has paid by a suit in the name of the assured against the carrier who caused the loss.

Thus the Supreme Court of the United States has recognized the justice in principle of all these classes of items in cases which have come before it.

It is my belief, Mr. President, that the Court of Claims in the allowance of freight and premiums of insurance to those who lost vessels and cargoes, as well as in its allowance to underwriters of the full amount paid them for the losses without deductions of the premiums, was simply following its unbroken precedents, only a few of which I have read, but all of which I have cited. If it had done otherwise, it would have violated such precedents and would have established a new rule.

Mr. President, I have a few pages more; it will not take me long to conclude, but I can not conclude in the three minutes which remain before the beginning of the impeachment case. I should therefore like to stop at this point.

Mr. CRAWFORD. Mr. President, I desire to state that at the close of the morning business to-morrow I shall ask the Senate to resume the consideration of this bill, and at the conclusion of the Senator's remarks, unless there is to be some further discussion of the amendment, I shall then ask the Senate to vote upon the pending amendment to the amendment offered by the Senator from Massachusetts, and also upon his amendment.

Mr. LODGE. That is perfectly agreeable to me.

INTERSTATE SHIPMENT OF LIQUOR.

Mr. SANDERS. I ask unanimous consent that on Monday, January 20, at 3 o'clock p. m., the bill (S. 4043) to prohibit interstate commerce in intoxicating liquors be taken up for consideration, and that the vote be taken on all amendments pending and amendments to be offered, and upon the bill itself, not later than the hour of 6 o'clock on that day.

Mr. WARREN. Mr. President——

The PRESIDING OFFICER. The Senator from Tennessee makes a request for unanimous consent——

Mr. SANDERS. I might say, in this connection, that this is one week later than the request made yesterday, and will give ample time for debate.

The PRESIDING OFFICER. The Secretary will read the request.

The Secretary read as follows:

It is agreed by unanimous consent that on Monday, January 20, at 3 o'clock p. m., the bill (S. 4043) to prohibit interstate commerce in intoxicating liquors be taken up for consideration, and that the vote be taken on all amendments pending and amendments to be offered, and upon the bill itself, not later than the hour of 6 o'clock on that day.

The PRESIDING OFFICER. Is there objection?

Mr. WARREN. Mr. President, I shall have to object to that proposed unanimous-consent agreement and other unanimous-consent agreements proposed to be made at this time in the session, unless they are made subject to appropriation bills. All the great supply bills are yet to pass; the time is short in which they may be acted upon; and, I repeat, I shall have to object to such unanimous-consent agreements on that account.

Mr. SANDERS. I should like to inquire if the Senator would not be willing to agree to the proposition if appropriation bills are excepted?

Mr. WARREN. I will say to the Senator from Tennessee that, so far as my objection in that line goes, it would be perfectly agreeable to except the appropriation bills. I hardly think, however, the Senator from Tennessee ought to ask a unanimous-consent agreement in so thin a Senate as we now have; but my objection is entirely because of the condition of the appropriation bills. I shall ask that any unanimous-consent agreements shall except appropriation bills, which should have the right of way.

Mr. LODGE. Mr. President, I do not desire to object to the proposition of the Senator from Tennessee, but there are a number of Senators who, I know, desire to discuss the bill to which he refers, and I do not think an agreement of that kind ought to be made without the presence of those Senators. I therefore make the point that no quorum is present.

The PRESIDING OFFICER. The point of no quorum is made, and the Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cummins	Lippitt	Shively
Bacon	Curtis	Lodge	Simmons
Bankhead	Dillingham	McCumber	Smith, Ariz.
Borah	Dixon	McLean	Smith, Ga.
Bourne	Fletcher	Martin, Va.	Smoot
Bradley	Foster	Nelson	Stephenson
Bristow	Gallinger	Newlands	Sutherland
Brown	Gore	Oliver	Swanson
Burnham	Gronna	Page	Thornton
Burton	Guggenheim	Paynter	Townsend
Catron	Hitchcock	Perkins	Warren
Chamberlain	Johnson, Me.	Perky	Wetmore
Clapp	Jones	Pomerene	Williams
Clark, Wyo.	Kenyon	Richardson	Works
Crawford	Kern	Root	
Cullom	La Follette	Sanders	

Mr. TOWNSEND. I desire to announce that the senior Senator from Michigan [Mr. SMITH] is absent from the Senate on business of the Senate. I should like to have this announcement stand for the day.

Mr. SHIVELY. I wish to announce to the Senate that the junior Senator from New York [Mr. O'GORMAN], the junior Senator from Florida [Mr. BRYAN], the junior Senator from New Jersey [Mr. MARTINE], and the Senator from Arkansas [Mr. CLARKE] are absent on the business of the Senate. They are attending the funeral of the late Senator DAVIS.

Mr. SIMMONS. I wish to announce that my colleague [Mr. OVERMAN] is absent on account of sickness.

Mr. SHIVELY. I wish also to announce that the Senator from Alabama [Mr. JOHNSTON] is absent on account of sickness.

Mr. JONES. I desire to announce that my colleague [Mr. POINDEXTER] is absent from the Senate and the city on important business.

Mr. KERN. I desire again to announce the absence of the junior Senator from South Carolina [Mr. SMITH] on account of a death in his family.

Mr. CATRON. I wish to announce that my colleague [Mr. FALL] is absent on the business of the Senate.

The PRESIDENT pro tempore. On the call of the roll of the Senate 62 Senators have responded to their names. A quorum of the Senate is present.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, Mr. Robert W. Archbald, jr., and Mr. Martin.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

The PRESIDENT pro tempore. The Secretary will read the Journal of the last session of the Senate sitting as a Court of Impeachment.

The Secretary read the Journal of the proceedings of Monday, January 6, 1913.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will stand approved. The managers on the part of the House will proceed with their examination of the witness.

TESTIMONY OF ROBERT W. ARCHBALD—CONTINUED.

Cross-examination:

Q. (By Mr. Manager STERLING.) Judge Archbald, I think you stated that the first connection you had with the Katydid culm dump was when Mr. Williams came to see you on the 31st day of March, 1911?—A. I did not fix that date. I said that the matter was brought to my attention first by Mr. Williams.

Q. It was on that date, was it not?—A. That it was first brought to my attention?

Q. Yes.—A. No.

Q. When was it first brought to your attention?—A. I could not fix the date, but it was some little time prior to that.

Q. Was it not the day that you wrote a letter to Mr. May inquiring if it was for sale and the price of it?—A. Not at all.

Q. When did you write that letter?—A. I wrote it the day it is dated.

Q. When was that, with reference to the first time that Mr. Williams talked to you about this dump?—A. The exact length of time I can not give, but I should say it may have been two or three weeks after his first speaking of it.

Q. Your first connection with it, then, was some time in March, 1911?—A. I should think so, although I would not be positive about it. It may have been as early as February.

Q. I wish you would state now the substance of the conversation you had with Mr. Williams when he first came to see you.—A. I have had so many conversations with Mr. Williams on this subject that it would be very difficult for me to state what occurred the first time he mentioned it, but I will try to give it the best I can.

My remembrance is he said the Katydid culm dump could be obtained and was for sale, and that some money could be made out of it, and that he spoke of the fact that Mr. Robertson laid claim to it, and that an option could be obtained from Mr. Robertson, and that if an option could also be obtained for the interests of the Hillside Coal & Iron Co. then the matter would be in shape for disposition.

Q. What did you say in reply to that?—A. I do not think at first I said very much in regard to it. I have heard a good many things and statements by Mr. Williams——

Q. Well, Judge, just confine yourself to answering my question.—A. I could not tell you what I said in regard to it.

Q. You say now you do not know what reply you made to Mr. Williams?—A. No; I do not.

Q. Have you stated all that Mr. Williams said?—A. All that I remember as to that first or initial conversation.

Q. What was the purpose of Mr. Williams in coming to you with reference to the matter?—A. I could not tell you his mental purpose.

Q. What did he say was the reason he came to you?—A. He did not say why he came to me, that I remember.

Q. From what he said, what did you understand was his purpose in coming to you?—A. I should say that his idea was to have me assist him in carrying out a transaction of that kind—a purchase of the double interests in the Katydid culm dump and subsequently to dispose of the culm dump at a profit.

Q. In what way did he expect you to assist him?—A. I do not know.

Q. Did you assist him?—A. I did.

Q. In what way did he ask you to assist him; what did he ask you to do?—A. Well, your last question does refresh my memory. Either at that time or at a later time, before that letter was written, he told me that he had secured a verbal option from Mr. Robertson with regard to the interest he had in the matter, and that it only remained to secure an option on the interest of the Hillside Coal & Iron Co., and then it would be complete, and he wanted me to see whether that could be obtained from Capt. May.

Q. Then you do know that his purpose was to get you to intercede with the coal company and the railroad company for their interest in this property?—A. I would not adopt your words.

Q. State it in your own words, Judge.—A. He desired me to see whether an option could be obtained upon the interest of the Hillside Coal & Iron Co. in that dump. He further stated that Capt. May was under obligations to him, and he thought that Capt. May would look favorably upon it. My remembrance—it is somewhat indistinct, but still I have a faint remembrance—is that the first suggestion on his part was a letter of introduction to Capt. May.

Q. Did he say that he had been to Capt. May?—A. He did not.

Q. You knew that he had not been to Capt. May, did you not?—A. Knew that he had or had not?

Q. Yes.—A. I do not know whether he had or had not, but I think he had not.

Q. What reply did you make to him when he told you that he would like a letter of introduction to Capt. May?—A. I can not give exactly the words with regard to it.

Q. Give the substance of what you said.—A. My impression is that prior to the letter which I did eventually give him I had a conversation over the telephone with Capt. May about the matter, asking whether it was possible that the interest of the Hillside Coal & Iron Co. could be obtained.

Q. You did not give him any letter of introduction?—A. No, sir; I did not.

Q. What reason did you give Mr. Williams for not giving him merely a letter of introduction?—A. I do not think I gave him any reason, and I am not sure that that was the case; but I just have a faint remembrance on that point. When the letter which is now in evidence here was produced before the Judiciary Committee I expected the form of it would be a letter of introduction. I was very much surprised when I found it was couched in the terms in which is was couched.

Q. That is, you thought so up to the present time, until you saw it recently?—A. Not up to the present time; no.

Q. Well, up to the time of the investigation?—A. Up to the time of the hearing last May before the Judiciary Committee.

Q. The letter you refer to is the one dated March 31, in which you simply inquire of Capt. May if their interest in the Katydid dump can be purchased, and at what price. That is the letter you refer to?—A. I refer to the letter of March 31, which is not quite couched in the way you have stated.

Q. When you wrote that letter you understood you were a partner in the enterprise, did you not?—A. I understood not that I was a partner, but that I was participating in the matter.

Q. And that you were to share in the profits?—A. I assumed that I would share in the profits.

Q. When did you and Mr. Williams come to that agreement?—A. There was never any definite statement or any definite agreement in regard to it.

Q. Is it not true, Judge, that you declined to give him a letter of introduction——A. I do not remember that I did.

Q. Wait until I finish my question. [Continuing.] You declined to give him a letter of introduction until such time as he had suggested to you that he would share the profits with you?—A. Absolutely not——

Q. Now, wait. And, then, afterwards you wrote this letter inquiring about the possibility of buying it?—A. There is not a word of truth, if you will permit me, in that suggestion.

Q. How did it come that you declined Mr. Williams's request for a letter of introduction——A. I do not say that I declined his request——

Q. Let me finish my question. That you declined to give him that letter, but, on the other hand, wrote a letter over your own name inquiring if they would sell the dump and put a price on it?—A. I do not say that I ever declined to give him a letter of introduction. I do not remember that I ever did decline.

Q. But when you wrote that letter you understood you were to share in the profits?—A. I certainly did.

Q. When did you come to that understanding?—A. Simply by reason of the conversation or the conversations I had with Mr. Williams, because he stated that if these conflicting interests were obtained the dump could probably be sold at a profit, and he mentioned several concerns that he thought would be likely to be interested in purchasing. That was one of the first things I asked him about.

Q. How did he say that; did he say "We can sell it at a profit"?—A. I do not remember.

Q. Or did he say, "If you will assist me I will share the profits with you"?—A. He never said anything of the kind.

Q. But you inferred from all the talks you had that he proposed to give you a part of the profits?—A. I did.

Q. And when you came to that conclusion or understanding with Mr. Williams, then you wrote this letter inquiring if they would sell it and the price of it?—A. No; that is not so.

Q. Well, you did not write the letter until you had come to that conclusion, did you? You knew at that time that you were to share in the profits?—A. Yes; I assume that I knew at that time that I was to share in the profits.

Q. And you gathered from Mr. Williams's conversation that what he wanted you to do was to intercede with Mr. May, the superintendent of the Hillside Co., for their interest in this dump?—A. No, sir.

Q. Well, what else did he ask you to do?—A. There was no question of intercession or interceding.

Q. What did he call it?—A. He did not use that word.

Q. What did he call it, Judge?—A. I can not give you the exact word. It was simply that an effort was to be made to secure the interest of the Hillside Coal & Iron Co., an option on that——

Q. Why do you object to the word "interceding"?—A. Because it carries a meaning that I do not think is in the case.

Q. Do you say, Judge, that what you did was not simply interceding with this company to get this dump?—A. It certainly was not.

Q. When you telephoned Capt. May what did he say to you?—A. That is rather indefinite in my mind.

Q. What did you say to him?—A. I will give you my best impression about it: I asked him whether the company had an interest in the Katydid culm dump and whether it was for disposition, and my remembrance of his answer is that the situation there was somewhat peculiar and he could hardly say whether they would dispose of it or not. And I think in that connection, although I would not be sure whether that occurred before the writing of the letter or whether it occurred afterwards, he further said, either at one time or the other, that Mr. Richardson was to be in Scranton and that he would bring the matter up to him.

Q. He asked you to write the letter, did he not?—A. Capt. May ask me to write the letter?

Q. Yes; he asked you to write the letter, did he not?—A. No; I do not remember that.

Q. He did not?—A. I do not remember——

Q. Before this had occurred, however, you had inquired of Mr. Williams if he thought he could sell the dump?—A. Yes, sir; I had.

Q. And he thought that Mr. Boland could find a purchaser?—A. He spoke of Mr. Boland possibly finding a purchaser; yes.

Q. Had you seen the dump before that time?—A. I never saw the dump until the last of August, 1912.

Q. You did not go to see it until——A. No, sir.

Q. Why did you not go to see it before you undertook to buy it, Judge?—A. I do not know. I was busy in other matters. I simply did not go. I thought I knew where it was. I found afterwards when I came to see it actually that I was mistaken.

Q. If you had seen it could you have formed some estimate of its value?—A. I do not believe I could.

Q. You were not experienced in coal dumps?—A. I certainly am not; no, sir.

Q. You would not know how to go about it to make an estimate of the coal in a dump?—A. I would not.

Q. So you simply took Mr. Williams's word for that?—A. I did; that is, in part.

Q. After you had written to Capt. May and he had failed to answer your letter for some time you called him up by telephone?—A. Well, I say I can not tell you about that. After I wrote that letter my remembrance is that I saw Capt. May once or twice. As I testified yesterday, I not infrequently met him on the street, and I spoke about the matter to him. I think also very possibly I called him up once by telephone and asked about it.

Q. About how many times did you talk with him between the time you wrote the letter and the time you went to New York?—A. Oh, I should say three or four times.

Q. And he invariably told you that he did not know about the matter yet; that he did not know whether they would sell it or not, and also suggested to you that it had not been the practice of the railroad company to sell its coal properties, did he not?—A. You put two questions in one, and I can only answer one at a time. I will answer either of them.

Q. Answer them in succession.—A. I will have to ask to have the question repeated, the first and last half.

The Reporter read the question.

The WITNESS. He said nothing whatever in regard to the practice of the company about selling their culm dumps, and, on the contrary, I knew somewhat differently. He did say whenever I spoke to him about it, as I remember, that the matter had not yet been decided.

Q. Do you remember when Mr. Williams came to your office and told you that Capt. May had seen Mr. Richardson and that Mr. Richardson had advised against selling the dump?—A. Mr. Williams never told me that.

Q. Did he ever tell you that Capt. May had told him that he had seen Mr. Richardson?—A. He never did.

Q. Did he tell you that Mr. May would not talk to him about it?—A. He never did.

Q. What did he tell you about what had occurred, when he had been to see Capt. May?—A. He went to see Capt. May, as I understand, only once. That was when he presented that letter. Capt. May at first wanted to ask him a larger price than he, Williams, thought it was worth, and they finally arrived at the price which was named.

Q. On the day of the letter?—A. Yes.

Q. The 31st of March?—A. Yes, sir.

Q. Do you say that they then agreed on the price of $4,500?—A. I so understood. That was the report made to me by Mr. Williams.

Q. Do you not know that in September, when he went there to get the option, they discussed——A. Oh, I beg your pardon; it was in September.

Q. On the 31st of March they did not discuss the price at all?—A. That is true.

Q. What, if anything, did Mr. Williams tell you Capt. May had said to him?—A. I can not remember about that. When he came back about that date, I can not remember what he said.

Q. Do you not remember whether he said that Capt. May said that you could have it or could not have it?—A. He certainly did not say that Capt. May said they could have it.

Q. Do you remember his coming back and seeing you in regard to it?—A. I remember his coming to tell me that he had presented that letter.

Q. While you were waiting for a reply from Capt. May, Mr. Williams came to see you quite frequently?—A. He came to see me several times, yes, while I was at my office in Scranton.

Q. And to see you about this matter?—A. Yes.

Q. To have you further urge Capt. May to answer your letter?—A. He was anxious to have the matter closed. He spoke about Mr. Robertson being anxious, too, and that Mr. Robertson was rather restive about it.

Q. And finally you told him that you were going to see Mr. Brownell?—A. I finally—I think I said that; yes.

Q. And you told him you would go to New York and see Mr. Brownell?—A. I told him I would see Mr. Brownell while I was in New York on other business.

Q. I think you said yesterday that you did not remember any conversation with Mr. Williams at that time about the Lighterage case?—A. I do not remember ever having spoken of the Lighterage case to Mr. Williams.

Q. You did have the briefs and the petitions——A. Well, I had the record.

Q. And the records in cases 38 and 39 on your desk in your office in Scranton in the month of June, did you not?—A. I think I did; but I had the briefs and the record tied up and in separate packages by themselves either upon my desk or upon my mantel where I kept——

Q. Tied up in what way?—A. I think tied up in red tape.

Q. Did they have a wrapper around them?—A. No.

Q. They were lying there on your desk where anyone in your office could see them?—A. Either upon my desk or on my mantel.

Q. There was not anything on any printed matter connected with those cases in which the word "lighterage" appeared?—A. No.

Q. Do you know how Mr. Williams learned that you were considering the Lighterage case if you did not tell him?—A. I do not know; I could make a guess——

Q. Wait, now. If you did not tell him, do you know how he learned you were considering the Lighterage case?—A. I could only guess.

Q. You will not say that you did not talk with him about the Lighterage case?—A. I have no remembrance about talking with him. I think I would remember it if I had talked with him.

Q. Do you remember his asking you what "lighterage" meant——A. I do not.

Q. And that you explained to him that it related to tugboats at New York.—A. I do not remember anything of the kind.

Q. You did go to New York to see Mr. Brownell?—A. I saw Mr. Brownell when I was in New York.

Q. That was on the 4th of August?—A. It was.

Q. You said yesterday that you said to Mr. Brownell, or gave as your reason for coming to see him, that you wanted to talk to him about the title to the Katydid culm dump.—A. Not necessarily that.

Q. What did you say?—A. I told him I understood that the question of the title or the conflict of title between Robertson & Law or Mr. Robertson and the Hillside Coal & Iron Co. had not only been passed upon by their local attorneys, Judge Willard, of Willard, Warren & Knapp, but also had been referred to him as the counsel of the company in New York.

Q. What else did you say to him about it?—A. I told him that I was seeking to get both those options, and that a tentative arrangement had been made with Mr. Robertson by which he had agreed to sell for a certain figure, and if the title of the Hillside Coal & Iron Co. could be obtained that that would complete the title, and the matter could be disposed of, and there would be no question as to a conflict or diversity as to whether it was owned by all or who owned it.

Q. Were you concerned in getting the controversy disposed of that might arise between Robertson & Law and the Hillside Coal & Iron Co. or were you interested in getting the title in yourself?—A. I was not concerned in settling the controversy between Robertson & Law and the Hillside Coal & Iron Co. I was concerned in trying to buy the dump.

Q. That is what you went there for, is it not?—A. It certainly is.

Q. And you told Mr. Brownell that you wanted to buy it?—A. I do not remember that I said so in that way.

Q. The conversation you had with him about the title was merely incidental, was it not, to your main purpose?—A. It was introductory.

Q. To your purpose?—A. Yes.

Q. And he referred you to Mr. Richardson?—A. He told me that Mr. Richardson was the person to see.

Mr. CULBERSON. Mr. President, I wish to ask a question.

The PRESIDENT pro tempore. The Senator from Texas will send it to the desk.

Mr. CULBERSON. There are two questions.

The PRESIDENT pro tempore. The Senator from Texas sends to the desk two questions to be propounded to the witness. They will be propounded one at a time in the order of their number.

The Secretary read as follows:

Who, as between you and Williams, introduced the subject of the Lighterage case?

The WITNESS. I do not remember that I ever talked with Mr. Williams about the Lighterage case. I have no memory that I ever did.

The PRESIDENT pro tempore. The Secretary will read the second question.

The Secretary read as follows:

State fully the conversation on this subject.

The WITNESS. I can not state the conversation because I do not remember any.

The PRESIDENT pro tempore. The manager will proceed.

Q. (By Mr. Manager STERLING.) After you had talked with Mr. Richardson, which was the 4th of August, you met Mr. May on the streets of Scranton?—A. About three weeks later.

Q. That was the 29th of August?—A. I have not the means by me to fix that date exactly.

Q. He told you to tell Mr. Williams to come around and he would give him the option?—A. That in substance.

Q. Do you know why he told you to have Mr. Williams come around?—A. I do not know why he said it in that way.

Q. Did you suggest to him you were the one who wanted the option?—A. I did not in that conversation.

Q. Do you know why the letter giving the option was addressed only to Williams and not to you and Williams?—A. I do not.

Q. He brought you the option when he received it, did he not?—A. He brought back the option after he had obtained it from Capt. May in the form in which it appears.

Q. When you got that you considered that you and Mr. Williams had an option on the entire title of this dump, excepting the Everhart and Brooke Land Co.'s interests, did you?—A. I understood that the paper that Capt. May had given and the subsequent paper that was secured from Mr. Robertson practically controlled the title of the dump.

Q. Up to the time you got the option of the Hillside Co, you have related all you did in connection with the matter——A. All——

Q. Wait. Let me finish. That is, your conversation and your letters to Mr. May and your visit to Brownell and Richardson, the officials of the Erie Railroad Co., in New York? That is all you had done in connection with the matter up to that time?—A. That is all that I remember. Of course, you did not ask me with regard to what happened with Mr. Richardson in New York.

Q. No.

Mr. CULBERSON. Mr. President, I propound a question to the witness.

The PRESIDENT pro tempore. The Senator from Texas sends to the desk a question which he desires propounded to the witness, and it will be read to him by the Secretary.

The Secretary read as follows:

Why did you say awhile ago that you knew how Williams came to think of the Lighterage case? State fully.

The WITNESS. I do not think that I have said that I knew how Mr. Williams came to know of the Lighterage case. I said I might make a guess.

Mr. CULBERSON. That is what I want, Mr. President.

The WITNESS. I am perfectly willing to make the guess, if the Chair says that I can.

The PRESIDENT pro tempore. The Chair hears no objection.

Q. (By Mr. Manager STERLING.) Make a guess, Judge. Go on.—A. In one of two ways: He either got that information from Mr. Boland, which seems to me most likely, or he may have heard me speaking of the Lighterage case to others in my office, not to him.

Mr. CULBERSON. I should like to have that developed.

Mr. Manager STERLING. I will do so, Senator. [To the witness:] Who had you talked to in your office about the Lighterage case in the presence of Williams?—A. I can not tell you.

Q. Do you recall any occasion when you talked about the Lighterage case to anyone in your office, regardless of whether or not Williams was present?—A. I do not recall distinctly talking to anyone about the Lighterage case, but the Lighterage case was made a subject of considerable newspaper comment. It was quite an interesting case. It was one of the first cases that had been argued before the Commerce Court and one of the first cases that we had tentatively decided. It involved nice questions. My remembrance is that I did state to some lawyers who were present in my office at one time or another the points that were involved in that case.

Q. Can you name any of the lawyers you talked with about it?—A. I can not.

Q. So, at the present time, you would not say that you did talk to anybody in the presence of Williams about the Lighterage case?—A. I can not remember that I did.

Q. Now, how did William P. Boland know about the Lighterage case?—A. I can not tell you.

Q. Do you know whether he knew anything about the Lighterage case or not?—A. I could not know, with one exception.

Q. Well, what is it?—A. In the notes of Miss Mary Boland, which she took, there is a mention, I believe along in September, of the Lighterage case.

Mr. WORKS. Mr. President, I should like to put a question.

The PRESIDENT pro tempore. The Senator from California sends to the desk a question which he desires propounded to the witness, and it will be read to him by the Secretary.

The Secretary read as follows:

Did it occur to your own mind at any time during the pendency of these negotiations that your official position might have weight in inducing May or other officers of the company to come to satisfactory terms?

The WITNESS. I had no idea of that, and I would like to explain, if I may. When dealing with Capt. May, so far as I was dealing with him, I was dealing with a man who had known me for a great number of years, and whom I had known. I knew him so well that I knew my position would have no influence upon the matter. I presented the matter to him simply as a business proposition and expected him to treat it in that way, and only in that way. I knew that the matter was finally to be disposed of by Capt. May.

Mr. HITCHCOCK. Mr. President, I send to the desk a question to be asked.

The PRESIDENT pro tempore. The Senator from Nebraska sends to the desk a question to be propounded to the witness, which will be read to him by the Secretary.

The Secretary read as follows:

What was the reason for thinking that you would be more successful than Williams in inducing the company to give an option on the Katydid dump?

The WITNESS. I think my position in the community is a little different from that of Mr. Williams, and that I would be

more likely to secure it than he could. That is entirely distinct from my judicial position or my position as a judge of the Commerce Court at that time.

Q. (By Mr. STERLING.) Do you know whether Mr. Williams——

Mr. CULBERSON. May I ask another question?

The PRESIDENT pro tempore. The Senator from Texas will send it to the desk. [After a pause.] The Senator from Texas sends to the desk two questions, which will be propounded in the order in which they are numbered.

The Secretary read as follows:

When Williams was in your office, was the docket of the court in your presence?

The WITNESS. There was no docket, if I may so say. There was what I have here—what I would call a calendar. It is among my papers there, and I would be very glad to produce it.

Mr. WORTHINGTON. It was marked and put in evidence yesterday.

Mr. MARTIN. It was handed to the Secretary yesterday.

The WITNESS. It is a green-covered book of the character of the one I hold in my hand. That is the only docket. It is called a docket, but I should call it an argument list, using the phraseology we are accustomed to in Pennsylvania, or a calendar. That was prepared for the court, and as we met in October it was in my hands probably some time about the middle of September; and on that list——

Mr. CULBERSON. Let the second question be read.

The PRESIDENT pro tempore. The second question sent to the desk by the Senator from Texas will be read by the Secretary.

The Secretary read as follows:

State fully the cases in the docket and if the Lighterage case was shown by it.

The WITNESS. On that document, or argument list, on page 12 and No. 38, appears the Baltimore & Ohio Railroad Co., petitioners, the Brooklyn Eastern District Terminal, John Arbuckle, and William A. Jamison, intervening petitioners, against the United States, as respondent, by the Interstate Commerce Commission, Federal Sugar Refining Co., intervening respondents. That is the so-called Lighterage case, spoken of sometimes as the Sugar Refinery case. On the opposite page to that there appears this, after giving the date of filing in the Commerce Court:

To set aside an order of Interstate Commerce Commission affecting lighterage charges on sugar in and near New York Harbor.

That appears on that, but I venture to say that it is in rather an obscure position, and a person would have to know where he was hunting and what he was looking for to find it.

Mr. CULBERSON. Unless it be shown to him.

The WITNESS. Yes, sir; unless it be shown to him.

Q. (By Mr. Manager STERLING.) Now, that docket did not come to your table until the 15th of September?—A. I do not know just what time in September.

Q. You know now, do you not, that Williams knew something about the Lighterage case before that?—A. I do not know that he did.

Q. Do you not know that the notes taken by Mary Boland on the 5th day of September, 10 days before you got that, gave the substance of a conversation which Williams had with Boland, where he told you about the Lighterage case?—A. I do not know the date of Mary Boland's notes. I do not know the date when that docket was in my hands in September.

Q. You say about September 15.—A. I do not.

Mr. WORTHINGTON. I certainly think the manager does not want to mislead anybody. Those notes are in evidence and the dates appear, the 18th and the 28th of September. They are in evidence.

Mr. Manager STERLING. I should like to suggest to counsel that he will not take that for granted. It is not my purpose to mislead anybody.

Mr. WORTHINGTON. I so stated.

Mr. Manager STERLING. I object now to counsel interfering in this examination, because he can correct any of the mistakes I make when I am through. [To the witness:] You think perhaps Williams got his idea about the Lighterage case from Boland?—A. I say that is one of the guesses which I would make with regard to it.

Q. Do you base it on the fact that there is something in Miss Boland's notes about the Lighterage case?—A. In part; yes.

Q. The notes purport to be a statement made by Williams to Boland and not by Boland to Williams about the Lighterage case, do they not?—A. I will not say what those notes purport to state.

Q. So if the notes indicate anything it is that Williams gave information to Boland instead of Boland giving information to Williams?—A. I pass no judgment on what the notes say.

Q. Assuming that that is the fact——

Mr. POMERENE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Ohio desire to propound a question?

Mr. POMERENE. I desire to propound a question.

The PRESIDENT pro tempore. The manager will please suspend for a moment. The Senator from Ohio presents the following question, which will be propounded to the witness by the Secretary.

The Secretary read as follows:

If the fact that the difference in your and Williams's position in the community would give you more influence than Williams had in conducting negotiations with May and his corporation associates, did it not also occur to you that your judicial position would also help to influence them in that transaction?

The WITNESS. I should answer that no. I had no idea that my official position would enter into the question at all, by reason of what I have stated.

The PRESIDENT pro tempore. The manager will proceed.

Q. (By Mr. Manager STERLING.) Williams was in your office two or three times a week from the 31st of March down during that summer, was he not?—A. I would not fix the number of times a week.

Q. How often?—A. He might have been there once a week.

Q. And sometimes oftener?—A. He might have; yes.

Q. Do you understand that May knew that you had a financial interest in this transaction?—A. I assumed that he did. That I had a financial interest in it?

Q. Yes, sir.—A. I assumed that he did.

Q. Did you invest any money in the enterprise?—A. I did not.

Q. Did you expect to, at any time?—A. I did not think it would be necessary.

Q. Your idea simply was to get an option and then sell it at a profit?—A. That is a very familiar way of dealing with matters up there.

Q. I am not asking about the custom.—A. That was my idea.

Q. So all you did was to intercede with May, Brownell, and Richardson for this dump?—A. I am not going to adopt that word.

Q. Do you say that you did something else?—A. I did not intercede with anybody.

Q. Oh, well, what word would satisfy you, Judge?—A. I will not suggest.

Q. Did you do anything then except writing letters and telephoning and making personal visits to these three officials of the company that owned this dump? Did you do anything else?—A. I think not. That is, I do not remember that I did, except when it came to the sale of the property, or the attempted sale of the property.

Q. When you sold it to Conn what did you do?—A. We had an agreement that I thought was going to be complete.

Q. And that failed by reason of the fact that Conn's attorneys would not accept the title?—A. They felt as——

Q. Just answer my question?—A. I can not.

Q. Well, did it fail by reason of the fact that they would not accept the title?—A. Yes; you may put it that way.

Q. Did they suggest to you anything new about the title, when you had the conference with them, that you had not known before?—A. The matter came out when we met in Judge Knapp's office—Judge Knapp, of Scranton, I am speaking of—the attorney for the Hillside Coal & Iron Co. I found that all that the Hillside Coal & Iron Co. would do would be simply to convey their interest, and I anticipated that they were going to sell not simply that but whatever right and title they had by reason of their operation of the Consolidated Breaker, and by virtue of the fact that they were joint owners or tenants in common in regard to that.

Q. At that time had you prepared the option for the sale to Conn?—A. No.

Q. When did you prepare that?—A. When we gathered at Judge Knapp's office?

Q. Yes.—A. Yes; I think I had.

Q. You had already prepared it and submitted it to Conn?—A. Yes; and Mr. Conn, I think——

Q. Did the contract which you prepared for Conn purport to warrant the title?—A. It did not.

Q. You were not intending to convey to Conn anything except what you got from the Hillside Co. and Robertson in that contract, were you?—A. I contemplated making a valid sale.

Q. Just answer my question.—A. I can not.

Q. Was the contract which you prepared for Conn, selling him this dump, of such a character as to warrant the title to him?—A. Yes; it was.

Q. All of the title?—A. Yes.

Q. Did it have any provisions in it about royalty to the Everharts?—A. It did.

Q. And the Brooke Land Co.?—A. The Everhart interest was practically included in that by general designation.

Q. The contract which you prepared for Conn covered all those interests, did it not?—A. I would not say that, because the contract it not before me. It is in writing.

Q. It covered it just as the option which May made to Williams covered it?—A. I can not tell you; I have not the contract before me.

Q. You remember that May provided in the option that it was subject to the royalty interests of these people?—A. He did not——

Q. Do you remember whether it said anything about that?—A. It said on all sizes above pea there would have to be royalty.

Q. That is what they had been paying on?—A. I do not know about that.

Q. And the contract which you prepared for Conn had the same provision?—A. It followed that same provision.

Q. So you were conveying to Conn just what you were getting from Mr. May, and you did not intend to convey anything else, did you?—A. I did not have anything else to convey, but I had a different idea of what I would be able to convey or what Mr. Williams and I had been able to convey after I had seen Judge Knapp.

Q. After that you went to Conn and asked for this contract, did you?—A. That was along in March.

Q. March, 1912?—A. Yes, sir.

Q. Why did you do that?—A. Because I wanted to have the matter either go on, be concluded—that is to say, brought to an end—or——

Q. Was that after Scraggs had told you about the investigation in the Department of Justice?—A. Yes; it was.

Q. It was after that?—A. Yes.

Q. You stated yesterday that you wanted to take it up because you did not want to be a party to a contract where it would get the purchaser into a lawsuit. That was one of the reasons why you took up this contract from Conn?—A. I did not think that the property was in a shape or we had the title to it that would justify us in going on and making a sale.

Q. Then why, after that, did you make the option to John Henry Jones on the 6th of April?—A. Mr. John Henry Jones never had—you are referring to Mr. Thomas Starr Jones?

Q. I think that is right. You did that, did you not?—A. I did not make an option, and I think I explained yesterday how that option came about.

Q. You dictated the option?—A. Oh, I dictated the option.

Q. And Williams signed it in your presence?—A. He did.

Q. That was on the 6th of April, after you had taken up the Conn contract, in which you had given him an option for 10 days at $25,000?—A. Yes.

Q. Why, Judge, did not the consideration of the title affect you then, just the same as it affected you with reference to the Conn title?—A. I think I explained, or endeavored to explain, that yesterday in my examination in chief. The talk with Mr. Jones leading up to that option was that he was to take care of the outstanding interest in the Everharts, and that neither Mr. Williams nor myself would be responsible about that. He spoke of doing that at first by making a deposit of a certain proportion of the option price in case of sale in a bank for the benefit of the Everharts. After some consideration I did not agree to it, and finally the option was worded in the way it is worded, and it was limited to Mr. Williams, because the option only undertook to give him such a title as Mr. Williams had by virtue of the paper which he had from Capt. May and from Mr. Robertson.

Q. You do not mean to say that he was to give $25,000 for Williams's interest?—A. Such interest as I had.

Q. So it covered your interest just as much as though you had signed it?—A. Oh, yes.

Q. You say the reason you gave that option to Jones was because he agreed to take the title and take care of the Everharts and the Brooke Land Co.?—A. Yes, sir; because there was——

Q. Wait, now. That answers the question. The contract which was prepared for Mr. May provided that he should take care of those interests in the very same way, did it not?—A. The contract speaks for itself. I will not undertake to interpret it.

Q. Do you not think that the contract which you prepared for Conn made him responsible entirely for any claim that the Everharts and the Brooke Land Co. might make or have against this property?—A. I will not undertake to interpret the contract without seeing it.

Q. You do say that there was provision in there about their interests?—A. I do not bear in mind all the provisions of that contract.

Q. You know now, without looking at the contract, that you were not undertaking to warrant against any claims they might make, do you not?—A. I do not know that.

Q. You drew the contract?—A. I did.

Q. You spoke yesterday about this Robertson contract. Was that the one that was recorded?—A. Yes; the option from John M. Robertson to Mr. Williams.

Q. You say you did not record that?—A. I did not know anything about its being recorded.

Q. I understood you to say yesterday that it was acknowledged by the grantee, acknowledged by Mr. Williams, and put on record.—A. The grantor.

Q. By the grantee it was acknowledged?—A. I understood so.

Q. I presume the purpose of putting that acknowledgment on there was to get it recorded, was it?—A. It did get it recorded. I do not know the purpose.

Q. It is the rule there, the same as everywhere else, that a paper must either be sworn to or acknowledged in order to get it on record.—A. Papers have to be duly acknowledged by the grantor in order to get on record.

Q. Do you say it is limited to the grantor?—A. It is.

Q. Do you not think an acknowledgment by some one who saw the grantor sign the affidavit would put it on record?—A. Under some circumstances an affidavit may be made and record obtained.

Q. The purpose of recording it was just simply to preserve the contract or evidence of the contract, was it not?—A. As it stood it had absolutely no effect of that kind, if you wan that opinion as a matter of law.

Mr. WORTHINGTON. Mr. President, I object to a continuation of this inquiry about why a paper was recorded. It has already appeared that it was recorded by William P. Boland, and neither Judge Archbald nor Mr. Robertson, the grantor, knew anything about the matter. The manager is inquiring why it was recorded. The witness knows nothing of having it recorded, and how could he? The managers objected to what he knew of it and his mental operation, and now they ask his mental operation of William P. Boland, which I submit is very unfair to the witness.

Mr. Manager STERLING. To save time, I will withdraw the question.

Mr. CULBERSON. I desire to ask a general question of the judge.

The PRESIDENT pro tempore. The Senator from Texas presents a question which he wishes to propound to the witness. It will be read by the Secretary.

The Secretary read as follows:

Did it ever occur to you, in asking favors of railroad corporations as to culm dumps, where they might probably have cases before the Commerce Court, that you were putting yourself, as a member of the court, under obligations to the litigants before the court?

The WITNESS. I never consciously asked any favor of a railroad, either when I was a judge of the common pleas or a district judge or a Commerce Court judge. I did not understand, in endeavoring to make this deal, that I was asking a favor. I was simply presenting a matter to them as a business proposition. I expected them to treat it in that way, and I believe they did so.

Q. (By Mr. Manager STERLING.) Capt. May told you some time after the letter of March 31 that Richardson had been there, did he not?—A. I think he did over the telephone; yes.

Q. Did he not tell you on the street that he had been there?—A. I do not think he did.

Q. What did he say was the result of their conference?—A. I do not think he reported what was the result of the conference. I am sure he did not.

Q. Had he told you before that that he would have to see Mr. Richardson in regard to it?—A. He did.

Q. And after he had seen him, did you not ask him what the result was?—A. I presume I did; but I have no remembrance about it.

Q. Did he not tell you that Mr. Richardson was not disposed to part with the dump?—A. He never did.

Q. Did he tell you that he was disposed to part with it?—A. He never did.

Q. Did he never give you any satisfaction about it?—A. He never reported of the matter finally.

Q. Did you infer that Richardson was not disposed to sell it after May had seen him and when you found that May would not come to any conclusion about it?—A. I did not know that Capt. May had seen him. I had no inference about the matter.

Q. Did you not just say that he told you that Richardson had been to Scranton and that he had seen him about it?—A. No; I did not.

Q. Did he ever tell you that he had had a conference with Richardson about it?—A. He never did.

Q. Did you ask him if he had had the conference which he said he would have with him?—A. I do not remember that I did.

Q. Now, going back to the recording of this instrument, why, Judge, would not putting that instrument on record preserve the facts in the contract and be evidence of the contract?—A. That is a legal question, and I will take pleasure in answering it. Putting any document on record is simply to convey constructive notice. It has no effect to convey constructive notice unless it is, in the first place, a recordable instrument, and, in the next place, is put in such shape by acknowledgment or otherwise to be put on record. This contract never was put in legal shape to go on record, so that it was of no effect.

Q. I agree with you, Judge, that it was not constructive notice. That is not the question. But did it not serve to preserve the evidence of the contract in case the original had been lost?—A. It absolutely did not.

Q. Why?—A. Because the only way that it could do that would be by a certificate, and a certificate from the recorder of deeds of an unrecordable document would not amount to a piece of blotting paper.

Q. Could not persons who were familiar with the contract refer to the records to see what the contract provided——A. Not where——

Q. And parties who were familiar with it testify that it was a correct copy of the original contract, and in that way would it not preserve the evidence?—A. Absolutely not, unless it was a recordable contract and was prepared for record in accordance with the law.

Q. Would it not tell the same facts whether it was on record legally or illegally?—A. It would not convey the same legal constructive notice.

Q. No; it was not a notice, and I am not talking about a notice; but the facts that it contained would be just the same on the record whether it was recorded legally or illegally, would it not?—A. You are asking me for an opinion of the law, and I will give it. I say no.

Q. Is not that simply a question of fact, Judge?—A. Absolutely not; it is a question of law.

Q. Well, we will leave that. Your name was not in the option which May gave to Williams, was it?—A. It was not.

Q. You prepared the option from Robertson & Law to Williams?—A. From Mr. Robertson to Mr. Williams.

Q. And your name was in that, was it?—A. It was only there as a witness to Mr. Robertson's name.

Q. You were not a party to it at all?—A. Not in terms; no.

Q. In the papers, now, does your name appear in any of these transactions about the Katydid dump?—A. When I supposed we were going to make a sale to the Laurel Line—to Mr. Conn.

Q. That was after you had gotten the option?—A. After the option had been secured; yes.

Q. And when you first took it up with Conn, then, for the first time, you put your name in writings?—A. That was the first time that my name appeared.

Q. And after that was abandoned, then you ceased to put your name in the writings? You did not put it in the option to Mr. Thomas Star Jones, did you?—A. I did not put it in the option to Mr. Jones for the reasons which I have given.

Q. And your name was not in the Bradley contract?—A. I never had anything to do with the Bradley contract.

Q. I am not asking you about that. Do you know whether your name was in the Bradley contract?—A. I really do not know. I never saw that contract and never heard of it.

Q. You have seen a copy of it, have you not?—A. I have not.

Q. You heard it read before the Judiciary Committee, did you not?—A. I think I did.

Q. And you remember that your name was not in it?—A. I do not remember anything about it.

Q. Judge, do you know whether or not in these transactions from the 31st day of March for a year your name appeared in the contracts except in the letter you wrote to Mr. Conn and the contract to Conn?—A. I think that is true.

Q. Do you remember hearing Mr. Conn testify before the Judiciary Committee?—A. I heard his testimony there.

Q. Do you remember that he testified there never was any written contract submitted to him?—A. I believe he did.

Q. You were present there at that time?—A. I was.

Q. And had the contract with you?—A. I do not remember whether I had the contract with me at that time. I think I did not.

Q. You knew at the time that Mr. Conn was mistaken about it, did you not?—A. I knew it when I came to look up the matter; yes.

Q. Did you not know at the time that you had prepared the contract and that he was mistaken about it?—A. I knew I had prepared the contract; yes.

Q. Did you correct him about it?—A. Correct him before the Judiciary Committee?

Q. At any time, whether there or elsewhere?—A. Not before the Judiciary Committee, certainly.

Q. You did not correct him until about the time these proceedings had commenced in the Senate, did you?—A. Oh, yes; well——

Q. Then, you sent word to him there was a contract, and he asked you to let him see it?—A. I met him one day upon the street; we talked on this point, and I told him that he was mistaken; that I had the contract, and would show it to him.

Q. That was shortly before these proceedings in the Senate?—A. No; that was in the summer after these articles had been preferred and the impeachment had started.

Q. About what time was it in the summer?—A. I should say along in August or September.

Q. Judge, your first connection with the Marian Coal Co. proposition was when Watson came to you?—A. Yes.

Q. Refreshing your recollection, had you not had a talk with Watson before Watson had been employed by the Bolands——A. I had none——

Q. In which you suggested to him that he might get that work?—A. I do not know where you got that idea, because it is unfounded in any fact.

Q. You say, then, that he came to your office one day and told you that he had been employed by the Bolands?—A. He came to see me—I could not tell exactly where—and told me that he had been employed to try to settle the Marian Coal Co. case with the Delaware, Lackawanna & Western Railroad.

Q. Was not that in your office?—A. I presume it was; I do not remember.

Q. Do you remember what was said?—A. Nothing, except in just that general way at that conversation, and the further fact that he inquired whether I was acquainted, and how well I was acquainted, with Mr. Loomis, and asked me whether I would not see Mr. Loomis and tell him that if he would call Mr. Watson in the case he was authorized to effect a settlement.

Q. Who was Mr. Loomis?—A. Mr. Loomis was a gentleman who lived in Scranton, with whom I was personally and socially acquainted, and who was at the time I speak of vice president of the D. L. & W. Railroad, having offices in New York.

Q. Had he any other position with the railroads?—A. None but vice president that I know of.

Q. And the Delaware, Lackawanna & Western Railroad Co. was the company against whom the Bolands, or the Marian Coal Co., had a suit pending in the Interstate Commerce Commission?—A. Before the Interstate Commerce Commission; yes.

Q. You knew that at that time?—A. That was stated.

Q. And also the Delaware, Lackawanna & Western had two suits pending before the Commerce Court at that time?—A. I did not know it at that conversation. I did not know, in other words, that they were interested in what has been spoken of here as the Lighterage case. I do not remember whether they were or not.

Q. Did you not say in your answer to this article that you did know the fact that they had these cases pending in your court?—A. I do not remember what I say in my answer on that subject.

Q. When was it that Watson came to you?—A. As I have said to you just now, a day or two before I saw Mr. Loomis in New York.

Q. Well, I want the time as nearly as you can give it.—A. I saw Mr. Loomis in New York on the 4th of August, 1911.

Q. Had not Loomis been before the court arguing this very case shortly before that?—A. Mr. Loomis?

Q. Mr. Brownell, I mean.—A. Mr. Brownell never appeared before the Commerce Court except in one case.

Q. What case was that?—A. That was the Sugar Refinery or Lighterage case, which was disposed of in May.

Q. When did he argue it?—A. Why, I have my book here, I think. I am not sure whether I have it.

Q. You heard the argument?—A. I did.

Q. And it was in May?—A. It was in May.

Q. The Delaware, Lackawanna & Western was a party to that suit, was it not?—A. I do not remember that they were.

Q. Was it a party to No. 38?—A. I do not remember.

Q. Do you not know that the Delaware, Lackawanna & Western was a party both to Nos. 38 and 39?—A. You ask me for my memory, and I say I do not.

Q. Do you say now that it was not?—A. I do not; the record speaks for itself.

Q. Are you familiar with the answer which you made to this charge?—A. Well, I was familiar with it at the time I made it.

Q. Do you remember that you say in that answer that you knew that that railroad company had a suit pending in your

court?—A. I do not remember what I say upon that subject in my answer.

Q. And that it had been argued in your court already before that?—A. I do not remember what I say in my answer; it is there.

Q. You told Watson you would assist?—A. I did not speak to him in that way at all. He asked me to do this simple favor, which was simply to make a way for him. I told him that I would try to see Mr. Loomis, and I did.

Q. You went to his office in New York to see him?—A. I did.

Q. Had you seen him before that?—A. I saw him when he was in Scranton many times, but I never saw him upon this matter before that time.

Q. Why did you not speak to him in Scranton about it?—A. The first time I spoke to him in Scranton was about three weeks after——

Q. Why did you not speak to him when you saw him in Scranton without going to New York?—A. Why did I not speak to him?

Q. Yes; about this matter.—A. About this matter?

Q. Yes.—A. I had no occcasion to speak to him about this matter before Mr. Watson asked me.

Q. When did Mr. Watson come to you?—A. I said about a day or two before I saw Mr. Loomis in New York.

Q. And that was the 4th of August when you were in New York?—A. Yes.

Q. The same day that you saw Brownell and Richardson about the Katydid culm dump?—A. Yes.

Q. At the time Watson first spoke to you about it, do you say that Christy Boland was not present?—A. He was not.

Q. Do you say that he was not present at any time when Watson and you talked about the matter?—A. I do not remember his ever being present when Mr. Watson and I talked about the matter, and I am satisfied that I would remember it if he were, because I remember quite distinctly three or four times when Mr. Boland came there and shut the door and was very secretive in what he said.

Q. Let me refresh your recollection, Judge. When Watson was in your office talking about the settlement of this matter——A. You mean the first time?

Q. Any time. Did not Mr. Boland come in on account of a telephone call, or for any other reason, and did you not say to him then, "Now, I understand that you have employed Mr. Watson in this matter, that he is to dispose of this property and settle these suits for $100,000, and that his fee is to be $5,000"?—A. I do not remember Mr. Watson and Mr. Boland ever being together in my office. I never remember, of course, any such conversation as you suggest.

Q. When was it that Phillips came to your house?—A. I think the very last day that I was in Scranton before coming down here to attend the October session of the Commerce Court.

Q. He came to your house at your request?—A. Not at my request, as I remember, but by appointment.

Q. Well, you asked for the appointment, did you not?—A. I think, when I refresh my memory in this respect by what he himself has testified, that there was some telephone communication between him and me with regard to seeing him in the morning, which was Saturday, and he wanted to fix it in the afternoon. I told him that that was the time when I took my Saturday walk. It was then put over until evening, and he came to see me at my house.

Q. And you invited the conversation over the telephone, did you not—you called him up?—A. I do not remember whether I called him up or whether he called me up.

Q. Why would he call you up, Judge?—A. He would call me up only in case it had been suggested by Mr. Loomis or Mr. Reese or some officer of the company.

Q. Do you know whether that had happened?—A. I do not remember.

Q. Had Watson at that time seen you in regard to the matter?—A. As I say, he saw me just before I saw Mr. Loomis.

Q. Well, he came over there and you talked at some length about this matter?—A. Yes; when Mr. Phillips came there, you will remember, it was nearly two months after I had seen Mr. Loomis.

Q. It was just before you went to New York, then, when you saw Loomis?—A. You mean that I saw Mr. Phillips.

Q. Yes.—A. Oh, no; I do not see why you suggest that.

Q. I am not suggesting it; I am just asking you.—A. It certainly was not. As I say, I saw Mr. Loomis on the 4th of August, and the time that Mr. Phillips was at my house was on the 28th of September, along in the very last part of September.

Q. Had you written any letters to Loomis prior to the time Watson came over?—A. I do not recall the letters. They are in evidence, and I recall that I wrote those letters.

Q. How many letters did you write to Loomis?—A. I think I wrote two, or maybe I wrote three; I am not sure about that.

Q. Did you do that by reason of the fact that Watson came to you and asked you simply to speak to Loomis about it, so as to give him a favorable introduction?—A. No; that was by reason of what followed on that.

Q. When Phillips came to your house you talked at some length?—A. Well, Mr. Phillips did a good deal of the talking.

Q. And he told you about the situation?—A. Yes.

Q. And told you that Watson wanted $161,000 for the property?—A. No; he did not say that.

Q. What did he say?—A. As I remember, he mainly went over the troubles and difficulties that they had with the Marian Coal Co. and with Mr. W. P. Boland with regard to washing, cleaning, preparing, and shipping coal and with regard to the value of what there was left in the Marian washery and the dump.

Q. Well, you did talk about the great difference between the two parties to the settlement, did you not?—A. No; he suggested that there was a wide difference.

Q. Did he tell you what that difference was?—A. No; he only spoke about the little value that there was; so small a value, as he considered it, in the remains of the Marian washery that his company did not feel as though they could make any offer with regard to it.

Q. And you said yourself, then, to Mr. Phillips, that the parties were very far apart and it did not look hopeful, did you not?—A. No; I do not think I said that; I do not remember that I said that.

Q. Do you remember hearing Mr. Phillips testify to that?—A. No; I do not remember hearing him testify to that.

Q. Did you make any remark of that kind?—A. I would not say that I did not.

Q. You knew at that time that Watson had presented a proposition of $161,000?—A. I remembered that Mr. Watson had mentioned that amount.

Q. Did you understand that that was what he demanded of the railroad company?—A. I understood that that was the claim that he was retained to present.

Q. So you knew, then, after the talk with Mr. Phillips, what the difference between the parties was, did you not?—A. I knew that there was a wide difference; yes.

Q. When did Watson first tell you that that claim was for $161,000?—A. Well, I can not tell you whether it was the very first time—I do not think it was—I think it was at some interview which I can not specifically fix.

Q. How is that?—A. I can not specifically fix the time when he said that.

Q. It was on September 27 that Loomis wrote you that he found there was very little, if any, prospect of reaching a settlement in the case owing to the great difference of opinion as to the merits of Mr. Boland's claim. Then you answered the next day, did you not?—A. If my letters are there I did; I do not remember the date.

Q. It is dated September 28, and says:

MY DEAR MR. LOOMIS: I am very sorry to have your letter stating that you have not been able to effect a settlement with Mr. Boland. I trust, however, that the matter is still not beyond remedy. And if I thought that it would help to secure an adjustment, I would offer my direct services.

Do you remember writing that letter?—A. I wrote that letter.

Q. And that is, after you knew, after Watson had told you, that the claim was for $161,000?—A. That certainly is. It was also after Mr. Boland had seen me two or three times and importuned me to see whether something could not be done about the matter.

Q. Judge, why did you put that in your answer?—A. Why did I put what in?

Q. Why did you tell about the Bolands being to see you? Did I ask you anything about that? Did you understand my question to call for any answer about the Bolands?—A. Well, I answered it in that way.

Q. Why did you do so?—A. Because I wanted that fact brought out.

Q. Because you want to impress Senators with the idea that the Bolands were trying to impose on you, or something of that kind; was that it?—A. I do not put it in that way; I want to give them the facts.

Q. I shall insist, Judge, that you confine your answers to my questions.—A. I will try to do so.

Q. Then, after that, you wrote as follows:

MY DEAR MR. LOOMIS: I understand that there has been a suggestion that Mr. Watson meet you and possibly also Mr. Truesdale, and that Mr. Watson has written asking for an appointment. It seems to me, if I may be permitted to say so, that this is a very good idea. It will give you an opportunity to discuss the Boland claim with Mr. Wat-

son upon a somewhat different basis than Col. Phillips could, representing the coal department.

I have little doubt but that it will appear so to you, and it may be altogether unnecessary for me to write about it. But I am sure you will not take it amiss to have me do so, and I shall hope that a settlement may yet be reached in that way. There is nothing like a personal interview to bring about such a result.

Yours, very truly, R. W. ARCHBALD.

That letter is dated October 3. That letter did bring a personal interview, did it not?—A. I understood it did.

Q. It got Truesdale and Loomis and Phillips and Reese, all officials of this company, together in Scranton to talk over the matter with Mr. Watson, did it not?—A. I do not know about that. I was not present. I was here in Washington when that letter was written.

Q. You did know that they had a conference?—A. I have heard in the course of this proceeding that there was a conference at that time.

Q. Who was Mr. Truesdale?—A. Mr. Truesdale has been here on the stand. He is president of the Delaware, Lackawanna & Western Railroad.

Q. And Mr. Loomis is vice president?—A. I think so.

Q. And Mr. Phillips is superintendent of the coal property?—A. General manager of the coal company.

Q. And what is Mr. Reese's position?—A. I think Mr. Reese is local attorney.

Q. That conference occurred on the 5th of October, did it not?—A. I do not know; I was here; I was not in Scranton.

Q. You were in Washington?—A. I was.

Q. On the 6th you got a telegram from Watson, did you not?—A. I think it was the 6th.

Q. Asking you when he could meet you in Washington, and you wired back "almost any time"?—A. Yes.

Q. Did he wire you to meet him at the Raleigh Hotel?—A. He wired that he would be at the Raleigh.

Q. And he got here on the 7th?—A. He got here on Saturday, the 7th; yes.

Q. He told you, did he not, that he had had this conference?—A. I do not remember whether he told me, but I presume very likely he did. I do not see how we could be together without his saying that.

Q. Why did he come to see you after the conference in which these railroad officials had told him that there was no object in carrying on negotiations any further?

Mr. WORTHINGTON. That is another question, Mr. President, involving what was in the mind of some one else. You can ask what he said.

Mr. Manager STERLING. I will put it in this form: What reason did Watson give you for coming to Washington to see you after the conference with the railroad officials?—A. Mr. Watson told me that the Bolands were not content unless he came down here to see me to ascertain whether anything further could be done.

Q. What did you tell him about it?—A. I told him I did not see what could be done further.

Q. You went to the Raleigh Hotel?—A. I did.

Q. And you were standing on the sidewalk in front of the hotel waiting when he came?—A. No; I was in the lobby, I think. My remembrance is that I was in the lobby.

Q. Is Watson mistaken about that?—A. I would not undertake to say whether he is mistaken about it. I am just giving you my memory.

Q. Do you remember what his testimony was?—A. I do not.

Q. It was that you were waiting outside; that he came there to see you; and that you went together to the Commerce Court building?—A. My remembrance about it is this way——

Q. Wait. Do you remember Watson's testimony to that effect?—A. I do not.

Q. Now, refreshing your recollection in that way, is not that the fact about it, Judge?—A. It is not. The fact, as I remember it, is that it was a very cold, stormy day. He came in about half past 1. I went down there and sat in the lobby of the Raleigh, and waited until he came in.

Q. Did he tell you what had been said at the conference?—A. I have not any memory about the matter.

Q. Did he tell you who was present?—A. I do not remember that he told me anything about it. I only say that I assume that he must have done so.

Q. But you have no recollection of what he said?—A. I have not.

Q. Why is it, Judge, that your recollection about that incident and about the question as to whether or not Christy Boland talked to you about the $100,000 is not clear, when it is so very clear in regard to some other things? Do you know?—A. If you will give me the philosophy of life I will tell you why people can remember some things and some things they can not.

Q. It is true, Judge, that people remember the more important incidents of a transaction rather than the trivial ones, do they not?—A. They remember more clearly where they are themselves interested in matters than where they are simply interested for others.

Q. Who owned Packer No. 3, Judge?—A. I understood that it belonged to the Girard estate in one sense, but was under lease to the Lehigh Coal Co., or covered at least by a lease which runs out this year.

Q. And the Lehigh Coal Co. is a subsidiary of the Lehigh Valley Railroad Co.?—A. I have always understood that there was a close connection between the two.

Q. What official position does Mr. Warriner hold in those corporations?—A. Mr. Warriner at that time, as I understood, was general superintendent of the coal company.

Q. And where was his place of business?—A. In Wilkes-Barre.

Q. How far is that from Scranton?—A. About 20 miles.

Q. You went to see Warriner, did you not, in behalf of Packer No. 3?—A. For the purpose of endeavoring to secure Packer No. 3.

Q. At that time you and one of the Joneses and some other gentlemen were about to organize a corporation to handle that property?—A. If we secured that lease we expected to organize a company to wash the dump.

Q. Do you remember the capital stock of the corporation?—A. I think it was to be $25,000.

Q. Was any of it to be paid in?—A. The money for that purpose was to be obtained——

Q. Just answer my question.—A. I could not tell you. We would pay it in if it was necessary.

Q. You expected to get the money from Mr. Farrell, of New York?—A. That was the arrangement.

Q. Mr. Jones had told you he could get it in that way?—A. I think I had seen Mr. Farrell myself. I know I did see him before the matter was consummated.

Q. At the time you planned this it was not the purpose of the stockholders or organizers of this company to put up any money?—A. We would not put up any money unless we had to.

Q. Well, what did Mr. Warriner tell you?—A. About leasing that property?

Q. Yes.—A. He said he thought the company would be willing to lease the property.

Q. He told you on what terms?—A. He spoke of the terms.

Q. And you went back and reported to your associates, did you not?—A. I did.

Q. And then you had a conference with Mr. Farrell, of New York?—A. I think this conference with Mr. Farrell occurred after that; yes.

Q. In which he agreed to put up all the money necessary to operate the dump?—A. To put up enough to build the washery.

Q. To put up $25,000?—A. Yes; fully that.

Q. And he was to get a certain per cent of the profits, besides his interest and his principal back?—A. He was to get a quarter of the profits, and be secured by a mortgage upon the lease and the property, the washery, whatever it was.

Q. For his principal and interest?—A. Yes; for his principal and interest, and to get back the principal and interest at so much a ton.

Q. What interest were you to have in the profits?—A. The interests were divided around. Mr. Bell and Mr. Petersen were invited in. They were associated together in other matters, and they were given a certain interest. Mr. Jones told me he was obligated to Mr. Helibut to a certain extent and also to Mr. Howell Harris, and they were given certain interests, and after deducting those interests what was left was divided between Mr. Jones and myself.

Q. How much was that?—A. I do not know whether I can remember the different things. I think 25 or 26 per cent; that is to say, Mr. Jones and I were to get a quarter of what the company got.

Q. Was not the stock to be divided equally between you and seven or eight other gentlemen?—A. Oh, no.

Q. Anyway, you and Mr. Jones were to get a fourth or a little over a fourth?—A. Not a fourth of the profits of actually washing the dump, because a quarter of that was to go to Mr. Farrell.

Q. You were to get a fourth of the balance?—A. About a fourth of the balance; yes.

Q. Why were you to have any interest in that stock?—A. Why not?

Q. Well, why not, after you had gone to see Mr. Warriner; is that your idea?—A. I see no reason why, after organizing that company, that enterprise, I was not entitled to a share. It would be very strange if I did not have a share.

Q. Why?—A. Because I was instrumental in part in organizing the company—getting it up. It was in part my scheme and part Mr. Jones's.

Q. And instrumental in acquiring the property?—A. To a certain extent; yes.

Q. Was it not entirely due to you that you acquired this property from Mr. Warriner?—A. I do not think so.

Q. Did anybody else than you see Mr. Warriner?—A. No; I saw Mr. Warriner. But the property was not obtained alone from Mr. Warriner.

Q. Who else did it come from?—A. The main thing had to be arranged with the Girard estate.

Q. Who arranged that?—A. I endeavored to, and did in part with my nephew.

Q. And you did all that was done in reference to acquiring the property, both from Mr. Warriner, of the Lehigh Valley, and the Girard estate?—A. I did, except so far as an application was jointly made by myself and my associates to the Girard estate.

Q. And who made it?—A. I drew up that form.

Q. And all of you signed it?—A. They all signed it.

Q. So all that anybody, except yourself, did with reference to getting this property from the Lehigh Co. was simply your associates signing the application which you had drawn after you had been to see the Girard estate and after you had seen the Lehigh Valley people?—A. The application was made to the Girard estate——

Q. Answer my question.—A. I do not think I can.

Mr. Manager STERLING. Let the question be read.

The Reporter read the question.

The WITNESS. All that was done in regard to the acquisition of it directly was done by me.

Q. (By Mr. Manager STERLING.) And it was as a consideration for your services in getting this property from the Lehigh people that they gave you a one-half interest in one-fourth of the profits?—A. That is not so.

Q. Well, what other reason was there?—A. The matter was arranged between Mr. Jones and me, and it was Mr. Jones and myself that determined what interest Mr. Peterson and Mr. Bell should have and what interest should be given to Mr. Hellbut and Mr. Howell Harris.

Q. Then I will put it this way: You kept such interest as you did keep and it was conceded to you by Mr. Jones by reason of the fact that you had seen Mr. Warriner about getting the Lehigh Valley Co.'s interest?—A. That is not so either.

Q. What is your idea about it?—A. Mr. Jones and I talked, of course, about the organization of this concern, and the obtaining of the dump, and we had to make a practicable concern. We had to have somebody to operate it, like Mr. Petersen, and somebody who could assist in the organization and in the carrying on, like Mr. Bell, so we arranged with them to come into the company so that we might have a suitable organization.

Q. You gave them an interest because you would have somebody in the company who could operate it?—A. Yes.

Q. You got into it because they wanted somebody who could go to the railroad companies. Now, is not that the long and short of it?—A. No; it is not. I did not get into it. They are the ones that got in.

Q. Anyhow you did perform that part of the service?—A. I certainly did.

Q. You never did put up any money, did you?—A. The matter has never been disposed of.

Q. Why did you not finally close up that deal, Judge?—A. Because the Girard estate had never arranged for the lease, the renewal of the lease, which expires this year. They were not willing, I am informed, to make any arrangement with anyone outside until that had been determined.

Q. Let us go to the Warnke case. As I understand it, Mr. Warnke was operating a dump under a lease from some railroad company. What railroad company was that?—A. He was not operating a dump——

Q. He had been——A. (Continuing.) From any railroad, as I remember it.

Q. He had been. What dump had he been operating?—A. I can tell you only in the vaguest way, because I have never seen the property and only know what he said. I will give you what he said.

Q. Well, put it in that way, Judge. Just so I have your information on the subject.—A. I understood from him that about two years before that he had been operating under a lease. I think that lease was to a man by the name of Baer Snyder, and that he had taken an assignment from this party, and, among other things, that included underground workings and also a washery.

Q. But the lease was made by the Philadelphia & Reading Coal & Iron Co., was it not?—A. To whom?

Q. To the gentleman who assigned it to Mr. Warnke.—A. I do not know. I know that ultimately the Philadelphia & Reading Coal & Iron Co. had control of the situation.

Q. And that company is a subsidiary of the Philadelphia & Reading Railroad Co.?—A. I have always understood so.

Q. There is another company by the name of the Reading Co., which owns all the stock of both of those corporations?—A. I know nothing about that.

Q. Whom did you go to in the interest of Warnke?—A. I went to Mr. Richards.

Q. Who is Mr. Richards?—A. Mr. Richards, I think, is general manager or vice president, or something or other, of the Philadelphia & Reading Coal & Iron Co., he having charge of their operations in Schuylkill County.

Q. And you went to him because Mr. Warnke had been operating under a lease which had been made and which had been assigned to Mr. Warnke?—A. Yes.

Q. By the original lessee?—A. Yes.

Q. Where did Mr. Richards live?—A. At Pottsville, Pa.

Q. That was 80 miles from Scranton?—A. About that.

Q. And you went up there to see him after you had made an appointment with him over the phone or by letter?—A. I went primarily to Pottsville to see my nephew with regard to the leasing of Packer No. 3, and in that connection I arranged with Mr. Richards to see him upon that visit.

Q. On the day when you went to Pottsville, 80 miles from Scranton, you had two coal-dump deals on hand, had you?—A. If you want to put it that way—oh, no; I did not have any coal-dump deal with Richards.

Q. It related to Packer No. 3, did it not?—A. With Mr. Richards?

Q. No; with your nephew.—A. Yes; that. But I did not have two culm-dump deals on my hands.

Q. What was the character of the transaction with Mr. Richards? It related to a culm dump, did it not?—A. Simply to see whether he would not reconsider the decision he had made with regard to Warnke.

Q. It was with reference to a culm dump, was it not?—A. Yes.

Q. And Mr. Warnke told you that if you did not succeed in getting him to continue the lease, to see if you could get the Lincoln dump?—A. Yes.

Q. And Mr. Richards told you he would not reconsider?—A. Yes.

Q. And they had given their final answer to Warnke?—A. He brought a bunch of papers, quite a bundle of papers——

Q. Just answer my question, please.—A. Yes; you are right.

Q. Then you went home and told Mr. Warnke the result of your trip?—A. Yes.

Q. And suggested to him that you could get him a dump belonging to the Lacoe & Shiffer Co. on the Delaware & Hudson?—A. No; absolutely not. There is not a particle of fact in either of those statements.

Q. Did you not suggest that to him at any time?—A. I did not.

Q. Who did?—A. The only suggestion that was made and the only way that Warnke came in in connection with that was that Mr. John Henry Jones tried to sell that at first to the Central Brewing Co., and the Central Brewing Co. sent Warnke there to see the dump and pronounce upon it.

Q. How did he come in connection with you in regard to the matter?—A. The Central Brewing Co. would not buy it.

Q. Well, that had not anything to do with his coming to you about it. How did he come to come to you about it, or did you go to him?—A. With regard to that fill?

Q. Yes.—A. Because I had these letters and options with Mr. Berry with regard to it, and had the disposition of it practically.

Q. Can you answer the question as to how you and Warnke came to meet with reference to the gravity fill; did he come to you or did you go to him?—A. Mr. Warnke came to see me about that.

Q. How did he learn that you had it?—A. Through Mr. John Henry Jones.

Q. And that was after you had failed to get the Lincoln dump?—A. Well, I do not remember whether it was or not.

Q. What is your best recollection about that?—A. I could not tell you about that.

Q. It was not until after he found he could not get the Lincoln dump or a continuance of his lease with the Reading people——A. I would not be sure of that.

Q. That he undertook to buy the Lacoe & Shiffer dump, was it?—A. I would not be sure about that. It may be so.

Q. Anyhow, he bought the Lacoe & Shiffer dump?—A. No; he did not.

Q. Well, his company, the Premier Coal Co.—A. The company which was organized. He got Mr. Swingle and his brother-in-law, and Mr.——

Q. Judge, the Premier Coal Co. bought it?—A. The Premier Coal Co. bought the fill.

Q. And Mr. Warnke carried on the negotiations with you?—A. He did not.

Q. Did he not come to see you about it?—A. He did.

Q. What was said and done?—A. He suggested that he would like to buy that dump. He knew what the price was as stated; I think at that time Mr. Berry had offered to dispose of the dump for $6,000 cash. Mr. Warnke could not raise that amount. He had $2,000. He wanted to make an arrangement by which the $2,000 would be accepted and the balance paid by a royalty arrangement.

Q. Why did he come to you in regard to it?—A. As I say, he knew that I had the arrangement with Mr. Berry in regard to the disposition of it.

Q. Is it not true that at that time your option from Mr. Berry had expired?—A. The written option, yes; but not the verbal arrangement with him.

Q. You remember Mr. Berry testified the other day that at that time the option had expired?—A. I heard his testimony.

Q. Was not that true?—A. It is not true. I made the arrangement finally by which the parties were brought together.

Q. Yes; finally; but under your option agreement with Mr. Berry, who had the matter in charge, they were not bound to let you have it at that time?—A. That is very true.

Q. That is true?—A. Yes; that is very true.

Q. Anyhow, they bought this Lacoe-Shiffer dump?—A. Yes; the Premier Coal Co. did.

Q. And after that they gave you a note for $510; after you had been up to see Mr. Richards at Pottsville, and after you had talked with Mr. Warnke about the gravity fill, then it was they gave you this note for $510, was it not?—A. In matter of time, yes; but there was no connection at all between them.

Q. I am not asking you about that.—A. But you put that in your question, and I do not propose to answer the question that way.

Q. Well, we will see. Was it after you had been to Pottsville to see Mr. Richards, and after your transaction with Mr. Warnke in reference to the Lacoe & Shiffer dump, called the old gravity fill, that they gave you this note?—A. In the matter of time, yes.

Q. That is all the question relates to—the matter of time.—A. I do not so understand the question.

Q. And you went to the office to get the note?—A. The note was sent to me at my office.

Q. Why did you go to get it?—A. The note, when first drawn, was not correctly drawn. It was drawn to my order instead of the order of the parties that were to indorse it.

Q. You mean the note was made payable to you or order.—A. It was made payable to my order. It did not have their indorsement.

Q. They signed it, did they not?—A. They signed it after my indorsement. That would not make bankable paper—not with us.

Q. So you objected to that note because it was made payable to your order?—A. Yes; because it was not made properly.

Q. Legally it was a good note?—A. Legally it was a good note; yes; but it made me the first indorser instead of them being ahead of me on the note.

Q. So you had it made out to the company, and signed by them?—A. I had it made out to these individuals of the company who were to be the indorsers.

Q. And signed by them?—A. And they indorsed it.

Q. Then you indorsed it and got the money?—A. I negotiated it at my bank.

Q. How many times did you go to their office to get this?—A. Once.

Q. Did you not go twice?—A. I do not think I did.

Q. Did you not ask for the money the first time?—A. No; I had a talk over the telephone and it was arranged that they would give a note.

Q. Do you remember the testimony of Mr. Kiser?—A. I do not remember the testimony of Mr. Kiser.

Q. Do you think he is mistaken about your having come there twice?—A. I will pronounce judgment upon whether he is mistaken or not.

Q. You did not invest any money in any of these schemes, did you?—A. I do not know what schemes you refer to.

Q. I will say the old gravity fill. Did you have any investment in that?—A. I invested no money in that.

Q. You did not have to put up any money with Mr. Berry in order to get the option?—A. I did not.

Q. And he simply gave you a certain length of time within which you could say whether you would take it or not?—A. He gave me an option, which has been put in evidence.

Q. And if you could sell it at a profit within that time you would take it, and if not you did not intend to take it?—A. That is right.

Q. In any of these transactions did you engage in a contract whereby you were bound to pay any money?—A. I do not know that I did. I certainly would have to pay money to secure the rights of the Hillside Coal & Iron Co. in the Katydid dump and also to Mr. Robertson to get anything out of it.

Q. Not until after you had sold it?—A. Not until after we had sold the property.

Q. And not until after you had found a buyer did you expect to put up any money?—A. We hoped to find a buyer.

Q. And thought you had found one?—A. We did.

Q. What is your financial condition?—A. I have been a judge for 28 years, and my financial condition is not the best.

Q. Have you property outside of your home property in Scranton?—A. I have not. Oh, I have some little property outside of that.

Q. You testified yesterday about the correspondence you had with Mr. Helm Bruce?—A. Yes, sir.

Q. I wish you would state briefly what it was that inspired you to write the first letter to Mr. Helm Bruce.—A. As I explained yesterday, the first letter was written when I was formulating a dissenting opinion. May I have my papers there? [After examination of papers.] The consultation of the Commerce Court with regard to that case I find entered on my notes. I keep notebooks of arguments. I also keep a memorandum of the way cases are to be decided. I hold in my hands the notes of that case. At our consultation on that case on the 27th of May, 1911, a conclusion was reached in favor of the defendant. Judge Knapp was to write the opinion, and I expressed a dissent. I addressed myself to formulating a dissent and wrote up a dissenting opinion, as the manuscript of the opinion which I have here in my hand will show. That was done in September following. It was while I was examining the case for the purpose of expressing my dissenting opinion that I wrote to Mr. Helm Bruce with regard to Mr. Compton's testimony.

Q. Asking him to make the explanation?—A. Yes.

Q. Which he did by way of a letter?—A. Yes.

Q. Now, as I understand it, you did not send a copy of that letter to any of the counsel on the other side of the case?—A. No; I did not.

Q. And you did not converse with any of the other members of the court about it?—A. I did not.

Q. Did it not occur to you, Judge, that it would be appropriate for you to send to counsel on the other side of the case a copy of the letter you sent to Mr. Bruce?—A. As I say, I was writing a dissenting opinion. It did not call for any argument, and was only what you might say a very inconsiderable matter in the course of the case.

Q. Just answer my question. Did it occur to you——A. Please have it read.

Q. Did it occur to you that it would be appropriate for you to send copies to counsel for the other side?—A. It did not or I would have written them.

Q. You got an answer from Mr. Bruce?—A. I did.

Q. Which sustained your views on the point?—A. Yes.

Q. Then you wrote him again?—A. Yes.

Q. On August 26? What inspired that letter?—A. On what date?

Q. August 26.—A. I do not remember any letter of that date.

Q. I will read it:

AUGUST 26, 1911.

MY DEAR MR. BRUCE: I thank you for your letter of August 24 with reference to Mr. Compton's testimony, about which I wrote you.

You are not disputing that letter?—A. No.

Q. And then you got another letter, did you not, and after that, on January 10, you wrote to Mr. Bruce again—A. Yes.

Q. And you wrote from Indian River, Fla., did you not?—A. Yes.

Q. What inspired that letter? You had already acknowledged receipt of Mr. Bruce's letter.—A. That was to meet a question which had been raised by Judge Mack with regard to the disposition of that case. When we met together in October—when the Commerce Court met together in October—we had a further consultation over the case, and, according to my memorandum here, that occurred on October 21, and upon that we reversed the former conclusion of the court and were all agreed that the plaintiff was entitled to a decree, except Judge Mack. The case was then decided, virtually decided, so far as our consultation was concerned, so far as the agreement of the court was

concerned, upon that date. It was on January 10 I wrote this letter, after our consultation, which was purely a matter of settling the form of the opinion.

Q. So, when you wrote the first letter, you were engaged in writing a dissenting opinion. Do I understand you correctly?—A. Yes, sir.

Q. And afterwards the court reversed itself and came to your view of the case?—A. All except Judge Mack.

Q. Did the argument which you adduced by reason of your correspondence with Mr. Bruce have anything to do with changing the minds of the other judges?—A. It was not communicated to them, and so it could not have had any effect.

Q. No; the letter was not communicated to them, but did you present to the court the facts which you had gotten through the letter?—A. I do not remember that I did.

Q. Did you not make use of the information you got——A. Not at all.

Q. In the consideration of the case?—A. If I could——

Q. Just answer the question.—A. No.

Q. Anyhow, the court afterwards came to your view of the case?—A. Yes.

Mr. POMERENE. I submit the following question.

The PRESIDENT pro tempore. The Senator from Ohio submits a question. It will be read.

The Secretary read as follows:

Do you regard it as good practice to communicate with counsel on one side of a case, either on an issue of fact or of law, without advising opposing counsel?

The WITNESS. I certainly do not. That has not been my practice. I would not defend or attempt to defend any such practice as that.

Mr. JONES. I desire to submit two questions.

The PRESIDENT pro tempore. The Senator from Washington submits two questions to be propounded to the witness, which will be so propounded in the order in which they are numbered.

The Secretary read as follows:

You expected to submit your dissenting opinion to the other members of the court, did you not?

The WITNESS. I did submit my opinion. I sent it in advance to the other judges, a copy to each one, prior to our coming together in October following the date of the opinion.

The Secretary read as follows:

If you answer that you did, did it not occur to you that you should show your associates the letters you had received; and if not, why not?

The WITNESS. There was only one letter that had been received at that time with regard to what is really a very inconsiderable part of the opinion, and, as the opinion itself shows, what is stated in Mr. Bruce's letter with regard to Mr. Compton's testimony does not enter into the decision of the case at all, because it is assumed in the opinion that, contrary to what is stated in Mr. Bruce's letter, the statement of Mr. Compton, the witness, was exactly the other way. I could show that in two minutes by this opinion itself. And that part of the opinion was written by Judge Knapp.

Q. Now you are speaking of the first letter with reference to Compton's testimony.—A. Yes.

Q. But you have not stated, Judge, what inspired the second letter to Helm Bruce.—A. The ideas that had been advanced by Judge Mack in consultation in regard to the question of variations from what was known as the Cooley award I would very much like to go into if the Senate had patience to listen.

Q. I just want the facts in the case. Did you send a copy of that second letter to Mr. Bruce to counsel on the other side of the case?—A. I did not.

Q. Did it occur to you that it would be a very proper thing for you to do at that time?—A. No; or I would have done it.

Q. Judge, you say it is not your practice to write counsel on one side without giving notice to the other. Why did you make an exception in this case, if that has been your general practice?—A. We were simply at that time engaged in settling the form of the opinion. We had decided how we would dispose of the case, and it was simply with regard to this incidental matter in the course of the opinion.

Q. Judge, in reply to that second letter you got an additional argument from Helm Bruce, did you not?—A. I got a letter.

Q. And it consisted of two pages and a half of finely printed matter in the proceedings of the Senate. That is what you got in reply?—A. Yes; I believe it does.

Q. And it is an argument in the case, is it not?—A. It is an argument.

Q. Did you submit a copy of that to the counsel on the other side, so that they might answer it?—A. I have already said not.

Q. Then after you had received that you wrote:

MY DEAR MR. BRUCE: I thank you for your letter and its kind appreciation of the opinion of the court in the New Orleans Board of Trade case; but you fail to take credit for the very important part which you played in the result. Frankly, the case was won on your argument and brief. Your oral argument was one of the best that we have heard, and your brief was an absolute demonstration of the errors committed by the commission and complete at every point. You can not fail to note how closely the opinion follows and reflects what is there said.

Now, Judge, do you not think that this correspondence that you had with Bruce had its effect upon your mind, and consequently upon the court, and that it was absolutely unfair to the other side of the case for you to carry on that correspondence in the way you did?—A. I certainly do not. What is spoken of in that letter——

Q. That is all I asked for; just that.—A. You have read the letter and you have endeavored to put into the question you put things that the letter does not apply to at all. That letter you have last read has nothing to do with this letter of January 10. It refers——

Q. I read the letter correctly so far as I read it, did I not?—A. You read it correctly; yes.

Mr. CULBERSON. Mr. President, I send a question to the desk.

The PRESIDENT pro tempore. The Senator from Texas propounds an inquiry, which will be read by the Secretary.

The Secretary read as follows:

In one of the letters to Mr. Bruce you referred to a proposed conference with him in which you would explain to him the causes of delay in deciding the case. What was the proposed explanation?

The WITNESS. That is, why was the case delayed the way it was? Do I understand that that is the question?

Mr. CULBERSON. Let the question be read again, Mr. President.

The WITNESS. I want to understand the question.

The PRESIDENT pro tempore. The question will be again read.

The Secretary read as follows:

In one of the letters to Mr. Bruce you referred to a proposed conference with him in which you would explain to him the causes of delay in deciding the case. What was the proposed explanation?

Mr. CULBERSON. If I may do so, I will ask that that letter be read in this connection.

Mr. WORTHINGTON. That is what I was going to suggest.

Mr. Manager STERLING. Which letter is that?

Mr. WORTHINGTON. The letter that Judge Archbald wrote, on page 624.

The PRESIDENT pro tempore. That letter has already been read.

Mr. WORTHINGTON. The first part of it was read and the part to which the Senator refers is the second paragraph.

Mr. Manager STERLING. I suggest that the whole letter be read.

The PRESIDENT pro tempore. The whole letter will be read.

The Secretary read as follows:

[U. S. S. Exhibit 61.]

(R. W. Archbald, judge, United States Commerce Court, Washington.)

SCRANTON PA., *March 8, 1912.*

Mr. CULBERSON. That was not the letter. I wish to have the letter to Mr. Bruce read.

Mr. Manager STERLING. It is a long letter.

Mr. CULBERSON. It is the letter from Judge Archbald to Mr. Bruce in which he says that he proposes to have a conference with him and give him an account of the delay in the decision of the case pending before the Commerce Court.

The PRESIDENT pro tempore. The letter will be identified and then read.

Mr. WORTHINGTON. This is the letter.

Mr. CULBERSON. That is all right, then.

Mr. WORTHINGTON. It is the letter. The misunderstanding arises from the fact that there appears at the top of the letter, "R. W. Archbald, judge, United States Commerce Court, Washington," and the Senator evidently thought it was not the letter.

Mr. Manager NORRIS. That is a part of the letterhead.

Mr. CULBERSON. Let the whole letter, then, be read.

The Secretary read as follows:

SCRANTON, PA., *March 8, 1912.*

MY DEAR MR. BRUCE: I thank you for your letter and its kind appreciation of the opinion of the court in the New Orleans Board of Trade case; but you fail to take credit for the very important part which you played in the result. Frankly, the case was won on your argument and brief. Your oral argument was one of the best that we have heard, and your brief was an absolute demonstration of the errors committed by the commission and complete at every point. You can not fail to note how closely the opinion follows and reflects what is there said.

As for myself, I am only entitled at the most to a part of the opinion as filed. A considerable portion of it, if not indeed the best, is from the hand of another member of the court, and it is probably there that you find the enunciation of principles which you particularly com-

mend. I regret exceedingly the delay which has occurred in this case; but some time, when I have the pleasure of seeing you again, I will endeavor to explain how it came about.

Very truly, yours, R. W. ARCHBALD.

Mr. CULBERSON. That is what I want an explanation of.

The WITNESS. I did not intend in that letter to suggest that there would be a proposed conference, using that term. I expected and hoped some time in the future to meet him, and then I would endeavor to explain the delay which had occurred in filing that opinion, which was not attributable to myself. The rest of the letter was in response to the kind things he had said about the opinion, attributing it to my hand, and I endeavored to respond in kind with regard to his brief.

Mr. CULBERSON. I should like to have the question again asked and answered.

The PRESIDENT pro tempore. The Secretary will again read the question.

Mr. CULBERSON. I want the explanation of the delay which was supposed to have been made.

The WITNESS. Very well. I will answer that direct now, if I may. The delay was not due to myself. The delay was due to the endeavor to get the court to harmonize its views as nearly as possible, and with the hope that eventually we might get together upon that. The case was virtually decided when we met in consultation on October 21, and, so far as I was concerned, I was ready to have an opinion filed at that time. Very shortly after that time, so far as I was concerned, the opinion was complete, but it was left to the president of the court to make some changes, which it was supposed would reconcile some differences of views. Therefore a great many things were taken out of my opinion and some others were put in, until it arrived at the form in which it was filed, but none of that delay, as I conceived, was due to myself.

Mr. NELSON. I submit the following question.

The PRESIDENT pro tempore. The Senator from Minnesota propounds a question to the witness, which will be submitted to him by the Secretary.

The Secretary read as follows:

Was the opinion you prepared in favor of Mr. Bruce's clients in the case?

The WITNESS. The dissenting opinion, which is the basis of the opinion as now filed, was in favor of Mr. Bruce's client, the Louisville & Nashville Railroad, and that was the decision which was finally made.

Mr. CULBERSON. Mr. President, I wish to ask another question in this connection.

Mr. Manager STERLING. On that point—that is, the final opinion of the court——

The PRESIDENT pro tempore. The Senator from Texas will withhold the question for a moment?

Mr. CULBERSON. Certainly.

Q. (By Mr. Manager STERLING.) In connection with this I understand now the opinion which was finally rendered in the case was in favor of the railway company that was represented by Mr. Bruce?—A. Yes; that is true.

Q. And it supported the contentions of that side of the case all through?—A. No; not all the contentions.

Q. Practically; the main points?—A. The controlling points; yes.

The PRESIDENT pro tempore. The Senator from Texas propounds a question which will be submitted to the witness by the Secretary.

The Secretary read as follows:

Did you think it proper to explain privately to counsel in a case the difference between the members of the court?

The WITNESS. No; I should not. I never had met Mr. Bruce with regard to the matter since that time. I never have had the opportunity to talk over the matter, and I certainly would not go so far as to betray any of the confidences of the consultation room. I simply would have stated what I state here, that, so far as I was concerned, the delay was not due to myself.

Q. (By Mr. Manager STERLING.) Judge, the first opinion prepared by the court—agreed to by the court, excepting yourself—was against Bruce's client, was it not?—A. There was no opinion prepared.

Q. Well, the views of the court?—A. In our consultation, in May, the views of the court were against Mr. Bruce's client, the Louisville & Nashville Railroad.

Q. To whom was the duty assigned of writing the opinion?—A. Judge Knapp.

Q Did he write it?—A. He did not.

Q. But before it was written this correspondence took place?—A. The first correspondence, yes; the letter along in, I think, August or September of 1911.

Q. And was it not due to the suggestions which you made, and which you got from the argument and letters of Mr. Bruce, that caused the court to take it up for further consideration, which resulted in reversing the former opinion of the court?—A. No; that is absolutely not so, for, as I wanted to point out, and have endeavored to point out, it is assumed in the opinion that exactly what was contended on the part of the Interstate Commerce Commission with regard to Mr. Compton's testimony was the fact.

Q. Have you the opinion there?—A. I have.

Mr. Manager STERLING. I should like to suggest to counsel on the other side that the opinion go right in the record.

Mr. WORTHINGTON. We have noted it to put it in evidence when the time comes, and it might as well go in now as at any other time.

Mr. Manager STERLING. I suggest that it be offered now as evidence.

The WITNESS. I should like to refer to that part of the opinion——

Mr. Manager STERLING. I do not care to pursue it further. I want to call your attention to article 6. We offer the opinion in evidence.

The PRESIDENT pro tempore. Is it to be read at this time?

Mr. Manager STERLING. No, sir.

The opinion referred to is as follows:

[U. S. S. Exhibit 100.]

UNITED STATES COMMERCE COURT.

(No. 4. April session, 1911.)

Louisville & Nashville Railroad *v.* Interstate Commerce Commission, respondent. United States, intervening respondent.

ON FINAL HEARING ON BILL, ANSWER, AND PROOFS.

For opinion of Interstate Commerce Commission, see 17 Interstate Commerce Commission Report, 231.

For opinion of circuit court, refusing preliminary injunction, see 184 Federal, 118.

Mr. Helm Bruce and Mr. W. G. Dearing, for petitioners.

Mr. W. E. Lamb, for Interstate Commerce Commission.

Mr. J. A. Fowler, assistant to the Attorney General, and Mr. Blackburn Esterline, special assistant to the Attorney General, for the United States.

Mr. Alfred P. Thom and Mr. Walker D. Hines, for Southern Railway.

Mr. Edward Barton, for Baltimore & Ohio Southwestern Railroad.

Before Knapp, presiding judge, and Archbald, Hunt, Carland, and Mack, judges.

[Feb. 28, 1912.]

Archbald, judge:

A brief history of this case will aid in understanding the questions to be decided. For a number of years prior to 1907 the through rates on certain classes of freight over the Louisville & Nashville Railroad, the present petitioner, from New Orleans, La., to Montgomery, Selma, and Prattville, Ala., were higher than the rates on the same classes from New Orleans to Mobile, an intermediate point, plus the rates from Mobile to Montgomery and the other places mentioned. The through rates from New Orleans to these places were also similarly higher than the rates to Pensacola plus the rates from there to the same destinations, the two situations in this respect being identical.

This somewhat peculiar condition was brought about, as it is alleged, by the fact that the rates from New Orleans to Mobile and Pensacola were made lower than might justly have been charged, as well as lower than the general basis of rates prevailing in that section of the country, because of the necessity for meeting water competition between these places; from which policy it resulted, as is to be gathered from the record, that the rail line of the petitioner greatly increased its tonnage, and eventually secured the bulk of the traffic, the rail rates being continued for a number of years after the water competition had practically been eliminated.

Following, however, the enactment of the Hepburn law in 1906, the Interstate Commerce Commission, in an administrative ruling, which has several times been reaffirmed, announced that through rates in excess of the combination of intermediate rates would be regarded as prima facie unreasonable, and that the burden would be on the carrier to defend them. Subsequently to this, and possibly prompted by it, in June, 1907, the Montgomery freight bureau, on behalf of the commercial interests of that city, filed with the commission a formal complaint against the railroad, alleging that the higher through rates to Montgomery than the combination on Mobile, on certain classes and commodities, subjected Montgomery to undue prejudice and disadvantage, in favor of Mobile, in violation of section 3 of the interstate-commerce act. Influenced by this, no doubt, and by the ruling of the commission referred to, the railroad on August 13, 1907, advanced its rates from New Orleans to Mobile and Pensacola on certain classes of freight, by varying amounts sufficient in each case to make the new combination on Mobile and Pensacola correspond with the through rate to Montgomery. This action of the railroad, coupled with subsequent reductions on a number of articles, by taking them out of their respective classes and giving them special commodity rates, apparently had the effect of satisfying the commercial interests of Montgomery, and nothing further seems to have been done in consequence upon the complaint filed by the freight bureau of that city.

This did not, however, satisfy all parties. For a number of years the rates out of New Orleans had been the subject of agitation by the New Orleans Board of Trade, and at various dates, in October and November, 1907, complaints were accordingly filed with the commission by that body, severally charging that the rates to Mobile and Pensacola as recently advanced by the railroad, and the through rates to Montgomery and the points grouped with or based thereon, were unjust and unreasonable in themselves, as well as in comparison with the rates from Memphis, St. Louis, and Louisville. A restoration of the rates in effect to Mobile and Pensacola prior to August 13, 1907, was thereupon prayed, and a reduction of the rates to Montgomery, so that they would not exceed a combination of the locals by way of these places as thus established. The adjustment of certain commodity rates relatively to St. Louis and Memphis was also asked for.

The railroad duly answered these complaints, denying that the rates in force were unjust or unreasonable, and setting forth in detail the facts and circumstances relied on to justify them. But after answering and before any hearing by the commission had been entered upon, the railroad voluntarily established special commodity rates on a number of articles which had been complained of, thereby making the rates on all articles, or at least on most articles, from New Orleans to Montgomery points, as well as to Mobile and Pensacola, the same as or lower than the rates from Memphis and the other places named to these destinations. This was the undoubted intention of petitioner and appears to have been generally, if not completely, carried into effect.

The three New Orleans cases were heard by the commission together and were disposed of November 26, 1909, in a single report and order. This order, in substance, condemned the advance in rates to Mobile and Pensacola on the classes involved as unjust and unreasonable; directed the restoration of the rates in force prior to August 13, 1907, to these places; declared the through rates to Montgomery, Selma, and Prattville, to the extent that they exceeded the sum of the locals by way of Mobile and Pensacola prior to that date, to be also unjust and unreasonable; and prescribed for the future certain maximum rates to be maintained by the railroad for the statutory two-year period. The rates which were so prescribed to Mobile and Pensacola were the same in each case as the rates which had existed prior to the advance made by the company, and the rates to Montgomery were exactly equal to the rates to Pensacola and Mobile as so restored, plus the rates from these places to Montgomery, which remained unchanged; the rates to Selma being made up in the same way, and those to Prattville having the prevailing arbitrary added.

This order, by its terms, was to go into effect February 1, 1910, but was postponed by supplemental orders until April 15, following; prior to which time a bill in equity was filed by the railroad against the commission in the Circuit Court of the United States for the Western District of Kentucky, and an application made for a preliminary injunction. This application was heard by three circuit judges on bill and affidavits, and was denied by the court in an opinion by Judge Severens (184 Fed., 118); after which the order of the commission became effective and has since been complied with.

The commission having answered the bill, an examiner was appointed and a large amount of testimony taken on behalf of the petitioner, the entire proceedings before the commission, including the testimony submitted to it, being also under objection made a part of the record. No proof was offered in opposition to this in support of the order, *the commission taking the position that having been made after a full hearing, upon due consideration of the issues involved and in the exercise of the authority conferred by the statute, the order was not open to question.* Upon the organization of the Commerce Court the case was transferred here, and now comes up for disposition upon final hearing. It has been ably and elaborately argued in all its different phases, but there is only one that it seems necessary to pass upon, and that is, whether the commission, in the order which it has made, has not in a legal sense acted as charged in such an unreasonable manner that its order is invalid, having nothing of substance or persuasive force upon which it can rightly be predicated. This is claimed to result because the reasons assigned in the report either do not justify the conclusion reached or are so at variance with the undisputed facts that effect has plainly not been given by the commission to the evidence which was produced before it; and therefore, as it is put in the petition—repeated frequently in various connections—the "order is unreasonable, unjust, unlawful, arbitrary, and oppressive and in excess of the authority granted and powers conferred upon" the commission by the amended act to regulate commerce. Stated in another form the question is whether this order, tested by the principles recently emphasized by the Supreme Court in *Interstate Com. Com.* v. *Union Pacific R. R.*, decided January 9, 1912, should not be set aside because there was no substantial evidence to sustain it. That is to say, whether the commission, while in form acting within the authority conferred by the statute, has not in effect disregarded it. And it is to this question that we therefore address ourselves.

In this connection we take occasion to say that if the conditions dealt with in the report of the commission were substantially as they are there described we should have little hesitation in dismissing the petition. For even though in that case it might seem doubtful to us whether the commission had reached a just conclusion, it would nevertheless appear that there was room for differences of opinion, because different inferences were able to be drawn, and in such case the conclusions of the commission should be accepted as to matters thus clearly within its jurisdiction. But the question here is whether the report can fairly be regarded as of that character. On the taking of testimony in the circuit court after the preliminary injunction had been refused the entire evidence before the commission was introduced into the record, and it is to that evidence that reference is made in this opinion unless otherwise stated. That evidence we have read and reread with the utmost care, and it is because of our inability to understand how, on the facts which there appear, the report before us could have been made that the difficulty under which we labor arises.

By the express provisions of the statute (sec. 15) before going on to prescribe future rates the commission must reach the conclusion that the existing rates established by the carrier are unjust and unreasonable. It is the duty and the privilege of the carrier in the first instance to fix the rates to be charged (*Inter. Com. Com.* v. *Chicago Great Western Railroad*, 209 U. S., 108, 119), and it is only where, after due notice and a full hearing—whether on complaint of a shipper or upon investigation by the commission of its own motion—it is made to appear that the rate is unjust and unreasonable that the commission is empowered to fix another. The hearing which is so provided for is not a perfunctory one. The carrier is entitled to know and to rely on what is adduced at it, either for or against the existing rate, and the commission is not authorized to disregard it and reach a conclusion not at all justified by it. If the rate attacked is shown to be unjust, it may be abrogated and a new one established. But if that is not the outcome of the hearing and on the contrary it is clearly shown that the rate is not unjust, the evidence as to this can not be put aside, and if it is, and the commission without reference to it proceeds to condemn the rate and to fix another, its action is invalid.

After the most careful consideration, we are forced to conclude that the action of the commission in the present instance is of that character. Having regard to the evidence, the only tangible ground upon which it will be found to rest is the fact that there had been an advance in the rates to Pensacola and Mobile and that the Montgomery rate exceeded the sum of the rates through these points as they stood prior to this increase, making the increase in these intermediate rates the only proof of unreasonableness, not only as to Pensacola and Mobile, but Montgomery also. It is conceded by counsel for the Government that if this were true as to the rates to Montgomery, the order of the commission would be invalid, because it would not be based on the reasonableness or unreasonableness of these rates independently considered. And it is just as clear that if the reduction to Mobile and Pensacola was a mere restoration of the rates previously in force, based solely on the advance made by the railroad, it is equally indefensible. And, taking the case as it stands, there is practically nothing else, as it seems to us, that can be made out of it. Not but that other reasons are given by the commission. But it will be found upon examination, as stated above, either that they are entirely unsupported by the evidence or are involved in such capital mistakes with respect to it, or are in themselves so inconsequential as to the reasonableness or unreasonableness of these rates, that nothing can be consistently predicated upon them. And this we will now endeavor to demonstrate.

The New Orleans-Montgomery rate which has been set aside by the order of the commission was one of very long standing and was established with great circumspection. In 1886 Hon. Thomas M. Cooley, whose attainments are too well known to dilate upon, the first chairman of the Interstate Commerce Commission, was called upon by the railroads running into what was designated as the southeastern territory to arbitrate and adjust the relative rates from crossing points on the Ohio and Mississippi Rivers to certain places, such as Montgomery and others within the section of country roughly described as lying between the Memphis & Charleston Railroad on the north, the Gulf of Mexico on the south, the Chattahoochee River on the east, and the Mobile & Ohio Railroad on the west. He was not to determine specific rates, but their relation to each other. This question had first been submitted to Mr. James R. Ogden, as commissioner of certain associated railroads running into this territory, and after he had passed upon it it was submitted to Judge Cooley, who virtually affirmed Mr. Ogden's rulings. So far as the present comparison is concerned, it is sufficient to note that it was thereby decided that the rates from Louisville, Evansville, Cairo, and other like points on the Ohio River, to Birmingham, Montgomery, Selma, and other points within the defined territory, should be the same; that the rates from East Cairo, Columbus, Hickman, and points on the Mississippi in Kentucky should be 2 cents less; and that the rates from Memphis, Vicksburg, and New Orleans should be 4 cents less. An adjustment of rates was made by the railroads in accordance with this, including those from New Orleans to Montgomery and other points in that section, and these rates were maintained, at least so far as class rates are concerned, until the building of the Kansas City, Memphis & Birmingham Railroad from Memphis to Birmingham, which made a very much shorter line than had previously existed between these cities, when the rates on the first six classes of freight from Memphis to Birmingham were greatly reduced below what they had been, and those from New Orleans to Birmingham were also reduced to correspond relatively, in accordance with Judge Cooley's adjustment.

The reduction from New Orleans to Birmingham, however, proved too great and could not be maintained, and the rates between these places were at first restored to the original figures, and then reduced to an intermediate position; and this brought about a reduction on rates for these classes between New Orleans and Montgomery, Montgomery being intermediate to Birmingham. The final adjustment of these rates was reached in 1896, and as fixed at that time they remained substantially unchanged until 1910, a period of 14 years, when the commission made the order in question.

The original careful determination of the New Orleans-Montgomery rates, in their relation to those from Ohio and Mississippi River points into the same territory, in accordance with the Cooley arbitration; the subsequent readjustment of them upon the building of the Memphis and Birmingham short line; and their long-continued acceptance by the business public, during which time freight moved freely under them; all strengthen the presumption in favor of the reasonableness of these rates, against which there is practically nothing to militate except the previous competitive water rates from New Orleans to Mobile and Pensacola and the combination to be made on them to Montgomery. The conclusion is thus forced and, indeed, is patent on the face of things that the Montgomery through rates as now fixed by the commission are nothing more than the restored competitive Mobile and Pensacola rates plus the previous rates from those places to Montgomery.

There is no change, as it will be noted, in the rates from Mobile and Pensacola to Montgomery. The change in the Montgomery through rate is effected by reducing the rates from New Orleans to the intermediate points named and combining them with the rates from there to Montgomery, the reduction in the New Orleans-Montgomery through rates being exactly the same as the reduction made in the rates to Pensacola and Mobile as to every class except one—class E—where the through rate is reduced 1 cent, as against a 5-cent reduction to Mobile and none at all to Pensacola. This coincidence is too significant to be a mere accident or to fail to reveal the consideration which influenced it. It extends to the through rates to Selma and Prattville, as well as to Montgomery, not only by way of Mobile, but of Pensacola also, an exactitude which it is impossible to account for except upon the ground which has been suggested. Not only is the reasonableness or unreasonableness of the through rates to Montgomery, as fixed by the commission, thus made to depend on the reasonableness or unreasonableness of the Mobile-Pensacola part of them, but they are all obliged to stand or fall on the fact of this coincidence, by which, as conceded by counsel, they are not able to be defended. It is true, as already stated, that there are other reasons assigned by the commission in its report for the reduction in the New Orleans-Montgomery rates, but, with due respect to the commission, they do not bear up under examination.

The relation of rates established by the Cooley arbitration and the disturbance inevitably to result from a disregard of it was pressed upon the commission as strong grounds against the proposed changes. "The Cooley arbitration of 1886," it is said in the report, "has been strongly urged * * * as a reason for the nonreduction of the present advanced rates. This arbitration established a relation of rates as between the several Ohio and Mississippi River crossings, applying upon products from the territory north and west of those rivers destined to southern and southeastern territory, by fixing a basis for making rates from these several basing points to the southeastern territory, with the object of maintaining an equitable relation and equality of the basing rate as between said points on goods transported to southeastern territory, but we do not understand that this arbitration undertook to fix the actual rates for carriage from the several basing points to destinations in this territory. However, if such were the case, the building of new railroads, competition, and other causes forced many departures from the adjustment and the rates made under it, until it

has become materially altered, and it is inevitable and proper that it should yield to meet new and changed conditions."

From this, which is all the commission has to say on the subject, it would be supposed that the Cooley award was only a basis of adjustment accepted many years before, but which had come to have little more than historical value. In other words, that it was merely a starting point from which departures were frequently and freely made. If this were so, the commission might properly regard it as of no great importance and certainly as furnishing no substantial obstacle to further modification by the reduction of rates from New Orleans. But the record before the commission, as we read it, does not warrant the inference apparently intended from the statement above quoted. *Taken by itself the statement is not literally inaccurate, since it seems that some changes were made at various times in the rates on particular articles by taking them out of their respective classes and giving them special commodity rates, and to such extent as changes of this character were made they may be regarded in a sense as departures from the Cooley arbitration basis.*

Moreover, the fact that the complaint of the New Orleans Board of Trade embraced in terms commodity rates as well as class rates, and that there was more or less testimony at the hearing which must have related to commodity rates doubtless accounts for what the commission says upon this subject. But when it is remembered that no change of consequence in class-rate relations had taken place since the original adjustment, except the one heretofore explained, and that the order in question pertains only to class rates from New Orleans, the matter presents itself in a very different aspect. Surely the long continuance of these class rates, which are the basis of the rate structure in that territory, and which must be assumed to have been equitably adjusted as between the various competing towns on the Ohio and Mississippi Rivers by the Cooley award, was a valid and persuasive objection to any order which would have a disturbing effect upon the class-rate situation. Nor was the force of this objection appreciably lessened by the circumstance that some articles were taken out of the classes from time to time and given commodity rates. Particularly is this so in view of the fact that the commission's report contains no intimation that class rates from other points should be reduced, clearly indicating that the order in question was not predicated upon any finding or contention that this class-rate adjustment was unfair to New Orleans. When therefore the facts in this regard are fully perceived their important bearing upon the controversy seems evident, and they are not to be dismissed from consideration, as they appear to be by the commission, on the mistaken view that "the building of railroads, competition, and other causes had forced departures from the adjustment of rates under it until it had become materially altered, as was inevitable and proper to meet changed conditions," as suggested.

As a further reason for making the order in question the report of the commission contains the following: "It was stated by the principal witness for the defendant that between points on its line where the through rate exceeded the combination of rates from point of origin to a competitive point and from said competitive point to destination shippers were given the benefit of the combination rate, and this provision appeared in special circulars and was very generally observed as a rule for the adjustment of freight rates; and such having been formerly the custom of the defendant, it would seem now to work no especial hardship upon it to reduce rates to the basis of the former combination."

The reference here is to the testimony of Mr. C. B. Compton, the traffic manager of the Louisville & Nashville Railroad, who has been with that road in continuous service in various capacities for some 40 years. But a careful reading of his testimony discloses no basis for the statement quoted, if it was meant thereby to imply that the Mobile combination was at any time allowed on through shipments to Montgomery.

On the contrary, it clearly appeared that such shipments had always paid the Montgomery rate, and that the Mobile combination could be secured only by shipping first to Mobile and then reshipping to Montgomery, as seems to have been done in a few instances. Indeed, this is recognized as the fact by the commission, since it is stated in an earlier part of the report that "prior to August 13, 1907, shippers, in order to get the benefit of the lower combination, sometimes shipped locally to Mobile and then reshipped to Montgomery, Selma, and Prattville." Of course, if the fact had been otherwise and the road had ordinarily or frequently carried Montgomery traffic on the Mobile combination, the commission might well say that it would be no great hardship to require the carrier to publish in its tariff the actual rates which it habitually accepted; but the undisputed evidence shows that the full Montgomery rate was constantly applied to Montgomery shipments, and we fail to see how that circumstance tended to show that the Montgomery rate was unreasonable.

It is undoubtedly true, as testified by Mr. Compton, that it was a more or less general practice to protect through shipments against the combination of locals, and a rule to that effect was carried by his road in certain of its local tariffs; but there was no such rule in the tariffs naming rates to Montgomery territory, and nothing whatever appeared at the hearing to indicate that through traffic to Montgomery was ever carried at less than the Montgomery rate. *A colloquy occurred in the course of Mr. Compton's examination in which he seems to have admitted that the rule in the local tariffs referred to, not being limited in terms, might be claimed to have authorized the application of the Mobile combination to Montgomery shipments.* But the point is not what those tariffs might have been construed to mean but what the actual practice was in respect of the traffic in question. Evidently the road was always careful to maintain this Montgomery rate. Everything indicates that it consistently did so. And it seems plain to us that the acceptance on other parts of the system of combination rates which were lower than through rates had no tendency to show that these particular rates were unreasonable. In short, when the undisputed facts regarding this feature of the case, as they appeared before the commission, are taken into account, they not only do not sustain the conclusion of the commission, but seem to be rather of contrary import.

With respect to the through rates from New Orleans to Montgomery as well as the southeast territory generally, it is further said by the commission, in justification of its action, that "It was shown that the merchants of New Orleans have heretofore made ineffectual efforts to secure better rates to this territory, as higher rates were in effect from New Orleans to this territory than existed from distributing centers at greater distances west and north of said territory, the situation being such that New Orleans was cut off from the trade of this section as to many products, and greatly restricted and burdened as to many others, on account of the high rates of transportation."

Tested by the complaints of the New Orleans Board of Trade, which, as above shown, embraced in general terms commodity rates as well as class rates, this statement can not be said to be wholly incorrect. Prior to the adjustments already referred to, and which were voluntarily made by the carrier, months before the order in question was issued, it was perhaps true that New Orleans merchants were at some disadvantage because the class rates from New Orleans on certain articles may have been higher than or out of line with the commodity rates from other points on those articles. But this cause of complaint, to whatever extent justified when the proceedings before the commission were instituted, was substantially if not wholly removed before the hearing was concluded by the reductions and adjustments hereinbefore mentioned, which resulted in actual rates from New Orleans lower on most articles and not higher on any article than rates from Memphis and other points west and north of Montgomery. And this was apparently recognized by the commission to be the case, since it made no order respecting commodity rates. But when the paragraph quoted is tested by the class rates, which are the only ones reduced by the commission's order, it is not only not supported by the testimony, but the contrary is shown by proof that is not open to question. Instead of being discriminated against by the class rates to Montgomery territory, New Orleans has had an actual advantage over the Ohio and upper Mississippi River towns, an advantage over Memphis in the higher classes and at least equality with it in the other classes, and an equality with Huntington, Vicksburg, and the lower Mississippi points to Memphis; all of which is established by comparative tables which stand unchallenged and by the tariffs, as we are advised, then on file with the commission. So far, therefore, from sustaining the action of the commission, the undisputed facts in this regard tend unmistakably to a contrary conclusion.

But the commission also mentions that the rates from New Orleans to Montgomery, Selma, and Prattville were higher on all the classes than those from typical points in the Southeast, where the distances were greater, such as Brunswick and Savannah, Ga.; Charleston, S. C.; Wilmington, N. C.; and Nashville, Tenn.; to say nothing of Virginia and North Carolina points, which are referred to in another connection. But in this comparison the commission for its initial points goes over into an entirely different territory. It leaves the Mississippi and Ohio Rivers and goes to the Atlantic coast, in the Carolinas and Georgia, without any suggestion that traffic conditions from there to Montgomery and Selma are at all similar to those from New Orleans, which is the subject of comparison, the only basis of contrast being one of distance. The railroad company in its bill makes complaint of this and avers that the conditions are so dissimilar as to render the comparison unjustified, and that no issue as to the reasonableness or unreasonableness of the rates so applied as a standard was made, nor any evidence introduced which was addressed to that inquiry. And this the commission in its answer admits, conceding that there was no *fixed* relation between the rates from these points and those from New Orleans; which we understand to mean no definite or determining relation.

So also with regard to the rates "from New Orleans to certain stations just outside of Montgomery on the Mobile & Ohio Railroad," which are said by the commission to be less than the rates to Montgomery by the Louisville & Nashville. The bill avers that these were unimportant local points which did not enter into competition with Montgomery; that the traffic to them was insignificant; that no testimony was taken concerning them; and that the Louisville & Nashville Railroad does not publish or participate in or have anything to do with them. And the commission, answering this, admits that the reasonableness of the rates to these local points was not in issue, and that no attempt was made to determine whether or not they were reasonable, and that it did not undertake to determine the reasonableness of the rates prescribed in the order complained of on the basis of the rates referred to. But if all this be so, it is difficult to see why there was any reference made to them at all, or why they were put forward by the commission in the way they were to justify the order, if they had no influence upon it. The effect of the answer, therefore, is to eliminate this part of the report, aside from the other considerations which also do so.

Equally immaterial is the statement that the rates from Virginia cities to Montgomery and Selma are less than from New Orleans, although covering twice the distance, or that those from north Atlantic ports to points in the southeastern territory basing on Montgomery are more favorable, length of haul and number of lines considered, which are some of the minor things entering into the decision. And especially is this to be said of the water rates from New York and Boston to Mobile and New Orleans, which have no perceptible bearing on the rail rates between the latter two places in the connection in which they are cited.

By contrast with this, it might be inquired why the commission in making comparisons took no note of the rates established by the railroad commissions of Alabama and Georgia, which show that for 141 miles, the distance between New Orleans and Mobile, the accepted-as-controlling factor in the situation, the rates by the Louisville & Nashville Railroad, which have been condemned and reduced by the commission as unjust and unreasonable, were materially less than the maximum or so-called standard tariff established by the Georgia commission, and much lower still than the rates which were permitted to the Southern Railway in Alabama, Georgia, Tennessee, and South Carolina, as will appear by the comparative table which is reproduced below as taken from the evidence:

	Class—						
	1	2	3	4	5	6	E.
Louisville & Nashville rates from New Orleans to Mobile, 141 miles	50	39	38	31	27	16	20
Southern Railway rates fixed by commissions of Alabama and Georgia for 141 miles	75	63	56	44	35	29	35
Minimum or standard tariff of Georgia Railroad Commission, 141 miles	60	50	45	35	28	23	28
Southern Railway rates in Tennessee, 141 miles	58	50	46	37	31	27	32
Southern Railway rates in South Carolina, 141 miles	62	52	42	39	31	24½	31
Southern Railway rates, Chattanooga to Birmingham, 143 miles	57	49	41	32	27	19	27
Southern Railway rates, Birmingham, Ala., to Columbus, Ga., 157 miles	57	49	45	35	28	22	27
Southern Railway rates, Chattanooga to Atlanta, Ga., 138 miles	52	45	41	32	25	20	27

Let us not be misunderstood upon this point. We recognize, of course, that comparisons are very commonly made in the investigation of rate

cases, and that they may often be quite persuasive. The competency of such evidence is not questioned nor the right of the commission to give it due weight. Neither is it doubted that the commission may receive evidence of this kind, giving to the facts so shown their proper value, without proof of similarity of conditions. But what we do hold is that the comparisons made by the commission in its report in this case, taking into account all the facts and circumstances disclosed at the hearing, had no evidentiary bearing upon the reasonableness of the rates in dispute, and therefore furnish no appreciable support of the commission's conclusion.

As a further justification for the reduction of the rates to Montgomery the commission suggests that the rate per ton per mile, on an average of the first six classes of freight, is much greater from New Orleans than from Memphis, St. Louis, or Louisville. It is not said, as will be noted, that the rates to Montgomery are higher than from Memphis and the other places mentioned, but that, considering the distance, the rate per ton per mile is greater. But it is the ordinary and recognized rule that the ton-mile rate should decrease as distance increases, other things being equal, and we therefore fail to see how the lower ton-mile rate for the greater distances from Memphis, St. Louis, and Louisville tended in any respect to show the unreasonableness of the rates here in question.

Finally, as a summing up of this part of the case, the commission says: "The manufacturers and shippers of oil, paper, stovepipe, tinware, galvanized tubs, furniture, soap, window glass, paints, hardware, and other articles of like kind in daily use, testified that they were unable to trade in the Montgomery and Selma territory on account of the high rates, and that upon former occasions they had made special efforts to build up a trade with cities located in this territory and points basing thereon, but in every instance they were compelled to abandon the fight on account of better freight-rate concessions from other markets, though at greater distances. With respect to practically all of the commodities above enumerated schedules of comparative rates and distances were filed corroborating complainant's contention."

This statement also can be explained only on the theory that it relates to what the New Orleans Board of Trade alleged in its complaints and to conditions which may have existed in some degree before the road made the reductions and adjustments already mentioned. But having reference to the class rates in question, to which the commission's order is confined, we are unable to find any evidence which tends to sustain the observations made with regard to the inability of New Orleans dealers to trade in the Montgomery-Selma territory.

Take, for instance, the testimony of George P. Thompson, a wholesale grocer of New Orleans, the first witness who has anything to say on the subject. His testimony has mainly to do with Mobile and Pensacola. But being asked by counsel whether it would be possible to increase his business with Montgomery if the rates were adjusted on a fair basis he says that it would, a self-evident proposition, but by no means showing that the rates in force were not what they ought to be. The further statement, which he is led to make by suggestion of counsel, that the rates from Memphis to Montgomery are lower than from New Orleans can not refer to class rates, it being irrefutably shown that they are in fact higher. And the comparison made by counsel in a long leading question with regard to the rates from Baltimore, to which Mr. Thompson gives hesitating assent, is of no more significance than the similar comparison with other North Atlantic points made by the commission, already referred to. It is true that as to certain canned goods, such as beans and peas, he is handicapped, as he says, by the rates from such points as St. Louis and Memphis. But here again the reference must be to commodity rates which have been adjusted, and must have been so understood by the commission, as it does not include peas and beans in the list of articles said to be discriminated against by the rates to Montgomery. And this must also be kept in view when it is said by Mr. Thompson that he is kept out of that territory unless he is willing to absorb a part of the rates, which is not true as to class rates, the only ones which are here in question.

W. O. Hudson, manager of the Marine Oil Co., the next witness, confesses that he knows nothing with regard to the Montgomery-Selma case. Being asked if he could do business in Montgomery if the rate were reduced to 13 cents a hundred, the reduction subsequently made by the commission, he declares that he could not, that the rate would eat him up, the explanation that he gives being that the great bulk of the oil which he handles comes from the Ohio and eastern fields, which are much nearer to Montgomery than he is. Notwithstanding this, and although he is the only witness who testified on the subject, oil is given by the commission as one of the commodities shut out by the high rates from New Orleans into this territory.

E. C. Palmer, a wholesale paper man, admits that business with Montgomery has not been materially injured by the advance in rates, but avers that it will be when his customers understand the situation. He thinks that Nashville has an advantage over New Orleans in the rate on paper (as no doubt it has); and that, as compared with Baltimore, considering the haul, the New Orleans rate is "a little out of line" (although it is not in fact higher); but that, compared with Louisville, it is fair enough. And so far as being kept out of Montgomery is concerned, he says that, on the contrary, he ships there constantly. No one can read the testimony of this witness without being convinced that, except possibly as to Nashville, New Orleans is not only not discriminated against, but has an actual advantage in the rates on paper over every place that it comes in competition with in the Montgomery-Selma territory.

A. D. McBride, a salesman engaged with the National Enameling & Stamping Co., says that he sells goods in Mobile and Pensacola, but not in Montgomery or Selma, because Atlanta, Ga., has lower rates and gets the business. As compared with St. Louis and Louisville he does not see that New Orleans is at a disadvantage, notwithstanding the efforts of counsel to have him say so. The competition which affects him is with Atlanta, and that is the whole of it. Nor even there does he charge that the advantage is an unfair one, but simply that the Atlanta rate to Montgomery is lower and keeps him out of there. Notwithstanding this state of the evidence, however, stovepipe, tinware, and galvanized tubs, the commodities that this witness deals in, he being the only one called to testify with regard to them, are included by the commission among those which it is declared that New Orleans dealers, on account of the high rates, have been unable to sell in the Montgomery-Selma territory, being compelled to abandon the fight, as it is said, after an attempt to build up the trade, a statement as to which there is no approach in the testimony.

J. W. C. Wright, president of the New Orleans Furniture Manufacturing Co., says that Montgomery is not important to them. They ship some furniture there, but have not solicited the trade very strongly; and substantially the same thing is testified by P. Jung, of the Crescent Bed Co., an iron-bed manufacturer.

S. Steinhart, a manufacturer of soap, sells soap in Montgomery, where he says he encounters a rate of only 19 cents from Nashville as against 23 cents from New Orleans; but there is no 23-cent class rate from New Orleans, and he must therefore be referring to a commodity rate, which, as we have already seen, has no bearing.

J. W. Bray, another witness, who is treasurer and manager of the Campbell Glass & Paint Co., says that they are shut out of Montgomery and Selma, the rates being such that they are unable to ship there. But so far as the paint business is concerned, he also says that it is handled entirely from St. Louis, where his company has a house from which they prefer to ship, the rate being more advantageous; and that as to their glass business, Montgomery is not a normal point for it, which hardly makes out that the rates from New Orleans are too high or that he has ever tried unsuccessfully to adjust them.

Harry Moore, who is in the wholesale hardware business, declares that he can not compete with St. Louis, Louisville, and Nashville; but he gives as a reason that, while these places are only one-half the distance from producing centers, such as Pittsburgh and that territory, they pay one-third the rate, and are thus able to get into Montgomery and Selma and places basing on them at much less than he can. But the discrimination here, as is evident, is in the rates from producing centers to the distributing points named, and it is impossible to expect that this should be made up to New Orleans by a back rate to Montgomery that would absorb the difference.

It is difficult, therefore, to see, in view of the testimony of these several witnesses, how furniture, soap, window glass, paints, and hardware were included as they are in the statement by the commission, which has been referred to.

George Weigand, who is in the provision business, and who has been "howling to heaven," as he says, with regard to the rate increase complained of, refers only in this to the rates to Mobile, having never tried to go to Montgomery or Selma.

S. Odenheimer, a manufacturer of cotton goods, makes general complaint of the discrimination in rates from all competitive points where there are cotton mills to Montgomery and Mobile. But it appears from his testimony that there are cotton mills at Montgomery and Mobile as well as at New Orleans, to say nothing of the other places mentioned, and it is altogether unreasonable to expect that rates on cotton manufactures should be put so low that mills at other points shall be able to compete with those actually on the ground. The commission makes no reference to cotton goods in connection with the Montgomery rate, and therefore evidently took this view. Mention was also made by this witness that the rates southerly from Montgomery to New Orleans were lower than those northerly from the one place to the other. But the explanation given him by the company was that there are a good many empty cars going in the direction of New Orleans and none the other way, which might properly justify the distinction.

R. J. Wood, manager of the Gulf Bag Co., manufacturers of burlap bags, testifies that at one time, although not recently, they consigned goods to friends in Mobile to have them reconsigned to other points in Alabama, because the combination on Mobile was less than the rates through there. He also says that the question of the rates from New Orleans to Montgomery and Selma being higher than the combination on Mobile was an old one, and had been up ever since he was connected with the New Orleans Board of Trade, some seven years, complaint being made and efforts put forth to correct it.

All that his company have ever asked, as he says, is the same rates that eastern ports have to points halfway distant to New Orleans, which they have never got, and are therefore at a disadvantage. They have better rates, comparatively speaking, according to this witness, to the Carolinas than to Alabama and Georgia, and there are 18 or 20 points in Georgia to each of which the mileage is less from New Orleans than from New York, Philadelphia, or Baltimore, and yet the rates are invariably higher; in consequence of which the Southeast, for his company, is a dumping ground, where they get rid of any overplus, but do not expect to make money. They sell at Atlanta, but make nothing. That city is a bag consumer, but there is a bag concern there, and Atlanta itself complains of New Orleans. This extract from the testimony of this witness is perhaps unnecessary, as the commission does not include burlap or gunny bags among the articles alleged to be discriminated against, so far as concerns the Montgomery-Selma territory. It is only Mobile as to which this is predicated with regard to these articles, and it will be noted that what he says has no application to Mobile.

In this connection a protest, dated August 6, 1902, drawn up by the attorney of the New Orleans Board of Trade, was introduced in evidence before the commission, in which the existence of discriminating rates against New Orleans into the southeastern territory was charged, the fact that the through rate to Montgomery and Selma was higher than the Mobile combination being also mentioned. New Orleans and Mobile, as it is there contended, stand in the same relation to the sources of supply and are competitors to points beyond them, and claim is made that outbound rates from New Orleans should therefore carry but slight differentials. The rest of the paper is mainly an argument why New Orleans should be put on an equality of rates which would permit of competition with New York and Baltimore as well as Georgia, the Carolinas, and Virginia—a broad question not in issue here, as already pointed out, and therefore not relevant or properly to be considered.

This completes the evidence on this branch of the case, and there is no need to dwell on the view to be taken of it. Considered severally or collectively, it contains nothing which we can discover that supports the conclusions of the commission with respect to the Montgomery rates, outside of the fact that, if the reduction is to stand to Pensacola and Mobile, it calls for a reduction to Montgomery to equalize the sum of the locals. It is not simply that the weight of the evidence does not sustain the reasons assigned by the commission in its report, but that there is no substantial basis for those reasons in the testimony passed upon.

The Mobile and Pensacola rates remain to be considered, both on their own account and as the essential basis of the rates to Montgomery. It is to be noted with regard to these that as the law then stood the mere fact that they were increased by the company over what they had been previously creates no presumption that they were not fair and reasonable. (Interstate Commerce Commission v. Chicago Great Western Railroad, 209 U. S., 108.)

Nor did it justify the commission in putting them back to what they had been, without regard to whether that could be properly said of them. But this again is practically all that there is to sustain the commission's action. It is undisputed that these rates to Pensacola and Mobile were the result of severe water competition, and that this had disappeared at the time of the increase. "At the date of the hearing," say the commission, "carriage by water was infrequent and

cut but little figure as a competitor" with the railroad. It is also stated that while the rates by rail were generally higher than by water, this was not the case in the third, fourth, and fifth classes, under which the bulk of the freight between New Orleans and Mobile moved; notwithstanding which the commission proceeded to reduce the rates for these classes to what they had been before, actually making them 6, 9, and 8 cents, respectively, below the established water rates as they then stood.

Take also the relative result brought about by the commission's action. It may be that no point should be made of the fact that, taking the rate on first-class goods, which the commission accepts as fair, having made no change in it, the other rates are disproportionately low by comparison. This is the uncontradicted testimony of some of the witnesses, though it may be said that the commission was not bound to adopt their view of it. But that there is a material disparity is observable on the face of things, and also that it breaks in upon the ratio established by the railroad, which was accepted and lived up to all these years—a somewhat significant circumstance. More than that, however, in making the rates on fifth and sixth class goods 35 cents each to Montgomery and 15 cents each to Mobile, while they are 20 and 15 cents, respectively, to Pensacola, the classification is inconsistent, to say nothing of the testimony of some of the witnesses, who assert without contradiction that if 15 cents is correct for the sixth it is too low for the fifth class; while in fixing the rate to Montgomery at 77 cents on second class and 55 on third class—based on a 37 and 25 cent rate to Mobile, respectively—there is a drop of 22 cents, which, according to the undisputed evidence, creates a disproportion between these two classes that is unprecedented in all that territory. And the same is true as to the 12-cent drop between these classes in the rate to Mobile, which is a reduction of 33 per cent on the face of one and 50 per cent on the face of the other, according to the one that is taken for comparison. It is no answer as to any of these Mobile rates that there were the same inconsistencies in the formerly prevailing rates of the railroad. These were competitive rates with respect to which nothing reliable can be predicated without knowing just what produced them. The resort to them for justification in this way merely serves to demonstrate the intimate relation which they bear to the order of the commission.

It is said, however, in the report of the commission that the Mobile and Pensacola rates had remained substantially unchanged for over 20 years, and that there was no evidence that they had not been compensatory. At the time this statement was made the increased rates were in force which were established in 1907, and not the old ones in existence before that. And it was the unreasonableness of these new rates which the complainants in the proceeding had the burden of showing. There was no adverse presumption to be indulged, as we have seen, because of the increase. (Interstate Commerce Commission *v.* Chicago Great Western Railroad, 209 U. S., 109.) Nor is a voluntary rate, established to met competition, to be taken as the measure of what is reasonable. (Lake Shore R. R. *v.* Smith, 173 U. S., 684; Frederick *v.* N. Y., N. H. & H. R. R., 18 Inter. Com. Com. Rep., 481, 484; Breese *v.* Trenton Mining Co., 19 Inter. Com. Com. Rep., 598, 606.) And yet that in effect is just what the commission did in suggesting in defense of the reduction and restoration which it undertook to make that the previous rates were not shown negatively not to have been compensatory. It was not incumbent on the railroad at that stage to make this out, but on the complainant to show that the rates as they stood were unjust and unreasonable. The position taken here, on behalf of the commission, is that a rate, however low, can not be condemned as unjust if it yield any, the most insignificant, return above the cost of service, a proposition we are not prepared to accede to.

As further justifying the reduction made, it is declared by the commission that the rates to Mobile and Pensacola exceeded the rates from New Orleans to other water-transportation points, such as Natchez, Vicksburg, Greenville, and Memphis, where the distances are greater. This clearly is not true as to Mobile, whatever may be the case as to Pensacola. The rates from New Orleans to the Mississippi River points mentioned, as contrasted with those to Mobile, according to the schedule at the time on file with the commission, will appear by the following table:

	Classes—					
	2	3	4	5	6	E
Rates to Natchez, Vicksburg, Greenville, and Memphis..	40	32	25	20	17	15
Rates to Mobile as reduced by the commission.....	37	25	18	15	15	15

It may be that the commission in the statement which it made had the rates in mind as raised by the railroad, as to which, however, it would be true only with respect to the third, fourth, and fifth classes. But that is not the way it is put, nor is it the use made of it in argument, which is that the rates to Mobile as they previously stood and as they were reduced and restored still exceeded those to the other water-transportation points which are mentioned, which is a clear misapprehension.

It is also said by the commission in the same connection that these rates exceed those from Nashville, Memphis, Cincinnati, and Louisville to points approximating the same distance. There is no way of knowing on what this is predicated, there being no reference to any schedules or tables of comparison by which to verify it. Neither is there anything in the evidence before the commission which apparently warrants it. And by contrast, in the evidence taken under the bill which is now before us, it is proved without contradiction that in a large number of instances the fact with regard to the rates from the places named is just the opposite.

Another ground taken by the commission to justify its action is that the rates between New Orleans, Mobile, and Pensacola, until the advance made by the railroad, were identical in both directions, westward as well as eastward, a condition which prevailed, as it is said, between other cities, such as New Orleans, Memphis, Greenville, Vicksburg, and Natchez, and that the raising of rates in the one direction resulted in a disturbance of relations between points where geographic and commercial conditions called for equality. But it has often been recognized by the commission that the mere fact that a rate is higher one way between the same points than it is the other does not prove that the higher rate is unreasonable. (Duncan *v.* Atch., Topeka & Santa Fe, 6 Inter. Com. Com. Rep., 85, 103; McLoon *v.* Boston & Maine R. R., 9 Inter. Com. Com. Rep., 642; Weil *v.* Pa. R. R., 11 Inter. Com. Com. Rep., 627.) And this is particularly true where there is a preponderance of empty cars moving in the one direction, of which there is here some suggestion. There is also some evidence that the rates westward from Mobile to New Orleans are lower than they should be; all of which goes to show that there is practically nothing to be made out of this contention.

It is further said by the commission that the advances made from New Orleans to Mobile in the enumerated classes were severely felt by certain shippers in the former city, especially those engaged in jobbing canned goods, lard, flour, coffee, oil, crackers, pickles, vinegar, beans, etc.; that New Orleans is an important distributing market for canned beans, some 400 to 500 carloads being handled there; and that the increase on this commodity was particularly burdensome, if not practically prohibitory of shipping into New Orleans and out of Mobile. That the advances made in the rates on these classes of goods would be severely felt by certain shippers is not a sufficient reason for holding that they were not what they ought to be. Such an advance would of course be felt, and so would any other change in market conditions which affected the cost of handling. With regard to the other statements made by the commission in this connection, it is undoubtedly true that New Orleans and Mobile are both jobbing points; but so far as concerns beans, they get their supply from practically the same markets and at the same freight rates. In this respect they are rivals; and it is altogether out of line to expect that the rates on beans from New Orleans to Mobile should be so reduced that the jobbers in New Orleans can compete with those in Mobile, and thus invade the latter's own home market.

A counter protest from the jobbers in Mobile, if this were done, would be in order as a matter of self-protection and would have to be listened to. The same is true with respect to the other commodities named, as it is also with regard to paper, stovepipe, tinware, tubs, and galvanized-iron tubs, as to which, according to the commission, the advance in rates made by the railroads would have to be absorbed by the manufacturers.

The evidence with regard to all this is not in conflict. Take, for example, the testimony of George P. Thompson, president of the New Orleans Grocers' Association, which has already been referred to in connection with the rate to Montgomery. He has been selling canned goods, crackers, and baking powder at Mobile for a number of years, as he says, and the advance in rates, according to his statement, has affected him materially. There has also been a serious falling off in peas and beans, particularly the black-eyed beans which are dried in bags, the best coming from California. Mobile, as he says, is a large consumer of these for export and otherwise, and if New Orleans is shut out from there it means a control of the bean business by the railroad. But he admits that Mobile can buy beans from California as cheaply as he can and that the rate from there to each of these two cities is the same. And he therefore, when you come to analyze it, simply wants the local rate from New Orleans to Mobile kept down to a point where he can have a chance to compete at Mobile or places basing on there with the Mobile jobber on the same product. So also with regard to canned goods, baking powder, candles, etc., the rates on which from Memphis to Mobile are shown to be less than from New Orleans; the comparison so made is of no particular significance without a consideration of how the rates from Memphis happen to be what they are (whether these rates are class or commodity) and why that city enjoys this apparent advantage. Mr. Thompson also speaks of New Orleans as a great distributing port for olive oil and coffee, and thinks that recognition should be given it on outbound rates accordingly; but except that Mobile buys oil from New Orleans he makes no application of his statement.

W. O. Hudson, manager of the Marine Oil Co., says he is forced into competition at Mobile with oil from the Ohio oil field, from whence also he gets his supply from the National Refining Co., which has refineries at Cleveland, Marietta, and Findlay. He stocks up for Mobile from there, but it would suit him better to do so from New Orleans, which would relieve him from the necessity of carrying so many men, and where his facilities are greater. These purely personal considerations have no bearing, of course, on the reasonableness of these rates, which are not to be fixed to accommodate any particular person's business.

There is but one witness, Mr. E. C. Palmer, who has anything to say about the paper industry. Testifying eight months after the advance in rates had gone into effect, while he feels that it may be injurious when his customers get onto the idea, he admits that so far it has not been so. His concern also is only as to goods going through Mobile to points beyond and not as to Mobile proper, although he does business there. New Orleans, as he says, is the principal distributing point in the South for newspaper material, competing with St. Louis, Cincinnati, and Nashville, but having an advantage in rates, as a rule, from western points of manufacture, the rates to New Orleans and to Mobile being equal. There would seem to be nothing calling for relief in this situation.

So, also, with reference to stovepipe, tinware, tubs, and galvanized tubs, Mr. McBride, of the National Enameling Co., says that the manufacturers have not been compelled to absorb the advance, as stated by the commission, although he thinks it probable in the end that they may have to do so. Prices have been increased to the extent of the advance, but no one in Mobile has declined to buy on account of it. It simply has increased the cost to the jobber, and he in turn sells higher to the retailer. He admits that the New Orleans manufacturers still have a lower rate to Mobile than any other point with which they come in contact; but the difference is slight, and it would take but a small advance to equalize it. The trade at Mobile has been accustomed to buy goods delivered, and it is going to be difficult, as he says, to get the increase from them in the future, although the New Orleans manufacturer is now doing so. Under normal conditions the manufacturers would have to absorb the advance and keep the Mobile jobber on a par with others, but now it is done by the jobber.

There is nothing in any of this to sustain the findings of the commission which have been referred to, or to justify the reduction which it has ordered. The rates to Mobile were so low before that the manufacturers in New Orleans could afford to absorb them and did so. They can not, perhaps, afford to do so now. And because the Mobile jobber has become accustomed to get his goods free the manufacturers in New Orleans anticipate trouble. But this is a possibility which the railroad can not be required to prevent, and the situation as disclosed by this witness indicates that the former rate was certainly low.

Again, the commission makes the statement that the advance in rates on furniture, iron beds, etc., had practically closed out the business with Mobile in these articles, better rates being made on them from other manufacturing points, such as Atlanta, Ga., and High Point

and Winston Salem, N. C. This is a clear mistake of fact, due no doubt to inadvertence, but none the less serious, it being the uncontradicted evidence that, with one single exception, where the rate from Atlanta to Mobile is a cent lower than from New Orleans, all the rates on all the articles named from the three places mentioned are not only higher, but very materially higher, than from New Orleans. It is true that, according to Mr. Wright, there is a restrictive loading rule with regard to furniture from New Orleans to Mobile which is not imposed as to Nashville and Memphis. But this does not apply to any other points, and while it apparently gives some advantage to Memphis over New Orleans, Nashville is simply put on an equality with it. It is to this rule, also, and to the changed classification of mixed furniture in carloads, that he ascribes his loss of trade rather than to the present rate advances.

The testimony of P. Jung, another iron-bed manufacturer, is even less to the purpose. He says he never sought the Mobile field nor made any effort to get into Pensacola and has not been affected by the advance in rates to these places. Before the advance he solicited business throughout Alabama and Georgia, but found that he would have to guarantee rates as against Atlanta, High Point, and Winston-Salem, and that the trade did not warrant it. Evidently the increase did not harm nor would the reduction help him.

This is all the evidence there is as to furniture and iron beds, and it is clear that it does not in any particular support the statement of the commission.

It is further said, however, by the commission that the advance in rates on bags, burlap, gunny, and jute was vigorously opposed, and a strong protest also made on account of the alleged discrimination against New Orleans in cotton goods, it being asserted that other manufacturing points were given more favorable rates. This is sought to be sustained as to cotton goods by a comparison of rates from Virginia and North and South Carolina points, as well as from Augusta, Ga., and even from New York and Boston. The suggestion that the advance was vigorously opposed or that a strong protest was made affords neither evidence nor argument. This is always to be looked for where there is an increase in prices, whether warranted or unwarranted. Nor is anything more to be made out of the rate comparison. The commission does not say that the rates to Mobile on cotton goods are less from other manufacturing points than from New Orleans, which is not the fact, as is demonstrated by the evidence, but only that the rates are more favorable. But this is based on the mere matter of distance, which is no criterion, as already stated, without the consideration of other attending conditions. As pointed out also in connection with the Montgomery rates—according to the testimony of Mr. Odenheimer, on which this part of the case is evidently based—there are cotton mills both at Mobile and Montgomery, as well as at the other competing points named, and it is not to be expected that rates on cotton goods should be put so low that New Orleans manufacturers would have an advantage over all others in that territory beyond what they already have; which would be the rankest discrimination. And the matter of burlap and gunny bags is not much different. The testimony of Mr. R. J. Wood is directed to this and has already been considered in another connection. So far as Montgomery and Pensacola are concerned, he frankly says that the advances have not injured his business. His complaint is as to points beyond, with regard to which he has not a little to say, but it has been discussed above and there is no occasion to again go over it.

This completes the case as to Mobile; and that with regard to Pensacola, except that it is still weaker, is no different. It is said by the commission that the advance in rates "was not so heavy or so injurious to the merchants in New Orleans in their trade with Pensacola as the advance to Mobile, but they strongly protested against it, and it was shown that, proportionately, like conditions resulted from the advance as were produced by the increase in rates to Mobile." But there is nothing to sustain this statement. One witness, Mr. Palmer, a paper dealer, says that he would be affected in Pensacola the same as Mobile; but he is not affected at all at Mobile and can not, therefore, be at Pensacola. Another, Mr. Steinhart, who deals in soap, says that they get no orders from Pensacola because the rate is said to be so high; and what he wants and thinks the company should come down to, as he is not slow in saying, is a 10 or 12 cent rate, the same as on rice and sugar, which is hardly to be expected. The other witnesses called, to a man, declare either that they have no complaint to make or that their business at Pensacola is slight or that they have not been affected; and yet the commission finds with regard to the trade with Pensacola what has just been stated.

Opposed to the evidence which has been thus referred to—if there can be said to be any opposition to what is so irrelevant and wanting in persuasiveness on the question as to what is reasonable—there are several witnesses produced by the railroad company of large experience, who testify that the rates prescribed by the commission, both to Mobile and Pensacola, as well as to Montgomery, are unjust and unfair, under all the circumstances, and among others, because they are less than those usually and ordinarily charged by the company, as well as by other railroads for the transportation of like classes of property between other points in the South separated by similar distances; because the rates which were cut down permitted a free movement of traffic and there were no competitive or commercial conditions calling for a reduction; and because the rates as reduced would give to New Orleans an undue and unreasonable advantage and preference over Vicksburg, Memphis, and other Mississippi and Ohio crossings, and would disrupt and destroy the relative adjustment and the general system of rates which have prevailed in the southeastern territory ever since the Cooley arbitration. It is also indisputably shown that the New Orleans-Mobile line along the Gulf coast is exceptionally difficult and costly to operate; that a considerable portion of it consists of long trestles and bridges which are subject to extraordinary damage and sometimes to a complete destruction by floods and freshets in the streams which they span; that its proximity to the Gulf lays it open to the full force of the Gulf storms and hurricanes, by which it was entirely put out of business for nearly a month in the early fall of 1909, and for considerable periods at different times previously; that the intermediate territory traversed is so sparsely settled and its freight traffic so small that the successful and profitable operation of the line is necessarily dependent on the through traffic between New Orleans and Mobile and points beyond, in consequence of which the company has never received even a fair return from its operations; and finally, that the cost of operation by reason of the increase in wages, in maintenance, and in the price of locomotives, cars, and other matters of equipment, has grown so enormously in the last few years that to go back to rates established under earlier conditions, when there was active water competition, instead of being fair and reasonable, is to work great and manifest injustice in disregard and in the face of this undisputed showing.

There was no attempt to meet the case as so made out for the company either by way of argument or otherwise. Counsel for the commission and for the Government simply rely on the authority of the commission to determine what is a reasonable rate and the conclusiveness of its judgment where it has done so, against which, it was argued, the courts can afford no relief unless the rate which has been fixed is shown to be confiscatory. But this contention, as presented and sought to be applied in the case at bar, must be rejected. In our judgment, it was never intended to confer on the commission any such unrestrained and undirected power. As already pointed out, the law provides for a hearing, and it must be more than a shadow. Both parties are entitled to be confronted with the evidence on which the case is to be determined, and the conclusion reached must be a reasonable inference from the facts disclosed by the investigation. This construction of the commission's authority and the conditions which limit its exercise appear to us clearly and definitely settled by the recent decision in Interstate Com. Com. v. Union Pacific R. R., supra, which is the latest and fullest utterance of the Supreme Court in a case of the same general class as the one now under consideration. Tested by the principles laid down in that decision, we are of opinion that the order here drawn in question must be held invalid as exceeding the delegated powers of the commission, because there was no substantial evidence to sustain it. It is not merely that the evidence preponderates in favor of the reasonableness of the rates which have been cut down. Concededly, that would not be enough to challenge the action of the commission. Not only is the commission vested with a discretion which can not be disturbed, and which we intend unqualifiedly to respect, but it is entitled to select the testimony which it will believe and rely upon, according as it addresses itself to the discriminating judgment of the commission. But it is not within the authority of the commission to reduce the rates in this or any other case, not merely against the weight of the evidence produced to sustain them, but without anything substantial to warrant the conclusion reached or the reasons assigned therefor. And this we are convinced is a case of that character. The only discoverable basis for condemning the rates to Mobile and Pensacola is the fact that they had been advanced in 1907, and this of itself was clearly not sufficient. (Interstate Com. Com. v. Chicago Great Western, 209 U. S., 108.) If the long continuance of lower rates to these points or the circumstances connected with their increase called for explanation, as suggested in the case cited, the explanation made by the carrier, in the absence of anything to discredit it, must be held to sustain the advance as against any presumption that it was unreasonable, and therefore there was nothing substantial to support its condemnation. Nor is there anything of substance to sustain the reduction of the Montgomery rates except the fact that they exceeded the former combination on Mobile and Pensacola. Outside of these facts, having regard to the undisputed evidence adduced at the hearing, the existing rates were not shown to be unjust or unreasonable, and there was therefore no valid basis for the commission's conclusion.

And the petitioner is therefore entitled to a decree annulling the order.

Mack, judge, dissents.

Q. (By Mr. Manager STERLING.) You had some further negotiation with Mr. Warriner, of the Lehigh Valley Co., did you not?—A. I went to see him once after that; yes.

Q. And you talked to him then about the coal-land transaction, did you not?—A. Well, hardly that.

Q. You tried to sell to him the Everhart interest in 800 acres of land?—A. Absolutely not.

Q. You talked with him about it?—A. No; I will go into that if you desire.

Q. Did you talk with Warriner about the Everhart interest in 800 acres of land?—A. The Lehigh Valley——

Q. Did you talk with him about it?—A. About the interest of what?

Q. About purchasing the Everhart interest in 800 acres?—A. No; not the way you put it.

Q. In what way did you talk with him about it?—A. The Everharts had leased two pieces of property to the Lehigh Valley Coal Co.

Q. No; I am not asking you for facts. I am asking you what was said to Mr. Warriner?—A. I can not tell you what was said without giving the facts about what was said.

Q. Just state the substance of the conversation that you had with Warriner about that.—A. I spoke to Mr. Warriner about the Lehigh Valley leases, the one with regard to 400 acres, which, I think, was known as the 1884 lease, and the one with regard to 800 acres, which was known as the 1888 lease. In the 1888 lease the Lehigh Valley Coal Co. had bought out——

Q. Did you tell him that?—A. That is what we were talking about.

Q. Go ahead and state the conversation.—A. I had to refer to something as the basis of the conversation. The Lehigh Valley Coal Co. had bought out all but one of the Everhart heirs—Mrs. Llewellyn, of Philadelphia—and, according to my information, they had endeavored to negotiate a sale from her for a definite price, the same they had paid the others, $100,000, and they had not been able to effect it.

Mr. CULBERSON. Mr. President, before we pass from the Bruce argument I desire to ask another question.

The PRESIDENT pro tempore. The Senator from Texas propounds a question which will be read to the witness by the Secretary.

The Secretary read as follows:

In one of your letters you say that the opinion in the Bruce case reflected the argument of Mr. Bruce. What argument did you refer to, the oral argument or the private-letter argument? What effect did this last argument have upon you?

The WITNESS. I referred entirely to the oral argument and to the printed brief which was submitted at that time. It was certainly a very fine argument and a very fine brief. That statement had nothing whatever to do with what was contained in the answer to my letter of the 10th of January. That letter had no effect, absolutely none, upon the decision of the case.

Mr. CULBERSON. What did you write it for, then?

The WITNESS. I wrote it on account of——

The PRESIDENT pro tempore. The Senator must submit his question in writing.

Mr. CULBERSON. Since I am handicapped in the examination I will take the liberty of asking the manager to put the question, if I may be permitted.

Mr. Manager STERLING. I will ask it. [To the witness:] Just answer the Senator's question. What did you write it for if it did not have any effect?

The WITNESS. It simply was, as you might say, to meet the argument that had been made by Judge Mack with regard to what are known as variations from the Cooley award. Judge Mack was assuming the position of dissent, and that was one matter that he raised. It only enters incidentally into the decision of the case, very incidentally. It was simply to get his views. It was something that had arisen entirely outside of the argument, and, as I said, the case could have been disposed of entirely without reference to that. But in writing the opinion it was deemed necessary to cover that point. That point was covered. As I said, I did not write that part of the opinion any more than I wrote the part in regard to the testimony of Mr. Compton.

Q. (By Mr. Manager STERLING.) Judge, you did use it for the purposes for which you got it? You used it to meet Judge Mack's views, did you not? You say you got it to meet Judge Mack's argument and you used it for that purpose?—A. I do not remember that I did. I do not remember that I discussed the matter with Judge Mack at all.

Q. You did not use it for the purpose for which you got it, you say?—A. I do not think I did.

Q. Did you tell Judge Mack you had this correspondence with Bruce?—A. No.

Mr. REED. Mr. President, I send a question to the desk.

The PRESIDENT pro tempore. The Senator from Missouri propounds a question, which will be submitted to the witness by the Secretary.

The Secretary read as follows:

Why did you not give the attorneys on the other side a chance to present their views?

The WITNESS. Because the point in the case amounted to so very little. It did not enter into the decision of the case practically at all. It was not a controlling question. It merely came up incidentally.

Q. (By Mr. Manager STERLING.) If it was so insignificant why did you take the trouble to write to Bruce about it? It was as important to the other side of the case as it was to Bruce's side of the case, was it not?—A. Yes; it was just as important to one side of the case as to the other.

Mr. NELSON. I present the following question.

The PRESIDENT pro tempore. The Senator from Minnesota propounds a question, which will be submitted to the witness by the Secretary.

The Secretary read as follows:

You set out to write an opinion in favor of the railroad company and you wanted Mr. Bruce to fortify you in this, did you not?

The WITNESS. No; I do not think that what I did could be characterized that way.

Mr. REED. I should like to ask another question.

The PRESIDENT pro tempore. The Senator from Missouri submits a question, which will be propounded to the witness by the Secretary.

The Secretary read as follows:

How would you characterize it?

The WITNESS. I can go into a full explanation. I do not think I can answer that question in a word. As I have said, so far as the first letter was concerned the position taken in the opinion entirely disregards the suggestions of that letter with regard to the testimony of Mr. Compton, and so far as the second letter is concerned with regard to the variations from what are known as the Cooley award, that matter is dealt with in that part of the opinion by Judge Knapp.

Mr. CULBERSON. Mr. President, I have a question to propound on the same subject.

The PRESIDENT pro tempore. The Senator from Texas propounds a question, which will be submitted to the witness.

The Secretary read as follows:

Why did you not give the Bruce letters to your associates on the bench?

The WITNESS. Because, as I said, they practically did not enter into the decision of the case or control or influence the decision in the case.

Mr. REED. I send the following question to the desk.

The PRESIDENT pro tempore. The Senator from Missouri propounds a question, which will be submitted to the witness.

The Secretary read as follows:

If the information you requested was immaterial, why did you request it?

The WITNESS. It seemed to be material at the time, but it did not prove so in the end.

Mr. SMITH of Georgia. Mr. President, I submit a question.

The PRESIDENT pro tempore. The Senator from Georgia submits a question, which will be propounded to the witness by the Secretary.

The Secretary read as follows:

Did you obtain the aid of Mr. Bruce to prepare a dissenting opinion, and, after obtaining his aid, bring the majority of the court over to your view of the case without disclosing the fact either to opposing counsel or the court that you had been corresponding with Mr. Bruce?

The WITNESS. I wrote the dissenting opinion, which I did solely upon my own views and study of the case. Certainly I did not write that dissenting opinion with any conference with Mr. Bruce or any correspondence, except just the one letter, which has been put in evidence. I had reached a conclusion with regard to the testimony of Mr. Compton the same as Mr. Bruce speaks of in his letter. With regard to that, I simply wanted a confirmation of that view. As I said, it is a very inconsiderable point in the case, only one of very many.

Mr. REED. Mr. President, I send to the desk a question.

The PRESIDENT pro tempore. The Senator from Missouri submits a question, which will be propounded the witness by the Secretary.

The Secretary read as follows:

When did you conclude that the information you sought from Mr. Bruce was immaterial?

The WITNESS. In talking the matter over with Judge Knapp I saw that there was no occasion to dwell upon that point of the case. The time, really, when Judge Knapp and I talked the matter over, after it had been decided that we would render a decree in favor of the Louisville & Nashville Railroad——

Mr. SHIVELY. Mr. President, I send a question to the desk.

The PRESIDENT pro tempore. The Senator from Indiana propounds a question, which will be submitted to the witness by the Secretary.

The Secretary read as follows:

Was it after you received the letter from Mr. Bruce that the dissenting opinion which you prepared became in substance the opinion of the court?

The WITNESS. It was after the first letter which I received, along in the summer of 1911, that my dissenting opinion, or the substance, became the basis of the opinion of the court.

Mr. JONES. Mr. President, I submit a question.

The PRESIDENT pro tempore. The Senator from Washington submits a question, which will be propounded to the witness by the Secretary.

The Secretary read as follows:

If the information sought seemed material when you asked for it, did it not occur to you to advise other counsel or your associates of your desire to secure it?

The WITNESS. It did not, or I should have done so.

Mr. POMERENE. Mr. President, I submit a question.

The PRESIDENT pro tempore. The Senator from Ohio submits a question which will be propounded to the witness.

The Secretary read as follows:

If it was such an inconsiderable point about which you wrote to Mr. Bruce, why was it necessary to meet the views of Judge Mack on this point?

The WITNESS. Well, when there is one member of the court sustaining a certain line of views they become the subject of discussion very naturally and necessarily. I never regarded, if I may be permitted to say so here, that the point upon which Judge Knapp eventually dissented really was of any significance in the case. I am characterizing the opinion of my associate in a way in which I would not do except for the question. It was necessary to say that in order to answer the question.

I should like very much, if I could be permitted, to explain this whole thing, because I feel satisfied that if I could it would show the Senate more fully what I have endeavored to show in answer to these questions.

Mr. REED. Mr. President, I send a question to the desk.

The PRESIDENT pro tempore. The Senator from Missouri propounds a question which will be submitted to the witness by the Secretary.

The Secretary read as follows:

Did you communicate to your associates in argument the views set forth in the Bruce letters?

The WITNESS. No; those were the arguments with regard to the Cooley award, which was the matter spoken of in the letter of January 10. Those were advanced in answer to Judge Mack by Judge Knapp, without reference to anything that appeared in my letter or without any suggestion on my part. They were the natural and obvious answer, as it seemed to me, to the position taken by Judge Mack.

Mr. REED. Mr. President, the witness said he desired to explain my question. My question is directed to that request.

Mr. POMERENE. I have a question, and it was directed to the same point.

The WITNESS. I will be as brief as I possibly can. The questions involved in the Louisville & Nashville case were the reduction of class rates which had been ordered by the Interstate Commerce Commission from New Orleans to Mobile and Pensacola, and through Mobile and Pensacola to Montgomery and beyond. Those rates, so far as the rates from New Orleans to Mobile and Pensacola are concerned, had been established, as it was claimed by water competition, at a very low point by the railroads.

The rate from New Orleans to Montgomery would ordinarily be made up by the rates from New Orleans to Mobile or to Pensacola plus the rates from either of those two places to Montgomery and beyond. It so happened—and this was the complaint against the rates of the railroad—that the through rate from New Orleans to Montgomery was greater than the combination on those two places or than the sum of the locals. That complaint having been made to the commission, the railroad company then raised its rates to the intermediate points, so that the sum of the locals would equal the through rate to Montgomery.

It was that controversy in that case that came up before the Commerce Court. The main contention before the Commerce Court—the one controlling contention—was that the Interstate Commerce Commission had no evidence before it—not evidence on which there might be a difference of views, but practically no evidence—to sustain the conclusions which they had reached, which were involved in the decision of that question and that case, and also that they not only had no evidence, but that they had mistaken the evidence. On the part of the Government and the Interstate Commerce Commission it was contended that the court was not authorized to go into that question at all. That was the position assumed by them, and was their main contention.

The view that I took originally with regard to that was in line with the argument made by Mr. Bruce at the time the case was originally made, that there was practically no evidence to justify the conclusion of the Interstate Commerce Commission. The Interstate Commerce Commission in the opinion which they rendered—a copy of which I have here in my hand and which I should like to go into the RECORD—gave sundry reasons for this decision. There were two matters in that opinion about which the two letters written to Mr. Bruce are concerned, and I will refer to them in their order. I should like to read this extract from the opinion of the Interstate Commerce Commission at this point, bearing in mind that the question for us to decide, the contention on the part of the railroad company that there was no evidence—substantially no evidence—a conclusion which was finally reached in the opinion of the majority of the court. This is the extract:

It was stated by the principal witness—

This is one of the reasons, and the only reason, given by the Interstate Commerce Commission for the order which they made—

It was stated by the principal witness for the defendant that between points on its line where the through rate exceeded the combination of rates from point of origin to a competitive point, and from said competitive point to destination, shippers were given the benefit of the combination rate, and this provision appeared in several circulars and was very generally observed, as a rule, for the adjustment of freight rates; and such having been formerly the custom of the defendant, it would seem now to work no especial hardship upon it to reduce rates to the basis of the former combination.

That is to say, it is asserted in that opinion that there existed a rule with respect to the rates involved in the controversy in that case, by which parties shipping from New Orleans to Montgomery would be given the benefit of the combination and reduced in that way on through rates. As a matter of fact, there is not anything in the opinion that sustains that view; that is to say, that was the view which I took in my dissenting opinion, and that is the view that was taken eventually in the opinion of the court; but regardless of that conclusion, here is what the court said upon that point in its opinion——

Mr. WORTHINGTON. The Commerce Court?

The WITNESS. The Commerce Court.

It is undoubtedly true—

Now, this, mind you, was written by Judge Knapp—

It is undoubtedly true, as testified by Mr. Compton—

He was the witness spoken of here as "the principal witness," the traffic manager, I believe, he was, of the Louisville & Nashville Railroad—

It is undoubtedly true, as testified by Mr. Compton, that it was a more or less general practice to protect through shipments against the combination of locals, and a rule to that effect was carried by his road in certain of its local tariffs; but there was no such rule in the tariffs naming rates to Montgomery territory, and nothing whatever appeared at the hearing to indicate that through traffic to Montgomery was ever carried at less than the Montgomery rate. A colloquy occurred in the course of Mr. Compton's examination, in which he seems to have admitted that the rule in the local tariffs referred to, not being limited in terms, might be claimed to have authorized the application of the Mobile combination to Montgomery shipments. But the point is not what those tariffs might have been considered to mean, but what the actual practice was in respect to the traffic in question. Evidently the road was always careful to maintain this Montgomery rate.

I wrote my dissenting opinion. In looking over the testimony, of which I made the abstracts which I have here in my hand—a very voluminous record—I reached the conclusion with regard to Mr. Compton's testimony contrary to that which appeared in the opinion of the Interstate Commerce Commission. I wanted to make sure about that, and I wrote the letter which I have written, the first letter, to Mr. Bruce, to ascertain whether the view which I took of that, which depended upon whether the word "not" had or had not been omitted, was correct; and he sustained me in that view; but as I read the opinion as it is now formulated, that matter was put entirely aside, and it was assumed that what Mr. Compton had said was what the Interstate Commerce Commission say that he said, because, reading again, I find this:

A colloquy occurred in the course of Mr. Compton's examination in which he seems to have admitted—

It seems to me Mr. Compton did admit—

that the rule in the local tariffs referred to, not being limited in terms, might be claimed to have authorized the application of the Mobile combination to Montgomery shipments.

Then he goes on to point out that, notwithstanding that fact, the conclusion reached by the commission upon that point was not correct. That is what was embodied in the first letter.

The second letter goes to this part of the opinion of the Interstate Commerce Commission. The whole basis of rates into the southeastern territory by all the railroads running in that direction, covering the rates from what was known as the Mississippi and Ohio River crossing points down into that territory, including the rate from New Orleans into Montgomery territory, had been originally submitted to arbitration by the carriers. Judge Cooley, the first president of the Interstate Commerce Commission, was the arbitrator. As the result of that he established a relation of rates into that territory. That arbitration had stood, according to the contention on the part of the Louisville & Nashville Railroad, from that time, away back in 1886, until the controversy arose, which, I believe, was in 1907, a long period of years; and that, in view of that fact, that arbitration was entitled to particular consideration at the hands of the Interstate Commerce Commission in reaching the result; and that, in disregard of it, they had put it aside as being nothing more than what might be said of historical value.

This is part of the Interstate Commerce Commission's opinion to which that refers:

The Cooley arbitration in 1886 has been strongly urged by the defendant as a reason for the nonreduction of the present advanced rates. This arbitration established a relation of rates as between the several Ohio and Mississippi River crossings applying upon products from the territory north and west of those rivers destined to the southern and southeastern territory by fixing a basis for making rates from these several basing points to the southeastern territory, with the object of maintaining an equitable relation and equality of the basing rate as between said points on goods transported to southeastern territory, but we do not understand that this arbitration undertook to fix the actual rates for carriage from the several basing points to destinations in this territory.

Here is the significant part:

However, if such were the case, the building of new railroads, competition, and other causes forced many departures from the adjustment and the rates made under it, until it has become materially altered, and it is inevitable and proper that it should yield to meet new and changed conditions.

In other words, the reason given by the Interstate Commerce Commission for disregarding the Cooley award was the suggestion that there had been so many departures from it. That was the position taken also by Judge Mack based upon this: There are class rates and commodity rates. The difference between them I endeavored to explain yesterday. There is a classification of freight, running from first class to sixth class, and some lettered classes. I do not know what enters into that matter, and it is not material.

Then there are commodity rates; that is to say, a lot of commodities grouped together to form a class are put in a class because they have certain relations to each other; but for some reason or other one of these commodities will be taken out of a class and given a specific rate. Those are the commodity rates.

When this matter originated before the Interstate Commerce Commission both class rates and commodity rates were involved; but as a result of that the railroads made the changes in the commodity rates of which complaint was made, so that there was nothing left in the controversy except with regard to class rates; but the position taken by Judge Mack was—and apparently the only justification for the position taken by the Interstate Commerce Commission in that part of the opinion which I have read was—that there had been a variation from the Cooley award in commodity rates which were not involved. Judge Mack examined the tariffs at great length and reported that he found I do not know how many variations in the commodity rates, and he said that justified the statement of the Interstate Commerce Commission which I have particularly referred to:

However—

Reading from the opinion—

However, if such were the case, the building of new railroads, competition, and other causes forced many departures from the adjustment and the rates made under it, until it has become materially altered, etc.

What was said in that opinion related, as I understood and as every one of the members of the court understood, really to class rates, which was the only question involved in the case before the Commerce Court. The matter set up by Judge Mack was that there had been variations in the commodity rates and that that justified the statement. That is the whole issue that there was; and that is the whole question that was referred to in the letter to Mr. Bruce. It only incidentally enters into the result, because it only bears upon one of the reasons that the Interstate Commerce Commission gave for its opinion. It might have been entirely disregarded and the result reached be practically the same as it was. As I have said, I think that is reflected entirely in the opinion where the matter of the Cooley award is treated. The obvious answer is that you can not base a variation from the Cooley award on commodity rates as bearing upon whether there had been a variation from the Cooley award with regard to class rates.

That is all there is to it; that is what is said in the opinion; and, as I have said, that view is the view that was advanced by Judge Knapp and coincided in by the rest of the court, and is what appears in the opinion. I had no more influence in bringing about that view than other members of the court; and the views that were advanced by Mr. Bruce in his letter were not communicated to the other members of the court. It seemed to me that it was only in justice to Mr. Bruce, this question having been raised entirely outside of the record and not in the argument at all, that if it had any bearing, as I do not think it had in the practical result, he was entitled to have the views that he expressed appear there.

The PRESIDENT pro tempore. The Senator from Missouri [Mr. REED] submits a question which he desires propounded to the witness. The Secretary will read the question.

The Secretary read as follows:

Do you as a judge consider it a safe practice to ask the lawyer interested in a particular construction of evidence for his views without giving the opposing attorney a chance to be heard?

The WITNESS. I wish to say emphatically no, coinciding entirely with the view which I consider to be expressed in the opinion. There may be circumstances which might justify that, but it certainly would be very unusual; and I have tried to follow that as a cardinal rule in all my practice and all my experience upon the bench.

The PRESIDENT pro tempore. The Senator from Idaho [Mr. PERKY] propounds a question, which will be read to the witness.

The Secretary read as follows:

In your answer to article 4 of the articles of impeachment exhibited against you, you admit that you requested Mr. Bruce to see one of the witnesses in order to get the witness's explanation of a phase of his testimony. Do you regard this procedure as fair to the opposing side? Does such confidence not invite and encourage imposition?

The WITNESS. Well, my views now, with the light that has been thrown upon the subject, might vary from what they were at the time. I think I may say frankly that if I had supposed there was any unfairness or even any impropriety, my judicial sense and my sense of propriety would have kept me from that. If it seems otherwise to Senators, I regret it; but that is all I can say. It did not seem to me, it did not impress me, in the way that has been suggested here.

Mr. CULBERSON. Mr. President, I submit a question which I desire to have propounded to the witness.

The PRESIDENT pro tempore. The Senator from Texas submits a question, which will be read to the witness by the Secretary.

The Secretary read as follows:

As you condemn the reprehensible practice involved in the Bruce correspondence, as I understand you, what explanation of it or excuse for it have you to make to the Senate? State it fully and frankly.

The WITNESS. I do not think that what I have said constitutes or is intended to constitute an admission that, under the circumstances of this case and under the conditions which existed, the practice was reprehensible. I may be obdurate in that opinion. So far as that seems to have been a practice that was reprehensible, or not to be commended by the Senate, I have no further excuse or no further explanation than that which I have endeavored already to give.

The PRESIDENT pro tempore. The managers will proceed with the examination.

Q. (By Mr. Manager STERLING.) Going back to article 6, Judge, you did have a talk with Warriner about the Everhart interest in this 800-acre tract?—A. Yes.

Q. And the purpose of it was to get him to buy their interest in that tract?—A. No.

Q. Well, what was said?—A. He was anxious to buy that interest.

Q. What was said between you and him?—A. I knew, or I understood, that he was anxious to buy that interest. I did not have it to sell, but I understood that Mr. Dainty was on friendly relations with Mrs. Llewellyn, controlling the outstanding interest, and that he possibly could secure that interest for the Lehigh Valley Railroad Co. That was what he represented.

Q. What Dainty represented to you?—A. What Dainty represented; yes.

Q. Then did you have him go to see the Everhart interests?—A. No; I did not.

Q. Well, did he go to see them?—A. I do not know.

Q. You and Dainty were connected in the matter, were you not?—A. No.

Q. Why did Warriner then come to you about it, or why did you go to him?—A. He did not come to me.

Q. Did you go to him?—A. I went there and saw him at his office.

Q. Why did you go and see him about it if you were not concerned in it?—A. Simply as a matter that affected Mr. Dainty; so far as it affected Mr. Dainty.

Q. Then you and Dainty were connected in a way with it, were you not?—A. We were connected in the way I have described.

Q. You went just as a friend of Dainty?—A. Practically that.

Q. Was there not an understanding between you and Dainty that you and he were to get the Everhart interest for sale, sell it to the Lehigh Valley Co., and get a commission on it?—A. Absolutely not.

Q. Well, at the same time you talked to Warriner about that, you also talked to him about leasing another tract of 320 acres to Dainty, did you not?—A. Yes; that was the suggestion——

Q. You tried to get from Warriner a lease for Dainty on that, did you not?—A. I suggested that if Mr. Dainty was instrumental in securing the Llewellyn interest for the price which they named—Mr. Warriner said they would absolutely pay nothing but the $100,000; indeed, he said they would deduct the royalties that had been paid to Mrs. Llewellyn, since the other heirs had been bought up, because we did not propose to make any difference or any distinction between her and the others—I suggested that if Mr. Dainty did that, then he would like to lease the Morris & Essex tract.

Q. Did anything come of that conference with Warriner about those two matters?—A. No.

Q. They neither bought the Everhart interest nor rented to Dainty through you the 320-acre tract?—A. No.

Q. How long had you known Dainty?—A. Oh, I had known of him longer than I had actually met him. I had not met him very long before this occurred.

Q. Well, Williams brought him to you, did he not?—A. Yes.

Q. And introduced him to you?—A. I met him and Williams on the street one day.

Q. Did he not come to your office with Williams?—A. He did.

Q. This was just shortly before your conference with Warriner?—A. Yes; not long.

Q. Williams told you what Dainty wanted; but he said to you that he had not told Dainty that you were the only man in Scranton that could get these interests from the railroad company?—A. No; that is not so.

Q. Well, what did he say about that?—A. Mr. Dainty did the talking.

Q. What did Williams say when he introduced Dainty?—A. Mr. Williams brought Mr. Dainty there with the suggestion that he would be able to get the Everhart interest in the Katydid dump.

Q. How were you interested in that? Did Williams know you were trying to get those interests for sale?—A. That was during the negotiations that we were carrying on with regard to the Katydid dump.

Q. Well, how did that bring up the matter of the Everhart interest in the 800-acre tract?—A. I presume Mr. Dainty mentioned that fact; he must have mentioned it.

Q. That was the purpose Williams had in bringing Dainty there—so you could talk about that?

Mr. WORTHINGTON. I object to asking the witness what Mr. Williams's purpose was.

Mr. Manager STERLING (to the witness). Well, what did you say to Williams?

The WITNESS. I do not understand what you mean when you ask what was his purpose. I do not know what you refer to.

Q. Williams brought Dainty to you, so that Dainty could get you to intercede for him with the railroad company with reference to these two matters?—A. Oh, no; there was nothing suggested like that.

Q. That is what you talked about, was it not?—A. No; that is not what we principally talked about.

Q. Well, you did talk about it?—A. No.

Q. Not at all?—A. Not further than what I have suggested.

Q. Well, you did talk about it, then, to that extent?—A. Yes.

Q. As the result of that you went to Warriner to see what you could do for Dainty in that regard?—A. I went to Mr. Warriner and made a suggestion to Mr. Warriner that Mr. Dainty thought he could get the Llewellyn interest.

Q. And you asked him if he would rent Dainty this 320 acres of land?—A. I suggested, as I have said, that Mr. Dainty would like, if he succeeded in doing that, to get a lease on the Morris & Essex tract.

Q. Why did you do that, Judge?—A. As a matter of friendliness.

Q. To Dainty?—A. Yes.

Q. You had never met him before?—A. Oh, yes; I had.

Q. Was there any express understanding between you and Dainty that you were to share in the commission for the sale of the Everhart interest and in the profits of the lease which Dainty was to get for the 320 acres?—A. Absolutely not.

Q. Now, Judge, you did not know about the contribution by members of the bar until you got on board the ship, did you?—A. I did not.

Q. And you received it in a package with the letter about which you testified yesterday?—A. Yes.

Q. After you arrived in Europe you sat down and wrote to the contributors thanking them for it?—A. Yes.

Q. How did you know who the contributors were?—A. I did not know, except as their names appear.

Q. In this letter?—A. Well, there were others whose names are not in that letter.

Q. In this letter, marked "Exhibit UU"?—A. There were three others whose names are not in that letter.

Q. Where did you get those names?—A. After I got to Italy I received a letter from Mr. Searle, in which he communicated the fact that there had been additional contributions made by three members of the bar of Luzerne County, at Wilkes-Barre—Judge Wheaton, Mr. Woodward, and Mr. Lenahan—and he wanted to know whether he should forward that money to me. I told him no; that he should keep that until I got home.

Q. How much was there of that?—A. $125.

Q. Was that in addition to the $525 contained in the package?—A. It was.

Q. And where is that letter which you got from Searle?—A. I really do not know.

Q. I see you have indorsed this letter on the back for filing away to keep it, so that you could remember the names of the contributors, I presume?—A. I filed it away; yes. I preserved it.

Q. Why did you not preserve the other one in the same way, so that you could remember the other gentlemen?—A. I think I have.

Q. Why did you not bring it with you?—A. I did not think about it.

Q. Did you not think about that when you thought about this?—A. I beg pardon.

Q. Did you not think about that when you thought about this?—A. No; I did not. This was the particular characterization of the gift.

Q. When you got back, Mr. Searle gave you the $125, did he?—A. Yes.

Q. Making a total of $650?—A. Yes.

Q. How many times did you go to Warriner with reference to the Dainty transactions?—A. Once.

Q. Do you think Mr. Warriner was mistaken when he said you saw him more than once?—A. I do not remember what his testimony is. I would not be positive that I was limited to one time.

Q. Do you think Warriner was mistaken when he said you approached him with reference to that matter?—A. Well, I do not want to put my testimony in comparison with his or that of anyone else. I have only given you my remembrance.

Q. Do you remember he said that a year before that the road had contemplated purchasing that interest, but that they had not considered it lately?—A. I can not tell you about his testimony. I have given you mine.

Q. On yesterday you were asked about addressing these letters to the railroad companies on the Commerce Court paper. I believe you said then you had not any other paper?—A. I think that the paper that I had been using as district judge ran very low about that time. I believe some of the letters that I wrote were on district judge paper.

Q. Did you not have any blank paper?—A. I think there was some blank paper that was used in case of a letter going over one page.

Q. Did it occur to you that it would look better and be in better taste to write these railroad companies in reference to these business transactions on other paper?—A. It might have been better taste.

Q. Do you think you would have done it if you had had other paper there?—A. I could not tell you that.

Q. You did have other paper there, I presume, because in these letters where you have used more than one sheet the second sheet is always blank paper?—A. I think that is true.

Q. And that is the form in which the Commerce Court paper comes to the members, is it not?—A. No, not unless you ask especially for it; but I have special blank paper.

Q. You have it?—A. Yes. The form that that assumes, of course, is largely the result of the typewriting of my stenographer. I dictated a letter, and it was taken off and put on paper and I signed it.

Q. Let me ask you this. Have you noticed, Judge, in your correspondence which is in evidence in this case that in every instance where you addressed railroad companies or the officials of railroad companies concerning their coal properties and with reference to the negotiations which you were having with them, you used paper with letterheads "Commerce Court" on it, and that in all cases where you used blank paper it was correspondence not with railroad companies? Have you noticed that?—A. I have not.

Q. Did it occur to you at any time, Judge, that it would help to impress the railroad companies with the idea that you had jurisdiction over them in the Commerce Court?—A. It did not, Mr. STERLING.

Mr. Manager STERLING. That is all.

The PRESIDENT pro tempore. Are there any further questions?

Mr. SIMPSON. Yes, sir.

Redirect examination:

Q. (By Mr. SIMPSON.) In the course of your testimony in relation to Article I you said that as you recollected it, the price agreed upon with the Hillside Coal & Iron Co. for the Katydid dump was agreed upon in September. Do you recall a letter of August 30, 1911, page 139, referring to that matter?—A. That was the time. There was but one time. That was when Mr. Williams went to see Capt. May as a result of my meeting Capt. May in the street.

Q. You were asked also whether you saw anybody else than officials of the railroad company in relation to the purchase of the Katydid culm-dump matter. Do you recall the interviews had with Mr. Robertson and the papers that were drawn in relation to that?—A. Oh, yes; of course that occurred.

Q. That was in relation to this identical matter?—A. Yes; certainly; that was in relation to Mr. Robertson's interest, which was a very important part.

Q. The question was asked you by Mr. STERLING as to whether or not Capt. May knew that you had an interest in the Katydid transaction. Will you tell us, please, whether you ever told him that you had a financial interest in it?—A. I do not remember speaking about that. Oh, yes; I think I did. I think I wrote a letter when I asked him to keep the price confidential.

Q. That is one of the later letters that is in evidence in this case.—A. Yes; it is in evidence. At that time I was trying to secure the Brooke's property, the Birdsboro people's interest.

Q. I notice that in the agreement, or draft of an agreement, which was drawn by you between yourself and Mr. Williams and the Laurel line, there appears a clause that "the parties of the first part"—that is yourself and Mr. Williams—"do hereby grant, bargain, sell, and convey unto the parties of the second part, their successors, assigns, and so forth, all of the culm dump," and so forth. You were asked by Mr. STERLING whether or not there was any warranty in the agreement. Do you remember the Pennsylvania act of assembly which deals with those words, "grant, bargain, and sell"?—A. They are held to create a warranty.

Q. It is the act of 1705, is it not?—A. It is.

Q. You were also asked by Mr. STERLING whether or not your name appeared as a party interested, except in one letter, which was written by you to Mr. Conn. I find there are two letters in the record, one dated September 20, 1911, being Exhibit No. 10, page 184, and one dated November 6, 1911, being Exhibit No. 3, page 143. Your name appears as a party interested in both of those letters, does it not?—A. I can not speak except as the exhibit itself speaks.

Q. You would not undertake to say that if the exhibit shows that fact that it appeared only in one letter?—A. No; I do not pretend to contradict the exhibits.

Q. Do you remember what time of day you wrote the letter of October 3, 1911, to Mr. Loomis from Washington?—A. No; I do not.

Q. Do you remember what time of day it was mailed?—A. No; I do not.

Q. Can you tell us how long it takes a letter to go from Washington to Scranton?—A. If mailed in the afternoon of one day it will appear, I think, in Scranton about 11 o'clock. If it is put in the mail later than that in the day, it will not reach Scranton until about 4 in the afternoon of the following day.

Q. If a letter is put in the box in the morning of one day, what time would it reach Scranton?—A. It is not likely to reach Scranton until the following day.

Q. Then your letter of October 3, 1911, mailed from Washington, could not have reached Scranton until the 4th of October at the earliest?—A. No.

Q. And would hardly be the means of fixing a date of meeting on the 5th. My colleague calls my attention to the fact that this letter was sent to Mr. Loomis in New York. What time would it reach New York?—A. I do not know anything about the mails between here and New York, but I imagine they are very much more speedy than they are between here and Scranton.

Q. Would a letter mailed here at an ordinary hour, say after 10 o'clock, on one day, reach New York and be delivered before the next day?—A. I do not think it would. It is five full hours by the fastest train from here to New York.

Q. It was hardly likely, then, that that letter mailed to New York on the 3d of October would have reached New York in time to fix an interview in Scranton with parties that were to leave New York and be in Scranton on the 5th?—A. Well, I would want to consider that, Mr. Simpson, before I answered, sir.

Q. Will you tell us, please, whether or not you ever gave instructions to your stenographer and typewriter as to what paper she should use in writing letters for you?—A. No; I did not particularly.

Q. You say "particularly." I do not know quite what that means.—A. I never gave her any directions at all about it. I dictated a letter and when it came to me I signed it. I did not notice what paper it was on.

Q. Did you ever give her any instructions as to letters to be written to railroads or corporations any differently from letters to be written to anybody else?—A. No.

Mr. SIMPSON. I believe that is all, Mr. President.

The PRESIDENT pro tempore. Are there any further questions to be asked the witness?

Mr. Manager STERLING. There is nothing further of this witness, Mr. President.

Mr. SIMPSON. I offer in evidence, Mr. President, a transcript of the docket entries of the Commerce Court in the Louisville & Nashville Railroad Co. case.

Mr. Manager WEBB. We have no objection.

The transcript referred to is as follows:

[U. S. S. Exhibit VV.]

TRANSCRIPT OF DOCKET ENTRIES, UNITED STATES COMMERCE COURT.

(Docket No. 4.)

PARTIES.

Louisville & Nashville Railroad Co., petitioner, v. The Interstate Commerce Commission, respondent.

INTERVENERS.

The United States.

ATTORNEYS.

For petitioner: Helm Bruce, W. G. Dearing.
For United States: James A. Fowler, Blackburn Esterline.
For Interstate Commerce Commission: William E. Lamb.

PROCEEDINGS.

1910.

January 26. Filing three bills in equity (U. S. Circuit Court, Western District of Kentucky, equity No. 7223). Filing three exhibits. Certificate of Attorney General filed. Making three copies of certificate for circuit judges at request of Attorney General. Attaching certificate and seal to each. Subpœna in chancery issued to March rules, 1910. Making copy of do. for service.

February 11. Order setting cause for hearing February 25.

February 19. Answer filed.

February 21. Motion for interlocutory injunction heard in part. Order filing affidavits of H. B. Biddle and four others. Replication filed.

February 22. Motion for interlocutory injunction further heard. Affidavit of Lincoln Green filed.

February 23. Motion for interlocutory injunction concluded.

April 9. Ordered that judges sitting in chambers be adjourned to session in court. Opinion filed. Order overruling motion for injunction.

May 17. Order appointing Clarence E. Walker examiner. Filing stipulation.

June 16. Petition of intervention of Cincinnati, New Orleans & Texas Pacific Railway Co. and others tendered; motion to file; and order overruling motion. Entering exceptions.

1911.

January 30. Order filing stipulation.

February 13. Stipulation filed.

February 15. Transferred to United States Commerce Court from United States Circuit Court for Western District of Kentucky, equity No. 7223.

February 24. Brief for petitioner filed.

April 3. Ordered that United States be permitted to intervene, and original answer of Interstate Commerce Commission adopted.

April 4. Brief for the United States filed.

April 5. Cause taken under advisement.

April 11. Brief for Interstate Commerce Commission filed.

April 17. Reply brief for complainant filed.

1912.

February 28. Opinion annulling order of Interstate Commerce Commission filed.

March 7. Final decree, in accordance with opinion, entered.

March 12. Dissenting opinion of Judge Mack filed.

March 16. Petition for appeal filed. Assignment of errors filed. Order allowing appeal filed. Præcipe for record filed.

March 23. Order entered directing clerk to transmit originals of certain papers to Supreme Court.

A true copy.

Test.

[SEAL.]

G. F. SNYDER,
Clerk of the United States Commerce Court,
By W. S. HINMAN,
Deputy Clerk.

Mr. SIMPSON. I offer in evidence a transcript of the docket entries in the so-called Lighterage case, No. 38.

The transcript referred to is as follows:

[U. S. S. Exhibit WW.]

TRANSCRIPT OF DOCKET ENTRIES, UNITED STATES COMMERCE COURT.

(Docket No. 38.)

PARTIES.

The Baltimore & Ohio Railroad Co., The Central Railroad Co. of New Jersey, The Delaware, Lackawanna & Western Railroad Co., Erie Railroad Co., Lehigh Valley Railroad Co., New York, Ontario & Western Railway Co., and The Pennsylvania Railroad Co., petitioners, v. United States, respondent.

INTERVENERS.

Brooklyn Eastern District Terminal, John Arbuckle, and William A. Jamison, intervening petitioners. Interstate Commerce Commission, Federal Sugar Refining Co., intervening respondents.

ATTORNEYS.

For petitioners: Hugh L. Bond, Jackson E. Reynolds, W. S. Jenney, George F. Brownell, J. F. Schaperkotter, John B. Kerr, George Stuart Patterson, H. A. Taylor.
For United States: James A. Fowler, Blackburn Esterline.
For Interstate Commerce Commission: P. J. Farrell.
For Brooklyn Eastern District Terminal: Parsons, Closson & McIlvaine, Woodhull Hay.
For John Arbuckle and William A. Jamison: Dykman, Oeland & Kuhn.
For Federal Sugar Refining Co.: Ernest A. Bigelow.

PROCEEDINGS.

1911.

April 12. Petition for injunction, etc., filed.

April 13. Copy of petition filed in office of secretary of Interstate Commerce Commission and in Department of Justice.

April 19. Petition of Federal Sugar Refining Co. to be made a party respondent filed. Order granting petition of Federal Sugar Refining Co. filed.

May 8. Appearance of P. J. Farrell for Interstate Commerce Commission filed.

May 10. Petitioners' notice of motion and affidavits filed.

May 11. Intervening petition of Brooklyn Eastern District Terminal and notice filed. Motion of Interstate Commerce Commission and Federal Sugar Refining Co. to dismiss filed.

May 12. Affidavit of service filed by Brooklyn Eastern District Terminal. Intervening petition of John Arbuckle and William A. Jamison and notice filed. Motion of the United States to dismiss filed.

May 13. Testimony before the Interstate Commerce Commission filed.

May 17. Brief for the petitioners on motion for temporary injunction filed. Points submitted on behalf of the defendant. Federal Sugar Refining Co., filed. Order entered granting Brooklyn Eastern District Terminal leave to intervene. Order entered extending motions of United States and Interstate Commerce Commission to dismiss the petition to cover intervening petitions of Arbuckle and Jamison and Brook-

lyn Eastern District Terminal. Order entered granting John Arbuckle and William A. Jamison leave to intervene. Order entered excluding evidence taken before Interstate Commerce Commission.

May 22. Brief of United States filed. Order denying motion to dismiss. Order granting motion for temporary injunction filed.

May 23. Certified copy of order granting motion for temporary injunction served on chairman of Interstate Commerce Commission.

May 25. Brief for Jay Street Terminal and Arbuckle Bros., interveners, filed. Certified copy of order granting motion for temporary injunction served on Attorney General of United States.

June 9. Answer of Federal Sugar Refining Co. filed. Answer of the United States filed. Answer of United States to intervening petition of John Arbuckle and William A. Jamison filed. Answer of United States to intervening petition of Brooklyn Eastern District Terminal filed.

June 12. Petition for appeal filed by Interstate Commerce Commission. Assignment of errors filed by Interstate Commerce Commission.

June 13. Order entered allowing appeal. Citation on appeal of Interstate Commerce Commission filed.

June 15, 16. Certified copy of citation on appeal served on each petitioner and intervening petitioner. Petition for appeal by the United States filed. Assignment of errors by the United States filed. Order entered allowing appeal of the United States. Citation on appeal of the United States filed.

June 17, 19, 27, 28. Certified copy of citation on appeal of United States served on each petitioner and intervening petitioner.

June 26. Præcipe for transcript of record filed.

October 3. Order designating Judge Mack to hear testimony.

1912.

June 24. Mandate of United States Supreme Court affirming decree of Commerce Court filed. Notice of motion for final hearing, etc., filed. Motion of United States to vacate order for testimony heretofore entered and to set cause for final hearing, etc., filed. Objections of United States to this court taking evidence filed. Appearance of H. A. Taylor for petitioners filed. Appearance of Woodhull Hay for Brooklyn Eastern District Terminal filed. Motion of United States to vacate order for testimony, etc., denied and objections thereto sustained, order entered. Motion of petitioners to proceed to take evidence granted and objections overruled, order entered.

October 10. Order entered granting United States and Federal Sugar Refining Co. leave to withdraw answers and enter motions to dismiss. Motion of United States and Federal Sugar Refining Co. to dismiss filed.

October 19. Brief for Brooklyn Eastern District Terminal filed.

October 21. Brief for Jay Street Terminal and Arbuckle Bros., interveners, filed. Brief for petitioners on motion of respondents to dismiss petition filed. Final hearing commenced.

October 22. Final hearing concluded; cause taken under advisement.

October 23. Brief for the United States filed.

October 28. Reply of Jay Street Terminal and Arbuckle Bros. to brief for United States filed.

November 4. Reply brief for railroad companies, petitioners, on motion to dismiss filed.

November 15. Opinion on final hearing on motions to dismiss filed. Final decree entered annulling order of Interstate Commerce Commission.

November 25. Petition for appeal filed. Assignment of errors filed. Order entered allowing appeal. Præcipe for record filed.

November 29. Notice of filing of præcipe with acceptances of service thereof filed. Certified transcript to Supreme Court.

A true copy.
Test:
[SEAL.]

G. F. SNYDER,
Clerk of the United States Commerce Court.
By W. S. HINMAN,
Deputy Clerk.

Mr. SIMPSON. I offer in evidence a transcript of the docket entries in the fuel-rate case, No. 39.

The transcript referred to is as follows:

[U. S. S. Exhibit XX.]

TRANSCRIPT OF DOCKET ENTRIES, UNITED STATES COMMERCE COURT.

(Docket No. 39.)

PARTIES.

The Baltimore & Ohio Railroad Co.; the Pennsylvania Railroad Co.; the Pennsylvania Co.; Buffalo, Rochester & Pittsburgh Railway Co.; the Pittsburgh, Cincinnati, Chicago & St. Louis Railway Co.; the Wheeling & Lake Erie Railroad Co., and B. A. Worthington, receiver thereof; the Lake Shore & Michigan Southern Railway Co.; the Pittsburgh & Lake Erie Railroad Co.; Buffalo & Susquehanna Railway Co.; Harry I Miller, receiver, Buffalo & Susquehanna Railway Co.; Erie Railroad Co.; the Western Maryland Railway Co.; the Pittsburgh, Shawmut & Northern Railroad Co., and Frank Sullivan Smith, receiver thereof, petitioners, *v.* United States, resopndent.

INTERVENERS.

Interstate Commerce Commission.

ATTORNEYS.

For petitioners: Hugh L. Bond, jr., George F. Brownell, George Stuart Patterson, Clyde Brown, William M. Duncan.
For United States: James A. Fowler, Blackburn Esterline.
For Interstate Commerce Commission: P. J. Farrell.

PROCEEDINGS.

1911.

April 27. Petition for injunction, etc., with exhibits, filed.

April 28. Copy of petition filed with chairman of Interstate Commerce Commission and in Department of Justice.

May 8. Appearance of P. J. Farrell for Interstate Commerce Commission filed.

May 15. Notice and motion to strike by Interstate Commerce Commission filed.

May 19. Petitioners' notice of motion and affidavits filed.

May 22. Order sustaining motion of Interstate Commerce Commission to strike out portions of petition filed.

May 23. Answer of Interstate Commerce Commission filed.

May 24. Brief for Baltimore & Ohio Railroad Co., and other petitioners filed.

May 27. Answer of United States filed.

May 29. Order entered granting application for preliminary injunction.

May 31. Temporary injunction issued in accordance with order of May 29, and served on Attorney General and chairman of Interstate Commerce Commission.

June 6. Petition for appeal filed by Interstate Commerce Commission. Assignment of errors filed by Interstate Commerce Commission. Order entered allowing appeal. Citation on appeal of Interstate Commerce Commission filed.

June 8. Certified copy of citation on appeal served on each petitioner.

June 16. Petition for appeal by the United States filed. Assignment of errors by the United States filed. Order entered allowing appeal of the United States. Citation on appeal of the United States filed.

June 20. Citation on appeal of Interstate Commerce Commission, addressed to Erie Railroad Co. or George F. Brownell, filed.

June 17, 19, 20. Certified copy of citation on appeal of United States served on each petitioner.

June 20. Certified copy of citation on appeal of Interstate Commerce Commission served on Erie Railroad Co.

June 26. Præcipe for transcript of record filed.

1912.

July 1. Mandate of United States Supreme Court reversing decree of Commerce Court and remanding cause to Commerce Court with directions to dismiss filed. Order entered in accordance with mandate of Supreme Court dissolving injunction and dismissing petition.

A true copy.
Test.
[SEAL.]

G. F. SNYDER,
Clerk of the United States Commerce Court.
By W. S. HINMAN.

Mr. SIMPSON. I also offer in evidence the transcript of the docket entries in the Meeker case, No. 49.

The transcript referred to is as follows:

[U. S. S. Exhibit Y Y.]

TRANSCRIPT OF DOCKET ENTRIES, UNITED STATES COMMERCE COURT.

(Docket No. 49.)

PARTIES.

Lehigh Valley Railroad Co. (petitioner) *v.* United States (respondent).

INTERVENERS.

Interstate Commerce Commission, Henry E. Meeker.

ATTORNEYS.

For petitioner: E. H. Boles, John G. Johnson, Frank H. Platt, Everett Warren.
For United States: James A. Fowler, Blackburn Esterline.
For Interstate Commerce Commission: Charles W. Needham.
For Henry E. Meeker: William A. Glasgow, jr.

PROCEEDINGS.

1911.

September 29. Petition and exhibits filed. Copy of petition filed with chairman of Interstate Commerce Commission and in Department of Justice. Appearance of Interstate Commerce Commission as party respondent and Charles W. Needham as solicitor filed.

October 7. Petitioner's affidavits filed.

October 9. Objections of United States to affidavits offered in support of motion for preliminary injunction filed. Brief for petitioner filed. Motion of the Interstate Commerce Commission to dismiss the petition filed. Motion of the United States to dismiss the petition filed. Petition of intervention of Henry E. Meeker filed. Order entered granting leave as prayed in foregoing petition. Brief for Henry E. Meeker, intervener, filed.

October 10. Brief for United States in opposition to motion of petitioner for preliminary injunction filed.

October 12. Certified copy annual report Lehigh Valley Railroad Co. for year ending June 30, 1911, filed. Per curiam opinion denying motion for preliminary injunction filed. Order entered denying motion for preliminary injunction.

November 22. Order setting cause for hearing on motions to dismiss filed.

December 5. Continued to next calendar (Jour., p. 86).

1912.

March 28. Motion of H. E. Meeker, surviving partner of the firm of Meeker & Co., to dismiss the petition.

April 5. Brief for Interstate Commerce Commission on motion to dismiss petition filed.

April 9. Brief for United States in support of motion to dismiss petition filed.

April 11. Petitioner's motion to withdraw its petition filed. Order entered withdrawing petition without prejudice at cost of petitioner.

April 15. Order entered amending final order on face thereof.

May 7. Satisfaction of judgment for costs filed by United States.

A true copy.
Test:
[SEAL.]

G. F. SNYDER,
Clerk of the United States Commerce Court.
By W. S. HINMAN,
Deputy Clerk.

Mr. Manager WEBB. We have no objection to their going in, Mr. President.

Mr. SIMPSON. I do not ask that they be read, Mr. President.

I also offer in evidence the opinion of the Supreme Court in the Lighterage case, which has already been marked as "Exhibit H."

The opinion referred to is as follows:

[U. S. S. Exhibit H.]

SUPREME COURT OF THE UNITED STATES.

(No. 722.—October term, 1911.)

The United States, The Interstate Commerce Commission, and The Federal Sugar Refining Co., appellants, *v.* The Baltimore & Ohio Railroad Co., The Central Railroad Co. of New Jersey, et al. Appeal from the United States Commerce Court.

(June 10, 1912.)

The Chief Justice delivered the opinion of the court.

This is a suit instituted in the Commerce Court to enjoin the enforcement of an order by the Interstate Commerce Commission.

The complainants in the bill are the Baltimore & Ohio Railroad Co., the Central Railroad Co. of New Jersey, the Delaware, Lackawanna & Western Railroad Co., the Erie Railroad Co., the Lehigh Valley Railroad Co., the New York, Ontario & Western Railway Co., and the Pennsylvania Railroad Co. The Brooklyn Eastern District Terminal and John Arbuckle and William A. Jamison, copartners, trading as the Jay Street Terminal, intervened and were made parties complainant, they being interested to defeat the order of the commission.

The defendant named in the bill is the United States. The Interstate Commerce Commission appeared, and the Federal Sugar Refining Co. intervened and was made a party defendant.

The order which it was the purpose of the suit to enjoin was made in a proceeding commenced before the commission on behalf of the Federal Sugar Refining Co. to compel the railroads above named to desist and abstain from paying to Arbuckle Bros., claimed to be operating what is known as the Jay Street Terminal, certain so-called allowances for floatage, lighterage, and terminal services rendered by them to the complainants in connection with sugar transported by them in New York Harbor to and for the complainants, while at the same time paying no such allowances to the said Federal Refining Co. on its sugar.

We substantially adopt as accurate a summary statement made of the subject matter of the con' oversy in the brief of counsel for the railroad companies:

"The Federal Sugar Refining Co. has a refinery at Yonkers, N. Y., and Arbuckle Bros. have a refinery in the Borough of Brooklyn, New York City. The railroad companies operate what are known as trunk-line railroads, extending from New York to western and southern points. In order to receive and deliver freight in New York City they are obliged to transport the same across the waters of New York Harbor on lighters by what is called lighterage service, or, when the freight is carried through in railroad cars, on car floats by what is called floatage service.

"At numerous points along the New York City water front within the lighterage limits they have established public stations for the receipt and delivery of freight.

"They have also established boundaries known as 'lighterage limits,' including substantially all of what may be called the manufacturing and commercial portion of the water front of New York City and the opposite shore of New Jersey and within these boundaries they receive and deliver freight at any accessible point on the water front without any additional charge above the New York rates, which are, generally speaking, the same as the rates to and from the terminals on the New Jersey shore. At 'public' docks open to any vessel, the railroad pays the wharfage; at private docks the shipper or consignee must arrange for the necessary dockage.

"At a number of points in the boroughs of Brooklyn and the Bronx the railroad companies or some of them furnish public stations through arrangements made with terminal companies to furnish union public stations and terminal facilities for the receipt and delivery of freight in cars and through freight houses, and for the transportation of such freight between such terminal stations and the railroad companies' rails on the western shore of the harbor, all of which is done for and in the name of the railroad companies under provisions of their tariffs filed with the Interstate Commerce Commission under which their New York rates apply to and from such union public stations.

"One of these public terminal stations, known as the Jay Street Terminal, is owned and operated by William A. Jamison and John Arbuckle, conducting a separate business in that respect as copartners under the name and style of 'Jay Street Terminal' in accordance with the laws of the State of New York. Jay Street Terminal is named as a station of the railroad companies, appellees, in their respective tariffs, and is conducted under contract with the railroad companies like any other freight station, bills of lading being issued from and to it on behalf of the railroad companies and in their names, on the regular uniform form, charges being collected and accounts kept, the Jay Street Terminal performing the entire physical and clerical service and furnishing the necessary docks, freight yard, and station buildings and equipment, excepting cars. The Jay Street Terminal also floats or lighters all shipments between the terminal and the rails of the railroad companies on the New Jersey shore. For these services and facilities each railroad company pays to the Jay Street Terminal an aggregate compensation figured on the freight handled for it, based on the rate of 4½ cents per hundred pounds on freight originating at or destined to points at or west of the westerly limits of trunk line territory, so called, and 3 cents per hundred pounds on freight originating at or destined to points east of the westerly limit of trunk line territory. The same amounts per hundred pounds are paid to other terminal companies furnishing similar service at New York.

"The refinery of Arbuckle Brothers, a copartnership composed of William A. Jamison and John Arbuckle, is within two blocks of the Jay Street Terminal, and they truck sugar from their refinery to this terminal and load it into cars at their own expense and deliver it to the Jay Street Terminal and obtain the railroad company's bill of lading for it from the Jay Street Terminal just as other shippers do with other freight.

"The refinery of the Federal Sugar Refining Co., at Yonkers, N. Y., formerly operated by the Federal Sugar Refining Co. of Yonkers, is located on the Hudson River, 10 miles north of the limits of the lighterage limits. The sugar manufactured at this refinery and shipped over the lines of these appellees is loaded onto lighters of the Ben Franklin Transportation Co., an independent boat line with which the Federal Sugar Refining Co. has made a contract, under which the boat line lighters its sugar to the terminals of the railroad companies for 3 cents per hundred pounds. The boat line brings the sugar to the terminals of the railroads on the western shore of New York Harbor and delivers it to them for rail transportation.

"The Federal Sugar Refining Co.'s refinery at Yonkers is located directly on the tracks of the New York Central & Hudson River Railroad Co. Over this railroad the rates to the points in the shipping territory of the Federal Sugar Refining Co. are with few exceptions the same as the rates via the lines of the railroad companies. To ship at the New York rate over the lines of the roads the Federal Sugar Refining Co. can deliver its shipments to the New York Central & Hudson River Railroad at Yonkers, thence to be transported by that railroad to New York and there delivered to the said railroad companies within lighterage limits. None of these railroads have lines extending to Yonkers. Because of alleged delay in the handling and transportation of shipments via this route, the Federal Sugar Refining Co. sometimes prefers to deliver said shipments by lighter to the said railroad companies at their stations on the New Jersey shore of New York Harbor.

"Prior to July, 1909, these shipments were carried by the Ben Franklin Transportation Co. directly to the rail terminals on the Jersey shore from Yonkers without stop. Since that date the lighters stop en route at Pier 24, North River. The reason for stopping at Pier 24 is found in the decision made by the commission in case No. 1082, brought by the Federal Sugar Refining Co., of Yonkers, the predecessor of the Federal Sugar Refining Co., against the same railroad companies, appellees here. (17 I. C. C., 40.) The complaint in that proceeding claimed a discrimination against the Federal Sugar Refining Co., of Yonkers, and in favor of the Jay Street Terminal and the Brooklyn Eastern District Terminal, an incorporated company operating a similar terminal station in another section of Brooklyn, because of the refusal of the railroad companies to pay it the same amounts on account of the lighterage performed by the Ben Franklin Transportation Co. from Yonkers to the rail terminals of the railroad company on the western shore of New York Harbor as were paid to the two terminal companies above named on account of the various services performed and terminal facilities furnished by them in connection with the transportation of sugar shipped by Arbuckle Bros. and the American Sugar Refining Co., respectively. This complaint was dismissed because the extension of the lighterage limits in New York Harbor of the railroad companies was a matter of business discretion, and that the commission had no authority to require such extension beyond the then prescribed boundaries, and that the Federal Sugar Refining Co., being located outside of the prescribed lighterage limits, was not subjected to unlawful discrimination by reason of the practice of the railroad companies in affording free lighterage on shipments originating at a distance to points within said lighterage limits while refusing to so afford on shipments of the Federal Sugar Refining Co.

"As a result of this decision of the commission the lighters of the Ben Franklin Transportation Co. were stopped en route from Yonkers at Pier 24, North River, where certain formalities with reference to shipping orders were had for the purpose of making it appear as a matter of law that these shipments were made not from Yonkers, but from Pier 24, North River, a point within lighterage limits. A new complaint was filed with the commission, setting forth the same grounds of discrimination as the prior one, but on the theory that the decision of the commission did not apply because the shipments of the Federal Sugar Refining Co. were now lightered from Pier 24, a point within lighterage limits, and not from Yonkers, the commission held as a matter of law that the stoppage of the lighters of the Ben Franklin Transportation Co. for instructions at Pier 24 differentiated the case from the former one and made the following order:

"'It is ordered that the above-named defendants (the appellees) be, and they are hereby, notified and required to cease and desist on or before the 15th day of April, 1911, and for a period of not less than two years thereafter abstain from paying such allowances to Arbuckle Bros. on their sugar, while at the same time paying no such allowance to said complainant (Federal Sugar Refining Co.) on its sugar, which said allowances so paid to said Arbuckle Bros. by said defendants are found by the commission in said report to be unduly discriminatory and in violation of the act to regulate commerce.'

"The so-called 'allowances' referred to in this order are a part of the payments making up the compensation of the Jay Street Terminal, figured at the rates of 3 cents and 4½ cents per hundred pounds as above described."

This is the order the enforcement of which was the subject matter of the controversy in the court below.

The United States, the Interstate Commerce Commission, and the Federal Sugar Refining Co. promptly filed motions to dismiss the petition and the intervening petition of the Jay Street Terminal upon the ground of want of equity and because the order of the commission was an adjudication of matters of fact as to which its judgment was conclusive. The petitioners, on the other hand, applied for an injunction pendente lite suspending the order of the commission until the final determination of the action. The motions to dismiss were denied. On the same day the motion for a temporary injunction—which had been heard upon the petition and intervening petitions and affidavits submitted by petitioners in support of the averments of the petition and intervening petition—was granted, and the assailed order "and its force and effect" was suspended until the further order of the court. This appeal was then taken.

There was clearly a right in the court below to entertain jurisdiction of the petition and to determine whether the affirmative order of the commission was entitled to be enforced. There was clearly also power in the court to allow a preliminary injunction, since that authority is conferred in express terms by section 3 (208) of the act. And the right to appeal from such an order is also in express terms conferred by section 2 (210) of the act.

It is urged on behalf of the United States and the Interstate Commerce Commission that, wholly irrespective of the merits of the petition, the order granting the interlocutory injunction must be reversed because of what is insisted to be the express requirements of the act imposing the duty on the Commerce Court or a judge of that court if a restraining order is granted under the conditions in the statute to state the facts from which it is found that irreparable injury would arise if a restraining order were not allowed. The section containing the provision relied upon is as follows:

"That suits to enjoin, set aside, annul, or suspend any order of the Interstate Commerce Commission shall be brought in the Commerce Court against the United States. The pendency of such suit shall not of itself stay or suspend the operation of the order of the Interstate Commerce Commission; but the Commerce Court, in its discretion, may restrain or suspend, in whole or in part, the operation of the commission's order pending the final hearing and determination of the suit. No order or injunction so restraining or suspending an order of the Interstate Commerce Commission shall be made by the Commerce Court other than upon notice and after hearing, except that in cases where irreparable damage would otherwise ensue to the petitioner, said court, or a judge thereof, may, on hearing, after not less than three days' notice to the Interstate Commerce Commission and the Attorney General, allow a temporary stay or suspension in whole or part of the operation of the order of the Interstate Commerce Commission for not more than 60 days from the date of the order of such court or judge, pending application to the court for its order or injunction, in which case the said order shall contain a specific finding, based upon evidence submitted to the judge making the order and identified by reference thereto, that such irreparable damage would result to the petitioner and specifying the nature of the damage. The court may, at the time of hearing such application, upon a like finding, continue the temporary stay or suspension in whole or in part until its decision upon the application."

Without ambiguity we think the statute contemplates three classes of orders: First, a temporary restraining order staying in whole or in part the operation of the order of the Interstate Commerce Commission for not more than 60 days from the date of the suspensive order, to be allowed by the court or a judge thereof; second, a preliminary injunction—that is, an injunction pendente lite—which, to quote the words of the statute, may be granted by the court to "restrain or suspend, in whole or in part, the operation of the commission's order pending the final hearing and determination of the suit"; third, in the nature of things a perpetual injunction upon the entry of the final decree. The order in this case, made after notice and hearing, suspending the force and effect of the order of the commission until the further order of the court, was obviously an exercise of the power conferred to grant a preliminary injunction or injunction pendente lite and not of the power to allow a temporary restraining order embraced in the first of the classes stated. As we think it clear that the requirements of the statute relied upon respecting the statement of facts as to irreparable damages relate only to the first class of cases—that is, the power to issue a temporary restraining order—we hold the objection to be without merit.

This brings us to consider the scope of our reviewing authority under the right conferred by the statute to appeal from the allowance by the court below of a preliminary injunction or injunction pendente lite. To determine this question requires a consideration of the nature and character of the powers which the court had a right to exert over the subject matter presented to it by the petition filed to perpetually enjoin the enforcement of the order of the commission.

We have determined in the Procter & Gamble case, ante, that the Commerce Court was but endowed in considering whether an affirmative order of the commission should be enforced on the one hand or set aside and declared nonenforcible on the other with the jurisdiction and power existing at the time that act was passed in the circuit courts of the United States. And as, at that time it was conclusively settled that the courts had only authority to reexamine the findings of the commission as to subjects like the one here under consideration, for the purpose of ascertaining whether the action of the commission was repugnant to the Constitution, in excess of the statutory powers conferred upon it, or manifested such an abuse as to be equivalent to an excess of authority, it clearly results that the court below was likewise limited in passing upon the petition before it in this case. This being true, it is also necessarily true that virtually the sole authority of the court below was in a sense confined to determining questions of law arising upon the case as presented on the face of the pleadings. Under the general principles of equity, where a court is called upon to decide whether it will allow a preliminary or pendente lite injunction the duty arising requires it to be determined whether on the face of the papers presented there is such an equitable cause of action presented as justifies the issue of a preliminary injunction to preserve the status pending the suit; that is, to afford an opportunity for a trial of the issues presented. Necessarily it is true also that where an appeal is allowed from an order granting a preliminary injunction the reviewing court is put to the duty of determining whether on the face of the papers the court below erred as a matter of law in granting the preliminary injunction. Do these principles apply to the case before us, is then the first consideration. The result of holding that they do will inevitably cause the expunging from the act of the express authority conferred to issue a preliminary injunction, since, viewed under the general principles of equity, the criteria by which to determine the rightfulness of such an order, in view of the nature and character of the jurisdiction of the Commerce Court, is exactly and exclusively the same criteria by which the rightfulness of a final decree of that court issuing a perpetual injunction in conformity to such decree would require to be tested. Our duty, however, is not to destroy the law but to enforce it, and in doing so to seek to discover the intention of the lawmaker, the wrong intended to be prevented, and the remedy designed to be afforded by the enactment of the statute. Coming to consider the statute for this purpose, we have pointed out in the Procter & Gamble case that the great remedy intended to be accomplished was the concentration in a single court of the power to consider the rightfulness of enforcing or setting aside orders of the commission; that to prevent unnecessary delays the limitations as to restraining orders and their duration and the hearing which is commanded as to irreparable injury was enacted. It must therefore in reason be that the power to issue a preliminary injunction was recognized and preserved so as to afford the court the proper time for deliberation and consideration of the questions to be decided by the commission, instead of compelling that body, virtually eo instante, upon the presentation of a petition to reach a final conclusion. And it would seem also to be the case that the right to appeal from such an order was given as a safeguard against a possible abuse of discretion by an unwarranted, arbitrary, and unreasonable exercise of the power conferred. In other words, we think that the enlightened purpose of Congress was that the court which it created, in the exercise of the important trusts confided to its authority and where occasion required it as a consequence of the gravity and complexity of the legal questions which might arise, should be afforded ample opportunity for due consideration and ripe judgment and that it was not intended to compel precipitate and perhaps ill-considered action.

Coming to consider the case presented in the light of these principles, in view of the doubt which existed as to the scope and effect of the powers conferred upon the commission, as shown by the decision of the court in the Procter & Gamble case, of the nature and character of the subject matter here under consideration and its importance, of the action of the commission had on that subject prior to the making of the order of the commission which was assailed by the petition, and especially of the diversity of opinion which existed among the members of the commission on the subject, we think there is no room for saying that the preliminary injunction issued was in excess of the power conferred upon the court, because of the plain want of necessity for it resulting from the obvious nature and character of the legal questions as to which the judgment of the court was invoked in consequence of the filing of the petition calling for the exertion of the authority conferred upon it by Congress.

It is not disputable that although the right to appeal to this court from an order like the one here in question is conferred, yet obviously the purpose which must have caused the creation of the Commerce Court must have been the desire to interpose between the action of the commission and this court an intermediate tribunal, having the powers which the statute delegates to it. Our duty is to give that purpose effect and to uphold the lawful authority of the court, without deviation and yet without hesitancy where there has been an abuse of discretion to correct it in the completest way. But as this case manifests no such abuse, our duty is not to reverse the action of the court but to remand the case so that there may be an opportunity to dispose of it on the merits in the forum selected by Congress for that purpose. Of course, in saying this, we must not be understood as deciding or in any way implying that the duty would not exist to examine the merits of a preliminary order of the general character of the one before us in a case where it plainly in our judgment appeared that the granting of the preliminary order was in effect a decision by the court of the whole controversy on the merits or where it was demonstrable that grave detriment to the public interest would result from not considering and finally disposing of the controversy without remanding to enable the court below to do so.

Affirmed.

True copy.

Test:

Clerk Supreme Court United States.

Mr. SIMPSON. I also offer in evidence the final opinion of the Commerce Court in the lighterage case, which has already been marked "Exhibit I."

The opinion referred to is as follows:

[U. S. S. Exhibit I.]

UNITED STATES COMMERCE COURT.

(No. 38. October session, 1912.)

Baltimore & Ohio Railroad Co. et al., petitioners; Brooklyn Eastern District Terminal, John Arbuckle, and William A. Jamison, intervening petitioners, *v.* United States, respondent; Interstate Commerce Commission, Federal Sugar Refining Co., intervening respondents.

ON FINAL HEARING ON MOTIONS TO DISMISS.

(For opinion of Interstate Commerce Commission see 20 I. C. C. Rep., 200.)

Mr. George F. Brownell, with whom Mr. H. A. Taylor was on the brief, for the petitioners.

Mr. Henry B. Closson and Mr. William N. Dykman for the intervening petitioners.

Mr. Winfred T. Denison, Assistant Attorney General, and Mr. Blackburn Esterline, special assistant to the Attorney General, for the United States.

Mr. P. J. Farrell for the Interstate Commerce Commission.

Mr. Ernest A. Bigelow for the Federal Sugar Refining Co.

Before Knapp, presiding judge, and Hunt, Carland, and Mack, judges.

(November 15, 1912.)

Carland, judge:

The petition in this case was filed April 12, 1911, and seeks to have annulled and set aside an order of the Interstate Commerce Commission, dated March 6, 1911, the provisions of which are hereinafter stated. On April 19, 1911, upon its own petition, the Federal Sugar Refining Co. was made a party defendant, with leave to appear and be represented by counsel. On May 11, 1911, the Interstate Commerce Commission and the Federal Sugar Refining Co. filed a motion to dismiss the petition for the reason that the facts set forth therein did not constitute a cause of action, and on the same day the Brooklyn Eastern District Terminal Co., upon leave granted, filed its intervening petition. On May 12, 1911, the United States filed a motion to dismiss for the reason, among others therein stated, that the petition did not show there was any equity therein upon which to grant the relief prayed or any part of the same. On the same day the Jay Street Terminal and Arbuckle Bros., upon leave granted, filed their intervening petition. On May 17, 1911, upon motion of Mr. Blackburn Esterline, assistant to the Attorney General, it was ordered that the motion to dismiss the petition filed by the United States be extended and considered as a motion to dismiss the intervening petition of Arbuckle Bros. and Brooklyn Eastern District Terminal, and upon motion of Mr. P. J. Farrell, counsel for the Interstate Commerce Commission, it was ordered that the motion to dismiss the petition filed by the Interstate Commerce Commission and the Federal Sugar Refining Co. be extended to and considered as a motion to dismiss the intervening petition of Arbuckle Bros. and the Brooklyn Eastern District Terminal.

On May 17, 1911, the motions for a temporary injunction made by the petitioners and intervening petitioners, and the motions to dismiss, came on for hearing before the court; and thereafter, on May 22, 1911, the motions to dismiss were by the unanimous decision of this court denied, with leave to the respondents making said motions to answer the petition of the petitioners within 20 days from said date if they should be so advised; and on the same day the motions made for a temporary injunction were granted and an order entered suspending the order of the Interstate Commerce Commission complained of until the further order of the court.

On June 12, 1911, the Federal Sugar Refining Co. and the Interstate Commerce Commission prayed an appeal to the Supreme Court of the United States from the order or decree of the Commerce Court rendered on May 22, 1911, and assigned as one of the errors committed by this court that it erred in not dismissing the petition for want of equity. The appeal prayed for was allowed by this court on June 13, 1911. On June 16, 1911, the United States prayed an appeal to the Supreme Court of the United States from the order or decree of this court entered May 22, 1911, and assigned as error, among others, that the Commerce Court erred in not sustaining the motion of the United States to dismiss the petition and the intervening petitions. The appeal prayed for was granted by this court on the same day. On June 10, 1912, the Supreme Court of the United States affirmed the decree of this court entered May 22, 1911.

On June 9, 1911, the Federal Sugar Refining Co. filed its answer to the original petition, and on the same day the United States filed its answer to the original petition and also to the intervening petitions of Arbuckle Bros. and Brooklyn Eastern District Terminal. The Interstate Commerce Commission has never answered either of the petitions.

The mandate of the Supreme Court was filed in this court on June 24, 1912. On October 10, 1912, the United States and the Federal Sugar Refining Co., upon leave granted by the court, withdrew their several answers, and on the same day filed their motion to dismiss the petition of the petitioners for the reason that the facts set forth in said petition did not constitute a cause of action or entitle said petitioners to the relief or any of the relief asked for by them in and by said petition. This action of the United States and the Federal Sugar Refining Co. left the case standing upon the petitions of the petitioners and the intervening petitioners and the motions to dismiss of the respondent, and intervening respondents Federal Sugar Refining Co. and Interstate Commerce Commission. In this condition of the case the parties, by their counsel, appeared in open court and stipulated that the case be submitted to the court for final decision upon the merits on the petitions and motions to dismiss.

The material facts as they appear in the petitions are as follows:

The petitioning railroads are engaged in the transportation of passengers and property by railroad from one State to another, and all have rail termini upon the New Jersey shore of the harbor of New York except the Baltimore & Ohio Railroad Co., whose rail terminus is at St. George, Staten Island, and the Pennsylvania Railroad Co., whose rail terminus for passenger traffic only is in the Borough of Manhattan. In order to reach the shipping territory of Greater New York across the Hudson and East Rivers and other waters petitioners have been compelled to serve the vast shipping interests of Greater New York by means of floats, lighters, and barges. Petitioners have established a lighterage zone, known as the lighterage limits, which has been in effect for several years, and during that time has been and is now described in the tariffs of each of said petitioners, which tariffs have been and are duly filed with the Interstate Commerce Commission, as follows:

"North River: New York side, Battery to One hundred and thirty-fifth Street; New Jersey side, Jersey City, N. J., to and including Fort Lee, N. J.

"East River and Harlem River: New York side, Battery to Jerome Avenue Bridge, including Harlem River side of Wards and Randalls Islands; Brooklyn side, from Pot Cove, Astoria, to and including Newtown and Dutch Kills Creeks and points in Wallabout Canal west of Washington Avenue Bridge and to Hamilton Avenue Bridge, Gowanus Canal, to and including Sixty-ninth Street, South Brooklyn (Bay Ridge).

"New York Bay: Points on north and east shore of Staten Island between Bridge Creek (Arlington) and Clifton, both inclusive, and include Shooter Island; points on the New Jersey shore of New York Bay and on the Kill von Kull between Constable Hook and Avenue C, Bayonne City, opposite Port Richmond, Staten Island."

Within said lighterage limits petitioners perform, without additional charge, a lighterage service on eastbound shipments from their rail terminals upon the western shore of New York Harbor to points within those limits, and on westbound shipments from points within those limits to their rail terminals upon the western shore of New York Harbor.

Within said lighterage limits and at various points within the Boroughs of Manhattan and Brooklyn, city of New York, each petitioner has established and for several years has maintained, and still maintains, freight terminal stations at which it delivers east-bound freight and receives west-bound freight for transportation over its lines. Each petitioner has some freight terminal stations, as aforesaid, which it owns and directly operates, and others which are operated for it under and pursuant to the provisions of certain contracts between it and the owners of said terminal stations. In some instances a single terminal station is operated for and on behalf of two or more of said petitioners under and pursuant to certain contracts between them and the owner of said station, and in such instances said terminal station is a union terminal for two or more of said petitioners. It is impossible for petitioners to deliver and receive all freight, especially carload freight, at said terminals. A large part of it must of necessity be delivered and received at public and private docks within the said lighterage limits. Accordingly, petitioners have for several years received and delivered freight at all steamship piers, docks, and landings, and private piers or landings when shippers or consignees arrange for the receipt or delivery of freight within the lighterage limits, and have lightered it without additional charge from and to said points, and still do so receive, deliver, and lighter it. Petitioners transport between said terminal stations, piers, docks, and landings and their rail terminals on the western shore of New York Harbor, as a part of the transportation service from the points of shipment to the point of destination, and for the flat New York rate, by means of lighters, floats, and barges owned and directly operated by them, or operated for them under contracts between them and the owners of such equipment, freight received at or destined to said terminal stations, piers, docks, and landings.

Petitioners for several years past have held and now hold themselves out as common carriers to and from all said points within the lighterage limits, both by their practice of receiving and delivering freight at said points and by their tariffs, which are now and for several years past have been duly published and filed with the Interstate Commerce Commission. The liability under their respective bills of lading attaches to petitioners on west-bound shipments from the time the freight is received at such terminal station, dock, pier, or landing and ends on east-bound shipments when delivered into the hands of the consignee at such terminal station, dock, pier, or landing. The bill of lading issued by petitioners for freight so received or delivered by them by its terms covers and includes the lighterage movement.

Among other terminal freight stations established by petitioners within the said lighterage limits is the Jay Street Terminal. This terminal is located at the foot of Bridge Street, Brooklyn, on the East River, having a water frontage of 1,200 feet and a depth of 600 feet. Its equipment consists of a large freight house, 2 Baldwin locomotives, 3 tugboats, 2 steam lighters, 11 barges, and 9 car floats. The capacity of the yard is about 235 cars. The Jay Street Terminal is a union freight terminal for all of said petitioners and is designated as a regular public freight terminal of petitioners in their tariffs filed with the Interstate Commerce Commission. It is owned by a copartnership composed of William A. Jamison and John Arbuckle, conducting such freight terminal as a separate business under the name and style of Jay Street Terminal, under certificate filed with the clerk of New York County, in accordance with the law of the State of New York, and is operated as a freight station for petitioners under and pursuant to several contracts between petitioners and the Jay Street Terminal, which contracts are substantially identical in their terms and provisions. The material parts of one of said contracts and representative of them all appears in the margin, and is as follows:

This agreement, made the 5th day of February, A. D. 1906, by and between Jay Street Terminal (hereinafter called Terminal Co.), party of the first part, and Erie Railroad Co., party of the second part, witnesseth:

"Whereas the Terminal Co. is the owner of premises in the Borough of Brooklyn, city of New York, lying along and contiguous to the East River at a point east of Catherine Ferry, so called, and west of the United States navy yard, upon which there are now erected, or in process of erection, certain warehouses, bulkheads, docks and piers, railway tracks and sidings, equipped or about to be equipped with suitable float bridges and approaches, and the usual appurtenances for receiving, handling, and delivering freights and for transporting same between said premises and the freight station of said railroad company located at Jersey City, N. J.; and

"Whereas the said Terminal Co. is engaged in and will continue in the business of receiving freights at its said premises and carrying the same in both directions between its said premises and the said station of said railroad company and other carriers; and

"Whereas the said railroad company desires to avail itself of the facilities, conveniences, and services of the said Terminal Co. in the transportation of freights, in both directions, between the said premises of said Terminal Co. and the aforesaid freight station of the said railroad company:

"Now, therefore, in consideration of the mutual covenants, promises, and agreements herein contained, the said parties do hereby covenant, promise, and agree to and with each other as follows:

"First. The said Terminal Co. will put and maintain its premises in good order and condition for the reception and delivery of such freights, and will provide tugboats, car floats, docks, piers, float bridges, and approaches adequate at all times to receive, discharge, transfer, and deliver such freights loaded or to be loaded in cars under this contract, and sufficient to accommodate the amount of business hereunder contemplated.

"Second. Said Terminal Co. will receive at the said float bridges of said railroad company at its aforesaid freight station, in cars to be placed upon its floats by said railroad company, all freights intended for delivery at the aforesaid premises of the said Terminal Co., and will safely carry the same to its said premises, and there make delivery thereof to the consignees. It will also receive and load into cars all freights which may be delivered to it at its said premises for transportation over the lines of said railroad company and carry and deliver the same to said railroad company upon said Terminal Co.'s floats at the float bridges of said railroad company at its aforesaid freight station.

"Third. The responsibility of said Terminal Co. for eastwardly bound cars and the freights therein shall begin when the cars are placed upon its floats at the said float bridges at the aforesaid station of said railroad company, and shall continue as respects the cars until they have been returned by it, loaded or empty; and as respects the freights contained in eastwardly bound cars its responsibility shall continue until the actual delivery thereof to and acceptance by the consignees at Brooklyn. As respects the freights to be transported westbound, said Terminal Co.'s responsibility shall commence at the time the same is received from the consignor at its aforesaid premises and shall continue until said freights, loaded into cars, have been brought to the float bridge of said railroad company at its aforesaid freight station and until the floats have been attached to the float bridge and the cars are in complete readiness for removal from the car floats by said railroad company.

"Fifth. The railroad company agrees to construct and maintain all necessary tracks, float bridges, approaches, and appurtenances at its said freight station to adequately carry out the purpose of this agreement.

"Sixth. Said railroad company will pay said Terminal Co. in full for all its services under this contract, as well as in full compensation for all responsibility to be undertaken by it in respect to cars and freight, as follows:

"(a) For all freights transported over said railroad company's railroad which shall have been received from its connecting lines west of trunk line western termini on through rates, or for freight received by the said Terminal Co. at its aforesaid premises and destined for transportation by said railroad company to points west of said western termini on through rates, excepting grain in bulk, at the rate of 4½ cents per hundred pounds. It is agreed, however, that whenever the allowance to Palmers Dock on eastbound or westbound rail-and-lake traffic or both is reduced from 4½ cents to 3 cents per hundred pounds the same reduction shall be made in the allowance to Jay Street Terminal on rail-and-lake traffic. And it is also agreed that whenever the allowance for like service on such traffic to said Palmers Dock or any other Brooklyn termini is increased above the rates herein specified the same increase shall be made in the allowance to said Jay Street Terminal on such traffic.

"(b) For freight originating at or destined to any of the said western termini or points east thereof, or billed to or from said western termini at local rates, the allowance to said Terminal Co. shall be 3 cents per hundred pounds, whether or not the traffic reaches the terminal point through any other of said termini, it being understood that the western terminal points referred to are as follows: Suspension Bridge, Niagara Falls, Tonawanda, Black Rock, Buffalo, East Buffalo, Buffalo Junction, Salamanca, Erie, Pittsburgh, Allegheny, Bellaire, Wheeling, Parkersburg, Dunkirk.

"(c) For 'not to be graded' grain in bulk, for track delivery in the borough of Brooklyn, the rate shall be 3 cents per hundred pounds.

"(d) For freight which is rated per gross ton, either in official classification or in commodity tariffs, the allowance shall be 3 cents or 4½ cents per hundred pounds, regardless of the gross-ton rating.

* * * * * * *

"Eleventh. Said railroad company agrees that during the continuance of this agreement the same rates of freight shall prevail from and to the premises of said Terminal Co. that prevail from and to the regular freight stations of said railroad company in the borough of Manhattan, city of New York, excepting when coming from or going to points east of Susquehanna, in which case floatage shall be added in both directions, to which the railroad company shall be entitled.

"Twelfth. Said Terminal Co. will be responsible for and pay to said railroad company all freight moneys and charges as set forth in freight bills rendered by said railroad company for the transportation of east-bound freights delivered to it, and in like manner shall be responsible for and pay to said railroad company all moneys and charges which have been made payable in advance on west-bound freights, all of which payments shall be turned over to said railroad company in accordance with the latter's customary rules; and, if so required, the customary guaranteed bond shall be furnished by the said Terminal Co.

"Thirteenth. Said railroad company will provide sufficient cars at all times for receiving and taking away the freights hereunder contemplated (unavoidable delay excepted), and to supply all the railway books and blanks necessary for the purpose of the business to be carried on under this contract, and with all reasonable dispatch to receive and take away from the said float bridges at its aforesaid station all the west-bound freights intended for transportation over its own lines and its connections.

"Fourteenth. Said Terminal Co. will insure and keep insured against loss by fire and marine risks all freights, cars, and property received by it upon its floats or its said premises under this contract so long as said freights, cars, or property shall remain in its possession, and until delivered to the consignees or to said railroad company as hereinbefore

provided, including the time such freights, cars, or property shall be upon its lighterage line; and such insurance shall be for the benefit of said railroad company and others as their respective interests shall appear, and to an amount and in such manner as shall be satisfactory to said railroad company.

"Fifteenth. Said railroad company will not during the continuance of this agreement, unless legally compelled to do so, establish or maintain any freight stations within the limits of said Borough of Brooklyn between said Catherine Ferry and said United States navy yard. In case of any breach of this condition said Terminal Co. may recover from said railroad company, and the latter shall pay to said Terminal Co. damages at the rate of $3 for each and every carload, averaged at 20,000 pounds, received or delivered or transported contrary to this provision.

"Sixteenth. In case any east-bound freight consigned to stations of said railroad company in said city of New York other than the premises of said Terminal Co. shall have its destination changed to the premises of the said Terminal Co. and be delivered thereat, said Terminal Co. will, at the request of said railroad company, collect from the consignee or forwarder the sum of 3 cents per hundred pounds, and such 3 cents per hundred pounds shall be retained by said Terminal Co. as full compensation for all services performed by it in such cases, and no other allowance shall be made under this contract in such case.

"Seventeenth. Said Terminal Co. will furnish said railroad company with a complete and accurate copy of each and all contracts made by it with other railroad companies during the term of this contract, and the Erie Railroad Co. shall have and enjoy during the life of this contract all rights and privileges granted to any other railroad by said Terminal Co. upon as favorable terms, with respect to allowances or otherwise, as granted to any other railroad company, anything herein to the contrary notwithstanding.

"Eighteenth. This contract shall become operative and go into effect on the 15th day of February, 1906, and shall continue in force until March 31, 1910; thereafter subject to termination upon 90 days' notice by either party."

The Jay Street Terminal serves the shippers of a large and important manufacturing and shipping territory, including about one-third of the densely populated part of Brooklyn. It is the only convenient and accessible freight station of petitioners for the shippers of that territory. When it became necessary several years ago for petitioners to establish and operate public freight terminals for the service of said territory, they had no choice but to enter into a contractual arrangement with the owner of the Jay Street Terminal for the operation of said terminal as a public freight station of petitioners. The price of the water-front property in that section was so high as to be prohibitive. No independent terminals other than the Jay Street Terminal were conveniently accessible to the shippers of that territory. In no other practicable way could petitioners in the past, nor can they at present, serve the large and important shipping interests of this section of Brooklyn than by the maintenance of the Jay Street Terminal as a public freight station of petitioners under and pursuant to said contracts.

Arbuckle & Jamison operate a sugar refinery in the Borough of Brooklyn, located upward of a block from the Jay Street Terminal. Shipments are carted from and to the terminal by Arbuckle & Jamison and handled at the terminal in the same way as the freight of hundreds of other shippers, and the freight charges thereon are collected from said Arbuckle & Jamison by the Jay Street Terminal in accordance with the regularly published tariffs of petitioners. Approximately four-fifths of the shipments of sugar made by Arbuckle & Jamison through said Jay Street Terminal are sold by said Arbuckle & Jamison f. o. b. Brooklyn and become the property of the consignees immediately upon delivery to the terminal. During the first six months of 1907 the bills of lading issued by the Jay Street Terminal for shipments of general merchandise numbered 92,622, of which 3,969 were for Arbuckle & Jamison sugar and 1,210 for Arbuckle & Jamison coffee, and the shipments and receipts of said Arbuckle & Jamison constituted less than one-third of the total tonnage moving through the terminal. During the same period the number of different consignees who received freight at the terminal was about 765, and the number of different shippers through the terminal about 560. The profits in the operation of the Jay Street Terminal on all shipments during the same period amounted to less than 3 per cent on the investment, without making any allowances for depreciation or interest.

The Federal Sugar Refining Co. is a corporation of the State of New York, having its executive offices at 138 Front Street, in the Borough of Manhattan, and having its refineries from which it ships all its outbound products, including sugar, and at which it receives all its inbound supplies for the manufacture of sugar and commodities allied thereto, on the east bank of the Hudson River, within the corporate limits of the city of Yonkers, and more than 10 miles distant from the northernmost boundaries of the lighterage limits of petitioners. Said refineries are located on the line of the New York Central & Hudson River Railroad Co., with which they have switch connections and over which the Federal Sugar Refining Co. ships the greater part of its output and receives a large part of its inbound shipments. Over this railroad, with few exceptions, the rates to points in the shipping territory of the Federal Sugar Refining Co. are the same as the rates from the Jay Street Terminal over the lines of petitioners. In order to make shipments of its sugar from Yonkers via the lines of petitioners at the New York rate the Federal Sugar Refining Co. must deliver such shipments to the New York Central & Hudson River Railroad Co. at Yonkers, thence to be transported by that railroad to New York, and there delivered to petitioners at points within the lighterage limits. Because of alleged delay in the handling and transportation of such shipments via the route aforesaid, the Federal Sugar Refining Co. prefers to deliver said shipments directly to petitioners by lighter within the lighterage limits. Prior to July, 1909, the Federal Sugar Refining Co. of Yonkers, the predecessor of the Federal Sugar Refining Co., was accustomed to deliver its shipments at Yonkers to the Ben Franklin Transportation Co., which transported the same direct to the terminals of petitioners on the west shore of New York Harbor at a charge to the Federal Sugar Refining Co. of Yonkers of 3 cents per hundred pounds.

In the month of May, 1907, the Federal Sugar Refining Co. of Yonkers filed a complaint with the Interstate Commerce Commission against petitioners, alleging that the complainant, through the Ben Franklin Transportation Co., performed the same service on its shipments of sugar as were said to be performed by the Brooklyn Eastern District Terminal on shipments of the American Sugar Refining Co. and by the Jay Street Terminal on shipments of Arbuckle & Jamison; that the lighterage limits prescribed by petitioners were unduly discriminatory in that they did not extend to Yonkers and include the refinery of the Federal Sugar Refining Co. of Yonkers, and permitted allowances to be made on shipments of sugar from the refineries of Arbuckle & Jamison and the American Sugar Refining Co., while not so permitting on the complainant's shipments, because the latter was located outside the prescribed limits. This practice was said to result in unjust discrimination and to oblige complainant to pay unreasonable rates. Said complaint was answered by petitioners, and after due hearing and consideration the Interstate Commerce Commission dismissed said complaint, because the extension of petitioners' lighterage limits in New York Harbor was a matter of business discretion, and said commission had no authority to require such extension beyond the then prescribed boundaries, and complainant, being located outside of the prescribed lighterage limits, was not subjected to unlawful discrimination by reason of the practice of petitioners in affording free lighterage on shipments originating at or destined to points within said lighterage limits, while refusing to so afford on complainants' shipments.

As a device to appear to ship from within the lighterage limits, within a month after the decision of the Interstate Commerce Commission above mentioned a new corporation known as the Federal Sugar Refining Co. was organized, which established its principal office at 138 Front Street, New York City, and took over the refineries heretofore mentioned, in the city of Yonkers, and adopted the following practice: Contracts of sale or orders for sugar were received at 138 Front Street, and each of said orders was given a separate contract number, and said order bearing the contract number was forwarded to the refinery, where the order was filled and the barrels or bags were stamped with the contract number and placed on a lighter. The shipment bearing the contract number remained intact until it reached the hands of the buyer. The refinery received shipping instructions from 138 Front Street, and these shipping instructions showed the contract number, the ultimate destination, and the rail line over which the shipment was to be transported. The captain of the lighter of the Ben Franklin Transportation Co. gave a receipt to the refinery and received from the refinery a so-called bill of lading, which was a form of railroad bill of lading filled in by the Federal Sugar Refining Co., and designating a consignment to the Federal Sugar Refining Co., 138 Front Street, New York City, to be transported by the Ben Franklin Transportation Co. and showing the contract number with which the shipment had been marked. This alleged bill of lading was not signed by the Ben Franklin Transportation Co. through any of its officers or the captain of the lighter or by any other carrier. There was nothing in any of the documents which called for transportation to Pier 24, North River.

The said shipping instructions sent from 138 Front Street to Yonkers were to ship to "Federal Sugar Refining Co., 138 Front Street, City. B. F. T. Co. (B. & O.)," or other initials representing the Ben Franklin Transportation Co. and one of petitioners, as the case might be. None of the petitioners could or did perform any transportation service in connection with the Ben Franklin Transportation Co. between Yonkers and 138 Front Street, and such shipping instructions were, in fact, directions to deliver said shipments to the Ben Franklin Transportation Co. to be lightered and delivered to one of petitioners at its terminal on the west shore of New York Harbor. The practice was for the lighter of the Ben Franklin Transportation Co. to go to Pier 24, North River, N. Y., part of which pier is leased to the Ben Franklin Transportation Co., where the captain of the lighter called up the office of the Federal Sugar Refining Co., at 138 Front Street, and reported the particular shipment then on his lighter. The captain of the lighter was then handed a form of bill of lading not signed by any of petitioners and showing the name and address of the consignor as the Federal Sugar Refining Co., 138 Front Street, New York, Franklin Street Pier 24, North River. The lighter then proceeded to the rail terminus of such petitioners as had been previously designated in the shipping instructions sent to Yonkers, and there delivered the shipment to such petitioner and obtained the signature of petitioner's agent at said terminus upon the form of bill of lading theretofore prepared and delivered to said captain as aforesaid, and said bill of lading was stamped by said petitioner's agent to show the receipt of the shipment at said station on the west shore of New York Harbor.

Such shipments were handled under contract between the Ben Franklin Transportation Co. and the Federal Sugar Refining Co. for a compensation of 3 cents per 100 pounds, although the contract provides for a compensation of 4 cents per 100 pounds on sugar lightered from Yonkers to Pier 24, North River, payments for said service being made to the Ben Franklin Transportation Co. under that provision of said contract which provides for a compensation of 3 cents per 100 pounds for sugar lightered from Yonkers to petitioners' rail termini.

Having established the practice above described, the said Federal Sugar Refining Co. filed a complaint in October, 1909, with the Interstate Commerce Commission against petitioners. Said complaint alleged in substance that the interstate transportation of the product of the said Federal Sugar Refining Co. began at Pier 24, North River, Borough of Manhattan, a point within the lighterage limits as aforesaid, and that said Jay Street Terminal is owned and conducted by copartners named John Arbuckle and William A. Jamison, which said copartners owned, maintained, and operated in connection therewith a sugar refinery at the foot of Jay Street, Borough of Brooklyn; that said amounts of 3 cents per 100 pounds and 4½ cents per 100 pounds were paid to said copartners for the lightering of their sugar from Jay Street, Brooklyn, to the rail termini of petitioners on the west bank of New York Harbor, and that inasmuch as the said Federal Sugar Refining Co. was a competitor of the said Arbuckle & Jamison in the sugar business, it constituted an undue and unreasonable prejudice and disadvantage against said Federal Sugar Refining Co. to pay said amounts of 3 cents and 4½ cents per 100 pounds for the handling of sugar to said Arbuckle & Jamison, and not to pay similarly to the said Federal Sugar Refining Co. Hearings were had before the Interstate Commerce Commission upon the last mentioned complaint, and subsequently the commission issued its order against petitioners in the following language:

"It is ordered that the above-named defendants be, and they are hereby, notified and required to cease and desist, on or before the 15th day of April, 1911, and for a period of not less than two years thereafter abstain, from paying such allowances to Arbuckle Bros. on their sugar while at the same time paying no such allowances to said complainant on its sugar, which said allowances so paid to said Arbuckle Bros. by said defendants are found by the commission in said report to be unduly discriminatory and in violation of the act to regulate commerce."

The leave granted by this court allowing the United States and the Federal Sugar Refining Co. to withdraw their answers and file motion to dismiss undoubtedly entitles them to be again heard as to whether the petition states a cause of action, although the record thus presented is a novel one. We certainly are in no position, after having denied the motions to dismiss and after the Supreme Court has affirmed our

action, so far as the granting of the temporary injunction is concerned, to now hold upon the same facts that the petitions do not state facts sufficient to constitute a cause of action, merely because the case is now submitted for final decision. We are of the same opinion, however, as when we denied the motions to dismiss on May 22, 1911, but as we did not at that time give the reasons which impelled us to make the decision then rendered, we can now with propriety state them.

The Interstate Commerce Commission in its report and order did not specify whether it found a violation of section 2 or section 3 of the act to regulate commerce. These sections read as follows:

"SEC. 2. That if any common carrier subject to the provisions of this act shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered or to be rendered, in the transportation of passengers or property, subject to the provisions of this act, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful.

"SEC. 3. That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever." * * *

The language used by the commission would lead to the inference that it found a violation of section 3. If the facts pleaded, however, show a violation of either of the above sections, the order must be sustained, and it must also be sustained if based upon a finding of fact, which we are not at liberty to review. In the first place, the case must be freed from matters which cloud the real issue. It is continually suggested that the arrangement between petitioners and the Jay Street Terminal may be a scheme to cover a rebate. We are not permitted to base our judgment on suspicion, but upon facts pleaded and proven. Respondents have been given ample opportunity to produce all evidence within their power for the purpose of showing that the payments made by petitioners to the Jay Street Terminal constitute unlawful rebates, but no such evidence has been produced. On the contrary, respondents withdrew their answers and now ask the court to decide the case upon the facts stated in the petition. Surely upon this record the court ought to be relieved of presuming that the contracts made by petitioners with the Jay Street Terminal are a cover for the payment of unlawful rebates.

Again, the performance of the Ben Franklin Transportation Co. at Pier 24, North River, is a play in which the episode is lost in the dénouement. It is a plain device and subterfuge indulged in on behalf of the Federal Sugar Refining Co. for the purpose of making it seem that sugar which is being lightered from Yonkers, N. Y., 10 miles north of the lighterage limits established by petitioners, was in fact shipped from Pier 24 by a delivery of the same at that point to the petitioners, when the uncontradicted record, as admitted by the motions to dismiss, shows that the petitioners have nothing to do with the sugar of the Federal Sugar Refining Co. until it reaches the New Jersey shore and is there delivered to petitioners. Courts of equity, looking through mere forms to the substance of things, can not, nor ought they be asked to, found their judgment upon a plain subterfuge. No sugar is tendered by the Federal Sugar Refining Co. to petitioners at Pier 24. On the contrary, the Ben Franklin Transportation Co., acting for the Federal Sugar Refining Co., refuses to tender it there and allow it to be taken by petitioners, but insists upon transporting it itself to the rail termini. The statement of facts makes it plain that the Federal Sugar Refining Co. transports its sugar direct from Yonkers to the Jersey shore, and we must find as a matter of law that the transportation of Federal sugar by petitioners does not commence until it is delivered to them at their rail termini. The facts do not bring the case within the ruling of the Supreme Court in Gulf, Colorado & Santa Fe Railway Co. *v.* Texas (204 U. S., 403).

We must indulge in the presumption that the commission found nothing unlawful in the payments made by petitioners to the Jay Street Terminal under the facts appearing in the record, or it would not have framed its order in the alternative. (Penn Refining Co. *v.* W. N. Y. & P. R. R. Co., 208 U. S., 208. East Tenn., etc., R. R. Co. *v.* Interstate Commerce Commission, 181 U. S., 1. Interstate Commerce Commission *v.* Louisville & Nashville R. R. Co., 190 U. S., 273. Louisville & Nashville R. R. Co. *v.* United States, 197 Fed., 58–60.)

There can be no doubt as a matter of law under the facts admitted that transportation by petitioners of freight delivered to them at the Jay Street Terminal commences at said terminal and that the services performed by the Jay Street Terminal are transportation services. In our disposition of the case we make no distinction between the Jay Street Terminal and Arbuckle Bros., but treat them as the same entity in legal effect. It then appears that petitioners under their respective contracts are paying the Jay Street Terminal for a terminal service and also for the transportation of freight from the terminal to the Jersey shore. Providing this charge is reasonable, and there is no suggestion that it is not, we understand the law to permit such payment. (Central Stock Yards Co. *v.* L. & N. Railway Co., 192 U. S., 568. R. R. Com. of Ky. *v.* L. & N. Railway Co., 10 I. C. C. Rep., 173. Cattle Raisers Ass'n *v.* C., B. & Q. R. R. Co., 11 I. C. C. Rep., 277. Sec. 15, act to regulate commerce, as amended. Central Stock Yards Co. *v.* L. & N. Ry. Co., 118 Fed., 113; affirmed, 193 U. S., 568. Covington Stock Yds. Co. *v.* Keith, 139 U. S., 128. Butchers & G. Stock Yds. Co. *v.* L. & N. R. R. Co., 66 Fed., 35. United States *v.* Delaware, L. & W. Co., 40 Fed., 101. Consolidating Fordg. Co. *v.* Southern T. Co. et al., 9 I. C. C. Rep., 182. Excursion Car Co. *v.* Penn. R. Co., 3 I. C. C. Rep., 577. In re Transportation of Fruit, 10 I. C. C. Rep., 360. F. H. Peavey Co. *v.* Union Pac. R. Co., 176 Fed., 409; affirmed, 222 U. S., 42. Interstate Commerce Commission *v.* Diffenbaugh, 222 U. S., 42.)

This case is in no way parallel to the case of Union Pacific Railway Co. *v.* Updyke (222 U. S., 15). The Jay Street Terminal is one of the public terminals of petitioners, and it is owned by Arbuckle Bros. The payments made by petitioners to the Jay Street Terminal are for the terminal and transportation services performed by it in connection with all freight shipped from or delivered to said Jay Street Terminal. It so happens that Arbuckle Bros., who own and operate the terminal, also are shippers, and only in this way can it be said that they receive payment for transporting their own sugar. In order to make the case parallel to the Updyke case, it would have to appear that the Federal Sugar Refining Co. also owned and operated for petitioners a public terminal for the receipt and delivery of freight within the lighterage limits and that the Federal Sugar Refining Co. had sugar of its own which it transported to the rails of petitioners, together with other freight. If the case stood in such position, under the Updyke case it might be necessary to hold that the petitioners must make the same payments to the Federal Sugar Refining Co. as to Jay Street Terminal. But the always-present fact is that the Federal Sugar Refining Co. does not own and operate any public terminal for petitioners, nor does it transport a pound of sugar from any terminal within the lighterage limits to the rail termini of petitioners. There is no room for the court to enforce equality between Arbuckle Bros. and the Federal Sugar Refining Co. as to payments for the transportation of their sugar, for the reason that the position in which the court finds the respective parties to the controversy will not permit. We find Arbuckle Bros. owning the Jay Street Terminal, used as a public terminal of petitioners within the lighterage limits. We find the Federal Sugar Refining Co., with its refinery at Yonkers, 10 miles north of the lighterage limits, owning and operating no public terminal for petitioners and tendering petitioners no freight at any of their public terminals. So that we can not see how any violation of either section 2 or section 3 can be predicated on the facts stated in the record.

But it is claimed that this is true: That it costs the Federal Sugar Refining Co. 3 cents per hundred pounds more to get its sugar to the Jersey shore than it does Arbuckle Bros. This could be avoided in part if the Federal Sugar Refining Co. would tender its sugar for shipment over the rails of petitioners at any of the terminals of petitioners within the lighterage limits, many of which are much nearer Yonkers than the Jay Street Terminal or even Pier 24, North River. And we must not forget in this connection that the Federal Sugar Refining Co. voluntarily located its refinery at Yonkers, and if it thereby has subjected itself to some natural disadvantage it can not call upon the courts to remedy it. The commission recognized this fact when it refused to compel petitioners to extend their lighterage limits so as to include the Federal sugar refinery. It is apparent from the record that the sole disadvantage of the Federal Sugar Refining Co. results from its location outside the lighterage limits, and that it is in no way injured or prejudiced by the fact that Arbuckle Bros. own the Jay Street Terminal.

For the reasons above stated we are of the opinion that the order of the commission was in excess of its power, and that it ought to be permanently suspended and enjoined. And it is so ordered.

Mack, Judge, dissenting:

The commission in its report does not clearly indicate whether it deems the transportation of the Arbuckle sugar to begin in New York or in Jersey City. It is conceded by counsel that this is a question of law to be determined by this court. As to goods shipped by Arbuckle Bros. to others than themselves as consignees, there would seem to be no room for doubt, for whatever may be the liability of the Jay Street Terminal toward such consignees, clearly the railroad companies are liable to them as common carriers at the latest from the time of the delivery of the goods into the cars and the issuance of the bill of lading in their name by their authorized agents in New York. I concur in the conclusion of the majority of the court that this transportation begins in New York.

As to the comparatively small percentage of shipments of which Arbuckle Bros. are the consignees as well as the consignors, this would seem to be equally true. The title thereto could be transferred by them immediately after the bills of lading are issued, and in that event the railroad companies would again clearly be liable as carriers to the assignees, even though the goods had not yet actually moved from New York. And the retention of title thereto by Arbuckle Bros. during the time that they, acting as agents for the railroad companies, are transporting them to Jersey City under the contract by which they agree to indemnify the railroad companies against their own acts, and thereby to release them, in a sense, from the obligations which they would ordinarily incur as common carriers toward the owners of goods carried, would not of itself change the transaction from a transportation service performed by the railroads through their agents, the shippers, into an accessorial service performed by the shippers solely on their own account, payment for which would be illegal, irrespective of any unjust discrimination that might result therefrom.

I concur, too, in the opinion of the majority of the court that Arbuckle Bros. and the Jay Street Terminal are to be treated as identical. When two individuals form two firms in which each is interested in the same proportions, the one to refine sugar, the other to operate a terminal station and to transport goods for railroads, the two firms do not thereby become so distinct and separate for every purpose as to legalize a payment to the latter firm for carrying the former's product, if such payment would be illegal as unjustly discriminatory when made directly to the former firm. The commission was, therefore, fully justified in this case in dealing with the two firms as one.

The question before this court then is, Could the commission reasonably find that payment to Arbuckle Bros. for getting sugar manufactured by them from a point within the lighterage limits to Jersey City; that is, for performing a part of the railroad companies' transportation service (a payment permitted by section 15 of the act, subject to regulation by the commission as to its reasonableness), would operate as an unjust discrimination against the Federal Sugar Refining Co. unless a similar payment were made to the latter company for getting sugar manufactured by it from another point within the lighterage limits to Jersey City?

If the Federal Co. had its refinery at Pier 24, and if Arbuckle Bros. operated their wharf only as a private and not as a public station, and if the allowance made to them for carrying their sugar to Jersey City were no more than the bare cost of the service, the commission would be justified in finding that a refusal to make a similar allowance to the Federal Co. and the offer to give it in lieu thereof free lighterage of its sugar would result in an unjust discrimination against the Federal Co. (Union Pacific Railroad Co. *v.* Updike Grain Co., 222 U. S., 215.)

Do the facts, first, that the Federal Co.'s refinery is at Yonkers, that it brings its goods to Pier 24 primarily or solely to get them within the lighterage limits, that it has never demanded and does not want free lighterage from Pier 24, and that as a result thereof the transportation of its goods by the railroads begins in Jersey City; or, second, that Arbuckle Bros. are employed by the carriers to operate their wharf as a public terminal station, and to transport therefrom to Jersey City not only their own but others' goods, necessarily render the circumstances such that the commission in the reasonable exercise of its powers could not find them to be substantially similar?

(1) If this case were based on the grant of free lighterage to Arbuckle Bros. and the failure to grant it to the Federal Co., the latter would, of course, have no ground for complaint unless it really wanted and

offered to avail itself of such free lighterage. But when, as here, the complaint is based on the grant to the one and the denial to the other of the privilege, not of free lighterage, but of itself performing for compensation the transportation service from within the lighterage limits to Jersey City, it is no answer to assert that at present the situation of the two parties is not similar, transportation for the one beginning at New York and for the other at Jersey City. The charge is that this dissimilarity is due not to the voluntary act of the parties but to the very discrimination sought to be removed as unjust, and that if the same privilege were granted the Federal Co. as is granted Arbuckle Bros.—that is, to transport its goods from a point in the lighterage limits to Jersey City in its own or hired lighters, not at its cost, but as the compensated agent of the railroads—it would be ready, willing, and able so to do.

If this court must find that there is no substantial basis for the commission's view that the Federal Co. was shipping and, on a grant of like privileges to those accorded Arbuckle Bros., would be ready to ship from Pier 24, if the facts stated in the petition necessarily lead to the conclusion that the shipment is and would be direct from Yonkers, a point without, and not from Pier 24, a point within the lighterage limits, to Jersey City, there would be an end of the case. I am of the opinion, however, that this court should not so hold.

The railroads are not concerned with the history of goods offered for transportation. (Interstate Commerce Commission v. D., L. & W. R. Co., 220 U. S., 235.) If parties are ready to perform for compensation that part of the service which the railroad companies by their offer to begin the carriage in New York instead of in New Jersey have made transportation service, it can not be material to the railroads how the goods get to the point where this service is to begin—whether it be by rail, barge, or wagon. The goods are to be tendered to them at that point. The only transportation with which we are here concerned, that by the railroads, is to begin there.

The barge that brings the Federal Co.'s sugar from Yonkers is tied up to the dock at Pier 24. The sugar is then just as much within the lighterage limits as if it were dumped out on the pier. When the barge is so tied up a shipper who wants to avail himself of the free-lighterage offer could assuredly do so. The railroads make this offer to the Federal Co. now, an offer which would be illegal if the goods could not be considered to be within the lighterage limits and if the interstate transportation necessarily began at Yonkers. If the refinery were situated in New York City, a few blocks off the water front on a small canal or creek large enough only for rowboats, the company clearly could bring its goods by such a boat to the dock and put them on lighters without first dumping them onto the dock.

Of course, at the present time the Federal Co. can not offer the goods to the railroads at Pier 24. As it does not want free lighterage, and as the railroads will not accept them at Pier 24 by issuing, through regular agents or through the Federal Co. itself, acting as their agent, the necessary bills of lading, and permitting the Federal Co. as their paid agent thence to transport them to Jersey City under covenants similar to those found in the Jay Street Terminal contracts, it would seem to be utterly useless for the Federal Co. to do anything more than it is doing. It says: "Our sugar is at Pier 24; it is already loaded in lighters; we want bills of lading for the through transportation from this point, and we demand, for similar compensation, the privilege of performing a part of the transportation service, that between the lighterage point, Pier 24, and Jersey City, a privilege substantially similar to that which you grant Arbuckle Bros."

In the opinion filed by the commission in the original case brought by the Federal Co., involving only the extension of the lighterage limits and based primarily on an alleged violation of section 3 of the act, importance was attached to the concession of counsel that the Federal Co. would not be any better off if the Jay Street Terminal were owned by the railroad companies, with the implication that in that event the allowance would be cut off and only free lighterage granted. The refinery at Yonkers would, of course, always be under the disadvantage of having to bring its goods to Pier 24.

The present proceeding, however, was brought by the Federal Co. not in the capacity of Yonkers refinery, primarily to prevent, as between localities, the undue prejudice forbidden by section 3, but in its capacity of a vendor and shipper of sugar from Pier 24, primarily to prevent as against it the unjust discrimination forbidden by section 2 of the act. Only in that capacity is it to be dealt with in this case, and therefore it is immaterial how, whence, or at what cost it gets its sugar to that pier.

(2) Can parties guilty of what would otherwise be an unjust discrimination escape the consequences of their act by combining the payment for the transportation service with payment for other work that in and of itself has no necesary connection therewith?

That Arbuckle Bros. run a public wharf as agents of the railroad companies, that their compensation is a combination of rent and wages as terminal managers and transporters, that the amount paid per 100 pounds for sugar may be far beyond a fair payment for that particular service, and may be made so because a similar payment per 100 pounds may be far below a fair payment for similar services as to other goods, do not, in my judgment, necessarily render the circumstances surrounding the transportation of the sugar to Jersey City so dissimilar from those at Pier 24 as to justify this court in holding that the commission, in the reasonable exercise of its powers, could not find that an unjust discrimination resulted from the payment to Arbuckle Bros. and the refusal to make a similar payment to the Federal Co. If the commission could reasonably so find, its order can not be annulled merely because the members of this court might have reached a different conclusion had they been acting as commissioners.

The fact that the contracts between the Jay Street Terminal and the railroads, by which the Arbuckle private docks were made public terminal stations and these allowances were definitely fixed, were made during the session of Congress which enacted the Hepburn Act, a law which aimed more effectively to prevent certain illegal practices theretofore secretly indulged in for the benefit of large and favored shippers, and the further fact that the ultimate destination of the goods determined the rate of payment, although the services in each case were absolutely identical, lends support to the conclusions of the commission that the allowances are a mere disguise to conceal unjustly discriminatory and therefore illegal payments.

In my judgment, the petition should be dismissed for want of equity.

Mr. SIMPSON. I also offer in evidence the opinion of the Supreme Court in the fuel rate case, which will have to be copied out of the book I have here, which comes from the library connected with the Senate. It is Two hundred and twenty-fifth United States, page 326.

The opinion referred to is as follows:

[U. S. S. Exhibit AAA.]

SUPREME COURT OF THE UNITED STATES.

(No. 719.—October term, 1911.)

The Interstate Commerce Commission and the United States, appellants, v. The Baltimore & Ohio Railroad Co., the Pennsylvania Railroad Co., et al. Appeal from the United States Commerce Court.

(June 7, 1912.)

The question in the case is whether railroad companies may charge a different rate for the transportation of coal to a given point to railroads than to other shippers, the coal being intended for the use of the railroads as fuel.

The Interstate Commerce Commission held that a charge of a different rate was an unlawful discrimination against other shippers and made an order requiring a cessation of such charge. The execution of the order was enjoined by the Commerce Court.

A number of railroads are petitioners and we shall refer to them as the companies.

The companies attack in their petition the order of the Interstate Commerce Commission on several grounds, which may be summarized as follows: The movement of coal traffic from the point of origin to the point or points of junction to receiving carriers is different from the movement of coal to be delivered locally at such junction points.

The traffic is not governed by the rates published under the act to regulate commerce which apply to the traffic in coal not intended for use by consuming railroads, because the charges go to the carrier itself. If the coal be shipped under a through rate applicable to other coal the actual rate upon which it moves to the rails of the consuming road is the division of the through rate going to the roads over which the traffic moves to the junction point with the rails of the consuming road. The division of the rate beyond that point goes to the consuming road itself.

All but an inconsiderable part of such coal is necessary and intended for use as fuel in locomotives. The fueling stations are often many, and are located at convenient points along the line at varying distances from the junction points, and it is not possible at the time of shipment to tell at what point a carload of coal will be needed. If made on a through rate they must be billed and transported to a point to which the through rate is published. Even if a centrally located distributing yard for fuel be established, and all shipments billed on a through rate to that yard, there must be a reverse movement of the coal between that point and the point of junction.

The fact that fuel coal on the line of a consuming carrier is not governed by the published rates makes the commercial competitive conditions different between such coal and other coal. The value to the shipper is not the same or measured by the same conditions. There is no competition between the fuel coal and other coal.

Because of the circumstances and conditions differentiating the traffic in fuel coal the companies have for a number of years past published and filed, as required by law, separate tariffs of the rates to be charged and received by them for the transportation of such coal from points of origin to the junction point of delivery to the consuming carrier. The tariffs vary in their definitions or descriptions of the traffic to which the rates apply, but in each case the traffic is such that it would move in reality not under the published through rates but would move under the special conditions which have been stated. Some of the tariffs apply only to coal intended for use and used for locomotive fuel. The rates named in the tariffs are open and available to all producers and shippers, if the shipments be made under the special conditions stated.

On January 4, 1910, the Interstate Commerce Commission, of its own motion, instituted an inquiry under an order of that date entitled, "In the matter of restrictive rates," docket No. 3053, making the Baltimore & Ohio and the Pennsylvania Railroad Cos. parties to the proceeding. The other companies from time to time were admitted as interveners. Testimony was taken, argument heard, and the commission entered the order complained of in which the commission required the companies to cease and desist, on or before May 15, 1911, and for a period of two years to abstain from using the tariffs on fuel coal stated.

The commission erred in its construction of the act to regulate commerce in that it held the facts and circumstances found by it did not distinguish fuel coal from other coal, and that the different conditions of their transportation were not in law circumstances and conditions necessary or proper to be considered in applying the provisions of section 2 of the act.

The commission erred in holding that the rates on fuel coal under section 2 should be no more nor less than rates for the shipment of other coal from the same point of origin for local delivery at the junction point, the circumstances and conditions showing conclusively that the services done in the transportation of them, respectively, are not alike nor substantially similar, within the meaning of the act to regulate commerce.

The commission erred in holding that fuel coal should be transported under through rates, as other coal, and that it was unlawful for carriers to publish or charge any rates other than the through rates agreed upon going to the line of the terminal carrier to be used by it in its business as a common carrier. And that, as the charges on such terminal carrier's line must be borne by it, the commission erred in holding that such circumstance did not differentiate the traffic in such coal from the traffic in other coal, and did not constitute a substantial difference under section 2 in the conditions of transportation.

The commission erred in holding, further, that any difference in the tariff for fuel coal and not applicable to all other coal was unjustly discriminatory, in violation of section 3.

It appears on the face of the report of the commission, it is alleged, that it proceeded in making the order upon its view of sections 2 and 3; that it did not find it necessary to consider any specific tariff or tariffs or the rates named thereby; that the difference in conditions affecting the respective tariffs could not be considered as distinguishing them. And it is alleged that the findings of the commission are findings of law, as well in regard to the violation of the third section of the act as in regard to violation of the second section. Irreparable damage is alleged, and the alternatives presented of desisting from the carriage of fuel coal at the expense of the loss of large and valuable revenues or accepting divisions of through rates on both fuel coal and other coal, which will give the companies, as originating or intermediate carriers, a much lower compensation for both classes of traffic than they are now receiving and would continue to receive but for the order of the commission.

In either case the loss will amount to many thousand dollars. There will be loss, it is alleged, to the producers of fuel coal who have

sold coal under contracts for future delivery at junction points, and loss also to producers and shippers who depend on the railroad-fuel business to enable them to operate their mines at all.

A final decree is prayed for the annulment of the order and a temporary injunction enjoining and suspending it pending final hearing and determination.

The petition was supported by affidavits made by a number of coal producers and shippers.

The answer of the Interstate Commerce Commission is directed principally at the third paragraph of the petition, and charges against it as follows: Its allegations relate to comparisons between coal, on the one hand, consigned to a railroad company, and coal, on the other hand, consigned to some other party. The former is called railroad-fuel coal; the latter is known as commercial coal. In each instance, however, regardless of the consignee, the point of origin and the point of destination of the shipments is the same, but the rate charged for transporting fuel coal is much less than the rate exacted for the transportation of commercial coal over the same line, in the same direction, and between the same points. Schedules or tariffs providing for such differences in rates have been heretofore established and put in force and are now maintained and enforced by the companies.

Where the destination is a junction which is a point of connection between the lines of two or more of the companies, the movement of coal, fuel and commercial, is the same, except that at such destination the cars containing fuel coal are ordinarily placed upon what is called an exchange track, which is used in common by the connecting carriers, while the cars containing commercial coal are usually placed upon the side track of the delivering carrier. The cost of delivering both kinds of coal is practically the same, depending upon the nature of the delivery facilities furnished by the companies. Therefore, the cost of delivering fuel coal may be and is less than the cost of delivering the commercial coal, but the reverse is sometimes the case. It is alleged, however, that such differences are similar to differences pertaining to some shipments of commercial coal compared with other shipments.

Generally what is called "free time" is allowed by the companies; that is to say, a certain period of time for unloading the coal is allowed. If the coal is unloaded within that time, no charge is made for the use of the car. If that time be exceeded, a charge of $1 for each day or fraction of a day in excess of the "free time," known as a demurrage charge, is exacted by the companies, while the compensation paid by one carrier to another carrier for the use of a car owned by the latter is 25 cents a day. Where the coal transported is fuel coal no "free time" is allowed, nor is such demurrage charge exacted or collected. These differences, however, are offset, and much more than offset, by the differences in the rates of transportation between the different coals.

Where the destination of the shipment of coal is not a point of connection between the lines of two or more of the companies the circumstances and conditions pertaining to the transportation and delivery of coal are the same as above described, except that at such destination there are no exchange tracks used in common by two or more of the companies. Where the shipment passes over more than one line of railway to such destination, delivery by one of the companies to another is made in the same way and under similar circumstances and conditions, regardless of whether the coal be fuel or commercial.

The lower rates established by the companies and applied by them to the transportation of fuel coal are not open alike to all shippers, but are, by reason of the schedules and tariffs above mentioned and by reason of the practices of the companies, confined to shippers of fuel coal and denied to shippers of all other coal, including commercial coal.

The commission denies the errors attributed to it, and alleges that its report shows as follows: "We have never held that the local rate to the junction point must be paid on shipments that are going beyond that point. What we have said is that the local rate to the junction point shall be the same for all shippers to that point, and that the through charges on shipments going beyond the junction point shall be alike for all shippers to the same destination."

The commission alleges (somewhat singularly, on information and belief) that it considered all facts, circumstances, and conditions pertinent to the subject matter of the order, including degrees of difference and distinction, and each and all of the tariffs and rates of the companies which are affected by the order, and did not entertain the opinion attributed to it, that the facts, circumstances, and conditions affecting the particular traffic could not be lawfully considered by it as distinguishing the traffic in railroad-fuel coal from the traffic in other coal.

It is alleged that the traffic is interstate, and that fuel coal as compared with other coal, including commercial coal, is a like kind of traffic; that the services performed by the companies in connection with the transportation of fuel coal as compared to the services performed by them in connection with the transportation of other coal, including commercial coal, are alike and contemporaneous, and are performed under substantially similar circumstances and conditions. It is hence alleged that the companies are violating sections 2 and 3 of the interstate-commerce act.

The final allegation of the commission is that the matters are within its jurisdiction, and that therefore the correctness of its findings is not open to review in the Commerce Court or any other court.

Mr. Justice McKenna, after stating the case as above, delivered the opinion of the court:

The case involves the consideration of sections 2 and 3 of the interstate-commerce act. Section 2 provides that if any common carrier shall directly or indirectly charge or receive from any person or persons a greater or less compensation than it charges or receives from any other person or persons "for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic, under sustantially similar circumstances and conditions, such common carrier shall be deemed guilty of discrimination. * * *."

Section 3 is directed against giving preferences or advantages to persons, localities, or descriptions of traffic in any respect whatsoever and subjecting any person, locality, or traffic "to any undue or unreasonable prejudice or disadvantage in any respect whatsoever."

The companies contend that the commission applied these sections to the facts found by the commission, none of them being disputed, and that, therefore, the findings of the commission are conclusions of law. On the other hand, the commission charges that its findings are those of fact and exclusively within its jurisdiction, and not open to review by the Commerce Court or any court. Many of its assignments of error are expressions of this view. The other assignments assert in various ways and with many shades of particularity that the Commerce Court erred in disagreeing with the commission in regard to the traffics in the different coals, not only in its decision, as indicated in its injunction, in the matters affecting such traffic, but in substituting its judgment for that of the commission.

The facts are certainly undisputed, or, to put it differently, the circumstances and conditions which determined the order are certainly not in controversy; and while certain general inferences are disputed which may be called inferences of fact, yet we think "power to make the order, and not the mere expediency of having made it, is the question" presented. (Interstate Commerce Commission *v.* Illinois Central R. R. Co., 215 U. S., 452, 470.) In other words, that the question presented by the petition is that the order of the commission was not merely administrative, but proceeded from a construction of sections 2 and 3 as applicable to the conditions which affected the traffic in the different kinds of coal and that the different charges for transportation constituted violations of those sections. The Commerce Court, therefore, had jurisdiction of the petition and jurisdiction to enjoin the order of the commission if the court considered that the order would cause irreparable injury. Section 3 of the act creating the Commerce Court gives that court the power to "enjoin, set aside, annul, or suspend any order of the Interstate Commerce Commission, in a suit brought in the court against the United States." Whether the court erred in its judgment is now to be inquired into.

In its most abstract form the simple statement of the controversy is whether the companies may charge a different rate for the transportation of fuel coal to a given point than for the transportation of commercial coal to the same point. But when we depart from the abstract, complexities appear and attention is carried beyond the consideration of points equally distant, shippers equally circumstanced and traffic affected by similar circumstances and conditions. It is asserted that there are disparities between the traffics and qualifying circumstances which the commission disregarded and, in error, held that traffic in fuel coal should not be distinguished from the traffic in commercial coal.

The commission insists upon the simplicity of the problem and contends that there is nothing in the conditions of the traffic which dispenses with the clear legal duty of the companies under the interstate commerce act to carry for all shippers alike. The commission says: "We have never held that the local rate to the junction point must be paid on shipments that are going beyond that point. What we have said is that the local rate to the junction point shall be the same for all shippers to that point, and that the through charges on shipments going beyond the junction point shall be alike for all shippers to the same destination." Its position thus expressed the commission has supplemented, we are told by the companies, by its conference ruling No. 324, published June 19, 1911, as follows: "Division on company coal.—Upon inquiry, held that it is unlawful for carriers to make special and discriminatory divisions of joint rates upon locomotive fuel as between an originating or participating carrier and a purchasing carrier. In the division of joint rates a railroad must be treated precisely as any other shipper is treated, and the commission will regard any special division as a device to defeat the published rate. All divisions upon fuel coal must be made in good faith without respect to the fact that one of the carriers is the purchaser of such coal."

The issue of principle between the commission and the companies is very accurately presented, and we come to consider whether there are differences in the traffic of fuel coal which distinguish it from traffic in commercial coal, and which, as contended by the companies, make the traffic dissimilar in circumstances and conditions, or whether the opposite is true, as decided by the commission.

The circumstances and conditions which may so far be considered as distinguishing traffics so as to take from different transportation charges the vice of preference have been described by this court. In Wight *v.* United States (167 U. S., 512, 518) it is said: "It was the purpose of the section (2) to enforce equality between shippers, and it prohibits any rebate or other device by which two shippers, shipping over the same line, the same distance, under the same circumstances of carriage, are compelled to pay different prices therefor." These words are given more precision by the declaration "that the phrase, 'under substantially similar circumstances and conditions,' as found in section 2, refers to matters of carriage, and does not include competition." And this was repeated in Interstate Commerce Commission *v.* Alabama Midland Railway Co. (168 U. S., 161, 166). The facts in both cases give significance to the rulings. In the first case the charges to the shippers were the same, but one was given extra facilities; in the second case the extraneous effect of competition was excluded as an element in the application of the section. There is also example in Interstate Commerce Commission *v.* Delaware, Lackawanna & Western Railroad Co. (220 U. S., 235). It was there held that a carrier could not look beyond goods tendered to it for transportation in carload lots "to the ownership of the shipment" as the basis for determining the application of its established rates. Do the circumstances and conditions in this case give a greater power of discrimination and justify the lower charge to railroad-fuel coal? It is admitted that the fact that a railroad is the shipper or consumer is not a circumstance or condition that affects the carriage, nor can the different uses to which the coal may be put, and it would seem necessarily that any other extraneous condition or circumstance could have no greater potency. Once depart from the clear directness of what relates to the carriage only and we may let in considerations which may become a cover for preferences. May a carrier look beyond the service it is called upon to render to the attitude and interest of the shippers before, or their attitude and interest after, transportation? It must be kept in mind that it is not the relation of one railroad to another with which we have any concern, but the relation of a railroad to its patrons, who are entitled to equality of charges. (See Pennsylvania Railroad Co. *v.* International Mining Co., 173 Fed., 1.)

But what are the differences in the traffics which are asserted by the companies? We have already condensed them from the pleadings, but we may use the expression of their ultimate elements by the companies, omitting, for the time being, the physical differences in facilities. They say: "When the railroad-fuel coal is consigned to the junction point, as provided in the present system of tariffs, the circumstances and conditions that differentiate this traffic from the traffic in commercial coal consigned to the same point are:

"1. The fuel coal so shipped is not in competition with the commercial coal consigned to the same point.

"2. It is in competition with other coals coming upon the line of the consuming road at other points with which the commercial coal is not in competition.

"3. The transportation service is different in that commercial coal at the junction point has reached the point of use, while railroad-fuel coal reaching the consuming railroad at the junction point is still subject to a transportation service before reaching the point of use—a transportation under the 'commodities clause' and not under tariff."

These elements the commission disregarded, it is contended, and that while it found a similarity in the traffics it did not consider or discuss the two most important features of difference—"the two features" which make the traffics unlike; that is, that railroad-fuel coal "does

not come into competition with the commercial coal, and is in competition with coals coming on the railroad's line at other points." But such features do not affect the carriage, quality, or alter the essential service, which is to get an article from one place to another. The greater or less inducement to seek the service is not the service. Such competition, therefore, is as extraneous to the transportation as the instances in the cases cited. And equally so is the other "feature," that the fuel coal may be destined for consumption beyond the junction point. The circumstances do not alter the fact that it and commercial coal go to the same point and are delivered at the same point. There is, it is true, a difference in the manner of delivery, depending upon the difference in the facilities possessed by the railroads and other consignees.

The commission, as we have seen, especially disclaimed holding that the rate to the junction point must be paid on shipments going beyond that point, and insisted that it only held that the charges to that point should be the same to all shippers, and rates through that point should also be the same to all shippers. And the commission said that the testimony established that the service as to the coals was alike when they go beyond the junction point. The commission, therefore, considered alone the service, disregarding circumstances and conditions which were mere accidents of it and had relation only to the respective shippers.

But the companies say, in criticism of the reasoning and order of the commission, they are permitted to do indirectly what they want to do directly, that an easy way of evasion of the prohibiting order is to make a joint rate from the point of origin of the fuel coal to its points of consumption, and thereby be enabled "to charge a lower rate for the fuel coal than for the commercial coal between the same points." And further, in display of the easiness with which this can be accomplished and "how readily the commission's order lends itself to manipulation of rates," they say that they have only to publish a nominal delivery point beyond the real delivery point, publish a rate to that point which they do not intend to charge and call their actual rate to the junction point, based on the special circumstances and conditions, a "division." They then ask if "the commission can so easily juggle a rate for a good purpose, will not ingenious traffic agents and coal operators do the same for their own perverse ends?" If such a situation artfully produced be used as a device for giving preferences, the commission might be able to find some means to defeat it. At present we must regard its possibility as relevant as exhibiting a misconception of the commission's purpose. The commission has not said what the rate should be, nor has it said, as we have seen, that the local rate to the junction point should be the same as the rate beyond that point. The commission has ordered equality and struck down what it deemed to be preferential charges, even though they were made under formal tariffs. If there may be legal or illegal evasion of the order, we may wonder at the controversy. If the difference between the effect of the order and what the companies can do or want to do, be, as is contended, a "question of words"—a "question of the nomenclature to be used in tariffs"—the order of the commission may still be valid. Tariffs are but forms of words, and certainly the commission, in the exercise of its powers to administer the interstate commerce act, can look beyond the forms to what caused them and what they are intended to cause and do cause.

There are other contentions or rather phases of those that we have considered and which seek to further emphasize the strength of competition as a circumstance or condition differentiating the traffic. For instance, it is urged that the shipment of the fuel coal to a particular railroad "for the use of that railroad" makes special the traffic. And, further, that "a railroad is not a person," but is "rather in the nature of a geographical division and extends through long distances." Pushing the argument or illustrations further, it is urged that a railroad company may be distinguished from the physical thing, the railroad itself, and may be a locality where a commodity is used, like "a river, a county, or a city," and be entitled to preferential rates to accommodate competitive conditions. The Import Rate Case (162 U. S., 197) is invoked as analogous. We can not accept the likeness nor the distinctions which are said to establish it. The railroad company can not be put out of view as a favored shipper, and we see many differences between such a shipper receiving coal for use in its locomotives and a nation as the destination of goods from other nations for distribution throughout its expanse on through rates from points of origin.

The point is made that "the commission's method of filing fuel-coal rates is illegal under section 6 of the interstate commerce act and under the Elkins Act," and the later act and section 6 are quoted in illustration. The rather vague argument which is urged to support the point lands in the proposition that the right to violate the law as to preference in rates is justified by the law in its requirement of the filing of schedules of rates. However, counsel say that "it all goes back to the same principle" "dealt with under point 1." We have sufficiently discussed point 1.

The decree of the Commerce Court is reversed and the case remanded with directions to dismiss the petition.

True copy.

Test.

Clerk Supreme Court, United States.

Mr. SIMPSON. I also offer in evidence, but I do not care to have it even printed in the RECORD, the record in the circuit court of appeals in the Marian Coal Co. against Peale, having taken therefrom the whole of the evidence that was objected to when it was suggested before.

[The matter was marked "U. S. S. Exhibit ZZ."]

Mr. SIMPSON. I also offer in evidence a certificate from the District Court of the United States for the Middle District of Pennsylvania, showing all the cases which appeared in that court in which the Lehigh Valley Coal Co. or Lehigh Valley Railroad Co. were parties interested during the time Judge Archbald was a member of that court.

The certificate referred to is as follows:

[U. S. S. Exhibit BBB.]

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF PENNSYLVANIA.

I, G. C. Scheuer, clerk of the above-named court, do hereby certify that the docket entries in the cases hereto attached are the only cases in which the Lehigh Valley Railroad Co. or the Lehigh Valley Coal Co. is a party which were pending during the term of Hon. R. W. Archbald as judge of the District Court of the United States for the Middle District of Pennsylvania.

Witness my hand and the seal of said court, this 27th day of November, A. D. 1912.

[SEAL.] G. C. SCHEUER, *Clerk.*

The following is a part of the docket entries:

In re Bunnie S. Harris *v.* Lehigh Valley Coal Co. No. 9, October term, 1904.

For plaintiff: Watson, Diehl & Kemmerer, Scranton, Pa.

For defendant: Woodward, Darling & Woodward, Wilkes-Barre, Pa.; Willard, Warren & Knapp, Scranton, Pa.

September 15, 1904. Præcipe for summons in assumpsit and plaintiff's statement. Summons issued returnable first Monday of October next.

September 22, 1904. Summons returned served.

September 28, 1904. Præcipe for appearance of Woodward, Darling & Woodward for defendant.

October 16, 1905. Amendment to plaintiff's statement (allowed).

November 28, 1905. Additions and amendments to plaintiff's statement.

March 5, 1906. Continued on account of plaintiff's sickness.

October 15, 1906. Continued to October 22, 1906.

March 4, 1907. Jury called and sworn.

March 18, 1907. By agreement, a juror is withdrawn and the case is continued to February term, 1908.

Certified from the record this 27th day of November, 1912.

[SEAL.] G. C. SCHEUER, *Clerk.*
Per S. W. HOFFORD, *Deputy Clerk.*

Now, 27th March, 1908, the above case is hereby discontinued.

WATSON, DIEHL & WATSON,
Attorneys for plaintiff.
J. B. WOODWARD,
For defendant.

Certified from the record this 27th day of November, 1912.

[SEAL.] G. C. SCHEUER, *Clerk.*
Per S. W. HOFFORD, *Deputy Clerk.*

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF PENNSYLVANIA.

In re Robert Smallcomb *v.* Lehigh Valley Railroad Co. No. 115, October term, 1907.

DOCKET ENTRIES.

October 9, 1907. Præcipe for summons in trespass and statement. Summons issued returnable first Monday of November, next.

October 16, 1907. Summons returned served and filed.

October 18, 1907. Præcipe for appearance of Willard, Warren & Knapp, for defendant.

November 13, 1907. Plea: "Not guilty."

January 25, 1908. Affidavit of E. N. Willard. Order of court allowing the withdrawal of plea of "Not guilty" and filing plea in abatement. Plea in abatement.

February 20, 1908. Depositions.

February 28, 1908. Jury called and sworn (see minutes).

March 11, 1908. Jury called and sworn (see minutes).

March 12, 1908. Juror withdrawn and case settled.

April 14, 1908. Order of court directing that case be marked discontinued. Discontinued.

Certified from the record this 27th day of November, 1912.

[SEAL.] G. C. SCHEUER, *Clerk.*
Per S. W. HOFFORD,
Deputy Clerk.

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF PENNSYLVANIA.

In re Charles D. Keating *v.* Lehigh Valley Railroad Co. No. 146, October term, 1908.

DOCKET ENTRIES.

July 11, 1908. Præcipe for summons in trespass and statement. Summons issued returnable first Monday in August, next.

July 14, 1908. Summons returned served and filed.

August 3, 1908. Præcipe for appearance of Willard, Warren & Knapp, Esqs., for defendant.

August 14, 1908. Plea: "Not guilty."

September 30, 1908. Præcipe for appearance of M. J. Martin, Esq., for plaintiff.

October 20, 1909. Depositions of William Simons and Walter T. Sullivan, taken before May Thornton, a notary public, etc.

October 22, 1909. Jury called and sworn.

October 26, 1909. Verdict for defendant.

Certified from the record this 27th day of November, 1912.

[SEAL.] G. C. SCHEUER, *Clerk.*
Per S. W. HOFFORD,
Deputy Clerk.

Mr. SIMPSON. I also offer in evidence a letter from Judge Mack to Mr. Bruce, dated December 12, 1911, and the reply of Mr. Bruce to Judge Mack, dated December 15, 1911, in relation to the Louisville & Nashville case, and the reply of Judge Mack to Mr. Bruce, dated December 22, 1911.

Mr. Manager STERLING. Those letters we ask to have read, Mr. President.

Mr. SIMPSON. Very good, sir. Before I offer any others, then, I will wait until they are read.

The Secretary read as follows:

[U. S. S. Exhibit CCC.]

UNITED STATES COMMERCE COURT,
Washington, December 12, 1911.

HELM BRUCE, Esq.,
Lincoln Bank Building, Louisville, Ky.

DEAR MR. BRUCE: In the testimony before the commission in the New Orleans-Mobile-Montgomery case Mr. Compton stated that he would furnish a copy of the Cooley adjustment of 1886. I can find nothing

of this kind in the files. If you can secure me a copy of the Ogden and Cooley reports I should be greatly obliged to you.

Very truly, yours,

JULIAN W. MACK.

JWM/AHM

[U. S. S. Exhibit DDD.]

DECEMBER 15, 1911.

Hon. JULIAN W. MACK,
Judge of the United States Commerce Court,
Washington, D. C.

MY DEAR JUDGE: I have yours of the 12th instant referring to Mr. Compton's testimony before the commission in the New Orleans-Mobile-Montgomery case and in which you call attention to the fact that he said he would furnish a copy of the Cooley adjustment of 1886, but that you can not find it.

You will find the Ogden and Cooley awards set forth in full in the testimony in the present case before the examiner of the circuit court, first, in the testimony of T. C. Powell, page 26, beginning at line 20, and then again in the testimony of Mr. C. B. Compton, page 152, line 1, *et c.*

But thinking it possible, as there are five judges of the Commerce Court, that you may not have the entire record before you, I inclose you a copy of the two awards.

Yours, very truly,

HELM BRUCE.

HB–W.

[U. S. S. Exhibit EEE.]

(The Northwestern Mutual Life Insurance Co., M. W. & R. W. Mack, general agents for Hamilton County, Ohio. J. W. M. Traction Building, Fifth and Walnut Streets, Cincinnati.)

DECEMBER 22, 1911.

HELM BRUCE, Esq.,
Lincoln Bank Building, Louisville, Ky.

DEAR MR. BRUCE: Thanks for your letter and the inclosure. It has been some time since I went through the testimony in the circuit court, and when I wrote you I had forgotten that this material was there. I had been going again through the testimony before the commission and had failed to find it and had therefore made the request.

Thanking you for your courtesy, I am,

Very truly, yours,

JULIAN W. MACK.

Mr. SIMPSON. I also offer in evidence, sir, a letter from Mr. Bruce to Mr. Worthington, which was produced before the Judiciary Committee and kindly produced by the managers the other day at our request. That is the one Judge CLAYTON handed to me the other day.

Mr. Manager STERLING. We object to this—a letter written by Mr. Bruce to Mr. Worthington.

Mr. WORTHINGTON. This is a letter that Mr. Bruce wrote to me just after he had been examined as a witness before the Judiciary Committee, in which he makes some statements that he evidently wished to reach the committee in regard to this correspondence which he had with Judge Archbald. I turned it over to the committee, and it remained in their possession until it was produced here at our request. I think under the circumstances the Senate ought to have the benefit of Mr. Bruce's statement, which he made to the Judiciary Committee at the time in explanation of this transaction.

The PRESIDENT pro tempore. Does counsel claim that it is admissible under the rules of evidence?

Mr. WORTHINGTON. I could hardly say it is strictly admissible, but I think, under the rules under which we have admitted some papers here, in general fairness to everybody it might go in.

My attention is called to the fact that in his testimony here Mr. Bruce was asked about that letter, and he said:

I think the facts I stated in that letter are material, if I may be permitted to say so, to this matter you have under consideration, because it states the attitude of the parties upon the question on which Judge Archbald wrote to me.

So it was referred to and made a part of his testimony here.

The PRESIDENT pro tempore. The Chair does not feel at liberty to admit a document if it is not regarded as legitimate evidence. Of course, if the Senate desires to receive it, it is in its power so to direct.

Mr. Manager WEBB. Mr. Bruce has been on the witness stand since writing the letter, and he could have been interrogated about it if it was desired to do so.

Mr. SIMPSON. Mr. WEBB forgets that the letter was mislaid by Judge CLAYTON and was not produced until next morning. It was no fault of Judge CLAYTON, and I am not making any complaint, but we did not have it here when we wanted it for that purpose.

Mr. Manager CLAYTON. In reply to that, I may say that when counsel asked me for the letter I produced it as soon as possible. Mr. Bruce had not left the city. It is a matter which has no proper relation to the case, anyway.

Mr. SIMPSON. I do not think it is admissible evidence if it is objected to, and I can not insist on it.

The PRESIDENT pro tempore. The Chair would have no right to admit it.

Mr. SIMPSON. I offer in evidence the opinion of the Interstate Commerce Commission in the Louisville & Nashville Railroad Co. case, referred to by Judge Archbald while upon the stand.

The PRESIDENT pro tempore. Does counsel desire to have it read?

Mr. SIMPSON. I do not think it is necessary to have it read at this time.

The PRESIDENT pro tempore. It will be incorporated in the record without being read.

The opinion referred to is as follows:

Before the Interstate Commerce Commission.

New Orleans Board of Trade (Limited) *v.* The Louisville & Nashville Railroad Company. Nos. 1310, 1313, and 1328.

Submitted February 10, 1909. Decided November 26, 1909.

REPORT AND ORDER OF THE COMMISSION.

1. Defendant advanced its rates on certain classes from New Orleans to Mobile and Pensacola to make the sums of the locals equal the through rates from New Orleans to Montgomery, Selma, and Prattville, via Mobile and Pensacola: Held, That the rates resulting from said advance were unjust and unreasonable.

2. Former rates have been in effect, substantially unchanged, for over twenty years, and there was no evidence that they were not compensatory.

3. Neither by comparison with other rates nor by any facts appearing are the advanced rates shown to be reasonable.

4. The through rates from New Orleans via Mobile and Pensacola to Montgomery, Selma, and Prattville on certain classes held to be unreasonable and excessive and reduced to the sum of the locals.

John A. Smith, for complainant.

Ed. Baxter, W. G. Dearing, and Sloss D. Baxter, for defendant.

REPORT OF THE COMMISSION.

Clements, commissioner:

On August 13, 1907, the defendant advanced its rates on certain classes from New Orleans, La., to Mobile, Ala., and Pensacola, Fla., and on the same date a revision of the tariffs of said defendant became effective, which resulted in an increase of rates upon certain commodities and a decrease in rates upon certain other commodities from the same point of origin to the same destinations.

The complainant attacks the advanced rates on traffic to each of these destinations in separate proceedings as unreasonable and unjust in and of themselves, and as unduly prejudicial to the commercial interests of the city of New Orleans and its merchants.

The complainant also attacks, in a separate proceeding, the through rates from New Orleans to Montgomery, Selma, and Prattville, Ala., on substantially the same grounds.

The defendant, admitting the advance in its rates substantially as alleged, denies that they, or any of them, are unreasonable or unjust.

The three cases are interdependent, in that attack upon the local rates from New Orleans to Mobile and Pensacola, respectively, involves the through rates from New Orleans to Montgomery, Selma, and Prattville, and the attack upon the said through rates from New Orleans to these Alabama destinations involves the local rates from New Orleans to Mobile and Pensacola. The three cases were heard together and will be disposed of in a single report.

The advances in the class rates to Mobile and to Pensacola, respectively, as follows:

Local rates.

NEW ORLEANS TO MOBILE.

	Class.												
	1	2	3	4	5	6	A	B	C	D	E	H	F
August 13, 1907	50	39	38	31	27	16	12	15	12½	10	20	18	25
Prior to August 13, 1907	50	37	25	18	15	15	12	15	12½	10	15	18	25
Advance	....	2	13	13	12	1	....	....	....	....	5	....	....

NEW ORLEANS TO PENSACOLA.

August 13, 1907	55	45	38	31	27	16	18	18	15	13	25	25	30
Prior to August 13, 1907	55	45	35	25	20	15	18	18	15	13	25	25	30
Advance	....	....	3	6	7	1	....	....	....	....	....	....	....

Freight transported over defendant's lines from New Orleans to Montgomery, Selma, and Prattville, and adjacent territory basing upon these points, is routed via Mobile or Pensacola, and prior to August 13, 1907, defendant's through rates from New Orleans to said points, in certain instances, exceeded the sum of the locals from New Orleans to Mobile or Pensacola added to the local rates from these points to Montgomery, Selma, and Prattville.

The excess of the through rates over the sums of the locals was exactly identical in each instance with the advances as shown by the above tables, namely, in classes 2, 3, 4, 5, 6, and E to Mobile, and in classes 3, 4, 5, and 6 to Pensacola.

The following table shows the difference between the through rates and the combinations prior to said advances:

Table of rates.

NEW ORLEANS TO MONTGOMERY AND SELMA, VIA MOBILE.

	Class.												
	1	2	3	4	5	6	A	B	C	D	E	H	F
Through	80	79	68	55	47	36	24	27	20	16	44	35	32
Combination	100	77	55	42	35	35	27	35	26½	22	39	37	55
Advance	....	2	13	13	12	1	....	....	....	....	5	....	....

Table of rates—Continued.

NEW ORLEANS TO MONTGOMERY AND SELMA, VIA PENSACOLA.

	Class.												
	1	2	3	4	5	6	A	B	C	D	E	H	F
Through	89	79	68	55	47	36	24	27	20	16	44	35	32
Combination	105	85	65	49	40	35	33	38	29	25	49	44	54
Advance	.....	.....	3	6	7	1	.....	.....	.....	.....	.....	.....	.....

NEW ORLEANS TO PRATTVILLE, VIA MOBILE.

Through	101	89	76	63	55	44	29	32	25	21	49	40	42
Combination	112	87	63	50	43	43	32	40	31½	27	44	42	65
Advance	.....	2	13	13	12	1	.....	.....	.....	.....	5	.....	.....

NEW ORLEANS TO PRATTVILLE, VIA PENSACOLA.

Effective Aug. 13, 1907	117	95	76	63	55	44	38	43	34	30	54	49	70
Prior to Aug. 13, 1907	117	95	73	57	48	43	38	43	34	30	54	49	70
Advance	.....	.....	3	6	7	1	.....	.....	.....	.....	.....	.....	.....

The effect of the advance was to equalize the sum of the locals with the through rates from New Orleans to Montgomery, Selma, and Prattville, but the through rates from New Orleans to Montgomery, Selma, and Prattville were not changed, nor were the local rates from Mobile and Pensacola to Montgomery, Selma, and Prattville disturbed.

Prior to August 13, 1907, shippers, in order to get the benefit of the lower combination, sometimes shipped locally to Mobile and then reshipped to Montgomery, Selma, and Prattville.

The defendant concedes that one of the objects of the advance was to keep the locals from being used to cut the through rate, and the evidence corroborates this position, and it is obvious that this was the underlying reason for the advance.

Transportation between New Orleans, Mobile, and Pensacola was conducted wholly by water carriers until about 1871, when carriage by rail was inaugurated, and shortly thereafter the defendant acquired the railroad which had been built from New Orleans to Mobile and Pensacola, and has operated the same continuously to the present time as a part of its system.

The earliest rail class rates applying via this route, as shown by this record, were established in 1887, and they remained substantially unchanged until the said advance of August 13, 1907. Comparison of water rates issued by the Mobile & Gulf Steamship Co., effective in 1907, and the rail rates prior to the said advance, from New Orleans to Mobile, is shown as follows:

	Class.												
	1	2	3	4	5	6	A	B	C	D	E	H	F
Rail rates	50	37	25	18	15	15	12	15	12½	10	15	18	25
Water rates	44	33	31	27	23	12	10	12	13	8	16	14	10

In the competition between the rail and water lines the tariffs show the rail rates ranged generally higher than the water rates, except in the third, fourth, and fifth classes, under which classes the bulk of the freight carried between these two cities would move. There was some testimony to the effect that formerly the rail rates were not maintained as published when competition was severe with the water lines, neither is it certain that the rates announced by the water lines were maintained. At all events, water transportation gradually declined, and at the date of the hearing carriage by water was very infrequent and cut but little figure as a competitor with the defendant. Some of the reasons for the decline and practical disappearance of water transportation, as disclosed by the testimony in this case, in addition to the results of the competition with defendant, are the slower service of the water lines, the labor troubles in connection with loading and unloading the vessels, inconvenient loading and unloading places for shippers as compared with centrally located freight stations and branch railroads to warehouses, and the want of proper docking facilities.

The advances shown from New Orleans to Mobile of 2 cents on the second class, 13 on the third, 13 on the fourth, 12 on the fifth, 1 on the sixth, and 5 on class E were severely felt by certain shippers in New Orleans shipping to Mobile and adjacent territory, and especially those engaged in jobbing canned goods, lard, flour, coffee, oil, crackers, pickles, vinegar, beans, etc. New Orleans is an important distributing market for canned beans, handling, perhaps, from 400 to 500 carloads per year, and the increase in the rate on this article is extremely burdensome, if not practically prohibitory of shipping into New Orleans and out to Mobile.

The rate on paper was advanced from 18 to 31 cents, and that on stovepipe, tinware, tubs, and galvanized iron tubes from 18 to 31 cents, and it was shown that the manufacturers would have to absorb this advance. It was also shown that the advance of the rates on furniture, iron beds, etc., practically closed out the business with Mobile, as better rates were made from other manufacturing points, such as Atlanta, High Point, and Winston-Salem, N. C.

The rates on bags, burlaps, gunny, and jute were advanced L. C. L. from 15 to 27 cents, and this was vigorously opposed. Strong protest on account of alleged discrimination against New Orleans was made with reference to cotton goods, it being asserted that other manufacturing points are given more favorable rates. Some of the rates upon cotton goods are as follows:

New Orleans to Montgomery, 321 miles, 55 cents; Montgomery to New Orleans, 38 cents; New Orleans to Mobile, 141 miles, 31 cents; Mobile to New Orleans, 18 cents; from Virginia and North and South Carolina points to Montgomery the rate is 43 and 46 cents; Augusta to Montgomery, 346 miles, 35 cents; Augusta to Mobile, 536 miles, 40 cents; New York to Montgomery, 69 cents; Boston to Montgomery, 69 cents; New York to Mobile, via water, 40 cents; Boston to Mobile, via water, 40 cents; New York to New Orleans, via water, 40 cents; New Orleans to New York, via water, 30 cents.

In many other instances on both class and commodity rates the advances caused serious interference with business and have produced loud protests on the part of the merchants shipping from New Orleans to Mobile and points basing thereon.

The advance of the rates from New Orleans to Pensacola was as follows:

Three cents in the third class, 6 cents in the fourth, 7 cents in the fifth, and 1 cent in the sixth class. This advance was not as heavy or as injurious to the merchants in New Orleans in their trade with Pensacola as the advance to Mobile, but they strongly protested against it, and it was shown that, proportionately, like conditions resulted from said advance as were produced by the increase in the rates to Mobile.

The rates from New Orleans to Mobile and Pensacola have been in effect, substantially unchanged, for over 20 years, and there was no evidence that they were not compensatory. They exceed the rates from New Orleans to other water transportation points, e. g., Natchez, Vicksburg, Greenville, and Memphis, where the distances are much greater. They also exceed the rates from Nashville, Memphis, Cincinnati, and Louisville to points where the distances are approximately the same. The rates between New Orleans and Mobile and New Orleans and Pensacola in both directions were identical until this advance occurred, which has disturbed the relation of rates between points where geographical and commercial conditions would seem to demand that they be put on an equality, not only with respect to the trade and commerce with each other, but also with respect to the outbound rates to the southeastern territory. Between other cities, e. g., New Orleans and Memphis, New Orleans and Greenville, New Orleans and Natchez, New Orleans and Vicksburg, the rates are the same in both directions.

With respect to the through rates from New Orleans to Montgomery, Selma, and Prattville, and to the southeastern territory, it was shown that the merchants of New Orleans have heretofore made ineffectual efforts to secure better rates to this territory, as higher rates were in effect from New Orleans to this territory than existed from distributing centers at greater distances west and north of said territory, the situation being such that New Orleans was cut off from the trade of this section as to many products and greatly restricted and burdened as to many others on account of the high rates of transportation.

The manufacturers and shippers of oil, paper, stovepipe, tinware, galvanized tube, furniture, soap, window glass, paints, hardware, and other articles of like kind in daily use testified that they were unable to trade in the Montgomery and Selma territory on account of the high rates, and that upon former occasions they had made special efforts to build up a trade with cities located in this territory and points basing thereon, but in every instance they were compelled to abandon the fight on account of better freight rate concessions from other markets, though at greater distances.

With respect to practically all of the commodities above enumerated, schedules of comparative rates and distances were filed corroborating complainant's contention.

The rates from New Orleans to Montgomery, Selma, and Prattville are higher in all the classes than the rates from other points typical of the situation in the southeast to Montgomery, Selma, and Prattville, where the distances are greater, e. g., Brunswick, Ga.; Savannah, Ga.; Charleston, S. C.; Wilmington, N. C.; and Nashville, Tenn. From New Orleans to certain stations just outside of Montgomery, on the Mobile & Ohio Railroad, the rates are less than the rates to Montgomery, and from some of the Virginia cities to Montgomery and Selma the rates are less than from New Orleans to Montgomery and Selma, though more than twice the distance. The rates from North Atlantic ports to points in southeastern territory basing on Montgomery are more favored when length of haul and the number of lines over which the traffic must be transported are taken into consideration, and the rate in cents per ton per mile on the average of the first six classes is much greater from New Orleans to Montgomery, Selma, and Prattville than they are from Memphis, St. Louis, and Louisville to said points.

The Cooley arbitration of 1886 has been strongly urged by defendant as a reason for the nonreduction of the present advanced rates. This arbitration established a relation of rates as between the several Ohio and Mississippi River crossings, applying upon products from the territory north and west of those rivers destined to southern and southeastern territory, by fixing a basis for making rates from these several basing points to the southeastern territory with the object of maintaining an equitable relation and equality of the basing rate as between said points on goods transported to southeastern territory, but we do not understand that this arbitration undertook to fix the actual rates for carriage from the several basing points to destinations in this territory. However, if such were the case, the building of new railroads, competition, and other causes have forced many departures from the adjustment and the rates made under it, until it has become materially altered, and it is inevitable and proper that it should yield to meet new and changed conditions.

It was stated by the principal witness for the defendant that between points on its line where the through rate exceeded the combination of rates from point of origin to a competitive point and from said competitive point to destination that shippers were given the benefit of the combination rate, and this provision appeared in special circulars and was very generally observed as a rule for the adjustment of freight rates; and such having been formerly the custom of the defendant, it would seem now to work no especial hardship upon it to reduce rates to the basis of the former combination.

Upon full hearing and consideration of all the facts, circumstances, and conditions appearing, it is the opinion of the commission that the advance in these rates upon classes 2, 3, 4, 5, 6, and E, from New Orleans to Mobile, and upon classes 3, 4, 5, and 6, from New Orleans to Pensacola, effective August 13, 1907, was not justified, and that the increased rates resulting therefrom are unjust and unreasonable to the extent that they exceed the former rates in effect immediately prior to August 13, 1907, on the said classes.

The commission is also of the opinion that the through rates heretofore stated, in effect from New Orleans to Montgomery, Selma, and Prattville, on traffic moving through Mobile to said destinations, are unreasonable and unjust as applied to said classes to the extent that said through rates exceed the combination of locals from New Orleans to Mobile and from Mobile to said destinations, immediately prior to August 13, 1907, viz: Class 2, 2 cents; class 3, 13 cents; class 4, 13 cents; class 5, 12 cents; class 6, 1 cent; and class E, 5 cents; also that the through rates from New Orleans to Montgomery, Selma, and Pratt-

ville, on traffic moving through Pensacola and thence to said destinations, are unjust and unreasonable to the extent that they exceed the amounts of the combination of locals from New Orleans to Pensacola and and from Pensacola to said destinations, respectively, which were in effect immediately prior to August 13, 1907, viz: Class 3, 3 cents; class 4, 6 cents; class 5, 7 cents; and class 6, 1 cent.

It is our conclusion, therefore, that the rates on classes 2, 3, 4, 5, 6, and E, from New Orleans to Mobile, should not exceed the following sums: Second class, 37 cents; third class, 25 cents; fourth class, 18 cents; fifth class, 15 cents; sixth class, 15 cents; class E, 15 cents; that the rates on classes 3, 4, 5, and 6, from New Orleans to Pensacola, should not exceed the following amounts: Class 3, 35 cents; class 4, 25 cents; class 5, 20 cents; class 6, 15 cents; that the rates on classes 2, 3, 4, 5, 6, and E, from New Orleans via Mobile to Montgomery and Selma, should not exceed the following amounts: Second class, 77 cents; third class, 55 cents; fourth class, 42 cents; fifth class, 35 cents; sixth class, 35 cents; Class E, 39 cents; and from New Orleans via Mobile to Prattville should not exceed the following amounts: Class 2, 87 cents; class 3, 63 cents; class 4, 50 cents; class 5, 43 cents; class 6, 43 cents; and class E, 44 cents; and that the rate from New Orleans via Pensacola to Montgomery and Selma should not exceed the following amounts: Class 3, 65 cents; class 4, 49 cents; class 5, 40 cents; and class 6, 35 cents; and that the rates from New Orleans via Pensacola to Prattville should not exceed the following amounts: Class 3, 73 cents; class 4, 57 cents; class 5, 48 cents; and class 6, 43 cents.

In regard to the commodity rates attacked in these proceedings certain adjustments and changes have been made therein by the defendant since the institution thereof with the view of correcting inequalities or excessive charges found to exist, which adjustments and changes are admitted to have removed the cause of complaint to some extent. It is impracticable in the present state of the record to determine satisfactorily what other changes, if any, respecting commodity rates should be made. These cases will be retained therefore for such further investigation and consideration of commodity rates involved as the facts and circumstances may seem to require.

An order will be entered in accordance with the foregoing conclusions.

ORDER.

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 26th day of November, A. D. 1909.

Present: Martin A. Knapp, Judson C. Clements, Charles A. Prouty, Francis M. Cockrell, Franklin K. Lane, Edgar E. Clark, James S. Harlan, commissioners.

No. 1310.

NEW ORLEANS BOARD OF TRADE (LIMITED)

v.

LOUISVILLE & NASHVILLE RAILROAD COMPANY.

No. 1313.

SAME

v.

SAME.

No. 1328.

SAME

v.

SAME.

These cases being at issue upon complaints and answers on file, and having been duly heard and submitted by the parties, and full investigation of the matters and things involved having been had, and the commission being of the opinion that the advance in these rates upon classes 2, 3, 4, 5, 6, and E, from New Orleans to Mobile, and upon classes 3, 4, 5, and 6 from New Orleans to Pensacola, effective August 13, 1907, was not justified, and that the increased rates resulting therefrom are unjust and unreasonable to the extent that they exceed the former rates, in effect immediately prior to August 13, 1907, on the said classes, and that the through rates in effect from New Orleans to Montgomery, Selma, and Prattville on traffic moving through Mobile to said destinations are unreasonable and unjust as applied to said classes to the extent that said through rates exceed the combination of locals from New Orleans to Mobile and from Mobile to said destinations, immediately prior to August 13, 1907, viz: Class 2, 2 cents; class 3, 13 cents; class 4, 13 cents; class 5, 12 cents; class 6, 1 cent; and class E, 5 cents; and also that the through rates from New Orleans to Montgomery, Selma, and Prattville on traffic moving through Pensacola and thence to said destinations are unjust and unreasonable to the extent that they exceed the amounts of the combination of locals from New Orleans to Pensacola and from Pensacola to said destinations, respectively, which were in effect immediately prior to August 13, 1907, viz: Class 3, 3 cents; class 4, 6 cents; class 5, 7 cents; and class 6, 1 cent; and having made and filed a report containing its findings of fact and conclusions thereon, which said report is made a part hereof.

It is ordered that the Louisville & Nashville Railroad Co., defendant in the above-named cases, be, and it is hereby, notified and required to cease and desist on or before the 1st day of February, 1910, and for a period of not less than two years thereafter, abstain from charging, demanding, collecting, or receiving for the transportation of traffic from New Orleans, La., to Mobile, Ala., rates and charges in excess of the following amounts: Class 2, 37 cents; class 3, 25 cents; class 4, 18 cents; class 5, 15 cents; class 6, 15 cents; class E, 15 cents; and from New Orleans, La., to Pensacola, Fla., rates and charges in excess of the following amounts: Class 3, 35 cents; class 4, 25 cents; class 5, 20 cents; class 6, 15 cents; and from New Orleans, La., via Mobile, to Montgomery and Selma, Ala., rates and charges in excess of the following amounts: Class 2, 77 cents; class 3, 55 cents; class 4, 42 cents; class 5, 35 cents; class 6, 35 cents; and class E, 39 cents; and from New Orleans, La., via Mobile, to Prattville, Ala., rates and charges in excess of the following amounts: Class 2, 87 cents; class 3, 63 cents; class 4, 50 cents; class 5, 43 cents; class 6, 43 cents; and class E, 44 cents; and from New Orleans, La., via Pensacola, to Montgomery and Selma, Ala., rates and charges in excess of the following amounts: Class 3, 65 cents; class 4, 49 cents; class 5, 40 cents; and class 6, 35 cents; and from New Orleans, La., via Pensacola, to Prattville, Ala., rates and charges in excess of the following amounts: Class 3, 73 cents; class 4, 57 cents; class 5, 48 cents; and class 6, 43 cents.

It is further ordered that these cases be retained for such further investigation and consideration of the commodity rates involved herein as the facts and circumstances may seem to require.

I, Edward A. Moseley, secretary of the Interstate Commerce Commission, do hereby certify that the papers hereto attached and entitled report and order of the commission are true copies of the originals now on file in the office of this commission.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the commission this 31st day of December, 1909.

E. A. MOSELEY, *Secretary.*

COMPLAINANT'S EXHIBIT H.

MOBILE.

Statement showing comparison between the rail class rates from New Orleans, La., to Mobile, Ala., with the rail class rates for similar or less distances charged by other railroads between other principal southern points.

	Distance.	Classes.												
		1	2	3	4	5	6	A	B	C	D	E	H	F
New Orleans, La., to Mobile, Ala....	141	50	39	38	31	27	16	12	15	12½	10	20	18	25
Petersburg, Va., to Raleigh, N. C.....	133	61	51	42	32	28	21	17	22	21	18	28	32	42
Danville, Va., to Charlotte, N. C...	141	68	58	48	38	33	25	18	24	23	20	33	38	46
Cary, N. C., to Monroe, N. C.....	141	58	48	37	29	22	21	16½	19	17	14	24	29	34
Wadesboro, N. C., to Wilmington, N. C.....	135	58	46	36	28	22	21	16	19	16	14	24	28	32
Wilmington, N. C., to Cheraw, S. C...	129	59	54	44	37	30	24	18	22½	20	16	31	37	37
Durham, N. C., to Cameron, N. C....	139	56	46	36	28	22	21	16	19	16	14	24	28	32
Macon, Ga., to Augusta, Ga.....	125	50	45	40	32	25	21	15	21	12	11	23	27	24
Atlanta, Ga., to Chatt'ga, Tenn...	137	57	48	43	34	27	22	20	22	13	12½	27	34	26
Atlanta, Ga., to Hawkinsv'e, Ga..	137	63	56	48	40	33	27	20	23	12	11	31	36	24
Birm'ham, Ala, to York, Ala.....	125	54	46	41	33	26	21	21	21	13	12	26	33	25
Memphis, Tenn., to West Point, Miss.	142	72	58	44	39	32	26	24	27	16	16	23	29	32
Gadsden, Ala., to Tuscaloosa, Ala...	112	63	55	44½	34	32	24½	21	23½	20½	17	30½	33½	34
Montgomery, Ala., to Dothan, Ala...	119	64	55	47	43	36	30	30	23	20	17	30	36	34
Nashville, Tenn., to Humboldt, Tenn.	147	65	56	49	42	31	29	29	30	22	17	25	28	44
Memphis, Tenn., to Paris, Tenn.....	133	50	43	38	32	27	24	22	24	21	15	24	24	42
Jackson, Tenn., to Cairo, Ill.....	107	58	49	42	35	27	27	26	26	18½	15	22	24	37
Raleigh, N. C., to Wilmington, N.C.	133	53	43	32	27	24	18	15	19	18	13	25	28	37
Greenville, Miss., to West Point, Miss.	150	70	56	44	38	32	26	18	27	16	15	23	29	32
West Point, Miss., to Elizabeth, Miss.	138	68	54	44	37	32	28	18	33	28	15	32	44	38
Vicksburg, Miss., to Hattiesburg, Miss.....	134	73	61	48	38	31	25	24	25½	20	16	27	38	36
Meridian, Miss., to Tupelo, Miss.....	144	64	52	40	35	30	27	20	20	24	14	31	34	43
Charleston, S. C., to Georgetown, S. C.	90	47	41	36	33	26	20	18	20	17	15	26	28	32
Birmingham, Ala., to Columbus, Miss	123	66	56	51	46	39	30	26	28	19	19½	31	41	39
Brunswick, Ga., to St. Augustine, Fla.	130	68	58	50	39	31	23	22	22	20	17	38	41	39
Chattanooga, Tenn., to Atlanta, Ga....	138	52	45	41	32	25	20	20	21	12	11	27	31	24
Montgomery, Ala., to Americus, Ga..	141	75	63	56	44	34	29	27	25	14	13	35	41	28

COMPLAINANT'S EXHIBIT I.

PENSACOLA.

Statement showing comparison between the rail class rates from New Orleans, La., to Pensacola, Fla., with the rail class rates for similar or less distances charged by other railroads between other principal southern points.

	Distance.	Classes.												
		1	2	3	4	5	6	A	B	C	D	E	H	F
New Orleans, La., to Pensacola, Fla.	246	55	45	38	31	26	16	18	18	15	13	25	25	30
Lynchburg, Va., to Bristol, Va.....	204	84	79	64	52	43	40	24	34	28	27	45	55	55
Alexandria, Va., to Danville, Va.....	232	58	48	38	27	24	18	18	23	17	15	24	27	34
Norfolk, Va., to Danville, Va.....	207	50	50	41	29	22	18	18	21	19	15	22	29	37
Norfolk, Va., to Aberdeen, N. C...	247	68	58	48	38	33	25	18	24	23	20	33	38	46
Richmond, Va., to Pembroke, N. C..	248	80	70	60	50	40	32	22	28	25	22	41	47	50
Henrietta, N. C., to Raleigh, N. C.....	246	65	55	45	36	32	25	19	24	22	19	32	36	44
Cary, N. C., to Henrietta, N. C.....	237	65	55	45	35	32	25	19	24	21	18	32	36	42
Lincolnton, N. C., to Wilmington, N. C.	219	64	54	45	35	31	24	18	23	20	17	31	35	40
Chattanooga, Tenn., to Bristol, Tenn..	242	71	61	53	39	34	27	23	26	18	18	34	45	36

Statement showing comparison between the rail class rates from New Orleans, La., to Pensacola, Fla., etc.—Continued.

	Distance.	Classes.												
		1	2	3	4	5	6	A	B	C	D	E	H	F
Savannah, Ga., to Wilmington, N.C.	266	65	53	48	34	28	20	20	20	19	18	30	26	29
Nashville, Tenn., to Knoxville, Tenn..	216	70	60	54	44	37	27	18	24	21	17	32	37	24
Columbus, Ga., to Hawkinsville, Ga.	207	67	59	52	43	33	27	24	23	12	11	31	36	24
Columbus, Ga., to Helena, Ga.....	234	78	65	58	45	36	30	30	26	14	13	36	45	29
Savannah, Ga., to Bainbridge, Ga...	237	66	59	51	43	35	29	20	25	15	14	35	43	33
Savannah, Ga., to Wilmington, N.C.	266	65	53	48	34	28	20	20	20	19	18	30	26	29
Knoxville, Tenn., to Birmingham, Ala	254	63	54	45	36	30	22	20	23	17	13	29	21	26
Chattanooga, Tenn., to Bristol, Tenn...	242	71	61	53	39	34	27	23	26	18	18	34	45	36
Mobile, Ala., to York, Ala.....	213	79	69	58	45	42	31	20	23	18	15	39	22	44
Birmingham, Ala., to Ozark, Ala.....	187	91	80	71	56	46	39	33	34	24	20	46	48	41
Birmingham, Ala., to Dothan, Ala...	215	94	81	77	61	52	42	33	34	24	20	52½	51	31
Nashville, Tenn., to Cartersville, Ga.	241	66	59	54	43	35	29	20	25	19	15	33	35	30
Memphis, Tenn., to Birmingham, Ala.	251	75	65	54	43	36	26	24	27	20	16	35	35	32
Memphis, Tenn., to Huntsville, Ala...	213	54	50	39	31	25	20	17	22	19	15	25	31	30
Covington, Ky., to Middlesboro, Ky .	228	66	57	50	45	40	37	37	34	23	18	37	37	46
Frankfort, Ky., to Clarksville, Tenn .	242	53	48	39	31	25	25	25	23	18	17½	20	28	34
Louisville, Ky., to Humboldt, Tenn.	229	78	67	57	46	33	29	27	31	24	18	26	34	48
Newport, Ky., to Central City, Ky .	235	78	67	58	52	46	43	43	43	27	21	43	43	54
Nashville, Tenn., to Birmingham, Ala.	207	63	54	45	36	30	22	20	23	17	13	29	25	26
Meridian, Miss., to Greenville, Miss ..	223	89	73	63	53	44	30	28	32	30	23	27	50	40
Union City, Tenn., to Columbus, Miss.....	242	80	68	58	49	42	36	38	40	30	24	39	54	60
Jackson, Tenn., to Meridian, Miss ...	251	81	68	59	49	42	37	39	41	30	25	39	54	60
Union City, Tenn., to Aberdeen, Miss.	215	78	66	57	48	41	35	37	39	29½	24	37	52	59
Cairo, Ill., to New Albany, Miss.....	249	68	57	46	41	34	29	26	27	19½	19	30	38	39
Wilmington, N. C., to Wadesboro, N. C.....	175	56	46	36	28	22	21	16	19	16	14	24	28	32
Mobile, Ala., to West Point, Miss.	233	73	58	47	39	33	29	30	32	26	22	36	41	49
Mobile, Ala., to Aberdeen, Miss...	250	73	58	47	39	33	29	30	32	26	22	36	41	49
Mobile, Ala., to Jackson, Miss.....	226	81	70	58	49	41	36	31	27½	22	20	30	51	40
Cheraw, S. C., to Wilmington, N. C.	150	59	54	44	37	30	24	18	22½	20	16	31	37	37
Wilmington, N. C., to Henderson, N. C.....	251	61	51	42	32	28	21	17	22	21	17	28	32	42

Mr. WORTHINGTON. I wish formally to offer in evidence the map showing the location of the Oxford and Packer dumps. It was identified by Mr. James Archbald when he was on the stand and a large edition of it is on the wall and has been referred to by several witnesses, but it is not in the record. It is marked "United States Senate Exhibit M."

The PRESIDENT pro tempore. Is there objection? If not, it will be received.

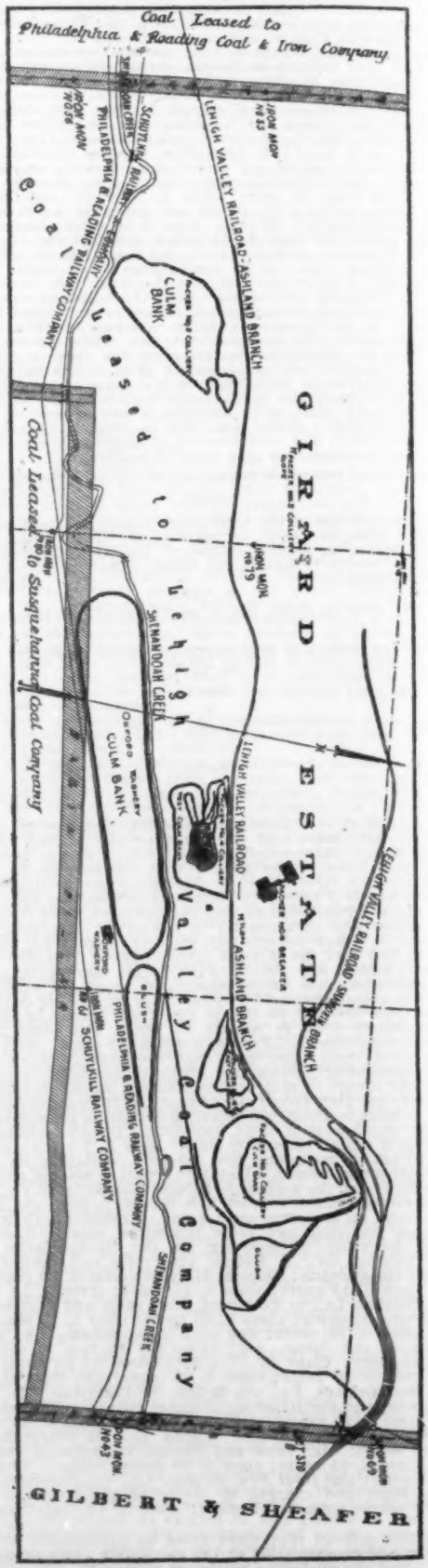
[The accompanying diagram is the map referred to.]

Mr. WORTHINGTON. I wish, finally, to offer in evidence the plan of the Federal building in Scranton, which was identified by the Supervising Architect of the Treasury and marked as an exhibit at the time but was not offered in evidence.

Mr. Manager STERLING. I should like to ask the purpose of that testimony.

Mr. WORTHINGTON. The purpose of it is to have it in connection with the testimony of one or two witnesses. The map was shown to one of the witnesses; I have forgotten who the witness was; it was identified by Mr. Wenderoth, and afterwards referred to by one of the other witnesses. The purpose of it is to show that W. P. Boland could not from his office have seen the interior of Judge Archbald's office. He testified that he could see everybody coming in and going out of there, and saw Mr. Williams in there a good deal. The testimony in connection with the map, we think, shows that to be impossible.

The PRESIDENT pro tempore. The Chair thinks it is admissible, if it has been sufficiently proven.



Mr. Manager STERLING. We do not object.

[For the plan referred to see page 1167.]

Mr. WORTHINGTON. We rest here, Mr. President.

The PRESIDENT pro tempore. Is there anything in rebuttal?

Mr. Manager STERLING. We will call Mr. Horgan.

TESTIMONY OF JOHN HORGAN, JR.

John Horgan, jr., being duly sworn, was examined and testified as follows:

Q. (By Mr. Manager STERLING.) Where do you live?—A. Scranton, Pa.

Q. What is your business?—A. Photographer.

Q. Did you recently take a picture of the Federal building in Scranton?—A. I did.

Q. Look at this exhibit, U. S. S. No. 101, and state if that is the picture you took?—A. (After examination.) It is.

Q. Where were you located when you took that picture?—A. In W. P. Boland's office in the Republican Building.

Q. And the picture is a picture of what building?—A. The Federal post office in Scranton.

Q. Mr. Boland occupied the same office when you took that picture that he has occupied for some years?—A. To my knowledge, yes.

Q. Looking at the picture, you see a man standing in the window in the Federal building, with a paper in his hand?—A. Yes, sir.

Q. In whose office is that man?—A. I do not know.

Mr. Manager STERLING. I think the gentlemen will agree that it is Judge Archbald's office. [Continuing after consultation with counsel.] Mr. President, it is stipulated that the man standing in the window in the Federal building with a paper in his hand, as shown in the photograph, is in the window of one of the rooms of the offices occupied by Judge Archbald, known as——

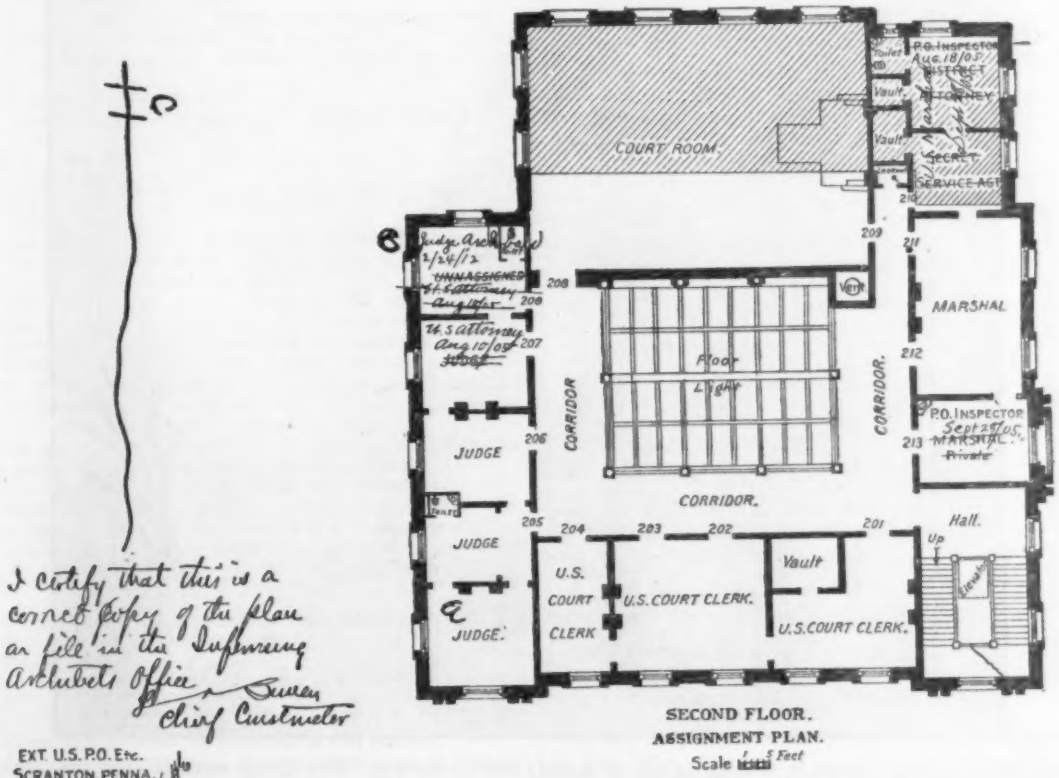
Mr. WORTHINGTON. That is not just what we stated. What we stated is that that is the outer room——

Mr. Manager STERLING. It is known as the outer room of his suite of offices.

Mr. WORTHINGTON. One goes through it to get into the room where Judge Archbald habitually stayed.

Mr. Manager STERLING. That is where the witness said he saw Williams.

The PRESIDENT pro tempore. Does the manager offer that picture in evidence?



SECOND FLOOR.
ASSIGNMENT PLAN.
Scale 1/8 Inch Feet

NOTE: EXTENSION SHOWN BY SHADED PORTION.

Mr. Manager STERLING. Yes, sir.

The PRESIDENT pro tempore. Without objection, it will be admitted.

Mr. Manager STERLING. We do not consider it very material, but it rebuts the evidence that has just been offered on the other side.

[See page 1168 for photograph.]

Mr. Manager STERLING. That is all. Take the witness.

Mr. WORTHINGTON. There are no questions.

The PRESIDENT pro tempore. The witness may retire.

CHRISTOPHER G. BOLAND—RECALLED.

Christopher G. Boland, having been previously sworn, was further examined and testified as follows:

Q. (By Mr. Manager STERLING.) Mr. Boland, when you went to Judge Archbald's office and found George M. Watson there with Archbald, I will ask you if Judge Archbald stated to you this, in substance: As I understand it, you employed Mr. Watson to settle these matters for you with the Delaware, Lackawanna & Western Railroad Co. for $100,000, and you were to pay him a fee of $5,000 in case he made the settlement.

Mr. WORTHINGTON. Mr. President, I certainly object to that. This witness was here and the managers in their case in chief went fully into that conversation. It would be a great misadventure, it seems to me, to have him brought back now to go over the matter again. It was stated that he was summoned to that office by telephone; that he went over there and found Judge Archbald and Mr. Watson, and he went on to state what took place, and especially what took place in reference to the very matter now being asked about.

The PRESIDENT pro tempore. The present witness?

Mr. WORTHINGTON. The present witness.

Mr. Manager STERLING. I submit that he did not testify as to the fact that is called for in this question, and I think it is perfectly competent in two views of the case. If we should say to the court that the matter was overlooked at the time, or if we should say to the court, which is the fact, that we have laid the foundation, when Judge Archbald was on the stand, to contradict him, because I asked him the exact question. It is perfectly competent in every view of the case.

The PRESIDENT pro tempore. The Chair will hear from counsel for the respondent.

Mr. WORTHINGTON. After testifying that he had been called to Judge Archbald's office and telling about the conversation with Watson the witness said:

After talking with Mr. Watson he agreed to accept $5,000 for his fee, giving us $95,000 in the event of his selling the property. I remember a day or two after that, I think the day after that, being called over to Judge Archbald's office.

Q. Proceed.—A. Where I met Mr. Watson and Judge Archbald. After some discussion of the matter there, the judge informed me that he was going to assist Mr. Watson in an effort to dispose of the property and to release us from the difficulty in which we were involved at the time, referring particularly to this Peale case which was in his court—I think he was judge at that time—saying he would give it a good deal of consideration, and saying it was a good case to settle out of court.

Then, a little further down, on page 396, he was asked to state all that occurred. I am reminded that Judge Archbald denied that he ever had any conversation with Watson and this witness in his office—that they had ever been there together—so there can not be any foundation laid for anything he is said to have said at the conversation.

Mr. Manager STERLING. He said he did not remember any.

Mr. WORTHINGTON. This witness went on:

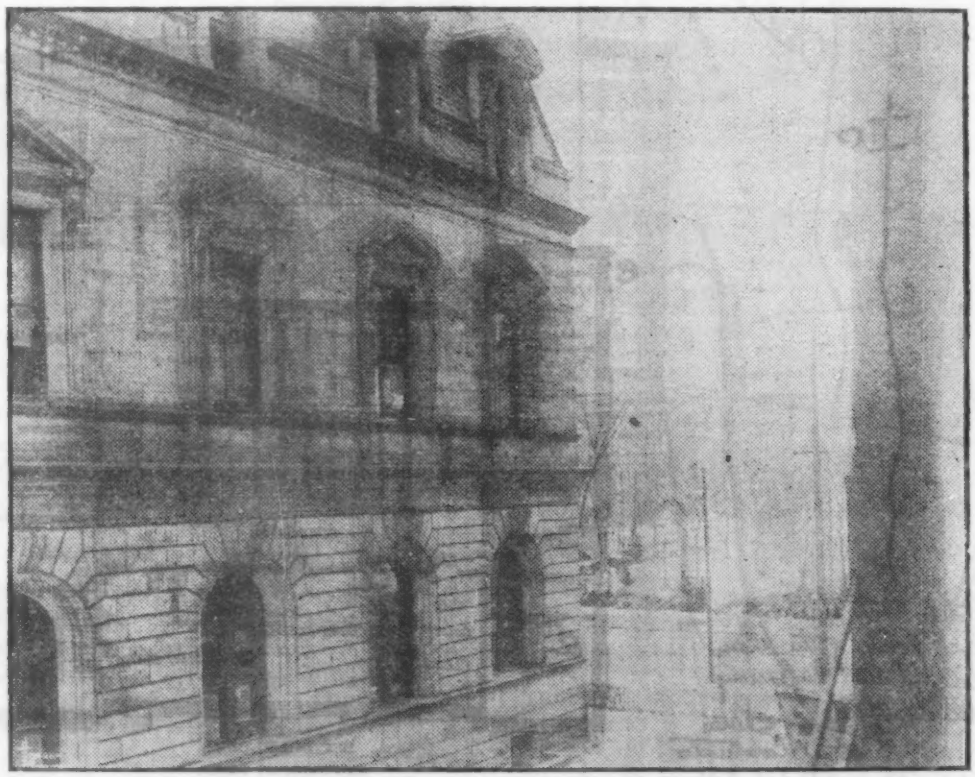
A. My recollection is that Mr. Watson recited the fact that he had spoken to the judge about the matter and that the judge had agreed to assist him. The judge stated to me that he would do what he could in the matter. But during the course of the talk a suggestion was made to me that there ought to be some paper furnished to Mr. Watson guaranteeing him, in the event of his disposing of the two-thirds interest or stock, that he would be paid this $5,000.

Q. Who made that suggestion to you?—A. I am not quite positive on that, but we all joined in the discussion—Judge Archbald, Mr. Watson, and myself. I informed both of them that, as my brother controlled a majority interest of the stock to be disposed of, I had consulted him and he had agreed that this payment should be made, but if they thought a paper ought to be made reciting the agreement I would endeavor to obtain it, and it was agreed that I should do so.

Further on in the volume, on page 397——

Mr. Manager STERLING. I do not see the purpose in reading this testimony.

Mr. WORTHINGTON. The purpose is to show that this witness was called on to state everything that occurred, and it is not competent to have him come back now to piece up what he then said.



Mr. Manager STERLING. There is nothing in the evidence of that kind. May I make my objection to what the counsel is reading? I am insisting that it is not proper for counsel to read the testimony of this witness. Even if we conceive that he was asked everything, and he said he had stated everything, we would have a perfect right to refresh the witness's recollection and ask what was said on a certain subject. That is the rule.

Mr. WORTHINGTON. It is a rule that is unknown to counsel for the respondent. They never heard of it before. It has been the rule that when you put a witness on the stand and go through a certain matter, you can not make him come back and go over that matter again unless something was brought out in the trial which substantially called for a denial.

Mr. Manager STERLING. That is just the point.

Mr. WORTHINGTON. Judge Archbald said that no such conversation was held.

The PRESIDENT pro tempore. If there is any fact that enters into the testimony that was not developed on the former examination, the Chair thinks this investigation would justify its being brought to the attention of the Senate, even if it were not technically according to the ordinary practice. If it is simply a repetition, the Chair would hold it was not proper to further encumber the record. But if there is any fact within the knowledge of this witness that was not elicited on the former examination, the Chair would hold that the Senate is entitled to have it. The Chair will ask that the managers do not unnecessarily indulge in repetition of what has already been testified to.

Mr. Manager STERLING. We shall not go any further upon this particular question. Let the question be read by the reporter.

The Reporter read as follows:

Mr. Boland, when you went to Judge Archbald's office and found George M. Watson there with Archbald, I will ask you if Judge Archbald stated to you this in substance——

Mr. WORTHINGTON. I submit that the manager can only ask the witness if he recollects anything that he had not done before. He certainly has no right to bring him back and ask him the same question.

The PRESIDENT pro tempore. The Chair thinks that it is a leading question.

Mr. Manager STERLING. I will state that I put it in that form because I understand that is the form in which it must be put for the purpose of contradiction. As I said before, I have a perfect right to offer it as original testimony. I will put it in this form. [To the witness:] Mr. Boland, I will ask you if in that conversation which was had at the time referred to in the former question you remember of anything being said there about consideration?

Mr. WORTHINGTON. I object. That is just what the manager can not do. I submit the witness ought to be asked if he

recalls anything about that conversation that he did not tell us about when on the stand before.

Mr. Manager STERLING. I will do anything to accommodate the gentleman. [To the witness:] I will ask you, Mr. Boland, if there was anything in that conversation that you did not testify to the other day which you now recall?

The WITNESS. From your inquiry and hearing the judge testify that he had no recollection of my meeting with himself and George Watson at his office, I recall that the conversation or suggestion as to the amount to be paid to us and the fee to George Watson was substantially as you have embodied it in the question.

Q. (By Mr. Manager STERLING.) Just state what Judge Archbald said with reference to the amount of the proposition on which Watson was to settle. Give the substance of what the judge said about it.—A. In substance, it was reciting what Mr. Watson had told him, that he had been engaged by myself, on behalf of a majority of the stockholders of the Marian Coal Co., to dispose of their interest for $100,000, maximum, and that Mr. Watson was to receive a fee of $5,000, if he succeeded in making the sale, for disposing of our interest.

Mr. Manager STERLING. That is all.

Mr. JONES. Mr. President, I desire to submit a question.

The PRESIDENT pro tempore. The Senator from Washington propounds a question to the witness, which will be read by the Secretary.

The Secretary read as follows:

Have you talked this over with any of the managers before coming to the stand to-day?

The WITNESS. Yes, sir.

Cross-examination:

Mr. WORTHINGTON. I was about to ask Mr. Boland whether at that time——

The WITNESS. May I explain, if you please, Mr. President?

The PRESIDENT pro tempore. The witness has a right to explain his answer if he desires to do so.

The WITNESS. Before the court convened this afternoon Mr. Manager STERLING asked me as to my recollection of the matter to which I have just testified, and I told him that his question to me was substantially correct as it is now in the record.

Q. (By Mr. WORTHINGTON.) Why did you not tell about that when you were on the stand before?—A. I can not answer that exactly. I supposed I had covered the whole matter fully, or else I had overlooked the matter. I said I had met Mr. Watson and Judge Archbald in Judge Archbald's office.

Q. We know what you said. I will ask you whether when on the stand before this question was not asked you, on page 397, after you had told about what had occurred at that interview:

Q. Now I will ask you to state whether or not anything else was done or said by Judge Archbald at this interview which you have described, when Mr. Watson and yourself were present in Judge Archbald's office?

Do you remember that that question was asked?—A. If it is in the record it must have been asked.

Q. And your answer is—

A. I do not remember that. I do not know whether it was at that or a subsequent call at Judge Archbald's office the judge called on the telephone to the Scranton office of Mr. E. E. Loomis, who was the vice president of the Delaware, Lackawanna & Western Railroad Co., to arrange an interview with him in reference to this matter.

I understand that at that time, if I recollect your testimony, it was stated either by Judge Archbald or by Mr. Watson, as you say, that the contract by which Mr. Watson was to be employed should be put in writing.—A. My understanding was that that was the purpose of my being called into Judge Archbald's office.

Q. In compliance with what took place at that office, you then went and got a letter from your brother William P. Boland.—A. That is substantially correct.

Q. I will call your attention to the language of that letter, which is on page 397 of the record, the same page I was reading from before. I will read it to you:

SCRANTON, PA., *August 23, 1911.*

C. G. BOLAND, Esq., *Scranton, Pa.*

DEAR SIR—

This being a letter from W. P. Boland, president of the Marian Coal Co., to you—

In reference to the matter of G. M. Watson being taken into the case of the Marian Coal Co. against the D. L. & W. would say, in confirmation of what I told you heretofore, that if through the efforts of Mr. Watson a satisfactory settlement is brought about the Marian Coal Co. agrees to pay him $5,000 for such settlement.

Now, if the contract that was arranged then was that you were to deliver it for $100,000 why did you not put it in the letter?—A. I did not draw that paper or acknowledgment.

Q. You went to W. P. Boland and told him what was demanded, did you not?—A. I did; and he then dictated to his stenographer, I think, that statement which he believed was sufficient to satisfy Mr. Watson that he would be paid $5,000 in the event of his disposing of the property. I presented it to Mr. Watson and he accepted it.

Q. I know about that.—A. I have already testified to that.

Q. I want to know if at that talk at Judge Archbald's office the arrangement was that Mr. Watson was to settle for the maximum sum of $100,000 and get $5,000 fee, if he did it, why it was put in here simply as a satisfactory settlement without saying anything about the amount.

Mr. Manager STERLING. I object. The witness has said that he did not prepare it.

Q. (By Mr. WORTHINGTON.) You went to your brother and told him what was demanded at that meeting?—A. I did.

Q. And what Watson required?—A. I did.

Q. And your brother, pursuant to what Williams told you, wrote this letter?—A. Yes, sir.

Q. And you gave it to Watson in compliance with Watson's demand?—A. Watson accepted it as satisfactory.

Q. That letter was dictated in your presence?—A. I believe so.

Q. And you were vice president of this company yourself?—A. I held no office in it at the time.

Q. You were director at that time in the Marian Coal Co.?—A. No; I held no office in the company. Some time in May, 1910, just before I went on a trip abroad, I resigned. I was president of the company previous to that, and a director, of course, but I resigned both the presidency and my position as director, being only a stockholder in the company.

Q. You were examined as a witness in this case by the Judiciary Committee?—A. Yes, sir.

Q. Did you have a talk with some of the managers before you went on the stand there as to your knowledge about these circumstances?—A. I do not remember having talked with anyone but Mr. Wrisley Brown in reference to it. He came to see me at Scranton and I made a statement. This I have already testified to.

Q. Mr. Wrisley Brown was sitting with the members of the Judiciary Committee in that inquiry, just as he is sitting here with the managers now, was he not?—A. Yes, sir.

Q. He had taken your statement?—A. Yes, sir.

Q. Did you not talk with the managers or somebody representing the managers before you were put on the stand at this trial in the Senate?—A. I have just stated that Mr. STERLING talked with me this afternoon.

Q. I am speaking about before you went on the stand in the first place in this trial, when you came down here to Washington?—A. Except in a general way; I was at their office in the House Office Building and met them, but there was no discussion as to my testimony or what I was to testify, that I can recall.

Q. Did you tell Mr. Wrisley Brown when he talked to you before you appeared before the Judiciary Committee that at this interview at Judge Archbald's office the sum of $100,000 had been mentioned as the maximum, and that Mr. Watson was to settle it?—A. I do not recall now whether I did or not.

Q. Did you ever tell anybody connected with this case?—A. Oh, yes.

Q. Before you were put on the stand at the present time?—A. Yes, sir.

Q. To whom did you tell anybody connected with this case?—A. Anyone connected with this case?

Q. Yes.—A. I testified to it already, I think, in the Senate proceedings, that I had agreed with Mr. Watson that he should obtain $5,000 in the event of his selling the property for $100,000.

Q. That is not what I am talking about. I am asking you whether you told anybody before you told it to Mr. Manager STERLING to-day or yesterday, whenever it was, that in Judge Archbald's office when he was present that was mentioned?—A. Did I tell it to anybody?

Q. Connected with this case? If you told it to Mr. Manager STERLING, when did you talk to Mr. Manager STERLING about it?—A. Just previous to the session opening this afternoon. He came into the Sergeant at Arms's office——

Q. Before that, at any time or place did you ever tell it to anybody connected with this case?—A. I certainly testified to it before the Judiciary Committee, and I am not sure but I testified to it here substantially—that is, my agreement with Watson—and it was clearly understood on this occasion when Watson and the judge and myself were together.

Q. I do not want you to go back again. I am asking you what you have testified to heretofore or with whom you have talked about this matter. You say you think you testified to it before the Judiciary Committee. Do you say that you testified

before the Judiciary Committee that in Judge Archbald's presence in his office it was mentioned that Watson was to settle for a maximum of $100,000?—A. I do not recall that.

Q. No. Do you think you so testified when you were on the stand in this trial the other day?—A. I do not know; but I know that that is the fact.

Q. But you do not know that you ever mentioned that fact to anybody until you mentioned it to Mr. Manager STERLING to-day?—A. I am positive that I did, but I can not recall now, at this moment, to whom I mentioned it.

Re-direct examination:

Q. (By Mr. Manager STERLING.) Just one question, Mr. Boland: You just told your brother William P. Boland that you had been——

Mr. WORTHINGTON. I object to that leading style of question, Mr. President.

Mr. Manager STERLING. This is cross-examination of what the other side drew out.

Mr. WORTHINGTON. Cross-examination!

Mr. Manager STERLING. Yes.

Mr. WORTHINGTON. I am learning a great deal, Mr. President, about cross-examination, if this is cross-examination. The witness has been called by the managers.

Mr. Manager CLAYTON. There is a good deal for you to learn, perhaps.

The PRESIDENT pro tempore. The Chair thinks the manager can ask the witness what he said.

Q. (By Mr. Manager STERLING.) You did go to your brother and tell him what Judge Archbald and Watson had said about the fees, did you?—A. I did.

Q. And that they wanted it in writing?—A. Yes, sir.

Q. They did not demand that anything be put in writing about the price they were to settle for, did they?—A. No; and I can recall now that Mr. Watson was not bound strictly to obtain $100,000 for us. He was told very distinctly that we would be willing to talk about a lesser amount.

Q. And did they tell you, either of them, that you should put in the writing relating to the attorneys' fees that the settlement should be for $100,000?—A. No; all that I was required to do was to obtain from my brother, who was president of the company and held, either personally or by option, two-thirds of the stock of the Marian Coal Co., an acknowledgment for Mr. Watson guaranteeing him a $5,000 fee in the event of his succeeding in selling the property.

Q. That is all they demanded, then, and all you asked your brother to give them?—A. When I say "the sale of the property" I mean the stock of the company held by the majority of the stockholders.

Q. And the very fact that you had said to Mr. Watson that you would take less——

Mr. WORTHINGTON. Now, Mr. President, I certainly do object. The manager is not only leading, but is putting arguments in the mouth of the witness.

Mr. Manager STERLING. It is nothing but cross-examination about what you have brought out.

Mr. SIMPSON. Cross-examination of your own witness?

Mr. Manager STERLING. Certainly. Our own witness on a matter you brought out.

Mr. SIMPSON. I never heard that you could cross-examine your own witness until to-day. I object, sir.

Mr. Manager STERLING. If you have never heard of it before, you have heard of it now. On any new matter that is brought out on cross-examination the party calling the witness may cross-examine. We never asked the witness about this writing, and we have got a perfect right to cross-examine him.

The PRESIDENT pro tempore. The manager can examine without asking leading questions, the Chair is sure.

Mr. Manager STERLING. It is pretty hard to ask this question without leading.

The PRESIDENT pro tempore. Of course, the subject matter about which information is desired must necessarily be suggested.

Q. (By Mr. Manager STERLING.) Inasmuch as you had authorized Mr. Watson or said to Mr. Watson that you would take less than $100,000, do you think that it would have been proper to have put in this agreement the limitation of $100,000?

Mr. WORTHINGTON. I object to that, Mr. President. It is calling for an opinion of this witness on a matter on which he is not an expert.

The PRESIDENT pro tempore. The Chair thinks that the manager can ask what, in his opinion, was required to be put in the agreement in pursuance of the conference which he had already had. That is legitimate.

Mr. Manager STERLING. I will not press it further.

Q. (By Mr. Manager STERLING.) Mr. Boland, in your testimony before the Committee on the Judiciary, I will ask you if Mr. LITTLETON asked you these questions, which are found on page 992:

Mr. LITTLETON. I said Mr. Watson recited to you and to Judge Archbald, or in your presence, what had been agreed to?
Mr. BOLAND. At the judge's office?
Mr. LITTLETON. Yes.
Mr. BOLAND. Yes, sir.
Mr. LITTLETON. And you say the judge "assented"; that was the word you used. Just what was it to which the judge assented?
Mr. BOLAND. The judge assented to assisting Mr. Watson.
Mr. LITTLETON. In the sale of the property?
Mr. BOLAND. In the sale of the property.
Mr. LITTLETON. The price was named at that time?
Mr. BOLAND. The price was named; yes, sir
Mr. LITTLETON. At $100,000?
Mr. BOLAND. Yes, sir.

Were those questions asked you and did you make those answers before the Judiciary Committee?—A. Yes, sir.

Mr. Manager STERLING. I will say, Mr. President, that I thought until last night that that testimony was in the examination of Mr. Boland before the Senate. When I ascertained that it was not, I talked with Mr. Boland this morning, and inquired about it, and he told me just what he has testified here to-day. The testimony of Mr. Boland before the Judiciary Committee, from which I read, is found on page 992 of the evidence taken before the committee.

Recross-examination:

Q. (By Mr. WORTHINGTON.) Now, Mr. Boland, I will ask you whether you testified to this before the Judiciary Committee, reading from the middle of page 993:

Mr. BOLAND. The matter is quite well fixed on my memory that the judge informed me that he was to assist Mr. Watson in the disposal of our interest; but as to any details, how it should be done, or anything further than that, I do not think it was discussed, outside of the judge's suggestion about a case then pending, the Peale case.
Mr. LITTLETON. Just before we get to that, did you know at that time that there was any price in contemplation for the sale of this property beyond $100,000?
Mr. BOLAND. Not at that time; no, sir.
Mr. LITTLETON. Was anything said about fixing a larger or higher price than $100,000 in that conference?
Mr. BOLAND. I do not think it was said at that time.
Mr. LITTLETON. Was Watson's $5,000 to come out of the $100,000?
Mr. BOLAND. Yes, sir.

A. That is correct; I so testified.

The PRESIDENT pro tempore. Are there any further questions for the witness?

Mr. Manager STERLING. That is all.

Mr. WORTHINGTON. I have nothing more to ask.

The PRESIDENT pro tempore. The witness may retire. Is it desired that the witness shall be retained any further?

Mr. Manager WEBB. No, sir; the witness may be excused.

The PRESIDENT pro tempore. The witness is finally discharged.

Mr. Manager CLAYTON. Mr. President, the managers rest here.

Mr. WORTHINGTON. Judge Archbald, will you take the stand?

TESTIMONY OF ROBERT W. ARCHBALD—RECALLED.

Q. (By Mr. WORTHINGTON.) Judge Archbald, you have heard Mr. C. G. Boland just testify about a statement in your office that Watson was to settle for a maximum price of $100,000. Will you tell us what you have to say about that?

Mr. Manager STERLING. We object to pursuing this any further. Both of these witnesses have testified on that.

The PRESIDENT pro tempore. The Chair certainly thinks that counsel have a right to ask the question of the witness. The witness will proceed to answer it.

Mr. WORTHINGTON (to the witness). What have you to say about that?

The WITNESS. May I hear the question again?

Q. (By Mr. WORTHINGTON.) You have just heard the witness, C. G. Boland, state that at your office, when Mr. Watson and he and yourself were present, it was stated that Watson was to get $5,000 for effecting a settlement of these matters for $100,000 or less—not to exceed $100,000. Will you tell us whether anything of that kind took place?—A. Not that I remember.

Q. Will you tell us whether at any time or at any place you were informed that there was a limitation of $100,000 on the price that he was to settle for?—A. On the contrary, I understood that the claim of the Bolands which Mr. Watson was to present was for one hundred and sixty-odd thousand dollars.

Mr. Manager STERLING. I object. We have been over all that.

Mr. WORTHINGTON (to the witness). You can answer the question whether at any time or at any place you were told that there was a maximum limit of $100,000 that was put upon

Watson as to the amount he was to demand in settlement of the claims of the Marian Coal Co.—A. Never.

Q. Now, in reference to the photograph, which has just been put in evidence, of the Federal building, there is in one of the windows of the building a man standing holding a piece of paper. Have you seen that?—A. (After examining.) Yes; I see that.

Q. Will you tell what you have to say as to that room?—A. That is not my office; that is an outer office occupied by my messenger or crier. My office is the one in the extreme corner.

Q. To the right or left of the one in which the man is standing in the photograph?—A. To the right in this picture.

Q. During what period was it that your office was where you have just mentioned?—A. My office was where I have mentioned from the time I moved into the Federal building, along some time in the spring of—well, soon after I was appointed. There were changes made that——

Q. Soon after you were appointed to what office?—A. To the district court.

Q. That was in 1901?—A. That was along in 1901; but I did not go in there immediately; then from that time until the office was changed to the rear of the building, and that office was occupied by Judge Witmer. That occurred along about February or March of 1912.

Q. So that from February or March of last year your office has been directly opposite Mr. Boland's office?—A. Yes; since along in March or April. The office I am occupying at present in Scranton is directly opposite the office occupied by Mr. Boland in the Republican Building.

Mr. WORTHINGTON. That is all.

Recross-examination:

Q. (By Mr. Manager STERLING.) Judge, one entering your office must go through this room, as I understand, to get to your office?—A. Yes; people to enter the office that I occupy go through that room.

Q. But it belongs to the same suite that your office does?—A. Yes.

Mr. Manager STERLING. That is all.

Mr. WORTHINGTON. That is all. We rest again.

The PRESIDENT pro tempore. Is there anything further on the part of the managers?

Mr. Manager CLAYTON. Mr. President, that concludes the case for the managers.

The PRESIDENT pro tempore. The evidence is therefore concluded.

Mr. Manager CLAYTON. Now, Mr. President, I should like to have the Chair announce that the witnesses may be discharged.

The PRESIDENT pro tempore. All the witnesses summoned on either side are finally discharged.

Mr. WORTHINGTON. May I ask, Mr. President, whether the Senate has adopted any rule in reference to the argument of this case?

The PRESIDENT pro tempore. There has been no action taken by the Senate. The Chair will call attention to the fact——

Mr. ROOT. Mr. President, I ask that Rule XXI be read.

The PRESIDENT pro tempore. With the permission of the Senator who asks for the reading of the rule, the Chair will call attention to the fact that the Senator from Texas [Mr. JOHNSTON], who was sworn in this morning as a Senator, has not been sworn in for the purposes of this trial. The Chair is not informed as to whether it is the desire of the Senator to be now sworn in.

Mr. CULBERSON. Mr. President, my colleague [Mr. JOHNSTON] is not now in the Senate. I believe it is his desire, inasmuch as he has been unable to hear the testimony in the case, not to be sworn in as a Member of the Senate sitting in the impeachment proceedings.

The PRESIDENT pro tempore. The Chair thought it was proper that he should call attention to the fact. That direction will be given, unless there is some other suggestion made in regard to it. The rule suggested by the Senator from New York will be read.

The Secretary read Rule XXI from the "Rules of Procedure and Practice in the Senate when Sitting on the trial of impeachments," as follows:

XXI. The case, on each side, shall be opened by one person. The final argument on the merits may be made by two persons on each side (unless otherwise ordered by the Senate, upon application for that purpose), and the argument shall be opened and closed on the part of the House of Representatives.

Mr. WORTHINGTON. I will say, Mr. President, so far as we are concerned, we are satisfied to proceed under that rule.

Mr. Manager CLAYTON. Mr. President, I have conferred with my associate, and, if my recollection is correct, I believe that that rule has not been adhered to. I know, as the present occupant of the chair will bear witness, that the rule was relaxed in the last case of this kind before the Senate. It is my recollection also, Mr. President, that it has not been enforced in other cases. I believe that in the Belknap case three managers were allowed to participate in the final argument. Of course, this is a matter that addresses itself to the sound discretion of the Senate.

Mr. President, I desire to say, on behalf of the managers, that they are of the opinion they occupy a position before the Senate in this case somewhat different from that of employed counsel. The Chair is doubtless familiar with that view, it having been heretofore taken by managers in the discussion of questions similar to this and other questions in the trial of impeachment cases.

The managers come here not voluntarily nor for any reward, however honorable it may be to engage in the practice of the noble profession of the law for the honorarium. We have come here, Mr. President, in pursuance of one of the most solemn, and I may say disagreeable, duties that falls to the lot of a Representative. We come imbued with that sense of duty, and we believe that we owe it to the correct exposition of this case before the Senate in the final argument that that rule be not enforced.

It will readily occur to the Senate that there has been one speech already made in behalf of the respondent. The respondent himself has occupied, I believe, on yesterday, something like four hours in presenting his side of this case to the Senate. To-day he has also occupied, I believe, as much as two hours, or three perhaps, as my associate suggests, in putting his side of his controversy before the Senate.

Mr. President, this case is different, of course, from all other cases. The issues of law and fact in this case, I think, are in many essential features different from any other impeachment case that has heretofore engaged the attention of the Senate. The counsel for the respondent said that there was more than one case; that all these different articles involved different cases. In some sort that is true. It involves the necessity of a full and comprehensive review of the law of impeachment; it involves the full and comprehensive review and analysis of the testimony as applicable to the law which the Senate will find to obtain in this case.

Therefore, Mr. President, we think that in view of the fact that counsel for the respondent will be accorded as much time in the presentation of their defense as will be accorded to the managers, of course it is but trite to say that that is right. In view of the fact that the managers are of opinion that this rule should be relaxed, and in view of the other facts that I have suggested to the Senate, the managers on the part of the House would prefer that they be accorded the privilege which heretofore has been accorded managers, to divide the time which may be allotted to them amongst them as they may see fit to distribute it.

There is nothing unusual in this request, and I think the circumstances of the case warrant the managers in asking of the Senate the relaxation of that rule to the extent of whatever time may be accorded to us and that it may be divided as we see fit.

Further, Mr. President, while I am on my feet I desire to say that the suggestion has been made as to the limitation of time. A limitation of time, Mr. President, was never imposed upon the managers except in one case, so far as I now recollect, and that was in the case of Swayne. The Chair will remember that that impeachment trial was brought to a conclusion at almost the very close of the short session of the Congress; it was terminated in the latter part of the month of February according to my recollection. The Congress itself expired immediately on the 4th of March thereafter. There is, I am informed, Mr. President, not such a condition existing now. Of course we know that this is not yet quite the middle of January, and I am informed that the business of the Senate is not so urgent at this time but that a reasonable latitude may be given for the discussion of this case. In fact, Mr. President, I have been told that the Senate is waiting for appropriation bills to come from the House. I do not know but that there may be other matters that some individual Senators may want to urge upon the attention of the Senate; but certainly it is true that neither in the point of limitation as to the time of the remainder of the session nor in the attitude of the public business before the Senate is it necessary to enforce a time limitation, as was done in the Swayne case.

Therefore I submit what I have said as the views of the managers in respect to these two propositions, and I may assure the Senate, if such assurance be necessary, and standing in my responsible place, and with a public duty imposed upon me by the popular branch of our National Legislature, that the managers will not abuse whatever indulgence or whatever latitude the Senate may allow. We will not abuse the patience of the Senate. The managers will conduct such an argument as they feel in duty bound to make to discharge an unsought-for and painful public duty.

The PRESIDENT pro tempore. What is the pleasure of the Senate?

Mr. CLARK of Wyoming. I move that the doors of the Senate be closed for deliberation.

The motion was agreed to. The managers on the part of the House, the respondent, and his counsel withdrew. The galleries having been cleared, the Senate proceeded to deliberate with closed doors. After 40 minutes the doors were reopened.

Mr. GALLINGER. Mr. President, I move that the Senate sitting as a Court of Impeachment adjourn.

The motion was agreed to.

Mr. GALLINGER. I move that the Senate adjourn.

The motion was agreed to; and (at 6 o'clock and 25 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, January 8, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January 7, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Incline Thine ear, O God our Father, and hear our petition. Deliver us, we pray Thee, from the consuming fire of selfishness, the root of all evil, since it checks the growth of the soul, blights the love of the home, corrodes society, and despoils the State or Nation, that we may go about our Father's business in the spirit of altruism illustrated in the Sermon on the Mount and fulfilled in the incomparable life and character of the Master. Amen.

The Journal of the proceedings of yesterday was read and approved.

SPEECH OF PRESIDENT TAFT.

Mr. BROWNING. Mr. Speaker, I ask unanimous consent to print in the RECORD a speech delivered by the President of the United States in New York City last Saturday evening, January 4, 1913, at the Waldorf-Astoria Hotel.

The SPEAKER. The gentleman from New Jersey asks unanimous consent to print in the RECORD a speech delivered by the President of the United States last Saturday evening in New York City. Is there objection?

There was no objection.

The speech is as follows:

Mr. Chairman, Mr. Toastmaster, and my fellow Republicans: In so far as this banquet savors of personal compliment to me and takes on the aspect of my funeral obsequies after the late defeat, I accept the honor with pleasure, and take part in the proceedings with the interest and enthusiasm of one most deeply concerned. It is not usual for the deceased to give very full expression to his feelings at the wake, but I remember that in one of Boucicault's Irish dramas the corpse was sufficiently revived to partake of the liquid refreshment and became the chief participant in the festivities. A few opening remarks directed to the character of the deceased and the manner of his taking off may not, therefore, be inappropriate.

Mr. Bryan said in the course of the campaign that I had been elected to the Presidency by a large majority and would be relegated to private life by a unanimous vote. When I read what he said I thought he was as poetic and as unreliable in his prophecies as usual; but, in truth, nothing but Vermont and Utah prevented a literal fulfillment of his forecast, and he was nearer than ever before in his life to a fact.

I think I have separated myself sufficiently from the humiliation of defeat to be able to look upon the history of my administration with calmness and clearness of vision, affected only by the fact that I was one of the principal actors, and naturally inclined to give the best color to everything which I did or attempted to do. I entered office under certain obligations laid down in a national platform, and I attempted as well as I could to carry them out as I understood them. They could only be carried out by legislation to be enacted by the two Houses of Congress, and therefore it became essential for me to associate myself as intimately as possible with the leaders of both Houses and the majority that controlled each. The leaders of both Houses were Republicans, orthodox, old-time Republicans, men who, justly or unjustly, were called reactionaries, and I secured from them an earnest cooperation that led to the enactment of a number of valuable statutes. In doing so, however, I was brought into opposition to a faction of the Republican Party that had become insurgent and declined to follow the leadership of the dominant majority.

As this faction had supported me for the nomination and some of the older leaders had opposed me, it was charged I had in some way betrayed the insurgents, had forfeited the right to their support, and had surrendered to the regular Republican organization, and had myself become a reactionary. It is difficult for me now, as I look back, to see how I could have pursued a different course, for except in this way I could not have secured the legislation which had been promised.

PAYNE TARIFF WAS REVISION DOWNWARD.

The new tariff law was bitterly criticized, but it was, nevertheless, a revision downward. It has been one of the most useful laws possible in its many provisions, creating a Court of Customs Appeals, giving us an opportunity for a new tariff commission, giving us free trade with the Philippines, providing a maximum and minimum clause, and imposing the best form of income tax—the corporation tax. But for its enactment the deficit of $58,000,000 which stared me in the face when I came into office would have been repeated and increased each succeeding year, and we would have had to resort to bond issues to meet the ordinary running expenses of the Government. Then, by the same agency of the regular Republican majorities, we passed a law which for the first time gave to the Interstate Commerce Commission adequate control of the railroads.

We created a Commerce Court, which, in the interest of the dispatch of business, reduced the time of the remedy of shippers against offending railroad companies from two years to six months. We established the postal savings bank, which has greatly inured to the thrift of that part of the Nation which needs to be taught thrift and requires the incentive of a Government guaranty.

We passed the conservation bill, which enabled us to withdraw all the lands that needed further legislation for their proper disposition in the interest of preserving the national resources for public use. We passed the "white-slave" act, the interstate-commerce employers' liability act, the Mining Bureau bill, and the Children's Bureau bill. We passed the reciprocity agreement with Canada, which produced free trade in natural products between Canada and this country, and which, while it would not have greatly affected farm product prices, would have steadied them and greatly increased business between ourselves and Canada.

On the Executive side, we made treaties of universal arbitration with England and France. We pushed the trust prosecutions as they had never been pushed before, and we have thus in a quiet way prepared a solution of the trust question. We organized an Economy and Efficiency Commission, which has been engaged in pointing out possible consolidations, the correlation of the business of the bureaus, and the introduction of efficient means of business, resulting in an annual saving of many millions; secured, through the action of the Supreme Court, great expedition in equity procedure, and we have recommended to Congress the conferring of the same authority on the court in reference to the proceedings at common law. We have enforced restrictions against rebates and the general fraudulent use of the mails with a rigor and success that has never before been equaled in the history of the Department of Justice. We have kept down the expenses of the Government, so that instead of increasing annually, as they had in recent years, at the rate of $30,000,000 or $40,000,000 a year, they have been reduced from year to year until within a few months, when the new basis of pension allotments increased the appropriations.

FROM PANIC SHADOW TO REAL PROSPERITY.

There has been no scandal connected with the administration. By our intervention in South and Central America we have contributed to the peace of the world in ending revolutions and preventing wars, and we have carried the work of the Panama Canal construction to a point so near completion that the first vessel may proceed on the bosom of the broad ship canal from the Atlantic to the Pacific in October of this year, on the four hundredth anniversary of the day Balboa discovered the Pacific.

Finally, although we entered office in the shadow of a recent panic, during the four years of this administration business has revived, confidence has returned, widespread prosperity is at hand, the demand for labor is greater than ever, and the standard of wages for all classes of labor is higher than ever before in our history.

Now, under these conditions, what was it that impeded my progress as a candidate, and what was the political disease of

which I died? I am hopeful that when historians conduct their post-mortems it may be found that my demise was due to circumstances over which I had no great control, and to a political cataclysm which I could hardly have anticipated or avoided; but, whether this be true or not, even friendly critics are able to point out personal reasons why it was that, though I went in, I also went out, with large majorities.

It has been charged against me that I am an aristocrat, and that I have no sympathy with the common people, and I have no doubt that this impression has gone abroad and has settled deep in the minds of many people. Now, I do not think it is true. I think I am as sympathetic with the common people, as earnestly desirous of their happiness, as anxious to see that they have justice accorded them, and that they enjoy their rights under the law and Constitution as fully and completely as any one. I believe most profoundly that popular government is the best government that we can have, and I am greatly concerned that it shall continue and be successful in giving to the people at large the best measure of individual liberty on the one hand and the greatest practical efficiency in government on the other. It may be that in my earnest desire to make government efficient I have not always explained that I believe that to make government efficient is to work directly in the interest of the common people.

My administration has come and gone in a period of unrest and agitation for something intangible which it is difficult definitely to describe. We have lived during the last four years, and are living now, in an atmosphere of strenuous denunciations of certain evils and loud aspirations for an ideal state in which the common people are to become happier, the poor and the oppressed are to acquire property and cease suffering, and much or all of the change is to be accomplished through the agency of the Government.

The accumulations of swollen fortunes during the two decades preceding, and many of them by an improper means—that is, by a violation of the antitrust law or the antirebate law—aroused a feeling of just indignation and set the tune to public addresses. The notes of denunciation of the malefactors of wealth on the one hand and of promises of rectifying such inequalities by governmental means and increasing the equality of opportunity among the poor rang pleasantly in the ears of the people. They made for the popularity of those who produced the sweet tones, assuring better conditions and a complete social reform, all by means of elections and governmental action.

MANY SOCIAL WORKERS MISLED BY ENTHUSIASM.

Then, too, in the material improvement, in the larger amount of wealth devoted now to education and philanthropy, there has been aroused a most commendable interest in the poor and the suffering. By university settlements and by other means the observation of many well-to-do people is focused on the poor and suffering and the supposed causes which produce poverty, and so intensely enthusiastic do social workers become that they lose their sense of proportion as to the relative number of the poor whom they are laboring for and forget altogether the interest of those who are not dependents and yet who make up a great majority of the common people.

The public has not been content to estimate and weigh the things done at their face value, but has accepted the hostile statements that the good things which were done were done either with an improper motive or because I could not help it, or were really done by somebody else, and that, on the whole, I was unfriendly to the people, a reactionary in spirit, opposed to all reforms leading to the amelioration of the inequalities and sufferings of the oppressed and poor in society.

TIME MAY ENLIGHTEN PUBLIC TO REAL FACTS.

I am not complaining of this situation. I am hopeful that as time rolls by the facts may disclose themselves and may lead people to believe that more real reform has been accomplished in my administration than will ever flow from an attempt to put into practical operation the promises which have been made to the people in recent party platforms and on the stump of a regeneration of society through the instrumentality of government, the making of the rich moderately poor and of the poor moderately rich, and an elimination by statute of all sin, injustice, poverty, and suffering from our country and community.

Time usually brings about an opportunity for retaliation, but if you are a strong man, of good sense, you feel it beneath you when the opportunity comes to exercise it. This personal feeling against me on the part of a number of Senators and Representatives and other members of the party doubtless operates with them as a substantial cause for continued dissension. It gratifies me to feel that my going out of office and public life will remove this cause, will end the "Taftphobia" that has governed the action of some in influential positions, and will tend to end these divisions that have been caused by personal reasons rather than on principle.

REPUBLICAN PARTY IS STILL A FORCE FOR GOOD.

But I have consumed too much time in discussing my personal relations to the late campaign. The chief purpose of this banquet was not to honor me or to soothe my injured pride. It was to show to the country that the Republican Party is still a force in this country for good, and that it is the duty of those who believe this to give a reason for the faith that is in them.

We were beaten in the last election. We ran third in the race. Why is it that we gather here with so much spirit and with so little of the disappointment and humiliation supposed to accompany political disaster? Is it not that in spite of the defeat recorded at the election in November we were still victorious in saving our country from an administration whose policy involved the sapping of the foundations of the democratic, constitutional, representative government, whose appeals to the people were calculated to arouse class hatred that has heretofore been the ruin of popular government, and whose contempt for the limitations of constitutional law and the guaranties of civil liberty promised chaos and anarchy in a country that has until this time been the model of individual freedom and effective popular government?

The result of the Chicago convention was a triumph for the permanence of Republican institutions, the importance of which can not be exaggerated, and I wish to emphasize this, in order that it may be known that we meet in no spirit of despair, but rather to rejoice in a victory for law and order and the institution handed down to us by our fathers.

It is true that we were defeated at the polls by our old-time opponent, the Democratic Party. It is true that they are now going to work out again the problem of eating your cake and having it, too, by showing how it is possible to change from a system of protection for manufactured industries to one of a tariff for revenue only without affecting the industries to their detriment and without halting production or lowering wages. It is true that we are to witness an attempt to satisfy the crying need for a new banking and currency system by a plan which is to embody as many as possible of the features of the Aldrich Monetary Commission plan, disguised as much as may be so as to permit denial of any resemblance. It is true that we are to witness a change of officeholders from Republicans to Democrats, and we are to see how economical the new administration is to be, as compared with the old.

We have been through this before. It may be that this time they can do what they have not succeeded in doing heretofore, and if so, and they can maintain the prosperity of the country at its present record level, then we can be Americans before we are Republicans and rejoice at their success. If they can vindicate their claim that they will reduce the cost of living to a moderate point by reducing the tariff, then they will be entitled to point to this as an achievement fulfilling their promise and vindicating their policy.

If this was all there was to the situation I doubt if we would have this dinner—I doubt if we would be here in such great numbers—because this recurrence of the traditional action and reaction between the two old parties in respect to economic policies is not one so exceptional as to call for noteworthy celebration.

VOTED FOR WILSON TO DEFEAT COL. ROOSEVELT.

The fact that brings us here is that in the late election there were 3,500,000 voters—an irreducible minimum of the Republican Party—who were determined to remain a force in the community, to prevent any constitutional amendment and legislation of a revolutionary program announced by the so-called Progressive Party. Added to that 3,500,000 we may perhaps count another 1,000,000 electors who will stand by us with even more fervor, because they were Republicans sympathizing with the Republican candidate and platform but voted for Mr. Wilson to avert the danger of Mr. Roosevelt's election. The importance of retaining these 4,500,000 voters as a concrete force for the sustaining of our democratic, representative, constitutional government is the chief purpose which calls us here.

It has already been pointed out that there is a spirit of unrest among the people, and that this spirit is what has brought about the division of the Republican Party into the present Republican Party and the Progressive Party.

We are told that the spirit of unrest demands progressive measures that shall bring the people more directly into the operation of their own Government; that shall emancipate the poor from the burden of poverty; that shall introduce social justice, relieve oppression, banish dishonest methods from business, and establish a society founded on altruism and the highest Christian principles of morality. We enthusiastically approve and adopt all these ideals of society, in which every

member is to be prompted by love and charity for his fellow men; in which there is to be no suffering or poverty, because they are to be relieved through the just and generous conduct of those who have toward those who have not.

But what we contend is that in the progress toward such higher ideals, toward a society governed by purer ethics than those which have obtained, we shall not throw away the limitations of law and the principles of government, which have been attained after thousands of years of struggle, which constitute an assurance to each individual in the community against all invasion by other people, whether many or few, of his life, his liberty, his right of property, his right of freedom of religion, his right of free labor, his right of free contract, and his right to pursue happiness in his own way, subject only to the limitations that he yield the same right to others.

DANGER IN UNRESTRICTED RULE OF THE MAJORITY.

What is there in present conditions that the Progressive Party presents which can lead us to suppose that human nature has so changed that no restraint is necessary in all society to prevent one man from oppressing another, or to prevent a majority of us from oppressing an individual or a minority? What is it that constitutional limitations are for in popular government? A popular government is a government by the people—that is, by a majority of the people—who under the law are given the right to exercise the electoral franchise; and constitutional limitations are imposed to prevent the misuse of the power of the majority, so that the individual or the minority may not suffer injustice through the action of the majority.

Where is the security in the present society that the majority may not from time to time do injustice to the minority and to the individual?

It is said that we mistrust the people if we assume that the majority will ever do an injustice. In other words, the contention is that the vote of the majority is always right. Well, as the majority in passing upon a given question determines sometimes one way and sometimes another, in which case is it right?

If the wisdom of our fathers and of the long line of able men who have fought for popular government has led to the introduction into every scheme of government of restraints to prevent injustice by the majority to the minority or an individual, what is there that has happened in recent years to make us feel that a change has come over the character of majorities, so that they may not exercise the tyranny that they have exercised in the past, and in respect of which they have been restrained by constitutional limitation? How are the inequalities of society to be wiped out? How is government to insure happiness to the individual? Is it by equal distribution of property? Is it by taking from one man that which is his and giving it to another who has not earned it? I submit that this is the ultimate result of a thorough analysis of all the theories advanced by the Progressive Party.

PROGRESSIVE APPEALS MADE TO DISCONTENTED.

As one profound political economist said, such schemes usually can be reduced to a combination by A and B to take from C that which is his and confer it on D. A and B do not combine and confer on D what A and B can, but only what C owns. When A and B are anxious to divide what they have and give it to D instead of dividing what C has and giving it to D, we shall reach an era in human history when some of the theories advanced by the Progressives will work in practice. Meantime we must proceed on the theory that A and B are still moved by a desire to keep to themselves what is theirs, and to have the advantage and happiness that may proceed from the ownership of the property they have acquired.

Is there anything in the appeals which are made by the orators for the Progressive Party that leads one to think that they regard their audience moved by a self-sacrificing spirit to give up what they have to be distributed to others less fortunate? On the contrary, are not all the appeals which are made based on the theory that the people addressed will be moved to adopt the reforms advocated by which they themselves will be improved in circumstance and somebody else will lose what is his?

It was urged in favor of the reciprocity agreement that it would reduce the cost of living by having free trade in natural products between Canada and the United States. I did not subscribe to that argument, because I did not believe that it would do other than make a larger reservoir, and thus steady prices and prevent a further increase in the cost of living. But the argument advanced by our Progressive brothers against the Republican candidate with the farmers was that he had favored reciprocity with the idea of reducing the prices at which the farmers sold their products. Did farmers rush forward to support that candidate because of the benefit which it was said would be conferred upon their less fortunate fellow men? Was not every argument advanced in the last campaign to induce the votes of those who heard the argument on the ground that those who heard would be better circumstanced financially if they adopted the theory which was being presented?

In other words, did not the whole campaign illustrate in this respect the very opposite condition from that of a society in which men are moved in their votes and governmental action by altruistic and not by selfish motives? And is not the whole program of the Progressive Party a program which in its ultimate result intends the taking from the successful and conferring on the unsuccessful that which the successful have earned?

If all that it means is that those who have made their money unlawfully or improperly shall be called upon to disgorge it, no one would object to the proposition, however difficult it might be to work out the theory, but when it is considered that such theories can be satisfied only by taking all the property there is and putting it in a common pot and distributing it about without regard to the prudential virtues we are able to see the destruction that will come to modern progress by putting any such theories into effect.

The great and tremendous advantage of the right of property is that it furnishes a motive for man to exercise industry and self-restraint, and the more he improves the general prosperity of the community in which he lives and so the more he helps his fellows. He gives them an opportunity to labor and to save and thus to increase the general accumulation of capital, its general use and its general product, and with the increase in the general product the opportunity for better material living grows, and with the opportunity for better material living the opportunity for better spiritual living comes. The moment that by destroying the right of property you take away the motive for accumulation, the motive for acquisition, the motive for industry and self-restraint, you take away the impulse which has made the world what it is. That is what the history of civilization has shown. No other theory has worked out and has demonstrated its usefulness.

POOR ARE GETTING POORER WHILE RICHES GROW.

We have gone on improving the material and spiritual welfare. The per capita of wealth in this country has increased most largely, the poor are not getting poorer, though the rich may be getting richer, but there has been a general improvement all along the line. We have been developing in individuals greater interest in their fellow men.

We have been cultivating the charitable impulses, forming associations for the intelligent application of charity, associations for the relief of the distressed, and all these movements should receive the highest encouragement from every lover of his kind, but to assume from these movements that business and governmental reforms can be based on a theory that the majority of men will be governed by altruistic and not by selfish consideration, with a view to supporting themselves and their families, and to increasing their possessions, is to fly in the face of the commonest and most clearly accepted fact.

We have been very prosperous in this country, and very happy, and really very free from oppression, in the sense of the deprivation of our liberty or of our property, and so clear and easy has the assumption and retention of our constitutional rights been that we have failed to realize the struggles that were essential in the past to establish those rights and secure them beyond violation.

In other words, we have had so little occasion to assert in formal suit the constitutional limitations to preserve to us that which our forefathers intended to secure by the Constitution that we do not realize that all our rights are dependent on that very instrument, and that the minute you repeal or modify it that minute you become subject to the danger of a tyranny either of an individual or a majority.

These rights, secured by constitutional limitation, when challenged or violated, are to be vindicated through the courts, but under the system which our Progressive friends propose, the limitations themselves are to be subjected to the abolishing power of a referendum; and when they are embodied and enforced in a judgment of a court they may still be lost by a referendum of the judgment to the populace in an election to determine whether the court's decision is right.

Thus it is easily seen that under the Progressive program the whole machinery that has been so carefully built up by the older statesmen of this country and of England to save to the individual and to the minority freedom, equality before the law, the right of property, and the right to pursue happiness is to be taken apart and thrown into a junk heap, and the preservation of such rights or privileges, if you choose to call them such, is to be left to the charitable impulses of a benevolent administrator.

No one at all familiar with the principles of free government and the tendency of erring and power-loving human nature would be content to have his liberty or his right of property or his right to pursue happiness dependent upon the benevolence of anyone.

The Republican Party stands for protection to the Nation's industries, for the retention of the Philippines and the enlightenment of the Filipinos, for widespread education, for those election laws which give the people the best opportunity to express their preference, for all really practical measures which look through the aid of the Government to the relief of the oppressed, but above all it stands for the preservation of the pillars of popular government; it stands for the maintenance of the rights of all, for the greatest good to the greatest number, and it believes that those ends are attainable through the control of the majority properly limited by fundamental law.

OPPOSES ANY SACRIFICE OF PARTY PRINCIPLES.

Now, it has been suggested that the Republican Party can unite again with many of the Progressive Party if only a different rule can be put into force through the convention or the national committee by which the reduction of southern representation could be secured and a fairer method of selecting the candidate for President by the Republican Party could be had.

I have not any objection to any method which shall be fair. That is not a reason for joining or giving up the party. It is the principles that the party advocates that should control one in its support. It is not that the Republican Party is desirous of holding office or power, though neither is to be despised, but it is that in this crisis we feel that we have the means of preventing the country from taking a step which, if taken, will precipitate us into governmental chaos, will set the country on a chimerical chase for an ideal that is impossible to realize, and that in this chase the country will lose the inestimable benefits of a permanent popular government that we have developed after a thousand years of struggle and have created, maintained, and preserved inviolate for 125 years of national liberty. We are not bitter; we are not cast down; we are not vengeful.

If the people of the United States can stand a Democratic administration for one or two or even more terms, we shall certainly not object to their capacity for endurance in this regard; but what we wish to assure ourselves of is that neither through Democratic radicalism nor through the Progressive radicalism shall the pillars of our noble state be pulled down and the real cause of the people be sacrificed to dreams of demagogues and theorists.

Let us buckle on our armor again for the battle for humanity and the common people that must be fought.

Let us invite those Republicans who left us under an impulse that calmer consideration shows to have been unwise to return and stand again shoulder to shoulder with us in this critical time in our country's history.

Let us invite from the ranks of our opponents the Democrats—the many who love the Constitution and the blessings it has conferred on our people—to unite with us in its defense. It must be a campaign of education among the common people against the poison of class hatred, the fanaticism of unbalanced enthusiasts, the sophistry of demagogic promises, and the wiles of false friends of humanity.

REPRINT OF POST OFFICE BILL.

Mr. MOON of Tennessee. Mr. Speaker, I ask unanimous consent for a reprint of the bill H. R. 27148, a bill making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1914, and for other purposes.

The SPEAKER. The gentleman from Tennessee [Mr. MOON] asks unanimous consent for a reprint of the Post Office appropriation bill.

Mr. MANN. Mr. Speaker, I think the gentleman in conversation with me expressed the desire to have a reprint of the bill corrected, and as he has stated it it would not be a mere reprint.

The SPEAKER. The gentleman from Tennessee desires a reprint to conform to the facts and figures. Is there objection?

There was no objection.

WITHDRAWAL OF PAPERS.

Mr. BOOHER, by unanimous consent, was granted leave to withdraw from the files of the House, without leaving copies, the papers in the case of Daniel O'Connor (H. R. 12735), Sixty-first Congress, no adverse report having been made thereon.

INDIAN APPROPRIATION BILL.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 26874, the Indian appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 26874, with Mr. SAUNDERS in the chair.

Mr. STEPHENS of Texas. Mr. Chairman, when we adjourned on last Saturday I had made a point of order against an amendment offered by the gentleman from Montana [Mr. PRAY] after the figures in line 16, page 16, to insert a new paragraph. The appropriation was for $75,000, for the purpose of making certain surveys, which is not incorporated in the bill.

Mr. PRAY. Mr. Chairman, I would like to say a word on the point of order.

The CHAIRMAN. Will the gentleman from Texas [Mr. STEPHENS] yield to the gentleman from Montana [Mr. PRAY]?

Mr. STEPHENS of Texas. For the purpose of discussing the point of order only?

Mr. PRAY. Yes.

Mr. STEPHENS of Texas. I will yield to the gentleman for five minutes, Mr. Chairman.

Mr. PRAY. I do not think it necessary for the gentleman to yield. I ask for recognition to discuss the point of order.

The CHAIRMAN. Does the gentleman from Montana [Mr. PRAY] desire to address himself to the point of order?

Mr. PRAY. I do.

The CHAIRMAN. The gentleman is recognized.

Mr. PRAY. Mr. Chairman, this amendment is for the purpose of enabling the department to survey land on Indian reservations in Montana, land on the Tongue River or Northern Cheyenne Reservation, land within the Fort Belknap Indian Reservation, and for making a meander survey around Flathead Lake, so as to identify the lands embraced within the powersite withdrawal of 100 linear feet around that lake back from the high-water mark for the year 1909, together with other survey work on Indian reservations not provided for in the pending bill.

This amendment, Mr. Chairman, is based upon authority of existing law. The purpose of these surveys is to provide allotments for the Indians. The authority for the surveys, and consequently for this appropriation, will be found in the general allotment act of February 8, 1887, which provides for the allotment of lands in severalty to the Indians, and necessarily the surveys must be made before the allotments can be made.

The CHAIRMAN. Let me ask the gentleman a question. I notice that a part of the amendment provides for surveying lands in the Tongue River and Northern Cheyenne Indian Reservations.

Mr. PRAY. Yes.

The CHAIRMAN. Can the gentleman give the Chair the authority for that particular work under existing law?

Mr. PRAY. That is based, Mr. Chairman, as I regard it, upon the general allotment act which I have quoted and upon which the general appropriation in this bill is based. This amendment carries a specific appropriation for this work which is not intended to be provided for under the general item; and the department has estimated for this appropriation and recommended the performance of this work, and this amendment is in exact accord therewith; and, furthermore, it is authorized by the statute I have cited, and is therefore supported by existing law.

Mr. STEPHENS of Texas. Mr. Chairman, will the gentleman let me call his attention to this fact, that out of this general sum for the survey of lands a portion was used for the survey of lands on the Tongue River and the Northern Cheyenne River? And is the gentleman aware of the fact that for the completion of the survey of lands in the Flathead Lake Indian Reservation some $29,000 was expended last year out of the general appropriation? Is the gentleman aware of that? The general appropriation is in this language:

For the survey, resurvey, classification, appraisement, and allotment of lands in severalty under the provisions of the act of February 8, 1887, entitled "An act to provide for the allotment of lands in severalty to Indians," and under any other act or acts providing for the survey and allotment of lands in severalty to Indians; and for the survey and subdivision of Indian reservations and lands to be allotted to Indians under authority of law, $200,000, to be repaid proportionately out of any Indian moneys held in trust or otherwise by the United States and available by law for such reimbursable purpose and to remain available until expended.

That last clause would fairly cover the purpose of the gentleman's amendment.

Mr. PRAY. I know it is true that up to the close of the fiscal year ending June 30, 1911, $29,000 was taken from the general fund for these surveys on Indian reservations. But a much larger amount is needed at the present time. Therefore

the department officials have asked for a special appropriation of $75,000, and have taken no account of this work in their estimates for the general appropriation this year. Under that general item for surveys they asked for $250,000, and you cut it down to $200,000. Yet I have the positive assurance of officials at the department that they will be unable to use but very little, if any, portion of the general appropriation for these important surveys, and they insist that these surveys should be made at the beginning of the next season.

Mr. STEPHENS of Texas. But we are appropriating in this bill $200,000, and there was a part of the appropriation last year that was not used.

Mr. PRAY. I know about that, and also that you did not come within $50,000 of the general estimates, and I do know, further, that the department will be unable to take any portion of the funds from that general appropriation for the very necessary purpose set forth in this amendment.

Mr. STEPHENS of Texas. If they could take $20,000 of last year, why can they not complete it this year with the appropriation?

Mr. PRAY. They took that amount in 1911, but even so, it was totally inadequate, and they can not do the work without a special appropriation. This amendment is based on existing law, upon the act supporting the general appropriation. And furthermore, the provision included in the amendment in regard to surveys on the Flathead Reservation is based upon the act of a year ago, which provides that an easement in and over all lands bordering on or adjacent to Flathead Lake, which lie below an elevation of 9 feet above the high-water mark of this lake for the year 1909, shall be reserved for use in connection with storage of water for irrigation or development of water power. All patents hereafter issued under this law must include such reservation. It is necessary to make the survey to fix the contour line. The law can not be compiled with without a survey. The estimate for this particular work is $25,000. This is included in the Book of Estimates, and appears in the hearings. The other feature of the amendment relates to survey on the Fort Belknap Reservation—$25,000 is needed for this purpose. The recommendation is noted in the hearings and in the Book of Estimates. This survey is for allotment purposes and authority for the appropriation will be found in the general allotment act before alluded to. This amendment, in my judgment, is not subject to a point of order.

Mr. STEPHENS of Texas. They have used, as I have stated, $29,000 of the general appropriation last year for beginning this survey, and this year we have made an appropriation of $200,000 for completing the survey.

This amendment of the gentleman from Montana is subject to a point of order for the reason that it has not been estimated for, is not in the bill, and does not come legitimately before the committee at this time. It is new legislation.

Mr. PRAY. Mr. Chairman, the gentleman says that this legislation has not been estimated for. He does not mean that.

Mr. STEPHENS of Texas. I mean it is not in the bill.

Mr. PRAY. The department has estimated for it and has said that it is absolutely necessary that they should have the $75,000 recommended. Besides that, it is authorized by the law carrying the general appropriation that was inserted at the beginning of this bill.

This is not the only item affecting Montana estimated for by the department which does not appear in the bill. The department asked for an appropriation of $10,000 for indigent and homeless Indians, such as Chief Rocky Boy and his band of Chippewas and the poverty-stricken Cree Indians who were under Chief Little Bear. This item does not appear in the bill, although there is great poverty and distress among these Indians; and this same condition exists among the aged Indians on some of the reservations. Chouteau County, my home county, expended $6,000 to take care of the Cree Indians during an epidemic of smallpox, and when I introduced a bill in the Sixtieth Congress for reimbursement the verdict was that the liability of the Government was too remote. In my humble judgment the Government is and ought to be liable for the support of helpless Indians. They are the wards of the Government and entitled to help under such distressing circumstances.

This amendment is meritorious and ought to prevail, but it will doubtless meet the same fate as other amendments that have been proposed for the purpose of increasing appropriations. This appropriation is necessary; it is properly estimated for and fully justified in the hearings, and, furthermore, it is authorized by the same law that supports the general item on page 2 of the pending bill.

The CHAIRMAN. The reference that has been made to existing law is urged in support of the amendment. No intelligent ruling can be made on the question in the absence of that law, and the Chair will therefore ask the gentleman from Montana [Mr. PRAY] to send the law to the desk, and the Chair will reserve a ruling on this point of order until he can look at the law which is relied upon.

Mr. STEPHENS of Texas. Shall we proceed with the bill, Mr. Chairman?

The CHAIRMAN. Yes. The Chair states that for the time being we will proceed with the bill, and at a later opportunity the Chair will make a ruling.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent that we pass over the item for the present until we can ascertain the authority.

The CHAIRMAN. Without objection, that will be done. The Clerk will read.

Mr. STEENERSON. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. STEENERSON. I would like to inquire what became of the amendment that I offered on Saturday?

Mr. MANN. Mr. Chairman, the amendment offered by the gentleman from Minnesota on Saturday was passed over without prejudice, with a point of order pending. I made the point of order, and after an examination of the statements in the RECORD of Saturday, I desire to withdraw the point of order.

Mr. FOSTER. Mr. Chairman, I also have a point of order pending, I think. The amendment is just as it was on Saturday, as I understand from the gentleman from Minnesota.

Mr. STEENERSON. Yes; it is pending.

Mr. FOSTER. It occurs to me that this matter should be taken up in the regular way by the Committee on Indian Affairs, to determine whether or not it is advisable to authorize this. And there is a question as to the right of the Red Lake Indians to have an interest in this matter, so that it occurred to me that in view of all those facts this matter ought not to go into this bill.

Mr. MANN. I understood that it was agreeable to the committee. Is not that correct?

Mr. STEPHENS of Texas. Yes.

Mr. STEENERSON. It was considered in the committee.

Mr. STEPHENS of Texas. We have made a favorable report on the amendment. We had a special meeting of the committee and agreed to this amendment; agreed that it might be offered on the floor. It is not in the bill, but I desire to state to the gentleman from Illinois [Mr. FOSTER] that the committee agreed to this amendment at a special meeting.

Mr. FOSTER. But the committee has never reported a bill on the subject and placed in on the calendar.

Mr. STEPHENS of Texas. It has been the custom, Mr. Chairman, for a number of years that the committee could be authorized to offer, through its chairman, on the floor such amendments, and we have followed that custom in this instance, for the reason that the data were not before the committee at the time we reported the appropriation bill; else we would have reported it with the amendment of the gentleman from Minnesota [Mr. STEENERSON].

Mr. FOSTER. It does seem to me that this amendment ought not to be put on at this time, without giving opportunity for a study of this question. I am not saying that this matter is not all right, but it does not occur to me that it ought to go in here.

Mr. STEENERSON. Will the gentleman reserve the point until I can make a further explanation?

Mr. FOSTER. Yes. I have no objection.

Mr. MILLER. Mr. Chairman, before my colleague [Mr. STEENERSON] makes his statement, I would like to call the attention of the gentleman from Illinois [Mr. FOSTER] to the fact that this is the only way to get any legislation through at this session of Congress. It is undoubtedly right that under ordinary circumstances a bill should be introduced and passed upon by the committee and reported to the House and taken up by itself, but under the present condition of things the gentleman from Illinois knows, as every one of us knows, that there will be no legislation on this subject at this session of Congress—that is, this year—unless it is done by way of amendment to this bill. Now, this is not a large item. It is really quite an insignificant item, but it is important to a large number of Indians. Unless this survey can be secured in this bill it will not be secured at all. Unless this drainage survey can be made or authorized within a year, it is probable that it never can be made for the welfare of these Indians.

Mr. FOSTER. Why does the gentleman make that statement?

Mr. MILLER. The allotments may be made up there in that region before it can ever be reached, and if that should be done the opportunity for a survey of this kind would be largely removed.

Mr. STEPHENS of Texas. This is reimbursable, and is an unexpended balance of an appropriation for a survey partly made. The time expired before they could complete the survey, and this provision is for the expenditure of the unexpended balance for the survey.

The CHAIRMAN. Is the point of order made against the amendment?

Mr. STEENERSON. Mr. Chairman, I desire to make a further explanation.

Mr. FOSTER. I will hear the gentleman's explanation, and if it is satisfactory I may withdraw the point of order.

Mr. STEENERSON. I can realize that the zeal of the gentleman from Illinois [Mr. FOSTER] requires him to consider this matter very carefully. I desire to say that it was presented to the committee at a special meeting and approved. Now, this reappropriation is part of an appropriation made reimbursable out of the funds of the Indians, and then, in order to recoup the amount of the expenditure for a drainage survey, the price of the unsold lands originally contributed by the Red Lake Indians, being 1,500,000 acres, was raised 3 cents an acre. Eventually that will bring back into the Treasury more than the sum appropriated or expended for the drainage survey. We have appropriated $35,000 and have spent $30,000. The money was appropriated especially for a drainage survey, and this being money of the Indians, proposed to be expended for the benefit of the Indians, it seems to me that some consideration should be given to those who represent those Indians. It is simply a method of using the property of the Indians for their own benefit, and it is not tenable to say that this money belongs to the United States.

I notice that several erroneous statements were made in the debate on this matter on Saturday. My colleague from Minnesota [Mr. MILLER] in a colloquy admitted that this money, derived from the increase in the price of the sale of the Indian lands, would belong to the United States. Now, that is not correct, because the land was conveyed to the United States under the act of 1889 by the Indians in trust for the purpose of being disposed of, and when the price is increased the trustee does not get the benefit of the increased price, but it inures to the benefit of the cestui que trust. Therefore this money ultimately belongs to the Red Lake Indians who furnished the 3,000,000 acres to be put into the pot and sold to raise the common fund. The act which made the appropriation made it reimbursable, and I can not see why this item should not now be agreed to. I hope the gentleman from Illinois [Mr. FOSTER] will withdraw his point of order, that he will not insist upon it, because it is necessary to have this survey made this summer in order to make the allotment. I do not understand that it is the policy of the department to allot the agricultural lands on the Red Lake Reservation without first making this survey. That is the object of this item—to get a survey and to find out how much agricultural land there is available for allotments in severalty.

It is the first step toward an allotment of lands in severalty. All the agricultural and timber lands on this reservation are now held in common. This has been asked for at three or four meetings, and it seems to me that in view of the fact that the Indians are unanimous, both factions of them, and in view of the fact that the Representative in Congress from that district, who has visited this reservation within the last 60 days and inquired into this matter, is strongly in favor of it, some consideration ought to be given to the wishes of the Indians, whose money we are appropriating, and to the statements of the Representative from that district. I therefore hope that the gentleman will withdraw his point of order.

While I am on my feet I desire to say that the record of the debate of last Saturday does not clearly show what the so-called Eleven Towns were sold for.

To show what was realized from the Eleven Towns, I will print the following statement from the Crookston Land Office:

ELEVEN TOWNS.

During the several councils held by the Red Lake Chippewa Indians during the past summer, reference has been made by many of the older Indians to the matter of the sale of the "Eleven Towns" bordering the west end of the present reservation. It will be remembered that the purchase price as agreed by the Indians for this tract was $1,000,000. The fact of the matter is that this consideration has been exceeded to the benefit of the Indians to the amount of $260,000, as shown by the following letter:

CROOKSTON, MINN., *September 27, 1912.*

Hon. HALVOR STEENERSON,
Crookston, Minn.

DEAR SIR: In compliance with your request we submit the following figures, which are a revision of our report to you under date of March 6, 1912, to and including this date:

Area of Eleven Towns	acres	265,000
Entered to date	do	262,000
Unentered land	do	3,000
Purchase price of land heretofore entered		$1,260,000
Amount paid		1,055,000
Unpaid balance		205,000

The unentered area is subject to sale at the minimum price of $4 per acre.

Respectfully,

A. P. TOUPIN,
Register, Crookston Land Office.

It will be seen that these lands were sold for $260,000 more than the Indians had agreed to take for them under the McLaughlin agreement. So it appears that these matters have been handled with skill by the department, and the Indians are perfectly satisfied that they have been fairly and liberally treated in this matter. I appeal to the gentleman from Illinois [Mr. FOSTER] to allow this survey to be made. Otherwise the whole matter will be delayed for a year.

Mr. FOSTER. Mr. Chairman, in my judgment it is not a good plan to take up a matter of this kind, involving a project of this magnitude, on an appropriation bill, and I think the House probably has some reason to complain if amendments are put on in some other body and come back here for adoption by this House when we have had no opportunity to consider them. But as I am informed by the chairman of the committee, the gentleman from Texas [Mr. STEPHENS], that this matter has been fully considered in the committee and approved, and in view of the statement made by the gentleman from Minnesota [Mr. STEENERSON] who knows the situation, I feel that I am willing to take his word for this and the action of the committee, and I therefore withdraw the point of order.

Mr. STEENERSON. Mr. Chairman, the gentleman from Illinois withdraws the point of order.

The CHAIRMAN. The gentleman from Illinois withdraws the point of order. The question is on the amendment offered by the gentleman from Minnesota.

The amendment was agreed to.

Mr. FERRIS. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FERRIS. I may be mistaken about it, but I do not recall that there was any disposition of the pending amendment of the gentleman from Montana [Mr. PRAY].

Mr. MANN. That was laid over temporarily.

The CHAIRMAN. It was agreed to pass that over for the present. The Clerk will read.

The Clerk read as follows:

NEBRASKA.

SEC. 11. For support and education of 300 Indian pupils at the Indian school at Genoa, Nebr., and for pay of superintendent, $52,100; for general repairs and improvements, $4,500; in all, $56,100.

Mr. STEPHENS of Texas. Mr. Chairman, I have a committee amendment which I send to the Clerk's desk.

The Clerk read as follows:

Page 16, line 18, after the word "hundred," add the words "and seventy-five." Line 20, strike out "52,100" and make it "62,300." In line 21, strike out "56,100" and insert in lieu thereof "66,800."

Mr. STEPHENS of Texas. Mr. Chairman, the reason for making that amendment is this: The general bill provides for 300 Indians at the Genoa School, Nebraska. We find that there are enrolled there 373 pupils, and we have made no provision for 73 of them. We find that the bill does not provide for 73 Indians, and therefore on a pro rata appropriation we offer this amendment to cover those 73 Indians unprovided for.

Mr. BURKE of South Dakota. Will the gentleman yield?

Mr. STEPHENS of Texas. I yield to the gentleman from South Dakota.

Mr. BURKE of South Dakota. I wanted to ask the chairman of the committee if the attendance at this school last year was not 375 pupils, in round numbers?

Mr. STEPHENS of Texas. Three hundred and seventy-three.

Mr. BURKE of South Dakota. They conducted the school upon an appropriation that was made for 300.

Mr. STEPHENS of Texas. That is right.

Mr. BURKE of South Dakota. Now it is proposed to increase the appropriation without increasing the attendance, if I understand the chairman correctly.

Mr. STEPHENS of Texas. They were not provided for last year, for the reason that it was not called to the attention of the House or the Committee on Indian Affairs that they had 73 additional Indians in the school there which the appropriation did not cover.

Mr. BURKE of South Dakota. I understood the gentleman to say that the attendance of the school last year was 373—that is, this year—and that they have been able to take care of that number with the appropriation that was made for the school.

Mr. STEPHENS of Texas. My secretary calls my attention to the fact that there were only 318 pupils last year; that is, they had 18 over the 300 that were appropriated for. This

year they have 373 pupils, or 73 above the number appropriated for.

Mr. BURKE of South Dakota. I would like to ask if this was an item passed upon by the committee. I was not able to be present at the last meeting of the committee.

Mr. STEPHENS of Texas. Yes; it was presented, and the committee authorized the chairman to offer this amendment because they have the additional number of pupils there not provided for.

Mr. BURKE of South Dakota. I will call the gentleman's attention to one thing that caused me to make the inquiry, and that is, in considering the bill we did not allow in any case an increase of the appropriation to provide for an attendance greater than we had before.

Mr. STEPHENS of Texas. If that had been called to the attention of the committee at the time we passed the bill we would have provided for 373 pupils or required them not to add that number to the school; but as they were enrolled, and have been for the last six months, from September to the present time, we think they ought to have the present amount.

Mr. MANN. Will the gentleman yield?

Mr. STEPHENS of Texas. Certainly.

Mr. MANN. Is there any deficiency item this year for this school? In other words, if they now have 373 pupils at this school, and the appropriation in the bill is the same as for the current appropriation law, you propose to increase the amount of the bill. Is that based upon the proposition that there is a deficiency appropriation for this year?

Mr. STEPHENS of Texas. I do not understand whether there will be a deficiency or not, for I have not the records before me at the present time.

Mr. FOWLER. Will the gentleman from Texas yield for a question?

Mr. STEPHENS of Texas. I will yield to the gentleman from Illinois.

Mr. FOWLER. I see by the amendment that you increase the appropriation $200 above that of the last appropriation bill.

Mr. STEPHENS of Texas. Ten thousand two hundred dollars, for the reason that we have 73 pupils more than the bill provides for.

Mr. FOWLER. I understand you ran the school last year on $66,200, with the same number of pupils.

Mr. STEPHENS of Texas. No; that is where the gentleman is in error. We only had 318 pupils, and now we have 373.

Mr. MANN. And that included $10,000 for a special purpose that had nothing to do with the maintenance of the pupils.

Mr. FOWLER. I understand there is no deficiency from the last appropriation.

Mr. STEPHENS of Texas. I have not had an opportunity to examine that question.

Mr. FOWLER. Does not the gentleman think the school could be run on the same amount of appropriation for the coming year that was made the last year?

Mr. STEPHENS of Texas. It could, but we only had 318 pupils last year. Now we have 373, and these additional pupils will require the additional amount.

Mr. CLARK of Florida. Mr. Chairman, on last Saturday, while the House was in Committee of the Whole considering the Indian appropriation bill, I was called from the Chamber by a constituent, who detained me for several minutes. During my temporary absence it appears that the Seminole Indians of Florida, and indeed Florida herself, were quite fully discussed by a number of gentlemen. In the course of the debate, which was supposed to relate to a certain item of appropriation for the Florida Seminoles, the following colloquy, as shown by the RECORD at page 998, took place:

Mr. FERRIS. I desire to say to the gentleman that the President has really taken some steps. These Indians in the Everglades are as wild as rabbits, and up to this time they have not been able to do anything with them; but the President has by Executive order set aside a tract of land comprising 85,000 acres, and the Indian Office has tried to get these Indians on it, tried to get hold of them, lasso them, or catch them in some other way and put them on it.

Mr. MANN. This talk about the Indians being so wild is all fudge.

Mr. FERRIS. Well, the Indian Office does not say so.

Mr. MANN. What do they know about it?

Mr. FERRIS. They have been down there.

Mr. MANN. They sent one man on a winter trip, at a cost of $154; that is all they know about it. They do not know anything about it. There never was any occasion for the Government spending a cent on these Indians down there; they are not asking it.

Mr. FERRIS. They have not got sense enough to ask for anything.

Mr. MANN. The gentleman need not be alarmed; they have got a great deal more sense than some of the native Crackers of Florida and are quite able to take care of themselves; they are pretty bright people down there.

It will be observed, Mr. Chairman, that the distinguished gentleman from Oklahoma likens the brave remnant of Seminoles left in my State to "rabbits," and the great leader of the minority, the gentleman from Illinois, solemnly declares that the Seminoles "have a great deal more sense than some of the native Crackers of Florida." Mr. Chairman, I can not allow these statements to go unchallenged and by my silence appear to acquiesce in them; and I ask the House to bear with me for a few moments while I submit a few observations relative to them.

I was amazed when I read the language of the gentleman from Oklahoma, who has so large an Indian constituency, wherein he compares this remnant of a once populous and warlike tribe of Indians to "rabbits." I assert, Mr. Chairman, without the slightest fear of successful contradiction, that no braver people among all the nations and tribes of American Indians ever inhabited this continent than those who followed the waving plume of Osceola. It is true they are uneducated, but that is not their fault. It is the fault of this great Christian Government, which has forcibly deprived them of their all and left them in poverty and ignorance to meet the issues of a new life. If you really wish to help the Seminoles of Florida, establish schools among them, with faithful and competent instructors, and lift them up intellectually, so that they may assume the duties of citizenship and become factors in our much boasted civilization. Let my friend from Oklahoma quit referring to them as "rabbits," but rather let his committee bring in a bill making provision for the education and elevation of these unfortunate people.

But, Mr. Chairman, I desire more particularly to address myself to the reference made by the great minority leader to the Florida "Cracker." Mr. Chairman, "Cracker" is a title proudly worn by every true Floridian, whether he be a son of that great Commonwealth by birth or by adoption. The man who lives in Florida for two or three years, whether he hails from the North, the East, the West, or some other portion of the South, assumes the title of "Florida Cracker," and wears it as a badge of the greatest honor. And why should not he be proud of the distinction, Mr. Chairman? Gen. Edmund Kirby Smith, one of the greatest, one of the manliest, one of the bravest of that magnificent body of men who constituted the commanding officers of the Confederate States army, was a native-born "Florida Cracker." Gen. Edward A. Perry, although born in Massachusetts, was a "Florida Cracker" by adoption, and as brigadier general in the Confederate army illustrated his dauntless bravery and unflinching courage on many hard-fought fields. [Applause on the Democratic side.] Dr. John Gorrie, the gentle and faithful physician who invented the process for manufacturing ice artificially, and thus became the greatest benefactor to humanity of modern times, was a "Florida Cracker." And I could fill the RECORD with the names of individual "Florida Crackers" who have become eminent in some field of human activity, but time will not permit. I can not, however, let this opportunity pass without calling attention to the fact that Florida has only been in the Union for 68 years; the Civil War and other causes delayed her development, and she really only began her march of progress within the last quarter of a century. She is in reality a pioneer State to-day. Her resources have hardly been touched, and no human mind can foresee the vast possibilities in store for her. To the original pioneers, those sturdy Americans, unlettered it is true, but as brave and patriotic souls as ever heard the war cry of the savage, who conquered Florida, is due the credit of giving this magnificent domain to the American Union. [Applause.]

The CHAIRMAN. The time of the gentleman from Florida has expired.

Mr. TOWNSEND. Mr. Chairman, I ask unanimous consent that the gentleman from Florida may continue for five minutes.

Mr. STEPHENS of Texas. Mr. Chairman, I desire to complete this bill to-day, and I shall have to object.

Mr. MANN. How much time does the gentleman desire in which to conclude?

Mr. CLARK of Florida. I will get through in 10 minutes.

Mr. MANN. Then, Mr. Chairman, I ask unanimous consent that the gentleman from Florida may continue for 10 minutes.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the gentleman from Florida may continue for 10 minutes. Is there objection?

There was no objection.

Mr. CLARK of Florida. Mr. Chairman, they and their descendants are the people to whom the distinguished gentleman from Illinois refers to as so lacking in sense. These men who blazed the pathway of civilization through the primeval forests, exterminated the wild beasts of the jungle, conquered and reduced to subjection the untutored but warlike and courageous Seminole, may not have been as cultured and polished as the collegian, but they were the bravest of the brave; they were as honest as honesty itself; in their veins flowed the purest

strain of American blood, and their every heartbeat was attuned to the sweet song of human freedom.

Mr. Chairman, the "Florida Cracker" of to-day possesses every element of manhood which made glorious the record of his ancestry, and I repudiate with all the force I can command the imputation that he is not in every essential respect the equal of any man who walks upon the earth.

Why, Mr. Chairman, the very atmosphere of Florida conduces not only to a broadening of the intellectual man, but it tempers and refines the moral sensibilities. The "Florida Cracker" has "sense" enough to keep on the statute books of his State a law which forever makes impossible the shocking of the moral sense of all decent people by the union of a half-witted white girl with a black negro brute. If the culture, refinement, and "sense" of Chicago is exemplified in the recent legal marriage of the negro brute Jack Johnson and that poor, miserable white girl, then may the great God of the heavens and the earth forever deliver my people from the Chicago variety. The "Florida Cracker" has "sense" enough to know that God Almighty never intended that the black crow should roost where the gray eagle builded her nest; he has "sense" enough to know that the Great Creator, for some reason of his own, in the very dawn of human existence, separated the white and black races by insurmountable barriers; and he has "sense" enough to have no patience with that class of alleged white men and women who, having no pride of race, would set aside the solemn decree of the Almighty and by amalgamation bring the proud Caucasian to the level of the brute African and make of this great Republic a Nation of mongrels. He has "sense" enough, decency enough, love of race enough, and enough reverence for the decrees of Almighty God, no matter what the people of other lands and other States may do, to forever preserve the white civilization of Florida from the degradation of social equality with the negro. [Applause on the Democratic side.]

Mr. Chairman, Florida, with her balmy climate, her health-giving springs, her beautiful lakes, her magnificent rivers, her wonderfully productive soil, invites the citizen of every section to come and live and enjoy life within her borders. He will find us a generous, warm-hearted, and hospitable people. We care not where he was born; that is immaterial. We care not what may be his politics or his religion; that is his business. But we do not care to have him come laboring under any mistaken idea as to our purpose to maintain our present civilization. When he comes to Florida he comes to a State where white supremacy obtains and will be maintained; he comes to a State where the virtue of women is the chief corner stone of the structure and will be protected; and he comes to a State where the institutions of our Government are to be preserved as established by the fathers of the Republic. [Applause.]

Mr. STEPHENS of Texas. Mr. Chairman, I ask for a vote on the last amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk again reported the amendment.

The CHAIRMAN. This seems to include more than one amendement. If there be no objection, the amendments will be considered en bloc. The question is on agreeing to the amendments.

The question was taken, and the amendments were agreed to.

The Clerk read as follows:

For pay of 1 clerk at $1,400, 1 financial clerk at $1,200, 1 assistant clerk at $720, and 1 laborer at $720, at Winnebago Agency, Nebr.; in all, $4,040.

Mr. FOWLER. Mr. Chairman, I reserve the point of order on this paragraph. I desire to inquire of the chairman of the committee the necessity for this new legislation. I discover that the bill last session did not carry this appropriation.

Mr. STEPHENS of Texas. Mr. Chairman, I will state to the gentleman from Illinois that this is taken out of the lump-sum appropriation, and that amount is deducted from the lump-sum appropriation because it was considered by the department to be good legislation, so that they could be directed how much they shall expend in this State at this place. This specific expenditure is deducted from the lump-sum appropriation carried in the fore part of the bill. It does not cost the Government any more, and it specifically directs how this amount shall be expended.

Mr. FOWLER. Does the lump-sum appropriation carry an appropriation for the different places that are provided for in this paragraph?

Mr. STEPHENS of Texas. The aggregate amount of the lump sum included this appropriation, but it was thought better legislation to put this provision in the bill, and it was so drafted by the department.

Mr. FOWLER. As a matter of fact does this school have a financial clerk, an assistant clerk, and a laborer at this agency?

Mr. STEPHENS of Texas. In the Winnebago Agency, Nebr., there is a school, and this is for the whole State of Nebraska. There is quite a large agency there—agency buildings—and they have general supervision of all of the Indians in that State. I do not remember the number of Indians, but there is quite a number of Indians in that State. These clerks have to manage the affairs of that agency and do all of the clerical work.

Mr. FOWLER. The gentleman does not answer the question. Have these positions been carried at this agency, at the Winnebago Agency, prior to the bringing of this bill?

Mr. STEPHENS of Texas. They have for a number of years. They have the same number and the same pay. They do the same labor as the others. There is one laborer provided for at $720.

Mr. FOWLER. Mr. Chairman, with the assurance that it costs no more, I withdraw the point of order.

Mr. MANN. Before the gentleman withdraws the point of order, will he still reserve it for a moment until I can ask a question?

Mr. FOWLER. Certainly.

Mr. MANN. Out of what item in the bill is this taken?

Mr. STEPHENS of Texas. The lump-sum appropriation.

Mr. MANN. Yes; but where is the item, the lump-sum appropriation, that carries it now?

Mr. STEPHENS of Texas. The amount is $80,960, for the pay of employees, and so forth.

Mr. MANN. That is for the pay of employees not otherwise provided for?

Mr. STEPHENS of Texas. Yes; lines 14 to 17, page 7:

For pay of employees not otherwise provided for; and for other necessary expenses of the Indian service for which no other appropriation is available, $80,960.

One hundred and twenty-five thousand dollars was carried in that item last year, and we reduced it to $80,960 this year, because we have made this change in several Indian reservations. We thought it was more desirable, and so did the department.

Mr. MANN. As I understood the statement the other day, it was that the reduction was made on account of the agency in Oklahoma.

Mr. STEPHENS of Texas. I think we followed that rule in a good many agencies.

Mr. MANN. There were a lot of special agents in Oklahoma.

Mr. STEPHENS of Texas. The gentleman from Minnesota [Mr. MILLER] is acquainted with that matter.

Mr. MANN. I think the statement was made that the reduction in that item was because there was no provision in the bill this year for certain special agents in Oklahoma, to cover which the amount was increased in the Senate last year.

Mr. MILLER. Mr. Chairman, I think the gentleman from Illinois is correct in that statement; but I think, however, in addition to that deduction, that there is to be made another one for these segregated items. I am not entirely familiar with all of the details of this, excepting that my recollection is distinct that information was furnished the committee, or at least myself when I passed upon the matter in my own mind, that this was a deduction from the lump sum which had been expended heretofore, and, as the gentleman from Texas [Mr. STEPHENS] has well said, similar segregations are to be found in two or three other instances. For one I think it is vastly preferable to have each item segregated by itself, so that when we make appropriations we may know the exact amount that is going to the different places.

Mr. MANN. Of course that depends upon whether it is more expensive, and whether they need all of these employees at this point.

Mr. MILLER. Of course, assuming the expense is not increased, and that the result will ultimately be a decrease. I do not think there is any question but that this is a reduction from the lump sum heretofore appropriated.

Mr. FOWLER. Mr. Chairman, I withdraw the point of order.

The Clerk read as follows:

For the construction of a bridge across the San Juan River at Shiprock, N. Mex., on the Navajo Indian Reservation, to be immediately available, $16,500.

Mr. FOWLER. Mr. Chairman, I reserve a point of order on this paragraph. I desire to ask the chairman the necessity for the construction of this bridge.

Mr. STEPHENS of Texas. I will state that last year a showing was made before the committee sufficient to convince them that it was necessary to construct this bridge, and we appropriated $1,000 for plans and specifications and a survey

across the river at this point. This is what I find the department says in justification of this amendment:

For the construction of a bridge across the San Juan River at Shiprock, N. Mex., on the Navajo Indian Reservation, to be immediately available, $16,500.

This bridge is to replace a bridge at Shiprock, N. Mex., which was totally destroyed by a flood, on October 6, 1911. The San Juan River is a dangerous one to ford, and the loss of the bridge is, therefore, a serious one for the Indians, as well as to the agency employees and white people with whom the Indians have business relations. The proper handling of the affairs of the Indians renders the reconstruction of this bridge imperative, as more than half of the Indians on the San Juan Reservation live south of the river, the agency being located on the north side of it.

In the act of August 24, 1912, Congress appropriated $1,000 for an investigation and report as to the necessity for this bridge and an estimated limit cost thereof, which report has been submitted in accordance with the provisions of the act. (See House Doc. No. 1015, 62d Cong., 3d sess.)

Mr. FOWLER. Who made the investigation?

Mr. STEPHENS of Texas. It was made by the engineers of the Indian Department.

Mr. FOWLER. Have you the report?

Mr. STEPHENS of Texas. I have the report here. It is a public document, No. 1015, Sixty-second Congress, third session.

I will state to the gentleman that if there is a bridge in the United States which should be built, this is the one, because the Indians are all on one side of the river and the business on the other side, and at one time an overflow took out the abutments of the bridge which was there.

Mr. FOWLER. Why is not that in the hearings?

Mr. STEPHENS of Texas. When we had a document setting forth all of this information, it certainly would not have been right or justifiable to cause the Government to have reprinted something that we already had before us.

Mr. FOWLER. While that may be true, those Members who are not members of the Committee on Indian Affairs are not always able to lay thair hands on every piece of information which they desire.

Mr. STEPHENS of Texas. This is a document, I will state, that every man can get by sending to the document room for it.

Mr. MANN. Mr. Chairman——

Mr. CULLOP. Mr. Chairman——

The CHAIRMAN. To whom does the gentleman from Illinois [Mr. FOWLER] yield?

Mr. FOWLER. I will yield the floor to the gentleman from Indiana [Mr. CULLOP] or the gentleman from Illinois [Mr. MANN] for a question.

Mr. CULLOP. Mr. Chairman, I desire to ask the gentleman from Texas [Mr. STEPHENS] a question. New Mexico now being a State of the Union, would it not be the province of that State to build this bridge and tax the property of the people of that State for that purpose, instead of the National Government?

Mr. STEPHENS of Texas. If the gentleman will permit me to state, this bridge was built originally by the Government for the Indians, and was washed away. This is a very large reservation, possibly 100 miles from end to end, and about that distance wide. These Indians, as I have stated, are on the opposite side of the river, where they are occupied in farming, while the railroad and the places in which they do business are on the other side of the river. I am advised that the river is so dangerous on account of quicksands, and so forth, that it is often difficult to get to these places.

Mr. CULLOP. But the property of the people in these towns who get advantage of the trade of the Indians ought to be taxed as other property of that State now is taxed, for the purpose of building this project. They are the beneficiaries and ought to bear the expense of this improvement.

Mr. STEPHENS of Texas. No Indian land is taxable.

Mr. CULLOP. I am not referring to the Indian land, but the other property there which is taxable, the railroad, the stores, the lands of the citizens of the State, just as the property in other States is taxed for public improvement. Why should not this property in the State of New Mexico be taxed for the purpose of building this bridge, which is a public improvement of the State, instead of the United States Government bearing the expense of it?

Mr. STEPHENS of Texas. I yield to the gentleman from New Mexico [Mr. FERGUSSON].

Mr. FERGUSSON. Mr. Chairman, I am personally acquainted with the situation where this bridge is located in New Mexico, and in answer to the gentleman from Indiana [Mr. CULLOP] I will state that the larger part of the reservation where the Indians are located is on the southern side of the San Juan River. The railroad and coal mines are on the north side. When a few years ago they came to establish an agency and a school for these Indians they established it on the north side of the river, for the reason that the railroad and station are on that side and the coal is mined on that side of the river, and therefore they established the agency and school on the side of the river where the railroad was located and where the coal was mined for convenience. So, in answer to the gentleman from Indiana, I will state that it is a part of the Government's business to build this bridge across the river in order to connect the body of the reservation with the other side of the river. It is Government business and not the business of the citizens of the State there. The report of the constructing engineer, which was adopted by the Secretary of the Interior, in recommending this bridge, shows the reasons more succinctly than I can state them, among which are that the river has quicksands, that it is wide and flows over sand, that it is almost for half a year unfordable and impassable, and that the Indians have large numbers of ponies, hides, and wool which they have to transfer across the river. These Navajos are industrious. It is necessary to get across to the railroad and to the towns where the Americans live, where they find a market for their blankets. For half a year the river is unfordable and impassable, as is shown by the Secretary of the Interior in his report in favor of this item. We think it is a part of the Government business. This Government agency is a very large one. The Indians are industrious and prosperous. Their blankets are getting an international reputation and are sold all over the world. They have their sheep and cattle. I have seen in the streets of Albuquerque herds of 200 or 300 ponies brought down to sell. The Indians are worthy of the help that is asked in this matter in order to get across the river to the markets on the other side, to the coal, and to the railroad supplies.

Mr. CULLOP. I would like to ask the gentleman from New Mexico a question if he will permit. How large is the town across the river from this reservation?

Mr. FERGUSSON. I do not remember exactly. I should say it had fifteen hundred to two thousand population.

Mr. CULLOP. Is Farmington the name of the town?

Mr. FERGUSSON. That is not immediately near where this bridge is to be. I have not the exact figures at hand, but if the gentleman desires he can get them. The agency is located on one side of the river, approximately 40 miles west of Farmington.

Mr. CULLOP. Does not the public use this bridge?

Mr. FERGUSSON. To some extent these Indians do business with the general public. That is where they sell their blankets and hides and wool.

Mr. CULLOP. Now, Mr. Chairman, I think the explanation made by the gentleman from New Mexico [Mr. FERGUSSON] of the conditions existing there, and the explanation made by the chairman of the committee, who also is conversant with the conditions there, makes it the more essential that this bridge ought to be built by the citizens of New Mexico under the laws of that State as other public improvements are made. This is not a bridge for the Indians alone, but it is a bridge for public convenience, people of all classes. Their products are taken to market there and put upon the trade of the world. It is a growing commerce, just like the commerce of other citizens and localities, just as the products of other people are turned into the marts of trade. I can see no reason why the people of New Mexico should not be taxed to build this bridge just as the people of other States are taxed for public improvements within their boundaries. In my judgment it would not be right to make the improvements contemplated out of the public funds of the National Government. I hope the gentleman from Illinois [Mr. FOWLER] will insist upon his point of order.

Mr. MILLER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Indiana yield?

Mr. CULLOP. Certainly.

Mr. MILLER. While I am not familiar with the constitution of the State of New Mexico, I assume that it is similar to the constitutions of other States of the Union, and if so, I ask the gentleman if there would be any authority of law on the part of the legislature of the State, or any of its subdivisions, or the taxing power, to expend the funds of the State or county or city to build this bridge wholly on United States territory, on a United States reservation?

Mr. CULLOP. Oh, that matter could be very easily adjusted by coming to Congress and getting a bill passed, granting permission to build the bridge, just as railroads do it, and just as dams are constructed by private owners. And the taxing power of the State of New Mexico could be invoked to tax the property and raise the funds to build the bridge just as internal improvements are made in every other State of the Union.

Mr. MILLER. I am quite sure the gentleman does not mean just that. I am sure that if he will stop a moment and reflect he will not say that.

Mr. CULLOP. I mean exactly what I say. The Congress has the power to grant to the government of the State of New Mexico the right to bridge any of its streams.

Mr. MILLER. That is absolutely true; but evidently the gentleman did not catch the point of what I intended to say. Perhaps I did not make it clear. There is no power possessed by the State of New Mexico or any subdivision of that State to appropriate the funds of that State to build a bridge wholly upon United States territory or upon a United States reservation.

Mr. CULLOP. Well, if the taxing power of New Mexico does not go that far in building up the public improvements of the State, the internal improvements of the State, its people have been neglectful in exercising the powers which the legislature of that State should have exercised in building up and advancing the best interests of the State. Every other State, practically every other one, is exercising just such a power as that. New Mexico could do so if it exercised the powers granted it.

Mr. MILLER. I beg to differ with the gentleman.

Mr. CULLOP. I hardly know of any State that has the power to make a law to tax the property of a locality for public improvements, a power which is not denied under the Federal Constitution and is provided for in the constitutions of the several States of the Union. It could easily get authority from the National Government to construct this bridge, though it be located on Federal property.

Mr. MILLER. We do not differ on that at all; but I still have not made myself clear, I am sorry to say. While the State of New Mexico undoubtedly possesses the powers for public improvements similar to those possessed by other States, neither New Mexico nor any other State has the right or power to appropriate its money to build an improvement on anybody else's territory. In this case it is the territory of the United States. It has no more power to do that than it has the right to appropriate money to build a bridge in Alaska, or on the moon, or in Germany, or in Indiana. [Laughter.]

Mr. CULLOP. Oh, that is not the proposition involved here. Here is property in the State of New Mexico which is subject to the control of that State. I understand that it is Federal property, and the Federal authorities can grant a concession to build the bridge. They have that right, and so has Congress the right to do it. This is not for the Indians alone, but it is for the general public of New Mexico. It is for the convenience of the general public in that section of that State, and is required as well for the requirements of the general public as for the Indians residing in that locality. It will improve the property of all, and the public good will be served by its erection, and for this reason I contend the people of that State should bear the expense thereof and not the National Government. In my judgment, there is a growing tendency to relieve the States of matters of this kind and fasten them on the Federal Government. This practice is unjustifiable and should not be employed. This particular matter belongs to the State of New Mexico and it should bear the cost of it, as it is the direct beneficiary of the good which will flow from this improvement.

Mr. CARTER. Mr. Chairman, will the gentleman yield to me for a moment?

The CHAIRMAN. Does the gentleman from Indiana yield to the gentleman from Oklahoma?

Mr. CULLOP. Certainly.

Mr. CARTER. I do not now recall just what the constitution of New Mexico provides, but I know the constitution of Oklahoma sets forth that the taxes or funds of one community can not be used to build public improvements in another community.

Now, the gentleman will understand that here we have, as has been stated by the gentleman from Texas [Mr. STEPHENS], who is in charge of the bill, a reservation of 100 miles square. There are no taxable lands; there is not property there of sufficient taxable value to build this bridge, so that it would be an impossibility to build the bridge, under the constitution of most States, unless the Federal Government did build it, because the taxable values do not exist within the community where the bridge is to be built.

Mr. FOSTER. I would like to ask the gentleman, if I may be permitted, whether the Sante Fe Railroad does not run through there, and whether that property is not subject to taxation?

Mr. CARTER. I understand that the Sante Fe Railroad does run through it, but how much of it is in this community and can be taxed for the purpose of building this bridge I do not know. Can any man say that there is sufficient mileage and property values of the Sante Fe Railroad there to build this bridge?

Mr. CULLOP. I would like to ask the gentleman this: How is it that a town of 2,000 population has been built up there? Where did it get the title to the improvements?

Mr. CARTER. That may be done in several ways. The town sites may have been disposed of. That would be one way.

Mr. STEPHENS of Texas. Mr. Chairman, I ask that all debate on this paragraph be ended in five minutes.

Mr. MANN. Mr. Chairman, I desire to be heard on this for a moment.

Mr. STEPHENS of Texas. I understood that the gentleman from Illinois had withdrawn his point of order.

Mr. MANN. I had not.

Mr. STEPHENS of Texas. Then, Mr. Chairman, I desire gentlemen to confine their remarks to the point of order and not to the general legislation in this bill.

Mr. CULLOP. The point of order is reserved. Now, in reply to what the gentleman has said——

The CHAIRMAN. The gentleman from Texas makes the point of order that the gentleman from Indiana must confine himself to a discussion of the point of order.

Mr. FOSTER. Mr. Chairman, I ask unanimous consent that the gentleman from Indiana have five minutes in which to discuss this question.

The CHAIRMAN. The gentleman from Texas asks unanimous consent that the gentleman from Indiana have five minutes. Is there objection?

Mr. STEPHENS of Texas. I shall have to object. I think we have had quite sufficient discussion, and the consideration of this bill must be concluded at some time. I therefore demand the regular order.

Mr. CULLOP. Let me have two minutes. That is all I care for.

Mr. FOSTER. I ask that the gentleman from Indiana have two minutes.

The CHAIRMAN. Does the gentleman from Texas withdraw his demand for the regular order?

Mr. STEPHENS of Texas. I will if we can close the debate on this at the end of seven minutes. The gentleman from Illinois [Mr. MANN] desires five minutes to reply.

The CHAIRMAN. Will the gentleman include that in his request for unanimous consent?

Mr. STEPHENS of Texas. I ask unanimous consent that all debate be closed in seven minutes, five minutes to go to the gentleman from Illinois [Mr. MANN] and two minutes to the gentleman from Indiana.

Mr. MONDELL. I hope the gentleman will not insist on that. I should like to have five minutes.

Mr. STEPHENS of Texas. Then I will make it 12 minutes if that is agreeable.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the present debate be concluded at the end of 12 minutes, five to be occupied by the gentleman from Illinois [Mr. MANN], five by the gentleman from Wyoming [Mr. MONDELL], and two by the gentleman from Indiana [Mr. CULLOP]. Is there objection?

There was no objection.

Mr. CULLOP. Now, Mr. Chairman, in reply to the gentleman from Oklahoma upon this proposition, I have been informed that since 1866 there has been a Federal concession for improvements over lands of this character. Now, the Santa Fe Railroad runs through this reservation, or near it.

Mr. FERGUSSON. The nearest town on the south is about 150 miles away.

Mr. CULLOP. A city has been built up of probably 2,000 population. The power rests with the legislative branch of the government of New Mexico to legislate upon this question, to tax property owned by individuals for the purpose of making public improvements of this kind, and that power in instances of this kind ought to be employed by the States and not by the General Government. The State and its people get the advantage of such public improvements, and in common justice ought to pay for the same.

Mr. CARTER. Will the gentleman yield for a question?

Mr. CULLOP. Yes; if it is a short one, as I have but little time.

Mr. CARTER. I want to ask the gentleman if he knows that the town he speaks of is 34 miles from this bridge?

Mr. CULLOP. If you will tax the property of citizens of New Mexico to build this bridge out of State revenues, you will bring the town that much closer to them. That will be the result of that. It will build up their property, enhance values, and they will take an interest in the expenditure of their own money as a general result. In my judgment it is not right or proper for the Federal Government to be building bridges of

this kind across these streams at the expense of the general public, when they are solely of a local character, for the purpose of improving the property of the citizens of New Mexico and advancing the best interests of the commerce of that State. I think improvements of this kind should be built by the local authorities and not by the General Government. The benefits derived are of a local nature and tend to develop the localities wherein situated, and the expense therefor should be borne by the people and property affected on account of the improvement.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. Mr. Chairman, may I inquire of one of the gentlemen how many Indians there are living south of the river?

Mr. STEPHENS of Texas. I will yield to the gentleman from New Mexico [Mr. FERGUSSON].

Mr. FERGUSSON. I do not know exactly. There are 23,000 or 24,000 Indians, according to the statement of the Secretary of the Interior, and he says the vast majority of them live south of the river.

Mr. MANN. I notice that when the superintendent at Denver wired to the superintendent of the agency at Ship Rock for information he said, "Mail at once number of Indians living south of river." Then he asked him to mail any other data for use in reports justifying need of bridge. Apparently the superintendent at the agency did not think that to state the number of Indians south of the river could be used in justifying the need of the bridge, because, although he had been specifically directed to give that information, the only specific direction in the telegram, he did not give it, and in the report which he made he entirely failed to comply with the only specific request in the order that was given to him, namely, to give the number of Indians south of the river. The gentleman may have it.

Mr. FERGUSSON. Will the gentleman permit me to call his attention to this statement in the report of the Secretary of the Interior——

Mr. MANN. I will if he gives the number of Indians south of the river.

Mr. FERGUSSON. He says the most of them live on the south side of the river.

Mr. MANN. That does not give the information we are entitled to. Now, I call the attention of the gentleman from New Mexico to this proposition in the report of the agent to the superintendent. He stated this:

> A bridge at this place will not only be a great benefit and convenience to the Government in carrying on the agency work here and to the Indians, but it will be a great convenience to the white people of this valley who make frequent trips across the reservation to sell the products of their farms in towns along the Santa Fe Railroad.

It is proposed to have the Government of the United States build the bridge, although apparently it is mainly for the convenience of the white people who live in the valley and who are assumed to own their property, in order that they may make trips across the river and carry their products to towns along the Santa Fe Railroad.

Mr. FERGUSSON. The nearest town is something like 150 miles south, and this agency is 100 miles square. A large part of the business of the Government is on one side of the river and part is on the other side of the river, and the river is impassable during a part of the year.

Mr. MANN. Last year we made an appropriation for the purpose of ascertaining the facts with reference to this, and the only fact that is given in the report as the result of this appropriation of $1,000, outside of the engineering facts, is that this will be a great convenience to the white people of the valley for carrying their products to the towns along the Santa Fe Railroad.

Mr. FERGUSSON. It is a convenience to some of the white people.

Mr. MANN. I have no doubt it is desirable to have the bridge. I think the people of New Mexico—the white people who use the bridge—ought to build one.

Mr. MONDELL. Mr. Chairman, in discussing a matter of this kind it is a good idea to understand the facts. If I misunderstood the situation, as does the gentleman from Illinois and to a greater extent the gentleman from Indiana, I think I should take their view of it. The gentleman from Indiana suggests that the Government should not build the bridge, and the gentleman from Illinois, quoting from the report, also suggests that because of the fact that occasionally the white people use this bridge it ought not to be built by the Government. The gentleman from Indiana emphasizes the fact that there is a town of 2,000 people—the town of Farmington—the inhabitants of which might occasionally use this bridge. Farmington is 30 miles from the site of this bridge. It is on another river—the Las Animas. The ford across the San Juan is dangerous, as I have personal knowledge.

A bridge is absolutely necessary to connect the two parts of the Navajo Reservation, and also to bring the part of the reservation lying south of the river where practically all of the Indians live in communication with the country in the north where the Indians sell their products. There may be occasionally a white man who would go from Farmington or Aztec to the towns on the Santa Fe over this bridge, but I can not understand why they would do that when they have a railroad at their door.

The people of New Mexico have built bridges across the Las Animas which enables the inhabitants to reach Farmington from the north side of the river. The people of New Mexico have fulfilled their duty in the matter. Some one should build this bridge; it ought not to be the people of New Mexico. I think the item should be reimbursable, for I believe the Indians will be able to ultimately pay for it. This bridge is wholly on the Indian reservation, and it is primarily for the benefit of the Indians. It is far within the borders of the reservation. The Navajos make fine blankets, which find a ready market, and carry on agricultural pursuits, and the bridge is necessary so that they may have communication with the north and sell their products. It is idle to talk about the people of New Mexico building the bridge. They have already built bridges in the territory adjacent to the reservation. It is idle to talk about asking them to build this bridge wholly within the reservation far from its borders.

Furthermore, this very bill contains a provision for the continuation of an irrigation project on the San Juan, and the necessity for communication between the north and south sides of the river is increasing and will be increased by the construction of the reclamation project.

Mr. MADDEN. Will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. MADDEN. I would like to ask the gentleman whether the aqueduct that will carry the water is to be built across the bridge and whether the bridge is to be built for the purpose of carrying the aqueduct?

Mr. MONDELL. I do not know that there is to be any aqueduct. The San Juan project is, I think, on the north side of the river. These Indians make blankets. They are highly advanced in their way, and this bridge is on their territory. I think the item ought to be made reimbursable, but the item must be provided for in this bill. The people of New Mexico have not the funds to build it, and I doubt if they have the legal right to build it. They certainly ought not to be required, in addition to building bridges across the rivers of the State outside of reservations, to go into Indian reservations and build bridges there.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. STEPHENS of Texas. Mr. Chairman, I am willing to accept the suggestion of the gentleman and make this item reimbursable. The Indian lands have not been sold but they have a vast territory which when sold I am told will be worth $5,000,000.

Mr. FOWLER. Mr. Chairman, I desire to say that I do not wish to obstruct the progress that is now on for the construction of this bridge. I feel it is necessary that it should be constructed but I do not believe that the United States ought to build it. I understand that the Navajos are a very rich tribe and the people have something like $5,000,000 wealth; that this property where this bridge is to be constructed will be wholly upon their land and if it can be made reimbursable I will agree to withdraw the point of order, and yet I do not think that the Indians ought to build the bridge entirely. I believe the whites use it and ought to be required to help build it the same as the Indians, but in order to get out of the tangle I am willing to withdraw the point of order provided the sum will be made reimbursable.

Mr. MANN. Mr. Chairman, I renew the point of order.

The CHAIRMAN. The point of order is a very plain one and it is sustained.

Mr. STEPHENS of Texas. Mr. Chairman, I will offer the following amendment.

The Clerk read as follows:

> For the construction of a bridge across the San Juan River at Shiprock, N. Mex., on the Navajo Indian Reservation, to be immediately available, $16,500, the same to be reimbursable out of any funds said Indians may have or will have in the Treasury.

Mr. MANN. To that, Mr. Chairman, I reserve a point of order. I suggest to the gentleman from Texas to let it go over a little while.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent to pass the item at the present time.

The CHAIRMAN. Unanimous consent is asked to pass this amendment temporarily and return to it later. Is there objection?

There was no objection.

The Clerk read as follows:

For the pay of one special attorney for the Pueblo Indians of New Mexico and for necessary traveling expenses of said attorney, $2,000, or so much thereof as the Secretary of the Interior may deem necessary.

Mr. CULLOP. Mr. Chairman, I move to strike out the last word, for the purpose of asking the chairman a question about this item. I notice here that you have an appropriation in this item for the pay of an attorney for the Pueblo Indians, but there is no such item, so far as I have observed, for any of the other tribes. Why is it that an appropriation is made to employ an attorney for this particular tribe of Indians?

Mr. STEPHENS of Texas. Mr. Chairman, I will state to the gentleman that the Pueblo Indians are not one tribe, but that there are many of them, possibly 10 or 12. The word "pueblo" is the Spanish name for town. They are town Indians. They have been there for several hundred years. Those Indians have been farming, and they have Spanish grants for their lands. The boundaries of these grants are indefinite. Farmers came in there, and questions arise in dispute between the farmers and the Indians. I will state that the lands are on the Rio Grande River. Some of the land is irrigable. Since the country has been settled up the white people have been infringing upon the lands of the Indians, and the grants not being well defined the Indians have constant troubles with their neighbors. The Indians, not being acquainted at all with the laws of the country, it has been deemed necessary that the Department of the Interior protect them. This item has been carried in the bill for several years, for the purpose of protecting those helpless Indians living in these pueblos, or towns.

Mr. CULLOP. Are these civilized Indians?

Mr. STEPHENS of Texas. As much so as any Indians could be. They were the original Indians found on this continent. They are possibly the survivors of the mound builders, as far as I know, and the cave dwellers were perhaps a part of these same Indians. That seems to be the best thought of the men who have studied this question.

Mr. CULLOP. Do they carry on farming?

Mr. STEPHENS of Texas. Yes.

Mr. CULLOP. And stock raising and other business?

Mr. STEPHENS of Texas. Yes; more than any other Indians in the country.

Mr. CULLOP. And this attorney is simply to protect their titles as originally granted to them for their lands?

Mr. STEPHENS of Texas. Yes; by the Spanish Government. I will state that several suits are now pending.

Mr. CULLOP. Mr. Chairman, I withdraw the point of order.

The Clerk read as follows:

For support and education of 100 Indian pupils at the Indian school, Bismarck, N. Dak., and for pay of superintendent, $18,200; for general repairs and improvements, $2,000; in all, $20,200.

Mr. FOWLER. Mr. Chairman, I move to strike out the last word for the purpose of asking the reason why the appropriation for this agency is cut down from what it was two years ago by the sum of $2,500?

Mr. STEPHENS of Texas. There was the construction of new buildings last year, and they have been completed. It was not necessary to longer carry the item.

Mr. FOWLER. Is that for the waterworks?

Mr. MANN. The provision was for the purchase of water and irrigation for the growing of trees, shrubs, and garden truck.

Mr. FOWLER. Yes; that is the item. I withdraw the pro forma amendment.

The Clerk read as follows:

For support and education of 400 Indian pupils at Fort Totten Indian School, Fort Totten, N. Dak., and for pay of superintendent, $68,500; for general repairs and improvements, $6,000; in all, $74,500.

Mr. STEPHENS of Texas. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 19, line 8, after the figures "$6,000," insert the following:
"For construction of power house recently destroyed by fire and for installation, repair, and improvement of heating and lighting plant, $15,000, to be immediately available."

Mr. MANN. Mr. Chairman, on that I reserve the point of order.

Mr. STEPHENS of Texas. Mr. Chairman, I desire to state that the heating and lighting plant burned down a few weeks ago. That came to the knowledge of the committee since the bill was reported to the House. This is one of the few items that is an emergency item which the committee has authorized me to present to the House in the form of an amendment. The gentleman from North Dakota [Mr. HELGESEN] can explain the item, as this is in his district.

Mr. CULLOP. Mr. Chairman, I would like to ask the chairman a question. Was there any insurance carried on the building?

Mr. STEPHENS of Texas. I am not able to say, but possibly the gentleman from North Dakota can.

Mr. MANN. Oh, the Government does not carry an insurance.

Mr. CULLOP. It is not the policy of the Government to carry insurance?

Mr. STEPHENS of Texas. I understand it is not.

Mr. HELGESEN. Mr. Chairman, on the 28th day of November last the heating and lighting plant of the Fort Totten Indian School was burned. We were notified by telegraph, and I took the matter up with the Indian Department. The department told me they had sent an engineer out there to look it over and that he would make a report. In the course of time the engineer returned and made his report, and Mr. Abbott sent me the following communication, together with the proposed amendment, which I will now read:

The heating and lighting plant at the Fort Totten Indian School, N. Dak., was destroyed by fire on the morning of November 28, 1912. It is imperative that the item herewith be incorporated in the Indian appropriation bill in order that the school may be provided with heat and light during the coming winter. The appropriation should be made immediately available.

It is only necessary to point out the fact that it is practically impossible for the children and employees to occupy these school buildings without an adequate heating plant, because of the extreme cold climate. The Indian Service is now attempting to heat a portion of the buildings by means of stoves, which are entirely inadequate and are also dangerous because of the probability of fire.

The school plant is without a lighting system and oil lamps are being used, which add to the danger of fire and are wholly inadequate.

The Indian Service has provided a temporary power house, which should be supplemented with a permanent structure at the earliest possible moment.

This is one of the largest schools of the country. It has about 400 pupils. The average attendance is 383 according to the report, and in the cold climate that we have in North Dakota it is utterly impossible to get along with stoves, as they are attempting to do now. There are 34 buildings altogether. This school occupies the site of old Fort Totten and the buildings formerly used as a fort are partly used for this school. There are 20 of these buildings heated by this central heating plant, and without the rebuilding of this plant it would be impossible to conduct the school. A school that is so large that it has an attendance of about 400 it seems to me is entitled to immediate relief in a case of this kind. I do not think it is necessary to go into details in regard to the size of the school.

Mr. MANN. Will the gentleman yield?

Mr. HELGESEN. Certainly.

Mr. MANN. The gentleman, of course, knows that this bill will not become a law until the 4th of March next at best, in all probability.

Mr. STEPHENS of Texas. It is to be immediately available.

Mr. MANN. But it can not be available until it becomes a law.

Mr. STEPHENS of Texas. We hope it will become a law very soon.

Mr. MANN. But the gentleman from Texas does not think there is any likelihood of this bill becoming a law until the 4th of March, does he?

Mr. STEPHENS of Texas. No; and then there will be several months of the school.

Mr. MANN. This is a deficiency item. It does not have any place in this bill at all. If these buildings were burned recently, the department ought to make an estimate for a deficiency appropriation, which might become a law at the early part of this month, if it is reported out by the Committee on Appropriations, which would have jurisdiction. However, I shall not make the point of order. I withdraw the point of order, although it was stupid on the part of somebody in the department in not making a proper estimate in a proper manner, to get the money speedily available. I withdraw the point of order.

The CHAIRMAN. The question now is on the amendment.

The question was taken, and the amendment was agreed to.

Mr. STEPHENS of Texas. I ask unanimous consent that the total be changed so as to correspond to the additional item.

The CHAIRMAN. Without objection it will be so changed.

There was no objection.

The Clerk read as follows:

For fulfilling treaties with Pawnees, Oklahoma: For perpetual annuity, to be paid in cash to the Pawnees (article 3, agreement of Nov. 23, 1892), $30,000; for support of 2 manual-labor schools (article 8, treaty of Sept. 24, 1857), $10,000; for pay of 1 farmer, 2 blacksmiths, 1 miller, 1 engineer and apprentices, and 2 teachers (article 4, same treaty), $5,400; for purchase of iron and steel and other necessaries for the shops (article 4, same treaty), $500; for pay of physician and purchase of medicines, $1,200; in all, $47,100.

Mr. CULLOP. Mr. Chairman, I move to strike out the last word. I want to ask the chairman a question. I see that you have grouped here certain laborers and made a sum total for the pay of the whole number.

Mr. STEPHENS of Texas. In what line?

Mr. CULLOP. Lines commencing with line 4, page 21—

1 farmer, 2 blacksmiths, 1 miller, 1 engineer and apprentices, and 2 teachers, $5,400.

Why were not those items and amounts specified for each?

Mr. STEPHENS of Texas. I will say to the gentleman that this is a treaty item, fulfilling the treaty, and we followed the language of the treaty.

Mr. CULLOP. And this money must be paid whether the employees are used by them or not?

Mr. STEPHENS of Texas. Until the expiration of the treaty.

Mr. MANN. And, if the gentleman will permit, these people are not actually employed.

Mr. CULLOP. I understand; but I would like to know if when they do not employ persons for these occupations whether or not the money is paid out for that purpose or belongs to the Indians.

Mr. MANN. There is a provision in the bill always providing that if a person is not employed the money shall be used for other purposes.

Mr. STEPHENS of Texas. And distributed.

Mr. CULLOP. For other purposes?

Mr. STEPHENS of Texas. It was a general fund, and that was the name of the fund, although it may be applied for other purposes.

Mr. MANN. Of course, they have no use for these people.

Mr. CULLOP. That is what I wanted to know. I withdraw the pro forma amendment.

The Clerk read as follows:

FIVE CIVILIZED TRIBES.

SEC. 18. For expenses of administration of the affairs of the Five Civilized Tribes, Oklahoma, and the compensation of employees, $150,000; *Provided*, That during the fiscal year ending June 30, 1914, no moneys shall be expended from the tribal funds belonging to the Five Civilized Tribes without specific appropriation by Congress, except as follows: Equalization of allotments per capita and other payments authorized by law to individual members of the respective tribes, tribal and other Indian schools for the fiscal current year under existing law, salaries and contingent expenses of governors, chiefs, assistant chiefs, secretaries, interpreters, and mining trustees of the tribes for the current fiscal year, and attorneys for said tribes employed under contract approved by the President, under existing law, for the current fiscal year: *Provided further*, That the Secretary of the Interior is hereby authorized to continue the tribal schools of the Choctaw and Chickasaw Nations for the current fiscal year.

Mr. MANN. Mr. Chairman, I move to strike out the last word, for the purpose of asking whether, in line 15, the language reading "for the fiscal current year" is not an error?

Mr. STEPHENS of Texas. It is an error. I move that the words be transposed.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. BURKE of South Dakota. Mr. Chairman, I move to strike out the last word. I want to state that this appropriation of $150,000 in my judgment is not sufficient to provide the necessary administration in the Five Civilized Tribes in Oklahoma. The officials in charge of the Five Civilized Tribes estimated for the next fiscal year that $250,000 would be necessary to carry on the work of administering the affairs of the Indians comprising the Five Civilized Tribes. The department, as I recall, only estimated for $200,000. The appropriation last year, I think, was $200,000 or $250,000. In the portion of the bill that provides an appropriation for special agents $50,000 was carried last year with the understanding that it was to be used for the pay of district agents throughout the Five Civilized Tribes. The estimate this year included $50,000, which had been eliminated, so that there is a difference, if the appropriation last year was $250,000, of $100,000. I believe, Mr. Chairman, that one of the most necessary things for us to do is to continue the district agents. The gentleman from Oklahoma [Mr. FERRIS] I am sure will make the same argument that he has made heretofore, that there are employed at Muskogee alone 500 employees, and that there is expended $1,300,000, which I think are the figures which he usually uses. Now, I am going to discuss, perhaps, a little further on, the number of employees at Muskogee, but I want to state now that I do not think it is a question of how many employees there may be, but the question is are there any employees whose services are unnecessary? That ought to be the question and not the number of employees. I find upon referring to the report of the Commissioner of the General Land Office that there are something like 500 employees in that office, and that under that bureau, in all the different branches, there are something like 1,400 or 1,500 employees. That I submit is no argument that there are too many, without something being asserted to show that the force might be reduced without injury to the service. I think this item of $150,000——

Mr. STEPHENS of Texas. Will the gentleman yield at that point?

Mr. BURKE of South Dakota. Certainly.

Mr. STEPHENS of Texas. Is it not a fact that the last of the lands of the Choctaws and Chickasaws have been sold, except some small parcels of asphalt and oil lands?

Mr. BURKE of South Dakota. It is not a fact at all.

Mr. STEPHENS of Texas. There is very little left.

Mr. BURKE of South Dakota. Perhaps I had better say what I am going to say now, rather than further on, if the committee will indulge me. I will detain the committee but a short time.

The CHAIRMAN. The time of the gentleman from South Dakota [Mr. BURKE] has expired.

Mr. STEPHENS of Texas. I ask that the gentleman's time be extended 10 minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. STEPHENS of Texas. I hope the gentleman will admit that some of the Choctaw and Chickasaw lands have been sold. I think all have been sold, although there may be some small remnants, and it may be that some of the Seminole lands have been divided among them.

Mr. BURKE of South Dakota. I will say to the gentleman—and I hope some of the gentlemen will discuss that feature of it—that of the appropriation of $250,000 estimated for, $50,000 was in the item for the pay of special agents, and that only $15,000 of the amount is to be expended in the administration of the office of the Commissioner to the Five Civilized Tribes. The money estimated for, all but $15,000, is to be expended for administering the affairs of individual incompetent Indians, for district agents, the payment of the several employees of the district agents, and the general administration of their affairs, and only $15,000 of the amount is to be used in the office of the Commissioner to the Five Civilized Tribes.

The gentleman from Oklahoma [Mr. FERRIS] has repeatedly stated, and stated it only recently, that there were 500 employees in the office at Muskogee alone, and that about $1,300,000 was being expended there annually. I am going to state—and I will say that I have obtained this information from the department, so that it is reliable—that during the fiscal year ending June 30, 1912, there was an average of 62 employees in the office of the Commissioner to the Five Civilized Tribes. Their salaries aggregated $69,338.80. The total number of employees on December 26, 1912, including the commissioner, was 51. The total number of employees in the office of the Union Agency June 30, 1912, was 104.

The Union Agency is the general agency that administers the affairs and looks after the noncompetent Indians, and has nothing whatever to do with the commissioner's office, whose business it is to complete the rolls and the allotments and the disposition of the tribal properties.

The salaries at the Union Agency were $118,940, and the field force consisted of 72 persons, as follows: District agency force, 45; oil-field inspection, 3; land appraisers, 10; agricultural work, 12; salaries, $97,400. The Indian police numbered 35, and their salaries aggregated $9,000. The total number of employees December 27, 1912, was as follows: Office, 90; field, 57; Indian police, 25.

Now, I say to the gentleman that if he will figure up the total number of employees at these two offices he will find that the number is very far below 500.

Let us see what the commissioner has done during fiscal years 1911 and 1912—just a few of the things that he has done. During the fiscal year ended June 30, 1911, the commissioner sold 11,330 tracts of land, aggregating 630,237 acres, for $4,212,788, and collected on these lands of the purchase price $1,474,247. Those sales were made with the payments running along for one or two or three years, I think, and the gentlemen from Oklahoma, on account of the drought conditions prevailing down there, very properly secured legislation extending the time of payment—the time when this money should be paid—but necessitating, as everyone will see, a great amount of detail work in the computation of interest and the granting

of these extensions. For the fiscal year ended June 30, 1912, there were sold 5,099 tracts, aggregating 319,310 acres, for $2,038,023, and collected $1,323,068, and also $50,764 of interest on deferred payments.

The gentlemen from Oklahoma, also looking out for the best interests of their State, as they always do—and I commend them for it—secured legislation providing that the moneys belonging to these Indians should be deposited in local banks in Oklahoma. Gentlemen, think of depositing several million dollars in local banks throughout the State! Think of the work connected with the detail of ascertaining the standing of the banks and the arranging bonds and securities, and so forth, as is required under the regulations, and think of the amount of work that it adds to these officers! There had been deposited in 132 local banks in Oklahoma on June 30, 1912, $3,034,803 of tribal funds, upon which there was collected $52,500 in interest. On December 27 the deposits in local banks amounted to $3,442,506 in 163 banks.

The moneys that I have just referred to were deposited by the commissioner as tribal moneys. The Union Agency also had on deposit in 52 banks on June 30, 1912, Indian moneys aggregating $1,357,993, and the interest collected for the year ended June 30, 1912, amounted to $31,793.12.

Sixteen thousand four hundred and twenty-nine separate tracts have been sold, necessitating a ledger account for each tract, accounting for remittances received, looking after deferred payments, and computing interest thereon until final payments are made. As full payments are made deeds are issued. The lands being scattered and intermingled with allotted lands, computing interest on deferred payments and preparing, recording, and delivering deeds all require much detail work of an exact character.

Mr. Chairman, the Union agent has submitted a statement in which it appears that during the last fiscal year he actually handled over $10,000,000. I submit this is a big showing, and it must necessarily require that a large force be provided in order properly to safeguard and look out for the interests of these Indians.

Mr. Chairman, the district agents employed in the Five Civilized Tribes, according to the reports that have been made, show that they actually saved last year to the individual Indians in Oklahoma about $650,000, as I remember, in requiring guardians to account for moneys that were misappropriated, in obtaining adequate consideration for leases, and other things where the Indians had been defrauded; and in many other particulars, as I say, they actually saved last year about $650,000 and about $550,000 in the year before.

That the force of district agents is not adequate, and that they have not been able to protect these Indians as they should be protected, was made apparent by the Mott report which I brought to the attention of the House recently, showing the condition of guardianship matters in the Creek Nation, where it was shown that about $1,600,000 in the last three or four years had been expended in attorneys' fees, court costs, and guardianship fees in the administration of the affairs of the Indian minors in that particular portion of the Five Civilized Tribes at a cost of about 20 per cent of the amount handled.

It may be said, and I presume will be said, that the district agents have not been diligent or that condition would not have prevailed. It is an absolute impossibility for 10 or 12 district agents in an area as great as the State of Indiana, comprising a large number of counties, something like 60, if I am correct, to be present to look out for each one of these guardianship cases so as to see that the interests of the ward are being properly protected. I say in the utmost good faith that it will be a mistake to reduce this appropriation so that these district agents shall not be continued in the future.

Mr. FERRIS. Mr. Chairman, I shall consume only a moment of time. The burden of the complaint of the gentleman from South Dakota, as I understand it, is that the Oklahoma delegation and the Committee on Appropriations have reduced the amount of this appropriation for salaries to a degree that is dangerous. My reply is that of the 101,000 members of the Five Civilized Tribes, most of them are competent, well-educated people, so intermingled and intermarried with the whites that there is scarcely any Indian blood left. And to the end that we may not make any mistake about it, I want, if I may, in a moment or two, to analyze this appropriation of $150,000, and tell this committee what you can do with that amount in the way of employing clerks.

You can employ 1 chief, at $5,000 a year. You can employ 10 assistants, at $2,500 a year; 10 more assistants, at $2,000 a year; 50 clerks, at $1,500 a year; and 25 clerks, at $1,000 a year. That makes up the aggregate of $150,000.

Mr. BURKE of South Dakota. If the gentleman will permit me, is it not a fact that the salaries of the force to which the gentleman has just referred have been largely paid from moneys received by way of a charge for collecting moneys and from other sources.

Mr. FERRIS. I think that is partially true, and I think I may say at the same time that it is done in the face of the Atoka agreement. Nineteen years ago, when the Dawes Commission was established, they promised these people in a solemn treaty that they would not use their funds in administering upon their estates; but as time went along lax methods were acquired, and little items were squeezed into appropriation bills here and there which permitted them to take from the Indian funds money to hire a great quota of clerks. That appropriation and the personnel of those clerks have climbed in a way that no man can justify. The gentleman says he has a letter which states that there are only so many employees here and so many there; but I had on my desk and exhibited here in the general debate 21½ pages of names and salaries, this statement being furnished by the Indian office. There can not be any mythology or mysticism about that. I get my figures from the same source that the gentleman gets his, and I got that list of names and salaries from the Indian commissioner, who is as good an authority on that subject as I know of.

Mr. BURKE of South Dakota. May I interrupt the gentleman?

Mr. FERRIS. I am not going to get into any great colloquy about this. The gentleman has a well-defined idea that we ought to hire great quotas or droves of people to supervise the affairs of these Indians. I have a very well-defined idea that we ought to fire nearly every one of them out of there and let these Indians run their own business. I know that the gentleman will conjure figures. I do not mean to say that disrespectfully, but a man who wants to hold his job on a fat salary and with a liberal expense account—and there are 500 of them—can make remarkable figures and can come up here and get gentlemen to present them, which makes them appear very necessary.

Our delegation is very much in earnest about this matter, and we are acting in entire good faith. We believe we are right about it. We feel that the Indian people down there are practically bred out; that there is no longer any real Indian problem there among the great bulk of them. The people of the Five Civilized Tribes have maintained their own government for more than half a century. They have had legislatures and governors; they have passed laws. They have passed laws against intermarriage with negro tribes. They have passed laws on all sorts of propositions that white people would legislate upon. We have now Members of Congress and United States Senators. Our governor, our lieutenant governor, and the speaker of the Oklahoma Legislature are Indian citizens. I want to beg not only the Democrats here, but the Republicans, not to force upon us a lot of employees whom our people do not want. What we want is an end to this oversupervision down there. It has lasted too long already.

The answer to that, as these gentlemen will present it, is that we are trying to strip the State of Oklahoma of the necessary supervision that will keep these Indians from being robbed. That is only a plea to maintain their positions. Quite a startling set of figures was presented here a short time ago by the gentleman from South Dakota [Mr. BURKE] with reference to the expense of administering Indian estates in the probate courts of Oklahoma.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BURKE of South Dakota. I ask unanimous consent that the time of the gentleman from Oklahoma be extended five minutes.

The CHAIRMAN. Unanimous consent is asked that the time of the gentleman from Oklahoma be extended five minutes. Is there objection?

There was no objection.

Mr. FERRIS. I have just one more observation I want to make. The gentleman from South Dakota [Mr. BURKE], I am sure, in entire good faith and as ably as it could be done, presented here a short time ago a matter with reference to the minor Indians in our State. I did not, at that time, have full information upon it, and I have not at this time. I can say to the House, though, and I want it to go into the RECORD, that our delegation has not remained silent and inactive about that matter. We have gone to the Interior Department and got these records that were referred to here. We have sent these to our governor. We have asked the governor of our State, and he has agreed to invoke the machinery of the State government, not only to prosecute, but to throw out of office every man who

can be found in any way to have mistreated an Indian ward. These figures charged in effect that the administration of Indian estates cost about 20 per cent, while the estates of white children cost about 1.7 per cent for administration.

That is an amazing statement. I can not believe it is true, for to so believe we must conclude the 40 cojudges and the coattorneys, the bar, are all crooked. I am sure such is not true. There is an answer to that. In most cases of the Five Civilized Tribes the Indian children have land, while the white children have none. That is not uniform, but it is almost. Why? Because up until the last few years they could not acquire title to land under any conditions. Up to seven or eight years ago you could not acquire title to a town lot, let alone agricultural land. So the estate was administered upon, almost in toto, for the Indians to hold the real estate, whereas the white estates were a little personal property which does not require any court proceeding or extended court costs.

Now, following that, 96 employees ought to be enough to administer upon a few full-blooded Indians that remain there. The gentleman will reply that the records of the Interior Department will show that there are 35,000 full-blooded Indians. Now, there was a time when it was slippery down there as to whether you should remain on the rolls or remain off the rolls. It was worth $8,000 or $10,000 if you remained on the rolls, and you lost everything if you went off the rolls. An unwritten law went around that if you went on the rolls as a full-blooded Indian you would never be rejected. The result was that a man with one-eighth or one-thirty-second Indian blood, if he could get some tribunal to put him on the rolls as a full-blooded Indian, would go on; and so he sits there with fifteen-sixteenths white blood in his veins—sits there as an incompetent Indian—whereas, as a matter of fact, he is able to hold a seat in Congress, a seat in the Senate, or be at the head of a banking institution, or a lawyer or a doctor, as many are.

Now, the real situation with regard to the Five Civilized Tribes is that the agency ought to be squeezed down to 25,000 or 30,000, an agency something like the Kiowa Agency, to administer on the full-bloods and to let the white Indians alone; and the sooner that can happen the better.

Mr. MANN. Will the gentleman yield for a question?

Mr. FERRIS. Certainly.

Mr. MANN. Did the gentleman happen to see a report made by one of the board of Indian commissioners in reference, not to the agency, but as to the condition of the Indians down there as to their ability to transact business?

Mr. FERRIS. I saw that in one of the papers.

Mr. MANN. I do not know how much of it was published in the paper; it is an official document, of course.

Mr. FERRIS. I did see it, and inasmuch as the gentleman alludes to it, and Members may not know what it was, I will say that it comes about in this way. This man the gentleman from Illinois refers to lives in Boston or Philadelphia?

Mr. MANN. I do not know where he lives.

Mr. FERRIS. I think he lives in Philadelphia.

Mr. MANN. All the Indians are not west of the Allegheny Mountains.

Mr. FERRIS. I know they are not; that is very true. I think this gentleman's name is Vaux. I have met Mr. Vaux; he is a delightful gentleman, a pleasant man, and undoubtedly has the best motives and intends to do good things for the Indians. I do not impugn his motive at all, but this is what happens: A man like Mr. Vaux will come from the East to Oklahoma. He wants to see some poor, old, pitiable Indian living out under a bark, and you can find whites worse off than they are; but he wants to see if he can not find some poor, old, ignorant Indian who does not know A from B, and through unfortunate circumstances is reduced to nothing. He finds him; he lives in a hovel, and the old Indian gets out in front of the hovel and pulls his hair down over his face so that he looks like an idiot, and the man gets out his camera and takes the picture, takes it back to New York and the New York Sun, or some other paper, writes up a beautiful story for the Sunday edition to go all over the East. People who know not of Indian questions think all Indians are alike, and that an agent should be detailed to transact all the business of these people, whether competent or incompetent. Such a large amount of supervision renders these Indians dependents and incompetents.

Mr. MILLER. Mr. Chairman, I move to strike out the last two words.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent that all debate close on this matter in five minutes.

Mr. MILLER. If the gentleman will pardon me, I want to read a paragraph or two which will take me more than five minutes.

Mr. STEPHENS of Texas. Then I will ask that all debate close on the matter in 10 minutes.

Mr. HARRISON of Mississippi. Mr. Chairman, does that carry with it the paragraph and amendments thereto?

Mr. STEPHENS of Texas. There is no amendment pending. I understand that we are discussing the item on a pro forma amendment made by the gentleman from South Dakota.

Mr. HARRISON of Mississippi. I shall object to that, because I desire to offer an amendment.

Mr. STEPHENS of Texas. I will yield to the gentleman to offer an amendment; I have no objection to that, and I ask unanimous consent that all debate be closed in 10 minutes on the paragraph.

Mr. BURKE of South Dakota. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. BURKE of South Dakota. I anticipate that after this debate has closed it will not be out of order then, if unanimous consent is granted to close debate, to offer as an amendment an independent paragraph.

The CHAIRMAN. Unanimous consent is asked that debate on the paragraph shall expire at the end of 10 minutes. Is there objection?

There was no objection.

Mr. MILLER. Mr. Chairman, I understood when the gentleman made the request for unanimous consent that it was not intended that the time desired by the gentleman from Mississippi [Mr. HARRISON] should be taken from the 10 minutes requested. I will state that I may use about 7 minutes.

Mr. Chairman, this controversy respecting the proper method of handling the Five Civilized Tribes is a perennial one. It comes up at least once each year, and lately it has come up once each session. The reason it is perennial must be the fact that it is a difficult proposition. I do not think any Member of the House will question the patriotism, zeal, and ability of the gentlemen from Oklahoma, who are interested in and take an active part in this matter, although some of us may be inclined to differ with them in their conclusions, perhaps in some of the facts, which they state.

Personally I do feel a sympathy with their contention that we should withdraw supervision at the earliest practical time, but what is a practical time and a proper one to withdraw supervision is the distressing feature. I desire to call attention of the committee for a few moments to some work now being performed of a detailed nature at the agency in which are engaged many employees of whom criticism has been urged.

And as I take up this feature I wish to first call attention to the fact that we have had some bitter experiences in the State of Oklahoma, experiences that seem to recur even when we think they have passed away. There has been an attempt, and I think perhaps we can say a successful attempt, to blot out from history what is known as the Creek and Muskogee town-site matter, and yet we must look back upon that as a lesson to guide us in some of the deliberations of the present. I myself think that there is not a case in all Indian history, beginning with Christopher Columbus and coming down to now—and that is going some—that is as black and as bad as the town-site cases in the Creek Nation, about which we hear nothing now, because, as I have indicated, it is pretty nearly a closed chapter. With that lesson added to some of the others, particularly the guardianship and probate-court matters recently discussed by the gentleman from South Dakota [Mr. BURKE], some of us feel that there still remains a necessity on the part of the Government to extend its protection and care, and supervise some of the details, over some of the activities and property rights of these people.

Mr. FERRIS. Mr. Chairman, will the gentleman yield?

Mr. MILLER. Certainly.

Mr. FERRIS. Does not the gentleman think it would be a part of wisdom to draw the agency down to a proposition of handling the really incompetent Indians?

Mr. MILLER. Yes.

Mr. FERRIS. And let the money and property of the white Indians go?

Mr. MILLER. Yes.

Mr. FERRIS. Does not the gentleman think that $150,000, which provides for 96 employees, ought to be enough?

Mr. MILLER. If the gentleman will add enough to continue these district agents for another year, until the probate courts can get straightened around——

Mr. FERRIS. But does not the gentleman think that out of 96 employees 18 of them might serve as district agents, if they were so designated?

Mr. MILLER. Eighteen would be entirely inadequate for the work. This matter of the probate courts only came to public attention two years ago, when the committee, of which I happened to be a member, unearthed some things in the very presence of the gentleman from Oklahoma [Mr. FERRIS], who

cooperated with us in every respect, and who I am sure shared our views upon the subject. The probate courts of Oklahoma have not yet become straightened out—purified, as it were—and the public sentiment of the State has not yet been thoroughly aroused and not yet asserted itself in appropriate action, so that the affairs of a large part of the Indians will be honestly and justly handled without governmental supervision. Conditions are improving, but the complete change has not yet come to pass.

I think it is going to work out, but while it is working out I think we ought to still keep up these district agents for another year. However, that I did not intend to speak of. I wish to call the attention of the committee to some of the work that is being done by these agency employees. I have had many people speak to me about the destitution of the Indians in Oklahoma, assuming that they were poverty stricken. As a matter of fact, they are not. Muskogee, the second city in Oklahoma, is the center of a forest, not of oak, not of pine, but of oil wells. Looking abroad from the city you can see 5,000 great derricks. It is one of the most inspiring industrial sights ever unfolded to human gaze.

The CHAIRMAN (Mr. RODDENBERY). The time of the gentleman from Minnesota has expired.

Mr. MILLER. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MILLER. This is but one of the great oil fields in Oklahoma. At Tulsa there is a greater one, and others might be named. Some of the work incident to the administering of the affairs of these Indians becomes apparent when you see the figures connected with handling these oil leases. Nearly all of these oil lands, it will be borne in mind, are Indian lands, owned by private Indians, whose affairs have to be superintended or they would be defrauded. I read now from the report of the commissioner:

One of the greatest oil fields in the world has been developed in the area of the Five Tribes, largely under departmental leases. The production during the past few years has been approximately 40,000,000 barrels per annum. The Union Agency has handled up to the close of the past year 23,721 leases, mostly oil and gas, and on June 30, 1912, had 7,679 individual royalty ledger accounts, 413 restricted Cherokee equalization accounts, 967 land-sale accounts, with balance aggregating a total of $1,135,033.24, distributed in 52 banks located in almost every county in eastern Oklahoma. While this money is passing through the process of supervision the depositories are required to pay interest thereon, and during the year a total of $31,793.12 was collected as interest on these accounts and paid to the Indians. During the year just closed the total collections and total disbursements aggregated over $6,000,000. Including the amount received from the Treasury for transfer to individual accounts or disbursement and balances brought forward from previous year, the grand total of money handled for the fiscal year 1912 was $10,701,624.27. The accounting work is entirely handled in the agency office at Muskogee, the field force being relieved, as far as possible, of all clerical detail, so that they may give their entire time to investigations and the expeditious handling of applications and cases filed with them. The account for the year was made up of 28,786 remittance entries and 71,711 disbursement vouchers. There were 412,944 pieces of mail handled by the Muskogee office during the year.

The gentleman from Oklahoma says there is a large number of employees. It is a large job, it is a job of innumerable details, big in dollars, vast in detail, and if it is to be properly handled at all a requisite number of competent employees must be employed.

It is not simply a question of lands, either grazing or farming, but it is a great mineral field, cut up into small tracts, with vast numbers of leases. Many of the Indians are incompetent, and most of them require some supervision; and while this vast task remains in its present condition I for one feel that we should give to the service a reasonable sum to employ a reasonable number of employees. The gentleman seeks to cut the present appropriation. To-day there are employed at this agency 90 office men, 57 field men, and 25 Indian police. In addition there are 51 in the commissioner's office.

Mr. FERRIS rose.

Mr. MILLER. Oh, I know the gentleman has five hundred and something. I do not know the names that are there, but I have a certified statement from the agent himself, and I am sure the gentleman will admit that it is true.

Mr. FERRIS. I know the gentleman does not care to mislead. I hold in my hand here 21½ pages of a closely written document, giving the names, salaries, and officers, that was furnished to me by the Commissioner of Indian Affairs.

Mr. MILLER. Does it contain the teachers of all the schools down there?

Mr. FERRIS. Probably it does.

Mr. MILLER. I am sure that the gentleman in this controversy would not ask that those teachers be included?

Mr. FERRIS. I am not sure they are. If there are any included, there is but a small number of them.

Mr. MILLER. I do not think the number is very small, in view of the next paragraph in the bill, which calls for $300,000 for these schools.

Mr. FERRIS. I think it is.

Mr. CARTER. Mr. Chairman——

Mr. BURKE of South Dakota. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BURKE of South Dakota. Has not the debate ended on the paragraph?

Mr. CARTER. I move to strike out the last two words, Mr. Chairman.

Mr. STEPHENS of Texas. There was an understanding that the debate was to close in 15 minutes.

The CHAIRMAN. The Chair understands that that request was presented, but withdrawn.

Mr. STEPHENS of Texas. Then I desire to renew the request that all debate on this paragraph be closed in two minutes.

The CHAIRMAN. The gentleman from Texas [Mr. STEPHENS] asks unanimous consent that all debate on the paragraph close in two minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. STEPHENS of Texas. I yield to the gentleman from Oklahoma [Mr. CARTER].

Mr. CARTER. Mr. Chairman, I shall hardly need the two minutes. There has been repeatedly stated on the floor of this House the many wonderful things the famous Dawes Commission and the Union Agency have done in Oklahoma. The Dawes Commission came there in 1893 and this is 1913; it has operated for 20 years, and I dare say it has consumed from Federal Treasury and tribal funds combined not less than $1,000,000 per annum, which would aggregate $20,000,000, and which the gentleman must admit is out of all proportion to the amount of work accomplished. Much has also been said about the extravagance of probate courts in handling Indian probate matters, but I doubt very seriously if the percentage of cost in probate proceedings has equaled that consumed by the Indian Bureau in Oklahoma for the settlement of the tribal estate.

Mr. BURKE of South Dakota. Now, Mr. Chairman, as a new paragraph, after line 23, on page 22, I offer an amendment, that which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

For payment of salaries of employees and other expenses of advertisement and sale in connection with the disposition of unallotted lands and other tribal property belonging to any of the Five Civilized Tribes, to be paid from the proceeds of such sales when authorized by the Secretary of the Interior as provided by the act approved March 3, 1911, not exceeding $25,000, reimbursable from proceeds of sales.

Mr. STEPHENS of Texas. Mr. Chairman, I desire to make a point of order against the amendment. It is new legislation and is not germane to the paragraph in the bill.

The CHAIRMAN (Mr. SAUNDERS). The Chair will hear the gentleman from South Dakota [Mr. BURKE].

Mr. BURKE of South Dakota. Why, Mr. Chairman, there is not any question about it, if the Chair will look at the law. I did not suppose that anybody would make a point of order against the amendment. In 1911 the gentlemen from Oklahoma were solicitous that there be legislation permitting the deposit of money belonging to these Indians in the local banks in Oklahoma, and this act was passed. The net proceeds from the sales of surplus and unallotted lands and other tribal property, belonging to any of the Five Civilized Tribes, after deducting the necessary expense of advertising and sale, may be deposited in the national or State banks of Oklahoma, and so forth. The comptroller held that under that language they could not deduct from the proceeds the cost of sale, the advertising, and so forth, and that it was necessary to have this legislation in order to carry out the provisions of that act, and in the current appropriation act for this year, and also last year, this language was carried in order that the amount might be deducted as the act of 1911 contemplated.

The CHAIRMAN. Will the gentleman send up the law? Mooted questions like this depend entirely on the law which furnishes the authority. Does the gentleman from Texas [Mr. STEPHENS] desire to say anything on the point of order?

Mr. BURKE of South Dakota. It is identical with the current law, I will say to the gentleman.

Mr. STEPHENS of Texas. Identical with the language carried in the last bill?

Mr. BURKE of South Dakota. Just exactly.

Mr. STEPHENS of Texas. I do not think it would follow if it had been in the last bill it would be germane to this bill or would not be new legislation.

Mr. BURKE of South Dakota. Not at all.

Mr. STEPHENS of Texas. It might have been subject to the point of order last year, and the point might not have been made. I understand the point to be now that there is no law authorizing this to be paid out of Indian funds. That is surely subject to a point of order.

Mr. MANN. As I recall the item in the current law it has not a fixed amount at all.

Mr. BURKE of South Dakota. Not exceeding $25,000.

Mr. MANN. I think it says not exceeding 10 per cent of the receipts.

Mr. BURKE of South Dakota. That is another item.

Mr. CARTER. That is for the collection of rents.

Mr. BURKE of South Dakota. Twenty-five thousand dollars is to be deducted from the proceeds of the sale of unallotted lands—not exceeding $25,000; and I will say to the gentleman that the act of 1911, which provided that these moneys should be deposited in banks of Oklahoma, contemplated that the expenses incident to collecting them—the sale and property—should be deducted, because the law reads the net proceeds shall be deducted.

Mr. STEPHENS of Texas. Now, Mr. Chairman, I desire to read the amendment. I understand the amendment is in the exact language of the law of last year, and I maintain that the provision in that act itself was subject to a point of order. This is the language:

For payment of salaries of employees and other expenses of advertisement of sale in connection with the disposition of the unallotted lands and other tribal property belonging to any of the Five Civilized Tribes, to be paid from the proceeds of such sales when authorized by the Secretary of the Interior as provided by the act approved March 3, 1911, not exceeding $25,000, reimbursable from the proceeds of sale.

That, I think, makes it clearly subject to a point of order, because, as I understand it, there was no law before that which took from the Indians the money to make them reimburse these payments. If it had been in order for one year, then I will state that it would not have been in order for the next year, because these acts are only annual and run only for the terms covered by the acts.

Mr. FERRIS. And if the gentleman will permit, I may say, in addition to what the chairman has stated, that the appropriation of $25,000, reimbursable, was to do a specific task—that is, to sell the unallotted lands of the Five Civilized Tribes. They have sold the unallotted lands of the Five Civilized Tribes, and now they come in and offer an amendment, in identical language, to do the very thing that has already been done.

Mr. BURKE of South Dakota. Mr. Chairman, that has nothing to do with the point of order.

Mr. FERRIS. I think it has. I think if an appropriation is made to-day in this current bill to do a specific thing during the following fiscal year, and that thing is done, even though it be in order that year, it would not be in order in each succeeding year and indefinitely; and the fact that that was in order last year, to do a specific task that was done this year, does not make it in order in a succeeding year.

The CHAIRMAN. The Chair desires to ask a question of the gentleman from South Dakota [Mr. BURKE].

Mr. CARTER. Mr. Chairman——

The CHAIRMAN. The Chair will first recognize the gentleman from Oklahoma [Mr. CARTER].

Mr. CARTER. Mr. Chairman, practically this same question came up in the Sixty-first Congress. There was an item in the Indian appropriation bill as it came from the committee providing for the payment of certain matters out of Indian funds, such as this. A point of order was made against the provision by the gentleman from Oklahoma [Mr. DAVENPORT], and upon that point of order the paragraph was ruled out. I have been trying to get the text of the debate at that time, but have not succeeded as yet. I hope to have it in a few moments, and ask the Chair to reserve his ruling until we see what the record discloses.

The CHAIRMAN. The Chair desires to ask the gentleman from South Dakota a question. Of course, there is a question back of this of authority to make this payment. The Chair is referred to page 14, which seems to provide that the net receipts from the sale of the surplus of unallotted lands and other tribal property, after deducting the necessary expenses of advertisement and sale, and so forth, may be deposited in the national or State banks, and then follow certain provisions in relation to their disposition. Now, does the gentleman find in that authority to appropriate $25,000 for the payment of salaries of employees?

Mr. BURKE of South Dakota. Mr. Chairman, the $25,000, if I remember exactly the wording of the provision, is a mere limitation. The appropriation is that there shall be expended for the expenses of advertising, and so forth, in connection with the sale of unallotted lands, not exceeding $25,000; but I may be mistaken.

Mr. MANN. That is it; not exceeding $25,000.

Mr. BURKE of South Dakota. Mr. Chairman, if we have by law enacted legislation that we will do a certain thing, I presume that it is necessary to make an appropriation to execute the law. The only point that I can see in the point of order made by the gentleman would be that to deduct the expense from the proceeds is contrary to some existing treaty with the Indians.

Mr. CARTER. That is true, too.

Mr. BURKE of South Dakota. Mr. Chairman, there is absolutely no treaty and no agreement that requires the United States to go into the business of depositing money belonging to these Indians in the banks of Oklahoma and collecting interest thereon, and there is nothing in the law that contemplated that the United States would be selling lands, as land has been sold in Oklahoma, on time payments of 25 per cent annually, and a great many other things that we are doing in Oklahoma. And when that provision that the Chair now has before him was considered as finally enacted into law it was done after a careful examination of existing treaties and agreements with the Indians, and nothing could be found in conflict with our requiring of these Indians that they pay the expenses of this unusual business which we are carrying on for their benefit.

The gentlemen from Oklahoma are not only trying to drive out the district agents who supervise and look after the affairs of the individual restricted Indians, but they also propose to appropriate money from the Federal Treasury to pay the expense of administering laws that have been placed upon the statute books for the benefit of the people in Oklahoma, the local banks. For instance, the depositing of $5,000,000 or $4,000,000 in 200 banks and collecting the interest thereon is something of an undertaking. We are going to pay the interest to the Indians, and then the United States is going to pay the expense of the administration. I say to the gentleman that that is contrary of the policy that prevails, so far as the Committee on Indian Affairs is concerned, on both sides of the House, as to dealing with the Indians generally.

The CHAIRMAN. The amendment contemplates the payment of salaries of employees—the amendment at the desk.

Mr. BURKE of South Dakota. It says "necessary employees," does it not?

The CHAIRMAN. The word "necessary" is not used. It contemplates the payment of salaries. Now, are these employees necessary in connection with the advertisement and sale of these unallotted lands?

Mr. BURKE of South Dakota. Certainly.

The CHAIRMAN. But for this provision in the amendment, these officials would not be paid for services rendered in connection with the unallotted lands?

Mr. BURKE of South Dakota. Mr. Chairman, if I understand the position of the gentlemen from Oklahoma, it is that they will be paid out of the appropriation of $150,000 that is now used for other purposes largely.

The CHAIRMAN. Is that true as a matter of fact?

Mr. BURKE of South Dakota. I think it is.

Mr. FERRIS. These lands have been sold four times in the last four years. That is, they have been offered for sale. Every year they go around and offer them, but do not sell them. This year they sold nearly all of them, and there is no necessity for offering them again next year. That is the fact. I understand that goes to the merits, but the gentleman asked for information.

Mr. CARTER. They have so stated. The Commissioner of the Five Civilized Tribes stated publicly that there would be no more sales of these lands in the future.

Mr. BURKE of South Dakota. If the merits have any bearing upon the ruling of the Chair on the point of order——

Mr. CARTER. I was answering the gentleman's statement about the matter, that is all. I think it bears right on the point.

The CHAIRMAN. The Chair is simply trying to get at the facts. The principle is clear enough, but the difficulty is to get at the facts about the parliamentary situation.

Mr. CARTER. In the first session of the Sixtieth Congress the following paragraph was read:

For clerical work and labor connected with the leasing of Creek and Cherokee lands, for mineral and other purposes, and the leasing of lands of full-blood Indians under the act of April 26, 1906, $40,000: *Provided*, That the sum so expended shall be reimbursable out of the proceeds of such leases, and shall be equitably apportioned by the Secretary of the Interior from the moneys collected from such leases.

To that provision the following point of order was made:

Mr. DAVENPORT. Mr. Chairman, I make the point of order to the proviso beginning in line 23 and extending to the end of line 26 on the ground that it is new legislation and contains a change of existing law and the treaty with the tribes. I make it as to the entire proviso.

There was considerable discussion, covering several pages of the RECORD, after which the Chair finally ruled in the following manner:

Well, the Chair is ready to rule; and though he is very loath himself to so rule, yet, after consultation with a gentleman who is an excellent authority and who seems to be very clear, the Chair sustains the point of order.

Mr. BURKE of South Dakota. I will say to the gentleman from Oklahoma that at that time the act of 1911 had not been passed.

Mr. CARTER. The act of 1912 was only for 12 months, was it not?

Mr. BURKE of South Dakota. I am speaking of the paragraph in the Indian appropriation bill for 1911 which was general in its character and which provided that the net amount received from the sale of lands should be deposited in the local banks after deducting the expense of sale and advertising. Now, the gentleman from Oklahoma assisted in obtaining that legislation, and it was granted upon the representation that the expense of the sale and advertising would be deducted from the proceeds.

Mr. CARTER. My recollection is that that was an amendment to the Indian appropriation bill put on in the Senate and adopted in conference.

Mr. BURKE of South Dakota. No; it was inserted in the House.

The CHAIRMAN. Would the word "salaries" in the amendment be considered as being limited exclusively to compensation for work immediately connected with the sales, or would it have a broader application?

Mr. BURKE of South Dakota. I have not the item. I have sent to the desk the copy that I had.

The CHAIRMAN. The Chair is inclined to think that the authority of the act cited which provides for depositing in certain banks the net receipts from the sales of surplus and unallotted lands, less the necessary expense of advertising and sale, is hardly authority to support the amendment under consideration relating to the salaries of employees and other things. The Chair is not very well satisfied in his own mind about this ruling, because it is difficult for him to get at all the provisions of law back of the amendment, and which are supposed to justify it. On the whole, however, though with some hesitation, the Chair sustains the point of order.

Mr. BURKE of South Dakota. Mr. Chairman, I offer as another independent paragraph what I send to the Clerk's desk.

The CHAIRMAN. The gentleman from South Dakota offers an amendment, which the Clerk will report.

The Clerk read as follows:

Add as a separate paragraph, after line 23, the following:

"For expenses incident to and in connection with collection of rents of unallotted lands and tribal buildings such amount as may be necessary: *Provided*, That such an expenditure shall not exceed in the aggregate 10 per cent of the amount collected."

Mr. FERRIS. I reserve a point of order on that.

Mr. BURKE of South Dakota. Mr. Chairman, it is possible that this item is subject to a point of order. I will say, however, that it has been the law in two or three of the annual appropriation bills, including the one for the current fiscal year. As I have already stated, we are doing a very large amount of work in Oklahoma, and much that never was contemplated by the original treaty made with the Indians when we undertook to make a roll and to allot the lands.

The gentleman has stated that the unallotted lands have already been sold. I will state that there are at present 100,000 acres of unallotted lands undisposed of. There are 1,300,000 acres of timberlands that have not been disposed of. There are something like 20,000 accounts pending, where from 75 to 25 per cent of the purchase price which was to be paid for the unallotted lands, aggregating several million dollars, has not been collected. Evidently there must be an administrative force in the Five Civilized Tribes to attend to the details pertaining to the collection of this large amount of money; and, as I stated a while ago, owing to the diligence of our friends from Oklahoma, the time for the making of these payments was extended. The rate of interest is, I think, 6 per cent, and therefore every time there is a payment made there has to be a computation to ascertain the amount of interest. When payment is made finally then there has to be the proving, and the issuance of the deed, and a great amount of work in connection therewith.

I want to call the attention of the committee—and I am very glad gentlemen have made these points of order—to the fact that, so far as Oklahoma is concerned, the Federal Treasury will bear the expense of administering the affairs of the Indians. But in every other part of the country wherever it is possible to do so and wherever the Indians have any money, to say nothing of an estate that amounts to forty or sixty million dollars, in that State the expense of administering the affairs must be borne by the Federal Government.

I say it is inconsistent, and I am surprised that our friends from Oklahoma that have secured the things I have referred to when it was distinctly provided, that the expense of sale and collection at the time was to be deducted from the proceeds, that they now come in and raise the point of order in order that the money may be paid from the Treasury.

Mr. FERRIS. Will the gentleman yield?

Mr. BURKE of South Dakota. Yes.

Mr. FERRIS. If the gentleman will pardon me, I want to state some figures. Oklahoma has about 117,000 Indians within her borders. There are 300,000 Indians in the entire United States. There goes to Oklahoma $460,230; Arizona and New Mexico, $738,000; California, $21,250; Minnesota, $213,175; and to South Dakota, the gentleman's own State, $646,500, of which the two main items aggregate some $500,000, which are absolute gratuities.

Mr. BURKE of South Dakota. What is that statement—what did the gentleman say goes to South Dakota?

Mr. FERRIS. I say there are two items aggregating $507,000 that are gratuities by which the gentleman is bound by no treaties.

Mr. BURKE of South Dakota. Oh, the gentleman is not familiar with the treaties or he would not say that.

Mr. FERRIS. I think I am quite familiar with them. There goes to Oregon $233,736. Mr. Chairman, I will state that there has been so much muckraking by people who know not the facts in this matter that they are hard to understand. Our State maintains more than one-third of the Indians. We have been the dumping ground of the Indians in that State for the last 50 years, and to have people come here when items are reimbursable and make these statements is too much, and we can endure it no longer. Nearly two-thirds of the Indians in the United States are in our State, and the small sum of $460,000 goes to that State and most of it on the treaty items.

Mr. BURKE of South Dakota. The gentleman said a moment ago that most of the Indians in his State, or a good many of them, were holding public office, one was the governor, and very properly pointed to the fact that we have one of the civilized tribes, an honored and distinguished Member of this House, and from what the gentleman has heretofore said I am surprised that he would get up here and say that any money was necessary to be expended on the Indians in Oklahoma.

What I am pointing out, Mr. Chairman, is the fact that the Indians have a vast estate, that they have very large sums of money in the Treasury, and that we are doing in Oklahoma what was never contemplated when the agreement was made, and that there was no obligation on the part of the Government to do the things we are doing. We were not required to put money in the banks of Oklahoma and loan it out at 4, 5, and 6 per cent, as we are doing, and pay the interest to the Indians. We did not undertake to rent a lot of unallotted lands and collect hundreds of thousands of dollars' annual rent for the benefit of the Indians. There are a great many other things we do, and I am surprised that the gentleman should raise any question that the actual expenses of administering the matters should be deducted from the proceeds.

Mr. CARTER. Will the gentleman yield?

Mr. BURKE of South Dakota. Certainly. I want to say one thing more before the gentleman puts his question. The gentleman says that there has been $20,000,000 expended by the Dawes Commission. The gentleman knows, if he will stop to think, that no such sum of money has been expended by the Dawes Commission.

Mr. CARTER. I do not know it.

Mr. BURKE of South Dakota. The expense of enrolling and allotting to the members of the Five Civilized Tribes per capita is lower than the expense of allotment and enrollment of any other tribe of Indians in the United States. When the gentleman says that $20,000,000 has been expended he includes moneys that are expended for tribal expenses, moneys for education, and other things which the bill provides may be expended. He raises no question as to that, and instead of a million dollars there has been something like three or four hundred thousand dollars expended annually for administration purposes.

Mr. CARTER. If the gentleman from South Dakota [Mr. BURKE] does not know that a million dollars or more per annum was spent for several years in Oklahoma for purely administrative purposes, then he has not kept very close tab on the work of the Dawes Commission. To be sure, they may not have spent to exceed that amount per year for all these 20 years, but my statement was to the effect that my belief was that the expenses of maintaining this commission in its dilatory closing of tribal affairs would average about $1,000,000 per annum.

To be sure, a part of this may have been spent for schools, a part may have been spent for tribal officers, a part may have been spent for the sale of the unallotted lands, a part was spent for the sale of town sites and collection of tribal revenues, but all spent either for or by the officials under the direct supervision of the Indian Bureau. But, Mr. Chairman, I verily believe that if the gentleman from South Dakota [Mr. BURKE] would take the trouble to go over the records and analyze the different appropriations he would find that almost, if not quite, $20,000,000 has been used, exclusive of schools.

That, however, was not the question I had expected to address my remarks to. I wanted to discuss these treaty provisions in regard to Oklahoma about which the gentleman from South Dakota [Mr. BURKE] had much to say.

The gentleman lays great stress on the fact that our treaties did not provide for the Federal Government paying the expenses of the sales of land and the collection of rents, and because the treaties did not specifically set forth that these expenses should be paid by the Government he argues that the very statement providing for their doing carries with it an implied appropriation for the accomplishment of the work.

Let us see under what conditions these treaties were made. When the Dawes Commission came to Indian Territory it found the Five Civilized Tribes themselves with a regularly organized constitutional form of government, having officials for the performance of the many functions which the Department of the Interior has since arrogated to its own officials.

The making of the treaties provided for a change of conditions and for the winding up of tribal affairs. They provided for the making of the rolls, the allotments of land, and the sale of the town sites, and specifically set forth that these expenses should be borne by the Federal Government. They provided for the appraisement of land for allotment purposes, for the collection of the coal and asphalt royalties, and for the sale of the coal and asphalt lands, with a special provision that these expenses should be borne by the tribes. Nothing whatever was said as to who should bear the expenses for the sale of the unallotted lands, or for the collection of revenue from other than the coal and asphalt royalties. So I can not see by what distortion of construction the conclusion can be reached that there is an implied authorization in our treaties for the payment of these expenses out of tribal funds.

Mr. BURKE of South Dakota. I think the gentleman will admit that we have done a great many things in Oklahoma that were not contemplated at the time the treaty was made, and that the original agreement, the treaty, only contemplated that the Government would make enrollment and allotment of the land. That was the substance of what was contemplated?

Mr. CARTER. Oh, no; the sale of unallotted lands, sale of town sites, collection of coal and asphalt royalties, sale of mineral lands, tribal buildings, and all these other things were provided for by the treaties.

Mr. BURKE of South Dakota. But we have done a great many things that the treaty did not contemplate.

Mr. CARTER. Yes; that is true; but that does not relieve us of the responsibility of our obligations.

Mr. BURKE of South Dakota. And for the benefit and advantage of the Indians.

The CHAIRMAN. Does the gentleman insist upon the point of order?

Mr. FERRIS. Mr. Chairman, I make the point of order.

The CHAIRMAN. The point of order is sustained.

Mr. HARRISON of Mississippi. Mr. Chairman, I offer as a new paragraph the following amendment, to be inserted at the end of line 23.

The Clerk read as follows:

Add, after line 23, page 22, as a new paragraph, the following:

"That the Secretary of the Interior is hereby directed to receive, at any time within six months after the passage of this act, the application of any person for enrollment to the rights of a citizen and member of the Choctaw-Chickasaw Tribe of Indians claiming an interest in the lands and funds of the Choctaw-Chickasaw Tribe by reason of being a descendant of a member of the Choctaw Tribe who received, or was entitled to receive, lands under the terms of article 14 of the treaty of Dancing Rabbit Creek under date of September 27, 1830.

"That the Secretary of the Interior shall be vested with the power to determine the rights of said claimants upon such evidence as may be produced by the applicant, without regard to any judgment or decision heretofore rendered by any court or commission to the Five Civilized Tribes or the Department of the Interior, and without regard to any condition or disability heretofore imposed by any act of Congress: *Provided*, That any relevant evidence admissible either in actions at law or in equity in the courts of the United States shall be received by the Secretary of the Interior as evidence in determining the rights of said applicants: *Provided further*, That any testimony received as evidence and appearing in the record in the case of the Choctaw Nation *v.* The United States, No. 12442, in the Court of Claims, and decided in the United States Supreme Court on November 15, 1886, may, if relevant, be received in evidence.

"That all applicants under this act may be represented by such attorneys as each individual may select, and the fee of such attorney may be fixed in accordance with any contract now or hereafter made between said applicant and said attorney, and that such contract shall govern the amount of such fee: *Provided*, That the Secretary of the Interior may limit the percentage of compensation in each case, and that the said contract shall be enforcible for no greater sum than that which may be fixed by the Secretary of the Interior.

"That the Secretary of the Interior shall have prepared and made a schedule or roll of all persons entitled under the provisions of this act, within eight months after its passage, and shall, within said eight months, award them the full rights of citizens and members of the Choctaw-Chickasaw Tribe: *Provided*, That those enrolled under this act shall not be entitled to nor receive any part of the Choctaw annuities existing as of the date of September 27, 1830.

"That in the event there shall not be sufficient land to make allotments to such persons as may be enrolled under this act to equalize them with the allotments heretofore granted to those already upon the rolls of said tribe, there shall be placed to the credit of each person who does not receive allotments, and paid to such person a sum of money equal to double the appraised value of 320 acres of the average allotable land of the Choctaw-Chickasaw Tribe, according to the relative appraisement heretofore made, in lieu of said allotments of land.

"That there shall be paid to each person who enrolls under the provisions of this act such a sum of money out of the funds of the tribe as will equalize said person with the persons now upon the rolls for all distributions of money made to citizens and members of said joint tribe since 1893: *Provided*, That those enrolled under the provisions of this act shall not be entitled to nor receive any part of the Choctaw annuity existing under date of September 27, 1830, aforesaid: *Provided further*, That this act shall not apply to persons born since March 4, 1907.

"That applications for minors may be made by either parent, or if neither parent is living, by guardian. Applications for insane persons, or those confined in other public institutions, may be made by curators. Depositions may be taken in support of said applications in any place in the United States upon notice to theAttorney General and the Secretary of the Interior, and the procedure as to notice and taking of depositions shall be as in ordinary cases before the United States courts. The expense of taking depositions on the part of claimants shall be paid by the applicants in the first instance, but shall be taxed as costs in each case where the applicant is successful, and said costs shall be charged to the funds of said tribe in the United States Treasury.

"That the rights of all persons claiming citizenship or any rights in the Choctaw-Chickasaw Tribe, under or by reason of the treaty of 1830, who fail to make application to the Secretary of the Interior, under this act, within six months after the passage of this act shall be forever barred.

"That the tribal organization in the Choctaw-Chickasaw Tribe is hereby abolished, and the title to all tribal lands and moneys yet undistributed are declared to be vested in the United States, as trustee for those entitled to the same under the laws and treaties of the United States; and such moneys as may come into the Treasury of the United States as trustee for said tribe, or which are now held by the United States as trustee for said tribe, shall not be distributed among the members of said tribe within eight months after the passage of this act."

Mr. STEPHENS of Texas (interrupting the reading). Mr. Chairman, for the purpose of saving time, I now make the point of order against the amendment. I am quite willing that the amendment shall be inserted into the record.

Mr. HARRISON of Mississippi. Mr. Chairman, I hope the gentleman will reserve this point of order.

The CHAIRMAN. Does the gentleman from Texas make the point of order?

Mr. STEPHENS of Texas. Mr. Chairman, I yield to the gentleman from Oklahoma [Mr. CARTER].

Mr. CARTER. Mr. Chairman, I had expected to make the point of order as soon as the reading of the amendment was finished. If the gentleman from Mississippi desires to proceed, however, I shall reserve the point of order.

Mr. HARRISON of Mississippi. Mr. Chairman, I concede the point of order, if insisted upon, to be well taken. I was in hopes that the gentleman's high sense of justice and fairness would control him in this matter and that he would allow the amendment to be voted upon.

Mr. CARTER. Mr. Chairman, I thank the gentleman very much for his compliment, but my high sense of justice and fairness compels me to make the point of order.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

The sum of $300,000, to be expended in the discretion of the Secretary of the Interior, under rules and regulations to be prescribed by him, in aid of the common schools in the Cherokee, Creek, Choctaw, Chickasaw, and Seminole Nations in Oklahoma, during the fiscal year ending June 30, 1914: *Provided*, That this appropriation shall not be subject to the limitation in section 1 of this act limiting the expenditure of money to educate children of less than one-fourth Indian blood.

Mr. FOWLER. Mr. Chairman, I desire to reserve a point of order to this paragraph.

Mr. MANN. Mr. Chairman, I think the gentleman may as well make the point of order.

Mr. CARTER. Mr. Chairman, I hope the gentleman will not make the point of order.

Mr. FOWLER. Mr. Chairman, I will reserve the point of order for the time being, unless my colleague, the gentleman from Illinois [Mr. MANN], desires to make the point of order.

Mr. MANN. I supposed that the desire was to get through with this bill to-night.

Mr. CARTER. Mr. Chairman, I merely want about 15 minutes to discuss this matter.

Mr. STEPHENS of Texas. Mr. Chairman, I would like to have some time fixed when we shall close debate upon this section. I therefore move——

Mr. MANN. Oh, the gentleman can not move to close debate when a point of order is pending. The gentleman from Oklahoma, I understand, desires 15 minutes.

Mr. STEPHENS of Texas. Mr. Chairman, I do not think it is a very good way to expedite business here to permit points of order to be discussed for so long a time.

The CHAIRMAN. It is within the province of any Member to call for the ruling at any time.

Mr. CARTER. Mr. Chairman, I have so far not taken up very much of the time of the committee. This is an important provision to my State, and I would like to have at least 15 minutes in which to discuss it.

The CHAIRMAN. Does the gentleman from Oklahoma make that request.

Mr. CARTER. Mr. Chairman, I ask unanimous consent to proceed for 15 minutes.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent to proceed for 15 minutes. Is there objection?

There was no objection.

Mr. CARTER. Mr. Chairman, I believe I measure my words with conservatism and deliberation when I say that never was a State brought into this Union under such unfavorable conditions from the standpoint of financial responsibility and meager tax values as the struggling new Commonwealth which I have the honor in part to represent.

I ask this committee to bear with me in patience, for I bring a message from more than 300,000 helpless, innocent, ambitious American children—American children, let me repeat; blood of your blood and bone of your bone—and they represent the offspring of as noble and worthy pioneers as have ever gone into the wilderness and hewn an empire from the primeval forests of America.

The State of Oklahoma, as most of you know, was made up of what might be called two separate and distinct dependencies—old Oklahoma and Indian Territory—each about equal in area. Indian Territory, the eastern half of the State, consisting of a little less than 20,000,000 acres, and Oklahoma, the western half, exceeding that acreage by a small figure. The population of the State was 1,470,000 shortly before admission, about 120,000 of these being American Indians.

I speak to you to-day in behalf of the eastern half or Indian Territory side of the State.

Indian Territory was really a misnomer, for it was never in fact a Territory. It had no real form of government, no executive or legislative tribunals whatever save the parent Government at Washington. In fact, our only semblance of any form of organized government was the Federal courts which had been established for several years. We had no schools for the white child, no schoolhouses, no improved roads, no bridges, no courthouses, no jails—in fact, no improvements of any public character whatever. So the financial responsibility which Congress imposed upon the people of the eastern half of Oklahoma was that of building a Commonwealth for the more than 700,000 people who inhabited the Indian Territory side of the State, and building it from the grass roots without any digested plans and specifications and without sufficient material, as I will attempt to show.

Now, let us invoice the resources you placed at our command for the accomplishment of this Herculean task; let us see what tools you gave us to work with.

I have told you that the million and a half population of our State included 120,000 Indians, which is more than one-third of all the Indian population of the United States. One hundred and one thousand of these Indians lived on the eastern side, and comprise the Five Civilized Tribes.

Every foot of the 20,000,000 acres of land on the eastern side of Oklahoma, save a few thousand acres of town site, was owned by these Five Civilized Tribes. By the Atoka agreement, approved by Congress on June 28, 1898, and supplemental agreement of July 1, 1902, and other treaties of contemporaneous dates, the Indians of the Five Civilized Tribes had been guaranteed by the Federal Government that none of these lands should become taxable, under various reservations, as follows: Some were made nontaxable for 21 years, or as long as the title to same remained in the original allottee, others for 21 years without conditions, while still others were exempted from taxation in perpetuity regardless of transfer or alienation.

Now, if this was the end of the record and Oklahoma had accepted statehood in the full knowledge of these facts, then we might not now with good grace and in good faith come back to the parent Government and ask even this small modicum of relief.

But this is by no means the end of the story. The enabling act under which Oklahoma became a State was passed, as I remember, by the first session of the Fifty-ninth Congress. But along about the same time—on April 26, 1906—there was passed by Congress what was commonly known as the Curtis Act, entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes." This act provided for the taxation of the lands of the Five Civilized Tribes upon certain conditions. The provision dealing with this subject is found in the proviso at the end of secton 19 in the following language:

Provided further, That all lands upon which restrictions are removed shall be subject to taxation, and the other lands shall be exempt from taxation so long as the title remains in the original allottee.

This Federal statute, providing for the taxation of the lands of the Five Civilized Tribes, had been on the statute books for more than 18 months when our constitution was adopted, and every man who thought of the matter of taxation at all when he voted on the constitution felt confident that this act of Congress making these lands taxable, and passed almost two years before statehood, was the law of the land and would prevail.

In accordance with this belief, when the Oklahoma delegation came to Congress, Congress was placed in full information of our deplorable condition and prevailed upon to remove restrictions on about one-half of this 20,000,000 acres of land in order that we might have sufficient taxable values to build up our State institutions and maintain our State government, and our State proceeded with the collection of the taxes.

Since it appeared that we would have sufficient taxable property on the eastern side of our State to maintain our State government and justify the building of necessary State institutions, our people proceeded to float bonds for the building of county courthouses, county jails, public schools, public roads, bridges, and other internal improvements. These bonds have already been issued, are now outstanding, and payment both as to interest and principal must be met in some manner or the credit of the eastern side of the State becomes utterly worthless.

But the Indian of the Five Civilized Tribes showed that he is not so much of an incompetent as some of our friends here would have you believe. Poor Lo emulated the example of his paleface brother. He proceeded to make perfectly good as a full-fledged American citizen by resisting the taxation of his property. These Indians simply asserted the right of nontaxation of their lands, guaranteed to them by their several agreements, by suing out an injunction against the tax officials of Oklahoma. These suits came up through the regular channels of our judiciary to the Supreme Court of the United States, and this high court rendered a decision to the effect that the several agreements made with the Indians were the result of mutual considerations and concessions on both sides, and that thereby the guaranty of nontaxation of Indian lands had come to be a vested right, sufficient to exempt same from taxation, and that those provisions of the acts of April 26, 1906, and May 27, 1908, seeking to make these lands taxable were null and void, thereby leaving the entire east side of our State high and dry, bereft completely of any taxable values, so far as land is concerned.

To make a long story short, you have imposed upon the people of Oklahoma the responsibility of building an empire, and have taken from them the material and tools with which to construct it. You brought us into statehood under a written contract that all Indian lands would be taxable, as long as restrictions were removed, but the courts now hold that these lands can not be taxed, even if the restrictions are removed.

Gentlemen may contend that other States having Indian lands do not receive such gratuities from Congress, but we answer that their cases are not parallel with ours. I repeat, no State in this Union labors under such tax-exemption handicaps as the State of Oklahoma; no other State in this Union has practically one-half of its land area exempt from taxtion; no other State in the Union has over 80 per cent of the land values of the majority of its counties withdrawn from the tax rolls.

And here is another very important distinction: In all other States Indian lands become taxable as soon as the restrictions are removed, but the lands of the Five Civilized Tribes do not. Some of them do not become taxable until sold, and others will never become taxable under any kind of circumstances whatever.

It is true that a small portion of these lands has been sold, but I doubt if the combined sales of both allotted and unallotted lands during the 14 years in which the Dawes Commission has been attempting to settle our affairs will aggregate as much as 4,000,000 acres, and some of that is still nontaxable. This

would leave no less than 16,000,000 acres, not less than 80 per cent of all of 40 counties on the east side of the State, nontaxable.

These 16,000,000 acres consist of agricultural, coal, oil, gas, and grazing lands, and their aggregate valuation would probably reach $500,000,000, all of which is withdrawn from taxation.

Now, gentlemen of the committee, ours is a young State, with not so much personal property and valuable improvements as older States; so, like all new countries, our lands represent the principal assets of any value.

I would not undertake offhand to say the specific proportion of values this $500,000,000 worth of property really represents, but it is a stupendous amount to be withdrawn from the taxation of any State, and I dare say would seriously cripple the taxable values even of as wealthy a State as that which the distinguished gentleman reserving this point of order so ably represents on this floor. So I appeal to the good judgment of the gentleman. I implore the gentlemen of this committee not to inflict longer this unjust burden upon our people. Especially do I beseech the gentleman from Illinois [Mr. FOWLER], who honors one of the wealthiest States of this Union by his presence here, to call to his aid all his powers of generosity and graciousness, to muster his full measure of the milk of human kindness, and do simple justice to a struggling young sister State of this Republic by withdrawing his point of order and granting this small modicum of relief.

Mr. FOWLER. Mr. Chairman, will the gentleman yield for a question?

Mr. CARTER. Certainly.

Mr. FOWLER. Is this not the second attempt to appropriate $300,000 for this purpose? I mean by that, was not the last bill the first time that this sum was carried for the purpose provided in the bill?

Mr. CARTER. Oh, no; the first time that this amount was carried in the bill was in 1904.

Mr. FOWLER. Has it been carried since 1904?

Mr. CARTER. It was carried right along until 1910, the first session of the Sixty-first Congress, and was then dropped. It was dropped at that time because we supposed that these lands would become taxable under the acts of April 26, 1906, and May 27, 1908. That appropriation was dropped prior to the time of the decision of the Supreme Court setting forth that the lands would not become taxable, even when restrictions were removed.

Mr. FOWLER. Is there no provision whatever for the education of these Indians other than this $300,000?

Mr. CARTER. The Indians have some separate schools, Mr. Chairman, at which about probably one-fourth of their scholastic population is being educated; not quite one-fourth, I would judge.

Mr. FOWLER. Is this sum intended to take care of the three-fourths?

Mr. CARTER. This sum, as indicated by the paragraph, is intended to take the place of the money that the State has been deprived of by the nontaxation of these 16,000,000 acres of Indian lands in Oklahoma; and I will say further to the gentleman that the Indian child has the same school privilege in Oklahoma as any other person, because he is a full-fledged citizen of the United States and of the State of Oklahoma.

Mr. FOWLER. Do they not have free schools there the same as the whites?

Mr. CARTER. We have, but we are not able to maintain them at some places for a very great length of time during the year on account of our meager taxable assets.

Mr. FOWLER. How long do you maintain the free-school system?

Mr. CARTER. We maintain them in the country districts, I would say, from three to seven months.

Mr. FULLER. On an average of how many months?

Mr. CARTER. Of course, the gentleman is getting me into pretty deep water now. I would not like to attempt a statement like that offhand without making some figures. In some neighborhoods we have been practically unable to operate schools except by these funds provided by this paragraph, and then we have been able to run them only from three to five months.

Mr. FOWLER. Is it not a fact that in many States of the Union there are counties which do not run the schools for the whites more than five or six months in a year?

Mr. CARTER. Without this appropriation I doubt if we would be able to run three months in some of our school districts.

Mr. FOWLER. Is this intended to extend the free school system over the three or four months that you say?

Mr. CARTER. Oh, yes; that is what it is used for.

Mr. FOWLER. To pay teachers and to provide for the extension of the schools?

Mr. CARTER. That is the purpose.

Mr. FOWLER. How long will it give these Indians a school per annum? How many months?

Mr. CARTER. Again, I would not say, specifically, as to that. It is a very small amount, but it would at least extend the schools two or three months where we are short on taxable values.

Mr. FOWLER. Do you think this sum ought to go out of this bill?

Mr. CARTER. I certainly do not.

The CHAIRMAN. The time of the gentleman from Oklahoma [Mr. CARTER] has expired.

Mr. MILLER. Mr. Chairman, I ask unanimous consent that his time be extended one minute.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MILLER. How much did the department estimate?

Mr. CARTER. My eyes do not fall on the figures right now, but I think it was $300,000.

Mr. MILLER. I am quite sure the gentleman is mistaken. I do not think the department estimate is that at all. I do not find it at all.

Mr. CARTER. I have two estimates in my hands.

Mr. MILLER. I beg the gentleman's pardon, but I think they are letters.

Mr. CARTER. They are letters—justifications.

Mr. MILLER. This is not estimated for by the department.

Mr. CARTER. It is not estimated for. It was not estimated for to begin with, but it was justified by the department since then and before it was favorably acted on by the committee.

Mr. MANN. The estimate came from the Secretary of the Treasury?

Mr. CARTER. This is a letter from the Secretary of the Interior.

Mr. MILLER. The purpose of my inquiry is to ascertain if this expenditure was an item in a comprehensive scheme of education in Oklahoma and was in the department's estimate. I have not been able to find any estimate.

Mr. CARTER. I think the department worked it out pretty thoroughly in 1904, when it was first put in the bill.

The CHAIRMAN. The time of the gentleman from Oklahoma [Mr. CARTER] has expired.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent that the gentleman have two minutes more.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. CARTER. In 1904 this matter came up from the department, and I think extended hearings were had before the Committee on Indian Affairs, but I am informed by the gentleman from Texas [Mr. STEPHENS] that no record was kept of those hearings. I have searched very diligently for them and have not been able to find them. In 1905, 1906, 1907, 1908, and 1909 it was estimated for. And at the next session, I think, although I will not be sure about that, the gentleman from South Dakota [Mr. BURKE] was then chairman of the Committee on Indian Affairs and can tell whether there was an estimate. And his bill carried $75,000, although in different language from that which had been used in the past. At that time it was supposed that the Indian lands would become taxable as soon as restrictions were removed or, at the most, when sold, but since then the Supreme Court has held that some of the lands would not become taxable when restrictions were removed and others would not be taxable even when transferred—nontaxable in perpetuity. We thought last year it would be necessary—in fact, we found it extremely necessary—to restore the item of $300,000, so it was done in the Senate and was agreed to in conference.

Mr. MILLER. As I understand here, the trouble is not an act of poverty or wealth on the part of the Indian in that locality sufficient to support the school? Simply, it is not subject to the taxation?

Mr. CARTER. Yes.

Mr. MILLER. What is the gentleman's view of this being reimbursable?

Mr. CARTER. That, it seems to me, would simply get back to the treaty provision. The Supreme Court has decided that the Indians should not have their lands made subject to taxation, and this might be in violation of that decision of the Supreme Court. I would say to the gentleman I would be very glad, indeed, that, so far as I am concerned and my family is concerned, all the taxes on my allotment have been paid, in spite of the law.

Mr. MILLER. Which shows good public spirit.

Mr. CARTER. While I do feel deeply the need of these taxes for the State. I make no especial claim to public spirit.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. MANN. Mr. Chairman, may I ask the gentleman when the item was included in the appropriation bill, as he states, in 1904, whether that is the same item that is in this bill?

Mr. CARTER. Not exactly.

Mr. MANN. That is what I thought. In what respect do they differ?

Mr. CARTER. I think there is practically no difference in their meaning.

Mr. MANN. Well, it is a matter of opinion as to what they mean.

Mr. CARTER. I have the original provision on my desk. If the gentleman means to say that the act of 1904 did not contemplate the education of white children, then I say there is absolutely no difference, because that is what is specifically set forth.

Mr. MANN. Well, that was at a time when the State of Oklahoma was the Territory of Oklahoma. Oklahoma was admitted in 1907. Was the item omitted in 1908?

Mr. STEPHENS of Texas. This was known as the Five Tribes. The western part of the State of Oklahoma was not Territory.

Mr. MANN. I did not say anything about that. Was Oklahoma admitted as a State in 1907?

Mr. STEPHENS of Texas. That is right.

Mr. FERRIS. This item was cut to $150,000 on the motion of the Members from Oklahoma. We said if you will remove the restrictions we will not ask for any more school removals. Congress came to the rescue by the passage of the act of 1908, which was the removal-restriction act. The Supreme Court came along last winter and said that even though Congress decided these lands were taxable, they were not.

Mr. MANN. I do not always get the information I ask for, but I sometimes get very valuable information.

Now, in 1904 this was the Indian Territory.

Mr. CARTER. Yes, sir.

Mr. MANN. In 1905 it was the Indian Territory.

Mr. CARTER. Yes.

Mr. MANN. In 1906 it was the Indian Territory. In 1907 it was the Indian Territory.

Mr. FERRIS. It was a State in the fall.

Mr. MANN. The Government provided for the schools then. In 1908 it was the State of Oklahoma. We did not insert the item in the bill.

Mr. FERRIS. We did.

Mr. CARTER. Oh, yes; we did.

Mr. MANN. The gentleman stated a while ago that we did not.

Mr. CARTER. The gentleman is mistaken. Here is the provision:

For the maintenance, strengthening, and enlarging of the tribal schools of the Cherokee, Creek, Choctaw, Chickasaw, and Seminole Nations, and making provision for the attendance of children of parents of other than Indian blood therein, and the establishment of new schools under the control of the Department of the Interior, the sum of $300,000, or so much thereof as may be necessary, to be placed in the hands of the Secretary of the Interior and disbursed by him under such rules and regulations as he may prescribe.

Mr. MANN. If the gentleman wants to insert an item of that kind in the bill, that is a different proposition. That is entirely different from this proposition. Here is an item of $300,000 for the common schools of Oklahoma. There was an item——

Mr. CARTER. For the same thing——

Mr. MANN. To provide money for the tribal schools of these Indians who were living in tribal relations.

Mr. CARTER. And also making provision for the attendance of children of parents of other than Indian blood.

Mr. MANN. While Oklahoma was a Territory we were providing schools there, but we are not under any obligation to provide schools in the State of Oklahoma.

Now, if the gentleman will pardon me, I appreciate the conditions there. I can see that the conditions are onerous. But, on the one hand, the gentleman comes into the House and insists, in violation, as I think, of the compact made in the House in reference to the deposit of money in the Oklahoma banks, that the Government shall pay the expenses of collection and that the Government shall pay the expense of salaries in order to save the Indians' money, and, on the other hand, says that because we can not collect taxes from the Indians the Government ought to maintain the schools. The Government gets it at both ends and in the middle.

If the money is needed for the maintenance of the common schools and you can not tax the Indian lands, why does the gentleman propose to reimburse it out of Indian funds?

Mr. CARTER. Let me ask the gentleman a question, as a lawyer?

Mr. MANN. Oh, the gentleman need not ask me any question as a lawyer. I quit the practice of law some time ago, and I never answer a question of law without a retainer. [Laughter.]

Mr. CARTER. Not being a lawyer myself, Mr. Chairman, I am simply seeking legal advice from a distinguished legal light. I wanted to ask the gentleman, if, in view of the Supreme Court decision which sets forth that these Indians should not pay taxes on their lands, would such an act passed by this Congress be considered of sufficient validity to warrant the payment of the funds in lieu of taxes?

Mr. MANN. Oh, I should think that the court decision would not affect the matter one way or the other. The decision of the court was that the State of Oklahoma could not tax these lands. Whether the treaty is so drawn that the Government could make a fund reimbursable I do not undertake to say. But the decision of the Supreme Court has nothing to do with the question.

Mr. CARTER. That would be doing indirectly what you can not do directly.

Mr. MANN. That is what you want to do. You want to do that indirectly what you can not do directly.

The CHAIRMAN. The Chair will hear the gentleman from Illinois [Mr. FOWLER] on a point of order.

Mr. FOWLER. Mr. Chairman, I am unalterably opposed to the United States appropriating money out of the National Treasury for the common schools of any State of the Union unless such a condition arises which might be termed an emergency. I can see that such a condition might arise. It appears to me that in this case, Mr. Chairman, these Indians have been receiving practically this sum of money for quite a number of years for the purpose of maintaining common schools; not under the name of "common schools" up to 1908, but as tribal schools. I feel somewhat inclined to believe, Mr. Chairman, that if the committee will agree to make the sum $200,000, I will withdraw the point of order. I ask that the sum be made $200,000 until further arrangements can be made for the extension of these schools. If the gentlemen who are in charge of the bill will agree to that, I will withdraw my point of order.

Mr. CARTER. Mr. Chairman, I would be very glad to do that if the gentleman can give me assurance that the point of order will not be made by some one else.

Mr. FOWLER. If I can get that understanding I will withdraw the point of order. I do not believe that there ought to be $300,000 appropriated under the circumstances. Oklahoma is one of the greatest States of this Union, and for her to come into the Halls of Congress and ask that the aid, the strong arm of this Government, be extended to maintain her free schools does seem to me, Mr. Chairman, a reflection upon that great State.

The CHAIRMAN. What does the gentleman from Illinois [Mr. FOWLER] do with his point of order?

Mr. CARTER. I will compromise with the gentleman.

Mr. MANN. Does the gentleman withdraw the point of order?

Mr. FOWLER. I withdraw the point of order on that understanding.

Mr. MANN. Then I make the point of order, Mr. Chairman.

The CHAIRMAN. The point of order is sustained.

The Chair will now dispose of a point of order made earlier in the day to an amendment sent up by the gentleman from Montana [Mr. PRAY]. This matter could not be ruled on at the time because there were quite a number of statutes and sections of statutes that had to be examined in order to ascertain the foundation upon which the amendment was supposed to rest. The first clause in the amendment provides for a survey of the lands of the Tongue River and Cheyenne River Indian Reservations. Now of course to justify the appropriation for this purpose there must be some authority conferred somewhere by some law. The gentleman from Montana [Mr. PRAY] sent up the following statute as supposedly furnishing authority for this particular appropriation. Leaving out intermediate matter, the statute is as follows:

That in all cases * * * the President of the United States, whenever in his opinion any reservation or any part thereof is advantageous for agricultural and grazing purposes, may cause such reservation to be surveyed.

This is a provision under which discretion is given to the President of the United States to have a survey made of any reservation. Under the amendment a department is authorized to make a survey of a particular reservation. The Chair is unable to see how authority that is given to the President to be exercised at his discretion furnishes authority for an amendment empowering a department to make a survey without regard to the wishes, judgment, or discretion of the President. Hence it seems to the Chair that the point of order to this portion of the amendment is certainly well taken. Under very familiar and abundant precedent, the point of order to the amendment being good as to a portion of the same, it is good as to the whole amendment. The point of order is therefore sustained.

The Clerk read as follows:

That the act of Congress approved February 19, 1912 (Public, No. 91), being "An act to provide for the sale of the surface of the coal and asphalt lands of the Choctaw and Chickasaw Nations, and for other purposes" and the paragraph amendatory to such act contained in the act of Congress approved August 24, 1912 (Public, No. 335), entitled "An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, etc.," be, and the same are hereby, amended so as to provide that the classification and appraisement of such lands shall be completed by John G. Joyce, chief surveyor, not later than four months after the passage of this act.

Mr. MANN. I make a point of order against the paragraph read.

Mr. STEPHENS of Texas. I hope the gentleman will reserve his point of order for the purpose of allowing an amendment to be offered to perfect the section.

Mr. MANN. I will reserve the point of order, but it is not possible to reserve it for the purpose of perfecting the section.

Mr. STEPHENS of Texas. It is the common usage to do that.

Mr. MANN. I am quite willing to reserve the point of order.

Mr. STEPHENS of Texas. I offer the amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 23, line 20, after the word "surveyor," state the following as a committee amendment:

"Under such rules and regulations, to be prescribed by the Secretary of the Interior."

Mr. CARTER. Does the gentleman from Illinois reserve a point of order?

Mr. MANN. I made a point of order, but if the gentleman wants to be heard, I will reserve it.

Mr. CARTER. It is getting late, Mr. Chairman, and I do not care to detain the House; but if there is any chance to persuade the gentleman not to insist on his point of order, I should like to plead with him.

Mr. MANN. I can not say. The gentleman has so often persuaded me against my better judgment that he might be able to do it again, although I have a pretty firm conviction on this subject at this time.

Mr. CARTER. I have not the remotest idea that I shall be able to convince the gentleman this time, because this item involves a subject about which the gentleman and I sometimes disagree. A subject, in fact, which I dislike to discuss, and which I presume the exigencies of the occasion demand that I speak of as sparingly as possible, and that is the administration of Indian affairs by the present régime.

On the 19th day of last February there was placed on the statute books an act providing for the appraisement and sale of the surface of the segregated mineral lands in the Choctaw Nation, in Oklahoma. This land had already been appraised once, and for that reason I opposed its reappraisement. Moreover, I felt sure that the very thing would happen that has happened; but out of deference to Members older than myself in service both on the committee and in this House, I agreed to the appointment of three appraisers at a certain stipulated compensation.

These three appraisers were appointed by the Secretary of the Interior, but not until almost two months after the act had become a law, and this in the face of the fact that the Secretary of the Interior knew these three gentlemen had only six months in which to complete the job. The three appraisers established their office at McAlester, Okla., and proceeded until the time expired within which they were to appraise the land. They then asked for an extension of time, which was very graciously granted by this Congress in the last Indian appropriation act. These three elegant gentlemen again proceeded with the appraisement of this land—that is, they say they proceeded—but notwithstanding the fact that there were less than 450,000 acres to be appraised, the time again expired with nothing whatever accomplished, except a fraudulent appraisement, as charged by the Indian Office, in Oklahoma for the making of which charges were brought against the appraisers and in the face of which they resigned without trial.

The Secretary then appointed, or now proposes to appoint, three other appraisers if we will give him the authority, but, Mr. Chairman, it seems to me that we have had enough of this horseplay for political purposes. It seems to me that there should be an end to any such tomfoolery as has been carried on by such political henchmen as these at the expense of the Indian people in Oklahoma. The present Secretary of the Interior is said to be a conservationist, and I believe that is true, for he has successfully conserved the interests of Republican politicians by the use of the funds of the Five Civilized Tribes ever since he has been in office, but he has done practically nothing toward the conservation of these funds or winding up of the tribal affairs except what has been forced upon him by this Congress.

The man, John G. Joyce, who is named in this bill, is one of the very few men who have been connected with Indian affairs in Oklahoma in the past against whom no charges of either incompetency or corruption have been lodged. His work has been clean. It has always been done expeditiously, and I believe even the authorities in charge of Indian affairs at Muskogee will give him a perfectly clean bill of health as to ability, competency, and integrity. The only objection that might be found to him, even by succeeding administrations, is that he is a rabid Republican.

Mr. MILLER. What was that adjective which the gentleman used?

Mr. CARTER. Rabid. I am speaking of an Oklahoma Indian official now; that might not apply to the gentleman from Minnesota.

Mr. MILLER. I never heard of a "rabid" Republican.

Mr. CARTER. The gentleman has not had the privilege of association with the Oklahoma brand. This gentleman, Mr. Joyce, is now in possession of all the information he needs, I think, to make the reappraisement of the agricultural and grazing lands. He has been over them recently and has surveyed them for appraisement purposes. I believe he could do it much more cheaply and much more expeditiously than anyone else could. I think the authorities at Muskogee would verify this statement.

Mr. MILLER. Will the gentleman yield right there?

Mr. CARTER. Yes.

Mr. MILLER. We have discussed this before. I presume it will go out on a point of order.

Mr. CARTER. I had hoped that it would not.

Mr. MILLER. I suppose the only advantage in this discussion is to get some information that will be of use in the future. As I stated when the gentleman was before the committee, it seemed to me that there were not sufficient records and data in Mr. Joyce's office to enable him to make this appraisal and report. It seems to me if anything is to be done to dispose of this very perplexing and sad matter, as the gentleman has characterized it, we ought to have some kind of a reappraisement, and some appropriation to permit the securing of additional data upon which to make the reappraisement. If I have not been correctly informed I shall be glad to have the gentleman discuss at some length the question of how much data Mr. Joyce has, and why he thinks he could now make such a reappraisement.

Mr. CARTER. Mr. Joyce has been over almost every acre of the land except that which is close enough to town sites to make it valuable for town-site purposes. He has already placed a valuation on practically all of the agricultural and grazing lands.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

Mr. CARTER. I ask for five minutes more.

The CHAIRMAN. Without objection, it is so ordered.

Mr. CARTER. I ask unanimous consent that I may have five minutes more.

Mr. STEPHENS of Texas. I have no objection, if we can close the debate at the end of the five minutes.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent for five minutes more, and the gentleman from Texas [Mr. STEPHENS] asks that at the end of that time the debate on this paragraph be closed. Is there objection?

There was no objection.

Mr. MILLER. Has he made an appraisement of some of these lands in the vicinity of South McAlester?

Mr. CARTER. I just said he has not appraised anything which is near enough to a town to be valuable for town-site purposes.

Mr. MILLER. The commissioners have performed some work that has brought criticism and hostility upon them, in the mat-

ter of appraising certain tracts of land near South McAlester. How could Mr. Joyce go ahead now and make an appraisement of such very valuable lands as these, which are the most valuable of the lands he would have to appraise, without getting some additional data? He certainly could not base his estimates on the report of the commissioners, because a prima facie case is made out against that report.

Mr. CARTER. There is already an appropriation of $30,000.

Mr. MILLER. Has it not all been used?

Mr. CARTER. I assume that about one-half of it has been used.

Mr. BURKE of South Dakota. The amount appropriated was $50,000.

Mr. CARTER. My recollection is that it was reduced to $30,000.

Mr. BURKE of South Dakota. My recollection is that $15,000 was expended by the appraisers, who did not accomplish anything.

Mr. CARTER. I think that is true, and that would leave $15,000 with which to complete the work.

Mr. MILLER. If $30,000 was needed in the first place to make the appraisement, and $15,000 was spent without accomplishing anything, how are you going to make $15,000 complete the appraisement?

Mr. CARTER. I think if the gentleman understood the character of the Oklahoma Indian officials he would know that one good man can always be depended upon to do the work in about one-third the time and for one-tenth the cost that three men can do it. I feel sure that if this man, who all agree is one of the most competent men in the Indian service, is given charge of this work that the work will be expeditiously, correctly, and economically completed for this sum.

Mr. MILLER. Will he have it done under his supervision and with additional machinery and time?

Mr. CARTER. If the point of order is withdrawn a committee amendment will be offered directing the work to be done by the surveyor in chief, under rules and regulations to be prescribed by the Secretary of the Interior. The omission of this language was an oversight.

Mr. MILLER. It has always been one of the fundamental beliefs that when you have an appraisal of real estate there should be three appraisers. In the laws of all the States providing for appraisement of lands, like guardianship cases, where land is taken for public purposes under eminent domain, and all matters of that kind, the provision is that there shall be three appraisers.

Mr. CARTER. That has not been true in Oklahoma. We only had two appraisers for the appraisal of the allotted lands. Furthermore, I call attention to the fact that every acre of this land has been appraised before, under the direction of the Secretary of the Interior, and that something like 3,000,000 acres of land has been sold under this original appraisement which these lands had at a past date; why, then, all this ado about additional appraisement?

Mr. BURKE of South Dakota. Will the gentleman permit one question?

Mr. CARTER. Certainly.

Mr. BURKE of South Dakota. Without particular reference to this item, I would like to ask the gentleman if he believes it is good legislation to name some particular individual to do something of this kind?

Mr. CARTER. The Secretary of the Interior has had his innings at the appointing of political henchmen to appraise these lands. He pondered and equivocated for almost two months, totally ignoring good Indian applicants who would have done the work conscientiously and expeditiously and who, since their salaries were drawn from the Indian funds, should have been given preference, finally letting his favor fall upon three men, all of whom have admitted their corruption by resigning under charges of fraud.

I would not object to striking out the name of John G. Joyce if that would satisfy the sensibilities of any Member, but I insist that this work must be done by some one who is competent and reliable, and such a man seems to have been utterly unable to find favor with the present powers that be.

It has now been almost a year since the appraisement of these lands was provided, and not one single acre has yet been offered for sale. How long, O Lord, will the present Republican administration hold up the settlement of the affairs of the Five Civilized Tribes and clog the wheels of commerce and progress in our State? What all the people of our State want—Indians and whites alike—is to get these appraisements and sales accomplished as quickly and as cheaply as possible and without any scandal, if you please, as to fraudulent appraisements. And unless some plan can be formulated which will give us assurance of this, then I think we might as well wait until after the 4th of March, when we hope to have a good business administration which will conduct its work upon the grounds of benefits to all the people rather than of satisfying the political organization of some particular party.

The CHAIRMAN. The time of the gentleman from Oklahoma has again expired.

Mr. MANN. Mr. Chairman, the item in the bill proposes to amend two existing laws. The law now provides that the appraisement and classification shall be completed by the 1st of last December, I think, by the appraisers appointed through the Interior Department by the Secretary of the Interior. It is proposed here to amend these laws so as to provide that the clasisfication and appraisement shall be made by a particular individual, not later than four months after the passage of this act. That, of course, extends the time for making the appraisement until the 1st of July, where it is now fixed by law as the 1st of December. I presume the appraisal ought to be made, if it has not been made. I can imagine that there are cases where Congress may specifically provide that a particular individual shall perform a certain function. Usually that is where everybody in the legislative body is familiar with the person named. With the greatest respect to my friend from Oklahoma who has suggested this name, I do not know whether his judgment in reference to this man is any better than that of the Secretary of the Interior in appointing the appraisers, and it seems to me it is not a wise change of law to provide, where the law authorizes the appointment of three men to make classification and appraisement, to name a particular individual and say that he shall make the classification and appraisement.

I have less hesitation in making this statement because the gentleman may get the next Secretary of the Interior, who will probably be under the thumb of the distinguished gentleman from Oklahoma, to do whatever he pleases.

Mr. CARTER. Will the gentleman yield?

Mr. MANN. Yes.

Mr. CARTER. Mr. Chairman, I do not desire to get anybody under my thumb. What I expect to do is to get out from under the thumb of the Secretary of the Interior.

Mr. MANN. I did not say that the gentleman would get anybody under his thumb. I said the distinguished gentlemen from Oklahoma would probably have the next Secretary of the Interior under their thumb to do the things like this. I make the point of order, Mr. Chairman.

The CHAIRMAN. The provision on its face proposes to amend existing law, and therefore is obnoxious to the rule. The point of order is therefore sustained.

The Clerk read as follows:

For support and education of 600 Indian pupils, including native pupils brought from Alaska, at the Indian school, Salem, Oreg., and for pay of superintendent, $102,000; for general repairs and improvements, $9,000; in all, $111,000.

Mr. HAWLEY. Mr. Chairman, I move to strike out of line 4, page 25, the sum "$9,000" and insert in lieu thereof "$15,000."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 25, line 4, by striking out "$9,000" and inserting in lieu thereof "$15,000."

Mr. STEPHENS of Texas. Mr. Chairman, I make a point of order.

Mr. HAWLEY. I submit that it is not subject to a point of order, as it is only an increase in the amount.

Mr. STEPHENS of Texas. I did not catch the purport of the amendment, and I will withdraw the point of order.

Mr. HAWLEY. Mr. Chairman, the purpose of this amendment, which increases the amount for repairs and improvements by $6,000, is to provide for an adequate water system and supply for the Chemawa Indian school, a school that has between 600 and 700 pupils and a number of employees. At my request the superintendent of the school wrote me a letter about the matter.

He said:

The wooden tower and tank now in service are worthless for the purposes for which they were erected many years ago. The tank has been out of service for about eight years, since which time it has not been used at all, but a small one, holding a few hundred barrels of water, located about 30 feet above ground, has been used in lieu thereof. The large one became contaminated in some way, and an analysis made this past fall for me by the chemist at the agricultural college at Corvallis showed that the water was reeking with typhoid germs. The tank is old, and as this condition has obtained for years, it was the opinion of the chemist that it could not be cleaned in such a manner as to render it safe for storing water again. The wooden tower is unsafe, the sills and timber being unsound, and the cost of rebuilding it would be so great that as a matter of economy and good business judgment a new steel tower of adequate height to afford fire protection should be erected. So far as the water system is concerned we are practically without any fire protection, which in a plant of this size, where most of the buildings are of wood, renders the situation serious. We need to have two more wells driven

in addition to those now in service. The water is of splendid quality, but the wells we now have are to small and not deep enough for the demands being made upon them.

Mr. FOSTER. Mr. Chairman, will the gentleman permit a question?

Mr. HAWLEY. Yes; with pleasure.

Mr. FOSTER. Where is the source of the supply of water for the town of Salem, Oreg?

Mr. HAWLEY. From a bulkhead in the river, just a little above the town.

Mr. FOSTER. Is that water used for drinking purposes?

Mr. HAWLEY. In Salem?

Mr. FOSTER. Yes.

Mr. HAWLEY. It is.

Mr. FOSTER. Has there been any complaint in reference to the water that is pumped from the river there which goes to the people of Salem?

Mr. HAWLEY. From time to time there is an occasional complaint.

Mr. FOSTER. Why is it not more economical to get that water from the city of Salem than to do as the gentleman suggests?

Mr. HAWLEY. They would have to build a pipe line for about 6 miles.

Mr. FOSTER. Is it 6 miles from Salem?

Mr. HAWLEY. Yes; and the right of way would cost many times this amount, I take it, in addition to the material and labor necessary for the construction of the pipe line. They have drilled some good deep wells and they can drill others, at moderate cost, and they can, by putting in a new pump and a new steel tank, and doing away with this tank, get an adequate water supply for the use of the school which will be entirely healthful to the Indian children. It will furthermore provide a protection against fire. Many of the buildings are old. They have some hundreds of boys and girls in them. Some are wooden buildings, and they can not get water into the second story of the buildings at the present time, in any quantity, with the system they now have. It seems to me that upon the ground of humanity and economy and of necessity this small addition to the appropriation ought to be made.

Mr. FOSTER. How far is this school from the river?

Mr. HAWLEY. That would only be a matter of guess. I would guess 2 or 3 miles.

Mr. STEPHENS of Texas. Mr. Chairman, I desire to state that two months ago I visited this school, among others on the Pacific coast. I found this an excellent school. The repairs to this water tower and tank are necessary. It was my understanding and the paper I have in my hand shows that the repairs and improvements were estimated at $10,000. We gave them $9,000, and the superintendent informed me that the main improvement they needed there was this water tank. As stated by the gentleman from Oregon, it is in bad condition, and I think that a new steel tower should be put up and the old one taken down.

Mr. HAWLEY. Is it the gentleman's opinion that this $9,000 appropriated here provides for this water tank?

Mr. STEPHENS of Texas. "General repair and improvement." That will be sufficient, in my judgment. I do not think there is any question about that. They would have a right to use that to take down the old one and put up a new one.

Mr. HAWLEY. Will the gentleman further yield?

Mr. STEPHENS of Texas. Certainly.

Mr. HAWLEY. In the book here which the committee has for its information in preparing this bill I find this statement:

> The superintendent has estimated for necessary repairs $10,000.

That would not include the purchase of the new pump and motor, the new steel tank, the steel for the frame of the tank, and the drilling of the wells. That would leave only $3,000 for the repairs of all kind, and on so large a plant as that it would be manifestly inadequate.

Mr. STEPHENS of Texas. I was informed that the well was sufficient, and that the trouble was with the tank. They said the tank and supports for the tank. That is possibly 50 feet high.

Mr. HAWLEY. They have a little tank that is just 30 feet above the ground, not high enough for protection. The well they have will fill the present tank. If a sufficiently large tank is provided, and they have to have at least one good additional well, a good service will be provided.

Mr. STEPHENS of Texas. I was not informed in regard to that.

Mr. HAWLEY. I went over the ground just a few days after the gentleman did and went particularly into the items.

Mr. STEPHENS of Texas. Was the gentleman with the superintendent?

Mr. HAWLEY. I was with the superintendent and some of the other officers of the school.

Mr. STEPHENS of Texas. This was pointed out to me as the main improvement which they desired. However, they said that on the south side of the road they desired to increase the chapel, or the general assembly hall, to add about 40 feet onto the building. That was the second request that he made.

Mr. HAWLEY. I am interested now in the adequate water supply for these students, and I hope the gentleman will let the proposed small increase be passed by the committee.

Mr. STEPHENS of Texas. Mr. Chairman, I think the statement here, for repairs and improvements, $10,000, certainly estimated for that water tank. I would be willing to strike out $9,000 and insert $10,000. That is all they asked for.

Mr. HAWLEY. The statement given here is for necessary repairs, $10,000.

Mr. STEPHENS of Texas. Suppose we add the words "including water tank."

Mr. HAWLEY. Would that provide the necessary money?

Mr. STEPHENS of Texas. I think so. I think there will be sufficient for that, but I am willing to include that language.

Mr. HAWLEY. Why not let the entire amount of $6,000 go in, but limit it by the language "or so much thereof as may be necessary"?

Mr. STEPHENS of Texas. Nine thousand dollars is carried in the bill now.

Mr. HAWLEY. That would make $15,000 in all.

Mr. STEPHENS of Texas. I think that would be in excess of the demands that were stated to me as being necessary.

Mr. HAWLEY. The superintendent of the school, in a direct reply to a telegraphic inquiry from me, writes this letter, and he sends me a telegram that the total estimate and cost of this particular improvement would be $6,000, and that the need is urgent.

Mr. STEPHENS of Texas. He did not mention whether or not he intended to use any of the other fund, did he?

Mr. HAWLEY. I do not think he was advised.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. STEPHENS of Texas. Yes.

Mr. MANN. I see the superintendent estimated $10,000 for repairs and improvements and $14,500 for the building.

Mr. STEPHENS of Texas. That is correct.

Mr. MANN. Of course the buildings are not provided for in the bill.

Mr. STEPHENS of Texas. No; the building was to be an addition to the hall on the south side of the road.

Mr. MANN. Perhaps the term "buildings" there included also the building of the water tower. That is the reason of my inquiry.

Mr. STEPHENS of Texas. It might be that.

Mr. HAWLEY. The term "buildings" includes an office building, a physician's cottage, and two employees' cottages.

Mr. MANN. The superintendent's estimate for repairs and improvements is $10,000. That included the watering tank if it is not included in "buildings."

Mr. STEPHENS of Texas. I would be willing, Mr. Chairman, to let the amount be $12,000, and we can arrange the matter herafter if necessary.

Mr. HAWLEY. Mr. Chairman, I will therefore modify my amendment so that $12,000 will be appropriated in this item instead of nine thousand, so providing for the water system.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

> Page 26, line 4, strike out the figures "9,000" and insert in lieu thereof "12,000."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent to correct the totals.

The CHAIRMAN. That will be done.

Mr. MOORE of Pennsylvania. Mr. Chairman, have we passed the Pennsylvania item?

Mr. STEPHENS of Texas. There is no change made in the Pennsylvania item.

Mr. MOORE of Pennsylvania. There is no change?

Mr. STEPHENS of Texas. No.

Mr. MOORE of Pennsylvania. Then, Mr. Speaker, I ask the indulgence of the committee for one moment while I call attention to a speech in to-day's CONGRESSIONAL RECORD, on page 1087, by my distinguished colleague, the gentleman from Pennsylvania [Mr. OLMSTED]. We are considering the Indian appropriation bill and have just passed an item relating to the Carlisle Indian School, in which Mr. OLMSTED has been interested during his 16 years of service in this House. I know

of no man in the Pennsylvania delegation who has found a warmer place in the hearts of the Members of the House, or who has so endeared himself to the Pennsylvania Members as this distinguished Representative. [Applause.]

I observe with considerable regret that the speech, which I hope is not the swan song of the gentleman from Pennsylvania, starts out in its references to the Carlisle School by indicating that this is the last time he shall appear in Congress in its behalf. Mr. OLMSTED has been the devoted champion of the Carlisle School during the long period of his Membership here, and has stood by it through thick and thin, and in the stress of fair as well as of foul legislative weather.

The Indian school at Carlisle is one of those institutions of the Government of which we have a right to be proud, and the people of Pennsylvania are surely proud of the attitude which Mr. OLMSTED has taken with regard to it throughout his congressional career. And may I be permitted to speak of the references in his speech, to the characteristics of the students, both boys and girls, who have gone forth from that school, concerning some of whom I have had personal knowledge. They have developed well and have been a credit to the institution in which they were reared and have justified the attitude of the Government in making the expenditures it has made to thus improve the educational condition of these its wards.

I notice, too, that my colleague, Mr. OLMSTED, refers to some of those athletic qualities of the young men who have gone forth from this school; boys who have attained fame in the great field of baseball, and who have developed in the equally interesting field of football, and to one who has recently come through an international contest as champion of all the athletes in the world.

I recall that in this House not many months ago there sat a boy of his, the junior Marlin E. Olmsted, in whom, perhaps, he is more interested than in any other person in the world, except the fair lady who presides over his household, and that it was about the very time when the Indians were making a successful campaign in baseball. I overheard the lad, looking into the face of our distinguished colleague, say, "Father, is it not time that you should leave this House and go with me to the ball field?" The father, reluctant to leave his post of duty, said, "My boy, I can not go now; it is necessary for me to remain and save the country." And then the bright lad, looking anxiously into his father's kindly countenance, said, "Oh, shucks! Why not leave the salvation of the country to Mr. MANN?" [Laughter.]

We have reached a stage in the proceedings and a stage in the career of my distinguished colleague when we are almost about to say good-by. He has said good-by to the Carlisle School. He has left it in our keeping. And after he has gone back to private life and the practice of the law, where he will shine even more brilliantly than he did in this House, may we not intrust to Mr. MANN and the other saviors of our country the preservation and the perpetuation of the Carlisle Indian School? [Applause.]

The Clerk read as follows:

For support of Sioux of different tribes, including Santee Sioux of Nebraska, North Dakota, and South Dakota: For pay of 5 teachers, 1 physician, 1 carpenter, 1 miller, 1 engineer, 2 farmers, and 1 blacksmith (art. 13, treaty of Apr. 29, 1868), $10,400; for pay of second blacksmith, and furnishing iron, steel, and other material (art. 8 of same treaty), $1,600; for pay of additional employees at the several agencies for the Sioux in Nebraska, North Dakota, and South Dakota, $95,000; for subsistence of the Sioux, other than the Rosebud, Cheyenne, and Standing Rock Tribes, and for purposes of their civilization (act of Feb. 28, 1877), $200,000: *Provided*, That this sum shall include transportation of supplies from the termination of railroad or steamboat transportation, and in this service Indians shall be employed whenever practicable; in all, $307,000.

Mr. FOSTER. Mr. Chairman, I reserve a point of order.

Mr. FOWLER. Mr. Chairman, I reserve a point of order.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent to insert the word "River" after the word "Cheyenne," in line 3, page 21.

Mr. FOWLER. Mr. Chairman, I reserve a point of order against this paragraph for the purpose of asking the chairman of this committee by what authority of law this appropriation is requested. In fact, I desire to ask the chairman if it is not a fact that on April 29, 1868, there was a treaty made between the United States and this tribe of Indians—the Sioux—with a limitation of 20 years; and I desire further to inquire if on March 2, 1899, this treaty was not renewed between the United States and this tribe of Indians, with a limitation of 20 years? I further desire to inquire if this treaty did not expire on March 2, 1909, and is not the request in this bill for this appropriation without any authority whatever?

Mr. BURKE of South Dakota. Mr. Chairman, I hope the gentleman from Texas will yield to me, as the inquiry covers practically the whole history of the Sioux Indians.

Mr. STEPHENS of Texas. Yes; I yield to the gentleman. The question refers to the gentleman's own State and district.

Mr. BURKE of South Dakota. I will say to the gentleman from Illinois that the treaty of 1868 was limited to 20 years. A treaty was made with the Sioux Tribes in 1889 by which they ceded about 9,000,000 acres of land to the Government, and the balance of their reservation was divided into separate reservations, there being the Standing Rock, the Cheyenne River, the Rosebud, the Pine Ridge, the Crow Creek, and the Lower Brule Tribes. The treaty of 1889 in some particulars was limited to 20 years. The gentleman is right about that. But, Mr. Chairman, there is a treaty, made in 1877, that is unlimited. I have referred to it on other occasions in this House as being probably the best treaty from the Indian standpoint that was ever made with any tribe of Indians in this country, because it was not limited as to time, and under the treaty of 1877, at the time that the Black Hills were ceded to the United States, it was provided that the United States guaranteed in perpetuity to provide these Indians with subsistence, to provide them with the means of education and civilization until such time as they should be self-supporting.

So I say it is the best treaty in regard to the provisions for the subsistence, support, and civilization of Indians that has ever been made.

Mr. FOWLER. Mr. Chairman, may I inquire about the treaty of 1877? Did not that refer to the treaty of 1868, and was it not to be governed by the terms of that treaty?

Mr. BURKE of South Dakota. It had no reference to it whatever, Mr. Chairman, and was a separate and distinct treaty by itself.

I want to call the gentleman's attention to what has actually transpired under the treaty of 1877, and I may say in passing that the Indians in the last couple of years have been very much discontented and dissatisfied over the cession of the Black Hills and are now trying to repudiate the treaty of 1877 on the ground that it was not executed in accordance with the provisions of the treaty of 1868, in that it was not signed by three-fourths of the adult male members of the tribe. They think that they did not get an adequate consideration for the lands that were ceded by that treaty. They overlook the fact that they did receive a large sum of money, because we guaranteed, as I have stated, to provide them with subsistence for all time. When I came to Congress, only a few years ago, we were annually appropriating $900,000 for the item which is now $200,000, for the support and civilization of the Sioux under the treaty of 1877.

Now, the gentleman may wonder how we have been able to reduce the amount, and I am going to explain how it was done. In the treaty of 1889 it was provided that after the allotments of lands were made the surplus lands should be sold and the money should go into the Treasury and be subject to appropriation by Congress for the support and civilization of the tribes.

We have had several land openings, one affecting the Cheyenne River, one the Standing Rock, and two or three the Rosebud, so that in making the appropriation this year we make no provision for those three tribes of Indians, and we are now supporting them and providing them with subsistence out of the moneys that were received from the sale of their lands.

But as to the question of authority for the appropriation, I can only answer the gentleman that the treaty of 1877 is still in full force and effect and has not been annulled.

Mr. FOWLER. The treaty of 1868 was in force at that time, was it not?

Mr. BURKE of South Dakota. It was at the time of the making of the treaty of 1877.

Mr. FOWLER. What was the necessity for it?

Mr. BURKE of South Dakota. I do not know what the necessity was.

Mr. FOWLER. What was the occasion for the renewal of the treaty of 1889, with the limitation of 20 years?

Mr. BURKE of South Dakota. I am unable to state what the need of it was. I am simply stating the fact that the obligation of the Government for all time to care for and support these Indians was in no manner modified by the treaty of 1889. That was in the treaty of 1877, and that treaty is to-day in full force and effect; and were it not for the fact that we have required that these three tribes, which comprise about two-thirds of the general Sioux Tribe, be supported out of the moneys that have come in from the sale of their lands, we would be appropriating to-day about a million dollars a year instead of $200,000.

Mr. FOWLER. If the treaty of 1877 was not to be construed with the treaty of 1868, why should the treaty of 1868 be extended in 1889?

Mr. BURKE of South Dakota. Well, I am unable to state why. I simply know that the treaty of 1889 was limited to 20 years in some of its provisions.

Mr. FOWLER. My recollection of the treaty of 1877 is that it did not deal with this question directly, independent of the treaty of 1868, but it was with some minor points connected with this treaty or with the subject matter with which the treaty of 1868 dealt directly.

Mr. BURKE of South Dakota. It guaranteed in perpetuity, perhaps, some of the requirement of the treaty of 1868 that were limited.

Mr. FOWLER. Now, Mr. Chairman, I desire, as my colleague, Dr. FOSTER, of Illinois, reserved a point of order, and as he has perhaps some questions regarding this treaty of 1877 to propound, to yield the floor to him.

Mr. FOSTER. Mr. Chairman, the only question in my mind with reference to this matter is whether the treaty of 1868, which ran for 20 years and then was renewed for 20 years more, is in effect now or has expired.

Mr. BURKE of South Dakota. The treaty of 1889, I will say to the gentleman, has expired, and I think everything in the treaty of 1868 has expired except as it might have been specifically extended by the treaty of 1877. But the treaty of 1877 is not limited as to time.

Mr. FOSTER. In any particular?

Mr. BURKE of South Dakota. I would not say in any particular at all, but as to time it is not limited, with perhaps this exception, that the obligation was until such time as the Indians would become self-supporting.

Mr. FOSTER. Then what is the gentleman's idea of the law of 1889?

Mr. BURKE of South Dakota. I will say to the gentleman that there are two separate and distinct considerations for the two treaties. The treaty of 1877 ceded to the United States the Black Hills, and the treaty of 1889 ceded, in round numbers, 9,000,000 acres, leaving the Indians about 11,000,000 acres, which was divided into the separate reservations which I have named.

Mr. FOSTER. It occurs to me that it is a question whether this act of 1877 did cover the support of these Indians. That is the only question in my mind about this matter.

Mr. BURKE of South Dakota. I will say to the gentleman that I do not think there is any question about it. I have looked it up on several occasions. Of course, the gentleman will take into consideration the fact that there are over 20,000 Indians, and that if there was no treaty obligation whatever we would be very fortunate if we were escaping with an appropriation no larger than the one we are making. If it was a gratuity, like every other gratuity appropriation it would be subject to a point of order; but so far as the Sioux of South Dakota are concerned, we are making appropriations in accordance with the obligation incurred by reason of the treaty of 1877, which is the one that authorizes this appropriation.

Mr. FOSTER. Mr. Chairman, I think I shall make the point of order and let the Chair decide it.

Mr. BURKE of South Dakota. If the gentleman will withhold his point of order just a moment, I will ask him, in perfect good faith, if he believed that there was no authority whatever for making this appropriation would he make a point of order and leave these Indians without any protection, so far as the Federal Government is concerned? I am assuming now that there is no authority for the appropriation. Would the gentleman do that to 20,000 Indians?

Mr. FOSTER. How are these Indians situated in reference to their own property?

Mr. BURKE of South Dakota. The Indians have allotments, and very liberal ones, as I have heretofore stated. The land is only fit practically for grazing purposes, each head of a family has 640 acres, but it is mostly unproductive.

Mr. FOSTER. And they have some money in the United States Treasury?

Mr. BURKE of South Dakota. They have a trust fund of $3,000,000.

Mr. FOSTER. It seems to me that on yesterday I heard the gentleman say that the less the Indians were left to depend on the Government the better it would be for them and the more civilizing influence it would have.

Mr. BURKE of South Dakota. Yes; and I will say to the gentleman that I have found a way by which we could take care of the greater part of these Indians out of moneys that have gone into the Treasury to their credit, and I believe it is a better use to make of that money to appropriate it and expend it for their civilization rather than to civilize and educate them at the expense of the United States and store up a great fund to be disbursed at some future time.

Mr. FOSTER. Does not the gentleman think this might be a good place to put his idea into operation as to what ought to be done for the Indians? Will not the Indians be made self-reliant in South Dakota by acting in accordance with the gentleman's idea?

Mr. BURKE of South Dakota. I do not think the gentleman from Illinois [Mr. FOSTER] is sincere when he intimates that "the gentleman from South Dakota" has ever in any way indicated that he would withdraw the protection of the Government from the Indian until he has reached that stage of civilization where he is able to take care of himself.

Mr. FOSTER. It occurs to me that yesterday the gentleman did not qualify his statement in the way he does to-day.

Mr. BURKE of South Dakota. The remark I made is in the RECORD, and the gentleman can read it for himself.

Mr. FOSTER. Yesterday the gentleman wanted to get a reservation sold, and one of the reasons he mentioned was that it was a bad thing for the Indian to make him feel that there was something coming to him from the United States Government.

Mr. BURKE of South Dakota. Indefinitely.

Mr. FOSTER. That he ought to be made self-reliant. Now, to-day the gentleman comes to the House and asks Congress to appropriate for the support of these Indians.

Mr. BURKE of South Dakota. The gentleman is entirely mistaken. I do not come to the House with it. The bill is brought here by the committee.

Mr. FOSTER. I mean, the gentleman is advocating the proposition that this appropriation is proper and right.

Mr. BURKE of South Dakota. Yes; certainly.

Mr. FOSTER. That is the better way to put it. Now, does not the gentleman think it would be a good thing to begin in South Dakota to carry out the gentleman's scheme of making the Indians self-reliant?

Mr. BURKE of South Dakota. I think we have perhaps made as much progress in the civilization of the Indians in South Dakota as in any other part of the country.

Mr. FOSTER. I do not doubt that.

Mr. BURKE of South Dakota. I have stated heretofore, and I now reiterate, that just as soon as the Indian reaches a point where he is competent to take care of himself, then, I say, the sooner we withdraw all Federal aid or supervision of his affairs the better for him.

Mr. FOSTER. Does the gentleman from South Dakota think we are very much nearer to it than we were the first time that he entered this House as a Member?

Mr. BURKE of South Dakota. I certainly think so.

Mr. FOSTER. I make the point of order, Mr. Chairman, that this is not authorized by law, as the treaty of 1868 expired and was renewed for 20 years, and then became effective for 20 years more, is not in effect now.

The CHAIRMAN. The Chair will call upon the committee to produce the law which supports the amendment.

Mr. BURKE of South Dakota. I have called the attention of the Chair to the treaty of 1877.

The CHAIRMAN. Does the treaty of 1877 provide for the employment of Indians, as contemplated by this amendment?

Mr. BURKE of South Dakota. I do not think the gentleman from Illinois makes the point of order that Indian labor shall be employed wherever possible. If he bases it on that, we will have to modify it. I presume he bases the point of order on the claim that there is no authority of law for the appropriation.

Mr. FOSTER. That there is no authority of law for the appropriation.

The CHAIRMAN. The Chair will call upon the committee, if they undertake to support the bill in this respect, to furnish him the authority of law upon which they rely.

Mr. BURKE of South Dakota. I will say to the Chair that here is an appropriation that has been made for years and years, and no Member has ever raised a point of order against it. If the point of order is insisted upon, as I assume it is, then I ask unanimous consent that the matter may be passed over until we can furnish the Chair with the authority that justifies the appropriation.

Mr. STEPHENS of Texas. I have no objection. We have to rise at 5 o'clock, and I think we ought to proceed with the bill as far as possible.

The CHAIRMAN. The gentleman from Texas asks that this particular provision of the bill may be passed over without prejudice, to be returned to at the pleasure of the committee. Is there objection?

There was no objection.

The Clerk read as follows:

For support and maintenance of day and industrial schools among the Sioux Indians, including the erection and repairs of school buildings, $200,000, to be expended under the agreement with said Indians in section 17 of the act of March 2, 1889, which agreement is hereby extended to and including June 30, 1914.

Mr. FOSTER. Mr. Chairman, I reserve a point of order to that item.

Mr. BURKE of South Dakota. I hope the gentleman from Illinois will reserve the point of order.

Mr. FOSTER. I want to say that in this bill we are appropriating money for schools. I do not know how much truth there may be in all the statements that are made, but I observe that it is claimed in an article that I saw in the New York Herald, in reference to Indian affairs, that there is a school in North Dakota which the commissioner has asked to be abandoned, and yet it is impossible to get it closed up.

Now, the gentleman from South Dakota is not only familiar with the situation in his State, but I take it that with his long service on the Committee on Indian Affairs he is conversant with the situation in North Dakota. I would like to ask the gentleman if there is any foundation for the statement that we are maintaining a lot of Indian schools, especially this one, appropriating for it, merely because it has been established, and like any other Government institution located in the community, it is very hard and almost impossible to get it abandoned?

Mr. BURKE of South Dakota. Mr. Chairman, I have not seen the article that the gentleman refers to so that I do not know to what school it refers. I presume it refers to the school at Wahpeton or at Bismarck, in North Dakota.

Mr. FOSTER. It is the school at Bismarck.

Mr. BURKE of South Dakota. I think the department on one or two occasions failed to estimate for the Bismarck school, and was opposed to the appropriation for its continuation. But the committee looked upon it differently and provided for it. This appropriation that the gentleman has raised the point of order against is entirely to be expended for the reservation schools. It has no reference to a nonreservation school, such as the one at Bismarck, N. Dak.

Mr. FOSTER. I wanted to get the gentleman's idea about the school at Bismarck. I happened to be called away when the item was passed and did not get an opportunity, or I should have moved to strike it out.

Mr. BURKE of South Dakota. Last year it was represented to the committee that the school at Fort Berthold, west of Bismarck, had been burned, and that Bismarck was located centrally so that the Indian pupils could be obtained from the several reservations, and that there was a need for its continuation, and that by continuing it we might avoid rebuilding the school where the one was burned. At any rate, the committee last year appropriated for the school, notwithstanding it was not estimated for. But my recollection is that this year the school was estimated for. That school was located originally at Bismarck against the judgment of the Indian Department, and it was done at the instance of the Representatives and Senators from that State who thought that there ought to be an Indian school at Bismarck, and one was provided. But that is in another State from my State.

Mr. FOSTER. It would be natural for the Commissioner of Indian Affairs to estimate for the school this year after he had refused to estimate for it and Congress had appropriated for it.

Now, another question. Does not the gentleman think that this is possibly a good time to spend some of this money in the Treasury for the education of the Indians and let them spend their own money to become self-reliant, as long as the gentleman from South Dakota believes in that policy?

Mr. BURKE of South Dakota. As far as the Sioux Indians are concerned, I think it will be admitted that largely at my instance the Federal Treasury has been relieved from the expense of several hundred thousand dollars annually in moneys that are necessary for the care and support of the Indians by taking it out of their own funds. I have gone to the extreme, and to such an extent that at the present time the Sioux Indians are not feeling very kindly toward me. They are human.

Mr. FOSTER. I am so far away from them that I do not think they can get at me.

Mr. BURKE of South Dakota. The gentleman from Illinois ought to realize that these are the real Indians of the country; they are not mixed bloods. Most of them are full bloods, and only a few years ago were blanket Indians. I am speaking of the Sioux.

Mr. FOSTER. Does not the gentleman think that the money that they have in the Treasury is sufficient to pay the expenses of their education?

Mr. BURKE of South Dakota. I will say to the gentleman from Illinois that there are two or three of the Sioux Tribes that have no money in the Treasury, except their interest in the $3,000,000 trust fund which bears 5 per cent interest, and half of that may be expended by the Secretary of the Interior for education.

Mr. FOSTER. Of course, I realize that this is a tribal school, and upon a better footing than some of the other schools.

Mr. BURKE of South Dakota. The item in the bill to which the gentleman raises the point of order contains no appropriation that is used for any school outside of the reservation.

Mr. FOSTER. I see that there is some merit in this that is not in some of the others, but in view of the fact that we have appropriated quite a large sum of money for other schools in South Dakota, unless we can get rid of some of the other schools I shall have to insist on letting this item go out.

Mr. BURKE of South Dakota. I would like unanimous consent to have this item passed, in order that we may furnish authority of law for the appropriation.

Mr. FERRIS. Mr. Chairman, reserving the right to object, we have heard with no little pleasure about the tremendous extravagance prevailing in the State of Oklahoma, and with no little patience about the rigid economy that has been practiced in South Dakota. I want to call attention to some of the unusual, fabulous economies prevailing in that remarkable State.

They have 20,352 Indians. They are worth $41,015,702.05. They receive in Federal moneys this year $646,500. The specific appropriations for specific schools with a little handful of Indians—20,000—as follows:

Flandreau, $60,500; Pierre, $42,000; Rapid City, $53,500. The Sioux get $207,000. The Sioux again get $200,000 in a separate paragraph, unless this point of order is sustained, and following down the bill the Yanktons get $14,000.

Now, Mr. Chairman, this is the situation in the State of Oklahoma. We have one school specifically provided for and only one. In the State of Oklahoma we have approximately 120,000 Indians. In the State of South Dakota they have 20,000 Indians. Here we have an item so patent that it is subject to a point of order, that it specifically prescribes that it shall be carried along for another year. The item that has been passed by unanimous consent is clearly subject to a point of order. In 1868 they provided a treaty, which was a fat one indeed, which lasted for 20 years. That carried it along until 1889. It was then extended for 20 more years. That has expired and four years have elapsed since that time. The treaty of 1877, conjured from somewhere, the Lord only knows, is intended to obviate both of these former treaties, but it does not do it. The treaty of 1877, in article 8, prescribes as follows:

> The provisions of said treaty in 1868, except that herein modified, shall continue in full force.

I read from the treaty of 1877, which reached back and subjects those Indians to the same limitations that the treaty of 1868 imposed upon them.

I do not know what the attitude of the Chair may be; I do not know what the attitude of the House may be; but I want to say here and now, with nearly all the Indians in the United States in our State, that I shall not sit here longer and have our State muckraked and hounded without letting this House know the true facts. Our State has nearly half the Indians in the whole country, and some of the provisions in the Oklahoma section of the bill read as follows. I refer now to the tribe of Indians that reside in the county in which I live. This is to pay the agents, to pay the help, to pay the people who administer the affairs of those Indians, usually appointments made strictly from a partisan standpoint. This is the language:

> The Secretary of the Interior is hereby authorized to withdraw from the Treasury of the United States, at his discretion, the sum of $25,000, or so much thereof as may be necessary, of the funds on deposit to the credit of the Kiowa, Comanche, and Apache Tribes of Indians in Oklahoma, for the support of the agency and pay of employees maintained for their benefit.

There are two sides to this question, and there are two good, strong sides to it. We withdraw the money from the Treasury that belongs to the Indians to pay the help in my State. The gentleman from South Dakota [Mr. BURKE] has every little one-horse school in his State provided for specifically, and lugs in two items embodying $507,000 that are gratituities and nothing more, with the treaties expired more than four years, and he asks that he should be considered the great economist in behalf of Indian Affairs in his State, and that everyone shall point the finger of scorn to our State where nearly all of the Indians in the country reside. [Applause.]

Mr. MANN. Mr. Chairman, the gentleman from South Dakota [Mr. BURKE] is probably undergoing the kind of punishment which some gentlemen on the other side of the aisle think they can administer to gentlemen who do not kotow to them. The gentleman from South Dakota [Mr. BURKE] has committed the crime of expressing his opinion upon the floor of the House concerning certain frauds committed by the people of Oklahoma in their courts and elsewhere. Thereupon the distinguished

gentleman from Oklahoma [Mr. FERRIS], for the purpose of coming back at the gentleman from South Dakota——

Mr. FERRIS. Mr. Chairman, will the gentleman yield?

Mr. MANN. In a moment—and endeavoring to teach him what punishment he will receive if he does not bow before the gentleman from Oklahoma, proceeds to assault an item in the Indian appropriation bill, which has been there for years, which was reported by the gentleman's own committee without any objection on his part.

Mr. FERRIS. Yes; but I did not know that the treaty had expired at that time. I know it now.

Mr. MANN. There are many things, Mr. Chairman, which the gentleman did not know, having served on the Committee on Indian Affairs for many years, that he ought to have known. He has reported this item for years without this knowledge. I am glad that he has learned something on that subject. He will probably learn a great deal more upon other subjects if he endeavors to follow this kind of course in the House.

Mr. FERRIS. And gentlemen on that side will learn something, too.

Mr. MANN. It seems items are not to be considered on their merits, but from the standpoint of endeavoring to punish gentlemen on this side of the House, or upon that, who do not bow before him.

Mr. FERRIS. Mr. Chairman, will the gentleman yield?

Mr. MANN. I suppose the gentleman is preparing in that way to become the chairman of the Committee on Public Lands?

Mr. FERRIS. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. FERRIS. Does the gentleman think it is punishing anybody to call the attention of the House to two provisions aggregating $507,000 that are carried on their face as treaty items when the treaties have expired? Is that punishing anybody?

Mr. MANN. Mr. Chairman, I think the purpose the gentleman has in view, having reported this bill himself from his committee, in calling attention to the matter at all is punishment, in an endeavor to deter gentlemen in the House from running against his wishes.

Mr. FERRIS. Not at all.

Mr. MANN. We will let that side of the House determine who shall be the chairman of the Committee on the Public Lands, but whoever is the chairman of the Committee on the Public Lands, or of any other committee of the House, will find, and gentlemen will find, that because some Member on the floor of the House properly calls attention to an item in some place which he believes ought not to be in the bill he can not, therefore, be punished by striking out items in which that particular gentleman may be interested. Even a Democratic administration will not stand for such unfair conduct as that.

Mr. FERRIS. Mr. Chairman, the gentleman, following his usual tactics, rises in his seat and seeks to chastise me as a member of the Committee on Indian Affairs because I call attention to two items which on their face are clearly subject to point of order; and not only that, but because I have called attention to two items which are being touted along in this bill as treaty items when, in fact, the treaty has expired. If the gentleman wanted to appropriate money gratuitously for these people, he should bring it in here as a gratuity. I did not know when this bill was considered in the committee that this item was subject to a point of order or I should have made the point at that time. I have since had it called to my attention. It has also been called to my attention upon the floor of the House. The gentleman from Illinois [Mr. FOWLER] and the gentleman from Illinois [Mr. FOSTER], from the gentleman's own State, make the point of order, and if the distinguished gentleman from Illinois [Mr. MANN] thinks that by badgering me and dragging in some reference to an outside and a wholly extrinsic matter he can close my mouth he is seriously mistaken.

Mr. MANN. Oh, I do not think anything could close the gentleman's mouth—not even his own head.

Mr. BURKE of South Dakota. Mr. Chairman, if the excitement has subsided, I renew my request that this item be passed along with the other item until we can have an opportunity to submit authorities to the Chair.

The CHAIRMAN (Mr. HAY). Is there objection to the request of the gentleman from South Dakota?

Mr. STEPHENS of Texas. Mr. Chairman, I have no objection.

Mr. FOWLER. Mr. Chairman, before this item is passed, I desire to say that I disclaim any idea of punishing any Member on the floor of this House in any way whatever, and if the reference of my genial colleague from Illinois [Mr. MANN] sought to include me as wanting to punish anybody, I desire to say to him in all candor that I have no disposition to punish any man on the floor of this House, here or elsewhere.

My action was prompted from a sincere desire to learn the facts. Being a new Member, and for the first time having had an opportunity to investigate these treaties, I sought to see in good faith as to whether there is any legal authority for this appropriation. And I say in conclusion, Mr. Chairman, that whenever I am accused of making any objection here other than in the interests of the people of the United States, I disclaim any such statement. [Applause.]

Mr. STEPHENS of Texas. Mr. Chairman, I yield to the gentleman from Oklahoma [Mr. CARTER] one minute.

Mr. CARTER. Mr. Chairman, I am surprised that my friend from Illinois [Mr. MANN] should take umbrage at the action of my colleague from Oklahoma [Mr. FERRIS] in the simple exercise of his right to call attention to provisions of this bill which might be subject to points of order. If the gentleman should apply this rule to himself, it would be necessary for this House to employ a professional scold to do the job.

The gentleman from Illinois [Mr. MANN] makes points of order regardless where the chips may fall. Many times have I and other Members been the victims of this gentleman's points of order on propositions of undisputed merit, as the gentleman himself will admit. Only this afternoon two propositions went out of this bill on points of order made by the gentleman from Illinois [Mr. MANN], one of them the item of $300,000 to aid the common schools of our State, the justice of which I do not think the gentleman himself will dispute. But now, because, forsooth, a gentleman from Oklahoma would simply point out similar provisions in the appropriations of some other State, the gentleman from Illinois feels called upon to read him a lecture on the good behavior of a Member of Congress.

It is passing strange, Mr. Chairman, that a gentleman of the usual astute fairness of the gentleman from Illinois [Mr. MANN] should take this partisan view of a Member's duty. It is more than passing strange that points of order made by that side of the House against the provisions of Members on this side are considered of such high merit and virtue, yet when the matter is reversed and a Member from this side presumes to even call attention to the fact that a provision defended by the gentleman on that side of the aisle is subject to a point of order it becomes a seething outrage sufficient to warrant the unjustified attack we have just heard made against my colleague, Mr. FERRIS.

Mr. STEPHENS of Texas. Mr. Chairman, I move that the committee do now rise, pending the points of order on the two last paragraphs.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 26874, the Indian appropriation bill, and had come to no resolution thereon.

Mr. STEPHENS of Texas. I yield sufficient time for the gentleman from Oklahoma [Mr. CARTER] to make a request.

Mr. CARTER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

ADJOURNMENT.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock p. m.) the House adjourned until Wednesday, January 8, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination of Lynnhaven River, Va., with a view of securing increased depth (H. Doc. No. 1244); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination of Savages Creek, Va., with a view to providing a suitable channel from Chesapeake Bay to Eastville (H. Doc. No. 1247); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

3. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Secretary of the Interior submitting estimate of appropriation to be expended in continuing the relief of the Apache Indians now confined as prisoners of war at Fort Sill Military Reservation, Okla. (H. Doc. No. 1249); to the Committee on Indian Affairs and ordered to be printed, with illustrations.

4. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of East and West Waterways, Seattle Harbor, Wash. (H. Doc. No. 1245); to the Committee on Rivers and Harbors and ordered to be printed.

5. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Nansemond River, Va., with a view to the cost of repairing and replacing dikes at or near the western branch (H. Doc. No. 1246); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

6. A letter from the Secretary of the Treasury, transmitting reports from accounting officers, showing what officers were delinquent in rendering accounts for the fiscal year ending June 30, 1912, and list of officers found indebted to the Government who had failed to pay same into the Treasury (H. Doc. No. 1248); to the Committee on Expenditures in the Treasury Department and ordered to be printed.

7. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Rhode Island at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. SLAYDEN, from the Committee on Military Affairs, to which was referred the joint resolution (S. J. Res. 119) authorizing the Secretary of War to receive for instruction at the United States Military Academy at West Point John C. Scholtz, a citizen of Venezuela, reported the same without amendment, accompanied by a report (No. 1280), which said resolution and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. TAYLOR of Alabama: A bill (H. R. 27781) to quiet title to lot 5, section 33, township 14, range 18 east, Noxubee County, Miss.; to the Committee on the Public Lands.

By Mr. HAWLEY: A bill (H. R. 27782) to create the Oregon Caves National Park; to the Committee on the Public Lands.

By Mr. ASHBROOK: A bill (H. R. 27783) providing for the purchase of a site for a public building at Millersburg, in the State of Ohio; to the Committee on Public Buildings and Grounds.

By Mr. HARDWICK: A bill (H. R. 27784) for the purpose of purchasing a site and the erection of a public building at Sandersville, Ga.; to the Committee on Public Buildings and Grounds.

By Mr. SAMUEL W. SMITH: A bill (H. R. 27785) to extend W Street NW. from Georgia Avenue to Florida Avenue, District of Columbia; to the Committee on the District of Columbia.

By Mr. STEPHENS of Texas: A bill (H. R. 27786) for the relief of Turtle Mountain Chippewa Indians, and for other purposes; to the Committee on Indian Affairs.

By Mr. O'SHAUNESSY: A bill (H. R. 27787) to amend section 13 of an act entitled "An act to promote the efficiency of the militia, and for other purposes"; to the Committee on Military Affairs.

Also, a bill (H. R. 27788) to amend section 1661 of the Revised Statutes, as amended by the acts of February 12, 1887, June 6, 1900, and June 22, 1906; to the Committee on Military Affairs.

By Mr. COVINGTON: A bill (H. R. 27789) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HAYDEN: A bill (H. R. 27790) opening the surplus and unallotted lands in the Colorado River Indian Reservation to settlement under the provisions of the Carey land acts, and for other purposes; to the Committee on Indian Affairs.

By Mr. CLAYTON: A bill (H. R. 27827) to amend section 70 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911; to the Committee on the Judiciary.

By Mr. GARRETT: Resolution (H. Res. 768) authorizing the Committee on Rules to investigate as to the advisability, practicability, and expense of installing some mechanical device for recording the vote of Members; to the Committee on Rules.

By Mr. STEPHENS of Texas: Joint resolution (H. J. Res. 378) concerning contracts with Indians of the Five Civilized Tribes; to the Committee on Indian Affairs.

By Mr. SLAYDEN: Joint resolution (H. J. Res. 379) authorizing the printing as a House document of an article entitled "Antityphoid Vaccination in the Army and in Civil Life"; to the Committee on Printing.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN: A bill (H. R. 27791) granting an increase of pension to Charles Miller; to the Committee on Invalid Pensions.

By Mr. BOOHER: A bill (H. R. 27792) for the relief of George Welty; to the Committee on Claims.

By Mr. BROWN: A bill (H. R. 27793) granting a pension to Mary E. Paugh; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27794) for the relief of the heirs of John M. Corley, deceased; to the Committee on War Claims.

By Mr. CANNON: A bill (H. R. 27795) for the relief of William H. Murphy; to the Committee on Military Affairs.

Also, a bill (H. R. 27796) granting an increase of pension to Caroline Bitterny; to the Committee on Invalid Pensions.

By Mr. CLINE: A bill (H. R. 27797) granting an increase of pension to John McLeod; to the Committee on Invalid Pensions.

By Mr. DRAPER: A bill (H. R. 27798) granting a pension to Katherine Reardon; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27799) granting a pension to Henry H. Lord; to the Committee on Pensions.

Also, a bill (H. R. 27800) granting a pension to George H. La Clair; to the Committee on Pensions.

Also, a bill (H. R. 27801) granting an increase of pension to Charles La Marsh; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27802) granting an increase of pension to George Merrill; to the Committee on Invalid Pensions.

By Mr. DYER: A bill (H. R. 27803) granting a pension to John G. Hunt; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27804) granting a pension to Horace Clive Gray; to the Committee on Pensions.

Also, a bill (H. R. 27805) granting an increase of pension to William H. Thomas; to the Committee on Invalid Pensions.

By Mr. ESCH: A bill (H. R. 27806) granting a pension to Mary MacArthur; to the Committee on Invalid Pensions.

By Mr. GOOD: A bill (H. R. 27807) granting a pension to Marcella Rowan; to the Committee on Invalid Pensions.

By Mr. GRAHAM: A bill (H. R. 27808) granting an increase of pension to James Anderson; to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 27809) granting an increase of pension to Robert N. Varley; to the Committee on Invalid Pensions.

By Mr. HOWELL: A bill (H. R. 27810) granting an increase of pension to Thomas S. Gunn; to the Committee on Pensions.

By Mr. JOHNSON of South Carolina: A bill (H. R. 27811) for the relief of John C. Hardeman; to the Committee on Claims.

By Mr. KENT: A bill (H. R. 27812) for the relief of Joseph A. Stevenson; to the Committee on Military Affairs.

By Mr. LEWIS: A bill (H. R. 27813) granting a pension to William Gurnett; to the Committee on Invalid Pensions.

By Mr. LITTLEPAGE: A bill (H. R. 27814) for the relief of Payton J. Boggs; to the Committee on Military Affairs.

Also, a bill (H. R. 27815) for the relief of the trustees of the Methodist Episcopal Church of Malden, W. Va.; to the Committee on War Claims.

By Mr. PALMER: A bill (H. R. 27816) granting a pension to Edward J. Hart; to the Committee on Pensions.

By Mr. PARRAN: A bill (H. R. 27817) granting a pension to Golda M. Morrison; to the Committee on Pensions.

By Mr. SMITH of New York: A bill (H. R. 27818) granting an increase of pension to William H. Chapman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27819) granting restoration of pension to Mary Wolbert, now Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27820) granting restoration of pension to Eliza Steele, now Riehl; to the Committee on Invalid Pensions.

By Mr. SAMUEL W. SMITH: A bill (H. R. 27821) granting a pension to John V. Gilbert; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27822) granting an increase of pension to Schuyler Van Tassell; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Ohio: A bill (H. R. 27823) granting an increase of pension to Olive B. Helms; to the Committee on Invalid Pensions.

By Mr. WHITE: A bill (H. R. 27824) granting an increase of pension to William E. Beymer; to the Committee on Invalid Pensions.

By Mr. WILSON of Illinois: A bill (H. R. 27825) granting a pension to Etta Gretter; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27826) granting an increase of pension to Cinderella Leversee; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALLEN: Petition of John T. Mack and other representatives of the Ohio daily newspapers, protesting against the passage of the publicity act of the Post Office appropriation bill, requiring all papers to publish lists of stockholders, indebtedness, etc.; to the Committee on the Post Office and Post Roads.

By Mr. ASHBROOK: Petition of the Pennsylvania Sealers' Conference at Harrisburg, Pa., favoring the passage of House bill 23113, fixing a standard barrel for the shipment of fruits, vegetables, etc.; to the Committee on Coinage, Weights, and Measures.

Also, petition of the Baltimore Clothing Co. and 17 other merchants of Uhrichsville, Ohio, favoring the passage of legislation giving the Interstate Commerce Commission further power toward controlling the express companies; to the Committee on the Judiciary.

By Mr. BOOHER: Petition of Rev. J. H. Weaver and 27 other citizens of Fairfax, Mo., favoring the passage of the Kenyon-Sheppard liquor bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of St. Joseph Division, No. 141, Order of Railway Conductors, protesting against the passage of House bill 20487, the workmen's compensation bill; to the Committee on the Judiciary.

By Mr. BORLAND: Petition of women of Missouri, asking that the act prohibiting the sale of light wine and beer on military reservations be repealed; to the Committee on Military Affairs.

By Mr. BROWN: Papers to accompany a bill granting a pension to Mary E. Paugh; to the Committee on Invalid Pensions.

Also, papers to accompany bill for the relief of heirs of John M. Corley; to the Committee on War Claims.

By Mr. CLARK of Florida: Petition of Rev. George A. Blount and other citizens of Bradford County, Fla., favoring the passage of the Kenyon liquor bill (S. 4043) preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. DRAPER: Petition of the State Camp of New York, Patriotic Order Sons of America, favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. DYER: Papers to accompany bill granting a pension to John G. Hunt; to the Committee on Pensions.

Also, petition of Lewis B. Miller, St. Louis, Mo., favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the Railway Business Association of New York, favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the Army and Navy Union of the United States of America, St. Louis, Mo., favoring the passage of House bill 19800, granting a pension to the veterans of the Indian wars; to the Committee on Pensions.

Also, papers to accompany the bill granting a pension to William H. Thomas; to the Committee on Invalid Pensions.

Also, papers to accompany the bill granting a pension to Horace Clive Gray; to the Committee on Pensions.

Also, papers to accompany the bill (H. R. 11071) granting a pension to Laura Hilgeman; to the Committee on Pensions.

Also, papers to accompany the bill (H. R. 10186) granting a pension to Anna Buhrman; to the Committee on Invalid Pensions.

By Mr. FULLER: Petition of William Dewatt, Monongahela, Pa., favoring the passage of House bill 1339, to increase the pensions of veterans who lost a limb in the Civil War; to the Committee on Invalid Pensions.

By Mr. GOLDFOGLE: Petition of the Grand Rapids Association of Commerce, Grand Rapids, Mich., favoring the passage of Senate bill 957, for the regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Maryland and District of Columbia Launderers' Association, favoring the passage of House bill 25085, requiring the labeling and tagging of all fabrics and articles of clothing intended for sale; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Lake Michigan Sanitary Association, Chicago, Ill., favoring the passage of legislation making an appropriation for the investigation of the pollution of the waters of the Great Lakes; to the Committee on Appropriations.

Also, petition of the general executive committee of the Railway Business Association of New York, favoring the passage of House bill 25105, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the Federation of Jewish Farmers of America, favoring the passage of legislation creating a system of farmers' credit unions; to the Committee on Banking and Currency.

Also, petition of the American Automobile Association, New York, favoring the passage of legislation giving Federal aid to good-road building; to the Committee on Agriculture.

By Mr. HELGESEN: Petition of citizens of over 20 towns of North Dakota, favoring the passage of the Kenyon liquor bill (H. R. 4043), to prevent the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. KINKAID of Nebraska: Petition of residents of Merna and Smithfield, Nebr., protesting against the passage of any bill enlarging the present parcel-post bill; to the Committee on the Post Office and Post Roads.

Also, petition of residents of 14 towns in the sixth district of Nebraska, favoring the passage of legislation requiring all concerns doing a mail-order business to contribute their share to the fund to develop the local community, the county, and the State; to the Committee on Interstate and Foreign Commerce.

By Mr. KINDRED: Petition of the New York Produce Exchange, New York, N. Y., and the general executive committee of the Railway Business Association, favoring the passage of House bill 25106, to incorporate the Chamber of Commerce of the United States of America under a Federal charter; to the Committee on the Judiciary.

By Mr. LEVY: Petition of the National Indian War Veterans, Denver, Colo., favoring the passage of legislation granting pensions to the veterans of the Indian wars; to the Committee on Pensions.

Also, petition of the Chamber of Commerce of the State of New York, protesting against the passage of Senate bill 7208, proposing several changes in the law of the United States relating to the carriage of cargo by sea; to the Committee on Interstate and Foreign Commerce.

By Mr. MOTT: Petition of the National Indian War Veterans, Denver, Colo., favoring the passage of bill granting pensions to veterans of the Indian wars; to the Committee on Pensions.

Also, petition of the New York Civic League, favoring the passage of legislation prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the Federation of Jewish Farmers of America, favoring the passage of legislation creating a system of farmers' credit unions; to the Committee on Banking and Currency.

Also, petition of the Vermont Association of Sealers of Weights and Measures, and the Pennsylvania Sealers' Conference, Harrisburg, Pa., favoring the passage of House bill 23113, fixing a standard barrel for the shipment of fruits, vegetables, etc.; to the Committee on Ways and Means.

Also, petition of the Railway Business Association, New York, and the Chamber of Commerce of the United States of America, Washington, D. C., favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the Association of National Advertising Managers, protesting against the passage of section 2 of the Oldfield patent bill prohibiting the fixing of prices by manufacturers of patent goods; to the Committee on Patents.

Also, petition of residents of Watertown, N. Y., favoring the passage of House bill 26277, to establish a United States court of patent appeals; to the Committee on Patents.

By Mr. REILLY: Petition of the Vermont Association of Sealers of Weights and Measures, favoring the passage of bill fixing a standard barrel for fruits, vegetables, etc.; to the Committee on Ways and Means.

Also, petition of the National Indian War Veterans, Denver, Colo., favoring the passage of legislation granting pension to veterans of the Indian wars; to the Committee on Pensions.

By Mr. TILSON: Petition of the general executive committee of the Railway Business Association, favoring the passage of House bill 25106, granting a Federal charter to the Chamber of

Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the board of agriculture of the State of Connecticut, protesting against the passage of any legislation reducing the present tax on oleomargarine; to the Committee on Agriculture.

By Mr. TOWNER: Petition of the Woman's Christian Temperance Union and 300 citizens of Allenton, Iowa, favoring the passage of the Kenyon "red light" injunction bill to clean up Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. WICKERSHAM: Petition of residents of Ketchikan, Alaska, favoring the passage of legislation to prevent the setting of fish traps in the tidal waters of Alaska; to the Committee on the Territories.

SENATE.

WEDNESDAY, *January 8, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Journal of yesterday's proceedings was read and approved.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore (Mr. BACON) laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, authentic copies of the certificates of ascertainment of electors for President and Vice President appointed in the States of South Dakota and Washington at the elections held in those States November 5, 1912, which were ordered to be filed.

CONTINGENT EXPENSES, TERRITORY OF ALASKA (S. DOC. NO. 995).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of the Interior submitting a revised estimate of appropriation for contingent expenses, Territory of Alaska, for the fiscal year ending June 30, 1914, in the sum of $9,745, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

HANOVER BAPTIST CHURCH OF VIRGINIA v. UNITED STATES (S. DOC. NO. 996.)

The PRESIDENT pro tempore laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact and conclusion filed by the court in the cause of the Trustees of the Hanover Baptist Church, of King George County, Va., *v.* United States, which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed.

IMPEACHMENT OF ROBERT W. ARCHBALD.

Mr. CLARK of Wyoming. I introduce the order which I send to the desk.

The PRESIDENT pro tempore. The order will be read.

The order was read, as follows:

Ordered, That on this day, and until otherwise ordered, the daily sittings of the Senate in the trial of impeachment of Robert W. Archbald, additional circuit judge of the United States, shall commence at 1 o'clock in the afternoon and continue until 6 o'clock in the afternoon.

The PRESIDENT pro tempore. Without objection, the order will be considered as made by the Senate.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented the memorial of Rev. James A. McFaul, bishop of Trenton, N. J., remonstrating against the adoption of the proposed literacy test for immigrants, which was referred to the Committee on Immigration.

Mr. KERN presented a resolution adopted by the Indiana conference of the Methodist Episcopal Church, in session at Jeffersonville, Ind., favoring the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. WARREN presented resolutions adopted by the Fremont County Wool Growers' Association, of Wyoming, favoring the enactment of legislation authorizing cooperation with the several States for the extermination of wild predatory animals, which were referred to the Committee on Agriculture and Forestry.

Mr. OLIVER presented a petition of sundry citizens of Penns Park, Pa., and a petition of members of the Erie Methodist Episcopal Conference, of Erie, Pa., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. JOHNSON of Maine (for Mr. GARDNER) presented petitions of members of the Men's Bible Class of the Free Baptist Church, Island Falls; of members of Cumberland District Lodge of Good Templars, of Portland; and of sundry citizens of Farmington, South China, and North Anson, all in the State of Maine, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a memorial of sundry citizens of Portland, Me., remonstrating against the enactment of legislation to further restrict immigration, which was referred to the Committee on Immigration.

Mr. WETMORE presented a petition of members of the Rhode Island State Federation of Women's Clubs, praying for the passage of the so-called Page vocational education bill, which was ordered to lie on the table.

AGRICULTURAL ENTRIES ON COAL LANDS.

Mr. CLAPP, from the Committee on Indian Affairs, to which was referred the bill (S. 7976) to amend section 1 of an act entitled "An act to provide for agricultural entries on coal lands," approved June 22, 1910, asked to be discharged from its further consideration and that it be referred to the Committee on Public Lands, which was agreed to.

THE JUDICIAL CODE.

Mr. CLARK of Wyoming. Under the direction of the Committee on the Judiciary, and pursuant to law, I submit from that committee the Judicial Code of the United States in force January 1, 1912, annotated; and in connection therewith I report a concurrent resolution providing for the printing of the code, which I ask may be read, and, together with the manuscript, referred to the Committee on Printing.

The concurrent resolution (S. Con. Res. 34) was read, and, with the accompanying manuscript, referred to the Committee on Printing, as follows:

Resolved by the Senate (the House of Representatives concurring), That there be printed 25,000 copies of the Judicial Code of the United States prepared under the direction of the Judiciary Committee of the Senate, 10,000 copies of which shall be for the use of the Senate and 15,000 for the use of the House of Representatives.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BORAH:

A bill (S. 8021) extending the number of annual payments to entrymen upon reclamation projects; to the Committee on Irrigation and Reclamation of Arid Lands.

A bill (S. 8022) granting an increase of pension to Harman Eastman (with accompanying paper); and

A bill (S. 8023) granting a pension to Mary Coleman (with accompanying paper); to the Committee on Pensions.

By Mr. KERN:

A bill (S. 8024) granting an increase of pension to Wilson Wells (with accompanying papers); and

A bill (S. 8025) granting an increase of pension to Edward W. Anderson (with accompanying paper); to the Committee on Pensions.

By Mr. TOWNSEND (for Mr. SMITH of Michigan):

A bill (S. 8026) granting a pension to Allen B. Be Dell; to the Committee on Pensions.

A bill (S. 8027) to remove the charge of desertion from the military record of Henry Fuller; to the Committee on Military Affairs.

By Mr. BURNHAM:

A bill (S. 8028) for the relief of the legal representatives of the estate of Henry H. Sibley, deceased; to the Committee on Claims.

By Mr. CATRON:

A bill (S. 8029) for the relief of Frank L. Rael, heir of Francisco Rael, deceased; to the Committee on Claims.

By Mr. SWANSON:

A bill (S. 8030) for the construction of a public building at Warrenton, Va.; to the Committee on Public Buildings and Grounds.

By Mr. O'GORMAN:

A bill (S. 8031) providing for the presentation of medals to all surviving soldiers of the Battle of Gettysburg; to the Committee on Military Affairs.

By Mr. JOHNSON of Maine:

A bill (S. 8032) for the relief of Walter Whitney (with accompanying papers); to the Committee on Military Affairs.

By Mr. BRANDEGEE:

A bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut; to the Committee on Commerce.

By Mr. GALLINGER:

A joint resolution (S. J. Res. 148) authorizing the granting of permits to the committee on inaugural ceremonies on the oc-

casion of the inauguration of the President-elect on March 4, 1913, etc.; to the Committee on Public Buildings and Grounds.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. BURTON submitted an amendment proposing to appropriate $640 for the installation of mail chutes in the public building at Cleveland, Ohio, intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. WARREN submitted an amendment proposing to appropriate $200,000 to enable the Secretary of Agriculture to cooperate with any State or States which shall have provided by law for the destruction of predatory wild animals and in which national forests are located, etc., intended to be proposed by him to the Agricultural appropriation bill, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

Mr. JONES submitted an amendment proposing to authorize the Secretary of the Interior to make allotments under the general-allotment act of the lands they are now occupying in the county of Pend Oreille, in the State of Washington, to the Kalispel Indians, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

STANDING ROCK INDIAN RESERVATION.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 109) to authorize the sale and disposition of the surplus and unallotted lands in the Standing Rock Indian Reservation, in the States of South Dakota and North Dakota, and making appropriation and provision to carry the same into effect, which was to strike out all after the enacting clause and insert:

That the Secretary of the Interior be, and he is hereby, authorized and directed, as hereinafter provided, to sell and dispose of all that portion of the Standing Rock Indian Reservation, in the States of South Dakota and North Dakota, lying and being within the following-described boundaries, to wit: Commencing at a point in the center of the main channel of the Missouri River where the township line between townships 18 and 19 north intersects the same; thence west on said township line to a point where the range line between ranges 22 and 23 east intersects the same; thence north along the said range line to the northwest corner of section 19, in township 21 north, of range 23 east; thence east on the section line north of sections 19, 20, 21, 22, 23, and 24 to a point where the same intersects the range line between ranges 23 and 24 east; thence north along said range line to a point where the same intersects the State line between the States of South Dakota and North Dakota; thence west on said State line to a point where the range line between ranges 84 and 85 west in North Dakota intersects the same; thence north on said range line between ranges 84 and 85 west to a point where it intersects the center of the main channel of the Cannon Ball River; thence in a northeasterly direction down and along the center of the main channel of said Cannon Ball River to a point where it intersects the center of the main channel of the Missouri River; thence in a southerly direction along the center of the main channel of the said Missouri River to the place of beginning, and including also entirely all islands, if any, in said river, except such portions thereof as have been allotted to Indians: *Provided*, That sections 16 and 36 of the lands in each township therein shall not be disposed of, but shall be reserved for the use of the common schools of the States of South Dakota and North Dakota, respectively: *Provided further*, That the Secretary of the Interior may reserve such lands as he may deem necessary for agency, school, and religious purposes, to remain reserved as long as needed and as long as agency, school, or religious institutions are maintained thereon for the benefit of said Indians: *Provided, however*, That the Secretary of the Interior is hereby authorized and directed to issue a patent in fee simple to the duly authorized missionary board, or other proper authority of any religious organization, heretofore engaged in mission or school work on said reservation, for such lands thereon (not included in any town site herein provided for) as have been heretofore set apart to such organization for mission or school purposes.

SEC. 2. That the lands shall be disposed of by proclamation under the general provisions of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which the lands may be settled upon, occupied, and entered by persons entitled to make entry thereof; and no person shall be permitted to settle upon, occupy, or enter any of said lands except as prescribed in said proclamation: *Provided*, That prior to said proclamation the Secretary of the Interior shall cause allotments to be made to every man, woman, and child belonging to or holding tribal relations in said reservations who have not heretofore received the allotments to which they are entitled under provisions of existing laws: *Provided, however*, That the said Secretary is hereby authorized to designate the superintendent of the Standing Rock Indian School to allot each child born subsequent to the completion of the allotments herein provided for and 60 days prior to the date set by said proclamation for the entry of said surplus lands: *Provided further*, That the Secretary of the Interior be, and he is hereby, authorized and directed to cause to be surveyed all the unsurveyed lands, if any, within said reservation, and to cause an examination to be made of the lands by experts of the Geological Survey, and if there be found any lands bearing coal or other valuable minerals the said Secretary is hereby authorized to reserve them from allotment or disposition until further action by Congress: *And provided further*, That the rights of honorably discharged Union soldiers and sailors of the late Civil and Spanish Wars or Philippine insurrection, as defined and described in sections 2304 and 2305 of the Revised Statutes, as amended by the act of March 1, 1901, shall not be abridged.

SEC. 3. That before any of the land is disposed of, as hereinafter provided, and before the States of South Dakota and North Dakota, respectively, shall be permitted to select or locate any lands to which it may be entitled by reason of the loss of sections 16 or 36, or any portions thereof, by reason of allotments thereof to any Indian or Indians, the Secretary of the Interior is authorized to reserve from said lands such tracts for town-site purposes as in his opinion may be required for the future public interests, and he may cause same to be surveyed into lots and blocks and disposed of under such regulations as he may prescribe, and he is hereby authorized to set apart and reserve for school, park, and other public purposes not more than 10 acres in any one town site, and patents shall be issued to the lands so set apart and reserved for school, park, and other public purposes to the municipality legally charged with the care and custody of lands donated for such purposes. The purchase price of all town lots sold in town sites, as hereinafter provided, shall be paid at such time and in such installments as the Secretary of the Interior may direct. He shall cause not more than 20 per cent of the net proceeds arising from such sales to be set apart and expended under his direction in the construction of school-houses and other public buildings, or in improvements within the town sites wherein such lots are located. The net proceeds derived from the sale of such lots and lands within the town sites as aforesaid shall be credited to the Indians as hereinafter provided: *Provided further*, That all children of school age and of Indian parentage shall be admitted at all times to the public schools within said town sites on an equal footing with all other children admitted to the said schools.

SEC. 4. That the price of said lands entered as homesteads under the provisions of this act shall be as follows: Upon all lands entered or filed upon within three months after the same shall be opened for settlement and entry, $6 per acre, and upon all lands entered or filed upon after the expiration of three months and within six months after the same shall have been opened for settlement and entry, $4 per acre; after the expiration of six months, after the same shall have been opened for settlement and entry, the price shall be $2.50 an acre.

SEC. 5. That the price of said lands shall be paid in accordance with the rules and regulations to be prescribed by the Secretary of the Interior upon the following terms: One-fifth of the purchase price to be paid in cash at the time of entry, and the balance in five equal installments, the first within two years and the remainder annually in three, four, five, and six years, respectively, from and after the date of entry. In case any entrymen fails to make the annual payments, or any of them, when due, all rights in and to the land covered by his entry shall cease, and any payments theretofore made shall be forfeited and the entry canceled, and the lands shall be reoffered for sale and entry under the provisions of the homestead law at the price fixed herein: *Provided*, That nothing in this act shall prevent homestead settlers from commuting their entries under section 2301, Revised Statutes, by paying for the land entered the price fixed herein, receiving credit for the payments previously made. In addition to the price to be paid for the land the entryman shall pay the same fees and commissions at the time of commutation of final entry as now provided by law where the price of land is $1.25 per acre; and when the entryman shall have complied with all the requirements and terms of the homestead laws as to settlement and residence, and shall have made all the required payments aforesaid, he shall be entitled to patent for the lands entered: *Provided further*, That any lands remaining unsold after said lands have been opened to entry for five years may be sold to the highest bidder for cash, without regard to the prescribed price thereof fixed under the provisions of this act, under such rules and regulations as the Secretary of the Interior may prescribe, and patents therefor shall be issued to the purchasers.

SEC. 6. That from the proceeds arising from the sale and disposition of the lands aforesaid, exclusive of the customary fees and commissions, there shall be deposited in the Treasury of the United States, to the credit of the Indians belonging and having tribal rights on the said reservation, the sums of which the said tribe may be entitled, which shall draw interest at 3 per cent per annum; that the moneys derived from the sale of said lands and deposited in the Treasury of the United States to the credit of said Indians shall be at all times subject to appropriation by Congress for their education, support, and civilization: *Provided*, That from any moneys in the Treasury to the credit of the Standing Rock Indians derived from the proceeds arising from the sale and disposition of their portion of the surplus and unallotted lands disposed of under section 6 of the act approved May 29, 1908, the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to distribute and pay to each of the Indians belonging to said tribe and entitled thereto a sum not exceeding $40 per capita.

SEC. 7. That sections 16 and 36 of the land in each township within the tract described in section 1 of this act shall not be subject to entry, but shall be reserved for the use of the common schools and paid for by the United States at $2.50 per acre, and the same are hereby granted to the States of South Dakota and North Dakota, respectively, for such purpose, and in case any of said sections or parts thereof are lost to either of the said States by reason of allotments thereof to any Indian or Indians or otherwise, the governor of each of said States, respectively, with the approval of the Secretary of the Interior, is hereby authorized, within the area described in section 1 of this act, to locate other lands not otherwise appropriated, not exceeding two sections in any one township, which shall be paid for by the United States, as herein provided, in quantity equal to the loss, and such selections shall be made prior to the opening of such lands to settlement.

SEC. 8. That the lands allotted, those retained or reserved, and the surplus lands sold, set aside for town-site purposes, or granted to the State, or otherwise disposed of, shall be subject for a period of 25 years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country.

SEC. 9. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $180,000, or so much thereof as may be necessary, to pay for the lands granted to the States of South Dakota and North Dakota, as provided in section 7 of this act. And there is hereby appropriated the further sum of $10,000, or so much thereof as may be necessary, for the purpose of making the surveys and allotments provided for herein: *Provided*, That the said $10,000, or so much thereof as may be expended for the purpose of carrying out the provisions of this act, shall be reimbursed to the United States from the proceeds received from the sale of the lands described herein or from any money in the Treasury belonging to said Indian tribe.

SEC. 10. That nothing in this act contained shall in any manner bind the United States to purchase any portion of the land herein described, except sections 16 and 36, or the equivalent, in each township, or to dispose of said land except as provided herein, or to guarantee to find purchasers for said lands or any portion thereof, it being the intention of this act that the United States shall act as trustee for said Indians to dispose of the said lands and to expend and pay over the proceeds received from the sale thereof only as received and as herein provided: *Provided*, That nothing in this act shall be construed to deprive the said

Indians of the Standing Rock Indian Reservation of any benefits to which they are entitled under existing treaties or agreements not inconsistent with the provisions of this act.

Mr. CLAPP. I move that the Senate disagree to the House amendment and ask for a conference on the disagreeing votes of the two Houses, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to, and the President pro tempore appointed Mr. CLAPP, Mr. MCCUMBER, and Mr. ASHURST conferees on the part of the Senate.

Mr. CRAWFORD. Will the amendment of the House be printed in the RECORD?

The PRESIDENT pro tempore. Necessarily, having been read from the desk.

HOUSE BILL REFERRED.

H. R. 16843. An act to consolidate the veterinary service, United States Army, and to increase its efficiency, was read twice by its title and referred to the Committee on Military Affairs:

OMNIBUS CLAIMS BILL.

The PRESIDENT pro tempore. The morning business is closed.

Mr. CRAWFORD. I move that the Senate resume the consideration of House bill 19115, known as the omnibus claims bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly know as the Bowman and the Tucker Acts.

Mr. CRAWFORD. The Senator from Massachusetts [Mr. LODGE], I think, had not concluded his remarks yesterday.

Mr. LODGE. Mr. President, when I stopped yesterday, the hour having arrived for the assembling of the court, I was speaking about the proposition made by the report of the Committee on Claims, which, it seemed to me, would lead to changing the rule adopted by all our commissions, and that to establish any such new rule at the present date by act of Congress, overruling the judicial decisions, would probably have consequences of the most serious character for the United States Government in the future. It would amount to a solemn declaration to the world by the United States Government that if in the future a government shall arbitrarily stop an American vessel and cargo in the pursuit of a lawful voyage, and, after breaking up the voyage, unlawfully appropriate the vessel or cargo to her own use, the obligation of such offending nation would be fully discharged by the allowance of the simple value of the ship and cargo at the time of her departure from the original port, without any addition of premium as additional value added to the cargo by the risks which it incurs or by any addition of freight, which is the amount which the vessel had earned up to the time she was stopped by the unlawful act of the other government. Also, that insurers of a cargo or vessel could not recover the full amount paid by them to the owner of the vessel and by subrogation to his rights for the same, but that the amounts so paid by them must be diminished by the amount of the premium paid.

Is it worth while for the United States Government to scale down awards made to its own citizens and thereby establish for all time a precedent of the utmost inconvenience? Is it not, rather, the highest public policy as well as in accordance with the demands of honesty to satisfy the adjudications of its own courts by the payment of the allowed amounts in full, thus putting ourselves in a strong position should the time ever arise to demand satisfaction from foreign governments for the full amount of damage which they may cause to our own citizens?

Clearly, good faith to our own citizens, as well as the establishment of a proper precedent for future contingencies, demands that the entire amount of damage allowed by the Court of Claims, in accordance with uniform precedents, be appropriated and paid.

I want to discuss very briefly—I have only a very little more to say, Mr. President—some statements made by the committee in the course of its report in regard to certain points of international law.

On page 336, No. 60, schooner *Hiram*, Ebenezer Barker, master, we are told that—

> a doubt naturally arises as to whether or not this vessel, destined for the English settlement at Martinique, which was in rebellion against France, was not smuggling goods into that port or whether the owners of that cargo may not have been Englishmen; or not neutral goods, possibly they may have been contraband.

How an English settlement could have been in rebellion against France is not plain. France and England were at that time in open and bitter warfare. Martinique was actually held by the English and was to all intents and purposes at that date a British possession.

What is meant by "smuggling goods" is not clear. Possibly it means sailing for a blockaded port. If so, the response is clear. At that date, as the Court of Claims has found on elaborate investigation, there was no blockade by the French of any English possession whatever. (See decision of the Court of Claims in the case of the schooner *John*, 22 C. Cls., 408, 440–454.)

England was at that time the undisputed mistress of the seas. A blockade in order to be binding must be effective; that is, maintained by a sufficient force. France had no naval force by which it would have been possible to maintain for a moment a blockade of any British possession. In the absence of such blockade it was perfectly lawful for the ships of the United States, as for all neutrals, to sail to a British port.

The question whether the owners of the cargo were Englishmen is also immaterial. No claim is made on behalf of the cargo. The American vessel had a perfect right to carry a cargo for an Englishman without subjecting the vessel to capture.

The treaty of 1778 between France and the United States in effect adopted the maxim, "free ships, free goods." (Art. 23 of the treaty, Public Treaties of the United States, 1875, p. 210.) True, the capture was shortly after the date of the act of July 7, 1798 (1 Stat. L., 578), which abrogated the treaties between France and the United States. But even without that treaty and by general principles of international law the utmost that a French vessel could do would be to take the enemy's goods off the vessel and release the vessel.

In the case of the brig *William* (23 C. Cls., 201), the court allowed the claim of citizens of the United States for the value of the vessel, although it disallowed the claim for the cargo, which was owned by British citizens. Such is the uniform rule of international law.

This same confusion appears at page 351 of the report, where (under No. 80, schooner *Little Fanny*) it is said:

> This cargo may have belonged to the public enemy of France and to some alien, so far as the record shows. If so, what position would that leave the owner of the vessel in, even though he was an American citizen and his vessel a regular vessel of the United States?

This question is answered by the decision of the Court of Claims in the ship *Joanna* (24 C. Cls., 198, 208) as follows:

> We conclude that at the time the *Joanna* was condemned a court, acting under the law of nations, untrammeled by local ordinances, would have ordered the confiscation of the enemy cargo and would have freed the neutral ship with freight money as remuneration, together with compensation for any extra expense which the master might have incurred and which was directly caused by the seizure.

Again, under the heading of the schooner *Swan*, Samuel Shaw, master, it is stated at page 366 that the vessel was owned by Joseph Prince, an American citizen, and then it is suggested that "the ship may not have been neutral." It is difficult to understand what meaning this statement can have. The ownership of a vessel by a neutral is what makes the ship neutral. The two statements are entirely in conflict.

In St. Clair *v.* United States (154 U. S., 134, 151) the Supreme Court of the United States said, with reference to this question:

> We are of opinion that the court below did not err in holding that the certificate of the vessel's registry and its carrying the American flag was admissible in evidence and that such evidence made, at least, a prima facie case of proper registry under the laws of the United States and of the nationality of the vessel and its owners. "The purpose of a register," this court has said, "is to declare the nationality of a vessel engaged in trade with foreign nations and to enable her to assert that nationality wherever found. (The *Mohawk*, 3 Wall., 566, 571.)

Under the case of the schooner *Sally*, John D. Farley, master, No. 90, page 379, it is stated that the rum of which the cargo consisted was of English manufacture. The cargo was confiscated, but the vessel released. The decision of the court allows freight earnings to the ship, but the committee says at the conclusion:

> This claim does not rest upon a very satisfactory basis.

There could hardly be a clearer claim. Freight earnings, as I have shown, are universally allowed by international courts and commissions where a vessel is carrying a lawful cargo.

See the citation above given from the case of the ship *Joanna* (24 C. Cls., 198, 208), where it is shown that a neutral vessel carrying even a cargo of enemies' goods was entitled under international law as administered at the end of the last century to release with her freight earnings, the enemies' cargo alone being confiscated. A much more liberal rule was at the date of the particular capture in question in force by treaty between France and the United States.

The twenty-third article of the treaty of 1778 between France and the United States was, at the date of this capture, in full

force and effect. This article provided as follows (Public Treaties of the United States, 1875, pp. 209–210):

It shall be lawful for all and singular the subjects of the most Christian King, and the citizens, people, and inhabitants of the said United States, to sail with their ships with all manner of liberty and security, no distinction being made who are the proprietors of the merchandises laden thereon, from any port to the places of those who now are or hereafter shall be at enmity with the most Christian King or the United States. It shall likewise be lawful for the subjects and inhabitants aforesaid to sail with the ships and merchandises aforementioned and to trade with the same liberty and security from the places, ports, and havens of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy aforementioned to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of the same prince or under several. And it is hereby stipulated that free ships shall also give a freedom to goods, and that everything shall be deemed to be free and exempt which shall be found on board the ships belonging to the subjects of either of the confederates, although the whole lading or any part thereof should appertain to the enemies of either, contraband goods being always excepted. It is also agreed in like manner that the same liberty be extended to persons who are on board a free ship, with this effect, that, although they be enemies to both or either party, they are not to be taken out of that free ship unless they are soldiers and in actual service of the enemies.

The next article, 24 (p. 210), contains a specific description of the goods which shall be contraband and contains another list of the goods which shall not be deemed contraband. Among such goods which are not to be deemed contraband are "beer, wines, and in general all provisions which serve for the nourishment of mankind and the sustenance of life." According to the twenty-fourth article these goods are not contraband, and according to the twenty-third, the American vessel had a perfect right to carry lawful goods, though belonging to an enemy of France. The goods having been most unlawfully and without the shadow of right taken off the vessel, the owner of the vessel was clearly entitled to recover in this proceeding the freight for the carriage of the goods of which he was deprived by the unlawful act of the French authorities.

From what has been shown in regard to the action of a number of the commissions and courts which have passed upon international claims, it will be evident that all items of allowance made by the Court of Claims rest upon ample precedent. Indeed, it may safely be said that if the court had disallowed any one of them, if it had refused to allow the vessel owner his freight for the voyage, if it had refused to allow the premium of insurance as a part of the value added to the goods by the risks which they were to undergo, or if in allowing the underwriter the amount of his insurance paid, it had reduced the amount of his loss by charging the amount of the premium against him, it would have violated every precedent ever laid down by all the commissions and courts which had previously adjudicated upon these subjects. These commissions, as I showed yesterday, were United States commissions, mostly domestic, but some mixed commissions.

Moreover, a reference to the action of these tribunals, as we have referred to them, shows that in several important particulars the Court of Claims has been much less liberal than previous tribunals, in that it has refused to allow such items as the following, which have been allowed by most, if not all, previous tribunals passing upon international claims:

1. Expenses attending the lading of the cargo on board the vessel at the port of departure. None of these expenses of lading have in any case been allowed, while in a number the court has refused to allow them when asked for by the claimants.

2. Premium of insurance "to cover"—that is, the allowance of a fair and usual premium of insurance where the owner did not actually pay such premium to another, but took the whole risk of the voyage on himself.

3. Profits expected to accrue from the voyage.

These have been uniformly disallowed by the Court of Claims. The court has confined its allowances to giving two-thirds of the freight for the actual voyage on which the vessel was engaged when captured.

4. Interest: This is always allowed in international claims as between nation and nation and as much as it is in a domestic admiralty court between party and party.

Of course, no one supposes that a restoration of the principal sum allowed by the Court of Claims in any of these cases after the lapse of 100 years to the next of kin of the original sufferers comes anywhere near being a compensation for the loss. Interest would have to be added to make it approximately just compensation. Interest not being allowed, why should the failure to do full justice be aggravated by cutting out the items which the Court of Claims has allowed?

It is submitted that instead of seeking for a mode of cutting down these claims to the smallest possible amount, the principle ought to be maintained which is thus quoted from a high authority in Ralston, International Arbitral Law and Procedure, section 353, page 172:

In the Orr and Laubenheimer case (Foreign Relations of 1909, 826) the arbitrator between the United States and Nicaragua said that where property had been taken for the public welfare "it seems to me right that the benefit of doubt should be thrown in favor of the individual, and that his damages should be liberally estimated lest by any error he should be oppressed."

The very impossibility that both Houses of Congress should examine all the details of these claims and the internal evidence afforded by the report of the Committee on Claims that they have not been looked into, shows the wisdom of the original provision of law referring these claims to the Court of Claims for conclusions of both fact and law. It is essential to the orderly administration of justice that the findings of the court should be accepted by Congress as a basis for its action as regards the amounts to be allowed. They certainly have been accepted as a basis for disallowing all those claims which the Court of Claims has thrown out.

I shall ask leave to have printed a list of payments already made and of precedents in Congress for action on these claims.

The PRESIDING OFFICER (Mr. LA FOLLETTE in the chair). Without objection it will be so ordered.

The matter referred to is as follows:

PRECEDENTS IN CONGRESS.

Congress has heretofore by appropriations allowed the following amounts:

Mar. 3, 1891, 26 Stat. L., 897 (51st Cong.)	$1,304,095.37
Mar. 3, 1899, 30 Stat. L., 1161 (56th Cong.)	1,055,473.04
May 27, 1902, 32 Stat. L., 207 (57th Cong)	798,631.27
Feb. 24, 1905, 33 Stat. L., 743 (58th Cong.)	752,669.93
Total	3,910,869.61

All of these allowances include items of the same character as those which it would appear that the committee contemplates striking out. After the vast majority of these claims are now paid, the ground ought not to be shifted and a question for the first time raised as to the character of the items.

The recommendation made by the President in his message of December 21, 1911 (H. Doc. No. 343, 62d Cong., 2d sess., pp. 15, 16), is fully justified and should be followed:

FRENCH SPOLIATION AWARDS.

"In my last message I recommended to Congress that it authorize the payment of the findings or judgments of the Court of Claims in the matter of the French spoliation cases. There has been no appropriation to pay these judgments since 1905. The findings and awards were obtained after a very bitter fight, the Government succeeding in about 75 per cent of the cases. The amount of the awards ought, as a matter of good faith on the part of the Government, to be paid."

Mr. CRAWFORD. I ask for a vote on the pending amendment to the amendment of the Senator from Massachusetts [Mr. LODGE].

Mr. LODGE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gallinger	Newlands	Smith, Ariz.
Bankhead	Gronna	O'Gorman	Smith, Md.
Borah	Hitchcock	Oliver	Smoot
Bradley	Jones	Page	Stephenson
Brandegee	Kenyon	Penrose	Swanson
Bristow	Kern	Perkins	Thornton
Bryan	La Follette	Perky	Townsend
Catron	Lippitt	Richardson	Warren
Chamberlain	Lodge	Root	Wetmore
Clark, Wyo.	Martin, Va.	Sanders	
Crawford	Martine, N. J.	Shively	
Fletcher	Myers	Simmons	

Mr. SIMMONS. I desire to announce that my colleague [Mr. OVERMAN] is absent on account of sickness.

Mr. TOWNSEND. The senior Senator from Michigan [Mr. SMITH] is absent on business of the Senate. I should like to have this announcement stand for the day.

Mr. KERN. I again announce that the junior Senator from South Carolina [Mr. SMITH] is detained from the Senate on account of the death of his son.

Mr. JONES. I desire to announce that my colleague [Mr. POINDEXTER] is absent from the city on important business.

Mr. BANKHEAD. I desire to announce that my colleague [Mr. JOHNSTON of Alabama] is absent on account of illness.

The PRESIDING OFFICER. Forty-five Senators have answered to their names, not a quorum. The Secretary will call the names of absent Senators.

The Secretary called the list of absentees, and Mr. FOSTER, Mr. JOHNSON of Maine, Mr. MCCUMBER, Mr. PAYNTER, Mr. WILLIAMS, Mr. MCLEAN, Mr. CLAPP, Mr. CUMMINS, Mr. BROWN, and Mr. WORKS responded to their names.

Mr. PAYNTER. I should like to announce that the Senator from Alabama [Mr. JOHNSTON] is ill and is absent on that account.

The PRESIDING OFFICER. Fifty-five Senators have answered to their names. A quorum of the Senate is present.

The question is on agreeing to the amendment offered by the Senator from South Dakota [Mr. CRAWFORD] to the amendment offered by the Senator from Massachusetts [Mr. LODGE]. Is the Senate ready for the question?

Mr. LODGE. Mr. President, as very few Senators have heard the debate, I merely wish to say that the amendment offered by the Senator from South Dakota to my amendment cuts down the allowances of the Court of Claims as provided for in my amendment. My amendment simply provides for the payment of the allowances made by the Court of Claims in each case. For various reasons in various cases the Senator from South Dakota proposes to reduce these allowances. I do not think they ought to be reduced, and I have on that account opposed the amendment to the amendment.

Mr. BRISTOW. As I understand, the amendment upon which we are now to vote reduces the amount of the French spoliation claims which the amendment of the Senator from Massachusetts carries. I do not believe any of these claims ought to be paid, and I intend to vote against the amendment of the Senator from Massachusetts; but since the amendment offered by the Senator from South Dakota reduces the amount, I shall vote for it, because it cuts out what I do not think ought to be allowed.

Mr. BORAH. How much is the reduction in the claims?

Mr. CRAWFORD. About $270,000.

Mr. BORAH. How much does it leave?

Mr. CRAWFORD. About six hundred-odd thousand dollars. It simply cuts out of the amendment the premiums on the insurance and also the freight charges. It allows the actual property loss.

Mr. NEWLANDS. I would like to ask the Senator from South Dakota whether the parts of these claims which he proposes to strike out were not allowed by the Court of Claims?

Mr. CRAWFORD. They were allowed as other items were allowed; that is, they found that the freight earnings in such a case, for instance in the case of the ship *Liberty*, were so much and the amount paid for premiums were so much; they found as a conclusion of law a liability on the part of the French Government for those premiums and freight earnings.

Mr. NEWLANDS. I wish to ask the Senator, further, as to what amount of claims in total has been paid by the National Government?

Mr. CRAWFORD. I would only be able to say offhand, because they have run through several appropriation bills, but I would say $2,000,000 or $3,000,000.

Mr. LODGE. I this morning gave the exact figures to the reporter, although I did not read them. About $4,000,000 has already been paid on these claims.

Mr. NEWLANDS. May I ask what amount remains unpaid?

Mr. CRAWFORD. So far as concern the findings in this bill, they amount to $942,000. Back of that are some incorporated insurance companies claims.

Mr. NEWLANDS. I will ask further, whether the Court of Claims has not very nearly reached a finality in the liability of the National Government under the French spoliation arrangement.

Mr. CRAWFORD. I can only say that occasionally a straggling case comes from that court, but apparently the list is about run out.

Mr. NEWLANDS. About run out?

Mr. CRAWFORD. Yes.

Mr. NEWLANDS. I will ask the Senator, further, whether he does not think the National Government is getting off very cheaply under this obligation to France to pay her obligations regarding these American claims?

Mr. CRAWFORD. Mr. President, I do not care to detain the Senate with an expression of opinion about that—as to the merits of these claims. I have a very positive opinion that there is merit in them. I at one time expressed that opinion with a good deal of emphasis. I have not changed my mind about it. But, as I said the other day, the Committee on Claims, of which I am a member, considered that it was not wise to place the French spoliation claims upon this bill as an amendment, because the very sharp and positive differences of views in regard to those claims, not only in this body but in the other branch of Congress, would mean the absolute defeat of this bill.

I joined with my associates, after the majority so decided, in a report that left out the French spoliation claims, and on that account I propose to stand with that committee. But I ask that the matter be disposed of one way or the other. We can not keep the omnibus claims bill here in the position of obstructing other business and monopolizing the attention of the Senate. I think we already have given a good deal of attention to it and I ask that it be disposed of one way or the other.

Mr. NEWLANDS. Mr. President, I join with the Senator from South Dakota in a desire for a speedy determination of this matter, and it is not my intention to extend my remarks upon this bill at any length.

I simply wish to say that those who have inquired into the operations of the Court of Claims must realize how small a portion of the claims that are made against the United States Government pass that body and how thorough is the sifting process of that tribunal.

I wish also to say that it is utterly impossible for the Senate of the United States and the House of Representatives to sit as a reviewing court upon all these claims that pass the Court of Claims. Time itself would not permit such a thorough inquiry into the facts and circumstances relating to these claims and the judgments rendered upon them as to permit the Congress of the United States, without a sacrifice of its duty in other directions, to inquire into all the niceties of these questions.

We know as a matter of fact that the shipping of the United States was the victim of serious ravages by France. We all know as a matter of history that the losses inflicted upon American shipping were very large. We all know that the United States Government by solemn treaty assumed the obligation that France had to respond to the United States in damages. And we know that if the United States Government were to-day pressing the claims of its citizens against the French Government for the recovery of these amounts, the United States Government would be pressing for the very sums which are now under question here, and pressing them with all the power of the Government behind them, as a matter of justice and of right to American citizens.

Now, then, we all know as a matter of history that the damage inflicted upon American shipping far exceeded $5,000,000. We know that already only four millions have been paid; that this bill provides for only $800,000 or $900,000 more; that we have very nearly reached the limit of these claims. Why should we halt now?

Mr. BRISTOW. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nevada yield?

Mr. NEWLANDS. I wish to speak for only a few moments, but I yield to the Senator.

Mr. BRISTOW. If the Senator will permit me, I simply wish to express the hope that we may reach a vote before 1 o'clock. I do not think a roll call will be demanded on the amendment to the amendment, and I only hope we may have an opportunity to vote on that.

Mr. NEWLANDS. I will yield the floor to the Senator in one moment.

We have organized a court for the purpose of inquiring into and ascertaining the facts, and there is no reason to suspect either the integrity or the efficiency of that court. These inquiries involve matters concerning which it is utterly impossible for the Congress of the United States, as a reviewing court, to give the consideration which they deserve, and as a matter of history we know that these claims must have amounted to more than $5,000,000, and there is no present possibility of their much exceeding that amount. It seems to me that as a matter of justice and right we ought to validate by an appropriation the judgment of the courts which the Government itself has appointed for the purpose of determining the validity of claims against it.

Mr. ROOT. Mr. President, I am sorry to disappoint the chairman of the committee, but I am somewhat interested in these claims, and I should like to have them paid. I am afraid that the desire of the chairman to get to a vote before 1 o'clock is accompanied by a lack of desire to have the amendment of the Senator from Massachusetts adopted.

I have not studied the subject as I probably ought to have studied it, Mr. President, but for a great many years I have had a strong impression derived from many sources that it was quite discreditable to the Government of the United States that these claims were not paid. It has seemed to me that they were illustrations of a general rule that the worse a claim was the less substance there was in it, and the more the claimant could afford to pay out of it to have it pushed the better was its chance. I have known good people, poor people, earning their daily bread by their daily work, living through their lives with the faint hope before them of the payment of one of these French spoliation claims.

I should like now to ask the chairman of the committee whether the fact that so large a part of these claims has already

been paid does not create a situation in which we should regard the principle as settled. Now, is that not sound?

Mr. CRAWFORD. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from South Dakota?

Mr. ROOT. Certainly.

Mr. CRAWFORD. I will simply say to the Senator from New York that we face a situation and conditions here where it is a question of advisability as to whether or not the claims bill which passed the House shall include the French spoliation claims.

The PRESIDING OFFICER. The hour of 1 o'clock having arrived, under the order previously adopted the Senate will resume its session as a court.

Mr. CLAPP. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cullom	Lodge	Sanders
Bacon	Cummins	McLean	Shively
Bankhead	Dillingham	Martin, Va.	Smith, Ariz.
Borah	du Pont	Martine, N. J.	Smoot
Bradley	Fletcher	Myers	Stephenson
Brandegee	Foster	Nelson	Sutherland
Bristow	Gallinger	O'Gorman	Swanson
Brown	Gronna	Oliver	Thornton
Bryan	Hitchcock	Page	Tillman
Burnham	Johnson, Me.	Paynter	Townsend
Burton	Johnston, Tex.	Penrose	Warren
Catron	Jones	Perkins	Wetmore
Chamberlain	Kenyon	Perky	Works
Clapp	Kern	Pomerene	
Crawford	La Follette	Richardson	
Culberson	Lippitt	Root	

The PRESIDENT pro tempore. On the call of the roll of the Senate 61 Senators have responded to their names, and a quorum of the Senate is present.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, Mr. Robert W. Archbald, jr., and Mr. Martin.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

Mr. SMOOT. I offer the following order.

The PRESIDENT pro tempore. The order will be read.

The order was read, as follows:

Ordered, That the time for final arguments in the trial of impeachment of Robert W. Archbald, additional circuit judge of the United States, shall be limited to three days from and including January 8, 1913, and shall be divided equally between the managers on the part of the House of Representatives and the counsel for the respondent, the time thus assigned to each side to be divided as each side may for itself determine.

Mr. Manager CLAYTON. Mr. President, I would ask the consent of the Senate, before the further consideration of that order, to make a correctoon in the RECORD of yesterday.

The PRESIDENT pro tempore. That will be reached in its order, the Chair takes the liberty to suggest to the manager.

Mr. Manager CLAYTON. The manager cheerfully accepts the suggestion of the Chair.

The PRESIDENT pro tempore. The Journal has not yet been read. The question is on the adoption of the order presented by the Senator from Utah.

Mr. CULBERSON. I should like to inquire if that is agreeable to counsel on both sides.

Mr. WORTHINGTON. Mr. President, I may say it is entirely agreeable to counsel for the respondent. We have had some conference with the managers about it, and we understand that all the managers who are to speak except the one who is to make the closing argument will speak before we begin.

Mr. Manager CLAYTON. The respondent's counsel may not give himself any uneasiness on that score, Mr. President, for I have repeatedly told him in private conversation, and I think I have repeated it on the floor of the Senate, that I thought it was fair and right that the managers should have only one speech in conclusion. So the suggestion of the respondent's counsel seems to me to be inappropriable on this occasion.

Now, Mr. President, if I understood the reading of that order, it set three days. That was not our understanding of the order yesterday. Perhaps it can be or is susceptible, and will be so construed, as to harmonize with our understanding of that order.

The managers acted upon the belief in their conference this morning that the Senate was to meet at the hour of 1 o'clock each day and was to hold a session daily for three days until the hour of 6 on each day, making 15 hours of time for the arguments of this case, one-half of which should be controlled by the managers and one-half of which should be controlled by the respondent's counsel.

The PRESIDENT pro tempore. The manager will permit the Chair to state that the order fixing the hours from 1 to 6 has been previously adopted by the Senate.

Mr. Manager CLAYTON. It was not made specifically a part of the order of 15 hours.

The PRESIDENT pro tempore. It was so done this morning, by order of the Senate.

Mr. Manager CLAYTON. The manager was not present when that action of the Senate was had, therefore, Mr. President, the manager thought it was incumbent upon him to have a perfect understanding of this matter before any discussion should arise in regard to the adoption of this order or before the order itself should be adopted, if it be adopted without discussion.

Now, Mr. President, in view of the statement the Chair has made, and which coincides with the understanding the managers had of the action of the Senate on yesterday when it went into private session to consider this matter, I am authorized by my associates to say that the order of the Senate having been agreed upon in the session I have referred to, and having met the views which are authorized by the sound discretion of the Senate, meets with no objection on the part of the managers, and they cheerfully acquiesce in that order and hope the Senate will adopt it.

The PRESIDENT pro tempore. The question is on the adoption of the order submitted by the Senator from Utah [Mr. SMOOT]. As many as favor it will say "aye." [Putting the question.] The ayes have it, and the order is adopted. The Secretary will read the Journal of the last session of the Senate sitting as a court.

The Secretary read the Journal of the proceedings of the Senate sitting as a court of Tuesday, January 7, 1913.

Mr. LODGE. Mr. President, I called attention to a slight error in the RECORD this morning, which, I suppose, will be sufficient for the correction of the Journal.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will stand approved. The manager will now present the matter of correction to which he referred.

Mr. Manager CLAYTON. Mr. President, on page 1333 of the testimony printed in the pamphlet form, about the middle of the page, the witness, Mr. C. G. Boland, was under examination, and in response to a question he said:

I did. And he then dictated to a stenographer, I think, that statement, which he believed was sufficient to satisfy Mr. Watson that he would be paid $5,000 in the event of his disposing of the property. I presented it to Mr. Watson, and he declined it.

Mr. Boland, as all the managers remember, and as the witness himself tells us this morning, said:

I presented it to Mr. Watson, and he accepted it.

Mr. WORTHINGTON. We agree to that.

Mr. Manager CLAYTON. We wish that the word "declined" be stricken out and the word "accepted" be substituted.

And, Mr. President, may I say that I think the reports made in this case by the stenographers of the Senate have been unusually accurate.

The PRESIDENT pro tempore. The correction will be made as suggested by the manager.

Mr. CLARK of Wyoming. Mr. President, following the precedent established in the last impeachment trial, I offer the following order.

The PRESIDENT pro tempore. The order will be read.

The Secretary read as follows:

Ordered, That any of the managers or counsel for the respondent having all or any portion of his argument in manuscript may deliver a copy of the same to the reporter or any portion thereof, which for lack of time or to save the time of the Senate the managers or counsel shall omit to deliver or read, and the same shall be incorporated by the reporter as a part of the argument delivered; and any manager or counsel who does not address the court may file and have printed as a part of the proceedings an argument before the close of the discussion.

Mr. CULBERSON. I should like to ask the Senator from Wyoming if it is not contrary to the established rule of the Senate to have matter printed that has not been delivered before the body.

Mr. CLARK of Wyoming. I said, in offering the order, that it was according to the precedent in impeachment cases. It is contrary to the ordinary rule of the Senate, but it is a proceeding which has been followed in impeachment trials in order to save the time of the Senate and preserve the record.

Mr. CULBERSON. I do not approve of that policy, Mr. President, but I will not object under the circumstances.

The PRESIDENT pro tempore. The question is on the adoption of the order just presented by the Senator from Wyoming. As many as favor it will say "aye," opposed "no." [Putting the question.] The ayes have it, and the order is adopted by the Senate. The managers will proceed, if they are ready to present their case.

Mr. Manager CLAYTON. Mr. President, as I understand it, 15 hours were accorded to this discussion. It is now, I believe, 16 minutes after the hour of 1 o'clock. I think it is important to make that statement. Mr. Manager STERLING will make the opening argument on behalf of the managers of the House of Representatives

ARGUMENT OF MR. STERLING, ONE OF THE MANAGERS ON THE PART OF THE HOUSE.

Mr. Manager STERLING. Mr. President, the managers on the part of the House approach the argument in this case with much confidence. They believe that the record which has been made proves the charges set forth in the articles of impeachment, and that those charges constitute impeachable offenses. I think it is plain, from the statement made by counsel for respondent in the beginning of this trial and from the brief which was filed and printed some days ago, that they rely for acquittal on the single proposition that these offenses do not constitute impeachable offenses for the reason that, as they claim, they do not constitute indictable offenses.

In their brief counsel for the respondent lay down, as the first proposition, that no offense is impeachable unless it is indictable; and, as a second proposition, and the only other proposition that they submit, is that if the offense in order to be impeachable need not be indictable it must at least be of a criminal nature.

As to the first proposition, the contention of counsel for the respondent is not sustained either by the language of the Constitution, by the decisions of the Senate in former impeachment cases, by the decisions of other tribunals in this country which have tried impeachment cases, or by the decisions of the English Parliament; nor is that contention sustained, so far as I have been able to read the authorities and the law writers on constitutional law, by a single American writer. The language of the Constitution, so far as it relates to the trial of this case, is this:

> The Senate shall have the sole power to try all impeachments.
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> * * * * * * *
>
> Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.
>
> * * * * * * *
>
> * * * All civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.
>
> * * * * * * *
>
> The judges, * * * shall hold their offices during good behavior.

I have stated all the language of the Constitution with which the Senate has to deal in determining the case now before it. I ask the Senate to consider that nowhere in that language is there any limitation as to the nature or extent of the crimes, misdemeanors, and misbehaviors in office. The Constitution does not undertake to define those terms with reference to the jurisdiction of the Senate in removing public officers for the violation of those provisions of that instrument, nor does it limit the time as to the commission of these offenses. It does not provide that the offenses shall be committed during the service from which it is sought to remove him, nor does it limit Congress as to when it may proceed to impeach and try an offending servant. Under the plain language of the Constitution the House of Representatives has the power to impeach and the Senate has the power to try and convict for offenses of the character described in the Constitution, let them have been committed at any time during the term of office from which the respondent is sought to be removed, during his service in some other office, or during some other term, or for offenses committed before he became an officer of the United States and while he was a private citizen.

If the Constitution puts no limitation on the House of Representatives or the Senate as to what constitutes these crimes, misdemeanors, and misbehaviors, where shall we go to find the limitations? There is no law, statutory nor common law, which puts limitations on or makes definitions for the crimes, misdemeanors, and misbehaviors which subject to impeachment and conviction.

It will not be maintained either by the managers or by the counsel for the respondent that precedents bind, and yet we may well consider them because they are so uniform on the question as to what constitutes impeachable offenses. The decisions of the Senate of the United States, of the various State tribunals which have jurisdiction over impeachment cases, and of the Parliament of England all agree that an offense, in order to be impeachable, need not be indictable either at common law or under any statute.

I shall not weary the Senate with reading the history of impeachment cases, but I do desire to read briefly from some of the law writers of this country, giving their conclusions as to what constitute impeachable offenses after they had reviewed and considered cases that have been tried in the Senate and in other forums where impeachment cases have been tried.

I read first from Tucker on the Constitution. On page 416 I find this:

> (c) High crimes and misdemeanors. What is the meaning of these terms? Much controversy has arisen out of this question. Do these words refer only to offenses for which the party may be indicted under the authority of the United States? Do they mean offenses by the common law? Do they include offenses against the laws of the States, or do they mean offenses for which there is no indictment in the ordinary courts of justice? Or do they include maladministration, unconstitutional action of an officer willful or mistaken, or illegal action willful or mistaken.

And then, under the subject of "bribery," the author says this:

> (e) So in respect to bribery. Bribery corrupts public duty. The difference between treason and bribery is that the first is a crime defined by the Constitution, as to which Congress has no power except to declare its punishment. Bribery is not a constitutional crime, and was not made a crime against the United States by statute until April, 1790. These two cases, therefore, show that the words "high crimes and misdemeanors" can not be confined to crimes created and defined by a statute of the United States; for if Congress had ever failed to have fixed a punishment for the constitutional crime of treason, or had failed to pass an act in reference to the crime of bribery, as it did fail for more than a year after the Constitution went into operation, it would result that no officer would be impeachable for either crime, because Congress had failed to pass the needful statutes defining crime in the case of bribery, and prescribing the punishment in the case of treason as well as bribery. It can hardly be supposed that the Constitution intended to make impeachment for these two flagrant crimes depend upon the action of Congress. The conclusion from this would seem to be inevitable that treason and bribery, and other high crimes and misdemeanors, in respect to which Congress had failed to legislate, would still be within the jurisdiction of the process of impeachment.

I read now from the brief filed by Mr. Manager CLAYTON, in which he quotes from Watson on the Constitution:

> A civil officer may so behave in public as to bring disgrace upon himself and shame upon his country, and he may continue to do this until his name would become a national stench, and yet he would not be subject to indictment by any law of the United States, but he certainly could be impeached. What will those who advocate the doctrine that impeachment will not lie except for an offense punishable by statute do with the constitutional provision relative to judges which says, "Judges, both of the Supreme and inferior courts, shall hold their offices during good behavior"? This means that as long as they behave themselves their tenure of office is fixed, and they can not be disturbed. But suppose they cease to behave themselves? When the Constitution says, "A judge shall hold his office during good behavior," it means that he shall not hold it when it ceases to be good. Suppose he should refuse to sit upon the bench and discharge the duties which the Constitution and the law enjoin upon him, or should become a notoriously corrupt character, and live a notoriously corrupt and debauched life? He could not be indicted for such conduct, and he could not be removed except by impeachment. Would it be claimed that impeachment would not be the proper remedy in such a case?

I now read what Cooley—who, I think, is recognized as one of the greatest constitutional law writers of America—says briefly on this subject. I read from his Principles of Constitutional Law, page 178:

> The offenses for which the President or any other officer may be impeached are any such as in the opinion of the House are deserving of punishment under that process. They are not necessarily offenses against the general laws. In the history of England, where the like proceeding obtains, the offenses have often been political, and in some cases for gross betrayal of public interests punishment has very justly been inflicted on cabinet officers. It is often found that offenses of a very serious nature by high officers are not offenses against the criminal code, but consist in abuses or betrayals of trust, or inexcusable neglects of duty, which are dangerous and criminal because of the immense interests involved, and the greatness of the trust which has not been kept. Such cases must be left to be dealt with on their own facts, and judged according to their apparent deserts.

Mr. President, the following is from volume 15 of the American and English Encyclopedia of Law, paragraph 2, page 1066:

> The Constitution of the United States provides that the President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors. If impeachment in England be regarded merely as a mode of trial for the punishment of common-law or statutory crimes, and if the Constitution has adopted it only as a mode of procedure, leaving the crimes to which it is to be applied to be settled by the general rules of criminal law, then, as it is well settled that in regard to the National Government there are no common-law crimes, it would seem necessarily to follow that impeachment can be instituted only for crimes specifically named in the Constitution or for offenses declared to be crimes by Federal statute. This view has been maintained by very eminent authority, but the cases of impeachment that have been brought under the Constitution would seem to give to the remedy a much wider scope than the above rule would indicate. In each of the only two cases of impeachment tried by the Senate in which a conviction resulted the defendant was found guilty of offenses not indictable either at common law or under any Federal statute, and in almost every case brought offenses were charged in the articles of impeachment which were not indictable under any Federal statute and in several cases they were such as constituted neither a statutory nor a common-law crime. The impeachability of

the offenses charged in the articles was in most of the cases not denied. In one case, however, counsel for the defendant insisted that impeachment would not lie for any but an indictable offense; but after exhaustive argument on both sides this defense was practically abandoned. The cases, then, seem to establish that impeachment is not a mere mode of procedure for the punishment of indictable crimes, that the phrase "high crimes and misdemeanors" is to be taken not in its common-law but in its broader parliamentary sense, and is to be interpreted in the light of parliamentary usage; that in this sense it includes not only crimes for which an indictment may be brought, but grave political offenses, corruption, maladministration, or neglect of duty involving moral turpitude, arbitrary and oppressive conduct, and even gross improprieties, by judges and high officers of state, although such offenses be not of a character to render the offender liable to an indictment either at common law or under any statute. Additional weight is added to this interpretation of the Constitution by the opinions of eminent writers on constitutional and parliamentary law and by the fact that some of the most distinguished members of the convention that framed it have thus interpreted it.

Mr. President, at the suggestion of Manager Clayton, I will read from the brief which he filed and in which he quotes from Bouvier's Law Dictionary:

"The offenses for which a guilty officer may be impeached are treason, bribery, and other high crimes and misdemeanors. (Art. II, sec. 4.) The Constitution defines the crime of treason. (Art. III, sec. 3.) Recourse must be had to the common law for a definition of bribery. Not having particularly mentioned what is to be understood by 'other high crimes and misdemeanors,' resort, it is presumed, must be had to parliamentary practice and the common law in order to ascertain what they are. (Story, Const., par. 795.) It is said that impeachment may be brought to bear on any offense against the Constitution or the laws which is deserving of punishment in this manner or is of such a character as to render the officer unfit to hold his office. It is primarily directed against official misconduct, and is not restricted to political crimes alone. The decision rests really with the Senate. (Black, Const. L., 121.)"

And so, Mr. President, I say, that outside of the language of the Constitution, which I quoted, there is no law which binds the Senate in this case to-day except that law which is prescribed by their own conscience, and on that, and on that alone, must depend the result of this trial. Each Senator must fix his own standard; and the result of this trial depends upon whether or not these offenses we have charged against Judge Archbald come within the law laid down by the conscience of each Senator for himself.

I shall leave the further discussion of any legal propositions involved in the case to my associate managers, some of whom I know are much better prepared than I to discuss them, and I invite the attention of the Senators to facts which we believe we have proven in this case, and which, as I said at the beginning, we feel, confidently, constitute crimes for which Judge Archbald should be removed from office under the law as it is laid down in the Constitution and under the law which the Senate will lay down for themselves.

The first offense charged in the articles of impeachment is that Judge Archbald used his official power and influence to prevail on the Erie Railroad Co. and its officials to sell to him and to one E. J. Williams the Katydid culm dump. Briefly, the history of the facts in that case are these:

E. J. Williams went to Judge Archbald in March, 1911, and told him of the Katydid culm dump, and said to him that an option could be had on the interest owned by Robertson & Law, who had worked the Katydid colliery, and that he thought that if an option could be had from the Hillside Coal & Iron Co., which was a subsidiary corporation to the Erie Railroad Co., that the Katydid might be sold at a profit. There is not any question, either in the testimony offered by the managers or by the respondent, or in the testimony of the respondent himself, that Mr. Williams and Judge Archbald were each to share equally in whatever profits came from the transaction.

Now, what did Judge Archbald do? He first wrote a letter to Capt. May, the superintendent of the Hillside Coal & Iron Co. He says that Williams's first request to him was for a letter of introduction. But he did not get a letter of introduction. Several conversations were had in subsequent days, before the 31st day of March, in which it finally developed that Judge Archbald gave a letter to Mr. Williams to take to Mr. May, in which he simply asked Mr. May if the Katydid culm dump was for sale; and if so, to fix a price. It was during those two days that Mr. Williams and Judge Archbald agreed to share these profits. The evidence of Judge Archbald himself is very plain that he declined to give Williams the letter of introduction until Williams had reached the point where he was willing to divide the profits with Judge Archbald in the Katydid culm dump in order to secure the judge's influence, and when in the conversations they had come to that understanding, Judge Archbald wrote this letter, the first step in his effort to influence the railroad company to sell them this dump.

Williams did not succeed. He returned to Judge Archbald and said to him that Capt. May would not talk to him about it; that he was cross and did not seem to want to talk to him about it. And then some time in June Judge Archbald said to Williams, "I will go and see Brownell." Mr. Brownell lived in New York and was vice president of the Erie Railroad Co. Judge Archbald said, "I will go and see Brownell," and he said to Williams, "I have some cases here on my desk now for the Erie Railroad Co"; and Williams said that he (Judge Archbald) said, "I might be able to hurt them for refusing so little a thing as that."

There is some truth, I know, in the testimony of Williams regarding that incident, because Williams said that when he referred to the cases against the Erie Railroad Co. that were on his desk at that time Judge Archbald spoke of one of them as the Lighterage case. It is true that Williams here on the witness stand undertook to say that he saw the word "lighterage" on the back of the briefs. That was not true, because we brought here before the Senate every brief and every printed document in these cases, and the word "lighterage" does not appear anywhere on the back of any of the briefs. And mark, the word "lighterage" appears just in one instance, and that is in the court calendar that was printed for the October term, which had not come to Judge Archbald's desk at that time.

How is it possible for this man Williams to have known anything about the Lighterage cases? He knew nothing about lighterage, and it must have come from Judge Archbald; and when Judge Archbald was asked how it was possible for Williams to have known anything about the Lighterage cases except through him he undertook to say that he might guess that it came from William P. Boland. All the evidence that there is in this case on that point is to the effect that Williams himself told William P. Boland about the Lighterage case instead of Boland telling him about the case. And I believe absolutely, just as Williams stated here, that Judge Archbald did refer to the records of these cases on his desk and say, "Here I have some cases against the Erie Railroad Co. for consideration now," and made some explanation of what is known as the Lighterage case. He did go to New York. On the 4th day of August he went into the office of Mr. Brownell, the vice president and general counsel of the Erie Railroad Co., and, as he undertakes to say, he said to Mr. Brownell, as his reason for coming there, that he wanted to inquire about the title to the Katydid culm dump.

But Mr. Brownell knew nothing about the title to the Katydid culm dump and he referred the matter to Mr. Richardson, who was the legal representative neither of the Hillside Coal & Iron Co. nor of the Erie Railroad Co. He went to New York, and his own detailing of the conversation that occurred with Brownell and Richardson is to the effect that he went there for the purpose of influencing those railroad officials to direct or command Capt. May, of the Hillside Coal & Iron Co., to sell him the Katydid culm dump. Let us see how he succeeded.

But suppose he had not succeeded. Would that be an excuse for the offense charged in this count? Suppose he had sought to impress upon them that here was a judge of the Commerce Court seeking to buy the property of the railroad company and he had failed in his attempt to influence them. Judge Archbald has already committed this offense. So far as he is concerned, he has sought to use his influence as a judge to impel this railroad company to part with its property. But he did succeed. Mark, that Mr. Richardson said that he would take the matter up with Capt. May and that he would hear from them later. On the 25th day of August Capt. May was in New York, and Mr. Richardson gave him direction to sell this property to Judge Archbald and Mr. Williams. He returned to Scranton on the 26th day of August, and on the 29th, meeting Judge Archbald on the street, said to him, "You tell Mr. Williams to come and I will give him an option on the Katydid." In the meantime, from the hour that Judge Archbald says he was in New York to see Mr. Brownell about the state of the title to the Katydid culm dump, nothing had been done by May, nothing had been done by Richardson, Brownell, or Archbald to change the state of that title, nothing had been done to correct or improve the title; but on the 29th day of August, 1911, they make this option to Mr. Williams and Judge Archbald.

It is very evident from the course of counsel for the respondent in this case that they will argue to the Senate that we have not proven any intent on the part of Judge Archbald to corruptly influence the railroad company to sell him the Katydid culm dump. Every lawyer within the sound of my voice recognizes that it is not possible for the prosecution in any case to prove by direct testimony the intent of the accused.

The law everywhere provides that the intent must be inferred from the acts and the conduct of the accused, and the law will imply and presume that he intended the reasonable and natural

consequences of his own act. And what are the reasonable and natural consequences of the act of Judge Archbald with reference to his relations to the railroad company and the Hillside Coal & Iron Co. in this transaction? Does it not naturally follow that a judge of the Commerce Court, which has jurisdiction over interstate railroads, going to these railroad companies and demanding of them a favor, is more likely to get it than a private citizen who appeals to them for similar favors? It is the natural result of his act that they should accede to his request rather than to that of a man who did not hold a position on the Commerce Court.

But let me say now—and the same thing applies to other charges in this impeachment—that the Erie Railroad Co., the Delaware, Lackawanna & Western Railroad Co., and the Lehigh Valley Railroad Co. had litigation then pending in the Commerce Court and that Judge Archbald at the time of the Katydid transaction had these cases on his desk for consideration.

Oh, counsel may argue that it was only an inference that Judge Archbald sought to use this power to influence the Erie Railroad Co., and that there is no evidence in this case that the mere fact that he was a judge of the Commerce Court did persuade them to part with their property. We know from the testimony of both May and Richardson that it was against the policy of the Erie Railroad to sell its coal properties of any kind. But they did sell in this instance, and they sold it after Judge Archbald had gone to see the high officials of the company and importuned them to let them have it.

But suppose he did not intend that his official position should affect their conduct. Let us imagine, if it is possible to do so, that Judge Archbald was so innocent and so guileless that it never occurred to him that his official position might have some effect on these litigants in his court. The effect of these transactions is just the same, and if a judge so conducts himself or commits acts, even without intent to do wrong, and thereby shakes the public confidence in the judiciary of the country and brings his high office into disrepute, he ought to be impeached and removed from office.

The evil of all these cases does not consist merely in Judge Archbald making a profit by the use of his official power. That is not the great evil which comes to the people of the country by reason of his conduct. The greatest evil from conduct such as his lies in the fact that it disturbs the public mind and shakes the faith of the people in American institutions; and when the faith of the people in American institutions is shaken it is impossble for them to endure.

Counsel for respondent has offered in this case much evidence as to the value of the Katydid culm dump. Page after page is devoted to that end, and their excuse for doing so is because we called Mr. Rittenhouse, who had made a survey of the dump and had estimated its value and given it to the Department of Justice during the preliminary investigation of this case. We never offered the report of Mr. Rittenhouse because we felt that the question of value was material to the issue in this first count, nor is it material now as to whether the Katydid culm dump was worth more or less than what Williams and Archbald agreed to pay for it, the sum of $8,000. It was worth much more. The testimony of Rittenhouse, who investigated it for the Department of Justice; the testimony of the engineer, Saum, who investigated and tested it for the Du Pont Powder Co., and the report of Mr. Merriam, the engineer for the Hillside Coal & Iron Co., who before his death had investigated it, all found that there were from 50,000 to 55,000 tons of coal in the Katydid culm dump.

But, as I said, that is not material to the issue. The question is, What was the frame of mind on that question which Judge Archbald entertained when he was seeking to buy it? What did he think it was worth? If he believed that he could influence the railroad company to sell to him for $8,000 and, after buying it for that price, that he could sell it for a profit, that is the question in the case, and that is the motive that prompted him to use his power as a judge to get this property.

Judge Archbald was right about it. He knew—or, at least, relying on Williams he knew—that he was getting it at a bargain, because within 60 days they had sold it for $20,000, a profit of $12,000, which was to be divided equally between Williams and Archbald. Williams did not put in a dollar. He did not have any money to put in it. Archbald did not put in a dollar. The capital that those two men employed to get that property was this: Williams's experience as a coal-dump finder; he found the dump; and Judge Archbald offset that capital of Mr. Williams with his influence with the railroad company. Williams's experience and Archbald's influence—there was the partnership, and with that as their capital they started into the coal business on equal terms and equal footing and agreed to divide the profits equally.

When counsel for respondent, Mr. Worthington, made his opening statement in this case he talked much about the conspiracy of the Bolands to destroy Judge Archbald, and he undertook to set up as a defense to the offenses of Judge Archbald that the Bolands, and especially William P. Boland, had undertaken and set out resolutely to destroy the judge. Now, suppose that all he said about it was true. Suppose there was a conspiracy existing between the Bolands and others to destroy Judge Archbald. What did they do? Did the Bolands manufacture any testimony against Judge Archbald? Did they turn a hand or say a word or enter into any agreement with anybody for the purpose of manufacturing testimony against Judge Archbald?

It is true that William P. Boland, when Williams brought him one of the letters that Judge Archbald had written, took a photograph of it. But what if he did? The judge wrote the letter. Suppose W. P. Boland did suggest to Williams to have Judge Archbald go to New York to see Brownell. Judge Archbald went. Suppose Boland did suggest to Williams that he have Judge Archbald write the letter to Capt. May for this dump. Judge Archbald wrote it. Suppose Williams and William P. Boland together did jointly dictate the silent-party agreement, in which they agreed to give Archbald an interest in this culm dump. Archbald accepted it.

Now, what else has William P. Boland or either of the Bolands done on which these gentlemen can charge a conspiracy? That is all they did. It may be that William P. Boland, rightfully or wrongfully, it is not for me and it is not for the Senate to say, did start out to get evidence against Judge Archbald in this case. He got it, and in so doing he rendered a valuable public service.

Ah, what a pitiable spectacle this presents; counsel for the respondent, a high judicial officer of the United States, coming into the Senate and pleading that the Bolands had duped and deceived him into doing things which scandalized the high office which he held.

Now, Mr. President, to call the attention of the Senate to the second article, which relates to the Marian Coal Co. transaction. The Marian Coal Co. was a corporation doing business near Scranton in the way of washing coal from one of the coal dumps which had been formed there in some mining operation. The Bolands owned two-thirds of the stock of the Marian Coal Co., and they had been involved in litigation in the district court at Scranton and in the Interstate Commerce Commission. This man Williams suggested to the Bolands one day that he thought George M. Watson, an attorney at Scranton, could get a settlement of all their difficulties and sell this Marian Coal Co. to the Delaware, Lackawanna & Western Railroad.

Now, it was the Delaware, Lackawanna & Western Railroad Co. that was a defendant in the Interstate Commerce Commission in the suit which the Marian Coal Co. had there pending, and this same railroad was a party defendant also in those two cases, No. 38 and No. 39, in which the Erie Railroad Co. was a party, and which were pending at this time in the Commerce Court and about which Judge Archbald said, "I have here on my desk now two cases against the Erie Railroad Co." The Delaware, Lackawanna & Western was in both those cases.

I do not know how it was, and I suppose it will never be known how it happened that George Watson immediately after the Bolands had employed him went direct to the office of Judge Archbald to get Judge Archbald to intercede for him in carrying out the matters for which he had been employed by the Marian Coal Co. After he had talked with Judge Archbald they called Christy Boland over to the office.

It is true Judge Archbald says he does not remember anything about that incident, but I believe that Christy Boland is telling the exact truth when he says that the next day, I think it was, after they had employed Watson, he was called to the office of Judge Archbald, where he found Judge Archbald and Mr. Watson in consultation, and that the judge said, "Now, I understand the agreement to be that you have employed George Watson to settle your difficulties for $100,000 and that you are to give him a $5,000 fee."

That was the testimony which was elicited last evening from Mr. Christy Boland after he was called back on the witness stand. I thought it was in the record on the first examination. I knew that Christy Boland had testified to that fact before the Judiciary Committee. So we called him back to prove it before the Senate, and he testified here as he testified before the House committee that that statement was made there in Judge Archbald's office when those three persons were present.

I think that is extremely important, because Judge Archbald at that time said he would assist Mr. Watson all he could in the settlement of these transactions, and he knew that Watson had

started out and had been employed with authority to settle it for $100,000.

Judge Archbald went to New York, or I will put it just as charitably as I can. I will say that he was in New York, as he insisted it should be stated. It does not make any difference. He was in New York, he says, holding criminal court, and while there he went to the office of Mr. Loomis on the 4th day of August.

Now mark, the 4th day of August was a red-letter day for Judge Archbald in the coal business. He not only went to Brownell and started the transaction with him to buy the Katydid culm dump, but he went to Loomis on the same day, in order to prevail on him to see Watson, with a view of settling the Marian Coal Co.'s difficulties. Loomis, after he had seen him, tells him he will have his people take it up with Mr. Watson and see what can be done. But nothing is done.

A little later Judge Archbald sees Loomis in the city of Scranton and reminds him of the matter again, and urges him to take it up with Watson. He also calls Mr. Phillips over to his house, sends for him by telephone, and urges the negotiations along.

Now, Phillips was the superintendent of the coal properties of the Delaware, Lackawanna & Western Railroad Co. After a consultation there Mr. Phillips says that he told Judge Archbald he did not see any possibility of a settlement, because of the very wide difference of opinion as to the value of the property and the merits of the lawsuit.

Notwithstanding that, he again sees Loomis and talks with him on the street and urges him to take the matter up. Nothing, however, is done.

Then Mr. Loomis writes a letter to him and tells him that there is no possibility of a settlement of the matter because of the very great difference of views as to the value of the property.

That is not sufficient for Judge Archbald. Not content with that, he says out of a pure matter of friendship for George M. Watson, he still pursues the matter with more diligence and more eagerness than ever Watson exercised in the case, and writes Loomis a letter urging further consideration of the case. This is the letter which Loomis wrote to Judge Archbald September 27:

SEPTEMBER 27, 1911.

MY DEAR JUDGE: As per our recent interview, I instructed our people to call on Attorney Watson in connection with the Boland case, and I find there is little, if any, prospect of our reaching any settlement of this case, owing to the very great difference of opinion as to the merits of Mr. Boland's claims and the value of his properties.

Thanking you, however, for your good efforts in this direction, I am,

Very truly, yours,

E. E. LOOMIS.

Judge R. W. ARCHBALD, *Scranton, Pa.*

Then, on September 28, the next day, Judge Archbald replies:

SCRANTON, PA., *September 28, 1911.*

MY DEAR MR. LOOMIS: I am very sorry to have your letter stating that you have not been able to effect a settlement with Mr. Boland. I trust, however, that the matter is still not beyond remedy. And if I thought that it would help to secure an adjustment, I would offer my direct services. I have no interest except to try and do away with an unpleasant situation for both parties, and I hope that this still may be possible.

Yours, very truly, R. W. ARCHBALD.

Then, on October 3, he, nothing daunted, writes again, urging a personal conference and manifesting a zeal and eagerness that was not born of love for Watson, but of a desire to secure a fee which was dependent on the success of the enterprise:

MY DEAR MR. LOOMIS: I understand that there has been a suggestion that Mr. Watson meet you and possibly also Mr. Truesdale, and that Mr. Watson has written asking for an appointment. It seems to me, if I may be permitted to say so, that this is a very good idea. It will give you an opportunity to discuss the Boland claim with Mr. Watson upon a somewhat different basis than Col. Phillips could, representing the coal department.

I have little doubt but that it will appear so to you, and it may be altogether unnecessary for me to write about it. But I am sure you will not take it amiss to have me do so, and I shall hope that a settlement may yet be reached in that way. There is nothing like a personal interview to bring about such a result.

Yours, very truly, R. W. ARCHBALD.

It has occurred to the minds of some Senators, I have no doubt, that the managers have not proven that Judge Archbald got any money consideration or that he was to get any money consideration for this transaction. It is known now to the Senators who heard this testimony that Judge Archbald knew that the proposition of settlement as presented to Watson by the Bolands was $100,000, and it is known by the testimony of Judge Archbald himself that he and Watson proceeded on the theory that it was to be settled for $161,000. It is known, and it is beyond dispute, that after the time Judge Archbald learned that the basis of settlement was $100,000, and after he learned that Watson was asking the railroad company $161,000, after he knew those two facts, he still wrote two letters to Mr. Loomis urging this settlement and saw Mr. Loomis and Mr. Phillips personally about the matter.

Now, Christy Boland testified that Watson told him that his reason for raising it from $100,000 to $161,000 was because he had to divide this excess and take care of certain persons, among whom was Judge Archbald. I have not a bit of doubt on earth but what Watson told that to Christy Boland. But I do not pretend to say to the Senate here to-day that Judge Archbald and Watson had ever had any agreement or understanding about it, because there is no direct evidence to that effect. But all the circumstances point to that very end, and it is competent evidence for this Senate to consider, because of the fact that Archbald and Watson had entered into the conspiracy to do a wrongful thing, collecting $61,000 more than the Bolands demanded, and it being a statement by one of the coconspirators is competent and proper evidence in this case against Mr. Archbald, and is worthy of consideration.

But I desire to impress this fact upon the Senate now, before I leave this subject, that it does not devolve upon the managers, in the Marian Coal Co. case, to prove that Judge Archbald understood that he was to have a cent of remuneration for his services. It is true that the article charges a consideration, but it does not say a money consideration. If he did this, if he sought for the welfare of this man Watson, if he sought for the benefit of a friend, in order that a friend might make a fee, to use his official power to influence litigants in his court to that end, it is an impeachable offense, and he should be found guilty.

Oh, you say maybe it is not so culpable. No; but the offense exists, and it is a misuse of that power which comes to every man who occupies the position of judge.

Now, I call the attention of the Senate to the third article, about Packer No. 3. That was the case where Judge Archbald and Jones and two or three other gentlemen were to organize a corporation for the purpose of buying Packer No. 3. No money was to be paid by any of these gentlemen. John Henry Jones assured them that he could get the money from a gentleman, Mr. Farrell, in New York. So they put it up to Judge Archbald to see the Lehigh Valley Railroad Co., another railroad that was a party defendant in these same suits Nos. 38 and 39. He goes to the Lehigh Valley Railroad Co. He goes to Mr. Warriner, of that railroad company, and prevails on him to sell him Packer No. 3 for the benefit of this new corporation. He writes a letter making an appointment to see Mr. Warriner, fulfills the appointment; it is agreed that they shall have Packer No. 3 for a royalty of 2 and 3 cents on the different grades of coal, and afterwards he gets a letter from Mr. Warriner confirming the agreement.

It will be remembered that Madeira, Hill & Co. had been trying to buy Packers Nos. 2, 3, and 4 a year and a half before that. It seems that at that time the Lehigh Valley Railroad Co. did not want to sell Packers Nos. 2, 3, and 4, even though Madeira, Hill & Co. offered them a royalty of 5 and 10 cents a ton on the coal.

They say it was not the same packers. It is true that Madeira, Hill & Co. applied for Packers Nos. 2, 3, and 4, and that these gentlemen only applied for Packers Nos. 3 and 4. They got the option for 2 and 3 cents. After culm-dump coal had sprung up immensely in value the railroad company sells to Judge Archbald's corporation for less than one-third of the price that they had refused to take from Madeira, Hill & Co. a year and a half before.

Then comes the Warnke deal. Warnke is the gentleman who gave the note to Judge Archbald for $510. Let us see what Judge Archbald did in consideration for that note. It will be remembered that Warnke had been operating a dump and coal property for some time along the Philadelphia & Reading road, and having his property burned down, he failed to operate it for a while. Then the railroad company declared his lease had been abandoned and that he had not any further right because he was operating under a lease that had been assigned to Warnke, but which the railroad claimed was not assignable. Therefore they refused to allow Warnke to proceed again to operate this dump and this colliery.

Warnke tried a number of people. He went to Baer, the president of the Philadelphia & Reading Railroad Co., and he went to Richards time and time again. Mr. Baer says, in his testimony, that he sent numerous other men to him to get the Reading Railroad Co. to allow him to go on and operate it. Finally, as a last resort, Warnke learned of Judge Archbald's influence with the railroads and he goes to him. I think one of the Joneses told him that Judge Archbald could do that for him. So he sees Judge Archbald, and Judge Archbald writes a letter to Richards, the man who has charge of the coal property of the Philadelphia & Reading Railroad Co., making a date at

Pottsville some time in the future. Judge Archbald goes to Pottsville, 80 miles away, to fulfill this appointment with Mr. Richards. When Warnke saw the judge he said, "Now, if you can not get them to renew or revive the lease, which they claim has been abandoned, then see if you can buy the Lincoln culm dump for me." Judge Archbald presented the matter to Richards along that line, and Richards told him "No"; that their answer was final and that they would not allow Mr. Warnke to proceed under his old lease or they would not let to him the Lincoln culm dump.

It is true that Judge Archbald did not succeed in influencing the Philadelphia & Reading Railroad Co. to sell property to his friends at that time, but he tried to. He went just as far as it was necessary for him to go in order to commit the offense charged in this count. He sought to influence them, but failed. It may have been due to the fact that the Philadelphia & Reading Railroad Co. was not in the same position as the Erie, the Lackawanna & Western, and the Lehigh Valley Co.'s were; the Philadelphia & Reading Co. did not have litigation before Judge Archbald just at that time.

Now, there is one other case in which Archbald sought to negotiate two coal transactions.

Before that, however, let me call attention to this with reference to the Warnke case. Judge Archbald returned to Scranton and told Warnke what had happened. Immediately following his effort to get Mr. Richards to comply with Warnke's request, and having failed, he takes up with Mr. Warnke the sale of the Lacoe and Shiffer dump, which was on the Delaware & Hudson Railroad, and from which railroad company a right of way had to be had in order to operate that culm dump successfully.

John Henry Jones testified that when he talked to Warnke about this dump he suggested that they go together to Judge Archbald, because Judge Archbald had had the sale of this dump from Mr. Berry, the secretary of Lacoe & Shiffer Co. So they go to Archbald. Although Archbald's option had expired (Berry says he had granted the option and had extended it from time to time, but that it had expired at that time), notwithstanding that they go to Judge Archbald and have a talk about "Old gravity fill," which was the property of Lacoe & Shiffer. John Henry Jones says that he raised the question as to whether they could get a right of way to operate this dump from the Delaware & Hudson, and that he said there, in the presence of Archbald, to Mr. Warnke that Judge Archbald can take care of that. Anyhow, they bought the old gravity fill. After these events had taken place, after the judge had made a trip of 80 miles to Pottsville to see Richards, and after he had given him advice about the Lacoe-Shiffer transaction, never having put a dollar in it himself, he goes to the office of Mr. Warnke—that is, the Premier Coal Co.—and got this note for $510.

Now there is one other. It is article 6, in which there were two efforts to deal with the railroad companies concerning coal property. You remember hearing a good deal about the Everhart interests. The Everharts owned an interest in 800 acres of coal land. It seems that Mr. Warriner's company, the Lehigh Valley, had some time before that desired to purchase their interest in that property. Dainty tells Judge Archbald about it, and Judge Archbald then goes to see Mr. Warriner. First he has Dainty go to see the Everharts, to see whether or not their interests are purchasable. Then he goes to Warriner and undertakes to get them to agree to buy the Everhart interest in case he and Dainty can get them for sale. While he is there talking with Warriner about that, as Dainty has said to Judge Archbald that he wanted, if possible, to lease from the Lehigh Valley Railroad Co. 320 acres of land, another tract of coal land there, he tried to prevail upon Warriner to get the Lehigh Valley Railroad Co. to rent that land to Mr. Dainty.

Now, Senators, there are the coal cases. There are seven of them where Judge Archbald sought to get property from and to dispose of property to interstate railroads—to five interstate railroads, three of which had litigation then pending in his court.

Let us summarize, now, briefly as to those counts in the indictment. There is the Katydid, owned by the Erie Railroad Co.; he sought to get that. There is the Marian Coal property, which he tried to sell to the Delaware, Lackawanna & Western Railroad Co. There are Packers No. 3 and No. 4, which he tried to buy, and which he really did buy from the Lehigh Valley Railroad Co.

Next came the Warnke deal, in which he attempted to influence the officers of the Philadelphia & Reading Railroad Co. to continue their lease with Warnke or to sell him what was known as the Lincoln dump. Failing in this he undertakes to negotiate another transaction for Warnke by selling to him the dump known as "old gravity fill," owned by Laco & Shiffer, but which required the right of way from the Delaware & Hudson Railroad Co. in order to operate it successfully; and Jones assured Warnke in the presence of Archbald that the judge could take care of that. That makes five instances.

Then Archbald and Dainty conceived the idea of getting the interests of the Everharts in 800 acres of coal land for sale and selling it to the Lehigh Valley Railroad Co. At the same time Dainty conceived the idea that he would like to rent from that railroad 320 acres of other coal land. Judge Archbald readily becomes the intermediary in these transactions, makes an appointment with Warnke, who represents that railroad, and seeks to carry these two proposed transactions to a successful end.

Counsel for the respondent called in witnesses here to prove that there was nothing unusual about other people furnishing money to operate these dumps; they offered to prove that because Farrell was to come from New York to put in all the money necessary to operate Packer No. 3 it was not unusual, but that it was a very common and frequent course of business. Aye, but they did not prove any cases where judges of the United States courts had sought to buy property with money furnished by other persons from railroads which had litigation pending at the time in those courts. This is the only instance, thank God! that the records of our country disclose where that thing was done.

These gentlemen seem not to be able to distinguish between the conduct of a man on the Federal bench and a man in private life. Mr. Dainty and Mr. Jones and Mr. Williams, and all those rounders who seem to infest the city of Scranton—any of them had a perfect right to go to those railroad companies and prevail upon them to sell them their coal properties, if they wanted to do so; but they did not have any right to get Judge Archbald to act as intermediary for them in these transactions, because they knew that he was a judge of the Commerce Court and that a judge of the Commerce Court had no right to render his services by reason of his being a judge to these men for that purpose.

There is a strange thing about this case. There are a number of these men; there are the three Joneses—John Henry Jones, Thomas Star Jones, and Fred Jones—and E. J. Williams, and George M. Watson, and Dainty, and Warnke, and Kizer—all of them dealing more or less in coal properties of different kinds—and somehow, every time they came to a proposition where a railroad company was interested in any of these properties, their trail leads always to the office of Judge Archbald in the Federal building.

Another strange thing about all these cases is that in any of these transactions Judge Archbald never did a thing, never put in a dollar, never wrote a letter, never turned a hand, never did anything, except to intercede with the railroad companies. That is what he was employed for. This was the one thing, the only function, which he had to perform.

Why did they go to Judge Archbald? Because they knew, first, that he was a judge of the Commerce Court; second, because they knew that court had jurisdiction over interstate railroad companies; third, they knew that Archbald would use that influence over the interstate railroad companies; and, fourth, they knew that they could get it for a consideration, and thus it was natural they should use him in their business. Judge Archbald, by his conduct, simply worked up a side-line trade in culm dumps from the mere fact that he did have power over the railroad companies.

Mr. President, I desire to call the attention of the Senate to the Rissinger case. It is true that that occurred when Judge Archbald was a district judge, and that he is not now a district judge. Counsel for the respondent have not raised that question in their brief nor in their opening statement, as I recall.

Mr. WORTHINGTON. We raised it in the brief.

Mr. Manager STERLING. I had overlooked it, if it is in the brief; but I remember that one of the Senators raised the question during the trial of the case as to whether or not the House of Representatives could impeach and the Senate convict for an offense committed during a service which the accused was not performing at the time of the articles of impeachment. I think there is but one Federal case—one Federal precedent—on that point. There are State precedents where the language of the State constitution was similar to that of the Federal Constitution; and in those cases it has always been held that the officer could be impeached even though the term of office during which the offense was committed had expired. I think that is the universal rule in all precedents under constitutions similar to the Federal Constitution.

Without, however, taking the time of the Senate to read any of those authorities, I merely desire to call their attention to

this proposition: Suppose a man had committed some heinous offense, had been guilty of some degrading or debasing conduct while in the public service, something that had brought the office into disrepute, and before that act had been discovered he had been promoted from that office to some higher office; do you say that under the Constitution, and a Constitution, too, in which there are no limitations as to the time of committing these offenses, the people have no redress and that the Congress of the United States has not the power to impeach? Where is the limitation? Where is the Senate forbidden to convict one for offenses committed prior to the service which he is holding at the time?

The Constitution provides that all civil officers of the United States shall be removed from office upon impeachment for and conviction of treason, bribery, and other high crimes and misdemeanors. There is nothing in that clause of the Constitution limiting impeachment and conviction to offenses committed during service in the office from which it is sought to remove him. Who has any power to put any limitation to this clause in the Constitution? It would be indeed a dangerous precedent, if precedents were binding, for the Senate to say that the House had no power to impeach and the Senate no power to convict and remove from office an unworthy servant who had committed crimes in private life or during some prior service, but who had not been discovered until after his appointment to the public service.

Let us see what it would lead to. Suppose this argument in this case was closed, suppose every Senator had reached in his mind the conclusion that the respondent ought to be removed from office; that that is the status of the case to-night when adjournment comes, and that during the nighttime Judge Archbald should send his resignation to the President of the United States and it should be accepted, would you say because he was out of office, because his service had expired by resignation, that you could not impeach and convict him?

Remember that there are two judgments which the Senate can impose in impeachment cases—one the removal from office and the other the disqualification from holding any office of honor, trust, or profit under the United States. There would be no occasion, if he should resign, for the judgment of the Senate removing him, because the purpose of that judgment would have been accomplished; but would the Senate be deprived of its constitutional power to impose the other judgment and disqualify this man from ever holding office again simply by the act of the accused himself? Will anybody argue that the respondent, the accused, in impeachment cases, has got the power to take away from the Senate its constitutional right to disqualify him for holding public office? I think that is all that need be said on that point; and, with that in view, I desire to discuss briefly the Rissinger case, which occurred when Judge Archbald was a district judge at Scranton.

It will be remembered that Rissinger had some five or six cases pending against insurance companies for the recovery of a fire loss which had occurred in his coal property, and they had been taken from the State court in Luzerne County to the district court over which Judge Archbald presided. It was on the 3d day of October, 1908, when those cases were transferred to the Federal court. In the latter part of September this man Rissinger had seen Judge Archbald and talked to him about the organization of a corporation to take an interest in a Honduras gold-mining scheme. Those negotiations were on when these cases came into the judge's court, but they continued during all the time that those cases were pending, and, according to the original testimony of this man Rissinger, Judge Archbald virtually agreed to become a partner in the enterprise with Rissinger, without the knowledge of those on the other side of the cases. I will, however, agree now, although Rissinger is our witness in the case, that Rissinger is not a reputable witness, because in this case he comes into the Senate here and testifies to an entirely different state of facts from what he did then; but it is immaterial which horn of the dilemma these gentlemen take in the case, because, in any event, Judge Archbald is culpable and committed an offense for which he ought to be removed from office.

This man Rissinger brings Mr. Russell from New York to lay the matter before Judge Archbald, and he tells him about the wonderful things in that Honduras gold-mining scheme. Then it goes on, and these cases come for trial early in November, I think. During the trial of the first case, after the evidence for the plaintiff—that is, Mr. Rissinger—was submitted and they had closed their case, the defendant demurred to the evidence, and Judge Archbald overruled the demurrer, holding with Rissinger in the case. It may have been proper; I do not know, I do not care, and it is not for the Senate to try the case of Rissinger against the insurance companies, but whether it was a right decision or a wrong decision, all we care for is to know that it occurred while these negotiations were pending between Rissinger and Archbald with reference to this gold-mining scheme.

Then a little later—I think on the 28th day of November, the very day that the judgments in those cases matured—you remember, after the judge held the evidence sufficient to sustain a case, they settled the case for something like $25,000, to be paid in 15 days—the very day those judgments matured Mr. Rissinger makes a note to Judge Archbald for the sum of $2,500. Archbald indorses the note, turns it back to Rissinger, and Rissinger takes it to the bank and gets the money on it. Now, that is not the material part in the proposition at all.

Rissinger said before the Judiciary Committee that the agreement at that time was that Judge Archbald was to pay one-third of the note and take the value of that third in stock of the Honduras gold-mining scheme. In any event, in a very short time after that and before the note had matured—it was a four months' note—84 shares of stock of the Scranton-Honduras Mining Co., which was to take a part of the property of this gold-mining scheme in Honduras, were delivered to Judge Archbald. Judge Archbald said it was collateral security for the note, but this stock on its face was only worth $1,680 at $20 a share. It was not delivered to Judge Archbald at the time he indorsed the note and turned it over to this man Rissinger. That would have been the time when one would generally take collateral security, and when one takes collateral security they generally take a little more than the amount of their liability instead of very much less; and when one indorses stock as collateral security for liability on a note the man who gets the benefit of it generally assigns his stock over to the party that indorses it, but this stock was issued direct from the corporation to Judge Archbald and delivered to him some two months after he had indorsed this note.

I want to call the attention of the Senate to another fact. I shall not read it, but I trust that one of the other managers in this case will read the statute of the United States on bribery. It provides that any judge who takes anything of value with a view of influencing his decision, or after a decision receives anything of value on account of it, is guilty of bribery, even though it did not influence his judgment. Even though it did not influence his decision, it is bribery.

Is there a more charitable construction that can be put upon the conduct of Judge Archbald in receiving this present? Rissinger now says the judge never paid a cent for this stock and he never expected him to pay a cent for it. It was simply a present to Judge Archbald of this stock in this gold-mining scheme after the decision of the judge in favor of Rissinger. Is there a more charitable construction, I ask you, than the one I have suggested in this instance? If there is, I agree that it is the duty of Senators to adopt it. If we can eliminate from our minds the fact and the thought that Rissinger was a litigant in Judge Archbald's court, if we can eliminate from our minds the thought and the knowledge that Judge Archbald presided over the court in which Rissinger was a litigant, then we may put another construction on this transaction. Rissinger was there in Scranton to sell stock in this gold-mining scheme, and he, like many another faker who has undertaken to defraud the public in transactions of this kind, went to men of influence in that community. It seems the person first of all to whom he appeals is Judge Archbald. He enlists him in the enterprise. He gets his name connected with the enterprise in order to do what? To sell stock to other people in Scranton. Judge Archbald had no personal knowledge of this scheme in Honduras; he had no knowledge at all, except what he had gotten from an entire stranger, George Russell, who came to see him from New York. Is this man, who had sat, as he has said, for 20 years upon the bench listening to cases of this kind, listening to contentious lawyers during all of this time—is this man so guileless that it never occurred to him that Rissinger wanted his name to influence other men to go into this scheme?

Aye, Senators, a judge who will sell his name for a consideration to any kind of an enterprise, good or bad—and the chances are a hundred to one that this one was bad—a judge who will sell his name to any kind of an enterprise to influence other people less experienced than he perhaps—and I know there are people in Scranton who, if they saw Judge Archbald's name connected with this gold-mining scheme, would say, "That must be good," because it has been proven here to the Senate that his reputation in Scranton was A number 1, and I know the use of his name would have its influence in misleading people to invest their money and their property in that get-rich-quick scheme—a judge who will do that, a man who will do that, is not fit to sit on the Federal bench.

I next call attention, Mr. President, very briefly to the Helm Bruce case. I think that Senators who listened to the testimony of Judge Archbald are of the opinion that the corre-

spondence which Judge Archbald had with Helm Bruce about that case reversed the first decision of the court and compelled a different decision from the one the court had first agreed upon. Is it sufficient to say that the final decision was right? I do not know whether it was or not, and I do not care; neither do Senators care whether the last decision was right or whether the first decision was right. At any rate, it developed that when all the judges of the Commerce Court, except Judge Archbald, were in favor of deciding the case in favor of the Board of Commerce of New Orleans and against the Louisville & Nashville Railroad Co., Judge Archbald held out for the railroad company, and then began this correspondence with Helm Bruce about the evidence of one Compton. He did not tell the other members of the court what he had done; never telling the counsel on the other side what he had done or never giving them notice. Then, after this man Bruce had sent this correction in—and it may have been a perfectly proper correction; I do not know; he might have been right about it—the judge writes to him again, and Bruce submits another argument, a long argument, on some phases in the case. That was as late as January. After that the court filed an opinion exactly opposite from that on which they originally agreed, and that final opinion was filed in the month of February. I believe that the inevitable and logical and reasonable conclusion is that Judge Archbald, by reason of this assistance from Helm Bruce, was able to convince the court that their first decision was wrong, and compelled them to reverse it.

But suppose it is a righteous decision, what does the other fellow think about it when he was deprived of the right to come before that court and present his side of the contention about which Helm Bruce wrote to Judge Archbald? That is the question, Senators; and I say that it seems to me that we are impelled to the conviction that Judge Archbald was determined—and I am inclined to think that he was wrongfully determined—to have that case decided in favor of the Louisville & Nashville Railroad Co. The reason I think he wrongfully sought to do it was because he kept all his transactions with Helm Bruce in utter secrets, both from his colleagues on the bench and from the attorneys on the other side of the case. If he had disclosed the transaction to them, if he had sent a copy of the letter that he wrote to Helm Bruce to the lawyers on the other side of the case, how easy it would have been to have given them an opportunity to reply. Is it possible that a man on the bench for 20 years does not better understand the ethics of the bench than that? The first thing those of us who are lawyers learned in the practice of our profession was that it was always unethical to do anything in a case without giving the lawyer on the other side due notice; yet Judge Archbald, standing here as he does, pretends to tell the Senate that it was innocently done and that it never occurred to him that it was bad ethics.

Now, just a word about the appointment of this man Woodward as jury commissioner. I do not maintain that the offense consists of appointing a railroad lawyer jury commissioner. I mean by that that the mere fact that he was a railroad lawyer does not in itself constitute the offense. If Judge Archbald had appointed any man who had one general line of litigation and one class of clients and always appeared in court for that class of clients on the same particular side of that litigation, the appointment of any lawyer who occupied that position at the bar would be the same kind of an offense, whether he represented railroads or whether he represented some other class of citizens. Suppose the farmers in a community had in some court a long line of litigation of the same kind and character and that they joined together and employed one lawyer to try the cases and to represent them in court, and suppose the judge should appoint that lawyer jury commissioner to select the jury that was to try those cases. It is the possibilities of wrong that renders such a thing offensive to a fair-minded man.

The offense does not consist in the fact that Woodward represented railroads, but that he was a lawyer who represented one particular class of clients and appeared in court on one side of litigation. If Woodward had to-day represented the railroad company and to-morrow had represented the railroad employees, the next day had represented the injured passenger, the next day the shipper, and the next day the farmer who had had his stock killed by reason of a bad fence along the right of way, it would not be so bad, for then Woodward could not have packed a jury on his side of all those cases, because when he was packing it for himself on one case he would be packing it against himself on the case he would try to-morrow. There is the offense and the indiscretion.

Aye, gentlemen, do you ask the question, Would you remove Judge Archbald for appointing Woodward jury commissioner when it is not proven here that Woodward ever exercised his power wrongfully? Do you say now, honor bright, would you remove him from office for that? No; I would not if it stood alone, but it is a part of the system; it goes to make up the system; it is an incident in the line of misconduct which has been carried on by Judge Archbald. Do you ask the question, Would you impeach and convict Judge Archbald and remove him from office for his correspondence with Helm Bruce? I speak for myself when I say no, I would not, if that stood alone; but it is a part of the system; it is one fact which dovetails into this line of conduct which he has carried on with the railroads, and it is a system so rank that "it smells to heaven."

Mr. President, I have said all I care to say on the facts in this case. The evil that arises from that course of conduct that has been pursued by Judge Archbald is the effect that it has upon the public mind. That is the most serious evil. It has the tendency to create in the minds of the people a sentiment that their Government is not being honestly administered. These times are pregnant now with that sentiment, and the great and serious responsibility devolves upon those entrusted with the power to purify the public service, to seek out the evildoers and give the public their just relief from maladministration in public office. It is not within the power or the right of Congress to pardon or excuse. The people never delegated that power to us, and for us to seek to excuse the evildoer would be an usurpation. It is our plain duty to purge the public service of such a man. The people should not be bound to submit to his dominion. His course of conduct is such that under the Constitution his tenure of office is ended. That instrument says he shall hold his office during good behavior. In determining what is misbehavior in office we do not ask you to measure Judge Archbald by the standard of your highest ideals. Measure him by the average judge, State or national, and your estimate of him will be that he is unworthy and should be removed from office.

The evil that comes from Judge Archbald's conduct is the fact that it shakes the faith of the people in that branch of government which is the very foundation source of justice. Among all the great responsibilities of Congress the one that stands above them all is their duty to purify and keep undefiled the judiciary. Within the breast of every just and upright judge repose the seeds that grow and blossom and ripen into better, freer institutions.

The people have nowhere to go, under that instrument which they denominate their Constitution, but to the House for articles of impeachment. I believe the House has done its whole duty in this case, and likewise the people under that great instrument have nowhere to go for the trial and conviction of unworthy servants except the Senate, and we confidently hope the Senate will do its full duty in the premises in this case. May the people always turn to that great instrument as their refuge and their harbor.

And so for this, Mr. President, we, as managers on the part of the House, ask you to remove this man from the office with which you honored him because he has dishonored it. We ask you to strip him of the ermine with which you clothed him because he has sullied it.

Mr. Manager CLAYTON. Mr. President, I believe it is now six minutes after 3 o'clock, and Mr. Manager WEBB will next address the Senate.

ARGUMENT OF MR. WEBB, ONE OF THE MANAGERS ON THE PART OF THE HOUSE.

Mr. Manager WEBB. Mr. President, the respondent's counsel, in his brief filed during the holidays, devotes 26 pages to a discussion of this proposition, "Impeachment lies only for offenses which are properly the subject of a prosecution by indictment or information in a criminal court."

I think it will not be amiss, Mr. President, to discuss that proposition on behalf of the managers for a little while. It is true that in those 26 pages of argument most of the quotations are from counsel who have appeared for respondents in various impeachment trials. I do not remember just at present a single noted constitutional authority that counsel quotes to maintain that proposition.

I wish to quote an early authority in opposition to this position. Wooddesson, in 1777, said:

"It is certain that magistrates and officers intrusted with the administration of public affairs may abuse their delegated powers to the extensive detriment of the community and at the same time in a manner not properly cognizable before the ordinary tribunals. On this policy is founded the origin of impeachments, which began soon after the Constitution assumed its present form" (p. 355).

Rawle, in his work on the Constitution—and everyone will acknowledge him universal authority on the Constitution—says:

"The fondness frequently felt for the inordinate extension of power, the influence of party and of prejudice, the seductions of

foreign States, *or the baser appetite for illegitimate emoluments*, are sometimes productions of what are not unaptly termed 'political offenses' (Federalist, No. 65), which it would be difficult to take cognizance of in the ordinary course of judicial proceeding.

"The involutions and varieties of vice are too many and too artful to be anticipated by positive law."

Judge Story says on this subject:

"In examining the parliamentary history of impeachments it will be found that many offenses not easily definable by law and many of a purely political character have been deemed high crimes and misdemeanors worthy of this extraordinary remedy."

Tucker, in his work on the Constitution, says—

"These two cases"—

Discussing the two in which impeachments and convictions occurred—

"These two cases, therefore, show that the words 'high crimes and misdemeanors' can not be confined to crimes created and defined by a statute of the United States."

In a footnote to Fourth Blackstone (p. 5, Lewis's ed.), Christian says:

"The word 'crime' has no technical meaning in the law of England. It seems, when it has a reference to positive law, to comprehend those acts which subject the offender to punishment. When the words 'high crimes and misdemeanors' are used in prosecutions by impeachment the words 'high crimes' have no definite signification, but are used merely to give greater solemnity to the charge."

In Cooley's Principles of Constitutional Law it is said (p. 178):

"The offenses for which the President or any other officer may be impeached are any such as are in the opinion of the House deserving of punishment under that process. They are *not necessarily offenses against the general laws.*"

In his work on the Constitutional History of the United States, George Ticknor Curtis says (vol. 1, pp. 481–482):

"But a cause for removal from office may exist where *no offense against positive law has been committed*, as where the individual has, from immorality or imbecility or *maladministration*, become unfit to exercise the office. The rules by which an impeachment is to be determined are, therefore, peculiar and are not fully embraced by those principles or provisions of law which courts of ordinary jurisdiction are required to administer."

In Watson on the Constitution (vol. 2, p. 1034) it is said:

"Congress has unhesitatingly adopted the conclusion that no previous statute is necessary to authorize an impeachment for any official misconduct. In the few cases of impeachment which have hitherto been tried *no one of the charges has rested upon any statutable misdemeanors.* An examination of the English precedents will show that, although private citizens as well as public officers have been impeached, no article has been presented or sustained which did not charge either misconduct in office or some offense which was injurious to the welfare of the State at large."

The American and English Encyclopedia of Law, which is an acknowledged authority, says:

"In each of the only two cases of impeachment tried by the Senate in which a conviction resulted the defendant was found guilty of offenses *not indictable either at common law or under any Federal statute*, and in almost every case brought offenses were charged in the articles of impeachment which were not indictable under any Federal statute, and in several cases they were *such as constituted neither a statutory nor a common-law crime.* The impeachability of the offense charged in the articles was, in most of the cases, not denied."

Mr. Bayard, in Blount's trial, said:

"Impeachment is a proceeding of a purely political nature. It is not so much designed to punish the offender as to secure the State. It touches neither his person nor his property, but simply divests him of his political capacity." (Wharton's State Trials, 263.)

Story on the Constitution (p. 583), as has been quoted before, says:

"In the few cases of impeachment which have hitherto been tried, no one of the charges has rested upon any statutable misdemeanors.

"The reasoning by which the power of the House of Representatives to punish for contempts (which are breaches of privileges and offenses not defined by any positive laws) has been upheld by the Supreme Court stands upon similar grounds; for if the House had no jurisdiction to punish for contempts until the acts had been previously defined and ascertained by positive law it is clear that the process of arrest would be illegal.

"In examining the parliamentary history of impeachments, it will be found that many offenses, not easily definable by law and many of a purely political character, have been deemed high crimes and misdemeanors worthy of this extraordinary remedy."

One can not but be struck in this slight enumeration with the utter unfitness of the common tribunals of justice to take cognizance of such offenses, and with the entire propriety of confiding the jurisdiction over them to a tribunal capable of understanding and reforming and scrutinizing the policy of the state and of sufficient dignity to maintain the independence and reputation of worthy public officers, citing again the American and English Encyclopedia of Law (vol. 15, p. 1066).

The cases, then, seem to establish that impeachment *is not a mere mode of procedure for the punishment of indictable crimes;* that the phrase of "high crimes and misdemeanors" is to be taken, not in its common-law but in its broader parliamentary sense; and is to be interpreted in the light of parliamentary usage, that in this sense it includes not only crimes for which an indictment may be brought but grave political offenses, corruptions, maladministration, or neglect of duty involving moral turpitude, arbitrary and oppressive conduct, *and even gross improprieties by judges and high officers of state; although such offenses be not of a character to render the offender liable to an indictment either at common law or under any statute.*

Cushing's Law and Practice of Legislative Assemblies (p. 980, par. 2539) says:

"The purpose of impeachment in modern times is the prosecution and punishment of high crimes and misdemeanors, chiefly of an official or political character, which are either beyond the reach of the law or which no other authority in the State but the supreme legislative power is competent to prosecute."

In the Peck case (p. 308) Mr. Manager Wickliffe said:

"The term 'misdemeanor' covers every act of misbehavior in a popular sense. Misdemeanor in office and misbehavior in office mean the same thing. (7 Dane Abgt., 365.) Misbehavior, therefore, which is a mere negative of good behavior, is the express limitation of an office of a judge."

Mr. Manager Palmer said in the Swayne impeachment trial:

"We may, therefore, conclude that the House has the right to impeach and the Senate the power to try a judicial officer for any misbehavior or misconduct which evidences his unfitness for the bench without reference to its indictable quality. All history, all precedent, and all text-writers agree upon this proposition. The direful consequences attendant upon any other theory are manifest.

"The word 'misdemeanor' used in the parliamentary sense as applied to offenses means maladministration, misconduct not necessarily indictable, not only in England but in the United States.

"*Removal of a judge for misbehavior or lack of good behavior is impossible unless it can be done through the impeaching power. Otherwise the people are powerless to rid themselves of the most unworthy, disgraceful, and unfit official.*"

Judge Curtis, in his History of the Constitution (pp. 260, 261), says:

"The purposes of an impeachment lie *wholly beyond* the penalties *of the statute or the customary law.* The object of the proceeding is to ascertain whether cause exists for removing a public officer from office. Such a cause may be found in the fact that either in the discharge of his office or aside from the functions he has violated a law or committed what is technically denominated a crime; but a cause for removal from office may exist where *no offense against positive law is committed*, as where the individual has from immorality, imbecility, or maladministration become unfit to exercise the office."

In the Commentaries on the Constitution of the United States, by Roger Foster, volume 1, page 560, this statement is made:

"The object of the grant of power was to free the Commonwealth from the danger caused by the retention of an unworthy public servant."

Again, on page 586, this statement:

"The Constitution provides that 'the judges, both of the Supreme and inferior courts, shall hold their office during good behavior.'

"This necessarily implies that they may be removed in case of bad behavior. But no means except impeachment is provided for their removal, and *judicial misconduct is not indictable by either a statute of the United States or the common law.*"

In Story on the Constitution (5th ed.), section 796, it is said:

"Is the silence of the statute book to be deemed conclusive in favor of the party until Congress has made a legislative declaration and enumeration of the offenses which shall be deemed high crimes and misdemeanors? If so, then, as has been truly remarked (citing Rawle on the Constitution), the

power of impeachment, except as to the two expressed cases, is a complete nullity and the party is wholly dispunishable, however enormous may be his corruption or criminality."

Rawle, again, on the Constitution, page 211, says:

"The involutions and varieties of vice are too many and too artful to be anticipated by positive law."

In Story on the Constitution, volume 1 (5th ed.), page 584:

"800. In examining the parliamentary history of impeachments it will be found that many offenses not easily definable by law and many of a purely political character have been deemed high crimes and misdemeanors worthy of this extraordinary remedy."

John Randolph Tucker, in his Commentaries on the Constitution, volume 1, section 200, says:

"To confine the impeachable offenses to those which are made *crimes or misdemeanors by statute or other specific law* would too much constrict the jurisdiction to meet the obvious purpose of the Constitution, which was by impeachment to deprive of office those who by *any act* of *omission or commission showed clear and flagrant disqualification to hold it.*"

Mr. Cooley, in his Principles of Constitutional Law (p. 178), discussing impeachment against the President and Vice President, says:

"The offenses for which the President or any other officer may be impeached are any such as, in the opinion of the House, are deserving of punishment under that process. They are not necessarily offenses against the general law."

Curtis, in his Constitutional History of the United States, volume 1, pages 481 and 482, says:

"The purposes of an impeachment lie wholly beyond the penalties of the statute or the customary law. The object of the proceeding is to ascertain whether cause exists for removing a public officer from office."

In Watson on the Constitution, volume 2, page 1034, published in 1910, it is said:

"A misdemeanor comprehends all indictable offenses which do not amount to a felony, as perjury, battery, libels, conspiracies, attempts and solicitations to commit felonies, etc. These seem to be the terms of these definitions at common law, but it would be strange if a civil officer could be impeached for only such offenses as are embraced within the common-law definition of 'other high crimes and misdemeanors.' Synonymous with the term 'misdemeanor' are the terms 'misdeed, misconduct, misbehavior, fault, transgression.'"

In American and English Encyclopedia of Law (vol. 15, pp. 1036–1068) it is said:

"If impeachment in England be regarded merely as a mode of trial for the punishment of common-law or statutory crimes, and if the Constitution has adopted it only as a mode of procedure, leaving the crimes to which it is to be applied to be settled by the general rules of criminal law; then, as it is well settled that in regard to the National Government there are no common-law crimes, it would seem necessary to follow that impeachment can be instituted only for crimes specifically named in the Constitution or for offenses declared to be crimes by Federal statute. This view has been maintained by very eminent authority, but the cases of impeachment that have been brought under the Constitution would seem to give to the remedy a much wider scope than the above rule would indicate. In each of the only two cases of impeachment tried by the Senate in which a conviction resulted the defendant was found guilty of offenses *not indictable either at common law or under any Federal statute, and in almost every case brought* offenses were charged in the articles of impeachment which were not indictable under any Federal statute, and in several cases they were such as constituted neither a statutory nor a common-law crime.

"The cases, then, seem to establish that impeachment is not a mere mode of procedure for the punishment of *indictable crimes;* that the phrase 'high crimes and misdemeanors' is to be taken not in its common-law but in its broader parliamentary sense, and is to be interpreted in the light of parliamentary usage; that in this sense it includes not only crimes for which an indictment may be brought, but grave political offenses, corruption, maladministration, or neglect of duty involving moral turpitude, arbitrary and oppressive conduct, *and even gross improprieties by judges* and high officers of State, although such offenses be not of such a character to render the *offender liable to an indictment either at common law or under any statute.*"

Now, Mr. President, that much I have said on the question of the necessity of showing an indictable offense before the Senate can impeach. There is another clause in the Constitution which we hope, if it has not already been vitalized, to revitalize and bring to the attention of the Senate and ask you to give it some power and force and tell us by your verdict what it means.

If the Constitution, Article III, section 1, means anything, then we want to bring it before the Senate to-day and ask Senators to say what it does mean when it provides that judges of the Supreme Court and inferior courts shall hold their offices "during good behavior."

The provision in Article II of the Constitution, section 4, Mr. President, refers to impeachment of the President, Vice President, and other civil officers for treason, bribery, or other high crimes and misdemeanors; but later on in that same great instrument, after Article II had been adopted, the constitutional fathers say the judges of the United States shall hold their offices "during good behavior."

It has been pointed out by many constitutional writers, and you yourselves see, that the people have no way of getting rid of a judge who has violated this provision by misbehavior except it is done by this great body. What does "during good behavior" mean?

The Century Dictionary says:

"During good behavior: As long as one remains blameless in the discharge of one's duties or the conduct of one's life; as an office held during good behavior."

Mr. Foster, in his work on the Constitution, page 586, makes this statement:

"The Constitution provides that 'the judges both of the Supreme and inferior courts shall hold their offices during good behavior.'"

This necessarily implies that they can be removed in case of bad behavior. But no means except impeachment is provided for their removal, and judicial misconduct is not indictable by either a statute of the United States or the common law.

Says Elliott in his debates on the Constitution:

"Mr. Dickinson moved as an amendment to Article II, section 2, after the words 'good behavior,' the words, '*Provided*, That they may be removed by the Executive on the application of the Senate and the House of Representatives.'"

This was in respect of the judges.

Mr. Gerry seconded the motion. Mr. Gouverneur Morris thought it a contradiction in terms to say that the judges should hold their offices during good behavior and yet be removable without a trial. Besides, it was fundamentally wrong to subject judges to so arbitrary an authority.

But, mark you, the object then was to remove for bad behavior, but to give them a trial, as the Senate is doing in this particular case.

Judge Lawrence, in the Johnson impeachment case, page 643, says:

"Impeachment was deemed sufficiently comprehensive to cover every proper cause for removal."

In Watson on the Constitution, the proposition is stated as follows (vol. 2, pp. 1036–1037):

"What will those who advocate the doctrine that impeachment will not lie except for an offense punishable by statute do with the constitutional provision relative to judges, which says, 'Judges, both of the supreme and inferior courts, shall hold their offices during good behavior'? This means that as long as they behave themselves their tenure of office is fixed and they can not be disturbed. But suppose they cease to behave themselves? When the Constitution says, 'A judge shall hold his office during good behavior,' it means that he shall not hold it when it ceases to be good."

I suppose the argument in the Federalist, Mr. President, had as much to do with the adoption of the Constitution of the United States as any other authority. I quote:

"The principle of this objection would condemn a practice which is to be seen in all the State governments, if not in all the governments with which we are acquainted; I mean that of rendering those who hold offices during pleasure dependent on the pleasure of those who appoint them." (Federalist, p. 306.)

And that is yourselves, Senators, for the President nominates judges and you appoint them.

According to the plan of the convention, all the judges who may be appointed by the United States are to hold their offices *during good behavior*, which is conformable to the most approved State constitutions. (Federalist, p. 355.)

Upon the whole, there can be no room to doubt that the convention acted wisely in copying from the models of those constitutions which have established *good behavior* as the tenure of judicial offices, in point of duration, and that so far from being blamable on this account their plan would have been inexcusably defective if it had wanted this most important feature of good government. (Federalist, p. 361; Publius.)

Mr. President, after counsel for the respondent has discussed in 26 pages of his brief the proposition that the respondent is

not impeachable unless he is indictable, he then makes this concession—that if it is not necessary to prove indictable offenses against the judge, it is necessary, at least, to prove some offense of a criminal nature.

Mr. President, after all crime is nothing but misconduct. The only thing that is made criminal in this country is some form of misconduct.

Before proceeding to argue the facts in the case, I maintain that any judge of a high court who will dicker and traffic with litigants in his court while their cases are pending ought to be indictable, because such conduct is criminal in its nature, and the reason it has not been made indictable long ago is because the people of the United States have never thought it necessary to surround the judiciary with such a statute.

The charges here, therefore, are criminal in their nature, in all good conscience, and I do not know but that the result of this impeachment trial may bring forth a statute making indictable such offenses as are admitted by this judge in this case. Many a man has served upon the chain gang or has been consigned to the county jail for offenses much less criminal in their nature than those which this judge here has admitted that he has been guilty of. It ought to be indictable for a judge of a high court who is embarrassed financially to send his worthless note to a litigant in his court and ask that it be discounted. All of the charges that are admitted here and proven, too, are, Mr. President, in good conscience and in good morals criminal in their nature.

I believe counsel for respondent also takes the position in his brief that this judge is not impeachable now as a circuit court judge for acts which he committed as a district court judge. Mr. President, just a few words on that point. There is no merit in the argument that this respondent can not be impeached at present for acts committed by him while he was district judge. It is true that he is now a circuit judge, but it is also true that immediately before he became a circuit judge he was a district judge. He never ceased to be a judge or civil officer of the United States.

During the last 12 years he has only been elevated one rung in the judicial ladder. His office as judge under the United States has been continuous since his appointment as district judge 11 years ago. This question was raised in the impeachment trial of Judge D. M. Furches in North Carolina in 1901. There the respondent was impeached while he was chief justice of North Carolina for acts committed while he was an associate justice, two distinct and separate offices, but his defense did not avail. Both the authorities and reason compelled the repudiation of such a defense, and, to use the language of Judge William R. Allen, now of the supreme court of our State, then one of the managers in the Furches impeachment trial:

"The purpose of impeachment is to remove an officer whose conduct is a menace to the public interest, and it would be strange, indeed, if he could escape punishment by being elevated to a higher official position. If such a defense could be sustained, one could by resignation avoid an investigation into his conduct by a court of impeachment, and if he was of the same political faith as the head of the executive department, and in sympathy with it, he could be transferred from one office to another, and thus avoid impeachment altogether. The effect of such defense would be to practically destroy the power of impeachment, and, at any rate, it would be greatly impaired. We believe that the authorities are practically unanimous in sustaining our contention that the change of office does not affect the power of impeachment. He is now exercising the same powers that he exercised when he was an associate justice. He is performing the same duties. He is practically filling the same office."

Mr. Foster, on this subject, says:

"The power of impeachment is granted for the public protection, in order to not only remove, but perpetually disqualify for office a person who has shown himself dangerous to the Commonwealth by his official acts. The object of this salutary constitutional provision would be defeated could a person by resignation from office obtain immunity from impeachment. State senates have sustained articles of impeachment for offenses committed at previous and immediately preceding terms of the same or a similar office."

Is it not true that Judge Archbald now holds a similar office to that which he held in 1908? He is now a circuit judge, and the powers and duties of district and circuit judges are almost identical. In the case of State against Hill, to be found in the Thirty-seventh Nebraska Reports, we find this language:

"Judge Barnard was impeached in the State of New York during his second term for acts committed in his previous term of office. His plea that he was not liable to impeachment for offenses occurring in the first term was overruled.

"Precisely the same question was raised in the impeachment proceeding against Judge Hubbell, of Wisconsin, and on the trial of Gov. Butler, of this State, in each of which the ruling was the same as in the Barnard case. There was good reason for overruling the plea to the jurisdiction in the three cases just mentioned. Each respondent was a civil officer at the time he was impeached, and had been such uninterruptedly since the alleged misdemeanors in office were committed. The fact that the offenses occurred in the previous term was immaterial."

I am still quoting from the Supreme Court of Nebraska:

"The object of impeachment is to remove a corrupt or unworthy officer. If his term has expired and he is no longer in office, that object is attained and the reason for his impeachment no longer exists. But if the offender is still an officer he is amenable to impeachment, although the acts charged were committed in the previous term of the same office. The ruling of the Senate of the United States upon the impeachment of William W. Belknap also furnishes a precedent for our contention. Prior to the adoption of the articles of impeachment against Belknap he tendered his resignation to the President, and it was accepted, and upon his trial he interposed a plea to the jurisdiction on the ground that he had ceased to be an officer and was not liable to impeachment, and this plea was overruled by the Senate."

We have, then, five precedents, one by the Senate of the United States, one by the Senate of New York, one by the Senate of North Carolina, one by the State of Wisconsin, and another by the court of impeachment of Nebraska, indorsed by the Supreme Court of Nebraska and by Foster in his work on the Constitution.

We therefore confidently maintain that the respondent in this trial is now impeachable for acts which he committed while district judge of the middle district of Pennsylvania.

I shall not go into the discussion of the origin of impeachment trials, but will just quote this excerpt from one constitutional writer. Mr. Foster, in his splendid work on the Constitution, says:

"Impeachment trials are a survival of the earliest kinds of jurisprudence, when all cases were tried before an assembly of the citizens of the tribe or State. Later, ordinary cases, both civil and criminal, were assigned to courts created for that purpose, but matters of great public importance were still reserved for a decision of the whole body of citizens, or subsequently, of the council of elders, heads of families, or holders of fiefs."

This arrangement could be preserved in earlier times when population was sparse and business intercourse small and human affairs were not intricate; but as civilization became more complex and the division of labor in administering judicial affairs became more urgent, the right to decide and pass upon various questions was allotted to different officers, and so, to-day, we have a judicial system in which all judicial power is lodged, but distributed to different courts, but in all this evolution and distribution of judicial power there is one great right which the people have always reserved unto themselves, and that is the right to supervise the conduct of public officials, and, through their representatives, to remove such officials from office for misconduct or misbehavior, and so, Senators, you sit to-day, theoretically at least, as the court of 90,000,000 people, who have commanded us through the popular branch of Congress to bring this respondent before you to inquire into his conduct and ascertain if the condition on which he was appointed to the high office which he now holds has not been broken by him.

Quoting Foster again:

"What, it may be asked, is the true spirit of the institution itself? Is it not designed as a method of national inquest into the conduct of public men?"

This right to inquire into the conduct of public officials has been reserved to the people themselves, and this great Senate is the tribunal in which such questions must be tried, and necessarily and properly the powers of this court are "broad, strong, and elastic, so that all misconduct may be investigated and the public service purified." The fathers of the Constitution realized the importance of reserving unto the people the right to remove an unworthy or unsatisfactory official, and they were indeed wise in not attempting to define or limit the powers of the Court of Impeachment, but left that power so plenary that no misconduct on the part of a public official might escape its just punishment.

It is not by inadvertence that the Constitution is not more specific in regard to the powers and duties of the Court of Impeachment.

Judge Cooley, in an article written for the Encyclopedia Britannica, speaking of the provisions of the Constitution, says:

"But the constitutional provision was necessarily left vague and very much at large in view of the absolute impossibility

of specifying by enumeration or description in advance the infinite variety of ways in which public officers may so conduct themselves as to render their further continuance in office a public scandal or a public danger."

Now, Senators, let us for a little while, as briefly as the occasion will permit, examine the evidence in this case and arrive at the conclusion as to whether or not the respondent has been guilty of any conduct which justifies his removal from office.

Mr. President, in the consideration of the evidence and the law in this case, we shall ask the calm and deliberate consideration of each Member of the Senate, and shall expect that he shall pronounce such verdict as his mind and conscience dictate.

In this proceeding we should simply apply common sense to common facts in an uncommon case. It is an uncommon case, because never in the history of this great trial body have so many misdemeanors, so much misconduct, and so many gross improprieties and ugly facts been proven on a United States judge. I believe that never before in the history of trial bodies has a defendant admitted so many damaging facts, and yet asked his triers to draw from these facts a conclusion of innocence. This respondent's conduct, Mr. President, both upon the proof and upon his admissions, has been wrong and reprehensible, gross and inexcusable.

Mr. President and Senators, under the first article of impeachment it is charged that Judge Archbald used his influence as a United States Commerce Court judge to secure from the Erie Railroad Co. the culm bank known as the Katydid culm bank. I shall not discuss the details of it. It would be wearisome probably to you, because you have just heard it discussed in a most excellent manner by Mr. STERLING. But I do wish to point out some few points in the testimony which may have escaped you.

In the first place, Mr. President, there is a general charge that this judge has been guilty of culm-dump mongering from the time he became a Commerce Court judge until the time he was overtaken. I have a list of letters here that the judge has written about culm dumps beginning the 31st of March, 1911, and winding up when it was whispered around Scranton that this matter was being investigated. It covers two pages and a half, beginning March 31 to Mr. May and on down to March 12, 1912, to Mr. Bruce. There are some 50 or 60 of these letters, I believe. Nobody knows how many personal conversations there were; nobody knows how many phone calls there were. I really do not see how this high court judge could have done much judicial work on the bench and attended to all these numerous culm-dump transactions with the various litigants in his court which are in evidence here. He seems to have started out with the idea that he was probably not worldly wise, as some of the witnesses said, and I guess he was not; and he began to trade and traffic in what? In money? No. Did he have any experience in the coal business? No. He never owned a washery. I do not know that he ever saw a culm dump. He never mined coal. He had no financial standing. What was he trafficking in from the beginning of his career, just after he was put on the Commerce Court bench, when the railroads came under his jurisdiction, until the present time? He had nothing to traffic in except his *influence* as a judge.

Senators, you can read this testimony from one end of it to the other and that is the only conclusion that you are driven to, because I say again he had no experience in coal dumps; he had no knowledge of coal property; he had no financial standing. All that was left him to make gain for himself was traffic in that sacred influence derived from the office of judge. Paul, in writing to his beloved Timothy, from many years of ripe experience, said:

"And having food and raiment, let us be therewith content.

"But they that will be rich fall into temptation and a snare, and into many foolish and hurtful lusts, which drown men in destruction and perdition.

"For the love of money is the root of all evil."

The judge seems to have adopted as soon as he went on the Commerce Court bench and on the district court bench old Ben Jonson's advice, where he says:

"Get money; still get money, boy,
No matter by what means."

Or, as Pope says in his imitation of Horace:

"Get place and wealth, if possible, with grace;
If not, by any means get wealth and place."

The judge has sorely violated the proprieties of his office in order to make these advantageous contracts. The beginning of his advantageous contracting, so far as his position as Commerce Court judge, was with the Erie Railroad Co., which had a suit pending in his court from April, 1911, until the present time. I believe it has been decided by the Supreme Court in the last few months.

That case was argued in the Commerce Court, I believe, some time in May, 1911—between April and May. It was appealed to the Supreme Court on the preliminary injunction which Judge Archbald's court had granted. Therefore, this Erie Railroad case, known as the Lighterage case, was still pending in the judge's court at the time he secured for himself and Williams the option on the Katydid dump.

Now, Mr. President, I do not know what manner of man old man Williams is, but I can not have a good opinion of a Federal judge who is the almost constant companion of such men as E. J. Williams, Fred Warnke, John Henry Jones, Rissinger, Dainty, the man who was off fishing and automobiling when the House of Representatives was seeking his testimony here. I say his business companions and associates show his ideas of propriety are very, very low, and we may expect to find in such a man almost a seared judicial conscience when it comes to propriety.

Old man Williams knew the power of Judge Archbald. "Now, Judge, if you will give me a letter to May I can get this culm dump." But the judge was not going to let Williams get that culm dump on his own account. He did not give him an introduction. It was something like the Watson deal to settle with the Delaware, Lackawanna & Western Railway. Watson wanted an introduction to the railroad. Old man Williams wanted an introduction to May in order to get something from the railroad. Judge Archbald said: "No; I will not introduce you exactly. I will write a letter and inquire if we can buy it." He says in his answer that at the time he wrote the letter, or later, he was informed that he and Williams could each make two or three thousand dollars from resale of the dump. Two or three thousand dollars is a good amount of money for a man to make on one little transaction of this kind. The judge had that at stake in pursuing the Erie Railroad Co. for the possession of the option on the Katydid culm dump. And he did pursue it.

Did you ever see such a persistent pursuit of a railroad corporation in your life? Then he wrote May a letter. May finally told him that Vice President Richardson was coming down to Scranton before a great while, and he would take the matter up with him. That was along in May or June. He said: "I will take up this Katydid transaction with him." It is contrary to the policy of the Erie Railroad Co.," he says, "to part with its culm banks, but I will take it up with Richardson, who is the vice president." Mr. May, although unwilling as he was, swore that he did take it up with Richardson in Scranton, and that he and Richardson came to the conclusion that they would not sell the dump.

Senators, it is one point that should be remembered, that after the judge had made this application through old man Williams, the vice president of the road and Mr. May had concluded that they would not sell. The judge did not like that, evidently. He said in his testimony that he did not know that Richardson had been at Scranton and that they had arrived at that conclusion. He further said that Mr. May passed by his office practically every day going to lunch. Yet he did not know that Richardson and May had come to the conclusion that the railroad company would not part with this piece of property. He found that the proposition had been turned down somehow. Old man Williams no doubt was worrying the judge and May, and finally Williams comes back and says, "Judge, I do not believe that we can get this option; May talked very gruff to me."

Now, Senators, the judge has some spirit about him. If you will remember, he showed it on the witness stand. Williams described before Wrisley Brown in Scranton and before the Judiciary Committee before he swore here in the Senate Chamber just exactly what the judge did and said. He said the judge got excited and said, "I know their lawyer, Brownell." Yes, Brownell had just argued this Lighterage case about a month and a half before that before the judge in the Commerce Court. He said, "I know their lawyer, Brownell, and I will go to New York and see him, and I may hurt May." Williams said he did not refer to the Erie Railroad officials. He said, "I may hurt him, May, for refusing so small a favor." Then old man Williams said before Wrisley Brown, when he was fresh from these happenings, "the judge said, 'I have two cases here now that I have just decided for them.'" And he did have two cases lying on his desk, because the judge said yesterday in his testimony he had the record and the briefs of the Lighterage case and the Joint Rate case, to both of which the Erie Railroad Co. was a party defendant, in his office in Scranton. He said, "I have just decided two cases for them." Those cases had been argued and appealed on a preliminary injunction to the Supreme Court.

Old man Williams could not have known, Senators, what were those cases. The judge says, "Lighterage cases." Williams swore that he never knew Brownell's name; he never heard of Brownell. He said, "I never heard of lighterage in my life until the judge then and there described it. 'Lighterage,' he says, 'is these tugboats that haul box cars across the river from New York.'"

Who told him about it? That was told shortly after the Lighterage cases had been decided by the Commerce Court. He said the judge told him about it, and said:

"I will go to see Brownell," the man who argued the cases before him and in whose favor the decision was rendered in the preliminary injunction. "I will see him and may hurt May for not granting this favor."

I may say, Senators, it is perfectly evident to you all that the Judiciary Committee and the managers have been handicapped in this case, because it is apparent that we have had to go to the judge's own friends, companions, and business associates to get this testimony, and the testimony we have gotten has been practically wrung from unwilling witnesses.

Old man Williams goes upon the stand and swore he further saw at some other time the word "lighterage" in a little pamphlet. But, Senators, he said before Wrisley Brown and before the Judiciary Committee that when this Lighterage case was first discussed he saw the cases in a little book, a brief he said. There is no court docket mentioned then. He said, "I saw the brief filed by the lawyers. I took it in my hand." Here are the briefs I hold in my hand. He called them little books. The judge admitted yesterday that at that time he had taken home with him the documents, the records, the briefs in the case.

One of these little books is what old man Williams picked up. It is entitled, "Case No. 38," where the Delaware, Lackawanna & Western and the Lehigh Valley Railroad appeared as defendants. That is what old man Williams swore before Wrisley Brown when the facts were fresh in his mind, and practically what he swore before the Judiciary Committee, and he does not particularly deny it here, except that they bring out the fact that later on, in September, after the option had been secured, after the judge had gone to New York, Williams saw or could have seen in the little trial docket the word "lighterage." I believe Williams saw that, Senators. He was in the judge's office four or five times a week, so he said, for the last three or four years, not only a daily visitor, but often a double daily visitor. He seems to have had privileges there that permitted him to go through the judge's documents and books and look up what railroad cases the judge had pending before his court, and I expect in turning the leaflets of this little trial docket he may have seen the word "lighterage" there.

But, Senators, listen. They do not say that old man Williams has told a falsehood here, because he is the judge's friend and has been the judge's go-between and handmaid for four long years. Williams said that he talked about the Lighterage case before the judge went to New York. He said that positively in several different places. "How long was it after you talked about the Lighterage case that the judge went to New York?" "I do not know. It may have been two weeks, a month."

You can not resist the conclusion, Senators, that Judge Archbald did say to old man Williams, "I will go to New York and see Brownell." Why? Because he did go. One reason, the judge assigns in his answer for going was that he had understood the title of Robertson & Law was in dispute and had been referred to Brownell. When Brownell comes on the witness stand he never mentioned Robertson & Law's interest in it, because at that time Judge Archbald knew Robertson & Law had already given Williams an option on their interest in this bank, and there was no trouble about it.

He says in his answer that that is what he went to see Brownell for. Further on he says he was introduced to Richardson and only called on Richardson for the purpose of "hurrying up the proposition." He never did discuss Robertson & Law with either Brownell or Richardson.

No, Mr. President, the conclusion here is irresistible. This judge, knowing his power, went to New York to see the head officials, Brownell first and then Richardson, for the purpose of compelling them to agree to his proposition to purchase the dump. Why do I say that? Because along in June or July Richardson and May had agreed they would not sell it. Then the judge gets restive and he writes a letter to Brownell. He does not put Brownell's name in the letter either, and if one did not have the envelope you would never know to whom the letter was written.

"MY DEAR SIR: I want to know if you will be in your office the 4th of August. I want to see you on a little business"—Something of that sort. Brownell immediately writes back, "Come." Brownell said, "I have nothing to do with Richardson's business; I will introduce you to Vice President Richardson." On the 25th of August May went to New York to see Richardson, and, among other things, he discussed the Katydid proposition with Richardson, which proposition they had turned down two months before. "Richardson and I talked the matter over, and I went back to Scranton on the 26th of August, and on the 29th of August I saw the judge."

The judge makes the impression that May knew he was financially interested in this proposition. I tell you, Senators, this evidence will convince you that the judge knew he was doing wrong, and he kept his name out of all this transaction until after he had secured the option from the litigants in his court. May, a man who had been walking in front of the judge's door for many months and years called on the judge and said, "Judge, send Mr. Williams around; I will give him that option." Why did he not say to the judge, "Judge, we have agreed to give you and Mr. Williams the option. I will make it out to you"? No, sir; the judge calls in Williams and says, "Go up to May. Now we can get it. I have been to New York and I have seen Richardson and Brownell." Williams says the judge told him to go, and "May likes you very much; go up and you can get it." He then goes and does get the option; and he gets it in whose name? He gets it in E. J. Williams's name. The judge is still concealed, although he says he expects to make two or three thousand dollars out of the option. On the 4th of September, when they secured the option from Robertson & Law, which had theretofore been verbal, the judge draws it to Williams anew, and he does not put his own name in it. There they have given an option to Williams, a handmaid, a go-between, a dummy, in which the judge expects to reap a financial profit of two or three thousand dollars, or it may be more.

Now, mark you, he writes to this very same man, May, on the 29th of November, though he has stated that he thinks May knew that he was financially interested in it; but listen to that letter of the 29th day of November. I think I will take the time of the Senate to read just a little of it to show you that he was even concealing from Capt. May the fact that he was financially interested in this transaction. After the option had been granted by May to Williams on November 29, two months later, he writes to Capt. May:

"MY DEAR CAPT. MAY: I have closed a deal on behalf of Mr. Williams for the Katydid culm dump—

Why did he not say to May, "We have closed a sale"? He kept the fact concealed from poor old May that he was financially interested in it, and made May come up and deliver to this man, Williams, through his influence with the New York office with Richardson. There is no other conclusion that you can reach, Senators, from the testimony in the case. The judge practically compelled Richardson to order May to reverse his position and give the judge the option he coveted.

The Marian Coal Co. proposition, Senators, is along the same line. Who first suggested Watson's name? This same old fellow, Williams. He goes to one of the Bolands and says, "You employ George M. Watson; he can settle your case." Boland gets Watson, and where does Watson go? He goes to Judge Archbald, of the United States Commerce Court, when he knew that that judge had at that time the Delaware, Lackawanna & Western Railroad Co. in his power in three ways; because the Marian Coal Co.'s case was pending in the Interstate Commerce Commission, which was liable to be appealed to Judge Archbald's court; the Delaware, Lackawanna & Western Railroad Co. was a party defendant in the lighterage case; and the Delaware, Lackawanna & Western was interested in the Meeker case, which lowered the rates upon coal by the Interstate Commerce Commission, and that case, too, was then pending in the Commerce Court. There were three ways in which this company—the Delaware, Lackawanna & Western—were interested, and the judge knew it.

Then he sets about with this man Watson, who says—even Watson, a man of his type, in his testimony says—that he got very mad when anyone suggested that he would associate with a man like E. J. Williams. He says that in his testimony. Then Watson goes to the judge, who has these railroads in his power. Senators, did you ever hear of a man in your life, in high or low official position, doing what this judge has done and in the persistent manner in which he did it for mere personal friendly motives? I do not care what his intent was; the conduct itself is bad. The first thing he did was to call up Loomis, the vice president of the Delaware, Lackawanna & Western, on the telephone. He could not get Loomis. Then Loomis swears that he saw the judge on the street in Scranton, and the judge told him that the Marian Coal Co. case would be a good case to settle with the Bolands—"intimated," I believe the word is—that it would be a good thing to settle it; and to

see whom? To see Watson. Then on the 4th day of August, the very day he went in to see Brownell about the Katydid dump deal with the Erie Railroad Co., he goes over to see Mr. Loomis, the vice president of the Dalaware, Lackawanna & Western Railroad Co., in behalf of Watson, who was employed to settle the Marian case with the Delaware, Lackawanna & Western Railroad.

Then, Mr. President, Mr. Loomis swore that at some time between the 1st of September and the 5th day of October the judge called on him again in New York to ask how they were getting along with the settlement. Then, on September 27, the judge, after these persistent interviews and discussions, gets a letter from Mr. Loomis saying that he does not think there is any possibility of a settlement. Ordinarily, if he had stopped there, it would not have looked so bad, but he sits down and writes: "I am very much disappointed that you can not settle this case, and I shall still hope that there is some way of settling it." He writes that to Loomis. That was on the 27th day of September. On the 30th day of September he calls up Mr. Phillips, the superintendent of the coal company owned by the railway, and says, "I want to see you." Phillips says, "All right, I will see you in the morning." The morning came and Phillips forgot it. Then at lunch the judge called him up again and said, "You forgot that appointment with me to-day, and I want to see you." "All right, Judge, I will call upon you this afternoon." "No," the judge replied, "I am going to take a walk; come to-night"; and for the first time in the life of Reese A. Phillips he called at Judge Archbald's home to discuss the settlement of this $161,000 claim against the Delaware, Lackawanna & Western Railroad Co., and went over the whole matter with him. Phillips tells him there is no chance of a settlement; that all that they think is due would be $3,000 in excess coal rates on account of the Meaker case, and $11,000 for the value of the washery, making it $14,000, I believe. The judge said to Phillips, "It seems you are a long way apart." And, mark you, then Watson, on the 2d of October, either by letter or by personal conversation, states to Judge Archbald, "I have written to Truesdale and to Loomis asking for a conference as quick as possible in this case"—a personal conference. Then the judge follows that up with a letter to Loomis of October 3, in which he says, "There is nothing like a personal conference in these matters." In a letter to Loomis before that he says, "I would volunteer my personal services if I thought it were possible to accomplish a settlement of this case"—between litigants then in his court. Then, when the conference was held on the 5th of October, "There is no chance of getting together. It is ridiculous," the railroad officials say, "to ask us $161,000 for this proposition." Mr. Boland says that the judge knew that a hundred thousand dollars was to be the maximum. "It is ridiculous; we will not discuss it at all." But old man Watson says, "Why, remember the Meeker case; it is pending in the Commerce Court now"; and the suggestion was that Judge Archbald was to pass upon the Meeker case. "If he sustains the Interstate Commerce Commission the Meeker case will cut the freight rates on coal on your road—the Delaware, Lackawanna & Western—as well as the others, and you had better look out. Not only that, but you are now parties in his court in the Lighterage case; and not only that, but this case we are trying to settle may go to his court by appeal from the Interstate Commerce Commission." That is the conclusion.

Senators, there never was a more powerful chain of circumstances where judicial influence was brought to bear upon a set of railroad officials in this country than that which is shown in this Delaware, Lackawanna & Western case. I can not understand for the life of me how frail mortal men, like Loomis and Truesdale, failed to "stand and deliver."

After they broke up that conference on the 5th of October with no settlement, what happened? Old man Watson goes to his guide, "I must go to the man who is engineering this deal." The next day he wired down to Washington to the judge, "What time can I see you to-morrow in Washington?" The judge promptly wires back to him, "Almost any time." Then Watson wires back, "Will be at the Raleigh Hotel to-morrow afternoon at 1.30; leave instructions." The judge knew that the conference was going on.

Old man Watson, you will find if you will read the testimony, swore at least five different times that he did not come to Washington after that conference; that he came here before the conference to get the brief in the Meeker case, which was produced at the hearing before the Judiciary Committee. The brief that he claimed he had gotten on the 7th of October was not filed until the 9th day of October in the Commerce Court, and the judge must have sent it to him, I imagine from his testimony the other day, after the brief had been filed. The fact is, that after this conference broke up he wanted the judge to use still more pressure and more power to bring a settlement about. This man Watson saw from $5,000 to $61,000, whichever way you may look at it, slipping away from his greedy hands. He says in his testimony that his train was, I believe, an hour late, and when he got to Washington, although it was raining, the weather was bad, and he was to have been here at 1.30, he found the judge patiently waiting for him at the Raleigh Hotel.

That was not the end of it. The judge goes further. After that conference, which he brought about—and these railroad officials say they had it on account of this judge—that was not all. The judge still pursued it. He saw Loomis again in an effort to get him to make some final settlement or offer; and on the 13th of November he writes, "My Dear Christy, I have seen our friend"—I guess he referred to Mr. Loomis—"and there is no chance for a settlement of the case."

Senators, I wish I had the time to discuss all the other remaining articles. I think the Rissinger matter, the signing of the $2,500 note, the acquisition of stock in the Honduras gold-mining scheme, is one of the ugliest charges in this entire body of articles. The judge admits in his answer that during the time the old Plymouth case was pending in which Rissinger was interested negotiations were going on between him and Rissinger about sales of the Honduras stock, but he says in his answer a little later that he understood that his indorsement was simply as an accommodation. How would you, Senators, like to be innocently and openly prosecuting a suit in a United States court when you knew that your adversary was in the private chambers of the judge making with him deals for stock, wherein he used nothing to purchase it but his name as a judge, which is worth nothing in commercial channels because they never got the money until they had to take a judgment note against Mrs. Hutchinson and Rissinger before they got it. What Rissinger was after was the influence of this judge in those cases which were pending. He formed his little corporation on November 10 and during the time when the case was pending involving $25,000 Rissinger was in the private chambers of this judge discussing with him the details of a scheme down in some foreign country absolutely unknown to the defendant in the case. After the case was decided in Rissinger's favor, then he does sign up the note, then the $2,500 is secured, and the judge is passed over $1,680 worth of stock, for which he never paid a cent, never has paid a cent, and it was never intended that he should pay a cent. It was a pure gift in order to influence this judge in those cases, or at least to get in his good graces.

In regard to Packer No. 3, Senators, if the judge had secured it from the Lehigh Valley Railroad Co.—I have made some figures which, with the permission of the Senate, I will insert in connection with that proposition—he would have made $125,000 a year. There were 521,000 tons of coal, of which they would have washed and prepared 500 tons a day—a whole trainload per day.

The judge expected to transport that coal to market, and under the ordinary price of coal he would have made something between $250,000 and $300,000 on that 521,000 tons of coal.

Improvements, $20,000.

Percentage of coal—		Tons.
Chestnut,	6 per cent, or	30
Pea,	6 per cent, or	30
Buckwheat,	20 per cent, or	100
Rice,	30 per cent, or	150
Barley,	38 per cent, or	190
	100	500

Number of men necessary to operate plant, 24. Average wages, $2.50 per day. For 26 working days the amount would be $1,560.

Prices obtained for coal at plant are as follows:

Chestnut,	30 tons, at $3 per ton	$90.00
Pea,	30 tons, at $1.85 per ton	55.50
Buckwheat,	100 tons, at $1.50 per ton	150.00
Rice,	150 tons, at $1.10 per ton	165.00
Barley,	190 tons, at 60 cents per ton	114.00
	500	574.50

Total receipts for coal for 26 working days would be $14,937.

Royalty per day on an output of 500 tons:

Chestnut,	30 tons, at 45 cents per ton	$13.50
Pea,	30 tons, at 30 cents per ton	9.00
Buckwheat,	100 tons, at 20 cents per ton	20.00
Rice,	150 tons, at 15 cents per ton	22.50
Barley,	190 tons, at 8 cents per ton	15.20
	500	80.20

Total royalty for month of 26 working days, $2,085.20.

Fixed charges per day—allowances for wages, royalty, supplies, depreciation, etc.:

Wages,	13 cents per ton on 500 tons	$65.00
Royalty,	16 cents per ton on 500 tons	80.00
Supplies,	4 cents per ton on 500 tons	20.00
Depreciation,	4 cents per ton on 500 tons	20.00
	37	185.00

Total fixed charges for 26 working days, $4,810.

Receipts for coal		$14,937.00
Less—		
Wages	$1,560.00	
Royalty	2,085.20	
Fixed charges	4,810.00	
		8,455.20
Profit for month		6,481.80

Enough evidence has been adduced here to prove that the railroad companies hold to coal properties like grim death; they do not turn them loose until they are compelled to do so, either under the law or under the influence of some judge of a high court, as in this case.

It looks to me, Senators, from all the pipes the judge was running out, from all the wires he was setting, from all the financial deals out of which he was preparing to make money here, yonder, and everywhere, that the judge thought the Commerce Court was going to be abolished and he was going to get into a business where he could make money rapidly, because he spent practically the whole of 1911 in preparing these coal-dump deals and making propositions to the railroads about securing their coal properties and settling lawsuits with them.

Mr. President, several times in the history of our country judges have been called before this great bar to account for their conduct, and in every case of conviction the charges were far less grave than those made and proved in the case before us to-day. One of the early impeachments was that of Judge Addison, who was impeached and convicted in Pennsylvania in 1802 on two charges, to wit:

"First. Directing the jury that the address of an associate judge to them had nothing to do with the question before them.

"Second. Preventing the associate judge from addressing the grand jury concerning their duties, and by denying the right and by leaving the bench, and thus irregularly adjourning court."

Judge Pickering was impeached and convicted by the United States Senate in 1804 for ordering a ship to be restored to a claimant without producing a certificate for the payment of duty, for refusing to hear testimony of witnesses produced to sustain the claim, and refusing an appeal from the decree which he had rendered.

Judge Humphreys was a United States district judge in 1862, and was convicted by the United States Senate on the following charge:

"For neglecting and refusing to hold the district court of the United States."

It is claimed, Mr. President, that this judge did not possess the evil motive in all of these transactions which ordinary men must necessarily attribute to him after knowing the admitted facts. This plea can not excuse a person occupying his high position. He ought not to have committed acts which in the minds of ordinary men would scandalize his office and bring his official character into disrepute. Upon the admitted facts in the respondent's answer I believe he should be found guilty and removed from office. There is a maxim of law expressed in Latin, res ipsa loquitur; that is, the thing itself speaks. True, that doctrine is usually applied in damage suits when, certain facts being proved or admitted, negligence is presumed, and so in this case all the ugly facts being admitted by respondent in his answer they, per se, constitute the opposite of good behavior, regardless of motive, and render him liable to forfeiture of his office. We are told in Holy Writ that—

"Uzzah put forth his hand to the ark of God and took hold of it for the oxen shook it. And the anger of the Lord was kindled against Uzzah; and God smote him there for his error, and there he died by the ark of God."

In that case Uzzah's intentions were not only not bad, but were positively good. What he did was innocently done, but his acts were a sin in the sight of Jehovah. But no such innocent motive moved Judge Archbald in all of his devious transactions. He knew the power of his high office, and he knew his own power because he held that office; he was conscious of it at every step; he kept his high position posted before the eyes of the litigants in his court by constant correspondence upon stationery on which were the awe-inspiring words "R. W. Archbald, judge, United States Commerce Court, Washington." Every railroad president, every railroad counsel, and every railroad superintendent instinctively realized, upon receipt of such correspondence, the power and position of the respondent, and peculiarly so in this case, for these railroads were at that very time to a certain extent within the power of this judge because they were parties to suits then pending in his court, and he knew it.

Judge Grover, a splendid man and great judge, of high character, who sat upon the impeachment case of George G. Barnard, in voting upon the question of disqualifying Judge Barnard from holding office, said:

"Upon the trial of important civil causes he has fairly and uprightly discharged the duty of a just judge according to the best of his ability. The errors into which he has fallen are somewhat akin to some of the nobler virtues. I think that the votes upon these articles show that the errors into which he has fallen have originated from attachment to friends, from the idea that upon the bench he had the right to remember who were his friends and who were his enemies. I hope that the result of this trial will not only solemnize every judge in this State, every man clothed with a public trust under the Government, that all will have impressed upon their minds when they assume any function in behalf of the public that all selfish considerations are to be discarded, all their ends the public good. The respondent's desire to aid friends has led to grave errors—errors, in my judgment, inexcusable. The evidence has satisfied me that Judge Barnard, although possessed of those genial qualities that have surrounded him with strongly attached friends, was destitute of some qualities essential to the judicial character. It is possible, if he had committed these offenses in a legislative or administrative capacity, I might be satisfied by removal only; but in that position where the greatest integrity is to be exercised, where none should turn either to the right or to the left in the discharge of duty, from any consideration whatever, where the only inquiry should be, What is the law, what is right, and act accordingly. In this case, with the kindest feelings toward Judge Barnard, I am compelled to vote in the affirmative."

In that case, Senators, Judge Barnard was impeached upon the sole charge of partiality. How much more grievous are the charges which we have proven against the respondent in this trial!

I yield to no one in my reverence and respect for the splendid judges who have illumined and adorned the annals of our judicial history. When the roll of the names of Marshall, Taney, Miller, Brewer, Harlan, and Fuller is called, my pulse quickens and my blood warms because I am one of their countrymen and "have a share in the heritage of their fame," but what a far cry it is from one of these great men to the respondent at the bar! Can you imagine that any one of these, during the wildest and most indiscreet moment of their lives, would ever have descended from their high position to the low plane of dickering and trafficking for private gain with parties who had suits pending in their courts?

Mr. President, the history of the American judiciary is a glorious record, which makes every citizen of this country proud. "It is a heritage priceless in value and belonging to us all. Lapse of years but adds to our reverence for Marshall and Story, Kent and Miller, Taney and Field. Amidst the conflicts of parties and principles, which raged so furiously around them, they were calm and just in wisdom and conservatism, declaring the law as they believed it to be, with an independence which knew no fear. Around some of them clouds and darkness gathered, but they soon passed away."

> "As some tall cliff that lifts its awful form
> Swells from the vale and midway leaves the storm,
> Though round its head the rolling cloud is spread,
> Eternal sunshine settles on its head."

So long as judicial independence shall be admired, so long as judicial purity shall be respected, so long as judicial propriety shall be demanded, so long as justice shall be the genius of our civilization, just so long will the names of our great jurists remain embalmed in sacred memory and continue the pride of bench and bar and the glory of American institutions.

In all ages and in all climes where civilized man has dwelt he has been ever watchful in endeavoring to choose judges among the most upright, honest, and just of men—men of poise, incorruptibility, and discretion, who well understand and appreciate the dignity and proprieties of their office.

It should be burned into the minds and hearts and souls of the judges throughout the United States that they should avoid everything that brings disgrace, scandal, and disrepute upon their high office, so that whatever other branches of our Government may at times lose the confidence of any portion of our

population, the judiciary may ever stand as an immaculate bulwark against the enemies of a republican form of government. Whenever a judge violates this motto, that very moment the magic of his judicial power is gone, and "it loses for itself those princely attributes with which it is by the Constitution invested."

The moment a high judge dares to use his office directly or remotely for private gain "that moment he loses the respect of the community." Let the standard of judicial ethics in this great country be so high that every judge may deserve Webster's encomium on Chief Justice Jay, when he said:

"When the judicial ermine fell upon his shoulders it touched a being as spotless as itself."

That was no absurd fiction of the noble Romans who instituted the vestal virgins to keep burning forever the fires of Roman liberty. Her liberty never expired until that noble sisterhood was dragged down and corrupted; and so, too, the fires of our liberty will never be extinguished so long as our judges remain incorruptible and possess with undying tenacity judicial rectitude and propriety, according to the eternal fitness of things, and in keeping with that which is best and noblest among the established principles of mankind.

Mr. President, to paraphrase somewhat the language of Judge Spencer, of New York, one of the managers in the impeachment of Judge Peck: I desire to say that the House of Representatives and the Judiciary Committee of that body, after long, patient, and full examination of all the evidence in the case, came to the unanimous resolution that Judge Archbald should be impeached, and by a vote of 223 to 1 sent us to your bar to demand that he be convicted; and happily, Senators, indeed, the record will show you an absolute absence of all party feeling. Could I feel in the remotest degree that the baleful influence of partisanship had mingled with the action of the committee or the House of Representatives, I declare unto you that no earthly consideration could have prevailed upon me to appear here as one of the prosecutors in this trial. I have no language to express the abhorrence of my soul at the indulgence of such unhallowed feelings on such solemn occasions. I believe in the long annals of impeachment trials in this great body that the charges against the respondent here are freer from the slightest tinge of partisanship than any case ever presented to this high court, and in this fact you, Senators, the House of Representatives, and the people of the United States are to be congratulated.

You are to say, Senators, by your verdict whether you will send this man, Judge Robert W. Archbald, back to his high seat on the bench of the United States Commerce Court and whether you approve or disapprove his conduct in all the transactions alleged in the various articles in this case. If you acquit him, your verdict will be construed as an indorsement of his conduct, and the people will be powerless; but, sirs, how can you render such a verdict in the face of even the admitted facts in the case? Surely the time has not arrived in the history of this great Government when judges of high courts shall be licensed to traffic with litigants in their courts, to make with such litigants advantageous private bargains, and to increase their personal fortunes by such nefarious practices. Senators, if that shall be the result of your verdict—and you must admit that such a conclusion may be justly drawn from a verdict of acquittal—then I declare unto you that I shudder when I contemplate the future of my country. Such practices on the part of judges will open wide the door to judicial reprisals, blackmail, and plunder, and very soon, as in the days of Rome, when justice was bought and sold with shameful boldness, this splendid Government, constructed and cemented by the blood and sacrifices of our forefathers, will totter and stagger to its fall.

And now, Senators, my task, though imperfectly performed, is at an end; the greater duty devolves upon you, and I believe that your verdict will mark an epoch in our history and will have a tremendous influence upon the perpetuity and stability of our liberties and our institutions, and even upon the life of the Republic itself. The people of the United States are now demanding, possibly as never before, the strictest rectitude on the part of their judges. Can you imagine that any district or State would elect this respondent to the high position which he now holds with all this testimony against him fresh in their minds? I ask you, Senators, who are the appointive power of Federal judges, would you confirm this judge in the first instance were he nominated and his name sent to you for confirmation if all this evidence stood out against him, or evidence parallel or akin thereto? I do not believe that a man with such a record could receive one vote in favor of his confirmation from this great Senate.

Whatever reputation the respondent may once have had for impartiality or judicial rectitude is now gone. His usefulness as a judge is at an end. He has prostituted the office which you gave him in his worship of mammon; he has sacrificed his judicial integrity and official rectitude on the altar of greed. He has sorely violated the common rules of judicial ethics and propriety. Hence we, the representatives of the people, speaking for them and in their name, demand that R. W. Archbald shall be removed from office under the Government of the United States.

Mr. Manager CLAYTON. Mr. President, of the remainder of the time Mr. Manager FLOYD will occupy 1 hour and 9 minutes; Mr. Manager HOWLAND will occupy 45 minutes, and the balance of the time, to wit, 2 hours and 30 minutes, will be reserved for the closing argument on the part of the managers.

ARGUMENT OF MR. FLOYD, ONE OF THE MANAGERS ON THE PART OF THE HOUSE.

Mr. Manager FLOYD. Mr. President, it is never a pleasant task for me to appear in the rôle of a prosecutor against anyone. It is a peculiarly unpleasant task to appear against one holding high position like the respondent in this case, but I come here not at my own instance; I come here as one of the managers under a command from the House of Representatives, and the House of Representatives is acting not alone for itself, but in behalf of all the people of the United States. We are here to discharge a public duty, and whatever might be our sympathies for the respondent, they should not swerve us in the discharge of a solemn duty.

The question at issue before the Senate is, Has the respondent, under the Constitution, committed high crimes and misdemeanors for which he should be removed from office? The managers who have preceded me have referred to many of the charges in the articles of impeachment, but there are one or two which they have omitted to mention to which I wish to call attention in the course of my remarks; but first I desire to discuss a little more in detail article No. 2, which I regard as one of the most important and one of the gravest charges in all the articles of impeachment brought against the respondent in this case.

In order that you may better understand the particular point I have in mind, I want to call attention to a phase of the pleadings pertaining to article No. 2 and article No. 13 that is not found in regard to any of the others. Under the pleadings in this case it is remarkable that practically all of the allegations of fact contained in the 13 specifications and articles of impeachment are admitted save and except as to article No. 2 and to that part of article No. 13 which relates to the same charge that is contained in article No. 2.

It is admitted in the answer that Judge Archbald was judge of the Commerce Court; it is admitted that these railroad companies with which he was dealing were at the time parties litigant in suits Nos. 38 and 39, that were pending in the Commerce Court. His interest is admitted in the Katydid transaction, and he was to share in the profits; it is admitted under article No. 10, which has not been alluded to, I believe, by any of the managers preceding me, that in 1910 he made a trip to Europe at the expense of Henry W. Cannon, a rich relative of his wife; it is admitted that on the same occasion a number of lawyers who practiced in the judge's court made up a purse of $525 in money and delivered it to him in person on board of the ship on the day he was ready to sail; it is admitted in the transaction concerning Packer No. 3 that he was to become a member of that company; it is admitted that in the Warnke deal he received a note of $500 and shared it with John Henry Jones. But when it comes to No. 2 the fact of his interest is denied. Now, why?

I want to call attention in this connection to the judge's own testimony when questioned on cross-examination concerning his interest in the Jones Coal Co., a corporation which it was proposed to organize to operate Packer No. 3, sought to be acquired from the Girard estate and the Lehigh Valley Coal Co.

On page 1249 of the record in this case in speaking of the Jones Coal Co. that was to be organized, for which Mr. Farrell, of New York, was to put up all the money and of which Judge Archbald was to become a member, Judge Archbald gave this testimony:

Q. You were to get a fourth of the balance?—A. About a fourth of the balance; yes.

Q. Why were you to have any interest in that stock?

And the answer of Judge Archbald is—

Why not?

Q. Well, why not, after you had gone to see Mr. Warriner; is that your idea?—A. I see no reason why, after organizing that company, that enterprise, I was not entitled to a share. It would be very strange if I did not have a share.

Q. Why?—A. Because I was instrumental, in part, in organizing the company, getting it up. It was in part my scheme and part Mr. Jones's.

These several transactions in which the judge participated—I mean these culm-dump transactions and these attempted sales are all similar in character.

In article No. 2 it is charged that the Delaware, Lackawanna & Western Railroad Co. was a party to cases, dockets Nos. 38 and 39, in the Commerce Court, and that is established and admitted; but the Lehigh Valley Railroad Co. was a party to the same suits, and Judge Archbald did not hesitate to go to Mr. Warriner, the vice president of the Lehigh Valley Coal Co., and secure a contract and agreement with a view of securing a lease from the Girard estate and operating that culm dump by the Jones Coal Co., the one to which I have just referred. Mr. Warriner was also the vice president of the Lehigh Valley Railroad.

The Lehigh Valley Railroad was a party to those suits pending in the Commerce Court. Then, the fact that the Delaware, Lackawanna & Western Railroad Co. was a party to these same suits does not explain why Judge Archbald washed his hands of this transaction when he admits his interest in the other. The Erie Railroad Co. was a party to the same suits, dockets No. 38 and No. 39. Judge Archbald did not scruple to see Mr. Brownell and Mr. Richardson and Mr. May and secure a contract from them, in which he admits that he was to share in the profits.

Then, in the judge's own language, when it comes to the Watson transaction, when we come to consider the facts charged in article No. 2, wherein the question is raised as to whether or not Judge Archbald was to share in the profits of that transaction, let me repeat his answer to the other question, "Why not?" How do you differentiate that case from the others? Now, was he to share in the profits? I am frank to admit that we have been unable to show by any direct and affirmative testimony that fact; but we have circumstances in this case which tend to establish that fact. Judge Archbald was participating in these transactions, was engaging in them for the purpose of making profits for himself. You can not differentiate between these several deals and transactions in such way as to make it improper for him to receive a consideration or be interested in this Watson deal any more than in the others. They were all of a kind. What was the proposition? The proposition was to sell two-thirds of the stock of the Marian Coal Co. to the Delaware, Lackawanna & Western Railroad Co. for $100,000, and the Bolands, stockholders in the Marian Coal Co., agreed to pay George M. Watson a specific fee of $5,000 if he could make that trade. Now, if Judge Archbald will accept $500 for the services that he rendered in the Warnke transaction, the case of the Premier Coal Co., why would he not accept one-half of the $5,000 in the Marian Coal Co. case?

The circumstances concerning that transaction are peculiar. The Marian Coal Co. was represented before the Interstate Commerce Commission by an attorney, Mr. H. C. Reynolds, who appeared and testified in this case. From every appearance he is an able lawyer. Mr. Watson was hired for a specific service, and that was to bring about this settlement. And Mr. Williams, according to Mr. Boland, is the man who first suggested to Mr. Boland that if he would see George Watson that Mr. Watson was in position to settle this controversy with the railroad company.

Let us see who brought it to the attention of the railroad company. Take the testimony of Mr. E. E. Loomis, vice president and general manager of the Delaware, Lackawanna & Western Railroad Co. He testified that the first he ever heard of Watson in this transaction or of Watson's ability to bring about a settlement was when Judge Archbald met him on the streets of Scranton and suggested to him that he thought the differences between the Marian Coal Co. and the railroad company ought to be settled outside of court. Mr. Loomis says he said to him, "Judge, it is the policy of our company to settle all matters outside of court whenever we can do so on a fair basis." Mr. Loomis says that Judge Archbald replied, "If you will see George Watson, an attorney of Scranton, I think he is in position to settle this controversy on a fair basis." And according to Mr. Loomis's testimony he took the matter up with his officers, had them investigate the property and make report to him, and about the 27 or 28th of September notified Judge Archbald of the result. The railroad officials turned down the proposition. Then an appeal was made by Watson on the 2d of October, and by Judge Archbald on the 3d of October, to Mr. Loomis for a further hearing with Mr. Loomis and Mr. Truesdale, Mr. Truesdale being the president of the company. That hearing was arranged, and on the 5th of October they held a meeting in Scranton for the express purpose of hearing Mr. Watson and hearing his proposition, and determining whether or not they could settle on the basis proposed by him. Now, what was his proposition? His proposition was $161,000. It was disagreed to.

But what was the contract with Watson? According to the testimony of Mr. C. G. Boland and of Mr. W. P. Boland the contract was that if he could secure a settlement for $100,000 they would sell their entire interest in the Marian Coal Co. to the Delaware, Lackawanna & Western Railroad Co., and that would settle the whole controversy, because when the Delaware, Lackawanna & Western Railroad Co. had acquired control of that corporation the suit the Marian Coal Co. had against that railroad before the Interstate Commerce Commission would be not under the control of the Bolands, but the railroad would own the property and the lawsuit. Having control of the lawsuit by having acquired ownership of the corporation, they could end the controversy by dismissing the suit.

Now, Mr. Watson, whose testimony was taken before the Judiciary Committee and which was introduced in evidence by counsel for respondent, admits in his testimony before the Judiciary Committee that the original proposition was $100,000 and that he was to receive a fee of $5,000 in the event he secured the settlement. But that proposition was never made to the railroad people. Why the raise? The only testimony that we have upon that point is the statement made by Watson to W. P. and C. G. Boland, when they asked him why it was that he was raising the consideration from $100,000 to $161,000. He made the statement that Judge Archbald was to be a powerful factor in the settlement of that case, and that it was his purpose or his intention, if he secured the settlement, to share one-fourth of all in excess of the $95,000 with Judge Archbald.

Did the judge intend to take it? He was asked on the stand the other day whether he had a specific agreement with Mr. Williams about that Katydid proposition, and Mr. Williams was asked particularly about that. Neither would say that previously there had been made any specific agreement. Judge Archbald, when asked about it on the stand, said that he assumed he was to share in the profits—assumed it. We may well assume that he was to share in the profits of the Watson deal. Now, if he would share in the profits in that transaction, why would he refuse to share in the profits of the larger transaction if it had been consummated? Why does he deny that charge, that particular point in that charge? Because it is material; because the demand that was made by Mr. Watson in excess of the amount that the Bolands had agreed to take—$61,000—was so unconscionable, both in morals and in trade, that he dared not admit his interest in that transaction.

So I am disposed to stand here and insist that the circumstances in this case tend to the conclusion that had that transaction been consummated, Judge Archbald would have been as ready to accept money from Watson as he had been from Warnke or the Premier Coal Co.

Let me call your attention to the peculiar way in which the judge got his money from the Premier Coal Co. Now, as has already been alluded to by Mr. Manager WEBB, it seems that the judge had a good many partners or associates in these deals. There was Edward J. Williams. He was mixed up in the Katydid. He was the first man who suggested Watson to the Bolands. There was John Henry Jones. John Henry Jones, it seems, was concerned in some way in this Warnke deal or Warnke transaction. John Henry Jones testifies that after the contract had been closed and the sale had been made to the Premier Coal Co. he went to Mr. Warnke and demanded his commission of $500. John Henry Jones's theory was that he was entitled to it; that he had had something to do with the bringing together of the parties. Warnke refused to pay John Henry Jones. Then Judge Archbald goes in person to the officers of the Premier Coal Co. and demands a commission of $500, and they execute a note for $510, the $10 being added for the discount, and the judge accepts it, and then divides the $500, according to his testimony, with John Henry Jones. What was the consideration?

He had no option on the property at that time, according to John W. Berry. He had previously had an option. But for some unexplained, undefined service on the part of the judge in regard to that transaction, he demands and receives a note, a bankable note, for $510, which he discounts at the bank for $500 in cash.

If he will receive money under such circumstances and for such considerations, under all the circumstances in this case, what reason is there for us to conclude that he was acting purely for friendship in this transaction concerning the Marian Coal Co.? He was charging for services rendered in connection with other deals and transactions, and the evidence discloses that fact. He rendered far more service, so far as actual work was concerned, in his efforts to bring about a settlement of the Marian Coal Co. disputes with the Delaware, Lackawanna & Western than he did in other transactions in which he participated.

What did he do to secure his interest in the Katydid? He wrote to Capt. May a letter on the 31st of March; went to see Mr. Brownell in New York on the 4th of August; had a short conference with Mr. Richardson on the same day that he saw Mr. Brownell; returned to Scranton, met Capt. May on the street, and May told him that they were ready to make that deal and to send Williams around. Williams went around and got the contract. That is the service that the judge rendered in regard to the Katydid proposition, for which he proposed to share equally in the contract.

But what did he do to bring about a negotiation or settlement in which he and Watson were interested? Some facts are developed by the respondent himself that are not disclosed by Mr. Loomis. It appears from the respondent's own testimony that he first endeavored to get the Lackawanna Railroad people interested in this transaction on the 4th of August when he was in New York to hold court and to see Brownell. He also went, at Watson's instance, on the same date, to see Mr. Loomis. But in some way that circumstance does not seem to have impressed Loomis, and the first conversation that Loomis detailed was the conversation on the streets of Scranton when the judge again brought up the subject.

Then Mr. Loomis testifies that later, between the 1st of September and the 5th of October, when the matter was hanging fire, while he was awaiting the report of his engineers and his agents, Judge Archbald again appeared in his office in New York and inquired about the matter, and Loomis told him in that conversation that he had had his officers and agents looking up the data and as soon as he got the information desired he would make report. And he did.

Mr. Phillips reported to Mr. Loomis on the 27th of September. On the day following Mr. Loomis reported to Judge Archbald by letter that they could not make the settlement. Then Judge Archbald writes a letter regretting the failure to bring about the settlement, in which, to my mind, he makes a very significant statement. He tells Mr. Loomis that "if I thought it would do any good I would volunteer my direct services in the premises."

A conference is held on the 5th of October. Nothing comes of it. Then on the 6th of October, or on the following day, Mr. Watson wires Judge Archbald that he is coming to Washington, and on the way sends him a second wire telling him where he will be. They have a conference in Washington over the same matter. This occurred the day after, or the second day after, the conference was held in Scranton, where these officials of the railroad had rejected the proposition made by Watson, and then, even as late as the 13th of November, we find Judge Archbald writing a letter to C. G. Boland returning certain papers and regretting that nothing had come of their effort to secure a settlement. That is the Watson transaction.

We do not charge in articles No. 2 or No. 13 that the consideration alleged was a valuable consideration, although I notice in his answer to article No. 13 he has injected a denial that it was a valuable consideration. But we believe the circumstances in this case show this transaction was similar to the other transactions, and that the only difference between them was the enormity of the demand, the unreasonable demand that was made. But we insist that it is not necessary, in order to establish the judge's guilt under article No. 2, to show that he was to receive a valuable consideration or a money consideration.

Now, let us see; let us consider it with that view and see whether or not, in order to make Judge Archbald guilty of improper conduct or misconduct under that article, it is necessary for us to show that the consideration was a valuable consideration—and keep in mind that we do not charge that it is a valuable consideration; that is not in the charge or in the allegation.

We say that for a consideration he undertook to assist one George Watson, an attorney of Scranton, to bring about that settlement. Under our view of this case, we think it is wholly immaterial whether he was seeking a consideration for himself or seeking to aid an attorney, a friend of his, in securing a pecuniary or money consideration in the premises.

Mr. Watson was not the attorney of the Marian Coal Co. in the litigation which was then pending before the Interstate Commerce Commission. Mr. Reynolds was the attorney of the Marian Coal Co. in that litigation, and he continued throughout the entire controversy to be their attorney.

Our position is that a judge has no more right to use his official position or to use his influence as a judge to compromise litigation and bring about settlements with a view and for the purpose of securing a pecuniary reward or a fee for some attorney who is his friend than he has to undertake the same work for a consideration for himself. There would be this difference: It might be an extenuation of the offense, but it would not be any justification of the offense.

Now, let us see what happened in this very case and see if anyone can justify Judge Archbald's conduct, entirely regardless of the fact as to whether or not he was to share in the $5,000 fee or was to receive any other money consideration. What was the state of the case? The Marian Coal Co. had filed two petitions before the Interstate Commerce Commission. In one of those suits the petition was filed against the Delaware, Lackawanna & Western Railroad Co. alone, and in the other suit against the Delaware, Lackawanna & Western Railroad Co. and five other railroad companies. One of those suits was in relation to rates and the other for damages for excessive charges alleged to have been collected in the past and for certain other items and damages claimed by the petitioners. Those petitions at the time the judge undertook to bring about this settlement were pending in the Interstate Commerce Commission. He is a judge of the Commerce Court, and that very dispute and controversy that he undertook to settle and compromise may, and most probably will, be taken up before the Commerce Court for determination. If it should go there, let me ask you how can Judge Archbald, who has busied himself, whether for a consideration for himself or for a friend, or without any consideration at all, for a period of time covering from the 4th of August up to the 13th of November, in an effort to bring about a settlement of those disputes and controversies between the coal company and the railroad company, be an impartial arbiter of that controversy when it reaches the Commerce Court? It seems to me that this fact alone should condemn the conduct of the judge as improper, contrary to all ethics, contrary to all right, independently of the question of consideration.

That is the state of the case. There is no escape from it. What will he do after spending months in trying to bring about a settlement, as he says, through his friendship for Watson and through his friendship for Boland, one of the stockholders of the company, when that very controversy comes up for his determination in the court of which he is one of the judges? Is that proper conduct on the part of a judge? He must have been moved by some consideration, some motive; some reason must have prompted him. If he did it to aid Watson in securing that $5,000 fee, then, under the contention of the managers, he prostituted his high office for personal profit and gain for a friend, and he ought to be condemned as a judge for so doing. Can he escape condemnation? What conclusion otherwise can be reached?

We insist that under this article the evidence in this case shows that Judge Archbald was undertaking to accomplish and to bring about a settlement of a matter which he must have known was likely to come before his court. He said in answer to a question propounded to him when he was upon the stand that the reason why he was trying to settle it was to keep it out of the Commerce Court. But he failed to settle it. He had no reason to keep it out of the Commerce Court. Is that proper conduct on the part of a judge?

Oh, it seems to me that a judge ought not to undertake in any such way as the testimony in this case discloses he undertook, to bring about that Watson settlement, to bring about a settlement of any disputes and controversies that may arise in his court.

Keep in mind that the Delaware, Lackawanna & Western Railroad Co. was a party to the suits, docket Nos. 38 and 39, then pending in the Commerce Court.

The judge does not seem to think that that would make any difference. He does not seem to think that anybody would consider that in making a deal with him. It seems to me that the first thought of men who are approached by a United States circuit judge for deals and contracts, whether they were willing to make them or not, would be to seriously consider the proposition through fear that a refusal might incur the judge's displeasure.

A judge as an operator and dealer in culm dumps and coal properties occupies a very commanding position. He might reward his enemies. He might render favors to his friends.

The transactions that have been detailed in this evidence come very closely to that statute of the United States which defines the crime of bribery of judges. We do not specifically charge in any of these articles of impeachment that the judge is guilty of bribery, but on account of the peculiar character of these several transactions I want to read into the record at this point that statute which pertains to the bribery of judges. It is section 132 of the Criminal Code, and it reads as follows:

SEC. 132. Whoever, being a judge of the United States, shall in anywise accept or receive any sum of money, or other bribe, present, or reward, or any promise, contract, obligation, gift, or security for the payment of money, or for the delivery or conveyance of anything of value, with the intent to be influenced thereby in any opinion, judg-

ment, or decree in any suit, controversy, matter, or cause depending before him, or because of any such opinion, ruling, decision, judgment, or decree, shall be fined not more than $20,000 or imprisoned not more than 15 years, or both.

What is the judge in these transactions doing? Procuring contracts. What additional evidence will be necessary to put the judge under the clear purview of that bribery statute in this case, simply to show that he intended to be influenced in some decision thereby, or that he was receiving these gifts, rewards, presents, agreements, or contracts in consideration of some opinion that he had previously rendered?

I desire to call attention in this connection to article 11. I want to mention just very briefly articles 10 and 11. Article No. 10 charges that the respondent made a trip to Europe at the expense of one Henry W. Cannon. Article No. 11 charges that at the time of his departure he accepted as a gift from certain lawyers a purse of money to the amount of $525. I desire to discuss that proposition briefly. I am not going to contend that that is a bribe under the statute I have read you, but I want to call your attention to the circumstances surrounding this transaction, because, while we do not claim that it was an open bribe, we do claim that it was such gross misconduct as no judge of any court ought ever to be guilty of.

He accepted a purse of $525. The circumstances under which that purse was delivered are peculiar and remarkable. It seems that some lawyers, friends of the judge, first got together in Philadelphia and discussed the matter. I believe Mr. Warren, of the firm of Willard, Warren & Knapp, was the first who suggested it. Then they designated Mr. Searle, the clerk of Judge Archbald's court, to the duty of getting the funds together. First, they consulted Mr. Searle, and Mr Searle said that he did not think the judge, under the circumstances, would refuse it. Then they get the money together and they get Judge Searle, a different Searle from the clerk, a judge of the State court at that time, to go to New York. Mr. Searle, the clerk of the court, who had gotten the money together, accepted a contribution from Judge Searle, which was paid by check, delivers all the money to Judge Searle, and asks him to go to the ship and deliver it in a sealed envelope marked "R. W. Archbald; sailing orders; not to be opened until two days at sea." Judge Searle, the State judge who presented the purse, testifies that he knew that it contained money, but he did not know how much. He did not know whether it contained $500 or $5,000. It is delivered in that way.

Now, here is the document. It is peculiar. I call your attention to the fact that it is typewritten. There is no letterhead on the paper; no place is named.

APRIL 16, 1910.

DEAR JUDGE: This is a greeting of your appreciative friends of the bar of Lackawanna, in the middle district, wishing you bon voyage.

Rather than fruit, books, or flowers, we trust you will be willing to accept this as our hearts' desire for your pleasure and enjoyment in your more than well-earned outing.

May all happiness attend you and yours.

There is no name. Judge Archbald's name does not appear upon it. No money is mentioned. Is not that strange? Not flowers, not fruit, not books. What ought the letter to contain? The judge's name is not mentioned. The money is not mentioned. The place from which it was written is not mentioned. Then there is a list of the lawyers, all signed in typewriting except one, Judge Searle.

I have already stated that we are not insisting that the evidence in support of this article of impeachment sustains the charge of bribery under the law, but we are insisting that it does show gross impropriety and misconduct on the part of Judge Archbald in accepting any such gift.

I do not know who was responsible for the particular arrangement carried out. Of course, the judge was not, because he was in New York preparing for the trip; but I want to say that the man who got that money together and addressed that envelope and fixed up that letter must have been an old hand and an adept at that kind of business. He does not disclose where the letter was written from; he does not disclose on the face of the letter that it contains one cent of money; he does not disclose the name of the person to whom it is to be delivered; and he gets a State judge to deliver the purse to a Federal judge on board a ship ready to sail.

I do not see much opportunity for anybody to get indicted, either under State or Federal jurisdiction, for bribery by reason of that transaction in and about Scranton. Do you? Yet that transaction, like the others, if that money was accepted by Judge Archbald with a view of being influenced in any future opinion thereby, or on account of any previous decision he had rendered favorable to any of those parties in the past, puts the judge within the clear purview of the bribery statute. Can any judge afford to be guilty of conduct where his guilt or innocence of a crime depends altogether upon his mental attitude, when the facts surrounding the transaction would support a grave charge? Can any judge justify such course.

Further, the respondent in his answer says he accepted the money because it would be a reflection upon the donors to return it. What about the $125 that never reached him? Three contributions were made to Mr. Searle, the clerk, after the judge had sailed for Europe. These were not inclosed in that envelope. Mr. Searle, the clerk, wrote to him asking him whether he should send the money or keep it until he came back, and it was by the direction of the judge kept by Searle and delivered to the judge on his return from Europe.

Now, I desire to take up and consider briefly article No. 13. I desire to go a little more into detail as to this article, because the attorneys for the respondent do not seem to have ever caught the force and meaning of it. We allege in article No. 13 a general course of misconduct, a continuing course of misbehavior on the part of the judge. General misconduct is the basis of this charge. We think that if misconduct is cause for impeachment, a general course of misconduct along a particular line would be greater cause for impeachment and that those collective offenses would warrant his impeachment when the particular instances might not do so, in the judgment of the Senate.

What was the general course of Judge Archbald's conduct? He had been a judge for 28 years. If prior to 1908 he had been a just and upright judge, then all the more is the pity for his subsequent conduct. In 1908 we find him in this Rissinger transaction, already detailed by my associate managers. In December, 1909, we find that John Henry Jones executed a note to Judge Archbald. Judge Archbald indorses it, turns it over to Jones, and Jones attempts to get it cashed or discounted at the bank and fails. The note is then taken by Edward J. Williams to G. C. Boland, who was a litigant in the judge's court at the time, being a stockholder in the Marian Coal Co. He refused to cash the note. Then it was taken to W. P. Boland, another member of the firm. Mr. Boland, having a case pending in the judge's court, also refused to discount the note; and finally it is turned back to John Henry Jones, still uncashed and undiscounted. He takes it to one Von Storch, and Mr. Von Storch says he suspected the note; he did not think that a man of John Henry Jones's appearance would be carrying Judge Archbald's note around—of course that is immaterial, for the note was genuine—and in order to relieve his suspicions he called up Judge Archbald, and Judge Archbald told him that the note was all right and that it would be an accommodation to him if Von Storch would cash it. Previous to that time Von Storch was a suitor in the judge's court, in which the complainants against him claimed $10,000, and a judgment for less than $1,000 was rendered against him.

In 1910 we find Judge Archbald going abroad at the expense of a rich relative; we find him accepting this money purse of $650. But it is his conduct since he has become a judge of the Commerce Court that I am going to call your particular attention to under article No. 13. We charge in article No. 13 that, being a judge of the Commerce Court, he undertook to carry on a general coal business in dealing in culm dumps and coal properties.

The evidence in this case shows that in March, 1911, he wrote a letter to John W. Peale, who had formerly been a litigant in his court, and a successful one, in an effort to sell to Peale the Oxford washery. Failing in that, another proposition was sent, submitted by John Henry Jones. Peale does not consider it; but Jones refers him to Judge Archbald and asks Peale to call on him in the Federal building at Scranton. Then, on the 31st of March, just two months to a day from the time he had become a judge of the Commerce Court, we find him writing this letter to May asking May to give him an option on the Katydid. On the 4th of August we find him in New York to see Mr. Loomis, starting the Watson negotiations. Along in the early part of August we find him writing to his nephew, the engineer of the Girard estate, trying to secure an option on packers Nos. 3 and 4. Then, early in the spring and continuing through the summer and on into the fall up to the time of the close of the Warnke deal, we find that he is carrying on correspondence concerning the old gravity fill, which was finally sold to Warnke. In three out of these four transactions we find that Judge Archbald was interceding with the officials of the railroad companies in his efforts to bring about these sales and to secure these contracts and concessions, and in two out of the three he succeeded. The Erie yielded and agreed to sell to him and Williams the Katydid culm dump. Warriner, vice president and general manager of the Lehigh Valley Coal Co., made a concession to the judge, and agreed, so far as the railroad company

was concerned, to surrender their rights and to let the Girard estate lease the property to the judge.

Now, is that conduct proper on the part of a judge? Mr. President, open bribery of public officials in this country, in my opinion, is a rare crime. Insidious influence by indirect and improper methods, I fear, is a more common one. Opportunities for making quick and easy money arise which, on the face of things, seem perfectly proper. The deluded official is lulled into a sense of his own innocence by the splendid opportunities his environments afford. Once entering into these negotiations opportunities multiply; he loses his moral perspective; he becomes money mad; finally, he is willing to go to any length to accomplish his desires. It is this particular form of evil that we are striking at in these articles of impeachment against Judge Archbald.

The testimony in this case discloses a long series of acts of misconduct on the part of the judge along certain lines, all looking to concessions, money, agreements, and commissions. By his constant dickering, trading, and trafficking with the railroad companies and with litigants in his court, and especially with those great interstate railroad companies that at the very time he was carrying on these negotiations had suits pending in the Commerce Court, of which he is a member, Judge Archbald has scandalized the high office he holds; he has soiled with coal dust the white ermine he wears; he has degraded his standing and reputation in the estimation of the American people, and has been guilty of gross improprieties which, in the judgment of the managers, warrant his impeachment.

Mr. President, I have not time to discuss the law governing impeachments in general nor to go further into the facts of the case, but I want to state briefly, in conclusion, as clearly and as concisely as I may, the position of the managers in regard to the law of this case.

It is the contention of the managers on the part of the House of Representatives that acts of misconduct need not be indictable in order to warrant impeachment. We insist that that is peculiarly so in the case of judges of United States courts. Judges hold their offices during good behavior. It is a popular fallacy that Federal judges are appointed for life. They are not. They are appointed to hold their offices during good behavior. Misbehavior is the antithesis or opposite of good behavior; and it is the contention of the managers that any form of misconduct on the part of a judge which negatives good behavior, the condition upon which he is entitled to continue in office under the Constitution, constitutes a public offense, is violative of the Constitution, and warrants his impeachment, and that it is not necessary that we should show that he violated any criminal statute in order that he may be arraigned before this high tribunal by the House of Representatives and tried for high crimes and misdemeanors under the Constitution.

It is conceded on all hands that to violate a Federal statute would be an impeachable offense. Then, upon what principle of legal construction, upon what rule of logic, reason, or common sense, can it be successfully maintained that to violate the Constitution itself or a plain requirement of the Constitution is not an impeachable offense under the law? What is a crime or misdemeanor? Any act of omission or commission for which the law has prescribed a penalty. This is elementary. Acts of misconduct on the part of judges, such as I have been describing, are acts for which the law, the Constitution itself, has prescribed a penalty. The penalty prescribed is removal from office, and the remedy in all such cases is by impeachment for high crimes and misdemeanors under the Constitution.

Mr. Manager CLAYTON. Mr. President, Mr. Manager FLOYD has occupied an hour and five minutes of the hour and nine minutes allotted to him. Mr. Manager HOWLAND will now address the Senate for 45 minutes, plus the 4 minutes not used by Mr. Manager FLOYD, if he so desires.

Mr. Manager HOWLAND addressed the Senate. After having spoken for some time,

The PRESIDENT pro tempore. The hour of 6 o'clock has arrived, the hour which, under the order of the Senate, concludes the sitting of the Senate in consideration of the articles of impeachment.

[Mr. Manager HOWLAND's speech is printed entire in proceedings of January 9, 1913.]

Mr. Manager CLAYTON. I understood the ruling to be that 15 hours would control rather than the mere matter of days, and that that was the interpretation this morning of the order.

Mr. President, I wish to say that under the arrangement for the apportionment of time 21 minutes remain for Mr. HOWLAND and 2 hours and 30 minutes for the concluding argument on the part of the managers.

The PRESIDENT pro tempore. The Chair will announce that, under the order, the Senate sitting for the consideration of the articles of impeachment stands adjourned until 1 o'clock to-morrow.

After the transaction of some routine business, which appears elsewhere under the appropriate heading,

Mr. GALLINGER. I move that the Senate adjourn.

The motion was agreed to; and (at 6 o'clock and 4 minutes p. m.) the Senate adjourned until to-morrow, Thursday, January 9, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January 8, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou who hast ever been our refuge and our strength, our God and our Father, continue Thy blessings unto us as individuals and as a people, that we may press forward to greater victories and greater achievements, and thus prove ourselves worthy of the mental, moral, and spiritual gifts with which Thou hast endowed us. And Thine be the praise forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

RESIGNATION FROM A COMMITTEE.

The SPEAKER laid before the House the following resignation of Mr. FLOOD of Virginia as chairman of the Committee on the Territories:

WASHINGTON, D. C., *January 8, 1913.*

Hon. CHAMP CLARK,
Speaker House of Representatives.

DEAR SIR: I herewith tender my resignation as chairman of the Committee on the Territories of the Sixty-second Congress, to take effect immediately.

Very truly, yours, H. D. FLOOD.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

QUESTION OF PERSONAL PRIVILEGE.

Mr. CLARK of Florida. Mr. Speaker, I rise to a question of personal privilege and ask that the Clerk will read the article in the Washington Herald of yesterday around which the blue pencil has been marked.

The SPEAKER. Without objection, the Clerk will read.

The Clerk read as follows:

"There are Senators and Representatives occupying seats in Congress to-day who have allied themselves with real estate sharks in this city to fleece the Government of hundreds of thousands of dollars by seeking to sell to it large areas of land in out-of-way places for public park purposes, some of which are in ravines so deep that the Capitol could be set in them and you could not see the Indian which surmounts its dome."

This was the statement made last night by Representative FRANK CLARK of Florida in a speech at the mass meeting of the East Washington Democratic Association in Donohue's Hall, 314 Pennsylvania Avenue SE.

Mr. CLARK of Florida. Mr. Speaker, if this publication referred only to me and reflected only upon me, I think I would not ask the time of this House to mention it. But it puts me in the attitude as a Member of this House of arraigning not only Members of this body, but also Members of another branch of the legislative department of this Government, and of charging them with the gravest of crimes.

I desire to state, Mr. Speaker, that not one word of truth is contained in that statement. I desire to say that not a single Washington newspaper was represented at that meeting, save the Washington Star, and the reporter of that paper gave about as accurate an account of the meeting as is usually given by reporters of newspapers.

I want to say, Mr. Speaker, that I have the highest respect for the legitimate, honest press of this country, but I have absolutely no respect for the yellow variety, of which this Washing Herald seems to be a very striking example.

What I did say, Mr. Speaker, was this, and I say it now—and the CONGRESSIONAL RECORD supports every word of it—I did say that the District of Columbia has practically no government; that it has three commissioners, appointed by the President, not responsible in any sense to the people of the District. And I did say that the real estate sharks, according to my observation, after eight years of service in this city, were controlling the destinies of this city. I did say that frequently in bills there come before this House propositions to buy waste places in out-of-the-way locations for park purposes, and I

instanced one case wherein I said there was a proposition by a real estate concern to unload upon the Government at a fabulous price a large tract of land having gullies in it so deep that I believed the Capitol could be planted in the bottom of the gulf and that the head of the Indian that surmounts the dome of this Capitol could not be seen above it.

Mr. COOPER. Mr. Speaker, will the gentleman permit an interruption there?

The SPEAKER. Does the gentleman yield?

Mr. CLARK of Florida. Yes, sir.

Mr. COOPER. Does not the gentleman think that there is another individual entitled to rise to a question of personal privilege in regard to this matter? That statue is by the gentleman from Florida called "an Indian." It is a statue of the Goddess of Liberty. [Laughter.]

Mr. CLARK of Florida. I beg the gentleman's pardon. I insist that it is the figure of an Indian and not the Goddess of Liberty. [Laughter.]

Mr. Speaker, regardless of that, I said that that proposition came to this House and that it developed upon the floor of this House—and the RECORD will show it—that a certain gentleman at that time who occupied a seat in another branch of the legislative department of this Government was a part owner in the property. I did say that when it was called to public attention that gentleman rose in his place—wherever that place is—and stated that he did not know that he had an interest in the property.

I arraigned no Members sitting in this House. I arraigned no Members sitting in the other House. I have been here eight years. I can say, Mr. Speaker, and say truthfully, that I have met during my eight years of service here no man who I do not believe is as honest as I am, as faithful in the discharge of his duties, and absolutely far from entering into any combination with the real estate sharks of this city.

Mr. Speaker, it is time, in my judgment, that the Members of this House, if they are to challenge the respect of the country, should rise in their places on all proper occasions and deny emphatically the outrageous misrepresentation of these penny-a-liners who get their information secondhand from some one else. It is simply an effort, I suppose, to sell the paper. It is simply an effort to put something sensational in it.

Mr. Speaker, I am not concealing myself. I am not asking or invoking any protection by virtue of my seat upon this floor. If the man who wrote that lie desires anything from me, I live at Congress Hall; my room is No. 153 in the House Office Building, and I walk these streets day and night as freely as any man who permanently lives here, and he can get all he wants at any time he wants it. [Applause.]

CALENDAR WEDNESDAY.

The SPEAKER. This is Calendar Wednesday.

CLAIMS FOR INJURIES AND DAMAGES.

Mr. POU. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 23451) to pay certain employees of the Government for injuries received while in the discharge of their duties, and other claims for damages to and loss of private property, disagree to the Senate amendments, and ask for a conference.

The SPEAKER. The gentleman from North Carolina [Mr. POU] asks unanimous consent to take from the Speaker's desk House bill 23451, disagree to the Senate amendments, and ask for a conference. The Clerk will report the bill by title.

The Clerk read as follows:

An act (H. R. 23451) to pay certain employees of the Government for injuries received while in the discharge of their duties, and other claims for damages to and loss of private property.

The SPEAKER. Is there objection?

Mr. MANN. I object.

The SPEAKER. The gentleman objects. The Clerk will call the first committee.

The Clerk called the Committee on the Irrigation of Arid Lands.

The SPEAKER. The Chair is informed that there is not any unfinished business. The call rested with the Committee on the Irrigation of Arid Lands, and they had one bill last Wednesday.

Mr. MANN. They did call up one on the last day.

The SPEAKER. They are entitled to one anyway, if they have anything to do.

The Clerk again called the Committee on Irrigation of Arid Lands.

TOWN SITES IN CONNECTION WITH RECLAMATION PROJECTS.

Mr. RUCKER of Colorado. Mr. Speaker, I call up the bill (H. R. 23669) providing for the disposition of town sites in connection with reclamation projects, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. This bill is on the Union Calendar, and the House resolves itself automatically into the Committee of the Whole House on the state of the Union for its consideration, and the gentleman from Illinois [Mr. FOSTER] will take the chair. [Applause.]

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of House bill 23669, which the Clerk will report.

The Clerk began the reading of the bill.

Mr. RUCKER of Colorado. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Colorado asks unanimous consent to dispense with the first reading of the bill. Is there objection?

Mr. MANN. It is a short bill and a rather important one, I think it had better be read.

The CHAIRMAN. The gentleman from Illinois objects. The Clerk will read.

The Clerk read the bill, as follows:

Be it enacted, etc., That one-half the net proceeds heretofore received from the sale of town lots in towns within or in the vicinity of reclamation projects, sold under the provisions of the act of April 16, 1906, and June 27, 1906 (34 Stat., pp. 116, 619), and acts amendatory thereof and supplementary thereto, and one-half the net proceeds hereafter received from such sales shall be, and the same are hereby reserved, set aside, and appropriated as a special fund in the Treasury, to be known as the reclamation town-site fund, to be used in the construction, maintenance, and operation of schoolhouses, water and sewer systems, and municipal improvements in the towns where lots have been or shall be sold as aforesaid. And the aforesaid one-half of the net proceeds heretofore received from such sales shall be forthwith transferred from the reclamation fund to the reclamation town-site fund, hereby created.

SEC. 2. That the Secretary of the Interior may, in his discretion, from time to time, expend, or cause to be expended, from said reclamation town-site fund, for the construction, maintenance, and operation of schoolhouses, water and sewer systems, and other municipal improvements in each of such town sites a sum not greater than one-half the net proceeds theretofore received from such sales of lots therein plus one-half the estimated net proceeds to be thereafter received from such sales. The buildings and works so constructed may, in the discretion of the Secretary of the Interior, be operated and maintained by him or under his authority, and the expense thereof paid from the reclamation town-site fund, pending the organization of a municipal corporation or corporations qualified to operate and maintain the same, and upon the organization of such municipal corporation or corporations the Secretary of the Interior may transfer to such corporation or corporations the said buildings or works, or both, as the case may be, and the lands or easements necessary to their use, and thereafter said Secretary shall be free of all duty or responsibility with respect thereto: *Provided*, That whenever the said buildings, works, lands, easements, or any part thereof, shall cease to be used by such corporation or corporations exclusively for the purposes for which they were respectively transferred, the ownership and control thereof shall revert to the United States: *And provided further*, That in no case shall the operation and maintenance of such buildings and works by or under the authority of the Secretary of the Interior be continued for a longer period than five years after the construction thereof.

SEC. 3. That all income received from the operation of any such buildings or works shall be paid into and become a part of the reclamation town-site fund.

SEC. 4. That the Secretary of the Interior may, in his discretion, from time to time, transfer from the reclamation town-site fund to the reclamation fund any and all moneys in excess of the amount estimated by him to be necessary for the construction, operation, and maintenance under this act of the buildings and works hereby authorized.

SEC. 5. That the Secretary of the Interior is further authorized to reserve from entry such lands within or near such town sites as he may deem necessary for cemetery purposes, and to make appropriate regulations for the supervision and sale of lots in such cemetery at an appraised value, through the Reclamation Service, until such time as a municipal corporation or corporations shall be created capable of operating and maintaining such cemetery, and thereupon a legal title for the lands so reserved and then unsold shall be transferred to the municipal corporation or corporations for cemetery purposes, and the proceeds of the sales of cemetery lots by the municipal corporation or corporations shall be used for cemetery improvements. The proceeds of sales of cemetery lots by the United States shall be paid into and become a part of the reclamation town-site fund, and the cost of the improvement, maintenance, and operation of such cemeteries may be paid from said fund in the discretion of the Secretary of the Interior: *Provided*, That whenever the lands or any part thereof so transferred shall be used for any other than cemetery purposes the ownership and control thereof shall revert to the United States.

SEC. 6. That the survey, subdivision, and sales of lots in the cemeteries and town sites heretofore and hereafter established under the acts aforesaid shall be conducted by the Secretary of the Interior through the Reclamation Service, and patents for the lots shall be issued in the usual manner through the General Land Office.

Mr. RUCKER of Colorado. Mr. Chairman, there appears here a very full report from the majority of the Committee upon Arid Lands, and also a very full report from the minority consisting of two members, including the distinguished chairman of that committee, Mr. SMITH of Texas.

It will appear, Mr. Chairman, that there are about 30 of these town sites distributed according to the number of reclamation projects, and it will appear to this Committee of the Whole. I think, that it was entirely a useless performance to set aside these town sites without the Government doing something toward their settlement. In other words, it is a segregation of about 640 acres of land which is of absolutely no service to

the Government or to anyone else unless the proposed relief is granted. The gentleman from South Dakota [Mr. MARTIN] is the introducer of this bill, and he is thoroughly acquainted with it, and he and other gentlemen have constituents who are more interested than I am personally in this legislation. I therefore yield to the gentleman from South Dakota [Mr. MARTIN] such time as he desires to occupy.

The CHAIRMAN. The gentleman himself is limited to one hour.

Mr. RUCKER of Colorado. Yes; I know that. I yield to the gentleman from South Dakota [Mr. MARTIN] such time as he desires.

Mr. MARTIN of South Dakota. Mr. Chairman, it is not improper, I think, to state that the original bill introduced for this purpose and referred to the Committee on the Irrigation of Arid Lands was introduced at the solicitation of the Reclamation Service of the Interior Department, they believing legislation of this kind to be necessary in the operation of the national irrigation law, in connection with the town-site act passed in April, 1906.

That bill was referred by the Committee on Irrigation, under its custom, to the Interior Department for a report. The Interior Department made a report, and in connection with that report recommended that the bill, in the form in which it is now introduced, should be used as a substitute for the bill originally prepared. This bill was then reintroduced as H. R. 23039, it being at that time the latest recommendation of the department upon this subject.

The committee have made divers amendments to the bill as proposed by the Interior Department. I think I may say they are mostly minor amendments or amendments of comparatively small importance, with the exception of one, which has the effect of turning over to the municipality the administration of such municipal improvements as may be made under the provisions of this bill if it becomes a law, at an earlier date than the original bill contemplated.

I will make a brief explanation of the necessity for this legislation. The original reclamation act passed in June, 1902, made no provision whatever for the building of towns or the setting aside of town sites under national reclamation projects. The department began very soon to recommend that there should be supplemental legislation that would make it possible to set aside certain portions of the Government lands under each national project for town-site purposes. Of course, the original provisions of the reclamation act simply provided for the reclamation of arid lands, and wherever the Government had lands under these projects they were free to homesteaders.

Homesteaders could go there, and under the general homestead act could select homesteads. The Government proceeded to build the reclamation project, and ultimately the homesteader and private landowners, if there were any under these reclamation projects, could each pay his proportionate share of the cost of the construction, completion, and maintenance of these national irrigation works, and could make such payments in 10 annual installments without interest. The act of April 16, 1906, provided that authority should be vested in the Secretary of the Interior, in his discretion, to set aside certain particular portions of any reclamation project for town-site purposes, that he might provide a water supply for the town where it could be done, but it gave him no authority for any other provision toward municipal improvements. The bill now before the committee provides, in substance, that one-half of the proceeds of the sales of town lots under these reclamation town sites, reserved under authority of law by the Secretary, can be used, as to each particular project, for the purpose of necessary municipal improvement, like the bringing of water supply and public utilities generally, the improvement of streets, and also for the construction of schoolhouses, for the benefit of public schools, and that after a certain period when the municipality becomes organized, the charge of these public works shall be turned over by the Interior Department to the municipal corporation for its future management.

Mr. ANDERSON of Minnesota. I should like to ask the gentleman if Government funds should be applied to these municipal enterprises?

Mr. MARTIN of South Dakota. No; and this bill does not provide for that. The proceeds of the sale of town lots do not become Government funds in any sense. Those proceeds simply pass into the general reclamation fund and are therefore a part of the fund which belongs to the trusteeship, direction, and administration of the Interior Department for the benefit of these settlers themselves.

Now, I think it will be seen at a glance that it was open to the department to adopt one of two courses in relation to the disposal of these town sites. The law provided that the lots and blocks should be appraised, and that they might be sold by the Secretary of the Interior to purchasers at not less than the appraised value. Of course, one course might have been adopted by the Reclamation Service, to wit, the selling out of the entire town site at once at the appraised value, it being taken for granted that there were purchasers who would take it. Another policy open to them was, instead of disposing of the entire town site at once, the reservation usually consisting of one section, or 640 acres, to sell but a small portion of the lots in the initial sale, and then sell other portions of the town site only as rapidly as required for actual development and improvement for the occupancy of buildings for business and living purposes. Now, wisely or otherwise, the department has adopted the latter method. I will give you a concrete illustration to make it easier to understand how the present system works.

I will take the town site of Newell, in the Bellefourche project, named after the distinguished chief or director of this service—the town site of Newell. The Secretary of the Interior set apart 640 acres of land practically in the center of that great national irrigation project, a project embracing some 100,000 acres. There are three other town sites within the project, but not Government town sites. One is the city of Bellefouche, right at the intake dam, an old town that has been there for a number of years. Another is the town of Fruitdale, and another is Nisland, all on the railroad running through this project, terminating at Newell.

These are private town sites—that is to say, they are built on property owned by private individuals or private corporations. The town site of Newell was selected in the center of the project with the idea that it was an advantageous site to render municipal conveniences to the people interested and living upon the project. While 640 acres was set aside as the town site of Newell, the Interior Department proceeded to appraise only certain specific blocks and lots embracing about 2 per cent of the 640 acres. Later the people crowded in so rapidly that the Secretary of the Interior found it necessary to set aside other blocks for sale immediately, and they were appraised and sold. Up to date there have been two sales of town lots, aggregating not to exceed 4 per cent, or about 20 acres, there being 640 acres in the entire town site, and that percentage of 20 acres is practically all occupied by business buildings and by residences.

Now, I think it will be seen at a glance that the policy adopted by the Interior Department of selling but a small portion of the town in the initial sale, reserving the rest to get the benefit of the appreciation or higher value from time to time, is, of course, very beneficial to the reclamation project in its financial aspect, because it gives the enhanced value of the future sales of lots adjoining to the reclamation fund, but it is a policy that has operated very seriously to the disadvantage of persons who have business and town lots, because it limits them to so small an area for taxation for municipal improvement.

I may say that the department at the very beginning of this matter saw that it would be unjust to take out an entire section of land a mile square—640 acres for town purposes—and sell a small acreage—15 or 20 acres—in the center of it without in some way permitting some portion of the proceeds of these lots to be used for municipal improvement. We all know that all new towns struggling with necessities of municipal improvements, public utilities, in the early history of the towns find it necessary, either by bonding or high taxation, to tax not only the business property of the town, but all property within the corporate limits, and it is rare indeed that the corporate area of towns is less than a mile square.

Take the other towns in the same project on private lands. They are able to proceed and issue bonds, which they do, on the entire real estate of the municipality, and they are able to build schoolhouses, build a city hall if they need it, improve the streets, and put in a water system and other public utilities. The department saw the necessity of these things, and perhaps without authority, certainly without strict authority, anticipated in the administration of the law already passed future action of Congress to relieve this situation. And while still holding to the concrete case of Newell, I will read from official literature, got out under the direction of the Reclamation Service and publicly distributed by the railroad company, an invitation to attract people to the town of Newell, to become purchasers at high prices of town lots. The literature contained this statement:

> The Government will conduct the sale of lots, and with the proceeds streets will be laid out, a sewage system constructed, and every possible measure taken to improve and beautify the city.

Now, it goes without argument that people who came to that sale from various States of the Union, as they did, with the Reclamation Service of the Government behind a statement of that kind, would bid much more liberally, much higher prices,

for lots under the assurance that the proceeds were to be used for the construction of these municipal utilities. And yet, unless a very liberal interpretation be given to the authority of the Secretary of the Interior under the act directing him to withdraw town sites, there was probably no authority for a statement of that kind.

Mr. MANN. Will the gentleman from South Dakota yield?

Mr. MARTIN of South Dakota. Certainly.

Mr. MANN. I understand that that was a statement made in reference to the sale of town lots in Newell?

Mr. MARTIN of South Dakota. In Newell.

Mr. MANN. With that statement in the hands of the intending purchaser, how much did the lots sell for?

Mr. MARTIN of South Dakota. Less than 4 per cent—it would be in the neighborhood of 20 acres—brought over $41,000, or over $2,000 an acre, including the residence and business property.

I know personally of people who came from Indiana—a man sold out his business, his attention attracted to this great irrigation project with its potential future, with this announcement in his hand, became a purchaser and got a business lot, for which he paid two or three thousand dollars, and has constructed a good, permanent building on it. He invested his entire estate—$15,000—and is there to-day relying upon these representations.

Now, I think the course the department has taken, barring the mere question as to whether that assurance is not in excess of strict legal authority under the act of 1906—I say, barring that query, I think the course that the department has taken a wise course from the standpoint of getting ultimately a large sum into the reclamation fund from the value of the town sites, because it gives to this fund the increased appreciation of value that always comes from a growing town.

Mr. MANN. Will the gentleman from South Dakota yield?

Mr. MARTIN of South Dakota. Certainly.

Mr. MANN. How much of the $41,000 has been used for municipal improvements?

Mr. MARTIN of South Dakota. None whatever.

Mr. MANN. That feature of it has not been carried out.

Mr. MARTIN of South Dakota. It has not been carried out. The department very early concluded they required further legislation in order to be able to carry out this policy.

Mr. MANN. Did they conclude that after they had issued the regulation?

Mr. MARTIN of South Dakota. After they had issued the regulation.

Mr. MANN. And sold the land?

Mr. MARTIN of South Dakota. Yes.

Mr. MANN. If it were a private concern it would be hauled up by the Post Office Department for conducting a fraudulent enterprise.

Mr. MARTIN of South Dakota. Mr. Chairman, I may say—and the gentleman from Illinois will see how forcible is the object lesson in South Dakota—that we have now one of the prominent citizens of South Dakota under judgment and sentenced to a term of years in the penitentiary, under prosecution of the Department of Justice, upon the charge of selling lots in an addition to the town site of Pierre, the capital, under literature which showed a trolley line extending out over his property, when in fact a trolley line was never constructed. If this sort of a proposition could inadvertently be announced and carried through, it would be a fraud upon those people that the Government would be certainly under moral obligations to correct.

Mr. MANN. Mr. Chairman, will the gentleman again yield?

Mr. MARTIN of South Dakota. Yes.

Mr. MANN. The gentleman read, as I understood, from a circular issued by the railroad company, purporting to give a regulation of the department. Was such a regulation in fact promulgated by the department?

Mr. MARTIN of South Dakota. The gentleman is—and very properly so, if it is desired—asking that we go into this piece of past history further than it was my purpose, but no further than it is proper to go into it, and I will give the gentleman the entire facts about that. Naturally it has attracted my attention, and I have endeavored to get at all of the facts. The gentleman from Illinois is, I think, under a misapprehension as to how this has been issued and circulated.

Mr. MANN. Mr. Chairman, I have no knowledge about it except what the gentleman himself gave us.

Mr. MARTIN of South Dakota. I think the gentleman from Illinois misunderstood me.

Mr. MANN. That may be.

Mr. MARTIN of South Dakota. On this circular, on the outside of it, there is the following:

Bellefourche Irrigation Project of South Dakota. Information compiled by the United States Reclamation Service, October 1, 1909.

It all bears the stamp of the Reclamation Service, and nothing else. As a matter of fact, I understand this was the manner in which it was published. A field representative of the Reclamation Service prepared the document. One or more railroad companies paid the expense of its circulation. The department here has not been satisfied with the part and responsibility that is naturally thrown upon the service for that sort of a transaction, but the facts are that it was prepared by a field agent of the Reclamation Service, and either at the time or very shortly thereafter, with the knowledge of the heads of the service, was circulated without anything on it at all to indicate that it was circulated by anyone other than the Reclamation Service; and I may say, as a matter of fact, hundreds of them were circulated by the service itself.

Mr. MANN. What I was seeking to ascertain was whether the Reclamation Service itself had ever issued any such regulation.

Mr. MARTIN of South Dakota. The Reclamation Service itself——

Mr. MANN. I am not speaking about some officer who does something without authority.

Mr. MARTIN of South Dakota. Oh, it was not without authority. I do not contend, nor do I concede, that it was without authority. It was done in the course of advertising of the Reclamation Service. There is no doubt about that.

Mr. MANN. Did the Reclamation Service in Washington authorize a promise to be made that a portion of this fund should be used for local improvements? That is what I am trying to get at, as a matter of good faith upon the part of the Government.

Mr. MARTIN of South Dakota. The gentleman can draw his own conclusion.

Mr. MANN. It is not a matter of conclusion. It is a question of fact.

Mr. MARTIN of South Dakota. It is a question of fact to be deduced from all of the evidence in the case.

Mr. MANN. Not at all. A field officer in the Reclamation Service is not authorized to prepare or issue literature without authority from headquarters. Did the officer have such authority?

Mr. MARTIN of South Dakota. I will give the gentleman my best judgment about that. I have no doubt, I will say to the gentleman from Illinois and to the committee, that this information was prepared with the full knowledge and at least the implied authority of the Reclamation Service in its proper head and authorization. Whether the office in Washington actually saw this literature and all details of it before it was published, I am not at this moment able to state, but that they had cognizance that such literature was being prepared and that it was permitted to be prepared by a person in their employ whom they considered capable of preparing it I have no doubt, and that, if not before, very soon after, its circulation began. I have not the slightest doubt but that copies of it were very familiar to the department in Washington as well as elsewhere.

The only information upon this document as to under what authority it was issued, aside from what I read on the first page, appears on the last page of the pamphlet, the cover, and is as follows:

Further information may be obtained by addressing any of the following:
Project engineer, United States Reclamation Service, Bellefourche, S. Dak.
The statistician, United States Reclamation Service, Washington, D. C.
Information bureau, United States Reclamation Service, 777 Federal Building (post office), Chicago, Ill.

I think it is perfectly evident that the information was circulated with the knowledge of the department, and certainly under implied and probably actual authority.

Mr. MANN. What I was seeking to ascertain was whether the Reclamation Service itself supposed it had the authority to divert a portion of the purchase price of these lots for municipal improvements at the time this town site was sold?

Mr. MARTIN of South Dakota. My opinion is that the service probably considered they had authority to do so at the time this literature was gotten out.

Mr. MANN. I take it the Reclamation Service knows whether it thought it had authority. The gentleman has been in touch with this service and certainly must know whether the chief supposed under existing law he had authority to make such a promise and to keep it.

Mr. MARTIN of South Dakota. I first had my attention called to this matter after the sales had taken place. At that time and before I had any counsel with the heads of the department here about it the department had reached the conclusion that they did not have the authority. My opinion is that when this was issued they probably thought the act of 1906 was general enough to give that authority. After these

sales had been concluded, whatever their mind had been before, they at once took steps to try to get direct authorization of Congress. Senator BORAH introduced a bill in the Senate to that effect at the request of the department a number of years ago, and I introduced a bill within the last three years on the same general subject.

Mr. HAMILTON of Michigan. The gentleman has very complete information on this subject, and I would like to inquire of him if he knows of any other town sites that have been advertised in this way by the Reclamation Service.

Mr. MARTIN of South Dakota. I am not able to state. There will be other gentlemen from Western States in which these town sites are situated who will be heard upon this bill, and they can state. I have not inquired.

Mr. HAMILTON of Michigan. You have no knowledge of it?

Mr. MARTIN of South Dakota. Except as to this specific one, and I think I ought in fairness to say that so far as the head of this service is concerned, I know that at the time I first called attention to the matter in the office here in Washington he not only very much regretted that that statement had been made under the circumstances, but was disposed to criticize it. I am really not in position to state what actual knowledge he had at the time of the circulation of the literature. That the department had knowledge that the literature was published and that they intrusted one of the employees of the department to prepare it I have no doubt. Now I yield to the gentleman from Texas [Mr. SMITH], the chairman of the committee.

Mr. SMITH of Texas. The gentleman will remember that the head of the Reclamation Service was before the committee on this very question, and I do not believe the gentleman can state to this House that Mr. Newell, the chief of that service, ever admitted that he was responsible for that circular or that he ever believed that he had authority to construct municipal improvements upon any of these town sites.

Mr. HAMILTON of Michigan. Did the Chief of the Reclamation Service testify whether circulars had been issued as to other town sites in this same way?

Mr. SMITH of Texas. I want the gentleman from South Dakota [Mr. MARTIN] to first answer the question I put to him.

Mr. MARTIN of South Dakota. I do not think Mr. Newell in his testimony made any statement that would be an admission that he had considered that he had authority to make any such statement. I do not think——

Mr. SMITH of Texas. I do not think Mr. Newell has ever contended that the Reclamation Service had that power, and I do not think he has ever attempted to exercise it. Is not that true?

Mr. MARTIN of South Dakota. The gentleman can see as well as I whether it is an exercise of the power or not.

Mr. SMITH of Texas. Now, there is another question I want to put to the gentleman. As I understand it, the gentleman contends that certain parties have been misled by certain advertisements that have been issued throughout the West, and the gentleman does not state who circulated those advertisements.

Mr. MARTIN of South Dakota. I have stated that this literature was printed and paid for by the railroad and circulated by them and by agents of the Reclamation Service jointly.

Mr. SMITH of Texas. It is immaterial on the question that I am going to put to the gentleman now. Admitting for the sake of argument that some persons may have been misled by these advertisements, does the gentleman think that is any justification for establishing a general policy applying to all reclamation projects now existing or that may be constructed in the future if that policy is unwise?

Mr. MARTIN of South Dakota. I think it is elemental that persons have been deceived by certain announcements that the obligations of the Government would be satisfied in meeting their specific case. On the other hand, I think the policy indicated by this bill, to apply to all reclamation projects, is a wise policy and will operate for the benefit of the reclamation fund probably as well as any other plan that could be devised. Of course, the merits of the bill itself must justify the legislation when it is sought to be applied to a present and future policy for all these town sites.

Now, Mr. Chairman, this is the situation.

Mr. RAKER. Will the gentleman yield right there?

Mr. MARTIN of South Dakota. Certainly.

Mr. RAKER. I see in the report here that this particular town site of Newell has a tract of 640 acres. Will you please inform the committee from what source the Reclamation Service was authorized to select the 640-acre tract?

Mr. MARTIN of South Dakota. The original town-site act of 1906 authorized the selection of 160 acres. I asked my learned friend, the gentleman from Wyoming [Mr. MONDELL], a few moments ago under what authority larger town sites than 160 acres have been selected by the Reclamation Service. He is of the opinion that there was subsequent legislation enlarging the area. If so, I would ask him to give us the citation. I was not familiar with that fact.

Mr. MONDELL. The act of June 27, 1906, Statutes at Large, volume 34——

Mr. RAKER. I have that act here.

Mr. MONDELL (continuing). Provides, in section 4, that after making certain provisions for the town sites of Heyburn and Rupert, whenever in the opinion of the Secretary of the Interior it shall be advisable for the public interest he may withdraw and dispose of town sites in excess of 160 acres under the provisions of the aforesaid act, approved April 16, 1906. There is no limitation, as the gentleman will see.

Mr. MARTIN of South Dakota. Mr. Chairman, I am not sure that I have made it entirely clear, or that I would be able, if I took more time, to make it entirely clear, as to how much of the responsibility of the Reclamation Service for the issuance of this particular prospectus came within the actual knowledge of the actual head of that service until after it was in print, and how much the head of the service is to be charged with simple reliance upon the acts of others in his employ in the service. I think, perhaps, it is right to say that he would probably disclaim any actual knowledge of the precise language in that statement until after it had been, at least, circulated for a period. But so far as the responsibility of the service is concerned, for the literature, I have no doubt.

Mr. ESCH. I notice on the last page of the pamphlet is inserted a map, which appears to be a railroad map, showing the Chicago & North Western Railway system. Would not that be notice to any reader that this pamphlet was gotten out and circulated by this railroad system? Would anyone be deceived as to the source of the information contained in the pamphlet?

Mr. MARTIN of South Dakota. I do not think so at all. This does not bear the stamp of a railroad map. It is a general map of that section of the country. It has no suggestion of an advertisement of the railroad upon it anywhere, either upon its face or upon its back. It sets forth certain railway lines—the Chicago & North Western, the Chicago, Burlington & Quincy, and others—the designations of the tracks of the Chicago & Northern being in heavier and blacker lines than the others. But there is nothing to indicate to me, although perhaps there might be to others, that that was circulated by a railroad company instead of by the Reclamation Service.

And, of course, it is true that these sales were not made by the railroad company. The railroad company had nothing to do with these sales. They were not interested in them. All sales of the town lots were made by the Reclamation Service, and the proceeds have gone into the reclamation fund.

Mr. RAKER. Will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. MARTIN of South Dakota. Yes; certainly.

Mr. RAKER. In response to the question that I asked a moment ago, the gentleman from Wyoming [Mr. MONDELL] read that part of section 4 of the act approved June 27, 1906. I find it is specially provided in that act that the Secretary of the Interior is not authorized to withdraw more than 160 acres of land unless it is in the public interest. Now, I understand the gentleman's contention in this matter is that you have 640 acres of land and you can not improve it.

Mr. MARTIN of South Dakota. What is the gentleman's question?

Mr. RAKER. I say, how can you reconcile the fact now that you have 640 acres of land? Your contention now is that you can not improve it, and this reserve was made on 640 acres with the idea evidently that the first 160 acres were to be used as town sites, and more was needed.

Mr. MARTIN of South Dakota. The entire reservation of 640 acres was made at first. There has been no second reservation. A mile square at the beginning was set aside for general town-site purposes. There has been no change in the boundaries set apart for town purposes. There has been no change in the boundaries of the town sites at all.

Mr. RAKER. So that the committee may have the matter fully before it, may I ask the gentleman this question——

Mr. MARTIN of South Dakota. Certainly——

Mr. RAKER. Whether or not any part of this 640 acres was platted into a town?

Mr. MARTIN of South Dakota. I do not think the gentleman was in the Chamber when I discussed that subject.

Mr. RAKER. Yes; I was in.

Mr. MARTIN of South Dakota. I stated that at the beginning somewhere near 10 acres were set out in lots and blocks. Shortly afterwards, that not being sufficient for the actual occupancy of the people for business and residential purposes

another area of about the same amount was set aside immediately adjoining and sold, so that now in the neighborhood of 20 acres out of the 640, it being situated in the geographical center of the entire town site, have been disposed of.

Mr. RAKER. There was not any arrangement made for the laying out of any considerable town there at all, so far as a planning of the various streets and squares and public reserves was concerned, was there?

Mr. MARTIN of South Dakota. I am not able to say whether the streets and public reserves were cut out of the entire 640 acres or not. I can only say that only about 20 acres have been subdivided into lots and disposed of.

Mr. RAKER. I would like to ask just another question, and then I will be through. Have there been many applications for town lots that have been surveyed, and is it a fact that the department has made no effort to lay off the land and offer the lots for sale?

Mr. MARTIN of South Dakota. As to this particular town, I think the department has responded to all requests that have been made for the sale of lots. After the first sale it was evident that the first sale was not sufficient for the actual needs of the town, and there was a great clamor for the sale of more lots, which was met by the second sale, to which I have referred. I do not think that there has been any special demand, so far as I know, for the sale as yet of other lots.

Now, Mr. Chairman, with the indulgence of the committee I would like to consider briefly the merits of the general proposition. I have already stated that if the department had adopted the other plan of selling the entire town sites at once these complications could not have arisen. In what they have conceived to be the interest of the fund, by reason of getting the benefit of increased prices on lots to be sold in the future, they have adopted this particular plan.

Mr. SMITH of Texas. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. MARTIN of South Dakota. Not now. I desire to call the attention of the committee to the necessity of this legislation in order to make it possible to maintain the town sites at all, so far as public improvements and public utilities are concerned. Now I yield to the gentleman.

Mr. SMITH of Texas. I wanted to ask the gentleman if he did not believe it wise policy to pass an act, if necessary, allowing all these town sites to be put on the market and sold to the public rather than inaugurate this policy of constructing municipal improvements in a new town free of charge and turning them over to the people ready-made?

Mr. MARTIN of South Dakota. Well, as a policy adopted at the beginning, I should have no choice between the two, but would perhaps lean to the suggestion of the gentleman, to sell it all at once. But I have no doubt that the policy adopted by the service is the one that will bring the most money to the reclamation fund, and in that way probably prove more beneficial from the public standpoint.

I think gentlemen will see that under the policy adopted the situation of occupants of these Government town sites—taking just simply the concrete example that I have given as a fair illustration of others—is intolerable. They have paid a large price for lots. They put the rest of their money in improvements, and they have absolutely no power of taxation beyond the improved area. And I may say, as a practical proposition, until they get their deeds, which are to be made out when the lots are entirely paid for, the matter of taxation would be even more circumscribed than that, and it would be confined to the taxation of personalty and of an equitable interest to ripen into a title in the future to the lots that they have contracts for the purchase of.

I think that the provisions of the bill would work very equitably as between the public and the particular occupants of town sites. This bill provides that one half of this fund simply can go into these municipal improvements; the other half goes into the reclamation fund, which gives the benefit of it to the settlers all about the town.

There is a community of interest between the settlers, who are cultivating the fields, and the occupants of the towns. Their interests are one. The policy of this bill is to give the settler in his combined capacity one half the proceeds of the lots, and that the other half shall be used for the betterment of the town itself.

Mr. WILLIS. Is it the provision of this bill that the money shall be put into the general municipal funds and distributed and used by the municipalities, or is the Secretary of the Interior to make these improvements and operate the lighting system, schools, and so forth?

Mr. MARTIN of South Dakota. The money goes, in the first instance, into the reclamation town-site fund, which is kept specific and separate from the general reclamation fund. The Secretary of the Interior has authority to proceed to make certain improvements and to operate them until the municipality is incorporated. The bill, as amended, would require the Secretary in not to exceed two years from the date of the incorporation of the town to turn over the whole project from that time on to the municipality itself.

Mr. WILLIS. Is there anything, then, to limit the time during which the Secretary of the Interior may continue to operate these improvements? Is there any time within which this incorporation shall take place? Might not the community, being satisfied with having its lighting system, its schools, and so forth, carried on and paid for by the Interior Department, be unwilling to incorporate? Might they not simply live on and let that condition continue indefinitely?

Mr. MARTIN of South Dakota. I would commend the gentleman to a rather close study of the bill upon this subject. I do not think it could work in that way. If so, it ought to be further amended. As a matter of fact, in the building of town sites in the West one of the first things is to incorporate. It is the habit and custom of the West, as you will find in almost every hamlet, to incorporate and have its town officers. This particular town to which I refer is a concrete illustration. It was incorporated long ago.

Mr. WILLIS. If the gentleman will yield further, I was referring to the second section, in line 24. It says there:

> The buildings and works so constructed may, in the discretion of the Secretary of the Interior, be operated and maintained by him or under his authority, and the expense thereof paid from the reclamation town-site fund, pending the organization of a municipal corporation.

Now, down in the latter part of the section, is the only language that pretends to limit it, that I can find. This provision is found in line 17, page 3, where it says:

> That in no case shall the operation and maintenance of such buildings and works by or under the authority of the Secretary of the Interior be continued for a longer period than two years after the organization of a municipal corporation or school district as aforesaid.

There is nothing to require incorporation. If they should simply continue to live as an unorganized hamlet, these expenses would have to be paid by the Secretary of the Interior indefinitely, it seems to me.

Mr. MARTIN of South Dakota. I think the gentleman has overlooked the fact that the fund will be turned over to the municipality upon the sale of future lots, after the organization of the municipality, just as completely as though the Secretary should manage it.

Mr. WILLIS. That is not the point. In the case which I am supposing there is no municipality. That is the very point I am getting at, that they may continue to live on indefinitely without any municipal organization, without any incorporation, and the Secretary of the Interior, under the provisions of this bill, will be required to keep up their schools and lighting system, sewerage system, and so forth.

Mr. MARTIN of South Dakota. Yes; but the Secretary of the Interior is doing that out of this very fund which he is administering for them; and certainly the community itself would rather manage its own affairs out of its own fund than to allow the Secretary of the Interior indefinitely to manage its affairs out of the same fund. In other words, there is no temptation to the municipality to allow the Secretary to continue indefinitely, or for a longer time than the shortest possible limitation, to administer this fund, when they have the same fund themselves to administer in their own way under the provisions of the act as soon as they get hold of it.

Mr. WILLIS. I have not framed any amendment yet, but it seems to me there ought to be an amendment framed that would specifically limit the period during which the Secretary of the Interior could do this. That would obviate the objection I have been suggesting. Would the gentleman have any objection to such an amendment?

Mr. MARTIN of South Dakota. I would not object, and I may say that so far as my personal views are concerned I would have been as well satisfied with the legislation if it had provided at the very start that one-half the proceeds should be turned over to the municipality for these purposes as soon as the municipality was organized. But the Department of the Interior consider that as they are there first on the ground, laying out irrigation districts, they are in a better position to bring in the water, and that perhaps their force can make streets more cheaply than the municipality could. The Department have considered it important that in the first year or two of the building of these new towns they should have a hand in it. Personally I should be entirely satisfied if the legislation should pass the Congress in a form that would turn the money over to the municipality in the beginning, as soon as it was properly organized to receive it. I think there are no

serious objections to the system as devised in the bill itself. Now I will yield to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, the gentleman has answered the question which I desired to ask him.

Mr. KENT. Will the gentleman allow me to ask him a question?

Mr. MARTIN of South Dakota. Certainly.

Mr. KENT. I should like to ask the gentleman whether this town-site reclamation fund is a specific fund for each town or whether it is general?

Mr. MARTIN of South Dakota. Each town is to have the benefit of its own specific fund under this bill.

Now, this legislation is really necessary. I can see no possible serious objection to it. If the funds involved were Government funds, the Congress might with propriety be very conservative about entering into this sort of a proposition; but the funds are simply those of the people themselves who are most intimately interested. It will tend to cultivate local pride, in the knowledge that each town is to have the benefit of the fund that comes from the sale of its own lots to the extent of one-half of the proceeds. From the standpoint of public policy I can see no serious objection to it.

As to the necessity of the legislation, it is absolutely vital to the maintenance of these towns. Congress must do one of two things—either pass this act or it must direct the distribution to private ownership of all of the surplus lands of the town site, with a provision for doing equity to the town-lot purchasers, who have risked their all in reliance upon the Government town-site representations thus far, or these towns will have to be abandoned, for they can not make the municipal improvements under the conditions that now exist.

Mr. RAKER. Will the gentleman yield?

Mr. MARTIN of South Dakota. I will.

Mr. RAKER. Could that be brought about immediately if the land was all surveyed and put up at public auction?

Mr. MARTIN of South Dakota. So far as the future is concerned, it would, provided it was all sold, but it might not be all sold.

Mr. RAKER. There has been no attempt yet to sell it. My recollection from the hearings is that the department refused to survey or offer the remaining tracts for sale.

Mr. MARTIN of South Dakota. The department is endeavoring to put the property on the market as fast as it is needed for actual improvement, and to leave the element of speculation on the future for the benefit of the cestuis que trust instead of town-site speculators.

Mr. RAKER. Is it not a fact that in this town of Newell the very provision of the statute directing the Secretary to select school lots and courthouse lots and lots for public parks has not been complied with?

Mr. MARTIN of South Dakota. No; I think not. I think they have made reservations for these purposes, but that is simply a site to build a schoolhouse or a city hall upon. It takes money to build city halls and schoolhouses and parks and other municipal improvements.

I want to impress this on the committee, that after purchasing simply 4 per cent of a town site, spending money in the improvement of it, it is absolutely impossible to proceed and build municipal improvements, bring in water supplies to protect against fire, improve the streets, with the Government owning 96 per cent of the town site free from taxation. If we could suspend the sovereignty of the Government in these cases and tax the property which the Government is holding as a trustee for the settlers, the 96 per cent of the town site would be subject to taxation and the situation could be met, but that is impossible.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. BYRNS of Tennessee having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had disagreed to the amendment of the House of Representatives to the bill (S. 109) to authorize the sale and disposition of the surplus and unallotted lands in the Standing Rock Indian Reservation, in the States of South Dakota and North Dakota, and making appropriation and provision to carry the same into effect, asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. CLAPP, Mr. MCCUMBER, and Mr. ASHURST as the conferees on the part of the Senate.

TOWN SITES IN CONNECTION WITH RECLAMATION PROJECTS.

The committee resumed its session.

Mr. SMITH of Texas. Mr. Chairman, I very much regret that I have felt the necessity of disagreeing with my brethren on the committee of which I have the honor to be the chairman in regard to the wisdom of the passage of this bill. I am so thoroughly convinced myself, after a thorough examination of the matter and a very careful and earnest consideration of it, that the policy which it proposes to establish is unwise and will result in evil to the people of this country I have felt constrained to come before the House and state my objections to it. When I have done so and when this House thoroughly understands just what is proposed by this measure I am convinced that Members will not vote for its passage.

Now, let us understand just what is proposed: Some years ago after the inauguration of the general reclamation policy by Congress a bill was passed providing that the Secretary of the Interior should have the right to reserve lands within the reclamation project for the purpose of a town site for the convenience of the water users under reclamation projects.

It provided that the reservation so made should be surveyed and divided into lots and parks, that these lots should be appraised and sold by the Secretary of the Interior. It further provided that the parks so reserved might be improved by the authorities of the municipality.

Now, that was as far as Congress thought proper to go at that time in regard to these town matters, and I believe that that was as far as it was wise to go. The proposition here in this measure is that one-half of the proceeds arising from the sale of these town lots shall be covered into a special fund to be known as town-site reclamation fund, and that that fund may be used for the construction, maintenance, operation of schoolhouses, water, light, and sewer systems, and other school and municipal improvements.

The purposes for which this fund may be used as provided in this bill are absolutely unrestricted. It may be used for any public improvement within the town site that the Secretary may choose to make. It fails to provide, Mr. Chairman, that the inhabitants of these town sites shall share any part of the expense for these improvements, but the fund so raised from the sale of these town lots in the Treasury of the United States Government shall be given as gratuities to the municipalities.

I want to call the attention of the gentleman to the further fact that these improvements may be made by the Secretary of the Interior without regard to the population, without regard to the business, and without regard to the wealth of the town, as soon as the lots are sold, as soon as the fund is created by the sale of the lots. Before there is an inhabitant there, before there is any necessity for the town at all, the Secretary of the Interior can go there and construct schoolhouses, and construct waterworks, and construct electric-light systems, and, if necessary, can construct electric railways and build courthouses and everything to make up a ready-made municipal corporation and turn it over to a few inhabitants who may come to the place thereafter.

Mr. MONDELL. Will the gentleman from Texas yield?

Mr. SMITH of Texas. I will.

Mr. MONDELL. The gentleman is aware that all of these splendid improvements to which he refers could not be made unless some one has purchased the town lots?

Mr. SMITH of Texas. That is true.

Mr. MONDELL. And paid for them?

Mr. SMITH of Texas. That is true.

Mr. MONDELL. He can only make such improvements as can be made with one-half of the money that has been paid for the lots?

Mr. SMITH of Texas. That is absolutely true.

Mr. MONDELL. Then does the gentleman think that he could build improvements vastly beyond, or that he would build improvements vastly beyond the needs of the town, when he is limited in his expenditures to 50 per cent of the cash on hand received from the sale of the lots?

Mr. SMITH of Texas. That is true, but the only limitation put upon the power of the Secretary of the Interior is that very limitation, viz, the amount of the funds that he has on hand from the sale of the lots; but he does not have to wait for the building up of the town and for the establishment of business except for the purpose of getting funds.

Mr. MONDELL. Does the gentleman think it would be at all likely that 50 per cent of the cash paid for town lots sold on time, as these are, or on deferred payment—does he think that 50 per cent of the sum so received would build improvements in excess of the necessities of the community?

Mr. SMITH of Texas. It may be that speculators would buy the lots and hold them for the Government to expend the money and enhance the value of the property.

Mr. MONDELL. Does the gentleman think that speculators would buy the lots in order that the Government might spend 50 per cent of the money?

Mr. SMITH of Texas. Mr. Chairman, there is nothing in this bill limiting the power of the Secretary of the Interior in that respect. It seems to me that these town-site propositions ought to be put upon the same footing that other town-site propositions throughout the country are put upon, and that is that they shall not have the power or the ability to provide these municipal improvements until the population, the business, and the wealth of the town justify it.

Section 2 of the bill authorizes the Secretary of the Interior to maintain all the improvements made by him on these town sites until the municipality organizes, and for two years thereafter—all at the expense of the town-site fund.

Mr. CULLOP. Mr. Chairman, will the gentleman yield? I would like to ask the gentleman from Texas a question.

The CHAIRMAN (Mr. HARRISON of Mississippi). Does the gentleman from Texas yield to the gentleman from Indiana?

Mr. SMITH of Texas. I do.

Mr. CULLOP. Under that provision would it not be possible that these could be continued under Federal supervision for an indefinite period of time, and would it not be to the interest of the people living in that locality to have the Government administer it?

Mr. SMITH of Texas. The gentleman is absolutely correct in the suggestion which he makes. There is absolutely no provision in this bill requiring when these towns should be organized. It only provides that the Secretary of the Interior shall not operate these works longer than two years after their organization.

Mr. RAKER. Mr. Chairman, will the gentleman yield right there?

Mr. SMITH of Texas. Yes.

Mr. RAKER. Supposing all the lots were sold, and that one-half of the proceeds had gone into these municipal improvements, and the town be not organized, under this law would not the Government of the United States be compelled to maintain indefinitely the public improvements of this town?

Mr. SMITH of Texas. It would.

Mr. MONDELL. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. Just one moment. And I want to say, further, that the probabilities are that these towns would never organize for the very reason stated a while ago—that the business and the population and the wealth of the town would never justify their operation.

Mr. MONDELL. Mr. Chairman, will the gentleman yield now?

Mr. SMITH of Texas. Certainly.

Mr. MONDELL. Will the gentleman support the bill if an amendment, offered by himself, to limit, as he sees fit, the time when the Secretary shall maintain these improvements be placed in the bill?

Mr. SMITH of Texas. No; I will not.

Mr. MONDELL. Certainly not; because the gentleman is opposed to the bill.

Mr. SMITH of Texas. I am against the bill not only for that reason, but I am against the policy that you are trying to inaugurate.

Mr. MONDELL. In other words, the gentleman is against the bill even if all of the alleged objections that he makes were met.

Mr. SMITH of Texas. I am against the bill on account of the objections which I have stated and which anybody can see by reading the bill.

Mr. CULLOP. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. Certainly.

Mr. CULLOP. Mr. Chairman, I desire to call the gentleman's attention to the language at the end of section 2 on page 3:

> That in no case shall the operation and maintenance of such buildings and works by or under the authority of the Secretary of the Interior be continued for a longer period than two years after the organization of a municipal corporation or school district as aforesaid.

Under that language there could be an indefinite delay in the organization of a municipal corporation, could there not?

Mr. SMITH of Texas. Certainly; and I believe there would be, because in many cases the population, wealth, and business of the town would not justify the organization and the taking over of the improvements that might be made.

Mr. CULLOP. Would it not be to the interest of those people personally for them not to organize?

Mr. SMITH of Texas. That is what I am saying.

Mr. CULLOP. It would relieve them from the burden of supporting their local government, which they would otherwise have.

Mr. MARTIN of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. Yes.

Mr. MARTIN of South Dakota. Would it meet the objection of the gentleman from Indiana [Mr. CULLOP] if the words "construction thereof," in line 20, which have been stricken out, were left in the bill, so that it would read:

> For a longer period than two years after the construction thereof, and in no case after the organization of a municipal corporation.

Mr. CULLOP. Mr. Chairman, the objection to that would be that still there is no provision requiring organization. There ought to be, in my judgment, a specified time in which the organization of the corporation should be perfected, and immediately, or at the earliest possible date, divorce the management and control of it from the Federal Government and place it under local government. I do not believe that it is a good policy for the Federal Government at Washington to be administering the affairs of a people 1,000 or 2,000 miles away in their local government. Such a policy is a blow at local self-government.

Mr. MONDELL rose.

Mr. SMITH of Texas. Mr. Chairman, I decline to yield further at this point.

Mr. MONDELL. Will the gentleman yield for one question?

Mr. SMITH of Texas. Not at this time. I want to say further, in connection with what the gentleman from Indiana [Mr. CULLOP] has just stated, that even if there were a limit fixed when these town sites should be organized into a municipal corporation, and the Government should cease to operate them, yet here is a proposition to construct municipal improvements for a town that has not reached the point of organization—a thing that has never before been heard of in this country, I believe; and if a time were fixed when they were to be turned over, it might be at a time when they could not be supported and maintained by the town, because of the fact that the town had not reached that state of development of business, of population, and wealth that would enable it to operate and maintain these public improvements; and in that case, Mr. Chairman, there would be nobody to take charge of and preserve the property and it would result in a loss to the Government and to the public.

Mr. MONDELL. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. Certainly.

Mr. MONDELL. Will the gentleman support the bill if it is amended so that no expenditures shall be made except in incorporated towns?

Mr. SMITH of Texas. Mr. Chairman, I decline to be interrupted by any question that does not develop the facts of this matter, asking what I would or would not do.

Mr. MONDELL. The gentleman is opposed to the bill.

Mr. SMITH of Texas. I have stated that frankly. I am opposed to the policy of the bill.

Mr. MONDELL. Without regard to the objections he makes, will the gentleman support the bill if a provision is made that no money shall ever be expended except in an incorporated town?

Mr. SMITH of Texas. Mr. Chairman, I decline to be interrupted by the gentleman, who continues to put a question of that sort, that sheds no light on the question we are discussing, as to what I would or would not do if the bill were in a different form.

Mr. Chairman, I am opposed to this sort of legislation upon general grounds. It is a species of favoritism. In the other States, in my State and in your State, outside of these reclamation projects, every new town has to make its own way.

Every new town is built up by the business that is contributory to it, the support that it gets from the country, and it does not undertake to construct and operate these various municipal improvements until the business back of it builds up and develops it to the point where it can itself construct and maintain these public improvements. That is so in my State, and that is so in every other State in this Union, and I see no reason why we should now take up these reclamation town sites and vote money out of the Public Treasury to build them up, construct municipal improvements free of charge to them, in advance of the business and the development of the country that is necessary for their support and maintenance.

Mr. MONDELL. The gentleman wants to be entirely accurate. Of course, he realizes he is not accurate when he refers to taking money out of the Public Treasury for this purpose.

Mr. SMITH of Texas. I am entirely accurate when I say this is a proposition to take money out of the Public Treasury.

Mr. MONDELL. The gentleman says that?

Mr. SMITH of Texas. I say that, and it is a fact. The fact that this may be called a "special reclamation town-site fund," Mr. Chairman, is perfectly consistent with the fact that, nevertheless, it comes from the Public Treasury of the United States.

Mr. MANN. Will the gentleman yield?

Mr. SMITH of Texas. I will.

Mr. MANN. Take the case that was cited by the gentleman from South Dakota [Mr. MARTIN] as to the town of Newell, where 640 acres were set aside for a town site, and 25 acres were sold for over $40,000, under this bill and ascertaining the amount that might be expended for public improvements in that town, what would be the basis—$41,000 for which the property was sold, or the $41,000 plus the estimated value of the remainder of the 640 acres?

Mr. SMITH of Texas. I believe, under this bill, though I am not absolutely sure about that, it would be confined to the actual proceeds arising from the sales.

Mr. HAMILTON of Michigan. The balance of the proceeds could be had as fast as the land was sold?

Mr. MANN. That is under the bill as amended or under the bill as introduced?

Mr. SMITH of Texas. Under the bill as it is before the House. The proceeds of the sale arising from the balance of it could be used under this bill.

Mr. MANN. Under the bill as pending here, the bill has a large number of amendments, and it really is desirable to know just what the situation is——

Mr. SMITH of Texas. As I understand, one of the objections of the Secretary of the Interior to the present bill is that it does not provide for taking into consideration the appraised value of the unsold lots in fixing the amount of money to be put in any particular place.

Mr. MANN. I understood the recommendation of the department was that they must have the authority to take the estimated value of the unsold property.

Mr. SMITH of Texas. That was the recommendation.

Mr. MANN. For the 50 per cent which may be expended on local improvements?

Mr. SMITH of Texas. Yes.

Mr. MANN. That is the bill as it is pending here.

Mr. SMITH of Texas. I do not think so. I think that is one of the objections the department makes to the bill.

Mr. MANN. The department may make an objection to an amendment proposed by the committee. Of course, that amendment has not been agreed to yet.

Mr. SMITH of Texas. Mr. Chairman, I have another objection to the passage of this bill and the policy which it proposes to establish, and that is that it is a departure from the purposes of the reclamation act. The purpose of the reclamation act was to reclaim arid lands for the purpose of agriculture, for making homes for farmers, and I believe that the future success and popularity of that policy depends upon Congress restricting it to the purpose for which it was inaugurated.

Here is a proposition to lay aside the idea of reclamation. It is a proposition to build up towns, to make ready-made and up-to-date towns out of the reclamation funds and turn them over, free of charge, to people who may be fortunate enough to get lots within the town sites. And why? What reason is there for the Reclamation Service to depart from the policy which has been set and go into the business of building up cities in this country? Oh, but they say it is for the benefit of the water users under these reclamation projects. In reply to that I want to say, Mr. Chairman, that towns in this country go behind—they follow. They do not advance ahead of the settlement of the country. Towns are built up from necessity, built up because they are needed by the agricultural and manufacturing industries that surround them, and whenever suitable conditions of development come about in one of these reclamation projects the town will follow as a matter of course, and towns will develop to the extent that the business of the community justifies. But here they propose to get the cart before the horse, to build the town for the community, and let the country build up after the town is built. And I see no reason why the Government of the United States should go into the business of building towns to be turned over ready-made to any class of citizens in this country. That is the reason, I want to say to the gentleman from Wyoming [Mr. MONDELL], why I will not be in favor of this bill after he has inserted in it the amendments which he suggests.

Mr. MARTIN of South Dakota. Will the gentleman yield for a question?

Mr. SMITH of Texas. I will.

Mr. MARTIN of South Dakota. Did I understand that the gentleman is opposed to these town sites entire?

Mr. SMITH of Texas. No, sir. I am in favor of having reservations made for town sites and have them subdivided into lots and sold as necessities may require.

Mr. MARTIN of South Dakota. That is what they claim they are doing.

Mr. SMITH of Texas. I am not in favor of building a ready-made town to turn over to anybody in this country.

Mr. MARTIN of South Dakota. How would the gentleman meet this question of the ability of purchasers of town lots in these Government projects to erect these municipal improvements?

Mr. SMITH of Texas. Whenever the business of the community develops sufficiently it will take care of itself.

Mr. MARTIN of South Dakota. That has to be done by taxes, does it not?

Mr. SMITH of Texas. It has to be done by taxation when they have developed sufficiently to have the amount of taxes to meet their needs.

Mr. MARTIN of South Dakota. They can not wait long for a water supply of a town, can they?

Mr. SMITH of Texas. The gentleman well knows that all over this country there are small towns, county seats in my State and his, that are providing their own water supply.

Mr. MANN. Will the gentleman yield for a question?

Mr. SMITH of Texas. I will.

Mr. MANN. On a matter of water, it would be profitable to the Government. I have had a little experience in laying out city subdivisions, as an attorney and otherwise. I take it that it rarely happens now that a man lays out a subdivision of city lots and offers it for sale without first putting in certain improvements.

Mr. SMITH of Texas. Yes; speculators do that.

Mr. MANN. Yes; speculators do it; certainly. But they sell the lots to people to build houses on them. That is the way cities are built up, whether it is done by speculators or not. A man would not go and lay out a subdivision on the prairie with no street improvements in and no sidewalks in and no anything in and sell it, because he thinks it is more profitable to sell the lots with these improvements in. Now, if that is true with the city speculator, as the gentleman calls him, why is it not equally true with the Government when it is doing the same thing?

Mr. SMITH of Texas. The gentleman well knows that the work of laying out additions and new towns that he speaks of is done by speculators—men who are trying to build up towns to make money out of them. I do not think the Government ought to try to undertake to make money out of these town sites. Let the Government sell them for what they are worth, and let the people build the towns. I do not believe, Mr. Chairman, that the Government of the United States ought to go into the business of town-lot speculation; and if we do, and the day ever comes when the Government of the United States does embark upon a policy of that sort, then you may look for more scandals in the business of this Government than you have ever seen before.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. Yes.

Mr. MANN. The gentleman calls it "speculation." Has it not been the practice and is it not the law, where the Government is opening up reservations in various places, that it can withdraw land for town-site purposes, and does offer that land in the shape of lots?

Mr. SMITH of Texas. I think that is all right. We have done that in regard to reclamation projects.

Mr. MANN. With the expectation that the lots will sell for higher prices than the ordinary land does; and if the Government does that at all, is it not desirable that it do it in the proper way?

Mr. SMITH of Texas. I think not. The Government is doing that to the extent that is proposed here. I do not think that the Government ought to do it. When the Government lays off the lots and sells them, then the agency of the Government ought to cease.

Mr. KOPP. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. SMITH of Texas. Yes.

Mr. KOPP. The gentleman says the lands should be sold for what they are worth.

Mr. SMITH of Texas. The law provides that the Secretary of the Interior shall appraise them.

Mr. KOPP. But in determining their worth, would not the municipal improvements be a very important element?

Mr. SMITH of Texas. They would be appraised before there is any improvement.

Mr. KOPP. They would be sold after the improvements, would they not?

Mr. SMITH of Texas. Some of them may be. Personally I am in favor of the Government selling the whole thing and not trying to speculate at all. I think that that would be better for everybody concerned. I do not believe that if you go

all over this country and examine into the men who speculate in these things you will find as many who have made successes as those who have made failures. Here you propose to clothe one man in the Government—the Secretary of the Interior, who sits up here in his office in the city of Washington, his time occupied by hundreds of other things and operating through agents and subordinates throughout the country—with the authority to go into the town site and town lot speculation business, and there is no necessity for it. There is no object to be obtained by it, so far as I can see, except to build a town and equip it with municipal improvements free of charge, and turn it over to the people who happen to live there.

Mr. RUCKER of Colorado. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. SMITH of Texas. Yes.

Mr. RUCKER of Colorado. Following the line of the questions asked by the gentleman from Illinois [Mr. MANN], and referring also to what the gentleman has said with reference to speculators, is it not true as a matter of fact that this fund does not go to the Government? Directly it does, it is true, but indirectly does it not go to the settlers under these reclamation projects?

Mr. SMITH of Texas. No; it goes into the Public Treasury and may be used for reclamation work. The farmers are required to pay that money back into the Treasury. In one sense it comes out of the reclamation fund and not out of the Treasury of the United States, but practically it comes out of the Treasury.

Mr. RUCKER of Colorado. But it comes from a separate fund used for reclamation. Now, let me ask the gentleman this further question: That being true, the greater the population you have in a town or city the more increased will be the value of the other lots to be sold. Is not that true?

Mr. SMITH of Texas. That is true, and that is the speculative feature of it, Mr. Chairman.

Mr. RUCKER of Colorado. Just one moment more. Is not that speculative feature running to the individual rather than to the Government? The gentleman has said nothing about settlers under these projects. They get the benefit of this fund as fast as the lots are sold. They have to pay just that much less money.

Mr. SMITH of Texas. The amount of improvements under the terms of this bill goes as a free gift to the people of that town. It does not go back to the Treasury of the United States. It is a speculation on the part of the Government, because, according to the contention of the gentleman, this money is expended for these municipal improvements with the expectation and hope that it will increase the value of the unsold lots and it will make the money back. It is nothing more nor less than a town-lot speculation.

Now, the gentleman talks about these towns being handicapped. He says that they can not tax the lots that still remain in the hands of the Government. For that reason I say that the lots ought to be sold. If they are sold it would be more equitable to authorize these municipalities to tax these unsold lots. Then the property owners of the town would be required to bear the proportionate cost and expense of these municipal improvements. The proposition which they make here is far from merely trying to adjust the equitable conditions that exist there. They propose that the Government shall bear the whole expense as a free gift to them. It is not a proposition to equalize and adjust the equity that may exist between the Government and the inhabitants of the town.

Now, Mr. Chairman, there is one other thing. A good deal has been said here about it. There was a little noise in the House at the time, and I do not know that I got it exactly, but, as I understood it, there are some individuals living out in some of these towns who claim to have been misled by certain advertisements into believing that the Reclamation Service had the right to construct under the law, and would construct, municipal improvements and build up these towns, and upon the faith of those advertisements they have been induced to invest their money, and have been disappointed.

Now, Mr. Chairman, it does not clearly appear that any officer of the Government was responsible for sending out these advertisements. It seems that they got out through some railroad company, and nobody knows where they came from. Certainly it can not be contended here that on account of somebody being misled by the representations of some irresponsible person the Government should respond in damages even to the parties who claim to have been misled and injured, to say nothing of the proposition that such facts would justify the establishment of a great national policy, not only for the present, but for all time to come, of building up towns to be turned over to these people.

But for the sake of the argument, let us say that the Reclamation Service, or some officer of the Government, misapprehending the powers and the authority conferred by the law, did issue this misleading advertisement. Can gentlemen come in here and say that this general policy shall be established because some person here or there was injured by it? Men who deal with the officers of the Government know that they have no power to bind the Government except as authorized by law. Is it the proposition here before the House to-day to establish a great policy for all time to come in order to compensate a few persons in the West who claim to have been injured by this misleading advertisement? If the gentleman can bring up a case here where he can show that the Government is responsible for the injury of any citizen, I will go as far as any man in this House to see that he is compensated and made whole for the damage that he has sustained. But, Mr. Chairman, I do not propose to establish an unwise policy here to-day because some of the gentleman's constituents may have been misled by some officer of the Government or by some irresponsible party whom he can not locate.

Mr. Chairman, there is one other thing to which I call the attention of the gentleman, and that is that while the Interior Department favors some legislation along this line, the Interior Department is now opposed to the passage of this particular bill. The Secretary of the Interior has addressed to me, as chairman of the committee, the following letter:

DEPARTMENT OF THE INTERIOR,
Washington, July 13, 1912.

Hon. W. R. SMITH,
Chairman Committee on Irrigation of Arid Lands,
House of Representatives.

SIR: With reference to House bill 23669, "providing for the disposition of town sites in connection with reclamation projects, and for other purposes," as reported by your committee June 12:

Your report suggests certain amendments to the measure as originally drafted in the department and introduced by Mr. MARTIN of South Dakota. Most of these call for no comment from me at this time, but I deem it proper to express to you the views of the department upon the following points:

In its original form the purpose of the bill was to enable the Secretary to anticipate receipts from the sale of town lots and use a portion of past receipts and of estimated future receipts in municipal and school improvements essential to the well-being and prosperity of the town, but unobtainable in the first years of settlement, because but a small part of the lots are then sold into private ownership and subject to taxation. It was believed that such a policy was necessary to give substantial justice to the inhabitants, and would in the end not deplete the reclamation fund, because of the probability that the price received for the lots would be enhanced by such a policy. In order to safeguard the Government against loss through improvident expenditure there were two limitations put upon the amount to be expended in any town. In the first place, the proposed reclamation town-site fund, out of which such improvements must be paid for, was limited to one-half the proceeds heretofore and hereafter received from the sale of town lots in all towns, so that not only could no money be spent before it had actually been received from the sale of lots, but, moreover, only 50 per cent of such total past receipts could be expended in all towns taken together for this purpose. In the second place, the expenditure in any particular town was further limited to 50 per cent of past receipts from the sale of lots in that town plus 50 per cent of the appraised value of unsold lots. In this connection, attention is called to the fact that it is the practice of the department to appraise the lots from time to time in comparatively small quantities, and in anticipation of the prompt sale of the small portion so appraised.

I understand the effect of the amendment appearing in italics, in lines 10 and 11, of the second page of the bill as printed June 12, to be that there shall be no anticipation of receipts in any town, but that expenditures for the proposed improvements shall be limited to 50 per cent of the cash theretofore actually received from the sale of lots in that particular town. In my judgment, this would defeat the purpose of the bill so far as justice to settlers in towns hereafter created is concerned.

Your committee's proposed substitute for section 4 introduces a new principle in the bill, to wit, that the moneys which under the department's bill were to be paid into the reclamation town-site fund and expended therefrom by the Secretary of the Interior for municipal and school improvements (50 per cent of receipts from lots in all towns as sold) shall, in all towns having a municipal and school organization, be paid over directly to such organization for general municipal and school purposes without the restriction to "improvements" in the nature of permanent works, as contemplated by the original bill. It is thus proposed that the authorities of each town and school district shall have as general town and school revenue 50 per cent of the proceeds of lots sold in each town, respectively. This is a radical departure from the bill proposed by the department. It might be used by the municipal and school authorities to relieve the town of all taxation whatever. There is no means of assuring its wise expenditure in such a way as would enhance the value of the lots and thus increase the reclamation fund. This was an essential part of the bill as originally drawn, and the substitution for it of an unconditioned gratuity to the inhabitants of the towns seems to me unwise.

Respectfully,

WALTER L. FISHER, *Secretary.*

Mr. MARTIN of South Dakota. Will the gentleman yield?

Mr. SMITH of Texas. I do.

Mr. MARTIN of South Dakota. The pith of the objection of the department at present appears to be that we have not given power enough to the department in the bill even as amended, while the objection of the gentleman from Texas seems to be that he does not want any authority given to the department.

Mr. SMITH of Texas. I do not agree with the Secretary of the Interior, except that I desire the defeat of this bill which is

now before the House. I do not believe in the policy of building up towns by the Government.

Mr. MANN. What is the date of that letter?

Mr. SMITH of Texas. July 13, 1912.

I reserve the balance of my time.

Mr. MONDELL. Mr. Chairman, in the discussion of a matter of this sort, in fact in the discussion of any matter, it is a very excellent thing first to learn what the facts are. A wise man has said it is better not to know so much than to know a great deal that is not so. Now, I venture the assertion that with the possible exception of the gentleman from Texas, who has just taken his seat, there is not a Member of this House who will not support this bill, possibly with some slight amendments, if he understands the facts. And I venture the belief that the gentleman from Texas [Mr. SMITH] himself would support the measure if he fully understood the facts and the proposition before the House.

Now what are the facts? In carrying out the reclamation law the reclamation officials in some localities took in vast areas of uninhabited and unsettled land—arens 20, 30, and 40 miles in length and 5 and 10 miles in width—without a settler upon them, all public lands. In some cases there were some privately owned lands, but in many cases there were no privately owned lands. It became essential to the carrying out of these enterprises in a proper way that there should be towns established. Where there was a town upon or adjacent to one of these areas no reclamation town site would be established, but where there were not enough towns, or towns so located as to furnish the people with the needed facilities afforded by a town, it became necessary to establish towns, and Congress provided that the service might reserve from settlement under the homestead law certain areas, plat them, sell the lots, and that the funds from the sale should go into the reclamation fund to the credit of the project. The gentleman from Texas [Mr. SMITH] talked about gratuities. The Secretary of the Interior talked about gratuities. It is a very good idea in discussing matters of this sort not to use loose and misleading language. This town-site fund is now a gratuity in the sense in which they refer to it. It is a gratuity to the people of the locality. If the project cost, say, $1,000,000 and a town site on the project will bring ultimately, say, $100,000, then the cost of the project to the people on the project is not $1,000,000, but $900,000. This is a proposition to divide the benefits between the farmers on the project and the people in the town. That is all there is to it.

Mr. MARTIN of South Dakota. Will the gentleman yield?

Mr. MONDELL. I will.

Mr. MARTIN of South Dakota. I think it would be well to emphasize the fact that if the site on which it was built was free land it would be open to any homesteader to go there without any remuneration to the Government.

Mr. MONDELL. I was coming to that. Now, as to the necessity of the town sites. The Reclamation Service is not, I think, chargeable with having established town sites where there were towns already established that would adequately and fully serve the people. There have been some localities in my State where people of established towns have been inclined to criticize the service for establishing town sites quite near them.

Mr. RAKER. Will the gentleman from Wyoming yield?

Mr. MONDELL. Not just there, but I will a little later. You must remember that we are providing for intense cultivation on the reclamation projects. We are providing small farms, and in order to have small farms with intense cultivation successful the towns must be placed at reasonable and frequent intervals. The town of Powell is the only reclamation town site in my State. The farms about it are 40-acre farms. The farms beyond are 80 acres, and the farms still farther out 160-acre farms. In establishing these town sites the Government possibly entered upon an operation that gentlemen may claim is somewhat paternalistic and socialistic, but it was necessary. Why? Because the towns were needed, because there was no land upon which private individuals could establish a town. Towns can not be legally established upon a homestead. To establish a town on the land taken by a homesteader would jeopardize the man's entry. But even though a homesteader could go to one of these projects and subdivide his entry into town lots and build up a town, it is not for the interest of the community generally that we encourage that rather than a town established where needed and necessary, the lots sold by the Government for the benefit of the people.

Now, the gentleman from Texas [Mr. SMITH] says that if it is necessary for the Government to do this—and I want to call attention to the fact that the gentleman is opposed to the bill without any regard to what its particular provisions are, that no amendment that anyone could offer to the bill would convince him that it had any virtue—he objects to it in toto, and attempts to prejudice others who may be favorable to the general plan by pointing out alleged faults in the bill. He says if the Government must establish the town sites all of the lots should be sold at once. That is simply to invite speculation. To open one of these town sites out on the open prairie with all the lots to be sold without limit of price would mean that none of the lots would bring any considerable sum. The Government would probably receive very much less for the entire town site under that sort of plan than it receives now for a very small portion of the town site.

The gentleman from Texas, who talks about gratuities to the people in the towns and opposing this, proposes a plan under which the Government would throw to the wind all of the values of these town sites, sell so much at once that no lot in a town site would bring any considerable sum, and the town site as a whole would be sold for a song, and then he declines to give the people of the town the benefit of the song.

Now, the plan adopted by the department is to sell a comparatively small area in the center of a town site, and then, as the necessities of the people increase and the incoming population requires, to open other lots and blocks for sale from time to time. Under this plan the people themselves receive the benefit of the increase of value. The gentleman from Texas defends the old-time plan of giving the speculators the opportunity to speculate in the values created by the industry of others. He does not believe in giving to the people who create the values any part of them. He would divide them among a lot of speculators who might come in and bid these lots in for a song, whereas the plan of the service is, and the plan of the law is, to sell the lots as there is a real demand for them, and to give to the people who created the values the benefit of those values. All we now propose to do is to recognize that the people in the towns are among those who created these values, and that they are entitled to a part of the value which they thus create.

If this were a private town site, this is what would happen: If in the center of one of these projects there chanced to be a tract of land owned by a private individual which he had a right to subdivide, such private individual would to a certainty somewhat improve the property. No one ever heard of a private individual going out and planting a new town without making some improvement upon it. That is true not only of new towns, but true of new subdivisions. The owner oftentimes, at great expense, builds streets, sidewalks, plants trees, oftentimes builds schoolhouses, and in many ways helps the municipality. But the gentleman from Texas insists that the Government shall not do this, and the gentleman from Indiana joins with the gentleman from Texas in his grab scheme for speculators. He insists that the Government shall refuse to do the things that an enlightened land shark would do; he does not want the Government to spend a penny in roads, sidewalks, or municipal improvements of any sort, but would call upon the people to go there and pay considerable sums for these lots and make all of the improvements, when they have no means of raising any considerable sum by taxation.

Let us take the town site of Newell. The town site of Newell contains a section of land. Twenty-four acres of that town site sold at the rate of $2,000 an acre. Let us see what would occur if that section belonged to a private individual. After these first lots were sold and the community was in a position to assess the property, no one will suggest that the outlying lots would be assessed at less than one-tenth of what the lots already sold brought. If in the case of Newell the remainder of the town site were private property and were assessed at one-tenth the amount per acre that the lots sold brought, and the tax levy were 2½ per cent, which is a low levy for a new town, where we have everything to build, the annual payment by the owner in taxes would be about $3,500 a year. Whereas the Government pays absolutely nothing, and there is no source of income whatever except from the taxation of personal property and the few lots that were sold.

The gentleman from Texas is very adroit. He first argues against the bill on the ground that it does not sufficiently limit the time within which the Secretary of the Interior must turn over the improvements to the municipality, and then he quotes approvingly a letter from the Secretary of the Interior, who protests that the bill limits the time too much. Now, there is no possibility of convincing a gentleman who assumes that attitude. He is against the legislation. He has no disposition to be fair with regard to it. The suggestion that there is a possibility that the Secretary of the Interior may be called upon for an unlimited length of time to administer the affairs of these towns because the people fail to organize has no merit whatever.

In the first place, the towns now created have municipal organizations, and the bill could be amended so that not a penny should be expended unless the town is organized, and it would fit every town site, so far as I am informed. Further than that, the people are interested in spending this money themselves, and they would be anxious—would be overanxious, possibly, some might say—that the time should come when they be given the opportunity of expending the money themselves rather than have it expended by the Secretary of the Interior.

Mr. Chairman, to sum up, certain reclamation town sites are established. They are necessary. In some localities the people were led, when they bought the lots, to believe that a part of the proceeds at least should be used for the improvement of the town, and I think the Reclamation Service had very good reasons to believe that would be done, because at the time there was pending in the House a bill proposing to do that very thing, which, however, was not reported. The proceeds from these town sites now go ultimately to the benefit of the men who create these values, to wit, the men on the adjacent farms. It is proposed to divide that benefit with the people who also create the values—the men in the towns. It does not take a penny out of the Treasury of the United States, directly or indirectly, and any statement to the contrary is not in accordance with the facts. The Government of the United States will have just as much money after this bill passes as it had before, and in the running of the years, under the operation of the bill, the United States will never lose a penny.

Mr. RUCKER of Colorado. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. RUCKER of Colorado. And does it not immediately redound to the benefit of these settlers under the reclamation project?

Mr. MONDELL. Certainly; for if the town is improved the remaining lots will sell for more.

The gentleman from Texas [Mr. SMITH] would have us believe, I imagine, that the Government goes out there and sells town lots at from $500 to $1,500 each and chucks the money into the Treasury. There have been a great many extraordinary things proposed here at one time and another affecting the West, but no one except the gentleman from Texas has ever suggested anything like that. That is not the present situation at all. Under the present law we provide for town sites on the reclamation projects, sell the lots and turn the money over to the settlers. That is the law, and all this bill proposes is that the people in the town shall have a part of the benefit; and their right to it, I have suggested, is based on most excellent grounds. First, they help create the values. If the town sites were privately owned, the lands not sold would be taxed. The tax in the running of the years would amount to more than the 50 per cent of the ultimate sales which we provide.

Mr. RUCKER of Colorado. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. In just a moment. Furthermore, any enlightened town site speculator would, before he laid the town out or when he laid it out, build roads, sidewalks, plant trees, and possibly build schoolhouses and do something for the people. The Government does nothing—turns them loose on a piece of raw land and, while it retains its own ownership in nine-tenths of the area until it has advanced in value, expects them to make brick without straw; create values without any taxable basis. How any man upon either side of the aisle can oppose a proposition as fair as this I can not understand, unless he is so wedded to the idea that the Government ought to allow speculators to exploit the people in the sale of town lots that he does not want the Government to establish these town sites and give the increment arising from them to the people who create the value. I now yield to the gentleman.

Mr. RAKER. Mr. Chairman, where does the gentleman get the idea that this money received from the sale of town lots goes into the fund of the project?

Mr. MONDELL. It does.

Mr. RAKER. The statute provides to the contrary.

Mr. MONDELL. If the gentleman will go to the Reclamation Bureau, he will find that the funds in each one of these town sites is credited to the project.

Mr. RAKER. I am calling the gentleman's attention to the statute.

Mr. MONDELL. The statute bears that interpretation and is so construed. Any proceed from the use of the project which the settlers buy and pay for goes to them as a credit. The settlers buy the project. They pay for it. They are entitled to everything that it contains. Ultimately it does not cost the Government a cent. Would the gentleman—and I am sure he would not—say that the settlers paying for a project should have the Government come within the project and establish a town site, resort to practices that no land shark would be justified in, and turn into the Treasury the money so received? That is what turning it into the reclamation fund generally, without crediting it to the project, would amount to. The thought has been, and the law so provides, that we shall give the people living in the vicinity of these town sites the benefits of the values they create, and all we propose to do is to give half of it to the men who live in the town and half of it to the men who live in the country. Can any gentleman anywhere find it in his heart to oppose that kind of a bill? There may be objections to the details of the bill.

The Secretary says that we do not give him control over this fund for a long enough period. Another gentleman says that we give him the control over the funds for too long a time. The committee attempted to compromise those two views, and so provided that the Secretary in the case of funds now accrued should have the full disposition of them and that in any event within two years after the organization of the municipality he must turn the improvements over; but as to the future receipts, which will come in from time to time from sales, if the town is organized, the funds shall go to the municipal corporation and school district. The Secretary objects to that. He says if you pay over to the municipal organization 50 per cent of the proceeds of the sales of lots from time to time, that the municipality will not sufficiently tax itself; that because the municipality gets a few dollars from the Government it will cease to tax itself. In order to compel the community to tax itself—and I do not know how that will be accomplished—the Secretary insists he must expend that money for their benefit, instead of their spending it themselves. As far as I am personally concerned, any amendment extending the time during which the Secretary shall control, or shortening it, is satisfactory, because I think in any event the matter is going to be properly handled. No funds can be expended except 50 per cent of the funds derived from the sale of the town lots. The Secretary under the bill is to expend those funds already received. In the future, if there is a municipality and school district, they are to expend it.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. MADDEN. Are these lots when sold, after they go into private ownership, taxable?

Mr. MONDELL. Oh, yes.

Mr. MADDEN. I understood the gentleman to say a few moments ago there was no possibility of collecting taxes on the lots in the town sites.

Mr. MONDELL. No possibility of collecting taxes from lots not sold. Now, in the city of Newell, 20 acres have been sold out of 640 acres. You can not raise a great deal off of 20 acres of real estate to improve a raw town on the prairie. In the town of Powell, in my State, I think about 10 acres have been sold out of 160. I am not complaining of the policy, as the gentleman from Texas [Mr. SMITH] does, of retaining the lots until they bring a fair price. I am of the opinion the service has not sold lots as rapidly as perhaps it should have done, but the general policy is correct. There are many advantages. In the first place, it keeps the town centered and does not allow it to scatter all over creation. Therefore it makes municipal improvements cheaper. Second, if this bill, under which the people of the community get the benefit of the sale of lots, becomes a law it is better to retain the lots until they bring a fair price, so that the people who have created the values may receive the values.

Mr. MADDEN. I understood the gentleman to say in his argument a few moments ago that there were no taxes collectible from any lots within the town sites, and therefore it was necessary to take 50 per cent received from the sale of lots for schools and other municipal improvements.

Mr. MONDELL. The gentleman could not have been following me closely. I wish to say again that the Government sells these lots slowly—a few at a time. The result is that there is a very small part of the town site taxable. The gentleman could not have been here a few moments ago——

Mr. MADDEN. Yes; I have been here right along.

Mr. MONDELL. The gentleman, then, did not hear my illustration of the town site of Newell. If the town site of Newell, in which a few acres sold for $40,000, had been a private town site, and the remaining land had been assessed at one-tenth of what the lands sold brought, and the rate of taxation had been 2½ per cent, the town would be receiving about $3,500 per annum from taxes from a source from which it now receives nothing.

Mr. MADDEN. Does the gentleman mean that the rate of taxation would equal one-tenth of the total value of the lots

or that the assessed valuation should be based on the valuation of the lots sold?

Mr. MONDELL. The lots sold for $2,000 per acre. If the remaining land had been assessed at $200 an acre and the tax levy were 2½ per cent, the town would receive over $3,000 per annum in taxes.

Mr. MADDEN. The gentleman did not say that, though.

Mr. McKENZIE. Before these various towns are organized into municipalities—that is, a municipal corporation created under the State law—is there any power for levying a municipal tax?

Mr. MONDELL. None at all.

Mr. McKENZIE. Therefore the town has no fund as a municipal fund?

Mr. MONDELL. None at all. But, as a matter of fact, these towns have, I think, municipal organizations at this time. Let us remember that the funds now received from the sale of these lots is distributed as a credit to all the people on the project.

Mr. MADDEN. Let me ask the gentleman a question there. If that be true, is there any justification in taking 50 per cent of the fund which should be credited to the people who own the project and live upon it and distributing that 50 per cent among the people who happen to live in the municipality?

Mr. MONDELL. If the gentleman had been here at the beginning of my argument, he would know that I tried to show why that would be a fair distribution. The people of the municipality must build schoolhouses, must grade streets, must maintain a municipal organization; they pay high prices for lots and they help create the increased values of the surrounding lots just as much as the people of the country do.

As I said a moment ago, an enlightened speculator would open some of the streets, lay some sidewalks, make some improvements before he sold the lots at all, and then he would be a contributor, not only in taxes, but to the churches, the lodges, and other helpful agencies as long as he owned lots. It is to take the place of the taxes that are not received, of the benefits that can not secure otherwise from the Government, that we propose to give to the people who live in the community the benefit of half of the values which they help to create.

Mr. SMITH of Texas. I understood the gentleman from Wyoming [Mr. MONDELL] to say that the money arising from the sale of these town lots was not put into the reclamation fund, but was credited to the water users under that project. Did I understand the gentleman correctly?

Mr. MONDELL. It goes into the reclamation fund, but it goes there as a credit to the project.

Mr. SMITH of Texas. I do not so understand it, and I do not find it in the law.

Mr. MONDELL. The gentleman may not find it, but that is the fact.

Mr. SMITH of Texas. I would like the gentleman to cite me to the law that says that.

Mr. MONDELL. If that were not true this is the situation we would have: The Federal Government going out onto reclamation-project land that is in its natural state worthless, is not worth a dollar an acre, and taking advantage of the values the people on the project created to secure funds to place into the Treasury. Congress has not done any such indefensible thing as that. It has provided and will provide, with regard to any other funds growing out of the utilization and development of a project, that they be credited to it.

Mr. MADDEN. Mr. Chairman, may I ask the gentleman a question?

Mr. MONDELL. Certainly.

Mr. MADDEN. In the sale of property in a reclamation district to any person who may wish to settle there, all the funds received from property in a reclamation project from any person who may wish to settle there goes into the Treasury of the United States, and is then used for the benefit of the reclamation project?

Mr. MONDELL. All the funds received from the sale of public lands constitute the reclamation fund. Out of the reclamation funds certain sums are used for the reclamation of a certain area known as a project. The people on that project pay for it; that is, the estimated cost of the project is divided up among the people who enter the land, and they ultimately pay for the project by paying for their land.

Mr. MADDEN. It goes to the price of land that the Government owns, and the Government loans them the money which they pay into the Treasury, and then the Government expends the money for their use?

Mr. MONDELL. They go upon the land, homestead it, cultivate it, live upon it, and pay the cost of reclamation, and when that is all paid the transaction is completed and the Government is paid for what it has done.

Mr. MADDEN. Then this 50 per cent that the gentleman speaks of, the money that is received from the sale of town-site lots, now all goes to the credit of the reclamation fund and is credited to the individuals who buy the land?

Mr. MONDELL. It is credited to the project. For instance, suppose the project cost a million dollars, and under the project there is a town site that will ultimately bring $100,000. The cost of that project, then, will not be a million dollars, but it will be $900,000, and $900,000 will be the amount that the people will have to pay.

Mr. MADDEN. And there is no fund received from any other source except the sales of town lots that are credited to the project?

Mr. MONDELL. I do not know if there are any other funds on project now, but there are other sources, such as the development of water power on some of the projects, which will ultimately bring a return.

Mr. MADDEN. But up to the present time there is no means by which the cost of the development of the project can be distributed, and for that reason it is thought wise by this bill to provide that only one-half of that should go to the cancellation of the cost of the development of the project.

Mr. MONDELL. Yes; and the other half shall go to the aiding of the development of the municipality.

Mr. MADDEN. I am asking that question.

Mr. MONDELL. Yes.

Mr. SMITH of Texas. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. MONDELL. Yes.

Mr. SMITH of Texas. If the gentleman's contention is correct, the practice of the department is to credit the proceeds of these town-lot sales to the project. If that is true, the proposition here is to take half the proceeds which are now going to the farmers who are reclaiming their lands on the projects and to divert it to the construction of municipal improvements in the town?

Mr. MONDELL. That is it.

Mr. SMITH of Texas. In other words, you are giving the farmers on the project the benefit of only one-half of the amounts of which they are now obtaining the full benefit?

Mr. MARTIN of South Dakota. If it were not for that the farmers would not get any benefit out of it.

Mr. MONDELL. We think that is a fair and equitable distribution, and the farmers think it is, too. They have seen the plight in which these people have found themselves on the town sites. There is no power to tax the unsold lands of the Government, and there are no resources except the taxation of the lands, which they bought at high prices, and the personal property which they bring in. Considering it is a case of raw land, with everything to do and no source of income, it is the best arrangement, so fair indeed that no man who understands it will object, unless he takes the view of the gentleman from Texas [Mr. SMITH] that the Government ought to have nothing to do with town sites; or, if it did, it should have sold them out at once and pocket the money and leave them to shift for themselves.

Mr. STEPHENS of Texas. Mr. Chairman, will the gentleman permit me to ask him a question?

The CHAIRMAN. Does the gentleman from Wyoming yield?

Mr. MONDELL. Yes.

Mr. STEPHENS of Texas. What is the size of these areas?

Mr. MONDELL. From 160 acres to 640 acres.

Mr. STEPHENS of Texas. Is not part of the land sold in the irrigation project?

Mr. MONDELL. I think the department exercises its discretion as to the amount of land that will be needed for municipal purposes.

Mr. STEPHENS of Texas. That is the security that the Reclamation Service has for recouping itself for the money put into this land?

Mr. MARTIN of South Dakota. The gentleman from Texas goes on the assumption that all the irrigable lands otherwise would be sold.

Mr. MONDELL. They are homestead lands.

Mr. MARTIN of South Dakota. They would bring in no revenue at all unless there was a town site.

Mr. STEPHENS of Texas. It will bring one-half of the amount of the value, will it?

Mr. MONDELL. I will say to the gentleman from Texas that the municipality pays for its water rights, just as a settler does. It pays for the water for a town site.

Mr. STEPHENS of Texas. Then, the question is whether or not it is right to take one-half of what the land will sell for and give it to the town; is not that the question?

Mr. MONDELL. No. The only question is, Will you let all of it go to reduce the obligation of the surrounding farmers or divide it in two and let half of it go to reduce the obligation of the surrounding farmers and half of it be used in upbuilding the municipality?

Mr. STEPHENS of Texas. Then the main thing is the question of how this one-half shall be used—by the Government, through the Secretary of the Interior, in building waterworks or schools and towns, or the municipality doing it for itself. Is not that the question involved here?

Mr. MONDELL. There are two contentions here. One is that the Government should spend the money.

Mr. STEPHENS of Texas. Is not that the main question involved here?

Mr. MONDELL. One view, that of the Secretary, is that the department ought to spend all the money, now and in the future. The other is the view that after the municipality is organized the municipality itself ought to spend the money. The committee compromised the matter by providing that as to the funds accrued the Secretary shall spend them, and that he shall continue to do so, if there is not a municipal organization, until there is one, and that as to the future receipts they shall be paid over to the municipal organization, to be expended by it.

Mr. STEPHENS of Texas. Now we come to the question directly involved, in my judgment. Does not the gentleman believe that the municipality, acting through its officers, elected by the people, would be the better judge of the size of the waterworks and of the public works and the money to be put into them than the Secretary of the Interior?

Mr. MONDELL. So far as the gentleman from Texas now on his feet is concerned, I agree with him fully, and my bill on this subject provided for that very thing; but the committee did not agree with me. They thought the Secretary ought to expend the funds that have accrued and that he ought to have some control possibly for a little time longer. The bill is a compromise on that question of policy, but on the general proposition of giving these towns some part of the values they themselves create there ought to be no difference of opinion. I can not see how there can be any difference of opinion among men who understand the situation.

Mr. STEPHENS of Texas. Will not the gentleman agree with me that the value of the town lots depends on the building up of the irrigated farms around the town?

Mr. MONDELL. Yes; and the farmer receives half of the unearned increment.

Mr. STEPHENS of Texas. That makes the town lots of more value and builds up the whole community.

Mr. SMITH of Texas. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. SMITH of Texas. The gentleman continues to talk about the people of the town, who have created the values, being entitled to the benefit of them. I will ask the gentleman if it is not a fact that the most valuable parts of these town sites are the business sites that are sold in the beginning, before there is anybody there, and that the main part of the fund comes from the sale of the town lots before there is any settlement or town there?

Mr. MONDELL. Oh, that is only partly true.

Mr. SMITH of Texas. I think it is.

Mr. MONDELL. Of course, the fund first received comes from the sale of first lots. All the fund comes from the sale of the lots, but as the town grows and develops other lots are sold. The values are created continually by the activity of the people in the vicinity, by their enterprise, and we have recognized that fact by giving to the men on the project the credit for all sums received from the sale of lots, and we propose now to give the men who live in the towns a part of the benefit of those values. We ought to do at least as much as an enlightened land speculator would do, and I think that 50 per cent is just about what, under the ordinary practices of land speculators and the ordinary processes of taxation, the people in a town would get out of the unsold lots.

Mr. MANN. Will the gentleman yield?

Mr. MONDELL. I am glad to.

Mr. MANN. At present the money derived from the sale of town lots is credited to the expenditures on the project.

Mr. MONDELL. On the project.

Mr. MANN. So as to reduce the total cost of the project.

Mr. MONDELL. So as to reduce the total, and the proposition contained in this bill is to modify that arrangement by giving the benefit of a part of the proceeds to the people of the community.

Mr. MANN. The money that is received from the sale of lands does not go in that same way?

Mr. MONDELL. The money that is received from the sale of lands, of course, is money that goes toward paying for the project.

Mr. MANN. That is money that comes, however, into the Treasury.

Mr. MONDELL. As I illustrated a minute ago, if a project cost $1,000,000 and on that project there was a town site that ultimately would produce $100,000, then the cost of that project is not $1,000,000, but $900,000, and that is the sum to be divided up among the people who pay for the project.

Mr. MANN. At present when a project is carried through they offer the lands for sale upon the basis of the cost of the project?

Mr. MONDELL. Yes; offer them for homestead settlement upon payment of a proportionate share of the cost of the entire project.

Mr. MARTIN of South Dakota. What lands does the gentleman refer to—homestead lands?

Mr. MANN. Homestead lands.

Mr. MARTIN of South Dakota. They are not sold. They are given away outright.

Mr. MANN. The gentleman says they are not sold. They are in fact sold. The people have to pay the cost of the project.

Mr. MONDELL. In addition to cultivation and residence.

Mr. MANN. In addition to cultivation and residence.

Mr. MONDELL. Yes.

Mr. MANN. Of course, no one knows what the lands will sell for, except by taking the cost of the project. Now, in fixing the cost of the project, do they subtract from that the estimated value of the town site?

Mr. MONDELL. I fear they do not.

Mr. MANN. I thought they did not.

Mr. MONDELL. I think, as a matter of fact, they have based all their prices on an estimate so high that there can not be any possibility of the cost of the project, with any credit that may come to it, exceeding the aggregate of the moneys they will obtain, and I doubt if the service does subtract anything of that sort.

Mr. MANN. So that practically, in the main, the value of these lots when sold goes into the general reclamation fund?

Mr. MONDELL. The gentleman might say that is true in practice, because you can not get down to the last penny; but I assume that ultimately the reclamation projects will not cost the settlers more than the total of the expenditures, less any credits that may come in, so that as a matter of fact this is a credit.

Mr. SMITH of Texas. Now, as I understand the gentleman, take a project that cost $1,000,000, if there is a town site in which the lots sold for $100,000, at present there is $900,000 charged up to the farmers to be paid back.

Mr. MONDELL. That would be the sum.

Mr. SMITH of Texas. If this bill passes, they would be charged with $950,000.

Mr. MONDELL. Yes.

Mr. SMITH of Texas. Fifty thousand dollars, then, that they would not have to pay if the bill did not pass.

Mr. MONDELL. That might be true.

Mr. SMITH of Texas. Then, there is $50,000 coming out of the farmers.

Mr. MONDELL. If the gentleman from Texas gets any comfort out of that fact, he is welcome to it. The gentleman keeps reiterating it and keeps enlarging upon the wrongs to the farmer. He is against the measure in toto in any form whatever, and therefore he is desirous of prejudicing it.

Mr. SMITH of Texas. The gentleman from Wyoming is doing me an injustice.

Mr. MONDELL. The gentleman objects to any town facilities at all. He wants to put the lots up at auction and let the speculators purchase them and leave the people to the tender mercies of the speculators as far as their future is concerned. The present plan may strike the gentleman as being paternalistic or socialistic, I do not care what he calls it, the name does not frighten me at all, providing it is proper and the right thing to do and that it works well.

The Government sells a reasonable amount of lots in the center of a town, and the tendency is to keep the town in an orderly way of development, and as the lots outside increase in value it credits the farmers with all the value that they largely create. It is proposed to give a part of the value to the people of the town and a part to the farmers.

Mr. MANN. Will the gentleman from Wyoming yield?

Mr. MONDELL. I will yield to the gentleman from Illinois.

Mr. MANN. I had supposed the theory of the proposition was that if you agreed to spend a certain proportion of the money for these lots for municipal improvements the other lots would sell for much more than they would if the improvements were not made.

Mr. MONDELL. That is true; I had not touched on that feature of the matter at length for lack of time. It is an important consideration.

Mr. MANN. That is right in connection with the answer which the gentleman from Wyoming made to the question propounded by the gentleman from Texas.

Mr. MONDELL. I thank the gentleman from Illinois for his suggestion; it is an excellent one. The farmers themselves, instead of losing anything, will be the beneficiaries, because the other lots will sell for much more than they would if there was no municipal improvement like schools and waterworks, and so forth. The farmers come into town and enjoy the benefit of these improvements; they enjoy the benefits of the schools.

Mr. RUCKER of Colorado. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. RUCKER of Colorado. I see that the gentleman has caught onto the significance of my suggestion awhile ago as brought out by the gentleman from Illinois [Mr. MANN], that as you increase the value of the lots of this town you increase the amount that the settlers will get the benefit of and be credited to them. As the lots are increased in value they are only getting 50 per cent of it and that decreases the amount that the settlers have got to pay back.

Mr. MONDELL. I happened to be in the vicinity of the town of Powell at the time of a recent sale of town lots and I heard the suggestion made by intending purchasers that they were indisposed to pay any considerable price for the lots, because there were few municipal improvements. The people have not been able to make them, and therefore the lots were not so desirable. We propose by this legislation to modify the present practice in this particular, that instead of the creators of this wealth outside of the town receiving all the benefits, we wish to divide the benefits among the creators of the wealth within the town and outside the town. There may be some differences of opinion in regard to details, but as far as I am concerned the judgment of the committee in the matter of these details, whatever it is, I am sure will be satisfactory to me.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. BYRNS of Tennessee having taken the chair as Speaker pro tempore, sundry messages in writing from the President of the United States were communicated to the House of Representatives by Mr. Latta, one of his secretaries.

TOWN SITES IN CONNECTION WITH RECLAMATION PROJECTS.

The committee resumed its session.

Mr. RAKER. Mr. Chairman, being one of the members of the Committee on Irrigation of Arid Lands that gave this bill consideration, and also on the subcommittee, I feel as though at this time I ought to state my reasons, in as few words as I can, and as clear as I can, as to why it appears to me the bill ought not to pass. That has been set out in the minority report filed by the chairman and myself. It seems to me there are many reasons why this bill ought not to become a law.

I listened attentively to the gentlemen who have preceded me advocating the bill, and I find their main argument is that it might build up the town, that it might assist somewhat in the improvement of the town, and it might prevent speculation, all of which statements are imaginary.

It is not very hard for us to turn back to the beginning of the land legislation in regard to town sites. Years before the reclamation project was ever conceived of, ample provision under all land laws was made for town sites, and they have extended them to all of the Territories and to Alaska. You will find in the history of the 60 years that no contention has been made here that the towns can not or will not improve, and that it was necessary for the Federal Government to take up and start out and open a campaign of municipal improvements. You can go over the Western States and find many of these towns to-day flourishing where the land was taken up originally under the town-site acts and under the law administered admirably by the trustees or by the judge of the county, and the land all disposed of to private owners, schoolhouses built, and other improvements made.

This, now, is a move to take the funds that go to the Reclamation Service, that are caused by virtue of the building up of the country by the farmers and the Reclamation Service surrounding it and have the Government of the United States, through the Secretary of the Interior, embark upon a policy that no State, nor this Government, has ever yet sanctioned, namely, that we should go to work and build up public squares in towns, that we should build up schoolhouses in towns, that we should build water systems for municipalities, that we should build electric-light plants for municipalities, and that we should build their roads and byways and town halls, and make every conceivable improvement that could be provided for under a municipal government. It resolved itself in my mind to this, first and formal——

Mr. LAFFERTY. Mr. Chairman, will the gentleman yield?

Mr. RAKER. Just a moment. Does the Government intend, through its officers and the bureaus here in Washington, to conduct municipalities 3,000 miles away from the seat of Government? I now yield to the gentleman.

Mr. LAFFERTY. Mr. Chairman, I desire to ask the gentleman if he knows whether, under the law under which the town sites were disposed of in Oklahoma, Congress did not provide that the money derived from the sale of town lots should be used for municipal improvements, waterworks, and so forth?

Mr. RAKER. That question is not involved in the position that I am taking.

Mr. LAFFERTY. I understood the gentleman to state that the Government never has heretofore undertaken anything of this kind.

Mr. RAKER. Oh, no. That does not cover the question. If Congress should see its way clear——

Mr. LAFFERTY. Mr. Chairman, I desire to ask the gentleman another question.

Mr. RAKER. Oh, let me answer that. If Congress should see its way clear to say that we will turn over to the municipalities the funds received from the sale of the land of these town sites, said fund to be conducted and directed and handled as the electorate of that municipality sees fit, then there would be a different question presented altogether. That is not before the House at the present time.

Mr. LAFFERTY. The other question is in regard to the general town-site law. What were the provisions or what are the provisions of the general town-site law as to disposing of the proceeds of the sale of town lots?

Mr. RAKER. They are very voluminous. I have them here in the Revised Statutes. I do not care to go into the details of that.

Mr. LAFFERTY. Do not those proceeds go to the trustees or the county judge, to be disposed of for the benefit of the city?

Mr. RAKER. No. It was so arranged that there was just enough money raised to administer the law, to give each man a piece of property, a lot or a block in the town, and the towns were built up.

Mr. LAFFERTY. After that were not the remaining lots turned over to the municipality, to be sold for the benefit of the town?

Mr. RAKER. They provided homes for them.

Mr. LAFFERTY. As distinguished from the reclamation town-project work, where all the lots originally set apart to be sold by the Government must be sold by the Government.

Mr. RAKER. No; they provided that after the lots began to be sold and began to be more valuable because of the settlement of the town the price should be raised by appraisement; and a man went upon a particular tract of land and settled there and paid his $10 or $15, and that went into the fund which was for the purpose of administering the law. But that is not the question involved here. That matter I would discuss and go into very readily, but that is not the question involved here. In the first place, the gentleman will not be able to point out any place where the Government has been engaged in municipal improvements such as those named, and in every other conceivable municipal improvement that can be specified.

Let us see what is the argument made by the gentlemen who are in favor of the bill in regard to improvements. In the first place, it is provided in the Reclamation Service that these large tracts of land shall be set aside. Then there was a desire to reserve within the territory withdrawn or to be irrigated town sites, first, 160-acre tracts. One hundred and sixty acres, a man knows, 10 or 15 or 20 miles apart, is a large enough tract for any one town to start with to accommodate the needs and necessities of the reclamation project. Then a few years later they passed an act by which they gave the Secretary of the Interior the power to withdraw not to exceed 640 acres when he believed it was in the interest of public economy or in the general public interest. Has there been a statement made before the committee or before the House that has shown that they could not sell these lots if they subdivided the tracts and offered them for sale? Has there been a statement by any gentleman in favor of this bill to-day that the 160-acre tract was laid off as it ought to have been in building up a town in a community of that kind? The law provides that there should be parks; that there should be public squares; that there should be reserved a certain

amount for schoolhouses; and all other matters that might go to beautify that town and never sold so long as they were used for those purposes. Has any of these been thus laid off and the balance of the lots offered for sale at an appraiser's price, so that the people might come in and build up those towns? No. What has been the result? They have gone into the center of the 640-acre tract, contrary to the building up of every other town or the making of any public improvements, and have not laid out any location for a schoolhouse or a public park, and have not been able to say to those who purchased, "When you come here and buy you will know there will be a schoolhouse at this place; that there will be a town hall over here eventually when this municipality gets sufficiently upon its feet; and there will be another public park over here and a boulevard down here." They go right into the center and lay off a tract of 10 acres. Stop and think what that means.

Mr. MARTIN of South Dakota. Mr. Chairman, does the gentleman state that, as a matter of fact, to the extent they lay off these tracts at all, they do not make provision for these public squares and for the purposes to which he refers?

Mr. RAKER. In answer to the gentleman I will do the best I can. I asked the gentleman from South Dakota what was done, and I understood from him that they laid off the 10-acre tracts and made no other provisions. I understood the same from the committee.

Mr. MARTIN of South Dakota. Not at all. It has been the custom all along to lay off a public square and a place for a schoolhouse.

Mr. RAKER. Within the 10 acres?

Mr. MARTIN of South Dakota. Certainly.

Mr. RAKER. That will be all right; yes. You gentlemen who have grown up with the West know what it is in regard to the building up of a town, in regard to where you locate your schoolhouse or your courthouse and where you would build up your stores and make your other improvements. We have laid off here a 10-acre tract, and no more, and we have offered it for sale.

Mr. LAFFERTY. Mr. Chairman, will the gentleman yield?

Mr. RAKER. Certainly.

Mr. LAFFERTY. As I understand the trend of the gentleman's argument, it is to the effect that if the Reclamation Service would pursue a proper policy of administration—that is to say, lay off the entire number of town lots and dispose of them at once—there would be no need for giving to the municipality one-half of the receipts from the sale of the town lots, for the reason that all the lots will become privately owned and subject to taxation.

Mr. RAKER. In whole or in part.

Mr. LAFFERTY. I wish to say that I agree with the gentleman to that extent, but they are refusing to do that.

Mr. RAKER. I am coming to that in a moment. Now, gentlemen, here are 10 acres in the center of this particular tract laid off and sold. Who is going to determine the next 10 acres to be subdivided and laid off, and the next 10 acres?

The rest of it is all public domain surrounding the town, and after the four tracts are laid off in 10 acres each, or 40 acres, you are going off at the other end to lay off another tract, and how are you going to sell your lots consistently when you have your park and schoolhouses and other improvements over here a quarter of a mile, contrary to the building of every town in the country?

Mr. MADDEN. Will the gentleman yield for a question for information?

Mr. RAKER. Yes.

Mr. MADDEN. I do not know whether I understood the gentleman or not, but I am assuming that these town sites are of 640 acres.

Mr. RAKER. Some of them are 160 acres and some 640 acres.

Mr. MADDEN. Now, the gentleman says that all that is laid off for public purposes is 10 acres?

Mr. RAKER. No. I was just referring to the town site at Newell, as referred to by the gentleman who preceded me, that they first laid off 10 acres and then another 10 acres.

Mr. MADDEN. What I want to get at is this: Assuming a town site to be 640 acres, and some of the blocks in the town site were to be used for public purposes, does the gentleman believe that in advance, before any lots are sold, all proposed public developments should be laid out and reserved and that everything in the nature of a public park or a schoolhouse square or a public square of any kind should be developed in the first instance, or should it be developed as the city, or village, or whatever it might be, was developed?

Mr. RAKER. That is just what I am coming to. In the first place, there should be a plan and the city should be marked out with boulevards, if you are pleased so to call them, with streets, alleys, and parks and other public places. And then when you offer your lots for sale you know exactly where in the future is going to be your schoolhouse and where is going to be your courthouse and other public reserves in the town.

Mr. MADDEN. Let me ask the gentleman now what the policy is which is pursued in connection with the laying out of these town sites?

Mr. RAKER. I do not know exactly, but what I have read in the bill, and have heard from gentlemen in favor of the bill, and that is, that they lay out 10 or 20 acres and sell that and no more.

Mr. MADDEN. The gentleman is a member of the committee?

Mr. RAKER. Yes. That is the information they have received, namely, that there is a 20-acre tract laid off and platted, and they do not sell off all these lands.

Mr. MADDEN. In their plat is there any provision made for public squares or school squares or anything of that kind?

Mr. RAKER. That is in the bill.

Mr. MADDEN. Is there something laid off for something in every tract?

Mr. MONDELL. I am rather unable to follow the gentleman——

Mr. RAKER. I am not responsible for the gentleman. [Laughter.]

Mr. MADDEN. Do I understand the gentleman to complain of the practice of the Reclamation Service in the sale of these lots?

Mr. RAKER. I can not yield right there any more. I have answered that, no.

Mr. MONDELL. This law does not change the plans of the sale of lots any.

Mr. RAKER. I can not yield any further on that.

Mr. MONDELL. Well, I thought not.

Mr. RAKER. Oh, I make it plain. I have answered that so far as the Reclamation Service is concerned. I am not complaining, but here is a new policy, which is intended to be inaugurated by this bill.

Mr. MADDEN. If the gentleman will yield, I am trying to get information upon which I can base an honest judgment in connection with this bill. I have not made up my mind how I am going to vote on it. What I want to know is whether—assuming that a town site is 160 acres—whether all the lots covering the whole 160 acres are laid out and submitted for purchase to intending buyers at the same time, or whether there is only a 10-acre tract submitted?

Mr. RAKER. As I understand from the hearings, there is only a part of the 160 or 640 acres, as the case might be, platted and offered for sale. Now, then, that is the policy that has been inaugurated.

Now, coming back to where I left off when interrupted, on the 20-acre tract in the town, with banks, and stores, and residences, the people have all this property and have paid for it, knowing the exact conditions of the surrounding country as well as in the town, just like the former town sites of our public domain which have been in existence since 1860—just like in every other new town. And the people that use these particular tracts of land, the settled part of land, are assessed to pay the taxes. Go out over the West, and you can find hundreds of these towns, with tracts of land lying out a quarter of a mile away sometimes that are practically assessed nothing and pay nothing, so far as the advancement and improvement of the town is concerned. They are not needed. Now, if the Government desires to use this land, if it is intended by the reserve to withdraw it for town sites, is the Government going to use it by virtue of laying off the entire tract, appraising its value according to where it lies, and then offer it for sale, by covering the whole 160 acres? And if you find men that will go in there and buy that whole 160-acre tract under those sales, have you not answered the argument of the gentlemen here that the Government ought to enter into the development of municipalities?

If you find men that will go in there and buy that 160-acre tract under those conditions are you not answering the argument of the gentleman here, that the Government ought to enter into the development of municipalities? Here is a 160-acre tract. Every foot of it has been sold and is under private ownership. Some individuals will improve it. Some will put on it large, fine buildings. Others will build their homes on it. Others will improve it in one way and another, and every foot of the land within the whole 640-acre tract will be under assessment for municipal purposes as well as for State and county purposes. Then why do you say to these people living in this community, "We will take small tracts only, and we will permit them to be improved. We will sell no more."

Now, see what we are coming to. "We will sell no more of this land." The people who have gone in there have done so with the idea that this land shall be built up, and that at some time it will be a flourishing little village or city, thinking that they would be able to handle it themselves and impose the taxes and vote what kind of street improvements there should be, what kind of public buildings they should have for the entertainment of those who live there, what kind of an electric-light plant they should have. You provide by this bill, because the property has not been sold as it should have been, that these citizens have not the right to specify the kind or the character of the public improvements that should be made there.

Mr. MARTIN of South Dakota. Mr. Chairman, will the gentleman yield right there?

The CHAIRMAN. Does the gentleman yield?

Mr. RAKER. Not just now. The gentleman does not say that the citizens shall pay half of this public improvement. The gentleman did not say that they shall have a voice as to what shall be their first improvement—an electric-light plant, or a sewer system, or a water system, or a system of street lights, or a public road, or a schoolhouse; but the Secretary of the Interior, 3,000 miles away, dictates and says: "You shall first do this, or this, and I will use all your funds for the purpose of building a schoolhouse."

Mr. McKENZIE. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. RAKER. I do.

Mr. McKENZIE. I want to ask the gentleman if he means to convey the idea that under this bill in a city that is organized and has a municipal government of its own, the Secretary of the Interior would dictate?

Mr. RAKER. Yes; up until it is fully organized and two years after it is organized. And it has been thoroughly discussed and to my satisfaction it has been clearly answered by the distinguished gentleman from Texas [Mr. SMITH] that these towns now on the reclamation projects—I have just looked into the record and I find that none of them have been incorporated—never would organize by incorporation, for the same reason, as you can see, that when the Government builds a system of improvements there is no provision by which it can ever let go of it, and it will still be compelled to pay the public funds to maintain it.

Mr. MONDELL. Will the gentleman yield?

Mr. RAKER. I yield to the gentleman from Wyoming.

Mr. MONDELL. The gentleman is mistaken in his statement that the towns are not incorporated.

Mr. RAKER. What one is incorporated?

Mr. MONDELL. Powell, for example. Will the gentleman support the bill if it is amended so that all its expenditures are by the municipality?

Mr. RAKER. Just a moment. When was Powell incorporated? I will say to the gentleman that I sent down to the Census Office to find out, and the return is that none of these towns are incorporated.

Mr. MANN. The census return for what year?

Mr. RAKER. For 1910.

Mr. MONDELL. Oh, Powell was a salt sage flat in 1910.

Mr. MANN. The gentleman is not usually so far behind the times.

Mr. RAKER. The gentleman from Wyoming says that Powell is now incorporated?

Mr. MONDELL. Yes. Will the gentleman support the bill if it is amended so that all expenditures shall be paid by the municipality?

Mr. RAKER. Why, I have stated again and again that every cent of the money that would come from the sale of the lots within these reserved tracts of land after the payment of the cost of administration might go to the municipalities if they handled it. But I want to call attention to another thing——

Mr. MONDELL. Will the gentleman support the bill if it is so amended that the funds shall go to the municipalities, to be expended by them?

Mr. RAKER. By the municipalities?

Mr. MONDELL. Yes.

Mr. RAKER. The gentleman will remember that in the committee and otherwise I stated "yes." But this bill is so far different from that in every particular that there is not any chance on earth to amend it except by striking out the enacting clause and letting it die.

Mr. MONDELL. On the contrary, if the gentleman will look at the bill he will see that there is a section that provides that where the municipalities are organized all future receipts shall go directly to them. It would be very easy for the gentleman to amend that so as to provide that all funds, accrued and hereafter to be received, shall go the same way.

Mr. RAKER. Now, I want to call the attention of the committee to another fact. There is no limitation in this bill as to the amount of money that would be expended by the Secretary of the Interior upon any one particular improvement. Every municipality specifies the limit, in the first place, of the taxation that can be had for the purpose of that particular improvement every year, and when you raise, say, 1 per cent of the taxable property for this purpose and 34 per cent for another purpose and 10 per cent for another purpose you can expend only the amount of money for that year according to the amount specified, and the constitutions of the States so specify. But under this bill there is a carte blanche order to take all the money that has been raised from the lands in advance up to the present time and take all the money that might be raised and put it into one particular improvement—the idea of one man—without the consent or advice or vote of a single individual resident of that town.

Now, do we want to build up on behalf of the Government municipalities in that way? Ought we not to go to work and put up these lots at the appraised value? Every lot in this 160 acres is marked off, and an appraised value is marked on it, and if you want to buy a lot in that town you can go and buy it. I say, let these people build up the town. It will depend on the ingenuity and capability and progress of the citizens of that town whether or not the remaining lots are sold at the appraised value and just how much that municipality brings it up to, instead of this Government as a Government entering upon the policy of building cities, dressing them up in their best bib and tucker, and putting one out here in the mountains, and then inviting citizens to go out there and live in this improved first-class municipality without anybody on earth there to know how it should be run and how it should be conducted.

Mr. MANN. Will the gentleman yield for a question?

Mr. RAKER. I do.

Mr. MANN. What is the distinction in practice between the Government constructing an irrigation plant instead of turning over the wild land to the people to construct the plant for themselves, and the Government agreeing to sell town lots with the agreement that they will construct certain necessary and essential municipal improvements?

Mr. RAKER. There seems to be as much difference as between day and night, in every conceivable way.

Mr. MANN. Of course that is hardly an answer to the question.

Mr. RAKER. In the limited time I would not be prepared to answer it, and in the next place I would like to have an opportunity to go into it to some extent, so that I might clearly present the distinction between the Government going on with its reclamation scheme that it has and the theory of building up municipalities.

Mr. MANN. It would be quite possible for the Government to permit the individuals to go there and take up lands and construct irrigation plants, would it not, just as it is possible for the Government to give out town sites at an appraised value, and let the people, when assembled there, construct the municipal improvements? The first, admittedly, is impracticable, and the second, admittedly, is impossible at first.

Mr. RAKER. The contention of the gentleman from Wyoming that no well-regulated land-shark addition promoter would offer to sell town lots until he had gone to work and built sidewalks and roads and other improvements in that particular tract that he was going to sell, has no bearing here. There is no conceivable likeness between one case and the other.

The addition has a city back of it to supply the places where its people can work, and those people go out there for a place to build residences and to build up little grocery stores, while the people go out to these town sites for the purpose of building grocery stores, hotels, and other buildings and getting the advantage that is coming from being in a community that will be as rich as these communities will be by virtue of irrigating this desert land. First, the natural increase is going to build it up and enhance the value of their property, and their trade with those people will improve, and they will make money just as men do in every other place. Now, the gentleman answers that we should hold this land to enhance its value. Is that fair? Is that an argument? You have 20 acres laid off in town lots, streets, hotels, and for other necessary buildings. The argument is that we should not sell the remaining town lots now. Think of it. They would not bring a large price. It is said, "Wait until this surrounding country is settled with flourishing farms and other improvements. Wait till the individuals already there have built it up and made a market and

other people would like to come in and participate in that town, and then the Government will sell the remaining tracts of land and we will get a higher price." Why, that is the old land-shark scheme that you find in all these frontier towns; first, to keep from paying taxes, and then hold back the sale of the land, if a man has the means, until the town has advanced and he can sell his property at a high price. It is not consistent. It is not the way to build up a community. The aim of the Government under the act is to open it up.

Mr. MONDELL. Will the gentleman yield?

Mr. RAKER. In just a moment. I want to complete this thought. I can not repeat too often that it is intended under the act that the whole 640 acres shall be appraised, and if the first sale does not take it all, they should continue to readvertise it and sell it. Now, if the whole tract is appraised by competent appraisers and put up at public auction, a man will take each lot that he wants to take at that price. Everybody will be treated fair and right, and I ask the committee, Will it not give that town an opportunity to improve legitimately and for men to come in there and buy wherever they want to, one tract down here for residence and another in the center of the town for business purposes? Now I will yield to the gentleman from Wyoming.

Mr. MONDELL. Of course, the gentleman's argument is not directed to the bill under consideration, for the bill under consideration in nowise modifies the policy relative to the matters that he refers to. But speaking of that general policy, which will go on whether this bill passes or not, the gentleman says, "Turn the towns loose."

Mr. RAKER. Oh, no; not loose.

Mr. MONDELL. Well, sell all the lots. Now, how are you going to sell 640 acres of land in a new country for town-lot purposes for anything more than a mere song? Does the gentleman think they could have opened the town of Newell and sold the 640 acres for much, if any, more than they obtained for the 20 acres which they sold?

Mr. RAKER. The town of Newell, according to the statement here, is in the center of a good agricultural district. All the surrounding land is taken up by homesteads and otherwise. Now, if every tract in the Newell town site of 640 acres had been platted and opportunity given for the sale of the lots, men would have gone in there, just as they do in other places, and invested $100, $200, $500, or $600, until you had your whole 640 acres sold, and you would have obtained a fair value for it at the time.

Mr. MONDELL. At the time.

Mr. RAKER. It was all new then, and we all have to stand upon a level on these matters. But men would have bought it at that time, and for the last 10 years they would have been paying taxes to the State, county, and municipality; and their land as a necessity would enhance and should be worth more to-day, and it should be handled in that method instead of the Government handling it.

Mr. MONDELL. The gentleman is aware of the fact that the bill under consideration in nowise modifies the manner of opening these town sites for sale. He realizes that fact?

Mr. RAKER. No; I do not.

Mr. MONDELL. And we do not change the present condition or the present policy for the sale of lots. We do not change it if we defeat this bill. We do not modify it if we pass the bill.

Mr. RAKER. If the gentleman and the committee will bear with me just a moment, I shall have finished what I have to say. The policy brings about the things they are now trying to have passed. I am not complaining against anyone, but I am trying to present the facts as they appear to exist. If they want more taxable property, sell the land within the reservation, and the people will buy and make homes on the tracts of land. I am making these statements trying to bring to your mind the fact that the Government is trying to embark, by virtue of the policy of this bill, upon building up municipalities. In other words, imagine yourself out here in a wild country, taking the gentleman's statement, with 200,000 acres of desert land surrounding it, with a few settlers in the town. Admit that eventually they will be fine farms, but while the farms are being improved and the country put in proper shape this bill says that we will go out there and dress up a dandy little town; we will build a water system, a sewer system, an electric light system, and a heating system, and many other municipal buildings, and then we will turn it over to them. That is my objection to the bill. The people themselves will improve as fast as their means will permit and as fast as their surroundings and environments and patriotism and desire for improvement will admit.

It is like bringing up a young man—if you want him to do anything, you have got to give him some of the practical things of life; you have got to give these people some of the ideas and an opportunity to study by which they themselves can bring up the town and not at once prepare a municipality for them.

Mr. SLAYDEN. Will the gentleman from California permit me a question?

Mr. RAKER. With pleasure.

Mr. SLAYDEN. I heard the gentleman from Wyoming [Mr. MONDELL] say a moment ago that this proposition in nowise seeks to modify the law. Now, it appears to me in a hasty glance at the report that it does materially modify the law. I want to ask the gentleman from California, first, if it does not modify the law, and, second, if the people who have interested themselves in the town sites have not gone into them with the full knowledge of all the conditions, if they have not taken their chances, as they should do, and gone in there with a perfect knowledge of what their rights are?

Mr. RAKER. Answering the gentleman, first, this bill does change, as of necessity, the existing law as to the handling of these projects. Answering the second part of the gentleman's question, it is the very essence of this bill that these men went there, bought these tracts of land, bought them with their eyes open, knowing the conditions of the surrounding country, knowing that this town is going to be built up by virtue of these people being permitted to buy as the Government offered to sell.

Mr. MONDELL. Will the gentleman yield?

Mr. RAKER. Certainly.

Mr. MONDELL. This bill does not in any manner affect the policy of the Reclamation Service. It simply provides for the disposition of the moneys received, and the Reclamation Service under this bill can follow the policy that it has followed; there is nothing in the bill to prevent it. The policy will not be modified by this legislation.

Mr. SLAYDEN. Will the gentleman yield?

Mr. MONDELL. I have not the floor. The gentleman from California has the floor.

Mr. RAKER. I will yield to the gentleman from Texas.

Mr. SLAYDEN. I perhaps misunderstood the gentleman from Wyoming a few minutes ago. This is a diversion project, to divert the funds that would go into the treasury of the reclamation itself.

Mr. MONDELL. The gentleman from Texas is usually accurate, but not accurate at this time.

Mr. SLAYDEN. Well, I am asking the gentleman.

Mr. MONDELL. Heretofore the proceeds of the sale of town lots has been credited to farmers of the surrounding project. We are now proposing under this legislation to give a part of the benefit of these sales to the men in the town.

Mr. SLAYDEN. It takes it from the farmers of the surrounding country.

Mr. MONDELL. Practically.

Mr. SLAYDEN. Does the gentleman think that is wise?

Mr. MONDELL. My friend, the farmer from Texas, rises at once at that proposition.

Mr. SLAYDEN. Naturally; I come from that class.

Mr. MONDELL. The farmer will be benefited by the fact that they will secure very much more for the other lots by reason of the increased value.

Mr. SLAYDEN. Will not the town benefit more quickly and largely by the increased prosperity of the farmer?

Mr. MONDELL. Yes; but the owner of the town site is entitled to a share of the value which he creates.

Mr. SMITH of Texas. Will the gentleman from California yield?

Mr. RAKER. I will.

Mr. SMITH of Texas. I want to state to my colleague from Texas that I made the statement in my remarks which I made to the House that this money they propose to spend here for municipal improvement comes out of the Public Treasury, and I stick to that statement. You take the reclamation fund and it is always either in the Public Treasury of the United States or owing to it. The law contemplates that every dollar of it shall be turned back into the Treasury at some time or other, and all of it ultimately. This proposition is to take the money and donate it to the people in these municipalities never to be returned to the reclamation fund. It comes out of the Public Treasury. That is the proposition I started out with and one I stick to, and no gentleman here can deny that that is the proposition. It is the first time in the history of the Reclamation Service that a proposition has been made to divert the money to some purpose never to be returned to the Public Treasury.

Mr. RAKER. Now, Mr. Chairman, I want to read a part of the provision of the law governing this matter:

That the Secretary of the Interior may withdraw from public entry any lands needed for town-site purposes in connection with irrigation projects under the reclamation act of June 17, 1902, not exceeding 160 acres in each case, and survey and subdivide the same into town lots with appropriate reservation for public purposes.

That covers the subject we discussed a moment ago.

That the lots so surveyed shall be appraised under the direction of the Secretary of the Interior and sold under his direction at not less than their appraised value at public auction to the highest bidders from time to time for cash, and the lots offered for sale and not disposed of may afterwards be sold at not less than the appraised value under such regulations as the Secretary of the Interior may prescribe. Reclamation funds may be used to defray the necessary expenses of appraisement and sale, and the proceeds of such sales shall be covered into the reclamation fund.

Mr. SLAYDEN. It is expected ultimately all to find its way into the Treasury?

Mr. RAKER. All to find its way into the Treasury. Here is a scheme provided that seems to be and is very clear and specific, and if carried out is proper; but here comes another, that the Secretary of the Interior may build, equip, and operate completely the municipal improvements until two years after a town is incorporated. Let us see right there. Of the towns now existing on the reclamation projects, as far as I am advised, none are incorporated. If the reclamation project pays one-half of the funds from the sale of these town lots and once starts a project, pray tell me, is this municipality going to take it over and pay for its running, or is the Department of the Interior, under the Secretary, going to maintain this particular municipal improvement and to continue for years and years to do so? In other words, we are embarking upon a policy of building up municipalities by the Government and conducting them at the expense of the Government for people who desire to go out into these towns or who may already be there. One of the contentions presented by the gentleman from South Dakota [Mr. MARTIN] is that there was an advertisement that the Government would build these projects—that it would go into this business. There is no connection between that and the department.

Mr. SLAYDEN. Was that advertisement by any recognized official of the Federal Government?

Mr. RAKER. So far as we have been able to discover, no. It was published by some railroad. That is all. That being the case, even if it was—even if the Government was behind it—they had no authority to do it. These men knew and could have found out before they bought over their title. They could have found out, under the act I have just read, just what the conditions were, and they would have purchased with their eyes open, knowing exactly what will be done. Therefore, we ought not to pass this sort of bill, or any of its provisions, which will permit the going into and the preparing of towns in advance with an entire system for maintaining the town, without the people's consent, and then turning it over to them and saying, "Take it and run it."

Mr. KINKAID of Nebraska. Mr. Chairman, I deem it my duty as a member of the committee that favorably reported the bill to express my individual views as to its merits. I am frank to say that I was opposed to its provisions and its general purposes at first blush, and, in fact, it took some time to remove my educated prejudices against its purpose. I have been taught, as many of the membership have been taught more or less owing to circumstances, to guard against encroachments upon our institutions and not permit our General Government, especially, to embark upon a course of paternalism, and I felt that the provisions of the bill were calculated to accomplish such infringements. I had read, when I was a boy, the works of authors strongly opposing centralized governments and pleading for the decentralization of our own Federal Government as it was, even at that time, administered.

Mr. SLAYDEN. In the good old days.

Mr. KINKAID of Nebraska. Yes. I am still in favor of State rights, all the rights which the States possess, and I am frank to say that I am jealous of those rights. But I am being convinced by observation that an evolution has been going on in the convictions of the people and in the sentiments of our people as to what governments may properly do for the people, and if we will compare the present with 20 or 30 years ago we will perceive a marked difference in opinion held by the same people, able jurists, able statesmen, who have been administering the law and legislating enactments as to the proper province of government.

Mr. SLAYDEN. Mr. Chairman, will the gentleman yield?

Mr. KINKAID of Nebraska. Certainly.

Mr. SLAYDEN. I am interested in what the gentleman stated about his own political position, that he had started out a firm advocate of State rights, and that he believed in them still to some extent, but that he had observed a trend in the minds of the public generally in the direction of favoring centralized government. The question I want to ask the gentleman is this: Does he not think that trend has been largely induced and accelerated by appropriations, or the hope of appropriations, out of the Federal Treasury?

Mr. KINKAID of Nebraska. Mr. Chairman, I will say to the gentleman, first, that I do not accept his version of my statement.

Mr. SLAYDEN. I hope I did not misstate the gentleman's position?

Mr. KINKAID of Nebraska. I am sure the gentleman did not intend to do me any injustice, but I do not accept his version of my statement at all. I believe yet in States having all the rights reserved to the States or the people or not granted to the National Government. I think I may grant an affirmative answer to the question the gentleman put that as to the change in sentiment, the trend has been accelerated, perhaps by selfish interests or motives or by appropriations which might be secured.

Mr. SLAYDEN. It is like Mark Twain's suggestion of the old flag and an appropriation. The sentiment in the South was developed very rapidly after the war by the hope of an appropriation, I think.

Mr. KINKAID of Nebraska. And by the improvement of rivers and harbors, and all that. I think those things have done a great deal of good for our common country. I think they have helped to bring the North and the South together again, as they had been.

Mr. SLAYDEN. In one grand raid.

Mr. KINKAID of Nebraska. And we all join hands, especially when the omnibus public-buildings bill comes up; and we are all brothers then, and we are all State rights men then, and especially for the National Government at that time. Speaking seriously, I favor a strong National Government, positive and supreme in its limited sphere.

Coming to the question, there is much in a name, Mr. Chairman. We deride paternalism, those of us who are opposed to it. We deride socialism, but conservationism is popular. We are all conservationists, and only differ as to how we are going to administer the policy. You will not find a single Member of the House who is not a devout conservationist. The only question is, How are you going to administer the policy? If this bill had been entitled "A bill for the conservation of increases in values of town sites under irrigation projects and securing the same to entrymen under the projects and purchasers of town lots," its acceptability would have been greatly improved.

I have listened with deep interest to the lucid and luminous talks made upon this question this afternoon. As a member of the Committee on Irrigation, I listened to the presentation of the facts, and there is where I started out as being averse to the bill, but gradually my educated prejudice and imbibed and possibly inherited prejudices against the measure melted away before the cogent reasoning of the facts as they were presented. Then, coming on the floor to-day and hearing the able arguments made this afternoon, with the pertinent questions that were interposed and the answers to those questions, have tended to make my conviction stronger than when I came into the House or those which I entertained when the bill was favorably reported by our committee. I think the bill contains merit and that it would be an improvement upon the present law to enact it. The more you turn it over and look at it up one side and down the other and turn it around and view it from every standpoint, the more you will be convinced that it is a proposition for conservation, for the conservation of values and profits, for the conservation of opportunities, and while there is a little paternalism about it, yet on account of the beneficence of the measure I am ready to waive my objection to the theory of paternalism and join hands for the enactment of the law, because it secures to those worthy pioneers, those worthy home builders on the farm and in the town, a share in the results of their going to the front and casting their lot in a new country and helping to build up a progressive, wide-awake, prosperous community, and to build up American citizenship.

There is a peculiar community of interest in an irrigation locality. There is a community of interest in the undertaking that does not exist where they go in single-handed and every fellow for himself, where there is no irrigation.

Mr. SLAYDEN. But this particular bill does not propose to help the people who are growing the crops, as I understand it, but the town-lot people. Is not that true?

Mr. KINKAID of Nebraska. I am glad the gentleman reminds me of that. It takes nothing away from the entryman or farmer on the land that he has ever had. It creates some-

thing which never would have existed except for the law. It conserves the value in the town sites until they have doubled in value, trebled in value, and quadrupled in value, and the Government conserves this value by holding it, while it secures to the entryman one half of it and the town-site investor the other half of it. It secures to them the increase in value which they cause jointly by going in and developing that community. Now, we all stand for the entryman, one of us as much as the other—and there is no question about that—and this gives him twice as much in getting 50 per cent under the law proposed as he would have received had he gotten 100 per cent under the old law or the law that now exists. It creates by the beneficence of the law of conservation a capital as the joint result of the townsmen and the farmers that they never would have had without it, and the Government secures to them righteously that which is right and beneficent.

Mr. SLAYDEN. As I understand the reclamation act, the proceeds of all sales are ultimately to find their way back into the Treasury of the United States.

Mr. KINKAID of Nebraska. I thank you. I intend to speak about that.

Mr. SLAYDEN. And this proposes to permanently divert a part of the proceeds of the sales, to take it away from all the people, and assign it for the benefit of a few citizens in a few towns that may become cities ultimately. Is not that right?

Mr. KINKAID of Nebraska. Thank you. I intend to touch that. At first blush it does. Again, it never would have existed if it were not for this beneficent policy. If the Government can be permitted to go on there and administer unselfishly, as a government can and will, instead of an individual administering selfishly, as he can and will, it will create the fund there whereby the Government is the better insured to get the money that it parted with in the first place, and that is all it is entitled to. But it goes on and makes it easier; it creates this fund for the settlers, and it is divided between the farmers and the townsmen. After they get their share the Government is better secured, because they owe less, and get the same lands, and they are better security for the Government.

Now, mind you, the Government is not speculating here. The national reclamation law is merely for the purpose of developing these irrigation projects and getting back without interest what the Government put in, and the Government does not aim to get any more back. So you are not diminishing the amount to be paid back to the Government. On the other hand, you are not permitting anyone to stand as a speculator and reap the benefit from the service of the settlers who go in there.

A country is nothing at all without people. The district I have the honor to represent is worth more per acre, or the most of it, by five times than it was when I first took my seat in this House.

Mr. MANN. Due, of course, to your presence here. [Laughter.]

Mr. KINKAID of Nebraska. Due to the people of that district. This House was kind enough and wise enough to pass the right kind of a homestead law, giving them 640 acres instead of a quarter section. That induced people to come in. Everybody found that that was best for everybody else. Everybody has a community interest in the prosperity of everybody else.

Mr. SLAYDEN. What is the average value of 640 acres now?

Mr. KINKAID of Nebraska. It varies greatly. Some of it is worth $5, some of it is worth——

Mr. SLAYDEN. Some of it $50?

Mr. KINKAID of Nebraska. You might get some 40 acres somewhere, under peculiar circumstances, that will be worth that much.

Mr. SLAYDEN. It will be worth $5 an acre?

Mr. KINKAID of Nebraska. For grazing purposes it might be; yes.

Mr. SLAYDEN. How much has it increased since the Government conceded the 640-acre homestead?

Mr. KINKAID of Nebraska. It has very greatly increased. I suppose some 400 or 500 per cent.

Mr. SLAYDEN. Then some of it was not worth anything before.

Mr. KINKAID of Nebraska. Now, the more this thing is turned over the more cogent do the reasons appeal to me that it will be the strongest kind of an example of conservation if enacted into law. No one can show that the Government will lose anything. The national irrigation law, literally construed, and taken in its spirit, contemplates only that the money invested in the first place should be paid back to it, and it does not contemplate that any speculation will be made out of the lands, and it does contemplate that all the rise in value will inure to the hardy pioneer, to the settler who goes in there and casts his lot with the rest and builds up that community. So this bill, if enacted into law, can not be construed to take away anything from the General Government, but all it is intended to do is to conserve to those worthy pioneer home builders in the towns and in the country the result of their efforts in going in there and building up the community. It conserves to them the added value which arises therefrom.

Mr. MADDEN. Will the gentleman yield to a question?

Mr. KINKAID of Nebraska. Now, they talk about escaping taxation. They point out that the land would become subject to tax if sold at the start. Certainly; that is clear enough. But by wise management the Government will sell it out for ten times as much as all these taxes will aggregate. I believe in the Government taking a hand in the matter when it can do so much, and it is only going to continue for a very short time. It does not last always. It terminates itself in a short time. This is not perpetual. The people will take over the entire project before a great while. It is all their own. They will take over the city government and the land, and they will control this matter directly.

I want to emphasize my view that some legislation is essential here. It is rendered necessary by the existing condition of things. The present law works the greatest injustice that you can contemplate by the operation of a law passed so recently, and relief ought to be given, and it seems to me this will be wise and beneficent legislation.

Mr. MADDEN. Does not the gentleman think that when a town site is established, whether it be 160 acres or 640, all the lots within the town should be platted and offered for sale, and any intending purchaser should be permitted to select a lot anywhere within the boundaries of the town site and make his purchase at such place within the site as he may think best for him instead of as now, platting only 10 acres in the whole town site and offering for sale lots only within that 10-acre plat?

Mr. KINKAID of Nebraska. I will say to the gentleman that I would have no serious objection to platting the whole town site at the start in order that everybody might know the relation of things in general to his purchase or to the purchase that he contemplated making. He could tell more about it in that way than if only 20 acres were platted and disposed of at the start.

But I say it is better not to sell it all. I say that herein consists conservation. The value will be conserved and secured to the farmer and townsman, who will benefit from the rise in value.

Now, I appeal to the membership of this body as to who is the better entitled to the rise in value—the farmer and townsman or the speculator? I have no objection to the legitimate speculator, but the mere speculator does nothing but come in there and buy a lot, puts improvements on it or not, just as he chooses. He may hold back a block and not improve it for 20 years and still get the benefit of the rise in value which comes from the improvements made by those who have made improvements and caused by the development of the neighboring community, and thus he may stand in the way of the development and not sell his property for a reasonable price.

Mr. SLAYDEN. But he takes the increment?

Mr. KINKAID of Nebraska. Yes; he would stand in the way. He would be selfish, and if any individual controls a town site, or several individuals, they would be selfish, naturally, and if one individual buys up a town site he would manage it to suit himself and his own interests and those of his heirs.

Now, the Government will administer it for the interest and benefit of the public and for the benefit of those pioneers who go in there and make that condition of things which makes the property valuable.

Mr. RAKER. Under all the irrigation projects, so far as the price is concerned, the price to the Government is the same. It is just the same, whether you file on a tract of land under a reclamation project to-day or 10 years hence or 5 years past, is it not?

Mr. KINKAID of Nebraska. Yes.

Mr. RAKER. Under the town-site plats ought it not to be the same way after you fix an appraised value, so that every man that goes in there ought to get his tract of land at that price? Is not that fair?

Mr. KINKAID of Nebraska. Members may differ on that.

Mr. RAKER. Is not that conservation? Is not that getting down to actual working methods?

Mr. KINKAID of Nebraska. No; I think that is business; not conservation. That is business to the man who wants to speculate. But I think it is very wise and fair and salutary to give the home builder the benefit of this rise in value which occurs in a short time.

Mr. Chairman, by platting out a 20-acre town site to start with, without letting it be known exactly how the town would

be expanded, I grant has its disadvantages. In such case it would not be known where the public park would be and where the public buildings will be, and where the streets would be, and so forth. Those things should be had well in mind. But if the Government can start a town where there is a community of interest and hold it together in the interest of everybody, after a while it will be a place of beauty and one that will afford conveniences for the surrounding country.

I am very grateful for the attention which the Members have given me. [Applause.]

Mr. MANN. Mr. Chairman, I would like to get the attention of the committee, and especially that of some gentlemen who are particularly posted as to the reclamation law. As I understand the law, where it is proposed to enter upon a reclamation project the land that is included within that project is withdrawn from ordinary settlement; is that correct?

Mr. MARTIN of South Dakota. It is withdrawn from settlement, except under the provisions of the national reclamation law.

Mr. MANN. All the gentleman needed to do was to say "yes," then, to my question.

Mr. MARTIN of South Dakota. I think I did better than that in my answer.

Mr. MANN. Now, under that situation the Government proceeds with a reclamation project. It constructs irrigation works, dams, and whatever may be necessary. It authorizes people entitled to the benefits of the homestead law to take up certain areas of land—different amounts, I believe, in different irrigation projects—and to enter them under the homestead law. The Government does not make any charge for the land, although the land may be worth a very high price. The only charge that is made for the land, if I am correct, is a proportionate part of the cost of the project.

Mr. MARTIN of South Dakota. The gentleman is correct.

Mr. MANN. And that is irrespective of the time when the entry is made.

Mr. LAFFERTY. The proportionate part of the cost to any particular settler is the amount which it bears to the whole cost of the project. The Government pays nothing. The Government is completely reimbursed.

Mr. MANN. I do not think the Government ever will be completely reimbursed; but that is neither here nor there.

Mr. RUCKER of Colorado. That is the theory.

Mr. MANN. The theory is that the Government will be reimbursed for its principal, not for interest.

Mr. LAFFERTY. That is correct.

Mr. MANN. The Government exacts from each homesteader a proportionate part of the cost of the improvement, and in addition a proportionate part of the cost of maintenance and operation. There is no charge for the land except for the works which are constructed to add to the value of the land. Whoever gets the first entry may, if he is fortunate in his selection, obtain the most valuable piece of land. But none of these settlers can establish a town site at first, and in order that people may have the necessary benefits of a municipality—of stores and other things that go with the central location—the Government provides for a town-site reservation and for the disposition of the lots in the town site; and because a particular lot or a particular location in a town may be of considerable value when the other portions of the town are of small value, the Government, instead of saying that the person who gets the first choice shall have the opportunity to take the first lot, offers these lots for sale.

It has been suggested by gentlemen that wherever 640 acres or 160 acres are reserved the entire tract should be subdivided into lots and offered for sale at one time. But gentlemen will quickly see, I think, that that is not to the interest of the Government or of the municipality or of the people who locate there. It is desirable, by way of making improvements in a small community, to have the community centralized so that they can have these improvements. But if you open 640 acres, or a mile square, and open all the lots for sale at one time, no one can tell where the lots of principal value will be, and so you may have a store or a center at one end of the mile and another store or center at the other end of the mile which may be to the interest of the people who own the particular lots, but is not to the interest of the community which ought to have necessary improvements in the locality where the people are.

Now, the proposition that the Government has adopted is to open a small portion of the reservation and sell that in lots at once. That puts the center of the town at a particular place. Just as soon as people buy these lots there are certain improvements needed. Everyone will admit that a schoolhouse is needed at once. A water supply is needed at once. I do not know whether it is practicable to furnish the water supply in connection with the irrigation works, but it is quite certain that in any town at any place a supply of water is absolutely necessary. There must be some method of sewage disposal. Perhaps primitive methods may satisfy in some places, but there may be other places where the community will be so large that the primitive methods are not sufficient in connection with the water supply which may be obtained.

Now, what is the proposition here? The Government making no charge whatever to the farmers who take the land that is irrigated, but furnishing the irrigation works at cost—and in the end the Government will lose upon every one of the irrigation projects—it is proposed by this bill that when the Government sells town lots it will agree that a certain proportion of the money paid for the lots shall be used in municipal improvements.

I suppose the first thing would be a schoolhouse. If the place were or needed to be a county seat, it might become necessary to provide county buildings, though I take it that would not be done unless the entire county were in a reclamation project, which probably never has occurred. It might be necessary to have a city hall. It is quite essential to have sidewalks. It is quite essential to have graded streets. The necessity for water is apparent. Gentlemen might suppose from some of the speeches we have had here, or from the reading of the bill itself, that the Government intended to construct great schoolhouses, water towers, waterworks, sewage-disposal systems, lighting establishments, and everything of the sort. But there is one thing which will prevent most of that. That is a lack of money. Take the town of Newell, where I apprehend the lots sold perhaps as high as anywhere, and where the total amount which has been realized as yet is in the neighborhood of $40,000. Twenty-five acres were sold. That would cover the disposition of from 3,000 to 6,000 feet front, depending upon the depth of the lot and the width of the street. If lots were 125 feet deep, on a 66-foot street to an alley, it would cover in the neighborhood of 6,000 feet. Well, upon 6,000 feet, which is a little more than a mile, you could not spend a great deal in the way of a schoolhouse and waterworks and a lighting system and sewers and everything of that sort for $20,000. You would not proceed so very far in that direction.

But it seems to me it is desirable that when the Government is providing for these irrigation projects, when it is constructing an irrigation system for the benefit of the people who will occupy the farming area, it shall at the same time provide something for the people who intend to live in the town. We provide water for the farms, but without this bill we provide no water for those who live in the town. It is just as essential to have water in the town as it is to have water on the farm.

Mr. RAKER. Is it not provided by the general bill that the Reclamation Service shall provide water for the towns, as well as any electrical energy that may be generated?

Mr. MANN. I know of no method under a reclamation project of providing water for the town except it comes from the irrigation ditch.

Mr. RUCKER of Colorado. And for irrigation purposes.

Mr. MANN. Yes.

Mr. SMITH of Texas. If the gentleman will pardon me, I want to call the attention of the gentleman to the fact that the cost of water used by the farmers is paid back to the Government, but here you propose to furnish it to the town as a donation.

Mr. MANN. The reason of that is that we donate the land entirely to the farmer; we do not sell it; we give it to him. If we sold it, he would be in the same position that the man is who purchases the town lot. We give that land to him; it costs him nothing as far as the land is concerned. We sell the town lots. The proposition is that we take 50 per cent of that for improvements. We take all that we get from the farmer for improvements.

All that he pays goes into improvements which he uses, it is true, strictly for his benefit. This proposition is to take one-half of that that you get from the lot buyer to make improvements for his benefit. It is, I believe, to the interest of the Government and the people to construct the irrigation projects, to pay out the money for improvements and only take back the cost of them, and I also believe that it is desirable when we construct a town to provide for these things which are absolutely essential to the community, which must be had, and which the community in the first instance is not able to provide.

Here we provide for selling town lots on a raw piece of property, where there is no method of government, no method of taxation the first year, but the need of schools and the need of water comes from the time there are any children there or any people living on the place.

With these observations, Mr. Chairman, I would like to direct the attention of the committee to some provisions of the bill. "The first provision of the bill is that one-half of the net proceeds heretofore"—and with an amendment hereafter—"received from the sale of town lots shall be devoted," and so forth.

Now, as I understand the theory of this proposition, it is that when you offer lots for sale with a statement that one-half of the proceeds of these lots shall be devoted toward the necessary municipal improvements, that people will pay more for the lots. A man would be very foolish, it seems to me, to pay as much for a lot in a community where no schoolhouses were provided, where no water was provided, where nothing was provided, as he would pay for a lot where sidewalks were to be constructed, streets provided, schoolhouses built, and water was to be furnished.

Gentlemen say, however, that the Government has already in selling these lots practically promised these improvements by literature which has been circulated. Of course, as to lots which have already been sold, without any assurance that these improvements can be made, there can be no claim that the Government is under any obligation to construct municipal improvements for the benefit of the people who bought lots without the expectation of receiving those improvements. I do not know, except as has been stated here, whether practically, though not intentionally, fraud may have been committed upon people who buy these lots at other places than the one that has been referred to by the gentleman from South Dakota [Mr. MARTIN], where apparently men were induced to pay a high price for lots with the assumption, and the proper assumption, that the Government would undertake certain improvements which there was no authority in fact to undertake.

I would like to ask the gentleman, however, in regard to the amount that this bill proposes to set aside. It proposes to set aside 50 per cent of the proceeds for municipal improvements. We have passed in recent years a number of bills opening Indian reservations. We passed one on Monday last where we set aside 20 per cent of the receipts from lots for making municipal improvements. If 20 per cent was the proper figure in an Indian reservation, why should 50 per cent be the proper figure in a reclamation project? Or, if 50 per cent is the proper amount on a reclamation project, why did we fix 20 per cent on an Indian reservation town site?

Mr. MARTIN of South Dakota. Mr. Chairman, I do not know whether the gentleman asked the question with the expectation of its being answered at once or not; but I might say, if the gentleman will permit, that I think the relation between the two is altogether different. Here are lands belonging to the Indians of which the Government is the trustee; every dollar that comes out of the sale of Indian lands goes to the Indians. I can see how, under those circumstances, a very low amount might be mentioned as the proportion that was to be given to the Indians' share of improvements. Those considerations would hardly apply here. As to this particular instance, the gentleman has shown from his argument that 50 per cent would go but very little ways in making the necessary improvements that would be required at once on the organization of the town.

Mr. MANN. Mr. Chairman, I did not catch the distinction between the reclamation project and the Indian lands. Under the law as it now stands any money received from the sale of town lots goes to reduce the amount which the farmer on the irrigated land is charged with as a part of the cost of construction. On the Indian reservation it goes to pay to the Indian the amount for which the lots are sold. I can see no difference in principle, because, I take it, both propositions are based upon the fundamental idea that the value of these improvements will be added to the price at which the property is sold. It is in the nature of a special assessment, and the theory of a special assessment in municipal improvements is that when the improvement is made it adds that much more to the value of the land. That is the theory throughout the country upon which waterworks, sewer systems, sidewalks, and roads are built.

I would like to ask a few questions in reference to section 3, which is:

> That all income received from a portion of any such building or works while under the control of the Secretary of the Interior shall be paid into and become a part of the reclamation town-site fund.

What income can be received from these works except from the waterworks, the lighting system, or something of that kind? If you construct waterworks out of this fund and operate the waterworks and charge for the use of the water, upon what theory do you propose to pay that money into the reclamation fund, where it is merely for the cost of operation?

Mr. LAFFERTY. The money is paid into the town-site fund and not into the reclamation fund.

Mr. MANN. That is the same thing.

Mr. LAFFERTY. It might be money derived from the rent of a city hall.

Mr. MANN. It might be, but I do not think they rent the city hall anywhere. It contemplates the construction of waterworks and a lighting system. This necessarily contemplates that the people who receive the benefit will pay the special assessment.

They will pay for the water received and they will pay for the light received. That is part of the cost of maintenance. Why should not that money be used for maintenance?

Mr. MARTIN of South Dakota. I suggest whether that is not the practical working out of the section. The Secretary of the Interior is given authority to operate and maintain for a limited time, and this provides that such income as he gets during that period shall be applied to this same fund—the reclamation town-site fund.

Mr. MANN. He pays for that out of the 50 per cent. What the cost of operation would be no one knows. It might be considerable, and any money that comes in from the ordinary operation of a waterworks plant or a lighting system ought to be used toward the maintenance of the plant.

Mr. LAFFERTY. I think the gentleman from Illinois is right about that.

Mr. MONDELL. Would not that be the practical effect of this provision?

Mr. MANN. I think not.

Mr. MONDELL. The intent of the provision is to direct that the income shall go into and become part of the fund. Then the bill provides that the Secretary of the Interior shall operate these works during the time they are under his charge from the town-site fund.

Mr. MARTIN of South Dakota. That is certainly the purpose of it. It should be made clear, if it is not.

Mr. MONDELL. It is simply a provision drawn by the department, the intent of which is to direct the flow of any income into the reclamation fund. Of course it is taken right out again if any part of it is needed for operating expenses.

Mr. MANN. That may be correct. Another provision that the department, I suppose, drew has excited my curiosity, and I would like to ask about that. That is in reference to the cemeteries, where it is proposed that cemeteries shall be held under certain conditions until such time as a "municipal corporation or corporations shall be created." Where a cemetery reservation is made for a town site, how many municipal corporations does the gentleman expect to be created out of that town site?

Mr. MARTIN of South Dakota. I suppose that language has been suggested by the department upon the theory that often a cemetery is not owned by the municipality itself, but by a cemetery association. It is quite common. During my brief service in this House we have passed many acts of Congress which gave certain public lands to cemetery associations to use in connection with towns or villages.

Mr. MANN. Where you use the language "a municipal corporation or corporations," that does not include cemetery corporations.

Mr. MARTIN of South Dakota. The gentleman repeats the adjective, and I suppose a liberal construction would not insist upon our doing so.

Mr. MANN. It also refers to a "municipal corporation or corporations for cemetery purposes," and I was just curious to know whether it was expected to have two towns located on a 640-acre town site.

Mr. MARTIN of South Dakota. No; I think not.

Mr. MADDEN. If they put the buildings up on each end of the 640 acres, as some gentleman suggests, it might be necessary.

Mr. MANN. It probably would, if they followed the suggestion of my colleague, to sell all the lots at one time. I think that was not contemplated.

Mr. RAKER. Mr. Chairman, will the gentleman yield?

Mr. MANN. Certainly.

Mr. RAKER. I had an idea from that provision that it was to divide off a 10-acre tract in each corner of the 640 acres, and have a little town in each corner, so that there would be no possible question of a rumpus as to the location of the public buildings.

Mr. MARTIN of South Dakota. If you separate the towns like that, you probably will have a cemetery of the whole place before a great many years.

Mr. MANN. Mr. Chairman, the gentleman from California [Mr. RAKER] desired to have all of these lots put up on ap-

praised value. I do not see how anybody can intelligently in advance appraise the value of a town lot in a proposed new town. When you go into a new country and start a town, with one store building, with very few people living there, that is one thing; but here is a town, to be started in a settled community practically, and a somewhat closely settled community in most places, because in the irrigation projects, as a rule, the amount which any one person can take is not large. You will have a great many people there very early; you will have a pretty fair sized town to start with. I do not see how you can appraise the value of those lots except to let people use their best judgment in reference to them.

How long is it intended, may I ask, under this bill to have the Government run the schools?

Mr. RUCKER of Colorado. It says not exceeding two years.

Mr. MONDELL. Why, I think the bill is clear upon that subject. It is intended that the Government should build the schoolhouses. I do not think it is intended that the Government should run the schools at all.

Mr. MANN. Then, what does the bill mean by "the operation of schoolhouses" and "other school and municipal improvements"?

Mr. MONDELL. Where does the gentleman find that language?

Mr. MANN. Here is a fund that is set aside and created as a special fund in the Treasury to be known as the reclamation town-site fund, to be used in the "construction, maintenance, and operation of schoolhouses, water, light, and sewer systems, and other school and municipal improvements," and so forth.

Mr. MONDELL. I suppose the use of the word "operation" there as applied to some of the improvements authorized is not particularly happy. It is necessary with regard to some improvements and so the words "maintenance and operation" were used with regard to all of the improvements which are authorized.

Mr. MANN. Under the language used, would not "the operation of schoolhouses" and "other school and municipal improvements" authorize the maintenance of schools out of this fund, and ought that to be done in any event? If the Government builds the schoolhouses the people ought to maintain the schools.

Mr. MONDELL. Yes. I do not think that under any circumstances this would be construed to authorize the department to operate a school or to pay teachers or anything of that sort, but the gentleman will notice that quite a number of matters are referred to here, and then the general terms "construction, maintenance, and operation" are used as applying to them generally.

Mr. MANN. Well, where you say "construction, maintenance, and operation of a schoolhouse and other municipal improvements"—if that does not contemplate the maintenance of a school out of this fund, I fail to understand the English language thoroughly.

Mr. MONDELL. It authorizes a construction and maintenance of schoolhouses and of school improvements, but hardly authorizes the maintenance of a school, I think.

Mr. MANN. What is the operation of a schoolhouse and a school? How else can it be operated?

Mr. MONDELL. I want to say to the gentleman, if I may be allowed, that while I do not disclaim any responsibility, I am not responsible for this particular language. I am not saying I would have constructed it just as it is constructed if I had drafted it, but I think a fair construction would be that they could build a schoolhouse, that they could make their new school improvements, but they could hardly maintain a school.

Mr. MANN. The gentleman has had trouble enough with the construction by departmental officials——

Mr. MONDELL. I have.

Mr. MANN (continuing). Of laws passed by Congress.

Mr. MONDELL. I speak feelingly on that subject.

Mr. MANN. He knows that language like this would probably be construed to mean the operation of a school if they had the money.

Mr. MONDELL. I know that no one in the House is so well qualified as the gentleman from Illinois to offer such an amendment as would make this clear, and I am sure everybody would accept it.

Mr. MADDEN. I understood the gentleman from Wyoming [Mr. MONDELL] to say a little while ago that it would be impossible to run the schools without taxation, and that taxation in a town like this would be impossible except as to the lots that had gone into the possession of private ownership, and I wish to ask my colleague if that be the case, whether it will be possible to do anything else except to operate the schools out of these public funds?

Mr. MANN. I think after we provide a schoolhouse we are providing enough for the people to operate the schools themselves in some way.

Mr. RUCKER of Colorado. Will the gentleman permit?

Mr. MANN. Certainly.

Mr. RUCKER of Colorado. If the gentleman has any question about whether the Secretary of the Interior will go into the school business or not, I think he might look around here and see several would-be Secretaries and inform himself on that subject accurately.

Mr. MANN. I think the gentleman is hardly accurate. The gentleman does not see several would-be Secretaries of the Interior in the House, but he can see a number of gentlemen here who would make excellent Secretaries of the Interior if they could be persuaded to leave the House for that purpose.

Mr. RUCKER of Colorado. And even teach school in connection with it.

Mr. MANN. Now, may I ask the gentleman a little further? Take the case that has already been cited, the particular case of Newell. Upon what theory can the gentleman claim that we ought to provide that 50 per cent of all the lands hereafter sold shall be used for municipal improvements, although some of the land may not be sold for 10, 20, 30, 40, or 50 years? How would that be expended for the benefit of that land? It is perfectly apparent, is it not, that if you have the center of a town in one place and a lot out on the outskirts, and you sell that lot after your town is inaugurated, and you have a city council to spend the money, and they will spend the 50 per cent for which the lot on the outskirts sells in front of the lot, it will not enhance the value of that lot 5 cents? Certainly, they will not double its value, because the money which has been spent for municipal improvements will not be spent for the benefit of that lot. How can you defend the proposition that after your town is started, after it is organized, after the first necessary improvements are provided, that thereafter you shall take out one-half of the price for which the other lots sell, when it certainly will not make them sell for any more?

Mr. MARTIN of South Dakota. Answering the gentleman, I do not know the basis of his statement that it will not make them sell for any more. I think if any purchaser of a lot, expecting to improve, has knowledge that half which he bids on the lot will be used in betterment of the town in any part, under the direction of the municipal officers, would bid higher for a lot under those circumstances.

Mr. MANN. I have had some experiences with town lots. I am very sure that in the district which I represent, which is a portion of the city of Chicago, not taking in the down-town center which my colleague, Mr. MADDEN, represents, the people out in our part of the town would not pay 10 cents more for a lot in order that half of the purchase price might be spent down town.

Mr. MARTIN of South Dakota. That is under the administration that spends the money in a part of a town where it is not raised.

Mr. MANN. Every administration in every town spends most of the money on the streets and around the places where the people live. They do not spend it on the vacant property.

Mr. MARTIN of South Dakota. I assume the expenditures will be made for municipal improvements in that part of the city where they are most needed, and if we were to add to any community 10 acres additional of town property, I do not see any reason why there should not be some effort to supply sewerage and lighting systems and to extend that portion, and I do not agree with the experiences they have in Chicago would necessarily control in small towns.

Mr. MANN. The gentleman means that probably Chicago is not as honestly administered as small towns.

Mr. MARTIN of South Dakota. No; I do not.

Mr. MANN. I can assure the gentleman that a city like Chicago knows more about getting value out of its money than a small town that has never had any experience in municipal government. It is perfectly apparent to any man who has any judgment at all that where a town is located and these improvements provided all you can pay out of this general fund is for the main works.

You can not construct lateral sewers, you can not construct water-pipe service in the streets, you can not put a lighting plant in the streets in these towns. All you can construct out of a fund of this kind are the main works. Now, it is absolutely of no benefit to a particular lot which is not yet sold in the outskirts of a city to spend half the amount of money you sell it for down town, and hence it will not increase the value any.

Mr. Chairman, I understand that the gentleman from Colorado [Mr. RUCKER] desires to move that the committee rise, and I reserve the balance of my time.

Mr. RUCKER of Colorado. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. FOSTER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 23669) providing for the disposition of town sites in connection with reclamation projects, and for other purposes, and had come to no resolution thereon.

ECONOMY AND EFFICIENCY COMMISSION (H. DOC. NO. 1252).

The SPEAKER laid before the House the following message from the President of the United States, which was read:

To the Senate and House of Representatives:

I submit for the information of Congress the report of the commission appointed by me to carry on the work authorized under act of appropriation of June 25, 1910, which made available $100,000—

> To enable the President, by the employment of accountants and experts * * * to more effectively inquire into the methods of transacting the public business * * * with a view of inaugurating new or changing old methods * * * so as to attain greater efficiency and economy therein, and to ascertain and recommend to Congress what changes in law may be necessary to carry into effect such results of his inquiry as can not be carried into effect by Executive action alone.

Pursuant to this authority a preliminary investigation was instituted under the Secretary to the President with a view to determining what ground should be covered and what staff and organization would be required. This preliminary inquiry was carried on until March, 1911, when, at my request, the term of the appropriation was extended to June 30, 1912, and $75,000 was added.

Of this $175,000 made available for the first two years the amount expended for the preliminary inquiry was $12,252.14, leaving $162,747.86 available for the 15 months remaining after March 8, 1911, when the commission was organized. By special message of January 17, 1912, I requested that $250,000 be made available for the current fiscal year. Only $75,000, however, was appropriated, and to this was attached a restriction to the effect that not more than three salaries could be paid in excess of $4,000 per annum, thereby forcing a complete reorganization of the commission. At the same time the Congress by special resolution requested a report from the commission with recommendations on the organization and work of the Patent Office—this to be submitted to Congress not later than December 10, or a little over three months after the resolution was passed. Although $10,000 additional was appropriated for this purpose, it was impossible within the time to organize a special staff which could do such a highly technical piece of work. A further limitation to constructive work has been found in the short period for which funds have been made available. Many of the problems of administration which should be gone into require months of constant attention. The commission has not felt free to undertake work which could not be reported on before the expiration of the appropriation, and the appropriation for the current fiscal year was not passed until August 24, the authority expiring June 30 following. I mention these facts to indicate some of the handicaps under which the commission has labored in prosecuting one of the most difficult, far-reaching, technical inquiries that has ever been undertaken, and one from which economies have already been realized many times greater than the cost.

In planning the work to be done by the commission the first controlling fact was that there was no basis in information for judgment as to what changes should be made or what would be the effect of any recommended change, no matter how simple it might at first appear. As was stated in my message of January 17, 1912, on the subject:

> This vast organization has never been studied in detail as one piece of administrative mechanism. Never have the foundations been laid for a thorough consideration of the relations of all of its parts. No comprehensive effort has been made to list its multifarious activities or to group them in such a way as to present a clear picture of what the Government is doing. Never has a complete description been given of the agencies through which these activities are performed. At no time has the attempt been made to study all of these activities and agencies with a view to the assignment of each activity to the agency best fitted for its performance, to the avoidance of duplication of plant and work, to the integration of all administrative agencies of the Government, so far as may be practicable, into a unified organization for the most effective and economical dispatch of public business.

The only safe course, therefore, was first to obtain accurate knowledge of the vast administrative mechanism of the Government; get a clear notion of what the officers and agents of the Government were doing in all of its departments, bureaus, and subdivisions; find out how each part of the service was organized for performing its activities, what methods are being employed, what results are being obtained, where there are duplications of work and plant, wherein the organization and methods are ill adapted or ill adjusted.

In each case, as first drafts of descriptive reports have been completed by the commission, they first have been submitted to the services whose organization and work are involved, so that this part of the work has been a joint product of all services. This has been done for the double purpose of having a statement of fact that is beyond controversy, and to lay the foundation for the consideration of the critical comments and constructive suggestions that have followed.

To the present time 85 reports have been submitted which carry recommendations. Fifteen of these reports, most of which recommend constructive legislation, have already been sent to Congress, viz:

1. Outlines of organization of the Government. Submitted January 17, 1912 (published as H. Doc. 458).
2. The centralization of the distribution of Government publications. Submitted February 5, 1912 (published in S. Doc. 293).
3. The use of window envelopes in the Government service. Submitted February 5, 1912 (published in S. Doc. 293).
4. The use of the photographic process for copying printed and written documents, maps, drawings, etc. Submitted February 5, 1912 (published in S. Doc. 293).
5. Methods of appointment. Submitted April 4, 1912 (published in H. Doc. 670).
6. The consolidation of the Bureau of Lighthouses of the Department of Commerce and Labor and the Life-Saving Service of the Department of the Treasury. Submitted April 4, 1912 (published in H. Doc. 670).
7. The Revenue-Cutter Service of the Department of the Treasury. Submitted April 4, 1912 (published in H. Doc. 670).
8. The accounting offices of the Treasury, with recommendations for the consolidation of the six auditors' offices into one. Submitted April 4, 1912 (published in H. Doc. 670).
9. The Returns Office of the Department of the Interior. Submitted April 4, 1912 (published in H. Doc. 670).
10. Travel expenditures. Submitted April 4, 1912 (published in H. Doc. 670).
11. Memorandum of conclusions concerning the principles which should govern the handling and filing of correspondence. Submitted April 4, 1912 (published in H. Doc. 670).
12. Supplementary report on the centralization of the distribution of Government publications. Submitted April 4, 1912 (published in H. Doc. 670).
13. The use of outlines of organization of the Government. Submitted April 4, 1912 (published in H. Doc. 670).
14. Report on retirement of superannuated employees. Submitted May 6, 1912 (published as H. Doc. 732).
15. Report on "The Need for a National Budget." Submitted June 27, 1912 (published as H. Doc. 854).

The reports of the commission already submitted which call for Executive action relate to a variety of subjects. Included in these reports are recommendations: For the modification of orders and practices related to the administration of the civil-service laws; the installation of a uniform system of accounting and reporting; forms and instructions for the preparation and submission of a budget; the use of window envelopes; the introduction of labor-saving office devices; more economical Government housing; better lighting, heating, ventilation, and sanitation; the better utilization of waste; the more economical disposition of obsolete and condemned stores and other property; the discontinuance of the jurat in the preparation of claims for reimbursement; the promulgation of rules governing travel expenditures.

With respect to many of these affirmative action has been taken, but in nearly every case it is necessary to proceed slowly with the making of changes, which have already been ordered, as it necessarily requires months to make any change which broadly affects the service without causing so much confusion as to seriously interfere with the transaction of Government business.

On December 9 I transmitted the report of the commission, with its recommendations, on the organization and work of the Patent Office. This report is printed as House Document No. 1110. I am transmitting herewith 11 other reports, the recommendations contained in which have my approval, as follows:

1. Business methods of the office of The Adjutant General of the War Department.
2. The handling and filing of correspondence in the Mail and Record Division of the office of the Chief of Engineers.
3. The handling and filing of correspondence and the doing of statistical work in the Bureau of Insular Affairs.
4. The handling and filing of correspondence in the office of the Surgeon General.
5. The handling and filing of correspondence in the office of the Signal Corps.
6. The handling and filing of correspondence in the office of the Chief of Ordnance.
7. The handling and filing of correspondence in the Mail and Record Division of the Department of Justice.
8. Methods of keeping efficiency records of employees in the National Bank Redemption Agency of the Department of the Treasury.
9. Report on the electric lighting of Federal buildings of the Department of the Treasury.
10. On the establishment of an independent public health service.
11. The recovery of fiber stock of canceled paper money.

The first six of these reports have been the result of intensive study of methods employed in the offices of the War Department at Washington, which point to detail reductions in cost which may affect the appropriations for 1914. These, together with the recommendations of the Secretary of War, are sent for your information. In the opinion of the commission, an estimated saving of over $400,000 a year can ultimately be made by favorable action on the changes in methods which are recommended in the six offices of the War Department alone.

One report above listed relates to the question of personnel. This is important both in its relation to efficiency or organization and economy of work. A number of other reports, containing recommendations for changes in the details of methods which, in the opinion of the commission, will produce marked savings in annual cost of transacting the business of the offices investigated are in the hands of the services interested. These will be sent for the information of the Congress as soon as action has been taken or other conclusion has been reached.

The report on electric lighting of public buildings is significant of the inattention to administrative details in a subdivision of the service which is charged with the operation and maintenance of several hundred Government buildings. Until this inquiry was begun no attempt had been made in this office to find out what was even the gross expenditures for operation as distinct from maintenance, or capital outlays, either for each building or for the whole service, and there were no means provided for knowing the heating, lighting, cleaning, or other costs as subdivisions of operation. The head of the office was presumably interested in construction; the primary responsibility of the department was for the care and custody of funds; the result was that no attention was given to the development of the information essential to the central direction and control over operative services. And it may be said that the condition found in this office is typical of the condition found in many of the operative services. The report covers only a partial inquiry into lighting efficiency.

The report submitted relative to the recovery of fiber stock of canceled paper money proposes that the method of macerating this stock which has been in use for about 40 years be discontinued and that more modern methods be adopted. Under modern methods of treating this paper stock it is deinked and defibered with but a small loss of pulp, and such stock when recovered can be used in the manufacture of new money paper, at a saving, as compared with the present method of macerating and sale, of about $100,000 per annum.

While during the time and with the staff available it has not been possible to make final detailed reports on more than a few of the hundreds of offices at Washington, and in only one office outside of Washington has work of this character been undertaken, the reports which are submitted will serve to illustrate the character of results which may follow an extensive investigation of office technique and procedure. It is further to be noted that the offices which have been reported on are those which have been frequently under scrutiny. From what is known of the offices outside of Washington it is thought that it is in this field that the largest opportunities for economy will be found—partly due to the fact that these offices have not been brought under scrutiny, and partly due to the fact that a large number of them are dominated by political appointees.

As illustrating the relative importance of services outside of Washington, it is of interest to note that the cost of clerk hire at the New York post office alone is more than that incurred in the Departments of War, Navy, State, Justice, and Commerce and Labor at Washington; that in the customhouse at New York the cost of clerk hire is greater than in any one department at Washington.

In my opinion the technique and procedure of every branch and office of the Government should be submitted to the same painstaking examination as has been given to those on which reports have been made. To do this, however, ample funds must be provided. As stated in previous messages to Congress on the subject, there is no greater service that can be rendered to the country than that of the continuance of the work of the commission until some form of organization is provided for continuously doing this kind of work under the Executive. I have asked, therefore, that $250,000 be provided for the continuation of the investigation which has been so well begun, and that these funds be made available March 4. In my opinion this is not a matter in which the Congress should assume that public money will be unwisely spent. At a total cost of about $220,000 during the 21 months covered by the work of the commission, facts have been developed and recommendations have been made that, if followed up, will result in savings of millions of dollars each year. This has been done under the handicap of inadequate funds and uncertainty of continuation, which interfered with the making of plans which could not be completely executed within a few months. It would be very much to the advantage of the administration if the President were authorized to spend whatever amount he may deem to be necessary within the next two years, the only condition attached being that he render an account of expenditures.

WM. H. TAFT.

THE WHITE HOUSE, *January 8, 1913.*

The SPEAKER. It seems to the Chair that while this message asks for an appropriation, it ought to go to the Committee of the Whole House on the state of the Union, inasmuch as it involves a variety of subjects; and unless there is objection——

Mr. MANN. Does it not refer only to an appropriation to be made by the Committee on Appropriations?

Mr. FITZGERALD. The Committee on Appropriations has handled the so-called Commission on Economy in the deficiency bill.

The SPEAKER. The message will be referred to the Committee on Appropriations and, with the accompanying documents, ordered to be printed.

FUR SEALS (S. DOC. NO. 997).

The SPEAKER also laid before the House the following message from the President of the United States, which was read and, with the accompanying documents, referred to the Committee on Foreign Affairs, and ordered to be printed:

To the Senate and House of Representatives:

At the last session of Congress an act was adopted to give effect to the fur-seal treaty of July 7, 1911, between Great Britain, Japan, Russia, and the United States, in which act was incorporated a provision establishing a five-year period during which the killing of seals upon the Pribilof Islands is prohibited. Prior to the passage of this act, I pointed out in my message to Congress, on August 14 last, the inadvisability of adopting legislation the effect of which was to require this Government to suspend the killing of surplus male seals on land before it was actually proved by the test of experience and scientific investigation that such suspension of killing was necessary for the protection and preservation of the seal herd. I also pointed out in that message that the other Governments interested might justly complain if this Government by prohibiting all land killing should deprive them of their expected share of the skins taken on land, unless we can show by satisfactory evidence that this course was adopted as the result of changed conditions justifying a change in our previous attitude on the subject. As was then anticipated, the other parties interested have now objected to the suspension thus imposed on the ground that it is contrary to the spirit, if not the letter, of the treaty, inasmuch as under existing conditions a substantial number of male seals not required for breeding purposes can be killed annually without detriment to the reproductive capacity of the herd. The same objection was raised by the other Governments interested under this convention while the bill was awaiting my signature, after its passage by Congress, but I refrained from vetoing it because at that time several thousand sealskins had already been taken on the islands and were ready for distribution in accordance with the requirements of the treaty, so that the suspension of land killing would not actually become effective until the following year, and I was satisfied that the information resulting from a study of the condition of the herd during the past summer would put this Government in possession of facts which would either lead to the amendment of the act at this session of Congress, or enable this Government to justify a temporary suspension of land killing; and apart from this particular provision the act was needed to give effect to our treaty obligations.

It now appears that under the operation of the fur-seal convention during the past year the condition and size of the herd has improved to an extent which seems to indicate that there is now no necessity, and therefore no justification, for the suspension of all land killing of male seals, as required by the act under consideration.

Last season's reports from the officials in charge on the Pribilof Islands show that the herd, which the year before contained at the highest estimate not more than 140,000 seals, now numbers upward of 215,000 by actual count, showing in one season an increase of at least 75,000 seals. This increase is largely due to the protection afforded by the treaty to the breeding female seals, which last summer numbered nearly 82,000, many thousands of which, except for the treaty, would have been slaughtered by pelagic sealers, and as every breeding female adds one pup to the herd each year, over 81,000 new pups were added last season. Moreover, instead of losing 10,000 or 15,000 of these pups through starvation, as heretofore, on account of the slaughter of the nursing mothers by pelagic sealers, this

summer by actual count the number of dead pups found on the rookeries was only 1,060.

It is evident from these reports that there has been a very remarkable increase in the size of the herd in one season under the operation of this convention and that a large part of this increase consists of female seals, upon which the future increase of the herd depends.

The present condition of the herd shows that there will be about 100,000 breeding female seals in the herd next summer, each one of which will produce one pup, and in the following year the female pups born last summer, amounting in accordance with the laws of nature to one-half of the total number of the year's pups, will pass into the breeding class, subject to losses from natural mortality, thus adding a possible 40,000 more, which would bring the total up in the neighborhood of 140,000 breeding female seals; and so on from year to year the reproductive strength of the herd will increase in almost geometrical progression, so that we can confidently count on having the present size of the herd doubled and trebled within a very short period.

All that is required to fulfill these expectations is to protect absolutely the female seals and set aside an adequate number of male seals for breeding purposes. The protection and preservation of the herd does not require the protection and preservation of the surplus male seals not needed for breeding purposes. Owing to the polygamous habits of the seals, the increase in the number of these surplus bachelor seals can in no conceivable way increase the birth rate or the reproductive capacity of the herd. Seals of this class contribute nothing to the welfare of the herd, and in some ways they are a distinct detriment as a disturbing element on the rookeries and as consumers of food, which is bound to become scarcer as the size of the herd increases. These nonbreeding males, therefore, are of no value as members of the herd except to furnish skins for the market in place of those heretofore taken by pelagic sealers, and in this connection it should be noted that the value of their skins for commercial purposes diminishes after they are 4 years old and ceases altogether after the age of 5 or 6.

It is right and necessary that the killing of all seals in the herd other than the nonbreeding males should be absolutely prohibited not only for five years but forever. Land killing has been and always must be strictly limited by law to male seals, so that female seals would never be included in land killing in any event. Pelagic sealing, on the other hand, always has been chiefly directed against female seals, thus diminishing the size of the herd not merely by the number actually killed each year, but also by an equal number of nursing pups killed by starvation and by the loss of the countless number of unborn pups which would have been added to the herd the following year and in succeeding years. Pelagic sealing has now been stopped, but it must be remembered that the United States alone was powerless to stop it. An international agreement was necessary for that purpose, and has at last been secured after difficult and protracted negotiations resulting in the present convention with Great Britain, Japan, and Russia, who have now joined with us in prohibiting pelagic sealing, and whose cooperation is necessary to make that prohibition effective. To secure such an agreement has been the aim of the United States throughout the entire period covered by the fur-seal controversy, and from the point of view of the United States this prohibition against pelagic sealing is the most important feature of the present convention. In order, however, to secure its adoption by Great Britain and Japan it was necessary for the United States to agree to give each of them a share of the proceeds of the annual increase of the American herd with the assurance, as an inducement, that a large annual increase available for commercial purposes would result from the abandonment of pelagic sealing. As stated in my former message to Congress on this subject—

> Ever since the question of land killing of seals was subjected to scientific investigation, soon after the fur-seal controversy arose, nearly 25 years ago, this Government has invariably insisted throughout the protracted and almost continuous diplomatic negotiations which have ensued for the settlement of this controversy that the progressive diminution of the herd was due to the killing of seals at sea, and that if pelagic sealing was discontinued the polygamous habits of the seals would make it possible to kill annually on land a large number of surplus males without detriment to the reproductive capacity of the herd and without interfering with the normal growth of the size of the herd. The position thus taken by the United States has always been put forward and relied on by the United States in urging that an international agreement should be entered into prohibiting pelagic sealing; and it is obvious that one of the considerations which induced Great Britain and Japan to enter into this convention prohibiting their subjects from pelagic sealing was the expectation that the position thus taken by the United States was well founded and that the skins falling to the share of those Governments from the land killing of seals, as provided for in this convention, would compensate them for abandoning the taking of sealskins at sea.

It was well understood by all the parties in entering into this convention that the result aimed at was to increase the annual reproductive capacity of the herd so that a larger number of sealskins might be taken each year for commercial purposes without injury to the welfare of the herd.

It is evident from these considerations that the United States is in honor bound under this convention to permit the killing annually for commercial purposes of male seals not required as a reserve for breeding before they have passed beyond the age when their skins cease to have a commercial value.

The question of how many male seals should be reserved each year for breeding purposes can readily be determined. In the act under consideration, as it passed the House and before it was amended in the Senate, there was a provision that hereafter only 3-year-old males shall be killed, and that there shall be reserved from among the finest and most perfect seals of that age not fewer than 2,000 in 1913, 2,500 in 1914, 3,000 in 1915, 3,500 in 1916, and 4,000 each year from 1917 to 1921, inclusive, and 5,000 each year thereafter during the continuance of the convention. These figures were arrived at after full and careful investigation by the House Committee on Foreign Affairs, and it appears from the committee reports accompanying this act that these figures were intended to be and were regarded as large enough to be on the safe side. It would be more appropriate and convenient to leave the decision of this question to the Secretary of Commerce and Labor, subject to the limitation, which might properly be imposed, that each year before any commercial killing is done there should be marked and set aside or reserved from among the finest and best of the males of 3 years of age such number as is necessary, in his judgment, to provide an ample breeding reserve of males. In any event it is evident that the determination of the number of male seals to be reserved each year for this purpose will present no difficulty; and in this connection it should be noted, as stated in my former message on this subject, that—

> since the fur-seal business has been taken over by the Government and no private interests are now concerned in making a profit out of it, there is no urgent necessity for imposing by legislation stringent limitations upon land killing.

The only provision in the convention authorizing the United States to limit or suspend land killing is the reservation in article 10, that nothing therein contained shall restrict the right of the United States at any time and from time to time to suspend altogether the taking of sealskins on its islands and to impose such restrictions and regulations upon the total number of skins to be taken in any season, and the manner and times and places of taking them, "as may seem necessary to protect and preserve the seal herd or to increase its number." It is clear from the terms of the convention that the right thus reserved to the United States to regulate or suspend land killing is not an arbitrary right, but can be exercised only when necessary to protect or preserve or increase the herd. It is also clear that this provision must be read in connection with the main purpose of the convention, and that the right reserved should be exercised in aid of that purpose. It has already been shown that the result aimed at by this convention was to increase the annual reproductive capacity of the herd, so that a larger number of sealskins might be taken each year for commercial purposes without injury to the welfare of the herd. It follows, therefore, that when a limitation or suspension of land killing would interfere with, rather than promote, this purpose of the convention there would then be not only no necessity but no justification for such limitation or suspension.

The argument has been advanced that in addition to the right thus reserved the convention recognized an absolute right in the United States arbitrarily to suspend all land killing, because, according to this argument, another clause of the convention fixes a measure of damages to be paid each year to the other parties whenever the United States prohibits all land killing. The clause referred to is found in Article XI, which provides that in case the United States shall absolutely prohibit all land killing of seals, then it shall pay to Great Britain and Japan each the sum of $10,000 annually in lieu of their share of skins during the years when no killing is allowed. It is evident, however, from an examination of the other provisions of the same clause of the convention that these $10,000 payments can not be, and were not intended to be, regarded as a measure of damages, because Great Britain and Japan are required to repay them to the United States with interest at 4 per cent out of the proceeds of their share of the skins taken whenever land killing is resumed. A payment which is subsequently to be refunded clearly is not a measure of damages. Moreover, even if this provision could be regarded as fixing a measure of damages, that in itself would not justify the United States in arbitrarily imposing those damages upon Great Britain and

Japan. These provisions requiring the $10,000 payments to be made when land killing is suspended and to be refunded when killing is resumed clearly have an ulterior purpose; otherwise they are wholly unnecessary, for the same result would have been accomplished with much greater simplicity by omitting them altogether. The ulterior purpose becomes perfectly clear when we consider that under the laws in force when the treaty was made it was within the power of the Secretary of Commerce and Labor to suspend land killing altogether whenever, in his opinion, the welfare of the herd required such action. The evident purpose, therefore, of this requirement for making substantial payments when land killing was suspended, was to prevent the suspension of land killing by executive action unless Congress was prepared to appropriate the money necessary for making such payments. It was undoubtedly assumed that the necessity for adopting legislation appropriating the money to make these payments would lead to a careful investigation of whether or not the actual condition of the herd warranted a total suspension of land killing, and that the appropriation would not be made unless the investigation produced satisfactory evidence that such suspension of killing was absolutely necessary within the requirements of the treaty.

In view of the present condition of the herd and the very marked increase in its size and particularly in the number of female seals, which has resulted from the operation of this convention during a single year, and which, as above shown, is to be attributed almost wholly to the protection afforded by the prohibition against pelagic sealing, I recommend to Congress the immediate consideration of whether or not the complete suspension of land killing imposed by this act is now necessary for the protection and preservation of the herd, and for increasing its number within the meaning and for the purposes of the convention. If no actual necessity is found for such suspension, then it is not justified under the convention, and the act should be amended accordingly.

As stated in my annual message to Congress in December last, it is important that in case there is any uncertainty as to the real necessity for suspending all land killing, this Government should yield on that point rather than give the slightest ground for the charge that we have been in anyway remiss in observing our treaty obligations. I also wish to impress upon Congress that, as stated in my former message on this subject, it is essential in dealing with it not only to fulfill the obligations imposed upon the United States by the letter and the spirit of the convention, but also to consider the interests of the other parties to the convention, for their cooperation is necessary to make it an effective and permanent settlement of the fur-seal controversy.

WM. H. TAFT.

THE WHITE HOUSE, *January 8, 1913.*

RESIGNATION OF A MEMBER.

The SPEAKER laid before the House the following communication:

DAYTON, OHIO, *January 8, 1913.*

Hon. CHAMP CLARK,
House of Representatives, Washington, D. C.

MY DEAR SIR: I beg to advise you that I have forwarded to the governor of this State my resignation as Representative in Congress from the third Ohio district.

JAMES M. COX.

HOUSE BILL, WITH SENATE AMENDMENTS, REFERRED.

Under clause 2 of Rule XXIV, House bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

H. R. 23451. An act to pay certain employees of the Government for injuries received while in the discharge of their duties, and other claims for damages to and loss of private property, with Senate amendments; to the Committee on Claims.

CHANGE OF REFERENCE.

By unanimous consent, the Committee on Public Buildings and Grounds was discharged from further consideration of the bill (S. 4607) to amend section 3618 of the Revised Statutes, relating to the sale of public property, and the same was referred to the Committee on Naval Affairs.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. McCOY, for five days, on account of important business.

To Mr. GREENE of Vermont, for the remainder of the week, on account of important business.

ADJOURNMENT.

Mr. SMITH of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 27 minutes p. m.) the House adjourned until to-morrow, Thursday, January 9, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Acting Secretary of War, recommending a change in special estimate for appropriation for work of Front Royal Remount Depot, Va., submitted to Congress under date of December 8, 1912 (H. Doc. No. 1251); to the Committee on Military Affairs and ordered to be printed.

2. A letter from the Secretary of State, transmitting pursuant to law an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Washington at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

3. A letter from the Secretary of State, transmitting pursuant to law an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of South Dakota at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. CLAYTON, from the Committee on the Judiciary, to which was referred the bill (H. R. 27827) to amend section 70 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, reported the same without amendment, accompanied by a report (No. 1281), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. RUSSELL, from the Committee on Invalid Pensions, to which was referred the bill (S. 7160) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, reported the same with amendment, accompanied by a report (No. 1283); which said bill and report were referred to the Private Calendar.

Mr. WITHERSPOON, from the Committee on Naval Affairs, to which was referred the bill (H. R. 23900) authorizing the President to reinstate Joseph Eliot Austin as an ensign in the United States Navy, reported the same without amendment, accompanied by a report (No. 1282); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. DUPRÉ: A bill (H. R. 27828) providing for the celebration of the one hundredth anniversary of the Battle of New Orleans, fought on the field of Chalmette on January 8, 1815, providing for the erection of a suitable memorial thereof, and making an appropriation for that purpose; to the Committee on the Library.

By Mr. HAYDEN: A bill (H. R. 27829) granting pensions to certain soldiers who served in the Indian wars from 1864 to 1898, and to their widows; to the Committee on Pensions.

By Mr. CALDER: A bill (H. R. 27830) for the enlargement of the Federal building in the Borough of Brooklyn, New York City, State of New York; to the Committee on Public Buildings and Grounds.

By Mr. FRENCH: A bill (H. R. 27831) to provide for State selection of phosphate and oil lands; to the Committee on the Public Lands.

By Mr. KENT: A bill (H. R. 27832) authorizing the survey of Point Arena (Cal.) Harbor; to the Committee on Rivers and Harbors.

By Mr. HAYES: A bill (H. R. 27833) to place certain exacting assistant surgeons of the United States Army on the

retired list of the United States Army; to the Committee on Military Affairs.

Also, a bill (H. R. 27834) to amend an act entitled "An act to regulate the immigration of aliens into the United States"; to the Committee on Immigration and Naturalization.

By Mr. HOBSON: A bill (H. R. 27835) to provide for the erection of a public building at Jasper, Ala.; to the Committee on Public Buildings and Grounds.

By Mr. RAINEY: A bill (H. R. 27836) to improve the channel of the Illinois River at Meredosia, Ill.; to the Committee on Rivers and Harbors.

By Mr. DAVIS of West Virginia: A bill (H. R. 27837) to authorize the Buckhannon & Northern Railroad Co. to construct and operate a bridge across the Monongahela River in the State of West Virginia; to the Committee on Interstate and Foreign Commerce.

By Mr. SHEPPARD: Joint resolution (H. J. Res. 380) authorizing the granting of permits to the committee on inaugural ceremonies on the occasion of the inauguration of the President elect on March 4, 1913, etc.; to the Committee on Public Buildings and Grounds.

PRIVATE BILLS AND RESOLUTIONS INTRODUCED.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. AUSTIN: A bill (H. R. 27838) granting an increase of pension to Eliza J. Loftis; to the Committee on Invalid Pensions.

By Mr. CALDER: A bill (H. R. 27839) granting an increase of pension to Harriet Quail; to the Committee on Invalid Pensions.

By Mr. DAVENPORT: A bill (H. R. 27840) for the relief of the heirs of Mahaly Fields, deceased; to the Committee on War Claims.

By Mr. DENVER: A bill (H. R. 27841) granting an increase of pension to Henry Burge; to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 27842) for the relief of the legal representatives of Miles Hunter, deceased; to the Committee on War Claims.

By Mr. FRENCH: A bill (H. R. 27843) for the relief of Oliver P. Pring; to the Committee on Claims.

Also, a bill (H. R. 27844) for the relief of E. De Atley & Co.; to the Committee on War Claims.

Also, a bill (H. R. 27845) granting a pension to William S. Miller; to the Committee on Pensions.

Also, a bill (H. R. 27846) granting a pension to William H. Winters; to the Committee on Invalid Pensions.

By Mr. GARDNER of Massachusetts: A bill (H. R. 27847) granting a pension to Edward J. Prime; to the Committee on Invalid Pensions.

By Mr. GOEKE: A bill (H. R. 27848) granting an increase of pension to William H. Gallant; to the Committee on Invalid Pensions.

By Mr. HAUGEN: A bill (H. R. 27849) granting a pension to Matt Farmer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27850) to remove the charge of desertion from the military record of Michael McWilliams; to the Committee on Military Affairs.

By Mr. HAYDEN: A bill (H. R. 27851) granting a pension to Marie Elizabeth Bailey; to the Committee on Invalid Pensions.

By Mr. HAYES: A bill (H. R. 27852) for the relief of Harlan W. Jenks; to the Committee on Claims.

By Mr. HOUSTON: A bill (H. R. 27853) granting an increase of pension to Tillman Crook; to the Committee on Invalid Pensions.

By Mr. KENT: A bill (H. R. 27854) granting an increase of pension to Rebecca M. Liening; to the Committee on Invalid Pensions.

By Mr. LITTLEPAGE: A bill (H. R. 27855) granting an increase of pension to George H. Imboden; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27856) for the relief of Lycurgus Campbell, administrator of the estate of Edward Campbell, deceased; to the Committee on War Claims.

By Mr. McCREARY: A bill (H. R. 27857) granting an increase of pension to Thomas Wells; to the Committee on Invalid Pensions.

By Mr. MADDEN: A bill (H. R. 27858) for the relief of Frank Kleiminger; to the Committee on Claims.

Also, a bill (H. R. 27859) granting an increase of pension to H. W. Howe; to the Committee on Invalid Pensions.

By Mr. MOTT: A bill (H. R. 27860) granting John G. Escudero an advance in grade on the retired list of the Army; to the Committee on Military Affairs.

By Mr. PAYNE: A bill (H. R. 27861) granting a pension to Albert Brines; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27862) granting an increase of pension to Joseph Menanson; to the Committee on Invalid Pensions.

By Mr. PICKETT: A bill (H. R. 27863) granting a pension to Emily T. Lane; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27864) granting a pension to George C. Howland; to the Committee on Invalid Pensions.

By Mr. RUCKER of Missouri: A bill (H. R. 27865) granting a pension to Sophia J. Taylor; to the Committee on Invalid Pensions.

By Mr. RUCKER of Colorado: A bill (H. R. 27866) granting an increase of pension to Samuel A. Wright; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27867) granting an increase of pension to Martin V. B. Eisenberger; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27868) granting an increase of pension to Halsey P. Gabriel; to the Committee on Invalid Pensions.

By Mr. RUSSELL: A bill (H. R. 27869) granting a pension to Ollie I. Bruton; to the Committee on Invalid Pensions.

By Mr. RAUCH: A bill (H. R. 27870) granting an increase of pension to Elizabeth Whitestine; to the Committee on Invalid Pensions.

By Mr. WILSON of New York: A bill (H. R. 27871) granting an increase of pension to Johanna Koerner; to the Committee on Invalid Pensions.

By Mr. WOOD of New Jersey: A bill (H. R. 27872) for the relief of Ernest C. Stahl; to the Committee on Military Affairs.

Also, a bill (H. R. 27873) granting an increase of pension to James G. Hagamen; to the Committee on Invalid Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 23134) granting a pension to Mary Bruce; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 27685) granting a pension to Roxanna Starkey; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of Farmers' National Congress and National Grange, favoring the passage of Senate bill 3, for vocational education; to the Committee on Agriculture.

Also, petition of Ransom Dry Goods Co. and 16 other merchants of Coshocton, Ohio, favoring the passage of legislation giving the Interstate Commerce Commission further power toward controlling the express companies; to the Committee on Interstate and Foreign Commerce.

By Mr. BUTLER: Petition of the Order of Independent Americans, of Chester, Phoenixville, Clifton Heights, Elverson, Marshallton, Concordville, Darlys, and Charlestown, Pa., and other citizens of Pennsylvania, all favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. DAVENPORT: Papers to accompany bill for the relief of the heirs of Mahaly Fields, deceased; to the Committee on War Claims.

By Mr. FORNES: Petition of citizens of New York, N. Y., favoring the passage of House bill 26277, for the establishment of a United States court of patent appeals; to the Committee on Patents.

Also, petition of the Chamber of Commerce of the United States of America, Washington, D. C., favoring the passage of House bill 25106, for its incorporation under a Federal charter; to the Committee on the Judiciary.

Also, petition of the Federation of Jewish Farmers of America, New York, favoring the passage of legislation establishing a system of farmers' credit unions; to the Committee on Banking and Currency.

By Mr. FITZGERALD: Petition of the general executive committee of the Railway Business Association, favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the Chambers of Commerce of Missoula and Polson, Mont., favoring the passage of a bill making an appropriation of $200,000 for the reclamation work on Flathead Reservation; to the Committee on Appropriations.

By Mr. FULLER: Petition of Charles N. Prouty, Spencer, Mass., favoring the passage of the Kenyon-Sheppard bill, pre-

venting the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of Milton S. Florsheim, Chicago, Ill., favoring the passage of legislation to publish all hearings under the Sherman antitrust law; to the Committee on Interstate and Foreign Commerce.

By Mr. GARNER: Petition of citizens of Mathis, Tex., favoring the passage of the Kenyon-Sheppard bill, prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. HARDWICK: Petition of the Sibley Manufacturing Co., Augusta, Ga., and A. Klipstein & Co., New York, both favoring legislation placing zinc dust on the free list; to the Committee on Ways and Means.

By Mr HARTMAN: Petition of the Department of Internal Affairs, Bureau of Standards, Harrisburg, Pa, favoring the passage of House bill 23113, fixing a standard barrel for fruits, vegetables, etc.; to the Committee on Ways and Means.

By Mr. HAYES: Petition of Corlin H. McIsaac, Santa Cruz, Cal.; David Starr Jordan, Stanford University, Cal.; R. W. Putnam, San Luis Obispo, Cal.; and Edwin Duryea, jr., San Francisco, Cal., all favoring the passage of House bill 22589, for the construction of consular and diplomatic buildings at Mexico City, Tokyo, Berne, and Hankow; to the Committee on Foreign Affairs.

Also, petition of S. J. Mayock, Gilroy, Cal., protesting against the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of W. P. Fuller & Co., San Francisco, Cal., favoring the passage of House bill 25106, for the incorporation of the Chamber of Commerce of the United States of America under a Federal charter; to the Committee on the Judiciary.

Also, petition of the San Francisco District (California) Federation of Women's Clubs, favoring the passage of legislation for the retention of the name of Yerba Buena Island instead of Goat Island; to the Committee on the Territories.

Also, petition of the Political Equality Club, San Jose, Cal., favoring the passage of legislation for the recognition of the Chinese Republic; to the Committee on Foreign Affairs.

Also, petition of Frederick J. Koster, San Francisco, Cal., favoring the passage of Senate bill 4043, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. LINDSAY: Petition of Harrison Clark, passed department commander State of New York Grand Army of the Republic, favoring the passage of House bill 1339, granting increase of pension to veterans who lost a limb in the Civil War; to the Committee on Invalid Pensions.

By Mr. MARTIN of South Dakota: Petition of citizens of Lincoln, Nebr., favoring the passage of legislation giving a national ownership and control of all public telephone and telegraph wires; to the Committee on Interstate and Foreign Commerce.

By Mr. MOON of Tennessee: Petition of railroad men of Tennessee, protesting against the passage of House bill 5382, the Brantley workmen's compensation bill; to the Committee on the Judiciary.

By Mr. SMITH of New York: Petition of Buffalo Historical Society, Buffalo, N. Y., favoring the passage of legislation for the erection of a proper national archives building at Washington, D. C.; to the Committee on Public Buildings and Grounds.

By Mr. TILSON: Petition of the Warner Bros. Co., Bridgeport, Conn., protesting against the passage of section 2 of the Oldfield patent bill, preventing the manufacturers from fixing the prices on patent goods; to the Committee on Patents.

SENATE.

THURSDAY, *January 9, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

Mr. BACON took the chair as President pro tempore under the previous order of the Senate.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. GALLINGER and by unanimous consent, the further reading was dispensed with and the Journal was approved.

LOANS IN THE DISTRICT OF COLUMBIA.

Mr. CURTIS. I present a conference report on the disagreeing votes of the two Houses upon the bill (H. R. 8768) to regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia. (S. Doc. No. 998.)

Mr. CRAWFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from South Dakota suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crane	Kern	Sanders
Bacon	Crawford	Lodge	Shively
Borah	Cullom	McLean	Simmons
Bourne	Curtis	Martin, Va.	Smith, Ariz.
Bradley	Dillingham	Martine, N. J.	Smoot
Brandegee	Dixon	Nelson	Sutherland
Bristow	du Pont	Newlands	Swanson
Brown	Fletcher	Oliver	Thornton
Bryan	Foster	Page	Tillman
Burnham	Gallinger	Perkins	Townsend
Burton	Gronna	Perky	Warren
Catron	Hitchcock	Poindexter	Wetmore
Chamberlain	Johnson, Me.	Reed	Williams
Clapp	Jones	Richardson	Works
Clark, Wyo.	Kenyon	Root	

Mr. CLAPP (when Mr. LA FOLLETTE's name was called). The senior Senator from Wisconsin [Mr. LA FOLLETTE] is necessarily detained from the Chamber on committee work.

Mr. CLAPP (when Mr. MCCUMBER's name was called). The senior Senator from North Dakota [Mr. MCCUMBER] is necessarily detained from the Chamber on committee work.

Mr. MARTIN of Virginia (when Mr. O'GORMAN's name was called). The junior Senator from New York [Mr. O'GORMAN] is detained from the Senate on official business in connection with Senate work.

Mr. SIMMONS. I desire to announce that my colleague [Mr. OVERMAN] is absent on account of sickness.

Mr. TOWNSEND. The senior Senator from Michigan [Mr. SMITH] is absent on business of the Senate. I will let this announcement stand for the day.

Mr. KERN. I again announce the unavoidable absence of the junior Senator from South Carolina [Mr. SMITH] on account of a death in his family.

The PRESIDENT pro tempore. On the call of the roll of the Senate 59 Senators have responded to their names. A quorum of the Senate is present.

Mr. CURTIS. I call for the reading of the conference report.

The PRESIDENT pro tempore. The Secretary will read the report.

Mr. TOWNSEND. As I understand it, this is a conference report on the so-called loan-shark bill, which has been before the Senate for some time.

The PRESIDENT pro tempore. It has not yet been laid before the Senate.

Mr. TOWNSEND. I will wait.

Mr. REED. As a matter of inquiry, does this take precedence of the order of morning business?

The PRESIDENT pro tempore. The rule of the Senate is that a conference report is always in order, except while the Journal is being read, while the Senate is dividing, and one or two other exceptions. It is in order now.

Mr. REED. Will the Senator from Kansas yield long enough to permit the introduction of a bill?

The PRESIDENT pro tempore. That order has not yet been reached. There are several other orders before the introduction of bills.

Mr. REED. I understand, then, that that order will come, but I thought the Senator from Kansas intended to call up a matter for discussion.

Mr. CURTIS. It will take no time, I will state to the Senator from Missouri.

Mr. REED. Very well.

The PRESIDENT pro tempore. The report will be read.

The Secretary read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8768) to regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 3, 6, 7, 8, 9, 10, 11, and 12.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 4, and 5, and agree to the same.

That the Senate recede from its amendment to the title of the bill.

CHARLES CURTIS,
WILLIAM P. DILLINGHAM,
T. H. PAYNTER,
Managers on the part of the Senate.

BEN JOHNSON,
J. A. M. ADAIR,
L. C. DYER,
Managers on the part of the House.

Mr. TOWNSEND. Mr. President, I ask that the conference report be printed and lie over until to-morrow.

Mr. CURTIS. I have no objection to that order, but give notice that immediately after the routine morning business to-morrow I will call up the conference report for action.

The PRESIDENT pro tempore. Under the suggestion of the Senator from Kansas, without objection, the report will be printed and lie over until to-morrow.

SENATOR FROM ARKANSAS.

Mr. WILLIAMS. Mr. President, I present the credentials of the appointment of Mr. J. N. HEISKELL as a Senator from the State of Arkansas.

The PRESIDENT pro tempore. The credentials will be read.

The credentials of J. N. HEISKELL, appointed by the governor of the State of Arkansas a Senator from that State to fill the vacancy in the term ending March 3, 1913, occasioned by the death of Senator JEFF DAVIS, were read and ordered to be filed.

Mr. WILLIAMS. The Senator appointed is present, and I ask that the oath be administered to him.

The PRESIDENT pro tempore. The Senator appointed will present himself at the desk to take the oath of office.

Mr. HEISKELL was escorted to the Vice President's desk by Mr. WILLIAMS, and the oath prescribed by law having been administered to him, he took his seat in the Senate.

REPORT OF ECONOMY AND EFFICIENCY COMMISSION (H. DOC. NO. 1252).

The PRESIDENT pro tempore laid before the Senate a message from the President of the United States, which was read, and, with the accompanying papers and illustrations, ordered to lie on the table and be printed.

(See House proceedings of January 8, 1913.)

FUR SEALS (S. DOC. NO. 997).

The PRESIDENT pro tempore laid before the Senate a message from the President of the United States, which was read and referred to the Committee on Foreign Relations and ordered to be printed.

(See House proceedings of January 8, 1913.)

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore laid before the Senate communications from the Secretary of State, transmitting, pursuant to law, authentic copies of the certificate of ascertainment of electors for President and Vice President appointed in the States of Missouri and Pennsylvania at the elections held in those States November 5, 1912, which were ordered to be filed.

INTERSTATE SHIPMENT OF LIQUORS.

Mr. SANDERS. Mr. President——

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). Petitions and memorials are in order. The Senator from Tennessee.

Mr. SANDERS. Mr. President, last Monday I asked unanimous consent that the bill to prohibit interstate commerce in intoxicating liquors be taken up next Monday. Objection was made on account of the fact that the impeachment trial would take up most of this week and that there would not be time for discussion of the measure. Then on Tuesday I made the same request, making the date one week later, which would be January 20. It was proposed that it should not interfere with appropriation bills. It was also suggested that at that particular time there were not enough Senators in the Chamber to give the request proper consideration.

I now make the same request, with the proviso that it is not to interfere with appropriation bills. I wish to say in this connection that since I brought the matter up on last Tuesday we have been able to determine about when the impeachment trial will be concluded, and that this request, if granted, will still leave one week for a discussion of this bill after the conclusion of the impeachment trial. I therefore send to the desk, Mr. President, the following request.

The PRESIDING OFFICER. The Senator from Tennessee asks unanimous consent for the consideration of the following order, which will be reported by the Secretary.

Mr. REED. Mr. President——

Mr. LODGE. Let it be read. Senators ask that it be read.

Mr. REED. Under what order are we proceeding?

The PRESIDING OFFICER. We are proceeding under the order of petitions and memorials; but the Chair understands that the Senator from Tennessee is requesting unanimous consent——

Mr. REED. Is that in order at this time?

The PRESIDING OFFICER. The Chair thinks it is in order, by unanimous consent, but that it could not be put, out of order, in the event of a single objection.

Mr. REED. The time of the Senate has been consumed this morning by the reading of messages from the President of the United States, and there are some bills that I want to introduce and I think that this request is not in order at this time. I think the only thing that is in order at this time is the presentation of petitions and memorials.

Mr. SANDERS. I understand it is in order.

The PRESIDING OFFICER. The Chair would rule that it is in order for a Senator to ask unanimous consent for the consideration of any matter.

Mr. LODGE. I suppose a request for unanimous consent is equivalent to asking for an order of the Senate, and it would come in under the last order of business—the morning hour—would it not? It would come in legitimately and could not be kept out by a single objection.

The PRESIDING OFFICER. The ruling of the Chair was that unanimous consent could be asked at any time.

Mr. LODGE. That is possible at any time, I agree, but it would be in order at this time regularly under the last order of morning business.

Mr. SANDERS. I ask that this order be read and that unanimous consent be given to place it before the body.

The PRESIDING OFFICER. The Secretary will read the proposed order presented by the Senator from Tennessee.

Mr. REED. Mr. President, I rise to a point of order that the request itself at this time is not in order.

The PRESIDING OFFICER. In the opinion of the Chair the point of order is not well taken.

Mr. REED. To state my point, under this order of business you can no more ask unanimous consent to take up a particular bill than you can do any other thing which does not come under the head of the presentation of petitions and memorials. This is not a petition or a memorial. The Senator could ask unanimous consent to set aside the order of business, but that is not what he is asking. He is asking unanimous consent for the consideration of a bill at a particular time.

Mr. SANDERS. Mr. President, I rise to a point of order.

The PRESIDING OFFICER. The Senator from Missouri has the floor and is speaking to a point of order.

Mr. SANDERS. My point of order is that the Chair has already ruled.

The PRESIDING OFFICER. The Chair had ruled. The Secretary will report the request.

Mr. REED. Mr. President, I object.

The PRESIDING OFFICER. Objection is made to the consent asked for by the Senator from Tennessee. Are there further——

Mr. MARTINE of New Jersey. I desire to present certain petitions.

Mr. NELSON. We have a right to hear the request read, because we have a right to determine whether the objection is good or not.

The PRESIDING OFFICER. The Secretary was about to report the request, which was verbally stated by the Senator from Tennessee. If there is demand for it, the Secretary will report the request that is made in writing.

The Secretary read as follows:

It is agreed by unanimous consent that on Monday, January 20, at 3 o'clock p. m., the bill (S. 4043) to prohibit interstate commerce in intoxicating liquors be taken up for consideration, not to interfere with appropriation bills, and that the vote be taken on all amendments pending and amendments to be offered, and upon the bill itself, not later than the hour of 6 o'clock on that day.

The PRESIDING OFFICER. Objection is made.

PETITIONS AND MEMORIALS.

Mr. GALLINGER presented a petition of Starr King Chapter, No. 32, Order of Eastern Star, of Berlin, N. H., praying that an appropriation be made for the erection of a public building in that city, which was referred to the Committee on Public Buildings and Grounds.

He also presented a petition of the Woman's Christian Temperance Union of Berlin, N. H., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. McLEAN presented a memorial of members of the German-American Alliance of Bridgeport, Conn., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. MARTINE of New Jersey presented a petition of the congregation of the First Presbyterian Church of Hamilton Square, N. J., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. LODGE presented a petition of sundry citizens of Stoneham, Mass., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. WARREN, from the Committee on Military Affairs, to which was referred the bill (S. 7515) for the relief of Col. Richard H. Wilson, Fourteenth Infantry, United States Army, reported it with an amendment and submitted a report (No. 1087) thereon.

Mr. SMOOT, from the Committee on Public Lands, to which was referred the bill (S. 7638) to provide for State selections on phosphate and oil lands, reported it with amendments and submitted a report (No. 1088) thereon.

Mr. JONES, from the Committee on Public Lands, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 5377. A bill releasing the claim of the United States Government to lot No. 306, in the old city of Pensacola (S. Rept. 1090); and

S. 5378. A bill releasing the claim of the United States Government to that portion of land, being a fractional block, bounded on the north and east by Bayou Cadet, on the west by Cevallos Street, and on the south by Intendencia Street, in the old city of Pensacola (S. Rept. 1089).

Mr. CURTIS, from the Committee on Pensions, to which was referred the bill (H. R. 27062) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, reported it with amendments and submitted a report (No. 1091) thereon.

He also, from the same committee, to which were referred certain bills granting pensions and increase of pensions, submitted a report (No. 1092) accompanied by a bill (S. 8034) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, which was read twice by its title, the bill being a substitute for the following Senate bills heretofore referred to that committee.

S. 33. Ellen B. Kittredge.
S. 300. Thomas W. Dickey.
S. 437. Mary E. McDermott.
S. 921. Henry Frink.
S. 1115. Christian C. Bradymeyer.
S. 1223. George M. Pierce.
S. 2106. Joseph C. Trickey.
S. 2293. James M. Kinnaman.
S. 2379. Addie Roof.
S. 2490. Leeman Underhill.
S. 2563. Charles W. Morgan.
S. 2634. Alphonso L. Stasy.
S. 2948. Jeremiah Lushbough.
S. 3178. James B. Sales.
S. 3304. Mary E. Rikard.
S. 3370. Margaret H. Benjamin.
S. 3490. Benjamin F. Ferris.
S. 3522. Hiram Ferrier.
S. 3573. Henry B. Leach.
S. 3597. John Bell.
S. 3665. Elizabeth Lile.
S. 3666. George M. Conner.
S. 3673. Lola B. Hendershott and Louise Hendershott.
S. 3748. Daniel H. Grove.
S. 3993. Charlotte R. Coe.
S. 4123. Caroline M. Packard.
S. 4255. Benjamin C. Smith.
S. 4656. George R. Griffith.
S. 4802. Rolly Wright.
S. 4819. Charles J. Higgins.
S. 4989. Joseph Letzkus.
S. 5033. Israel H. Phillips.
S. 5136. John E. Woodward.
S. 5171. Josephine A. Davis.
S. 5329. Osmer C. Coleman.
S. 5339. Hugh McLaughlin.
S. 5514. Joseph Striker.
S. 5528. Mary Glancey.
S. 5562. Joby A. Howland.
S. 5657. Andrew King.
S. 5852. Mary S. Hull.
S. 6012. Sarah E. Haskins.
S. 6169. Ira Waldo.
S. 6270. Ellis C. Howe.
S. 6452. Thomas M. Dixon and Joanna L. Dixon.
S. 6606. Solomon Wilburn.
S. 6651. William O. Sutherland.
S. 6664. Annie H. Ross.
S. 6739. John Dixon.
S. 6750. Arnold Bloom.
S. 6759. John D. Perkins.
S. 6787. William Harrison.
S. 6791. Sarah E. Johnson.
S. 6873. Willis Dobson.
S. 6878. Zachariah T. Fortner.
S. 6931. Jesse A. Moore.
S. 6938. James Moynahan.
S. 6955. Dustin Berrow.
S. 6966. Sarah J. Viall.
S. 6968. James Luther Justice.
S. 6973. Mary A. Crocker.
S. 7000. Winfield S. McGowan.
S. 7025. Martha J. Stephenson.
S. 7047. George E. Smith.
S. 7076. Roscoe B. Smith.
S. 7084. Mate Fulkerson.
S. 7100. Fred D. Bryan.
S. 7108. Ada M. Wade.
S. 7136. Charlotte M. Snowball.
S. 7137. Albert White.
S. 7164. William W. Lane.
S. 7173. Lydia M. Jacobs.
S. 7190. Albert Burgess.
S. 7200. Rosa L. Couch.
S. 7214. John Cook, alias Joseph Moore.
S. 7215. Amanda Barrett.
S. 7216. Alvah S. Howes.
S. 7219. George C. Rider.
S. 7224. Charles C. Littlefield.
S. 7276. Martha Dye.
S. 7282. Carrie Hitchcock.
S. 7363. Sarah McLaury.
S. 7376. William H. Frederick.
S. 7460. Joseph D. Iler.
S. 7510. Rodney S. Vaughan.
S. 7526. Isaac A. Sharp.
S. 7529. Turner S. Bailey.
S. 7547. Alpheus K. Rodgers.
S. 7556. Christina Higgins.
S. 7557. Josiah B. Hall.
S. 7569. Ellen Tyson.
S. 7581. William Hoover.
S. 7587. Abby E. Carpenter.
S. 7588. Sarah Gross.
S. 7595. Nelson Taylor.
S. 7596. Carrie Crockett.
S. 7615. Lucy H. Collins.
S. 7624. Royal H. Stevens.
S. 7628. Araminta G. Sargent.
S. 7661. Sidney P. Jones.
S. 7664. Ann T. Smith.
S. 7677. Ellen E. Clark.
S. 7701. Sarah B. Paden.
S. 7717. Edmund P. Banning.
S. 7719. Winchester E. Moore.
S. 7730. Mary P. Pierce.
S. 7775. John B. Ladeau.
S. 7781. Christopher P. Brown.
S. 7791. Allen Price.
S. 7805. Delphine R. Burritt.

He also, from the same committee, to which were referred certain bills granting pensions and increase of pensions, submitted a report (No. 1093) accompanied by a bill (S. 8035) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, which was read twice by its

title, the bill being a substitute for the following Senate bills heretofore referred to that committee:

S. 1915. Caroline M. Anthony.
S. 2465. Arthur F. Shepherd.
S. 3615. Walter L. Donahue.
S. 3726. Calvin R. Lockhart.
S. 3920. Albert J. Wallace.
S. 4691. Thomas M. F. Delaney.
S. 6091. Joseph Hurd.
S. 6101. John D. Sullivan.
S. 6107. Mary E. Maher.
S. 6193. George W. James.
S. 6276. George G. Thirlby.
S. 6764. Lansing B. Nichols.
S. 6883. Jacob Korby.
S. 6898. John J. Ledford.
S. 6921. Deborah H. Riggs.
S. 6998. Elmer E. Rose.
S. 7021. Cyrenius Mulkey.
S. 7032. Patrick J. Whelan.
S. 7036. John F. Burton.
S. 7065. Ephraim W. Baughman.
S. 7135. James J. Blevans.
S. 7281. Henry H. Woodward.
S. 7305. Bertie L. Wade.
S. 7328. Charlotte R. Wynne.
S. 7368. Otto Weber.
S. 7466. Carl W. Carlson.

THE JUDICIAL CODE.

Mr. SMOOT. I am directed by the Committee on Printing, to which was referred Senate concurrent resolution 34, for the printing of 25,000 copies of the Judicial Code, to report it with amendments, and I ask unanimous consent for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the concurrent resolution.

The amendments were, in line 2, before the word "thousand," to strike out "twenty-five" and insert "thirty," and at the end of the resolution to insert the words "and 5,000 copies for the use of the Senate document room."

The amendments were agreed to.

The concurrent resolution as amended was agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That there be printed 30,000 copies of the Judicial Code of the United States, prepared under the direction of the Judiciary Committee of the Senate, 10,000 copies of which shall be for the use of the Senate and 15,000 copies for the use of the House of Representatives, and 5,000 copies for the use of the Senate document room.

BILLS AND JOINT RESOLUTIONS INTRODUCED.

Bills and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CHAMBERLAIN:

A bill (S. 8036) granting an increase of pension to George S. Pauer; to the Committee on Pensions.

By Mr. KERN:

A bill (S. 8037) for the relief of Israel Sturges; and

A bill (S. 8038) for the relief of James M. Blankenship (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 8039) granting a pension to Delia E. Godfrey (with accompanying papers); to the Committee on Pensions.

By Mr. JONES:

A bill (S. 8040) for the relief of the Pacific Creosoting Co.; to the Committee on Claims.

By Mr. OWEN:

A bill (S. 8041) granting a pension to Seberon J. M. Cox (with accompanying papers); and

A bill (S. 8042) granting an increase of pension to Samuel L. Hess (with accompanying papers); to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 8043) granting an increase of pension to Mary E. Beach (with accompanying papers); and

A bill (S. 8044) granting an increase of pension to John McCarthy (with accompanying papers); to the Committee on Pensions.

By Mr. ASHURST:

A bill (S. 8045) opening the surplus and unallotted lands in the Colorado River Indian Reservation to settlement under the provisions of the Carey land acts, and for other purposes; to the Committe on Indian Affairs.

By Mr. BURNHAM:

A bill (S. 8046) granting a pension to Anna Kennedy; to the Committee on Pensions.

By Mr. ROOT:

A bill (S. 8047) to enable the Secretary of War to pay the amount awarded to the Malambo fire claimants by the joint commission under article 6 of the treaty of November 18, 1903, between the United States and Panama; to the Committee on Appropriations.

A bill (S. 8048) to provide for the purchase of a site and the erection of a public building thereon at Walden, N. Y.; to the Committee on Public Buildings and Grounds.

By Mr. OLIVER:

A bill (S. 8049) granting an increase of pension to Harvey T. Smith (with accompanying papers); to the Committee on Pensions.

By Mr. WILLIAMS:

A bill (S. 8050) to carry into effect the findings of the Court of Claims in the matter of the claim of Elizabeth Johnson; to the Committee on Claims.

A bill (S. 8051) authorizing the Secretary of War, in his discretion, to deliver to the town of Washington, in the State of Mississippi, for the use of Jefferson College, one condemned cannon, with its carriage and outfit of cannon balls; and

A bill (S. 8052) authorizing the Secretary of War, in his discretion, to deliver to the city of Corinth, in the State of Mississippi, one condemned cannon, with its carriage and outfit of cannon balls; to the Committee on Military Affairs.

By Mr. REED:

A bill (S. 8053) to authorize the creation of a temporary commission to investigate and make recommendation as to the necessity or desirability of establishing a national aerodynamical laboratory, and prescribing the duties of said commission, and providing for the expenses thereof; to the Committee on Naval Affairs.

A bill (S. 8054) to provide for the enlargement, extension, remodeling, and improvement of the post-office building at Moberly, Mo., and for other purposes; to the Committee on Public Buildings and Grounds.

By Mr. MARTINE of New Jersey:

A bill (S. 8055) granting a pension to Gilbert J. Jackson (with accompanying papers); and

A bill (S. 8056) granting a pension to John J. Miller (with accompanying papers); to the Committee on Pensions.

By Mr. CRAWFORD:

A bill (S. 8057) regulating the issuance of interlocutory injunctions restraining the enforcement of orders made by the Interstate Commerce Commission, and orders made by administrative boards or commissions created by and acting under the statutes of a State; to the Committee on the Judiciary.

By Mr. OWEN:

A joint resolution (S. J. Res. 149) extending the time for the survey, classification, and appraisement of the surface of the segregated coal and asphalt lands of the Choctaw and Chickasaw Nations in Oklahoma (with accompanying paper); to the Committee on Indian Affairs.

By Mr. WARREN:

A joint resolution (S. J. Res. 150) appropriating $40,000 for expenses of inquiries and investigations ordered by the Senate; to the Committee on Appropriations.

By Mr. MARTIN of Virginia:

A joint resolution (S. J. Res. 151) authorizing the Librarian of Congress to return to Williamsburg Lodge, No. 6, A. F. and A. M., of Virginia, the original manuscript of the record of the proceedings of said lodge; to the Committee on the Library.

SECOND PAN AMERICAN SCIENTIFIC CONGRESS.

Mr. ROOT submitted an amendment proposing to appropriate $50,000 to enable the Government of the United States to participate in the second Pan American Scientific Congress, to be held in Washington, D. C., October, 1914, intended to be proposed by him to the diplomatic and consular appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

OMNIBUS CLAIMS BILL.

The PRESIDING OFFICER. The hour of 1 o'clock having arrived——

Mr. CRAWFORD. I desire to give notice that I shall ask the Senate to resume the consideration of the omnibus claims bill at the close of the morning business to-morrow.

Mr. WILLIAMS and Mr. REED addressed the Chair.

The PRESIDING OFFICER. The Chair is compelled to carry out the order of the Senate, which is that at 1 o'clock it will reconvene as a Court of Impeachment.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) took the chair and announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald.

The respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, Mr. Robert W. Archbald, jr., and Mr. Martin.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The PRESIDENT pro tempore. The Sergeant at Arms will make proclamation.

The Sergeant at Arms made the usual proclamation.

The PRESIDENT pro tempore. The Secretary will read the Journal of the last sitting of the Senate for the consideration of the articles of impeachment.

The Secretary read the Journal of the proceedings of the Senate of Wednesday, January 8, 1913, when sitting as a court.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will stand approved. Mr. Manager HOWLAND has the floor.

Mr. Manager HOWLAND resumed and concluded the speech begun by him yesterday. The entire speech is as follows:

ARGUMENT OF MR. HOWLAND, ONE OF THE MANAGERS ON THE PART OF THE HOUSE.

Mr. Manager HOWLAND. Mr. President, I shall proceed immediately to submit for the consideration of the Senate certain propositions of law. The questions of fact will be discussed by my colleagues.

The managers contend that the power to impeach is properly invoked to remove a Federal judge whenever, by reason of misbehavior, misconduct, malconduct, or maladministration, the judge has demonstrated his unfitness to continue in office; that misbehavior on the part of a Federal judge is a violation of the Constitution, which is the supreme law of the land, and a violation also of his oath of office taken in compliance with the requirements of the statute law. If the Senate should adopt this view of the law, then the only question to be passed on by the Senate would be whether the acts alleged and proven constitute such misbehavior as to render the respondent unfit to continue in office.

In supporting our view of the law I shall *first* call attention to the issue of law directly raised by the pleadings; *second*, to the proper construction to be placed upon certain sections of the Constitution; and, *third*, to the precedents, both State and Federal.

The respondent, in answer to each one of the articles of impeachment filed against him in paragraph 1 thereof, uses the following language:

> That the said article does not set forth anything which, if true, constitutes an impeachable offense or a high crime or misdemeanor as defined in the Constitution of the United States, and that, therefore, the Senate sitting as a Court of Impeachment should not further entertain the charge contained in said article.

It will be noticed that in the first paragraph of his several answers to the various counts the respondent has really interposed what may properly be designated as a general demurrer to each and every article presented against him, and that by paragraph 2 of the answer to each article the respondent pleads by way of confession and avoidance, substantially admitting the acts charged and attempting to avoid by denying wrongful intent.

The replication interposed by the managers is a joinder in demurrer and a traverse of the new matter in the plea, so that the record in this case produces an issue of law and an issue of fact to be passed upon by the Senate at the same time. I can only account for this condition of affairs by presuming that counsel for the respondent had very little confidence in the issue of law raised by his general demurrer and therefore did not dare press it for decision before going to trial on the merits.

In the consideration of this case, if the Senate should decide that the demurrer interposed by the respondent ought to be sustained, that would terminate the inquiry, and it would, of course, be unnecessary to pass upon the issue of fact. Under the general allegation of the respondent's demurrer attacking the sufficiency in law of the various articles it was impossible to determine the exact ground upon which the respondent relied. Learned counsel for the respondent, however, in his opening statement to the Senate, which he has since amplified in his brief, used the following language:

> So we mean that what was a crime at the common law may be made impeachable here, and that any laws which Congress has passed since that time, if violated by any civil officer of the Government, judge, or President, or anyone else, may be the subject of impeachment, and that there can be no other impeachable offenses.

In that statement we are advised for the first time of the exact ground upon which counsel for the respondent intends to attack the sufficiency in law of the articles of impeachment, viz, that they charge no indictable offense at common law or under the Federal statutes. He thus raises once more the question which has been discussed in almost every proceeding of this character, whether Federal or State. This contention is entitled to our respectful consideration on account of its age, if for no other reason. Time and time again it has been urged, only to be disregarded by the various courts of impeachment, as we shall show by the authorities cited later.

The learned counsel for the respondent, by interposing his demurrer to the sufficiency of the articles and insisting that only indictable offenses are impeachable, would seem to be placing himself in the position of holding that the object of impeachment was punishment to the individual. This conception of the object of impeachment is entirely erroneous, and whatever injury may result to the individual is purely incidental and not one of the objects of impeachment in any sense. An impeachment proceeding is the exercise of a power which the people delegated to their representatives to protect them from injury at the hands of their own servants and to purify the public service. The sole object of impeachment is to relieve the people in the future, either from the improper discharge of official functions or from the discharge of official functions by an improper person. This view of impeachment is clearly demonstrated by the judgment which the Constitution authorizes in case of conviction and which shall extend no further than removal from office and disqualification to hold or enjoy any office of honor, trust, or profit under the Government of the United States, leaving the punishment of the individual for any crime he may have committed to the criminal court. (See Art. I, sec. 3, par. 7, Constitution of the United States.)

As bearing upon the question of law raised by the demurrer of the respondent I wish to call attention to two provisions of the Federal Constitution. Section 4, Article II, provides:

> The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors—

To which I shall hereafter refer as the removal section, and section 1, Article III, the second sentence thereof, which provides that—

> The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior.

To which I shall hereafter refer as the judicial-tenure section.

It will be noted that the removal section immediately precedes the judicial-tenure section. The limitation of the judicial tenure to good behavior is the only limitation of that character to be found in the Federal Constitution upon the tenure of any of the civil officers of the Government. I therefore contend that it was the plain intention of the framers of the Constitution that, in so far as the Federal judges were concerned, the removal section was not intended to be antagonistic in its terms to the judicial-tenure section, immediately following it, and that the judicial-tenure section, which provides that the judicial term shall be during good behavior, was not intended to be antagonistic to the removal section, which immediately precedes it. These two sections must be construed together, and when so construed the judicial-tenure section is of necessity either an addition to the enumerated offenses in the removal section or a definition of the term "high crimes and misdemeanors," when applied to the judiciary, as including misbehavior. To say that the judicial tenure shall be limited to good behavior in one section of the Federal Constitution and then contend that the section of the Constitution immediately preceding that has destroyed its force and effect and has left the Federal Government without any machinery to pass upon the question of the forfeiture of the judicial tenure, or to take jurisdiction of acts which constitute misbehavior but are not criminal, is to treat the words "during good behavior" as surplusage. Such an interpretation violates all rules of construction.

THE LEGAL STATUS OF THE JUDICIAL TENURE.

What is the legal status of the judicial tenure and what determines that status? There are some considerations on which to base the claim that the legal status of the judicial tenure should be determined by the same principles that are applicable to a contract of hiring. The parties to the contract are the people of the United States and the candidate for a Federal judgeship. When he has been nominated by the President and confirmed by the Senate the commission tendered or delivered to him is an offer on the part of the people of the United States to the candidate, whereby they agree to enter into a contract on certain terms and conditions with the candidate and offer to pay him a fixed sum of money for the performance of certain services for them in accordance with the terms of the offer. No obligation on the part of the Government has yet attached; the candidate need not accept the offer; he is not compelled to qualify; that is a voluntary act on his part. (See Marberry *v.* Madison, 1 Cranch, 137.)

Section 257 of the judicial code provides that the Federal judges shall take a certain prescribed oath before they proceed to perform the duties of their respective offices.

The acceptance of the offer on the part of the candidate is evidenced by his oath, and when the oath is taken the contract of hiring becomes valid and binding on the parties to the same in accordance with the terms and conditions of the contract.

In this case the contracts between the United States and the respondent are evidenced by the various commissions and the various oaths accepting the same. The contract between the United States and the respondent as a circuit judge is evidenced by the commission bearing date the 31st day of January, 1911, in the words and figures following, to wit:

To all who shall see these presents, greeting:

Know ye that reposing special trust and confidence in the wisdom, uprightness, and learning of Robert Wodrow Archbald, of Pennsylvania, I have nominated and, by and with the advice and consent of the Senate, do appoint him additional circuit judge of the United States from the third judicial circuit, and do authorize and empower him to execute and fulfill the duties of that office according to the Constitution and laws of the said United States, and to have and to hold the said office, with all the powers, privileges, and emoluments to the same of right appertaining unto him, the said Robert Wodrow Archbald, *during his good behavior.* Appointed pursuant to the act of June 18, 1910 (36 Stats., 540), and hereby designated to serve for four years in the Commerce Court.

In testimony whereof I have caused these letters to be made patent and the seal of the Department of Justice to be hereunto affixed.

Given under my hand, at the city of Washington, the 31st day of January, A. D. 1911, and of the independence of the United States of America the one hundred and thirty-fifth.

[SEAL.] WM. H. TAFT.

By the President:

GEORGE W. WICKERSHAM,
Attorney General.

The oath of office bears date the 1st day of February, 1911, in the words and figures following, to wit:

I, Robert Wodrow Archbald, do solemnly swear that I will administer justice without respect to persons and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as additional circuit judge of the United States from the third judicial circuit, appointed pursuant to the act of June 18, 1910 (36 Stats., 540), and designated to serve for four years in the Commerce Court, according to the best of my abilities and understanding, *agreeably to the Constitution and laws of the United States;* and that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

R. W. ARCHBALD.

Subscribed and sworn to before me this 1st day of February, 1911.

[SEAL.] E. R. W. SEARLE,
Clerk District Court.

Under this state of facts, if we were not dealing with the Government as one of the parties to the contract, under constitutional limitations the contract could be abrogated for breach of condition if necessary and the rights of the parties determined in the courts of law.

If it should be objected that the legal status of the judicial tenure must be placed on a higher ground than an ordinary contract right by reason of the solemnities necessary to create the status and by reason of the important and sacred functions of government with which the judge is charged, we perhaps would be justified in saying that a fiduciary relation of the highest and most sacred character known to the law is created by the commission of appointment and the oath of acceptance of a Federal judge. Under this conception of the status of the judicial tenure the judge is acting as a trustee. The subject matter of the trust is the judicial power of the United States, and the beneficiaries of the trust are the people thereof. Given this status in a court of equity, the trustee, under well-known and well-recognized principles of equitable jurisprudence, can always be removed on application of the beneficiary and a showing that the trustee is not performing his duties as such trustee in such a manner as to satisfy the conscience of the chancellor that he is acting for the best interest of the beneficiary. Realizing, however, the manifest impropriety of leaving the question of forfeiting the judicial tenure to the judges, the framers of the Constitution wisely provided a different forum, viz, the Congress to raise and try the question of the forfeiture. We have now seen that whether we apply principles of law or equity to the status created by the appointment of the Federal judge there would be a forum to adjudicate the rights of the parties, and reasoning by analogy we are driven to the conclusion that the framers of the Constitution were not unmindful of the importance of the subject with which they were dealing, and intended to and did provide a forum before which the people of the United States could bring their judges and on proper showing of misbehavior, which demonstrates the unfitness of the judge to continue in office, work a forfeiture of the judicial tenure.

HIGH CRIMES AND MISDEMEANORS.

In the removal section of the Constitution we find the words "high crimes and misdemeanors." These words are used in the same sense that had attached to them for centuries in the impeachment trials of England. They were used as part of the well-recognized terminology of the law of Parliament as distinguished from the common law. We must bear in mind that these terms are used in a section of the Constitution which is plainly intended to protect the state against its own servants.

The two enumerated offenses of treason and bribery are offenses peculiarly against the state as distinguished from offenses against the individual. In construing a clause of this character in the Constitution where the whole object is to protect and preserve the Government, such a construction should be placed upon the language used as will best accomplish the results desired. To insist that the technical definition of the criminal law should be applied in construing the meaning of the terms "high crimes and misdemeanors" is to insist on the narrowest possible construction, and loses sight of the object and purpose of this clause in the Constitution. To insist that it is impossible to impeach a judge unless he has committed some indictable offense is to say that the people of this country are powerless to remove a Federal judge so long as he is able to keep out of jail. While no criminal is fit to exercise the judicial function, it does not follow that all other persons are fit to be judges. Such a construction is absolutely repulsive to reason and ought not to be and is not a correct interpretation of the term "high crimes and misdemeanors."

Attention is often called to the discussion that took place in the Constitutional Convention between Col. Mason and Mr. Madison in which Mr. Madison suggested that the term "maladministration" was too vague and the phrase "high crimes and misdemeanors" was adopted. Attention was called to that by the distinguished counsel for the respondent in his opening statement.

On the strength of this passage in Madison's papers it is contended that Mr. Madison did not construe the phrase "high crimes and misdemeanors" as including maladministration. (3 Madison's Papers, 1528.)

We find, however, that Mr. Madison in a speech in Congress on the 16th day of June, 1789, on the bill to establish a department of foreign affairs, in discussing the possibility of abuse of power by the Executive, said:

Perhaps the great danger of abuse in the Executive's power lies in the improper continuance of bad men in office. But the power we contend for will not enable him to do this, for if an unworthy man be continued in office by an unworthy President the House of Representatives can at any time impeach him and the Senate can remove him, whether the President chooses or not. The danger then consists merely in this: The President can displace from office a man whose merits require that he should be continued in it. What will be the motives which the President can feel for such abuse of his power and the restraints that operate to prevent it? In the first place, he will be impeachable by the House before the Senate for such an act of *maladministration*, for I contend that the wanton removal of meritorious officers would subject him to impeachment and removal from his own high trust. (4 Elliot's Debates, 375.)

This language clearly demonstrates that Mr. Madison believed that acts of maladministration which were not indictable were impeachable.

Nowhere in the English law of impeachment or in the Constitution of the United States or any of the States do we find any definition of impeachable offenses. The language of the Federal Constitution attempts no definition of impeachable offenses, and the general term "high crimes and misdemeanors" is not and was not intended to be a definition.

Under the State constitutions we sometimes find the added terms "mal and corrupt conduct," "corruption in office," and "maladministration," all general terms without attempting any technical definition. The reason for this is perfectly obvious, and is that the subject matter is not capable of technical definition. Who is wise enough to anticipate every manifestation of fraud that would give a chancellor jurisdiction and write it into a statute? It is the effect of acts under the circumstances of each particular case that confers jurisdiction. So it is with impeachments. No one can tell in advance in what way or from what source the danger may arise which demands the exercise of this power. The power of impeachment is recognized and authorized in every one of our constitutions, Federal and State, but the circumstances which warrant the exercise of that power are not defined and the necessity for its exercise is in the first instance left to the discretion of the House of Representatives. It is an indefinite and broad power incident to sovereignty, and its exercise in this country is demanded whenever the agents of sovereignty have acted in such a manner as to destroy their efficiency in the discharge of their duties to the sovereign. The existence of this power is necessary to the permanence of the State, and the exercise of the power is necessary whenever and however the welfare of the State may be threatened by its civil officers.

I wish at this point to submit for the consideration of the Senate the record in certain State trials of impeachments, with particular reference to their holdings on the question of whether the acts of a judge must be indictable to be impeachable, and then to make a very brief reference to the trials before the Senate of the United States.

IN THE MATTER OF THE IMPEACHMENT OF ALEXANDER ADDISON, ESQ., PRESIDENT OF THE COURT OF COMMON PLEAS IN THE CIRCUIT CONSISTING OF WESTMORELAND, FAYETTE, WASHINGTON, AND ALLEGHENY COUNTIES, IN THE STATE OF PENNSYLVANIA, ON AN IMPEACHMENT BY THE HOUSE OF REPRESENTATIVES BEFORE THE SENATE IN THE YEAR 1803.

The constitution of the State of Pennsylvania of 1790 governed this proceeding, and section 3 of article 4 of said constitution is the impeachment section thereof and provides that all civil officers of the Commonwealth shall be liable to impeachment for any misdemeanor in office.

Section 2 of article 5 of that constitution provides that judges shall hold their offices during good behavior, but for any reasonable cause which shall not be sufficient ground of impeachment the governor may remove any of them on the address of two-thirds of each branch of the legislature.

In the year 1801 the attorney general of the State of Pennsylvania filed a motion in the supreme court of the State asking leave to file an information against Judge Addison, on the ground of misbehavior on the same state of facts as subsequently alleged in the articles. The supreme court refused to grant the motion because the affidavit did not charge a crime and intimated that there was another remedy applicable to that state of facts. And thereafter the house of representatives preferred articles of impeachment against Judge Addison, alleging that he had obstructed the free, impartial, and due administration of justice, contrary to the public rights and interests of the Commonwealth. (See Addison's trial, pp. 16–69, 151–154.)

The charge, in substance, amounted to a usurpation of power in preventing an associate judge from addressing the grand jury.

The plea interposed by Judge Addison was not guilty.

Mr. Dallas appeared for the managers, and Judge Addison conducted his own defense, and strenuously insisted that the allegations in the articles of impeachment did not charge an indictable offense, which was true.

He was, however, convicted by a vote of 20 to 4. The sentence was that Alexander Addison, president of the several courts of common pleas in the fifth district of this State, shall be, and he is hereby, removed from his office of president aforesaid, and also is disqualified to hold and exercise the office of judge in any court of law within the Commonwealth of Pennsylvania.

IN THE MATTER OF THE IMPEACHMENT PROCEEDINGS OF EDWARD SHIPPEN, CHIEF JUSTICE, JASPER YEATES AND THOMAS SMITH, ASSOCIATE JUSTICES, OF THE SUPREME COURT OF PENNSYLVANIA, ON AN IMPEACHMENT BEFORE THE SENATE OF THE COMMONWEALTH, 1805.

Articles of impeachment were presented against these judges of the supreme court, because they adjudged Thomas Passmore guilty of a contempt of court and sent him to jail for 30 days and fined him $50.

It would seem to be clear that the act charged against the judges was not an indictable offense, and yet this question was not even raised by distinguished counsel for the judges, the chief of whom was that great lawyer, Mr. Dallas.

The judges were acquitted on the merits.

IN THE MATTER OF THE PROCEEDINGS OF THE SENATE AND HOUSE OF REPRESENTATIVES OF THE COMMONWEALTH OF MASSACHUSETTS RELATIVE TO THE IMPEACHMENT OF JAMES PRESCOTT, JUDGE OF PROBATE OF THE COUNTY OF MIDDLESEX, 1821.

This proceeding was had under the constitution of 1780. Article 8 of section 2, chapter 1, authorized the senate to hear and determine all impeachments made by the house of representatives against any officer of the Commonwealth for misconduct and maladministration in their offices. The constitution also provides that all judicial officers shall hold their offices during good behavior, and also provides for removal by the governor, with consent of the council, upon the address of both houses of the legislature.

Under this constitution it would seem that a majority vote was sufficient to convict.

February 5, 1821, the house presented 13 articles of impeachment at the bar of the senate. Article 3 charged that Judge Prescott held court at his law office and not in any probate court and granted letters of administration and warrants of appraisal for property and collected greater fees than the law allowed.

Article 12 charged the judge with advising a guardian and collecting a fee of $5 therefor, and allowing the charge in the account of the guardian as a proper charge against the estate for attorney fees.

From the answer of the respondent it appears that the difficulty arose out of a dispute as to the right to collect fees for certain services.

I feel justified in calling this case to the attention of the Senate because of the fact that Daniel Webster appeared for the respondent and Lemuel Shaw appeared as one of the managers on the part of the house. Of course, neither one of the acts alleged in these counts was indictable.

It was contended by Mr. Webster that the charge must be the breach of some known and standing law, the violation of some *positive* duty, and the power to impeach for other than indictable offenses was thoroughly discussed. Mr. Lemuel Shaw, in supporting the articles, said:

Some difference of opinion may arise as to the true construction and effect of these words "misconduct and maladministration in office" as they stand in the constitution, proceeding probably from the ambiguity and want of technical precision in the words themselves and probably from their connection with the other words in the same paragraph. The latter clause provides that the parties so convicted on impeachment shall be, nevertheless, liable to indictment, trial, judgment, and conviction according to the laws of the land. Perhaps the most reasonable construction of these provisions in the constitution taken together is that proceedings by impeachment and by indictment are had allo intuitu, designed and intended for distinct purposes, the one to punish the officer and the other the citizen. It is obvious that a person in official station is bound in common with all other citizens to obey the laws of the land, and is answerable to the ordinary tribunals for any violation of them. But the constitution establishes a broad and marked distinction between official delinquencies and offenses against social duty. Criminal acts, therefore, may be committed by an officer of such a nature as to render him liable to indictment and punishment in the courts of justice and at the same time being an obvious violation of his official duty and may render him liable to impeachment. Again, other acts may be supposed which, as breaches of the laws, would render an officer liable to indictment and punishment, but which do not in any way affect his official character and duty and would not render him liable to impeachment. The position is equally sound that acts may be committed by a public officer in direct violation of his official duty which would amount to misconduct and maladministration in office within the intent of the constitution, and which would consequently render the officer liable to impeachment, and of such a nature that the ordinary tribunals would not take notice of and punish them in their usual course of procedure and according to the laws of the land, for which, therefore, the offender would not be indictable. If this construction be true, an act may be punished both by indictment and impeachment, or the one or the other exclusively, according to its nature and circumstances.

Judge Prescott was found guilty on article 3 by a vote of 16 to 9, and on article 12 by a vote of 19 to 6, and was removed from office. (See Prescott's trial, pp. 7, 165, 180.)

Mr. Manager HOWLAND, continuing his argument, said:

Last evening I was addressing myself to the proposition that indictability was not a condition precedent to impeachability, and I had called the attention of the Senate to two leading State cases—that of Judge Alexander Addison in Pennsylvania in 1803 and that of Judge James Prescott in Massachusetts in 1821. Continuing the citation of precedents in support of the proposition laid down I now call the attention of the Senate to the case of Judge George G. Barnard, justice of the Supreme Court of the State of New York in 1872.

IN THE MATTER OF THE IMPEACHMENT OF GEORGE G. BARNARD, JUSTICE OF THE SUPREME COURT OF THE STATE OF NEW YORK, 1872.

In connection with this case I want to call the attention of the Senate to the fact that under the constitution of New York the judges of the court of appeals sat as members of the impeachment court together with the senate.

Judge George G. Barnard, justice of the Supreme Court of the State of New York, was impeached by the house of representatives, who presented 38 articles of impeachment, and the thirty-seventh article contained 15 specifications thereunder.

The allegations in the various counts are all charged as mal and corrupt conduct, and several of the counts extend or relate to transactions occurring during a previous term of office, to which counts the respondent interposed a plea to the jurisdiction, claiming that he could not be held accountable in this proceeding for acts done during the previous term. The court, however, overruled his plea by a vote of 23 to 9, holding that he could be held as a matter of law for acts done during a previous term.

A careful review of the acts alleged as mal and corrupt conduct in this case will disclose that none of the allegations would sustain an indictment.

I am unable to find in the constitution of 1846 and the amendments thereto in force at the time of this trial any enumeration of the grounds for the impeachment of judges. The constitution of 1821, article 5, section 2, provided that the assembly should have power of impeaching all civil officers of the State for mal and corrupt conduct in office and for high crimes and misdemeanors. I take it, however, that the adoption of the constitution of 1846 absolutely abrogated the constitution of 1821, so that in the Barnard trial, while they used the language of the constitution of 1821 and charged mal and corrupt conduct in office, that language has no constitutional force and effect in the proceedings and was simply descriptive of those acts which the house of representatives believed to be impeachable.

The same old question of power to impeach for other than indictable offenses was argued very thoroughly. Mr. Van Cott in presenting the case for the managers, on page 243 of volume 1, makes a statement of the test which should be applied in the proceeding, and which was subsequently applied in my judgment by the court.

Now, I have stated some of the general principles applicable to this case. I have stated a few of the orders, and it is now for this court, sitting, to define judicial good behavior and judicial bad behavior; to make the precedent which shall govern in all the future and make our future clear or make it anything but clear to us; to say that the conduct of the judge in these cases is lawful conduct, is good behavior, and sanction it as a safe and lawful precedent, or whether the court will condemn it and will say that there shall not be infused into the civilization and into the judicature of this State the morals of the Barbary coast and of the Spanish Main, for these proceedings were as mere buccaneering and lawless expeditions against persons and property as were ever pursued by pirates upon the high seas.

I would like particularly to call the attention of the Senate to article 37 and the specifications thereunder, which charges respondent with deporting himself in a manner unseemly and indecorous, using language coarse, obscene, and indecent, and using the process of the court to aid and benefit his friends and favoring suitors and counsel, and treating counsel in a coarse, indecent, arbitrary, tyrannical manner, and was guilty of conduct unbecoming the high position which he held, tending to bring the administration of justice into contempt and disgrace. These general allegations are laid more definitely in the specifications which follow.

It is perfectly apparent from the reading of these allegations that no indictable offense is charged, yet the court, by a vote of 24 to 11, found the respondent guilty under the thirty-seventh article.

IN THE MATTER OF THE IMPEACHMENT OF SHERMAN PAGE, A JUDGE OF THE DISTRICT COURT IN AND FOR THE COUNTY OF MOWER, STATE OF MINNESOTA, 1878.

Ten articles of impeachment were presented by the house of representatives and tried before the senate, charging malicious, arbitrary, and tyrannical use of power, and citing specific instances of the same.

Under the constitution of Minnesota judges were impeachable for corrupt conduct in office or for crimes and misdemeanors.

Article 5 charged that the said Sherman Page needlessly, maliciously, and unlawfully, with intent thereby to foment disturbance among the inhabitants of said county of Mower, and with further intent to insult and humiliate one George Baird, then sheriff of said county, issued two orders or commands to the sheriff, in substance directing him to quell riots and preserve the peace, and threatening him in case he disobeyed.

On June 5, 1878, Hon. Cushman K. Davis, counsel for the respondent, moved to quash article 5, saying:

The senate will perceive that we provided in the first sentence of our answer to article 5 that the article is insufficient in law of itself and charges no crime. For those reasons, whether a motion to quash be designated in that way or whether it is bringing a demurrer to the sufficiency of that article or whether it is a demurrer to proof is immaterial. I ask that this article may be dismissed from the consideration of the senate and from our own. (See Page trial, p. 623, 1st vol.)

The question being taken on the motion to quash, it was defeated by a vote of 21 to 15, and by that action of the senate was held good in law, although it did not charge a crime.

On the merits of the case judgment of acquittal was entered.

IN THE MATTER OF THE IMPEACHMENT OF THE HON. E. ST. JULIEN COX, JUDGE OF THE NINTH JUDICIAL DISTRICT OF MINNESOTA, BEFORE THE SENATE OF MINNESOTA AS A HIGH COURT OF IMPEACHMENT, 1882.

The constitution of Minnesota provided for the impeachment of judges for corrupt conduct in office or high crimes and misdemeanors in office. The house of representatives preferred a long list of articles of impeachment, charging specific instances of intoxication and averring that the use of intoxicating liquors had rendered the judge incompetent and unable to discharge the duties of said office with decency and decorum, faithfully and impartially, to the great disgrace of the administration of public justice, and so forth, by reason whereof he was guilty of misbehavior in office and of crimes and misdemeanors in office.

It will be noted that the acts alleged are not charged in the exact language of the constitution, but the allegation is that the respondent was guilty of misbehavior in office and of crimes and misdemeanors rather than of corrupt conduct in office and of crimes and misdemeanors, which is the language of the Minnesota constitution. To these articles of impeachment the respondent interposed a demurrer attacking their sufficiency in law. This demurrer was overruled to all of the articles except to article 19, which was sustained.

The respondent thereafter pleaded to the merits, and trial was had and he was found guilty of misbehavior in office and of crimes and misdemeanors in office on seven of the articles, and was removed from the office of district judge of the State of Minnesota and disqualified for and during the full period of three years to hold the office of judge of the district court of the State of Minnesota and of all other judicial offices of honor, trust, or profit in the State for the period of three years from the date of the judgment.

At the time of these proceedings drunkenness was not an indictable offense in the State of Minnesota, although there has since been passed a law making drunkenness an indictable offense.

IMPEACHMENT TRIALS IN THE UNITED STATES SENATE.

IN THE MATTER OF THE IMPEACHMENT OF SENATOR WILLIAM BLOUNT.

Coming now to the impeachment trials before the Senate of the United States, the first case is that of Senator William Blount, in 1799, who was impeached for high crimes and misdemeanors, but the acts charged were not indictable. The case turned on the question of whether or not a Senator was a civil officer of the United States, but the power of impeachment was ably discussed in the argument.

Mr. Jared Ingersoll, of counsel for the respondent and who was a member of the Constitutional Convention from Pennsylvania, in discussing the removal section of the Constitution, said (U. S. Annals of Congress, vol. 8, p. 2286, 5th Cong.):

I add that I conceive that proceedings by impeachment are restricted not only to civil officers, but that the only causes cognizable in this mode of proceeding are malconduct in office.

And again, on page 2288, he said:

My argument is that what in England is said to be the most proper and has been the most usual in this particular is, by the Constitution of the United States, the exclusive grant of proceeding by impeachment. At least that none but civil officers of the United States are liable to be thus proceeded against. I do not say that the power is limited to malconduct in office.

I also insert here one paragraph from the plea drawn by Mr. Ingersoll and Mr. Dallas—

that although true it is that he, the said William Blount, was a Senator of the United States from the State of Tennessee at the several periods in the said articles of impeachment referred to; yet that he, the said William, is not now a Senator and is not nor was at the several periods so as aforesaid referred to an officer of the United States; nor is he, the said William, in any of said articles charged with having committed any crime or misdemeanor in the execution of any civil office held under the United States or with any malconduct in civil office or abuse of any public trust in the execution thereof. (U. S. Annots., 8th v., p. 2247.)

These quotations show that Mr. Ingersoll believed that malconduct in office was impeachable without reference to the indictability of the act.

Mr. Harper, who later defended Judge Chase, was one of the managers. In closing the argument in the Blount case, he said (p. 2316):

It seems to me, on the contrary, that the power of impeachment has two objects: First, to remove persons whose misconduct may have rendered them unworthy of retaining their offices, and, secondly, to punish those offenses of a mere political nature which, though not susceptible of that exact definition whereby they might be brought within the sphere of ordinary tribunals, are yet very dangerous to the public. These offenses, in the English law and in our constitutions, which have borrowed its phraseology, are called "high crimes and misdemeanors."

As bearing upon the meaning of the term "high crimes and misdemeanors," it might be interesting to note that in the Senate on the 8th of July, 1797, as a result of the proceedings previously held to expel Blount for the offenses for which he was subsequently impeached by the House, it was resolved:

That William Blount, Esq., one of the Senators of the United States, having been guilty of a high misdemeanor entirely inconsistent with his public trust and duty as a Senator, be, and he hereby is, expelled from the Senate of the United States. (Wharton's State Trials, p. 202.)

This quotation from the proceedings in the Senate shows the sense in which the term "high misdemeanor" was used by the Senate in its resolution of expulsion and is a precedent clearly in point on the proposition that the word "misdemeanor" as used in parliamentary proceedings does not necessarily refer to indictable offenses.

IN THE MATTER OF THE IMPEACHMENT OF JUDGE PICKERING.

The next impeachment proceeding is that of Judge Pickering, Federal judge in 1803.

He was impeached for refusing to allow an appeal in a certain matter and for drunkenness. He did not appear in person, but his son asked leave to file an answer in which he claimed that his father was insane, and certain affidavits were presented to substantiate this claim. He was found guilty on all the counts and removed from office. It certainly can not be claimed that drunkenness was an indictable offense, and yet, much to my surprise, I find in the brief of counsel in the case at bar that they attempt to make that claim. I submit that matter, however, to the judgment of the Senate. It is the first time I have ever heard that comment made on the Pickering case, with the possible exception of Mr. Harper in the Chase case, who qualifies it very materially. If it should be contended that Pickering was in-

peached on account of his insanity, it certainly would not be contended that insanity was an indictable offense. If it is held that this case was decided on the proof that Pickering was insane, then the case is an authority for the position that the proof of motive is not essential to a conviction under an impeachment charge.

IN THE MATTER OF THE IMPEACHMENT OF JUDGE CHASE.

The next case is that of Samuel Chase, Associate Justice of the Supreme Court, 1805.

The articles charged injustice, partiality, arbitrary power, rude and contemptuous conduct, and so forth.

None of the acts charged were indictable, and Judge Chase contended that he could not be impeached for offenses not indictable. Counsel for the judge did not go to this extent, and practically abandoned the contention, and the judge was acquitted on the merits.

Mr. Robert G. Harper, in closing the argument for Judge Chase, said (Hinds' Precedents, vol. 3, pp. 766–767):

The honorable gentleman who opened the case on the part of the prosecution cited the case of habitual drunkenness and profane swearing on the part of the judge as an instance of an offense not indictable and yet punishable by impeachment. But I deny his position. Habitual drunkenness in a judge and profane swearing in any person are indictable offenses. And if they were not, still they are violations of the law. I do not mean to say that there is a statute against drunkenness and profane swearing. But they are offenses against good morals, and as such are forbidden by the common law. They are offenses in the sight of God and man, definitive in their nature, capable of precise proof, and a clear defense.

In concluding a short discussion of the Pickering case, Mr. Harper said:

This case therefore proves nothing further than that habitual drunkenness is an impeachable offense.

In concluding a discussion of the Addison case, Mr. Harper said:

But I am free to declare that if Judge Addison's colleague did possess those rights, and if he did arbitrarily prevent and impede the exercise of them by an unconstitutional exertion of the powers of his office, he was guilty of an offense for which he might properly be impeached, because he must in that case have acted in express violation of the constitutions and laws.

In the foregoing statements Mr. Harper takes the position that offenses against good morals, habitual drunkenness, usurpation of power, are impeachable offenses, and in so doing clearly abandons the position that indictability is a condition precedent to impeachability.

IN THE MATTER OF THE IMPEACHMENT OF JUDGE PECK.

The fourth case was that of James H. Peck, a United States judge, in 1830.

He was impeached for "high misdemeanors in office," for imprisoning a lawyer for contempt of court.

His answer conceded the liability to impeachment on facts which would not be indictable in the following words (par. 3, p. 62, Peck's Trial):

If the court erred in adjudging and punishing it as a contempt, was it an innocent error of judgment on the part of the court or was it a high misdemeanor, because willfully and knowingly done in violation of law and with the intention imputed by the article of impeachment, to wit, wrongfully, arbitrarily, and unjustly to oppress, imprison, and otherwise injure the said Luke E. Lawless under color of law?

This respondent presumes that it is only by making good the affirmative of the last proposition that the impeachment against him can be sustained.

Clearly admitting that indictability is not a condition precedent to impeachability.

IN THE MATTER OF THE IMPEACHMENT OF JUDGE HUMPHREYS.

The fifth case was that of West H. Humphreys, a Federal judge, in 1862.

Humphreys was charged with making secession speeches, and in two of the seven articles was charged with treason.

Making secession speeches was not an indictable offense, and the Senate voted separately and found him guilty on each article, so that this case is an authority that indictability is not a necessary element to sustain impeachment.

IMPEACHMENT OF PRESIDENT JOHNSON.

In the impeachment trial of Andrew Johnson he was charged with sundry and divers acts, several of them alleging that he had violated the provisions of the law known as the "tenure of office act," and which under the terms of the act probably constituted an indictable offense.

The celebrated swing-around-the-circle article, charging him with making incendiary speeches, of course did not charge an indictable offense, but the Senate in the consideration of the various articles did not come to a vote upon this particular article, for after they had voted on three articles the Senate adjourned without day.

In this connection I wish to quote a few sentences from the argument of Mr. Thaddeus Stevens in closing the debate in the House on the resolution impeaching President Johnson (Globe, p. 1399):

Impeachment under our Constitution is very different from impeachment under the English law. The framers of our Constitution did not rely for safety upon the avenging dagger of a Brutus, but provided peaceful remedies which should prevent that necessity. England had two systems of jurisprudence—one for the trial and punishment of common offenders, and one for the trial of men in higher stations, whom it was found difficult to convict before the ordinary tribunals. The latter proceeding was by impeachment or by bills of attainder, generally practiced to punish official malefactors; but the system soon degenerated into political and personal persecution, and men were tried, condemned, and executed by this court from malignant motives. Such was the condition of the English laws when our Constitution was framed, and the convention determined to provide against the abuse of that high power so that revenge and punishment should not be inflicted upon political or personal enemies. Here the whole punishment was made to consist in removal from office, and bills of attainder were wholly prohibited. We are to treat this question, then, as wholly political, in which if an officer of the Government abuse his trust or attempt to pervert it to improper purposes, whatever might be his motives, he becomes subject to the impeachment and removal from office. The offense being indictable does not prevent impeachment, but is not necessary to sustain it.

I will also quote from the opinion of the Hon. George F. Edmunds in the trial of Andrew Johnson, Supplement Congressional Globe, page 428:

In my opinion this high tribunal is the sole and exclusive judge of its own jurisdiction in such cases, and that, as the Constitution did not establish this procedure for the punishment of crime, but for the secure and faithful administration of the law, it was not intended to cramp it by any specific definition of high crimes and misdemeanors, but to leave each case to be defined by law, or, when not defined, to be decided upon its own circumstances in the patriotic and judicial good sense of the Representatives of the States. Like the jurisdiction of chancery in cases of fraud, it ought not to be limited in advance, but kept open as a great bulwark for the preservation of purity and fidelity in the administration of affairs, when undermined by the cunning and corrupt practices of low offenders or assailed by bold and high-handed usurpation or defiance, a shield for the honest and law-abiding official, a sword to those who pervert or abuse their powers, teaching the maxim which rulers endowed with the spirit of a Trojan can listen to without emotion, that "kings may be cashiered for misconduct."

IN THE MATTER OF THE IMPEACHMENT OF WM. W. BELKNAP, SECRETARY OF WAR.

This case has no bearing on the propositon of law under discussion, but is clearly an authority that the Senate will hold jurisdiction to try an ex-civil officer who is a private citizen for acts done in office. The fact that jurisdiction is determined by a majority, and conviction requires two-thirds is important only in so far as the jurisdictional question might affect the final vote on the merits. Applying the precedent established by the Belknap case to the case at bar, if the Senate has jurisdiction to try a private citizen for acts done when in office, it certainly has jurisdiction to try a circuit judge for acts done as district judge where there has been continuity of service of the same character.

IN THE MATTER OF THE IMPEACHMENT OF JUDGE SWAYNE.

In this case an elaborate brief was filed which, though signed by counsel for the respondent, was most carefully and politely disowned by them. (Hinds III, p. 454.) It was contended in the brief that indictability was a condition precedent to impeachability—a position which was not urged by counsel for the respondent at the trial. I am glad to be able to quote from the brief of counsel in the pending trial to substantiate the claim that in the Swayne case the proposition that indictability was a condition precedent to impeachability was entirely abandoned. (Respondent's brief, p. 39.)

On reading the proceedings in that trial (Swayne) we are unable to find that counsel for Swayne discussed at all the question whether it was necessary for the conviction of their client that it should be charged and proven that he had committed an indictable offense.

Mr. President, we have shown that the doctrine that indictability is a condition precedent to impeachability finds no constitutional warrant to sustain it, is antagonistic to any proper conception of the object and purpose of impeachment, and is absolutely repudiated by an unbroken line of precedents, both State and Federal. We therefore conclude that the power to impeach is properly invoked to remove a Federal judge whenever, by reason of misbehavior, misconduct, malconduct, or maladministration, the judge has demonstrated his unfitness to continue in office, and with confidence in the correctness of our judgment we await the decision of the Senate.

ARGUMENT OF MR. NORRIS, ONE OF THE MANAGERS ON THE PART OF THE HOUSE.

Mr. Manager NORRIS. Mr. President, I shall not weary the Senate with any further discussion of the facts as they have been developed in this case. My colleagues who have already addressed the Senate have analyzed and considered the evidence in all of its various phases. I desire, however, to briefly state my views on some of the legal questions of the case that have arisen in this trial.

In some of the articles of impeachment the respondent is charged with misbehavior in office, and it is claimed, as far as these articles are concerned, that he is not guilty of any

offense which would properly be the subject of a prosecution by indictment or information in a criminal court. It is strenuously argued by attorneys for respondent that an impeachment lies only for offenses which are criminal in their nature and which could legally be the subject of prosecution by indictment.

WHAT OFFENSES, PARTICULARLY AS APPLIED TO JUDGES OF THE UNITED STATES COURTS, ARE IMPEACHABLE UNDER THE CONSTITUTION?

The Constitution provides (Art. I, sec. 2) that the House of Representatives shall have the sole power of impeachment, and in section 3 of the same article it is provided that the Senate shall have the sole power to try all impeachments. It is undisputed, and indeed has never been questioned, that to remove a United States judge from office two things are essential: First, he must be impeached by the House of Representatives; and, second, he must be tried and convicted by the Senate upon the articles of impeachment presented by the House. There is no other way provided by the Constitution of the United States for the removal from office of a judge. In the consideration of this subject I shall draw a distinction between a judge of the United States court and all other civil officers of the United States. I shall demonstrate from the Constitution itself that a judge of the United States court can properly be impeached, convicted, and removed from office for any act from treason down to conduct that tends to bring the judiciary into disgrace, disrespect, or disrepute.

Section 4 of Article II of the Constitution reads as follows:

> The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

It will be noted that this provision of the Constitution applies to all civil officers of the United States alike. It is undisputed that it includes judges, and were there no other provision of the Constitution applying particularly to the conduct or the tenure of office of judges then there would be no distinction between the impeachment and trial of judges and any other civil officer, including the President and Vice President. But section 1, Article III, so far as the same is applicable to this case, provides:

> The judges, both of the Supreme Court and inferior courts, shall hold their offices during good behavior.

This provision of the Constitution, it will be obverved, applies only and exclusively to judges. It has no relation to any other civil officer of the Government, and if we are not to nullify it entirely we will find that it bears a very important part in the consideration of the particular branch of the case under discussion. I desire the Senate to continually bear in mind and to faithfully observe at all times during the consideration of this subject, that in the construction of any legal document or instrument the court will so construe it as to give life and vitality to every part of the instrument, if it can reasonably and logically do so. It is our duty to construe these two provisions of the Constitution together, and, if possible, to give equal vitality and life to them both.

Most of the civil officers provided for by the Constitution have a definite fixed term, but the judges hold office during good behavior. Much of the contention arises over what is meant in section 4, Article II, by the word "misdemeanor." It is contended by the respondent that this word is intended only to apply to such offenses as are indictable and punishable under the criminal law, and that a judge can not be impeached and removed from office unless his offense, whatever it may be called, is at least of so high a degree as to make it criminal and indictable. This construction, if adhered to, absolutely nullifies that provision of section 1, Article III, above quoted, which provides that judges shall hold their offices during good behavior. If judges can hold their offices only during good behavior, then it necessarily and logically follows that they can not hold their offices when they have been convicted of any behavior that is not good. If good behavior is an essential to holding the office, then misbehavior is a sufficient reason for removal from office. And if, therefore, we give full life and vitality to both of these provisions of the Constitution, we must hold that the lack of good behavior, or misbehavior, mentioned in section 1, Article III, is synonymous with the word "misdemeanor" in section 4, Article II, in all cases where the offense is less in magnitude than an indictable one.

This view of these provisions of the Constitution has been sustained by practically all of the leading law writers upon the subject. It has also been sustained by the Senate in the trial of prior impeachment cases that have taken place. John Randolph Tucker, in his Commentaries on the Constitution (Vol. I, sec. 200), after discussing the question at some length and enumerating many offenses that are impeachable, uses this language:

> But if he decides unconscientiously—if he decides contrary to his honest convictions from corrupt partiality—this can not be good behavior and he is impeachable. Again, if the judge is drunken on the bench, this is ill behavior, for which he is impeachable, and all of these are generally criminal or misdemeanors, for misdemeanor is a synonym of misbehavior. * * * To confine the impeachable offenses to those which are made crimes or misdemeanors by statute or other specific law would too much constrict the jurisdiction to meet the objects proper of the Constitution, which was, by impeachment, to deprive of office those who by act of omission or commission showed great and flagrant disqualification to hold it.

George Ticknor Curtis, in his work on the Constitutional History of the United States (p. 481), in discussing impeachment, uses this language:

> The object of the proceedings is to ascertain whether cause exists for removing a public officer from office. Such a cause may be found in the fact that, either in the discharge of his office or aside from its functions, he has violated a law or committed what is technically denominated a crime. But a cause for removal from office may exist where no offense against positive law has been committed.

Watson, in his work on the Constitution (vol. 2, p. 1634), takes the same position and says that the word "misdemeanor" is the same as "misdeed, misconduct, misbehavior, voluntary transgression." Practically the same position is taken by Foster in his work on the Constitution, in section 93. This position is sustained by a full review of the question in the American and English Encyclopedia of Law, but these cases have already been called to the attention of the Senate. These citations showed that the Senate has in the past found officials guilty where the crime charged was not an indictable offense.

In Black on Constitutional Law, second edition, pages 121 and 122, it is said:

> Treason and bribery are well-defined crimes. But the phrase "other high crimes and misdemeanors" is so very indefinite that practically it is not susceptible of exact definition or limitation, but the power of impeachment may be brought to bear on any offense against the Constitution or the law which, in the judgment of the House, is deserving of punishment by this means or is of such a character as to render the party accused unfit to hold and exercise his office. It is of course primarily directed against official misconduct. Any gross malversation in office, whether or not it is a punishable offense at law, may be made the ground of an impeachment.

Further on the same writer says:

> It will be observed that the power to determine what crimes are impeachable rests very much with Congress; for the House, before preferring articles of impeachment, will decide whether the acts or conduct complained of constitute a "high crime or misdemeanor," and the Senate in trying the case will also have to consider the same question.

EVEN IF WE ADMIT "MISDEMEANORS" AS USED IN SECTION 4, ARTICLE II, APPLIES ONLY TO INDICTABLE OFFENSES, YET A JUDGE CAN BE IMPEACHED FOR MISBEHAVIORS OF A LESS GRADE THAN INDICTABLE OFFENSES UNDER SECTION 1, ARTICLE III.

But suppose, for the sake of argument, it be admitted that "misdemeanors" as used in section 4, Article II, was intended by the framers of the Constitution to exclude all offenses that were not indictable under the law, it would still not necessarily follow that judges could not be impeached and removed from office for misdemeanors of so low a grade that they were not indictable. This section simply provides that all the civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, and other high crimes and misdemeanors. If in any other provision of the Constitution additional reasons for impeachment are given of some of these specified officers, or additional reasons are given why some of them should cease to hold office, then under such provision such specified officers could be tried, impeached, and removed even though the offense of which they might be guilty was not included in any of those enumerated in section 4, Article II.

While I believe the construction placed on "misdemeanors" by the respondent is wrong, yet they have not made a defense to the various charges of misbehavior in office, even if we accept their construction of the law that misdemeanors in this section means only indictable offenses. If, for instance, the President was expressly excluded from the officers named in this section, then I concede there would be no way under the Constitution for him to be impeached, tried, and removed from office, because there is no other provision of the Constitution that provides for any offense on the part of the President or limits his tenure of office excepting the expiration of his regular term. But if judges were expressly eliminated from this section and it read "all civil officers of the United States except judges, and so forth," it would not follow that they could not be impeached, convicted of misbehavior, and removed from office, because section 1, Article III, expressly provides that they shall only hold their offices during good behavior. In other words, our forefathers in framing the Constitution have wisely seen fit to provide for a requisite of holding office on the part of a

judge that does not apply to other civil officers. The reason for this is apparent. The President, Vice President, and other civil officers, except judges, hold their positions for a definite fixed term, and any misbehavior in office on the part of any of them can be rectified by the people or the appointing power when the term of office expires. But the judge has no such tenure of office. He is placed beyond the power of the people or the appointing power, and is therefore subject only to removal for misbehavior. Since he can not be removed unless he be impeached by the House of Representatives, tried and convicted by the Senate, it must necessarily follow that misbehavior in office is an impeachable offense.

Any authority that has been cited by the respondent which shows or tends to show that a President, Vice President, or other civil officer other than a judge can not be impeached except the offense is at least of the grade of a misdemeanor that is indictable does not apply to the impeachment or trial of a United States judge. To hold that an officer whose tenure of office is definite and fixed and who will necessarily go out of office within the course of a year or two should not be impeached and removed from office for a misbehavior that does not reach in magnitude an indictable offense is entirely different from holding that an officer whose term of office ordinarily lasts for life should not be so impeached and removed. And our forefathers evidently had this distinction in mind when they applied exclusively to judges that provision of the Constitution which provides that judges shall hold their offices during good behavior.

If I am not right in my construction of the Constitution, then the Congress and the country are absolutely helpless in any attempt to get relief from a judge who drags the judicial ermine down into disgrace, but is careful in doing so not to commit any criminal offense. If I am not right in my construction, then that provision of the Constitution which says that judges shall hold office during good behavior is absolutely nullified, and as far as the good behavior part of it is concerned it has no vitality, no life, no effect. The judge who secretly arranges with attorneys on one side of a case to make a private argument, who not only makes such arrangement but who initiates it, is guilty of a misbehavior. Every lawyer knows this; every Senator will admit it. Are we helpless in the premises simply because such an act is not indictable under the law? The judge who is continually asking favors of litigants in his court, if he is careful, can not be convicted of any crime; but he is guilty of a misbehavior. No one will dispute it. He is perverting the ends of justice. He is bringing the judiciary into disgrace and into disrepute. Carried to its logical conclusion, such conduct would soon mean that our judicial system would fail. It could not survive. Are we helpless? Must we say that although the Constitution says the judge shall only hold his office during good behavior, that the House of Representatives and the Senate are unable to apply those provisions of the Constitution which provide for impeachment, trial, and removal? If our forefathers meant anything when they provided in the Constitution that the judges should hold their offices during good behavior, they certainly intended that when the judge misbehaved he should be removed from office. Such a construction of the Constitution will not violate any principle of law, but, on the other hand, it will give full effect to a constitutional provision that would otherwise be meaningless and a dead letter. Our forefathers wisely, I think, refrained in the Constitution from giving any definition to "crimes and misdemeanors" and likewise refrained from defining what would be an abuse or a violation of "good behavior." Misbehavior, the opposite of good behavior, and I think the proper appellation of any conduct that is not good behavior, implies innumerable offenses of greater or less magnitude.

As to what is misbehavior in office must be determined in the first place by the House of Representatives when they adopt the articles of impeachment. It must be redetermined by the Senate when, after listening to the evidence, they pass judgment upon the case. I think all will agree that any conduct on the part of a judge which brings the office he holds into disgrace or disrepute, or which results or has a tendency to result in the denial of absolute justice to all persons engaged in litigation in his court, is a misbehavior. Certainly such conduct is not good behavior, and the Constitution provides that he shall only hold office during good behavior. Therefore it follows that in the absence of good behavior on the part of the judge he should be removed from office. It is undoubtedly true that the House of Representatives, in passing upon articles of impeachment and the Senate upon the trial of the offense charged in such articles, where only misbehavior in office was shown, would take into consideration in reaching their conclusions not only the magnitude of such misbehaviors but the frequency of their occurrence. Where the evidence shows that a judge is continually misbehaving by engaging in conduct and practices that bring his office into disrespect and disrepute, the House and the Senate can not avoid their duty or their responsibility by saying that each distinct offense is in itself of small magnitude and not indictable.

An eminent writer on the Constitution has summed up the question in the following forcible and appropriate language:

> A civil officer may so behave in public as to bring disgrace upon himself and shame upon his country, and he may continue to do this until his name would become a national stench, and yet he would not be subject to indictment by any law of the United States, but he certainly could be impeached. What will those who advocate the doctrine that impeachment will not lie except for an offense punishable by statute do with the constitutional provision relative to judges which says, "Judges, both of the supreme and inferior courts, shall hold their office during good behavior"? This means that as long as they behave themselves their tenure of office is fixed and they can not be disturbed. But suppose they cease to behave themselves? When the Constitution says "A judge shall hold his office during good behavior," it means that he shall not hold it when it ceases to be good. Suppose he should refuse to sit upon the bench and discharge the duties which the Constitution and the law enjoin upon him, or should become a notoriously corrupt character and live a notoriously corrupt and debauched life? He could not be indicted for such conduct, and he could not be removed except by impeachment. Would it be claimed that impeachment would not be the proper remedy in such a case? (Watson on the Constitution, vol. 2, pp. 1036, 1037.)

CAN A CIRCUIT JUDGE BE IMPEACHED FOR MISBEHAVIOR OCCURRING WHILE HE HELD THE OFFICE OF DISTRICT JUDGE?

In this case some of the articles of impeachment charge the respondent with offenses committed while he held the office of district judge. It will be remembered that the evidence discloses that while the respondent was holding the office of district judge he was appointed circuit judge. He passed directly from one office into the other and no interim lapsed between the time that he held the office of district judge and the time when he became circuit judge, which office he still holds. And the technical defense is made by the respondent that he can not be impeached for any misconduct or misbehavior that occurred while he was holding the office of district judge. The change was in the nature of a promotion, but the nature of his office is practically the same. The Senate will take judicial notice of the fact that at the time the respondent was district judge he had authority and jurisdiction, under the law, to sit as a circuit judge and to hold circuit court. It is a well-known fact that the district judges prior to the adoption of our code practically did all of the work in the circuit courts. Indeed, in this case in most of the particular offenses charged the respondent, although a district judge, was engaged in the function of holding circuit court. The Peale case and the Rissinger case were cases pending not in the district court, but in the circuit court, and the respondent in each case was the presiding judge. I think that the authorities are pratically unanimous that a public official can be impeached for official misconduct occurring while he held a prior office if the duties of that office and the one he holds at the time of the impeachment are practically the same or are of the same nature. The Senate must bear in mind, as stated by all of the authorities, that the principal object of impeachment proceedings is to get rid of an unworthy public official. In the State of New York it was held in the Barnard case that the respondent could be impeached and removed from office during his second term for acts committed during his first term. And in the State of Wisconsin the court held the same way in the impeachment of Judge Hubbell. To the same effect was the decision in Nebraska upon the impeachment trial of Gov. Butler. On this point the respondent relies upon the case of the State *v.* Hill (37 Nebr., p. 80).

In that case the State treasurer of Nebraska was impeached after he had completed his term and retired to private life. The articles of impeachment were not passed on by the legislature, in fact were not even introduced in the legislature until after the respondent had served his full term, and the court there held that impeachment did not lie; but it expressly approved the judgment of the New York court in the Judge Barnard case, the judgment of the Wisconsin court in the Judge Hubbell case, and the prior judgment of the Nebraska court in the Butler case. And the court, in giving its reason, expressly stated that the object of impeachment as defined by the constitution of that State was to remove a corrupt or unworthy officer, and that inasmuch as his term had expired prior to his impeachment he was no longer in office and the object of the constitution had been attained, and therefore impeachment would not lie. In the case at bar the functions of the office held by the respondent as district judge were practically the same as his official functions when he was made circuit judge. They were of the same nature

and would be directly affected by the same misconduct in office. He has held a Federal judgeship continuously during all the time of the commission of all of the alleged offenses.

CONCLUSION.

The House in presenting the articles of impeachment were performing an official duty. The managers on the part of the House have undertaken to carry out the mandate of that body without any malice, without any ill will, but without fear or favor. Like the balance of our fellow citizens, we hold the judiciary in the highest respect. We are anxious that the citizenship generally should have for it unbounded respect and unlimited admiration. We realize that it is only by the confidence that the people have in public officials that the stability of our institutions can be maintained. When public officials disregard their duty and violate the common standards of propriety with impunity, the standard of our citizenship is lowered and the very foundation of our Government is threatened. Of all the departments of government the judiciary is and ought to be held in the highest regard. Our Government can not perform its full destiny unless the courts are above reproach and the judges above suspicion.

It is not for the managers to say what the verdict of the Senate shall be. We have done our best to give you a fair, honest, and impartial presentation of the evidence and the law as we see it and understand it. To the best of our ability we have performed our duty. Our responsibility is about ended, and your greatest responsibility is just before you. That you will perform it without fear, without favor, without prejudice, and render such judgment as you believe to be righteous is our earnest belief and our sincere conviction.

ARGUMENT OF MR. DAVIS, ONE OF THE MANAGERS ON THE PART OF THE HOUSE.

Mr. Manager DAVIS. Mr. President, the issues presented by the case before the Senate, whether of law or fact, would seem to be neither numerous nor complex. After the exhaustive and able discussion which has been had by gentlemen who have already spoken, only the vain could hope to add anything of clarity or adornment to their presentation. I address myself, therefore, to the single purpose of showing into how narrow a compass the issues may be compressed, and shall make my remarks more in the nature of an index than a commentary.

To simplify the argument, let us admit that none of the acts with which the respondent is charged are denounced by any express legislative enactment nor are they punishable as crimes either by statute or at common law; we may go further and, for the sake of argument, concede that none of them, if done by a private individual, would in themselves evince any degree of moral turpitude. Indeed, it is even possible, although difficult, to conceive that in a moment of thoughtlessness, without due reflection upon the restraints of his position or the necessary implication arising from his course, a judge upon the bench might commit certain of the indiscretions here alleged without an intentional surrender of his judicial purity or a deliberate willingness to profit by his exalted station. But when such things are done by an occupant of the bench, and being done are repeated and persisted in, then in the opinion of the body by which these charges are preferred condonation is impossible. A course so continued amounts to gross misbehavior and demonstrates the unfitness of the man guilty of such delinquencies, and by such misconduct he forfeits, as we claim, the condition of his official tenure, which is good behavior. The case, when all is said, comes to this: Does the proof show the respondent unfit to continue in the office which he holds, and, if so, has this court power, by process of impeachment, to remove him?

Quite naturally the latter question comes on first to be examined. When the jurisdiction of the court is challenged or the sufficiency of an indictment is called in question it is useless to investigate the facts until these matters are disposed of. The issue at once narrows itself down to the meaning of the phrase "high crimes and misdemeanors" occurring in Article II, section 4, of the Constitution; and the respondent now renews the oft-repeated contention that this language can be used only with reference to offenses which, either by common law or by some express statute, are indictable as crimes. This same proposition has been so often refuted in the past and has been so conclusively disposed of in the course of this argument that it is difficult to add more. Every canon of construction which can be applied to this clause of the Constitution negatives the position which counsel for the respondent assume. Test it by the context, by contemporary interpretation, by precedent, by the weight of authority, and by that reason which is the life of every law and the answer is always the same.

In the first place, when we read this clause of the Constitution, as we are required to do, in the light of the context of the instrument we are confronted at once by the clause fixing the tenure of judges of the Federal courts during good behavior; and if it be difficult, as counsel for respondent assert, to enlarge the phrase "high crimes and misdemeanors" so as to embrace acts not indictable as crimes, it is certainly far more difficult to restrict "good behavior" to the narrow limits fixed by the criminal law. To say that a judge need take as the guide of his conduct only the statutes and the common law with reference to crimes, and that so long as he remains within their narrow confines he is safe in his position, is to overlook the larger part of the duties of his office and of the restraints and obligations which it imposes upon him. We insist that the prohibitions contained in the criminal law by no means exhaust the judicial decalogue. Usurpation of power, the entering and enforcement of orders beyond his jurisdiction, disregard or disobedience of the rulings of superior tribunals, unblushing and notorious partiality and favoritism, indolence and neglect—all are violations of his official oath, yet none may be indictable. Personal vices, such as intemperance, may incapacitate him without exposing him to criminal punishment. And it is easily possible to go further and imagine such indecencies in dress, in personal habits, in manner and bearing on the bench, such incivility, rudeness, and insolence toward counsel, litigants, or witnesses, such willingness to use his office to serve his personal ends, as to be within reach of no branch of the criminal law, yet calculated with absolute certainty to bring the court into public obloquy and contempt and to seriously affect the administration of justice. Can it be possible that one who has so demonstrated his utter unfitness has not also furnished ample warrant for his impeachment and removal in the public interest?

Stated in its simplest terms, the proposition of counsel is to change the language of the Constitution so that instead of reading that—

the judges both of the Supreme and inferior courts shall hold their offices during good behavior—

It will read that—

the judges both of the Supreme and inferior courts shall hold their offices so long as they are guilty of no indictable crime.

If the latter were the true meaning, is it conceivable that the careful and exact stylists by whom the Constitution was composed would have used an ambiguous term to express it?

But counsel ask, What shall be done with that clause which provides that in case of impeachment—

the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law?

This they insist is a definition by implication, and signifies that the scope of impeachment and indictment is one and the same, although the mode of trial and the penalty to be inflicted may differ. We submit, on the contrary, that this clause instead of being a declaration that impeachment and indictment occupy the same field is a recognition of the fact that the field which they occupy may or may not be identical, and recognizing this fact it merely declares that when the field of impeachment and the field of indictment overlap there shall be no conflict between them, but that the same offense may be proceeded against in either forum or in both.

The light drawn from contemporary speeches and writings confirms the position for which we contend. It is true, as counsel will point out, that in the Constitutional Convention when the word "maladministration" was proposed it was objected to by Mr. Madison as too vague, and the words "high crimes and misdemeanors" were inserted instead; but it is also true that on the 16th day of June, 1779, when debating in the House of Representatives the propriety of giving to the President the right to remove an officer, he said:

The danger, then, consists merely in this: The President can displace from office a man whose merits require that he should be continued in it. What will be the motives which the President can feel for such abuse of his power and the restraints that operate to prevent it? In the first place, he will be impeachable by this House before the Senate for such an act of maladministration, for I contend that the wanton removal of meritorious officers would subject him to impeachment and removal from his own high trust.

His great co-laborer, Alexander Hamilton, discussing in the sixty-fourth number of the Federalist the Senate as a Court of Impeachment, says:

A well-constituted court for the trial of impeachments is an object not more to be desired than difficult to be obtained in a government wholly elective. The subjects of its jurisdiction are those offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated "political," as they relate chiefly to injuries done immediately to the society itself. * * * What, it may be asked, is the true spirit of the institution itself? Is it not designed as a method of national inquest into the conduct of public men? If this be the design of it, who can so properly be the inquisitors for the Nation as the representatives of the Nation themselves? * * * As well the latter (State constitutions)

as the former (the British constitution) seem to have regarded the practice of impeachments as a bridle in the hands of the legislative body upon the executive servants of the Government. Is not this the true light in which it ought to be regarded? * * * The necessity of a numerous court for the trial of impeachments is equally dictated by the nature of the proceeding. This can never be tied down by such strict rules, either in the delineation of the offense by the prosecutors or in the construction of it by the judges as in common cases serve to limit the discretion of courts in favor of personal security.

And, again, in the seventy-eighth number of the Federalist, when making an examination of the judiciary department, we read from his pen that—

According to the plan of the convention all judges who may be appointed by the United States are to hold their offices during good behavior, which is conformable to the more approved of the State constitutions and among the rest to those of this State. Its propriety having been drawn into question by the adversaries of that plan is no light symptom of the rage for objections which disorders their imaginations and judgments. The standard of good behavior for the continuance in office of the judicial magistracy is certainly one of the most valuable of the modern improvements in the practice of governments. In a monarchy it is an excellent barrier to the despotism of princes; in a republic it is a no less excellent barrier to the encroachments and oppressions of the representative body. And it is the best expedient which can be devised in any government to secure a steady, upright, and impartial administration of the laws.

And continuing the same examination in the following paper, the seventy-ninth, he goes on:

The precautions for their responsibility are comprised in the article respecting impeachments. They are liable to be impeached for misconduct by the House of Representatives, and tried by the Senate, and if convicted may be dismissed from office and disqualified for holding any further. This is the only provision on the point which is consistent with the necessary independence of the judicial character, and is the only one which we find in our own Constitution in respect to our own judges.

And then evidently treating the word "malconduct" as covering the whole category of voluntary actions on the part of the judge which would go to his judicial character or fitness, he discusses the want of a provision for removing the judges on account of physical or mental inability as being the only emergency unprovided for. He has in mind chiefly the inability arising from advanced age, and calls attention to the difficulty of measuring the faculties of the mind and the opportunity which the attempt would give for the play of personal and party attachments and enmities.

The result—

Says he—

except in the case of insanity must for the most part be arbitrary; and insanity without any formal or express provision may be safely pronounced to be a virtual disqualification.

It can be safely said that nothing was further from the minds of the men who framed the Constitution than the construction here contended for by respondent's counsel.

Again we may look to the precedents, only to find that the word "misdemeanor" has always been treated as having a meaning of its own in parliamentary law, and that one impeachment proceeding after another has been based upon offenses not within the law of crimes. I do not repeat the many authorities for this statement which my colleagues have cited. This body, of course, being a law unto itself, is bound by no precedents save those of its own making, and even as to them no doubt has the power which any other court enjoys to overrule a previous decision, if convinced of its error. Of the cases which have been tried in this Chamber, those of Blount, Pickering, Chase, Peck, Humphreys, and Swayne have been pointed out as involving in whole or in part charges not criminal in their character. So, also, have many other cases tried in similar forums under similar constitutional provisions. Persuasive precedents are also to be found in the records of those cases investigated by the House of Representatives where articles of impeachment were authorized by a vote of the House, but for one cause or another were never tried. Such, for instance, was the case of Judge Lawrence, of the District Court of the United States for the Eastern District of Louisiana. During the year 1839 he was charged with the unauthorized removal of the clerk of his court and various improper orders made in the effort to get possession of the seal and records in the clerk's custody, with refusal to obey mandates of the Supreme Court, and with intemperance. The committee which investigated these charges recommended his impeachment for "misdemeanors in office." It is perhaps significant that the word "crimes" was intentionally omitted. The report came in as the Twenty-fifth Congress neared its close and no action was had. Doubtless the reason why the matter was never pressed is to be found in the fact that on the 3d day of September, 1841, Theodore H. McCaleb was appointed judge in his room and stead.

Again, in the year 1872, in the Forty-second Congress, the House of Representatives impeached at the bar of the Senate for "high crimes and misdemeanors" Mark H. Delahay, United States district judge for Kansas. Benjamin F. Butler headed the committee in charge and stated that—

The most grievous charge and that which is beyond all question was that his personal habits unfitted him for the judicial office; that he was intoxicated off the bench as well as on the bench.

Although there was a question as to certain alleged corrupt transactions, Mr. Daniel W. Voorhees, of Indiana, said that it was not proven to the satisfaction of several members of the committee that there was any malfeasance in this regard; but Mr. Butler said:

The committee agree that there is enough in his personal habits to found a charge upon.

Here again the resolution was reported just as Congress was about to expire, and before any further proceedings could be had the successor of Judge Delahay was appointed.

So also in the case of Judge Durell, of the United States District Court for Louisiana, in the same Congress, against whom a resolution of impeachment was reported on the ground of his usurpation of power in issuing the so-called "midnight order" putting the United States marshal in charge of the building in the city of New Orleans in which the State legislature was about to assemble. There was no pretense, of course, that this act on his part would have warranted an indictment. The matter was summed up by Mr. Benjamin F. Butler in these words:

It seemed to me so gross an exercise of power that if the judge did not know he was exceeding his powers he ought to have known it; and in either case if he did know of course he was wrong, and if he did not know he ought to have known, and therefore he did not conduct himself well in office.

Pending the proceedings Judge Durell resigned, and for this reason only the matter was discontinued.

But without stopping to multiply precedents further, we next call attention to the long list of eminent authorities and commentators on the Constitution who uphold the construction for which we contend—Story, Curtis, Cooley, Tucker, Watson, Foster, all these and many more have been cited in the course of this discussion. Speaking as a lawyer, it must be said that the weight of authority in our favor is overwhelming.

Last of all we resort to the highest of all canons for the construction of constitutions and statutes alike, viz, "the reason of the thing." It is true that the framers of the Constitution intended to create an independent judiciary, but they never contemplated a judiciary which should be totally irresponsible. Regarding public office as a public trust, they found it necessary to lodge somewhere the power to determine whether that trust had or had not been abused. In the appointment of judges they required that the judgment of the President with reference to individual fitness should be concurred in by the Senate, and quite naturally they gave to the body which had approved the appointment the power to withdraw that approval and dismiss the officer when he had shown himself faithless to his trust. In requiring first of all a majority of the House of Representatives in order to prefer articles of impeachment and then two-thirds of the Members of the Senate present to convict, they hedged the power about with all the safeguards necessary to protect the upright official and yet leave it sufficient play to preserve the public welfare. Experience has shown how more than adequate the machinery so provided has been to prevent hasty or intemperate action. Indeed, it would seem that if the fathers erred it was in making too slow and difficult the process of removing the unfaithful and unfit. I hope—indeed, I believe—that this high court will never sanction any construction of the Constitution which will render it practically impotent for the purposes of its creation.

But in the brief filed by counsel for the respondent it is suggested that if an impeachable offense need not be criminal in fact it must still be criminal in its nature. It will at once be clear that this is a definition which does not define, and that the phrase "criminal in its nature" has no more certainty to commend it than has "good behavior." Recognizing this to be true, counsel go on to say, in the attempt to define their own language, that—

for the same reason, even if the misdemeanors for which impeachment will lie are not necessarily indictable offenses, yet they must be of such a character as might properly be made criminal.

We are not called on to agree with their position as so stated, but have no great cause to fear it.

We understand a crime or misdemeanor to be, in the language of Blackstone—

An act committed or omitted in violation of a public law either forbidding or commanding it.

If the phrase "criminal in nature" means those things which might be made crimes by legislative prohibition, every act here charged against this respondent comes within the description. Certainly Congress could, by express criminal statute,

forbid a Federal judge to accept gifts of money from members of his bar, to communicate in private either orally or by letter with counsel in reference to cases pending for decision, to request financial favors from parties litigant before him, and as to the Commerce Court might well forbid the members of that court to engage in the business of hunting bargains from railroad companies engaged in interstate commerce. And, certainly, if such things are not already misdemeanors or misconduct or misbehavior, a statute to forbid them can not come too soon.

So much for the law of the case. What of the facts?

The articles of impeachment call attention to 11 distinct acts of misconduct and misbehavior on the part of the respondent and close with the thirteenth article drawing the necessary inference from the specific acts alleged. In point of time they may be divided between the service of Judge Archbald as a district judge and his service as circuit judge and judge of the Commerce Court. Five of them occurred during his district judgeship, to wit: The appointment of Jury Commissioner Woodward, the Rissinger note and the Honduras gold-mining transaction, the John Henry Jones note and the Venezuelan land speculation, the Cannon trip and the purse from the members of his bar. Those during his circuit judgeship are: The Katydid deal, the Marian Coal Co. settlement, the deal for the dump known as Packer No. 3, the transaction with Frederick Warnke, the James R. Dainty-Everhart matter, and the correspondence with Helm Bruce.

For want of time I pass by those things which occurred during his district judgeship and classify again the six occurrences charged against him as circuit judge. Five of these have to do with transactions between himself and officers of railroads or their subsidiaries, and one with the correspondence between himself and counsel for a railroad company with reference to a pending cause. I shall not undertake to repeat what has been said as to the details of these transactions nor do I conceive it to be necessary to this case to decide the minor issues of fact which are raised as to each of them, such, for instance, as the actual value of the "Katydid culm dump," which consumed so much of the time of this trial. The undisputed or admitted facts are all sufficient, and when we come to look to these five transactions with these five different railroad companies, they present certain points of similarity too striking to escape comment. These points of curious resemblance touch the very core of this whole case.

Take the Katydid, Marian, Packer No. 3, Warnke, and the Dainty-Everhart transactions and observe, first, that Robert W. Archbald was commissioned circuit judge of the United States and assigned to the Commerce Court on the 31st day of January, 1911, and that each one of these five transactions originated within a year then following and, so far as the evidence shows, were the first of their kind in which Judge Archbald had ever been engaged.

Observe, second, that not a single one of them, whether engaged in ostensibly for his profit or not, involved the expenditure on his part of a single dollar or the investment of a single penny. His sole contribution in each instance was his approach to the officers of the various companies or the hearing he obtained from them for others.

Observe, third, that in each instance the proposition did not originate with himself, but that he was approached by some third person who requested him to take up the matter with the railroad company; thus Edward J. Williams goes to him about the Katydid culm dump and induces him to approach Capt. May, Brownell, and Richardson, officers of the Erie Railroad Co. or its subsidiary, the Hillside Coal & Iron Co.; George M. Watson or some other person interests him in the settlement of the Marian Coal Co. and the sale of its assets to the Delaware, Lackawanna & Western Railroad Co., and thereupon Judge Archbald pursues beyond the point of importunity Loomis and Phillips and through them Rine and Truesdale. John Henry Jones, himself a man without financial responsibility, fixes his desires on the dump known as Packer No. 3, and at his suggestion Judge Archbald assumes the duty, again performed with vigor, of obtaining a lease on it from the Girard estate and inducing the consent thereto of the Lehigh Valley Coal Co., a subsidiary of the Lehigh Valley Railroad Co. His only connection with the proposition, in the language of the testimony, being for the purpose of obtaining a lease from the Lehigh Valley Coal Co., of seeing the Girard estate and Mr. Warriner. Frederick Warnke, having failed in person and by counsel to bend George F. Baer, president of the Philadelphia & Reading Railroad Co. and the Philadelphia & Reading Coal Co., and W. J. Richards, general manager of the latter company, to his will, induces Judge Archbald to approach Richards in his behalf, and afterwards pays to Judge Archbald $500 upon his purchase of certain property the title to which seemed open to attack on the part of the Pennsylvania Coal Co., a subsidiary of the Erie Railroad Co.; and lastly Edward J. Williams once more brings James R. Dainty and Judge Archbald together, and to Judge Archbald is once more assigned the duty of procuring, if possible, from the Lehigh Valley Coal Co. or S. D. Warriner, its vice president and general manager, a lease on a tract of land owned by that company and known as the Morris & Essex tract.

And, again, and in the fourth place, it will be noticed that in each one of these transactions Judge Archbald called upon these railroad companies to do something which prior to his intervention they had expressly refused or which was contrary to their fixed course of action, and which therefore required something more than normal effort. Thus we learn that May and Richardson had either refused outright or were indisposed to sell the Katydid dump until the respondent went to Richardson by way of Brownell. The Delaware, Lackawanna & Western Railroad Co. had not only rejected the claim of the Marian Coal Co. for damages, but was stoutly contesting it in the courts when the respondent joined Watson in the effort to force a settlement. The Lehigh Valley Coal Co. had definitely refused to lease to Madeira, Hill & Co. the banks known as Packers No. 2, No. 3, and No. 4 some time before the respondent asked it to assent to his acquiring Packer No. 3; and its general manager, Mr. Warriner, states that he had never known his company to sublease any land leased from the Girard estate except in this one instance to Judge Archbald. Richards and Baer had utterly rejected Warnke's request for the Lincoln culm dump, and only after other men had tried to help him and failed did Warnke urge Judge Archbald on them as his "last shot." And, finally, when the respondent once more approached Warriner to get from the Lehigh Valley Coal Co. the lease on the Morris & Essex tract for James R. Dainty he was promptly told—what undoubtedly he already knew—that it was not the policy of that company to lease or sell its coal lands.

In considering this chain of facts it must not for a moment be forgotten that Judge Archbald was a member of the Commerce Court and that the duties of that court are peculiar in that its business is restricted to a certain class of litigants, and that in that court is concentrated all the litigation of all the railroads of the United States engaged in interstate commerce having to do with the rates and facilities afforded by them to their shippers.

I do not mean to impugn the personal integrity of the officers of the railroads of this country, whether their names be mentioned in this proceeding or not, but I only state what every man knows to be true when I say that from the moment when Judge Archbald went upon the Commerce Court there was not a door closed against him in the office of any railroad in these United States, and not a reasonable request which he might make the refusal of which would not have been a source of embarrassment to the railroad officer to whom it was addressed. He knew this fact, if gifted with ordinary common sense. Beyond question Edward J. Williams knew it, John Henry Jones knew it, Frederick Warnke knew it, James R. Dainty knew it, and George M. Watson knew it. Can any man listen to this testimony without believing that there was a deliberate intent and purpose to utilize this situation?

In so far as the correspondence with Mr. Bruce is concerned, the respondent alleges that it was no more than an effort on his part to secure further light in a case about to be decided. No one will contend that a court may not utilize to the utmost the aid of counsel in solving his judicial doubts and difficulties, and that until final decision is rendered it is his right and, indeed, his duty to exhaust all the help which they can give him. The unfortunate part, however, of this correspondence is that no information of its progress or its contents was ever communicated to opposing counsel, and more remarkable still, not even communicated to his brother members of the court. So far as I know, it has been regarded from time immemorial as a gross indecency on the part of any court to solicit or accept suggestions, discussion, or argument from one party to a litigation in the absence or without the knowledge of the other. Every code of judicial ethics ever written has forbidden it, and if it did not, the common conscience of mankind would protest against it. No subtler poison can corrupt the streams of justice than that of private access to the judge.

Mr. President, all that was good in the feudal nobility was summed up in the two words of their deathless motto "noblesse oblige." They recognized that rank and station have their duties and obligations no less than their privileges. If this be true of those whose elevation springs from the mere accident of birth, how much more so of those whose title to office depends upon the esteem of their fellow citizens? How dare they for

one moment forget that with them always and everywhere "noblesse oblige"? No man can justly be considered fit for public office of whatever rank or kind who does not realize the double duty resting upon him—first, to administer his trust with unflinching honesty, and, second, and hardly less important, to so conduct himself that public confidence in his honesty shall remain unshaken. This confidence of the people in the integrity of their officers is the foundation stone, the prop, the support of all free government; without it constitutions and statutes are empty forms, executives, legislators, and judges the creatures of an ephemeral day. In forms of government only that which is best administered, in fact and in appearance as well, is best. A public man, it is true, may be as chaste as ice and as pure as snow and not escape suspicion. Try as he may, he can not always avoid the ready tongue of slander; but what he can do, ought to do, and must do is to avoid putting himself in any position to which suspicion can rightfully or reasonably or naturally attach. More can not be expected of him, but nothing less should be permitted.

If it be possible to discriminate in such matters, does it not seem that these obligations rest with peculiar force upon the judge? His life is to be spent as a peacemaker in adjusting the quarrels and difficulties of his fellows and in vindicating the right of society to peace and order. The appointing power or the electorate, as the case may be, his solemn oath, the State, society itself, all stand sponsor for his absolute honesty and strict impartiality. To preserve these virtues, therefore, both in essence and in seeming, should be his first and most especial care. He must realize that he has entered upon a career monastic in its requirements, not only of labor, but of abstinence and self-denial as well. Many things which he may have been accustomed to do, many things which in other men may be permitted or approved, or, if not approved, forgiven, are cut off for him from the moment when he dons his official robe, and many avenues of life are closed to him forever. The pursuit of fortune, the chase for wealth he must put behind him; and though he need not strip himself of all his worldly goods, nor cease to give a decent degree of care and thought to the preservation of such property as he may own, he must recognize that his period of accumulation, his active participation in commercial pursuits is over for the time. He has undertaken to content himself for this loss with the honors and emoluments springing from his position and the opportunities for service that it brings. His ideal must be that expressed by John Randolph, who said, in speaking of the great chancellor of Virginia, George Wythe, that—

he was in the world, yet not of the world, but was the mere incarnation of justice.

Who is there that will declare this rule too rigid or this ideal too high? If any such there be, at least even he must admit that the judge should scrupulously abstain from bargaining with litigants before him or from using the prestige of his lofty station as a means of procuring financial favors. If this were not so, think how many subtle byways of approach and influence would be opened; how quickly and surely litigants would trace the outcome of their causes to something other than a fair application of the maxims of the law; how easily a gift might be concealed under the guise of a trade opportunity; and how restless would be the suitor when compelled to submit his cause for adjudication to the favored friend or business ally of his adversary. Indeed, since judges at their best are merely human, how far might the poise and balance of their judgments be thus disturbed by a bias and a prepossession not confessed even to themselves? The mere suggestion of these things is enough. If emphasis were needed, we might content ourselves with recalling the famous but universally condemned defense of Lord Bacon, who admitted the receipt of gifts from suitors, but denied that his judgment had been adversely influenced thereby.

Measured by these standards the conduct of this respondent is indefensible indeed. There is little need to emphasize the situation by analogies; but if a member of the Interstate Commerce Commission were found to be engaged in trafficking with railroad companies for their properties; if a member of the new Court of Customs Appeals were found either in person or by his runners to be hunting bargains from importers on the New York docks, there would be none to defend him. All men will unite in regretting the necessity for action in the case at bar, but the duty of the Senate, we submit, is perfectly clear.

Mr. SIMPSON. Mr. President——

Mr. JONES. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Washington suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crane	Kern	Shively
Bacon	Cullom	Lippitt	Simmons
Bankhead	Cummins	Lodge	Smith, Ariz.
Bourne	Curtis	McLean	Smith, Ga.
Bradley	Dillingham	Martine, N. J.	Smith, Md.
Brandegee	Dixon	Oliver	Smoot
Bristow	du Pont	Page	Stephenson
Brown	Fletcher	Paynter	Stone
Bryan	Foster	Penrose	Sutherland
Burnham	Gallinger	Perkins	Thornton
Burton	Gronna	Perky	Tillman
Chamberlain	Johnson, Me.	Pomerene	Townsend
Clapp	Jones	Richardson	
Clark, Wyo.	Kenyon	Root	

The PRESIDENT pro tempore. On a call of the roll of the Senate 54 Senators have responded to their names. A quorum of the Senate is present.

Mr. NELSON. Mr. President, I desire to have my name recorded.

The PRESIDENT pro tempore. The Senator's name can not now be recorded, but the fact that he has addressed the Chair shows that he is present.

ARGUMENT OF MR. SIMPSON OF COUNSEL FOR RESPONDENT.

Mr. SIMPSON. Mr. President, in the early days of this trial day by day one or more Senators appeared and took the oath of office for Senators who were to sit upon impeachment trials. That oath states that each Senator shall, "in all things appertaining" to this trial, "do impartial justice, according to the Constitution and laws." I take it that those words, "in all things," necessarily mean that the respondent shall be fairly advised of what the charges are against him; that the evidence shall be limited to those charges; and that the judgment which is passed upon those charges, when that time comes, shall be passed upon them, each charge by itself, according to the evidence which relates to that charge, and to that charge alone. If it does not mean that, it is a little difficult to understand what it does mean.

Upon most of those points counsel for the respondent and the managers agree. We disagree slightly as to whether the first of the things I have suggested has been thoroughly met by articles 6 and 13, but inasmuch as those two articles are in the keeping of my senior colleague, Mr. Worthington, I shall not dwell upon that point.

There is, however, in that oath one other thing that I want to dwell upon, because it is really at the root of the whole of the charges; and that is, that to this respondent "impartial justice" is to be done, "according to the Constitution and laws." What laws are there referred to? Necessarily, I take it, it must be the laws of the United States, yet I do not recall having heard during the four arguments of yesterday and to-day any particular reference to the laws of the United States.

It was suggested by several of the managers yesterday that a violation of section 132 of the Judicial Code might have been charged in some of these articles, but it was admitted in the same breath that there was no charge under that section, which relates only to bribery, and it is, of course, admitted that you can not convict this respondent on a charge of bribery when he is not charged with bribery.

It is evident that the managers felt the difficulty of their position in that regard, for when Mr. Manager STERLING made his argument yesterday, in order to avoid just that difficulty, he used this language, which I prefer to read, so that there may be no mistaking his exact meaning. I am reading from page 1345:

And so, Mr. President, I say, that outside of the language of the Constitution which I quoted there is no law which binds the Senate in this case to-day except that law which is prescribed by their own conscience, and on that, and on that alone, must depend the result of this trial. Each Senator must fix his own standard; and the result of this trial depends upon whether or not these offenses we have charged against Judge Archbald come within the law laid down by the conscience of each Senator for himself.

Sirs, if that be so, I want to know what has become of the Constitution in this case? Of what use was it to write into the Constitution that a man shall be impeached only for "treason, bribery, or other high crimes and misdemeanors," if there is no law to govern you and if you may, out of your own consciences, evolve the thought that you will dismiss this respondent from the public service simply because you wish to get rid of him. You need no proof of "treason, bribery, or other high crimes and misdemeanors" to discharge him, if that is the position you are to take in this case, for those words, under such circumstances, are unnecessary and meaningless.

I submit that that is not and can not be the true legal position. It must be precisely the reverse of that. You must find somewhere, whether it is under the "good-behavior" clause of

the Constitution or whether it is under the article relating to impeachments themselves, that upon which you can lay your finger and say that this respondent has violated that thing, or you must under your oaths of office say that he shall go free.

Nay, there is more than that in this. Judge Curtis, one of the ablest lawyers this country has ever known, met just that claim in the trial of the President. In those days of excitement one wonders not that such a position was maintained. I do wonder that at this day, in the quiet of this Senate Chamber, when men are supposed to be viewing this matter in a judicial capacity, when there is no political excitement to distract them from the performance of their duty, that such a position should be taken. But when it came before the Senate in the trial of Andrew Johnson, this is what Judge Curtis said. I may be pardoned for reading it, as probably no man could better say it than he:

> But the argument does not rest mainly, I think, upon the provisions of the Constitution concerning impeachment. It is, at any rate, vastly strengthened by the direct prohibitions of the Constitution. "Congress shall pass no bill of attainder or ex post facto law." According to that prohibition of the Constitution, if every Member of this body, sitting in its legislative capacity, and every Member of the other body, sitting in its legislative capacity, should unite in passing a law to punish an act after the act was done, that law would be a mere nullity. Yet what is claimed by the honorable managers in behalf of Members of that body? As a Congress you can not create a law to punish these acts if no law existed at the time they were done; but sitting here as judges, not only after the fact but while the case is on trial, you may individually, each one of you, create a law by himself to govern the case.

That is his quotation of what was claimed in the Johnson case, just as Mr. Manager STERLING claims it here.

Then Judge Curtis goes on:

> According to this assumption the same Constitution which has made it a bill of rights of the American citizen, not only as against Congress but as against the legislature of every State in the Union, that no ex post facto law shall be passed—this same Constitution has erected you into a body and empowered everyone of you to say aut inveniam aut faciam viam—if I can not find a law I will make one. Nay, it has clothed everyone of you with imperial power; it has enabled you to say, sic volo sic jubeo stat pro ratione voluntas—I am a law unto myself, by which law I shall govern this case.

And that is the position which Mr. Manager STERLING, speaking for the managers, asks you to take here. He asks you not to look to the law of the land for that which shall govern the rights of the parties here; but he asks you, out of your own conscience, whether your conscience agrees with mine or his or anybody's, to evolve a law which shall apply to this case, and which, when this case is over, shall cease ever thereafter to be the law. And that is said to men who are here trying a case according to law. In sooth, I would rather quote as the true guide for your deliberations what Mr. Manager Buchanan, afterwards President Buchanan, said on the trial of Judge Peck, when he said:

> I freely admit that we are bound to prove that the respondent has violated some known law of the land.

That is the claim which the respondent's counsel make here as antagonistic to the lawless claim of the managers as above quoted.

Turning now to the Constitution—and I am not going to go at great length into this, because my senior colleague is the one who prepared the brief upon this particular point and who is entitled to all the honor and credit for it and will deal with it himself when his turn comes, and hence I shall only deal with it partially—but turning to it for the purpose of partially dealing with it, let us see where we land ourselves when the Constitution is taken into consideration. It needs no panegyric here. The managers might have saved themselves the trouble of praising it up to the seventh heaven. But in this, as in everything else, the Constitution is only a frame of government. It remains for the Congress to vivify many of its provisions. It remains for Congress to write on the statute books what shall constitute "high crimes and misdemeanors," and there are already in the Revised Statutes many provisions upon that point. One of them, you may remember, came up in the Andrew Johnson impeachment. Another one I will refer to in a little while.

But it is said that in this case you do not need any statute; you have the provision of the Constitution which says that judges shall hold their offices during good behavior. Now, I want to know what good behavior means. This is the provision:

> The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior and shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office.

If you take that whole clause and consider it, either historically or grammatically, you will find that the words "good behavior" relate to good behavior in office. The compensation which is to be paid is for service in the office. The good behavior which is the tenure is to be good behavior in the office. But, say the managers, it is not good behavior in office which is the test at all, and you may impeach and remove a man even though he has behaved perfectly well in his office. Personally I agree with that. I am not challenging that position; but it answers their proposition now being considered that good behavior in office is the tenure by which the respondent holds, and for a breach of that he may be removed from office without considering the impeachment clause of the Constitution.

I do not think that the good-behavior clause has anything whatever to do with the impeachment. Everybody knows how the good-behavior clause came into being. In the ancient days the judges, like all other civil officers, held their positions at the pleasure of the king. Then the barons wrested from the king his power of dismissal, and required that there should be a good-behavior tenure rather than a tenure at the pleasure of the king, subject at that time only to the power of impeachment. And then a little later—I think it was in 1701, after the revolution—there was added the removal power; so that, upon address, judges might be removed the same as upon impeachment.

Mr. WORTHINGTON. Without a trial.

Mr. SIMPSON. Without a trial. Those are the circumstances under which the good-behavior tenure came into existence.

But what does "good behavior" mean if you are going to take that alone into consideration? A man ill behaves if he speaks unduly cross to his wife and children. May he be removed from office because of that? If he is the happy owner of an automobile, he may violate the speed laws and be haled before some magistrate and fined.

Is he to be removed from office because of that? No one would answer "Yes" to either of those questions, and hence you must get down to something definite, something upon which you can lay your finger and say, "There is the definite thing which this man should have known, and as he should have known it and has chosen to violate it he must pay the penalty of his violation." That definite thing can be ascertained only by reference to the clause which says that he may be impeached for "treason, bribery, or other high crimes and misdemeanors." In the ordinary sense of the term one can understand how a man can be of perfectly good behavior in everything else and still be guilty of treason, but does anybody doubt but that he could be removed from office if he was guilty of treason? In truth, you have to go back from the good-behavior clause to the impeachment clause to find out what are the causes for an impeachment. It is the impeachment clause which is the controlling clause and not the good-behavior clause at all.

The argument that grows out of the claim that a violation of the good-behavior clause is sufficient justification for an impeachment is as clearly reasoning in a circle as anybody can well imagine. Concede that good behavior is the tenure, still you can not remove a man from office, under the Constitution, unless he is guilty of "treason, bribery, or other high crimes and misdemeanors," and hence the determinative factor as to whether or not a judge was of good behavior is whether or not he was guilty of "treason, bribery, or other high crimes and misdemeanors." And so you may go round in a circle and get nowhere except where you started.

Now, one thing must certainly be evident in this matter. It was claimed by the managers yesterday, and partially by Mr. Manager HOWLAND to-day, that the words "high crimes and misdemeanors" as used in this provision of the Constitution were taken bodily out of the English practice, the English parliamentary law, as they said. That is unquestionably true. It is not true that in all the impeachments in England they used the words "high crimes and misdemeanors," but those words are used in a number of their impeachments. This being so, you must either accept the construction placed upon those words in the lex parliamenti, or you must decline to accept that construction. If you decline to accept it, of course that branch of the argument falls by the wayside at once. But if you accept it, then the question arises, which of the English precedents are you going to accept, in view of the fact that some hold that an impeachable offense need not be an indictable one, and others hold a precisely anagonistic view. Are you going back to the days when a man was impeached simply because he happened to have been put in office by those who have themselves just been turned out? If that is the view you are going to accept, then, perhaps, every four years in this country there will be a wholesale slaughter. But if you are going to accept the best precedents which appear upon the English reports, and especially those down near to the time when the Constitution of the United States was adopted, then, as is shown in the brief, and as I have no doubt Mr. Worthington will refer you to, those best precedents show that except for an indictable offense no impeachment would lie under the laws of England.

But what are you going to do if you take the matter is to be considered solely under the language of the Constitution itself? The word "misdemeanors" in that clause must be taken either in the technical sense or in the popular sense. If that word is taken in the technical sense everybody knows that a misdemeanor taken technically is a crime pure and simple. If it is taken in the popular sense, then, notwithstanding what some text writers have said, I venture the assertion that if you go out into the cars or on the streets or in your homes and ask the people you meet what is meant by the words "treason, bribery, or other high crimes and misdemeanors" you will not find one in a thousand but will say that every one of those words imports a crime. If that is so, then necessarily, when you come to construe those words after this trial is over, you will necessarily have to reach the conclusion that these charges must be indictable or they can not be impeachable.

I have infringed somewhat probably, Mr. Worthington, on your copyright, I admit, in touching this question, but there is one other thing I want to refer to before I leave it. Mr. HOWLAND referred yesterday to the impeachment of Alexander Addison, and as he thereby trespassed upon my bailiwick I prefer to deal with that case rather than to leave Mr. Worthington to deal with it.

Mr. WORTHINGTON. Go ahead, sir.

Mr. SIMPSON. Alexander Addison was impeached. He was impeached shortly after Jefferson became President. I do not need to recall to this assembly what the condition of the public mind was at that time as between the then Republicans, represented by Jefferson, and the Federalists, who had gone out of power.

It is true, as Mr. HOWLAND stated, that the attorney general of the State presented to the supreme court a request for leave to submit to the grand jury an information against Alexander Addison. It is not accurate to state that the supreme court said that the charge against him was not an indictable offense. What the supreme court did say to the attorney general was this:

> Inasmuch as the affidavit which you have presented to us does not charge either willfulness or malice against Judge Addison, it is insufficient to charge an indictable offense. If you amend it by charging willfulness and malice, then there will be a misbehavior in office charged, and that is indictable.

But those in power did not choose to amend it. Having control of both branches of the legislature of my State, they preferred to proceed by way of impeachment, and they impeached Judge Addison and he appeared. Did he say that the charges against him were not indictable? On the contrary, although he tried his own case from beginning to end, he started out and stoutly maintained throughout the proceeding that the charge was an indictable charge, and the record of the case which Mr. Manager HOWLAND had shows it most clearly.

Instead, therefore, of that case being a precedent for the position that an offense may be impeachable which is not indictable, it is the precise reverse of that; for, as stated, the respondent himself boldly admitted that the offense with which he was charged was indictable, and therefore was impeachable.

Let me ask this upon conclusion on this point of the case: Suppose that among the various suggested amendments to the Constitution of the United States some one would come along, in view of the position taken in a few places at least in our country, and ask for and succeed in obtaining an amendment which would fix a term of years for each judge. Instead of holding during good behavior, they would hold then for 10 or 20 or 30 or any number of years that you choose. Does anybody pretend, can anybody pretend, that the duties of the judge would be altered in the slightest degree? Would there not be required of him the same good behavior and could he not be impeached for the same lack of good behavior or indulgence in bad behavior, or whatever you choose to call it, just the same as he can now when there is a term of office during good behavior? If that is so, and certainly no one will say that the duty of a judge would change by reason of such an amendment as that, then, as heretofore claimed in this argument, the good-behavior clause has nothing whatever to do with the question of impeachment.

I pass from the point, perhaps having dwelt longer upon it than my time justifies, and inquire what is the law which, under the oaths of office of Senators, they are bound to apply to a large number, at least, of the articles of this impeachment? I heard it said yesterday, "Why, the facts are admitted in relation to Judge Archbald." Yes; a good many of the facts are admitted; but the question whether the facts are or are not admitted plays but the slightest conceivable part in this determination of this case. Is there in the answer any admitted fact upon which criminality can be founded? Is there in that answer any admitted fact or series of facts upon which a violation of law can be stated? Not in the slightest degree.

It is said, "Why, he purchased culm dumps and prepared to engage in the business of washing the coal in the Katydid and in Packer No. 3," and so on. Yes, he did. He admits that. Is that a crime?

Away back in 1812 Congress passed the only act of which I have any knowledge which bears even in the slightest degree on the question of the duties of a judge outside of the time when he is sitting for the performance of his judicial duties. That provision is now in section 713 of the Revised Statutes, and it reads thus:

> SEC. 713. It shall not be lawful for any judge appointed under the authority of the United States to exercise the profession or employment of counsel or attorney, or to be engaged in the practice of the law. And any person offending against the prohibition of this section shall be deemed guilty of a high misdemeanor.

There you have written into your statute books that engaging in the practice of law while a judge shall be a high misdemeanor, and of course that would bring the case within the impeachment clause of the Constitution I have so often quoted. But the very fact that you do not say of a judge that he shall not engage in any other business necessarily implies, under the doctrine expressio unius, est exclusio alterius, that Congress has not yet seen fit to say that a judge shall not engage in any other business so long as he is judge; and until you see fit to say that he has the right to carry on any business, provided only he carries it on as you or I or anybody else would carry it on, in a decent and honest manner.

It was suggested yesterday that out of this trial there might grow a statute upon that point. I would welcome such a satute. If there is a doubt to-day in the public mind, or in the mind of any single Senator on this floor, that judges ought to be prohibited from carrying on any business, I would welcome the passage of such a statute, so that it might be known definitely by every judge on the Federal bench what he may and what he may not do. If, after that, after you have told him what he may not do, he willfully disobeys, then rightfully may he be impeached; but until that time comes, I submit that the only thing you ought to do or that the Congress ought to do is what was done after the trial of Judge Peck, when he was acquitted of the charge made against him. Then it was that Congress, in 1831, I think it was, passed the act in relation to contempts, which remains upon the statute books until to-day. Give us something definite, something certain, in regard to this matter; otherwise you are convicting a man, as Judge Curtis said, by an ex post facto law, and you are, as by a bill of attainder, taking from him his office without ever having theretofore told him that he should not do that which you are convicting him for doing.

There is another point in this same connection upon which I want to dwell a little while before I come to the evidence in the case. I have repeatedly said that the Senate is sitting here as a court. I am not going into the much controverted question which has arisen from time to time, and which was such a bugbear during the trial of the President, as to whether it ought to be called a high court of impeachment or only a Senate.

The question, however, is whether or not the duty which you have to perform is in point of fact a judicial duty. It must be conceded that it is not a legislative duty. That is perfectly clear. It is certainly equally clear that it is not an executive duty. I can not see what else remains unless it is a judicial duty.

But the Constitution in its various articles has made that exceedingly clear. In Article I, section 3, it says "the Senate shall have the sole power to *try* all impeachments." It says, "When the President of the United States is *tried* the Chief Justice shall preside; and no person shall be *convicted* without the concurrence of two-thirds of the Members present." It says, "*Judgment* in cases of impeachment shall not extend further than to removal from office," and so on, "but the party *convicted* shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to the law." It says in Article II, section 2, "The President * * * shall have power to grant reprieves and pardons for *offenses* against the United States, except in cases of impeachment," and Article III, section 2, lastly says "The trial of all *crimes*, except in cases of impeachment, shall be by jury, and such trial shall be held in the State where the said *crime* shall have been committed."

Now, I want to ask if it is possible to use words more clearly demonstrative that that which you as Senators are doing you are doing in a judicial capacity. That is what I am claiming at this stage. It will reach up itself to its proper conclusion after a little while. The point is, you are in fact sitting as judges. I read, for it expresses briefly the thought, the language of Prof.

Dwight in Sixth American Law Register (n. s.), pages 258 and 259:

When a criminal act has been committed it may evidently be regarded in three aspects—first, the injury to the individual or his family may be considered; second, the wrong to the executive officer charged with the administration of the laws may be looked at; and, third, the mind may dwell upon the general wrong done to the State, or "the people," as we say in modern times. This view was early taken in the common law; the injury to the individual was redressed by a proceeding called an appeal; the injury to the King by a process called an indictment; the wrong to the entire Nation by a proceeding called an impeachment. In process of time the injury to the individual came to be regarded as a private and not as a public wrong, so that in the progress of the law there remained two great criminal proceedings—indictment and impeachment.

Mr. Manager CLAYTON, when reference was made to that quotation in a very early stage of this trial, said that many of the things which Prof. Dwight referred to had not been sustained by the adjudications of this body. That I do not care to go into. It is immaterial for the thought which I wish to present. Certain it is, however, that that historical statement, thus briefly presented, has never been controverted by anybody and can not successfully be, for it is part of the judicial history of England.

Indeed, when the managers were preparing their brief in this case they unwittingly said some of the things which I wish to quote to you now as bearing out exactly the thought that I want to present. I am reading from pages 6 and 7 of the brief, particularly in the quotations from Tucker on the Constitution. He says this:

(*f*) The word "maladministration," which Mr. Mason originally proposed and which he displaced because of its vagueness for the words "other high crimes and misdemeanors," was intended to embrace all official delinquency or maladministration by an officer of the Government where it was criminal; that is, where the act done was done with willful purpose to violate public duty. There can be no crime in an act where it is done through inadvertence or mistake, or from misjudgment. Where it is a willful and purposed violation of duty it is criminal.

In another place:

So, if he omits a judicial duty, as well as when he commits a violation of duty, he is guilty of crime or misdemeanor; for, says Blackstone, "crime or misdemeanor is an act committed or omitted in violation of a public law either forbidding or commanding it."

* * * * * * *

And again:

It must be criminal misbehavior—a purposed defiance of official duty—to disqualify the man from holding office, or disable him from ever after holding office, which constitute the penalty upon conviction under the impeachment process.

I claim no more than that for the purpose of my argument in this case.

So, when they came to quote from Foster on the Constitution, unhappily they left out the vital clause in the extract which they undertook to make. It was most convenient to substitute asterisks for that vital clause, but I prefer to read the whole of the paragraph, including the vital clause and leaving out the asterisks. As it is quoted in that brief, these are the words:

The term "high crimes and misdemeanors" has no significance in the common law concerning crimes subject to indictment. It can be found only in the law of Parliament and is the technical term which has been used by the Commons at the bar of the Lords for centuries before the existence of the United States.

Then come the asterisks. These are the words which the asterisks displace:

But the judgments of the Senate of the United States in the cases of Chase and Peck, as well as those of the State senates in the different cases which have been before them, have established the rule that no officer should be impeached for any act that does not have, at least, the characteristics of a crime, and public opinion must be irremediably debauched by party spirit before it will sanction any other course.

That is the law as I understand it, and I pass therefore from it. It is a rule of law founded on legal principles, applied not only in impeachment cases, but in every other class of cases that ever comes before a court. At the very basis of all constructions, whether of constitution or of statutes or of contracts, is the maxim noscitur à sociis, which says neither more nor less than that words are to be taken in their meaning in conjunction with the other words with which they are, in fact, associated. It has found this construction so many times that it is perhaps only necessary for me to refer to one more set of cases in order to put the point clearly in the minds of the Senate.

In the various turnpike cases, when they were more flourishing in the earlier days, it was quite common to say that the turnpike company should have the right to charge toll for all carriages, wagons, carts, and other vehicles which used the turnpike, and also they might charge toll for all horses, cattle, hogs, and other animals which used the turnpike. But it was held without exception in every case that I ever heard tell of that the words "other vehicles" did not, for instance, cover baby carriages, though they were vehicles just as well as the others; and that the word "animals" did not cover man, though he is an animal just as much as a horse or a steer, and perhaps quite as much of a hog sometimes as the ones that pay toll when they travel along the turnpike.

The point is that general words, like the word "misdemeanor" in this case, are to be construed in accordance with the words which precede; and under the constitutional provision that is particularly emphasized by the use of the word "other" in the phrase "treason, bribery, or other high crimes and misdemeanors."

If the position I have taken on this point be accurate, we ought to be able to take the next step, and a long one, in regard to this matter. If this is a court, then it is perfectly evident that the rules which experience has demonstrated to be wise and applicable in trials in other courts ought to be applied here, and among those rules which are down at the very foundation of Anglo-Saxon jurisprudence are those which relate to the effect of character evidence, to the effect of the reasonable-doubt doctrine, to the effect of the presumption of innocence, and to the effect to be given to admissions made during a trial. I prefer for a convenient purpose to treat of the question of the admissions made during the trial first. When we were introducing the character evidence in this case Mr. Manager CLAYTON rose and said this——

Mr. CLAYTON. On what page?

Mr. SIMPSON. On page 888:

I may say, Mr. President, in the beginning, that we have not controverted the good character of Judge Archbald. Perhaps if we had controverted that a larger range would be permissible for the respondent in reply to that controversy raised by the managers. But the managers have not raised that question.

Again, on page 889:

We have not charged that while actually sitting on the bench Judge Archbald was guilty of these several misbehaviors. We have charged misbehaviors when he was not sitting on the bench. The whole case is his behavior aside from the discharge of his mere official duties while actually sitting.

Again, on page 889:

Mr. President, I do not think it necessary to detain the Senate longer. I insist that inasmuch as his good character is not controverted this range of examination sought here by the counsel is not permissible.

Again—I read from page 915:

So, Mr. President, I respectfully submit to you and to the Senate that after these gentlemen have examined 10 witnesses on character and when the testimony of those character witnesses is not disputed—is not controverted—and when the managers tell the Senate it will not be controverted, it seems to me that the further examination of character witnesses might well be dispensed with.

It was in recognition of that fact—that is, the evidence relating to the character witnesses—that this body passed its order that 15 character witnesses should be the limit. A little later on in the examination, on page 891, this question was asked:

Q. Now, Maj. Warren, I want to ask you to tell us, from your long acquaintance with Judge Archbald and your observation of him as a judge, what were his principal characteristics as a judge as to integrity, ability, and industry.

Objection was made to that, and your Presiding Officer in sustaining the objection said, on page 892:

This particular question is as to the opinion of the witness himself. If the counsel would limit his question to the witness's knowledge of the general character of the respondent for judicial integrity, the Chair would think that was competent; but this question not only asks the individual opinion of the witness, leaving aside the question of general reputation, but it goes further and asks for the opinion of the witness, not only as to integrity, but as to ability and industry, none of which characteristics or features are involved, as the Chair understands, in any issue before the Senate at this time.

And the managers sat here and did not raise any point touching that ruling of the Chair, which was in fact made on their objection, so that they stand to-day estopped by their silence from denying Judge Archbald's judicial integrity, or his individual integrity, or his ability, or his industry. Those facts must stand throughout this trial as admitted facts, not relating to one article but to every article in the case.

One other reading and I shall have passed from that which I want to read in regard to this point. I am reading from page 905. When Judge Gray was upon the witness stand I asked him this question:

Q. Will you please tell us what is his reputation for integrity and impartiality as a judge, if you know?

That was objected to, and the Presiding Officer said this, on page 906:

The PRESIDING OFFICER. The Chair thinks, however, that the question transcends the limitation. The witness is asked the question as to his impartiality. The Chair thinks it ought to be limited as to his reputation for integrity as a judge.

And again the managers sat silent.

We have therefore as admitted facts, I may say, certainly, undisputed facts in this case, that Judge Archbald is a man whose integrity is unquestioned, whose judicial integrity is unquestioned, whose industry, whose ability, whose impartiality

are all unquestioned; and those elements are necessarily vital in determining the truth or falsity of the charges which are here made against him.

Let us see how far they go as determined by the Supreme Court of the United States. I prefer to limit my quotations to the judgments of that tribunal, not only because it stands highest in the land, but because it is the best exponent on Federal questions.

In the case of Kirby *v.* The United States (174 U. S., 47), this was said:

> The presumption of the innocence of an accused attends him throughout the trial and has relation to every fact that must be established in order to prove his guilt beyond reasonable doubt. "This presumption," this court has said, "is an instrument of proof created by the law in favor of one accused, whereby his innocence is established until sufficient evidence is introduced to overcome the proof which the law has created."

In Coffin versus United States, One hundred and fifty-sixth United States Reports, I read from page 460. This is said in the opinion written by the present Chief Justice:

> Concluding, then, that the presumption of innocence is evidence in favor of the accused introduced by the law in his behalf, let us consider what is "reasonable doubt." It is of necessity the condition of mind produced by the proof resulting from the evidence in the cause. It is the result of the proof, not the proof itself; whereas the presumption of innocence is one of the instruments of proof, going to bring about the proof, from which reasonable doubt arises; thus one is a cause, the other an effect. To say that the one is the equivalent of the other is therefore to say that legal evidence can be excluded from the jury, and that such exclusion may be cured by instructing them correctly in regard to the method by which they are required to reach their conclusion upon the proof actually before them. In other words, that the exclusion of an important element of proof can be justified by correctly instructing as to the proof admitted.

Skipping a portion, I read now from page 461:

> Whether thus confining them to "the proofs," and only to the proofs, would have been error if the jury had been instructed that the presumption of innocence was a part of the legal proof, need not be considered, since it is clear that the failure to instruct them in regard to it excluded from their minds a portion of the proof created by law, and which they were bound to consider. "The proofs and the proofs only" confined them to those matters which were admitted to their consideration by the court, and among those elements of proof the court expressly refused to include the presumption of innocence, to which the accused was entitled, and the benefit whereof both the court and the jury were bound to extend him.

Again, from Edgington *v.* United States (164 U. S., p. 365), I read this:

> It is impossible, we think, to read the charge without perceiving that the leading thought in the mind of the learned judge was that evidence of good character could only be considered if the rest of the evidence created a doubt of defendant's guilt. He stated that such evidence "is of value in conflicting cases," and that if the mind of the jury "hesitates on any point as to the guilt of the defendant, then you have the right and should consider the testimony given as to his good character."
>
> Whatever may have been said in some of the earlier cases, to the effect that evidence of the good character of the defendant is not to be considered unless the other evidence leaves the mind in doubt, the decided weight of authority now is that good character, when considered in connection with the other evidence in the case, may generate a reasonable doubt. The circumstances may be such that an established reputation for good character, if it is relevant to the issue, would alone create a reasonable doubt, although without it the other evidence would be convincing.

Now, if those principles are applied to the admissions as to good character, as to industry, as to integrity, and as to impartiality, I ask what, then, is the conclusion which the Senate ought to reach in regard to considering the evidence in the case?

Perhaps before passing, however, to that evidence I ought to refer somewhat briefly, as I must, but none the less in order to disabuse the minds of the Senate of any lodgment which may have been found in it by reason of the case of the Amity Coal Co., which was called to the attention of Mr. Willard when he was upon the witness stand, and to Judge Gray likewise, so that you may know that that which was said by the Supreme Court of Pennsylvania casts, in fact, no reflection upon Judge Archbald. We have in our State a statute providing for the formation of joint-stock associations. Like most of those statutes they are a delusion and a snare to anybody who tries to form an association under them. If you fail to dot an "i" or to cross a "t" you are almost certain to find yourself in a position where you will pay the penalty in any suit that happens to be brought against you individually. In this particular case the statute provided, among other things, that the certificate should state "the amount of capital stock of the said association subscribed by each subscriber, the total amount of the capital, and when and how to be paid."

Judge Archbald, before he became a judge at all, in drawing the articles of association for himself and his associates when they formed the Amity Coal Co., did not pay in anything. They construed that statute to mean, when it says "when and how to be paid," that there was not any necessity at the time to pay in anything. That view of the law was taken by the judge of the lower court when the case came before him for consideration. It went to the upper court, the supreme court of the State, and they said that that was not a proper construction of it, and this though every dollar of the capital had in fact been paid in in the interim and a great many thousands of dollars besides. But because in the inception of the thing there had not been a payment in of money, which the court thought by analogy under the corporation act ought to be at least 10 per cent of the amount of capital subscribed, therefore, there was held to be a personal liability in that case, but the court was most careful to say—I am now quoting from the opinion on page 899:

> In saying this we do not impute an intention to defraud or reflect upon the motives of the gentlemen by whom the Amity Coal Co. was organized. They may have supposed themselves to be complying with the provisions of the act. Our business is not with their motives, but with what they did; and our inquiry is whether this association was organized in accordance with the fair interpretation of the act of 1874.

And because of that construction they held it was not; and yet two of the ablest judges of that court—I mean of the Supreme Court—agreeing with the judgment of the judges of the court below, dissented from that conclusion. Now, I ask the Senate, can it be that because Judge Archbald drew the articles which, in the judgment of two of the upper judges of the Supreme Court and all of the judges of the lower court, were in exact compliance with the law, that he is to be held guilty of any moral wrong because in fact the upper court thought that it was not in compliance with the law, and that, too, in face of the fact that the upper court said that they did not mean in any way to reflect upon him? If that is so, I want to know how many of the 60 lawyer Members of this Senate would always find themselves safe from just such a reflection as that. If a man, whether a lawyer or no, is bound to be held to be immoral because he makes a mistake in the law, then the lawyers are in as sad a plight as were the lawyers in the early days of my Commonwealth, when the Quakers there refused to permit any lawyers to dwell therein.

Now, let us see what is the result of the matter so far presented. We have a man admittedly of high character; we have a man whose judicial integrity is not challenged; we have a man who, it is admitted, is impartial in all that which he has done, who is able and who is industrious, and you are asked, notwithstanding those admitted facts, to find that he has been guilty of wrongdoing.

You get down, therefore, just to this position: You are asked to say that because of suspicion this man is to be convicted of a wrong and excluded from office, though it is an admitted fact that there was nothing done which was wrong at all; in other words, the suspicion of wrong is to control the fact that there was no wrong in this case. Even in the palmiest days of impeachment, under the English practice, no case can be found in which such admissions appear upon the record of an impeachment trial.

I pass, Senators, from the law and carry myself to the facts in the case. I desire to say that my senior colleague will look after article No. 1, article No. 3, article No. 6, and article No. 13. The other charges are the ones which I am to take care of as best I may in this argument before you.

Article 2 charges that Judge Archbald, while a judge of the Commerce Court, undertook to effect a settlement between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co.; that the Delaware, Lackawanna & Western Railroad Co. was a litigant in the court over which he was a judge; that he undertook to do that for a consideration; that, by various conversations and correspondence, he undertook to use his influence as a judge for that consideration to bring to pass a settlement; and that, by reason of those acts, he is guilty of a high crime and misdemeanor.

You will observe in the answer he admits that he did try to effect the settlement. He admits that he did that because of his friendship for Mr. Watson and for Mr. C. G. Boland; but he denies everything which undertakes to import to that which he did either criminality or any breach of good manners or propriety. The issues which you are called upon, therefore, to consider is whether or not an impeachable offense is charged—as to which I have said all that I desire to say—whether or not Judge Archbald, for a consideration, undertook to effect that settlement; whether or not what is commonly spoken of here as the Lighterage case was in any real sense pending in his court at the time he undertook to effect that settlement, and, if it was, what the effect was; whether or not he corruptly used his influence as a judge and whether or not what he did constituted a high misdemeanor in office.

The first question, of course, is whether he undertook to do that for a consideration. The managers once or twice during the trial and once or twice yesterday said that they did not think that the question as to whether or not he undertook to do it for a consideration moving to himself was a material ques-

tion, but by innuendo they still insist, to use the language of Mr. Manager STERLING, that they believe that he did.

I agree with them that the question as to whether or not he was to do this for a consideration moving to himself is immaterial in this sense; that is to say, if he undertook to effect that settlement for a consideration moving to his friend it would be just as much a crime and a wrong, if it was done corruptly, as it would have been if it had been done for a consideration moving to himself; but there must inhere in it corruption, otherwise there is no crime and no wrong in relation to it. That is the point as to which this evidence becomes important.

The only evidence as to whether or not he did undertake for a consideration to do anything rests in the statement of Mr. C. G. Boland. When Mr. C. G. Boland was recalled as a witness to testify as to this point, the Senate will remember that there was quite an extended argument, and, by a comparatively small vote, the objection of the respondent's counsel was overruled. The question was then put—and I will read the question and answer:

Q. Now, go ahead and state what he said about that.—A. He said that as the judge was assisting him in the matter he felt that he ought to be compensated, and that he proposed to compensate him by one-fourth of the amount he was to receive in excess of $95,000, which was the price it was to net to us.

That is found on page 720. That is to say—so that it may have the fullest effect that can be given to it—Mr. C. G. Boland said that Mr. Watson said that he, Mr. Watson, thought the judge ought to be compensated, and that he, Mr. Watson, proposed to compensate him. That, you will remember, Mr. Boland testified, was said when he and Mr. Watson were alone. He further said it was never communicated to the judge at any time or under any circumstances; and I want to ask the Senate whether or not they can find a man guilty of a charge like that upon a double hearsay statement never carried to the man who is to be charged?

But that question is only a very small part of the answer to it. Mr. Watson, whose testimony you have not heard read, denies that anything like that was said. I shall have, therefore, to detain you long enough to read a portion of that testimony. I read from pages 1141 and 1142:

Mr. WORTHINGTON. One thing, there has been some testimony here in relation to you that I have not heard you asked about, and that is about a division of the difference between one hundred thousand and a hundred and sixty thousand dollars into fours. Have you read the testimony on that subject?

Mr. WATSON. Yes.

Mr. WORTHINGTON. What have you to say about it, Mr. Watson?

Mr. WATSON. I never heard that until I read it.

Mr. WORTHINGTON. Had there been any suggestion by anybody, while the negotiations were going on, that Mr. Phillips or Mr. Loomis should participate in what was to be paid?

Mr. WATSON. Absolutely not.

Mr. WORTHINGTON. Was there any suggestion at any time that Judge Archbald should receive anything in any way as compensation for what he did in this matter?

Mr. WATSON. Not to me; I never heard of it.

Mr. WORTHINGTON. Was there anything said about that by anybody, to your knowledge?

Mr. WATSON. No; I do not know anything about that. Only two people that I ever heard was to get any money out of this, and one was Reynolds and one was me. That is all I ever heard of.

I will not stop here to read the judge's testimony denying that same statement, because it must be very fresh in your own minds. I submit that, with the two disputing it and Mr. Boland not undertaking to assert it of his own knowledge, but only that somebody else said it, you can draw no conclusion antagonistic to the judge. But the case is infinitely stronger than that. The same Mr. Boland, who says that Watson told him that thing, testified thus before Mr. Wrisley Brown:

Mr. BROWN. Did Watson give you any intimation of what was to become of this large excess over the $100,000?

C. G. BOLAND. No.

Mr. BROWN. You did not concern yourself about it?

C. G. BOLAND. No.

And when he was asked to explain before the Senate why it was that he made that statement to Mr. Wrisley Brown, which he now says is a lie, he said that he did not want to be drawn into the matter because Mr. Watson made that statement also regarding Mr. Loomis and Mr. Phillips, and that he had no proof that it was true. When he was put upon the stand here to testify in regard to it, he said that in the testimony he gave here he did not give the names of Mr. Phillips and Mr. Loomis, because he did not believe there was any agreement or understanding ever made that they were to get any part of that money, and yet the same thing was said about them that was said about Judge Archbald. He chooses to retail the same slander, said by a man he does not believe, against Judge Archbald in this case, though refusing to give it as against others charged by the same man at the same time, and the reason he does this I leave you to guess. So it is otherwise throughout the testimony of Mr. Boland. He says in another place that he knows nothing affecting the integrity of Judge Archbald except that which may be drawn out in relation to the $500 note which was brought to him—C. G. Boland—for discount, and he repeats that in two or three different ways. He makes no explanation of why he said that thing if it was not true, and yet the managers ask you, by innuendo, to believe that Judge Archbald was guilty of a wrong because of a statement of a man like that, who himself admits in your presence that he told an untruth about it at least three times.

I pass, Senators, away from the question of consideration. What was in fact—and this is the second point at issue under these pleadings—what was in fact the situation in relation to the Lighterage case? And, by the way, I may say here if any reference I make to the evidence in this argument is doubted by any Senator, or is challenged in any way, I shall be glad to have my attention called to it, because I have here a memorandum of the pages of the testimony covering every one of these points.

What is the true position with relation to the Lighterage case? It is true that technically that case was pending in the Commerce Court, and I may as well at the same time deal with the Fuel Rate case, though it only appertains to article No. 1, which Mr. Worthington has in charge. It is true that that case also technically was pending in the Commerce Court at the time these negotiations were carried on, but both cases were only technically pending there. I want to put that broadly, so that when Mr. Manager CLAYTON comes to reply to the argument which I am this day making he may challenge that in some way if he chooses so to do. Both of those cases had been decided in the month of May preceding the August when these negotiations commenced. It is true they were both decided on motions for preliminary injunction and that in the month of June both of those cases had been appealed to the Supreme Court of the United States; but those cases both raised questions of law on undisputed facts, and the records, which were offered in your presence on Tuesday, show that beyond the peradventure of a doubt.

In the Fuel Rate case—I am not going into the facts in regard to the case, for it is wholly unnecessary to do so—the Commerce Court granted a special injunction, and the case went to the Supreme Court, which reversed the court below and entered an order that the record should be remitted to the Commerce Court with instructions to dismiss the petition.

Everybody supposed the case was at an end, so far as the Commerce Court was concerned, when it was appealed to the Supreme Court, and that it only had to be reviewed on its law in the Supreme Court, and the Supreme Court agreed to that view and entered the order that I have stated. When the Lighterage case went to the Supreme Court, the Supreme Court affirmed the judgment of the Commerce Court and sent the case back for further hearing. When it came back, both the counsel for the United States and the counsel for the Interstate Commerce Commission withdrew their answers, asked leave of the Commerce Court to present motions to dismiss, and elected to stand upon the motions to dismiss, thereby establishing that the facts averred in the petition were true and that there was nothing else to be considered but the law as applicable to those facts.

The opinion of Judge Carland, which is also upon this record, rendered after these proceedings commenced, and when Judge Archbald did not sit at all, states the facts just as I have stated them to you; and the Commerce Court, Judge Archbald not being present, as a matter of law, affirmed their prior ruling that the Lighterage case was properly decided theretofore. So you see that it is only in the most technical sense possible that the Delaware, Lackawanna & Western Railroad Co. had any cases then pending in the Commerce Court.

I thought I had stated, but my colleague thinks I did not, that the Lighterage case went up to the Supreme Court and was affirmed and came back again. Both cases went up at the same date, in June, 1911.

The next and the only other point in this article is the question as to whether or not Judge Archbald used his influence as a judge to assist in that settlement. He says he did not and, of course, nobody contradicts him. It is quite true, as the managers say, that it is a practical impossibility for a prosecuting officer to get into the mind of a man, and that he can only reach out by circumstantial evidence to establish such a fact. That I quite agree to, but the managers can not establish a fact by circumstantial evidence unless the circumstantial evidence, with at least reasonable certainty, moves to the establishment of the fact; and that is not the situation here.

One would have supposed from the arguments which were presented to you yesterday upon that point that Judge Archbald,

or perhaps Mr. Watson, or both, were the ones who instituted the thought of making that settlement; but that is not so. I repeat that it is not so, because there are upon this record three letters offered in evidence by the managers, showing attempts to settle before Mr. Watson was even consulted, in which letters the fact is referred to that Mr. Reynolds, who was the other counsel for the Bolands, was the party being considered in connection with the question of settlement up to that time, and neither Watson nor Judge Archbald had anything whatever to do with it. But Reynolds, for some reason not necessary to consider, was not a success in bringing about a settlement; and, as Mr. C. G. Boland himself said, he feared that, unless something was done, they would lose their property, and so—it may be at the suggestion of Mr. Williams, but, at any rate, they went to Watson to get him to see if he could not effect a settlement.

What Watson does before he sees Judge Archbald I neither know nor care. He goes to Judge Archbald to see if he can not get an introduction to Mr. Loomis, who had been a neighbor of Judge Archbald in Scranton for a number of years. He gets his introduction and then the negotiations commence. There were various interviews. It is quite unnecessary to consider how many nor when they took place, but they all occurred on or after August 22, 1911. There were various interviews which Mr. Watson had with various officers of this railroad company, but he did not get very far, as they were so largely at variance in regard to the figures. He was not willing to come down far enough, nor were they willing to go up high enough, to reach even a reasonable basis for effecting a settlement. Boland says, and Watson and Judge Archbald deny, that there was on the 23d of August a meeting held in the judge's office, in which the question was spoken of as to having a writing to show that Watson was entitled to a fee of $5,000. It was denied by both Watson and Archbald that there ever was such a meeting, and Mr. Watson says he never saw that paper until it was called to his attention before the Judiciary Committee.

A great point was attempted to be made yesterday that there was a raising of the price from $100,000 to $161,000, although the amount of $100,000 was spoken of at the meeting in Judge Archbald's office, as Mr. Boland claims and the others dispute. I do not care whether that is so or not. It is as immaterial to this case as anything very well can be; but the fact is testified to by Mr. Watson on pages 1116 and 1117 and 1119 and 1120, where he sets forth just exactly how the change from $100,000 to $161,000 came to be brought about. I read from the top of page 1117:

Mr. WATSON. From the first time that the price was fixed at $100,000 the property that was to be passed had changed very materially. There were different things to be done with it, and then when they offered this property first there was no two-thirds interest offered. The Marian Coal Co. in its entirety was offered to me.

Mr. FLOYD. For $100,000?

Mr. WATSON. For $100,000. That would include the suit—well, I may say the suit; yes. There was the Peale matter; Mr. Peale had $16,000, which was admitted. Mr. Peale finally got a judgment stated for thirty-odd thousand dollars, $34,000, or something like that. Now, that was hanging fire over there, and I didn't know that that was a part of this transaction when I first undertook to handle this for $100,000. Now, there was another thing that I didn't know, and that is that one-third of this stock that represented the Marian Coal Co. was in Mr. Peale's hands and belonged to him. That is two things that I didn't know about. The first, the increased indebtedness, the $16,000, I did get an idea of before we got very far along with it. But the larger amount, this $18,000 more added to it, I did not get that, you know, until the decree was—not the decree—until the judgment was entered, which was along after I had gotten out of the matter. Now, I did not know what that litigation was. Then there was another thing that I did not know. I did not know that the Bolands had any dispute of title over there, which they did have finally, and that the Lackawanna claimed a good, sizable interest in this dump. Now, I did not know that. Then, when I brought that to Mr. Boland's attention, and he began to see his $100,000 being carved out by $16,000, by a third interest of the Peales, and by a quarter interest of the Lackawanna, it began to get him down so that he would have trouble getting home on the proceeds; and therefore we agreed or he agreed to raise that to the $161,000, and I was to make that up on the rates. That is what was to happen.

That is the situation, and that is the reason why the price was raised. No one pretends that Judge Archbald had anything whatsoever to do with it. I care not whether he knew that under the original arrangement $100,000 was to be asked and that it was afterwards raised to $161,000, or whether he only knew that $161,000 was to be asked, the result is precisely the same so far as it can in any way affect this case.

It is said, and said truly, that the judge had a later interview with Loomis on or about the 25th of September, and then on the 27th he got a letter from Loomis saying that no settlement could be made because the Bolands were asking too much; that he had an interview with Phillips at his own home on the 30th of September; that he had an interview here in Washington with Watson on or about the 7th of October; that he had a still later interview with Mr. Boland asking him to see Mr. Loomis after Watson had failed and given up the job; that he did see Loomis and found that he could not effect a settlement, and then on the 30th of November returned all the papers to Mr. Watson and told him that the settlement could not be carried through because of the vast difference between them as to the figures which the one was willing to give the other was willing to accept. Mr. Worthington asks me to read in the same connection with that which I have already read a sentence from the testimony of Mr. Watson. I read from page 1119:

I had every reason to believe perhaps it was so, and therefore we added it together and it made $161,000, and that is the only price I ever had, the only price I was ever authorized to offer the land for to the Lackawanna road, and I offered it at that price.

I may say just in this connection that there is a letter of Mr. Phillips to Mr. Loomis, both of them officers of this road, showing exactly how that $161,000 was made up, on the demand of Mr. Boland, in that it was by multiplying 376,000 tons of coal, which had been shipped from their washery over this road, by 43 cents a ton, which they claimed was the excess price charged against them, making just exactly the price which was presented to the Delaware, Lackawanna & Western Railroad Co. by him.

There is no thought or pretense that Judge Archbald had any interview with them in which anything of that kind was said, or that he had anything whatsoever to do with the sending of that letter. There were, even after Judge Archbald returned the papers to Mr. Boland—which, by the way, they never produced, because those papers would have shown the $161,000 most clearly, and it is the only letter that they did not produce themselves, although it was sent to and admittedly received by them, and although Mr. Pryor says he saw the papers which were inclosed lying on their desks, and Mr. Boland himself testified to it—there were later attempts to settle made by the Bolands themselves and Mr. Phillips went upon the stand and testified to it. I read from page 878:

Q. (By Mr. Worthington.) State any reason Mr. Christopher G. Boland gave you on that occasion for wishing to have the claim of the Marian Coal Co. against the railroad company settled.—A. He stated in a very affecting way, with tears rolling and coursing down his cheeks, that he was worried and fretting about his brother Will; that he was afraid he would lose his mind.

But it is said here that there is to be an inference drawn as against Judge Archbald unfavorably because the letters which were sent to the officials of the railroad company were written on Commerce Court paper. Mr. Manager STERLING said yesterday that they were all thus written. That is a mistake; not an intentional mistake, but none the less an actual mistake. Most of them were so written. So also most of the letters which were written to other people appearing in this case were written on Commerce Court paper. But there were a few letters written not on Commerce Court paper as well to the railroad officials as to other people. But the explanation of it, and the perfectly natural explanation of it, was that which was given by Judge Archbald when the question was put to him. He said, "I never thought anything about it. I dictated the letters to my stenographer, and she wrote the letters on that paper because it happened to be handiest, and she brought them to me and I signed them, and the letters were sent out."

I do not know how far custom has made it right for men in official position to write private and personal matters on official paper. I know that I personally have received a great many letters thus written, and on purely private business, and I know that I never heard it challenged until this case commenced, or heard it said that that was proof of any wrongdoing by anybody.

I recall reading in sacred history that some 19 centuries ago the scribes and pharisees brought before Christ a woman who was taken in adultery, and they tempted Him, asking Him what should be done with that woman. The Sacred Book tells us He stooped down and wrote with His finger upon the ground. And when the men who brought her there saw what was written upon the ground they all went away without making any accusation against her. Tradition says that that which was there written upon the ground contained the names of those with whom that woman's accusers had themselves committed adultery.

I wonder whether or not if that same inerrant finger could come here this day and write upon the walls of this Chamber, if, indeed, those walls are vast enough for that purpose, the names of those to whom Judge Archbald's accusers had written on private business upon official stationery, how many of those accusers, like the scribes and pharisees of old, would quietly slide away, not waiting to hear "He that is without sin among you, let him cast the first stone."

But it was said that the pendency of the Peale case had something to do with it. That case was pending in Judge Archbald's court, and they say that he had no business to undertake to act in this matter because of the pendency of that case. But,

gentlemen, it is an admitted fact, entirely outside of the facts to which I have already called your attention, that there was nothing done in that case which was in any way improper. I read from page 933, where objection was made to an offer of proof by Mr. Fitzgerald, who was one of the counsel in the case, because there was no claim of improper conduct. The Presiding Officer ruled that:

The Chair remembers there is no issue raised in the articles of impeachment as to the improper conduct of Judge Archbald in this particular case.

And, again:

If the facts indicated by the question were established by the evidence, it would not affect the case in any manner, because there is no charge in the articles of impeachment of any improper conduct of Judge Archbald in that particular case, as the Chair recollects.

And that admission on behalf of the managers answers so completely the wild statements which were made by William P. Boland when upon the witness stand, namely, that the judge did influence Judge Witmer to make a wrongful decision, and that the judge decided the demurrer in the case because of their refusal to discount the note, although the note was not drawn for months after the decision was rendered—that admission on behalf of the managers takes that matter so far out of this case that it is not worthy of further consideration.

I think, so far as article 2 is concerned, we are now in a position to summarize it without going far astray as to the result. We have here admittedly a judge of integrity—of integrity as a judge and as a man—impartial in all he did, who never undertook to sit in any case, even as to these litigants, after he had undertaken to settle their controversy; who is able, industrious, and impartial; and you are asked to say that that man is corrupt and dishonest and ought to be removed simply because he undertakes at the behest of one friend to settle the difficulty which another friend is in. I want to know what the Members of this Senate would do if they were in the position in which Judge Archbald was, as stated by him. I read from page 1195:

I had known Mr. Boland 30 or 40 years; I can not tell just how long. I knew him familiarly enough to speak of him by his name. People call him "Christy." I talked with him in a friendly and familiar way every time we met. He came to me in my office on one occasion—I can not fix the exact date; I have no means of doing it—and told me about this settlement. He said that the matter was preying on the mind of his brother, W. P. Boland, and he expected if it went on further that it would end in his brother going to an asylum. My impression is that tears came to his eyes, and he drew upon my sympathy in that way by what he said and in his appearance. He asked and spoke about this settlement, and wanted me to see what I could do with regard to it. He came two or three other times in a similar way at a later date. I can not fix the time when that occurred.

I want to know, gentlemen, if a friend of yours of 30 or 40 years' standing had come to you and said that thing to you what would you have done? Mind you, C. G. Boland was called upon the stand as a witness after that testimony was given and never undertook to dispute it in the slightest degree. What would you have done? I believe as long as red blood flows in your veins you would have done just what Judge Archbald did. You would have gone out at the behest of a friend of that kind and you would have striven to settle the difficulty which so seriously threatened the mind and memory of that friend's brother. And there could be drawn as against you for doing that thing nothing whatsoever; but in your favor, many, many things.

If Judge Archbald had endeavored to sit in that case after that time, there might have been some slight shadow of a complaint; but there is no pretense of that thing. He exercised his manhood rights; he played the part of a Christian as he was required to play it, and instead of being condemned he should be praised.

I recall that in the Sermon on the Mount we are told that "blessed are the peacemakers, for they shall be called the children of God." But if a man were in Federal office and should be deprived of the right to do that thing, then must it be said that "cursed are the peacemakers who are in the Federal service, for they shall be impeached for treason, bribery, or other high crimes and misdemeanors"; and nothing less than that can be said in regard to it.

I pass, gentlemen, to the fourth article. That article has attracted more attention in the Senate, if one may judge by the number of question that were submitted to Judge Archbald when upon the witness stand, than any of the other articles.

I shall not undertake to claim here that that which Judge Archbald did on that occasion could not better have been done otherwise. I think it could. But that is not the question. The question here is whether that which he did constitutes a high crime and misdemeanor. And there is no other question than that in it. And unless you find that it does constitute a high crime and misdemeanor, however much you may regret and reprobate that which was in fact done, you must find a verdict of not guilty upon this article.

Let us see what the case is. The New Orleans Board of Trade had suggested and finally instigated proceedings before the Interstate Commerce Commission growing out of freight rates on the Louisville & Nashville road, from New Orleans to Montgomery, by one route through Pensacola and by another route through Mobile. The Interstate Commerce Commission had early adopted for their guidance the rule that if the through rate for freight between two points was greater than the sum total of the local rates between the points that that, if not conclusive, certainly was a most violent presumption to establish the fact that the through rate was an improper rate and ought to be reduced.

When that rule was promulgated the Louisville & Nashville, which was up against water competition as to a part of its route, in order to comply with the requirements of the commission, changed the rates so that the through rate did coincide with the sum total of the local rates. That settled the proceedings for a little while, but later on they were instituted and carried on in the Interstate Commerce Commission, and there were two questions raised in those proceedings; the first related to what are known as class rates and the second to that which are known as commodity rates.

"Class rates," as Judge Archbald explained the other day, means rates upon a number of, comparatively speaking, similar articles. "Commodity rates" means rates upon an individual article, because it is supposed to be more expensive to transport than other articles.

And when the Interstate Commerce Commission came to pass upon the matter they decided only one branch of it. As the papers which related to that were not read when they were introduced in evidence, I think it important, that there may be a proper comprehension of exactly what the situation is, that you may know just what the Interstate Commerce Commission did decide, and I will read now from the concluding clause of their opinion in this case:

In regard to the commodity rates attacked in these proceedings, certain adjustments and changes have been made therein by the defendant since the institution thereof with the view of correcting inequalities or excessive charges found to exist, which adjustments and changes are admitted to have removed the cause of complaint to some extent. It is impracticable in the present state of the record to determine satisfactorily what other changes, if any, respecting commodity rates should be made. These cases will be retained therefore for such further investigation and consideration of commodity rates involved as the facts and circumstances may seem to require.

So that, you see, in the case pending before the Interstate Commerce Commission they decided the question of class rates and they reserved the decision as to commodity rates, and in that aspect of the matter the Louisville & Nashville Railroad filed their petition in the circuit court of the United States, which proceedings were subsequently certified to the Commerce Court at the time of its creation and became the first case in that court.

Of course that petition could only attack the ruling of the Interstate Commerce Commission in relation to class rates, because there was still pending and undecided the question of commodity rates. That is all it did attack. While it was in that shape Judge Archbald told you—and about that there is no dispute—that the Commerce Court, in considering the matter, reached the conclusion that they would sustain the ruling of the Interstate Commerce Commission.

Judge Archbald did not agree with that conclusion and undertook to write a dissenting opinion. In the course of that undertaking he found the particular clause in the testimony which had been quoted—and I am not going to stop to read it, for it is not worth while—by which, judging that by the context, it would appear as if the word "not" had been omitted. And it was in that aspect of the matter he wrote to Mr. Bruce to obtain the fact upon the point, so that he might use it in connection with his dissenting opinion.

It may be said that the elimination of the word "not" was a very important elimination, and in a sense it would be so; and yet, curiously enough, in this record before the Senate we have no less than four instances where the word "not" has been omitted in the printed proceedings, which had to be corrected by calling the attention of the Senate to it, after the reading of the Journal. And it finally appears omitted in the brief which Mr. Manager CLAYTON has filed and that has not been corrected, and the "not" is still omitted up to this day. So it plays very little part whether the word "not" was omitted or whether any other word was omitted.

So if you choose you may say that it was a blunder or mistake, or any word you choose to attach to it, on the part of Judge Archbald not to call attention of counsel on the other side, and also call the attention of the other judges of the court to the receipt of that letter from Mr. Bruce. Call it that if you choose.

Mr. Manager CLAYTON. Will you please give me the page of the brief in which the error to which you have referred occurs?

Mr. SIMPSON. Page 7. I will call attention to the exact point later on if you wish.

The question is not whether that was a mistake on his part, but whether there was an evil motive in that mistake. There can not have been an evil motive in that mistake, because it is an admitted fact in this case, which probably the Senators have forgotten, but which was admitted when Mr. Bruce was on the witness stand, that that letter which was received by Judge Archbald was pasted by him into the record in that case and remains in that record unto this day, and is printed in the paper book in the Supreme Court, where that case is now pending.

Now, can anyone under God's heaven imagine that there could be an evil motive in a man writing and receiving a letter when that man would paste that letter into the record where everybody could see it?

I do not know whether or not that is how the managers found out in regard to it, but that is the fact, and it negatives in the most conclusive way the possibility of any evil motive in regard to it.

The same thing is true, only in a somewhat different sense, of the second letter that Judge Archbald wrote. That letter was calling attention to that which Judge Mack had discovered, or thought he had discovered, of what are known as variations from the Cooley award. But those variations related purely and simply to the commodity rates which had never been decided by the Interstate Commerce Commision, and therefore were not before the Commerce Court.

And so it was that when Mr. Bruce replied to Judge Archbald in regard to the matter, he called attention to that identical fact, and I shall read only a few lines from the letter to demonstrate that:

> Finding that the commission had decided nothing on the subject of commodity rates, but had expressly reserved that subject for further consideration, and that the equity suit filed by the railroad company attacking the commission's order was therefore necessarily confined to the subject of class rates, to which the commission's order was confined, I never attempted to make any investigation of the subject of commodity rates or to make any preparation of the case based upon the consideration of them; and I do not see how any question pertaining to commodity rates can now be before the Commerce Court.

Of course, no such question was before that court, and it was quite unnecessary, however wise it might have been to call the attention of the court to that fact by producing the letter, especially as according to the statement of Judge Archbald the thing became wholly immaterial in the consideration of the case.

But if that thing was something which he should not have done, it was at most a breach of the law of ethics. It was no breach of any known law of the land. It was no more a breach of ethics on the part of Judge Archbald than it was a breach of ethics on the part of Mr. Bruce himself, for he testified, when he was before you, that he did not communicate the facts to counsel on the other side, and he testified also—and it is in this record—that he got a letter from Judge Mack, who was writing the dissenting opinion, and he replied to that also.

I do not know how many Senators there are in this Chamber who know Mr. Bruce. Probably both of the Senators from Kentucky do know him. If they do know him, I am quite sure they will say to you, as one of the Justices of the Supreme Court of this country said not very long ago, that he is one of the very best lawyers, one of the highest-toned lawyers, that ever came to practice at their bar. If a man of that character should commit a breach of the law of ethics, why complain of Judge Archbald and claim that it is a crime that he did likewise?

I want, in that same connection, and closing all that I have to say upon that point, to read to you what was said by Mr. Manager STERLING yesterday. I read from page 1361:

> Do you ask the question, Would you impeach and convict Judge Archbald and remove him from office for his correspondence with Helm Bruce? I speak for myself when I say no; I would not if that stood alone, but it is a part of the system; it is one fact which dovetails into this line of conduct which he has carried on with the railroads, and it is a system so rank that "it smells to heaven."

He may say that as much as he pleases. The point in it, however, is this: That when you come to vote on the fourth article of impeachment you are only to determine under that article as it is expressed whether or not the sending of those letters to and the receiving of the letters from Mr. Bruce, without notice to counsel on the other side, is an impeachable offense.

You can not carry into your decision as to the fourth article anything which relates to any system, if such there be. To do so would contravene the very first fundamental principle of a trial, namely, that a man shall be convicted only of that which is charged against him. And so little did the managers of the House think of it as an element in itself that they did not even include it in their dragnet thirteenth article at all. It is not even suggested there, and hence to claim that it is part of a "system" is simply a claim not to be considered at all.

I pass on to the fifth article. I am afraid my colleague is or should be getting nervous for fear I will use a part of his time.

Mr. WORTHINGTON. Take all the time you want.

Mr. SIMPSON. The fifth article Mr. Manager FLOYD said yesterday he considered was one of the most important of them all. I think it was Mr. FLOYD who made the statement; but if not, it was one of the others, but I think it was Mr. FLOYD. And yet that article is one of the simplest of them all.

The charge in that article is that Mr. Frederick Warnke in 1904 was the owner of a two-thirds interest in certain coal lands owned by the Philadelphia & Reading Railroad Co., and the railroad company forfeited the lease which Mr. Warnke had, and that he afterwards went to Judge Archbald and asked him, Judge Archbald, to intercede with the officials of the Reading Railroad Co., and in consideration of that intercession Judge Archbald received the sum of $510.

Now, that is the substance of that charge. I do not care about taking the time to read it at length.

You will perceive at once, therefore, that all the evidence which was introduced here by the managers which related to the arrangements existing between John Henry Jones and Fred W. Jones, and whatever agreements there may have been between them are wholly immaterial to the consideration of this article. You will perceive also that under that article, unless that $510 note was given as a consideration for Judge Archbald using his influence with the Philadelphia & Reading Coal & Iron Co., it does not make any difference for what it was given. It is not charged to be anyways wrong, if, as the fact was, it was a commission for the sale to the Premier Coal Co. by the Lacoe & Shiffer Coal Co. of the fill known as the old gravity fill, for in that event it is not a subject of complaint in this article.

Let us see what the facts are. It is undoubtedly true that there was an interest which Mr. Warnke had in a lease with the Philadelphia & Reading Coal & Iron Co. It is not questioned here but that he had expended $65,000 to $75,000 in rebuilding the washery and getting ready to wash the coal that was in the dump. It is not questioned here but that the original lease, of which he was the assignee, had a clause in it that if there was an assignment of the lease the Philadelphia & Reading Coal & Iron Co. had the right to forfeit the lease; and there is no doubt but that—cruelly, as I think, though within their legal right—they did forfeit the lease because of that assignment, and that Mr. Warnke lost his $65,000 to $75,000. There is no doubt, also, but that he undertook, through himself and through other friends of his, to induce Mr. Richards, of the Philadelphia & Reading Coal & Iron Co., to reconsider that determination and to try to get back the lease which he had had or to lease to him the Lincoln coal dump, so that he might in some degree recoup a portion of his losses.

There is no doubt but that he came to Judge Archbald, that he told Judge Archbald the story of his losses, and that he asked the judge if he would not go to Mr. Richards and see if he, the judge, could not get for him, Warnke, an interview with Richards, to the end that he might endeavor again to persuade Mr. Richards to yield the point and give him back the washery or give him the Lincoln dump, so that he might recoup his money.

There is no doubt about the fact that Judge Archbald, then being about a visit to Pottsville, wrote a letter, in which letter he said he was coming to Pottsville on a certain day, and he asked Mr. Richards if he could not see him; that he saw Mr. Richards and then put the proposition before Mr. Richards; and that he then for the first time learned that Mr. Richards had been previously importuned to grant that relief to Mr. Warnke, and that then for the first time he also learned that like the laws of the Medes and Persians the rules of the Philadelphia & Reading Coal & Iron Co. can not be altered, and they would not consider anything Mr. Warnke might have to say.

All those things are without any dispute. But is there any crime in that? Is there any wrongdoing in that? It is not even alleged that the Philadelphia & Reading Railroad, or Railway, or Coal & Iron Co. had any litigation pending before any court of which Judge Archbald was a member. That was admitted in the argument made here yesterday.

What they say—and it is one of the most curious arguments I ever listened to—that because in the sale of the gravity fill he did take a commission and wanted to know "why not"; that you might infer from that fact alone that the note which was given to him on this occasion was given to him as a consideration for trying to help Mr. Warnke. This to me is one of the most curious arguments that anyone could bring before any

body of men supposed to be sitting as judges, especially as months of time even had intervened before the note was given.

But there is no evidence whatsoever that that note was given at all for any such purpose. There have been before you no less than five witnesses, every one of whom testified that that note was given as a commission on the sale of the old gravity fill. There is no doubt, because there has been here produced before you the letters by Mr. Berry and others, that Judge Archbald had an option upon the old gravity fill. There is no doubt that he undertook to sell that to the Central Brewing Co., and that they sent and examined it and for reasons satisfactory to themselves said that they would not take it. There is no doubt that the examination which was made for that brewing company was made by Mr. Warnke, and that he became satisfied from the examination which he then made that there was sufficient value in that fill for him to buy it; and that he then entered upon negotiations with Judge Archbald, while he still held that option, for the purchase of that fill.

It is true that while those negotiations went on the original option ran out. There was still, however, the oral option. But whether there was a written or oral option makes absolutely no difference. Under the law of Pennsylvania, whatever may be the law elsewhere, if an agent or commission man brings the parties together and that results finally in a contract, it makes no difference whether that man has anything to do with the final making of the contract, whether his agency ceases in the meantime or no, or what could happen to it, having once brought the parties together resulting in a contract, he has done all that the law requires of him, and he is entitled to be paid his commission.

That is the reason why the commission was paid to Judge Archbald in this case, and that is the reason why he was entitled to retain so much of it as he did in fact retain. Of course, he gave half of it to Mr. Jones, who was interested in the matter with him, and he produced his checks and check stubs showing that identical fact, and it is a conceded fact throughout the case.

Now, I want to know what you are going to do under circumstances such as these with the presumption of innocence to which I heretofore have adverted, and to the doctrine of reasonable doubt, and to the effect to be given to good character, when upon such an argument as was made yesterday by the managers in regard to it you are asked to charge Judge Archbald with crime, as against the testimony of at least six witnesses, without one single word from anybody in antagonism to that which those witnesses have said.

I pass to the seventh article. The allegation in that article in regard to Judge Archbald is that while he was sitting as a judge in the district court—that brings up a new question of law which I am going to refer to in a moment—he entered into negotiations with one W. W. Rissinger in relation to a coal-mining scheme, I think it was in Venezuela, and that while those negotiations were going on he tried the case of the Old Plymouth Coal Co., in which Rissinger was a stockholder, against various insurance companies, and that while also that matter was pending he indorsed a note for $2,500 at the request of Mr. Rissinger and caused it to be presented to Mr. Lenahan, who was one of the counsel for Mr. Rissinger in the trial of that particular suit.

The first question which arises is the one which has been referred to by several of the managers, and was suggested, I think, by the Senator from Idaho [Mr. BORAH] in the beginning of this trial, viz, whether or not the Senate can now consider an article of impeachment which relates to acts done while Judge Archbald was a district judge before his appointment to and confirmation as a judge of the Commerce Court. I shall not take much time to argue that legal question for the reason that all of the articles, beginning at the seventh and running to the twelfth, which deal with this question are articles of comparative unimportance. But inasmuch as the question has been raised, it ought to be considered, and so, briefly, I shall consider it. The managers in their brief say this in referring to this question:

> In this respect the case here presented seems to be unique in the annals of impeachment proceedings under our Constitution.

And they say further in that regard that they can justify the articles of impeachment, notwithstanding the change of office, because the two offices are substantially the same within the contemplation of the constitutional provisions relating to impeachments.

That argument necessarily concedes the points decided in the Blount case and considered and voted upon in the Belknap case, that he who is out of office can no longer be impeached. It necessarily also concedes that the constitutional provision has for its primary purpose the removal of the delinquent from the particular office in which he is said to have done a wrong. That is the necessary conclusion from the provision of Article I, section 3, of the Constitution, which provides what shall be the penalty in case of impeachment. It is considered also by Judge Story in his work on the Constitution, and I wish to read a paragraph in regard to it, even though it takes a little time to do it. In referring to the clause of the Constitution to which I have adverted Judge Story says:

> From this clause it appears that the remedy by impeachment is strictly confined to civil officers of the United States, including the President and Vice President. In this respect it differs materially from the law and practice of Great Britain. In that Kingdom all the King's subjects, whether peers or commoners, are impeachable in Parliament, though it is asserted that commoners can not now be impeached for capital offenses, but for misdemeanors only. Such kinds of misdeeds, however, as peculiarly injure the commonwealth by the abuse of high offices of trust are the most proper and have been the most usual ground for this kind of prosecution in Parliament. There seems a peculiar propriety, in a republican government at least, in confining the impeaching power to persons holding office. In such a government all the citizens are equal and ought to have the same security of a trial by jury for all crimes and offenses laid to their charge when not holding any official character. To subject them to impeachment would not only be extremely oppressive and expensive, but would endanger their lives and liberties by exposing them against their wills to persecution for their conduct in exercising their political rights and privileges. Dear as the trial by jury justly is in civil cases, its value as a protection against the resentment and violence of rulers and factions in criminal prosecutions makes it inestimable. It is there, and there only, that a citizen, in the sympathy, impartiality, the intelligence, and incorruptible integrity of his fellows impaneled to try the accusation, may indulge a well-founded confidence and sustain and cheer him. If he choose to accept office, he would voluntarily incur all the additional responsibility growing out of it. If impeached for his conduct while in office, he could not justly complain, since he was placed in that predicament by his own choice, and in accepting office he submitted to all the consequences. Indeed, the moment it was decided that the judgment upon impeachment should be limited to removal and disqualification from office it followed, as a natural result, that it ought not to reach any but officers of the United States. It seems to have been the original object of the friends of the National Government to confine it to these limits, for in the original resolutions proposed to the convention and in all the subsequent proceedings the power was expressly limited to national officers.

If the argument which was thus presented by Judge Story is sound, it must necessarily follow that the similarity of the two offices is not and can not be of any moment whatsoever. Can it be said that if a civil officer, say, in the Cabinet of the President, is transferred from one portfolio to the other and continues steadily in office that he may be impeached while holding the second office for that which was done in the first; and yet if he passes from the Cabinet to the Senate or into private life he can not be impeached at all? There is no logic or sound reasoning in any such proposition as that, nor is it in accord with any well-settled principles. In the provision which the managers quote in their brief from Mr. Foster he says this in regard to that:

> It includes such action by an officer when acting as a member ex officio of a board of commissioners, and such action in the same or a similar office at an immediately preceding term.

Now, I want to know why limit it to the immediately preceding term if the similarity of the office is the test in determining whether the impeachment will lie or not. Of course, that can not be sound; and the only reason why Foster wrote in his commentaries the "immediately preceding term" was because he felt that the line must be drawn somewhere. He knew that in certain of the State courts, under the language of their constitutions, it had been held that in a succeeding term of the same office there might be an impeachment for that which occurred in the immediately preceding term. But it remained for the managers to evolve the doctrine that it was to be a substantially similar office which was the test in determining the matter.

I submit that the proper test is the one to which I have already adverted. It is that the office, during the incumbency of which the acts were done of which complaint was made, shall be the determinative factor in deciding whether or not impeachment shall lie for the offense charged. If that is not so, there is no logical conclusion from the position which one of the managers assumed (I think it was Mr. Manager Sterling, though I may be mistaken about that), that so long as the man is in public office, whether the office is substantially similar or no, or whether there is a continuity of term or no—so long as he is in public office he may be impeached for anything which he has ever done in the past because, as it was claimed, the purpose of the constitutional provision is to put out of office all those who by their past lives have shown that they are unfit to occupy it. That position would be a logical one, but there can not be a case found to sustain it; and all the authorities decide precisely the reverse. But, as I said, that is a comparatively unimportant matter, and I pass from it to consider what the real charge is.

That real charge is that Judge Archbald was corrupt in sitting at the trial of that case while negotiations were pending as to a matter in which he was interested, and in causing the

note, while the matter was pending, to be presented for discount to counsel for one of the parties to the litigation. It is impossible to conceive that that can be so. There can not be a corrupt conspiracy unless there were at least two people to it. If there was a conspiracy between Judge Archbald and Mr. Rissinger, will somebody tell me why when those suits were brought they were not brought in Judge Archbald's court? Yet the record which is here produced shows they were not. They were brought in the common pleas court of Lackawanna County, Pa., over which Judge Archbald did not preside.

Can anyone understand why the other party to the suits, the one who was to be injured, should remove the case into the Federal court over which Judge Archbald was to preside if the conspiracy was between Judge Archbald and Rissinger?

Can anyone understand why, if there was a conspiracy between Judge Archbald and Rissinger in regard to the matter, the rulings, so far as they took place, with one exception, to which I will advert in a moment, were all in favor of the other party to the litigation? Yet Mr. Shattuck, when he was upon the witness stand, and he was counsel for the insurance company which was supposed in some way to have been injured, testified that every decision in the case, barring the one, was made in accordance with his suggestions to the court and as against Mr. Lenahan's and Mr. Rissinger's claim.

The one to which I now wish to advert is this: When all the evidence for the plaintiff was in the counsel for the defendant, Mr. Shattuck, moved for a nonsuit, not a demurrer to the evidence, for that is not known to the practice in Pennsylvania, though the legal effect is precisely the same. He moved for a nonsuit, and the court refused to grant the nonsuit. They said it was a case for a jury, and, as Mr. Shattuck said, it was a case for the jury upon a single question, which single question was whether the building which had been burned down belonged to the old Plymouth Coal Co., which was operating the washery, or belonged to the railroad company, which owned the dump, the building having from time to time been altered and added to by the old Plymouth Coal Co. during the course of their washery proceedings.

When they had gone on a little way in the evidence counsel got together and agreed upon a settlement of the case, which was carried into effect. There is no claim here, and it is distinctly denied in the evidence, that Judge Archbald had anything whatsoever to do with bringing the counsel together. It is not claimed here; on the contrary, it is admitted by the managers by an express admission, and it is also testified to by Mr. Lenahan, representing the coal company, and by Mr. Shattuck, representing the insurance company, that the decision which Judge Archbald made upon that point was right; and Mr. Lenahan told you that Mr. Shattuck turned to him after the decision of the case and said to him in substance, "The jig is up," and that he had had no defense whatsoever, and Mr. Lenahan further said to you that there really was no defense of any kind to the case.

Now, I ask whether or not on that state of facts you can find anything wrong as against Judge Archbald? As I said, Mr. Manager STERLING admitted during the trial that every ruling was proper—every one, without an exception.

Oh, but they say Judge Archbald permitted that note to be presented to Mr. Lenahan for discount. Judge Archbald says that he did not. Mr. Lenahan does not say that he did. Mr. Rissinger says that he did not. Indeed, there is a slight dispute between Rissinger and Lenahan as to whether the note was ever presented to Mr. Lenahan. Certainly if it was presented at all it was presented in the most indefinite sort of a way. Lenahan admits he never saw it. Rissinger says that what occurred was that he went to Lenahan, not even having the note with him, and asked him whether he would have his bank discount that note, and Lenahan says, "I said to him 'What do you want it for?' He told me he wanted it for raising money in relation to this mining scheme down in Honduras," or in Venezuela, wherever it was, and that then he, Lenahan, said to him, "Why, I will not go to my bank and discount a note for any such purpose as that. They would laugh me away if I did anything like that, because they will not discount a note for the purpose of using money in any mining scheme of a wildcat nature whatever."

Knowing of the entire failure of their evidence, there was an endeavor yesterday to drag in Mr. Rissinger's testimony before the Judiciary Committee, though it was never even referred to at the trial in this case, and to assert that his stories, as testified to on the two occasions, were wholly at variance. Even if that were so, though there is no evidence to show it, it is inconceivable how Judge Archbald could be affected by it.

There is just one other thing in that aspect of the matter which ought to be referred to. Before the note was presented to anybody, indeed before it was indorsed by Judge Archbald, there had final judgment been entered in the suit about which this complaint is made, five days before that day, and the record which is produced and offered in evidence here shows that fact to be true. Now, I ask, Is Judge Archbald to be charged with some crime or with some wrongdoing because as an accommodation to a friend he indorsed that friend's note five days or any other time after the only litigation in which that friend had any interest was finally settled in his, Judge Archbald's, court? If he is to be blamed for that, will somebody kindly let me know what the statute of limitations upon that point is? I want to know when a judge having disposed of litigation in which a party is interested can for the first time be permitted to have anything to do with that one who had in the past been a litigant in his court. Is it five days or five years or five centuries? In point of fact, the test is, and necessarily must be, the point when final judgment is entered in the case. At that time the judge's function is at an end; the case is over so far as the judge is concerned; and the question is simply one of collection between the parties to the litigation.

I pass to articles 8 and 9, and I refer to them together because they both grow out of precisely the same transaction. Judge Archbald indorsed a note for $500 for John Henry Jones. The eighth article charges him with a crime because he permitted that note to be presented to C. G. Boland and William P. Boland for discount, there then being pending in his court the case of Peale against the Marian Coal Co., in which company the two Bolands were large stockholders. The ninth article charges him with a crime because he permitted that note, or directed that note, if you choose—I am not caring for the wording in regard to it—to be presented to C. H. Von Storch, who some time in the past had been a litigant in his court. That is the gravamen of those two complaints.

It is alleged also in those articles that the note was given for the purchase of an interest in an oil concession in Venezuela.

The facts in regard to those articles can very easily be considered together. There is no doubt that Mr. Jones did have an interest in an oil concession in Venezuela; there is no doubt he came with this note to Judge Archbald and asked him to indorse it, and that the judge did indorse it. Up to that point the evidence is clear. There is no doubt also that Mr. Jones took that note and presented it to his bank for discount, and that that bank refused to discount it because a couple of other notes, upon which Mr. Jones was indorser, had been protested for nonpayment on account of the failure of the maker of those notes. There is no doubt also that Mr. Edward J. Williams, who figures in the first article, then suggested to Mr. Jones that the Bolands would discount the note; that he took it to the Bolands and asked them to discount it, and that they refused to discount it, they, say, upon high moral grounds. I am not going to enter into any controversy as to whether their grounds were good, bad, or indifferent. Williams had the note for three days. He then took it to another bank, and they, for some unknown reason, refused to discount it, and he then returned it to Jones. Then it was suggested that Mr. Von Storch's bank might discount it. T. Ellsworth Davies, I think, was the party who suggested that to Mr. Jones, and Mr. Jones and Mr. Davies then went to Mr. Von Storch, and Davies introduced Jones. Von Storch said, "Leave the note here until I look into the matter." He subsequently called up Judge Archbald on the phone and asked him if it was his note. Finding that it was, he directed that it be discounted. It was discounted, and Jones got all the money.

Those are the undisputed facts. If you add to those the disputed facts they still make no crime. The utmost that can be said in regard to it is that the judge, knowing that the note was to be presented to the Bolands, permitted it to be done. Well, suppose he did permit it to be done. Neither of the Bolands nor Williams nor Jones nor anybody claims that he asked them to discount it, or did the slightest thing in regard to it. He says and Jones says that it was presented to the Bolands without Judge Archbald knowing anything whatsoever about it; and Boland himself says that, though Williams told him that Judge Archbald knew that it was going to be presented, he, Boland, did not know whether that was true or not, and they did not have faith enough in Williams to believe it was true. Judge Archbald says that he did not do that thing, and there you have it. How are you going to build a crime out of that? The Bolands admit that they never spoke to the judge in any way whatsoever about it. It came out in the hearing before the Judiciary Committee as a surprise to the judge, except for the fact that the judge says that at some time, the date of which he can not fix, Jones told him that Williams had presented the note to the Bolands and that they

had refused to discount it. That is the whole case upon that point. Is that a crime?

Is what occurred in relation to Von Storch any more of a crime? Mind you, Von Storch had had a case before Judge Archbald which Judge Archbald had partially decided against him and partially in his favor; but that case had been finally settled nearly a year before—11 good months before—the judgment had been paid and satisfied, and that was the end of that case for good. The docket entries show that to be so. Is there, can there, be anything further upon which you can draw any inference or wrong of any kind or character in regard to that transaction?

It is said, however, in this article that the reason they make complaint against Judge Archbald in regard to it is that he permitted this thing to be done in this way, this presentation of this note to persons who were litigants in his court and to persons who had been litigants in his court, because he knew the note could not be discounted in the usual commercial channels, and that, therefore, you are to draw the inference of wrong in regard to it. They offer no evidence at all upon that point. On the contrary, you will remember that when one of the witnesses was upon the stand—Mr. Ruth, I think—he said that Judge Archbald's credit was perfectly good, and that their bank would be willing to discount his note. You have the facts before you, that whenever a note was presented or wherever it was presented, every note that he did indorse was, in fact, discounted by some bank; and you have his testimony in regard to it and the testimony of two or three other witnesses, Mr. Scarle, notably, that his credit was good throughout Scranton at any bank. There was no suggestion, as my colleague suggests, that any note of Judge Archbald's, or any note upon which he was maker or indorser, had ever at any time or under any circumstances been dishonored. I want to ask you, therefore, how you can draw from these facts, which are wholly undisputed, any conclusion that his note would not be discounted in the usual commercial channels? Yet that is the necessary basis of the claim which is being made in these two articles.

I now pass to an article which I confess causes my gorge to rise more than any other article of them all. It is charged in the tenth article that in 1910, while Judge Archbald was a judge of the district court for the middle district of Pennsylvania, he accepted an invitation of Henry W. Cannon to take a trip to Europe at the expense of Mr. Cannon; that at that time Mr. Cannon was a director of or interested in a number of corporations, which are named in the article, which corporations were likely to have litigation in Judge Archbald's court; that Judge Archbald knew that fact, and that, therefore, it was a misdemeanor on his part to accept that favor from Mr. Cannon.

Now, what are the facts touching that article? They are wholly undisputed, and they were admitted yesterday, I think, in the argument of Mr. Manager STERLING, to be wholly undisputed. The fact is that Mr. Cannon is a first cousin to Mrs. Archbald; that they were reared together; that the closest friendship had existed between them from the time of their childhood down to the present time; that Mr. Cannon some 10 or 12 years ago had begun to withdraw from active business; that he had purchased a winter place in Italy, where he was in the habit of going from time to time; that he had on repeated occasions before this requested that Mrs. Archbald should go with him and spend a portion of the winter in that home; that they had been unable to make the arrangement; and that now the time had become ripe. So Mr. Cannon wrote a letter, which has been offered in evidence in this case, in which he suggests that Mrs. Archbald shall go with him and spend a portion of the winter in that home in Florence, with her daughter or her son, or, as he says in the letter, if the judge can go, better still with the judge. They accepted that invitation; they went to Florence; they spent several months on that trip; and it was all at the expense of Mr. Cannon. The judge says—and no one contradicts it, for the managers were absolutely silent on that point—that the only corporations which Judge Archbald knew that Mr. Cannon was in any way connected with were the Great Northern Railroad and certain corporations on the Pacific coast.

Now, I want to know how, in the first place, the Great Northern Railroad, or any corporations on the Pacific coast, were likely to become litigants in the middle district of Pennsylvania. I want to know, even if they were likely to become litigants in the middle district of Pennsylvania, how that fact could deter Judge Archbald from accepting that invitation at the hands of his wife's relative, when there is neither allegation nor proof that he ever sat in any case in which Mr. Cannon was interested, or that any corporation in which Mr. Cannon was interested had ever had a case in his court or was ever likely to have one in it. Why should the managers, for the purpose of this article, charge that there was likely to be such a case? Of course they were bound to charge that, otherwise the article would fall of its own weight.

I want also to know what difference there is whether a judge of a court accepts an invitation from his wife's relative to spend a portion of the winter in Florence or whether he accepts that invitation to spend a week end in Philadelphia or in Washington or in Scranton or anywhere else. When a man becomes a judge, is he required to at once withdraw from all the social amenities of life with his and his wife's relatives, because, perchance, they may become litigants in his court? Is he compelled to ostracize himself from all his relations because of that possibility? Yet that is the gravamen of this complaint; and unless that is in it there is nothing in it. Judge Archbald had a perfect right to do just exactly what he did; and there is in the Revised Statutes of the United States an exact provision to meet such a case, viz, for the calling in of another judge to try such a case should it ever arise.

I do not believe—if I may follow the bad example set by the managers yesterday of expressing my own belief instead of arguing from the evidence—I do not believe that Judge Archbald would have sat in any case in which Mr. Cannon was interested if it had come into his court, whether he took that trip to Florence or whether he did not; but the wrong, if any there was, would have been in sitting in the case under such circumstances; and there is no pretense that he ever did so or ever had the opportunity to do so.

So, when he had a wife who had been sick as long as Mrs. Archbald had been, and when, as she testified before you, not only her happiness but her comfort would be so greatly enhanced if he could go along, because he knew just what to do when her troubles came—was he to stay away and let her go alone in that condition or be charged with crime because he went? If there is a man in this Senate who thinks there is the slightest element of a crime in that he has indeed a strange idea of the position of men in this world.

I pass to article 11, which is termed the "purse article." It appears that when Judge Archbald was starting on the trip to Europe, to which I have already adverted, Judge Searle, of Wayne County, Pa., handed him a sealed envelope. On the outside of that envelope was written, "Hon. R. W. Archbald. Sailing orders: Not to be opened until two days at sea." Judge Archbald, when it was presented to him, said to Judge Searle, "What does this mean?" The response came: "A good sailor obeys orders." That letter was opened by Judge Archbald after the vessel had sailed, and then for the first time he learned that there was in it a sum of money contributed by a number of lawyers and ex-lawyers living in his district as a gift to him. He could not then return the money. He had to do one of two things, and Mr. Munson very accurately stated the difficulty under which he was placed by that situation, though Mr. Munson himself did not contribute for reasons which were satisfactory to him. I desire to read from Mr. Munson's testimony, because it explains quite accurately the position in which Judge Archbald found himself:

Q. Will you tell us why you declined to pay the money?—A. I had then, and still have, a high repect and admiration for Judge Archbald and I did not care to embarrass him to either accept or refuse it. That was my reason.

Q. You thought that no matter which course was taken he would be embarrassed in either aspect of it?—A. I thought so; that he would be very much embarrassed. I want to say, if I may be allowed to say it, as I said before, that I have tried many cases before Judge Archbald, both when he was a State judge and when he was a Federal judge. He was always absolutely impartial and fair and I have never tried a case before a more honorable, upright judge than he. I have regarded him as my friend. I knew him when he was a lawyer. He was my correspondent in Scranton. I have tried cases before him for 25 years.

And Mr. Sprout, when upon the stand, testified that when Judge Archbald acknowledged to him the contribution which he made, the letter which was written showed that the judge was very much embarrassed by the situation in which he was placed. What could he do? If he had returned that money, he stood in the position, practically, of slapping every one of those men in the face; he stood in the position, practically, of saying to them, "You have wrongfully endeavored to give me a sum of money; the wrong is yours, and therefore I return this money to you." Would any man want to do that? Most certainly not.

The wrong which was in fact done was, as has been expressed by at least six of the witnesses who testified in regard to this matter, the wrong of Mr. Edward R. W. Searle, who, in violation of that which was arranged, put in the letter which was sent to Judge Archbald inclosing that money a list of the names of the contributors. If that had not been done, if it had been simply a gift of money, certainly nobody could have been heard here to complain. But even then it is a difference

in degree and not in kind whether, when a judge is about to sail abroad, there is sent to him a gift of money, such as there was in this case, or a gift of flowers or of books or of anything else.

I ask whether or not it would be suggested or thought that there was any wrong in the sending or the reception of such gifts as those when a judge travels abroad? I do not suppose you would have ever heard of it under such circumstances, but because the gift happened to be money, instead of other things of value, the charge is made that it is a criminal offense. If it were followed by evidence suggesting in the slightest degree that Judge Archbald had shown any favors to anybody by virtue of that gift, or if it were suggested here, even in the slightest degree, that there was a thought in his mind when he accepted it that he was in duty bound to show or that he would show favors to anybody by reason of that gift, then there might be some slight basis for that which is here charged against him; but there is neither allegation nor proof of that; and in the absence of allegation and proof, you certainly can not say that an upright judge, admitted by the managers to be such, is to be charged with crime upon suspicion under circumstances such as I have thus stated to you.

I pass, Senators, from that to the twelfth article, the last that I shall be called upon to consider. That article charges that Judge Archbald committed a misdemeanor, because he appointed J. Butler Woodward jury commissioner of the middle district of Pennsylvania, Woodward at that time being a railroad lawyer.

I confess, in view of what has occurred in this trial, that I am left in some doubt as to exactly what the managers do mean by that charge. When I offered in evidence the list of jury commissioners in all of the judicial districts of this country, Mr. Manager CLAYTON arose and objected to that list, because, as he said, the complaint against Judge Archbald was not that he appointed a lawyer as jury commissioner, but that he appointed a railroad lawyer. But when the case was being argued yesterday Mr. Manager STERLING said that the complaint was not that Judge Archbald appointed a railroad lawyer as jury commissioner, though that is what is charged in the article itself, but that he appointed somebody as jury commissioner who was especially engaged in trying one particular class of cases before the court of which he was jury commissioner. You, of course, can not reconcile those statements, but the irreconcilability becomes a matter of considerable indifference when it is found, as the fact is, that Judge Archbald did not even know at the time of the appointment that Mr. Woodward was a railroad lawyer, and when it appears, not only from Mr. Woodward's testimony at this bar, but from the certificate of the clerk of the middle district of Pennsylvania, that during the 10 years while Judge Archbald sat upon the bench of the district court there were but three cases of that railroad and its allied coal companies in that court; that in two of those cases Mr. Woodward was not counsel at all; and in the one in which he was counsel it was not tried at all, but, being a technical case, was submitted to a referee by agreement of the parties. It so happens also that in all of the districts of Pennsylvania—the eastern, the middle, and the western districts—the jury commissioners are lawyers.

It is stated in some of the letters which were produced here and finally offered in evidence that it is not shown that they were railroad lawyers. Of course it is not shown that they were railroad lawyers, but neither is it shown that they were not railroad lawyers. The utmost to which the letters go was the statement made that they were not regularly employed by railroad companies.

Now, I want to know what Judge Archbald's duty was when he came to appoint the jury commissioner. We have an act of Congress that stipulates that duty. That act of Congress provides that he shall be "a citizen of good standing, residing in the district," and "a well-known member of the principal political party opposing that of the clerk of the court."

Was Mr. Woodward that? Everybody admits that he was. Was he of a different political party from the clerk? No one questions that. He was a Democrat, as his father and his grandfather had been before him, and, if I may again follow the bad example of the managers in expressing my own knowledge and belief, his is one of the best-known Democratic families that Pennsylvania ever had or ever will have. He is a man of as high character as ever sat in any tribunal, I care not where the tribunal is. I ask the Senate whether or not Judge Archbald is to be complained of because Congress has not put into the law another requirement in relation to jury commissioners, and whether he is to be complained of because he strictly follows everything that Congress requires, especially in the light of the fact that there is no complaint whatsoever of any wrongdoing at any time by Mr. Woodward? On the contrary, we find Mr. Manager STERLING, in his argument before you yesterday, saying this:

> Aye, gentlemen, do you ask the question, Would you remove Judge Archbald for appointing Woodward jury commissioner when it is not proven here that Woodward ever exercised his power wrongfully? Do you say now, honor bright, would you remove him from office for that? No; I would not if it stood alone, but it is a part of the system; it goes to make up the system; it is an incident in the line of misconduct which has been carried on by Judge Archbald.

Yet in the article which we are now considering there is no suggestion of a system of wrongdoing; and in the thirteenth article, which was the dragnet to draw everything else in, there is no suggestion of a system, so far as the jury commissioner or anything appertaining to that office is concerned. Unless Senators are going to violate their oath of office, they can not possibly under this article convict Judge Archbald, because there has been disproven everything which is alleged in the article, and admittedly none of those allegations are true.

It was said by Mr. Manager STERLING in his argument that the portion of the Constitution relating to impeachment was on trial in this case. I do not know, I never can know, how that can possibly make any difference to men sitting as judges. If you are to decide this case according to the known law of the land, what odds does it make whether that portion of the Constitution relating to impeachment is on trial or not? I think with him that it is on trial; but that which is on trial is the determination of the question whether Senators, who ordinarily sit in a legislative or an executive capacity, can rise to the office of judge and judicially decide the questions which are before them, or whether they are to be moved by appeals to passion and prejudice; whether there is to be invoked here a claim that Judge Archbald has done something not in violation of the law of the land, but in violation of a system of ethics which has not yet found its way into the law of the land; whether a court is to decide a case, not upon the law, which is its only guide, but upon other things which have no place in the law at all.

In that aspect of the matter the portion of the Constitution relating to impeachments is on trial; and if this court is going to say that a man shall be turned out of office, although he has violated no law; although, admittedly, every decision that he rendered has been rendered uprightly; although he has never been partial; although he has been able and industrious and just, then you are turning back the hands of the dial of time until you reach the place where, three or more centuries ago, the House of Lords, at the behest of the House of Commons, turned men out of office simply because they did not agree with them politically.

That is the sense in which the article relating to impeachments is on trial.

I want to know what could Judge Archbald do if these articles are to be sustained? The ninth article charges him with a crime because he had business dealings with a man who had at some time in the past been a litigant in his court. The second article charges him with a crime because he permitted a note to be presented to a man who was a stockholder in a corporation which was then a litigant in his court. The tenth article charges him with a crime because he accepts a favor from a man who at some time in the future may be a litigant in his court. The past, the present, and the future are all closed to him under those three articles. What is the man to do? Can he not buy a suit of clothes because at some time the man who keeps the clothing store may be a litigant in his court? Can he not order his dinner in a restaurant of a proprietor who at one time in the past had been a litigant in his court? That is the tendency and the necessary result of those articles.

I suggest to you that there never has been a time when a man was ever convicted in any court of impeachment anywhere under such circumstances as those. I had always supposed—I know it is true in my great State—that when we find a judge who has been impartial, whose integrity stands admitted, not even challenged, who is able, who is industrious, who has been all of a man—when we find such a man occupying a judicial position we want more of him. For such a man we have encomiums, not blame. However great the mistakes he has made, to his virtues we can be very kind, and to his faults we can certainly be a little blind.

It is highly probable that the case you are now called upon to decide would never have been before you but for the unrest of the times. I mean the political unrest of the times. I am not complaining of that unrest. Make no mistake about that. I am a part of it. I believe the unrest of the times ever leads to higher things. But the unrest of the times does not necessitate the carrying back of this court to the days of the Roman

arena, when, because the populace cried out for a victim, the thumbs were turned down. The unrest of the times does not carry back this court to the time of the Savior, when, though Pilate found no fault in Him, because the populace cried "Crucify Him!" "Crucify Him!" He was sent to His death.

That is not what the unrest of the times does. The unrest of the times lops off a wrong here and a wrong there and a wrong yonder, and leads the people up to the point where when they look back, despite all the errors in the intervening steps, they can say, "We have moved up a step higher in these intervening years," or months or days, and ofttimes hours. But it asks no victim at any man's hands, and least of all does it ask a victim from a body of men who are acting as judges. What would be said of any other court than this if, yielding to passion or prejudice or innuendo or anything of that kind, they condemned any man on evidence such as is presented here? And it is in no way to the honor of this court that you are asked to do a thing that none of these managers, I venture to assert, would ask of any other court in this land.

It has been only a very few days since we heard the Christmas chimes ringing "Peace on earth, good will to men." It requires very little imagination in this Chamber at this moment to still hear those chimes ringing. But is there any peace on earth, can there be any peace on earth, to Judge Archbald, can he feel good will to any man if from evidence like that which has been presented here he is to be branded as a criminal and thus sent out into this world? I can not believe that those bells have chimed good will to men in vain. I can not believe that in the highest court which this land knows—in the Senate of the United States sitting as a court for the impeachment of Robert W. Archbald—they will so far forget all the rules of law, all the rules of justice, so far ignore all the well-known laws of the land, as to say that a man who has admittedly violated none of those laws shall be punished because he blundered, I care not how much he blundered.

Over in the State where I come from there are regrets everywhere within its borders that Judge Archbald ever went on the Commerce Court bench. There never has been a day in my time since I have been at the bar that we would not gladly have him in any of our courts, and we would gladly have him to-day. Do you suppose that if he could have at your hands what every other person charged with crime gets in every other court in this land, a trial by an impartial jury of the vicinage, there ever could be a conviction? Do you suppose that in Scranton, where he has been known for fifty-odd years now, you could find 12 men to convict him? If you do, you suppose wrongly. You could not garner them—with all the hate and with all the spite and with all the mistakes that W. P. Boland has shown in this case—out of the middle district of Pennsylvania. No; not five of them. You would have greater trouble than the prophets to save the cities of Sodom and Gomorrah from the hand of the Lord. But because he can not be tried, in the nature of things, before an impartial jury of his vicinage, does that furnish any reason why the character evidence, the necessity for which grows out of that impossibility, should not be given all the weight that would be given to it by the vicinage itself if he could be tried there?

In the early days when a man was put upon trial for crime his neighbors sat as his triers. They knew whether he was likely to commit a crime; they knew whether his accuser was likely to be a truthful man, a biased man, or a lying man, and they judged the case accordingly. Judge Archbald is deprived of that in the nature of things. But he has brought before you character evidence of so great a height that no man could ever hope to attain to a higher one.

There has been upon this stand testifying before you the chief justice of the Supreme Court of Pennsylvania, who has known Judge Archbald for thirty-odd years. There has testified from that stand before you the presiding judge of the superior court, who has known Judge Archbald equally long. There has testified before you the presiding judge of the circuit court of appeals, with whom Judge Archbald sat at times and who at other times passed on Judge Archbald's rulings in the district court. And they all told you that Judge Archbald's character is of the highest. There are three men than whom there are no better living in the whole State of Pennsylvania, and those men come here and tell you that in their judgment Judge Archbald is incapable of crime. Incapable of crime! My God, what better can be said in any tribunal or any court. Incapable of crime! And yet you are asked upon suspicion alone to convict him as a criminal and turn him out of the office which for 28 long years he has graced, and in which no man has said that he has ever done wrong to any one. That is the man you are asked to convict. And you are to convict him under a Constitution which says that except for "treason, bribery, or other high crimes and misdemeanors" he shall not be displaced from his office. When it is done, if it ever is, I will believe it, but there rests not in the power of men sufficient to convince me that this Senate will ever do such a thing, for it seems to me that it would not only be a disgrace to the Senate, but it would be a disgrace to our land, which has ever endeavored to foster and to sustain judges who are of high judicial integrity and impartiality, and who are admitted to be so before those who are asked to condemn them.

ARGUMENT OF MR. WORTHINGTON OF COUNSEL FOR RESPONDENT.

Mr. WORTHINGTON. Mr. President and Senators, the questions of law which are raised in this case and to which I propose in the first place to address myself have assumed an importance greater than we could have anticipated and greater than any which have heretofore arisen in any impeachment trial before this body.

It has been insisted here in the arguments which have been made by the managers on the part of the House of Representatives—not once, not twice, but nearly a dozen times—that the question of Judge Archbald's guilt or innocence is to be determined by what you individually consider to be an offense which justifies his removal from office; not that he has been brought here charged with anything of that kind; but having been brought here charged with certain specific offenses for which he and his counsel have prepared themselves and have summoned their witnesses, he is now to be disgraced and forever branded as a criminal because you may find that he is not fit to be a judge.

I might humbly suggest that if there is ever to be presented to this great body the question whether or not you have the right to impeach an officer of the United States and remove him from his office because you think that on general principles he is not fit to hold his office there might be presented an article of impeachment which would charge that that was the case and that he and his counsel might be prepared to meet it. But instead of that we have him charged with a certain number of specific acts, and when he comes here to meet those and the evidence is closed and the verdict is about to be reached, then we are told for the first time that you individually—each for himself—are to decide whether upon what you have heard here in evidence you think that on general principles he ought to be ejected from his office.

I have not overstated in the slightest degree the proposition that is presented. I need not dwell upon the importance of it, because, if it be so, then not merely Judge Archbald, not merely all the district and circuit judges of the United States and the Justices of the Supreme Court who sit in this building, but the President of the United States and every civil officer of the Government holds his position by the same tenure.

I may say I think it is a very serious question whether you do not yourselves hold your offices by the same frail right. It never yet has been determined whether or not a Senator of the United States is a civil officer of the Government within the meaning of the impeachment clauses of the Constitution. The question was raised in the Blount case, but as he had ceased to be a Senator at the time of his impeachment, it could not then be decided.

But the same Constitution which speaks of the impeachment of civil officers of the Government says that one of the penalties which you may inflict when you impeach an officer is that he never thereafter shall hold any office of honor, trust, or profit under the Government of the United States. And if you be not officers of the Government of the United States—if the position which you hold be not that of an officer under the Government of the United States—then you can here impeach an officer and remove him from office and provide that he never shall hold any civil office under the Government of the United States, and yet he can be elected to the Senate and sit with you, although he would not legally be fit to hold the office of justice of the peace in the District of Columbia or that of a postmaster at any place in the United States.

So, I think it is a question—certainly it may be a question—whether the Members of the House of Representatives, as well as the Members of this body, hold their office by the privilege of the individuals who happen to compose the Senate at any time and who for any reason may think it a proper thing to remove a person from his office.

That being so, I think it is well to group together the provisions of the Constitution on this subject. I know how wide a range this argument has taken, and how wide a range it has taken when similar questions have arisen, and I may have to follow briefly the lines discussed in previous cases. But to my mind it is utterly unnecessary to go beyond a single clause of

the Constitution of the United States to determine that question, and that is the one which has been so often read in your hearing, which says that civil officers of the United States may be impeached for treason, bribery, or other high crimes and misdemeanors.

If this discussion had originated now for the first time and if this were the first time that that sentence was heard by the members of this body, I should like to know whether there is one of you to whose mind it would ever have occurred for a moment that it meant anything except an offense punishable in a court of justice. I do not like the word "indictability," because a great many crimes are punished by information and not upon indictment. When I use that term I mean it in the sense of punishment in any way in a criminal court.

Now my friend Mr. Manager STERLING when he read certain provisions of the Constitution at the outset of his argument said those were all that were necessary to be considered in this matter. He omitted two of them which to my mind are at least as important as any others and which of themselves should be decisive if the one I have cited does not conclude the question.

Section 2, Article III, paragraph 3, says:

The trial of all crimes, except in cases of impeachment, shall be by jury.

"Trial of all crimes except in cases of impeachment."

Again the fifth amendment to the Constitution says:

Nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself.

Would anybody suggest that if Judge Archbald should be acquitted by you, the House of Representatives might legally again find articles of impeachment against him for the same offense? Would anybody suppose that if he had not chosen to take the witness stand in his own behalf the managers could have dragged him there and compelled him to testify?

I may mention in passing that this is the first time in the history of the United States when a respondent in an impeachment case ever has taken the stand in his own behalf.

And so the sixth amendment says:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Where is the man in this United States of America who would suggest that Judge Archbald could be required to answer without being informed of what is the accusation against him? Where is the man who would suggest that it is not necessary to confront him with the witnesses against him? Where is the man who would say he is not entitled to have subpœnas issued to bring his witnesses here to testify for him? Where is the person who will say that you could turn his counsel out of this Chamber and say he has to defend himself? Why? Because it is a criminal prosecution, and if it be not a criminal prosecution then it is nothing known to the laws of this land.

Now, it so happened that in the formation of this Constitution of ours this happened. I am reading, for convenience, from first Foster on the Constitution, page 508. It is simply a quotation from the proceedings in the Constitutional Convention:

Col. MASON. Why is the provision restrained to treason and bribery only? Treason, as defined in the Constitution, will not reach many great and dangerous offenses. Hastings is not guilty of treason. Attempts to subvert the Constitution may not be treason, as above defined. As bills of attainder, which have saved the British constitution, are forbidden, it is the more necessary to extend the power of impeachments. He moved to add, after "bribery," "or maladministration." Mr. Gerry seconded him.

Mr. MADISON. So vague a term will be equivalent to a tenure during pleasure of the Senate.

So they struck it out and put in, instead of the vague term "maladministration," the term "other high crimes and misdemeanors," and now at the end of 125 years after that was done in that convention the managers of the House of Representatives come here and tell you that the provision as it stands means that Judge Archbald shall be turned out of his high office at the pleasure of the Senate. Nay, it is not at the pleasure of the Senate. It is more than that; it is at the pleasure of the individual Senators. You do not, under their construction of this language, have to decide anything as a Senate, but you may have a vote of the Senate of "guilty" or "not guilty," and if anybody thinks the judge is not sufficiently good looking to be upon the bench he may vote against him for that reason. To use the language of one of the managers—on what ground I know not—if he has a large and expensive family you may vote against him for that reason.

As to these articles of impeachment, there may not be 10 votes in favor of turning him out as to any one, but on the whole Senators may combine their votes and turn him out!

And remember also, Senators, that when this Constitution was created there was the well-known form of removing all civil officers—judges and others—by what was called the address. That was referred to by my brother Simpson. It became the law of England in 1701. By it, without making any charges which would involve disgrace upon the part of an individual officer, if it was thought a good thing to turn him out, the Houses of Parliament could request the King to remove him. That provision was carefully left out of the Constitution of the United States, so that no such power exists.

Now, under the constitutions of the different States it is otherwise. They have seen that an impeachment for high crimes and misdemeanors does not allow an officer to be turned out of his office simply because it is thought on the whole he had better be turned out—that he is not a fit man to be in office. The States have almost universally provided for removal by address.

I happen to have in my hand a copy of an address delivered before a bar association in Oklahoma by a Member of this body, Mr. Senator OWEN, in which he has collated the laws of the different States on that subject; and it shows that nearly all of them have the provision for removal by address.

In an article written by the same distinguished Senator, published in the Yale Law Journal for June, 1912, he expresses the idea which is in my mind and which I have undertaken to state here.

Impeachment—

He says—

is wholly inadequate for practical purposes. It can only be invoked for the most serious crimes.

In another place in the article he says:

Impeachment is too severe a remedy in certain cases and is impracticable for offenses justifying removal but not deserving impeachment, which latter power should only be invoked for actual personal corruption or serious criminal conduct.

Nobody could better have expressed our idea as to what is the meaning of the Constitution than Senator Owen has done in that phrase.

But let me go on with another provision of the Constitution. Article I, section 3, paragraph 7, provides:

Judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law.

With what assurance can the learned managers stand before the Senate and say, in view of that provision, that a man may be removed from an office for that for which he could not be prosecuted in a criminal court?

Finally, and most important of all, is this provision:

Section 2 of Article II of the Constitution provides—

The President * * * shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

A man may commit the most diabolical murder, commit burglary, or rob the United States Treasury of a million dollars or commit any other enormous offense which violates the laws of the United States, and the President of the United States can make his record as white as snow by saying: "I pardon him"; but if you convict Judge Archbald of high crimes and misdemeanors, as you must if you convict him at all, because of these things he has done which it is said are improper, you have put him in a position where he never can escape from the penalty of his action. Nobody can relieve him. He must carry it with him all his life. It will make for him a winding sheet to take with him into his coffin. It will stand here as a record against his children and their descendants as long as this Government of ours shall endure.

The managers say that this is not a criminal matter; that it is merely a little civil proceeding by which to get rid of an officer who you think ought not longer to occupy the position. That applies not to Judge Archbald alone but to every civil officer of the Government. If the President of the United States should happen to do something which you may consider to be an impropriety, there is no means of removing anybody except by impeachment for high crimes and misdemeanors, and you can remove the President of the United States and put him out of office on such futile and uncertain grounds.

I have referred to the language of the Constitution and to what happened when it was formed. Is is said, however, you must be governed by the English view of this subject; that while our fathers had determined that they would get rid of the tyranny of the Parliament and the King when they framed this Constitution of ours, we are to go back and see how they exercised their tyranny and act accordingly in enforcing our Constitution. I say that you are not at liberty to accept the Eng-

lish precedents. It so happens that I have in support of that contention a notable and learned opinion delivered in the Supreme Court of the District of Columbia, sitting in general term about 30 years ago.

You all remember that when President Garfield was murdered by Charles J. Guiteau the wound was inflicted here in the District of Columbia, and the President was taken to the State of New Jersey, where he died. Guiteau was indicted here for the crime of murder, and under the Constitution of the United States Guiteau was entitled to be tried where his crime was committed. The English precedents were that a man can not be tried for murder in any county in England unless his victim had died in that county. Numerous decisions of the English courts to that effect were thrown upon the table and shown to the judge by Guiteau's counsel. Mr. Justice James, a most able judge, one of the ablest who ever sat in this District, delivered that opinion, an extract from which I shall here ask to have incorporated into my remarks, in which he said that we are to determine the meaning of the phrases in our Constitution according to our understanding of the Constitution and that you can not look to alien laws to see what our forefathers meant in framing a government for ourselves. I will not undertake to dwell on that or to read it here, but I shall insert it at this place in my argument.

We turn, now, to the peculiar and higher ground on which we conceive this question should stand, and to considerations to which as a court of the United States, exercising the judicial power of the United States, we are required to give special attention. However proper it may be that the courts of the States where the common law exists should treat the question of jurisdiction from the standpoint of that law, that question must be treated by the courts of the United States, wherever a fort or magazine or an arsenal or a district of country is under the exclusive jurisdiction of the National Government, from the standpoint of Federal authority and with reference to the relation of the crime to the sovereignty of the United States.

We take it to be a fundamental rule of construction that an independent and sovereign government is always to be understood, when it makes laws for its own people, to speak without any reference to the law of another people or Government, unless those laws themselves contain plain proof of a contrary intention, and that, when it thus appears that something is actually borrowed and embodied therein from the laws of another people, the extent of that adoption is to be strictly construed and not enlarged by implication. So far as its laws can be understood only by reference to foreign law, that reference is authorized by the lawmaker, because it is necessary; but so far as its commands may be understood as original terms, and without such reference, they must be construed independently. It is only when understood to be, to this extent, the original expression of its own will that its words can communicate to its own people the whole and self-sufficient force of that will. To assume, without plain necessity, that it utters the intention of an alien law, is to ignore to just that extent its absolute independence of existence and action and will.

By the argument which is made here by the managers as to the proper way to construe our Constitution by referring to English precedents and customs as they stood when our Constitution was formed, Charles J. Guiteau would have gone unwhipped of justice, for he could not have been punished either in the District of Columbia or the State of New Jersey, for such was the state of English decisions, strange as it may seem, at the time we separated from the mother country.

But what of it? I say that if we go back to English precedents you will find the situation to be precisely the same as we claim it is here under the plain language of our Constitution. You may not go back to the days when it was forbidden for a man on trial before the House of Lords to have counsel in his defense, when he was not permitted to testify; and when after he had been convicted he was not merely to be removed from office, but if the House of Lords chose he could be taken to the block and he could be disembowled and his bowels held before his face before he was dead. I do not understand that the managers expect us to go back to those days to find precedents to govern your decision.

And if you will take the later cases you will find that the doctrine is laid down exactly as we are seeking to lay it down here, that if you want to punish a civil officer for a crime against the law you may impeach him, but for anything else you must seek the remedy by address. Even as far back as 1724, in the case of the Earl of Macclesfield, reported in Howell's State Trials, you will find the whole contention from the beginning to the end in that case was whether the things which the Earl of Macclesfield was charged with doing were crimes. The managers labored, and successfully labored, to show that what he was charged with doing was an offense at the common law and was an offense under certain statutes which they cited.

The case of Warren Hastings, of course, must be adverted to in this connection. I have seen it claimed by some that what he was charged with did not amount to crimes. In other equally able and important statements by learned writers it has been shown that his alleged offenses clearly did amount to crimes. But what matters it? I do not understand, as the managers seem to, that when you find that a person has been charged in a court with a certain offense that that is a decision that that thing is a criminal offense. I do not understand that merely because a man has been charged in articles of impeachment with doing certain things that alone determines that those things are impeachable offenses. You look to the action of the court, and when you find a case in the later days in England, in the last century before we separated from her, or in the United States, where a man was charged in an article of impeachment with doing something that was not a crime against positive law and was convicted, then you will have a precedent which you can cite here against us; but you can find no such. In the case of Warren Hastings, which, as we all know, dragged along, being heard from time to time for seven years, so long that a great many of the members had gone out of the House or had not heard enough of the evidence to justify them in voting, out of the large body of the House of Lords only 29 members voted, and the worst vote against Mr. Hastings on any article was 6 for conviction and 23 not guilty. So if that case decides anything it decides that what he was charged with was not a crime.

But most important of all is the case of Lord Melville, in 29 Howell's State Trials, page 1417, the last impeachment trial in England, which occurred in 1806. In that case Lord Melville had been the treasurer of the navy, or he had been in such a position that he handled the public funds belonging to the navy of Great Britain, and some alleged misuse of those moneys formed the basis of the charge against him in the several articles of the impeachment. It appeared that he had taken the money out of the treasury and deposited it in some private place. His claim was that he did that merely for convenience, not with the intent of converting the money to his own use. The question was, Did that amount to a criminal offense? The House of Lords referred that question to the law Lords, who gave their opinion, as you will find at the page I have referred to, saying that the things charged did not constitute indictable offenses, and thereupon Lord Melville was promptly acquitted.

Now, Senators, what has taken place in this country in this regard is no less conclusive. The case of Senator Blount in 1798 is referred to. You can not tell anything about what the judgment of the court in that case would have been upon the merits, because he had been expelled from the Senate; and when the articles of impeachment were presented he made no reply to the merits at all, but counsel said, "You can not impeach a Senator, and, besides, he is out of office." Upon that double plea the Senate voted—14 to 11—that it set forth a good defense, and there were no further proceedings in the case.

Then came the case of John Pickering, by which one of the learned managers—Mr. Manager HOWLAND—this morning had some pleasantries at my expense, in which there were three articles of impeachment, two charging him in the performance of his duties upon the bench in a prize case involving the question of the custody of a certain vessel of deliberately, by his orders in the court, violating acts of Congress prescribing his duties as a judge. Of course, that was a criminal offense. But the thing which was in the mind of Mr. Manager HOWLAND is this: He said that in the opening statement I made here I said intoxication was a crime. I said nothing of the kind. If my friend will turn to the opening statement he will find that he is greatly mistaken. I said that when a man becomes intoxicated in a public place and acts in a disorderly manner it is a well-known crime everywhere in the United States and in every civilized country, I suppose, on the globe. The charge was first as a preamble that Judge Pickering was in the habit of getting intoxicated, and then that he had gone upon the bench in a drunken and intoxicated condition and deported himself in an unseemly manner and had there, in open court, used the name of the Divine Being profanely.

You may go down to our police court or any police court in the land and you will find a large portion of the cases are for drunk and disorderly conduct. Of course, that would not ordinarily be considered an indictable offense, or that even a Federal judge could be turned out of office if once in a while he happened to get on a slight spree. Yet it is a high misdemeanor within the very terms of the provision of the Constitution when a judge goes into court in a drunken condition and there uses the name of God in vain or otherwise conducts himself in an indecent manner. I beg the pardon of the Chair for even supposing such an illustration; but what would you say if a Senator who happened to be presiding in this body would come here, and when the proceedings are opened take his seat in the Presiding Officer's chair, drunk, unable to conduct himself in a seemly manner, and swear and curse in the face of the public here? Would anybody say that that is not an offense for which he might be taken down to the police court and punished?

Then comes the case of Samuel Chase as to which one of the learned managers has followed what is said in the encyclopedia.

It is the first time in a case of this kind that anyone has asked the Senate to be governed by an encyclopedia or a dictionary. In the American and English Encyclopedia it is said that in one of these impeachment cases the counsel for the respondent first raised the defense that the offense must be an indictable one, but abandoned it. That reference could only be to the case of Judge Chase. I have all that was said by the counsel for Judge Chase in that trial upon that subject, every word of it from beginning to end, and I shall ask to have the privilege of incorporating that at this point in my remarks, and will not take up your time with reading it.

Mr. Hopkinson:

Misdemeanor is a legal and technical term, well understood and defined in law; and in the construction of a legal instrument we must give to words the legal signification; a misdemeanor, or a crime, for in their just and proper acceptation they are synonymous terms, is an act committed or omitted, in violation of a public law, either forbidding or commanding it. By this test let the conduct of the respondent be tried, and by it let him stand justified or condemned. * * * We have read, sir, in our younger days, and read with horror, of the Roman emperor who placed his edicts so high in the air that the keenest eye could not decipher them, and yet severely punished any breach of them. But the power claimed by the House of Representatives to make anything criminal at their pleasure, at any period after its occurrence, is ten thousand times more dangerous, more tyrannical, more subversive of all liberty and safety. (2 Chase's Trial, 13, 17.)

Luther Martin (who was a member of the convention of 1787 which framed our Constitution):

I shall now proceed in the inquiry, For what can the President, Vice President, or other civil officers, and consequently for what can a judge be impeached? And I shall contend that it must be for an indictable offense. The words of the Constitution are that "they shall be liable to impeachment for treason, bribery, or other high crimes and misdemeanors." There can be no doubt but that treason and bribery are indictable offenses. We have only to inquire, then, what is meant by "high crimes and misdemeanors." What is the true meaning of the word "crime"? It is breach of some law which renders the person who violates it liable to punishment. There can be no crime committed where no such law is violated. * * * Nay, sir, I am ready to go further and say there may be instances of very high crimes and misdemeanors for which an officer ought not to be impeached and removed from office; the crimes ought to be such as relate to his office or which tend to cover the person who committed them with turpitude and infamy; such as to show there can be no dependence on that integrity and honor which will secure the performance of his official duties. (Ibid., 137, 139.)

Mr. Harper:

If the conviction of a judge on impeachment be not to depend on his guilt or innocence of some crime alleged against him, but on some reasons of state, policy, or expediency, which may be thought by the House of Representatives and two-thirds of the Senate to require his removal, I ask why the solemn mockery of articles alleging high crimes and misdemeanors, of a court regularly formed, of a judicial oath administered to the members, of the private examination of witnesses, and of a trial conducted in all the usual forms? Why not settle this question of expediency, as all other questions of expediency are settled, by reference to general political considerations, and in the usual mode of political discussion? No, Mr. President, this principle of the honorable managers, so novel and so alarming; this desperate expedient, resorted to as the last and only prop of a case, which the honorable gentlemen feel to be unsupported by law or evidence; this forlorn hope of the prosecution, pressed into its service after it was found that no offense against any law of the land could be proved, will not, can not avail. Everything by which we are surrounded informs us that we are in a court of law. Everything that we have been for three weeks employed in doing reminds us that we are engaged not in a mere inquiry into the fitness of an officer for the place which he holds, but in the trial of a criminal case on legal principles. And this great truth, so important to the liberties and happiness of this country, is fully established by the decisions of this honorable court in this case on questions of evidence; decisions by which this court has solemnly declared that it holds itself bound to those principles of law which govern tribunals in ordinary cases.

These decisions we accepted as a pledge and now rely on as an assurance that this cause will be determined on no newly discovered notions of political expediency, or state policy, but on the well-settled and well-known principles of law (pp. 206, 207, bracketed). * * * Thus we find that even in England, where the power of impeachment is subject to no expressed constitutional restriction and where abuses of that power for the purpose of party persecution and state policy have sometimes been committed and more frequently attempted, an impeachment has never been considered as a mere inquest of office, but always as a criminal prosecution, differing not in essentials from those which are carried on before the ordinary tribunals of justice and subject to the same rules of evidence and the same legal notions concerning crimes and punishments. * * * What, Mr. President, are offenses in the language of the Constitution and the laws? For a definition of the term "offense," in a constitutional sense, we must consult our law books and not the caprice or the varying opinions of popular leaders or popular assemblies. Those books tell us that the word "offense" means some violation of law. Whence it evidently follows that no officer of Government can be impeached unless he have committed some violation of the law, either statute or common. It is not necessary for me to contend that this offense must be an indictable offense.

I might safely admit the contrary, though I do not admit it; and there are reasons which appear to me unanswerable in favor of the opinion that no offense is impeachable unless it be also the proper subject of an indictment. But it is not necessary to go so far; and I can suppose cases where a judge ought to be impeached for acts which I am not prepared to declare indictable. Suppose, for instance, that a judge should constantly omit to hold court; or should habitually attend so short a time each day as to render it impossible to dispatch the business. It might be doubted whether an indictment would lie for those acts of omission, although I am inclined to think that it would. But I have no hesitation in saying that the judge in such a case ought to be impeached. And this comes within the principle for which I contend; for these acts of culpable omission are a plain and direct violation of the law, which commands him to hold courts a reasonable time for the dispatch of business; and of his oath which binds him to discharge faithfully and diligently the duties of his office. The honorable gentleman who opened the case on the part of the prosecution cited the case of habitual drunkenness and profane swearing on the part of a judge as an instance of an offense not indictable, and yet punishable by impeachment. But I deny this position. Habitual drunkenness in a judge and profane swearing in any person are indictable offenses, and if they were not, still they are violations of the law. I do not mean to say that there is a statute against drunkenness or profane swearing; but they are offenses against good morals, and as such are forbidden by the common law.

They are offenses in the sight of God and man, definite in their nature, capable of precise proof and of a clear defense. The honorable managers have cited a case decided in this court as an authority to prove that a man may be convicted on impeachment without having committed an offense. I mean the case of Judge Pickering. But that case does not support the position. The defendant there was charged with habitual drunkenness and gross misbehavior in court arising from this drunkenness. The defense set up was that the defendant was insane and that the instances adduced of intoxication and improper behavior proceeded from his insanity. On this point there was a contrariety of evidence. It is not for me to inquire on which side the truth lay. But the court, by finding the defendant guilty, gave their sanction to the charge that his insanity proceeded from habitual drunkenness. This case, therefore, proves nothing further than that habitual drunkenness is an impeachable offense. * * * The great principle for which we contend and which is so strongly supported by the clause of the Constitution already cited, that an impeachment is a criminal prosecution and can not be maintained without the proof of some offense against the laws, pervades all the other provinces of the Constitution on the subject of impeachment. * * *

In every light, therefore, in which this great principle can be viewed, whether as a well-established doctrine of the Constitution, as the bulwark of personal safety and judicial independence, as a shield for the characters of those whose lot it may be to sit on a trial of impeachment; or as a solace to them under the necessity of pronouncing a fellow citizen guilty, it equally claims—and I can not doubt that it will receive—the sanction of this honorable court, by whose decision it will, I trust, be established, so far as hereafter to be brought into question, that an impeachment is not a mere inquiry—in the nature of an inquest of office, whether an officer be qualified for his place or whether some reason of policy or expediency may not demand his removal—but a criminal prosecution, for supporting which the proof of some willful violation of a known law of the land is to be indispensably required. * * *

And will this honorable body, sitting not in a legislative but a judicial capacity, be called on to make a law, and to make it for a particular case which has already occurred? What, sir, is the great definition between legislative and judicial functions? Is it not that the former is to make the law for future cases, and that the latter is to declare it as to cases which have already happened? Is it not one of the fundamental principles of our Constitution and an essential ingredient of free government that the legislative and judicial powers shall be kept distinct and separate? That the power of making a general law for future cases shall never be blended in the same hand with that of declaring and applying it to particular and present cases? Does not the union of these two powers in the same hands constitute the worst of despotism? What, sir, is the peculiar and distinguishing characteristic of despotism? It consists in this, sir: That a man may be punished for an act which when he did it was not forbidden by law. While, on the other hand, it is the essence of freedom that no act can be treated as a crime unless there were a precise law forbidding it at the time when it was done. (2 Chase's Trial, 251, 253, 254, 257, 264.)

In the answer which the counsel for Judge Chase prepared they specifically set up the defense that what he was charged with was not an indictable offense, and all through the discussion of the case his counsel over and over insisted upon that point. Mr. Harper, whose language was used by Mr. HOWLAND as indicating the opposite, closed the arguments that were made on that subject in behalf of Judge Chase with the statement that he could not be convicted unless he had violated a known and positive law of the land. What was done with Judge Chase? He was acquitted, a majority of the Senators voting for his acquittal.

Now, shall we say that when you take a man into a court of impeachment and a majority of the judges acquit him of the charge, that that is a decision by the court, that what he was charged with was an impeachable offense?

In the case of Peck, in which there was but a single article of impeachment, what he had done was to take and throw a lawyer into jail and disbar him for 18 months because the lawyer had presumed to criticize his opinion in a case in which the lawyer was counsel for the losing party. He sent him to jail for 24 hours, long enough I take it for a man of the standing of Mr. Lawless to disgrace him. He sent him to jail for 24 hours and suspended him from practice because he presumed to criticize the judge's opinion out of court. If it be not a criminal offense for a judge in the performance of his judicial functions without law or right to send a man to jail, then I do not know what you might consider a criminal offense.

But what was the defense that was made for Judge Peck? Mr. Wirt was his principal counsel and spoke three days in his behalf. You will find from the beginning to the end of his argument he contended that because Judge Peck believed he had a right to punish in that way for contempt he should not be convicted. As was suggested by my friend, Mr. Simpson, Mr. Buchanan, afterwards President of the United States, who was the chairman of the managers of the impeachment in that case, did what I might humbly suggest to the learned chairman of the managers in this case. When Judge Peck was acquitted

on the ground that if he did not have the right to punish Lawless in that way for contempt, he honestly believed he had that right and should not be impeached merely for committing an error, Mr. Buchanan went back to the House of Representatives, and the next day started legislation which resulted in what we have had upon our statute books ever since, that a judge of a Federal court shall not punish in a summary way for contempt for an offense committed out of the presence of the court.

I will not stop to say anything about the case of Judge Humphries. Judge Humphries made no defense, and of course nothing could be concluded where there was no adverse party. He was charged with joining the Confederacy and abandoning his court. It is needless to say anything more on that subject.

Now, I want to come to what it seems to me is the case which ought to be an end of this discussion in the Senate of the United States—the case of Andrew Johnson. He became President in the spring of 1865, after the assassination of Mr. Lincoln and almost immediately, as we all know, became involved in a war with Congress. For two long years and more there was a very unfortunate state of affairs here in which he was charging that Congress was an illegal body hanging on the verge of the Government, to use his words in a speech he made in Cleveland, Ohio, because it did not admit to membership in the House and Senate the representatives of the 10 States which had gone out in 1860 and 1861. Congress was passing laws over his veto over and over again, and there was a state of feeling between Congress on the one hand and the President on the other which never existed in this country before and, let us hope, will never exist again.

In that state of affairs the Judiciary Committee of the House had before it a resolution sent to it by the House directing it to inquire whether Andrew Johnson had committed offenses for which he should be impeached. Mr. Boutwell, of Massachusetts, then a Member of the House, was chairman of that committee, and on behalf of five of the nine members he made a report recommending impeachment. Mr. Wilson, of Iowa, one of the greatest lawyers who ever sat in that body, made a report concurred in by the other three members in which he opposed impeachment and recommended that the resolution favoring impeachment which the majority had reported should not be adopted, because, and only because, the offenses which were charged were not indictable under any law of the United States. He made that report which reviewed the whole subject, and it might perhaps be needless for me to say a word here on this question except to read it. It is already printed in our brief and will be found at the end of the first volume of the printed record in this case at pages 1074 to 1084.

The history of impeachment trials in England from the beginning with the origin of our Constitution and what took place in the constitutional convention and subsequent developments down to 1867 were all set forth at great length and with great ability.

In the House of Representatives, in which there was a three-fourths vote in favor of vetoing the bills of the President, a House in which three-fourths of the Members were violently opposed to the President, when those two reports came before it, Mr. Wilson moved to lay the resolution for impeachment on the table. That motion was carried by nearly a two-thirds vote. The majority had set forth 26 different things which they said the President had done for which he ought to be impeached, mostly what might be called political offenses, and the House determined that they would not favor the impeachment, much as they desired to get rid of the President, because he had not done anything which was indictable and therefore could not be impeached.

Some months before, in the spring of 1867, Congress as one of the things which it had done which enraged Johnson, had passed a tenure-of-office bill, long since repealed, by which they undertook to make it impossible for the President to remove officers without the consent of the Senate. There was a special provision in that bill, that while the President when the Senate was not in session might remove an officer, yet when the Senate came back in December, if it did not confirm that action, the removed officer should resume his office and should be allowed to keep it. In that same summer of 1867 President Johnson undertook to remove Edwin M. Stanton as Secretary of War and to appoint Lorenzo Thomas as Secretary ad interim. Congress was not in session; and he had the right to do that. Under that act, Gen. Grant became Secretary of War ad interim; but when Congress met the Senate refused to confirm the President's action, and Mr. Stanton immediately retook possession of the War Department. On the 21st day of February following, in defiance of the penal provision of the tenure-of-office act, President Johnson undertook to remove Mr. Stanton, and sent Lorenzo Thomas over to Stanton's office with a letter directing Stanton to surrender possession to Thomas. Stanton, as we all remember, refused to do it. The matter came before the House of Representatives, and the House at once impeached Mr. Johnson. Mr. Wilson, who had made the minority report, of which I spoke, which was adopted by the House, then said, "Now the President has committed an indictable offense; and let us impeach him."

It is true, as Mr. Manager HOWLAND said to-day, that in those articles of impeachment there was one which charged the President with having made certain declarations and speeches about Congress as to which there was a question whether he had committed an indictable offense. When it came to a vote here in the Senate, the Senate voted first upon the last article—article 13—which charged a violation of the tenure of office law, and there was a vote of 35 for convicting and 19 against, one vote less than was necessary in order to convict Mr. Johnson; and so he was acquitted.

The Senate then immediately adjourned for two weeks, in order that those who favored impeachment might consider what they could do. They came together here again on the 26th of May, 1868. What did they do? They voted upon article 2 and upon article 3, both of which charged distinctly a violation of the penal provisions of the tenure of office law. Having the same vote upon those two articles, the Senate then adjourned without day without voting upon the other articles at all.

Now, I say there is a formal adjudication of both Houses of Congress, and in as important a case as ever came before the Senate, that, in order to be impeachable, an offense must be indictable.

I need not remind the Senate of the able men who sat on that side of the Chamber presenting the views of the House and the great lawyers who sat over here presenting the views of the President, or the great men who sat in this Chamber at that time and voted upon one side or the other. It was my good fortune to be present during most of that trial, and I remember well particularly that Senator Sumner, who sat over in that part of the Chamber [indicating] and was one of the most active participants in favor of impeachment, could not conceal his impatience with the slow progress of events. He wanted all sorts of evidence to be let in; he wanted the President removed for political reasons; and he was the most disappointed man, perhaps, in this whole body when the impeachment failed. I have just read an article in the December Century Magazine by one of the two survivors of the Senate of that day, Senator Henderson, who voted against impeachment and who still lives in this city, wherein he states that Senator Sumner came to him not long before he died and said, "Henderson, I want to let you know that I was wrong about that impeachment matter and that you were right. I do not want you to say anything about this until after I am dead, but then I want you to make it known."

There have been two impeachment cases since that time, neither of which, it seems to me, in the slightest degree affects the question we have here. Mr. Belknap was charged with bribery—several clear, distinct, specific acts of receiving money in consideration of having made an appointment to office. No defense was made in his case, except that which finally prevailed, that, because anticipating he would be impeached, he went to President Grant and got the President to accept his resignation. I may have something more to say about that case in another part of this argument, but it has no relation to the subject I am discussing now, because it is clear that he was charged with indictable offenses.

In the Swayne case it is true that the counsel for Judge Swayne in presenting the law of that case used a brief which I understood the managers here to say they disowned. I do not so read anything that took place in that record. They had a brief there, which everybody knows was written by Mr. Hannis Taylor; and who Mr. Hannis Taylor is I need not explain to anybody in this Chamber. In that brief he simply took the position that because Judge Swayne was not charged with having done anything in the performance of his official duties, but that everything he was charged with was something outside of his duties in court, he could not be punished for that reason; and his counsel rested the case upon that proposition. As Judge Swayne was acquitted, I do not see how anybody can contend that the Senate held in that case that what Judge Swayne was charged with constituted an impeachable offense.

I do not recall that any of the managers have referred to this, but it has been referred to in the other cases and may be in the minds of many Members of this body, and I therefore

mention it. It has been said, If you are right about that, under what law are you to decide what is an indictable offense? Then it is said that the Supreme Court of the United States has decided that there are no common-law offenses against the United States, and that, therefore, when the Constitution was adopted and when the Government went into operation there were no penal laws; that as there was no penal statute passed for more than a year after the Government was started, no officer during that time could be impeached for any offense whatever. Now, I say that that is a fallacy; the whole argument is a fallacy and altogether wrong. The common law is in force in this tribunal except as changed by acts of Congress. When we come to see why it was that the Supreme Court held that there were no common-law offenses in the inferior courts of the United States, we see at once that the application of that decision to impeachment proceedings is entirely without foundation. I read from the first case in which that question was decided, in Hudson v. Goodwin (7 Cranch, p. 32):

> The powers of the General Government are made up of concessions from the several States; whatever is not expressly given to the former, the latter expressly reserve. The judicial power of the United States is a constituent part of those concessions; that power is to be exercised by courts organized for the purpose and brought into existence by an effort of the legislative power of the Union. Of all the courts which the United States may under their general powers constitute, one only, the Supreme Court, possesses jurisdiction derived immediately from the Constitution and of which the legislative power can not deprive it. All other courts created by the General Government possess no jurisdiction but what is given them by the power that creates them, and can be vested with none but what the power ceded to the General Government will authorize them to confer.

So, you see, the Supreme Court merely held that the inferior courts of the United States, which were created by acts of Congress, would take such jurisdiction, and no more, as Congress chose to give them.

It so happened that when Congress created the original criminal court and the other courts in the District of Columbia, they did what might just as well have been done in 1790 as to all the Federal courts. When this District was ceded to the Government and Congress took possession, a law was passed on the 27th of February, 1801, which is still the organic law of the District of Columbia. In that statute they simply said that the laws of the State of Maryland (which included the common law) should remain in force in the District of Columbia until otherwise ordered by Congress.

Congress might have done that for all the Federal courts, but it did not choose to do so. It might do it to-day; but instead of that it has from time to time, as the need appeared for it, passed acts defining criminal offenses.

You perceive at once that this court to which I am speaking is on the same plane in that regard as the Supreme Court of the United States. You are not the creature of any act of Congress. You, like the Supreme Court, are created by the Constitution, and you have the same authority and power to determine what the laws were which existed at the time you were created as the Supreme Court would have to decide what were the laws which govern its proceedings under the provisions of the Constitution, giving it original jurisdiction as to certain classes of cases.

That brings me to another objection which has been made here and which has been often referred to in the textbooks which gentlemen seem to think are of importance here, but which, of course, are only based on the cases, and we have the cases. They say there are many evil acts a judge or other civil officer of the Government might do that are not indictable, and it would be very bad indeed to allow such officer to continue in office, as you would have to do if you decide that he can only be impeached for an indictable offense, this, that, and the other act not being indictable. You find that running all through the discussion of impeachment cases in past times, and especially in the textbooks.

There is an offense known to the common law as misconduct in office, and it reaches, so far as I have been able to discover, almost every one of the illustrations which have been referred to of various acts which it is said would not be indictable offenses, and yet should be impeachable offenses. It is asked, suppose a judge refuses to hold court; suppose he refuses to summon a jury? Well, if he does, he is guilty of misconduct in office. Let me read what the Supreme Court of the United States has said in one simple sentence on that subject. I read from the opinion in the case of South against Maryland, in 18th Howard, page 402:

> It is an undisputed principle of the common law that for a breach of a public duty an officer is punishable by indictment.

Let me give you an instance of what happened in this District, which sufficiently illustrates that subject without going any further. I refer to the case of Tyner against the United States, in 23 Appeals, D. C., 324, a case decided by our Court of Appeals a few years ago. Gen. Tyner had been Assistant Attorney General in charge of the legal work of the Post Office Department. He was indicted, charged with conspiring with a nephew of his to commit an offense against the United States, to wit: The offense of misconduct in office. What was that misconduct? It was his duty, among other things, to investigate charges that were made of the use of the mails for fraudulent purposes, and when he found that there was a case presented which justified action, to go to the Postmaster General and recommend the issuance of a fraud order. We all know, of course, what that means—to stop the use of the mails by fraudulent concerns. The charge was that in a number of cases he had before him evidence that the mails were being used for fraudulent purposes by a number of concerns, which were named in the indictment, which were called investment companies, and that he neglected his duty to go to the Postmaster General and ask for fraud orders in those cases. That indictment was demurred to, and it was claimed on the part of his counsel that that did not constitute an offense under section 5440 of the Revised Statutes. All that Tyner's counsel claimed was that, since there is no such offense as misconduct in office known to the other Federal courts throughout the country, it could not be applied in our local jurisdiction; but the Supreme Court held that, under the common law, the failure of Gen. Tyner, with the evidence before him that the mails were being used for fraudulent purposes by certain named concerns, to go to the Postmaster General and report that and ask for a fraud order was a crime under the common law, the crime known as misconduct in office. So the case went back to trial, and in due time Gen. Tyner was promptly acquitted by the jury. I am not going to take the time to go over the illustrations which have been given here and elsewhere, but if you will go over them you will find that almost without exception they come within that rule of misconduct in office by a public officer.

There is this curious thing about it: It has been suggested in some cases that the law is uncertain in that regard as to whether when a public officer—judge, President, Cabinet officer, or what not—commits an indictable offense against the laws of the United States he can be proceeded against by indictment before he is impeached; and it has been suggested that if he still be in office he must first be impeached. Of course, that makes no difference about the proposition for which we are contending, because the Constitution expressly says that after the officer has been impeached, convicted, and removed from office he shall nevertheless be subject to indictment and trial in the ordinary courts.

As against all that, what do we have suggested here. "Why," says Mr. Manager HOWLAND, "a man who is a civil officer may be impeached whenever the public welfare requires it." If any one of you thinks that the public welfare requires Judge Archbald to be removed, according to this contention you are to vote for his conviction on any particular article you please to select or on all of them, just as you may see fit, although there is no charge here that the public welfare requires him to be removed. And then, says Mr. Manager STERLING, "Each Senator fixes his own standard in that regard;" and, as Mr. Manager WEBB says, "Crimes and misdemeanors have no meaning;" and, as Mr. Manager WEBB said again, "That is, at your pleasure, Senators."

I stated that this was something without precedent, but there was one very bold man who stood in this Chamber some years ago and did the same thing, but he used plainer terms. In the Johnson impeachment trial, when Gen. Benjamin F. Butler was making the opening statement here to the Senate, he announced this doctrine in these words, "Senators, you are a law unto yourselves"; and it was in reply to that proclamation by Gen. Butler, who was bold enough to claim anything anywhere, that Mr. Benjamin R. Curtis, former Associate Justice of the Supreme Court of the United States, one of Mr. Johnson's counsel, uttered the words which Mr. Simpson read from the record in the Johnson case.

Now, I say, instead of that, if there is anything which you find here which Judge Archbald has done which is not indictable and impeachable which you think ought to be indictable and impeachable, do what was done in the Peck case; let the honorable chairman of the Judiciary Committee of this day do what the honorable chairman of the Judiciary Committee of 1831 did, go to the House, and the day after Judge Archbald is acquitted introduce a bill which shall provide that if any Federal judge shall at any time have any business transactions with

any person who shall be or shall be likely to be a litigant in his court he shall, let us say, be fined in the sum of a thousand dollars and imprisoned for not less than one year, or both.

If this theory of the managers is to be adopted, what becomes of the principle which is at the foundation of all criminal jurisdiction in every country which pretends to recognize law, and especially so in this country and under our Constitution. If a man is brought into court he is entitled to know with what he is charged, and, as I said a few moments ago, Judge Archbald is not charged with having done anything which is against the public welfare or for which Senators ought to put him out of office on general principles.

But if I do not misunderstand what is intimated here, whether it is expressly said or not, what you are called upon to do by these learned managers is this: You are to say, with respect to article 1, "I do not find that there is anything there which justifies convicting Judge Archbald," and so with the other articles, "yet he has done certain things and under certain conditions which I think render him unfit to be a Federal judge."

Now, I ask you, Senators, if it is intended to ask the Senate of the United States to disgrace a man, to put him out of his office, and perhaps cover him with a mantle of shame so that he may never hold any other office under the Government of the United States, whether it would not be fair to let his counsel know, when they come before you, what charge they are to meet. If that had been done in this case when we brought here the judges associated with this respondent on the bench for years, the lawyers who practiced before him year after year, the men who knew him from boyhood up, who could tell you what kind of a man he was, there would have been no ruling that that testimony should be excluded, because there is nothing of that kind before the Senate.

We wanted to let the Senate know what kind of a man Judge Archbald is, what kind of a judge he is, and to that end we had witnesses by the score who surrounded him and have known him for many years, and who respect him and love him, but their mouths were closed because there was no such charge made here.

Now after having closed our mouths and kept out that evidence, they say to you, "Judge Archbald is the kind of a man who ought to be removed from office on general principles," or on some idea of "a system." Just what is the theory I do not know, but I presume the learned chairman of the managers will inform us before the case comes to a close.

I ask Senators to remember, while they are dealing with a judge of the Circuit Court of the United States, temporarily assigned to the Commerce Court, they are dealing here with the rights of every civil officer of the Government. It is not a question of judges alone, but a question of the President and Vice President and Cabinet officers and of every officer of the United States, which I suppose includes every official whose appointment has to be confirmed by the Senate, if it does not include Senators and Members of the House.

I am not here to contend that there might not be some provision for putting out of office a President or a Vice President or a Cabinet officer or a judge who is for any reason incompetent to properly perform the duties of his office, but there is no such provision in the Constitution of the United States at present. We have had illustrations here of men who have become unfit for their office and who could not perform the duties of their offices. The case of Judge Pickering is the earliest one. In that case, as it was claimed, the respondent had become insane but the Senate removed him, not on that ground apparently, but because he had come into the court in a drunken condition and had there behaved in a disorderly and disgraceful manner.

But a man may be disqualified in other ways. Twice members of the Supreme Court of the United States have become absolutely disqualified for the performance of their duties. If an officer may be removed because he is not able for one reason to perform the duties of the office, he may be removed because he is so disabled for any other reason. Mr. Justice Hunt was paralyzed, and for that reason unable to attend to his judicial duties, or even to attend the court.

And so of Mr. Justice Moody, who was formerly Attorney General. He now lies upon a bed of pain and sickness with perhaps little expectation of ever getting up from it. Would you impeach him of high crimes and misdemeanors for being incapable of the performance of the duties of his office?

I certainly would aver that no Member of the House of Representatives would ever come here with such a contention, and if he did he would never get a vote in favor of the proposition that Mr. Justice Moody should be removed because he committed the high crime and misdemeanor of becoming incapable by reason of illness of performing his judicial duties. Instead of that you passed an act of Congress which allowed him to retire as though he had reached 70 years of age and had served 10 years upon the bench.

And let me remind you that you have in the case at bar a perfectly clear case of absence of any charge which relates to anything that has been done in the performance of the duties of the office which Judge Archbald holds. He is not charged with committing any crime. That is admitted. He is not charged even with doing anything wrong in connection with the duties of the office, crime or no crime.

Says Mr. Manager CLAYTON, at pages 889 and 890 of this record:

> We make no charge of any misbehavior in connection with official duties.

Says he again:

> We make no charges of partiality.

And at page 941 Mr. STERLING agrees with that proposition.

Now, Senators, as I have a few moments before the hour for adjournment, let me speak of something relating to the merits of this case, as I have said now all that I intend to say about the law, except as I may add a word to what my brother Simpson so well said upon the question of the last six articles.

Mr. Manager HOWLAND complains because we have raised an issue of law and an issue of fact in this case; that our first answer to each article of impeachment is that what is charged is not an impeachable offense; and that, in the second place, we proceed to confess and avoid—terms well known in lawyer's lingo. If he can find any case in the history of this country in which an issue of law of this character was submitted otherwise than at the end of the trial in an impeachment case, he can find some case that has not been referred to in this hearing and is not to be found in the books. In every case, instead of having a demurrer to the articles of impeachment considered, the whole matter has gone over to the final vote. Indeed, Mr. Manager Bingham in the Johnson impeachment trial contended that a demurrer to an article of impeachment had never been allowed.

Now, as to the defense here—and I am particular about this, because I think the Managers, and especially Mr. Manager HOWLAND, have unintentionally not fairly stated what is our defense on the facts. He says we confess and avoid. We do nothing of the kind.

These articles charge that Judge Archbald did certain things. In the first article it is charged that he had certain communications with officers of the Erie Railroad Co.; in the second article, that he saw Mr. Loomis, and so on. We admit these facts. And so as to the other articles. Then the article goes on to charge that the respondent did corruptly, unlawfully, and wrongfully use his judicial influence in those transactions. We deny that he used his judicial influence corruptly; we deny that he used it wrongfully; we deny that he used it unlawfully; and we deny that he used it at all.

I say now, at the conclusion of the evidence in this case, having come down to the time when the final vote is to be taken in this Chamber, if you take all the evidence that has been produced before you, it leaves this case just where it was when it started; that it is proved that Judge Archbald did the things which in his answer he admits he did, and it is not proved that in regard to any of them he used his judicial influence wrongfully, unlawfully, or corruptly, or that he used it at all.

The articles which I wish particularly to refer to are article 1, which refers to the Katydid dump transaction; article 3, which refers to what is known as the Packer No. 3 dump; article 6, which refers to a conversation between Judge Archbald and Mr. Warriner in reference to certain alleged favors for a Mr. Dainty—there is nothing of that kind in the article, but that is what we are now told it is intended to charge—and article 13, which is an attempt to gather up a number of things which are not specified.

That article charges, in the first place, that while Judge Archbald was district judge and circuit judge he entered into a scheme to raise money from litigants in his court by getting them to discount notes made by him or indorsed by him, and also entered into another scheme to get coal property from certain railroads, which are named, and other railroads not named which had litigation in the Commerce Court.

I intend in the discussion of those articles to take them up practically in their inverse order and discuss them in what I consider to be the order of their importance, as indicated by the amount of evidence which has been taken in regard to them.

About article 6 I shall say but a word, and that is this: The charge there is that Mr. Dainty—I am speaking now of the evi-

dence and not of what is in the article—came to Judge Archbald and mentioned the fact that the Everhart heirs, who have been referred to here so often, had outstanding claims against certain coal property of the Lehigh Valley Coal Co., and that it was desired that Judge Archbald should get that company through Mr. Warriner to purchase those interests of the Everhart heirs; that is, that they would get them in, the company being supposed to be very desirous of getting in these interests; and in consideration of that act of kindness to the coal company the respondent would ask it to lease a certain tract of land, called the Morris & Essex tract, to Mr. Dainty. The managers put upon the stand two witnesses to testify to that transaction; one of them was Mr. Dainty and the other Mr. Warriner. Each of them absolutely and positively denied the charge.

Mr. Warriner said that while Judge Archbald had spoken to him about the Everhart heirs' interest, as to which Judge Archbald was himself concerned, as we show here in reference to the Katydid matter, that he never connected that in any manner with the application that Mr. Dainty was to make for the lease to him of what was called the Morris & Essex tract. Mr. Warriner said that as the respondent was about to leave the office of Mr. Warriner he simply mentioned the fact that Mr. Dainty was going to make application, or had made application, for this lease for the Morris & Essex tract, and Mr. Warriner told him it was not to be leased. That was the end of it.

Mr. Dainty testified that in his conversation with the respondent no suggestion was made of a lease of the Morris & Essex tract as a consideration for the getting in of the Everhart interests, and he further says that he did not know whether the respondent did, in fact, see Mr. Warriner in regard to the matter.

Now, Senators, I call your attention to this remarkable fact: That after Mr. Dainty had been on the stand and declared most positively that there was no connection between those two matters, and after Mr. Warriner had been on the stand and testified that, according to his recollection, the two matters were never mentioned as having any relation to each other at all—so that by the testimony of the only two witnesses the managers produced on this point their whole claim was proven to be untrue—after that, when Judge Archbald came on the stand himself, after hearing the testimony of those witnesses and knowing that by no possibility could any other witness have personal knowledge on the subject, he said that, according to his recollection, he did tell Mr. Warriner that Mr. Dainty had suggested the leasing to him (Dainty) of the Morris & Essex tract in consideration of the services which he proposed to render the company in inducing the Everharts to convey their interests in other lands to the company.

Could there be a clearer illustration of the fact that you are dealing with an honest man? It is impossible to conceive that the respondent did not know when he took the stand and told that story that he was giving the only evidence in the case on which the managers could possibly rely to maintain their claim.

Assume that it is so. Assume now that Mr. Dainty did come to Judge Archbald and say, "Judge, I would very much like to get a lease of that Morris & Essex tract, which the coal company owns, and I can confer a great favor upon that railroad company by getting in the interests of these Everhart heirs. They have the interests of a lot of them. They have paid a hundred thousand dollars or so for certain portions of them, and these other people, I think, will convey their interests to them; and I will be willing to accomplish that for them if they will give me a lease in the other tract." If he did suggest that to Mr. Warriner and Mr. Warriner simply said, "We can not lease the Morris & Essex tract, but we will pay the Everhart heirs what we paid the others," and that was the end of the matter, it is impossible to see how that was a high crime or misdemeanor, or any kind of a crime or misdemeanor, or anything for which he could be reproved.

Mr. President, it is now within three minutes of 6 o'clock, and I should like to suspend the argument at this point.

The PRESIDENT pro tempore. The hour for adjournment of the Senate sitting as a court has so nearly arrived, only two minutes remaining, the Chair does not suppose counsel wish to occupy that time. What is the pleasure of the Senate?

Mr. ROOT. I move that the Senate sitting in the trial of the impeachment adjourn.

The motion was agreed to.

Mr. GALLINGER. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 59 minutes p. m.) the Senate adjourned until to-morrow, Friday, January 10, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January 9, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Father in heaven, quicken the good spirit within us that it may respond to the call for service. The opportunities are great, the call is insistent. We may none of us become heroes, but we pray that we may fulfill the common daily duties of life patiently, promptly, efficiently, without ostentation, that we may thus ennoble and glorify ourselves in Thee, through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

COMMITTEE VACANCIES.

Mr. UNDERWOOD. Mr. Speaker, I desire to move the election of some gentlemen to fill vacancies on committees.

I first move that the gentleman from Ohio, Mr. TIMOTHY T. ANSBERRY, be elected to fill the vacancy now existing in the Committee on Ways and Means.

The SPEAKER. Is there any other nomination? If not, it is so ordered.

Mr. UNDERWOOD. I move that Mr. L. L. MORGAN be elected to fill the vacancy in the Committee on Indian Affairs and also the vacancy in the Committee on Elections No. 3.

The SPEAKER. Is there any other nomination? If not, it is so ordered.

Mr. UNDERWOOD. I move that Mr. A. C. HART be elected to fill the vacancy in the Committee on the District of Columbia.

The SPEAKER. Is there any other nomination? If not, it is so ordered.

Mr. UNDERWOOD. Mr. Speaker, I move that Mr. H. D. FLOOD be elected chairman of the Committee on Foreign Affairs.

The SPEAKER. Is there any other nomination? If not, it is so ordered.

Mr. UNDERWOOD. Mr. Speaker, I desire to inquire whether the gentleman from Virginia [Mr. FLOOD] has presented his resignation as chairman of the Committee on the Territories?

The SPEAKER. Yes; he presented it, and it was accepted.

Mr. UNDERWOOD. I therefore move that Mr. B. G. HUMPHREYS be elected chairman of the Committee on the Territories.

The SPEAKER. Is there any other nomination? If not, it is so ordered.

Mr. UNDERWOOD. Mr. Speaker, at the request of the minority leader, Mr. MANN, I desire to move that Mr. GEORGE C. SCOTT be elected to fill the vacancies in the Committee on Coinage, Weights, and Measures and the Committee on Reform in the Civil Service.

The SPEAKER. Is there any other nomination? If not, it is so ordered.

Mr. UNDERWOOD. I also move that Mr. E. A. MERRITT, Jr., be elected to fill the vacancy in the Committee on Immigration and Naturalization and the vacancy in the Committee on Education.

The SPEAKER. Is there any other nomination? If not, it is so ordered.

Mr. UNDERWOOD. I move that Mr. FRANK L. GREENE be elected to fill the vacancy in the Committee on Claims and the vacancy in the Committee on Pensions.

The SPEAKER. Is there any other nomination? If not, it is so ordered.

Mr. UNDERWOOD. I move that Mr. L. C. DYER be elected to fill the vacancy in the Committee on Industrial Arts and Expositions.

The SPEAKER. Is there any other nomination? If not, it is so ordered.

Mr. UNDERWOOD. I move that Mr. JOHN R. FARR be elected to fill the vacancy in the Committee on Mines and Mining.

The SPEAKER. Is there any other nomination? If not, it is so ordered.

Mr. UNDERWOOD. I move that Mr. BURTON L. FRENCH be elected to fill the vacancy in the Committee on Elections No. 3.

The SPEAKER. Is there any other nomination? If not, it is so ordered.

Mr. UNDERWOOD. I move that Mr. WILLIAM S. VARE be elected to fill the vacancy in the Committee on Labor.

The SPEAKER. Is there any other nomination? If not, it is so ordered.

Mr. UNDERWOOD. That is all, Mr. Speaker.

UNITED STATES DISTRICT COURT AT OPELIKA, ALA.

The SPEAKER. A change of reference is requested from the calendar of the Committee of the Whole House on the state of the Union to the House Calendar of the bill (H. R. 27827) to amend section 70 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911. If there be no objection, that change of reference will be made.

Mr. MANN. What is the proposition?

The SPEAKER. It is to change the bill from one calendar to the other.

Mr. WEBB. Mr. Speaker, that seems to be a bill that is properly within the jurisdiction of the Judiciary Committee. My duties elsewhere have caused me to be absent from some sessions. Is it proposed to change the reference from the Judiciary Committee?

The SPEAKER. No; it is a bill which has been favorably reported by the Judiciary Committee. It is now on the Union Calendar, where it was placed by mistake. It adds a new place for holding the district court in one of the Alabama districts. There is no expense attached to it and evidently it does not belong on the Union Calendar.

Mr. WEBB. I have no objection, Mr. Speaker. I simply wanted to know what the proposed change was.

Mr. HARDWICK. Mr. Speaker, reserving the right to object, if the bill indirectly makes a charge on the Treasury it was properly referred to the Union Calendar.

The SPEAKER. Very true, but it does not do that.

Mr. HARDWICK. If it involves a new Federal district, I think it does.

The SPEAKER. It does not. The Clerk will read the last paragraph in the report of the Judiciary Committee on this bill.

The Clerk read as follows:

The erection of a public building at Opelika has been authorized by law. The bill now reported by your committee provides that, until the Government building shall be erected, suitable court rooms, accommodations, etc., shall be furnished free of expense to the Government. This will be done by the authorities of Lee County at Opelika.

The bill does not create any new office.

The SPEAKER. The gentleman will see that it simply provides a new place for holding court in a district already established. Is there objection to the proposed change from the Union Calendar to the House Calendar?

There was no objection.

INDIAN APPROPRIATION BILL.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 26874, the Indian appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union with Mr. SAUNDERS in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the further consideration of the Indian appropriation bill. At the adjournment of the last session several points of order had been reserved. I will ask the gentleman from Illinois if they are insisted upon.

Mr. FOSTER. Mr. Chairman, I made the point of order on the two provisions which have gone over until to-day. My only idea in this matter was that this amount should be paid from the tribal fund of these Indians instead of out of the Treasury as a gratuity. After looking into the matter somewhat I have changed my mind about it and wish to withdraw the point of order and offer an amendment, if I may be given the opportunity to do so.

Mr. FERRIS. Reserving the point of order, Mr. Chairman, on the pending paragraph, I would like to inquire if an amendment of that kind will be agreeable to the other side?

Mr. BURKE of South Dakota. I will say that I can not agree to any such proposition. I think I can demonstrate satisfactorily to the Chair that the item is not subject to a point of order.

The CHAIRMAN. The statement of the gentleman from Oklahoma related to the merits of the proposition and not to the point of order.

Mr. BURKE of South Dakota. I understand. It is a treaty obligation, and, furthermore, about one-half of the Indians being without any funds from which we may reimburse the Government, and, furthermore, because we have already provided for the support of such Indians as have funds out of their own funds, I can not consent to the amendment.

Mr. FERRIS. Will the gentleman yield?

Mr. BURKE of South Dakota. Certainly.

Mr. FERRIS. Is it not a fact that not one penny of the money that we provide for schools in your State is reimbursable?

Mr. BURKE of South Dakota. No part of the money provided for education; and no part of the item now under consideration is used for education.

Mr. FERRIS. Is it not true that three schools—the one at Flandreau, the one at Pierre, and at Rapid City—are specifically provided for?

Mr. BURKE of South Dakota. Certainly. But the Flandreau School is located about 2 miles on the east side of the State from the line, and the attendance of that school is from a number of States—Nebraska, Minnesota, and South Dakota. Out of the whole number of children being educated at these three schools the gentleman refers to they only take care of 700 or 800 pupils.

Mr. FERRIS. Is it not true that in the entire State of South Dakota there are 20,352 Indians?

Mr. BURKE of South Dakota. My recollection is that it is something like that number, but that does not include the schools in North Dakota, that portion of the Standing Rock which resides in North Dakota, and some Sioux that live over in Nebraska.

Mr. FERRIS. They are provided for elsewhere, are they not?

Mr. BURKE of South Dakota. No; this is for the support of the Sioux. The gentleman has in mind the educational item. The item which the gentleman from Illinois made the point of order against was the item that provides for an appropriation for subsistence. The educational item is a separate item.

Mr. FERRIS. I would like to inquire what the subsistence item is used for?

Mr. BURKE of South Dakota. For the purpose of civilization; some of it is used for rations. Every able-bodied Indian able to work, instead of having rations issued to him, is paid so much a day for the labor for work upon the roads and other work upon the reservation. I may say that as to the helpless and very aged the department has got away from the system of issuing rations, and is using the money that the rations represent in employing the Indians and paying them and letting them buy their own subsistence.

Mr. FERRIS. How many people are employed on the $307,000 item?

Mr. BURKE of South Dakota. I can not say, but not a very large number. Each agency, of course, has, as the gentleman is quite well aware, a superintendent and a financial clerk and such other employees as may be necessary at the agency. I do not think there are over five or six, if you do not count the police; and then we have a subagent, who has employees and farmers and matrons.

Mr. FERRIS. It is true that these Indians have a cash deposit amounting to some $3,000,000, is it not?

Mr. BURKE of South Dakota. There is a trust fund that is on deposit credited to the Indians amounting to $3,000,000. That bears 5 per cent interest, and it provides that one-half of the interest may be spent annually for education and the other half may be paid to the Indians per capita. It is also provided that after a certain number of years, I think 10 years, the Secretary of the Interior may spend 10 per cent of the $3,000,000 fund, but he has not expended any part of it, and at the expiration of 50 years the amount is expended as provided by the agreement in the treaty.

Mr. FERRIS. It is also true that these 20,000 and over Indians have property amounting to $41,015,702.05.

Mr. BURKE of South Dakota. I can not say as to that. These Indians have allotments, but they are mostly only fit for grazing purposes. So far as being valuable for producing crops, they are practically not worth anything.

Mr. FERRIS. Is any part of the $307,000 used for tribal schools?

Mr. BURKE of South Dakota. I understand not.

Mr. FERRIS. The gentleman does not know how much is used for salaries or how much for rations and subsistence?

Mr. BURKE of South Dakota. I think I could tell by referring to the justification that was furnished. The gentleman will remember that the estimates were about $300,000 in excess of what we are appropriating, and therefore the expenditures would include everything that has been paid out both from the money appropriated and the money belonging to the Indians.

Mr. FERRIS. I see here that there is $200,000 for schools and another item, subsistence, $14,000. What is the $14,000 used for?

Mr. BURKE of South Dakota. Fourteen thousand dollars; I presume the gentleman refers to that item for the Yankton Agency. That is to maintain the agency of the Yankton In-

dians. Many of them are old, and, as the gentleman knows, the Government supervises the leasing of the land, the selling of inherited lands, the deposit of funds, the paying of money from time to time, teaching them agriculture, and so forth. Fourteen thousand dollars is to cover the expenses, and is similar to the items that are carried in the bill for the agencies generally.

Mr. FERRIS. While the gentleman from South Dakota was chairman of the committee I noticed that his policy was, and as he stated on the floor and in the committee, that in the future, where the Indians had any money, they should pay their own expenses.

Mr. BURKE of South Dakota. As far as possible.

Mr. FERRIS. Pursuant to that idea he incorporated the following language in the bill relative to the Kiowa Indians in Oklahoma:

The Secretary of the Interior is hereby authorized to withdraw from the Treasury of the United States, at his discretion, the sum of $25,000, or so much thereof as may be necessary, of the funds on deposit to the credit of the Kiowa, Comanche, and Apache Tribes of Indians in Oklahoma, for the support of the agency and pay of employees maintained for their benefit.

If that was good, and if the rule should be uniform wherever the Indians have money, does not the gentleman think we ought to let the Indians in South Dakota take from their funds to pay the agency?

Mr. BURKE of South Dakota. Mr. Chairman, we have to consider in each instance the law, and in some instances agreements that may be in existence between the tribes and the United States, and my recollection is that in connection with the Kiowa and Comanche Tribes—and if I am mistaken the gentleman will correct me—there is something that authorizes that, and the gentleman will recall that a treaty was made with the Kiowa and Comanche Indians for the sale of their surplus lands, and the consideration was to be $1,000,000; that when the treaty came here for ratification the Senate put in an amendment that a certain area should be reserved for the use in common of the Indians for a pasture, and that amendment was adopted and it became a law. The Secretary of the Interior, on his own initiative, reserved 25,000 acres for a wood pasture, which was not sold. Later there was legislation authorizing the sale of these five hundred thousand and odd acres of land which we had previously purchased from the Indians, and the proceeds went into the Treasury to their credit, to the extent of several millions of dollars. We have in that instance been appropriating for their support out of their funds. I do not think the cases are identical, although in South Dakota, as the gentleman knows, this bill provides that so far as the Cheyenne, Standing Rocks, and Rosebuds are concerned, their support shall come from their funds.

Mr. FERRIS. Mr. Chairman, I think the item is clearly subject to a point of order, and unless the gentleman desires to be heard further upon the merits, I desire to present the authorities that I think sustain the point of order.

The CHAIRMAN. Will the gentleman indicate the particular paragraph to which he made the point of order?

Mr. FERRIS. I make the point of order to the paragraph under consideration, beginning with line 19, on page 26, and extending over to page 27, down to line 9. It is the $307,000 item. The language of the paragraph recites that this appropriation is made pursuant to article 13 of the treaty of April 29, 1868. I read from article 10 of that treaty:

In lieu of all sums of money, or other annuities provided for, to be paid to the Indians herein named, under any treaty or treaties heretofore made, the United States agrees to deliver at the agency house on the reservation herein named, on or before the 1st day of August in each year, for 30 years, the following articles.

Then the next article set out the articles—oxen, cows, blankets, and what not.

I think there will be no dispute that the article of the treaty contained in the treaty of 1868 has expired for more than 4 years. The contention of gentlemen on the other side will be that the treaty of 1877 abrogates and takes away the limitation provided in the treaty of 1868. The 1868 treaty was for a period of 20 years, and it provided certain commodities should be furnished the Indians in lieu of the ceded lands. Then, in 1889 an act was passed which extended it until 1908. That treaty then expired, on which there is no other legislation that I have been able to find, except the treaty of 1877. I think it is correct that the treaty of 1868 has expired, and unless revived by the treaty of 1877 this item is clearly subject to a point of order.

I read now from volume 19 of the United States Revised Statutes at Large, article 5. I find this language in the treaty of 1877:

In consideration of the foregoing cession of territory and rights and upon full compliance with each and every obligation assumed by the said Indians, the United States does agree to provide all necessary aid to assist the said Indians in the work of civilization, to furnish to them schools and instruction in mechanical and agricultural arts, as provided for in the treaty of 1868.

That is one place where the Indians have ceded the lands, and where the Federal Government agrees to do certain things, but reciting that it is subject to the limitations of the treaty of 1868, which has at this time expired. Again, in article 8 of the same volume—volume 19—United States Statutes at Large, page 256, article 8 provides:

The provisions of the said treaty of 1868, except as herein modified, shall continue in full force, and that the provisions of this agreement shall apply to any country which may hereafter be occupied by the said Indians as a home, and Congress shall by appropriate legislation secure to them an orderly government; they shall be subject to the laws of the United States and each individual shall be protected in his rights of property, person, and life.

The treaty on which they rely is the treaty of 1877, and in the specific places just read, one being the first part of article 5, and the other being article 8 of the treaty of 1877, which is relied upon, cited as authority for this appropriation. It is specifically provided that this treaty, and the Indians, for the cession made, shall be subject to the limitations set forth in the treaty of 1868. I do not know what could be more specific.

The CHAIRMAN. The idea of the gentleman is that the rights conferred under the act of 1877 shall expire as of the time the treaty of 1868 shall expire.

Mr. FERRIS. Precisely, and let me again emphasize that point. The thing the Indians did to bring about this treaty was to cede certain lands. The thing the Federal Government did was to grant them certain school privileges, annuities, and certain blankets and oxen. Let me again read, for here is the milk in the coconut, the very contract itself, the thing the Federal Government agreed to do:

In consideration of the foregoing cession of territory and rights, and upon full compliance with each and every obligation assumed by the Indians, the United States does agree to provide all necessary aid to assist the said Indians in the work of civilization, to furnish to them schools and instruction in mechanical and agricultural arts as provided for in the treaty of 1868.

Mr. Chairman, one word upon the merits of this proposition. The State of South Dakota has three schools specifically provided for, aggregating from $50,000 to $65,000 each. The State of South Dakota has not a single reimbursable item in the whole State. The Indians have $3,000,000 in cash and they have $41,000,000 in property. They have only 20,000 Indians in the whole State. I understand that this is not debating the point of order, but I state it in justification of my reservation of the point of order. When this matter was considered I did not know that it was subject to a point of order, and I did not know that the succeeding paragraph was subject to a point of order.

Mr. BURKE of South Dakota. Mr. Chairman, let me ask the gentleman one or two questions. I do not quite follow just what the point of order is, and I would ask the gentleman to repeat it in order that I may know just what he is contending for.

Mr. FERRIS. My point of order is, first——

Mr. BURKE of South Dakota. Let me ask the gentleman this question: The first item in this paragraph is an item that is provided for under article 13 of the treaty of 1868. Now, does the gentleman raise a point of order as to that item?

Mr. FERRIS. I raise it as to the paragraph, and I will state my grounds in my own way. My point of order is that this is carried on its face as a treaty item when there is no unexpired treaty in support of it. The further provision is that there is no authority of law and, further, that there is no authority of law for it, either in treaty or in statute.

Mr. BURKE of South Dakota. Mr. Chairman, I am somewhat surprised at the argument presented by the distinguished gentleman who has just taken his seat. I shall very briefly endeavor to answer what he has stated, and then endeavor to convince the Chair that this item is in order. The gentleman read from the treaty of 1877, which I want to refer to, and he reads article 5, but before commenting upon that part of his point of order, I want to call the Chair's attention to the first item that appears in the paragraph against which the point of order has been made, and I would call the Chair's attention to article 13 of the treaty of 1868, which provides:

The United States hereby agrees to furnish annually to the Indians the physician, teacher, carpenter, miller, engineer, farmer, and blacksmiths, as herein contemplated, and that such appropriation shall be made from time to time on the estimates of the Secretary of the Interior as will be sufficient to employ such persons.

Now, there is no limitation in that language and therefore the treaty is still in effect and therefore, so far as that part of the paragraph is concerned, it is not subject to a point of order. And the same is true as to the next item, which provides for the pay of a second blacksmith; and I would cite in support of

that item article 8 of the treaty of 1868, and I will only read the concluding part:

And it is further stipulated that such persons as may commence farming shall receive instructions from the farmer herein provided for, and whenever more than 100 persons shall enter upon the cultivation of the soil a second blacksmith shall be provided, with such iron and steel and other material as may be needed.

And I say there is no limitation as to that article of the treaty of 1868 and therefore, so far as these two items are concerned, the point of order will not lie.

Now, the gentleman directs his arguments to the portion of the paragraph which provides for the subsistence of the Sioux, and so forth, and he cites the treaty of 1877, or a part of that treaty, and he reads from article 7:

In consideration of the foregoing cession of territory and rights—

The CHAIRMAN. Is the gentleman reading from article 7?

Mr. BURKE of South Dakota. I am reading from article 5 of the treaty of 1877, on page 170:

In consideration of the foregoing cession of territory and rights, and upon full compliance with each and every obligation assumed by said Indians, the United States does agree to provide all necessary aid to assist the said Indians in the work of civilization, to furnish them schools of instruction in mechanical and agricultural arts, as provided for by the treaty of 1868.

In other words, the gentleman is now contending that the consideration for that cession, which was a hundred miles square, and said to be the richest hundred-mile square in the world, was to do for these Indians what we had already obligated ourselves to do by prior treaty, namely, the treaty of 1868. He states with emphasis, and he reads it the second time, that in consideration of this cession the United States will do only what it has already contracted to do by the treaty of 1868.

Now, Mr. Chairman, it goes on further—he did not read it all—and says:

Also to provide the said Indian with subsistence, consisting of a ration for each individual, of a pound and a half of beef, or, in lieu thereof, one-half pound of bacon, one-half pound of flour, one-half pound of corn; and for every 100 rations, 4 pounds of coffee, 8 pounds of sugar, and 3 pounds of beans, or, in lieu of said articles, the equivalent thereof in the discretion of the Commissioner of Indian Affairs. Such rations, or so much thereof as may be necessary, shall be continued until the Indians are able to support themselves.

Is there any limitation of that language? Is there anything about the treaty of 1868 which limited some of these requirements to 20 or 30 years? Not a word. And as I have repeatedly stated on the floor of this House, this treaty of 1877, which the Indians have found much fault with, is the best treaty from the standpoint of the Indian that has ever been entered into by the Indians of the United States, because it is not limited. And until these Indians are self-supporting the United States is obligated to support them.

Now, Mr. Chairman, while I have this treaty before me, and without taking the time to return to it, there is some language in this provision that the Chair inquired about the other day and wanted to know if there is anything that authorized the language that has reference to the sum appropriated to include transportation of supplies from the termination of railroad or steamboat transportation, and that in this service Indians shall be employed wherever practicable. I find, Mr. Chairman, in this same treaty of 1877, this language:

And will also employ Indians, so far as practicable, in the performance of Government work upon their reservation.

In other words, the United States stipulated and promised that as far as practicable they would employ Indian labor, and in the matter of transportation I have noticed for many years that practically all of the transportation of Indian supplies from the point where received on the railroad or the river to the agency has been by Indian labor.

Now, Mr. Chairman, it was suggested the other day, and with considerable emphasis by the gentleman from Oklahoma [Mr. FERRIS], that this was an effort to obtain an appropriation. He used this language:

The treaty of 1877, conjured from somewhere, the Lord only knows, is intended—

And so forth.

Now, Mr. Chairman, when this treaty was ratified in 1877 Congress began making appropriations for the support and subsistence and civilization of the Sioux Indians, and if the gentleman will take the act of 1877 he will find the same language as appears in this act, and so on down in every single Indian appropriation act up to the present time. And there never has been one dollar appropriated in all these years except under the treaty of 1877. Never before, I think, Mr. Chairman, has anyone raised a point of order against it.

This appears to be, so far as I am able to ascertain, the first time that a point of order has been made against this item. But it does appear very clearly that whoever prepared the item originally exercised great care and endeavored to follow the provisions of the treaty, and the fact that it has gone on from 1878 down to the present time is pretty good evidence, it seems to me, that the treaty of 1877 authorizes this appropriation.

Now, I want to refer for a moment to the treaty or agreement, as it is called, of 1889. I want to read section 19 of the act of March 2, 1889, which ratified an agreement made with the Sioux Tribe of Indians. Section 19 provides that—

All the provisions of the said treaty with the different bands of the Sioux Nation of Indians concluded April 29, 1868, and the agreement with the same approved February 28, 1877, not in conflict with the provisions and requirements of this act, are hereby continued in force according to their tenor and limitations, anything in this act to the contrary notwithstanding.

Now there, Mr. Chairman, we have a later agreement, made in 1889, wherein it was expressly provided that it was not to impair former treaty obligations and wherein it was stipulated that they were to be continued in force according to their tenor and limitations—"anything in this act to the contrary notwithstanding," it said.

How could anything be more positive? How could anything be put in the English language more effectively to express what was meant than that language? So I apprehend that when my friend from Oklahoma [Mr. FERRIS] says that we have conjured up and brought in here an appropriation not justified by a treaty he spoke hastily. I think he spoke without considering fully whether or not he was justified in making that statement.

Now, I have stated that this appropriation has been made for 40 years in the language that appears in the bill at the present time, and I want to say further that as regards the question of the two other items referred to in the treaty of 1868 three or four years ago we carefully went through the bill and eliminated every item that we thought was not justified by the treaty obligations of the Government, and as to these two provisions we found that they were still in full force and effect, and therefore we provided for them.

Now, Mr. Chairman, I need not go further into the merits. I think I have said sufficient to satisfy the Chair that this appropriation is justified by the treaty and that the treaty obligation of the Government requires that this or some other appropriation be made in accordance with its provisions.

Mr. MARTIN of South Dakota. Mr. Chairman, I should like to be heard briefly on the point of order. At the risk possibly of repeating some things that my colleague [Mr. BURKE] has already very ably and forcibly said, I think this point of order, raised for the first time after a uniform interpretation of this treaty for 36 years, is sufficiently unusual to justify its further discussion.

I think that the proper interpretation to be given to this treaty will be better understood by a consideration of some of the circumstances under which it was made. In the year 1874, as a result of what is known as the Custer expedition, gold was discovered in the Black Hills, in western-southern Dakota. Prospectors immediately began rushing into that country, particularly in 1875 and in the fore part of 1876. The Government had its Army out upon the frontier to forcibly eject the white prospectors from that country, because it was Indian territory.

It was at that time well known to be prospectively, at least, very rich in gold. This treaty was made under those circumstances. A commission was appointed to come to terms, if possible, with the Sioux Indians, so that this territory might be acquired by the Government. The first efforts in the council with the Indians were unsuccessful, and ended in a very serious threat of trouble to our commissioners. Later, in the month of September, 1876, at Red Cloud, in Nebraska, immediately to the south of this territory, another council was held which led to the making of this treaty.

Now, the Chair will notice these conditions: Something supposed to be very valuable was desired by the Government by means of a treaty. The inhabitants of the country were all rushing in to take possession of this territory forcibly, and——

Mr. FERRIS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from South Dakota yield to the gentleman from Oklahoma?

Mr. MARTIN of South Dakota. Certainly.

Mr. FERRIS. I will ask the gentleman if in article 4 of the treaty of 1877, on which he relies, the Indians did not specifically agree that they would remove to the Indian Territory? And I will ask him whether it is not true, as a matter of fact, that they did not remove at all, thereby totally breaking the treaty?

Mr. MARTIN of South Dakota. Oh, no.

Mr. FERRIS. What is the fact?

Mr. MARTIN of South Dakota. It is left optional with the Indians. They can go there and establish a home if they desire

to do so, but, in fact, they did not desire to do it. The treaty of 1889 was a further revision of that question of their domicile.

Mr. FERRIS. Article 4 sets out the conditions upon which they are to be liable for anything.

Mr. MARTIN of South Dakota. I hope that the gentleman will not be driven by the absurdity of his point of order to an assumption of the position that the Government does not own the Black Hills. That is a position that the Indians have sought to force upon us. Although the treaty of 1868 provided that all subsequent treaties should be ratified by three-fourths of the male adult Indians, this treaty was in fact ratified by the authorized chiefs, and the Indians accepted the benefits of the treaty, and it thereafter became ratified by the treaty of 1889 by the signature of three-fourths of the Indians. But if the gentleman from Oklahoma [Mr. FERRIS] is right in his contention that this treaty is not in force, where are we?

Mr. FERRIS. Will the gentleman yield?

The CHAIRMAN. Does the gentleman from South Dakota yield?

Mr. MARTIN of South Dakota. In a moment. We would be left under the necessity of recognizing the Indian title to a country that has often been referred to as the richest 100 miles square on the face of the globe. From this very territory, as to which the gentleman is now seeking to relieve the Government from its obligations, entered into for its purchase, in excess of $150,000,000 of gold has been taken from that time until now, and that country is now producing gold in round figures to the extent of $10,000,000 every year.

Now, the Indians would be very glad, indeed, to be placed in status quo and relieved of the obligations of that treaty.

It is perfectly absurd here, after an interpretation placed upon this treaty by the Indians, by the Indian Bureau, and by Congress uninterruptedly for 36 years, for the gentleman from Oklahoma [Mr. FERRIS], even under the smart of a counter irritant from my distinguished colleague [Mr. BURKE] some days ago in Oklahoma matters, to attempt to dig up and overturn something that has been accepted as an interpretation for 36 years.

Mr. FERRIS. Will the gentleman yield?

Mr. MARTIN of South Dakota. Certainly.

Mr. FERRIS. If the interpretation had been accepted for 36 years, and it was wrongly accepted at first, then it would be wrong to accept it now, and time certainly does not bar the right to call attention to a treaty that has expired.

Mr. MARTIN of South Dakota. My suggestion is that, with all his ability, the gentleman perhaps has not succeeded at the end of 36 years in overturning the good sense and knowledge of this law which has been applied in Congress and out of it uninterruptedly during that period.

I have stated the surrounding circumstances, which the Chair as a lawyer will recognize at once as very proper to consider in aid to an understanding of the intention of the parties to this agreement of 1876. Certainly the Indian was expected to get something—and something of very great value—in consideration of the cession of that great gold territory. Now, the gentleman suggests this absurd interpretation, because at the end of the paragraph providing for numerous obligations that the Government is to discharge are these words: "As provided in the treaty of 1868." Because the language "as provided in the treaty of 1868" is a part of the paragraph, the gentleman would have the Chair interpret that the limitation of time—20 years—for certain acts in the treaty of 1868 was still to be a limitation here. In other words, that the Indians were to get absolutely nothing additional by virtue of this treaty.

The language as provided in 1868, used in section 5 of the treaty of 1876, is simply descriptive of the class and kind of educational facilities that are to be furnished. It is not simply a repetition of the time period of the treaty of 1868, but it is descriptive of the class and kind of educational facilities that are to be furnished; for instance, instruction in mechanical and agricultural arts, "as provided by the treaty of 1868."

The distinguishing feature of this treaty of 1876 between the Government and the Sioux Indians is this, that for the first time, at least so far as these Indians are concerned, the Government undertook to enter into obligations for education, civilization, and support that were not to be limited by time, but were to continue indefinitely, or until the Indians were able to support themselves; and by applying that test to the interpretation of this treaty every provision of it is perfectly plain, and the surrounding circumstances which I have already narrated at once suggest and corroborate that interpretation.

Remember that that treaty of 1876 was made at Red Cloud, Nebr., under armed protection of the commissioners of the Government who were making the treaty. Remember that a gold territory, known to be immensely valuable, was the consideration for this treaty. Remember also that the Government had already agreed to furnish maintenance to these people for 30 years from 1868 and educational facilities for 20 years from 1868, and it was in 1876 when this second treaty was made and the Government was bound to furnish still for 12 years these educational facilities at the time the parties came together. And here is the absurd contention of the gentleman from Oklahoma [Mr. FERRIS] that all that the Government agreed to do for these Indians in the way of education and civilization was simply to reiterate what they had already agreed to in 1868, although there were 12 years of that former treaty obligation still to run when this remarkable contract was entered into on the part of the Indians under these unusual circumstances. Listen to the language:

ART. 5. In consideration of the foregoing cession of territory and rights—

A valuable consideration—

and upon full compliance with each and every obligation assumed by the said Indian, the United States does agree to provide all necessary aid to assist the said Indians in the work of civilization—

Not for a year or for two years or for three years, but—

All necessary aid to assist the said Indians in the work of civilization.

And if there were nothing more about it than that part of the language it would justify the furnishing of schools indefinitely and as a part and parcel of appropriate aids to civilization.

By this agreement the Sioux Indians, in parting with their immensely valuable territory, assured themselves and their posterity of the assistance of the Government in the aid of civilization, and the ability to support themselves and their families however long that civilizing problem might take. Further—

To furnish to them schools and instruction in mechanical and agricultural arts as provided for by the treaty of 1868.

That is to say, agricultural and mechanical arts are the kind of schooling to be furnished, as specified in the treaty of 1868.

Now, follow further—

Also to provide the said Indians with subsistence consisting of a ration for each individual of a pound and a half of beef (or in lieu thereof one-half pound of bacon), one-half pound of flour, and one-half pound of corn.

And so forth.

In the discretion of the Commissioner of Indian Affairs—

As to equivalent rations. And now follows—

Such rations, or so much thereof as may be necessary, shall be continued until the Indians are able to support themselves.

There were obligations for rations and yearly annuities under the treaty of 1868, still in force, to continue for 30 years from 1868, or 22 years beyond the period of this treaty.

The contention here urged by the gentleman from Oklahoma [Mr. FERRIS] would lead the Chair and the committee to this position: That under these extraordinary circumstances the Government, in consideration of the cession of that great gold territory, agreed that they would do just what they had agreed to do for the Sioux Indians by the treaty of 1868, which was still in force for 12 years, to wit, furnish them education in industrial and mechanical arts for 12 years, as provided in 1868—an absolutely absurd proposition.

My contention, which has been the interpretation of the department uniformly, is that the Sioux Indians by this treaty assured themselves of proper instruction in education and preparation for civilization until they were able to take care of themselves in these directions. In that way that interpretation gives vitality and some sense to the treaty. The interpretation of the gentleman from Oklahoma [Mr. FERRIS] would leave us in the position that the Government acquired this great territory without any new obligations whatever as consideration for the cession of that territory.

Mr. FERRIS. Mr. Charman, I shall detain the Chair but a few minutes. The whole drift of the argument of the gentleman is that because for 36 years this has stood here and been appropriated for we should keep on indefinitely appropriating for it. Another contention is that the treaty of 1877 revitalizes, sweeps away, sets aside, puts in full force and effect an entirely new deal. If that contention were borne out by the facts or by the plain wording of the act of 1877, undoubtedly the gentleman would be correct, but when I read in section 3 these words and in two or three other places similar words, I can not gather by what rule of construction the gentlemen arrive at that contention. I will read from page 255. Section 3 reads as follows:

The said Indians also agree that they will hereafter receive all annuities appropriated by said treaty of 1868 and all subsistence and supplies which may be provided for them under the present or any future act of Congress at such points and places or such reservations in the vicinity of the Missouri River as the President of the United States shall designate.

The next paragraph provides that they shall remove and how the commission shall go and see if it is a suitable place for them, and then the fifth article specifically limits them to the provisions of 1868, and says it with all the emphasis that the words can convey.

Article 8, on the same page, says that these Indians shall receive their annuities, shall receive their support and civilization according to the rules and terms of the treaties of 1868, which the gentleman himself admits is extinct.

One of the gentlemen from South Dakota says the act of 1889, which is found in the United States Statutes at Large, volume 25, page 1894, section 17, and reads as follows:

SEC. 17. That it is hereby enacted that the seventh article of the said treaty of April 29, 1868, securing to said Indians the benefits of education, subject to such modifications as Congress shall deem most effective, secure to said Indians equivalent benefits of such education, shall continue in force for 20 years from and after the time this act shall take effect.

Certainly in the act of 1889 there is nothing enlarging the act of 1868. In the act of 1877 there is in three different articles specific reference to specific provisions, which provides that they are governed by the limitations of the act of 1868. If the act of 1868 has expired, and if the act of 1877 is the one on which they rely, and in three distinct articles of that act they hold that the Indians are bound by the articles and provisions of 1868, surely there is no warrant of law for it. If they are to be read in the same paragraph, why enact the latter one? If it is to take the place of that, why say it is to be construed in conjunction with it?

Again, Mr. Chairman, the whole act of 1877 is on the theory that the Indians will remove to the Indian Territory, a thing which they never did. In article 5, page 256, it is expressly provided that these payments shall be made according to the treaty of 1868 upon a strict compliance by the Indians with their contract, and they never have complied with it. They still live in South Dakota, and never have complied with the terms.

Mr. MILLER. Mr. Chairman, in a case decided by the Supreme Court of the United States the facts are so similar to those in the case we are now considering that I think that decision throws a strong light upon this matter and should guide the interpretation of such a treaty with an Indian tribe.

As I understand the situation confronting us here, it is contended by the gentlemen who are raising this point of order that while the treaty of 1868 between the United States Government and the Sioux provided for these articles contained in the paragraph objected to, it places a period of limitation of 30 and 20 years upon it. It is claimed on the other side by gentlemen in favor of the paragraph that by the treaty of 1877 a reasonable construction thereof must require that these items are to be appropriated for annually for a much longer period than that. The gentleman from Oklahoma [Mr. FERRIS], on the other hand, further contends that it is not specifically stated in the treaty of 1877 that these benefits are to be given annually for a further period, and that therefore there is no warrant in law for them. Their position seems to be that the treaty of 1877 not specifically extending the time is to be construed against the Indians.

Now, I wish to call the attention of the Chair to a parallel case, one in relation to the Choctaws. In 1820 the Choctaws ceded to the Federal Government a large portion of their land in Mississippi, about 4,000,000 acres, on terms which specified that in part consideration of that they were to have a tract of land west of the Mississippi River, which is the land they now hold in Oklahoma. In 1830 another treaty was made with the Indians by which they ceded to the Federal Government all of their remaining land in Mississippi, consisting of more than 10,000,000 acres. In the entire treaty there was not one dollar expressed as consideration for the last cession. A great many years later there was a contention made that the Government was in duty bound to pay the Choctaws for the land in the last cession, even though the treaty did not say anything about the price to be paid. Finally the case went to the Court of Claims and, on appeal, to the Supreme Court of the United States. The case will be found in the One hundred and nineteenth United States, where the court uses language very instructive and appropriate in the consideration of the present point of order. I read, beginning on page 38 of the report:

It is true that by the eighteenth article of the treaty of 1830 it is provided that "for the payment of the several amounts secured in this treaty the lands hereby ceded are to remain a fund pledged to that purpose until the debt shall be provided for and arranged. And, further, it is agreed that, in the construction of this treaty, wherever well-founded doubt shall arise, it shall be construed most favorably toward the Choctaws." The only money payments secured by the treaty over and above the necessary expenditures in removing the Indians, in providing for their subsistence for 12 months after reaching their new homes, and paying for their cattle and their improvements are, first, an annuity of $20,000 for 20 years, commencing after their removal to the west; and, second, the amount to be expended in the education of 40 Choctaw youths for 20 years, and for the support of 3 teachers of schools for 20 years, together with the cost of erecting some public buildings, and furnishing blacksmiths, weapons, and agricultural implements, in addition to the several annuities and sums secured under former treaties to the Choctaw Nation and people. It is nowhere expressed in the treaty that these payments are to be made as the price of the lands ceded; and they are all only such expenditures as the Government of the United States could well afford to incur for the mere purpose of executing its policy in reference to the removal of the Indians to their new homes. As a consideration for the value of the lands ceded by the treaty they must be regarded as a meager pittance.

It is, perhaps, impossible to interpret the language of this instrument, considered as a contract between parties standing upon an equal footing and dealing at arm's length, as a conveyance of the legal title by the Choctaw Nation to the United States to hold as trustee for the pecuniary benefit of the Choctaw people, and yet it is quite apparent that the only consideration for the transfer of the lands that can be considered as inuring to them is the general advantage which they may be supposed to have derived from the faithful execution of the treaty on the part of the United States; and when in that connection it is considered that the treaty was not executed on the part of the United States according to its just intent and spirit, with a view to securing to the Choctaw people the very advantages which they had a right to expect would accrue to them under it, it would seem as though it were a case where they had lost their lands without receiving the promised equivalent. In such a case there is a plain equity to enforce compensation by requiring the party in default to account for all the pecuniary benefits it has actually derived from the lands themselves. This is the solid ground on which the justice of the award of the Senate of the United States under the treaty of 1855 seems to us fairly to stand.

Then, again, on page 27, the language I hold to be especially appropriate in construing the present treaties, there the court said:

As was said by this court recently in the case of the United States v. Kagama (118 U. S., 375, 383): "These Indian tribes are the wards of the Nation; they are communities dependent on the United States—dependent largely for their daily food, dependent for their political rights. They owe no allegiance to the States and receive from them no protection. Because of the local ill feeling, the people of the States where they are found are often their deadliest enemies. From their very weakness and helplessness, so largely due to the course of dealing of the Federal Government with them and the treaties in which it has been promised, there arises the duty of protection and with it the power. This has always been recognized by the Executive and by Congress, and by this court whenever the question has arisen."

It had accordingly been said in the case of Worcester v. Georgia (6 Pet., 515, 582): "The language used in treaties with the Indians should never be construed to their prejudice. If words be made use of which are susceptible of a more extended meaning than their plain import as connected with the tenor of the treaty, they should be considered as used only in the latter sense. * * * How the words of the treaty were understood by this unlettered people, rather than their critical meaning, should form the rule of construction."

The recognized relation between the parties to this controversy, therefore, is that between a superior and an inferior, whereby the latter is placed under the care and control of the former, and which, while it authorizes the adoption on the part of the United States of such policy as their own public interests may dictate, recognizes, on the other hand, such an interpretation of their acts and promises as justice and reason demand in all cases where power is exerted by the strong over those to whom they owe care and protection. The parties are not on an equal footing, and that inequality is to be made good by the superior justice which looks only to the substance of the right, without regard to technical rules framed under a system of municipal jurisprudence formulating the rights and obligations of private persons equally subject to the same laws.

The rules to be applied in the present case are those which govern public treaties, which, even in case of controversies between nations equally independent, are not to be read as rigidly as documents between private persons governed by a system of technical law, but in the light of that larger reason which constitutes the spirit of the law of nations. And it is the treaties made between the United States and the Choctaw Nation holding such a relation, the assumptions of fact and of right which they presuppose, the acts and conduct of the parties under them, which constitute the material for settling the controversies which have arisen under them. The rule of interpretation already stated as arising out of the nature and relation of the parties is sanctioned and adopted by the express terms of the treaties themselves. In the eleventh article of the treaty of 1855 the Government of the United States expresses itself as being desirous that the rights and claims of the Choctaw people against the United States "shall receive a just, fair, and liberal consideration."

I think that is exactly on all fours with the present situation. If the contention of the gentleman who has raised this point of order is correct, the Sioux Indians in South Dakota parted with a tract of land worth hundreds of millions of dollars and received absolutely nothing in return.

Mr. FERRIS. Mr. Chairman, will the gentleman yield?

Mr. MILLER. Certainly.

Mr. FERRIS. Does not the gentleman think the decision that he has just presented to the Chair more properly justifies a claim against the Government than an argument against a point of order made against the paragraph?

Mr. MILLER. Most assuredly the purpose of the case is to substantiate a claim against the Government. But what I am trying to say is that in the interpretation of a treaty, where it appears that the Government failed to pay or in specific terms to give something for what it got, then reason, justice, humanity, and law says that it shall be interpreted most favorably to the Indians, and they shall get their just demands. That is all that is asked for in this paragraph.

Mr. FERRIS. But that would be in justification of a claim against the Government rather than to make the paragraph in order.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. MILLER. Certainly.

Mr. MANN. If there should be a legal claim against the Government, of course that would justify an item in this bill.

Mr. FERRIS. Oh, I think the gentleman will agree that these various claims, equitable or of any character, that come in on an appropriation bill are subject to a point of order unless there be some specific authority for them. The case which the gentleman cites about the Choctaw lands is based on treaty obligations, and these are merely Executive orders.

Mr. MANN. Mr. Chairman, I will ask the gentleman from Minnesota how the case arose?

Mr. MILLER. In 1855 a treaty was entered into and it was agreed that the Senate should investigate all those pending matters and make an award. They did make an award in 1859 and appropriated $250,000 finally to pay that, and that was all that was done under that treaty. They did not carry it out. Then in 1881 we authorized them to take this to the Court of Claims, which they did.

Mr. MANN. And all they could take to the Court of Claims was a legal claim, I assume, and these people might be able to take this to the Court of Claims as suggested by the gentleman from Oklahoma; but if it is a case which they could take to the Court of Claims, then it is a case authorized by law, and if the Supreme Court sustained a claim on account of this old treaty, an item in an appropriation bill to provide for it would certainly have been in order.

Mr. FERRIS. The gentleman does not contend that under the Tucker and Bowman Act, which authorizes several committees of the House to send propositions to the Court of Claims for a finding of facts, any proposition they can refer to that court would be in order on an appropriation bill?

Mr. MANN. No; but under the Bowman and Tucker Act the Court of Claims does not enter judgment at all; nor can such a case go to the Supreme Court of the United States. So this could not have been a reference under the Bowman and Tucker Act, because it got to the Supreme Court. Here was a case where apparently the Court of Claims sustained a claim and authorized or entered a judgment, which case was appealed to the Supreme Court, and that court sustained the judgment. Unless they had a legal claim they could not have sustained a claim in the Court of Claims.

Mr. FERRIS. How does the Chair know whether they had a legal claim or not until there is some finding of the Court of Claims upon it? There has been none in this case.

Mr. MANN. Of course it is for the Chair to determine whether in his opinion this law authorizes the item in the bill. That would also be a determination as far as the Chair is concerned of whether in his opinion a claim would lie against the Government.

Mr. DAVENPORT. Mr. Chairman, will the gentleman from Minnesota yield?

Mr. MILLER. Certainly.

Mr. DAVENPORT. Mr. Chairman, I want to ask if in the Choctaw case the court does not find that there were specific provisions in the treaty that the Government agreed to perform in order that the Choctaws might move west?

Mr. MILLER. That is exactly what the court did not find. The court found that there were several little things which the Government agreed to do, but in no case did it hold that they were to be considered as a consideration. The court says they were too small and insignificant, a mere bagatelle which the Government in its general relations toward the Indians ought to give them in any event; and excluding that, there being nothing in the treaty which says the Government shall pay for these lands, justice and equity and law require that the Government shall be held as a trustee and shall be held accountable to the Indians for the proceeds of the sale of their property.

Mr. DAVENPORT. It was for specific lands to which the Choctaws held patents.

Mr. MILLER. They never had a patent to any lands in Mississippi or in any other place until they got trust patents from the Government.

Mr. DAVENPORT. The patents were limited.

Mr. MILLER. Oh, they received a grant of lands in Mississippi and Oklahoma.

Mr. DAVENPORT. I will ask the gentleman if the same court has not held that they did have a patent?

Mr. MILLER. They held that they had a title in fee, but not a patent.

Mr. DAVENPORT. Is it not a fact that the special act which gave the Choctaws the right to go into the Court of Claims referred all questions of both law and equity to the Court of Claims, with the right of appeal to the Supreme Court of the United States?

Mr. MILLER. It did; but the Supreme Court did not take exactly the same view that the Court of Claims took. The Supreme Court reviewed the entire case and decided it on the merits, having in view all the facts.

Mr. DAVENPORT. And said that equity demanded that they should comply.

The CHAIRMAN. Does that dispose of all the points of order in respect to the portion of the bill relating to South Dakota?

Mr. BURKE of South Dakota. The next item is an item for education, and a separate proposition.

The CHAIRMAN. Beginning with line 10? Is the point of order made to that?

Mr. STEPHENS of Texas. It is reserved.

The CHAIRMAN. What disposition is desired of that section?

Mr. MANN. I thought the gentleman withdrew his point of order.

Mr. FERRIS. We have not yet reached the second paragraph, have we?

The CHAIRMAN. We are now at line 10, on page 27.

Mr. FERRIS. There is another paragraph.

The CHAIRMAN. The Chair understands a point of order was made to that paragraph, beginning with line 10. The Chair wishes to know what disposition is desired as to that paragraph.

Mr. FERRIS. I make a point of order against it.

Mr. BURKE of South Dakota. I desire to discuss the item briefly, and I think I can prevail upon the gentleman to withdraw the point of order. Now, in regard to this reimbursable proposition——

Mr. FERRIS. Mr. Chairman, just a moment. I thought the point of order to the second paragraph was conceded.

The CHAIRMAN. The Chair will refer to that as soon as he runs through these authorities.

Mr. BURKE of South Dakota. Do I understand the Chair desires some time in which to consult the authorities?

The CHAIRMAN. Just a few moments.

Mr. BURKE of South Dakota. And while the Chair is going through them, may we discuss the point of order?

The CHAIRMAN. The Chair understands that while he is considering them there will be an effort on the part of the gentlemen to reach an agreement.

Mr. BURKE of South Dakota. I think the gentleman from Oklahoma [Mr. FERRIS] will concede that I am somewhat familiar with the affairs of the Sioux Tribe of Indians in South Dakota. The gentleman is proceeding on the theory—and I think other gentlemen over there are—that the United States has been spending large sums of money for these Indians, and that it has been paid out of the Federal Treasury. The gentleman has called attention to the fact that there is a trust fund in the Treasury of the United States of $3,000,000, and I assume that each one of the gentlemen on that side who have discussed this question or considered it is laboring under the impression that that $3,000,000 was put into the Treasury by the Federal Government as a gratuity, in substance, to these Indians. Let me explain the situation as to the Sioux Tribe of Indians.

In 1889 the entire western half of South Dakota, with the exception of the Black Hills, was an Indian reservation, comprising about 20,000,000 acres, and this act of 1889 provided for the cession of about 9,000,000 acres, and it provided that the land disposed of during the first two years should be $1.25 an acre and after the two years 75 cents an acre, and all land disposed of at the end of three years should be disposed of by the Government at 50 cents an acre and reimbursed to the Government. Now, then, the law also provided that all the expense of surveying under the allotment and the moneys expended for stock, and cattle, and machinery, the building of houses, should be reimbursed from the proceeds received from the sale of the 9,000,000 acres of land; and not one dollar has ever been paid to the Indians of the moneys received from the sale of that 9,000,000 acres, except that they have in the Treasury a trust fund of $3,000,000.

I would like to call the gentleman's attention to that item. It provides that the Government shall pay 5 per cent interest on this $3,000,000 and use one-half of it for education, which has been done right along. The other half may be paid to the Indians per annum, and that is the only money the Indians have received under the treaty of 1889. At the expiration of 50 years what becomes of the fund? It shall be expended for the civilization and self-support amongst the said Indians or otherwise distributed among them, as Congress from time to

time thereafter determines. In other words, we put into the Treasury as the proceeds of the Indian lands $3,000,000 and we propose to pay them interest at 5 per cent and use half of it for education, which we have been doing, pay them the other half per capita, and then at the end of 50 years we do not pay them the money at all and we still use that money for their support, civilization, and education. Now, on this question of schools, the gentleman from Oklahoma stated the other day, in reply to the answer of the gentleman from Illinois, and I want to be correct, that had he understood this paragraph that we are now discussing he never would have consented to it. Do I understand the gentleman wants to be understood as saying that he did not understand that?

Mr. FERRIS. I know that it is against the rules of the House to talk about matters occurring in committees——

Mr. BURKE of South Dakota. I am not talking about what happened in the committee.

Mr. FERRIS. I will say this item, the proposition as to whether or not the treaty had expired, was never mentioned in the committee to me.

Mr. BURKE of South Dakota. The gentleman is quite certain when he makes that statement. For the information of the committee and simply to show that the gentleman's memory is not good, because nobody would intimate, certainly, for a moment that he would make a misstatement, but in view of the large number of matters he has on his mind it is not strange that details sometimes escape his memory—but to show that his memory is not good I am going to read to the gentleman from the hearings of last year on this item, and I am going to ask if the gentleman ever heard that this was an extension of the treaty and whether he was informed in regard to the matter.

Mr. FERRIS. Just a moment. The gentleman is always generous, or usually so. Does the gentleman wish to ask me a direct question to which I told him "No"; and then refer to the hearings of a year ago?

Mr. BURKE of South Dakota. I will ask the gentleman if I understood him to say to the gentleman from Illinois [Mr. MANN] that he was not aware that this treaty had expired?

Mr. FERRIS. The gentleman understood me precisely, for I said that, and I do say it now.

Mr. BURKE of South Dakota. The gentleman will not object if I read from the hearings?

Mr. FERRIS. Will the gentleman say that there was one word uttered anywhere as to the fact of whether this treaty had expired or not?

Mr. BURKE of South Dakota. I am going to read from the hearings.

Mr. FERRIS. This year's hearings?

Mr. BURKE of South Dakota. The hearings of 1911—last year's hearings. I assume that the gentleman, being a member of the committee at the time, would carry in his mind ordinarily matters as important as this.

Mr. FERRIS. I have no recollection of it.

Mr. BURKE of South Dakota. The gentleman left me in the position, and I assented without any protest at the time, of having attempted in some manner to mislead this House. He said that I brought in a treaty here, "conjured up," I think he said, and was endeavoring to get an appropriation on a treaty that did not exist at all or had expired, namely, the treaty of 1877, and that in this item I was endeavoring to extend the treaty without its appearing so. That would be the inference, and I want to see whether he remembers this. Here is what the gentleman from South Dakota [Mr. BURKE] said:

> For the information of Mr. FERRIS, I will say that this appropriation for the support of schools among the Sioux has always been carried in a separate item in this part of the bill, because under the treaty of 1889 we were obligated to pay for the education of the Sioux, and that treaty expired, as I recall, in 1909. We have been making the appropriations since by extending the treaty, if you will notice, by that language, and it really is a gratuity, the same as the education of other Indians. This is to pay the expenses of the reservation schools generally. There are 20,000 Indians there, and instead of paying it out of the fund that is over further in the early part of the bill, it has been kept here, and I merely make this explanation so you may understand why this item is here.

Then I went on further:

> There is another reason why I prefer to have it that way. I have to come in contact with my Indians as you do with yours, Mr. FERRIS. They complain about things that we do. I call their attention to certain things. For instance, in this case I say to them, "We are giving you $220,000 that we did not agree to give to you and that we do not have to give to you. It shows that the Government is generous."
> Mr. FERRIS. The treaty expired in 1909?
> Mr. BURKE. Yes; it was a 20-year treaty.
> Mr. FERRIS. And, of course, now it is a gratuity?
> Mr. BURKE. It is a gratuity.

Now, it would seem that at that time, at least, the gentleman heard of this matter, and there was no subterfuge about it. The item bears upon its face evidence that it is an extension of that treaty from one year to another. I am simply calling it to the gentleman's attention because I do not think he intended by his remarks to put me in an attitude of deceiving or attempting to deceive the House or to deceive the committee or to seek to accomplish anything by means that were not proper. I know the gentleman did not intend to do that.

Mr. FERRIS. The gentleman states it exactly right, except in this, that the paragraph that was then under consideration was the preceding paragraph.

Mr. BURKE of South Dakota. Not at all.

Mr. FERRIS. There were not any hearings even the year before last, and none this year.

Mr. BURKE of South Dakota. It specifically refers to this item. This is the item we are discussing now.

Mr. FERRIS. But I was not discussing that item on Monday.

Mr. MANN. That was the item under consideration on Monday.

Mr. FERRIS. It was the $307,000 item.

Mr. MANN. No. That was passed over by unanimous consent.

Mr. FERRIS. I think I am in error.

Mr. BURKE of South Dakota. Yes; I think the gentleman is in error. I do this in good faith. In passing I want to say that the gentleman used some very strong language the other day about the gentleman from South Dakota calling attention to the extravagance in connection with Indian affairs in Oklahoma and pointing to economy in South Dakota. I have no recollection of having done anything of the kind. The only thing I recall as having criticized was the extravagance in regard to the appropriations in Oklahoma. Why, the gentleman from Oklahoma [Mr. CARTER] himself said the other day that $20,000,000 was expended under the Dawes Commission and the other gentleman from Oklahoma [Mr. FERRIS] has repeatedly called attention to the great expense in the conduct of Indian affairs in Oklahoma. What I was endeavoring to do, so far as affairs in Oklahoma are concerned, was to get more money for administrative purposes there, and I was necessarily obliged to point out wherein I thought the Indians there were being wronged and why there should be more money appropriated for administrative purposes in Oklahoma.

Mr. CARTER. Mr. Chairman, it seems that the gentleman's memory is also a little bit at fault. It has not been a week since the gentleman rose on the floor of this House and discussed very bitterly the administration of affairs in connection with probate judges in Oklahoma.

Mr. BURKE of South Dakota. I spoke of Federal appropriations.

Mr. STEPHENS of Texas. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from South Dakota yield?

Mr. BURKE of South Dakota. Yes.

Mr. STEPHENS of Texas. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. COVINGTON, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 26874, the Indian appropriation bill, and had come to no resolution thereon.

GEORGE G. HENRY.

Mr. PUJO. Mr. Speaker, as chairman of the Committee on Banking and Currency and acting under its instructions by unanimous vote, I present as privileged the contumacy of Mr. George G. Henry, of New York, who declined as a witness to answer certain questions propounded by counsel for the committee pertinent to the inquiry being had under House resolutions 429 and 504. I submit the report (H. Rept. 1285) of the committee, with the record of the proceedings had and the questions declined to be answered as a part thereof, with the request that the Speaker certify to the United States district attorney for the District of Columbia the fact under the seal of the House, so that the said officer shall bring the matter before the grand jury of the District of Columbia for such action as may be authorized by sections 101, 102, 103, and 104 of the Revised Statutes of the United States.

I now present the report. I now move pro forma, as the statute does not require the approval of the House, but preferring to have its action thereon, that the question of the contumacy of the witness, George G. Henry, be certified by the Speaker to the United States district attorney, under and by virtue of sections 101, 102, 103, and 104 of the Revised Statutes of the United States, for such action as the grand jury may take.

The SPEAKER. The gentleman from Louisiana [Mr. PUJO] moves that the House give special authorization to the Speaker

to certify the record to the United States district attorney for the District of Columbia. The question is on agreeing to that motion.

The motion was agreed to.

INDIAN APPROPRIATION BILL.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House resolve itself again into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 26874, the Indian appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 26874, the Indian appropriation bill, with Mr. SAUNDERS in the chair.

Mr. BURKE of South Dakota. Mr. Chairman, I am endeavoring to prevail upon the gentleman from Oklahoma [Mr. FERRIS] to withdraw his point of order, and I am not discussing the point of order. And in that connection, I want to call his attention to the fact that this $200,000 is the money that provides the agency and reservation schools upon the several Sioux reservations, and in order that the committee may know just how many schools there are, I would state that I have obtained the information from the Indian Office and will give it to the House.

There are maintained on these reservations 11 boarding schools and 60 day schools, and there are enrolled in these several schools 2,732 Indian children. I will say to the committee that the Sioux Indians are real Indians. They are not white Indians. Very few of them are of mixed blood. Within my recollection most of the Sioux Tribe were, you might say, savages, and most of them were what were known as "blanket Indians."

Now, I do not think that the gentleman from Oklahoma [Mr. FERRIS] wants to deprive the Indians of these particular schools. These are the schools that everybody is for. There is occasional objection raised to what are known as nonreservation schools, but I have never heard any objection to the schools upon the Indian reservations, schools that are right out among the Indians. The pupils attend them the same as the white children go to our country district schools.

Of course, if the gentleman is objecting to the item because of the extension of the treaty, I am quite willing to eliminate that, and would offer the amendment in a different form. If the gentleman insists upon the point of order, of course, I will concede it, and offer the amendment in a form without that language which makes it subject to a point of order.

And I will say to the gentleman, for the purpose of saving time, that if he will indicate his position it has been suggested by the gentleman from Illinois [Mr. MANN] that, perhaps, we might proceed with the bill while the Chairman is looking up these authorities, and recur to this item when he is ready to hear us on the point of order.

Mr. FERRIS. I will give the gentleman a statement of my position. The gentleman from South Dakota asked me to withdraw the point of order which was temporarily reserved to the paragraph in lines 10 to 16, inclusive, on page 27 of the bill, which appropriates $200,000 for schools in South Dakota.

My answer to the gentleman in that regard is that I am heartily in favor of these schools, and I have no doubt that at least some of them ought to be maintained; but the policy has been so well laid down by the gentleman, both while he was chairman of the committee and in almost every utterance of his, that where the Indians have large farms and large means they ought to pay their own way as far as possible. My position is that unless this be made reimbursable from their fund, they having $3,000,000 in cash and having $41,015,702.05 in property——

Mr. BURKE of South Dakota. Does the gentleman think we have a right to disturb the $3,000,000 pending the 50 years?

Mr. FERRIS. About that there can be no question. Congress can disturb any fund that the Indians have.

Mr. BURKE of South Dakota. Would it not be a violation of a solemn treaty obligation or agreement that was made with these Indians?

Mr. FERRIS. Oh, not at all. The gentleman is disturbing them continually, and right in this bill we are withdrawing appropriations for schools all the way through.

Mr. BURKE of South Dakota. Then I understand the gentleman will make the point of order.

Mr. FERRIS. I want to be heard a moment, first. I think I will make the point of order. I will repeat again that in the State of South Dakota they have 20,000 Indians who have $3,000,000 in cash and have property amounting to $41,015,702.05. In this State they have three Indian schools specifically provided for. They have the same rights to the general lump-sum fund the rest of the Indians have, it amounting to $1,420,000.

Mr. MARTIN of South Dakota. What property does the gentleman refer to?

Mr. FERRIS. I refer to the property of the Indians. I get it from the statement. The gentleman can get it.

Mr. BURKE of South Dakota. How is it classified?

Mr. FERRIS. It is found on page 6 of Document No. 486. It is available in the document room.

Mr. BURKE of South Dakota. I am quite familiar with the document, but I should like to ask the gentleman if that report shows what this property consists of and how it is classified.

Mr. FERRIS. It says "value of property and funds belonging to the Indians."

Mr. BURKE of South Dakota. Made up by somebody in the Indian Office.

Mr. FERRIS. If the gentleman will allow me to proceed for a moment, South Dakota has three schools specifically provided for, with 20,000 Indians. My State of Oklahoma has approximately 120,000 Indians, and we have only one school specifically provided for in the entire State out of the funds of the Federal Government. Every cent of the other expenses of the five-tribe schools is paid for from tribal revenues.

Mr. BURKE of South Dakota. I want to correct the gentleman.

Mr. FERRIS. Let me proceed. The gentleman has had plenty of time. In our State one school is specifically provided for and we have 120,000 Indians, or two-fifths of all the Indians of the United States. Every bit of the other expense for the entire five tribes of Indians is paid out of their own fund. We had thought on day before yesterday that perhaps there ought to be some gratuity appropriation for the Indian schools. The House thought otherwise. Certainly it can not be harmful to have a rule of universal application, and unless the gentleman will submit an amendment making this reimbursable, I feel it a duty to make the point of order. There certainly should be some uniformity about these appropriations. To appropriate from the Federal Treasury in one place and the Indians in another place is all wrong.

Mr. BURKE of South Dakota. Before the gentleman submits the point of order, will he answer a question?

Mr. FERRIS. I will if I can.

Mr. BURKE of South Dakota. I understand the gentleman to say to the House that not a dollar is expended for schools for the Indians in Oklahoma except at the Chilco School.

Mr. FERRIS. In the Five Tribes.

Mr. BURKE of South Dakota. But what about the Indians outside of the Five Tribes?

Mr. FERRIS. There is no school specifically provided for. I think they use a little of the general fund. There certainly is no school specifically provided for.

Mr. BURKE of South Dakota. They are provided for out of the $1,420,000 item.

Mr. FERRIS. I think that applies to the few scattering tribes in the west of the State, but not to the Five Tribes.

Mr. BURKE of South Dakota. Not to the Five Tribes; and when the gentleman says Oklahoma, he refers to the Five Tribes. There are a number of schools in Oklahoma.

Mr. FERRIS. Not one is specifically provided for except the Chilco School, and the children from Kansas use that school quite as much as the Oklahoma children do.

Mr. BURKE of South Dakota. I concede that this item is subject to a point of order, and I send to the Clerk's desk the following amendment.

Mr. MANN. What has become of the point of order?

Mr. BURKE of South Dakota. I concede it.

Mr. MANN. Before the point of order is determined, the item appropriates for the support and maintenance of day and industrial schools among the Sioux Indians.

Mr. BURKE of South Dakota. Will the gentleman permit me to call his attention to the fact that the item extends the treaty of 1889 until June 30, 1914, which is legislation?

Mr. MANN. Of course, the entire item is included in the point of order.

Mr. BURKE of South Dakota. Certainly. Now, I have offered an amendment with that eliminated. I thought perhaps the gentleman did not understand.

Mr. MANN. I thought the point of order was being made on the other ground.

Mr. BURKE of South Dakota. No.

The CHAIRMAN. The point of order is sustained to the paragraph in the bill, and the gentleman from South Dakota sends up an amendment, which the Clerk will report.

The Clerk read as follows:

Page 27, after line 9, insert the following:

"For support and maintenance of day and industrial schools among the Sioux Indians, including the erection and repairs of school buildings, $200,000."

Mr. FERRIS. I make a point of order against that. The treaty has expired, and it is so conceded, and is new legislation not authorized by law.

Mr. BURKE of South Dakota. Now, Mr. Chairman, if the Chair desires time to consider the other point of order, it has been suggested by the gentleman from Illinois that this point of order be passed for the time being.

The CHAIRMAN. The Chair is ready to rule on the point of order. The point of order made by the gentleman from Oklahoma [Mr. FERRIS], is to the effect that the obligations imposed by the act of 1877 are impressed with a time limit by reason of the reference in section 5 of that act to the act of 1868. In view of this contention it is necessary to consider both the act of 1868, and the act of 1877. Under the act of 1868 the contracting parties respectively assumed certain obligations for value furnished, and to be furnished. The treaty of 1868 was one of limited duration. Later, by the act of 1877 the same contracting parties, entered into new relations on the part of the Indians an exceedingly valuable tract of land, a principality one might say, was ceded to the United States. This cession is referred to in the section cited by the gentleman from Oklahoma [Mr. FERRIS], which in part is as follows:

ART. 5. In consideration of the foregoing cession of territory and rights and upon full compliance with each and every obligation assumed by the said Indians, the United States does agree to provide all necessary aid to assist the said Indians in the work of civilization; to furnish to them schools and instruction in mechanical and agricultural arts, as provided for by the treaty of 1868.

It is insisted by the gentleman from Oklahoma that this reference to the treaty of 1868 is intended to furnish a time limit for the discharge of the obligations imposed by the act of 1877, that limit being the limit fixed in the treaty of 1868. From the language that the Chair has read it will be seen that there was a cession of property, by the Indians, so that a new consideration was afforded for any obligations, or undertakings on the part of the United States toward the other contracting parties.

It is also insisted by the gentleman from Oklahoma that in the agreement of 1877 the Indians undertook on their part to go to the Indian Territory, and failing to carry out this undertaking, they have lost their rights against the United States. If the committee will bear with me, I will give the substance of so much of the act of 1877, as relates to the suggested change of habitation to the Indian Territory. (See p. 255.)

The Indians agreed that a delegation of five or more chiefs and principal men from each band should without delay visit the Indian Territory to examine the land, with a view to making it a permanent home, and if on this examination the report should be favorable, and satisfactory to their principals, that is, the Sioux Indians, then the Indians agreed that they would make the change. But a condition precedent was the investigation of this new territory, and the requirement that the recommendation, if favorable should be satisfactory to the Sioux Indians. Until this condition precedent was discharged, there was no obligation whatever on the part of the Indians to change their habitat.

No evidence has been adduced to show that any delegation on the part of the Sioux made the investigation contemplated, or that if they did, and made a report, this report was satisfactory to the principals. Hence there is no reason to conclude that the Sioux have ever incurred any obligation to remove to the Indian Territory, or failed in any duty in this respect.

Referring again to the section of the act of 1877 in which reference is made to the treaty of 1867, the Chair will cite anew the language used in that connection.

ART. 5. In consideration of the foregoing cession of territory and rights and upon full compliance with each and every obligation assumed by the said Indians, the United States do agree to provide all necessary aid to assist the said Indians in the work of civilization; to furnish to them schools and instruction in mechanical and agricultural arts, as provided for by the treaty of 1868.

Obviously there are two meanings that may be given to this reference to the treaty of 1868. First, the one suggested by the gentleman from Oklahoma that it is intended thereby to fix a time limit on the obligations of the United States under the act of 1877. Second, that it was intended to save description in the second act and to use the language of the treaty of 1868 to show in detail what was intended by, and comprehended under the words "to provide all necessary aid to assist the said Indians in the work of civilization, to furnish to them schools, and instruction in mechanical and agricultural arts." Under the first suggestion it will be seen that the United States would secure an immensely valuable tract of land, for practically no consideration. If the second view is the correct view, then the United States is merely thereby held to the discharge of obligations which, in the light of what this Government has received from these Indians, are essentially reasonable.

If the interpretation of this treaty is in doubt, then this doubt must be resolved by resort to the fundamental principles for the interpretation of treaties, or agreements between a great nation like ours, and aboriginal savages. Obviously these contracting parties are not on an equal footing, and dealing at arm's length. Hence in the construction of the language under consideration, as between the two conflicting views, that one should be adopted which is most favorable to the weaker, and practically, helpless party, and which in addition conforms to essential justice by requiring the United States to afford adequate return for the highly valuable consideration furnished by the other contracting party.

The Chair concludes therefore that the reference made to the treaty of 1868 was not intended to impose the limitations of the treaty of 1868 on the obligations assumed by the act of 1877, but was designed to save words, and avoid a restatement in detail of what the Government assumed to do, when it undertook to provide all necessary aid.

Another thing, to which the Chair wishes to call attention is that the act of 1877 and the treaty of 1868 seem to be most highly regarded. I find in the act of 1889 a most unusual provision, to the effect that anything that occurs in the treaty of 1868, and the agreement of 1877 is to be held as in force anything in the act of 1889 to the contrary notwithstanding.

Of course, as a rule as between subsequent and antecedent acts, if there is any conflict between the two relating to one subject matter, there is a repeal by implication of the former act, but in this instance it is provided that in case of conflict the subsequent statute shall give way to the antecedent acts. This provision clearly shows that this Government reestablished by the act of 1889 in the most emphatic fashion, the rights of the Indians under the treaty of 1868, and the agreement of 1877.

Since these agreements are made the repository of the Indians' rights, they should be favorably construed in their interests according to the principles cited.

Looking to the treaty of 1868 and the agreement of 1877 it is clear that the Government undertook to do many things for the Indians, and specifically agreed to assist them in the work of civilization.

It is familiar authority that once a policy is established by law, Congress may appropriate to carry out that policy, and provide for the agents and agencies, fairly within the same. If a department is authorized to make investigations, an appropriation bill may provide for the agents needed for this purpose. Under the head of assisting these Indians in the work of civilization, many things may be appropriated for.

The Chair will not take up any further time of the committee, but looking to the provision for the payment of teachers, for physicians, blacksmiths, and additional employees, as well as for the other items it is perfectly clear that if there is no time limit on the obligations of the Government under the act of 1877, and this has been fully discussed, then there is an existing obligation on the part of the Government of the United States to make those appropriations to which the point of order relates. The Chair, therefore, overrules the point of order.

Mr. FERRIS rose.

The CHAIRMAN. The gentleman from Oklahoma is recognized.

Mr. MILLER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MILLER. Mr. Chairman, I desire to make a motion in respect to the paragraph as to which the point of order has been overruled. If we pass that now, I presume I would lose the right of making that motion, and I desire to be recognized now to offer an amendment in respect to that paragraph.

The CHAIRMAN. The Chair has already recognized the gentleman from Oklahoma.

Mr. FERRIS. Mr. Chairman, I will yield to the gentleman.

Mr. MILLER. Mr. Chairman, I notice the language in the paragraph that has just been under discussion is:

For support of Sioux of different tribes, including Santee Sioux of Nebraska, North Dakota, and South Dakota.

I would like to ask the gentleman from South Dakota if he can inform the committee whether any of the funds herein provided for are ever used to take care of the Sioux who remain across the border of South Dakota in Minnesota who are members of the Santee Sioux.

Mr. BURKE of South Dakota. Mr. Chairman, I think not. Do I understand that this item is now open for amendment.

Mr. MANN. Certainly it is.

Mr. BURKE of South Dakota. Very well; let the gentleman offer his amendment.

Mr. MILLER. Mr. Chairman, I offer to amend by inserting, after the word "Nebraska," in line 20, page 26, the word "Minnesota."

Mr. BURKE of South Dakota. Mr. Chairman, I make the point of order upon that, or, if the gentleman desires it, I will reserve the point of order.

Mr. MILLER. Mr. Chairman, I would like to say a few words to the committee in respect to those Indians, who are the brothers of the Santee Sioux, remaining in Minnesota, and I will take only a moment or two. About a year ago I received information that those Indians, who have now no tribal relations and no property rights, their treaty rights having been declared null and void by the act of Congress of 1863, are, and for some time have been, in exceedingly destitute circumstances. They do not live anywhere near where I do, but many hundreds of miles away. I understand they are without land. They make such precarious living as they can make by doing a little trapping in the wintertime and working about in the summer time. Last year, and in the years previous to that, they made somewhat of a living by catching frogs for the Twin City market, but that now they have lost, by reason of the change in climatic and topographic conditions.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. MILLER. Certainly.

Mr. MANN. If they are Sioux Indians, are they now covered by the language of the paragraph?

Mr. MILLER. I am inclined to think so, but I do not think the department has ever taken care of them, and I want to make it certain.

Mr. MANN. The gentleman will note that there are two parts of that paragraph. One relates to the Santee Sioux Indians, which is a treaty obligation pure and simple under a special treaty, and the other paragraph relates to the Sioux Indians generally, excepting certain tribes that are specifically mentioned, and there is an appropriation of $200,000 for subsistence.

Mr. MILLER. I thought by inserting the word "Minnesota" it would make it definite.

Mr. MANN. And inserting the word where the gentleman proposes would not affect the appropriation of $200,000 for subsistence.

Mr. MILLER. The Sioux I am speaking of are a part of the Santee band. The term "Santee Sioux" is not a scientifically accurate description. It has been applied to those Sioux and their bands to whom they are related who participated in the Sioux massacre in 1862 in Minnesota, most of whom were subsequently moved to Nebraska.

Mr. STEPHENS of Texas. Will the gentleman state the name of the band that he has in mind?

Mr. MILLER. It is not named. They are those Indians who remained in Minnesota who were not transferred to Nebraska at the conclusion of the Sioux outbreak in 1862.

Mr. STEPHENS of Texas. I do not think this language would confine it to any State, but to the Sioux Indians of the United States.

Mr. BURKE of South Dakota. Mr. Chairman, to save time I make the point of order. I think the gentleman from Minnesota will concede it.

Mr. MILLER. Mr. Chairman, I have no doubt that it is subject to a point of order.

Mr. BURKE of South Dakota. They are outlaw Indians, and they are not a party to the treaty of 1868 or the treaty of 1877.

Mr. MILLER. Mr. Chairman, I do not agree with the gentleman on that. The only basis upon which it has ever been claimed by the department that they are not entitled to immediate recognition by the passage of an act of Congress is that they were bound as parties to the treaty of 1880.

Mr. BURKE of South Dakota. Mr. Chairman, I will say that the reason I have consented to report a bill on one or two occasions for their relief was upon the theory that they were not a party to that treaty.

Mr. MILLER. I do not think they were, but they are getting it both coming and going, and they are in a very unfortunate situation. They are Indians most of whom rendered the whites very important service at the time of that unfortunate outbreak. They had their property taken from them by legislative action, and now they are destitute and suffering. I concede the point of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. BURKE of South Dakota. Mr. Chairman, I desire to ask the gentleman from Texas a question. In line 3, page 27, was the word "river" inserted after the word "Cheyenne" by unanimous consent?

Mr. STEPHENS of Texas. Yes; it was inserted on Tuesday.

Mr. BURKE of South Dakota. If there is any doubt about that, I would suggest that that amendment be now made.

The CHAIRMAN. The Chair understands from information at the desk that it was inserted.

Mr. FERRIS. Mr. Chairman, I reserved the point of order upon the amendment offered by the gentleman from South Dakota [Mr. BURKE]. There is no authorization of law for the appropriation.

Mr. BURKE of South Dakota. Mr. Chairman, I will ask the gentleman, so far as I am concerned, to make the point of order, and then we can discuss it if it is desired. I do not care to discuss further the merits of the proposition except I want to say to the gentleman that in the last few minutes I have received this information from the Indian Office: Since the act of 1889 there has been expended under that act for the Sioux $6,834,000 for all purposes. That does not include the moneys that have been appropriated under the treaty of 1877, but it does include this $3,000,000 trust fund, and on December 31 the account had been credited with $5,332,000, and not a dollar paid to the Indians.

Mr. MARTIN of South Dakota. Mr. Chairman, upon the point of order I think clearly that it is not well taken. The provision of the treaty of 1877, section 5—the one commented upon by the Chair in rendering the decision—is the educational provision. It provides that the United States shall furnish all necessary aid to civilization, including industrial and mechanical schools, as provided in the treaty of 1868. I knew that these lines, from 10 to 16, on page 27 of the bill, had been read at the time I addressed the Chair upon the former point of order, and my entire remarks were addressed to the educational clause of section 5, which the Chair commented upon. I think the obligation there is clearly to continue the educational facilities indefinitely. They were in force for 20 years by the treaty of 1868, and 12 years of that was still running when this treaty was made. And one of the considerations of that treaty of 1876–77, the one, indeed, as enumerated in the treaty of 1875, is the aids to civilization and the maintenance of mechanical and industrial schools. I think that obligation is clearly on the Government, and I think that is entirely covered by the ruling already made on the other point of order.

Mr. BURKE of South Dakota. Mr. Chairman, I understood the gentleman from Oklahoma [Mr. FERRIS] had not really made the point of order, and I suggested that he make the point of order, and then I assumed he would discuss it, when I wanted to reply to him. And that was the reason I sat down without discussing the point of order.

Mr. FERRIS. I do make the point of order, Mr. Chairman, because there is no legislation for it, and, not only that, in the hearings, on page 347, of last year, the gentleman from South Dakota [Mr. BURKE] admits it is a treaty, and admits the treaty expenditure in 1909, and because the Chair has during the consideration of this very bill ruled out an item which was a gratuity, and admits the treaty expenditure in 1909, and because the Chair has during the consideration of this very bill ruled out an item which was a gratuity for schools, certainly this is subject to a point of order.

Mr. BURKE of South Dakota. Mr. Chairman, I hope the Chair will not be affected in his decision, and I apprehend he will not be, by what I may have conceded a year ago as to this being a gratuity. I am frank to admit that at the time I was laboring under the impression that it was a gratuity, and that I did not consider the provisions of the treaty of 1877 went as far as they do, and as the Chair has held. Now, we make every year an appropriation for the education of Indians of $1,420,000, and I want to call the attention of the Chair to Hinds' Precedents, volume 4, section 4205, because I think it ought to be in this debate as to the extent to which we may go in appropriations for the support and education, and so forth, of Indians. Section 4205 says:

> The Committee on Indian Affairs has a broad jurisdiction of subjects relating to the care, education, and management of the Indians, including the care and allotment of their lands.

And then it goes on to state:

> On December 6, 1888, the resolutions distributing the President's message used this language relating to the jurisdiction of the Committee on Indian Affairs, giving to that committee so much "as relates to the care, education, and management of the Indians." This language has been used for a long time in these resolutions; and the committee has exercised a broad jurisdiction as to the care of Indians on the reservations, and in Indian Territory while that reserve existed as a separate territory, and also as to the care and preservation of Indian lands and the allotment in severalty.

Now, I think, we are justified under that in making appropriations for education, even if they are not specifically authorized. And in this instance the treaty of 1877 clearly includes the education as part of the civilization, and I think the Chair in his ruling referred to education in connection with the language in that part of the agreement,

Mr. MANN. Mr. Chairman, for my part, I believe I would be glad if the Chair would find that, under the law, he could sustain the point of order. The item is:

For the support and maintenance of day and industrial schools among the Sioux Indians.

One of the first items in the bill is:

For support of Indian day and industrial schools not otherwise provided for and for other educational and industrial purposes in connection therewith, $1,420,000.

All through the bill there are items carrying appropriations for the maintenance and support of schools and pupils in schools.

The item to which I have referred, of $1,420,000, is not under any treaty obligation, it is not to carry out any agreement that the Government has with the Indians, but it is sustained so far on the broad power that the Indians are wards of the Government, and that, under the policy which the Government has maintained, it has the right to appropriate money for their education and for industrial schools.

Two or three years ago I made a point of order against the Florida item, which was for the support and maintenance, I believe, of Florida Indians. I thought at that time that that item was subject to a point of order. Whoever was in the chair at that time, after an examination of the general statutes in regard to the Indians under the control of the United States, held that it was within the power of the Government, if authorized by law, to make an appropriation for their support, maintenance, and civilization. If, however, the Chair can find a way to rule that the Government is not authorized under existing law to maintain these industrial schools and these day schools, as well as the colleges scattered throughout the country called Indian schools, I hope the Chair will take the opportunity to say that there is no authorization of law for this purpose, because, undoubtedly, it would result in the saving of millions of dollars a year which the Government now expends for useless Indian schools.

The CHAIRMAN. Does the gentleman from Oklahoma [Mr. FERRIS] desire to be heard?

Mr. FERRIS. Mr. Chairman, I did not want to more than suggest that this is the normal situation: The paragraph is brought in with the specific provision that the treaty is continued another year. A point of order is made, and the point of order is conceded.

The gentleman then immediately reoffered that part of the paragraph, save and except the authority which he admits he did not have.

Now, can the Chair be asked to find that a portion of this paragraph was in order when the other part, which was the very foundation upon which the whole paragraph stands, has been conceded to be out of order, and even has been withdrawn?

I do not care, Mr. Chairman, to pursue it further.

The CHAIRMAN. Before ruling on the point of order the Chair will cite the first portion of article 5 of the act of 1877 which is as follows:—

ART. 5. In consideration of the foregoing cession of territory and rights, and upon full compliance with each and every obligation assumed by the said Indians, the United States does agree to provide all necessary aid to assist the said Indians in the work of civilization; to furnish to them schools and instruction in mechanical and agricultural arts, as provided for by the treaty of 1868.

If the Chair is correct in thinking that the reference in this section, to the act of 1868—and he has, heretofore, endeavored to give somewhat in extenso the reasons for the following conclusion—merely means to say that the details of the aid, education and instruction which the United States undertakes to afford, are set out in the act of 1868, and those details without tedious repetition are made a part of the latter agreement, just as a later deed without formal recital, refers to and adopts the descriptive matter of a prior conveyance, then, of course, there is no time limit upon the obligations assumed in the act of 1877.

If there is no time limit upon these obligations, then they are obligations of a continuing character. Hence this paragraph affords ample authority for an appropriation for the support of day and industrial schools for the Sioux Indians.

The treaty specifically declares, in the section just read to the committee, that the United States will provide all necessary aid to furnish these Indians with schools, and instruction in mechanical and agricultural arts.

If authority for these schools, may be found in the paragraph cited, and it is so found, then there is authority for the amendment, and the point of order is not well taken.

Mr. FERRIS. Mr. Chairman, I offer an amendment to the amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Oklahoma [Mr. FERRIS] to the amendment offered by the gentleman from South Dakota [Mr. BURKE].

The Clerk read as follows:

Amend the amendment by adding at the end of the amendment, "reimbursable from any funds in the Treasury of the United States belonging to said Indians."

Mr. BURKE of South Dakota. Mr. Chairman, I reserve a point of order on the amendment to the amendment. If the gentleman from Oklahoma [Mr. FERRIS] does not wish to discuss the merits, I will make the point of order. Of course, I will be guided by what he desires.

Mr. FERRIS. I think the Chair can rule.

Mr. BURKE of South Dakota. Then, Mr. Chairman, I make the point of order. I will state that the Chair has just held that it is in order under the treaty of 1877 to include this item. It is an obligation of the Government, and therefore it would violate existing law when it is proposed to make an amendment carried in the item reimbursable from any funds in the Treasury belonging to these Indians.

The CHAIRMAN. But it makes a reduction of the expense to the Government, so that the Holman rule becomes operative. As to the propriety of it, the Chair does not say.

Mr. BURKE of South Dakota. I did not suppose that the Holman rule would go so far as to relieve the Government of an obligation that it had contracted to fulfill under an agreement or treaty made with a tribe of Indians, and I doubt if it goes to that extent.

The CHAIRMAN. The Chair would suggest that that is a question of propriety put up to the House for its action, not a question of parliamentary ruling. The House can do a thing that may be improper. Without undertaking to make that criticism of this particular proceeding, the Chair will say that the House is competent to do it. The Chair is merely commenting on the parliamentary status of it. The Chair would think that that amendment would be in order. The question is on the amendment to the amendment.

Mr. MARTIN of South Dakota. Mr. Chairman, I would like to be heard a moment on the merits of this proposition. Here is a conceded obligation of the Government to furnish these educational facilities to these Indians, for which they have given ample consideration.

Mr. STEPHENS of Texas. Mr. Chairman, I will call the gentleman's attention to the fact that that part of the amendment does not touch the treaty at all—no part of it. It stops with the words, "two hundred thousand dollars." This is an amendment to support the day and industrial schools amongst the Sioux Indians, and so forth.

Mr. MARTIN of South Dakota. Yes; but the Chair has very properly held, within a few moments, that the treaty obligations of the Government of the United States, under the treaty of 1876 confirmed by the act of 1877, require that there should be provided these educational facilities for these Indians which this appropriation of $200,000 will cover. Therefore the obligation is upon the Government to make the appropriation.

Now, then, the gentleman from Oklahoma [Mr. FERRIS], not being able to raise a point of order against the item, because it is in order, because it is based upon a contractual obligation of the Government, proposes by an appeal to numbers, if it can be done, to vote away the Government's obligation to keep its treaties and to take the money of our wards and reimburse ourselves for keeping our treaty obligations, and undoubtedly create a claim in the Court of Claims on the part of these Indians, to be litigated and eventually reimbursed. I appeal to the good sense as well as the sense of fairness of the members of this committee not to be led into any such ridiculous attitude by the extremity of the gentleman from Oklahoma in a parliamentary situation.

Mr. STEPHENS of Texas. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from South Dakota yield?

Mr. MARTIN of South Dakota. Yes.

Mr. STEPHENS of Texas. The gentleman, I know, is aware that I am disposed to be fair to the Indians of South Dakota as well as those of Oklahoma, and no one regrets more than I do that this controversy has arisen between the two States. Unfortunately in reporting the bill, as the chairman of the

committee, I was placed in the peculiar attitude of opposing this appropriation, and I now think and believe that the appropriation both for the schools of Oklahoma and those of South Dakota should have remained in the bill.

Mr. MARTIN of South Dakota. I apprehend, then, upon this vote the gentleman will support us.

Mr. STEPHENS of Texas. I do not think the contentions of the gentleman from South Dakota are correct.

Mr. MARTIN of South Dakota. In other words, the gentleman thinks two wrongs will make one right.

Mr. STEPHENS of Texas. I do not think so at all, but I believe the statement made in this document, 209, Indian schools and agencies, 1912, will convince the gentleman that a great injustice has been done Oklahoma. I find that the State of Oklahoma, with 17,250 children, has $2,241,248 worth of school property. That is $13 per capita. I find that the gentleman's State of South Dakota has $314 per capita of school funds and school property. The difference, then, between the way Oklahoma is treated and the way South Dakota is treated is as 13 is to 314. I notice that the gentleman and that side of the House were very swift to strike from this bill everything that could be stricken from it in aid of this $13 per capita for Oklahoma and to prevent anything being taken from the $314 for South Dakota.

Mr. MARTIN of South Dakota. The gentleman does me an injustice. At least whether it be an injustice or not, he is mistaken. I was not present when the Oklahoma item was stricken out. I did not know it was stricken out until after I came to the House this morning.

Mr. MANN. This side of the House had nothing to do with it, except that I made the point of order on my own responsibility, and will continue to make a great many more before the gentleman is through with the Indian appropriation bill, nor will I be deterred by threats of this kind.

Mr. STEPHENS of Texas. Will the gentleman point out what threat I have made just now?

Mr. MANN. The gentleman proposes to retaliate.

Mr. STEPHENS of Texas. I propose to see that justice is done between the different sections of this country.

Mr. MANN. I will continue to make points of order against any and every paragraph in the gentleman's bill whenever I deem it proper to do so.

Mr. STEPHENS of Texas. I hope the gentleman will not be in a position to do that.

Mr. MANN. But I shall be. I shall be here. The gentleman need not worry about that. I shall be right here.

Mr. BURKE of South Dakota. Mr. Chairman, I want to say to the gentleman from Texas [Mr. STEPHENS], who has always been extremely fair and courteous to me, both when he was a member of the minority and since he has been chairman of the committee, that he seems to involve me in the matter of the elimination from the bill of an item of appropriation for schools in Oklahoma, when I had absolutely nothing whatever to do with it at all. I did not make any point of order. I never said one solitary word on the subject. Now, if the gentleman rises in his place and makes a point of order and the Chair sustains the point of order, there ought not to be any disposition on the part of the committee to do something that is contrary to what I perhaps am standing for. I am not responsible for the point of order nor for the action of the Chair in sustaining it. I want to say that I never take exception to any Member making a point of order. He has that privilege, and in the exercise of his rights as a Member on this floor, if he believes that an item ought not to be in the bill because it is not authorized by law, and he makes a point of order against it, I am fair enough to say that I believe he is actuated by honest motives, and that he is simply carrying out what his conscience dictates, and I never have acted and never will act in retaliation because a point of order was made against an item that I was interested in. In the present instance the point of order was made by somebody else.

Mr. MARTIN of South Dakota. Mr. Chairman, I believe I have the floor.

Mr. BURKE of South Dakota. I thought the gentleman from Texas had the floor.

Mr. STEPHENS of Texas. Does the gentleman think it is just and right that Oklahoma should have only $13 per capita in school property, while the gentleman's State has $314?

Mr. BURKE of South Dakota. I can not see what bearing that has upon the question, how much Oklahoma has or how much Montana has.

Mr. STEPHENS of Texas. If you have $314, as stated here, should it not be reimbursable, when you have $41,000,000 of property in your State to reimburse it from?

Mr. BURKE of South Dakota. I may say that the committee is furnishing a spectacle of something new to me in my experience in the brief time I have been here. I do not think I have ever before seen a committee come into the House and attempt to make points of order against their own bill. That is unusual, but it seems, from what the gentleman from Texas [Mr. STEPHENS] has just said, that it is done because the gentleman from Illinois [Mr. MANN], who has the habit of making points of order pretty frequently, made a point of order against an item in the bill and the point of order was sustained by the Chair. Now, when any item is reached that a member of the minority of the committee happens to be interested in, because it is in his State, the attitude of the majority is to try to eliminate it. I do not believe that is fair, and it has been my opinion that there has been some feeling indulged in here. Certainly there has been none on my part. I have no feeling whatever.

Mr. STEPHENS of Texas. The gentleman can not say that I have any feeling.

Mr. BURKE of South Dakota. I think the gentleman has been neutral, but as chairman of the committee I think he ought to stand up and defend his bill rather than assist in assaults that are being made upon it from either side of the House. One of the functions of the chairman of a committee ordinarily is to come in and maintain the bill which his committee has reported and which he has helped to frame and not to assail it on the floor.

Mr. STEPHENS of Texas. I have heard the gentleman from Illinois [Mr. MANN] on that side insist that these funds ought to be reimbursable when the Indians have large funds in the Treasury. Here are $41,000,000 in the Treasury for the use of only 20,000 Indians, while they have $348 per capita of school property and of money that is going to them annually for these purposes for each child.

Mr. MARTIN of South Dakota. May I ask the gentleman——

Mr. STEPHENS of Texas. Oklahoma has only $35 of school property and of money that can be annually expended.

The CHAIRMAN. All this is to be understood as coming out of the time of the gentleman from South Dakota, and his time has expired.

Mr. MARTIN of South Dakota. I ask unanimous consent for five minutes more.

The CHAIRMAN. The gentleman from South Dakota asks unanimous consent that his time be extended five minutes? Is there objection?

There was no objection.

Mr. MARTIN of South Dakota. Now, we are brought to this absurd proposition: The gentleman from Texas [Mr. STEPHENS], the chairman of this great Committee on Indian Affairs, has not only intimated but he has stated that he proposed to oppose an item that he helped to put into this bill, in cooperation with the other members of the committee, which item the Chairman of this Committee of the Whole has held here in the last 20 minutes is to be maintained under treaty obligations. The chairman of the Committee on Indian Affairs proposes to lend himself by his vote and his influence to defeat that item because, forsooth, some days ago, when I did not have the fortune to be in the room, although he has accused me of being connected with it, another item for the State of Oklahoma was objected to and a point of order made against it by the minority leader, the gentleman from Illinois [Mr. MANN], and went out upon a point of order, from which we may assume that there was no legal basis for maintaining it in the bill.

Mr. STEPHENS of Texas. Is the gentleman aware that this amendment is no part of the bill reported to the House?

Mr. MARTIN of South Dakota. The amendment is the precise section of the bill, except that it leaves off certain language which was subject to a point of order. The item is a proper item.

Mr. STEPHENS of Texas. It makes this item reimbursable.

Mr. MARTIN of South Dakota. It was not reimbursable, and we can not make it reimbursable because it is based on treaty obligations, which would create a liability in the Court of Claims.

Now, Mr. Chairman, it seems to me that we ought not to be led into this absurd position. I understood that the item with reference to Oklahoma that went out the other day was a provision for common schools. I have understood that a great many white children attended these common schools. I know nothing about that item or its merits, but I do know that this particular item is to maintain the Indian schools inside the Indian reservations, and I know that the Sioux Indians paid for it in one of the most valuable properties on the continent; that it has yielded $150,000,000 in gold up to date and yields about $10,000,000 every year. I know that the Government of the

United States can not escape paying for it by the action of certain gentlemen who are getting restless on account of another item going out of the bill, and I am surprised that the gentleman from Texas, the chairman of the committee, should lend his aid to it because another item that did not have a point to stand upon is not in his bill.

Mr. STEPHENS of Texas. Mr. Chairman, I believe the gentleman asked the question how many white people are interested in the schools, and I will say to the gentleman that on the eastern side of Oklahoma the Indian gets 85 cents for each child, a magnificent sum, while in the State of South Dakota you have three schools with several hundred Indians, and they get the magnificent sum of $167 per capita, and that is the advantage of living in South Dakota rather than in Oklahoma.

Mr. MARTIN of South Dakota. Well, there are other advantages, I hope. I do know that this advantage, whatever it is, has been paid for by these Indians, and that they are entitled to realize upon it. I know by a personal visitation to these schools that they are Indian schools—industrial, mechanical schools—and that the benefits are going exclusively to the Indian children. I know of no white children that attend these schools.

Mr. MILLER. Mr. Chairman, I sincerely hope that the gentleman who offered the amendment will not press it, or if he feels for any reason that he must, I hope that the amendment will not prevail. It looks to me as if this is one of the most unfortunate quibbles that has come to us in handling the Indian question for a long time.

We are now dealing with the simple question of fulfilling the treaty obligations with the Sioux Indians. I do not know, Mr. Chairman, whether we should have $200,000 for this purpose or whether we should have $100,000 or $50,000 or $500,000. As to the exact amount needed I have no information and I profess none, but I do know, Mr. Chairman, that whatever amount we put in this item, if we make it reimbursable we have created a claim in behalf of these Indians against the Government of the United States. I do know that we have repudiated a solemn, sacred obligation, and have done it in broad daylight; we have done it after the most full discussion, and it has been done by men who ought to stand here and champion the Indian cause wherever found rather than to stand here and urge upon Congress provisions whereby the Government breaks its obligations. A broken obligation means a claim; a claim means lobbyists and lawyers and the scandals that follow.

This Government to-day is face to face with many of the deeds of the past that were wrong, some of which we are trying to right. Now, for God's sake, do not write another chapter of the same kind. Cut it down if it must be, raise it if it must be, but do it right; do it as the treaty said it should be done, and stand up and face it as it should be faced.

I can readily see, Mr. Chairman, if this is taken as a precedent, if we are to let the difficulties of the present moment—some of the animosities created by the little debate during the last three or four days—get control of the Indian legislation, for the next six months or a year great wrong will be done, not to urselves, because we can not hurt ourselves, but to the Indians, whose guardians we are and who are helpless wards of ours. They are the ones to suffer.

Now, it does seem to me that this is more like boys' play than it is like the conduct of dignified men on an important subject.

As I understand, it all arose because of the knocking off of one paragraph in the bill relating to Oklahoma. The gentlemen of the committee know, I suppose, without any question, that I myself thought that that was subject to a point of order, but I never thought of making it. I would vote for it if it came in now, and I will tell you why: Because I know that before this bill becomes a law it will be a part of it, and I would like to have the gentlemen who represent Oklahoma in this House get credit for it, if there is any credit in the act, before the people of their State.

Mr. MARTIN of South Dakota. Will the gentleman yield?

Mr. MILLER. Certainly.

Mr. MARTIN of South Dakota. Is it claimed, in reference to the Oklahoma item, with which I have no familiarity, that it is in the bill by virtue of a treaty obligation?

Mr. MILLER. No; it has no foundation in law. It has nothing to justify it. It is a pure gratuity, a pure gift, and one that is rather unfortunate, because it is giving something to the common schools of the State.

Now, Mr. Chairman, I myself have been a little emphatic—perhaps too emphatic—but I appeal to the good common sense of that side of the aisle that they will let this question before us be considered in a fair and impartial manner. It is about time that we ended the bickering back and forth across the aisle. Gentlemen across the aisle know that there are important matters now pending in which they and their people are deeply interested, and I do not believe that they want to start a fight all along the line.

Mr. FERRIS. Mr. Chairman, if it were not for the seeming unfairness of the remarks of gentlemen, I would not say anything at this time. This is an anomalous situation that prevails in reference to this paragraph. The Indian Office during the preparation of this bill undoubtedly recognized fully that the treaty expired in 1909, and they drew the paragraph explicitly extending it for another year, as it has been done annually since the treaty formally expired. I shall not stop there; I will take the testimony of the gentleman from South Dakota, who was for many years chairman of the committee. The gentleman from South Dakota knows more than any other man here about Indian affairs in Dakota, and I will read his words, to which I am indebted to him for calling my attention. I will read from the hearings (page 347) of last year, when this precise item was under consideration. Here is the language:

Mr. BURKE. For the information of Mr. FERRIS I will say that the appropriation for the support of schools among the Sioux has always been carried in a separate item in this part of the bill, because under the treaty of 1889 we were obligated to pay for the education of the Sioux, and that treaty expired, as I recall, in 1909. We have been making the appropriation since by extending the treaty, if you will notice by that language, and it really is a gratuity, the same as the education of other Indians. This is to pay the expenses of the reservation schools generally. There are 20,000 Indians there, and instead of paying it out of the fund that is over further in the early part of the bill, it has been kept here, and I merely make this explanation so you may understand why this item is here.

Commissioner VALENTINE. It would be an item to add to the $1,400,000 if it were not here in this part of the bill.

Mr. BURKE. There is another reason why I prefer to have it that way. I have to come in contact with my Indians as you do with yours, Mr. FERRIS. They complain about things that we do. I call their attention to certain things. For instance, in this case I say to them, "We are giving you $220,000 that we did not agree to give to you and that we do not have to give to you. It shows that the Government is generous.

Mr. FERRIS. The treaty expired in 1909?

Mr. BURKE. Yes; it was a 20-year treaty.

Mr. FERRIS. And, of course, now it is a gratuity.

Mr. BURKE. It is a gratuity.

Mr. Chairman, certainly what chastisement I have had, what chastisement the chairman has had, as to the proposition that we are here fighting an item that we are bound to support by treaty, must, of necessity, be exploded. That reverts to the original question of whether or not they should pay this from their own funds. I care nothing about the "animosity" talked about back and forth. There is no "animosity" so far as I am concerned. I want to call attention to the fact that I think these Indians are more than well to do. They are worth $41,000,000 in property, and here is the report that gives their property. They have $3,000,000 and over of cash in the Treasury.

The treaty expired in 1909 by the words of the commissioner, by the words of the gentleman from South Dakota [Mr. BURKE], and by the words of the law itself. If there be anything about the theory that we shall have the Indians pay where they are able to pay, my amendment should be adopted. If there is nothing about the theory that the Indians should pay when they have money to pay, my amendment should be defeated. Every item in the State of Oklahoma, except one, so far as the Five Civilized Tribes are concerned, for schools is paid for out of the Indian money. No item in this State of South Dakota, either for agency or for schools, is paid out of the Indian money, but in each case it is paid out of the Federal Treasury. There are 20,000 Indians in South Dakota, and they are worth $41,000,000, and they do not pay one penny for the service that is rendered them in the schools and in the various agencies. There are 10,000 Indians of the Five Tribes in Oklahoma, and they have $6,000,000 in the Treasury, and they pay every cent of their school expense. I merely ask that as to this one item this House vote to let the Indians pay where they are able to pay, as they do in other States. I do not know what the vote on this amendment may be. Personally I care not. I merely want to call it to the attention of the House, and the House can do what it sees fit.

Mr. BURKE of South Dakota. Mr. Chairman, I would like to speak briefly in response to what the gentleman from Oklahoma has stated.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent that all debate on this paragraph and all amendments thereto close in 10 minutes, 5 minutes to be used on each side.

Mr. MADDEN. Make it 20 minutes.

Mr. MANN. I would like to have 5 minutes.

Mr. STEPHENS of Texas. Mr. Chairman, we must get through with this bill to-day, and I think we had better stay here to-day until the bill is finished.

Mr. BURKE of South Dakota. Make it 10 minutes.

Mr. MANN. I want 5 minutes.

Mr. KAHN. Make it 15 minutes.

Mr. STEPHENS of Texas. Then I ask unanimous consent that all debate close in 15 minutes, 10 minutes to be consumed on that side and 5 minutes on this.

The CHAIRMAN. The gentleman from Texas asks unanimous consent that at the end of 15 minutes, 10 minutes of which to be used by the minority side of the House and 5 by the majority side of the House, debate on the pending paragraph and all amendments thereto shall cease. Is there objection?

There was no objection.

Mr. BURKE of South Dakota. Mr. Chairman, the gentleman from Oklahoma [Mr. FERRIS] read from the hearings of last year wherein I stated that this appropriation was a gratuity. I presume he read it for the benefit of a Member or of Members who might be in the committee now who were not present when I read the same thing a short time ago. I read all of that that the gentleman from Oklahoma read. It is true that when this item was being considered in the committee a year ago I did state that it was a gratuity. I had in mind only the obligation of the 1889 treaty, which was limited in its provisions to 20 years. I did not consider at that time the obligation of the Government to provide education in connection with the civilization of these Indians, and since that time I have done so; and I have argued here to-day to the able chairman, who has only recently rendered a decision in which he holds it is not a gratuity. If the gentleman from South Dakota did state in 1911, at some time or at some place or somewhere, that it was a gratuity, that does not overrule the decision of the very able lawyer who fortunately presides over these deliberations upon this occasion. It does not overrule the law, as the gentleman from Illinois [Mr. MADDEN] very aptly suggests to me. I appreciate the high compliment paid me by the gentleman from Oklahoma, overlooking the sarcasm, but I am free to say that I appreciate that I am not entitled to any such encomium as the gentleman gives me, because I do not know all about Indian affairs, and there is a great deal more that I do not know than there is that I do know about the subject. I am not priding myself on having extraordinary knowledge on the subject of Indian legislation, but I know what the situation is at the present time, namely, that the chairman has held that this is a treaty obligation, and when I made a point of order against the amendment which proposes to make it reimbursable the Chair overruled the point of order upon the ground that it reduces the expenditure from the Federal Treasury under the Holman rule, and was not subject to the point of order. I appeal to members of the committee upon both sides of the Chamber that we ought not violate a sacred obligation that we have entered into with these Indians, to appropriate money for education and make it reimbursable when it is a violation of the treaty obligations.

Mr. FERRIS. Mr. Chairman, will the gentleman yield?

Mr. BURKE of South Dakota. Certainly.

Mr. FERRIS. Does the gentleman really, honestly in his heart think that treaty is still in full force and effect?

Mr. BURKE of South Dakota. I do.

Mr. FERRIS. Then the gentleman believes to-day what he knows last year was not so.

Mr. BURKE of South Dakota. I have frankly stated what I said at that time, and it does not matter what I stated. That does not change the law. It does not change the ruling made by the Chairman. I appeal to gentlemen on that side of the Chamber that we ought not, because we have the power, by reason of force of numbers, and because we have a rule called the Holman rule, which permits amendments which otherwise would not be in order, to do a wrong and reimburse or make reimbursable against the Indians money that we have contracted by treaty to expend for them. Whenever we do that we furnish the foundation for a claim against the Government, and, heaven knows, we have had enough scandal in connection with Indian claims in the amounts that have been paid in attorneys' fees to these lobbyists who hang around this Capitol digging up anything that they can find wherein a treaty obligation may have been technically violated, so that they may bring in a claim against the Government.

And I hope that that side of the House will not, as I have already stated, vote to make reimbursable this appropriation in the face of our obligation that we will expend it from the Public Treasury.

Mr. MANN. Mr. Chairman, the Chair a moment ago was called upon to make a ruling upon the amendment offered by the gentleman from Oklahoma [Mr. FERRIS], and held that it was in order under the Holman rule. I have no criticism to make of the Chair or the ruling under the circumstances. It was made without argument. I do not think, and I wish to put my statement on record, that it was in order under the Holman rule. That rule provides that a matter shall be in order which shall retrench expenditures by the reduction in salary of the officers of the Government, which is not this case. Second, by the reduction of the compensation of any person paid out of the Treasury of the United States, which is not this case. Third, by the reduction of amounts of money covered by the bill, which is not this case, because there is change in the amount of money either covered by the bill or offered by the amendment.

Now, Mr. Chairman, a moment ago we were met by a very frank avowal by the gentleman from Texas [Mr. STEPHENS], the chairman of the Committee on Indian Affairs, who has the pending bill in charge. He stated to the House frankly and honestly that because I had made a point of order against one or two items—I made a point of order against two, but I do not know whether he included both—in the bill, where Oklahoma was interested, that, therefore, the point of order having been sustained by the Chair, gentlemen on that side of the House proposed to retaliate by striking out——

Mr. STEPHENS of Texas. I deny the statement. It is untrue.

Mr. MANN. It is not untrue. That was the gentleman's statement.

Mr. STEPHENS of Texas. Let it go in the RECORD. We will see who is right.

Mr. MANN. By striking out an item in which the senior Republican member of that committee is interested. I will ask the gentleman frankly what his statement was, then?

Mr. STEPHENS of Texas. The RECORD will show. It will show that you have not stated it correctly.

Mr. MANN. I have stated it correctly. If the gentleman does not change the RECORD, and I will see he does not——

Mr. STEPHENS of Texas. Does the gentleman insinuate that I would change the RECORD?

Mr. MANN. I did not say so. I have seen the gentleman change the RECORD before——

Mr. STEPHENS of Texas. Do you mean that I have changed the RECORD here? If you do, it is untrue and false.

Mr. MANN. I do not mean to insinuate anything. The gentleman is requiring a good deal of patience, not only on my part but on the part of the whole House, in the conduct of the Indian appropriation bill. The gentleman stated, and it will so appear in the RECORD, that because items had been stricken out relating to Oklahoma therefore he proposed to vote to strike out an item relating to South Dakota. In effect, that was his statement. Mr. Chairman, I made the point of order. I am responsible for it. I never have made a point of order in this House on items in appropriation bills which had anything to do with politics. I do not make points of order against items in which Members are interested because they are Republicans or because they are Democrats. But if the Democratic House concludes that because a gentleman on the Republican side of the House makes a point of order in which a Democratic Member is interested, and which is sustained, therefore they will retaliate by striking out an item in which a Republican Member is interested, it will be drawing the line where no favors will be asked and no favors will be granted. Gentlemen on both sides of this aisle know perfectly well that the amenities between gentlemen are preserved in the House regardless of politics, and it is the first time I ever have heard in the House of Representatives during my service here, the chairman of a great appropriation committee declaring that he proposed to punish one of the minority because another Member of the minority had had stricken out of the bill on a point of order, sustained by the Chair, an item in which a Member of the majority was interested.

But if it is a matter of favors and retaliation, commence. We will be there when it is going on.

Mr. STEPHENS of Texas. Mr. Chairman, just a word. I desire to state that I did not use the word "punish," and did not intend to so use it, and the gentleman knows it very well.

Mr. FERRIS. Mr. Chairman, I want to make an inquiry. I am quite anxious to do nothing wrong, either under pressure or without pressure, and I do not think I have. But let me inquire of the Chair, if I may now, if the Chair at this time is of the opinion that this treaty is still in full force and effect, and I ought not to offer my amendment? I can not help but believe that when the Commissioner of Indian Affairs thinks the treaty expired in 1899—and the gentleman from South Dakota [Mr. BURKE] thought so then, and I think so now—I was justified in offering the amendment.

Mr. MADDEN. Will the gentleman yield to me for a minute? Is it possible the gentleman from Oklahoma [Mr. FERRIS] and the gentleman from South Dakota [Mr. BURKE] and the Com-

missioner of Indian Affairs, who might not have looked up the law, could make a wrong statement, not knowing the facts?

Mr. FERRIS. Undoubtedly, that is true.

Mr. MADDEN. And is it not infinitely better to rely on the chairman, who has looked up the law, and let us quit this bickering?

Mr. FERRIS. In response to the gentleman, I will say that it is entirely correct; but I am not sure that the long deliberation of the Committee on Indian Affairs in making up this bill and the unusual ability of the gentleman from South Dakota [Mr. BURKE], the former chairman of the committee, should be overlooked.

Mr. CARTER. I would like for the RECORD to read that this comes in my time. I wish to get in on this proposition.

Mr. BURKE of South Dakota. I thought the gentleman from Oklahoma [Mr. FERRIS] made an inquiry.

Mr. FERRIS. I did. Does the Chair, in face of the law now before him, and in face of the bill, think this treaty is in full force and effect, and does he think the Federal Government is obligated to make this appropriation under this treaty out of the Government funds?

The CHAIRMAN. Well, as to the first inquiry, as to whether the agreement of 1877 furnishes authority to make this appropriation, the Chair is not in doubt. There can be no reasonable question of the obligation of the United States under that agreement. Of course this conclusion is merely the best judgment of the Chair upon the statutes before him, and with the opportunity that has been afforded for investigation. In the construction of contracts between parties who are not on an equal footing, some account should be taken of that fact. In this instance the United States was dealing with savages, and must be regarded as having an advantage over them. The Government was dealing with its wards. So that, in construing any portion of that agreement, if a question of doubt arises, that doubt must be resolved by an interpretation most favorable to the weaker party. This principle is very clear.

Mr. FERRIS. If the Chair will pardon me, I would like to say——

The CHAIRMAN. The Chair was in the act of passing to the next proposition. We find a reference in one act to an antecedent treaty. This reference is susceptible, it is suggested, to two meanings. The Chair does not think it is really susceptible to more than one, but the Chair can understand that in the judgment of others this language may be charged with another meaning. One interpretation is in favor of the Indians because it continues indefinitely an obligation assumed by the Government. The other is against the Indians because it imposes a time limitation upon the discharge of this obligation.

Now applying the principle of favorable interpretation for the weaker party, the Chair is very clearly of the opinion that the reference to the antecedent act was not intended to prescribe a short-time limitation for the discharge of the obligation of the Government.

In this connection it must be borne in mind, as a further ground for holding that no limitation was intended, that additional valuable consideration was afforded by the Indians under the agreement of 1877. This fact furnishes an additional cogent reason for concluding that the United States was required to furnish additional valuable consideration on its part. The Chair therefore has no difficulty in concluding that in consideration of the territory ceded, the United States agreed to extend its undertaking to assist the Indians in the work of civilization, and that this obligation is in full force.

Mr. FOWLER. Mr. Chairman, I would like to make a further inquiry. At the time of the passage of the act of 1877 the act of 1868 had not expired by 11 years.

The CHAIRMAN. Yes; it had not expired. The Chair will not be certain as to the precise time.

Mr. FOWLER. It was made on February 29, 1868, with a limitation of 20 years.

The CHAIRMAN. Yes.

Mr. FOWLER. Then in 1877 an agreement was made between the two contracting parties, as the Chair has detailed, the United States on one side and the Sioux Indians on the other, in which the Black Hills property was involved.

The CHAIRMAN. In which a valuable consideration moved from the Indians to the Government.

Mr. FOWLER. I concede the force of the argument of the Chair, but in 1889, on the 2d day of March, as I recollect, the treaty of 1868 was extended for another 20 years. May I inquire of the Chair as to what he thinks the object of Congress was in extending the treaty of 1868 if the act of 1877 was intended to be perpetual?

The CHAIRMAN. The Chair can hardly answer that as a question of parliamentary law. The Chair will say that that same act to which the gentleman refers expressly provides that everything in the act of 1877, anything in the act of 1889 to the contrary notwithstanding, should be perpetuated, and it gave it a new life, so to speak.

Mr. FOWLER. It was limited, as the Chair well knows, to a period of 20 years.

The CHAIRMAN. The Chair is trying to do the best he can with the parliamentary situation.

Mr. FOWLER. But I am anxious to know what effect the Chair thinks the act of Congress had upon this situation by extending the period 20 years.

The CHAIRMAN. That phase of the situation the Chair has not considered at all, and the Chair is not undertaking to rule on that. This is a matter of a good deal of importance, and the Chair is simply trying to do the best he can toward the solution of a parliamentary proposition which involves some legal principles. It seems to the Chair that the simplest way to get a final solution of it—and a far more authoritative one than the Chair can give—is to take an appeal from the decision of the Chair and let the committee itself settle it.

Mr. CULLOP. Mr. Chairman, I suggest that the matter be passed over until the Chair can have time to look up the authorities.

The CHAIRMAN. The Chair fully examined into this matter and explained the different steps in the transaction. Into that particular phase referred to by the gentleman from Illinois [Mr. FOWLER], which is not before the committee, the Chair has not examined.

Mr. CULLOP. It was in view of that that I made the suggestion which I have just offered.

Mr. CARTER. Mr. Chairman, can I be recognized for five minutes?

The CHAIRMAN. The Chair will recognize the gentleman for five minutes, in view of what has happened.

Mr. CARTER. Mr. Chairman, there seems to have arisen a mistaken impression about the procedure in the House to-day. The gentleman from Illinois [Mr. MANN] certainly misunderstood the gentleman from Texas [Mr. STEPHENS]. What I understood the gentleman from Texas to say was that he favored this amendment because it tended to equalize the school benefits that were being derived by the two States. If I was mistaken in that, I ask that the gentleman from Texas correct me. There seems also to be a general mistake about certain gentlemen on this side of the House taking umbrage at the action of the gentleman from Illinois for exercising his privilege in making a point of order against the provision of $300,000 for the schools of the State of Oklahoma. Let me assure the gentleman there is no soreness on this side. The gentleman from Oklahoma [Mr. FERRIS], it is true, was very much interested in that item. The gentleman from Texas [Mr. STEPHENS] was also interested in the item. But I think that was, in a sense, considered my item, since most of the funds would be spent in the districts represented by my colleague from Oklahoma, Mr. DAVENPORT, and myself.

So if anyone should take umbrage at the gentleman from Illinois it would certainly be one of us. I insisted that the matter go in the bill when it was under consideration in the committee, and by the assistance of my colleague, Mr. FERRIS, and the gentleman from Texas [Mr. STEPHENS] it did go in; but while we regret the loss of this relief to our State, no one takes any offense at the gentleman from Illinois [Mr. MANN] and no ill feelings are cherished against him for exercising his privilege as a Member of the House in objecting to this item.

But, Mr. Chairman, I am going to vote for this amendment under consideration now because, as has been stated by the gentleman from Texas [Mr. STEPHENS], it tends to equalize the benefits that are being derived by two States, which difference should be adjusted as equally as possible. You all heard the statement of the gentleman to the effect that the State of South Dakota has $314 school privileges per Indian and the State of Oklahoma only $13 per capita Indian population.

Mr. BURKE of South Dakota. I think the gentleman from Texas will correct the gentleman from Oklahoma. He did not make that statement.

Mr. CARTER. That was my understanding.

Mr. STEPHENS of Texas. Per capita of Indian children.

Mr. BURKE of South Dakota. The gentleman was only referring to three nonreservation schools.

Mr. STEPHENS of Texas. If the gentleman will examine the document from which I read, he will find that it includes the value of all the school property, and you must remember——

Mr. BURKE of South Dakota. That is not the point that the gentleman stated.

Mr. STEPHENS of Texas. You must remember that you have a number of schools there.

Mr. CARTER. I intended to quote, as nearly as possible, the statement of the gentleman from Texas.

Mr. BURKE of South Dakota. Perhaps I did not understand it.

Mr. CARTER. I intended to state that the gentleman from Texas [Mr. STEPHENS] had stated in his remarks that the State of South Dakota had already $314 per capita in school benefits, improvements, or whatever you might call them, and that the State of Oklahoma had only $13. That was my understanding of the statement of the gentleman from Texas.

Mr. STEPHENS of Texas. That is correct.

Mr. BURKE of South Dakota. Do I understand the gentleman to say that we have in school property for the benefit of South Dakota $314 for each Indian?

Mr. STEPHENS of Texas. For each Indian reported by this report.

Mr. CARTER. That is what I understood the gentleman to say.

Mr. BURKE of South Dakota. I confess that I do not understand the proposition.

Mr. CARTER. The proposition is just what the gentleman from South Dakota stated it, exactly.

Mr. MANN. We have several million dollars' worth of property in my State for each Indian. How does that affect the question?

Mr. BURKE of South Dakota. I do not understand what the point is that the gentleman is trying to make. The property in the Five Civilized Tribes is certainly greater in value than all the property of the Indians in South Dakota three or four times over.

Mr. STEPHENS of Texas. That is the school population, and the school population is given in South Dakota and also in Oklahoma.

Mr. BURKE of South Dakota. Indian school population?

Mr. STEPHENS of Texas. Indian school population, Indians in school. Then, estimating the school property, schoolhouses and plants, that they have, it gives Oklahoma $13 per capita and South Dakota $314.

Mr. BURKE of South Dakota. I can not understand what the gentleman's point is.

Mr. CARTER. Did I understand the gentleman to say $31 or $13?

Mr. STEPHENS of Texas. Thirteen dollars.

Mr. CARTER. I understood the gentleman to give the figure at $13 in his first statement.

Mr. STEPHENS of Texas. Per capita of the Indians in school.

Mr. CARTER. The gentleman stated that South Dakota has Indian school property, for Indians, $314 per capita Indian population, and Oklahoma only $13.

Mr. BURKE of South Dakota. Where did the gentleman get any such statement?

Mr. CARTER. From the statement of the gentleman from Texas.

Mr. BURKE of South Dakota. I do not think the gentleman from Texas will make that statement.

Mr. STEPHENS of Texas. Will the gentleman permit me to explain how that is? There are, I think, three schools in the State, and they have very valuable plants. You have several hundred Indians attending those schools, and the estimate is about $167 per capita for each of those Indians. Oklahoma has only one school. Oklahoma has 120,000 Indians. In South Dakota you have only 20,000 Indians. Oklahoma has about six times as many Indians as South Dakota. That is the difference.

The CHAIRMAN. The time of the gentleman has expired. All time has expired.

Mr. FERRIS. I ask unanimous consent to make a statement for one minute.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent for one minute. Is there objection?

There was no objection.

Mr. FERRIS. Mr. Chairman, I offered this amendment because I thought the treaty expired in 1909. I offered it because I thought that was the judgment of the commissioner and because, in the hearings of 1911, on page 347, the gentleman from South Dakota said it is a gratuity and admits that the treaty expired in 1909. Now, if the judgment of the Chair is that that treaty has not expired, I do not desire to take the responsibility of offering an amendment to make them pay out of their funds in the face of a treaty, and so far as I am concerned I withdraw the amendment. [Applause.]

The CHAIRMAN. If there be no objection, the amendment will be considered as withdrawn. The question now is on the amendment offered by the gentleman from South Dakota.

The amendment was agreed to.

The Clerk read as follows:

For subsistence and civilization of the Yankton Sioux, South Dakota, $14,000.

Mr. MARTIN of South Dakota. Mr. Chairman, I ask unanimous consent to return to line 18, page 26, for the purpose of offering an amendment.

The CHAIRMAN. The gentleman from South Dakota asks unanimous consent to return to line 18, page 26, for the purpose of offering an amendment.

Mr. STEPHENS of Texas. I object.

Mr. MARTIN of South Dakota. I should like to say to the gentleman that, as I have already explained, I was out of the Chamber when that paragraph was read the other day, being out of the city. If he desires to object under those circumstances——

Mr. STEPHENS of Texas. I did not catch the statement of the gentleman.

Mr. MARTIN of South Dakota. I say I was unavoidably away from the city when this item was read. I do not desire to take up time unnecessarily, but I apprehend the gentleman does not understand the matter.

Mr. STEPHENS of Texas. What is the object of the gentleman?

Mr. MARTIN of South Dakota. I want to offer an amendment to increase the item for general repairs and improvements to the Indian school at Rapid City, S. Dak., from $5,000 to $9,000, in accordance with the recommendation of the bureau.

Mr. STEPHENS of Texas. The gentleman will not find in this bill any allowance for new improvements, and we can not afford to single out this one school.

Mr. MARTIN of South Dakota. The gentleman has perhaps overlooked the fact that the justification for this increase is stated by the commissioner to be as follows:

There will also be needed about $9,000 for the general repairs and improvements to the buildings and grounds. This is a very conservative estimate for this purpose.

I have found nothing in the hearings to indicate that any new or other information had come before the committee, and I know personally that this appropriation is needed.

Mr. STEPHENS of Texas. I can not agree to go back for that purpose, when we have uniformly refused to allow such items as that.

The Clerk read as follows:

For pay of one physician for Indians under the superintendent of the Shivwitz School, Utah, $500.

Mr. MURDOCK. Mr. Chairman, I move to strike out the last word.

Mr. STEPHENS of Texas. If the gentleman from Kansas will pardon me, I desire to dispose of another matter with reference to New Mexico, and then I will yield to the gentleman.

Mr. MURDOCK. Mr. Chairman, I withdraw my pro forma motion.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent to return to page 10, line 17, to insert a new paragraph by way of amendment.

The CHAIRMAN. The gentleman from Texas asks unanimous consent to return to page 10 to insert a new paragraph. Is there objection?

There was no objection.

Mr. STEPHENS of Texas. Now, Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

For the construction of a bridge across the Gila River on the San Carlos Apache Indian Reservation, Ariz., $45,500, and for the construction of a bridge across the San Carlos River on said reservation in said State, $19,800, to be immediately available, said bridges to be constructed across said streams in the places and manner recommended by the Secretary of the Interior in House Document No. 1013, Sixty-second Congress, third session; in all, $65,300, which said sum of $65,300, with interest thereon at the rate of 3 per cent per annum, shall be reimbursed to the United States by the Apache Indians having tribal rights on the Fort Apache and San Carlos Indian Reservations, and shall be and remain a charge and lien upon the lands, property, and funds belonging to said Apache Indians until paid in full, principal and interest.

Mr. STEPHENS of Texas. I understand this amendment is satisfactory to all the parties interested.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The amendment was considered and agreed to.

Mr. STEPHENS of Texas. Mr. Chairman, I desire to submit another amendment.

Mr. MANN. There was an amendment pending, on page 17, line 17, which was passed over, and I think the gentleman from Texas is about to offer one in place of that.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent to withdraw the amendment that was pending to line

17, page 17, considered on Tuesday last, and offer a substitute which I send to the desk.

The CHAIRMAN. Without objection, the request of the gentleman from Texas will be granted.

There was no objection.

The Clerk read as follows:

Page 17, line 17, insert the following paragraph:

"For the construction of a bridge across the San Juan River at Shiprock, N. Mex., on the Navajo Indian Reservation, to be immediately available, $16,500, which said sum of $16,500, with interest thereon at the rate of 3 per cent per annum, shall be reimbursed to the United States by the Navajo Indians, and shall be and remain a charge and lien upon the lands, property, and funds belonging to said Navajo Indians until paid in full, principal and interest."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The amendment was considered and agreed to.

Mr. FOWLER. Mr. Chairman, I desire to make an inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FOWLER. I understood the Clerk to read that the amendment applies to line 17, page 17.

Mr. STEPHENS of Texas. That was a mistake; it comes in after line 16.

Mr. FOWLER. I ask, then, Mr. Chairman, that the amendment be considered as applying after line 16, page 17.

The CHAIRMAN. That has been corrected.

Mr. STEPHENS of Texas. Now, Mr. Chairman, the gentleman from Kansas moved to strike out the last word and withdrew it, and I now yield to him.

Mr. MURDOCK. Mr. Chairman, I would like to ask the chairman of the committee about a dispatch that I found in the New York Herald of last Tuesday, which reads as follows:

[Special dispatch to the Herald.]

SEEKS REPORTS OF SPECIAL INSPECTOR.

ANDOVER, MASS., *Tuesday.*

Prof. Warren K. Moorehead, one of the most energetic members of the Board of Indian Commissioners, says the great majority of the surviving North American Indians are in a far worse situation to-day than at any time since the discovery of America.

"That this is true," said Prof. Moorehead, "no man or woman familiar with Indian history will deny. It is only those persons who are not on the inside, so to speak, who assume that because we are spending several millions of dollars a year in maintaining our Indian Bureau the Indian problem is a thing of the past.

"It is a welcome sign that the public is at last aroused and that the Herald and other newspapers all over the United States are agitating a new Indian policy. While they all agree as to the essential features of this policy—the welfare of the people and the safeguarding of property rights—there is considerable discussion as to how this desired end is to be brought about.

"I am sorry the reports of E. B. Linnen, special inspector for Secretary Fisher, can not be made public. If the American taxpayers could realize what is in those reports such pressure would be brought to bear upon Congress that appropriations would be immediately available for the best possible men to save the American Indians before it is too late. Mr. Linnen has recently visited the leading reservations, and what he has seen and reported upon would seem more natural to have occurred in India in the poor districts or in darkest Russia, rather than in the United States. Nobody can deny the conditions; they are open to the eye of any traveler."

Mr. MURDOCK. I would like to ask the gentleman what are the Linnen reports, and if there are any Linnen reports, why should not they be made public?

Mr. STEPHENS of Texas. That is a question easier asked than answered. Two weeks ago my attention was called to this matter. Behind that I will say that last fall while in the West I heard of the same matter, and I know something of the conditions surrounding the Southern Ute Indian Reservation. There seems to be a trader there exploiting the Indians to his own advantage, and he is charged with standing in with the Indian agent, purchasing horses and animals not needed and padding the accounts of the agency.

I am satisfied that there is something very crooked in that agency. So, believing that, two weeks ago I wrote the department asking them to furnish us with the record. They have failed to do so up to this moment, and yesterday I received a letter saying they were not ready yet to give the information. The report was made last September and has been in the hands of the Indian Department since that time. If the statements made by this man Linnen are true, these men ought to be in the penitentiary instead of holding office under the Government.

Mr. MURDOCK. The gentleman does expect eventually to get the report?

Mr. STEPHENS of Texas. I expect to get that report if it can be obtained by the power of this House.

Mr. MILLER. As I understand the inquiry of the gentleman, it is as to the entire report of Mr. Linnen.

Mr. MURDOCK. Yes. It seems that Special Inspector Linnen has made an investigation of all of the reservations in the United States—not only the Southern Ute Reservation—and that these reports are now in the Department of the Interior. If they revealed any such condition as this dispatch indicates, the House should have those reports at once—dealing not only with the Southern Ute Reservation but with all the reservations.

Mr. STEPHENS of Texas. Mr. Chairman, I would like to make this statement, that the letter from the commissioner which I received yesterday in reply to the letter which I had written him requesting him to forward the statement of Mr. Linnen to the committee was to the effect that they were still examining the matter, and that when they were through examining it they would report, or words to that effect.

Mr. COOPER. When was it filed?

Mr. STEPHENS of Texas. About six months ago.

Mr. MURDOCK. And as soon as the matter is concluded the House is to have the report?

Mr. STEPHENS of Texas. That is the statement of the commissioner.

Mr. COOPER. When was this Linnen report filed in the Interior Department?

Mr. STEPHENS of Texas. It must have been in September last.

Mr. MILLER. If the gentleman will permit me, I think I can throw some light on the matter.

Mr. COOPER. Then they have been examining that report through September, October, November, December, and a part of January and are not yet ready to submit it to the House?

Mr. STEPHENS of Texas. It has not been submitted.

Mr. COOPER. Does not the gentleman think that a report of that kind, which bears on the affairs of the Indians, ought to have been presented to the House and to the country before we take up this general appropriation bill for the Indians?

Mr. STEPHENS of Texas. I think so. I think they have had ample time.

Mr. COOPER. Why has not the committee insisted upon that?

Mr. STEPHENS of Texas. It had not come to our knowledge at that time. I had heard rumors of this matter while in the West on a recent visit, and when I came back here I got further information about the matter from private sources. I did not get it from the department at all. Then I wrote to the department and asked them to forward me the report of Mr. Linnen.

Mr. COOPER. Will the gentleman from Kansas yield to me further?

Mr. MURDOCK. Yes.

Mr. COOPER. Does the gentleman from Texas think that any report submitted by an inspector to a department ought to be kept secret?

Mr. STEPHENS of Texas. I do not. I think it is the public property of the Government.

Mr. COOPER. Has anybody in a department the authority to keep a report of that kind secret?

Mr. STEPHENS of Texas. They exercise the authority, whether they have it or not.

Mr. COOPER. Does the gentleman, who has made a study of this question for a long time, think there is any authority to suppress a report of that kind?

Mr. STEPHENS of Texas. I think not; though this is the second time I have known of it being done.

Mr. DAVENPORT. At this session of Congress?

Mr. STEPHENS of Texas. Yes.

Mr. MURDOCK. The chairman knows that we can reach this report through a resolution in the House.

Mr. STEPHENS of Texas. I thought we could get it more quickly without the resolution.

Mr. MURDOCK. If the special report of Special Agent Linnen should be withheld, the chairman of the committee proposes to go after the report through the agency of a resolution in the House?

Mr. STEPHENS of Texas. Yes; unless it is returned to the committee at once.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. MURDOCK. Mr. Chairman, I move to strike out the last two words. Am I correct in my surmise that the report of this inspector covers all of the reservations in the United States?

Mr. STEPHENS of Texas. Only that one reservation. This man, Mr. Linnen, is a general inspector for the whole United States and is subject to the order of the Secretary of the Interior, and he was sent to this special place to make this report, and did make the report and filed it, I am informed, in September last. I do not know what his report discloses, except what I have heard. I desire to state that the gentleman from Arizona [Mr. HAYDEN] suggests that he has made other reports upon other reservations. That is his business.

Mr. MURDOCK. My understanding was, as this dispatch relates, that he had found a deplorable condition virtually in all reservations.

Mr. STEPHENS of Texas. Possibly so. This is the only one that has been called to my attention.

Mr. CARTER. Mr. Linnen is a regular inspector of the department. It is only a short time ago that he unearthed the fraud in respect to the mineral segregations in Oklahoma, and all three of those implicated at that time resigned under fire, without going to trial.

Mr. COOPER. Mr. Chairman, I would like to ask the chairman of the committee if the information contained in this report ought not to be in the possession of the committee and the House before we legislate on this bill?

Mr. STEPHENS of Texas. I will state to the gentleman that this bill carries only matters of appropriations, and any legislation could not be carried in the bill.

Mr. COOPER. Would it not affect the amount of the appropriations for the purposes for which the appropriations are to be made if we knew the facts?

Mr. STEPHENS of Texas. There is no item carried for the Southern Utes, according to my recollection, in the bill.

Mr. COOPER. The gentleman from Kansas [Mr. MURDOCK] just said that this report covers all the reservations in the country.

Mr. MURDOCK. My understanding is that Special Agent Linnen's report is a report covering generally the reservations in the United States, not merely the single instance of the Southern Utes in Utah.

Mr. STEPHENS of Texas. He is a general inspector, and he goes anywhere that he is sent. He is subject to the orders of the department.

Mr. COOPER. If that is so, ought not we to have the information before we make the appropriation?

Mr. STEPHENS of Texas. No. We could not make an appropriation founded on anything in this report, as I understand it.

Mr. COOPER. But if the gentleman has not seen the report and knows nothing about it, and it relates to all reservations, the gentleman can not say what it contains.

Mr. STEPHENS of Texas. This one Southern Ute Reservation is all I know of specifically.

Mr. COOPER. I have had people speak to me privately, saying things have been unearthed, but this particular report to which the gentleman from Kansas refers I never heard mentioned.

Mr. CARTER. Mr. Chairman, I just want to state to the gentleman that any item in this bill for the immediate taking care of those people would be subject to a point of order, because, as the gentleman from Wisconsin well knows, this bill carries only items for the next fiscal year, and that would more properly come in a deficiency bill.

Mr. COOPER. But if these appropriations are to continue in office certain people—I do not know whether that is true or not—who may be justly attacked in this report of Mr. Linnen's, we would not make the appropriation continuing them in office. That is the point I am making. If there are accusations of fraud bearing upon the officers now doing this work, then we are continuing to appropriate for the very people whom this special agent criticizes.

Mr. STEPHENS of Texas. I will say to the gentleman that this provision of the bill was made up from proper estimates by the department. They have furnished us no estimate relative to that matter, and I would say further that the trouble seems to be that they have a dishonest agent, who is in collusion with a trader. We have to pay some agent, and if this man were removed he would have a successor. He is not specifically named in the bill, but we appropriate so much money for so many employees at each agency.

Mr. COOPER. If that particular gentleman's integrity was attacked in this matter, they could apply a condition to the appropriation when some other man was appointed not to draw this man's salary.

Mr. MILLER. We must know it officially.

Mr. COOPER. We would know it officially if we had that report and it was here, as it ought to be.

Mr. STEPHENS of Texas. We could not have it here when this bill was under consideration. It may be that when the bill is before the other body it will be unearthed.

Mr. COOPER. I do not know why we could not delay appropriating for two or three days until we get that report. I would like to ask the gentleman from Kansas [Mr. MURDOCK] who it was that telegram related to?

Mr. MURDOCK. Mr. Moorehead, of Andover, Mass., who is interested in some way as a citizen in the protection of the Indians.

Mr. MILLER. He is one of the commissioners of the Indian Rights Association. We have an appropriation to pay their expenses in Minnesota.

Mr. MURDOCK. And I would like to ask the gentleman from Minnesota [Mr. MILLER] does he know how long Special Agent Linnen has been engaged in this matter of investigation?

The CHAIRMAN. The time of the gentleman has expired.

Mr. MILLER. Mr. Chairman, I ask unanimous consent for five minutes more.

Mr. STEPHENS of Texas. Mr. Chairman, we can not try all of these things before the committee. Therefore I will object.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For continuing the construction of lateral distributing systems to irrigate the allotted lands of the Uncompahgre, Uintah, and White River Utes, in Utah, and to maintain existing irrigation systems, authorized under the act of June 21, 1906, to be expended under the terms thereof and reimbursable as therein provided, $50,000.

Mr. SIMS. Mr. Chairman, I only rise to ask unanimous consent to extend my remarks in the RECORD by printing an address by Emory R. Johnson, special commissioner on traffic and tolls, before the Western Society of Engineers, Chicago, January 8, 1913, on the subject of "Unwisdom of toll exemption for coastwise shipping."

The CHAIRMAN. The gentleman from Tennessee [Mr. SIMS] submits a request for unanimous consent to have the address indicated by him printed in the RECORD. Is there objection. [After a pause.] The Chair hears none.

The address is as follows:

The provision of the Panama Canal act exempting American coastwise shipping from the payment of tolls raises two questions: Our rights under the treaty of 1901 with Great Britain to adopt such a policy, and the economic wisdom or unwisdom of such a policy irrespective of the provisions of the Hay-Pauncefote treaty.

Two views are held as to the meaning of the treaty. One view is that the treaty means what it seems to say, i. e., that the principle of the neutralization of the canal as broadly established by Article VIII of the Clayton-Bulwer treaty of 1850 has been incorporated without impairment in the treaty of 1901 and that we have promised to treat our ships using the canal the same as we treat British ships. The other view is that the Hay-Pauncefote treaty merely requires the United States to accord equal treatment to the vessels of all other nations.

I do not wish to discuss the possible meanings that may be given to the phraseology used in the Hay-Pauncefote treaty. I am, however, especially pleased by the stand taken by President Taft that the meaning of the treaty is a question to be arbitrated. Indeed, it seems certain that we must eventually either repeal the toll-exemption clause of the canal act of August 24, 1912, or arbitrate the question of the exemption of American ships from the payment of Panama tolls.

If the law stands as it is and tolls are collected on ships under the British flag and not on ships under our flag, Great Britain will doubtless insist upon damages, and if the demand is ignored by the United States, Great Britain may be expected to seek to cause our shipping or commerce to suffer by the amount of the damages she claims. Retaliatory measures on the part of Great Britain would certainly cause us to seek a settlement of the questions at issue. Of course, the settlement would be by arbitration, because it is inconceivable that Great Britain and the United States should be drawn into war over a difference of interpretation of the meaning of a treaty affecting the treatment of shipping.

As between arbitration of the question of the exemption of American coastwise shipping from the payment of Panama tolls and the repeal of the toll-exemption clause of the canal act, the latter course is the wiser one to pursue. If we arbitrate and lose, we must return all the tolls that have been collected, and henceforth either charge no tolls or collect the same tolls on all vessels using the canal. If we arbitrate and win, we will but have established our right to pursue an unwise policy, a policy that is indefensible, whatever may be our rights under the Hay-Pauncefote treaty.

The policy of the United States with reference to the exemption of American coastwise ships from the payment of Panama tolls ought not to be decided with reference to the rights of the United States under the treaty. The questions to be considered are:

Do the coastwise carriers need to be given a subsidy of nearly $20,000,000 during the next 10 years?

Will the general public, shippers and consumers, be benefited by this subsidy, i. e., will freight rates by coastwise lines or by rail lines be lower?

Is this the best method of using public funds to aid the merchant marine?

Are tolls upon all ships needed to make the canal self-supporting and not a burden upon the general taxpayers?

1. It must be evident to every impartial student of the question that it is not necessary to relieve coastwise shipping of canal tolls as long as foreign-built ships are not allowed to engage in the domestic commerce of the United States. American shipowners have a monopoly of the coastwise trade. In 1911 there were 3,537,750 tons of American ships enrolled for the domestic trade on the Atlantic-Gulf and Pacific seaboards. The increase during the preceding decade had been 38 per cent. There is thus a relatively large and healthily increasing tonnage of coastwise shipping, and the opening of the Panama Canal will undoubtedly bring about a large addition to the coastwise fleet. Our coastwise marine is now given sufficient aid and protection by our navigation laws.

2. The sentiment in Congress and elsewhere in favor of relieving the coastwise shipping from the payment of Panama tolls seems to be due largely to the belief that if tolls are collected from the steamship lines the freight rates which they charge and the rates of the transcontinental railroads will be higher by the amount of the tolls, and the public will thus pay more in added freight rates than it will gain in tolls received. This argument, however, assumes an improbable adjust-

ment of rail and water rates. The rates of the steamship lines and the railroads will not be higher if Panama tolls are collected from the coastwise lines.

Those who contend that the traffic carried by rail between the eastern and western parts of the United States will be charged rates increased by the rate of canal tolls assume that the rail charges must be and will be controlled by the coast-to-coast water rates and that the schedules of railroad rates will be fixed at such differentials above the water rates as the railroads can charge and secure traffic in competition with the rival water lines. In order to bring about this adjustment of rail and water rates there must be, first, active rate-controlling competition among the water lines, and, second, it must be the policy of the railroads to fix rates so as to compete actively with the carriers by water for practically all traffic moving between the two seaboards. Will these conditions exist?

It is the practice of steamship lines when operating between common termini to adjust services and rates by "conferences." The informal organizations or conferences of steamship companies are able to regulate competition and to prevent rates from being forced by competition to the level below which they could not be forced without making the business unprofitable. When several steamship lines operate over established routes and serve the same sections they are able by agreements and understandings with each other so to limit competition as to make their services and rates at least partially monopolistic. Unless prevented by effective Government regulation steamship companies will, like railroad companies, steadily increase the monopolistic character of their service.

If this analysis of the relation of steamship companies with each other be correct, it follows that the rates charged by steamship lines between the two seaboards of the United States will be, or will tend to be, not the lowest rates at which traffic can be profitably handled, but rates as high as the interested steamship lines think the rates can be put without limiting the growth of traffic or without losing tonnage to the railroad lines. Steamship companies, like railroad companies, will tend to charge what the traffic will bear; and steamship traffic will bear such rates as shippers will pay to have their goods transported by water instead of by rail. If this be true, the tendency will be for carriers by water to adjust their charges with reference to the schedules of railroad rates. In so far as this practice of rate making prevails, it will be impossible for the carriers by water to add the canal tolls to their rates. Whether there be canal tolls or not, rates by water carriers will be such as the traffic will bear; the upper limit of what traffic by water will bear will be the lower limit to which rates are brought by the railroad; and the tolls will be paid by the owners of the steamship lines instead of by the shippers in additional water rates.

In the case of chartered vessels, however, the shipper, not the owner of the vessels, must bear the burden of the canal tolls. Charter rates will necessarily be increased by the amount of the canal tolls; and, in so far as railroads compete with the chartered vessel for lumber and similar traffic, the canal tolls will be of advantage to railroads. This advantage, however, will be more theoretical than real. It is not probable that the railroads can in any event compete with the carrier by water for bulk cargoes of lumber, coal, and similar products. The railroads will be obliged to allow that traffic to move by water. They will not run the risk of depressing their general schedule of commodity and class rates for the purpose of preventing chartered vessels from securing traffic that can be handled between the two seaboards of the United States for $5 per ton.

It will be the policy of the railroads to allow a portion of the traffic that might be held to the rails to be shipped coastwise through the canal and to maintain rates upon the traffic which can readily be prevented from taking the canal route. It is probable that the railroads will adopt the general policy of surrendering without serious struggle the minor portion of their traffic in order to maintain profitable charges upon the major share of their tonnage.

The effect of canal tolls upon rail and water rates and the adjustment of the charges of coastwise and all-rail carriers handling traffic between the two seaboards of the United States may be summarized as follows:

Producers and consumers would not secure the major share of the benefits resulting from the remission of tolls upon coastwise shipping using the Panama Canal. On the traffic handled by steamship lines between the two seaboards rates will be but slightly affected by canal tolls. The coastwise traffic between our Atlantic and Pacific ports will consist mainly of general commodities and package freight handled by the established steamship lines. The rates charged by the steamship lines being regulated by agreements among competing companies and being fixed with reference to what the traffic will bear, will presumably be as high as traffic conditions warrant, regardless of tolls. The several lines will have uniform and relatively stable schedules of charges, and the rates of the steamship lines will ordinarily be adjusted with reference to the stable schedule of commodity and class rates prevailing upon the transcontinental railroads and their rail connections. If canal tolls are charged, the operating expenses of the steamship companies will be increased by the amount of the tolls, and their net profits will be lessened by the same amount.

Charter traffic between the two seaboards of the United States will be limited to a few commodities handled as bulk cargoes by or for the exceptionally large shipper. Chartered vessels will not compete with the regular steamship lines to such an extent nor in such a manner as generally to regulate the rates charged by the steamship lines on the greater portion of their traffic.

3. The exemption of American coastwise shipping from the payment of Panama tolls is a poor kind of subsidy to our merchant marine. The money will go to our shipping that needs no aid and not to our vessels that require assistance. If the United States is to adopt a ship-subsidy policy, and I personally would not oppose it, the public funds should go where needed, and should be granted in such a manner as to be effective in building up our merchant marine engaged in the foreign trade in competition with ships under the flags of other countries. The experience of Japan, Germany, and even of Great Britain, shows that the only effective ship subsidies are those paid to strong lines operated over routes deemed important to the government granting the subsidy. To aid our merchant marine in such a way as to produce results, strong lines must be selected or created and given such support as they require to enable them to compete successfully with foreign steamship companies and grow stronger year by year; the Government must concentrate its aid and strengthen the strong lines assisted. It has been suggested that it would be wise for the United States to pay back the Panama tolls collected from the owners of American ships engaged in our foreign trade through the Panama Canal. Such a subsidy, however, would be so small and so thinly distributed as to be ineffective; moreover, the repayment to shipowners of the Panama tolls collected from them would invite similar action by other nations to overcome the effect of our action. Such a subsidy would be one suggesting retaliatory action.

4. Are tolls from all vessels using the Panama Canal necessary to make the canal commercially self-supporting, to prevent it from adding one more permanent load to the increasing burdens of the general taxpayers?

The annual revenue ultimately required to make the canal commercially self-supporting would be about $19,250,000. It is estimated that the operating and maintenance expenses will amount to $3,500,000 yearly, and that $500,000 will be required for sanitation and for the government of the zone. The interest on the cost of the canal—$375,000,000—at 3 per cent per annum, will amount to $11,250,000, and the treaty with Panama guarantees an annuity, beginning 1913, of $250,000 to the Republic of Panama. The sum of these four items is $15,500,000. If to this there be added 1 per cent per annum on $375,000,000 to accumulate a fund to amortize the investment, the total annual expenses will be $19,250,000.

The shipping using the Panama Canal during the early years of its operation will probably have an aggregate net tonnage of about 10,500,000 tons. At the beginning of the operation of the canal coastwise American shipping will probably amount to 1,000,000 net tons of this traffic. By the end of the first decade, i. e., 1925, it is probable that the total net tonnage of shipping passing through the canal will amount to about 17,000,000 tons, of which at least 2,000,000 net tons will probably be contributed by our coastwise shipping.

The tolls upon merchant vessels have been fixed by the President at $1.20 per net ton. It is thus possible that the revenues derived from the canal during the early years of its operation might average about $12,600,000 per annum, if all vessels, American and foreign, were to pay tolls. If the coastwise shipping is exempted from tolls the initial receipts from the canal will amount to less than $11,500,000 during the early years of operation. By 1925 the total traffic of 17,000,000 net tons might, if the rate of tolls were maintained at $1.20 per ton, yield a possible revenue of $20,400,000 if all ships, American and foreign, were required to pay the canal levies. In all probability, however, the rate of tolls will have been reduced to $1 per net ton by 1925, thus reducing the possible aggregate revenue to $17,000,000. The coastwise shipping of the United States in 1925 will doubtless contribute at least 2,000,000 of the probable 17,000,000 net tons of aggregate traffic. Thus, if the coastwise shipping does not pay tolls in 1925, and the rate of tolls is $1 per net ton, the probable revenue of the Panama Canal will then be $15,000,000 a year, or somewhat less than the estimated annual outlays for operation, zone sanitation, government, the Panama annuity, and the interest on the amount invested in the canal.

The United States Government should adhere to business principles in the management of the Panama Canal. While tolls levied at Panama should be low enough to permit commerce to derive substantial benefits from the canal, and while the charges for the use of the waterway should be well within what the traffic will bear, business prudence and political wisdom demand that the canal shall be commercially self-supporting providing revenues, large enough to enable the canal to carry itself, can be secured without unwisely restricting traffic. The tolls of $1.20 per net ton, as established by the President, will not unduly restrict the use of the canal, even by shipping least benefited by the waterway. Coastwise carriers between the two seaboards of the United States will derive the maximum benefit from the canal, and a rate at least three times the one established might be paid by coastwise carriers without restricting their use of the waterway.

The canal will cost the United States Government $375,000,000, much of which has been, or will be, secured by borrowing funds. The interest and principal of this debt must be paid either from funds secured by general taxes or from the revenues derived from canal tolls. Public expenditures are increasing rapidly. Funds are required in increasing amount for the promotion of the public health, for irrigation and reclamation, and for maintaining the military powers and naval prestige of the United States. Large expenditures upon rivers and harbors are urgently needed. Taxes must inevitably increase. The demands upon the United States are certain to be much greater in the future than they have been in the past, and it does not seem wise for the Federal Government to construct and maintain at the expense of the general budget such a costly public work as the Panama Canal. Those who derive immediate benefit from the use of the Panama Canal may properly return to the Government a portion of the profits secured from using the canal, provided this policy can be followed out without burdening commerce. It should be the policy of the United States to apply business principles to the management of the Panama Canal and to prevent its being a continuing burden upon the General Treasury and upon the taxpayers of the United States.

The Clerk read as follows:

For continuing the construction of lateral distributing systems to irrigate the allotted lands of the Uncompahgre, Uintah, and White River Utes, in Utah, and to maintain existing irrigation systems, authorized under the act of June 21, 1906, to be expended under the terms thereof and reimbursable as therein provided, $50,000.

Mr. MURDOCK. Mr. Chairman, I move to strike out the last word, and I do so for the purpose of asking the gentleman from Minnesota [Mr. MILLER] if he can tell us over what period of time Mr. Linnen, a special agent in the Interior Department, has investigated the conditions on various Indian reservations in the United States, what reports he has made, and what hope there is of any conclusion of this matter?

Mr. MILLER. I can only answer the gentleman in a general way, because my information is only general. I will say that Mr. Linnen is only an ordinary inspector in the Indian Bureau, and as such he travels where he is sent to make investigation and report. I know he has made some rather extended investigations in various places at different times, extending over several years, and, as with other inspectors, as is always the case, he makes his report in detail covering the subject he is sent to investigate. It has never been the custom to have those printed or to send them to Congress. They are in the nature, more or less, of the routine part of the work of the department. Prof. Moorehead, I am sure, has in mind something that Mr. Linnen may have said in some of his recent reports.

Mr. MURDOCK. How recent?

Mr. MILLER. There is no general investigation which he has made or no general report. He has made some special reports covering special investigations, the same as other inspectors have made, and he has made some, no doubt, recently. I presume he is making them monthly, or if he has a detail covering more than a month, he makes them bimonthly. These investigations are not general investigations of the Indian question. These reports are always available. Several of them have been published as documents from time to time as called for. If somebody calls for these they will be published as a document. Any Member who would go to the office of the Secretary of the Interior could get a copy of them.

Mr. MURDOCK. The gentleman does not believe for a minute that Prof. Moorehead is right in his conclusions that the conditions that exist in the reservations in the United States could only be equaled in India or Russia for distress?

Mr. MILLER. Prof. Moorehead is a very high-minded man. He is holding his position simply because of a desire to perform a good public service. I must confess, after some reasonable investigation, that some of his knowledge must be from hearsay and is not always correct. I know he means what he says, but I can not always accept his conclusions, because I do not feel that they are true.

I have investigated several Indian reservations in the last four or five years, and I would not hesitate to say that the condition of the Indians in this country at large is vastly superior to what it ever was before, but that does not conclude that in several places there has been great wrong, and in many instances there has been great fraud, and that eternal vigilance is the price of success in the handling of the Indian question all along the line. And it is to the advantage of the whole situation that men like Prof. Moorehead keep raking it up.

Mr. MURDOCK. Then does not the gentleman think that we ought to have all the information of the Linnen reports?

Mr. MILLER. Yes, sir. It has never been the practice in the department to publish them.

Mr. HAYDEN. I will say that in one case I was asked to have the commissioner give me a report of Mr. Linnen. I called at the office. The Secretary said that the information contained in the report was to be used before a grand jury in Arizona, and therefore could not be published at that time. Mr. Linnen was sent to Arizona and the agent was indicted, and Mr. Linnen's testimony was used before the grand jury before anybody else saw it.

Mr. WILLIS. I want to suggest to the gentleman from Kansas that I know something about Prof. Warren K. Moorehead, who has been brought into this discussion. I have known him personally for 20 years. I regard him as one of the greatest living authorities on the American Indian. What he knows about the Indian he does not base on what he has read in books. He has studied these subjects personally and at first hand. He has written a number of books on the Indian that are not theoretical, but practical, and are entirely reliable. In my judgment what he says about the Indians should carry a great deal of weight.

Mr. MURDOCK. In view of that statement, then, I want to say to the gentleman from Ohio that this is rather a severe indictment.

Mr. WILLIS. It is, if Prof. Moorehead really said what the newspapers quoted him as saying.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HOWELL. Mr. Chairman, I move to strike out the last word.

Mr. STEPHENS of Texas. Mr. Chairman, what is pending before the House?

The CHAIRMAN. The gentleman from Utah [Mr. HOWELL] is recognized.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent that debate on this paragraph close in five minutes.

Mr. HOWELL. I would like to have one minute.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

The CHAIRMAN. The gentleman from Utah is recognized for one minute.

Mr. HOWELL. Mr. Chairman, in the interest of justice to the officials of the Uintah Indian Reservation I wish to correct some misinformation that has been given on the floor of the House recently. The Uintah Indian Reservation in Utah, to which reference has been made, has not been examined by Special Agent Linnen. It has been examined by an agent of the department, and while there have been some suggestions made with reference to the administration of the reservation, there was no criticism made whatever as to the handling of the funds of the Indians. The officers in charge were found to be absolutely clear from any taint or semblance of corruption in the discharge of the important trusts which have been imposed upon them.

The Southern Ute Reservation, which was designated as being located in Utah, is in Colorado, and I felt like making the record straight, so that the officers of the Uintah Indian Reservation might not rest under the imputation of having been found guilty of corruption.

Mr. STEPHENS of Texas. Mr. Chairman, I ask that the Clerk read.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For support and education of 300 Indian pupils at the Cushman Indian School, Tacoma, Wash., including repairs and improvements, and for pay of superintendent, $50,000, said appropriation being made to supplement the Puyallup school funds used for said school.

Mr. LA FOLLETTE. Mr. Chairman, I wish to offer an amendment to page 30, after line 6.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Washington [Mr. LA FOLLETTE].

The Clerk read as follows:

Amend, on page 30, after line 6, by adding the following:

"For support and civilization of the Kalispel Indians in the county of Pend Oreille, in the State of Washington, to erect a school building, employees' quarters, and other necessary buildings, and providing the same with equipment, in the purchase of stock, implements, seeds, and other articles necessary to promote the general welfare of said Indians, including the employment of teachers and instructors, under the jurisdiction of the Spokane Indian School, Spokane, Wash., with the approval of the Secretary of the Interior, $10,000.

"That the Secretary of the Interior is hereby authorized and directed to make allotments, under the general allotment act, to the Kalispel Indians in the county of Pend Oreille, in the State of Washington, of the following-described lands, which they are now occupying, to wit:

"Township 34 N., range 44 E.: Section 20, S. ½ of SE. ¼ and S. ½ of SW. ¼; section 29, all except the SE. ¼ of SE. ¼; section 30, lots 1, 6, 7, and 12; section 31, lots 1, 6, 7, and 12; section 32, NW. ¼ of NE. ¼, N. ½ or NW. ¼, SW. ¼ of NW. ¼, and W. ½ of SW. ¼.

"Township 33 N., range 44 E.: Section 5, lots 4, 5, and 6, SW. ¼ of NW. ¼, and E. ½ of SW. ¼; section 6, lots 1, 6, and 7; section 8, lots 1, 2, 3, and 4; E. ½ of NW. ¼, E. ½ of SW. ¼, SE. ¼ of NE. ¼, W. ½ of SE. ¼, and SE. ¼ of SE. ¼; section 17, all; section 18, lots 1, 6, 7, and 12; section 19, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, and 12; section 20, all except E. ½ of SE. ¼; section 29, all; section 30, lots 1, 6, and 7; section 32, lots 1, 2, 4, 5, 6, and 7, N. ½ of NE. ¼, and SE. ¼ of NE. ¼; section 33, S. ½ of NW. ¼, N. ½ of SW. ¼, SE. ¼ of SW. ¼, and lot 1.

"Total area, 4,449.27 acres."

Mr. STEPHENS of Texas. Mr. Chairman, I make a point of order against the amendment.

Mr. LA FOLLETTE. Will the gentleman withhold his point of order for two minutes?

Mr. STEPHENS of Texas. Yes; I will yield to the gentleman two minutes.

The CHAIRMAN. The gentleman from Washington [Mr. LA FOLLETTE] is recognized for two minutes.

Mr. LA FOLLETTE. Mr. Chairman, this amendment which I have offered is an amendment which I offered to the bill on a previous occasion. It is to provide for a band of 100 Indians in my district in the State of Washington. Some 25 years ago the Government moved the tribe from their abiding place, and this little band, like the Seminole Indians in Florida, refused to leave their hunting grounds or homes, and the Government set aside the prescribed tract of land I have set forth in the amendment for them to reside on. They have lived there for 25 years without any allotments and without any assistance received from the Government in any shape, form, or manner. The country thereabouts has been settled up, and the game has been driven out, and those people are in destitute circumstances. I think it is only an act of justice that they should be provided for.

The Government set aside this land for them 25 years ago, but it was never allotted to them. They have never had any schools or anything else done for them, and they are surely as much the wards of the Government as are the Seminoles or any of the Indians in Oklahoma.

Mr. STEPHENS of Texas. Mr. Chairman, I sympathize with the gentleman, and I suggest that the best way for him to proceed is to go to the department and get the department to use for the purpose he has in mind part of the lump-sum appropriation that we make for that purpose.

Mr. LA FOLLETTE. They told me at the department that they wished something could be done in this matter, but that they did not have the authority.

Mr. STEPHENS of Texas. Then why does not the gentleman draft a bill and present it to the Committee on Indian Affairs, so that the committee could get a report from the department and the bill could come up in the regular way? It can not come in the appropriation bill at this time. It is new legislation.

The CHAIRMAN. The point of order is sustained. The Clerk will read.

The Clerk read as follows:

For support and education of 250 Indian pupils at the Indian school, Tomah, Wis., and for pay of superintendent, $43,450; for general repairs and improvements, $6,000; in all, $49,450.

Mr. ESCH. Mr. Chairman, I wish to offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Wisconsin [Mr. ESCH].

The Clerk read as follows:

Amend, page 30, by inserting after the figures "$6,000," in line 15, the following: "For improvement of boiler house and installation of central heating plant, including boilers, $8,000."

Mr. STEPHENS of Texas. Mr. Chairman, I make the point of order against the amendment. It is clearly new legislation. It provides for a new boiler and fire house.

Mr. ESCH. Mr. Chairman, this is an improvement in the existing plant, and evidently it can not be subject to the point of order made by the chairman of the Committee on Indian Affairs. The present occupant of the chair has declared in a ruling this afternoon that where the Government has established a policy it would be lawful to enact legislation to carry out such a policy.

The Government has established an Indian school at this place. The heating plant is but an incident thereto, and hence an improvement in such heating plant would not be subject to the objection made by the gentleman as new legislation.

Mr. STEPHENS of Texas. I think the gentleman is wholly in error. This term "general repairs and improvements" has been held to mean repairs and improvements on buildings used, or upon the water plant or something of that kind attached to the school, for school purposes. The term "general repairs and improvements" is well known, and does not contemplate erecting any new buildings or anything of the kind, and it would be subject to a point of order.

Mr. ESCH. A heating plant would be exactly in line with what the gentleman has just stated.

Mr. STEPHENS of Texas. Then if it is, they would not need this, because it would come under the head of general repairs and improvements, and this $7,000 could be used for the purpose of putting it in.

Mr. ESCH. You cut it down over a thousand dollars below what it was last year. It is very necessary.

Mr. STEPHENS of Texas. It is evidently subject to the point of order. The heating plant is not mentioned in the bill, and it could not possibly be construed to cover the heating plant. If it could, it could cover the school building or anything else.

Mr. ESCH. There is a heating plant there now. This is an improvement thereof.

The CHAIRMAN. Has the gentleman the act upon which this item in the bill was based?

Mr. ESCH. I have not the act at hand. I suppose it would hark back to the organic law providing for this school.

The CHAIRMAN. Has the gentleman that act?

Mr. ESCH. I have not.

The CHAIRMAN. Can the gentleman get it? We can pass this for the time being?

Mr. ESCH. I will try to get the authority. I ask that the item may be passed for the present.

The CHAIRMAN. The Clerk will then continue the reading of the bill.

The Clerk read as follows:

SEC. 25. For support and civilization of Shoshone Indians in Wyoming, including pay of employees, $12,000.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. The department estimated $15,000 for this purpose this year. The additional $3,000 was partly intended to cover contemplated increases in the salaries of some of the officials. Inasmuch as the committee has taken the position that it will not agree to any increases whatever in salaries, it is hardly worth while for me to offer an amendment, as the committee would not agree to it and it could not be adopted. Therefore I shall offer no amendment at this point, but express the hope that the committee will be a little more liberal in this matter in the future. I withdraw the pro forma amendment.

The CHAIRMAN. The pro forma amendment is withdrawn. The Clerk will read.

The Clerk read as follows:

For support and education of 175 Indian pupils at the Indian school, Shoshone Reservation, Wyo., and for pay of superintendent, $31,025; for general repairs and improvements, $4,000; in all, $35,025.

Mr. MONDELL. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

In lines 2 and 3, page 31, strike out "$4,000; in all, $35,025," and insert in lieu thereof "$6,000; in all, $37,025."

Mr. FERRIS. I reserve a point of order on that amendment.

Mr. MONDELL. The item is not subject to a point of order.

Mr. FERRIS. I am not sure about that.

Mr. MONDELL. Mr. Chairman, I hope the committee will accept this amendment. It increases this item $2,000. The estimate of the department was $6,000 above what the committee has allowed. The entire sum should have been allowed, because it is greatly needed for slight increases in a few salaries, but more particularly for the improvements of the dairy barn. Gentlemen are aware that while this school is on a reservation, it is specifically appropriated for, and therefore none of the sums in the general appropriation can be used for repairs. Therefore this school and the farm adjacent must be cared for and the improvements made entirely out of these items. Among the other buildings in connection with the school is a dairy barn which is in a very bad condition. It should be rebuilt. The department estimates that $4,000 is needed for this work, but I am only asking the committee to give us $2,000, in the hope that with the increase of $2,000 they may repair or partly rebuild the dairy barn so that it will be possible to continue to use it. On page 141 of the hearings this language is used by the commissioner:

This will leave a balance of about $4,000 for use in constructing a new dairy barn at the school, which is badly needed, as the one now in use is in a dilapidated condition, tumbling in and not worth repairing, and wholly unfit to keep stock in.

As a matter of fact, what is contemplated is really to rebuild the dairy barn, and $4,000 is needed for that purpose; but if the committee will add $2,000 to the appropriation I hope that they may be able to make that improvement. Without it the building is likely to be in condition where it can not be used at all. I should ask for more for this purpose. I should ask for an increase in the salary of the superintendent, and for other officials, if I believed there was any hope of securing it, but as I know all such increases would be opposed and defeated I am only asking what I feel is absolutely essential.

Mr. STEPHENS of Texas. I desire to ask the gentleman whether or not this is a structure of stone, brick, or lumber?

Mr. MONDELL. This building has perhaps a stone foundation, but built, as I recollect, of native lumber, and the new building would, I assume, be built of native lumber, which the Indians would largely get out themselves. The money would be expended to a considerable extent for Indian labor. They would saw the material at their own sawmill, I hope, and get the material from their own reservation.

Mr. STEPHENS of Texas. Would it be necessary to rebuild the barn entirely?

Mr. MONDELL. Very largely, I am inclined to think. Practically it would be necessary to go to the foundation and then come up with a new structure. Possibly there is material in the old barn that they will use, but practically the barn should be rebuilt.

Mr. STEPHENS of Texas. How long has the barn been there?

Mr. MONDELL. I should say 20 years or more.

Mr. STEPHENS of Texas. How many cows and other animals do they have?

Mr. MONDELL. They have a considerable farm, about 1,200 acres, and a herd of cows to furnish milk, cream, and make the butter.

Mr. STEPHENS of Texas. Does the gentleman know the size of the barn?

Mr. MONDELL. No; but it is quite a large barn; they estimate that it would cost $4,000; but with this increase they will have in all $6,000 for all needed repairs, and I am in hopes that out of this $6,000 they can take enough to rebuild the barn and then have a small sum for other repairs. It will not give the amount that they ought to have, but it will help some.

Mr. STEPHENS of Texas. The gentleman from Wyoming has another amendment. Is the gentleman willing to take the additional amount out of the general appropriation?

Mr. MONDELL. Yes.

Mr. STEPHENS of Texas. Mr. Chairman, I have no objection to this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wyoming.

The amendment was considered and agreed to.

The Clerk read as follows:

For continuing the work of constructing an irrigation system within the diminished Shoshone or Wind River Reservation, in Wyoming, including the maintenance and operation of completed canals, $50,000, reimbursable in accordance with the provisions of the act of March 3, 1905.

Mr. MONDELL. Mr. Chairman, I offer the amendment which I send to the desk, to be inserted at the end of the paragraph.

The Clerk read as follows:

Page 31, line 9, insert the following as a new paragraph:
"*Provided*, That the Secretary of the Interior is hereby authorized and directed to use not to exceed $1,000 of the sum herein appropriated for the purpose of making an investigation of the conditions of the roads and bridges of the said Wind River Reservation, and shall submit a report thereon, together with maps and plans of said roads, together with an estimated cost of construction of the suitable and necessary roads and bridges on said reservation."

Mr. STEPHENS of Texas. This does not enlarge the appropriation?

Mr. MONDELL. It does not enlarge the appropriation at all. It does not increase the appropriation, but gives the Secretary of the Interior an opportunity to make a needed investigation.

Mr. STEPHENS of Texas. Is the gentleman aware, if he gets this amendment, that it will be subject to a point of order in a succeeding bill—that the appropriation would be subject to a point of order?

Mr. MONDELL. I understand that. The gentleman understands that any appropriation that was made following this report, if the report should justify an appropriation, would, perhaps, be subject to a point of order.

Mr. STEPHENS of Texas. The whole provision is reimbursable?

Mr. MONDELL. It is.

Mr. STEPHENS of Texas. The Indians are requesting that this shall be done?

Mr. MONDELL. I think they desire to have good roads.

Mr. FOSTER. Mr. Chairman, I would like to ask the gentleman is there any money in the Treasury to the credit of these Indians?

Mr. MONDELL. There is not very much at this time, but the Indians have over a million acres of land that by law are subject to sale now and are being sold from time to time. In addition to that they have a reservation which they own in common in addition to their allotment, and a good deal of it is very good land.

Mr. FERRIS. Mr. Chairman, if the gentleman will allow me, the property of these Indians amounts to $2,212,140.68; so I assume that the Government would get its money back.

Mr. MONDELL. I do not think there is any question about that.

The Clerk completed the reading of the bill.

Mr. ESCH. Mr. Chairman, there was an amendment offered by me, on page 30 of this bill, that was passed over. I ask unanimous consent to withdraw the amendment to which the gentleman from Texas made objection and offer in lieu thereof the following which I send to the desk.

The Clerk read as follows:

Amend, line 15, page 30, by striking out the figures $6,000 and inserting in lieu thereof $14,000.

Mr. ESCH. Mr. Chairman, the prime object of asking for an increase in this appropriation is to improve the heating plant at the Tomah Indian School. The heating plant they have there heats only two buildings, and there are a dozen buildings on the grounds. They have separate boilers and separate buildings. The purpose is to connect the several buildings with a central plant, and enlarge the plant in order to meet the new demands. The separate heating plants in the several buildings have been installed many years. The several boilers are in bad condition and can not be put to the highest capacity to get the highest pressure and meet the low temperatures that we have in that climate. The cost of repairs is increasing year by year by reason of the separate heating plants in the separate buildings. It is a matter of great economy to install a separate plant and heat all the buildings, not only an economy as to service, but a great economy in coal consumption. The coal cost last year $7,500 to heat these buildings. Col. Pringle, supervising engineer of the Indian service, declares that with an improved plant there would be a saving of 15 to 20 per cent, which would amount to $1,500 a year. So the cost of this improvement can be saved in five years. No private individual or private corporation would persist in maintaining the heating system that we have there in that school to-day. They would install a central plant to effect the economies that I have suggested. I hope, on the plea of economy, if on no other, the gentlemen will consent to the increase in this item.

Mr. STEPHENS of Texas. Mr. Chairman, I desire to ask the gentleman how old this school is.

Mr. ESCH. Over 20 years.

Mr. STEPHENS of Texas. How many students are there?

Mr. FERRIS. The enrollment is 269 and the attendance 239.

Mr. STEPHENS of Texas. What is the cost per capita?

Mr. ESCH. I think $177.

Mr. STEPHENS of Texas. What is the size of the farm that they have?

Mr. ESCH. Three hundred and forty acres.

Mr. STEPHENS of Texas. What kind of buildings have they?

Mr. ESCH. They are of brick.

Mr. STEPHENS of Texas. Are they of brick throughout?

Mr. ESCH. Yes; except two or three small buildings.

Mr. STEPHENS of Texas. I see they have been making appropriations for general repairs and improvements right along, as they do usually in all of these schools. If these are brick buildings, why is it that they would be needing repairs from year to year if only 20 years old?

Mr. ESCH. In the one item of repairing boilers in these separate buildings I understand the cost one year was almost $1,000. Then they are trying to replace the old pine floors of these schools with hardwood, and have tried to put in cement sidewalks. They have tried to enlarge the dairy barn and to make other improvements. They have also improved the waterworks.

Mr. STEPHENS of Texas. Does the gentleman know what the additional amount estimated was?

Mr. ESCH. Twenty-one thousand dollars by the superintendent, which includes, however, an employees' building.

Mr. STEPHENS of Texas. Does not the gentleman think that $4,000 would be enough for the purpose that he desires?

Mr. ESCH. I am afraid it would not, because of the cost of connecting the central plant with these 12 buildings. We have to lay the pipes 5 feet under ground.

Mr. STEPHENS of Texas. I will be willing to accept an amendment of $4,000.

Mr. ESCH. Will not the gentleman make it $5,000? [Laughter.]

Mr. STEPHENS of Texas. I am willing to make it $4,000.

Mr. ESCH. Then, Mr. Chairman, I will amend my amendment by making it $10,000, being an addition of $4,000, as suggested by the gentleman from Texas.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, line 15, page 30, by striking out the figures "$6,000" and inserting in lieu thereof the figures "$10,000."

Mr. STEPHENS of Texas. And by changing the totals to correspond.

The CHAIRMAN. The question is on the amendment.

The question was taken and the amendment was agreed to.

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent now to return to page 10 of the bill, to the item under California.

The CHAIRMAN. It was the understanding that if there was no objection the committee would return to that item.

Mr. STEPHENS of Texas. This item was passed over on last Tuesday in order that the gentleman from California [Mr. RAKER] might have an opportunity to offer an amendment.

Mr. FOSTER. Mr. Chairman, I think the item has not yet been read.

The CHAIRMAN. The Clerk will read the item.

The Clerk read as follows:

CALIFORNIA.

SEC. 3. For support and civilization of Indians in California, including pay of employees, and for the purchase of small tracts of land situated adjacent to lands heretofore purchased, and for improvements on lands for the use and occupancy of Indians in California, $57,000.

Mr. FOSTER. Mr. Chairman, on that I reserve a point of order. I desire to ask the gentleman from California [Mr. RAKER] a question. He seems to have some interest in this matter.

Mr. RAKER. Oh, no interest especially, except as a Representative from California to the end that these unfortunate people be properly cared for.

Mr. FOSTER. How many Indians are there in California?

Mr. RAKER. Something over 20,000.

Mr. FOSTER. And how much land have they?

Mr. RAKER. I am not able to inform the gentleman.

Mr. FOSTER. This is irrigated property?

Mr. RAKER. Oh, no; this is throughout the entire State.

Mr. FOSTER. How long has Congress been appropriating $57,000 to buy little strips of lands around where these Indians are located? Can the gentleman inform us?

Mr. RAKER. No. I can say this, that Congress has never been appropriating $57,000 for this purpose.

Mr. FOSTER. Oh, I think it has for several years.

Mr. RAKER. They have been appropriating big amounts, but not sufficient, of course, for the purpose of education and maintenance of Indians, and, incidentally, for the purchase of some lands.

Mr. FOSTER. Can the gentleman inform the committee how much of this $57,000 is expended for salaries for men looking after this all of the time?

Mr. RAKER. I am unable to state the exact amount.

Mr. FOSTER. Does the gentleman know whether there are men who are employed constantly to pick up those little pieces of land?

Mr. RAKER. Oh, no; I am satisfied of that.

Mr. FOSTER. Is the gentleman sure of that?

Mr. RAKER. Yes; I am satisfied of that.

Mr. FOSTER. My understanding is that there is a certain one who is kept busy there all of the time, employed by the year.

Mr. RAKER. I think that does not apply to the State of California for the purpose of picking up land.

Mr. FOSTER. They are buying this land.

Mr. RAKER. No one, as I understand it, is engaged in that special occupation.

Mr. FOSTER. Who looks after buying this land?

Mr. RAKER. First, it would be the agents or the superintendents of the schools near by where they are looking after the other matters, and if it becomes necessary to obtain some small tracts they would do so.

Mr. FOSTER. They spend $57,000 every year?

Mr. RAKER. Oh, no; this does not cover all. The purpose of the bill is for the support and civilization of the Indians of California. That goes over the entire State.

Mr. FOSTER. And the purchase of land?

Mr. RAKER. And incidentally—and it is so incidental that it amounts to very little—there are occasionally small pieces of land that are obtained adjacent to some particular tract now held by the Government for the use of the school or otherwise, and there have been a few instances where they have purchased a little tract for some Indians.

Mr. FOSTER. Does the gentleman propose to increase this amount?

Mr. RAKER. Yes; as recommended by the department in its estimate and, further, as shown by virtue of correspondence with the department.

Mr. FOSTER. How much does the gentleman propose to increase it?

Mr. RAKER. Three thousand dollars.

Mr. FOSTER. For the purpose of buying land or paying salaries?

Mr. RAKER. For the purpose of absolute necessaries for the care and support of the Indians. There are a number in the State that are unprovided for. Even our counties are assisting all they can, and I am informed by the department that they have used up every cent that they appropriated last year and that there are needy Indians in the State, scattered over the State, that ought to have the care and assistance of the department, and the department is unable to give them that care on account of not having the funds.

Mr. FOSTER. Mr. Chairman, the gentleman's argument is so convincing to me that I am willing to withdraw the point of order. I withdraw the point of order.

Mr. RAKER. I offer the following amendment.

The CHAIRMAN. The gentleman from California offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, by striking out the figures "57,000," at the end of line 23, on page 10, and insert in lieu thereof the figures "60,000."

Mr. RAKER. Now, Mr. Chairman——

Mr. STEPHENS of Texas. Is there any specific piece of land that it is designed to purchase?

Mr. RAKER. This does not apply to the land at all, and I hope it will not be used for land, but for the actual necessaries for the maintenance of the old Indians scattered all over California. I have a letter here——

Mr. STEPHENS of Texas. Does that change the language of the law heretofore?

Mr. RAKER. No; this is just the same. I only strike out "fifty-seven thousand" and put in "sixty thousand."

Mr. STEPHENS of Texas. Just changing the totals?

Mr. RAKER. That is all.

Mr. STEPHENS of Texas. Then I withdraw any objection.

Mr. MILLER. Mr. Chairman, if the gentleman has finished, I rise to oppose the amendment. I certainly hope the chairman of our committee will not accede to that amendment. If I understand the purport of it, he is introducing a revolutionary and most remarkable proceeding. Every State has many indigent, poverty-stricken, perhaps suffering, Indians scattered through it. It is because of humanity actuating the respective communities in which they may live that they extend some care to them. If they have some property rights or tribal rights, it is the duty of the Government to look after them somewhat, but never since I have been a member of the committee have we appropriated from the Federal Treasury a dollar for an agent who is going over a State to find some needy Indians and pay it to them. I understood the gentleman to say that he wanted $3,000 to take care of these poor and needy Indians.

Mr. RAKER. Will the gentleman yield there?

Mr. MILLER. Certainly.

Mr. RAKER. There is in this bill provided for the care and support and civilization of Indians in California, $57,000. Now, there have been a number of applications to the department more than furnished last year for these Indians. Last year they were unable to do it, and they are unable to do it this year. They recommended that $60,000 be appropriated. According to their letter to me they say it ought to be $75,000.

Mr. MILLER. Are you speaking of the department's estimate?

Mr. RAKER. I am speaking of the letter of the department.

Mr. MILLER. I am speaking of the department's estimate.

Mr. RAKER. Yes, sir; I have a letter here.

Mr. MILLER. And the letter is from the local officer?

Mr. RAKER. No; it is from the Secretary here, the Assistant Secretary of the Interior, Mr. Adams. He says:

DEPARTMENT OF THE INTERIOR,
Washington, January 2, 1913.

Hon. JOHN E. RAKER,
House of Representatives.

SIR: In response to your letter of December 30, 1912, addressed to the Indian Office, regarding the appropriations for the Fort Bidwell and Greenville Indian schools, I have the honor to advise you that the department has submitted favorable reports, with amendments, on H. R. 26669 and H. R. 26670, introduced by you, providing specific appropriations for the Fort Bidwell and Greenville Indian schools. There are inclosed for your information copies of the reports of the department on these bills.

The department will be glad to see the provisions contained in H. R. 26669 and H. R. 26670, if amended as suggested, incorporated in the Indian appropriation bill and a specific appropriation provided for these schools.

Referring to the appropriation for the support and civilization of Indians in California, your attention is invited to the estimate of the department found on page 401 of the estimates of appropriations, 1914, wherein the department requested $60,000 for this work. The Indian bill, H. R. 26874, as reported by the House Committee on Indian Affairs, carries an appropriation of only $57,000 for this work. While there is need for $75,000 for the support and civilization of Indians in California, the department would be satisfied if its estimate for this work, amounting to $60,000, were provided for in the Indian appropriation bill.

Referring to the Indian school at Riverside, Cal., you are advised that the department's estimate for this school is as follows:

"For support and education of 550 Indian pupils at the Sherman Institute, Riverside, Cal., for pay of superintendent, and for general repairs and improvements, $105,000; new buildings, $20,000; central heating plant, $15,000; in all, $140,000."

The Indian bill as reported to the House carries an appropriation of only $104,350 for the Riverside school. The Riverside plant, by the use of the sleeping porches which have been added to a number of the dormitories, has a capacity of about 700. In view of the fact that this school can now accommodate about 700 pupils, it would be in the interest of economy in the expenditure of public funds to authorize the enrollment of 700 pupils, provided Congress would appropriate for the support of this number.

The increase in the enrollment at this school from 550 to 700 would require an additional appropriation over the estimate submitted by the department of $25,050, this amount being determined on the basis of $167 per pupil.

A new building for employees' quarters is one of the urgent needs of the Riverside School. In this connection your attention is invited to the letter of the department of even date in answer to your letter of December 23, 1912, with which you inclosed a copy of a letter from the Chamber of Commerce of Riverside, Cal., regarding the Riverside Indian School.

Referring to your inquiry regarding the needs of the Indians of the Klamath River Indian Reservation, your attention is invited to the report of the department dated December 21, 1911, transmitting a draft of legislation which has been introduced as H. R. 16683, which, if enacted, would enable the department to use the available funds arising from the sale of the lands of said Indians for their benefit. I should be glad to see enacted at this session of the Congress H. R. 16683.

The department will be pleased to furnish any additional information that you may desire regarding the matters to which you refer in your letter of December 30, 1912.

Respectfully,
SAMUEL ADAMS,
First Assistant Secretary.

Mr. MILLER. Very well; I am glad to have that information. Still, Mr. Chairman, it does not alter the situation from my own viewpoint. In the first place, to my mind, this is an exceedingly dubious paragraph. I always have thought so, and that it was subject to a point of order. It contains several things which, if it were a new proposition, I never would give my consent to. For instance, it authorizes the purchase of small tracts of land situated adjacent to land heretofore purchased. What tracts of land, by whom purchased, and what for?

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. MILLER] has expired.

Mr. MILLER. Mr. Chairman, inasmuch as most of my time was occupied by other gentlemen, I ask an extension of five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MILLER. That in itself would be sufficient to defeat the bill if it were an original proposition. A year ago we allowed $57,000. Does not the committee see fit to reappropriate that exact amount? Now, in view of the peculiar and particular character of this appropriation I do not think it wise for the gentleman to ask to increase it, because if he does it may be that the next time it falls by it will not be in at all. I do not believe this kind of an appropriation should ever be started, but, having once been started, Mr. Chairman, I do not think it should ever be extended.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. RAKER].

The question was taken, and the amendment was rejected.

Mr. RAKER. Mr. Chairman, I desire to have printed as a part of my remarks a letter from the Acting Secretary of the Interior, and also one from Mr. Abbott, the acting commissioner, dated December 21.

The CHAIRMAN. Is there objection?

There was no objection.

The letter is as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, December 31, 1912.

Hon. JOHN E. RAKER,
House of Representatives.

SIR: Receipt is hereby acknowledged of your letter of December 18, making inquiry in regard to the status of certain indigent Indians living at Hay Fork, Trinity County, Cal.

In reply, I have the honor to advise you that these Indians are located about 100 miles from the nearest Indian school, Round Valley Indian School, at Covelo, Cal., and the superintendent states that it will take at least two weeks' time and cost approximately $75 for each visit made to these Indians. At times it would be impossible for him to visit them on account of the dangerous streams between the two places.

For administrative purposes, these Indians are considered under the jurisdiction of Mr. Horace G. Wilson, in charge of the nonreservation Indians of Oregon and California, with headquarters at Roseburg, Oreg., about 200 miles from where these Indians live.

The office always stands ready to furnish real emergency relief to Indians in a starving or destitute condition within the territory where the service has facilities for such action and as far as applicable funds are available.

As heretofore set forth in previous correspondence in regard to the matter, it is practically impossible, owing to the limited amount of funds available, for this office to give more than occasional temporary relief to these Indians. With the funds appropriated for the Indians in the State of California it is practically impossible to provide for the needs and industrial advancement of the Indians directly under the jurisdiction of the various superintendents, and at the present time there is no balance of the amount appropriated for the "Support of Indians in California" for the present fiscal year except what is already hypothecated for certain definite purposes.

In the estimate of needs for the Indian Service during the fiscal year 1914 the department estimated that at least $60,000 would be necessary for the Indians in California and $250,000 to provide for the "Relieving of distress and prevention of disease, etc., among Indians," which amounts, as reported from the committee, have been cut to $57,000 and $90,000, respectively.

It will thus be seen that the amounts approved by the committee are considerably less than those estimated as absolutely necessary for the needs of the Indians in your State and to provide for the relief of destitution among Indians in all parts of the country.

Respectfully,

F. H. ABBOTT,
Acting Commissioner.

(See copy of other letter preceding.)

Mr. RAKER. Now, Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from California offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend by adding the following at the end of line 23, on page 10:

"For the support and education of 100 Indian pupils at the Greenville Indian School, Greenville, Cal., and for pay of superintendent, $18,700; for general repairs and improvements, $1,000; for construction of septic tank and sewerage system, $3,000; for an employees' building, to be used for employees' quarters, club, kitchen, dining room, $4,000; for shop building for instructing the boys in blacksmithing and carpentry, $1,200; for school farm for maintaining the school stock and small dairy herd, and for raising fruits, grains, and vegetables, $7,000; for a school and assembly building for general meetings and entertainments, $8,000; for a complete steam-heating plant for school and accessory buildings, $6,000; for a boys' dormitory with a capacity of 75, $5,000; for a steam laundry with a capacity of washing and ironing for 150 persons, $2,600; in all, $56,500."

Mr. STEPHENS of Texas. Mr. Chairman, I make a point of order against the amendment on the ground that it is new legislation.

Mr. RAKER. Will not the gentleman reserve the point of order for a moment?

Mr. STEPHENS of Texas. I desire to state to the gentleman frankly that I think it would be unwise legislation to permit a new school plant to be erected without investigation and full report on the matter. We have had no chance to make that investigation, and hence I make the point of order. If the gentleman desires to make a statement, I will yield him the five minutes.

Mr. RAKER. The school at Greenville has been built for quite a number of years. It is a wooden structure. Both boys and girls use it. The dormitory for the boys is at one end and that for the girls is at the other end. The school needs much improvement in the way of new buildings and general improvements to the premises. I will read what the Secretary of the Interior says in regard to it in his letter under date of January 2, 1913; and by way of remark I may say they estimated in the regular estimates for 1914, on page 401, for this school building as a separate institution. Here is what the Secretary says:

DEPARTMENT OF THE INTERIOR,
Washington, January 2, 1913.

Hon. JOHN H. STEPHENS,
Chairman Committee on Indian Affairs,
House of Representatives.

SIR: The department acknowledges receipt of a letter received from Hon. JOHN E. RAKER, addressed to the Commissioner of Indian Affairs, dated December 5, in which he incloses copies of House bill No. 26670, providing an appropriation for the support and education of Indian pupils at the Greenville Indian School, California, as follows: For support and education, $18,700; repairs and improvements, $1,000; septic tank, $3,000; employees' building, kitchen, dining room, etc., $4,000; shop building, $1,200; purchase school farm, $7,000; school and assembly building, $8,000; complete heating plant, $6,000; boys' dormitory, capacity 75, $5,000; and a steam laundry, capacity 150 persons, $2,600; making a total of $56,500.

He requests that a report be made to the House Committee on Indian Affairs.

There is urgent need for a well-equipped school at Greenville. It is located in a section of California where there are a large number of Indian pupils who have not access to any school. It is estimated that there are over 300 out of school and largely without school facilities of any character. The present capacity of the Greenville School is about 100. It has no shop buildings, employees' quarters, central heating or sewage systems, and the other buildings are inadequate for the purposes for which they are used. The plant should be very substantially improved. This bill provides for the support of 100 pupils for the year 1914, and if it should be approved the new buildings provided for will increase the capacity to 150 pupils.

The item of $5,000 for a dormitory for 75 boys is, however, too small. This should be changed to $15,000, which will make ample provision for the construction of a dormitory with a capacity of 50 or 60 pupils.

This department has heretofore recommended that this school be specifically provided for. In the estimate submitted by this department for the proposed bill, making provisions for the entire Indian Service, it is recommended that $30,000 be given this school—$20,000 for the support of 100 Indian pupils and repairs and improvements and $10,000 for new buildings. This estimate for Greenville, however, was very conservative.

The provisions of the bill proposed by Congressman RAKER are much more liberal and are justified by the needs of the Indian service in this community; and, with the change suggested, I should be glad to see the provisions contained in H. R. 26670 incorporated in the Indian appropriation bill as a specific appropriation for the Greenville Indian School. If that be impracticable, I trust the bill may receive consideration as a separate measure.

Respectfully,

WALTER L. FISHER, *Secretary.*

I also have here a letter under date of November 25, 1912, from the superintendent of the Indian school at Greenville. I want to state—and I think the chairman of the Committee on Indian Affairs will bear me out in the statement—that, while the members of the committee, as I know, want to be fair, and are fair, they have not had an opportunity, except from these reports, to go into the matter, although the school is there. Here is the report from the Secretary of the Interior, and a letter from the Indian Service, and from the superintendent at Greenville Indian School, showing the necessity of this school. Here is what the superintendent says:

DEPARTMENT OF THE INTERIOR,
UNITED STATES INDIAN SERVICE,
GREENVILLE INDIAN SCHOOL,
Greenville, Cal., November 25, 1912.

HON. JOHN E. RAKER, M. C.,
Washington, D. C.

DEAR SIR: Complying with request contained in your letter of the 16th instant, I take pleasure in submitting herewith itemized estimates of improvements needed at this school, with amount for general support, trusting that same can be included in the bill under special appropriation for this school.

For support and education of 100 Indian pupils at Greenville School, Cal., and for pay of superintendent, $18,700.

For general repairs and improvements, $1,000.

For construction of septic tank and overhauling the sewer system, $3,000. The sewer discharge at present is into an open field and is not sanitary, and complaints are being made by residents in vicinity. This needed improvement should be appropriated for by all means.

An employees' building, to be used for employees' quarters, club kitchen, dining room, etc., $4,000.

A shop building, 30 by 50 feet, for instructing the boys in blacksmithing and carpentry, $1,200.

A school farm for maintaining school stock and a small dairy herd and for raising fruits, grains, and vegetables, $7,000. At present the institution has not an acre of farming or grazing land, and, of course, the boys can not be given training in agricultural pursuits.

A school and assembly building, $8,000. At present there is no place for general meetings, entertainments, etc. All exercises of this kind

must be held in a small classroom, which is entirely inadequate, or in the dining room, which is not at all suited to the purpose.

A complete steam-heating plant, $6,000. At present the buildings are all heated by wood stoves, which method is both unsatisfactory and dangerous.

A boys' dormitory with a capacity of 75, $5,000. The present system of housing both sexes in the same building is extremely unsatisfactory; besides, this additional dormitory is badly needed.

A steam laundry, with a capacity of washing for 150 persons, $2,600.

Of course, it will be understood that when the desired improvements in the way of buildings are completed the capacity of the school will be increased to 150, which number should then be appropriated for.

Trusting this information will suit your purpose and that the whole list may be included in the bill for this school, I am, with best wishes,

Very sincerely, W. S. CAMPBELL,
W.S.C.–W.J.Z. *Supt. & S. D. A.*

Yet I understand, Mr. Chairman, that I will have to submit to the ruling of the Chair.

Mr. STEPHENS of Texas. Mr. Chairman, if the gentleman will permit me, I would like to state——

The CHAIRMAN. Does the gentleman from California yield?

Mr. RAKER. Yes; I yield.

Mr. STEPHENS of Texas. There is now an appropriation sufficient to run this school out of the lump-sum appropriation, and the lump-sum appropriation is $1,400,000. This school has heretofore been supported from the general item for Indian schools support, which takes care of all the Indian schools. This school, however, has become insufficient, and in order to relieve the Fort Bidwell School it should have a specific appropriation. The school is already appropriated for under the lump-sum appropriation, and I do not see any sufficient reason why we should change it from the lump-sum appropriation to a specific appropriation. For that reason I must urge the point of order.

Mr. RAKER. I will have to submit to the point of order. Let the Chair decide.

Mr. STEPHENS of Texas. Mr. Chairman, I submit that the amendment is new legislation.

The CHAIRMAN. The point of order is sustained.

Mr. RAKER. Now, Mr. Chairman, I ask unanimous consent that in connection with this amendment I be permitted to insert a letter of the Secretary of the Interior of date January 2, 1912, and also a letter from the superintendent of the Indian school at Fort Bidwell, showing the necessity of this improvement, and a letter from the Assistant Secretary of date January 3, 1913, covering these general bills.

The CHAIRMAN. The gentleman from California [Mr. RAKER] desires authority to have done the printing indicated. Is there objection?

There was no objection.

Following are the additional letters referred to:

DEPARTMENT OF THE INTERIOR,
Washington, January 2, 1913.

Hon. JOHN H. STEPHENS,
Chairman Committee on Indian Affairs,
House of Representatives.

SIR: The department acknowledges receipt of a letter from Hon. JOHN E. RAKER, addressed to the Commissioner of Indian Affairs, dated December 5, in which he incloses copy of H. R. 26669, providing an appropriation for the support and education of the Indian pupils of the Fort Bidwell Indian School, Fort Bidwell, Cal., and for repairs and improvements, and for other purposes, as follows: Cost of employees, $10,500; for clothing, subsistence, and operating expenses, $7,101; for open-market purchases, $1,000; for transportation of supplies from railroad, $500; for telephone and telegraph expenses, $100; for transportation of pupils to and from school, $500; for cement walks, $3,000; for woven-wire fence, $1,000; for irrigation work, $500; for farming experiments, $300; for new school building, $10,000; for new superintendent's quarters, $2,500; for traveling expenses, $300; for harvesting, thrashing, and grinding, $350; for financial clerk, $600; for automobile for use of school and superintendent, $1,200; for sawmill, planer, and equipment, $3,000; for clearing and grubbing 200 acres, $500; making a total appropriation of $42,951.

Mr. RAKER requests that a report be made to the House Committee on Indian Affairs.

The form of this bill is objectionable because it sets out specifically a large number of items which can be better provided for by including them in the general term "Repairs and improvements," and for administrative reasons it will be an advantage to have them so grouped. One item of $500 for transportation of goods and supplies should be eliminated for the reason that there is a general fund from which all such expenses are paid. This is also true of the item of $500 for the transportation of Indian pupils. The item of $600 for financial clerk may also be eliminated, as this position can be regularly provided for in the salary list. I have the honor to recommend that the entire second paragraph be stricken out and that lines 5, 6, 7, and 8 of the first paragraph be changed to read as follows: "appropriated, for the support and education of 125 Indian pupils at the Fort Bidwell Indian School, Fort Bidwell, Cal., and for repairs and improvements, $25,250; for an automobile, $1,200; for new school building, $10,000; for superintendent's cottage, $2,500; and for a sawmill, $3,000; in all, $41,951."

The Paiutes are very poor and are in great need of assistance. There are approximately 60 children of this tribe that should be accommodated in this school. A large number of advanced children from the Pit River Indians should also be enrolled here, these latter Indians having heretofore enrolled few of their children in nonreservation schools. With children from other bands of Indians located in this section of California, the Fort Bidwell School can be filled to its capacity. The present location of the school is ideal, there being an excellent farm and an abundance of water for all purposes, including irrigation and some water power.

There is a large amount of reservation work for the superintendent, and an automobile is essential to efficient administrative work.

There are 1,400 acres of pine timberland on the reserve, two-thirds of which is ripe and should be manufactured into lumber, not only for the use of the school plant, but for the use of the Indians in building homes upon their allotments. A considerable portion of the school farm should be cleared for agricultural purposes, and this timber should also be manufactured into lumber. For this purpose a sawmill is necessary.

This department has heretofore recommended that this school be specifically provided for. In the estimates submitted by this department for the proposed bill, making provisions for the entire Indian service, it recommended that $20,000 be given for the support and education of 125 Indian pupils and for repairs and improvements at Fort Bidwell. This estimate, however, was very conservative.

The provisions of the bill proposed by Congresman RAKER are much more liberal, and are justified by the needs of the Indian service in this community, and with the changes suggested I should be glad to see the provisions contained in H. R. 26669 incorporated in the Indian appropriation bill as a specific appropriation for the Fort Bidwell Indian School. If that be impracticable, I trust the bill may receive consideration as a separate measure.

Respectfully, SAMUEL ADAMS,
First Assistant Secretary.

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DEPARTMENT OF THE INTERIOR,
UNITED STATES INDIAN SERVICE,
Fort Bidwell, Cal., November 25, 1912.

Hon. JOHN E. RAKER, M. C.,
Washington, D. C.

DEAR MR. RAKER: In furtherance of my letter to you of the 20th instant in answer to your request that I furnish you with complete data relative to the cost of maintenance of this school, and after taking into consideration the cost for the past few years, also the increased attendance this year over former years, I have the honor to submit the following, all of which I know to be conservative:

Cost of employees	$7,660
In addition to above, paid from agency fund	2,100
Annual estimate, clothing, subsistence, and miscellaneous operating expenses	7,101
Open-market purchases, not received on estimate	1,000
Transportation of supplies from railroad	500
Telegraph and telephone expenses	100
Transportation of pupils to and from school (which should be increased to $500)	150
Present cost of upkeep	18,671

The plant is noted for its run-down condition, and, in addition to the above, the following should be made available:

Cement walks (or, if sawmill is allowed, wooden walks; if wood, $1,000 is sufficient)	$3,000
Woven-wire fence	1,000
Irrigation work	500
Farming experiments	300
New school building	10,000
New superintendent's quarters	2,500
Traveling expenses	300
Harvesting, thrashing, and grinding	350
Increase of salaries, as follows:	
Superintendent, $1,400 to $1,800	400
Clerk, from $720 to $1,000	280
Financial clerk	600
Automobile, purchase of same	1,200
Sawmill, planer, etc	3,000
	22,430

Of course, a large part of the last estimate will be only necessary for the first year; after that about $20,000 or $25,000 per year will be ample.

The increase in salaries does not seem exorbitant when we consider that this office is obliged to attend to the school and agency work. The agency work, comprising the allotment of minors, supervising the old Indians, inducing them to start home making on their allotments, determination of heirs by hearings, sale of noncompetent and inherited Indian lands, etc.

I do not mean to take this opportunity to try getting my salary raised, and will be very much pleased if we can get the other things needed, but believe remuneration of self and clerks should be in keeping with services rendered.

P. S.—Hope favorable action will be taken on the request for an automobile for this place.

Yours, very truly, W. A. FULLER, *Superintendent.*

Mr. RAKER. Now, Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from California [Mr. RAKER].

The Clerk read as follows:

Amend, at the end of line 22, page 10, by inserting the following: "For support and education of 125 Indian pupils at the Fort Bidwell Indian School, Fort Bidwell, Cal., and for repairs and improvements, $25,251; for new school building, $10,000; for superintendent's cottage, $2,500; for a sawmill, $3,000; in all, $40,751."

Mr. STEPHENS of Texas. Mr. Chairman, I make a point of order against that amendment, also.

Mr. RAKER. Mr. Chairman, will the gentleman give me three minutes?

Mr. STEPHENS of Texas. I give three minutes to the gentleman.

The CHAIRMAN. The gentleman from California [Mr. RAKER] is recognized for three minutes.

Mr. RAKER. I want to say, Mr. Chairman, that the same conditions apply to this school as apply to the others. There are 150 pupils there. At this school there are over 1,200 acres

of ripe timber adjoining the school, and that timber requires the construction and erection of a sawmill, to the end that the timber might be used in order that the department might improve the school buildings and at the same time have the lumber and material necessary to build up their allotments, which are scattered over this part of the country. I trust the gentleman from Texas will withdraw his objection.

Mr. TILSON. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. RAKER. Yes; I yield.

Mr. TILSON. Did the gentleman bring all these facts to the attention of the Committee on Indian Affairs?

Mr. RAKER. The gentleman is a member of that committee, is he not.

Mr. TILSON. No; I am not.

Mr. RAKER. I supposed the gentleman was.

This is the condition: The appropriation bill was taken up early in the session. I introduced these bills on the first day, December 4, and, of course, it took a few days for the reports to get back to the committee. When the reports came back to the committee this appropriation bill had been reported, and, of course, the committee did not have an opportunity to consider these bills.

Mr. STEPHENS of Texas. As a matter of fact, we did not have any information in regard to these matters before us. Does not the gentleman think he would do well to introduce a bill in the next Congress, the Sixty-third Congress, that would take care of them?

Mr. RAKER. To be honest with the chairman of the committee, the matter has been so thoroughly investigated by the department that I hope that the House will put them on. I feel satisfied that the interests are so urgent that these amendments should go into the Indian appropriation bill. I think the House ought to let them go in.

They are very meritorious. Personally it makes no difference to me, but I know the condition of these Indians. I have a report here from the doctor who has been over that country, and who says a large percentage of them are dying from tuberculosis and the want of care and proper attention. But in this particular case, here are 1,200 acres of ripe timber within a mile of this school that could be sawed and used and the Government property improved, and at the same time lumber could be had for the purpose of building up the allotments of the Indians all over this country nearby, at the same time saving the Government the expense of buying lumber, wood, and so forth, and at the same time conserve the timber that is now going to waste.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEPHENS of Texas. Mr. Chairman, I sympathize with the gentleman, but I must insist on my point of order. I do not think his timber will be spoiled by next year.

The CHAIRMAN. Does the gentleman from California desire to be heard on the point of order?

Mr. RAKER. I submit it to the Chair.

The CHAIRMAN. The point of order is sustained.

Mr. RAKER. I ask unanimous consent that I may have printed in the RECORD the letter of the Secretary of the Interior, dated January 2, 1913, and also a letter from the superintendent of the Bidwell Indian School, dated November 25, 1912, and a copy of the bill.

The CHAIRMAN. The gentleman from California asks unanimous consent to have printed the documents which he has indicated. Is there objection?

There was no objection.

The Clerk read as follows:

For support and education of 550 Indian pupils at the Sherman Institute, Riverside, Cal., and for pay of superintendent, $94,350; for general repairs and improvements, $10,000; in all, $104,350.

Mr. RAKER. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from California offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, by striking out the words "five hundred and fifty," in line 24, page 10, and inserting in lieu thereof the words "seven hundred"; and strike out the figures "94,350," in line 1, page 11, and substitute therefor the figures "110,400"; and in line 2, page 11, strike out the figures "104,350" and insert in lieu thereof the figures "129,400."

Mr. STEPHENS of Texas. Mr. Chairman, I make the point of order against the amendment. I will withhold it if the gentleman desires to be heard.

Mr. RAKER. I desire to be heard on that point of order.

The CHAIRMAN. If the Chair understood the reading of the amendment correctly, it simply increases the amounts. Will the gentleman state the ground of his point of order?

Mr. STEPHENS of Texas. The ground is that it is new legislation. It increases the different items, does it not?

Mr. RAKER. That is all; just the amounts.

Mr. STEPHENS of Texas. I withdraw the point of order and call for a vote. I hope the amendment will be voted down.

Mr. RAKER. Mr. Chairman, there are three separate amendments——

Mr. STEPHENS of Texas. I ask that the debate on this close in five minutes.

Mr. RAKER. I want sufficient time to read the letter——

The CHAIRMAN. The gentleman from California has offered an amendment and has been recognized and has control of the floor, and can not be interrupted without his consent save on a point of order. The gentleman is recognized for five minutes.

Mr. RAKER. I desire to read a letter from the superintendent in regard to this matter.

Mr. STEPHENS of Texas. Is the gentleman aware that the department only estimated for 550 pupils?

Mr. RAKER. The department may have asked that, but here is the condition of affairs: Five hundred and fifty pupils are provided for, but the school will accommodate 700 without any more building, without any more expense for fuel, light, water, or general superintendence.

Mr. HAYDEN. Where are you going to get the other 150 Indians?

Mr. RAKER. I will tell you in just a moment. There are over 5,000 Indians close to this school, within a short distance, who are without educational facilities.

Mr. STEPHENS of Texas. Is the gentleman aware that the attendance at that school is only 493? You can not get Indians enough now to fill it. The capacity is now 550 and the attendance only 493.

Mr. RAKER. There are 624 enrolled. The superintendent has been compelled in the last six months to turn away many who are desirous to be admitted to this school, and has been compelled to permit no one to reenter this school in any way, shape, or form. Now, with a school of the capacity of 700, with all the expenses of superintendency, light, heat, equipment, and everything provided, does it not look like a poor piece of economy, when you could provide education, care, and attention for another 150 of these pupils by simply providing the absolutely necessary amount for their provisions and clothing, whereas if you put up another school it will cost you $150,000? Here you can get proper care and attention at an expense of $167 per capita per annum, instead of expending $100,000, as you are doing in these other schools.

Mr. MILLER. Will the gentleman yield?

Mr. RAKER. I yield.

Mr. MILLER. Is not the gentleman aware that many of the schools which we are maintaining and appropriating for in this bill have an insufficient number of pupils at present?

Mr. RAKER. They do not show that way from the report.

Mr. MILLER. Any number of them; and if perchance there should be a few who applied at this school who could not be accommodated there they could be at some of these other schools.

Mr. RAKER. Have you found any other school where you can accommodate 150 pupils without any additional expense to the Government, so far as the building, light, heat, superintendance, and general equipment are concerned?

Here you are saving to the Government $100,000 or $150,000 by providing for the Indians, by putting them in this school where you have an equipment provided for instead of building new buildings.

Mr. MILLER. If the gentleman will take the trouble to appear before the committee I think we can point out to him how they can be taken care of.

Mr. RAKER. The gentleman from Minnesota must admit that there has not been a meeting that we could appear before except the very first few days of this session.

Mr. MILLER. Oh, the gentleman must not say that, we have had many meetings.

Mr. RAKER. Since the first of the session?

Mr. MILLER. Not since January 1, but we have had many meetings this session.

Mr. RAKER. I think the gentleman is mistaken in that, because I have repeatedly asked for a hearing on these matters.

The CHAIRMAN. The time of the gentleman from California has expired. The question is on the amendment offered by the gentleman from California.

The question was taken, and the amendment was lost.

Mr. RAKER. Mr. Chairman, the vote upon this matter is so nearly divided, I do not care to take the further time of the House, but I ask permission to insert in the RECORD a letter,

together with the report and recommendation by the Chamber of Commerce of Riverside of December 16, 1912.

The CHAIRMAN. The gentleman from California asks unanimous consent to print in the RECORD a certain letter and papers which he has specified. Is there objection?

There was no objection.

The matter referred to is as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, December 23, 1912.

Hon. JOHN E. RAKER,
House of Representatives.

MY DEAR MR. RAKER: Answering yours of December 26, requesting me to furnish you with information relative to the condition of Sherman Institute and the advisability of increasing the appropriation to provide for an enrollment of 700 pupils, as requested by the Chamber of Commerce of Riverside, Cal., I have to advise you that the present appropriation provides for the support of 550 pupils. We can accommodate 700 pupils with the equipment we now have for 550. It will require no additional buildings for the increased enrollment and we can accommodate this additional number of pupils with the same general running expense for the number now provided for, as there will be practically no extra cost for light, fuel, water, and general superintendence, the only additional cost being the per capita appropriation of $167 for the additional number to be accommodated, or a total increase of $25,050.

A conservative estimate of the cost of a new plant to provide for the additional number of pupils would be $100,000, and it is certainly in the interest of economical administration to increase the enrollment of a school where the appropriation for buildings and equipment for the accommodation of pupils is unnecessary.

There will be no difficulty whatever in securing an enrollment of 700, or even a larger number if we have funds with which to support them. In November I canceled all orders for transportation of pupils and notified superintendents of neighboring reservations that it would be impossible for me to accept more pupils, on account of the school already having more than the number appropriated for, the attendance at that time being 570. In fact, each year during the past three years I have been compelled to refuse the admittance of a large number of applicants, as we did not have funds to support them. This condition, however, need not be surprising to those who understand actual conditions among the Indians of the Southwest. Among the Navajo Indians alone there are fully 5,000 children not in school. There are also approximately 1,000 Papago children without school facilities. The Indian population of California is over 16,000, with approximately 4,000 children of school age, many of whom are not in school.

Realizing the fact that industrial training is of prime importance to the Indian youth, I am laying especial emphasis on this class of work, and hope to make Sherman Institute one of the leading industrial schools. Conditions are most favorable for this training at this school. The city of Riverside and people in the vicinity are in thorough sympathy with the aims of the school, and the splendid opportunities for giving Indian boys and girls of the reservations the advantage of industrial training in the homes and on the ranches of southern California are of great value. In fact, I do not know of any school in the service where these conditions are more favorable. Climatic conditions are of the best, health conditions are good, and, in my opinion, there are the best of reasons for making appropriations for Sherman Institute that are equal to the largest schools of the Indian service.

I desire to invite your attention to the provision in the House bill as reported from the House Committee on Indian Affairs making appropriation of $10,000 for repairs and improvements for Sherman Institute, and to suggest that this should be increased to $15,000. I have repeatedly made recommendation to the Indian Office for $15,000 instead of $10,000 for general repairs and improvements, because it is in the interests of economical administration to keep the plant in good repair rather than to permit it to deteriorate. We have 46 buildings to keep in repair, as well as to keep in good condition the heating, water, sewer, and lighting systems, and $15,000 is a conservative estimate for this purpose.

The department has recommended to Congress $20,000 for new buildings and $15,000 for a heating system. These improvements, however, are not made necessary because of any contemplated increase in enrollment, but to increase the general efficiency of the plant. While I am desirous of obtaining the appropriation of $20,000 for new buildings, as recommended by the department, in order to provide better accommodations for employees, as well as a gymnasium for the students, this appropriation could be delayed for the present if considered absolutely necessary to do so. I am especially desirous of having an appropriation for a central heating plant, because it is in the interests of safety. We now have individual heaters in a number of buildings, which increase the danger of fire, and a central heating plant would be a decided improvement and lessen the danger of fire. In fact, the loss of one of our large dormitories would amount to more than the installation of an entire heating system for the school, and I would be pleased if this appropriation could be made at this time. The appropriation recommended is as follows:

For support and education of 700 Indian pupils at the Sherman Institute, Riverside, Cal., and for pay for superintendent	$119,400
For general repairs and improvements	15,000
For heating plant	15,000
For new buildings	20,000
Total	169,400

Yours, very truly,

F. M. CONSER, *Superintendent.*

DEPARTMENT OF THE INTERIOR,
Washington, January 2, 1913.

Hon. JOHN E. RAKER,
House of Representatives.

SIR: I have received your letter of December 23, addressed to the Commissioner of Indian Affairs, in which you inclose a copy of one from the Chamber of Commerce of Riverside, Cal., bearing upon the capacity of the Indian school located in that city.

In accordance with your request the following information is sent you concerning this school:

The rated capacity of this school is 550 pupils and the appropriations for some years past have made provisions for the maintenance of this number of pupils. Sleeping porches have been added to a number of the dormitories; and these can be used the entire year. Counting these, the dormitory capacity of the school is at least 700. The dining room and schoolrooms are also adequate to care for 700 pupils. If the support fund were increased so that it would care for 700 pupils, it would not be necessary to ask for any additional appropriations in the way of new school buildings to care for the additional number of pupils. A new building for employees' quarters is, however, urgently needed at this time. There would be little or no increase in the amount now spent for light, heat, water, and equipments, as the present expenditures for these purposes will provide for 700 almost as well as for 550. The superintendent is not now able to enroll all the pupils who have made application, and it is believed that he would have no difficulty in enrolling 700 pupils were he given authority to do so.

In view of the fact that the plant can now accommodate with its present equipment 700 pupils, it would be in the interest of economy in the expenditure of public funds to authorize the enrollment of 700 pupils, provided Congress would appropriate for the support of this number.

Respectfully,

SAMUEL ADAMS,
First Assistant Secretary.

RIVERSIDE CHAMBER OF COMMERCE,
Riverside, Cal., December 16, 1912.

Hon. JOHN E. RAKER,
Alturas, Cal.

DEAR SIR: We beg to bring to your notice the fact that, although the equipment of the Sherman Institute in this city provides for the housing and instruction of at least 700 Indian children, the appropriation for maintenance restricts the attendance to 550.

The institute, with its present enrollment, falls far short of meeting the need of the Indians of this district. There are reported to be at least 5,000 Navajo children and nearly 1,000 Papagos entirely without facilities for instruction beyond those afforded by the agency schools, and many of the children are entirely without school facilities. The maximum of enrollment under the present appropriation has already been reached, and reservation superintendents throughout the district have been notified to cease sending pupils in.

We would respectfully ask that you make inquiry concerning Sherman Institute conditions of Supt. F. M. Conser, who is to be in Washington shortly. The appropriations which have been recommended in the correspondence between the institute and the Indian Office are as follows: For support and education of 650 Indian pupils, $111,050; for general repairs and improvements, $15,000; a total of $126,050. Additional improvements are badly needed and would involve a further expense as follows: Heating system, $20,000; outside toilet facilities, $15,000; employees' quarters, $20,000; gymnasium, $20,000.

During the past years we have had abundant opportunity to observe the work being done at Sherman, and we believe the institution to be conducted in an exceedingly efficient way, our only regret being, as stated above, that the maintenance allowance keeps the number of pupils from 100 to 150 below the number which the dormitories and classrooms can conveniently accommodate. It seems to us that so expensive a plant ought to be run at its full capacity.

Respectfully, yours,

CHAMBER OF COMMERCE,
H. M. MAY, *Secretary.*

Mr. STEPHENS of Texas. Mr. Chairman, I ask unanimous consent that the Clerk may be authorized to change the totals wherever it may be found necessary.

The CHAIRMAN. The gentleman from Texas asks unanimous consent that the Clerk be authorized to change the totals wherever found necessary. Is there objection?

There was no objection.

Mr. STEPHENS of Texas. Mr. Chairman, I move that the committee do now rise and report the bill, together with the amendments, to the House, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee determined to rise; and the Speaker having resumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 26874, the Indian appropriation bill, and had directed him to report the same back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. STEPHENS of Texas. Mr. Speaker, I move the previous question on the bill and amendments to final passage.

The previous question was ordered.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them in gross.

There was no demand for a separate vote.

The amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. STEPHENS of Texas, a motion to reconsider the vote whereby the bill was passed was laid on the table.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. SAMUEL W. SMITH, indefinitely, on account of illness in family.

To Mr. BURKE of South Dakota, for three days, to attend a funeral.

POST OFFICE APPROPRIATION BILL.

Mr. MOON of Tennessee. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 27148) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1914, and for other purposes, and pending that I ask unanimous consent that general debate shall not exceed two hours, one half to be controlled by the gentleman from Kansas [Mr. MURDOCK] and the other half by the chairman of the committee.

Mr. MANN. Mr. Chairman, may I ask the gentleman from Kansas a question? The gentleman from Iowa [Mr. TOWNER] desired to obtain an hour on this bill if it did not come up to-day. If the gentleman from Iowa desires the time to-morrow, can not it be arranged?

Mr. MURDOCK. I suppose it can with the gentleman from Tennessee. There has been only one request for debate on this side, and that was for less than an hour.

Mr. MANN. Will not the gentleman make the request, so that the gentleman from Iowa [Mr. TOWNER] can have an extra hour, if he desires it, to-morrow?

Mr. MOON of Tennessee. What does the gentleman from Iowa want to talk about—the bill?

Mr. MANN. I do not know, but I assume not.

Mr. MURDOCK. If we can agree on three hours' general debate, an hour and a half on each side, I think that would take care of the gentleman from Iowa.

Mr. MANN. Yes; if he could get the hour.

Mr. MURDOCK. I will say that I would give him an hour.

Mr. MOON of Tennessee. I have no objection, Mr. Speaker, to three hours' general debate.

The SPEAKER. The gentleman from Tennessee moves that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the Post Office appropriation bill, and, pending that, he asks unanimous consent that general debate on the bill be limited to three hours, an hour and a half to be controlled by himself and the other hour and a half by the gentleman from Kansas [Mr. MURDOCK]. Is there objection? [After a pause.] The Chair hears none.

The motion of Mr. MOON of Tennessee was then agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. GARRETT in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 27148, which the Clerk will report.

The Clerk read the title of the bill.

Mr. MOON of Tennessee. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

Mr. MANN. Reserving the right to object, may I ask if the first reading be now dispensed with, what is the intention of the gentleman from Tennessee—to move that the committee rise, or proceed with the general debate to-night?

Mr. MOON of Tennessee. If it is desired, and the gentleman from Iowa wants to put in his hour he can have the time now.

Mr. MANN. The gentleman from Iowa is not here to-day.

Mr. MOON of Tennessee. I shall ask the House to remain but a short time to-night.

Mr. MANN. I do not object.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee to dispense with the first reading of the bill?

There was no objection.

Mr. MURDOCK. Mr. Chairman, I yield 30 minutes to the gentleman from Massachusetts [Mr. GILLETT].

Mr. GILLETT. Mr. Chairman, I think the most important question now confronting our Nation is, Whether we should submit to arbitration the dispute which has arisen with Great Britain concerning the Panama Canal tolls.

Congress during its last session provided in the Panama Canal bill that the vessels of the United States engaged in coastwise trade might pass through the canal without paying tolls. England claims that such an exemption is a discrimination in favor of our shipping, which is prohibited by our treaty with her. Whether or not her claim is just I do not propose now to discuss. I wish to confine myself to the one proposition that, regardless of our opinion of the merits of the question, whether we think her interpretation is right or ours is right, we ought to recognize that neither nation is so disinterested as to be able to judge of it impartially and that the isue should be submitted to arbitration.

This question is momentous, because it compels us in the face of an interested and critical world to disclose whether we will follow the path of profit or the path of honor; whether we have as a nation a real devotion to high ideals or whether we only advocate them in the hour of ease and desert them in the hour of trial. We have for years professed ourselves earnest advocates of arbitration. We have been the foremost to urge that war was irrational and that peaceful tribunals should gradually replace and abolish it. Our strength and wealth and isolation have relieved our advocacy from any imputation of fear or cowardice, and we have plumed ourselves that by our leadership and example we were advancing in the world the rule of reason and lessening the sway of brute force. Now our sincerity is put to the test. We can almost hear the voice of conscience say, "Choose ye this day whom ye will serve." And it is important not only to us, to our reputation, to our future influence, but it is important to the cause of arbitration, that we, its special promoter and champion, should not forsake it at the very first moment when it runs counter to our selfish interests. We have claimed to favor it because it was intrinsically fair and just, and ought to be ashamed to abandon it because we find it momentarily expensive and inconvenient.

I am aware that there is a fraction of our people who instinctively oppose arbitration—especially arbitration with England. There are some people who believe that occasional bloodletting is good for a nation, that without constant training for war we should become weaklings. There are others who believe that we are so strong and resourceful that no nation will ever dare to fight us, and that consequently we can safely do what we please and take what we want without fear of challenge, and that it would be foolish for us to renounce such a profitable irresponsibility in order to promote general justice and happiness. There is a still larger class who think little about the subject abstractly, but when any concrete case arises will always spring to the side that shows them a profit or an advantage and ignore a side which offers only justice. But the great body of thoughtful citizens—those who ultimately make public opinion—in their calm moments are genuinely anxious that their country shall do right. They appreciate the value of a good reputation to a man or a nation. But, more than that, they love uprightness, they prefer the rule of a judicial tribunal to the rule of the sword, and they wish their country to steadily lead in the movement toward international arbitration and peace regardless of the result on their immediate interests.

That sentiment, dormant but dominant, needs, I think, to assert itself at the present juncture. It is not a crisis which threatens war. Neither Great Britain nor the United States would deliberately sever our friendly relations because of this insignificant commercial gain or loss, although history gives many instances where differences as slight have engendered heat enough to ultimately inflame a war. But should we ignore England's contention because the incident is too trifling to provoke her into war? Is not that rather a reason why we should give her claims fair and courteous treatment? And what does that involve? Unquestionably a submission to The Hague or some other judicial tribunal, which for years we have urged was the proper resort for such disputes, which was established largely at our instance, and whose jurisdiction we have persistently sought to enlarge. And if this moral obligation to submit to its decision is not enough, we have the legal and technical obligation that by a solemn treaty with Great Britain we have agreed in advance to submit just this class of questions to arbitration. Why is there any doubt as to our action? I think it is only because the American people have not as yet given the subject sufficient attention to understand the conditions. For what public opinion decrees Congress will surely perform. If public opinion on this question becomes positive and outspoken, there is no danger that it will not be obeyed.

But I fear the view of the people to-day is only superficial. We built the canal, they say, with our money. We are to be at the expense of operating and defending it. Shall we not do as we please with our own? Are we not to be allowed to operate it for our profit? Must our vessels pay for the use of it? If so, why did we build it? Natural questions, and which, if unanswered, seem to justify us and put England in the wrong. Let us, then, consider briefly the facts.

In 1850, when both Great Britain and the United States were anxious to have the canal built, but were jealous of each other's influence in Central America, the two nations made a formal agreement which was intended to settle permanently all disputes which might grow out of the canal and was known as the Clayton-Bulwer treaty. The plan was that the two nations should together protect the canal whenever and wherever built and together guarantee its neutrality, and that it should be

open on equal terms to all nations who wished to join in its protection. One of the agreements was that neither nation should ever alone control the canal or fortify it or exercise any dominion over the territory through which it ran. So when, 20 years ago, upon the failure of the French canal, the United States began to seriously consider the project, we were confronted by this treaty, which bound us not to prosecute it alone. To get rid of that impediment was the first requisite step, and so we commenced negotiations with Great Britain, which finally resulted in the Hay-Pauncefote treaty of 1901, which expressly stated that it was framed to supersede the Clayton-Bulwer treaty and to remove the obstacle which that treaty presented to the United States constructing the canal alone. So we must bear in mind that up to 1901 we had bound ourselves not to build any canal except in cooperation with Great Britain, and that we were the ones who sought the Hay-Pauncefote treaty in order to release ourselves from that obligation.

But in order to obtain that right and get from England that release we were compelled to make certain promises and agreements. Those are the restrictions which hamper us in our control of the canal now. Except for them we should be free to use and maintain the canal as we please and levy tolls regardless of any other nation. But it was necessary for us to submit to these limitations, in order to escape from our old agreement not to build the canal at all alone. And though it seems at first blush unreasonable that we, who have been at the enormous expense of construction, should not have a free hand in operation, yet we must remember that we voluntarily submitted to these restrictions in order to get released from our previous agreement. Whether we made a good bargain then, whether we might not have negotiated better if we had clearly foreseen all the problems which arise now, is not the question. We thought then the bargain was satisfactory, and we bound ourselves to it, and that, I think, is the phase which the people do not generally understand. They do not appreciate that we had agreed not to build the canal alone; that to get rid of that agreement we entered into a new treaty, and that new treaty contained the restrictions which are now perplexing and troubling us. We sought that treaty; it was entered into to allow us to build the canal, and though we may find provisions in it which now embarrass us and do not allow us the freedom which seems natural and right, yet I do not see how anyone who understands it can contend that we must not strictly obey the provisions of this treaty which we ourselves sought and needed.

It is over the true meaning of some of these provisions that we and England are now at variance. And the proper place for their interpretation is a court of justice; not the legislative body of either of the interested parties. Now and then the claim is suggested that England in many ways violated the old Clayton-Bulwer treaty, and therefore we had and still have the right to claim that it was void and no longer bound us. On that ground some American statesmen were disposed, 15 years ago, instead of negotiating with England for its repeal, to begin building the canal without any regard to England's rights and objections, and some still suggest that as we were not really bound by the Clayton-Bulwer treaty we need not consider ourselves bound by its successor. That position is utterly untenable. It may be that Great Britain had so disregarded the Clayton-Bulwer treaty that we had once a right to avoid it. That is a question open to argument. But two Secretaries of State of two different political parties, each a man of ability and courage and patriotism, each anxious to maintain all the rights of his own country, but each conscious that he was the guardian and representative not only of his country's rights, but of his country's honor, both of these men, Richard Olney and John Hay, investigating the subject under that deep responsibility, came to the conclusion that the Clayton-Bulwer treaty was in full force and that it was necessary for us to secure from England our release before we could honorably undertake the canal alone. And the United States, acting upon that conclusion, has formally admitted the force of the Clayton-Bulwer treaty and expressly sanctioned the Hay-Pauncefote treaty in its place. So that it is too late now, if it was ever possible, to claim that we were not bound by the Clayton-Bulwer treaty, inasmuch as we have admitted its validity and agreed formally upon a substitute.

Having then purchased back from England the right to build and own the canal by ourselves, which we had once given away, we are limited in our conduct by the terms of this purchase. And while it may at times seem to us unfair, and we may fret at the necessity of giving up some cherished purpose, because it runs counter to our agreement, yet I think that no honest American would wish that Congress should legislate in palpable violation of our treaty, no matter how it might affect our commercial interests. And if Congress should enact provisions for the benefit of our merchant marine which Great Britain should claim violated the treaty, then I think it is equally clear and imperative that we, who have prided ourselves on our faith in arbitration, who have pressed it upon other nations almost at the point of the bayonet, should now, without hesitation, submit the true meaning and construction of this treaty to a judicial tribunal.

This is the point to which I have been leading and with which I am most concerned, for it is the point of danger. What is the true construction of the present treaty I do not wish to argue. Whether the contention of Great Britain or of the United States is correct I for the moment ignore. I only insist that as long as there is this difference of opinion between the two nations, no matter how confident we may be that we are right or how fearful we may be that we are wrong, we ought to agree instantly and cheerfully to submit it to arbitration. Great Britain claims that by the terms of the treaty we are forbidden to exempt even our coastwise trade from payment of tolls. We have in the canal bill provided for such exemption. And already we hear and read mutterings that this is not a case for arbitration; that we should let England do what she can about it; and that as it only affects our private internal policy England has no right to interfere. Many influential interests are concerned. The business of great States and cities is deeply affected, and strong, selfish forces will be enlisted to keep conditions as they are and allow no change by either legislation or arbitration. And, unless the people understand the situation and the agreements which have led up to it, they will be apt to say, "Why arbitrate a matter of our own concern? Can we not collect such tolls as we please from our own canal?" But it is a matter peculiarly within the scope of arbitration, for it is simply the interpretation of a treaty. And what I wish to impress and emphasize is that, whether our interpretation is right, or England's is right, whether the weight of argument is on our side or on hers, whichever is likely to be the final loser, inasmuch as there is a difference of opinion—a fair ground for dispute—we are bound by our principles and our precedents and our belief in international arbitration to submit the question to the decision of a court. The interpretation of a treaty is one of the especially enumerated items which our arbitration treaty with Great Britain binds us to submit to The Hague tribunal. But, regardless of that explicit treaty agreement, our respect for the principle of arbitration should lead us to volunteer it here, and not greedily and stubbornly insist upon our claims because we think England will not make war about them. Such conduct we would condemn and despise in others. I hope we shall not be so self-deceived, so unprincipled, and so shortsighted as to adopt it ourselves.

Of course, those who do not believe in the principle of international arbitration, who would like to see it checked and discountenanced, who believe in—

> The good old plan,
> That they should take who have the power
> And they should keep who can—

will argue that we ought to stand by what we think are our rights and allow no one to interfere or arbitrate. Those who are obsessed by a blind hatred of England will take the same side. But the great body of people who in recent years have hailed the progress of international arbitration as the opening of a better era for the world will recognize that here is an opportunity for us to show the sincerity and disinterestedness of our professions.

We are told all Europe would be prejudiced against us and we could not obtain impartial judges. I believe the judges of The Hague tribunal would honestly attempt to isolate their minds and judgments from local prejudice or favoritism and interpret the treaty as a question of pure law. But certainly their disinterestedness would be greater than that of the political leaders and newspapers who are now urging that we refuse arbitration because it would go against us. Congress in passing this legislation for the benefit of our coastwise trade and in now claiming that it does not violate the treaty is certainly not disinterested. I would rather submit to arbitration and be beaten than by rejecting arbitration discredit that whole movement and give cause to suspect that our advocacy of it was only for cases where we thought we should win. If we were compelled by the court to pay a substantial award, that money loss would be forgotten in a few years, while our refusal to arbitrate would give a setback to a noble cause whose effect might be felt for a generation.

There are three courses open to the United States. One is to repeal the provision exempting our coastwise trade from tolls, which England complains of as injurious to her commerce and a violation of the Hay-Pauncefote treaty. A large minority of

Congress opposed that provision on its merits and think it will be harmful instead of beneficial to the United States. Or, secondly, we can let the law stand and agree with England to submit to a judicial tribunal whether it was in violation of the treaty. If the court should find in our favor, no action would be necessary; but if the court should interpret the treaty to mean as England claims, that any exemption to our coastwise trade from tolls also exempted from tolls certain vessels of other nations, then we should be obliged to refund to such foreign vessels whatever tolls we had collected from them. Or, thirdly, we might do what is being urged as the true American course, decline to change the law, decline to arbitrate, and leave Great Britain to find such remedy as she can in peace or war.

I sincerely trust that will not prove to be the American course. It is in immediate results the selfish and advantageous course, as it follows simply our own inclinations and hopes of profit; and it will be urged that it is the spirited, courageous course, and that we must not allow other nations to interfere with our legislation. It will be easy also, by appealing to old memories to arouse hostile feeling toward Great Britain, for to go no further back than the Civil War no one can recall her conduct then in the hour of our trial and weakness without hot indignation and a thirst for revenge. But I hope another age has come and that in our relations toward all nations we shall feel that we are strong and magnanimous enough to bury past injuries and resentments and settle differences by the scale of even-handed justice. I hope the American people will feel that no selfish interest like our coastwise trade should tempt us from the path on which we have so deliberately entered of settling international disputes and especially the interpretation of treaties by courts of arbitration. In this particular instance we might gain by forsaking our principles, but I think the precedent would cost far more than the momentary profit. We should lose in character and self-respect, and they are of value to a nation as to a man.

I intended when I commenced not to consider any controverted issue, but to confine myself to showing that the dispute between England and the United States was clearly one for arbitration and that it would be disgraceful in us to refuse it.

There is one phase of the subject, however, which I have not seen discussed and which seems to me of such advantage to us that I can not refrain from alluding to it.

The treaty provides that the canal shall be "free and open to vessels of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation in respect to the conditions or charges of traffic," and England contends that for us to exempt our coastwise steamers from paying tolls puts them on an inequality, while we claim that the phrase "all nations" does not include the United States, so that the requirement of equality does not apply to us. Into that controversy I shall not enter. But suppose, instead of exempting our vessels from paying tolls, we give back to them by way of subsidy what they have paid in tolls. That would be of exactly the same effect to our vessels—it would be exactly the same to the United States Treasury. But would it be the same as a matter of law in violating the treaty? I think not. It is certainly not a technical, literal violation of the treaty, because it does not conflict with the canal being free and open to all nations alike, which is what the treaty exacts. The tolls and conditions provided by the regulations would still be exactly the same for all nations. That is admitted in the English note. Then, if paying back the tolls does not violate the letter of the treaty, would it violate its spirit? Again I think not. The spirit is that all nations should be exactly on the same footing. All other nations certainly have the right to pay back to their own ships, in form of subsidy, the amount collected as tolls. Some nations have done it in the Suez Canal, from whose regulations ours were copied, and I understand Spain has already undertaken to do it for our canal. So that whether we do it or not if that constitutes an inequality there is certain to be inequality, for some nations are sure to subsidize. So for us to refrain from subsidizing would not produce equality. Indeed the only possibility of equality would be for every nation, including ourselves, to subsidize to the amount of the tolls and then all would be on terms of exact equality. Since, then, there can not be such equality, because some nations are sure to subsidize and some will not, it is obvious that that is not what was meant by the term "equality" in the treaty, because subsidizing by other nations would produce the same inequality as subsidizing by the United States. No one disputes the right of other nations to subsidize; when the treaty was made no one doubted it would occur, and therefore the right of the United States to subsidize, which would only produce the same kind of inequality, is clear. Consequently the inequality or discrimination produced by a nation subsidizing its own vessels was not intended to be prohibited and is no violation of the purpose of the treaty.

Therefore the United States has the right, both under the letter and the spirit of the law, to pay back to its vessels the tolls collected. Inasmuch as that would accomplish exactly the same result and would greatly strengthen our argument I think it would be wise to amend our law accordingly.

And there would follow another result from such a change which would still further strengthen our case. The treaty provides that all tolls shall be fair and equitable. It might be claimed by Great Britain that in determining what was a fair return on the investment, tolls on American vessels should be calculated. Otherwise foreign vessels would have to pay higher tolls in order to produce the reasonable income. All basis for such a claim and argument would be taken away if the law provided that American vessels should pay the same tolls as others, although they were repaid in the form of subsidies.

The only objection I can see is that many Members of Congress hate the word "subsidy," and while they are perfectly willing to vote for the result, shrink from voting for the name. But when it would so vastly fortify our position before a court, I hope they would conquer their scruples. I suppose England would still claim that it was a violation of the treaty, as she suggests in her note that it would be only a technical compliance. But I think that it conforms to the spirit as well as the letter. The mere fact that it accomplishes indirectly what is forbidden directly does not prove that it is illegal. There are innumerable instances of such validity. The most familiar to us is when the United States protects private lands from overflow by levees. A law authorizing that directly would be unconstitutional and void, but we constantly effect the same result by appropriating to improve the navigation of a stream, and while the result is the same the legality is entirely different. In this case, while the result is the same the process is different, and both the process and result are quite within the law, for the process is legal because not prohibited by the treaty and the result is legal for it was anticipated by the makers of the treaty and was inevitable.

Mr. TILSON. Mr. Chairman, before the gentleman leaves that subject, will he yield for a question?

Mr. GILLETT. Certainly.

Mr. TILSON. Does the gentleman believe Great Britain would be satisfied with that arrangement, if we, by a subterfuge of that kind, did exactly what England is objecting to?

Mr. GILLETT. I do not suppose England would be satisfied, but I do think that if we submitted it to a court of arbitration our position before that court would be a great deal stronger than it would be if we left the law as it is to-day.

Mr. TILSON. The gentleman admits that we have not gotten one peg ahead, if we make a law, by the provisions of which we give a subsidy to each vessel equal to the toll that vessel would pay.

Mr. GILLETT. Yes. As I say, it accomplishes the same result, but I think it accomplishes it in a manner which is far more likely to be held to be legal and not in violation of the treaty than the existing law.

There is one other point to which I wish to allude. In the discussion of our obligation to arbitrate under the treaty of 1908 with Great Britain, I have seen no allusion to an exception which may cover this case. That treaty provides that we shall refer all differences arising out of the interpretation of treaties to the Hague Court "provided they do not concern the interests of third parties." It is possible that a decision in this case would affect not only Great Britain but all other nations whose ships had passed through the canal and paid tolls, for the decision of the court, if it held that the exemption of our vessels from payment was a discrimination and illegal, might involve our reimbursing to all other vessels the tolls we had collected from them so that they should be on an equality with ours. Consequently if it concerns the interest of third parties we might not be under direct treaty obligation with Great Britain to submit this case to arbitration. But I think it still would be our duty to show our faith in the principle of judicial settlement and offer to submit it to a court with jurists from nations like Switzerland, sure to be impartial, or to such a tribunal as determined the Alaskan boundary dispute. The matter of importance is not so much the result or the method as that we should now in this matter of international concern prove that we are ready to abide by our national doctrine of arbitration.

It is worth something to earn the reputation of standing by your agreements and your principles regardless of results. I do not believe our reputation with the world at large is as good as we deserve. I suspect that if we saw ourselves as other

nations see us we should not be proud of the portrait. Foreign casual observers must have their attention attracted and their opinions formed mainly by the sensational incidents of our life. They must think of us as the Nation of homicides, where more murders are committed than in any other country called civilized; where mobs are constantly taking the law into their own hands with an atrocity that is inhuman; where trains are held up by bandits; where the police of our best known city, instead of defenders of the law, become its most frightful violators; where the heads of labor organizations, supposed to be the stalwart champions of the common people against oppression, combine to perpetrate the most dastardly and incredible outrages. These are some of the headlines which must catch the eye and bias the judgments of foreign readers. We know that behind these surface indications there is a depth of orderly, self-restrained, law-respecting public opinion which controls and determines the policy of this country; which believes in justice and fair play no matter who suffers from it; which knows that any violation of law or of treaty or of principle, because of momentary self-interest, works a deeper harm and a more permanent injury to the character and self-respect of the Nation than can be compensated by any material gain.

To that public opinion I appeal. I ask it to say firmly and decisively that inasmuch as England represents that one clause of our legislation violates our agreement with her and injures her, we should willingly either repeal the law or arbitrate the question whether it does violate the treaty, and cheerfully abide any decision by the tribunal. Not only our conscience, our honor, our pride demand that decision, but it might even be argued that an enlightened and farsighted self-interest also demand it; that despite our strength and isolation we need for our vast and growing foreign trade the respect and confidence and friendliness of other nations, which might easily be forfeited by our conduct here; that having every advantage in the competitions of peace any step toward the abolition of war makes directly to our gain. But I prefer to rest the case on the firmer and higher ground that regardless of interest our self-respect demands it. It ought to be enough for us that our treaty agreement and our settled policy alike require us to submit the question to arbitration. When that is clearly understood, I believe public opinion, the people, and the Congress will all be of one mind.

The President has recently declared publicly and unequivocally that he favors arbitration, but the efforts of this administration in that direction have more than once been blocked by the Senate. I hope it may not happen again. I hope the voice of public opinion will respond to his appeal so earnestly and unanimously that further opposition will be checked and the United States will take another upward step toward the rule of reason, the supremacy of law, and the reign of peace and good will among men. Such action would confirm our honorable position among the nations as the disinterested champion of arbitration, and would confound our critics and be worthy of ourselves. We are about to celebrate a hundred years of peace with Great Britain. How better can we celebrate it than by such an arbitration, which of itself would tend to make that peace perpetual.

We can help now to realize the noble aspiration voiced by Charles Sumner three-quarters of a century ago:

> Let us lay a new stone in the grand temple of universal peace, whose dome shall be as lofty as the firmament of heaven, as broad and comprehensive as the earth itself.

[Applause.]

Mr. MOON of Tennessee. Mr. Chairman, I yield to the gentleman from New York [Mr. CALDER].

Mr. CALDER. Mr. Chairman, the paragraph placed in the Post Office appropriation bill now under consideration for the benefit of the substitute letter carriers and post-office clerks is one that I sincerely hope and trust will meet with the hearty approval of every Member of this body. I have had occasion to give considerable thought and study to this branch of the postal service and have repeatedly called the attention of the Members of this House to the deplorable condition surrounding the employment of these substitutes. Knowing, as I do, the great handicap under which these men labor, I have often wondered why so many capable and efficient young men would make the sacrifices that they have in order to continue in the postal service. It is true that I have seen many capable and efficient young men who have taken the examination and received appointments to the substitute force give up their places in disgust after serving a short period of time.

It appears to me, Mr. Chairman, that it is our duty to legislate in a way that will tend to improve our public service, and one of the first requisites to perfect any business is to have competent and efficient employees. This is the policy pursued by the managers of every institution employing large numbers of men, but I venture the opinion that if the postal service was managed as a private institution the substitute service would have to be made far more inviting than it is at the present time before competent men could be induced to do the work. We all know that it is the glamour of the public service that acts as an inducement for so many young and ambitious men to enter it, and they will often put up with almost intolerable conditions in order to continue as employees of the Government.

The average earnings of these substitutes are not sufficient to maintain body and soul together, and it is only the possibility of receiving a regular appointment, with its attendant increases in salary each year until the maximum grade is reached, that acts as an inducement for many of them to continue. I stated in my remarks of April 12, 1912, when the Post Office appropriation bill was under consideration, that, to my mind, the position should be abolished altogether if the men were to be required to perform service under the present conditions. I believe it would be better for the Government if these men were to receive a regular salary during the time they serve as substitutes, and that the entrance salary after the substitute period has been served should be based in accordance with the time served as such substitute. In other words, if a man served as a substitute for a period of one year, his entrance salary should be $800; if he served as a substitute for a period of two years, his entrance salary should be $900; and if he served as a substitute for a period of three or more years, his entrance salary should be $1,000 per annum.

However, I am extremely gratified to know that the Post Office Committee has given so much attention to this very worthy branch of our postal service, and I congratulate the committee and the distinguished chairman from Tennessee for giving the House an opportunity to vote on this question. I shall vote in favor of this legislation because I believe it is just and equitable and is for the best interest of the public service. Knowing, as I do, the merit that it contains, I appeal to my colleagues who have not had an opportunity to give this question the same study that I have to sustain the committee and enact this legislation into law.

Mr. MOON of Tennessee. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker, having resumed the chair, Mr. GARRETT, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 27148, the Post Office appropriation bill, and had come to no resolution thereon.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message from the President of the United States by Mr. Latta, one of his secretaries, announced that the President had approved and signed bills of the following titles:

On January 7, 1913:

H. R. 10169. An act to provide for holding the district court of the United States for Porto Rico during the absence from the island of the United States district judge and for the trial of cases in the event of the disqualification of or inability to act by the said judge.

On January 8, 1913:

H. R. 10648. An act amending an act entitled "An act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with the Indian tribes, and to protect the same."

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following resolution, in which the concurrence of the House of Representatives was requested:

Resolved by the Senate (the House of Representatives concurring). That there be printed 30,000 copies of the Judicial Code of the United States, prepared under the direction of the Judiciary Committee of the Senate, 10,000 copies for the use of the House of Representatives and 5,000 copies for the use of the Senate document room.

ADJOURNMENT.

Mr. MOON of Tennessee. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 19 minutes p. m.) the House adjourned until to-morrow, Friday, January 10, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, submitting report as to rents received from properties located on sites of proposed public buildings purchased by the United States Gov-

ernment in the city of Washington, D. C. (H. Doc. No. 1253); to the Committee on Appropriations and ordered to be printed.

2. A letter from the Secretary of the Treasury, submitting estimate of appropriation to defray expenses of a representative of the Treasury Department to the International Congress of Customs Regulations, to be held at Paris in May, 1913 (H. Doc. No. 1254); to the Committee on Appropriations and ordered to be printed.

3. A letter from the Secretary of State, submitting detailed statement of fees collected, accounted for, and reported by the diplomatic and consular officers, including passport fees collected and accounted for by the Department of State, for the fiscal year ended June 30, 1912, and also detailed statement showing transactions under appropriation for "Relief and protection of American seamen, 1912" (H. Doc. No. 1255); to the Committee on Expenditures in the Department of State and ordered to be printed.

4. A letter from the Secretary of State, transmitting pursuant to law an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Pennsylvania at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

5. A letter from the Secretary of State, transmitting pursuant to law an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Missouri at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. WILSON of New York, from the Committee on Pensions, to which was referred sundry bills, reported in lieu thereof the bill (H. R. 27874) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, accompanied by a report (No. 1284), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were thereupon referred as follows:

A bill (H. R. 27426) granting a pension to Gertrude M. Farrar; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 27428) confirming titles of Deborah A. Griffin and Mary J. Griffin, and for other purposes; Committee on the Public Lands discharged, and referred to the Committee on Indian Affairs.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. GARNER: A bill (H. R. 27875) authorizing the President to convey certain land to the State of Texas; to the Committee on Military Affairs.

By Mr. RODENBERG: A bill (H. R. 27876) to provide for the participation of the United States in the Panama-Pacific International Exposition; to the Committee on Industrial Arts and Expositions.

By Mr. SMITH of New York: A bill (H. R. 27877) to amend section 25 of the act approved August 5, 1909, entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes"; to the Committee on Ways and Means.

By Mr. RAKER: A bill (H. R. 27878) making an appropriation for a series of thorough and elaborate investigations and experiments for the purpose of devising and perfecting a system of frost prevention in the citrus and deciduous fruit regions, and for other purposes; to the Committee on Agriculture.

By Mr. HELGESEN: A bill (H. R. 27879) providing authority for the Northern Pacific Railway Co. to construct a bridge across the Missouri River in section 36, township 134 north, range 79 west, in the State of North Dakota; to the Committee on Interstate and Foreign Commerce.

By Mr. PALMER: A bill (H. R. 27880) to provide for the appointment of an additional district judge in and for the eastern district of Pennsylvania; to the Committee on the Judiciary.

By Mr. PROUTY: A bill (H. R. 27881) to enjoin and abate houses of lewdness, assignation, and prostitution; to declare the same to be nuisances; to enjoin the person or persons who conduct or maintain the same and the owner or agent of any building used for such purpose; and to assess a tax against the person maintaining said nuisance and against the building and owner thereof; to the Committee on the District of Columbia.

By Mr. KAHN: A bill (H. R. 27882) to amend an act entitled "An act to improve the efficiency of the personnel of the Revenue-Cutter Service"; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 27883) to amend section 3221 of the Revised Statutes of the United States as amended by section 6 of the act of March 1, 1879; to the Committee on Ways and Means.

By Mr. LEVER: Resolution (H. Res. 769) authorizing the printing of 2,000 additional copies of hearings on H. R. 18160, "agricultural extension departments"; to the Committee on Printing.

By Mr. HARRISON of Mississippi: Resolution (H. Res. 770) requesting information from the Secretary of the Interior; to the Committee on Indian Affairs.

By Mr. LOBECK: Concurrent resolution (H. Con. Res. 67) authorizing the Attorney General to institute suit to determine the legitimacy of sale of Georgetown Gas Light Co. stock to the Washington Gas Light Co.; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. WILSON of New York: A bill (H. R. 27874) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors; to the Committee of the Whole House.

By Mr. ANTHONY: A bill (H. R. 27884) granting a pension to Richard H. Cutter; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27885) granting a pension to Francis M. Jones; to the Committee on Pensions.

Also, a bill (H. R. 27886) granting an increase of pension to John Sanderson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27887) granting an increase of pension to Edmund J. Holman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27888) granting an increase of pension to Andrew De Veau; to the Committee on Invalid Pensions.

By Mr. BYRNES of South Carolina: A bill (H. R. 27889) granting a pension to Ernest Holmes; to the Committee on Pensions.

Also, a bill (H. R. 27890) granting an increase of pension to Lucretia Grice; to the Committee on Invalid Pensions.

By Mr. BYRNS of Tennessee: A bill (H. R. 27891) for the relief of the estate of Hiram Jenkins; to the Committee on War Claims.

By Mr. CULLOP: A bill (H. R. 27892) granting a pension to Sarah E. Dillon; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27893) to correct the military record of Martin All; to the Committee on Military Affairs.

By Mr. DONOHOE: A bill (H. R. 27894) granting an increase of pension to Edward J. Baker; to the Committee on Pensions.

By Mr. FAISON: A bill (H. R. 27895) for the relief of the heirs of Nancy Barfield, deceased; to the Committee on War Claims.

By Mr. GOULD: A bill (H. R. 27896) granting an increase of pension to John A. Ripley; to the Committee on Invalid Pensions.

By Mr. HAMILTON of West Virginia: A bill (H. R. 27897) for the relief of Joseph P. Jones; to the Committee on Claims.

By Mr. HAYDEN: A bill (H. R. 27898) for the relief of the administrator and heirs of Fritz Contzen, to permit the prosecution of an Indian depredation claim; to the Committee on Indian Affairs.

By Mr. HENSLEY: A bill (H. R. 27899) for the relief of the heirs of A. P. Thompson, deceased; to the Committee on War Claims.

By Mr. LA FOLLETTE: A bill (H. R. 27900) for the relief of Ernest W. Grant; to the Committee on the Public Lands.

By Mr. LANGLEY: A bill (H. R. 27901) granting a pension to Noah Smith; to the Committee on Pensions.

By Mr. MADDEN: A bill (H. R. 27902) for the relief of John Inglis; to the Committee on Military Affairs.

By Mr. MARTIN of Colorado: A bill (H. R. 27903) granting an increase of pension to Samuel Galloway; to the Committee on Invalid Pensions.

By Mr. PRINCE: A bill (H. R. 27904) granting a pension to William Dotson; to the Committee on Pensions.

By Mr. PROUTY: A bill (H. R. 27905) granting an increase of pension to John M. Cochran; to the Committee on Invalid Pensions.

By Mr. RUBEY: A bill (H. R. 27906) granting a pension to Addie Davidson; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ALLEN: Petition of the Association of National Advertising Managers, protesting against the passage of House bill 23417, prohibiting the fixing of prices by manufacturers of patent goods; to the Committee on Patents.

By Mr. ASHBROOK: Petition of the Massachusetts Association of Sealers of Weights and Measures, favoring the passage of House bill 23113, fixing a standard barrel for the shipment of fruits, vegetables, etc.; to the Committee on Weights and Measures.

Also, petition of the National Brotherhood of Locomotive Engineers, favoring the passage of Senate bill 5382, the workman's compensation bill; to the Committee on the Judiciary.

Also, petition of J. F. Reiser and 3 other merchants of Tuscarawas, Ohio, favoring the passage of legislation giving the Interstate Commerce Commission further power over the express companies; to the Committee on Interstate and Foreign Commerce.

By Mr. AYRES: Memorial of the Chamber of Commerce of the State of New York, protesting against any legislation proposing any change in the Harter Act, relative to the carriage of cargo by sea; to the Committee on Interstate and Foreign Commerce.

By Mr. BYRNS of Tennessee: Papers to accompany bill for the relief of the estate of Hiram Jenkins; to the Committee on War Claims.

By Mr. CALDER: Petition of the Long Island Game Protective Association, favoring the passage of House bill 36, for Federal protection to migratory birds; to the Committee on Agriculture.

By Mr. DYER: Petition of R. S. Hawes, St. Louis, Mo., favoring the passage of Senate bill 957, for the regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Whitman Agriculture Co., St. Louis, Mo., favoring the passage of House bill 25106, giving a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

By Mr. GRIEST: Resolution adopted by the Vermont Association of Sealers of Weights and Measures, urging the enactment into law of House bill 23113, fixing a standard for the shipment of fruits and vegetables, etc.; to the Committee on Coinage, Weights, and Measures.

By Mr. HAMILTON of West Virginia: Papers to accompany bill for the relief of Joseph P. Jones; to the Committee on Claims.

By Mr. HENSLEY: Petition of the German-American Alliance, De Soto, Mo., protesting against the passage of Senate bill 4043, prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. LEE of Pennsylvania: Petition of the Philadelphia Maritime Exchange, favoring the passage of Senate bill 7503, providing for a reduction on first-class mail matter; to the Committee on the Post Office and Post Roads.

By Mr. REILLY: Petition of the Connecticut Federation of Women's Clubs, New Haven, Conn., favoring the passage of the Page bill (S. 3) giving Federal aid to vocational education; to the Committee on Agriculture.

By Mr. REYBURN: Petition of the Philadelphia Maritime Exchange, favoring the passage of Senate bill 7503, reducing the postage on first-class mail matter; to the Committee on the Post Office and Post Roads.

By Mr. SLOAN: Petition of the Church of Brethren, Carlisle, Nebr., favoring the passage of the Kenyon "red light" injunction bill for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

Also, petition of citizens of Polk County, Nebr., protesting against the passage of any legislation looking toward the enlargement of the parcel-post zone bill; to the Committee on the Post Office and Post Roads.

By Mr. TILSON: Petition of Harry P. Bliss, Middletown, Conn., making a suggestion relative to the bill for naturalization, etc.; to the Committee on Immigration and Naturalization.

By Mr. UNDERHILL: Petition of the Federation of Jewish Farmers of America, favoring the passage of legislation establishing a system of farmers' credit unions; to the Committee on Banking and Currency.

Also, petition of the Association of National Advertising Managers of the United States of America, protesting against the passage of section 2 of House bill 23417, prohibiting the fixing of prices by manufacturers of patent goods; to the Committee on Patents.

Also, petition of a committee appointed at an informal meeting at the time of the meeting of the National Association of State Universities at Washington, D. C., protesting against the passage of Senate bill 3, for vocational education; to the Committee on Agriculture.

Also, petition of the New York Civic League, New York, favoring the passage of legislation prohibiting the shipment of liquor into dry territory for illegal purposes; to the Committee on the Judiciary.

By Mr. WICKERSHAM: Petition of the people of Wrangell, Alaska, favoring the passage of legislation to prevent the setting of traps in the tidal waters of Alaska; to the Committee on the Territories.

By Mr. WILLIS: Papers to accompany bill (H. R. 18219) granting a pension to Catherine Alspach; to the Committee on War Claims.

By Mr. WILSON of New York: Petition of the Chamber of Commerce of the State of New York, protesting against the passage of Senate bill 7208, proposing several changes in the laws of the United States relating to the carriage of cargo by sea; to the Committee on Interstate and Foreign Commerce.

By Mr. WOOD of New Jersey: Papers to accompany House bill 27873, granting an increase of pension to James G. Hagamen; to the Committee on Invalid Pensions.

SENATE.

FRIDAY, *January 10, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Journal of yesterday's proceedings was read and approved.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of ascertainment of electors for President and Vice President appointed in the State of New York at the election held in that State on November 5, 1912, which was ordered to be filed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by D. K. Hempstead, its enrolling clerk, announced that the House had passed a bill (H. R. 26874) making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a memorial of the officers of the Twentieth Century Club, of Washington, D. C., remonstrating against the enactment of legislation granting authority to the several States to dispose of their natural resources, which was referred to the Committee on Conservation of National Resources.

Mr. PAGE presented a memorial of sundry citizens of Middletown Springs, Vt., remonstrating against the enactment of legislation providing for the parole of Federal life prisoners, which was ordered to lie on the table.

Mr. GALLINGER presented a petition of the Woman's Christian Temperance Union of Berlin, N. H., praying that an appropriation be made for the construction of a public building in that city, which was referred to the Committee on Public Buildings and Grounds.

He also presented a petition of members of Porter Garrison, Army and Navy Union, of Washington, D. C., praying for the passage of the so-called police and firemen's pension bill, which was referred to the Committee on the District of Columbia.

He also presented a petition of the congregation of the Rhode Island Avenue Methodist Episcopal Church, of Washington, D. C., and a petition of members of the Southwest Colored Citizens' Association, of Washington, D. C., praying for the passage of the so-called Kenyon red-light injunction bill, which were referred to the Committee on the District of Columbia.

Mr. BRISTOW presented sundry papers to accompany the bill (S. 2305) providing for the adjustment and payment of accounts to laborers and mechanics under the eight-hour law, which were referred to the Committee on Education and Labor.

Mr. DU PONT presented a petition of the Chamber of Commerce of Aberdeen, Wash., praying that an appropriation be

made for the fortification of Grays and Willapa Harbors, in that State, which was referred to the Committee on Appropriations.

Mr. TOWNSEND (for Mr. SMITH of Michigan) presented petitions of the Michigan Annual Conference of the Methodist Episcopal Church and of sundry citizens of Walled Lake and Grand Rapids, all in the State of Michigan, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also (for Mr. SMITH of Michigan) presented a memorial of John A. Logan Post, No. 1, Department of Michigan, Grand Army of the Republic, remonstrating against the passage of the so-called Swanson bill for the relief of certain Confederate officers, which was referred to the Committee on Military Affairs.

TWENTIETH INTERNATIONAL IRRIGATION CONGRESS.

Mr. SMOOT. I have a copy of resolutions adopted by the Twentieth International Irrigation Congress, held at Salt Lake City, Utah, October 3, 1912. I ask that the resolutions lie on the table and be printed in the RECORD.

There being no objection, the resolutions were ordered to lie on the table and to be printed in the RECORD, as follows:

Resolutions of the Twentieth International Irrigation Congress, adopted at Salt Lake City, Utah, October 3, 1912.

We, the delegates to the Twentieth International Irrigation Congress, assembled in Salt Lake City, State of Utah, extend cordial greetings to the irrigation host throughout our country, and submit the following resolutions as a declaration of principles:

1. We hold that Federal control as between the States is essential to the equitable distribution and utilization of the water of interstate streams.

2. We approve the development of navigation throughout the rivers and lakes of the United States in accordance with the most comprehensive plan.

3. We renew our indorsement of the Newlands river regulation bill, and urge its enactment by the Federal Congress during the coming session. This bill provides for the complete control of the flood waters of our rivers in such way as to promote irrigation and drainage, the development of power, the extension of navigation, and the protection of the lowlands from destructive floods.

4. We heartily approve the Federal forestry policy, and favor its continuance and extension, and commend the cooperation of State and Federal authority in the work of forest protection.

5. We recognize the establishment of the United States Reclamation Service as second only in importance to the passing of the reclamation act in the development of the arid West. Experience has demonstrated the expediency of certain administrative changes:

5a. We believe the law should be so amended as to require that all contracts for the sale of power developed by, or in connection with, any reclamation project shall be approved by the Project Water Users' Association under such project having an interest in such contract.

5b. We believe that the profits arising from the operation of any project should be covered into the reclamation fund to the credit of such project.

5c. We favor the establishment of water users' associations under all Government projects when 20 per cent of the land thereunder shall have passed into private ownership.

5d. We recommend that complete plans and specifications of any work contemplated on any project should be delivered to the Project Water Users' Association before such work is begun, and that itemized semiannual reports of all charges and expenditures under each reclamation project should be furnished to the officers of the water users' association under such project, and we favor the appointment of a consulting engineer under each project, to be selected by and paid by the Project Water Users' Association having access to the plans, specifications, and accounts, but without supervisory power.

6. We commend the work of the United States Geological Survey, and strongly recommend that more liberal appropriations be made by the Federal Congress and the legislatures of the States for cooperation in the prosecution of the work of the topographic and water resources branches of this bureau.

7. We commend the irrigation and drainage investigations of experiment stations, the soil and water investigations of the Bureau of Soils, and dry-farming investigations of the United States Department of Agriculture, and equally commend the work of the agricultural experiment stations and engineering departments in the several States; we favor further investigation of natural subirrigation and of irrigation by pumping; and we urge more liberal appropriations by the Federal Congress and by the States for the work and cooperation of these agencies, and for the more general distribution of the reports and bulletins recording their operations and results.

8. We believe that the administration of the Carey Act can be made more effective by the establishment of effective State supervision for all projects undertaken in any such States.

9. We deprecate the sale of abandoned military posts for wholly inadequate prices, and recommend their transfer to the States in which they may be situated for use as agricultural schools, experiment stations, or other public uses.

10. We recommend that the Congress of the United States rescind its action relative to the payment of expenses of Government officers and employees in attending sessions of the Irrigation Congress, in so far as the same relates to experts whose work bears a relation to the purposes of this congress.

11. Realizing that the opening of the Panama Canal in 1914 will greatly increase the influx of immigrants by permitting their landing on the Pacific as well as the Atlantic coast, and that the greatest benefits of foreign immigration can be attained only when the immigrants settle permanently on farms where they can quickly develop the spirit of citizenship and help to render this a Nation of homes; we commend cooperation among the various State officers in the establishment of common agencies, including expositions and other means of diffusing accurate information, to the end that immigrants may be located on the land under conditions suitable to their habits and conducive to the best development of the country.

12. We also recommend to the legislative bodies and to the various commercial organizations, particularly of the States west of the Rocky Mountains, the establishment and maintenance of bureaus at those Pacific coast ports where the immigrants will land, and where accurate information concerning agricultural lands and conditions can be supplied to them.

13. We further recommend that the Congress of the United States create a commission to investigate and report upon the colonization systems now in vogue in other countries concerning rural settlement as well as the methods of cooperative farm loan systems.

14. *Resolved*, That the International Irrigation Congress cooperate to the fullest extent with the Panama-California Exposition in producing at San Diego in 1915 the most elaborate and comprehensive international irrigation exhibit that has ever been assembled; that we invoke the aid of the legislators of the several States from the western part of the Union and of the Governments of all foreign countries interested in irrigation, to the end that this plan may be successfully consummated.

15. We invite the attention of the president and directors of the Panama-Pacific Exposition to the propriety of making provision for an adequate exhibit of irrigated farm products from the several irrigated States at the San Francisco Exposition to be held in 1915.

16. The Twentieth International Irrigation Congress proffers its sincere thanks to the State of Utah and to the city of Salt Lake, including the citizens and the Commercial Club and other organizations thereof, for the generous welcome and gracious hospitality extended to its members. The Irrigation Congress has felt at home in the city of its nativity. Its hearty thanks are tendered to Prof. J. J. McClellan and to Prof. Evan Stephens and to the Tabernacle choir for the inspiring music which graced the opening session of the congress. Especial thanks are extended to the Western Union Telegraph Co. for the unusual interest taken in advertising the congress throughout the United States and foreign countries and for special wire and messenger service afforded the congress.

Cordial thanks are extended to the Saltair Railroad and Emigration Canyon Railway for the pleasant excursions tendered to the members of the congress, and to the press of Salt Lake City for its interesting and complete reports of our proceedings. The congress is to be congratulated upon the presence at this session of the accredited delegates from the United Commonwealth of Australia, from the United States of Mexico, from the Republic of Brazil, from the Republic of Portugal, from the Republic of Guatemala, from the Provinces of Ontario, Alberta, and British Columbia, Dominion of Canada. We bespeak for future sessions of the congress addresses by eminent authorities on irrigation from these and other nations, to the end that the congress may become the clearing house for the exchange of the most advanced ideas of all nations upon subjects pertaining to irrigation.

We commend our distinguished president, Senator FRANCIS G. NEWLANDS, for his inspiring leadership and his impartial conduct in the chair. We commend Mr. Arthur Hooker for his untiring services as secretary of the congress. The Utah Board of Control is entitled to the thanks of all for the splendid success which has attended its preparations for the Twentieth Irrigation Congress.

REPORTS OF COMMITTEES.

Mr. WORKS, from the Committee on the District of Columbia, to which was referred the bill (S. 7498) fixing the punishment for cruelty to or abandonment of animals in the District of Columbia, submitted an adverse report (No. 1094) thereon, which was agreed to, and the bill was postponed indefinitely.

Mr. DU PONT, from the Committee on Military Affairs, to which was referred a petition from the Chamber of Commerce of Montesano, Wash., praying for an appropriation for the fortification of Grays and Willapa Harbors in that State, asked to be discharged from its further consideration and that it be referred to the Committee on Appropriations, which was agreed to.

PRESIDENTIAL INAUGURAL CEREMONIES.

Mr. JONES. From the Committee on the District of Columbia I report back favorably, with amendments, the joint resolution (S. J. Res. 145) to provide for the maintenance of public order and the protection of life and property in connection with the presidential inaugural ceremonies in 1913, and I submit a report (No. 1095) thereon. This is not a very long measure, and it is of some importance. It should be promptly acted on, and I ask for its present consideration.

The PRESIDENT pro tempore. The joint resolution will be read for the information of the Senate.

The Secretary read the joint resolution, and, there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendments were, on page 2, line 3, after the words "said period," to insert "fixing fares to be charged for the use of the same"; and on page 2, line 7, after the words "District of Columbia," to insert "and in such other manner as the commissioners may deem best to acquaint the public with the same," so as to make the joint resolution read:

Resolved, etc., That $23,000, or so much thereof as may be necessary payable from any money in the Treasury not otherwise appropriated and from the revenues of the District of Columbia in equal parts, is hereby appropriated to enable the Commissioners of the District of Columbia to maintain public order and protect life and property in said District from the 28th of February to the 10th of March, 1913, both inclusive. Said commissioners are hereby authorized and directed to make all reasonable regulations necessary to secure such preservation of public order and protection of life and property and fixing fares by public conveyance, and to make special regulations respecting the standing, movements, and operating of vehicles of whatever character or kind during said period and fixing fares to be charged for the use of the same. Such regulations shall be in force one week prior to said inauguration, during said inauguration, and one week subsequent thereto, and shall be published in one or more of the daily newspapers published in the District of Columbia and in such other manner as the commissioners may deem best to acquaint the public with the same; and no penalty prescribed for the violation of any of such regulations

shall be enforced until five days after such publication. Any person violating any of such regulations shall be liable for each such offense to a fine not to exceed $100 in the police court of said District, and in default of payment thereof to imprisonment in the workhouse of said District for not longer than 60 days. And the sum of $2,000, or so much thereof as may be necessary, is hereby likewise appropriated, to be expended by the Commissioners of the District of Columbia, for the construction, maintenance, and expenses incident to the operation of temporary public comfort stations and information booths during the period aforesaid.

The amendments were agreed to.

Mr. CURTIS. I should like to ask the Senator from Washington having charge of the joint resolution if the rates referred to apply only to the inauguration week?

Mr. JONES. That is the time they apply to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

COL. RICHARD H. WILSON.

Mr. MYERS. Mr. President, yesterday during the morning hour I could not be here. I should like to have been here, but it was impossible, when the Senator from Wyoming [Mr. WARREN], from the Committee on Military Affairs, reported to the Senate favorably a substitute for the bill (S. 7515) for the relief of Col. Richard H. Wilson, Fourteenth Infantry, United States Army. That measure was thoroughly investigated by the Senator from Wyoming and was unanimously recommended by the Committee on Military Affairs. It is a small bill, which pertains to a local matter in Montana, and it is very urgent. The Senator from Wyoming and the Senator from Delaware [Mr. DU PONT] can vouch for the urgency of it. I ask unanimous consent for the immediate consideration of the bill.

The PRESIDENT pro tempore. The Senator from Montana asks unanimous consent for the present consideration of Senate bill 7515. Is there objection?

Mr. SMOOT. I should like to ask what is the nature of the bill and of the urgency?

Mr. MYERS. The nature of it is this: Col. Wilson was in charge of Fort William Henry Harrison at Helena, Mont. The sum of about $7,000—the exact sum is disclosed by the substitute reported—was stolen from the safe in the paymaster's office while Col. Wilson was temporarily in charge. It was stolen, it appears, by a couple of men who were deserters and have not been captured.

There was an investigation and Col. Wilson was thoroughly exonerated. Technically, I understand, under the law he is responsible for this money, but the War Department recommended that a bill be introduced and passed relieving him from that obligation.

All the facts are known to the Senator from Wyoming [Mr. WARREN] and the Senator from Delaware [Mr. DU PONT], the Senator from Delaware being the chairman of the Committee on Military Affairs. After investigating it and knowing the facts, they recommended the passage of the bill, and it was unanimously reported by the committee.

Mr. CRAWFORD. May I ask the Senator if the report has been printed? I do not find it on my file.

Mr. MYERS. It was made yesterday. I suppose it has been printed.

Mr. CRAWFORD. It does not seem to have been yet printed.

Mr. MYERS. I ask to have it read for the information of the Senate.

Mr. SMOOT. Not the bill, but the report.

Mr. MYERS. I ask to have the report read.

Mr. BRISTOW. Mr. President, I think this is like a great many other bills. I am somewhat familiar with it. I would like to have it go over. I must object to its present consideration.

The PRESIDENT pro tempore. The Senator from Kansas objects.

Mr. MYERS. I must say that if the bill has to take the regular course, I see no hope of its getting through at this session. I have no hope of the bill getting through the Senate and the House if it must take its regular course.

Mr. BRISTOW. It is a measure that I think ought to be considered before it is passed.

Mr. MYERS. I have asked to have it considered now, but, of course, I will have to wait.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. McLEAN:

A bill (S. 8058) providing for an increase of salary of the United States attorney for the district of Connecticut; to the Committee on the Judiciary.

By Mr. KENYON:

A bill (S. 8059) granting a pension to Sarah C. Goodrich;

A bill (S. 8060) granting an increase of pension to Isaac O. Foote; and

A bill (S. 8061) granting an increase of pension to James W. Ellis; to the Committee on Pensions.

By Mr. BRISTOW:

A bill (S. 8062) granting a pension to Alice M. Keeny; to the Committee on Pensions.

By Mr. SMOOT:

A bill (S. 8063) granting an increase of pension to Francis M. Bishop (with accompanying papers); to the Committee on Pensions.

By Mr. WORKS:

A bill (S. 8064) granting a pension to John A. Lennon (with accompanying papers); to the Committee on Pensions.

By Mr. BRANDEGEE:

A bill (S. 8066) for the relief of Pay Inspector F. T. Arms, United States Navy; to the Committee on Naval Affairs.

By Mr. STEPHENSON:

A bill (S. 8067) granting an increase of pension to George W. Vincent (with accompanying papers); to the Committee on Pensions.

By Mr. OLIVER:

A bill (S. 8068) granting an increase of pension to Annie S. Aul (with accompanying papers); and

A bill (S. 8069) granting an increase of pension to Richard T. Blaikie (with accompanying papers); to the Committee on Pensions.

By Mr. SHIVELY:

A bill (S. 8070) granting a pension to Iselo Nicely;

A bill (S. 8071) granting a pension to Daniel Hand; and

A bill (S. 8072) granting an increase of pension to William Holdaway (with accompanying papers); to the Committee on Pensions.

By Mr. BRANDEGEE:

A bill (S. 8073) repealing a provision of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1913," and for other purposes, approved August 24, 1912; to the Committee on Appropriations.

AMENDMENT TO LEGISLATIVE APPROPRIATION BILL.

Mr. BRANDEGEE submitted an amendment proposing to reduce the number of clerks of class 2 in the Office of the Surgeon General from 26 to 24, etc., intended to be proposed by him to the legislative appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

INTERSTATE SHIPMENT OF LIQUORS.

Mr. SANDERS. Mr. President, I offer the following.

The PRESIDING OFFICER (Mr. CLAPP in the chair). It will be read.

The SECRETARY. The Senator from Tennessee proposes the following unanimous-consent agreement:

It is agreed by unanimous consent that on Monday, January 20, 1913, at 3 o'clock p. m., the bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases be taken up for consideration, not to interfere with appropriation bills, and that the vote be taken on all amendments pending and amendments to be offered, and upon the bill itself not later than the hour of 6 o'clock on that day.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee? The Chair hears none. It is so ordered.

AMENDMENT OF ANTITRUST LAW.

Mr. SMOOT. Mr. President——

Mr. OWEN. I introduce a bill proposing to amend the Sherman antitrust law, giving the States an opportunity to seek redress for trade restraint. I ask that the brief accompanying the bill be printed in connection therewith, and that it, together with the bill, be referred to the Committee on the Judiciary.

The bill (S. 8065) to amend an act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, was, with the accompanying paper, ordered to be printed and referred to the Committee on the Judiciary.

INTERSTATE SHIPMENT OF LIQUORS.

Mr. SMOOT. Was there a unanimous-consent agreement just entered?

The PRESIDING OFFICER. There was. It was just agreed to.

Mr. SMOOT. I know there are a number of Senators out of the Chamber who did not expect it to come up at this time. I was in my seat, and if I had heard it read I would have objected to the unanimous-consent agreement. I therefore ask that it be reconsidered.

The PRESIDING OFFICER. The Chair understands that it is beyond the power of the Senate. The Chair may be mistaken

in that view, but the Chair thinks that it is beyond the power of the Senate to change or interfere with a unanimous-consent agreement after it is made.

Mr. SMOOT. I appeal to the Senator from Tennessee, for the Senator knows there are a number of Senators who are deeply interested in the bill and desire to speak on it. A number of them have so stated. I do not think the Senator from Tennessee ought, when but a few Senators are in their seats, ask unanimous consent to agree to vote upon a measure that he knows there is objection to. My attention was diverted for the moment by the Senator from Arkansas [Mr. CLARKE], and we were discussing a question of public business. If I had heard the request read, I would not have agreed to it unless the Senators who are interested in the measure were present and agreed to the unanimous-consent agreement. I ask the Senator from Tennessee to withdraw the request under the circumstances.

Mr. GRONNA. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from North Dakota?

Mr. SMOOT. I yield to the Senator from North Dakota.

Mr. GRONNA. As I understand the rule of the Senate, it can only be reconsidered by unanimous consent, not by a vote of the Senate.

Mr. SMOOT. It can be withdrawn by the Senator who made the request.

Mr. SANDERS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Tennessee?

Mr. SMOOT. I do.

Mr. SANDERS. I see on the floor of the Senate as many Members as there are usually here, and I have been bringing this matter up from day to day. There is no snap judgment about it in any sort of way.

Mr. SMOOT. I have never yet in the history of the Senate, since I have been here, known of a Senator asking for a unanimous-consent agreement when he knew there were absent certain Senators who had made objections before, and when the fact of their absence was called to his attention insisted upon it. I appeal to the Senator from Tennessee now to adhere to that rule.

Mr. SANDERS. Mr. President, I want to explain that some of the Senators who have objected to the agreement in the past have since then told me that they would not further object. So I do not think the point is well taken with reference to it.

Mr. SMOOT. I was in the Chamber, and I intended, at the request of a number of Senators, to object to it in their absence.

The PRESIDING OFFICER. Let the Chair say a word. There is too much confusion in the Senate. This unanimous-consent offer was made, was read very clearly and with great deliberation by the Secretary, and stated with deliberation by the Chair. The trouble is there is too much confusion in the Chamber.

Mr. SMOOT. I admit this: I was sitting in my seat at the time the order was presented talking to the Senator from Arkansas upon a question that is of interest not only to him but to the Senate. The Senator from Tennessee knows that there are a great many Senators who have stated that they did not want to agree upon a date for a vote on this bill until they had spoken upon it. I would have objected if I had heard the request made, for the reason that I have already stated to the Senator. I do not believe there was ever in the history of the Senate a unanimous-consent agreement secured in this way, and I therefore ask the Senator from Tennessee to withdraw his request.

Mr. CLARKE of Arkansas. I want to confirm, if confirmation is necessary, the statement made by the Senator from Utah [Mr. SMOOT]. I think to take advantage of the circumstance by which his attention was diverted from something that he deliberately intended to object to would be to make an unfair application of an incident that was not due to his fault. By virtue of his position as chairman of one of the committees of the Senate it became necessary for me to address an inquiry to him. The order of business under which the Senate was proceeding was the introduction of bills. I observed certain Senators on their feet with bills in their hands, which indicated to me that that order of business would continue for some minutes; but it suddenly came to an end, and this matter was disposed of without the knowledge of the Senator from Utah or of mine. I say to the Senator from Tennessee [Mr. SANDERS] that I think it would be unfair to take advantage of a circumstance that was not due to inattention or to indifference of the particular Senator who had it in his mind to object to unanimous consent with reference to the consideration of that matter. I should feel disposed to go to some length to see that he did not succeed in taking advantage of the incident if it were necessary to do so.

Mr. WORKS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from California?

Mr. SMOOT. I do.

Mr. WORKS. It seems to me that no injustice can result from this order if it continues in force. There are 10 days left to discuss this question between now and the time fixed for a vote upon it, which ought to give ample opportunity for its discussion by any Senator who desires to discuss it.

Mr. CLARKE of Arkansas. My proposition is to restore the status quo and therefore give the Senator from Utah [Mr. SMOOT] the right that he intended to exercise. I have been the innocent cause of depriving him of that right, and I do not believe the Senate is going to insist upon a condition of that sort.

Mr. MARTINE of New Jersey. Mr. President, I object——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from New Jersey?

Mr. SMOOT. I yield.

Mr. MARTINE of New Jersey. I object to the consideration of the bill at this time.

Mr. SMOOT. That is not the question.

The PRESIDING OFFICER. The objection is not well founded.

Mr. MARTINE of New Jersey. I may not have just the trend of that which went on previous to my coming into the Chamber. I am willing to vote on the question at an opportune time, but I object to its consideration at this particular time.

Mr. BRISTOW. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Kansas?

Mr. SMOOT. I yield.

Mr. BRISTOW. I am very much in favor of the bill in which the Senator from Tennessee [Mr. SANDERS] is interested, and I expect to support it; but I do think that it would be absolutely unfair to insist on this unanimous-consent agreement standing. I want to say now that if it were a bill in which I was interested, and the unanimous-consent agreement was obtained in this way, I would not support it, because the unanimous-consent agreement is a sacred agreement here in the Senate, and it should not be enforced unless every Senator has an opportunity to be heard when it is proposed. It is a very drastic practice that we have. I am speaking as one who is interested in the passage of the bill.

Mr. SMOOT. I wish to say that, so far as I am personally concerned, I have not made up my mind what action I shall take on the bill, but I promised a number of Senators, and I told them that if I were in the Chamber and they were not present, I would object to any unanimous-consent agreement. Morning business was in progress, and I did not expect such consent would then be asked. As I have heretofore stated, I was talking to the Senator from Arkansas at the time. I think it would be unfortunate if the Senator from Tennessee should insist upon the unanimous-consent agreement.

Mr. CRAWFORD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from South Dakota?

Mr. SMOOT. I do.

Mr. CRAWFORD. I do not desire to interrupt the Senator. I only want an opportunity to say that I am very much in favor of the bill; I want to assist in passing it; I want to vote for it; but I can not consent to giving my approval to the situation here, if it is insisted upon, in enforcing the unanimous-consent agreement, because with a Senator in the Chamber with his intention and his purpose fixed to object to unanimous consent, he being misled through an inadvertence and by having his attention withdrawn in the manner narrated here—to take advantage of such a situation and insist on the enforcement of the unanimous-consent agreement, to my mind, would not be fair, and it is action which will injure the enforcement by the honor of the Senate of unanimous-consent agreements in the manner which has always prevailed. I believe it will injure the custom, the practice, and the rule, if it shall be insisted upon under such circumstances.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Idaho?

Mr. SMOOT. I do.

Mr. BORAH. Do I understand that the request for unanimous consent has been agreed to?

The PRESIDING OFFICER. The request for unanimous consent has been agreed to.

Mr. BORAH. Then, I do not understand that the Senator from Tennessee [Mr. SANDERS] has power to change the consent agreement or withdraw it.

Mr. SMOOT. The Senator from Tennessee who made the request has a right to ask that the vote by which it was agreed to may be reconsidered, and that is what I ask the Senator now to do.

The PRESIDING OFFICER. The Chair would say to the Senator from Utah that the present occupant of the chair does not profess to be an authority on parliamentary law, but he has heard it stated time and time again in the Senate that a unanimous-consent agreement once entered into could not, even by unanimous consent, be modified or in any maner altered or changed, and the Chair certainly would want some authority to entertain such a request.

Mr. SMOOT. Mr. President, such agreements have been modified by unanimous consent time and time again since I have been in the Senate. I do not think but what the Senate can do anything that it desires by unanimous consent. They can change by unanimous consent a unanimous-consent agreement.

Mr. BORAH. Mr. President, without discussing the merits of this particular agreement, I take issue with the Senator from Utah upon that proposition. If that were true, there would be no such thing as a unanimous-consent agreement in the Senate Chamber. If a unanimous-consent agreement could be entered into here and the next day set aside when other Senators who had relied upon it were not here, there would be no such thing as a unanimous-consent agreement in this Senate.

Mr. CRAWFORD. If the Senator from Idaho will permit me a question there, Is it really a unanimous-consent agreement? A Member being present intending to object did not give his consent because his attention was diverted by another Senator, and under a proceeding that was then in order, the introduction of bills. He did not hear the statement read; he was opposed to the unanimous-consent agreement, and through his attention being so diverted he did not give his consent, but he was deprived of the opportunity of withholding his consent, although present and intending to do it. Those facts are stated here by Senators and are not in dispute. Did the Senate, then, unanimously consent to this order?

Mr. SMOOT. If I had been out of the Chamber, it would have been an entirely different proposition.

Mr. CRAWFORD. But the Senator from Utah was here.

Mr. SMOOT. I was here and the Senate was acting under the order of morning business.

Mr. BORAH. That makes it all the more difficult to get rid of this situation. If the Senator had been out of the Chamber, it might have been different; but the Senator was in the Chamber.

Mr. SMOOT. Well, Mr. President, if the Senate of the United States wants to establish this rule, and if the Senate will not by unanimous consent agree to the abrogation of this unanimous-consent agreement, I think there is a very dangerous precedent being established.

Mr. BRISTOW and Mr. REED addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas [Mr. BRISTOW] is recognized. The Senator from Missouri [Mr. REED] will be recognized when the Senator from Kansas concludes.

Mr. BRISTOW. Mr. President, I regard this as a very serious matter. If a unanimous-consent agreement of this kind were secured on a bill in which I was interested, I would not respect the unanimous-consent agreement; I would violate it without any hesitation, as I would have a right to do under the rules of the Senate and under my obligations as a Senator to my constituents. If it is proposed now to break down the rule of unanimous consent, we can do it.

Mr. REED. Mr. President, I desire to make an inquiry for information, because I was engaged as a member of the Commerce Committee in listening to the hearing now being held by that committee. In company with several other Senators, all of us anxious to come to the Senate, we were at that work, and remained because we relied upon the fact that the order of business was the presentation of petitions and memorials, reports of committees, and the introduction of bills. A messenger was sent down from the committee to ascertain what head the Senate was under and had reported only a moment before I left the committee room. I want to inquire, therefore, what order of business the Senate was actually under at the time this unanimous consent was asked?

Mr. SMOOT. The introduction of bills.

The PRESIDING OFFICER. The Senate was acting under the order of introduction of bills.

Mr. REED. Now, Mr. President, was unanimous consent asked to vary the order of business or was this request for unanimous consent thrust into the order of business and out of order itself?

The PRESIDING OFFICER. The unanimous-consent order was asked for separately and independently, by itself.

Mr. REED. That is to say, we were under the order of the introduction of bills when unanimous consent was asked without first getting the consent of the Senate in any way to set aside the order then before the Senate. If that is true, exactly the same situation is presented that was presented yesterday. On yesterday the Senator from Tennessee, under this same order of business, arose. He did not ask to have the order of business temporarily laid aside, but he asked for unanimous consent to have his bill taken up at some future date. I raised the point of order that the request was out of order. The then Presiding Officer, I think misapprehending the situation, ruled that the Senate could do anything by unanimous consent. That is practically true, but the unanimous consent which should have been asked was to vary the order of business, and after that had been granted then the request for the unanimous-consent agreement should have been presented.

Mr. President, without using any harsh terms, it is manifestly in the nature of a snap judgment upon the members of the Senate who were absent——

Mr. SANDERS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Tennessee?

Mr. REED. When I conclude the sentence—who were absent from the Senate and relying upon the order of business being carried out if that order of business has thrust into it something which is entirely foreign to it and is not properly introducable at that particular time.

I do not mean to say that the Senator from Tennessee meant to take an unfair advantage, but if this practice were to be indulged in, then manifestly all that any Senator can do who has service upon a committee to perform is to be here in his seat every moment, trusting nothing to the rules, nothing to the order of business, and understanding that an order may at any time be made binding upon him and the Senate, which can not be set aside by the Senate itself by unanimous consent, even with the acquiescence of the Senator who obtained the order. That is the situation in which we would be placed if the construction of the Senator from Idaho is correct.

Mr. SANDERS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Tennessee?

Mr. REED. Certainly.

Mr. SANDERS. Mr. President, I have been waiting patiently for an opportunity to disclaim any intention of taking an undue advantage of Senators. I am glad to hear the Senator from Missouri retract the statement that I did take such an advantage. I should like to see other Senators also retract. But while I was waiting for that opportunity a point of order was raised. I waited until that was decided.

I want to say that I have not been here very long, not so long as some of the Senators who are now objecting, and I may not have learned my lesson properly; but I have seen unanimous-consent agreements made here when there were not half as many Members in the Senate as there are now; I have seen unanimous-consent agreements made without any technical call for a change of the order of business; I have seen unanimous-consent agreements made here this morning and under the same circumstances, and no objection was made. So, as I have said, I may be a little premature in this matter and a little inexperienced, but I have learned what I am doing and saying from some of the older Senators who are here.

I want to say now that I positively disclaim any intention to take any advantage of anybody, and if the point of order that the unanimous-consent agreement can not be withdrawn is not sustained, I would be willing to yield to the Senators who have expressed a different view; but I should like to have the point of order made by the Senator from Idaho [Mr. BORAH] passed upon.

Mr. REED. Mr. President, I want to say to the Senator from Tennessee that I did not retract anything I said, because I intended to say nothing to reflect upon the Senator from Tennessee. What I said was that if this practice was indulged in it might lay the foundation for what we might term snap judgment, but I said that I did not want to employ that harsh a term. I will embrace this opportunity to express for the Senator from Tennessee the highest regard and to say that I do not think he has been actuated by any improper motive.

Now, with reference to the point of order, I suggest this to the Presiding Officer before he rules: It is quite one thing for the Senate, fully advised of what it is doing, to grant unanimous

consent and to then pass on to some other order of business, so that Senators who were here at the time the unanimous-consent agreement was made may, some of them, have passed from the Chamber, and then, when there is a different membership present, to ask to vary the order of business. That would be one thing; but it is the rule——

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Idaho?

Mr. REED. I will when I conclude my sentence—but it is the rule everywhere that an act can be set aside when the request is made simultaneously with the doing of the act. A judgment of court is made, and when solemnly entered the court sometimes can not set aside that judgment, but when the judge has merely announced a judgment and instantly his attention is called to a mistake he can always at the time disregard the order. So I make the point that under these circumstances, when the request comes immediately after the ruling of the Chair, it would be a very harsh and a very dangerous rule to say that something had been done which can never be altered. If time had elapsed, if the membership had changed, a different question would be presented.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Idaho?

Mr. REED. Certainly.

Mr. BORAH. I did not formally raise a point of order. I simply suggested the proposition that having made a unanimous-consent agreement I did not see how we could change it. In view of the attitude of mind of the Senator interested in this matter, I do not want to make the point of order. If he can do so, I certainly should not interpose any objection to his undertaking to do so. I have no doubt myself—and I say it in the presence of the parliamentarians of the Senate—that we are now establishing a precedent never established before; but I shall not formally raise the point of order. It would perhaps be embarrassing to the Senator who asked for the agreement for me to do so. I think the peculiar circumstances ought to exempt this proceeding from becoming a precedent.

Mr. OLIVER. I think there is a way of avoiding this difficulty without doing violence to any of our rules or any of our customs. The request for unanimous consent was made by the Senator from Tennessee. The Senator from Utah, who would ordinarily have objected to it, had his attention temporarily called to other matters——

Mr. KENYON. Mr. President, there is so much noise——

Mr. BRANDEGEE. Mr. President, I ask that there may be order. I am unable to hear the Senator from Pennsylvania.

The PRESIDING OFFICER. Does the Senator from Pennsylvania yield to the Senator from Iowa?

Mr. OLIVER. I will finish what I have to say in one moment.

Mr. KENYON. There is so much confusion in the Chamber that we can not hear.

Mr. OLIVER. It is very difficult for me to speak anyway, as I am suffering from a severe cold.

I have seen times without number when a proposition was put before the Senate and the Chair decided that it was carried, that the vote was taken again. If the Chair decided that the "ayes" had it or the "noes" had it, a second division was called for. I think this is precisely a parallel case. The Chair had no more than announced that there was no objection and that the unanimous-consent agreement was ordered, than the Senator from Utah rose and called the attention of the Chair to the fact that he had not known that the discussion was going on.

Mr. WORKS. Mr. President——

Mr. OLIVER. I think it is entirely within the power of the Senate to consider the question as not settled and, as a matter of courtesy if nothing else, to allow it to be put a second time to the Senate.

I want to say, Mr. President, that I heard this motion put. I knew it was going on, and I had no intention of objecting to it. I am rather inclined to think that when this bill comes before the Senate for action I will vote in its favor. But I think every Senator opposed to it ought to have a right to be heard, and especially to interpose objection to a unanimous-consent agreement.

Mr. GALLINGER addressed the Chair.

The PRESIDING OFFICER. Just a moment. The Chair will say to the Senator from Pennsylvania that after agreement to the unanimous consent had been announced by the Chair other business was transacted.

Mr. SMOOT. But I was on the floor asking for recognition.

Mr. OLIVER. The Clerk has just informed me——

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GALLINGER. Mr. President, I was unavoidably kept out of the Chamber during the morning hour or during the time intervening between 12 o'clock——

Mr. STONE. Mr. President, I should like to hear what the Senator from New Hampshire is saying.

Mr. GALLINGER. I suggested, Mr. President, that I was unavoidably kept from the Chamber when this transaction occurred. Having been out of the Chamber, if I had been opposed to this unanimous-consent agreement, to which I am not opposed, I would not have felt that I had any right after the unanimous-consent agreement was made to raise an objection, even though I had entered the Chamber at the very moment the Chair announced the result.

The Senator from Tennessee, I take it, asked for a unanimous-consent agreement in the usual way. It is done over and over and over again during the morning hour. We do not formally lay aside the order of petitions or reports of committees or bills and joint resolutions to allow Senators to make requests of this kind, and I submit to the Chair, although I apprehend it is unnecessary, that this consent having been given it can not by any possibility under our rules be vacated.

Mr. CRAWFORD. Will the Senator permit me to ask him——

The PRESIDING OFFICER. Does the Senator from New Hampshire yield to the Senator from South Dakota?

Mr. GALLINGER. Certainly.

Mr. CRAWFORD. I want to submit to the Senator—I do not know whether he was here when I before called attention to it—whether or not it is a unanimous consent of the Senate; whether or not the Senate has given unanimous consent if a Senator is present in the Chamber at the time, opposed to the unanimous-consent agreement, fully intending to make objection to it, and because he is chairman of an important committee another Senator comes to him on official business of this body and his attention is momentarily diverted while the tentative proposal is being read, and he, being present, not having heard it, and being opposed to it, immediately upon learning of it makes his protest—I wish to know whether it has, in that condition, assumed the form of a unanimous-consent agreement which absolutely bars this body from correcting what it has done through inadvertence when a Member was present at the time who did not consent.

Mr. GALLINGER. Mr. President, I apprehend there are several Senators here now who would have made objection had they been in the Chamber, but as no one in the Chamber made objection, the fact that a Senator's attention was diverted is no reason why the agreement should not stand. If we establish any other rule, we will vacate every unanimous-consent agreement that is made in this body.

I again submit that the fact that a Senator's attention was diverted is not sufficient reason for asking that a unanimous-consent agreement should be annulled. The Senator from Tennessee, as I recall it, has on several former occasions asked for this consent agreement under precisely similar circumstances that he asked this morning, and objection was made. He made another request, which was granted, and it is now asked that it shall be again submitted because some Senator did not hear it.

Now, Mr. President, all I desire to say is this: That if we are not going to observe unanimous-consent agreements when they are properly submitted and agreed to, the Chair declaring that there is no objection to the request, then we might just as well do away entirely with efforts to get unanimous-consent agreements.

Mr. SUTHERLAND. Will the Senator permit me to ask him a question?

Mr. GALLINGER. Certainly.

Mr. SUTHERLAND. Does the Senator think that if a unanimous-consent request was made, and the Chair stated that no objection was heard, and immediately a Senator was to rise and say that his attention had been for the moment diverted and asked that the question be again put, there would be any objection, parliamentary or otherwise, to its being again put?

Mr. GALLINGER. In answer to that I will say that under those circumstances, if I was in the chair, I would not again put the request simply because some Senator demanded it; and I am sure that if I undertook to do it a single objection would lie against it.

Mr. SUTHERLAND. Would not the Senator have recognized the request——

Mr. GALLINGER. I would not.

Mr. SUTHERLAND. Or a statement made by a Senator that his attention was diverted?

Mr. GALLINGER. I would not.

Mr. SUTHERLAND. And that he intended to object?

Mr. GALLINGER. I would not.

Mr. SUTHERLAND. And a request that the question be put again?

Mr. GALLINGER. I would not, any more than if a Senator had come in and stated that he had been called into the lobby, and that if he had been present he would have objected?

Mr. SUTHERLAND. If that is the case——

Mr. BRANDEGEE. I do not desire to interrupt the Senator.

Mr. SUTHERLAND. If that is the case, I should say it would be a very unsatisfactory condition. If a Senator was in his seat and intended to object to a request for unanimous consent, and had his attention momentarily distracted, and immediately made that statement to the Senate, it seems to me the Chair should, without the slightest hesitation, again put the question, just as we have seen the question put upon votes here time and time again.

Mr. BRANDEGEE. I was called from the Chamber at the time on a matter of business before the Senate and did not hear what was the unanimous-consent agreement asked for. I knew nothing about it, except that I assume it fixes a date to vote on the so-called Kenyon bill.

I have asked the Reporter if he would be kind enough to read the proceedings from the time the Senator from Tennessee made his request until the request was granted, if the Chair will allow it to be done.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Reporter read as follows:

Mr. SANDERS. Mr. President, I offer the following.

The PRESIDING OFFICER (Mr. CLAPP in the chair). It will be read.

The SECRETARY. The Senator from Tennessee proposes the following unanimous-consent agreement:

It is agreed by unanimous consent that on Monday, January 20, 1913, at 3 o'clock p. m., the bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases be taken up for consideration, not to interfere with appropriation bills, and that the vote be taken on all amendments pending and amendments to be offered and upon the bill itself not later than the hour of 6 o'clock on that day.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee? The Chair hears none. It is so ordered.

Mr. SMOOT. Mr. President——

Mr. OWEN. I submit a proposed amendment to the Sherman Antitrust Act and ask that it be printed with the memorandum in relation thereto as a part of the bill.

The PRESIDING OFFICER. It will be so ordered.

Mr. SMOOT. Was there a unanimous-consent agreement just entered?

The PRESIDING OFFICER. There was; just agreed to.

Mr. SMOOT. I know there are a number of Senators out of the Chamber, etc.

Mr. CLARKE of Arkansas obtained the floor.

Mr. SANDERS. Will the Senator from Arkansas allow me to say a word?

Mr. CLARKE of Arkansas. Yes, sir.

Mr. SANDERS. Mr. President, I think the atmosphere is somewhat cleared now, and with an apology to the Senate for presenting this matter, I will pursue a different procedure. I think——

Mr. CLARKE of Arkansas. Mr. President——

Mr. SANDERS. Just a word, if you please. This is a very grave question——

Mr. CLARKE of Arkansas. I yielded for a question, and if the Senator has a question he may propound it.

The PRESIDING OFFICER. The Senator from Arkansas has the floor, and if he does not further yield——

Mr. CLARKE of Arkansas. I yielded for a question, thinking the Senator desired to ask a question; but if he desires to make a speech he will have an opportunity in about three minutes.

Mr. SANDERS. I beg pardon.

Mr. CLARKE of Arkansas. The question that is being discussed here now is broader than the question immediately involved. What would be the capacity of the Senate to deal with a unanimous-consent agreement is broader than the question with which we are now confronted.

The contention is made, and rightfully made, that no unanimous consent was given willingly. The Senator from Utah said it was his fixed purpose to enter his objection to the consideration of that application, and that he was only prevented from doing so by being called on to discharge the duties pertaining to his place by one who had a right to apply for such service; and that although present, his mind never gave consent to what was sought to be done.

For myself I would be very glad to see such an order entered. I am in favor of the bill and will vote at any time to take it up. I think the time allowed is very reasonable. It is a bill I favor. But I do not favor the Senate giving unanimous consent, directly or indirectly, under such circumstances. The dominant law of this Chamber is courtesy, and every Senator is treated with at least fairness, and when a Senator states upon his word that he intended to pursue a certain course and has been deprived of the opportunity to do so, it has been the pleasure of the Senate to promptly respond and to place him where he would have been placed had he not been casually deprived of his right in that behalf.

While I am ardently in favor of the passage of the bill, which would be advanced by acquiescence in the request of the Senator from Tennessee, I would not favor methods of that kind to further its progress.

The PRESIDING OFFICER. Will the Senator from Arkansas suspend for a moment to enable the Senate to receive a message from the House of Representatives?

A message from the House of Representatives, by Mr. Hempstead, its enrolling clerk, was received.

Mr. CLARKE of Arkansas. I shall not detain the Senate any further. I think I have stated the reasons why I think this is an exceptional case and why exceptional treatment should be applied.

Mr. SANDERS. Having explained my intention and position in this matter, I now wish——

The PRESIDING OFFICER. The Senator from Tennessee will suspend for a moment to enable the Senate to receive a message from the President of the United States.

A message from the President of the United States, by Mr. Latta, one of his secretaries, was received.

Mr. SANDERS. I wish to ask that this matter be again submitted to the Senate, giving to anyone who wishes to object an opportunity to do so.

The PRESIDING OFFICER. In what form does the Senator put his request?

Mr. SANDERS. The request I made, which I think is a very great mistake, I want to say, is that the question be submitted to the Senate again, giving opportunity for Senators to object if they wish.

The PRESIDING OFFICER. By unanimous consent——

Mr. SMITH of Georgia. Mr. President——

Mr. SANDERS. I am free to say I have been criticized so much now as to the procedure this morning that I do not wish to say just what form it should take.

Mr. SMITH of Georgia. Mr. President, not as a matter of unanimous consent, but as a matter of right, over and over again the Chair rules here that a bill has passed. We do business rapidly in that way. The Chair afterwards hears objection from a Senator and stops and says that the bill is still before the Senate. Just so in this case.

Mr. WORKS. Mr. President——

Mr. SMITH of Georgia. I do not yield quite yet to the Senator from California. Just so in this case. This unanimous-consent request was laid before the Senate, and the Senator from Utah rose as the Chair made his announcement to ask if it was before the Senate, and that was done before the Senate had passed to any other business.

The PRESIDING OFFICER. Just one moment. The Chair must remind the Senator from Georgia that the Senator from Utah rose to ask of the Chair if the Senate had considered——

Mr. SMITH of Georgia. Precisely; so that he might learn whether that had been before the Senate, and then record his dissent.

Mr. GALLINGER. And after other business had been transacted.

Mr. SMITH of Georgia. The President of the Senate, over and over again, rules rapidly on questions, and allows Senators immediately afterwards to reopen the question. It is a mode of rapid procedure that is conducted in the Senate in the nature of unanimous consent, which yields immediately afterwards to the objection of any Senator.

Now, Mr. President, it seems to me, with our lax mode of allowing requests for unanimous consent, which perhaps should be reached by a rule fixing the exact hour when they should be made, in order that we might all be present to watch against them, we should at least have the privilege, when we catch a request of that kind before the Senate has passed to something else, to ask to record objections. Otherwise a Senator could not speak to another Senator for a moment, otherwise he could not write a letter, he could not examine another measure.

In this instance the Senator from Utah, before the Senate had changed to any other subject, before anything else had been done, rose and inquired to learn the matter that had been brought before the Senate, that he might still object. I have never seen in the Senate during the past nine months a measure passed or action taken on a decision by the Chair upon a matter

pending before the Senate where a Senator at once rose and desired still to object that the Chair did not at once say the matter is still open and allow the Senator to be heard. So it seems to me the proper course of action for us to take is to declare the matter still before the Senate. If that action is taken, then, it seems to me, the course we should pursue would be to submit to the Senate the right to fix a practice—there is no rule controlling it—and that practice should be that a unanimous consent can be set aside by another unanimous consent.

Mr. GRONNA. Mr. President, I am not going to say what shall be done with this unanimous-consent agreement, but I want to testify to the transaction that occurred when the Senator from Tennessee offered the order. The Senator from Tennessee rose and asked for recognition. He was recognized by the Chair——

The PRESIDENT pro tempore. The Senator from North Dakota will suspend. The hour of 1 o'clock having arrived, under the order of the Senate legislative business must now be laid aside.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, Mr. Robert W. Archbald, jr., and Mr. Martin.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The PRESIDENT pro tempore. The Sergeant at Arms will make proclamation.

The Sergeant at Arms made the usual proclamation.

The PRESIDENT pro tempore. The Secretary will read the Journal of the last day's proceedings.

The Secretary read the Journal of the proceedings of the Senate of Thursday, January 9, 1913, sitting as a court.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will stand approved.

Mr. WORTHINGTON. Mr. President, before we proceed with the argument to-day I should like to know to what time I may speak in order that the time between now and 6 o'clock may be divided so as to give the managers their full half of the time spent in argument.

The PRESIDENT pro tempore. The Secretary has kept the time occupied by each side and will read the same.

The SECRETARY. Up to the hour of 1 o'clock to-day the House managers have occupied 4 hours and 58 minutes, the respondent's counsel 4 hours and 23 minutes.

Mr. Manager CLAYTON. Mr. President, I beg to say that I was very particular the other day in stating in the opening and before agreeing to this arrangement, in response to an inquiry addressed to the managers by the Chair, that seven hours and a half for the discussion of this question accorded to the managers would be acceptable to the managers. As I understand it, Mr. President, that interpretation of the allotment of time was agreed to by the Chair, and it was the understanding; and therefore, Mr. President, I am constrained to ask the Senate to accord to me not a division of the remainder of the time, but the time which I have reserved, to wit, 2 hours and 32 minutes. The Chair will readily perceive——

The PRESIDENT pro tempore. The manager will permit the Chair to state that he will make the necessary order in the matter.

Mr. Manager CLAYTON. It was only in reply to the suggestion of the respondent's counsel, who sought to cut me off from that.

The PRESIDENT pro tempore. The Chair is not criticizing the manager, but he simply desires to accommodate his wishes.

Mr. Manager CLAYTON. That is entirely satisfactory.

Mr. SMOOT. I move that the Senate continue in session as a Court of Impeachment this day long enough after 6 o'clock to give both sides the allotted time, seven hours and a half.

The PRESIDENT pro tempore. It is moved by the Senator from Utah that the Senate to-day shall continue in session long enough after 6 o'clock to give to the managers and also counsel for the respondent the seven hours and a half originally contemplated. Without objection, it is so ordered.

Mr. WILLIAMS. What was the request? To remain in session to-night?

The PRESIDENT pro tempore. The request was that after 6 o'clock, which is the ordinary hour for adjournment, the Senate shall stay in session long enough to give each side the time originally contemplated, the difficulty having arisen out of the consumption of a part of the time by other matters. It will probably not be over half an hour.

Mr. WILLIAMS. How long will we be kept in session after 6 o'clock?

The PRESIDENT pro tempore. About half an hour, under the order adopted on motion of the Senator from Utah. Mr. Worthington has the floor.

CONTINUATION OF ARGUMENT OF MR. WORTHINGTON OF COUNSEL FOR RESPONDENT.

Mr. WORTHINGTON. Mr. President and Senators, I am not a prophet, but I venture to guess that it will not be necessary, as far as the time I shall occupy is concerned, to extend the time of the session beyond the usual hour of 6 o'clock, giving to the manager who is to close the argument his full remainder of the seven hours and a half for his side.

I want for a moment to recur briefly to the questions of law which I discussed yesterday.

A great many text writers have been cited by the managers, and some of them say that certain offenses which should constitute impeachable offenses are not crimes and therefore would not be indictable. But as to most of the offenses of that kind to which the text writers and managers refer I think it will clearly appear from the authorities to which I referred the Senate yesterday that they are criminal by the common law as misconduct in office. As to several of the others they distinctly state that where an officer is guilty of maladministration—not referring to judges alone, but all civil officers—whether indictable or not, he should be impeached; whereas we all know that in the Constitutional Convention, as was read yesterday—it was doubtless unnecessary to read it to anybody in the Senate—the word "maladministration," which was first offered, was struck out because it was too general and would practically allow all civil officers to be removed at any time at the pleasure of the Senate, and the words "high crimes and misdemeanors" were substituted.

But, taking the textbooks, I do not see that any comfort can be gathered by the managers from considering all that they say on the subject. I have here an extract from Story on the Constitution, on whom the managers seem most to rely in this connection to support their claim that it is not necessary that an officer who is impeached by the House should be charged with an offense which is indictable. I shall read a paragraph from Story on this subject, which the managers did not read, from section 797 of his work on the Constitution. In what was read by the managers, Story states his conception of the old English cases on impeachment. Then he goes on to say—and to this I ask the particular attention of Senators—

> Resort, then, must be had either to parliamentary practice and the common law, in order to ascertain what are high crimes and misdemeanors, or the whole subject must be left to the arbitrary discretion of the Senate for the time being. (Story on the Constitution, Vol. I, p. 581.)

That the matter must be left to the arbitrary discretion of the Senate is what the managers now claim, so far as any of them have addressed themselves to this question up to this time.

> The latter is so incompatible with the genius of our institutions that no lawyer or statesman would be inclined to countenance so absolute a despotism of opinion and practice, which might make that a crime at one time, or in one person, which would be deemed innocent at another time, or in another person. The only safe guide in such cases must be the common law, which is the guardian at once of private rights and public liberties. (Story on the Constitution, Vol. I, p. 581.)

In the same connection he characterized as harsh and severe the English authority or rules which he referred to in the passage which has been read and is here relied upon by the managers.

In another place, section 798, I read one clause on page 582:

> It is remarkable that the First Congress, assembled in October, 1774, in their famous declaration of the rights of the Colonies, asserted—

Quoting from the declaration of 1774—

> that the respective Colonies are entitled to the common law of England, and that they are entitled to the benefit of such of the English statutes as existed at the time of their colonization, and which they have by experience, respectively, found to be applicable to their several local and other circumstances.

That is the end of the quotation. Story goes on:

> It would be singular enough if, in framing a national government, that common law so justly dear to the Colonies as their guide and protection should cease to have any existence as applicable to the powers, rights, and privileges of people or the obligations and duties and powers of the departments of the National Government. If the common law has no existence as to the Union as a rule or guide, the whole proceedings are completely at the arbitrary pleasure of the Government and its functionaries in all its departments. (Story on the Constitution, Vol. I, p. 583.)

Story was there dealing with the proposition to which I referred yesterday, that since the Supreme Court had decided that there are no common-law offenses in the Federal courts generally, therefore there is no common law upon which the

Senate can act in cases of impeachment; and dealing with that very subject he reaches the same conclusion which we had reached in our argument on that point.

As to the State cases I shall not undertake to deal with them especially, but I want also to read a paragraph or two from the language of that great jurist Lemuel Shaw when he was chairman of the managers in the Prescott case in Massachusetts, opposed to Daniel Webster, who represented the respondent. He had been referring to the removal by address, which, as we all know, was a proceeding by which any civil officer could be removed in England, and can to-day be removed in most of the States, without charging him with any crime or offense and putting him only in that plight which any civil officer is in to-day if the President happens to turn him out. I am reading from page 118 of the Prescott Trial. He says:

The two modes of proceeding are altogether distinct, and in my humble apprehension were designed to effect totally distinct objects. No, sir; had the house of representatives expected to attain their object—

That is, the House of Representatives of Massachusetts—

by any means short of the allegation, proof, and conviction of criminal misconduct an address and not an impeachment would have been the course of proceeding adopted by them. (Prescott's Trial, 1821, p. 182.)

He is speaking for the managers, of whom he was the chairman. He says that if the managers had been sent to the Senate and had "expected to attain their object by any means short of the allegation, proof, and conviction of criminal misconduct, an address and not an impeachment would have been the course of proceeding adopted by them."

We readily therefore agree that here is no question of expediency, of fitness or unfitness, but one of judicial inquiry of guilt or innocence. We make no appeal to the will or discretion, but address ourselves solely to the understanding, the judgment, and the consciences of the judges of this honorable court. We also cheerfully accede to the proposition that this is a court of justice of criminal jurisdiction, possessing all the attributes and incidents of such a court.

Further along on the same page:

The general principle of law, upon which we rely in support of this prosecution, is that any willful violation of law, or any willful and corrupt act of omission or commission, in execution, or under color of that office, the duties of which the respondent has sworn to perform and discharge faithfully and impartially according to the best of his abilities and understanding, agreeable to the constitution and laws of this Commonwealth, is such an act of misconduct and maladministration in office as will render him liable to punishment by impeachment. Such oath of office, being prescribed by the supreme law, in addition to the religious obligation upon the conscience of the officer, imposes a legal obligation as binding and explicit as if the constitution had provided in other words that every officer acting under it, should so perform and discharge the duties of his office under pain of impeachment. But what those duties are must be a subject of inquiry in each particular case, and must be ascertained by reference to express laws relating to such office or to the principles of the common law, and those general and obvious rules resulting from the nature, purposes, and powers of the office in question.

That was the statement made by Judge Shaw, on behalf of the managers in that case, as to what they claimed under a constitution which used the word "maladministration" as one of the things for which an officer could be removed. If you apply that doctrine to this case, then by what these managers say over and over again and have admitted during the arguments in this case this respondent must be acquitted, because they do not charge anything of the kind.

Now, Mr. Manager HOWLAND referred to the Barnard case in New York bearing upon this doctrine, and I understood him to say there was a certain part of the charge which it was argued did not amount to an indictable offense, and that notwithstanding that the respondent was convicted. Either I misunderstood him or he has misunderstood the case. What happened was this: There was a certain article of impeachment which made a general charge and then gave a long list of specifications under that charge, some 20 in number, as I remember. As to one of those specifications, it was argued at great length that the respondent should not be convicted upon that because that specification did not set forth an indictable offense. But no vote was ever taken upon that specification, and that question was not passed upon at all by the court. When the end came a vote was taken upon the general charge in that article with all its specifications, and Judge Barnard was convicted of the general charge, so that it made no difference whether the particular specification referred to did or did not charge an impeachable offense.

Some of the illustrations used in the briefs which I had the pleasure of reading last night, which have been submitted by Mr. Manager NORRIS and Mr. Manager DAVIS, contain the suggestion that a judge may decide cases contrary to his honest conviction, and that that would not be an indictable offense.

I know not where the managers find that law; they do not find it in the common law of England or of any place in this country, because if a judge does intentionally disregard his duty and decides a case or makes any order in a way he believes to be wrong, he is guilty of an indictable offense and could from time immemorial be punished for it. So they go on to say he may decide from partiality or, as one of the learned managers says, unblushingly use partiality. Of course that is nothing but bribery. Or he may be drunk on the bench; that is disorderly conduct, as in the Pickering case. Or he may be guilty of usurpation of power; I confess that that is a thing which appeals to me and appeals to a great many people in this country; there have been some recent events which have brought it to the attention of everybody. If a judge does intentionally send a man to jail, usurps that power, not believing that he has the right to do it, then, of course, he has committed an indictable offense as well as an impeachable offense. That was the whole question in the Peck trial, where a lawyer who appeared before Judge Peck was sent to jail and was suspended from practice for 18 months for having criticized a decision of the judge in his case. The whole question in the case was whether the judge honestly believed he had the right to do that. His counsel never pretended that Judge Peck was not guilty of an indictable and impeachable offense if he had sent Lawless to jail believing that he did not have the right to do so.

Just a word about the law relating to articles 7, 8, 9, 10, and 11. The Barnard case is one in which the court decided that since the respondent in that case was holding the second term of the same office, he might be impeached for what he did in the first term; but in the report of that case, on pages 158 to 160, is a reference to another case in the same court—the case of Fuller—from which I quote:

Proceedings which were taken in the assembly upon an inquiry made into the judicial conduct of one Phil. C. Fuller, the house directed the judiciary committee to inquire and report:

First. Whether a person could be impeached who at the time of his impeachment was not the holder of an office under the laws of this State.

Second. Whether a person could be impeached and deprived of his office for malconduct or offenses done or committed under a prior term of the same or any other office.

Presenting what I suppose is intended to be a distinction between many cases and the present on the part of my learned adversary, founded upon the fact that Justice Barnard was an incumbent of this office from the term preceding the 1st of January, 1869, I do not well perceive how that circumstance could give foundation for any discrimination, because the principle upon which the doctrine is founded—that you can not impeach for acts committed previous to the tenure of the office—is that the new election, signifying the voice and the judgment of the people, purges and purifies the offender from the contamination of any previous conduct or offense. That it is an expression of the will of the people, not only a judgment upon his qualifications but an expression of that will; that as he is and whatever he may be he is by that sovereign voice selected as a delegate to represent their power in the office to which he may be selected.

Mr. Weeks, from the judiciary committee, reported that:

"The only clause in the constitution relating to judgment upon impeachments provides that judgments in such cases shall not extend further than the removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under this State, but the party impeached shall be liable to indictment and punishment according to law.

"From this and from the theory upon which our Government is based the committee have come to the conclusion:

"First. That no person can be impeached who was not at the time of the commission of the alleged offense and at the time of the impeachment holding some office under the laws of this State.

"That the person impeached must have been in office at the time of the commission of the alleged offense is clear from the theory of our Government, viz, that all power is with the people, who, if they saw fit, might elect a man to office guilty of every moral turpitude, and no court has the power to thwart this their will and say he shall not hold the office to which they have elected him. A contrary doctrine would subvert the spirit of our institutions.

"It is equally clear from the tenor of the constitution that the person must be in office at the time of the impeachment. This instrument provides but two modes of punishment, viz, removal from office, or removal or disqualification to hold office. In either mode of punishment the person must be in office, for removal is contemplated in both cases, which can not be effected unless the person is in office.

"The courts are the only tribunals that have jurisdiction over a delinquent after his term of office has expired to punish him for offenses committed in the discharge of the duties of his office."

The committee have further come to the conclusion—

"Secondly. That no person can be impeached and deprived of his present term of office for offenses alleged to have been committed during a prior term of the same or any other office.

"Neither by the constitution nor by our laws is there any period limited in which an impeachment may be found. It is but fair, therefore, to infer that the intention was to confine the time to the term of office during which the offenses were alleged to have been committed; indeed any other conclusion would lead to results which could not be sustained, for who can say but that the people knew of this malconduct, these offenses, and elected the individual notwithstanding? True, an extreme case might be put of fraud committed on the last day of the term of an office, to which office the individual might be immediately reelected, yet who could say this was not known to the people? How is the matter to be settled? The mere statement of the question shows the dilemma in which we would be placed at every election if the tenure or stability of an office depended upon a legal inquiry as to whether the people knew the characters of the individuals they had elected to office and had exercised a proper discretion.

"However much it may be desired to have men of high integrity and honesty to fill our public offices of trust and honor, yet by our constitution and the fundamental principles of our Government no particular scale of integrity, honesty, or morality is fixed. No inquisition as to what character had been can be held; it is enough that the peo-

ple have willed the person should hold the office, and the courts, which are but the mere creatures of the public, will have no power to interfere.

"The constitution provides, as we have seen, that a person can not be impeached after he is out of office. Then, if the same person should be reelected to the same office a year afterwards, would this right of impeachment be revived? In fine, by his reelection would he incur any other liabilities or acquire any other rights than those incident to his present term of office? We think a moment's reflection would convince each person that it could not.

"Again, could an officer be deprived of his present office by impeachment for malconduct in another and different office, or even the same office, 20 years before his present term commenced? If not, could he after one year or one moment had elapsed? Where is the difference in the principle? The time is nothing. The question is, Is he out of office? It matters not if he is the next moment inducted in.

"The committee think it clear, in every light they have been able to view this matter, that the constitution intended to confine impeachments to persons in office and for offenses committed during the term of the office for which the person is sought to be removed. In pursuance of this conclusion the committee recommend to the house the adoption of the following resolution:

"*Resolved*, That the committee of investigation into the official conduct of State officers and of persons lately, but not now, holding office, be instructed—

"1. That a person whose term of office has expired is not liable to impeachment for any misconduct under section 1, article 6, of the constitution.

"2. That a person holding an elective office is not liable to be impeached, under section 1, article 6, of the constitution, for any misconduct before the commencement of his term, although such misconduct occurred while he held the same or another office under a previous election."

Counsel also referred to the Belknap case. That was a case in which a majority of the Senate decided that Belknap could be impeached, notwithstanding that he was not an officer when he was impeached. But in that case it appeared, as I stated yesterday and as everybody who looks at the record will see, that Belknap was over in the room of the Judiciary Committee of the House at 10 o'clock in the morning of a certain day, when that committee was closing the taking of testimony in his case, and he there learned that a resolution was that day to be reported to the House when it should meet recommending his impeachment. He thereupon went directly to the White House—these are admitted facts—saw President Grant, tendered his resignation, and had it accepted. So that he was out of office before the House met and before there was an opportunity on the part of the Judiciary Committee to report the resolution favoring his impeachment. Afterwards, but on the same day, it was passed by the House. The managers, when they came here, put in the plea that even if an officer ordinarily could not be punished for a crime committed in office after his term of office had expired, he could be punished after he resigned for the purpose of escaping punishment. How many of the Senators who voted that he might be impeached did so on that ground, and how many on the ground that an officer may be impeached at any length of time after he is out of office, I do not know and nobody can tell to this day.

There was another case which has not yet been referred to, a very interesting case in this connection. When Mr. Schuyler Colfax was the Speaker of the House, he, with a number of other Members of the House, became involved in what was called the Credit Mobilier scandal.

It appeared in the testimony that was taken by the investigating committee of the House in that case that he received from Oakes Ames a number of shares of the stock of a company which was largely interested in getting legislation through Congress for the construction of the Union Pacific Railroad. His guilt appeared to be manifest by the ex parte testimony which was taken, and the House took steps looking to his impeachment. He was, however, then Vice President of the United States; he was no longer Speaker of the House; but had become Vice President and presided here. The matter was considered by the Judiciary Committee, but no action was taken upon it, because it appeared that the term of the House was about to expire and his office as Vice President was about to come to an end, and so they dropped it. There was no reason for dropping it if the contention of the managers is correct about that matter.

There is another thing that I do not like to refer to here, but I feel obliged to do so, notwithstanding it calls to mind the misdeeds of one who was once a Member of this body and has now gone to his last rest. The gentleman of whom I speak was once cashier of a bank in this city. While he was cashier he embezzled a sum of between twenty-five and thirty thousand dollars. His friends or family made up the amount and he was never prosecuted; just why I do not know, and it does not matter, but he went out to a far Western State, and in due course of time he had so rehabilitated himself and so conducted himself that he came to Washington as a Member of this body—as a Senator from the State of North Dakota. In the Senate, while he was here, the question was raised whether he should not be expelled because he had committed this offense, notwithstanding that it was committed before he was a Senator. The matter was discussed at great length by Senators on either side. I have not the reference here to the place in the RECORD in which that debate is recorded. The matter was never even brought to a vote, the argument being made, and apparently being unanswerable, that for anything that he had done before his State sent him to this body he could not here be held accountable.

It certainly would be a remarkable thing if this doctrine should be established, because in that case every man who has been in public life at any time should take notice that he remains liable to impeachment so long as he lives. The President of the United States, for instance, held four or five different offices under this Government before he became President, and, according to this doctrine, he could now be impeached for anything he did while he was Solicitor General, or governor of the Philippines, or Secretary of War, and, upon conviction, he would be forever debarred from holding any office of honor, trust, or profit under the United States, even that which he now holds. And that might have been done in the case of his predecessor, who was formerly Assistant Secretary of the Navy, if anybody had chosen to take that step while he was President. So that any man who has held one or more public offices is always at the mercy of somebody who may stir up some offense which he is alleged to have committed at some other period and in some other office and bring him to the bar of the Senate to defend himself years after his witnesses are dead, his papers are lost, and his memory fails to record the transaction.

I pass from that, and I proceed again to discuss the merits of this case, the articles of impeachment, which have been left to me particularly to consider. I was referring to article 6 yesterday when the adjournment came, and I want to add a few words about that article.

I know how difficult it is for Senators to carry these different articles and transactions and the evidence which relates to them in their minds. That was a case in which it was charged in four or five lines of the article, without any specification whatever, that Judge Archbald had sought to use his influence as a judge to induce the Lehigh Valley Railroad or the Lehigh Valley Coal Co., which was a part of that railroad company, to purchase the interest of certain persons, called the Everharts, in the mine which that company was working.

It appears that Mr. Williams took Mr. Dainty, who was the person concerned in that transaction, to Judge Archbald's office and told him that Judge Archbald wanted to see him. At that time, as the evidence discloses and as it will appear when I come to consider article 1, Judge Archbald and Williams had a letter from Capt. May stating that he would recommend a sale of the interest of his company in the Katydid dump. They were stopped in that transaction because of the outstanding claim of the Everhart heirs, from whom they had no writing or authority. Those heirs were scattered in various parts of the United States and held small fractional interests in the Katydid dump. Dainty says that when he arrived at the judge's office the judge told him that he wanted to see him about getting the interest of the Everhart heirs in the Katydid dump. It appears from Dainty's testimony and from the testimony of other witnesses that Dainty was in close communication with the Everhart heirs and was the one person in that region who would be likely to get them to dispose of their interest in the Katydid dump. After the judge had told him that that was what he wanted, Dainty said, "Judge, I should like to see Mr. Warriner; they want to get the Everhart interest in their property, too, and I should like to have them buy the Everhart interest and let me attend to it." Of course, he was after his commission for bringing about a sale of the interests of the Everhart heirs. The judge said, "Why do you not go and see Mr. Warriner?" Dainty replied, "I do not know Mr. Warriner," and he asked the judge to see Warriner and make that representation for him. The judge, with that kindness with which he acted for all the people who came to him to ask him to help them, in consideration, evidently, of the fact that he was asking Dainty to get him the Everhart interest in the Katydid dump, offered to see Mr. Warriner and ask him to let Mr. Dainty get him the Everhart interest in the property of Warriner's company. He went there and had one conversation, at least, with him, and possibly two, although the evidence is not clear on that point, and was told that the coal company would buy the Everhart interest whenever they could, paying whatever they had paid for the other proportionate interests of the same kind. There the transaction ended, and there was nothing more of it.

Now, it should be borne in mind that at that time, as Mr. Warriner testifies, it was not proposed or suggested that they

would pay any more than they had paid for the other interests. They would only pay in the same proportion. They were paying the outstanding Everhart interests their royalties, and if they paid them the money which was due them, some $30,000, they would stop paying the royalties. So it was simply a question of royalties against interest, and the two things amounted to the same thing; so it was not a matter which concerned Mr. Warriner's company to any great extent.

The Morris & Essex tract, which was referred to in connection with the testimony of Mr. Dainty, is a tract of land which is owned by the Lehigh Valley Coal Co., but which was not on or near its lines, so that it could not possibly work it.

I want, next, to take up the culm-dump cases. I doubt if there is a Member of this body who is not now impressed with the fact that Judge Archbald voluntarily and intentionally, after he became a member of the Commerce Court, went to work to do a wholesale business in culm dumps. That matter has been brought up in such a way, has been published so often, and so much has been said about it by the managers and otherwise, that it seems impossible that anybody should fail to have that impression. So it becomes my duty, as it is my pleasure as one of the counsel of Judge Archbald, to show to the Senate now from the testimony in the case and the correspondence with regard to it, that the statement is absolutely without a particle of foundation. I know that is a broad statement to make, but I make it unhesitatingly, and I expect to make good my word.

It was said in the opening statement of the managers and is charged in article 13 that Judge Archbald got numerous contracts and numerous agreements as to coal properties, and that in all of them he concealed from everybody, except the officials of the railroad company with which he was dealing, the fact that he was interested; that the railroad company knew it, and nobody else did. I say again there is not a particle of foundation for that statement, and I propose to make good those words. As a matter of fact, instead of Judge Archbald having made up his mind when he went on the Commerce Court bench that he would go into culm-dump transactions or other transactions with railroad companies which had cases or might have cases before the Commerce Court, the fact is that there are just two of those cases with which he had any connection. In one he took the initiative steps at the instance of a man who was sent to him by William P. Boland to get him to do it, and in the other instance he did it because he was seeking to purchase a dump which was held by a private concern with which no railroad company had the slightest connection; and it was suggested to him in that connection that instead of getting that dump by itself it would be better to get one near by which was under lease by a railroad company.

I repudiate the suggestion that has been made here by one of the managers that Judge Archbald, through his counsel, is seeking to hide behind the men who made these suggestions to him. It was said that I had made that remark in my opening statement in this case. I challenge the manager who is to conclude the argument of this case to find a suggestion or word which justifies that statement. What I did say was that it was not true, as was charged in the thirteenth article, that the respondent, being on the Commerce Court, conceived the idea of compelling the railroad companies which might have cases before him to make good bargains with him. Not a single instance of that kind occurred. In each of the two cases in question the idea of making the application originated in other brains, and the suggestion was made to him. What he did after that he is responsible for; but no one can read the testimony in this case and say that Judge Archbald himself conceived the idea and then acted accordingly.

Now, taking up these culm dump transactions, which are illustrated by the maps which are upon your wall, I am going to take up, first, article 3, which deals with a dump shown on the map which is on the left as we look at the door. That dump is known as Packer No. 3. On that map there are quite a number of dumps located. In the lower part of the map, in the middle, is what is called the Oxford washery and the Oxford dump, and right in the middle, where the black spot is, which you can see from all over the Chamber, is Packer No. 4. Up farther to the left is Packer No. 2, and to the right you will see a conglomeration of lines. There is a big letter "B" there; and to the left of that is a small dump which is eastern Packer No. 4, and to the right is Packer No. 3 dump.

I now take up the story as it is shown by the testimony in this case, as manifested by the written correspondence in evidence and by the testimony of witnesses that the managers have produced. The first witness on the subject to whose testimony I refer is John Henry Jones, who had heard of the Oxford dump from a man named Gray. That Oxford dump was the one which was controlled by a concern known as the Oxford Coal Co., and worked by another concern—Madeira, Hill & Co. I ask Senators to bear in mind that no railroad company had any connection with it whatever; it was a private concern; and Judge Archbald had just as much right to go and deal in regard to it as he had to go down to the grocery to buy supplies for his house.

John Henry Jones, after hearing of this dump, mentioned it to Judge Archbald, and requested the judge to get an option on it so that they might together see if they could make a sale of it and make some profit out of it. Judge Archbald accordingly communicated with the people who owned that dump, and he received a written option. There are a series of letters, first, one giving an option, and then others extending it, which will be found on pages 1203 and 1204 of the record. Then he and John Henry Jones tried to sell that dump. Jones tried to sell it to Mr. Peale, and the letter is in evidence by which he tried to get Peale to buy it, and it is found on page 1016 of the record.

Then, John Henry Jones says that Thomas H. Jones, who is known here as Star Jones, "asked me if I knew of a dump, saying he had a purchaser; and I told him about this Oxford dump"; and that is where Thomas H. Jones, or Star Jones, as he is known in this case, got into the matter. Here is his testimony:

John Henry Jones told me that the Oxford dump was for sale, and that he got his information from Judge Archbald. I offered it for sale, and it was turned down because it was too rocky.

John Henry Jones went on the dump, and this is his testimony, on pages 360 and 367:

The superintendent of the Oxford dump told me if I could get a dump across the way—

Across the creek, it means—

that a fair operation could be made of it by bringing that coal to the Oxford washery. I examined the dump, and when I got back from that examination I told the judge that if Packer No. 3 could be obtained, it would be a fair operation.

That is the way Judge Archbald knew that there was such a thing in existence as Packer No. 3.

Mr. President, I now have demonstrated, as I started out to demonstrate, that the fact that there was such a dump as Packer No. 3 and that it would be a good thing to operate it was brought to the attention of Judge Archbald by another person with whom he was in cooperation on another dump, with which only private parties were connected.

The next thing that appears in the record in this connection is a letter from the judge to a man named Lathrop, dated August 1, 1911, which is found on page 643 of the record:

SCRANTON, *August 1.*

W. A. Lathrop, superintendent Lehigh Valley Coal Co.—

That shows how intimately Judge Archbald was concerned with this railroad company, because Lathrop had not been superintendent of that coal company for about 10 years. He wrote to Judge Archbald that he had not anything to do with it, and that Mr. Warriner was now the proper man to write to. But in that letter Judge Archbald says:

I have an option on this [Oxford] washery, and the culm dump which goes with it is not quite what it ought to be and ought to be strengthened with another.

So, you see the correspondence shows he was doing exactly what the oral testimony shows he was doing. He had been dealing for the Oxford; he had been told it was a good thing to get the Packer No. 3 to work with it; and he writes to the man who he supposed at that time was superintendent of the Lehigh Valley Coal Co. and asks if anything can be done about it.

The next is a letter to Mr. Warriner, which is precisely the same thing. The judge has found out now that Mr. Lathrop has nothing to do with it, and he writes to Mr. Warriner on the 11th of August, 1911, saying:

In negotiating with regard to that [Oxford] washery I find that it needs an additional dump, or will in the near future, and I am therefore writing to inquire whether any arrangement could be made with your company for one or more of the dumps which I have referred to.

Next you find a letter from the judge's nephew, Col. Archbald, the engineer of the Girard estate—and here I must remind the Senators that all these packer dumps belonged to the estate of Mr. Girard, the millionaire, who died and left a great charitable bequest to the city of Philadelphia. That estate is now managed by a corporation called the Board of City Trusts. That corporation had leased all these culm dumps, these Packer dumps, and a vast amount of other property to the Lehigh Valley Coal Co., and the lease was to expire at the end of this year. Col. Archbald was the nephew of Judge Archbald and was the engineer of the Girard estate. The judge wrote to him on the 14th of August, 1911, as to the Oxford, saying:

I understand that lease runs out in two years. Will the Girard estate extend the time to cover the life of the dump?

This is a quotation from his letter:

I have written to the Lehigh Valley people to see whether I could get any arrangement with them about one or other of the adjoining dumps, but have not heard from them.

And, next, on the 27th of September, 1911, Mr. Warriner himself writes Judge Archbald—

I now have a report from our superintendent on the situation, and I think it will be possible for us to accede to your wishes.

And he suggests an interview between Judge Archbald and his, Mr. Warriner's, superintendent.

I ask you to observe from that that Mr. Warriner, when he had this application from Judge Archbald, a judge of the Commerce Court, in a letter written on Commerce Court paper, did not send for the judge to come over and have a talk with him and see how much money he wanted to make out of that dump. He made inquiries of his superintendent as to whether Packer No. 3 was one that he had better hold on to, and he suggested that the judge come over and have a talk with him and his superintendent. He says, further, in that letter that Mr. Humphrey, who was his superintendent, was present at the conference which followed. He says that he does not recollect positively that Mr. Humphrey recommended consenting to a lease of the dump, but, he says, to refer to his testimony on page 653—

We [Humphrey and himself] agreed upon a line of the proposed lease which would not interfere with our operation and would include only such coal as we had no intention of mining ourselves and did not consider it profitable to mine during the life of the lease, and that both Mr. Humphrey and myself were agreed upon that.

Then comes a letter from Col. Archbald to Judge Archbald, dated November 20, 1911, saying:

Neither of these banks is very good and would hardly warrant separate operation. It would pay the Oxford Coal Co. to take them, which is probably your idea.

As it was said, you see—

The board of directors—as these banks are not first class—may be willing to have them worked under Oxford rates if taken by the Oxford Coal Co.

Next comes the letter of November 22 from the judge to his nephew, saying:

I think probably that I will ask for a separate lease and not tie up with the Oxford people.

Now, as to Madeira, Hill & Co., the other people. It was stated here by the managers—and I do not like to criticize gentlemen of such high standing, and I know of such absolute fairness of intention—but they have stated a great many things in their arguments in this case as to what the evidence discloses that is erroneous. It was stated to the Senate by one of the managers, I have forgotten which, though I think by Mr. Manager STERLING, and if not by him by one of the other managers, perhaps by Mr. Manager WEBB, that Madeira, Hill & Co. made application to the Lehigh Valley Coal Co. for this same Packer No. 3 dump, and offered to pay them a royalty on the coal in that dump of 10 cents and 5 cents, according to the size—chestnut and above or pea—and that instead of accepting that proposition they afterwards agreed to let the Girard estate, if it would, lease that same dump to Judge Archbald and his associates on paying a royalty of 1 or 2 cents.

Now, if that were true, it would be a very strong piece of evidence to show that the Lehigh Valley Coal Co. people were yielding something to Judge Archbald as a member of the Commerce Court, or in some other way. Whether it would tend to show that the judge knew that such influence was being exercised is another question. But it is not true; it is an absolute mistake. The letter to which counsel refers, page 659 in the record, is a letter from Madeira, Hill & Co. to Mr. Warriner, dated March 26, 1910, a year or more before Judge Archbald had any connection with these dumps, and that company applied for dump No. 4, and offered on that dump only 10 cents per ton on domestic sizes—that is, chestnut and over—and 5 cents on pea and buck in excess of the royalties that were to be paid to the Girard estate. The letter making this offer concludes:

If we can close on this, we will take up the consideration of No. 2 bank.

So here was the proposition that was made by Madeira, Hill & Co., who had been for a long time working that Oxford dump and had these dumps Nos. 2, 3, and 4 spread out on the opposite side of the creek, right in front of them. They saw these dumps, and applied for No. 4, and said if they got that they would think of applying for No. 2; but they made no application for No. 3, and why they made no application will appear before I have proceeded much further.

So Mr. Warriner wrote to Mr. Hill on the 3d of May, 1910, answering that letter, "We are inclined to believe that it is best to operate those banks ourselves," on account of certain complications. The complication, it appears, was a question of the difficulties of the Oxford Coal Co., if it washed that coal, shipping the coal over the rails of the Lehigh Valley Railroad Co.

Now, I said I would show the reasons not why they said they would give a dump to Judge Archbald, or consent that it might go to him, and would not consent that it go to Madeira, Hill & Co., but why they were unwilling that No. 2 and No. 4 should be leased and were willing that No. 3 should be taken.

Mr. Manager WEBB. I did not discuss that proposition at all; it was Judge STERLING, I guess.

Mr. WORTHINGTON. I beg your pardon. Of course it was an inadvertent error, no matter who said it.

Now, Mr. Warriner gives at great length, at pages 659 to 661, the reasons why his company did not want to operate No. 3 bank itself. And Col. Archbald, who was not an employee of the coal company or the railroad company but of the Girard estate, gives the same reasons. Mr. Weller, who was the mine inspector of the Girard estate, gives the same testimony about it, and they all say this: In the first place, the coal in this dump was much poorer in quality and much harder to get out than in the other dumps. It was surrounded by a wall of rock. And they say that where the letter B is upon that map [indicating]—and you can see it from where I stand—the Lehigh Valley Coal Co. had dug a hole down into the mine below and had undertaken to use that coal, and after using or trying to use it for a short time found it was not merchantable and gave it up and abandoned it. And they all testified that that No. 3 dump would not stand any royalties except those that had to be paid to the Girard estate in any event.

Now, Mr. Humphrey was a witness, and I particularly ask your attention to his testimony. He was the chief mining engineer of the Lehigh Valley Coal Co. at the time he was examined, but at the time of these transactions he was their division superintendent, he having in the meantime been promoted. He says that before Judge Archbald came to that meeting at which he was present with Mr. Warriner, Mr. Warriner had referred to him the question whether it would be a good thing to lease No. 3, and he said:

I advised leasing it because of the inferior location and quality of the coal and the distance from the breaker and the large rock bank between the breaker and the dump, and the first I knew that Judge Archbald was interested was when he came to the office after I had made my recommendation.

Now, gentlemen, there is a case in which Mr. Warriner, in charge for this coal company of this Packer No. 3 dump, which they had tried to work and concluded they would not work because it would not pay, as the coal was so inferior, and had let it stay there year after year, and the lease was about running out, when they would have to pay additional royalties if they could get it at all, and he says to his trusted superintendent and adviser, "You go and look at that dump and let me know what you think about it and what we should do about it." Mr. Humphrey, who did not even know that Judge Archbald, or any other judge, was concerned or supposed to be concerned in the transaction, goes and examines this property and comes back to his chief and says, "I think it will be a good thing for you to get rid of that dump if you can."

The result was that the whole matter was referred to the Board of City Trusts of the Girard estate, Mr. Warriner saying, in writing—and the letter is in evidence—that he would be willing to let them lease No. 3 dump to anybody upon paying to his company a royalty of one or two cents on all the coal.

In the offer which was made by Madeira, Hill & Co. for the much better dumps, Nos. 2 and 4, they had offered to pay a greater royalty, but on the larger sizes only. This was an offer to pay a royalty on all sizes; and I am advised that if you look at the two transactions and estimate the royalty at 10 and 5 cents on the larger sizes only and take the royalty of 1 and 2 cents on all the sizes, as those sizes are shown to have existed in that dump, it will reach as much, if not more, under the last proposition than under the first.

That is the transaction in relation to Packer No. 3 dump, and you can judge from that whether it appears that Judge Archbald made up his mind that he would go to the Lehigh Valley Railroad Co. or the Lehigh Valley Coal Co., which the railroad company controlled, and try to drive a good bargain, or that the company on account of that influence undertook to give him a good bargain.

Now, I take up next the second of these two culm-pile transactions, that relating to the Katydid dump. I venture again to suggest that there is not a Senator who is listening to what I say who has not a pretty firm conviction that the Hillside Coal & Iron Co., a subsidiary of the Erie Railroad Co., had agreed to sell to Judge Archbald a dump which was worth a large amount of money for a very small consideration. But I

say it will appear that that idea, too, from whatever source it may have come, is absolutely without the slightest foundation.

In the first place, this dump was not sold at all. The only piece of evidence is a letter from Capt. May to Mr. Williams, dated the 30th of August, which I wish to read to the Senate. Every manager who has spoken in this case, I believe, unless it be Mr. Manager HOWLAND—and he did not refer at all to the facts in the case, but dealt with the law—has told you, unless I am much mistaken, that after the visit which Judge Archbald made to Mr. Brownell, the Hillside Coal & Iron Co. agreed to sell to Judge Archbald the Katydid dump. It never did. This whole case, so far as article No. 1 is concerned, rests upon this letter dated August 30, 1911, addressed to Williams and signed by May:

(Pennsylvania Coal Co., Hillside Coal & Iron Co., New York; Susquehanna & Western Coal Co., Northwestern Mining & Exchange Co., and Blossburg Coal Co.)

OFFICE OF THE GENERAL MANAGER,
Scranton, Pa., August 30, 1911.

Mr. E. J. WILLIAMS,
626 South Blakely Street, Dunmore, Pa.

DEAR SIR: As stated to you to-day verbally, I shall recommend the sale of whatever interest the Hillside Coal & Iron Co. has in what is known as the Katydid culm dump, made by Messrs. Robertson & Law in the operation of the Katydid breaker, for $4,500.

In order that it may not be lost sight of, I will mention that any coal above the size of pea coal will be subject to a royalty to the owners of lot 46, upon the surface of which the bank is located.

It is also understood that the bank will not be conveyed to anyone else without the consent of the Hillside Coal & Iron Co., and that if the offer is accepted articles of agreement will be drawn to cover the transaction.

Yours, very truly,
W. A. MAY,
General Manager.

So that all that Capt. May did was to say that he, to his superiors, would recommend the sale of his company's interest in this dump. Now, what is the Katydid dump?

I may say before I proceed with this that the statement which the managers made to the House and the statement which they made here, and which they started out to prove here by Mr. Rittenhouse, was that the Katydid bank was of the value of $47,000, or, under a certain probable contingency, between three and four thousand dollars more. In other words, that for $4,500 to the Hillside Coal & Iron Co. and $3,500 to Robertson, or $8,000 in all, Judge Archbald acquired the ownership of a piece of property which was worth $52,000. That is what they stated to the House when they asked the House to impeach Judge Archbald. That is what Mr. Manager CLAYTON read to you in his opening statement, quoting what had been said to the House of Representatives. They put Mr. Rittenhouse on the stand to prove it. But we had not proceeded very far in this case when Mr. Manager STERLING, on behalf of his brother managers, rose in his seat here and moved to strike out the evidence of Mr. Rittenhouse and all the evidence in the case as to the value of this property, stating it was a wholly immaterial matter whether it was of any value or not.

We shall see why that extraordinary change of front occurred. Mr. Robertson was on the stand when that motion was made. He was one of the first witnesses examined by us. Mr. Robertson was the man who made that dump. You have heard the explosions, if I may use that word without affront to the managers here, in reference to the proposition that no railroad company controlling land ever let go its property to other people; that they hold on to it like grim death; that if anybody gets one of their coal claims from them it must mean that some improper influence has been used.

Senators, in the year 1885 this very Katydid property was leased by the Hillside Coal & Iron Co. to Mr. Robertson. The property with which you are dealing in this first article is a piece of property which the Hillside Coal & Iron Co. let go of 25 or more years ago.

Again, as my associate reminds me, in 1901, in a letter which is in evidence, the Hillside Coal & Iron Co. confirmed that arrangement and fixed the royalties which Mr. Robertson was to pay the company for mining its coal. Only four or five hundred feet away to-day and for years past the Hillside Coal & Iron Co. has that great operation which was referred to here as the Consolidated mine. They have their machinery there working that great operation.

They leased this part of that property to Mr. Robertson, who was not a member of the Commerce Court, or of any other court, but a plain, industrious man, who was trying to make a living in the coal business; and he operated that Katydid mine, and in the operation thereof made the Katydid dump; and under the decisions of the Supreme Court of Pennsylvania, which nobody disputes, that Katydid dump belonged to the man who made it.

They talk here about the Hillside Coal & Iron Co. selling that dump to Judge Archbald. They could not sell it to anybody. They had their royalty rights in it and they had nothing more.

Mr. Robertson tells you that they began their operations on that mine in 1885 or 1886 and continued working it until 1908, Mr. Law coming in with him, under the firm name of Robertson & Law, for a few years in the middle of the term. Law went out again and Robertson continued the work alone until 1908. In 1908, on account of some operations of another coal company, the Delaware & Hudson, in the immediate vicinity, something happened which cut off Robertson's supply of water and he could not go on with his washery operations, which he had begun in 1905 and had continued for three years. He could not go on more than two hours a day, because he could not get the water. He therefore stopped his washery. A few months afterwards, in the latter part of 1908, the breaker and the washery all burned down.

Mr. Robertson, as well as Judge Knapp, an eminent lawyer in Scranton, who testified concerning this matter and was counsel for the Hillside Coal & Iron Co., tells us that Robertson did not resume the mining operation because he had nearly worked out the piece of property which he had leased from the Hillside Coal & Iron Co. Thus Robertson was left with the Katydid dump on his hands.

Now, what happened? Mr. Robertson was the man who had been from 1905 to 1908 using the washery on that dump, reclaiming the small sizes of coal, which have become valuable in these later years. He started to work the oldest part, which, as he says, and as everybody says, is the best part of all the dumps, when the fire occurred and burned down his washery, as well as his breaker. Why did he not rebuild it? Because, he says, it would not pay to build a washery there. There was not enough coal left to justify it. His foreman, Mr. Monie, who was there running this operation for him all these years, we brought here and put upon the witness stand, and he confirmed Mr. Robertson in every one of the particulars I have stated in regard to what happened in reference to the Katydid dump. He says that they ran out of water and that besides, after the fire, the dump could not be operated to advantage.

What happened then? Robertson, having that Katydid dump on his hands, and knowing that there was no money in it, because he knew almost every piece of coal that was in it, he made it, having the advice of his foreman, who had made it for him and under his eyes, knowing that it would not pay to build a washery there, that he would never get back the money spent on it if he did, then went to work trying to find somebody to whom he could sell it. In the early part of 1909 he found the Du Pont Powder Co. wanted to buy a coal dump, because they were proposing to establish a plant there in their business. He immediately got into communication with the Du Pont Powder Co. He first went to Capt. May and said to Capt. May, "Now, this dump we want to sell; I think I have a purchaser to take it off our hands, and I propose to sell it for $10,000. I will take $8,000 of the $10,0000 and you may take $2,000." Capt. May said to him, "Go ahead; I will recommend that."

That was in the early part of 1909. So Robertson testifies, so May testifies, so do Mr. Belin and Mr. Saum, Belin being the representative of the Du Pont Powder Co. and Saum their expert, who had investigated the bank at that time for Belin.

So you see that in the early part of 1909 Capt. May was willing to dispose of the interest of his company in this dump and to recommend exactly what he has done here, and all he has done here, saying "I will recommend the sale of the interest of my company in that dump for $2,000."

So Mr. Robertson, having the authority of Capt. May to sell the dump for $10,000—$8,000 for himself and $2,000 only to the Hillside Coal & Iron Co.—went to Mr. Belin and said to him, "You can buy that dump for $8,000." Belin said, "Will I get the Hillside Co.'s interest as well as yours?" "Yes, sir." Then he went to Mr. Saum and asked him to investigate the dump and let him know whether it was worth $10,000. Mr. Saum did make the examination, and Mr. Belin said because of that report and because at the same time his company found it could make a good arrangement in another way to get their power without manufacturing it themselves, they gave up the idea of buying.

That left Mr. Robertson in the early part of 1909 with this great $50,000 piece of property on his hands, and he could not get rid of it for anything to anybody. He went time and again, as he testified and as May testified, to Capt. May trying to sell his interest to May's company. May would not buy it. He would not make any offer for it at all.

It seems to me, Senators, that I ought not to have to go a step further to show there is nothing in this proposition about the Katydid dump and the sale of a valuable piece of property to Judge Archbald for the benefit of his prospective influence as a judge in the Commerce Court, but I propose to go on and show the other testimony to show that there can not be any

possible question about that, to show why the honorable managers, when this question was entered upon by us, after this impeachment had been obtained by the statement that that property had been sold to Judge Archbald for $8,000 which was worth $52,000, and how the honorable managers wished to get the whole matter out of the case.

Mr. Law says that during the time he was with Robertson he observed that they were building a pile of ashes there. Robertson and his foreman Monie have both testified to that. I have not referred to it as I went along, but on that map of the Katydid you see on the wall, down on the southwest corner, there is a very considerable proportion of it. That is marked and named there conical dump. Mr. Robertson, Mr. Monie, and Mr. Law all say that that was where they dumped their ashes from their works for 15 or 16 years or longer, and after they had dumped the ashes there, or while they were dumping the ashes there, they removed a large amount of rock, not coal mixed with rock, but rock, where they had for some reason in their mining operation to take out a quantity of rock. They piled that on the ashes, and on top of the ashes and the rock there had been some coal, and when Mr. Robertson had been working his washery between 1905 and 1908 he washed the coal that was there, so far as he could get at it, and left nothing but the very fine refuse that was not worth anything. That is the conical dump which contains some 15,000 or 16,000 tons, according to the testimony of all those who measured it. Mr. Monie and Mr. Robertson and Mr. Law all concur about that.

There is another thing. You see upon that map one place that has the legend upon it, Slush bank. The testimony shows that that was the place where they had made a pile of absolute rock. Nobody claims that that was any part of the coal dump, but the testimony shows that that bank which is all rock, with some slush put on top of rock, and that is the reason they call it slush bank, was made at the same time the coal dump was made.

Everybody knows if you empty from vehicles material of rock, coal, or dirt, or sand, forming a dump, it will spread at a certain slope in all directions as you go along. Mr. Rittenhouse, in making his estimate, supposed that coal dump to have that slope there, and did not know what these witnesses testified to, that the coal dump was built side by side with the rock dump at the same time, so that a line between them would be practically a vertical one.

Mr. Frank A. Johnson, who was the general coal inspector of the Hillside Co. and has worked around the Consolidated breaker, which was near this dump, said he was on that Katydid dump ground daily for 17 or 18 years, and on the conical dump he saw them working a great part of it the second time.

Mr. Petersen, who managed that consolidated operation for the Hillside Co. and was in the employ of that company for over 25 years and has been engaged in mining in all its departments, including washeries, says he knew the Katydid dump quite well, and when asked what it was worth said, "I would give five or six thousand dollars for it." He saw Robertson working when he was operating his washery there between 1905 and 1908, and said that he had worked the best part of the dump.

Mr. Saum, the expert to whom I have referred, who was employed by Mr. Berlin, of the Du Pont Powder Co., after the dump had been offered to him for $10,000, first went and made cursory examination of it in February or March, 1909. A little later than that he went there again. He first figured out that the value of what was there was about $33,000. According to the testimony of the experts it would cost nearly that or more than that to build the washery itself. Mr. Saum himself, who was employed in this matter, you will remember, by Mr. Berlin, of the Du Pont Powder Co., and for it only, no railroad ghost pervading the atmosphere in any degree at that time, told Mr. Berlin it would cost $35,000 to put in a proper and complete washery to handle that property, which he said was worth only $36,000, and that the cost of operation in addition to that would be about $15,000. If you add the $35,000 for the cost of the plant and the fifteen thousand and odd dollars for the cost of operation and the $8,000 which Judge Archbald and Mr. Williams were to pay for the dump, you will find that whoever took and operated it on that basis would lose the sum of twenty-two thousand and odd dollars.

He says in that calculation he included that conical dump as all coal. He did not know it was a pile of rock and ashes and that there was nothing there that was worth anything.

The next man who testified about that dump was this same Thomas H. Jones, to whom I referred in connection with Packer No. 3 dump. On the 6th of April, 1912, he got a written option from Judge Archbald, offering to sell him that dump for $25,000; and he was trying to find a purchaser for it. He went there with three other men to examine that dump and he said the estimate was that there were about 22,000 tons of coal there, which would be worth, at the rate fixed by all these experts, less than the $8,000, which was to be paid by Judge Archbald for the dump if he got it. He said, "I then went and I told Williams, if you get me an option on it I will get a competent engineer to make an estimate." He says Williams said that there was a great deal more coal in it than Mr. Jones thought there was, and it was then they went to Judge Archbald and got the option.

Then Mr. Reese Alonzo Davis went there with Jones. He said that he—Davis—had a purchaser named Beardslee. He went there with Beardslee and Jones to make a sale. He was trying to get a commission by selling to somebody. Beardslee went with him and looked at it, and he—Davis—said he thought there were 20,000 tons of fair coal there. Beardslee said he would not take it as a gift. Then Jones got a man named Motiska, a mining engineer, to go there, and Motiska made an estimate of 68,000 gross tons, and told Jones how much coal he could get out of it. Then Jones concluded there was no money in it; he dropped it.

Beardslee, who was the next witness on the stand, said he was in the business of washing coal dumps. He wanted to get such a dump. He was told this Katydid dump could be got at a reasonable price, and he went with Jones and Davis to look at it. He said it was too small to warrant an operation at all; that it would not pay for building a washery.

In addition to that, he could not see that he could get any water, and when he was asked what it would cost to furnish the water to run it he said he did not see where he could get it at all. He was in exactly the same plight as Robertson was when he stopped work. There was no water there to wash the dump, and probably it would cost as much to get water there for that purpose, without regard to what the machinery would cost, as the coal in the dump was worth.

Another gentleman who examined that dump was Mr. Thomas Ellsworth Davis. He has been a mining engineer for nearly 30 years. He is the official appraiser at the present time of coal properties for taxation for the counties of Lackawanna and Luzerne, and he is the consulting engineer on that subject of the State tax board. He tells you he examined that dump about the same time these other parties did, and the value in his opinion was about $2,500 to $3,000. He went there to examine it for some people who wanted to buy it, and he said he reported to them not to touch it.

Frank A. Johnson was still another witness on this point. He was inspector of the Hillside Coal & Iron Co.. I am coming down to what is most important in regard to this question. When Judge Archbald wrote his letter of March 31, 1911, to Capt. May asking him whether his company would sell the Katydid culm dump and at what price, Capt. May immediately directed an examination to be made of that dump. That letter is here in evidence, and upon the letter were the notations he made as to the directions he gave.

Mr. Johnson went there at the direction of Capt. May with a man named Merriman. Merriman was the man who was to find out how much material there was in the dump. That was his business. Johnson was the man to see what kind of coal there was, how much coal, and what sizes. So the combined information they would give Capt. May would let him know what that dump was worth to the Hillside Coal & Iron Co.—what amount in royalties the company might expect to get out of it.

Johnson went there with Merriman. He says when he went there he did not know whether that bank was to be bought or whether it was to be sold. His chief, Capt. May, said, "Go there and examine that dump with Merriman and find out what there is in it and find out what it is worth, and make your report to me." So he and Merriman went there to inform their superior officer what that dump was worth, not having the slightest idea what was to be done, whether he wanted to buy or whether he wanted to sell.

He described that conical dump and tells about the rock there. He knew about that. Merriman left it out; he knew all about it. Then they made their report to Capt. May that there were about 55,000 tons of gross material in the dump, and Mr. Merriman made a blue print, in which he gave the representation of that dump the same as the map there, except on a smaller scale, and except also that he left out the conical dump. He figured on it and stated at the bottom what the 55,000 tons gross meant, using the same language there from which the managers have contended that that meant 55,000 tons of coal. I shall address myself, as I go along, to that proposition and show there is nothing in it.

Mr. Johnson was one of the men who made that report, and he says he told the captain there were 55,000 tons altogether, and that that is what Mr. Merriman reported. Mr. Merriman is dead and we can not have the benefit of his testimony.

The next witness on the subject is Mr. Jennings, general inspector of the Hillside Coal & Iron Co., who built the Consolidated and was in charge of it from March, 1909, until the present time. He went to the Katydid with May in the latter part of May, 1911. Here is another employee of Capt. May's, his general inspector. These two people, of whom I have already spoken, Merriman and Johnson, went there in April immediately after the receipt of Judge Archbald's letter of March 31. Jennings went there with Capt. May in the latter part of May, 1911.

He had an idea that some day Robertson would rebuild and undertake to wash that dump. We know it is not so, because Robertson had washed it for awhile and knew what was in it, and knew that it would not pay to build a washery, and, as he told you on the witness stand, that is the reason he did not resume work.

Jennings says:

I told him that when Robertson & Law started again to wash that dump all we would get would be the royalty we would pay—

"We." The record should read "they"—

and it was just a question with us of waiting to get our money by actual shipment or taking the money—that is, we had a very unstable agreement upon which we operated this mining, at least a part of it, on lot 46; and if we sold it, it would be off our hands and we would have the money.

And at that time—

Says Mr. Jennings—

I krew nothing as to Judge Archbald having any communication with Capt. May about this matter.

Now, here again, as in the case of Packer No. 3, you find the man who was in charge of this dump taking his most trusted and reliable advisers, asking them to give him information as to the value of the interest of his company in the property, and not letting them know who it was for whom he was getting information or what his object was in getting it, and they all three of them concur practically that the property is not worth anything and he had better get out of it what he could.

Therefore, when this report was submitted to Capt. May, there was simply presented to him the proposition, "We have the right to royalty on the coal that is in that dump that will come out of it if anybody can be induced to go to the expense of building a washery; and if nobody does build a washery, we will get nothing out of it.

On that map of Mr. Merriman's which is in evidence are figures made by Capt. May showing how he got the value of that royalty. He figured it that the value of his company's interest was $6,000. Capt. May testified, and Mr. Williams has testified, that when Williams went to May on the last days of August to get this letter from May, Capt. May then demanded $6,000, and Williams beat him down to $4,500; and on those same figures Capt. May has added the $3,500 which was to be paid to Robertson.

Now, bear in mind this further fact, Senators. When, in February or March, 1909, Robertson and May together had offered that property to the powder company for $10,000, Robertson to have $8,000, May being willing to take $2,000, Robertson, who made that dump and knew what was in it, in 1911 had come down from $8,000, which was his former price, to $3,500, which he asked Judge Archbald for it; and Capt. May, who was terribly influenced by the overwhelming power of a judge of the Commerce Court, and who had offered to sell in the spring of 1909 the interest of his company, their royalties, for $2,000, demanded $4,500 from the judge of the Commerce Court, and put that in his letter. If that is the effect of judicial influence in obtaining favors, I pray I may never have the benefit of it.

Capt. May says the engineers reported 55,000 tons of material—not 55,000 tons of coal—in the dump. It is a curious thing that all through the taking of the testimony in this regard the learned managers, and especially Mr. Manager STERLING, who seemed to have charge of the examination of witnesses about this particular dump, insisted that that 55,000 tons meant 55,000 tons of coal. I have shown by the testimony of all these witnesses that it was 55,000 tons gross, not more than half of which would be coal. If that be so, on the testimony of every witness in this case it would not pay to build a washery to reclaim it.

But later in the taking of the testimony in this case the report of Mr. Rittenhouse, upon which they have relied from beginning to end as to the value of this dump, was formally put in evidence by consent, and in that report, as the managers will find on page 1050, Mr. Rittenhouse himself says that these engineers reported to Capt. May that the dump contained 55,000 tons gross and not 55,000 tons of coal.

I want to go on to the history of this transaction. They found a purchaser. How they found a purchaser we will consider a little later, but Mr. Conn, who was the representative of the line running from Wilkes-Barre to Scranton, called the Laurel line, became a prospective purchaser of this dump. There is a contract in evidence here by which, if the title had proved satisfactory, he would have taken it, and he agreed to pay 27½ cents a ton for the coal in it.

I take the report of Mr. Rittenhouse, which included that conical dump and included the coal which he supposed to be in the slope to which I referred a few minutes ago, making 25,000 tons more of coal than was actually in the dump. At his figure, taking the whole quantity of coal thus found to be in that dump at 27½ cents a ton, which Conn was to pay, the total amount would have been $14,000; there would have been a profit of $6,000, and that is the most that can be figured out of this transaction that Judge Archbald and Mr. Williams could have received in any possible event.

Conn would not pay any lump sum; he was on his guard. All that the venders would have received under that contract would have been $10,000, or a profit of $1,000 each to Mr. Williams and Judge Archbald.

Now I come to another step in this case, and one upon which the managers have relied here as they relied on it when they made their report to the House, copied it and read it in the opening statement which is made here to you, and they have repeated it time and again in your hearing, and I have no doubt it has influenced the mind of every Member of this body who has been here and heard what was said about it. Why, the managers exclaim they sold this dump to Mr. Bradley for $20,000, making a profit of $12,000, of which sum $6,000 was to go into the pocket of Judge Archbald.

Now, let us see. Mr. Bradley is a plain man. I wish you all had seen him. I do not know how many of those who are listening to me saw him on the stand. I venture to say that nobody who did see him would question his absolute truthfulness. He said he went down to see that dump at the instance of Mr. Williams, and concluded it was worth $16,000 after hearing what Williams had to say about it. Then he went back to the office of William P. Boland, and there Williams and William P. Boland made him think it was worth more and he agreed to pay $20,000 for it.

How was that done? Why, said Williams and Boland to Bradley, "Jones is going to buy that dump for $25,000"—this same Jones who had a 10-day option for $25,000—the same Jones who went down there with his friend as a purchaser to see what it was worth, and the friend who proposed to be a purchaser would not take the dump as a gift. "But," said Boland and Williams to Bradley, and Bradley himself tells us this, "Why, you can sell this dump to Jones for $25,000. He has got a man who will pay $25,000 for it, and if you will get it for $20,000 you will make $5,000." Mr. Dainty was there at the same time, and Mr. Bradley, the honest fellow, tells you, "I was to get that, and I was going to give Dainty $2,000 and keep the other $3,000 myself. That was the profit I was to have out of it." Mr. Bradley tells you that William P. Boland was the first man who spoke to him about that dump or about his buying it, and that "he urged me to buy and he told me it was worth more than $16,000. He hurried me along. I went down to the dump one day, and the next day we went over to Capt. May to see if it was all right."

Now, mark this: These men had made that poor fellow Bradley understand, as he says, that there were from eighty to a hundred thousand tons of coal in that dump; so he says; and he proceeded upon that basis when he made that proposition—that there were eighty or a hundred thousand tons of coal there—when, according to the exaggerated estimate even of Mr. Rittenhouse, the man who put the greatest value on the dump, there were between eighty-five and ninety thousand tons of stuff there altogether.

Was there a sale to Bradley? Not at all. Says Mr. Bradley: "I did not intend to complete the transaction until I went to see my lawyer, and I never got far enough." He never did see the lawyer. Of course, if he had, the result would have been the same as it was when they were trying to sell to Mr. Conn.

Inasmuch as that Rittenhouse report is the only thing relied upon in the House or here to show that that property was worth forty-five or fifty thousand dollars, I must devote a little more attention to it than I have already done. I think I have shown by testimony that is overwhelming that Rittenhouse's testimony could not be considered at all—that this dump was practically worth nothing. The testimony of the man who made it and his foreman alone would be sufficient for that; but let us look at Rittenhouse's report.

The very first item that he has in the report is an item of chestnut coal, which he appraises at $3.25 a ton, and makes

of that the enormous total of $17,800.25. Now, by the testimony of a dozen witnesses, it is shown that there was no chestnut coal in that dump that was worth anything and that in none of these dumps is the chestnut worth anything; so that that $17,800.25 will have to be struck from the report. When these dumps were being made the chestnut coal was of a marketable size; nobody took and threw into a dump lumps of coal the size of chestnut and above which were all coal and were always valuable. It was only when it was mixed with bone or rock or some substance which made it impossible to handle it in the original size that it was thrown into the dump.

Mr. Robertson was working that very dump for three years, and working the oldest part of it, which everybody concedes was the best part of it. The managers themselves did concede that over and over again. Robertson could not market a particle of chestnut out of the best part of that dump for the reason that it cost more to separate it than it would amount to. He said all the coal in that dump was very small—"No. 3 buck" and smaller; he could not get anything larger than "buck No. 1." John Monie, Robertson's foreman, says, "We tried chestnut, and we failed utterly; we just stopped trying to make it, and we run the stuff back into the bank." Frank A. Johnson, the coal inspector of the Hillside Co., said it was impossible to run the larger sizes. Robertson failed to do it, and his report was that that bank contained five-tenths or one-half of 1 per cent of chestnut and three-tenths of 1 per cent of pea.

Capt. May, who, of course, knew all about that dump and its contents, says there is no marketable chestnut in the Katydid; and Mr. Jennings, the general inspector of the Hillside, says you can not do anything with the chestnut; the proportion of coal is so small you can not clean it on account of the amount of machinery required to do it. Mr. Saums, who was Mr. Belin's expert, says he had never found it practicable to work dump coal and clean it and get chestnut out of it. He included coal larger than pea, he says in his report to Belin, because he was estimating the coal, slate, and culm all mixed together. He says Belin asked him to put a value on it, and therefore he had to classify it. Mr. Reese Davis, who went to look at the Katydid, could see no pea or chestnut. Mr. Ellsworth Davies said there was about one-half or 2 per cent of chestnut there. Petersen, who ran the consolidated dump and its washery, also said when they started the Katydid they tried to win chestnut to make it pay, but because there was so much impurity and waste to be handled in proportion to the small amount of coal it was not commercially feasible.

The most remarkable thing of all is that Mr. Rittenhouse himself, who in his report puts the chestnut coal in the dump at $17,500 or thereabouts, says it would hardly be worth while to put the screens all on for the small quantity of larger sizes.

I think that I have demonstrated by the mouths of numerous witnesses and out of the written report of Mr. Rittenhouse himself, upon which alone the managers have relied to fix a great value on this Katydid dump, that the item of seventeen thousand and odd dollars which he puts in as the value of the chestnut coal in that dump must be stricken from it entirely; and it is not worth while to deal with or to consider at all the rest of his figures.

Now, I have come to a different matter from the consideration of the value of the Katydid dump, and I must ask the pardon of the Senate for having devoted so much time to it, because it seemed to me, in view of the numerous statements which have been made outside and which must have reached the ears of Senators, and the statements on this subject which have been made to the House, which come before you in the CONGRESSIONAL RECORD, and those which have been made here in the opening statement of Mr. Manager CLAYTON, that there must be lodged in your minds the idea that this Katydid dump, instead of being a worthless pile of refuse was a piece of property of great value. But I come now to consider other matters.

I want, in the first place, to take up the visit that Judge Archbald made to Mr. Brownell, the general counsel of the Erie Railroad Co. One of the managers—and I am sure that it was Mr. Manager WEBB—in reference to a letter which Judge Archbald wrote to Mr. Brownell in the latter part of July, 1911, asking for an appointment, undertook to convey the idea that there was something about that letter of a mysterious and secret character. As an evidence of that, he said it was not written on Commerce Court paper. It would be a curious thing for Judge Archbald, in writing to Mr. Brownell, the general counsel of the company, who he is said to have wished to influence by his judicial position, should omit to use Commerce Court paper, when he used it in writing to everybody else; but, as a matter of fact, the learned manager is mistaken.

The letter, as anybody may see by examining it here in the hands of the Secretary, is on Commerce Court paper, and as the letter is printed in the record, at page 216, the printed heading of the Commerce Court is there.

It has been assumed here by the managers that prior to the time Judge Archbald went to see Mr. Brownell Capt. May had refused to sell this property. There is no testimony to justify that statement. Capt. May never did refuse. As we have seen, he started this investigation on March 31 and was continuing it down into the month of May. Then Mr. William P. Boland, who had suggested to Mr. Williams, in the first instance, to go to Judge Archbald and get a letter to Capt. May, said to Mr. Williams—and this William P. Boland testifies to himself—"I said to Williams, Go to Judge Archbald and get him to go to the New York office of the Erie Co." I do not mention that as any defense of Judge Archbald if he did anything that he should not do in going to see Mr. Brownell but as showing again that he never conceived the idea himself of going to the headquarters of the Erie Railroad Co. for the purpose of influencing its officials. And what story did Williams tell when he came to Judge Archbald to get him to do that? "Why," he said, "Judge Archbald, there was some trouble about the title of this Katydid dump, and Judge Willard"—then a member of the firm of Willard, Warren & Knapp, in Scranton—"had examined that title and made a report on it, and there has never been any final determination of the matter." Then he suggested to Judge Archbald that he might go to the headquarters of the company and find out what was the result of that inquiry as to the title of the company. So Judge Archbald went to see Mr. Brownell, to learn what had become of the investigation that was being made or had been started in reference to the title of the Katydid dump.

There is no word of testimony in this case that justifies the statement that has been made over and over again that when Judge Archbald did act upon that suggestion and went to see Mr. Brownell he knew that anything had taken place between Mr. Richardson and Capt. May in the month of June preceding in reference to advice by Richardson to May to let the matter drop for the present. Mr. Brownell says that when the judge came there, what he said to him and all he said to him was that he understood the matter of clearing up the title had been referred to him, Brownell. That fits in exactly with the testimony as to what Williams said to Judge Archbald and as to Judge Archbald's reason for going to see Mr. Brownell. He said he understood the matter of clearing up the title had been referred to him, Brownell, and he wondered if that was what was holding up the matter of the disposal of the interest of the Hillside in that dump. And Richardson says that when Brownell brought the judge in to see him the latter told him that he wanted to know the result. He says he did not promise the judge anything. He simply said he would see the general manager, just as he told everybody else making such communications; that there was no change in Mr. May's mind about the matter, so far as he, Richardson, knew; that Richardson simply said to May to take it up again and see what could be done with it.

The principal reason why May favored it was this—and now I call your attention to this small matter, which might make very little impression upon you and in which you might think perhaps there was no point—"Why," says Capt. May," I wanted to sell that property so as to see my friend Robertson get his money out of it."

Capt. May from the beginning to the end was always in favor of selling the property; nobody suggests that he ever changed his mind about it. When Mr. Robertson was upon the stand he testified that he would not allow this property to be sold to anybody who was not satisfactory to the Hillside Coal & Iron Co. If anybody wanted to get his interest in that dump, he had first to make his peace with the Hillside Coal & Iron Co., because he was not going to make any trouble for his friend, Capt. May. Capt. May told you that, when the question of selling it came up and he saw that Robertson could make $3,500 out of it, he was very anxious to have it sold so that Robertson could get his money. Can you not see the picture of these two lifelong friends, one of them working the dump and paying the royalties and the other receiving the royalties and distributing them, meeting each other on the streets of Scranton day after day for 20 long years, working about this business, each thinking of and respecting the other, and neither of them wanting to make trouble for the other? Robertson would not sell to anybody that May was not satisfied with, and May was very anxious that the property should be sold so that his friend Robertson would get the money he never would get unless somebody else took charge of that dump, because Robertson himself knew that there was not enough money in it to justify the erection of a washery.

Now, another thing about this. It does not appear that Capt. May or Mr. Brownell or Mr. Richardson ever knew that Judge Archbald was financially interested in the purchase of this property. Every one of them says that Judge Archbald never told him in what regard he was acting, whether for himself or as representing somebody else who wanted to buy it. Each one of them explicitly makes that statement, and they all say that they would—Capt. May says explicitly he would—have sold at the same price to anybody. Robertson says the same thing. They have both testified on this stand that anybody can go there and have that dump now for $4,500 so far as Capt. May is concerned, and for $3,500 so far as Robertson is concerned.

As to the price of this dump, Capt. May never had a word or communication, verbally or otherwise, with Mr. Richardson about the price that was to be charged for their royalty interest in that piece of waste stuff they called the Katydid coal dump. Mr. May got the reports from his subordinates, and he determined that he would recommend the sale for $4,500. He was an officer of the Hillside Coal & Iron Co. He was not connected with the Erie Co. in any way directly, although his company, of course, was owned by the Erie Co. He did not know that the Erie Railroad Co. had any litigation in the Commerce Court, and he never heard about the Lighterage case nor the fuel case, nor any of this other litigation, till this investigation began.

Thus you have, in the first place, a piece of property that was not worth anything; that would not be worked; out of which no royalties could be got, and Capt. May, finding out what the royalties would be worth if somebody would work it, offered to sell the interest of his company, as much as anything else, so that his friend Robertson could get his money out of it, he himself fixing the price of those royalties without knowing that there was any litigation in the Commerce Court in which the Erie Co. was concerned.

Mr. Richardson says that he never changed his attitude about the matter. He uses that expression: "I did not change my attitude. I did not know whether Judge Archbald was interested for himself or others. I did not know he was financially interested. I knew nothing of the Erie lighterage case."

Mr. Richardson, when he spoke to Capt. May in June and told him to take up the matter again and report on it, did not know anything about the Lighterage case that was pending in the Commerce Court. He says: "I might or might not have approved May's recommendation. No sale would stand without my approval. I simply told him to go on with the investigation and report to me. I have received no report. I did not tell May what my recommendation would be. I did not see how he could give the option, the interest was so small; and when he told me in June of overtures that were being made by somebody for the purchase of that dump he did not call my attention to the fact that Judge Archbald was the person who was interested."

It seems to me that we are pretty near to the end of the proposition that Judge Archbald went to the office of the Erie Railroad Co., and they directed this property to be sold to him, because he was a judge of the Commerce Court.

I want, now, to consider for a few moments this remarkable man and witness, Mr. Edward J. Williams. He was put upon the stand by the managers and examined by them and cross-examined by us. A few days ago one of the managers, Mr. Manager WEBB, I think it was—you will find this recorded on page 972—said, "We disclaim Williams as our witness." I had made some remark to the effect that Mr. Williams was their witness, and he said, "We disclaim him." Well, he certainly was not our witness; we never offered him here as a person upon whose testimony we asked you to rely in any degree whatever. The managers disclaim him, and I do not see how anything can be done with his testimony except to throw it out of court. But I will suppose that you may take a different view about it, and I will consider him for a moment.

There is one thing that can be said about Williams, and that is that he was an impartial witness. As to everything, I think, which was material in his testimony he testified distinctly and clearly on both sides. He said, on page 136, that the judge told him he would see Brownell about it, and on the next page he says that the judge did not tell him he would see Brownell about it. On page 139 he said he got an option one or two weeks after seeing him. Now, as illustrating the value of Mr. Williams's testimony—and I do not wish to be severe upon the old man; I have my own ideas about him—he took that letter of Judge Archbald's to Capt. May on the 31st of March, 1911; he went back to May and got the letter which I read, in which May says he will recommend the sale of his company's interest, on the 30th of August following—April, May, June, July, August—five months had intervened, and yet when Mr. Williams is asked how long it was from the time he went with the first letter until he got the option, he says, "It was one or two weeks." That is to be found on page 139 of the record in this case. Then he says that Judge Archbald never said that he would hurt Capt. May, or anything like that. On page 138, when the words were forcibly put in his month on the ground that the managers had a right to cross-examine him, he says he did say it. That is on page 166.

There is another matter which illustrates the value of his testimony, and it is more striking than anything that I have mentioned. I refer to the $500 note that Judge Archbald indorsed for John Henry Jones in December, 1909. It was a three months' note, I believe, although that does not make any difference, and has been renewed continuously from that time down every three or four months. It has been renewed over and over again, and every time Jones signed it, Judge Archbald indorsed it, and Williams indorsed it; the last time Williams indorsed it, being only a day or two before he came down here to testify before the Judiciary Committee. He was asked about that, not by us, but by the managers, whose witness he then was, and he said he indorsed the first $500 note, but he never indorsed one afterwards, whereas he indorsed every one of them, as everybody admits and the bank records show, from the beginning down to the end.

Now, I will ask you to remember another thing about that man. I will speak a little later of how Mr. Boland got him to agree with him to try to get Judge Archbald to do things that Mr. Boland thought might make trouble, but I want to speak of Williams now as a witness. In the first place, he lived in William P. Boland's office. He told us that for a good many long years past, every day, except on Sunday, when the office probably was not open, he spent practically the whole of his time in William P. Boland's office; and after Mr. William P. Boland started the trouble, which has resulted in this trial and in the course of proceedings, Mr. Wrisley Brown, the gentleman who has been doing us the honor to be present during these ceremonies, sitting with the managers and assisting them in the presentation of this case, took the statement in Scranton of Mr. Edward J. Williams, Mr. William P. Boland sat at his side, and from time to time made suggestions or asked questions. Williams says he asked all the questions, but the record shows that he asked very few. Then, Mr. Boland, after he had been down before the Interstate Commerce Commission and an arrangement had been made by a member of the Interstate Commerce Commission for a hearing in this matter before the Attorney General, Mr. Boland sends a telegram to his wife or to some other member of his family a little short of midnight on a certain day, and they rush over to Williams's house, put him in a carriage, take him to the station, rush him down to Washington, and take him to the Attorney General's office, where William P. Boland and Mr. Cockrell, who was there representing the Interstate Commerce Commission, one on one side and one on the other, put words into his mouth and lead him to talk there. Finally he is summoned down before the Judiciary Committee of the House. He appears there as the first witness in the case and sits at the witness table, and William P. Boland has the audacity to separate himself from the audience at that hearing and walk up and sit down at that table beside this old man Williams, so that their elbows touched, and stayed there until Mr. HIGGINS, a member of the Judiciary Committee, perceived what an indecent thing was being done, and suggested that that table was for witnesses and for nobody else.

So it was that this old man, whose understanding of the English language and manner of expressing himself are not of the best, on these three several occasions had been influenced by William P. Boland to make statements, and when he came upon the stand here if in giving his recollection he did not satisfy the honorable managers as to anything he knew or said, there was immediately crammed into his mouth something that had been said by him on one of these former occasions. That is why as to so many of these matters he contradicted himself.

Another thing, Mr. Edward J. Williams was not always a man about whom such remarks might be made as those we have heard here, as one who is not a fit associate for a man of Judge Archbald's standing. He had himself been a man of some substance and influence up there, and had been engaged in a number of important transactions, so that, as he himself said, Mr. William P. Boland had dubbed him "Option" Williams. That is the name he went by to William P. Boland. He was one of the persons who had enabled William P. Boland and Christopher G. Boland to secure that very Marian coal dump, about which we have heard so much, the dump which the Marian Coal Co. was operating near Scranton, and Williams testifies, on page 202 of this testimony, that the Bolands owe him $1,300 and $1,100 out of that transaction. He says, "They told me they were

going to pay me as soon as they get their money out of that property. They can not make a dividend until they get it." So that old man, who I need not say is in very hard lines nowadays, with a sum of $2,500 in the hands of the Bolands, which is due to him, an indebtedness which they did not deny in any degree upon this witness stand, finds himself tied between his desire to tell the truth about Judge Archbald and his desire to say what the Bolands had made him testify to heretofore, and what they wanted him to testify again, so that some of these days he might get that $2,500. That is the reason that poor old man upon this stand made such a sorry exhibition of himself. When he was asked why he went to that office so often and what business he had there, he said, on page 202 of this record, "I always went there to get some of the money they owed me."

That brings me to the paper which has figured somewhat in this hearing—the so-called silent party paper. On the 5th of September, 1911, in the office of William P. Boland—present, William P. Boland, his employee, Mr. Pryor, and his stenographer and niece, Miss Mary Boland—this paper was concocted. It was suggested that the word "concocted" was not a proper word to use in addressing the witness on the stand; but it is an eminently appropriate word to use now, and I use it. William P. Boland, who, as he tells you, at that time had made up his mind that he would get Judge Archbald into trouble, had that old man Williams sign that paper. Now, I want to call your attention to the fact that it was about that time that Mr. Boland testified that he would get letters written and get photographs made and have things done with a view of getting Judge Archbald into trouble. The only thing that has ever been said in this record as any excuse for that proceeding on his part was that Judge Archbald had done something wrong in connection with the case of Peale against the Marian Coal Co. All that the judge had even done in that case was to decide against the Marian Coal Co. a demurrer which they filed to the original bill, which raised the simple question whether the suit should be brought there or in another jurisdiction—in the third judicial circuit of the United States—and had made the usual order fixing the time for taking testimony, as to which there never was any complaint. Mr. Boland gets Mr. Williams to sit down and sign this paper, in which it is stated that nobody but Williams and Boland himself and Robertson and Capt. May know anything about the judge's interest in this matter, and assign a two-thirds interest in the contract to Mr. William P. Boland and to Judge Archbald.

Now, Mr. Williams—the only person whose testimony I refer to about it—said this: On two occasions he said that Judge Archbald had nothing to do with that paper—pages 48 and 160. He said that the judge had nothing whatever to do with it, on pages 160, 161, 162, 163, 196, 197, 198, 211, and 212. On two occasions he swore he never told Judge Archbald about it, and he said that the judge never suggested concealing his name and he never had any authority from the judge to sell to Boland.

And Judge Archbald, I need not remind you, has testified that the first he ever heard of that paper was when it came out in the proceedings before the Judiciary Committee; and yet in spite of that testimony, which is all the testimony there is in this case upon the subject of Judge Archbald's knowledge of that paper, one of the learned managers in his argument here said Judge Archbald accepted it. I know not what could have been in the mind of the manager who made that statement, but he certainly owes it to the Senate, before this case closes, to show by the record where there is any testimony to justify that statement, or else to withdraw it.

Mr. Manager STERLING. Taking advantage of the opportunity, I will state to counsel that I never made any such statement. I said that he accepted the interest in this coal dump which this paper offered to convey. I did not say he accepted the paper.

Mr. WORTHINGTON. I am very much obliged to the manager.

Mr. Manager STERLING. You are entirely welcome.

Mr. WORTHINGTON. I am very glad the explanation has been made, but I am quite sure that while the manager undoubtedly meant to say what he says he did, he is not so reported in the record. Moreover, the statement, as I am reminded by associate counsel, is just as erroneous as now corrected as it was before in the way in which I understood it.

Where is there any evidence that Judge Archbald accepted anything under this paper? This man Williams pulled out of his pocket here a couple of papers when testifying on his direct examination and said, "I have papers here." The learned managers did not ask him, strangely enough—and it was the first time their curiosity had not been aroused upon the production of a paper by a witness—to explain what those papers were. Now, it happened that I had asked Mr. Williams about this paper in Scranton, when I was there preparing for the trial of this case, and that Mr. Williams had told me he had these papers, and that I had suggested to him to bring them along when he came down here. So he produced them. There were two carbon copies of this silent-party paper made, and that old man has carried them in his pocket from that day to this.

Mr. William P. Boland no doubt had an idea that Williams would get Judge Archbald to sign one of them, and he would have Judge Archbald's name to the paper. But the old man kept these copies in his pocket, and when testifying before the Judiciary Committee testified that he had never received a copy of it, never knew of the paper, and yet he testified here later that, as he told us in Scranton, that when he made that statement he had the two copies in his pocket.

I will proceed with the comforting assurance, to myself at least, until otherwise advised, that no member of this tribunal will consider that paper for any purpose whatever as against Judge Archbald.

Now, there is another thing which is sought to be charged against Judge Archbald, as showing that he acted in a manner indicative of guilt in this case, and that is the recall of the so-called Bradley contract. You will all remember that when that sale to Mr. Bradley was hurried through in April last Capt. May, having had the contract drawn by his counsel, the same Judge Knapp to whom I referred some time ago, sent that form of contract to Bradley with a letter, in which he said that he submitted it and wanted to know whether it would meet the approval of Bradley, taking occasion to send also a copy of the letter to Mr. Williams.

On the next day May met Bradley at the station there—the Laurel line station, I think it is said—and told him he wanted that contract back; that they had concluded there were complications about it which would not justify the company in going on with the sale; and Bradley did give it back to them, and that was the end of it.

Now, it is claimed here—I have not heard anything about it in the argument so far, and I do not know whether my distinguished friend Mr. Manager CLAYTON is going to refer to it or not; but there has been a good deal about this said in the taking of the testimony and in the arguments concerning the admission of the testimony, and therefore I conceive that I must address myself to it for a few moments. Judge Archbald came to the city of Washington, as the records of the hotels show, on the 8th day of April of that year. He was here for two or three days at the Hamilton House, by himself, when Mrs. Archbald came here and joined him, and then they went to the Grafton Hotel, on Connecticut Avenue, and were there until the 20th day of April, as the evidence shows.

It was during this time that this transaction occurred. Capt. May testifies that, after having received that contract from his counsel, and while he had it on his desk, a certain Mr. Holden, whose wife was one of the Everhart heirs and claimed an interest in this Katydid dump, came into the office and talked with him about another matter, another part of the culm transaction which the Everhart heirs had with the Hillside Coal & Iron Co., and that he mentioned to Mr. Holden that he had that contract and was about to sell his company's interest in the Katydid dump. Thereupon Mr. Holden at once objected to it and said that he did not want any sale made unless their interests, too, were conveyed. Mr. Holden then went out and got some other parties who were interested as Everhart heirs to write letters to Capt. May objecting to the sale, and himself went to New York, which is only four hours from Scranton, and before taking his train to Boston wrote a similar notice himself, and that that stopped the sale.

Capt. May took these letters to his counsel, and his counsel, as he says, and as Judge Knapp says, advised him not to let the transaction go on.

Senators may wonder what this has to do with this case. Why, it is this: The managers say that at that time there were rumors around Scranton that this investigation was coming on and Capt. May withdrew that contract because he was afraid of the storm that was approaching and of which this is the ultimate result. Capt. May denies it. Judge Knapp, who gave him the advice as to the contract, denies it. Mr. Holden denies that anything of that kind had been heard. The other gentlemen wrote letters at the same time, all denying it; and the evidence is that nothing was known in Scranton about that transaction until the 21st of April, when the Philadelphia North American arrived there with a statement of the charges, and the next day the matter was published in the Scranton papers.

The argument was made, why should Capt. May, of the Hillside Coal & Iron Co., stop this supposedly advantageous sale, because of the complaints that were made in these letters, when he was selling only his company's interest in the

dump? Why, Capt. May explains that, and his counsel, Judge Knapp, explains it, in a most satisfactory way. It appears that the Hillside Coal & Iron Co. was operating to a very large extent coal property there in which the Everharts had a one-half interest, property compared to which this culm dump was a mere flea bite, which they were working for the Everharts, and they were working it under a supposed letter written 25 or 30 years before by a Mr. Darling, who was supposed to have represented the Everhart heirs. Mr. Darling was dead and the letter was lost, and the Hillside Coal & Iron Co. had not a scrap of writing or any authority whatever to justify them except what had been going on in the past. Judge Knapp said to his client, "If you get into any trouble with these Everhart heirs, they may stop all your proceedings; they may say 'you will have to pay a higher royalty hereafter; we want you to account for what you have done in the past.'"

But whatever may have been the reason that actuated Capt. May in doing that, or have influenced Judge Knapp in advising Capt May to do it, there is no evidence in this case that Judge Archbald had anything to do with it, and he was in fact in the city of Washington when it occurred.

And, further than that, I call the attention of the managers to the fact that the evidence discloses that Judge Archbald never knew about the Bradley sale until it came out before the Judiciary Committee in May. Mr. Williams says he did not tell him about it; Mr. Bradley says he did not tell him about it; Capt. May says he did not tell him about it; and Mr. Robertson says that he did not tell him anything about it; and Judge Archbald says he knew nothing about it. The Bradley sale was one that was concocted in the office of W. P. Boland, who did know this investigation was going on, for the purpose of rushing through a sale of some kind, so that when the matter should come out it would appear that Judge Archbald had realized some benefit from the transaction.

Mr. Williams, when asked if he ever told the judge about it, said "No"; he said, "No; I did not tell the judge about it, but I did not intend to cheat him; I intended to give him his one-half."

Now, coming to this charge in the last article of impeachment, and charged here by the managers over and over again, that Judge Archbald entered into these arrangements with the railroad companies and concealed from everybody except the railroad officials the fact that he was interested, I propose to address myself for a few moments to the evidence on that proposition.

Mr. May says that he did not know what the judge's interest was; Mr. Brownell says he did no know what the judge's interest was, so far as the Katydid matter is concerned; and Mr. Richardson said he did not know.

So, as to these railroad officials who were concerned in this transaction, they knew only that Judge Archbald for some reason was interested in it; whether for himself or others they did not know. I do not mean in the slightest degree to detract from the effect of the evidence as to their knowledge that in some way he was interested. I rest my argument on this proposition, upon the fact that there was no concealment from anybody else.

Mr. Robertson was informed about it. Mr. Robertson came to the judge's office in the spring of 1911, long before he gave his option, and talked it over with the judge, and when the contract was to be drawn by which Mr. Robertson was to give his option, the judge drew it in his own handwriting and himself witnessed Mr. Robertson's signature.

Mr. Pryor knew about it. He witnessed Williams's signature to the silent-party paper and heard the talk about it in Mr. Boland's office. Miss Boland knew about it for the same reason. Mr. Wells knew about it, because he examined the title for Mr. Conn, and his partners, Mr. Torrey and Judge Knapp, of Scranton, knew about it, because they talked about it with the judge when the title was discussed. Mr. Holden and Mr. Heckle knew about it. Mr. Heckle says the judge came to him and tried to get the address of the Everhart heirs.

And, more than all, in the two letters which he wrote to Mr. Conn, proposing that Mr. Conn should buy this dump, he distinctly says that he is negotiating with Mr. Conn for a dump which he and Mr. Williams are purchasing, distinctly stating in both letters that that is the situation of the case, that he is interested in the purchase. Mr. Conn at once employed Mr. Rittenhouse, and told him that Judge Archbald was interested, and afterwards Mr. Rittenhouse went to talk to the judge about it, and finally, in the contract which Judge Archbald drew, by which the sale to Mr. Conn was to be carried into effect, he stated that it was between Robert W. Archbald and E. J. Williams of the one part and this Laurel line on the other part.

I am surprised that the managers should contend with reference to Packer No. 3 that there was any suggestion of concealment, because everything regarding that dump is in writing, everything coming from Judge Archbald is signed by him, and in every letter that was written in regard to it it appears as though the transaction was for him alone, except that when the formal offer of the proposition was made to the Girard estate to lease that packer dump it was signed by Judge Archbald and the three other persons with whom he was associated at that time in the matter—Mr. Bell and Mr. Petersen and Mr. Thomas Howell Jones.

Mr. Warriner testifies that there was never any suggestion of concealment in regard to it. He said that when Judge Archbald came there to talk to him about it, there were many callers there who heard the conversation. Mr. Kirkpatrick, the agent of the Girard Trust, says that when the judge talked with him about it there was no suggestion of concealment. His nephew, Col. Archbald, says the same thing. Mr. Hellbutt, and Mr. Farrell, and Mr. Petersen, and Mr. Bell, and Thomas Howell Jones all say the same thing. There were 15 or 20 witnesses altogether who testified to this. There is nothing in the world to justify the suggestion that it was a secret matter, but everything showing that it was absolutely open and above board.

Again, it is urged that it was an unusual thing to sell these dumps, so unusual that the fact that the Hillside Coal & Iron Co. agreed to sell its royalty interest in the Katydid to Judge Archbald, and that the Lehigh Valley Coal Co. was willing that the Girard Trust Co. should let Judge Archbald have Packer No. 3 dump, though paying royalties to both. This the managers claim is evidence of some improper influence used in bringing about the result. I therefore propose to refer to that for just a moment.

There is evidence here of at least 15 different transactions of the same kind. Most of them are in regard to so-called fills of the Pennsylvania Coal Co., which was another of the subsidiary companies of the Erie Railroad Co., of which Capt. May was the general manager. But I am not going to take up the time with them because it appears, in the first place, that this same Hillside Coal & Iron Co. only a short time before had sold its interest in the Florence dump, which was owned by the Hillside Coal & Iron Co. and which was in this vicinity—a transaction in which Judge Archbald had not the slightest concern—and sold its interest in that dump for the very reason it was disposing of its interest in the Katydid dump; and that is, that there were these same complications about the title.

And then, as I have already said, there is the fact that this very Katydid dump had been leased; the Katydid coal mine, not the dump only, but the coal mine itself had been leased by this Hillside Coal & Iron Co. to Mr. Robertson, and he had been operating the mine and running the breaker through which the coal from the mine was put, and running a washery which from 1905 to 1908 took the better part of the Katydid culm dump away. So, as to this very dump, the Hillside Coal & Iron Co. had disposed of its interest, retaining only a small royalty, long before Judge Archbald had anything to do with the matter.

Now that is all I propose to say directly about this article No. 1 and article No. 3, which refer to the two, and the only two, culm-dump propositions with which Judge Archbald was connected for the purpose of having any possible interest in them himself, and which belonged to any company which could possibly have any business before the Commerce Court.

I propose now to say a few words about article 13. It seems to have been the purpose of the framers of article 13 to try and combine some of the different transactions which are referred to in the other articles. They say that while Judge Archbald was on the bench as district judge, and while on the Commerce Court bench, he devised a scheme of getting litigants in his court to discount notes for him and to go into the buying of culm banks, and get the companies which might have business before him in the Commerce Court to sell him culm dumps at a low valuation. In the first place, I remark about the illogical character of that article, because there is no pretense that while Judge Archbald was district judge he ever had anything to do with culm dumps, and there is no pretense that after he became a judge of the Commerce Court he ever signed or indorsed a note for anybody to discount. There are two notes in question while the respondent was district judge, and these two culm dumps—Katydid and Packer No. 3—while he was circuit judge.

So there is absolutely no connection between the two sets of transactions.

It appears that in none of the transactions which are involved in all these counts did Judge Archbald take the initiative, save alone in No. 4, the one which refers to the Bruce correspondence. And I noticed in reading last night the brief which has been filed here by Mr. Manager DAVIS, that he has the fairness to call attention to the fact that as to certain of these trans-

actions the judge was induced to go into them by somebody else asking him to do it. As to article No. 1, it appears that William P. Boland got Williams to suggest to him going into it. As to article No. 2, Mr. Watson came to him. As to article No. 3, Mr. Jones came to him. As to article No. 5, Mr. Warnke came to him. As to article No. 6, Mr. Dainty came to him. As to article No. 7, Mr. Rissinger approached him; and as to articles Nos. 8 and 9, John Henry Jones approached him. And so as to the trip abroad with Mr. Cannon, which resulted from Mr. Cannon's letter to Mrs. Archbald—the purse transaction, as it has been called—was brought to him by Judge Searle on shipboard. Lastly, in the matter of the appointment of Mr. Woodward, the initiative was taken by the law which required him to make the appointment.

As to one of these cases, I will add a word in addition to what has been said, and so well said, by my associate, Mr. Simpson, and that is as to article No. 2, about the initiative that was taken in that case. It has been said here over and over again that Judge Archbald tried to induce the settlement of the litigation between the Marian Coal Co. and the Lackawanna Railroad Co. for personal profit. It appears that he went into that matter, in the first place, at the suggestion of Mr. Watson, and he has told how Mr. C. G. Boland came to see him. I suggest that in reference to the charges that have been made against Judge Archbald and the innuendoes that have been thrown out about his allowing these different persons upon whom the managers reflect—Mr. Dainty and Mr. Williams or Mr. Warnke—and Mr. Warnke seems to be considered a person who is not a proper one to be associated with; why I know not; and these other gentlemen who came into Judge Archbald's office—it appears here that Judge Archbald's office always had the open door; the door was always open. Anybody who wanted to come into the office and talk to Judge Archbald could come in; he excluded nobody.

It was never shut except once, so far as the evidence in this case discloses, and that was when Christopher G. Boland came into his office and closed the door, and said, "Judge Archbald, my brother William is going crazy. He is so worked up over these troubles of his about the Marian Coal Co. that if a settlement is not reached and these troubles go on, I think my brother is going to lose his mind." And with tears standing in his eyes, with that door closed so that nobody would hear about his brother's mental condition, he said, "Judge, go to those officers of the Lackawanna Railroad Co. and try to get them to bring about a settlement of the dispute to save my brother."

Two or three times he did that, Judge Archbald said, and Mr. Boland did not deny it. After the negotiations had ceased, after that imploration had been made to Judge Archbald, and the papers returned, and after he said that nothing could be done, Mr. Christopher G. Boland goes to Col. Phillips, the officer of the company, and makes a similar statement himself, and tells him that his brother will lose his mind if this matter is not settled, and he says that his brother can not sleep; that he is suffering from insomnia, and says, "I wish you would settle this case."

And there I want to call attention to one thing that is most remarkable in this question in view of the contention that the managers make about the $100,000 proposition. They say that Mr. Watson was to settle that business for $100,000 and to get $5,000 for himself, and if he was demanding $161,000 that was without their authority or knowledge. But when Mr. Christopher Boland went to see Col. Phillips after those negotiations were all over, including all that Judge Archbald had done, he said to him, when he was trying to get him to save the mine of his brother William. "We will settle if you will give us $75,000 and assume the claims of Peale against the company," which claims had then ripened into a judgment. The claims of Peale amounted to $34,000, and the $34,000 added to $75,000 would make $109,000.

Let me also remind the Senators that it has not yet been made criminal, or even a wrong matter, for a judge to engage in business transactions, and that, so far as the neighborhood of Scranton is concerned, if a man is to go into any business whatever it is almost impossible for him to keep from going into a business that relates to coal properties, because that whole country is built up from the coal mines and the operations that grow out of them.

It is not an unusual thing for judges of the Federal court, or judges of any other court, to be engaged in business, to be stockholders, and to be dealing in real estate.

I want also to call attention to a remark made here by one of the managers in the arguments as indicating the character of Judge Archbald and the feeling that people in that part of the country about Scranton and all that part of Pennsylvania have toward him. The managers said that they had to wring their testimony from unwilling witnesses. Well, I think it is true that out of a hundred-odd witnesses who were examined here, nearly all of whom were from that region of the country and nearly all of whom knew Judge Archbald or knew about him, with the exception of the two Bolands they were all his friends.

I ask you to add that to the character of the evidence we have here and which we had to stop producing because there was so much of it and it was taking up the time of the Senate with what was not denied, as showing that if they want to go anywhere to get witnesses who are not friends of Judge Archbald they must go to some place where he is not known.

I wish to add a word to what was said by my associate yesterday in regard to article No. 4, which relates to the Bruce correspondence. I, like him, do not undertake to say that what Judge Archbald did in that case in writing to Bruce and in not sending copies of the correspondence to counsel on the other side was not a mistake on his part, but I do maintain that it is nothing for which he should be adjudged a criminal or for which he should be impeached in this proceeding.

I think every Member of this body will take notice of the fact that here in Washington in the committee inquiries and in inquiries in the Senate and before the various commissions, of which we have so many, the proceedings are not conducted strictly in the manner in which lawyers usually proceed in the ordinary courts of justice, and that the members of those bodies consider that they have the privilege of getting at information in any way that they please when their object is only to get at what are the facts and to do what is right.

In this very case it appears that so notable a body, a body made up of such able and public-minded and fair-minded men as the Interstate Commerce Commission, have done, without it occurring to anybody that they might be criticized, a thing which is infinitely more objectionable than anything that was suggested against Judge Archbald in relation to the Bruce matter. The Marian Coal Co. had filed in the Interstate Commerce Commission this petition, which was referred to in what was known as the rate case, in which it charged not only that the railroad company had charged excessive rates, but that they were trying to ruin the Marian Coal Co. They had deprived them of their water; they had set fire to their dump, burning their own coal so as to burn the coal of the Marian Coal Co. That is the charge made. The record is here. The petition was put in evidence, and when William P. Boland came down to Washington in January of 1912, as he tells you himself, he went to that commission not for the purpose of making any charge against Judge Archbald, but for the purpose of showing to that commission that the railroad company, the opposite party in that litigation, was trying to ruin him; that they had gone to Judge Archbald and Judge Witmer and Mr. Loomis, and Heaven knows to whom, to hurry along the Peale case, which was a suit against the Marian Coal Co., and get a judgment against it and take its property and ruin it so it could not go on with the litigation before the Interstate Commerce Commission.

When Mr. William P. Boland came down to make that statement to Mr. Meyer, a member of the Interstate Commerce Commission, did he send for the attorneys of the Lackawanna Coal Co.? When he received a letter from Mr. Reynolds about the matter, or the letter from Boland, which is in evidence, written to Mr. Cockrell, saying that he was getting more evidence along the same line which he would send to the commission pretty soon, did they send notice of that correspondence to the Lackawanna Railroad Co.? No; Mr. Meyer said they got Mr. Reynolds, the attorney of the Bolands, and Mr. William P. Boland himself to come to Washington on the day that the Rate case was to be heard before the Interstate Commerce Commission, and they said to them outside of the court room, "Do not bring up this matter of Judge Archbald and Judge Witmer and these other complaints in the hearing to-day; keep quiet about that;" and it was kept quiet, but as soon as the hearing was over then, pursuant to an arrangement previously made by Commissioner Meyer, Boland and Williams were taken up to the Attorney General's office.

I do not say that for the purpose of criticizing those gentlemen. They were doing what they thought was perfectly right and proper. They are all honorable men with whom I have the pleasure of being acquainted, and doubtless you know them; but it was a thing done in that way in a case that was pending in that court where the people on one side were heard about the most vital elements in that case without the other party knowing anything about it.

I have here a case which was decided in the Supreme Court of the United States a few days ago which illustrates what I am saying. It is a case of the United States against The Baltimore & Ohio Southwestern Railway Co. It is in volume 226 of the Supreme Court Reports, and I read from page 20 of this

pamphlet. It is a case which had come up to that court from the Interstate Commerce Commission:

It is unnecessary to consider objections to the conclusion of the commission that it was safe and reasonably practicable, etc., to establish the switch. We remark that it is stated in the commission's report that they base their conclusion more largely upon their own investigation than upon the testimony of the witnesses. It would be a very strong proposition to say that the parties were bound in the higher courts by a finding based on specific investigations made in the case without notice to them.

So, there the Interstate Commerce Commission, in pursuance of the public and important duties devolved upon it, which it has exercised so honestly and so greatly to the public benefit, conceived that it had the right to make an investigation and reach a conclusion upon information obtained by an investigation which the parties knew nothing about and had no opportunity to meet. Yet I suppose it never occurred to anybody that the members of the Interstate Commerce Commission should be impeached, much less be held to have done something of which they ought to be ashamed when they did that. It was a mistake, but a mistake only, and in that way the Supreme Court treated it.

But, Senators, there has something occurred in this Chamber in the trial of this case which is more important than that, and which illustrates what I am saying. You will find in the record of this case, on page 809, that growing out of a suggestion of the Senator from California [Mr. WORKS] there was a discussion or colloquy here as to why the briefs had not been filed which the Senator understood the Senate had directed should be filed. Counsel had not so understood it and the briefs had not been filed. Mr. Manager CLAYTON thereupon said, "I have handed copies of our brief to some of the Senators." We were not informed of that fact. This tribunal before which I am speaking is a court. It is to decide upon questions as a court decides upon them, and the question involved is one of as great interest to my client as anything that will ever happen to him in this world can possibly be.

The managers are the counsel on the other side, and they had handed to our judges in this proceeding copies of their brief. What the brief was I knew not. I do not know to this day. I make no complaint about it. It was perfectly proper to hand it to the judges if they chose to do so. It is a perfectly proper thing for the judges to receive it; but I should like to know how the manager can stand here and ask you to impeach Judge Archbald for having done in the case of the Louisville & Nashville rate case what he has himself done in this very case.

In regard to the note which is referred to in articles 8 and 9, I call attention to a slip of the tongue which my brother Simpson made. It may have attracted the attention of some Members of the Senate when he said in reference to that $500 note that the judge testified that Jones told him either that the note had been or would be presented to the Bolands and they had refused to discount it. What the judge testified to, and what he says in his answer, is that Jones at some time told him that the note had been or would be presented to the Bolands, and nothing more. His testimony is that he never afterwards heard what was done, and the Bolands say that they never communicated with him on the subject. Williams says the same thing, and Jones says the same thing.

Now, as we are reaching the closing hours of this case, Senators, I want to devote a few words to the history of it. When a discussion arose in the course of the trial about the charge which we are making against the Bolands, as the managers put it, the managers said they wanted the Senate to know something about the history of this case, and they put in a little of that history. I propose to call attention to what is before you in regard to that matter to show how it was that the feeling which at one time existed against Judge Archbald in reference to this matter was aroused, improperly, I will not say, but aroused by the belief of the public that things existed which were absolutely without any foundation whatever.

The managers say that in the opening statement counsel for Judge Archbald charge that this was a conspiracy on the part of the Bolands, and that we are trying to defend Judge Archbald on that ground. If the managers will read the opening statement they will find that there is nothing in it to justify that averment. What I said then was that these proceedings began by charges that were made by William P. Boland, and that they arose out of his disordered mind and had no real existence. I know that it takes two to make a conspiracy, and the managers, of course, know that, too; and they know that the charge could not be properly construed into a charge of conspiracy between William P. Boland and anybody else. I make no charge of anything wrong against William P. Boland. I look upon it now as I looked upon it then, as the act of a man whose brain is in such a condition that he is to be pitied, not to be blamed, and I think that what took place in this case justifies me in making that statement.

Now, mark the connection of Boland with this case. He had got into his mind, without, as it appears here, the slightest foundation of any kind, that Judge Archbald, while on the district court hearing the Peale case, had done something against him. When you look at what he has testified to here, he says the judge sent the case to New York. Of course, that is simply an hallucination. There were some depositions, it appears, taken in New York by counsel on both sides by agreement; but he got it into his head that the judge in some way had transferred that case to New York. That is the thing which he says made him undertake to see what he could do in getting the judge into trouble. He found the Katydid dump, and he told Williams about it, and then said to Williams, "You go to Judge Archbald and get him to give you a letter to Capt. May." Then, after he had gotten the letter to Capt. May and the sale was not made, he said, "You go to Judge Archbald and get him to go to the New York office of the Erie." When the option was made out, which Judge Archbald prepared in his own handwriting, with Robertson, by which Robertson agreed to sell his interest for $3,500, Judge Archbald drew that, as I said, and witnessed it; and gave it to Williams to keep. Williams showed it to Boland, and Boland did the extraordinary thing of getting the grantee to acknowledge it. Then he took it over to the recording office and recorded it, and paid for recording it. Then he took a photograph of this silent party paper which he himself had concocted in his office, and got any letters Williams had and had them photographed; and then he came down to the Interstate Commerce Commission.

I invite the attention of the Senate to what took place when he came here and how this prosecution began. It is on page 762 of the record in this case. I ask Senators to remember that this paper was offered in evidence by the managers for the purpose of letting the Senate know that it was not true, as we charged, that this proceeding was begun by anything that William P. Boland did.

Now, see this extraordinary document, a document that a member of the Interstate Commerce Commission took to the President of the United States as representing the result of an investigation that had been made in the office of the Interstate Commerce Commission. He says, in the first place, that a demurrer had been filed in the Peale case; that thereafter the $500 note that is referred to in the evidence was presented to the Bolands for discount; that they refused to discount it, and that thereupon Judge Archbald overruled the demurrer.

It is established here, so that nobody disputes it, that the demurrer had been overruled three months before the note had any existence, and that the statement was the creation merely of the disordered brain of William P. Boland. He himself said on the stand, "I have always believed that note was before the demurrer was overruled." Everybody agrees it was not so. The bank officers were brought here, and you have the record of the bank where it was first discounted, and are told the date when it was discounted, which was in December, 1909. The note was dated in December and the demurrer was overruled in the previous September. Then, listen to this. The judge is represented in this Cockrell statement by "A."

"A." went to New York and saw Mr. Brownell, vice president of the Erie road, who telephoned Mr. May, superintendent of the Hillside company, to give Williams an option on the culm bank.

Now, think of that. That was the statement that originated in the same disordered brain.

"A." returned to Scranton and made out in his own handwriting and signed as witness an option giving Williams the right to purchase the culm bank for the sum of $3,500.

Can you imagine anything more grotesque, more absolutely untrue and ridiculous than that statement? The judge went to Brownell; Brownell went to the telephone and telephoned to May to sell that property for $3,500. The judge takes a train and comes back to Scranton and goes over to see May and writes out the option for him to sign; the whole statement is without the slightest excuse, except that the man who made it was a crazy man.

I will not go into all the details of it. There are other things almost equally as bad. Finally he says:

Boland says the litigation referred to by Seager is the suit filed by Peale and that Seager has inside advance information of the decision of the court, which has not yet been handed down.

The court had decided the case. Judge Witmer had decided it in the previous August. He had decided that Peale was in the right in the case and had given a perpetual injunction against the Marian Coal Co. in favor of Peale, and the question whether the amount which was to be paid in the way of damages should be $18,000 or more was the only thing that was left open,

The excuse is made for that proceeding by Mr. Meyer that it was prepared by Mr. Cockrell, and that if Judge Witmer's name was left out of it or there was anything else wrong about the statement it was Mr. Cockrell's mistake. We brought Mr. Cockrell here to see why it was that he had prepared a letter to be taken to the President making charges against a Federal judge, whose name until that time was untarnished, by such an extraordinary document as that. He said that Boland was there in the morning and made a statement to him. He did not make any notes of it, but in the afternoon he jotted down, according to his recollection, what had been said. That statement is taken to the President of the United States—that misstatement, I should say. The President directs an inquiry to be made. The Attorney General has the matter in charge. He sends Mr. Wrisley Brown up to Scranton to make an investigation. He makes his ex parte investigation, Judge Archbald knowing nothing about it, and it being intentionally kept from him for the reason, no doubt, that Mr. Wrisley Brown did not want to have this matter get out and injure the judge's reputation if there was nothing in the charges.

It comes back to the Attorney General, and the Attorney General in a formal paper, when the papers in this case were sent to the Judiciary Committee of the House, said:

> I had proceeded so far in this investigation that I intended to notify Judge Archbald and ask him to explain, but the resolution passed the House calling for the papers, and therefore the investigation proceeded no further.

So the matter went to the House.

Now then, in the course of this proceeding, in the early days of August last, by Mr. Manager CLAYTON, when we were considering whether we should be forced into a trial of this case at that time, and again during the argument of the case by Mr. Manager WEBB, day before yesterday, you have been impressed with the fact that the judgment of the House of Representatives in this case in favor of impeachment was practically unanimous, the only vote against it being that of Mr. FARR, who comes from the Scranton district and who, like so many of the witnesses here, knew Judge Archbald personally.

I never heard it suggested, and I do not believe that Mr. Manager CLAYTON, when he was district attorney in the district down in Alabama, ever heard it was a proper thing in trying a case before a jury to try to urge the jury to convict by telling them that the grand jury were unanimous in reaching a conclusion in the case.

I think it was a great mistake on the part of Mr. Manager CLAYTON and on the part of Mr. Manager WEBB to try to affect your action here by telling you that in the hearing which was had before the House of Representatives the conclusion that was reached was unanimous.

I desire to call your attention to a few things that the managers here said to the House of Representatives, by which they obtained that unanimous verdict. Mr. Manager CLAYTON, on pages 40 and 41 and 113 of the first volume of the proceedings in this case, said to the House that the proceedings were ex parte.

On page 65, Manager STERLING told them the same thing. On page 67, Mr. Manager WEBB said the same thing.

I especially call attention to what appears on pages 100 and 111 of this record. On page 100, Hon. Mr. HOWLAND, now Mr. Manager HOWLAND, said:

> The proceedings thus far have been ex parte, and every friend of Judge Archbald on this floor owes it to him at this stage of this proceeding to vote in favor of this resolution to-day, in order that he may have a full and free opportunity before the bar of the Senate to prove, if he can—and I trust in good faith and in all sincerity that he can—that he is absolutely innocent of the prima facie case which is made in this resolution.

On page 111, I read from what was said not by one of the members of the committee but by Mr. AINEY:

> In voting to-day I do so upon the ground frequently expressed here in debate, that this vote is not upon the guilt or innocence of the accused, but I cast it in the sympathetic hope and belief that in the tribunal provided by the Constitution, under the fullest investigation which will there be had, his name will be cleared and his fame shine forth as brightly and as unsullied as in the days of yore.

So that some of the managers on the part of this impeachment appealed to the House that every man there who was a friend of Judge Archbald's should vote for the resolution sending the case here, not because it was found that Judge Archbald was guilty of anything or that it was the expression of the opinion of the Members of the House of his guilt or innocence, but to give him an opportunity for a hearing where the question of his guilt or innocence might be determined.

But more, Mr. Manager STERLING said to the House that Mr. Williams saw the brief in the Lighterage case on the judge's desk on the 31st day of March. So testified Mr. Williams in this case. Mr. Williams said that he took that letter to Mr. May on the 31st day of March, the day it is dated, and he went back to Judge Archbald's office on that day or the next day, and then it was that he saw these papers, whatever they were, relating to the Lighterage case, and had a conversation with Judge Archbald about that case. The Lighterage case did not get into the Commerce Court until the middle of the following month of April. By no possibility could there have been a brief, list of cases, or anything else relating to that case on Judge Archbald's desk on the 31st day of March or anywhere near that time.

Let me, while I am speaking about that lighterage matter, also remind the Senate that some time in August, 1911, Mr. William P. Boland conceived the idea that he would have everything that E. J. Williams said preserved. So he directed his stenographer, Mary Boland, every time Williams came there, to take down in shorthand or make a record of everything he said. She was here with those notes under our subpœna, which show that on the 18th day of September Williams said he had been at Judge Archbald's office and had seen on the judge's desk a brief in the Lighterage case, and on the 28th day of September those notes show that Williams came in in the morning and said he was going over to see the judge about that case, and later in the day he came back and said he had talked with the judge about it. And the undisputed evidence discloses that the trial list or docket of the Commerce Court containing the word "lighterage" in connection with that case was sent to Judge Archbald on or about the middle of September.

Now, that was after the judge had been to Mr. Brownell, and it was long after Capt. May had written the letter in which he said he would recommend the sale of the Katydid dump for the sum of $4,500 to his company.

It is impossible, in the first place, that Judge Archbald could have said anything to Mr. Williams about this case at the time Williams said he did, and it is impossible, if the conversation took place at the time the notes of Mary Boland indicate it did, that it could have had any effect upon the action of the Hillside Coal & Iron Co.

In this connection I wish to refer to the fact that it appears that Mr. William P. Boland got Williams to go into the room which is next to Judge Archbald's office, the room through which you go to get into his office, occupied usually by his clerk or a subordinate of some kind, and to stand at that window and show him the lighterage paper, whatever it was. That is Boland's story.

I suggest to the Senate whether that does not indicate that this whole lighterage business is one of those things which was concocted by the unbalanced mind of William P. Boland, and that as a matter of fact Williams never had any conversation with the judge about it at any time or any place. If he ever did have any such conversation, it occurred long after the option, or what they call the option, had been given to Mr. May, and it occurred after the Lighterage case had been decided by Judge Archbald and the other members of the Commerce Court, and while the case had gone up to the Supreme Court of the United States on appeal from their judgment.

But more extraordinary still, Senators, is the statement which was made to the House by Mr. Manager STERLING and which has heretofore been referred to in the taking of testimony in this case, on page 59. You will bear in mind that Judge Archbald never knew anything about the Bradley transaction. He was in Washington when it occurred; Capt. May was the person who sent the contract to Bradley and recalled it at the station. This is what Mr. Manager STERLING recollected of that transaction when he was informing the House what was the evidence against Judge Archbald:

> That—
>
> Referring to the contract—
>
> was sent to Bradley on one day, and the next day Archbald sees Bradley at the depot and asks him to call that off, that some complications have arisen, and they had better stop the negotiations, and also writes him a letter to the same effect, in which he tells him the transaction will be withdrawn on account of certain complications. No one knows what complications were referred to, excepting there had appeared in the newspapers in the meantime this scandal about Judge Archbald's relations with persons who had litigation in his court.

The most extraordinary travesty on evidence that I ever heard stated in any court anywhere. Instead of stating that Judge Archbald never had anything whatever to do with the Bradley transaction and that Capt. May had recalled the contract because of the contention growing out of letters written to him by adverse claimants and on the advice of his counsel had withdrawn it, to tell the House that Judge Archbald was making the sale to Bradley, and that after the thing had been published in the newspapers, which was not until 10 days after the contract was withdrawn, the judge went and recalled it, thereby practically telling the House that Judge Archbald had confessed his guilt.

There are other things in the same line that I thought of referring to, but I shall not take up your time in that way. Those are sufficient. But I ask the Senate to consider how much weight should be given to the fact that the President of the United States thought worth while to have this matter investigated, when his action was brought about by presenting to him a paper obtained in the way that this Cockrell statement was prepared, containing a tissue of misstatements so erroneous that they were absurd; when that paper was made upon the statements of a man who was clearly out of his mind, and made without any investigation to determine whether he was telling the truth; when the Judiciary Committee took that inquiry out of the hands of the executive department of the Government just at the time when Judge Archbald was to have an opportunity to defend himself and to show what the real facts were? I ask what weight shall be given to the fact that practically all the Members of the other House voted in favor of these impeachment articles, when that vote was obtained upon the erroneous statements which the managers so innocently made to the House, bearing so terribly against Judge Archbald and so entirely inconsistent with the real facts? Further, what consideration should be given to that vote when it was obtained upon the statement made to the House by three members of the Judiciary Committee, who are here to-day as managers, that it was not to be considered as a vote upon the guilt or the innocence of Judge Archbald, but that every friend of his in that House should vote for it so as to send the case to the Senate, where he should be given, what he had never before had, an opportunity to show what the facts were?

It is not until now, when the last of his counsel to speak is closing the argument for the respondent, that the Senators who are doing me the honor to listen to me know what the facts in this case are, because it is simply impossible for anybody, except those who have been familiar with the case heretofore, who have gone over the case with the witnesses before they came on the stand, and who have examined and classified the evidence and arranged it as we have had to do for your information, to know what the facts are. I ask you now, after the evidence is all in, to see how pitifully poor are the real facts against Judge Archbald in this case, and whether you will consider that you will throw aside the language of the Constitution, which says that in order to convict you must find that he has committed a crime or something that is punishable, and that you will say that upon those transactions which are so trivial and which any man in his condition, however honest and upright, might have innocently done—I ask whether you will say that you will find him guilty and deprive him of his office? I take my seat with the conviction that you never will do it. I can say no more.

ARGUMENT OF MR. CLAYTON, ONE OF THE MANAGERS ON THE PART OF THE HOUSE.

Mr. Manager CLAYTON. Mr. President, I congratulate the Senate that the unusual and painful duty which has been devolved upon this body will soon be fully discharged, and I felicitate the managers and the counsel for the respondent as well as the respondent himself that our labors in regard to this case are about at an end.

Mr. President, before I shall discuss the propositions involved in this case, either of law or fact, I desire to call the attention of the Senate away from that case which the distinguished counsel for the respondent has tried to make before the Senate. If a stranger had appeared in this Chamber so long consecrated to public service by the acts of the great men who have filled it from time to time as the representatives of the States of the federated Union, that stranger might have imagined that the managers of the House of Representatives were themselves being lectured for misconduct rather than that a judge was on trial for misbehavior. I need not say that there was no impropriety in the managers handing to Senators at their request the brief embodied in the report which was made by the Committee on the Judiciary of the House of Representatives to the House of Representatives, carrying the identical views expressed here and which have been but little added to by the brief which has been formally presented on behalf of the managers to the Senate.

The gentlemen who represent the respondent are oblivious of the fact that it is highly proper for any Member of the House, or even any humble official of that body who has charge of the matter, to hand to any of you or to anybody else a public document. I need not dwell further upon that. The Senate will readily draw the distinction between that act and the secret procurement by a judge of a brief from a railroad attorney to be used in a case pending then before his court, delivered to him at the instance of the judge through the medium of private correspondence, never permitted to be seen or examined by anyone else.

Mr. President, the managers were also lectured by the counsel who first addressed you for the respondent. He animadverted on the manners of the managers of the House. Everything that the managers have done in this case, from its very inception, has a precedent for it. The language used by Mr. Manager WEBB, which the counsel but a short time ago criticized, was in substance used by former managers in this august tribunal. I only refer to this for the purpose of showing to the Senate what I now assert, that the effort has been on the part of the respondent and his honorable counsel from the very beginning to mystify this case, to obfuscate the questions of law and fact, if, indeed, there be necessary facts which are not admitted by the respondent in his answer and on the stand.

Mr. President, we are not trying the managers of the House of Representatives; we are not trying Christy Boland, whom the judge addressed as "Dear Christy"; we are not trying William P. Boland; we are trying a high judicial officer for a breach of a high public trust. This trustee, clothed with authority, with power, with a discretion in the administration of justice that no legislative body can have, has been unfaithful to this position of trust; he has not had due regard for the high nature of the place of power and confidence, fraught with good or ill as he might discharge his public duty. We have come here, Mr. President, to try this judge for his misbehavior while clothed with this high and responsible privilege—for it is a privilege conferred upon him by the political power of the Government; and, more than that, it was his duty to be the unswerving and irreproachable minister of public justice.

Oh, all this effort to divert the attention of the Senate from the real case on trial is the trick of the criminal lawyer! And let me call attention to the senseless refinements and useless technicalities so frequently interposed by the counsel for the respondent—the gratuitous interjections of remarks in this case by the counsel—and the general conduct of the excellent gentlemen who have represented this respondent, to show that they are adepts in the art of defending common criminals, and that every trick and every device short of positive offense has been employed by these honorable gentlemen. I do not complain, for I wanted the respondent to have the benefit of all that the ingenuity of the legal profession could afford him. Certainly, Mr. President, he has been ably defended.

Permit me to further call the attention of the Senate to the design of the counsel by their ingenuity to direct your attention away from the case that you have before you. They have undertaken to confuse in the minds of the Senate personal rights which belong to the defendant under the Constitution—under the Bill of Rights—with a political privilege which is not covered by the Bill of Rights. The right of free speech, the right of trial by jury, the right of freedom of conscience are protected by the Bill of Rights, and it is not within the power of this great body to take from the humblest citizen of the land any of those rights. We are not trying that sort of a case. The expert criminal lawyer always likes to try some imaginary case; but, in the language of the frontier, this tribunal will bring these gentlemen back to the lick log and will try this case which the Senate has under consideration.

I have said that this judge holds a position by virtue of political privilege—a privilege, and not a right. It is the enjoyment of a trusteeship, of a privilege, coupled with which privilege is a solemn duty. That is what is involved in the case we have before the Senate.

Mr. President, much confusion has been attempted to be created by the counsel for the respondent in their effort to show that this is a court in the ordinary acceptation of that term. Whatever name you may call this body sitting here now, whatever functions they may discharge, it can not be said to be a court as that word is employed in the Constitution or understood by the ordinary man. It is more than a court. Under our Government it is clothed with the highest and most extraordinary powers of any body or any functionary or any agency of our Federal Government. Your powers here invoked are political in their nature. Mr. Bayard announced that doctrine in the first impeachment case—that of Blount. Every commentator, including Story and all the rest, have quoted it with approval, and should any man deny it he would at once confess himself ignorant of the history and the law of impeachments. Why is it political? Read the Constitution, and you find in Article III that:

SECTION 1. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office.

SEC. 2. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States; and between a State, or the citizens thereof, and foreign States, citizens, or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party the Supreme Court shall have original jurisdiction. In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

I desire here, for the purpose of completing the argument or suggesting a way that it may be completed, for in view of the limited time at my disposal I shall take the license that poets indulge in of making the suggestion of the idea to the mind of the Senate and with confidence leave it to your learning and intelligence to develop the argument.

Said Mr. Sumner:

By the National Constitution it is expressly provided that "the judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish," thus positively excluding the Senate from any exercise of "the judicial power." And yet this same Constitution provides that "the Senate shall have the sole power to try all impeachments." In the face of these plain texts it is impossible not to conclude that in trying impeachments Senators exercise a function which is not regarded by the National Constitution as "judicial," or, in other words, as subject to the ordinary conditions of judicial power. Call it senatorial or political, it is a power by itself and subject to its own conditions. (The Works of Charles Sumner, Vol. XII, E. 415, 6 S., 93, p. 321.)

Again, Mr. Sumner said:

Discerning the true character of impeachment under the National Constitution, we are constrained to confess that it is a political proceeding before a political body with political purposes; that it is founded on political offenses, proper for the consideration of a political body, and subject to a political judgment only. Even in cases of treason and bribery the judgment is political and nothing more. If I were to sum up in one word the object of impeachment under the National Constitution, meaning what it has especially in view, with its practical limitation, I should say expulsion from office.

Further, Mr. Sumner said:

There is another provision of the National Constitution which testifies still further and, if possible, more completely. It is the limitation of the judgment in cases of impeachment, making it political and nothing else. It is not punishment, but protection, to the Republic. It is confined to removal from office and disqualification; but, as if aware that this was no punishment, the National Constitution further provides that this judgment shall be no impediment to trial, judgment, and punishment, "according to law." Thus again is the distinction declared between an impeachment and a proceeding "according to law." The former, which is political, belongs to the Senate, which is a political body; the latter, which is judicial, belongs to the courts, which are judicial bodies. The Senate removes from office; the courts punish. I am not alone in drawing this distinction. It is well known to all who have studied the subject. Early in our history it was put forth by the distinguished Mr. Bayard, of Delaware, the father of Senators, in the case of Blount; and it is adopted by no less an authority than our highest commentator, Judge Story, who was as much disposed as anybody to amplify the judicial power. In speaking of this text he says that impeachment "is not so much designed to punish an offender as to secure the state against gross official misdemeanors; it touches neither his person nor his property, but simply divests him of his political capacity."

Samuel J. Tilden, in his Public Writings and Speeches, volume 1, page 474, said:

Impeachment, as it exists in the United States under the Federal Constitution and the State constitution, is a procedure for the removal from office of a public officer if cause therefor is found to exist. Its object is not to punish the individual but to protect the people. Even a disqualification afterward to hold office, if it be superadded to the removal, is more preventive than penal.

So we form a correct conception of what this tribunal is, its purposes, and its powers. Again, if it be necessary, let me ask from what power did this judge derive that trust which he has violated? Did he derive it from the judicial power? No. It was derived from the exercise of a political power. The President, exercising political power, nominated him for this office and the Senate of the United States, with its power of disapproval, with its vitalizing power of confirmation, before he could become a public officer, exercised not a legislative function, not a judicial function, but brought into operation a power which, in its very nature and in any just conception you can take of it, was a political power.

Now, Mr. President, I say this because I want to get away from the murky and unhealthful atmosphere of a police court, and I want to try on a higher plane this great cause involving the rights—the civil rights—the power, and the majesty of the American people on the one side and on the other the puny privilege of an unfaithful judge to desecrate his official position. It is political. Why? Because under representative institutions that is the only way under our Constitution that the political power exercised in the creation of a Federal judge can be performed. Under the State constitutions, or most of them, that political power is exercised by the people in their primary capacity when they select by ballot their judges to preside over them and administer public justice.

So we come at once to a correct conception of the purpose of impeachment, a correct conception of the law of impeachment. My associates have given you the authorities upon this proposition. They can not be answered. Oh, the effort is made here, as has been made in all other cases and will likely continue to be made in the future until—and God forbid—and I say it reverently—that that time shall come—the remedy of impeachment shall be decided by this august tribunal and the American people to be futile. Senators, will you tell the American people that this remedy is futile? If you do, they will find an effective remedy to drive from place and power the unworthy judge.

Referring to the function of impeachments, Rawle, in his work on the Constitution (p. 211), says:

The delegation of important trusts affecting the higher interests of society is always, from various causes, liable to abuse. The fondness frequently felt for the inordinate extension of power, the influence of party and of prejudice, the seductions of foreign States, or the baser appetite for illegitimate emoluments are sometimes productive of what are not unaptly termed "political offenses" (Federalist, No. 65), which it would be difficult to take cognizance of in the ordinary course of judicial proceeding.

The involutions and varieties of vice are too many and too artful to be anticipated by positive law.

Mr. President, every court in this land is clothed with that indefinable power—judicial discretion; more extraordinary, more far-reaching, more hurtful in case of abuse than any power which is vested by the Constitution in the Senate as a legislative body or as an organization for the trial of an impeachment case. And yet judicial discretion must exist, and yet the power of removal must exist. "Nature abhors a vacuum." This great Government of ours can not be paraded before the people as being powerless to remove a puplic official from office. There is no such vacuum in the power of government. There can be no such hiatus in the power of a successive government.

I shall quote from one of the earliest writers, one of the most frequently quoted, and so far as my reading has allowed me to know, this authority has never been quoted except with approval. I refer to Wooddeson's Lectures.

It is certain that magistrates and officers intrusted with the administration of public affairs, may abuse their delegated powers to the injury or ruin of the community and at the same time in offenses not properly cognizable before the ordinary tribunals. The influence of such delinquents, and the nature of such offenses may not unsuitably engage the authority of the highest court and the wisdom of the sagest assembly. The Commons, therefore, as the grand inquest of the nation, become suitors for penal justice; and they can not consistently, either with their own dignity or with safety to the accused, sue to any other court but that of those who share with them in the legislature.

On this policy is founded the origin of impeachment, which began soon after the Constitution assumed its present form * * *. (P. 501.) Such kind of misdeeds, however, as peculiarly injure the Commonwealth by the abuse of high officers of trust, are the most proper and have been the most usual grounds for this kind of prosecution. Thus, if a lord chancellor be guilty of bribery, or of acting grossly contrary to the duty of his office, if the judges mislead their sovereign by unconstitutional opinions, if any other magistrate attempt to subvert the fundamental laws, or introduce arbitrary power, these have been deemed cases adapted to parliamentary inquiry and decision. So, where a lord chancellor has been thought to have put the seal to an ignominious treaty, a lord admiral to neglect the safeguard of the sea, an ambassador to betray his trust, a privy counselor to propound or support pernicious and dishonorable measures or a confidential advisor of his sovereign to obtain exorbitant grants or incompatible employments, these imputations have properly occasioned impeachments, because it is apparent how little the ordinary tribunals are calculated to take cognizance of such offenses, or to investigate and reform the general polity of the state. (Wooddeson's Lectures on Laws of England, 3 volumes in 1, p. 499.)

I shall also quote, now, from the Fifteenth American Law Register, pages 646–647, where Judge William Lawrence said:

Whatever "crimes and misdemeanors" were the subjects of impeachment in England prior to the adoption of our Constitution, and as understood by its framers, are therefore subjects of impeachment before the Senate of the United States, subject only to the limitations of the Constitution.

The framers of our Constitution, looking to the impeachment trials of England and to the writers on parliamentary and common law and to the constitutions and usages of our own States, saw that no act of Parliament or of any State legislature ever undertook to define an impeachable crime. They saw that the whole system of crimes, as defined in acts of Parliament and as recognized at common law, was prescribed for and adapted to the ordinary courts.

They saw that the high court of impeachment took jurisdiction of cases where no indictable crime had been committed, in many instances, and there were then as there yet are, "two parallel modes of reaching" some, but not all, offenders; one by impeachment, the other by indictment.

In such cases a party first indicted may be impeached afterwards, and the latter trial may proceed notwithstanding the indictment. On the other hand, the King's bench held in Fitzharris's case that an impeachment was no answer to an indictment in that court.

The two systems are in no way connected, though each may adopt principles applicable to the other and each may shine by the other's borrowed light.

With these landmarks to guide them, our fathers adopted a Constitution under which official malfeasance and nonfeasance, and, in some

cases, misfeasance, may be the subject of impeachment, although not made criminal by act of Congress or so recognized by the common law of England or of any State of the Union. They adopted impeachment as a means of removing men from office whose misconduct imperils the public safety and renders them unfit to occupy official position.

Mr. President, I shall also read from Pomeroy on the Constitution, pages 608–609:

We must adopt the second and more enlarged theory, because it is in strict harmony with the general design of the organic law, and because it alone will effectively protect the rights and liberties of the people against the unlawful encroachments of power. Narrow the scope of impeachment, and the restraint over the acts of rulers is lessened. If any fact respecting the Constitution is incontrovertible, it is that the convention which framed, and the people who adopted it, while providing a government sufficiently stable and strong, intended to deprive all officers, from the highest to the lowest, of any opportunity to violate their public duties, to enlarge their authority, and thus to encroach gradually or suddenly upon the liberties of the citizen. To this end elections were made as frequent, and the terms of office as short, as was deemed compatible with an uniform course of administration. But lest these political contrivances should not be sufficient, the impeachment clauses were added as a sanction bearing upon official rights and duties alone, by which officers might be completely confined within the scope of the functions committed to them. We can not argue from the British constitution to our own, because the English impeachment is not, nor was it intended to be, such a sanction. But the English law recognizes a compulsive measure far more terrible, because far more liable to abuse than impeachment. What the British Commons and Lords may not do by impeachment, the Parliament may accomplish by a bill of attainder. If the Commons can only present, and the Lords can only try, articles which charge an indictable offense, there is no such restriction upon their resort to a bill of attainder, or of pains and penalties. The Constitution has very properly prohibited this species of legislation; but the constitutional impeachment was intended to partially supply its place under another and better form by introducing the orderly methods of judicial trial, and by requiring a majority of two-thirds of the Senate to convict.

The same considerations will apply with equal force to that branch of the argument which is based upon the phrase "high crimes and misdemeanors." Even had the words been "felonies and misdemeanors," we should not be obliged to take them in a strict technical sense; they would be susceptible of a more general meaning descriptive of classes of wrongful acts, of violations of official duty, punishable through the means of impeachment. But in fact the language used can not be reconciled with the assumed technical interpretation. The phrase "high crimes and misdemeanors" seems to have been left purposely vague; the words point out the general character of the acts as unlawful; the context and the whole design of the impeachment clauses show that these acts were to be official, and the unlawfulness was to consist in a violation of public duty, which might or might not have been made an ordinary indictable offense.

Mr. President, we come now to the expression employed in the Constitution—"treason, bribery, and high crimes and misdemeanors." "Treason" needs no definition; "bribery" needs no definition; but you can nowhere find the meaning of the term "high crimes" or the term "misdemeanors," as they are there used, except by a resort to the English parliamentary law and to the American precedents which have followed that law.

But the counsel say you must go to the English common law, thereby meaning the English municipal law, which has been defined to be a rule or rules "commanding that which is right and forbidding that which is wrong." No, no, Mr. President. No commentator has said that. No adjudicated case has held that. The correct doctrine is that for the true interpretation of those words you go to the body that invented and employed them. Where else would you go? There is the fountain source. I go to the ordinary courts of law for the common law of Great Britain.

The common law; what is it? The decisions, opinions, judgments, and precedents of common-law tribunals. What law court in this country or in Great Britain, sitting as a law court, building up and adding to and interpreting municipal law, ever dealt with the question of what constituted high crimes and misdemeanors or what constituted an impeachable offense? To interpret and expound that law has never been a function of any court. Impeachment has been always, when employed by our British ancestors down to this good hour, a proceeding apart from that of the ordinary courts that are constituted and organized to sit and hear causes that are justiciable. I think I need not dwell further upon that.

Mr. President, as to the definition of impeachable offenses, as Rawle said, it is difficult to define what they are. The fact is that many provisions of the Constitution are incapable of an advanced, comprehensive, or satisfactory definition to meet every case that may possibly arise. The mistake that these gentlemen representing the respondent make is that they confuse the question of jurisdiction with the question of definition. It is familiar to every Senator, whether he be a lawyer or layman, that the Constitution is an instrument of enumeration and not of definitions. So, when you come to the clause that gives you jurisdiction of this case, the impeachment case, you know from the history of the formation of our Government that such provision was inserted in order to clothe somebody under the Federal Government with the jurisdiction to remove civil officers. The fathers thought it not wise to give it to the President, for the King had it and had abused it. They thought it not wise to turn it over to the House of Representatives or the House and the Senate jointly. They looked with confidence to the far future, when possibly the country might be imperiled on account of the faithlessness of public officials, and they said the Senate, the representatives of the States, the States each choosing the Senators through the medium of their legislature or, as I hope it will be soon, through the medium exercised directly by the people, that this body, the Senate, could be intrusted with this power. Why? Because, in addition to what I have said, it was less likely to be abused here than elsewhere. Possibly a President might want to coerce the judiciary; possibly the House of Representatives might be inflamed in times of excitement; but this body, composed of men of long tenure, of trained minds, of experience in public affairs, could be intrusted with this extraordinary jurisdiction and power.

I will not undertake to frame a complete definition of all the causes to which impeachment applies. The Constitution has abstained from attempting such a definition. The causes for which a civil officer of the United States may be removed from office by impeachment were purposely made indefinite by the framers of the Constitution, just as under the Articles of War the causes for which an officer of the Army or Navy may be summarily removed from office by sentence of court-martial were purposely made indefinite.

An impeachable high crime or misdemeanor may be said to be a political offense by a civil officer of the United States which is prejudicial to the public interest. It may consist in any official misconduct or misbehavior, not necessarily committed under color of office, which in its natural consequences tends to destroy the confidence of the public in the official integrity or bring into disrepute the personal character of the offender.

I may be permitted to read from Guthrie's fourteenth amendment:

Such a constitution is an enumeration of general principles and powers or of limitations upon the exercise of governmental functions, and it is not a mere code of rules to regulate particular cases. All progress and improvement would be barred and a constitution would soon become useless if it were not construed as a declaration of general principles to be applied and adapted as new conditions presented themselves. * * * As Chief Justice Marshall said in the famous case of McCulloch v. Maryland: "A constitution, to contain an accurate detail of all the subdivisions of which its great powers will admit, and of all the means by which they may be carried into execution, would partake of the prolixity of a legal code, and could scarcely be embraced by the human mind. It would probably never be understood by the public. Its nature, therefore, requires that only its great outlines should be marked, its important objects designated, and the minor ingredients which compose those objects be deduced from the nature of the objects themselves." And ex-President Harrison has well said in his interesting book on This Country of Ours: "To the lay mind it may seem puzzling and not a little discouraging that a century has not sufficed to interpret the Constitution; but the explanation is largely in the fact that constitutional provisions are general and not particular, and the court is required constantly to apply them to particulars and to new conditions."

Nor should the courts attempt to define with precision the scope of a constitutional provision, although this is constantly and necessarily done in construing statutes. A definition of the scope of a constitutional provision can not be necessary in any case. An exposition of the general meaning of the principle is all that should be attempted. The sole inquiry must be whether the particular case submitted for adjudication is or is not within the principle of the constitutional provision invoked or to be implied therefrom, for what is implied is as much a part of the instrument as what is expressed. The Supreme Court of the United States has repeatedly declared that it was wiser to ascertain the scope and application of the fourteenth amendment by the "gradual process of judicial inclusion and exclusion as the cases presented for decision shall require, with the reasoning on which such decisions may be founded."

And, Mr. President, may I say that the Supreme Court has never undertaken to define the meaning of "the equal protection of the laws"? The Supreme Court has never undertaken to give a comprehensive definition of "due process of law." It has pursued the process of construing that law in the light of the case that it has before it. And by no other process of reasoning, nor in any other way, can the fourteenth amendment, particularly these two provisions that I have mentioned, be defined or construed. Will any man here tell me that he can write the meaning of "due process of law" or of "the equal protection of the laws" applicable to every case? Let me invite you to look at the cases wherein the meaning of these terms has been under consideration and construed. And, Mr. President, from time to time new cases demand the further application and definition of these provisions. But I have not the time to dwell further upon that subject.

Now I come to another proposition. It is elementary to say that in construing an instrument, I care not whether it be a statute or whether it be a constitution—or I believe I may add that I care not whether it be a contract: You must look at the whole instrument, be it constitution or be it an act of a legislature, be it a contract or other written instrument.

That is laid down in Southerland, in Sedgwick, and stated by all the writers, and I shall quote from them, Mr. President, not for the purpose of enlightening this learned body upon so elementary a proposition, but merely for the sake of completing the harmony of my argument:

It is to be presumed that all the subsidiary provisions of an act harmonize with each other, and with the purpose of the law; if the act is intended to embrace several objects, that they do not conflict. Therefore it is an elementary rule of construction that all the parts of an act relating to the same subject should be considered together and not each by itself. By such a reading and consideration of a statute its object or general intent is sought for, and the consistent auxiliary effect of each individual part. Flexible language, which may be used in a restricted or extensive sense, will be construed to make it consistent with the purpose of the act and the intended modes of its operation, as indicated by such general intent, survey, and comparison—ex antecedentibus et consequentibus fit optima interpretatio. (Southerland on Statutory Construction, pp. 284, 285.)

239. The intention is to be ascertained by considering the entire statute. The practical inquiry is usually what a particular provision, clause, or word means. To answer it one must proceed as he would with any other composition—construe it with reference to the leading idea or purpose of the whole instrument. The whole and every part must be considered. The general intent should be kept in view in determining the scope and meaning of any part. This survey and comparison are necessary to ascertain the purpose of the act and to make all the parts harmonious. They are to be brought into accord if practicable, and thus, if possible, give a sensible and intelligible effect to each in furtherance of the general design. A statute should be so construed as a whole and its several parts as most reasonably to accomplish the legislative purpose. If practicable, effect must be given to all the language employed, and inconsistent expressions are to be harmonized to reach the real intent of the legislature. It is said to be the most natural exposition of a statute to construe one part by another, for that expresses the meaning of the makers; this expression is ex verceribus actus. The words and meaning of one part may lend to and furnish an explanation of the sense of another. "To discover," says Pollock, C. B., "the true construction of any particular clause of a statute the first thing to be attended to, no doubt, is the actual language of the clause itself, as introduced by the preamble; second, the words or expressions which obviously are by design omitted; third, the connection of the clause with other clauses in the same statute, and the conclusions which, on comparison with other clauses, may reasonably and obviously be drawn. * * * If the comparison of one clause with the rest of the statutes makes a certain proposition clear and undoubted, the act must be construed accordingly, and ought to be so construed as to make it a consistent whole. If, after all, it turns out that that can not be done, the construction that produces the greatest harmony and the least inconsistency is that which ought to prevail."

240. General intent of statute key to meaning of the parts.—The presumption is that the lawmaker has a definite purpose in every enactment and has adapted and formulated the subsidiary provisions in harmony with that purpose; that these are needful to accomplish it, and that, if they have the intended effect, they will at least conduce to effectuate it. That purpose is an implied limitation on the sense of general terms, and a touchstone for the expansion of narrower terms. This intention affords a key to the sense and scope of minor provisions. From this assumption proceeds the general rule that the cardinal purpose or intent of the whole act shall control, and that all the parts be interpreted as subsidiary and harmonious. They are to be brought into harmony, if possible, and so construed that no clause, sentence, or word shall be void, superfluous, or insignificant. But where a word in a statute would make the clause in which it occurs unintelligible, the word may be eliminated and the clause read without it. It would be mischievous to attempt to wrest such words from their proper and legal meaning merely because they are superfluous.

241. The intention of the whole act will control interpretation of the parts.—Words and clauses in different parts of a statute must be read in a sense which harmonizes with the subject matter and general purpose of the statute. No clearer statement has been, or can be, made of the law as to the dominating influence of the intention of a statute in the construction of all its parts than that which is found in Kent's Commentaries: "In the exposition of a statute the intention of the lawmaker will prevail over the literal sense of the terms; and its reason and intention will prevail over the strict letter. When the words are not explicit the intention is to be collected from the context, from the occasion and necessity of the law, from the mischief felt, and the remedy in view, and the intention is to be taken or presumed according to what is consonant with reason and good discretion." If upon examination the general meaning and object of the statute be found inconsistent with the literal import of any particular clause or section, such clause or section must, if possible, be construed according to that purpose. But to warrant the change of the sense, according to the natural reading, to accommodate it to the broader or narrower import of the act, the intention of the legislature must be clear and manifest. The application of particular provisions is not to be extended beyond the general scope of a statute unless such extension is manifestly designed. Legislatures like courts must be considered as using expressions concerning the thing they have in hand; and it would not be a fair method of interpretation to apply their words to subjects not within their consideration, and which, if thought of, would have been more particularly and carefully disposed of. The mere literal construction ought not to prevail if it is opposed to the intention of the legislature apparent from the statute; and if the words are sufficiently flexible to admit of some other construction by which that intention can be better effected the law requires that construction to be adopted. The intention of an act involves a consideration of its subject matter and the change in, or an addition to, the law which it proposes; hence the supreme importance of the rule that a statute should be construed with reference to its general purpose and aim. "Where the words," says Lush, J., "employed by the legislature do not directly apply to the particular case, we must consider the object of the act." (Southerland on Statutory Construction, pp. 317–321).

Every part of a statute must be viewed in connection with the whole, so as to make all its parts harmonize, if practicable, and give a sensible and intelligent effect to each. It is not presumed that the legislature intended any part of a statute to be without meaning. (Southerland on Statutory Construction, p. 412.)

Now, we have heard discussed the jurisdictional power of this body, the power to impeach. Mark you, Mr. President, the impeaching clause confers jurisdiction and power upon you. It contains the limitation that this power is confined to civil officers. The Constitution of the United States is an instrument of delegated powers, and I take it that even without the tenth amendment power not delegated to the Federal Government would not, under the theory of the federal scheme that the States entered into, have been conferred upon the Federal Government. This power here invoked was given to you—this jurisdiction, this process, if you please. Why is the process necessary? You can speak of removal from public office, or, in the language of the respondent's ingenious counsel, you can speak of the "recall." We have under the Constitution power of removal vested somewhere and applicable to the case of every official or functionary of the Federal Government.

The President is automatically "recalled," if you please, automatically removed every four years. You, Senators, are automatically "recalled" every six years. A Representative has to face a "recall" or a removal every two years. Every civil officer is removable by a time limit or is removable at the pleasure of the appointing power except one, and that one is the Federal judge, who can be removed by the judgment of the Senate only.

Oh, it is monstrous, say the counsel, to contemplate taking from his high position of violated trust this judge. Let us see the conditions upon which he acquired that trust. Here I invoke the doctrine that this provision of the Constitution must be construed in pari materia with the jurisdictional provision which has been so often referred to. Says the Constitution: "Judges * * * shall hold their offices during good behavior."

Mr. President, that was the contract. That is a corollary to the appointing power. That was the limitation. That was the protection promised to the people against abuse. Yet this cardinal canon of construction to which I have referred is to be ignored and the tenure conditioned upon good behavior is to be read out of the Constitution. Watson and Tucker and all of the other authorities say if you construe it as the counsel in this case construe it you render it a nullity.

Did our fathers write meaningless phrases into the organic law of our country? Did they not have a purpose—a well-considered purpose—when they put those words into that instrument? You can not get away from the proposition that in the case of a judge his tenure is limited to during good behavior. It carries with it the undoubted meaning and force that if he misbehaves himself he shall not longer hold that office.

In his work on the Constitution, Foster says (p. 586):

The Constitution provides that—

"The judges both of the Supreme and inferior courts shall hold their office during good behavior."

This necessarily implies that they may be removed in case of bad behavior. But no means except impeachment is provided for their removal, and judicial misconduct is not indictable by either a statute of the United States or the common law.

The Constitution provides that the judges shall hold their position during good behavior, and as an unavoidable corollary to this provision it must follow that misbehavior on the part of the judge will, when the jurisdiction and power of this tribunal is invoked, remove him on account of the forfeiture of title to his judicial office.

This provision in the Constitution is an admonition against misbehavior by a judge. Thus, when a judge commits acts constituting misbehavior within the meaning of this provision, he violates the positive law of the land. A statute of Congress has no force or effect unless it is passed in pursuance of the legislative powers granted to Congress by the Constitution. Therefore, if Congress should pass a statute making misbehavior or misconduct on the part of a Federal judge an indictable offense, the question which would confront the Senate would be precisely the same as the question which is presented in the case now before you for your determination.

Senators, your powers are derived from the Constitution just as the powers of the Supreme Court are derived from that instrument. It is not competent, it is not within the power of Congress by any enactment, to add to the jurisdiction or powers of this body or of the Supreme Court.

It may be that if an act of Congress should denounce certain things as constituting high crimes and misdemeanors the Senate would take it as a legislative interpretation of the Constitution. You might follow it and agree to it. But if you saw fit to say that the offenses denounced by such act of Congress do not constitute high crimes and misdemeanors as contemplated by the Constitution, what power can gainsay your rightful authority to so determine?

In the old case of Marbury *v.* Madison the Supreme Court held that you can not add to the jurisdiction of that tribunal,

because it was of a constitutional derivation. The same power that denies the enlargement denies the subtraction.

Now, Mr. President, it is not necessary that the offense be committed under the color of office. Suppose a judge were to commit highway robbery and be put in the penitentiary, would you hold that he could not be impeached upon the ground that it was not done in his judicial capacity? Would you say that he could go on and hold that office and administer justice in behalf of the people of the Federal Union from the walls of the penitentiary of some State? It is an absurdity.

I read from Black on the Constitution:

Treason and bribery are well-defined crime. But the phrase, "other high crimes and misdemeanors," is so very indefinite that practically it is not susceptible of exact definition or limitation, but the power of impeachment may be brought to bear on any offense against the Constitution or the laws which, in the judgment of the House, is deserving of punishment by this means or is of such a character as to render the party accused unfit to hold and exercise his office. It is, of course, primarily directed against official misconduct. Any gross malversation in office, whether or not it is a punishable offense at law, may be made the ground of an impeachment. But the power of impeachment is not restricted to political crimes alone. The Constitution provides that the party convicted upon impeachment shall still remain liable to trial and punishment according to law. From this it is to be inferred that the commission of any crime which is of a grave nature, though it may have nothing to do with the person's official position, except that it shows a character or motives inconsistent with the due administration of his office, would render him liable to impeachment. It will be perceived that the power to determine what crimes are impeachable rests very much with Congress. For the House, before preferring articles of impeachment, will decide whether the acts or conduct complained of constitute a "high crime or misdemeanor." And the Senate, in trying the case, will also have to consider the same question. If in the judgment of the Senate the offense charged is not impeachable, they will acquit; otherwise, upon sufficient proof and the concurrence of the necessary majority, they will convict. And in either case there is no other power which can review or reverse their decision. (2d ed., pp. 121–122.)

I now read from Mr. Tilden's Public Writings and Speeches:

Misconduct, wholly outside of the functions of an office, may be of such a nature as to exercise a reflected influence upon those functions and to disqualify and incapacitate an officer from usefully performing those functions. This is especially and peculiarly true of the judicial office. In such cases the misconduct constitutes an impeachable offense and is ground for removal. The words "high crimes and misdemeanors" are not limited to official acts. (P. 481.)

Now, the question of misbehavior, I take it, has been fully dealt with by my associates in their discussion of the case.

Mr. President, we come now to consider one thing in this case, to use the language of the street, that "bobs up serenely" in every criminal case. Every old criminal lawyer on earth raises it in every case, and in this high tribunal, when this man's acts are revealed to you in their nakedness, in their probative force, from which you can draw your own inference or conclusion, the "fog machine" is put to work on intent. But sensible men, as you, Senators, are, need not the voluntary aid of this accused man to tell you his intent. It was significant in the trial that one of the counsel read from an authority the concluding sentence of which was that such evidence given by a defendant is of little value. Indeed, it is of little value in this case.

Mr. President, there never was a criminal on earth who would not disclaim a bad intent; and yet shall they go unwhipped of justice? It is a peculiar characteristic of persons afflicted with paranoia that they think they are right.

I shall not be personal here, but a judge stands before you who is forced under cross-examination to admit that he engaged in a practice so reprehensible that no honorable judge was ever accused of the like before—brazenly admitted that he had done it, that he had sought the money, that he wanted it, and said on the witness stand here "what of it?"

Mr. President and Senators, that is one thing the matter today with the Federal judiciary, some of them. I am glad to say that I think, in point of integrity and fairness and ability, the Federal judiciary averages in every respect as high as the judiciary of any State. I pause long enough to pay that great branch of our Government this tribute, that nearly all of them are honest, highminded, faithful ministers of public justice.

I read from One hundred and sixty-fifth United States, page 53, the case of Agnew *v.* United States. It was claimed in this case that the trial court erred in giving the following instructions:

The law presumes that every man intends the legitimate consequence of his own acts. Wrongful acts knowingly or intentionally committed can neither be justified or excused on the ground of innocent intent. The color of the act determines the complexion of the intent. The intent to injure or defraud is presumed when the unlawful act, which results in loss or injury, is proved to have been knowingly committed.

But Chief Justice Fuller said:

In our opinion there was evidence tending to establish a state of case justifying the giving of this instruction, which was unexceptionable as matter of law.

Now, I come to discuss briefly the question of character. It is not pleasant to me to have to animadvert upon the conduct of one of my brethren who belongs to the opposition in this discussion. He made much ado about nothing. Senators, shall I say that he took an unimportant matter and distorted it into something that it did not mean for the purpose of beguiling you into a belief that is not founded upon fact for the purpose, as a part of an argument, to mislead? I shall not say to deceive, for that is a harsh word. He adverted to the proceedings when Mr. Manager CLAYTON (who is now addressing you), in order to expedite this trial, said repeatedly it is not necessary to have a multitude of witnesses here to establish a good character or a good reputation in Scranton on the part of this man. We do not put that reputation in issue. We will offer no witnesses.

The Senate will recall that the manager said that this right to examine character witnesses had a limitation in every court in every State in the Union, either limited by the discretion of the judge, or limited by the rule of the court, or limited by statute, and I said that in the State of Illinois by a rule of the supreme court that had the force and effect of statute, it was limited to eight; and yet, forsooth, when I was trying to aid this body to bring this cause to a conclusion, on that little circumstance he builds up his assertion not warranted, saying, "Oh, this man's character, his integrity is unassailed and unassailable." Oh, puny argument! Oh, despicable suggestion! Oh, how inexecrable. Oh, oh, miserable pettifogging!

Mr. President, the character of this man or his reputation at Scranton is not what we are trying. We are trying him for misbehavior. Honorable counsel for the respondent referred to a case in Holy Writ, where Christ shielded the woman from being stoned. I do not know what application he meant to make of that; but I suppose that he meant to say that Christ forgave the sinning woman who had not a good reputation, and therefore by what he believes to be ineluctable logic you should forgive this sinful judge. Atoning grace is never extended except following contrite confession.

Mr. President, I may be pardoned for referring to another case in the Scriptures often referred to. The betrayer of our Savior, who gave that betraying kiss for the 30 pieces of silver, had a good reputation, and could have proved it by all the other Apostles and by the people who saw that body going about doing good; and yet, Mr. President, and still yet, he was guilty of betraying his Lord and Master, just as this man, clothed on account of his high reputation with power and responsibility, has prostituted that power and responsibility for the greed of gain!

Again, let me quote from the Book that the counsel for the respondent who first spoke seems to think a good authority here:

He that is greedy of gain troubleth his own house, but he that hateth gifts shall live.

And again:

Thou shalt take no gift, for the gift blindeth the wise and perverteth the words of the righteous.

That is what it would do to him. The reward that was to come to his henchmen is also dealt with, I think, in this same Book. They were to get money; these railroad officials were to have the favor of the judge; they were to be welcomed among the high and the mighty who sat in the judgment seat in the Commerce Court. "A man's gift maketh room for him and bringeth him before great men," namely, the judges of the Commerce Court of the United States.

Mr. President, the necessary effect of this judge's conduct, regardless of his intent, was repeated misbehaviors. It in nowise subtracts from the sum of his wrong conduct if his standard was as low as it seems to have been. We are not to judge him by that degraded view, but we are to pronounce judgment according to the better rule of the results, the consequences, and the effect of his conduct.

Mr. President, counsel has said that the judge did not write a letter to Brownell on Commerce Court paper.

Mr. WORTHINGTON. I said he did.

Mr. Manager CLAYTON. Then I misunderstood you.

Mr. WORTHINGTON. One of the managers said he did not, and I was correcting him and said that he did.

Mr. Manager CLAYTON. Very well. The counsel for the respondent, after contemptuous reference, waived aside as of no importance the fact that the judge used the official letterheads of the Commerce Court in his correspondence with the officials of corporations engaged in interstate commerce. Of course, the mere value of the paper falls under the doctrine of de minimis, but this correspondence on these official letterheads is a pertinent and important fact. In effect the counsel has said that it is common for public officials to use official paper in their correspondence. Of course, Mr. President, "there would be no impropriety in writing a note to a lady on such stationery," as counsel has said, but let me state an extreme case: It would be

highly improper for any public official to write a note on such paper to a bawd for the purpose of making a liaison. The evil in this case consisted in the persistent use of the letterheads of the court in correspondence with perfectly reputable gentlemen representing corporations having litigation or likely to have litigation in his court. There should not be a suggestion made by a judge in his business dealings that he has power or authority over those from whom he seeks to obtain a contract of benefit to himself. And this is true whether or not such conduct influenced reputable gentlemen. The judge sought to do so.

The same counsel has said that the judge made no effort to conceal his identity or his connection with these culm dumps. He drew two of the options for the purchase of culm dumps or coal properties, and in neither one of those options in which he was to share, according to the testimony, is his name disclosed as a party in interest, and in all, or nearly all—I am sure that is accurate—he did disclose his name when he wanted that disclosure to have effect upon the railroads or upon their officials.

Oh, it is said that the judge has not been guilty of bribery or a statutable offense. Possibly not. Bribery, like highway robbery, is a brutal and vulgar offense. It is not an artistic performance. Of course, when he was going to the railroad officials, either in Pennsylvania or in New York, when he made his repeated visits to the various cities of Pennsylvania—several of them—and to New York, he did not send those people word, "I must have money; I must be allowed to make an advantageous trade; and you must afford to me that privilege."

Oh, no, Mr. President; he did not say that. That would have been rough and brutal, and would have probably subjected him to an indictment under the bribery statute. He was too learned for that, too polished, too suave, too artful. If he had gone into the offices of one of those officials and said, "I demand, by virtue of my power and influence as a judge of a court which will deal with your corporation, that you give me a profitable trade," he doubtless would have been ordered out. He might have been thought insane. But he did not adopt that method. He wrote some 25 or 30 letters to those officials—and they are here in evidence—and in these 25 or 30 letters, in nearly every instance, he used the official paper with the heading of the Commerce Court printed on it. "Oh, but," he said on the stand, "I just dictated those letters, and it was a matter of indifference to me; I never thought about it; my stenographer selected the paper." But this letter to Brownell, as well as other letters in evidence, were not dictated to stenographers; they are in his own handwriting and were written under the same letterheads.

His method was this: To send a sweet note making an engagement, soft in its terms, free from the positive assertion that "I want money" or "I want to force you to give me an advantageous trade." No; those letters amounted to a messenger in each case saying to those officials in honeyed accents, "The judge says you ought to be good enough to accord him the opportunity to make some money out of trading with your company"; and he follows his messenger into the offices of those people in Pennsylvania and in New York. Instead of a verbal demand we can imagine we hear him say softly, "Good morning, my dear sir," and we imagine that they might have replied, "Good morning, Judge; you are a judge of the Commerce Court. We have cases before you." And the judge might have answered, "Yes; you have cases before me for adjudication, but we will not talk about that. What I have come for is for you to give me an advantageous trade. You denied the opportunity to Williams; you denied those trades to all the others of the common herd in Scranton—give them to me." Why? He was judge, and he sought in this way to commercialize his potentiality as a judge. I do not say, Mr. President, that such a conversation occurred, but the judge put himself in the compromising position which may suggest the possibility of the thought.

Is that bad behavior in office? For that or other conduct like it in one isolated case you might give him the benefit of the doubt, but there are five coal transactions in the record. That is the system to which Mr. Manager STERLING referred. Five transactions in regard to coal dumps or fills for which he sought to acquire contracts that he might make money out of corporations engaged in interstate commerce. That is the system. One incident follows right along after the other, and now I will state a significant fact, Senators, or several significant facts. I want to call your attention to them. These facts are pregnant, persuasive, and conclusive that the judge misbehaved himself:

First. Judge Archbald undertook to acquire the five coal properties or to deal with the five coal properties after he became judge of the Commerce Court, and not before. The railroads were engaged in interstate commerce. He held the rights of those railroads in one side of the scale and the rights of the shippers in the other. He had potentiality; and after he acquired that potentiality he became afflicted with the itching palm—"the love of money, the root of all evil," according to the Blessed Book. This overshadowed and swept away all desire to preserve unsullied his judicial integrity and name. Then his official salary of $9,000 per annum was regarded by him as insufficient for his comfortable maintenance.

Second. Judge Archbald had never attempted to acquire coal property before he became a judge of the Commerce Court.

Third. In no case did any of the deals involve the expenditure of so much as a cent of money by the judge.

Fourth. His sole contribution in each case was his personal service. There were lawyers and lawyers in Scranton; there were business men there who could draw an option; they had but to copy them. There were lawyers and lawyers there who could have advised them. What was his service? Influence as a judge? With whom? With the people engaged in interstate commerce who controlled these coal properties. Answer that pregnant fact, if you can.

Fifth. In each case his services were first invited by some third person, some "go-between," who requested him to take up the matter with the railroad or some of its subordinate officials or some of its ancillary corporations. Oh, the door of his office was open, says the counsel. Yes; so open, so notoriously so that the John Henry Joneses, the Thomas Starr Joneses, the E. J. Williamses, and men of like standing and irresponsibility had a welcome access to it. And Watson had his willing ear. So anxious was he to help Watson to settle a case which was likely to come before his court that he telegraphed him and went to meet him down at the Raleigh Hotel on a cold day. Take all that. He was easy, because they knew his desire to make gainful bargains with litigants or probable litigants before his court.

Mr. President, I shall here state the facts regarding the Lighterage case, which has been prominently mentioned in testimony throughout this case. This case was a proceeding originally brought before the Interstate Commerce Commission by the Federal Sugar Refining Co. against the Baltimore & Ohio Railroad and other railroads, including the Delaware, Lackawanna & Western, the Erie, and the Lehigh Valley, for the purpose of securing relief from discriminatory lighterage charges in New York Harbor. It will be remembered by the Senators that Judge Archbald negotiated with the officers of the Erie Railroad for the purchase of the Katydid culm dump, as charged in article No. 1; that he negotiated with the officers of the Delaware, Lackawanna & Western Railroad for settlement of a case brought by the Marian Coal Co. against that railroad before the Interstate Commerce Commission; and that Judge Archbald negotiated with the Lehigh Valley Railroad for the purpose of securing an operating lease on the culm dump known as Packer No. 3, charged in article 3. The Interstate Commerce Commission granted an order in favor of the complainant on December 5, 1910. The railroads took the case to the Commerce Court, by petition filed on April 12, 1911 (Commerce Court docket No. 38), and a preliminary injunction, temporarily suspending the operation of the order of the commission, was granted by the court on May 22, 1911, without an opinion. In June, 1911, the United States, the Interstate Commerce Commission, and the Federal Sugar Refining Co. noted an appeal to the Supreme Court. The Supreme Court passed on the action of the Commerce Court in granting this preliminary injunction, on June 10, 1912. The Supreme Court ruled that the Commerce Court had power to issue the temporary injunction and remanded the case to that court for adjudication on the merits. The minutes of the proceedings of the Commerce Court on October 2, 1911, which appear in the testimony of Mr. A. F. Gallagher, page 333 of the record, shows conclusively that Judge Archbald considered that this case was pending in the Commerce Court for adjudication on the merits at that time. From this stenographic report it appears that the counsel for the United States objected to the taking of the testimony in that case until the Supreme Court should pass upon the appeal from the temporary injunction. But in answer to this objection Judge Archbald asked from the bench the following significant question: "If they want to hear all of the case, how can you deny it?" This shows conclusively that Judge Archbald regarded this case as still before his court on the merits.

These statements also apply to the so-called restricted fuel rate case (Commerce Court docket No. 39), to which these railroads were parties in interest.

Now, I want to come to a more particular discussion of some of the other articles. Of course, I regret that I have not the time to take up these articles seriatim and discuss them at length, but even in that situation I count myself happy, because my associates have demonstrated, I think, that we have sustained these articles, and I think that their arguments have not been answered. Furthermore, I am happy in the belief that the

Senate has or will read the excellent presentation of this case as made by my associates.

Necessarily, I will have to deal with only a few of the suggestions made in the argument by the counsel for the respondent.

Mr. Worthington says the letter by May to Williams saying he would recommend the sale of the Katydid was all that ever happened. As a fact, it was merely the beginning. The railroad did not follow May's recommendation until Archbald had gone to New York and had seen Brownell and Richardson. Counsel for the respondent can not get away from the ugly fact that Vice President Richardson, of the Erie Railroad, was opposed to the sale of this Katydid dump until Judge Archbald came to see himself and Brownell.

After this visit Mr. Richardson changed his decision regarding the matter, and directed May to grant the option. The testimony of both May and Richardson shows this conclusively. Capt. May did not fix any price on the dump until after Archbald's visit to Richardson.

Counsel for the respondent said that the Katydid culm dump was a worthless dump. Mr. President, let us see. The testimony of Mr. Rittenhouse, the civil engineer, is here. It shows that it was a most valuable culm dump. That examination and that report were made by him without knowing for what particular purpose they were made and without knowing that he would ever be called here as a witness. It is a true and impartial report, as I believe, and when I say I believe, I recur to a criticism that the counsel for the respondent made upon one of the managers. The House of Representatives is here now before you, theoretically, telling you what the House believes. In the ancient days the House actually attended these sessions. Now the managers come here as the House. And would it not be strange that the House could not tell this body that it believes in what that House did under sanctity of oath when they voted the articles of impeachment?

A worthless culm dump! It was valuable. But, Mr. President, I am not going to discuss that. Let us see. Judge Archbald then finds himself in the attitude of acquiring without paying one cent a worthless coal dump! Then he attempted to sell it for a large profit!

The last time the amount asked by him was $25,000. Subtract from that about $8,000, the amount that he was to pay, and the balance represented is profit. I think, Mr. President, it would be a better defense if they were to admit that it was valuable rather than to say it was worthless and that this high-minded judge was trying to put off worthless property upon people for a large sum of money.

Mr. WORTHINGTON. Would you mind telling the Senate to whom he sold it for $25,000?

Mr. Manager CLAYTON. I say he made the contract—the option. I refer to the letter of September 20, 1911:

> MY DEAR MR. CONN: This will introduce Mr. Edward Williams, who is interested with me in the culm dump about which I spoke to you the other day. We have options on it both from the Hillside Coal Co. and from Mr. Robertson, representing Robertson & Law, these options covering the whole interest in the dump.

This letter shows that he considered that he was getting a clear title to this dump through the options from May and Robertson.

There were several of these options where the property was to be sold one time to this concern; another time, I believe, to Thomas Star Jones's concern. These options were drawn by Judge Archbald, and he omitted his name from each of them.

Mr. President, I pass now to another error committed by the counsel. The Hillside Coal & Iron Co. refused to buy Mr. Robertson's interest in the Katydid culm dump because they denied that Robertson had any interest in it by reason of his abandonment of the operation for a period of over three years. The Du Pont Powder Co. gave up the idea of buying the Katydid dump because they decided to buy their power from a power company. The transaction occurred a number of years ago when the culm was not nearly so valuable as it is to-day.

Again, Mr. Manager STERLING simply moved to strike out the testimony of one of the witnesses for the respondent. That is my answer to what he said about Judge STERLING's effort to exclude the Rittenhouse report. On the contrary, Mr. President, you will bear in mind that we had his report, and when his report was omitted from the printed record by the reporter the manager who is now addressing you came before the Senate the next day, or as soon as he could, and had it printed as a part of the proceedings.

This illustrates many of the errors, inaccuracies, and unintentional, I think, misstatements indulged in by counsel.

The lease to Robertson was a colliery operating lease on a royalty basis made many years ago—a very different proposition from an outright sale of a culm dump.

Respondent's counsel stated that the plat made by Merriman, on which May made his estimate when he fixed the price at $4,500, showed 55,000 gross tons of material of all kinds. This is so utterly unwarranted that I feel that I should not let it go unchallenged. May testified that he figured on a basis of 80,000 tons of gross material (see record, p. 987); but to show how entirely worthless is all of counsel's argument as to the value of the Katydid, he insists that the map made by Merriman showed 55,000 gross tons of material. The map plainly shows 55,000 gross tons of coal. Here is the map. It speaks for itself. Look at the footnote made by the engineer. The map appears on page 987 of these proceedings. I hope every Senator will turn to it and interpret it for himself. At the bottom of the map is this notation:

> Estimate 55,000 gross tons (available), exclusive of slush, rock, dirt, etc., of no value.
> As per Mr. Johnson, inspector.

That is a map that counsel said showed only 55,000 gross tons of material. It shows by its footnote that this engineer reported 55,000 tons of coal and not of slush, rock, and the like, and coal combined.

Mr. President, the counsel animadverted upon the witness Williams. They may say what they please about him—Edward J. Williams—he was the associate, the business partner, the intimate friend of Judge Archbald, made Judge Archbald's office his headquarters, where he spent much of his time. Counsel further say that May always wanted to sell the Katydid culm dump. Mr. Williams reported to the judge that May treated him gruffly; that he could not trade with him. He had to get the judge, referring to the statement of Mr. Manager STERLING, which is correct, to "intercede" with Mr. May, and to intercede with the higher railroad officials, in order to have May to make that trade. And Judge Archbald did intercede with them, as the testimony abundantly shows.

But something was said in argument to the effect that the judge did not say he was to have a half interest. Why, Mr. President, the judge admitted all along through this testimony that he was to have a part of the profit out of these properties. I can not stop now to cite the testimony, but the Senate will bear it in mind that he admitted it, and in one instance he said, "Why not?"—admitted it and said "Why not?"

Another significant fact is that he did not become very busy to help Williams acquire a culm dump until Williams had made it certain that he was to have an interest in it.

Now, Mr. President, I want to revert further to this article 1. If the Senate will take article 1 and put in one column the charge in that article and put into a parallel column the admissions of the defendant, you will find that every charge embraced in that article is admitted except on the question of intent. He denies that he undertook to influence the officers of said company except as he has admitted that in the agreement to sell the Katydid culm dump. He denied that he willfully or unlawfully or corruptly or otherwise took any advantage of his official position as judge to effect that contract. But he does admit all the other allegations; that he responded to the suggestion of Williams, and solicited by conference and letter May, the manager of the Hillside Co., to put a price on the Katydid. He admits that, failing to get the price from May, respondent in August, 1911, while in New York, applied to George F. Brownell, general counsel of the Erie Railroad Co., for information concerning the proposed sale. He admits that Brownell informed respondent that Richardson was the proper officer of the company to approach in the matter, and introduced the respondent to Richardson, and respondent said to Richardson he was there simply for the purpose of getting an early answer, one way or another, to the request for the sale of the Katydid. He admits that Richardson informed the respondent that he would communicate with May; and on August 29, 1911, when respondent casually met May in the streets of Scranton, he was informed by him that the Hillside Coal Co. had decided to sell its interest, and was requested by May to tell Williams to call on May. He admits that respondent notified Williams of this conversation, and that on the next day May advised Williams that the Hillside Coal Co. would sell the dump for $4,500. He admits that during the whole period of these negotiations and transactions the respondent was a judge as charged in the article; that the Erie Railroad Co. was a party litigant in the suits mentioned in the article; and that divers proceedings were pending in the Commerce Court, and divers actions taken by that court in those cases.

I have mentioned his denial of the charges which goes simply to the question of intent. We submit the substantial facts, the substantial admissions, and ask the Senate to judge of him rather than by his denial and by his disclaimer of wrongful intent made here upon the witness stand.

Oh, but they undertake to try the Bolands and to say that the judge was trapped in this matter. Mr. President, that is a sickly defense. The idea of a judge of a great court of the United States being innocently trapped into this sort of a transaction by Boland and by Williams—by Boland, whose mentality the counsel reflects upon, and by Williams, for whose lack of mental acumen he apologizes.

I read, Mr. President, from the case of Grimm v. The United States (156 U. S., 610), where Mr. Justice Brewer said:

It does not appear that it was the purpose of the post-office inspector to induce or solicit the commission of a crime, but it was to ascertain whether the defendant was engaged in an unlawful business. The mere facts that the letters were written under an assumed name and that he was a Government official—a detective he may be called—do not of themselves constitute a defense to the crime actually committed. The official, suspecting that the defendant was engaged in a business offensive to good morals, sought information directly from him, and the defendant, responding thereto, violated a law of the United States by using the mails to convey such information, and he can not plead in defense that he would not have violated the law if inquiry had not been made of him by such Government official. The authorities in support of this proposition are many and well considered.

May I inquire, Mr. President, how many minutes I have remaining?

The PRESIDENT pro tempore. The Chair is informed that half an hour of time is remaining to the manager.

Mr. Manager CLAYTON. Now, Mr. President, I shall not have time to further answer the ingenious devices and suggestions resorted to by the counsel for the respondent concerning article No. 1. I shall therefore refer you to what my associate managers have said in the preceding arguments, and I do it with confidence, for their reasoning was illuminating and their logic was irresistible.

Now I revert to the second count, the Marian Coal Co. I desire to answer certain arguments and statements made by counsel for the respondent in regard to article 2, which is commonly referred to as the Marian Coal Co.'s case.

Mr. Simpson said in his zeal on behalf of his client on yesterday that Christy Boland, one of the witnesses introduced on behalf of the managers, had testified to an untruth in giving his testimony before Mr. Wrisley Brown. Mr. President, there is no evidence to sustain such a statement, and I am sorry that the counsel who made that criticism used harsh and unparliamentary language in denouncing Mr. Christy Boland, who was Judge Archbald's "Dear Christy."

But it must be excused somewhat upon the fact, I suppose, that our friend Simpson is of a highly nervous organization, and sometimes that nature forces an unparliamentary explosion.

Mr. Brown met Mr. C. G. Boland, sometimes called "Christy," and had a conversation with him, in which he asked Boland certain questions, and to which Boland made reply. Brown's stenographer was present and took notes of what was said. When the statement of the conversation was written out it was submitted to C. G. Boland and he was asked to sign it and swear to it. This he positively refused to do. It is in the printed copy of the stenographer's transcribed notes in which the matter referred to is found, and is as follows:

Mr. BROWN. Did Watson give you any intimation of what was to become of this large excess over the $100,000?
C. G. BOLAND. No.
Mr. BROWN. You did not concern yourself about it?
C. G. BOLAND. No.

(Page 720, Senate Record.)

Mr. Boland finally agreed to give Brown a statement, which he prepared himself, and in that statement he cut out all reference to the questions and answers referred to which appear in the stenographer's notes. Mr. Boland's full explanation of this whole matter appears on pages 723 and 724 of the hearings before the Senate.

Counsel for respondent on yesterday, if I understood him correctly, admitted that if Judge Archbald used his influence to aid Mr. Watson in securing a $5,000 fee, and did it corruptly, he would be guilty of the charge made against him in this article, although he might not himself share in the fee. I think the learned counsel has done himself credit to make such admission, for I hardly think that a position to the contrary could be successfully maintained before this high Court of Impeachment.

What are the facts? Edward J. Williams, an associate of the judge in the Katydid transaction, went to C. G. Boland and told Mr. Boland that he believed that George M. Watson, an attorney of Scranton, was in position to settle the controversy of the Marian Coal Co. with the Lackawanna Railroad Co. Mr. Boland called upon Mr. Watson and they finally reached an agreement whereby Mr. Watson was employed to make an effort to effect the settlement. It was agreed that the Bolands would sell their two-thirds of the stock of the Marian Coal Co. for a lump sum of $100,000, and that if Mr. Watson could secure a settlement upon that basis he would be paid a fee of $5,000.

According to the testimony of C. G. Boland, a day or two after that agreement was entered into with Watson, he was called over the telephone to come to Judge Archbald's office. In response to the telephone call, he went to Judge Archbald's office and found Judge Archbald and Mr. Watson there. He states that Judge Archbald stated over to him that he understood that they were to sell their entire interest in the property for $100,000 and had agreed to pay Watson a $5,000 fee if he could bring about a settlement on that basis. He further testifies that in the same conversation, that Mr. Watson told him in Judge Archbald's presence that the judge had agreed to help him in securing the settlement, and that the judge assented to the proposition and stated that he would be glad to do all he could to assist Mr. Watson in effecting a settlement. He further testifies that in the same conversation a suggestion was made either by Judge Archbald or Mr. Watson that there ought to be some kind of a writing to guarantee that Mr. Watson would get the $5,000 in the event he was successful in the matter. Mr. Boland further testified that as a result of that suggestion, he went immediately to his brother, W. P. Boland, president of the Marian Coal Co., and procured a written statement, which is in the evidence, stating that in the event that Mr. Watson succeeded in bringing about a satisfactory settlement between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co., that he would be paid a fee of $5,000 for his services. This is the testimony of Mr. C. G. Boland. While this conversation is not admitted it is not positively denied either by Mr. Watson or Judge Archbald in their testimony. The judge says he doesn't remember any such conversation when he, Watson, and Boland were together, but as I remember his testimony he does not positively deny the substantial facts testified to by Christopher G. Boland. The effect of Watson's testimony upon the same point is precisely similar to that of the judge. He does not remember the conversation detailed by Mr. Boland. Judge Archbald in his testimony does admit, however, that he understood that Watson was to be paid a fee of $5,000 for his services in effecting a settlement of the controversy between the Marian Coal Co. and the Delaware, Lackawanna & Western Railroad Co., and he admits and pleads in his answer that he did agree to assist Watson in his efforts to bring about that settlement through friendship for Watson and through friendship for Christopher G. Boland. The testimony shows that he did aid and assist, and did attempt to aid and assist, Mr. Watson to effect that settlement by personal interviews and conferences with railroad officials, by writing letters and by counseling with Watson with regard to the settlement.

The testimony shows that although the price that the Marian Coal Co. was to receive was fixed in the agreement at $100,000, it is further shown by the testimony and is admitted by Judge Archbald that he knew that the proposition which Mr. Watson proposed to submit to the railroad company was $161,000. The testimony does not disclose any satisfactory or reasonable excuse why the consideration was raised from $100,000 to $161,000; it is not shown by any testimony in the whole case that the Bolands ever expected at any stage of the proceedings to receive any amount in excess of $100,000 if the settlement was made. Out of this $100,000 the $5,000 fee was to be paid under the agreement, so that the net amount that the Bolands would receive on settlement was $95,000. There is no testimony in the case to show that Watson or the Bolands had any agreement with John W. Peale during any stage of these negotiations that the suit which was pending against the Marian Coal Co., in which he was plaintiff, was to be taken care of in that settlement. So the evidence offered in support of this article of impeachment shows conclusively, under our view of the case, that this United States circuit judge, this judge of the Commerce Court, did undertake, not only to aid and assist Watson, his friend, in securing the $5,000 fee, but undertook to aid and assist Watson in wrongfully demanding from the railroad company $61,000 in excess of the amount which his clients had agreed to take on settlement. If such conduct does not show that Judge Archbald acted corruptly, it is difficult for the managers to conceive what amount of testimony will be required to show corruption on the part of a judge.

In article No. 5 Judge Archbald is charged with receiving from one Frederick Warnke & Co., which company is known as the Premier Coal Co., a $500 note in consideration of favors shown by Judge Archbald to Frederick Warnke for services rendered by the judge in Warnke's behalf. Why do I say for "services rendered by Judge Archbald"? Because in respondent's answer to a charge contained in article 13, that the judge

invested no money or other thing of value in any of the properties in which he acquired interests or sought to acquire interests, he makes this admission. I quote:

Respondent further admits that in the very few cases in which he was interested in the proposed purchase of culm banks or other coal property from railroad companies he did not invest any money or other thing of value except his own personal services in consideration of any interest acquired or sought to be acquired.

In view of this admission and the testimony in the case, I care not whether you call this $510 note a gift, fee, reward, or commission. The managers insist that the note was given in consideration of improper services rendered by Judge Archbald in behalf of Frederick Warnke, and this contention is abundantly established by the testimony. It is absurd to contend that it was due Judge Archbald for making a sale of the old Gravity fill, for the judge did not make that sale. It is equally absurd to contend that he was entitled to receive it as a commission by reason of the fact that he had an option on the property, for the evidence shows that he did not at the time of the sale hold any option thereon and had not for months previous to the consummation of the deal.

The sale was made by John W. Berry, agent of Lacoe & Shiffer, directly to the purchasers, and neither Judge Archbald nor John Henry Jones had anything to do with closing the deal. The facts shown by the testimony in regard to this transaction are as follows: Frederick Warnke owned a mining operation at Lorberry, which was held under a lease from the Philadelphia & Reading Coal Co., a subsidiary of the Philadelphia & Reading Railroad Co. W. J. Richards was vice president of both the coal company and the railroad company; George F. Baer was president of both companies. Mr. Warnke had purchased a two-thirds interest in this lease from one Baird Snyder under an agreement that the Philadelphia & Reading Coal Co. would furnish an assignment of the lease to Warnke. Mr. Warnke took possession of the property, made considerable improvements thereon preparatory to operating the same, and then called upon the coal company for the mining maps pertaining to the same, whereupon he was notified by the company that the lease under which he claimed title had been forfeited two years previously, and the coal company refused to recognize his rights in the premises. Mr. Warnke then made repeated efforts in person by conferences with Mr. Richards and President Baer to get them to reconsider their action and allow him to operate the property under a lease, which they refused to do. Then he endeavored to get them to allow him a lease on another property owned by the Philadelphia & Reading Coal Co. known as the Lincoln dump, and this they also refused to do. He then made efforts, through his attorneys and other friends, to get these officials to reconsider their action, but they persistently refused to do so. Finally he appealed to Judge Archbald and asked the judge to intercede for him with Richards, the vice president of the coal company. The judge agreed to do so and made an arrangement with Mr. Richards for an interview with him at Wilkes-Barre, which is 80 miles distant from Scranton.

Judge Archbald called on Richards at Wilkes-Barre in Warnke's behalf, but failed to get Mr. Richards to reconsider his action in regard to the lease at Lorberry or to give Mr. Warnke a lease on the Lincoln culm dump. Shortly after this occurred Mr. Warnke was employed by a brewing company to examine a property known as the old gravity fill, which they were considering purchasing from Judge Archbald and John Henry Jones, who, as already stated, at one time had an option on the property. The brewing company decided not to purchase the property and Warnke decided to consider the question of purchasing it for himself and went to John Henry Jones to inquire about the title. John Henry Jones referred him to Judge Archbald, telling him that Judge Archbald knew all about the title. Warnke then called upon Judge Archbald in the Federal building and the following occurred, as shown on page 738 of the proceedings. Warnke testified:

So I asked the judge about the title and he said he could not be my attorney. I says, "I understand you know something about these right of ways that went through this property—this Lacoe & Shiffer property." He said he did. I says, "All I want is your opinion whether you think the title is right or wrong." He told me the title as far as he knew, and he went on to explain the right of ways, and how the Pennsylvania came in possession of it, and told me then how it was dated back to Lacoe & Shiffer. I told him then that I was thinking of purchasing the property. Q. You were then asked what month or year, and you stated it was sometime in December and proceeded. Yes. So I told the judge that his information to me, as far as the title was concerned, was just as good for me as to get an attorney, and I would compensate him for it, and he says, "No; you need not do that at all." I says, "I really consider it worth to me just as much as an attorney's fee, and I would like to have you accept it from me if I purchase the property."

This testimony was given by Mr. Warnke before the Judiciary Committee, and was read to the witness when he appeared before the Senate in this trial, and after it was read the following questions were propounded to him:

Q. (By Manager DAVIS.) Is that your statement of the interview?
The WITNESS. Yes, sir.
Q. Is that correct?—A. Yes, sir.

This is all the evidence in the case pertaining to any kind of service rendered by Judge Archbald to Frederick Warnke or to any member of the company in consideration for which he demanded and received the $500 note referred to.

The facts, briefly stated, concerning the transaction which Judge Archbald had with W. W. Rissinger are these: Rissinger was the chief owner of the old Plymouth Coal Co. In 1908 he sued a number of insurance companies for a fire loss which occurred in his coal properties. Some of these cases were transferred from the State court to the United States court at Scranton, over which Judge Archbald presided on October 3. They came on for trial early in November. After the plaintiff had offered his evidence the defendant insurance companies demurred to the evidence. Judge Archbald overruled the demurrer and held that the evidence which Rissinger had offered was sufficient to send the cases to the jury, thereupon the attorney for the defendant insurance companies proposed a settlement, and after some negotiations it was agreed that judgments for about $25,000 be entered payable in 15 days, which time expired about November 28.

After these suits had been commenced Rissinger began negotiations with Judge Archbald concerning an interest in the gold-mining scheme in Honduras. He had George Russell, the promoter of the scheme, come from New York and have a conference with the judge the latter part of September. Negotiations continued until the 28th day of November. On that date Rissinger made a note for $2,500 payable to Judge Archbald and to Mrs. Hutchinson, the mother-in-law of Rissinger. This note was indorsed by Judge Archbald and delivered to Rissinger.

After some inquiry on the part of the bank as to the financial standing of Mrs. Hutchinson the bank discounted the note, and judgment was immediately taken by confession against Rissinger and Mrs. Hutchinson, his mother-in-law, but not against Judge Archbald. It seems from the evidence that the bank was relying, or had agreed to rely, solely on Rissinger and Mrs. Hutchinson for payment, as is manifest by the fact that judgment was not taken against Archbald. The note was discounted about December 12, and some two months later 84 shares of stock were issued by the Scranton Gold Mining Co., which Rissinger had organized for the purpose of taking an interest in the Honduras gold mining scheme, for which he paid nothing. He never paid any part of the $2,500 note, and was never called upon to pay it. It was paid by Rissinger, together with interest. Rissinger testified that Judge Archbald gave no obligation of any kind to pay for this stock, and he was not expected to pay for it. So far as the testimony disclosed, it was purely a gift. The judge's explanation that he understood it to be collateral security for his liability on the note is controverted by all the facts and circumstances in the case. The note ran for four months, and this stock was issued and delivered about two months after the note was given. If Judge Archbald was liable at all on the note he was liable for $2,500. Even the face value of this stock amounted only to $1,680. The stock was not assigned to Judge Archbald. It was issued originally to him by the corporation.

Why this gift from Rissinger? It was on account of one of two things. Either it had relation to the suits which Rissinger had had before Judge Archbald or it was for the purpose of giving better standing to the gold-scheme enterprise in which Rissinger was interested, and to enable Rissinger thereby to use Archbald's name for the promotion of the scheme. In either view of the case Judge Archbald was culpable, and indicates plainly that he was willing to accept gifts which had relation to his official duties, or was willing to barter the things, which came to him by reason of being judge, for filthy lucre.

Now, Mr. President, I need not discuss the doctrine of reasonable doubt. I do not think it has any real application here. I think the facts are plain and palpable. I think they are in their nature susceptible of being understood, susceptible of being construed, and I think the Senate capable of drawing its own conclusion from the admitted and proven facts. Reasonable doubt is the refuge that is invoked in behalf of the petty criminal, but, Mr. President, I do not recall in all the cases of impeachment heretofore had before the Senate of the United States that witnesses have been called to put in issue the character of the respondent.

But whether that be correct or not, this is not a case dependent upon circumstancial evidence or of such doubt that his

reputation or character can save him from the inevitable result of his persistent and inexcusable course of conduct.

Mr. President, try this case by the standard of ethics promulgated by any bar association, by the standard of ethics announced by any judge, by the standard of ethics which obtains in respect to the conduct of any high-minded judge. I think I am authorized in saying that the counsel for the respondent filed a brief before the committee in the House in which they admitted improprieties and indiscretions, but claimed that they were only improprieties and indiscretions. It remained for them to come to the Senate to deny that those acts were improper and indiscreet. In effect the judge says, "Yes, I made the trades; yes, I took the money; what of it? I am in office for life; you can not get me out." Senators, what of it? His conduct was improper. His course of conduct in repeated instances shows impeachable misbehavior, impeachable misdemeanors. Take the Century Dictionary and read the meaning of the phrase "during good behavior."

During good behavior: As long as one remains blameless in the discharge of one's duties or the conduct of one's life; as, an office held during good behavior.

In the case of State ex rel. Attorney General *v.* Lazarus (1 So. Rep., 376) Judge Poche said, in reference to those who framed the constitution of Louisiana:

They acted on the idea contained in the paternal recommendation of the first, the great chief justice of Louisiana, Judge Martin, when he said, "All those who minister in the temple of justice, from the highest to the lowest, should be above reproach and suspicion. None should serve at its altar whose conduct is at variance with his obligations."

Sharswood, in his work Professional Ethics, says this:

Counsel should ever remember how necessary it is for the dignified and honorable administration of justice, upon which the dignity and honor of their profession entirely depend, that the courts and the members of the courts should be regarded with respect by the suitors and people; that on all occasions of difficulty or danger to that department of government they should have the good opinion and confidence of the public on their side. Good men of all parties prefer to live in a country in which justice according to law is impartially administered. (P. 63.)

Another plain duty of counsel is to present everything in the cause to the court openly in the course of the public discharge of its duties. It is not often, indeed, that gentlemen of the bar so far forget themselves as to attempt to exert privately an influence upon the judge, to seek private interviews, or take occasional opportunities of accidental or social meetings to make ex parte statements or to endeavor to impress their views. They know that such conduct is wrong in itself and has a tendency to impair confidence in the administration of justice, which ought not only to be pure, but unsuspected. (Pp. 66, 67.)

I now read from the case of Leeson *v.* General Council of Medical Education and Registration (43 Chancery Div. Law Rep., 384, 385), where Lord Justice Bowen said:

As the lord justice has said, nothing can be clearer than the principle of law that a person who has a judicial duty to perform disqualifies himself for performing it if he has a pecuniary interest in the decision which he is about to give or a bias which renders him otherwise than an impartial judge. If he is an accuser, he must not be a judge. If he has a pecuniary interest in the success of the accusation, he must not be a judge. Where such a pecuniary interest exists, the law does not allow any further inquiry as to whether or not the mind was actually biased by the pecuniary interest. The fact is established from which the inference is drawn that he is interested in the decision, and he can not act as a judge. But it must be in all cases a question of substance and of fact whether one of the judges has in truth also been an accuser. The question which has to be answered by the tribunal which has to decide—the legal tribunal before which the controversy is waged—must be: Has the judge whose impartiality is impugned taken any part whatever in the prosecution, either by himself or by his agents? I think it is to be regretted that these two gentlemen, as soon as they found that the person who was accused was a person against whom a complaint was being alleged by the council of a society to which they subscribed and to which they in law belonged as members, did not at once retire from the council. I think it is to be regretted, because judges, like Cæsar's wife, should be above suspicion, and in the minds of strangers the position which they occupied upon the council was one which required explanation.

Mr. President, if it were becoming on this occasion, and if I were trained in the dramatic art, I could indulge in realism and I could picture to you this judge, sent hence unwhipped of justice, saying to the world, "I have done nothing wrong; the Senate has approved my course of conduct; my soiled garments have been washed, and the judicial ermine is restored in snowy whiteness to my shoulders." You could see him on the bench. But what, Mr. President, would the humble shipper engaged in interstate commerce think when he came to try his case before this judge and recalled his secret correspondence with and the secret arguments made by Helm Bruce, the railroad attorney, and remembered the obligations under which the railroads had put the judge? Ah, Mr. President, would that humble suitor for justice at his hands have confidence in him? Would he not think that justice would be denied to him by such a man? Let me say, any underground connection between corporations engaged in interstate commerce and Federal judges must not be tolerated or excused.

The counsel for the respondent made the Christmas bells ring; he heard the singing of the Christmas carols; he invoked love and forgiveness, those blessed attributes of our Savior, in behalf of his guilty client. But let us remember that while love and mercy are divine attributes, perhaps a higher attribute is justice. Let us remember that, long after the first Christmas carols had been sung and the Savior of mankind had reached maturity, endowed as He was with divine gifts and with the best that is in humanity as well, He had the attribute of justice; He had the impulse of righteous indignation. Wrong and outrage fired His soul, so that when He looked into the sacred temple and witnessed the profanation of that hallowed place, not love, not forgiveness, but justice was the high motive, the divine impulse that swelled in His combined nature of God and man and made him scourge from the temple the money changers who had desecrated its holy altars!

Mr. President and Senators, in behalf of the House of Representatives, I thank you for your courteous treatment of the managers; I thank you for this patient and impartial trial. I thank especially the Presiding Officer, who has so long, so patiently, and with such conspicuous fairness and ability guided these proceedings.

Mr. President, the case is now left with you and your associates in the confident belief that the people of the United States in their organic law have a remedy to expel from office a faithless judge. We confidently submit the case to the deliberation and high judgment of this Senate.

Mr. REED. Mr. President, I desire to send to the desk and have read a question which, however much it may appear on its face to be out of order, I want to ask the Senate to permit to be read to Judge Archbald for his answer. The question will show its own importance, I trust.

The PRESIDENT pro tempore. The Senator from Missouri sends to the desk a question which he asks permission of the Senate to have propounded to the respondent. Is there objection?

Mr. WORTHINGTON. Mr. President, as one of the counsel for Judge Archbald, before the question is asked, I want to say that we can not make objection to any question that is put by a Senator, provided it be understood after the answer is made that we shall have the right to address ourselves to the Senate as to the effect of the answer or its bearing upon the case.

Mr. REED. I ask now that the question be read to the Senate for its information, so that the Senate may understand the request.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Missouri?

Mr. LODGE. That the question be read?

The PRESIDENT pro tempore. The Senator from Missouri has really submitted two requests. One is that the question submitted by him shall be read, and the other is that it be propounded to the witness.

Mr. REED. My request now is that the question be read to the Senate in order that the Senate may determine whether it desires to have it propounded to the witness.

The PRESIDENT pro tempore. Is there objection to the reading of the question which the Senator from Missouri desires to have propounded to the respondent? The Chair hears none, and the Secretary will read the question.

The Secretary read as follows:

You have testified that you were in doubt with reference to the proper construction to be placed upon the testimony of Mr. Compton, and that thereupon you wrote a letter to Helm Bruce, the attorney, asking him for his construction of the evidence; and you have further stated that you attached the reply written by Helm Bruce to the record. It appears in the original record that in the sentence which appears in typewriting, "We did apply it there," an alteration is made by pen and ink, a caret being inserted between the words "did" and "apply," and a line is drawn from this caret to the margin and the word "not" written. Did you make this alteration?

Mr. REED. Mr. President, the purpose of the question is this: In the original record it appears that the text of the answer was actually changed, so that the record now to go before the Supreme Court goes with the word "not" written in it. I desire to know, and I think the Senate ought to know, whether Judge Archbald wrote that word "not" in that record. I ask that the question be propounded.

Mr. CRAWFORD. Mr. President, I simply desire to ask a question of the Senator from Missouri.

The PRESIDENT pro tempore. The Chair is obliged to say that the rules will not permit the Senator to do so.

Mr. CRAWFORD. Very well. I did not recollect that the testimony showed the condition which the Senator from Missouri states in his question.

Mr. WORTHINGTON. Mr. President, on behalf of Judge Archbald, I object to the question being put to him at this stage

of the proceedings, unless his counsel may have the opportunity, after the evidence is introduced, of making an argument upon the case as it may then be presented.

The PRESIDENT pro tempore. Is there objection to propounding the question?

Mr. CLARK of Wyoming. Mr. President, I move that the doors be closed for deliberation.

The motion was agreed to; and the Senate proceeded to deliberate with closed doors.

The managers on the part of the House of Representatives and the respondent and his counsel thereupon withdrew from the Chamber.

After 1 hour and 4 minutes the doors were reopened.

The respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, Mr. Robert W. Archbald, jr., and Mr. Martin.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The PRESIDENT pro tempore. The Chair will state as to the question of the Senator from Missouri [Mr. REED], that the Senate in private conference determined that the question should not be asked.

Mr. REED. Mr. President, in order to save the Senate voting upon the question in public, simply to save the time of the Senate, I will withdraw the request.

Mr. CLARK of Wyoming. I move that the Senate sitting as a Court of Impeachment adjourn.

The PRESIDENT pro tempore. The Chair hopes the Senator will withhold the motion for a moment.

Mr. CLARK of Wyoming. Certainly.

The PRESIDENT pro tempore. The Chair thinks it is due, in order properly to keep the record, to announce that the junior Senator from Arkansas [Mr. HEISKELL] has not been sworn in in this proceeding; and the Chair calls the attention of the Senator from Mississippi [Mr. WILLIAMS] to that announcement.

Mr. WILLIAMS. Mr. President, I am authorized by the junior Senator from Arkansas to say that he has not been able to read the pleadings or the evidence; that he has come here so recently that he has heard none of the evidence and that he has heard only a part even of the argument; and that under those circumstances he does not consider that he would be quite a competent judge in deciding the grave issues that would be presented before him. He therefore asks to be excused from being sworn in as an impeachment judge.

The PRESIDENT pro tempore. Without objection, that direction will be given to it.

Mr. CLARK of Wyoming. I move that the Senate sitting as a Court of Impeachment adjourn.

The motion was agreed to.

Mr. GRONNA. I move that the Senate adjourn.

Mr. SMOOT. I hope the Senator will withhold the motion for a moment.

Mr. Manager CLAYTON. May I ask, Mr. President, whether the Senate sitting as a Court of Impeachment adjourns to a time set?

The PRESIDENT pro tempore. The Chair should have stated that the Senate sitting as a Court of Impeachment stands adjourned until 1 o'clock to-morrow. It would have resulted that way anyhow, because that is the regular order.

The managers on the part of the House, the respondent, and his counsel thereupon withdrew.

INTERSTATE SHIPMENT OF LIQUORS.

Mr. SMOOT. Mr. President, this morning unanimous consent was asked for agreement to vote on the bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases at 3 o'clock on the 20th of January. I ask consent that that be resubmitted to the Senate.

Mr. GRONNA. I rise to a point of order.

Mr. WILLIAMS. A parliamentary inquiry. Does it require unanimous consent to vacate the previous unanimous consent?

The PRESIDENT pro tempore. It can not be done.

Mr. SMOOT. I ask that it be resubmitted.

Mr. LODGE. He asks that it be resubmitted.

Mr. WILLIAMS. Does the Senator request unanimous consent?

The PRESIDENT pro tempore. The Chair did not understand the Senator from Utah to make that request.

Mr. WILLIAMS. Then I make the point of order that a unanimous-consent agreement can not be repealed except by unanimous consent, and that the only proper request is a request for unanimous consent to reconsider what was done by unanimous consent. I do not know what are the rules of the Senate, but I do know, as a matter of common sense, that that which can be done by unanimous consent can be undone by unanimous consent, and that that which has been done by unanimous consent can not be undone in any other way.

The PRESIDENT pro tempore. The Chair recognized the Senator from North Dakota, and he made a motion to adjourn, and he has not withdrawn it.

Mr. KENYON. On that I ask for the yeas and nays.

The PRESIDENT pro tempore. The Senator from Iowa asks for the yeas and nays.

Mr. WILLIAMS. I ask a ruling, then, upon the point of order.

The PRESIDENT pro tempore. The motion to adjourn is pending.

Mr. WILLIAMS. I beg the Chair's pardon. I thought that had been disposed of.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from North Dakota that the Senate adjourn, on which the Senator from Iowa asks the yeas and nays.

The yeas and nays were not ordered.

The motion was not agreed to.

Mr. SMOOT. I now ask again that the question be resubmitted to the Senate for a unanimous-consent agreement setting a certain date to vote upon Senate bill 4043, upon the ground that when it was presented to the Senate this morning I was in the Chamber and did not hear it offered or read, but addressed the Chair for the purpose of objecting before any other business was transacted. I ask that it be resubmitted upon that ground.

Mr. SANDERS. I simply wish to say that this morning, without reflection, I requested that the question be resubmitted. But since then I have had time for consideration and am of the opinion that it is a question for the Chair to decide, and that what I said about reconsideration is of no effect whatever.

Mr. WILLIAMS. Mr. President, I make the point of order, and if the Chair will indulge me for a few moments I will say a few words on the point of order.

The point of order which I make is that the Senate having, by unanimous consent, adopted a certain course of procedure and the decision of the Senate having been announced to the Senate—— [A pause.]

The PRESIDENT pro tempore. The Chair is listening to the Senator from Mississippi.

Mr. WILLIAMS. The point of order which I make—— [A pause.]

The PRESIDENT pro tempore. The Chair is listening to the Senator.

Mr. WILLIAMS. But the Chair can not hear me when the Clerk is talking to him.

The point of order which I make is that unanimous consent having been once requested of the Senate, the request having been put to the Senate, the Senate having agreed to it, the temporary occupant of the chair having announced that the Senate had agreed to it, it becomes an order of the Senate by unanimous consent, and that there is no way by which the unanimous-consent order can be dispensed with except by a request for unanimous consent to reconsider or reverse the previous order.

Now, I understand that the gravamen of the argument upon the other side is this: That the Senator from Utah happened at the time to have his attention diverted to something else, and having his attention diverted he did not hear the request for unanimous consent; that as soon as he was informed of the nature of the request and of the action of the Senate and of the announcement of the Chair he arose for the purpose of saying that if his attention had been called to the request he would have objected, and then urging, as a matter of courtesy among Senators, that his objection should be taken nunc pro tunc.

Now, I admit that the main rule in the Senate is one of courtesy amongst Senators; but I submit that while the Senate owes Senators courtesy, Senators also owe the Senate courtesy. I suppose I am perhaps the most unfortunate man in this body to make this argument. I am more than half deaf, and very frequently things occur in the Senate, even when the Senate is in order, which I do not hear; but I do not think it would be in order for me—because that is my misfortune—to rise and ask the Senate, acting for 90,000,000 people, to reverse itself and to reverse its entire procedure because I had been unfortunate enough not to hear, whether the fact of my not hearing was due to the fact that I could not hear or because at the time I was doing something else, or was at the time outside the Senate Chamber.

I make the point of order, Mr. President, and I should like a ruling on it for the guidance of the Senate in the future. Perhaps, and for all I know, some ruling may have been made upon the same point in the past. I do know that at the other end of

the Capitol the request would not even be considered for one second; it would have been passed by upon the curt statement of the Chair that the House had already decided the question and that that announcement could not be reversed except by unanimous consent. A Member would be permitted to make request for unanimous consent to reconsider, and if that were objected to it would fall by the wayside. My only object in making the point of order is that we may have certain guidance for the future.

Mr. LODGE. Mr. President——

The PRESIDENT pro tempore. The Senator from Massachusetts——

Mr. WILLIAMS. I am not through. I was only waiting for the President to get through with the Clerk.

The PRESIDENT pro tempore. The Senator from Mississippi will proceed.

Mr. WILLIAMS. My only object, as I said, in making the point of order is that the Senate may have guidance for certain conduct in the future, so that we may know to a certainty by what rules we are guided.

As far as I am individually concerned, although I am in favor of the passage of the bill—not upon the ground for which gentlemen contend, but because I am absolutely a States-rights Democrat—in spite of all that, if the request for unanimous consent is made I shall not object. But I do make the point of order that a unanimous-consent agreement can not be vacated. [A pause.] I will take my seat, Mr. President.

The PRESIDENT pro tempore. The Chair hopes the Senator from Mississippi will proceed. The Chair has directed——

Mr. WILLIAMS. I notice that, and that is the reason I took my seat. I was about through, at any rate.

The PRESIDENT pro tempore. The Chair hopes the Senator will hear what the Chair was about to say. He had directed the Secretary not to interfere.

Mr. WILLIAMS. All I have to add is that if the question is put, and if I shall be listening and hear it, I shall not make objection to the request for unanimous consent, because I think there was a certain amount of misfortune about the matter; but I do want a decision of the occupant of the chair and the Senate upon the question whether a unanimous consent once granted by the Senate, deliberately, too, because it was deliberately granted, although the Senator from Utah happened not to hear it; the request was very deliberately made; and the then occupant of the chair, the Senator from Minnesota [Mr. CLAPP] very deliberately put the question—well, I beg the pardon of the Senator from Massachusetts [Mr. LODGE], but a mere shaking of his head will not destroy my impression. My question is whether, after that is done, a unanimous consent granted by the Senate, in open session, after an open request, after an open demand, and after a query by the Chair "Is there objection?" and after an open announcement that "The Chair hears none," can be vacated in any other possible way than by unanimous consent.

Mr. LODGE. Mr. President, I do not think a unanimous consent once made can be vacated by another unanimous consent, for there is no proof whatever that those who agreed to vacate were all present when the unanimous consent was given. Of those who were present when the unanimous consent was given, some may be absent, and it has always been held here that unanimous consent could not be vacated. This is not an attempt to vacate a unanimous consent. I was not present when this occurred this morning; I was in a conference and heard no part of it. I am speaking simply to the parliamentary question involved. This is not, as I understand, a question of vacating unanimous consent. It proceeds upon the proposition that no unanimous consent was ever properly given, that no unanimous consent ever existed.

Mr. WILLIAMS. Will the Senator submit to an interrogation?

Mr. LODGE. Certainly.

Mr. WILLIAMS. How, then, can the Senate give a unanimous consent except by some Senator requesting it, the Chair announcing the request to the Senate, and then waiting a due time and asking if there is objection, and then saying that the Chair hears none, and then announcing that the consent has been given? Is there any other way in which the Senate can give unanimous consent?

Mr. LODGE. Mr. President, it has occurred again and again in this Senate. I have heard it year after year. I have heard the occupant of the chair say, "Is there objection?" and hearing none, state that the order is made, and then some Senator, who has been trying to engage his attention, raises the point that he had not been observed.

I heard the late Vice President Sherman say more than once, "If that is the case, the Chair will resubmit the question." As I say, I am not speaking of the merits of what happened to-day, but the adequacy of this unanimous consent was called in question, as I understand, immediately after it was announced, that it had never been properly given, that the question was raised at once, and discussion was cut off only by the arrival of the hour of 1 o'clock.

Mr. WILLIAMS. If the Senator from Massachusetts will permit an interruption one second——

Mr. LODGE. I will.

Mr. WILLIAMS. I may be wrong, but I do not understand the facts to be as the Senator from Massachusetts states them. I understand the fact to be that in between the time when the occupant of the chair announced that he heard no objection and the time when he made the announcement that the order would be granted there was intervening business, I think, by the Senator from Minnesota. Now, if there is any doubt about that, I would like to have the record read.

Mr. LODGE. It was read this morning.

Mr. WILLIAMS. I heard it and I heard the stenographer read it later, and what he read was this: That at that time the Senator from Utah rose, and then he said that the Senator from Minnesota, or somewhere else—I do not remember where—rose, and the Chair recognized the other Senator and attended to the business which he had in hand, and then, after that, the Senator from Utah was recognized by the Chair.

Mr. LODGE. That is a question of recognition, and not of objection to it at once. The Senator from Utah, if I am correctly informed—I was not present—was on his feet asking recognition.

Mr. WILLIAMS. He may have intended to object, and did not. In other words, the Chair recognized——

Mr. LODGE. But, Mr. President, I have never before in my experience in the Senate, when the granting of a unanimous consent has been questioned, seen any attempt made to prevent a resubmission. There is no other way of getting at it.

But on the question of the point of order, I would call the attention of the Chair to the ruling made by Mr. Frye, which I remember. He said:

> The Chair can not rule on a question arising from a unanimous-consent agreement; it is for the Senators themselves to determine what it means.

It is not a matter of rule. It is a matter of unanimous consent and agreement.

Now, Mr. President, it seems to me it is too important a question to be decided at this late hour in a thin Senate. I should have made no objection to the unanimous consent; I should have assented to it very cheerfully, but I think it is of the utmost importance in the conduct of the business of the Senate that there should never be unanimous consent about which any Senator or Senators have any doubt as to its fairness or about the way in which it was obtained.

Mr. GRONNA. Mr. President, a parliamentary inquiry. I should like to know what question is before the Senate.

The PRESIDENT pro tempore. The Senator from Utah asked for a resubmission of the question as to whether or not there should be unanimous consent. The Senator from Mississippi raised a point of order upon that request to the effect that a unanimous consent once granted can not be set aside by another unanimous consent. The Chair understands that to be the point of the Senator, and that is the parliamentary situation.

Mr. SMOOT. I have not asked for unanimous consent.

Mr. GRONNA. Mr. President, I think the point of order is so well taken that I shall not attempt to make any further argument upon it. I believe, as the Senator from Mississippi has said, that this question can not now be resubmitted. Certainly the Senator from Utah can not ask for a reconsideration, for I do not believe that he could pretend that he voted for it; and no question can be open for a reconsideration except by a Senator who votes for the particular question.

Mr. LODGE. If the Senator will allow me one moment, you can not reconsider a unanimous-consent agreement, of course.

Mr. GRONNA. That is the point I make.

Mr. LODGE. No reconsideration is possible.

Mr. GRONNA. That is the point I was making. As to the procedure this morning, I had the floor when the Senate went into session as a court, and I attempted then to say that the request for this special order was considered deliberately. It was offered by the Senator from Tennessee; it was read by the Secretary; and the Chair propounded the question to the Senate, Is there objection? I was sitting in my seat and I paid particular attention to what was going on.

It is true, as the record shows, that the Senator from Utah rose in his seat after the announcement, but another Senator was recognized. The Senator from Oklahoma [Mr. OWEN] was

recognized, and other business was done before the Senator from Utah was recognized.

So I contend, Mr. President, that this question can not now be resubmitted.

The PRESIDENT pro tempore. On the question of order raised by the Senator from Mississippi [Mr. WILLIAMS], the Chair would state that if this were asking to set aside a recognized unanimous-consent agreement the Chair would undoubtedly hold that that could not be done; but the Chair does not understand that to be the question.

The present occupant of the chair was not occupying the chair when the incident occurred which is now the subject matter of discussion, and was not in the Chamber. The Chair is informed, however, that the motion to resubmit is based upon the contention that there was an immediate objection to it, and a statement that it was not heard.

The Chair thinks the Senator from Massachusetts [Mr. LODGE] has correctly stated the practice of the Senate; but it has been the practice of the Senate, certainly within the administration of the late Vice President, whenever a result was announced by him, and Senators would challenge the correctness of it, stating that they had not agreed to it and had not had the opportunity to interpose an objection, in a very great many cases the Vice President has promptly said that he would again submit the question.

That, the Chair understands, is the nature of the proposition which is now made by the Senator from Utah. It involves the question whether or not it has been finally submitted to the Senate and agreed to by unanimous consent.

The Chair would not undertake to decide that for the Senate, but he thinks it is entirely competent for the Senate to determine whether or not there has or has not been unanimous consent. Therefore the Chair will submit to the Senate for its determination the question whether there has or has not been unanimous consent, and he will submit it in the form of a motion for resubmission, which would involve the same question.

Mr. BRANDEGEE. Mr. President, in view of what the Senator from Massachusetts has said about the importance of the question which is now before us and the argument which he made as to why one unanimous consent should not be allowed to be set aside by another unanimous consent, to wit, that the same group of Senators who gave the unanimous consent might not be upon the floor when it was attempted to set it aside, it seems to me the same argument exists why a unanimous-consent agreement once granted should not be resubmitted after the expiration of such a long period of time as eight hours, and for the same reason—that the same Senators may not be on the floor now who were on the floor when the agreement was entered into.

Mr. LODGE. The Senator assumes that consent has been granted. The point of contention, as I understand it, is that it never was granted.

Mr. BRANDEGEE. I understand what the Senator means to claim upon that point.

Mr. LODGE. I do not claim it. I was not present, and know nothing of the fact.

Mr. BRANDEGEE. I assumed the Senator claimed it now.

Mr. LODGE. I do not claim anything; I do not know.

Mr. BRANDEGEE. Very well. I make this claim: That the record shows that the consent was granted, as read by the stenographer this morning from his notes; and the question is whether a consent having been granted it shall stand when certain Senators intended to object, but by excusable inadvertence perhaps were not allowed; that they attempted to address the Chair, but were not recognized for the purpose, as was the case of the Senator from Utah. Whatever may be the merits of submitting the question by the Chair at that time, when the same Senators were on the floor, it seems to me it may be a grave question whether it ought to be submitted, as I said, at a period eight hours subsequent to the granting of it.

Mr. SMOOT. I suggest that we adjourn until to-morrow morning.

Mr. BRANDEGEE. I say this irrespective of any opinion I may have on the bill. It is immaterial to me, as far as the pending bill is concerned, which way it is decided, but it is of great importance, I agree with the Senator from Massachusetts and the Senator from Mississippi, to have it decided, so that Senators may be able to rely upon a unanimous-consent agreement and have a uniform practice in relation to it.

Mr. GRONNA. Mr. President——

Mr. LODGE. In reply to the Senator from Connecticut——

Mr. GRONNA. I suggest the absence of a quorum.

Mr. LODGE. If there is one thing more important than any other in a unanimous-consent agreement, it is that Senators should feel that they must carry it out in the most rigid good faith, and it should be obtained with the utmost possible fairness. Otherwise you will have no unanimous-consent agreements. These do not exist under rules. There is not a rule in the world that relates to them. They are mere agreements among Senators, and the Chair, as I have read Senator Frye, refuses to rule upon them at all. It is very important, in my judgment, to maintain the character of a unanimous-consent agreement.

I know nothing about this case. I should have given my consent. I know nothing about this case except that it is disputed that it was ever fairly given, and I think that is a very serious matter.

Mr. SMITH of Georgia. Will the Senator yield for one question?

Mr. LODGE. Certainly.

Mr. SMITH of Georgia. Suppose a unanimous consent stands upon our calendar, where Senators feel that they had not given consent, is there any power in the Chair to enforce it? Can it not be disregarded by the Senate if Senators see fit to do so?

Mr. LODGE. Absolutely. I will read what Senator Frye said at the same time. The President pro tempore further said:

> The responsibility of violating the agreement must rest with the Senators themselves. The Chair has no power to enforce it.

Mr. STONE. I should like to make this suggestion to the Senator. A unanimous consent agreement is a question that rests in the honor of Senators.

Mr. LODGE. Precisely.

Mr. STONE. The order for it, when fairly made, ought not to be violated.

Mr. LODGE. Precisely.

Mr. STONE. When a unanimous consent has been asked for, and even where the Chair held that he hears no objection, and it has been entered in a formal way, and a Senator rises and makes the inquiry that was made by the Senator from Utah this morning, it has been the uniform practice of the Senate, as I understand and as I have observed over and over again during my service, for the Chair to say that the question will be again submitted. It seems to me that the practices of the Senate in that respect, so uniform and long continued, are entitled to as much respect and consideration in a matter of this kind as the unanimous consent itself.

Mr. LODGE. I agree. All I have been contending for is the character of the unanimous consent. In this particular one I have no objection or interest.

Mr. WILLIAMS. I should like to ask the Senator from Massachusetts a question, because I want to get it into my mind as to what my duty shall be in future. I want to do what is right in the Senate. I understand, now, if the Senate can set aside this officially announced unanimous-consent agreement—whether it be by unanimous consent or not, it has been so officially announced and appears in the RECORD—because a Senator was having his attention momentarily diverted, what would be the rule about a man who did not hear because he was still further incapacitated by deafness, and what would be the rule about a Senator who did not hear it because he was outside of the Chamber? In other words, where are we to draw the line? If there be one official announcement by unanimous consent that is to be vacated on account of courtesy merely, a most highly estimable private virtue, then where are you to draw the line? Are you to draw it merely where a Senator was engaged in conversation, and therefore did not hear, or are you to draw it where a Senator is incapacitated in one ear and had that ear presented, and therefore did not hear, or are you to draw it because a Senator was engaged in necessary committee work and therefore was not present? Where are you to draw it and within what limit or time?

Mr. LODGE. If the Senator will allow me, I will tell him where the Senate has drawn the line. It has always drawn the line on a Senator who was present and who said to the Senate that he had not heard or that he had not been recognized in time, but not on a Senator who was absent from the Chamber. He was bound by the consent, because he was absent at his own risk when he knew it was likely to come up.

Mr. WILLIAMS. I would be glad to see that rule established. I want to know what is the rule.

Mr. LODGE. If a unanimous-consent agreement was adopted, and the Senator from Mississippi failed for any reason to hear it, and then it was brought to his attention and he should rise and say to the Chair, "I have not heard what was being asked; I ask that it be resubmitted," I think under the uniform practice of the Senate it would be resubmitted.

Mr. WILLIAMS. That would suit me remarkably well. What I want to have is a uniform rule on the subject.

Mr. KENYON. Mr. President, the Senator from North Dakota [Mr. GRONNA] was recognized and made the suggestion of the absence of a quorum.

The PRESIDENT pro tempore. The Chair did not recognize the Senator from North Dakota on that statement. The Chair did not even hear the statement. It is not too late, if the Senator now makes it.

Mr. GRONNA. I suggest the want of a quorum.

Mr. LODGE. I move that the Senate adjourn.

The motion was agreed to, and (at 8 o'clock and 14 minutes p. m.) the Senate adjourned until to-morrow, Saturday, January 11, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January 10, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We bless Thee, our Father in heaven, that though there are wide differences of opinion among men upon questions of theology, there is great unanimity of opinion upon pure religion and the questions of ethics. Since long before the ten great commandments were written on the tables of stone they were written in the hearts of men, so that above the value of wealth, of position, of everything else in this world a premium is set upon honesty, integrity, sobriety, and virtue. There is nothing stronger than faith, purer than virtue, warmer than love, nor more enduring than hope, and we pray that these things may live and grow until pure and undefiled religion shall be shed abroad in every heart. In the spirit of the Lord Jesus Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

RESIGNATION OF REPRESENTATIVE HANNA.

The SPEAKER laid before the House the following communication:

FARGO, N. DAK., *January 2, 1913.*

Hon. CHAMP CLARK,
Speaker of the House of Representatives, Washington, D. C.

MY DEAR SIR: This is to advise you that I have this day tendered to Hon. John Burke, governor of North Dakota, my resignation as a Representative in Congress from the State of North Dakota; said resignation to take effect January 7, 1913.

Sincerely, L. B. HANNA.

CHANGE OF REFERENCE.

By unanimous consent, the Committee on Military Affairs was discharged from the further consideration of House Documents Nos. 1226 and 1228, Sixty-second Congress, estimates for appropriations for Benecia Arsenal, Benecia, Cal., and the same were referred to the Committee on Appropriations.

THE HALL OF THE HOUSE.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent for the present consideration of the following resolution, which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 771.

Resolved, That the Superintendent of the Capitol Building and Grounds is hereby authorized, under the direction and supervision of the commission, to rearrange and reconstruct the Hall of the House of Representatives and, within a total expenditure not exceeding $25,000, to procure and install the necessary furniture and furnishings in the Hall of Representatives for accommodating and seating the Members of the House of the Sixty-third Congress, and to do all such other things, under said direction and supervision and within said limit of cost, as may be necessary in the preparation of the Hall of Representatives for the assembling of the Sixty-third Congress.

The SPEAKER. Is there objection to the present consideration of this resolution?

There was no objection.

Mr. FOSTER. I would like to ask if this contemplates the removal of the desks.

Mr. FITZGERALD. Mr. Speaker, I desire to make this statement to the House: The present House has 396 Members, and now there are 400 seats and desks. The next House will have 435 Members. Several weeks ago, at my suggestion, the Superintendent of the Capitol Building and Grounds prepared a number of plans for rearrangement of the House, experimentally, to accommodate all of the Members. The commission to rearrange and reconstruct the Hall, under a statute passed a few years ago, met and had these various plans before it and decided to put in temporarily, or experimentally, benches without desks. It will require the rearrangement of the risers upon which the present desks are located. If the matter is to be done within the month of March, it is necessary that the superintendent be authorized to make the necessary contracts for the construction of the seats at once. It was believed desirable during the extra session to try out whether the House could do business permanently without desks, and it is believed to be important to have that trial before directions are given to make the permanent changes in the Hall directed some years ago. The purpose of this resolution is to provide for the rearrangement of the House so that during the extra session of the Sixty-third Congress which is to be held the business of the House will be transacted without desks, with an arrangement by which there will be two tables placed in the fore part of the Hall, at which men in charge of bills shall be expected to take their place at such times.

Mr. FOSTER. My recollection is that the plan submitted at one time was that there should be tables on either side of the aisle, back in the body of the Hall.

Mr. FITZGERALD. The particular location is somewhat indefinite. The plan contemplates taking out the first row, at present, of these seats, and desks will be located wherever, after the work has progressed, it is deemed most desirable and convenient to have them.

Mr. GARRETT. If the gentleman will permit, the tentative plan does not contemplate now any change in the walls?

Mr. FITZGERALD. None whatever. But it will be necessary to arrange the risers or steps in order to bring the Members as closely together as is possible with such an arrangement, and if no change were made in them it would be impossible to tell whether there would be any advantage in having them more compactly together. It is necessary, in order to make arrangements for the next Congress, that work begin at once on whatever is to be done.

Mr. STEPHENS of Texas. Will the gentleman permit a question? Will the gentleman be willing to add a line as to better ventilation?

Mr. FITZGERALD. It is impossible within the time that will elapse to do anything toward changing the ventilation of the House.

Mr. STEPHENS of Texas. Allow me to suggest to the gentleman that I think I could provide better ventilation by shutting all the doors here and giving us direct ventilation.

Mr. FITZGERALD. I am basing my statement largely on the technical advice of men who have made an exhaustive study of this Chamber. At any rate, it would require such alterations in the Chamber as could not be possibly made in the time available.

Mr. STEPHENS of Texas. Would there be any objection to changing the ventilation so as to protect the health of the Members?

Mr. FITZGERALD. I am heartily in favor of doing so, and I shall be very glad to have the gentleman bring his suggestions to the commission.

Mr. STEPHENS of Texas. I believe we have a Committee on Acoustics and Ventilation, have we not? Possibly it will be proper to refer it to that committee.

Mr. FITZGERALD. I believe that committee no longer exists.

Mr. STEPHENS of Texas. There should be such a committee.

Mr. FITZGERALD. It finished its labors and has been abolished.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

On motion of Mr. FITZGERALD, a motion to reconsider the vote whereby the resolution was passed was laid on the table.

ORDER OF BUSINESS.

Mr. RUSSELL. Mr. Speaker, this is, as I understand, Private Calendar day, set apart for pension business. I desire to submit this offer for unanimous consent: Inasmuch as the Post Office appropriation bill is pending and the gentlemen in charge of it are anxious to continue with it, I ask unanimous consent that the day following the completion of that bill, provided it does not fall on Monday or Wednesday, shall be set aside as a substitute for to-day, with all of the business that could come before the House to-day permissible on that day.

The SPEAKER. This is Private Calendar day, with the preference in favor of the pension committees, and the gentleman from Missouri [Mr. RUSSELL] submits a request for unanimous consent that the first day after the Post Office appropriation bill has been completed, provided it does not fall on Monday or Wednesday, shall be substituted for this day. Is there objection?

Mr. MANN. Reserving the right to object, Mr. Speaker, would not the gentleman make his request that only pension bills on the Private Calendar be considered on that day?

Mr. RUSSELL. Some gentlemen have spoken to me about other bills pending on the Private Calendar, and requested that all the rights of the day be permissible as to such bills on that day. I did not want to cut out anybody.

Mr. MANN. Well, probably we would not go ahead with anything except pension bills if we had such a day set apart, and I think the consideration of pension bills only should be provided for on that day.

Mr. FITZGERALD. Mr. Speaker, the Post Office appropriation is reported; the Committee on Military Affairs is ready to report the Army appropriation bill, and the Committee on Appropriations is practically ready to report the fortifications appropriation bill. Only two of the general appropriation bills have passed the House thus far. Under those circumstances I am not able to consent to setting apart any day for any special class of bills. If the House desires to transact private business in preference to public business that must be enacted before the 4th of March, it must be so determined under the rules.

The SPEAKER. Is there objection?

Mr. FITZGERALD. I object.

Mr. MOON of Tennessee. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 27148, the Post Office appropriation bill.

The SPEAKER. The gentleman from Tennessee [Mr. MOON] moves that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 27148, the Post Office appropriation bill.

Mr. RUSSELL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RUSSELL. I would like to ask, if this motion prevails, whether or not there will be any chance for considering the pension bills pending on the calendar until two weeks from to-day?

The SPEAKER. There would not be. If gentlemen want to consider this appropriation bill, they will vote for the motion of the gentleman from Tennessee. If they want to take up the Private Calendar, they will vote against the gentleman's motion.

Mr. RUSSELL. I ask unanimous consent that we proceed now to consider the pension bills on the Private Calendar in the House as in Committee of the Whole.

Mr. MOON of Tennessee. I object, Mr. Speaker.

The SPEAKER. The gentleman from Tennessee objects. The question is on the motion of the gentleman from Tennessee.

The question was taken, and the Speaker announced that the "noes" seemed to have it.

Mr. MOON of Tennessee. A division, Mr. Speaker.

The SPEAKER. Those in favor of resolving the House into Committee of the Whole House on the state of the Union to consider the Post Office appropriation bill will rise and stand until they are counted. [After counting.] Forty-two gentlemen have arisen in the affirmative. Those opposed will rise and stand until they are counted. [After counting.] Forty-five gentlemen have arisen in the negative. On this question the "ayes" are 42 and the "noes" are 45.

Mr. MOON of Tennessee. No quorum, Mr. Speaker.

The SPEAKER. The gentleman from Tennessee raises the point of no quorum. Evidently there is no quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll. Those in favor of going into the Committee of the Whole House on the state of the Union for the consideration of the Post Office appropriation bill will answer "yea" when their names are called; those opposed will answer "nay."

The question was taken; and there were—yeas 86, nays 144, answered "present" 7, not voting 147, as follows:

YEAS—86.

Allen	Cox	Hay	Rouse
Ayres	Dent	Heflin	Shackleford
Beall, Tex.	Dies	Helm	Sheppard
Bell, Ga.	Doughton	Henry, Tex.	Sherley
Berger	Edwards	Holland	Sims
Blackmon	Ellerbe	Houston	Sisson
Borland	Evans	Humphreys, Miss.	Slayden
Brantley	Falson	Johnson, S. C.	Smith, Tex.
Broussard	Ferris	Jones	Sparkman
Buchanan	Fitzgerald	Lamb	Stedman
Burgess	Flood, Va.	Lee, Ga.	Stephens, Miss.
Burleson	Floyd, Ark.	Lever	Stephens, Nebr.
Byrnes, S. C.	Fornes	Levy	Stephens, Tex.
Byrns, Tenn.	Garner	Lewis	Thayer
Callaway	Garrett	Lloyd	Townsend
Candler	Gill	McDermott	Tribble
Cantrill	Godwin, N. C.	Macon	Watkins
Carlin	Gregg, Pa.	Moon, Tenn.	Whitacre
Carter	Gregg, Tex.	Padgett	Witherspoon
Collier	Hardwick	Page	Young, Tex.
Conry	Hardy	Reilly	
Covington	Harrison, Miss.	Roddenbery	

NAYS—144.

Adair	Fields	Kopp	Prince
Ainey	Foss	Korbly	Raker
Akin, N. Y.	Foster	La Follette	Rauch
Alexander	Fowler	Langham	Rees
Anderson	Francis	Langley	Richardson
Anthony	French	Lee, Pa.	Roberts, Nev.
Bathrick	Gallagher	Lenroot	Rodenberg
Boehne	Gillett	Lindbergh	Rothermel
Booher	Glass	Lobeck	Rubey
Brown	Goeke	Loud	Rucker, Colo.
Browning	Good	McCreary	Russell
Bulkley	Graham	McGillicuddy	Scully
Burke, Wis.	Gray	McKenzie	Sharp
Cannon	Greene, Mass.	McKinley	Simmons
Cary	Griest	McKinney	Slemp
Claypool	Hamill	McLaughlin	Sloan
Cline	Hamilton, Mich.	Madden	Smith, J. M. C.
Cooper	Hamilton, W. Va.	Maguire, Nebr.	Smith, N. Y.
Cullop	Hamlin	Martin, S. Dak.	Speer
Curley	Hammond	Matthews	Steenerson
Currier	Haugen	Merritt	Stephens, Cal.
Curry	Hawley	Miller	Sterling
Dalzell	Hayden	Mondell	Stone
Danforth	Hayes	Morgan, Okla.	Sweet
Davenport	Helgesen	Morrison	Switzer
Denver	Hensley	Moss, Ind.	Talcott, N. Y.
Dickson, Miss.	Howland	Mott	Thistlewood
Dodds	Hughes, Ga.	Murdock	Thomas
Donohoe	Humphrey, Wash.	Murray	Tilson
Doremus	Kendall	Neeley	Underhill
Draper	Kennedy	Norris	Volstead
Driscoll, D. A.	Kindred	Nye	Warburton
Dyer	Kinkaid, Nebr.	Patton, Pa.	White
Esch	Kinkead, N. J.	Pepper	Willis
Fairchild	Knowland	Post	Wood, N. J.
Farr	Konop	Powers	Young, Kans.

ANSWERED "PRESENT"—7.

Adamson	Dwight	Mann	Talbott, Md.
Bartlett	Hinds	Parran	

NOT VOTING—147.

Aiken, S. C.	Fordney	Lindsay	Redfield
Ames	Fuller	Linthicum	Reyburn
Andrus	Gardner, Mass.	Littlepage	Riordan
Ansberry	Gardner, N. J.	Littleton	Roberts, Mass.
Ashbrook	George	Longworth	Robinson
Austin	Goldfogle	McCall	Rucker, Mo.
Barchfeld	Goodwin, Ark.	McCoy	Sabath
Barnhart	Gould	McGuire, Okla.	Saunders
Bartholdt	Green, Iowa	McKellar	Scott
Bates	Greene, Vt.	McMorran	Sells
Bradley	Gudger	Maher	Sherwood
Burke, Pa.	Guernsey	Martin, Colo.	Small
Burke, S. Dak.	Harris	Mays	Smith, Saml. W.
Burnett	Harrison, N. Y.	Moon, Pa.	Smith, Cal.
Butler	Hart	Moore, Pa.	Stack
Calder	Hartman	Moore, Tex.	Stanley
Campbell	Heald	Morgan, La.	Stevens, Minn.
Clark, Fla.	Henry, Conn.	Morse, Wis.	Sulloway
Clayton	Higgins	Needham	Taggart
Copley	Hill	Nelson	Taylor, Ala.
Crago	Hobson	Oldfield	Taylor, Colo.
Cravens	Howard	Olmsted	Taylor, Ohio
Crumpacker	Howell	O'Shaunessy	Towner
Daugherty	Hughes, W. Va.	Palmer	Turnbull
Davidson	Hull	Patten, N. Y.	Tuttle
Davis, Minn.	Jackson	Payne	Underwood
Davis, W. Va.	Jacoway	Peters	Vare
De Forest	James	Pickett	Vreeland
Dickinson	Johnson, Ky.	Plumley	Webb
Difenderfer	Kahn	Porter	Weeks
Dixon, Ind.	Kent	Pou	Wilder
Driscoll, M. E.	Kitchin	Pray	Wilson, Ill.
Dupré	Konig	Prouty	Wilson, N. Y.
Estopinal	Lafean	Pujo	Wilson, Pa.
Fergusson	Lafferty	Rainey	Woods, Iowa
Finley	Lawrence	Randell, Tex.	Young, Mich.
Focht	Legare	Ransdell, La.	

So the motion was rejected.

The Clerk announced the following pairs:

For the session:

Mr. RIORDAN with Mr. ANDRUS.

Mr. PALMER with Mr. HILL.

Mr. LITTLETON with Mr. DWIGHT.

Mr. BARTLETT with Mr. BUTLER.

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Until further notice:

Mr. GOULD with Mr. HINDS.

Mr. JAMES with Mr. LONGWORTH.

Mr. MARTIN of Colorado with Mr. WOODS of Iowa.

Mr. LEGARE with Mr. WILSON of Illinois.

Mr. LINDSAY with Mr. WILDER.

Mr. CRAVENS with Mr. WEEKS.

Mr. LITTLEPAGE with Mr. VREELAND.

Mr. ROBINSON with Mr. VARE.

Mr. WILSON of New York with Mr. TOWNER.

Mr. WILSON of Pennsylvania with Mr. TAYLOR of Ohio.

Mr. TUTTLE with Mr. SULLOWAY.

Mr. TURNBULL with Mr. SMITH of California.

Mr. TAYLOR of Colorado with Mr. SAMUEL W. SMITH.

Mr. TAYLOR of Alabama with Mr. SELLS.

Mr. TAGGART with Mr. SCOTT.

Mr. STANLEY with Mr. ROBERTS of Massachusetts.

Mr. SMALL with Mr. PROUTY.
Mr. SHERWOOD with Mr. PRAY.
Mr. SAUNDERS with Mr. PORTER.
Mr. SABATH with Mr. PLUMLEY.
Mr. RANSDELL of Louisiana with Mr. PICKETT.
Mr. RUCKER of Missouri with Mr. PAYNE.
Mr. RANDELL of Texas with Mr. OLMSTED.
Mr. RAINEY with Mr. NELSON.
Mr. POU with Mr. NEEDHAM.
Mr. PETERS with Mr. MOORE of Pennsylvania.
Mr. O'SHAUNESSY with Mr. MOON of Pennsylvania.
Mr. OLDFIELD with Mr. MCGUIRE of Oklahoma.
Mr. HOBSON with Mr. LAWRENCE.
Mr. MORGAN of Louisiana with Mr. LAFEAN.
Mr. MAYS with Mr. KAHN.
Mr. MAHER with Mr. HUGHES of West Virginia.
Mr. MCKELLAR with Mr. HOWELL.
Mr. MCCOY with Mr. HIGGINS.
Mr. LINTHICUM with Mr. HENRY of Connecticut.
Mr. KONIG with Mr. HEALD.
Mr. KITCHIN with Mr. HARTMAN.
Mr. JOHNSON of Kentucky with Mr. HARRIS.
Mr. HULL with Mr. GREENE of Vermont.
Mr. JACOWAY with Mr. GUERNSEY.
Mr. HOWARD with Mr. GREEN of Iowa.
Mr. HART with Mr. GARDNER of New Jersey.
Mr. HARRISON of New York with Mr. FULLER.
Mr. GUDGER with Mr. FORDNEY.
Mr. GOODWIN of Arkansas with Mr. FOCHT.
Mr. GOLDFOGLE with Mr. MICHAEL E. DRISCOLL.
Mr. GEORGE with Mr. DE FOREST.
Mr. FERGUSSON with Mr. DAVIS of Minnesota.
Mr. ESTOPINAL with Mr. CRUMPACKER.
Mr. DIXON of Indiana with Mr. CRAGO.
Mr. DIFENDERFER with Mr. COPLEY.
Mr. DICKINSON with Mr. CALDER.
Mr. CLARK of Florida with Mr. BURKE of South Dakota.
Mr. BURNETT with Mr. BURKE of Pennsylvania.
Mr. ANSBERRY with Mr. BARCHFELD.
Mr. AIKEN of South Carolina with Mr. AUSTIN.
Mr. PATTEN of New York with Mr. MCCALL.
Mr. PUJO with Mr. MCMORRAN.
Mr. UNDERWOOD with Mr. MANN.
On this vote:
Mr. FINLEY with Mr. DAVIDSON.

Mr. BARTLETT. Did the gentleman from Pennsylvania, Mr. BUTLER, vote?

The SPEAKER. He did not.

Mr. BARTLETT. I am paired with him, and I desire to change my vote and to vote "present."

Mr. MANN. I am paired with the gentleman from Alabama, Mr. UNDERWOOD, and I desire to withdraw my vote and to be recorded present.

Mr. PARRAN. I am paired with the gentleman from Maryland, Mr. TALBOTT, and desire to withdraw my vote and vote "present."

The result of the vote was announced as above recorded.

The SPEAKER. A quorum is present. The Doorkeeper will open the doors.

MESSAGE FROM THE PRESIDENT.

A message, in writing, from the President of the United States was communicated to the House by Mr. Latta, one of his secretaries.

PENSIONS.

Mr. RUSSELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House to consider House bill 27475.

The SPEAKER. The motion is to go into the Committee of the Whole House to consider pension bills on the Private Calendar.

Mr. RODDENBERY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RODDENBERY. Do I understand that the Chair is submitting the motion as stated by the gentleman from Missouri [Mr. RUSSELL].

The SPEAKER. The Chair is submitting the motion as it ought to be stated.

The question was taken; and on a division (demanded by Mr. RUSSELL) there were—ayes 91, noes 37.

Mr. MOON of Tennessee. Mr. Speaker, I make the point of no quorum.

Mr. FITZGERALD. I make the point of order that the presence of a quorum has just been disclosed, and that the point of no quorum is dilatory. There has been no other business transacted since the presence of a quorum was disclosed.

Mr. MOON of Tennessee. There has been other business transacted.

The SPEAKER. The Chair thinks the point is dilatory.

Mr. MOON of Tennessee. Mr. Speaker, may I ask what the vote was?

The SPEAKER. The vote was 91 ayes and 37 noes.

Mr. MOON of Tennessee. Does it not appear from that vote that there is no quorum?

The SPEAKER. On a yea-and-nay vote immediately before this the presence of a quorum was developed.

Mr. MOON of Tennessee. The quorum may have left the Hall, and the rising vote just taken shows that there is less than a quorum here.

The SPEAKER. There were 240 Members here on the roll call.

Mr. MOON of Tennessee. Yes; and only 128 have voted on this question.

The SPEAKER. That is not conclusive.

Mr. FITZGERALD. Mr. Speaker, the invariable practice is that when no business intervenes between a roll call and a division the point of no quorum is held to be dilatory.

Mr. MOON of Tennessee. There was business intervening, namely, the motion to go into the Committee of the Whole House to consider pensions.

The SPEAKER. It was on that motion. The invariable practice since the Chair has been a Member of this House, 18 years, has been that where a roll call develops a good, substantial quorum, and the point of no quorum has been made before any other business is transacted, a quorum has been assumed to be present. The Chair has been very liberal about construing that.

Mr. MOON of Tennessee. I just want to call attention to the fact that the assumption of the Chair is probably not correct. The roll call shows that it is not.

The SPEAKER. No; the roll call did not show that.

Mr. MOON of Tennessee. I mean to say that the last vote did.

The SPEAKER. That can not show it, because a whole lot of Members sat around who did not stand up at all. The ayes have it, and the motion is agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House, with Mr. MURRAY in the chair.

The CHAIRMAN. The Clerk will report the first bill.

Mr. RUSSELL. Mr. Chairman, I desire to call up the bill H. R. 27475, and I ask that it be reported.

Mr. RODDENBERY. Mr. Chairman, I ask for the regular order.

The CHAIRMAN. The regular order is the first pension bill on the calendar, which is the bill the Clerk is about to read. The Clerk will report the bill.

Mr. TILSON. A parliamentary inquiry, Mr. Chairman.

Mr. RODDENBERY. Mr. Chairman——

The CHAIRMAN. The gentleman from Connecticut [Mr. TILSON] is recognized.

Mr. TILSON. May I ask whether bills from the Military Affairs Committee have not been considered on the same footing with pension bills?

Mr. RUSSELL. Pension bills have precedence on the second Friday of the month.

The CHAIRMAN. The Chair is prepared to rule as indicated by the gentleman from Missouri [Mr. RUSSELL]. The Chair reads from page 390 of the Manual:

> On the second and fourth Fridays of each month preference shall be given to the consideration of private pension claims—

And so forth. Under that provision private pension claims are preferred on this Friday.

Mr. TILSON. Would the Chair hold that immediately after the pension bills have been disposed of bills from the Military Affairs Committee to remove disabilities would be in order?

The CHAIRMAN. The Chair will be prepared to rule on that question when the pension bills have been disposed of.

Mr. RODDENBERY. Mr. Chairman, I desire to submit a point of order, that the first pension bill is not in order unless the bill is first on the Private Calendar. I call the attention of the Chair to section 847, page 375, of the Manual, which is as follows:

> In Committees of the Whole House business on their calendars may be taken up in regular order, or in such order as the committee may determine, unless the bill to be considered was determined by the House at the time of going into committee.

Now, I respectfully submit that the motion made by the gentleman from Missouri [Mr. RUSSELL] was that the House resolve itself into Committee of the Whole House for the consideration of bills on the Private Calendar. Under section 847 bills on the Private Calendar come up in their regular order.

The CHAIRMAN. The Chair is prepared to rule. The gentleman from Georgia seems to have fallen into the error that the

motion as put by the Speaker was to go into Committee of the Whole House on the state of the Union. The Chair heard the Speaker put the motion, and it was put that the House go into Committee of the Whole House for the purpose of the consideration of private pension bills.

Mr. RODDENBERY. And the language the Speaker referred to appears specifically in the rule, it shall be in order to entertain a motion for the House to resolve itself into Committee of the Whole House to consider business on the Private Calendar in the following order:

On the second and fourth Fridays of each month preference shall be given to the consideration of private pension claims and bills removing political disabilities and bills removing the charge of desertion.

It is purely a matter of language, and under the rule private pension claims and bills removing political disabilities and bills removing charges of desertion are all of equal priority and equal dignity, and the language does not give private pension bills any priority over the right to call up a bill for the removal of disabilities I have referred to, and the Chair will find no ruling where it has ever been so held.

Mr. MANN. Mr. Chairman, I think the last statement of the gentleman from Georgia is quite correct, nor do I understand that the Chair has ruled otherwise. Pension bills, bills to remove political disabilities, bills to remove the charge of desertion have equal standing on the second and fourth Fridays of each month.

The CHAIRMAN. The Chair has ruled in accordance with the statement of the gentleman from Illinois.

Mr. MANN. I understood that was the position of the Chair, but I understood the position of the gentleman from Georgia was that other bills on the calendar could be taken up ahead of these bills. The rule gives the preference to these bills on this day.

Mr. RODDENBERY. Mr. Chairman, I am in thorough accord with the gentleman from Illinois.

The CHAIRMAN. If the gentleman is, the Chair will rule that under the terms of the rule, as stated on page 390 of the Manual, to which the Chair has referred, on the second and fourth Fridays of the month preference shall be given to the consideration of private pension claims, bills to remove political disabilities, and bills to remove the charge of desertion. The Clerk will report the first bill of that character on the Private Calendar.

Mr. RUSSELL. Mr. Chairman, if I understand correctly, the bill I ask to have considered is a pension bill on the Private Calendar.

The CHAIRMAN. The bill to remove a political disability comes ahead of that bill which the gentleman desires to have considered at this time.

Mr. RUSSELL. Mr. Chairman, I move that the committee proceed to the consideration of the bill H. R. 27475, which is a private pension bill.

Mr. RODDENBERY. Mr. Chairman, I make the point of order that that is not the first bill under the rule on the Private Calendar.

The CHAIRMAN. The point of order is not well taken, because the committee has the right to determine which bill shall be taken up for consideration and in what order. The Chair therefore overrules the point of order and will put the motion of the gentleman from Missouri.

Mr. RODDENBERY. Mr. Chairman, I move as a substitute for the gentleman's motion that the committee proceed to consider the bill S. 4778, an act to correct the military record of John T. Haines.

Mr. RUSSELL. Mr. Chairman, if I understand correctly, the bill I asked to be considered is a pension bill and the first pension bill on the Private Calendar.

I make the point of order, Mr. Chairman, that the substitute is not in order.

The CHAIRMAN. The point of order of the gentleman from Missouri is not well taken.

Mr. MANN. I make the point of order that the bill which the gentleman from Georgia proposes to substitute is not in order, because it is not a bill to remove a political disability nor to remove a charge of desertion.

The CHAIRMAN. The Chair will sustain the point of order made by the gentleman from Illinois, since the bill is not a bill to remove a charge of desertion, but is a bill to correct the military record of John T. Haines. The question is on the motion made by the gentleman from Missouri.

Mr. RODDENBERY. Mr. Chairman, I desire to offer a substitute.

The CHAIRMAN. The motion made by the gentleman from Missouri is that the committee proceed to the consideration of the bill H. R. 27475, a private pension bill.

Mr. RODDENBERY. I move to amend by way of substitute that the Committee of the Whole now proceed to consider the bill H. R. 15241, a bill for the relief of Fred R. Payne.

Mr. MANN. I make the point of order that that is not a privileged bill.

The CHAIRMAN. The gentleman from Illinois makes the point of order against the motion of the gentleman from Georgia, and after reference to the bill the Chair rules that the point of order is well taken.

Mr. RODDENBERY. Mr. Chairman, I move an amendment, by way of substitute, that the committee now take up for consideration the bill (S. 6408) for the relief of Margaret McQuade.

Mr. FITZGERALD. Mr. Chairman, I make the point of order that the motion is dilatory. The gentleman has already proposed two amendments that were clearly not in order, and the purpose is apparent that it is merely to obstruct the transaction of business.

The CHAIRMAN. The Chair is unwilling to determine at this time that the point of order is well taken, for the reason that while the two bills referred to are not in order under the rule, this one may be.

Mr. FITZGERALD. It is apparent that the gentleman by doing this is not attempting to have the committee consider the bill, but merely to obstruct business.

Mr. MANN. Mr. Chairman, I make the point of order that the bill is not within the rule.

The CHAIRMAN. The Chair sustains the point of order made by the gentleman from Illinois, that the bill is not within the rule.

Mr. RODDENBERY. Mr. Chairman, I move an amendment, by way of substitute, that the committee proceed to consider the bill (H. R. 5221) granting a pension claim to Joseph Hunter.

Mr. FITZGERALD. Mr. Chairman, I insist upon the point of order that the motion of the gentleman from Georgia is dilatory.

The CHAIRMAN. The gentleman from New York makes the point of order that the motion of the gentleman from Georgia is dilatory. The Chair sustains the point of order. The question is on the motion of the gentleman from Missouri that the committee proceed to consider the bill H. R. 27475.

The question was taken; and on a division (demanded by Mr. RODDENBERY) there were—ayes 97, noes 5.

So the motion was agreed to.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

A bill granting pensions and increase of pensions to certain soldiers and sailors of the Civil War, and certain widows and dependent children of soldiers and sailors of said war.

Mr. RUSSELL. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent to dispense with the first reading of the bill. Is there objection?

Mr. MOON of Tennessee. Mr. Chairman, I object.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of William Andrews, late of Company C, Twenty-second Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Emma L. Cole, widow of William C. Cole, acting assistant surgeon, United States Army, and pay her a pension at the rate of $12 per month.

The name of Leonard A. Harper, late of Company G, Sixth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

Julia A. Rouse, $12 per month.

Mr. TRIBBLE. Mr. Chairman, I make the point of order that the Clerk is not reading the bill in full.

The CHAIRMAN. The Clerk will proceed with the reading of the bill in full.

The Clerk read as follows:

The name of Julia A. Rouse, widow of Oliver H. P. Rouse, late of Company D, Eighteenth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Louisa Pitts, widow of Jacob Pitts, late of Company D, One hundred and thirteenth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Jeshuron Bailey, late of Company A, One hundred and eighty-sixth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Evan Miller, late of Company D, One hundred and fourth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Solomon Barr, late of Company K, Two hundred and thirteenth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James E. Ashwill, late of Company F, One hundred and fortieth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Elizabeth M. Rutherford, widow of George Rutherford, late of Company F, Second Regiment Minnesota Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Torger Hansod, late of Company G, Fifth Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John D. Sampson, late of Company K, One hundred and ninety-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Julia A. Suver, former widow of Llewellyn J. Thacker, late of Company K, Ninety-fifth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Allen M. Gibbons, late of Company D, Ninth Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William Dalton, late of Company G, Eighty-third Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mathias O'Biennis, late of Company E, Seventh Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Rosetta Graves Moore, former widow of Daniel Graves, late of Company A, Second Regiment West Virginia Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of Mary Shattuck, widow of George M. Shattuck, late of Company I, Ninth Regiment Illinois Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of Marcus D. Stevens, late of Company A, One hundred and first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Daniel Pope, late of Company G, Fifth Regiment Pennsylvania Reserve Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of George W. Stahl, late of Company C, Twenty-first Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Clinton S. Palmer, late of Company B, Thirty-third Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James W. Cannon, late of Company G, Seventeenth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Emma E. Kanzleiter, widow of Daniel Kanzleiter, late of Company E, One hundred and thirty-sixth Regiment Ohio National Guard Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Lorenco D. Hays, late of Company B, Forty-ninth Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Thomas Palmer, late of Company A, Gasconade County Battalion Missouri Home Guards, and pay him a pension at the rate of $12 per month.

The name of Jeremiah Wildasinn, late of Company H, One hundred and fifteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Joseph P. Dawes, late of Company H, Nineteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Jennie Harding, widow of Hewitt Harding, late of Company G, One hundred and ninety-first Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Gideon F. Denton, late of Company H, Seventh Regiment Tennessee Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of David W. Stafford, late of Company D, Eighty-third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of David A. Wynegar, late of Company F, Sixteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of William T. West, late of Company C, Ninth Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Charles P. Harder, late of Company C, One hundred and eighty-seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Catherine M. Hazelton, widow of Frank B. Hazelton, late first lieutenant and adjutant Twenty-seventh Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of John Ent, late of Company K, Ninth Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Lorinda D. Smith, former widow of Harvey H. Newton, late of Company H, One hundred and seventy-second Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Frederick Kinner, late of Company H, Fifty-fifth Regiment Kentucky Mounted Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Calvin D. Weatherman, late of Company F, First Regiment Arkansas Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Carrie C. Washburn, helpless and dependent child of John Washburn, late of Company E, Twenty-ninth Regiment Massachusetts Volunteer Infantry, and Company D, Thirty-sixth Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Sarah Bray, widow of Thomas Bray, late of Company B, Fifth Regiment United States Colored Volunteer Heavy Artillery, and pay her a pension at the rate of $12 per month.

The name of David H. Martin, late of Company C, Fifty-first Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John P. Locey, late of Company D, Fifth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Jesse Clark, late of Company C, Thirty-sixth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of James Hodges, late of Company H, One hundredth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Jesse Lydick, dependent father of Noah Lydick, late of Company A, Seventeenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of George W. Wallace, late of Company D, One hundred and twentieth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $45 per month in lieu of that he is now receiving.

The name of Milton W. Burnham, late of Company K, Thirty-first Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of James K. Waltermire, late of Company I, Third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $20 per month.

The name of Walter S. Reeder, late of Company C, Seventy-fifth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary A. Clark, widow of Benjamin F. Clark, late of Company D, Seventh Regiment Maryland Volunteer Infantry, and Eighteenth Company, Second Battalion Veteran Reserve Corps, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Senoblo Cordova, late of Capt. Graydon's Independent company of New Mexico Mounted Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Harriet E. Downs, widow of Edward S. Downs, late of Company F, Sixth Regiment Connecticut Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Susan Jenkins, widow of Nathaniel Jenkins, late of Company A, Sixth Regiment Kentucky Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of George A. Clevinger, late of Company D, Thirteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Caroline R. Springer, widow of William O. G. Springer, late surgeon's steward U. S. S. Alexandria, United States Navy, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Elizabeth Gregg, widow of James Gregg, late of Company A, Fifth Regiment Rhode Island Volunteer Artillery, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Naaman R. Aller, late of Company C, Second Regiment United States Colored Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Elizabeth Shock, widow of Lemuel W. Shock, late of Company I, Ninety-ninth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Mary M. Ackerman, widow of Curtis Ackerman, late of Company E, One hundred and twenty-fourth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Sarah A. Jefferson, widow of Joseph Jefferson, late of Company K, Eighth Regiment United States Colored Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Jasper N. Baker, late of Company F, One hundred and fifty-third Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Sophia A. Smith, widow of John Smith, late of Company C, Twenty-fifth Regiment Maine Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Oliver Kimmel, late of Company I, First Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ira C. Knoll, late of Company A, Forty-fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Samuel J. Fulwider, late of Company B, Tenth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James R. Le Lacheur, late of Company L, Sixth Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary P. King, widow of Michael D. King, late of Company B, Second Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Bettie Lawson, helpless and dependent child of John M. Lawson, late of Company F, Sixth Regiment Tennessee Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of John W. Boileau, late of Company A, Twenty-third Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Herriet M. Engley, widow of Davis B. Engley, late of Companies G and I, Thirty-sixth Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Theodore L. Trew, late of Company D, Fifty-second Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Rebecca Simmons, widow of Lemuel C. Simmons, late of Company B, Fifty-fourth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Emanuel B. Silcott, late of Company E, Sixth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Daniel Wilson, late of Company H, Fourth Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Leah A. Jackson, widow of Eliphalet Jackson, late of Company K, One hundredth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Patrick L. Kennedy, late of Company F, Second Regiment Massachusetts Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Sarah Garber, widow of Charles Garber, late of Company C, One hundred and thirty-eighth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Wilson Murphy, late of Company D, Seventeenth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Watson Boyden, late of Company A, Twenty-seventh Regiment New Jersey Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William F. Ramsey, late of Company I, Second Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Gordon F. Stamps, late of Company M, Ninth Regiment Kansas Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary L. Brent, widow of James K. Brent, late of Company E, One hundred and thirty-eighth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Sarah S. Sherman, former widow of Kinsman P. Chase, late of Company F, Ninth Regiment Vermont Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Joseph L. Buckley, late of Company E, First Regiment West Virginia Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Daniel Carey, late of Company F, Eighty-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Nancy A. Cotterell, widow of John Cotterell, late of Company H, One hundred and thirtieth Regiment Illinois Volunteer Infantry, and Company B, Seventy-seventh Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of John Cavin, late of Company H, Ninth Regiment Kansas Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Elizabeth O'Reiley, widow of Peter O'Reiley, late of Company H, Thirty-fifth Regiment New Jersey Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James Hall, late of Company E, Sixteenth Regiment Missouri Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of John P. Hultquist, late of Company D, Third Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Lena Lehr, widow of John Lehr, late of Company I, Third Regiment Pennsylvania Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of Josephine Stewart, helpless and dependent child of Alfred Stewart, late of Company L, Seventh Regiment Illinois Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of John Ralston, late of Company K, One hundred and sixty-first Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Eliza A. Cuthbert, widow of Elijah Cuthbert, late of Company E, First Regiment Michigan Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Elsie A. Gibbs, widow of John Gibbs, late of Company H, Seventy-eighth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Daniel W. Green, late of Company G, Sixth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William S. Randlett, late of Company E, First Regiment Maine Volunteer Heavy Artillery, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Benjamin Daveler, late of Company C, Twentieth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John L. Phillips, late of Company F, One hundred and fifteenth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Abraham L. McLevain, late of Company M, Seventeenth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John McCloud, late of Company C, Thirteenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Webb, late of Company E, Ninth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $45 per month in lieu of that he is now receiving.

The name of Mary E. Bacon, widow of George T. Bacon, late of Company A, Twentieth Regiment Maine Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Lissette M. Minden, widow of George E. Minden, late of Company G, Tenth Regiment Missouri State Militia Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Robert Piatt, late of Company H, One hundred and twelfth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Sena Shuster, widow of Smith J. Shuster, late of Company B, One hundred and forty-ninth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Adolphus D. Lovan, late of Company H, One hundred and fifty-fifth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Wilson H. Richards, late of Company E, Sixty-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Margaret C. De Puy, former widow of Joseph W. Roberts, late of Company F, Twenty-seventh Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of John H. Norris, late of Company K, First Regiment Pennsylvania Volunteer Rifles, and Company H, One hundred and ninetieth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of George L. Creighton, late of Company C, Sixteenth Regiment New Hampshire Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Oliver Jones Tresse, late of Company I, Eighth Regiment California Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Izanna J. Kemp, widow of George H. Kemp, late of Company E, Fourth Regiment Massachusetts Volunteer Heavy Artillery, and pay her a pension at the rate of $12 per month.

The name of James David Rich, late of Company A, Second Regiment Tennessee Mounted Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Charles Reynolds, late chaplain, Eighty-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Abner O. Davis, late of Company H, Eighteenth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George W. Tyler, late of Company D, Thirty-first Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Jesse Brown, late of Company A, Seventeenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Mary A. Williams, widow of Richard F. Williams, late of Company C, One hundred and seventy-third Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John Adair Agey, helpless and dependent child of William A. Agey, late of Company D, Fifty-sixth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of George F. Wheeler, late of Company A, Seventh Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Roxana Alvira Mansfield, former widow of Orris C. Peebles, late of Company G, Ninety-fifth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Elizabeth Canady, widow of Robert W. Canady, late of Company H, Twenty-sixth Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Caroline Koch, former widow of Jonathan Kennedy, late of Company H, One hundred and fourth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Frances M. Dille, widow of John B. Dille, late of Company K, Seventy-sixth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Melvina W. Smith, widow of Charles H. Smith, late of Company K, Seventy-sixth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Charles E. Bigelow, late of Company D, First Regiment Illinois Volunteer Light Artillery, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Arcenith F. Walker, late of Company K, Tenth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Francis B. Overlook, late of Company F, Ninth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

Mr. MOON of Tennessee. Mr. Chairman, I desire to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MOON of Tennessee. Mr. Chairman, pending the reading of this bill, it is apparent that there are only about 20 Members on the floor of the House. If it is in order, I will make the point of no quorum.

The CHAIRMAN. Manifestly, there is no quorum present. The Clerk will continue to read.

Mr. MOON of Tennessee. But, Mr. Chairman, I do not think the Clerk should read without the presence of a quorum.

The CHAIRMAN. The Clerk will read unless the gentleman makes a point of no quorum.

Mr. MOON of Tennessee. I make the point of no quorum.

The CHAIRMAN. Evidently there is no quorum present, and the Clerk will call the roll.

Mr. TRIBBLE. Mr. Chairman, I make the point of order that the Clerk has no right to call the roll unless some Member of the House makes such a motion.

The CHAIRMAN. The point of order is overruled. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Aiken, S. C.	Curley	Gould	Knowland
Ames	Curry	Greene, Vt.	Korbly
Andrus	Daugherty	Gregg, Tex.	Lafean
Ansberry	Davenport	Griest	Lafferty
Anthony	Davidson	Gudger	Lamb
Ashbrook	Davis, Minn.	Guernsey	Langley
Austin	Davis, W. Va.	Hamill	Lawrence
Ayres	De Forest	Hammond	Legare
Barchfeld	Dickinson	Harris	Lenroot
Barnhart	Difenderfer	Harrison, N. Y.	Levy
Bartholdt	Dixon, Ind.	Hart	Lewis
Bates	Driscoll, M. E.	Hartman	Lindsay
Berger	Dwight	Haugen	Littleton
Bradley	Ellerbe	Hayes	Longworth
Broussard	Estopinal	Heald	McCall
Burke, Pa.	Evans	Helm	McCoy
Burke, S. Dak.	Fairchild	Henry, Conn.	McGillicuddy
Butler	Finley	Higgins	McGuire, Okla.
Calder	Fitzgerald	Hill	McKellar
Callaway	Floyd, Ark.	Hobson	McMorran
Campbell	Focht	Howell	Martin, Colo.
Candler	Fordney	Howland	Matthews
Cantrill	Foss	Hull	Mays
Clark, Fla.	Fuller	Humphreys, Miss.	Moon, Pa.
Clayton	Gardner, Mass.	Jacoway	Moore, Pa.
Copley	Gardner, N. J.	Johnson, Ky.	Moore, Tex.
Covington	Gill	Jones	Morse, Wis.
Crago	Glass	Kent	Needham
Cravens	Goldfogle	Kindred	Nelson
Crumpacker	Goodwin, Ark.	Kitchin	Nye

Oldfield	Pujo	Sisson	Townsend
Olmsted	Randell, Tex.	Smith, Saml. W.	Turnbull
O'Shaunessy	Ransdell, La.	Smith, Cal.	Tuttle
Palmer	Rauch	Sparkman	Underwood
Patten, N. Y.	Redfield	Stack	Vare
Patton, Pa.	Reyburn	Stephens, Tex.	Vreeland
Peters	Richardson	Sterling	Webb
Pickett	Roberts, Mass.	Sulloway	Weeks
Plumley	Robinson	Taylor, Ala.	Wilder
Porter	Rucker, Mo.	Taylor, Colo.	Wilson, N. Y.
Pou	Sells	Thayer	Woods, Iowa
Prouty	Sherwood	Towner	Young, Mich.

The committee rose; and the Speaker having resumed the chair, Mr. MURRAY, Chairman of the Committee of the Whole House, reported that that committee had found itself without a quorum, and that he had directed the roll to be called; that 216 Members answered to their names, a quorum, and he reported the names of the absentees.

The committee resumed its sitting.

The CHAIRMAN. The Clerk will resume the reading of the bill.

The Clerk read as follows:

The name of John Welcher, late of Company G, Eighth Regiment West Virginia Volunteer Infantry, and Company G, Seventh Regiment West Virginia Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Jacob F. Hoffman, late of Company A, Two hundred and eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Mary A. Chase, widow of Benjamin F. Chase, late of Company K, First Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Jacobena McGath, former widow of Jacob Schneider, late of Company F, Fifth Regiment Ohio Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

Mr. RAKER. Mr. Chairman, I ask unanimous consent that the further reading of the bill may be dispensed with.

The CHAIRMAN. Is there objection?

Mr. MOON of Tennessee. I object.

Mr. TRIBBLE. I object.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

The name of Henry M. McCarty, late of Eighteenth Independent Battery, New York Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Emma Bee, widow of Benjamin W. Bee, late of Company K, Fourteenth Regiment West Virginia Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Lizzie Dovener, widow of Robert G. Dovener, late assistant surgeon, Fifteenth Regiment West Virginia Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Alexander R. Walters, late of Company F, One hundred and sixty-ninth Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Cicero Wingfield, late of Company D, Twenty-eighth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jesse M. Manson, late of Company A, One hundred and twenty-first Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles Stetson, late of Company G, Seventh Regiment Virginia Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Mary H. Hurlbut, dependent mother of William H. Farner, late of Company C, Forty-eighth Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Anna V. Rice, widow of Calvin M. Rice, late of Company H, Eighty-third Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Elizabeth J. Todd, former widow of Ephraim L. Webb, late of Company E, Forty-fourth Regiment Missouri Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Ann Charlotte Timberman, widow of James C. Timberman, late of Company D, One hundred and thirty-eighth Regiment Ohio National Guard Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Benjamin Boggess, late of Company A, Thirteenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Perry G. Shaver, late of Company D, Seventh Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Agnes C. Wunderligh, helpless and dependent child of Edward Wunderligh, late quartermaster sergeant Fifth Regiment United States Cavalry, and pay her a pension at the rate of $12 per month.

The name of William D. Reed, late of Company K, One hundred and forty-eighth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of John C. Babbs, late of Company F, Thirty-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Henry Eller, late of Company G, One hundred and forty-seventh Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Louisa L. Rosengrant, former widow of Jacob O. Thompson, late of Company B, First Regiment Missouri Volunteer Engineers, and pay her a pension at the rate of $12 per month.

The name of Amos Smith, late of Company G, Fifty-first Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John McMillen, late of Company F, Twenty-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Mary J. Weddel, helpless and dependent child of William P. Weddel, late of Company A, Twelfth Regiment Michigan Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Francis M. Raburn, late of Company H, Seventy-third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of George W. Copley, late of Company B, Forty-second Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Melvin J. Ringler, late of Company C, Sixty-fourth Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jacob Shivler, late of Company K, Twenty-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Tilla L. Eckard, widow of Calvin J. Eckard, late of Company B, Thirteenth Regiment West Virginia Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Jacob N. Easterly, late of Company A, Thirteenth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Harrison A. Galloway, late of Company D, Seventy-fourth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary F. Hess, former widow of Thomas K. Hess, late of Company F, Thirty-second Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Jessie Banta, helpless and dependent child of Perry Banta, late of Company G, Twenty-fourth Regiment United States Colored Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of George H. Farrar, late of Company D, Fourth Regiment Wisconsin Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Bridget Tierney, widow of Thomas Tierney, late of Company A, Sixty-third Regiment New York Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Arrena T. D. Beverly, widow of William L. Beverly, late scout and spy, United States Volunteers, and pay her a pension at the rate of $12 per month.

The name of Levi Shaw, late of Company A, Second Regiment Potomac Home Brigade, Maryland Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Maria A. Potter, widow of Edwin Potter, late of Company H, One hundred and fifty-second Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of David R. Edmonds, late of Company A, Thirty-fifth Regiment Kentucky Mounted Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Lucien G. Winney, late of Company C, Second Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Mary A. Missner, former widow of Mitchell Haynes, late of Company H, One hundred and second Regiment New York Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of John M. Allender, late of Company B, Fifty-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ova O. Nutting, late of Company B, Twelfth Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Louise Taylor, widow of Charles C. Taylor, late of Company F, One hundred and seventy-third Regiment New York Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Lorrenna J. Wilkinson, widow of Alfred Wilkinson, late acting third assistant engineer, United States Navy, and pay her a pension at the rate of $12 per month.

The name of Harriet Littlefield, former widow of Francis W. Fitzgerald, late of Company D, Thirteenth Regiment New Hampshire Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Margaret Matheney, widow of Michael Matheney, late of Company E, Thirteenth Regiment West Virginia Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Rachel Sturgeon, widow of William A. Sturgeon, late of Company E, Thirty-sixth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Lucy Elma Sturgeon, helpless and dependent daughter of said William A. Sturgeon, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Rachel Sturgeon, the name of said Lucy Elma Sturgeon shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Rachel Sturgeon.

The name of Mary Ordner, widow of John Ordner, late of Company A, Tenth Regiment New York Volunteer Cavalry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The name of Mary C. Titman, widow of Baltus T. Titman, late of Company D, Second Regiment New Jersey Volunteer Cavalry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Joseph L. Titman, helpless and dependent child of said Baltus T. Titman, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Mary C. Titman, the name of said Joseph L. Titman shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Mary C. Titman.

The name of Samuel K. Howard, late of Company K, Fiftieth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Francis Short, late of Company C, First Regiment Delaware Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary E. Thacker, widow of James R. Thacker, late of Company B, Sixth Regiment Tennessee Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Seth A. Bonney, late of Company H, Fifty-fourth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William H. Cummings, late of Company I, Twenty-fourth Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of John R. Cravens, late of Company B, Fourth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Sallie Arlington, widow of Henry P. Arlington, late of Company A, Sixty-ninth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Lucy A. Warner, former widow of Oliver Warner, late of Company F, Thirty-seventh Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Eliza Haines, helpless and dependent child of William Haines, late of Company A, Forty-ninth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Eliza J. Blythe, widow of John Blythe, late of Company B, First Regiment Minnesota Volunteer Heavy Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Frances C. Babcock, widow of Leonard G. Babcock, late of Company E, Eleventh Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Samuel S. Jones, late of Company B, Twelfth Regiment Kansas Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Emily S. Van Beuren, widow of Sylvester Van Beuren, late second-class fireman on the U. S. S. New Hampshire, Cimmeron, and Princeton, United States Navy, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Jane Fleming, widow of James Fleming, late of Company G, Two hundred and sixth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Roxanna Fleming, helpless and dependent daughter of said James Fleming, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Jane Fleming, the name of said Roxanna Fleming shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Jane Fleming.

The name of William M. Temple, late of Company K, One hundred and fifteenth Regiment Ohio Volunteer Infantry, and Company K, One hundred and eighty-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Lavenia A. Drennen, widow of George A. Drennen, late of Company E, First Regiment West Virginia Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Emma C. Devor, widow of Richard Devor, late of Company D, Seventy-seventh Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Helen F. Hoffman, widow of Thomas W. Hoffman, late of Company A, Two hundred and eighth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Elizabeth J. Lane, widow of Josiah Lane, late of Company A, First Regiment Indiana Volunteer Heavy Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Martha Dickinson, widow of James D. Dickinson, late of Company D, Seventeenth Regiment Michigan Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of William T. Mills, late of Company E, Forty-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of William D. Crawford, late of Company A, One hundred and ninety-second Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Isaac Jones, late of Companies D, E, and K, Nineteenth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Alice C. Kies, widow of William P. Kies, late of Battery K, Third Regiment New York Volunteer Light Artillery, and pay her a pension at the rate of $12 per month.

The name of Charles Rosenkranz, dependent and helpless child of August Rosenkranz, late of Company G, Seventh Regiment New York Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Mary A. Hooker, widow of James J. Hooker, late of Company C, Fifteenth Regiment Illinois Volunteer Infantry, and Veteran Battalion Fourteenth and Fifteenth Regiments Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Mary F. Murphy, widow of Christopher Murphy, late of Company H, Twenty-ninth Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Frances M. Rounds, widow of Henry Rounds, late of Company B, Third Regiment Ohio Volunteer Cavalry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Pearl Rounds, helpless and dependent daughter of said Henry Rounds, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Frances M. Rounds, the name of said Pearl Rounds shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Frances M. Rounds.

The name of James M. Butterworth, late of Company A, One hundred and forty-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Samuel A. Pearce, late of Company B, One hundred and ninety-third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Fredericka Welfley, now Wurthner, former widow of Gottlieb Frederick Welfley, late of Company H, Sixteenth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Thomas Smith, late ship's corporal, United States Navy, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William G. Stine, late of Company B, Two hundredth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James McEvoy, late of Company G, Seventy-sixth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John C. O'Bryan, late of Company K, Forty-fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Bavin Copeland, late of Company C, Seventy-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of James H. Rowland, late of Company K, One hundred and sixty-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Caroline A. Dodge, widow of John W. Dodge, late of Company F, Second Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Elizabeth W. Wilcox, widow of Benjamin Wilcox, late of Company D, One hundred and fifty-second Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Emily A. Kennedy, widow of Oliver H. S. Kennedy, late of Companies B and F, Fortieth Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Mary Gourno, now Earle, widow of Louis Gourno, late of Company E, Sixty-fourth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Anna M. Consaul, former widow of Elijah G. Crane, late of Company C, One hundred and thirtieth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of James T. Kissinger, late of Company B, Twenty-third Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Levi P. Miller, late of Company F, One hundred and sixteenth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary Hahn, widow of Lewis Hahn, late of Company F, One hundred and ninety-second Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Joanna Swander, widow of William H. Swander, late assistant surgeon, Seventy-ninth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Martha Pendergrass, widow of James Pendergrass, late of Company F, Twenty-ninth Regiment United States Colored Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Jennie Smith, helpless and dependent child of Andrew Smith, late of Company H, Ninth Regiment Missouri State Militia Cavalry, and pay her a pension at the rate of $12 per month.

The name of William Dyas, late of Company H, One hundred and seventeenth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Julia A. Moffatt, widow of Joseph L. Moffatt, late of Company I, Seventh Regiment United States Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of Delia Case, widow of William W. Case, late of Company F, One hundredth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Henry C. Gray, late of Company I, One hundred and sixty-seventh Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Charles W. Jackson, late of Company D, Thirty-fourth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Thomas Higgins, late of Companies L and H, Second Regiment Massachusetts Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Marinda Lowe, widow of John Lowe, late of Company D, One hundred and seventy-ninth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

Mr. RODDENBERY. Mr. Chairman, I make the point of order that there is no quorum present.

The CHAIRMAN (Mr. RAKER). The Chair will count. [After counting.] One hundred and three Members are present, a quorum, and the Clerk will read.

The Clerk concluded the reading of the bill, as follows:

The name of Archibald McLain, late of Company C, Eighth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The foregoing bill is a substitute for the following House bills referred to the Committee on Invalid Pensions:

H. R. 87. William Andrews.
H. R. 111. Emma L. Cole.
H. R. 505. Leonard A. Harper.
H. R. 835. Julia A. Rouse.
H. R. 2078. Louisa Pitts.
H. R. 2118. Jeshuron Bailey.
H. R. 2361. Evan Miller.
H. R. 2363. Solomon Barr.
H. R. 2617. James E. Ashwill.
H. R. 2680. Elizabeth M. Rutherford.
H. R. 2706. Torger Hanson.
H. R. 3909. John D. Sampson.
H. R. 3910. Julia A. Suver.
H. R. 3921. Allen M. Gibbons.
H. R. 4210. William Dalton.
H. R. 4218. Mathias O'Biennis.
H. R. 4257. Rosetta Graves Moore.
H. R. 4258. Mary Shattuck.
H. R. 4613. Marcus D. Stevens.
H. R. 5400. Daniel Pope.
H. R. 5418. George W. Stahl.
H. R. 5591. Clinton S. Palmer.
H. R. 5858. James W. Cannon.
H. R. 5980. Emma E. Kanzleiter.
H. R. 7093. Lorenzo D. Hays.
H. R. 7097. Thomas Palmer.
H. R. 7233. Jeremiah Wildasinn.
H. R. 7236. Joseph P. Dawes.
H. R. 7363. Jennie Harding.
H. R. 7463. Gideon F. Denton.
H. R. 7616. David W. Stafford.
H. R. 8729. David A. Wynegar.
H. R. 8751. William T. West.
H. R. 9296. Charles P. Harder.
H. R. 9299. Catherine M. Hazlet.
H. R. 9355. John Ent.
H. R. 9410. Lorinda D. Smith.

H. R. 9765. Frederick Kinner.
H. R. 10403. Calvin D. Weatherman.
H. R. 10689. Carrie C. Washburn.
H. R. 11292. Sarah Bray.
H. R. 11434. David H. Martin.
H. R. 11960. John P. Locey.
H. R. 11996. Jesse Clark.
H. R. 12080. James Hodges.
H. R. 12469. Jesse Lydick.
H. R. 12506. George W. Wallace.
H. R. 12561. Milton W. Burnham.
H. R. 12652. James K. Waltermire.
H. R. 12709. Walter S. Reeder.
H. R. 12770. Mary A. Clark.
H. R. 13048. Senobio Cordova.
H. R. 13191. Harriet E. Downs.
H. R. 13332. Susan Jenkins.
H. R. 13648. George A. Clevinger.
H. R. 13688. Caroline R. Springer.
H. R. 13704. Elizabeth Gregg.
H. R. 13767. Naaman R. Aller.
H. R. 13973. Elizabeth Shock.
H. R. 14172. Mary M. Ackerman.
H. R. 14183. Sarah A. Jefferson.
H. R. 14292. Jasper N. Baker.
H. R. 14376. Sophia A. Smith.
H. R. 14406. Oliver Kimmel.
H. R. 14542. Ira C. Knolf.
H. R. 14574. Samuel J. Fulwider.
H. R. 14587. James R. Le Lacheur
H. R. 14718. Mary P. King.
H. R. 15098. Bettie Lawson.
H. R. 15243. John W. Boileau.
H. R. 15248. Harriet M. Engley.
H. R. 15478. Theodore L. Trew.
H. R. 15548. Rebecca Simmons.
H. R. 15669. Emanuel B. Silcott.
H. R. 15704. Daniel Wilson.
H. R. 15792. Leah A. Jackson.
H. R. 15830. Patrick L. Kennedy.
H. R. 15864. Sarah Garber.
H. R. 15937. Wilson Murphy.
H. R. 15939. Watson Boyden.
H. R. 16058. William F. Ramsey.
H. R. 16235. Gordon F. Stamps.
H. R. 16249. Mary L. Brent.
H. R. 16363. Sarah S. Sherman.
H. R. 16381. Joseph L. Buckley.
H. R. 16422. Daniel Carey.
H. R. 16591. Nancy A. Cotterel.
H. R. 16727. John Cavin.
H. R. 16755. Elizabeth O'Reiley.
H. R. 16777. James Hall.
H. R. 16783. John P. Hultquist.
H. R. 16954. Lena Lehr.
H. R. 17001. Josephine Stewart.
H. R. 17048. John Ralston.
H. R. 17131. Eliza A. Cuthbert.
H. R. 17319. Elsie A. Gibbs.
H. R. 17402. Daniel W. Green.
H. R. 17516. William S. Randlett.
H. R. 17637. Benjamin Daveler.
H. R. 17697. John L. Phillips.
H. R. 17987. Abraham L. McLevain.
H. R. 18100. John McCloud.
H. R. 18146. William Webb.
H. R. 18361. Mary E. Bacon.
H. R. 18462. Lissette M. Minden.
H. R. 18518. Robert Platt.
H. R. 18754. Sena Shuster.
H. R. 18766. Adolphus D. Levan.
H. R. 18950. Wilson H. Richards.
H. R. 19025. Margaret C. De Puy.
H. R. 19189. John H. Norris.
H. R. 19395. George L. Creighton.
H. R. 19578. Oliver Jones Treese.
H. R. 19731. Izanna J. Kemp.
H. R. 19773. James David Rich.
H. R. 20019. Charles Reynolds.
H. R. 20146. Abner O. Davis.
H. R. 20178. George W. Tyler.
H. R. 20316. Jesse Brown.
H. R. 20355. Mary A. Williams.
H. R. 20533. John Adair Agey.
H. R. 20619. George F. Wheeler.
H. R. 20852. Roxana Alvira Mansfield.
H. R. 21006. Elizabeth Canady.
H. R. 21078. Caroline Koch.
H. R. 21090. Frances M. Dille.
H. R. 21300. Melvina W. Smith.
H. R. 21395. Charles E. Bigelow.
H. R. 21429. Arcenith F. Walker.
H. R. 21440. Francis B. Overlook.
H. R. 21860. John Welcher.
H. R. 21864. Jacob F. Hoffman.
H. R. 21880. Mary A. Chase.
H. R. 22122. Jacobena McGath.
H. R. 22138. Henry M. McCarty.
H. R. 22273. Emma Bee.
H. R. 22321. Lizzie Dovener.
H. R. 22364. Alexander R. Walters.
H. R. 22404. Cicero Wingfield.
H. R. 22451. Jesse M. Manson.
H. R. 22491. Charles Stetson.
H. R. 22513. Mary H. Huribut.
H. R. 22534. Anna V. Rice.
H. R. 22695. Elizabeth J. Todd.
H. R. 22735. Ann Charlotte Timberman.
H. R. 22816. Benjamin Boggess.
H. R. 22817. Perry G. Shaver.
H. R. 23042. Agnes C. Wunderligh.
H. R. 23081. William D. Reed.
H. R. 23107. John C. Babbs.
H. R. 23250. Henry Eller.
H. R. 23281. Losina L. Rosengrant.
H. R. 23367. Amos Smith.
H. R. 23482. John McMillen.
H. R. 23708. Mary J. Weddel.
H. R. 23846. Francis M. Raburn.
H. R. 23851. George W. Copley.
H. R. 23891. Melvin J. Ringler.
H. R. 23907. Jacob Shivier.
H. R. 23970. Tilla L. Eckard.
H. R. 23977. Jacob N. Easterly.
H. R. 23987. Harrison A. Galloway.
H. R. 24047. Mary F. Hess.
H. R. 24109. Jessie Banta.
H. R. 24132. George H. Farrar.
H. R. 24184. Bridget Tierney.
H. R. 24214. Arrena T. D. Beverly.
H. R. 24246. Levi Shaw.
H. R. 24307. Maria A. Potter.
H. R. 24345. David R. Edmonds.
H. R. 24346. Lucien G. Winney.
H. R. 24354. Mary A. Missner.
H. R. 24378. John M. Allender.
H. R. 24617. Ovo O. Nutting.
H. R. 24677. Louisa Taylor.
H. R. 24709. Lorrenna J. Wilkinson.
H. R. 24742. Harriet Littlefield.
H. R. 24816. Margaret Matheney.
H. R. 24850. Rachel Sturgeon.
H. R. 24881. Mary Ordner.
H. R. 24932. Mary C. Titman.
H. R. 24949. Samuel K. Howard.
H. R. 24974. Francis Short.
H. R. 24991. Mary E. Thacker.
H. R. 25022. Seth A. Bonney.
H. R. 25308. William H. Cummings.
H. R. 25388. John R. Cravens.
H. R. 25220. Sallie Arlington.
H. R. 25229. Lucy A. Warner.
H. R. 25258. Eliza Haines.
H. R. 25425. Eliza J. Blythe.
H. R. 25439. Frances C. Babcock.
H. R. 25492. Samuel S. Jones.
H. R. 25542. Emily S. Van Beuren.
H. R. 25544. Jane Fleming.
H. R. 25562. William M. Temple.
H. R. 25643. Lavenia A. Drennen.
H. R. 25655. Emma C. Devor.
H. R. 25729. Helen F. Hoffman.
H. R. 25812. Elizabeth J. Lane.
H. R. 25902. Martha Dickinson.
H. R. 25939. William T. Mills.
H. R. 25950. William D. Crawford.
H. R. 26017. Isaac Jones.
H. R. 26039. Alice C. Kies.
H. R. 26079. Charles Rosenkranz.
H. R. 26135. Mary A. Hooker.
H. R. 26342. Mary F. Murphy.
H. R. 26364. Frances M. Rounds.
H. R. 26380. James M. Butterworth
H. R. 26406. Samuel A. Pearce.
H. R. 26436. Fredericka Wellfey, now Wurthmer.
H. R. 26438. Thomas Smith.
H. R. 26497. William G. Stine.
H. R. 26534. James McEvoy.
H. R. 26596. John C. O'Bryan.
H. R. 26651. Bavin Copeland.
H. R. 26684. James H. Rowland.
H. R. 26689. Caroline A. Dodge.
H. R. 26768. Elizabeth W. Wilcox.
H. R. 26769. Emily A. Kennedy.
H. R. 26798. Mary Gourno, now Earle.
H. R. 26790. Anna M. Consaul.
H. R. 26825. James T. Kissinger.
H. R. 26836. Levi P. Miller.
H. R. 26844. Mary Hahn.
H. R. 26926. Joanna Swander.
H. R. 26966. Martha Pendergrass.
H. R. 26994. Jennie Smith.
H. R. 26995. William Dyas.
H. R. 27170. Julia A. Moffatt.
H. R. 27175. Delia Case.
H. R. 27212. Henry C. Gray.
H. R. 27251. Charles W. Jackson.
H. R. 27266. Thomas Higgins.
H. R. 27407. Marinda Lowe.
H. R. 5120. Archibald McLain.

Mr. RUSSELL. Mr. Chairman, this bill, H. R. 27475, is a private pension bill that is very moderate in length, and, we think, very reasonable and just in its provisions. It contains in all 237 items, and in this there are 57 widows of old soldiers. There are sometimes objections made to the passing of private pension bills to-day because, they say, that at the last session of this Congress we passed a general pension bill, known as the Sherwood bill. But that objection can not reasonably be made to a bill like this, because of the fact that the Sherwood pension bill did not include any widows in its provisions.

Again, there are a number of parties in this bill who are drawing very small pensions under the general law, by reason of being young in years. And under this bill some of those are granted pensions at $20, some at $24, some at $25, and so on. This is not an extravagant bill. The total amount of money carried by this bill per annum is $68,112, about half of which is now being paid under the general law, so that this bill provides for an increase of only about $34,056 per annum—not an extravagant sum.

Mr. Chairman, your committee has endeavored as diligently and as carefully as it could to investigate these cases, and we confidently believe that they are meritorious—many of the old soldiers being blind, many of them bedfast, and some of them upon crutches. We believe that the provisions of this bill are just and that it ought to be promptly passed.

I reserve, Mr. Chairman, the balance of my time.

Mr. MANN. Before the gentleman yields, may I ask him a question?

The CHAIRMAN. Does the gentleman from Missouri [Mr. RUSSELL] yield to the gentleman from Illinois [Mr. MANN]?

Mr. RUSSELL. I yield.

Mr. MANN. I ask for information. I notice in several cases in this bill—it may be customary in the law, but I am not familiar enough with it to know—where you provide an increase of pension for a widow to cover a dependent child you provide in the case of death that "the pension herein shall cease and determine." Under that provision, will the pension which the widow already draws come back to her?

Mr. RUSSELL. The pension which the widow draws in her own right would continue to her. The pension provided as payable to her because of the helpless child will cease at the death of the child.

Mr. MANN. I was attracted by the language of the bill, which may have been construed as I say. I do not know whether that is true here or not. It provides in the case of a widow to pay her a pension of $24 a month in lieu of that she is now receiving. Of course, $12 of it is intended for the widow and $12 for the dependent child, with the further provision if the child dies then the additional pension herein granted shall cease and determine. What I wished to inquire was whether or not there was a construction under which the widow in the case of the death of the child would obtain the pension she is now receiving, although this language seems to strike out that pension.

Mr. RUSSELL. The construction has always been, as I understand, that when a helpless child dies that part of the pension ceases, and the widow continues to draw only what she has drawn in her own right.

Mr. MANN. This is the usual language, then?

Mr. RUSSELL. Yes; that is the usual language in such cases.

Mr. RICHARDSON. Mr. Chairman, I desire to call up the bill (H. R. 27874) granting pensions and increase of pensions to certain soldiers and sailors of wars other than the Civil War and the widows of such soldiers and sailors.

The CHAIRMAN. The gentleman is informed that there is already a bill being considered before the committee.

Mr. RICHARDSON. I thought you were through with that bill.

Mr. RUSSELL. Our bill is not finished yet.

Mr. RODDENBERY. Mr. Chairman, I desire to ask unanimous consent that the bill offered by the gentleman from Missouri [Mr. RUSSELL] and the bill offered by the gentleman from Alabama [Mr. RICHARDSON] be considered contemporaneously and together.

The CHAIRMAN. Is there objection?

Mr. MOON of Tennessee. I object.

Mr. RUSSELL. I reserve the balance of my time.

Mr. TRIBBLE. Mr. Chairman——

The CHAIRMAN. Is the gentleman a member of the committee?

Mr. TRIBBLE. I see no reason why I should not be a member of this committee, unless I am debarred on account of my pension attitude. [Laughter.]

Mr. Chairman, I do not rise for the purpose of making a lengthy argument at this time, but I propose when this bill is read to show to this committee that the chairman of the Pension Committee is not fair in the statement he has made. He is usually very fair, I concede, and I have conceded to him that fairness frequently on the floor of this House, but he is certainly not fair in the statement he has made here to-day. He undertakes to lead the Members of the House to believe that

all the names included in this bill—about 300—are those that can not be provided for under the general law, and I am here to say to you, sir, that there are a number of persons in that bill who are drawing pensions under the Sherwood Act of 1912, and almost before the ink on that bill is dry you are here to-day asking that those pensions be increased.

Mr. RUSSELL. Will the gentleman yield?

Mr. TRIBBLE. Yes, sir.

Mr. RUSSELL. I did not state that this bill did not contain any of the names of pensioners who are drawing pensions under the general law. I said that the 57 widows in this bill did not draw any pension under the general law, and that there were several soldiers included in this bill who by reason of being young in years or of having served a short time did not get what we believed they were entitled to considering their physical condition, and that this bill is an increase of cases of that sort.

Mr. TRIBBLE. Now, Mr. Chairman, I am here to say that some of these young men that the gentleman refers to are deserters; they are bounty jumpers, as shown by this bill and the record connected with the bill. I am here to say to you that not only deserters and bounty jumpers are carried in this bill but negroes are here provided for when they can not draw pensions under the Sherwood bill. I am here to say to you that there is a negro widow in this bill who has been increased to $20 a month, who is not a war widow, and that there are war widows in this bill, white, from one end of it to the other, who are from 75 to 100 years old, that are drawing only $12 a month.

Now, I want to know what the constituents of these gentlemen who prepared this bill here are going to say, back at home, when they are faced with the statements and the charges that I am making here to-day, and I am prepared to prove these charges.

Now, Mr. Chairman, we stand here to-day with this bill full of deserters, full of bounty jumpers, full of people who are not entitled to draw pensions under the law, after the country had been promised last session, when the Sherwood bill was passed, that this House would no more be flooded with pension bills. Here we are confronted with 300 to-day, and we were confronted with 300 two weeks ago—over 600 up to the present time. Half of this session has gone. This House has considered only two appropriation bills. There are appropriation bills that are waiting now, carrying nearly a billion dollars—the naval bill, for instance; the agricultural bill; measures in which the people of this country are interested—and we have got only 38 days more to consider 12 appropriation bills, carrying a billion of dollars. And here we are to-day held up with a private pension bill, pensioning deserters, negroes, and bounty jumpers, who are not entitled to draw pensions under the laws of the United States, after we have been burdened with $180,000,000 for the payment of pensions since the enactment of the Sherwood Act.

Now, Mr. Chairman, I shall discuss these cases as they come up.

The CHAIRMAN. The Clerk will read.

Mr. MOON of Tennessee. Mr. Chairman, I understand this is general debate.

The CHAIRMAN. The Chair will recognize the gentleman for an hour if he wishes to use the time.

Mr. MOON of Tennessee. I want to make an inquiry of the Chair before proceeding. Does the Chair hold that any other subject may be discussed in general debate, as is usual on appropriation bills? The custom in general debate on appropriation bills generally is to discuss any subject that is desired to be discussed—that is, in the Committee of the Whole House on the state of the Union.

The CHAIRMAN. The rule of practice provides:

> In Committee of the Whole House on the state of the Union during general debate the Member need not confine himself to the subject (v., 5233–5238); but this privilege does not extend to the Committee of the Whole House (v., 5239).

We are now in Committee of the Whole, and the discussion would have to be confined to the subject of the bill pending.

Mr. MOON of Tennessee. I just wanted to know what we could talk about. If it were in order, I would wish to talk on the Post Office appropriation bill, so as to save some of the time for general debate that this House took away from that committee this morning. But while I may not agree fully with the views of the Chair as to the rule, or certainly as to the practice of the House, yet I do not desire to transgress the ruling of the Chair on that subject, and I will confine myself to the matters connected with this particular bill, and only for a little while.

Mr. Chairman, it is altogether out of order for me or for any other Member of this House to censure or to criticize the actions of this body upon any measure that comes before it, but I believe that I would be derelict to the duty that I owe to this House and to this country if I let this occasion pass without at least suggesting that the policy pursued with reference to the adoption of the order that brings this bill before the House is unwise.

We have here a vast number of appropriation bills, as the gentleman from Georgia [Mr. TRIBBLE] has said, with but little time in which to pass them; and yet we saw to-day, by a vote of this House, the largest bill ever presented to it in all of its history, and perhaps the most important, carrying 278,000,000 of money to be used for the benefit of the people all over this great Republic—we saw that bill sidetracked on a motion in the interest of a petty pension bill.

I would not make objection but for the apparent hypocrisy indicated in that vote. I recollect that on the floor of this House, when the pension bill a year ago was before this body, after a Democratic caucus had ordered it to be introduced and ordered it to be passed and it was reported, I saw a large and overwhelming majority of the Democrats from one section of this country repudiate the action of the party and vote against that pension bill. I believe that only three other gentlemen besides myself living south of Mason and Dixon's line supported the party on that measure.

Mr. HARDWICK. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Tennessee yield?

Mr. MOON of Tennessee. I will not yield for the present, thank you.

The CHAIRMAN. The gentleman declines to yield.

Mr. MOON of Tennessee. I want to say that I do not censure those gentlemen for that; not in the slightest. That is their judgment, and not mine. They have a right to do as they want to. I mention it only in order to call the attention of the House to the fact that this morning many of those Democrats who were unwilling to support that measure looking to the protection of the Union soldiers of the United States were exceedingly anxious to take up this little bill to provide a few thousand dollars for deserters. The issue is not before the country now. That election is passed. The prejudices that they thought would exist against them in the South, and which did, for I had to meet them in my own district, have passed. They are very friendly to a pension bill now. You reinstate yourselves with the voters, with the soldiers. I do not propose to be put in any wrong position about it. I am going to support this measure at the proper time. I am opposing its passage now because it was wrong to present it until these appropriation bills are passed. Until they are determined—until they are passed—we owe the obligation to this country to look after the general business of the country first, and these minor matters last.

I have no fear of the soldiers in the section of country that I live in being opposed to this position, because they are now, as they have always been, patriotic men who look to the best interests of a common country and its general welfare under general laws before a petty measure of this character.

Mr. RUSSELL. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. MOON of Tennessee. Yes; I yield.

Mr. RUSSELL. I want to ask the gentleman in the first place if he is not mistaken about the Sherwood bill having been made a caucus measure?

Mr. MOON of Tennessee. No; I do not think I am. It may not have been a formal caucus, but it was the judgment of the Democratic Party that it should pass.

Mr. HARDWICK. If the gentleman will permit me—he would not yield to me just now.

Mr. MOON of Tennessee. Call it a caucus measure if you want to. It makes no difference to me. It was reported by a Democratic committee—a majority of them—to this House, which is practically the same thing, and you did not have the courage to vote for it then. You are trying to deceive the people about that measure now.

Mr. RUSSELL. The rules of the House set apart to-day as a special day for bills of this sort, do they not?

Mr. MOON of Tennessee. I think they do.

Mr. RUSSELL. Then in asking to call up the bill to-day we were within our rights under the rules of this House.

Mr. MOON of Tennessee. I am not objecting to the gentleman calling it up. It is just a piece of bad judgment and a want of good sense, in my judgment, to take up a measure of this sort, in view of the fact that great appropriation bills ought to be taken up and considered.

Mr. RUSSELL. I will ask you if the acting chairman of the Pension Committee did not ask unanimous consent to set apart the day following the completion of the bill?

Mr. MOON of Tennessee. Yes; and there was no objection on my part to that.

Mr. RUSSELL. But there was objection made by the chairman of the Committee on Appropriations.

Mr. MOON of Tennessee. Certainly; and I do not want to be understood as saying that the gentleman was not within his rights under the rules, because he was, but I do want to be understood as saying that it is unwise policy for the Democratic Party to pretend here that the interests of a few pensioners are a higher order of legislation than the great appropriation bills before this House. Let us deal fairly with the country on that question. I am as good a Democrat as ever lived, and I have a right to criticize my party in this House and out of it in the interest of my country, and I will do it whenever I feel like it, regardless of what any man thinks of it. [Applause.]

Now, Mr. Chairman, there is no reason why this bill should pass to-day. I am not opposed to the bill itself. I am simply opposed to its consideration now. I think this House ought to understand that whenever it undertakes to override a committee that has a bill of the importance of the Post Office appropriation bill, when the time is so short, if Members are going to play politics, two can play at that game, and this bill will pass, if it passes at all, over my objection, simply as an earnest protest against a senseless method of procedure.

Mr. Chairman, I have said about all I desire to say in a general way upon this measure. There are in this bill a number of pension claims which were introduced by me. I am, perhaps, as much interested in the passage of this bill, from a personal point of view, as any man in this House. I think that in the general public interest a bill ought to have been brought in here that would cover the legitimate pension cases pending in the office to the extent of perhaps 400, as I am informed, instead of 200, which you now propose to pass, and assume you have made good to the soldiers of this country on the subject of pensions.

I have waited to see the chairman of this committee present to this House his report and the reasons why each one of these measures should pass. We are not here to pass a pension bill in omnibus form without knowing the merits of each measure involved in it. Here are omnibus 200 bills. You propose to shoot them through on this occasion without any explanation of them. I assume that because the chairman has not offered to have read to this House the meager and insufficient report that has been made upon these measures.

But for what it is worth, in order that the House may have some reasons to act or not act upon this question, I ask that in the balance of my time so much of the report as can be read shall be read from the Clerk's desk.

The CHAIRMAN. The Clerk will read.

Mr. FOSTER. What is the gentleman's request?

The CHAIRMAN. The gentleman from Tennessee [Mr. MOON] requests that the report of the committee on this bill be read in his time.

Mr. FOSTER. I object.

The CHAIRMAN (Mr. RAKER). The gentleman from Illinois objects. It is therefore the duty of the Chair to submit the question to the committee.

Mr. MOON of Tennessee. Mr. Chairman, just send that report down here. I am a pretty fair reader myself. [Laughter.]

The CHAIRMAN. Does the gentleman withdraw his request?

Mr. MOON of Tennessee. I am going to take my time in reading this report myself.

The CHAIRMAN. The gentleman withdraws his request. He will proceed.

Mr. MOON of Tennessee (reading)—

The following are the facts ascertained by the committee concerning the case of each beneficiary in said bills and the conclusions of the committee as to the proper amount of pension or increases which should be granted.

Mr. TILSON. Mr. Chairman, a parliamentary inquiry. Can the gentleman read this against the objection of a Member?

Mr. MOON of Tennessee. I guess I can, as a part of my speech which I am making here now.

Mr. TILSON. The gentleman is reading from a report which is already before this House. He is not reading a speech of his own. I make the parliamentary inquiry whether he can do that.

Mr. MOON of Tennessee. The gentleman is assuming something that he does not know anything about. I am reading from this report, and I propose to comment on it a little in a few minutes.

The CHAIRMAN. Does the gentleman from Connecticut insist on his parliamentary inquiry?

Mr. TILSON. I ask for information whether the gentleman can read this report.

Mr. MOON of Tennessee. And comment upon it.

Mr. TILSON. Whether against objection he can read a report to this House.

The CHAIRMAN. The view of the Chair is that the gentleman will be permitted to read anything in his own time if it is germane and a legitimate argument concerning the bill before the committee. And this being the report of the committee, undoubtedly it would be germane, and the gentleman is entitled to read it, or as much of it as he can within his time.

Mr. RODDENBERY. I make the point of order that the report is so inconsistent with the facts in the case that it is not germane to the bill. [Laughter.]

The CHAIRMAN. The point of order is overruled. The Chair assumes that the committee understood what they were doing, and made a legitimate report.

Mr. MOON of Tennessee. Mr. Chairman, the report says:

H. R. 87. William Andrews, aged 64 years, served as a private in Company C, Twenty-second Regiment Michigan Volunteers, from July 31, 1862, to June 26, 1865, and is now a pensioner under the act of June 27, 1890, at $12 per month on account of lumbago and disease of heart. He had a prior service in Company E, Ninth Michigan Volunteers, from September 20 to October 24, 1861, when he deserted.

I want to ask the gentleman from Missouri, who has charge of the bill, what was the character of the party, and how did you pension him when the record shows that he had deserted?

Mr. RUSSELL. I do not recall the facts of the case.

Mr. MOON of Tennessee. I judged that the gentleman did not, and that is the reason I asked him.

Mr. RUSSELL. What is the bill?

Mr. MOON of Tennessee. It is H. R. 87, on page 3 of the report.

Mr. RUSSELL. He had been pensioned in the Pension Bureau, and the bureau does not pension anybody unless they have an honorable discharge.

Mr. MOON of Tennessee. But you say here that he did not have an honorable discharge, and then you give no reason why you override the amount given in the Pension Bureau. What about that?

Mr. RUSSELL. I do not prepare every one of these reports; they are prepared by the secretary of the committee.

Mr. MOON of Tennessee. I accept the gentleman's apology. If the gentleman is not prepared to answer, and if he does not know anything about the measure which is before the House, let some Member who is familiar with it answer.

Mr. RUSSELL. I do know something about the measure.

Mr. MOON of Tennessee. The gentleman does not seem to know much about this case.

Mr. RUSSELL. I can not answer the question that the gentleman asked just now.

Mr. MOON of Tennessee. Is there anybody on the committee that can answer? It appearing that the chairman nor any man on the committee can give a reason for the passage of the bill, I will ask whether it is not about time that this House should be able to learn something about the measures pending before it?

Let us pass along and take up another one. Perhaps we can find somebody that knows something about it.

H. R. 111. Emma L. Cole, about 61 years of age, is the widow of William C. Cole, who served as acting assistant surgeon, United States Army, from August 21, 1863, to October 5, 1863, and from October 31, 1863, to December 17, 1864, and who died December 29, 1902, of paralysis, while a pensioner under the general law at $30 per month on account of an injury to the lower jaw and back received in line of duty in September, 1864.

The claimant, who married the surgeon on January 3, 1870, sought pension under the general law, but her claim was properly rejected in July, 1908, upon the ground that her husband's fatal paralysis had no connection with the disabilities for which he was pensioned and was not otherwise shown to have been due to his military service.

She also sought pension under the act of June 27, 1890, but this claim was likewise rejected on the ground that her husband was neither an enlisted man nor a commisioned officer in the military establishment.

Claimant is a resident of Van Wert, Ohio, and is shown by proof filed with your committee to have no property and to be dependent upon her own labor for a support.

Congress having repeatedly granted relief to the men who served as contract surgeons and to the widows of such persons, like relief is believed to be warranted in this case, and a pension of $12 per month is therefore recommended.

I will ask the gentleman if this committee is not confined to granting pensions under the law, and if it is usual for the committee where upon a state of facts that is made out here the claimant is not entitled to be granted a pension as would a soldier, but simply a widow who, not falling under the operation of the general law, practically is a civil pensioner?

Mr. RUSSELL. I will state to the gentleman from Tennessee that as a matter of course the Pension Committee is not confined to cases where they may obtain a pension from the bureau. If they did, the widow could obtain this pension without coming to the committee.

Mr. MOON of Tennessee. There is no difference between the gentleman and myself on that. I understand the power of this Congress grants a pension under any conditions. I am questioning the policy of surrounding the law and granting a pension which might be proper under a general law to the soldier but which granted to the widow under the facts stated here makes her a civil pensioner.

Mr. RUSSELL. Is the gentleman opposed to any pensions of that sort?

Mr. MOON of Tennessee. No; I am for them if they are all right and within the law, but I want a reason in each case.

Mr. RUSSELL. The gentleman knows very well that the reports can not be as complete and full as the testimony before the committee; at least it has never been customary to make them so. No member of that committee can, out of the thousand bills before it in any one Congress, remember all the detailed facts of each case.

Mr. MOON of Tennessee. I understand that; that is true often, and it is generally the rule that they do not know the facts of the case after it comes up here, after they get cold. But you come in here and ask us to pass a bill, and yet now, on the very second case mentioned here, you are not able to give a legal reason for the legislation that you are asking the House for. Is there any other gentleman on this committee that can give us the information? It seems that no one knows anything about it.

Then I will pass to the third case:

H. R. 2078. Louisa Pitts, aged 69 years, is the widow of Jacob Pitts, who served as a private in Company D, One hundred and thirteenth Regiment Ohio Infantry, from October 20, 1862, to July 6, 1865 (2 years and 8½ months). Address, Johnstown, Mo.

Soldier never applied for pension; he died March 28, 1880. He and pensioner were married November 13, 1859, and she has been pensioned under the general law at $8 from the date of his death, and at $12 from March 19, 1886.

Dr. J. M. Miller certifies pensioner suffers from chronic cystitis and cancer of the nose, and is 69 years old and is unable to earn a livelihood.

Applicant and two neighbors testify that she owns a house and lot of the value of $100; no other property and no income but her pension.

As she is a war widow, is old and poor, and unable to work, an increase to $20 is justified.

I am going to say to the gentleman from Missouri that if he does not know that that is right, I do. I commend his committee for that; it is a good pension bill and ought to pass.

I will call up another one, H. R. 2118:

H. R. 2118. Jeshuron Bailey, aged 65 years, served as a private in Company A, One hundred and eighty-sixth Regiment New York Volunteer Infantry, from August 20, 1864, to June 2, 1865 (9 months and 12 days), and is now a pensioner under the act of February 6, 1907, at $12 per month on account of age. Address, 1935 Mormon Coulee Road, La Crosse, Wis.

No report from a board of surgeons. Medical testimony is that applicant has neuralgia of head and heart, water in the scrotum, hydrocele, chronic kidney trouble, and compound fracture of the right ankle, and is totally unable to do manual labor. Other testimony is that applicant has no property and no means of support but his pension.

An increase to $24 a month is recommended.

I do not know what diseases that man has, but if my friend from Missouri [Mr. RUSSELL] says he has got them, I am willing to pass this one.

Mr. RUSSELL. I am not one of the witnesses in the case.

Mr. MOON of Tennessee. There is no proof here that he had them. I will pass over that case to the next one—H. R. 2363:

H. R. 2363. Solomon Barr, 67 years of age, served as a private in Company K, Two hundred and thirteenth Pennsylvania Volunteers, from February 22, 1865, to November 18, 1865, and is a pensioner under the act of June 27, 1890, at $12 on account of rheumatism and disease of the heart.

He was formerly pensioned under the general law at $6 on account of rheumatism.

He was last examined 20 years ago by the Allentown (Pa.) board of surgeons, and was then rated $8 for rheumatism affecting both knee joints and shoulder joints, and $4 for valvular disease of the heart.

He is a resident of South Bethlehem, Pa., and according to the testimony of Dr. Yost, of that place, is now suffering from inflammatory rheumatism in a chronic form, which had taken a firm hold on the upper and lower extremities, weakness of the right lung with chronic capillary trouble of the same lung, hemorrhoids and general debility, and to be entirely disabled for doing any manual labor of any kind.

The soldier owns no property and has no means of support aside from his pension.

Some measure of relief, to aid in his support, is justified by the facts set forth, and an increase of his pension to $24 per month is recommended.

What is the reason you did not get proof about these matters since 20 years ago except the statement of one physician? It looks to me like a very bad policy, if a man has lived 20 years under disabilities, to grant him a pension without the proof of a late date as to his physical condition. I suppose it does not make any difference whether he has been sick 20 years or 40 years; if it is the right place for a pension he should get it.

Mr. RUSSELL. The reference to 20 years ago was when he was last examined by the pension board. The report shows that he was a resident of South Bethlehem, Pa., and according to the testimony of Dr. Yost—that date is not given, but I feel safe in saying that it was within the last 12 months. The secretary of the committee says that this was recent testimony.

Mr. MOON of Tennessee. Then we have this case: A man has not been examined for a pension for 20 years and a pension is granted, and the chairman of the committee justifies it alone upon the meager belief that possibly within 12 months last there was some proof that justified such action. Ought the House to act on that sort of testimony?

Take the next case, H. R. 2680:

H. R. 2680. Elizabeth M. Rutherford, aged 67 years, is the widow of George Rutherford, who served as a sergeant in Company F, Second Regiment Minnesota Volunteer Infantry, from July 3, 1861, to June 21, 1865 (3 years 11½ months). Address, 2505 Buchanan Street NE., Minneapolis, Minn.

Soldier was pensioned at $24 a month under the general law for gunshot wound of left arm. He died July 3, 1895. Soldier and pensioner were married March 24, 1867. Her application under the general law was rejected December 13, 1900, on the ground that soldier's fatal disease of heart was not shown to be of service origin. However, she is pensioned under act of June 27, 1890, as amended, at $8 from August 15, 1895, and $2 for minor child, and at $12 from April 19, 1908. A special act granting her $12 from May 13, 1908, was passed, but she elected to remain on the rolls under act of June 27, 1890.

Dr. H. M. Guilford has treated pensioner for 12 years. She suffers from stomach trouble, indigestion, nervousness, and some tuberculosis of the lungs, and is not capable of earning her support in any way.

She owns 18 lots in northeast Minneapolis, worth about $4,500, mortgaged at $1,800, bearing 6 per cent interest; taxes, $133.20. She also owns a homestead in Custer County, worth $600, and is in debt for improvements thereon to the full value of the homestead. She is unable to sell the lots or homestead and derives no income therefrom. She has no personal effects of value and no support or income from any source other than her pension. This condition of affairs is shown by her own testimony and of two reputable acquaintances.

An increase to $20 a month is recommended.

Mr. FIELDS. Mr. Chairman, will the gentleman yield?

Mr. MOON of Tennessee. Certainly.

Mr. FIELDS. I think, in justice to the committee, that the gentleman from Tennessee should read the report correctly.

Mr. MOON of Tennessee. Why, what have I left out?

Mr. FIELDS. On page 7, in the fourth line of the third paragraph, the gentleman left out the words "for improvements thereon to the full value of the homestead."

Mr. MOON of Tennessee. I surely read that.

Mr. FIELDS. Oh, I have noticed all along that the gentleman has not read the report in full.

Mr. MOON of Tennessee. The gentleman has not noticed any such thing. He is mistaken. I did read it.

Mr. FIELDS. I beg the gentleman's pardon.

Mr. MOON of Tennessee. Oh, the gentleman will just take his seat. I have the floor. I say this statement is incorrect. I never misstated anything about anybody.

The CHAIRMAN. The gentleman declines to yield.

Mr. MOON of Tennessee. Here is a case where a woman is worth $4,500 in lots in Minneapolis, a large, growing city, and worth $600 in a homestead in Custer County, and the pretext they offer for the increase of this pension is that you can not sell lots worth $4,500 in Minneapolis and land worth $600 in Custer County. Wherever a pensioner has an income, a pension is not granted as a rule. Where they have at least $300 income, they do not grant pensions as a rule. There is property that is worth fifty-odd hundred dollars. If it were sold for what they say it is worth, that money could be put out at interest and bring in an income of more than $300 per annum, even at 6 per cent. I am not objecting to this lady getting that pension. I do not care anything about that. I am just showing that they do not know what they are doing, that they have brought a bill here about which they do not know anything, that they are violating the law and the precedents of this House in presenting measures of that sort and attempting to pass them.

The idea of bringing here a bill where a woman is worth $5,000 and is already drawing a pension of $12 and asking for an increase of that to $20, and for what? Because there is not a good sale for fine lots in Minneapolis! What a reason for a sensible committee to offer! Mr. Chairman, I am not censuring the gentleman from Missouri [Mr. RUSSELL], because he concedes that he knows but little about these matters, and I have called all over this House for those men on the committee to tell me what they know about it, and there is not a man who knows anything about it. Our common sense teaches us that that sort of a bill ought not to pass. I have just been reading these cases at random. I never read one of them before in my life, and that is the way they appear in this bill. If the bill is that way all the way through, you ought to kick it out of the House without letting it get by the Speaker's desk, even.

Mr. RUSSELL. Mr. Chairman, will the gentleman yield?

Mr. MOON of Tennessee. I do not yield right now. I have some more for the gentleman.

The CHAIRMAN. The gentleman declines to yield.

Mr. MOON of Tennessee. I want to find one that I would agree to pass. I did find one awhile ago, and I thought it ought to pass, but the gentleman hesitated about that a little bit. He knew the others were too bad.

Mr. RUSSELL. I am sure the gentleman wants to be fair as he goes along.

Mr. MOON of Tennessee. If I did not want to be fair I would stop. But I will stop now and be fair by letting you talk for a minute.

Mr. RUSSELL. The gentleman says that the report shows that this widow is worth $5,000.

Mr. MOON of Tennessee. No; I did not say that. I stated that the report showed that she owns 18 lots in northeast Minneapolis, worth about $4,500, and mortgaged for $1,800, bearing 6 per cent interest. Then, she owns a homestead in Custer County worth $600. The $600 and the $4,500 make about $5,100, with that mortgage on it, and if you can realize $5,100 for it I will take the money and give you good security at 7 per cent.

Mr. RUSSELL. But, if I am not mistaken, in a general way the gentleman stated that this lady was shown to be worth $5,000. The total sum was $5,100, with a mortgage, which left $3,300.

Mr. MOON of Tennessee. Yes.

Mr. RUSSELL. That makes quite a difference. And, then, the report also states that she has no income whatever on this property.

Mr. MOON of Tennessee. Now, is the gentleman prepared to say about this, that he is going to pension every widow and soldier in these United States beyond $12 who can show up $3,300 in assets? I am taking the gentleman's own figures.

Mr. RUSSELL. I have voted against many of these items in the committee.

Mr. MOON of Tennessee. Take the gentleman's own figures—or call it $3,000.

Mr. RUSSELL. I do not always vote for those items in the committee. I am not the entire committee.

Mr. MOON of Tennessee. I know the gentleman is not the entire committee. There seems to be no entire committee, because nobody seems to know anything about it. You have here a lot of stuff in this House and you can not account for presenting it here, not a bit of it. I am going to find one that is good, that I may relieve the gentleman from his dilemma. I am tired of putting the hard ones up to him. I will next take up the bill H. R. 2706:

Torger Hanson, aged 65 years, served as a private in Company G, Fifth Regiment Minnesota Infantry, from August 15, 1864, to May 24, 1865 (9 months), and is now a pensioner under the act of February 6, 1907, at $12 per month, on account of age. Formerly pensioned under act of June 27, 1890, at $8, for impaired use of right arm and lame back. Address: 3755 Snelling Avenue, Minneapolis, Minn.

Medical examination, March 1, 1905, shows pensioned causes catarrh and an old fracture of eighth rib.

Dr. T. R. Woodard declares that right arm shows evidence of burns, which impairs the use of the arm; that he has rheumatism, and is a broken-down old man, which is substantiated by Dr. R. R. Knight, who adds that the soldier has chronic bronchitis and mitral insufficiency, and is unable to do much manual labor.

Lay testimony shows that he has a home worth $800, mortgaged at $200, and has less than $100 of personal property. His wife is affected bodily and mentally and can not aid in his support, and besides his pension has no other means of support.

An increase to $24 is recommended.

There is the case of a poor old man, and I am mighty glad that you have given him his pension. That is an honest statement.

Mr. RUSSELL. The gentleman indorsed another one a little while ago.

Mr. MOON of Tennessee. Yes; that was pretty good, but this is a better one. I am going to give the gentleman credit for everything that he has done; but I have read seven or eight of these, and out of the eight there are two that I commend myself, and the gentleman commends them also, while the other six show that they are bad on their face and you can not defend them, and you have not done it, and there is nobody else, though called upon, who is able to do so.

I will now pass over to page 12 and take up one at random there and see what it is:

H. R. 5858. James W. Cannon, aged 63 years, served as a private in Company G, Seventeenth Regiment Kentucky Cavalry, from September 1, 1864, to September 20, 1865 (1 year), and is now a pensioner under the act of July 14, 1862, at $17 per month, on account of rheumatism and resulting disease of heart and disease of eyes. Address, Bowling Green, Ky.

Medical examination, March 21, 1910, rates pensioner $30 for his pensioned disabilities, but the Bureau of Pensions denied an increase on said examination.

Dr. W. R. Francis, April 16, 1912, his physician, states he is now a total invalid, due to heart disease in an aggravated form, partial paralysis of left side, hip-joint disease, and arteriosclerosis. This is corroborated by Dr. J. F. Duncan.

Neighbors testify that pensioner owns no property of any kind, and his means of support is his pension.

An increase to $30 is recommended.

What has the gentleman to say about that?

Mr. RUSSELL. That seems to be a good case.

Mr. MOON of Tennessee. I think it is a very fair case.

Mr. THOMAS. You think it is a fair case?

Mr. MOON of Tennessee. I do.

Mr. THOMAS. And you have not the slightest objection to it?

Mr. MOON of Tennessee. I have not. I want all these good pensions passed.

Mr. THOMAS. I want to say that I can defend all the pensioners that I have in this bill or any other bill.

Mr. MOON of Tennessee. You can defend anything by your right.

Mr. THOMAS. Yes, sir; and I will always be on hand ready to do it. [Laughter.]

Mr. MOON of Tennessee. That is right. I notice the gentleman did not have much to say about it until he heard it stated that it was a good case.

Mr. THOMAS. I do not have any other kind.

Mr. MOON of Tennessee. Here is another case:

H. R. 12652. James K. Waltermire, aged 77 years, served as a private in Company I, Third Regiment Ohio Volunteer Infantry, from April 25, 1861, to August 22, 1861 (3 months 27 days), and was formerly a pensioner under the act of February 6, 1907, at $15 per month on account of age. Address, Scipio, Route No. 2, Ind.

He was formerly pensioned under the act of June 27, 1890, at $12 per month by reason of disease of chest and senile debility.

Board of surgeons, March 4, 1903, found asthma, emphysema, and heart disease.

Medical testimony is that applicant has enlargement of the heart and is totally disabled. He is growing worse.

It appears that the applicant has no property.

While the applicant was dropped from the rolls by the Bureau of Pensions because, as it was claimed, his service—actual military service—was less than 90 days, it appears from the applicant's sworn statement and from other sworn statements that he was engaged in active recruiting service under the direction of a Capt. Rose after he returned from the front, and so continued in such active recruiting service until he was honorably mustered out.

In view of the facts, peculiar to this case, it is recommended that the applicant be placed on the roll of pensioners at $20 per month.

Well, now, what is the peculiar fact that justifies that violation of the 90-day law?

Mr. RUSSELL. His helpless condition and no property.

Mr. MOON of Tennessee. Then, it is conceded that the general statute that requires a service of 90 days' enlistment is violated and the relief is given on the ground that the soldier has no means and is a cripple? I understand that is the reason why you give the relief?

Mr. RUSSELL. He was in the recruiting service. He was out of the regular service.

Mr. MOON of Tennessee. I understand; but that is not the 90 days required under the law.

I have no serious censure to make of the action of the committee in stretching the law a little if it be so expanded that you can justify under the real facts the necessities of the case, because a power exists with Congress, outside of that general law in a specific case, to grant the relief anyway. But I want to ask the chairman of the committee if he does not think it a bad idea, when the First, Second, Third, Fourth, Fifth, and Sixth Regiments of the United States are now prohibited by law and by the action of the department, although they served more than a year in the service of the United States, were regularly enlisted and honorably discharged, and are now denied pensions under the ruling of the department, and when there was some sort of an agreement that a pension would not be asked for the reason they were not participating directly in the suppression of the rebellion, being in frontier service—that that hard rule should be adhered to by your committee as to 6,000 soldiers in the United States and has to be invoked on the subject of muster in and muster out and honorable discharges to the soldiers as to the 90-day service of those men who are denied that right under the law to-day? How do you justify and ride over that statute and make a special example in the interest of one man? Why did you not provide, if you are going to do anything for the soldiers in a general way, by a general law that would give these six regiments of the United States a right to participate in the general pension fund in the general law? Why did you not provide for these men generally who did not serve the 90 days in the Regular Army and yet performed more than 90 days' service in recruiting, driving wagons, and other work, practically civilian in its character—why did you not give them in the general law the benefits that you single out for one man? I am not objecting to this poor man having it. We have the power, and we ought to exercise it wisely and justly, and, although the general law would not embrace him within its operation, I have no objection to this

man or any other similarly unfortunately situated having the benefit of the law. But in the discharge of your duty why do you select one man and leave out these hosts of more than equally worthy men from the benefit of the bounty of the Government?

Mr RUSSELL. There has been no such bill before our committee.

Mr. MOON of Tennessee. I know; but it is your place to make bills.

Very well. Here is the case of Harriet Downs, the widow of Edward S. Downs, who served as a private in Company F, Sixth Regiment Connecticut Volunteers. Now comes my friend from Connecticut [Mr. TILSON], I reckon.

Mr. RUSSELL. What page is that?

Mr. MOON of Tennessee. It is on page 23. He died September 10, 1880, without ever having applied for a pension. He was a good, straight, honest man, who stood for his country and did not want any pension. The report further says:

Claimant, who married the soldier on March 20, 1867, has been a pensioner under the act of June 27, 1890, ever since August 20, 1890, and is now receiving the rate of $12 per month provided by the first section of the act of April 19, 1908.

She resides at 27 Chamberlain Street, New Haven, Conn., and Dr. E. J. Walker testifies that she is not physically helpless, but that owing to her years and to the effects of lagrippe can not earn a living.

Neighbors testify she has no property, but earns $1.50 a week by baking; has no income but her pension of $12 a month.

Giving due consideration to soldier's long service, her years, and destitution, an increase to $20 a month is proper.

What have you to say about that?

Mr. RUSSELL. I only know what the report states. I do not remember the details of it.

Mr. MOON of Tennessee. Is that all there is of the report?

Mr. RUSSELL. That is all there is of the report. You understand that a report here can not contain all the evidence. It never does.

Mr. MOON of Tennessee. I am not going to criticize you about that. I think that is all right, too. Well, we will refer to another one. You have three out of ten.

Mr. RUSSELL. You would agree to all of them if you had the evidence before you. I want to say in that connection that the gentleman from Tennessee [Mr. MOON] knows very well that this House can not get all the evidence in each of these cases and consider each case. You have got to trust some to your committee, as you trust other things to the committees of this House.

Mr. MOON of Tennessee. I am fully aware of the fact that the gentleman is correct in that statement, but this House certainly ought to be able to depend upon somebody in that committee, some member of it, when called upon to furnish these facts. I know you can not present all the facts in detail in each and every case, but the gentleman must recollect that he has not been able to give me facts in a single case where it has been disputed and where the records on the facts show a legal condition or one that is obtainable in point of fact. I am not blaming the gentleman because he is chairman of the committee. I am taking these things at random and at what they are worth when we come to them, and the gentleman has not been able yet, and he says he can not, and the balance of the committee say they can not, tell us whether these matters ought to pass or not, legally and wisely.

My attention is called by my friend from New Jersey [Mr. TOWNSEND], in this same report, to a case on page 78, and I am going to read it. It is H. R. 26364. The report says:

Frances M. Rounds is the widow of Henry Rounds, who served as a sergeant in Company B, Third Regiment Ohio Volunteer Cavalry, from July 16, 1863, to August 4, 1865 (2 years).

Soldier was pensioned under act of June 27, 1890, at $10 a month by reason of chronic rheumatism, disease of heart, and obesity. His claim under the general law was rejected March 9, 1886, on the ground of no pensionable disability. He died September 6, 1905, and his widow was pensioned under the act of June 27, 1890, at $8 a month from September 18, 1905. She was married to the soldier May 31, 1890; was his third wife. His first wife, the mother of the claimant, died January 1, 1880, when she was about 1 year old. Soldier was divorced from his second wife May 12, 1890.

Inasmuch as Pearl Rounds was over 16 at the date of soldier's death she was not entitled to any rate under existing law.

Dr. Edward Remy gives the following history of the case: The father of Pearl Rounds died in 1906; mother died of pulmonary tuberculosis when Miss Rounds was but 8 months of age. There are three brothers and one sister, all living, and as far as known all are in good health.

Now I will read the "personal history." It seems to be quite a long one, but I would just as soon read this as any of them. I read:

Personal history: After the death of the mother, Miss Rounds, being the youngest in the family, was cared for by her brothers and sister, who being still quite young, were unable to give her the proper attention. At about 1 year of age she was taken by Mrs. John Bergdoerfer and, although was never adopted, she has ever since made her home with Mrs. Bergdoerfer. The latter reports that while Miss Rounds was still under the care of her brothers and sister, she had repeated falls; at one time from a table and others being caused by the overturning of a chair; each time producing more or less injury to the back. About one year after coming under the care of Mrs. Bergdoerfer she noticed the child having a grunting respiration and, in beginning to walk, supported herself with her right hand upon her right knee and with the left hand upon the back. Some bulging of the spine about the middle of the back was noticed at this time. At about 8 years of age the spine became tender and with abscess formation. Miss Rounds claims that she has not grown in height since about 14 years of age; the prominence of the back steadily increasing until about 20 years of age. She claims to have been operated upon by Dr. H. F. Biggar, of Cleveland, Ohio, when 23 years of age. The nature of the operation is not positively known by the patient, but was performed on the left side of the back, and the diagnosis at that time, according to her own statement, was "tuberculosis of the bone."

Physical examination: She is of small stature, being 4 feet 11 inches tall; not very well nourished; weight, 66 pounds.

Did you pension her?

Mr. RUSSELL. This is Gen. SHERWOOD's case; the case of Gen. SHERWOOD, the chairman of the committee.

Mr. MOON of Tennessee. This is an exceedingly long and interesting report. I was curious to know if the pension was recommended to be given on the facts.

Mr. RUSSELL. The Committee on Pensions was divided into subcommittees.

Mr. MOON of Tennessee. I will skip just a section or two of the proof here about the heart, lungs, and abdominal trouble. Now I read:

It is proposed by this bill to increase the pension of the widow who has been appointed guardian of the helpless child, Pearl Rounds, now 33 years old, to $24 a month, in order that the child may receive proper care and support.

Mr. John Bergdoerfer having died and left his wife without means of support, and the child, Pearl Rounds, having none, it is proper that the soldier's helpless child be provided with means sufficient for her care; therefore, it is recommended that the widow's pension be increased to $24 a month; provided, that in the event of the death of Pearl Rounds, the additional pension granted to the widow shall cease and determine; and provided further, that in the event of the death of Frances M. Rounds the name of said Pearl Rounds shall be placed on the pension roll, subject to the limitations and provisions of the pension laws, at the rate of $12 per month from and after the death of said Frances M. Rounds.

Now, tell me what right you have to do that under the law? The law provides that you shall not give pensions to children of soldiers if the children are over 16 years of age. There is no exception to the law on that subject, and you try to circumvent the law on that question by giving the pension to the widow, and then you provide that if the child dies, that poor old widow shall not have a pension, and then you provide that if the widow dies the pension shall accrue to the child, attempting to pension both ways.

Mr. LANGLEY. The gentleman overlooks the provision in the pension law that a permanently helpless child is pensionable regardless of its age.

Mr. MOON of Tennessee. No; I am not overlooking that provision at all. You have a double-acting pension here. You attempt to pension the widow in the first place; that is what you do. You do not pension the child at all, and in the next place you provide that when the widow dies the child shall inherit the pension.

Has it come in this country to the point where Congress is going to grant pensions inheritable between mother and child, and father and son?

Now, that is just driving the question a little too far. You have no justification in the law for such a thing. Of course you may contend that Congress has the power to do it. Who doubts the plenary power of this body? You may contend that the Congress has the power to give away the Treasury for any purpose it sees fit, for anything it wants to give it for. The Constitution lays no bounds on this body. All you have to do is to exercise your general legislative discretion, and that is the end of it. [Applause.]

The CHAIRMAN (Mr. MURRAY). The time of the gentleman from Tennessee has expired.

Mr. RUSSELL. Mr. Chairman, I move that the committee do now rise.

The CHAIRMAN. The gentleman from Missouri [Mr. RUSSELL] moves that the committee do now rise.

Mr. RODDENBERY. Mr. Chairman, I make the point of no quorum present.

The CHAIRMAN. The Chair will rule that the point of order is not material to the motion of the gentleman from Missouri [Mr. RUSSELL], and the Chair will put the motion that the committee do now rise.

The question was taken, and the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. MURRAY, Chairman of the Committee of the Whole House, reported that that committee had had under consideration the bill (H. R. 27475) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war and had come to no resolution thereon.

PORTO RICO (H. DOC. NO. 1256).

The SPEAKER laid before the House the following message from the President of the United States, which was read, and, with the accompanaying documents, referred to the Committee on Insular Affairs and ordered to be printed:

To the Senate and House of Representatives:

As required by section 32 of the act of Congress approved April 12, 1900, entitled "An act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes," I transmit herewith certified copies of franchises granted by the Executive Council of Porto Rico, which are described in the accompanying letter from the Secretary of War transmitting them to me. Such of these as relate to railroad, street railway, telegraph, and telephone franchises, privileges, or concessions have been approved by me, as required by the joint resolution of May 1, 1900 (31 Stat., 715).

WM. H. TAFT.

THE WHITE HOUSE, *January 9, 1913.*

SAMOAN CLAIMS (H. DOC. NO. 1257).

The SPEAKER laid before the House the following message from the President of the United States, which was read:

To the Senate and the House of Representatives:

I transmit herewith a report by the Secretary of State of the action taken by him in pursuance of the act of Congress approved June 23, 1910, authorizing and directing him to ascertain the "amounts due, if any, respectively, to American citizens on claims heretofore filed in the Department of State growing out of the joint naval operations of the United States and Great Britain in and about the town of Apia, in the Samoan Islands, in the months of March, April, and May, 1899 * * * and report the same to Congress."

Accompanying the report of the Secretary of State is the report of the officer who, pursuant to the Secretary's direction, visited the Samoan Islands for the purpose of collecting evidence regarding the claims mentioned. Of the total amount of American claims of about $64,677.88, payment of $14,811.42 is recommended by the agent. This finding is approved by the Secretary of State, who submits for the consideration of Congress the question of an immediate appropriation for the payment of the claims recommended.

WM. H. TAFT.

THE WHITE HOUSE, *January 10, 1913.*

The SPEAKER. This message, with the accompanying documents, will be printed and referred to the Committee on Foreign Affairs.

Mr. MANN. Mr. Speaker, is not that a matter which should properly be referred to the Committee on Claims? It recommends the payment of a number of claims. The Committee on Foreign Affairs has no jurisdiction over that.

The SPEAKER. The message and accompanying documents will be ordered printed and referred to the Committee on Claims.

PENSIONS.

Mr. RUSSELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House for the further consideration of the pension bill, H. R. 27475, and pending that, I ask unanimous consent that general debate be closed in 10 minutes.

Mr. MOON of Tennessee. Mr. Speaker, I shall have to object to that, and I hope I may be indulged just a moment for the purpose of giving reasons which I think are reasonable and tenable. Here are 217 bills included in this one omnibus bill. The report is 90 pages in length. In the discussion in Committee of the Whole, which has just occurred, 10 of these cases were picked out at random and read, and only 3 of them were in such shape that any member of this committee could give an intelligent reason why they should pass. The others were so bad, so thoroughly rotten, that I believe this House would do itself great injustice not to take the time in general debate for their discussion, and in the five-minute debate—and some of them can not be disposed of probably in that time—in order that the country may know that this bill has not had consideration by the committee or anybody else, and that it ought not to pass. I object.

Mr. RODDENBERY. Before the gentleman objects, will he reserve his objection for a moment?

SEVERAL MEMBERS. Regular order!

The SPEAKER. This whole business is proceeding by unanimous consent, and the regular order is demanded, which is equivalent to an objection.

Mr. RUSSELL. I move that the general debate upon this bill close in 10 minutes.

The SPEAKER. The gentleman from Missouri moves that the general debate on this bill close in 10 minutes.

Mr. RODDENBERY. Mr. Speaker, I move to amend the motion of the gentleman from Missouri, that general debate close in two hours.

The SPEAKER. The gentleman from Georgia [Mr. RODDENBERY] offers an amendment, that general debate close in two hours.

Mr. RICHARDSON. Mr. Speaker, when this discussion began I understood that this was pension day. We have pending before the House the report of the Pensions Committee, embracing 23 bills, I believe. And if there is to be a discussion of cases reported from the Committee on Invalid Pensions, it seems to me that our bill from the Pensions Committee ought not to be longer delayed, but that it ought to be considered.

The SPEAKER. This bill that is under consideration is a pension bill.

Mr. RICHARDSON. I do not think the gentleman from Tennessee can make the criticism of the Pensions Committee that he has made of the Invalid Pensions Committee.

Mr. MOON of Tennessee. Neither do I. I think you are a better set of men.

Mr. RICHARDSON. This is pension day, and there is no division between us. Let us go on now and consider the Pensions Committee cases.

The SPEAKER. The Chair states to the gentleman from Alabama that the bill now under consideration is a pension bill, and it is not possible to consider two pension bills at one time. The bill under consideration was called first, and its consideration is in order.

Mr. RICHARDSON. I desire to say, Mr. Speaker, that the Pensions Committee are not afraid of the criticisms of the gentleman from Tennessee.

The SPEAKER. That is not a parliamentary controversy. The question is on the amendment of the gentleman from Georgia [Mr. RODDENBERY] for two hours' general debate on this bill.

The question being taken; on a division (demanded by Mr. RODDENBERY) there were—ayes 8, noes 69.

Mr. RODDENBERY. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Georgia makes the point of order that there is no quorum present. It is evident that there is not. The Doorkeeper will close the doors——

Mr. MOON of Tennessee. Mr. Speaker, I move that the House do now adjourn.

Mr. MANN. I make the point of order that that motion is dilatory at this time in the afternoon.

The SPEAKER. The Chair is not prepared to rule that that motion is dilatory.

Mr. MANN. The Chair ruled that it was when I made it.

The SPEAKER. That was under different circumstances. [Laughter.]

Mr. MANN. This is under worse circumstances.

The SPEAKER. The Chair will try to give you all fair consideration, anyway. The gentleman from Tennessee moves that the House do now adjourn.

The question being taken, the motion was rejected.

The SPEAKER. The House refuses to adjourn. A quorum not being present, the Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, those in favor of the Roddenbery amendment to close debate in two hours will answer aye, those opposed no, and the Clerk will call the roll.

The question was taken, and there were—yeas 40, nays 152, answered "present" 7, not voting 185, as follows:

YEAS—40.

Adamson	Collier	Gregg, Tex.	Roddenbery
Beall, Tex.	Dent	Harrison, Miss.	Sheppard
Bell, Ga.	Dickson, Miss.	Hay	Smith, Tex.
Berger	Dies	Heflin	Stephens, Miss.
Blackmon	Dupré	Hughes, Ga.	Townsend
Burgess	Edwards	Humphreys, Miss.	Tribble
Byrnes, S. C.	Ellerbe	Lee, Ga.	Warburton
Byrns, Tenn.	Estopinal	Lever	Watkins
Callaway	Faison	Macon	Witherspoon
Candler	Flood, Va.	Moon, Tenn.	Young, Tex.

NAYS—152.

Adair	Burke, Wis.	Davenport	Foss
Ainey	Burnett	Davis, Minn.	Foster
Akin, N. Y.	Cannon	Denver	Fowler
Allen	Cary	Dodds	Francis
Anderson	Claypool	Donohoe	Gallagher
Anthony	Cline	Doremus	Garner
Bartholdt	Conry	Doughton	Garrett
Bates	Covington	Draper	George
Bathrick	Cox	Dyer	Gillett
Boehne	Crago	Esch	Godwin, N. C.
Booher	Cravens	Farr	Goeke
Borland	Cullop	Fergusson	Good
Buchanan	Currier	Fields	Graham
Bulkley	Danforth	Fitzgerald	Gray

Greene, Mass.	Langham	Murray	Slaydon
Griest	Langley	Neeley	Slemp
Hamilton, Mich.	Lee, Pa.	Nye	Sloan
Hamilton, W. Va.	Lenroot	Page	Smith, J. M. C.
Hamlin	Levy	Patton, Pa.	Smith, N. Y.
Hardwick	Lewis	Powers	Stedman
Harris	Littlepage	Pray	Steenerson
Haugen	Lloyd	Prince	Stephens, Cal.
Helgesen	Lobeck	Raker	Stevens, Minn.
Helm	Loud	Redfield	Stone
Hensley	McGillicuddy	Rees	Sweet
Houston	McKenzie	Reilly	Switzer
Jackson	McKinley	Richardson	Talcott, N. Y.
Kahn	McKinney	Roberts, Nev.	Thistlewood
Kendall	Madden	Rodenberg	Thomas
Kennedy	Maguire, Nebr.	Rouse	Tilson
Kinkaid, Nebr.	Martin, S. Dak.	Rubey	Underhill
Kinkead, N. J.	Miller	Rucker, Colo.	Volstead
Knowland	Mondell	Russell	White
Konop	Morgan, Okla.	Sabath	Willis
Korbly	Morrison	Shackleford	Wilson, Ill.
Lafferty	Moss, Ind.	Sharp	Wilson, Pa.
La Follette	Mott	Simmons	Wood, N. J.
Lamb	Murdock	Sims	Young, Kans.

ANSWERED "PRESENT"—7.

Bartlett	Dwight	Mann	Stanley
Browning	Hawley	Riordan	

NOT VOTING—185.

Aiken, S. C.	Fornes	Lafean	Randell, Tex.
Alexander	French	Lawrence	Ransdell, La.
Ames	Fuller	Legare	Rauch
Andrus	Gardner, Mass.	Lindbergh	Reyburn
Ansberry	Gardner, N. J.	Lindsay	Roberts, Mass.
Ashbrook	Gill	Linthicum	Robinson
Austin	Glass	Littleton	Rothermel
Ayres	Goldfogle	Longworth	Rucker, Mo.
Barchfeld	Goodwin, Ark.	McCall	Saunders
Barnhart	Gould	McCoy	Scott
Bradley	Green, Iowa	McCreary	Scully
Brantley	Greene, Vt.	McDermott	Sells
Broussard	Gregg, Pa.	McGuire, Okla.	Sherley
Brown	Gudger	McKellar	Sherwood
Burke, Pa.	Guernsey	McLaughlin	Sisson
Burke, S. Dak.	Hamill	McMorran	Small
Burleson	Hammond	Maher	Smith, Saml. W.
Butler	Hardy	Martin, Colo.	Smith, Cal.
Calder	Harrison, N. Y.	Matthews	Sparkman
Campbell	Hart	Mays	Speer
Cantrill	Hartman	Merritt	Stack
Carlin	Hayden	Moon, Pa.	Stephens, Nebr.
Carter	Hayes	Moore, Pa.	Stephens, Tex.
Clark, Fla.	Heald	Moore, Tex.	Sterling
Clayton	Henry, Conn.	Morgan, La.	Sulloway
Cooper	Henry, Tex.	Morse, Wis.	Taggart
Copley	Higgins	Needham	Talbott, Md.
Crumpacker	Hill	Nelson	Taylor, Ala.
Curley	Hinds	Norris	Taylor, Colo.
Curry	Hobson	Oldfield	Taylor, Ohio
Dalzell	Holland	Olmsted	Thayer
Daugherty	Howard	O'Shaunessy	Towner
Davidson	Howell	Padgett	Turnbull
Davis, W. Va.	Howland	Palmer	Tuttle
De Forest	Hughes, W. Va.	Parran	Underwood
Dickinson	Hull	Patten, N. Y.	Vare
Difenderfer	Humphrey, Wash.	Payne	Vreeland
Dixon, Ind.	Jacoway	Pepper	Webb
Driscoll, D. A.	James	Peters	Weeks
Driscoll, M. E.	Johnson, Ky.	Pickett	Whitacre
Evans	Johnson, S. C.	Plumley	Wilder
Fairchild	Jones	Porter	Wilson, N. Y.
Ferris	Kent	Post	Woods, Iowa
Finley	Kindred	Pou	Young, Mich.
Floyd, Ark.	Kitchin	Prouty	
Focht	Konig	Pujo	
Fordney	Kopp	Rainey	

So the amendment of Mr. RODDENBERY was lost.

The following additional pairs were announced:

For the session:

Mr. FORNES with Mr. BRADLEY.

Mr. HOBSON with Mr. FAIRCHILD.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Until further notice:

Mr. SCULLY with Mr. BROWNING.

Mr. ALEXANDER with Mr. AMES.

Mr. AYRES with Mr. BURKE of Pennsylvania.

Mr. BARNHART with Mr. CALDER.

Mr. BRANTLEY with Mr. CAMPBELL.

Mr. BURLESON with Mr. CRUMPACKER.

Mr. CARLIN with Mr. DE FOREST.

Mr. CANTRILL with Mr. DALZELL.

Mr. CURLEY with Mr. HENRY of Connecticut.

Mr. DANIEL A. DRISCOLL with Mr. FRENCH.

Mr. FERRIS with Mr. HAYES.

Mr. GLASS with Mr. HUMPHREY of Washington.

Mr. GREGG of Pennsylvania with Mr. WOODS of Iowa.

Mr. SPARKMAN with Mr. WEEKS.

Mr. HARDY with Mr. VREELAND.

Mr. HENRY of Texas with Mr. MCCREARY.

Mr. HOLLAND with Mr. VARE.

Mr. JOHNSON of South Carolina with Mr. MCLAUGHLIN.

Mr. PADGETT with Mr. MATTHEWS.

Mr. PEPPER with Mr. MERRITT.

Mr. STEPHENS of Texas with Mr. LAWRENCE.

Mr. RAUCH with Mr. PORTER.

Mr. ROTHERMEL with Mr. SPEER.

Mr. SHERLEY with Mr. PICKETT.

Mr. SISSON with Mr. REYBURN.

Mr. STEPHENS of Nebraska with Mr. TOWNER.

Mr. HAWLEY with Mr. MCDERMOTT.

Mr. ASHBROOK with Mr. HARTMAN.

Commencing January 10:

Mr. CARTER with Mr. MCGUIRE of Oklahoma.

Mr. BROWNING. Mr. Speaker, did the gentleman from New Jersey, Mr. SCULLY, vote?

The SPEAKER. He did not.

Mr. BROWNING. Then I wish to withdraw my vote of "no" and answer "present."

The result of the vote was then announced as above recorded.

The SPEAKER. A quorum is present, and the Doorkeeper will open the doors. The question is on the motion of the gentleman from Missouri [Mr. RUSSELL] to close general debate in 10 minutes.

The question was taken; and on a division (demanded by Mr. RODDENBERY) there were—ayes 110, noes 5.

So the motion was agreed to.

The SPEAKER. The question now recurs on the motion of the gentleman from Missouri, that the House resolve itself into Committee of the Whole House for the further consideration of the bill H. R. 27475—the pension bill.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House, with Mr. MURRAY in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the consideratoin of the bill H. R. 27475. General debate has been limited to 10 minutes, and the gentleman from Missouri [Mr. RUSSELL] is recognized.

Mr. RUSSELL. Mr. Chairman, is there anybody on that side of the House opposed to the bill that desires five minutes?

Mr. RODDENBERY. I would like five minutes.

Mr. RUSSELL. I will yield five minutes to the gentleman from Georgia [Mr. RODDENBERY].

Mr. RODDENBERY. Before taking the five minutes I desire to yield to anyone who may desire to oppose the bill. Mr. Chairman, it is somewhat remarkable that a distinguished Member of this House, in general debate when the pension bill is being considered, arises in his place and takes the report of the committee in conjunction with the bill, discusses the germane elements of the report and the bill, and that throughout an hour's discussion, with one exception, the author of not a single bill would rise to explain to the House of Representatives what the merits of his proposals were. It is a unique period in the history of legislation in a republican government when the author of a bill and no member of the committee should rise to give to a distinguished Member an explanation of why the Treasury of the people of the country should be charged with the expenditure of their tax money. We see during Judge MOON'S remarks where he discloses infirmities of legislation and asked for an explanation that there was none. When he had concluded and other Members sought to be recognized to discuss the legislation the chairman of the committee moved that the committee rise, and forthwith moved that general debate be limited to 30 minutes. Thirty minutes, and now 10 minutes, in which to discuss 237 items, every one of them charging your constituents and mine with the levy of Federal taxation.

The record of this day's proceedings will disclose that Members on the roll call voted to suppress discussion to prevent exposure of fraud and reward the deserters and traitors to the country, thus putting on the taxpayers of this country added thousands of dollars.

Gentlemen, are you afraid of the bill? Gentlemen, do you not dare to discuss the merits of the proposition by which you seek to take money from the pockets of the people? Has the old soldier of this age, with two hundred millions of appropriations for his pensions now confronting us, has the old soldier's cause reached the stage when his supporters on the floor will not defend the merits of his claims? The old soldiers of this country will indorse no such methods, no such practices. Every soldier of the Union in this bill, or his widow, want their rights considered by the House. Every deserter, every wealthy person, every fraudulent impostor on the people will applaud the vote that stifles debate and denies discussion. It is the history of legislation that when the people stand face to face with exposure that he who seeks to profit by the surreptitious legislation will applaud every effort to deny the people full discussion of the truth. I wonder now if the gentlemen, under the five-minute rule, propose to prevent the discussion of these bills. We will see in just a few minutes.

Mr. RUSSELL. Mr. Chairman, if no one desires to speak in favor of the bill, the Clerk may read.

The CHAIRMAN. The gentleman from Missouri yields back his time. All time has expired, and the Clerk will read.

The Clerk read as follows:

The name of William Andrews, late of Company C, Twenty-second Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

Mr. MOON of Tennessee. Mr. Chairman, if the gentleman from Missouri does not desire to say anything in support of the bill, I would like a moment. I have always favored proper and legitimate pensions of all soldiers of the United States. I favored the private bills wherever they were just and fair. I have favored the general laws in their behalf and the general appropriations in their behalf. I do not know that upon a proper explanation of the facts in the case there is a single bill reported here on the measure under consideration to which I would have any opposition. But it was disclosed in general debate that the committee were unable in at least 8 out of 10 cases that were referred to—merely at random and for the first time, not having been selected for the purpose of reference—to give an intelligent explanation of the reasons why they asked the appropriation in each of these cases. This is an omnibus bill. Evidently there are bad bills and there are good bills. It would be an exceptional thing if there were not bad bills. If we want to legislate honestly in the interest of the soldiers of the country—and I am sure there is no soldier who wants an improper bill passed—I feel it is our duty to know the facts. We are entitled to know from this committee the facts and the reasons why they make the recommendations for appropriations in each and every one of these bills. As I said before, I have no reason for objecting to this bill—to the first one, or to any of the others—but I feel it is due to the House that substantial and honest reasons may be given for this legislation, that we may justify ourselves in its enactment. Here is a measure carrying several bills. The first bill is reported on facts that are meagerly stated, and upon their face they hardly justify an appropriation, and yet a full disclosure of the facts may show that this is a proper bill for passage. I offer no opposition to the bill, but I do insist that the report of the committee on this bill be read, and that the chairman of this committee give an explanation, if he can, why he asks for this legislation.

Mr. RUSSELL. Mr. Chairman, I assume that the gentleman from Tennessee is sincere in asking me as acting chairman of this committee to-day to explain this item in this bill. I want to state, and he knows he has already in the discussion of the bill said that he knows that that is true, that no member of this committee can be acquainted with all the testimony offered in support of an item like this.

Mr. MOON of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. RUSSELL. Yes.

Mr. MOON of Tennessee. If the gentleman concedes that he is not able to give a full statement of these facts, would it not be well for some member of the committee or some one interested in this particular bill to make a statement to the House as to what all the facts are in justification of this enactment? At least, would it not be well that the House hear the report upon that bill?

Mr. RUSSELL. This bill was introduced by the gentleman from Ohio [Mr. ANSBERRY]. I presume if he were here he might be able to give all of the facts in the case, but it happens to-day that he is not present.

Mr. COX. He is a member of the Committee on Ways and Means, which is now in session.

Mr. RUSSELL. He is away attending to his official duties.

Mr. MOON of Tennessee. If there is nobody here who knows the facts, if no one can state an intelligent reason for the passage of this bill, why should the committee ask the House to approve this legislation?

Mr. RUSSELL. Simply for the reason that this House in every case does trust and ought to trust the committees. It has to trust the committees that have to do the work. [Applause.]

Mr. MOON of Tennessee. Of course. Of course you are obliged to trust the committee. We trust the committee, however, upon the presumption that the committee knows the facts, and we blindly follow the committee even along these lines, but when a question is raised and it is clearly disclosed that the committee does not know the facts, does not common sense dictate that we ought not to legislate until we do know the facts?

Mr. RUSSELL. The gentleman from Tennessee has already admitted to-day in the discussion here that he knows that it is absolutely impossible and not expected that a member of this committee will be able to state all the details of the evidence in these cases.

Mr. MOON of Tennessee. Then would not the gentleman have the report read?

Mr. RUSSELL. Does the gentleman from Tennessee believe that if this report were read here from the Clerk's desk the membership of this House would give attention to it while it was being read?

Mr. MOON of Tennessee. Of course. Here is a bill pending, and there is a short report upon this particular bill, ought not this House to know at least that much about it?

Mr. RUSSELL. I want to say that we have been passing these pension bills ever since I have been in Congress. We have passed a great many bills coming from this committee offered by the gentleman from Tennessee himself, and he never before asked for a report to be read. [Applause.]

Mr. LANGLEY. And he never before took the position that he is taking to-day, although he has served years and years in this House.

Mr. MOON of Tennessee. Mr. Chairman, that is not the fact. The exact opposite of that is true. The gentleman from Tennessee on various occasions has defended the measures that he has had here when they have been assailed. He never does defend them unless they are assailed.

Mr. LANGLEY. Did the gentleman ever before ask for the reading of these reports in each case as he is doing now?

Mr. MOON of Tennessee. The gentleman has not only had the reports read, but the gentleman on one occasion stood here for four hours and defended a bill in favor of a pension.

Mr. LANGLEY. I expect that the gentleman may have presented a bill here at some time the merits of which were such as to require four hours of defense.

Mr. MOON of Tennessee. And it went through by a vote of 300 to 1. I will ask the gentleman from Missouri to tell us what he knows about that bill.

Mr. RUSSELL. I do not recall the testimony on this item when it was offered before the committee.

Mr. MOON of Tennessee. Is there anybody here who does?

Mr. RUSSELL. I do not know. The gentleman from Ohio [Mr. ANSBERRY] is not here. Perhaps if he were here he might be able to explain items in that bill.

Mr. MOON of Tennessee. Have you not the report?

Mr. RUSSELL. Here is the report, and the affidavits are on file, and they can be procured and brought here.

Mr. MOON of Tennessee. I do not want to be unreasonable, but I will ask the gentleman to report what he has there.

Mr. RUSSELL. Does the gentleman believe that this House wants to set aside the report of the committee and its work and its honest judgment and bring all of the affidavits here in these 237 cases that have been passed by the House? [Applause.]

Mr. MOON of Tennessee. No, indeed.

Mr. RUSSELL. If you can not trust this committee as you trust other committees in the House, then the legislation can not be enacted at all, and that seems to be the result of the filibuster.

Mr. MOON of Tennessee. The gentleman has made a report in this case.

Mr. RUSSELL. Yes; here is the report.

Mr. MOON of Tennessee. Read it and let the House know its contents.

Mr. RUSSELL. The gentleman has already read the report to the House. You have to trust the committee.

Mr. MOON of Tennessee. I am willing to trust this committee, but not to trust it blindly when the committee says it does not know anything about its work. I can not trust it in that event.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. TRIBBLE. The chairman of this committee says the committee should be trusted. Now, this committee has been trusted, and let me show you what they have done with that trust. The laws of the United States provided that when this man entered he could not enter under 18 years of age. At the time William Andrews entered the service he enlisted at 13 years of age. In the first place, does anybody in this House believe he saw service at all? Soldier boy—13 years of age baby pension! [Laughter.] Now, they come here, Mr. Chairman, and propose to put on this roll of pensioners a boy 13 years of age, who was a deserter, as stated in the committee's own report now before this House. You do not have to have a full report like the gentleman from Tennessee is calling for. Take this report. It is sufficient to expose, before this House and the country, pension methods. I say the boy was a deserter. That alone should have ended this claim, and the committee should have kicked it out the door. This claim was refused by the Bureau of Pensions. When the doctors examined him for the

Pension Bureau he claimed to have at that time lumbago, disease of heart, and bronchitis. The Bureau of Pensions turned him down, and said he did not have any such diseases. He went out there to Defiance, Ohio, and picked up another doctor by the name of Dr. Ury. This Dr. Ury credits him with about 10 other diseases, and does not mention any one of the three diseases the applicant claimed in first examination to have. And yet you talk about being trusted. The Pension Bureau, schooled to pass all kinds of claims, would not stand for baby soldier, deserter, and man who transferred his lumbago, heart disease, and bronchitis for numerous other diseases. [Laughter.]

Mr. RUSSELL. Let the Clerk read.

The Clerk read as follows:

The name of Emma L. Cole, widow of William C. Cole, acting assistant surgeon, United States Army, and pay her a pension at the rate of $12 per month.

Mr. MOON of Tennessee. Mr. Chairman, I ask that the report of the committee in this case be read for the information of the House.

Mr. RUSSELL. I object.

Mr. MOON of Tennessee. We have a right to have it read in the Committee of the Whole.

The CHAIRMAN. Not without a motion. The Chair will, however, construe the request as a motion to have the report read.

Mr. MOON of Tennessee. Under the rule, as I understand it, we have the right to have this report, anyway.

The CHAIRMAN. The Chair will submit the motion of the gentleman from Tennessee [Mr. MOON] to the committee.

Mr. MOON of Tennessee. I think the Chair has a right to rule on that question.

The CHAIRMAN. Well, the rule is very clear. Rule XXX, page 404, is as follows:

When the reading of a paper other than one upon which the House is called to give a final vote is demanded and the same is objected to by any Member, it shall be determined without debate by vote of the House.

There has been objection.

Mr. MOON of Tennessee. Here is a paper that the House has determined.

Mr. FOSTER. I submit to the Chair that the House does not determine a vote upon the report of the committee, but upon the bill itself.

Mr. MOON of Tennessee. Of course——

Mr. FOSTER. And the gentleman's statement is erroneous, so far as that is concerned.

Mr. MOON of Tennessee. I insist that the House has a right to hear the report of this committee.

The CHAIRMAN. There is no disagreement between the gentleman and the Chair on that point, but the committee has a right to say whether it will hear the report read or not. The Chair will submit the motion of the gentleman from Tennessee [Mr. MOON], that the report of the committee be read.

The question was taken, and the Chairman reported that the noes seemed to have it.

Mr. RODDENBERY. Division, Mr. Chairman.

The committee divided, and there were—ayes 14, noes 87.

So the motion was rejected.

Mr. MOON of Tennessee. Mr. Chairman, as I remarked before, I do not know that there is any special objection which I have to a number of these bills, but I shall in my own time on the floor read as follows as part of my remarks in this case:

H. R. 111. Emma L. Cole, about 61 years of age, is the widow of William C. Cole, who served as acting assistant surgeon, United States Army, from August 21, 1863, to October 5, 1863, and from October 31, 1863, to December 17, 1864, and who died December 29, 1902, of paralysis, while a pensioner under the general law at $30 per month on account of an injury to the lower jaw and back received in line of duty in September, 1864.

The claimant, who married the surgeon on January 3, 1870, sought pension under the general law, but her claim was properly rejected in July, 1908, upon the ground that her husband's fatal paralysis had no connection with the disabilities for which he was pensioned and was not otherwise shown to have been due to his military service.

She also sought pension under the act of June 27, 1890, but this claim was likewise rejected on the ground that her husband was neither an enlisted man nor a commissioned officer in the military establishment.

Claimant is a resident of Van Wert, Ohio, and is shown by proof filed with your committee to have no property and to be dependent upon her own labor for a support.

Congress having repeatedly granted relief to the men who served as contract surgeons and to the widows of such persons, like relief is believed to be warranted in this case, and a pension of $12 per month is therefore recommended.

Now, there is not a soldier nor a commissioned officer in the Army whose widow is receiving a pension under this bill. Under the general law pensions must be granted alone to enlisted soldiers or the widows of enlisted soldiers. Now, I am about the last person in the world who would want to deny a pension to a worthy person, but here is practically the granting of a civil pension. It is not a pension to a soldier nor to a commissioned officer of the Army, but it is to one who occupied no military psition, no enlisted position of any kind, and surely the law will be overridden in a case like this. If you can grant pensions to persons occupying a situation like this, then you might subvert the law in another instance and grant them to widows who married since the act of 1869, and also grant them to a widow of a soldier who served less than 90 days. Let us give fair, legitimate, and honest pensions to the soldiers and widows of soldiers, but not to those who were not soldiers. And the argument that Congress may have violated the principles of the law heretofore—it might have gone further than it ought to have gone—is no justification for it now, however far it may have gone in the past. I do not want to offer any serious objection to a pension, but in all common decency this Congress ought to show some special reason for the passage of this one.

The CHAIRMAN. The time of the gentleman from Tennessee [Mr. MOON] has expired.

Mr. RUSSELL. The gentleman from Tennessee [Mr. MOON] wants to know why this widow is granted a pension, stating that her husband was not a soldier. This report—although he criticizes our report—shows that her husband was a surgeon in the Army.

Mr. MOON of Tennessee. He was not a soldier and enlisted.

Mr. RUSSELL. But he was a surgeon, and under the general law was pensioned at $30 a month. Now, then, are you opposed to the pension law of the country under which he was pensioned; and if he was given a pension under the general law, why should his widow, who married him forty and odd years ago, be denied a pension when she is shown to be deserving in every other way?

Mr. MOON of Tennessee. Your own statement shows here that her pension was denied under the general law.

Mr. RUSSELL. But he was pensioned at $30 a month under the general law. Of course, if we are not to give pensions to anyone who can not get them in the department, you have no use for an Invalid Pension Committee to represent you in the House.

Mr. MOON of Tennessee. The gentleman has at last given a satisfactory reason, perhaps, in law. I offer no objection to the pension, but you have got to show why you want these laws passed.

Mr. RUSSELL. The reason I have given is printed here in that report.

Mr. MOON of Tennessee. Why did you not want the report read?

Mr. RUSSELL. I know the gentleman did read it, but I still insist that he gave no reason why the pension should be granted. Now, after I have read it, the gentleman sees that it does give reasons.

Mr. MOON of Tennessee. No; I say that the gentleman has made an explanation of it that is more satisfactory than it was before. The report shows it.

Mr. RUCKER of Colorado. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Colorado moves to strike out the last word.

Mr. RUCKER of Colorado. Mr. Chairman, it is a notorious fact that I am unalterably opposed to any species of monopoly, and that intense opposition embraces in its beneficent breadth legislative as well as commercial monopoly. Indeed, sir, when we pause to reflect upon the import of these two closely allied monopolies, it is difficult at times to determine which of the two is the more serious menace in our political and economic affairs, there being frequently a similarity of result in the exercise of either. We have restraint of trade on the one side and restraint of speech on the other, and just as some promising infant industry, from the standpoint of commerce, only too frequently feels the relentless and murderous hand of monopoly at its very vitals, just so some promising, and what might develop into a product of effective, utterance may, in the exigencies of parliamentary procedure, be strangled at its very birth. [Laughter.]

But, Mr. Chairman, I am convinced that my effort now will meet with no such untoward fate, for I rise to the assistance of the criticizers of this measure. I can not silently assent to the selfish desire of three very distinguished Members of this House to appropriate to themselves all of the deserving criticism that is to be leveled against it. [Laughter.]

It has been truly said that "Competition is the life of trade," and similarly it can be as truthfully said that competition means sometimes the life of legislators, and I may pause to suggest that this improvised axiom seems rather reminiscent of

my late political experience. [Laughter.] Still let me now, while I may, enlist as a contemporaneous competitive critic of the action of the committee. Indeed, let me go further and be, in the modern acceptation of the term, a true "progressive" in the race of criticism; and we all know what that means, even though I may not hope to cope with some of the leaders of the "progressives" in appropriate adjectives. I would outstrip my friends the criticizers. They are at best but novices in the art. While their lances are keen, they have but skinned the bark; they have by no means penetrated to the heart of the subject.

Mr. Chairman, during my service in this body the proud distinction has, at unfortunately rare intervals, been mine to temporarily preside over its sometimes heated deliberations, if I may so express it; and, like an ambitious student of parliamentary tactics, I have carefully noted from that exalted position the methods of those who have been unjustly denominated "filibusterers." Mr. Chairman, that is an unmerited reflection upon a class of gentlemen who should be dignified by the designation "legislative critics" [laughter], whose salutary presence is indispensable to the intelligent and effective performance of our duties as legislators. Criticism by way of nonparticipation in vicious legislation has had a very wholesome effect in our legislative history, while those who indulge in this species of criticism are unthinkingly regarded by some as obstructionists. That is eminently unfair.

I charge this committee with recreancy of duty in that it has, with some unrevealed and mysterious motive, withheld from this House the evidence, underlying its surreptitious attempt to insinuate its grim, grimy hand into the sacred bowels of the Treasury and withdraw the sum of $20 per month as a pension for the widow of one "Joseph Jefferson." As Marcus Tullius Cicero said, pointing his condemning finger at Mark Antony, "Romans, he is agitated; he perspires; he turns pale"—so will I presently call upon you, my colleagues, when I have further exposed this daring raid upon the Treasury, to turn your attention in the direction where my finger is pointing and behold what is equivalent to a confession—the blanched face and trembling lips of the chairman of this committee. [Laughter.]

But in the profound utterance of the immortal Dane—

Brief let me be.

My distinguished friends have addressed themselves with characteristic pointedness and eloquent persuasiveness to many paragraphs of this bill. Mr. Chairman, theirs were appropriate and relevant suggestions, and I here and now eagerly avail myself of the opportunity to supplement and, if possible, to fortify their forcible and well-merited arraignment of the committee, and to this end I desire to call the earnest and prayerful attention of the House to another item in this bill, which by inadvertence they overlooked, appearing on page 11, which is equally susceptible of serious criticism. On the page referred to we are confronted with this startling provision:

The name of Sarah A. Jefferson, widow of Joseph Jefferson, late of Company K, Eighth Regiment United States Colored Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

Why, I ask in the joint names of propriety and accuracy, are we cunningly deprived of evidence by this neglectful committee which would be so controlling and enlightening upon the all-important full and complete name of "Sarah A. Jefferson?" [Laughter.] Had her middle initial appeared as a modest and retiring "V" all intelligent thespian historians on this floor would have instantly deduced that that initial was synonymous with "Van Winkle," for she is boldly and bluntly stated to be "the widow of Joseph Jefferson," and the conclusion would be absolutely irresistible, that name being so inseparably associated with that of the immortal impersonator of the famous "Rip" that the mere initial would have carried its own convincing proof. [Laughter.] And, too, as a further rebuke to the thoughtlessness of the committee, it may be said that it is contrary to the truth of history to designate him as a "soldier," and especially as a "colored" soldier. Of course, he was neither. The only war ever engaged in by "Joseph Jefferson" consisted of the innumerable war of words with his recalcitrant spouse, and in which, it may be stated, he was always on the defensive and was finally ignominously routed, and the only gun he ever handled was his trusty and, as subsequent developments proved, rusty fowling piece which led him, with his faithful dog, "Schneider," to the hazy heights of the Catskills in quest of game, and the "game," as well as the gun, as is well known, conspired to his undoing in his long and forgetful sleep. Alas, to use Rip's own brief but mournful soliloquy, "How soon are we forgot when we are gone." Poor old Rip, in the cold, gray dawn of the morning, after his memorable festivities with the "boys of the glen," completely lost his identity, just as the "Sarah" of this late day has lost hers in its essential entirety; and it is eminently desirable that we should now ascertain why the committee should withhold this important bit of enlightenment in this instance, namely, who is "Sarah A. Jefferson" and why it failed to probe further into the true significance of the initial "A." Had the faithful "Schneider" been called as a witness he could have doubtless established her true identity. [Laughter.]

The termigant spouse in the legend of Irving bore the simple and familiar designation "Dame Van Winkle," and as the personality of "Joseph Jefferson" was so completely merged into that of "Rip Van Winkle," and as his energetic wife is nowhere named "Sarah A.," although she might have been, we are led to suspect some ulterior motive on the part of the committee. Why their reticence in disclosing the full middle name? If it were "Ann," "Annie," "Arabella," "Adaline," or any other good English name above the realm of suspicion, why not have unhesitatingly revealed it?

Ah, Mr. Chairman, herein lies the very pith and essence of the natural suspicion attaching to the committee, for we are reluctantly forced to the conclusion, in the absence of the necessary and much-desired proof to the contrary, that the middle name of this widow of "Joseph Jefferson" may have been "Aspasia," as an hereditary compliment to that seemingly irresistible Grecian enchantress of the golden tresses and olive cast whom we are told, with reckless abandon, lured the fickle swains of ancient Greece from the paths of rectitude to the gilded palace of sin; and having by a master stroke of ingenuity secured this piece of inside information, the committee doubtless virtuously, but nevertheless quite reprehensibly, suppressed the evidence and contented itself with the simple and otherwise guileless letter "A."

Mr. Chairman, I feel keenly this wanton lack of frankness on the part of the committee. Are we, as American legislators, to be juggled with, and is important information of this character to be with impunity withheld from us? [Laughter.]

I might, Mr. Chairman, take exception to numerous other serious delinquencies on the part of the committee but my time is too limited to recount them. Suffice it to say, in conclusion, that I am in hearty accord with the just criticisms of my friends upon my left with respect to their attitude toward these old, seared soldiers, because I feel that that committee is guilty of a deliberate fraud, or attempted fraud, upon the Treasury when it agrees to report a bill to pay a pension of $20 a month to a widow of a deceased soldier whose name is simply said to be "Sarah A," without furnishing the important and necessary proof even that her name was actually "Sarah," and also the further substantiation of her full and complete middle name [laughter], and to stigmatize the greatest actor of the modern age by associating him with a negro regiment without any explanation, or submitting proof that he was not really "acting a part," is nothing short of a national humiliation and outrage, and fully sympathizing with the sentiments of my colleagues and in the interest of the already overburdened taxpayers of the country, I here and now as a Representative in this great Congress against this diabolical, colossal, and inexcusable outrage I desire to register my solemn protest. [Applause.]

The CHAIRMAN. The time of the gentleman has expired. The gentleman withdraws his pro forma amendment.

Mr. RUSSELL. Mr. Chairman, I ask that the Clerk read.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

The name of Julia A. Rouse, widow of Oliver H. P. Rouse, late of Company D, Eighteenth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

Mr. TRIBBLE. Mr. Chairman, I desire to call the attention of the House to the fact that Julia A. Rouse is placed upon this list, and there are two reasons why her name should be stricken from it.

In the first place, the record shows that her husband, Oliver H. P. Rouse, had no pensionable status; that he could not draw a pension; and where he could not draw a pension under the law, then his widow can not draw a pension. Why? Because it does not appear that he received any injury while in the service.

The gentlemen of the committee thoroughly understand that principle. In the second place, it ought to be stricken because the widow married since 1890. She has no standing before this committee as a widow. She was married since the date of act of June 27, 1890.

There are two reasons; and yet they have placed this woman's name upon this list. If you read the report of the committee, you will find that two of her children have been on the pension roll, and stayed on there until they were 16 years of age.

The Government paid them without authority. They had no right upon this pension roll. Their father did not have a right to draw a pension and therefore they could not draw a pension.

Now, these things are in the committee's report. You do not have to go out and seek them; they are right here before your eyes.

Mr. LANGLEY. The gentleman is mistaken. The report shows that the soldier was pensioned under the act of June 27, 1890, and that he died on August 11, 1898. That is shown in the report on the bill H. R. 835, on page 4 of this report.

The CHAIRMAN. The time of the gentleman from Georgia [Mr. TRIBBLE] has expired. The gentleman withdraws his pro forma amendment. The Clerk will read.

The Clerk read as follows:

The name of Louisa Pitts, widow of Jacob Pitts, late of Company D, One hundred and thirteenth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

Mr. TRIBBLE. Mr. Chairman, I rise for the purpose of reading to the gentleman this statement. He questioned the correctness of my statement. It is stated here in this report that the widow when she applied for a pension under the general law was denied because the soldier's death from dysentery and chronic diarrhea was not shown to be due to his military service in the war.

Mr. LANGLEY. He was not pensioned because of disability incurred in service. That is true. He was pensioned under the act of June 27, 1890.

Mr. TRIBBLE. I do not make statements that I can not stand for in this House. The report reads as follows:

She applied for pension under the general law, which was denied because soldier's death from dysentery and chronic diarrhea was not shown to be due to his military service. Having married soldier subsequent to June 27, 1890, she had no status under that act.

Now, sir, you have the exact language of the report.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

The name of Jeshuron Bailey, late of Company A, One hundred and eighty-sixth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

Mr. MOON of Tennessee. Mr. Chairman, I surely have no disposition to obstruct legislation in this House further than it would seem necessary and proper to do it in the interest of good legislation. As I said before, every bill here may be a good one; I do not know. I am ready to support it if it is.

I would like to have information, however, that would justify me in the support of these measures. I would be glad to support them if I can. But the House has determined on a vote that it does not want to hear the reports read in this House. I have read some of them myself. On a motion here the House determined that it did not want the reports read. It clearly appears from the debate that the committee is unable to give any explanation in the majority of the cases that have been up as to why this legislation is asked for. It is a lot of legislation tumbled into a bill here that is sought to be passed without, so far as the facts show, any reason for it. Surely I am doing my duty when I insist that the facts ought to be intelligently stated by some one in this House who knows them before we act upon them. Surely the report of the committee, meager and insufficient as it is, ought to be read. But if the Democratic Party, coming into power, is willing to proceed along this line of legislation in this way I think there is nothing that more thoroughly demonstrates its unfitness and its incapacity than a precedure along this line in this way.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

The name of Elizabeth M. Rutherford, widow of George Rutherford, late of Company F, Second Regiment Minnesota Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

Mr. TRIBBLE. In this report you will find with reference to the claim of Elizabeth Rutherford the following words:

Her application under the general law was rejected December 13, 1900, on the ground that the soldier's fatal disease of heart was not known to be of service origin.

In the first place the claim of this woman was rejected. In the second place, she came before this Congress years ago, because she could not get a pension under the general laws of this country, and a special act was passed putting her name on the pension roll when she was not entitled to go there. To-day we see her moving on the Treasury of the United States to get an increase. We are asked here to-day to pass a second special act increasing that special pension from $12 to $20. Why? Because, forsooth, this woman is worth $4,000 or $5,000. What about these old war widows throughout the country who are receiving nothing, really dependent and deserving? What have you to say about them—widows who are 65, 70, and 80 years of age—who have not a dollar in this world? What have you to say of the old widows from one end of this country to the other who are receiving $12 a month? Yet you take up the case of one who is not entitled to a pension at all, who was pensioned by special act, and you now propose by special act to increase her pension from $12 to $20 a month, and she worth $4,000 or $5,000. In the name of humanity, if you insist on raiding the Treasury for pensions, give to the poor and worthy. This woman has 18 lots in Minneapolis and a homestead in Custer County and no pension standing, yet this is the second special act for her benefit.

Mr. NYE. Mr. Chairman, I do not like to take up the time of the committee on this bill, but in view of the fact that some statements were made by the gentleman from Tennessee [Mr. MOON] in my absence, and now by the gentleman from Georgia, I beg the indulgence of the committee just a moment. I personally know something of the facts of the case. This woman has been known to be in poor health for years, and I can say without exaggeration that she is nervously broken down. Her husband was a worthy soldier for nearly four years. He was sergeant of his company. This woman married him in 1867 and raised a family. She is drawing a pension of $12 a month, as I understand the facts, under the act of 1890. I personally know the family. They stand well. She has had much trouble to break her down nervously, and the only criticism that can fairly be made is with reference to property matters. The report would seem to show, and the facts are on their face, that if the property could be sold at what it is considered to be worth there might be an equity of something like $2,700. It is heavily taxed. I know from the location of the property that it is hardly salable at the present time, and has not been for years, and no income from it. I know that the woman has had a struggle to live.

I want to say generally in regard to pensions that there is one thing that has impressed me ever since I have been a Member of this House. While we have been generous and perhaps have granted to men in many cases greater pensions than they deserve, we have never been generous or even just to the widows of worthy soldiers. [Applause.] If we would fittingly recognize the valuable and trusted services of a man who for four years fought for his country and would fittingly honor his memory and his service, it would include some honor to the widow whom he has left, who is struggling for a living. I do not believe there is an item in this bill more worthy or more just than this one. I personally know this woman. I knew her family personally. I knew her late husband personally to some extent. I am not here to urge bills that are unconscionable or unjust, and I appeal to you to know if this is an unjust bill which gives $20, an increase of $8, to a struggling widow who is nearly 70 years of age.

Mr. RODDENBERY. Mr. Chairman, I desire to offer an amendment to this paragraph.

The CHAIRMAN. The gentleman offers an amendment, which the Clerk will report.

The Clerk read as follows:

Insert as a new paragraph the following:
"The name of James L. Davenport, of Company B, Fortieth Wisconsin Regiment, $1 per month in lieu of that he is now receiving."

Mr. RODDENBERY. Mr. Chairman, I entirely agree with the distinguished gentleman from Minnesota——

Mr. LANGLEY. Mr. Chairman, I rise to a point of order.

Mr. RODDENBERY. I make the point of order that the gentleman is too late.

Mr. LANGLEY. I want to make the point of order that the amendment is out of order because it is not germane.

Mr. RODDENBERY. I make the point of order that the gentleman's point comes too late.

Mr. LANGLEY. It is not too late, Mr. Chairman. I endeavored to get recognition as soon as the reading was finished and just as the gentleman took the floor for debate.

Mr. RODDENBERY. If the Chair has any misgivings I should like to submit——

The CHAIRMAN. What is the gentleman's point of order?

Mr. LANGLEY. That the amendment is not germane to the bill, and——

The CHAIRMAN. The Chair will rule that the amendment is germane.

Mr. LANGLEY (continuing). That it is not germane to the purpose of the bill.

The CHAIRMAN. The Chair will rule that the amendment is germane. The gentleman from Georgia [Mr. RODDENBERY] is recognized and has four minutes remaining.

Mr. RODDENBERY. Mr. Chairman, the gentleman referred to in this amendment is none other than the Commissioner of Pensions of the United States, who for many years has been

drawing a salary of $5,000 a year from the Government as such Pension Commissioner, and in addition to that for 20 years has been drawing a pension of $16 or more per month.

I hold in my hand a card which contains these words:

John R. King, past commander in chief Grand Army of the Republic; president of the Grand Army Club of Maryland—

and four other official connections that he has with the Grand Army of the Republic. I hold in my hand a communication signed by this gentleman, whom I do not know. Effort may be made to show that he had as bad a record as Gen. Francis Adams had, whose views of the pension system I called to the attention of the House some time ago. I do not know. I never saw Mr. Davenport. Here is his military record as given by Past Commander in Chief Grand Army of the Republic King:

At the end of the Civil War, at a period when big bounties were being paid, he (Commissioner Davenport) enlisted in Company B, Fortieth Wisconsin One hundred Days Regiment. He never got within 40 miles of the front, never heard a hostile gun fired, yet 21 years after the war—July, 1886—while holding a position in the Pension Bureau, had himself placed on the pension rolls at $16 per month for chronic diarrhea by certificate numbered 431111. This is a travesty on the pension laws and warrants congressional investigation. Twenty-one years plus 20 years with chronic diarrhea would mean by this time, if by a miracle he still lives, a human skeleton. But look at him, a perfect picture of health, and it is said that he is a constant sufferer from constipation.

Call for the papers in his case and demand that he be examined by a board of surgeons, not of his own appointment, however. He is constantly dropping men from the rolls "disability ceased." Give him a dose of his own medicine.

This is the language of his comrade, King—not mine.

I also hold in my hand an autograph letter, under date of January 2 of this year, dated Baltimore, Md., addressed to me by John R. King, as follows:

BALTIMORE, MD., *January 2, 1913.*

Hon. S. A. RODDENBERY,
Washington, D. C.

DEAR SIR: I believe you are in favor of honest pensions to the survivors of the Civil War. So are all real soldiers.

I inclose a copy of the military record of James L. Davenport, Commissioner of Pensions. I believe the pension rolls should be purged of all such frauds. Think of it. This man, who never got within 40 miles of the front, never heard a hostile gun fired, 21 years after the war has himself placed on the pension rolls at $16 per month for chronic diarrhea. Could it be possible for a man to live that long with such a wasting disease? And according to law he must be still suffering from it or be dropped from the rolls. At the time he received that pension I, who served 2 years and 10 months (34 months), wounded three times, crippled for life, with 5½ inches of bone out of my right leg, and must use a mechanical brace to enable me to walk, was receiving the magnificent sum of $10 per month.

Is this not a clear case for congressional inquiry? The country has a right to know how and by what means he got on the rolls and is still there. I hope, in the interest of the Government and in justice to the real soldiers who bore the whole heat and burden of the day, that this inquiry shall be made, and you are the man to demand it.

Respectfully,

JOHN R. KING.

Gentlemen, I think we had better give him $1 and thus cut the graft off that he is getting.

The CHAIRMAN. The time of the gentleman has expired. The question is on the amendment offered by the gentleman from Georgia.

The question was taken; and on a division (demanded by Mr. RODDENBERY) there were 11 ayes and 89 noes.

So the amendment was lost.

The Clerk read as follows:

The name of Torger Hansod, late of Company G, Fifth Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

Mr. RUSSELL. Mr. Chairman, I offer the formal amendment in line 13, page 3, in the name "Hansod" that the "d" be changed to an "n" so that it will read "Hanson."

The amendment was agreed to.

The Clerk read as follows:

The name of John D. Sampson, late of Company K, One hundred and ninety-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

Mr. RODDENBERY. Mr. Chairman, I move that the committee do now rise and report the bill to the House with the recommendation that it lie on the table and be postponed for two weeks.

The CHAIRMAN. The gentleman from Georgia moves that the committee do now rise and report the bill back with the recommendation that it be postponed for two weeks.

Mr. RODDENBERY. I do that that we may look into these things.

Mr. RUSSELL. I make the point of order, Mr. Chairman, that the motion is not in order.

The CHAIRMAN. The Chair will rule that the motion is in order.

The question was taken; and on a division (demanded by Mr. RODDENBERY) there were 4 ayes and 97 noes.

So the motion was lost.

The Clerk read as follows:

The name of Jennie Harding, widow of Hewitt Harding, late of Company G, One hundred and ninety-first Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

Mr. RODDENBERY. Mr. Chairman, I move to amend, in line 15, page 6, by striking out the word "twelve" and inserting in lieu thereof the word "sixteen," so that it will read "$16 a month."

The CHAIRMAN. The question is on the amendment.

Mr. RODDENBERY. Mr. Chairman, in offering this amendment I think it is fair to call the attention of the committee to this fact. The record shows in this bill, and it is undisputed, that a woman worth $3,100 of net property is being given a pension of $30 a month; yet here is this paragraph that gives a woman $12 a month whom the report says—if it can be relied upon, and they say we must trust the committee—has no property at all and is helpless and dependent. It is a queer thing to me that a woman worth $3,100 is recommended by a committee for $30 a month, while a poor, forsaken woman, without property and without means, is to get only $12 a month. I will not go the whole distance for fear that gentlemen might be afraid of trespassing on a depleted Treasury. I merely raise it to $16 a month, so that this helpless widow can get as much pension as the Commissioner of Pensions, who draws a permanent disability pension of $16 a month and $5,000 a year salary from the Government besides.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Georgia [Mr. RODDENBERY].

Mr. RUSSELL. Mr. Chairman, I understand in this case that the bill asks for only $12.

The question was taken; and on a division (demanded by Mr. RODDENBERY) there were—ayes 6, noes 94.

So the amendment was rejected.

The Clerk read as follows:

The name of David A. Wynegar, late of Company F, Sixteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

Mr. RODDENBERY. Mr. Chairman, I offer the following proviso as an amendment to be placed at the end of that section:

Provided, That no pensioner under this or any act shall attend the White House receptions in a swallow-tail coat.

Mr. RUSSELL. Mr. Chairman, on that I make the point of order that it is not germane and that it is ridiculous.

Mr. LANGLEY. And several other things.

The CHAIRMAN. The gentleman from Missouri makes the point of order that the amendment is not germane.

Mr. RODDENBERY. Mr. Chairman, it is a limitation on the appropriation. It will cost less money for these pensioners to go to these receptions.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

The name of Elizabeth Shock, widow of Lemuel W. Shock, late of Company I, Ninety-ninth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $12 per month.

Mr. TRIBBLE. Mr. Chairman, if one will take the time to read this report—and some Members of the House do not seem to want to know anything about the report—he will find some things in here that will interest him. I think I can point out some things in this report that ought to at least interest the Members of this House, and I know will open the eyes of the country.

Mr. RUSSELL. From what page of the report is the gentleman reading?

Mr. TRIBBLE. I will now take up page 25 of the report, the case of Elizabeth Shock. The report reads as follows:

Both claims were rejected on the ground of claimant's inability to prove that she is soldier's legal widow, being unable to prove the death or divorce of her first husband.

The Pension Bureau, Mr. Chairman, refused to pension a woman whose husband was in all probability living. The Pension Bureau said the duty was upon her to show that her husband was dead or that she was divorced; and yet this virtuous committee comes in here and claims that this House ought to take everything that it does without question. Let me call the attention of the House and of the chairman of this committee to the facts. This woman was never divorced and that real husband is no doubt living, yet the woman is drawing a pension as his widow. Where is that deserter? Now, what has the gentleman to say in his virtuous indignation about that? It does seem to me that this House ought to have these exposures made on the floor of this House if the committee insists time after time on coming in here and bringing in reports, with deserters and bounty jumpers and all kinds of claims, including negroes with no pensionable status.

Mr. RUSSELL. Will the gentleman yield?

Mr. TRIBBLE. No. I usually yield, but I will not yield at this moment. The husband of the woman is living. I rose to call especial attention to another claim on this same page—a negro camp follower.

On the following page you will find the Jefferson negro of whom my friend from Colorado spoke with so much levity. This negro is named Ailer, not Jefferson.

There are two negroes, one following right after the other on successive pages. One is defended on the ground that he happened to have the name of Jefferson. Let me tell the gentleman from Colorado [Mr. RUCKER] that he had better turn back with me to page 10.

Mr. RUCKER of Colorado. Of the report?

Mr. TRIBBLE. Yes. I just happened to pick this up since you made your remarks. On page 10 he will find two widows, one named Moore and one named Shattuck. These two widows are going through this life with one foot in the grave—79 years of age.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. RUSSELL. Mr. Chairman, I think I ought to take one minute in this case. As I understand, the gentleman is mistaken about the fact. I understand the gentleman to state that this lady's husband was a deserter.

Mr. TRIBBLE. What does the report say?

Mr. RUSSELL. It says that her former husband was a deserter. Her name is now Elizabeth Shock. She is the widow of a soldier named Lemuel W. Shock, and her former husband, whose name was John Flower, was a deserter. She married Shock in 1866, and the presumption, of course, is that her other husband, who has not been heard from since he deserted, is dead.

Mr. TRIBBLE. What law is there in this country that contains such a presumption, or what court in this country will adopt such presumption?

Mr. RUSSELL. There is a law in this country that where a man is absent and not heard of for seven years he is presumed to be dead.

Mr. TRIBBLE. Where is the evidence of that fact? She married in four years after her husband deserted and had no divorce. Why do you not bring the report to the committee here in full?

Mr. RUSSELL. Why did you state this was the widow of a deserter? This woman's husband, whom she married in 1866, was not a deserter.

Mr. TRIBBLE. It does not improve the matter that she was mixed up with a man when her husband was gone and unaccounted for and remarried in four years without a divorce. She was not legally married to this man, and therefore has no right to a pension. I do not know whether her husband deserted her or not, the record does not show—she may have deserted him. He deserted the Army.

The Clerk read as follows:

The name of Mary M. Ackerman, widow of Curtis Ackerman, late of Company E, One hundred and twenty-fourth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

Mr. TRIBBLE. Mr. Chairman, if the gentleman from Colorado will turn to the report he will find that these widows are drawing $12 each; and here is the wife of a negro man who is drawing a pension of $20 a month, as provided for in this bill, and she was not a war widow at all. Now, these war widows went through the war; they suffered the hardships of the war; they went almost to the mouth of death in suffering the perils through which they had to go. This committee takes up a negro woman who did not go through the war and gives her $20, preferring her to white war widows. I am satisfied the gentleman from Colorado is too fair to come on the floor of this House and defend the committee in any such proceeding.

Mr. RUCKER of Colorado. Mr. Chairman, I move to strike out the last word. Constituted as I am, it is impossible for me to reply to the gentleman from Georgia. I have not the sense of humor to do it. [Laughter.]

The Clerk read as follows:

The name of Theodore L. Trew, late of Company D, Fifty-second Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

Mr. RODDENBERY. Mr. Chairman, on page 13, line 15, I move to strike out the figures "40" and insert "30."

The CHAIRMAN. The gentleman from Georgia [Mr. RODDENBERY] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 13, line 15, strike out the figures "40" and insert in lieu thereof the figures "30."

Mr. RODDENBERY. Mr. Chairman, on the 11th of May, 1912, the general pension bill was passed. Gentlemen here are familiar with it. It begins at the age of 62 years or over, and measures the differing times in which the soldiers served in the Army. One of 62 years of age only gets a less pension than one of 70 years of age. One who serves 6 months gets a less pension than one who served 18 months or 36 months, and so on. These old soldiers are scheduled by periods of service and by their age. That law contains the following provisions:

That any person who served 90 days or more in the military or naval service of the United States during the late Civil War, who has been honorably discharged therefrom, and who has reached the age of 62 years or over, shall, upon making proof of such facts, according to such rules and regulations as the Secretary of the Interior may provide, be placed upon the pension roll and be entitled to receive a pension as follows: In case such person has reached the age of 62 years and served 90 days, $13 per month; 6 months, $13.50 per month; 1 year, $14 per month; 1½ years, $14.50 per month; 2 years, $15 per month; 2½ years, $15.50 per month; 3 years or over, $16 per month. In case such person has reached the age of 66 years and served 90 days, $15 per month; 6 months, $15.50 per month; 1 year, $16 per month; 1½ years, $16.50 per month; 2 years, $17 per month; 2½ years, $18 per month; 3 years or over, $19 per month. In case such person has reached the age of 70 years and served 90 days, $18 per month; 6 months, $19 per month; 1 year, $20 per month, 1½ years, $21.50 per month; 2 years, $23 per month; 2½ years, $24 per month; 3 years or over, $25 per month. In case such person has reached the age of 75 years and served 90 days, $21 per month; 6 months, $22.50 per month; 1 year, $24 per month; 1½ years, $27 per month; 2 years or over, $30 per month. That any person who served in the military or naval service of the United States during the Civil War and received an honorable discharge, and who was wounded in battle or in line of duty and is now unfit for manual labor by reason thereof, or who from disease or other causes incurred in line of duty resulting in his disability is now unable to perform manual labor, shall be paid the maximum pension under this act, to wit, $30 per month, without regard to length of service or age.

Notice that the law says:

That any person who served in the military or naval service of the United States during the Civil War and received an honorable discharge, and who was wounded in battle or in line of duty, and is now unfit for manual labor by reason thereof, or who from disease or other causes incurred in line of duty resulting in his disability is now unable to perform manual labor, shall be paid the maximum pension under this act, to wit, $30 per month, without regard to length of service or age.

There will be perhaps 400,000 regular pensioners under the foregoing act. It does occur to me that for these special bills to come in here from time to time, raising other soldiers no more dependent, no more deserving, to $36, to $40, and to $50 is not an act of justice to the great mass of Union soldiers, but it is an act of discrimination that places these few fortunate pensioners in a class above the vast multitude of the old heroes of that great war. And I submit to the judgment of gentlemen if it is in keeping with a wise and patriotic policy for certain favored soldiers to obtain $36, $40, or $50 a month pension when the vast rank and file of their old comrades in arms are patriotically, contentedly, and with satisfaction accepting all the way from $30 down to $15?

I trust that gentlemen will be moved to reduce these $40 amounts and $50 amounts to $30, so that they may not be favored by special legislation above the other thousands of old soldiers who are abiding in the general law of the country.

I should like to read some letters—thousands, I say; yes, thousands—from Union soldiers of this country which I have received since one year ago from now. But I do not desire to discontent those old heroes with their condition. I do not desire to present their names or their communications to the committee unless necessities require it; but I would like to see them all, in their enfeebled years, live with confidence in the justness of their lawmakers, with confidence that they are all treated justly, equally, fairly, and that there is no favoritism in high place, and that there is no soldier with political pull who can get any more consideration from Congress than the rank and file of these old men. We should not go on from week to week passing favoritism in legislation for 100 or 200 men when thousands go on their way to the grave contented in their equality with their colleagues, as in equality they went to the front to fight from 1860 to 1865. It is a matter of national justice.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ALLEN and Mr. CURLEY rose.

The CHAIRMAN. The Chair will recognize the gentleman from Massachusetts [Mr. CURLEY].

Mr. CURLEY. Mr. Chairman, I move to strike out the last two words. It was not my purpose to participate in the debate, but I heard the gentleman on the other side of the Chamber say he had a large number of letters from different citizens, veterans of the war, and I heard one of those letters read in regard to the Pension Commissioner, Mr. Davenport, and I learned for the first time here this afternoon that loyalty to country was an insignia of dishonor, and that loyalty to one's comrades was something that deserved universal condemnation.

I made it my business to telephone the Pension Commissioner, and he informed me that he endeavored on three occasions to enlist in the Union Army in his native section in New Hampshire, but was rejected because of his youthfulness. He was

less than 18 years of age, and in order that he might serve his country, in order that he might assist in keeping this Union whole, he left home, a boy under 18 years of age, and worked his way westward to Wisconsin, and was finally accepted and enlisted in Wisconsin; that he served five months in the Civil War in Mississippi and in Tennessee, and that he participated in the battle of Memphis, on August 5, 1864.

I can very readily conceive that some joker has been indulging in the very pleasing task of writing letters, and if my good friend from Georgia [Mr. RODDENBERY] had used a little judgment and exercised a little humor he would have seen the humorous side of the letter which declared that a man became subject to chronic diarrhea who was not within 40 miles of the sound of a gun.

His reference to the present condition of the commissioner and his acceptance of a pension is an unwarranted gratuity. The commissioner should feel ashamed of himself, and his comrades in arms would be justified in feeling ashamed of him, if because of his financial condition he refused to accept of a pension and, in other words, said to the world that a pension by this Government to one who was ready when a mere boy to lay down his life that the Government might live would cause him to be regarded as an object of charity instead of its being the fulfillment of a contract between the Government and an individual who enlisted in order that the Union might remain whole. I believe, Mr. Chairman, that this is the most flagrant insult ever offered to an old soldier in the history of this House. [Applause.] In the light of the testimony of the commissioner himself, who would not dare state an untruth as far as his record is concerned, because it could be easily discovered by an investigation of the records at the War Department, I believe it is not only unjust, but it is unwarranted, it is unfair, and it should be condemned. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. LANGLEY. Mr. Chairman——

The CHAIRMAN. The gentleman from Kentucky [Mr. LANGLEY], a member of the committee, is recognized.

Mr. LANGLEY. Mr. Chairman, I beg the indulgence of the committee for a moment or two. I wanted to answer the gentleman from Georgia awhile ago when he was attacking the Commissioner of Pensions, but I refrained from doing so because I wanted to expedite as much as possible the passage of the bill by avoiding unnecessary debate. Now that the matter has been mentioned, I want to say that in my judgment there is not a more capable, a more efficient, or a more honorable officer of this Government than J. L. Davenport. I have known him for a quarter of a century. Many years ago he and I were fellow clerks in the Pension Office. I have known him well during all the intervening years. His life, both public and private, has been upright and honorable, and his record is that of a faithful and patriotic public servant, whose merit has advanced him from a humble to the highest position in a great bureau. Of his record as a soldier I need not speak. The gentleman from Massachusetts has done that and has done it well. The things that have been said against him here to-day can do him no harm—certainly not with those who know him or his record. But, Mr. Chairman, as his personal friend I feel it my duty to say this much to the country in his defense in view of what has already gone in the RECORD. [Applause.]

Mr. ALLEN. Mr. Chairman, I am not personally cognizant of the facts with relation to Commissioner Davenport, but I accept what has been stated as true. I do know the facts, however, in connection with the old soldier named in the paragraph just read. He served his country for four years. He is a hopeless paralytic. He owns no property. He has no means of support. He requires attendance day and night, and is wholly dependent upon friends and relatives for assistance. [Applause.]

The CHAIRMAN. An amendment is pending. The Clerk will read the amendment offered by the gentleman from Georgia [Mr. RODDENBERY].

The Clerk read as follows:

Amend, page 13, line 15, by striking out the figures "40" and inserting in lieu thereof the figures "30."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Georgia [Mr. RODDENBERY].

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

The name of Emanuel B. Silcott, late of Company E, Sixth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

Mr. TRIBBLE. Mr. Chairman, with the permission of the committee, in the few remarks that I have to make at this time I will cover several cases at once and thus shorten the matter by not waiting to take them up case by case.

I want to call attention to the fact that in the next four pages, containing some 10 or 12 cases successively following, are cases where the service was limited to from 3 to 10 months. Now, this committee comes in here and proposes to enact special legislation for short-term soldiers, for men who never saw real service. It proposes in this lump of 10 or 12 cases to discriminate against the old soldier who fought for four years, who went almost to the mouth of hell, who saw service in storm, amid shot and shell; and here are men who never saw real service, men of four months' and three months' enlistments, who are taken up by this committee and preferred over the old soldiers of four and five years' service.

Now, in this list there is one case intervening to which I call particular attention. It is the case of a party possessing property preferred over and above those who have no property. Not only that, Mr. Chairman, but, as the record shows, the soldier was rejected. There is the book, there is the report. Read it. Now, this pensioner with money, with property, but with no pensionable status—that virtuous committee that never commits an error prefers this man of property with no right to pension to the poor, long-service soldiers.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

The name of Mary L. Brent, widow of James K. Brent, late of Company E, One hundred and thirty-eighth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $12 per month.

Mr. RODDENBERY. Mr. Chairman, I am unable to hear the Clerk read. What page is he reading?

The CHAIRMAN. Page 15, line 12. The Clerk will read.

The Clerk read as follows:

The name of Robert Platt, late of Company H, One hundred and twelfth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

Mr. RODDENBERY. I move to strike out the paragraph.

Mr. Chairman, I do not know precisely whether this motion should be made or not. If I entertained the hope that in order to act intelligently and accurately upon these pension matters the Committee on Invalid Pensions would join me in a resolution of inquiry to ascertain how many employees and officers of the Government are drawing over $1,000 salary from the Government and at the same time drawing pensions as ex-soldiers, on the ground of physical incapacity to do work and labor and on the ground of permanent physical disability, I do not know that I would press this motion. If I believed I could get the Committee on Invalid Pensions to bring out a resolution of that character and let us go down the line with an investigation of the Interior Department and the War Department and the Treasury Department and the Bureau of Indian Affairs and the customhouses and ascertain how many people employed there are drawing pensions on the ground of inability to work and labor and are also drawing at the same time salaries all the way from $1,000 to $5,000 a year, I should be content. If gentlemen will agree to that inquiry, then my friend from Kentucky [Mr. LANGLEY] and my friend from Massachusetts [Mr. CURLEY] will not have to rush to the telephone to inquire of Mr. Davenport about what his war record is or what his physical condition is. Order an investigation which will give a chance to go before a fair committee, and I will face the Commissioner of Pensions there. Gentlemen will not need the telephone then. John R. King, the old past commander of the Grand Army of the Republic, will face him there, and we will demonstrate that the joke the gentleman referred to will disclose that the honorable commissioner draws a pension to-day, on the ground not of wounds, not of injury, but of a disease that physically incapacitates him for work. And yet the gentleman from Kentucky [Mr. LANGLEY] says that he was in the Pension Office with him years ago for many years, where they worked together. This Commissioner of Pensions is drawing a salary of $5,000 a year and is preserving his record in the Army and securing the recognition of his patriotic services by getting a pension of $16 a month. I do not know John R. King, but John R. King and I will be there if you will have a committee to investigate it; and if John R. King or the Member from Georgia have made statements that are not justified, condemnation will fall where it belongs. I challenge you now to open the record and let Congress and the people see.

The CHAIRMAN. The time of the gentleman has expired. The question is on the amendment to strike out the paragraph.

The question being taken, the amendment was rejected.

The Clerk read as follows:

The name of George W. Tyler, late of Company D, Thirty-first Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

Mr. RODDENBERY. I move to strike out the paragraph.

Mr. Chairman, I read from the rules of the Invalid Pensions Committee, House of Representatives, Sixty-second Congress, the part of the rule touching this matter.

The Pension Committees of the two Houses of Congress were created to consider a very few claims in which, from their peculiar circumstances of extreme disability and destitution, adequate relief could not be obtained from the bureau, and also to consider a limited number of claims, some of which were necessarily rejected by the bureau for the reason that they were not covered by any existing law, while others were rejected upon legal or medical technicalities which Congress could properly set aside as a matter of equity and justice. It was not the intention to have Congress flooded with pension bills.

This bill makes about 6,000 private pensions for this Congress to date. In the last Congress there were 9,000, and the number theretofore had been steadily growing. Yet the rule says that it was never intended that wholesale special pension legislation should be thus enacted. In the very language of the committee, it was to consider a "very few cases," a "limited number." Yet you may turn to any copy of the CONGRESSIONAL RECORD since this session of Congress opened and find what has taken place. I turn to January 6, 1913. You can turn to any day in January or any day in December, and you will find an entire page of 50 or more bills, all granting increases of pension or special pension bills; and every volume of the CONGRESSIONAL RECORD since the beginning of this session of Congress and since the passage of the Sherwood bill will show a wholesale record of applications and bills for increases of pension, for new pensions, for special pension legislation, notwithstanding the rule of the committee says it was never designed for anything except a "few cases" of rare destitution and a "limited number" of those who are unfortunate.

Gentlemen, it is a mad rush to grant pensions, to gratify persons at home with strong political influence themselves in many cases and strong political influence of family and others, as well as the honest merits of many of these cases which we are willing, cheerfully, and readily to concede. Yet we can not have any debate. With the exception of two or three gentlemen, no man rises here to explain his pension bill. Nobody comes to explain the case of the widow, the old soldier, or the orphan. But the minute you touch the head of the Pension Bureau, who is drawing a salary of $5,000, great God, Massachusetts and Kentucky and Ohio all rush in by telephone to exonerate him and give him a good record. Why, in the name of justice, do you not defend these destitute, dependent, and unfortunate pensioners. O you authors of these bills, where are you?

The CHAIRMAN. The time of the gentleman has expired. The question is on the amendment to strike out the paragraph.

The amendment was rejected.

The Clerk read as follows:

The name of Francis B. Overlook, late of Company F, Ninth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

Mr. RODDENBERY. Mr. Chairman, I move to strike out the paragraph. If I were allowed to do so, I would like to have the gentleman from Kentucky and the gentleman from Massachusetts who communicated with the Pension Office just now over the telephone, to again communicate with the Pension Office between now and 7 o'clock and find out whether or not there is an officer under a salary from the Government now in the Pension Office, drawing a pension for total deafness, who answers the telephone every day. I wonder if gentlemen will find out between now and 7 o'clock if that is true. Was he deaf when he got his pension? And if he is not now deaf, the law is that if his disability becomes removed his pension stops. I wish gentlemen would find out over the telephone, if the man was deaf when he got the pension and is not deaf now when he answers the telephone, whether he is still drawing a pension.

Now, gentlemen, come to the rescue of the Pension Department, if you can do it; let us have the investigation. Call for it and we will find out. Of course it may develop that they have installed in Washington a system of telephones whereby the deaf can hear as well as those not so afflicted. I am sure gentlemen can run to the telephone and find out from Commissioner Davenport or his daily associate who answers the telephone every day whether he now is drawing a pension because he is totally deaf.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia.

The question was taken, and the amendment was lost.

The Clerk read as follows:

The name of Jesse M. Manson, late of Company A, One hundred and twenty-first Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

Mr. RODDENBERY. Mr. Chairman, I respectfully make the point of order that no quorum is present.

The CHAIRMAN. The Chair will count. [After counting.] Eighty-seven Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adamson	Fairchild	Kinkaid, Nebr.	Pujo
Aiken, S. C.	Fergusson	Kitchin	Randell, Tex.
Ames	Ferris	Knowland	Ransdell, La.
Andrus	Finley	Konig	Rauch
Ansberry	Flood, Va.	Kopp	Redfield
Anthony	Floyd, Ark.	Lafean	Reyburn
Ashbrook	Focht	Lafferty	Richardson
Austin	Fordney	Lamb	Riordan
Ayres	Fornes	Lawrence	Roberts, Mass.
Barchfeld	Fuller	Legare	Robinson
Barnhart	Gallagher	Lever	Rouse
Bartholdt	Gardner, Mass.	Levy	Rucker, Mo.
Bates	Gardner, N. J.	Lewis	Saunders
Beall, Tex.	George	Lindbergh	Scott
Boehne	Gill	Lindsay	Scully
Borland	Gillett	Linthicum	Sells
Bradley	Glass	Littleton	Sharp
Brantley	Goeke	Longworth	Sheppard
Broussard	Goldfogle	Loud	Sherley
Buchanan	Good	McCall	Sherwood
Burke, Pa.	Gould	McCoy	Sims
Burke, S. Dak.	Green, Iowa	McCreary	Sisson
Burleson	Greene, Vt.	McDermott	Slayden
Burnett	Gregg, Pa.	McGuire, Okla.	Slemp
Butler	Gregg, Tex.	McKellar	Small
Byrnes, S. C.	Griest	McKinley	Smith, Saml. W.
Calder	Gudger	McMorran	Smith, Cal.
Callaway	Guernsey	Madden	Smith, Tex.
Campbell	Hamill	Maher	Sparkman
Cannon	Hamlin	Mann	Stack
Cantrill	Hammond	Martin, Colo.	Stanley
Carlin	Hardwick	Martin, S. Dak.	Steenerson
Carter	Hardy	Matthews	Stephens, Nebr.
Clark, Fla.	Harrison, N. Y.	Mays	Stephens, Miss.
Claypool	Hart	Mondell	Sterling
Clayton	Hartman	Moon, Pa.	Stevens, Minn.
Copley	Haugen	Moore, Pa.	Sulloway
Covington	Hayden	Moore, Tex.	Talbott, Md.
Crago	Heald	Morgan, La.	Taylor, Ala.
Cravens	Heflin	Morse	Taylor, Colo.
Crumpacker	Henry, Conn.	Mott	Taylor, Ohio
Curry	Henry, Tex.	Needham	Thayer
Dalzell	Higgins	Nelson	Tilson
Danforth	Hill	Oldfield	Towner
Daugherty	Hinds	Olmsted	Townsend
Davidson	Hobson	O'Shaunessy	Turnbull
Davis, Minn.	Holland	Padgett	Tuttle
Davis, W. Va.	Houston	Page	Underwood
De Forest	Howard	Palmer	Vare
Dickinson	Howland	Parran	Volstead
Dies	Hughes, Ga.	Patten, N. Y.	Vreeland
Difenderfer	Hull	Patton, Pa.	Webb
Dodds	Humphrey, Wash.	Payne	Weeks
Doughton	Humphreys, Miss.	Pepper	Wilder
Draper	Jacoway	Peters	Wilson, Ill.
Driscoll, M. E.	James	Pickett	Wilson, N. Y.
Dupré	Johnson, Ky.	Plumley	Wilson, Pa.
Dwight	Johnson, S. C.	Porter	Witherspoon
Ellerbe	Jones	Post	Wood, N. J.
Esch	Kahn	Pou	Woods, Iowa
Estopinal	Kent	Prince	Young, Kans.
Evans	Kindred	Prouty	Young, Mich.

During the call of the roll the following occurred:

The SPEAKER. The Clerk will call my name.

The Clerk called the name of Mr. CLARK of Missouri, and he answered "Present."

The committee rose; and Mr. MURRAY, Chairman of the Committee of the Whole House, reported that the Committee of the Whole finding itself without a quorum, he had caused the roll to be called and 138 Members had answered to their names, and he presented a list of the absentees to the House.

The committee resumed its session.

The Clerk read as follows:

The name of Melvin J. Ringler, late of Company C, Sixty-fourth Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

Mr. TRIBBLE. Mr. Chairman, I desire to call attention to the fact that this item provides for a pension of $30 a month for a musician. It seems to me that it is not quite fair to the old soldiers who participated in a carnage of battle, unequaled in the history of all times, that they should be paid $10 and $12, $15, $25, or $30 a month and that a musician by a special act of this Congress should get $30 a month. That does not look fair to me, but I will tell you what hurts me worse than that. It seems still more unfair to me to know that that musician, parading in the band with long-tailed coat, had a colored face and was followed by an infantry of his own color. If you gentlemen can go back to your constituents and explain to them how you can offord to give a negro musician more pension than the old soldiers who followed the banner from one to five years and went through that carnage of strife, then it is up to you to do it. I feel that it is my duty to call this matter to the attention of the House and the country in order that the coun-

try may know what you are doing. I propose to put the country on notice what you are doing with the money of men who live by the sweat of their brow. All men who see this protest from me who think this negro should have $30 per month I want them to write me, so stating.

The Clerk read as follows:

The name of Lorrenna J. Wilkinson, widow of Alfred Wilkinson, late acting third assistant engineer, United States Navy, and pay her a pension at the rate of $12 per month.

Mr. TRIBBLE. Mr. Chairman, I desire to call attention of the House to this case. The report reads:

She never applied for a pension, as, having married sailor subsequent to June 27, 1890, she is barred under act of April 19, 1908.

This woman, as this record shows, owns $2,800 worth of property; nearly $3,000 worth. The record shows that she is not entitled to be placed on this pension roll. She was not placed here. She has been ruled out by the Bureau of Pensions. She is worth $3,000, and, of course, as we all know, these estimates are usually about one-third of the real value of the property; but just take the record as it is here. Yet she is placed on this roll without any pensionable standing whatever.

I feel, Mr. Chairman, as we read along here that it is not out of place, certainly, to call the attention of the country to these things and to place this case in the record in order that the old soldiers at home who have not a dollar in this world and who served through the war, as I have mentioned before, may have it called to their attention that others who have property are being preferred to them. It is up to you gentlemen to explain these things. I am calling the attention of the country to the fact.

The Clerk read as follows:

The name of Rachel Sturgeon, widow of William A. Sturgeon, late of Company E, Thirty-sixth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Lucy Elma Sturgeon, helpless and dependent daughter of said William A. Sturgeon, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Rachel Sturgeon, the name of said Lucy Elma Sturgeon shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Rachel Sturgeon.

Mr. RODDENBERY. Mr. Chairman, I make the point of order on the paragraph just read that the proviso is not in order, on the ground that there is no authority in law and the Congress is without jurisdiction to pass an act based upon such a remote contingency.

The CHAIRMAN. The point of order is overruled.

The Clerk read as follows:

The name of Elizabeth W. Wilcox, widow of Benjamin Wilcox, late of Company D, One hundred and fifty-second Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

Mr. RODDENBERY. Mr. Chairman, I move to strike out the paragraph. I would be very glad, Mr. Chairman, if the report gave some full information on the subject, but, as pointed out by the gentleman from Tennessee [Mr. MOON], the report is indefinite, and the committee will not even answer interrogations respecting it. I desire to say this, that I feel much gratified at the results to-day, which are beyond all expectations. Twelve months ago, and for several months thereafter, when these matters arose, I had to stand almost alone with the report of the committee and the bill and present these matters to the committee. But few of my colleagues seemed then to think it of sufficient importance to fight over. Moreover, many then said it was a hopeless undertaking. It is gratifying now for me to know that my distinguished friend from Tennessee [Mr. MOON], with greater ability, and with more force, and with greater clearness has to-day fallen in line and is calling the attention of the committee to the fact that these reports are ill-considered and filled with deserters. It renews my courage to see others now doing likewise. I hope, in the course of months, that other gentlemen will fall into line. It is well known that gentlemen from various portions of the country tell these things to their constituents at home, and I have often been surprised that they do not stand up here and repeat on the floor what they say on the stump.

I merely desire to state to the committee that I shall likely divert my attention from these detailed items, and the reports of the committee, and leave it to these other gentlemen so that I may undertake in the course of the next few months, if possible, to make odious and a stench in the nostrils of this country the fact that the administration of our pension laws permit high officers who ride in automobiles, who draw high salaries, who cut the fastest step at the fashionable receptions in Washington, to draw big pensions from the Government, as well as salaries, the pensions being drawn for physical disability which incapacitates them from labor.

We have read into the RECORD the names of one or two of them, but as time goes by and opportunity presents itself we shall put into the public record the names of more of these pension-grafting high cockalorums of Washington society who disdain the street car and scoff at one who appears at an evening dinner in a business suit because he can not afford to wear a swallowtail coat and a white vest adorned with pearl studs. I sometimes wonder what these poor old soldiers out in the West drawing $15 a month would think of their disabled city comrade who draws a $3,000 salary from the Government and $50 a month pension if he could see him some night doing the "turkey trot" act at a swell Washington social function. Mr. Chairman, it is iniquitous; it is outrageous; it is a national shame.

A MEMBER. Louder.

Mr. RODDENBERY. And the gentlemen who are calling "louder" after a while will be voting for a resolution of investigation. You will not have the political courage not to do it. Ah, you can say "louder," but I will lead you like driven sheep and you will either dodge the vote or vote for an investigation. Louder! Ah, it will be louder then. You will rush back home to proclaim how you voted to expose the pension steals. Yes, Mr. Chairman, then we will find out who are these long-coated, patent-leathered, pearl-studded gentlemen who are drawing big salaries and pensions from the Government because they can neither labor nor work, who in order to get a pension claimed to have all of the infirmities that are found in the catalogue of the science of medicine. When this subject, by investigation, is held up to public view our legislation permitting such impostors to prey upon the tax money of the citizen will yet stink in the nostrils of the people and they will rise up and through you and through me, by legislation, will spew them out from the pension rolls of the country. [Applause.]

The CHAIRMAN. The question is on the amendment to strike out the paragraph.

The question was taken, and the amendment was rejected.

Mr. RUSSELL. Mr. Chairman, I ask unanimous consent to return to page 4 of the bill in order that I may move to strike out the paragraph from lines 5 to 8, inclusive, the beneficiary, William Dalton, being dead.

The CHAIRMAN. Is there objection?

Mr. RODDENBERY. Reserving the right to object, for what purpose is it?

Mr. RUSSELL. The beneficiary is dead, and I desire to ask unanimous consent to strike out the paragraph.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none. The question is on the amendment of the gentleman from Missouri that the item on page 4 of the bill, from lines 5 to 8, inclusive, be stricken out.

The amendment was agreed to.

The Clerk read as follows:

The name of Henry C. Gray, late of Company I, One hundred and sixty-seventh Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

Mr. RODDENBERY. Mr. Chairman, I make the point of order that there is no quorum present.

The CHAIRMAN. The gentleman from Georgia [Mr. RODDENBERY] makes a point of order that there is no quorum present. The Chair will count. [After counting.] Eighty-six Members are present, not a quorum, and the Clerk will call the roll.

The roll was called, and the following-named Members failed to answer to their names:

Aiken, S. C.	Calder	Dies	Gill
Alexander	Callaway	Difenderfer	Gillett
Allen	Campbell	Dodds	Glass
Ames	Candler	Doremus	Godwin, N. C.
Andrus	Cannon	Draper	Goeke
Ansberry	Cantrill	Driscoll, D. A.	Goldfogle
Anthony	Carlin	Driscoll, M. E.	Good
Ashbrook	Carter	Dupré	Gould
Austin	Clark, Fla.	Dwight	Green, Iowa
Ayres	Clayton	Dyer	Greene, Vt.
Barchfeld	Cline	Edwards	Gregg, Pa.
Barnhart	Copley	Estopinal	Gregg, Tex.
Bartholdt	Covington	Evans	Griest
Bates	Crago	Fairchild	Gudger
Bathrick	Cravens	Ferguson	Guernsey
Beall, Tex.	Crumpacker	Ferris	Hamill
Boehne	Cullop	Finley	Hamlin
Borland	Curley	Flood, Va.	Hammond
Bradley	Curry	Floyd, Ark.	Hardwick
Brantley	Dalzell	Focht	Hardy
Broussard	Danforth	Fordney	Harrison, Miss.
Brown	Daugherty	Fornes	Harrison, N. Y.
Buchanan	Davenport	Foss	Hart
Burgess	Davidson	Francis	Hartman
Burke, Pa.	Davis, Minn.	Fuller	Haugen
Burke, S. Dak.	Davis, W. Va.	Gallagher	Heald
Burleson	De Forest	Gardner, Mass.	Heflin
Burnett	Denver	Gardner, N. J.	Henry, Conn.
Butler	Dickinson	Garner	Henry, Tex.
Byrnes, S. C.	Dickson, Miss.	George	Higgins

Hill	Longworth	Pickett	Stanley
Hinds	Loud	Plumley	Steenerson
Hobson	McCall	Porter	Stephens, Nebr.
Holland	McCoy	Post	Stephens, Tex.
Howard	McCreary	Pou	Sterling
Howell	McGuire, Okla.	Powers	Stevens, Minn.
Howland	McKellar	Prince	Sulloway
Hughes, Ga.	McKinley	Prouty	Sweet
Hughes, W. Va.	McLaughlin	Pujo	Talbott, Md.
Hull	McMorran	Rainey	Taylor, Ala.
Humphrey, Wash.	Madden	Randell, Tex.	Taylor, Colo.
Jackson	Maher	Ransdell, La.	Taylor, Ohio
Jacoway	Mann	Rauch	Thayer
James	Martin, Colo.	Redfield	Tilson
Johnson, Ky.	Mays	Reilly	Towner
Johnson, S. C.	Mondell	Reyburn	Townsend
Jones	Moon, Pa.	Richardson	Tribble
Kahn	Moore, Pa.	Riordan	Turnbull
Kent	Moore, Tex.	Roberts, Mass.	Tuttle
Kindred	Morgan, La.	Robinson	Underhill
Kinkaid, Nebr.	Morse, Wis.	Sabath	Underwood
Kitchin	Moss, Ind.	Saunders	Vare
Knowland	Mott	Scully	Volstead
Konig	Murdock	Sells	Vreeland
Kopp	Needham	Shackleford	Webb
Korbly	Neeley	Sharp	Weeks
Lafean	Nelson	Sheppard	Whitacre
Lafferty	Oldfield	Sherley	White
Langley	Olmsted	Sherwood	Wilder
Lawrence	O'Shaunessy	Sims	Wilson, Ill.
Lee, Ga.	Padgett	Sisson	Wilson, N. Y.
Legare	Page	Slayden	Wilson, Pa.
Lever	Palmer	Slemp	Witherspoon
Levy	Parran	Small	Wood, N. J.
Lewis	Patten, N. Y.	Smith, S. W.	Woods, Iowa
Lindbergh	Patton, Pa.	Smith, Cal.	Young, Mich.
Lindsay	Payne	Smith, Tex.	Young, Tex.
Linthicum	Pepper	Sparkman	
Littleton	Peters	Stack	

The SPEAKER. The Clerk will call my name.

The name of the Speaker was called, and he voted "Present."

The SPEAKER. One hundred and eleven Members are present—a quorum.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. MURRAY, Chairman of the Committee of the Whole House, reported that that committee having under consideration the bill (H. R. 27475) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, and finding itself without a quorum, he had caused the roll to be called, that 111 Members had answered to their names, and that he reported the names of the absentees to the House.

Mr. RODDENBERY. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. RODDENBERY. I move that the message of the President, now on the Speaker's table, be read.

Mr. FOSTER. I make the point of order, Mr. Speaker, that that motion is not in order.

The SPEAKER. There is nothing to do but to go into the Committee of the Whole House on the state of the Union; and besides there is no message on the table. [Laughter.]

The committee resumed its session.

The Clerk read as follows:

The name of Marinda Lowe, widow of John Lowe, late of Company D, One hundred and seventy-ninth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

Mr. RODDENBERY. Mr. Chairman, I move to strike out the paragraph. I will be glad, Mr. Chairman, to avoid striking out this paragraph, but evidently the committee will do it when the vote is taken. If the chairman would advise us that his committee would cooperate toward having an investigation of pension frauds, and those especially relating to pensions drawn by officials who also draw big salaries, the amendment would not now be offered.

Mr. RUSSELL. Is the gentleman asking me a question?

Mr. RODDENBERY. Yes; I want to ask the chairman if he would use his offices to promote the passage of a resolution of inquiry into pensions drawn by persons as soldiers and war veterans who at this time are likewise drawing salaries in excess of $1,000 and up to $7,500, including Congressmen of the United States?

Mr. RUSSELL. I will vote for a bill at any time to amend the Sherwood bill so that it will not give any increase of pension to anyone who has an income of $1,000 or over, and I voted for that amendment when the Sherwood bill was before the House.

Mr. RODDENBERY. Does not the gentleman think that for Congress to tabulate and locate these instances where now able-bodied men do draw pensions for alleged incapacity, and have a salary of over $1,000, would be the proper thing? In this way we may ascertain to what extent the pension roll of our Government is festooned with cases of able-bodied men who are drawing pensions and, at the same time, drawing large salaries from the Government in the Army, Navy, and all the Government departments? Is not that a fair proposition to investigate? I want to keep these old soldiers who served for four years separated from these grafters whom they say are on the pension roll. Some of them I know are on the pension roll and are at this moment drawing all the way from $1,000 to $7,500 a year in salaries, who are able enough to be Members of the United States Congress—they are able enough to be superintendents of great divisions of government, having under them thousands of employees. I ask the gentleman if he does not look with favor on such an inquiry and such an investigation?

The CHAIRMAN. The time of the gentleman from Georgia [Mr. RODDENBERY] has expired.

Mr. RODDENBERY. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk resumed and completed the reading of the bill.

Mr. RUSSELL. Mr. Chairman, I move that the committee do now rise and report the bill to the House with the amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. MURRAY, Chairman of the Committee of the Whole House, reported that that committee had had under consideration the bill (H. R. 27475) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, and had directed him to report the same to the House with amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. RUSSELL. Mr. Speaker, I yield to the gentleman from Virginia [Mr. HAY] for a moment.

ARMY APPROPRIATION BILL.

Mr. HAY, by direction of the Committee on Military Affairs, reported the bill (H. R. 27941) making appropriations for the support of the Army for the fiscal year ending June 30, 1914, which, with the accompanying report (H. Rept. 1289), was ordered printed and referred to the Committee of the Whole House on the state of the Union.

Mr. FITZGERALD. Mr. Speaker, I reserve all points of order on the bill.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] reserves all points of order on the bill.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed Senate joint resolution 145, to provide for the maintenance of public order and the protection of life and property in connection with the presidential inauguration ceremonies in 1913.

SENATE RESOLUTIONS REFERRED.

Under clause 2, of Rule XXIV, the following Senate concurrent resolution and Senate joint resolution were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

Senate concurrent resolution 34.

Resolved by the Senate (the House of Representatives concurring), That there be printed 30,000 copies of the Judicial Code of the United States, prepared under the direction of the Judiciary Committee of the Senate, 10,000 copies of which shall be for the use of the Senate, and 15,000 copies for the use of the House of Representatives, and 5,000 copies for the use of the Senate Document Room—

to the Committee on Printing.

Senate joint resolution 145.

To provide for the maintenance of public order and the protection of life and property in connection with the presidential inaugural ceremonies in 1913—

to the Committee on Appropriations.

PENSIONS.

Mr. RUSSELL. Mr. Speaker, I move the previous question on the bill (H. R. 27475), just now considered by the House, and all amendments thereto to final passage.

The previous question was ordered.

The SPEAKER. Is a separate vote demanded on any amendment?

Mr. RODDENBERY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RODDENBERY. At what time is a motion to recommit in order?

The SPEAKER. After the third reading.

Mr. RODDENBERY. The previous question being ordered, is it not in order now? I desire to offer a motion to recommit at this stage.

The SPEAKER. The Chair is inclined to think that it is in order. The Chair will have the authorities examined. It will do no harm to have the motion read, anyway. The Clerk will report the motion submitted by the gentleman from Georgia [Mr. RODDENBERY].

Mr. FITZGERALD. Mr. Speaker, under the practice, the previous question having been ordered, a motion to recommit is not in order until after the third reading of the bill.

Mr. RODDENBERY. I submit, Mr. Speaker, that under the rule the motion is in order.

The SPEAKER. The rule provides:

It shall be in order, pending the motion for, or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee.

The custom has been—and it will serve the gentleman's purpose just as well—to make the motion after the third reading.

Mr. RODDENBERY. Mr. Speaker, if I may do so, I insist upon being recognized to make the motion now.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Motion by Mr. RODDENBERY:

"I move to recommit H. R. 27475 to the Committee on Invalid Pensions, with instructions to report the same back to the House with the following amendment:

"'Strike out the following names from said bill wherever they occur: William Andrew, N. A. Aller, E. B. Silcott, Daniel Wilson, P. L. Kenney, Wilson Murphy, Watson Boyden, William F. Ramsey, G. F. Slamps, M. J. Rengler, L. J. Wilkeson, William F. Mills, William D. Crawford, J. H. Rowland; women, Julia Rouse, Elizabeth Rutherford, Elizabeth Shock, Sarah Jefferson, Leah Jackson, Sarah Garber, Mary Brent, Sarah Sherman, Tilla Eckard.'"

Mr. RUSSELL. Mr. Speaker, if it is in order, I move the previous question on the motion to recommit.

The SPEAKER. The gentleman from Missouri [Mr. RUSSELL] moves the previous question on the motion to recommit. The question is on agreeing to the motion of the gentleman from Missouri.

The question was taken, and the Speaker announced that the "ayes" seemed to have it.

Mr. RODDENBERY. I ask for a division, Mr. Speaker.

The House divided; and there were—ayes 100, noes 5.

Mr. RODDENBERY. Mr. Speaker, I make the point of no quorum.

The SPEAKER. Evidently there is no quorum present.

Mr. RUSSELL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RUSSELL. The previous question having been ordered on the bill and amendments to final passage, would it be in order to have this bill taken up and voted upon to-morrow morning for completion?

The SPEAKER. The Chair thinks it would be.

ADJOURNMENT.

Mr. RUSSELL. I move, Mr. Speaker, that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 36 minutes p. m.) the House adjourned until to-morrow, Saturday, January 11, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of War, transmitting with a letter from the Chief of Engineers report of examination and survey of New Haven Harbor, Conn. (H. Doc. No. 1258); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

A letter from the Secretary of War, transmitting with a letter from the Chief of Engineers report of examination and survey of White River at and near Devalls Bluff, Ark. (H. Doc. No. 1259); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

A letter from the Secretary of War, transmitting with a letter from the Chief of Engineers report of examination and survey of Frankford Creek, Pa. (H. Doc. No. 1260); to the Committee on Rivers and Harbors and ordered to be printed.

A letter from the Secretary of War, transmitting with a letter from the Chief of Engineers report of examination and survey of Six Mile Creek, Fla. (H. Doc. No. 1261); to the Committee on Rivers and Harbors and ordered to be printed.

A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of New York at an election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. HAY, from the Committee on Military Affairs, to which was referred the joint resolution (H. J. Res. 365) to permit Col. William C. Gorgas and certain officers of the Medical Corps and certain officers of the Engineer Corps of the Army to accept service under the Republic of Ecuador, reported the same with amendment, accompanied by a report (No. 1286), which said bill and report were referred to the House Calendar.

Mr. FERRIS, from the Committee on Indian Affairs, to which was referred the joint resolution (H. J. Res. 326) providing for extending provisions of the act authorizing extension of payments to homesteaders on the Coeur d'Alene Indian Reservation, Idaho, reported the same without amendment, accompanied by a report (No. 1287), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. SABATH, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 27723) to authorize the construction of a railroad bridge across the Illinois River near Havana, Ill., reported the same with amendment, accompanied by a report (No. 1288), which said bill and report were referred to the House Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under Clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. NORRIS: A bill (H. R. 27907) to amend an act entitled "An act to expedite the hearing and determination of suits in equity, and for other purposes"; to the Committee on the Judiciary.

By Mr. ANDERSON: A bill (H. R. 27908) to amend section 8 of an act entitled "An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, and for other purposes," approved August 24, 1912; to the Committee on the Post Office and Post Roads.

By Mr. LANGLEY: A bill (H. R. 27909) to authorize the acquisition of a site and the erection of a Federal building at Hazard, Ky.; to the Committee on Public Buildings and Grounds.

By Mr. CARLIN: A bill (H. R. 27910) to authorize the Secretary of War to make examination and survey of Occoquan Creek, Va.; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 27911) to authorize the Secretary of War to fill the low ground situated in the southeast portion of United States reservation of Arlington estate, in the State of Virginia, and for other purposes; to the Committee on Rivers and Harbors.

By Mr. RIORDAN: A bill (H. R. 27912) to equalize the allowances of warrant officers with those of other officers in the Navy; to the Committee on Naval Affairs.

By Mr. LEGARE: A bill (H. R. 27913) authorizing James Sottile, his heirs and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Cooper River, Charleston County, S. C., and also a bridge and approaches thereto across Shem Creek, Charleston County, S. C.; to the Committee on Interstate and Foreign Commerce.

By Mr. GLASS: A bill (H. R. 27914) prohibiting officers and directors of national banks from receiving benefit, fee, or compensation of any kind for business transactions made on behalf of such banks; to the Committee on Banking and Currency.

By Mr. HAY: A bill (H. R. 27941) making appropriations for the support of the Army for the fiscal year ending June 30, 1914; to the Committee of the Whole House on the state of the Union.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANSBERRY: A bill (H. R. 27915) granting a pension to John Johnson; to the Committee on Invalid Pensions.

By Mr. ASHBROOK: A bill (H. R. 27916) for the relief of Mary H. Johnston; to the Committee on Claims.

By Mr. BATHRICK: A bill (H. R. 27917) granting a pension to Wickliff Loomis; to the Committee on Invalid Pensions.

By Mr. BROWN: A bill (H. R. 27918) granting an increase of pension to Elizabeth Landers; to the Committee on Invalid Pensions.

By Mr. CANTRILL: A bill (H. R. 27919) for the relief of the fiscal court of Bourbon County, Ky.; to the Committee on War Claims.

Also, a bill (H. R. 27920) for the relief of Lexington Lodge, No. 1, Ancient Free and Accepted Masons, of Lexington, Ky., and the Grand Lodge, Ancient Free and Accepted Masons, of the State of Kentucky; to the Committee on War Claims.

By Mr. DOREMUS: A bill (H. R. 27921) granting a pension to Adelaide A. Havens; to the Committee on Invalid Pensions.

By Mr. JACOWAY: A bill (H. R. 27922) for the relief of the heirs of Jacob Pennington; to the Committee on War Claims.

By Mr. LITTLEPAGE: A bill (H. R. 27923) granting a pension to John Hammons; to the Committee on Invalid Pensions.

By Mr. MANN: A bill (H. R. 27924) granting an increase of pension to Michael Quinlan; to the Committee on Pensions.

By Mr. MOON of Tennessee: A bill (H. R. 27925) granting an increase of pension to Lucinda Hughes; to the Committee on Pensions.

By Mr. NEELEY: A bill (H. R. 27926) granting a pension to Thomas Barton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27927) granting a pension to Samuel Collins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27928) to remove the charge of desertion from the record of Basil D. Johnson; to the Committee on Military Affairs.

By Mr. PRAY: A bill (H. R. 27929) for the relief of F. A. Carnal and R. X. Lewis; to the Committee on Claims.

By Mr. PRINCE: A bill (H. R. 27930) granting an increase of pension to Andrew W. Cochrun; to the Committee on Invalid Pensions.

By Mr. POWERS: A bill (H. R. 27931) for the relief of Andrew P. Inabintt; to the Committee on War Claims.

Also, a bill (H. R. 27932) for the relief of the heirs of James W. Tucker, deceased; to the Committee on War Claims.

By Mr. RUSSELL: A bill (H. R. 27933) granting an increase of pension to Malcolm G. Parsons; to the Committee on Invalid Pensions.

By Mr. SHERWOOD: A bill (H. R. 27934) granting an increase of pension to George Gray; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27935) granting an increase of pension to Nancy Olmstead; to the Committee on Invalid Pensions.

By Mr. SPEER: A bill (H. R. 27936) granting a pension to Bertha B. Jordan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27937) granting an increase of pension to George W. Boal; to the Committee on Invalid Pensions.

By Mr. STEENERSON: A bill (H. R. 27938) granting a pension to Emma L. Wallace; to the Committee on Pensions.

By Mr. STERLING: A bill (H. R. 27939) granting a pension to Charles C. Sterling; to the Committee on Pensions.

Also, a bill (H. R. 27940) granting an increase of pension to Marion McCormick; to the Committee on Invalid Pensions.

By Mr. REILLY: A bill (H. R. 27942) granting an increase of pension to Mary A. Davis; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27943) granting an increase of pension to Amelia J. Fagan; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of the Illinois State Legislative Board of Brotherhood of Locomotive Firemen and Enginemen, Chicago, Ill., protesting against the passage of the Brantley workmen's compensation bill (S. 5382); to the Committee on the Judiciary.

Also (by request), petition of the Twentieth Century Club, Washington, D. C., protesting against the passage of the so-called Coosa Dam bill and favoring the general principles of conservation, etc.; to the Committee on Rivers and Harbors.

By Mr. ASHBROOK: Petition of George A. Cornet and six other merchants of Port Washington, Ohio, favoring the passage of legislation giving the Interstate Commerce Commission further power over express companies; to the Committee on Interstate and Foreign Commerce.

By Mr. BATHRICK: Petition of the Seed Leaf Tobacco Board of Trade, Cincinnati, Ohio, favoring the passage of legislation for the reduction of tariff on imported wrapper tobacco; to the Committee on Ways and Means.

Also, petition of the De Forest Sheet & Tinplate Co., Niles, Ohio, and the Brier Hill Steel Co., Youngstown, Ohio, both protesting against the proposed reduction of tariff on sheet steel, etc.; to the Committee on Ways and Means.

By Mr. BORLAND: Petition of the Common Council of Kansas City, Mo., favoring the passage of legislation for investigation of Federal judges in appointing receivers of gas companies; to the Committee on the Judiciary.

Also, petition of the Common Council of Kansas City, Mo., relative to friendly receiverships of public service corporations; to the Committee on the Judiciary.

By Mr. CALDER: Petition of the Italian Chamber of Commerce, New York, protesting against the passage of legislation (S. 3175) for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of National Academy of Design, New York, protesting against any action on the part of Congress conflicting with the design for the development of the city of Washington by the Washington Park Commission; to the Committee on the Library.

By Mr. DANFORTH: Petition of 26 onion growers of South Lima, N. Y., protesting against the passage of legislation changing the present tariff on onions; to the Committee on Ways and Means.

By Mr. DRAPER: Petition of Columbia and Snake Waterways Association, favoring the passage of legislation making an appropriation of $1,400,000 for the completion of the Celilo Canal; to the Committee on Rivers and Harbors.

By Mr. DYER: Petition of the Tenth Ward Improvement Co., St. Louis, Mo., favoring the passage of legislation for the construction of a subtreasury building in St. Louis; to the Committee on Public Buildings and Grounds.

Also, petition of T. C. Albright, St. Louis, Mo., favoring the passage of legislation granting a pension to the veterans of the Indian wars; to the Committee on Pensions.

Also, petition of Blue Wing Gun Club, St. Louis, Mo., and citizens of St. Louis, favoring the passage of House bill 36, giving Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. GARDNER of Massachusetts: Petition of Massachusetts Association of Sealers of Weights and Measures, favoring the passage of House bill 23113 fixing the standard barrel for fruits, vegetables, etc.; to the Committee on Ways and Means.

By Mr. GRIEST: Resolution adopted by the Pennsylvania Sealers' Conference, favoring the passage of House bill 23113 fixing the standard barrel for fruits, vegetables, etc.; to the Committee on Ways and Means.

By Mr. KNOWLAND: Petition of officers and members of the Tenth Avenue Baptist Church, Oakland, Cal., favoring the passage of the Kenyon-Sheppard bill prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. LA FOLLETTE: Petition of W. A. Logue and citizens of Stevens and Pend Oreille Counties, Wash., and also of Arthur J. Collins and 12 citizens of Pend Oreille County, Wash., all favoring the passage of legislation for the amendment of the three-year homestead law; to the Committee on Public Lands.

By Mr. LEVY: Petition of the employees of the Eagle Pencil Co., New York, protesting against the proposed reduction of tariff on lead pencils; to the Committee on Ways and Means.

By Mr. LINDSAY: Petition of National Academy of Design, New York, protesting against any action on the part of Congress that shall conflict with the development of the city of Washington as drawn by the Washington Park Commission, etc.; to the Committee on the Library.

By Mr. MANN: Petition of Cigar Leaf Tobacco Board of Trade, of Cincinnati, Ohio, favoring the passage of legislation to reduce the tariff on imported wrapper tobacco; to the Committee on Ways and Means.

Also, petition of Italian Chamber of Commerce, protesting against the passage of Senate bill 3175 for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. MOON of Tennessee: Papers to accompany bill for the relief of Lucinda Hughes; to the Committee on Pensions.

By Mr. MOTT: Petition of the Columbia State River Waterways Association, favoring the passage of legislation making an appropriation of $1,400,000 for the completion of the Celilo Canal; to the Committee on Rivers and Harbors.

Also, petition of Massachusetts Association of Sealers of Weights and Measures, favoring the passage of House bill 23113 fixing the standard barrel for the shipment of fruits, vegetables, etc.; to the Committee on Ways and Means.

By Mr. NEELEY. Petition of citizens of Ford County, Kans., favoring the passage of the Kenyon-Sheppard bill prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. NORRIS: Petition of citizens of Lincoln, Nebr., favoring the passage of legislation giving the Government control of all telephone and telegraph lines; to the Committee on Interstate and Foreign Commerce.

Also, petition of citizens of Minden, Nebr., favoring the passage of the Kenyon "red light" injunction bill for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. PEPPER: Petition of Ministers' Association, Clinton, Iowa, favoring the passage of the Kenyon-Sheppard liquor bill, prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. POWERS: Petition of citizens of the eleventh congressional district of Kentucky, favoring the passage of legislation for protection of merchants and others from the nonpayment of debts contracted by soldiers drawing pensions; to the Committee on Pensions.

By Mr. RAKER: Petition of California Retail Grocers Association, San Francisco, Cal., protesting against the passage of the Oldfield patent bill prohibiting the fixing of prices by the manufacturer of patent goods; to the Committee on Patents.

By Mr. SHEPPARD: Papers accompanying House bill 4312, to correct the military record of H. S. Hathaway; to the Committee on Military Affairs.

By Mr. TILSON: Petition of Italian Chamber of Commerce, New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. UNDERHILL: Petition of the Chamber of Commerce of the State of New York, protesting against the proposed changes in Senate bill 7208, relative to the carriage of cargo by sea; to the Committee on Interstate and Foreign Commerce.

Also, petition of the National Indian War Veterans, Denver, Colo., favoring the passage of legislation granting pensions to the veterans of the Indian wars; to the Committee on Pensions.

Also, petition of Italian Chamber of Commerce, New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of Pine Bluff Lodge, No. 305, Brotherhood of Railroad Trainmen, protesting against the passage of the workmen's compensation bill; to the Committee on the Judiciary.

By Mr. WEEKS: Petition of Waltham Progressive Club, Waltham, Mass., favoring the passage of legislation in connection with the pending tariff legislation that such law or laws take effect one year from passage; to the Committee on Ways and Means.

By Mr. WICKERSHAM: Petition of resident fishermen of Petersburg, Alaska, favoring the passage of legislation preventing the setting of fish traps in tidal waters of Alaska; to the Committee on the Territories.

SENATE.

SATURDAY, *January 11, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Journal of yesterday's proceedings was read and approved.

EXECUTIVE SESSION.

Mr. WARREN. Mr. President, there is a situation regarding certain prominent officers in the Army whereby their nominations will have to be considered to-day or they go out of the Army. I therefore move that the Senate proceed to the consideration of executive business.

The PRESIDENT pro tempore (Mr. BACON). The Senator from Wyoming moves that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 56 minutes spent in executive session the doors were reopened.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, the respondent appeared with his counsel, Mr. Worthington, Mr. Simpson, Mr. Robert W. Archbald, jr., and Mr. Martin.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

The PRESIDENT pro tempore. The Secretary will read the Journal of the last session of the Senate sitting for the consideration of the articles of impeachment.

The Journal of yesterday's proceedings of the Senate sitting as a Court of Impeachment was read.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will stand approved. What is the pleasure of the Senate?

Mr. CLARK of Wyoming. I move that the doors be closed for deliberation.

The PRESIDENT pro tempore. The Senator from Wyoming moves that the doors be closed for deliberation on the part of Senators. [Putting the question.].

Mr. Manager CLAYTON. Before the motion is announced as having been carried, I will state that I submitted a communication to the President of the Senate this morning directing attention to what I think is an infraction of the rules of the Senate on the part of Mr. Worthington, of counsel for the respondent, who has withheld his remarks from the RECORD.

Mr. President, everyone else printed his remarks when those remarks were completed, without withholding them; and I know of no rule of any court which permits this to be done. Against that, Mr. President, I desire to say that I think it is improper. I have called the attention of the Presiding Officer to that fact, and I hope that the order made in this case will be observed.

Mr. WORTHINGTON. I have only to say, Mr. President, that after the late hour when we adjourned here last night, as soon as possible I got to work at the manuscript which had been forwarded to me and continued to work on it until midnight. I was then told that it was too late to get it in the RECORD of to-day.

I was not aware of any rule of the Senate which prevented this from being done, and I observed, I think, that the remarks of one of the managers, Mr. Manager HOWLAND, had been withheld.

Mr. BRANDEGEE. Mr. President, I rise to a question of order, which is that the motion to close the doors is not debatable.

Mr. Manager CLAYTON. Mr. President, may I not make, with the permission of the Senator, another suggestion? The manager who is now addressing you remained at his office last night until the hour of 12.30 in order to read the manuscript of the report of his remarks made here yesterday, made after the gentleman who has just addressed you made his. And it will be borne in mind that Mr. Worthington made part of his argument day before yesterday.

Mr. President, it seems to me that in all fairness and due observance of this rule his remarks should have been in the RECORD this morning. This manager, who labored under greater disadvantage than he did, has put his in the RECORD this morning.

The PRESIDENT pro tempore. The Chair withheld the announcement of the vote out of courtesy to the manager on the part of the House of Representatives, which the Chair supposed would meet with the acquiescence and approval of the Senate. Strictly, of course, the order to close the doors ought to have been made, but this was the only opportunity, and the manager on the part of the House of Representatives, in the opinion of the Chair, was entitled to that courtesy. The Chair will now, however, declare that the motion of the Senator from Wyoming is carried, and the Sergeant at Arms is directed to clear the galleries and close the doors.

The managers on the part of the House, the respondent, and his counsel thereupon withdrew.

The galleries having been cleared, the Senate proceeded to deliberate with closed doors.

After 1 hour and 32 minutes the doors were reopened.

Mr. Worthington, Mr. Robert W. Archbald, jr., and Mr. Martin, of counsel for the respondent, appeared.

The managers on the part of the House of Representatives appeared in the seats provided for them.

Mr. CLARK of Wyoming. I offer two separate orders, which I ask may be acted upon in the order in which they are sent to the desk.

The PRESIDENT pro tempore. The Secretary will read the first order proposed by the Senator from Wyoming.

The Secretary read as follows:

Ordered, That on Monday, January 13, 1913, at the hour of 1 o'clock p. m., a final vote be taken on the articles of impeachment presented by the House of Representatives against Robert W. Archbald, additional circuit judge of the United States.

The order was considered by unanimous consent and agreed to.

The PRESIDENT pro tempore. The next order submitted by the Senator from Wyoming will be read.

The Secretary read as follows:

Ordered, That the Secretary of the Senate do acquaint the House of Representatives that the Senate sitting as a High Court of Impeachment will on Monday, the 13th day of January, instant, at the hour of 1 o'clock p. m., proceed to pronounce judgment on the articles of impeachment exhibited by the House of Representatives against Robert W. Archbald.

The order was considered by unanimous consent and agreed to.

Mr. ROOT. I offer the following order.

The Secretary read as follows:

Ordered, That upon the final vote the Presiding Officer shall direct the Secretary to read the several articles successively, and after the

reading of each article the Presiding Officer shall put the question following, namely:

"Mr. Senator ———, how say you; is the respondent, Robert W. Archbald, guilty or not guilty of the high misdemeanors, or a high crime and misdemeanor, as the case may be, as charged in this article?"

The PRESIDENT pro tempore. The question is upon the adoption of the order offered by the Senator from New York, which has just been read.

Mr. CLARKE of Arkansas. Mr. President, do I correctly understand that the Chair is to adopt the formula as stated in the proposed order and address it to each Senator? Why not address it to the Senate and call the roll? In other words, why not address that inquiry to Senators collectively? That inquiry to each Senator will require vastly more time than the taking of the vote, and I do not see that it will serve any good purpose, but will simply consume time unnecessarily. I therefore move that an amendment be made to the order that will conform to that idea. What does the Senator from New York say to that?

Mr. ROOT. I have no objection to that. That was the form followed in the Johnson case and the Belknap case.

Mr. CLARKE of Arkansas. Yes; but we have at hand a short session, and if the proceeding can be abbreviated somewhat without destroying its solemnity and importance I think it should be done.

Mr. ROOT. That can be ordered. If the order can be returned to me, I will modify it in order to meet that suggestion.

Mr. FLETCHER. I suggest that Rule XXII covers the matter sufficiently. It reads that "on the final question whether the impeachment is sustained," which is the whole question, it seems to me, that ought to be submitted, "the yeas and nays shall be taken on each article of impeachment separately."

Mr. ROOT. Mr. President, as there seems to be some question regarding the form, I will withdraw this proposed order and leave the question open under the rule as it stands, without any addition.

Mr. OWEN. That is better.

Mr. GALLINGER. Yes; that is better.

Mr. ROOT. I offer the following order, which is a copy of the order made in the Belknap case.

The Secretary read as follows:

Ordered, That upon the final vote in the pending case each Senator may, in giving his vote, state his reasons therefor, occupying not more than one minute; which reason shall be entered in the Journal in connection with his vote; and each Senator may within two days after the final vote file his opinion in writing, to be published in the printed proceedings in the case.

Mr. McCUMBER. I move to amend the proposed order by striking out the first of it, relating to the one-minute explanation of a vote, so that the latter portion may still stand.

The PRESIDENT pro tempore. The question is on the motion of the Senator from North Dakota to amend the order as indicated.

Mr. BRISTOW. I should like the yeas and nays on that question.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. TOWNSEND (when the name of Mr. SMITH of Michigan was called). I desire to announce that the senior Senator from Michigan [Mr. SMITH] is in Mexico on the investigating committee appointed by the Senate, and for that reason he is, unfortunately, absent.

The roll call having been concluded, the result was announced—yeas 40, nays 31, not voting 23, as follows:

YEAS—40.

Borah	Clapp	La Follette	Poindexter
Bourne	Crane	Lippitt	Sanders
Bradley	Crawford	Lodge	Shively
Brandegee	Cummins	McCumber	Smith, Ariz.
Bristow	Curtis	Myers	Smith, Md.
Brown	Dillingham	O'Gorman	Smoot
Burnham	Gronna	Oliver	Sutherland
Burton	Johnson, Me.	Paynter	Swanson
Catron	Kenyon	Penrose	Townsend
Chamberlain	Kern	Perkins	Williams

NAYS—31.

Ashurst	Fletcher	Newlands	Smith, Ga.
Bacon	Foster	Owen	Stone
Bryan	Gallinger	Page	Thornton
Clark, Wyo.	Hitchcock	Perky	Tillman
Clarke, Ark.	Jones	Pomerene	Warren
Culberson	Martin, Va.	Reed	Wetmore
Cullom	Martine, N. J.	Root	Works
du Pont	Nelson	Simmons	

NOT VOTING—23.

Bankhead	Gardner	Johnston, Tex.	Richardson
Briggs	Gore	Lea	Smith, Mich.
Chilton	Guggenheim	McLean	Smith, S. C.
Dixon	Heiskell	Massey	Stephenson
Fall	Jackson	Overman	Watson
Gamble	Johnston, Ala.	Percy	

So the amendment to the order was agreed to.

The PRESIDENT pro tempore. The question now is upon the adoption of the order as amended.

The order as amended was agreed to.

Mr. WORTHINGTON. Mr. President, I should like to ask, for the information of counsel for the respondent, just in what form the question is to be put, under the action the Senate has just taken?

The PRESIDENT pro tempore. The Chair is unable to answer the question. Does counsel inquire of the Chair?

Mr. WORTHINGTON. I was asking the Chair for information.

The PRESIDENT pro tempore. The order adopted will leave it to the Chair to frame the question.

Mr. CRAWFORD. I move that the Senate sitting as a Court of Impeachment do now adjourn until Monday next at 1 o'clock.

The motion was agreed to.

The managers on the part of the House, the respondent, and his counsel thereupon withdrew.

LOANS IN THE DISTRICT OF COLUMBIA.

Mr. CURTIS. I move that the Senate take up the conference report on the loan-shark bill, so called.

Mr. SMITH of Georgia. Are we not in an unfinished state as to what the Senate actually did in reference to giving a unanimous consent

The PRESIDENT pro tempore. That is not in the nature of unfinished business. It can be called up again. The question is on agreeing to the motion of the Senator from Kansas, that the conference report on the bill (H. R. 8768) to regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia be now taken up. [Putting the question.] By the sound, the noes appear to have it.

Mr. CURTIS. I call for a division.

Mr. SMITH of Georgia. What is the motion?

The PRESIDENT pro tempore. The Senator from Kansas moves to take up the conference report on House bill 8768, commonly known as the loan-shark bill. Upon that question the Senator from Kansas asks for a division.

Mr. GALLINGER. I ask for the yeas and nays. It will save time.

The yeas and nays were ordered.

Mr. REED. Mr. President, I have not the slightest objection to taking up this proposition at the present time, but I think before the Senate disposes of any other business we ought to settle the question whether the unanimous-consent agreement, or alleged unanimous-consent agreement, which has been so much discussed was, in fact, a unanimous-consent agreement. We ought to do that before we proceed with other business. Therefore I hope this motion will be voted down.

Mr. GALLINGER. It is not debatable.

The PRESIDENT pro tempore. The matter is not debatable.

Mr. CUMMINS. A parliamentary inquiry, Mr. President.

The PRESIDENT pro tempore. The Senator from Iowa will state it.

Mr. CUMMINS. If this motion prevails, what will be its effect upon the unfinished business—the proposed constitutional amendment?

The PRESIDENT pro tempore. The Chair is of the opinion that it would be displaced. It is not now the morning hour.

Mr. CUMMINS. I simply want Senators to understand, before voting upon the pending motion, that that will be its effect.

Mr. CURTIS. I do not understand that it displaces the unfinished business except for the time being, and a motion is in order at any time to take up a conference report.

The PRESIDENT pro tempore. That is true; but when it is made out of the morning hour any vote of the Senate to proceed to the consideration of any particular matter will cause what has theretofore been the unfinished business to be displaced.

Mr. WARREN. I want to inquire just how the unfinished business would be before us to the exclusion of other business. Would it come up at 2 o'clock or what hour to-day?

Mr. CUMMINS. It is on the theory that the unfinished business is now before the Senate.

The PRESIDENT pro tempore. It is now in order, but it has not been laid before the Senate.

Mr. CURTIS. I suggest that the motion be withdrawn and the unfinished business be laid before the Senate and then temporarily laid aside. It was not my purpose to interfere with the unfinished business. I ask the consent of the Senate that that be done.

Mr. PENROSE. Let the unfinished business be laid before the Senate.

The PRESIDENT pro tempore. That can be done.

Mr. CURTIS. I ask unanimous consent, then, to withdraw the request for the time being, with the understanding that the unfinished business will be laid aside. I will then renew my motion.

Mr. CUMMINS. I ask that the unfinished business be laid before the Senate, if it is not automatically before the Senate.

The PRESIDENT pro tempore. It is the duty of the Chair to lay it before the Senate.

Mr. STONE. I rise to a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from Missouri will state it.

Mr. STONE. The Senator from Kansas withdraws his motion. That does not give him any right to the floor thereafter?

The PRESIDENT pro tempore. None whatever.

Mr. STONE. I move to temporarily lay aside the unfinished business.

The PRESIDENT pro tempore. The unfinished business must first be laid before the Senate, and then a motion to lay it aside will be in order. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated by title.

The SECRETARY. A joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. CUMMINS. I ask that the unfinished business be temporarily laid aside.

The PRESIDENT pro tempore. The Senator from Iowa asks that the unfinished business be temporarily laid aside. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. CURTIS. I move that the Senate proceed to the consideration of the conference report on the loan-shark bill.

The PRESIDENT pro tempore. The Senator from Kansas moves that the Senate now proceed to the consideration of the conference report on House bill 8768.

Mr. SMITH of Georgia. Mr. President, I rise to a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. SMITH of Georgia. Is not the question which has been raised as to the procedure of the Senate in connection with whether unanimous consent had been given in the nature of a privileged question, which should be disposed of?

Mr. GALLINGER. It is not.

The PRESIDENT pro tempore. The Chair thinks not. Certainly not unless the time had arrived when it was to be acted upon. The question is on agreeing to the motion made by the Senator from Kansas [Mr. CURTIS]. [Putting the question.] The noes appear to have it.

Mr. GALLINGER and Mr. CURTIS called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll.

Mr. LIPPITT (when his name was called). I have a general pair with the senior Senator from Tennessee [Mr. LEA], which I transfer to the Senator from South Dakota [Mr. GAMBLE] and will vote. I vote "yea."

Mr. SIMMONS (when Mr. OVERMAN's name was called). I desire to announce that my colleague [Mr. OVERMAN] is absent on account of sickness.

Mr. PERKINS (when his name was called). I have a general pair with the Senator from North Carolina [Mr. OVERMAN]. I transfer it to the junior Senator from Nevada [Mr. MASSEY] and will vote. I vote "yea."

The roll call was concluded.

Mr. O'GORMAN. I desire to announce that the Senator from West Virginia [Mr. CHILTON] is absent from the Chamber because of illness in his family.

Mr. BRYAN. I desire to announce that the junior Senator from Alabama [Mr. JOHNSTON] is detained from the Chamber on account of illness, and is paired with the Senator from New Mexico [Mr. FALL].

The result was announced—yeas 40, nays 14, as follows:

YEAS—40.

Ashurst	Curtis	Martine, N. J.	Root
Bankhead	Dillingham	Myers	Sanders
Borah	Fletcher	O'Gorman	Simmons
Brandegee	Foster	Oliver	Smith, Ariz.
Brown	Gallinger	Page	Swanson
Bryan	Gronna	Penrose	Thornton
Catron	Johnson, Me.	Perkins	Tillman
Chamberlain	Jones	Perky	Warren
Clapp	Kenyon	Poindexter	Wetmore
Cummins	Lippitt	Pomerene	Works

NAYS—14.

Bradley	Hitchcock	Shively	Townsend
Bristow	Kern	Smoot	Williams
Burton	Paynter	Stone	
Clarke, Ark.	Reed	Sutherland	

NOT VOTING—40.

Bacon	Dixon	Johnston, Tex.	Overman
Bourne	du Pont	La Follette	Owen
Briggs	Fall	Lea	Percy
Burnham	Gamble	Lodge	Richardson
Chilton	Gardner	McCumber	Smith, Ga.
Clark, Wyo.	Gore	McLean	Smith, Md.
Crane	Guggenheim	Martin, Va.	Smith, Mich.
Crawford	Heiskell	Massey	Smith, S. C.
Culberson	Jackson	Nelson	Stephenson
Cullom	Johnston, Ala.	Newlands	Watson

So the motion to proceed to the consideration of the conference report was agreed to.

Mr. CURTIS. Mr. President, the report has been read, and I ask for a vote on it, unless some explanation is asked.

Mr. President, the main point in dispute between the House and the Senate is whether or not the pawnbrokers doing business in the city of Washington should be included in this loan-shark bill and limited in their charge of interest to 12 per cent per annum. The Senate committee first took the ground that because of the fact that there was a separate law applying to pawnbrokers, the act of 1889, any amendment in reference to them as to the amount of interest which might be charged by them should be considered as an amendment to that law.

But the bill was amended and sent to conference, and after several meetings it was found that the managers could not reach an agreement unless the pawnbrokers were included; and so at last the Senate conferees gave in on that point, and this bill as it has been agreed to and reported to the Senate, and to which report the Senate is requested to accede, includes pawnbrokers, and hereafter it will not be lawful for them to charge more than 1 per cent a month, or 12 per cent per annum, upon their loans.

Under the existing law they are permitted to charge 3 per cent a month, or 36 per cent a year. It was discovered, as I stated before, that some of the loan sharks in this city were charging poor, unfortunate men and women as high as 372 per cent for the loan of money, and your committee, after a most careful consideration, concluded that this bill was the best method by which the loan sharks could be regulated and controlled. So they have reported it. I think I may safely say that when this question was presented to the committee the vote was unanimous, that rather than defeat the loan-shark bill the pawnbrokers should be included in it.

With this statement, unless some Senator wishes to ask a question, I ask for a vote upon the report.

Mr. JONES. I wish to ask the Senator from Kansas if the conference report preserves the other regulations now existing with reference to pawnbrokers except as to the rate.

Mr. CURTIS. That question was discussed in the conference. A majority of the conferees thought that it did cover them and that the existing law would apply, only changing the rate of interest which might be charged by the pawnbrokers.

Mr. TOWNSEND. Will the Senator yield for a question?

Mr. CURTIS. Certainly.

Mr. TOWNSEND. It has been reported to me that the commissioners and practically all of the civic societies here in the city of Washington are opposed to this bill, not because it puts the loan sharks out of business but because it will put the pawnbrokers out of business. I should like to ask the opinion of the Senator in reference to that statement.

Mr. CURTIS. I think that statement goes too far. It is true that representatives of a large number of organizations appeared before members of the committee and urged the committee not to consent that the pawnbrokers should be included, and asked if there was any legislation in regard to pawnbrokers that it should be applied to the existing law. But after considerable discussion and several meetings it was found that no agreement could be reached upon the loan-shark bill unless the pawnbrokers were included. Therefore the conferees on the part of the Senate consented to that, and their action was indorsed by a vote of the Committee on the District of Columbia.

Mr. TOWNSEND. Would it be a fact, as is charged, that this limitation to 1 per cent would result simply in a sale always of pledges, and that poor men, men who have very little property to put up as a pledge, would thus be denied a privilege which they claim is very dear to them?

Mr. CURTIS. There has been organized within a year in the District of Columbia a company that is now loaning money at 6 per cent, or rather 6 per cent discount, and the officers and managers of that company informed members of the committee that they are ready to continue loans at that rate. Some members of the committee thought that the interest charged by the pawnbrokers, where they had security, 36 per cent, was entirely too large. With this new company and others who are doing a loaning business, and with the information that the com-

mittee had in reference to business done by companies in New York, Chicago, Boston, and other large cities, it was believed those who desired small loans would be accommodated. This one company is now doing business and other companies can be organized, and money can be loaned here at 6 and 8 per cent; at any rate, at a lower rate than is permitted in this bill, which allows them to charge 12 per cent, or 1 per cent a month.

Mr. TOWNSEND. Does the new company to which the Senator refers loan money on personal property as security?

Mr. CURTIS. I understand they have made loans on personal property or even upon the notes of individual members of the family.

Mr. TOWNSEND. How do they differ from ordinary pawnbrokers?

Mr. CURTIS. I can not tell you that. I do not know about their security. The matter was brought to my attention a few days ago, but I did not inquire extensively into how they are doing business.

I ask for a vote, Mr. President, on the conference report.

The PRESIDENT pro tempore. The question is on agreeing to the conference report.

The report was agreed to.

INTERSTATE SHIPMENT OF LIQUORS.

Mr. SMOOT. Mr. President, at the close of the session last evening the question of the unanimous-consent agreement to vote on Monday, January 20, 1913, at 3 o'clock upon the bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases was under discussion, and I asked that it be resubmitted to the Senate and gave a short statement as to why it should be. I again, Mr. President, ask that that question be resubmitted to the Senate.

I wish to say, Mr. President, that the RECORD shows it was presented to the Senate in an unusual way. The Senator from Tennessee [Mr. SANDERS] did not ask unanimous consent for the consideration of the order. He simply stated, "I present the following," and then it was read by the Secretary of the Senate.

I heard the Presiding Officer make the statement, "Is there objection? The Chair hears none, and it is so ordered." I immediately rose to my feet and addressed the Chair, but his attention was drawn to the other side of the Chamber, and he recognized the Senator from Oklahoma [Mr. OWEN]. I rose for the purpose of objecting and giving my reasons why. I have already stated to the Senate how it happened. I was in the Senate at the time the unanimous consent was passed upon, and before any other business had been attended to I addressed the Chair.

Mr. President, under the circumstances I ask that the question be resubmitted to the Senate.

Mr. CLAPP. Mr. President, I desire to say in connection with this matter that it seems to me the Senate is establishing a very dangerous precedent in opening the door to a means by which a majority of the Senate at any time can practically nullify a unanimous-consent rule. It has been urged, I do not know whether on the floor of the Senate, that if this order stands there are Senators who will disregard it. I think that possible danger of far less importance to the Senate than the step it is proposed to take, which would open a way to set aside a unanimous-consent agreement.

It happened yesterday morning that I came into the Senate. The President pro tempore had to take charge at 1 o'clock of the impeachment proceedings, and he usually has some one occupy the chair while he secures a lunch. He happened to ask me to occupy the chair. It is needless to say that I knew nothing whatever of any proposed unanimous-consent request, but upon taking the chair the Senator from Tennessee sent the request to the desk. The Chair directed the reading of the request, which the Secretary did, announcing in the reading that the Senator from Tennessee was asking for unanimous consent.

Mr. SMOOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Minnesota yield to the Senator from Utah?

Mr. CLAPP. Certainly; with pleasure.

Mr. SMOOT. I think that statement is absolutely correct; but the Senator from Minnesota, who was the Presiding Officer at the time, will remember that he made this statement:

> Let the Chair say a word. There is too much confusion in the Senate. This unanimous-consent offer was made, was read very clearly and with great deliberation by the Secretary, and stated with deliberation by the Chair. The trouble is there is too much confusion in the Chamber.

Mr. CLAPP. I will reach that in chronological order in my statement. I think those who were in the Senate yesterday morning when this unanimous consent was asked for will bear out that the Secretary of the Senate read it with care and with deliberation. The request or suggestion as to whether there was objection was made with much more deliberation than some requests which have been submitted to-day. After the statement that the Chair heard no objection, there was a pause and then the usual order, "It is so ordered." After that the Senator from Utah addressed the Chair; but the Chair did not see him, and recognized the Senator from Oklahoma. Upon the completion of the business proposed by the Senator from Oklahoma, the Senator from Utah obtained the floor and asked whether the Senate had been considering a request for unanimous consent, and was advised that it had just passed upon that kind of a request. The Senator then suggested a reconsideration of the vote. The Chair held that there could be no reconsideration of a vote fixing a unanimous consent; that an agreement for unanimous consent could not be changed, modified, or set aside even by unanimous consent after it was made. The rule for that has already been stated by the Senator from Massachusetts [Mr. LODGE], and requires, it seems to me, at my hands no discussion.

Subsequently, and I might say generally, if I may be permitted to say it without a seeming reflection, the Chair stated that there was too much confusion. There is too much confusion too often upon the floor of the Senate. If the Senator from Utah had suggested, or if it had been suggested to the Chair at that time that he resubmit the question, a different question might have been presented. The controversy, and no one was to blame for that, turned at once upon the right of the Senate to deal with a unanimous-consent agreement after it had been made. After that question had been discussed pro and con for some time, then the suggestion was made that the subject matter be resubmitted to the Senate.

Now, Senators, this is simply my own view—every man is entitled to his own; every man can settle these questions for himself—but it seems to me that if this unanimous-consent agreement can be set aside, not by a direct vote to reconsider it, not by a vote to set it aside, but upon the plea that it was not in fact adopted, you are establishing a very dangerous precedent; you are getting into a twilight zone where there is no well-defined line that can be laid down either by the Senate or by the Presiding Officer.

I do not know that anyone has questioned the fairness of the matter. It is a matter I do not care to discuss. I say again that the then occupant of the chair had no suggestion that the Senator from Tennessee was going to submit a request, nor did he know what the request was until it was read from the desk, and then the Chair proceeded with deliberation. Clearly no one could claim that he was taken by surprise or that any advantage was taken of him.

I want to say again, it appears to me that if by this means, in this instance, while it may seem perhaps a hardship, although it is not a vote, it is not decisive of anything except that some day the Senate will vote upon a measure, if a unanimous-consent agreement can be set aside upon this ground we are making a precedent and opening a dangerous pathway to the modification and setting aside of unanimous-consent agreements. For one I shall feel constrained to vote against resubmitting this matter to the Senate.

Mr. LODGE. Mr. President, I am in sympathy with the objects and purposes of this bill. If I had been here yesterday, I should have made no objection whatever to the unanimous-consent agreement.

I venture to take the floor for a few moments because there seems to be much more involved here than anything affecting a single measure. The business of the Senate is largely transacted through unanimous-consent agreements, not only the important unanimous-consent agreements which are reached often with much difficulty on large and generally contested measures, but constantly on all the small business of the Senate we depend on unanimous consent to enable us to transact the public business. We do it in executive session, and we do it in legislative session. We have never put any restraint upon it. We have never fixed any time, as is done in the House, when a unanimous-consent agreement can be asked.

Now, Mr. President, it seems to me, after listening to the debate on this subject, as if there was more or less misconception, misapprehension perhaps, on the part of some Senators as to the nature of a unanimous-consent agreement. It has no recognition in the rules at all. It is no more within the control of the Chair than the maintenance of a pair is in the control of the Chair. The chair when occupied by Mr. Frye, who was high authority, stated the position of the Chair, once for all, that he had no power to enforce a unanimous-consent agreement any more than he had power to enforce a pair. A unanimous-consent agreement is something that rests abso-

lutely and entirely on the will and the good faith of Senators themselves, just like a pair.

If any number of Senators choose, or if one Senator chooses, to say that any unanimous consent was improperly obtained, that there never was a unanimous consent, and a Senator declines to observe it, there is no power on earth that can prevent his taking the floor and carrying that unanimous consent over so that it becomes void and of no effect.

Therefore, Mr. President, I have always felt since I have been in the Senate the greatest anxiety that we should preserve, in the first place, most absolutely unanimous-consent agreements, without modification, without amendment. They certainly can not be reconsidered; they can not be modified. I do not think that they can be vacated by another unanimous consent, unless you can be assured that every Senator who consented was present when the original unanimous consent was asked to be vacated, and that is practically out of the question. I do not believe there is anyone in the Senate who has more strongly felt the importance for the transaction of the Senate business that unanimous-consent agreement should be most strictly observed than I have.

I agree with the Senator from Minnesota [Mr. CLAPP] that it would be a very dangerous precedent to establish if we should set aside unanimous-consent agreement in any way. I have no doubt of the right of the Chair to resubmit it. I have very grave doubt as to whether we can order its resubmission by a vote of the Senate.

As to the Chair's right to resubmit, it has been done again and again. I regret that the Senator from New Hampshire [Mr. GALLINGER], who has had a longer experience than almost any other Senator in this body, who is an experienced parliamentarian, should, as I see by the RECORD, differ with me on that practice.

The present occupant of the chair agreed with me about it, and I think there is no question as to the fact. Of course this is all a matter of practice. There is no rule to guide us. But where the Chair saw that any Senator had not had an opportunity to make objection, had not been recognized, I do not think any occupant of the chair has ever hesitated to resubmit a unanimous-consent request.

Mr. President, within the memory of living men, I have seen a motion made by the Senator from Texas and in the course of discussion lost sight of, and another motion offered and submitted by the Chair, and on his attention being called to the fact that the original motion had been overlooked he acknowledged the oversight and submitted the original motion.

Nobody can occupy that chair, and in the confusion which often happens on the floor, fail to occasionally overlook some Senator who rises for the purpose of objection or make some slight mistake about the order of motions; and it is impossible to suppose that the Chair is not to have the right and has not the right to resubmit, as he has the right to submit, if he is satisfied in his own mind that any Senator present and on the floor has been by his action deprived of his undoubted right and power to give assent.

Admitting, Mr. President, the danger of establishing a precedent by modifying a unanimous-consent agreement, there is also another danger which I think equally great and which I think should be just as much guarded against if we wish to preserve, as I do, unanimous-consent agreements as essential to the transaction of the business. The idea must never for a moment be allowed that a unanimous-consent agreement was passed by mistake or error, was a snap judgment, or that any Senator who was present on the floor was deprived of his opportunity to give or withhold his assent.

I was not present yesterday, and I speak only from what appears in the RECORD. It appears by the RECORD that an order was sent by the Senator from Tennessee [Mr. SANDERS] to the desk. In somewhat long experience here no doubt there may have been many such, but I do not recall an instance of a Senator seeking a unanimous-consent agreement and not asking for it himself. The Senator in charge of the bill or the Senator interested in the bill, great or small, makes the request himself. If he chooses, as he has an undoubted right to do, to put his unanimous-consent request in the form of an order, it comes in undoubtedly in order under the last subject in the call of morning business; that is, concurrent and other resolutions.

This was offered, I see by examining the RECORD, during the order of the introduction of bills. It was sent to the desk without any remark being made by the Senator from Tennessee, and he was not bound to make any remark. It was then read from the desk.

Mr. SMITH of Georgia. I wish to ask the Senator if it is not the custom whenever a request for unanimous consent is made to call attention to it from the floor and to explain it before it is sent to the desk?

Mr. LODGE. Mr. President, it is never safe to indulge in a universal negative, but I do not recall an instance of a unanimous-consent agreement being asked for that was not asked for from the floor, and usually the unanimous-consent agreement is asked for and is put in form by the clerks at the desk. I do not say that except to show that the method, although absolutely legitimate, was not usual.

Mr. BRANDEGEE. Mr. President, will the Senator let me ask him a question there?

Mr. LODGE. Certainly.

Mr. BRANDEGEE. I read the RECORD, as the Senator from Massachusetts has done, and I note that the order was sent to the desk and was reported by the Secretary, and I do not think, if my memory serves me, that even the request for the present consideration of it at that time was asked for.

Mr. SMITH of Georgia. It was not.

Mr. LODGE. It was not. Of course it was out of order at that time, except by unanimous consent. There was no request made for its consideration at that time.

Mr. SMITH of Georgia. Ought there not to have been a request for the suspension of the regular order to admit it, and——

Mr. LODGE. Mr. President——

Mr. SMITH of Georgia. Just let me finish the question. And had not the Senators on the floor the right to suppose that nothing but new bills would be read, unless the order of business was suspended?

Mr. LODGE. Strictly speaking, under that order of the introduction of bills, of course nothing but the introduction of bills is in order, and, strictly speaking, the request for consideration was the proper step to take. But it is only fair to say that unanimous-consent agreements are habitually asked for at all times during a session.

My point is that there was neither a request for its present consideration nor was the unanimous consent asked for; but an order was sent to the desk containing a request for unanimous consent. It was laid before the Senate by the Chair without, as I recall, asking whether there was objection to its consideration at that time.

Mr. GALLINGER. That is never asked, and never was asked.

Mr. LODGE. Well, I think it is pretty hard to indulge in such absolute statements as that it was never asked. I have been here some time and I have heard it asked a great many times. I have heard it asked from the Chair over and over again, "Is there objection to consideration at this time?" I should be inclined to think my friend from New Hampshire had made that inquiry from the Chair himself a good many times.

Mr. GALLINGER. If the Senator will permit me, I will say that I never knew an instance where, when a unanimous-consent agreement was proposed, the Chair asked whether or not it would be allowed to be considered, and I——

Mr. LODGE. Mr. President, my point is that unanimous consent was not proposed.

Mr. GALLINGER. Well, of course, the Senator and I differ on that, and I will state my views after he gets through.

Mr. LODGE. Well, it was not proposed according to the RECORD. Of course, I was not here, and I can only quote the RECORD.

Mr. WILLIAMS. Will the Senator from Massachusetts pardon me just a moment?

Mr. LODGE. Certainly.

Mr. WILLIAMS. I find here just below where the Secretary read the request for unanimous consent that the Presiding Officer said:

> Is there objection to the request of the Senator from Tennessee? The Chair hears none.

Mr. LODGE. That is not what I am referring to. I am referring to a request for its consideration out of order. Strictly speaking it was not in order at all then. Nothing was in order at that time but the introduction of bills.

Mr. GALLINGER. Will the Senator from Massachusetts permit me to interrupt him?

Mr. LODGE. Certainly.

Mr. GALLINGER. A motion to proceed to the consideration of any bill on the calendar would have been in order.

Mr. LODGE. Certainly if it was made; but my point is that it was not made.

Mr. GALLINGER. Unanimous-consent agreements have been asked at any stage of our proceedings.

Mr. LODGE. So I have said.

Mr. GALLINGER. To my knowledge for 21 years I never heard the question raised before that such requests were out of order.

Mr. LODGE. Mr. President, I said that it was habitual to ask unanimous consent at any stage of the proceedings in the Senate, but not strictly under the rules. I do not think, however, it can be disputed that no business is in order during the time for the introduction of bills except the introduction of bills. If other business is offered, it must be by motion or request.

If a Senator reports a bill from a committee and asks unanimous consent for its immediate consideration, the Chair always first asks the Senate if they will give consent to the consideration of the bill at that time, and that it is a unanimous consent that is being asked for. In this case the order was read. The Presiding Officer then made the usual inquiry:

Is there objection to the request of the Senator from Tennessee? The Chair hears none. It is so ordered.

And then I see the Senator from Utah [Mr. SMOOT] addressed the Chair and said: "Mr. President," and Mr. OWEN was recognized. That is all that the RECORD discloses.

Mr. President, the point that is made by the Senator from Utah is that he failed to get recognition from the Chair when he was entitled to it; that his consent was never given; that he was on the floor; that he tried to get recognition and failed; and that he has been deprived of his right of withholding or giving his consent. Other Senators who were present at the time, I find by reading over the debate, arose in their places and said they did not consider themselves bound by the unanimous consent just given. That is the point on which I wish to lay stress. The whole virtue and merit of the unanimous-consent agreements, the qualification without which it can not continue, is that all Senators shall admit that they are fairly and properly given and shall feel themselves bound by them. If Senators do not feel themselves bound by a unanimous-consent agreement, it makes no matter what the Senate does, the unanimous consent given falls to the ground.

Mr. POMERENE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from Ohio?

Mr. LODGE. I do.

Mr. POMERENE. May I call the Senator's attention to the fact that the RECORD shows that the Senator from Utah was the first Senator to address the Chair immediately following the reading of the unanimous-consent agreement?

Mr. LODGE. That is what I intended to point out.

Mr. WILLIAMS. Ah, but, Mr. President, if the Senator from Massachusetts will pardon just one interruption, the Senator from Ohio [Mr. POMERENE] has made a mistake in his statement.

Mr. LODGE. No; he has not.

Mr. WILLIAMS. The Senator from Utah did not rise immediately after the reading. The Senator from Utah rose after the Chair had put the request and had decided that there was no objection.

Mr. LODGE. Unquestionably; there is no doubt about it.

Mr. WILLIAMS. Which is a totally different thing.

Mr. LODGE. Undoubtedly.

Mr. WILLIAMS. But the Senator from Ohio said that the Senator from Utah arose immediately after the Secretary had read the statement.

Mr. LODGE. Oh, no; he arose immediately after the words "It is so ordered" had been spoken.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from California?

Mr. LODGE. Yes.

Mr. WORKS. I desire, in justice to the position which is taken by the Senator from Utah, to confirm from my own knowledge and recollection just what the facts were. I was sitting very near the Senator from Utah and was paying attention to what was going on. I was looking and listening for an objection to be made to the consideration of this order, and I am able to say of my own knowledge that the Senator from Utah did address the Chair first, but the attention of the Chair was directed to the Senator from Oklahoma [Mr. OWEN] and he was recognized; but, as a matter of fact, the Senator from Utah did first address the Chair, and addressed him twice or three times, and loudly; I might say rather frantically.

Mr. LODGE. Well, Mr. President, that confirms the testimony of the RECORD.

Mr. President, I would say, as one who is in sympathy with the bill and who would not have objected to the unanimous-consent agreement, that I think it is a very unfortunate thing, however our opinions may differ as to questions of practice involved, to have a unanimous-consent agreement in regard to which any considerable number of Senators, or any number, great or small, feel that it was not properly obtained. I do not mean by improper methods, but I mean that they feel that it was not obtained with the consent of those whose consent was necessary. The question involved here is, whether that consent exists; not whether it shall be held. Nobody can hold it; there is no power to compel Senators to obey that unanimous-consent agreement. It all rests on our own good faith and our own adhesion to the rules of the Senate; and it would be just as unfortunate, in my mind, to force a unanimous-consent agreement about which there was any doubt or about which Senators felt that they had not been fairly treated—it would be just as bad as to tamper with or modify or try to upset a unanimous-consent agreement fairly and properly obtained. I think one would be just as prejudicial to our system of unanimous-consent agreements as would the other.

I do not want to see in the Senate what I think will be very likely to grow out of this—some strict limitation put upon obtaining unanimous-consent agreements as used to be done in the other House. I can not speak of their rules at present; but I think they have, certainly they formerly had, set times when unanimous consents could be asked, and they could not be asked for at other times. I do not want to see those restrictions put upon the Senate. I think it is one of the great merits and advantages of this body that we have so much freedom and latitude, but the price we must pay for it is a very careful observance of all the necessary conditions to make a unanimous-consent agreement consented to by everybody.

Mr. President, I may differ with other Senators on this point, but I do not think the Senate has power to compel the resubmission of the question by vote. Unless provided for in the rules, as in the case of messages and conference reports, I think the matter of resubmitting a question to the Senate is one that must rest within the discretion of the Chair. Of course, it is in the power of any number of Senators or of any Senator to reduce this unanimous-consent agreement to nothing. It exists only by the willingness of Senators; it has no other power, no other strength. It is for that reason that I sincerely hope that those who are interested in preserving the unanimous-consent agreement will see that a unanimous consent about which Senators feel, as many Senators obviously do feel in this case, may be perfectly worthless, and in any event would establish a precedent which would make it infinitely more difficult to obtain other unanimous-consent agreements and might throw a cloud over the whole system and lead to restrictions which, I think, would be most unfortunate.

I am not speaking, Mr. President, in the least in the interest of this bill or against it. As I have twice before said, I sympathize with the purposes of the bill. I should have agreed to the unanimous consent; but I do feel deeply about the importance of preserving the system of unanimous-consent agreements, so that on the one hand every Senator shall realize, when once they have been properly obtained, that they can not be modified or tampered with or affected by anybody or in any way; and on the other hand that they shall always be obtained in such manner that no Senator who was present can question the fact that his consent was obtained.

Mr. GALLINGER. Mr. President, I had not intended to say another word about this matter, but the rather extraordinary speech of the Senator from Massachusetts [Mr. LODGE] leads me to make an observation or two.

The Senator from Massachusetts made rather an adroit argument, but I think it is founded entirely on false principles. Before proceeding, however, Mr. President, I will ask what is before the Senate? I was out of the Chamber when this discussion commenced.

The PRESIDENT pro tempore. The Chair does not recall whether or not the Senator from Utah [Mr. SMOOT] made a distinct motion, as there was so much confusion in the Chamber at the time. The Chair would inquire of the Senator from Utah——

Mr. WILLIAMS. Mr. President, what has become of the point of order which I made yesterday and which was pending when we then adjourned?

The PRESIDENT pro tempore. The matter has been renewed this morning. No motion which was then pending——

Mr. WILLIAMS. Ah, but there was a point of order which I made which was pending. The point of order was distinctly made.

The PRESIDENT pro tempore. The whole proceeding fell with the adjournment of the Senate. It was not the unfinished business.

Mr. WILLIAMS. Very well. I will renew the point of order in a moment.

Mr. GALLINGER. That was my understanding, Mr. President, and it was for that reason that I asked what was before the Senate before proceeding with my remarks.

The PRESIDENT pro tempore. The Chair will inquire of the Senator from Utah whether or not he made any distinct motion?

Mr. SMOOT. I did not put it in the form of a motion, but I asked that the question of unanimous consent be resubmitted to the Senate.

Mr. WILLIAMS. Now, Mr. President, without going into details, I renew the point of order which I made yesterday.

The PRESIDENT pro tempore. Does the Senator from New Hampshire yield the floor for that purpose?

Mr. GALLINGER. I do not yield the floor; no.

The PRESIDENT pro tempore. The Senator from New Hampshire will proceed, then.

Mr. GALLINGER. Mr. President, it is an extraordinary proposition that, after a matter is settled, in one day thereafter the Presiding Officer can resubmit the question. If it can be done one day afterwards, it can be done a month afterwards. We might have a unanimous-consent agreement standing on our calendar, and one week or two weeks or three weeks afterwards some Senator might find fault and state that it got there improperly, and ask the Chair to resubmit it. I think it is a very extraordinary proposition, and, in my judgment, it can not properly be done.

Mr. President, I will turn to the RECORD concerning the procedure in this instance. It is idle for Senators to argue that a unanimous-consent agreement can not be asked for during the morning hour. During 21 years I have seen it done time and time again; and this is the first occasion it has ever been called in question, so that I assume that the time was opportune and the procedure correct. The Senator from Tennessee had, I think, on three former occasions—I will ask him how many times?

Mr. SANDERS. Three times. The Senator is correct.

Mr. GALLINGER. On three former occasions asked for this unanimous consent, and it had been refused. On yesterday, again, the Senator from Tennessee rose in his seat—it is not necessary that a Senator should read a resolution he is going to offer or an order that he is going to offer or a request he is going to make, the Secretary has got to receive it anyway—and sent to the Chair this paper. I now read from the RECORD:

> Mr. SANDERS. Mr. President, I offer the following.
> The PRESIDING OFFICER (Mr. CLAPP in the chair). It will be read.
> The SECRETARY. The Senator from Tennessee proposes the following unanimous-consent agreement:

So it was stated in distinct terms—the clerks at the desk speak very distinctly—that it was a unanimous-consent agreement. The unanimous-consent agreement was then read, and then the Presiding Officer, who likewise has a good voice, inquired:

> Is there objection to the request of the Senator from Tennessee? The Chair hears none. It is so ordered.

Now, Mr. President, if that is not a unanimous-consent agreement that ought to stand, I never have known one that ought to have been given consideration by this body.

Mr. HITCHCOCK. Mr. President——

Mr. GALLINGER. I yield to the Senator.

Mr. HITCHCOCK. The Senator from New Hampshire calls attention to the fact that the Senator from Tennessee had on several previous occasions asked for the same unanimous-consent agreement. I call the Senator's attention to the fact that on all those previous occasions the Senator from Tennessee, having risen in his seat, specifically stated that he asked for a unanimous-consent agreement——

Mr. GALLINGER. That is sticking in the bark.

Mr. HITCHCOCK. Whereas in this case he made no such statement.

Mr. GALLINGER. But the Secretary did. I repeat, that is sticking in the bark, Mr. President; it does not amount to anything at all; it can be done in either one way or the other.

The Senator from Ohio [Mr. POMERENE] broke in to say that immediately upon the reading of this consent agreement the Senator from Utah addressed the Chair. Manifestly, the Senator from Utah did not. He did not address the Chair before the Chair's announcement had been made that there was no objection and that the order was agreed to.

Mr. POMERENE. Mr. President, if I may be permitted to interrupt the Senator——

The PRESIDENT pro tempore. Does the Senator from New Hampshire yield to the Senator from Ohio?

Mr. GALLINGER. I yield to the Senator.

Mr. POMERENE. The matter which I wished especially to call to the attention of the Senator from Massachusetts at the time I was on my feet was that the Senator from Utah was the first to address the Chair after the matter had been disposed of. I think I was not very happy in the expression which I used at the time.

Mr. STONE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New Hampshire yield to the Senator from Missouri?

Mr. GALLINGER. I yield to the Senator from Missouri.

Mr. STONE. I thought the Senator was through.

Mr. GALLINGER. No; I am not through.

Mr. STONE. I desire, if the Senator will permit me, in connection with his remarks to have read a resolution which I intend to propose. He may address himself to it, if he cares to do so.

Mr. GALLINGER. I will yield for that purpose. Anything that will enlighten us on this subject I welcome.

Mr. STONE. I do not know whether it will enlighten the Senator, but it will serve to bring the matter to a head.

The PRESIDENT pro tempore. For the information of the Senate, the Secretary will read the resolution intended to be proposed by the Senator from Missouri.

The Secretary read as follows:

> *Resolved*, That the order appearing in the RECORD of January 10, 1913, at page 1328, purporting to fix January 20, 1913, as a day for the consideration and disposition of S. 4043, as by unanimous consent, be, and the same hereby is, vacated and expunged from the RECORD, for the following reason: That the said order was not in fact made by unanimous consent, according to the usual practices of the Senate, and, therefore, was not properly entered in the RECORD.

Mr. LODGE. Mr. President, with regard to that resolution, ought it not to read "vacated and expunged from the RECORD and the Journal"?

Mr. STONE. Yes; let it be modified in that way.

Mr. GALLINGER. Mr. President, evidently some revolutionary tactics are to be resorted to now; and I want to give notice, in a very modest way, that if unanimous-consent agreements are to be treated in this manner there will be reprisals. It is very unusual to challenge the fairness and the correctness of a decision made by the Chair. I am not here to defend the distinguished Senator who then occupied the chair; but when it is said that this unanimous-consent agreement has been forced unfairly upon the Senate, it is a pretty serious charge, and had I been in the chair I certainly would resent it very warmly.

Mr. President, I have been here a good while; I have declined always to filibuster on bills; I have held to the opinion that the majority of this body ought to be given an opportunity to vote on every public measure. I have been solicited time and time again to join others in factious opposition to legislation, but I have not done so, and never will do so.

This bill has a history. I believe it was before the Senate prior to the present Congress. At any rate, it was introduced in the Senate during this Congress on December 21, 1911, more than one year ago. Senators have had it before them to consider. It was reported to the Senate on July 23, 1912, almost six months ago, and it has been on the calendar during that time. It is a bill of great public interest. True, there is a diversity of opinion about it. The liquor sellers and the liquor dealers, who have sent me vast volumes of literature on the subject, some of which has been very absurd, are against it; certain Senators are against it; and they have good reason, no doubt, for opposing it. On the other hand, there are a great many of our people in favor of this legislation. My own State has passed just such a law. We have a local option law in New Hampshire. A large proportion of towns and some of the cities have voted against licensing the liquor traffic. Immediately upon that law going into effect, the liquor houses in Boston flooded our no-license towns with liquor by express and otherwise. Our people thought it was a great wrong, and they passed a law a few years ago prohibiting that practice, and it is on the statute book to-day. It is proper that I should say that the liquor interests at the present time, while our legislature is in session, are making a strenuous effort to have that law repealed, but I do not think they will succeed.

The pending bill is in accord with that law. It provides that if a State shall, by its laws, prohibit the sale of liquor, it shall not have its territory invaded by parties outside of the State who are engaged in that traffic. It is a wholesome and proper provision, and I think for that reason the bill ought to pass.

We need not have any concealments about this matter, Mr. President. It is not intended that a vote shall be taken on this bill, in my judgment, and if this unanimous-consent agreement is set aside, no vote will be taken on this bill during this Congress.

My desire to see a vote on this measure, as I would desire to see a vote on any other measure of great public concern, is such that I hope no extraordinary procedure will be approved by the Senate, and I trust that the unanimous-consent agree-

ment, which is now printed on our calendar, will be allowed to stand. If it is not allowed to stand, there is nothing in the world to prevent me from taking a good deal of the time of the Senate in claiming that the other unanimous-consent agreement, which is here on the calendar, ought not to remain in force because I was not present when it was made.

I want further to say, Mr. President, that if a Senator who is here in the discharge of his duties neglects to hear an order which has been read and announced by the Secretary to be a unanimous-consent agreement and declared by the Presiding Officer as having been agreed to—if it is to be contended that because a Senator neglected to observe what was going on in the Chamber, he can protest against it and have a unanimous-consent agreement invalidated, there is no reason why I, if I had entered the door just at the conclusion of that agreement or a few moments afterwards, should not have arisen and said, "Mr. President, I was absent; I was in the lobby; I was in my committee room; but had I been present I would not have agreed to that unanimous-consent agreement, and I ask that it shall be resubmitted." Of course, resubmission carries with it the suggestion that it will not be agreed to.

I agree with the Senator from Massachusetts that it is important that we shall deal fairly with each other, and that in the matter of unanimous-consent agreements we shall be careful not to do anything that is irregular or that is contrary to our rules or that is unusual; but in this case I can not, for the life of me, see anything that was irregular, contrary to our rules, or unusual. The unanimous-consent agreement stands on our calendar, and, in my judgment, it would be a great mistake if it were stricken off, because if it should be, Mr. President, requests for unanimous consent will in the future be scanned more closely than they have been heretofore, and it will not be so easy to secure unanimous-consent agreements as it has been in the past. Many unanimous-consent agreement of which I did not approve have been made in my absence; but I have never thought it was my privilege to come in here 24 hours after or 24 seconds after they had been made and say that if I had been present I would have objected to them, and demand, or request, that they be resubmitted, so that I might have the privilege of objecting.

Mr. LODGE. Mr. President, I only desire to ask the Senator a question.

Mr. GALLINGER. I yield.

Mr. LODGE. The Senator does not think that I suggested that I was unfairly treated. I was absent from the Senate on a conference at the time the request was made.

Mr. GALLINGER. I so understood.

Mr. LODGE. And, of course, even if I had been against the unanimous-consent agreement, which I was not, I had no claim whatever, and there never has been any suggestion from anybody that a Senator who was absent from the Senate has any right to object to a unanimous-consent agreement.

Mr. GALLINGER. I did not charge that the Senator had made that suggestion. I made it on my own responsibility.

Mr. LODGE. I only said to the Senator that I did not suppose he included me in that suggestion.

Mr. GALLINGER. I certainly did not. Now, Mr. President, I do not think it is competent for the Senate to change this agreement; I do not think it is competent for the Chair to resubmit it, and I very gravely doubt whether or not a resolution such as the Senator from Missouri [Mr. STONE] proposes to offer ought to be entertained; but if it is entertained, I trust that it will not be agreed to by the Senate.

Mr. BRANDEGEE. Mr. President, I desire to ask the Senator from New Hampshire a question before he takes his seat. The RECORD shows that as soon as the Presiding Officer declared that he heard no objection to the request for unanimous consent, and that it was so ordered, the Senator from Utah was on his feet immediately.

Mr. SMITH of Georgia. In point of fact, he was on his feet before the announcement was concluded, was he not?

Mr. BRANDEGEE. As the Senator from Massachusetts [Mr. LODGE] said to the Senator from California [Mr. WORKS], that is additional corroboration of the RECORD and of my statement.

Mr. GALLINGER. The Senator from Connecticut is addressing me, so I am still entitled to the floor, I presume. If the Senator from Utah was on his feet at such an early stage, he certainly could have said "I object" as well as he could have said anything else, but he did not do so.

Mr. BRANDEGEE. Mr. President, I did not say that he was on his feet when the Chair made the announcement. What I say is that the RECORD shows that as soon as the Presiding Officer said that he heard no objection, and that the unanimous consent was ordered, immediately the next thing the RECORD discloses is that the Senator from Utah addressed the Chair and said, "Mr. President." Now, what I want to ask the Senator from New Hampshire is: Supposing that the Chair had recognized the Senator from Utah, in accordance with his earnest request to be recognized, would, then, the Senator from New Hampshire say that the Chair could not have restated the question if the Senator from Utah had said that he wanted to object?

Mr. GALLINGER. Yesterday when the same question was put to me I stated, whether I would have been right or wrong, had I been in the chair I would not have resubmitted it.

Mr. POINDEXTER. Mr. President——

Mr. BRANDEGEE. I yield to the Senator from Washington.

Mr. POINDEXTER. I have in my hand the RECORD of the proceedings at that time, and it seems that some other distinct business intervened.

Mr. BRANDEGEE. Will the Senator cite the page?

Mr. POINDEXTER. Page 1324.

Mr. BRANDEGEE. Will the Senator proceed and state what intervened?

Mr. POINDEXTER. The Senator from Oklahoma [Mr. OWEN] introduced a bill to amend the Sherman antitrust law.

Mr. BRANDEGEE. The Senator is mistaken, I am quite sure.

Mr. SMITH of Georgia. That was because the Chair did not recognize the Senator from Utah. The RECORD shows that the Senator from Utah [Mr. SMOOT] said "Mr. President" first, and tried to get the ear of the Chair, and was on his feet; but the Chair looked over in this direction and recognized the Senator from Oklahoma. The Senator from Utah was on his feet and tried to be heard before the Chair finished his statement. The Senator from Utah not having heard the agreement, but hearing what the Chair was saying, was on his feet for recognition.

I expect to vote for the Kenyon bill, and I am willing to give consent that it shall be considered just as soon as possible, but it does not seem to me that there was clearly any unanimous-consent agreement in this case. I do not think there was any unanimous consent given in this case. I think the Chair was mistaken about it. The Senator from Utah was on his feet asking for recognition when the announcement was finished.

Mr. POINDEXTER, Mr. SMOOT, and others addressed the Chair.

Mr. BRANDEGEE. I am willing to yield to any Senator for a question, but I would like to conclude my statement, which is very brief.

The PRESIDENT pro tempore. The Senator from Connecticut has the floor. He will proceed.

Mr. BRANDEGEE. Does the Senator from Washington wish me to yield to him further?

Mr. POINDEXTER. For just a moment, in order that I may complete the statement. The RECORD does show that before any objection was made by the Senator from Utah the intervening business took place. The RECORD shows that the Senator from Utah addressed the Chair. But he made no objection; he made no statement to the Chair as to what was his purpose.

Mr. SMOOT. I could not; I had not been recognized.

Mr. SMITH of Georgia. He did not have a chance.

The PRESIDENT pro tempore. The Senator from Connecticut has the floor. Does the Senator yield?

Mr. SMOOT. Will the Senator yield to me for a moment?

Mr. BRANDEGEE. I will yield the floor if necessary, although I did want to conclude my statement.

Mr. SMOOT. Not at all. I can make my statement later.

Mr. BRANDEGEE. I do not claim that the Senator from Utah objected. The Senator from Washington has misapprehended me if he understood me so to claim. I do claim that the minute the Presiding Officer stated "It is so ordered"—I read from the RECORD—the next thing in the RECORD is:

> Mr. SMOOT. Mr. President——

He did not object, because he was not recognized by the Chair and could not object.

Then the RECORD shows that the Senator from Oklahoma [Mr. OWEN] was recognized and introduced a bill. And then, within three lines, Mr SMOOT came right back and he asked—

> Was there a unanimous-consent agreement just entered?
> The PRESIDING OFFICER. There was; just agreed to.
> Mr. SMOOT. I know that there are a number of Senators out of the Chamber.

And so forth.

Now, that shows that the Senator from Utah, immediately upon the announcement by the Chair that it had been agreed to, was addressing the Chair for the purpose of stating that he objected to it.

Of course, I assume that no one claims that the unanimous consent was obtained unfairly. I do not think it was. But I

think it was obtained in an unusual manner, and certain Senators think, inasmuch as it was obtained in a way so that Senators did not understand it, that it was not in fact a unanimous consent; that the minds of the Senators who were supposed to have consented to it never met, and that there was not in fact a unanimous consent, although the RECORD shows that it was agreed to.

Mr. WORKS. Mr. President——

Mr. BRANDEGEE. I yield to the Senator from California.

Mr. WORKS. Only a short time ago I made the statement that I would not like the statement made by the Senator from Georgia [Mr. SMITH] to pass without challenge. The Senator from Utah did not address the Chair before the final order was made. But immediately after and before the Chair was addressed by the Senator from Oklahoma, he addressed the Chair. Those are the facts I am quite sure.

Mr. BRANDEGEE. The Senator is corroborated, as I recollect it, by the statement that the Senator from Utah [Mr. SMOOT] made yesterday, that at the time the Senator from Arkansas [Mr. CLARKE] had diverted his attention by addressing to him a question, and that as soon as his attention was called to the fact that this matter was on he tried to object and was not allowed to.

Mr. SMOOT. Mr. President——

Mr. BRANDEGEE. I yield to the Senator from Utah.

Mr. SMOOT. So that it will be perfectly clear I wish to say this: It is true that the Senator from Arkansas [Mr. CLARKE] was directing a question to me, and my attention was momentarily diverted, as I stated yesterday. The only words I heard the Presiding Officer say were, "The Chair hears none. It is so ordered." I did hear those words, and I knew that those words were only used in the case of a unanimous-consent agreement. I did not know what the unanimous-consent agreement was, but I knew there was one, and I immediately—after it was announced by the Chair, "It is so ordered"—I said: "Mr. President;" just as the Senator from California has stated.

Mr. BRANDEGEE. I have said, Mr. President, that while nobody claims that this consent was obtained unfairly, it was obtained under unusual circumstances.

It has been stated here that the Senator from Tennessee [Mr. SANDERS] had several times before made this same request, or a similar one; but that the conditions under which the requests were made before were entirely different from those at the time this request was granted. When the Senator made his request, before he stood in his place on the floor, as will appear on page 1256 of the RECORD, and stated as follows:

Mr. SANDERS. Mr. President——

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). Petitions and memorials are in order. The Senator from Tennessee.

Mr. SANDERS. Mr. President, on last Monday I asked unanimous consent that the bill to prohibit interstate commerce in intoxicating liquors be taken up next Monday. Objection was made, * * *——

The Senator himself, standing in his place, goes on for the equivalent of 3 inches of space in the RECORD explaining what the matter was for which he asked present consideration and unanimous consent. Now, what happened yesterday was simply this:

Mr. SANDERS. Mr. President, I offer the following:

Then he sends the paper to the desk. He does not say, which is the usual custom at least, "Mr. President, I ask unanimous consent for the consideration of the following order which I send to the desk." He simply said, "I send the following——"

Mr. GALLINGER. Read what the Secretary said.

Mr. BRANDEGEE. And the Presiding Officer——

Mr. GALLINGER. No; read what the Secretary said.

Mr. BRANDEGEE. The Presiding Officer said:

The PRESIDING OFFICER (Mr. CLAPP in the chair). It will be read.

And then:

The SECRETARY. The Senator from Tennessee proposes the following unanimous-consent agreement.

If a Senator knows it to be a unanimous-consent agreement, stated by the Senator himself, it might excite his attention; but when the Senator does not say it is to be a unanimous-consent agreement, as he had done previously on other days, but simply sends the paper up, and a Senator sits here talking with another Senator, and here is the Secretary reading something, it seems to me that that procedure does not put Senators, who are supposed to give their positive and active consent to the proposition, upon their guard as the other course of procedure would tend to.

Yesterday I made the statement upon this question that it seemed to me that if the request for a resubmission of the unanimous-consent agreement had been made at once it ought to have been granted, but that I thought after eight hours had gone by it was late to grant it, because if it could be granted after that interval of time had elapsed there was no limit at the end of which it might not be granted. But on thinking the matter over and recalling the circumstances of yesterday's proceedings, it appears that the entire hour between the time the unanimous consent had been agreed to and the time the Impeachment Court came in at 1 o'clock was occupied by the Senator from Utah in attempting to enforce his right to make objection to this request. Then he was swept off his feet by the previous order of the Senate as to the impeachment proceedings, and as soon as the Impeachment Court adjourned for the day he took it up again, and for the whole day labored to obtain what, upon such attention as I have been able to give to it, was, I think, the right of any Senator, if we are all to treat each other fairly and if unanimous-consent agreements are really and in fact to be what they purport to be.

Mr. WILLIAMS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Connecticut yield?

Mr. BRANDEGEE. Certainly.

Mr. WILLIAMS. I should like to ask the Senator from Connecticut a question. The Senator says that it has become a sort of a custom for the Chair, when a Senator arises immediately after the Chair has announced a result like this and says he did not understand it, to resubmit the question. I want to ask the Senator if he ever knew a resubmission to be made under circumstances like those, except in the form of a request for unanimous consent itself? In other words, does not the Chair uniformly say, "The Senator from A. B., not having heard the matter just passed upon, the Chair will, without objection, resubmit it"? Did you ever know it to be done in any other way? And that very form is putting another request for unanimous consent in order to reverse a former one.

Mr. BRANDEGEE. Mr. President, even that was not done. Even that was not said by the Presiding Officer. He did not say, "The Chair will again submit this matter, if there is no objection," because it did not appear to the Chair that the Senator from Utah had risen to make an objection.

Mr. WILLIAMS. The Senator from Connecticut misunderstands me. I am talking not about this case but about cases where the Chair does resubmit. Did the Senator ever know the Chair to resubmit except in this form, "The Chair will, without objection, resubmit it," and the very phrase "without objection" is a request for unanimous consent. I ask the Senator if he ever knew it to be put in any other way? I never did.

Mr. BRANDEGEE. I do not remember at this minute a specific instance that I can now find in the RECORD, for I have no time to look up whether unanimous consents have been resubmitted in the past and, if they have, in what form of language they have been submitted by the Chair; but I do remember on all sorts of matters continuously in this Senate when the Chair has declared the Senate has acted this way or that way, and any Senator has doubted it or said he did not know what was the question the Senate was voting on and asked to have the question resubmitted to the Senate, it is universally done, and the Chair does not even ask the consent of the Senate. It is always said by the Chair, "The Chair will again state the question."

Mr. WILLIAMS. I do not remember ever having heard it put except that the Chair would, without objection, resubmit. Certainly the Chair would not have any right to do so of its own motion.

Mr. SMOOT. I simply want to suggest this——

Mr. BRANDEGEE. I yield to the Senator from Utah.

Mr. SMOOT. The Chair has not yet had a chance to say that he will resubmit it to the Senate, because it has been discussed here every minute that there has been a chance to discuss it from the time I first arose until the present time.

Mr. BRANDEGEE. I think, Mr. President, very justly so, because I agree with the Senator from Massachusetts and the Senator from New Hampshire that entirely irrespective of the bill about which the unanimous-consent agreement was had it involves the possibility of the transaction of business by the Senate in its whole future, for almost all the business that is crowded up here at the end of a busy session can only be put through by unanimous-consent agreements, and if they are to be played fast and loose with, as the Senator from New Hampshire says, we would be in chaos.

But this is a case which will be quoted as a precedent, no doubt, in the future. As I say, I would not, after Senators, some of whom had been on the floor and had agreed to the request for unanimous consent, had left the Chamber—I would not, after several hours had elapsed, or after a considerable period of time had elapsed, consent that one Senator might get up and ask to have the request resubmitted, because the Senator who had secured the consent may have left the city on a

train on the assumption that the bill or the matter about which the agreement was made would not be acted upon until the day agreed to, and would be acted upon then.

But this case seems to me to constitute an exception to anything that I have been familiar with. A Senator immediately gets upon his feet and addresses the Chair, as the Senator from California says, three or four times, and almost frantically, and fails to obtain recognition, and as soon as he can recur to it goes at it again, and the whole day yesterday, except the time taken by the impeachment proceedings, was consumed by that Senator in trying to get the matter resubmitted; and the same way to-day.

Now, the only reason I have made this statement is that I intend to vote, if the Chair submits to the Senate the question whether it will be resubmitted or not, to resubmit it; and I want to explain the change in my views on that subject, which had occurred since I expressed them yesterday.

Mr. CLARKE of Arkansas. Mr. President, I have listened with some attention to what has been said by Senators on this subject. In the light of all that has been said I am entirely convinced that this matter should be resubmitted to the Senate, for the simple and sole reason that it has been disclosed to my satisfaction—and that accords with my personal knowledge—that the Senator from Utah had it in mind to object to the unanimous consent which was asked, and that he was deprived of the opportunity without any fault of his own and while he was discharging his duties on this floor, and in a transaction to which I was a party.

I am in favor of some such legislation as the Kenyon bill, and I think the request preferred by the Senator from Tennessee was an entirely reasonable one and ought to be agreed to now, and I know he did nothing wrong either in the manner of making the application for unanimous consent or anything that transpired before or subsequent to it. It was just one of those cases where the unusual happened, and the Senator from Utah found himself at a disadvantage in consequence of it. Under the generous law of courtesy that prevails here he ought to be put back into the possession of his rights to be exercised as he would have exercised them had his duties not diverted him for a moment.

I think I see a purpose here not to consider this bill as promptly as it should be considered, but it will be considered, and it will be considered, too, without violating the proprieties of this Chamber in taking advantage of an order which has been entered when it would not have been made had fuller knowledge of what was going on and an opportunity to object been afforded.

I do not think we accomplish anything by undertaking to avail ourselves of snap judgment on anybody. There has never in my experience here been denied to a Senator the right to explain why he did not do this, that, or the other. Such an instance seldom arises. The exceptional instance has come now, when the Senator from Utah has stated that by an attempt to discharge his duties at the request of another Senator he was deprived of a right which he desired to exercise, and I happen to know personally that that statement is true, if it is necessary to support any statement which he might make. I do not believe it is. But I simply state that fact in order to emphasize the circumstances that this is not a unanimous-consent agreement. Nothing is unanimous consent until unanimously consented to, and that consent can not be given until everybody understands what he is consenting to. That state of facts does not exist.

So I think the proper thing for the Senate to do is to reopen the question, so that it will be just as it was when the Senator from Utah had his attention diverted. I think we will better conform to the general spirit of fairness which prevails in this Chamber by doing that. We can take our chances of getting a vote on this bill. Laws are written because they are laws and they are not laws because they are written. That axiom still exists. If it is right, public opinion will force its recognition, and no sort of indirection will prevent it here.

The law of courtesy and fairness that prevails here is the best protection we have in the discharge of our duty. We can do better under that régime or under that benign influence than we can do in any other way; and simply and solely because I know the Senator from Utah was deprived of the right he was entitled to exercise by circumstances over which he had no control I unite with those who say that the matter should be resubmitted at this time.

I want also to add that when the matter is submitted again, if the time limit proposed is too short, while some fair limit should be fixed, there ought to be a time fixed when a vote on the bill shall be taken.

Mr. WILLIAMS. Mr. President, I desire to make a point of order in regard to the matter offered by the Senator from Missouri. Upon yesterday——

The PRESIDENT pro tempore. The question before the Senate is that submitted by the Senator from Utah. The resolution of the Senator from Missouri was read for information. The question before the Senate is the request of the Senator from Utah that the application for unanimous consent be again submitted to the Senate.

Mr. WILLIAMS. Very well. Then I make the point of order against that request. The point of order is that a unanimous-consent agreement made by the Senate and declared by the Chair to have been made can not be repealed except by unanimous consent. I do not care to argue it. I argued it yesterday.

The PRESIDENT pro tempore. The Chair will state that there is no rule of the Senate in regard to unanimous-consent agreements. There is no rule which provides for a unanimous-consent agreement, nor is there any rule which provides in what way a unanimous-consent agreement may be set aside. It is not one of the rules of the Senate. It is simply a practice voluntarily pursued by the Senate, absolutely within the control of the Senate to observe and regard, or to disregard. It is entirely with the Senate, and not a matter of parliamentary law, nor is it a matter arising under the rules of the Senate.

Mr. WILLIAMS. Of course I do not contend that unanimous-consent agreements are under the rules of the Senate. There is just one thing that any body of men—whether a parliamentary body or a business body, or whether it is a voluntary or accidental meeting of three men—can do at all times, and that is unanimously to agree to do a certain thing. For that very reason no rule governs the question of unanimous consent. It is a mere question of common sense, and the common sense of it is that no body of men can ever be so helpless, so idiotic, as not to have the power to do a thing if all of them agree to do it.

If a majority of men can do a thing, a fortiori all of them can do it. It needed no rule to give the Senate the right to do a thing by unanimous consent, or to give to any other body of men the power by unanimous consent to do a thing within the purview of their jurisdiction, whatever it is.

The common sense of the situation, in the first place—not the rules at all—is that any body of men, including even the United States Senate, and that is putting it pretty strong, can unanimously consent to do a certain thing; and the second point is that, having unanimously agreed to do a certain thing, they can unanimously agree to undo it. The third proposition is that having unanimously agreed to do a thing, having pledged their honors to one another to do it, under the rule—and the rules have nothing to do with it, except that they admit the request for unanimous consent; that is all—that unanimous-consent agreement can not be set aside by any less force than that which created it, to wit, another unanimous-consent agreement.

Now, there are a dozen things that are submitted to the Chair and which are within the power of a body to transact which are provided for by no express rule. It would be stupid for a rule to say that the Senate could unanimously agree. Why should it say a thing that goes without saying? Any three of us meeting on the street corner could unanimously agree to leave the street corner, and then we could unanimously agree to go back to the street corner. So that what the Chair says about the rules has nothing in the world to do with it.

Now, one other thing. I have heard, not only in this body but in another several times, the Chair say: The Member from such-and-such a State or the Senator from such-and-such a State not having understood the question, the Chair will, without objection, resubmit it; but I have never heard the Chair resubmit a question upon the Chair's own volition without giving the body to which it was resubmitted the opportunity to set it aside in precisely the same way in which it had adopted it, to wit, by unanimous consent. The very language, "The Chair will, without objection, resubmit," is itself a request for unanimous consent.

Mr. GALLINGER. Mr. President, I desire to say that when I was interrogated, I think by the Senator from Connecticut, as to whether, had I been in the chair and the request to resubmit had been made, I would have acceded to it or not, and I said I would not, I meant to add, unless unanimous consent was given for that purpose.

I entirely agree with the Senator from Mississippi [Mr. WILLIAMS] that if there is no objection to a resubmission it may properly be made, but if the Chair of his own volition should resubmit a question of that kind, I think it would be not quite proper; and had the request been submitted to the Senate as to whether there was objection to resubmitting it, and had I been

in the Chamber I would have objected, and I presume there are 20 others probably who would have objected, too. So we would want to preserve our rights as well as the Senators on the other side desire to preserve theirs.

The PRESIDENT pro tempore. The request of the Senator from Utah is that the question shall be again submitted to the Senate as to whether unanimous consent shall be granted in this case. As has been previously stated, the present occupant of the chair was not in the chair when the matter now under discussion originated, and was not even in the Chamber; and for that reason, and for the additional reason, as has been stated on the floor, that it is something which is apt to make a precedent, the Chair prefers that it shall be decided by the Senate.

Therefore the Chair will submit to the Senate the question whether there shall be a resubmission on the ground that there has not been already obtained unanimous consent. The Chair will put it in the form of a question; those who are in favor of the Chair again submitting it will vote in the affirmative and those who are opposed in the negative. The Chair now puts the question: Those who are in favor of the Chair's resubmitting to the Senate the application for unanimous consent will say "aye"; those opposed "no."

Mr. KENYON. On that I ask for the yeas and nays.

The PRESIDENT pro tempore. The Senator from Iowa asks for the yeas and nays.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The Chair will state the question. As many as favor the direction to the Chair to resubmit the question to the Senate will vote "yea" as their names are called. Those who are opposed to such direction being given to the Chair will, as their names are called, answer "nay." The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. WILLIAMS (when his name was called). I have a general pair with the Senator from Pennsylvania [Mr PENROSE]. I notice that he is not in his seat. If he were present, I should vote "nay." As it is, I withhold my vote.

The roll call was concluded.

Mr. DU PONT (after having voted in the affirmative). I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. As he is not in the Chamber, I will withdraw my vote. If he were present, as already indicated, I would vote "yea."

Mr. CURTIS. I was requested to announce that the junior Senator from Rhode Island [Mr. LIPPITT] is detained from the Senate on official business. I do not know how he would vote were he here.

Mr. SANDERS. The senior Senator from Tennessee [Mr. LEA] is detained from the Chamber in an unavoidable way.

Mr. SIMMONS. I desire to announce that my colleague [Mr. OVERMAN] is unavoidably absent on account of sickness.

Mr. BANKHEAD. My colleague [Mr. JOHNSTON of Alabama] is absent from the Chamber on account of illness.

Mr. KERN. I desire again to announce the unavoidable absence of the Senator from South Carolina [Mr. SMITH] on account of a death in his family.

Mr. MYERS (after having voted in the negative). I ask if the Senator from Connecticut [Mr. MCLEAN] has voted.

The PRESIDENT pro tempore. The Chair is informed that he has not.

Mr. MYERS. I have a general pair with that Senator, and I therefore withdraw my vote.

The result was announced—yeas 40, nays 17, as follows:

YEAS—40.

Bacon	Crane	Martine, N. J.	Simmons
Bankhead	Crawford	O'Gorman	Smith, Ariz.
Bourne	Cullom	Owen	Smith, Ga.
Bradley	Fletcher	Page	Smoot
Brandegee	Foster	Paynter	Stone
Bristow	Heiskell	Perky	Sutherland
Burton	Hitchcock	Pomerene	Thornton
Catron	Kern	Reed	Tillman
Clark, Wyo.	La Follette	Root	Warren
Clarke, Ark.	Lodge	Shively	Wetmore

NAYS—17.

Ashurst	Clapp	Jones	Swanson
Borah	Cummins	Kenyon	Townsend
Brown	Curtis	Martin, Va.	
Burnham	Gallinger	Poindexter	
Chamberlain	Gronna	Sanders	

NOT VOTING—37.

Briggs	Gore	Massey	Smith, Md.
Bryan	Guggenheim	Myers	Smith, Mich.
Chilton	Jackson	Nelson	Smith, S. C.
Culberson	Johnson, Me.	Newlands	Stephenson
Dillingham	Johnston, Ala.	Oliver	Watson
Dixon	Johnston, Tex.	Overman	Williams
du Pont	Lea	Penrose	Works
Fall	Lippitt	Percy	
Gamble	McCumber	Perkins	
Gardner	McLean	Richardson	

The PRESIDENT pro tempore. So the Chair is instructed by the Senate to submit the question again to the Senate which is involved in the request for unanimous consent sent to the desk by the Senator from Tennessee [Mr. SANDERS]. The Secretary will again read it.

The Secretary read as follows:

The Senator from Tennessee asks unanimous consent that on Monday, January 20, 1913, at 3 o'clock p. m., the bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases be taken up for consideration, not to interfere with appropriation bills, and that the vote be taken on all amendments pending and amendments to be offered, and upon the bill itself, not later than the hour of 6 o'clock on that day.

The PRESIDENT pro tempore. Is there objection to the unanimous consent asked?

Mr. SMOOT. I object.

Mr. GALLINGER. The Senator from Utah objects?

The PRESIDENT pro tempore. The Senator from Utah objects.

Mr. GALLINGER. I ask unanimous consent that on Monday, February 10, 1913, at 3 o'clock p. m., the bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases be taken up for consideration, not to interfere with appropriation bills, and that the vote be taken on all amendments pending and amendments to be offered, and upon the bill itself, not later than the hour of 6 o'clock on that day.

The PRESIDENT pro tempore. Unless it is desired that the request shall be read by the Secretary the Chair will put the question, Is there objection? The Chair hears none.

Mr. SUTHERLAND. What date was fixed?

Mr. GALLINGER. February 10. That is all right.

The PRESIDENT pro tempore. The Chair hears no objection, and it is so ordered.

HOUSE BILL REFERRED.

H. R. 26874. An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914, was read twice by its title and referred to the Committee on Indian Affairs.

CLAIMS OF DECEASED CIVILIAN EMPLOYEES (S. DOC. NO. 999).

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair) laid before the Senate a communication from the Secretary of the Treasury, recommending the enactment of legislation authorizing the payment, without administration, of amounts found due deceased civilian United States employees or their legal heirs, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed a bill (H. R. 27475) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

The PRESIDING OFFICER presented resolutions adopted by the Chamber of Commerce of Sumter, S. C., favoring the enactment of legislation prohibiting the manufacture and sale of pistols, which were referred to the Committee on the Judiciary.

Mr. PAGE presented a petition of sundry patrons and teachers of the public schools of Louisiana, praying for the passage of the so-called Page vocational education bill, which was ordered to lie on the table.

Mr. McLEAN presented a petition of the Court of Common Council of New London, Conn., praying for the repeal of that part of the act of August 24, 1912, relating to the appointment of cadets and cadet engineers, Revenue-Cutter Service, which was referred to the Committee on Appropriations.

Mr. GRONNA. I present a telegram in the nature of a memorial from members of the National Guard Association of my State, unanimously indorsing the Federal pay bill. I ask that the telegram be printed in the RECORD and referred to the Committee on Military Affairs.

There being no objection, the telegram was referred to the Committee on Military Affairs and ordered to be printed in the RECORD, as follows:

BISMARCK, N. DAK., *January 10, 1913.*

Senator A. J. GRONNA,
Washington, D. C.:

Meeting of National Guard Association of North Dakota, assembled at Bismarck, composed of delegates from the guard of entire State, unanimously indorse the Federal pay bill, and respectfully request your earnest support to bring it to passage this session.

Lieut. THEODORE S. HENRY,
Committee.

Mr. PERKINS presented a memorial of members of the German-American Alliance of Los Angeles, Cal., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented a memorial of the Chamber of Commerce of Santa Ana, Cal., remonstrating against the reduction of the duty on sugar, which was referred to the Committee on Finance.

Mr. NELSON presented a memorial of members of the Commercial Club of Moorhead, Minn., remonstrating against granting the control of the national forests to the several States, which was referred to the Committee on Forest Reservations and the Protection of Game.

He also presented a resolution adopted by members of the Winona County Medical Society, of Winona, Minn., approving the work of the Post Office Department in diminishing the widespread evil of criminal abortion, which was referred to the Committee on Public Health and National Quarantine.

Mr. BRANDEGEE presented resolutions adopted by the Court of Common Council of New London, Conn., favoring the repeal of the act of August 24, 1912, relative to appointment of cadets or cadet engineers in the Revenue-Cutter Service, which were referred to the Committee on Appropriations.

REPORTS OF COMMITTEE ON PUBLIC LANDS.

Mr. JONES, from the Committee on Public Lands, to which was referred the bill (S. 7785) confirming titles to Deborah A. Griffin and Mary F. Griffin, and for other purposes, reported it with amendments and submitted a report (No. 1096) thereon.

Mr. SMOOT, from the Committee on Public Lands, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 25515. An act for the relief of Joshua H. Hutchinson (Rept. No. 1098);

H. R. 22437. An act for the relief of the heirs of Anna M. Toreson, deceased (Rept. No. 1099); and

S. 7294. A bill to amend sections 2380 and 2381, Revised Statutes of the United States (Rept. No. 1100).

NATIONAL AERODYNAMICAL LABORATORY.

Mr. REED. On the 9th instant I introduced a bill, being Senate bill 8053, to authorize the creation of a temporary commission to investigate and make recommendation as to the necessity or desirability of establishing a national aerodynamical laboratory and prescribing the duties of said commission, and providing for the expenses thereof. The bill is somewhat of an emergency matter, and I am informed that it was referred to the wrong committee. I ask unanimous consent that the Committee on Naval Affairs be discharged from the further consideration of the bill and that it be referred to the Committee on Appropriations.

The PRESIDING OFFICER. Without objection it is so ordered.

CHOCTAW AND CHICKASAW INDIAN LANDS.

Mr. OWEN. From the Committee on Indian Affairs I make a unanimous report in favor of Senate joint resolution No. 149, extending the time for the survey, classification, and appraisement of the surface of the segregated coal and asphalt lands of the Choctaw and Chickasaw Nations in Oklahoma, and I submit a report (No. 1097) thereon. This measure was drawn by the Interior Department, and for the reasons explained in the letter of the Secretary of the Interior the committee has made a unanimous report in favor of it. It extends the time within which appraisement can be made, and it is necessary, because the time within which it could be made under a previous statute has expired. It is an important matter locally, will take only a few minutes, and give rise to no debate. I ask unanimous consent for its present consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

Mr. SMOOT. Let it be read.

The PRESIDING OFFICER. It will be read.

The Secretary read the joint resolution; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WARREN:

A bill (S. 8074) granting an increase of pension to Esther B. Shultz (with accompanying paper); to the Committee on Pensions.

A bill (S. 8075) for the relief of Charles B. Boyce; to the Committee on Claims.

By Mr. OWEN:

A bill (S. 8076) to authorize the Choctaw and Chickasaw Nations to bring suit in the Court of Claims, and for other purposes; to the Committee on Indian Affairs.

By Mr. CLAPP (for Mr. GAMBLE):

A bill (S. 8077) for the relief of the Turtle Mountain Chippewa Indians, and for other purposes; to the Committee on Indian Affairs.

A bill (S. 8078) granting an increase of pension to Marcellus B. Kent (with accompanying papers); to the Committee on Pensions.

By Mr. GRONNA:

A bill (S. 8079) authorizing the Secretary of War, in his discretion, to deliver to the city of Grand Forks, in the State of North Dakota, one condemned cannon, with its carriage and outfit of cannon balls; and

A bill (S. 8080) authorizing the Secretary of War, in his discretion, to deliver to the city of Lakota, in the State of North Dakota, one condemned cannon, with its carriage and outfit of cannon balls; to the Committee on Military Affairs.

A bill (S. 8081) granting an increase of pension to Mary J. Swift (with accompanying papers); to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. PERKINS submitted an amendment proposing to appropriate $40,751 for the support and education of 125 Indian pupils at the Fort Bidwell Indian School, Fort Bidwell, Cal., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate $56,500 for the support and education of 100 Indian pupils at the Greenville Indian School, Greenville, Cal., etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. JONES submitted an amendment proposing to appropriate $150,000 for the improvement of roads in the Mount Rainier National Park, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to appropriate $25,000 for a survey for the extension of the present road from its present terminus east to the eastern boundary line of the forest reserve surrounding the Mount Rainier National Park, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment authorizing the Secretary of the Treasury to pay the award of $1,900 made by the Secretary of the Interior December 31, 1912, pursuant to the authority contained in the act approved July 6, 1912, etc., intended to be proposed by him to the Indian appropriation bill, which was ordered to be printed and, with the accompanying paper, referred to the Committee on Indian Affairs.

Mr. ASHURST submitted an amendment proposing to appropriate $25,000 for the construction of a bridge across the Colorado River from School Hill, on the Yuma Indian Reservation, Cal., to Penitentiary Hill, in the town of Yuma, Ariz., etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate $200,000 for surveying the land within the San Carlos or White Mountain, Fort Apache, and Mescalero Apache Indian Reservations in Arizona and New Mexico, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. WILLIAMS submitted an amendment proposing to appropriate $5,000 for continuing the improvements of the Yazoo River, Miss., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

EULOGIES ON THE LATE VICE PRESIDENT.

Mr. ROOT submitted the following resolution (S. Res. 426), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Committee on Rules be, and it is, directed to report to the Senate an order for suitable ceremonies in the Senate in honor of the memory of the late Vice President of the United States, JAMES S. SHERMAN.

LIMITATION ON CHARGES TO JURIES.

Mr. TILLMAN. I ask unanimous consent for the consideration of the resolution I send to the desk, which is an order to print.

The PRESIDING OFFICER. The resolution will be read.

The Secretary read as follows:

That Senate bill No. 8007, Sixty-second Congress, third session, with the matter which accompanied its introduction, be printed as a Senate document.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. WILLIAMS. Reserving the right to object, I should like to know the nature of the matter to be printed.

Mr. TILLMAN. It is some papers accompanying the bill I introduced some days ago limiting the charges to juries by Federal judges.

Mr. WILLIAMS. I have no objection.

Mr. SMOOT. I ask to have the resolution read.

The PRESIDING OFFICER. The Secretary will read the resolution.

The Secretary read the resolution (S. Res. 427), as follows:

Resolved, That the following matter be printed as a Senate document, namely:

1. Senate bill No. 8007, Sixty-second Congress, third session.
2. The letter of December 23, 1912, with its two inclosures, which accompanied the introduction of the said bill.
3. And a copy of the judicial records referred to in the petition, which, on December 23, 1912, was presented to the Supreme Court of the United States, the first of the two inclosures in the letter aforesaid being a copy of the said petition. A certified copy of the said records in printed form as presented to the court with the petition aforesaid, including a copy of the brief referred to in the said petition.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

The resolution was considered by unanimous consent and agreed to.

FARM CREDITS (S. DOC. NO. 1001).

Mr. CLARKE of Arkansas. I ask unanimous consent to have printed an article by Mr. John R. Dos Passos on the much-discussed subject of "Farm credits."

The PRESIDING OFFICER. The Senator from Arkansas asks for the printing as a public document of a paper the character of which he has stated. Without objection, it is so ordered.

PENNSYLVANIA HEALTH BULLETIN (S. DOC. NO. 1000).

Mr. OWEN. I present a pamphlet outlining the organization of the State department of health of Pennsylvania, and also a copy of the mortality statistics of the years 1906 to 1911 of the State of Pennsylvania. I ask that the papers be printed as a Senate document and referred to the Committee on Public Health and National Quarantine.

The PRESIDING OFFICER. Without objection, it is so ordered.

INDEPENDENT HEALTH SERVICE (S. DOC. NO. 1002).

Mr. OWEN. I present a copy of the report of the Commission on Economy and Efficiency recommending the establishment of an independent health service. I ask that the report be printed as a Senate document and referred to the Committee on Public Health and National Quarantine.

The PRESIDING OFFICER. Without objection, it is so ordered.

SYSTEM OF RURAL COOPERATIVE CREDITS.

Mr. GRONNA. I ask that Senate Document No. 572, Sixty-second Congress, second session, being a general theory of cooperative credit in France and other foreign countries, prepared by Maurice Dufourmantelle and translated from the French by Pauline Carter Biddle, and also Senate Document No. 574, Sixty-second Congress, second session, being an outline of European cooperative credit systems from bulletins of economic and social intelligence, published by the International Institute of Agriculture, 1,000 copies each, be required for the use of the Senate.

Mr. SMOOT. I will say to the Senator that perhaps he can accomplish what he desires by giving an order on the Public Printer.

Mr. GRONNA. I have a great many requests for these documents.

Mr. SMOOT. If the cost of printing in each case will not amount to more than $200, we can simply issue an order on the Public Printer to have them reprinted; but, of course, if the Senator would prefer to have his order entered it can be done in that way.

Mr. GRONNA. I prefer to have the request submitted.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Dakota? The Chair hears none, and the order is entered.

EULOGIES ON THE LATE REPRESENTATIVES MADISON AND MITCHELL.

Mr. CURTIS. I desire to give notice that on Saturday, February 8, 1913, I will ask the Senate to consider resolutions commemorative of the life, high character, and public services of Hon. EDMOND H. MADISON and Hon. A. C. MITCHELL, late Members of the House of Representatives from the State of Kansas.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I desire to give notice that at the close of the morning business on Monday next I will ask the Senate to resume the consideration of the omnibus claims bill.

HOUSE BILL REFERRED.

H. R. 27475. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, was read twice by its title and referred to the Committee on Pensions.

SAMOAN CLAIMS (H. DOC. NO. 1257).

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed:

To the Senate and the House of Representatives:

I transmit herewith a report by the Secretary of State of the action taken by him in pursuance of the act of Congress approved June 23, 1910, authorizing and directing him to ascertain the "amounts due, if any, respectively, to American citizens on claims heretofore filed in the Department of State, growing out of the joint naval operations of the United States and Great Britain in and about the town of Apia in the Samoan Islands, in the months of March, April, and May, 1899, * * * and report the same to Congress."

Accompanying the report of the Secretary of State is the report of the officer who, pursuant to the Secretary's direction, visited the Samoan Islands for the purpose of collecting evidence regarding the claims mentioned. Of the total amount of American claims, of about $64,677.88, payment of $14,811.42 is recommended by the agent. This finding is approved by the Secretary of State, who submits for the consideration of Congress the question of an immediate appropriation for the payment of the claims recommended.

WM. H. TAFT.

THE WHITE HOUSE, *January 10, 1913.*

FRANCHISES IN PORTO RICO (H. DOC. NO. 1256).

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying papers, referred to the Committee on the Pacific Islands and Porto Rico and ordered to be printed:

To the Senate and House of Representatives:

As required by section 32 of the act of Congress approved April 12, 1900, entitled "An act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes," I transmit herewith certified copies of franchises granted by the Executive Council of Porto Rico, which are described in the accompanying letter from the Secretary of War transmitting them to me. Such of these as relate to railroad, street railway, telegraph, and telephone franchises, privileges, or concessions have been approved by me, as required by the joint resolution of May 1, 1900 (31 Stat., 715).

WM. H. TAFT.

THE WHITE HOUSE, *January 10, 1913.*

Mr. SMOOT. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 25 minutes p. m.) the Senate adjourned until Monday, January 13, 1913, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate January 11, 1913.

MINISTER AND CONSUL GENERAL.

Fred R. Moore, of New York, to be minister resident and consul general of the United States at Monrovia, Liberia, vice William D. Crum, deceased.

CHIEF JUSTICE OF THE COURT OF CLAIMS.

Fenton W. Booth, of Illinois, to be chief justice of the Court of Claims, commencing February 12, 1913, vice Stanton J. Peelle, whose resignation has been accepted to take effect at the close of February 11, 1913.

JUDGE OF THE COURT OF CLAIMS.

Henry S. Boutell, of Illinois, to be judge of the Court of Claims, commencing February 12, 1913, vice Fenton W. Booth, nominated to be chief justice of said court.

JUDGES OF THE CIRCUIT COURT OF HAWAII.

John A. Matthewman, of Hawaii, to be judge of the Circuit Court of the Third Circuit of the Territory of Hawaii. A reappointment, his term expiring January 6, 1913.

Charles F. Parsons, of Hawaii, to be judge of the Circuit Court of the Fourth Circuit of the Territory of Hawaii. A reappointment, his term expiring January 6, 1913.

UNITED STATES MARSHALS.

Henry K. Love, of Alaska, to be United States marshal for the District of Alaska, Division No. 4. A reappointment, his term expiring January 12, 1913.

George F. White, of Georgia, to be United States marshal, southern district of Georgia. A reappointment, his term expiring January 20, 1913.

RECEIVERS OF PUBLIC MONEYS.

James T. Farris, of Glasgow, Mont., to be receiver of public moneys at Glasgow, Mont., vice Walter Shanley, term expired and resigned.

Jesse W. Freeman, of Arkansas, to be receiver of public moneys at Harrison, Ark., his term expiring January 14, 1913. (Reappointment.)

REAPPOINTMENT IN THE ARMY.

Brig. Gen. George H. Torney, Surgeon General, to be Surgeon General with the rank of brigadier general for the period of four years beginning January 14, 1913, with rank from January 14, 1909. His present appointment will expire January 13, 1913.

APPOINTMENTS IN THE ARMY.

CAVALRY ARM.

To be second lieutenant with rank from November 30, 1912.

Russell Brown Patterson, of New Hampshire.

COAST ARTILLERY CORPS.

Harold Aron Strauss, ensign, United States Navy, to be second lieutenant in the Coast Artillery Corps, with rank from January 2, 1913.

INFANTRY ARM.

Robert H. Peck, late captain, Twenty-fourth Infantry, to be captain of Infantry with rank from January 8, 1913.

CHAPLAIN.

Rev. Alva Jennings Brasted, of Iowa, to be chaplain with the rank of first lieutenant from January 3, 1913, vice Chaplain Albert J. Bader, Ninth Infantry, resigned September 16, 1912.

MEDICAL RESERVE CORPS.

To be first lieutenants with rank from December 28, 1912.

Walter M. Brickner, of New York.
Charles Gilchrist Darling, of Illinois.
Carl Braden Davis, of Illinois.
George Gilbert Davis, of Illinois.
Edward Tyler Edgerly, of Iowa.
Thomas Alfred Fletcher, of Ohio.
Fielding Hudson Garrison, of the District of Columbia.
Leander Johnson Graves, of Alabama.
Edwin Richard Hodge, of the District of Columbia.
William Byrd Hunter, of West Virginia.
Ernest Edward Irons, of Illinois.
Isaac Dee Kelley, jr., of Missouri.
Orson Pope Kingsley, of Wyoming.
George Earl Orsborn, of Colorado.
Frank Ellis Pierce, of Illinois.
Louis Livingston Seaman, of New York.
James Cyrus Tucker, of Nebraska.
Russell Morse Wilder, of Illinois.

To be first lieutenant with rank from December 30, 1912.

Wilson Carlisle von Kessler, of Pennsylvania.

PROMOTIONS IN THE ARMY.

CAVALRY ARM.

Lieut. Col. Augustus P. Blocksom, Sixth Cavalry, to be colonel from January 1, 1913. (Under the provisions of an act of Congress approved March 3, 1911, for advancement in grade in accordance with the rank he would have been entitled to hold had promotion been lineal throughout his arm since the date of his entry into the arm to which he permanently belongs.)

FIELD ARTILLERY ARM.

Lieut. Col. Samuel D. Sturgis, Third Field Artillery, to be colonel from December 27, 1912, vice Col. David J. Rumbough, First Field Artillery, who died December 26, 1912.

Maj. Edward F. McGlachlin, jr., Second Field Artillery, to be lieutenant colonel from December 27, 1912, vice Lieut. Col. Samuel D. Sturgis, Third Field Artillery, promoted.

Capt. Willard D. Newbill, Third Field Artillery, to be major from December 27, 1912, vice Maj. Edward F. McGlachlin, jr., Second Field Artillery, promoted.

COAST ARTILLERY CORPS.

Second Lieut. Cary R. Wilson, Coast Artillery Corps, to be first lieutenant from December 15, 1912, vice First Lieut. Walter E. Donahue, resigned December 14, 1912.

PROMOTIONS IN THE NAVY.

Passed Asst. Surg. James R. Dykes to be a surgeon in the Navy from the 2d day of September, 1912, to fill a vacancy.

Passed Asst. Paymaster Fred W. Holt to be a paymaster in the Navy from the 19th day of October, 1912, to fill a vacancy.

Asst. Civil Engineer Carl A. Bostrom, with rank of ensign, to be an assistant civil engineer in the Navy with rank of lieutenant (junior grade) from the 16th day of October, 1912.

Asst. Civil Engineer Ralph M. Warfield, with rank of ensign, to be an assistant civil engineer in the Navy with rank of lieutenant (junior grade) from the 3d day of December, 1912.

Second Lieut. Bernard L. Smith to be a first lieutenant in the Marine Corps from the 22d day of December, 1912, to fill a vacancy.

Asst. Paymaster Omar D. Conger to be a passed assistant paymaster in the Navy from the 22d day of August, 1912, to fill a vacancy.

Asst. Paymaster Spencer E. Dickinson to be a passed assistant paymaster in the Navy from the 23d day of August, 1912, to fill a vacancy.

Machinist Charles Allen to be a chief machinist in the Navy from the 27th day of December, 1912, upon the completion of six years' service as a machinist.

MARINE CORPS.

First Lieut. William P. Upshur to be a captain in the Marine Corps from the 22d day of August, 1912, to fill a vacancy.

Second Lieut. Clarence E. Nutting to be a first lieutenant in the Marine Corps from the 5th day of October, 1912, to fill a vacancy.

PROMOTIONS IN THE PUBLIC HEALTH SERVICE.

Passed Asst. Surg. Victor G. Heiser to be surgeon in the Public Health Service, United States, to rank as such from October 1, 1912, in place of Surg. Arthur H. Glennan, promoted.

Asst. Surg. Joseph R. Ridlon to be passed assistant surgeon in the Public Health Service, United States, to rank as such from October 24, 1912.

COMMISSIONER OF LABOR.

Charles P. Neill, of the District of Columbia, to be Commissioner of Labor, Department of Commerce and Labor, to take effect February 1, 1913. (Reappointment.)

MISSISSIPPI RIVER COMMISSION.

Lieut. Col. Lansing H. Beach, Corps of Engineers, United States Army, for appointment as member of the Mississippi River Commission, provided for by the act of Congress approved June 28, 1879, entitled "An act to provide for the appointment of a 'Mississippi River Commission,' for the improvement of said river from the Head of Passes near its mouth to its headwaters," vice Col. William T. Rossell, Corps of Engineers, United States Army, to be relieved.

EXECUTIVE COUNCIL OF PORTO RICO.

The persons herein named for appointment as members of the Executive Council of Porto Rico, provided for in section 18 of the act of Congress approved April 12, 1900, entitled "An act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes."

Frank Martinez, of Porto Rico, to take effect January 9, 1913, vice Rafael del Valle.

Luis Sanchez Morales, of Porto Rico, to take effect January 16, 1913. (Reappointment.)

REGISTERS OF THE LAND OFFICE.

W. Hall Irons, of South Dakota, to be register of the land office at Chamberlain, S. Dak. (Reappointment.)

Bryson P. Blair, of Colorado, to be register of the land office at Montrose, Colo., his term expiring January 17, 1913. (Reappointment.)

John R. McFie, of Santa Fe, N. Mex., to be register of the land office at Santa Fe, vice Manuel R. Otero, term expired.

Lester Bartlett, of Minnesota, to be register of the land office at Cass Lake, Minn., his term expiring January 20, 1913. (Reappointment.)

PURCHASING AGENT, POST OFFICE DEPARTMENT.

John A. Holmes, of the District of Columbia, to be purchasing agent for the Post Office Department for a period of four years, beginning January 12, 1913. (Reappointment.)

POSTMASTERS.

ALABAMA.

Harvey E. Berkstresser to be postmaster at Dadeville, Ala., in place of Harvey E. Berkstresser. Incumbent's commission expires January 13, 1913.

George W. Russell to be postmaster at Eufaula, Ala., in place of George W. Russell. Incumbent's commission expires January 11, 1913.

Sylvanus L. Sherrill to be postmaster at Hartsells, Ala., in place of Sylvanus L. Sherrill. Incumbent's commission expires January 13, 1913.

Thomas H. Stephens to be postmaster at Gadsden, Ala., in place of Thomas H. Stephens. Incumbent's commission expired December 16, 1912.

Charley N. Thompson to be postmaster at Piedmont, Ala., in place of Charley N. Thompson. Incumbent's commission expired December 16, 1912.

ALASKA.

Thomas L. Thurston to be postmaster at Iditarod, Alaska. Office became presidential July 1, 1912.

ARKANSAS.

Benjamin W. Allen to be postmaster at Hamburg, Ark., in place of Benjamin W. Allen. Incumbent's commission expires January 28, 1913.

Hiram F. Butler to be postmaster at Warren, Ark., in place of Hiram F. Butler. Incumbent's commission expires January 22, 1913.

W. M. Howard to be postmaster at Paris, Ark., in place of W. M. Howard. Incumbent's commission expires January 22, 1913.

James H. Johnson to be postmaster at Atkins, Ark., in place of James F. Burrus. Incumbent's commission expired December 17, 1912.

Anna L. Owen to be postmaster at Conway, Ark., in place of Owen J. Owen, jr., deceased.

Charles L. Perry to be postmaster at Stuttgart, Ark., in place of Edward Hall, deceased.

John W. Terry to be postmaster at Marvell, Ark., in place of John W. Terry. Incumbent's commission expires February 10, 1913.

Charles H. Tisdale to be postmaster at Hazen, Ark., in place of Charles H. Tisdale. Incumbent's commission expires January 28, 1913.

William E. Yeager to be postmaster at Hope, Ark., in place of J. E. Woodson. Incumbent's commission expired December 17, 1912.

CALIFORNIA.

Josiah R. Baker to be postmaster at Antioch, Cal., in place of Josiah R. Baker. Incumbent's commission expired January 6, 1913.

Frank H. Bangham to be postmaster at Susanville, Cal., in place of Frank H. Bangham. Incumbent's commission expires January 22, 1913.

Emma D. Benedict to be postmaster at Lancaster, Cal. Office became presidential January 1, 1913.

Clyde L. De Armond to be postmaster at Orland, Cal., in place of Clyde L. De Armond. Incumbent's commission expires January 20, 1913.

Frederic S. Harrison to be postmaster at Patterson, Cal. Office became presidential January 1, 1913.

Flora S. Knauer to be postmaster at Reedley, Cal., in place of Flora S. Knauer. Incumbent's commission expires January 28, 1913

George P. Manley to be postmaster at Sanger, Cal., in place of George P. Manley. Incumbent's commission expires February 9, 1913.

Oscar L. Meek to be postmaster at Marysville, Cal., in place of Oscar L. Meek. Incumbent's commission expired December 14, 1912.

Presentation M. Soto to be postmaster at Concord, Cal., in place of Presentation M. Soto. Incumbent's commission expires January 26, 1913.

George M. Treichler to be postmaster at Sacramento, Cal., in place of Robert M. Richardson, resigned.

John J. West to be postmaster at Willow, Cal., in place of John J. West. Incumbent's commission expires February 20, 1913.

Thomas B. Wilson to be postmaster at Cloverdale, Cal., in place of Thomas B. Wilson. Incumbent's commission expired January 23, 1912.

CONNECTICUT.

George E. Andrews to be postmaster at Noank, Conn., in place of George E. Andrews. Incumbent's commission expires February 9, 1913.

John W. Cook to be postmaster at Beacon Falls, Conn., in place of John W. Cook. Incumbent's commission expired December 14, 1912.

Judson D. Foote to be postmaster at Montowese, Conn., in place of Judson D. Foote. Incumbent's commission expires January 11, 1913.

William L. Judson to be postmaster at Woodbury, Conn., in place of William L. Judson. Incumbent's commission expired December 14, 1912.

Samuel H. Kellogg to be postmaster at Colchester, Conn., in place of Samuel H. Kellogg. Incumbent's commission expires February 9, 1913.

FLORIDA.

Frank Vans Agnew to be postmaster at Kissimmee, Fla., in place of Frank Vans Agnew. Incumbent's commission expired December 10, 1912.

John H. Gillespie to be postmaster at Sarasota, Fla., in place of Carrie S. Abbe. Incumbent's commission expires January 26, 1913.

Charles E. Hood to be postmaster at Dunnellon, Fla., in place of George W. Neville, resigned.

Charles C. Peck to be postmaster at Brooksville, Fla., in place of Charles C. Peck. Incumbent's commission expires January 26, 1913.

William C. Smith to be postmaster at Daytona, Fla., in place of William C. Smith. Incumbent's commission expires January 13, 1913.

GEORGIA.

Stephen D. Cherry to be postmaster at Donalsonville, Ga., in place of William E. Perry, resigned.

Vivian McCurdy to be postmaster at Stone Mountain, Ga., in place of Vivian McCurdy. Incumbent's commission expires January 27, 1913.

Hugh D. North to be postmaster at Midville, Ga. Office became presidential January 1, 1913.

Thomas M. Scoville to be postmaster at Oglethorpe, Ga., in place of Thomas M. Scovill. Incumbent's commission expires January 27, 1913.

Claude E. Smith to be postmaster at Carrollton, Ga., in place of Claude E. Smith. Incumbent's commission expires January 26, 1913.

William R. Watson to be postmaster at Lithonia, Ga., in place of William R. Watson. Incumbent's commission expires January 12, 1913.

HAWAII.

M. T. Lyons to be postmaster at Wailuku, Hawaii, in place of M. T. Lyons. Incumbent's commission expired December 16, 1912.

IDAHO.

James F. Bridwell to be postmaster at Kamiah, Idaho. Office became presidential January 1, 1913.

ILLINOIS.

Jacob W. Barkdoll to be postmaster at Tremont, Ill., in place of Jacob W. Barkdoll. Incumbent's commission expires January 11, 1913.

Fremont C. Blandin to be postmaster at Rutland, Ill. Office became presidential January 1, 1913.

Carey B. Garret to be postmaster at Mendon, Ill. Office became presidential January 1, 1913.

Joseph G. Greeson to be postmaster at Greenup, Ill., in place of Joseph G. Greeson. Incumbent's commission expires January 11, 1913.

William D. Hall to be postmaster at Table Grove, Ill., in place of William D. Hall. Incumbent's commission expires January 11, 1913.

Oscar H. Harpham to be postmaster at Havana, Ill., in place of Oscar H. Harpham. Incumbent's commission expires January 14, 1913.

Carrie Hovda to be postmaster at Leland, Ill., in place of Carrie Hovda. Incumbent's commission expires January 11, 1913.

Mabel J. Heavenhill to be postmaster at Sheridan, Ill., in place of Mabel J. Heavenhill. Incumbent's commission expires January 11, 1913.

Jacob H. Koch to be postmaster at New Athens, Ill., in place of Jacob H. Koch. Incumbent's commission expires January 28, 1913.

Warren J. Lincoln to be postmaster at Mount Pulaski, Ill., in place of Warren J. Lincoln. Incumbent's commission expired December 14, 1912.

John L. Linville to be postmaster at Hubbard Woods, Ill. Office became presidential July 1, 1912.

Thomas Millet, jr., to be postmaster at Troy, Ill., in place of Thomas Millet, jr. Incumbent's commission expires January 11, 1913.

Henry Noll to be postmaster at Virden, Ill., in place of Henry Noll. Incumbent's commission expires January 11, 1913.

James S. Thompson to be postmaster at Melvin, Ill. Office became presidential January 1, 1913.

Fred S. Wallich to be postmaster at Knoxville, Ill., in place of Orange L. Campbell. Incumbent's commission expired December 14, 1912.

Fred C. Whisler to be postmaster at Mackinaw, Ill., in place of Fred C. Whisler. Incumbent's commission expires January 11, 1913.

John Yost to be postmaster at Eldorado, Ill., in place of John Yost. Incumbent's commission expired December 11, 1911.

INDIANA.

Louis T. Bell to be postmaster at Flora, Ind., in place of Louis T. Bell. Incumbent's commission expires January 13, 1913.

John C. Jenkins to be postmaster at Fortville, Ind., in place of John C. Jenkins. Incumbent's commission expires March 3, 1913.

John R. Nordyke to be postmaster at Wolcott, Ind., in place of John R. Nordyke. Incumbent's commission expires January 13, 1913.

A. R. Schimpff to be postmaster at Jeffersonville, Ind., in place of Albert L. Anderson, removed.

Herman Schumacher to be postmaster at Newburg, Ind., in place of Herman Schumacher. Incumbent's commission expires February 1, 1913.

IOWA.

Cyrus P. Bean to be postmaster at Zearing, Iowa. Office became presidential January 1, 1913.

Edgar O. Beanblossom to be postmaster at Whiting, Iowa, in place of Edgar O. Beanblossom. Incumbent's commission expired December 14, 1912.

Marion Bruce to be postmaster at Rolfe, Iowa, in place of Marion Bruce. Incumbent's commission expired January 10, 1910.

Hans Evenson to be postmaster at Calmar, Iowa, in place of Hans Evenson. Incumbent's commission expired December 14, 1912.

James S. Francis to be postmaster at Gravity, Iowa. Office became presidential January 1, 1913.

William L. Gustin to be postmaster at Kellerton, Iowa, in place of William L. Gustin. Incumbent's commission expires January 11, 1913.

Samuel H. Hall to be postmaster at Lime Spring, Iowa, in place of Samuel H. Hall. Incumbent's commission expired May 11, 1912.

Annas M. Henderson to be postmaster at Story City, Iowa, in place of Annas M. Henderson. Incumbent's commission expired January 9, 1912.

Harry Higman to be postmaster at Winthrop, Iowa, in place of Harry Higman. Incumbent's commission expires January 11, 1913.

Louis N. Kramer to be postmaster at McGregor, Iowa, in place of Louis N. Kramer. Incumbent's commission expired December 14, 1912.

Albert R. Kullmer to be postmaster at Dysart, Iowa, in place of Albert R. Kullmer. Incumbent's commission expires January 11, 1913.

J. B. Landhuis to be postmaster at Hospers, Iowa. Office became presidential January 1, 1913.

W. D. Miller to be postmaster at Ogden, Iowa, in place of Clinton L. Zollinger, resigned.

Alex Porter to be postmaster at Strawberry Point, Iowa, in place of Gilbert Cooley, deceased.

Charles A. Stevens to be postmaster at Salem, Iowa. Office became presidential January 1, 1913.

Eugene Stiles to be postmaster at Sidney, Iowa, in place of Eugene Stiles. Incumbent's commission expires January 11, 1913.

Will M. Stoakes to be postmaster at Traer, Iowa, in place of B. F. Thomas, deceased.

Herman Ternes to be postmaster at Dubuque, Iowa, in place of Herman Ternes. Incumbent's commission expires February 20, 1913.

Frank J. Tishenbanner to be postmaster at Gilmore City, Iowa, in place of Frank J. Tishenbanner. Incumbent's commission expired December 14, 1912.

James W. Thorn to be postmaster at Lacona, Iowa, in place of James W. Thorn. Incumbent's commission expires January 11, 1913.

KANSAS.

H. E. Adams to be postmaster at Summerfield, Kans., in place of William A. Fleming. Incumbent's commission expired April 17, 1912.

Joseph E. Aldrich to be postmaster at Sylvia, Kans., in place of Joseph E. Aldrich. Incumbent's commission expires January 11, 1913.

Henry Avery to be postmaster at Wakefield, Kans., in place of Henry Avery. Incumbent's commission expired February 12, 1912.

Eva M. Baird to be postmaster at Spearville, Kans., in place of Eva M. Baird. Incumbent's commission expires January 14, 1913.

James M. Brown to be postmaster at Wilson, Kans., in place of James M. Brown. Incumbent's commission expires February 9, 1913.

Charles T. Dallam to be postmaster at Hoxie, Kans., in place of Charles T. Dallam. Incumbent's commission expired March 31, 1912.

Frank W. Elliott to be postmaster at Edna, Kans., in place of Frank W. Elliott. Incumbent's commission expires January 28, 1913.

Bert Fancher to be postmaster at Claflin, Kans., in place of Bert Fancher. Incumbent's commission expires January 12, 1913.

Frank E. George to be postmaster at Altamont, Kans., in place of Frank E. George. Incumbent's commission expires January 11, 1913.

Charles W. Hawes to be postmaster at Augusta, Kans., in place of Charles W. Hawes. Incumbent's commission expires January 11, 1913.

William R. Honnell to be postmaster at Kansas City, Kans., in place of Wesley R. Childs. Incumbent's commission expired December 9, 1911.

KENTUCKY.

Frank E. Acker to be postmaster at Livermore, Ky. Office became presidential January 1, 1913.

John D. Campbell to be postmaster at Jenkins, Ky. Office became presidential January 1, 1913.

James D. Edmonson to be postmaster at Clay, Ky. Office became presidential January 1, 1913.

Bessie Hedden to be postmaster at Taylorsville, Ky., in place of William H. Stratton, deceased.

George W. Hutcheson to be postmaster at Lawrenceburg, Ky., in place of George W. Hutcheson. Incumbent's commission expires March 1, 1913.

Anna E. Miller to be postmaster at Mount Vernon, Ky. Office became presidential January 1, 1913.

Robert A. Russell to be postmaster at Kevil, Ky. Office became presidential January 1, 1913.

James P. Spilman to be postmaster at Harrodsburg, Ky., in place of James P. Spilman. Incumbent's commission expired February 7, 1911.

LOUISIANA.

Lee R. Broussard to be postmaster at Breaux Bridge, La. Office became presidential January 1, 1913.

Lawrence T. Hebert to be postmaster at White Castle, La., in place of Philip P. Blanchard. Incumbent's commission expires January 20, 1913.

Joseph J. Lafargue to be postmaster at Donaldsonville, La., in place of Joseph J. Lafargue. Incumbent's commission expires January 20, 1913.

Wellington D. Landry to be postmaster at Sulphur, La., in place of John J. Drost, deceased.

L. B. Ligon to be postmaster at Kentwood, La., in place of L. B. Ligon. Incumbent's commission expires February 9, 1913.

Francis S. Norfleet to be postmaster at Lecompte, La., in place of Francis S. Norfleet. Incumbent's commission expires January 20, 1913.

Jacob Plonsky to be postmaster at Washington, La., in place of Jacob Plonsky. Incumbent's commission expires February 18, 1913.

MARYLAND.

Joseph Mallalieu to be postmaster at Millington, Md., in place of Rose E. Walls. Incumbent's commission expires January 11, 1913.

Mary W. Stewart to be postmaster at Oxford, Md. Office became presidential October 1, 1912.

MASSACHUSETTS.

Samuel Atwell to be postmaster at Kingston, Mass., in place of Samuel Atwell. Incumbent's commission expired December 14, 1912.

Charles W. Bemis to be postmaster at Foxboro, Mass., in place of Charles W. Bemis. Incumbent's commission expires January 26, 1913.

Anna N. Daniels to be postmaster at Millis, Mass., in place of Jeremiah B. Daniels, deceased.

Charles M. Hoyt to be postmaster at Haverhill, Mass., in place of Charles M. Hoyt. Incumbent's commission expires January 12, 1913.

Charles J. Shepard to be postmaster at Waltham, Mass., in place of Charles J. Shepard. Incumbent's commission expired December 14, 1912.

Susan F. Twiss to be postmaster at Three Rivers, Mass., in place of Susan F. Twiss. Incumbent's commission expired January 5, 1913.

MICHIGAN.

Frank A. Bywater to be postmaster at Memphis, Mich. Office became presidential January 1, 1913.

Christopher C. Smith to be postmaster at Algonac, Mich., in place of Christopher C. Smith. Incumbent's commission expired December 14, 1912.

William Glerum to be postmaster at Zeeland, Mich., in place of William Glerum. Incumbent's commission expired December 11, 1911.

Carl M. Lund to be postmaster at Harrisville, Mich., in place of Carl M. Lund. Incumbent's commission expires January 11, 1913.

Louis H. Tovatt to be postmaster at Standish, Mich., in place of Louis H. Tovatt. Incumbent's commission expires January 11, 1913.

MINNESOTA.

William B. Anderson to be postmaster at Hopkins, Minn., in place of William B. Anderson. Incumbent's commission expired January 5, 1913.

Iver Bondy to be postmaster at Henning, Minn., in place of Iver Bondy. Incumbent's commission expires January 11, 1913.

Robert K. Brough to be postmaster at Alexandria, Minn., in place of Robert K. Brough. Incumbent's commission expired January 5, 1913.

Aaron R. Butler to be postmaster at Bagley, Minn., in place of Aaron R. Butler. Incumbent's commission expires January 22, 1913.

Alfred W. Johnson to be postmaster at Sebeka, Minn., in place of John Anderson, resigned.

Michael J. McCarthy to be postmaster at Watkins, Minn. Office became presidential January 1, 1913.

Belle N. Maxwell to be postmaster at Fulda, Minn., in place of Jesse A. Maxwell, resigned.

Albert W. Nary to be postmaster at Maple Lake, Minn. Office became presidential January 1, 1913.

William O'Brien to be postmaster at Eden Valley, Minn. Office became presidential January 1, 1913.

Herman Ohde to be postmaster at Henderson, Minn., in place of Herman Ohde. Incumbent's commission expires January 28, 1913.

Lee M. Shell to be postmaster at Worthington, Minn., in place of Frank R. Coughran, resigned.

William Wichman to be postmaster at Morton, Minn., in place of Robert B. Henton, resigned.

MISSISSIPPI.

Robert S. Majure to be postmaster at Newton, Miss., in place of Henry C. Majure, resigned.

MISSOURI.

John W. Bence to be postmaster at Memphis, Mo., in place of Robert D. Cramer. Incumbent's commission expired April 13, 1910.

Thomas G. Bernard to be postmaster at Osceola, Mo., in place of Alansan H. Dent, resigned.

Herman E. Christrop to be postmaster at Martinsburg, Mo., in place of Edwin W. Pritchett. Incumbent's commission expired December 14, 1912.

Charles M. Clark to be postmaster at Montrose, Mo., in place of Charles M. Clark. Incumbent's commission expires February 9, 1913.

A. H. Doermann to be postmaster at Eldorado Springs, Mo., in place of A. H. Doermann. Incumbent's commission expires March 2, 1913.

William H. Funk to be postmaster at Queen City, Mo., in place of William H. Funk. Incumbent's commission expires February 9, 1913.

Daniel M. Gause to be postmaster at Buffalo, Mo., in place of Robert A. Booth, resigned.

Corwin S. Gohn to be postmaster at Alton, Mo. Office became presidential January 1, 1913.

Bayless L. Guffy to be postmaster at Hayti, Mo., in place of Bayless L. Guffy. Incumbent's commission expires January 12, 1913.

Charles L. Harris to be postmaster at Harrisonville, Mo., in place of Charles L. Harris. Incumbent's commission expired March 20, 1912.

John H. Harris to be postmaster at Lockwood, Mo., in place of John H. Harris. Incumbent's commission expires January 22, 1913.

Elmer E. Hart to be postmaster at Eldon, Mo., in place of Elmer E. Hart. Incumbent's commission expires January 11, 1913.

Clarence C. Jenkins to be postmaster at Clarksville, Mo., in place of William L. H. Silliman, deceased.

Leonard D. Kennedy to be postmaster at Frankford, Mo., in place of Leonard D. Kennedy. Incumbent's commission expires January 26, 1913.

John A. Knowles to be postmaster at Flat River, Mo., in place of John A. Knowles. Incumbent's commission expires January 11, 1913.

John W. Key to be postmaster at Mountain Grove, Mo., in place of John W. Key. Incumbent's commission expired December 14, 1912.

Francis M. Jones to be postmaster at Winona, Mo., in place of Francis M. Jones. Incumbent's commission expires January 11, 1913.

William F. Norris to be postmaster at Perry, Mo., in place of William F. Norris. Incumbent's commission expired December 14, 1912.

Warren W. Parish to be postmaster at Adrian, Mo., in place of Warren W. Parish. Incumbent's commission expires January 11, 1913.

George L. Root to be postmaster at South St. Joseph, Mo., Office became presidential January 1, 1913.

William E. Templeton to be postmaster at Excelsior Springs, Mo., in place of William E. Templeton. Incumbent's commission expires January 26, 1913.

John E. Turpin to be postmaster at Crocker, Mo. Office became presidential January 1, 1913.

MONTANA.

Edward L. Fenton to be postmaster at Laurel, Mont., in place of Edward L. Fenton. Incumbent's commission expires January 26, 1913.

H. E. Hamment to be postmaster at Belt, Mont., in place of Eugene R. Clingan, removed.

Grace Lamont to be postmaster at Dillon, Mont., in place of Grace Lamont. Incumbent's commission expires January 26, 1913.

Walter E. Williamson to be postmaster at Wibaux, Mont., in place of Walter E. Williamson. Incumbent's commission expires February 20, 1913.

NEBRASKA.

William E. Alexander to be postmaster at Orchard, Nebr., in place of William E. Alexander. Incumbent's commission expires January 11, 1913.

Hubert L. Buckingham to be postmaster at Plainview, Nebr., in place of Hubert L. Buckingham. Incumbent's commission expires January 11, 1913.

William A. Grant to be postmaster at Coleridge, Nebr., in place of William A. Grant. Incumbent's commission expires January 13, 1913.

Lucy K. Partridge to be postmaster at Kenesaw, Nebr., in place of Lucy K. Partridge. Incumbent's commission expires January 14, 1913.

John F. Diener to be postmaster at Syracuse, Nebr., in place of John F. Diener. Incumbent's commission expires February 9, 1913.

Albert W. Searl to be postmaster at Elwood, Nebr., in place of Albert W. Searl. Incumbent's commission expires February 10, 1913.

NEVADA.

Herbert Badt to be postmaster at Wells, Nev., in place of Herbert Badt. Incumbent's commission expired December 14, 1912.

K. C. Berg to be postmaster at Round Mountain, Nev. Office became presidential January 1, 1913.

Alton A. Carman to be postmaster at Pioche, Nev., in place of Alton A. Carman. Incumbent's commission expires January 14, 1913.

Fred L. Littell to be postmaster at Yerington, Nev., in place of Fred L. Littell. Incumbent's commission expired December 14, 1912.

William L. Lockhart to be postmaster at Ruth, Nev. Office became presidential January 1, 1913.

NEW HAMPSHIRE.

Joseph H. Avery to be postmaster at Milton, N. H., in place of Joseph H. Avery. Incumbent's commission expired December 14, 1912.

NEW JERSEY.

Joshua L. Allen to be postmaster at Pennington, N. J., in place of Joshua L. Allen. Incumbent's commission expires January 11, 1913.

Alfred B. Gibb to be postmaster at Bernardsville, N. J., in place of Alfred B. Gibb. Incumbent's commission expires January 13, 1913.

Uzal S. Hancy to be postmaster at Franklin Furnace, N. J., in place of Uzal S. Hancy. Incumbent's commission expires January 13, 1913.

Farley F. Holcombe to be postmaster at Hopewell, N. J., in place of Farley F. Holcombe. Incumbent's commission expires January 11, 1913.

NEW YORK.

Francis C. Allen to be postmaster at Ovid, N. Y., in place of Francis C. Allen. Incumbent's commission expired April 22, 1912.

Flora E. Bassett to be postmaster at Walton, N. Y., in place of Flora E. Bassett. Incumbent's commission expired December 16, 1912.

Linn C. Beebe to be postmaster at Hamilton, N. Y., in place of James W. Welch. Incumbent's commission expired January 5, 1913.

Henry E. Corwin to be postmaster at Bellport, N. Y., in place of Henry E. Corwin. Incumbent's commission expired December 16, 1912.

Robert L. Craig to be postmaster at Fultonville, N. Y., in place of John N. Van Antwerp, deceased.

Frederic H. Coggeshall to be postmaster at Waterville, N. Y., in place of Frederic H. Coggeshall. Incumbent's commission expires January 26, 1913.

John W. Hedges to be postmaster at Pine Plains, N. Y., in place of John W. Hedges. Incumbent's commission expires January 21, 1913.

Edwin B. Hughes to be postmaster at Staatsburg, N. Y., in place of Edwin B. Hughes. Incumbent's commission expires January 29, 1913.

Robert H. Hunter to be postmaster at Poughkeepsie, N. Y., in place of Robert H. Hunter. Incumbent's commission expires January 12, 1913.

Frank H. Johnson to be postmaster at Interlaken, N. Y., in place of Frank H. Johnson. Incumbent's commission expires January 11, 1913.

Harlan W. Leggett to be postmaster at Schuylerville, N. Y., in place of Orley W. Closson, removed.

William H. Marshall to be postmaster at Pleasantville (late Pleasantville Station), N. Y., in place of William H. Marshall. To change the name of office.

William A. Serven to be postmaster at Pearl River, N. Y., in place of William A. Serven. Incumbent's commission expires January 18, 1913.

Daniel Smiley to be postmaster at Mohonk Lake, N. Y., in place of Daniel Smiley. Incumbent's commission expires January 13, 1913.

Joseph F. Stephens to be postmaster at Highland Falls, N. Y., in place of Joseph F. Stephens. Incumbent's commission expires January 22, 1913.

Charles J. Sweet to be postmaster at Black River, N. Y., in place of Charles J. Sweet. Incumbent's commission expired January 5, 1913.

Alexander S. Taylor to be postmaster at Westbury, N. Y., in place of Alexander S. Taylor. Incumbent's commission expired December 16, 1912.

Gerow Van Wyck to be postmaster at Wallkill, N. Y., in place of Evert B. Du Bois, resigned.

Charles M. Waters to be postmaster at Lyons Falls, N. Y., in place of Charles M. Waters. Incumbent's commission expired January 5, 1913.

Earl L. Whiting to be postmaster at Delevan, N. Y., in place of Earl L. Whiting. Incumbent's commission expired January 5, 1913.

NORTH CAROLINA.

Ida Augusta Phelps to be postmaster at Plymouth, N. C., in place of Ida Augusta Phelps. Incumbent's commission expired February 12, 1912.

NORTH DAKOTA.

H. B. Allen to be postmaster at Steele, N. Dak., in place of H. B. Allen. Incumbent's commission expires February 20, 1913.

Andrew D. Cochrane to be postmaster at York, N. Dak., in place of Andrew D. Cochrane. Incumbent's commission expires February 17, 1913.

Christ Fuoter to be postmaster at Ray, N. Dak., in place of Christ Fuoter. Incumbent's commission expired December 13, 1910.

A. A. Lane to be postmaster at Sherwood, N. Dak., in place of Perry Brown. Incumbent's commission expires January 14, 1913.

Charles Lano to be postmaster at Mohall, N. Dak., in place of Charles Lano. Incumbent's commission expires February 10, 1913.

A. C. O. Lomen to be postmaster at Ryder, N. Dak., in place of Ole J. Bye, resigned.

Elstow McKoane to be postmaster at Ambrose, N. Dak., in place of Elstow McKoane. Incumbent's commission expires March 1, 1913.

Mark Waind to be postmaster at Milton, N. Dak., in place of J. W. Pratten, resigned.

OHIO.

Charles E. Ainger to be postmaster at Andover, Ohio, in place of Charles E. Ainger. Incumbent's commission expires January 21, 1913.

Harlow N. Aldrich to be postmaster at Elmore, Ohio, in place of Harlow N. Aldrich. Incumbent's commission expires January 20, 1913.

William S. Atchison to be postmaster at Salem, Ohio, in place of William S. Atchison. Incumbent's commission expired January 5, 1913.

Louis G. Bidwell to be postmaster at Kinsman, Ohio, in place of Louis G. Bidwell. Incumbent's commission expires January 21, 1913.

Selah S. Connell to be postmaster at West Carrollton, Ohio, in place of Selah S. Connell. Incumbent's commission expires February 11, 1913.

Richard C. Dowling to be postmaster at Middletown, Ohio, in place of Edmund L. McCallay, resigned.

John Ellis to be postmaster at Massillon, Ohio, in place of John Ellis. Incumbent's commission expires January 21, 1913.

Albert Feike to be postmaster at Lynchburg, Ohio. Office became presidential January 1, 1913.

John G. Gunzenhauser to be postmaster at Huron, Ohio, in place of William R. Tyler, deceased.

Chauncy A. Hamilton to be postmaster at Plymouth, Ohio, in place of Samuel E. Nimmons, resigned.

Percy May to be postmaster at New Holland, Ohio, in place of Percy May. Incumbent's commission expires January 13, 1913.

E. Calvin Miller to be postmaster at New Carlisle, Ohio, in place of E. Calvin Miller. Incumbent's commission expires January 13, 1913.

Isaac N. W. Reed to be postmaster at Ansonia, Ohio. Office became presidential January 1, 1913.

Samuel F. Rose to be postmaster at Clarington, Ohio, in place of Samuel F. Rose. Incumbent's commission expires January 20, 1913.

OKLAHOMA.

William T. Brooks to be postmaster at Broken Arrow, Okla., in place of William T. Brooks. Incumbent's commission expires January 14, 1913.

Louis N. Bushorr to be postmaster at Pawnee, Okla., in place of Louis N. Bushorr. Incumbent's commission expired April 28, 1912.

Gaylord S. Clute to be postmaster at Avant, Okla. Office became presidential January 1, 1913.

Horace Gray to be postmaster at Tahlequah, Okla., in place of Horace Gray. Incumbent's commission expired December 17, 1912.

Alexander B. Holliday to be postmaster at Crescent, Okla., in place of Alexander B. Holliday. Incumbent's commission expired December 17, 1912.

Will Huston to be postmaster at Thomas, Okla., in place of Will Huston. Incumbent's commission expired December 17, 1912.

Charles H. Jennings to be postmaster at Walch, Okla. Office became presidential January 1, 1913.

Karl Sweem to be postmaster at Miami, Okla., in place of Harland J. Butler, removed.

J. Ed Van Mater to be postmaster at Altus, Okla., in place of J. Ed Van Mater. Incumbent's commission expires January 14, 1913.

Arthur J. Weir to be postmaster at Hugo, Okla., in place of Enoch Needham. Incumbent's commission expires January 14, 1913.

John E. White to be postmaster at Lenapah, Okla. Office became presidential January 1, 1913.

OREGON.

John E. Beezley to be postmaster at Falls City, Oreg., in place of John E. Beezley. Incumbent's commission expires January 20, 1913.

William M. Brown to be postmaster at Lebanon, Oreg., in place of William M. Brown. Incumbent's commission expires January 20, 1913.

PENNSYLVANIA.

Andrew C. Allison to be postmaster at Mifflintown, Pa., in place of Andrew C. Allison. Incumbent's commission expires February 9, 1913.

Jerry J. Coffey to be postmaster at Osceola Mills, Pa., in place of John H. Warren, deceased.

George W. De Coursey to be postmaster at Newtown, Pa., in place of George W. De Coursey. Incumbent's commission expires January 25, 1913.

Matthew P. Frederick to be postmaster at Gallitzin, Pa., in place of Matthew P. Frederick. Incumbent's commission expires January 12, 1913.

Henry O. Garber to be postmaster at Berwyn, Pa., in place of Henry O. Garber. Incumbent's commission expired December 16, 1912.

Hugh W. Gilbert to be postmaster at Quarryville, Pa., in place of Hugh W. Gilbert. Incumbent's commission expires February 9, 1913.

William S. Gleason to be postmaster at Johnsonburg, Pa., in place of William S. Gleason. Incumbent's commission expires January 12, 1913.

Alexander B. Grosh to be postmaster at New Bloomfield, Pa., in place of Alexander B. Grosh. Incumbent's commission expires February 9, 1913.

A. J. Pettit to be postmaster at Port Royal, Pa. Office became presidential January 1, 1913.

William M. Toy to be postmaster at Austin, Pa., in place of William M. Toy. Incumbent's commission expires January 12, 1913.

Samuel B. Willard to be postmaster at Yardley, Pa., in place of Samuel B. Willard. Incumbent's commission expires January 25, 1913.

RHODE ISLAND.

Edward W. Jones to be postmaster at River Point, R. I., in place of Edward W. Jones. Incumbent's commission expired December 14, 1912.

SOUTH CAROLINA.

George A. Reed to be postmaster at Beaufort, S. C., in place of George A. Reed. Incumbent's commission expired April 29, 1912.

SOUTH DAKOTA.

George E. Culver to be postmaster at Corsica, S. Dak. Office became presidential January 1, 1913.

Joseph Kubler to be postmaster at Custer, S. Dak., in place of Joseph Kubler. Incumbent's commission expires January 28, 1913.

TENNESSEE.

William E. Byers to be postmaster at Tracy City, Tenn., in place of William E. Byers. Incumbent's commission expires March 3, 1913.

Jasper N. Fitzwater to be postmaster at Collierville, Tenn., in place of Jasper N. Fitzwater. Incumbent's commission expires January 11, 1913.

William L. Green to be postmaster at Spring Hill, Tenn., in place of William L. Green. Incumbent's commission expires March 3, 1913.

Joel F. Ruffin to be postmaster at Cedar Hill, Tenn., in place of Joel F. Ruffin. Incumbent's commission expires March 3, 1913.

John A. Wilson to be postmaster at Sharon, Tenn. Office became presidential January 1, 1913.

TEXAS.

Arch Campbell to be postmaster at Brazoria, Tex. Office became presidential January 1, 1913.

Herman H. Duncan to be postmaster at Kaufman, Tex., in place of Robert H. Armstrong. Incumbent's commission expired April 28, 1912.

W. M. Gibson to be postmaster at Alvord, Tex., in place of Henry L. Sands, deceased.

J. S. House to be postmaster at Kingsville, Tex., in place of J. S. House. Incumbent's commission expired December 16, 1912.

Evert Johnson to be postmaster at Jacksboro, Tex., in place of Evert Johnson. Incumbent's commission expired December 16, 1912.

James E. Lindsey to be postmaster at Rule, Tex., in place of James E. Lindsey. Incumbent's commission expired April 28, 1912.

Theodore F. Loose to be postmaster at Marble Falls, Tex., in place of Effie J. Cochran. Incumbent's commission expired December 16, 1911.

Claude P. McGregor to be postmaster at Cameron, Tex., in place of Thomas A. Pope. Incumbent's commission expired December 16, 1912.

George F. Rockhold to be postmaster at Dallas, Tex., in place of Sloan Simpson.

UTAH.

John A. Israelsen to be postmaster at Hyrum, Utah. Office became presidential January 1, 1913.

Henry A. Pace to be postmaster at Price, Utah, in place of Charles A. Guiwits. Incumbent's commission expires January 22, 1913.

VERMONT.

Alton B. Ashley to be postmaster at Milton, Vt., in place of Alton B. Ashley. Incumbent's commission expired March 11, 1912.

Emeroy G. Page to be postmaster at Hyde Park, Vt., in place of Emeroy G. Page. Incumbent's commission expires January 22, 1913.

Lewis A. Skiff to be postmaster at Middlebury, Vt., in place of Lewis A. Skiff. Incumbent's commission expires January 22, 1913.

Heman I. Spafford to be postmaster at North Bennington, Vt., in place of Heman I. Spafford. Incumbent's commission expired May 19, 1912.

William O. Williams to be postmaster at West Pawlet, Vt., in place of William O. Williams. Incumbent's commission expired May 15, 1912.

VIRGINIA.

Harry Fulwiler to be postmaster at Buchanan, Va., in place of Harry Fulwiler. Incumbent's commission expires January 11, 1913.

Benjamin P. Gay to be postmaster at Smithfield, Va., in place of Benjamin P. Gay. Incumbent's commission expired March 11, 1912.

M. L. Slemp to be postmaster at Pennington Gap, Va., in place of M. L. Slemp. Incumbent's commission expires January 11, 1913.

J. B. Vaughn to be postmaster at Keysville, Va., in place of Frederick I. Hanmer. Incumbent's commission expired December 14, 1912.

WASHINGTON.

Howard J. Fender to be postmaster at Prescott, Wash. Office became presidential January 1, 1913.

Clara McArthur to be postmaster at Okanogan, Wash., in place of Harvey S. Irwin, resigned.

William H. McCoy to be postmaster at Reardan, Wash., in place of William H. McCoy. Incumbent's commission expires January 28, 1913.

I. N. McGrath to be postmaster at Ephrata, Wash. Office became presidential July 1, 1910.

F. W. Martin to be postmaster at Cle Elum, Wash., in place of F. W. Martin. Incumbent's commission expires January 28, 1913.

Judson J. Merriam to be postmaster at Lind, Wash., in place of Judson J. Merriam. Incumbent's commission expired February 13, 1912.

William L. Shearer to be postmaster at Toppenish, Wash., in place of William L. Shearer. Incumbent's commission expires January 28, 1913.

Samuel F. Street to be postmaster at Edmonds, Wash., in place of Samuel F. Street. Incumbent's commission expired January 6, 1913.

WEST VIRGINIA.

Sarah K. Rush to be postmaster at Newell, W. Va., in place of Sarah K. Rush. Incumbent's commission expires February 9, 1913.

WISCONSIN.

Oliver W. Babcock to be postmaster at Omro, Wis., in place of Oliver W. Babcock. Incumbent's commission expires January 22, 1913.

James Carr to be postmaster at Bangor, Wis., in place of James Carr. Incumbent's commission expires January 12, 1913.

Charles A. Clark to be postmaster at Readsburg, Wis., in place of Howard B. Quimby. Incumbent's commission expired January 13, 1912.

Myron W. De Lap to be postmaster at Abbottsford, Wis., in place of Myron W. De Lap. Incumbent's commission expires January 12, 1913.

J. P. Fitzgerald to be postmaster at Mellen, Wis., in place of Robert Johnson. Incumbent's commission expired December 14, 1912.

Joseph M. Garlick to be postmaster at Independence, Wis., in place of Joseph M. Garlick. Incumbent's commission expires January 26, 1913.

George Green to be postmaster at Loyal, Wis., in place of George Green. Incumbent's commission expires January 26, 1913.

August G. Koch to be postmaster at Kewaskum, Wis., in place of August G. Koch. Incumbent's commission expired December 11, 1911.

Rose M. Kropp to be postmaster at Hilbert, Wis., in place of John A. Kropp, resigned.

Matthew O'Regan to be postmaster at National Home, Wis., in place of Matthew O'Regan. Incumbent's commission expires January 12, 1913.

James R. Shaver to be postmaster at Augusta, Wis., in place of James R. Shaver. Incumbent's commission expires January 28, 1913.

John C. Southworth to be postmaster at Whitehall, Wis., in place of John C. Southworth. Incumbent's commission expires January 12, 1913.

WYOMING.

Ella J. Perry to be postmaster at Upton, Wyo. Office became presidential July 1, 1911.

CONFIRMATIONS.

Executive nominations confirmed by the Senate January 11, 1913.

PROMOTIONS IN THE ARMY.

QUARTERMASTER CORPS.

Brig. Gen. James B. Aleshire, quartermaster general, to be Chief of the Quartermaster Corps, with the rank of major general.

SURGEON GENERAL.

George H. Torney to be surgeon general with the rank of brigadier general.

WITHDRAWALS.

Executive nominations withdrawn January 11, 1913.

Russell Brown Patterson, of New Hampshire, for appointment as second lieutenant in the Infantry Arm.

POSTMASTER.

John F. Furlow to be postmaster at Alvord, in the State of Texas.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January 11, 1913.*

The House met at 12 o'clock noon.

Rev. John Van Schaick, jr., pastor of the Church of Our Father, Washington, D. C., offered the following prayer:

Almighty God, who art the giver of every good and perfect gift, we lift up unto Thee the voice of our thanksgiving. We praise Thee for the life which Thou hast given us, for the service to which Thou hast appointed us, for the knowledge of Thy will and the inspiration of Thy love; for the work which our hands have found to do, for the truth which we are permitted to learn, for whatever good there has been in our past life, and for the hopes that lead us on to better things. Make us less unworthy of these Thy mercies and Thy blessings, and give us strength to do and dare Thy perfect will; through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

EULOGIES ON THE LATE REPRESENTATIVE WICKLIFFE.

Mr. MORGAN of Louisiana. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

On motion of Mr. MORGAN of Louisiana, by unanimous consent, it is ordered that Sunday, the 23d day of February, 1913, at 12 o'clock m., be set apart for addresses on the life, character, and public services of Hon. ROBERT C. WICKLIFFE, late a Representative from the State of Louisiana.

The SPEAKER. Is there objection to the present consideration of the resolution?

There was no objection.

The resolution was agreed to.

PENSIONS.

The SPEAKER. The unfinished business is House bill 27475, granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

Mr. GARRETT. Mr. Speaker, I desire to make a point of order on that.

The SPEAKER. What point of order does the gentleman make?

Mr. GARRETT. I make the point of order that that is not the unfinished business for this day under the rule.

The SPEAKER. The Chair will hear the gentleman.

Mr. GARRETT. I call the attention of the Chair to clause 3, Rule XXIV. In the new Manual it appears on page 386:

The consideration of the unfinished business in which the House may be engaged at an adjournment, except business in the morning hour, shall be resumed as soon as the business on the Speaker's table is finished, and at the same time each day thereafter until disposed of; and the consideration of all other unfinished business shall be resumed whenever the class of business to which it belongs shall be in order under the rules.

Now, this is private pension legislation. The fact that it is in an omnibus bill does not in any respect destroy its private character. Under the rule, with which the Speaker is perfectly familiar, and which it is not necessary to read, it is only in order to consider legislation of this character on Fridays. I call the attention of the Chair further to page 386 of the new Manual:

In general, all business unfinished in the general legislative time goes over as unfinished business under the rule—

And so forth. I need not continue the reading of that; but a little further on—

Thus a motion relating to the order of business does not recur as unfinished business on a succeeding day, even though the yeas and nays may have been ordered on it. The question of construction also, when not disposed of at an adjournment, does not recur as unfinished business on a succeeding day.

On the next page, in paragraph 865—

The rule excepts by its terms certain classes of business which are considered in periods set apart for classes of business, viz:
(a) Bills considered in the morning hour for the call of committees.
(b) Bills in Committee of the Whole.
(c) Private bills considered on Fridays.
(d) District of Columbia bills.
(e) Bills brought up under the rule setting apart days for motions to suspend the rules.

And in that connection, Mr. Speaker, if I remember correctly, on last Monday there was pending a proposition to suspend the rules, and the House was proceeding to vote upon that question when adjournment was taken. That did not come up the next day as unfinished business, but, as I understand, will come up on the next suspension Monday.

Mr. RUSSELL. But in this case the previous question has been ordered.

Mr. FOSTER. The previous question has been ordered on the bill and amendments to the final passage.

Mr. GARRETT. I understand the previous question has been ordered on this. The previous question was not ordered on the motion to suspend the rules, because we do not order the previous question on that motion. It does not alter the situation that the previous question has been ordered. The fact of the previous question being ordered does not determine it, but it is determined by the class of business.

The SPEAKER. That bill, as a matter of fact, broke down before the House ever got to the previous question.

Mr. GARRETT. We do not demand the previous question on the motion to suspend the rules.

The SPEAKER. That is true, but you never did get anywhere with that bill.

Mr. GARRETT. I think the point of no quorum was made, perhaps, but my recollection is that the House was dividing upon the proposition at the time.

The SPEAKER. That was under suspension of the rules, and there is no previous question on that.

Mr. GARRETT. True; but, according to the Manual, bills that are brought up under the rule setting apart a time for motion to suspend the rules do not come up as unfinished business on the following day, but go over until next suspension day, and the Manual places in that same class private bills considered on Friday.

The SPEAKER. Has the gentleman from Tennessee considered the question whether the previous question does not change the general plan?

Mr. GARRETT. I have considered it, and I do not think it does change the general principle. I do not think the matter is determined by the parliamentary status of the bill, but by the character of the legislation proposed. I think that is the spirit of the rule. The intention of the Friday rule is to give private bills their opportunity, to give one day in the week on which to consider these bills, or two days in the month, as the case may be. Then, if they have reached a certain parliamentary status, where they can be considered unfinished business, they have their day again when that regular day arrives.

It is not the intention or spirit of the rules to permit private business to have more than it is entitled to under those rules simply by reason of a certain parliamentary stage being reached.

Mr. FITZGERALD. Will the gentleman yield?

Mr. GARRETT. Certainly.

Mr. FITZGERALD. I want to call the gentleman's attention to the fact that this question was decided as early as the Fifty-second Congress by Speaker Carlisle. He decided that these pension bills, on which the previous question had been ordered on Friday, did come up as unfinished business the next day for public business.

Mr. GARRETT. Does the gentleman recollect whether the Friday rule at that time was in the form it is now?

Mr. FITZGERALD. The only difference was that pension business was considered Friday nights then instead of on Fridays.

Mr. GARRETT. Mr. Speaker, I did not find last night in an examination of the precedents the decision to which the gentleman from New York refers. I do not remember what form the rule was in at that particular time, but I do remember in a general way the history of this rule. For a long time it was a special order, not put in the body of the rules of the House. In fact, that may be true up to the beginning of this Congress, but perhaps it was carried into the rules earlier than the beginning of this Congress. But for a long time it was a special order, and there was a provision not only for consideration on Friday but for sessions Friday nights. I do not know what form the rule was in at the time the ruling was made by Speaker Carlisle.

Mr. MANN. If the gentleman from Tennessee will pardon me, the old rule was substantially in the form that it is in now, except that it provided for night sessions for the consideration of pension bills. For a long time there was an order changing that and making it day sessions. So far as this point is concerned, I think there was no change in the rule.

The SPEAKER. Has the gentleman from Tennessee anything further to suggest?

Mr. GARRETT. Nothing further, Mr. Speaker, except to restate the proposition that, in my judgment, it is the spirit and intention of the rules of the House to give the private bills one day, and that it is not the intention of the rules to permit these bills to take up more than that time.

Mr. MANN rose.

The SPEAKER. On which side is the gentleman from Illinois?

Mr. MANN. I think the point of order should not be sustained.

The SPEAKER. Then the Chair will not trouble the gentleman. The gentleman from Tennessee [Mr. GARRETT] is a very careful student of the rules, and the Chair dislikes to summarily overrule any point he makes, but this matter has been decided several times, and at least once by Speaker Carlisle, who is universally admitted to be one of the greatest Speakers of the House. It has always been ruled against the contention of the gentleman from Tennessee, and, as the gentleman from New York [Mr. FITZGERALD] stated the matter exactly, the line of demarcation is that if the previous question is ordered on Friday it comes up as unfinished business on the next legislative day. If it is not ordered then, it will go over until the next Friday on which the committee has the right of way. The unfinished business is House bill 27475. When the House adjourned last night the previous question had been ordered on the bill and amendments to the final passage. Then the gentleman from Georgia [Mr. RODDENBERY] made a motion to recommit with instructions, and the gentleman from New York [Mr. FITZGERALD] raised the point of order that the bill was not in the stage where a motion to recommit could be offered, and the gentleman from Missouri [Mr. RUSSELL] made a motion for the previous question on the motion to recommit.

The question had never been raised before during the service in the House of the present occupant of the chair, and the practice of the House has been to offer the motion to recommit after the third reading of the bill. On a hasty reading of the rule it seemed to indicate that the motion to recommit might be offered at any time after a bill was reported back to the House, and the rule itself would bear that construction, so the Chair ruled that the gentleman from Georgia [Mr. RODDENBERY] had the right to offer it when he did.

Since that the Chair has investigated the matter and is quite certain that the gentleman from New York [Mr. FITZGERALD] was right and the Chair was wrong in that ruling and that the motion to recommit is not in order until after the third reading. The Chair makes this statement so that nobody will quote the ruling made last night hereafter as a precedent.

The question is on agreeing to the amendments reported by the committee.

Mr. RODDENBERY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RODDENBERY. Does not the question recur on the roll call on the point of no quorum?

The SPEAKER. No; that has passed.

Mr. RODDENBERY. Has the Speaker put the question whether a separate vote was demanded on any amendment?

The SPEAKER. No. The gentleman from Georgia asks unanimous consent to withdraw his motion to recommit. Without objection, it will be withdrawn.

There was no objection.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them in gross.

There was no demand for a separate vote.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

Mr. RODDENBERY. Mr. Speaker, I now offer the motion to recommit with instructions.

The Clerk read the motion to recommit, as follows:

Motion by Mr. RODDENBERY:

"I move to recommit H. R. 27475 to the Committee on Invalid Pensions, with instructions to report the same back to the House with the following amendment:

"'Strike out the following names from said bill wherever they occur: William Andrew, N. A. Aller, E. B. Silcott, Daniel Wilson, P. L. Kenney, Wilson Murphy, Watson Boyden, William F. Ramsey, G. F. Stamps, M. J. Rengier, L. J. Wilkeson, William F. Mills, William D. Crawford, J. H. Rowland; women, Julia Rouse, Elizabeth Rutherford, Elizabeth Shock, Sarah Jefferson, Leah Jackson, Sarah Garber, Mary Brent, Sarah Sherman, Tilla Eckard.'"

The SPEAKER. The question is on the motion to recommit.

The question was taken; and on a division (demanded by Mr. RODDENBERY) there were 4 ayes and 93 noes.

Mr. RODDENBERY. I make the point of order that no quorum is present.

The SPEAKER. Evidently there is no quorum. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

The question was taken; and there were—yeas 46, nays 182, answered "present" 10, not voting 146, as follows:

YEAS—46.

Beall, Tex.	Edwards	Hay	Sims
Bell, Ga.	Ellerbe	Heflin	Slayden
Blackmon	Evans	Henry, Tex.	Smith, Tex.
Burgess	Faison	Lamb	Stedman
Burnett	Finley	Lee, Ga.	Stephens, Miss.
Callaway	Flood, Va.	Lever	Stephens, Tex.
Candler	Floyd, Ark.	Macon	Tribble
Carlin	Garner	Morgan, La.	Watkins
Collier	Goodwin, Ark.	Page	Witherspoon
Dent	Gregg, Tex.	Richardson	Young, Tex.
Doughton	Gudger	Roddenbery	
Dupré	Harrison, Miss.	Sheppard	

NAYS—182.

Ainey	Broussard	Curley	Ferris
Akin, N. Y.	Brown	Currier	Fields
Alexander	Buchanan	Dalzell	Fitzgerald
Allen	Bulkley	Danforth	Foss
Ames	Burke, Wis.	Daugherty	Foster
Anderson	Burleson	Davenport	Fowler
Andrus	Byrns, Tenn.	Davis, Minn.	Francis
Anthony	Cannon	Denver	French
Austin	Cantrill	Dodds	Gallagher
Bartholdt	Clark, Fla.	Donohoe	Gardner, Mass.
Bates	Claypool	Doremus	Garrett
Bathrick	Cline	Draper	Gillett
Berger	Cooper	Dyer	Godwin, N. C.
Boehne	Cox	Esch	Goeke
Booher	Covington	Estopinal	Good
Borland	Cravens	Farr	Graham
Bradley	Cullop	Fergusson	Gray

Greene, Mass.	Kopp	Neeley	Sloan
Hamill	Korbly	Nelson	Smith, J. M. C.
Hamilton, Mich.	La Follette	Norris	Smith, N. Y.
Hamilton, W. Va.	Langham	Nye	Stanley
Hamlin	Lawrence	Padgett	Steenerson
Hammond	Lee, Pa.	Patton, Pa.	Stephens, Cal.
Hardwick	Lenroot	Pepper	Stephens, Nebr.
Harris	Levy	Post	Sterling
Haugen	Littlepage	Pou	Stone
Hawley	Lloyd	Powers	Sweet
Hayden	Lobeck	Pray	Switzer
Hayes	Loud	Prince	Taggart
Helgesen	McDermott	Raker	Talcott, N. Y.
Helm	McGillicuddy	Rauch	Thistlewood
Hensley	McKenzie	Rees	Thomas
Higgins	McKinley	Reilly	Tilson
Holland	McKinney	Riordan	Towner
Houston	McLaughlin	Roberts, Nev.	Tuttle
Howland	Madden	Rodenberg	Underhill
Humphrey, Wash.	Maguire, Nebr.	Rothermel	Volstead
Jackson	Matthews	Rouse	Warburton
Kahn	Miller	Rubey	Willis
Kendall	Mondell	Rucker, Colo.	Wilson, Ill.
Kennedy	Moon, Tenn.	Russell	Wilson, Pa.
Kindred	Morgan, Okla.	Scott	Wood, N. J.
Kinkaid, Nebr.	Morrison	Sharp	Young, Kans.
Kinkead, N. J.	Moss, Ind.	Sherwood	Young, Mich.
Knowland	Murdock	Simmons	
Konop	Murray	Slemp	

ANSWERED "PRESENT"—10.

Adamson	Dwight	Hinds	Stevens, Minn.
Bartlett	Glass	Jones	
Carter	Hardy	Mann	

NOT VOTING—146.

Adair	Gardner, N. J.	Linthicum	Reyburn
Aiken, S. C.	George	Littleton	Roberts, Mass.
Ansberry	Gill	Longworth	Robinson
Ashbrook	Goldfogle	McCall	Rucker, Mo.
Ayres	Gould	McCoy	Sabath
Barchfeld	Green, Iowa	McCreary	Saunders
Barnhart	Greene, Vt.	McGuire, Okla.	Scully
Brantley	Gregg, Pa.	McKellar	Sells
Browning	Griest	McMorran	Shackleford
Burke, Pa.	Guernsey	Maher	Sherley
Burke, S. Dak.	Harrison, N. Y.	Martin, Colo.	Sisson
Butler	Hart	Martin, S. Dak.	Small
Byrnes, S. C.	Hartman	Mays	Smith, Saml. W.
Calder	Heald	Merritt	Smith, Cal.
Campbell	Henry, Conn.	Moon, Pa.	Sparkman
Cary	Hill	Moore, Pa.	Spear
Clayton	Hobson	Moore, Tex.	Stack
Conry	Howard	Morse, Wis.	Sulloway
Copley	Howell	Mott	Talbott, Md.
Crago	Hughes, Ga.	Needham	Taylor, Ala.
Crumpacker	Hughes, W. Va.	Oldfield	Taylor, Colo.
Curry	Hull	Olmsted	Taylor, Ohio
Davidson	Humphreys, Miss.	O'Shaunessy	Thayer
Davis, W. Va.	Jacoway	Palmer	Townsend
De Forest	James	Parran	Turnbull
Dickinson	Johnson, Ky.	Patten, N. Y.	Underwood
Dickson, Miss.	Johnson, S. C.	Payne	Vare
Dies	Kent	Peters	Vreeland
Difenderfer	Kitchin	Pickett	Webb
Dixon, Ind.	Konig	Plumley	Weeks
Driscoll, D. A.	Lafean	Porter	Whitacre
Driscoll, M. E.	Lafferty	Prouty	White
Fairchild	Langley	Pujo	Wilder
Focht	Legare	Rainey	Wilson, N. Y.
Fordney	Lewis	Randell, Tex.	Woods, Iowa
Fornes	Lindbergh	Ransdell, La.	
Fuller	Lindsay	Redfield	

So the motion was rejected.

The Clerk announced the following pairs:

For the session:

Mr. BARTLETT with Mr. BUTLER.

Mr. PALMER with Mr. HILL.

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. HOBSON with Mr. FAIRCHILD.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. LITTLETON with Mr. DWIGHT.

Until further notice:

Mr. SABATH with Mr. REYBURN.

Mr. CLAYTON with Mr. DE FOREST.

Mr. UNDERWOOD with Mr. MANN.

Mr. CARTER with Mr. MCGUIRE of Oklahoma.

Mr. PUJO with Mr. MCMORRAN.

Mr. PATTEN of New York with Mr. MCCALL.

Mr. O'SHAUNESSY with Mr. MOON of Pennsylvania.

Mr. SCULLY with Mr. BROWNING.

Mr. GREGG of Pennsylvania with Mr. WOODS of Iowa.

Mr. GOULD with Mr. HINDS.

Mr. SPARKMAN with Mr. DAVIDSON.

Mr. TURNBULL with Mr. LANGLEY.

Mr. CONRY with Mr. MICHAEL E. DRISCOLL.

Mr. SAUNDERS with Mr. MARTIN of South Dakota.

Mr. AIKEN of South Carolina with Mr. BARCHFELD.

Mr. ANSBERRY with Mr. BURKE of South Dakota.

Mr. ASHBROOK with Mr. BURKE of Pennsylvania.

Mr. AYRES with Mr. CALDER.

Mr. BARNHART with Mr. CAMPBELL.

Mr. BRANTLEY with Mr. COPLEY.

Mr. BYRNES of South Carolina with Mr. CURRY.

Mr. DAVIS with Mr. CRAGO.

Mr. DICKINSON with Mr. CARY.

Mr. DIES with Mr. CRUMPACKER.

Mr. DIFENDERFER with Mr. FOCHT.

Mr. DIXON of Indiana with Mr. FORDNEY.

Mr. DANIEL A. DRISCOLL with Mr. FULLER.

Mr. GEORGE with Mr. GREEN of Iowa.

Mr. GOLDFOGLE with Mr. GREENE of Vermont.

Mr. HARRISON of New York with Mr. GUERNSEY.

Mr. HART with Mr. GARDNER of New Jersey.

Mr. HOWARD with Mr. HARTMAN.

Mr. HUGHES of Georgia with Mr. HEALD.

Mr. HULL with Mr. HENRY of Connecticut.

Mr. HUMPHREYS of Mississippi with Mr. HOWELL.

Mr. JACOWAY with Mr. LAFFERTY.

Mr. JAMES with Mr. LONGWORTH.

Mr. JOHNSON of Kentucky with Mr. HUGHES of West Virginia.

Mr. JOHNSON of South Carolina with Mr. MCCREARY.

Mr. KITCHIN with Mr. MERRITT.

Mr. KONIG with Mr. MOORE of Pennsylvania.

Mr. LEWIS with Mr. MOTT.

Mr. LINTHICUM with Mr. NEEDHAM.

Mr. MCCOY with Mr. OLMSTED.

Mr. MCKELLAR with Mr. PICKETT.

Mr. MAHER with Mr. PLUMLEY.

Mr. OLDFIELD with Mr. PORTER.

Mr. PETERS with Mr. PAYNE.

Mr. RAINEY with Mr. PROUTY.

Mr. RUCKER of Missouri with Mr. ROBERTS of Massachusetts.

Mr. SHACKLEFORD with Mr. SAMUEL W. SMITH.

Mr. SISSON with Mr. SPEER.

Mr. SMALL with Mr. SMITH of California.

Mr. TAYLOR of Alabama with Mr. SELLS.

Mr. SHERLEY with Mr. SULLOWAY.

Mr. TOWNSEND with Mr. TAYLOR of Ohio.

Mr. WEBB with Mr. VARE.

Mr. WHITE with Mr. VREELAND.

Mr. WILSON of New York with Mr. WILDER.

Mr. FORNES with Mr. WEEKS.

Mr. BARTLETT. Mr. Speaker, did the gentleman from Pennsylvania, Mr. BUTLER, vote on this roll call?

The SPEAKER. He did not.

Mr. BARTLETT. Having a pair with the gentleman from Pennsylvania, I desire to withdraw my vote of "yea" and answer "present."

The name of Mr. BARTLETT was called, and he answered "Present."

Mr. MANN. Mr. Speaker, I am paired with the gentleman from Alabama, Mr. UNDERWOOD, and I desire to withdraw my vote of "nay" and be recorded "present."

The name of Mr. MANN was called, and he answered "Present."

The result of the vote was announced as above recorded.

A quorum being present, the doors were opened.

The SPEAKER. The question is on the passage of the bill.

The question was taken, and the bill was passed.

LEAVES OF ABSENCE.

By unanimous consent leave of absence was granted as follows:

To Mr. FIELDS, indefinitely, on account of illness in family.

To Mr. DYER, for six days, on account of public business.

To Mr. RANDELL of Texas, indefinitely, on account of illness in family, instead of illness of self.

POST OFFICE APPROPRIATION BILL.

Mr. MOON of Tennessee. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 27148) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1914, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 27148) with Mr. GARRETT in the chair.

Mr. MOON of Tennessee. Mr. Chairman, I am not inclined to enter into a lengthy discussion of this bill. Indeed, there is very little I desire to say about it, because the report shows the amounts of the estimates in the appropriations in the previous year and the recommendations of the committee this year in each of the departments of the Post Office Department. There is no new legislation in this bill except one or two small features. The committee has thought it best not to increase the salaries of the higher officials nor to place too many men in the grade

where the higher officials are, but rather to give an increase in compensation of the laborers and workmen who receive less than $750 a year. We have raised the salary of those lower officials from $650 to $720 and added 150 men to the $840 grade of laborers. There is other new legislation seeking to make the initial salary of clerks $800 instead of $600, the committee being of the opinion that $600 is too low a salary at this time under the present cost of living for any employee of the Government charged with the important duties of the service.

The last Post Office appropriation bill carried $271,429,589. The department's estimates for the fiscal year ending June 30, 1914, are $281,791,508. The committee has recommended $278,489,781, or less than the department estimates by about $3,000,000. The deficiencies reported this year are about $2,000,000, or a little in excess of the last fiscal year, as far as can be estimated. I shall ask to be placed in the RECORD as part of my remarks a report on this bill giving in detail the appropriation for the year 1913, the estimates for 1914, and the committee recommendations under the present bill in parallel columns.

Mr. TILSON. Mr. Chairman——

The CHAIRMAN. Will the gentleman from Tennessee [Mr. MOON] yield to the gentleman from Connecticut [Mr. TILSON]?

Mr. MOON of Tennessee. I will.

Mr. TILSON. May I ask the gentleman if there is anything further done in this bill about the supervisory clerks of the Post Office Department? Last year, upon the recommendation of the department, the committee appropriated for an increase in salary for a number of the supervisory clerks in the larger post offices.

Mr. MOON of Tennessee. There has been no increase of salaries. There has been an increase in the number of them.

Mr. TILSON. And that is an equivalent to raising the salary of a number of employees?

Mr. MOON of Tennessee. In the general promotion scheme.

Mr. TILSON. There has been an increase in the number?

Mr. MOON of Tennessee. Yes. The gentleman will find in the hearings a rather explicit statement as to the increases and the number of increases will be shown in the tables which you can find in the hearings in detail.

Mr. TILSON. An increase somewhat this year over the year before?

Mr. MOON of Tennessee. I think substantially so.

Mr. BARTLETT. May I interrupt the gentleman?

The CHAIRMAN. Does the gentleman from Tennessee [Mr. MOON] yield to the gentleman from Georgia [Mr. BARTLETT]?

Mr. MOON of Tennessee. I yield to the gentleman from Georgia [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I desire to ask the gentleman if this increase of post-office inspectors is sufficient to meet the demand for the establishment of new, and extension of, rural routes? For quite a number of years we have had complaints about failure to give as prompt attention to these applications as should be given, and the reason alleged for it was want of sufficient inspectors to perform the work under the new applications.

Mr. MOON of Tennessee. We have now 391 inspectors——

Mr. BARTLETT. Three hundred and ninety-five.

Mr. MOON of Tennessee. Three hundred and ninety-five; but there are four vacancies, I believe. There are 391 inspectors now in the field, as I understand it. We have not increased the number of inspectors, nor have we increased the salary of them. There are some reasons, in the opinion of some of the committee—however, they are not presented and will not be insisted on in this bill—why it is possible that force could be reduced, perhaps later on, 25 or 30 per cent instead of increased.

Mr. BARTLETT. I notice the gentleman in the bill makes especial provision for the services of these men as to the business of investigating——

Mr. MOON of Tennessee. The gentleman is aware that we have been covering in the rural service a number of star routes and will continue to do so. That is in a measure a policy of the department as I understand it. The number of routes I have just forgotten, but there are two hundred and sixty and odd, I believe, that have been established, and perhaps a similar number that are ready to be put into operation. I do not think there is any dearth of inspectors necessary for the purpose of carrying on any of the service—the rural service or any other.

Mr. BARTLETT. The gentleman is aware, however, that there has been some just cause for complaint in the delay of establishment of rural routes for several years past?

Mr. MOON of Tennessee. That may be, but so far as this committee is concerned there is nothing that has come before it that justifies it in bringing any matter of that kind before the House. It is a matter of administration, whether good or bad. It is not for us to determine.

Mr. BARTLETT. Does the gentleman take into consideration whether or not the new duties of inspectors in appointing fourth-class postmasters would necessitate an increase of duties or the number of inspectors?

Mr. MOON of Tennessee. No; we have not taken that into consideration, and we hope not to be forced to take that into consideration. We hope the good judgment of this House will set aside such a condition ultimately.

Mr. GARNER. May I ask the gentleman whether in the establishment of rural free delivery routes any information has come to his committee of a greater restriction in the establishment of new routes than ever before by the department?

Mr. MOON of Tennessee. Well, the department, as I have said before, has been converting some of the star routes into rural free-delivery routes, but it has not established a great many.

Mr. GARNER. But may I ask the gentleman if it is not a fact, from the information he gets, that the department is not inclined to be as liberal in the establishment of rural free-delivery routes as it was a year or two ago?

Mr. MOON of Tennessee. I think that is true, but whether it is so really or not I do not know.

Mr. GARNER. I want to say that, in my judgment, they are not justified in that attitude, because I happen to represent a section of country that is developing very fast, and this policy of the department in holding back and refusing the establishment of rural free-delivery routes is materially injuring the section of country I come from. The older sections of the country, such as the Middle States—Ohio, Indiana, and Illinois—have been completely covered, and it seems to be the policy of the department to refrain from establishing rural free-delivery routes in the newer sections of the country wherever it can find any kind of an excuse for refusing.

Mr. MOON of Tennessee. If the gentlemen interested in this subject will refer to the hearings had before the committee, in the last part of the hearings on the subject of rural routes, commencing on page 93 and following, they will find a detailed statement of the routes in operation, the routes proposed, and the routes discontinued, by States, and the star routes covered into the Rural Service. You will find that we have in operation something over 42,000 of these routes. But I regret to say that if you will refer to the financial reports of the Government you will find a loss to the revenues of the United States on account of the Rural Free Delivery Service for the last fiscal year of something more than thirty millions of money.

Mr. GARNER. Is it not a fact, Mr. Chairman, if the gentleman will again yield——

Mr. MOON of Tennessee. I yield.

Mr. GARNER. That Congress increased the allowance for rural free-delivery routes over the estimates of the department?

Mr. MOON of Tennessee. Yes.

Mr. GARNER. And that the department, in willful violation of the judgment of Congress, refused to expend that money in establishing rural free-delivery routes in the United States, and that it had a considerable surplus of that money left over which went back into the Treasury?

Mr. BARTLETT. It was a million and a quarter dollars.

Mr. MOON of Tennessee. I am advised that that is true.

Mr. GARNER. Does the gentleman think that the Post Office Department has the right, after the matter has been thoroughly discussed, to ignore the judgment of Congress as to the policy of establishing rural free-delivery routes?

Mr. MOON of Tennessee. No; of course I do not think the department has the right to ignore the law of the land, but I notice that in the administration of the law the man who has the last construction determines it.

Mr. GARNER. And therefore the executive department's judgment is taken rather than that of the legislative department.

Mr. MOON of Tennessee. It is in this affair.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Tennessee [Mr. MOON] yield to the gentleman from Georgia?

Mr. MOON of Tennessee. I yield to the gentleman from Georgia.

Mr. BARTLETT. The gentleman from Tennessee will remember that the last time this appropriation bill was before the House the evidence before the committee from the Fourth Assistant Postmaster General as to the reason given for the delay was that the inspectors had been occupied mainly with other matters connected with the service than the Rural Free

Delivery Service, notably the frauds connected with the postal service?

Mr. MOON of Tennessee. That is so.

Mr. BARTLETT. So that the endeavor is to remedy the cause assigned a year ago?

Mr. MOON of Tennessee. So far as legislative action can do so; yes.

Mr. BARTLETT. Now, I would like to ask the gentleman another question. The gentleman's committee has not increased the pay to the railroads for carrying the mails in this bill?

Mr. MOON of Tennessee. No, sir; it has not.

Mr. BARTLETT. Has the attention of the committee been called to the fact that an increase of expense has been occasioned by reason of the parcel-post law? As I understand, a commission has been appointed, which is now investigating that question; and the committee has not done anything about it, either to reduce or increase it, but awaits the coming of the report of that commission before acting?

Mr. MOON of Tennessee. I will state to the gentleman from Georgia in that connection that that commission which was appointed has not yet acted; that the department submitted to this committee a document, known as Document No. 105, on the subject of railway mail pay, from a study of which it seems that about nine millions of money might be saved to the Government of the United States by the reduction of railway mail pay. But apparently the department has receded from that position, and we are at a loss to know just what reduction, if any, can be made, and consequently we await the action of the commission appointed by Congress on that subject.

But the railroad companies of the United States are demanding strenuously an increase of pay. Only an hour ago a demand was made in our office, for about the third time, that Congress take some action for an immediate annual weighing of the mails, upon which a basis of computation could be founded for pay, on account of the increased service brought about by the matter to be transported by parcel post.

Mr. BARTLETT. If the gentleman will permit me in this case, I would like to ask him one question, and then I shall not ask him further questions about it. I understand the committee is not in a position to give Congress information, because it is not accessible, as to what would be a just procedure in the reduction or increase of this pay, on account of the fact that the commission has not yet been able to report to Congress?

Mr. MOON of Tennessee. No. And I will say to the gentleman that there have been heretofore five commissions, and that, when the present one reports, in my opinion the situation will be very much like what it has been heretofore as to the method of computation and the manner of determination of railway mail pay, and the utter inability to get an account and statement annually on the basis of weighing for four years makes it likely that this House will still lack information that would enable it to come within $15,000,000 of what the legitimate pay should be for transporting the mails under the present method of computation. The House and the Congress must sometime provide for some more definite method of payment for the transportation of the mails than that which now exists. That is a question that I want to speak about a little bit later.

Mr. LLOYD. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Tennessee yield to the gentleman from Missouri?

Mr. MOON of Tennessee. Yes.

Mr. LLOYD. I think perhaps the gentleman from Tennessee has not fully answered one point raised by the gentleman from Georgia [Mr. BARTLETT], and that is that the committee, notwithstanding the commission appointed, has in no way undertaken to add any compensation on account of the parcel post. The parcel post will add very materially to the work of the railroads. The railroads are now demanding that they should have additional pay on account of the additional work they have to perform by reason of the parcel-post law, but that proposition has not been acted upon by the committee.

Mr. MOON of Tennessee. I think the gentleman from Georgia has understood, and the House has perhaps understood, that this committee has added nothing in the way of railroad compensation on account of the parcel post, although this bill carries more than three millions of money that has been added to it as the direct result of the parcel post, the details of which I will give later on.

Mr. LLOYD. But not on account of pay to the railroads for transportation of the mails?

Mr. MOON of Tennessee. No; not on account of railway pay for transportation.

Now, Mr. Chairman, to take up this discussion for a few moments where I left off when interrupted, I want to say that we have forty-two thousand and some odd rural routes, and we are operating the rural routes of the United States at a loss annually of about $30,000,000.

Under the new law increasing the pay of rural carriers we are now paying $1,100 for a standard route of 24 miles. The bulk of the routes are standard. There are 29,441 routes belonging to that class and 6,832 belonging to the next class, and the grades go down to 440 routes of from 2 to 4 miles.

There are petitions before our committee, containing more than 3,000,000 names, asking for 1-cent letter postage. Of course we all want to get the 1-cent letter postage if it is feasible to do it; but in the rush for that demand on the part of this House, and particularly the other body, certain facts ought to be kept in mind before you go too far in committing yourselves to a policy of that kind. It seems to me that 2 cents is almost little enough for anyone to pay for the carrying of a letter. It is estimated in the department that we have a surplus arising from the 2-cent letter postage of something like $58,000,000. It is therefore argued that the letter writers who produce this great revenue to the Government through this instrumentality ought to have a reduction; in other words, that we ought to take the four divisions of the department, in which money is earned in some and lost in some, and devote the surplus of earnings, where there is a surplus, to a decrease of the postage rates, instead of devoting that surplus to defray the expenses of those divisions of the department which are not earning a profit. We lose $30,000,000 annually on rural delivery. We lose $20,000,000 annually on the carrying of second-class matter at the present rate of 1 cent a pound. By the way, 1 cent a pound is the result of a reduction from 2 cents, as the law once was, to 1 cent, meeting the same demand on second-class matter that is now being made with reference to first-class matter. It will be observed that if the losses upon these two classes of matter are to be recouped, and the Government is to be administered, so far as this department of it is concerned, without a deficit, then it is an impossibility to go to 1-cent letter postage without the loss of $58,000,000 of revenue to the Government of the United States. I take it that no man in his private business, where it was necessary for him to retain certain departments in order to carry on the whole business, some losing and some making a great profit, would consent to withdraw the profit from those branches of his business which were profitable and place them somewhere else, instead of using those profits to maintain the departments that were earning nothing, yet were essential to the conduct of the whole business. No man could do that without quickly becoming a bankrupt; and except for the immense resources of the Government of the United States to-day, that would be the result if you should attempt to go too suddenly to a lower rate of postage on first-class matter.

The truth about it is that this House had as well meet the issue now as hereafter. You have to retain 2-cent letter postage for the present. You have to raise the postage on second-class matter above the figure that it now is, and, in my judgment, you have to make a readjustment of the railway mail pay, so that the people of the United States will not be carrying second-class matter for one-third of what it costs them to carry it and will not be paying more for transportation than ought to be paid. This Government does not desire to make any large amount of money out of the Post Office Department, but that department ought to be and can be made self-sustaining. With the proper economies exercised there, with a proper head of that department, who knows the law and the necessities of its administration, it can be made a great paying department, and it can be made of the greater service to the people of the United States of any instrumentality of the Government.

I recollect the smile that passed over this body when upon this floor 14 years ago I suggested, in the discussion of this bill, which then carried $87,000,000, with a deficit of $17,000,000, that by an increase of proper facilities to the people of the United States, by the improvement of the service and by a wise administration of it, and an extension of the service, in 15 years the appropriation for the Post Office Department would reach $250,000,000 and a surplus be produced. Those years have about passed. This bill now carries $278,000,000, and there is a contention whether there is a deficit of a few hundred thousand dollars or a small surplus.

If by the proper attention to the affairs of this department, by cutting down a number of useless offices in the department, by a proper training of the force, proper chiefs in the department, and a wise head to control all things in it, by a readjustment of these rural routes and the conversion of the star route into the rural free delivery system, the forcing of proper compensation for the carrying of second-class matter, the forcing of the railroad companies and other transportation companies to receive proper and legitimate pay, and an extension of the

service in the cities towns, and smaller villages, another 15 years—and I am not a prophet—will show this bill to carry over $600,000,000 of money, and it ought to produce a profit of over $60,000,000.

I did not intend to digress into this line of thought when I rose to speak. My only purpose was to call attention to some features of the bill, particularly in reference to some matters that the committee have thought wise to deal with in the way we have in this bill on the subject of the parcel post. That law, as you recollect, was only enacted in the last session, and went into effect on the 1st of January. If we are to credit the press and the unofficial information from the department, there has been an immense rush of business to the Government in the parcel post in the first zone of 50 miles.

There has not been, and will not be, and it was not intended, I take it, that there should be any very great amount of business developed in the other seven zones for the present until we have perfected the system now in its incipiency under the report that is to come before a great while from the committee constituted for that purpose, and from the Postmaster General, which show the experimental work of this division. It is an immense service, and a great deal of money must yet be employed in carrying it out. I will call the attention of the House to a few matters of importance covering the aggregate amount of which I spoke awhile ago, of some $3,000,000 to $5,000,000 added to this bill on that account. This bill has but few large changes in amount, and a little increase growing out of the natural increase of the business, and the increases resulting from this system. For instance, we have been forced to add 2,400 clerks and employees in the first, second, and third class post offices of the United States, and this increase is chargeable largely to this service. Printers, mechanics, and laborers, 150 clerks. For contract stations we have added $320,000 to that appropriation. Rent, light, and fuel for first, second, and third class post offices, not altogether, but partly on account of this service, $500,000. Then there are several hundred thousand dollars in the miscellaneous items. Pay of letter carriers, largely on account of this service, $2,107,000. Substitutes, due to parcel post and the eight-hour law—and that eight-hour law was a very wise provision for the men and for the Government, but it costs the Government money to enforce it—$685,000 in this bill on that account.

For wagons, automobiles, and all vehicular service necessarily on account of the parcel post almost exclusively, $550,000. Inland transportation by steamer routes in Alaska, the increase being due mainly to parcel post, $258,300. Inland transportation by steamboat, estimated, of course, due to parcel post—and I call attention to the fact that this is not railway transportation—$40,574.

Mail messenger service due mainly to parcel post, $455,000. Railway wagon service, $407,000.

Mail bags, $47,500. Compensation to laborers, $3,300. Mail locks and keys, $3,000. Labor, mail lock shops, parcel post alone, $15,000.

Mr. GILLETT. Will the gentleman yield?

Mr. MOON of Tennessee. I will.

Mr. GILLETT. Will the gentleman tell us how much of the total of this bill is caused by parcel post?

Mr. MOON of Tennessee. I can not tell exactly, because the department has never given us accurate information. The gentleman from Massachusetts will observe that the department is asking for $281,000,000 of money and the committee has given them about $279,000,000, and owing to some changes in the bill that would increase it a little over that, but it is safe to say that three-quarters of the increase is due to the parcel post.

Mr. GILLETT. Is not the gentleman from Tennessee mistaken, and has not the committee given more than the department estimated for?

Mr. MOON of Tennessee. No; it has given less by about three millions.

Mr. GILLETT. Three millions more than what the department estimated for?

Mr. MOON of Tennessee. No; three millions less than the department asked for. I will state to the gentleman from Massachusetts that while the appropriations are practically about $3,000,000 less than the department asked for, the committee did not feel justified in complying with the demands of the department on this matter, because it is largely a matter of speculation as to what additional cost would accrue to the Government on account of this particular service, and, as it always is for the coming fiscal year as to the matter of increase of the general business, it can only be an estimate, and the committee to be on the safe side of these questions always cut the estimates.

There is included in the estimates the sum of $750,000, which we are asked to make immediately available for the extension of the parcel-post service, in addition to the things referred to in the bill. The committee could not give that. I have just received a telegram less than an hour ago from the Postmaster General urging that the $750,000 be put in. It may be that it ought to be contained in the bill, but it is asked to be made immediately available. It is to supply a deficiency, and this House on a test vote a year ago held that this committee had not the jurisdiction; that the Committee on Appropriations had jurisdiction to supply deficiencies of that character. So we could not give now the $750,000 in this bill.

Mr. GILLETT. The figures I have are that the estimates were two hundred and eighty-one millions and something over, and the committee has appropriated $283,000,000, or about $2,000,000 more than the estimate.

Mr. MOON of Tennessee. No; the appropriations are $278,489,781.

Mr. GILLETT. Is that on the second report?

Mr. MOON of Tennessee. That is the first report. That report is erroneous as to the amount. Increases were put on in the First and Second Assistants' office, put in since the report was first made, because an error was made in the printing of the bill by giving last year's items instead of the estimates, and it had to be revised and reprinted, and the increase would probably run the amount up to $280,000,000 of money.

Mr. GILLETT. I have it figured up at $283,000,000.

Mr. MOON of Tennessee. I do not think that is correct; but whether it is correct or not, that is the amount called for by the estimates.

Mr. GILLETT. The estimates are two hundred and eighty-one millions and the committee has given two hundred and eighty-three millions, or two millions more than the estimates. Now, I want to understand——

Mr. MOON of Tennessee. We have not given any more than the original estimates.

Mr. GILLETT. Of course the gentleman knows more about his bill than I do, and my figures may be wrong.

Mr. MOON of Tennessee. I will show the gentleman wherein he is wrong.

Mr. MANN. Will the gentleman from Tennessee allow me to make a suggestion which, I think, will explain the matter? The department in making the estimates estimates for so many clerks, and in the end also estimates for the total amount; that is, the amount that is carried in the bill. The Treasury Department, which the gentleman from Massachusetts follows, does not pay any attention to the total amount carried in the bill, but estimates the total appropriation by the number of clerks at certain salaries. If you take this year you must compare the same thing with last year. If you take the department's estimates as to the number of clerks, then the bill is less than the estimates.

Mr. MOON of Tennessee. These clerks do not go in all at once.

Mr. MANN. I understand; but I am speaking of the way the gentleman from Massachusetts arrives at his figures. The gentleman from Massachusetts takes the number of clerks estimated for and compares that with the total amount estimated for, and those two will not jibe.

Mr. MOON of Tennessee. I will say to the gentleman from Massachusetts that on a revision of the matter, in view of the uncertainty of the situation, we attempted to give to the department all we possibly could consistently, reserving, in our own judgment, a small amount in view of the fact that the estimates were generally sufficiently large. There are places where we have cut the estimates. Upon the face of the matter, while the original figures showed $278,000,000, we made some increases, but not as much as the estimates.

Mr. GILLETT. May I ask the gentleman another question? This bill exceeds last year's bill by about $12,000,000?

Mr. MOON of Tennessee. No; the amount last year was two hundred and seventy-one million and odd dollars.

Mr. GILLETT. The question I wanted to get at is: How much of that is due to the parcel post? Can the gentleman tell me that?

Mr. MOON of Tennessee. Last year?

Mr. GILLETT. No. How much of that excess of this year over last year is due to the parcel post?

Mr. MOON of Tennessee. The bill last year was for two hundred and seventy-one million and odd dollars, and this year it is $278,485,000. That makes a difference of $7,000,000 and something.

Mr. GILLETT. That is the first bill.

Mr. MOON of Tennessee. That is the first; and I take it that of those eight and a half million dollars there are about five and a half millions that are due to the parcel post. That would be the rough figures. I have here the various items chargeable

to the parcel post in the opinion, of course, of the gentlemen having the matters in charge, and they have given their best judgment.

I will now proceed to state some of the items further under the fourth assistant's office that are chargeable to that service. There is an addition of $5,000 for stationery in money-order offices, $5,000 for registry, and $2,500 for blank books and printed matter. Letter balances and scales, which they had to buy for the parcels post, $100,000. Facing slips, $5,000. Purchase, exchange, and repair of typewriters, $5,000. Inland transportation by star routes due to the parcels post, $73,000.

I have not attempted to give to this House any elaborate explanation or discussion of this bill. I have prepared nothing upon that subject. In view of the fact that the last bill contains so much legislation, and this one so little that is new, I think the House will have no trouble in reaching the amount of money that ought to go to these departments. When the bill is taken up by items, if it is desired, if the committee is able to do so, we shall try to give Members some further explanations.

Mr. CANNON. Mr. Chairman, will the gentleman yield?

Mr. MOON of Tennessee. Certainly.

Mr. CANNON. Mr. Chairman, I do not know that I correctly caught the gentleman's remark in reply to the gentleman from Georgia [Mr. BARTLETT], touching the increase of inspectors in view of the late order that brings the southern and western portions of the country, as to fourth-class postmasters, into the classified service. I understood the gentleman to say that no allowance was made from that standpoint, and that he apprehended, I take it upon this bill, to take those officials out of the classified service by legislation.

Mr. MOON of Tennessee. No; I did not mean to convey the idea that there would be any attempt in this bill to take those gentlemen out of the classified service. I meant simply to say that the 390-odd men are now employed, and that they have not any more work than they ought to do, or, in my opinion, as much work as they ought to do; and that they can perform all the duties incumbent upon them without any increase in number on account of this proposed change; and I expressed simply the hope that matters might be so adjusted before a great while that it would not be necessary for inspectors to have anything to do with the appointment of fourth-class postmasters.

Mr. CANNON. The gentleman had in view, of course, the thought that the order of the President should be revoked.

Mr. MOON of Tennessee. I hope the President will revoke that civil-service order, and hope so with all my soul. I think it is wrong.

Mr. CANNON. Including the northern and eastern parts of the country?

Mr. MOON of Tennessee. Yes. I would not have the northern and eastern part of the country treated any differently than the southern. I want to say to the gentleman that, in my opinion, this Government ought not to be put to one cent of expense of any character on account of fourth-class postmasters. If the postmaster is appointed and he is required to buy the equipment of his office and account for it at the end of the year and make a settlement with the auditor here, paying for that equipment, having given a bond and security to protect it, and he obtains the amount of money that is due him, there will be no expense in the world to the Government of the United States except the mere keeping of the accounts; while under the present system and under the proposed system hundreds of thousands of dollars will be wasted in a useless investigation of an office that needs no investigation. It is so plain and so simple and so easily managed that any business man could carry the whole on his books with no other cost than his entry with a perfect protection under bond.

Mr. CANNON. If the gentleman will permit me, I would suggest that as to the order placing all territory north of Mason and Dixon's line and east of the Mississippi River, as to fourth-class postmasters, in the classified service, leaving the fourth-class postmasters south of that line and west of the Mississippi River out of the classified service, there are people who profess to believe that the order very seriously affected the political condition in 1908 and 1912. If I may be pardoned by the gentleman, I would say further that I am inclined to believe that the order as it was made under the last administration as to a part of the country has worked well, and I think it would have worked much better if it had covered all the country instead of a part of the country.

Mr. MOON of Tennessee. Mr. Chairman, it is always with great deference that I disagree with the distinguished gentleman from Illinois. I do not believe that that last Executive order covering, without examination, one-fourth of the post-offices of the fourth class into the civil service was just or right, not merely on account of the condition and circumstances under which it was made, but I believe it is intrinsically wrong in the application of the civil-service proposition to say that men in office, ignorant as most of them are in fourth-class offices, never having had an examination, shall remain in those offices until death or removal for cause, and that then the successor must be put to the rigid test of a civil-service examination. Really there is no examination needed for a fourth-class postmaster. Any man who knows how to measure calico and to weigh sugar and nails can keep a fourth-class post office, and there is no sense in these inspectors, as I have said, putting this country to expense by their operations of hundreds of thousands of dollars when the measure to which I have referred, if adopted, would save it.

Mr. CANNON. Mr. Chairman, I quite agree with the gentleman in what he has just stated, and I further agree with him that the force of inspectors is quite large enough.

Mr. MOON of Tennessee. Yes; I think it is. I think ultimately it will have to be cut down.

While on that question of civil service, I am aware that it is a very good thing where the service that an employee must perform is intricate in its character and where the specific or special information he must have is needed for the benefit of the Government. In such case it is well that some system prevail by which he be held in office in order that the most beneficial service may be rendered to the Government of the United States. But I do believe the time has come in this country when it must be democratic in the broad sense of the word, when it must be republican in the broad sense of the word, and whatever you may say about the issues and the controversies that arose from questions fundamental in their nature in the last contest, the American people have arisen to the knowledge of the fact that they have not and never have had a Republic in the United States. To-day the central Federal power under the Constitution is greater than any power exercised by any monarchy in all Europe. These conditions ought not to exist. This ought to be a government of law under the Constitution and not of men clothed with power to appoint men all over the 48 great States contrary to the will of the people. I know of no reason in good morals or in justice why a Republican President could place in post offices throughout the South, where the people are Democratic, men who are offensive to those people, and force the people to submit to the service. I know of no just reason why, if the voice of the people must rule in this Government, if local self-government amounts to anything, if the citizen is an integral factor in the Government, and has the voice of a sovereign, this Democratic administration coming into power should be clothed with the right to impose upon the people or a State that is Republican to the core Democratic officials who would be offensive to them.

The truth is that of all the hundreds of thousands of officers in the United States there is but one officer who is chosen by the people, and that is the Representative in Congress. Your President is chosen by electors. Your Senators are chosen by the legislatures, and the people have no voice in anything under any condition. This is in a sense monarchy pure and simple. We do violence to our intelligence in talking the senseless jargon that this is a great Republic in which the people rule. Why is it that under the law to-day your Constitution is the shield of despotism? Truly, the fathers did not intend that this Republic should remain for centuries like the initial Republic struggling with monarchy for existence, but they intended the development and progress of American institutions. Why can you not elect your marshal in the district in which he serves and have the votes certified to the President for his commission? Why can you not elect your district attorney in the same way? Why is it you can not select your collector of customs in the same way? Why is it you can not elect your postmasters within the territory of the patrons who are served by that office in the same way?

If you were to do this, you could claim some of the privileges of Government, some of the rights of citizens who vote at the ballot box, and some of the demands that we are ever insisting upon in local self-government might and would be recognized. Participation by the people in the selection of these officials would draw them closer to the Federal institution. There would be no longer any jealousy against the Federal Government. The people would feel toward it, when participating in its affairs, as they do in State affairs—that same loyal devotion and love, that same exalted patriotism, that men feel for the States in which they live and in which they first saw the light. We need in these United States the growth of a sentiment that draws the people to the flag of the Republic and unifies a Nation from one end to the other, and nothing but the right of the citizen

to participate as a citizen at the ballot box in the affairs of his country will ever obtain it. [Applause.]

Mr. CANNON. Will the gentleman yield?

The CHAIRMAN. Will the gentleman from Tennessee [Mr. MOON] yield to the gentleman from Illinois [Mr. CANNON]?

Mr. MOON of Tennessee. I yield to the gentleman from Illinois.

Mr. CANNON. As I understand it, while I agree with much that the gentleman says so far as sentiment is concerned, the true and genuine reformer who wants the people to rule is for the short ballot, substantially as it exists in the State of New Jersey, where, if I understand it aright, the governor when elected has, perhaps more than a governor in any other State of the Union, the patronage by way of appointments. And the reason I interrupt the gentleman is to say that in my State the ballot at the last election was as long as these two desks in the country districts, to say nothing about the size of the ballot in Chicago and other large cities, and broader than the desk, containing the names of many candidates for many offices. Now, while I, too, believe in the rule of the people and the settlement of the policies of the Government at the ballot box, I will ask the gentleman if he goes the length of the true and genuine reformer that wants the people to rule and who declares for the short ballot? For instance, would he elect a President and let him appoint everybody substantially, except where the Constitution would prevent, and where, carried into the States, would spread over them substantially the condition which exists in New Jersey, which, I understand, involves the short ballot?

Mr. MOON of Tennessee. I do not favor the short ballot if that is the result of it, and I would favor a constitutional amendment that would do away with the short ballot if it brings that condition of things. The truth is, Mr. Chairman, that in this country a genuine democracy, a genuine republican idea, is no longer prevailing in the minds of many of the people. They are not caring about these questions in some sections so much as they are about other questions that are destructive of the welfare of Government. I speak not of the majority but of the minority of the people of the United States. Whenever you begin that policy of Government under institutions like ours, where the State, separate from the Federal Government and sovereign and supreme within its powers under the Constitution, and where the Federal Government of limited power is supreme to the extent of the delegated power, and that fairly implied from it, more trouble can arise, more complex situations can come, than from a Government single in form.

The CHAIRMAN. The Chair will inform the gentleman that he has occupied an hour.

Mr. MOON of Tennessee. Then I will yield to myself more time, as I control it all. [Laughter.]

We find here and there throughout this country men who do not believe in law and order, men who advocate certain positions that seemingly are very popular, for the purpose of producing and bringing about a situation of chaos, where law and order may be overthrown.

I do not like to say it, because so many good people believe in it and think it is right, but the doctrine of the recall of judges is anarchy. That is all it is. There is no use to discuss that question. The doctrine of the initiative and referendum, while not anarchy, is not a good method of government, and if the people had the right to pass upon all these offices that I speak of immediately and recognize these officials as their immediate creatures for the control of their affairs, the people would not desire to initiate legislation, and they would not desire the referendum except when some great question arose that affected them as a whole, except when a controversy arose over something like your prohibition propositions in your States. They might want it then, but otherwise it would scarcely ever be demanded.

It may be said further, too, while discussing this question in connection with the post-office proposition, that we ought to have, and most of us do have, a profound respect for the administrators of the law. If law be discarded, the Government is lost, anarchy prevails, and disaster and ruin follow throughout the land. But while we may love the law and its enforcement, and while we may have the profoundest respect for its judges, one of the greatest dangers, in my opinion, to-day is over-reverence in some sections of the judicial official. I think that he ought to be with the law, but not above it; that he ought to be with the people and hold the law with the people, but never above the people. I see no reason why a judge of a circuit court of the United States and a judge of a district court of the United States might not be elected for a term of 10, 12, or 15 years and rendered ineligible afterwards, and make a better official, or as good a one at least, for all the people as the man who holds a tenure for life. I do not believe in any tenure for life in any office, unless that tenure is given to the official in successive elections by a majority of the people at the ballot box. We ought not to have any positions in this country of a life tenure. We ought not to have but few, if any, positions that the people do not pass upon.

May I say, here and now—and I would not have said anything on this question but for the suggestion of the gentleman from Illinois—that I hope the day is not far distant when the American people will have more participation in their government than they have now, when they can go to the ballot box with the same pride for the Republic that they have for their States when they go to cast their ballots for their State officials, and that they may no longer feel that the Government of the United States is foreign and alien to them, but that it is their own, established to protect and defend their rights and liberties and their posterity forever. [Applause.]

Mr. MONDELL. Mr. Chairman, before the gentleman takes his seat I would like to ask him a question.

The CHAIRMAN. Does the gentleman yield?

Mr. MOON of Tennessee. I yield.

Mr. MONDELL. May I ask the gentleman a question in regard to the bill? I have been waiting for some time to secure some enlightenment in regard to the provisions of the bill.

Mr. MOON of Tennessee. Yes.

Mr. MONDELL. I notice in the estimates of the department that they estimate that the new parcel-post system will increase the cost of the routes in Alaska 100 per cent. They estimate that the parcel post will increase the cost of inland transportation by steamboats 5 per cent; that it will increase the mail messenger service 25 per cent; that it will increase the railway pay 5 per cent; that it will increase the cost of railway post-office car service 20 per cent; and that the committee has granted in the main those estimated increases—not to the full amount, but very largely.

Mr. MOON of Tennessee. The gentleman will recollect that I myself read all those items awhile ago.

Mr. MONDELL. I did not finish my question. When you came to the item of star routes, the increase in the estimate is only 1 per cent, and that in spite of the fact that the star-route service is the only service in connection with which the readjustment of pay was specifically provided for by the parcel-post bill. The increase there is only 1 per cent. Does the chairman think that increased appropriation of 1 per cent is going to be sufficient both to meet the demands for readjustments on the star routes and to provide for the increased cost on star routes in connection with the parcel post?

Mr. MOON of Tennessee. I did not quite catch the point of the question. I heard the statement of facts, but what is the question?

Mr. MONDELL. Briefly, the committee has increased the appropriation for star routes 1 per cent.

Mr. MOON of Tennessee. That is $73,000. Of course, it is about 1 per cent.

Mr. MONDELL. It is only 1 per cent of the cost?

Mr. MOON of Tennessee. Yes.

Mr. MONDELL. On account of the estimated increase due to the cost of the parcel post?

Mr. MOON of Tennessee. Yes.

Mr. MONDELL. Does the chairman believe that an increase of 1 per cent is going to be sufficient to meet the demands for readjustments and to meet the increased cost of the service by reason of the parcel post?

Mr. MOON of Tennessee. Well, the gentleman has observed, no doubt, that the star-route service is being covered into the rural-route service to a considerable extent, and he will observe also that while for inland transportation by star routes $73,000 additional is given, that is all that has been asked for by the department in this particular line. For the methods of handling the mails very large sums have been asked for here, and are used, and will be used for this service. You can not separate the service in any one particular item. The parcel post is a general service.

Mr. MONDELL. But there is no other item in the bill the appropriation for which can be used for the pay of star-route carriers. This is the only one.

Mr. MOON of Tennessee. The purpose of the department, I take it, in asking so little is that they want to reduce these star routes right along and cover them into the rural service.

Mr. MONDELL. That might be done, provided they established Rural Delivery Service, but in my State we have practically no rural routes. There is no such thing as changing on any considerable scale the star routes to rural routes, and we have a constantly increasing demand for rural star service.

Mr. MOON of Tennessee. I will say this to the gentleman: I do not know, of course, just what was in the minds of the

department officials in making this estimate. The committee in passing upon estimates usually does not give more than the department asks for. We yield to them the credit of asking for as much as they ought to have. The star route is a contract service, and we do not change by the law any of these contracts at all. While it may be true that a greater burden will be placed upon the men carrying the mail in the contract service than heretofore, on account of the parcel post, we have made no provision for it, and I do not think any is necessary to be made for it, for the reason that in all these contracts the right exists in the Government to alter, change, and amend them as the Government sees fit. The department, of course, can add to the compensation if it desires, or to the contracts if there is any great burden imposed upon them. I assume that the department thought this $73,000 would meet an emergency of that sort until next year.

Mr. MONDELL. During the hearings, in answer to a question of the gentleman from Missouri [Mr. LLOYD], an official of the department who appeared before the committee himself suggested that this was a very, very small increase, and it seems to me that it is a very small increase, if the Chairman will allow me, when we take into consideration first——

Mr. MOON of Tennessee. That was the estimate of the department, was it not?

Mr. MONDELL. When we take into consideration the fact that this is the cheapest of all the branches of the postal service, and, second, that the star-route carrier suffers in two ways. First, heretofore he has been carrying small parcels and has been paid for such carriage, and practically all of these contacts are let in expectation of some revenue from that source and in some cases a considerable revenue from that source. Otherwise the contracts could not be let so low. Second, the parcel post not only deprives him of that source of income, but places on him the burden of carrying an additional weight, without any increase in his contract pay.

Mr. MOON of Tennessee. Which the Government might adjust by changing the contracts, however.

Mr. MONDELL. There is authority to do that carried in the parcel-post bill, and what amazes me is that, while we give the postal-car service 25 per cent increase, while we give Alaska 80 per cent increase, while we give the mail messenger service 10 per cent increase, while we give the railroads 5 per cent increase, and the steamboats 5 per cent increase in the appropriations, it is proposed to give but 1 per cent increase to the men who suffer the most.

Mr. MOON of Tennessee. You mean the contractors on the star routes?

Mr. MONDELL. The contractors on the star routes lose both ways. They lose in the loss of revenue and they lose in the additional weight to be carried, requiring, in many instances, more live stock to carry the route.

Mr. MOON of Tennessee. But they are in a position that the others are not in. They occupy a contractual relation with the Government, by which changes can be made.

Mr. MONDELL. By which the Government treats them as it should not treat any of its employees. By reason of the fact that the Government contracts with these people, it sometimes grinds them down in a way that would shame the meanest sweat-shop operator in the world.

Mr. MADDEN. If the chairman will allow me, the fact of the matter, as far as I understand it from all that has taken place in the consideration of this question, is that the amount of star-route service to be performed during the coming year is to be very much curtailed and the amount of rural delivery service very much enlarged, and because of the enlargement of the one and the curtailment of the other the increase in the star-route service is to be a much smaller percentage of increase than in other lines of service that are not to be affected by the increase in the Rural Delivery Service.

Mr. MOON of Tennessee. I suggest to the gentleman from Wyoming that if he has any facts and figures that show petitions for increases over the department's estimate for star-route service, we would be glad to hear from him when we come to that item in the bill.

Mr. MONDELL. If the gentleman will allow me just a moment of his time to reply to the gentleman from Illinois——

Mr. MOON of Tennessee. I promised to yield to others and I can not occupy the floor longer.

Mr. MONDELL. I want to reply to the gentleman from Illinois [Mr. MADDEN], who evidently does not understand the situation.

Mr. LLOYD. The gentleman can do that when we reach this item in the bill.

Mr. GILLETT. Will the gentleman yield for a moment?

Mr. MOON of Tennessee. I have promised the remainder of my time.

Mr. GILLETT. Is not the gentleman willing to answer a question about the bill?

Mr. MOON of Tennessee. I have no more time.

Mr. MURDOCK. I will yield time to the gentleman.

Mr. MOON of Tennessee. All right; I shall be glad to do it.

The CHAIRMAN. How much time does the gentleman from Kansas yield?

Mr. MURDOCK. Ten minutes.

Mr. GILLETT. I observe in the paragraph of the bill on page 19, in line 4, the total of the payments to the railway mail clerks is stated at $24,360,000. Now, when you come to add up the items in that paragraph they amount to a million and a half more than that.

Mr. MOON of Tennessee. That may be.

Mr. GILLETT. I should like to ask the gentleman how that discrepancy is explained.

Mr. MOON of Tennessee. That is due to the fact that the report when first made did not contain that which the committee desired, but it was made up from last year's report.

Mr. GILLETT. I am speaking of the present bill, not the first print.

Mr. MOON of Tennessee. I know, but the gentleman will recall that this bill was introduced in this House on December 11 or 12 last, and that accompanying it was a report, and that that bill had about 50 errors in it because it was printed from last year's bill, and they had to be corrected; but the report has not yet been corrected.

Mr. GILLETT. Does the gentleman mean that in this bill the totals have not been corrected, but that the items have been?

Mr. MOON of Tennessee. Yes.

Mr. GILLETT. Then, really, this bill appropriates several million dollars more.

Mr. MOON of Tennessee. As I stated to the gentleman a while ago, instead of appropriating $278,000,000, this bill appropriates perhaps $280,000,000.

Mr. GILLETT. So it runs several million dollars more?

Mr. MOON of Tennessee. Yes; and about two-thirds of that increased amount is for the parcel post.

Mr. GILLETT. And that, of course, will be corrected when we come to the five-minute debate.

Mr. MOON of Tennessee. Yes; it is all corrected in the bill.

Mr. GILLETT. Not in the bill which I have.

Mr. MOON of Tennessee. Has the gentleman the last print of the bill?

Mr. GILLETT. Perhaps I have not. I thought I had.

Mr. MANN. Will the gentleman from Tennessee yield?

Mr. MOON of Tennessee. Yes.

Mr. MANN. I think the gentleman from Massachusetts is correct, and the gentleman from Tennessee [Mr. MOON] is slightly in error, and the situation arises in this way, if I may be permitted to state it: It has been the custom of the Post Office Department for many years in making estimates, and of the committee in reporting the bill, and of Congress in passing the law, to provide a certain number of clerks at certain salaries, so many at $3,000, so many at $600, and others at amounts between those two extremes.

Because these clerks are appointed during the year and do not draw pay for the entire fiscal year it was the practice of the Post Office Department and the committee to make a lump-sum appropriation at the end, as is done in this bill, which is less than the total number of clerks in each class multiplied by the salary that is drawn; but there was added to that total sum a provision that the total amount to be expended by the department could not exceed the total sum appropriated in the figures.

After the law was passed providing for automatic promotions of post-office clerks it was manifest that in case the total sum which was put in at the end of the appropriation was not sufficient to make these automatic promotions they could not be made, although the law provided that they should be made if the limitation was made in the bill.

Thereupon, I have consistently made a point of order against that limitation and it has stayed out of the bill for several years. The appropriation for automatic promotion of clerks was carried in the bill last year, and the total for clerks was $3,780,000. When the appropriation bill reached the Treasury Department they marked up to the credit of the Post Office Department three million nine hundred and some odd thousand dollars. I apprehend that has not been expended, but it cuts no particular figure, and the same thing is carried in this bill.

May I ask the gentleman from Tennessee in reference to a few figures that he gave about the increase of service for parcel post. In the first place, in the current law there is a lump-sum appropriation of $750,000 which covers special equipment, maps, stamps, directories, and printed instructions as may be necessary, and to include the hiring of teams, drivers, and so

forth. Are all of these things now practically covered by specific items in the bill?

Mr. MOON of Tennessee. They all come in under each head.

Mr. MANN. There are enough specific items to cover all these?

Mr. MOON of Tennessee. Yes; that is what we think.

Mr. MANN. I did not suppose there was any provision in the bill which would directly provide for the employment of teams and drivers for the parcel post especially.

Mr. MOON of Tennessee. No; it is under the section that provides for teams, vehicles, and drivers; we increased the amount so as to meet that additional service.

Mr. MANN. I understand the parcel post was inaugurated really after this bill was reported, and it may be that the department will derive additional information which it will be able to place before the Senate even after the bill passes the House, which would lead both bodies to agree to some additional appropriations if necessary.

Mr. LLOYD. If the gentleman will pardon me, it is the understanding that they are to make an investigation during the first 15 days of this month and make a report to the Senate, and of course the House will have the benefit of the same information before the bill comes in here for final consideration.

Mr. MANN. I understood the gentleman from Tennessee to state in figures he gave in reference to the contract stations that there was an increase of $320,000 in the bill. If the gentleman has the figures there, I would like to ask him if that is correct?

Mr. MOON of Tennessee. I think the gentleman will have to refer to the hearings.

Mr. MANN. I think the gentleman made a statement as to the probable amount, but that is not the amount carried in the bill.

Mr. MOON of Tennessee. The hearings will show how that is.

Mr. MANN. The gentleman read from some figures.

The CHAIRMAN. The Chair will state that the gentleman from Kansas [Mr. MURDOCK] yielded 10 minutes to the gentleman from Tennessee [Mr. MOON]. That 10 minutes so yielded has expired, and the gentleman from Tennessee has 15 minutes in his own right.

Mr. MURDOCK. Mr. Chairman, I yield a further 10 minutes to the gentleman from Tennessee.

Mr. MOON of Tennessee. Mr. Chairman, my memorandum shows $320,000 as the amount of increase.

Mr. MANN. I did not know how much that had been considered in the committee. Three hundred and twenty thousand was the increase in the estimates?

Mr. MOON of Tennessee. Yes; due in the main to parcel post. It is impossible for the committee or anybody to judge what is due to parcel post.

Mr. MANN. I understand. I will say that the department makes a rule as to the amount of compensation that will be allowed at a contract station, based on the amount of certain classes of business, and says that when a certain amount of business is done they will increase the compensation to such an extent. So far the appropriations have not been sufficient to do that; the rule has not been carried into effect, and every little while they have changed the rule. There has been a good deal of complaint about it. In my section of Chicago, where we have to depend largely on contract stations for postal service, men have resigned and refused to carry on the service because the department could not comply with the agreement that had been made.

Mr. MOON of Tennessee. Does the gentleman think that that item ought to be further increased?

Mr. MANN. I am not sure that that above $300 ought to be increased, but below that rate there are a large number usually starting out at $100, and if business develops under the rules the amount they are to receive is $200, and there ought to be sufficient appropriations to permit these increases to be made where a man will not keep the station without it.

Mr. MOON of Tennessee. Mr. Chairman, does the gentleman from Kansas desire to use any time?

Mr. MURDOCK. There are no requests for further time on this side.

The CHAIRMAN. In order that the Chair may keep the time correctly, he will say that the gentleman from Kansas yielded 10 minutes to the gentleman from Tennessee, who only used 2 minutes. Does the gentleman from Tennessee yield back that time?

Mr. MOON of Tennessee. I am trying to keep all I can get, Mr. Chairman, and if the gentleman from Kansas does not object I will keep it.

I now yield five minutes to the gentleman from Tennessee [Mr. SIMS].

Mr. SIMS. Mr. Chairman, I send an article to the Clerk's desk, and ask that it may be read in my time.

The Clerk read as follows:

ONLY THE FUTURE COUNTS.

On another page will be found an editorial which recently appeared in the St. Louis Republic. The Commoner has not commented upon the many editorials that have mentioned Mr. Bryan, favorably or unfavorably, in connection with a Cabinet position, but it begs to protest against an argument presented by the St. Louis Republic, which says:

"Woodrow Wilson's debt to Bryan is the biggest debt possible in American politics. Proper acknowledgment of that debt is expected. Popular belief is that it will be paid."

Another sentence reads:

"As to Mr. Bryan's fitness for the premiership or for the ranking ambassadorship, opinion may differ."

There are other sentences complimentary to Mr. Bryan, but these two passages bring out the point to which the Commoner wishes to call attention.

Cabinet positions ought not to be regarded as currency with which to pay debts. They are responsible positions, and in filling them the President elect should look to the future and not to the past. A public official has no right to discharge political obligations at the expense of the public. The men selected by Mr. Wilson for the Cabinet should be selected not because of personal service rendered to him, nor even because of past service rendered to the party. The individual counts for little; the cause counts for much. An individual, if he has had a proper motive for working, finds sufficient compensation in the triumph of ideas, principles, and policies; he does not need the consolations of office. Offices should be used to strengthen the party and to advance the things for which the party stands. It is pleasant to reward those who have been faithful, where that reward can be given without sacrificing public interests, but where past service is considered it is better to consider it as an assurance of future service than merely because it has been rendered.

The Commoner declines to discuss Cabinet possibilities, but it ventures to express the hope that Gov. Wilson will be governed by a higher motive than gratitude in the selection of his official household. A great responsibility rests upon him, and he will need the assistance of the best and bravest for his work. He ought to feel free to select for each place the man best fitted for it; in no other way can he hope to measure up to the expectations of the public. He need not—he should not—consider any service that Mr. Bryan has rendered to him or to the public. Mr. Bryan has been abundantly rewarded for all he has done, and does not feel that the party or any individual in the party owes him anything. If he ever holds any office, it ought to be given, whether by appointment or by election, with the view to the service that can be rendered in connection with the work yet to be done, not with the idea of rewarding him for anything that he has done. And the rule which is here laid down for Mr. Bryan is the rule which he believes should be laid down for all. In other words, the welfare of the party and the welfare of the country, not the ambitions of men or the interests of individuals, should be considered.

Mr. SIMS. Mr. Chairman, I had that article read as a basis for a few remarks that I desire to make. Whether we be Bryanites or anti-Bryanites, with the ideas and principles advocated in that article I think we must all agree. But we see a great deal stated in the newspapers about who is to be in the Cabinet, suggesting this man, that man, and the other man. I desire to say that the kind of men I want to be in the Cabinet are men who will tell the President the truth, though the heavens fall, without either exaggerating or minimizing it. I do not want anyone to go into the Cabinet for the purpose of influencing the President in favor of or against any individual. The President, as it were, must look through the Cabinet to see the conditions of the country. The Cabinet is in a way the eyes of the President. When I was a youth I read that under the English law they did not punish the king for any wrong done, but they punished his advisers. I thought at that time that it was a great outrage, but I have since concluded that it was a very wise provision of law. Those who get next to the king, those who get next to the President, who are intrusted with his confidence and who instead of telling him the plain truth as they see it color it so that he does not see the facts, but views them through colored glasses, and therefore does wrong through misinformation through the desire of individuals to either promote somebody's interest or to prevent the interest of somebody being promoted, I am in favor of hanging these advisors instead of punishing the President. This country believes and this country has confidence that Gov. Wilson has the judgment to do the right thing, if he can only have the facts presented to him without color, without prejudice, and without bias. It makes no difference to me who the man is who goes into the Cabinet so long as he be a man of ability, a man of full information as to the department to which he may be appointed. But above all he ought to forget himself, forget his friends, and, if he has enemies, forget them and tell the President the plain truth and let the President's judgment rest upon a clear understanding of the facts.

Mr. GARNER. Mr. Chairman, will the gentleman yield for a question?

Mr. SIMS. Yes.

Mr. GARNER. Is the gentleman complaining now of what he thinks the President elect is going to do?

Mr. SIMS. No.

Mr. GARNER. Is the gentleman writing him a letter through the columns of the CONGRESSIONAL RECORD as to what he thinks he ought to do?

Mr. SIMS. I am not intending in this way to advise the President. I am trying to point out what I think would be an ideal member of the Cabinet.

Mr. MANN. Is not the gentleman telling what he will do when he is a member of the Cabinet? [Laughter.]

Mr. SIMS. Mr. Chairman, I have no thought, not the slightest, of ever being so honored.

Mr. CANNON. Has the gentleman anybody in mind who will fill the bill? [Laughter.]

Mr. SIMS. I have nobody in mind. I am making no insinuations, but I will tell you what I do think, and that is the reason I am making these remarks. I think that within the last hundred years some Presidents of the United States have been misled and have been prejudiced unduly against some people, and have been used to reward others unjustly by reason of the false information given them. I think good Presidents in the last hundred years have done that which they would not have done if they had known the facts. When men secretly, privately, under the guise of friendship, mislead the King, the President, or anyone else, in order to secure some other end than the public welfare, they ought to hang instead of the King or the President. Therefore, I do not believe that such a position ought to be sought, or that it ought to be lobbied for, or that men ought to be appointed by reason of their extraordinary willingness to serve, but that they should be selected with reference to the general welfare with no other motive than that the public good is to be enhanced and not the ambition of some private citizen promoted.

The CHAIRMAN. The time of the gentleman from Tennessee has expired. The Chair will state that the gentleman from Tennessee [Mr. MOON] has 13 minutes remaining, and the gentleman from Kansas [Mr. MURDOCK] has 40 minutes remaining.

Mr. MOON of Tennessee. Mr. Chairman, I yield 10 minutes to the gentleman from Indiana [Mr. COX].

Mr. COX. Mr. Chairman, I send up some newspaper clippings and ask that they may be read in my time.

The Clerk read as follows:

RAILWAY POSTAL CLERKS PROTEST—PARCEL-POST PACKAGES NECESSITATE EXTRA DUTY, DECLARES THEIR LEADER.

MINNEAPOLIS, MINN., *January 7.*

President Carl C. Van Dyke, of the Railway Mail Clerks' Association, is en route to-day to Washington to take up with Congress committees grievances of the clerks over the parcel-post law.

Not since the threatened strike of railway mail clerks two years ago, declare postal clerks, has there been so much dissatisfaction among the employees as at present. It is charged the department has failed to provide sufficient help, equipment, or car space to handle the flood of parcels.

Before leaving, Van Dyke said: "Several chief clerks have prepared extra-duty schedules, so as to handle the parcels. This is unfair to the clerks, who are entitled to sufficient time off to keep up with their distribution."

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PARCEL-POST PLAN MAY CAUSE STRIKE—MAIL CLERKS' HEAD SAYS GOVERNMENT IMPOSES ON 17,000 MEN—HE SCENTS TROUBLE.

Is the attitude of the United States Government, under the Taft administration and Frank Hitchcock, Postmaster General, relative to the parcel post likely to precipitate trouble with the railway mail clerks to the point of a strike?

Carl C. Van Dyke, president Tenth Division Railway Mail Association, says he scents some such trouble.

He declares he believes the Government, under Hitchcock's plans, is endeavoring to hamper the parcel post to the point of proving it a failure and that the influence of express companies is at work along similar lines.

The parcel post, it is admitted, will cause a great increase in post-office business. The volume, in fact, probably will be immensely increased and perhaps nearly doubled.

No provision, Mr. Van Dyke says, has been made for an increase in men, especially in the railway mail end.

ADJUSTMENT HOPED FOR.

It is confidently expected, however, Mr. Van Dyke says, that the incoming Wilson administration will take swift action and add a sufficient number of men. Otherwise, Mr. Van Dayke says, the mail clerks are likely to revolt.

"No provision has been made to care for the extra parcel-post mail on the road," said Mr. Van Dyke to-day. "The regular yearly increase, 1,000 men in the United States, demanded by increased volume of ordinary mail, is all that has been done. Practically all lines are still tied up from the Christmas mail.

"The situation with the parcel post is getting serious.

"The Government has an 8-hour law for employees. Clerks are supposed to work 8 hours. Even now they exceed that, but with the parcel post they will be forced to work from 10 to 16 hours a day.

"They receive no extra pay for this overtime.

NO ADDITIONAL CARS.

"No provision, in addition, has been made for added mail cars. A million mail clerks can not handle the parcel post and regular mail without increased room. It is impossible. An additional car must be placed on every trunk-line train, such as mail trains between Chicago and the Twin Cities.

"It is a positive essential necessity that local trains be given more mail space.

"For example, Chicago mail-order houses have announced that they will send a carload a day on each trunk line from Chicago of parcel-post matter. No provision has been made to handle this matter.

"Again, a woodenware company, in Watertown, Wis., has announced that it will send a drayload of pails by parcel post every few days. Judged by these two examples, it is easily seen that there must be, and quickly, provision made for handling the traffic.

"The Government may be experimenting, but it is doing so at the expense of 17,000 railway mail clerks, and it is easy to see the impossibilities of the present policy."

Mr. COX. Mr. Chairman, the purpose I had in mind in having the articles read was to get, if possible, the railway postal clerks in the country before the House and before the country in a proper light. It is true beyond doubt that the establishment of the parcel post will throw a tremendous amount of additional work upon the 17,000 railway postal clerks at present in the employ of the Government. I know of no higher class of men in the Government service than the railway postal clerks. Of the millions and millions of tons of mail that are handled yearly, practically the entire amount in some way or other goes through the hands of these 17,000 men. I do not know Mr. Van Dyke, the gentleman who put out the interview, but, if his interview expressed truly the feelings of the railway postal clerks, it might bring a serious condition upon the country. As soon as my attention was called to those articles I asked Mr. Schardt, the president of the Railway Postal Clerks' Association, what would be their position and as to whether or not there was any ground for the reported interview. Mr. Schardt answers me, under the date of January 10, 1913, to the effect that, while it is true that the parcel post will throw a tremendous amount of work on the railway postal clerks, and while they realize that to be true, yet they further realize it to be a fact that the parcel post up until this time and the close of the present fiscal year will to a large extent be experimental, and he informs me, as the president of his association, that the 17,000 railway postal clerks upon whose shoulders this increased burden will fall are perfectly willing to assume the additional burden and work hand in hand with the Government until it is finally determined how much additional work will be thrown upon them.

In other words, whatever additional burdens might be required by the parcel-post legislation, there is no danger of any railway postal clerks being disgruntled and sore.

Now I ask, Mr. Chairman, that the letter be read in the remainder of my time.

The CHAIRMAN. Without objection, the Clerk will read.

The Clerk read as follows:

RAILWAY MAIL ASSOCIATION,
OFFICE OF THE PRESIDENT,
Washington, D. C., January 10, 1913.

Hon. W. E. COX,
Committee on the Post Office and Post Roads,
House of Representatives, United States.

DEAR MR. COX: Replying to your inquiry regarding certain sensational interviews given to the press recently by individuals claiming to speak for the employees of the Railway Mail Service, I beg to advise you that the sentiments expressed in the press dispatches referred to do not in any sense represent the attitude of the rank and file of our service.

The parcel-post service became operative January 1, and one of the dispatches advertising our men as being in revolt against the system was given out January 2. The men of the Railway Mail Service do not complain until they are hurt. They are broad-minded enough to recognize that in the early operations of our newly inaugurated parcel-post system it is inevitable that some complications should arise. Their loyalty and patriotism will prompt them to put forth their best efforts to help the Government make a success of this new feature of the postal service.

The men of the Railway Mail Service have every confidence that as the needs of this service manifest themselves the Government will make adequate provision, so that whatever complications or hardships may arise while the service is adjusting itself to the new conditions shall only be temporary.

The men of our service entertain no thought of revolt or strike, and it is to be regretted that the press dispatches should have advertised us in such an unwarranted light. Such talk is only a part of the pernicious agitation carried on by a few disappointed and disgruntled ex-employees of the service who thrive on the unrest and disloyalty they are able to incite.

Referring to your allusion to the offensive references and insinuating charges directed against the Committees on Post Offices and Post Roads of both the House and Senate during the last session by a publication claiming to represent railway postal clerks, I beg to advise you that we do not indorse the course pursued by this publication. We recognize only too well that such attacks are not calculated to encourage a proper regard in the minds of the younger men of our service for the integrity of Congress. The men who are in the service and have the best interest of the service at heart are desirous of maintaining respectful and cooperative relations with the Congress and the department, and they have no sympathy with the efforts of these outsiders who engender disrespect and contempt for constituted authority and we do not wish to be judged, either by Congress or by the public, by the tactics of these irresponsible individuals.

The Railway Mail Association appreciates what Congress has accomplished for our service, and we know of no better way to show our appreciation than by cooperating with Congress and the Post Office Department in everything that will make for a better and greater service and a satisfied and loyal corps of employees.

Assuring you that the men of the Railway Mail Service will be found ready and willing to do their part to make the parcel post a success, I am,

Sincerely, yours,

P. J. SCHARDT,
President Railway Mail Association.

Mr. MOON of Tennessee. Mr. Chairman, I yield to the gentleman from New York [Mr. LEVY].

The CHAIRMAN. The gentleman from Tennessee [Mr. MOON] has but two minutes remaining.

Mr. MURDOCK. Mr. Chairman, I will yield to the gentleman from Tennessee [Mr. MOON] the time he desires to give to the gentleman.

The CHAIRMAN. The gentleman from New York [Mr. LEVY] is recognized.

Mr. LEVY. Mr. Chairman, at the beginning of the investigation of the money question before the Banking and Currency Committee I insisted that what we required was remedial legislation and not investigation, as the public was thoroughly acquainted with the situation.

I have introduced a bill (H. R. 27139), which bill provides a remedy for the defects of our currency system without attempting to formulate a new and untried system, which may or may not be suited to our wants, and is of much more importance to the banking community than the investigation which is now being conducted by the House. Therefore I take this opportunity to address the House, and when it is reported out from the Committee on Banking and Currency and comes before the House I shall make a more complete statement.

CENTRAL BANK.

I do not believe in a central bank, though it may be called by a different name. The dominant political party has condemned it in its platform, and, I believe, that condemnation is wise and in accordance with true Democratic doctrine. To vest any one corporation with the exclusive right to issue paper money is to transfer sovereign power from the people and to constitute a monopoly, compared with which all so-called trusts and combinations in restraint of trade are but pigmies. We want no giant vested with a power which can destroy the very liberties of a self-governing people. We must preserve the separate units of our banking system free from the concentrated control of any one powerful organization.

DEFECTIVE SYSTEM.

I concede, as everybody does, that we have a defective banking system, but I feel sure these defects have come from unwise legislation originally begun as a war necessity, which can be pointed out and remedied, and I do not believe it is necessary to legislate in antagonism to the whole theory of our form of government in order to remedy these defects.

After giving much thought and study to the subject, I believe the cause of our monetary troubles may be succinctly stated thus:

The destruction of the bank function of note issue and the false assumption that debt represented by paper money is equivalent to coin.

I maintain that the present restricted issue of bank currency is not the exercise of the bank function of note issue (or circulation), and that so long as it exists we can have no elasticity in such circulation and no issue of bank debts in the form of currency responsive to the demands of trade.

All students of the subject, by different processes of reasoning, have reached the conclusion that a bond-secured bank currency can never be responsive to the demands of a commercial community. I think a satisfactory explanation of that fact is that such currency is really issued in payment of the Government debt it represents, and hence can not be issued in response to a commercial demand.

ALDRICH REMEDY.

We must therefore get rid of this bond-secured bank currency, and the question is, How? Mr. Aldrich's remedy is for one central bank to issue its notes and thereby take up all the present bank notes outstanding, receiving the bonds held as security, and increase the interest to be paid on such bonds 1 per cent, or about $7,000,000 per annum. He makes these notes a "legal reserve" for other banks, thus continuing the fiction that a debt is equivalent to coin—one of our great sources of trouble.

I can not see what benefit accrues to the public from having this bond-secured currency issued by one instead of many banks; the want of flexibility or elasticity remains the same to the extent that such issuance is used to pay for the Government debt represented by the bonds taken over. I can see a very distinct disadvantage in providing that these bank notes, which are used to pay for the bonds, may be counted as legal reserve of other banks; it is a species of inflation of the circulating medium, and continues a legal fiction which we all know is not true and which is contrary to all sound principles of good banking. It needs no argument to convince anyone who thinks on the subject—for the mere assertion is conclusive—that the proper reserve for bank indebtedness is gold coin, and that no amount of legislation can make any debt equivalent to coin, as a matter of fact.

The indebtedness represented by the notes of one central bank, or of all the banks, is carried by the public, which holds the notes; the Government debt or bonds is the security for this note indebtedness; the public is the creditor in either case.

H. R. 27139.

My proposition is to continue the public as the creditor for the indebtedness of the Government, and leave the banks free to exercise their proper function of note issue under normal conditions, subject only to such reasonable restrictions in the matter of reserves and supervision as the public interest demands.

INTERCHANGEABLE BONDS.

Sections 1, 2, and 3 of the bill provide that the 2 per cent bonds of the Government outstanding be made interchangeable with currency certificates at the option of the holder, the debt to bear interest when in the form of bonds and not to bear interest when in the form of currency. These certificates will represent the bonds deposited and will not be a promise to pay coin on demand, and hence can not be counted as a bank's legal reserve. Being receivable for all debts and demands due the Government and reissuable, they will be accepted readily by the people in their daily interchange of commodities and service, and being redeemable only in the time obligations of the Government can never be a source of embarrassment in times of financial stress or panic. This being done and the provision adopted for the funding of greenbacks, as is also suggested, we shall have one form of Government currency in all of which the Government will be bailee only, being certificates of deposit for either gold, silver, or bonds. The advantages of this procedure may be summarized as follows:

ADVANTAGES.

First. It enables the holder of a Government 2 per cent bond to obtain the currency equivalent at any time he may desire at 2 per cent interest.

Second. It saves the Government the interest thereon so long as the currency is needed, instead of paying such interest to a national bank.

Third. It prevents excessively high rates of interest.

Fourth. It furnishes a convenient and elastic Government currency which will automatically adjust itself in volume to the business interests of the country.

Fifth. It follows the demands of trade, irrespective of the question whether or not the issuance or retirement of circulating notes is profitable to a bank.

Sixth. It has none of the objections existing to the issuance of so-called "greenbacks," not being a legal tender for private indebtedness, and is in no sense "fiat" money.

Seventh. It should be welcomed by all bankers, both State and national, for it enables them to hold a form of quick assets bearing interest convertible at once into actual cash.

Eighth. It can not produce inflation of the currency, for such currency is convertible into interest-bearing obligations whenever redundant.

Ninth. It can not produce exportation of gold under "Gresham's law," being the most desirable form of paper money circulating.

Tenth. It can not cause any increase in the circulating medium, for the reason that practically all United States 2 per cent bonds are now pledged as security for bank circulation, and the banks, in thus disposing of their bonds without loss, must cause a corresponding amount of their own notes to be canceled.

GREENBACKS.

Section 4 allows United States notes (greenbacks) to be converted into 2 per cent bonds, but as these bonds are interchangeable with currency certificates there will thereby be no reduction in the volume of the circulating medium. It will, however, enable the people, if they so elect, to remove from our financial escutcheon the only blot it has by abolishing the only "fiat" money we have; it will substitute coin in the reserves of our banks for the Government debt now allowed to be called reserve, so that reserve may mean what it should mean, namely, coin and coin only, and we may forget the term "legal reserve," invented to cover a fiction made necessary by the Civil War.

BANK CURRENCY.

Section 5 allows banks to issue circulating notes against assets to the extent of one-half of their capital by requiring 50 per cent of the issue to be maintained in gold coin as a legal reserve, of which one-half must be kept with the Treasury. This restores the bank function of circulation, or note issue, which is a necessity of every commercial community. The mechanism of commercial banks can not be properly maintained without this function, and the needs of the community demand it. Deposits in banks are debts which circulate as money through the medium of checks, and bank notes are only similar debts which

circulate as money by delivery. The fixed restriction by law of the amount of bank indebtedness, which can be expressed in bank notes, has been the principal cause of our financial panics, and certainly the only cause of solvent bank suspensions, to which we alone of all civilized nations have been subject.

Uniformity of circulation at par everywhere is provided by having one place of redemption; knowledge of the volume outstanding is secured by Government supervision as now. Elasticity is obtained by the coin-reserve requirement, as the Treasury will become the clearing house for all bank circulation, each bank sending in for redemption the notes of other banks in order to maintain its own gold reserve. Thus we shall secure for the country a bank currency on a gold basis, circulating at par everywhere, which adjusts itself automatically to the demand of trade.

RESERVE CREDIT.

Section 6 amends the emergency act of May 30, 1908, so as to make it available in case of need by repealing the requirement for having 40 per cent of capital in bond-secured circulation, and also repeals the expiration clause of said act.

It is a well-known principle of banking that in times of financial distress and panic there must exist some source from which undoubted credit may issue. Until the Aldrich-Vreeland law we had no legal method whereby banks could combine and issue their joint negotiable evidence of indebtedness, which would control credit and allay panics. The various clearing houses of the country have, however, been compelled to issue clearing-house certificates not only for their own protection but for the general protection of the whole financial structure; these certificates being the joint and several obligations of all the clearing-house banks, have invariably served their purpose and been the means, though of doubtful legality, of allaying panicky conditions and preserving the credit system from a general collapse.

The law of May 30, 1908, utilized the knowledge of the benefits of this experience and authorized the formation of NATIONAL CURRENCY ASSOCIATIONS, which are practically a combination of separate banks authorized to do legally and promptly what they had heretofore done, only when compelled by necessity, irrespective of the law. Under the Aldrich-Vreeland law we have now existing 296 banks combined into 18 national-currency associations with an aggregate capital and surplus of $575,526,720. The general benefit to be derived from these organizations in time of need may be incalculable, and as a matter of precaution they should be preserved.

UNIFORM TAX.

Section 7 repeals the prohibitive tax on the circulation of NATIONAL CURRENCY ASSOCIATIONS and leaves the tax the same as on other national-bank circulation.

The theory on which this excessive tax was fixed was to prohibit any issuance of notes, except in case of the direst necessity, by depriving the banks of any profit thereon.

The theory of regulating the volume of the circulation by taxation is wrong; banks should be free to express their indebtedness either as a deposit or as a circulating note, in whichever form the customer requires. In the case of the national-currency association the issuance of notes will never be resorted to, except as a means of self-protection and public necessity; the inherent provision of their organization—that all the banks are liable for the indebtedness of any one bank—will, in practice, be a sufficient barrier to incurring such indebtedness in the form of a circulating note if no tax whatever be imposed.

TREASURY FUNDS.

Section 8 requires the Secretary of the Treasury to deposit with the banks any redundant funds of the Treasury in excess of $30,000,000; provides uniform security in all cases, but requires the rate of interest which shall be paid to be fixed by competitive bids.

It has always been considered one of the defects of our financial system that when revenues are largely in excess of expenditures the available circulating medium is contracted by the amount of such excess. Usually the defect is said to be inherent to a separate Treasury system, and the fact is used as an argument for its abolishment.

The truth is, that this defect comes from the destruction of the bank function of note issue, and hence the restricted amount of the currency or form in which the Treasury makes its collections. No financial system can be considered workable or desirable which does not allow Government revenues to be collected without disturbance.

The separate Treasury system, confirmed by 75 years' experience, is most desirable and efficient, and it can be readily adapted to our banking mechanism by simply fixing a limit beyond which its collections do not withdraw the circulating medium from the ordinary channels of trade.

The bill suggests $30,000,000 as this limit. I am informed $25,000,000 available cash or working balance will fully meet all the requirements of the Treasury.

FOREIGN TRADE.

Section 9 allows banks with $5,000,000 capital and surplus to establish foreign branches for the purpose of enlarging and facilitating trade with foreign countries.

The banking capital of the country is consolidated through corporate organizations, and these corporations are not allowed, under the law, to extend the usual facilities which are a necessary requisite of foreign commerce. The purpose of this section is to remedy this defect.

REAL ESTATE LOANS.

Section 10 allows national banks to loan 20 per cent of capital and surplus on real estate security, not because this is sound practice for commercial banks, but because the banks in agricultural communities find it necessary in their legitimate competition with State banks. In response to an inquiry made by the Comptroller of the Currency, 81 per cent of the banks favored this extension of corporate power.

RESERVE AGENTS.

Section 11 prohibits the iniquitous practice of allowing country banks from counting their debit balances against banks located in reserve cities as a part of their legal reserve. The provision of the national bank act allowing this practice was a corollary of the greenback idea that legislation can make a paper debt equivalent to coin. Under such provision the following may be mentioned as some of the absurd results and ill effects:

First. It allows a country bank to convert its own debt, in the form of a circulating note and the similar debt of another bank, into what the law calls a "legal reserve"—"equivalent to coin." The country bank has only to send its notes, or other bank notes, to a reserve city bank and then call the debt "Due from reserve agents."

Second. It diminishes the "legal reserve" required for the whole country by converting the debt of a reserve agent into what is called a "legal reserve." The reserve required under the law for the country bank is eliminated, and the city bank is required to hold a reserve only on its debt to the country bank.

Third. It accumulates in the reserve cities a great volume of undesirable indebtedness called "deposits" or "due to banks," which does not represent the bona fide debts of banks utilized by the industrial community to circulate as money through the medium of checks. Such debts are subject to interest charges and at the same time must be available to the country banks for the legitimate needs of trade. Hence arises the practice of call loans at the stock exchange, thereby forcing the use of this capital for speculative purposes, with the immense variations in rates of interest to which such loans are subject, and the unrest produced in the public mind, not only by such variations but by the rapid rise and fall in the price of securities caused thereby.

DEBT LIMIT.

Section 12 limits the liabilities of banks in proportion to their capital and surplus—that is, in proportion to the margin of security they offer for their indebtedness—and thus places a limit beyond which banks can not be used in overtrading and speculation. The present limit to expansion is fixed only by the amount of reserve required on deposits.

It would seem reasonable and desirable for the general good that bank debts, which are the instruments or substitutes for coin by which the daily interchange of commodities and service is made among the people, should be limited in proportion to the margin of security they furnish. This is the rule and practice in every commercial transaction, and the law in the case of many municipalities.

It is proposed that banks, which under the law are required to carry 15 per cent reserve, shall be limited in liabilities to five times their capital and surplus, and that banks which carry 25 per cent reserve be limited to ten times their capital and surplus, thus making in both cases 35 per cent margin of security when the maximum of liability is attained.

The tendency of this provision will be to induce banks to accumulate surplus earnings and to increase capital stock instead of indebtedness when business requirements demand additional capital, both of which are to the public benefit.

UNIFORMITY OF DEPOSITS.

Section 14 allows the Treasurer of the United States to transfer funds from place to place without charge, and requires

banks to do likewise, so as to produce uniformity in bank deposits throughout the country.

We have the bank debt, in the form of currency, circulating at par everywhere, by having one place of redemption, and there is every reason to believe that the other form of debt, called deposit, may be made equally current.

It is hoped this provision may induce the banks to have one central clearing house for checks, and it would appear that this can be accomplished by extending the membership of the principal Clearing House Association to embrace as a member each of the clearing houses of the central reserve cities and of such other reserve cities as might desire membership. [Applause.]

A bill (H. R. 27139) to amend the national banking laws.

Be it enacted, etc., That any holder of any obligation of the United States bearing interest at the rate of 2 per cent per annum may present the same to the Treasurer or any assistant treasurer thereof and receive in exchange therefor an equal amount of noninterest-bearing certificates of deposit in denominations of $5, $10, $20, $50, and $100 each at the holder's option. Such certificates shall be receivable at their face value for all taxes, debts, and demands due the United States, except customs, and when so received may be reissued.

SEC. 2. That the holder of any such certificate may, at his option, present the same to the Treasurer of the United States and receive in exchange therefor, when presented in multiples of $100, interest-bearing obligations of the Government to the face value of such certificates, bearing interest from the date of such exchange at the rate of 2 per centum per annum, and payable on the same terms and conditions as the original obligation represented by such certificates.

SEC. 3. That the exchange of interest-bearing obligations for certificates of deposit and the reexchange thereof shall be subject to such rules and regulations as the Secretary of the Treasury may adopt in order to facilitate the free interchange thereof.

SEC. 4. That any United States note when presented in multiples of $100 may be converted at par into United States bonds bearing 2 per centum interest per annum, and payable at the option of the Government, and when so converted shall be canceled and destroyed.

SEC. 5. That any national banking association may upon application receive from the Comptroller of the Currency circulating notes to the full amount of its capital stock; such notes are to be secured either by United States bonds, as now required by law, or by a gold coin reserve of 50 per cent of the amount not secured by United States bonds; of such gold coin reserve at least one-half shall always be kept with the United States Treasury, to the credit of such banking association, available for the redemption of the circulating notes upon presentation. Certificate of deposit for gold coin, issued by the United States Treasury, shall be considered as equivalent to gold coin.

All circulating notes issued under the provisions hereof shall constitute a prior lien on all the assets of the issuing bank, and in case of liquidation, whether voluntary or involuntary, all such outstanding notes shall be redeemed and canceled, or a sufficient amount therefor deposited with the United States Treasurer before any division of assets among other creditors. In the event there should be insufficient assets to pay the outstanding circulating notes of the liquidating bank, any deficit shall be assessed and paid pro rata by all other banks having outstanding circulating notes under the provisions of this act at the time of such assessment.

SEC. 6. That the act of May 30, 1908, is hereby amended as follows: In section 1 and section 3 the words following the word "outstanding" are hereby repealed and erased, to wit, "secured by the deposit of bonds of the United States to an amount not less than 40 per centum of its capital stock." Section 20 of said act of May 30, 1908, limiting its duration is also hereby repealed.

SEC. 7. That all circulating notes issued under the provisions of the act of May 30, 1908, shall be subject to the same rate of taxation as provided by section 5214 of the Revised Statutes, prior to the passage of said act, for circulating notes issued against a deposit of United States bonds bearing 2 per centum interest.

SEC. 8. That whenever the available cash balance in the Treasury shall exceed the sum of $30,000,000 it shall be the duty of the Secretary of the Treasury, in his discretion, to require such excess to be distributed equitably and deposited to the credit of the Treasurer of the United States in such designated banks as may by him be selected. Such deposits shall bear interest as may be determined by competitive bids, and are to be payable on demand to the order of the Treasurer, or such person as he may designate, and are to be limited in amount as to any one bank to 50 per centum of its capital and surplus, but the Secretary shall require, before any deposit is made, adequate security to the full extent of such deposit. They may be secured by a deposit with the Treasurer of bonds which are a legal investment for postal savings banks, or by approved commercial bills or notes maturing within four months, indorsed by the depository bank, the face value of such notes to be at least double the amount secured thereby. Such deposits may also be secured by the guaranty or indorsement of the National Currency Association (organized under the act approved May 30, 1908), of which the depository bank is a member. In case of voluntary or involuntary liquidation such deposits shall constitute a prior lien on all the assets of the depository bank.

SEC. 9. That any national banking association having a paid-up capital and surplus amounting to $5,000,000 may establish one or more places of business in the capital or a seaport city of any foreign country for the purpose of facilitating exchanges, granting letters of credit, dealing in gold coin or bullion, and such other business as is authorized by its charter; but such association shall not issue or receive from the Comptroller of the Currency circulating notes in any other unit of value than the dollar of the present standard, though it may be expressed upon the fact of such circulating note the equivalent in foreign gold coin at which it is redeemable on presentation. Such place of business shall be denominated a foreign department or branch, and shall be subject to the same visitorial and other powers as are now conferred by law on the Comptroller of the Currency for all national banking associations; any additional expense attending the periodical examination of such foreign department or branch or the issuance of its circulation shall be assessed and paid by the parent institution.

SEC. 10. That it shall be lawful for any national banking association to loan of its assets not exceeding 20 per centum of its capital and surplus upon real estate security.

SEC. 11. That all provisions of the national-bank act allowing balances due from other banks located in designated reserve cities to be counted as a part of a bank's "legal money reserve" are hereby repealed.

SEC. 12. That the total liabilities of any national banking association (exclusive of its capital stock and surplus) now required by law to keep 15 per centum lawful money reserve shall not exceed five times its capital and surplus, and the similar liabilities of any national banking association now required by law to keep 25 per centum lawful money reserve shall not exceed 10 times its capital and surplus, unless in each case such excess liabilities are fully covered by additional cash assets equal to such excess.

SEC. 13. That the Treasurer or any Assistant Treasurer of the United States is hereby authorized to transfer funds without charge from any depository bank or subtreasury to another against a deposit with him of gold coin or currency, and hereafter it shall be unlawful for any national banking association to make any charge for exchange in making similar domestic transfers.

SEC. 14. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

The CHAIRMAN. The gentleman from Tennessee has one minute remaining.

Mr. MOON of Tennessee. I ask the gentleman from Kansas [Mr. MURDOCK] if he wishes to use any of his time.

Mr. MURDOCK. I will say to the gentleman that there is no request for time on this side.

Mr. MOON of Tennessee. Then I ask the Clerk to read.

The Clerk read as follows:

For salaries of post-office inspectors: For salaries of 15 inspectors in charge of divisions, at $3,000 each; 10 inspectors, at $2,400 each; 15 inspectors, at $2,250 each; 26 inspectors, at $2,100 each; 15 inspectors, at $2,000 each; 29 inspectors, at $1,900 each; 65 inspectors, at $1,800 each; 65 inspectors, at $1,700 each; 75 inspectors, at $1,600 each; and 65 inspectors, at $1,500 each; in all, $704,450: *Provided*, That, for the purpose of inspecting and investigating rural-delivery routes and proposed rural-delivery routes, a number of inspectors, not exceeding 30, shall be placed subject to the orders of the Fourth Assistant Postmaster General whenever and for such periods as in his judgment they may be needed for that purpose.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I notice in this paragraph the items are all precisely the same as in the current law, with the exception that the number of inspectors at $1,700 each is reduced from 75 to 65. The total amount appropriated is not reduced at all.

Mr. LLOYD. Mr. Chairman, the number should be 75.

Mr. MANN. I thought probably that was a clerical error.

Mr. LLOYD. Mr. Chairman, I move to amend by making the number of those who receive salaries at $1,700 75 instead of 65.

The CHAIRMAN. Without objection, the pro forma amendment offered by the gentleman from Illinois [Mr. MANN] will be withdrawn. The gentleman from Missouri [Mr. LLOYD] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 2, line 8, strike out the second word "sixty-five," and insert the word "seventy-five."

Mr. MURDOCK. Mr. Chairman, that is the recommendation of the department, is it?

Mr. LLOYD. Yes, sir; that is the recommendation of the department, and it is the same as the existing law.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Missouri [Mr. LLOYD].

The amendment was agreed to.

The Clerk read as follows:

For per diem allowance of inspectors in the field while actually traveling on official business away from their homes, their official domiciles, and their headquarters, at a rate to be fixed by the Postmaster General, not to exceed $3 per day, $261,400.

Provided, That the Postmaster General may, in his discretion, allow inspectors per diem while temporarily located at any place on business away from their homes or their designated domiciles for a period not exceeding 20 consecutive days at any one place, and make rules and regulations governing the foregoing provisions relating to per diem: *And provided further*, That no per diem shall be paid to inspectors receiving annual salries of $2,000 or more, except the 26 inspectors receiving $2,100 each.

Mr. BARTLETT. Mr. Chairman, I have an amendment which I wish to offer.

The CHAIRMAN. The gentleman from Georgia [Mr. BARTLETT] has an amendment which the Clerk will report.

The Clerk read as follows:

Amend, page 3, at the end of line 5, by inserting:

"*And provided further*, That no part of the sums herein provided for the salaries of post-office inspectors or for per diem allowances to such inspectors shall be paid or allowed to them while they may be engaged in making selections and recommendations for the appointment of fourth-class postmasters."

Mr. LLOYD. Mr. Chairman, I reserve a point of order against that.

Mr. BARTLETT. Mr. Chairman, I do not think the amendment is subject to the point of order. I will not discuss that, because really it is a limitation as to the expenditure of the money. This question as to whether it was subject to a point of order was decided by the chairman who presided over the Committee of the Whole House on the state of the Union when the legislative, executive, and judicial appropriation bill was under consideration, and I think the Chair is informed as well

now of the parliamentary precedents as he would be if I should discuss it for any length of time. It is a limitation on the expenditure of the money provided for in this particular paragraph for these particular officers.

Now, Mr. Chairman, the gentleman from Tennessee [Mr. MOON], in charge of this bill, stated that in the matter of fourth-class post offices there was no reason why the Government should be involved in any expense whatever. I hold in my hand the order and the regulations promulgated by the Civil Service Commission and by the Postmaster General, and approved by the President, carrying out his order of October 15, 1912, in which he placed the fourth-class offices, which had not already been by the preceding administration put under the civil service. I had occasion on the 6th of December, when I offered a similar amendment to the executive, legislative, and judicial appropriation bill, to call attention to this order and to offer the same amendment to that bill. I concede now that it was not exactly in place upon the legislative, executive, and judicial appropriation bill as I offered it, and the reason, I apprehend, that it was not received more favorably by the committee then considering the bill was that it was awkwardly expressed in relation to the subject matter then being considered by the committee. And I remember very well that the gentleman from New York [Mr. FITZGERALD], and those who opposed it, insisted that that was not the proper place in which to make such an amendment. Now we have the proper place for it. We have the Post Office appropriation bill here to provide for the salaries and the per diem, and the expenses of the post-office inspectors. Now, Mr. Chairman, at the time of this order there were some thirty-six thousand three hundred and odd offices covered into the civil service.

Of this number 31,799 would come under the provisions of the order and regulation which permits post-office inspectors to investigate, to make reports and recommendations with reference to the appointment of these fourth-class postmasters. So that we have here a provision for the pay of 395 post-office inspectors; upon this order devolves the duty of selecting fourth-class postmasters.

Last year when the appropriation bill for the Post Office was up I had occasion to call attention to the fact and to read from hearings before the committee as to why it was that those of us who are entitled to the consideration of our applications from our districts to establish and extend the rural free-delivery routes had been met with the statement from the Post Office Department that there had been this long delay in the establishment of rural routes because the inspectors were engaged on other work.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BARTLETT. Mr. Chairman, I ask for 10 minutes more. Then I shall not ask any further time.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. BARTLETT. I understand, Mr. Chairman, that I am proceeding in order when I discuss the merits of the amendment.

Mr. LLOYD. Mr. Chairman, in order that there shall be no question about that, I withdraw the reservation of the point of order and will let this be voted on upon its merits.

Mr. BARTLETT. Now, Mr. Chairman, we know that these inspectors were engaged on the business that had accumulated in the department, on frauds that had been perpetrated in the use of the mails, and we were told that that was one reason why this service of rural routes could not be extended, as contemplated by Congress. We were also met with the report that out of the money appropriated by Congress for this service there remained $1,200,000 unexpended. We were also met with the statement that there were applications that had received the favorable indorsement of the inspectors for two years remaining unacted upon.

Now, it is proposed by this order to place 36,000 post offices under the civil-service law, and to burden the inspectors of the Post Office Department with the duty of selecting or rather recommending for appointment 32,000 of these. Now, Mr. Chairman, speaking for myself—and I believe for the section of country from which I come—I do not appreciate that keen desire to look after the civil service and its proper observance that waits until these offices have been filled, without regard to the recommendations of the patrons of the offices, without any recommendations from the Representatives of the people in those districts, without even consultation, until those offices had been filled by the indorsement of those whom this Republican administration has seen fit to call its referees in those various States, and when those various postmasters from the first to the fourth class have, for four successive presidential campaigns, been called upon to aid in furnishing delegates favorable to the nomination of some one candidate for President. I say I do not relish that or appreciate that keen desire now on the part of the Executive to cover hurriedly into the civil service the men thus appointed to fourth-class post offices in the section from which I come.

Now, let us see what these inspectors will have to do in connection with appointments to offices having an annual compensation of less than $500, and there are some 32,000 of them embraced in this order. Those appointments will be made in the following manner:

When a vacancy has occurred or is about to occur in any such office, the Postmaster General shall direct a post-office inspector to visit the locality and make selection and recommendation for appointment from among the persons filing applications, such selection and recommendation to be based solely upon the suitability of the applicant and his ability to provide proper facilities for transacting the business of the office. The inspector shall make his report in duplicate and accompany each duplicate with a list of all applicants. Such report shall include a statement of the qualifications of each applicant and of the reasons for the selection and recommendation. The Post Office Department shall transmit to the Civil Service Commission one copy of such report, showing its action thereon.

Now, the duty is devolved upon these inspectors by this civil-service order—not by a statute, but by an order of the President and the Civil Service Commission, approved by the Postmaster General—and this increases the duties of these inspectors and puts an addtional duty upon them to go to the communities where there is a vacancy, to investigate and hear all the applicants, to take the testimony, and make a selection or report or recommendation to the Postmaster General. Now, I apprehend that some of us are going through the process of being told who is the best man to serve as postmaster in a particular office. I know I am.

Mr. LLOYD. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. BARTLETT. Yes.

Mr. LLOYD. Suppose this order should not be revoked or materially changed. Would the gentleman have these inspectors render the service without compensation?

Mr. BARTLETT. No; I would not. But this is the only way I can legitimately put upon this bill my disapproval, and I apprehend that the Postmaster General, if Congress will not permit him to pay for this, will not require this service. If this bill becomes a law and carries this provision, I hope in the near future that this pretension, this sham reform in the civil service, will meet at the hands of the incoming President the fate it deserves—to be suspended or revoked altogether. So far as I am concerned, I have no hesitancy in saying that I hope he will revoke it. But for the reason that the proposition would be in violation of the rule, I would offer in this bill an amendment to revoke it by legislative action.

Now, Mr. Chairman, I have no desire to punish the inspector. I have no desire to say that the inspector shall not be paid what he deserves or for the work that he performs. But will the gentleman from Missouri [Mr. LLOYD] tell me what authority the Civil Service Commission has to direct how the postmasters shall be appointed? What authority have they to require that the inspector shall investigate and make this report for appointment of postmasters?

Mr. LLOYD. Mr. Chairman, under the law at the present time the Postmaster General makes the appointments of fourth-class postmasters, and the President of the United States made this order.

Mr. BARTLETT. Yes; that is true. But I apprehend the Postmaster General, if Congress adopts this provision, will not require the inspectors to perform a service for which they are not paid, and the Postmaster General will not allow them a per diem and will not force them to perform service for which they shall not be paid.

Mr. GARNER. Mr. Chairman, will the gentleman from Georgia permit me to ask the gentleman from Missouri a question?

Mr. BARTLETT. Yes.

Mr. GARNER. Do I understand the gentleman from Missouri to say that this is the best way to enforce the Civil Service Commission's rules with reference to fourth-class postmasters?

Mr. LLOYD. No, sir. I am not taking any position about it at all. The only thing pending is the amendment offered by the gentleman from Georgia, and the purpose of the questions I have asked him is to draw out his opinion and to get his views on it. I am not taking any position on it as yet.

Mr. BARTLETT. Now, Mr. Chairman, the purpose of this was to acquire information as to the qualifications, and yet in reference to fourth-class postmasters their qualifications are to be ascertained by an examination conducted in accordance with the circular which I have in my hand, proceeding from the Civil Service Commission. But that only applies to about

4,000 officers embraced in this last order. When it comes down to the vast majority of these officers—32,000—no qualification is necessary except the indorsement of the post-office inspector. So that is another travesty upon the effort to improve the civil service. In 4,000 offices they must be efficient, as shown by an examination. In 32,000 they only have to satisfy the post-office inspectors.

Mr. COX. Will the gentleman yield for a question?

Mr. BARTLETT. Certainly.

Mr. COX. The gentleman does not believe, does he, that the purpose of the civil-service law has been carried out in the selection of fourth-class postmasters or rural route carriers or any others?

Mr. BARTLETT. I do not think it has been carried out in my section in the selection of fourth-class postmasters, because they have all been selected regardless of anything except the indorsement of the three Republican referees of the State of Georgia, and the same in other Southern States likewise.

Mr. COX. The gentleman believes that politics has played a very important part?

Mr. BARTLETT. Not only a very important part, but the chief part. The sole requirement is the indorsement of the political referees.

Mr. COX. What has been the politics of the fourth-class postmasters who have been selected?

Mr. BARTLETT. Where they could get a Republican, they took him. Where they could get a man who was not a Democrat, they took him. When they could do nothing else, they took a Democrat; and sometimes they appointed a woman.

Mr. COX. Can the gentleman give any idea about what proportion of postmasters are Republicans and what proportion Democrats?

The CHAIRMAN. The time of the gentleman has expired.

Mr. BARTLETT. I should like a few minutes more. I have no information upon that subject, because when it became a fact that men not residing in my district, who had no interests there, were the authority who selected the postmasters in my district, whether they were wanted by the patrons or not, I had nothing further to do with it and did not feel that I was called upon to keep posted as to what number were of one political faith and what number were not. Fortunately, in my part of the country it was very rare that they could find a Republican.

Mr. GARNER. But wherever they could find a Republican they invariably appointed him, regardless of the sentiment of the community to be served?

Mr. BARTLETT. Yes; and they appointed that man, whether he called himself a Democrat, a Populist, or nothing, and sometimes a lady, who had the indorsement of the political referees or of a member of the Republican committee in that district; and sometimes, as the facts will show, those appointments were sold, so much being paid for the recommendation, not to the three referees, but to the particular committeeman in the district who recommended him, whose recommendation was all powerful with the referees; so much so that this Congress passed a law making it a crime to pay money for recommendations to office, and that law was passed in this House at the instance of my colleague, Mr. HARDWICK, because of this abuse in the recommendations for the appointment of postmasters. Therefore, I say that it a late day to wake up to realize that the post offices need "civil-service reform."

Mr. CLINE. I should like to ask whether civil-service examinations for fourth-class postmasters extend also to assistant postmasters in first, second, and third class offices when vacancies occur?

Mr. BARTLETT. I think so. I see from the testimony of the First Assistant Postmaster General that there are no assistants in the third-class post offices, except that provision is made in addition to the salary of the postmaster, who himself employs his assistants out of that salary. In the first and second class offices I understand that, they having been covered into the classified civil service in 1910 by order of the President, they now are to be appointed by promotion from those who are are on the civil-service list, and assistant postmasters are to remain covered in as they were by that order; or, if a vacancy occurs, they are to be appointed under the civil-service law by promotion from the employees in the post office. That I understand to be the testimony of Dr. Grandfield, First Assistant Postmaster General. That is as far as I can answer the gentleman's question.

Mr. FOWLER. Mr. Chairman, I move to amend the amendment by striking out the last word.

I am not unmindful of the high duties imposed upon post-office inspectors. Neither am I unmindful of the great necessity of having such public servants; but within the last year I have found certain post-office inspectors making trips down into southern Illinois and making unfair investigations in at least two instances. I rise for the purpose of protesting against any man—public servant—being sent into any locality for the purpose of serving any other purpose than that of high moral and important duty to the United States. I insist, Mr. Chairman, that no post-office inspector has a right to go into any community as the servant of any class of men in that community or elsewhere for the purpose of making an unfair investigation so that the record of an incumbent postmaster may be blotted by a foul and unholy report made for that purpose. I insist that wherever such has been the case and wherever it is attempted public opinion and public interest ought to be respected and protests ought to be seat in by the people to the Post Office Department.

I have no disposition to criticize the Post Office Department of this country, but I do have a disposition to protest against any investigation in my district for the purpose of bringing about a partisan or an unfair investigation of the management of any post office in my district. My first duty is to my district, and my second duty is to the other districts of my country. And wherever an attempt is made to investigate a post office in my district for the purpose of gratifying the desire or whim of any set of men who seek to make a false record of local sentiment or to blacken the record of any incumbent postmaster, whether he be Republican or Democrat, Progressive or otherwise, as long as I represent that district I shall protest against it.

Mr. Chairman, I have discovered in one instance wherein one of these post-office inspectors fell into the hands of a certain class of men who sought no other end than that of defeating the will of the majority of the people in that town, and his recommendations, which were founded on the evidence of this class of people, were taken by the Post Office Department as the truth and as the will of the people of that town. I withdraw my pro forma amendment.

Mr. MANN. Mr. Chairman, the Constitution of the United States in describing the power of the President provides that—

> He shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments.

It is quite within the power of Congress to provide that fourth-class postmasters shall be appointed by the Postmaster General, taking it wholly out of the hands of the President. President Taft has issued an order providing that these appointments shall be made through the Civil Service Commission and—in fact, to a large extent—through the post-office inspectors. It is within the power of Dr. Wilson, who will be President after the 4th of March, to revoke that order instantly, if he desires to do so, and to provide that fourth-class postmasters throughout the Union shall be appointed hereafter as they were appointed 10 years ago.

Now, the gentleman from Georgia [Mr. BARTLETT] offers an amendment, which my colleague from Illinois [Mr. FOWLER] supports, that the inspectors shall not be paid for services which they render. Of course, if Congress provides that the inspectors shall not be paid, the President will provide an order under which somebody else under the Civil Service Commission will select these fourth-class postmasters. It would not change the selection under the civil-service order except the manner of selecting them, and certainly President Taft will not be overwhelmed by Congress providing that the post-office inspectors shall not be paid when they render services in selecting postmasters. All he has to do is to change the order and provide that they shall be selected, as most other employees in the classified service are selected, purely through the Civil Service Commission.

If that side of the House really desires to place itself on record in favor of the spoils system, the proper way to do it is to pass a law, which you have the power to do, providing that these officers shall be appointed by the Postmaster General, or else get Dr. Wilson to state that he will revoke the order, and when he is installed as President let him revoke the order.

Mr. GARNER. Will the gentleman yield?

Mr. MANN. I will.

Mr. GARNER. If I understand the tenor of the gentleman's remarks, does he believe in selecting fourth-class postmasters by civil service?

Mr. MANN. I believe in selecting all administration officers of the Government, outside of the very heads, through the merit system. They are all in the civil service, and I do not know exactly what the gentleman means.

Mr. GARNER. Does the gentleman believe it to be fair and in the best interests of the Post Office Department to cover into the civil service in the State of Texas all fourth-class post-

masters who have been selected by one man, regardless of the views of the patrons to be served or the qualifications of the men who render the service?

Mr. MANN. These men are in the offices, and they can be removed if there are any charges against them for which they ought to be removed. They can be removed by the next administration as well as by the present administration. There are thousands of Democrats holding office in Washington now who were covered into the classified service by order of President Cleveland, issued as he was leaving his office. We are not complaining about that. What you complain of is an order issued by President Taft covering a portion of the fourth-class offices into the classified service because it happens to hit you now.

Mr. NORRIS. Will the gentleman yield?

Mr. MANN. I will.

Mr. NORRIS. I would like to ask if it is not true that every order that has ever been issued by a Republican or a Democratic President has covered into service men who were then holding positions?

Mr. MANN. Of course; that is always the case.

Mr. NORRIS. And always must be the case.

Mr. MANN. Yes; there is no other way to provide for the extension of the civil service except in that manner. But I wish the gentlemen, if they really believe that this change ought to be made, would make the proposition in such a way that it will be effective.

Mr. LLOYD. Mr. Chairman, in connection with the inspection service there is one unfortunate thing, and that is, viewing it purely from the standpoint of the civil-service law, by some kind of means, I know not whether it is fair or unfair, there are at the present time about 334 Republican inspectors out of 395; and the unfortunate situation that presents itself practically is that a Democratic administration is coming into office and about 40,000 postmasters, who were selected because of their political inclinations, are, at the close of a Republican administration, covered into the service.

Now, if this law permitted an examination of some kind to be made before the individual secured his position, and if the post offices of the country were left open for examination under civil-service regulations after the 4th of March, I do not believe that the Democratic Party would be in a position to make the complaint that it now makes. We are not disposed, and the gentleman from Georgia, notwithstanding he offers this amendment and offers it in the best of faith, to interfere with the efficient service of this Government. But when you cover into the service at the close of the administration 40,000 employees, who secured their positions because of their political faith, and then say, in effect, that these men are to remain in their positions as long as they live or until charges shall have been preferred against them, it does not appeal to a party that will come into power after the 4th of March.

Mr. GARNER. Neither does it appeal to the sense of justice with reference to covering into the civil service men who have been elected regardless of their efficiency, and men that could not be elected to the positions that they are now serving in.

Mr. BARTLETT. And did not get the indorsement of their patrons.

Mr. MURDOCK. Mr. Chairman, I am somewhat interested in the remarks of the gentleman from Missouri, and I would like to know upon what evidence he bases his statement that there are more than 300 Republican inspectors?

Mr. LLOYD. By a kind of investigation that I think is somewhat correct.

Mr. MANN. I think there ought to be better evidence than that; my information is that the gentleman is entirely incorrect in that statement.

Mr. GARNER. Mr. Chairman, will the gentleman from Illinois [Mr. MANN] give us his understanding of the political faith of the post-office inspectors of the United States?

Mr. MANN. I do not know what the proportion is, and I do not believe another soul on earth does.

Mr. BARTLETT. Not now.

Mr. GARNER. I understood the gentleman to say that was his information?

Mr. MANN. Yes.

Mr. GARNER. Then the gentleman must have some information on the subject?

Mr. MANN. I have information enough to say, from what I have been informed, that I believe there are more Democratic inspectors than stated by the gentleman from Missouri [Mr. LLOYD] by a considerable number.

Mr. MURDOCK. There will be after March 4, 1913.

Mr. GARNER. About what percentage?

The CHAIRMAN. The gentleman from Missouri [Mr. LLOYD] has the floor.

Mr. LLOYD. Mr. Chairman, if the test were a request of the inspectors to determine what was their political faith on the 4th of March, 1909, then I think no man who is advised at all would question my statement.

Mr. MADDEN. Yes; but I think the test should be as to what their politics is as of the 4th of March, 1913. You will have them all Democrats then.

Mr. LLOYD. But if you want to raise the question with the inspector to-day, with the knowledge that on the 4th of March the administration will change, I think you would find that perhaps 50 per cent of them were Democrats on the 4th of March, 1913.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. LLOYD. Mr. Chairman, I ask unanimous consent to proceed for one minute.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. LLOYD. Mr. Chairman, I do not want to treat lightly the post-office inspector. He is one of the most important factors in the postal regulations. He is one of the best men in that service. More is dependent upon him than on any other employee in the postal service. As a rule he is a man of honor, of integrity, of uprightness, and he wants to do the fair thing. There are exceptions. I do not wish to see him placed in a position where the charge of partisanship in the selection of postmasters throughout the country will be made against him.

Mr. NORRIS. Mr. Chairman, I do not believe anyone would be so unjust as to suggest that in trying to discuss this question I am moved by any partisan motive, because it has been quite a long time since I have had any opportunity to recommend for office anybody with any hope whatever of their getting the office. In fact, my recommendation was sufficient for the loss of all hope, and yet I want to say to the gentlemen on the other side that it seems to me they are taking a narrow view of this situation when they criticize President Taft for placing the fourth-class post offices under the merit system. If I had my way, I would put the whole Post Office Department under that system. I would put the Postmaster General under that system.

Mr. LLOYD. Mr. Chairman, will the gentleman yield?

Mr. NORRIS. I will in a few minutes. It can be done under the Constitution by the passage of proper legislation by Congress. The gentleman from Missouri [Mr. LLOYD] has referred to the large proportion of Republicans who are post-office inspectors. I have an idea, without definite knowledge of it, but from general conditions I think it would be apparent that under Republican administration the majority of them would be Republicans and under Democratic administration the reverse would be true, and they would be the same men holding the same offices, to a great extent.

The gentleman from Missouri has himself suggested an answer to his own question. That is natural. I will admit there are a great many evils, and there always will be. It is merely a question of reaching as near an ideal condition as possible. We can not expect the inspectors to be any different when the men who are above them are partisans. They necessarily want to please those who have power and jurisdiction over them, and it is quite natural, at least in the majority of cases, that men should shade their partisanship in accordance with the necessities of the occasion. We can remedy all of that if we will take out of politics the men above them. My experience, brief as it has been, with post-office inspectors has been very pleasant. Those with whom I have come in contact I have thought were trying to do their duty—almost all of them at least—without regard to politics and without regard to anything except the conscientious performance of duty. There are exceptions. Even those who want to do what is right might be led to stretch their conscience and do something in a partisan way that was not right if they knew it would please those above them who hold their office as a reward for partisan work in political campaigns.

The Post Office Department is the greatest department of our Government. You can compare it to a great corporation. It ought to be run on principles that are entirely foreign to partisanship. There is not any reason why the postmaster in Georgia or in Nebraska should change simply because there is a change in the occupant of the White House. There is not an official duty or any official in the Post Office Department, from the Postmaster General down to the man who cleans the spittoons in the post office, that is in any way partisan or that bears any relation to partisanship, and partisanship ought to be divorced from it in order that the entire people, regardless of politics, might be best served, and in order that all the work of that great department should be done in the highest order with the greatest efficiency and the greatest amount of good

and the least amount of unnecessary expenditures of public funds.

The CHAIRMAN. The time of the gentleman has expired.

Mr. NORRIS. Mr. Chairman, I desire to yield to the gentleman from Missouri [Mr. LLOYD], who wanted to ask me a question, and I will ask that my time be extended for five minutes in order that I may do so.

The CHAIRMAN. The gentleman from Nebraska asks unanimous consent that his time be extended for five minutes. Is there objection?

There was no objection.

Mr. LLOYD. I was going to ask as a question of fairness and equity, as the situation now presents itself, with 40,000 postmasters selected because of their partisan faith, why they should now be covered into the service and the Democratic Party have no right to change their political complexion.

Mr. NORRIS. Mr. Chairman, I get the force of the gentleman's suggestion. The only criticism I have of President Taft's order is that he should have issued it three or four years earlier than he did; but in defense of it I would say that he has precedents for all of these orders. Grover Cleveland did the same thing, and so did other Presidents. Whenever they extended the merit system under the law they put under the system the officeholders who were then holding the positions. If President Taft has now placed anybody under that system who is incompetent, I presume it would be proper that charges should be preferred against him and he would be removed, as he ought to be.

If there is a way to put them under, to extend this merit system, without putting those of a political partisan belief in complete control, I would be glad to do it.

Mr. LLOYD. Under the Civil Service Commission, if these are to be covered into the service, could not the order be so changed as to provide for the examination and to allow all parties—Democrat, Republican, Progressive, Socialist, and Prohibition—to come in?

Mr. NORRIS. It applies to the appointments——

Mr. LLOYD. It applies to new appointments; but the fact is, the man is in, and he is going to stay in as long as he can.

Mr. BARTLETT. If the gentleman will permit me, the examination does not apply to the new appointments except where the offices pay over $500, and there are 30,000 that do not pay over $500.

Mr. NORRIS. I had that particular question up with the Civil Service Commission—and I do not think anybody here will charge those gentlemen with being in any way partisan in the discharge of their office. I had up that particular proposition, and they were laboring then, at the request of the President, on the question of seeing whether it was a practical proposition to put these fourth-class post offices under the merit system. They told me at that time—and I think it will appeal to all of us—that in a great many fourth-class post offices the competition was not between men to get the office, but the question was to get somebody to take the office. We have many fourth-class offices in different districts in which we do not have men to take the post office—at least I do have many in my district—and in the question of post offices it is more often a question of getting somebody to take an office, and in such offices, when I recommended men for appointment, there never was a question of politics raised. It did not make any difference what the politics of a man was in those small offices; it was a question of getting a man to take it. But the Civil Service Commission in working out a practical scheme concluded it was useless to make extended examinations and make provisions for examinations to be made when there was no one who wanted the office, and they provided this plan of inspectors to make the investigation. I think they did it in good faith. I do not know how it has worked. If it is working all right, I think it ought to be continued. If it is not working right, I think the Civil Service Commission would be glad to change it. But there are a large number of fourth-class post offices where, if you were to advertise for applicants, you would not get a single applicant. If there is any better way of extending the merit system so as to include the fourth-class postmasters than is provided in this order, then let us have it. The President followed the precedents in doing it, but I am not wedded to it on this account, and I would be glad to support any plan to improve it; but it is a big improvement over past conditions, and I will not consent to tear it down until you can suggest something better to replace it.

Mr. MADDEN. Mr. Chairman, we are talking on this question of post-office inspectors on the assumption that it is a political office and that everything the post-office inspector does is a partisan act. No man can be appointed a post-office inspector who is not recruited from the ranks of the post-office service. No man in the ranks can get a place as post-office inspector until he has served a certain number of years and reached a certain grade, and even then he can get to be a post-office inspector only as the result of examinations, for which he is designated.

Mr. LLOYD. That is absolutely true, unless an order is made waiving the rule.

Mr. MURDOCK. Will the gentleman yield for just one word there?

Mr. MADDEN. Yes.

Mr. MURDOCK. Will the gentleman explain what the process of designation is in the Post Office Department for the examination of those who desire to be inspectors?

Mr. MADDEN. So far as I am able to do so I will. I made a sort of an examination of the chief inspector one day before the Post Office Committee, and I made some inquiry as to how these men reached the place known as post-office inspectors, and I was told just what I have stated, that the man must have been in the service a certain number of years; that he must have reached a certain grade before he could be designated for an examination; that the designation is made, of course, by the chief inspector, and if the chief inspector is a rank partisan he can reject an applicant and designate anybody that he chooses, and to that extent, of course, the chief inspector has the power of life or death over the appointment of an inspector. I think that that is a fair statement of the case. But in the city from which I come——

Mr. BARTLETT. May I interrupt the gentleman?

Mr. MADDEN. Surely.

Mr. BARTLETT. The gentleman does not understand me as making any attack on inspectors? I have not done so here. I am attacking the system.

Mr. MADDEN. I am only trying to explain what I understand to be the situation.

Mr. BARTLETT. The gentleman does not understand that I said anything in reference to the political office of inspector? I know some of them, and I know some of them who are pretty rank partisans, too.

Mr. MADDEN. What I was saying, Mr. Chairman, was this, that under the civil-service rules any citizen of the United States who is of good character and proper age, and who has the necessary qualifications, can take the examination which is prescribed, and enter the public service, and I undertake to say that in the neighborhood of where I live there are more Democrats who take the examination for entry to the public service than there are Republicans, and I have never yet seen any discrimination exercised by the appointing power of the local post office in Chicago.

Mr. GARNER. The gentleman just a moment ago said something as to his entering the public service. It is rather a particular service.

Mr. MADDEN. The Post Office Department——

Mr. GARNER. That does not include postmasters?

Mr. MADDEN. No.

Mr. GARNER. That includes those who have gone into the service under the civil service?

Mr. MADDEN. Yes. And it is from this class of men that I describe, who are eligible to appointment after examination, that inspectors are made. Now, whether the man who is at the head of the inspecting force already has power to appoint, may be so rank in his partisanship that he will not recognize merit rather than politics, I do not know.

But I assume that men do not rise to places of merit in a great business institution like the postal service unless they are qualified, and I do not know of anything in the nature of partisan politics that ever qualified a man for the performance of a business function.

Mr. TOWNSEND. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from New Jersey?

Mr. MADDEN. Certainly.

Mr. TOWNSEND. I would like to inquire of the gentleman how this eligible list from which these appointments are made is established.

Mr. MADDEN. It is established by reason of the fact that the man has served the requisite number of years and has reached a requisite standard of efficiency, and from that class of men designations are made, and from that class only.

MESSAGE FROM THE SENATE.

The committee informally rose, and Mr. RUSSELL took the chair as Speaker pro tempore.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8768) to regulate the business of loaning money on security of any kind

by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia.

The message also announced that the Senate had passed the following order:

Ordered, That the Secretary of the Senate do acquaint the House of Representatives that the Senate, sitting as a High Court of Impeachment, will on Monday, the 13th day of January, instant, at the hour of 1 o'clock p. m., proceed to announce judgment on the articles of impeachment exhibited by the House of Representatives against Robert W. Archbald.

POST OFFICE APPROPRIATION BILL.

The committee resumed its session for the further consideration of the Post Office appropriation bill, H. R. 27148.

Mr. RODENBERG. Mr. Chairman, I would like to ask my friend from Missouri [Mr. LLOYD] a question. He seems to be greatly exercised about the Executive order placing fourth-class postmasters under the protection of the civil service. I would like to inquire whether the gentleman is aware of the fact that the organization known as the National Civil Service Reform League has for years been advocating the classification of fourth-class postmasters?

Mr. LLOYD. Yes; I am aware of that.

Mr. RODENBERG. Is the gentleman also aware of the fact that the President elect, Woodrow Wilson, has for years been a most active member of that National Civil Service Reform League, and that he has frequently participated in the deliberations of that league where they unanimously advocated the classification of postmasters?

Mr. LLOYD. No, sir; I did not know that.

Mr. BARTLETT. May I ask the gentleman a question while he is up?

The CHAIRMAN. Does the gentleman yield?

Mr. RODENBERG. Yes.

Mr. BARTLETT. The gentleman himself was at one time a member of the Civil Service Commission, was he not?

Mr. RODENBERG. Yes, sir; and that is the reason why I happen to know the attitude of the President elect, because he was one of the active members of the Civil Service Reform League.

Mr. LLOYD. So far as I am personally concerned, I do not know anything about the views of the incoming President.

Mr. CANNON. Does the gentleman think he has reformed? [Laughter.]

Mr. RODENBERG. I have no information about his reformation.

Mr. CLINE rose.

The CHAIRMAN. The gentleman from Indiana [Mr. CLINE] is recognized.

Mr. CLINE. Mr. Chairman, I want to make an observation about the extreme fairness that has been assumed by the gentlemen on the other side and in justification of the President as to the execution of the civil-service law. I am speaking as the result of my own observation, and my belief is that there is not a first, second, or third assistant postmaster in the range of my acquaintance that is not a Republican politician and who was appointed simply because he was a political factor, had rendered political service, and received his position as a reward for the service he had rendered.

Now, if the President had sought to present to the country an exhibition of fairness, why did he not invoke the same rule then, or see that it was enforced, that he now seeks to invoke, namely, that when a vacancy occurs in a first, second, or third assistant postmastership in these offices one of the staff in the post office should be promoted to that position, one who has gone through the examination and qualified himself. That would have been an exhibition, I take it, of real fairness on the part of the President.

I say it is not an exhibition of good faith in the execution of the law to induct into responsible official positions a lot of ward politicians, without examination, without any qualification except that they are Republicans, and then cover them with a civil-service blanket, under the pretense that you are executing the civil-service law for the good of the country.

I want to say to gentlemen on the other side that we on this side are just as strongly in favor of the execution of the civil-service law as you are. What we are opposed to is the system by which you have emasculated the law. That is what we are opposed to. In some manner, in some way, through some process in the execution of the civil-service law it has happened in places such, for instance, as those of rural carriers and fourth-class postmasters, that 90 or 95 per cent are Republicans. Take my own district, which has 168 rural carriers. Less than 20 of them are Democrats.

Mr. RODENBERG. How many of those carriers were appointed before the civil-service examination was required?

Mr. CLINE. I do not know. I can not answer that question.

Mr. RODENBERG. That is quite material.

Mr. CLINE. Less than 20 of the 168 are Democrats. But the method of appointing rural carriers which is actually in practice was adopted because, as every man in this Chamber knows, they are the most efficient political agency there is in the country.

Mr. RODENBERG. They were not very effective last November.

Mr. CLINE. That was not their fault. Every carrier who goes out to deliver mail on a rural route knows the politics of every man on his route, and I know that it has been made a part of his business to report to his superior the political condition of every man on his route where there is any question about his political loyalty. I am not arraigning the rural carriers. They are good men, but because of the environment of their appointment, the manner of their selection, they felt under obligations to the men who appointed them or to the party that appointed them. We are as much in favor of a pure civil service as you are, but we do not want to have a vicious system employed for the emasculation of the law. We want the law executed in good faith. That is our position upon that point. We say that in order to exhibit the fairness that it is now pretended the President has shown in his order he ought to have advanced the first, second, and third class assistant postmasters in the same manner in which he now seeks to have them appointed, by promotion from the places that have been filled by examination. [Applause.]

Mr. COX. Mr. Chairman, as discussion upon this question seems to be the rule, I want to say a few words. In the first place, I desire to say that I am in favor of the civil-service law as it is written on the statute books, and I am further in favor of its being administered according to its spirit and intent. I have no quarrel with the law. I think it was originally designed for a splendid purpose. I think if it was justly and properly administered it would serve the country admirably. But I desire in a few words to call the attention of members of this committee to its fraudulent and vicious administration in the State of Indiana.

I want to add to what my colleague [Mr. CLINE] has said, and I base my statement upon an investigation which I have made in the State of Indiana relating to rural carriers, city carriers, and fourth-class postmasters in the State of Indiana. There are between 1,500 and 1,800 rural-route carriers in Indiana, and less than 5 per cent of them are Democrats. Less than 5 per cent of them were Democrats when they were appointed. I am not laying the blame for this at the doorstep of the Civil Service Commission. I do not know where to lay the blame. If I did, I would lay it there. But to me and to everyone in the State who has given a moment's thought to the subject, it is plain that there is some underground tunneling method somewhere; that there has been an undertunneling method somewhere, some place, somehow, to always indicate the name of the Republican who stood the examination.

Mr. MADDEN. Perhaps you will find it when you get into power.

Mr. COX. I am going to do my level best to do it.

Mr. MANN. That is something I have never been able to do.

Mr. BEALL of Texas. Does the gentleman from Indiana intend to use it when he finds it?

Mr. COX. I intend to use it if I ever get the chance. Some system has been in vogue by which somebody, either the Civil Service Commission or the head of a department who calls for a certain employee to be certified by the commission, is told that a certain man is of a certain political faith.

Mr. MADDEN. The Civil Service Commission are Democratic now, and have been for a good many years.

Mr. COX. They say they are.

Mr. MADDEN. Oh, well, they are.

Mr. COX. I do not know anything about their politics, but if they are Democrats they or some one else has played a great game of politics for the Republican Party. I am talking about conditions, and I am talking about the manner in which I know the civil-service law has been administered in the State of Indiana.

Mr. MURDOCK. Does the gentleman mean to segregate the rural carrier service when he makes his last statement? I am interested in what the gentleman says, and I am anxious to know if he intends his remarks to apply particularly to the rural carrier service.

Mr. COX. My remarks apply all along the line, as to the manner in which the civil-service law has been administered, including the Rural Free Delivery Service.

Mr. MARTIN of South Dakota. In all the gentleman's investigations has he not been able to locate the way in which the civil-service administration could be twisted politically?

Mr. COX. I will say to the gentleman from South Dakota that I have not got to that point, but I am getting the information compiled now in the State of Indiana, and later on I proposed to introduce a resolution, and if I can have the House pass it, I propose to locate the responsible parties who have dug the underground tunnel whereby the law has been violated or not enforced at all in any sense of the word.

Mr. MOON of Tennessee. Does the gentleman from Indiana know how it is that the inspectors are frequently appointed?

Mr. COX. I know that the present inspector was appointed from civil life. He was not a post-office inspector at all. The President just suspended the civil-service law and dumped him into the office.

Mr. MADDEN. You can do that when you get your man in.

Mr. COX. The trouble is they have got all the jobs filled in Indiana, so far as the rural routes are concerned.

Now, Mr. Chairman, I desire to restate briefly what I stated a moment ago, at the risk of repetition. I am in favor of the civil-service law. I believe it was originally designed for a splendid purpose.

The CHAIRMAN. The time of the gentleman has expired.

Mr. COX. I ask unanimous consent for three minutes more.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent to extend his remarks for three minutes. Is there objection.

There was no objection.

Mr. COX. I believe that if the civil-service law was carried out it would serve the country and serve it admirably, but I state that some system has been found out in my State by which to get around it. For instance, an interview was sent out from the city of Washington the other day to one of the Indianapolis papers, and one of our State officers read it and wrote me a letter about it, in which he said:

> Your interview is absolutely correct. We have 23 rural-route carriers in my county. I know every one of them. They are to-day solidly Republican, and every one of them was a Republican at the time of his appointment.

I have reports in my office from a little more than 40 of the 92 counties in the State of Indiana, which reports disclose the fact that less than 5 per cent of the rural-route carriers in the State of Indiana are to-day members of the Democratic Party. I am not quarreling about that, but if we have a civil-service law I am in favor of letting merit win and not political pull, and the way it has been administered merit has had but little or nothing to do with it. I am in favor of President Wilson revoking President Taft's order putting these 36,000 post offices under the civil service and restore them to a competitive examination, where brains and brains alone will win. The very fact that the law has been administered in the way it has is what has bred contempt for the law. All over my State it is a known fact as to the way and manner of administration of this law. It has been so notoriously administered from a partisan viewpoint that many bright, active, intelligent, and well-educated Democrats of late have refused to go in and stand an examination, feeling that some roundabout way would be devised to evade the law. I have now in my possession a large amount of data backing what I say, and I have only begun to gather it.

I am in favor of restoring the fourth-class post offices to a point whereby an honest, fair, conscientious examination will be held, and let brains win, and not an underground-tunnel method control. If my party can not stand up and win with this test, so far as I am concerned, they have got to lose. [Applause.]

Mr. MURDOCK. I would like to ask the gentleman from Indiana how he is going to find this underground tunnel with reference to fourth-class postmasters. In the selection of clerks for the post offices they have to choose from the first three men at the head of the list.

Mr. COX. Yes; and in my judgment that is the nib to it.

Mr. MURDOCK. That is a perfectly plain way of discovering the underground tunnel, so far as the post-office clerks are concerned, but the local postmaster who is a Republican has no control in the selection of the rural carriers.

Mr. COX. The gentleman knows that before a rural route is established an inspector goes out and goes over the route, and then, as the gentleman from Missouri says, out of the three hundred and sixty-odd post-office inspectors more than 300 are Republicans. I am not sure, Mr. Chairman, but right there is the other nib.

Mr. MURDOCK. I do not believe that the gentleman will find any underground tunnel in the Rural Free Delivery Service.

Mr. COX. Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

The CHAIRMAN. The gentleman from Indiana asks unanimous consent to revise and extend his remarks. Is there objection?

There was no objection.

Mr. MOON of Tennessee. Mr. Chairman, I move that all debate on this amendment close in 10 minutes.

The CHAIRMAN (Mr. RODDENBERY). The gentleman from Tennessee moves that all debate on this amendment close in 10 minutes.

The motion was agreed to.

Mr. GILLETT. Mr. Chairman, I think to some of us on this side of the House what the gentleman from Indiana [Mr. Cox] has just stated seems quite natural. I think we would be disposed to agree that both at present and always in the future, so long as the merit system shall prevail and appointments are made by competitive examination, not more than 5 per cent of the successful ones will naturally be Democrats. That possibly explains the condition in Indiana. Now, I know nothing about conditions there, but the one thing which I think is striking is that the opposition on that side of the House to the fourth-class postmasters being under the civil service has only sprung up since a Democratic President was elected.

Mr. COX. I think I can truthfully state that that was the only hope that was held out to the Democratic Party whereby we could ever hope to overtake you.

Mr. GILLETT. But when we were in power four or five years ago and we covered into the civil service in a portion of the country the fourth-class postmasters no objection then on that side of the House was made. You were perfectly willing that they should not be patronage appointments so long as we had the President. But as soon as you are going to have the President you want to have the old spoils system reinstated, so that you may have the appointments and enjoy the fruits of victory.

Now, the gentleman says he is in favor of the civil service in the abstract. I am happy to see that it is not as popular now as it was 10 or 15 years ago for a man to get up and say that he was in favor of the old system, and therefore men now readily say that they are in favor of civil service, but they couple it with some such a proposition as the gentleman says he wants, to repeal the order which now exists. They favor some modification which gives them an excuse to oppose the system.

Mr. COX. Restore it and make it a competitive examination.

Mr. GILLETT. Yes; you always want something that is different. You want to go back to the old system and say you will get something better. We all know that the present system is not perfect, but I believe it is a great deal better than the old system. I will confess that when the fourth-class postmasters were put in the classified service by President Roosevelt I thought it was a mistake. I did not believe it would be a good way to select postmasters, but I think it has worked well. A great many extensions to the civil service I have at times criticized, but I have invariably found so far that in practical operation they have worked well. The only opposition apparently on that side of the House to it now is that it does not appoint enough Democrats to office. That is the real gist of the position which they are taking. That is the gist of this amendment which is pending, that the inspectors shall not be allowed. You want to take the fourth-class postmasters out of the civil service because you want the patronage.

Mr. FITZGERALD. Will the gentleman yield?

Mr. GILLETT. Certainly.

Mr. FITZGERALD. Is the order that has been issued as to the method of selecting the fourth-class postmasters different now from what it was when the fourth-class postmasters were originally put into the classified service?

Mr. GILLETT. I do not know whether there is any difference or not.

Mr. FITZGERALD. My recollection is that under the order for the selection of these men, if the office pays over $500, they are selected from the classified service after examination. But if it pays less than $500 they are selected by the post-office inspectors, and as about 99.9 of the post-office inspectors happen to be Republicans the gentleman would hardly expect Democrats to be satisfied to have Republican officials select, without the protection of the civil-service system, employees under a Democratic administration.

Mr. GILLETT. The gentleman does not think that the post-office inspectors, whatever their politics, are political agents.

Mr. FITZGERALD. They are at times. Four years ago, when the gentleman who is now Speaker of the House was a candidate for membership in the House, and it was a notorious fact that if the Democrats succeeded in carrying the House he would be Speaker, the post-office inspectors went through his district campaigning against him, and they were so active that he was compelled to file charges against some of them in the Post Office Department. Those are the men who will be selecting fourth-class postmasters in offices where the compensation is less than $500 in a Democratic administration, if this order continues without change.

Mr. GILLETT. This order can be modified by the President.

Mr. FITZGERALD. It is not a question of modification; it is a question of propriety in issuing it just before an adverse administration comes into power.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. FITZGERALD. Mr. Chairman, I ask that the time of the gentleman from Massachusetts be extended for I did not mean to take up his time.

Mr. GILLETT. I ask for one minute more.

The CHAIRMAN. The gentleman from Massachusetts asks for one minute more. Is there objection?

There was no objection.

Mr. GILLETT. The answer to that is that it is not necessary for us to repeal it; the whole matter is in the hands of the President. He can modify it in any way he sees fit. If there is danger of partisan unfairness in it, all he has to do is to modify it. There is no necessity for the House overturning the order and putting us back into the spoils system.

Mr. FITZGERALD. As to what he should or should not do may be a debatable question, but the gentleman can not believe if an error has been made or a wrong has been done, simply because the administration may remove the wrong, that the House ought to refuse to exercise any power it may have.

Mr. GILLETT. Yes; I do believe that if there is one part of the order which the gentleman thinks is partisan it is not necessary for us to repeal the whole order, for the Democratic President can be trusted to prevent Republican partisanship; and if you proceed to repeal the whole order on that criticism no one will believe that that is the real purpose. They will believe, as I do, that what you want is to go back and have the old patronage system.

Mr. FITZGERALD. Mr. Chairman, I have no fourth-class post offices in my district, but if I had I should want Democrats filling those offices during a Democratic administration. [Applause on the Democratic side.]

Mr. GILLETT. That is just what I thought was at the bottom of all this agitation on that side of the House.

Mr. SMALL. Mr. Chairman, I do not desire to discuss the wisdom or unwisdom of putting the fourth-class postmasters in the classified service, but largely in answer to the remarks of the gentleman from Massachusetts [Mr. GILLETT] I do desire to criticize the personnel of the fourth-class postmasters, certainly in my own State and, as I understand, generally in the South. If there is any local official who comes in close contact with the citizens of the community and who should be typical of the best there is in the community, possessing their confidence, it is a rural fourth-class postmaster. The fourth-class postmasters, in North Carolina at least, as they have been heretofore selected, are not of the class which is typical of the best element of the community. There are good Republicans in my State, but very few of them as a rule have sought or at least have been appointed to these offices. The rule there has been during the Republican administrations, when there was a vacancy, to certify that fact to the State referee who was ordinarily the State Republican chairman. He, in turn, referred it to the county chairman, and the county chairman selected the fourth-class postmaster to fill the vacancy, regardless of protest respecting his unfitness for the position. Protests were unheeded, and the selection of the county chairman was certified by the State referee, and the appointment was made.

The misfortune connected with this order is in covering these men into the civil service, to be removed only upon charges, and all of us know how difficult it is to make charges sufficient before the Civil Service Commission to remove the incumbent of any subordinate office. If any arrangement could be made by which the terms of all of these fourth-class postmasters, in my State, to illustrate, could be declared vacant and there could be a new deal by which every citizen could have an opportunity, even under the regulations now in force, to receive the appointment of fourth-class postmaster, I admit that much of the ground for criticism of this order would be removed, in my humble judgment. But because of the personnel of these fourth-class postmasters and of the manner of their appointment, and because they do not represent the best element in the community, I regard this order as particularly unfortunate and ill timed.

The CHAIRMAN. The time of the gentleman from North Carolina has expired. All debate on this amendment is exhausted. The question is on the amendment offered by the gentleman from Georgia.

The question was taken; and on a division (demanded by Mr. BARTLETT) there were—ayes 28, noes 19.

So the amendment was agreed to.

Mr. MONDELL. Mr. Chairman, I desire to offer an amendment. I understand that the figures "65," line 8, page 2, are in error, and that the number should be 75.

The CHAIRMAN. The Chair will state to the gentleman from Wyoming that an amendment to that effect has been agreed to.

Mr. MONDELL. Mr. Chairman, I move to amend by striking out the word "seventy-five" and inserting the word "ninety."

The CHAIRMAN. The gentleman from Wyoming offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 2, line 8, strike out the word "seventy-five," as amended, and insert in lieu thereof the word "ninety."

Mr. MOON of Tennessee. Mr. Chairman, on that I make the point of order that it is increasing the amount provided by the general law.

Mr. MANN. Mr. Chairman, while that point of order would not be good, I think, I will reserve the point of order that the amendment having been adopted by the committee it is not now subject to further amendment.

Mr. MONDELL. Mr. Chairman, I trust the gentleman from Tennessee will reserve his point of order.

Mr. MOON of Tennessee. Mr. Chairman, if the gentleman desires to talk, I have no objection, and I will reserve the point of order.

Mr. MONDELL. Mr. Chairman, I would like at this time to speak briefly to the merits of the amendment. I am not informed as to what the President-elect proposes to do with regard to the recent order placing fourth-class postmasters under the merit system. I am not in the councils of the leaders of the Democratic Party, and therefore I do not know what they are going to insist upon. But I think it is our duty to pass this bill and provide for the Government service under the conditions that now exist, and no one will claim that there are sufficient post-office inspectors in the service, provided the present civil-service order, or something akin to it, with reference to fourth-class postmasters is to stand.

Mr. MOON of Tennessee. Mr. Chairman, I would not agree to that. I think we could cut that down one-third, even if it stands.

Mr. MONDELL. Mr. Chairman, I live in a country where we have many fourth-class post offices. There are over 400 in my State. I have been recommending the appointment of fourth-class postmasters for 18 years, and I sometimes marvel, having had that experience for 18 years, that I am here to-day.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. BARTLETT. Some of us have been here that long and have not been able to recommend anybody, and we want to see what the experience will be like. [Laughter.]

Mr. MONDELL. Mr. Chairman, out of the abundance of my experience, I want to suggest to my good friends on the other side, that I have so high regard for them that I could not think of uniting in a proposition that would give them the experience that I have had in all these years. They might not be as lucky as I have been.

Mr. ADAMSON. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. ADAMSON. Would it not have been a little more consistent for the gentleman to have favored that change at the beginning of his experience instead of at the end of it?

Mr. MONDELL. Mr. Chairman, about the time of the beginning of that experience, to wit, after my defeat at the end of my first congressional term, I for a short time served the Government in the General Land Office. That office at that time was entirely filled with a large number of very excellent gentlemen, worthy and qualified. Most of them were in the main from the sunny South, all appointed by Grover Cleveland, and in the very closing days of his administration all of them were covered by his order into the civil service.

Mr. BARTLETT. Is it not a fact that in order for my friend to have a position for himself a Democrat appointed by Cleveland had to be demoted?

Mr. MONDELL. Not much. He was kept in a very honorable and well-paid position for a long time, and he was worthy

of it, as my friend knows. But, Mr. Speaker, we must pass upon this bill under the conditions as they now exist. This is the situation: Vacancies are occurring in the fourth-class post offices. I am delighted to be relieved of the responsibility of saying who at various lonesome corners in seven or eight counties shall be the fortunate recipient of the honor and responsibility of handling the Government mail. I was generally able to very promptly make a recommendation formerly, owing to my wide acquaintance in the community. I think in the main my recommendations were reasonably fair, else I would not have been here. A great many of the men I have recommended have been Democrats, and I have never in any case of a fourth-class post office, where I was sure the party was qualified and was the choice of the people, inquired as to the politics of the candidate.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONDELL. Mr. Chairman, inasmuch as I have been somewhat interrupted, I ask unanimous consent for five minutes more.

The CHAIRMAN. The gentleman from Wyoming [Mr. MONDELL] asks unanimous consent for five minutes more. Is there objection?

There was no objection.

Mr. MONDELL. But under present conditions there can be no appointment at all until there has been an investigation and examination by a post-office inspector. It happens to be the case that the few inspectors that my friend from Missouri [Mr. LLOYD] has found in the service seem to be all in our locality, for the inspectors in my State, I think, are mostly Democrats. I do not quarrel with that. I think that is very appropriate for the incoming Democratic administration. But these gentlemen have great distances to travel, and I can not agree with the chairman of the committee that it is possible for them to perform these added duties and to make these recommendations within a reasonable time. It is utterly impossible. Either the system is to break down—and possibly our friends on the other side want it to break down and come into disrepute, by failure to make recommendations——

Mr. MOON of Tennessee. You have about eight inspectors.

Mr. MONDELL. Oh, no. We have only two or three in our State.

Mr. MOON of Tennessee. I am talking about the average of the State.

Mr. MONDELL. I do not know anything about the average of the State. But I know that the force is entirely inadequate to care for these added responsibilities, and I have absolute confidence in the fairness and justice of the inspectors—Democrats and Republicans alike—to make fair and wise recommendations, so far as it is possible for them to do so with their knowledge of the situation. But we must provide a sufficient number of men to perform this service, else the system will be very unpopular by reason of the long delays in making recommendations. I have asked for an increase of 15 men of the lowest grade. It is not enough when you take into consideration the fact that there are thirty and odd thousand of these places. Vacancies constantly occur. The distances in the region where the fourth-class post offices are most numerous are very great. If the service is to be carried on in a satisfactory way we must have inspectors enough to make these inspections promptly.

Mr. FITZGERALD. Will the gentleman yield?

Mr. MONDELL. I will be glad to do so.

Mr. FITZGERALD. Is the service unsatisfactory now?

Mr. MONDELL. Under the old system?

Mr. FITZGERALD. Under the present system.

Mr. MONDELL. Well, there are not enough inspectors now. The order was issued comparatively recently. There have been, possibly, very many vacancies since the order was issued, but I think there have been no appointments at all in our State, which is evidence that they have not had inspectors enough to make the inspections.

Mr. MANN. Will the gentleman yield?

Mr. MONDELL. I will be glad to do so.

Mr. MANN. The gentleman has noticed that the House has just passed an amendment providing that these inspectors can not receive any pay while making these examinations for fourth-class post offices, and I apprehend nobody can require them to work for nothing. What is the object of increasing them for the reason the gentleman gives?

Mr. MONDELL. I suppose the amendment was simply adopted for the time being for political effect. I do not assume it will go into the bill when the bill becomes a law, and there is not a gentleman on the floor who has any idea that it will. So I am offering my amendment without regard to that merely political amendment which was adopted here a few moments ago.

Mr. MANN. The gentleman means the job-seeking amendment?

Mr. MONDELL. Job-seeking amendment is not so polite a term, and I desire to be polite.

The CHAIRMAN. The time of the gentleman from Wyoming has again expired.

Mr. GREEN of Iowa. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended for one minute.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. GREEN of Iowa. Is it not a fact that in the offices that pay only three or four hundred dollars it is often difficult to find people to take them?

Mr. MONDELL. It is very difficult in some cases to find anyone to take a fourth-class office.

Mr. GREEN of Iowa. Does not the gentleman think that on account of the insufficiency of the number of inspectors that those who have these offices to fill will experience great delay? I have tried for two months to get an inspector to go to an office which a man wants to give up.

Mr. MONDELL. That is true. We are not able to have inspections made relative to applicants. Inspections are not being made so as to relieve the present incumbents. Therefore our friends on the other side in refusing to allow these additional inspectors are unquestionably keeping some good Democrats out of office, because if the Republicans now holding these positions could resign in these cases where they are attempting to resign, Democrats might likely be appointed.

The CHAIRMAN. The time of the gentleman from Wyoming has again expired.

The gentleman from Tennessee [Mr. MOON] has made and reserved a point of order.

Mr. MOON of Tennessee. Mr. Chairman, it may be that the point of order I made is not well taken, because I understand the committee, while I was absent a few moments ago, increased the number. The point of order made by the gentleman from Illinois [Mr. MANN] that my point of order is not well taken may be true.

Mr. MANN. My point of order is well taken.

The CHAIRMAN. Will the gentleman from Illinois make his point of order?

Mr. MOON of Tennessee. I reserve my point of order, too.

The CHAIRMAN. The Chair sustains the point of order.

The Clerk read as follows:

For traveling expenses of inspectors without per diem allowance, inspectors in charge, and the chief post-office inspector, and expenses incurred by inspectors not covered by per diem allowance, unusual and extraordinary expenses necessarily incurred for maintenance by inspectors over and above per diem allowance while traveling on official business in the District of Alaska, and for the traveling expenses of two clerks performing stenographic and clerical assistance to post-office inspectors in the investigation of important fraud cases, $41,100.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I do so for the purpose of suggesting to the gentleman in charge of the bill that he offer an amendment to strike out, in line 16, the words "the District of," so that it would read "traveling on official business in Alaska." We have created Alaska into a Territory, and it is not necessary to describe it.

Mr. MOON of Tennessee. I have no objection to the amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. MANN].

The Clerk read as follows:

On page 3, line 16, strike out the words "the District of," so that it will read "on official business in Alaska."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For payment of rewards for the detection, arrest, and conviction of post-office burglars, robbers, and highway mail robbers, $7,500: *Provided*, That of the amount herein appropriated not to exceed $5,000 may be expended, in the discretion of the Postmaster General, for the purpose of securing information concerning violations of the postal laws and for services and information looking toward the apprehension of criminals.

Mr. TOWNER. Mr. Chairman, I desire to present an amendment.

The CHAIRMAN. The gentleman from Iowa [Mr. TOWNER] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Insert, in line 8, page 4, following the word "criminals," the following: "That section 17 of the act of March 3, 1879, chapter 180, first supplement, 245, be, and the same is hereby, amended as follows:

"Strike out the word 'books' and the comma following it in the first line of said section of said act.

"SEC. 2. That books and bound pamphlets not intended or used in whole or in part for advertising purposes, and not classed as magazines

or periodicals, shall be entitled to the parcel-post rates as stated and specified in section 8 of the act of August 24, 1912, being an act making appropriations for the service of the Post Office Department."

Mr. MOON of Tennessee. I make a point of order on that amendment. It is new law.

Mr. TOWNER. Mr. Chairman, will the gentleman reserve the point of order until I can make a brief statement?

Mr. MOON of Tennessee. I will reserve it for five minutes.

The CHAIRMAN. The gentleman from Iowa [Mr. TOWNER] is recognized for five minutes.

Mr. TOWNER. Mr. Chairman, the point of order is, I suppose, good, notwithstanding the fact that it seems to me it would be nothing more than right and proper that it should not be made as against this proposed amendment.

Gentlemen will remember that the parcel-post law was included as a part of the last Post Office appropriation bill, and it is for the purpose of curing an omission or a mistake in that law that this amendment is now offered.

I presume it will be a surprise to many gentlemen to know that books are not included in the reduced rates that are granted under the parcel-post law. I presume it will be a surprise to many to learn that codfish and beans can go through the post office now at a less rate than books can. It has only recently become understood that such is the case.

I think I may say that it was almost universally supposed that books would at least have the rates of such commodities as I have mentioned. The matter was called to my attention by some of the librarians of the country, who are surprised to find that books can not be sent to them or from one library to another, or that the great system of traveling libraries that is now in operation in almost all the States can not have the benefit of the parcel-post rates.

I can not understand why they should not have such rates, I am informed upon inquiry, in trying to ascertain the cause, that the proposition came before the committee for consideration in an effort to consolidate the third and fourth class rates, and that that would have resulted, perhaps, in including some matters under the parcel-post rates that are now having a better rate than they would then have secured. But certainly there can be no objection anywhere to books having the rates that merchandise has under the fourth-class rate; and that is the only object and purpose of this amendment.

I sincerely hope that the chairman of the committee and gentlemen interested will not make the point of order as against my proposed amendment at this time.

The CHAIRMAN. The gentleman from Tennessee [Mr. MOON] makes a point of order. The Chair sustains the point of order. The Clerk will read.

The Clerk read as follows:

OFFICE OF THE FIRST ASSISTANT POSTMASTER GENERAL.

For compensation to postmasters, $30,250,000.

Mr. MURDOCK. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Kansas [Mr. MURDOCK] offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 5, line 2, after the figures "$30,250,000," insert the words: "*Provided*, That no part of this appropriation shall be expended in the payment to postmasters of the first class where any part of the amount of the salary has been computed on the sales of parcel-post stamps."

Mr. MURDOCK. Mr. Chairman, the postmasters of the country are paid on the basis of the amount of receipts at the offices. The first-class post offices are those offices which reach in annual receipts $45,000, and the salary of the postmaster increases thereafter up to a point where the receipts reach $600,000, whereupon the salary of the postmaster becomes $6,000, which, with the exception of the post offices at New York and Chicago, is the maximum salary of first-class postmasters.

Mr. LLOYD. This amendment applies only to first-class post offices?

Mr. MURDOCK. Yes; it applies only to first-class post offices.

In the case of second-class postmasters it is the same as with the first, save that the salary increases on smaller receipts. It is the same with third-class postmasters. In the case of fourth-class pastmasters, as most members of the committee know, the system is different. On the first $50 sale of stamps the fourth-class postmaster gets 100 per cent. On the first $100 sale of stamps he gets 60 per cent, and so on up to the time he sells $5,000 worth, when the salary becomes third class.

Mr. MOON of Tennessee. I will say that the gentleman's amendment appears to be a very good one.

Mr. MANN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Kansas yield?

Mr. MURDOCK. Yes.

Mr. MANN. Would it not be possible under that amendment for a postmaster of the second class to receive as high a salary, or possibly a higher salary, than a postmaster of the first class?

Mr. MURDOCK. I do not think it would.

Mr. MANN. I should think, without knowing, that it certainly would.

Mr. MURDOCK. No, I will say to the gentleman from Illinois. It might send some of the second-class postmasters into the first class, but it would not give the second-class postmasters more than the salary of a first-class postmaster, because if a second-class postmaster had sufficient receipts to pass him into the first class further increment by the sale of parcel-post stamps would cease.

Mr. MANN. The question, then, would be whether under the amendment a second-class office would pass into the first class by the sale of parcel-post stamps. Forty-five thousand dollars is the limit for a first-class office, is it not?

Mr. MURDOCK. Yes.

Mr. MANN. Suppose the receipts from a post office were $44,500. That would be a second-class office. Another office that has receipts of $45,000 is a first-class office. I suppose the salaries are practically the same now. In a second-class office the sale of parcel-post stamps has some effect. It is perfectly apparent that these cases will arise. I do not say that it would be an injustice, but it is perfectly apparent that you can not keep such a thing on the statute books very long.

Mr. MURDOCK. My purpose in offering the amendment, as the gentleman knows, is because it is estimated that we will sell something like $50,000,000 worth of parcel-post stamps the first year.

Mr. MANN. I do not know who made the estimate, but I think it is a wild, extravagant estimate. I hope the amount will not be that large.

Mr. MURDOCK. That is an estimate made by the men in the Post Office Department, and I do not think it is very far afield. Our sale of stamps for first-class postage is now, I think, above $150,000,000, and I want to say to the gentleman from Illinois that this should be done for this reason——

Mr. MANN. If the gentleman's amendment goes in, it practically forecloses the proposition of allowing the ordinary stamps to be used on parcels, which, it seems to me, ought to be allowed.

Mr. MADDEN. They will not allow you to use them now.

Mr. MANN. No; I know the law forbids that now, as it did when they first commenced the special delivery of letters. There are thousands of packages which have been deposited in post offices throughout the country which have been stamped with ordinary stamps without knowledge that the law required special parcel-post stamps. And probably that will always continue.

Mr. MURDOCK. I want to say to the gentleman that while I understand that point is well taken, here we have an old law—29 years old now—under which we pay postmasters; and I think the gentleman appreciates that that is an antiquated law which is out of date so far as first-class postmasters are concerned, if not second and third class postmasters. For instance, a man in a large office, whose receipts are something like $200,000 or $300,000 a year, has nothing to do personally with the sale of stamps, and the fact that the sale of stamps increases $50,000 or $60,000 a year does not add anything to his burden, and but little to his responsibility, and this is a chance to start in now and prevent a large increase of expenditure in the way of salaries under this antiquated law.

Mr. FITZGERALD. Why should not such a limitation be placed on second-class postmasters?

Mr. MURDOCK. I have simply tried it on the first-class offices in the way of a beginning. I would be glad to accept an amendment extending it to other postmasters.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MURDOCK. I ask five minutes more.

The CHAIRMAN. The gentleman from Kansas asks that his time be extended five minutes. Is there objection?

There was no objection.

Mr. MURDOCK. My idea was that if my amendment included second and third class postmasters it would arouse opposition which might be fatal to it, because of the fact that in some of the second and third class post offices the parcel-post business undoubtedly does add to the burdens and responsibilities of the postmaster.

Mr. FITZGERALD. Let me ask the gentleman if the receipts from the sale of parcel-post stamps will increase the receipts of second-class offices so as to make them first class,

would not their elimination have the effect of throwing the offices in and out?

Mr. MURDOCK. I think not. I think it will throw the second-class postmaster into the first class, and make the office a first-class post office.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Kansas [Mr. MURDOCK].

The amendment was agreed to.

The Clerk read as follows:

Auditors, and superintendents of mails, 7, at not exceeding $3,000 each.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I think there is an error in printing the figures, either in this paragraph or the next one. There are under the current law 7 of these officials at $3,000 each. The department recommended 17. This paragraph does not increase the number. In the next paragraph there are now 15, and the department estimated for 10. The committee took the department's estimate of the decrease from 15 to 10 without making any increase in the former class. I am quite sure it was not the intention to reduce the number.

Mr. MOON of Tennessee. I have just looked into that matter. These are the figures of the Assistant Postmaster General.

Mr. MANN. Then the Assistant Postmaster General has made a mistake.

Mr. MOON of Tennessee. In what respect?

Mr. MANN. There are now 7 of these officials at $3,000 and 15 at $2,700. The department asked for an increase of from 7 to 17 in the $3,000 class and a reduction from 15 to 10 in the $2,700 class. That was a total increase of 5. Instead of giving the increase, the number has been reduced 5. I think inadvertently. You have given the decrease of 5, but no increase. I think it is not the intention to decrease the number.

Mr. MOON of Tennessee. It evidently is an error.

Mr. MANN. I do not know whether you wish it in this paragraph or the next, but if you want the total number to remain the same as it is now, you ought either to increase the number of these officials in this paragraph from 7 to 12, or if you want it in the next paragraph you ought to increase the number there from 10 to 15.

Mr. MOON of Tennessee. It ought to be in the lower grade.

Mr. MADDEN. It ought to be 15 instead of 10.

Mr. MOON of Tennessee. Let that correction be made.

Mr. MANN. After the next paragraph is read.

The Clerk read as follows:

Assistant superintendents of mails, superintendents of delivery, and superintendents of mails, 10, at not exceeding $2,700 each.

Mr. MANN. Mr. Chairman, I move to strike out the word "ten," in line 7, and insert the word "fifteen."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

In line 7, page 6, strike out the word "ten" and insert the word "fifteen."

The amendment was agreed to.

The Clerk read as follows:

For compensation to clerks in charge of contract stations, at a rate above $300 each and not to exceed $1,000 each, $430,000.

Mr. MANN. Mr. Chairman, I move to strike out the last word. The estimate of the department for this item and the succeeding item was combined at $1,250,000. That was an increase of $320,000 over the current appropriation. You have segregated the two items as is now carried in that law and made an increase in the two of $200,000—$100,000 for each item. In every other place practically you have taken the department's estimate on the increase of work that was expected through the parcel post.

Mr. MOON of Tennessee. Not in all of them; we have reduced some.

Mr. MANN. To a large extent, in the main, you have, as to post offices themselves and the operation of the post offices, but as to the clerks and carriers I think you took it practically as they gave it. Now, in the cities, in districts like mine, and I think it is true of other large cities, we depend on what you call the contract station. There are places in my district, thickly populated, where you can not buy a postage stamp within the radius of a mile, which is neither to the convenience of the people nor the interest of the postal service.

Mr. MOON of Tennessee. Does the gentleman from Illinois think the increase of $200,000 is not sufficient.

Mr. MANN. I think it is not quite sufficient.

Mr. FITZGERALD. Why?

Mr. MANN. Because it will not cover the additional contract stations.

Mr. FITZGERALD. How does the gentleman know?

Mr. MOON of Tennessee. As the gentleman knows, this is a good deal of guesswork.

Mr. MANN. Of course, there is more or less guesswork about it.

Mr. FITZGERALD. Let me suggest. At present, under the parcel-post system, do they permit them to use the contract station? Must they not go to the main office?

Mr. GARNER. I know from observation that they do handle parcel-post matter at the contract stations.

Mr. MANN. Of course; it is perfectly apparent to anyone that it must be done that way in the large cities. You can not expect to send the people a number of miles in a city in order to deposit mail to go by parcel post. I wish the gentleman from Tennessee would increase this item $20,000.

Mr. MOON of Tennessee. Last year there was an unexpected balance of $77,000. Now with the increase that we have allowed that would give $277,000. I do not want to do anything that will cripple the service in Chicago or in New York, but we are all more or less guessing at it.

Mr. MANN. I know it is more or less an experiment, but these stations can not receive any pay unless they do a certain amount of money order or registry business. They are paid on the basis of the money order and registry business, and no station can receive over $100 unless it does a large amount of money order and registry business. No station does a large amount of that business unless it does a large amount of postal business in addition.

Mr. GARNER. As I understand, what the gentleman from Illinois criticizes——

Mr. MANN. I am not criticizing anything.

Mr. GARNER. What the gentleman is complaining about—it may not be in the order of a complaint, but he says that they have to go a mile in his district to buy a postage stamp. That is the fault of the Post Office Department in not establishing stations at more convenient places in the city of Chicago, and not a valid criticism of Congress for not making the appropriation when we have $77,000 left over from last year.

Mr. MANN. Well, I always accept the statement of the gentleman from Tennessee.

Mr. MOON of Tennessee. I got my figures from the department.

Mr. MANN. I know that they have informed me that in many cases where stations were asked for in certain localities that they did not have the money with which they could establish a station. I have had the information recently.

Mr. GARNER. The gentleman from Tennessee makes the statement that he gets his figures from the Post Office Department itself, and so if the Post Office Department has made the statement which the gentleman from Illinois says it has, there is an error on the part of some official in giving incorrect information, either to the chairman of the committee or the gentleman from Illinois.

Mr. MOON of Tennessee. No; I do not think so. In the expenditures of last year there is an unexpended balance of over $77,000.

Mr. MANN. The committee gave $100,000 under the estimate of the department in this particular place, which is very material.

Mr. MOON of Tennessee. We gave $43,000 under the estimate of the department.

Mr. LLOYD. We are increasing this appropriation nearly 25 per cent, and that is a much larger increase than we have ever given before. There never has been an increase to compare with this. This appropriation from time to time has been running for five or six years with a very slight increase. Now we make an increase of 25 per cent, and we thought we were doing remarkably well.

Mr. MOON of Tennessee. What figures does the gentleman from Illinois want?

Mr. MANN. What I want is an increase in the next item where they use the contract stations.

Mr. MOON of Tennessee. How much does the gentleman want there?

Mr. MANN. Fifty thousand dollars. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

For compensation to clerks in charge of contract stations, at a rate not to exceed $300 each, $700,000.

Mr. MANN. Mr. Chairman, I move to strike out, in line 5, page 12, the figures "700,000" and insert "750,000."

The Clerk read as follows:

Page 12, line 5, strike out the figures "700,000" and insert "750,000."

Mr. MOON of Tennessee. Does the gentleman think that will give the service that he wants?

Mr. MANN. I hope and pray that it will.

Mr. MOON of Tennessee. Mr. Chairman, we will agree to that.

Mr. FOWLER. Mr. Chairman, I understand that the $700,000 is an increase over the current amount of something like 25 per cent; that is, above the appropriation carried for this item last year.

Mr. MANN. It was an increase, not of 25 per cent, but from $600,000 to $700,000.

Mr. FOWLER. As I understand, there is an unexpended balance.

Mr. MANN. I do not know which item had the unexpended balance.

Mr. MOON of Tennessee. There was an unexpended balance of the two items, one of $40,000 and one of $37,000. Of course you could not get the benefit of that under the law.

Mr. MADDEN. I think we ought to get it.

Mr. MANN. We need the money for actual postal service.

Mr. FOWLER. Mr. Chairman, I understand that is true; but if the business could have been transacted by, say, $40,000 less than the amount appropriated in the last bill, and now there is an increase of $100,000, that is equal to $140,000 above what was used during the last fiscal year.

Mr. MANN. Mr. Chairman, if the gentleman from Illinois, my colleague [Mr. FOWLER], will pardon me, the increase that is carried in the bill will not increase the number of stations at all, although it would apparently give 100 new stations or more, because with the parcel-post proposition, under the regulations of the department, there will be a large number of increases from 100 to 200 and from 200 to 300, which would fully absorb the increase carried by the bill, without making any provision at all for new stations, and the gentleman understands that in the cities as they grow there is a necessity for new stations in localities. They will not establish with us a station anywhere that is within half a mile of another station.

Mr. MADDEN. And I may say that we have built in Chicago 60 miles of street frontage of buildings last year, and that means a very large increase in the population, and of course it requires increased facilities.

Mr. GARNER. Mr. Chairman, will the gentleman from Illinois yield?

Mr. FOWLER. Certainly.

Mr. GARNER. Mr. Chairman, I can not understand how it is that the gentleman from Illinois [Mr. MANN] and the gentleman from Illinois [Mr. MADDEN] are complaining for the want of money when the report here shows in these identical items the Post Office Department turns back into the Treasury a large sum of money.

Mr. MADDEN. But there was no parcel post last year.

Mr. GARNER. But that does not make any difference. The gentleman is calling attention to conditions in Chicago, want of facilities there to handle the business in these contract stations. The Post Office Department has the money to do this work and if it has not been done, it is the fault of the Post Office Department and not the fault of Congress.

Mr. LLOYD. Mr. Chairman, if the gentleman will permit, I think that may be answered very well in connection with something with which he has had experience. We have from time to time made appropriations for extension of the rural service, but in order to show economy in the administration of postal affairs, they have not expended the money appropriated from time to time, and it went back into the Treasury, and the consequence is that the gentleman and his constituents do not get the service that they ought to have, and that Congress intended they should have.

Mr. GARNER. Mr. Chairman, I fully agree with what the gentleman from Missouri [Mr. LLOYD] says, but this state of affairs exists here. The committee is proposing to agree to an amendment offered by the gentleman from Illinois [Mr. MANN] for the reason that they want additional service in Chicago. It is merely a guess. If the committee had sufficient money, why does the gentleman want to encumber this bill with an additional appropriation, to be charged up to this House in the total amount appropriated, when you are not going to use the money?

Mr. MOON of Tennessee. I will say to the gentleman, Mr. Chairman, that there was an unexpended balance on one item of $40,000 and of $37,000 on another. The department estimates that it will need $320,000 on account of this additional service. They can not tell accurately what it will be, but that is the best judgment, and from my experience I think that $320,000 will be needed. The committee gave $200,000, in view of the fact that there was an unexpended balance of $77,000 from the previous year. The gentleman from Illinois [Mr. MANN] asks for $50,000, and I think it is reasonable that he should have that amount because still the allowance by the House will be $70,000 less than the Post Office Department recommends.

Mr. GARNER. Mr. Chairman, will the gentleman from Illinois yield further?

Mr. FOWLER. Yes.

Mr. GARNER. Mr. Chairman, I can not understand how a great committee of this House, having the largest bill brought into the House, can come in here and then permit a Member of the House who is not a member of the committee, who has not made any investigation about the matter, the gentleman from Illinois [Mr. MANN], upon a mere statement from him to obtain an increase in the appropriation of $50,000. Evidently one of two things is true—the committee has not investigated as much as it ought to have investigated, or it ought to be able to say that the gentleman from Illinois is not entitled to this amount.

Mr. MOON of Tennessee. No, Mr. Chairman, it ought not to be able to say any such thing. The fact is this: It is purely an estimate on the part of the department to begin with, and it is purely an estimate on the part of the committee. The committee reduced the estimate of the department in accordance with the policy of cutting down and reducing as best we could, but the gentleman from Illinois [Mr. MANN] comes in here and states the conditions in the city of Chicago and asks that we give $50,000 more, which is $70,000 less than the department thinks we ought to give.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. FOWLER. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MOON of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. FOWLER. Certainly.

Mr. MOON of Tennessee. We have to pay some consideration to Members in this House who are not members of the committee. There may be committees in the House that arrogate to themselves that superiority that will brook nothing that comes from the gentlemen in the House who are not upon the committee, but the Post Office Committee does not claim all the wisdom of this House. It can be in error. It can make mistakes like others, and the explanation of the gentleman from Illinois [Mr. MANN] ought to be enough for an intelligent man to get $50,000.

Mr. GARNER. Mr. Chairman, may I ask the chairman of the committee a question?

The CHAIRMAN. The gentleman from Illinois [Mr. FOWLER] has the floor.

Mr. GARNER. Very well, I shall not take up further time now, but will wait until I can get the floor in my own right.

Mr. FOWLER. Mr. Chairman, I do not desire to be captious about any of these matters. I am aware of the necessity for an appropriation to carry out the great business of the Post Office Department, but we gave consideration to this item in the committee, as we did to other items, and, in my opinion, it is as fully adequate to carry out the business for which it is intended as any other item in this bill, and I can see no reason whatever for an increase of $50,000 to this one small item. I know that there are additional stations required in great populous, growing cities of this country, and we ought to prepare for them as liberally as we do in the country for the rural route delivery and any other part of the machinery of the great Post Office Department; but in view of the liberal increase that was made in these two items, giving something like $240,000——

Mr. MOON of Tennessee. Two hundred thousand dollars.

Mr. FOWLER. And taking into consideration the amount of the unexpended balance——

Mr. GARNER. Two hundred and seventy-eight thousand dollars.

Mr. FOWLER. It makes something like $275,000.

And I do say, Mr. Chairman, in the light of all the wisdom of the committee, notwithstanding the honorable chairman's profession of not knowing very much about it, yet he is as familiar with the ins and outs of this department as any other chairman that I have had the honor to serve with. And, Mr. Chairman, I say, in the light of the wisdom of the committee and the liberality which was given in the increased appropriation in these two items, I do not think the amendment is warranted, and I will vote against it.

Mr. MADDEN. Mr. Chairman, I want to say a word on this.

The CHAIRMAN. Is the gentleman in favor of the amendment?

Mr. MADDEN. I move to strike out the last word.

The CHAIRMAN. The gentleman is recognized to support the amendment.

Mr. MADDEN. I have thought in the consideration of this item in the committee room that the committee was not sufficiently liberal in its recommendations. We are establishing a parcel post that is going to add materially to the work of all these contract stations. In the city of Chicago alone in 1912 there were $100,000,000 spent in the construction of new buildings. Sixty miles of street frontage of new buildings was erected during 1912, making provisions for more than 150,000 increased population.

The work performed by these contract stations during 1912 was not adequate to meet the needs of that great city. The territory from which my colleague [Mr. MANN] comes has increased so rapidly that it is hard work for the Post Office Department to keep pace with the increased growth of that community. And, as he says, stations are now more than a mile apart. You can not buy a postage stamp without walking a mile; you can not register a letter; and the compensation paid for the service rendered in these contract stations everywhere throughout the United States is inadequate for the work performed. If it was for no other purpose than to pay adequate compensation for the work done by the men who occupy these contract stations, there ought to be added appropriations made.

Why, $60,000 worth of stamps are sold in some of these small stations in a year, and if one man occupies the place for any considerable length of time for the performance of that business he is paid $600 a year. He has to pay out more than he gets for clerk hire, and if he by some chance complains because of the inadequacy of the compensation and resigns from the place, why, the Government undertakes to contract with some other man for the performance of the work. It is outrageous to think that a great Government like this would squeeze a man who has to occupy a small place, such as the clerk of a drug store, down to the pay of $100 for performing $60,000 worth of work a year.

In order to increase the number of stations to accommodate the increase of population of these great centers, there ought to be some compensation paid to the men for the work that is done. Fifty thousand dollars is not enough to meet the present needs, but $50,000 is better than nothing, and I hope the amendment will prevail.

Mr. TOWNSEND. Beyond the qualification of having served, is there also an examination for that particular branch of the service?

Mr. MADDEN. Yes, sir; and he must have attained a certain rate of efficiency and a certain rank, and he must have been in service a certain length of time, and he must be able to pass the prescribed examination, even after he is designated, in order to be appointed.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MADDEN. Mr. Chairman, I ask for two minutes more.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. LLOYD. Mr. Chairman, will the gentleman yield?

Mr. MADDEN. Yes.

Mr. LLOYD. I wish to say, Mr. Chairman, that there is this difference between the selection of a post-office inspector and a selection ordinarily in the civil service elsewhere: Ordinarily under the civil service the Civil Service Commission certifies three men, and you are permitted to make choice amongst the three. Under regulations affecting the post-office inspectors one man applies, and if he passes the necessary examination he may be admitted without competition with anybody else.

Mr. MADDEN. That is true; but after he does apply, I wish to say to my colleague, he can not be designated unless he stands in the rank to which he must have attained before he can be designated.

Mr. LLOYD. That is true; and here is where the difference is with reference to post-office inspectors: The persons that have been designated to take examinations from time to time in recent years have largely been from the dominant party, and that accounts for the fact that at the present time the larger number of post-office inspectors are Republicans.

Mr. MADDEN. If these men who are inspectors in the postal service are like most men who have been employed in the public service elsewhere, whether they went in as Democrats or Republicans, they will find their minds to be of such an elastic character, when the time comes for a change of administration, that they will be able to prove to the incoming administration that they are of its own political faith. [Laughter.]

Mr. GARNER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Texas?

Mr. MADDEN. Yes.

Mr. GARNER. Is this a matter of law, or is it a matter of rule and regulation made by the department?

Mr. MADDEN. It is a matter of rule.

Mr. GARNER. Why is this change made of three in one?

Mr. MADDEN. This is a rule of the department, to select men well qualified for the place. It was made to secure efficient men.

Mr. FITZGERALD. Mr. Chairman, I wish to oppose the amendment of the gentleman from Illinois [Mr. MADDEN]. The gentleman does not intend to have the House believe that those who seek these contract stations seek them because of the money they make out of handling the Government business. They seek such contract stations because of the advantage they are to them in the particular business in which they are engaged. I do not know of a pharmacist in the city of New York that is not very anxious and willing to have a contract station, because it brings the traffic and the business of the locality to his particular place of business.

Mr. Chairman, what surprises me is the attitude of the Committee on the Post Office and Post Roads. This committee is supposed to have carefully investigated these matters, and with all of the information possible and available, to have made such a recommendation as they believed sufficient to permit the carrying on of the postal service. I do not doubt that the gentleman from Illinois [Mr. MANN] is very familiar with the conditions in Chicago, but I am quite certain he has not submitted any information to this committee that justifies anybody in reaching the conclusion that the recommendation of the Committee on the Post Office and Post Roads is erroneous.

The committee has been very liberal in this bill. I have had it checked up carefully, and it carries $1,929,973 in excess of the estimates for the next fiscal year. I know the report does not indicate that to be the fact——

Mr. MOON of Tennessee. The bill was changed after the report was made.

Mr. MANN. The gentleman from New York is mistaken, because that is not the fact.

Mr. FITZGERALD. The gentleman is not mistaken. I have had the calculation made by men who are the most accurate and reliable in this character of business in connection with the House.

Mr. MANN. They have not figured on the estimates, probably.

Mr. MOON of Tennessee. It could not be true, because the bill does not carry the estimates in lots of places.

Mr. MANN. If the gentleman from New York [Mr. FITZGERALD] will pardon the suggestion, the amount of $281,000,000 comprises the figures given in the estimates, but are not the sum of the items. Now, the gentleman from New York has computed the sum of the items without taking the totals, and so it exceeded the estimates. The estimates give both the items and the totals.

You can not take the totals in that one place and then add some of the items in another place and compare them.

Mr. FITZGERALD. Unfortunately the committee did not include the limitations in the various paragraphs that would have limited the appropriations in accordance with the intentions of the department.

Mr. MANN. I think they are not in the estimates either.

Mr. FITZGERALD. They are in some places at least, because I have a memorandum of them; the bill carries $283,721,481.

Mr. MOON of Tennessee. Well, you just got somebody that can not calculate aright within about $3,000,000. [Laughter.]

Mr. FITZGERALD. There is a difference of $1,973,000. Of course the statement of the gentleman from Tennessee may seem humorous, but, Mr. Chairman, I am willing to place the calculations made by the clerks of the Committee on Appropriations, who are noted for accuracy, against those made by any other clerks in the Government service.

Mr. MOON of Tennessee. If the estimates were only $281,000,000 in round figures, and the allowances made through the bill cut the estimates largely, from five hundred to two hundred thousand dollars, how is it possible to make the bill $283,000,000?

Mr. FITZGERALD. The gentleman's statement is erroneous, because the bill states in various paragraphs certain totals which are not accurate.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FITZGERALD. Mr. Chairman, I ask that my time be extended two or three minutes. I do not care to speak long.

The CHAIRMAN. The gentleman from New York [Mr. FITZGERALD] asks unanimous consent to proceed for five minutes more. Is there objection?

There was no objection.

Mr. FITZGERALD. When the totals are computed, in accordance with the law, it is found that the bill carries nearly $2,000,000 in excess of the estimates. I have not relied upon any calculations made by myself. I have had the calculations made by the best equipped men in the Government service, and I am willing to rest content upon their calculations, regardless of the indifference of the gentleman from Tennessee to them.

Mr. MOON of Tennessee. I rely upon calculations made by some men in the department just as well equipped as yours.

Mr. FITZGERALD. I know, Mr. Chairman, from experience, that the calculations of the departments are not always accurate, and I do know that the calculations made in the place where I have had these made are seldom, if ever, erroneous.

Mr. MOON of Tennessee. I wish the gentleman would tell me who that infallible individual of his is.

Mr. FITZGERALD. It is the two clerks of the Committee on Appropriations. One of them has been connected with the committee 33 years and is well known to the gentleman from Tennessee.

Mr. MOON of Tennessee. That is neither here nor there.

Mr. FITZGERALD. Aside from that, Mr. Chairman, the Committee on the Post Office and Post Roads has brought in this recommendation with an increase in this item over the current law by over $100,000, and, without anything being submitted that would influence anybody's judgment, he is willing to accept an amendment to increase the item $50,000 more.

Mr. MOON of Tennessee. Has the gentleman read the hearings on page 25 on this section?

Mr. FITZGERALD. No; I have not read them.

Mr. MOON of Tennessee. The gentleman ought to know something about that. The gentleman will find the information he requires there.

Mr. FITZGERALD. The gentleman from Tennessee has not only read them, but he was present when the testimony was taken, and his committee formed certain conclusions from the consideration of that testimony; and yet, without additional information being submitted, but upon the statement of the gentleman from Illinois [Mr. MANN], who is in my own condition so far as examining the hearings is concerned, the gentleman from Tennessee is willing to increase this item by $50,000 more.

If the recommendations of the committee are of no more value and are not to be any more relied upon in the other instances than they are in this case, I think it would be incumbent upon some Members to examine more carefully the hearings and form their own conclusions rather than attempt to rely upon the recommendations of the committee.

Here is the largest appropriation bill reported to the House carrying $12,000,000 in excess of the current law. It seems to me that after the committee has reached its conclusions and made its recommendations to the House, items should not be increased by consent of the committee except upon submission of information which was not before it, and in the present instance that is not of sufficient weight to justify the House in accepting such amendments.

Mr. MOON of Tennessee. Mr. Chairman, I know that the gentleman from New York is the guardian of the Treasury. I know that he thinks there is not anybody that knows anything about appropriations or anybody that has got sense enough to make a mathematical calculation correctly except some clerk in his committee. Those things are all patent to us. The arrogance of the gentleman from New York has been apparent to us all from time to time.

I want to commend him, however, for his attempt to keep down appropriations. He knows as well as I do that when this money is appropriated it will be returned to the Treasury if it is not used in the performance of the law. The only point that he has got to make about it is that he wants to keep down the appearances in the matter; that is all.

But if these people in Chicago and New York and elsewhere in our big cities are entitled to this money, I do not feel like taking it away from them. The department has made an estimate. You will find here, on pages 25 and 26, a very careful statement by the assistants in this office and a full review of this whole question. They say they need $320,000. They were asked if they had any basis upon which they could fix the amount. They gave as their reason the natural increase of the business there, and said it would require a great amount of this money, and that the parcel post would require a large amount of it. They were catechized as to the exactness of their information. They could not tell positively. No living man could do it, except, I suppose, somebody on the Committee on Appropriations. They could not tell exactly the amount that would come out of the parcel post and other increases, but they gave the best information they could; and in pursuance of the policy cutting down the appropriations to the extent we thought justifiable, we cut this estimate from $320,000 down to $280,000.

This was the tentative view of the committee. This committee does not assume to say that it was exactly correct on that figure. But when the gentleman from Illinois [Mr. MANN] came here and stated the conditions in Chicago, his city, and the other gentleman from Illinois [Mr. MADDEN] stated the conditions in his city—and it is fair to assume that the conditions there are the same as in other cities—I think it is just as well to be a little liberal and just in these matters and increase the amount. If we can not and do not go to the full amount that the department estimates, it seems to me this is just, in view of the additional facts brought before the House by the gentleman from Illinois [Mr. MANN], because if the money is not needed it will still be in the Treasury.

Mr. GARNER. In view of the fact that the gentleman from Illinois is complaining of a state of facts that now exist under the present appropriation, and in view of the fact that the report shows that they had $78,000 of this fund out of which they could have established these stations, does it seem reasonable or necessary, or will it remedy the situation which the gentleman complains of, to appropriate $50,000 or $500,000, when it is a matter that is the result of the neglect of the department and not for the want of funds? Why increase this appropriation when we have no assurance that the increasing of it will bring the relief sought by the gentleman from Illinois?

Mr. MOON of Tennessee. The gentleman must not assume, as he does, that it is always a matter of administration in every way simply because gentlemen do not happen to agree politically or in some other way. There is not much wisdom in that. These are people of the United States in these cities, and if the administration has been derelict, as the gentleman thinks it has, and has not given them the accommodation, let us at least make a sufficient appropriation so that the accommodation can be given to the people.

I move that all debate on this amendment be now closed.

The CHAIRMAN. The gentleman from Tennessee moves that all debate on this amendment be now closed.

The motion was agreed to.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Illinois [Mr. MANN].

The amendment was agreed to.

The Clerk read as follows:

For the purchase, exchange, repair, and maintenance of mechanical and labor-saving devices, $50,000.

Mr. MANN. I move to strike out the last word, for the purpose of inquiring of the gentleman whether he does not think that to proceed after a quarter to 6 o'clock on Saturday night is not nearly a violation of the rules of the union? [Laughter.]

Mr. MOON of Tennessee. Let us go on until 6 o'clock.

Mr. MANN. The gentleman knows that the Geographical Society has a dinner to-night, and a great many of the Members desire to go there.

Mr. MOON of Tennessee. I am willing to quit now if you will agree that when we get into the House we may have an understanding that we will meet at 11 o'clock Monday, and the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of this bill.

Mr. MANN. Of course we could not make an agreement of that kind in the committee.

Mr. MOON of Tennessee. If the gentleman will not oppose it——

Mr. MANN. I shall not oppose meeting at 11 o'clock. Monday is District day. What the District Committee will say about it I do not know.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

The Postmaster General is hereby authorized to pay, in his discretion, rewards to postal employees whose inventions are adopted for use in the postal service, and for that purpose the sum of $10,000 is hereby appropriated: *Provided*, That not to exceed $1,000 shall be paid for one invention.

Mr. MANN. Mr. Chairman, I move to strike out the last word, and ask unanimous consent that that paragraph be passed over without prejudice, with the object of preparing an amendment to make it conform with other provisions in other departments.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the paragraph just read be passed over without prejudice. Does the gentleman mean to be recurred to at the end of the bill?

Mr. MANN. To be recurred to by the committee whenever the chairman desires.

The CHAIRMAN. Is there objection?

Mr. FOWLER. On what page is that?

Mr. MANN. The first paragraph on page 14.
Mr. FOWLER. I have no objection.
The CHAIRMAN. Is there objection?
There was no objection.
The Clerk read as follows:

That substitute carriers and substitute clerks when assigned to perform the work of regular employees absent on vacations, or when performing auxiliary or temporary work, shall be paid at the rate of 30 cents an hour. Every substitute carrier and substitute post-office clerk who has served as such substitute for a period of one year or more shall, when appointed to a regular position, receive the salary of a second-grade carrier or clerk, $800 per annum, as his initial salary, and all other promotions shall be regulated according to the classification act approved March 2, 1907.

Mr. COX. Mr. Chairman, I ask unanimous consent that this paragraph be passed over. I do not care about taking it up now.
Mr. MOON of Tennessee. Has the gentleman any objection to the paragraph?
Mr. COX. I want to get some information.
Mr. MOON of Tennessee. It is entirely new law. It is in the interest of the service. The gentleman can reserve a point of order on it if he wishes.
Mr. COX. I did not reserve any point of order on it.
The CHAIRMAN. The gentleman from Indiana [Mr. Cox] asks unanimous consent that the paragraph be passed without prejudice. Is there objection?
There was no objection.
The Clerk read as follows:

For pay of substitutes for letter carriers absent with pay, and of auxiliary and temporary letter carriers at offices where city delivery is already established, $2,285,000.

Mr. MOON of Tennessee. Mr. Chairman, I move that the committee do now rise.
The motion was agreed to.
The committee accordingly rose; and the Speaker having resumed the chair, Mr. GARRETT, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 27148) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1914, and for other purposes, and had come to no resolution thereon.

HOUR OF MEETING ON MONDAY.

Mr. MOON of Tennessee. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock on Monday morning, and that the House immediately resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the Post Office appropriation bill.
The SPEAKER. The gentleman from Tennessee asks unanimous consent that when the House adjourns to-day it adjourn to meet on Monday at 11 o'clock a. m., and that the House then immediately resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the Post Office appropriation bill.
Mr. NORRIS. Mr. Speaker, I should like to suggest to the gentleman that the latter part of his request is objectionable. Monday is District day.
Mr. FITZGERALD. Then just ask to meet at 11 o'clock.
Mr. NORRIS. There are very few Members here, and it is hardly fair to those who are not here, unless they have notice of the meeting at 11 o'clock.
Mr. MOON of Tennessee. The notice will be given in the RECORD.
Mr. NORRIS. That is a part of the RECORD that Members ordinarily do not pay much attention to.
Mr. FITZGERALD. Let the gentleman modify his request and make it simply that the House meet at 11 o'clock on Monday.
Mr. NORRIS. I think the chairman of the Committee on the District of Columbia ought to have actual notice of this.
Mr. MOON of Tennessee. Very well, Mr. Speaker, I will simply make the request that we meet at 11 o'clock on Monday.
The SPEAKER. The gentleman from Tennessee asks unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock on Monday next. Is there objection?
There was no objection.

THE LATE REPRESENTATIVE WEDEMEYER.

Mr. HAMILTON of Michigan. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution which I send to the Clerk's desk.
The Clerk read as follows:

House resolution 772.

Resolved, That a committee of 15 Members of the House, with such Members of the Senate as may be joined, be appointed to attend memorial services for Hon. WILLIAM W. WEDEMEYER, late a Representative from the State of Michigan, to be held at Ann Arbor, Mich.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of this resolution, and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

The SPEAKER. Is there objection to the present consideration of the resolution?
There was no objection.
The resolution was agreed to.
Mr. HAMILTON of Michigan. Now, Mr. Speaker, I send the following order to the Clerk's desk and ask for its immediate consideration.
The Clerk read as follows:

Ordered, That Sunday, the 16th day of February, 1913, at 12 o'clock, be set apart for addresses on the life, character, and public services of Hon. WILLIAM W. WEDEMEYER, late a Representative from the State of Michigan.

The SPEAKER. Is there objection to the present consideration of the order? [After a pause.] The Chair hears none.
The order was agreed to.

ADJOURNMENT.

Mr. MOON of Tennessee. Mr. Speaker, I move that the House do now adjourn.
The motion was agreed to; accordingly (at 5 o'clock and 57 minutes p. m.) the House, under its previous order, adjourned until Monday, January 13, 1913, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, transmitting a copy of communications from the Secretary of the Navy submitting urgent deficiency estimates of appropriations for the naval service (H. Doc. No. 1263); to the Committee on Appropriations and ordered to be printed.

2. A letter from the Secretary of the Treasury, transmitting copy of communications from the Secretary of State, submitting estimates of urgent deficiency appropriations required by the Department of State (H. Doc. No. 1262); to the Committee on Appropriations and ordered to be printed.

3. A letter from the Secretary of the Treasury, transmitting copy of communication from the Secretary of the Navy, submitting supplemental estimates of appropriations required for the naval service for the fiscal year ending June 30, 1914 (H. Doc. No. 1264); to the Committee on Naval Affairs and ordered to be printed.

4. A letter from the Acting Secretary of the Treasury, transmitting communications from the Postmaster General, submitting supplemental and revised estimates of appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1914 (H. Doc. No. 1265); to the Committee on the Post Office and Post Roads and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. TOWNSEND, from the Committee on the Library, to which was referred the bill (H. R. 18505) incorporating the American Academy of Arts and Letters, reported the same without amendment, accompanied by a report (No. 1291), which said bill and report were referred to the House Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Claims was discharged from the consideration of the bill (H. R. 14540) for the relief of Harriet Hamilton Pratt, and the same was referred to the Committee on Naval Affairs.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. NYE: A bill (H. R. 27944) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city; to the Committee on Interstate and Foreign Commerce.

By Mr. HARRISON of Mississippi: A bill (H. R. 27945) providing for examination and survey of channel in Back Bay of Biloxi, Miss.; to the Committee on Rivers and Harbors.

By Mr. GRAY: A bill (H. R. 27946) to provide for purchase of a site and erection of a public building at Shelbyville, Ind.; to the Committee on Public Buildings and Grounds.

By Mr. KINKEAD of New Jersey: A bill (H. R. 27947) providing for the erection of a public building at the city of Bayonne, N. J.; to the Committee on Public Buildings and Grounds.

By Mr. NEEDHAM: A bill (H. R. 27948) providing for a right of way for the United States from the Yosemite Valley

Railroad Co. and for payment therefor; to the Committee on the Public Lands.

By Mr. McGUIRE of Oklahoma: A bill (H. R. 27949) to authorize the Atchison, Topeka & Santa Fe Railway Co. to change its line of railroad through the Chilocco Indian Reservation, State of Oklahoma; to the Committee on Indian Affairs.

By Mr. MORGAN of Oklahoma: A bill (H. R. 27950) to equalize the grant of lands to the State of Oklahoma for common schools with grants made to other States for such schools, and for other purposes; to the Committee on the Public Lands.

By Mr. COLLIER: A bill (H. R. 27951) authorizing a survey of Yazoo River Canal opposite the city of Vicksburg, Miss.; to the Committee on Rivers and Harbors.

By Mr. MAGUIRE of Nebraska: A bill (H. R. 27952) to authorize the extension and enlargement of the post-office building in the city of Lincoln, Nebr.; to the Committee on Public Buildings and Grounds.

By Mr. TILSON: A bill (H. R. 27980) authorizing the Postmaster General to pay a cash reward for inventions and suggestions submitted by employees of the Post Office Department for improvement or economy in the postal service; to the Committee on the Post Office and Post Roads.

By Mr. CARTER: Joint resolution (H. J. Res. 381) authorizing the Secretary of the Interior to make a per capita distribution to the enrolled members of the Choctaw and Chickasaw Tribes of Indians in Oklahoma of funds held in the Treasury to the credit of said tribes; to the Committee on Indian Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN: A bill (H. R. 27953) granting an increase of pension to Henry F. Sterry; to the Committee on Pensions.

By Mr. ASHBROOK: A bill (H. R. 27954) granting an increase of pension to Charles W. Wood; to the Committee on Pensions.

By Mr. BOEHNE: A bill (H. R. 27955) granting an increase of pension to James H. Paul; to the Committee on Invalid Pensions.

By Mr. BROWN: A bill (H. R. 27956) for the relief of the heirs of James L. Pyne, deceased; to the Committee on War Claims.

By Mr. CARLIN: A bill (H. R. 27957) for the relief of the legal representatives of the estate of Charles E. Mix; to the Committee on War Claims.

By Mr. COOPER: A bill (H. R. 27958) granting a pension to Electa Paradise; to the Committee on Invalid Pensions.

By Mr. DAVIS of West Virginia: A bill (H. R. 27959) granting a pension to Elizabeth Pierson; to the Committee on Invalid Pensions.

By Mr. DONOHOE: A bill (H. R. 27960) granting a pension to William Costello; to the Committee on Invalid Pensions.

By Mr. DOUGHTON: A bill (H. R. 27961) for the relief of the heirs of Nathaniel Boyden; to the Committee on Claims.

By Mr. FERRIS: A bill (H. R. 27962) granting an increase of pension to Della M. Smith; to the Committee on Invalid Pensions.

By Mr. HAMMOND: A bill (H. R. 27963) granting a pension to Mary U. Hull; to the Committee on Invalid Pensions.

By Mr. HAY: A bill (H. R. 27964) granting a pension to Mary MacArthur; to the Committee on Pensions.

By Mr. HUGHES of West Virginia: A bill (H. R. 27965) granting an increase of pension to Mary E. Workman; to the Committee on Invalid Pensions.

By Mr. MADDEN: A bill (H. R. 27966) granting an increase of pension to William J. Doyle; to the Committee on Invalid Pensions.

By Mr. MAGUIRE of Nebraska: A bill (H. R. 27967) granting a pension to Kate King; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27968) granting a pension to Jesse Beason; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27969) granting an increase of pension to Thomas C. Diltz; to the Committee on Invalid Pensions.

By Mr. MAHER: A bill (H. R. 27970) granting an increase of pension to William Fagan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 27971) granting an increase of pension to James McCullough; to the Committee on Invalid Pensions.

By Mr. ROUSE: A bill (H. R. 27972) granting an increase of pension to John W. Jenkins; to the Committee on Invalid Pensions.

By Mr. SLEMP: A bill (H. R. 27973) granting a pension to Dolphus A. Gilliam; to the Committee on Pensions.

By Mr. SWITZER: A bill (H. R. 27974) granting a pension to Maria Chavis; to the Committee on Invalid Pensions.

By Mr. TALCOTT of New York: A bill (H. R. 27975) granting a pension to Abbie H. Lewis; to the Committee on Invalid Pensions.

By Mr. WILSON of Illinois: A bill (H. R. 27976) granting an increase of pension to Mattie B. Carr; to the Committee on Invalid Pensions.

By Mr. WITHERSPOON: A bill (H. R. 27977) for the relief of the trustees of the Sageville Methodist Episcopal Church South, of Sageville, Lauderdale County, Miss.; to the Committee on War Claims.

By Mr. CAMPBELL: A bill (H. R. 27978) granting an increase of pension to John Scott; to the Committee on Invalid Pensions.

By Mr. DAUGHERTY: A bill (H. R. 27979) for the relief of Ed P. Ambrose; to the Committee on Claims.

By Mr. LONGWORTH: A bill (H. R. 27981) directing the Secretary of War to issue to John A. Cassell a certificate of merit for distinguished service as cipher operator during the Civil War; to the Committee on Military Affairs.

Also, a bill (H. R. 27982) granting an increase of pension to Pauline White; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of R. E. Cunniny and 6 other merchants of Gnadenhutten, Ohio, favoring the passage of legislation giving the Interstate Commerce Commission further power toward the control of the express companies; to the Committee on the Judiciary.

By Mr. AYRES: Petition of the social science section of the American Association for the Advancement of Science, favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

By Mr. BARTHOLDT: Petition of R. S. Hawes, of St. Louis, Mo., favoring the passage of the uniform bills of lading act (S. 975), for the regulation of bills of lading; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Blue Wing Gun Club, St. Louis, Mo., and H. E. Welker, of St. Louis, Mo., favoring the passage of House bill 36, for Federal protection of all migratory birds; to the Committee on Agriculture.

Also, petition of the Merchants' Exchange of St. Louis, Mo., favoring the passage of House bill 25106, for the incorporation of the Chamber of Commerce of the United States of America; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Swope Shoe Co., of St. Louis, Mo., protesting against the passage of the Oldfield patent bill, preventing the fixing of prices by the manufacturers of patent articles; to the Committee on Patents.

Also, petitions of Charles T. Durand and 3 other citizens of St. Louis, Mo., and the National War Veterans of Denver, Colo., all favoring the passage of legislation granting pensions to the veterans of the Indian wars; to the Committee on Pensions.

Also, petition of the Whitman Agriculture Co., St. Louis, Mo., favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

By Mr. BATHRICK: Petition of the Akron Chamber of Commerce, favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

By Mr. BROWN: Papers for the relief of the heirs of James L. Pyne; to the Committee on War Claims.

By Mr. CALDER: Petition of the Chamber of Commerce of the United States of America, Washington, D. C., favoring the passage of House bill 25106, granting them a Federal charter; to the Committee on the Judiciary.

Also, petition of the Farmers' National Congress, Chicago, Ill., favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of the Maryland and District of Columbia Launderers' Association, Baltimore, Md., favoring the passage of House bill 25685, for the labeling and tagging of all fabrics and articles of clothing intended for sale; to the Committee on Interstate and Foreign Commerce.

By Mr. CARLIN: Papers to accompany bill for the relief of the legal representative of the estate of Charles E. Nix; to the Committee on War Claims.

By Mr. CLINE: Petition of citizens of Steuben County, Ind., favoring the passage of legislation for the retention of duty on onions; to the Committee on Ways and Means.

By Mr. DENVER: Petition of shoe workers in Bethel and Georgetown, Ohio, protesting against the passage of legislation for the placing of boots and shoes on the free list; to the Committee on Ways and Means.

By Mr. DYER: Petition of the Italian Chamber of Commerce, New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of Judson G. Wall, New York, N. Y., favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of the Merchants' Exchange of St. Louis, Mo., favoring the passage of legislation for the reestablishment of a grain standardization laboratory in St. Louis; to the Committee on Agriculture.

By Mr. ESCH: Petition of Judson G. Wall, New York, favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the Italian Chamber of Commerce, New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. FORNES: Petition of the National Academy of Design, New York, N. Y., protesting against any action on the part of Congress that will interfere with the design for the development of Washington as drawn up by the Washington Park Commission; to the Committee on the Library.

By Mr. HAMILL: Petition of the Italian Chamber of Commerce of New York, N. Y., protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. KINDRED: Petition of Judson G. Wall, of New York, N. Y., and the Farmers' National Congress, Chicago, Ill., favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the National Academy of Design, New York, N. Y., protesting against any action on the part of Congress interfering with the plans of the Washington Park Commission for the development of Washington; to the Committee on the Library.

Also, petition of the Italian Chamber of Commerce, New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the National Indian War Veterans, Denver, Colo., favoring the passage of legislation granting pensions to veterans of the Indian wars; to the Committee on Pensions.

Also, petition of the Chamber of Commerce of the United States of America, favoring the passage of House bill 25106, granting them a Federal charter; to the Committee on the Judiciary.

By Mr. LINDSAY: Petition of Judson G. Wall, of New York, favoring the passage of Senate bill 3, giving Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of William Reilly, Yonkers, N. Y.; George W. Brown, James M. McGee, and Myron Wood, Philadelphia, Pa., favoring the passage of House bill 1339, granting an increase of pension to veterans who lost an arm or leg in the Civil War; to the Committee on Invalid Pensions.

Also, petition of the Italian Chamber of Commerce of New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. PARRAN: Papers to accompany bill (H. R. 27395) granting a pension to Elizabeth Freeman; to the Committee on Invalid Pensions.

By Mr. REILLY: Petition of the Court of Common Council of the City of New London, protesting against the provision in the sundry civil bill for making no additional appointments of cadets or cadet engineers to the Revenue-Cutter Service unless authorized by Congress; to the Committee on Naval Affairs.

Also, petition of the Massachusetts Association of Sealers of Weights and Measures, favoring the passage of House bill 23113, fixing a standard barrel for the shipment of fruits, vegetables, etc.; to the Committee on Ways and Means.

By Mr. TILSON: Petition of the Court of Common Council, New London, Conn., favoring legislation repealing the section of the sundry civil appropriation act which provides that no additional appointments as cadets or cadet engineers shall be made in the Revenue-Cutter Service unless authorized by Congress; to the Committee on Naval Affairs.

By Mr. UNDERHILL: Petition of the Social Science Section of the American Association for the Advancement of Science, favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

SENATE.

MONDAY, *January 13, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

Mr. BACON took the chair as President pro tempore under the previous order of the Senate.

The Secretary proceeded to read the Journal of the proceedings of Saturday last, when, on request of Mr. CULLOM and by unanimous consent, the further reading was dispensed with and the Journal was approved.

ILLINOIS RIVER BRIDGE.

Mr. CULLOM. I should like to have passed the bill (S. 7637) to authorize the construction of a railroad bridge across the Illinois River near Havana, Ill. It is somewhat important, owing to the emergency of the situation, that it should be passed at once.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a joint resolution adopted by the Legislature of Vermont, relative to the submission of an amendment to the Constitution to prohibit polygamy, which was referred to the Committee on the Judiciary and ordered to be printed in the RECORD, as follows:

Joint resolution making application to Congress under the provisions of Article V of the Constitution of the United States for the calling of a convention to propose an amendment to the Constitution of the United States whereby polygamy and polygamous cohabitation shall be prohibited.

Whereas it appears from investigation recently made by the Senate of the United States, and otherwise, that polygamy still exists in certain places in the United States, notwithstanding prohibitory statutes enacted by the several States thereof; and

Whereas the practice of polygamy is generally condemned by the people of the United States and there is a demand for the more effectual prohibition thereof by placing the subject under Federal jurisdiction and control, at the same time reserving to each State the right to make and enforce its own laws relating to marriage and divorce: Now therefore

Resolved by the senate and house of representatives, That the application be made, and hereby is made to Congress, under the provisions of Article V of the Constitution of the United States for the calling of a convention to propose an amendment to the Constitution of the United States whereby polygamy and polygamous cohabitation shall be prohibited, and Congress shall be given power to enforce such prohibition by appropriate legislation.

Resolved, That the legislatures of all other States of the United States, now in session or when next convened, be, and they hereby are, respectfully requested to join in this application by the adoption of this or an equivalent resolution.

Resolved further, That the secretary of state be, and he hereby is, directed to transmit copies of this application to the Senate and House of Representatives of the United States and to the several Members of said bodies representing this State therein; also to transmit copies hereof to the legislatures of all other States of the United States.

FRANK E. HOWE,
President of the Senate.
CHARLES A. PLUMLEY,
Speaker of the House of Representatives.

Approved December 18, 1912.

ALLEN M. FLETCHER, *Governor.*

STATE OF VERMONT,
Office of the Secretary of State.

I hereby certify that the foregoing is a true copy of "A joint resolution making application to Congress under the provisions of Article V of the Constitution of the United States for the calling of a convention to propose an amendment to the Constitution of the United States whereby polygamy and polygamous cohabitation shall be prohibited," Approved December 18, 1912, as appears by the files and records of this office.

Witness my signature and the seal of this office, at Montpelier, this 10th day of January, 1913.

[SEAL.] GUY W. BAILEY,
Secretary of State.

Mr. BRANDEGEE presented a memorial of members of the German-American Alliance, of Bridgeport, Conn., remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. FLETCHER presented a petition of the United States Live Stock Sanitary Association, praying that an increased appropriation be made for use of the Bureau of Animal Industry, Department of Agriculture, in its work toward tick eradication and control and eradication of hog cholera, which was referred to the Committee on Agriculture and Forestry.

REPORTS OF COMMITTEES.

Mr. WARREN. I am directed by the Committee on Appropriations, to which was referred the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, to report it with amendments, and

I submit a report (No. 1104) thereon. I give notice that, if agreeable to the Senate, I will ask consideration of the bill on Wednesday morning next.

The PRESIDENT pro tempore. The bill will be placed on the calendar.

Mr. ASHURST, from the Committee on Indian Affairs, to which was referred the bill (H. R. 25878) granting certain lands for a cemetery to the Fort Bidwell People's Church Association, of the town of Fort Bidwell, State of California, and for other purposes, reported it without amendment and submitted a report (No. 1105) thereon.

JOSEPH W. M'CALL.

Mr. SANDERS. From the Committee on Military Affairs I report back favorably without amendment the bill (H. R. 20339) for the relief of Joseph W. McCall, and I submit a report (No. 1101) thereon. It is a bill with reference to the term of service of Surg. McCall, and I ask unanimous consent for its immediate consideration.

Mr. SMOOT. Let it be read.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It provides that in the administration of laws conferring rights, privileges, and benefits upon officers of the Volunteer Army in the Civil War, Joseph W. McCall shall hereafter be held and considered to have been in the military service of the United States as assistant surgeon of the Second Regiment West Tennessee Volunteer Cavalry (subsequently known as the Seventh Regiment Tennessee Volunteer Cavalry) from the 15th day of September, 1862, to the 15th day of October, 1862, and as assistant surgeon of the same regiment (Seventh Regiment Tennessee Volunteer Cavalry) from the 1st day of March, 1864, to the 15th day of March, 1864, and to have been honorably discharged from said service on the date hereinbefore last named. But no pay or other allowances shall become due or payable by reason of the passage of this act.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PUBLICITY OF EVIDENCE.

Mr. NELSON. I am directed by the Committee on the Judiciary, to which was referred the bill (S. 8000) providing for publicity in taking evidence under the act of July 2, 1890, to report it favorably with an amendment, and I ask for its immediate consideration.

The PRESIDENT pro tempore. Is there objection? The Chair hears none. The bill is before the Senate as in Committee of the Whole, and will be read.

The Secretary read the bill, as follows:

Be it enacted, etc., That in the taking of depositions of witnesses for use in any suit in equity brought by the United States under the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890, and in the hearings before any examiner or special master appointed to take testimony therein, the proceedings shall be open to the public as freely as are trials in open court; and no order heretofore or hereafter made by any court excluding the public from attendance on any such proceedings shall be valid or enforceable.

The amendment was, in lines 10 and 11, to strike out the words "heretofore or hereafter made by any court."

Mr. CLARKE of Arkansas. Mr. President, I do not care to object, but I should like to have the Senator from Minnesota who has charge of the bill state what particular exigency requires its passage.

Mr. NELSON. The object of the bill is this, Mr. President: In a suit instituted by the Department of Justice against the so-called Boot Machinery Trust in Massachusetts, the judge ordered that the testimony should be taken behind closed doors and refused to take it in public, as has always been done in court heretofore. This is to compel such testimony to be taken in open court, and not behind closed doors.

Mr. CLARKE of Arkansas. I believe I will object until I have an opportunity to look into it.

The PRESIDENT pro tempore. Objection is made, and the bill goes to the calendar.

Mr. CLARKE of Arkansas subsequently said: I have now had an opportunity to examine Senate bill 8000, reported by the Senator from Minnesota from the Committee on the Judiciary. I ask permission to withdraw the objection I interposed to the present consideration of the bill.

Mr. NELSON. Then, at the instance of the committee, I renew my request for its present consideration.

I wish to state to the Senate that it is important that this bill should pass immediately. It relates to a matter of this kind: A suit was instituted by the Department of Justice under the antitrust law against the Boot Machinery Trust of Boston, and the judge ordered the testimony in that case to be taken behind closed doors. The purpose of the bill is to get rid of the situation and provide that the testimony shall be taken in public. It is important that the law should be passed immediately.

The PRESIDENT pro tempore. The Senator from Minnesota asks for the present consideration of the bill (S. 8000) providing for publicity in taking evidence under the act of July 2, 1890. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. NELSON. There is an amendment of the committee.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. In lines 10 and 11 strike out the words "heretofore or hereafter made by any court."

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendment was concurred in.

Mr. BORAH. I should like to know more about what this bill is, if the Senator will state it. I did not get the drift of it. A special bill to enable the publicity of testimony is rather an interesting proposition.

Mr. NELSON. A suit was instituted against the Boot Machinery Trust in Massachusetts in the United States court, and the judge of that court ordered that the testimony before the master be taken behind closed doors, not open to the public. The bill provides in all such cases, under the antitrust law, the testimony shall be taken publicly as in open court. It is a bill recommended by the Department of Justice, and the Committee on the Judiciary were unanimously in favor of it. The Senator from Idaho did not happen to be in the committee at the time it was acted on.

Mr. BORAH. Does it appear why the judge ordered the testimony to be taken behind closed doors?

Mr. NELSON. The Attorney General states that fact.

Mr. BORAH. And why was it?

Mr. NELSON. It was in the district court of Massachusetts.

Mr. BORAH. But what I want to know is why the testimony was taken behind closed doors.

Mr. NELSON. That I am unable to say.

Mr. LODGE. The case was before the circuit court in Massachusetts, Judge Putnam presiding, and the testimony was ordered to be taken before a master in the ordinary way. The question arose whether it should be open to the public or not, and the court ruled that it should not be open.

Mr. NELSON. But that it should be taken behind closed doors.

Mr. BORAH. I am still at a loss to know why he did it.

Mr. LODGE. The only ground was that it was not usual.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ABATEMENT OF NUISANCES.

Mr. CURTIS. From the Committee on the District of Columbia I report back favorably, with an amendment, the bill (S. 5861) to enjoin and abate houses of lewdness, assignation, and prostitution; to declare the same to be nuisances; to enjoin the person or persons who conduct or maintain the same and the owner or agent of any building used for such purpose; and to assess a tax against the person maintaining said nuisance and against the building and owner thereof, and I submit a report (No. 1102) thereon. I ask unanimous consent for its immediate consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read.

Mr. REED. What is the title of this bill?

The PRESIDENT pro tempore. The title will be read.

The Secretary read the bill by title.

Mr. REED. Is the request for unanimous consent?

The PRESIDENT pro tempore. It is.

Mr. REED. Has it been granted?

The PRESIDENT pro tempore. It has been granted.

Mr. REED. For immediate consideration?

The PRESIDENT pro tempore. For immediate consideration.

Mr. REED. How long has the bill been on the calendar?

The PRESIDENT pro tempore. It was reported this morning. It has not been on the calendar.

Mr. REED. Mr. President, I was a moment late in coming to the Chamber. I am heartily in sympathy with many of the objects of the bill, but there are provisions in it revolutionary in character, if the copy which I received through the mails printed on pink paper and sent out by some gentlemen who are interested is correct. I should like to have time to examine the bill, and I hope that the proposer of it will give me time to look into it.

Mr. CURTIS. Mr. President, I have no objection to the Senator from Missouri taking all the time he desires. I want to say that the committee did not report the bill until after very careful consideration and numerous hearings, and it is a unanimous report from the Committee on the District of Columbia, with an amendment.

Mr. REED. Is the Senator willing to have it go over until to-morrow?

Mr. CURTIS. I am perfectly willing, if the Senator desires. I do not, of course, wish to have it considered until every Senator is satisfied about the bill.

Mr. REED. I thank the Senator. I ask that it go to the calendar.

Mr. CURTIS. I understand that the Senator will examine the bill. If there is no objection, I should like to call it up to-morrow.

The PRESIDENT pro tempore. The bill will go to the calendar, but still it can be called up to-morrow.

COLVILLE INDIAN RESERVATION LANDS.

Mr. ASHURST. From the Committee on Indian Affairs I report back favorably with an amendment the bill (S. 5379) granting certain lands of the diminished Colville Indian Reservation, in the State of Washington, to the Washington Historical Society, and I submit a report (No. 1103) thereon.

Mr. JONES. That is a short bill, and is a matter of some urgency. I ask unanimous consent for its present consideration.

Mr. CRAWFORD. I do not like to object, but I think it is rather a bad practice to act on bills as reported, when we have had no opportunity to see the report and it has not been printed, and where no serious harm can follow having the report printed and the bill placed on the calendar so that we may have an opportunity to examine it. I object to its immediate consideration.

The PRESIDENT pro tempore. The Senator from South Dakota objects, and the bill will be placed on the calendar.

EXPENSES OF INVESTIGATIONS.

Mr. WARREN. From the Committee on Appropriations I report back favorably the joint resolution (S. J. Res. 150) appropriating $40,000 for the expenses of inquiries and investigations ordered by the Senate. The joint resolution relates to the contingent fund of the Senate, and I ask for its present consideration.

The Secretary read the joint resolution; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It appropriates $40,000 for expenses of inquiries and investigations ordered by the Senate, including compensation to stenographers to committees, at such rate as may be fixed by the Committee to Audit and Control the Contingent Expenses of the Senate, but not exceeding $1.25 per printed page, to be immediately available.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. MARTINE of New Jersey:

A bill (S. 8082) to amend section 1440 of the Revised Statutes (with accompanying paper); to the Committee on Naval Affairs.

By Mr. CHAMBERLAIN:

A bill (S. 8083) to appoint Brig. Gen. Thomas M. Anderson, United States Army, retired, to the grade of major general on the retired list of the Army; to the Committee on Military Affairs.

A bill (S. 8084) granting to the State of Oregon certain lands, claimed by the State of Oregon under the act of Congress approved September 28, 1850, and an act of Congress approved March 12, 1860; to the Committee on Public Lands.

By Mr. BRISTOW:

A bill (S. 8085) granting a pension to Martha Benner; and

A bill (S. 8086) granting a pension to Hiram Strayer (with accompanying papers); to the Committee on Pensions.

By Mr. CUMMINS:

A bill (S. 8087) granting authority to sell certain real property in Des Moines, Iowa, authorizing the acquisition of a new site and the erection of a building thereon, and making an appropriation therefor; to the Committee on Public Buildings and Grounds.

By Mr. GRONNA:

A bill (S. 8088) authorizing the Secretary of War, in his discretion, to deliver to the State of North Dakota, for use at the Fort Rice Memorial Park, two condemned cannon, with their carriages and outfits of cannon balls; to the Committee on Military Affairs.

A bill (S. 8089) permitting the building of a railroad bridge across the Yellowstone River from a point on the east bank in section 15 to a point on the west bank in section 16, township 151 north of range 104 west of the fifth principal meridian, in McKenzie County, N. Dak.; and

A bill (S. 8090) permitting the building of a railroad bridge across the Missouri River from a point on the east bank in section 14, Mountrail County, N. Dak., to a point on the west bank of said river in section 15 in McKenzie County, N. Dak., in township 152 north of range 93 west of the fifth principal meridian; to the Committee on Commerce.

By Mr. JONES:

A bill (S. 8091) authorizing the Secretary of War to make certain donations of cannon; to the Committee on Military Affairs.

By Mr. SMOOT:

A bill (S. 8092) granting to the Emigration Canon Railroad Co., a corporation of the State of Utah, permission, in so far as the United States is concerned, to occupy for a right of way for its railroad track a certain piece of land now included in the Mount Olivet Cemetery, Salt Lake County, Utah; to the Committee on Public Lands.

By Mr. BRANDEGEE:

A bill (S. 8093) granting an increase of pension to Josephine Roth; to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 8094) granting an increase of pension to Charles R. Bunnell (with accompanying papers); to the Committee on Pensions.

By Mr. CRANE:

A bill (S. 8095) granting an increase of pension to George W. Seymour; to the Committee on Pensions.

By Mr. WILLIAMS:

A bill (S. 8096) for the relief of the heirs of Isaac Whitaker, deceased; to the Committee on Claims.

By Mr. TILLMAN:

A bill (S. 8097) for the relief of St. John's Episcopal Church, at Winnsboro, S. C.; to the Committee on Claims.

By Mr. JOHNSON of Maine (for Mr. GARDNER):

A bill (S. 8098) granting an increase of pension to Horace C. Webber;

A bill (S. 8099) granting an increase of pension to Porter E. Nash;

A bill (S. 8100) granting an increase of pension to Joseph M. Davis; and

A bill (S. 8101) granting a pension to Mary J. Gooding (with accompanying paper); to the Committee on Pensions.

By Mr. JOHNSON of Maine:

A bill (S. 8102) granting an increase of pension to Edward Hearin (with accompanying papers);

A bill (S. 8103) granting an increase of pension to John W. Nash (with accompanying papers);

A bill (S. 8104) granting an increase of pension to Joel H. Grout (with accompanying paper);

A bill (S. 8105) granting an increase of pension to John M. Mower (with accompanying papers); and

A bill (S. 8106) granting a pension to William McFadzen (with accompanying papers); to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. JONES submitted an amendment proposing to appropriate $10,000 for the survey of Nespelem and Omak Townships, on the Colville Indian Reservation, Wash., etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate $5,000 for the survey of the Klaxta Township, on the abandoned Spokane Military Reservation, now the Spokane Indian Reservation, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate $25,000 for survey of public lands in the State of Washington, intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

MEDALS TO SURVIVORS OF BATTLE OF GETTYSBURG.

Mr. O'GORMAN submitted an amendment intended to be proposed by him to the bill (S. 8031) providing for the presentation of medals to all surviving soldiers of the Battle of Gettysburg, which was referred to the Committee on Military Affairs and ordered to be printed.

WITHDRAWAL OF PAPERS—MICHAEL O'BRIEN.

On motion of Mr. LA FOLLETTE, it was

Ordered, That the papers accompanying the bill (S. 4449) granting an increase of pension to Michael O'Brien, Sixty-second Congress, second session, be withdrawn from the files of the Senate, no adverse report having been made thereon.

THE MONEY TRUST INQUIRY (S. DOC. NO. 1003).

Mr. BURTON. I ask to have printed as a Senate document copies of letters to the New York Evening Post, by A. Piatt Andrew, containing some facts and findings relating to the Money Trust inquiry.

The PRESIDENT pro tempore. Without objection, an order for the printing of the letters is entered.

MEMORIAL ADDRESSES.

Mr. SMOOT. Mr. President, I desire to state that during the Sixty-second Congress there died 16 Representatives, 5 Senators, and our Vice President. The eulogies on the lives and public services of the departed have not been delivered in the Senate, with the exception of those in relation to the late Senator Frye, of Maine. If the eulogies are to be printed at this session of Congress, memorial services should be held at an early date, and arrangements for that purpose should be made, because there are some twenty or more of them. I simply call attention to this fact so that Senators who may be interested may arrange a time at a very early date for the delivery of those eulogies.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. Mr. President, I ask that the Senate resume the consideration of what is know as the omnibus claims bill, House bill 19115.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

Mr. CRAWFORD. Mr. President, the pending question is upon the amendment which I proposed to the amendment offered by the Senator from Massachusetts [Mr. LODGE], seeking to incorporate into the bill what are known as the French spoliation claims. I now ask that the vote be taken upon the amendment offered by me to the amendment proposed by the Senator from Massachusetts.

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from New Hampshire?

Mr. CRAWFORD. Certainly.

Mr. GALLINGER. Is the Senator through for the present?

Mr. CRAWFORD. Yes; and I yield to the Senator.

Mr. GALLINGER. Mr. President, I am going to occupy a very few moments in a discussion of this matter. On one or two previous occasions I spoke at some length in favor of the so-called French spoliation claims. I have not changed my mind on the subject at all, and I only desire to briefly restate my position.

These claims are very old; they are sometimes called stale; but I believe a claim never becomes stale that is pressed from time to time before the Congress; it becomes old but not stale, and the fact that these claims are very old is, to my mind, an added reason why they should be paid, provided they are honest claims.

Mr. President, I am not going to weary the Senate in going over the facts concerning these claims, the facts being well known to the Members of the Senate and to the country at large. From my point of view, the Government, in honor and in fairness, is bound to pay them.

In looking over the RECORD a few days ago I found that there have been 63 favorable reports made by committees of Congress on these claims. In three of those instances there was an adverse minority report, and there have been three adverse reports made during this more than 100 years. The total amount of the claims, as I recall, was between $4,000,000 and $5,000,000 of which between three and four million dollars have been paid, and there remain unpaid somewhere from six to eight hundred thousand dollars. If the payment of $3,000,000 or $4,000,000 was a correct payment, the payment of the six or eight hundred thousand dollars remaining must be equally correct; and I have been unable to discover any difference between the claims that have been paid and the claims that remain unpaid.

The first time I ever heard this matter discussed was in the House of Representatives in 1888. The Senator now occupying the chair [Mr. SHIVELY], as I recall, was a colleague of mine in the House at that time. Mr. Hooker, of Mississippi, a very able Representative, made a speech of some considerable length on the question, and I want to quote very briefly from what Mr. Hooker said. It impressed me then. I had not examined the matter very carefully up to that time, and it led me to take a very great interest in the matter, and, as some of these claims were from my own section of the country, I studied the subject as well as I could, and came to the conclusion then, which I still hold, that it is a great injustice to refuse to pay the remnant of these claims. Mr. Hooker said:

> If we have allowed decade after decade to pass, from 1801 down to the present time, if we have allowed generation after generation to pass away who were entitled to these claims, the original claimants and their descendants, is it any argument to the enlightened conscience and to the just sense of right of an American Congress to say that because we have persisted in wrong for nearly 100 years therefore we should persist in it for another 100 years? I say to these gentlemen whose names are recorded in favor of the law giving the Court of Claims the right of jurisdiction upon this question, if you did not intend to make a promise to the ear which was to be broken to the hope, if you did not intend that, then you ought to have raised all these objections when that bill was pending in this House, and you ought to have voted down the proposition to refer these matters to the Court of Claims, because, if the gentleman from Pennsylvania is correct, you were referring to that court claims the subject matter of which had no value, and the assumed beneficiaries of which were nefarious claimants of something to which they had no right.
>
> Yet the finding of your court answers him. Your tribunal, composed of five enlightened and able jurists, sitting for long weeks and months upon these cases, taking proof for the claimants and proof for the Government, tell you that certain of these claims which they have investigated are just, valid, subsisting claims against the Government of the United States.

Mr. President, I recall that speech to-day as vividly as it came to me at the time it was uttered in the House of Representatives; the discussion was one of great interest; and I was then persuaded that the Government was in honor bound to pay these claimants, and, as I said a moment ago, I have not been able to divest my mind of that feeling from that day to this. We referred the claims to the Court of Claims; the Court of Claims investigated them and reported them back to Congress as being just claims; and yet we have haggled over them year after year and decade after decade, and a portion of the claims remain unpaid to the present time, which is not to our credit from any point of view.

I trust, Mr. President, that as the Court of Claims found the full amount due as recognized in the amendment of the Senator from Massachusetts, the motion made by the Senator from South Dakota [Mr. CRAWFORD] to reduce the amount may not prevail, and that the amendment of the Senator from Massachusetts may receive the sanction of the Senate. As I said a moment ago, if the three or four million dollars that we have paid has been justly and honestly and honorably paid, we are equally in duty bound to pay the six or eight hundred thousand dollars that remain unpaid, and it is time that the Senate did its full duty in this matter. That is all I care to say, Mr. President.

Mr. ROOT. Mr. President, when this bill was before the Senate several days ago I put a question to the chairman of the committee when he was cut off by the arrival of the hour of 1 o'clock. That question I will repeat, in order that what he may say shall be understood.

As I understand, several million dollars of these French spoliation claims have been paid.

Mr. LODGE. Between $3,000,000 and $4,000,000.

Mr. ROOT. Between three and four million dollars, the Senator from Massachusetts says. That payment seems to me, coming as it did at different times, the judgments of successive Congresses upon the principle. It seemed to me that no one was at liberty to dispute the soundness and the equity of these claims in the face of the repeated decisions leading to those payments, unless he had himself made a thorough and exhaustive study of the subject and had come to a different conclusion. I think failing that, we are all bound to accept the decision already reached by Congress as stating the principle. That would leave nothing but the question of the amount, and the amount in the cases now before us has been settled by the judgments of the Court of Claims.

Mr. LODGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield?

Mr. ROOT. Certainly.

Mr. LODGE. Settled on exactly the same basis on which the previous claims were settled.

Mr. ROOT. I so understand. Now, my question to the chairman of the committee was whether the principle has not been settled in favor of these claimants so that we can proceed to act according to our conscience in regard to payments of the amounts which have been fixed upon by the Court of Claims.

Mr. CRAWFORD. These French spoliation claims have met with favorable action on the part of Congress in three several appropriations.

Mr. LODGE. Four.

Mr. CRAWFORD. One approved by President Harrison; one by President McKinley—possibly two by President McKinley—and one by President Roosevelt; I am not sure; possibly three or four. They came before Congress as items in general appropriation bills of some sort, and were not presented as independent propositions resting alone and discussed alone.

Before that time there had been bills presented for their allowance which were vetoed. President Cleveland vetoed one of these bills, and he placed his objection largely upon the ground that the claims contained what he thought were excessive amounts which they asked to be reimbursed on account of what they had paid as insurance premiums for insurance to cover this property and profits in the nature of freight earnings.

Now, we had the same question up two years ago in an omnibus claims bill, and it was discussed for several weeks in the Senate. The bill containing the French spoliation claims passed the Senate and went to the House, and there it was defeated. The entire bill was defeated on account of the very decided hostility to the items in that bill appropriating money for French spoliation claims. When the subject of presenting the present bill, which passed the House without the French spoliation claims in it, came up before the Committee on Claims the whole question was discussed whether or not the French spoliation claims should be incorporated in this bill.

As is well known, upon the general principle of obligation to satisfy these claims my own judgment was in recognition of the principle of payment. But I was only one member of the committee. The hostility to the claims on the question of incorporating them into the bill which passed the House was so marked and so decided that it looked like utter failure for the whole bill from the beginning if what are known as the French spoliation claims were incorporated in it. The matter was submitted to the committee, and after very careful consideration and on account of the situation—the sharp difference of opinion, the positive, agressive opposition to these claims—the majority of the committee decided that it was inexpedient and unwise to attempt to incorporate those claims as an amendment upon the House bill. I am trying in good faith to execute the instructions which I received from this committee.

Now, as to the merits of the case, speaking particularly in regard to the amendment which I have proposed to the amendment offered by the Senator from Massachusetts, I wish to say this: It is undoubtedly true that in conventions and under previous adjudications that have occurred, items such as these claims for freight earnings and insurance premiums have been allowed. I do not think, however, that the situations are exactly similar, because in most of those instances we were dealing directly with a foreign nation and it was a matter of settlement and adjustment between the Government of the United States and a foreign power direct; and in one of the instances which the Senator from Massachusetts presented the other day, as he said, a lump sum was paid over to the United States much in excess of the amount of these individual claims, and the Government had this fund at its disposal and it was quite liberal in paying out to the claimants and reimbursing them for items such as insurance premiums, no matter how large, and freight earnings, and things of that kind.

I do not believe that there has been established any binding precedent which in any way ties the hands of the Congress of the United States in the matter of simply doing what it may decide is fair and reasonable justice in this particular case. These findings that come here from the Court of Claims are not judgments. The cases were sent over there for them to report findings simply for the advisory use that might be made of them by the Congress of the United States. That is all. They are findings which come to us in an advisory way.

So, while I recognize from my standpoint that a great many very just claims are here, can it be said because we have this finding we must in honor pay these claims? Let me call attention to the case of the brig *Sally*, John V. Villett, master. Here was a brig engaged in the slave trade. She purchased a cargo of slaves on the Gold Coast. Her master purchased a cargo of slaves and set sail for Savannah, Ga., intending to stop at St. Thomas, West Indies, for supplies. On March 6, 1797, she was seized by a French privateer and taken to Guadeloupe, where both vessel and cargo were condemned by a French prize tribunal and became a total loss to the owner. The governor of this island took possession of these slaves, 167 of them, and put them to work on government plantations there.

Now, here more than 100 years after, in the twentieth century, we are asked to pay descendants for their loss on freight earnings on 167 negroes—to reimburse them the freight earnings for the loss, because they were seized by the government of those islands in the West Indies. Is there any moral obligation, is there any obligation whatever, resting upon us of this time to pay the descendants of that old slaver for what was lost on the freight on human beings from the west coast of Africa?

Mr. LODGE. That slave case is becoming quite familiar, but is that——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Massachusetts?

Mr. CRAWFORD. I do.

Mr. LODGE. But does that apply to many cases?

Mr. CRAWFORD. Oh, no.

Mr. LODGE. The Senator knows, as I said to him the other day, that the Senator from Massachusetts does not advocate any such claim.

Mr. CRAWFORD. I understand that very well.

Here is another man who had a cargo of freight, and he paid 30 per cent premium for insurance on it. It was on its way to the West Indies, and was seized by a privateer. The cargo and the vessel were taken. Through some adjustment with the insurance company he got back every dollar of his loss. They paid him for the merchandise. They paid him for the vessel itself.

Now, if that was a transaction with the insurance company, he could not make them pay back the premium he had paid for his protection, could he? No; that is what he paid for his protection, and he got his loss absolutely repaid. But a hundred years later his children or his grandchildren want us to pay back that premium of 30 per cent.

I do not care anything about the Geneva award or some convention between this country and Spain or any other foreign power. I say as a matter of simple justice between the United States and its own citizens, are we obliged, in order to do justice, to pay the grandchildren of those losers of insurance premiums? Here is a company of underwriters that took 60 per cent premium for insuring this property, and when the loss occurred they paid the loss. My amendment would allow the claimants to be repaid the amount they paid in insurance, but not allow them to retain the enormous premium of 60 per cent that they exacted at the time they insured the property.

I thought under the circumstances it was no more than fair to at least submit this amendment of mine, which seeks to cut out freight earnings and insurance premiums, and confine the losses to actual property losses—I thought it was no more than fair to the Senate to segregate those items and give the Senate an opportunity to say whether or not in its judgment the insurance premiums and the prospective profits, or the freight earnings should be included in the amount that these people should receive; and that is what the pending amendment provides.

Mr. OWEN. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Oklahoma?

Mr. CRAWFORD. I do, but I desire to say again that if we are ever to have a vote on this proposition we ought to have it soon, because the appropriation bills are coming in and they will have the right of way.

Mr. OWEN. I wanted to ask how long these people have waited for a settlement——

Mr. CRAWFORD. That appears on the face of the record.

Mr. OWEN. I know, but how long——

Mr. CRAWFORD. Since the early part of the last century; and I am bound to say they have been diligent. That is all I care to say. Can we not have a vote, Mr. President?

Mr. LODGE. Upon the matter of the precedents in Congress, the Senator said three. There are four, as I thought, and I want to put them into the RECORD at a convenient point. Congress has heretofore by appropriation allowed the following amounts:

March 3, 1891 (Fifty-first Congress), $1,304,095.37. The bill was signed by President Harrison.

March 3, 1899 (Fifty-sixth Congress), $1,055,473.04. The bill was signed by President McKinley.

May 27, 1902 (Fifty-seventh Congress), $798,631.27.

February 24, 1905 (Fifty-eighth Congress), $752,660.93.

Total, $3,910,860.61.

That makes four payments on these claims already made by previous Congresses and made on the same basis as those now presented; made on findings of the Court of Claims, which differs in no respects of which I am aware from the findings here.

For that reason I object to the amendment of the Senator from South Dakota. If the claims are to be paid, this amendment differentiates this vast group from all the others that have gone before.

Now, Mr. President, there is one case of a slaver that I think should be omitted. I do not believe, even if it is technically correct, that we need pay old claims for the transportation of

slaves. But, Mr. President, that is but one case. The total amount is not large, and it is only one case among a great many. I desire to say just a word in regard to that matter of premiums. It is not possible for me to say it now, although I shall not take three minutes. But I want to say a word about the question of premiums which the Senator from South Dakota raised, and I hope the Senator will allow the bill to go over, as we only have two minutes now before the impeachment case comes up.

Mr. CRAWFORD. I am very anxious to get a vote on the bill.

Mr. LODGE. The Senator must see it is impossible to get a vote now.

IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. BACON) having announced that the time had arrived for the consideration of the articles of impeachment against Robert W. Archbald, Mr. Worthington, Mr. Robert W. Archbald, jr., and Mr. Martin, of counsel for the respondent, appeared.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The Sergeant at Arms made the usual proclamation.

The PRESIDENT pro tempore. The Secretary will read the Journal of the last session of the Senate sitting for the consideration of the articles of impeachment.

The Journal of the Senate sitting as a Court of Impeachment on Saturday last was read.

The PRESIDENT pro tempore. Are there any inaccuracies in the Journal? If not, it will stand approved.

Mr. ROOT. Mr. President, I offer an order which I have handed to the Secretary.

The PRESIDENT pro tempore. The Senator from New York proposes the following order, which will be read to the Senate.

The Secretary read as follows:

Ordered, That upon the final vote in the pending impeachment the Secretary shall read the articles of impeachment successively, and when the reading of each article is concluded the Presiding Officer shall state the question thereon as follows:

"Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article?"

Thereupon the roll of the Senate shall be called and each Senator, as his name is called, shall arise in his place and answer "guilty" or "not guilty."

The PRESIDENT pro tempore. The question is on the adoption of the order. [Putting the question.] The ayes have it, and the order is unanimously adopted. The Secretary will read the first article of impeachment.

Mr. KERN. Mr. President, if I may do so properly, I desire at this time to ask to be excused from voting upon the articles of impeachment. I was unavoidably detained from the Senate until the adjournment for the Christmas holidays, so that I did not see or hear the witnesses who were examined up to that time. While I have read the testimony and statement of counsel and heard the arguments, I do not feel that I can vote without at least taking the judgment of the Senate upon the question as to whether I may properly do so.

The PRESIDENT pro tempore. The Senator from Indiana asks that the Senate will excuse him from voting upon the articles of impeachment for the reason he has stated. Is there objection? The Chair hears none, and the Senator from Indiana is excused.

Mr. DILLINGHAM. Mr. President, owing to a protracted illness I was detained at my home in Vermont throughout the entire month of December. I heard none of the testimony that was offered in support of the articles of impeachment, nor have I been able by reason of other engagements to read the same since that time. I count myself as entirely disqualified to pass upon any question involved here to-day. For this reason I ask to be excused from voting on any one of the articles of impeachment.

The PRESIDENT pro tempore. The Senator from Vermont asks that he be excused from voting on the articles of impeachment for the reason he has stated. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. BRADLEY. Mr. President, during the session up to the holiday adjournment I was, unfortunately, ill and not able to be here. I have not had time since I came back to read the testimony with that care with which I think it ought to be read, and I ask the Senate to excuse me from voting.

The PRESIDENT pro tempore. The Senator from Kentucky asks to be excused from voting on the articles of impeachment for the reason he has stated. Is there objection? The Chair hears none, and the Senator stands excused.

The Chair will state that two other Senators have previously had practically the consent of the Senate to be excused from voting, the Senator from Arkansas [Mr. HEISKELL] and the Senator from Texas [Mr. JOHNSTON], both of whom came into the Senate near the close of the impeachment proceedings.

Mr. CLARKE of Arkansas. Mr. President, I believe I will ask the Senate to excuse me from voting on the counts which involve incriminating facts alleged to have occurred during the term of the respondent as United States district judge. I have not had sufficient time to convince my own mind that I ought to vote on those counts. I feel definitely well advised as to what I shall do with reference to the matters which transpired while he was judge of the Commerce Court. I think it is proper at this time to ask to be excused from voting on those counts which relate to the conduct of the respondent as judge of the district court, and I prefer that request now.

The PRESIDENT pro tempore. The Senator from Arkansas asks that the Senate excuse him from voting upon the articles indicated by him for the reason he has stated. Is there objection? The Chair hears none, and it is so ordered.

Mr. TILLMAN. Mr. President, as is known to Senators, I have been unable to attend the sessions of the Senate as I should like to have done. I am not prepared to vote on any article but the first one, and I ask to be excused from voting on all the rest.

The PRESIDENT pro tempore. The Senator from South Carolina asks that he be excused from voting upon all the articles of impeachment save only the first one, for the reason stated by him. Is there objection? The Chair hears none, and the Senator from South Carolina is excused as requested.

Mr. JACKSON. Mr. President, owing to the fact that I came into the Senate very recently and have been very busy with the details of my office, having heard practically none of the evidence or arguments in the case, I should like to be excused from voting.

The PRESIDENT pro tempore. The Senator from Maryland asks that he may be excused from voting upon the articles of impeachment, for the reason which he has stated. Is there objection? The Chair hears none, and the Senator stands excused.

The Secretary will proceed to read the first article.

The Secretary read as follows:

ARTICLE 1.

That the said Robert W. Archbald, at Scranton, in the State of Pennsylvania, being a United States circuit judge, and having been duly designated as one of the judges of the United States Commerce Court, and being then and there a judge of the said court, on March 31, 1911, entered into an agreement with one Edward J. Williams whereby the said Robert W. Archbald and the said Edward J. Williams agreed to become partners in the purchase of a certain culm dump, commonly known as the Katydid culm dump, near Moosic, Pa., owned by the Hillside Coal & Iron Co., a corporation, and one John M. Robertson, for the purpose of disposing of said property at a profit. That pursuant to said agreement, and in furtherance thereof, the said Robert W. Archbald, on the 31st day of March, 1911, and at divers other times and at different places, did undertake by correspondence, by personal conferences, and otherwise, to induce and influence, and did induce and influence, the officers of the said Hillside Coal & Iron Co., and of the Erie Railroad Co., a corporation, which owned all of the stock of said coal company, to enter into an agreement with the said Robert W. Archbald and the said Edward J. Williams to sell the interest of the said Hillside Coal & Iron Co. in the Katydid culm dump for a consideration of $4,500. That during the period covering the several negotiations and transactions leading up to the aforesaid agreement the said Robert W. Archbald was a judge of the United States Commerce Court, duly designated and acting as such judge; and at the time aforesaid and during the time the aforesaid negotiations were in progress the said Erie Railroad Co. was a common carrier engaged in interstate commerce and was a party litigant in certain suits, to wit, the Baltimore & Ohio Railroad Co. et al. v. The Interstate Commerce Commission, No. 38, and the Baltimore & Ohio Railroad Co. et al. v. The Interstate Commerce Commission, No. 39, then pending in the United States Commerce Court; and the said Robert W. Archbald, judge as aforesaid, well knowing these facts, willfully, unlawfully, and corruptly took advantage of his official position as such judge to induce and influence the officials of the said Erie Railroad Co. and the said Hillside Coal & Iron Co., a subsidiary corporation thereof, to enter into a contract with him and the said Edward J. Williams, as aforesaid, for profit to themselves, and that the said Robert W. Archbald then and there, through the influence exerted by reason of his position as such judge, willfully, unlawfully, and corruptly did induce the officers of said Erie Railroad Co. and of the said Hillside Coal & Iron Co. to enter into said contract for the consideration aforesaid.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of a high crime and misdemeanor in office.

The PRESIDENT pro tempore. Before putting the vote on this article the Chair would request the Senate to excuse the present occupant of the Chair from voting for reasons which will readily occur to Senators, and which attach to him as the Presiding Officer during the trial, except in the case of an article where his vote may affect the result. Is there objection? The Chair hears none, and the Chair will exercise that privilege, with the permission of the Senate.

The Chair now submits article 1 to the judgment of the Senate.

Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will call the roll of the Senate for the separate response of each Senator.

The Secretary called the roll.

Mr. SIMMONS. I desire to announce that my colleague [Mr. OVERMAN] is absent on account of illness.

Mr. BANKHEAD. I wish to announce that my colleague [Mr. JOHNSTON of Alabama] is absent on account of illness.

Mr. KERN. I desire again to announce the absence of the Senator from South Carolina [Mr. SMITH] on account of illness and of death in his family.

Mr. MARTINE of New Jersey. I desire to state that my colleague [Mr. BRIGGS] is also absent on account of illness.

Mr. WILLIAMS. I wish to announce that my colleague [Mr. PERCY] is necessarily detained from the city.

Mr. JOHNSON of Maine. I desire to announce that my colleague [Mr. GARDNER] is necessarily detained from the Chamber.

Mr. O'GORMAN. I desire to announce that the Senator from West Virginia [Mr. CHILTON] is absent owing to illness in his family.

Mr. SANDERS. I wish to announce that my colleague [Mr. LEA] is unavoidably absent from the city.

Mr. CATRON. I desire to state that my colleague [Mr. FALL] is absent on business of the Senate.

Mr. TOWNSEND. I received a telegram from my colleague [Mr. SMITH of Michigan], dated New Orleans, Saturday, stating that he was there on the Mexican investigation and could not therefore be present in the Senate at this time.

Mr. SMOOT. I desire to state that the junior Senator from Nevada [Mr. MASSEY] is out of the city.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—68.

Ashurst	Cummins	McLean	Shively
Bankhead	Curtis	Martin, Va.	Simmons
Borah	Dixon	Martine, N. J.	Smith, Ariz.
Bourne	du Pont	Myers	Smith, Ga.
Brandegee	Fletcher	Nelson	Smith, Md.
Bristow	Foster	Newlands	Smoot
Brown	Gallinger	O'Gorman	Stephenson
Bryan	Gore	Owen	Stone
Burton	Gronna	Page	Sutherland
Chamberlain	Hitchcock	Perkins	Swanson
Clapp	Johnson, Me.	Perky	Thornton
Clark, Wyo.	Jones	Poindexter	Tillman
Clarke, Ark.	Kenyon	Pomerene	Townsend
Crane	La Follette	Reed	Warren
Crawford	Lippitt	Richardson	Wetmore
Culberson	Lodge	Root	Williams
Cullom	McCumber	Sanders	Works

NOT GUILTY—5.

Burnham	Oliver	Paynter	Penrose
Catron			

ABSENT OR NOT VOTING—21.

Bacon	Gamble	Johnston, Tex.	Smith, Mich.
Bradley	Gardner	Kern	Smith, S. C.
Briggs	Guggenheim	Lea	Watson
Chilton	Heiskell	Massey	
Dillingham	Jackson	Overman	
Fall	Johnston, Ala.	Percy	

The PRESIDENT pro tempore. It appears from the responses given by Senators that 68 Senators have voted "guilty" and 5 Senators have voted "not guilty." More than two-thirds of the Senators having voted "guilty," the Senate adjudges the respondent, Robert W. Archbald, guilty as charged in the first article of impeachment.

The Secretary will now read the second article of impeachment.

The Secretary proceeded to read article 2.

Mr. SMITH of Georgia. I move that the Senate close the doors and go into secret session.

The PRESIDENT pro tempore. The Senator from Georgia moves that——

Mr. CULBERSON. Mr. President, a point of order. The Senate has already decided to vote at this hour on the articles of impeachment.

The PRESIDENT pro tempore. That is true, and in the absence of any order to the contrary that order would undoubtedly be carried out. It is, however, for the Senate to determine whether it will at any time suspend that order. It is not a matter of unanimous consent, but it is an order which can be changed or not changed, as the Senate may see proper to do.

Mr. WORTHINGTON. Mr. President, before the question is put, I ask, if the motion be carried, whether it will result in excluding counsel for the respondent from the Senate Chamber?

The PRESIDENT pro tempore. Yes; it would, while the Senate was in secret deliberation, exclude everybody except Senators and those who are privileged under such circumstances.

Mr. WORTHINGTON. I trust that nothing will be done which will exclude counsel for the respondent while the vote is being taken.

The PRESIDENT pro tempore. There will be no vote taken in secret session; there can not be. The question is on the motion of the Senator from Georgia [Mr. SMITH] to now close the doors.

Mr. CLARKE of Arkansas. A parliamentary inquiry, Mr. President. Could voting continue in secret session upon counts or issues raised?

The PRESIDENT pro tempore. There can be no vote except in open session.

Mr. POINDEXTER. Mr. President, I rise to a point of order. Has the Chair just stated that the Senate could not vote upon these articles in secret session?

The PRESIDENT pro tempore. It could not.

Mr. POINDEXTER. The Senate has, I believe, by unanimous consent, fixed this hour for voting?

The PRESIDENT pro tempore. It has done so by order, not by unanimous consent.

Mr. POINDEXTER. It was by order that the Senate met in open session. My understanding was that there was a unanimous-consent agreement that we should vote at 1 o'clock to-day.

SEVERAL SENATORS. Question!

The PRESIDENT pro tempore. The question is on the motion of the Senator from Georgia.

Mr. SMITH of Georgia. Mr. President, I understand that all we could do in secret session would be to consider the question as to whether it is worth while to go on with the vote on these other charges, and it was only with a view of saving time in that way, we having disposed of the matter by a vote on one article, that I made the suggestion. If the Senate is willing, I will withdraw the suggestion.

The PRESIDENT pro tempore. The Senator from Georgia withdraws the motion. The Secretary will read the second article of impeachment.

Mr. LODGE. Mr. President, I ask that there be order in the Chamber and in the galleries during this proceeding, which is a solemn and very serious one, indeed. Those who are here by the courtesy of the Senate, I think, while the articles are being read and voted on, should maintain the strictest order.

The PRESIDENT pro tempore. The suggestion of the Senator from Massachusetts is eminently proper. The Chair particularly requests visitors not by any conversation or otherwise to disturb the entire quietude and solemnity of these proceedings.

The Secretary will proceed with the reading of the second article.

The Secretary read as follows:

ARTICLE 2.

That the said Robert W. Archbald, on the 1st day of August, 1911, was a United States circuit judge, and, having been duly designated as one of the judges of the United States Commerce Court, was then and there a judge of said court.

That at the time aforesaid the Marian Coal Co., a corporation, was the owner of a certain culm bank at Taylor, Pa., and was then and there engaged in the business of washing and shipping coal; that prior to that time the said Marian Coal Co. had filed before the Interstate Commerce Commission a complaint against the Delaware, Lackawanna & Western Railroad Co. and five other railroad companies as defendants, charging said defendants with discrimination in rates and with excessive charges for the transportation of coal shipped by the said Marian Coal Co. over their respective lines of road; that all of the said defendant companies were common carriers engaged in interstate commerce. That the decision of the said case by the Interstate Commerce Commission at the instance of either party thereto was subject to a review, under the law, by the United States Commerce Court; that one Christopher G. Boland and one William P. Boland were then the principal stockholders of the said Marian Coal Co. and controlled the operation of the same, and they, the said Christopher G. Boland and the said William P. Boland, employed one George M. Watson as an attorney to settle the case then pending as aforesaid in the Interstate Commerce Commission and to sell to the Delaware, Lackawanna & Western Railroad Co. two-thirds of the stock of the said Marian Coal Co.; and at the time aforesaid there was pending in the United States Commerce Court a certain suit entitled "The Baltimore & Ohio Railroad Co. et al. v. The Interstate Commerce Commission, No. 38," to which suit the said Delaware, Lackawanna & Western Railroad Co. was a party litigant.

That the said Robert W. Archbald, being judge as aforesaid and well knowing these facts, did then and there engage for a consideration to assist the said George M. Watson to settle the aforesaid case then pending before the Interstate Commerce Commission and to sell to the said Delaware, Lackawanna & Western Railroad Co. the said two-thirds of the stock of the said Marian Coal Co., and in pursuance of said engagement the said Robert W. Archbald, on or about the 10th day of August, 1911, and at divers other times and at different places, did undertake, by correspondence, by personal conferences, and otherwise to induce and influence the officers of the Delaware, Lackawanna & Western Railroad Co. to enter into an agreement with the said George M. Watson for the settlement of the aforesaid case and the sale of said stock of the Marian Coal Co.; and the said Robert W. Archbald thereby willfully, unlawfully, and corruptly did use his influence as such judge in the attempt to settle said case and to sell said stock of the said Marian Coal Co. to the Delaware, Lackawanna & Western Railroad Co.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of a high crime and misdemeanor in office.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed to call the roll of the Senate for the separate response of each Senator.

The Secretary proceeded to call the roll.

Mr. SMITH of Georgia (when his name was called). I ask to be excused from voting, for I have not reached a conclusion satisfactory to myself.

The PRESIDENT pro tempore. Is there objection to excusing the Senator from Georgia? The Chair hears none, and he stands excused.

The roll call was concluded.

The PRESIDENT pro tempore. The Secretary will recapitulate the vote.

The Secretary recapitulated the vote, which was as follows:

GUILTY—46.

Ashurst	Cummins	Martine, N. J.	Sanders
Bankhead	Curtis	Myers	Shively
Borah	Dixon	Nelson	Simmons
Bourne	Fletcher	Newlands	Smith, Ariz.
Bristow	Gronna	O'Gorman	Smith, Md.
Brown	Johnson, Me.	Owen	Stone
Bryan	Kenyon	Perkins	Sutherland
Burton	La Follette	Poindexter	Swanson
Clapp	Lippitt	Pomerene	Williams
Clarke, Ark.	Lodge	Reed	Works
Crawford	McLean	Richardson	
Cullom	Martin, Va.	Root	

NOT GUILTY—25.

Brandegee	du Pont	Oliver	Thornton
Burnham	Foster	Page	Townsend
Catron	Gallinger	Paynter	Warren
Chamberlain	Gore	Penrose	Wetmore
Clark, Wyo.	Hitchcock	Perky	
Crane	Jones	Smoot	
Culberson	McCumber	Stephenson	

ABSENT OR NOT VOTING—23.

Bacon	Gamble	Johnston, Tex.	Smith, Ga.
Bradley	Gardner	Kern	Smith, Mich.
Briggs	Guggenheim	Lea	Smith, S. C.
Chilton	Heiskell	Massey	Tillman
Dillingham	Jackson	Overman	Watson
Fall	Johnston, Ala.	Percy	

The PRESIDENT pro tempore. On the call of the roll of the Senate upon the question whether the respondent is guilty or not guilty under the charge in this article, those voting guilty number 46 and those voting not guilty number 25. Forty-eight would be the number necessary to make two-thirds. Less than two-thirds having voted in favor of the guilt of the respondent, the Senate adjudges that he is not guilty as charged in this article.

The Secretary will proceed to read the third article of impeachment.

The Secretary read as follows:

ARTICLE 3.

That the said Robert W. Archbald, being a United States circuit judge and a judge of the United States Commerce Court, on or about October 1, 1911, did secure from the Lehigh Valley Coal Co., a corporation, which coal company was then and there owned by the Lehigh Valley Railroad Co., a common carrier engaged in interstate commerce, and which railroad company was at that time a party litigant in certain suits then pending in the United States Commerce Court, to wit: The Baltimore & Ohio Railroad Co. et al. v. Interstate Commerce Commission et al., No. 38, and the Lehigh Valley Railroad Co. v. Interstate Commerce Commission et al., No. 49, all of which was well known to said Robert W. Archbald, an agreement which permitted said Robert W. Archbald and his associates to lease a culm dump, known as Packer No. 3, near Shenandoah, in the State of Pennsylvania, which said culm dump contained a large amount of coal, to wit, 472,670 tons, and which said culm dump the said Robert W. Archbald and his associates agreed to operate and to ship the product of the same exclusively over the lines of the Lehigh Valley Railroad Co.; and that the said Robert W. Archbald unlawfully and corruptly did use his official position and influence as such judge to secure from the said coal company the said agreement.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of a misdemeanor in such office.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed to call the roll of the Senate for the separate response of each Senator.

The Secretary proceeded to call the roll.

Mr. FOSTER (when his name was called). Mr. President, I ask to be excused from voting on this article, as I have not been able to reach a conclusion satisfactory to myself.

The PRESIDENT pro tempore. The Senator from Louisiana asks to be excused from voting on this article for the reasons stated by him. Is there objection? The Chair hears none, and the Senator stands excused.

The roll call was concluded.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—60.

Ashurst	Burton	Cummins	Gronna
Bankhead	Chamberlain	Curtis	Hitchcock
Borah	Clapp	Dixon	Johnson, Me.
Bourne	Clarke, Ark.	du Pont	Jones
Bristow	Crawford	Fletcher	Kenyon
Brown	Culberson	Gallinger	La Follette
Bryan	Cullom	Gore	Lippitt
Lodge	O'Gorman	Richardson	Stone
McCumber	Owen	Root	Sutherland
McLean	Page	Sanders	Swanson
Martin, Va.	Perkins	Shively	Townsend
Martine, N. J.	Perky	Simmons	Warren
Myers	Poindexter	Smith, Ariz.	Wetmore
Nelson	Pomerene	Smith, Ga.	Williams
Newlands	Reed	Smith, Md.	Works

NOT GUILTY—11.

Brandegee	Clark, Wyo.	Paynter	Stephenson
Burnham	Crane	Penrose	Thornton
Catron	Oliver	Smoot	

ABSENT OR NOT VOTING—23.

Bacon	Foster	Johnston, Ala.	Percy
Bradley	Gamble	Johnston, Tex.	Smith, Mich.
Briggs	Gardner	Kern	Smith, S. C.
Chilton	Guggenheim	Lea	Tillman
Dillingham	Heiskell	Massey	Watson
Fall	Jackson	Overman	

The PRESIDENT pro tempore. Upon the call of the roll of the Senate, 60 Senators have voted that the respondent is guilty as charged in this article and 11 Senators have responded that he is not guilty as charged in this article. More than two-thirds of the Senate having responded that he is guilty, the Senate adjudges that the respondent, Robert W. Archbald, is guilty as charged in this article.

The Secretary will proceed to read the next article.

The Secretary read as follows:

ARTICLE 4.

That the said Robert W. Archbald, while holding the office of United States circuit judge and being a member of the United States Commerce Court, was and is guilty of gross and improper conduct, and was and is guilty of a misdemeanor as said circuit judge and as a member of said Commerce Court in manner and form as follows, to wit: Prior to and on the 4th day of April, 1911, there was pending in said United States Commerce Court the suit of Louisville & Nashville Railroad Co. v. The Interstate Commerce Commission. Said suit was argued and submitted to said United States Commerce Court on the 4th day of April, 1911; that afterwards, to wit, on the 22d day of August, 1911, while said suit was still pending in said court, and before the same had been decided, the said Robert W. Archbald, as a member of said United States Commerce Court, secretly, wrongfully, and unlawfully did write a letter to the attorney for the said Louisville & Nashville Railroad Co. requesting said attorney to see one of the witnesses who had testified in said suit on behalf of said company and to get his explanation and interpretation of certain testimony that the said witness had given in said suit, and communicate the same to the said Robert W. Archbald, which request was complied with by said attorney; that afterwards, to wit, on the 10th day of January, 1912, while said suit was still pending, and before the same had been decided by said court, the said Robert W. Archbald, as judge of said court, secretly, wrongfully, and unlawfully again did write to the said attorney that other members of said United States Commerce Court had discovered evidence on file in said suit detrimental to the said railroad company and contrary to the statements and contentions made by the said attorney; and the said Robert W. Archbald, judge of said United States Commerce Court as aforesaid, in said letter requested the said attorney to make to him, the said Robert W. Archbald, an explanation and an answer thereto; and he, the said Robert W. Archbald, as a member of said United States Commerce Court aforesaid, did then and there request and solicit the said attorney for the said railroad company to make and deliver to the said Robert W. Archbald a further argument in support of the contentions of the said attorney so representing the said railroad company, which request was complied with by said attorney, all of which on the part of said Robert W. Archbald was done secretly, wrongfully, and unlawfully, and which was without the knowledge or consent of the said Interstate Commerce Commission or its attorneys.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior in office, and was and is guilty of a misdemeanor.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed to call the roll of the Senate for the separate response of each Senator.

The Secretary called the roll.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—52.

Ashurst	Curtis	Martin, Va.	Richardson
Bankhead	Dixon	Martine, N. J.	Sanders
Borah	Fletcher	Myers	Shively
Bourne	Foster	Nelson	Simmons
Bristow	Gore	Newlands	Smith, Ariz.
Brown	Gronna	O'Gorman	Smith, Ga.
Bryan	Hitchcock	Owen	Smith, Md.
Chamberlain	Johnson, Me.	Page	Smoot
Clapp	Jones	Perkins	Stone
Clarke, Ark.	Kenyon	Perky	Thornton
Crawford	La Follette	Poindexter	Townsend
Culberson	Lodge	Pomerene	Williams
Cummins	McLean	Reed	Works

NOT GUILTY—20.

Brandegee	Crane	McCumber	Stephenson
Burnham	Cullom	Oliver	Sutherland
Burton	du Pont	Paynter	Swanson
Catron	Gallinger	Penrose	Warren
Clark, Wyo.	Lippitt	Root	Wetmore

ABSENT OR NOT VOTING—22.

Bacon	Gamble	Johnston, Tex.	Smith, Mich.
Bradley	Gardner	Kern	Smith, S. C.
Briggs	Guggenheim	Lea	Tillman
Chilton	Heiskell	Massey	Watson
Dillingham	Jackson	Overman	
Fall	Johnston, Ala.	Percy	

The PRESIDENT pro tempore. Upon the call of the roll of the Senate, 52 Senators have voted that the respondent is guilty and 20 Senators have voted that he is not guilty. More than two-thirds having voted that he is guilty, the Senate decides that Robert W. Archbald is guilty as charged in this article.

The Secretary will read the next article.

The Secretary read as follows:

ARTICLE 5.

That in the year 1904 one Frederick Warnke, of Scranton, Pa., purchased a two-thirds interest in a lease on certain coal lands owned by the Philadelphia & Reading Coal & Iron Co., located near Lorberry Junction, in said State, and put up a number of improvements thereon and operated a culm dump located on said property for several years thereafter; that operations were carried on at a loss; that said Frederick Warnke thereupon applied to the Philadelphia & Reading Coal & Iron Co. for the mining maps of the said land covered by the said lease, and was informed that the lease under which he claimed had been forfeited two years before it was assigned to him, and his application for said maps was therefore denied; that said Frederick Warnke then made a proposition to George F. Baer, president of the Philadelphia & Reading Railroad Co. and president of the Philadelphia & Reading Coal & Iron Co., to relinquish any claim that he might have in this property under the said lease, provided that the Philadelphia & Reading Coal & Iron Co. would give him an operating lease on what was known as the Lincoln culm bank, located near Lorberry; that said George F. Baer referred said proposition to one W. J. Richards, vice president and general manager of the Philadelphia & Reading Coal & Iron Co., for consideration and action; that the general policy of the said coal company being adverse to the lease of any of its culm banks, the said George F. Baer and the said W. J. Richards declined to make the lease, and the said Frederick Warnke was so advised; that the said Frederick Warnke then made several attempts, through his attorneys and friends, to have the said George F. Baer and the said W. J. Richards reconsider their decision in the premises, but without avail; that on or about November 1, 1911, the said Frederick Warnke called upon Robert W. Archbald, who was then and now is a United States circuit judge, having been duly designated as one of the judges of the United States Commerce Court, and asked him, the said Robert W. Archbald, to intercede in his behalf with the said W. J. Richards; that on November 24, 1911, the said Robert W. Archbald, judge as aforesaid, pursuant to said request, did write a letter to the said W. J. Richards requesting an appointment with the said W. J. Richards; that several days thereafter the said Robert W. Archbald called at the office of the said W. J. Richards to intercede for the said Frederick Warnke; that the said W. J. Richards then and there informed the said Robert W. Archbald that the decision which he had given to the said Warnke must be considered as final, and the said Archbald so informed the said Warnke; that the entire capital stock of the Philadelphia & Reading Coal & Iron Co. is owned by the Reading Co., which also owns the entire capital stock of the Philadelphia & Reading Railroad Co., which last-named company is a common carrier engaged in interstate business.

That the said Robert W. Archbald, judge as aforesaid, well knowing all the aforesaid facts, did wrongfully attempt to use his influence as such judge to aid and assist the said Frederick Warnke to secure an operating lease of the said Lincoln culm dump, owned by the Philadelphia & Reading Coal & Iron Co., as aforesaid, which lease the officials of the said Philadelphia & Reading Coal & Iron Co. had theretofore refused to grant, which said fact was also well known to the said Robert W. Archbald.

That the said Robert W. Archbald, judge as aforesaid, shortly after the conclusion of his attempted negotiations with the officers of the Philadelphia & Reading Railroad Co. and of the Philadelphia & Reading Coal & Iron Co., aforesaid, in behalf of the said Frederick Warnke, and on or about the 31st day of March, 1912, willfully, unlawfully, and corruptly did accept, as a gift, reward, or present, from the said Frederick Warnke, tendered in consideration of favors shown him by said judge in his efforts to secure a settlement and agreement with the said railroad company and the said coal company, and for other favors shown by said judge to the said Frederick Warnke, a certain promissory note for $500 executed by the firm of Warnke & Co., of which the said Frederick Warnke was a member.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as a judge and high crimes and misdemeanors in office.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed to call the roll of the Senate for the separate response of each Senator.

The Secretary called the roll.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of Senators.

The Secretary read the recapitulation of the vote, which was as follows:

GUILTY—66.

Ashurst	Curtis	Martin, Va.	Simmons
Bankhead	Dixon	Martine, N. J.	Smith, Ariz.
Borah	du Pont	Myers	Smith, Ga.
Bourne	Fletcher	Nelson	Smith, Md.
Brandegee	Foster	Newlands	Smoot
Bristow	Gallinger	O'Gorman	Stephenson
Brown	Gore	Owen	Stone
Bryan	Gronna	Page	Sutherland
Burton	Hitchcock	Perkins	Swanson
Chamberlain	Johnson, Me.	Perky	Thornton
Clapp	Jones	Poindexter	Townsend
Clarke, Ark.	Kenyon	Pomerene	Warren
Crane	La Follette	Reed	Wetmore
Crawford	Lippitt	Richardson	Williams
Culberson	Lodge	Root	Works
Cullom	McCumber	Sanders	
Cummins	McLean	Shively	

NOT GUILTY—6.

Burnham	Clark, Wyo.	Paynter	Penrose
Catron	Oliver		

ABSENT OR NOT VOTING—22.

Bacon	Gamble	Johnston, Tex.	Smith, Mich.
Bradley	Gardner	Kern	Smith, S. C.
Briggs	Guggenheim	Lea	Tillman
Chilton	Heiskell	Massey	Watson
Dillingham	Jackson	Overman	
Fall	Johnston, Ala.	Percy	

The PRESIDENT pro tempore. Upon the call of the Senate, 66 Senators have upon this article voted that the respondent is guilty and 6 Senators have voted that he is not guilty. More than two-thirds of the Senators having voted that the respondent is guilty, the Senate has decided that he is guilty as charged in this article.

Mr. PAYNTER. Mr. President, I have been advised that occupants of the galleries wish to retire, and I would suggest that they be permitted to do so, even if not permitted to return.

The PRESIDENT pro tempore. Permission will be given as suggested by the Senator from Kentucky for those who wish to retire to do so in an orderly way without confusion.

Mr. CRAWFORD. Mr. President, we have been here for a good while and we are not half through these article. The occupants of the galleries may be restless, and some of us are getting pretty hungry. I wish to suggest that we suspend the calling of the roll for half an hour that we may get our lunch and then come back again. I move that the Senate take a recess until a quarter of 3 o'clock.

The PRESIDENT pro tempore. To what hour?

Mr. CRAWFORD. Until 15 minutes before 3.

Mr. CLARKE of Arkansas and others. Regular order!

The PRESIDENT pro tempore. The Senator from South Dakota moves that the Senate take a recess until 2 o'clock and 45 minutes.

The motion was not agreed to.

The PRESIDENT pro tempore. The Secretary will proceed to read the next article.

The Secretary read as follows:

ARTICLE 6.

That the said Robert W. Archbald, being a United States circuit judge and a judge of the United States Commerce Court, on or about the 1st day of December, 1911, did unlawfully, improperly, and corruptly attempt to use his influence as such judge with the Lehigh Valley Coal Co. and the Lehigh Valley Railway Co. to induce the officers of said companies to purchase a certain interest in a tract of coal land containing 800 acres, which interest at said time belonged to certain persons known as the Everhardt heirs.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior in office and was and is guilty of a misdemeanor.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed to call the roll for the separate response of each Senator.

The Secretary proceeded to call the roll.

Mr. POINDEXTER (when his name was called). I ask to be excused from voting on this article. I have not been able to examine the evidence so as to reach a satisfactory conclusion upon it.

The PRESIDENT pro tempore. The Senator from Washington asks that he be excused, for the reason indicated by him, from voting on this article. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. WILLIAMS (when his name was called). Upon this article my mind is not clear and I have reached no satisfactory conclusion. I ask to be excused from voting.

The PRESIDENT pro tempore. The Senator from Mississippi asks to be excused from voting, for the reason assigned by him. Is there objection? The Chair hears none, and he stands excused.

The roll call was concluded.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—24.

Ashurst	Burton	McCumber	Root
Bankhead	Clapp	McLean	Smoot
Bourne	Curtis	Martine, N. J.	Stone
Brandegee	Jones	Myers	Thornton
Bristow	La Follette	Newlands	Townsend
Brown	Lodge	O'Gorman	Works

NOT GUILTY—45.

Borah	Dixon	Nelson	Shively
Bryan	du Pont	Oliver	Simmons
Burnham	Fletcher	Owen	Smith, Ariz.
Catron	Foster	Page	Smith, Ga.
Chamberlain	Gallinger	Paynter	Smith, Md.
Clark, Wyo.	Gore	Penrose	Sutherland
Clarke, Ark.	Gronna	Perkins	Swanson
Crane	Hitchcock	Perky	Warren
Crawford	Johnson, Me.	Pomerene	Wetmore
Culberson	Kenyon	Reed	
Cullom	Lippitt	Richardson	
Cummins	Martin, Va.	Sanders	

ABSENT OR NOT VOTING—25.

Bacon	Gardner	Lea	Stephenson
Bradley	Guggenheim	Massey	Tillman
Briggs	Heiskell	Overman	Watson
Chilton	Jackson	Percy	Williams
Dillingham	Johnston, Ala.	Poindexter	
Fall	Johnston, Tex.	Smith, Mich.	
Gamble	Kern	Smith, S. C.	

The PRESIDENT pro tempore. Upon the call of the roll, 24 Senators have voted that the respondent is guilty under the charges in this article and 45 Senators have voted that he is not guilty. Less than two-thirds having voted in favor of his guilt, the Senate adjudges that the respondent, Robert W. Archbald, is not guilty as charged in the article.

Mr. STONE. Articles 7, 8, 9, 10, 11, and 12 relate to charges of misbehavior alleged against the respondent while he was district judge. Some time ago he left that office, and he is not now holding it. I therefore ask to be excused from voting on those articles.

The PRESIDENT pro tempore. The Senator from Missouri asks to be excused from voting on the articles named by him for the reasons he has assigned.

Mr. KENYON. I inquire what are the reasons? We could not hear the Senator.

The PRESIDENT pro tempore. The Senator from Missouri will please restate his reasons.

Mr. STONE. I say, I have not reached a conclusion satisfactory to myself as to whether these alleged offenses could be reached by impeachment. I therefore ask to be excused from voting.

The PRESIDENT pro tempore. The Senator from Missouri asks to be excused from voting upon the articles he has enumerated for the reasons assigned by him. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. SWANSON. Mr. President, I am similarly situated as the Senator from Missouri [Mr. STONE]. I have not been able to reach a conclusion satisfactory to myself as to whether charges specifying offenses prior to the appointment of the respondent as a circuit judge can be tried under this impeachment. Consequently I ask to be excused from voting on articles 7, 8, and 9.

The PRESIDENT pro tempore. The Senator from Virginia asks to be excused from voting on the articles enumerated by him for the reasons he has assigned. Is there objection? The Chair hears none, and the Senator stands excused.

The Secretary will proceed to read the next article of impeachment.

The Secretary read as follows:

ARTICLE 7.

That during the months of October and November, A. D. 1908, there was pending in the United States district court, in the city of Scranton, State of Pennsylvania, over which court Robert W. Archbald was then presiding as the duly appointed judge thereof, a suit or action at law, wherein the Old Plymouth Coal Co. was plaintiff and the Equitable Fire & Marine Insurance Co. was defendant. That the said coal company was principally owned and entirely controlled by one W. W. Rissinger, which fact was well known to said Robert W. Archbald; that on or about November 1, 1908, and while said suit was pending, the said Robert W. Archbald and the said W. W. Rissinger wrongfully and corruptly agreed together to purchase stock in a gold-mining scheme in Honduras, Central America, for the purpose of speculation and profit; that in order to secure the money with which to purchase said stock, the said Rissinger executed his promissory note in the sum of $2,500, payable to Robert W. Archbald and Sophia J. Hutchison, which said note was indorsed then and there by the said Robert W. Archbald, for the purpose of having same discounted for cash; that one of the attorneys for said Rissinger in the trial of said suit was one John T. Lenahan; that on the 23d day of November, 1908, said suit came on for trial before said Robert W. Archbald, judge presiding, and a jury, and after the plaintiff's evidence was presented the defendant insurance company demurred to the sufficiency of said evidence and moved for a nonsuit, and, after extended argument by attorneys for both plaintiff and defendant, the said Robert W. Archbald ruled against the defendant and in favor of the plaintiff, and thereupon the defendant proceeded to introduce evidence, before the conclusion of which the jury was dismissed and a consent judgment rendered in favor of the plaintiff for $2,500, to be discharged upon the payment of $2,129.63 if paid within 15 days from November 23, 1908, and on the same day judgments were entered in a number of other like suits against different insurance companies, which resulted in the recovery of about $28,000 by the Old Plymouth Coal Co.; that before the expiration of said 15 days the said Rissinger, with the knowledge and consent of said Robert W. Archbald, presented said note to the said John T. Lenahan for discount, which was refused, and which was later discounted by a bank and has never been paid.

All of which acts on the part of said Robert W. Archbald were improper, unbecoming, and constituted misbehavior in his said office as judge, and render him guilty of a misdemeanor.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed with the call of the roll of Senators for the separate response of each Senator.

The Secretary proceeded to call the roll.

Mr. BORAH (when his name was called). Upon this article I vote "not guilty," and I file, to be printed in the RECORD, my reasons for so doing.

The PRESIDENT pro tempore. Under the order, the Senator has that privilege.

Mr. BRYAN (when his name was called). I file a statement of my views on this and succeeding articles down to and including article 12. On this article I vote "not guilty."

Mr. CRAWFORD (when his name was called). I vote "guilty," and I desire to say——

The PRESIDENT pro tempore. The Senator is not permitted under the rule to make any statement.

Mr. CRAWFORD. I thought we could make a statement of one minute.

The PRESIDENT pro tempore. No.

Mr. CRAWFORD. Very well. Then, I ask the privilege of filing my reasons hereafter.

The PRESIDENT pro tempore. That privilege has already been granted.

Mr. FOSTER (when his name was called). I am going to ask to be excused from voting on this article and the remainder of the articles.

The PRESIDENT pro tempore. The Senator will limit his present request to this article, as the roll is now being called on that.

Mr. FOSTER. I have not been able to reach a conclusion satisfactory to myself regarding this article.

The PRESIDENT pro tempore. The Senator from Louisiana asks to be excused from voting upon this article for the reason stated by him. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. SIMMONS. I vote "not guilty," but I desire to inquire whether, under the order adopted by the Senate, I can file my reasons hereafter?

The PRESIDENT pro tempore. There is an order to that effect.

Mr. SMITH of Georgia (when his name was called). I ask to be excused from voting upon this article, as I have not reached a conclusion as to whether these acts done prior to the occupancy of the defendant of a seat on the Commerce Court can now be the subject of impeachment.

The PRESIDENT pro tempore. The Senator from Georgia asks to be excused from voting upon this article for the reason assigned by him. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. SMITH of Maryland (when his name was called). As I am undecided in my own mind in regard to this article, I ask to be excused from voting.

The PRESIDENT pro tempore. The Senator from Maryland asks to be excused, for the reason assigned by him, from voting upon this article. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. WORKS (when his name was called). I vote "not guilty," and, as provided for by the order of the Senate, I now file my reasons for my vote.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—29.

Ashurst	Dixon	Martine, N. J.	Shively
Bourne	Fletcher	Myers	Smith, Ariz.
Bristow	Gore	O'Gorman	Thornton
Brown	Gronna	Owen	Wetmore
Clapp	Jones	Perky	Williams
Crawford	Kenyon	Poindexter	
Culberson	La Follette	Pomerene	
Cummins	Martin, Va.	Reed	

NOT GUILTY—36.

Bankhead	Crane	McCumber	Richardson
Borah	Cullom	McLean	Root
Brandegee	Curtis	Nelson	Sanders
Bryan	du Pont	Newlands	Simmons
Burnham	Gallinger	Oliver	Smoot
Burton	Hitchcock	Page	Sutherland
Catron	Johnson, Me.	Paynter	Townsend
Chamberlain	Lippitt	Penrose	Warren
Clark, Wyo.	Lodge	Perkins	Works

ABSENT AND NOT VOTING—29.

Bacon	Gamble	Lea	Stephenson
Bradley	Gardner	Massey	Stone
Briggs	Guggenheim	Overman	Swanson
Chilton	Heiskell	Percy	Tillman
Clarke, Ark.	Jackson	Smith, Ga.	Watson
Dillingham	Johnston, Ala.	Smith, Md.	
Fall	Johnston, Tex.	Smith, Mich.	
Foster	Kern	Smith, S. C.	

The PRESIDENT pro tempore. On the call of the roll, 29 Senators have voted that the respondent is guilty as charged in this article and 36 Senators have voted that the respondent is not guilty as charged in this article. Less than two-thirds having voted in favor of guilt, the Senate has adjudged that the respondent is not guilty as charged in this article.

During the roll call the following statements were filed:

By Mr. BORAH: In voting not guilty upon those counts which charge misconduct at a time when said R. W. Archbald was district judge, an office which he no longer holds, I do so because of a doubt I entertain as to the law. I am not prepared to say we can not impeach a man for offenses or acts committed while holding an office which he no longer holds. But the legal proposition, to my mind, is involved in doubt. Furthermore, if we had a clear and undoubted right as a legal proposition to do so, I would hesitate to establish the precedent except upon a peculiar and extraordinary necessity. I am not willing under the circumstances of this case, the object of the impeachment being fully accomplished, to establish that precedent. I prefer to leave it open until expediency demands that the matter be definitely decided. I have not, therefore, undertaken to pass upon the facts supporting the counts, but determine the matter solely upon the doubt which I entertain as to the law and as to the propriety of exercising the power, even if we have it under such conditions as exist in this case.

By Mr. BRYAN: I am convinced that articles of impeachment lie only for conduct during the term of office then being filled, and that the "good behavior" required by the Constitution relates to the future and not to the past; to what the officer does after and not to what the citizen had done before he is nominated and confirmed.

Both the President when he nominates and the Senate when it advises and consents ought to be satisfied, it seems to me, with the character and qualifications of the citizen.

The primary object of an impeachment is removal from office, but this could not be attained if before that the office became vacant.

Taking this view, I vote to acquit the respondent on articles 7, 8, 9, 10, 11, and 12.

Mr. SMITH of Georgia. Mr. President, I desire to ask to be excused from voting on each of the other articles where they involve acts prior to the respondent's appointment to the Commerce Court.

The PRESIDENT pro tempore. The Senator will please indicate the numbers of the articles.

Mr. SMITH of Georgia. They are the ones immediately following down to article 13. I ask to be excused from voting for the reason that I gave a few moments ago on the seventh article.

The PRESIDENT pro tempore. The Senator from Georgia asks to be excused from voting on the articles indicated by him for the reason he has given. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. NEWLANDS. Mr. President, I ask to be excused from voting upon the same articles as those indicated by the Senator from Georgia [Mr. SMITH] for the same reason.

The PRESIDENT pro tempore. The Senator from Nevada asks to be excused from voting upon the articles indicated for the reason assigned by him. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. FOSTER. Mr. President, I make a similar request.

The PRESIDENT pro tempore. The Senator from Louisiana asks to be excused from voting upon the articles indicated for the reason assigned by him. Is there objection? The Chair hears none, and the Senator stands excused.

The Secretary will proceed to read the next article.

The Secretary read as follows:

ARTICLE 8.

That during the summer and fall of the year 1909 there was pending in the United States District Court for the Middle District of Pennsylvania, in the city of Scranton, over which court the said Robert W. Archbald was then and there presiding as the duly appointed judge thereof, a civil action wherein the Marian Coal Co. was defendant, which action involved a large sum of money, and which defendant coal company was principally owned and controlled by one Christopher G. Boland and one William P. Boland, all of which was well known to said Robert W. Archbald; and while said suit was so pending the said Robert W. Archbald drew a note for $500 payable to himself, and which note was signed by one John Henry Jones and indorsed by the said Robert W. Archbald, and then and there during the pendency of said suit as aforesaid the said Robert W. Archbald wrongfully agreed and consented that the said note should be presented to the said Christopher G. Boland and the said William P. Boland, or one of them, for the purpose of having the said note discounted, corruptly intending that his name on said note would coerce and induce the said Christopher G. Boland and the said William P. Boland, or one of them, to discount the same because of the said Robert W. Archbald's position as judge and because the said Bolands were at that time litigants in his said court.

Wherefore the said Robert W. Archbald was and is guilty of gross misconduct in his office as judge, and was and is guilty of a misdemeanor in his said office as judge.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed to call the roll of the Senate for the separate response of each Senator.

The Secretary called the roll.

The PRESIDENT pro tempore. The Secretary will recapitulate the vote.

The Secretary recapitulated the vote, which was as follows:

GUILTY—22.

Ashurst	Crawford	Martine, N. J.	Pomerene
Bourne	Culberson	Myers	Reed
Bristow	Dixon	O'Gorman	Smith, Ariz.
Brown	Gronna	Owen	Williams
Chamberlain	Kenyon	Perky	
Clapp	La Follette	Poindexter	

NOT GUILTY—42.

Bankhead	du Pont	Nelson	Smith, Md.
Brandegee	Fletcher	Oliver	Smoot
Bryan	Gallinger	Page	Stephenson
Burnham	Hitchcock	Paynter	Sutherland
Burton	Johnson, Me.	Penrose	Thornton
Catron	Jones	Perkins	Townsend
Clark, Wyo.	Lippitt	Richardson	Warren
Crane	Lodge	Root	Wetmore
Cullom	McCumber	Sanders	Works
Cummins	McLean	Shively	
Curtis	Martin, Va.	Simmons	

ABSENT OR NOT VOTING—30.

Bacon	Foster	Johnston, Tex.	Smith, Mich.
Borah	Gamble	Kern	Smith, S. C.
Bradley	Gardner	Lea	Stone
Briggs	Gore	Massey	Swanson
Chilton	Guggenheim	Newlands	Tillman
Clarke, Ark.	Heiskell	Overman	Watson
Dillingham	Jackson	Percy	
Fall	Johnston, Ala.	Smith, Ga.	

The PRESIDENT pro tempore. On the call of the roll of the Senate, 22 Senators have voted that the respondent is guilty as charged in this article and 42 Senators have voted that he is not guilty as charged in this article. The Senate has therefore adjudged that the respondent is not guilty as charged in this article. The Secretary will proceed to read the next article.

The Secretary read as follows:

ARTICLE 9.

That the said Robert W. Archbald, of the city of Scranton and State of Pennsylvania, on or about November 1, 1909, being then and there a United States district judge in and for the middle district of Pennsylvania, in the city of Scranton and State aforesaid, did draw a note in his own proper handwriting, payable to himself, in the sum of $500, which said note was signed by one John Henry Jones, which said note the said Robert W. Archbald indorsed for the purpose of securing the sum of $500, and the said Robert W. Archbald, well knowing that his indorsement would not secure money in the usual commercial channels, then and there wrongfully did permit the said John Henry Jones to present said note for discount, at his law office, to one C. H. Von Storch, attorney at law and practitioner in said district court, which said Von Storch, a short time prior thereto, was a party defendant in a suit in the said district court presided over by the said Robert W. Archbald, which said suit was decided in favor of the said Von Storch upon a ruling by the said Robert W. Archbald; and when the said note was presented to the said Von Storch for discount, as aforesaid, the said Robert W. Archbald wrongfully and improperly used his influence as such judge to induce the said Von Storch to discount same; that the said note was then and there discounted by the said Von Storch, and the same has never been paid but is still due and owing.

Wherefore the said Robert W. Archbald was and is guilty of gross misconduct in his said office, and was and is guilty of a misdemeanor in his said office as judge.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed to call the names of Senators for the separate response of each Senator.

The Secretary proceeded to call the roll.

Mr. BRANDEGEE (when his name was called). I vote "not guilty" on this article, and take this opportunity of filing my reasons under the rule.

The PRESIDENT pro tempore. The views filed by the Senator from Connecticut will be printed in the RECORD.

The roll call was concluded.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of the Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—23.

Ashurst	Crawford	La Follette	Poindexter
Bourne	Culberson	Martine, N. J.	Pomerene
Bristow	Cullom	Myers	Reed
Brown	Dixon	O'Gorman	Shively
Chamberlain	Gronna	Owen	Smith, Ariz.
Clapp	Kenyon	Perky	

NOT GUILTY—39.

Bankhead	du Pont	Nelson	Smoot
Brandegee	Fletcher	Oliver	Stephenson
Bryan	Gallinger	Page	Sutherland
Burnham	Johnson, Me.	Paynter	Thornton
Burton	Jones	Penrose	Townsend
Catron	Lippitt	Perkins	Warren
Clark, Wyo.	Lodge	Richardson	Wetmore
Crane	McCumber	Root	Williams
Cummins	McLean	Sanders	Works
Curtis	Martin, Va.	Simmons	

ABSENT OR NOT VOTING—32.

Bacon	Foster	Johnston, Ala.	Smith, Ga.
Borah	Gamble	Johnston, Tex.	Smith, Md.
Bradley	Gardner	Kern	Smith, Mich.
Briggs	Gore	Lea	Smith, S. C.
Chilton	Guggenheim	Massey	Stone
Clarke, Ark.	Heiskell,	Newlands	Swanson
Dillingham	Hitchcock	Overman	Tillman
Fall	Jackson	Percy	Watson

The PRESIDENT pro tempore. On the call of the roll of the Senate, 23 Senators have voted that the respondent is guilty as charged in this article and 39 Senators have voted that he is not guilty as charged in this article. The Senate therefore has adjudged that the respondent is not guilty as charged in this article.

During the calling of the roll the following statement was filed:

By Mr. BRANDEGEE: I vote "not guilty" on articles 7 to 12, inclusive, because I do not think that impeachment will lie for offenses alleged to have been committed by the respondent while holding an office which he does not now hold and did not hold at the time the articles of impeachment were adopted by the House of Representatives.

The PRESIDENT pro tempore. The Secretary will proceed to the next article.

The Secretary read as follows:

ARTICLE 10.

That the said Robert W. Archbald, while holding the office of United States district judge in and for the middle district of the State of Pennsylvania, on or about the 1st day of May, 1910, wrongfully and unlawfully did accept and receive a large sum of money, the exact amount of which is unknown to the House of Representatives, from one Henry W. Cannon; that said money so given by the said Henry W. Cannon and so unlawfully and wrongfully received and accepted by the said Robert W. Archbald, judge as aforesaid, was for the purpose of defraying the expenses of a pleasure trip of the said Robert W. Archbald to Europe; that the said Henry W. Cannon, at the time of the giving of said money and the receipt thereof by the said Robert W. Archbald, was a stockholder and officer in various and divers interstate railway corporations, to wit: A director in the Great Northern Railway; a director in the Lake Erie & Western Railroad Co.; and a director in the Fort Wayne, Cincinnati & Louisville Railroad Co.; that the said Henry W. Cannon was president and chairman of the board of directors of the Pacific Coast Co., a corporation which owned the entire capital stock of the Columbia & Puget Sound Railroad Co., the Pacific Coast Railway Co., the Pacific Coast Steamship Co., and various other corporations engaged in the mining of coal and in the development of agricultural and timber land in various parts of the United States; that the acceptance by the said Robert W. Archbald, while holding said office of United States district judge, of said favors from an officer and official of the said corporations, any of which in the due course of business was liable to be interested in litigation pending in the said court over which he presided as such judge, was improper and had a tendency to and did bring his said office of district judge into disrepute.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior in office, and was and is guilty of a misdemeanor.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article?

The Secretary will proceed to call the roll for the separate response of each Senator.

The Secretary proceeded to call the roll.

Mr. REED (when his name was called). Availing myself of the rule, I send to the Clerk's desk my reasons for the vote I am about to cast. I vote "not guilty."

The roll call was concluded.

Mr. SWANSON. Mr. President, I asked to be excused from voting on certain articles, but I am not quite sure just what articles the request included. I have no desire to be excused from voting on articles 10, 11, 12, or 13.

Mr. SWANSON's name was thereupon called, and he voted "not guilty."

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—1.

Ashurst

NOT GUILTY—65.

Bankhead	Curtis	Martine, N. J.	Shively
Bourne	Dixon	Myers	Simmons
Brandegee	du Pont	Nelson	Smith, Ariz.
Bristow	Fletcher	O'Gorman	Smith, Md.
Brown	Gallinger	Oliver	Smoot
Bryan	Gore	Owen	Stephenson
Burnham	Gronna	Page	Sutherland
Burton	Hitchcock	Paynter	Swanson
Catron	Johnson, Me.	Penrose	Thornton
Chamberlain	Jones	Perkins	Townsend
Clapp	Kenyon	Perky	Warren
Clark, Wyo.	La Follette	Poindexter	Wetmore
Crane	Lippitt	Pomerene	Williams
Crawford	Lodge	Reed	Works
Culberson	McCumber	Richardson	
Cullom	McLean	Root	
Cummins	Martin, Va.	Sanders	

ABSENT OR NOT VOTING—28.

Bacon	Fall	Johnston, Ala.	Percy
Borah	Foster	Johnston, Tex.	Smith, Ga.
Bradley	Gamble	Kern	Smith, Mich.
Briggs	Gardner	Lea	Smith, S. C.
Chilton	Guggenheim	Massey	Stone
Clarke, Ark.	Heiskell	Newlands	Tillman
Dillingham	Jackson	Overman	Watson

The PRESIDENT pro tempore. Upon the call of the roll of the Senate, 1 Senator has voted that the respondent is guilty as charged in this article and 65 Senators have voted that the respondent is not guilty as charged in this article. The Senate has therefore adjudged that the respondent is not guilty as charged in this article.

The reasons filed by Mr. REED for his vote on the roll call are as follows:

By Mr. REED: In my opinion, article 10 is not sustained by the evidence. It is shown that Henry W. Cannon is a relative of the wife of the respondent, and that on other occasions the respondent and his wife had been the guests of Henry W. Cannon. The relationship existing between the families affords a proper reason for the invitation referred to in the article, and its acceptance. Under these conditions it is my opinion that the action of the respondent ought to receive that construction which accords with innocence.

The PRESIDENT pro tempore. The Secretary will proceed with the reading of the next article.

The Secretary read as follows:

ARTICLE 11.

That the said Robert W. Archbald, while holding the office of United States district judge in and for the middle district of the State of Pennsylvania, did, on or about the 1st day of May, 1910, wrongfully and unlawfully accept and receive a sum of money in excess of $500, which sum of money was contributed and given to the said Robert W. Archbald by various attorneys who were practitioners in the said court presided over by the said Robert W. Archbald; that said money was raised by subscription and solicitation from said attorneys by two of the officers of said court, to wit, Edward R. W. Searle, clerk of said court, and J. B. Woodward, jury commissioner of said court, both the said Edward R. W. Searle and the said J. B. Woodward having been appointed to the said positions by the said Robert W. Archbald, judge aforesaid.

Wherefore said Robert W. Archbald was and is guilty of misbehavior in office, and was and is guilty of a misdemeanor.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will call the roll for the separate response of each Senator.

The Secretary proceeded to call the roll.

Mr. POINDEXTER (when his name was called). Under the rule, I desire to file a statement of the reasons for my vote. I vote "not guilty."

Mr. REED (when his name was called). I vote "not guilty" and, under the rule, I file my reasons.

The roll call was concluded.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses of Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—11.

Ashurst	Brown	La Follette	Owen
Bourne	Clapp	Lippitt	Perky
Bristow	Dixon	Myers	

NOT GUILTY—51.

Bankhead	du Pont	Nelson	Shively
Brandegee	Fletcher	O'Gorman	Simmons
Bryan	Gallinger	Oliver	Smith, Ariz.
Burnham	Gore	Page	Smith, Md.
Burton	Gronna	Paynter	Smoot
Catron	Johnson, Me.	Penrose	Sutherland
Chamberlain	Jones	Perkins	Thornton
Clark, Wyo.	Kenyon	Poindexter	Townsend
Crane	Lodge	Pomerene	Warren
Culberson	McCumber	Reed	Wetmore
Cullom	McLean	Richardson	Williams
Cummins	Martin, Va.	Root	Works
Curtis	Martine, N. J.	Sanders	

ABSENT OR NOT VOTING—32.

Bacon	Fall	Johnston, Ala.	Smith, Ga.
Borah	Foster	Johnston, Tex.	Smith, Mich.
Bradley	Gamble	Kern	Smith, S. C.
Briggs	Gardner	Lea	Stephenson
Chilton	Guggenheim	Massey	Stone
Clarke, Ark.	Heiskell	Newlands	Swanson
Crawford	Hitchcock	Overman	Tillman
Dillingham	Jackson	Percy	Watson

The PRESIDENT pro tempore. Upon the call of the roll, 11 Senators have voted that the respondent is guilty as charged in this article and 51 Senators have voted that the respondent is not guilty as charged in this article. The Senate has therefore adjudged that the respondent is not guilty as charged in this article.

During the roll call the following statements were filed:

By Mr. POINDEXTER: As to articles 10, 11, and 12, while I regard the acts charged therein, and partly admitted by the

respondent, as reprehensible and justly subject to censure and objection, I do not regard them, standing alone, as sufficient cause for impeachment.

By Mr. REED: In explanation of my vote upon this article, I desire to state that I regard the practice sometimes indulged in by judges of courts, of accepting gifts of moneys contributed by attorneys practicing before them, as one which should not only be discountenanced but absolutely discontinued. Indeed, it is my opinion that it should be prohibited by positive statute. Nevertheless, it is my opinion that the evidence in this case does not go far enough to show that the money was contributed or accepted because of any sinister reason. Under these circumstances I do not think the act of sufficient gravity to warrant a finding of guilty. If the evidence had shown by direct testimony or by circumstances that the money was contributed for the purpose of promoting favoritism, and that it was accepted in such a manner as to create an obligation, a different case would have been presented.

The PRESIDENT pro tempore. The Secretary will proceed to read the next article.

The Secretary read as follows:

ARTICLE 12.

That on the 9th day of April, 1901, and for a long time prior thereto, one J. B. Woodward was a general attorney for the Lehigh Valley Railroad Co., a corporation and common carrier doing a general railroad business; that on said day the said Robert W. Archbald, being then and there a United States district judge in and for the middle district of Pennsylvania, and while acting as such judge, did appoint the said J. B. Woodward as a jury commissioner in and for said judicial district, and the said J. B. Woodward, by virtue of said appointment and with the continued consent and approval of the said Robert W. Archbald, held such office and performed all the duties pertaining thereto during all the time that the said Robert W. Archbald held said office of United State district judge, and that during all of said time the said J. B. Woodward continued to act as a general attorney for the said Lehigh Valley Railroad Co.; all of which was at all times well known to the said Robert W. Archbald.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior in office and was and is guilty of a misdemeanor.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will proceed to the call of the roll for the separate response of each Senator.

The Secretary called the roll.

The PRESIDENT pro tempore. The Secretary will recapitulate the responses.

The Secretary recapitulated the vote, which was as follows:

GUILTY—10.

Ashurst	Clapp	Gore	Perky
Bourne	Crawford	Gronna	Reed
Bristow	Culberson	Kenyon	Shively
Brown	Cummins	La Follette	Smith, Ariz.
Chamberlain	Dixon	Myers	

NOT GUILTY—46.

Bankhead	Gallinger	Oliver	Smith, Md.
Brandegee	Hitchcock	Owen	Smoot
Bryan	Johnson, Me.	Page	Stephenson
Burnham	Jones	Paynter	Sutherland
Burton	Lippitt	Penrose	Thornton
Catron	Lodge	Perkins	Townsend
Clark, Wyo.	McCumber	Poindexter	Warren
Crane	McLean	Pomerene	Wetmore
Cullom	Martin, Va.	Richardson	Williams
Curtis	Martine, N. J.	Root	Works
du Pont	Nelson	Sanders	
Fletcher	O'Gorman	Simmons	

ABSENT OR NOT VOTING—29.

Bacon	Foster	Kern	Smith, S. C.
Borah	Gamble	Lea	Stone
Bradley	Gardner	Massey	Swanson
Briggs	Guggenheim	Newlands	Tillman
Chilton	Heiskell	Overman	Watson
Clarke, Ark.	Jackson	Percy	
Dillingham	Johnston, Ala.	Smith, Ga.	
Fall	Johnston, Tex.	Smith, Mich.	

The PRESIDENT pro tempore. Upon the call of the roll of the Senate, 10 Senators have responded that the respondent is guilty as charged in this article and 46 Senators have responded that the respondent is not guilty as charged in this article. The Senate has therefore adjudged that the respondent is not guilty as charged in this article.

Mr. SUTHERLAND. Mr. President, the remaining article, 13, includes, in general terms, as I understand, the various articles which have preceded it and I find it exceedingly difficult to vote upon it one way or the other, because if I vote "guilty"——

The PRESIDENT pro tempore. Has the Senator a request to make?

Mr. SUTHERLAND. I desire to make this statement, because if I am not permitted to make a certain motion I want to ask to be excused from voting. This is preliminary to asking to be excused.

The PRESIDENT pro tempore. The Senator can give his reasons for wishing to be excused.

Mr. HITCHCOCK. Will the Senator please speak a little louder?

Mr. SUTHERLAND. I say that I find myself embarrassed to vote upon this question either way—guilty or not guilty.

The PRESIDENT pro tempore. The Senator can not enter into an argument upon the subject. He can state his reasons.

Mr. SUTHERLAND. Mr. President, I understand that I am stating my reasons.

The PRESIDENT pro tempore. With the permission of the Senate, the Senator may proceed.

Mr. SUTHERLAND. I was giving the reason why I think I should be excused from voting, and that is that I have voted upon some of these articles "guilty" and upon some of them "not guilty," and, as it occurs to me, I can not consistently vote upon this one article one way or the other. I desire to be excused, and before that request is put I desire to make a parliamentary inquiry. Would it be in order now to move to indefinitely postpone the consideration of article 13?

The PRESIDENT pro tempore. The Chair does not know that that is strictly a parliamentary question, as it is controlled by the rule of the Senate that the Senators shall vote upon it. It is a matter upon which the Chair would not take the responsibility of ruling, but will submit it to the Senate if the Senator desires it.

Mr. SUTHERLAND. Then, Mr. President, I move that the further consideration of article 13 be indefinitely postponed.

The PRESIDENT pro tempore. The Chair submits to the Senate the question of order.

Mr. WILLIAMS. Is that subject to debate?

The PRESIDENT pro tempore. There is nothing open to debate under the rule.

Mr. WILLIAMS. Then I want to submit this point of order to the Chair. I submit that it is the duty of the Chair to decide the point, for the simple reason that——

The PRESIDENT pro tempore. The Chair will decide it, then, and rule the motion to be out of order.

Mr. WILLIAMS. Yes; because the order under which we are working forbids debate.

Mr. SUTHERLAND. Then I ask to have my request put. I ask to be excused from voting upon this article for the reasons I have stated.

The PRESIDENT pro tempore. The Senator from Utah asks that he be excused from voting on article 13 for the reasons indicated by him. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. CHAMBERLAIN. I make the same request, and for the same reasons as those given by the Senator from Utah.

The PRESIDENT pro tempore. The Senator from Oregon [Mr. CHAMBERLAIN] makes the request that he be excused for the reasons indicated by the Senator from Utah. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. CLARK of Wyoming. For the same reasons I ask to be excused.

The PRESIDENT pro tempore. The Senator from Wyoming asks to be excused for reasons already given. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. JOHNSON of Maine. I ask to be excused for the same reasons as those assigned by the several Senators.

The PRESIDENT pro tempore. The Senator from Maine asks to be excused. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. WARREN. This article seems to be an omnium gatherum, including all the other charges, and for the same reasons expressed by the Senator from Utah I ask to be excused from voting.

The PRESIDENT pro tempore. The Senator from Wyoming asks to be excused from voting. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. DU PONT. For the same reason which was so well stated a few moments ago by the Senator from Utah [Mr. SUTHERLAND], I ask to be excused from voting.

Mr. CLAPP. Mr. President, I shall have to object to these requests. They will leave us where we will not have a quorum.

The PRESIDENT pro tempore. The Senator from Minnesota objects.

Mr. LIPPITT. For the reason that I can not consistently with my other votes vote on this article, I ask to be excused from voting.

The PRESIDENT pro tempore. The Senator from Rhode Island asks to be excused from voting on this article. Is there

objection? The Chair hears none, and the Senator stands excused.

Mr. SIMMONS. For the reasons given by other Senators, I ask to be excused from voting.

The PRESIDENT pro tempore. The Senator from North Carolina, for the reasons indicated, asks to be excused from voting. Is there objection? The Chair hears none, and the Senator stands excused.

Mr. GRONNA. I do not believe that I can consistently vote on this article, and therefore I ask to be excused.

The PRESIDENT pro tempore. The Senator from North Dakota asks to be excused from voting on this article.

Mr. REED. If it is in order, I should like to make a motion with reference to this matter for the action of the Senate.

The PRESIDENT pro tempore. The Chair is now putting the request of the Senator from North Dakota.

Mr. REED. Ah.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from North Dakota? The Chair hears none, and the Senator stands excused. The Senator from Missouri.

Mr. REED. Mr. President, this presents a peculiar question, and I therefore move that the doors of the Senate be closed.

The PRESIDENT pro tempore. The Senator from Missouri moves that the doors of the Senate be closed for deliberation.

Mr. DU PONT. I renew my request, for the reason stated, that I may be excused from voting.

The PRESIDENT pro tempore. There is a motion pending, made by the Senator from Missouri. The motion is that the doors of the Senate shall be closed for private conference.

Mr. O'GORMAN. I hope the motion will not prevail.

Mr. LODGE. I make the point that no debate is in order.

Mr. O'GORMAN. There are 13 articles on which Senators are prepared to render judgment. We have passed on 12 of those articles, and I assume that Senators will not be embarrassed in passing on the thirteenth; and that, I assume, is the regular order.

Mr. LODGE. I make the point that no debate is in order.

The PRESIDENT pro tempore. There is no rule on the subject that the Chair can find.

Mr. LODGE. It is the rule of the Senate that we shall vote without debate.

The PRESIDENT pro tempore. But the question is on the motion to go into private conference.

Mr. LODGE. That must be voted on without debate, like everything else.

Mr. ASHURST. On the motion of the Senator from Missouri [Mr. REED] I demand the yeas and nays.

Mr. POINDEXTER. It seems the Chair has ruled that it is open to debate, and I want to say only one word.

The PRESIDENT pro tempore. The Chair, on reflection, thinks the point of order made by the Senator from Massachusetts is correct. The Chair will rule that debate is not in order.

Mr. OLIVER. I call for the regular order.

The PRESIDENT pro tempore. The regular order is the demand for the yeas and nays made by the Senator from Arizona on the motion of the Senator from Missouri.

The yeas and nays were not ordered.

Mr. JONES. Mr. President, I rise to a point of order. Under the rule we have to determine all these questions by a roll call.

The PRESIDENT pro tempore. Not unless one-fifth of the Senators present demand it. The Senator will find that the rule is explicit on that subject.

Mr. JONES. I understood the rule did not require any second when the Senate is sitting as a Court of Impeachment.

Mr. CRAWFORD. I ask for the regular order.

The PRESIDENT pro tempore. The Senator from Washington has made a point of order, and it is proper to rule on it.

Mr. REED. When I made the motion I thought it would save time. If there is no objection, I will withdraw it.

The PRESIDENT pro tempore. The Senator from Missouri withdraws the motion, but the Chair will state to the Senator from Washington that if he will refer to the rules he will find explicit provision that the question shall be decided without division unless the yeas and nays are demanded. The Senator from Missouri withdraws the motion for the closing of the doors, and the Secretary will read article 13.

Mr. GALLINGER. I ask unanimous consent that the consideration of article 13 be indefinitely postponed.

Mr. POINDEXTER. I object.

The PRESIDENT pro tempore. Objection is made.

Mr. McCUMBER. Mr. President, I rise to a point of order. We are, under the rule, compelled to vote on the article. It can not be withdrawn.

Mr. CULBERSON, Mr. LA FOLLETTE, and others. Regular order!

The PRESIDENT pro tempore. The article will be read. The article has not yet been read.

The Secretary read as follows:

ARTICLE 13.

That Robert W. Archbald, on the 29th day of March, 1901, was duly appointed United States district judge for the middle district of Pennsylvania and held such office until the 31st day of January, 1911, on which last-named date he was duly appointed a United States circuit judge and designated as a judge of the United States Commerce Court.

That during the time in which the said Robert W. Archbald has acted as such United States district judge and judge of the United States Commerce Court he, the said Robert W. Archbald, at divers times and places, has sought wrongfully to obtain credit from and through certain persons who were interested in the result of suits then pending and suits that had been pending in the court over which he presided as judge of the district court, and in suits pending in the United States Commerce Court, of which the said Robert W. Archbald is a member.

That the said Robert W. Archbald, being United States circuit judge and being then and there a judge of the United States Commerce Court, at Scranton, in the State of Pennsylvania, on the 31st day of March, 1911, and at divers other times and places, did undertake to carry on a general business for speculation and profit in the purchase and sale of culm dumps, coal lands, and other coal properties, and for a valuable consideration to compromise litigation pending before the Interstate Commerce Commission, and in the furtherance of his efforts to compromise such litigation and of his speculations in coal properties, willfully, unlawfully, and corruptly did use his influence as a judge of the said United States Commerce Court to induce the officers of the Erie Railroad Co., the Delaware, Lackawanna & Western Railroad Co., the Lackawanna & Wyoming Valley Railroad Co., and other railroad companies engaged in interstate commerce, respectively, to enter into various and divers contracts and agreements in which he was then and there financially interested with divers persons, to wit, Edward J. Williams, John Henry Jones, Thomas H. Jones, George M. Watson, and others, without disclosing his said interest therein on the face of the contract, but which interest was well known to the officers and agents of said railroad companies.

That the said Robert W. Archbald did not invest any money or other thing of value in consideration of any interest acquired or sought to be acquired by him in securing or in attempting to secure such contracts or agreements or properties as aforesaid, but used his influence as such judge with the contracting parties thereto, and received an interest in said contracts, agreements, and properties in consideration of such influence in aiding and assisting in securing same.

That the said several railroad companies were and are engaged in interstate commerce, and at the time of the execution of the several contracts and agreements aforesaid and of entering into negotiations looking to such agreements had divers suits pending in the United States Commerce Court, and that the conduct and efforts of the said Robert W. Archbald in endeavoring to secure and in securing such contracts and agreements from said railroad companies was continuous and persistent from the said 31st day of March, 1911, to about the 15th day of April, 1912.

Wherefore the said Robert W. Archbald was and is guilty of misbehavior as such judge and of misdemeanors in office.

The PRESIDENT pro tempore. Senators, how say you? Is the respondent, Robert W. Archbald, guilty or not guilty as charged in this article? The Secretary will call the roll of the Senate for the separate response of each Senator.

The Secretary proceeded to call the roll.

Mr. BRANDEGEE (when his name was called). I take this opportunity to file my reasons.

Mr. POINDEXTER (when his name was called). Under the rule I desire to file the following statement.

The roll call was concluded.

Mr. SIMMONS. I will withdraw my request to be excused and will vote and will file my reasons. I vote "guilty."

Mr. DU PONT. I withdraw my request to be excused and file my reasons. I vote "not guilty."

The PRESIDENT pro tempore. The Secretary will proceed to recapitulate the responses of Senators.

The Secretary recapitulated the vote, which was as follows:

GUILTY—42.

Ashurst	Dixon	Martine, N. J.	Simmons
Bourne	Foster	Myers	Smith, Ariz.
Bristow	Gore	O'Gorman	Smith, Ga.
Brown	Hitchcock	Owen	Smith, Md.
Burton	Jones	Perky	Stone
Clapp	Kenyon	Poindexter	Swanson
Crawford	La Follette	Pomerene	Townsend
Culberson	Lodge	Reed	Williams
Cullom	McCumber	Root	Works.
Cummins	McLean	Sanders	
Curtis	Martin, Va.	Shively	

NOT GUILTY—20.

Bankhead	Crane	Oliver	Richardson
Brandegee	du Pont	Page	Smoot
Bryan	Fletcher	Paynter	Stephenson
Burnham	Gallinger	Penrose	Thornton
Catron	Nelson	Perkins	Wetmore

ABSENT OR NOT VOTING—32.

Bacon	Dillingham	Johnson, Me.	Overman
Borah	Fall	Johnston, Ala.	Percy
Bradley	Gamble	Johnston, Tex.	Smith, Mich.
Briggs	Gardner	Kern	Smith, S. C.
Chamberlain	Gronna	Lea	Sutherland
Chilton	Guggenheim	Lippitt	Tillman
Clark, Wyo.	Heiskell	Massey	Warren
Clarke, Ark.	Jackson	Newlands	Watson

The PRESIDENT pro tempore. On the call of the roll of the Senate, 42 Senators have responded that the respondent is

guilty as charged in this article and 20 Senators have responded that he is not guilty as charged in this article. More than two-thirds having voted that the respondent is guilty, the Senate has adjudged that the respondent is guilty as charged in the article.

The reasons filed by Senators are as follows:

By Mr. BRANDEGEE: I vote "not guilty" on article 13 because it alleges offenses some of which are alleged to have been committed by the respondent while he was a judge of the United States district court, which office he does not hold at present and did not hold at the time the articles were adopted by the House of Representatives; and also because it is impossible to separate the offenses alleged to have been committed as district judge from those alleged to have been committed as circuit judge and because I do not think all the allegations have been proved.

By Mr. POINDEXTER: Mr. POINDEXTER stated, as to article 13, that while it includes particular acts charged in other articles it, nevertheless, charges a distinct offense, in that it charges that the respondent made a regular business for profit of such acts.

By Mr. DU PONT: Reasons filed by Senator DU PONT with respect to certain votes cast by him during this session:

My vote of "not guilty" upon the articles of impeachment against Judge R. W. Archbald numbered 7, 8, 9, 10, 11, 12, and 13 was based, in the main, upon the fact that the offenses therein charged were alleged to have been committed prior to January 31, 1911, when he was not holding his present office. In my judgment, the legality of the impeachment, so far as such offenses are concerned, is questionable, and, in any event, a precedent fraught with danger is created.

By Mr. OWEN: Views of Mr. OWEN on articles 7, 8, 9, etc.:

Impeachment is the exercise of political power and not the exercise of mere judicial authority under a criminal code. Impeachment is the only mode of removing from office those persons proven to be unfit because of treason or high crimes or misdemeanors.

Whether these crimes be committed during the holding of a present office or a preceding office is immaterial, if such crimes demonstrate the gross unfitness of such official to hold the great offices and dignities of the people.

A wise public policy forbids the precedent to be set that promotion in office of a criminal precludes his impeachment on the ground of his discovered high crimes and misdemeanors in a previous office, from which he has just been promoted.

For these reasons, it is my judgment that articles 7, 8, 9, etc., in so far as they charge crimes committed by R. W. Archbald while United States district judge comprise impeachable offenses and may be alleged against him as judge of the Commerce Court.

Mr. O'GORMAN. I offer the following resolution.

The PRESIDENT pro tempore. The Senator from New York offers an order, which will be read to the Senate.

Mr. JONES. Before that order is presented, I wish to make a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from Washington will state it.

Mr. JONES. My inquiry is whether those who asked to be excused from voting will be considered as present on the roll call? The Constitution requires that a vote of two-thirds of those present will sustain the article, and the inquiry is if the vote announced by the Chair of the number voting guilty was two-thirds of those present?

The PRESIDENT pro tempore. The Chair knows of no way of determining the presence of Senators except by the recorded vote.

Mr. JONES. A number of Senators were excused from this roll call, and it seems to me that they should be counted as present.

The PRESIDENT pro tempore. The Chair has no right to count anyone who has not voted.

Mr. ROOT. I call for the regular order.

The PRESIDENT pro tempore. The Senator from New York [Mr. O'GORMAN] presents a resolution in the nature of an order, which will be read.

The Secretary read as follows:

Ordered, That the respondent, Robert W. Archbald, circuit judge of the United States from the third judicial circuit, and designated to serve in the Commerce Court, be removed from office and be forever disqualified from holding and enjoying any office of honor, trust, or profit under the United States.

Mr. ROOT. Mr. President, I move that the doors be closed for deliberation upon the sentence to be imposed by the Senate.

Mr. POINDEXTER. Will the Senator from New York yield to me just a moment that I may file a brief statement?

Mr. ROOT. That can be done at any time. It is not necessary that it be filed now.

Mr. WARREN. At any time within two days.

By Mr. POINDEXTER: The statement submitted by Mr. POINDEXTER is as follows: As to articles 7, 8, and 9, although the offenses charged were committed while the respondent was district judge and before he was appointed circuit judge, yet, since the penalty for impeachable offenses is not only forfeiture of office but disqualification to hold office thereafter, I am of opinion that the offenses charged in these articles, although committed before respondent's appointment as circuit judge, nevertheless disqualify him, on impeachment therefor, from holding office as such circuit judge or as judge of the Commerce Court. There is no statute of limitations nor law of limitations in impeachment proceedings.

The PRESIDENT pro tempore. The Senator from New York [Mr. ROOT] moves that the doors be closed in order that the Senate may deliberate in private. The question is on the motion of the Senator from New York.

The motion was agreed to.

The managers on the part of the House and the counsel for the respondent withdrew from the Chamber.

The galleries having been cleared, the Senate (at 3 o'clock and 50 minutes p. m.) proceeded to deliberate with closed doors.

At 4 o'clock and 20 minutes p. m. the doors were reopened.

Mr. Worthington, Mr. Robert W. Archbald, jr., and Mr. Martin, of counsel for the respondent, appeared in the seats provided for them.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The PRESIDENT pro tempore. What is the pleasure of the Senate?

Mr. O'GORMAN. Mr. President, I should like to have the order which I presented read, and then I shall ask for a vote upon it.

The PRESIDENT pro tempore. The Senator from New York asks that the order which he presents be read.

The Secretary read the order, as follows:

Ordered, That the respondent, Robert W. Archbald, circuit judge of the United States from the third judicial circuit, and designated to serve in the Commerce Court, be removed from office, and be forever disqualified from holding and enjoying any office of honor, trust, or profit under the United States.

Mr. OLIVER. I ask for a division of the question.

The PRESIDENT pro tempore. The Senator from Pennsylvania desires a division of the question. The Chair will direct that the first part of the proposed order, beginning with the word "*Ordered*" and concluding with the word "office," be first submitted to the Senate. That portion will now be stated by the Secretary.

The Secretary read as follows:

Ordered, That the respondent, Robert W. Archbald, circuit judge of the United States from the third judicial circuit, and designated to serve in the Commerce Court, be removed from office.

The PRESIDENT pro tempore. The question is on the adoption of the first portion of the proposed order, which has just been read.

The first portion of the order was agreed to.

The PRESIDENT pro tempore. The question now is upon the concluding portion of the order, which the Secretary will read.

The Secretary read as follows:

And be forever disqualified from holding and enjoying any office of honor, trust, or profit under the United States.

The PRESIDENT pro tempore. The question is upon agreeing to the portion of the order just read by the Secretary.

Mr. PENROSE and Mr. LA FOLLETTE called for the yeas and yeas.

The yeas and nays were ordered; and, having been taken, resulted—yeas 39, nays 35, as follows:

YEAS—39.

Ashurst	Culberson	La Follette	Reed
Borah	Cummins	Martin, Va.	Shively
Bourne	Dixon	Martine, N. J.	Simmons
Bristow	Fletcher	Newlands	Smith, Ariz.
Brown	Gore	O'Gorman	Smith, Md.
Bryan	Gronna	Owen	Stone
Chamberlain	Hitchcock	Page	Swanson
Clapp	Johnson, Me.	Perky	Tillman
Clarke, Ark.	Kenyon	Poindexter	Williams
Crawford	Kern	Pomerene	

NAYS—35.

Bacon	Curtis	Nelson	Smoot
Bankhead	du Pont	Oliver	Stephenson
Brandegee	Foster	Paynter	Sutherland
Burnham	Gallinger	Penrose	Thornton
Burton	Jones	Perkins	Townsend
Catron	Lippitt	Richardson	Warren
Clark, Wyo.	Lodge	Root	Wetmore
Crane	McCumber	Sanders	Works
Cullom	McLean	Smith, Ga.	

NOT VOTING—20.

Bradley	Gamble	Johnston, Ala.	Overman
Briggs	Gardner	Johnston, Tex.	Percy
Chilton	Guggenheim	Lea	Smith, Mich.
Dillingham	Heiskell	Massey	Smith, S. C.
Fall	Jackson	Myers	Watson

The PRESIDENT pro tempore. Upon the question of the adoption of the latter part of the order, which has just been read, the "yeas" are 39 and the "nays" 35. The "yeas" have it, and the latter part of the order is adopted, as well as the first, and the entire order is adopted. Is it the pleasure of the Senate that the Presiding Officer shall now pronounce the judgment of the Senate?

Mr. Manager CLAYTON. Mr. President, I desire that the Senate take appropriate action to communicate its judgment to the House of Representatives and the Executive Department.

The PRESIDENT pro tempore. The Senate has not yet pronounced judgment. That will be for the Senate to do.

JUDGMENT OF THE SENATE.

The PRESIDENT pro tempore (Mr. BACON) thereupon pronounced the judgment of the Senate as follows:

The Senate therefore do order and decree, and it is hereby adjudged, that the respondent, Robert W. Archbald, circuit judge of the United States from the third judicial circuit, and designated to serve in the Commerce Court, be, and he is hereby, removed from office; and that he be, and is hereby, forever disqualified to hold and enjoy any office of honor, trust, or profit under the United States.

OPINIONS OF SENATORS FILED AND PUBLISHED BY ORDER OF THE SENATE SITTING ON THE TRIAL OF THE IMPEACHMENT OF ROBERT W. ARCHBALD, CIRCUIT JUDGE OF THE UNITED STATES FROM THE THIRD JUDICIAL CIRCUIT, AND DESIGNATED TO SERVE IN THE COMMERCE COURT.

OPINIONS OF SENATOR ROOT AND SENATOR LODGE.

In the impeachment of Robert W. Archbald, January 13, 1913:

I have voted that the respondent is guilty under articles 1, 2, 3, 5, 6, and 13, because I find that he used the power and influence of his office as judge of the Court of Commerce to secure favors of money value for himself and his friends from railroad companies, some of which were litigants in his court and all of which were under the regulation of the Interstate Commerce Commission, subject to the review of the Court of Commerce.

I consider this course of conduct, and each instance of it, to be a high crime and misdemeanor.

I have voted "not guilty," upon the other articles, because, while most of them involve improper conduct, I do not consider that the acts proved are high crimes and misdemeanors.

I have no doubt that the respondent is liable to impeachment for acts done while he was a judge of the district court and that the Senate has jurisdiction to try him for such acts.

ELIHU ROOT.

I concur in the foregoing, except as to article 4, upon which I voted the respondent guilty.

H. C. LODGE.

The PRESIDENT pro tempore. What is the further pleasure of the Senate?

Mr. ROOT. I move that the Senate, sitting in the impeachment of Robert W. Archbald, do now adjourn without day.

Mr. GALLINGER. Would it not be proper, before that is done, to direct that the action of the Senate be communicated to the House of Representatives?

The PRESIDENT pro tempore. That is for the Senate.

Mr. GALLINGER. I would then move, Mr. President, that the action of the Senate in the case of the impeachment of Robert W. Archbald be communicated to the House of Representatives and to the President of the United States.

The motion was reduced to writing and agreed to, as follows:

Resolved, That the Secretary be directed to communicate to the President of the United States and to the House of Representatives the foregoing order and judgment of the Senate and transmit a certified copy of the same to each.

The PRESIDENT pro tempore. The question now is on the motion of the Senator from New York [Mr. ROOT] that the Senate sitting for the consideration of the articles of impeachment presented against Robert W. Archbald do now adjourn sine die.

The motion was agreed to.

The managers on the part of the House of Representatives, and Mr. Worthington, Mr. Robert W. Archbald, jr., and Mr. Martin, of counsel for the respondent, thereupon withdrew.

The PRESIDENT pro tempore. The Senate is now in legislative session.

Mr. CURTIS. I move that the Senate adjourn.

Mr. SMOOT. If we adjourn now, without the unfinished business being temporarily laid aside, will it displace the unfinished business?

Mr. CRAWFORD. I did not suppose the unfinished business would be affected in its status by an adjournment.

Mr. BORAH. The matter of adjournment does not affect the status of the unfinished business.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Kansas that the Senate adjourn.

The motion was agreed to, and (at 4 o'clock and 40 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, January 14, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

MONDAY, *January 13, 1913.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We come to Thee, O God, our heavenly Father, to renew our allegiance to Thee, to add to our spiritual strength, for we realize that the crowning glory of each man's life is character. Strengthen us that we may resist evil and make us strong to overcome temptation, that we may fulfill the obligations of this day, and keep our character free from the contamination of sin by doing all things in accordance with Thy will. Hear us, and thus bless us, in the name of Jesus Christ our Lord. Amen.

The Journal of the proceedings of Saturday, January 11, 1913, was read and approved.

MEMORIAL SERVICES.

The SPEAKER. In connection with setting the date for the memorial services for the late Representative WEDEMEYER, the Chair desires to make a suggestion to the House so that Members may take it under consideration. It has always appeared to the Chair that 12 o'clock on Sunday is a very inconvenient hour at which to have these services. The suggestion of the Chair is that they be set for 2 or 3 o'clock on that day. The Chair would be glad to have the Members consider this matter among themselves.

POST OFFICE APPROPRIATION BILL.

Mr. MOON of Tennessee. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 27148, the Post Office appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the Post Office appropriation bill, with Mr. GARRETT in the chair.

The Clerk read as follows:

Office of the Second Assistant Postmaster General.

Mr. MADDEN. Mr. Speaker, has the item with relation to the pay and arrangement for substitute carriers and clerks been passed over?

The CHAIRMAN. That was passed over, to be called up at the suggestion of the Chair.

The Clerk read as follows:

For inland transportation by star routes in Alaska, $450,000: *Provided*, That out of this appropriation the Postmaster General is authorized to provide difficult or emergency mail service in Alaska, including the establishment and equipment of relay stations, in such manner as he may think advisable, without advertising therefor.

Mr. SHARP. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 16, line 7, after the word "stations," insert the words "and the transportation of mail by aeroplane or other air craft."

Mr. MOON of Tennessee. Mr. Chairman, I make the point of order on that.

Mr. SHARP. Mr. Chairman, will the gentleman from Tennessee reserve his point of order for a few minutes?

Mr. MOON of Tennessee. Mr. Chairman, I will reserve the point of order for five minutes.

Mr. SHARP. Mr. Chairman, I very much hope that the chairman of this important committee will not insist upon his point of order. Nearly a year ago, when this same committee reported out its bill for appropriations to take care of the post-office service, I offered an amendment appropriating $50,000 for carrying mail by aeroplane or other air craft. There was no point of order made at that time, which, of course, while it serves no precedent, still called for an extra appropriation.

At the present time, and in this amendment which I offer, there is no money called for, and the language of the provision itself leaves a large amount of discretion and latitude with the Postmaster General, because it covers, as it plainly recites, cases of emergency. I took this matter up the other day with the Second Assistant Postmaster General, Mr. Stewart, and I asked him why he had not presented this phase of the subject at the hearings at this time. He said he had met with such discouragement before that he thought it was out of the question to get any extra appropriation.

Mr. MOON of Tennessee. Does not the gentleman think it better that all of these aeroplane projects be left to the War and Navy Departments rather than to the Post Office Department?

Mr. SHARP. Mr. Chairman, I am very glad to answer that question. I am glad the gentleman has asked that question, because having given no little thought to this whole subject myself, I wish to say that one difficulty that has confronted the development of aerial navigation in the United States, as far as the Government patronage is concerned, has been due to the fact that we have fortunately no war upon us, and we have for that purpose no present existing urgent need of the adoption of this kind of defense; but we have every day in the year an opportunity for testing this new method of carrying mail, especially with the inauguration of the parcel post. I wish to impress—and I want to use such earnestness as lies in my power—upon this House the opportunity which it now has of beginning. I will not say experiments, because the matter has passed beyond experiments, but beginning a transportation system that will revolutionize and work wonders in this country in the next few years if we can obtain Government recognition and patronage.

Mr. FOSTER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN (Mr. GARNER). Does the gentleman from Ohio yield to the gentleman from Illinois?

Mr. SHARP. Certainly.

Mr. FOSTER. Is it the gentleman's idea that this will facilitate the transportation of first-class mail or parcel post?

Mr. SHARP. Mr. Chairman, I thank the gentleman for that question, and I will ask the indulgence of the House, if my time expires, for a few moments in which to read some extracts from an article bearing upon this subject to the House. In the hearings upon this question of general transportation of mail in Alaska, either by water or by rail, the Second Assistant Postmaster General said that there is an accumulation of about 25,000 pounds of mail that lasts through the winter, because it has been impossible to transport that mail through the winter months.

Mr. FOSTER. Has any experiments been made in aerial navigation in the cold climate of Alaska?

Mr. SHARP. Not in Alaska, but they have repeatedly in the Alps and Pyrenees and over other high altitudes, and I only wish I had not been pledged to secrecy and could tell the details of the wonderful experiments which have been made within the last 18 hours over our broad Potomac, right here at our doors, where at a height at times of 80 feet a hydroplane traveled 70 miles an hour. These birdmen are doing it under our very eyes. They carried the mail down the Mississippi River, a distance of 400 miles, last year, and I wish I might have time to read an extract from what one of the experts has said upon the use of the hydroplanes, which he contributes to the National Waterways in the November issue.

Mr. FOSTER. The gentleman does not think that hydroplanes would be very useful in Alaska?

Mr. SHARP. That is the place preeminently above all others where they would be useful. They can traverse the Yukon River and traverse it whether frozen or not. Nine out of ten of the populous towns in Alaska are upon the rivers. May I take the time briefly to read from the remarks to which I refer?

Mr. WILLIS. I desire to ask the gentleman if it is not a fact that there are many places in Alaska where it is desirable to deliver the mail, where it could be delivered in this way at little expense, and where under the ordinary method it could not be delivered during several months in the year?

Mr. SHARP. There is no question about it at all. Mr. Jerome Fanciulli, in his essay on "A New Use for Waterways," uses this language:

> It has been through the construction of the hydroaeroplane, however, that the field for marine aviation has really opened up. Robinson's flight down the Mississippi River from Minneapolis to Rock Island, a distance of nearly 400 miles, demonstrated the practicability of the marine aeroplane. On this occasion the aviator delivered and received mail at the various important towns along the river. Traveling at a speed that averaged over 70 miles an hour, the hydroaeroplane on that occasion demonstrated in a very practical manner a new use to which the waterways of the country will be put.

This gentleman is vice president of the Curtiss Aeroplane Co., which makes hundreds of test flights a year. He says further:

> To my mind this carrying of the mails offers the most practical application of the marine flying craft in its present stage of development. Many places situated on watercourses suffer serious loss through poor railroad service. This means poor mail service, which is detrimental to any community.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SHARP. Mr. Chairman, I ask unanimous consent that I may have a short time in which to conclude my remarks.

Mr. MOON of Tennessee. I want to say to the gentleman that I have no objection to his talking, but I shall insist upon the point of order, for the simple reason that we are having very great difficulty now in handling this mail matter on land and water, and I am hardly able to consent to getting into the air with it.

Mr. SHARP. My idea is to get rid of these difficulties.

Mr. MOON of Tennessee. I do not think we ought to take up this matter without consideration by the committee.

Mr. SHARP. Mr. Chairman, I ask unanimous consent for five minutes more.

Mr. MOON of Tennessee. I have no objection to the gentleman proceeding for five minutes longer.

The CHAIRMAN. The gentleman from Ohio [Mr. SHARP] asks unanimous consent to proceed for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. SHARP. Mr. Fanciulli says further:

> Aeroplane manufacturers can now build machines that can carry nearly a ton of weight for long distances at a speed of 60 miles an hour. Aerial mail delivery service with such machines on those waterways reaching towns that have little or no railroad service would be of incalculable value.
>
> Aerial mail service along watercourses would afford the fastest transportation of the mail at a minimum expense. A route 200 miles long could be covered twice a day with a thousand pounds of mail matter at a total annual expense of $18,000, including the cost of equipment. These machines, used for aerial mail service, could do a double duty in that the operators could discover breaks in the river banks during high-water periods.

Mr. MANN. Will the gentleman yield for a question?

Mr. SHARP. Just for a question. I would like to have more time. The time allowed to me is very short, but I will yield.

Mr. MANN. Does the gentleman think that the science of navigating the air has progressed yet so that with weather way below zero, with very tempestuous winds, we can carry mails by aeroplane in Alaska?

Mr. SHARP. In answer to that question I will say the temperature has nothing whatever to do with the flying of these machines as far as successful operation is concerned. It is a well-known fact that the hydroaeroplane is of great value and that there is less variation of wind and temperature on sea than on land. Yesterday we witnessed one of the greatest gales we have had for months, but I can on authority say to you that a gentleman flew over the Potomac in the face of that gale at the rate of 60 miles an hour.

Mr. MANN. But this transportation is over mountains and over frozen rivers in the wintertime. The only proposition the gentleman has in regard to transportation prevails in Alaska. The gentleman says the temperature has nothing to do with it. Has the temperature nothing to do with the operation of these motors?

Mr. SHARP. The temperature may affect them somewhat, but I wish to inform the gentleman that they have already attained altitudes of 18,000 feet, where the temperature is as cold as in any season of the year in Alaska. They have ascended and surmounted all the mountain peaks in Europe.

Thanking the gentleman for his question, I wish to proceed further by saying it was only last week that the President of the United States, upon the recommendation of the Secretary of the Navy, appointed a commission—so important did he consider this subject of aero navigation—to inquire into the needs, requirements, and uses of an aerodynamic laboratory, and I hope that the Smithsonian Institution, that splendid institution with which my friend from Illinois, Mr. MANN, is connected as a Regent, I believe, will have it under its exclusive charge and will resume the work that Prof. Langley took up before his death. But these objections as to the expeditious delivery of mail in Alaska only emphasize the reason why we should depart from the well-beaten path of transportation and at this time not calling for extra money, not calling for a dollar to use beyond the appropriation, but to give the Postmaster General the opportunity, in his discretion, not to build aeroplanes, not to construct them, but to let out the contract and allow somebody else at his risk and his expense, when those rivers are frozen up or when the mail trains can not do the work, to deliver this mail expeditiously at the rate of 60 or 70 miles an hour. I will say

to the gentleman that it is an accomplished fact. We have exclusive jurisdiction over Alaska. Let us give one of the departments of this Government enough latitude to so use some of the funds, if he thinks best, for the initiation, I was going to say, of this new method of carrying the mail, but I can better say, for the permanent establishment of this very satisfactory and superior method of carrying mail.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. SHARP. Now, if I may speak upon this point of order, I would like to be heard. I have not the parliamentary knowledge and skill of the gentleman who has made the point of order, but it seems to me this is not new legislation. This section itself provides for it. If it means anything at all, it means what it says, "That out of this appropriation the Postmaster General is authorized to provide difficult or emergency mail service in Alaska, including the establishment and equipment of relay stations," and so forth. It does not seem to me, if that is the point the gentleman raises, that it is in the form of new legislation. It simply pertains to the method of carrying the mails.

Mr. MOON of Tennessee. The law provides the method of carrying the mail and does not provide this method, and therefore this would be new law.

The CHAIRMAN. The Chair sustains the point of order. The Clerk will read.

The Clerk read as follows:

For regulation screen or other wagon service, $2,000,000.

Mr. TILSON. Mr. Chairman, may I ask the chairman of the Committee on the Post Office and Post Roads a question as to the increase of this amount?

Mr. MOON of Tennessee. Yes.

Mr. TILSON. Has there been a considerable increase in order to take care of the parcel-post service?

Mr. MOON of Tennessee. Which item is that?

Mr. TILSON. The screen-wagon service.

Mr. MOON of Tennessee. Yes.

Mr. TILSON. It is a fact that the service has been largely increased?

Mr. MOON of Tennessee. Yes. The gentleman will notice in the last report that there was an unexpended balance on June 30, 1912, of $111,841. The appropriation this year is $2,000,000.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For rent, light, fuel, electric power, and incidental expenses pertaining to the maintenance of a subworkshop for the repair of mail equipment at Chicago, Ill., $2,400.

Mr. MANN. Mr. Chairman, I move to strike out the last word. I was temporarily out of the Chamber when the item was passed, commencing on line 19, page 16, "For mail bags, cord fasteners, label cases, and material necessary for manufacture and repairing of equipment," and so forth. I wanted to ask the gentleman whether this item ought not to include equipment for the transportation of parcels that go by parcel post, such as mail baskets, mail chests, or boxes?

Mr. MOON of Tennessee. I do not think it is particularly necessary to do that, because the parcel-post proposition is not made a separate one. It is covered into and involves the whole question of the transportation of fourth-class mail matter in each branch of the service.

Mr. MANN. I understand.

Mr. MOON of Tennessee. It is made under the particular branch, and not under the specific head of the parcel post.

Mr. MANN. I was not suggesting any increase in the appropriation, but inquiring whether in handling the parcel post it will not be necessary to provide baskets or chests in place of mail bags. This provision says:

For mail bags, metal for mail-bag attachments, cord fasteners, label cases, and material necessary for manufacture and repairing of equipment.

And it might be held not to permit them to handle baskets or boxes or chests.

Mr. MOON of Tennessee. The department has not asked for anything of the kind, and I take it that the general language here will be held by the department to cover all things that are used in connection with transportation. I doubt the wisdom of specifically defining baskets and crates and things of that sort, because there might be other means that we would not include, and that might be held to be an exclusion of them.

Mr. MANN. The enumeration that we have given seems to me to be an exclusion of anything else.

Mr. LLOYD. At the present time, Mr. Chairman, the Post Office Department is making regulations with reference to the parcels that may be presented for carriage, and if a particular thing is presented for carriage it must be presented in a certain way. For example, eggs can not be put in a sack, loosely. They must be packed in some proper kind of shape.

Mr. MANN. If the gentleman will remember, under the old law everything was mailable as fourth-class matter which could be transported through the mails without injury to the equipment, and some other provision, but under that the department make regulations which would exclude a great many articles on the ground that they could not be transported in mail bags without danger of injury to the equipment. I take it that it goes without saying that in the handling of parcels it will be necessary to have baskets or chests of some kind, apart from what are called mail bags.

Mr. MOON of Tennessee. Would not that be covered by the general term equipment?

Mr. MANN. This provision is "material necessary for the manufacture and repairing of equipment."

Mr. MOON of Tennessee. Yes.

Mr. MANN. Well, they might not desire to manufacture mail bags or mail chests. It might not be an economical method of getting them. I do not know. I am sure the gentleman and I will agree that it is necessary to give them authority to provide such equipment as may be desirable for the transportation of this mail matter. I call it to the gentleman's attention and to the attention of the House because I am satisfied that under this provision of the law it is doubtful if they now have authority to provide the equipment that will be most convenient and safe in the handling of parcels.

Mr. MOON of Tennessee. I am uncertain, in view of what the gentleman has said, whether this language is broad enough to cover every class of equipment; but it seems from the construction that has been given by the department that they are making arrangements to carry everything that is covered by fourth-class mail.

Mr. MANN. I do not know how they construe it, whether they can provide anything except something in the form of a mail bag.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For inland transportation by railroad routes, $49,000,000: *Provided*, That no part of this appropriation shall be paid for carrying the mail over the bridge across the Mississippi River at St. Louis, Mo., other than upon a mileage basis.

Mr. RODENBERG. Mr. Chairman, I make a point of order against that proviso.

The CHAIRMAN. Will the gentleman from Illinois suspend for just a moment? The present occupant of the chair is not the designated chairman for the consideration of the Post Office appropriation bill. The gentleman from Tennessee, Mr. GARRETT, the chairman, told me a moment ago, when he asked me to occupy the chair temporarily, that he was satisfied that a point of order would be made against this paragraph, and that he had looked the matter up and prepared an opinion on it, as I understood him to say. I will ask the gentleman from Illinois to let this point of order go over temporarily until the gentleman from Tennessee returns. Without objection, the point of order will be passed over temporarily.

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Railway Mail Service: For 15 division superintendents, at $3,000 each; 4 assistant superintendents, at $2,200 each; 15 assistant division superintendents, at $2,000 each; 112 chief clerks, at not exceeding $2,000 each; 32 clerks, grade 10, at not exceeding $1,800 each; 304 clerks, grade 9, at not exceeding $1,700 each; 1,527 clerks, grade 8, at not exceeding $1,600 each; 1,168 clerks, grade 7, at not exceeding $1,500 each; 4,201 clerks, grade 6, at not exceeding $1,400 each, 5,252 clerks, grade 5, at not exceeding $1,300 each; 3,656 clerks, grade 4, at not exceeding $1,200 each; 405 clerks, grade 3, at not exceeding $1,100 each; 1,695 clerks, grade 2, at not exceeding $1,000 each; 1,750 clerks, grade 1, at not exceeding $900 each; in all, $24,360,000; and, to enable the Postmaster General to reclassify the salaries of railway postal clerks, he may exceed the number of clerks in such of the grades as may be necessary: *Provided*, That the number of clerks in the aggregate as herein authorized be not exceeded.

Mr. MOON of Tennessee. Mr. Chairman, right there I want to offer an amendment:

That the appointment and assignment of clerks hereunder shall be so made during the fiscal year as not to involve a greater expenditure than this sum.

This is subject to a point of order, unquestionably. It has been made heretofore. But the differences in the calculations between the Treasury Department under this bill and the actual figures are very great. In other words, the Treasury gives a credit for very large sums of money to the Post Office Department that the department does not ask for, and ought not to have, in view of the fact that these clerks, many of them, do not go in on the first day of the fiscal year, but are distributed through different parts of the year, while the Treasury Department calculates the whole sum from the initial day. It makes quite a difference in the amounts available for the department.

It is not intended to make available any more than that which is provided in this bill.

The CHAIRMAN. The gentleman from Tennessee offers an amendment. Will he again state his amendment?

Mr. MOON of Tennessee. In line 8, page 19, add the words:

And the appointment and assignment of clerks hereunder shall be so made during the fiscal year as not to involve a greater aggregate expenditure than this sum.

The CHAIRMAN. Will the gentleman send up his amendment so that the Clerk can report it?

The Clerk read as follows:

Page 19, line 8, after the word "exceeded," insert the following: "And the appointment and assignment of clerks hereunder shall be so made during the fiscal year as not to involve a greater aggregate expenditure than this sum."

Mr. MANN. I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Illinois reserves a point of order.

Mr. MOON of Tennessee. I concede that the point of order is well taken.

Mr. MANN. I reserve the point of order. As I understand, the law that we passed last year provided that clerks in charge should receive a higher rate of compensation, or at least be promoted to a higher grade than the other clerks, after three years' continuous and satisfactory service. I notice in the bill that there are 32 clerks of grade 10, not exceeding $1,800 each, which is the same number as are carried in the current law.

Mr. LLOYD. In that connection the question has been raised since the estimates were submitted, and since the hearing before the committee, as to whether this provides in a proper way for the promotion of these clerks. The department, as we have learned in the last few days, holds that an individual is not eligible to be promoted until he has served at least three years.

Mr. MURDOCK. At least three years in a given place.

Mr. LLOYD. At least three years in a given place, and the result of that has made considerable confusion, and the railway clerks are not satisfied with the provision as it now presents itself. After consultation with the chairman and other members of the committee, it is understood that this matter shall be investigated and a statement obtained from the Post Office Department as to what will be the effect of the suggested change, and what is the effect of this provision as it now stands; and we expect the matter to be threshed out in the Senate, and an accurate statement given by that time, so that we will have information as to what should be done.

Mr. MANN. The law now provides that these clerks shall receive promotions under certain conditions. That is a matter of construction of the law which may be decided by the Court of Claims if it becomes necessary. If a proper construction of the law is not given, and if a man does not receive proper promotion, he may be able to go into the Court of Claims and have the Court of Claims construe the law; but if the amendment now offered is agreed to and becomes a part of the law, such a man will have no right in the Court of Claims at all, because, however much right of promotion he may have under existing law, that right is cut off by the amendment offered by the gentleman in charge of the bill. I had understood that these railway-mail clerks were entitled to certain classification and promotion under the law that we adopted last year. There is a controversy as to whether they have received that promotion. It does not seem to me that we ought to construe the law contrary to what we thought it was when we adopted it last year.

Mr. LLOYD. We are not aiming to construe it that way at all, and the committee quite fully agree with the gentleman's view of the matter, I think. The gentleman has not gone far enough to explain his view fully, but I am quite sure it is the purpose of the committee to get the information that is necessary with reference to this matter. The estimate was submitted by the department in accordance with the classification. The appropriation is made in accordance with that estimate, and it was supposed by the department, I imagine, and certainly it was supposed by the committee, that we were carrying out the classification law and making the necessary appropriation for it; but since the bill came to the House certain representatives of the Railway Mail Service have said that the construction that is placed upon the law by the department is not the construction which they believe the committee and the Congress intended.

Mr. MANN. I believe the question is, where the law now provides that the appropriation shall be made after three years of continuous and satisfactory service, whether that means service after this law took effect, on the 1st of October last, or whether it means three years' service including the service prior to that. I think when the bill was passed everyone here understood that it meant what it said—three years' continuous and satisfactory service.

Mr. LLOYD. That is the way we understand it.

Mr. MANN. I think it was not intended to say that the law should not be in effect until three years after it took effect. With the amendment offered by the gentleman from Tennessee [Mr. MOON] everything is foreclosed, because the department can not exceed the total of the appropriation, regardless of whether a man in the service is entitled to promotion under the existing law or not.

Mr. LLOYD. But if in the Senate this matter is changed, they will change the totals.

Mr. MANN. Does not the gentleman think that if in the Senate this matter is changed it will then be time enough to insert this limitation?

Mr. MOON of Tennessee. If the gentleman from Illinois insists on his point of order, of course, it is well taken. I think the amount, however, covers the changes.

Mr. MANN. I reserved the point of order. I think it is a matter of considerable interest.

Mr. BUCHANAN. I should like to ask my colleague, or the chairman of the committee, a question.

Mr. MANN. Certainly.

Mr. BUCHANAN. In regard to the increase of the railway postal clerks that is provided in the bill of last year, it seems to be operating very unsatisfactorily, as I have had many complaints from my district, and I have heard of complaints coming in from other places. I should like to know, if the information can be given me, whether it is due to the fact that they have not had sufficient money?

Mr. MOON of Tennessee. I did not catch the gentleman's question.

Mr. BUCHANAN. I said I had had many complaints from railway postal clerks in my district, and I have heard of many in other places, that they have not been promoted as they consider they are entitled to be. The law is not operating satisfactorily, as they consider the law should be applied which was passed last year. The information I want is whether that is due to any arbitrary position taken by the department, or whether it is because they have not had a sufficient amount of money to put it into effect?

Mr. MOON of Tennessee. I do not understand that there is any lack of money. The inquiry was made by me of the department, and the information was that it was due to the efficiency record of the clerks; they did not promote those that were not entitled to be promoted. They determine the degree of efficiency that will entitle them to promotion, and in instances where it has not been given they have uniformly advised me that it was on account of the want of efficiency. I have had half a dozen cases of that kind.

Mr. BUCHANAN. The chairman of the committee has had complaints in regard to it, I understand?

Mr. MOON of Tennessee. Yes.

Mr. BUCHANAN. I would like to ask whether the committee has considered it and whether it is necessary to make any further provision?

Mr. MOON of Tennessee. I do not know how Congress can make provision that promotion shall be given to clerks that are not efficient, and I know of no way that Congress can determine the efficiency of the clerk. It is a matter of discretion and judgment that must be left to the department.

Mr. BUCHANAN. Is there no way of avoiding discrimination by the department?

Mr. MOON of Tennessee. There is no way of avoiding discrimination by the party into whose hands the law puts the judgment and discretion.

Mr. BUCHANAN. I have had complaints from clerks that they have been discriminated against, and that if they got to a place where they could pass the examination and be promoted they have been changed to another part of the country, which made it impossible for them to qualify under this provision in the Post Office bill. To me this is not a light matter. There is a great deal of dissatisfaction among the clerks, and I am asking for information in regard to the matter.

Mr. MOON of Tennessee. I have given the gentleman all the information I have. If the gentleman has any amendment that will properly remove the situation, it will be accepted by the committee. I knew of no way that we can control it.

Mr. MANN. If the gentleman will pardon me one more suggestion——

Mr. MOON of Tennessee. Certainly.

Mr. MANN. While the bill fixes the number of clerks in the different classes, it contains the catchall provision that the Postmaster General may exceed the number of clerks in such of the grades as may be necessary in order to make a reclassification, provided that the number of clerks in the aggregate as herein authorized be not exceeded.

That would authorize the Postmaster General, in order to carry out the classification, to increase the number of clerks in the grade of $1,800 and take those off from the $900 grade. But with the amendment now pending, restricting the total appropriation to the amount named in the bill, of course that could not be effective without reducing the number of clerks.

Mr. GILLETT. May I ask the chairman of the committee a question?

Mr. MOON of Tennessee. Certainly.

Mr. GILLETT. I notice this appropriation is between $300,000 and $400,000 less than the estimates. Does the chairman think it would be sufficient to provide for the promotion referred to by the gentleman from Illinois?

Mr. MOON of Tennessee. The department thought so.

Mr. GILLETT. But the department estimate was $400,000 more than the committee gives.

Mr. MOON of Tennessee. If the gentleman will turn to pages 58, 59, and 60 of the hearings, he will find the views of the Second Assistant Postmaster General on this question. But, Mr. Chairman, I do not care to prolong the discussion on this question. I think that the department can take care of itself. If the gentleman from Illinois makes the point of order, I will concede it.

Mr. MANN. As the matter stands now, Mr. Chairman, I shall feel compelled to make the point of order.

The CHAIRMAN. The point of order is sustained.

Mr. REILLY. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

On page 18, line 14, amend by striking out the words "thirty-two" and inserting the words "three hundred and twelve." Lines 15 and 16, strike out the words "three hundred and four" and insert the words "one thousand three hundred and sixty-six." In lines 16 and 17 strike out the words "one thousand five hundred and twenty-seven" and insert the words "three hundred and two." Lines 18 and 19, strike out the words "one thousand one hundred and sixty-eight" and insert the words "two thousand nine hundred and thirty-four." Line 20, strike out the words "four thousand two hundred and one" and insert the words "two thousand three hundred and eighteen."

Mr. REILLY. Mr. Chairman, the passage of this amendment——

Mr. LLOYD. Mr. Chairman, I make the point of order against that amendment. I will reserve the point of order.

Mr. MURDOCK. What is the point of order?

Mr. LLOYD. I have reserved it.

Mr. REILLY. Mr. Chairman, I do not believe that this is subject to a point of order. This does not increase in any way the number of employees, but it provides for carrying out the intention of the existing law, which was passed by this House last year, providing that after a service of three years clerks in charge should be given a certain promotion. This bill does not provide for that promotion, but this amendment is to make the promotions legal and in order.

Mr. LLOYD. Mr. Chairman, I am in full accord with the purpose of the amendment, but I have no information at the present time whether this accompliishes that purpose or not. I have had presented to me a statement similar to the one the gentleman from Connecticut had, handed me by one of the representatives of the railway mail clerks, but I do not know whether it is accurate. It is not my purpose to vote blindly on these questions. I do not believe at this time we could wisely, without any information from the Post Office Department, without knowledge ourselves, correct that which we do not know is correct or not. So I believe the best thing to do is to let the matter rest as it is, as it was presented by the Post Office Department and passed upon by the committee.

The CHAIRMAN. Does the gentleman from Missouri make the point of order?

Mr. LLOYD. No, Mr. Chairman; I will not make the point of order.

Mr. MURDOCK. Mr. Chairman, I was going to address myself to the point of order, if one was made by the gentleman from Missouri, but he has withdrawn it. But I want to say about this item that the clerks in charge of the Railway Mail Service are men who have charge of a car, with others under them, and of course these men draw under the present law from $1,400 to $1,800 a year. In our reclassification act, which we passed last year, it was provided that after a man had served three years in the capacity of a clerk in charge he would be entitled to another promotion. The department has held—and if the law passes as it is reported in the bill—a man will not get promotion from one of these grades to the grade succeeding until he shall have served another three years. If the amendment offered by the gentleman from Connecticut is adopted, then these promotions will come, where there is efficiency once a year to the men who are now in charge, provided they have been clerks in charge three years, and that is the real purpose of the amendment and what it would accomplish.

Mr. MANN. I did not quite catch the gentleman's statement. Class A is $1,300 to $1,400, is it not?

Mr. MURDOCK. Yes.

Mr. MANN. The clerk in charge is supposed to receive $1,400?

Mr. MURDOCK. One thousand four hundred dollars.

Mr. MANN. That is, after three years' service?

Mr. MURDOCK. After three years' service he gets this promotion.

Mr. MANN. The gentleman says that under the proposition that is now made he would be entitled to that promotion in one year. What does the gentleman mean by that?

Mr. MURDOCK. I mean that after he has become a clerk in charge the department is holding that he shall serve three years additional in that capacity at $1,300 before receiving a promotion to $1,400. If the gentleman's amendment passes, he can get that promotion within a year.

Mr. MANN. After he has served three years satisfactorily?

Mr. MURDOCK. Oh, yes; after he has had three years of service in the service as a clerk in charge.

Mr. MANN. Is he not entitled to the promotion at once under the existing law if he has served three years continuously satisfactorily, if he is placed in charge?

Mr. MURDOCK. My understanding is that he is, and he should be promoted after he has served three years, but I think the gentleman from Illinois [Mr. MANN] does not catch me on this, that after he has served in the $1,300 class for one year the department, under its interpretation of the law, does not give him a promotion if he is entitled to it, but holds that he must serve three years in each succeeding grade.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

Mr. MURDOCK. Surely.

Mr. MADDEN. Here is what happens, as I understand it. At present a great many in the Railway Mail Service have served anywhere from 3 to 25 years, but under the bill reported by the committee none of these men would be eligible to promotion immediately, if the bill were interpreted strictly; and the amendment of the gentleman from Connecticut [Mr. REILLY] is intended to clear up that doubt, and to permit the promotion of men to the next highest grade who have served creditably for more than three years after the enactment of this bill.

Mr. MURDOCK. And it will do that thing.

Mr. MADDEN. That is what it will do. Otherwise, it is altogether likely that the department will rule that an additional three years of service will be required before anyone of these men is entitled to promotion.

Mr. REILLY. Mr. Chairman, in answer to the suggestion of the gentleman from Missouri [Mr. LLOYD], a member of the committee, that this is a matter that should go to the Senate before it is put into the bill, I would state that the estimate of the increase in this reclassification has been quite carefully made.

Mr. LLOYD. By whom has it been made?

Mr. REILLY. By those in a position to do it, who are thoroughly familiar with it.

Mr. LLOYD. Has it been made by the department?

Mr. REILLY. It has not, so far as I know.

Mr. LLOYD. Has it been made by the Post Office Committee of the House?

Mr. REILLY. It has not, except by members——

Mr. LLOYD. Has any suggestion of this amendment been made to the Committee on the Post Office of the House?

Mr. REILLY. Not as a committee, so far as I know.

Mr. LLOYD. The information the gentleman has gathered is information that he obtained from the railway postal clerks, and I do not doubt that it may be correct; but the point with me is I do not know. The committee has not investigated it. The department has not passed upon it, and we are asked, at the instance of one or two men on the outside, to change this appropriation bill. We should be cautious about such a procedure.

Mr. COX. Mr. Chairman, the purpose of the amendment is to simply carry out what Congress intended to carry out when it enacted section 7 of the bill last year.

Mr. REILLY. Simply that.

Mr. LLOYD. Mr. Chairman, I said a moment ago that I was in full sympathy with the purpose of the gentleman from Connecticut [Mr. REILLY], but I do not know whether he accomplishes that purpose or not by the amendment. I want to carry out the law, as far as I am concerned, in good faith, and I want this appropriation bill to do it, and if it does not I will cheerfully support any amendment which does meet the provisions of

the law when I am convinced that such amendment will accomplish that result.

Mr. MOON of Tennessee. I want to inquire of the gentleman from Connecticut if his amendment increases a number of clerks or simply rearranges a different classification?

Mr. REILLY. It does not increase the number of clerks at all, but it rearranges the classification.

Mr. LOBECK. And it does not increase the amount?

Mr. LLOYD. It does.

Mr. COX. If it was the intention of Congress last year to provide an automatic increase in the postal clerks, then your amendment does not add one dollar to the appropriation.

Mr. REILLY. None whatever.

Mr. COX. It simply carries out the intention that Congress had when it enacted section 7.

Mr. LLOYD. Mr. Chairman, I beg the gentleman's pardon, but it does add to the appropriation now pending.

Mr. COX. That may be true; but it does not, if Congress had in view last year to provide for an automatic increase in this force. I think it does it, but that is what Congress wanted to do.

Mr. KENDALL. That was the intention?

Mr. REILLY. Yes.

Mr. FOWLER. As I understand it, this does not increase the number of clerks in the department.

Mr. REILLY. Not at all.

Mr. FOWLER. But I understand it may increase the appropriation.

Mr. REILLY. But not more than the correct interpretation of the law, as we passed it last year, would increase it.

Mr. FOWLER. It may increase the appropriation as the bill now stands.

Mr. REILLY. Yes.

Mr. FOWLER. But it does not conflict with the law that was passed at the last session of Congress?

Mr. REILLY. In no way whatever.

Mr. FOWLER. And it is intended to carry out the provisions of that law in spirit and in fact?

Mr. REILLY. In spirit and in fact.

Mr. FOWLER. And if this amendment passes, it will do that?

Mr. REILLY. Yes.

Mr. FOWLER. And will be perfectly satisfactory to the railway postal clerks.

Mr. REILLY. And everybody else who believes in fair treatment and the carrying out of the law as intended.

Mr. FOWLER. And will be not only a substantial but a complete compliance with the law?

Mr. BUCHANAN. Will the gentleman yield?

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. REILLY] has expired.

Mr. LLOYD. Mr. Chairman, I ask that the time of the gentleman from Connecticut be extended for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. REILLY. I yield to the gentleman from Illinois [Mr. BUCHANAN].

Mr. BUCHANAN. I would like to ask the gentleman if he knows why, under the circumstances, the committee did not take up this question and try to make the provision under this law apply as was intended by Congress one year ago. The gentleman from Missouri [Mr. LLOYD] says the committee has not considered the matter. There has been complaint about this law not being in effect, and that is why I would like to know why the committee did not consider it.

Mr. REILLY. It did not come before the committee.

Mr. BARTHOLDT. And I would like to ask if the amendment of the gentleman from Connecticut is adopted by this House it will make possible the promotion of those clerks in accordance with the law passed by Congress?

Mr. REILLY. Those clerks who will have served three years.

Mr. BARTHOLDT. Then if the bill passes without the gentleman's amendment it will make a delay of the promotions Congress has provided for?

Mr. REILLY. If this amendment is not passed, there will be no promotion among clerks in charge who previous to last October have served more than three years as such.

The CHAIRMAN. The question is on the amendment of the gentleman from Connecticut [Mr. REILLY]. The Chair will state that the entire amendment includes several propositions. Without objection, they will be put as a whole.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

Mr. GILLETT. Mr. Chairman, I move to amend by striking out "24,360,000" of the figures and inserting instead the figures "25,941,100."

The CHAIRMAN. The gentleman from Massachusetts [Mr. GILLETT] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 19, line 4, by striking out the figures "24,360,000" and insert in lieu thereof "25,941,100."

Mr. LLOYD. If I understand this amendment, it is subject to a point of order.

The CHAIRMAN. Does the gentleman make the point of order?

Mr. LLOYD. I make the point of order, but withhold it if the gentleman wishes to be heard.

Mr. GILLETT. All right. I do not see how it is in the slightest degree subject to a point of order, for it only changes a total. I made this amendment merely to point out what I think is an error, not only in this paragraph but in other paragraphs of the bill, because the payments to the clerks which precede this gross sum, multiplied by the number of clerks, will amount not to the figure which is in the bill but the figure which I have named.

Mr. LLOYD. Mr. Chairman, the trouble is that the gentleman's statement is based on two things.

Mr. GILLETT. I will be glad to have it explained.

Mr. LLOYD. You base your statement upon what you suppose to be the fact, that all these clerks will be employed during the whole of the year.

Mr. GILLETT. Oh, no.

Mr. LLOYD. There is added to the force in this provision quite a number of clerks. Some of these will be added in three months and some of them in six months and others in nine months, and they will not serve during the whole of the year. Now, the effect of the bill is to provide for promotion from time to time, but it does not provide for all promotions at the beginning of the year, and hence if we make an appropriation which provides for the full number of clerks with full pay we provide far more money than the department asks or it is intended to carry in this bill, and the reason these are carried in this bill is to permit the department to make promotions from one class to another and also during the year to add to the force, and it is not intended to secure a full force at the beginning and keep it to the end, nor is it intended that all promotions shall be made on the 1st day of July.

Mr. GILLETT. Now, Mr. Chairman, I appreciate fully the facts that the gentleman has stated. I appreciate it is true here, as it is true in other departments of the Government, that in appropriating for a certain number of clerks we appropriate more than is expended, because clerks may die and there may be vacancies, as there always are. But it does not seem to me that that excuses the committee from making a statement which does not correspond to the facts.

Now, the gentleman from Tennessee [Mr. MOON] offered his amendment, to which the gentleman from Illinois [Mr. MANN] made the point of order. If that amendment had prevailed, I recognize that then it would have been perfectly proper to have left this total amount as it is, because that would have limited the expense to the amount which you think is all that would be spent. And I think the gentleman is correct about it, and if that amendment had been adopted, then I think it would have been proper that the figures should remain as they are. But inasmuch as that amendment was not adopted, it seems to me that the committee is falling into this error, that we are appropriating for a certain number of clerks a certain amount, and then at the end we are pretending that we do not appropriate that amount, although we do, and that is the way the bill was reported from the committee. And although I recognize that the full amount of what we appropriate is never spent in any of the departments or bureaus, yet to pretend that we are not appropriating so much is cutting down the apparent appropriation a million and a half below what we really are appropriating, because we are really apropriating in this twenty-five and a half millions and not really appropriating the twenty-four millions, and it seems to me it is a deception to say that we are appropriating only twenty-four millions, and makes an unreal and delusive appearance of economy.

Mr. MOON of Tennessee. Will the gentleman permit an interruption for just a moment? He will notice there is an unexpended balance on this appropriation of more than half a million in the last year?

Mr. GILLETT. I appreciate that.

Mr. MOON of Tennessee. We have cut the appropriation less than five hundred. The gentleman will notice, further, that there is an increase of salaries in the recommendation here

which the committee has not allowed. There is ample money to take care of these men.

Mr. GILLETT. Certainly; but when the department made this estimate they had in it the clause which the gentleman offered as an amendment, and that has gone out on a point of order. If that clause were in, this amount would be proper; but as it is, although it makes no practical difference in the amount of money the department will expend, yet the difference it makes is that the gentleman here is saying in his bill that he only appropriates $24,360,000, when he really appropriates $25,500,000, so that the appropriation bill is a million and a half in appearance less than it really is; and I do not think that is proper finance.

Mr. MOON of Tennessee. Oh, no; not at all.

Mr. MANN. Upon what basis does the gentleman arrive at the figures he offers—the bill as reported to the House or the bill as perfected by the gentleman from Connecticut [Mr. REILLY]?

Mr. GILLETT. I recognize that they can not be absolutely correct, because——

Mr. MANN. We have just added very materially to the total appropriation by items, and the gentleman from Massachusetts [Mr. GILLETT] says that it is not exactly a fraud, but intimates that we are not appropriating, in fact, what we apparently are appropriating, and he offers an amendment which is subject to precisely the same criticism that he makes against the original bill.

Mr. GILLETT. I admit that. But my amendment was prepared before the amendment of the gentleman from Connecticut [Mr. REILLY] was offered.

Mr. MOON of Tennessee. We do not wholly adopt, I may say to the gentleman, the recommendation of the department, because we declined to raise some positions and raise some salaries; for instance, three division superintendents at $3,500 each. We put them at only $3,000 each.

Mr. GILLETT. My amendment was prepared before the introduction of this amendment. The gentleman is mistaken in saying that my amendment was prepared in accordance with the estimates of the department. Mine was prepared before the amendment of the gentleman from Connecticut [Mr. REILLY] was adopted. It is true that not only in this paragraph but that in other paragraphs we appropriate——

Mr. MOON of Tennessee. It is the same position that the gentleman from Massachusetts took on Saturday, when it was controverted.

Mr. GILLETT. The gentleman said then that when the paragraph was reached the correction would be made. Now it has been reached.

Mr. MOON of Tennessee. Mr. Chairman, I want to say to the gentleman from Massachusetts, in order to save time, that I think that amendment will go in yet.

Mr. GILLETT. It has not gone in in the House. I want to call attention to the fact that this bill really appropriates several million dollars more than the figures show. That is all.

Mr. LLOYD. Mr. Chairman, if the gentleman from Tennessee will permit, with reference to the statement that the gentleman from Massachusetts [Mr. GILLETT] made on Saturday, and which was concurred in by the gentleman's colleague on the Committee on Appropriations, Mr. FITZGERALD, of New York, I want to say that the gentleman from Massachusetts failed, in making his comparison between the estimate and the action of the committee, to take into account the fact that the department in making its estimates does not carry them out as the gentleman proposes to carry them out now; and when the gentleman said in his statement on Saturday that the committee had exceeded the estimates, the gentleman was mistaken, because the department had pursued exactly the same course with reference to these appropriations as the committee, or rather the committee had pursued exactly the same course as the department.

The estimates are made according to the amount of money that is supposed to be needed. The department has done that, and so has the committee, and when the gentleman from Massachusetts says that the bill carries more than was recommended by the department, I feel quite sure the gentleman is at fault in his statement.

Mr. GILLETT. Mr. Chairman, I differ with the gentleman from Missouri there, but that is not what I am discussing now, and I do not care to revert to it. What I say now—and apparently it is not controverted by the gentlemen on that side, and can not be—is that the amounts given in the summary are much less than the details really aggregate, and although I agree that probably no larger sum will be expended than is mentioned in the summary, yet I say it is misleading, because the appropriation bill really appropriates several million dollars more than the committee says it will amount to, and I do not think that is good legislation.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. GILLETT. Certainly.

Mr. MADDEN. This appropriation bill is based on the experience of the department, is it not——

Mr. GILLETT. Yes——

Mr. MADDEN. That a given percentage of the men in this service will be promoted, and that at a certain period of the year men will be getting $800, and that at a certain period of the year they will be getting $900?

Mr. GILLETT. I appreciate that.

Mr. MADDEN. And none of the grades contain the total number of men for the year?

Mr. GILLETT. Yes.

Mr. MADDEN. And, as a matter of fact, the appropriation covers the exact experience of the department, regardless of what the figures in the bill might lead one to conclude. Is not that true?

Mr. GILLETT. Well, that is what will be expended, but we are now appropriating what can be expended, not what will be. What the total of the bill holds is not the amount that will probably be expended, but the amount that the department has at its disposal to expend.

Mr. MADDEN. I grant that if you appointed every man on the 1st of January and kept him continuously employed until the 31st of next December, more will be expended than is appropriated.

Mr. GILLETT. Yes; and under this bill the department has the right to do that.

Mr. MADDEN. Without the limitation?

Mr. GILLETT. Yes; without the limitation, and the limitation has been struck out; and the figures in the bill purport to be not what amount will be expended, but the amount that will be in the power of the department to expend; and I say, in view of that, that the figures are misleading.

Mr. MANN. Mr. Chairman, I would like to ask the gentleman from Connecticut [Mr. REILLY], whose amendment was adopted, considerably increasing the authorization of expenditures, whether he intends to propose an amendment increasing the total carried on line 4, page 19?

Mr. REILLY. I would be perfectly willing to see that amendment offered, increasing it $300,000.

Mr. MADDEN. $231,000. That is what it figures.

Mr. MANN. It will be more than $231,000. I apprehend that it will.

Mr. MADDEN. That is the way it figures in my mind.

Mr. MANN. The gentleman figured that probably by just adding $100 to the different grades, whereas in some grades $300 are added.

Mr. COX. I think it is about $300,000.

Mr. GILLETT. The department here has estimated nearly $420,000 more than this $24,360,000.

Mr. MANN. Now, Mr. Chairman, the criticism offered by the gentleman from Massachusetts [Mr. GILLETT] is in one sense correct and in another sense it is hardly justified. It is true that under the existing law, when the appropriation is made in the form in which it is made here, the Treasury Department takes the items instead of the total, and the items amount to more than the total.

On the other hand, the total is taken as a sort of guide at least by the Post Office Department, and I think it never has been exceeded. If it were exceeded, there would probably be criticism of it. But in view of the statement of the gentleman from Tennessee [Mr. MOON] that the limitation amendment which he offered a while ago, which was not agreed to because of a point of order which I made, would probably go in to the bill here or elsewhere, I do not know that I should make the point of order if this correction were made. Does not the gentleman from Connecticut [Mr. REILLY] think that the total here should be corrected at least to correspond with the correction of the item? If that be done, I shall have no objection to the limitation.

Mr. REILLY. I think it ought to be done.

Mr. MOON of Tennessee. I think we have money enough, in view of the fact that these clerks do not all go in at the beginning of the fiscal year and there is an unexpended balance.

Mr. KENDALL. Let it be passed over until it can be properly prepared.

Mr. MOON of Tennessee. I should rather take a vote on the gentleman's proposition. I think this bill has all the money that is needed. The gentleman has been complaining bitterly because it carried too much and now he wants to add to it.

Mr. MANN. I should like to have an amendment adopted which would actually carry the law into effect.

Mr. GILLETT. Mr. Chairman, I am willing to withdraw the amendment for the present.

The CHAIRMAN. If there be no objection, the amendment will be withdrawn.

Mr. MANN. Why not let the paragraph be passed over until the gentleman can see what the amount is that is to be added by this item? Then his limitation can be put in.

The CHAIRMAN. The gentleman from Illinois asks unanimouse consent that the paragraph be passed over without prejudice, to be recurred to later.

Mr. MOON of Tennessee. For the purpose of making a correction, if found necessary.

Mr. MANN. And you may want to offer your amendment.

Mr. MOON of Tennessee. And for the purpose of offering an amendment to limit the appropriation.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent that the paragraph be passed without prejudice, to be recurred to at the desire of the chairman of the committee. Without objection, it will be so ordered.

There was no objection.

Mr. RODENBERG. Before proceeding further with the bill, I ask that we return to page 17, lines 21–24, which were passed during the temporary absence of the Chairman of the Committee of the Whole.

The CHAIRMAN. The gentleman from Illinois [Mr. RODENBERG] asks unanimous consent to return to the last paragraph on page 17, which was passed during the temporary absence of the permanent Chairman of the Committee of the Whole House on the state of the Union.

Mr. MOON of Tennessee. I will ask the gentleman to wait until we finish the office of the Second Assistant Postmaster General.

Mr. RODENBERG. Very well.

The CHAIRMAN. Does the gentleman insist on his request?

Mr. RODENBERG. No; I will not insist on it.

Mr. MOON of Tennessee. There are two or three pages to be read under the Second Assistant Postmaster General.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For travel allowances to railway postal clerks, acting railway postal clerks, and substitute railway postal clerks, including substitute railway postal clerks for railway postal clerks granted leave with pay on account of sickness, $1,465,030.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. FOSTER having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following joint resolution:

S. J. Res. 149. Extending the time for the survey, classification, and appraisement of the surface of the segregated coal and asphalt lands of the Choctaw and Chickasaw Nations in Oklahoma.

POST OFFICE APPROPRIATION BILL.

The committee resumed its session for the further consideration of the Post Office appropriation bill, H. R. 27148.

Mr. NORRIS. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Nebraska [Mr. NORRIS] offers an amendment, which the Clerk will report.

The Clerk read as follows:

After line 13, page 19, add the following:

"Hereafter railway postal clerks shall be allowed an annual leave of absence of 30 days with full pay."

Mr. MOON of Tennessee. Mr. Chairman, I believe that is subject to a point of order, and I make the point of order.

The CHAIRMAN. The gentleman from Tennessee makes the point of order.

Mr. NORRIS. I will ask the gentleman if he will reserve it for a moment or two?

Mr. MOON of Tennessee. Yes.

The CHAIRMAN. The gentleman reserves the point of order.

Mr. NORRIS. Mr. Chairman, I desire to have the attention particularly of the chairman of the committee. I understand that these clerks under the law now have an annual leave, with pay, of 15 days only, and that practically all other employees of the Government have an annual leave of 30 days with pay. Is that true?

Mr. MOON of Tennessee. I understand that is about the fact.

Mr. NORRIS. While I admit that this is legislation and is subject to the point of order that the chairman of the committee seems disposed to make, I have never been able to understand why this class of employees should not be allowed the 30 days' annual leave that practically all the other employees of the Government have. If there is a class of employees in the Government who are entitled to liberal treatment it seems to me it is the railway post-office clerks who are doing a work that is not only dangerous, but is difficult in every respect, and whose salaries are as low, in my judgment, for the amount of work they do and the labor they have to perform as any other class of employees. I understand that an ordinary clerk here in any of the offices in Washington gets 30 days' leave of absence with pay, and why these men who perform a service that is second to none in the entire Government service should not be given the same privileges is something that I never could understand. It seems to me it is hardly fair.

Mr. MOON of Tennessee. They only run about half the time.

Mr. KENDALL. But the other half of the time they are engaged in preparing themselves for their work.

Mr. NORRIS. While it is true that some of these employees are working only a portion of the time and are off the balance of the time, the time that they are off is necessary for their preparation to perform their duty properly when they are on. The routes are constantly changing, and it requires constant and almost daily study on the part of these men to keep up the efficiency that they have attained. There are some postal clerks who run every day. I think they, however, are perhaps a small proportion of the service, so far as number is concerned; but those who have difficult runs and make long distances can not, from the physical standpoint alone, perform that work every day, because it is too difficult.

In the next place, it is necessary, if I understand it, that they should retain the proficiency, and they must engage in study when they are not actually on trains doing the work.

Mr. HAMILL. Will the gentleman yield?

Mr. NORRIS. Certainly.

Mr. HAMILL. Are these the only classes of post-office employees that are given 15 days leave of absence?

Mr. NORRIS. I do not know. As far as my information goes this particular class is the only class in the Government service, and yet I presume there are others.

Mr. MANN. Will the gentleman allow me a question?

Mr. NORRIS. I will.

Mr. MANN. How much vacation do the clerks and carriers in the post offices get?

Mr. NORRIS. Well, I think they get 15 days.

Mr. MANN. I think they all get the same, and if the gentleman's proposition to increase the vacation period of one is passed, we might as well increase them all.

Mr. NORRIS. We have already fixed the vacation of a majority of clerks in the employ of the Government at 30 days.

Mr. MANN. I think not outside of Washington.

Mr. NORRIS. Why should Washington be an exception?

Mr. MANN. I do not know that it should, although having been here a few summers I think there are some reasons that would apply to the clerks in Washington and not to clerks in other parts of the country.

Mr. NORRIS. Some of these railway postal clerks are doing work in a climate as bad as the city of Washington and some of it worse. Their work is of such a nature that it ought to appeal to every man to give them more of a vacation.

Mr. MOON of Tennessee. Mr. Chairman, I want to say in reference to this item that we have done a good deal for the railway postal clerks in the committee, in the House, and the Senate, and are trying to do more.

Mr. NORRIS. Well, here is a good opportunity.

Mr. MOON of Tennessee. But we must not be asked to do everything at once. These men are off one-half of their time, and while they do have to study their schedules when they are off the gentleman knows, as I do, that they do not apply themselves all the time to that duty while they are off. It is practically a vacation a part of each week.

Mr. NORRIS. Will the gentleman yield?

Mr. MOON of Tennessee. Certainly.

Mr. NORRIS. Is it not true that they have to take an examination every six months?

Mr. MOON of Tennessee. Yes; but it does not take all of their time.

Mr. NORRIS. Is it not necessary that they should study the schedules?

Mr. MOON of Tennessee. Yes; but the gentleman knows that when a man is off with his wife and children and at home half of the time that it is practically a vacation, that he is not sitting down and studying his schedules all the time. Mr. Chairman, I make the point of order.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

For actual and necessary expenses, general superintendents and assistant general superintendents, division superintendents, assistant division superintendents, and chief clerks, Railway Mail Service, and

railway postal clerks, while actually traveling on business of the Post Office Department and away from their several designated headquarters, $80,000.

Mr. MOON of Tennessee. Mr. Chairman, I move to amend, in line 4, by striking out the "s" in the word "superintendents," and also in the second word "superintendents," in the same line, strike out the letter "s."

The Clerk read as follows:

In line 4 strike out the letter "s" in the word "superintendents" where it first occurs, and also the "s" in the word "superintendents" where it next occurs, so that it will read "general superintendent" and "assistant general superintendent."

The amendment was agreed to.

The Clerk read as follows:

For rent, light, fuel, telegraph, and miscellaneous office expenses, schedules of mail trains, telephone service, and badges for railway postal clerks, $80,000, including rental of offices for division headquarters, Railway Mail Service, in Washington, D. C.

Mr. MOON of Tennessee. Mr. Chairman, I move to amend, line 10, by striking out the word "and" after the word "telegraph" and inserting the word "and" after the word "miscellaneous."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 20, line 10, strike out the word "and" before "miscellaneous" and insert the word "and" after the word "miscellaneous."

The amendment was agreed to.

Mr. MOON of Tennessee. Mr. Chairman, I move to amend, in line 13, after the word "headquarters," by inserting the words "and chief clerks."

The Clerk read as follows:

Page 20, line 13, insert after the word "headquarters" the words "and chief clerks."

The amendment was agreed to.

The Clerk read as follows:

For inland transportation of mail by electric and cable cars, $800,000: *Provided*, That the rate of compensation to be paid per mile shall not exceed the rate now paid to companies performing such service, except that the Postmaster General, in cases where the quantity of mail is large and the number of exchange points numerous, may, in his discretion, authorize payment for closed-pouch service at a rate per mile not to exceed one-third above the rate per mile now paid for closed-pouch service; and for mail cars and apartments carrying the mails, not to exceed the rate of 1 cent per linear foot per car-mile of travel: *Provided further*, That the rates for electric-car service on routes over 20 miles in length outside of cities shall not exceed the rates paid for service on steam railroads: *Provided, however*, That not to exceed $15,000 of the sum hereby appropriated may be expended, in the discretion of the Postmaster General, where unusual conditions exist or where such service will be more expeditious and efficient and at no greater cost than otherwise, and not to exceed $100,000 of this appropriation may be expended for regulation, screen, or motor screen wagon service which may be authorized in lieu of electric or cable car service.

Mr. FOWLER. Mr. Chairman, I offer the following amendment as an addition to that paragraph. Add after line 18 the words "*Provided*, That when such railway shall violate any part of such service according to its contract, then all pay for such carriage of mails shall cease."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Add after line 18, page 20, the words "*Provided*, That when such railway shall violate any part of such service according to its contract, then all pay for such carriage of mails shall cease."

Mr. MOON of Tennessee. To that, Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman from Tennessee makes the point of order. The Chair will hear the gentleman from Illinois.

Mr. FOWLER. Mr. Chairman, I do not think the amendment is subject to a point of order at all. It is in keeping with the limitation. Here is a provision for the purpose of giving employment to inland mail service carried by railways. This can only be done by contract with the United States, and that contract must be specific on its face. Its terms must be specific. The number of mails carried by the road during the day must be specified, the amount to be paid must be specified.

Now, Mr. Chairman, if that be true, then this amendment is simply in keeping with the provisions of this paragraph which seeks to carry out the contract which the Government makes with the railway. If the Government makes a contract with the railroad to carry for a specified sum a certain number of trips through a certain territory, then if that railway should fail to comply with the contract this amendment, of course, would stop the pay of the railroad as long as the violation continued. That is the object of the amendment. In my opinion, it could not be new legislation in any sense whatever. It is intended to carry out in good faith the objects of this paragraph.

Now, Mr. Chairman, I have heard from the distinguished chairman of this committee no reason for his point of order, and I can see no reason for it.

Mr. MOON of Tennessee. Will the gentleman let me state my point of order?

Mr. FOWLER. Certainly.

Mr. MOON of Tennessee. It is that this is new law and not a limitation on the appropriation, for which the gentleman might have a right to offer an amendment in proper language. This is an entirely new proposition respecting the contractual relations between the Government and the carrier.

Mr. FOWLER. Yes; but, Mr. Chairman, it does in its terms seek to lessen the appropriation and comes directly under the Holman rule.

Mr. CULLOP. Mr. Chairman, will the gentleman yield?

Mr. FOWLER. Yes.

Mr. CULLOP. Mr. Chairman, I would like to ask the chairman of the committee a question. Beginning on line 7, page 21, we find this provision:

Provided further, That the rates for electric-car service on routes over 20 miles in length outside of cities shall not exceed the rates paid for service on steam railroads.

Now, if the gentleman's amendment is new legislation it applies to this provision in the paragraph, which is also new legislation, and the point of order made against the amendment of the gentleman from Illinois [Mr. FOWLER] would be carried back to that part of the paragraph, and if good as against his amendment must be good as against that.

Mr. MOON of Tennessee. Does the gentleman make the point of order against that amendment?

Mr. CULLOP. No, I am not making the point of order; but what I do insist upon as a matter of parliamentary practice is that if the point of order be made against this amendment and be insisted upon, that that point of order necessarily will be carried back and will strike out that provision. It is just like a demurrer to a complaint or answer in a case in court. It searches the whole paragraph to which it is directed, and must be so considered in ruling on the point of order.

The CHAIRMAN. Will the gentleman from Illinois permit the Chair to ask the gentleman from Tennessee a question?

Mr. FOWLER. Certainly.

The CHAIRMAN. Does the gentleman from Tennessee [Mr. MOON] concede that that is all new law, beginning with line 8 and extending to the end of the paragraph?

Mr. MOON of Tennessee. Mr. Chairman, I do not recollect whether it is or not. It has been carried in the appropriation bills, but I do not know whether the general statute provides for it or not.

Mr. CULLOP. Does not the statute by which this contract is made with the railroad companies provide only for the carrying of mail on steam railroads, and was it not passed before the practice of carrying mail on electric railways had arisen?

Mr. MOON of Tennessee. That is the old statute. There is no question about that.

Mr. CULLOP. And it never has been amended upon that subject. I not only indorse this new legislation that is offered here, because I think it is appropriate, but I do insist that the amendment of the gentleman from Illinois [Mr. FOWLER] is germane to that part of the paragraph.

The CHAIRMAN. To which part of the paragraph?

Mr. CULLOP. To the part of the paragraph beginning with the word "*Provided*," in line 7, which I read to the Chair a moment ago.

The CHAIRMAN. The Chair calls attention to the fact that the amendment is not proposed at that point, but is proposed at the end of the paragraph.

Mr. CULLOP. It was proposed at the end of the paragraph because the gentleman from Illinois could not be recognized at that part of the paragraph where it specifically applies, because, under the rule, the whole paragraph must be read through before he could be recognized; but it is germane to that part of it.

The CHAIRMAN. If the gentleman from Illinois will permit, the Chair will suggest that, of course, at the conclusion of the paragraph the gentleman from Illinois, being recognized, could have proposed his amendment to any portion of the paragraph to which he desired to propose it. The Chair desires to get rid of the point of order as soon as possible. The Chair understands that when new legislation is proposed in an appropriation bill, and the point of order is not made, that then any amendment germane to that legislation is itself in order, even though it may be new legislation. The Chair understands that to be a well-settled proposition of parliamentary law.

Mr. MOON of Tennessee. Mr. Chairman, I would like to have the gentleman's amendment again reported. I think it is an independent section.

Mr. FOWLER. No; it is not.

Mr. MANN. Mr. Chairman, before the Chair rules——

The CHAIRMAN. The Chair has not ruled. He simply suggested a principle of parliamentary law.

Mr. MANN. It is upon that item that I desire to be heard.

The CHAIRMAN. The gentleman from Illinois [Mr. FOWLER] has the floor, if he desires to say anything further.

Mr. FOWLER. Mr. Chairman, I desire to say that this paragraph containing new legislation, a point of order to the whole paragraph would be sustained by the Chair, inasmuch as the paragraph carries that new legislation, conceded to be such by the chairman of the committee; but an amendment to the paragraph would be in order under the rule that when there is new legislation proposed in a paragraph an amendment which is germane to that is in order. Had a point of order been made against this paragraph, the Chair would have been compelled to sustain the point of order, and the paragraph would have gone out.

Mr. MOON of Tennessee. Mr. Chairman, I do not want to spend all of the day here discussing the point of order. I will submit the question to the judgment of the House and withdraw the point of order.

Mr. MANN. Mr. Chairman, I make the point of order. Mr. Chairman, while the rule is, as stated by the Chair a moment ago, in part, at least, that where an item in a bill subject to a point of order gets beyond the point of making it, it is subject to amendment; still such an amendment, in order to be considered germane under the rules of the House, is restricted to a narrower field than would ordinarily be so in reference to an amendment. The rule is well settled that when an amendment offered to a provision which was itself subject to the point of order can not introduce a new subject matter, the amendment may in a sense be germane, and it may be that the amendment would have been in order under the ordinary rules of the House, and yet the rulings in recent years have been consistent that if any amendment proposed introduced a new subject matter it was subject to the point of order, although offered to a provision which had gotten beyond the point of making the point of order.

Mr. FOWLER. Mr. Chairman, will the gentleman yield?

Mr. MANN. Certainly.

Mr. FOWLER. Is not the provision in this paragraph made for the purpose of paying for the transportation of inland mail over railroads, and is not that the subject, and the whole subject, of this paragraph?

Mr. MANN. As I understood the amendment of the gentleman, it purported to enforce a penalty in reference to contracts. There is no provision in this paragraph relative to contracts or relative to penalty for contracts, or for the failure to carry out contracts. And if under an amendment, on the ground that the original paragraph was subject to a point of order, you can offer now any amendment relating to any contract which the Government may make for carrying the mail, you can offer anything and hold that it is germane. It seems to me—and I do not even understand what the gentleman desires to accomplish—but it seems to me that it introduces an entirely new subject matter, which is not referred to at all in the proposition carried in the bill.

Mr. FOWLER. I will say that this amendment deals directly with the pay of railroads for carrying inland mail.

Mr. MOON of Tennessee. I will ask the gentleman from Illinois [Mr. FOWLER] for information: Suppose your amendment passed, would it add anything to the law as it now exists? The Government has the right to do what you want to do now.

Mr. FOWLER. It would be a limitation on the amount of money paid to the railroads who had violated their contracts.

Mr. MOON of Tennessee. Of course it would be a limitation under the law and under the contract. But you are attempting to add a thing they have a right to do now in the department. If carriers violate the law, they stop the pay.

Mr. FOWLER. Suppose that is not done; and I know it is not done——

Mr. MOON of Tennessee. The law requires it now to be done. What are you going to do about making it good hereafter by another law? Do you want to continue to pass laws every time they fail to execute the law?

Mr. FOWLER. Because of the fact if there is a law specifically requiring the pay to stop, I do not know of it.

Mr. MOON of Tennessee. Of course it is not specific. It is true of a contract made under the law for carrying the mail, if you take all the laws on the subject. If this law is violated the Government has a right to stop the pay.

Mr. FOWLER. If the rural-route carrier fails to carry the mail one day you stop his pay, but when a great corporation agrees to carry the mail twice a day and only makes one trip instead of two, you seek to prevent a reduction.

Mr. MOON of Tennessee. You do not do yourself or your interests any good, for the simple reason that you have somebody in the department that is there to administer the law. You could not strengthen the law by your amendment.

Mr. FOWLER. If your position is correct, then the point of order can not be maintained at all.

Mr. MOON of Tennessee. I do not think it can, but I withdrew my point of order in order to quit this debate, and ask the Chair to rule on the point of order; but the gentleman from Illinois renewed the point of order.

Mr. BARTLETT. May I ask that the amendment be again read?

The CHAIRMAN. The Clerk will again report the amendment.

The Clerk read as follows:

Amend, page 21, by inserting at the end of line 18 the following:
"*Provided*, That whenever any railway shall violate its contract for such service, then all pay for such contract shall cease."

Mr. MADDEN. Would my colleague want to have the carriage of mail cease at the same time the contract ceases?

Mr. FOWLER. Not at all.

Mr. MADDEN. That is what would happen.

Mr. FOWLER. My amendment is offered for the purpose of making its carriage more certain. If it can not be carried by the party who has contracted to do it, then it is high time that you find a man or a corporation who has sufficient honor and respect for contracts to carry them out in the spirit of the law, for the good of the mail service of this country.

Mr. MADDEN. While there might be a dispute about whether it was being carried out or not, it might be wise to let the man continue to carry it until you could ascertain the facts. I do not think it would be a wise provision of law to say that the contractor must discontinue his work while the Government discontinues the pay arbitrarily.

Mr. FOWLER. It is not intended to discontinue the carriers, but it is intended to make the party who contracts to do the work perform it according to the contract.

Mr. MADDEN. It just provides to discontinue the pay.

The CHAIRMAN. I would like to ask the gentleman from Illinois [Mr. MANN], who made the point of order, a question. Does this proposed amendment, in the form it is now, in the opinion of the gentleman from Illinois, change existing law?

Mr. MANN. Undoubtedly.

The CHAIRMAN. In what respect?

Mr. MANN. The department is now authorized, I take it, to make contracts and to provide for penalties in the contract. Here is a proposition now expressly directing that where a violation of the contract is made, that the pay under the contract shall cease, although the contract itself, under existing law, may provide and does provide for the penalties which should be invoked for violations of the contract. It absolutely changes existing law.

Mr. GARDNER of New Jersey. I just came in, and I want to ask the chairman of the committee if this is not the provision in the railway postal laws providing for the transportation of mail by electric cars?

Mr. MADDEN. Yes.

Mr. GARDNER of New Jersey. To emphasize, then, the statement of the gentleman from Illinois [Mr. MANN], Mr. Chairman, that this does change existing law, it may be necessary to state the history of this provision. It was found in certain instances in the country, but very few, that under the extension of the trolleys the mail could be delivered by trolley not only cheaper than by the star route, but more expeditiously. In other words, it was the difference between the speed of a trolley and the speed of a star-route wagon, and to meet those cases a provision was inserted in the law years ago that where the road was not over 20 miles in length the Postmaster General might cause the mail to be transported by trolley at no greater expense than otherwise. That was the original language. I have not the bill before me as it reads now.

Now, under this provision of law, renewed annually, as stated by the gentleman from Illinois [Mr. MADDEN], contracts have been made. I state this piece of history in order to emphasize the force of his statement that it does change existing law, because it applies to those contracts new law which did not apply to them heretofore, not being in existence.

The CHAIRMAN. The Chair is prepared to rule. The gentleman from Illinois [Mr. FOWLER] offers an amendment to insert certain language after the word "service," in line 18. It seems to the Chair that the proposition contained in the amendment proposed by the gentleman from Illinois is broader even than that part of the legislation contained in the bill which is proposed as new legislation; that at the place at which it is offered, construing the section as a whole, it would apply to more of the bill than that part which is conceded to be new legislation in the bill; and, following the precedents, which the Chair will not take time to quote, but which he has examined, the Chair is of opinion that this comes under the inhibition of

the rule, and the Chair sustains the point of order against the amendment of the gentleman from Illinois.

Mr. FOWLER. Mr. Chairman, does it not come under the Holman rule in that it is a limitation upon the appropriation?

The CHAIRMAN. The Chair thinks that the gentleman misconceives, or does not state accurately, what is called the Holman rule. That part of the Holman rule to which the gentleman refers provides:

Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

Under the consistent rulings of various Chairmen and Speakers construing this rule, it has been held that it must clearly appear on the face of the amendment that it does propose to retrench expenditures in one of the ways suggested. The Chair holds that this does not so show, and therefore it does not come within the scope of the Holman rule.

Mr. FOWLER. Mr. Chairman, I offer the following amendment:

Whenever such railway violates its contract of carriage of such mail, then one-half of the salary paid to such railway shall cease until such contract is complied with by such railroad.

Mr. MOON of Tennessee. Mr. Chairman, I make a point of order against that amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. FOWLER] offers an amendment, which the Clerk will report. Will the gentleman send his amendment to the desk? Has the gentleman his amendment prepared in writing?

Mr. FOWLER. No; I do not have it prepared in writing.

Mr. MOORE of Pennsylvania. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MOORE of Pennsylvania. I do not wish to be captious, but I have noticed on several occasions recently that amendments have been dictated from the floor. Is it not a standing rule of the House that the whole amendment shall be presented in writing?

The CHAIRMAN. That is the fact, but, of course, it is of very frequent occurrence that a number of amendments are offered otherwise.

Mr. MOORE of Pennsylvania. I have been trying to follow the gentleman's argument, but it is impossible to get the amendment at the Clerk's desk, so that the importance of having the amendment in writing is apparent.

The CHAIRMAN. The Chair is informed by the Clerk that in practice the matter is largely a matter of discretion with the Chair. The gentleman from Illinois [Mr. FOWLER] will now offer his amendment.

Mr. HAMILL. Mr. Chairman, I ask for a rereading of the gentleman's amendment.

The CHAIRMAN. The gentleman has not yet sent up his amendment.

Mr. FOWLER. Mr. Chairman, I am ready to present my amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. FOWLER]:

The Clerk read as follows:

Amend, page 21, by inserting at the end of line 18 the following: "*Provided*, That whenever any railway shall violate its contract for such service then one-half of the pay for such service shall cease."

Mr. MOON of Tennessee. Mr. Chairman, I make a point of order against that.

The CHAIRMAN. The gentleman from Tennessee makes a point of order against the amendment. Does the gentleman make it at this time?

Mr. MOON of Tennessee. Yes.

The CHAIRMAN. The gentleman makes the point of order. The Chair thinks that this comes within the reasoning of the first part of his ruling just made, and sustains the point of order.

Mr. FOWLER. Mr. Chairman, is it not a reduction of the salary of the employee? Does it not come under that phase of the Holman rule?

The CHAIRMAN. The Chair does not think it is in the form that brings it under that rule, the Chair will state.

Mr. MOORE of Pennsylvania. Mr. Chairman, I now renew my request that the Chair will rule on the question as to whether it is not essential that an amendment offered from the floor shall be in writing.

The CHAIRMAN. The parliamentary clerk at the Speaker's table has just handed to the Chair the following rule:

RULE XVI.

1. Every motion made to the House and entertained by the Speaker shall be reduced to writing on the demand of any Member, and it shall be entered on the Journal in the name of the Member making it, unless it is withdrawn the same day.

It would seem that if a Member proposes an amendment it is within the power of any other Member to demand that it shall be reduced to writing. Otherwise it seems to be in the discretion of the Chair.

Mr. MURDOCK. Mr. Chairman, on the contrary, if no one does object to a verbal amendment the verbal amendment will stand?

The CHAIRMAN. It is a matter resting in the discretion of the Chair, evidently. The Clerk will read.

The Clerk read as follows:

For transportation of foreign mails, $3,900,000: *Provided*, That the Postmaster General shall be authorized to expend such sums as may be necessary, not exceeding $112,800, to cover one-half of the cost of transportation, compensation, and expenses of clerks to be employed in assorting and pouching mails in transit on steamships between the United States and other postal administrations in the International Postal Union, and not exceeding $88,100 for transferring the foreign mail from incoming steamships in New York Bay to the steamship and railway piers, and for transferring the foreign mail from incoming steamships in San Francisco Bay to the piers; also for transferring the mail from steamships performing service under contract for transporting United States mail: *Provided*, That acting clerks may be employed in place of clerks or substitutes injured while on duty who shall be granted leave of absence with full pay during the period of disability, but not exceeding one year, then at the rate of 50 per cent of the clerk's annual salary for the period of disability exceeding 1 year but not exceeding 12 months additional, and that the Postmaster General may pay the sum of $2,000, which shall be exempt from payment of debts of the deceased, to the legal representative of any sea-post clerk or substitute sea-post clerk who shall be killed while on duty, or who, being injured while on duty, shall die within one year thereafter as the result of such injury.

Mr. MOON of Tennessee. Mr. Chairman, I offer an amendment to come in after the word "cover," in line 22, page 21. I move to strike out the balance of that line, lines 23 and 24, and all of line 1 on page 22, and the word "union," which is the first word in line 2 on page 22, and insert in lieu thereof the following:

The cost to the United States of maintaining seaport service on steamships conveying the mails.

The CHAIRMAN. The gentleman from Tennessee offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 21, line 22, after the word "cover," strike out all the remainder of that line and all of lines 23 and 24 and all of line 1 on page 22, and the word "union" at the beginning of line 2, and insert the following: "The cost to the United States of maintaining seaport service on steamships conveying the mails."

Mr. MURDOCK. Mr. Chairman, what does that amendment do?

Mr. MANN. It makes it conform to existing law.

Mr. MOON of Tennessee. That is the recommendation of the department.

Mr. MANN. It accomplishes the same purpose.

The amendment was agreed to.

Mr. MOON of Tennessee. Mr. Chairman, in line 6 I move to strike out the word "piers" and insert the following:

And for transferring the foreign mails from incoming steamships at Honolulu from quarantine to the piers.

The CHAIRMAN. The gentleman from Tennessee offers a further amendment, which the Clerk will report.

The Clerk read as follows:

Page 22, line 6, strike out the word "piers" and insert the following: "And for transferring the foreign mails from incoming steamships at Honolulu from quarantine to the piers."

The amendment was agreed to.

Mr. BORLAND. I move to strike out the last word, for the purpose of asking unanimous consent to extend in the RECORD my remarks on the bill.

The CHAIRMAN. The gentleman from Missouri moves to strike out the last word and asks unanimous consent to extend his remarks in the RECORD. Is there objection?

Mr. MANN. Reserving the right to object, does the gentleman from Missouri desire to insert in the RECORD at this point a speech upon some other subject, or will the gentleman get leave to insert it at the end of the RECORD?

Mr. BORLAND. I do not quite understand.

Mr. MANN. I am very much opposed to the getting of leave to extend, and then inserting in the actual proceedings of the House speeches relating to some other matter. If the gentleman will obtain leave to insert his remarks at the end of the RECORD if they do not relate to postal matters, I shall have no objection.

Mr. BORLAND. The matter I intend to insert relates to post roads. It relates to the bill in general, but does not belong at this particular point in the bill.

Mr. MANN. Then will the gentleman insert it in the RECORD at the end of the proceedings, where such insertions are usually made?

Mr. BORLAND. I have no objection to that.

Mr. MANN. To insert a long speech into the actual proceedings, which the Members read, makes it inconvenient.

Mr. MURDOCK. Mr. Chairman, I should like to ask if it is within the power of a Member of the House to designate the place in the RECORD where a printed speech may be placed? I appreciate the point of the gentleman's objection, that the continuity of the proceedings ought not to be broken by the insertion of matter that does not relate to the subject. Has the gentleman from Missouri any power to designate the place where his speech shall be printed?

Mr. MANN. He has. If he gets leave to print now and gives his remarks to the reporters, they may be put in at this place in the proceedings, or he can ask them to put it in the latter part of the RECORD, where speeches are printed that are held out for revision.

Mr. MOORE of Pennsylvania. Mr. Chairman, I have a similar request to make, but I make it with the understanding that I will withhold the copy until to-morrow.

Mr. BORLAND. I will make my request in the same way. I have no desire to print the speech at this particular point in the proceedings.

Mr. MANN. I did not suppose the gentleman had.

Mr. BORLAND. I make the request with the understanding that the speech be printed at the end of the proceedings.

The CHAIRMAN. The gentleman from Missouri [Mr. BORLAND] and the gentleman from Pennsylvania [Mr. MOORE] ask unanimous consent to extend their remarks in the RECORD. Is there objection?

There was no objection.

The Clerk read as follows:

For travel and miscellaneous expenses in the postal service, office of the Second Assistant Postmaster General, $1,000.

Mr. CULLOP. I offer the following amendment as a new paragraph.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

At the end of line 24, on page 22, insert the following: "That the Executive order of date September 30, 1910, whereby assistant postmasters and clerks at first and second class post offices were placed within the classified civil service, and the Executive order of October 15, 1912, whereby postmasters of the fourth class were placed within the classified civil service, are hereby annulled and set aside."

Mr. MANN. Mr. Chairman, may I ask the gentleman just what will be accomplished by this amendment if it is agreed to? I did not quite catch its import. Do I understand from the amendment that it is proposed to take out of the classified service all of the clerks in first and second class post offices; and if so, would it include carriers as well?

Mr. CULLOP. No, sir; it does not. It only embraces the assistant postmasters and clerks in first and second class offices included in the Executive order of September 30, 1910, placing them in the classified civil service. The other relates to fourth-class postmasters, annulling the order of October 15, 1912, whereby they were placed under the classified civil service and given life positions. That is the object of it, and these are the only classes of officials which it affects.

Mr. MANN. Mr. Chairman, as I understand the amendment, it is proposed to take out of the classified service the assistant postmasters in the first and second class offices and also the postmasters in the fourth-class offices. In other words, to take out of the merit system these officers and return them to the spoils system of politics. I am quite willing to submit that to a vote of Congress. I shall watch with great interest to see how gentlemen are recorded upon it, not because it will make any difference to me, but just to see the squirming that will be done now and hereafter. We already have one proposition upon which we will get a roll call on the subject, and I would like to see one that is effective, for the first one will not amount to much, except to give an opportunity to express an opinion. I do not know whether the President would pay any attention to the provision or not.

Mr. CANNON. Will the gentleman allow me a question?

Mr. MANN. Certainly.

Mr. CANNON. I want to see what this applies to. It appears to apply to assistant postmasters and clerks at first and second class offices.

Mr. MANN. That is what I understood it applied to.

Mr. CANNON. It applies to the first and second class offices and clerks within the classified service in the Executive order of September 30, 1910, whereby assistant postmasters and clerks at first and second class offices, as well as to the order of 1912 as to the fourth-class postmasters. Does the gentleman know what clerks besides the assistant postmasters this would cover?

Mr. MANN. I do not. I inquired of the gentleman from Indiana, who offered the amendment, and was assured that it did not cover any clerks, as I understood it. Unless I misunderstood the gentleman, he stated that the first part of the order only covered, in fact, assistant postmasters.

Mr. CULLOP. And clerks,

Mr. MANN. I know that the gentleman did not intend to mislead me.

Mr. CANNON. The gentleman from Indiana says "and clerks under the order of 1910."

Mr. MANN. Whatever it may be, I regret that the gentleman is not willing to go the whole hog. If I wanted to put myself on record in advocacy of the spoils system, I would propose to take all of the employees of the postal service out of the merit system and give them to my party.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. GARDNER of New Jersey. Mr. Chairman, I rise simply to ascertain gentlemen's opinion as to the effect of this amendment. What is it going to do? There is a civil-service law 20 or 35 years old which gives to the President such power. In 1910 and 1912 the President exercised the powers given him by that statute and issued two Executive orders placing two classes of employees in the civil service. This amendment, if I understand it, proposes to revoke those two orders, but not to change the statute by its terms. If the amendment does not change the statute, if it simply revokes the orders, the President might sign the act to-day and reissue the orders to-morrow. Indeed, the orders might be written and lie on the desk and be signed one minute or a half a minute after the bill itself was signed. Is that the purpose of the amendment? Is it the gentleman's construction that the revocation of these orders is an amendment to the civil-service law, a provision of permanent law that two classes of employees shall never, under that act, be placed in the civil service? Which is the construction of the gentleman's amendment?

Mr. CULLOP. Mr. Chairman, in response to the gentleman from Illinois and the gentleman from New Jersey, I have set out the language in this amendment just as it was given me by the First Assistant Postmaster General, and that is, by the Executive order of September 30, 1910, assistant postmasters and clerks in first and second class post offices were placed within the classified civil service, and that by the President's order of October 15, 1912, postmasters of the fourth class were also placed within the classified civil service.

Mr. HAMILL. Will the gentleman yield?

Mr. CULLOP. I will, although I have only five minutes.

Mr. HAMILL. Who appoints the clerks and assistant postmasters in the first-class offices?

Mr. CULLOP. As a rule the postmaster at the post office appoints, subject to approval, I think, in nearly every instance.

Now, Mr. Chairman, it has been stated by the gentleman from Illinois that this is one of the emanations growing out of the desire for spoils. Let me say in answer that these men were put in office under the spoils system, many of them appointed just before the order of September 30, 1910, went into effect. The fourth-class postmasters were selected under the spoils system, and now it is proposed by Executive order to fasten them upon the country for life as a result of the work of the spoilsmen of this country. Is it not better to annul those orders, and if you are to enforce this branch of the law in the selection of these officers, let them be selected according to merit and not according to their political affiliations, for their work in the party which is just going out of power? They were selected upon that theory; that is how they came into office; and it is proposed now by these Executive orders to put them in office and keep them for life. I am opposed to the policy and the country is opposed to it. A large number of the opposite party is opposed to it because they know the manner in which their selection was brought about and the manner in which it is proposed now to keep them in office. This Congress is not repealing any statute by this amendment, but simply annulling two of the Executive orders of the President of the United States in reference to these officers.

A man who gets an office for life does not have the ambition to improve the service that a man has who is dependent upon his good, efficient work in holding his office. The inducement for the improvement of the service is taken away. But the thing we are interested in is to revoke these orders and rebuke the attempt to foist the spoils system upon the country through the Executive orders, and thereby enable officials to be kept in office for life when the administration of this country is about to change, and when there is a great desire to improve the public service by inducting new blood in official circles.

Mr. HAMILL. Will the gentleman state how long since these orders have been made?

Mr. CULLOP. The one in reference to fourth-class postmasters, affecting over 40,000 officeholders, was made on the 15th of October, 1912, just 19 days before the election. The other one was made September 30, 1910, and between the issuance of the order and the taking effect, December 1, 1910, all over the country there were removals of assistant postmasters and new

assistant postmasters appointed to take their place, selected to go into the service after these orders were made and before they became operative. These, in many instances, were made in violation of good public service and as a reward for political activity, and all selected from the Republican Party. Selections were made from that party alone in all such instances, and it could not be contended it was solely for the good of the public service. It was a mere political action that was taken to reward political service by the changes that were made.

Mr. HAMILL. Assuming that it was and that these men have given satisfactory service and have shown evidences of their continuing to give satisfactory service, does not the gentleman think that the order should be allowed to stand?

Mr. CULLOP. No, I do not; and they have not in all cases given satisfactory service. The vote of the people on the 4th day of last November repudiated their service and demanded a change in the holding of the offices throughout the country.

Mr. HAMILL. As a general principle, does not the gentleman believe that life tenure should be the rule in Government service?

Mr. CULLOP. Never, in any service. It is a detriment rather than a benefit to good service. It takes from a man the inspiration to render good service, because he is fixed for life, and there is not any reason why he should be more active and diligent in the discharge of his official duties; and for that reason it is not in the interest of good service. But it is contended that this amendment is in furtherance of the "spoils system." I deny it. The Executive orders which it proposes to annul were in support of the spoils system, because each and every officer embraced under said orders were selected under the spoils system as a reward for political service and not because of superior qualifications.

If they were really in aid of good service, for the improvement of the discharge of public duties, why not make such an Executive order, but open all the places to selection anew, and select them from all applicants in competitive examinations? This would be fair and would then sustain the claim that the same was done for the purpose of improving the public service and for the good advantage of the discharge of official duties.

We are all for good civil service; we believe in the faithful and efficient discharge of official duties; but we can not, however, agree that these two Executive orders were calculated to improve the public service or inspire a better discharge of official duties. If so, fairness in this matter requires that these orders be annulled and the matter thrown open to competitive examinations, where all may participate, and the selections made on merit and not, as has been done in these cases, as reward for partisan political service.

For these reasons I hope the amendment will be adopted. It is against it more than in favor of it, and the sooner the policy is changed the better. I am opposed, I may say, to any life tenure of office, because fixed terms of office inspire the occupant of the office to better service and to greater activity.

It may be said "that to the victor belong the spoils," I indorse that doctrine. I believe any business can better be operated by its friends than its enemies; that the administration of public affairs can better be administered by those friendly to its policies than by those hostile to them. This, I take it, no one will deny, because we insist upon this doctrine does not mean we are opposed to good public service. It can not be so construed, but on the contrary it means we favor a good public service, and are desirous of securing only the best by placing the administration of the public business in the hands of competent officials in full sympathy with the policies of the incoming administration, which is charged with the responsibility thereof. It is with this object in view we advocate the adoption of this aniendment.

Mr. HAMILL. Mr. Chairman, it is quite singular that the gentleman from Indiana [Mr. CULLOP] and I should draw opposite conclusions from the same facts. My contention is, and I believe it is borne out by all experience, that life service, assured tenure in public office, is one of the greatest inspirations we can have toward making public servants faithful and diligent. The curse of this country has been the old spoils system, which happily has been done away with by recent legislation. If we give a man an assurance that so long as he is faithful to his work his tenure will not be molested, then we have a man whose undivided attention and industry is given to his work; but if a man is working with the sword of Damocles hanging over his head every moment of his time, then we have a man who instead of attending with undivided industry and attention to his work, is always fearing the appointing authority, and he can not give faithful service to the Government. I think that any measure that would be a blow at civil service ought to be spurned by the Members of this House. I know that in taking a position whereby assistant postmasters could be removed I would be doing something which, from the point of view of patronage, would be very beneficial to myself. I believe, however, that since we have established civil service and recognized life tenure, this House would make a mistake at this time if it passed any legislation that would menace or imperil the continuance of that meritorious and experience-proven system. [Applause.]

Mr. ROBERTS of Massachusetts. Mr. Chairman, I would like to ask the gentleman from Indiana [Mr. CULLOP] what class of clerks was placed under civil service in the first and second class post office by the Executive order of 1910, and how many of them were embraced in that class or classes?

Mr. CULLOP. Mr. Chairman, I have not that information. I wrote to the First Assistant Postmaster General, but he did not give me a detailed statement of it; but it applies to deputy postmasters and clerks in the first and second class offices, the assistants and the clerks in the offices, and not the carriers. I only wish that the amendment applied to them as well.

Mr. ROBERTS of Massachusetts. Mr. Chairman, I had understood that the clerks in the postal service were all under civil service prior to 1910.

Mr. CULLOP. Not in these offices.

Mr. ROBERTS of Massachusetts. In the first and second class offices?

Mr. CULLOP. That is my understanding from the Postmaster General. It was true of the third class.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Indiana.

The question was taken, and the Chairman announced that the ayes seemed to have it.

Mr. CULLOP. Mr. Chairman, I demand a division.

The committee divided.

The CHAIRMAN. Upon this vote the ayes are 15 and the noes 11——

Mr. ALLEN. Mr. Chairman, I demand tellers.

Mr. HAMILL. Mr. Chairman, I demand tellers.

Mr. CULLOP. Mr. Chairman, I make the point of order that the Chair had announced the result and that the demand for tellers came too late.

Mr. FOSTER. Mr. Chairman, I submit to the Chair that the Members could not tell how the vote went until the Chair had announced it.

The CHAIRMAN. The Chair had stated that the ayes were 15 and the noes 11, and upon that came the demand for tellers. The gentleman from New Jersey was in time. As many as favor ordering tellers will rise and stand until counted. [After counting.] Fourteen Members have risen, not a sufficient number, and tellers are refused. The ayes have it, and the amendment is agreed to.

Mr. REILLY. Mr. Chairman, I make the point of order that there is no quorum present.

The CHAIRMAN. The Chair will count. [After counting.] Fifty-four Members are present; not a quorum, and the Clerk will call the roll.

Mr. REILLY. Mr. Chairman, I would like to inquire if that amendment is agreed to?

The CHAIRMAN. The Chair announced that the ayes were 15 and the noes 11. It was at this stage that the point of order of no quorum was made. The Chair has held there is no quorum present, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adair	Davis, Minn.	Harrison, N. Y.	Littleton
Aiken, S. C.	Davis, W. Va.	Hart	Lobeck
Ames	De Forest	Hartman	Longworth
Anderson	Denver	Haugen	Loud
Ansberry	Difenderfer	Hawley	McCall
Anthony	Donohoe	Hayden	McCoy
Ashbrook	Driscoll, D. A.	Hayes	McCreary
Ayres	Driscoll, M. E.	Heald	McGillicuddy
Barchfeld	Dupré	Helgesen	McKellar
Bartholdt	Dyer	Henry, Conn.	McMorran
Bartlett	Ellerbe	Higgins	Martin, Colo.
Bates	Estopinal	Hill	Merritt
Booher	Evans	Holland	Moon, Pa.
Broussard	Fairchild	Howard	Moore, Pa.
Brown	Fergusson	Howland	Moore, Tex.
Browning	Fields	Hull	Morgan, La.
Bulkley	Fitzgerald	Humphreys, Miss.	Mott
Burke, Pa.	Floyd, Ark.	Jacoway	Murray
Burnett	Focht	Johnson, Ky.	Needham
Butler	Francis	Jones	Norris
Calder	Fuller	Kahn	Nye
Campbell	George	Kent	Oldfield
Clark, Fla.	Goldfogle	Kitchin	Olmsted
Claypool	Gould	Kopp	O'Shaunessy
Clayton	Graham	Lafean	Palmer
Conry	Greene, Vt.	Lafferty	Parran
Cooper	Griest	Legare	Patten, N. Y.
Covington	Gudger	Lenroot	Peters
Crago	Hamilton, W. Va.	Langley	Pickett
Curley	Hamlin	Lawrence	Post
Danforth	Hardwick	Levy	Powers
Davidson	Harris	Lindsay	Prouty

Pujo	Scott	Sweet	Webb
Randell, Tex.	Scully	Taylor, Ala.	Weeks
Redfield	Sells	Taylor, Colo.	Whitacre
Reyburn	Slayden	Thomas	White
Richardson	Sloan	Turnbull	Wilson, N. Y.
Riordan	Smith, J. M. C.	Underhill	Wood, N. J.
Robinson	Smith, S. W.	Underwood	Woods, Iowa
Rubey	Smith, Cal.	Vare	Young, Tex.
Rucker, Colo.	Stack	Vreeland	
Rucker, Mo.	Sterling	Warburton	
Sabath	Sulloway	Watkins	

The committee rose; and the Speaker having taken the chair, Mr. GARRETT, the Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had found itself without a quorum; that he had directed the roll to be called; that 216 Members had answered to their names, a quorum; and he reported the list of absentees.

The committee resumed its session.

The CHAIRMAN (Mr. GARRETT). The question is upon the amendment offered by the gentleman from Indiana [Mr. CULLOP].

Mr. HAY. I make the point of order that the question is on the demand for tellers.

The CHAIRMAN. The point of order made by the gentleman from Virginia [Mr. HAY] is well taken.

Mr. MANN. Mr. Chairman, may we have order so that we may know what the point of order is?

The CHAIRMAN. The Chair had stated that the question is on the amendment proposed by the gentleman from Indiana [Mr. CULLOP]. Thereupon the gentleman from Virginia [Mr. HAY] made the point of order that the question was upon the demand for tellers on that amendment. It seems to the Chair that the point of order made by the gentleman from Virginia [Mr. HAY] is well taken.

Mr. CULLOP. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. CULLOP. The motion for tellers had been voted down, and the Chair so declared as I understood it. Then the Chair announced that the amendment was adopted, and not until then was the point of no quorum made by the gentleman from New Jersey [Mr. HAMILL]. Now, what I inquire of the Chair is, the proceedings having gone that far, was not the amendment already adopted before the point of no quorum was raised?

The CHAIRMAN. The Chair will state that the situation is this: The gentleman from Indiana [Mr. CULLOP] proposed an amendment, which was discussed for some 15 or 20 minutes, and the vote was then had viva voce. The Chair stated that "The noes seemed to have it," whereupon a division was demanded, and the House divided. The minutes show that the Chair stated:

Upon this vote the ayes are 15, and the noes 11.

Whereupon the gentleman from Ohio [Mr. ALLEN] demanded tellers, and the gentleman from New Jersey [Mr. HAMILL] demanded tellers.

Then the following occurred:

Mr. CULLOP. Mr. Chairman, I make the point of order that the Chair had announced the result and that the demand for tellers came too late.

Mr. FOSTER. Mr. Chairman, I submit to the Chair that the Members could not tell how the vote went until the Chair had announced it.

The CHAIRMAN. The Chair had stated that the ayes were 15 and the noes 11, and upon that came the demand for tellers. The gentleman from New Jersey was in time. As many as favor ordering tellers will rise and stand until counted. [After counting.] Fourteen Members have arisen—not a sufficient number—and tellers are refused. The ayes have it, and the amendment is agreed to.

Mr. REILLY. Mr. Chairman, I make the point of order that there is no quorum present.

Now, it seems perfectly apparent to the Chair that, under the constitutional provision as to a quorum, had these proceedings been in the House, upon the point of no quorum coming at the time it did, and in the connection in which it did, necessarily it would have vacated the proceedings and brought the matter to an issue in another way. It seems to the Chair that the rule must be construed in the Committee of the Whole House on the state of the Union in the same spirit and in the same manner as would apply in the House. Therefore the Chair thinks that the demand for tellers is in order.

Mr. MANN. A parliamentary inquiry.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] will state it.

Mr. MANN. I understand the Chair has sustained the point of order made by the gentleman from Virginia [Mr. HAY].

The CHAIRMAN. The Chair had so stated.

Mr. MANN. I shall not appeal from the decision of the Chair, because I think it makes no difference. I am quite sure that when the Chair reflects upon it hereafter the Chair will change its judgment upon that question.

The CHAIRMAN. The Chair is very anxious to proceed in order.

Mr. MANN. I understand.

The CHAIRMAN. Now is as good a time as any for the Chair to change his decision.

Mr. MANN. This particular matter makes no difference. I think when the present occupant of the chair, who is a very able parliamentarian, thinks the matter over he will see that the ruling he now makes is not logical with the situation.

The CHAIRMAN. On the motion for tellers or——

Mr. MANN. On the point made by the gentleman from Virginia about tellers.

Mr. CULLOP. Mr. Chairman, is not the purpose of the announcement of the Chair that either "the ayes or noes seem to have it" to give opportunity to anyone who wants to demand a vote some other way to make that demand between that announcement and the announcement that "the ayes or noes have it," whichever way the Chair has decided? Now, that has been a practice ever since I have been a Member of the House, and after the Chair has made an announcement, I think if the Chair will look up the precedents on this subject he will find that frequently Speakers and Chairmen have ruled that way. In other words, the matter was adopted or rejected, but the point of no quorum can be raised at any time in order to get a quorum in the committee to do business. That is the point I am insisting on, and I believe the precedents abundantly sustain this view of the matter.

Mr. SAUNDERS. Mr. Chairman, just in this connection I wish to say a word in reply to the gentleman from Illinois. There were two stages in this matter. The announcement of the Chair was made with respect to the first stage. In the next stage the call was made for tellers, and the call was not sustained. Then the point of no quorum was made. The announcement of the Chair was to the effect that by the vote prior to the call for tellers, the amendment had been agreed to. When the request was made for tellers, and the vote was taken on that request, it was made apparent that no quorum was present. Thereupon the point of order of no quorum was made. On the discovery that no quorum was present, the action taken in respect to tellers thereby became of no effect.

Mr. KENDALL. Will the gentleman from Virginia [Mr. SAUNDERS] yield right there?

Mr. SAUNDERS. Yes.

Mr. KENDALL. After the demand for tellers was refused because not a sufficient number of gentlemen arose to command tellers, the Chairman announced that the amendment had been adopted.

Mr. SAUNDERS. That has already been stated. The facts in that connection have already been given, namely, that the amendment was agreed to by the first vote, but in connection with the gentleman's request for tellers, the point was made of no quorum, and when that point was made and the fact of no quorum was ascertained everything that was done in relation to tellers was of no effect. The Committee of the Whole can no more act without a quorum than the full House.

Mr. CULLOP. The gentleman has misunderstood the reading of the RECORD. The Chair read the RECORD. It was after all that the gentleman has mentioned had taken place that the Chair announced that the amendment was adopted and before a point of no quorum had been made.

Mr. SAUNDERS. That, of course, must be determined by reference to the RECORD.

Mr. HAY. Mr. Chairman, I withdraw the point of order I made.

Mr. SAUNDERS. If I apprehend the reading of the RECORD, the ruling made by the Chair is logical and appropriate.

The CHAIRMAN. The gentleman from Virginia [Mr. HAY] made the point of order that the question was on the demand for tellers. The Chair presumes the language used by the Chair was such as to show that the Chair sustained that point of order, although the Chair's first impression was otherwise. The gentleman from Virginia [Mr. HAY] now states that he desires to withdraw that point of order. By unanimous consent those proceedings will be vacated, and the Chair will hold that the matter comes up de novo upon the amendment. The question is on agreeing to the amendment.

Mr. KENDALL. Mr. Chairman, I ask unanimous consent that the amendment be stated again.

The CHAIRMAN. Without objection, the Clerk will again report the amendment proposed by the gentleman from Indiana [Mr. CULLOP].

The Clerk read as follows:

On page 22, after line 24, insert the following: "That the Executive order of date September 30, 1910, whereby assistant postmasters and clerks at first and second class post offices were placed within the classified civil service, and the Executive order of October 18, 1912, whereby fourth-class postmasters were placed within the classified civil service, are hereby annulled and set aside."

The CHAIRMAN. The question is upon the amendment.

The question was taken, and the Chairman announced that the "noes" appeared to have it.

Mr. CULLOP. A division, Mr. Chairman.

The committee divided; and there were—ayes 49, noes 18.

Mr. ALLEN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ALLEN. Is it appropriate to take notice of the fact at this time that the Members on the Republican side are not voting? [Laughter.]

Mr. MANN. It is improper to make the statement. If the gentleman understood the proprieties he would not be willing to take a chance about that. [Laughter.]

The CHAIRMAN. The Chair does not think that that is a parliamentary inquiry. On this vote the ayes are 49 and the noes 18. The ayes have it, and the amendment is agreed to.

Mr. REILLY. Tellers, Mr. Chairman.

Mr. SAUNDERS. Mr. Chairman, I make the point of no quorum.

Mr. CULLOP. And I make the point, Mr. Chairman, that that is dilatory.

Mr. REILLY. Mr. Chairman, I demand tellers.

The CHAIRMAN. The Chair will count. [After counting.] One hundred and ten gentlemen are present—a quorum. The gentleman from Connecticut [Mr. REILLY] demands tellers.

Mr. CULLOP. Mr. Chairman, I make the point of order now that that demand comes too late. The Chair has announced the result.

The CHAIRMAN. The Chair sustains the point of order.

Mr. MANN rose.

The CHAIRMAN. For what purpose does the gentleman from Illinois rise?

Mr. MANN. The gentleman from Connecticut [Mr. REILLY] demanded tellers as soon as the vote was announced before.

Mr. CULLOP. Regular order!

The CHAIRMAN. The Chair will state to the gentleman——

Mr. MANN. The Chair is more courteous than the gentleman from Indiana knows how to be.

The CHAIRMAN. The Chair will state to the gentleman from Illinois [Mr. MANN] that upon the conclusion of the vote by tellers the Chair announced that the ayes were 49 and noes were 18. Thereupon the gentleman from Connecticut [Mr. REILLY] was observed by the Chair to be standing, and the Chair hesitated. The Chair understood the gentleman from Connecticut to say, "Mr. Chairman—" and he stopped. The gentleman did not pursue it, and the Chair then very deliberately stated, "The ayes have it." The Chair thinks the demand of the gentleman from Connecticut, in view of the situation, came too late.

Mr. MANN. But, Mr. Chairman, it has been the invariable practice, and that is the rule laid down in Jefferson's Manual, that the demand for tellers comes after the announcement of the result of a vote on a division.

Mr. MOON of Tennessee. Mr. Chairman, I believe there is nothing before the House, and I demand the regular order.

The CHAIRMAN. The Chair sustains the point of order. The Clerk will read.

Mr. MOON of Tennessee. The gentleman from Illinois [Mr. RODENBERG] requested that we return to page 17 to consider the item at the foot of that page. I ask unanimous consent that that be done.

The CHAIRMAN. The gentleman from Illinois [Mr. RODENBERG] submits a request that the committee return to the last paragraph on page 17. Without objection, it is so ordered. The Clerk will report the paragraph.

The Clerk read as follows:

For inland transportation by railroad routes, $49,000,000: *Provided*, That no part of this appropriation shall be paid for carrying the mail over the bridge across the Mississippi River at St. Louis, Mo., other than upon a mileage basis.

Mr. RODENBERG. Mr. Chairman, I make a point of order against that proviso. My point is that this amendment is new legislation, changing existing law; and further, that there is nothing in this amendment appearing on its face to indicate that its adoption will result in retrenchment, and for that reason I insist that it is in direct conflict with Rule XXI of the House. That is the point that I make.

The CHAIRMAN. Does the gentleman desire to be heard further on his point of order at this time?

Mr. RODENBERG. If some one objects to the point, I want to be heard.

Mr. MURDOCK. Mr. Chairman, I intend to resist the point of order. I think that the amendment that has been placed in the bill by the committee, to wit—

That no part of this appropriation shall be paid for carrying the mail over the bridge across the Mississippi River at St. Louis, Mo., other than upon a mileage basis—

is saved by the proviso at the end of the second clause of Rule XXI of the House. As the Chair knows, that second clause is one which defines limitations in the form of amendments to appropriation bills, and contains the well-known general statement that—

No appropriation shall be reported in any general appropriation bill, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress. Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

Now, I believe that the following proviso is the one which protects this amendment from a successful point of order. The proviso is as follows:

Provided, That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law or the House members of any such commission having jurisdiction of the subject matter of such amendment, which amendment being germane to the subject matter of the bill shall retrench expenditures.

I want to call the attention of the Chairman to the fact that there may be a material difference between the reduction of an appropriation and a retrenchment in the expenditures under that appropriation. The lump-sum appropriation for this service carried in this bill is $49,000,000. As a matter of fact, if the amendment should stay in the bill and become a law, then there would be an expenditure of less than $49,000,000. I ask the Chairman to follow me while I visualize the situation as it exists.

The St. Louis Terminal Association controls the station and the tracks leading thereto from all directions in the city of St. Louis, but the St. Louis Terminal Association receives pay as a separate entity only on that part of the mail which comes into St. Louis over one of the bridges leading into the city from the east. I point out to the Chairman that the tracks leading into St. Louis from the west are owned by the same terminal association, but pay is not given to the terminal association for the transportation of mail over the tracks which lead into St. Louis from that direction, but only on the tracks that lead across the river from the east, and over one bridge, the Eads Bridge. Pay is given for the transportation of the mail in St. Louis in two ways. We have a statute which provides pay for the transportation of mail by the railroads on the amount of mail transported, with the weight multiplied by the distance carried and fixed upon a graduated scale of rates; and on all mail that comes into the terminal station at St. Louis the mileage system of pay for the transportation of mail is used except in the one instance. But we have another law, which I now wish to read to the Chairman. It is brief, and is as follows:

That the Postmaster General is hereby authorized, in his discretion, to pay, from appropriations for transportation by railroad routes, for the special transfer and terminal service between the Union Station and East St. Louis, Ill., and the Union Station and St. Louis, Mo., including the use, lighting and heating of mail buildings and the transfer service at St. Louis, at a rate of not exceeding $50,000 per annum, beginning on the 1st day of July, 1899.

That is the law under which the Government now pays to the St. Louis Terminal Association $50,000 a year out of this lump sum of $49,000,000. I want to point out to the Chairman——

The CHAIRMAN. Will the gentleman permit the Chair to ask a question?

Mr. MURDOCK. Certainly.

The CHAIRMAN. Is the $50,000 paid for transportation, as well as for the other things mentioned in the act which the gentleman has just read?

Mr. MURDOCK. I will say to the Chair that it is. The $50,000 is a payment for the transportation of the mail, first, from East St. Louis to the terminal at St. Louis, a distance of 3.80 miles, and for heating and lighting rooms in the station and for transfer service in the station.

Now, if the proviso which the committee has included in the bill should become law, then the Government, as I will show a little later, will pay the St. Louis Terminal Association a sum of money based on the mileage charge between East St. Louis and St. Louis, which, according to the report of the Post Office Department, will reach the sum of $19,000. So there can be no question at all about the fact that this amendment will result in a retrenchment in expenditures.

The committee does not assume to change the total of the lump-sum appropriation, but by the very nature of things—and a long history will bear me out in this—the amendment places the payment for the transportation of that mail on a mileage basis and results, as the department says, in a reduction of some $19,000 a year.

In that connection I am not merely making the argument for the purpose of carrying out my own point of view, but I find that since this was last in controversy in this House—and

it has been up very frequently for discussion—there has been published a report from the department in which it recommends that this change shall be made, and states that a saving will be accomplished.

I call the attention of the chairman to the fact Rule XXI can be construed strictly and narrowly and to the letter, or on the other hand it can be construed broadly, and for my part I would like to see the so-called Holman provisions of the rule given the broadest sort of construction.

If an individual Member of the House, without the authorization of the committee, should offer this amendment as I have done myself repeatedly in the past, I can see where the contention of the gentleman from Illinois and his point of order might be well taken; but where, under the provisions of this rule, a committee has regularly, following the rule, reported an amendment which does retrench expenditures, then I do not believe that the point of order should lie against it.

Mr. MADDEN. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Kansas yield to the gentleman from Illinois?

Mr. MURDOCK. I yield to the gentleman from Illinois.

Mr. MADDEN. I was asking recognition in my own right. I thought the gentleman from Kansas had concluded.

The CHAIRMAN. The Chair will recognize the gentleman from Illinois in a few moments. The Chair desires to propound a question to the gentleman from Kansas. Assuming, as the gentleman does, that this provision depends wholly upon the Holman rule, and that it would not be in order unless in order under the Holman rule, the Chair wishes to ask the gentleman if he has examined the ruling of Mr. Speaker Kerr, which is the first ruling on the Holman rule, and subsequent rulings, particularly a ruling by Mr. Chairman SAUNDERS, of Virginia, in the last session of Congress on the Army bill, the substance of which was that any amendment or legislation so proposed must show clearly upon its face that it is a retrenchment. If so, what has the gentleman to say as to this amendment showing that upon its face?

Mr. MURDOCK. I have read the decision of Chairman SAUNDERS and the decision of the present occupant of the Chair, and also a decision by the gentleman from Kentucky [Mr. JOHNSON]; and, if my recollection serves me right, the gentleman from Kentucky [Mr. JOHNSON] ruled that where a substantial reduction was apparent from the context and from the provision itself, it came within the Holman rule.

The CHAIRMAN. Undoubtedly that is the rule, but the question is, taking the amendment of the committee or the proviso placed in the bill by the committee in connection with the original act which the gentleman from Kansas has read, which lodges discretion in the Postmaster General with respect to this matter, can the Chair, without extraneous information, determine from the act and the proviso itself that it does work a retrenchment?

Mr. MURDOCK. That is precisely my contention. The gentleman from Illinois contends that an amendment to come within the Holman rule must show upon its face a reduction, and it is my belief that the Chairman can see by the very nature of the amendment that it does mean a reduction, certainly not an increase. The Chairman must know that an amendment of this kind can not result in an increase. We have the general statute which provides for the pay of the railroads for the carriage of the mails on a certain system, and the Chair has a right to consider that general rule for the payment of railroads. I want to repeat that the Chair has a right to consider that we have one general law which applies to all railroads in the pay for the transportation of the mails on a railroad, and that an amendment thereto which restricts the pay for the carriage of the mail or the handling of the mail to that one general statute providing for payment—the Chair has a right to consider that that is necessarily a reduction, which it is in fact.

I want to say, further, to the Chairman, however he may decide, that a study of the chronological history of the item itself proves this very matter. The old Eads Bridge was constructed in 1875, and thereafter for some 20 years there was carried currently in appropriation bills a law which gave $25,000 a year for the transportation of the mail for these 3½ miles across the bridge and its housing and transfer at St. Louis. In 1899 we made the provision permanent law, and it has continued now for 12 or 13 years as permanent law.

No one contends, I think, for a moment—and I do not think the gentlemn from Illinois will contend—that this amendment or proviso would result in increasing the pay of the St. Louis Terminal Association. It will result in a reduction. It was written for that purpose, and the history of the item shows that it will result in that way, and I believe the chairman of the committee has a right to consider the bearing on the subject of the fact that we pay for the transportation of mails in one general statute and that the amendment to a law restricting any payment to that one general statute where the carriage of the mails is involved must necessarily result in a reduction of the expenditures.

The CHAIRMAN. Will the gentleman permit the Chair again? The proviso of the committee reads:

That no part of this appropriation shall be paid for carrying the mail over the bridge across the Mississippi River at St. Louis, Mo., other than upon a mileage basis.

The act from which the gentleman from Kansas has read and of which the Chair has a copy before him, provides:

SEC. 3. That the Postmaster General is hereby authorized, in his discretion, to pay from appropriations for transportation by railroad routes for the special transfer and terminal service between the Union Station at East St. Louis, Ill., and the Union Station at St. Louis, Mo., including the use, lighting, and heating of mail building and the transfer service at St. Louis at the rate of not exceeding $50,000 per annum, beginning on the 1st day of July, 1889.

The discretionary act, if it may be so termed, seems to the Chair much broader than the proviso of the committee. Is the gentleman from Kansas sure that if the committee's proviso were to pass that it would repeal the entire special act or would it simply repeal it pro tanto?

Mr. MURDOCK. I will show to the Chair where it would repeal that act, because the act which he has just quoted provides that "the Postmaster General is hereby authorized, in his discretion, to pay from the appropriations for transportation by railroad routes," and if the payment can not be made except from this item, certainly it can not be paid from any other item of appropriations in this or any other bill, and that amount of appropriation would fail and cease to be available.

In other words, Mr. Chairman, there is no other appropriation out of which this service can be paid for. Now, if under the Holman Act we reduce expenditures through the restriction upon the way in which that money shall be expended, namely, the lump sum of $49,000,000, it seems to me that under these circumstances it must come within the rule. It certainly does limit the discretion which the special act the Chair has just mentioned gives to the Postmaster General. He now can pay not to exceed $50,000 for the special transfer of the mail, the heating and lighting of the buildings, and for the carriage of the mail included, but the minute this amendment is adopted and becomes law, then the Postmaster General is able to pay only for the transportation of mail over the St. Louis bridge on a mileage basis.

The CHAIRMAN. That is the point that came into the mind of the Chair, in an attempt to construe the act, as to whether or not, if the proviso shall be held in order and become a law, the Postmaster General can not, under it and under the other special act, pay on a mileage basis for carrying the mails, and then, if in his discretion he sees fit to do so, pay all the balance for the other special things mentioned in the special act.

Mr. MURDOCK. I am glad the Chairman asked that question, because I can answer positively no. There is no pay to any of the 14 railroads which cross Eads bridge into St. Louis for transportation of the mail from East St. Louis to St. Louis. All the mail routes at present cease at the station at East St. Louis, and all the pay that is given for the transportation of the mail from the bridge over to St. Louis is in this payment of $50,000. Answering the Chairman's question strictly, the Postmaster General, if this amendment should pass, would pay the 14 railroads for transportation of mail from East St. Louis to St. Louis on a mileage basis, and would not be enabled to pay any money whatever from any source in this or any other appropriation bill to the Terminal Co. for heat, lighting, special transfer, and so forth.

Mr. RODENBERG. Mr. Chairman, I do not care to address myself to the merits of the transfer service across the bridge to St. Louis, but I will confine myself to a discussion of the parliamentary situation. I do not claim to have much familiarity with the rules of this House, but I do know that the decisions of every Speaker and every Chairman who has been called upon to construe the so-called Holman rule sets forth in clear and unmistakable language that amendments on an appropriation bill, to be in order under that rule, must indicate on its face that, if adopted, it will result in retrenchment and reduction of expenditures.

My contention is that this amendment does not indicate anything of that kind. The act of March 1, 1899, under which the Terminal Railroad Association is now being paid for this service, and which has been read by the gentleman from Kansas [Mr. MURDOCK], and also by the Chairman, expressly states that compensation shall be paid not only for carrying the mail across the bridge, but also for the special transfer and terminal serv-

ice, including the use, lighting, and heating of mail buildings. It must be noted by every member of the committee that compensation is provided for for service in addition to carrying the mail. It must also be noted that the whole matter of payment is addressed to the discretion of the Postmaster General. He may pay for all of this service any sum that he sees fit to pay, so long as it is not in excess of $50,000. This amendment specifically directs payment for one of the items covered in the general act, that of carrying the mail alone. It must certainly be apparent that this kind of limitation is not a retrenchment, because no one can tell in what manner the Postmaster General will exercise that discretion. I undertake to say, further, that if this amendment should be adopted it might result in an increase of expenditures. The Post Office Department would be called upon to pay upon a mileage basis for carrying the mail across the bridge, and under the general act the Postmaster General might in his discretion still pay not to exceed $50,000 for the other service that is performed at that point, and if the gentleman's statement is correct, and the estimate of the Second Assistant Postmaster General is correct, and the payment on mileage basis will amount to $19,000, then, if the Postmaster General should in the exercise of his discretion conclude to pay the maximum amount of $50,000, the amendment of the committee would result not in a retrenchment, but in an increase, instead of a decrease in expenditures.

Mr. Chairman, I contend that the act of March 1, 1899, is a discretionary act. It places certain discretionary authority in the hands of the Postmaster General, and I contend, further, that so long as that discretion is lodged in the Postmaster General no amendment can be incorporated in this appropriation bill which will clearly set forth that it will result in a retrenchment, because there is no way of determining just how the Postmaster General may exercise his discretion. He could now under the general law pay less than $19,000 for all of the service at St. Louis. He could pay $10,000. He could pay $5,000. He can pay less than the sum that would be fixed by compensation on the mileage basis. Therefore I contend that you can not, as long as that discretionary power is lodged in the Postmaster General, and so long as there is no way of determining how that discretion will be exercised, put an amendment on this appropriation bill that will absolutely guarantee a reduction of expenditures.

Mr. GARDNER of New Jersey. Mr. Chairman, I do not want to get into this discussion, but it seems to me that there is no way of proceeding to the consideration of this question without first meeting the legal question that presents itself on the face of the bill. Does this proviso repeal the special act? If the answer be no, then all the contentions that the amendment is in order fall. There is nothing in the suggestion that there will be no fund from which to pay the money if this proviso goes in, unless it be first held that it repeals the special act, because as long as the special act stands there will be authority in the Postmaster General to pay the $50,000. That is clear, as the law reads and has been read to the Chair. That is the only suggestion I mean to make. This amendment does nothing that brings it within any rule unless it be first held that it repeals the special act.

Mr. MURDOCK. Mr. Chairman, just a word before the Chair rules. I think it should be stated in answer to the gentleman from Illinois [Mr. RODENBERG] and in answer to the gentleman from New Jersey [Mr. GARDNER], what has not been hitherto stated, and that is this, that there is no general law in the United States which provides payments to railway companies for the housing or transfer of mails at stations.

Mr. GARDNER of New Jersey. But that special law does.

Mr. MURDOCK. That special law does.

Mr. RODENBERG. And you must repeal it first.

Mr. MURDOCK. And under that one special law the Terminal Association is paid out of this sum specifically named here $50,000 for two services, namely, the handling of the mail from East St. Louis to St. Louis and the transfer of the mails in the station there at St. Louis.

Mr. RODENBERG. And for furnishing of mail facilities.

Mr. MURDOCK. And heating and lighting. In case of a limitation in this appropriation bill which provides that the Postmaster General can not pay for the handling of that mail across the Mississippi River, save on a mileage basis, then, as a matter of fact, without any question, that limitation would repeal the force and effect of the special law which gives compensation for the handling and transfer of the mail in the St. Louis station. If there were a general law in this country providing for the pay to railways for the handling of mail and the transfer of it in stations and for the heating and lighting of mail rooms in the station, then my argument would fall to the ground; but inasmuch as there is no general statute to that effect, then the passage of this amendment would put upon the Postmaster General, no matter who he was, the necessity of paying to the 14 railroads which use the Eads Bridge pay on the mileage basis, and would prevent the Postmaster General from giving any compensation to the St. Louis Terminal Association for the use of rooms in the station.

The CHAIRMAN. The Chair is prepared to rule. It has been conceded by all participating in this discussion that if the provision be in order it is made in order by the latter part of the so-called Holman Rule, which reads:

Provided, That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law or the House Members of any such commission having jurisdiction of the subject matter of such amendment, which amendment being germane to the subject matter of the bill shall retrench expenditures.

This measure, if presented as an original bill, would, of course, go to the Committee on the Post Office and Post Roads under the rules of the House. Therefore the committee which brings it in as an integral part of this bill is the committee which should have jurisdiction of it, standing as independent legislation, and therefore no objection could lie on that score.

But the question in the mind of the Chair, and which has given the Chair considerable trouble, is whether this meets the requirement of the Holman rule or that provision of the Holman rule as to retrenchment, and whether it shows upon its face satisfactorily, not necessarily conclusively, but to such an extent as that a reasonable man looking at the proposal and measuring it by the act which it proposes to alter, would say it was a retrenchment. The Chair is not at all satisfied that if this proviso should become a law that it would repeal all of the original act. The Chair will read it again:

SEC. 3. That the Postmaster General is hereby authorized, in his discretion, to pay from appropriations for transportation by railroad routes for the special transfer and terminal service between the Union Station at East St. Louis, Ill., and the Union Station at St. Louis, Mo., including the use, lighting, and heating of mail building and the transfer service at St. Louis, at the rate of not exceeding $50,000 per annum, beginning on the 1st day of July, 1889.

That is the law of the land. Whether it is wise or unwise, whether it is just or unjust, the Chair does not know, nor does it concern the Chair at this stage of the proceedings. But evidently that act, on its face, at least, does provide for the payment for something besides the transfer or the carrying of the mails. That is to say, it lodges discretion in the Postmaster General to pay for something besides the carrying of the mails across that bridge, out of this particular fund, if he deems it proper. Now, the language of the proviso is:

That no part of this appropriation shall be paid for carrying the mail over the bridge across the Mississippi River at St. Louis other than upon a mileage basis.

Suppose that becomes the law? Is not there still left to the Postmaster General a discretion he can exercise in paying for lighting, heating, and so forth? Upon the facts of it, it seems to the Chair that unquestionably there is; and, therefore, it does not touch the discretion of the Postmaster General, except upon one particular of the whole sum of items for which he is permitted to pay in his discretion—that is, the matter of carrying—and that being the case, it only touching that single item, how can the Chair possibly say that upon its face it shows a retrenchment such as is required to be done to make it in order under the Holman rule?

The Chair has given considerable attention to this matter and considerable study, and does not think that it shows upon its face that it works a retrenchment such as is required under the Holman rule; and the Chair sustains the point of order.

Mr. REILLY. Mr. Chairman, I ask unanimous consent that we return to page 19 for the purpose of an amendment, as suggested by the House action.

The CHAIRMAN. The gentleman from Connecticut [Mr. REILLY] asks unanimous consent to return to page 19, to the paragraph which was there passed.

Mr. JACKSON. Mr. Chairman, I would like to ask the gentleman if he will withhold his request until I offer an amendment?

The CHAIRMAN. The gentleman from Kansas [Mr. JACKSON] will be recognized for the purpose of offering an amendment to the section. Does he desire to offer an amendment to the paragraph which has just been passed?

Mr. JACKSON. I do.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read a portion of the amendment, as follows:

Amend, line 21, page 17, by striking out "$49,000,000," and insert in lieu thereof "$48,500,000"; and by adding thereto:

"*Provided*, That no part of such appropriation shall be used in transporting mail matter consisting in any part of any letter, circular, packet, newspaper, magazine, or other periodical advertising for sale, either directly or indirectly, any spirituous, malt, vinous, or other intoxicating liquors for transmission to or delivery in any State, county, municipality wherein the sale of such liquors is or may be hereafter prohibited by State law, or when like pieces of mail matter are intended

to promote the sale of stocks, shares, bonds, or other forms of indebtedness, of any corporation, company, or association, unless the same have first been inspected and approved by the Postmaster General as free from intended fraud upon purchasers and proper to be introduced into the mails of the United States."

Mr. MOON of Tennessee. I make a point of order upon the proviso to the section.

The CHAIRMAN. The gentleman from Tennessee makes a point of order upon the proviso to the section.

Mr. MOON of Tennessee. He reduces the amount from $48,000,000 to $45,000,000; that is not subject to a point of order; but to the balance of the amendment I make a point of order.

Mr. HOBSON. Will not the gentleman reserve the point of order?

Mr. MOON of Tennessee. No; I will not reserve it.

The CHAIRMAN. Does the gentleman now insist on the point of order?

Mr. MOON of Tennessee. I make it now.

Mr. JACKSON. I would like to have the Clerk conclude the reading of the amendment.

Mr. MOON of Tennessee. But I shall insist on the point of order being discussed alone, and not a lot of prohibition rot, in this House.

The CHAIRMAN. The Clerk will finish the reading of the amendment.

The Clerk read as follows:

And the Postmaster General is hereby authorized and directed to use $100,000 of this appropriation for the purpose of weighing the mails and readjusting and reducing the compensation now paid the railway companies for transporting the mails by excluding said classes of mail matter from the mails of the United States.

The CHAIRMAN. The Chair will hear the gentleman from Kansas upon the point of order.

Mr. JACKSON. Now, Mr. Chairman, the amendment is not offered for the purpose of exploiting what the gentleman from Tennessee [Mr. MOON] is pleased to call "prohibition rot." There is not any such thing as prohibition rot among well-informed people, and I regret very much that the gentleman is pleased to meet this amendment by attempting to indulge in such unparliamentary language.

Mr. MOON of Tennessee. Do I understand the gentleman is discussing the point of order?

Mr. JACKSON. Mr. Chairman, I am not responsible for the gentleman's inability to understand the English language.

Mr. MOON of Tennessee. I understand the English language, but you are responsible, though, for making a statement here to the committee on the point of order that is not in order.

Mr. JACKSON. I refuse to yield.

Mr. MOON of Tennessee. I insist on the rule that the gentleman discuss the point of order.

The CHAIRMAN. The gentleman from Kansas [Mr. JACKSON] will proceed in order.

Mr. JACKSON. Mr. Chairman, I was attempting to do so. Now, I shall not attempt to review the decisions which have just been cited to the Chair upon the amendment offered by my colleague or the decisions referred to by the Chair in his decision except in so far as I think they are applicable to this rule. And so far as that is concerned, the merit of the proposition is involved in the point of order, because the merit of the proposition, if it has any, is involved in this attempt to retrench expenditures under this appropriation.

Now I call the attention of the Chair, in the first place, to the fact that the amendment upon its face does reduce the amount of the appropriation. The gentleman from Tennessee [Mr. MOON] concedes that so much of the amendment is in order.

Mr. MOON of Tennessee. Concedes what? Mr. Chairman, does the gentleman yield?

Mr. JACKSON. Mr. Chairman, I shall insist that we have order and that the chairman of the Committee on the Post Office and Post Roads observe order.

Mr. MOON of Tennessee. I asked the gentleman if he would yield. He said I conceded something. I want to know what it is.

Mr. JACKSON. I will repeat what I said, for the benefit of the gentleman. I said that the chairman conceded that so much of the amendment as reduced the amount of the appropriation is in order. In addition to that, Mr. Chairman, the amendment proceeds to provide for a reduction of the amount of money that is to be paid out of the Treasury. So that for two reasons the amendment comes within the Holman rule. I concede that if it were not for the Holman rule it would not be in order, because, while it is a limitation upon the appropriation, it does change existing law and directs the Postmaster General to take certain procedure.

The CHAIRMAN. Will the gentleman from Kansas permit the Chair a question right there?

Mr. JACKSON. In just a moment. I desire now to call the Chair's attention to the very point which the Chair made in connection with the amendment of my colleague, Mr. MURDOCK, concerning the bridge transportation—that it did not follow necessarily that it would mean a reduction of expenditures that is only made in this amendment by the mere fact that this amendment seeks to take out of the mails a large amount of matter which is at the present time, under existing law, transported in the mail, and reduces the appropriation for that purpose.

Now, in that connection I call the attention of the Chair to precedent 3892, cited in Volume IV of Hinds' Precedents, with which I have no doubt the Chair is familiar. The amendment in that case was offered by Mr. Robinson, of Massachusetts, May 5, 1880, under the old Holman rule. It reads as follows:

Strike out all in the sixtieth and sixty-first and sixty-second lines between the word "namely," in the sixtieth line, and the word "Provided," in the sixty-second line, and substitute the following:

"For transportation on railroad routes, $9,490,000, of which sum $150,000 may be used by the Postmaster General to maintain and secure from railroads necessary and special facilities for the postal service for the fiscal year ending June 30, 1881."

Mr. James H. Blount, of Georgia, made a point of order against the amendment under Rule XXI as it then existed, in a modified form adopted at that session of Congress:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

After debate the chairman said:

"Although the meaning of the words 'necessary' and 'special facilities for postal service' is not very clear, yet the Chair held yesterday, after giving the subject some consideration, that the effect of such an amendment would be to change existing law. The Chair still adheres to that opinion. But under the third clause of Rule XXI an individual Member upon the floor may offer an amendment changing existing law, provided it retrenches expenditures in one of three modes: First, by reducing the number and salaries of the officers of the United States, or, secondly, by reducing the compensation of persons paid out of the Treasury of the United States, or, thirdly, by reducing the amounts covered by the bill. The amendment offered by the gentleman from Massachusetts does not propose to add an appropriation of $150,000 to the bill, but it provides that of the amount appropriated by the bill the sum of $150,000 may be used for certain purposes, and it diminishes the amount covered by the bill by striking out '$9,500,000' and inserting '$9,490,000.' So that the Chair is bound to hold that the amendment conforms strictly to the language of the rule. Whether the language actually used in this rule accomplishes the exact purpose which the House had in view in adopting it is not a question for the Chair to decide, but taking the language of the rule as it stands and putting upon it the construction which ordinarily would be put upon such language in a statute or in a rule of the House, the Chair is compelled to hold that the amendment comes within the rule, and is in order."

Now, Mr. Chairman, the language of this amendment complies exactly with the amendment offered under this precedent. In addition to that, it complies in every particular with the decision rendered by the gentleman from Virginia [Mr. SAUNDERS] on the Army appropriation bill at the last session, because the amendment, if it is carried out, must necessarily reduce the amount of mail matter carried over the railroads of the country.

Now, the point to the Saunders decision, as I understand it and as the Chair understands it, was that the Chair may look to existing law for the purpose of determining whether the amendment will retrench expenditures, and also whether it will reduce the amount of money paid out of the Treasury for compensation to any officers or persons.

Now, we all know that the amount of the compensation paid to railroads is fixed by law, subject to an examination or weighing of the mails by the Postmaster General, and that he may at any time weigh the mails and reduce the amount paid to the railroads. We also know that this will take out of the mails a great amount of matter that is now carried over the railroads of the country—a very large per cent of it.

And, Mr. Chairman, I want to give an example of the class of mail that will be excluded by the enforcement of this amendment by the Postmaster General. I have here an example of that class of mail. I have here an editorial which I presume every Member of the House received in an envelope recently. It is an editorial of only a few lines, printed, it seems, very strange to say, right under that famous motto of the immortal Joseph Pulitzer, asking for fair play, arraigning corruption and tainted news, and demanding the independence of the press; and yet I will ask any gentleman of this House to look at this publication, marked as it is, and sent through the mails to every Member of this House, and answer under his conscience whether or not he believes that something outside of fair play inspired that editorial, and caused to be placed underneath the motto under which this famous paper is circulated through the mails of the United States and all over the world.

The heading of this editorial is "Lobbying for tyranny," and it proceeds to denounce bills like the Kenyon-Sheppard bill as bills for enforcing tyranny. Then it states that the Prohibitionists are wanting the Congress to enforce their laws for them.

Mr. Chairman, I denounce that statement as absolutely false. The Prohibitionists do not want this amendment, they do not want the Kenyon-Sheppard bill, or kindred bills, for the purpose of having the Federal Government enforce their laws for them, but they want such bills for the purpose of not having the Federal Government enforce upon them provisions of law which are absolutely incompatible with their own local police laws.

A statement was introduced into the RECORD the other day by a Senator, which advertised the fact that Uncle Sam was in partnership with the liquor interests of the country; a picture of Uncle Sam, and underneath it a statement that Uncle Sam is our partner, circulated through the mails of the United States all over the country by certain liquor houses, for the purpose of making it difficult for the States to enforce their local laws.

The purpose of this amendment is simply that the United States shall go out of partnership with the liquor interests of the country, that it shall withhold Government agency from the purpose of assisting these men to do in the States what the State law says its own citizens shall not do; and I say that the purpose of the amendment is not only right and just and consonant with good morals and the enforcement of the local laws of the States, but it is bound to reduce the expenditures of the Government. Why should the Government continue to pay out immense sums of money for the purpose of promoting the business of the liquor corporations and the business of the sellers of fake corporation stocks? I think any gentleman upon the floor of this House will agree with me that if that class of literature was stricken out of the mails of the United States, at least 10 per cent——

Mr. MOON of Tennessee. Mr. Chairman, I make the point of order that the gentleman is not discussing the question before the House, and in violation of the rules of the House is discussing just what I thought he would, something else than the question before the committee.

Mr. JACKSON. The gentleman is mistaken.

The CHAIRMAN. The Chair thinks that the gentleman is making an argument to reenforce the proposition that he has laid down, that there will be a reduction in expenditures by this amendment.

Mr. MOON of Tennessee. He has not been talking about that for at least five minutes.

Mr. JACKSON. I assume that the gentleman from Tennessee will be bound by the ruling of the Chair, and I would like to state that in my opinion, and I believe in the opinion of every Member of this House, if this amendment should be adopted striking from the mails of the United States the liquor advertisements and the liquor literature, and the promotion literature of the country put out for the purpose of swindling the innocent purchasers of corporation stock, much of which is already barred from the mails by fraud orders of the Post Office Department, and therefore strictly germane to that subject, the volume of mail carried by the country would be reduced at least 10 per cent. But, of course, the Chair is not concerned with the percentage. One per cent is just as good as 10 per cent for the legal question involved here. The Chair must see, in line with the opinion of Mr. Chairman Saunders, that this amendment will necessarily reduce the amount of mail carried over the railroads of the country, and if the Postmaster General complies with the law and with the direction of this amendment and weighs the mails, the amount paid out of the Treasury under this appropriation will be lessened, and in line with this precedent at section 3892 the reduction of the appropriation itself makes the entire amendment legal and proper at this time.

Mr. RODDENBERY. Mr. Chairman——

The CHAIRMAN. Is the gentleman opposed to the point of order?

Mr. RODDENBERY. I am opposed to the point of order. I think the amendment is clearly in order.

The CHAIRMAN. The Chair would like to hear from some one in favor of the point of order.

Mr. MOON of Tennessee. Mr. Chairman, I want to say a word, perhaps using some of the latitude that the gentleman from Kansas took. Of course, I know the feeling of the Chair on this question and his sympathy, perhaps, with the motion of the gentleman, but I know that will not influence the action of the Chair. When I politely asked the gentleman from Kansas [Mr. JACKSON] what he meant by what he said, because I did not understand him, owing to the confusion and the distance that he was from me, he very promptly and very readily replied, with that commonplace and indecent stock repartee, that he was not responsible for my not having enough sense or ability to understand him. That is possibly true, Mr. Chairman. He may not be responsible for that. The argument made by the gentleman may be so intricate and so learned and so able that I can not understand it, but I hardly think so, in view of the judgment of the gentleman's constituents, who have recently repudiated him, and very meritoriously so, as unfit for service in this House. I want to say that, while the proposition to reduce the appropriation from $49,000,000 to $48,500,000 is in order, and while the proposition to make any reduction may be in order, yet when it is coupled with a proposal to establish a new law for the expenditure of the whole of the appropriation reduced from $49,000,000 to $48,500,000, the subject matter following the figures of the reduction being entirely new and there being no general law to support it or justify it, it is clearly out of order. The rule requires that no new matter shall be incorporated into an appropriation bill and that the appropriations shall be such only as are required to be made under general law. You can not by subterfuge and a pretended limitation of this character violate that rule of the House. Of course, everybody knows that the reduction proposed brings it within the section of the Holman rule, but are you to say that you can circumvent the purpose and intent of the law and the rule by adding after that reduction the imposition of new duties upon the department which possibly may cost even more than the $49,000,000? You have got no way to go into that question. You can not analyze it. You can not tell from the face of the proposition whether it is within or without the rule. It is left in doubt, in my judgment. I do not want to discuss the question fully, but I suggest that line of thought.

Mr. HOBSON. Mr. Chairman, the eloquent chairman of the Committee on the Post Office and Post Roads [Mr. MOON of Tennessee] has practically conceded in one part of his remarks that he is in error with regard to his point of order.

Mr. MOON of Tennessee. I shall be glad to have the gentleman point out the place where I conceded that.

Mr. HOBSON. I will point it out to the gentleman. The gentleman remarked that the specific provision, by reducing the appropriation, was in order, but that the way in which it would be reduced was not in order.

Mr. MOON of Tennessee. Oh, the gentleman has misunderstood me.

Mr. HOBSON. I will go a little further, and perhaps the gentleman will see it. He said that because it was a modification of the law it would be subject to the point of order.

Mr. MOON of Tennessee. The gentleman is mixed.

Mr. HOBSON. The gentleman admits that if the first part of the amendment had not been in it it would have made no difference. The amendment does not have to make itself a provision for the reduction, provided that the carrying out of the amendment would clearly on the face of it result in a reduction. Furthermore, the gentleman as he was elaborating his position practically said that the new cost of the added duties of the Post Office Department would stand over against the saving which he thereby admitted would exist in the reduction of the deficit in carrying the second-class mail matter.

Mr. MOON of Tennessee. There was no admission of that kind made.

Mr. HOBSON. His very argument admitted it by saying that the added duties of the department might cost more than any alleged reduction. He thereby admitted that the amendment itself did produce a reduction. Now, then, I will submit it to any practical man that the expense in the duties of supervision to cut out matter could never be as great as the expense involved in the matter itself; that inspection is never as expensive as the work itself, and that the added cost of inspection would probably be nil, because the same authorities that are employed now would carry out the added inspection; that the reduced force in connection with the reduced volume would of itself of necessity be greater than any added force if there were any added force at all.

In other words, Mr. Chairman, it is plain on the face of it, and it is plainly inferable from the remarks of the gentleman from Tennessee, that the subject matter of this amendment, irrespective of its merits, would reduce the volume of the mails, and that part of the volume of the mails that is not self-sustaining, that part which entails a deficit, and therefore that the amendment would result in a reduction.

Mr. MOON of Tennessee. Will the gentleman yield?

Mr. HOBSON. Certainly.

Mr. MOON of Tennessee. What particular class does the gentleman say there is a deficit in?

Mr. HOBSON. Particularly in the second-class mail matter.

Mr. MOON of Tennessee. Does the gentleman insist that the whole deficit is in the second-class matter?

Mr. HOBSON. No; but much of just such matter as is mailed into my district and into the district of the gentleman from Kansas, and into prohibition territory everywhere, is carried at a loss.

Mr. MOON of Tennessee. So are newspapers and magazines.

Mr. HOBSON. Certainly; and if an amendment was offered to cut down the transportation of newspapers and magazines the amendment would be in order under the Holman rule. I do not believe that when this is understood it can be thrown out on a point of order. I do not believe that it was the original intention to discuss in all its phases the prohibition question, and I regret that my friend from Tennessee was impatient in his remarks at the outset.

Mr. MOON of Tennessee. I want to say that I do not know what right the gentleman from Alabama has to say that I was impatient in my expression that there was a lot of rot to this question of prohibition. The gentleman ought to know that there is a lot of foolish stuff said about it, and he must know that there is more common rot and hypocrisy about this political issue than any other that I have known.

Mr. HOBSON. I would like to say on the question that every State has a right to its own local self-government; it has the right to exercise its own police powers; and that there is no subject under the Government that lies deeper toward the foundation of the Government.

The practice of the Federal Government in being a party to the violation of local law in this regard has no other analogue in the Government, has no parallel in history. The Federal Government to-day is a party to the violation of law in my district. It is a party to the violation of the law in the district and in the State of the gentleman who offered this amendment. When the Federal Government inculcates observance of law, in fact depends upon law, depends for its very perpetuity upon law and respect for law, it is certainly not consistent that an amendment asking that the Federal Government withdraw itself from partisanship in the violation of the law should be denied.

Mr. MOON of Tennessee. May I ask the gentleman a question?

Mr. HOBSON. Certainly.

Mr. MOON of Tennessee. If the gentleman really wants to present that issue and cover these questions and do something effectual in the interest of prohibition, does he think that he can get any advantage by the suggestion of a reduction of this item of $49,000,000? Does he think there is anything involved in it except the display of eloquence on the matter?

Mr. HOBSON. I will say to my friend that I have not been accustomed to make a display on the question here. When the proper time comes and the question is up on its merits, as I hope it will be some day and a day not far distant, I hope to have some remarks to make. I do not believe the object of display was the purpose of the gentleman from Kansas in offering the amendment. I do want to say that the question of saving the Government $100,000 in the Post Office appropriation bill, while it is worthy of consideration, nevertheless is not commensurate with the importance of the greater question as to whether in the operation of this bill, or any other bill now and at any other time and at all times, the Federal Government should withdraw wherever it can legitimately do it from abetting, aiding, and becoming an outlaw under the police power and legitimate laws of States and of districts and of counties.

Mr. MANN. Will the gentleman yield?

Mr. HOBSON. Certainly.

Mr. MANN. On the point of order I understood the gentleman to say that the proviso in the amendment would be in order under the Holman rule on the ground that it would reduce the amount expended by the Government by cutting out a portion of second-class matter which is not self-sustaining. If that amendment should prevail, would it not become necessary for the postal officials to examine all second-class mail matter covered by it?

Mr. HOBSON. I do not think so. I think it would be simply sufficient for the postmasters at the points where this mail matter now comes into the mail to simply examine it. I do not believe that it would require a single new official under the Government.

Mr. MANN. I am not saying whether it would require any new official or not, but would it not require an examination by some postal official of every piece of second-class mail matter deposited in the mails?

Mr. HOBSON. I do not think so.

Mr. MANN. How, then, would it become effective?

Mr. HOBSON. I think each postmaster where the mail matter was put in would be able to tell at once with reasonable certainty, and if finally he found he was not catching it he would later be able to tell at once in the ordinary exercise of his duties whether it was illegal or not.

Mr. MANN. Could he tell without any examination of the second-class mail matter?

Mr. HOBSON. I do not mean to maintain, as the gentleman must so understand, that it would require no examination to enforce the law, but I do mean to say that if there was any possible increase in the cost due to excluding it from the mail it would not be commensurate with and could not be commensurate with the saving to the Government in the body of the matter itself.

Mr. MANN. Would it not, as a matter of fact, be sure to require quite a corps of officials in the Post Office Department in cities like New York, Boston, Philadelphia, and Chicago to examine and read through all of the second-class mail matter offered for deposit in order to see whether either the advertising or the reading matter contravened the provisions of the law?

Mr. HOBSON. Under the supposition of the gentleman today every official in the Post Office Department would be reading all of the second-class mail matter to see if the anti-lottery law was being enforced.

Mr. MANN. But there is a special provision against putting lottery matter in the mail, which of itself enforces that law to a certain extent—it does not enforce it completely; but here is a provision affecting inland transportation, and it seems to me that it would require the examination by some one—I do not mean to say of every piece of second-class mail matter, but of each issue of all second-class mail matter which was published.

Mr. HOBSON. I think it would require and would involve the scrutiny of mail matter sent out by these particular interests at their particular localities, but on the face of it it is a plain question, and any possible, slight, incidental increase in cost could not possibly be commensurate with the saving in cost from the bulk of the matter which is excluded.

Mr. MANN. Is not that a pure matter of argument?

Mr. HOBSON. No; it is self-evident. I think the question raised by the gentleman is a pure matter of argument.

Mr. MANN. But the gentleman assumes it is self-evident, when no one in the world can tell. It is a pure guess at that. On one side you say there is a saving and on the other side there is an admitted expense. No one on earth can tell in advance which side will be the heaviest.

Mr. HOBSON. I will say to the gentleman that the matter of additional expense is questionable, but the matter of saving is material and is self-evident. It is borne on the face of the amendment itself.

Mr. RODDENBERY. Mr. Chairman, will the gentleman yield?

Mr. HOBSON. Certainly.

Mr. RODDENBERY. In connection with the colloquy with the gentleman from Illinois [Mr. MANN], the postal laws now provide against the mailing of lewd and lascivious publications and pamphlets, and certain mechanical devices, certain things dangerous to the mail, certain instrumentalities for the prevention of conception. Divers and sundry other items are positively excluded from the mail.

Mr. MANN. They are all in the criminal code.

Mr. RODDENBERY. They are prohibited and made penal under the existing law. If this proviso goes in, it not only provides for the exclusion of this matter and on its face reduces the amount of money covered by the bill, but in addition to that, in the very language of the proviso, it appears that there is excluded from the mails a large volume of matter; and the Chair will take cognizance of the fact that the cost to the Government is based on what is transported measured in weight by pounds.

The question of the cost to the Government of the enforcement of this provision as a set-off against the amount carried in the bill, as a parliamentary question, can not possibly be involved. Besides, under this provision, in consideration of and in conjunction with the general law, it not only becomes prohibited in an appropriation bill, but it becomes a crime to transport it, because by law it is declared unmailable matter, and the same employees, agents, and instrumentalities of the Government that enforce the provisions of existing laws not covered in this particular law will be adequate entirely for inspection, detection, and enforcement of this amendment if enacted. I would also suggest further to the gentleman that if the part of the amendment conceded to be in order by the gentleman from Tennessee [Mr. MOON] were not in the amendment, that the proviso itself in its very terms, without any presumption, shows a reduction in the amount covered by the bill. It is indisputable. It in no way comes under the provision of the rule relating to amend-

ments reported from a committee having jurisdiction, and therefore, if the English language means anything and if common intelligence can be applied to that language, there can be but one deduction, and that is that it will reduce the necessary expenses of the Government in transporting mail on a weight basis. The amendment, however, provides in terms for the reduction of the appropriation by half a million dollars.

Mr. HOBSON. Mr. Chairman, I want to thank the gentleman. I think he is clearly right, that the officials of the Post Office Department now are constantly looking through the mail to see whether any part of it is illegal. And the gentleman from Illinois [Mr. MANN] only makes the suggestion that the difference would be that we do not carry any penalty for this violation, but, as the gentleman from Georgia just pointed out, that is not necessary when you make a general law on an appropriation bill. Any part of all the provisions of this bill when enacted into law would have the whole force of the Government for its enforcement.

Mr. STEENERSON. Mr. Chairman, will the gentleman yield?

Mr. HOBSON. Yes.

Mr. STEENERSON. The gentleman bases his argument upon the fact that the volume of second-class mail will be reduced and that there is a loss on second-class mail, and therefore the result would be a saving.

Mr. HOBSON. Yes; and the volume would be less, and, of course, the Government would not pay on that.

Mr. STEENERSON. I desire to call attention to the fact that this amendment excludes first-class mail.

Mr. HOBSON. Somewhat.

Mr. STEENERSON. And that upon first-class mail there is a very large profit, so that by reducing the volume of first-class mail you will entail a loss.

Mr. HOBSON. I will answer the gentleman in his own kind, I think, by telling him that the general prosperity of the Nation resulting from a better enforcement of law, that reduces the amount of toxin that is a specific for degeneracy—and I assume the gentleman knows that——

Mr. STEENERSON. I do not know anything about that; but I do know that there is a profit on first-class mail.

Mr. HOBSON. That this particular toxin is a specific for degeneracy.

The general increase of intelligence and prosperity of the people, resulting from the reduced consumption of the specific in degeneracy, would far more than make up for any supposititious loss from reducing first-class mail matter, and would, in fact, increase the volume of all business, and consequently the volume of first-class mail matter.

Mr. STEENERSON. My suggestion is if on its face it does not involve a loss to the first-class mail matter on which there is a profit?

Mr. HOBSON. It does not on the matter that comes into my district. I shall be perfectly willing to see a modification that would cut it out of the first class.

Mr. STEENERSON. That might save your amendment.

Mr. HOBSON. I think it is supposititious. I do not think that the amendment needs saving.

Mr. MOON of Tennessee. Mr. Chairman, I would be glad, whichever way this matter is to be decided, that it should be done.

Mr. GARNER. Mr. Chairman, I would like to make a suggestion to the Chair if not sufficient time has been had in order for the Chair to rule?

The CHAIRMAN. The Chair wishes to know if anyone desires to be heard against the point of order.

Mr. CANNON. Mr. Chairman, I would like to be heard. As I understand the rule, Mr. Chairman, if any part of an amendment is subject to a point of order the amendment fails. That is to say, the first two lines are clearly in order, but in my judgment the balance is clearly out of order.

The CHAIRMAN. I would like to ask the gentleman if he understands that is true where a proposition is submitted under the Holman rule?

Mr. CANNON. Well, I think so. Otherwise you could put the whole criminal or civil code, or all legislation, into an amendment that could be tortured into being germane. But I will also make a point of order in addition to one that was made on the proviso. Now, what is this? Does it appear upon this proviso that it would retrench expenditures? Not at all. That is purely a matter of argument.

Mr. JACKSON. Will the gentleman yield for a suggestion?

Mr. CANNON. Certainly.

Mr. JACKSON. The way I read this precedent, it holds exactly to the contrary of what the gentleman from Illinois [Mr. CANNON] has said.

Mr. CANNON. What is the precedent? When was the decision made?

Mr. JACKSON. This was a decision made May 5, 1880, under the old Holman rule. The Chairman was Mr. John G. Carlisle, of Kentucky. He said:

The amendment offered by the gentleman from Massachusetts does not propose to add an appropriation of $150,000 to the bill, but it provides that of the amount appropriated by the bill the sum of $150,000 may be used for certain purposes, and it diminishes the amount covered by the bill by striking out "$9,500,000" and inserting "$9,490,000." So that the Chair is bound to hold that the amendment conforms strictly to the language of the rule.

Mr. CANNON. Has the gentleman the amendment there?

Mr. JACKSON. Yes; I will read that to the gentleman. It says:

For transportation on railroad routes, $9,490,000, of which sum $150,000 may be used by the Postmaster General to maintain and secure from railroads necessary and special facilities for the postal service for the fiscal year ending June 30, 1881.

The latter part of the amendment following the reduction in the appropriation bill mentioned in the opinion of the Chair.

Mr. CANNON. I recollect the precedent that the gentleman speaks of, and, although the decision was made by so famous a parliamentarian as ex-Speaker Carlisle, it seems to me it was not well made. I recollect when it was made. However, let that be as it may, this proviso and this amendment are not upon all fours with that precedent. This amendment provides:

That no part of such appropriation shall be used in transporting mail matter consisting in any part of any letter, circular, packet, newspaper, magazine, or other periodical, advertising for sale either directly or indirectly any spirituous, malt, vinous, or other intoxicating liquors for transportation to or delivery in any State, county, municipality wherein the sale of such liquor is or may be hereafter prohibited by State law or when like pieces of mail matter are intended to promote the sale of stock, shares, or bonds, or other forms of indebtedness of any corporation, company, or association unless the same have first been inspected and approved by the Postmaster General as free from intended fraud upon purchasers and proper to be introduced into the mails of the United States, and the Postmaster General is hereby authorized and directed to use $100,000 of this appropriation for the purpose of weighing the mails and readjusting and reducing the compensation now paid to railway companies for transporting the mails by excluding said classes of mail matter from the mails of the United States.

I do not suppose that the chairman of the committee can take notice that any newspaper carries an advertisement or any of the advertisements referred to or that any letter is written. And while it is true that it strikes off $500,000 from the appropriation, it adds $100,000 in directing a reweighing of the mails.

Mr. JACKSON. The gentleman misunderstands.

Mr. CANNON. It says:

Is hereby authorized and directed.

That is legislation to do what? To use $100,000 for the purpose of weighing the mails and readjusting and reducing the compensation now paid to railway companies for transporting the mails. That is not all:

By excluding said classes of mail matter from the mails of the United States.

Now, it seems to me that the proviso is subject to a point of order. If it is, it seems to me that the whole amendment goes out. But if it does not, the point of order has also been made upon the proviso. If this can be done, then the Holman rule and the rule that prohibits legislation upon appropriation bills is nullified, and you can put under the guise of an amendment a revision of the laws of the United States.

The CHAIRMAN. Will the gentleman from Illinois permit the Chair a question right there?

Mr. CANNON. Certainly.

The CHAIRMAN. The Chair is very anxious to determine this question in accordance with the spirit of the rules of the House. The Chair would suggest to the gentleman this idea, which is in the Chairman's mind: It seems to be conceded that the first sentence there, involving a reduction of $500,000, is in order.

Mr. CANNON. Yes.

The CHAIRMAN. Now query: If there be connected with that proposition, which is in order, a proposition that is directly related to it, as this rather appears to be, pointing out the way apparently in which that reduction can be brought about, does it not seem to come within the Holman rule, particularly when considered in the light of the precedents laid down by Mr. Speaker Carlisle, although the Chair believes the gentleman from Illinois has taken issue with that decision?

Mr. CANNON. Well, I think that decision does not cover this amendment. I think if this would be in order it would be in order to amend the amendment, making a rate of 5 cents a pound or 2 cents a pound for the transportation of newspapers and magazines. I think, as I said before, that you could put a whole code on the bill. It would be in order, it seems to me,

to amend so as to exclude all matter that would, by argument, reduce expenditures.

Mr. MADDEN. Mr. Chairman, will the gentleman yield?

Mr. CANNON. In a moment. Can the Chair determine from this amendment whether there are any newspapers circulated or letters written? The Chair must construe that, and the amendment must speak for itself. The Chair must be able to say that from the proviso upon its face without argument there would be a reduction of expenditures.

Now, I should argue the other side of the question that the $100,000 with which the Postmaster General is arbitrarily clothed would be an increase.

The CHAIRMAN. Does the gentleman mean that the Chair must have actual or judicial knowledge of it?

Mr. CANNON. It must appear on the face of the proviso.

Mr. SHERLEY. Mr. Chairman, if the gentleman will permit——

Mr. CANNON. On the proviso. That is what I claim.

Mr. MADDEN. Would the Postmaster General under this amendment be required to open letters to ascertain whether or not they contained anything in violation of the prohibition laws of the various States? Would he have authority to do it?

Mr. CANNON. I do not care to discuss it. The mere asking of the question shows how far we could go if this amendment be in order and germane.

Mr. JACKSON. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman from Illinois yield?

Mr. CANNON. Certainly.

Mr. JACKSON. We do now have machinery and officials under the direction of the Post Office Department to do the very thing that the gentleman mentions—to open letters and examine mail for the purpose of seeing whether the law is being violated, do we not?

Mr. CANNON. I am not aware of it. If there be any law authorizing the Postmaster General or his subordinates to open a letter with a 2-cent stamp on it, I am not aware of it.

Mr. JACKSON. Is not the gentleman aware of the fact that the Attorney General seized a lot of mail in the city of New York recently?

Mr. CANNON. Well, there are people who might say that the Attorney General has, perchance, violated the law. I know of no law that authorizes the breaking of the seal of a letter being in the United States mails.

Mr. JACKSON. Does the gentleman understand me? If the Post Office Department issues an order—and it certainly has that right—does the gentleman deny the authority of that department or the authority of the Department of Justice to open a letter for the purpose of ascertaining that fact?

Mr. CANNON. I do absolutely deny it.

Mr. JACKSON. The gentleman should inform the President, then.

Mr. SHERLEY. Mr. Chairman, I desire simply to say this, in response to the suggestion of the Chairman: The proposed amendment is not really one amendment; it is three amendments. Now, if it be in order, you are met with this situation, that by the reduction of the amount appropriated in any particular item, by a fraction of a cent, and then by adding to that any language relating to the subject matter with which the paragraph deals—and I make a distinction relating to the subject matter, but not to the economy in dealing with the subject matter—it becomes in order because, according to the contention of the gentleman, they have made an economical proposal by simply reducing the amount appropriated. Now, I contend that this must be true: Any legislation that is attached to an amendment which reduces the amount, in order to be in order must on its face, not as a matter of conclusion, not as a matter of argument or deduction, but absolutely because of the language used, show that it will bring about a reduction in expenditure.

Now, if a proviso had been put in, not only reducing the amount but saying also that there shall be a less sum paid—as, for instance, 60 per cent of the pay heretofore paid per pound—it would be manifest that such an amendment would on its face show that it went in the direction of economy. But when you undertake to argue from the broad statement of an exclusion of a particular kind of mail matter, which of itself requires, in order to be excluded, a great deal of work and search, that that will bring about a reduction, you are simply arguing a conclusion in which one man's judgment is as good as another's. I might, for example, take the suggestion inferentially made by the gentleman from Alabama [Mr. HOBSON] and say that seemingly, in accordance with his prohibition view, it is going to improve the health of the people and to increase their wealth and happiness to exclude from the mails the matter referred to, and therefore there will result, instead of a reduction, an additional expenditure, due to additional quantities of mail resulting from greater industry and prosperity, the Nation having gotten rid of the blight of intoxicants. If the Chair holds this in order, it follows that any man can make in order on any paragraph anything relating to that paragraph by the very easy device of providing a reduction of half a cent in the amount appropriated.

Mr. GARDNER of Massachusetts. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GARDNER of Massachusetts. Would it be in order to demand a division of that amendment at this time?

The CHAIRMAN. The Chair thinks not, except upon a vote. The Chair will state that the gentleman from Tennessee [Mr. MOON] made his point of order merely to the proviso.

Mr. GARDNER of Massachusetts. The reason I ask the question is this: It is clear that the argument that this amendment is not obnoxious to the point of order rests on the fact that on its face it makes a reduction in the amount carried by the bill. If it merely provided for a retrenchment, it would be in order only when presented by a committee, not by an individual. If the question is divided, the legislative proposition is at once divorced from the reduction.

The CHAIRMAN. Will the gentleman permit the Chair a question?

Mr. GARDNER of Massachusetts. Certainly.

The CHAIRMAN. Does the gentleman understand that the rules of the House will permit the division of a question before a ruling by the Chair?

Mr. GARDNER of Massachusetts. I am uncertain as to that.

The CHAIRMAN. The Chair thinks otherwise.

Mr. SHERLEY. There may not be a division in the sense in which you have a division when a vote is had; but I submit to the Chair that in considering whether a matter is really germane and not subject to a point of order that very question must arise, because otherwise all I have to do is to insert the word "and" after the clause proposing the reduction and then continue indefinitely any sort of legislation that relates to that particular matter.

Mr. GARDNER of Massachusetts. I know the Chair has before him the star-route case. As he will observe, an attempt was made, under the Holman rule, to reduce an appropriation by $500 and couple with this reduction a legislative proposition with regard to the method of making star-route contracts, or something of the kind. It seems to me that this is a parallel case. I remember that the parliamentarian who preceded Mr. HINDS, a gentleman named Crutchfield, in his book made the comment that the same result could have been arrived at by demanding a division of the question. This comment appears, I think, in the Manual of the Fifty-third Congress. That is why I ask whether the present moment would be an appropriate time to demand a division of the amendment.

Mr. MANN. The gentleman says the same result could have been arrived at. What result?

Mr. GARDNER of Massachusetts. The result of projecting the point of order on the legislation and not on the reduction. In the star-route case the Chair sustained the point of order as against the legislative provision.

The CHAIRMAN. The gentleman from Massachusetts is familiar with the star-route ruling to which he has called the attention of the Chair. That proposed to refund $500, I believe, in the amount carried by the bill, and then proposed a contract system for the star routes; but there really was not any effort to show any connection, was there, between the contract system proposed and the reduction of $500?

Mr. GARDNER of Massachusetts. There has been scarcely more than a pro forma attempt here.

The CHAIRMAN. That is a question, of course.

Mr. HOBSON. The Chair had not finished his statement. We would like to hear it.

The CHAIRMAN. The Chair asked a question of the gentleman.

Mr. GARDNER of Massachusetts. Will the gentleman permit me to answer the Chair's question without interrupting?

Mr. HOBSON. I wonder if the gentleman from Massachusetts would condescend to allow the Chairman to finish a simple statement?

Mr. GARDNER of Massachusetts. After the gentleman has been recognized——

Mr. HOBSON. I assumed, of course, that when the glorious gentleman from Massachusetts spoke to me, I was recognized by every rule in the world.

Mr. MANN. How good natured they all are. [Laughter.]

The CHAIRMAN. The Chair will hear the gentleman from Massachusetts.

Mr. GARDNER of Massachusetts. The gentleman from Massachusetts has now forgotten the question asked by the Chair.

The CHAIRMAN. The suggestion of the Chair was this: In the star-route case, to which the gentleman kindly called the attention of the Chair, there does not seem to have been any effort to connect the reduction with the proposed legislation, whereas in the mind of the Chair there does seem to be in this amendment some connection between the legislation and the proposed reduction.

Mr. SHERLEY. If the Chair will permit me, I said that that is just the point to be determined. When there is simply a suggestion it does not come within the rule. It must absolutely appear upon the face of it that it will result in a reduction in order to come within the rule; and whenever it requires a suggestion, whenever it requires an argument, whenever the Chair's mind must go out exploring in order to come to a conclusion as to whether it does or does not result in a reduction, that moment, by the very process that the Chair has to undertake, he should determine that it does not in a parliamentary sense show a reduction.

The CHAIRMAN. Assuming that matter of the kind described passes through the mail—and frankly the Chair thinks he must take cognizance of that fact—the elimination of that matter from the mail would reduce the weight of it.

Mr. SHERLEY. But the weight is not the only thing that determines the expense.

The CHAIRMAN. Weight is the only thing that determines the expense, so far as this particular item is concerned, is it not?

Mr. SHERLEY. Perhaps; but that is not the proposition that is before the Chair. It does not simply say that it must reduce expenses in this particular way, but that it must reduce expenses. The rule does not qualify it to the extent that the Chair undertakes to qualify it.

Mr. JACKSON. Mr. Chairman——

The CHAIRMAN. Will the gentleman from Kentucky yield to the gentleman from Kansas?

Mr. SHERLEY. Certainly.

Mr. JACKSON. Has the gentleman read the amendment carefully?

Mr. SHERLEY. I have read it several times.

Mr. JACKSON. I was going to suggest that the gentleman's last statement indicated that he misunderstood the latter part of it. The amendment does direct the way in which the reduction shall be made—that it shall be made by excluding from the mails these pieces of mail matter which are carried at the present time.

Now, if I understand Judge SAUNDERS's opinion, it says that the Chair must look at the law to determine whether the result will be a retrenchment of expenses. The cases are very similar, Mr. Chairman. When the Army bill was before the House, the number of regiments was reduced from 15 to 10. Judge SAUNDERS said that that must necessarily result in a reduction of expenses.

Mr. SHERLEY. Mr. Chairman, I suggest to the gentleman that by the very language of his amendment he excludes letters that contain matter relating to alcoholic liquors, letters that go by first-class mail. It is a matter of knowledge, it is a matter of proof, that the first-class mail is the profitable mail of the country—the mail that practically sustains the Government in its large losses from other mail matter. Can the gentleman say by virtue of his amendment that the exclusion of first-class mail matter, of postage that carries such mail matter, will result in an economy to the Government?

Mr. JACKSON. Mr. Chairman, the suggestion of the gentleman from Kentucky is a good one, and I am glad he made it, as I wanted an opportunity to say something on that subject. The gentleman says that the Chair must take knowledge of the fact that some of this matter goes by letter.

Mr. SHERLEY. If the gentleman will permit, I did not say that.

Mr. JACKSON. I so understood the gentleman.

Mr. SHERLEY. I said that the gentleman's amendment expressly related to letters which are carried in the first-class mail.

Mr. JACKSON. And the gentleman further stated that the Chair must take knowledge of the fact that the first-class mail is a profitable mail.

Mr. SHERLEY. I did not say that.

Mr. JACKSON. The gentleman will wait until I conclude——

Mr. SHERLEY. But the gentleman is talking in my time, and he must not misrepresent me.

Mr. JACKSON. I think that the gentleman will acknowledge that I do not misrepresent him if he will wait. The gentleman said that the Chair must consider the fact, or take knowledge of the fact, that the first-class mail is the profitable mail.

Mr. SHERLEY. No; I do not think I said that.

Mr. JACKSON. What did the gentleman say?

Mr. SHERLEY. I can give the gentleman the information, but I can not furnish him the understanding.

Mr. JACKSON. Now, I have been castigated for using that expression, and I hope the gentleman will not incur the displeasure of the chairman of the committee, the gentleman from Tennessee.

Mr. SHERLEY. Perhaps the difference is in the application of it.

Mr. JACKSON. I say that if it is the duty of the Chair to recognize that the first-class mail is a profitable mail, it is also his duty to recognize that second and third class mail is unprofitable, and the hearings on this very bill show that the entire second-class matter was carried last year at a deficit. So it must necessarily follow that any reduction in the amount of mail will result in a retrenchment of expenditures.

Mr. SHERLEY. If the gentleman will permit, I desire to say to the Chair that I did not say, and do not now say, that the Chair can take judicial knowledge of the fact that first-class mail matter is profitable or unprofitable. I said it might be well argued inasmuch as the amendment of the gentleman related to first-class mail matter, that therefore since it was a matter of common knowledge that there would be a loss of revenue since you were lessening the class of mail that brought in a profitable revenue.

But, Mr. Chairman, all of this is for the purpose of showing that the whole matter is one of argument. The gentleman's speech, my speech, the speeches here, the very need for constant reiteration of information, shows that it is a matter of information and that the language itself is not so plain as to be within the meaning of the rule and show that there must be a reduction by virtue of its adoption. That is the meat of the whole thing, and the very fact that the Chair has to go out and weigh and balance the proof shows that it does not come within the rule.

Mr. SAUNDERS. Mr. Chairman, in response to the last suggestion of the gentleman from Kentucky, I will say that the mere fact that the Chair has to weigh and balance the merits of the amendment submitted does not show that the point of order is well taken. On the contrary it is perfectly proper for the Chair before passing on a point of order to an amendment, claimed to be within the Holman rule, to balance the pros and cons of the proposition on its merits. If he is satisfied on the whole, that the necessary effect of the amendment, operating by its own force, will be a retrenchment of expenditures in one of the three ways contemplated by the rule, then the point of order should be overruled.

Mr. SHERLEY. Will the gentleman permit an interruption?

Mr. SAUNDERS. Not just now. I wish to present in their sequence some thoughts which I have in mind. It is not necessary on behalf of an amendment of this character to establish with the inexorable severity of a mathematical demonstration that it will effect retrenchment of expenditures. Nor is the Chair confined to consideration of the face of the amendment, or of the paragraph, or compelled to determine from the same without extraneous aid, or assistance, whether it will effect a retrenchment.

Mr. Speaker Kerr expressly ruled, and this ruling has been uniformly followed, that in determining whether an amendment will effect retrenchment, the Chair can look to the pending bill, the specific section, or amendment under consideration, the law of the land, so far as applicable, and the parliamentary rules and practices of the House. Keeping these aids to a conclusion in mind, the Chair must determine whether the amendment under consideration will operate of its own force to reduce expenditures. The mere fact that the Chair may think that it is likely that an amendment may operate to effect retrenchment, is not sufficient ground on which to hold that such amendment is in order. There must be something more. To be in order, the amendment must necessarily bring about such a result, ex proprio vigore. But the determination on this point must be reached by the Chair. If he is reasonably satisfied that such a result will follow, this conclusion of his own mind will fix his ruling, and sustain the amendment. It is insisted in this debate, that if the conclusion of retrenchment, from the operation of an amendment, is a matter of debate, or argument, then it does

not appear from the amendment itself that it will effect retrenchment, and therefore the same will be out of order. This contention is not sound. Any proposition may be the subject of debate. Conceding that the Chair is limited to an inspection of the face of the amendment, even then the proper conclusion to be drawn therefrom, may be contested, and appropriately debated. The opponents of the amendment may contend with vehemence that no rule of economy will attend its operation, while with equal vehemence and superior logic the friends of the amendment may demonstrate that from its operation such a result will be a reasonably necessary sequence. Hence, the mere fact that the effect of a proposition may be assailed in debate, will not operate to establish its invalidity, or put it beyond the pale of the Holman rule. The true doctrine is, that before sustaining an amendment offered under the Holman rule, the Chair must be reasonably satisfied, whether with or without debate, that such amendment operating by its own force will effect a retrenchment of expenditures. If the processes of his own mind bring him to this conclusion, after the consideration of all the matter proper to be considered under Speaker Kerr's ruling, then the point of order should be overruled. The Holman rule should be viewed in the light of reason, and of what it is designed to accomplish.

I agree that if the Chair is in doubt, if he can not reasonably determine whether retrenchment will follow the amendment, if with all the light before him he is unable to concur in the view urged by the friends of the pending proposition that it is one of necessary economy, then the point of order should be sustained; but if the Chair upon a reasonable view of the situation—because we are all supposedly reasonable beings, doing the best that we can with our problems, and applying the rule of reason to the solution of our difficulties—if, I say, the Chair upon full consideration of the subject matter reaches the conclusion that a reduction of expenditures will be effected with reasonable certainty by the amendment, then such an amendment, I submit, will be in order. The Chair is entitled to look to the legislative features of the amendment designed to effect economies, and to the reduction of $500,000 in the total amount appropriated, which is a part of the amendment and is presented as a result of the legislation in the proposed provision. He is also entitled to consider whatever is presented by the experience of the department as actual results in the handling of material of this character. If upon the whole, the Chair reasonably concludes, having in mind the known cost of transporting this class of matter, the provisions of the amendment, and the change in the total appropriation, that a reduction of expenditures will follow the enactment of this amendment, then upon such a view the amendment is in order, whatever the Chair may think of its merits, or the propriety of its passage.

Mr. JACKSON. Mr. Chairman, I desire to say just a few words in somewhat of a personal way.

Mr. MOON of Tennessee. Mr. Chairman, I make the point of order that the gentleman has already spoken about three times, as often as any other gentleman has spoken upon this subject.

The CHAIRMAN. The Chair is prepared to rule. The present occupant of the chair has been in the chair on different occasions when different phases of this Holman rule have been construed, and the Chair thinks that the reading of such decisions as he has already made upon those matters will indicate the tendency of the present occupant of the chair to always construe that rule strictly and not to give it wider latitude than the clear import of the language used in it justifies. The Chair is disposed to apply that same principle in the decision that he is now called upon to make.

The amendment proposed by the gentleman from Kansas [Mr. JACKSON] is as follows:

Amend, line 21, page 17, by striking out "$49,000,000" and insert in lieu thereof "$48,500,000," and by adding thereto:

"*Provided*, That no part of such appropriation shall be used in transporting mail matter consisting in any part of any letter, circular, packet, newspaper, magazine, or other periodical advertising for sale, either directly or indirectly, any spirituous, malt, vinous, or other intoxicating liquors, for transmission to or delivery in any State, county, municipality, wherein the sale of such liquors is or may be hereafter prohibited by State law, or when like pieces of mail matter are intended to promote the sale of stocks, shares, bonds, or other forms of indebtedness of any corporation, company, or association, unless the same have first been inspected and approved by the Postmaster General as free from intended fraud upon purchasers and proper to be introduced into the mails of the United States; and the Postmaster General is hereby authorized and directed to use $100,000 of this appropriation for the purpose of weighing the mails and readjusting and reducing the compensation now paid the railway companies for transporting the mails by excluding said classes of mail matter from the mails of the United States."

It is conceded that the first part of the amendment is in order under the Holman rule, as it carries a reduction of $500,000 in the appropriation. It is the opinion of the Chair that where a proposition of legislation follows a proposition to reduce the amount and is so related to that proposition to reduce the amount as to be clearly and logically germane thereto, it is brought within the operation of the rule.

The decision referred to has been read, but the order was not altogether good at the time, and the Chair will ask the indulgence of the House while he reads it again:

On May 5, 1880, the Post Office appropriation bill was under consideration in Committee of the Whole House on the state of the Union, when Mr. George D. Robinson, of Massachusetts, offered this amendment to the paragraph providing $9,500,000 for transportation of mails on railroad routes:

"Strike out all in the sixtieth and sixty-first and sixty-second lines between the word 'namely,' in the sixtieth line, and the word '*Provided*,' in the sixty-second line, and substitute the following:

"'For transportation on railroad routes, $9,490,000, of which sum $150,000 may be used by the Postmaster General to maintain and secure from railroads necessary and special facilities for the postal service for the fiscal year ending June 30, 1881.'"

Mr. James H. Blount, of Georgia, made a point of order against the amendment, under Rule XXI, as it then existed, in a modified form adopted at that session of Congress:

"Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as, being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill."

The Chair will state that the form was the same as it is now, except that it did not then contain the proviso, or at least the proviso was not invoked in that discussion.

After debate, the Chairman, Mr. John G. Carlisle, of Kentucky, overruled the point of order in the following language:

Although the meaning of the words "necessary and special facilities for postal service" is not very clear, yet the Chair held yesterday, after giving the subject some consideration, that the effect of such an amendment would be to change existing law. The Chair still adheres to that opinion. But under the third clause of Rule XXI an individual Member upon the floor may offer an amendment changing existing law provided it retrenches expenditures in one of three modes: First, by reducing the number and salaries of the officers of the United States; or, second, by reducing the compensation of persons paid out of the Treasury of the United States; or, third, by reducing the amounts covered by the bill. The amendment offered by the gentleman from Massachusetts does not propose to add an appropriation of $150,000 to the bill; but it provides that of the amount appropriated by the bill the sum of $150,000 may be used for certain purposes, and it diminishes the amount covered by the bill by striking out "$9,500,000" and inserting "$9,490,000." So that the Chair is bound to hold that the amendment conforms strictly to the language of the rule. Whether the language actually used in this rule accomplishes the exact purpose which the House had in view in adopting it is not a question for the Chair to decide; but taking the language of the rule as it stands and putting upon it the construction which ordinarily would be put upon such language in a statute or in a rule of the House, the Chair is compelled to hold that the amendment comes within the rule, and is in order.

We have here one more proposition than was contained in the proposition on which Mr. Carlisle then had occasion to rule. That contained a proposition to reduce the amount, a proposition to authorize $150,000 for a certain purpose. The proposition presented by the gentleman from Kansas seeks to reduce the amount, and then it proposes to have certain governmental activities, or to lay certain limitations that upon the face of it would appear to the Chair to make it possible to make some reduction of amount at least, and then another proposition similar to that which was contained in the amendment ruled upon by Mr. Carlisle.

It seems to the Chair that the proviso against which the gentleman from Tennessee [Mr. MOON] makes the point of order is so related to that portion of the amendment proposed by the gentleman from Kansas, which is admitted to be in order, that it is germane, and the Chair therefore overrules the point of order.

The question is on the amendment offered by the gentleman from Kansas.

Mr. SHERLEY. Mr. Chairman, I demand a division of the amendment.

Mr. STEENERSON. Mr. Chairman, I desire to offer an amendment to the amendment.

The CHAIRMAN. The Clerk will report the first part of the amendment.

The Clerk read as follows:

Amend, line 21, page 17, by striking out "$49,000,000" and insert in lieu thereof "$48,500,000."

Mr. SHERLEY. Mr. Chairman, I think that is a substantive proposition, and I insist that that as a single amendment shall be put to the House.

The CHAIRMAN. Does the gentleman from Minnesota desire to offer an amendment to that portion of the amendment which I just read?

Mr. STEENERSON. No.

The CHAIRMAN. The question is on the amendment just read by the Clerk.

The question was taken; and on a division (demanded by Mr. JACKSON) there were—ayes 20, noes 49.

So the amendment was rejected.

The CHAIRMAN. The Clerk will report the next amendment.

Mr. MOON of Tennessee. Mr. Chairman, I make the point of order that the balance of this proposition is not now in order in view of the vote of the committee.

Mr. HAUGEN. Mr. Chairman, I wish to offer an amendment.

Mr. SHERLEY. Mr. Chairman, I make the further point of order that an amendment is not in order pending the point of order of the gentleman from Tennessee [Mr. MOON].

Mr. HAUGEN. I understood that the matter had been disposed of.

Mr. STEENERSON. I have an amendment which, as soon as it is in order, I want to offer.

Mr. JACKSON. Mr. Chairman, a parliamentary question.

The CHAIRMAN. The gentleman from Kansas will state it.

Mr. JACKSON. I want to inquire of the Chairman if we are going to be permitted to discuss this amendment?

The CHAIRMAN. The gentleman from Tennessee [Mr. MOON] has made the point of order upon the second part of the gentleman's amendment. The Clerk had not reported that part of the amendment. The gentleman from Kentucky [Mr. SHERLEY] has demanded a division. Will the gentleman from Tennessee [Mr. MOON] permit the Clerk to report what would be the second amendment?

Mr. MOON of Tennessee. I will.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows.

Page 17, after line 21:

"*Provided*, That no part of such appropriation shall be used in transporting mail matter consisting in any part of any letter, circular, packet, newspaper, magazine, or other periodical advertising for sale, either directly or indirectly, any spirituous, malt, vinous, or other intoxicating liquors for transmission to or delivery in any State, county, or municipality wherein the sale of such liquors is or may be hereafter prohibited by State law or when like pieces of mail matter are intended to promote the sale of stocks, shares, bonds, or other forms of indebtedness of any corporation, company, or association, unless the same have first been inspected and approved by the Postmaster General as free from intended fraud upon purchasers and proper to be introduced into the mails of the United States."

The CHAIRMAN. And to that the gentleman from Tennessee [Mr. MOON] makes a point of order.

Mr. RODDENBERY. Mr. Chairman, if the Chair will indulge me, I should like to be heard in opposition to the point of order.

The CHAIRMAN. The Chair will hear the gentleman briefly.

Mr. RODDENBERY. Mr. Chairman, as I have already stated, when the gentleman from Alabama [Mr. HOBSON] courteously yielded to me, the proviso in itself shows a retrenchment of expenditures, and it is in conformity with the ruling of the Chair already announced. The ruling of Mr. Speaker Carlisle was based on the proposition of reducing the amount carried in the bill, and under the additional proviso that the Postmaster General might exercise certain powers in availing himself of $150,000 of the appropriation. Now, the pending amendment or proviso goes still further. It meets both the conditions of the ruling of Mr. Speaker Carlisle, and, in addition to that, it shows on its face that there will be denied and excluded from the carrying in the mails a very large volume of matter which is at present carried. The Chair undoubtedly will take cognizance that such elimination from the mails will lessen the cost to the Government.

The Chair will no doubt take further cognizance that the matter sought to be prohibited involves many tons of mail. Then this proviso, if adopted and enforced, will have a result that can not but be apparent to the Chair. The Chair of course will assume, as he must assume, that the provisions of the law will be executed, hence the result is that there will be excluded from railway mail transportation a weighty volume of expensive and chargeable matter. If this be correct, it is not necessary that there be any provision reducing the actual amount in dollars. It is not assumed that the Government will pay any more of the appropriation than is necessary to execute the enactment of Congress upon the subject. And it is the law that the mails are transported by weight charges paid by the Government to the carriers, for which this appropriation is made. It must also be conceded that when this appropriation is passed it is not known, as a matter of law or fact, what the weights of the mail will be, nor, therefore, what the charge in dollars for transportation will be. Then, if the proviso shows on its face that the quantity of matter carried by the mails would be reduced, this appropriation, based upon weight, will be likewise reduced. It is a matter of unescapable logic and deduction that there will be a reduction of expenses and retrenchment. If there be no retrenchment under this proviso, it must be because the administrative department provided for in the law and included in the proviso pays a rate in excess of law or pays for matter that is not carried. Such would be an unwarranted, if not impossible, assumption. And I submit, Mr. Chairman, as stated heretofore, that the proviso itself conforms to the literal terms of the Holman rule. It is germane, as the Chair has ruled, and it did not require the $500,000 reduction amendment to make it germane. Hence, voting down the first division of the amendment does not alter that part. It has in it the element of reducing the cost to the Government, and it does not take an amendment reducing in dollars the amount carried by the bill for that to be made to appear. Hence, voting down the first division of the amendment does not take the proviso out of the Holman rule. If this be true, the proviso would seem to be not subject to the point of order.

The CHAIRMAN. Will the gentleman from Tennessee [Mr. MOON] permit the Chair to ask a question? The Chair has ruled upon this proposition, standing as a whole, and then the gentleman from Kentucky [Mr. SHERLEY] demanded a division of the question, that division being demanded for the purpose of having a division on the vote. It was conceded, as the Chair understood, by the gentleman from Kentucky that a division could not be made prior to the ruling of the Chair for the purpose of having a ruling upon each matter separately. Now, query: Can you do by indirection that which can not be done by direction?

Mr. MOON of Tennessee. This is not a question of that sort. The whole basis for the amendment rests upon the fact that there is to be a reduction in the expense to the Government and to establish the fact that they purpose in the amendment to reduce it from $49,000,000 to $48,500,000. The Chair has held that under the Holman rule that is a basis for the ruling in favor of the point of order, both the proviso and the amount. Now, the House has declined to make any reduction in the amount. The question comes in, Does the proviso stand alone; the House having sustained the amount of $49,000,000 and not agreed to the other amount? Does the amendment alone, standing upon its face, force the Chair to the conclusion that a reduction will still be maintained under the Holman rule?

Now, I do not want to discuss this question seriously very long. Everybody knows that if this amendment were carried and became a law you would have to open up every package of letters in every place in the United States, and it would take more men to attend to that work than it takes to carry the mail. Without being offensive to anybody, or intending to be, it seems that any man removed three degrees from idiocy would know that it would cost this Government four or five millions of dollars to carry out this amendment.

Mr. HOBSON. Mr. Chairman, I make the point of order against the point of order that the question itself has already been passed upon by the Chair.

The CHAIRMAN. The gentleman from Alabama [Mr. HOBSON] makes the point of order that the question has already been ruled upon by the Chair.

Mr. HARDWICK. Mr. Chairman, I want to call the attention of the Chair and of the committee to the ruling made in the Fifty-second Congress, in which the Chairman himself decided this same question, as noted on page 409 of the Manual.

The CHAIRMAN. The old one or the new one?

Mr. HARDWICK. The new one, the second session Manual.

The CHAIRMAN. What rule is it under?

Mr. HARDWICK. It was under the Holman rule. I read:

An amendment was proposed reducing by one the number of clerks in a bureau provided for in the bill, coupled with a distinct provision repealing part of an act, the effect of which repeal would dispense with the one clerk in such bureau. Held that so much of the amendment as provided for the repeal was subject to the point of order, its effect not being directly to reduce expenditure.

In other words, in that case, if the Chair will get the Precedents and look it up he will find, I think, that this happened: That it was held that part of the amendment which reduced in so many figures the total of the appropriation carried in the bill was in order, but that another part of the amendment was not in order, the question being separated and the Chair holding one part as in order and the other part not in order that sought indirectly to carry out that purpose. He held that that part was not in order. It appears to me here that the second part of the amendment is subject to the point of order under the Holman rule, and that the question is susceptible of a division. That same thing was done in the case I cite.

The CHAIRMAN. It is the opinion of the gentleman from Georgia [Mr. HARDWICK] that the Chair having passed upon the matter as a whole, and not having divided the subject, it is

still in order when a division is demanded for the purpose of voting?

Mr. HARDWICK. Undoubtedly the Chair could pass on it separately.

Mr. HOBSON. Mr. Chairman, if the second part of the paragraph had been out of order, the Chair would have ruled the whole as being out of order, and the Chair having ruled the whole as in order, one part could not be out of order.

Mr. MANN. Mr. Chairman, I thought when the amendment was offered by the gentleman from Kansas [Mr. JACKSON] that under the Holman rule it was in order. The Chair held it to be in order. Thereupon the committee amended the amendment. But the amendment having been held to be in order, and an amendment to that amendment having been agreed to, I do not see how it is possible to declare a portion of the original amendment out of order so long as a change has been made by the committee by way of amendment.

If the original amendment was in order when it was offered, it certainly still is in order when presented to the House to vote upon it. The very fact that the committee has amended the amendment would ordinarily preclude the making of a point of order against the amendment, because after an amendment is offered to the amendment, which in the first place was subject to a point of order, it is too late to raise the point of order. But the amendment having been held to be in order, as proposed by the gentleman from Kansas [Mr. JACKSON], I do not see how an amendment agreed to by the committee to that amendment will thereby render it out of order.

Mr. HOBSON. Mr. Chairman, I ask for a ruling on my point of order.

Mr. SHERLEY. If the Chair please, it was the right, and the Chair so held, of anyone to demand a division. A division is granted because there are distinct propositions. In this case there were three propositions. Now, those three propositions were considered by the Chair on a former point of order, and in weighing any one of the three the Chair weighed it in connection with the other two, and the decision of the Chair expressly showed that. But when it came to voting, a Member in the exercise of his right demanded a division, which was granted, so that now there come before the House three distinct propositions, because that is the meaning of the division itself. One of those propositions has been voted down. With its voting down there falls the support from which the second proposition got its right to appear at all, and therefore the condition being now as if the first proposition had never been, because legislatively it does not exist, it is no part of the bill under discussion. The Chair has confronting it a proposition—the second proposition here—and on that the point of order is made, because there is nothing to predicate the contention on.

Mr. HOBSON. Mr. Chairman, will the gentleman allow an interruption?

Mr. SHERLEY. There is nothing on which to predicate the contention that it necessarily brings about a reduction in expenditure. And in that connection I desire to call the attention of the Chair to the rule. The rule provides that a reduction of expenditure generally holds only where an amendment is offered by authority of the committee, but where the amendment is offered by an individual the reduction must be in the amount carried in the bill.

Now I yield to the gentleman from Alabama.

The CHAIRMAN. Before the gentleman from Kentucky yields to the gentleman from Alabama [Mr. HOBSON] the Chair will say that he had in mind a matter which the gentleman from Kentucky [Mr. SHERLEY] has just suggested and meant to propound that inquiry later on; but the matter which is in the mind of the Chair just now is, having ruled upon this proposition as a whole, and as the gentleman from Illinois [Mr. MANN] has expressed it, the Committee of the Whole having amended that amendment that was proposed, that is virtually amending it by failing to adopt a portion of it, whether the Committee of the Whole should not vote on the other part of it.

Mr. SHERLEY. If the Chair will permit, in thinking over the matter I think the only trouble was in holding that the matter was not divisible as a subject for the point of order. I submit that the only reason for a division is because more than one substantive provision is proposed. That is the only ground on which you can have a division. Therefore, we have not amended the amendment. We have refused to agree to one of three amendments and we now have before the House two amendments. I maintain that the second of those three, that is, the first of the remaining two, has nothing on which to rest. Now I yield to the gentleman from Alabama [Mr. HOBSON] for a question.

Mr. HOBSON. The gentleman realizes perfectly well that under the ruling of the Chair on the whole amendment that ruling covered every part of the amendment, so that we are now presented with the situation that but a few moments ago the Chair ruled on that part of the amendment that is now before the House and against which the gentleman from Tennessee [Mr. MOON] makes the point of order, and therefore the call for a second ruling, following on the heels of the other ruling, is dilatory and out of order. I will ask the gentleman, Does he not recognize that this amendment has been ruled on as being in order?

Mr. SHERLEY. In the sense in which the gentleman asks the question, I will say no, for this reason: That you have now a concrete proposition presented to you. What is past is behind us, and it is not a part of one amendment that is being presented to the House. It is a single affirmative proposition. It must have been a single affirmative proposition or it could not have been divided from the rest. One of these affirmative propositions has disappeared, as if it had never existed. The other stands in front of you now, to which the point of order is raised, and the situation that confronts you is not the situation of a division——

Mr. HOBSON. Will the gentleman yield for a question?

Mr. SHERLEY. For a question.

Mr. HOBSON. I am quite sure the gentleman will recognize this: That the second part, upon which the ruling is now requested, was substantive and was not affected by the first part, which reduced the appropriation.

Mr. SHERLEY. I do not admit anything of the kind.

Mr. HOBSON. That, whether it was or not, the second part was the one that was included in the ruling.

Mr. SHERLEY. I do not admit that.

Now, if I have the floor, I will yield to the gentleman from Massachusetts [Mr. GARDNER].

Mr. GARDNER of Massachusetts. I am going to read from Crutchfield's Manual. Here are his remarks on the division of the question in the star-route case, which was referred to earlier in the day. I am aware that a text book is not so controlling as a decision, but Crutchfield was an able parliamentarian. Here is what he says in commenting on the star-route case. I am reading from the Constitution, Manual, and Digest of the House of Representatives, first session Fifty-third Congress, page 268:

> It will be noted that the point of order was made against the amendment as a whole. The propositions contained in the amendment were divisible, namely, first, to substitute $49,500 for $50,000; and, second, the provision "to be disbursed in such manner," etc. The second branch of the amendment did not of itself result in a reduction of the amount carried by the bill, and had a division of the question been demanded and a point of order made against the latter branch the provision changing the law as to the manner of disbursements would no doubt have been held out of order.

Now, before the Chair decided on the first point of order, I made a parliamentary inquiry as to whether that moment was the time for me to demand a division of the question. The Chair replied by asking me what my own opinion was. I expressed my opinion, and it is still my opinion, that the proper time to demand a division of the question is when the question is about to be put and not when the point of order has been raised. The Chair decided the amendment as offered to be in order. Clearly it must have been in order only because it carried a reduction in terms. Now that the committee has voted down that reduction, the proposition on which we are about to vote is at best merely a retrenchment, and therefore not in order unless presented by a committee having jurisdiction. I am sending the comment of Mr. Crutchfield to the Chair, so that he can read it for himself.

Mr. MANN. Mr. Chairman, I heard the gentleman from Massachusetts demand a division of the question, but recalling the rule that a motion to strike out and insert is not divisible, I did not suppose that the gentleman was serious in his demand.

Mr. GARDNER of Massachusetts. The committee has already divided the question on the demand of the gentleman from Kentucky [Mr. SHERLEY]. The division was after the motion to strike out and insert and before the legislative proviso.

Mr. MANN. But the motion of the gentleman from Kansas was to strike out $49,000,000 and insert something in its place.

Mr. MOON of Tennessee. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MOON of Tennessee. Is it in order for me to withdraw my point of order?

Mr. HOBSON. I will say that he can not withdraw it until my point of order is disposed of first. I am willing to withdraw my point of order if the gentleman will withdraw his.

Mr. MOON of Tennessee. I want to say that there have been three or four hours of the public time wasted on this question, which ought to have been settled in 10 minutes, and I am willing to withdraw the point of order.

Mr. HOBSON. Then, Mr. Chairman, I withdraw my point of order against the gentleman's point of order.

Mr. SHERLEY. I will renew the point of order.

Mr. HOBSON. Then I make the point of order against the point of order of the gentleman from Kentucky, and I simply repeat that the Chair has ruled upon the point and the request is dilatory and out of order.

The CHAIRMAN. The Chair may be in error in regard to this matter, and if he is in error of course it will not be taken as a precedent. It seems that, the Chair having ruled on the proposition as a whole, and there having been no demand for a division for the purpose of the ruling, it brought this entire amendment before the House for a vote. Then it was the right of any Member to raise the demand for a division of the proposition for a vote, and by a failure to adopt any part of the amendment when it was subdivided that vote virtually amended the amendment. The Chair does not think this action places the portion now before the House in such a parliamentary situation as that it is subject to the point of order made by the gentleman from Kentucky [Mr. SHERLEY], and therefore the Chair sustains the point of order made by the gentleman from Alabama.

Mr. STEENERSON. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

After the word "liquors," in the amendment, insert the following: "Smoking and chewing tobacco, snuff, cigars, and cigarettes."

Mr. HOBSON. Will the gentleman from Minnesota yield for a question?

Mr. STEENERSON. I will yield after I have opened the discussion.

Mr. HOBSON. Very well, I will not ask it now if the gentleman desires to discuss it.

Mr. STEENERSON. Mr. Chairman, it is generally conceded that nine times as many men use tobacco as use liquor, that it is a greater evil perhaps because more insidious and more habit-forming drugs are contained in various preparations of tobacco, especially in the last item—snuff. I am informed by men who have made a special investigation that the habit-forming power of the snuff generally distributed through the country is very great. The advertisements in the magazines of beautiful pictures of men smoking tobacco does a great damage to the welfare of citizens.

Mr. HOBSON. Will the gentleman yield?

Mr. STEENERSON. Yes.

Mr. HOBSON. I wanted to ask the gentleman if he knows of any State in the Union where it is against the law to sell all these articles?

Mr. STEENERSON. Some of them. I think it is against the law in my State to sell cigarettes, and it ought to be against the law to sell snuff, because it contains so many habit-forming drugs.

Mr. HOBSON. I am asking for information. Does the gentleman recommend to the people of this country——

Mr. STEENERSON. Kansas prohibits the sale of cigarettes.

Mr. HOBSON. And cigars and snuff?

Mr. STEENERSON. I do not know about that, but I would be willing to compromise on cigarettes and snuff. I think there is no more insidious evil than the distribution of advertisements of tobacco in all its forms. You see in all the magazines pictures of men seated in easy chairs in luxurious apartments smoking cigarettes and cigars and pictures of golden snuff-boxes that they use to imbibe the snuff. The Government should not aid in distributing these advertisements among the people. They are more injurious in their tendencies than those containing advertisements of fraudulent investment schemes or even of liquors.

Mr. MOORE of Pennsylvania. Mr. Chairman, I offer the following amendment to the gentleman's amendment by way of a substitute.

The Clerk read as follows:

And "playing cards and poker chips."

Mr. STEENERSON. I make the point of order, Mr. Chairman, that that is not germane.

Mr. MOORE of Pennsylvania. Mr. Chairman, a great many young men go astray playing poker, and there are so many alluring advertisements of cards and poker chips that it seems to me, so long as we are venturing on the field of reform, that we ought to be thorough and workmanlike.

Mr. MANN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. What will the first vote come upon if the amendment offered by the gentleman from Pennsylvania is a substitute?

The CHAIRMAN. On the substitute.

Mr. MANN. A substitute is not in order to be submitted until the original amendment is perfected.

The CHAIRMAN. The gentleman from Pennsylvania offered his amendment as a substitute for the amendment proposed by the gentleman from Minnesota.

Mr. MOORE of Pennsylvania. That is what I did.

Mr. MANN. A substitute can be offered for the original proposition, but I do not understand that a substitute can be offered to an amendment to the original proposition.

Mr. STEENERSON. The substitute can be voted on after the original proposition.

The CHAIRMAN. The Chair understood the gentleman from Pennsylvania to offer his amendment as a substitute for the amendment proposed by the gentleman from Minnesota.

Mr. MOORE of Pennsylvania. It seems to me my substitute should be adopted if we are going into these other reforms.

Mr. HOBSON. Mr. Chairman, I make a point of order against the amendment of the gentleman from Pennsylvania if it is a substitute for the amendment to an amendment.

Mr. SHERLEY. I make the point of order that, there having been discussion, it is too late.

The CHAIRMAN. The point of order is sustained.

Mr. HOBSON. Mr. Chairman, I ask to be heard on the amendment.

The CHAIRMAN. The gentleman from Alabama is entitled to the floor for five minutes.

Mr. HOBSON. Mr. Chairman, I do not desire to take five minutes, but I wanted to say to the gentleman from Minnesota, when I asked him the question, that I intended to vote for his proposed amendment and also for that of the gentleman from Pennsylvania, but I want to point out that I recognize perfectly well that it would, at least the last one, be harmful to the original amendment. Of course, the gentleman from Pennsylvania realizes that there is not a State or county or municipality in the Union where there is a law against the sale of poker chips or of playing cards.

Mr. CANNON. Will the gentleman allow me?

Mr. HOBSON. Certainly.

Mr. CANNON. There is a law, I think not repealed, that imposes a penalty for the sale of playing cards in the State of Illinois, enacted in 1819, and also against the importation of billiard tables. There is a law in the State of Kansas, as I am credibly informed, that makes it a penitentiary offense to use playing cards in gaming, and there have been convictions under that law, and men are in the penitentiary for it.

Mr. MOORE of Pennsylvania. Mr. Chairman will the gentleman yield?

Mr. HOBSON. Certainly.

Mr. MOORE of Pennsylvania. We still have laws in Pennsylvania known as blue laws, dating way back to 1794.

Mr. HOBSON. Does the State like to enforce those laws?

Mr. MOORE of Pennsylvania. Sometimes they are not enforced any more than the liquor law is enforced in certain sections of the country.

Mr. MANN. Mr. Chairman, when the amendment was first proposed by the gentleman from Pennsylvania [Mr. MOORE], I made the point of order against it and the Chair stated that it was offered as a substitute, which would be in order as a substitute for the original proposition. But a substitute for an amendment to an amendment is not in order. Under the rules a proposition is in order, an amendment to that proposition is in order, and a substitute for the original proposition and an amendment to the substitute is in order, but if a substitute to an amendment were held in order, then an amendment to the substitute would be in order, thereby getting in an amendment in the third degree to the original proposition, and if this is offered as a substitute for the original amendment it is in order to vote upon it when that is reached, but, I think, not in order at this time.

The CHAIRMAN. The gentleman from Illinois is correct. It is not in order to offer a substitute for the amendment of the gentleman from Minnesota.

Mr. STEENERSON. Then, Mr. Chairman, the vote is on my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. STEENERSON].

Mr. JACKSON. Mr. Chairman, I desire to be heard on my amendment.

The CHAIRMAN. The gentleman from Kansas is recognized.

Mr. JACKSON. I shall not detain the House very long.

Mr. MOON of Tennessee. Mr. Chairman, I move that all debate close upon this section.

The CHAIRMAN. The gentleman from Kansas has the floor for five minutes. The gentleman from Tennessee will be recognized when he is through.

Mr. MOON of Tennessee. I do not want to be recognized after the time has been all used by the gentleman from Kansas. He has had plenty of time.

The CHAIRMAN. The Chair will state to the gentleman from Tennessee that the gentleman from Kansas is within his rights under the five-minute rule.

Mr. MOON of Tennessee. Then let him proceed.

The CHAIRMAN. The gentleman from Tennessee seemed a trifle impatient with the Chair when the Chair said he would recognize the gentleman.

Mr. JACKSON. Mr. Chairman, I think I have been very patient and have occupied little time of the House in discussing this proposition. I presented it to the House in the utmost good faith, because I believed that the United States Government should no longer continue the partnership with the liquor houses and the circulation of fraudulent matter in the mails. I regret very much that the gentleman from Tennessee has been so petulant and impatient——

Mr. MOON of Tennessee. Mr. Chairman, I object to any statement about the gentleman from Tennessee by the gentleman from Kansas.

Mr. JACKSON. Mr. Chairman, I am simply replying to what the gentleman said to me. I believe I have a right to reply in my own time to a statement concerning myself.

Mr. MOON of Tennessee. The gentleman has not the right to make any remarks of that kind.

Mr. JACKSON. Well, the gentleman made it.

The CHAIRMAN. The gentleman from Kansas is familiar with the rule—when debate is proceeding under the five-minute rule that it must be confined to the subject matter of the amendment. The gentleman will proceed in order.

Mr. JACKSON. Mr. Chairman, the gentleman challenges my good faith in offering this amendment. What I said was said in reply to the gentleman's suggestion that it contains nothing but rot, and I congratulate the State of Tennessee, which is in a way committed to the subject of prohibition, that it has a Representative in Congress who stands here on the floor of the House and denounces any attempt to take out of the mails of the United States this class of literature as pure rot and hypocrisy. The gentleman saw fit to make remarks upon the result of the recent election concerning myself. It is true that I was defeated, as many other better gentleman were defeated, by a change of politics in my district, but I can not forget, Mr. Chairman, that in every little town and hamlet in that district I found from 15 to 20 men, at the instance of the agents of the breweries and liquor houses, fighting me openly because of my attitude upon the floor of this House on the temperance question and in the enforcement of the State laws. I also congratulate the State of Tennessee that the same argument that was in the mouths of the breweries in our State has followed us to the Halls of Congress and now finds proclamation from the mouth of the distinguished chairman of the Committee on the Post Office and Post Roads. And in reply to the suggestion that my amendment was not rot, the gentleman makes this reply, this unparliamentary, ungentlemanly reply, which could have no other object than to insult me personally, and, therefore, I will not be as bad as he is and characterize it, as it should be characterized, as cowardly as well as unparliamentary and ungentlemanly.

Mr. MOON of Tennessee. Mr. Chairman——

The CHAIRMAN. Does the gentleman yield?

Mr. MOON of Tennessee. I do not want to disturb the gentleman until he is through. I desire to be recognized when he has concluded.

The CHAIRMAN. The Chair desires to caution the gentleman from Kansas to proceed in order.

Mr. JACKSON. Mr. Chairman, this amendment will reduce the mails. It will take out of the mail much of the matter that never should have been circulated in the mail, and the State of Kansas does not come here asking this amendment alone for herself. We can enforce our own laws, and we do enforce them, and I venture to say that the laws concerning the sale of intoxicating liquors in Kansas are as well enforced as the State law against murder or any other misdemeanor is in any State of the Union. No newspaper published within the confines of the State of Kansas circulates these advertisements. No self-respecting editor—and two of them, I am proud to say, are on our delegation in Congress from Kansas—would accept such advertisements, and none of the papers in Kansas does so.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. JACKSON. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD by including therein a statement of the governor of the State of Kansas concerning the way in which the intoxicating liquor laws of Kansas are enforced.

Mr. MOON of Tennessee. Mr. Chairman, I object.

The CHAIRMAN. The gentleman from Tennessee objects.

Mr. MOON of Tennessee. Mr. Chairman, I have at no time a desire to be the least bit personal in this or other matters. I generally speak my views of men and measures. I notice the gentleman as he stands on that side of the aisle to suggest that what I have done or said in this House was ungentlemanly or cowardly. I want to say to the gentleman that he can have an opportunity, if he thinks he can make anything out of it, to say that to me anywhere, at any time, or under any circumstances. I do not want to discuss the gentleman, and I am only going to refer for a few moments to what he said to me on this floor. I said, and I say it again, that there is more contemptible rot and hypocrisy by demagogues and scoundrels about this prohibition question than any other question that was ever presented in this country. There is no doubt in the world about that. Every man that gets crooked on it feels that it is necessary for him to do something to impress somebody, somewhere, that he has more morality and more decency than other men.

I have thought only of keeping off this bill legislation of this sort that does not belong on it. So far as the question of temperance is concerned, I have cast more temperance votes and done more for the cause of legitimate temperance than a dozen men like the gentleman from Kansas. [Applause.]

I am not going to talk about him. I am sorry I referred to him again. It is just as true of the politically dead as it is of those who are actually dead, that one ought not to say anything about them except that which is good. But I can not keep from congratulating his district and this country that a man of his type should have been signally and disgracefully repudiated by his constituents.

Mr. HOBSON. Will the gentleman yield for a moment?

Mr. MOON of Tennessee. No; I will not yield to you for anything.

Mr. JACKSON. I make the point of order that the gentleman from Tennessee is out of order.

The CHAIRMAN. The gentleman from Tennessee [Mr. MOON] will proceed in order.

Mr. MOON of Tennessee. I do not care whether you put this measure on the bill or not, so far as whisky is concerned. I wish all the whisky was out of the world, so far as that is concerned, and nobody could get drunk or ever would be drunk, but the case would involve more definite and thorough discussion than we could give here, and I am not going to be drawn into a controversy either for or against prohibition. I have a record on that question. But I do say, if this House undertakes to put this amendment on this bill, the effect of it will be to add thousands and tens of thousands of officials in the United States to determine by the opening of every letter and every paper whether this law has been complied with or not. You can, and will, add millions under this amendment. If you want to pass upon that question, do it openly and honestly. Take up your bills and pass on them, and then we will see who is in favor of or who is against proper legislation on this question. But I do protest against attempting to put as a rider on this Post Office appropriation bill an immature and ill-considered proposition, moral in its nature, it is true, but one that has no place here because of the injury it will do to this service and to the Government. Let us deal with it as we would with any proper legislative enactment, and not attempt to incorporate it upon this bill or any other. [Applause.]

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Minnesota [Mr. STEENERSON] to the amendment proposed by the gentleman from Kansas [Mr. JACKSON].

The question was taken, and the amendment to the amendment was rejected.

Mr. HOBSON. Mr. Chairman, I desire to be heard on the original amendment now, and I do not care to take the five minutes to which I am entitled.

Mr. MANN. A parliamentary inquiry, Mr. Chairman. Is the substitute offered by the gentleman from Pennsylvania [Mr. MOORE] still before the House?

The CHAIRMAN. It was ruled out of order.

Mr. MANN. I made a point of order against it.

The CHAIRMAN. It has not been reoffered.

Mr. HOBSON. Mr. Chairman, I regret very much that the gentleman from Tennessee [Mr. MOON], a good friend of mine, should have included me in his impatience. I recognize that at times there have been cases where people have sought cover behind an assumed support of prohibition, but I have seen many other cases where they have taken cover behind liquor.

I dare say there are some scoundrels who are associated with law enforcement, but I will answer that there is not one to a thousand as compared with those who are associated with the violation of law that this amendment is trying to reach.

I wish that the gentleman from Tennessee had permitted us to proceed at the outset on the discussion of this question on its merits. I will say to him that under the five-minute rule my discussion of it on its merits would not have been on prohibition per se, but would have been purely and simply on a ground on which I am sure he would join with me and strike hands with me, namely, that if a citizen ought not to violate law, certainly the Federal Government ought not to be an accessory to the violation of law [applause]; and that wherever in appropriation bills or elsewhere the question arises in the deliberations of this House where we could promote, under the rules, by legitimate methods the better observance of law we should do so, and particularly the law of the weaker, the State, the county, the town, law that they believe in, even if they are mistaken, law that they believe affects the very question of their perpetuity. Alcohol having been declared to be a specific for degeneracy, they recognize that in that degeneracy, the blight not only upon the man but upon his children, is involved their prosperity, their liberties, and in the end the very question of life and death.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendment of the gentleman from Kansas.

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. JACKSON. Division, Mr. Chairman.

The committee divided; and there were—ayes 33, noes 57.

Mr. JACKSON. Tellers, Mr. Chairman.

Tellers were ordered.

The gentleman from Kansas [Mr. JACKSON] and the gentleman from Connecticut [Mr. REILLY] took their places as tellers.

Mr. CANNON. Mr. Chairman, may I ask how many gentlemen desired tellers?

The CHAIRMAN. Twenty-three.

The committee again divided; and the tellers reported—ayes 35, noes 56.

So the amendment was rejected.

Mr. STEENERSON. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. REILLY. Mr. Chairman, what has become of the amendment that I sent to the desk?

The CHAIRMAN. Is it an amendment to the amendment?

Mr. REILLY. It is an amendment that was temporarily placed on the table.

The CHAIRMAN. There is another portion of this other amendment to be disposed of. The Clerk will report it.

The Clerk read as follows:

On page 17, after line 21, insert the following: "The Postmaster General is hereby authorized and directed to use $100,000 of this appropriation for the purpose of weighing the mails and readjusting and reducing the compensation now paid to railway companies for transporting the mails by excluding said classes of mail matter from the mails of the United States."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was rejected.

The CHAIRMAN. The gentleman from Connecticut [Mr. REILLY] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 19, line 4, by striking out the figures "$24,360,000" and inserting in lieu thereof the figures "$24,826,000."

Mr. MOON of Tennessee. That would make the section conform to the amendments?

Mr. REILLY. Yes; that was done in order to conform with the amendments already passed. It adds $466,000.

The CHAIRMAN. The question is on agreeing to the amendment proposed by the gentleman from Connecticut [Mr. REILLY].

Mr. MANN. Mr. Chairman, the gentleman has computed the items, and this covers all of them?

Mr. REILLY. Yes.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Connecticut.

The question was taken, and the amendment was agreed to.

Mr. HAUGEN. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Iowa [Mr. HAUGEN] offers an amendment, which the Clerk will report. Will the gentleman from Iowa kindly indicate where the amendment he proposes is intended to appear?

Mr. HAUGEN. Immediately after the section under consideration. It should come in on page 17, at the bottom, after line 25.

Mr. MANN. Mr. Chairman, that has been passed over.

Mr. MOON of Tennessee. You can not go back to page 17.

The CHAIRMAN. The Chair will state to the gentleman that that paragraph has been passed.

Mr. HAUGEN. We are considering the paragraph, as I understand it.

Mr. MURDOCK. Mr. Chairman, as a matter of fact we are considering the paragraph at the bottom of page 17.

The CHAIRMAN. The gentleman from Connecticut [Mr. REILLY] had proposed an amendment on page 19. Of course we were considering that paragraph at the bottom of page 17.

Mr. HAUGEN. Mr. Chairman, I was on my feet asking to be recognized.

The CHAIRMAN. The Chair will recognize the gentleman.

Mr. LLOYD. Mr. Chairman, there seems to be a misunderstanding about this matter. It was understood this morning that we should recur to page 19 whenever the gentleman from Connecticut [Mr. REILLY] had his amendment prepared to complete these footings, and only for that purpose.

Mr. MANN. And he just asked unanimous consent to recur to page 19 for that purpose, and the amendment was agreed to.

Mr. LLOYD. We did not revert to page 19 at all except for that purpose.

The CHAIRMAN. The Chair will state that his understanding is that the paragraph at the bottom of page 17 was passed this morning while the present incumbent of the chair was temporarily absent. He was informed at the desk that the paragraph was passed over with a point of order reserved by the gentleman from Illinois [Mr. RODENBERG]. Now, that having been attended to and that part of it having been disposed of, as well as some amendments to it having been disposed of, it would seem that the gentleman from Iowa [Mr. HAUGEN] is entitled to recognition to offer his amendment.

Mr. MOON of Tennessee. I do not know how we will get through at that rate.

Mr. HAUGEN. I will say, Mr. Chairman, that the amendment I offer has sufficient merit to enable it to be disposed of in a very short time.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Iowa [Mr. HAUGEN].

The Clerk read as follows:

On page 17, after line 21, insert: "*Provided*, That the Postmaster General be, and he is hereby, authorized and directed to readjust the compensation to be paid from and after the 1st day of July, 1913, for transportation of mails on railroad routes by reducing the compensation to all railroad companies for the transportation of mails 10 per cent per annum from the rates fixed and allowed by the first section of an act entitled 'An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1874, and for other purposes,' approved March 3, 1873, for the transportation of mails on the basis of the approved weight, and amended by an act of July 12, 1876, and by an act of June 17, 1878, and an act of March 2, 1907."

Mr. MOON of Tennessee. Mr. Chairman, I make a point of order on the amendment.

Mr. HAUGEN. I understood the gentleman to say a moment ago that any amendment having for its object the reduction of the amount to be appropriated would be in order. I also understood the Chair to hold that any amendment germane to the proposed new legislation would be held in order.

The CHAIRMAN. It seems to the Chair that the amendment is in order under the Holman rule.

Mr. MOON of Tennessee. Let us take a vote on it.

Mr. HAUGEN. Mr. Chairman, I shall not detain the House at this time except to say that the amendment provides for a 10 per cent reduction, which will, if the amendment is adopted, amount to $5,400,000. It is a simple proposition. I think the fact that this Government is now paying an average of more than 4 cents per pound for the carriage of mail matter, and whereas the express companies pay less than 1 cent per pound for a similar service, that alone is sufficient evidence to prove the merits of the proposition and to warrant the proposed reduction.

Mr. MOON of Tennessee. Mr. Chairman, we have had a parcel-post proposition here, adding millions of money that must be expended for the service of the Government. The general growth of the service is great, and this Congress, in order to be intelligently informed about the matter, has actually created a commission, with instructions to report as soon as practicable upon this question. I think it would be very unwise to take up a proposition of a 10 per cent reduction without any information on it at all.

Mr. HAUGEN. Mr. Chairman, the very fact that we have added the parcel-post service is another good reason why we should now reduce the pay. Every hundred pounds of express

transferred from the express to the mail increases the pay to the railroad companies for carrying more than 3 cents per pound, hence the excessive, unjust, and unreasonable high rate now paid will add millions of dollars to the already excessive receipts of the railroad companies, and if for no other reason that alone would warrant the reduction proposed in the amendment.

Mr. MURDOCK. Will the gentleman yield for a question?

Mr. HAUGEN. Yes.

Mr. MURDOCK. I tried to understand the amendment of the gentleman from Iowa. I should like to ask him if his amendment reduces merely the pay to the railroads for the carriage of the mails in the matter of weight? Does he at all go into the question of pay for the railway mail cars?

Mr. HAUGEN. It reduces the amount 10 per cent on both the $49,000,000 for carrying the mail and on the $5,000,000 item for the mail cars, the reduction of 10 per cent amounting to in the aggregate $5,400,000.

Mr. CANNON. Mr. Chairman, this is a very important amendment. It may be that the railways in this country receive too much pay now, but the fact that the gentleman states that the Postmaster General recommends the reduction is no argument to me in favor of a reduction without full consideration. The Postmaster General asserts that we lose $60,000,000 on carrying second-class matter. I do not know whether we do or not. It may be that after a full consideration that great loss, as compared with the proposed 10 per cent reduction to the railways, should be taken into account. For one I am not ready to take it into account except as it may be intelligently and fully discussed. We have in the United States almost half the railways in the world carrying practically one-half of the railway commerce of the world. They go to all our States, crossing the continent. It may be that they receive too much pay. I do not know. From time to time their pay has been reduced. I hold no brief for the defense of the railways more than for any other corporations or any other individuals performing service for the Government. It is necessary that they should make improvements and betterments in order to keep pace with the rapid increase of population and commerce, and there are people who look with apprehension on the physical condition of the railways. We are told by the newspapers that they are driven to the negotiation of short-time notes for construction and repair of terminals and tracks, some at 6 per cent, and so far as I have noticed, none under 5 per cent, because they can not negotiate their bonds.

I say again, it may be that the newspaper postage ought to be increased. It may be that the railway-mail pay ought to be reduced, but in almost the closing days of this session for an amendment to be offered here hop, skip, and jump, without a chance for full consideration, to make a reduction of 10 per cent in the railway-mail pay does not address itself to my discretion as a legislator. I do not now, and never did, own a share of stock in any railway corporation, nor did I ever represent one as an attorney, directly or indirectly, in any way or form. It is important to all the people, nearly a hundred million of them, that these great arteries for the transportation of our enormous products should be fairly dealt with. Not only is it important to the railways themselves, but it is more important to all the people than it is to the railways. I notice that some people connected with railway management in New England, and some in New York, and some in Indiana, and possibly some in Ohio, have been indicted lately for not having their railways in sufficient repair. My service in this House will soon close, and while I should not regret to see the reduction of railway-mail pay, if it ought to be reduced, my judgment is that it ought not to be done until after full investigation, full consideration, and after the intelligent judgment of the majority of the House believes that it should be done, and how far it should be decreased.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Iowa [Mr. HAUGEN].

The question was taken; and on a division (demanded by Mr. HAUGEN), there were—ayes 16, noes 42.

Accordingly the amendment was rejected.

The Clerk read as follows:

OFFICE OF THE THIRD ASSISTANT POSTMASTER GENERAL.

For manufacture of adhesive postage stamps, special-delivery stamps, books of stamps, and for coiling of stamps, $800,000.

Mr. FOSTER. Mr. Chairman, I desire to offer an amendment.

Mr. MANN. Mr. Chairman, we have been at work very hard since 11 o'clock this morning. It is plain that we can not finish this bill to-night anyhow.

Mr. MOON of Tennessee. I want to finish the bill to-night.

Mr. MANN. It is not possible to finish the bill to-night. There have been several things passed over.

The CHAIRMAN. The gentleman from Illinois [Mr. FOSTER] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 23, at the end of line 4, insert the following:

"*Provided*, That from and after July 1, 1913, it shall be lawful to place any ordinary stamps of any denomination with the words "parcel post" written or printed on the package under such regulation as the Postmaster General may prescribe, and said package shall be handled, transmitted, and delivered in all respects as though it bore regulation parcel-post stamp or stamps.

Mr. FOSTER. Mr. Chairman, this is only to bring about a change in the regulations as to parcel-post stamps, which I think all Members will call to mind has caused a good deal of trouble since the parcel post was instituted.

Mr. CANNON. This is to make the ordinary stamps available for parcel post.

Mr. FOSTER. Yes.

Mr. CANNON. Does not the gentleman think it is important from the standpoint of future regulation that we should know the amount of revenue that is brought in by the parcel post?

Mr. FOSTER. This provides that the package shall be marked "parcel post" and that the provision shall not go into effect until next July.

Mr. CANNON. And up to that time we would have the regular parcel-post stamps?

Mr. FOSTER. Yes.

Mr. MANN. Mr. Chairman, can we have the amendment again reported?

The CHAIRMAN. Without objection, the amendment will again be reported.

The Clerk again read the amendment.

Mr. MANN. Mr. Chairman, I would like to ask the gentleman from Illinois whether he is sure that the wording of the amendment would be construed to mean that there must be stamps of sufficient value placed on the package, as is now provided by existing law.

Mr. FOSTER. I think so. "Under such regulation as the Postmaster General may prescribe."

Mr. MANN. I suppose it would be so construed, without question.

Mr. CANNON. Mr. Chairman, I am not sure that I understand my colleague. Do I understand that after the 1st of July a special parcel-post stamp will not be placed on packages?

Mr. FOSTER. They can use the ordinary stamps.

Mr. CANNON. Does not my friend think that if we keep track of the revenue it would require a great deal of bookkeeping and a great deal of clerical attention in order to get at the revenue from carrying the mail by parcel post, which might be avoided if we continue to use special stamps?

Mr. FOSTER. This gives six months in which to make the calculation, and then, if the department should determine that it was necessary to have a further time so that they could keep track of the cost, they could keep track of the packages that go under the ordinary stamp.

Mr. CANNON. Suppose the income, we will say for the parcel post, amounts to $50,000,000, and we use the same stamps that we use on letters. They would not be sold as parcel-post stamps?

Mr. FOSTER. No.

Mr. CANNON. There is the trouble, if we are to keep track of the revenue from the parcel post. It seems to me that they should be by special stamps because the sale of the special stamps would tell the whole story. Otherwise every postmaster must examine at the place of origin the number of stamps on the package and keep an account of the postage. It seems to me it would lead to keeping of thousands of accounts that might otherwise be avoided, because the sale of the special stamps would tell the whole story.

Mr. SISSON. Mr. Chairman, I would like to ask the gentleman from Illinois a question. Has the gentleman considered the fact that the fourth-class postmasters throughout the country—200,000 of them—if they keep up with this as a business proposition until the department can ascertain just what it will cost to haul the packages, will be compelled to keep accounts, and that it may entail a great deal of additional clerical assistance and cause a great deal of expense?

Mr. FOSTER. I think that will hardly be the case, for there will be six months in which to make that estimate. I believe the accommodation of the people at the end of the six months is worth something.

Mr. SISSON. Mr. Chairman, I am inclined to agree thoroughly with the gentleman from Illinois, that, at the proper time, when the parcel post is worked out, it will not be necessary to keep two sets of stamps. But for the present, as a business

proposition, it would only be necessary for the department to have parcel-post stamps issued and sold, and then in the course of two or three years, after they have ascertained the cost of hauling the packages to the different sections of the country, the legislation which the gentleman desires might be had. But for the present, it seems to me, it would entail an interminable amount of work on the fourth-class postmasters.

Mr. FINLEY. Will the gentleman yield?

Mr. SISSON. Certainly.

Mr. FINLEY. There is a joint committee of the House and Senate appointed at the last session of Congress to investigate and report upon the parcel post. I want to say, as one of the committee, that as to the information to what extent the parcel post is used by the public and what is the revenue, I hope my friend from Illinois will withdraw the amendment, because we want all the information possible. I think next December, perhaps, there would be no objection to it.

Mr. SISSON. Mr. Chairman, I believe that as to the fourth-class post offices throughout the country many people are called upon to take the post office largely as a convenience to the people. As it is now they only have to keep one stamp account. They are charged with the number of stamps sent and they account for the number sold. This would necessitate, in order to keep track of this business, the keeping of a set of books, and when a package comes into the office—and stamps might be obtained at some other office—it would be necessary for the postmaster to keep an account of the number of stamps on the packages when posted. I can see many difficulties that would arise in keeping the books straight for several years to come. But at the end of two or three years if it is necessary to be done in order to make the parcel post a success, then the amendment that the gentleman offers might be adopted.

Mr. ALEXANDER. Will the gentleman yield?

Mr. SISSON. Certainly.

Mr. ALEXANDER. Is it not an experimental question whether the parcel-post rates now are too high or too low, and is there any practical method devised except by the sale of stamps to ascertain the fact?

Mr. SISSON. I think the gentleman from Missouri is absolutely right. Postmasters would have to keep track of the number of stamps, the number of packages handled, and estimate the difference between the cost of the service now and the cost of the service without the parcel post.

Mr. FOSTER. Mr. Chairman, I ask unanimous consent to modify the amendment, so as to read, "January 1, 1914."

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to modify his amendment so as to make it read, "January 1, 1914." Is there objection?

There was no objection.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Illinois.

Mr. MARTIN of South Dakota. Mr. Chairman, I move to strike out the last word of the amendment. It seems to me that the gentleman's amendment is hastily proposed to the House, and this is a subject of too great importance for us to say at this time that on January 1, 1914, a year hence, this entire system must be changed. It is important that this business, in its initial stages, shall be kept by itself, and we ought not to say at this time that one year from now the system must be changed. Let us rather watch the development of this great new service, and let whatever amendments may be offered to it be offered after the development of it shows the necessity for them.

The reason for allowing the use of ordinary stamps on special-delivery letters is a very different subject. That is something that the sender considers important and wants to get hastily delivered. Consequently the leaning of the law and the regulations ought to be to permit him to do it in almost any way he can do it. But here is a new system for fourth-class matter, where speed is not so great an element, and where I think the people, at least, for some time to come might very properly yield personal convenience to the proper development of the system.

Mr. TILSON. And may I suggest further that, even in the case of special delivery, for a long time they used a special stamp before one was allowed to put ordinary stamps on the letter for that purpose, and that was done so that the department might find what the cost of the delivery was.

Mr. MARTIN of South Dakota. Furthermore, Mr. Chairman, on the suggestions that have come from all parts of the House, the gentleman has found it best to extend the time of his original amendment six months longer. The subject is so embryonic that we ought not at this time change the fundamental principles of the law, in as much as it has not been in operation for 15 days.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

For travel and miscellaneous expenses in the postal service, office of the Third Assistant Postmaster General, $1,000.

Mr. MURDOCK. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have it read.

The Clerk read as follows:

Insert after line 20, page 23:

"That from and after the passage of this act all periodical publications issued from a known place of publication at stated intervals, and as frequently as four times a year, by or under the auspices of a benevolent or fraternal society or order organized under the lodge system and having a bona fide membership of not less than 1,000 persons, or by a regularly incorporated institution of learning, or by a regularly established State institution of learning supported in whole or in part by public taxation, or by or under the auspices of a trades-union, and all publications of strictly professional, literary, historical, or scientific societies, including the bulletins issued by the State boards of health or industrial commissions and by State boards or departments of public charities and corrections, shall be admitted to the mails as second-class matter, and the postage thereon shall be the same as on other second-class matter; and such periodical publications, issued by or under the auspices of benevolent or fraternal societies or orders or trades-unions, or by strictly professional, literary, historical, or scientific societies, shall have the right to carry advertising matter, whether such matter pertains to such benevolent or fraternal societies or orders, trades-unions, strictly professional, literary, historical, or scientific societies, or to other persons, institutions, or concerns; but such periodical publications, hereby permitted to carry advertising matter, must not be designed or published primarily for advertising purposes, and shall be originated and published to further the objects and purposes of such benevolent or fraternal societies or orders, trades-unions, or other societies, respectively; and all such periodicals shall be formed of printed paper sheets, without board, cloth, leather, or other substantial binding, such as distinguish printed books for preservation from periodical publications: *Provided*, That the circulation through the mails of periodical publications issued by or under the auspices of benevolent or fraternal societies of orders, or trades-unions, or by strictly professional, literary, historical, or scientific societies, as second-class mail matter, shall be limited to copies mailed to such members as pay therefor, either as a part of their dues or assessments, or otherwise, not less than 50 per cent of the regular subscription price; to other bona fide subscribers; to exchanges; and 10 per cent of such circulation as sample copies: *Provided further*, That when such members pay therefor as a part of their dues or assessments, individual subscriptions or receipts shall not be required: *Provided further*, That the office of publication of any such periodical publication shall be fixed by the association or body by which it is published, or by its executive board, and such publication shall be printed at such place and entered at the nearest post office thereto."

Mr. MOON of Tennessee. Mr. Chairman, I make the point of order on that.

Mr. MANN. Mr. Chairman, I reserve the point of order.

Mr. MURDOCK. Mr. Chairman, I will ask the gentleman from Tennessee to reserve his point of order until I can explain to him just what change is made, and then he may not press it after I make it.

Mr. MANN. Mr. Chairman, I again suggest to the gentleman from Tennessee that it is now 10 minutes of 6 o'clock. The House, at his request, met at 11 o'clock this morning, and I am sure that he can judge of this proposed amendment a great deal better if he can only see it in print.

Mr. MURDOCK. I can explain it very easily.

Mr. MOON of Tennessee. Oh, let us get through this.

Mr. MURDOCK. Yes; let us get through.

Mr. MANN. I would insist on reading it through, even if the gentleman from Tennessee did not.

Mr. MOON of Tennessee. I expect to make the point of order, anyway, but I would like to hear the gentleman from Kansas.

Mr. KENDALL. That is because he is such an interesting talker.

Mr. MANN. I would like to hear the gentleman from Kansas, but I know the gentleman from Kansas will keep until to-morrow.

Mr. MOON of Tennessee. I can not keep the point of order until to-morrow. I suggest to the gentleman from Illinois that we hear the gentleman from Kansas to-night and get through.

Mr. MANN. But the gentleman from Tennessee can not get through the bill to-night.

Mr. MOON of Tennessee. No; but this is at the close of the Third Assistant's Office.

Mr. MANN. We have been very good to the gentleman from Tennessee, so far as time is concerned. No Post Office bill has ever proceeded as rapidly as this one has this year.

Mr. MOON of Tennessee. Let us dispose of this, and then I will move to rise.

Mr. MURDOCK. Mr. Chairman, this amendment that I have offered merely adds to what is known as the Dodds bill, which was passed last year, a provision that the second-class privileges shall be extended to State industrial boards. Wisconsin and other States now have industrial boards which issue monthly bulletins dealing with labor, hazardous employment, accidents, and so forth, and those bulletins are of moment. They

are modern and their circulation is of a great deal more importance than other matters to which we have extended the second-class privilege. That is all the amendment does.

Mr. MOON of Tennessee. Would it not be better before dealing with this question to look into the report of the Hughes Commission so that we can have an understanding of this whole second-class matter and dispose of it altogether?

Mr. MURDOCK. I will say to the gentleman that the Dodds matter, which extended the second-class privileges to these various institutions, came into the House after the Hughes report, and the privilege has been extended to many State boards, like State boards of health, and so forth. This industrial commission work is of real importance, and is modern and new and ought to have the privilege of the second class extended to it. I am not going to press the matter, however, at this late hour.

Mr. MOON of Tennessee. We are extending and extending, and we ought to settle the matter once and for all. I insist upon the point of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. GREGG of Pennsylvania. Mr. Chairman, I offer the following amendment, which I send to the desk.

Mr. MOON of Tennessee. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. GARRETT, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 27148, the Post Office appropriation bill, and had come to no resolution thereon.

SENATE JOINT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, a Senate joint resolution of the following title was taken from the Speaker's table and referred to the appropriate committee, as follows:

S. J. Res. 149. Extending the time for the survey, classification, and appraisement of the surface of the segregated coal and asphalt lands of the Choctaw and Chickasaw Nations in Oklahoma; to the Committee on Indian Affairs.

LATE REPRESENTATIVE ANDERSON, OF OHIO.

Mr. GOEKE. Mr. Speaker, I ask unanimous consent for the present consideration of an order which I send to the Clerk's desk.

The SPEAKER. The gentleman from Ohio [Mr. GOEKE] asks unanimous consent for the present consideration of an order, which the Clerk will report.

The Clerk read as follows:

Ordered, That Sunday, the 23d day of February, 1913, be set apart for addresses on the life, character, and public services of the Hon. CARL CAREY ANDERSON, late a Representative from the State of Ohio.

The SPEAKER. Is there objection?

There was no objection.

So the order was agreed to.

HOUR OF MEETING TO-MORROW.

Mr. MOON of Tennessee. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day that it adjourn to meet at 11 o'clock a. m. to-morrow.

The SPEAKER. The gentleman from Tennessee moves that when the House adjourns to-day it adjourn to meet at 11 o'clock a. m. to-morrow. Is there objection? [After a pause.] The Chair hears none.

ADJOURNMENT.

Mr. MOON of Tennessee. I move that the House do adjourn.

The motion was agreed to; accordingly (at 6 o'clock p. m.) the House adjourned until Tuesday, January 14, 1913, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of preliminary investigations and surveys of Patuxent River as a source of water supply for the District of Columbia (H. Doc. No. 1266); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

2. A letter from the Secretary of the Treasury, recommending the enactment of a law authorizing the payment of the widow or heirs of a deceased civilian employee the amount found due said employee if the amount does not exceed $500, without administration (S. Doc. No. 999); to the Committee on the Judiciary and ordered to be printed.

3. A letter from the Secretary of the Treasury, transmitting supplemental estimate of appropriation for the Federal building at Denver, Colo. (H. Doc. No. 1267); to the Committee on Appropriations and ordered to be printed.

4. A letter from the Secretary of War, transmitting report of an inspection of the several branches of the National Home for Disabled Volunteer Soldiers made September 18, 1912, to December 5, 1912 (H. Doc. No. 987); to the Committee on Military Affairs and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. EVANS, from the Committee on the Library, to which was referred the concurrent resolution (S. Con. Res. 32) approving plan, design, and location for a Lincoln memorial, reported the same without amendment, accompanied by a report (No. 1294), which said concurrent resolution and report were referred to the House Calendar.

Mr. COVINGTON, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 27789) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes, reported the same with amendment, accompanied by a report (No. 1295), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. FARR, from the Committee on Claims, to which was referred the bill (H. R. 27090) for the relief of Cora Evans, reported the same without amendment, accompanied by a report (No. 1292), which said bill and report were referred to the Private Calendar.

Mr. RICHARDSON, from the Committee on Pensions, to which was referred the bill (S. 2666) granting an increase of pension to William P. Clark, reported the same without amendment, accompanied by a report (No. 1293), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. BROUSSARD: A bill (H. R. 27983) for the erection of a public building to be used as a post office at Houma, La.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 27984) for the erection of a public buildingk to be used as a post office and customhouse at Morgan City, La.; to the Committee on Public Buildings and Grounds.

By Mr. DOUGHTON: A bill (H. R. 27985) providing for the purchase of a site and the erection thereon of a public building at Lenoir, in the State of North Carolina; to the Committee on Public Buildings and Grounds.

By Mr. NYE: A bill (H. R. 27986) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 27987) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 27988) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city; to the Committee on Interstate and Foreign Commerce.

By Mr. GILLETT: A bill (H. R. 27989) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut; to the Committee on Interstate and Foreign Commerce.

By Mr. FRENCH: A bill (H. R. 27990) to provide for the improvement of the Coeur d'Alene River in Idaho; to the Committee on Rivers and Harbors.

By Mr. MOORE of Pennsylvania: A bill (H. R. 27991) to repeal part of an act entitled "An act to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone," approved August 24, 1912; to the Committee on Ways and Means.

By Mr. HOBSON: A bill (H. R. 27992) to authorize the creation of a temporary commission to investigate and make rec-

ommendation as to the necessity or desirability of establishing a national aerodynamical laboratory, and prescribing the duties of said commission, and providing for the expenses thereof; to the Committee on Naval Affairs.

By Mr. HEFLIN: A bill (H. R. 27993) to provide for the erection of a public building on the line between the city of West Point, Ga., and the city of Lanett, Ala.; to the Committee on Public Buildings and Grounds.

By Mr. ADAMSON: A bill (H. R. 27994) to provide for the erection of a public building on the line between the city of West Point, Ga., and the city of Lanett, Ala.; to the Committee on Public Buildings and Grounds.

By Mr. FERRIS: A bill (H. R. 27995) for the relief of the Iowa Tribe of Indians of Oklahoma; to the Committee on Indian Affairs.

By Mr. HOUSTON: A bill (H. R. 27996) to amend an act approved August 23, 1912, entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes"; to the Committee on the Census.

By Mr. AUSTIN: A bill (H. R. 27997) to further amend an act approved August 13, 1894, entitled "An act for the protection of persons furnishing materials and labor for the construction of public works," and for other purposes; to the Committee on Public Buildings and Grounds.

By Mr. FERRIS: Resolution (H. Res. 773) referring the bill (H. R. 27995) for the relief of the Iowa Tribe of Indians in Oklahoma to the Court of Claims; to the Committee on Indian Affairs.

By Mr. KINDRED: Resolution (H. Res. 774) authorizing the printing and binding in volume form, with accompanying illustrations, of 100,000 copies of the special article on trachoma, etc., among the Indians and others in the United States; to the Committee on Printing.

By Mr. HOBSON: Joint resolution (H. J. Res. 382) proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURKE of Wisconsin: A bill (H. R. 27998) granting an increase of pension to Elvin A. Estey; to the Committee on Invalid Pensions.

By Mr. DICKINSON: A bill (H. R. 27999) granting an increase of pension to Robert L. McMurtry; to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 28000) for the relief of the legal representatives of Mary A. Cameron and John Cameron, deceased; to the Committee on War Claims.

By Mr. FERGUSSON: A bill (H. R. 28001) for the relief of Alfonso M. Skinner; to the Committee on Naval Affairs.

Also, a bill (H. R. 28002) granting an increase of pension to Pascualita J. Garcia de Anaya; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28003) granting an increase of pension to Margarita S. Salazar; to the Committee on Invalid Pensions.

By Mr. FRENCH: A bill (H. R. 28004) for the relief of H. E. Johnson, John F. Shelley, Jane M. Johnson, and Duff Quinn; to the Committee on Claims.

By Mr. GARDNER of Massachusetts: A bill (H. R. 28005) granting a pension to Sarah K. Marshall; to the Committee on Invalid Pensions.

By Mr. HENSLEY: A bill (H. R. 28006) granting a pension to Annie Burk; to the Committee on Pensions.

By Mr. LEE of Pennsylvania: A bill (H. R. 28007) granting an increase of pension to Cornelius A. Enterline; to the Committee on Invalid Pensions.

By Mr. MANN: A bill (H. R. 28008) to correct the military record of Sylvester De Forest; to the Committee on Military Affairs.

By Mr. PARRAN: A bill (H. R. 28009) for the relief of Joseph Sedlack; to the Committee on Naval Affairs.

By Mr. PRINCE: A bill (H. R. 28010) granting an increase of pension to Andrew T. Machesney; to the Committee on Invalid Pensions.

By Mr. THAYER: A bill (H. R. 28011) granting a pension to Elno H. Abells; to the Committee on Invalid Pensions.

By Mr. WEBB: A bill (H. R. 28012) granting a pension to Mary N. Nichols; to the Committee on Invalid Pensions.

By Mr. WHITE: A bill (H. R. 28013) granting an increase of pension to Emma C. Kennedy; to the Committee on Invalid Pensions.

By Mr. WILDER: A bill (H. R. 28014) granting a pension to Lucy Button; to the Committee on Invalid Pensions.

By Mr. WOOD of New Jersey: A bill (H. R. 28015) granting a pension to Wesley C. Beatty; to the Committee on Pensions.

Also, a bill (H. R. 28016) granting an increase of pension to Catharine J. Wesley; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of W. H. Packhard and 5 other merchants of Uhrichsville, Ohio, favoring the passage of legislation giving the Interstate Commerce Commission further power toward the control of express companies; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Order of the Knights of Labor, favoring the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. DRAPER: Petition of Judson G. Wall, of New York, favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

By Mr. FORNES: Petition of the Italian Chamber of Commerce, of New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of Judson G. Wall, of New York, favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of Sol Bloom, of New York, protesting against the passage of the Oldfield patent bill prohibiting the fixing of prices by the manufacturers of patent articles; to the Committee on Patents.

By Mr. HIGGINS: Petition of the city council of the city of New London, Conn., asking the repeal of amendment of the sundry civil appropriation bill prohibiting further appointments of cadets or cadet engineers for the Revenue-Cutter Service except by consent of Congress; to the Committee on Appropriations.

By Mr. LINDSAY: Petition of John Traver, Samsonville, N. Y., favoring the passage of House bill 1339, granting increase of pension to the veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

Also, petition of Sol Bloom, New York, protesting against the passage of the Oldfield patent bill prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the National Soil Fertility League, Chicago, Ill., favoring the passage of the Smith-Lever bill for the improvement of agriculture; to the Committee on Agriculture.

By Mr. MANN: Petition of Victor L. Barkey and I. B. Rosenback, of Chicago, Ill., protesting against the passage of House bill 27158 relative to making and selling of shoes; to the Committee on Interstate and Foreign Commerce.

By Mr. MOORE of Pennsylvania: Petition of the Italian Chamber of Commerce of New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. NEELEY: Petition of citizens of Laden and Kiowa and Gray Counties, Kans., all favoring the passage of the Kenyon-Sheppard liquor bill prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of citizens of Barton County, Kans., protesting against the passage of House bill 26464, granting pensions to Presidents of the United States and their widows and minor children; to the Committee on Pensions.

By Mr. PLUMLEY: Petition of George M. McKnight and 14 others, asking that the Vermont delegation in Congress take no action detrimental to the interest of the farmers of Vermont; to the Committee on Agriculture.

Also, petition of John Harrigan and 18 other merchants of Northfield, Vt., protesting against the passage of the Oldfield patent bill prohibiting the fixing of prices by the manufacturers of patent articles; to the Committee on Patents.

By Mr. SMITH of Texas: Petition of citizens of Buffalo Gap, Tex., favoring the passage of legislation prohibiting the persecution of the editors of the Appeal to Reason by the officials of the United States; to the Committee on Rules.

By Mr. STEPHENS of California: Petition of residents of Los Angeles County, Cal., protesting against the proposed tariff reduction on raw and refined sugar; to the Committee on Ways and Means.

By Mr. TILSON: Petition of the Connecticut Fish and Game Protective Association of the State of Connecticut, favoring the passage of House bill 23839, for the establishment of game

reservations on national lands; to the Committee on Agriculture.

By Mr. UNDERHILL: Petition of the Central Federated Union of New York and Vicinity, protesting against the passage of the Kenyon-Sheppard bill; to the Committee on the Judiciary.

Also, petition of the American Federation of Labor, favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

By Mr. WICKERSHAM: Petition of resident fishermen of Ketchikan, Alaska, praying for the passage of legislation prohibiting the setting of fish traps in the tidal waters of Alaska; to the Committee on the Territories.

By Mr. WILSON of New York: Petition of the National Academy of Design, of New York, protesting against any action on the part of Congress conflicting with the design set forth by the Washington Park Commission for the development of Washington; to the Committee on the Library.

Also, petition of the Italian Chamber of Commerce of New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. WOOD of New Jersey: Petition of the Presbyterian Synod of New Jersey, favoring the passage of legislation to enforce the proper observance of the Sabbath in the District of Columbia; to the Committee on the District of Columbia.

Also, petition of the Presbyterian Synod of New Jersey, favoring the passage of the Kenyon-Sheppard bill, prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

SENATE.

TUESDAY, *January 14, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. GALLINGER and by unanimous consent, the further reading was dispensed with and the Journal was approved.

PRAIRIE COUNTY, ARK., *v.* THE UNITED STATES (S. DOC. NO. 1005).

The PRESIDENT pro tempore (Mr. BACON) laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact and conclusion filed by the court in the cause of Prairie County, Ark., *v.* The United States, which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed.

PRESERVATION OF NATIONAL ARCHIVES.

The PRESIDENT pro tempore. The Chair presents a communication from the president of the New Hampshire Historical Society——

Mr. GALLINGER. I ask that it may be read, so that it may go in the RECORD.

The PRESIDENT pro tempore. It will be read, as requested by the Senator from New Hampshire.

The communication was read, as follows:

WASHINGTON, D. C., *January 11, 1913.*

To the PRESIDENT PRO TEMPORE OF THE SENATE,
Washington, D. C.

SIR: At the annual meeting of the New Hampshire Historical Society, which was fully attended, on January 9, 1913, the society voted unanimously in favor of an appropriation by the Congress of the United States for the erection of a building for the preservation of the national archives at Washington.

As president of the society, I am directed to communicate to the Senate the fact that this vote was passed.

So urgent is the need, and so worthy the object, that I indulge the hope that at the present session a suitable appropriation will be voted by the Senate. I have the honor to be

Your obedient servant,

FRANK W. HACKETT,
President of the New Hampshire Historical Society.

Mr. GALLINGER. I move that the communication be referred to the Committee on Appropriations and be printed.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. GALLINGER presented petitions of the Union Evangelistic Committee of sundry churches of Nashua, and of the congregations of the Central Congregational Church, of Derry, and of the First Baptist Church of Nashua, all in the State of New Hampshire, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a petition of White Mountain Council, No. 506, Knights of Columbus, of Berlin, N. H., praying that an appropriation be made for the construction of a public building in that city, which was referred to the Committee on Public Buildings and Grounds.

Mr. WORKS presented a memorial of sundry citizens of Los Angeles County, Cal., remonstrating against a reduction of the duty on sugar, which was referred to the Committee on Finance.

Mr. JACKSON presented a petition of sundry citizens of Montgomery County, Md., praying that an appropriation be made for the construction of a public highway from Washington, D. C., to Gettysburg, Pa., as a memorial to Abraham Lincoln, which was ordered to lie on the table.

He also presented a petition of sundry citizens of Princess Anne, Md., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. BRISTOW presented a petition of the congregation of the Metropolitan Presbyterian Church, of Washington, D. C., praying for the passage of the so-called Kenyon "red-light" injunction bill, which was ordered to lie on the table.

Mr. O'GORMAN presented a petition of sundry assistant inspectors of steam vessels at the port of New York, praying that they be granted an increase in their salaries, which was referred to the Committee on Appropriations.

He also presented a resolution adopted by the Board of Aldermen of Buffalo, N. Y., favoring the selection of the name "City of Buffalo" for one of the proposed new battleships, which was referred to the Committee on Naval Affairs.

Mr. LODGE presented the memorial of Joseph R. Churchill, of Dorchester, Mass., and a memorial of members of the Massachusetts Civic Alliance, remonstrating against the enactment of legislation providing for the parole of Federal life prisoners, which were ordered to lie on the table.

He also presented petitions of sundry citizens of West Newton and Newtonville, in the State of Massachusetts, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a resolution adopted by the Woman's Club, of Fall River, Mass., remonstrating against transferring the control of the national forests to the several States, which was referred to the Committee on Forest Reservations and the Protection of Game.

He also presented a petition of sundry citizens of Lee, Mass., praying for the enactment of legislation providing for the protection and preservation of migratory birds, which was ordered to lie on the table.

Mr. WETMORE presented a petition of Nanaquaket Grange, of Tiverton, R. I., and a petition of North Scituate Grange, Patrons of Husbandry, praying for the establishment of agricultural extension departments in connection with State agricultural colleges, which were ordered to lie on the table.

NATIONAL AERODYNAMICAL LABORATORY.

Mr. WARREN, from the Committee on Appropriations, to which was referred the bill (S. 8053) to authorize the creation of a temporary commission to investigate and make recommendation as to the necessity or desirability of establishing a national aerodynamical laboratory, and prescribing the duties of said commission, and providing for the expenses thereof, reported it without amendment and submitted a report (No. 1107) thereon.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BRISTOW:

A bill (S. 8107) granting an increase of pension to Minnie A. Piety; to the Committee on Pensions.

By Mr. GALLINGER:

A bill (S. 8108) authorizing the purchase or acquisition of the aviation field at College Park, Md., and property adjacent thereto for aviation, maneuvers, and other military purposes (with accompanying papers); to the Committee on Military Affairs.

By Mr. McLEAN:

A bill (S. 8109) granting an increase of pension to Anna M. Thomas (with accompanying papers); to the Committee on Pensions.

By Mr. GUGGENHEIM:

A bill (S. 8110) authorizing the Secretary of War, in his discretion, to deliver to the city of Trinidad, Colo., two condemned bronze or brass cannon, with their carriages and a suitable outfit of cannon balls; and

A bill (S. 8111) authorizing the Secretary of War, in his discretion, to deliver to the city of Rocky Ford, Colo., two condemned bronze or brass cannon, with their carriages and a suitable outfit of cannon balls; to the Committee on Military Affairs.

By Mr. STONE:

A bill (S. 8112) to correct the military record of Patrick F. Carmody; to the Committee on Military Affairs.

By Mr. PERKINS:

A bill (S. 8113) to amend section 3221 of the Revised Statutes of the United States as amended by section 6 of the act of March 1, 1879; to the Committee on Finance.

By Mr. ROOT:

A bill (S. 8114) to prevent discrimination in Panama Canal tolls; to the Committee on Interoceanic Canals.

By Mr. O'GORMAN:

A bill (S. 8115) granting an increase of pension to Gail E. Plunkett (with accompanying papers); to the Committee on Pensions.

By Mr. GORE:

A bill (S. 8116) to amend the judicial system of the United States by increasing the membership of the Supreme Court of the United States; to the Committee on the Judiciary.

By Mr. OWEN:

A bill (S. 8117) for the relief of the Iowa Tribe of Indians in Oklahoma; to the Committee on Indian Affairs.

A bill (S. 8118) providing means for making effective the law relating to the publicity of campaign contributions, and for other purposes; to the Committee on Privileges and Elections.

CONSTITUTIONAL AMENDMENT RELATIVE TO IMPEACHMENT.

Mr. POMERENE. I introduce a joint resolution, and ask that it may lie on the table until I call it up on a subsequent day. I also ask that the joint resolution may be read.

The joint resolution (S. J. Res. 152) proposing an amendment to the Constitution relating to impeachment was read the first time by its title and the second time at length, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein):

First, that clause 5 of section 2 of Article I of the Constitution be amended so as to read as follows:

"The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment, except, however, that the Congress may provide by law for other methods of impeachment for all civil officers of the United States except the President, Vice President, and members of the Supreme Court."

Second, that clause 6, section 3, of Article I of the Constitution be amended so as to read as follows:

"The Senate shall have the sole power to try all impeachments. When sitting for that purpose Senators shall be on oath or affirmation. When the President of the United States is tried the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present; except, however, that the Congress may provide by law for other causes of impeachment than those now provided for and other methods for the trial of all civil officers except the President, Vice President, and members of the Supreme Court."

The PRESIDENT pro tempore. The joint resolution will lie on the table in accordance with the request of the Senator from Ohio.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. CATRON submitted an amendment proposing to appropriate $121,600 for the support and education of 400 Indian pupils at the Indian school at Albuquerque, N. Mex., and $124,600 for the support and education of 400 Indian pupils at the Indian school at Santa Fe, N. Mex., etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. GALLINGER submitted an amendment proposing to increase the appropriation for the salaries of the day watchmen at the parks in the District of Columbia from $720 per annum to $900 per annum, etc., intended to be proposed by him to the legislative appropriation bill, which was ordered to lie on the table and be printed.

Mr. MYERS submitted an amendment proposing to appropriate $18 to pay Henry McClain for services in carrying the mail between Carlton, Mont., and the Northern Pacific Railway station, from August 1 to September 13, 1907, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to appropriate $25,000 for the extermination of the Rocky Mountain spotted fever, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to appropriate $100,000 for surveying public lands in the State of Montana, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. GUGGENHEIM submitted an amendment authorizing the Secretary of the Interior to enroll Tilla A. Provost and her son Harold Provost upon the roll of the Nebraska Winnebago Indians, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment authorizing the Commissioners of the District of Columbia to strike from the plan of the permanent system of highways for the District of Columbia Crittenden Street NW., between Iowa Avenue and Seventeenth Street, etc., intended to be proposed by him to the District of Columbia appropriation bill, which was referred to the Committee on the District of Columbia and ordered to be printed.

Mr. OWEN submitted an amendment, proposing to appropriate $600,000, being the balance and final payment due the loyal Creek Indians on the award made by the Senate the 16th day of February, 1903, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. PERKINS submitted an amendment, providing that the proceeds arising from the sale of the lands known as the Klamath River Indian Reservation shall constitute a fund to be used for the maintenance and education of the Indians and their children now residing on those lands, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

IOWA INDIANS.

Mr. OWEN submitted the following resolution (S. Res. 429), which was read and referred to the Committee on Indian Affairs:

Resolved, That the bill (S. 8117) for the relief of the Iowa Indians, with the accompanying papers, including Senate Document No. 486, Sixty-second Congress, second session, be, and the same is hereby, referred to the Court of Claims for a finding of fact and conclusions of law, under the provisions of the act approved March 3, 1911, entitled "An act to codify, revise, and amend the laws relating to the judiciary."

RURAL BANKING SYSTEM IN VIRGINIA (S. DOC. NO. 1006).

Mr. FLETCHER. I ask to have printed as a document a proposed plan for the organization of a rural banking system in Virginia. It is a paper prepared by Charles Hall Davis, a distinguished attorney of Petersburg, Va. I make this request with the idea that it may be of use throughout the country. It is simply a plan on the subject of rural banks. It is not a very long paper, and I should like to have it printed as a document.

The PRESIDENT pro tempore. The Senator from Florida asks unanimous consent that the paper relative to rural banking may be printed as a Senate document. Is there objection? The Chair hears none, and it is so ordered. Are there any concurrent or other resolutions to be offered? If not, the morning business is closed.

MEMORIAL SERVICES FOR THE LATE REPRESENTATIVE W. W. WEDEMEYER.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced to the Senate that the House had passed a resolution appointing a committee of 15 Members, with such Members of the Senate as may be joined, to attend memorial services for Hon. WILLIAM W. WEDEMEYER, late a Representative from the State of Michigan, to be held at Ann Arbor, Mich.

Mr. TOWNSEND. May I ask to have laid before the Senate the resolutions which have just come from the House?

The PRESIDENT pro tempore laid before the Senate the following resolutions of the House of Representatives, which were read:

IN THE HOUSE OF REPRESENTATIVES,
January 11, 1913.

Resolved, That a committee of 15 Members of the House, with such Members of the Senate as may be joined, be appointed to attend memorial services for Hon. WILLIAM W. WEDEMEYER, late a Representative from the State of Michigan, to be held at Ann Arbor, Mich.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of this resolution, and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Mr. TOWNSEND. I offer the following resolution and ask for its immediate consideration.

The PRESIDENT pro tempore. The resolution will be read.

The resolution (S. Res. 430) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That a committee of six Senators be appointed by the President pro tempore, to join a committee appointed by the House of Representatives, to attend memorial services for Hon. WILLIAM W. WEDEMEYER, late a Representative from the State of Michigan, to be held at Ann Arbor, Mich., on January 26, 1913, at 2 o'clock p. m.

The PRESIDENT pro tempore appointed as the committee on the part of the Senate under the resolution Mr. TOWNSEND, Mr. SMITH of Michigan, Mr. JONES, Mr. KENYON, Mr. ASHURST, and Mr. POMERENE.

PANAMA CANAL TOLLS.

Mr. ROOT. Mr. President, I ask leave to give notice that on Tuesday next, the 21st of this month, immediately after the routine morning business, with the permission of the Senate, I shall make some observations regarding the rights and duties of the United States in respect of tolls for passing through the Panama Canal.

THE PRESIDENTIAL TERM.

Mr. CUMMINS. Mr. President, I desire to call the attention of the Senate to the unfinished business, which is the joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States, and to ask unanimous consent to fix a time for a vote upon the joint resolution. I feel, Mr. President, that in order to be fair to the Senator from Vermont [Mr. PAGE], who is in charge of the bill to be taken up immediately after the joint resolution is disposed of, I must do what I can to bring the joint resolution on for a vote.

I therefore ask unanimous consent that on Thursday of this week, immediately after the disposition of the routine morning business, Senate joint resolution 78 shall be taken up and considered continuously, and that a vote shall be taken upon it and upon all amendments that have been or may be offered to it during that legislative day.

Mr. GALLINGER. I will ask the Senator whether many Senators or any Senators have signified a desire to discuss the joint resolution?

Mr. CUMMINS. I have heard of but one Senator who desires to speak on the joint resolution who has not already spoken.

Mr. GALLINGER. I will say for myself, while I shall not discuss it I should like to hear some Senators who are better able and better prepared to discuss the question than I myself am, because my mind is unsettled at the present moment as to whether or not I shall vote for the joint resolution. I have been inclined to do so, but I am not quite certain as to whether I am sufficiently informed.

Mr. CUMMINS. I name this early date not because I am opposed to a somewhat later date, but I feel that the Senator from Vermont has a right to insist that I shall do everything in my power to bring the joint resolution to a vote, inasmuch as, having had unanimous consent for the consideration of his bill upon the disposition of this joint resolution, he can not move until we do vote upon the joint resolution.

Mr. GALLINGER. I quite sympathize with the view the Senator has expressed and his desire to be courteous toward the Senator from Vermont, yet I think the date the Senator suggests is too early. I think if the Senator would ask for a vote on the joint resolution upon some day next week, probably there would be no objection; say a week from Thursday.

Mr. CUMMINS. I will then change it to a week from Thursday. I think that would probably be satisfactory to the Senator from Vermont.

Mr. ROOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from New York?

Mr. CUMMINS. I do.

Mr. ROOT. I feel a little troubled about the prospect of having one of our hard and fast unanimous-consent agreements shut down the discussion of this proposed constitutional amendment. I am in favor of the principle of the amendment. I think I reported to the Judiciary Committee favorably the original joint resolution introduced by the Senator from California [Mr. WORKS] with some slight changes. That has now been reported to the Senate with still further changes. But it is a matter of very great importance, and it seems to me what we ought to do is to discuss it. I should like some course to be followed which would compel the mind of the Senate to be put upon this measure before we vote on it. It would be very unfortunate if we had to vote without having thought about it. Would not that purpose be answered by making it a special order for consideration without having an absolute time fixed?

Mr. LODGE. It is now the unfinished business and comes up every day automatically. A special order for its consideration is not required.

Mr. CUMMINS. I quite agree with the Senator from New York, but if we fix it for Thursday of next week, and then allow the legislative day for its consideration, there is no possibility of cutting off debate.

Mr. GALLINGER. If the Senator will permit me, in the meantime it comes up automatically at 2 o'clock each day until that time, and unless it is laid aside it can be discussed.

Mr. ROOT. I will agree to any course so long as we shall not find ourselves face to face to a vote without anyone having discussed it or our minds having been put on it.

Mr. CUMMINS. I may say that I intend, in the meantime, to make some observations on it.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from California?

Mr. CUMMINS. I do.

Mr. WORKS. I was about to announce this morning, when the unfinished business should come before the Senate, that I expect to insist on its being kept before the Senate in order that it may be discussed, and not allow it to be passed over, as it has been, for weeks and weeks without anyone having said anything about it. That would give everyone an opportunity to express his views with respect to it.

But I agree with the Senator from Iowa that some time should be fixed for a vote. In the meantime I hope Senators will take the opportunity to discuss the joint resolution, because it is a very important measure. I have said all probably that I shall desire to say about it, but I shall hope to hear other Senators express their views upon this question, which I regard of much importance to the country.

Mr. BRISTOW. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Kansas?

Mr. CUMMINS. I yield to the Senator from Kansas.

Mr. BRISTOW. There are one or two Senators not present who I know are very much interested in the joint resolution, and if the Senator from Iowa will not press his request for unanimous consent for a vote, but simply bring up the measure as the unfinished business and insist upon its consideration for a day or two, I should think it would be more desirable.

Mr. CUMMINS. I do not feel that I can do that. The Senator from Kansas must, I am sure, appreciate the obligation that I feel toward the Senator from Vermont.

Mr. ROOT. The Senator from Iowa wishes to get the joint resolution out of the way.

Mr. CUMMINS. The Senator from Vermont had his bill, by unanimous consent, fixed for the time after the disposition of this joint resolution. He comes to me, naturally, and says, "You must keep the joint resolution before the Senate and have a vote upon it and dispose of it." I recognize the validity of that position. If we could have a time fixed for a legislative day in which we were to dispose of it, I think he would be wholly satisfied with that arrangement.

Mr. ROOT. Mr. President, we have been occupied during the whole of this session to a great extent with the trial of the impeachment case, so that there has not been any opportunity to consider and deal with other matters of serious importance. This subject broadens out in several directions. There is a joint resolution now in the hands of the Judiciary Committee relating to the change of the date of inauguration. That involves the broad question of the arrangement of our short term of the meeting of the old Congress, and legislation by the old Congress after the new Congress has been elected. I think there is a very general feeling that if we are to amend the Constitution in this particular, if we are going through the process of a constitutional amendment relating to the term of office of President, we ought to consider and deal with the present anomalous arrangement regarding the beginning of the presidential term and the beginning of the term of the new Congress elected at the same time with the President. As it now stands, we elect a President and a new Congress in the first week in November. Then, while this newly elected President and newly elected Congress stand about for four months waiting for their opportunity, the old President and the old Congress proceed with the government of the country. There are many inconveniences and evils arising from that arrangement. The reasons which led to the establishment of that long intervening period in the early history of the country no longer exist.

The whole subject is now treated in a report which is pending before the Judiciary Committee, and I think it ought to be considered at the same time that we consider this proposed amendment regarding the length of the term of the presidential office.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from California?

Mr. CUMMINS. I thought I yielded to the Senator from Kansas [Mr. BRISTOW]. I do not want to give up my right to the floor.

Mr. WORKS. I should like to ask the Senator from New York what necessary connection he thinks there is between the mere fixing of the term and the time of the commencement of that term, and why the two should be considered together?

Mr. ROOT. Of course, Mr. President, we could change the length of the term without changing the time for its beginning, but if we are going through the process of a constitutional amendment about the term of the President, it certainly would be prudent to make whatever change we are going to make in one amendment and with one submission to the people.

Mr. WORKS. However, the amendments relate to different sections of the Constitution and can not be considered together. There would have to be a separate vote upon them, and they would necessarily have to be considered separately. I fail to see any connection between the two that would involve any joint discussion of them. The discussion of one or the other might retard action upon either, and might have some effect upon the passage of one or the other, which I think should not happen.

Mr. CUMMINS. I yield to the Senator from Kansas [Mr. BRISTOW], who rose a moment ago.

Mr. BRISTOW. Mr. President, I wanted to ask the Senator from Iowa not to press for unanimous consent for a vote to-day, but to content himself with having the matter taken up as the unfinished business, and to insist upon its consideration. That would be much more satisfactory to me, because, as I have said, I know of one or two Senators, who are not now present, who would like to be present before a positive date is fixed for a vote.

Mr. CUMMINS. I recognize that the Senator from Kansas can prevent a unanimous-consent agreement; but I think any Senator who wants to debate the joint resolution would have a better opportunity under my proposal than he would if it were taken up this afternoon.

In answer, however, to the Senator from Kansas, I will say that if the unanimous consent is not granted I shall feel it my duty to insist upon the consideration of the joint resolution at 2 o'clock, and that we proceed with it until it is acted upon, or until it is displaced by a vote of the Senate.

Mr. BRISTOW. I have no objection to the consideration of the joint resolution. Of course, I do not suppose the Senator from Iowa would want to unduly press it to a vote; but if he gets a vote within the next week or so, I suppose that would be acceptable.

Mr. CUMMINS. Mr. President, I do not think anyone can charge me with having unduly pressed the joint resolution. It has been the unfinished business for a long time. I tried very hard to get a vote upon it at the last session, as Senators know, and I think, when I have suggested that 10 days nearly shall elapse before we proceed with it, and then that the vote shall be taken during the legislative day named, I have given every opportunity to consider the question that fairness would require.

Mr. BRISTOW. If the Senator will defer his request until later in the day, I probably shall not make any objection to it; but I would rather it should not be pressed just at this time.

Mr. WORKS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from California?

Mr. CUMMINS. I do.

Mr. WORKS. In this connection I desire to give notice that, unless some time is fixed for a vote upon the joint resolution, I shall insist upon its being kept before the Senate. That will give every Senator an opportunity to discuss it, if he so desires; but it seems to me that it has been postponed long enough and that the Senate should consider it at this time. Of course, if a unanimous-consent agreement can be arrived at which will fix the time for voting, I have no objection to that at all; but otherwise, I repeat, I shall insist upon the regular order when the joint resolution comes up for consideration.

Mr. BRISTOW. For the present I shall have to interpose an objection to the fixing of the date proposed. I may withdraw that objection later on during the day when the Senator again brings up the joint resolution. For the present, however, I would rather not have that date fixed.

Mr. McLEAN. Mr. President——

Mr. ROOT. Mr. President, has morning business closed?

The PRESIDENT pro tempore. Morning business has closed. That announcement has been made, and the Senator from Connecticut [Mr. McLEAN] has been recognized. The Chair, however, will receive anything which Senators may now desire to offer by unanimous consent.

PETACA LAND GRANT.

Mr. ROOT. I ask leave to submit a report.

The PRESIDENT pro tempore. The report will be received, in the absence of objection.

Mr. ROOT. I am directed by the Committee on the Judiciary, to which was referred the bill (S. 7385) to relinquish the claim of the United States against the grantees, their legal representatives and assigns, for timber cut on Petaca land grant, to report it without amendment, and to submit a report (No. 1106) thereon.

Mr. CATRON. I ask unanimous consent for the immediate consideration of the bill just reported by the Senator from New York [Mr. ROOT].

Mr. BORAH. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Connecticut yield? The Chair had recognized the Senator from Connecticut, and he yielded for the introduction of morning business.

Mr. McLEAN. I understand I have the floor, Mr. President.

The PRESIDENT pro tempore. The Senator from Connecticut has the floor.

PROTECTION OF BIRDS.

Mr. McLEAN. Mr. President, as the bill in regard to which I desire to address the Senate is very short, I ask that the Secretary read it.

The PRESIDENT pro tempore. The bill referred to by the Senator from Connecticut will be read.

The Secretary read the bill (S. 6497) to protect migratory game and insectivorous birds in the United States, as follows:

Be it enacted, etc., That all wild geese, wild swans, brant, wild ducks, snipe, plover, woodcock, rail, wild pigeons, and all other migratory game and insectivorous birds which in their northern and southern migrations pass through or do not remain permanently the entire year within the borders of any State or Territory, shall hereafter be deemed to be within the custody and protection of the Government of the United States, and shall not be destroyed or taken contrary to regulations hereinafter provided therefor.

SEC. 2. That the Department of Agriculture is hereby authorized to adopt suitable regulations to give effect to the previous section by prescribing and fixing closed seasons, having due regard to the zones of temperature, breeding habits, and times and line of migratory flight, thereby enabling the department to select and designate suitable districts for different portions of the country within which said closed seasons it shall not be lawful to shoot or by any device kill or seize and capture migratory birds within the protection of this law, and by declaring penalties by fine of not more than $100 or imprisonment for 90 days, or both, for violations of such regulations.

SEC. 3. That the Department of Agriculture, after the preparation of said regulations, shall cause the same to be made public, and shall allow a period of three months in which said regulations may be examined and considered before final adoption, permitting, when deemed proper, public hearings thereon, and after final adoption to cause same to be engrossed and submitted to the President of the United States for approval: *Provided, however*, That nothing herein contained shall be deemed to affect or interfere with the local laws of the States and Territories for the protection of nonmigratory game and other birds resident and breeding within their borders, nor to prevent the States and Territories from enacting laws and regulations to promote and render efficient the regulations of the Department of Agriculture provided under this statute.

SEC. 4. That there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, for the purpose of carrying out the provisions of this act, the sum of $10,000.

Mr. McLEAN. Mr. President, this bill, as will be noted, was reported back to the Senate in April, 1912. It has been on the calendar nine months, during six of which Congress has been in session. I have not tried to hasten action upon this measure, for several reasons. I think it probable that few Senators outside of the members of the committee which considered it have had the time or the opportunity to inform themselves with regard to its provisions. It presents a subject in which but few Senators have heretofore taken any interest, and a subject which at first is likely to arouse antagonisms which I believe are wholly undeserved. But, Mr. President, I think the time has come now when it is my duty to ask the Senate to consider some of the reasons which are urged in support of this measure, for it has been made clear to me that thousands, and I think I may say millions, of our constituents believe this bill to be of as high promise and importance as any remedial measure now pending before Congress.

Before I come to the question of ways and means, I want to put into the RECORD some of the reasons why Congress should find ways and means to protect the bird life of the country, and although my personal interest in the subject is considerable and my conclusions have been reached after some years of observation, I shall not assume to take the time of the Senate to do more than call attention to the opinions of those who speak as experts and who have made birds and their habits a life study.

As it is highly probable that very few Senators have had the time to read the reports of the Senate and House committees, or the printed report of the hearings before the Senate Committee on Forest Reservations and the Protection of Game, bearing upon this subject, I will first call attention to some of the data and conclusions found in these reports.

Mr. LEE of Georgia, from the House Committee on Agriculture, has the following observations to make on pages 1 and 2 of his report on H. R. 36, a bill to protect migratory and insectivorous game birds of the United States:

The committee gave a public hearing and a large amount of testimony was produced before it to sustain the provisions of the bill. It appeared that most of the States of the Union have laws more or less

effective in the protection of game or other birds resident and breeding within their borders, and by special reservation in the bill none of its provisions are to be deemed to affect or to interfere with these laws as to such birds or to prevent the States from enacting laws and regulations in aid of the regulations of the Department of Agriculture provided for in this bill. Through these local laws, however, it appeared that because of their nomadic habits little or no real protection was afforded water fowl and other migratory game birds, and therefore, to secure for them adequate protection, particularly in the spring, when they are on their way to their nesting grounds, they should be placed under the custody of the General Government. It also appeared that some of the most valuable species of these nomads would soon be extinct unless immediate congressional protection is afforded.

It was clearly shown that the economic aspect was twofold. The game birds yield a considerable and an important amount of highly valued food, and if given adequate protection will be a constant valuable asset. The insectivorous migratory birds destroy annually thousands of tons of noxious weed seed and billions of harmful insects. These birds are the deadliest foe yet found of the boll weevil, the gypsy and brown-tailed moths, and other like pests. The yearly value of a meadow lark or a quail in a 10-acre field of cotton, corn, or wheat is reckoned by experts at $5. The damage done to growing crops in the United States by insects each year is estimated, by those who have made the matter a special study, at about $800,000,000.

The majority of the committee believe that to give Federal protection to these birds is no invasion of State rights, for being migratory they belong to no single State, but to all the States over which they pass and within which they simply pause for food, rest, or breeding. It is believed that the question is purely a Federal one and that under the strictest construction of the Constitution these migratory birds may and should be subject and entitled to national protection by act of Congress.

The report from the Senate committee, beginning at the bottom of page 2, argues the case for the birds in the following language:

Anyone who has read recent estimates of the decrease in insectivorous birds and the increase of herbivorous insects can readily believe that as the mammals succeeded reptiles insects will soon possess the earth unless some agency is discovered to check their increase.

We are prone to bear the usual and slowly accumulating burdens with dull resignation and patience. The life and property losses and taxes that are inherited and constant we take for granted. It is the concentrated and unusual calamities that shock and excite the spirit of opposition and the desire to prevent a recurrence. By the sinking of the *Titanic* 1,300 lives were lost, and the world was filled with fear and sympathy. Tuberculosis claims 190,000 victims a year in this country and pneumonia 160,000, yet we bear this awful loss of life with the passing comment that it is a great pity.

The San Francisco earthquake destroyed property to the value of $400,000,000. This loss was the superinducing cause of the panic of 1907, which reduced values by the billions. If it were known to-day that the country would suffer another such loss within its borders in the year 1912, the wheels of progress the world over would halt in sympathetic fear.

A short time ago the farmers of the country, especially in the Northwest, were much agitated because of the proposed reciprocity agreement with Canada. The loss which they, together with other farmers of the country, will suffer this year and which will benefit no one will exceed by hundreds of millions of dollars the total value of the entire wheat crop of the Nation.

As long ago as 1904 Dr. C. L. Marlatt, basing his estimates on the crop reports of the United States Department of Agriculture, asserted that the loss to the agricultural industries in that year caused by insects alone could be conservatively placed at $795,100,000, and this estimate does not include a dollar for the use of insecticides.

Mr. Forbush, in his most comprehensive book entitled "Useful Birds," maintains that the insect pests destroy agricultural products to the value of $800,000,000 a year. We use large numbers so freely in these days that hundreds of millions mean no more to us than hundreds of thousands did a few years ago. There are about 600 colleges in the United States to-day. Their buildings and endowments have been centuries in accumulation. The value of the college and university buildings is estimated at $260,000,000 and the endowments at $219,000,000. If they should be destroyed to-morrow—buildings and endowments—the insect tax of one year would replace them and leave a balance sufficient to endow 32 new universities in the sum of $10,000,000 each.

We have in this country to-day about 20,000,000 school children, and the cost of their education has become by far the heaviest tax laid upon the surplus of the country, yet it costs more by many millions to feed our insects than it does to educate our children. If there is any way in which this vast and destructive tax upon the national income can be prevented or stayed or resisted in any appreciable measure it would seem to be the part of wisdom to act without delay.

For many years individuals, at their own expense, and voluntary societies and representatives of the civilized nations the world over have studied and estimated the value of birds to the human race. We call attention at this time to but a few of the estimates made, and such as seem to be fair and reliable, but enough, we think, to prove that in this country at least we have ruthlessly disturbed, if not destroyed, one of nature's wisest and most valuable balances between the birds and their natural food, and it is clear to those informed upon this subject that unless radical and immediate measures are adopted to restore a sure, safe, and natural equilibrium between insectivorous birds and their foods the time will soon come when the annual loss caused by insects to agriculture in this country alone will be counted in billions instead of millions of dollars.

Most insects, like the green leaf louse, or aphis, so destructive to the hop industry and many other of our most valuable fruits and vegetables, reproduce their kind at the rate of ten sextillion to the pair in one season. This number means 40,000 for every square inch of land that is above water. Placed in Indian file, 10 to the inch, it would take light, traveling at the rate of 180,000 miles per second, 2,500 years to reach the file leader.

The potato bug is less fecund. One pair will reproduce from fifty to sixty millions only in a season. The natural increase of one pair of gypsy moths would defoliate the United States in eight years.

These estimates I quote from Prof. Forbush, who in turn gathered them from the United States Biological Survey, and we may say that these cases are fair examples of the reproductive powers of the insectile world. Locusts, army worm, and chinch bugs, unless checked in procreation, soon become countless hordes, devastating wide areas of the earth's surface.

It is to be remembered that insects live to eat. Some of them increase their size at birth 10,000 times in 30 days. Dr. Lintner, of the New Jersey Board of Agriculture, reports 176 species of insects attacking the apple tree. (U. S. Biological Survey.) About the same number attack the peach, plum, and cherry trees. Dr. Packard finds 400 species feeding upon the oak; 300 attack the conifera. The number feeding upon cereals, grains, and garden crops is also very large.

The reports of the Bureau of Entomology show that destruction by some insects is widely spread and are increasing. Dr. Marlatt estimates that the loss to the wheat-growing States in 1904 occasioned by the Hessian fly was about $50,000,000. Dr. Shinar estimates the damage done to crops in the Mississippi Valley caused by the chinch bug in one year as high as $100,000,000. The Rocky Mountain locusts, in years of their greatest activity, caused the States of the Northwest more than $150,000,000. Dr. Lintner estimates the annual loss to farmers caused by cut-worms at $100,000,000. The terrible loss of $800,000,000 a year is fairly easy of proof.

That the worm does not eat everything that grows is due to several causes—weather, parasites, fungi, insect diseases, insectivorous birds, and mechanically applied poisons, which are expensive, unnatural, and dangerous. However large may be the share of parasites, fungi, and weather in checking the increase of destructive insects, investigation shows that it is lamentably insufficient, and the briefs of the bird defenders pretty clearly indicate that the birds have been, are, and will be without question one of the most important agencies in staying the inroads of insect devastation. Men who have had this subject at heart and in hand for many years assert that bird life is one of the most indispensable balancing forces of nature.

We cite a few instances in support of the foregoing. All birds eat, and most of them eat most of the time, and they eat insects and little else. The old bird has just as keen an appetite as the young bird, and he is much larger and his daily ration is almost incredible.

Mr. Treadwell, of the Boston Society of Natural History, fed a young robin 68 angle or earth worms in one day. Mr. Nash, of the Ontario Department of Agriculture, fed a robin 70 cutworms a day for 15 days. A young crow will eat twice its weight a day of almost anything that happens to be brought before him. The State ornithologist of Massachusetts, Mr. Forbush, by careful and painstaking observation has collected much reliable information on this subject. He has seen two parent grosbeaks in 11 hours make 450 trips to their nests carrying two or more larvæ at a time. Sparrows, chickadees, vireos, martens, and warblers made from 40 to 60 trips an hour with their beaks filled with all manner of insects. Under the supervision of the United States Biological Survey the crops of 3,500 birds were examined. Thirty grasshoppers and 250 caterpillars were found in the crops of cuckoos. In the crop of a nighthawk were found 60 grasshoppers and in another 500 mosquitoes; 38 cutworms were found in the crop of a blackbird; 70 cankerworms were found in the crop of a cedar bird. Prof. Tschudi estimates the diet of a song sparrow at 1,500 larvæ a day.

Mr. Forbush estimates that a single yellow-throated warbler will consume 10,000 aphids or tree lice in a day. Scarlet tanagers have been seen to eat 35 gipsy moths a minute for 18 minutes at a time.

To quote further from Mr. Forbush on Birds:

"More than 50 kinds of birds feed upon different varieties of caterpillars; 38 varieties are known to feed upon devastating plant lice.

"Mr. McAtee, of the United States Biological Survey, reports that several of the most destructive species of scale insects are the food of not less than 50 kinds of birds. Beetles, cutworms, grubs, borers, locusts, grasshoppers, crickets, in fact most all of the injurious insects are food for a very great majority of the different kinds of birds.

"It is the general belief that the so-called game birds are seed rather than insect eaters. The fact is that the bulk of food of most of this class of birds consists of insects when insects are to be had.

"The quail, though not a migratory bird, and therefore not within the scope of the pending bill, should, however, be carefully protected by State legislation. It feeds upon locusts, chinchbugs, cotton worms, cotton-boll weevils, army worms, Colorado potato beetles, striped cucumber beetles, grasshoppers, ground beetles, and many others. The young feed almost entirely upon insects. Such seeds as they eat are largely those of the harmful weeds, as ragweed, smartweed, red sorrel, mercury, pigweed, and the like. If the quail can be protected and become numerous and fearless, they would become the most useful assistants and allies of the farmer.

"This is true in a great measure of the partridge or ruffled grouse, snipe, plover, sandpiper, woodcock, wood duck, and black duck, once so common all along the shores of our streams and pools. They were formerly great insect eaters, but they have been so persecuted by the hunters that they hardly now ever live there."

Prairie chickens, like the grouse and wild turkey, feed their growing young almost entirely upon insects, and the mature birds prefer this diet.

We quote from Prof. Forbush a few instances of crops saved from destruction by birds:

"In Pomerania an immense forest was in danger of being utterly ruined by caterpillars and was unexpectedly saved by cuckoos, which though on the point of migrating established themselves there for weeks and so thoroughly cleared the trees that next year neither depredators nor depredations were seen.

"In Europe, in 1848, there was a great outbreak of gypsy moths. The hand of man seemed powerless to work off the affliction, but on the approach of the winter titmice and wrens paid daily visits to the infested trees, and before spring the eggs of the moths were entirely destroyed.

"According to 'Reaumer,' the larvæ of the gypsy moth were at one time so numerous on the Limes at Brussels that many of the great trees were nearly defoliated. The moths swarmed like bees in the summer. If one-half of the eggs had hatched the following spring scarcely a leaf would have remained in these favorite places of public resort. Two months later scarcely an egg cluster would be found. This happy result was attributed to the titmice and creepers, which were seen busily running up and down the tree trunks.

"In 1892 Australia was afflicted with incursions of immense clouds of locusts. In Glen Thompson district several large flocks of ibis were seen eating the young locusts in a wholesome manner. Near Victoria swarms of locusts were seen in a paddock. Just as it was feared that all the sheep would have to be sold for want of grass, starlings, spoonbills, and cranes made their appearance, and in a few days made so complete a destruction of the locusts that but a few acres of grass were lost.

"When Utah was settled the first year's crop was almost utterly destroyed by myriads of crickets that came down from the mountains.

The first crop having been almost destroyed, they had sowed seed for the second year. The crop promised well, but when the crickets appeared the people were in danger of starvation. In describing the condition Mr. George Q. Cannon said: 'Black crickets came down by millions and destroyed our grain crops, promising fields of wheat in the morning were by evening as smooth as a man's hand—devoured by insects. At this juncture sea gulls came by thousands, and before the crops were entirely destroyed these gulls devoured the crickets, so that our fields were entirely free from them." Several times afterwards the crops were attacked by the crickets and were saved by the gulls.

"In 1865 locusts hatched out in countless numbers in Nebraska. Some fields of corn and wheat were entirely destroyed by them. A large field of corn near Dacotah City was literally covered with locusts, and there were indications that not a stalk would escape. About this time blackbirds appeared in large numbers and made this field their feeding ground. The locusts gradually disappeared. Although the crop had to be replanted, it was due to the birds that a crop was raised at all. Many fields were saved with but slight loss by the work of blackbirds, plover, quail, and prairie chickens.

"A severe outbreak of forest tent caterpillars occurred in New York and parts of New England in 1898. Thousands of acres of woodland were devastated, and great damage was done to the sugar-maple orchards of New York and Vermont. Birds—warblers, orioles, sparrows, robins, cuckoos, cedar birds, and many others—attacked the caterpillars vigorously, and by 1900 the plague had been so reduced that the injury was not seen.

"Increase of insects and damage by them follows destruction of birds. Frederick of Prussia, being particularly fond of cherries, was annoyed to see the sparrows destroying his favorite fruit. An edict was issued ordering sparrow extermination. The campaign against the birds was so successful that not only were the sparrows destroyed, but many other birds were either killed or driven away. Within two years cherries and most other fruits were wanting. The trees were defoliated by caterpillars and other insects, and the King, seeing his error, imported sparrows to take the place of those that had been killed.

"A few years since the harvests of France began to fail. A commission to investigate the cause of the deficiency was appointed by the minister of agriculture. This commission took counsel with experienced naturalists, and the deficiency was attributed to the ravages of insects that it is the function of birds to destroy. It seems that the French people had been killing and eating not only the game birds but the smaller birds as well. Birds' eggs had been taken in immense numbers. A single child had been known to come in at night with a hundred eggs. The number of eggs of birds destroyed in the country annually was estimated to be from eighty to one hundred millions. Before such persecution the birds were rapidly disappearing. As an apparent result of the destruction of the birds the vines, fruit trees, forest trees, grain and field crops were suffering much from destructive insects. It was concluded that by no other agency than the birds could the ravages of insects be kept down, and the commission called for prompt and energetic remedies to prevent the destruction of birds.

"The greatest losses from the ravages of the Rocky Mountain locust were coincident with or followed soon after the destruction by the people of countless thousands of blackbirds, prairie chickens, quail, upland plover, curlew, and other birds. This coincidence is significant at least. Prof. Aughey tells how this slaughter was accomplished. Vast numbers of them were poisoned with strychnine in and around the cornfields. It was done under the belief that the blackbirds were damaging the corn crop, but a great number of birds of other species were destroyed as well as the blackbirds.

"In Dakota County, in Nebraska, in one autumn not less than 30,000 birds must have been destroyed. Prof. Aughey writes thus of this destruction: 'Supposing that each of these 30,000 birds ate 150 insects daily, we then have the enormous number of 135,000,000 insects saved in this one county in one month that ought to have been destroyed by the agency of birds.' When we consider that most of these birds were migratory, and that they would have been busy in other regions the rest of the time in helping to keep down the increase of insects, the harm that their destruction did is beyond computation. The killing of such birds is not a local, it is a national, a continental loss."

All of the foregoing evidence goes to demonstrate the existence of a natural economic relation between these three orders of life. There is a sort of interdependence, and the existence of each one is dependent upon the existence of the others. But for the vegetation the insects would perish, and but for the insects the birds would perish, and but for the birds the vegetation would be utterly destroyed by the unchecked increase of insect destroyers.

Mr. GALLINGER. Will the Senator from Connecticut permit an interruption?

Mr. McLEAN. Certainly.

Mr. GALLINGER. The subject the Senator is discussing is one very near my heart, and I have been hoping the Senator would press this bill for consideration. I notice in the list of birds enumerated the wild pigeon. Does the Senator know where a live wild pigeon can be found to-day?

Mr. McLEAN. There are none; they are extinct.

Mr. GALLINGER. I think there is a stuffed one in the Smithsonian Institute, which is regarded as a curiosity. There was a time in my life when wild pigeons were so numerous in the country where I lived that we could pick them from the trees in the evening; the heavens were clouded with wild pigeons on certain days. And yet to-day, as I understand, there is not a live wild pigeon on this continent.

What is true of that bird is relatively true of a great many other very valuable birds, some of them song birds. The robins are being slaughtered, song birds of different kinds are being slaughtered ruthlessly, and we sit idly by and let it go on.

Last evening I spent an hour or two in looking over Hornaday's recent work on that subject, and I wish every Senator would peruse that book and ask himself the question whether the work the Senator is engaged in in trying to pass this bill is not one that ought to command the cooperation and support of every man in public life.

I am glad the Senator is discussing the subject in such an interesting way.

Mr. McLEAN. I will say that the book to which the Senator has referred, Mr. Hornaday's book, contains a photograph of the last survivor of its species—the wild pigeon—and that one is now dead.

Mr. GALLINGER. Yes; it does.

Mr. McLEAN. I call the attention of the Senate to the fact that Dr. Hornaday is conceded to be one of the great naturalists of the world. He is at present a director of the New York Zoological Park.

I will add here a few items bearing upon this subject which I have gathered since the printing of the Senate report.

Mr. William A. Lucas, dean of the American Game Bird Culture, is authority for the statement that—

If the present rate of ruthless destruction of our game birds is not checked, and vermin left to prey continually upon them, they will pass out of existence with the passing of this century.

From the publication of the Clifton Game and Forest Society of North America I desire to quote as follows:

Recent conquest of nature: When the last century opened, man's conquest of crude nature had not gone far except in scattered spots. An aeroplane survey of the world showed in Europe, Asia, and America a few immense national clear farming spaces, but the earth was still almost like a Garden of Eden. Ocean swarmed with whale, seals, sea otter, and sea birds. Animal and vegetable life of Africa and America had achieved perfect balance. Africa swarmed with life, mostly monstrous floral and faunal survivals of the latter end of the Tertiary epoch, while the Quaternary bird, beast, and plant life of America was amazing. The buffalo of Africa and the bison of America perhaps equaled in number all the world's beef cattle of to-day. The measureless wild pastures were kept cropped and orderly by vegetable eaters, and the vegetarians were prevented from eating the world to a blank, greenless desert by the hungry flesh eaters, for one lion at a meal could swallow all that a buffalo had eaten in a year. In this way meat-eating animals paradoxically preserved the vegetarians by eating them; saved vegetarians from themselves, kept down their number, and thus saved plant life, for everything depends upon plant life, and plant eaters, left alone by man and other meat eaters, would surely make a desert of the earth for themselves.

Animals and primitive man: As for man and his primitive weapons, the animals regarded him as a kind of Adam in Eden, so little did they fear him. Daniel Boone had to beat bison off with sticks, and the first Boers of the Veldt were stopped for days at a time by great, curious, fearless herds.

Clearing the earth of nature: White man's travels, trade, bullets, and bacteria are turning Africa into a faunal desert, and weeds are taking the place of its great beautifully balanced floral world. America has been cut, cleared, and harrowed of most wild things until only man's good and evil, wheat and weeds, possess it. Where white man goes, either his weeds or his farms must follow. So that by the end of this century the zoological and botanical gardens will be the only place for the lover of nature to see the scant remains of the world's paradise of biologic centuries agone, when all here was a finely balanced, well-ordered Garden of Eden, an earth full of the plants and animals that the Bible tells about.

I quote now from Dr. Hornaday, whose opinions are entitled to great weight:

Show me one farmer or forester who goes out of his way and labors and spends money to protect and attract his feathered friends and I will show you 99 who never lift one finger or spend a penny a year in such work.

And again—

If there was anything I could say that would penetrate the farmer's armor of indifference and sting him into activity on this subject, I would quickly insert the stinger, even at my own cost and loss. Did you ever know a real sure-enough farmer to subscribe to a fund for game protection or to spend time and money in attending legislative hearings in behalf of bird protection and increase? I never did; I mean the real farmers who depend upon their crops for their bread and butter.

Regarding the killing of robins and other song birds as food for man in a land of plenty there can not be two opinions. It is not necessary; it is not "sport"; it is very injurious to our farmers and fruit growers, and entirely reprehensible. No self-respecting man or boy can be guilty of such wrongdoing; no civilized community should tolerate it; and no farmer can afford to permit it. I would rather that any friend of mine should be caught stealing sheep than killing robins for food or "sport."

Because negroes of the South and others who know no better are disposed to kill robins and flickers and other valuable birds is no reason why we should either destroy or permit the destruction of our best friends.

Every one of the perching birds is worth its weight in gold to the farmer. It will indeed be a sad day for the American agriculturist when the last insect-destroying bird is brought fluttering and dead to the ground; then, if never before, will he appreciate the value of the allies he has lost forever; then, indeed, when it is too late will he be willing to exchange any quantity of berries or cherries for just one pair of living robins, catbirds, or other birds so despised and neglected to-day.

It is interesting to note here that in six States—Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Maryland—the robin is a game bird and is killed by the tens of thousands annually. In Louisiana, South Carolina, Tennessee, and Pennsylvania the blackbird is legally killed without limit, although it is recognized as one of the most effective destroyers of the harmful insects and worms. In 26 of the States the "mourning" or "turtle" dove has no protection from slaughter, although it is well known to feed chiefly on weed seeds. In many of the States the spring shooting of wild water fowl extends far beyond reasonable limits. In Virginia the season does

not close until May 1; in Maryland, April 10; Delaware, April 10; West Virginia, April 20; Indiana, April 15; Illinois, April 15; Nebraska, April 15; South Dakota, April 10; Pennsylvania, April 10; New Jersey, March 15; Rhode Island, March 31; North Carolina, March 31. It will be observed that in a line of States covering the entire flight of these birds shooting is allowed from the 1st of September until the 1st of May.

Dr. Joseph Kalbfus, secretary of the board of game commissioners, of Harrisburg, Pa., in his report of November 15, 1911, says:

It is sad, indeed, to consider how many there are in all walks of life who still fail to understand the work being done by sportsmen or the necessity for that work.

This is a condition brought to my notice almost daily, and I am writing this bulletin in the hope that I may say something that will cause you who may read it to take an interest in bird protection, and I care not whether the motive be religious, economic, æsthetic, humane, pathetic, or what not, only so you do something for the birds now; not after awhile, but to-day, before it is too late. How much better it would have been for this State and Nation if the question of forestry had been intelligently considered 40 or more years ago instead of now. How much better it would have been if the State had long ago thrown around her fisheries and her water supply and the health of her people the strong arm of protection that she is now attempting to extend. Our birds, once extinct, are gone forever. Remember that.

To the great majority of people birds are simply birds and nothing more; they are of no special value, either singly or collectively, because so many of us, although we have eyes, "see not." That is, we do not understand what the birds are doing. We fail to realize that birds are found everywhere throughout the known world, excepting in the center of the great deserts, and that no difference where they are found each family is doing a special work in its own peculiar way that no other family attempts to do except to a limited extent.

I some time ago had occasion to arrest one of this class, a trucker living near Harrisburg, for killing 12 robins in his cabbage patch. He admitted the killing, and said: "These birds were deliberately pulling up and destroying my cabbage plants; I know what I saw." A visit to this cabbage patch showed that many of the plants had been destroyed in some way. I saw robins vigorously pulling at and casting aside numerous plants, and it appeared from a distance that they were really doing a wrong. A closer examination demonstrated the fact that not a single root had been pulled from the ground. Every missing plant had been cut from the root below the ground line by wireworms, the larvæ of the clock beetle, not cutworms. I examined the hills where many plants had stood and took from the ground with my hands wireworms in numbers varying from 3, the least found at any place examined, to 43, the most found around any plant. These birds were doing a work for this man that he could not do for himself and at the same time gathering food for their young; and this person, calling himself a good citizen, had, without thought, without an examination, deliberately murdered these birds and left their little ones to starve in the nest. His attorney, who was with me, when shown the worms, said: "Doctor, he did not understand." This lack of understanding is the great trouble. If men only understood what the birds were doing they would not treat them as they do.

The cuckoo and the oriole appear to be created specially to destroy hairy caterpillars. The great naturalist, Audubon, writing of these two birds, said, "Their stomachs are lined with hair." And the dissection of the stomachs of either of these birds during the warm summer days will frequently show this statement to be true, a closer investigation demonstrating that while hair is found apparently growing upon the inside of the stomach it is really not the product of the stomach, but is instead the hair from the caterpillars eaten by the bird, each hair having perforated the inner lining of the stomach and remaining in that place, dissolved by the juices of the bird's stomach.

Dr. Kalbfus in this report quotes from the Biological Survey of the Department of Agriculture as follows:

Each family of our birds, almost without exception, is doing a work peculiar to itself; a special work that is of great value to the farmers and fruit growers of the Nation and that entitles each family of birds to protection.

In Farmers' Bulletin No. 497, issued May 6, 1912, William L. McAtee and F. E. L. Beal, assistants, Biological Survey, make the following report as to the value of upland plover and killdeer on pages 14 to 18, inclusive:

The upland plover forms a striking exception in habits to its closest relatives, the sandpipers. While sandpipers love the vicinity of water, the upland plover frequents dry hills and prairies and is most abundant in the interior. This so-called plover breeds from Oregon, Oklahoma, and Virginia north to Alaska, Mackenzie, and Maine, and migrates over the more southern parts of the continent, passing to the pampas of Argentina to spend the winters.

From its habits the upland plover would naturally be expected to have a closer relation to agriculture than most sandpipers, and such proves to be the case. Almost half its food is made up of grasshoppers, crickets, and weevils, all of which exact heavy toll from cultivated crops. Among the weevils eaten are the cotton-boll weevil; greater and lesser clover-leaf weevils; clover-root weevil; *Epicærus imbricatus*, which is known to attack almost all garden and orchard crops; cowpea curculios; *Tanymecus confertus*, an enemy of sugar beets; *Thecesternus humeralis*, which has been known to injure grapevines; and bill bugs. *Thecesternus* alone composes 3.65 per cent of the seasonal food of the 163 stomachs examined, and bill bugs constitute 5.83 per cent. No fewer than eight species of bill bugs were identified from the stomachs. These weevils injure, often seriously, such crops as corn, wheat, barley, and rye, as well as forage plants of many kinds.

The upland plover further makes itself useful to the farmer by devouring leaf-beetles, including the grapevine colaspis, southern corn-leaf beetles, and other injurious species—wireworms and their adult forms, the click beetles, white grubs and their parents, the May beetles, cutworms, army worms, cotton worms, cotton cutworms, sawfly larvæ, and leatherjackets or crane-fly larvæ. They befriend cattle by eating horseflies and their larvæ, and cattle ticks. They eat a variety of other animal forms, such as moths, ants, and other Hymenoptera, flies, bugs, centipedes, and millepedes, spiders, snails, and earthworms. Practically 97 per cent of the food consists of animal matter, chiefly of injurious and neutral forms. The vegetable food comprises the seeds of such weed pests as buttonweed, foxtail grass, and sand spurs, and hence is also to the credit of the bird.

Notwithstanding that the upland plover injures no crop and consumes a host of the worst enemies of agriculture, it is one of the numerous shore birds that have been hunted to the verge of extinction. Can it be that the American public will allow one of the best friends of agriculture to be exterminated by hunters who care only for the momentary excitement of dropping these swiftly flying birds and the pleasure of devouring the few mouthfuls of savory flesh they afford?

The killdeer is one of the best-known American birds. It frequents cultivated lands and even roads and the vicinity of buildings. It is well named "vociferous," for it delights in repeating the loud and penetrating call of "kill-dee, kill-dee," from which its common name is taken. The killdeer nests throughout the United States and southern Canada. Some individuals spend the winter in the southern half of the United States or occasionally even farther north, while others go as far south as northern South America.

Like the upland plover, the killdeer spends much of its time away from water. It frequently nests in cornfields or pastures and, as noted above, even comes about the abode of man. These preferences naturally influence the food habits of the species, affording it an opportunity to destroy insects which are directly related to agriculture. The food of the killdeer is varied, being composed of the following principal items: Beetles, 37.06 per cent; other insects, as grasshoppers, caterpillars, ants, bugs, caddis flies, dragon flies, and two-winged flies, 39.54 per cent; and other invertebrates, as centipedes, spiders, ticks, oyster worms, earthworms, snails, crabs, and other crustacea, 21.12 per cent. Vegetable matter composes 2.28 per cent of the total food, and is chiefly made up of weed seeds, such as buttonweed, smartweed, foxtail grass, and nightshade.

Among the injurious beetles consumed are the following weevils: Alfalfa weevil, cotton-boll weevil, clover-root weevil, clover-leaf weevil, rice weevil, cowpea curculio, white-pine weevil, and bill bugs. The latter alone constitute more than 2 per cent of the whole food. The alfalfa weevil, a new and destructive pest, is relished by the killdeer, 41 being found in a single stomach. Other destructive beetles devoured are white grubs and their adult forms, the May beetles; wireworms and their imagos, the click beetles; larvæ of the genus *Ligyrus*, which attack sugar cane, corn, and carrots; brown-fruit beetles, which injure apples and corn; the grapevine leaf-beetles; southern corn-leaf beetle; two-striped tortoise beetle, which injures sweet potatoes; and a flea beetle which attacks tobacco and sugar beets.

Cicadas, buffalo tree hoppers, and negro bugs, the last named injuring parsley and raspberries, are some of the true bugs relished by the killdeer. Caterpillars are a favorite article of diet, and several very injurious species are eaten, as the cotton worm, cotton cutworm, other cutworms, and caterpillars of the genus *Phlegethontius*, which damage tomatoes and tobacco. Grasshoppers and crickets, including mole crickets, are a staple food. Two-winged flies or Diptera furnish 11.91 per cent of the food of the killdeer. Such pests as crane flies and their larvæ, known as leatherjackets, are eaten, as well as horseflies and mosquitoes and their larvæ. One stomach contained hundreds of larvæ of the salt-marsh mosquito (*Aëdes sollicitans*), which is one of the most troublesome of the biting species. The State of New Jersey has spent thousands of dollars in trying to reduce the numbers of this pest. The killdeer thus befriends man, but it does something also for the domestic animals, not only by eating horseflies and mosquitoes, as just mentioned, but also by preying upon ticks, including the American fever or cattle tick, which has caused such enormous losses in some parts of the South.

Crawfish, well-known pests in levees and even in corn and other fields in certain localities, are another item of the killdeer's food, and 3.62 per cent of the subsistence of the 229 birds examined was composed of worms of the genus *Nereis*, which prey upon oysters.

In all, 97.72 per cent of the killdeer's food is composed of insects and other animal matter. The bird preys upon many of the worst crop pests and is a valuable economic factor. There can be no logical reason for continuing to regard it as a game bird.

I will now quote from the Craftsman, which notes an instance in the experience of Germany in its modern scientific bird conservation:

Baron Von Berlepsch, called the father of modern scientific bird conservation, has equipped his large estate at Seebach as an experimental station for bird protection. His methods of feeding, his skill in imitating the natural holes found in old trees that birds use for nesting purposes, his clever and sympathetic way of making birds that nest in the grass, bushes, thickets, tall trees, dead trees, clay banks, etc., feel at home are copied by many other landowners. And the wisdom of his protection has been thoroughly proved—

Says the Craftsman—

for at times when adjoining estates were ruined by insect pests his were fresh and unharmed. His fields and his orchards, which were supplied with nesting boxes, were free from noxious insects and caterpillars when all the rest of the neighborhood suffers from these pests.

Mr. John Davey, the celebrated tree surgeon, asserts:

That approximately $100,000,000 loss is caused in the United States yearly by reason of the decrease in the number of native song birds and the increase in the activities of the human—or, rather, inhuman—tree butcher. If we could get plenty of native song birds, no trees would be troubled by insects.

I desire here to call attention to two letters printed in the report of the hearings before your committee, one from Texas and one from Alabama, as follows:

AUSTIN, TEX., *March 2, 1912.*

AMERICAN GAME PROTECTIVE AND PROPAGATION ASSOCIATION,
111 Broadway, New York City.

Impossible to be present at hearing of protective bills before congressional committee. Migratory birds belong to no State, and no State has right to slaughter them at cost of other States. It is purely Federal question, and Congress, under most strict construction of Constitution by Democrats like myself, can not avoid conclusion that interstate birds are as interstate commerce. An open season for wild ducks all the year in Texas and a closed season for them in States lying north is an absurdity. We kill them as they leave and kill them as they come from Mexico on their way to their nests.

W. G. STERETT,
Game, Fish, and Oyster Commission of Texas.

DEPARTMENT OF GAME AND FISH,
Montgomery, March 10, 1912.

AMERICAN GAME PROTECTIVE AND PROPAGATION ASSOCIATION,
111 Broadway, New York City.

DEAR SIRS: I am in receipt of your favor of the 8th, and have also received a communication from Senator MCLEAN. Every possible energy I possess will be exercised in bringing all available influences to bear on every Member of Congress of my acquaintance, to the end that the McLean and Weeks bills may be favorably reported and successfully passed.

I have been informed by Senator MCLEAN that there is opposition to these bills by many Members of Congress, originating by objection on the part of those who are opposed to Federal interference with powers now exercised by the States. This hostility we must overcome.

I believe that by the promulgation of educational propaganda circulated through the medium of the press of the Nation sufficient sentiment will be generated among the people to cause the various constituents of the different Members of Congress to bring compelling pressure upon their Congressmen, causing them to disregard the idea that the Nation has no right to interfere with what certain Congressmen believe to be States rights. This contention does not apply in any sense, in my opinion, to migratory birds.

I practiced law for a number of years, and was likewise a member of the legislature for several terms, and I have studied these questions. I do not believe that there is unconstitutional inhibition against Federal legislation for the protection of birds of passage.

I inclose herewith a copy of a telegram I sent to the chairmen of the Senate and House committees having jurisdiction of the bills which we are urging for passage.

Very truly, yours, JOHN H. WALLACE, Jr.,
Commissioner.

I will add to these letters a few extracts from the report of the Alabama department of game and fish, bulletin No. 3, March, 1912:

[Alabama Department of Game and Fish, Bulletin No. 3.]

CONSERVATION OF THE GAME, BIRDS, AND FISH OF ALABAMA—THE DUTIES OF GAME WARDENS DEFINED, BY JOHN H. WALLACE, JR., STATE GAME AND FISH COMMISSIONER.

THE CONSERVATION OF OUR NATURAL RESOURCES.

The progress so rapidly made in the various States looking to the preservation of the natural resources of the American Continent is a cause of delight to every naturalist and sportsman, and to all patriotic citizens anywhere and everywhere.

Perhaps no nation has ever been so abundantly endowed with the blessings of forests, mines, waterways, game, birds, and fish as the citizenship of the United States. The splendid abundance of these necessities, comforts, and luxuries of life in pristine times caused our people to prosecute a campaign of relentless annihilation upon the treasures of nature's storehouse, believing that the supply could not be exhausted.

As the star of civilization wended its relentless way toward the golden West the forests were destroyed, and the land that once had been the haunts of the deer, the bear, and the bison became transformed into fertile fields, dotted with happy homes, while the trackless wilderness blossomed at the touch of the peaceful industry of the American husbandman.

Game and birds constituted the principal part of the daily food of the early settlers. Found in its primeval abundance, the wild life of the American Continent was not deemed necessary of protection, even during the breeding season; it was not until many of our most valuable species of birds and game were slaughtered to the point of extermination did our people comprehend the immense value of the natural assets.

LOCAL GAME LAWS FAILURES.

The first effort toward game and bird preservation contemplated protection by the enactment of local laws. These statutes were most conspicuous and pronounced failures, and were openly and notoriously violated on every hand. The cause of such persistent infraction is palpable; there was no specially constituted service to enforce these statutes; no one felt called upon to prosecute his neighbor; and while all agreed that the birds and game should be protected, yet local laws were annulled by the grand juries and abrogated by the petit juries, and still the campaign of relentless destruction continued to be ceaselessly waged.

DOVE BAITING A BARBAROUS PRACTICE.

Formerly, it was the custom to scatter wheat or other provisions on fields for the purpose of attracting doves in large numbers. This practice served to collect in close proximity to the baited field practically all the doves within a radius of 50 miles. At an appointed time, hunters in great numbers would repair by daybreak to the baited field, and the rapid discharge of firearms could be likened unto the raging of a mighty battle. As many as 6,000 doves have been bagged in one field in Alabama in a single morning. Probably one-fourth more were fatally shot, being so badly wounded that they were unable to fly but a short way, only to die. The baiting of fields is but a relic of barbarism, and no surer method is conceivable by which doves can be speedily exterminated than the pernicious practice of baiting fields. This custom has been practically stopped in Alabama, and doves have rapidly increased.

THE PROTECTION OF MIGRATORY BIRDS.

As a reciprocal obligation which is due by us to those who reside in the North, migratory game birds should be protected by the Southern States. Were it not for the fact that during the nesting and breeding season these birds are protected, it would not be long before there would be no birds to migrate during the autumn and winter seasons to this section. Birds know no State lines, and, so far as the preservation and protection of those that belong to the migratory family is concerned, it is a national and not a State question.

A few of our citizens have objected to the protection of robins. These birds nest to the north in orchards and in the immediate vicinity of the homes of citizens; they are much loved on account of their friendliness to man and because of their sweet songs during the spring. Formerly, robins were slaughtered by millions in the South, and oftentimes were fed to hogs. The sensation of horror that must have been felt by the people whose sweetest songbird is the robin would be much akin to that which we would experience if our mocking bird, the Southland's sacred songster, should migrate to Cuba and be there butchered, as robins were formerly in Alabama.

NATIONAL UNIFORMITY NEEDED.

The most imperative need of the present is a uniformity of game and bird laws applying to the States in the same latitude. Likewise national legislation should be had looking to the preservation of migratory birds, in their northern and southern migratory passage through the country, as they do not remain permanently the entire year within the borders of any particular State or Territory. These nomads should be placed within the custody and protection of the Government of the United States. The Department of Agriculture, at Washington, should be authorized to adopt suitable regulations looking to this end by prescribing and fixing closed seasons on game birds which migrate, having due regard to the zones, temperature, breeding habits, and times and lines of migratory flight.

On account of the variability of the statutes relating to the protection of migratory birds in the various States, little or no protection is afforded waterfowl and migratory song and insectivorous birds. In order that many of the most valuable species of migratory birds be saved from extinction, immediate congressional action is imperative.

PROVISIONS UNDER WHICH GAME IS BEST RESTRICTED.

By disarming the pothunter, and quelling his rapacious appetite to slaughter game for the purpose of selling it, by taking out of the fields and forests the vast black horde of negroes that formerly slaughtered game in many sections of the State, almost to the point of extinction, by the prevention of the shipping of live game and dead from our State, and in fact, by placing hunting within the reach of only those who should hunt, we have guaranteed not only to the present generation a fair supply of game and birds, but have assured to those yet to be a priceless benefaction under these splendid statutes.

SONG AND INSECTIVOROUS BIRDS THE FARMER'S FRIENDS.

As a result of scientific research of the most extended nature it has been ascertained that the cause of the prevalence of many maladies and the problem of weed control is largely attributed to the slaughter of insectivorous birds, which in the past have been wantonly murdered by the millions. Birds annually destroy thousands of tons of noxious weed seeds and billions of harmful insects; they were designed to hold in check certain forces that are antagonistic to the vegetable kingdom. The Mexican boll weevil which has made such desperate ravages on the cotton fields of Texas is steadily marching into Alabama, and it has been ascertained that birds are its deadliest enemies. A noted French scientist has asserted that without birds to check the ravages of insects human life would vanish from this planet in the short space of nine years; he insists that insects would first destroy the growing cereals, next would fall upon the grass and upon the foliage, which would leave nothing upon which cattle and stock could subsist.

The possibilities of agriculture having been destroyed, domestic animals having perished for want of provender, man, in his extremity in a barren and desolate land would be driven to the necessity of becoming canabalized or subsisting exclusively on a diet of fish. Even granting that only a portion of what the eminent Frenchman asserts is true, it is easy to glean from this theory that birds are man's best allies and should be protected not only on account of their innocence, bright plumage, and inspiring songs, but because they render to the farmer valuable assistance every day.

The wholesale slaughter of our song and insectivorous birds, which was so persistently waged in the past, has been practically stopped; even in the cities where birds were curiosities they are now seen in large numbers to the delectation of the inhabitants who delight to hear once more the clear, sweet notes of the trilling songsters of the forests.

SAVE THE BIRDS.

Those who love Alabama, who glorify her splendid history, who delight in her imperishable traditions, and who take pride in her boundless natural resources are eager to preserve and protect all that combine to fashion our magnificent State.

The principal vocation of our brave and patriotic people is agriculture, which is one of the most ancient and honorable arts known to man. Upon the yield of our fields depends the happiness and prosperity of our citizens. When there are abundant crops of fleecy cotton and our garners are full of golden grain the anthems of contentment and the cadences of joy resound throughout our realms and all the world seems set to a tune that is played by happy hearts.

We are assisted in making good crops by an army of feathered friends that work for the husbandman without pay. The part that birds play in protecting farmers from the ravages of injurious insects that prey upon the crops and orchards would be well understood if all the bright colored, harmless songsters of the trees should be exterminated. Without birds our fair State would soon become not only nonproductive, but absolutely uninhabitable.

Cruel men and wanton boys sometimes shoot for sport man's feathered allies. It would be cheaper if the rifle that discharged the shot were loaded with a golden bullet and fired into the sea. Boys were erstwhile allowed to catch and sell young mocking birds and redbirds for 50 cents each. The State is made at least $100 poorer by the act. It would be more economical in the end to give away a golden bird of the same weight. The meadow lark or each one of a bevy of quail in a 10-acre wheat, corn, or cotton field each earns $5 in a single season as an insect destroyer.

Every precaution is taken by us to prevent a thief from stealing even the most trifling of our possessions, but we are oblivious of any effort to dissuade the gunner from shooting birds upon whose existence depends our very livelihood.

Let us unite every energy we possess to save our friends, the birds, from destruction; if we do this, soon every bush will contain a singer, and every tree a choir.

I desire at this point to put into the RECORD a list of the States represented officially before your committee in favor of the pending legislation:

Forty-four of the 48 States of the Union were represented at the committee hearing by letter or in person either through their governors or their State game commissioners, or through representatives of sportmen's associations, National Association of Audubon Societies, the American Game Protection and Propagation Associations, the Boone and Crockett Clubs, the League of American Sportsmen, the New York Zoological Society, and other national associations interested in the protection proposed by the bill. All favored this legislation being added

to the Federal Statutes. Three of the States—Oklahoma, New York, and Massachusetts—have indorsed the proposition by legislative act.

Alabama: State game and fish commissioners.
Arkansas: State game warden.
California: Board of fish and game commissioners.
Colorado: Game commissioner, and letter from Gov. Shafroth.
Connecticut: Commissioner of fish and game.
Delaware: Board of game and fish commissioners.
Georgia: Fish and game protective association.
Idaho: Letter from Gov. Hawley.
Illinois: State game commissioner.
Indiana: State fish and game commissioner, and letter from Gov. Marshall.
Iowa: State fish and game warden.
Kansas: State fish and game warden.
Kentucky: Fish and game commissioner.
Maine: President Maine Fish and Game Associations.
Maryland: State fish and game warden.
Massachusetts: Fish and game commission.
Michigan: State game, fish, and forestry warden, and letter from Gov. Osborn.
Minnesota: Minnesota Game and Fish Commission, and letter from Gov. Eberhart.
Mississippi: State game warden.
Missouri: State game and fish department.
Montana: State game warden.
Nebraska: Chief game warden.
New Hampshire: Board of fish and game commissioners.
New Jersey: Fish and game commissioners.
New Mexico: Game warden.
New York: Board of fish and game commissioners, and letter from Gov. Dix.
North Carolina: President North Carolina Audubon Society.
North Dakota: Letter from Gov. Burke.
Ohio: Chief fish and game warden.
Oklahoma: State game and fish warden, and letter from Gov. Cruce.
Oregon: Fish and game commission, and letter from Gov. West.
Pennsylvania: Board of game commissioners.
Rhode Island: Chairman of bird commission.
South Carolina: Chief game warden.
South Dakota: State game warden, and letter from Gov. Vessey.
Tennessee: State game warden.
Texas: Game, fish, and oyster commissioner, and letter from Gov. Colquitt.
Utah: Fish and game commissioner, and letter from Gov. Spry.
Vermont: Department of fisheries and game.
Virginia: Secretary Game Protective Association.
Washington: Fish and game commissioner.
West Virginia: West Virginia State forest, game, and fish warden.
Wisconsin: State game warden, and letter from Gov. McGovern.
Wyoming: Letter from Gov. Carey.
Nova Scotia: Chief game commissioner.

Also resolutions of the Legislatures of Oklahoma, New York, and Massachusetts, urging the enactment of the Senate bill.

And now, Mr. President, I come to the question of ways and means. I shall expect very few Members of this body will object to the ends sought to be accomplished by this bill, but I must expect that every Senator will want to know by what authority Congress seeks to establish its right to enact the proposed legislation. I shall not attempt to discuss this branch of the subject at any length at this time. I simply desire to call the attention of the Senate to a few suggestions which have led me to the conclusion that this law does not offend the Constitution.

When this question was first brought to my attention, more than a year ago, the friends of the bill suggested that Congress might go for its authority to that apparently inexhaustible mine of legislative indulgencies—the interstate-commerce clause of the Constitution. We must all admit, I think, that this clause is now held to include authority to protect the health, safety, and morals of the people in ways not anticipated by the founders, but I do not believe that it is necessary to go to that source to find constitutional support for the bill now under consideration.

It has been suggested to me by others that this bill can be defended under the grant of power to lay taxes and provide for the common defense. If the destruction caused by insects should increase during the next 20 years as rapidly as it has increased since 1893, it is urged that we may well reach a condition so desperate that the protection of the Nation against insects will be as necessary and justifiable as is now the protection of the people against contagious diseases and hostile fleets. Congress is to-day spending millions of dollars annually in ineffective efforts to protect certain portions of the country against the ravages of the army worm, boll weevil, gypsy moth, and so forth. No one will question the wisdom or legitimacy of these appropriations. If Federal aid can be invoked to restrain the ravages of migratory insects, it is asserted that Congress must have authority to use any and all legitimate means to accomplish this purpose, including the protection of birds which destroy insects more effectively and at less expense than any other instrument which it is possible for the Government to employ. Would such protection on the part of Congress be any further from the anticipations of the founders than scores of other laws now in force? For instance, than the laws which defend and protect the youth of the country against the contaminating influence of unwholesome literature, the authority for which is found in the power to establish post offices and post roads? These laws, when first proposed, were denounced as unconstitutional and void by both Mr. Webster and Mr. Calhoun, who in their day represented both horns of the constitutional dilemma upon which the Nation was impaled, until rescued by Marshall and others who had the good sense to perpetuate in the Constitution the spirit, as well as the language, of its framers.

These suggestions are worth considering, but as it is my firm belief that Congress is competent to enact this law without the aid of either of the grants of power to which I have referred, I will not discuss them further. When I have what I believe to be a good excuse I do not care to cloud it with what may prove to be an insufficient one.

A year ago I felt so uncertain of the authority of Congress in the premises that I introduced a resolution proposing an amendment to the Constitution, giving Congress full power to protect migratory birds. Since that time, and upon a careful study of the matter, I have become convinced that every nation worthy of the name has the power to protect its migratory feræ naturæ.

In the first place wild game is not property. Under the common law and by the decisions of the Supreme Court of the United States, wild game belongs to no one. The right to take wild game from time immemorial has always rested in the sovereignty. A State may prohibit the killing of feræ naturæ altogether, and when killed a State may attach to its use or disposal any condition it may desire. The one thing therefore, which should be borne in mind in the consideration of this subject is that from no point of view is any property or political right involved. No matter how sensitive or how justly jealous any Member of this body may be of the right of his State to enjoy supreme control over the civil, political, or jural rights of its citizens, there is nothing in the pending bill that need give him the least concern. No vested right under the common, State, or Federal law can ever be endangered, effaced, or modified by the Federal protection of the migratory birds of the air. The fact that the States have heretofore assumed and exercised control over wild game, both migratory and nonmigratory, where no discrimination has been suggested or desired, is immaterial, and the fact that there is in the Constitution no expressed grant of such control to the Congress may not be material.

It is worth while to note at the beginning of our consideration of the powers of Congress over this matter that the nations of Europe, as far back as 1873, faced a situation not unlike that which the countries of the Western Hemisphere are now facing. In 1873 the Congress of Agriculturists and Foresters moved "That the Imperial Austrian Government be requested to secure the protection of birds by means of treaties with other states of Europe." In 1875 Germany, Austria, and Italy entered into a joint declaration for the protection of birds. Since that time four international ornithological congresses have been held at different periods in London, Paris, Budapest, and Vienna, and finally, in 1906, 11 European powers ratified an international agreement consisting of 11 articles, which formed a comprehensive code for the protection of birds.

I take it for granted that should Great Britain and Mexico invite the United States to enter into a treaty agreement for the protection of migratory birds, inhabiting at stated periods all three nations, the United States would have the right to accept this invitation.

Mr. Butler, in the latest edition of his work on the Treaty-Making Power, after reviewing the history of the leading cases on the subject, says:

First. That the treaty-making power of the United States as vested in the Central Government is derived not only from the powers expressly conferred by the Constitution, but that it is also possessed by that Government as an attribute of sovereignty, and that it extends to every subject which can be the basis of negotiation and contract between any of the sovereign powers of the world, or in regard to which the several States of the Union themselves could have negotiated and contracted if the Constitution had not expressly prohibited the States from exercising the treaty-making power exclusively in and expressly delegated it to the Federal Government.

Second. That the power to legislate in regard to all matters affected by treaty stipulations and relations is coextensive with the treaty-making power, and that acts of Congress enforcing such stipulations which in the absence of treaty stipulations would be unconstitutional as infringing upon the powers reserved to the States are constitutional and can be enforced, even though they may conflict with State laws or provisions of State constitutions.

Third. That all provisions in State statutes or constitutions which in any way conflict with any treaty stipulations, whether they have been made prior or subsequent thereto, must give way to the provisions of the treaty or act of Congress based on and enforcing the same, even if such provisions relate to matters wholly within State jurisdiction.

It is a significant fact that there is pending at the present time a treaty with Great Britain which provides for the preservation and protection of food fishes in the boundary waters of the United States and Canada. This treaty includes lakes en-

tirely within State control, as, for instance, Lake Champlain. All this may be true, and yet it will not necessarily follow that Congress can in the absence of a treaty exercise control over migratory birds or fishes. It does indicate, however, that the subject matter is one of national concern and one which the Nation only can control effectively.

Mr. LODGE. If the Senator will allow me, I notice he says the treaty is pending. The treaty has been ratified, but the law to carry out the treaty is pending in the Parliament.

Mr. McLEAN. In this connection, the fact that Congress has in the past assumed the right to regulate the taking of food fishes in waters within State control is very important. In 1871 Congress enacted the following provision—section 4398 of the Revised Statutes:

The commissioner—

That is, the fish commissioner—

may at all times in the waters of the seacoast of the United States where the tide ebbs and flows, and also in the waters of the lakes, take such fish, or specimens thereof, as, in his judgment, may from time to time be needful for the conduct of his duties, any law, custom, or usage of any State to the contrary notwithstanding.

Again, in 1887, Congress enacted a law regulating the taking of mackerel on the Atlantic coast. This law was enforced for five years, and its constitutionality was never questioned. Here we have two instances of the clear assertion on the part of the Federal Government of full power to regulate and protect the migratory fishes in waters entirely under State control, "any law, custom, or usage of any State to the contrary notwithstanding." It is true that the Supreme Court has never passed upon the constitutionality of either of these acts. All I claim is that if these laws are constitutional the pending bill is constitutional.

It seems to me that the analogy between migratory birds and fishes is complete, and that the argument in favor of Federal control of migratory birds is much stronger than that which obtains in the control of migratory fishes. Take, for instance, the fishes of Lake Champlain. It is hardly possible that fish hatched within 10 miles of the southern boundary of that lake would ever get within 50 miles of the Canadian boundary, yet we know that the wild goose that may be choosing its mate in the waters of Currituck Sound in March will be in Canada in April unless by permission of some State it is killed in migration. The fishes are confined both by habit and by the element in which they live to a much smaller sphere of migration than the birds. In fact, migratory birds are bounded only by the extent of the atmosphere. Many of them that spend the summer in North America spend the winter in the Argentine Republic, or in some of the distant islands of the sea.

If I am not mistaken in assuming that the Federal Government has to the same or far greater extent the right to protect migratory birds that it has to protect the swimming fishes, the purposes of this bill have been clearly approved by the Supreme Court of the United States in a decision to which I will now call attention.

On February 12, 1912, Mr. Chief Justice White delivered the opinion of the court in the case of the vessel *Abby Dodge v.* The United States. This case arose under the act of Congress prohibiting the taking of sponges by means of diving or diving apparatus from the waters of the Gulf of Mexico or the Straits of Florida. In the opinion the court refers to the case of Manchester *v.* Massachusetts (139 U. S., 240) in the following language:

Again, in Manchester *v.* Massachusetts (139 U. S., 240), in upholding a statute of the State of Massachusetts regulating the taking of menhaden in Buzzards Bay, the doctrine of the case just cited was expressly reiterated. True, further in that case, probably having in mind the declaration made in the opinion in the McCready case, that fish running within the tidewaters of the several States were subject to State ownership "so far as they are capable of ownership while running," the question was reserved as to whether or not Congress would have the right to control the menhaden fisheries. But here also for the reason that the question arising relates only to sponges growing on the soil covered by water we are not concerned with the subject of running fish and the extent of State and National power over such subjects.

Bearing in mind that in this case the court says, "We are not concerned with the subject of running fish and the extent of State and National power over the subject," we now turn to the case of Manchester *v.* Massachusetts, where the court was concerned with that subject, and I now quote from the opinion in that case delivered by Justice Blatchford (pp. 262–266):

The statutes of Massachusetts in regard to bays at least make definite boundaries which before the passage of the statutes were somewhat indefinite; and Rhode Island and some other States have passed similar statutes defining their boundaries. (Public Statutes of Rhode Island, 1882, c. 1, secs. 1 and 2; c. 3, sec. 6; Gould on Waters, sec. 16 and note.) The waters of Buzzards Bay are, of course, navigable waters of the United States, and the jurisdiction of Massachusetts over them is necessarily limited (Commonwealth *v.* King, 150 Mass., 221); but there is no occasion to consider the power of the United States to regulate or control, either by treaty or legislation, the fisheries in these waters, because there are no existing treaties or acts of Congress which relate to the menhaden fisheries within such a bay. The rights granted to British subjects by the treaties of June 5, 1854, and May 8, 1871, to take fish upon the shores of the United States had expired before the statute of Massachusetts (Stat., 1886, c. 192) was passed, which the defendant is charged with violating. The Fish Commission was instituted "for the protection and preservation of the food fishes of the coast of the United States." Title 51 of the Revised Statutes relates solely to food fisheries, and so does the act of 1887. Nor are we referred to any decision which holds that the other acts of Congress alluded to apply to fisheries for menhaden which is found as a fact in this case to be a food fish and to be only valuable for the purpose of bait and of manufacture of oil.

The statute of Massachusetts, which the defendant is charged with violating, is in terms confined to waters "within the jurisdiction of this Commonwealth," and it was evidently passed for the preservation of the fish, and makes no discrimination in favor of citizens of Massachusetts and against citizens of other States. If there be a liberty of fishing for swimming fish in the navigable waters of the United States common to the inhabitants or the citizens of the United States, upon which we express no opinion, the statute may well be considered as an impartial and reasonable regulation of this liberty; and the subject is one which a State may well be permitted to regulate within its territory, in the absence of any regulation by the United States. The preservation of fish, even although they are not used as food for human beings but as food for other fish which are so used, is for the common benefit; and we are of the opinion that the statute is not repugnant to the Constitution and laws of the United States.

It may be observed that section 4398 of the Revised Statutes (a reenactment of section 4 of the joint resolution of February 9, 1871) provides as follows in regard to the Commissioner of Fish and Fisheries: "The commissioner may take or cause to be taken at all times in the waters of the seacoast of the United States, where the tide ebbs and flows, and also in the waters of the lakes, such fish or specimens thereof as may in his judgment from time to time be needful or proper for the conduct of his duties, any law, custom, or usage of any State to the contrary notwithstanding." This enactment may not improperly be construed as suggesting that, as against the law of a State, the Fish Commissioner might not otherwise have the right to take fish in places covered by the State law.

The pertinent observation may be made that as Congress does not assert by legislation a right to control pilots in the bays, inlets, rivers, harbors, and ports of the United States, but leaves the regulation of that matter to the States (Cooley *v.* Board of Wardens, 12 How., 299), so if it does not assert by affirmative legislation its right or will to assume the control of menhaden fisheries in such bays the right to control such fisheries must remain with the State which contains such bays.

We do not consider the question whether or not Congress would have the right to control the menhaden fisheries which the statute of Massachusetts assumes to control; but we mean to say only that as the right of control exists in the State in the absence of affirmative action of Congress taking such control, the fact that Congress has never assumed control of such fisheries is persuasive evidence that the right to control them still remains in the State.

Is not this a clear intimation by the Supreme Court of the United States that Congress has the right to assume control of migratory fishes?

In New York *v.* Hill (184 N. Y., 126) the court, in discussing the constitutionality of the Lacey Act, says:

The object of this legislation—the Lacey Act—was to enable the States by their local laws to exercise a power over the subject of the preservation of game and song birds, which, without that legislation, they could not exert. By the Lacey Act Congress determined to aid the States in the enforcement of their game laws, but did not deem it wise to enact a game law of its own, and this for the very obvious reason that the game laws of the States vary, a variation justified in no small degree by the varying climatic conditions.

I quote this case in order that the Senate may see how easily the virgin minds of the judges of our highest courts accord to the Nation this simple and plain attribute of sovereignty which every nation must have. There seems to have been no doubt in the mind of the Supreme Court of New York that Congress could have enacted a law of its own had it so desired.

In the case of Geer *v.* Connecticut (161 U. S.) and other cases where the court has held that the State has final jurisdiction to protect and regulate the killing of wild game the game involved was in every instance nonmigratory, and the right of the Federal Government to control the taking of migratory birds has, so far as my research goes, has never been denied or questioned. Such observations as the Supreme Court has been led to make in cases involving the authority of Congress over ferœ naturæ clearly support my contention as it seems to me.

In considering questions which involve the general powers of the Government it is always interesting to refer to the debates and discussions in the convention that framed the Constitution, but I came to the conclusion some years ago that the Constitution was made by and for strict and loose constructionists alike. Certainly history subsequent to the formation of the Union is full of the names of strict constructionists who, when clothed with high authority, have had the courage to give to the Constitution the loosest possible interpretation when wisdom and patriotism have demanded it. This is as it should be if this Union of States is to be a political and economic success and not a political and economic failure. The foundations were laid by the fathers broad and strong and deep enough to meet the needs of the Nation however great that Nation might become. The fact that the Federal Government has for many years failed to assume or exert a dormant power is of no consequence; neither can any State or the United States lose an inherent right or power by nonuser, and these rights and powers may be

concurrent. A State may and does regulate many matters which are permissive merely and may be suspended at any time by the Federal Government. In the case of Gilman *v.* Philadelphia (3 Wall., 713) the court used the following language:

The States may exercise concurrent or dependent power in all cases but three:

1. Where the power is lodged exclusively in the Federal Constitution.
2. Where it is given to the United States and prohibited to States.
3. Where, from the nature and subjects of the power, it must necessarily be exercised by the National Government exclusively.

It is no objection to distinct substantive powers that they may be exercised upon the same subject. It is not possible to fix definitely their respective boundaries. In some instances their actions become blended. In some the action of the State limits or displaces the action of the Nation; in others the action of the State is void, because it seeks to reach objects beyond the limits of State authority.

The defendants are proceeding in no wanton or aggressive spirit. The authority upon which they rely was given and afterwards deliberately renewed by the State. The case stands before us as if the parties were the State of Pennsylvania and the United States. The river being wholly within her limits we can not say the State has exceeded the bounds of her authority. Until the dormant power of the Constitution is awakened and made effective by appropriate legislation, the reserved power of the States is plenary, and its exercise in good faith can not be made the subject of review by this court.

The junior Senator from Idaho [Mr. BORAH] presented to the Senate during the second session of the Sixty-first Congress Senate Document 417, a statement prepared by the junior Senator from Utah [Mr. SUTHERLAND], which I think is a very conservative and sound statement of the powers of the National Government, and with his permission I quote that document, as follows:

That all necessary power over external affairs should be vested in the National Government was clearly within the contemplation of the framers of the Constitution. The first paragraph of Mr. Randolph's proposed plan was to the effect that the Articles of Confederation ought to be enlarged so as to accomplish the objects of their institution, namely, "the common defense, security of liberty, and general welfare," and the sixth paragraph declared that the National Legislature—

"ought to be empowered to enjoy the legislative rights vested in Congress by the confederation, and moreover to legislate in *all* cases to which the *separate* States are *incompetent*, or in which the harmony of the United States will be interrupted by the exercise of individual legislation." (Madison Papers, 5 Elliott's Debates, p. 127.)

After some discussion this latter paragraph was adopted, and in this form it was reported to the convention from the committee of the whole. In the convention Mr. Sherman proposed to amend it by substituting the words "to make laws binding on the people of the United States in all cases which may concern the common interests of the Union; but not to interfere with the government of the individual States in matter of internal police which respect the government of such States only, and wherein the general welfare of the United States is not concerned." But this was rejected. Finally, on motion of Mr. Bedford, it was amended so as to read, "and moreover to legislate in all cases for the general interests of the Union, and also in those to which the States are severally incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation," and in this form it was referred to the committee of detail (the word "separately" being substituted for the word "severally") as one of the resolutions *to govern them in the preparation of the Constitution* to be finally submitted to the convention. It will be seen, therefore, that it was the unanimous opinion of the framers' convention that power should be conferred by the Constitution upon Congress to legislate in *all cases to which the States were severally incompetent*. It does not appear that the members of this convention at any time changed their opinions, and it therefore must be assumed that in the judgment of these men who framed the Constitution such power was conferred by that instrument. The declared purpose of the Constitution as stated in the preamble is "to form a more perfect union, establish justice, insure domestic tranquillity, *provide for the common defense, promote the general welfare*, and secure the blessings of liberty to ourselves and our posterity." While it is true that the preamble can not be construed as a substantive grant of power, it is valuable as reflecting light upon the powers granted, and the meaning and intent of those who framed and adopted the Constitution. In other words, the preamble states the ultimate objects to be attained by the establishment of the Constitution, and, among them, to "provide for the common defense and promote the general welfare." These are the *ends* to be attained, the powers conferred upon the Government are the *means;* but always the end is more important than the means. The *powers* of government must be commensurate with the *objects* of government, else only a semigovernment has been created.

On page 7 of the same document, 417, Senator SUTHERLAND says:

They were familiar with the great principles which governed the various nations as political entities, and knew that in the eye of international law every sovereign nation was *ipso facto* equal to every other sovereign nation, and that the highest law of every nation was that of self-preservation. Vattel had written in 1758, and this they read: "Whatever is lawful for one nation is equally lawful for another, and whatever is unjustifiable in the one is equally so in the other." Why should any citizen of the great Republic, proud of its strength and glory, desire that *his* government should be inferior in power to any government or less potential in ability to act for the benefit of the people or in the upbuilding of their country and institutions? Such governmenal authority is less to be feared under our institutions than under those of the great monarchies across the sea, because there the government dictates and the people obey, but here the people command and the government obeys, and in the last analysis it is the people who exercise the power through the government which is the servant and agent of the people. It is time we realized, not in phrases alone, but in fact, that the Government of the United States is perfect in all its limbs and not a cripple among the full-grown governments of the world.

The construction of the Constitution has undergone a process of progressive evolution. The earlier decisions of the Supreme Court, notably those written by Chief Justice Marshall, laid down the doctrine of the implied powers, and it was held that Congress possessed not only those powers which were expressly conferred, but implied power to pass all legislation necessary to carry them into effect. But from time to time Congress passed laws not referable to or capable of being implied from any one particular express power, and the legislation was upheld if the authority could be deduced from a number of express powers grouped together, or from the sum total of all of them combined. But Congress has from time to time gone beyond even this and passed laws that by no reasoning can be justified under any or all of the express powers or by virtue of any implication to be drawn therefrom. Some of these acts have been passed upon by the Supreme Court, while others have never been considered by that tribunal. Members of the court have from time to time broadly announced the doctrine that the General Government is one of enumerated powers and can exercise no authority not expressed or implied in the written words of the Constitution, yet some of the decisions can be logically justified only upon the theory that the Government possesses certain powers which result from the fact that it is a *National* Government and the only Government capable of exercising the powers in question. The doctrine is foreshadowed if not stated by Hamilton, when he says: "There are express and implied powers, and the latter are as effectually delegated as the former. There is also another class of powers which may be called *resulting* powers—resulting from the whole mass of the power of government and from the *nature of political society* rather than as a consequence of any especially enumerated power." There is, for example, no express language in the Constitution conferring upon the Government of the United States the power to acquire additional territory. The question first arose in connection with the Louisiana purchase. Mr. Jefferson thought the acquisition unconstitutional. Albert Gallatin, then Secretary of the Treasury, and a statesman and lawyer of great ability, gave it as his opinion that the acquisition was valid, either as an *inherent right* of the United States *as a nation* to acquire territory or as a constitutional right under the treaty-making power. It seems to have finally been determined that this acquisition as well as some others were justified under the treaty-making power."

On page 10 of the same document, 417, Senator SUTHERLAND quotes:

Chief Justice Marshall in Gibbons *v.* Ogden (9 Wheat., 195):

"The genius and character of the whole Government seem to be that its action is to be applied to all the external concerns of the Nation, and to those internal concerns which affect the States generally; but not to those which are completely within a particular State, which do not affect other States, and with which it is not necessary to interfere, for the purpose of executing some of the general powers of the Government."

Senator SUTHERLAND, in closing his article on the Powers of National Government, says:

If we are to preserve the great governmental system conceived by the Declaration of Independence and perfected by the Constitution we must realize in feeling and in fact that the rights of the States and the rights of the Nation are not antagonistic but complementary; and that the usurpation by the General Government of any State power over local affairs, and the denial to the General Government of any necessary power over national affairs are equally unfortunate and equally subversive of the spirit of the Constitution, which is the paramount law of State and Nation alike.

Again, in the report of the Judiciary Committee of the Senate on the Federal accident and compensation bill I find plenty of encouragement for taking the position that I do upon this matter, and I quote from that report, as follows:

(5) The Constitution is the same to-day as it was when adopted. It continues to speak with the same meaning, but the application of its provisions is capable of constant extension to meet new and altered social, political, and industrial conditions.

In the same report, on page 27, the committee quotes from the case of Debs (158 U. S., 564, 591):

Constitutional provisions do not change, but their operation extends to new matters as the modes of business and the habits of life of the people vary with each succeding generation.

In the same report, on page 33, the committee quotes from the case of Hurtado *v.* California (110 U. S., 516):

The Constitution of the United States was ordained, it is true, by descendents of Englishmen, who inherited the traditions of English law and history; but it was made for an undefined and expanding future.

No man in the Senate is more jealous of State, municipal, or community government than I am, but it is my belief that the way to preserve and perpetuate State and community control over local affairs is to willingly render to the Nation the things that the Nation alone can wisely and effectively control. Every time the States trust the Nation to do that which the States severally can not do, the States add confidence and strength to their right to retain control of the functions they are best fitted to perform.

While the preamble is not a part of the body of the Constitution, is it not its very soul and spirit? And if some twentieth-century Marshall should put the soul within the body, where it belongs, the throne of State sovereignty would, in my opinion, totter less frequently than at present.

The expressed purpose of the founders was to create a nation—a sovereignty that could provide for the common defense and promote the general welfare. These are the things that the confederation had failed to do. If in the throes of compromise and State jealousies and fears the purposes and main desire of the founders was defeated, then our much-boasted Government "of, for, and by the people" has never existed. If the Nation has not the power to promote by law the general welfare of

the people, then we must conclude that the people in their grant of power to Congress denied to themselves the right to govern themselves wisely and well—denied to themselves the very thing the Constitution was created to secure. If this mistake was made, it is a mistake that will and should be remedied.

As has been well said, this great Nation is not a menagerie consisting of 48 different cages, each cage containing a different species of animal. It is a great Nation, composed of a homogeneous patriotic people.

Mr. President, my contention is that Congress has the implied power as a natural and necessary attribute of its sovereignty to provide for the common defense and promote the general welfare of the Nation whenever the need is general and manifest, and the subject is such that no State, acting separately, can protect and defend itself against the threatened danger or secure to itself those benefits to which it is justly entitled as a part of the Nation. This question, like all others relating to social formulas, soon reduces itself to the simple question of reason and justice, and justice does not have one set of scales for the big things and another for the little things. The same law that causes the apple to fall to the ground keeps the stars in their places; the same simple principle of right that forbids the trespasses of neighbors forbids the trespasses of nations and forbids any State of this Union to encroach upon the natural and just rights of any other State. It is not the right to kill that is paramount. It is the right to the protection which the birds afford; it is the right to preserve the flora, the grain, vegetables, and fruits that is paramount.

The point of first importance in considering questions of this kind is the gravity and imminence of the danger threatened and the extent and nature of the benefit to be derived from the proposed legislation. No one questions the right of the Federal Government to quarantine its ports against the introduction of plagues and contagious diseases. No one questions the right of any State to protect its borders. The question as to whether the Nation and the State have concurrent jurisdiction or whether sole jurisdiction shall be given to the one or the other is the question of competency. If the State, by exerting its authority, can secure to its citizens the protection to which it is justly and fairly entitled, there will be no need of Federal interference except as it may be complementary and at the request and with the approval of the State, but if need for assistance is manifest, if the danger is real and general and it is not within the power of a single State to protect itself and secure the benefits and protection to which it is justly and fairly entitled, then there is, as it seems to me, no escape from the conclusion that the common defense and general welfare of the people must utterly fail unless the Nation can come to the rescue.

So, Mr. President, if it be true that the migratory birds of the Western Hemisphere are worth saving, and I shall assume that they are, is it not equally true that the State of Connecticut is incompetent and powerless to accomplish this result single handed? If it is true that the people of Connecticut are entitled to their share of the benefits resulting from the preservation of the migratory birds of the Western Hemisphere, I insist that however small that share may be the State of Connecticut is utterly incompetent and powerless to preserve and protect it. It must be clear that during six months of each year every one of these birds may be killed with impunity, the laws of the State of Connecticut to the contrary notwithstanding. Mr. President, no State and no group of States can provide the remedy needed. The State is wholly incompetent. The Nation itself is competent to a degree only.

Mr. BORAH. Mr. President, I desire to ask the Senator, in view of the statement he has just made, why it would not be possible for the States individually to afford protection, if they should act in unison and in concert in regard to the matter—that is, if all of them should act upon the subject?

Mr. McLEAN. They have had the experience of a century and a quarter, I suppose, doing the best they could under the circumstances; but in the very nature of the case it is a matter that excites jealousies and retaliations. So far as the broad question is concerned, it is not a State matter; it is not a national matter; it is a continental question; it is a question for the Western Hemisphere to decide, as it seems to me.

Mr. BORAH. Have the States which have petitioned Congress for this action and which have spoken through their game wardens, and so forth, themselves made any effort to protect the situation? Have they laws upon the subject?

Mr. McLEAN. Yes; nearly every State in the Union; and, as the Senator will see from some of the extracts which I have inserted in my remarks, the best efforts that can be made State wise have up to date proven utterly ineffective.

Mr. BORAH. The reason I asked that question——

Mr. McLEAN. State comity can not be exercised because the matter is one which would breed a spirit of retaliation. Each State is anxious to get the most it can, especially of the game birds. As I have told the Senate, in seven States of the Union the robin is to-day a game bird, and is killed by the tens of thousands. It is estimated that in Louisiana alone two years ago 50,000 robins were killed.

Mr. BORAH. Then, where is the law in Louisiana which prohibits that?

Mr. McLEAN. There is none.

Mr. BORAH. That is exactly what I wished to know. The State has not undertaken to do anything at all.

Mr. McLEAN. Only in regard to game birds, and they have a closed season for some of the song birds, but the State laws are like a crazy quilt.

Mr. BORAH. The reason I asked the question was because I have an abiding conviction that when we formed this Government there were no powers of government lost anywhere. A power rests either with the National Government or with the State governments. If the State governments have not the power and can not, in the exercise of the powers which they have, protect themselves in this respect, that is a strong argument, to my mind, why the National Government may have the power; there is a power somewhere. But I do not see that the States have taken any concerted action in regard to this matter at all, and it seems clear that they have the power, but have simply failed to use it.

Mr. McLEAN. None whatever, only to trespass upon each other and kill all the birds they can.

Mr. BORAH. On the other hand, I do not think that the Constitution of the United States can be construed in the light of the negligence of the States. Simply because the States neglect to use their reserved powers constitutes no reason why the National Government should assume to exercise unconstitutional powers. The very fact that the States decline to exercise a power may be an expression, as it were, of their desire that power be not used.

Mr. McLEAN. Mr. President, when we give this question the consideration it deserves, we must see at once that it presents a problem far beyond that of State pride or State sovereignty. It calls for an exercise of authority as far removed from State legislation as Patagonia is distant from Alaska. It is not a State question—it is not a national question; it is a continental question. It does not involve the right of either State or Nation to destroy bird life. It is not the right to kill the robin; it is the right every State and nation has to enjoy its just share of the blessings of Providence—its natural resources. It is the duty of the United States to lead the way now; i. e., go as far as it can and start now, as it was the duty of Austria to lead the way for the European nations 40 years ago. Future generations will never forgive us if we delay this matter longer, and we will not deserve forgiveness if we delay longer. If this law is enacted we may hope and expect that the other nations of the Western Hemisphere will recognize the wisdom and necessity of following our lead, and either by treaty or law bear witness to the fact that American civilization has ceased to recognize the wanton destruction of one of its most beautiful and useful natural blessings and benefits as the right of any man or set of men.

The senior Senator from New York, in a recent address before the Pennsylvania Society, put this branch of the subject where I am quite willing to leave it for the present. In this address the distinguished Senator says:

> The instinct of self-government among the people of the United States is too strong to respect anyone's right to exercise a power which he fails to exercise. If the States fail to furnish it in due measure, sooner or later constructions of the Constitution will be found to vest the power where it will be exercised—in the National Government.

Mr. BORAH. I do not understand that the Senator from New York advocated that that could be done without an amendment to the Constitution; that the neglect of a State to act would give rise rightfully to a new interpretation or justify the construing into the Constitution of a new provision.

Mr. McLEAN. The Senator from New York did not say that.

Mr. ROOT. The Senator from New York was not advocating anything except that the States should perform their duty. He was giving a warning to the States that if they did not perform their duties, if they did not exercise their powers, they might expect sooner or later to lose their powers. It was not advocacy; it was warning.

Mr. BORAH. The Senator from Idaho understood the Senator from New York correctly. The Senator was not arguing that by reason of the failure of the States to do their duty the National Government could constitutionally assume the powers which had been reserved to the States.

Mr. ROOT. Certainly not.

Mr. McLEAN. Mr. President, my point is that no single State is competent to furnish the protection that is necessary.

It is beyond the power of any State to do it, and there is no other way to secure this legislation, which will reach the general welfare, if we can believe anything that these gentlemen who have made a life study of this question tell us, than for the Federal Government to assume control; and we must expect that in due time we shall have a Pan-American agreement in regard to this matter, just as they have in Europe. I do not believe there will be any other way to effectively accomplish the protection of the insectivorous bird.

Now, Mr. President, I want to say just a word about the administration of this proposed law.

ADMINISTRATION.

The administration of this law has been placed in the Department of Agriculture, with certain restrictions as to penalties and other conditions preventing interference with State regulations. This bill provides that the Secretary of Agriculture shall establish certain zones dependent upon climatic conditions and the habits of the birds to be protected and make such regulations within these zones as the law directs.

I am myself opposed to the multiplication of administrative laws or the delegation of judicial powers to commissions unless the necessity is very clear. We have to-day scores of governmental agencies and bureaus clothed with judicial functions, some of them giving wide scope to the discretion of administrative officers. But it does not follow that a lack of caution in one case should demand unreasonable and unnecessary caution in another. Where Government officers and agents are clothed with full authority to seize and destroy private property to the end that the health, morals, and safety of the community may be conserved, injustice and hardship may occur unless the Government agency is of the highest order.

But again I call your attention to the fact that the bill under consideration in no way affects or imperils property or private rights. No harm can come to any citizen unless he destroys life in which he has no property right, and in every such case the constitutional rights of the accused, both as regards his arrest and trial, are left wholly undisturbed.

The only power delegated in this bill is the power to designate and bound the several zones. I am heartily in favor of leaving this matter to the Department of Agriculture, because there is every reason to believe that its officers will act with much more accurate information than can be had by a congressional committee. Indeed, if Congress should undertake to establish the zones provided for in this bill, its best source of information would be the ornithologists and experts in the Agricultural Department.

It is to be borne in mind that this bill is a beginning. Improvements upon the pending legislation will probably come with experience, but the bill as it stands can result in no harm to any human being or his possessions. It has more than an even chance, I think, of becoming one of the most beneficial and highly prized institutions of the country. If anyone is concerned about the expense which may be entailed in the operation of this law, I will call his attention to the fact that since 1903 Congress has appropriated $3,530,284, which has been expended by the Bureau of Entomology in its investigations of insects injurious or beneficial to agriculture, horticulture, and arboriculture:

Appropriations for the fiscal years 1903–1913.

1903.	General expenses, Bureau of Entomology	$45,500
1904.	General expenses, Bureau of Entomology	65,500
1905.	General expenses, Bureau of Entomology	70,000
	Cotton-boll weevil investigations (allotted to Bureau of Entomology)	80,000
1906.	General expenses, Bureau of Entomology	68,060
	Cotton-boll weevil investigations (allotted to Bureau of Entomology)	84,444
1907.	General expenses, Bureau of Entomology	75,000
	Prevent spread of moths	82,500
	Cotton-boll weevil investigations (allotted to Bureau of Entomology)	85,000
1908.	General expenses, Bureau of Entomology	113,809
	Preventing spread of moths	150,000
	Cotton-boll weevil investigations (allotted to Bureau of Entomology)	40,000
1909.	General expenses, Bureau of Entomology	158,800
	Preventing spread of moths	250,000
1910.	General expenses, Bureau of Entomology	198,400
	Preventing spread of moths	300,000
1911.	General expenses, Bureau of Entomology	202,900
	Preventing spread of moths	300,000
1912.	General expenses, Bureau of Entomology	256,950
	Preventing spread of moths	284,840
1913.	General expenses, Bureau of Entomology	328,750
	Preventing spread of moths	284,840
	Exterminating the army worm	5,000
	Total	3,530,284

If Congress can legitimately expend millions of dollars in ineffective and temporary efforts to protect the flora of the country from the ravages of insects, I can see neither economy nor statesmanship in a refusal to use agencies that promise permanent protection to a very considerable extent and at a very slight cost. If 10 per cent of the loss now caused annually by destructive insects can be prevented, it means an annual saving of $80,000,000 to the agricultural interests of the country, and this bill calls for but $10,000. And now, Mr. President, I conclude with a few sentences which will apply to this and several other matters now on the calendar.

Mr. REED. Would it interrupt the Senator if I should ask him a question in regard to this subject?

Mr. McLEAN. Not at all.

Mr. REED. I desire to say, as a preliminary, that I am interested in the bill and believe that some action should be taken in the direction suggested. My question is, Under what clause of the Constitution does the Senator think we can exercise the right to prevent the killing of game?

Mr. McLEAN. I have presented my views with regard to that question.

Mr. REED. I beg the Senator's pardon. I was obliged to be out of the Chamber for awhile and did not hear him. I would not ask him to restate them.

Mr. McLEAN. I frankly said that I did not myself find authority for it in any express clause of the Constitution, but I thought it was one of the implied attributes of sovereignty, based upon the incompetency of any State to accomplish the results desired, and that it is absolutely necessary that any nation worthy of the name shall have this power; and I cited instances of treaties and conventions between European nations. They have there a very complete code for the protection of game birds, and my hope is that the nations of the Western Hemisphere will, when the United States sets the example, quickly follow it.

The Senator will admit that a great many things have been decided as constitutional for which our fathers, at least, found no special constitutional grant, and that is my position. I agree it is fallow ground, and I cited but one case in which the Supreme Court clearly intimated that it was a dormant right that the Nation has a right to exert any time it chooses.

Mr. REED. What I had in mind was this thought: The Federal Government is a Government of delegated powers, and possesses no powers whatsoever except those that are expressly delegated and those necessarily incident thereto. I should be glad if we could find ground upon which to protect migratory birds.

The Senator speaks of the sovereignties of Europe having, by conventions or mutual agreements, protected game birds. In that case each of these nations is a sovereign and possesses absolute power.

Mr. McLEAN. I hope the United States is or will be in due time.

Mr. REED. It possesses absolute power, whereas the United States is a sovereignty limited in its powers by the Constitution. England having the right to do as it pleases with birds——

Mr. McLEAN. Mr. President, I am very anxious to finish my remarks before 2 o'clock.

Mr. REED. I beg the Senator's pardon. I did not know I was trenching upon his time, but if he will permit me to finish that sentence——

Mr. McLEAN. I am willing to yield for a question, but the discussion of this subject, I will admit, if thoroughly gone into by the constitutional experts of the Senate, would take more time than we shall have before 2 o'clock.

Mr. REED. I do not profess to be a constitutional expert. I simply wanted to get the Senator's view. I will take pleasure in reading the remarks of the Senator.

Mr. McLEAN. It is something the States can not do. The State of Connecticut can not protect the migratory birds of the Western Hemisphere; it is something no single State can do. Now, if the Nation has not the power to promote the general welfare in this regard, where the demand is insistent and imminent, all I have to say is that if I were a member of the Supreme Court of the United States I should not hesitate to say that the spirit of the Constitution should be read into its language to that extent.

There is at the present time an ever-increasing interest in and demand for the initiative and referendum. I do not intend to discuss the merits or demerits of these measures, but I think that a very important factor in the genesis of the demand for the initiative and referendum is the feeling among the people that the representative system fails to respond as quickly as it should to reasonable requests for remedial legislation.

I consider Senator Bailey's recent defense of our representative system of government one of the ablest ever made. I was charmed with its force and eloquence. But through it all there

ran in my mind this question, If the system is without fault, why is it that so many honest and able men find fault with it? That there is a widespread dissatisfaction with the fruits of representative government no one can deny. If the system is sound, why does it fail to satisfy? Is it the violin or the violinist that causes the discord? Has the representative system failed or have we failed to understand how to apply it? Congress is the only place to which the people can come for remedial legislation affecting the general welfare. We speak and act for them by their direction and with their consent. We may hold with Burke that it is our judgment and not theirs that will best conserve the interests of the people. We may insist that we are chosen because of our superior knowledge and experience in legislative matters, and it is therefore our duty to resist the unwise demands of the people as a physician would resist the use of injurious drugs, although demanded by his patient. I know that the congressional machine is geared to run slowly, and that for the best of reasons. The 30,000 or more bills now pending in Congress present hundreds of thousands of questions. Many of these questions can not be answered in the affirmative; many of them ought not to be answered at all. The people understand this just as well as we do. They know that Congress is a mill to which chaff is brought in much larger quantities than grain, but they expect us to return to them the best that is possible under the circumstances. They do not want the mill to stop on account of the chaff. It is therefore my opinion that when a measure of great public interest has been carefully considered by a committee and reported back to this body with the recommendation that the measure be favorably acted upon it should be acted upon within a reasonable time.

I have no fault to find up to date with the lack of progress that has attended this bill. I have been a Member of the Senate nearly two years, and I have been profoundly impressed with the spirit of courtesy which governs its deliberations. I do not say that I have ever seen this spirit abused, but it is my belief that the people are not interested as much in this time-honored and chivalrous consideration of our individual importance as they are in securing wise and timely action upon the important measures pending.

So, Mr. President, I feel it my duty to say that I shall ask the Senate to fix a day some time this month in which at least we can agree upon a vote. I think this bill is entitled to a vote this session. It must be manifest that if the friends of this bill are right, the sooner we recognize the necessity of action the better; if the birds are worth saving, we had better save them before they are all destroyed.

I realize that it may be difficult to secure action upon this bill in both Houses this session, but if the Senate will consent to a vote upon this measure, if it gets the support I believe it will have, it may pass this body in time to pass the House; and so I give notice that on Wednesday of next week I will ask the Senate to take up this bill and consider it after the routine morning business, with the hope that at that time there may be an agreement reached for a vote some time during the month of January.

Mr. ROOT. Mr. President, I ask permission out of order to introduce a resolution, and to it I call the attention of the Senator from Connecticut in connection with his very interesting argument.

The PRESIDING OFFICER (Mr. CLARK of Wyoming in the chair). The Senator from New York presents a resolution, which will be read for information.

The resolution (S. Res. 428) was read, as follows:

Resolved, That the President be requested to propose to the governments of other North American countries the negotiation of a convention for the mutual protection and preservation of migratory birds.

Mr. ROOT. I ask that the resolution be referred to the Committee on Foreign Relations.

The PRESIDING OFFICER. It will be so ordered.

Mr. ROOT. I think, sir, that that may furnish a pathway along which we can proceed to some practical relief in regard to the very urgent and pressing evil which the Senator from Connecticut has described. We already have a treaty regarding migratory fish in the Great Lakes and in that system of waters, and it may be that under the treaty-making power a situation can be created in which the Government of the United States will have constitutional authority to deal with this subject. At all events, that is worthy of careful consideration, and for that purpose I open it by the offer of this resolution.

THE PRESIDENTIAL TERM.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which is Senate joint resolution No. 78.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. GALLINGER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from New Hampshire suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crane	McCumber	Shively
Bacon	Crawford	McLean	Simmons
Bankhead	Culberson	Martin, Va.	Smith, Ariz.
Borah	Cullom	Martine, N. J.	Smith, Ga.
Bourne	Cummins	Newlands	Smoot
Bradley	Dillingham	O'Gorman	Stephenson
Bristow	Fletcher	Page	Sutherland
Bryan	Foster	Penrose	Swanson
Burnham	Gallinger	Perkins	Thornton
Burton	Gronna	Perky	Tillman
Catron	Heiskell	Pomerene	Townsend
Chamberlain	Johnson, Me.	Reed	Warren
Clapp	Jones	Richardson	Wetmore
Clark, Wyo.	Kenyon	Root	Williams
Clarke, Ark.	Lodge	Sanders	Works

The PRESIDENT pro tempore. On the call of the roll of the Senate 60 Senators have responded to their names, and a quorum of the Senate is present.

Mr. CUMMINS. I believe that the amendment offered by the Senator from Georgia [Mr. BACON], now in the chair, to the joint resolution under consideration is the pending question.

The PRESIDENT pro tempore. The amendment will be read.

The SECRETARY. On page 2, line 6, before the word "years" strike out "six" and insert "four," so as to read:

The term of the office of President shall be four years.

The PRESIDENT pro tempore. The question is on the adoption of the amendment just read.

EXECUTIVE SESSION.

Mr. LODGE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After three hours and eight minutes spent in executive session the doors were reopened.

IMPEACHMENT OF ROBERT W. ARCHBALD.

OPINIONS OF SENATORS FILED AND PUBLISHED BY ORDER OF THE SENATE SITTING ON THE TRIAL OF THE IMPEACHMENT OF ROBERT W. ARCHBALD, CIRCUIT JUDGE OF THE UNITED STATES FROM THE THIRD JUDICIAL CIRCUIT, AND DESIGNATED TO SERVE IN THE COMMERCE COURT.

OPINION OF MR. WORKS.

Under the Constitution appointments to office are made "during good behavior." Necessarily, then, bad behavior forfeits the right to longer hold the office. There is but one way to legally terminate the office thus forfeited, namely, by impeachment. The cause of removal must be as broad as the act that forfeits the place. If good behavior is a condition upon which the holder of it is entitled to continue in the office, logically bad behavior affecting his conduct as a judge and the duties and proprieties of the office must be a ground of impeachment.

The claim is made here, and ably and earnestly maintained, that the respondent can be impeached only for high crimes and misdemeanors, and that the word "misdemeanor," as used in this connection, must be taken in its technical legal sense as describing a criminal offense less than a felony. The broader meaning of the word, as defined by lexicographers, is "ill behavior, evil conduct, a misdeed." To give it only the limited meaning contended for would render the Constitution, as it relates to the tenure of office, contradictory and illogical. In fixing the length of the term it is made to depend upon good behavior. In providing for the termination of the office, construed as contended for by counsel for the respondent, it could not be done for any bad behavior, however flagrant or however clearly it showed the holder of the office to be unfit for the place. Thus construed, the officer may commit every possible misdeed not amounting to a crime, and yet the Government be powerless to relieve itself of such an unworthy and unfit public servant. Certainly one sitting as judge in so grave a matter could not give such a construction to the Constitution unless forced to do so by its express and unambiguous terms. That is not so in this instance. In the one clause providing for the term of office the term "good behavior" is used, in the clause providing for impeachment the word "misdemeanor." The definition of misdemeanor in its broader and proper sense is just the opposite of good behavior. To give it this meaning makes the whole provision relating to the subject perfectly logical and

harmonious. In my judgment no other construction can be given it without doing violence to the purpose and intent of its framers. Not only so, but the effect of such a construction is to continue in office a public servant who has clearly forfeited his right to the office by violating the condition upon which alone he is justly entitled to hold it, and would be wrong and unjust to the people whose servant he is.

Then the simple question is, Has the respondent been guilty of such bad behavior, evil conduct, or misdeeds relating to the conduct of his office and his duties as a judge as should deprive him of an office that he is entitled to hold only during good behavior?

Judged by the Constitution, as I am convinced it should be construed, I have no hesitation in saying that the respondent has been guilty of such misconduct as should forfeit his right to further hold his office, and that at least a part of the charges made against him by the House of Representatives are sufficient in law and sustained by the evidence, and that therefore the respondent should be impeached, and I shall vote accordingly.

I am of the opinion that the respondent can not be impeached for offenses committed before his appointment to his present office. The Constitution provides in express terms that judges appointed "shall hold their offices during good behavior." Therefore, if a judge has maintained his good behavior during that time, he has done nothing to forfeit his office. The condition upon which he is entitled to continue in office is good behavior during his service, not before. Conversely, it is only bad behavior during the same time that can forfeit the office or warrant his impeachment. Neither can such misbehavior committed before his appointment warrant a judgment disqualifying him from holding office, because such a judgment can be rendered only on his impeachment, which can not be had for such offenses. Such offenses might show his unfitness to hold office and properly prevent his appointment, but they can not be cause for his impeachment.

STATEMENT OF SENATOR WILLIAM J. STONE.

I requested the Senate to excuse me, and the Senate did excuse me, from voting on articles 7, 8, 9, 10, 11, and 12; and I desire now to state somewhat more fully than I could under the circumstances of the moment, and yet briefly, the reasons for this request. These particular articles of impeachment charge the respondent, Judge Archbald, with having committed certain acts, alleged to be official misbehavior, while he was serving as a district judge in Pennsylvania. He ceased to be a district judge long before these articles of impeachment were preferred or presented by the House of Representatives. I have grave doubt as to whether acts committed by an official while holding a given office can, after he ceases to hold that office, be made the basis of impeachment proceedings. As stated, Judge Archbald ceased to be a district judge long before the acts charged in these articles as misdemeanors were committed. I seriously doubt whether a man in the circumstances of this case can be impeached and removed from another wholly different office. If that course should be established as a fixed policy, I fear it might lead to gross abuses, and I feel that we ought to act with great deliberation, not only with respect to the moment but with respect to the future. It would not be difficult to conceive—having in view what has previously happened in our history—of a case, for instance, where one who had been a district judge had been appointed to the Supreme Bench of the United States, and who thereafter had served for years on that bench without committing any act that could by any possibility subject him to impeachment; yet, under great pressure, when the country was in a state of high political excitement, and when some supposed political exigency was influencing a partisan public opinion, a hostile partisan majority might hark back to some alleged misbehavior of the judge when he held the former minor judicial position and make that the basis of impeaching him. The same rule of practice, if once established, might well be invoked and applied to any other civil officer, including the President, who is subject to impeachment under the Constitution. I am conscious, of course, that plausible reasons may be given to support the contrary opinion, but being strongly inclined to the view above expressed I am unwilling by my vote to establish or sanction the precedent that a man may be impeached for alleged official misbehavior in an office he has long since ceased to hold and to use that as a basis for removing him from another official station in the discharge of the duties of which no complaint is made. I am all the more inclined to take that position on this hearing because of the fact that already the Senate has by a majority vote found this respondent guilty on several articles of impeachment charging him with misbehavior, high crimes, and misdemeanors in the office of which he is now the incumbent; and therefore, as I view it, there is no necessity of going further and giving the sanction of the Senate to a precedent that might be pregnant of danger in the future abuse of it.

STATEMENT OF SENATOR GRONNA RELATIVE TO HIS VOTE ON THE ARTICLES OF IMPEACHMENT AGAINST ROBERT W. ARCHBALD.

Fully realizing the solemn responsibility resting upon me, I have felt compelled to vote to convict Judge Robert W. Archbald on all the charges against him except those contained in articles 6, 10, 11, and 13.

Article 6 charges him with having attempted to use his influence to induce the officers of the Lehigh Valley Coal Co. and the Lehigh Valley Railway Co. to purchase an interest in a tract of coal land belonging to the Everhart heirs. Judge Archbald testified that he did nothing except what was necessary to protect the interests of the Everhart heirs. In my opinion, the evidence offered in support of the charge in this article is insufficient to sustain it.

Article 10 charges him with receiving, while a United States district judge, a sum of money from Mr. Henry W. Cannon, a director in various corporations, for the purpose of defraying the expenses of a pleasure trip to Europe. It appears that Mr. Cannon is a first cousin of Judge Archbald's wife, and that he invited them to take a trip to Europe at his expense, which invitation they accepted. No corrupt intent has been shown either on the part of Mr. Cannon or of Judge Archbald; it has not been shown that Mr. Cannon was interested in any cases before Judge Archbald's court or that Judge Archbald had any reason to believe that any cases would come before his court in which Mr. Cannon would be interested. The near relationship of the parties would seem to offer a sufficient explanation of Mr. Cannon's act, and in the absence of a showing of anything from which a corrupt intent can fairly be presumed, I do not find that the act charged in this article, as proved, is an impeachable offense.

Article 11 charges Judge Archbald with accepting a purse of some $500 contributed by attorneys practicing before his court. It appears that the purse was made up by a large number of attorneys and that the envelope containing it was handed to Judge Archbald as he was embarking for Europe, with the request not to open it until he had been two days at sea. While of doubtful propriety, I do not find that the act proved was, under the circumstances, an impeachable offense.

Several of the acts charged in the articles were committed while Judge Archbald was a United States district judge. The defense has urged that as these acts were committed while he held a different office from the one held when impeached, he should not be placed on trial for these acts. While I realize that there is room for a difference of opinion on this question, I find that in the Belknap case the Senate held that an officer may be impeached and that the Senate will have jurisdiction to try the case even if the said officer resigned from his office prior to the impeachment and was not at the time of the impeachment and trial an officer of the United States. In this case it appears to me there is even stronger reason for asserting the jurisdiction of the Senate; while Judge Archbald was not at the time of the impeachment holding the identical office which he did when the offenses referred to were committed, the office is closely linked to the one he previously held, and the duties he was called on to perform were of the same general nature; his appointment as a circuit judge was in the nature of a promotion. If we were to hold that the Senate can not take jurisdiction over offenses committed while he was a district judge, we should, it seems to me, adopt a rule which, if followed in future cases, might make it impossible to secure the removal of a totally unfit officer if he succeeded in obtaining an appointment to another office before the facts of the offenses which he had committed became generally known. It seems to me that where the Senate has the sole power to try public officers for high crimes and misdemeanors committed by them, it must of necessity assert its jurisdiction at least so long as such officers remain in the public service.

On article 13 I asked to be excused from voting because it is, as I understand it, a repetition of the charges contained in all the preceding articles, on some of which I voted to acquit. In my opinion this article is unnecessary, as all the charges in it had previously been separately submitted to the Senate.

OPINION OF MR. CRAWFORD.

The following facts alleged in the articles of impeachment are admitted by respondent in his answer. They are not in controversy. That is to say, it is established without conflict of testimony that at a time when he was serving in the Commerce Court as a circuit judge of the United States and at a time when the Erie Railroad Co. was a real party in interest in two

suits pending and undetermined in that court, the respondent and one Edward J. Williams, for the purpose of making a profit of two or three thousand dollars each, agreed to cooperate in securing an option to purchase the interest of the Hillside Coal & Iron Co., a subsidiary corporation of the Erie Railroad Co.—together with the interest of one John W. Robertson—in a certain culm dump near Moosic, Pa., known as the Katydid dump; that the particular service to be rendered by the respondent in this undertaking was to secure the option from the Hillside Co.; and by telephone and letters he made his desire known to the superintendent of the company at Scranton, and not being successful there, called at the offices of the general counsel of the Erie Railroad Co.—who was also general counsel for the Hillside Co.—in the city of New York, when he was there holding a term of court as a judge of the circuit court of the United States, and made his desire to secure the option to purchase this dump known to the general counsel; also, on the same day, to Mr. Richardson, one of the vice presidents of the Hillside Co. As a result of his efforts the Hillside Co., which before that time had refused to deal with Williams, gave to him a written proposal to sell its interest in the Katydid dump for the sum of $4,500; all this occurred while these important suits in which the Erie Railroad Co. was a party in interest were pending and undetermined in the Court of Commerce; the respondent had a joint pecuniary interest in this venture with Williams. In my judgment this was misconduct in office and a high misdemeanor.

Respondent also admits that while a certain suit, in which the Delaware, Lackawanna & Western Railroad Co. was a real party in interest, was pending in the Court of Commerce, and while the respondent was serving as a member of that court, and while certain other important cases in which that railroad company was a party in interest and a defendant, and in which the Marian Coal Co., of which Christopher G. Boland and his brothers owned a two-thirds interest, was complainant, were pending before the Interstate Commerce Commission—cases in which the defendant was charged with unjust discriminations and excessive transportation charges—the decision of the commission being subject to review in the Commerce Court, Boland and his brother employed an intimate friend of respondent, an attorney named Watson, who was not their attorney of record in these suits, to make a settlement of the differences in litigation between the Marian Coal Co. and the Lackawanna Railroad Co. and to effect a sale of the property of the former to the latter company, for which services, if successful, Watson was to receive the sum of $5,000; that at the request of Watson, and with the knowledge and consent of the Bolands, the respondent agreed to cooperate with and aid Watson in making this settlement, and in carrying out the joint undertaking he had interviews with Mr. Loomis, vice president of the Lackawanna Co.; wrote him letters about the matter; suggested offering his services direct; recommended a personal conference between Watson and Loomis and Mr. Truesdale, president of the company, remarking that "there is nothing like a personal interview to bring about such a result." He admits that after repeated efforts made by himself and Watson had failed of results Watson met him by appointment in Washington, where the respondent gave Watson a copy of the petition in the Meaker case, in which the Interstate Commerce Commission had made a decision materially affecting one of the questions involved in the suit between the Marian Coal Co. and the Delaware & Lackawanna Railroad Co.; and several days after giving a copy of this petition to Watson, respondent had another interview with Mr. Loomis, of the Lackawanna Co., and urged him to make a settlement with the Bolands. Both Watson and Boland, when urging respondent to assist in effecting this settlement, knew of these suits in the Commerce Court and before the Interstate Commerce Commission; and respondent, when cooperating with them to effect the common result they were all working to bring about, knew that in case of a successful outcome his friend Watson would receive the sum of $5,000. I think this was misconduct in office and a high misdemeanor.

The respondent has also admitted that while he was a judge of the Circuit Court of the United States and acting as a judge of the Commerce Court, and during a period when the Lehigh Valley Railroad Co. was a real party in interest in certain suits pending and undetermined in the Commerce Court, he secured, by personal solicitation from the Lehigh Coal Co.—owned by the Lehigh Valley Railroad Co.—an agreement by which the Lehigh Coal Co. undertook to surrender to him all its rights as lessee for the unexpired term of two years in a lease it held—from a trustee under the will of Stephen Girard, deceased—of a valuable culm dump known as Packer No. 3, near Shenandoah, Pa., owned by the city of Philadelphia, the trustee. This, in my judgment, was misconduct in office and a high misdemeanor.

He also admits that while he was acting as a judge of the Commerce Court the Louisville & Nashville Railroad Co. brought to that court a suit in which it sought to reverse or annul an order made against it by the Interstate Commerce Commission; and that after this case had been orally argued by counsel for both parties and after the record and briefs and arguments of counsel for both parties had been submitted to the court, respondent, without the knowledge or consent of the court, or of any other member of it, and without the knowledge or consent of opposing counsel or notice to them, wrote letters to Mr. Bruce, of Louisville, Ky., a lawyer who appeared in the case as counsel for the Louisville & Nashville Railroad Co. In one of these letters he asked Mr. Bruce to confer with Mr. Compton, one of the officers of the railway company, who was one of its material witnesses in the case, and ascertain if he had not intended to say, "We did not apply it there," instead of saying what the record of the case reported him as saying, "We did apply it there," in testimony concerning the application of a certain combination rate; that Mr. Bruce complied with the request, saw Mr. Compton, and by a letter addressed to respondent stated that Compton meant to say, "We did not apply it there." Respondent inserted this letter in the record of the case in the Commerce Court without notice to the opposing party. In another of these letters he explained to Mr. Bruce that one of the members of the court had discovered certain evidence in the record which it was claimed refuted the argument of Mr. Bruce and sustained the commission, and invited Mr. Bruce to send in further argument to meet this claim. He admits that he received from Mr. Bruce in reply a long letter containing a statement of the contention of the railroad company and that the receipt of this letter and its contents were not disclosed by him to counsel on the other side nor to the other members of the court.

It is admitted also that after receiving these letters from Mr. Bruce and without further hearing or notice to opposing counsel the order of the Interstate Commerce Commission against the Louisville & Nashville Railroad Co. was reversed by the Commerce Court. In my judgment this was official misconduct and a high misdemeanor.

He has also admitted that while he was acting as a judge of the Commerce Court and while the Philadelphia & Reading Railway Co. sustained an intimate relation to the Philadelphia & Reading Coal & Iron Co., the Reading Railroad Co. being a common carrier engaged in interstate commerce, he solicited an interview with W. J. Richards, general manager of the Philadelphia & Reading Coal & Iron Co. and sought to induce Richards to recognize his friend, one Warnke, as the assignee of a certain lease executed by the coal and iron company to other parties, or in lieu thereof to give to Warnke a lease of what was known as the Lincoln culm dump, belonging to the company, and that he had such an interview in the last of November, 1911. He also admits that in December, 1911, this same friend Warnke, as a member of a company known as the Premier Coal Co., had some transactions with the seller of a culm bank known as the old gravity fill, which was purchased by the Premier Coal Co. from the Lacoe & Shiffer Coal Co.; that neither Warnke nor his associates as purchasers understood that they were to pay a commission on the sale, but after they had made the purchase Warnke indorsed a note made by the Plymouth Co. to the respondent for $510, which was delivered to him and which he cashed at a bank. I decide that this is misconduct and a high misdemeanor.

He has also admitted that during the period from September 1, 1908, to the 1st of December, 1908, while he was judge of the District Court of the United States for the Middle District of Pennsylvania, which office he continued to hold until commissioned as an additional judge of the circuit court of the United States, litigation was pending in that court between the Old Plymouth Coal Co., in which one Rissinger and his brother owned a controlling interest, and certain insurance companies, involving about $28,000; and that in September, 1908, negotiations began between himself, Rissinger, and others in connection with a mining scheme in Honduras and were still pending when these cases came on for trial before him in November, 1908; that he denied a motion for nonsuit entered by the counsel for the insurance companies, after which ruling an agreement for settlement was made by the parties and consent judgments entered in favor of the plaintiffs, to be released on payment of the agreed amounts within 15 days after November 23, 1908. He also admits that on or about November 28 he indorsed Rissinger's note for $2,500, which was discounted by a bank in Scranton, and that in February, 1909, he received from Rissinger certificates representing stock issued to him in a corporation or-

ganized by Rissinger and others for the purpose of operating a gold placer mine in Honduras, for which he paid no consideration.

In this I find respondent guilty of misconduct, but it occurred before he became the incumbent of his present office. He had ceased to be a district judge when this charge was filed; and while he was guilty of misconduct, I do not believe impeachment can be sustained on this article for the reason stated.

He also admits that in 1909, while he was district judge of the middle district, a suit was pending before him for a large sum of money against the Marian Coal Co., owned by Christopher G. Boland and his brothers; that while this suit was pending and undetermined, he prepared a promissory note, payable to himself or order for $500, which was signed by one John Henry Jones, of Scranton; that respondent then indorsed the note and gave it to Jones; that he was afterwards told by Jones that this note might be presented to Christopher G. Boland for discount, and that he made no objections; that he also had a conversation with Charles H. Von Storch, president of the Providence Bank of Scranton, in regard to this note, and told him that he had indorsed it; that Von Storch was an attorney at law in practice in Scranton, and that nearly a year before this time, as judge of the circuit court, the respondent had decided a suit, in which Von Storch was a party defendant, in his favor; that the Providence Bank, of which Von Storch was president, discounted the note, which is still unpaid, except that $25 has been paid upon it by Jones.

I find respondent guilty of misconduct, but because it occurred before he became the incumbent of his present office, I do not believe the law would sustain an impeachment on this particular charge.

He also admits that in 1910 while he was a judge of the district court of the United States, and knew that Henry W. Cannon was a director in the Great Northern Railway Co. and president of a steamship company and engaged, among other things, in the mining of coal, and that Mr. Cannon was a full cousin of his wife; with knowledge of these facts, he and his wife became the guests of Mr. Cannon, and at his expense accompanied him for the period of about three months on a trip to Europe, including a visit to Mr. Cannon's villa in Florence, Italy. While I do not find that this act—after the explanation given—was misconduct, it does appear that at the time of his departure on this trip to Europe he received and accepted the sum of $525 from some of the attorneys and practitioners of the court over which he presided as judge; that at the time Edward R. W. Searle was clerk and J. B. Woodward was jury commissioner of the court, and both had been appointed by him, and that Searle collected these donations. I think the acceptance of this money was misconduct in office. Because it occurred before he entered upon his duties as a circuit judge, it can not, in my opinion, sustain an impeachment.

He also admits the appointment of J. B. Woodward as jury commissioner, and that Woodward was and is a general attorney for the Lehigh Valley Railroad Co.; but respondent says he did not know that fact at the time he appointed him and first learned it several years afterwards. He admits, however, that Woodward, with his permission, continued to act as jury commissioner during all the time respondent was judge of the middle district, during all of which time he was general attorney for the railroad company. This was official misconduct, but it occurred before he became the incumbent of the office of circuit judge, and because of that fact alone, in my judgment, it does not sustain impeachment.

In addition to these admitted facts, the evidence submitted to the Senate shows clearly that the respondent entered into business relations with E. J. Williams and John Henry Jones, which not only tended to injure his own personal standing as a man, but tended to bring the court in which he was a public officer of the Government of the United States into disrepute. Both Williams and Jones were insolvents, without credit. Their appearance here as witnesses did not create a favorable impression. Williams, according to the testimony, boasted that Judge Archbald would tell him most anything. He advised John Henry Jones to request Boland to discount the $500 note, executed by Jones and indorsed by Archbald, and told Boland he made a mistake in not doing so, because the Peale case was pending in the United States court and he would have saved all the costs if he had discounted that note. Williams received letters from the respondent introducing him to Mr. Conn, vice president of what was known as the Laurel Line Co., and made offers on behalf of Williams and himself to sell the Katydid culm dump to Mr. Conn. Respondent also wrote letters to Capt. May, of the Hillside Coal & Iron Co., and had personal interviews with May in reference to transactions in which he invited May to deal with Williams as his business associate. He knew the kind of man Williams was. He knew the kind of man John Henry Jones was. Nevertheless the undisputed evidence shows that he allowed his name to be connected with theirs as maker and indorser of promissory notes which were peddled about the streets of Scranton and presented for discount to parties having suits pending and undetermined in the court over which respondent presided as judge. He allowed the world to know that he was willing to maintain business relations with a man like Williams, who, without notice to him, executed an agreement assigning an interest in the options on the Katydid dump to William P. Boland, referring to respondent as "a silent party" in the transaction; business relations with a man who boasted to others of the privileges he had with a Federal judge, and that Judge Archbald could get properties along the lines of the anthracite coal-carrying roads for him; "that he (respondent) had influence with the railroads" (442, 443); business relations with a man who claimed to others that at the time he and respondent were in the joint undertaking to secure an option on the Katydid dump the respondent explained to him the nature of the Lighterage cases pending in the Court of Commerce in which the Erie Railroad was a party, and said he would go to New York and see Mr. Brownell, the general counsel for the Erie, about getting the option; "that he might do him some injury for refusing such a small favor" (166). It is not proven that respondent made these statements, but it is beyond dispute that he maintained business relations with the man and invited others to deal with the man who says he made them and who told other people that he made them.

The undisputed testimony shows further that during the time respondent and Watson were engaged in the prosecution of the joint undertaking to settle the differences between the Marian Coal & Iron Co. and the Delaware, Lackawanna & Western Railroad Co. Watson, in explaining to Christopher G. Boland the reason why he demanded that the Lackawanna Co. pay the Marian Co. more than the $100,000 which had been named by the Bolands, said it was because the respondent "would be very influential in bringing this sale about, and he intended to have him compensated for it" (p. 721).

The undisputed testimony also shows that while both Rissinger and Judge Archbald resided in Scranton, where the $2,500 note executed by Rissinger and indorsed by Archbald in the Honduras mining scheme was made and delivered, Rissinger took that note to Wilkes-Barre during the period between the entering of the judgments against the insurance companies and the expiration of the 15-day stay, and requested his attorney in those cases—Mr. Lanahan, a resident of Wilkes-Barre—to discount it. Mr. Lanahan declined, and made the pertinent inquiry of Rissinger, "Why he should come to Wilkes-Barre, a strange town to him, and not get his note discounted in his own town" (p. 730).

These facts are established beyond controversy, and they convince me beyond any reasonable doubt that the behavior of the respondent as a judge of the district and circuit courts of the United States was not that "good behavior" contemplated by section 1 of Article III of the Constitution; but that on the contrary they show a course of conduct in office which is so clearly reckless and improper that it amounted, to say the least, to misbehavior. The tenure of his office depends entirely upon good behavior, and when that is shown to be wanting respondent's right to hold this high judicial position ends. The only tribunal clothed with the power to hear and determine whether his official tenure shall cease because of misbehavior is the Senate of these United States sitting as a court of impeachment. Section 3 of Article I declaring that the Senate shall have the sole power to try all impeachments, section 4 of Article II declaring that the President and Vice President and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors, and section 1 of Article III declaring that the judges shall hold their offices during good behavior, are each and all entitled to equal consideration in determining the question before this Senate. The acts of the respondent, which I have just enumerated, while not defined by any express law of Congress as crimes, are in their essence and nature public offenses as serious—indeed, more serious—than many other official delinquencies which Congress has declared to be indictable as crimes. The act approved March 3, 1911, prohibits Federal judges from engaging in the practice of law and from accepting employment as counsel, and declares the violation of the act to be a "high" misdemeanor. (36 Rev. Stat., 1161.)

Is it any more of a public offense for a judge to accept employment as counsel or to engage in practice than it is for him to solicit options to buy property from litigants who have causes

pending and undetermined in the court of which he is a member, or to give his opinion concerning the title to a culm dump to aid a sale from which he is to receive a commission or other pecuniary compensation? If the offense described in the act of March 3, 1911, is a high misdemeanor, certainly these acts of the respondent are offenses in the same class and may be designated as high misdemeanors.

The act of Congress approved March 4, 1909, makes it an indictable offense for an agent, having any direct or indirect interest in the pecuniary profits or contracts of any corporation, to be employed by or to act as an officer or agent for the United States in the transaction of any business with such corporation. If it is a public offense for an agent to act as a servant of the Government when his relation to a party dealing with him as the Government's official representative is such as to tempt him to do a wrong or to violate the trust imposed in him by the Government, is it any the less a public offense for a judge, at a time when parties have large interests pending and undecided in his court, to solicit from one of them substantial favors from which he or his friend expects to realize a pecuniary profit?

It seems to me it would come far short of meeting the fair intendment of these provisions of the Constitution if we were to regard as sufficient grounds for impeachment only the committing of indictable offenses by the judge and disregard all others. To such a construction I can not agree. It is for the Senate alone to say how it shall construe the words "other high crimes and misdemeanors"; and it is sufficient to define "misdemeanor" as the lexicographers define it in our dictionaries, where it is given as a synonym for "misbehavior."

The purposes of this trial do not relate to the penalties of some criminal statute; they are to ascertain whether there is sufficient cause for removing this judge from his office. The fact that he fills a high position in the Government and that acts of misbehavior done by him are followed by consequences far more injurious than could possibly follow such acts if done by a person in private life—injuries to the State, justifying so solemn an inquest as the one in which we have been engaged—this, and this alone, distinguishes the offense and brings it within that class known to the fathers as a "high misdemeanor." I am convinced that the respondent is guilty of misbehavior in office belonging to that class of offenses. I therefore find him guilty as charged in the thirteenth article.

OPINION OF MR. OLIVER.

I voted not guilty as to each of the articles of impeachment in the Archbald case for the following reasons:

The only charges which, in my opinion, were at all worthy of consideration were those which charged that the respondent used his influence with certain officials to secure favors for himself or his friends. As to these articles I am satisfied by the evidence that in none of the transactions referred to did Judge Archbald intend that the officials with whom he was dealing should be induced to grant favors either to him or others on account of his judicial position, nor do I think that the evidence establishes the fact that any such officials were in fact so influenced.

I followed the evidence in this case closely. I heard most of it and carefully read that which I did not hear. In my opinion the evidence utterly failed to disclose any corrupt intent on the part of Judge Archbald, and in the absence of such intent I could not see how I could vote to visit upon him the extreme penalties involved in impeachment.

GEORGE T. OLIVER.

OPINION OF MR. M'CUMBER.

Mr. President, pursuant to the resolution of the Senate authorizing any Senator to file within two days his reasons for any vote upon the several articles of impeachment in the case of the United States against Robert W. Archbald, I herewith present and ask to be filed as a part of the proceedings in said case the following:

The said articles of impeachment charged the said Robert W. Archbald in a number of counts with having corruptly used his influence as judge in securing and assisting to secure the sale and transfer of properties owned directly or indirectly by those who had litigation before his court and in attempting to influence parties litigant to settle such cases for the accommodation of his friends.

The general character of these offenses is illustrated in the charge contained in article 1, in which it is claimed that the said judge did induce and influence the officers of a railroad company and a coal company to enter into an agreement to sell a certain coal dump to said judge and another interested with him in its purchase; that he applied to the officers of said company to make such sale; and that at the time of the negotiations for sale the said companies were parties to an action pending in his court.

Judge Archbald admits the facts, but denies the wrongful or unlawful inference charged. The evidence does not satisfy me either that he intended to do an injustice in any of the many acts charged or that he actually influenced litigants to favor him in any way, or that his judicial acts were in any way influenced or affected by the refusal or the granting of any request made by him.

I hold, however, that such acts on the part of the judge of a court were extremely improper; that while they may not have been done with any wrongful purpose, the fact that any person or company had an action pending before his court upon which he might pass judgment might very naturally influence such person or corporation to accede to his request for a favor or his importunities for the sale of property. Every layman knows, and certainly every judge should know, the natural impulse of the human mind to yield favor for favor, benefit for benefit, and often to expect it; and he should equally understand the natural fear to incur the displeasure of one whose power might be exercised to injure.

Such acts were further exceedingly improper because they subjected the court to suspicion and criticism and tended to diminish the faith, respect, and credit that ought to be accorded by the public to all judicial acts.

Had I been compelled to vote directly upon the question, first, whether Judge Archbald had intentionally used his official position for the purpose of securing an undue advantage, or, second, whether he had secured any undue advantage because of his official position in any business matter, I should have been compelled to have voted that the charges had not been established by the evidence.

My vote of guilty upon any article on which such vote was recorded was a vote that Judge Archbald had been guilty of judicial impropriety or misbehavior, and not a vote that such impropriety or misbehavior had improperly influenced either the acts of litigants or his own judicial acts.

The question which then presented itself to my mind was whether official misconduct in order to be an impeachable offense must be of such nature and of such gravity as to constitute an indictable offense or one which could be punished under indictment or other criminal process.

Section 4 of Article II of the Constitution of the United States reads as follows:

> The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

The words, "other high crimes and misdemeanors," in my opinion were intended to mean others of like gravity.

I am aware that at the time of the adoption of the Constitution the practice in the British Parliament did not limit the offenses for which impeachment was had, either to those of the gravity indicated in section 4 of Article II of the Constitution, or to those which were indictable or punishable under the common law. But in the absence of any parliamentary statute defining the offenses for which impeachment would lie, I am of the opinion that in adopting that portion of the Constitution the framers did not adopt or seek to adopt a construction upon it to conform to British precedents. Applying the ordinary rules of construction to the words "treason, bribery, or other high crimes and misdemeanors," as they appear in said section 4, standing alone, I could hardly bring myself to believe that they were intended to mean merely improper or reprehensible conduct.

But, further on in the Constitution, in section 1, Article III, we find the following provision:

> The judges, both of the supreme and inferior courts, shall hold their offices during good behavior.

Who is to determine what is good behavior and in what forum is that determination to be had? The Constitution provides no method of removal from office except through the process of impeachment. As impeachment is the only process by which removal can be had, and as a judge is entitled to hold his office only during good behavior, it necessarily follows, it seems to me, that an impeachment must lie against a judge for an act which constitutes bad behavior, and therefore, taking the Constitution as a whole and giving effect to both section 4 of Article II and section 1 of Article III of the Constitution, that at least so far as the judges of our courts are concerned the provisions of section 4 of Article II are made applicable to acts of judicial misbehavior, even though such acts are not subject to punishment under indictment or criminal process.

Turning, now, to the several articles of impeachment, I found that the charges contained in articles 1, 3, 5, and 6 were established either by admissions or by testimony, and holding,

as I do, that criminal or corrupt intent on the part of Judge Archbald is unnecessary to establish an impeachable offense, I voted "guilty" on said articles.

I hold that the charges contained in articles 2 and 4 were not established by the evidence, or at least that no grave offense was so established, and voted "not guilty" on those articles.

Articles 7, 8, 9, 10, 11, and 12 charge offenses committed while Judge Archbald was judge of the United States District Court for the Middle District of the State of Pennsylvania. They charge offenses committed while Judge Archbald was holding another and distinct official position.

I hold that the purpose of the Constitution in providing for impeachment proceedings was to purge the official roll of the courts of improper officers and nothing further. The Constitution therefore provided that the judgment of the Senate should not go beyond removal from office and disqualification to hold and enjoy office of honor, trust, or profit under the United States. Its purpose was not to inflict punishment, except in so far as such punishment was necessary to accomplish its legitimate end, and therefore impeachment proceedings can not lie against a person for an act committed while holding an official position from which he is separated. Of course, if jurisdiction had been obtained of the case while the respondent was holding the position, resignation by him could not operate to divest the jurisdiction. The jurisdiction to enter judgment of disqualification would continue. I therefore voted "not guilty" on each and all of said articles, 7 to 12, inclusive. It is but proper, however, for me to state that, independent of the legal proposition, I should have been compelled to have voted "not guilty" on some of them, either because the charge did not constitute judicial misbehavior or that such charge was not established. This is especially true as to articles 8, 10, 11, and 12.

Article 13 generalizes and includes all of the specific charges contained in articles 1 to 12, inclusive. I voted "guilty" upon said article 13, but in doing so my vote was intended to express my conviction only as to those specific charges included in article 13 upon which I had already voted "guilty."

More than two-thirds of the Senate having voted the respondent guilty on a number of charges, the Constitution makes it incumbent upon the Senate to enter judgment of removal from office, and I therefore with deepest regret voted to carry that judgment into effect.

I voted against that portion of the order for judgment which disqualified the respondent from holding any official position of honor, trust, or profit under the United States, because this seemed to me to be unnecessary and excessive punishment for the offense. The punishment of removal from office I regard as extremely harsh and excessive for the offenses established by the evidence, and I sincerely wish that a lighter one could have been imposed under the Constitution.

OPINION OF MR. CATRON.

It is my judgment that none of the charges are proper, because they do not charge either treason, bribery, or any other high crime or misdemeanor against the respondent.

Section 4 of Article II of the Constitution of the United States provides:

> The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

It is an invariable rule of construction that where a statute makes acts punishable and in defining the acts selects certain ones by specific designation and provides for all others, as in this case, "or other high crimes and misdemeanors," that the acts or cases embraced under the word "other" high crimes and misdemeanors must be of a similar class to that of those actually mentioned; that is to say, they must be a genus of the same species. The words "other high crimes" can not be construed to mean other crimes than felonies, the two previously mentioned being felonies, and the word "misdemeanors," used in that section, must mean a crime of a lower order of punishment, but it can not mean anything but a crime; it can not mean a mere misbehavior or neglect of duty unless these things are made crimes. This is the universal construction of such statutes unless there be something in the statute which indicates that a different construction was intended; but there is nothing in the section showing that a different construction is intended; on the contrary, the entire context of that section, and of the remainder of the Constitution, indicates that such was the construction which was intended. It is, however, contended that the provision in Article III of the Constitution, which says—

> The judges, both of the supreme and inferior court, shall hold their offices during good behavior—

meant and intended that the want of good behavior should be deemed proper ground for removal under impeachment; but the want of good behavior is not necessarily a crime; nor can one tell what character of misbehavior would be offensive to section 4 of Article III if that was to be embraced within it. No man, let him be judge or otherwise, always conforms to what may be good behavior. As long as mankind are fallible they are liable to depart sometimes from the strict line of absolute "good behavior." It is said that there would be no other way to get rid of a judge who is guilty of misbehavior. There may not be under the Constitution alone, and there may not be because no law has been passed to provide for the removal of a judge for the want of good behavior.

In the enumeration in the Constitution of the powers of Congress the eighteenth clause thereof provides:

> That Congress shall have the power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

Under this clause the Congress of the United States can enact a law providing that a judge's office shall terminate on account of the want of good behavior and how that shall be determined.

The Congress of the United States has to a certain extent acted under that section. They have provided that judges of the United States courts may be retired from office after they have served a certain length of time and reached a certain age. If the provision of the Constitution which provides that judges shall hold their office during good behavior is to be taken literally, Congress has no power to authorize them to be retired on reaching 70 years of age, after having served 10 years on the bench. But the Constitution, in effect, provides that when a judge is guilty of misbehavior he shall not or may not hold his office any longer. How is that to be determined? Can not Congress, under the clause last quoted, provide by an act some other manner of determining the misbehavior of the judge or the want of good behavior in him? And when that is done the Executive can declare his office terminated and appoint his successor. It is claimed by some Senators that if a judge became insane or incapacitated to perform the duties of his office that he might be impeached and put out of the office, and that that would be the only way to get him out. There are many ways that could be provided for. A statute could be enacted to retire him, as a matter of course, upon such being determined by some competent authority, or even if he was not able to perform the duties of his office the statute might provide for an additional judge in the district where such judge presided, just as it does now provide that the judges of the Supreme Court may be retired upon full pay, at their option, and another judge appointed to fill their place.

Not believing that it is competent to impeach a judge for anything except a felony or a misdemeanor, both of which constitute a crime of a greater or less degree, I can not give my assent to finding the respondent guilty of something which I believe is improperly charged against him. This applies to all of the charges, as in my conception no crime or misdemeanor of any kind has been charged against Judge Archbald.

The charges—Nos. 7, 8, 9, 10, 11, and 12—against Judge Archbald of acts committed during the time that he was district judge and before he became a circuit judge, in my opinion, have no validity in them.

Section 4 of Article II of the Constitution is restricted by the terms of that section to the actual President, Vice President, or any civil officer who is actually such at the time the charges are made, and in my judgment is limited to the acts done by him in that particular office. Judge Archbald, when these charges were preferred against him, had long ceased to be a district judge of the United States, and in my opinion when he was promoted to the office of circuit judge, if he had done anything wrong, all such offenses, whatever they might be, either criminal or amounting to a misbehavior only, had been condoned. The President is supposed to have looked into the private, official, and judicial character of Judge Archbald when he appointed him. In addition to that, his nomination was sent to the United States Senate, and a committee of the Senate took the same under advisement and is supposed to have looked into the character and standing of Judge Archbald and reported to the Senate on the subject. The Senate is supposed to have been satisfied thereon and to have adopted the recommendations of that committee. I do not believe that the House of Representatives had the right to go back of the present office held by Judge Archbald, to hunt up any of his acts to charge against him, so as to remove him from the office he now holds.

In addition to the foregoing reasons, I have made a careful study of the evidence, and I can not find anything outside of a mere, remote supposition, to be surmised from the facts, that

Judge Archbald ever used his official position to accomplish anything which he is charged with having accomplished or attempted to accomplish. There is no proof that he alluded to himself in any way or held himself out in any way as a judge when he was attempting to get the options on the coal dumps or make any of the deals which are mentioned in the charges. It would take a stretch of imagination, in my judgment, to connect Judge Archbald's purpose to use his official position in the cases which he is charged with doing, so as to influence the other parties. It may be possible that the parties dealing with Judge Archbald may have been influenced by his official position, and it may be possible, as was stated by some of the witnesses, in substance, that his character was supposed to have some influence. There is no showing that Judge Archbald did anything further in any of those cases than to use his own personality, and did not call upon his judicial position in any respect. It would seem very strange in the number of acts which are charged against him as using his official position—and all of them charge that—that nowhere did he mention or insinuate that he as judge of the court desired the accomplishment of any of those acts, and I can not give my assent to the fact that we can draw upon our imagination sufficiently to connect the actions of Judge Archbald with an intentional and corrupt disposition to make use of his judicial position to favor his dealings. The charges are that he intentionally, corruptly, and improperly used his judicial position to accomplish those acts, and there is not a scintilla of proof to establish the same. There is a single charge against Judge Archbald in his capacity as a judge, and that is the one which charges him with writing to a lawyer in the Louisville & Nashville case, asking him to interview a witness and get the construction of the testimony that witness had given in the case. As I understand it, the witness in that case before Judge Archbald used language which, if taken alone, meant one thing, but when taken in connection with the other language used evidently showed that there was a mistake in the use of the language of the witness first used, and that the language as shown by the whole of the testimony of that witness was the way Judge Archbald considered it, even before and after the witness had given his version as to what he meant by his testimony. It may be that it was imprudent and impolitic for Judge Archbald to write such letter without interviewing the attorneys on the other side, but if it was a mere imprudence of irregularity did it amount to a crime, or did it amount to such character that Judge Archbald should be held to be corrupt and debased and not fit to hold the office of a judge? It seems that the court reversed itself by changing from its first conclusion, reached before judgment was entered, and taking the opposite ground, favored by Judge Archbald. It may be that this action of Judge Archbald brought about that result, but it was a correct result and an honest result, and Judge Archbald is charged with an offense for getting at the correct and honest facts and conclusion. Although he did it in an irregular and impolitic way, was there anything corruptly wrong or radically wrong in the suggestion to the attorney to send him further authorities on the subject? I do not believe that there is a lawyer in the land that does not, one time or another, without consulting the opposite side, furnish additional authorities to a judge having a case under advisement. It is irregular on the part of the lawyer to do that, and it is irregular on the part of the judge to receive it; yet it is often done. No complaint can be made against it when the opinion reached is a correct opinion and gives the correct results. That is all that can be made out in that case. It is one of those things that was an impropriety. It was not good legal ethics, but, yet, it was not of the character or condition to make the acts of Judge Archbald absolutely vicious, corrupt, and vile, sufficiently so to turn him out of the office and disqualify him forever from holding it.

I do not believe that the evidence establishes that Judge Archbald used his official position corruptly or illegally to accomplish any of the objects which are charged to have been accomplished by him, or attempted to be accomplished by him, and for that reason my opinion is that he is not guilty.

I believe that the guilt of the person accused must be established beyond a reasonable doubt, to the exclusion of every other reasonable hypothesis, and I do not believe that the evidence in this case established anything as to Judge Archbald's methods, either official or otherwise, that made his acts vicious or corrupt or of a criminal character, to the exclusion of every other reasonable hypothesis.

T. B. CATRON.

Mr. SMITH of Georgia. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 18 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, January 15, 1913, at 12 o'clock m.

NOMINATIONS.

Executive nominations received by the Senate January 14, 1913.

SURVEYOR OF CUSTOMS.

J. Frank Taylor, of Kentucky, to be surveyor of customs for the port of Louisville, in the State of Kentucky. (Reappointment.)

COLLECTORS OF CUSTOMS.

John H. Burgard, of Oregon, to be collector of customs for the district of Portland, in the State of Oregon, in place of Philip S. Malcolm, whose term of office expired by limitation January 9, 1911.

Frank L. Parker, of Oregon, to be collector of customs for the district of Astoria, in the State of Oregon, in place of William F. McGregor, whose term of office expired by limitation June 15, 1912.

UNITED STATES MARSHAL.

E. C. Kirkpatrick, of Oregon, to be United States marshal for the district of Oregon, vice Leslie M. Scott, who is serving under an appointment by the United States district court.

REGISTER OF THE LAND OFFICE.

Harry Y. Saint, of Washington, to be register of the land office at North Yakima, Wash., his term having expired January 11, 1913. (Reappointment.)

APPOINTMENT IN THE ARMY.

SIGNAL CORPS.

Col. George P. Scriven, Signal Corps, to be Chief Signal Officer, with the rank of brigadier general, for the period of four years beginning February 14, 1913, vice Brig. Gen. James Allen, Chief Signal Officer, to be retired February 13, 1913, by operation of law.

PURCHASING AGENT FOR THE POST OFFICE DEPARTMENT.

Frederick H. Austin, of Missouri, to be purchasing agent for the Post Office Department, vice John A. Holmes, resigned.

POSTMASTERS.

INDIANA.

John B. Davis to be postmaster at Poseyville, Ind., in place of John B. Davis. Incumbent's commission expires February 1, 1913.

IOWA.

Arthur Farquhar to be postmaster at Audubon, Iowa, in place of Harper W. Wilson. Incumbent's commission expired January 11, 1913.

MARYLAND.

Frank L. Hewitt to be postmaster at Silver Spring, Md. Office became presidential October 1, 1912.

MINNESOTA.

L. A. Levorsen to be postmaster at Fergus Falls, Minn., in place of Benjamin D. Underwood. Incumbent's commission expired January 11, 1913.

MISSOURI.

Jesse L. Martin to be postmaster at Independence, Mo., in place of William Bostian. Incumbent's commission expired December 17, 1912.

OHIO.

Milton B. Dickerson to be postmaster at Marion, Ohio, in place of Milton B. Dickerson. Incumbent's commission expires February 10, 1913.

Edward Peterson to be postmaster at Bergholz, Ohio. Office became presidential January 1, 1913.

John O. Thomas to be postmaster at Oak Hill, Ohio, in place of John O. Thomas. Incumbent's commission expires February 24, 1913.

OREGON.

Merritt A. Baker to be postmaster at Weston, Oreg., in place of Merritt A. Baker. Incumbent's commission expires January 20, 1913.

Frank J. Carney to be postmaster at Astoria, Oreg., in place of Frank J. Carney. Incumbent's commission expires January 26, 1913.

F. W. Haynes to be postmaster at Roseburg, Oreg., in place of Charles W. Parks. Incumbent's commission expires January 20, 1913.

Edgar Hostetler to be postmaster at The Dalles, Oreg., in place of Edgar Hostetler. Incumbent's commission expires February 18, 1913.

Philip A. Livesly to be postmaster at Woodburn, Oreg., in place of William P. Pennebaker. Incumbent's commission expired January 15, 1910.

John E. Loggan to be postmaster at Burns, Oreg., in place of John E. Loggan. Incumbent's commission expired December 14, 1912.

Thomas McCusker to be postmaster at Portland, Oreg., in place of Charles B. Merrick, deceased.

John F. Miller to be postmaster at Jacksonville, Oreg., in place of Mabel Miller, deceased.

J. H. Peare to be postmaster at La Grande, Oreg., in place of George M. Richey. Incumbent's commission expired January 6, 1913.

Ella V. Powers to be postmaster at Canyon City, Oreg., in place of Ella V. Powers. Incumbent's commission expires January 20, 1913.

SOUTH CAROLINA.

David Hunt to be postmaster at Seneca, S. C., in place of James G. Harper. Incumbent's commission expired January 12, 1913.

Louis Jacobs to be postmaster at Kingstree, S. C., in place of Louis Jacobs. Incumbent's commission expired December 16, 1912.

James F. McKelvey to be postmaster at Fountain Inn, S. C., in place of James A. Cannon. Incumbent's commission expired January 12, 1913.

James P. Metcalf to be postmaster at Inman, S. C. Office became presidential January 1, 1912.

CONFIRMATION.

Executive nomination confirmed by the Senate January 14, 1913.

APPOINTMENT IN THE ARMY.

GENERAL OFFICER.

Brig. Gen. William Wallace Wotherspoon to be major general.

WITHDRAWAL.

Executive nomination withdrawn from the Senate January 14, 1913.

PURCHASING AGENT FOR THE POST OFFICE DEPARTMENT.

John A. Holmes, of the District of Columbia, to be purchasing agent for the Post Office Department.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January 14, 1913.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Let Thy blessing be upon us, O God, our heavenly Father, as we pass through the remaining hours of this day. As Thou hast reposed confidence in us, so may we put our confidence in Thee and in our fellow men, shunning the evil, holding fast to the good, doing faithfully and conscientiously the work Thou hast given us to do, leaving the results to infinite wisdom, power, and goodness; and glory and honor and praise be Thine forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

ONE HUNDRED YEARS OF PEACE (H. DOC. NO. 1203).

Mr. KENDALL. Mr. Speaker, a short time ago there appeared in The Outlook an article by HENRY CABOT LODGE, entitled "One Hundred Years of Peace." It is a contribution of so much historical interest that I ask unanimous consent that it may be printed as a House document.

The SPEAKER. The gentleman from Iowa [Mr. KENDALL] asks unanimous consent to print as a House document a certain speech on One Hundred Years of Peace, delivered by the Hon. HENRY CABOT LODGE. Is there objection?

There was no objection.

POST OFFICE APPROPRIATION BILL.

Mr. MOON of Tennessee. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union, for the further consideration of the bill H. R. 27148, the Post Office appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union, for the further consideration of the Post Office appropriation bill, with Mr. GARRETT in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 27148, of which the Clerk will report the title.

The Clerk read as follows:

A bill (H. R. 27148) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1914, and for other purposes.

The CHAIRMAN. When the House adjourned last evening an amendment was pending, proposed by the gentleman from Pennsylvania [Mr. GREGG]. The Clerk will report the amendment.

The Clerk read as follows:

Insert as a new paragraph on page 23, after line 20, the following:

"The Postmaster General is hereby authorized and directed to admit to the mails and forward to the delivery office return-reply envelopes and post cards without stamps affixed. Each of said envelopes and cards shall bear upon its face a printed address, a permit number, and the statement 'Postage prepaid; no stamp required,' and that it shall be unmailable if address is altered. All such return-reply matter shall be delivered to the addressee at the delivery post office upon the payment of postage at the rate required by law. The Postmaster General shall require a sum in money or stamps to be deposited in such amounts and at such post offices as he may designate to secure the payment of postage on any and all such return-reply matter received for delivery. In the event of default in payment by the addressee of such postage, the postmaster at the delivery post office shall deduct the amount thereof from the money or postage stamps so deposited and deliver all such mail to the depositor.

"The Postmaster General shall prescribe such rules and regulations as may be necessary to carry immediately into effect the foregoing provision."

Mr. MOON of Tennessee. Mr. Chairman, I make a point of order on that amendment.

The CHAIRMAN. The gentleman from Tennessee makes a point of order on the amendment.

Mr. GREGG of Pennsylvania. Mr. Chairman, I will ask the gentleman from Tennessee to reserve his point of order.

Mr. MOON of Tennessee. I will for awhile.

The CHAIRMAN. The gentleman from Tennessee reserves the point of order by unanimous consent.

Mr. GREGG of Pennsylvania. Mr. Chairman, I might say that there is no question but that the amendment is subject to a point of order. Under existing law those who desire to advertise their wares or merchandise or anything else of a legitimate character are permitted to send through the mails post cards which are mailed as a rule for the purpose of receiving some answer from the person to whom they are sent. The object of this amendment is to permit those who desire to advertise in that way to send out post cards, say in gross quantities, without such postage having been stamped upon the post cards themselves, and to require a deposit, in the post office from which the post cards are sent out of a sum sufficient to cover the postage on the matter sent out.

Now, at first blush it would seem that there would be no particular advantage to the Government in doing anything of that kind, but this matter has for a number of years undergone some investigation on the part of advertisers. The matter came into my hands through a constituent of mine, by whom I was informed that sometime last summer, when the Post Office bill was pending before the Senate Committee on Post Offices and Post Roads, the matter was called to the attention of the Postmaster General. I have inquired of the Postmaster General and ascertained that on July 3, 1912, he wrote this letter to Senator BOURNE, chairman of the Senate Committee on Post Offices and Post Roads, which I send to the desk and ask to have read, and which will throw some light on the question of revenue.

The CHAIRMAN. Without objection, the letter will be read.

The Clerk read as follows:

JULY 3, 1912.

Hon. JONATHAN BOURNE, Jr.,
Chairman Committee on Post Offices and Post Roads,
United States Senate, Washington, D. C.

MY DEAR SENATOR: There is considerable public demand for a postal arrangement by which the postage on return mail matter sent by advertisers and others may be paid at the office of original mailing, but, after careful consideration by this department, the conclusion has been reached that there is no authority under existing law for putting such plan into effect. Believing that the inauguration of such system would provide a needed public convenience, and at the same time increase the postal revenues, I have the honor to recommend that there be inserted in the pending postal appropriation bill legislation therefor in substantially the following form:

"The senders of mail matter who desire to pay postage on replies thereto to the number of at least 2,000 identical pieces are hereby granted that privilege upon their depositing, at the time of mailing, a sufficient sum to pay first-class postage thereon, the payment to be made in such way, and under such regulations, as the Postmaster General may prescribe."

Yours, very truly,

F. H. HITCHCOCK,
Postmaster General.

Mr. GREGG of Pennsylvania. Now, Mr. Chairman, it seems to me that in view of the statement that is made therein by the Postmaster General, this is only a measure to assist, as I think, the business men of our country, the advertisers of our country, and there should be no objection made to this amendment at this time.

There is nothing particularly serious about it, and I can very easily see that if this plan is adopted by the Post Office Department, after the passage of a provision of this character, the revenues of the United States Post Office Department would increase very materially, because of the fact that more persons would take advantage of the opportunity to send out these post cards, provided they believed they could get them returned.

Now, if that is the case, and it is for the general benefit and general welfare of the business men of our country, I can see no reason why it should not go into the law.

Mr. MOON of Tennessee. I will ask the gentleman if he does not think it better that legislation along this line should come as a whole instead of piecemeal in this way? Does not the gentleman think it would be better to wait until action is taken by the commissions that are to report on these questions? There have been no hearings had before the committee on this proposition, and I doubt the wisdom of taking it up here in the Committee of the Whole House on the state of the Union for the first time. Oftentimes many views are developed in reference to these matters coming in connection with other postal matters that would influence us.

I suggest that the gentleman had better not press it now. I agree with the gentleman that the postal laws of our country need revision, but I do not believe this to be absolutely necessary, and think we should wait until the Hughes commission's report on it can be fully considered and acted upon.

Mr. MANN. Will the gentleman yield for a question?

Mr. GREGG of Pennsylvania. Certainly.

Mr. MANN. So that we may understand the amendment. At present the practice is to send out, either with a letter or a circular, a regular postal card for reply. The person who sends those out must pay postage on the postal card by buying the postal card, whether that postal card be used or not. Under the gentleman's amendment, as I understand it, the person sending these out would not have to pay the postage when they were sent out, and would not have to pay the postage on any of the postal cards except those that were returned to the sender.

Mr. GREGG of Pennsylvania. The proposition is that the sender shall make a deposit at the place from which he sends the postal cards, say from the city of Washington, for instance, covering the number of cards that he sends out, and then after a certain specified time, which would come under the rules and regulations that would be promulgated by the Postmaster General, the money would be returned to the sender for those cards that had not been used.

Mr. MANN. Under existing law the person who sends these cards out in the first place has to pay the postage whether they are used or not.

Mr. GREGG of Pennsylvania. Yes.

Mr. MANN. Many of them are not used. Very few of them which come to me are used, and every Member receives a great many. Now, under the gentleman's amendment the postage would not have to be paid except on those postal cards which were used. How would that be to the advantage of the Government?

Mr. GREGG of Pennsylvania. I believe if a regulation of the kind proposed by this amendment was put into effect, it would result in more general advertising of this character by the merchants of the country at large. In other words, instead of 2,000 being sent out through the mails in envelopes, or by what is known as the return post card, that same merchant might send out 5,000 or 10,000.

Mr. MANN. The gentleman thinks it would add very materially to the number of these circular letters with the postal cards contained, which people generally receive and which have already become quite a nuisance.

Mr. GREGG of Pennsylvania. That is a matter for the recipient to decide.

Mr. MONDELL. Will the gentleman yield for a question?

Mr. GREGG of Pennsylvania. Certainly.

Mr. MONDELL. Do I understand that it is proposed to charge no postage at all on postal cards unless they are returned?

Mr. GREGG of Pennsylvania. That is it exactly.

Mr. MONDELL. If a million are sent out and only 100 are returned, where would the postal revenues stand on that kind of a proceeding, and what is there in the gentleman's proposition to provide for the sending out of these cards in such a manner and with purpose to bring a return?

Mr. GREGG of Pennsylvania. I believe that would be a matter for the individual advertiser to determine for himself.

Mr. MONDELL. But the individual advertiser may well be content if he can get, say, a million post cards sent out, many of which would be read, and but few returned.

Mr. GREGG of Pennsylvania. If there were a million sent out, the Government would receive the revenue from the sending out of the 1,000,000, whereas if he only sent out 10,000 the Government would only receive the benefit of the revenue on the 10,000. By the increased number sent out the Government would be the beneficiary.

Mr. MONDELL. Evidently the gentleman has not understood my question or the question of the gentleman from Illinois, or I have not understood him. Is the postage paid on the postal cards sent out, without regard to whether they come back or not?

Mr. GREGG of Pennsylvania. Not in this amendment.

Mr. MONDELL. That is it. Then, it is not true that the Government would get the postage on the postal cards sent out. It would get no postage at all except on cards sent out that came back.

Mr. GREGG of Pennsylvania. I am afraid the gentleman does not understand me.

Mr. GARDNER of New Jersey. Mr. Chairman, will the gentleman from Wyoming yield?

Mr. MONDELL. I think my question was reasonably clear. Does the sender of the postal cards, in the first instance, pay the postage on the transmission of the cards originally, without regard to whether the cards come back or not?

Mr. GARDNER of New Jersey. Let me answer that question. The gentleman has received what are called return postal cards?

Mr. MONDELL. The proposition stands as I suggested, that a man might send out a million cards without caring very much whether any of them came back or not, provided he could get some advertising from the sending of the million cards, and if none came back he would pay no postage at all.

Mr. GARDNER of New Jersey. He would pay 1 cent on every double card sent out.

Mr. MONDELL. That is what I have been trying to learn.

Mr. GARDNER of New Jersey. That is what I am trying to tell the gentleman. He has seen double postal cards, and on the outside one there is a 1-cent stamp printed.

Mr. MONDELL. Now, I will propound the question to the gentleman from New Jersey. Is it proposed that in any event the postage must be paid on the original transmission of this postal card?

Mr. GARDNER of New Jersey. Let us get this straight. We send out a double postal card, on one part of which the stamp is printed. If you want to return the other part you tear it off and put a 1-cent stamp on it. It goes now with the one stamp, and if the party receiving it does not detach it and put a stamp on the other part it is never returned.

Mr. MONDELL. Certainly.

Mr. GARDNER of New Jersey. Now, as I understand it, the gentleman from Pennsylvania proposes that that arrangement shall continue as to the sending out, and the Government shall get the same pay for sending them out that it gets now.

Mr. MONDELL. And that is to be paid for by the sender without recourse.

Mr. GARDNER of New Jersey. Certainly; just as now.

Mr. MONDELL. And this proposition is that the postmaster shall simply collect the return postage on those that are returned?

Mr. GARDNER of New Jersey. That is the proposition.

Mr. MONDELL. And it has nothing to do with the postage on the cards as they go out?

Mr. GARDNER of New Jersey. The gentleman is correct.

Mr. GREGG of Pennsylvania. That is correct; but I had not in view in offering this amendment what are known as the return post cards—that is, the double cards. The thing I had in view was the sending out of an envelope containing a circular and a post card, and then upon the return of this post card the postage would be taken from the deposit that was made in the post office from which the original circular or post card was sent.

The CHAIRMAN. Does the gentleman from Tennessee insist upon the point of order?

Mr. MOON of Tennessee. I do.

The CHAIRMAN. The Chair sustains the point of order.

Mr. BYRNES of South Carolina. Mr. Chairman, I desire to offer and have read an amendment which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Insert, after line 20, on page 23, the following: "That hereafter seeds, cuttings, bulbs, roots, scions, and plants shall be mailable at parcel-post rates."

Mr. MANN. Mr. Chairman, I reserve a point of order on the amendment.

Mr. BYRNES of South Carolina. Mr. Chairman, the parcel-post measure passed at the last session in the first section declared that fourth-class mail matter should include all farm products, but in section 6 it makes an exception to this declaration, providing "that this act shall not in any way affect the postage rate on seeds, cuttings, bulbs, roots, scions, and plants as fixed by section 482 of the Postal Laws and Regulations." Under that provision at least 60 to 70 per cent of the merchandise that the farmer would receive or send by the parcel post is excluded from the benefit of the lower rates granted by the parcel post. As an instance of how these rates discriminate against the farmer in this regard, I ask to read and have incorporated in my remarks a letter addressed to the Hon. A. F. LEVER from W. C. Geraty & Co. I might say that along the coast of South Carolina the industry of the growing of cabbage plants in the winter for shipment to northern States has developed into a great industry. During the shipping season 6 to 10 carloads a day are shipped. These plants are perishable, and immediately after their receipt at the express office must be delivered to the farmer. The farmer anticipated, with the passage of this bill, that he could save the time and the expense involved in this trip to the express office by receiving those plants, seeds, and bulbs on the rural free-delivery route, but he is denied this by the construction placed—and a proper construction—upon this act by the Postmaster General. W. C. Geraty & Co., writing to Mr. LEVER, illustrates the difference in rates as follows:

Practically all of the farmers buy their seeds, cuttings, bulbs, roots, scions, and plants from dealers or growers within a radius of 600 miles, and most of them from dealers or growers within a radius of 200 or 300 miles; therefore we will now make the comparison of the rates charged on all of the merchandise admitted to the parcel-post mails under the regular rates and the charge for these commodities admitted under discriminating rates.

For shipment within the first zone, or within a radius of 50 miles, an 11-pound package of merchandise would cost 35 cents. The same weight package of seeds, plants, etc., would cost 88 cents, or a discrimination of 151⅓ per cent against seeds, plants, etc. For the second zone, or within a radius of 150 miles, an 11-pound package of general merchandise would cost 46 cents; the same weight package of plants, seeds, etc., 88 cents, or a discrimination against the plants and seeds amounting to 91⅓ per cent. For the third zone, or within a radius of 300 miles, an 11-pound package of general merchandise would cost 57 cents. The same weight package of plants, seeds, etc., would cost 88 cents, or a discrimination against plants, seeds, etc., of 54⅓ per cent. For the fourth zone, or a radius of 600 miles, an 11-pound package of general merchandise would cost 68 cents; the same weight package of plants, seeds, etc., 88 cents, or a discrimination against plants, seeds, etc., of 29⅓ per cent.

By making a general average of these four zones the average discrimination against plants, seeds, etc., as compared with all other kinds of merchandise, would be 81⅓ per cent.

We feel satisfied, however, that at least 75 per cent of all of the plants, seeds, bulbs, etc., purchased by the farmers are bought from dealers and growers within a radius of 50 to 150 miles; therefore, on the largest percentage of these shipments there would be a discrimination in rate against these special commodities of over 120 per cent as compared with all other commodities admitted to the parcel-post mails.

Mr. AUSTIN. What reason does the Postmaster General give for his interpretation of the law which discriminates against the articles the gentleman has mentioned?

Mr. BYRNES of South Carolina. I will say to the gentleman that under the section there is no doubt that seeds, cuttings, bulbs, and roots can be mailable only under section 482 of the Postal Regulations, which rate is 2 ounces for a cent. It is declared that these commodities will be continued to be classed at fourth-class matter, but will be denied the parcel-post rates. I am informed that this was the result of a compromise which was necessary in order to secure the passage of any bill.

I can not understand it myself, because the parcel-post rate is 120 per cent less than the rate that is given to them under this section, and besides that, the great benefit to the farmer is not so much in the reduction of the rate but in the saving of time and the expense that he incurs by reason of having to stop his business and go to the express office, which is not always close to his farm.

Mr. MARTIN of South Dakota. If the gentleman will permit, is it not a fact that this class of commodity is paying third-class instead of fourth-class rates?

Mr. BYRNES of South Carolina. I am frank to say whether this is third-class rate or not I do not know, but I know it is a much higher rate than under the parcel post. It is declared to be fourth-class matter, under section 482, but by this section the parcel-post rate does not apply to these particular articles.

Mr. MARTIN of South Dakota. In other words, as a matter of revenue it is classed as third-class mail matter?

Mr. LEVER. Mr. Chairman, I was about to suggest to my colleague that this is a very peculiar situation which arises on account of section 482. If a plant grower should send his plants through the mail, they would take the rate as prescribed in this section which my colleague has read. If he should take the full-grown cabbage and send it through the mail, it would take the parcel-post rate. In other words, the department holds, and I think properly so, that any seed or plant sent through the mail for propagation purposes shall go at the rate prescribed by section 482. You could send a bushel of wheat which is to be ground into flour at the parcel-post rate, but not a bushel of wheat that was to be planted. It is a rather anomalous situation that ought to be corrected.

Mr. MARTIN of South Dakota. Mr. Chairman, is not that quite the reverse of the general policy of the Government toward the transportation and admission from foreign countries of articles for purposes of propagation?

Mr. LEVER. Yes.

Mr. MARTIN of South Dakota. Has not the whole policy of the Government heretofore been to give lower rates and greater encouragement to the transmission of articles for the purpose of propagation rather than merchandise?

Mr. LEVER. That is undoubtedly true, and I think I may say to my friend from South Dakota that if this matter had been more thoroughly considered, and had not been put through Congress at the close of the session, this contradictory situation would not exist in the law.

Mr. MARTIN of South Dakota. I think it is remarkable that it ever should have gotten into the law.

Mr. BYRNES of South Carolina. Mr. Chairman, it amounts to this in the case of cabbage plants: A cabbage can be sent through the mail in the first zone—an 11-pound package—for 46 cents under the parcel-post rate. A package of cabbage plants weighing the same amount costs the farmer 88 cents. Right now we have to make an explanation to these dealers. These dealers, believing that the parcel post was the blessing to the farmers that it was heralded to be, prepared advertising, expecting to ship the cabbage plants to the farmers. They wrote to the Post Office Department in December for instructions as to how they should be packed and prepared. They were informed by the department that they could not send them at parcel-post rate. We have heard from the dealers. Later, when the farmer in the gentleman's district, who expected to purchase them and have them shipped to him at the parcel-post rate, is informed by the dealer or the grower that he can not ship them by the parcel post, but that he will have to pay the express rate, as he now has to do, and will have to continue to go to the express office, the farmer then is going to write to the gentleman about it, and he will be called upon to explain what we have tried to explain, that a cabbage can go through at the parcel-post rate but that a cabbage plant can not. If the gentleman can satisfactorily explain that, I wish he would send me a copy of his letter, for it will help me out materially.

I now desire simply to say this to the gentleman from Illinois [Mr. MANN], who reserved the point of order: I know it can be said that this matter can wait until some other session of Congress, but the condition of this matter is this: If this bill in the Senate is in the hands of as efficient and competent a chairman as we have in the House, the bill may get through in time to enable the farmers this spring to purchase the plants and have them shipped at the lower rates; but if the point of order is made, and we do not have an opportunity to remedy this evil now, certainly for this season and the next season the farmers will have to bear this burden instead of enjoying the blessing of the parcel post.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. BYRNES of South Carolina. Yes.

Mr. MURDOCK. Is the gentleman aware of the fact that for years under the present postage rates onions sent as seeds went at one rate and onions sent as food went at another.

Mr. BYRNES of South Carolina. No; I have not been aware of that, and I would hate to have to explain why that is so.

Mr. MURDOCK. That is true.

Mr. MANN. Mr. Chairman, the gentleman from South Carolina [Mr. LEVER] said to the House that under the existing law cabbage plants sent to be planted went at a higher rate than cabbage which was grown for food, which is true. It is also true that before the parcel-post law was passed a cabbage sent for food went at double the rate a cabbage sent for planting did. So the fact that there is an inconsistency now is because there was an inconsistency before. If the House will pardon me for making a little statement in reference to this matter, I would say that when the parcel-post proposition was pending before Congress at the last session the American Seed Trade Association, covering not only seedsmen but people who grow plants for sale, entered a vigorous protest against the parcel-post proposition which was pending before the House

and the Senate. They desired to have a flat-rate parcel post, and opposed covering into the parcel-post law their commodities, which then enjoyed a special rate of one-half the ordinary rate for similar commodities. The printers throughout the country did the same thing. There were a great many protests sent by printing houses and others engaged in the preparation of circulars and printed matter, insisting that the proposed parcel-post bill would increase their rate. I helped to eliminate both propositions from the bill, as far as I had any influence, so that the parcel-post bill might become a law. When it became a law these gentlemen found that the protests which they sent out in language which was very vigorous and sometimes unparliamentary, as far as use in a legislative body was concerned, was a mistake on their part; that the parcel-post law which they were vigorously opposing, if applied to them, would have given better rates than they were enjoying. It is very likely that ought to be corrected; but it applies to books, it applies to printed matter, and it applies to all of the third-class matter, and if a change is to be made it seems to me it ought to be made, taking into consideration all those articles which formerly went at a lower rate than an ordinary parcel and which now go at a higher rate. The change should not be confined to merely young cabbages intended for planting.

While I sympathize with the gentleman, it is true that the cabbages pay no higher rate now than they did a year ago at this time. It may be that they have been discriminated against in this way, but they have lost nothing. They go at the same rate now that they did a year ago. I do not know whether the American Seed Trade Association, including all of these growers practically, or the men who furnish the seeds and who grow large quantities, want the rate changed or whether the printing trades want the rate changed and apply the zone system to their business instead of the flat-rate system which now prevails. But it is a matter on which there ought to be some hearing before a proper committee, and the whole subject, it seems to me, ought to be considered when this bill goes to another body, where, if the gentleman will call it to the attention of that body, it can be considered, and, as I take it, it has not been called to the attention of the committee of this body, I shall feel constrained at this time——

Mr. LLOYD. May I interrupt the gentleman?

Mr. MANN. Certainly.

Mr. LLOYD. Is it not true that the cabbage to which he now refers, if it should be sent to the fifth or sixth zone, would be required under the parcel-post law to pay more than under the existing law?

Mr. MANN. That would depend largely on the size of the package.

Mr. LLOYD. Suppose the package is 4 pounds?

Mr. MANN. I have not figured that out. I do not know; but, of course, these packages now go under the flat rate.

Mr. LLOYD. Under the flat rate they would pay 8 cents a pound, and it would not make any difference whether it was 1 mile or 10,000 miles. Now, under the parcel-post system it would depend on the distance as to what it would be, and, as a matter of fact, if this amendment were to become a law, seeds sent to a remote part of the country from where they are started would have to pay more under the parcel-post law than they pay under the existing law. So that does not remedy this matter altogether. It does remedy it in the first or second zone.

Mr. LEVER. Up to the sixth zone.

Mr. MANN. And for that reason, it seems to me, it ought to be considered by a committee.

Mr. LLOYD. As the gentleman is well aware, there is a Parcel Post Commission charged with the investigation of such matters as that, and they happen to be investigating it now. I am not a member of the commission, and so I do not know what is being done in regard to it. But the matter needs to be adjusted. These gentlemen are right in wishing something to be done so that the fourth-class rate may be adjusted and this peculiar instance that may be mentioned will be corrected. But this Parcel Post Commission is charged with the duty of making recommendations, and will probably suggest that which will remedy this imperfection.

Mr. MANN. I am quite frank in saying that a situation exists which needs remedying, and the reason these matters were left out of the parcel post a year ago was because none of the gentlemen of the House thought it desirable just on the eve of the vote in the House to have the House bombarded with letters and telegrams from all the printing houses of the country and all the people engaged in the growing or selling of seeds against the parcel-post proposition, which they did not understand.

Mr. LEVER. I would like to suggest to the gentleman from Illinois [Mr. MANN], if he will permit it, that while I do not know what consideration the Committee on the Post Office and Post Roads has given to this proposition, I think it only just to myself to say that I took the matter up with the chairman of that committee and filed with him a letter from Mr. Geraty, fully explaining this situation, a letter similar to the one that my colleague [Mr. BYRNES of South Carolina] has read.

Mr. MOON of Tennessee. That was after the bill was reported.

Mr. LEVER. I think the gentleman is mistaken. I think it was really during the first days of the session.

Mr. KENDALL. Will the gentleman yield?

Mr. LEVER. Yes.

Mr. KENDALL. Would not it be possible, in view of the suggestion made by the gentleman from Missouri [Mr. LLOYD], and in view of unanimous opinion that this ought to be corrected, to have the Parcel Post Commission investigate the matter pending the time the bill goes to the Post Office Committee in the Senate?

Mr. LLOYD. I am not able to reveal anything as to what has been done. I am not a member of the Parcel Post Commission, and I do not know just what they have been doing. But I had a conversation with the chairman, in which we had something of a discussion of the very matter that is now before us.

Mr. KENDALL. Of course there was no impropriety whatever in the suggestion of the gentleman from Missouri [Mr. LLOYD], but it seems it would offer a solution to this difficulty, which would be a very proper and adequate one. If the Parcel Post Commission could consider this question, together with the suggestion of the gentleman from Illinois [Mr. MANN] as to the printing trades, and then make a recommendation to the Senate, it would cover the business entirely.

Mr. LLOYD. This defect in the law applies to books as it does to this matter, and recommendations should be made to bring the third-class——

Mr. KENDALL. Have a general revision, as suggested by the gentleman from Illinois [Mr. MANN].

Mr. LEVER. The proposition of the gentleman from Illinois [Mr. MANN] is that there is here a matter that should be remedied immediately, and therefore, having agreed upon it, there is not much further use of having a controversy about it.

Mr. KENDALL. It simply means making two bites of one cherry.

Mr. LEVER. And we are willing to take the bite now.

Mr. BYRNES of South Carolina. There is a difference between the section as to the books and this one; that under the section under which they are now mailable they are declared to be fourth-class matter, and this is the only exception.

Mr. MANN. The gentleman will remember that originally these commodities went as fourth-class matter. They secured special legislation to give them the same rate that is provided for third-class matter, and while they are nominally fourth-class, they are, in fact, practically third-class matter, and carry the same rate as third-class matter, and all the reasoning that applies to one applies to the other, probably. The gentleman from Iowa [Mr. TOWNER] the other day—I will not say at the instance, but because of the action of some association of librarians—proposed that the parcel post should carry books under the same provision as other parcels are carried. A point of order was made against that, and I think properly, so that it might receive further consideration. I think the same thing is true of this proposition.

Mr. BYRNES of South Carolina. I can only say for the Post Office Committee, inasmuch as the gentleman's point is that that committee has not considered the matter, that I am told by my colleagues that some members of the committee did consider it. There seems to be some misunderstanding as to when it was.

Mr. MOON of Tennessee. There is no misunderstanding in my mind about when it was. This bill was ready to be reported on the 10th day of December.

Mr. BYRNES of South Carolina. I think the committee is ready to vote on this proposition.

Mr. MANN. Well, while I appreciate the desire of gentlemen to sell cabbage plants cheaply, or to distribute them cheaply, that is not the only thing to be considered. I think all these things should be considered in a proper way. I make the point of order, Mr. Chairman.

The CHAIRMAN. The gentleman from Illinois makes a point of order, and the point of order is sustained. The Clerk will read.

The Clerk read as follows:

For stationery, including all money-order offices, $105,000.

Mr. FOWLER. Mr. Chairman, I call attention to the fact that line 21 has not been read. There was something pending that was the order of business.

The CHAIRMAN. The Clerk will read line 21.

The Clerk read as follows:

Office of the Fourth Assistant Postmaster General.

Mr. FOWLER. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. FOWLER].

The Clerk read as follows:

Amend, page 23, after line 21, by inserting the following as a new paragraph:

"That for the purposes of this act certain highways of the several States, and the civil subdivisions thereof, are classified as follows:

"'Class A shall embrace roads of not less than 1 mile in length, upon which no grade shall be steeper than is reasonably and practicably necessary in view of the natural topography of the locality, well drained, with a road track not less than 9 feet wide, composed of shells, vitrified brick, or macadam, graded, crowned, compacted, and maintained in such manner that it shall have continuously a firm, smooth surface, and all other roads having a road track not less than 9 feet wide of a construction equally smooth, firm, durable, and expensive, and continuously kept in proper repair. Class B shall embrace roads of not less than 1 mile in length, upon which no grade shall be steeper than is reasonably and practicably necessary in view of the natural topography of the locality, well drained, with a road track not less than 9 feet wide composed of burnt clay, gravel, or a proper combination of sand and clay, sand and gravel, or rock and gravel, constructed and maintained in such manner as to have continuously a firm, smooth surface. Class C shall embrace roads of not less than 1 mile in length upon which no grade shall be steeper than is reasonably and practicably necessary in view of the natural topography of the locality, with ample side ditches, so constructed and crowned as to shed water quickly into the side ditches, continuously kept well compacted and with a firm, smooth surface by dragging or other adequate means, so that it shall be reasonably passable for wheeled vehicles at all times. That whenever the United States shall use any highway of any State, or civil subdivision thereof, which falls within classes A, B, or C, for the purpose of transporting rural or star route mail, compensation for such use shall be made at the rate of $25 per annum per mile for highways of class A, $20 per annum per mile for highways of class B, and $15 per annum per mile for highways of class C. The United States shall not pay any compensation or toll for such use of such highways other than that provided for in this section, and shall pay no compensation whatever for the use of any highway not falling within classes A, B, or C: *Provided*, That in calculating or otherwise ascertaining the distance that mail is transported over any highway, such distance shall be measured or calculated in only one direction, and only one use of or travel over any such highway, or any part thereof, on any one trip by a carrier using the same, shall be considered. That any question arising as to the proper classification of any road used for transporting rural or star route mail shall be determined by the Secretary of Agriculture. That the compensation herein provided for shall be paid at the end of each fiscal year by the Treasurer of the United States upon warrants drawn upon him by the Postmaster General to the officers entitled to the custody of the funds of the respective highways entitled to compensation under this act under and in accordance with rules and regulations prescribed jointly by the Secretary of the Treasury and the Postmaster General: *Provided, however*, That no payment shall be made under the provisions of this paragraph for the use of any privately owned or toll road.'

"That provisions of this paragraph shall go into effect on the 1st day of July, 1914."

Mr. MOON of Tennessee. Mr. Chairman, it is very evident that that amendment is subject to a point of order and obnoxious to the rules of the House. I make a point of order against it.

Mr. FOWLER. Mr. Chairman, I hope the gentleman will withhold his point of order.

Mr. MOON of Tennessee. I do not feel justified in taking up the time of the committee in withholding the point of order, in view of the fact that there is a road commission engaged in looking into this matter.

The CHAIRMAN. The gentleman from Tennessee [Mr. MOON] makes a point of order against the amendment. The point of order is sustained.

Mr. FOWLER. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For the purchase, exchange, and repair of typewriting machines, envelope-opening machines, and computing machines, and for the purchase of copying presses, numbering machines, and miscellaneous articles purchased and furnished directly to the postal service, $80,000.

Mr. MANN. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] moves to strike out the last word.

Mr. MANN. I do it for the purpose of asking a question of the chairman of the committee. Do they have no occasion for repairing or exchanging numbering machines? Heretofore the item has carried a provision for the purchase, exchange, and repair of various machines, including numbering machines. By the language this year the authority, so far as numbering machines are concerned, is only for the purchase of copying presses, numbering machines, and miscellaneous articles. Do they have no occasion to repair or exchange numbering machines?

Mr. FINLEY. Mr. Chairman, I call the gentleman's attention to the language beginning with line 4:

For the purchase, exchange, and repair of typewriting machines, envelope-opening machines, and computing machines.

Mr. MANN. And the item continues—

And for the purchase of copying presses, numbering machines, and miscellaneous articles.

Mr. FINLEY. The gentleman's question was relative to——

Mr. MANN. Numbering machines.

Mr. FINLEY. I understood it was computing machines.

Mr. MANN. No; I beg the gentleman's pardon. I said "numbering machines." I supposed there was some occasion for repairing or exchanging numbering machines. What is the occasion for limiting that part of the authority simply to the purchase? The authority to purchase is included, of course, in the first part of the paragraph.

Mr. MOON of Tennessee. We do not object to putting that in, because they do own and repair some of them.

Mr. MANN. Then if you strike out the language "for repair and purchase" you would have authority to purchase and repair all the machines provided under the current law.

Mr. TILSON. Strike out the word "and."

Mr. FINLEY. Is the gentleman from Illinois through?

Mr. MANN. Yes; I am through.

Mr. FINLEY. Mr. Chairman, on line 6, I move to strike out the words "and for the purchase of."

The CHAIRMAN. Will the gentleman from South Carolina kindly state the amendment again?

Mr. FINLEY. On page 25, line 6, strike out the words "and for the purchase of."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from South Carolina [Mr. FINLEY].

The Clerk read as follows:

On page 25, line 6, strike out the words "and for the purchase of."

Mr. KENDALL. You want to strike out the word "and," in line 5, too.

Mr. FINLEY. And in line 5, page 25, strike out the word "and."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

And in line 5, page 25, strike out the word "and."

The CHAIRMAN. The question is on agreeing to the first amendment offered by the gentleman from South Carolina.

Mr. MANN. It is all the same amendment.

The CHAIRMAN. Without objection, both amendments will be treated as one.

There was no objection.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from South Carolina [Mr. FINLEY].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For inland transportation by star routes (excepting service in Alaska), including temporary service to newly established offices, $7,105,000: *Provided*, That no part of this appropriation shall be expended for continuance of any star-route service the patronage of which shall be served entirely by the extension of Rural Delivery Service, nor shall any of said sum be expended for the establishment of new star-route service for a patronage which is already entirely served by Rural Delivery Service.

MESSAGE FROM THE SENATE.

The committee informally rose, and Mr. HARDWICK took the chair as Speaker pro tempore.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following order:

Ordered, That the respondent, Robert W. Archbald, circuit judge of the United States from the third judicial circuit, and designated to serve in the Commerce Court, be removed from office and be forever disqualified from holding and enjoying any office of honor, trust, or profit under the United States.

Resolved, That the Secretary be directed to communicate to the President of the United States and to the House of Representatives the foregoing order and judgment of the Senate and transmit a certified copy of the same to each.

The message also announced that the Senate had passed sundry bills and a joint resolution of the following titles:

H. R. 20339. An act for the relief of Joseph W. McCall;

S. 7637. An act to authorize the construction of a railroad bridge across the Illinois River near Havana, Ill.;

S. 8000. An act providing for publicity in taking evidence under act of July 2, 1890; and

S. J. Res. 150. Joint resolution appropriating $40,000 for expenses of inquiries and investigations ordered by the Senate.

POST OFFICE APPROPRIATION BILL.

The committee resumed its session for the further consideration of the bill H. R. 27148, the Post Office appropriation bill.

Mr. HARDWICK. Mr. Chairman, I rise to move to strike out the last word, for the purpose of asking the chairman of the

committee a question. The question is this, if the gentleman will give me his attention: Since the establishment of the parcel-post system the duties of these star-route carriers have, in many cases, if not in all cases, been very largely increased. Is there any provision under existing law by which their compensation can be correspondingly increased by the department without additional legislation?

Mr. MOON of Tennessee. I do not think there is any additional legislation needed on the subject, and we could not put in additional legislation under the rules. It would be subject to a point of order.

Mr. HARDWICK. Yes.

Mr. MOON of Tennessee. But as these star-route matters are matters of contract with the department and the appropriation seems to be ample, there seems to be no reason why they can not readjust the pay on account of the additional service in the contracts.

Mr. HARDWICK. If the gentleman will pardon me just a minute, these contracts are made for a period of years in the future?

Mr. MOON of Tennessee. Yes.

Mr. HARDWICK. I have not investigated the subject recently, but I understand in a general way that it has been contended in the past at least that any change in the length of service or the character of the contract, of a physical kind more than anything else, has been required to authorize these readjustments in compensation. For instance, if the route were extended or if for any reason it were more difficult to perform the service, that has been held to be sufficient to authorize these readjustments. But I am afraid the view of the department will be that without authority of law they can not compensate these carriers for this additional service imposed by the parcel-post system. If the gentleman can give me any information on that point, I shall be obliged to him.

Mr. MOON of Tennessee. My understanding is that under such conditions they can compensate under the general postal act; but under the contract itself, if the Government were to impose burdens far in excess of those contemplated when the contract was made, evidently the obligation would not exist to carry it out any further on the part of the contractor; and the option rests with the Government all the time under this contract to annul the contracts and make new ones.

Mr. HARDWICK. Yes; but I am speaking of the act from the standpoint of the man who has made the contract with the Government. He has no such option.

Mr. MOON of Tennessee. I know he has not, but under the general postal law he has the right to refuse to carry out the contract, as I say, if the burdens imposed are far in excess of those contemplated when the contract was made.

Mr. HARDWICK. I am glad to get the gentleman's opinion on that. I understand, then, that under the general postal law——

Mr. MOON of Tennessee. Under the parcel-post law.

Mr. HARDWICK. Under the parcel post the Government could make regulations without additional legislation.

Mr. MOON of Tennessee. Yes.

Mr. HAMILTON of West Virginia. This bill makes appropriations for the year beginning next July.

Mr. HARDWICK. Yes.

Mr. HAMILTON of West Virginia. The contracts will expire before that time and the bidders for star routes will have to take into consideration this new service.

Mr. HARDWICK. I do not think all the contracts do expire before the 1st of July, and if the appropriation of seven million and some odd thousand dollars for this service is on the basis of the duties that were required of these carriers before the adoption of the parcel-post proposition, then it will be apparent offhand, I think, that there will not be enough money appropriated to pay them if you are to increase their compensation because of these additional duties imposed. Ought not the appropriation for that reason to be larger?

Mr. FINLEY. If the gentleman will take the Post Office appropriation act of last session, on page 22 he will see a provision that the Postmaster General may readjust the compensation of star-route and screen-wagon contractors if it shall appear that, as a result of the parcel-post system, the weight of the mail handled by them has been materially increased.

Mr. HARDWICK. That is a complete answer to my first question. Now, I will ask another question of the gentleman from South Carolina. Is this appropriation made on the basis of looking out for that?

Mr. FINLEY. We are unable to say how much the weight of the mails will be increased on account of the parcel post, but it will occasion no inconvenience and no harm to the contractors. We will meet here next December, and long before the expiration of the fiscal year, and whatever increased appropriation is necessary Congress can provide for at that time.

Mr. HARDWICK. As a deficiency, if necessary.

Mr. FINLEY. Yes.

Mr. HARDWICK. I agree with the gentleman.

Mr. MOON of Tennessee. Under the policy of the department they are gradually decreasing the number of star-route contracts and covering them into the rural service, and this bill provides for $73,000 just along the lines the gentleman speaks of.

Mr. HARDWICK. Then it does cover that?

Mr. MOON of Tennessee. Yes.

The CHAIRMAN. If there be no objection, the pro forma amendment proposed by the gentleman from Georgia will be withdrawn.

Mr. MONDELL. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Wyoming offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 25, line 21, strike out $7,105,000 and insert $7,355,000.

Mr. MONDELL. Mr. Chairman, I hope I may have the attention of the committee for a brief discussion of this amendment in line with the suggestion just made by the gentleman from Georgia [Mr. HARDWICK].

Gentlemen will recall that star-route and screen-wagon contractors are peculiarly affected by the adoption of the parcel post. These contractors contract to carry the mail for a certain sum per annum without regard to weight, and it has been the habit of star-route carriers from time immemorial to carry small packages for the patrons of their routes, for which they are paid varying sums. The very small pay which they receive—smaller in proportion to the service rendered than any other class of postal employees—8 cents a mile on an average against about 14 for the rural-delivery carrier—is partly excused on the theory and in view of the fact that the star-route carrier does secure some small income for the carrying of parcels. Therefore the parcel post affects him adversely in two ways. First, it takes from him the income which he now has and which was contemplated in the letting of his contract for the carrying of parcels for the people along the route. Second, it burdens him with the additional weight for which he receives no additional compensation. These facts were so well understood that when we passed the parcel-post bill we made a special provision, which the gentleman from South Carolina [Mr. FINLEY] has referred to, authorizing the Postmaster General to readjust the pay of these men on the basis of the increased weight carried by them. What are the facts with regard to the appropriation? The committee have granted what the department asked for. The difficulty is that the department did not make their estimate high enough, and that was admitted in the very brief statement made to the gentleman from Missouri [Mr. LLOYD], who was the only member of the committee who asked any questions with regard to this item.

He questioned Chief Clerk Satterfield with regard to this item, and in answer to his question the statement was made that the proposed increase is "very, very small," and I think he might have well said very, very, very small. What is the fact?

Mr. LLOYD. Mr. Chairman, if the gentleman will yield, I suppose the gentleman wants to be accurate?

Mr. MONDELL. I do.

Mr. LLOYD. The expression was "very conservative."

Mr. MONDELL. "Very conservative"? I thought it was "very small." I want to be accurate, and I want the gentleman from Missouri to be accurate. On page 93 of the hearings——

Mr. LLOYD. It is on page 92 of the hearings.

Mr. MONDELL. I am referring to page 93 of the hearings, line 5, where he says, "we have Congress to come to if we need more money, and that is the reason we made it very, very small." S-m-a-l-l—small.

Mr. LLOYD. Yes; but when asked in regard to the matter he said, "That is conservative; very conservative," and the chairman said, "Do you ever make any other kind of estimates than conservative ones?" And Mr. Satterfield said, "I said very conservative. There is this to be said about that. When we get to it, when we actually face the situation, we have Congress to come to if we need more money, and that is the reason we made it very, very small."

Mr. MANN. He undoubtedly thinks "conservative" and 'small" mean the same thing.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. MONDELL. Mr. Chairman, I ask unanimous consent for 10 minutes. I have studied this question considerably, and I am deeply interested in it.

The CHAIRMAN. The gentleman from Wyoming asks unanimous consent that he may proceed for 10 minutes. Is there objection?

There was no objection.

Mr. MONDELL. Now, Mr. Chairman, I want to call the attention of the gentleman from Missouri, if he will bear with me, to the fact that the estimate is not only "very, very small," but it is erroneous. The department started out to estimate the cost of the increase of this service upon the statement that the cost of the service the last fiscal year was $6,769,000. The cost of the service was in fact $6,819,297 for the year 1912, or about $50,000 more than stated.

Now, starting out with a sum $50,000 too small, they then estimated the cost of the first section, a net increase of $154,256. That increased cost is known because these contracts will be let very shortly. Then they estimate for all of the other sections, a less increase in cost than the actual increase of cost in the first section shown by the bids in the first section.

In other words, the actual increase in cost in the first section, where bids are already received, is 11½ per cent. They estimated the increased cost in the other three sections at less than 3 per cent, or about 2½ per cent. So, starting with an amount $50,000 too low, reducing on account of reduction of service, adding the known increase in the first section, then estimating an increase altogether too low for the other sections, they arrive at a conclusion that is very far short of what will be necessary to conduct this service.

Mr. MADDEN. Will the gentleman yield?

Mr. MONDELL. Before I yield I want to show what the committee has already done in regard to parcel post in connection with other estimates. Either the committee is wrong in regard to other items or it is wrong in regard to this, and the committee can take it one way or the other.

Mr. MADDEN. Will the gentleman allow me to lay the foundation for him?

Mr. MONDELL. Not now.

Mr. MADDEN. The gentleman does not want information?

Mr. MONDELL. The gentleman from Illinois can not give me any information on this matter, for I know more about it than he does.

Mr. MADDEN. I do not think so.

Mr. MONDELL. I not only think, I know.

Mr. MADDEN. The gentleman has a good opinion of his own information.

Mr. MONDELL. I may not know very much, but what I know I know as well as the gentleman from Illinois does. I have given this matter some attention, and the gentleman from Illinois has given it no attention, in my opinion.

Mr. MADDEN. The gentleman from Wyoming is wrong; I have given some attention to it.

Mr. MONDELL. There were only two questions put in regard to it in the hearings, and those were by the gentleman from Missouri.

Mr. MOON of Tennessee. If the gentleman from Wyoming is not more accurate with reference to his other facts in regard to this, we need not pay much attention to it. The questions were not asked by the gentleman from Missouri.

Mr. MADDEN. It is not necessary to ask questions in order to have information.

Mr. MONDELL. The gentleman from Missouri did ask some questions in regard to the matter.

Mr. MOON of Tennessee. Where?

Mr. MONDELL. The chairman asked some questions, too, in regard to the matter.

Mr. MOON of Tennessee. The gentleman from Missouri did not ask any questions.

Mr. MONDELL. Very well, we will let the chairman have his way as to who asked the questions. I want to call the attention of the chairman and of his committee to the fact that they increased the appropriation by reason of parcel post on behalf of everybody except the man in the country that carries the star route. He is forgotten.

In the Alaska appropriation you increase the appropriation 80 per cent on account of parcel post, or practically $200,000. In the matter of steamboat transportation you increase the item $160,000, approximately, or 12½ per cent, on account of parcel post, and for that reason alone, because in all these cases the various items are carefully put down and the parcel-post increase is carried by itself. In the matter of mail-messenger service the item is increased $165,000, or 9 per cent, and in the matter of post-office car service there is an increase on account of parcel post—and these increases are all increases specifically by reason of this service—the increase is approximately half a million dollars, or 11 per cent.

But when you come to the star-route carrier, the only man who had to take an additional burden, who had no option because he was under contract, you take away from him, on the one hand, his income heretofore received, and, on the other hand, put the additional burden on him whether he would or no because he is under contract to carry the mail. Now, I am not blaming the committee, unless it is to blame for not having gone into the matter more carefully with the officers of the Post Office Department. They allowed the amount estimated.

I have offered this amendment in the best of faith, and I have offered an amount so small that certainly the committee can not in good faith do anything but accept it. I am only proposing to increase this item 2½ per cent, so that with the increase already in the bill it will be an increase of 3½ per cent, when there is no other service affected by the parcel post that is not increased in this bill by at least 9 per cent. Under the circumstances it seems to me that this increase of $250,000—not quite 3 per cent of the amount carried—is exceedingly small. The same terms can be applied to it that the department applied to the very, very limited increase they proposed. It is altogether too small, but it will at least give us such a sum that the department will be able to afford some little relief in the case of these men who are now receiving smaller pay for the work they do than any other class of people in the postal service. I want to make this clear, because some member of the committee may suggest that this item ought to have been reduced in contemplation of the probable cutting off of star-route service, but that has all been considered in the estimate as made up.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. MOON of Tennessee. Mr. Chairman, I desire to make only a remark or two in reference to this matter, it not being the disposition of the committee to cut off the appropriation for this service. My friend from Wyoming [Mr. MONDELL] very strenuously insists that he is very familiar with this question. He is very positive in his views. I called attention awhile ago to the fact that he had not studied this question as closely as he thinks he has, because he said there were no questions asked on that subject except by the gentleman from Missouri [Mr. LLOYD]. Here is the record, and it shows that Mr. LLOYD did not ask a single question on the subject, but that the chairman and others did.

Mr. MONDELL. Mr. Chairman, does the gentleman from Tennessee think that is really very important?

Mr. MOON of Tennessee. No; it is not very important.

Mr. MONDELL. I read this entire record, and I do not think it is so extraordinary I forgot who asked one or two questions.

Mr. MOON of Tennessee. I say it is not very important so far as the facts in the case are concerned, but it is important to show that the recollection of the gentleman is not as good as he said it was. I will demonstrate a little further on that he is in error about other matters. Mr. Chairman, whether he intends it or not, the gentleman's remarks have left the impression on this House that the star-route contractors occupy the same sort of relation to the Government that the rural-route carrier and the city carrier occupy. We know that is not so. The bids are submitted for carrying the star-route service, and the man gets a contract under his bid. He gets it from the Government, if he gets it at all, and at the figure that he fixes himself for the carrying of the mail. It is immaterial whether he has made a good bid or a bad bid. It is his judgment. But the Government is beneficent and just; it does not want to change the contract by adding burdens to it without giving him additional compensation, so the law of the land has provided for a readjustment of compensation by the department.

Mr. MONDELL. Has the gentleman provided in his bill for readjustment?

Mr. MOON of Tennessee. Then the question comes, have we given money enough for that purpose, and that is all he could complain of. The main reason the gentleman insists upon is, that we do not give as much in proportion to the service here as we do under other heads. Let us see whether we do or not. Here is a constantly diminishing service, a service that is being covered rapidly into the Rural Delivery Service, one that will be wiped out after a while. The appropriation here for this service is $7,105,000.

Mr. MONDELL. Mr. Chairman, will the gentleman yield?

Mr. MOON of Tennessee. Yes.

Mr. MONDELL. All those matters of reduced service were taken into consideration by the estimate of the department.

Mr. MOON of Tennessee. I understand they were taken into consideration, and so were some other facts that I am going to relate. It was not necessary to use in the last fiscal year $205,428 of the money that was appropriated for the purpose of carrying on this service in adjusting these differences, yet the department comes up and in view of the law and the authority that is conferred upon it, to deal justly with these star-route men, it asks this committee to reappropriate a large sum of money and for an additional sum of $73,000. So we have to-day, with an appropriation that carries only $7,105,000 the sum of $378,400 to make good any burdens that may be imposed or may have been imposed upon these contractors by reason of the change in the law. We have not only done fairly by them, but we have done liberally by them. We have given every cent that the department has asked and every cent that the facts justify.

Mr. MONDELL. Where does the gentleman find any provision for the reappropriation of any sum. There will be no such sum left at the end of the fiscal year as the gentleman suggests, and if there were, it would not be available for the coming fiscal year.

Mr. FOWLER. Mr. Chairman, I offer an amendment to the amendment of the gentleman from Wyoming, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend the amendment by reducing the sum contained therein to $7,200,000.

Mr. FOWLER. Mr. Chairman, the star-route carriers of America are not only the poorest paid of any mail carriers in the country, but they are required to travel over the worst roads in the country. They are really a class of people by themselves. They are required to send in competitive bids for every contract which is made for the purpose of carrying the mail.

It is entirely different with the rural-route carrier and the letter carrier. These men have fixed salaries, and when they are employed it is well known that their salaries are so fixed that they will receive the amount fixed by law. But in these competitive places the star-route carriers know nothing about the hardships in many instances which they meet in carrying these mails. I know one man who contracted in the southern part of my State to carry the mail on one of these routes, and he was required, as is required by all others, to give bonds for that purpose. He failed. He was carrying that mail some 40 miles a day on a salary of 88 cents a day, and he failed to comply with his contract. His bondsmen were required by the Government to carry the mail and make good the contract, and I know that one of the bondsmen undertook to carry out the contract and killed four blooded horses in trying to do so. And I say, Mr. Chairman, these men ought to be paid better, and I think that is the duty of this committee and of this Congress to look into such cases and see that these men are placed upon a salary, the same as rural route and letter mail carriers are paid. Mr. Chairman, they are required to carry the mail over the worst——

Mr. MOON of Tennessee. Will the gentleman yield?

Mr. FOWLER. No; I can not yield now.

They are required to carry the mail over the worst class of roads in this country, and for that reason I sought here by an amendment to secure national aid for the purpose of helping to construct post roads throughout this country in order to relieve this class of mail carriers. It was thought, Mr. Chairman, during the last session of this Congress that the amendment which I offered was good legislation. It passed this House by an overwhelming majority, and I offered an amendment embodying practically the same provisions awhile ago, in order to see what the House thinks of such legislation after the election. It thought it was good legislation before the election, and now I want to determine just what its views are upon national aid for the construction of good roads after the election.

Mr. MADDEN. Mr. Chairman, I hope that neither of these amendments will prevail. I think the committee has made ample provision for the star-route service. During the coming year 242 star routes will be discontinued, aggregating 2,408 miles, making a saving of $266,200. Does anybody assume that when you substitute rural service for star-route service there should not be a saving in the star-route service? It is a simple matter of mathematical calculation. It is easy to understand when you substitute rural-delivery service for the star-route service that you ought not to pay for both. If the department estimates only 1 per cent additional for the fiscal year 1913–14 for star-route expenses, it does so because there is much less territory served by the star-route method. It is absurd to assume that the star-route service should go on increasing every year in cost and at the same time have that service rendered by rural-delivery carriers. No business house in the world would act upon the argument of the gentleman from Wyoming [Mr. MONDELL]; no business could be carried on successfully by the method which he suggests.

The Committee on the Post Office and Post Roads has made ample provision for the work of star-route delivery. I am of the opinion that the amount recommended by the committee will be far in excess of the star-route needs. Why, last year over $300,000 of the amount appropriated was turned back into the Treasury, and this year we propose to take away from this service 2,400 miles of routes and pay $266,000 to rural-delivery carriers for performing that service. And yet the gentleman from Wyoming [Mr. MONDELL] assumes that we should continue to increase the amount appropriated to meet his imaginary needs.

Mr. McKENZIE. Mr. Chairman——

Mr. MADDEN. There is no justification for the proposition submitted by the gentleman from Wyoming to the committee.

The CHAIRMAN. Does the gentleman from Illinois [Mr. MADDEN] yield to his colleague [Mr. McKENZIE]?

Mr. MADDEN. Yes; surely, I will yield.

Mr. McKENZIE. What is the amount of the reduction in this item from that of last year?

Mr. MADDEN. We increase it 1 per cent.

Mr. McKENZIE. Notwithstanding the fact that these star routes are going out of existence?

Mr. MADDEN. Surely; and we increase it because, notwithstanding the establishment of these rural delivery routes, we realize that there will be some added work in the star routes remaining because of the establishment of the parcel post.

Mr. KENDALL. Will the gentleman yield for a question?

Mr. MADDEN. Surely.

Mr. KENDALL. I want to ask if the department did not take all the gentleman has stated into account when it made its estimate?

Mr. MADDEN. The department took all of that into account and recommended only an increase of 1 per cent.

Mr. MOON of Tennessee. Will the gentleman from Illinois [Mr. MADDEN] allow me an interruption?

Mr. MADDEN. Yes, sir.

Mr. MOON of Tennessee. The department only recommended an increase of 1 per cent, it is true, but that was largely perhaps due to the fact that there was $305,000 of this appropriation unexpended.

Mr. MADDEN. And also due to the fact that a number of rural delivery routes have been substituted for star routes?

Mr. MOON of Tennessee. Certainly; and they would have that sum available in the new appropriation in addition to that.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MADDEN. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. The gentleman from Illinois [Mr. MADDEN] asks unanimous consent to proceed for five minutes more. Is there objection?

There was no objection.

Mr. MADDEN. Now, Mr. Chairman, the gentleman from Wyoming [Mr. MONDELL] complains that there is an increase of 9 per cent in the transportation allowance by rail; that there is an increase for other service, and a higher percentage of increase for still other service, while the star-route service alone is reduced to 1 per cent increase. The fact is that in every other branch of the service there is added work and justification for the increase recommended, whereas in the star-route service there is reduced work, and, consequently, justification for the reduced appropriations recommended by the committee.

The gentleman from Wyoming assumes that the committee does not understand what it is doing, but that he is all-wise, that he has information which nobody else could obtain and which no other Member of the House possesses. He is always certain that he is right, and quite certain that everybody else is wrong.

I do not think he helps his case much by assuming that he is the only one who knows the situation; by stating that members of a great committee, having given consideration to this important subject, have no knowledge upon which to base the action which they have recommended to the House.

It is not necessary to ask questions of some governmental functionary in order to be informed upon a subject. There are other methods by which information can be obtained. The members of the Committee on the Post Office and Post Roads, all of them, can read; they are industrious; they are at work. They realize that they have important duties to perform. They endeavor to perform them to the best interests of all the people of the country, and they are not, because of the activity and

aggressive force of the gentleman from Wyoming, making recommendations for the appropriation of money for star-route service that is not justified.

I can understand very well why the gentleman from Wyoming is anxious to place himself on record aggressively in favor of large appropriations for the territory from which he comes. Much of the mail delivery there is by star-route service. Railroads are scarce. The country is mountainous. The gentleman is a true representative of that western territory. He never hesitates to ask, and he gets all he can, and, as a rule, he gets a good deal more than anybody else gets. I am proud of his aggressiveness; but I want him to understand that other members of this committee on the floor of this House have information upon the subjects that come before the committee for consideration—that he is not the only man who has any intelligence, the only man who has any wisdom, the only man who has any knowledge.

He was not exactly frank with the House when he made his statement about the needs of the star-route service. He forgot to lay the necessary foundation by stating that 2,408 miles of star-route service had been discontinued and turned into the rural free-delivery service, and that the country is expending $266,000 for that service which prior to that time was expended for star-route service. I hope that neither the amendment of my colleague [Mr. FOWLER] nor the amendment of the gentleman from Wyoming [Mr. MONDELL] will prevail. [Applause.]

Mr. MONDELL. Mr. Chairman, a wise man has said that it is better that a man shall not know so much than that he shall know a great deal that is not so. [Laughter.] That saying was never better illustrated in the world than by the speech of the gentleman from Illinois [Mr. MADDEN].

He says that I assume to have information that others have not. I assume nothing of the sort. But the gentleman alleges facts which no one else can find anywhere, in any written or oral statement made by anybody on the face of the earth. The fact is that the department, in making its estimates for the star-route service, estimated—and it is on page 109 of the hearings, if the gentleman will take the trouble to read it—an expected reduction of mileage, and took it out of the sums they would otherwise have asked for.

Mr. MARTIN of South Dakota. Mr. Chairman, may I ask the gentleman a question?

The CHAIRMAN. Does the gentleman from Wyoming yield?

Mr. MONDELL. In a moment. They took $205,326 from their estimates on the basis of reduced mileage. They add the sum of $154,256, on the basis of new contracts in the first section, to go into operation when this bill becomes a law, on the same day. After they figured the reduced mileage, figured the known increased cost, they added, on account of parcel post, approximately 1½ per cent—$150,000.

Now, in other parts of the bill the committee itself has increased the appropriations, directly and specifically, on account of parcel post. There are many increases not on account of anything but parcel post, but these increases that I am talking about are on account of parcel post and nothing else. In the case of Alaska they have added about $200,000, or about 80 per cent. On account of the mail messenger service they have added $165,000, or 10 per cent, and on account of railway post-office car service they have added half a million dollars, or 12 per cent. And on account of parcel post they added to the service most affected by the parcel post, upon which the greatest burden is placed by parcel post, namely, the star-route service, only 1½ per cent, and you can not get away from those figures because they are printed in the RECORD.

It is not any information that I have that other gentlemen have not, but it is information that I happen to have because I have read it, and some other gentlemen have not taken the trouble to do it.

I ask now not for the increase we ought to have for this service, not for the increase that the other services have of from 9 per cent to 12 per cent, but for a measly increase of 3 per cent. Still the gentleman from Illinois [Mr. MADDEN] says we ought not to have it, and the gentleman from Tennessee [Mr. MOON] says that because we contracted with these men before we had a parcel post, in spite of the fact that we gave them additional burdens, we ought now to deny them any relief because they made a contract with us before we put on the added burden.

Mr. MOON of Tennessee. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. MONDELL. I will be glad to.

Mr. MOON of Tennessee. I think the gentleman is mistaken about that.

Mr. MONDELL. I misunderstood the gentleman.

Mr. MOON of Tennessee. I was speaking of the relation between this service and the other. I do not insist that anybody should be denied any rights which they have.

Mr. MARTIN of South Dakota. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Wyoming yield to the gentleman from South Dakota?

Mr. MONDELL. Yes.

Mr. MARTIN of South Dakota. Is this increase of 1½ per cent that the gentleman is talking about an increase by reason of the parcel post on the basis of the old operations of the contract service, or 1½ per cent on the basis of the diminished service that is contemplated?

Mr. MONDELL. They first asked for what the service would call for if it were not for the parcel post cutting it down by reason of the expected increased mileage, and then they asked for 1½ per cent more on account of parcel post—$150,000.

Mr. MARTIN of South Dakota. On the new basis?

Mr. MONDELL. On the new basis.

Mr. MARTIN of South Dakota. I move to strike out the last word.

Mr. MOON of Tennessee. I move that all debate on the amendment and the amendment to the amendment be now closed.

The CHAIRMAN. The gentleman from Tennessee moves that all debate on the amendment and the amendment to the amendment be now closed.

The motion was agreed to.

Mr. MARTIN of South Dakota. Mr. Chairman, is all debate closed on the amendment of the gentleman from Illinois as well as on the other amendment?

The CHAIRMAN. That was the motion proposed by the gentleman from Tennessee.

Mr. MANN. I ask unanimous consent that the gentleman from South Dakota have two minutes.

Mr. MARTIN of South Dakota. I have not consumed any unnecessary time.

Mr. MOON of Tennessee. I am aware that the gentleman has not consumed any unnecessary time, and I do not want to shut him off. I shall be glad to let him have two minutes, with the understanding that the debate come to a close at the conclusion of his remarks.

Mr. MANN. Debate has already been closed by order of the committee. I ask unanimous consent that the gentleman from South Dakota have two minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MARTIN of South Dakota. We have listened with a great deal of interest to a very heated debate over a question of fact. If the gentleman from Wyoming [Mr. MONDELL] is correct, and, as a matter of fact, this increased per cent for the parcel post on the star-route service is made upon the revised estimates after reductions have been made by the department in contemplation of the reduced mileage, the argument of the gentleman from Illinois [Mr. MADDEN] counts for nothing. I assume that the last statement of the gentleman from Wyoming [Mr. MONDELL], uncontradicted by the committee, is correct. If so, a very inadequate appropriation is made by this committee upon the subject of increased service by reason of the parcel post.

Mr. MOON of Tennessee. What statement did the gentleman think was uncontradicted by the committee?

Mr. MARTIN of South Dakota. This statement that the increased appropriation estimated by the department and put in by the committee by reason of the parcel post for the star-route service is 1½ per cent of the estimate for the revised or reduced service by reason of the reduced mileage of 2,600 miles.

Mr. MOON of Tennessee. The fact is this: That the $7,105,000 appropriation was made in view of an unexpended balance of $305,000. So the department did not need all of the appropriation heretofore made, and we have added $73,000. That will give you a leeway on this question of $378,000 out of an appropriation of $7,105,000. Their compensation will not be affected.

Mr. MARTIN of South Dakota. Let me ask the gentleman the question which was propounded by the gentleman from Wyoming [Mr. MONDELL]: Is this proposed increase of 1½ per cent by reason of the parcel-post service on star routes based upon the estimates of the department in consideration of the reduced mileage of something like 2,600 miles in this service or not?

Mr. MOON of Tennessee. No; it is in view of all the facts with reference to that service.

Mr. MARTIN of South Dakota. Is it 1½ per cent of this reduced estimate, or is it not?

Mr. MOON of Tennessee. The appropriation is $7,105,000, and $73,600 was added to the parcel post primarily, and we have also taken into consideration the fact that there is an unexpended balance of the money heretofore appropriated of $305,000 which may be used, and this was supposed to be entirely sufficient in view of the fact that this is a diminishing service, which is being rapidly covered into the rural service.

Mr. MARTIN of South Dakota. I ask unanimous consent for an additional three minutes for the purpose of getting this information.

Mr. MOON of Tennessee. I ask that the gentleman be allowed three minutes more, as I have used some of his time.

The CHAIRMAN. The gentleman asks unanimous consent that the gentleman from South Dakota have three minutes more. Is there objection?

There was no objection.

Mr. MARTIN of South Dakota. It is possible that the committee have this subject clearly in mind after the statement of the chairman of the committee, but I have not. The argument has been waxing warm back and forth here between the gentleman from Illinois [Mr. MADDEN] and the gentleman from Wyoming [Mr. MONDELL] over this precise question whether this reduced mileage of something like 2,600 miles in the star-route service for the coming fiscal year has been taken into consideration in the estimate that the amount of allowance for parcel post increased service is 1½ per cent. I think that ought to be answered clearly and satisfactorily to the committee.

Mr. FINLEY. If the gentleman will pardon me, I shall be glad to answer his question.

Mr. MARTIN of South Dakota. Certainly.

Mr. FINLEY. The amount carried in the bill is an estimate, of course, but it will not affect the compensation of any star-route carrier. He will receive his pay, whatever his contract calls for. Each and every one of them will receive what his contract calls for, whether the estimate is correct or incorrect. I think it is correct.

Mr. KENDALL. That has nothing to do with it.

Mr. FINLEY. I think the estimate as carried in the bill is sufficient.

Mr. MARTIN of South Dakota. I give it as my judgment that it is pretty clearly established here that it is not sufficient.

Mr. MADDEN. Will the gentleman allow me to interrupt him?

Mr. MARTIN of South Dakota. Certainly.

Mr. MADDEN. As a matter of course, the deduction of 2,408 miles from the star-route service, which will be turned into the Rural Delivery Service, reduced the amount of work in the star-route service, and consequently reduced the necessity for a greater appropriation.

Mr. MARTIN of South Dakota. If that is true, then I am correct in what I have been assuming—that this increase is only 1½ per cent, based on the reduced amount. I want to say in the concluding moment I have that the gentleman from Wyoming is right in his statement that the increased burdens falling upon the star-route service are proportionately larger than upon any other service, and the increase on account of the parcel-post service in the star-route service is only 1½ per cent, whereas the lowest increase for any other branch of the service is 9 per cent. It is not an adequate appropriation for that branch of the service, which is going to receive in larger proportion than any other the increased burdens of the parcel post.

The CHAIRMAN. The question is on the amendment to the amendment proposed by the gentleman from Illinois [Mr. FOWLER].

The question being taken, the amendment to the amendment was rejected.

The CHAIRMAN. The question now recurs on the amendment proposed by the gentleman from Wyoming.

The question was taken; and on a division (demanded by Mr. MONDELL) there were 26 ayes and 47 noes.

Mr. MONDELL. Mr. Chairman, I ask for tellers.

The CHAIRMAN. The gentleman from Wyoming demands tellers.

The question of ordering tellers was taken.

The CHAIRMAN. Fifteen gentlemen have arisen, not a sufficient number, and tellers are refused.

So the amendment was lost.

Mr. MONDELL. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 26, after line 3, insert the following as a new paragraph:

"To pay cost of readjustments of compensation of star-route and screen-wagon contractors on account of increased weight of mails by reason of parcel post as provided in section 8 of the act approved August 24, 1912, making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, $200,000."

Mr. MOON of Tennessee. Mr. Chairman, I make a point of order on that amendment.

Mr. MONDELL. Mr. Chairman, I want to be heard on the point of order.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. MONDELL. The amendment is not subject to a point of order because it proposes to carry out a paragraph of a provision in the parcel-post law. One of the paragraphs in section 8 is as follows:

The Postmaster General may readjust the compensation of star-route and screen-wagon contractors if it should appear that as a result of the parcel-post system the weight of the mails handled by them has been materially increased.

That is a provision of the law, and the appropriation to carry that provision of law into effect and to meet the expenses incurred is, of course, in order on the Post Office appropriation bill.

Mr. MOON of Tennessee. I do not care to be heard, Mr. Chairman.

The CHAIRMAN. The Chair will call the attention of the gentleman from Tennessee to the language just read by the gentleman from Wyoming, quoting from a provision from the so-called parcel-post law, which says:

The Postmaster General may readjust the compensation of star-route and screen-wagon contractors if it should appear that as a result of the parcel-post system the weight of the mails handled by them has been materially increased.

Mr. MOON of Tennessee. That is the existing law, and I do not think the amendment of the gentleman from Wyoming adds anything to it.

The CHAIRMAN. But the gentleman proposes an amendment for an appropriation based on this law, and insists, therefore, that it is in order.

Mr. MOON of Tennessee. The law provides for the payment, and he proposes to change it.

Mr. MONDELL. If the Chairman will permit, there is no way to carry out this provision of the law and give the beneficiaries the benefit of it except an appropriation, and this is the bill which must carry that appropriation.

Mr. MOON of Tennessee. But I remind the gentleman from Wyoming that there is an appropriation already made.

Mr. MONDELL. There is no appropriation made at all for this purpose. If there were, that fact would not preclude the offering of another provision containing an additional appropriation.

Mr. MOON of Tennessee. If it was in strict conformity with existing law.

The CHAIRMAN. The law seems to provide for a readjustment, and the amendment proposed by the gentleman from Wyoming contains an appropriation to enable that readjustment to be made if it is desirable. If an appropriation is made at another place the committee will call the Chair's attention to it.

Mr. LLOYD. Mr. Chairman, there can be no question as to the screen-wagon service and no question about the star-route carriers, and there is no doubt but that the bill provides additional pay on account of the parcel post. Both the question of the screen-wagon service and the star-route service are covered.

The CHAIRMAN. If that be true, that does not affect the parliamentary situation.

Mr. LLOYD. The only purpose of this amendment is to accomplish by indirection what the gentleman undertook to accomplish by his amendment a few moments ago. This is an indirect method of reaching that same result.

The CHAIRMAN. The point of order was not made to the other amendment proposed by the gentleman from Wyoming. It appears to the Chair that the law provides for a readjustment in the discretion of the Postmaster General, and the amendment proposed by the gentleman from Wyoming provides the funds for that readjustment. The Chair overrules the point of order.

Mr. MONDELL. Mr. Chairman, I do not want to take up the time of the House and detain the committee. We must remember that there are in operation star routes costing approximately $7,000,000. In framing the parcel-post law we realized that the law would impose a peculiarly heavy burden on the star-route carriers, and provision was made for a readjustment of their contracts. Now, assume for the sake of argument, and only for the sake of argument, that the appropriation in the paragraph just passed is sufficient for the ordinary purposes of the star-route service. This appropriation is necessary to provide for the readjustments which are contemplated by law.

Now, if the gentlemen here from the rural districts do not desire to have the carriers in their districts paid for this addi-

tional service, which is promised in the parcel-post law, very good. If the gentlemen from the city districts, who have increased the appropriations all along the line for city and urban service, want now to deny any measure of relief to the people in the country, why, of course, they are privileged to do that.

Mr. LLOYD. Mr. Chairman, the gentleman a moment ago, in discussing the other amendment, insisted that only $300,000 was provided for additional pay that would come on account of parcel post. Now he argues on this amendment that we have made no such appropriation. The truth is we have undertaken to provide for the extra compensation that will come to the star-route carrier after the adjustment of the service. It is fully provided for in this bill, and there is no occasion for the amendment of the gentleman from Wyoming in order to accomplish the result. Every adjustment is provided for, and every carrier who is entitled to additional compensation will receive it under the provisions of this bill.

Mr. MONDELL. Mr. Chairman, the gentleman from Missouri takes up the most of my five minutes misstating my position and making an additional misstatement of facts. In the first place, I have not said at any time that no provision was made for increased cost on account of parcel post. I have said at all times that there was an increase of 1½ per cent, or $150,000. But that is not enough. When the gentleman says any provision is made anywhere in the bill for additional cost by reason of readjustments, the gentleman must have got his information somewhere except from anything written or printed in regard to the bill. There is not a line or a syllable in this bill to provide for the readjustment contemplated by the parcel-post law. The star-route carriers will not receive the sums due them by reason of the readjustments unless we make an appropriation for it.

Mr. TOWNSEND. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Yes.

Mr. TOWNSEND. Mr. Chairman, I would ask the gentleman upon what ascertained fact he reiterates the statement that the largest amount of the burden of the parcel-post service will fall upon the star-route carriers?

Mr. MONDELL. Mr. Chairman, the gentleman from New Jersey [Mr. TOWNSEND] is unfortunate in not being a resident of a rural district, otherwise he would know, and then perhaps he is further unfortunate in not having heard my opening remarks. I called attention to the fact that the star-route carrier has a contract without regard to the weight of the mail he carries, and that at the same time it has been the habit of star-route carriers, from time immemorial, to carry packages from the towns and deliver them along the line of their routes and receive compensation therefor. He now loses both ways. He loses compensation that he has heretofore had and he has an additional weight to carry without more pay.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. TOWNSEND. Mr. Chairman, I move to strike out the last word.

Mr. MOON of Tennessee. Mr. Chairman, will the gentleman yield until I may make a motion?

Mr. TOWNSEND. Certainly.

Mr. MOON of Tennessee. Mr. Chairman, I move all debate on the paragraph and all amendments thereto close in five minutes.

The CHAIRMAN. The question is on the motion of the gentleman from Tennessee, that all debate on the paragraph and all amendments thereto close in five minutes.

The motion was agreed to.

Mr. TOWNSEND. Mr. Chairman, I am still unconvinced from what the gentleman from Wyoming has said that the greatest amount of this increased service, because of the parcel post, will fall upon the star-route service. I have had an opportunity within a week to observe, for instance, what has happened because of the parcel-post act in the city of Newark, part of which is in my district. I went through that portion of the floor the post office devoted to the care of that service. The number of parcels deposited there under this act has increased daily by 1,000. As closely as I could in going by the countless miles, almost, of tables covered with these parcels, I observed that the addresses on almost all of them were within the first 50-mile zone. Within 15 days the service there has reached a sum of 12,000 packages, beginning with 1, and that amounts to an increase of about 1,000 a day, allowing for one holiday and two Sundays intervening. In New York City, which is within the zone where we are situated, the number of deposits of parcels have now reached 100,000 a day. Those packages are very largely directed to people within what we know in that part of the country as the metropolitan zone, within 50 miles of the city hall of Manhattan. When you deduct such enormous deposits of parcels from the total, I can not conceive that there is any considerable quantity of them going to reach the star routes in the gentleman's State.

Mr. MONDELL. Mr. Chairman, will the gentleman yield?

Mr. TOWNSEND. Certainly.

Mr. MONDELL. I think the gentleman confuses the word "service" with the word "burden," which I used. The increase in the amount of service in the large cities is enormous. That simply means, however, adding to the force. That does not decrease the salary of anyone and does not necessarily increase anyone's work. It simply calls for more people to do the increased work. The star-route carrier, on the contrary, has his income decreased, because he no longer receives the small sums heretofore paid him for carrying parcels now carried by the parcel post, and in many cases these men are carrying these lines for half what they are worth, with the expectation that the other half of their income will be made up from this source which is now denied them.

In addition to that loss, a direct loss of revenue by reason of the parcel post, there is the additional burden of carrying that matter without any increased compensation. They are the only people under the service where the individual loses both ways. The force in New York and other cities is simply increased. More men are put on. The service is larger. The burden on any one individual is not any greater for any considerable length of time.

Mr. TOWNSEND. Mr. Chairman, I will say to the gentleman from Wyoming that I do not refer only to the force in the city which handles these parcels where they initiate, but to their ultimate destination.

Mr. MONDELL. Oh, in that case they increase the carriers.

Mr. TOWNSEND. Just a moment—but to their ultimate destination. They are also handled by rural free-delivery carriers and regular mail carriers. There is no burden from such a large initiative point; neither, presumably, from Chicago, which has the largest mail-order business in the country.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wyoming.

The question was taken, and the amendment was rejected.

Mr. MONDELL. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 26, after line 3, insert: "That the provision in section 8 of the act of August 24, 1912, making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1913, authorizing the Postmaster General to readjust the compensation of star-route and screen-wagon contractors, on account of increased weight resulting from parcel post, shall be held to authorize the allowance of increased compensation, if clearly earned, for service rendered prior to the issuance of the order for such payment."

Mr. FINLEY. Mr. Chairman, on that I make the point of order.

Mr. MONDELL. Mr. Chairman, will the gentleman reserve his point of order?

The CHAIRMAN. The Chair sustains the point of order.

Mr. MONDELL. Mr. Chairman, I desire to call attention to the importance of this, because I think it is a matter which the committee must take up.

Mr. MOON of Tennessee. Mr. Chairman, I demand the regular order.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For pay of letter carriers, substitutes for carriers on annual leave, clerks in charge of substations, and tolls and ferriage, Rural Delivery Service, $47,500,000: *Provided*, That not to exceed $20,000 of the amount hereby appropriated may be used for compensation of clerks in charge of substations.

Mr. GREGG of Pennsylvania. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Pennsylvania [Mr. GREGG].

The Clerk read as follows:

On page 26, line 6, after the colon, insert the following: "*Provided*, That the unit of compensation for such letter carriers and substitutes for carriers shall be computed on the basis of 1 mile in the number of miles required to be traveled on any route in one day; *Provided further, however*, That because of the compensation herein provided no rural letter carrier shall receive less salary than before the passage of this act."

Mr. MANN. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] reserves a point of order on the amendment.

Mr. GREGG of Pennsylvania. Mr. Chairman, I think it is generally understood that the standard rural route is 24 miles long, for which a compensation is allowed the rural free delivery carrier of $1,100.

Beginning with a route of not less than 6 miles and less than 8 miles, the department issued an order on the 24th day of August, 1912, under which, what we might term the "unit of compensation," the unit was fixed at 2 miles. In other words, if a mail carrier has a route of 23 miles daily, he is paid, under the order of the Postmaster General, $1.056, which comes under the unit of compensation for the length of route of 22 miles and less than 24 miles; and so on down over the various routes.

Now, in some routes, not very many, in western Pennsylvania—and I can speak advisedly of that—there are a number of carriers who receive compensation on a basis of 22 miles and some on the basis of 20 miles when, as a matter of fact, they travel as much as 23 miles, 23½ miles, and 23¾ miles on a 22-mile route, and the same in proportion on a 20-mile route.

A man supposedly traveling 20 miles in a 22-mile route travels as much as 21 miles and 21½ miles. Now, the free rural delivery carrier travels on an average 300 days in a year. If he travels 1 more mile per day than he is paid for he travels, then, in a year probably over 300 miles in excess of what he is paid for.

I agree that in some sections of the country this difference of a mile per day will not amount to so much, but if you take the case in western Pennsylvania or in West Virginia and in a great number of the New England States and especially in New York, where there is rural free delivery service, the life of the horse, the wear and tear of the buggy, and the maintenance of the horse will amount to a very considerable sum to the carrier each year. If you will take it through the sections that I have mentioned, there is scarcely a rural carrier who is not compelled to own at least two horses in the winter time.

I ask that this amendment may be adopted, and I trust that the gentleman from Illinois [Mr. MANN] will not insist upon his point of order. It is a very fair proposition. It is intended simply to pay the men the actual number of miles they travel. I am sure that it will make no very great difference in the general amount to be appropriated.

The CHAIRMAN. Does the gentleman from Illinois insist upon his point of order?

Mr. MANN. Mr. Chairman, the gentleman from Pennsylvania [Mr. GREGG] may be correct. I do not undertake to say that he is not. But I suppose there never will be found any method of adjusting the pay of the carrier, based on distance, that will be perfectly satisfactory to everybody. A matter of this sort ought to be considered by the committee before it is agreed to by the House. I therefore make the point of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Wyoming moves to strike out the last word.

Mr. MONDELL. And at the same time I wish to express my astonishment that anyone should make the point of order on the amendment just offered—perhaps no one but the gentleman from Illinois [Mr. MANN] would do that—because the pressure upon gentlemen by rural-route carriers in their districts has been so intense for years past that we have seen a constant succession of increases in the pay of the carriers, until we have reached the point that we are now actually paying men for carrying the mails on rural free-delivery routes just twice as much per mile as we pay men under contract.

Rural carriers who carry mail on macadamized roads out of this city and elsewhere are paid just twice as much for every mile they travel as men are paid on the average on the country roads traveled by star routes and more by considerable than carriers in my State are paid for carrying the mail across mountain ranges, where they may be compelled to go part of the way in wagons and part of the way on sleds and part of the way on snowshoes.

Mr. MOON of Tennessee. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MOON of Tennessee. I want to ask, What is before the House?

The CHAIRMAN. The gentleman from Wyoming [Mr. MONDELL] moved to strike out the last word.

Mr. MOON of Tennessee. I insist, Mr. Chairman, that the gentleman confine himself to debate on the last word. [Laughter.]

The CHAIRMAN. The gentleman from Wyoming will proceed in order.

Mr. MONDELL. I was saying that rural carriers travel over macadamized roads and receive twice as much pay as men receive who travel over country roads, facing storms and blizzards. And yet when I offer an amendment here proposing to do what the law says we shall do, even gentlemen from the rural districts on the Democratic side slavishly follow the lead of the committee—slavishly follow the lead of a committee that apparently has given no attention to this matter at all, because if they had they certainly would have dealt as fairly by the men that carry the star routes as by the men in other branches of the service.

But I suppose that is the way it will be in the future, as it has been in the past. The pressure of the rural carrier behind the average Member will probably continue to increase his rate of pay, while the poor devil who contracts with the Government and happens to live in regions from which there are not a great many Members of Congress is forgotten in contemplation of what gentlemen feel they must do for his more active and numerous brothers in the thickly settled portions of the country.

The CHAIRMAN. The time of the gentleman from Wyoming [Mr. MONDELL] has expired.

Mr. LLOYD. The difference between the gentleman from Wyoming [Mr. MONDELL] and the most of us is that we have no devils carrying mail in most of our star-route districts.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn, and the Clerk will read.

The Clerk read as follows:

For travel and miscellaneous expenses in the postal service, Office of the Fourth Assistant Postmaster General, $1,000.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. The committee did not do me the courtesy to give me an opportunity to discuss even for a moment the very important amendment which I offered a moment ago.

Mr. MOON of Tennessee. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman from Tennessee [Mr. MOON] rise?

Mr. MOON of Tennessee. To ask the gentleman from Wyoming [Mr. MONDELL] a question.

The CHAIRMAN. Does the gentleman from Wyoming yield to the gentleman from Tennessee?

Mr. MONDELL. I will be glad to do so.

Mr. MOON of Tennessee. Is the gentleman going to discuss something now germane to the last section read or is he going to discuss some other subject?

Mr. MONDELL. Oh, yes.

Mr. MOON of Tennessee. I just want to insist that this debate shall close, and that the gentleman be confined to the subject of debate provided under the rules.

Mr. MONDELL. That is entirely satisfactory.

Mr. MANN. The gentleman is actually discussing matters relating to the postal service, and ought to be allowed to proceed.

The CHAIRMAN. The gentleman from Wyoming [Mr. MONDELL] will proceed in order.

Mr. MONDELL. The paragraph has to do with travel—star-route carriers' travel over their routes; hence in discussing star-route carriers I am discussing the proposition before the House. I want to call attention again to the fact that Congress, realizing its obligation under the parcel post for increased burdens for the star-route carrier, made a provision for the readjustment of his pay. And it so happens there is a provision of the postal laws—section 1287, I think it is—which provides that no compensation shall be paid for any additional regular service rendered before the issuing of a pay order.

Now, the parcel post went into operation the 1st of January. These additional burdens on the star-route carriers began immediately, but there is no provision for their payment in advance of the issuance of an order for adjustment. We will not have a reweighing until April or May, and then, after we have had the reweighing of the mails, this section I have referred to seems to stand in the way of the readjustment and payment for services rendered prior to the issuance of the order for payment. There may be several months during which these men were rendering additional service for carrying largely increased weights, and yet it might be held that during that time they could not be paid. I hope the postal authorities will feel justified in construing the provision in the parcel-post law as repealing by implication this provision to which I have referred. Otherwise there must be some such amendment as I have proposed in order to meet the condition.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn, and the Clerk will read.

The Clerk resumed and completed the reading of the bill.

Mr. COX. Mr. Chairman, on Saturday evening I asked that the paragraph beginning on page 14, line 1, be passed over.

Mr. MOON of Tennessee. I ask unanimous consent that we return to it.

The CHAIRMAN. Is there objection?

Mr. COX. The paragraph under consideration begins with line 19.

The CHAIRMAN. Under the order which was made, the matter is in control of the chairman of the Committee on the Post Office and Post Roads.

Mr. MOON of Tennessee. I call up page 14, line 1.

The CHAIRMAN. The Clerk will report the paragraph.

The Clerk read as follows:

The Postmaster General is hereby authorized to pay, in his discretion, rewards to postal employees whose inventions are adopted for use in the postal service, and for that purpose the sum of $10,000 is hereby appropriated: *Provided*, That not to exceed $1,000 shall be paid for one invention.

Mr. HAY. Mr. Chairman, I reserve a point of order.

Mr. MANN. It is impossible to reserve a point of order.

Mr. MOON of Tennessee. I believe the paragraph was passed without prejudice.

Mr. MANN. It was not passed subject to a point of order being reserved. It was passed over after some discussion, I will say to the gentleman. I moved to strike out the last word, and asked that it be passed over without prejudice.

Mr. MOON of Tennessee. The motion was that this be passed without prejudice.

Mr. MANN. This item passed after the matter had been discussed. It is not subject to a point of order.

The CHAIRMAN. The Chair's personal recollection of the situation is that immeditely upon the paragraph being read the gentleman from Illinois [Mr. MANN] rose and moved to strike out the last word, and then a colloquy ensued between the gentleman from Illinois and the chairman of the committee. Then the request was submitted that the paragraph be passed over without prejudice.

Mr. MANN. That is correct. It was passed over for the purpose of returning to it in order to offer an amendment. It got beyond the point where a point of order would hold.

Mr. CHAIRMAN. The RECORD shows this, if the gentlemen will permit, after the reading of the paragraph:

Mr. MANN. Mr. Chairman, I move to strike out the last word and ask unanimous consent that that paragraph be passed over without prejudice, with the object of preparing an amendment to make it conform with other provisions in other departments.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the paragraph just read be passed over without prejudice. Does the gentleman mean to be recurred to at the end of the bill?

Mr. MANN. To be recurred to by the committee whenever the chairman desires.

And then followed some other talk. The Chair is not at all clear that the point of order will be in order to this paragraph. It seems to have been passed without prejudice. The purpose of the gentleman from Illinois [Mr. MANN] was to offer an amendment.

Mr. MANN. After an amendment was moved to it, it was too late to make the point of order.

The CHAIRMAN. Well, ordinarily that is true.

Mr. MANN. After the amendment which I proposed it was too late to make a point of order.

The CHAIRMAN. That is true ordinarily. The rule is sometimes very liberally construed. If there is any gentleman who would state that he at that time proposed to make a point of order, the Chair would be disposed to recognize him, but there is no statement of that sort. Will the gentleman from Virginia [Mr. HAY] give his attention for a moment? The Chair was about to state that the point of order made by the gentleman from Illinois [Mr. MANN] to the point of order made by the gentleman from Virginia——

Mr. HAY. Mr. Chairman, I simply reserved a point of order, and if the Chair decides it is not subject to a point of order because of the fact that the gentleman from Illinois [Mr. MANN] had offered an amendment to the paragraph, that, of course, ends it.

The CHAIRMAN. The Chair was about to state this: That in view of the situation which existed at that time it was at that time the purpose of the gentleman to make a point of order.

Mr. HAY. It was not my purpose at that time, because I did not happen to be in the Hall.

The CHAIRMAN. Then the Chair thinks the ordinary practice ought to apply.

Mr. MANN. Now, Mr. Chairman, I will say to the gentleman that this provision is in the existing law, so far as that is concerned. I asked to have it passed over to see whether we could not have an amendment inserted in place of the provision in the bill, which conformed to the law reported from the Committee on Military Affairs, so far as the Army is concerned, and a similar law adopted, so far as related to the Committee on Naval Affairs.

The gentleman from Connecticut [Mr. TILSON], who introduced the bill that came from the Committee on Military Affairs and became a law, so far as the Army is concerned, drafted an amendment, which was introduced as a bill, to make the language here conform with the laws already adopted relating to the other two services. I will offer that as an amendment, so as to get it before the committee.

The CHAIRMAN. The gentleman from Illinois offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 14 strike out lines 1 to 5, inclusive, and insert in lieu thereof as follows:

"The Postmaster General is hereby authorized to offer and pay periodically a cash reward for the invention, suggestion, or series of suggestions for an improvement or economy in device, design, or process applicable to the postal service submitted by one or more employees of the Post Office Department which shall be deemed the most valuable of those submitted and adopted for use, and for that purpose the sum of $10,000 is hereby appropriated: *Provided*, That to obtain this reward the winning suggestion or invention must be one that will clearly effect a material economy or increase efficiency: *Provided further*, That the sums awarded to employees in accordance with this act shall be paid them in addition to their usual compensation: *Provided further*, That the total amount paid under the provisions of this act shall not exceed $1,000 in any month or for any one invention or suggestion: *And provided further*, That no employee shall be paid a reward under this act until he has properly executed an agreement to the effect that the use by the United States of the invention, suggestion, or series of suggestions made by him shall not form the basis of a further claim of any nature upon the United States by him, his heirs, or assigns, and that no application for patent has been made for any such invention."

Mr. MANN. That is simply to conform with the law already passed by Congress as a result of a bill reported from the Committee on Military Affairs, as to the ordnance bureaus of the Government, and a similar provision, I believe, as to the Navy. The idea in offering the amendment is that the same condition shall prevail in the different services where this award is adopted. For instance, this provides, as is provided in the existing law relating to the Army, that the award can not be paid unless the Government is relieved from other claims for the invention, and no patent has been obtained for it.

The CHAIRMAN. The question is upon the amendment proposed by the gentleman from Illinois [Mr. MANN].

The amendment was agreed to.

Mr. MADDEN. Mr. Chairman, I ask unanimous consent to return to the item on page 14, from lines 6 to 18, inclusive, for the purpose of offering an amendment.

The CHAIRMAN. Does the gentleman from Tennessee [Mr. MOON] yield to the gentleman from Illinois for the purpose of making that request?

Mr. MOON of Tennessee. Before yielding I want to ask the gentleman what he wants to do.

Mr. MADDEN. I want to offer an amendment in line 15. The language reads:

Substitute letter carriers and substitute post-office clerks employed in the city-delivery service of the Post Office Department.

I wish to strike out, in line 15, the words "the city-delivery service of the" and add to the word "office" the letter "s," and strike out the word "department," in line 16, and substitute for that the words "first and second class."

The reason for that, Mr. Chairman, is that in cities like Chicago, New York, Newark, Buffalo, and other large cities, they have four divisions in the post-office service, one known as the mailing division, one the registry division, third the money-order division, and fourth the city-delivery division. My fear is that the language as it appears in the body of this paragraph will be construed to mean that clerks in these large cities will not be entitled to the benefits of this bill, except such clerks as may be at work in the city-delivery division.

Mr. MOON of Tennessee. I think that in legal effect the language the gentleman proposes and that in the bill are practically the same, and therefore I will make no objection.

Mr. MADDEN. In its present form it leaves it to the construction of somebody.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to return to page 14, line 6. Is there objection?

There was no objection.

Mr. MADDEN. I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Illinois offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 14, line 15, strike out the words "the City Delivery Service of the"; add the letter "s" after the word "office" at the end of the line. At the beginning of line 16 strike out the word "department," and add the words "first and second class."

So that the clause will read:

Substitute letter carriers and substitute post-office clerks employed in first and second class post offices shall, when working for a carrier or clerk—

And so forth.

Mr. MADDEN. I move the adoption of that amendment.

The CHAIRMAN. The question is on the amendment proposed by the gentleman from Illinois.

The amendment was agreed to.

Mr. REILLY. Mr. Chairman, as a member of the Committee on the Post Office and Post Roads, whose duty it was to help prepare the appropriation bill now under consideration, and as a Member of this body who has tried to make a complete study of the postal service, I beg leave to submit a statement of facts for your consideration.

When I entered this House as a Member of the Sixty-second Congress, I was appointed a member of the Committee on the Post Office and Post Roads. Being desirous of knowing something of the postal service, which is so near and dear to the public, I sought information from the Post Office Department officials, and read reports of the Post Office Department, and interviewed many officials in local post offices whenever the opportunity afforded. I also sought information from the rank and file of the workers, such as the city carriers, the post-office clerks, the rural carriers, the railway-mail clerks, and the laborers whenever I had an opportunity of meeting them. It was not long before I discovered that there was only one source from which I could get any information that could be used in a public way with the statement where the information came from, and that was from the Postmaster General or his official representative.

The working force were bound and gagged by official orders which prevented them from making known anything pertaining to the postal service or the conditions under which they worked, and when they were asked questions they would refer me to the local officials. I soon learned that it was as much as a man's job was worth to give any information to the public or even to a Member of Congress. The invariable reply to my questioning was "You had better see the postmaster, as it is contrary to the rules of the service for employees to give any information."

In many instances I have questioned postmasters and supervisory officers, but with rare exceptions I could learn nothing of the actual inside workings of the postal service, notwithstanding the fact that as a member of the Post Office Committee I would be called upon to cast my vote for appropriations of more than $250,000,000 for conducting the service for one fiscal year. The only place I could get information was from the department officials in Washington, and in so far as I can learn not a single one of them has had actual experience in practical post-office work and they are issuing orders based entirely on theoretical knowledge. I made up my mind, however, that I would get at the facts, and by assuring the employees that I would respect their confidence and protect their interests I have been able to learn much. A great deal of this information I imparted to the Members of this House on April 12, 1912, which is contained in the official proceedings of that date. I will not attempt to burden you again with a repetition of what I stated at that time, but will confine myself to one subject that is before us in this bill.

The honored chairman of the Committee on the Post Office and Post Roads introduced in this House on December 6, 1912, a bill for relief of substitute carriers and clerks in city delivery post offices. That bill has received the approval of the full committee and is now pending on the calendar. It is a bill possessed of so much merit that I believe it will receive the vote of every Member who knows anything about the conditions under which the substitutes are employed. It is a bill that cries out for justice for a body of men who have been working for a pittance for this great Government. Knowing the uncertainties of the enactment of legislation, no matter how much merit it possesses, the committee recommended that this legislation should be placed on the Post Office appropriation bill in the hope of getting it agreed to, in which event its success will be practically assured.

And now, Mr. Chairman, I will endeavor in a few brief words to give you a résumé of the life a substitute clerk or carrier exists, for theirs is a mere existence if they depend on the position of substitute for a livelihood. As a rule an announcement is printed in the public press at certain specified times that a competitive examination will be held on a certain day and place for the position of post-office clerk and letter carrier. The information is given to the public that the salaries are fixed at an entrance of $600 per annum and that promotions are made automatically each year, and that the employees are allowed annual leaves of absence for vacations. In fact, the news item reads so well that it is an invitation to any bright, ambitious young man who has not decided on some particular career to enter the postal service, as the prospects look up brighter than in any ordinary business.

At these competitive examinations can be found some of the brightest and most intelligent young men in the whole community. After the examination is over the applicants wait in anxiety for the publication of the lists and for official notice from the Civil Service Commission, giving the percentage and relative standing of each. More anxious days are spent looking forward to and hoping for the official letter that calls them to the office of the local postmaster for appointment. What a happy day for the successful one, and how often is he the envy of his more fortunate if less successful neighbor. Well, Mr. Chairman, he obeys the summons and calls at the post office on the specified day, and with a heart filled with hope he takes the oath which is administered to the Members of this House and to the Postmaster General, and, in fact, all Government servants of high and low degree. His first official order is to procure a uniform, which he does. He is then turned over to a subordinate official, and then, Mr. Chairman, his troubles begin. In fact, he wakes up. Yes; wakes to the fact that it is all a dream. Instead of receiving an appointment to a regular position, with a fixed salary and annual automatic promotions and regular hours of duty and an annual vacation, he finds that all these things are but glittering promises. He is a substitute; and now let me tell you what a substitute is: He is a man who is required to report for duty in the morning as early as 5 o'clock in order to take the place of a regular employee in case one of them fails to report on time. If all the regulars report for duty and there is no work for him to do he sits around until granted permission either to go home or to a restaurant to get something to eat. He reports back again at a specified time, and if a regular employee is excused from duty for any cause the substitute is assigned to perform the work of the regular. If there is an extraordinary rush or influx of mail that can not be handled promptly by the regular employees he might be given a few hours' work. However, in order to show good faith, if he is assigned to duty he is paid 30 cents an hour for each hour that he is employed. If there is no assignment for him he sits around until the regular employees leave for their last delivery, after which he can be excused by his superintendent and permitted to go about his business. He might be at the post office from early morning until late at night and not receive a single cent because there was no actual labor to perform.

You ask the question as to how much it is he averages monthly. Well, Mr. Chairman, the average varies in each city, but the average for the whole country of all the substitutes is much less than $30 a month. Just think of it, and ask ourselves if this condition of affairs should not be remedied at once. And now, Mr. Chairman, let me tell you how long these men serve as substitutes. The average time served by the substitutes of the country is more than three years. There are men in the regular service who have probably served less time and there are many who have served for a far longer period. I had my attention drawn a few days ago to one particular case of a substitute in an office in Pennsylvania who has been serving as a substitute for more than 12 years, and the poor fellow is still hanging on in the hope of some day receiving a regular appointment. Such a condition of affairs is a shame and should not be tolerated, and I feel that the Members of this House will be glad of the opportunity to relieve this condition now that the facts are before them.

Mr. Chairman, the recommendations contained in this bill are modest in the extreme, and I am of the opinion that they can be put into effect without the necessity of making any additional appropriation of money.

In explaining the provisions of the bill I will endeavor to show the reasons upon which I base my conclusion that it will not require an additional appropriation.

There are two simple provisions contained in this bill which, if approved, will relieve the present unsatisfactory condition of the substitute employees. In the first place it is intended to pay the substitute the rate of pay of the regular employee in whose place he serves. When a regular carrier or clerk is off duty for any cause, with the exception of his regular 15 days' leave of absence, there is a pro rata amount deducted from his salary for all the time that he loses. This money reverts to the Treasury of the United States. Under the present law a substitute receives 30 cents an hour when working in the place of a regular employee, and if this recommendation of the committee is accepted the pro rata pay will be substituted for the 30 cents an hour. It will therefore be seen that this will not require an additional appropriation, as Congress must of necessity provide for the salaries of the regular employees as these salaries are to a large extent regulated by law. If the substitute performs the work of a regular employee, it is nothing more than equitable that he should receive the pay of the man in whose place he serves.

The second provision is to make the initial salary of an employee who has served as a substitute for one year or more $800. At the present time the initial salary is $600. If these employees were to start in on a regular salary from the time

they receive their original appointments, the initial salary could be made $600 and there would be no complaint; but when we take into consideration the fact that they are required to work a number of years for a very meager and uncertain amount and that they are generally in debt when they receive a regular appointment, the initial salary should at least be sufficient to meet their necessary obligations and at least be a partial reward for the sacrifices that they make during their substitute service. I base my contentions that this will not require an additional appropriation, on the following ground: Wherever new service is about to be established, the employees start in under the present classification act at a salary of $600, and it is not proposed to change the law in this respect. It is only the employees who have substituted for a period of more than one year who will receive the benefits of the provisions of the proposed legislation. In cities where the service has been established for a period of years there are a number of changes made each year on account of deaths, resignations, and removals from the service for all causes. The employees whose places are vacated are as a rule men who have been in the service a number of years and are receiving the highest grade salaries. When a vacancy exists in an office, the appointment to fill that vacancy is made from the substitute list, and there is a saving in the amount between the initial salary of the new appointee and the salary of the employee who has been separated from the service. In this one item alone there is a large unexpended balance to the credit of this particular part of the appropriation bill at the end of each fiscal year. It will therefore be seen that in order to carry this provision into effect it will not require an additional appropriation of the public funds.

I have endeavored to show the merits of the proposed new legislation and am of the opinion that its enactment into law will work for the best interests of the postal service and will relieve a condition of affairs that to my mind should not exist in the Government service. I believe that this legislation is wise and just and that it will meet with public approval.

Mr. HAMILL. This bill carries a provision for relief of substitute letter carriers and post-office clerks that, in my opinion, should be enacted into law.

A great majority of the men who take the civil-service examinations for the position of clerk or carrier in the postal service do so under a very grave and serious misapprehension. The examinations are advertised inviting young men and women to take the examination, and the impression is conveyed that appointments are made from the eligible register to regular positions at salaries beginning at $600 per annum, with automatic promotions to $1,100 in second-class offices and to $1,200 in first-class offices. The facts of the matter are that the appointments are made to a substitute service, which carries no regular salary with the appointment. These substitutes are employed to perform temporary and auxiliary work at the rate of 30 cents an hour for the actual time that they are employed or to serve the places of regular carriers and clerks who are absent from duty for any cause. There is no certainty as to whether a substitute will be employed one hour a day or eight hours, or whether he will be employed at all. A substitute must, however, so regulate his affairs that he will be ready to perform service if called upon by the postmaster to do so. The period of time during which these men are employed as substitutes and before they receive regular appointments varies to a great extent. The average time of these substitutes is more than three years, and during this period of substitution they eke out a very precarious living. The result of such a system is that competent and efficient men will not stay in the service until such time as they receive a regular appointment, but give up as soon as they can find a position that is more certain of employment and returns. Many of these young men who seek outdoor employment continue to hold on and anxiously hope and look forward to the day when, through the natural increase in the service or through the death or resignation or separation from the service, a vacancy may exist, to which they will be appointed on the regular force.

The positions in the regular force of clerks and carriers are recruited from the substitute service, and to my mind the postal service should be constituted of the best possible timber from among our young men that can be induced to enter and make it their life work. The bill provides that when substitutes are employed in the places of regular carriers and clerks who are off duty without pay that the substitutes should receive the salary of the regular employees in whose places they serve. It provides that for auxiliary and temporary work or for service of regular employees who are on their annual vacations that the substitute shall receive pay at the rate of 30 cents an hour. It also provides that when one of these employees has served as a substitute for a period of one year or longer that the initial salary on entry to the regular service shall be $800 per annum. It is not much that the committee has offered, but it is sufficient to meet the modest requests of the substitute carriers and clerks. It is reasonable and it is just, and I hope that the recommendation of the committee will meet the approval of the Members of this body.

Mr. MADDEN. The provision in the Post Office appropriation bill on page 14, providing for the payment to substitute clerks and substitute carriers when assigned to the work of regular employees absent on vacation or when performing auxiliary or temporary work, of 30 cents an hour, is one which should meet the favorable action of the House; and the provision which admits of the appointment of substitute carriers and substitute clerks who have served as substitutes for a period of a year or more at a salary of $800 a year instead of $600, as at present, is but simple justice to the men engaged in the postal service.

The average time which a man appointed as a substitute is required to serve before being appointed to the regular service is three years. During that period he is required to report for duty every day, and if he should happen to live in a large city like Chicago or New York he would have to pay car fare to and from his home. After reporting in the morning, if there should not happen to be any employment for him, under the rules he is required to remain for several hours awaiting orders, and if there should be no need for his services only then would he be free to go; and all the time while he was reporting for duty he would be unable to accept other employment. After his appointment as a substitute he would be required to purchase a uniform and incur other expense connected with his appointment as such substitute. While acting as a substitute he would be required to study schemes for the distribution of mail, for which service he would receive no compensation. At best he would not be able to earn during his service as substitute over $30 per month. He would be fortunate if he earned that amount. At the end of two or three years he probably would have worked himself up to the head of the substitute list and be ready for appointment in the regular service. He naturally would find himself in debt when he secured the appointment because of the long time he had served as a substitute without pay. To be required, then, to enter the service at $600 a year has worked a great hardship on the men who have entered the service. Fifty dollars a month for the first year's service would not pay his current expenses, to say nothing about the indebtedness which he had incurred during his service as a substitute. Fifty dollars a month does not mean that the man entering the service would get $600 a year, because part of the year he might be sick, during which period his salary would be deducted, and it is fair to assume he would not average more than $480 the first year. He never could hope to reach more than $1,100 or $1,200 a year in the service, and to do that he would have to remain in the service several years.

The interest of the public service, I think, will be best served by dealing justly with the men who enter it. The best men in the citizenship of the country should be encouraged to enter the public service. Six hundred dollars a year to begin with does not seem sufficient to encourage men of the highest type to seek employment in the postal service. Eight hundred dollars, which this provides for men who are regularly appointed in the postal service, comes nearer a just compensation for the work required than that paid in the past.

This proposed legislation means that even substitutes are to be better provided for than they have been heretofore. In the future they are to receive the regular pay of the clerks or carriers who are absent from duty without pay, when they are employed in the place of such clerks or carriers. This is as it should be. If a substitute acts in the place of a regular clerk or carrier he ought to receive the pay. This bill provides that he shall receive it. When the substitute is employed to perform the work of regular employees absent on vacation, or when performing auxiliary or temporary work, he is to receive pay at the rate of 30 cents an hour. This is the same condition which prevails under the present law.

Nothing could be more just than the proposition to pay men who have served as substitutes for from one to three years without pay the sum of $800 per annum on first entering the service as regular appointees.

I have long believed that a great injustice was done the postal clerks and carriers by requiring them to enter the service at as low a rate as $600. The men entering this service must have an education; they must be able to pass the examinations; they must be gentlemen; they must have ability of a high order; they must go to considerable expense in the purchase of uniforms. They are required to give a large amount of their time to the Government free for several years before being

regularly appointed. During all the free time given to the Government they are required to do a lot of important work, such as familiarizing themselves with the details of the distribution of the mails. After they are appointed regularly it is not merely the question of the eight hours which the law requires them to work and they are called upon to serve, but when they are off duty it frequently happens their time is occupied from one to two or three hours a day in studying the schemes that they are required to understand.

The abolishment of the $600 and $700 grades is a step in the right direction. The payment of $800 per annum to clerks and carriers, in the first instance, is a work of simple justice on the part of the Government. Their work is exacting, it is constant, it is wearing. The men who enter the Government service should be encouraged to give the best there is in them. This legislation will inaugurate such a system of encouragement.

The work of the Post Office Department is becoming more voluminous. The department is dealing with every household in the land. It is the arteries, so to speak, through which flows the daily information which the people receive on the live topics of the day. The instrumentalities through which this lifeblood of information flows should be an active force in the distribution of the information sought. Young, virile, forceful, systematic, courteous, intelligent, painstaking, active, untiring men should be encouraged to enter the service of the Post Office Department to the end that the people may, through them, be able to feel themselves intimately connected with the Government and satisfied that the Post Office Department, as an instrumentality for the distribution of information, has performed its functions in such a way as to encourage the people in the heartiest cooperation for the maintenance of Government institutions.

I am glad to have been associated with the other men on the Post Office Committee who have had the courage and the foresight and the sympathy necessary to bring about this salutary improvement in the working conditions of the men who are always faithful to the trust reposed in them and who have no motive except the performance of their duties to the satisfaction of their superiors and the general good of the public. I congratulate the men themselves on the success of the legislation, and I venture the prediction that its enactment into law will create an esprit de corps in the Post Office Department which will justify the committee in their belief that the payment of the additional money involved by the increase of salary to the men entering the Post Office service will yield to the people returns far in excess of the money involved.

Mr. AUSTIN. Mr. Chairman, I move to strike out the last word.

Mr. MOON of Tennessee. That stage of the consideration of the bill has been passed.

Mr. AUSTIN. I ask unanimous consent to address the committee for five minutes.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to address the committee for five minutes. Is there objection?

There was no objection.

Mr. AUSTIN. Mr. Chairman, during the last session of Congress I took occasion, at the close of the consideration of the Post Office appropriation bill, to say something in connection with that measure and the number of splendid features it contained. I also took occasion to congratulate the House upon the fact that we had in the person of the chairman of that committee, the gentleman from Tennessee [Mr. MOON], the right man for the right place. [Applause.]

A few days ago there was read into the RECORD by my colleague [Mr. SIMS] an editorial from Mr. Bryan's paper. That editorial stated that Mr. Bryan entertained the hope that President Wilson would not seek to fill his Cabinet on grounds of gratitude, but that he would, in making his selection, find the best men for the positions.

The great Post Office Department is a business department. It affects the vital interests of all classes of our population. No bill reported to this Congress dealing with postal affairs carried so many wise and progressive provisions as the Post Office bill reported at the last session of Congress. It had a provision providing for the safety of postal employees in compelling the railroad companies to construct steel cars for the protection of the lives and limbs of postal employees. It had a provision fixing and defining eight hours for the employment of clerks and other employees in the postal service. It carried a wise and just and long-delayed provision looking to the reclassification of the railroad postal clerks. It carried a provision which we have been discussing here in the consideration of the bill—the parcel-post system, which will be a boon and benefit to every community and a relief from the oppression of express monopoly that has robbed and oppressed the American people for years and years. It had in it a provision looking to national aid for the construction of public roads. First, the adoption of the Shackleford amendment, which was afterwards changed by the Senate and agreed upon in conference, in which there was a provision creating a commission, which is now engaged in preparing a bill which will be reported to Congress providing for national aid in road improvement, which will do much for our entire country and be of benefit to every farm, village, and hamlet. It carried an increase of pay for more than 40,000 rural free delivery carriers in the United States, men who work in and out of season in all kinds and conditions of weather and roads and whose burdens and trials have been increased on account of the creation of the parcel post.

Then it had also a provision which gave the postal employees the right, without intimidation, to appeal to Members of Congress for redress or an investigation of any grievance that they might have—the repeal of the so-called gag law. It carried with it a provision looking to an annual leave of 30 days to these hard-working and deserving public postal officials.

Now, the man of all men to whom the American people, in my judgment, was indebted for this progressive legislation is the Hon. JOHN A. MOON, the chairman of the Committee on the Post Office and Post Roads. [Applause.]

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. LLOYD. Mr. Chairman, I ask unanimous consent that the time of the gentleman from Tennessee be extended five minutes.

The CHAIRMAN. The gentleman from Missouri asks unanimous consent that the time of the gentleman from Tennessee be extended five minutes. Is there objection?

There was no objection.

Mr. AUSTIN. Mr. Chairman, the American people would be serving their best interests in selecting as the Chief Ruler of this Nation of practically 100,000,000 of people as a public servant a man who has seen long years of service either in this Chamber or in the Senate, but in the absence of the selection of such a man it is of vital interest to all the people that in the selection of all the officials of his family, in order to avail himself of a faithful and satisfactory administration of the public affairs of this country, that he, the President of the United States, should not fail to select his advisers and get as many of them from the trained, experienced lawmakers of Congress as he can. [Applause.] And in the selection of the Postmaster General for his Cabinet no man should be intrusted to that position who has not had the training and experience enjoyed and possessed by the chairman of the Committee on the Post Office and Post Roads. [Applause.] President Elect Wilson, looking at the interests of all the people, and certainly the success of his administration, can not do better in the selection of a Postmaster General than to honor the man and his administration with the appointment of the Hon. JOHN A. MOON, of Tennessee. [Applause.]

Mr. MOON of Tennessee. Mr. Chairman, I move that the committee do now rise and report the bill with amendments to the House, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. GARRETT, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 27148) making appropriations for the Post Office Department for the fiscal year ending June 30, 1914, and for other purposes, and had directed him to report the same back with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. MOON of Tennessee. Mr. Speaker, I move the previous question on the bill and all amendments to final passage.

The motion was agreed to.

The SPEAKER. Is a separate vote demanded on any amendment?

Mr. REILLY. Mr. Speaker, I demand a separate vote on the so-called Cullop amendment in line 24, page 22.

Mr. MANN. Mr. Speaker, I demand a separate vote not only on the amendment referred to by the gentleman from Connecticut, but also the so-called Bartlett amendment on page 3, line 5.

Mr. FOWLER. Mr. Speaker, I demand a separate vote on the paragraph beginning at page 12, for compensation to clerks in charge of contract stations, wherein there was an increase of $50,000, known as the Mann amendment.

The SPEAKER. The remaining amendments will be agreed to in gross.

The remaining amendments were agreed to.

The SPEAKER. The first vote will be taken on the so-called Bartlett amendment, which the Clerk will report.

The Clerk read as follows:

Amend, page 3, at the end of line 5, by inserting: "*And provided further*, That no part of the sums herein provided for the salaries of post-office inspectors or for per diem allowances to such inspectors shall be paid or allowed to them while they may be engaged in making selections and recommendations for the appointment of fourth-class postmasters."

Mr. MANN. Upon that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. FINLEY. Mr. Speaker, I make the point of order that no quorum is present.

Mr. MANN. It will do no good to make that point now.

The SPEAKER. That is a work of supererogation. The Clerk will call the roll.

The question was taken; and there were—yeas 121, nays 116, answered "present" 7, not voting 139, as follows:

YEAS—121.

Adair	Dickinson	Henry, Tex.	Roddenbery
Adamson	Dickson, Miss.	Hensley	Rothermel
Akin, N. Y.	Dies	Hobson	Rouse
Alexander	Doremus	Holland	Rubey
Allen	Doughton	Houston	Rucker, Colo.
Bartlett	Edwards	Hughes, Ga.	Rucker, Mo.
Bathrick	Ellerbe	Humphreys, Miss.	Russell
Beall, Tex.	Faison	James	Sheppard
Bell, Ga.	Finley	Jones	Sherley
Blackmon	Flood, Va.	Kinkead, N. J.	Sherwood
Booher	Fornes	Konop	Sims
Borland	Foster	Lee, Ga.	Small
Brantley	Fowler	Lee, Pa.	Smith, Tex.
Broussard	Gallagher	Lever	Stanley
Brown	Garner	Littlepage	Stedman
Bulkley	Gill	Lloyd	Stephens, Miss.
Burgess	Glass	Lobeck	Stone
Burke, Wis.	Godwin, N. C.	McCoy	Sweet
Burnett	Goodwin, Ark.	McGillicuddy	Taggart
Byrnes, S. C.	Graham	Macon	Thayer
Byrns, Tenn.	Gray	Mays	Thomas
Candler	Gregg, Pa.	Moon, Tenn.	Townsend
Cantrill	Hamilton, W. Va.	Morgan, La.	Tribble
Claypool	Hamlin	Padgett	Tuttle
Cline	Hardwick	Page	Watkins
Collier	Hardy	Pepper	Wilson, Pa.
Cox	Harrison, Miss.	Pou	Witherspoon
Culiop	Hay	Rainey	Young, Tex.
Daugherty	Hayden	Raker	
Dent	Heflin	Raucb	
Denver	Helm	Reilly	

NAYS—116.

Anderson	Green, Iowa	McCreary	Prince
Austin	Greene, Mass.	McGuire, Okla.	Rees
Barnhart	Greene, Vt.	McKenzie	Roberts, Mass.
Bartholdt	Guernsey	McKinley	Roberts, Nev.
Bochne	Hamill	McKinney	Rodenberg
Bradley	Hamilton, Mich.	McLaughlin	Scott
Browning	Hammond	Madden	Scully
Buchanan	Hart	Maguire, Nebr.	Slemp
Burke, S. Dak.	Hawley	Martin, S. Dak.	Sloan
Calder	Heald	Matthews	Smith, J. M. C.
Cannon	Helgesen	Miller	Smith, N. Y.
Cary	Higgins	Mondell	Speer
Cooper	Hinds	Moon, Pa.	Steenerson
Copley	Howell	Moore, Pa.	Stephens, Cal.
Currier	Howland	Morgan, Okla.	Stephens, Nebr.
Danforth	Humphrey, Wash.	Morrison	Stevens, Minn.
Davis, W. Va.	Jackson	Morse, Wis.	Switzer
Dodds	Kendall	Moss, Ind.	Talcott, N. Y.
Draper	Kennedy	Murdock	Taylor, Ohio
Esch	Kinkaid, Nebr.	Needham	Tilson
Fairchild	Knowland	Neeley	Towner
Farr	Kopp	Nelson	Vare
Fordney	Korbly	Norris	Volstead
Foss	La Follette	Nye	Wilder
French	Lenroot	Olmsted	Willis
Gardner, Mass.	Lewis	O'Shaunessy	Wilson, Ill.
Gardner, N. J.	Lindbergh	Plumley	Wood, N. J.
Gillett	Linthicum	Porter	Young, Kans.
Good	Loud	Powers	Young, Mich.

ANSWERED "PRESENT"—7.

Andrus	Langley	Mann	Talbott, Md.
Goldfogle	McDermott	Sharp	

NOT VOTING—139.

Aiken, S. C.	Cravens	Fitzgerald	Jacoway
Ainey	Crumpacker	Floyd, Ark.	Johnson, Ky.
Ames	Curley	Focht	Johnson, S. C.
Ansberry	Curry	Francis	Kahn
Anthony	Dalzell	Fuller	Kent
Ashbrook	Davenport	Garrett	Kindred
Ayres	Davidson	George	Kitchin
Barchfeld	Davis, Minn.	Goeke	Konig
Bates	De Forest	Gould	Lafean
Berger	Difenderfer	Gregg, Tex.	Lafferty
Burke, Pa.	Dixon, Ind.	Griest	Lamb
Burleson	Donohoe	Gudger	Langham
Butler	Driscoll, D. A.	Harris	Lawrence
Callaway	Driscoll, M. E.	Harrison, N. Y.	Legare
Campbell	Dupré	Hartman	Levy
Carlin	Dwight	Haugen	Lindsay
Carter	Dyer	Hayes	Littleton
Clark, Fla.	Estopinal	Henry, Conn.	Longworth
Clayton	Evans	Hill	McCall
Conry	Fergusson	Howard	McKellar
Covington	Ferris	Hughes, W. Va.	McMorran
Crago	Fields	Hull	Maher
Martin, Colo.	Post	Shackleford	Thistlewood
Merritt	Pray	Simmons	Turnbull
Moore, Tex.	Prouty	Sisson	Underhill
Mott	Pujo	Slayden	Underwood
Murray	Randell, Tex.	Smith, Saml. W.	Vreeland
Oldfield	Ransdell, La.	Smith, Cal.	Warburton
Palmer	Redfield	Sparkman	Webb
Parran	Reyburn	Stack	Weeks
Patten, N. Y.	Richardson	Stephens, Tex.	Whitacre
Patton, Pa.	Riordan	Sterling	White
Payne	Sabath	Sulloway	Wilson, N. Y.
Peters	Saunders	Taylor, Ala.	Woods, Iowa
Pickett	Sells	Taylor, Colo.	

So the amendment was agreed to.

The Clerk announced the following pairs:

For the session:

Mr. RIORDAN with Mr. ANDRUS.

Mr. PALMER with Mr. HILL.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. LITTLETON with Mr. DWIGHT.

Until further notice:

Mr. MCKELLAR with Mr. PICKETT.

Mr. KITCHIN with Mr. MERRITT.

Mr. GOLDFOGLE with Mr. HARTMAN.

Mr. AIKEN of South Carolina with Mr. BARCHFELD.

Mr. CONRY with Mr. MICHAEL E. DRISCOLL.

Mr. SPARKMAN with Mr. DAVIDSON.

Mr. ASHBROOK with Mr. BURKE of Pennsylvania.

Mr. HENSLEY with Mr. KOPP.

Mr. FIELDS with Mr. LANGLEY.

Mr. SABATH with Mr. REYBURN.

Mr. UNDERWOOD with Mr. MANN.

Mr. PUJO with Mr. MCMORRAN.

Mr. PATTEN of New York with Mr. MCCALL.

Mr. GOULD with Mr. DE FOREST.

Mr. CARLIN with Mr. LAFEAN.

Mr. ANSBERRY with Mr. AINEY.

Mr. BURLESON with Mr. AMES.

Mr. CARTER with Mr. ANTHONY.

Mr. CLARK of Florida with Mr. BATES.

Mr. CLAYTON with Mr. DAVIS.

Mr. DAVENPORT with Mr. BUTLER.

Mr. DIFENDERFER with Mr. CRAGO.

Mr. DIXON of Indiana with Mr. CRUMPACKER.

Mr. DONOHOE with Mr. DALZELL.

Mr. DANIEL A. DRISCOLL with Mr. DYER.

Mr. DUPRÉ with Mr. FULLER.

Mr. FERRIS with Mr. GRIEST.

Mr. FITZGERALD with Mr. HARRIS.

Mr. FLOYD of Arkansas with Mr. HAUGEN.

Mr. FRANCIS with Mr. HAYES.

Mr. GEORGE with Mr. LAFFERTY.

Mr. GREGG of Texas with Mr. LANGHAM.

Mr. GUDGER with Mr. LAWRENCE.

Mr. HARRISON of New York with Mr. PAYNE.

Mr. HOWARD with Mr. MOTT.

Mr. HULL with Mr. PRAY.

Mr. JACOWAY with Mr. PROUTY.

Mr. JOHNSON of Kentucky with Mr. SIMMONS.

Mr. LEVY with Mr. SELLS.

Mr. MURRAY with Mr. SAMUEL W. SMITH.

Mr. CURLEY with Mr. SMITH of California.

Mr. OLDFIELD with Mr. STERLING.

Mr. POST with Mr. SULLOWAY.

Mr. RICHARDSON with Mr. THISTLEWOOD.

Mr. SISSON with Mr. VREELAND.

Mr. SLAYDEN with Mr. WARBURTON.

Mr. STEPHENS of Texas with Mr. WEEKS.

Mr. TURNBULL with Mr. HENRY of Connecticut.

Mr. UNDERHILL with Mr. HUGHES of West Virginia.

Mr. WEBB with Mr. KAHN.

Mr. MAHER with Mr. WOODS of Iowa.

Mr. ESTOPINAL with Mr. PATTON of Pennsylvania.

Until February 1:

Mr. SHACKLEFORD with Mr. LONGWORTH.

Mr. LANGLEY. Mr. Speaker, I voted "no" on this roll call. I have just been informed that my colleague, Mr. FIELDS, is absent on account of illness in his family. I promised to pair with him if those circumstances arose. I desire to withdraw my vote of "no" and answer "present."

The name of Mr. LANGLEY was called, and he answered "Present."

Mr. MANN. Mr. Speaker, I am paired with the gentleman from Alabama, Mr. UNDERWOOD. I desire to withdraw my vote of "no" and be recorded "present."

The name of Mr. MANN was called, and he answered "Present."

Mr. CALLAWAY. Mr. Speaker, I desire to vote "yea."

The SPEAKER. Was the gentleman in the Hall and listening when his name was called or should have been called?

Mr. CALLAWAY. I just came in.

The SPEAKER. Did the gentleman hear his name called?

Mr. CALLAWAY. No.

The SPEAKER. Was the gentleman inside the Hall when it was called?

Mr. CALLAWAY. I was not in the Hall. I just came in a moment ago, as the roll was being concluded?

The SPEAKER. The gentleman does not bring himself within the rules.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Page 12, line 5, erase the figures "700" and substitute therefor the figures "750," so that it will read "$750,000."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the Speaker announced that the noes seemed to have it.

Mr. MANN. Mr. Speaker, I ask for a division.

The House divided; and there were—ayes 101, noes 5.

So the amendment was agreed to.

The SPEAKER. The Clerk will report the next amendment, which is the amendment offered by the gentleman from Indiana [Mr. CULLOP].

The Clerk read as follows:

Page 22, after line 24, insert the following:

"That the Executive order of date September 30, 1910, whereby assistant postmasters and clerks at first and second class post offices were placed within the classified civil service, and the Executive order of October 18, 1912, whereby fourth-class postmasters were placed within the classified civil service, are hereby annulled and set aside."

Mr. HARRISON of Mississippi. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. HARRISON of Mississippi. I ask for a division of the two questions advanced in the amendment offered by the gentleman from Indiana [Mr. CULLOP].

The SPEAKER. The Clerk will report the first half of the amendment.

The Clerk read as follows:

That the Executive order of date September 30, 1910, whereby assistant postmasters and clerks at first and second class post offices were placed within the classified civil service——

Mr. MANN. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. The amendment having been adopted as one amendment by the Committee of the Whole House on the state of the Union, is it in order to provide for a division of the amendment in the House? And, as reported by the Clerk, there is no substantive proposition there.

The SPEAKER. The Chair does not understand the last remark.

Mr. MANN. The Clerk did not report any substantive proposition. If you adopt what the Clerk read, it would be like debating that much hot air. It would not say anything.

Mr. CULLOP. The two propositions are not divisible, as I understand it, from the manner in which the amendment is drawn.

The SPEAKER. The House will be in order. The rule about this question is very simple. It is as follows:

On the demand of any Member before the question is put, a question shall be divided if it include propositions so distinct in substance that one being taken away a substantive proposition shall remain.

There is no such condition existing in this amendment. You will have to hitch the last part of it onto either one of the two propositions in order to make a substantive proposition, and if you hitch it onto one of them and make it a substantive proposition the other one is not a substantive proposition. So the request is overruled.

The question is on agreeing to the amendment.

The question was taken, and the Speaker announced that the noes seemed to have it.

Mr. CULLOP. Division, Mr. Speaker.

The House proceeded to divide.

Mr. CULLOP. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 108, nays 140, answered "present" 6, not voting 129, as follows:

YEAS—108.

Adair	Burgess	Carter	Dent
Adamson	Burke, Wis.	Claypool	Denver
Alexander	Burnett	Cline	Dickinson
Ashbrook	Byrnes, S. C.	Collier	Dickson, Miss.
Bartlett	Byrns, Tenn.	Cox	Dies
Beall, Tex.	Callaway	Cravens	Dixon, Ind.
Blackmon	Candler	Cullop	Doughton
Booher	Cantrill	Daugherty	Edwards
Brown	Carlin	Davenport	Ellerbe
Faison	Haugen	Lever	Rucker, Colo.
Ferris	Hay	Littlepage	Rucker, Mo.
Finley	Helgin	Lloyd	Russell
Flood, Va.	Helm	McGillicuddy	Sheppard
Foster	Henry, Tex.	Macon	Sherwood
Garner	Hensley	Mays	Sims
Gill	Hobson	Moon, Tenn.	Small
Godwin, N. C.	Holland	Morgan, La.	Smith, Tex.
Goeke	Houston	Padgett	Stanley
Goodwin, Ark.	Hughes, Ga.	Page	Stedman
Gray	Humphreys, Miss.	Pepper	Stephens, Miss.
Gregg, Pa.	James	Post	Thayer
Hamilton, W. Va.	Jones	Ransdell, La.	Thomas
Hamlin	Kindred	Rauch	Townsend
Hardwick	Konig	Roddenbery	Tribble
Hardy	Lafferty	Rothermel	Watkins
Harrison, Miss.	Lamb	Rouse	Witherspoon
Hart	Lee, Ga.	Rubey	Young, Tex.

NAYS—140.

Akin, N. Y.	Gardner, N. J.	Linthicum	Raker
Allen	Gillett	Lobeck	Rees
Anderson	Good	Loud	Reilly
Austin	Graham	McCoy	Roberts, Mass.
Barnhart	Green, Iowa	McCreary	Roberts, Nev.
Bartholdt	Greene, Mass.	McDermott	Scott
Bathrick	Greene, Vt.	McGuire, Okla.	Sherley
Bell, Ga.	Gregg, Tex.	McKenzie	Simmons
Boehne	Guernsey	McKinley	Slemp
Borland	Hamill	McKinney	Sloan
Bradley	Hamilton, Mich.	McLaughlin	Smith, J. M. C.
Browning	Harris	Madden	Smith, N. Y.
Buchanan	Hawley	Maguire, Nebr.	Speer
Bulkley	Hayden	Martin, S. Dak.	Steenerson
Burke, S. Dak.	Heald	Matthews	Stephens, Cal.
Calder	Helgesen	Miller	Stephens, Nebr.
Cannon	Howell	Mondell	Sterling
Cary	Howland	Moon, Pa.	Stone
Cooper	Hughes, W. Va.	Moore, Pa.	Switzer
Copley	Humphrey, Wash.	Morgan, Okla.	Taggart
Currier	Jackson	Morrison	Talcott, N. Y.
Danforth	Kendall	Morse, Wis.	Taylor, Ohio
Davis, Minn.	Kennedy	Moss, Ind.	Thistlewood
Davis, W. Va.	Kinkaid, Nebr.	Murdock	Tilson
Dodds	Kinkead, N. J.	Needham	Towner
Doremus	Knowland	Neeley	Tuttle
Draper	Konop	Nelson	Vare
Esch	Kopp	Norris	Volstead
Farr	Korbly	Nye	Wilder
Fornes	La Follette	Olmsted	Willis
Foss	Lawrence	O'Shaunessy	Wilson, Ill.
Fowler	Lee, Pa.	Plumley	Wilson, Pa.
French	Lenroot	Porter	Wood, N. J.
Gallagher	Lewis	Powers	Young, Kans.
Gardner, Mass.	Lindbergh	Prince	Young, Mich.

ANSWERED "PRESENT"—6.

Andrus	Langley	Rodenberg	Talbott, Md.
Goldfogle	Mann		

NOT VOTING—129.

Aiken, S. C.	Estopinal	Lafean	Riordan
Ainey	Evans	Langham	Sabath
Ames	Fairchild	Legare	Saunders
Ansberry	Fergusson	Levy	Scully
Anthony	Fields	Lindsay	Sells
Ayres	Fitzgerald	Littleton	Shackleford
Barchfeld	Floyd, Ark.	Longworth	Sharp
Bates	Focht	McCall	Sisson
Berger	Fordney	McKellar	Slayden
Brantley	Francis	McMorran	Smith, Saml. W.
Broussard	Fuller	Maher	Smith, Cal.
Burke, Pa.	Garrett	Martin, Colo.	Sparkman
Burleson	George	Merritt	Stack
Butler	Glass	Moore, Tex.	Stephens, Tex.
Campbell	Gould	Mott	Stevens, Minn.
Clark, Fla.	Griest	Murray	Sulloway
Clayton	Gudger	Oldfield	Sweet
Conry	Hammond	Palmer	Taylor, Ala.
Covington	Harrison, N. Y.	Parran	Taylor, Colo.
Crago	Hartman	Patten, N. Y.	Turnbull
Crumpacker	Hayes	Patton, Pa.	Underhill
Curley	Henry, Conn.	Payne	Underwood
Curry	Higgins	Peters	Vreeland
Dalzell	Hill	Pickett	Warburton
Davidson	Hinds	Post	Webb
De Forest	Howard	Pray	Weeks
Difenderfer	Hull	Prouty	Whitacre
Donohoe	Jacoway	Pujo	White
Driscoll, D. A.	Johnson, Ky.	Rainey	Wilson, N. Y.
Driscoll, M. E.	Johnson, S. C.	Randell, Tex.	Woods, Iowa
Dupré	Kahn	Redfield	
Dwight	Kent	Reyburn	
Dyer	Kitchin	Richardson	

So the amendment was rejected.

The Clerk announced the following additional pairs:

On the vote:

Mr. GARRETT with Mr. RODENBERG.

Until further notice:

Mr. GOULD with Mr. HINDS.

Mr. BRANTLEY with Mr. BURKE of Pennsylvania.

Mr. FLOYD of Arkansas with Mr. ANTHONY.

Mr. CLAYTON with Mr. CRUMPACKER.

Mr. FERGUSSON with Mr. FAIRCHILD.

Mr. GEORGE with Mr. FOCHT.

Mr. GUDGER with Mr. HIGGINS.

Mr. HAMMOND with Mr. FORDNEY.

Mr. RAINEY with Mr. LANGHAM.

Mr. JOHNSON of South Carolina with Mr. BUTLER.

Mr. WHITE with Mr. STEVENS of Minnesota.

Mr. LANGLEY. How am I recorded, Mr. Speaker?

The SPEAKER. In the negative.

Mr. LANGLEY. Being opposed to this amendment, I voted "nay"; but I am paired with my colleague, Mr. FIELDS, and I therefore desire to withdraw my vote and vote "present."

Mr. MANN. Mr. Speaker, I voted "nay"; but I am paired with the gentleman from Alabama, Mr. UNDERWOOD, and I desire to withdraw my vote and vote "present."

Mr. HAUGEN. Mr. Speaker, I wish to have my vote recorded.

The SPEAKER. Was the gentleman in the Hall, listening?

Mr. HAUGEN. I was right at the door when my name was called.

The SPEAKER. The Clerk will call the gentleman's name.

The Clerk called the name of Mr. HAUGEN, and he voted "nay."

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

Mr. MURDOCK. Mr. Speaker, I move to recommit.

Mr. GARDNER of New Jersey. Mr. Speaker, I offer a motion to recommit this bill.

Mr. CULLOP. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman from New Jersey [Mr. GARDNER] opposed to the bill?

Mr. GARDNER of New Jersey. I am not opposed to the bill in the sense that I would vote against it as it now stands, but I am opposed to a provision in it as it stands, and I would like to get it out.

Mr. MURDOCK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman from Kansas opposed to this bill?

Mr. MURDOCK. I am.

The SPEAKER. Under the rulings the gentleman has the right, being on the committee, to offer the motion to recommit. The gentleman from New Jersey [Mr. GARDNER] is also on the committee and ranks the gentleman from Kansas, but the gentleman from New Jersey did not answer affirmatively.

Mr. MURDOCK. I move, Mr. Speaker, to recommit the bill with instructions, and upon that I move the previous question.

The SPEAKER. The Clerk will report the instructions.

The Clerk read as follows:

Mr. MURDOCK moves to recommit the bill H. R. 27148 to the Committee on the Post Office and Post Roads, with instructions to amend the bill as follows: At the end of line 21, page 17, strike out "$49,000,000" and insert in lieu thereof "$48,500,000," and add thereto the following: "*Provided*, That no part of such appropriation shall be used in transporting mail matter consisting in any part of any letter, circular, packet, newspaper, magazine, or other periodical, advertising for sale, either directly or indirectly, any spirituous, malt, vinous, or other intoxicating liquors for transmission to or delivery in any State, county, or municipality wherein the sale of such liquors is or may be hereafter prohibited by State law; that the Postmaster General is hereby authorized and directed to use $100,000 of this appropriation for the purpose of weighing the mail and readjusting and reducing the compensation now paid to railway companies for transporting the mails by excluding said classes of mail matter from the mails of the United States," and to forthwith report the bill so amended.

Mr. SHERLEY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SHERLEY. Is it necessary now to demand a division and make any point of order, or will that be in order after the vote is had on the previous question?

The SPEAKER. The Chair thinks if the gentleman has a point of order, he would be on the safe side to make it now.

Mr. SHERLEY. I desire, Mr. Speaker, first to demand a division of the motion, and I also make a point of order against the proposed amendment.

Mr. MURDOCK. I make a point of order, Mr. Speaker——

The SPEAKER. The Chair will conduct the matter decently and in order and will hear what the gentleman from Kentucky has to say.

Mr. SHERLEY. First, I desire to ask the Chair whether it is in order now to make the point of order or after the division of the question?

The SPEAKER. What point of order?

Mr. SHERLEY. Any point of order that would lie to it.

The SPEAKER. The Chair thinks it is.

Mr. SHERLEY. Then I make the point of order that the motion is out of order, as not being germane to the bill, and I demand a division of the motion. And I desire to make a point of order, also, to each of the various affirmative propositions contained in the motion.

Mr. MURDOCK. Mr. Speaker, I make the point of order that the gentleman from Kentucky [Mr. SHERLEY] can not make the point of order and demand a division.

The SPEAKER. Well, why not?

Mr. MURDOCK. Under the rules of the House he might make a point of order, but——

The SPEAKER. The gentleman from Kentucky [Mr. SHERLEY] or any other gentleman has the right to make a point of order. There is no question about that. It does not make any difference whether the point of order is well taken or not, for the purpose of this statement. Then the gentleman from Kentucky or anybody else has the right to demand a division of the proposition.

Mr. MURDOCK. Mr. Speaker, can he do both of these things at once?

The SPEAKER. No.

Mr. MURDOCK. That is what he has done.

The SPEAKER. The Chair can not possibly entertain both propositions at once.

Mr. MURDOCK. That is my point.

The SPEAKER. But so far as the amendment not being germane to the bill is concerned, the Chair overrules the point.

Mr. SHERLEY. Mr. Speaker, if the Chair will permit me to be heard, I will be glad. If the Chair is against me, I do not desire to waste the time of the Chair or my own; but if the Chair will permit, I would like to present a very serious proposition that is involved here.

Mr. MURDOCK. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MURDOCK. I understood the Chair to say that he overruled the point of order.

The SPEAKER. The Chair did say that he overruled the point of order, but the Chair does not think that his decision offhand is infallible on any proposition, and the Chair is always willing to gather information wherever he can. The Chair will hear the gentleman from Kentucky.

Mr. HENRY of Texas. Mr. Speaker, I ask that the amendment be reported again.

The SPEAKER. The Clerk will again report the motion to recommit.

The motion was again read.

Mr. SHERLEY. Mr. Speaker, I desire——

Mr. MANN. I make the further point of order that this is not offered as one amendment, but is two amendments, and it must be decided that one amendment is in order and that the other is not.

The SPEAKER. Does the gentleman from Illinois contend that this is not one amendment?

Mr. MANN. It is not one amendment. According to the wording of the amendment it provides to strike out $49,000,000 and to insert $48,500,000, and add thereto——

Mr. SHERLEY. It was just that point——

The SPEAKER. Does the gentleman from Illinois seriously contend that the words which he has practically quoted—

At the end of line 21, page 17, strike out $49,000,000 and insert in lieu thereof $48,500,000—

is one amendment and that what follows after it is another?

Mr. MANN. I contend this, Mr. Speaker: Under the rules of the House, the motion to strike out and insert is indivisible. If this were the ordinary motion to strike out and insert language, it seems to me it would not be divisible, but the motion is made to strike out language and insert other language, and then it goes on and proposes to add another paragraph to the bill. I can not see how this is offered as one amendment. It is not a motion to strike out and insert as one indivisible motion, and is not so offered.

The SPEAKER. What is the reason it is not? It says:

At the end of line 21, page 17, strike out $49,000,000 and insert in lieu thereof $48,500,000, and add thereto—

And so forth.

Mr. SHERLEY. Now, if the Chair will permit, I desire to add this to what the gentleman from Illinois has said: It is true that this is not one proposition even in the sense that the amendment offered in Committee of the Whole presented one proposition. But I desire to ask the Chair to reconsider the matter, notwithstanding the decision of the chairman of the Committee of the Whole on substantially the same proposition. I submit to the Chair this fundamental proposition, that it can not be in order simply by offering an amendment that itself is in order, and then adding to it in the form of a substantive proposition, whatever you please, to make the subsequent matter in order, if it would not otherwise have been in order. In other words, you can not take one proposition like the reduction of an amount which is in order, and having made that, then simply by the use of the word "and" carry along into order, because of the company it is keeping, any proposition whatsoever; but the very right to demand a separate vote upon every substantive proposition carries with it necessarily and logically the right to have the question determined whether

that substantive proposition is itself in order. Otherwise the rules become matters of nonsense, and all you have to do in order to avoid and disregard the rules as to what is in order and as to what is germane, is to make one amendment cutting down the amount of an appropriation, use the word "and," and then gather anything to it that you see fit.

Now, here are three substantive propositions. If they were not, the right to a division could not be had upon them; and I insist that, being substantive propositions, representing each a distinct proposal, a point of order may lie as to any one of them, and you have the right to have the point of order considered as to any one of them. If that premise of mine be properly taken, I further insist that the second affirmative and substantive proposition has nothing in it to make it in order under the Holman rule, and it has never been contended that it was in order as a limitation upon the bill.

The SPEAKER. The Chair will ask the gentleman from Kentucky a question.

Mr. SHERLEY. Certainly.

The SPEAKER. Does the gentleman insist that under the Holman rule an amendment that would not be germane under the general rule can not do anything except cut down the amount of the appropriation?

Mr. SHERLEY. I mean to say this, that anything that would not be in order as new legislation is only made in order by the terms of the Holman rule when it does one of several things; and so as not to risk my memory I will read to the Chair the exact rule. Rule XXI itself expressly declares what it must be that shall make it in order. That rule says:

> Nor shall any provision in any such bill or amendment thereto changing existing law be in order—

Manifestly this changes existing law—

> except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill: *Provided*, That it shall be in order further to amend such bill upon the report of the committee or any joint commission authorized by law or the House Members of any such commission having jurisdiction of the subject matter of such amendment, which amendment being germane to the subject matter of the bill shall retrench expenditures.

Now, all of that contained in the proviso does not apply here, because here is no motion made by authority of any committee or commission, but a motion made upon the individual responsibility of a Member, and I insist that the second proposition does not come within the rest of the Holman rule. It does not show on its face that it is a reduction of the amounts of money covered by the bill, nor that it results in the reduction of the compensation of any person paid out of the Treasury of the United States.

I appreciate that this matter was discussed at length in the Committee of the Whole; but I submit to the Chair that if the Holman rule means what by the construction put upon it by the chairman of the Committee of the Whole when this matter was up yesterday, it is said to mean, we have reached the point when that very salutary rule to protect the House against hasty and ill-considered action which prohibits new legislation upon an appropriation bill, has been absolutely whittled away and now amounts to nothing. It is within the ability of the mere novice in parliamentary law now to offer any provision in such a form as to make it in order on any appropriation bill, and it was for that reason that I asked the indulgence of the Chair, even though the Chair has indicated an opinion contrary to that which I am urging.

Mr. GARDNER of Massachusetts. Mr. Speaker, as the gentleman from Kentucky has pointed out, individuals in this House are only empowered to take advantage of the Holman retrenchment rule if the amendment which they propose does certain things. It must cut down salaries, reduce the number of public officials, or reduce the amount carried in the bill. Now, yesterday the gentleman from Kansas [Mr. JACKSON] introduced an amendment which contained a broad legislative proposition, and coupled with it was a direct reduction in terms of the amount carried in the bill. The Chairman of the Committee of the Whole—wrongly, I think—decided that inasmuch as a reduction was carried on its face the whole amendment taken together was in order. Before he made his ruling I asked the parliamentary question as to whether it was proper to demand a division of the question at that time, so that we might have a separate ruling on the legislative proposition. To this the Chairman replied that in his opinion any demand for a division of the question must come later, after he had decided the point of order against the Jackson amendment as a whole.

After the Chair had given his decision a division of the question was demanded for the purpose of voting, and this demand was granted. The House at once negatived the first section of the amendment, to wit, the proposed reduction. This negative vote left nothing before the House except the legislative proposition, which was simply a change in existing law likely, as was alleged, to result in a retrenchment.

The Holman rule permits committees to recommend changes in existing law which entail retrenchment, even if there is no reduction in the amount of money appropriated. Individuals, however, have no such right.

After the committee had negatived the reduction the gentleman from Tennessee [Mr. MOON] raised the point of order that the second division of the Jackson amendment no longer was in order under the Holman rule. Against this the gentleman from Alabama [Mr. HOBSON] raised the point of order that the question of order had already been decided by the Chair, inasmuch as he had decided an inclusive amendment to be in order. The Chair agreed with the gentleman from Alabama. This ruling, by the way, is directly contrary to the doctrine laid down by Mr. Crutchfield a number of years ago, which I shall read to the Chair in a minute or two. The point is that a situation had been arrived at where the amendment awaiting the action of the House no longer met the conditions imposed by the Holman rule, even assuming the soundness of the Chair's original decision.

The Chair had ruled that the coupled proposition was in order; but the proposition had been uncoupled, and the committee had rejected that portion which was essential under the Holman rule. The Chair sustained the gentleman from Alabama and held that his original ruling covered the entire Jackson amendment, even though the surviving portion of that amendment might be obnoxious to the point of order.

Now, if the Speaker will permit, I shall read Mr. Crutchfield's views. In the star route case cited yesterday an amendment was proposed reducing the appropriation by the nominal sum of $500,000, and a legislative proposition was coupled with it concerning contracts for star routes. Here is what Mr. Crutchfield says in his manual:

> It will be noted that the point of order was made against the amendment as a whole. The propositions contained in the amendment were divisible, namely, first, to substitute $49,500 for $50,000; and, second, the provision "to be disbursed in such manner," etc. The second branch of the amendment did not of itself result in a reduction of the amount carried by the bill, and had a division of the question been demanded and a point of order made against the latter branch the provision changing the law as to the manner of disbursements would no doubt have been held out of order.

That view of Mr. Crutchfield seems to be based on sound parliamentary philosophy. I think the Chair was in error yesterday in holding the contrary. As the gentleman from Kentucky has said, the result of the series of rulings made by the Chair yesterday is this: The privilege reserved by the Holman rule for committees alone, to wit, the privilege of proposing retrenchment amendments, whether or not they carry a reduced appropriation, is now thrown open to every Member of the House if he attaches a provision reducing the total amount carried in the bill. In other words, if these rulings are to stand, there is no retrenchment amendment which a committee is empowered by the Holman rule to propose which can not equally well be proposed by an individual who exercises a little ingenuity in drafting his amendment.

The SPEAKER. Does the gentleman from Massachusetts contend that a Member in a motion to recommit can not offer anything except what the committee can offer on the floor of the House in Committee of the Whole House on the state of the Union?

Mr. GARDNER of Massachusetts. I contend that he can not offer in a motion to recommit that which would have been out of order if offered in the Committee of the Whole House. In addition, I believe that by a demand for a division of the question, which I believe to be quite in order, we can get another ruling from the present Chair.

Mr. FITZGERALD. Mr. Speaker, the proposed motion by the gentleman from Kansas, in my opinion, is subject to the point of order because it involves legislation in violation of the rules. It is not necessary to discuss whether it comes within the provisions of the Holman rule or not, because, regardless of that rule, in my opinion, it is not in order. It contains a positive direction to an executive officer to do a certain act. It either controls the discretion which he now has under the statute or imposes upon him a duty which he does not have. No amendment ever submitted, purporting to be in order because it purported to reduce expenditures, has had coupled with it a proviso attempting to control the discretion of any executive officer, particularly if that part of the amendment of itself was

not a substantive proposition which on its face retrenched expenditures.

This amendment provides that the Postmaster General is hereby authorized and directed to use $100,000 of this appropriation—

for the purpose of weighing the mails and reducing the rates of compensation now paid to railroad companies for transporting the mails by excluding said class of mail from the mails of the United States.

Such a provision as that attached to an amendment purporting to reduce the amount carried by the bill has never, in any ruling with which I am familiar, made under the Holman rule, been held to be in order.

This provision is similar to a number of provisions of a somewhat similar character that from time to time have been held contrary to the rule.

Paragraph 3854 of Hinds' Precedents, volume 4, the Chairman, Mr. Hepburn, in a ruling upon an amendment states:

A provision authorizing and directing an officer of the Government to do things involves legislation.

Legislation of such a peculiar character has never so far been seriously contended to be in order on an appropriation bill on the ground that the retrenchment was to be effected and the amount carried by the bill reduced.

Eliminating the balance of the amendment it would read:

Strike out "$49,000,000" and insert in lieu thereof "$48,500,000"; *Provided*, That the Postmaster General is hereby authorized and directed to use $100,000 of this appropriation—

And so forth.

This proposed direction to the Postmaster General has no relation whatever to the terms in which the appropriation in the bill is carried. It is not germane to that particular provision, and it is an affirmative direction to the Postmaster General to utilize a certain portion of the appropriation in a certain way, which either in itself is legislation or else it attempts to control the discretion which he now has under the law, and which under a long line of precedents has been held to be legislation. I submit that under those circumstances this proposed motion, if offered as an amendment, either in the committee or in the House, would be subject to the point of order, and the same rule applies when it is offered as a motion to recommit.

The SPEAKER. The Chair will ask the gentleman from New York this question: Can the language in this motion beginning with the word "and," after the proposed reduction, be considered in any proper sense a limitation on the appropriation?

Mr. FITZGERALD. The Speaker refers to the word "and" where it occurs after "$48,500,000," and add thereto the following?

The SPEAKER. Yes.

Mr. FITZGERALD. If any portion of that provision is subject to a point of order, it all would be subject to a point of order. It has been repeatedly held that a direction to use a specific part of an appropriation carried in a provision can not in any way be construed to be a limitation. It is not a limitation upon the use. It is a direction as to the use. That is one of the clear lines that is drawn between what is a limitation and what is not. A limitation withholds an appropriation from use in certain ways. This directs the use of the appropriation by the Postmaster General in a particular way.

Either he has the power under the law to use it in that way or he has not. If he has not the power, this is legislation. If he has the power and has the discretion to use it or not to use it in the particular manner, this is an attempt to control the discretion lodged in him by the statute, and that has been construed to be legislation. Any attempt to control the discretion lodged in an official as to his action, as to his use of money, is legislation, while a limitation does not control the action of the official at all. It merely inhibits the use of the money for a particular purpose. This amendment clearly has in it such affirmative directions to the Postmaster General as to constitute an attempt to control his discretion, or to determine that he shall act in a particular manner. Under a long line of rulings, such an attempt has always been held to be legislation.

The provision of the bill, page 17, line 21, which this seeks to amend, is:

For inland transportation by railroad routes, $49,000,000.

The amendment endeavors to strike out "$49,000,000" and to insert "$48,500,000," and to add a direction to use a particular portion of that sum in a particular manner.

Mr. GARRETT. Mr. Speaker, will the gentleman from New York yield?

The SPEAKER. Does the gentleman from New York yield to the gentleman from Tennessee?

Mr. FITZGERALD. Yes.

Mr. GARRETT. Mr. Speaker, I understood the gentleman to state that he was not familiar with any precedent holding that such a proposition as the gentleman just stated was in order. I wish to direct his attention to the ruling of Mr. Chairman Carlisle, made before he was Speaker, or at the time, at least, when he was not Speaker, and which was cited by the Chair yesterday.

Mr. FITZGERALD. Mr. Speaker, I have not looked at those rulings recently, although I have examined them very carefully on other occasions.

Mr. GARRETT. It is to be found on page 1471 of the RECORD, near the bottom of the last column. The gentleman will there find the question, and then at the top of the next column he will find the ruling of Mr. Carlisle.

Mr. FITZGERALD. Mr. Speaker, there is a very clear distinction between the two amendments. One was that the Postmaster General "may" use a certain sum, while this amendment provides that he must use it. It is very clear that that did not attempt to limit his discretion in any way, while this compelled his action in a certain way. The language of this amendment is:

The Postmaster General is hereby authorized and directed.

He has no discretion in the matter at all. It removes any discretion he may have, and the ruling to which the gentleman calls attention, I think, is based upon an amendment which in a very essential feature is so different that it does not cover this particular case.

The pending motion is not such as to be indivisible. So far as it purports to strike out $49,000,000 and to insert $48,500,000 it is indivisible; but it adds after the insertion positive, substantive, independent legislative provision. They do not depend for their vitality upon the matter to be stricken out or inserted. They do not on their face purport to retrench expenditures, and such is not their purpose. It is an attempt to utilize a beneficial rule to enact legislation never contemplated as in order under it.

Mr. MURDOCK. Mr. Speaker, within the last 24 hours I have been twice up against rulings on the Holman rule. The rule which we have in this House which goes to the scope and definition of the power of an amendment to an appropriation bill must have been in the first place adopted to save appropriations from general legislation, and it seems to me that the gentlemen who have preceded me to-day, particularly the gentleman from New York [Mr. FITZGERALD], have been arguing in terms of simple limitation. The Holman rule is a definite departure from the philosophy of strict limitation. The Holman rule necessarily is built upon the proposition that you may change existing law and that you may touch upon the discretion of an executive officer. Yesterday, preceding this present amendment, which was ruled in order by the Chairman, the gentleman from Tennessee [Mr. GARRETT], I defended another amendment which came in the bill from the committee.

The Chairman held that under the Holman rule that amendment did not show a reduction in expenditures on its face. In other rulings under the new Holman rule I note that that seems to be a vital and essential part of an amendment in order under that rule, namely, that it shall show not only a reduction but a reduction on its face. Now, this amendment offered originally yesterday by the gentleman from Kansas [Mr. JACKSON] does show on its face a reduction. It is germane, was held in order yesterday, and I do not believe that the Speaker can hold that it infringes upon the discretion of a departmental officer and still keep full vitality in the Holman rule. I want also to say while I am on my feet, Mr. Speaker, that this is a motion to strike out and insert, and under the rules of the House it is not divisible.

Mr. SHERLEY. Will the gentleman yield to a question?

Mr. MURDOCK. Certainly.

Mr. SHERLEY. Waiving for the moment the question of a point of order, does the gentleman think that no division could be had upon a proposition like this so as to have a separate vote on the different affirmative propositions?

Mr. MURDOCK. I think under the rules of the House, this being a motion to strike out and insert, it is not divisible. The rule so states in specific terms.

Mr. SHERLEY. Let me ask the gentleman this question: According to the gentleman's contention, is it not possible, if it be correct, by simply moving a reduction of any amount and then using the word "and" to couple any legislation, whether the legislation be germane to the paragraph or not?

Mr. MURDOCK. Exactly; and that is the object of the Holman rule. Let me say to the gentleman that I believe he is also

arguing in the terms of strict limitation. The basis of his remarks to-day is that we can not change existing law.

Mr. SHERLEY. The gentleman does not, in my judgment, know the real philosophy of the parliamentary rule.

Mr. MURDOCK. That may be true.

Mr. SHERLEY. I do not mean that offensively. I am going to try to show you. The reason for a rule that limits legislation on appropriation bills is because the experience of legislators has shown that without it it results in ill-considered and unwise legislation. Therefore the general rule, that has been a rule for more than 60 years, was brought into play. Then there came along the desirability of economy, and therefore the other rule was justified for the particular purpose of economizing. But the reason for the other rule applies with all its force unless you are economizing. Therefore it must follow that in considering the Holman rule it must be considered strictly so as to clearly show that every affirmative proposition is let in because of the virtue it had in economizing.

Mr. MURDOCK. I know; but I have no dispute with the gentleman from Kentucky on the statement he now makes. But this amendment does show a reduction on its face, and it does then come within the Holman rule, and it accomplishes the very thing the Holman rule wants to accomplish, as described by the gentleman from Kentucky.

Mr. SHERLEY. If I believed in the gentleman's premises, it would be possible to admit his conclusion. I insist they are different propositions——

Mr. MURDOCK. Let me say to the gentleman from Kentucky [Mr. SHERLEY] that he has said to me repeatedly in private conversation that there is a remedy in the rules of the House for everything.

Mr. SHERLEY. I do not remember of ever having said it, by the way.

Mr. MURDOCK. He does not have to divide the question to vote it down. Let him vote it down in its entirety.

Mr. SHERLEY. The gentleman's argument, if carried to its full logical conclusion, would abolish the necessity of any rule, because this body, as a whole, could control.

Mr. MURDOCK. I have one decision which I would like to cite to the Speaker.

The SPEAKER. Before the gentleman goes to that, the Chair would like to ask him a question. The rule is that a motion to strike out and insert is not divisible. Let us see what we have here:

At the end of line 21, page 17, strike out "$49,000,000" and insert in lieu thereof "$48,500,000," and add thereto the following.

Now, how far in this motion does that rule about striking out and insert apply?

Mr. MURDOCK. It must go to all of the inserted matter.

The SPEAKER. Let us see how much is inserted matter:

Strike out "$40,000,000" and insert in lieu thereof "$48,500,000."

And then it says:

And add thereto the following.

And then comes the rest of the document.

Mr. MURDOCK. Mr. Speaker, that is no more a part of the legislation than "I move to recommit."

The SPEAKER. Is what follows the word "and," namely, "add the following," a part of the matter you are inserting or is that something brand-new?

Mr. MURDOCK. That is part of the matter I am inserting.

The SPEAKER. You did not insert it in place of the $49,000,000?

Mr. MURDOCK. I strike out the "$49,000,000" and substitute "$48,500,000," with that addition.

The SPEAKER. It does not say that. It says "and add the following."

Mr. MURDOCK. I do not know how we could have it otherwise, except to insert a semicolon or a colon or "provided."

The SPEAKER. So far as that difficulty is concerned, it could have been remedied very easily by making it run this way:

At the end of line 21, page 17, strike out "$49,000,000" and insert the following: "$48,500,000, provided"—

And so forth. There is no trouble about having it made right.

Mr. MURDOCK. It means precisely the same thing.

The SPEAKER. It means ultimately the same thing, but the Chair is talking about this rule of dividing the propositoin to strike out and insert. You have got to take all these rules and construe them together. Now the Chair will hear the gentleman's authorities.

Mr. MURDOCK. Mr. Speaker, the substance of the matter is just as the Speaker has recited it, and you might leave out those words "and add thereto," and leave a colon or a semicolon, or insert the word "provided," and it would have the same effect, and any change of any kind under the Speaker's suggestion would be one of verbiage, and not one changing the materiality of the amendment.

Mr. SHERLEY. Mr. Speaker, if the gentleman will permit, the very question of verbiage is what determines whether it is in order or not. It is not what a man means, but what he says. [Laughter.]

The SPEAKER. For instance, this morning there was an amendment here that ran this way, in substance—the Chair does not try to quote the exact language: There were two propositions followed by one condition. Now, if you undertook to strike out the proposition to hold for naught the Executive order of 1910, then in order to eke out and make a whole proposition you had to jump the second proposition about repealing the order of 1912 and hitch onto the last end of it. Now, when you had done that you did not have any whole proposition left in the middle. It was up in the air, to use a military phrase. [Laughter.] So the Chair ruled it out of order. He ruled that there were not two substitutive propositions in it, and the Chair thinks he ruled correctly.

The question in this matter primarily is, What do you strike out, and what do you insert in place of what you did strike out?

Mr. JACKSON. Mr. Speaker——

The SPEAKER. In a moment. If you strike out "$49,000,000" and insert "$48,500,000," you can not divide that proposition; and then you add the following——

Mr. MURDOCK. That is, "add the following," immediately after the insertion of the $48,500,000.

Mr. JACKSON. Mr. Speaker, does my colleague yield?

Mr. MURDOCK. Yes.

Mr. JACKSON. I suggest to the Speaker that the language used there means just the same thing as if you had said, "Also insert $48,500,000; also provided," and so forth. The language means the same thing. Certainly in ruling upon these questions the Chair will look at the substance of the amendment, and, to use the language of the Speaker, its ultimate effect, rather than the language in which the mere amendment is suggested on paper. The amendment as it reads, when inserted in the bill, will be just as the Speaker says—"$48,500,000: *Provided*," and so forth. The other language is the mere vehicle, the mere machinery, by which the committee is directed to perpetuate and accomplish the amendment.

The SPEAKER. Where is the authority that the gentleman from Kansas [Mr. MURDOCK] has?

Mr. MURDOCK. I think the Speaker has had it cited to him, but I wanted to make sure. It is the decision of Chairman Carlisle, of Kentucky, in the railroad case in 1880. It can be found in the CONGRESSIONAL RECORD, page 1471.

The SPEAKER. Does the gentleman from Kansas think that the case that Mr. Chairman Carlisle was deciding is a case similar to this?

Mr. MURDOCK. In part. It was a case where a sum—$9,480,000, for the transportation of the mails, just this same item in this bill—was, by amendment, reduced, with a direction to the Postmaster General to divert a portion of the remaining sum for a certain purpose.

The SPEAKER. Was it a direction to the Postmaster General or a permission to the Postmaster General?

Mr. MURDOCK. Strictly construed, it was a permission, because the word "may" was used.

The SPEAKER. In this case it is a positive direction, is it not? The language of the gentleman's motion is a positive direction.

Mr. MURDOCK. Yes; I think that is true.

Mr. JACKSON. Mr. Speaker, may I add just a word?

The SPEAKER. The gentleman from Kansas [Mr. JACKSON].

Mr. JACKSON. I wanted to call the attention of the Speaker especially to the position taken by the Chairman yesterday in ruling upon this question in reference to the opinion of Mr. Speaker Carlisle. The amendment was very similar to this; very similar, indeed, with the one exception that the Speaker suggests; and the Chairman of the committee yesterday stated it so nicely that I can better state what I mean by reading it:

It is conceded that the first part of the amendment is in order under the Holman rule, as it carries a reduction of $500,000 in the appropriation. It is the opinion of the Chair that where a proposition of legislation follows a proposition to reduce the amount, and is so related to that proposition to reduce the amount as to be clearly and logically germane thereto, it is brought within the operation of the rule.

Now that was in substance what was held by Mr. Speaker Carlisle in that opinion, and this machinery that is provided here for the purpose of reducing the appropriation and reducing the amount to be paid out of the Treasury under the appropriation is appropriate machinery. It follows logically after the reduction of the amount of the appropriation, and no one

can look at the amendment without seeing that it was intended for that purpose, and therefore it should not only be considered as a whole, but should be considered as an amendment on its face which reduces the amount of the appropriation and the expenditures to be paid out of the Treasury.

Now, as to the question that it is a direction to the Postmaster General, rather than the grant of an authority to use discretion, permit me to say, Mr. Speaker, that if the Holman rule had any effect whatever, it is, as my colleague [Mr. MURDOCK] suggested, to permit to be introduced as a part of an appropriation bill a proposition to change legislation; and will it be contended that you may change legislation and make new law and yet not be able to control the discretion of an officer who acts under the law? That would be an absurdity—that you can change law and change the authority under which the officer acts and under which he is appointed, and yet not be able to change his discretion under the law. Of course, the opposite must follow; and if you can change the law you can change the discretion of the officer, under the Holman rule, which you can not do under the limitations placed upon an appropriation bill.

Mr. SAUNDERS and Mr. HARDWICK rose.

The SPEAKER. The Chair will hear the gentleman from Virginia [Mr. SAUNDERS] first and then the gentleman from Georgia [Mr. HARDWICK]. That is the order in which they rose.

Mr. SAUNDERS. Mr. Speaker, the question of the controlling principle in the interpretation of the Holman rule is one of the utmost importance. It has been said in argument in connection with the pending parliamentary proposition, that the Holman rule must be construed strictly. I deny that absolutely. It has been ruled that this rule is one of beneficence, and on that account should be liberally construed, in order that its essential purpose may be carried out, and retrenchments effected.

It has also been suggested in the argument upon the Murdock amendment that if that interpretation is given to the rule which will make this amendment in order any tyro in the House can amend existing law by an amendment to an appropriation bill. This, Mr. Speaker, is the purpose of the Holman rule. If a tyro can work out any efficient scheme by which a substantial reduction of expenditures can be accomplished, he should not be debarred from attaching it to an appropriation bill. The purpose of the Holman rule is to afford to the tyro, and the expert alike the opportunity to bring his propositions before the House, passing in the first instance the scrutiny of the Chair who must be reasonably satisfied that they will effect a reduction of expenditures.

So that as I have said, the question of attitude is of the utmost importance in determining the proper construction of the Holman rule.

I desire more particularly to address myself to the Carlisle decision, because if I can understand the effect of a parliamentary precedent, this decision is absolutely in point, and decisive of this controversy.

The facts in the Carlisle ruling are as follows: A reduction of $10,000, was made in the aggregate appropriation. Coupled with this reduction of $10,000 an appropriation of $150,000 was authorized to maintain and secure certain necessary facilities for the postal service. As a result of this reduction in the appropriation, Mr. Chairman Carlisle held that the affirmative legislation disposing of $150,000, was in order. The amendment was as follows. For transportation on railroad routes $9,490,000 (instead of $9,500,000), of which sum $150,000 may be used by the Postmaster General to maintain and secure from the railroads necessary and special facilities for the postal service for the fiscal year ending June 30, 1881.

It is suggested by the gentleman from New York [Mr. FITZGERALD] that the difference between this and the pending amendment is the word "direct" is used in the Murdock amendment while the words "may be used," occur in the amendment on which Mr. Chairman Carlisle made his ruling. This difference in the words used does not affect the value of the Carlisle precedent. Even if the Postmaster General was given discretion to use the $150,000 for the purposes indicated, this provision affording that discretion was none the less legislation. It was treated as legislation, and referred to as legislation by Mr. Carlisle who ruled that it was in order, though legislation, by virtue of the Holman rule and its relation to the reduction afforded. Permit me in this connection to read from the ruling:

For transportation on railroad routes——

The SPEAKER. What is the gentleman reading from?

Mr. SAUNDERS. This is from Mr. Carlisle's ruling. It is on page 1465 of the RECORD of yesterday.

For transportation on railroad routes, $9,490,000,

The reduction afforded being, as I have stated, merely $10,000. The legislation that follows, so far as I can see, is not related in anywise to the reduction. This fact makes a difference between this precedent, and the proposition that is presented to the Chair this evening, and therefore renders this precedent so much the more authoritative. For if the Carlisle ruling is good parliamentary law, I insist that the amendment now before the House must be in order. I will now read the legislative provision:

Of which sum $150,000 may be used by the Postmaster General to maintain and secure from railroads necessary and special facilities for the postal service for the fiscal year ending June 30, 1881.

Note that this provision is in nowise the result of the reduction in the total of $9,500,000 nor does it effect that retrenchment. In the amendment that is before the Speaker, the legislation is considered to be the efficient cause of the reduction of $500,000. In the same connection the amount of $100,000 is set apart for certain things necessary to be done as a part of this concrete scheme. As soon as this reduction is effected by the operation of the legislation set out in the amendment, it is proper that the Post Office Department should take steps to ascertain the proper reduction to be made in the amounts that would otherwise be paid to the railroad companies. If the railroad companies as a result of this amendment will haul less mail matter of a second-class character, then of course the compensation of these companies should be reduced. Hence this legislation is vitally related to the legislation which effects the reduction. It is germane, and appropriate. The reducing legislation of the amendment, if I may so style it, is that legislation which forbids a vast mass of second-class matter of a certain character, to be transported in the mails. Now the legislation comprehended in the amendment on which Mr. Carlisle made his ruling, in other words, the disposition of the $150,000, had no sort of relation so far as I can see it, to the reduction of $10,000 in the aggregate appropriation.

It is a well-known fact that this second-class matter is carried at a loss. Hence the exclusion of a large mass of it from the mails will effect, as a matter of necessary consequence, a considerable saving, if an appropriate reduction is made in the compensation to be paid to the railroad companies. This reduction will be proper since the bulk of mail to be carried will be materially reduced. But it is insisted that on the whole it can not be determined whether a reduction will be effected, since the cost of making the inspections directed by the amendment can not be ascertained. This contention is not well taken. The department must make the inspection with the present force, and is not authorized to incur any additional liability. If the present force is inadequate to make a complete inspection, this will not authorize the employment of additional force, and no provision is made for additional force. Hence the cost of inspection will not be an additional cost, and can not be used to offset the positive reduction of $500,000. Whatever costs may be incurred in the use of the present force to make this inspection, will be trifling as compared with this sum of $500,000. Moreover if any portion of this mail matter will become first-class mail, as a result of this amendment, and necessarily it will, such mail will be carried at a profit, and this will be in addition to the saving of $500,000. Is the matter in the amendment ruled on by Mr. Carlisle, legislation? I will answer that query by reading from the ruling on page 1466. (Bear in mind that the point of order made to this amendment, was identical with the one under discussion, and under the same rule.)

Mr. Carlisle said:

Although the meaning of the words "necessary" and "special facilities for postal service" is not very clear, yet the Chair held yesterday, after giving the subject some consideration, that the effect of such an amendment would be to change existing law.

In other words whether, or not, this "may," is "must," or "shall," the provision is legislative, since the amendment changes existing law. In the light of this ruling what becomes of the suggestion that the pending amendment changes existing law by a positive direction, and is differentiated from the provision to which Mr. Carlisle's ruling was directed, because that provision contains the word "may."

So that, Mr. Speaker, we find that the legislative provision in Mr. Carlisle's ruling was held to be in order, because it was coupled with a reduction, though I fail to see the relation between the legislation and the reduction. In the present instance the legislation effects, and makes possible the consequent reduction. The language of the chairman in the ruling cited is:

So that the Chair is bound to hold that the amendment conforms strictly to the language of the rule. Taking the language of the rule as it stands, and putting upon it the construction which would ordinarily be put upon such language in a statute, or in a rule of the House, the Chair is compelled to hold that the amendment comes within the rule and is in order.

Look at the pending amendment for a moment. This amendment directs that certain mail matter shall not in the future be carried in the mails. Information afforded by the Post Office Department advises us that this matter is carried at a loss. Hence the less that is carried, the less the loss will be. As a result of not carrying this character of mail a reduction of $500,000 is made in the aggregate appropriation. Then follows the germane and appropriate provision that the sum of $100,000—I believe that is the amount—shall be used for the purpose of making certain ascertainments and certain abatements in connection with the transportation of this class of matter by the railway companies.

So Mr. Speaker I return to my original proposition that unless the ruling of Mr. Carlisle can be overthrown, and the facts in the case to which that ruling relates render its authority particularly impressive in the present instance, then this amendment is in order, and the point of order should be overruled.

The same conclusion will be reached upon a just consideration of the Holman rule, apart from the Carlisle precedent. It is not pretended that a reduction can be made in the amount of an appropriation, and upon that as a peg, may be hung unrelated propositions of affirmative legislation. A point of order may be properly directed to such legislation. But it is insisted that if affirmative legislation effects the consequent reduction in the appropriation, wherever that appropriation may occur, then such legislation is in order under the Holman rule.

Mr. HARDWICK. Mr. Speaker, I think everybody participating in this debate concedes that under the guise of a motion to recommit, no proposition can be submitted to the House that would not be in order under the general rules of the House if submitted as an amendment. Therefore if a motion to recommit contains matter that as an amendment would be out of order if offered in the House in that form, it could not be correctly submitted to the House in this form.

Now, Mr. Speaker, it seems to me the question that the Speaker is called upon to decide is one absolutely settled by eminent authority and in exactly the opposite way from that contended for by the gentleman from Virginia [Mr. SAUNDERS] and others who take that view of the case.

I find that on the 9th of February, 1893, Mr. Dingley, of Maine, offered this amendment in the House of Representatives.

The Clerk read as follows:

Court of Claims: For salaries of five judges of the Court of Claims, at $4,500 each; chief clerk, $3,000; one assistant clerk, $2,000; bailiff, $1,500; four clerks, at $1,200 each; and one messenger—in all, $34,640.

Mr. Dingley offered an amendment to this provision, as follows:

Amend by striking out all after the words "one thousand five hundred dollars," in line 6, on page 107, and insert: "Three clerks at $1,200 each, and one messenger; in all, $33,440: *Provided*, That so much of an act 'to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government,' approved March 3, 1883, as authorizes any committee of the Senate or House of Representatives to refer any claim against the Government to the Court of Claims, is hereby repealed."

Mr. Enloe made a point of order on that amendment that it changed existing law and did not reduce expenditures.

Mr. Dingley said:

The amendment is entirely within the exception to the rule. While it does change the existing law, to the extent of repealing so much of the so-called "Bowman Act" as authorizes a committee of either House to send a case to the Court of Claims, yet it does reduce expenditures to the extent of one clerk who is required to attend to that work in the Court of Claims, and reduces the amount of the bill to the extent of that salary. It is brought specifically within the rule.

I will not read the balance of this, except that which seems to appertain to this question.

Now, Mr. Holman, who was the author of the rule now under consideration, participated in this debate, and I want to read you his view. He took the opposite side from Mr. Dingley, and contended that none of this proposition was in order. Mr. Holman said:

That leaves only one question to be considered, and that is this: Does it, as a matter of fact, reduce expenditures by reducing the number of employees of the Government? As it does that, the only question is whether the subsequent provision is necessary to carry that provision into effect.

Now, I concede that you can not arbitrarily by striking out a word and inserting a provision not connected with the proposition make an act of independent legislation. I agree that you can not do that. The repealing force of the provision must be for the purpose of accomplishing the prior object of reduction. Under the third clause of Rule XXI, you can legislate in one of three ways or for one of three objects; first, reducing the number or compensation of officers provided for in the bill; second, reducing the salary or compensation of any employee of the Government; or, third, reducing the amount carried by the bill.

Mr. Blanchard, of Louisiana, used this language referring to a ruling made by him as chairman of the Committee of the Whole House during the previous session of the same Congress:

Mr. BLANCHARD. I have not the words that were proposed to be stricken out, but I will read the amendment again. It was in the following language:

"Strike out after the word 'cents,' in line 18, down to the words 'ninety-three,' in line 23, and insert as follows:

"'An the act entitled "An act to provide for ocean mail service between the United States and foreign ports, and to promote commerce," approved March 3, 1891, is hereby repealed.'"

Mr. HOLMAN. But the important question is, in that connection, as to the language proposed to be stricken out.

Mr. BLANCHARD. I did not know what words were stricken out. I have not the bill before me. I will, however, again read for the benefit of the gentleman from Indiana the ruling of the Chairman on the point of order then raised, in which he said that the amendment contained two substantive propositions, one of which would be in order under the rule, the other would not, and that the first part being in order, and the second not in order, made the whole amendment obnoxious to the rule, and, viewing it as a whole, it was not in order and could not be entertained.

Now, in deciding this question, Chairman Richardson used this language:

The CHAIRMAN. Now, the amendment certainly covers two substantive propositions. One is in order and retrenches expenditures in the manner provided in the rule. The other does not. The amendment, therefore, is obnoxious to the rule, because the latter clause is obnoxious, but it may be divided if the gentleman sees fit to divide it.

Mr. DINGLEY. Of course, if a part of my amendment is out of order, the whole of it is.

The CHAIRMAN. Yes. If the gentleman proposed to accomplish simply the repeal of the Bowman Act by a provision in the appropriation bill, it seems to the Chair that he would be compelled to hold immediately that it was not in order. Now, when he seeks to couple with it a reduction of the employees of the Government, with a view of making the latter part of it within the rule, it seems to the Chair it can not be done.

If this can be done, then the whole internal-revenue law could be repealed in this appropriation bill; because the bill provides for paying some of the employees or clerical force of the Internal-Revenue Service. Now, if the gentleman moved to strike out the appropriation for one clerk in that bureau, he could, if this amendment is in order, hang upon that a provision repealing the internal-revenue law and other laws where clerical forces are appropriated for in this bill.

Now, I want to call the Speaker's attention to one or two observations on the propositions involved. It seems to me the first substantive proposition in the motion to recommit is clearly in order, for it comes within the first object of the Holman rule, in that it provides in so many figures a reduction of the appropriation carried in the bill. But it seems to me the second proposition, where you strike out and insert and add a proviso, is not in order, because it does not necessarily mean, and can not be held by the Chair to mean, a reduction in expenditure, standing by itself.

Besides, Mr. Chairman, it is clearly legislation and a violation of the rule of the House, unless saved by the Holman rule. Take the case decided by the gentleman from Virginia, the Carlisle decision, and it seems to me the decision in that case, Mr. Speaker, can be clearly differentiated from the question now pending.

In the case ruled upon by Mr. Chairman Carlisle, there was no old law repealed and there was no new law made. Whatever may have been the language used, obiter dictum, by the distinguished gentleman, it was not a change of existing law. In that case no statute of the United States was repealed by the proviso that was held in order, and no new statute was made. A discretion was merely given to an executive officer to do a certain thing if he thought best to do it.

The SPEAKER. What does the gentleman say to the contention of the gentleman from Virginia [Mr. SAUNDERS] that in that kind of a statute the word "may" has been generally construed by the courts to mean "shall"?

Mr. HARDWICK. Mr. Speaker, I do not think that is the general rule. Certainly not unless the context forces such a construction. The Postmaster General may use an appropriation in a certain way. He is not forced to do it. The use or adoption of the legislative provision may influence him in determining what his policy ought to be, but if Congress does not order him to do it, in so many words, I do not believe that follows as a matter of course that the law is necessarily changed. Therefore I say that this proposition can not be held to be in order under the precedents in the Fifty-second Congress, and there are no precedents anywhere else that necessarily conflict with these precedents unless each and every substantive proposition—not only the first motion to strike out $49,000,000 and insert $48,500,000 in lieu thereof, but also to insert the proviso, making two other separate and distinct substantive propositions—be held to be in order, and they can not be held to be in order, because the second proposition is not necessarily, and no presiding officer can so hold it to be, a retrenchment. Standing alone, it does not mean retrenchment, and the third substantive proposition is clearly and solely legislative.

The SPEAKER. What does the gentleman say about the proposition that the whole of this paper is to be inserted in lieu of the words stricken out?

Mr. HARDWICK. No; because the amendment on its face provides otherwise. It strikes out "$49,000,000" and inserts in lieu thereof "$48,500,000," and then proposes to add a proviso in addition to that. It strikes out and inserts, and then adds a proviso. It seems to me it has not been drawn in the most skillful way in which it could have been drawn.

Mr. Speaker, I have about concluded what I want to say, except this: This language can not be saved as being nonlegislative. It clearly changes the law. No presiding officer can say that this second substantive proposition standing alone, construed by itself, would necessarily or even probably mean a reduction of expenditure, and why? Because no man can calculate whether the amount of inspection necessary would not be more than the amount saved from the diminution in the amount of second-class mail matter, which is unprofitable, and no man can tell to what extent the first-class mail, which is profitable, would be affected. So, if it be true, as ruled by these distinguished gentlemen in the second session of the Sixty-second Congress, Messrs. Blanchard and Richardson, that all these substantive propositions must come within the Holman rule or else the whole motion is subject to the point of order, then I contend that the motion of the gentleman from Kansas to recommit is clearly out of order. It seems to me that no other ruling can possibly be made by the Speaker.

Mr. SHERLEY. Mr. Chairman, if the Chair will indulge me, I would like to read another decision, which I think is directly in point.

The SPEAKER. The Chair will hear the gentleman after he hears the gentleman from Pennsylvania [Mr. OLMSTED].

Mr. OLMSTED. Mr. Speaker, undoubtedly these instructions might have been drawn in the form of a single proposition to strike out and insert, which would not have been divisible, but they are not so drawn. To my mind the motion embraces at least three separate and distinct propositions, first, the motion to strike out "$49,000,000" and insert in lieu thereof "$48,500,000." That is the motion to strike out and insert, and is the only motion to strike out and insert that there is in the proposition. It stops there, so far as any suggestion to strike out and insert is concerned. Then follows another proposition to "add the following," namely, a provision that no part of the money expended shall be used for the transportation of certain matter under certain circumstances. I am inclined to think that second provision is in the nature of a limitation. If in order at all it is in order as a limitation. But we then come to the third proposition, which is a separate and distinct proposition in the paper as drawn, that $100,000 shall be expended by the Postmaster General in determining certain things, which he is not now required or authorized to determine. That provision clearly changes existing law and is out of order, unless it is saved by the Holman rule.

The Holman bill has been read, and I shall not repeat it. It applies only where there is a reduction in the amount of the expenditure provided by the bill or a reduction in the salaries or compensation provided for in the bill. Does this proposition to expend $100,000 show upon its face that its necessary effect will be a reduction in the expenses of the Government or in the amount that would have to be expended under the bill? I submit that it would be impossible for the Chair to find in that provision, as worded, any language or any thought from which the Chair or anybody else could definitely determine that the expenditure of that $100,000 would reduce the expenses of the Government to the extent of a single cent. It would be a mere matter of conjecture. There is nothing on the face of the paper to show any reduction whatever. The only definite thing about it would be the expenditure of $100,000. There is certainly no clear provision for the reduction of any expenses or the amount to be paid to any person in salary or for any other purpose. If, as I suggest, that third proposition is out of order, then it follows that the point of order made by the gentleman from Kentucky [Mr. SHERLEY] must be sustained, because it is made against this whole motion; and if any part of it is out of order, the whole must fall. If the point of order should be overruled, then I submit the motion would be divisible into three parts; but if, as I contend, the third proposition is out of order, then the point of order made by the gentleman from Kentucky must be sustained.

Mr. SHERLEY. Mr. Speaker, in the Fifty-second Congress, on June 2, 1892, in the consideration of the Post Office appropriation bill the following amendment was offered by Mr. Bergen:

Amend, by adding, on page 3, line 9, after the word "dollars," the following: "That when a new post office is established the Postmaster General shall immediately provide for a mail route to such office and shall make contract for carrying mail to such office, and that after providing by general advertisement for the transportation of the mails in any State or Territory, as authorized by law, the Postmaster General may secure any mail service that may become necessary before the next general advertisement for said State or Territory by posting notices for a period of not less than 10 days in the post offices at the terminal of any route to be let."

And so forth. It then goes on dealing with the contract. To that a point of order was made and sustained. The gentleman then offered the same amendment, with this addition:

And the appropriation herein for star routes is hereby reduced $500.

It was contended when he offered his first amendment that it was not in order because it changed existing law, and that it did not come under the Holman rule, because it did not reduce expenditures, and the Chair so ruled. Thereupon, in order to get within the Holman rule, Mr. Bergen reoffered it, and added the lines I have just read, namely, "the appropriation herein for star routes is hereby reduced $500."

He then argued that inasmuch as there was a reduction, it was in order under the Holman rule. A point of order was again made, and the Chair sustained the point of order, holding that you could not by simply tying it to this reduction make it in order. Thereupon an appeal was taken to the House, and the Chair was sustained by a vote of 73 ayes as against 21 noes.

Now, the only difference between that proposition and this is that here we start in by reducing the amount and then bring in other faulty legislation, whereas there he started out with faulty legislation and then added a provision to reduce the amount.

Mr. GARDNER of Massachusetts. If the gentleman will look at the bottom of the first page where that amendment was introduced by Mr. Bergen, he will find Mr. Lind's name at the end of the second column, and turning over to the next page he will find Mr. Lind directly says that this will result in a retrenchment, in his opinion, to which the Chair says that, although Mr. Lind may be correct in his opinion, it has nothing to do with the case.

Mr. SHERLEY. The gentleman is quite right. The language is this:

Mr. LIND. Mr. Chairman, I do not believe that this point of order is well taken, for the reason that the existing law, as I understand it, limits the amount that may be expended for a star-route service in the first instance, after the establishment of it, to two-thirds of the revenue. This simply substitutes a general power under the law to let a contract. Now, is the Chair going to assume as a matter of law and fact that two-thirds of the revenue of a new office is less than the amount that it would take under a letting to competitive bidders. The Chair can not assume, as a matter of law, that it would carry more money than the existing law. My contention is that it would carry less. That is all I have to suggest. The Chair can not rule that it would increase expenditures. I contend that it will economize and save expenditures.

The CHAIRMAN. The Chair does not know whether it will increase or decrease expenditures. There is nothing on the face of the amendment to show whether it will or not; but it changes existing law, and in the absence of a direct expression on the face of the bill to show that it would decrease expenditures under the rule, the Chair will have to sustain the point of order.

Mr. LIND. I desire to make that expression to the Chair. I give it as my judgment, that it would result in a saving to the Government.

Mr. BLOUNT. Regular order.

Mr. LIND. I think my opinion is entitled to some weight with the Chair.

The CHAIRMAN. The gentleman from Minnesota may be entirely correct in his opinion, but there is nothing on the face of the amendment to show——

Mr. BLOUNT. I insist on the regular order.

The CHAIRMAN. The Chair sustains the point of order.

And that is the exact situation here to-day.

Mr. HOBSON. Mr. Chairman, there is a fundamental difference between the present case and the case stated by the gentleman from Kentucky [Mr. SHERLEY]. He quoted the language of the then chairman, stating that a mere opinion on the part of a Member could not be taken as final. This case is different. It is not a question of opinion here. It is self-evident on its face irrespective of any strained opinion. Now, to start with, we are operating under the Holman rule.

The SPEAKER. Now, what is it that is plain?

Mr. HOBSON. I will show to the Speaker. I am going to start at the bottom. It is, that on its face this amendment would reduce the expenditures of the Government. Now, I contend it must be admitted that that is the whole question at issue, not a matter of opinion but a matter of evident fact whether the provision reduces the cost of the service to the Government or not. And if it does, it comes under the Holman rule; all the citations to the contrary notwithstanding. There is a fundamental difference between this and any case thus far cited, in none of which was it evident that the cost would be reduced. Now, to start with, even where the latter part of this amendment provides $100,000 to be used by the Postmaster General for certain purposes, what are those purposes? For the purpose of weighing the mail and readjusting and reducing

the compensation now paid to the railway companies for transporting the mails, by excluding said classes of mail matter from the mails of the United States.

The SPEAKER. The Chair will ask the gentleman whether or not that last proposition on the face of it shows that there would be a reduction?

Mr. HOBSON. It does. I am coming to that.

The SPEAKER. How does it show it?

Mr. HOBSON. Because it does not take as much to pay an inspector to change the weighing and readjust the weighing and accounting as is involved in the weighing itself, or change in the bulk of the material.

The SPEAKER. I will ask the gentleman this question: How can anybody even guess the cost of examining the mails to see whether this prohibited matter is in the mails or not?

Mr. HOBSON. Mr. Speaker, I will come to that later.

The SPEAKER. All right.

Mr. HOBSON. In this particular part the provision for meeting the expenses of readjustment could not equal the adjustment and its saving. It is plain that the money required to determine the readjustments can not be as much as the saving from the readjustment itself. That is self-evident in all business operations.

Mr. CANNON. Mr. Speaker, may I ask the gentleman a question?

Mr. HOBSON. Certainly.

Mr. CANNON. Does the gentleman claim that he can come anywhere near guessing how many pounds of mail matter and letters would be eliminated by this provision if it were enacted into law?

Mr. HOBSON. No; I can not guess; but I can say this: The cost to determine it, no matter what it were, would not be commensurate with the amount involved or the cost saved to the Government.

Mr. CANNON. Now, the gentleman says that. For the sake of determining this question, I deny it.

Mr. HOBSON. Well, I submit, on the face of it, that in any system of business in the world the inspection is never as expensive as the system itself; that the amount of the Government's payments to its employees incident to the operation of its mail service in that regard is not equal to the amount that would be saved or to the amount that would be returned because of the reduced volume of mail, because if the employees now engaged attended to the work the expense would not be to any appreciable degree greater, and if they were not required to devote their full time to it on account of the reduced volume of mail, the Government would not need to have as many employees. The department would either reduce the number of employees or else it would more than save the additional expense involved by the employment of the same number or even a slightly increased number.

Mr. MOON of Tennessee. Mr. Speaker, I want to suggest to the gentleman that he is in error in some instances in reference to the cost of inspection, the service itself frequently being less in cost than the cost of inspection. Does the gentleman know that we are now inspecting some post offices in the United States at a cost of $40 or $50 a year when those offices are not yielding $5 at a profit?

Mr. HOBSON. I will say to the gentleman also that it does not require the full services of the inspector to inspect those post offices; that the cost of inspection of post offices is less than the revenues derived from the post offices; that the cost of inspecting the revenue service, for example, is less than the revenues that come as the result of that inspection. And I assert that, on the face of it, you can readjust the force required for inspection until it is far below the amount of the Government business involved and the revenues derived. That is self-evident. Now, we will pass to the next point.

Mr. MADDEN. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman yield?

Mr. HOBSON. Certainly.

Mr. MADDEN. If we assume that the inspection will involve the opening of all letters and newspaper packages that go through the post offices, then how about the inspection?

Mr. HOBSON. I will come to that now. I have been discussing the $100,000 authorization, Mr. Speaker.

Mr. OLMSTED. Mr. Speaker, will the gentleman yield there?

The SPEAKER. Does the gentleman from Alabama yield to the gentleman from Pennsylvania?

Mr. HOBSON. Yes.

Mr. OLMSTED. Does the gentleman assume that the passage of this amendment would reduce the amount of mail to be transported by the Government?

Mr. HOBSON. Very largely.

Mr. OLMSTED. Where does the gentleman find any authority for that proposition?

Mr. HOBSON. That appears on the face of it.

Mr. OLMSTED. But by this legislation you would simply prohibit the papers from carrying certain advertisements.

Mr. HOBSON. I will ask the gentleman if he imagines for a minute that these advertisements would be mailed if they were not transported?

Mr. OLMSTED. I will say to the gentleman that the newspapers under this amendment would simply eliminate the advertisements, but the papers can go through the mails just the same.

Mr. HOBSON. I am familiar with that matter. There is not a postmaster in my district but knows, just as soon as the mail bag is opened, just what the liquor advertisement is. He throws those papers over in a pile and waits before distributing them until he finishes distributing the other mail. It would not require any additional inspection; but if it did, the saving would amount to more than the cost of inspection on the face of it.

Now I will come to the general question of the opening of the mails. This, Mr. Speaker, is not anything new. The Federal Government is constantly giving supervision, through the existing machinery of the Post Office Department, over the matters that pass through the mails. There are all kinds of matter that are being excluded to-day from the mails, and matter of that kind has to be inspected in order to ascertain whether it is legal or not. This would not increase hardly by one employee in a town big as any town in my district—in a town as big as Birmingham—the force that would be required.

I do not believe that in its actual working it could possibly require one additional person in the machinery of the service. The same inspections would be made that are being now made, only the inspectors would be on the lookout for new kinds of illegal matter. The methods of inspection would not be changed while the volume of work would be materially reduced. I know that.

This kind of matter enters the mail at certain well-defined points. It enters the mail at the centers that do the shipping of these goods into the "dry" territory, and it would scarcely require an additional detective in the service of the Post Office Department to locate any of these centers of shipment that were trying to send this kind of matter illegally through the mails.

On the very face of it the exclusion of this kind of matter reduces largely, substantially, the volume of the mail, and does not require any new machinery of inspection. In its operation it is not parallel at all to the establishment of new routes or new post offices as in the cases cited. I repeat that on its face it would curtail the amount of matter in the mails, and would not appreciably increase the machinery that is required for its operation, on the face of it. There is no kind of argument and there is no amount of citation of precedents that can change the simple fact that the cost of transporting the mails of the United States every year would be substantially less, and that the readjustment of that cost would not involve new machinery of any appreciable magnitude, and its cost can not be considered as commensurate with the material saving of cost in the volume of mail. This question of order should not be decided on any technicality; but on the simple, plain, evident fact borne on the very face of the amendment, that there would be self-evident reduction in the expense of the mail service of the Government, and therefore this amendment must come, without any hair splitting, without any straining, without any violence under the Holman rule.

Mr. MOON of Tennessee. Mr. Speaker, it is not my purpose to enter into any lengthy discussion of this point of order. It has been so clearly and lucidly presented by the gentleman from Kentucky [Mr. SHERLEY] and by the gentleman from New York [Mr. FITZGERALD] and by the gentleman from Georgia [Mr. HARDWICK] that it is hardly necessary for me to go into the details of that discussion. I approve very fully what they have said, but I want to touch on just a few points in this discussion, in order to call them to the attention of the Speaker in reaching his conclusion. Of course, we all understand that it is a violation of the rules of this House to offer on an appropriation bill any new legislation. That rule applies in the Committee of the Whole House on the state of the Union. It applies here. If this is not new legislation, then it is in order, in my opinion.

Now, is it new legislation? It is conceded, and I need not argue that question, that, taken as a proposition standing alone, it is not germane, perhaps, to this bill and is new legislation, in that it provides and gives direction to the department, chang-

ing the law and changing the discretion of the department on this subject in the mails.

Now, that being conceded, what is there to take it out of the rule that it is new legislation? It is answered that it comes under the general rule of the House and is in order, although new legislation, because it is a limitation upon the appropriation or a reduction of the appropriation, and therefore in order under the Holman rule. Well, if the gentlemen are right about that contention, then it is in order. Take that side of the case to begin with and let us discuss it. Let us see whether or not it is in order under the Holman rule. The purpose of that rule was to produce a substantial reduction in the expenses of the Government. How was that to be determined by the Chair? From the facts apparent in the amendment proposed. Now, how are you going to determine that? Is it to be a mere recital of the figures that happened to be used on the face of an amendment, or is the whole text and subject matter of the amendment to be taken together to determine whether there is a substantial reduction or not?

Suppose this amendment had provided that the figures $49,000,000 should be stricken out and $48,500,000 inserted instead, and it had then provided that for the purpose of obtaining better facilities under this section the mail trains should be run on every trunk line in the United States 10 times a day. There you would have a case, where on the face of the amendment, there was a reduction in the actual appropriation proposed, and yet the Chair would have to call into requisition his common sense and his knowledge of the department and of the law generally to ascertain whether, taking the whole amendment, there would be any reduction or not, and you would at once reach the conclusion that the reduction of the figures from $49,000,000 to $48,500,000 was a fraud attempted to be practiced upon the House for the purpose of incorporating into that amendment legislation that was in violation of the rules of the House of Representatives, and the point of order would promptly be sustained.

Now, take this amendment. Apply the same common sense to it—and I have no reflection to make upon the gentleman from Alabama [Mr. HOBSON]. He indicates very clearly, though, a want of information as to the conduct of the Post Office Department when he says that it would put no additional expense upon that department to carry out the terms of this amendment. Let us see.

Mr. HOBSON. Will the gentleman yield?

Mr. MOON of Tennessee. Yes.

Mr. HOBSON. I meant, and I thought I said, to an appreciable difference in proportion to the amount.

Mr. MOON of Tennessee. Have it that way. Let us see whether it is an appreciable difference or not. Here is $500,000 proposed to be stricken out and another $100,000 to be used in certain adjustments of weights, making a net of $400,000 saving. Let us see if that is a real reduction on the face of the amendment. Take up the operation of it, and let us see what the policy of the department must be. Here are closed pouches of mail; they are put on at every station along every road in the United States; they are delivered from station to station. It would take an inspector on every train in the United States, traveling the whole time, opening mail pouches and ascertaining whether in magazines, in newspapers, in letters, or in any other way, there were advertisements of this character.

Mr. HOBSON. Mr. Speaker, will the gentleman yield?

Mr. MOON of Tennessee. Oh, yes; I will yield again.

Mr. HOBSON. Will the gentleman explain to the House or the Chair how the present laws relating to obscene matter and matters coming under the lottery law are administered?

Mr. MOON of Tennessee. That comes through the inspectors' department, and ninety-nine times in one hundred it comes in information furnished from the outside to the inspectors' department; and then the inspectors are put to work to make a case, and nine times out of ten it costs the Government ten times what it ought to cost. That is after the matter has passed through the mails, too.

Let me go further. Every steamboat line in the United States, every electric car line, every star route, and the 42,000 rural routes may carry mail containing these advertisements. Let there be an inspector to carry out the purpose of this amendment on all of them, and it does not take a man with any sense at all to see that it would add $5,000,000 or $10,000,000 of money annually to the cost and expense of the Post Office Department of the United States.

Again, what else have you got to do? These inspectors have got, in each and every one of these cases, to make their examination and reject the matter, and of necessity, in the readjustment of mail rates, it would take a new weigher on every road, for the parties interested and the Government, and there would arise contests on almost every railroad in the United States.

The question arises as to the power of the Department. There would be endless trouble and litigation. There could not have been conceived an amendment which would bring more trouble, more annoyance and disturbance to the Government, and greater expense to it than this very amendment. The Chair, of course, sees, and everybody knows, that it is not the purpose of this amendment to accomplish any good in an orderly and decent manner in the affairs of the department, but it is the exploitation of a question that unfortunately ought not to be in the politics of this country, brought upon the floor on a bill that of all others ought to be free from any such thing.

Mr. HOBSON. Before the gentleman takes his seat may I ask him another question? Will he point out wherein this matter excluded from the mail would be different in the matter of inspection from other matters excluded and for which inspection exists?

Mr. MOON of Tennessee. Because every single magazine, newspaper, and letter would have to be hunted to look for these advertisements, and you would have to look at every advertisement in them.

Mr. HOBSON. Why is this matter any different from obscene matter?

Mr. MOON of Tennessee. The obscene matter is not looked for in any such way. There is no statute that requires inspectors or people to hunt it up. There is no statute like this proposed amendment.

Mr. HOBSON. Does the gentleman say there is no provision about it?

Mr. MOON of Tennessee. It is a matter that never comes to the department unless it is called to their attention by some one in the nature of a prosecutor. I want to say right now that there is a whole lot of work there done by the department along that line just to give employment to inspectors who are practically useless.

Mr. HOBSON. Then those inspectors could be used for this purpose.

Mr. MOON of Tennessee. Oh, no. Your inspectors ought to be reduced.

Mr. HOBSON. Suppose they were reduced; would not that bring about a reduction in cost, if the volume of the mail were less?

Mr. MOON of Tennessee. You could not, to save your soul, find what the difference in the mail matter would be, outside of this question of inspection and report, until you had actually had all the mails weighed.

Mr. HOBSON. There would not be a post office in my district where the mail would not be reduced and reduced every day.

Mr. MOON of Tennessee. The gentleman is so used to going after these circulars that he could dig them out of every hole and corner.

Mr. MANN. Will the gentleman from Tennessee yield for a question?

Mr. MOON of Tennessee. Certainly.

Mr. MANN. As to the obscene matter and lottery matter, is not there a prohibition against its mailing?

Mr. MOON of Tennessee. Yes; there is a penalty attached to that.

Mr. MANN. Is there any provision in the law which forbids the payment to the transportation companies for carrying that mail matter if it is carried?

Mr. MOON of Tennessee. None whatever; one is a penal provision and the other is a different provision. I want to say another thing to the Chair. It has been suggested that this is a direct statute and not a mandatory statute. The gentleman from Virginia has said that the courts construe the word "shall" to mean "may." He will not find anywhere that the courts ever made any such construction except where they took the whole context of the statute, and it was determined that the legislators intended that such should be the construction.

Mr. SAUNDERS. The context is appealed to to determine whether "may" shall be construed as "shall"?

Mr. MOON of Tennessee. It is often.

Mr. SAUNDERS. I would like to call the gentleman's attention to the context here:

For transportation, $9,290,000; of which sum $150,000 may be used by the Postmaster General to maintain and secure from railroads necessary facilities, etc.

Do not the words "necessary facilities" clearly show that "may" must be "shall"?

Mr. MOON of Tennessee. The gentleman has got to construe it in connection with what goes before.

Mr. SAUNDERS. Construe it as a whole.

Mr. MOON of Tennessee. The argument is fallacious. No lawyer believes that that statute is intended to be directory; its language is mandatory and complete. Mr. Speaker, I did not intend to say even this much, and I beg the pardon of the House for taking up so much time.

Mr. GREEN of Iowa. Mr. Speaker, either the gentleman from Alabama has failed to catch the point of the decision cited by the gentleman from Kentucky [Mr. SHEELEY] and the gentleman from Georgia [Mr. HARDWICK] or else he fails to follow the Holman rule to its complete conclusion. The gentleman from Kentucky and the gentleman from Georgia have shown that a provision obnoxious to, or subject to a point or order under, the Holman rule would not be relieved of that point of order by tacking onto it a reduction in the appropriation. The decision which they cited, as it seemed to me, was clear and complete on that point. Now, if that decision be correct it is entirely immaterial whether the proviso of this amendment which is now under consideration reduces expenditure or not, because that proviso is not admissible under the Holman rule. It is not sufficient where the amendment is introduced by an individual Member, and not by a committee, that it should retrench expenditure; it must reduce the number of officers, their salaries, or it must reduce the total amount of the expenditure.

Mr. HOBSON. Will the gentleman yield?

Mr. GREEN of Iowa. I will.

Mr. HOBSON. Does not the gentleman recognize that the Government pays for the amount of mail transported, and that if that amount is clearly reduced the sum the Government is to pay is reduced whether they have the same number of employees or a less number?

Mr. GREEN of Iowa. Does the gentleman think that if he introduces an amendment to this bill that reduces the expenditure, that that is all he has to do to bring it under the Holman rule?

Mr. HOBSON. I believe that if an amendment does substantially reduce the expenses of the Government it comes under the Holman rule.

Mr. GREEN of Iowa. The gentleman does not represent the Post Office Committee. The Post Office Committee is the one that can introduce an amendment of that kind and bring it under the Holman rule. If the gentleman, as a Member of the House, introduces an amendment, he has got to go further than that and show that the amendment reduces the number of salaries and the officers of the United States and reduces the compensation of the persons paid out of the Treasury of the United States or by the reduction of the amount of money covered by the bill.

Mr. HOBSON. Yes; a reduction of the amount of money covered by the bill.

Mr. GREEN of Iowa. The gentleman still fails to appreciate the point of the decision cited by the gentleman from Kentucky and the gentleman from Georgia.

Mr. MURDOCK. Will the gentleman from Iowa yield?

Mr. GREEN of Iowa. Certainly.

Mr. MURDOCK. Does the gentleman know that I could move to strike out the sum in the bill and substitute a lesser sum before the Holman rule was adopted? Is he aware of that fact, that it was in order to strike out the sum and insert a lesser sum without any Holman rule?

Mr. GREEN of Iowa. Mr. Speaker, I will not discuss that question with the gentleman after he has undertaken to show that this did apply and was governed by the Holman rule. I do not care to go into a discussion of such a matter. The gentleman is evading the question.

Mr. MURDOCK. I was going to follow that by asking the gentleman the question if I can strike out the sum and put in a lesser sum without the benefit of the Holman rule, what does the Holman rule stand me for unless it enables me to do something besides that which I could do before? That is a legitimate question.

Mr. GREEN of Iowa. That does not apply to new legislation. The gentleman has brought in new legislation, and is undertaking to justify it on the ground that it reduces expenditures, and I say it does not bring it under the Holman rule, that he has to bring in a separate provision before the proviso in order to make it admissible under the decision cited by the gentleman from Kentucky and the gentleman from Georgia.

I wish to show to the Chair how easy it would be to nullify the Holman rule if this position, which is the one contended for by the gentleman from Kansas, is to be sustained. Suppose the gentleman wants to introduce new legislation as to how money shall be expended, and on an appropriation bill. If his contention is sustained all he has to do is to tack in front of it a statement that the total amount is reduced by $500 or $200, and it all comes in. Mr. Chairman, I am in sympathy with the purpose of the provision, so far as that is concerned, but I am also interested in the orderly procedure of the House under its rules and that new legislation shall not be illegally introduced into appropriation bills.

The SPEAKER. The Chair is prepared to rule. This debate upon this point of order has been very illuminating. In the opinion of the Chair in order to get new legislation into a bill under the provisions of the Holman rule, the proposed legislation should very clearly do one of the things stated in the rule, which provides:

Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

Mr. HOBSON. Mr. Speaker, will the Chair permit an interruption there in order that I may make a parliamentary inquiry?

The SPEAKER. Yes.

Mr. HOBSON. And that is whether the word "person" would be interpreted to include a corporation?

The SPEAKER. Certainly.

Mr. HOBSON. I assumed that.

The SPEAKER. The Chair thinks that in order to bring a proposition under that rule it ought to clearly do one of those three things.

There are two or three rules involved in this proposition. The Chair has just stated one of them. The other is that a motion to strike out and insert is not divisible. The third one is that if part of an amendment is bad it vitiates the entire amendment. The fourth is that you can not do anything by way of amendment in a motion to recommit that you could not do in the Committee of the Whole by way of amendment.

As to the first proposition—the Holman rule—after hearing all of these arguments and examining the matter carefully from time to time, the Chair does not believe that anyone can assert positively that this whole proposition taken together would reduce the expenditures of the Government. On the face of it it reduces it $500,000, but no mortal man can even guess how much money it would require to enforce the first half of that proviso. The Chair can not do it, and the Chair takes it that no Member can tell the method of procedure under that first half of the proviso. Whether the inspectors would undertake to inspect all the letters that go through the mail and all the documents and all the magazines and all of the newspapers the Chair does not know. The Chair does know that if the inspectors undertook any such thing as that it would cost a good deal more than $500,000 a year. That would work an increase rather than a decrease in expenditures in that behalf.

Passing that over, the rule against dividing a proposition to strike out and insert applies to this motion to recommit. The essential parts of it are as follows:

At the end of line 21, page 17, strike out "$49,000,000" and insert in lieu thereof "$48,500,000," and add thereto the following.

The Chair believes that the proposition to strike out and insert applies only to that portion of it ending with the figures "$48,500,000." This motion to recommit could have been so drawn that it would have brought itself within the rule that a proposition to strike out and insert is not divisible, but the paper is not so drawn. Therefore the proposition down to the end of "$48,500,000" can not be divided. But the motion is susceptible of being divided into three parts, and the part just mentioned is clearly in order. If that stood alone, of course there could not be any two opinions about that.

But following the proposition to strike out $49,000,000 and insert $48,500,000 there are two separate propositions, neither one of which standing alone, in the judgment of the Chair, comes within the provisions of the Holman rule. Here is the first proposition:

And by adding thereto:

"*Provided*, That no part of such appropriation shall be used in transporting mail matter consisting in any part of any letter, circular, packet, newspaper, magazine, or other periodical advertising for sale, either directly or indirectly, any spirituous, malt, vinous, or other intoxicating liquors for transmission to or delivery in any State, county, municipality wherein the sale of such liquors is or may be hereafter prohibited by State law."

Clearly, you can not tell and the Chair can not tell whether the circumstance of enforcing that proposition would be greater than the amount saved or not.

The third proposition is:

That the Postmaster General is hereby authorized and directed to use $100,000 of this appropriation for the purpose of weighing the

mail and readjusting and reducing the compensation now paid to railway companies for transporting the mails by excluding said classes of mail matter from the mails of the United States.

If that had been tacked on as a proviso at the end of the figures "$48,500,000," it would not have been in order, because it is a direction to an officer as to what he shall do. It is not a limitation. Clearly, it is new legislation and increases the total amount appropriated. The first of the propositions obnoxious to the rule as matters stand would be in order provided anybody could ascertain that the reduction would be greater than the increase.

So if the motion to recommit is to be considered as a whole, the Chair would have to rule it out. The Chair is willing to have the gentleman from Kansas withdraw his motion to recommit, strike out the obnoxious parts, if he chooses, and submit the part that is in order.

The Chair sustains the point of order.

Mr. MURDOCK. The Chair refers to the two latter propositions as being obnoxious.

The SPEAKER. Yes. Taking it as a whole, the Chair sustains the point of order.

Mr. CULLOP. Mr. Chairman, I offer the following motion to recommit with instructions, which I send to the desk and ask to have read.

Mr. MANN. Mr. Speaker, I desire to submit a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. Is the gentleman from Indiana opposed to the Post Office appropriation bill?

Mr. CULLOP. I am.

Mr. MANN. I just wanted to see whether the gentleman would say he was.

The SPEAKER. That is correct. The Chair thanks the gentleman for making the suggestion. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CULLOP moves to recommit, with instructions to report the bill forthwith with the following amendment, at end of line 24, on page 22, by inserting "That the Executive order of date of October 15, 1912, and all previous Executive orders whereby postmasters of the fourth class are placed in the classified service, are hereby annulled and revoked."

Mr. MOON of Tennessee. Mr. Speaker, on that I move the previous question.

Mr. FOSTER. Mr. Speaker, I make the point of order against it.

Mr. HARDWICK. Mr. Speaker, I make the point of order.

Mr. MANN. Mr. Speaker, I reserve the point of order.

Mr. HARDWICK. The motion of the gentleman is not in order under the rule. It is clearly legislation.

The SPEAKER. There is not any question on earth about this being out of order. [Laughter.] It is new legislation pure and simple. The question is on the passage of the bill.

The question was taken, and the bill was passed.

On motion of Mr. MOON of Tennessee, a motion to reconsider the vote by which the bill as amended was passed was laid on the table.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. BROWN, for four days, on account of illness in his family.

To Mr. GEORGE, indefinitely, on account of illness.

ARMY APPROPRIATION BILL.

Mr. HAY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 27941) making appropriations for the support of the Army for the fiscal year ending June 30, 1914.

The SPEAKER. The gentleman from Virginia moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 27941) the Army appropriation bill.

Mr. HAY. And pending that, Mr. Speaker, I ask unanimous consent that general debate may continue for three hours, one hour and a half to be controlled by the gentleman from Illinois [Mr. PRINCE] and the other half by myself.

The SPEAKER. And pending that the gentleman from Virginia [Mr. HAY] asks unanimous consent that general debate be confined to three hours on the bill, one half to be controlled by himself and the other half by the gentleman from Illinois [Mr. PRINCE].

Mr. MANN. Mr. Speaker, reserving the right to object, may I ask the gentleman that if the House resolves itself into the Committee of the Whole House on the state of the Union now, after the first reading of the bill is dispensed with, he expects to move to rise?

Mr. HAY. To move to rise.

The SPEAKER. Is there objection?

There was no objection.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 27941, the Army appropriation bill, with Mr. SAUNDERS in the chair.

Mr. HAY. Mr. Chairman, I move that the Clerk report the bill by title.

The motion was agreed to.

The Clerk read as follows:

A bill (H. R. 27941) making appropriations for the support of the Army for the fiscal year ending June 30, 1914.

Mr. HAY. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. HAY. Mr. Chairman, I do not propose to go into a discussion of the bill this evening. Therefore I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that the committee had had under consideration the bill H. R. 27941, the Army appropriation bill, and had come to no resolution thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following order:

Resolved, That a committee of six Senators be appointed by the President pro tempore, to join a committee appointed by the House of Representatives, to attend memorial services for Hon. WILLIAM W. WEDEMEYER, late a Representative from the State of Michigan, to be held at Ann Arbor, Mich., on January 26, 1913, at 2 o'clock p. m.

In compliance with the foregoing resolution the President pro tempore appointed as said committee Mr. TOWNSEND, Mr. SMITH of Michigan, Mr. JONES, Mr. KENYON, Mr. ASHURST, and Mr. POMERENE.

SENATE BILL AND A JOINT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate bill and a joint resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 8000. An act providing for publicity in taking evidence under the act of July 2, 1890; to the Committee on the Judiciary.

S. J. Res. 150. Joint resolution appropriating $40,000 for expenses of inquiries and investigations ordered by the Senate; to the Committee on Appropriations.

ENROLLED BILL SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled the bill of the following title, when the Speaker signed the same:

H. R. 20339. A bill for the relief of Joseph W. McCall.

THE LATE REPRESENTATIVE HUBBARD.

Mr. HAUGEN. Mr. Speaker, I ask unanimous consent for the present consideration of the order which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the order.

The Clerk read as follows:

Ordered, That Sunday, the 9th day of February, 1913, at 12 o'clock m., be set apart for addresses on the life, character, and public services of the Hon. ELBERT HAMILTON HUBBARD, late a Representative from the State of Iowa.

The SPEAKER. Is there objection to the present consideration of the order?

There was no objection.

The order was agreed to.

ADJOURNMENT.

Mr. HAY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 20 minutes p. m.) the House adjourned until Wednesday, January 15, 1913, at 12 o'clock m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. TALBOTT of Maryland, from the Committee on Banking and Currency, to which was referred the bill (H. R. 26279) granting the Fifth-Third National Bank of Cincinnati, Ohio, the

right to use original charter No. 20, reported the same without amendment, accompanied by a report (No. 1297), which said bill and report were referred to the House Calendar.

Mr. SABATH, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 27157) granting an extension of time to construct a bridge across Rock River at or near Colona Ferry, in the State of Illinois, reported the same without amendment, accompanied by a report (No. 1298), which said bill and report were referred to the House Calendar.

Mr. SMITH of Texas, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 26549) to provide for the construction or purchase of motor boat for customs service, reported the same with amendment, accompanied by a report (No. 1299), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. POU, from the Committee on Claims, to which was referred the bill (H. R. 23451) to pay certain employees of the Government for injuries received while in the discharge of their duties, and other claims for damages to and loss of private property, with Senate amendments, submitted a report (No. 1296), which said bill and report were referred to the Private Calendar.

Mr. FERRIS, from the Committee on Indian Affairs, to which was referred the bill (H. R. 27428) confirming titles of Deborah A. Griffin and Mary J. Griffin, and for other purposes, reported the same with amendment, accompanied by a report (No. 1300), which said bill and report were referred to the Private Calendar.

Mr. KNOWLAND, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 13939) for the relief of Luke Rattigan, reported the same without amendment, accompanied by a report (No. 1301), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. BROUSSARD: A bill (H. R. 28017) providing that the title of the State of Louisiana be confirmed to a certain tract of land; to the Committee on the Public Lands.

By Mr. TAGGART: A bill (H. R. 28018) authorizing and directing the Secretary of War to donate to Princeton Post, No. 111, Grand Army of the Republic, of Princeton, Kans., an obsolete piece of ordnance, together with its carriage or mounting, and six cannon balls; to the Committee on Military Affairs.

By Mr. DENT: A bill (H. R. 28019) to prevent false advertising in the District of Columbia; to the Committee on the District of Columbia.

By Mr. FRENCH: A bill (H. R. 28020) to amend an act entitled "An act to amend section 2291 and section 2297 of the Revised Statutes of the United States, relating to homesteads"; to the Committee on the Public Lands.

By Mr. HELGESEN: A bill (H. R. 28021) authorizing the Minneapolis, St. Paul & Sault Ste. Marie Railway Co. to build a bridge across the Yellowstone River in sections 15 and 16, township 151 north, range 104 west of the fifth principal meridian, in the State of North Dakota; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 28022) authorizing the Minneapolis, St. Paul & Sault Ste. Marie Railway Co. to build a bridge across the Missouri River in sections 14 and 15, township 152 north, range 93 west of the fifth principal meridian, in the State of North Dakota; to the Committee on Interstate and Foreign Commerce.

By Mr. HARRISON of New York: A bill (H. R. 28023) providing for registration with the collectors of internal revenue of dealers in or producers of certain drugs; to the Committee on Ways and Means.

By Mr. ANDRUS: A bill (H. R. 28024) to provide for the purchase of a site and erection of a public building at White Plains, N. Y.; to the Committee on Public Buildings and Grounds.

Also, a bill (H. R. 28025) to increase the cost of a site and public building in Yonkers, N. Y.; to the Committee on Public Buildings and Grounds.

By Mr. JONES: A bill (H. R. 28026) authorizing the President to restore to the Philippine Government lands reserved by Executive order for public purposes of the United States; to the Committee on Insular Affairs.

By Mr. DAVENPORT: Resolution (H. Res. 775) requesting the Secretary of the Interior to furnish information regarding the employment of M. L. Mott as an attorney; to the Committee on Indian Affairs.

By Mr. HOBSON: Joint resolution (H. J. Res. 383) proposing an amendment to the Constitution providing that the President and Vice President shall be nominated and elected by direct vote of the people of the several States; to the Committee on Election of President, Vice President, and Representatives in Congress.

By the SPEAKER: Memorial from the Legislature of the State of Vermont, favoring a convention to propose an amendment to the Constitution of the United States concerning polygamy; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDRUS: A bill (H. R. 28027) granting an increase of pension to Mary A. Shay; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28028) granting an increase of pension to Moses A. Craft; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28029) granting an increase of pension to John L. Foster; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28030) granting an increase of pension to Charlotte E. Hiscott; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28031) granting an increase of pension to Margaret A. Hewitt; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28032) granting an increase of pension to Bridget M. Cleary; to the Committee on Invalid Pensions.

By Mr. ANSBERRY: A bill (H. R. 28033) granting an increase of pension to Benjamin F. Fronfield; to the Committee on Invalid Pensions.

By Mr. ANTHONY: A bill (H. R. 28034) for the relief of James Stanton; to the Committee on Claims.

By Mr. BEALL of Texas: A bill (H. R. 28035) for the relief of J. C. Lankford; to the Committee on War Claims.

Also, a bill (H. R. 28036) for the relief of the estate of Nathan Renwick, deceased; to the Committee on War Claims.

By Mr. BELL of Georgia: A bill (H. R. 28037) for the relief of Capt. Frederick S. L. Price; to the Committee on Military Affairs.

By Mr. BURKE of Wisconsin: A bill (H. R. 28038) granting a pension to Emma Steele; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28039) granting an increase of pension to Frederick Strasburg; to the Committee on Invalid Pensions.

By Mr. CALDER: A bill (H. R. 28040) providing for the refund of certain duties incorrectly collected on wild celery seed; to the Committee on Claims.

By Mr. CANTRILL: A bill (H. R. 28041) to carry out the findings of the Court of Claims in the case of James H. Dennis; to the Committee on Claims.

By Mr. COX: A bill (H. R. 28042) granting a pension to William F. Songer; to the Committee on Invalid Pensions.

By Mr. CRAVENS: A bill (H. R. 28043) for the relief of the legal representatives of the estate of Robert B. Pearce; to the Committee on Claims.

By Mr. DICKINSON: A bill (H. R. 28044) for the relief of W. W. Wall; to the Committee on Claims.

By Mr. DOUGHTON: A bill (H. R. 28045) for the relief of W. H. Carter; to the Committee on Claims.

By Mr. DRAPER: A bill (H. R. 28046) granting an increase of pension to Joseph G. McNutt; to the Committee on Invalid Pensions.

By Mr. DUPRÉ: A bill (H. R. 28047) for the relief of John Streckfus; to the Committee on Claims.

By Mr. DWIGHT: A bill (H. R. 28048) granting a pension to Frances L. Fuller; to the Committee on Invalid Pensions.

By Mr. DYER: A bill (H. R. 28049) for the relief of John H. Rheinlander; to the Committee on Claims.

By Mr. FRANCIS: A bill (H. R. 28050) for the relief of Wickliff Fry, for horse lost while hired by the United States Geological Survey; to the Committee on Claims.

By Mr. FIELDS: A bill (H. R. 28051) for the relief of John W. Kincaid; to the Committee on Military Affairs.

By Mr. FITZGERALD: A bill (H. R. 28052) to remove the charge of desertion against Charles A. Lester; to the Committee on Military Affairs.

By Mr. FORDNEY: A bill (H. R. 28053) granting an increase of pension to Orin J. Moon; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28054) granting an increase of pension to John La Mott; to the Committee on Invalid Pensions.

By Mr. FOSS: A bill (H. R. 28055) granting an increase of pension to George C. Rogers; to the Committee on Invalid Pensions.

By Mr. GILLETT: A bill (H. R. 28056) for the relief of Albert W. Phelps; to the Committee on Claims.

By Mr. HAMILTON of Michigan: A bill (H. R. 28057) for the relief of Amanda Honert; to the Committee on Claims.

By Mr. HAMILTON of West Virginia: A bill (H. R. 28058) for the relief of James A. Showen; to the Committee on Claims.

By Mr. HARRISON of Mississippi: A bill (H. R. 28059) to reimburse Gaston R. Poitevin for property lost by him while assistant light keeper at East Pascagoula River (Miss.) light station, as recommended by the Lighthouse Board; to the Committee on Claims.

By Mr. HAWLEY: A bill (H. R. 28060) for the relief of Preston B. C. Lucas; to the Committee on Claims.

Also, a bill (H. R. 28061) granting an increase of pension to William Lyman Chittenden; to the Committee on Pensions.

By Mr. HAYES: A bill (H. R. 28062) granting a pension to Margaret L. Miller; to the Committee on Invalid Pensions.

By Mr. HOWELL: A bill (H. R. 28063) for the relief of Thomas Haycock; to the Committee on Claims.

By Mr. HOWLAND: A bill (H. R. 28064) to reimburse John A. Lowrie, postmaster of Seville, Medina County, Ohio, for postal savings stamps stolen; to the Committee on Claims.

By Mr. JACOWAY: A bill (H. R. 28065) for the relief of the heirs of Abraham Adkins; to the Committee on War Claims.

By Mr. JONES: A bill (H. R. 28066) for the relief of the trustees of the Zion Methodist Church, of York County, Va.; to the Committee on War Claims.

By Mr. KINKAID of Nebraska: A bill (H. R. 28067) granting a pension to William L. Judkins; to the Committee on Pensions.

By Mr. KNOWLAND: A bill (H. R. 28068) granting a pension to Edward F. McKeon; to the Committee on Pensions.

Also, a bill (H. R. 28069) to authorize the exchange of certain lands in the State of California; to the Committee on Indian Affairs.

By Mr. LAMB: A bill (H. R. 28070) for the relief of J. N. Whitaker; to the Committee on Claims.

By Mr. LENROOT: A bill (H. R. 28071) for the relief of Frank Murray; to the Committee on Claims.

By Mr. LITTLEPAGE: A bill (H. R. 28072) for the relief of H. A. Shirkey; to the Committee on Claims.

By Mr. MANN: A bill (H. R. 28073) granting an increase of pension to Margaret S. McNiff; to the Committee on Invalid Pensions.

By Mr. MILLER: A bill (H. R. 28074) for the relief of Thomas Lang; to the Committee on Military Affairs.

By Mr. MOORE of Pennsylvania: A bill (H. R. 28075) for the relief of the Pennsylvania Engineering Co., of the city of Philadelphia; to the Committee on Claims.

By Mr. MOSS of Indiana: A bill (H. R. 28076) granting an increase of pension to Henry Trackwell; to the Committee on Invalid Pensions.

By Mr. MOTT: A bill (H. R. 28077) for the relief of the estate of William D. Allen; to the Committee on Claims.

By Mr. PAYNE: A bill (H. R. 28078) granting an increase of pension to Isaac Tunnison; to the Committee on Invalid Pensions.

By Mr. POU: A bill (H. R. 28079) for the relief of Oscar F. Lackey; to the Committee on Claims.

By Mr. RAKER: A bill (H. R. 28080) for the relief of W. W. Blood; to the Committee on Claims.

Also, a bill (H. R. 28081) granting a pension to Henry Sprick; to the Committee on Pensions.

By Mr. RUCKER of Colorado: A bill (H. R. 28082) for the relief of Jeanie G. Lyles; to the Committee on Claims.

Also, a bill (H. R. 28083) granting an increase of pension to William Malony; to the Committee on Invalid Pensions.

By Mr. RUSSELL: A bill (H. R. 28084) for the relief of Thomas R. Mason; to the Committee on Claims.

By Mr. STEPHENS of Mississippi: A bill (H. R. 28085) for the relief of the heirs of the late Peter Deel; to the Committee on Claims.

By Mr. SWITZER: A bill (H. R. 28086) granting a pension to Moses Baker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28087) granting a pension to David A. Poindexter; to the Committee on Invalid Pensions.

By Mr. TAGGART: A bill (H. R. 28088) granting a pension to Jesse Dobyns; to the Committee on Invalid Pensions.

By Mr. THISTLEWOOD: A bill (H. R. 28089) granting an increase of pension to Parilee Murphy; to the Committee on Invalid Pensions.

By Mr. O'SHAUNESSY: A bill (H. R. 28090) to carry out the findings of the Court of Claims in the case of Herbert O. Dunn; to the Committee on Claims.

By Mr. WILLIS: A bill (H. R. 28091) granting an increase of pension to William Ash; to the Committee on Invalid Pensions.

By Mr. WOODS of Iowa: A bill (H. R. 28092) for the relief of Mrs. L. A. Royster; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of the Ohio State Legislative Board, Brotherhood of Locomotive Firemen and Enginemen, protesting against the passage of Senate bill 5382, the compulsory workmen's compensation bill; to the Committee on the Judiciary.

Also, petition of the General Executive Committee of the Railway Business Association, favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of Siegrist & Williams and 13 other merchants and business men of Coshocton, Ohio, favoring the passage of legislation granting the Interstate Commerce Commission further power toward the control of the express companies; to the Committee on Interstate and Foreign Commerce.

By Mr. BELL of Georgia: Papers to accompany bill for the relief of Capt. Frederick S. L. Price; to the Committee on Military Affairs.

By Mr. BOOHER: Petition of Swift & Co. and Charles H. Mayer and other citizens of St. Joseph, Mo., favoring the passage of House bill 23839 for Federal protection of migratory birds; to the Committee on Agriculture.

By Mr. BULKLEY: Petition of the Council of the City of Cleveland favoring the passage of legislation for the removal of tax on the manufacture of oleomargarine; to the Committee on Ways and Means.

By Mr. CALDER: Petition of Alphonzo Smith, Brooklyn, N. Y., and Sol Bloom, New York, both protesting against the passage of the Oldfield patent bill prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of Judson G. Wall, New York, favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

By Mr. DAVIS of West Virginia: Petition of the Common Council of Elkins, W. Va., favoring the passage of legislation for the establishment of a regular term of Federal court in the town of Elkins; to the Committee on the Judiciary.

By Mr. HAYES: Petition of the Chamber of Commerce of Santa Ana, Cal., protesting against the passage of proposed reduction of duty on raw and refined sugar; to the Committee on Ways and Means.

Also, petition of the West Sacramento Co., Sacramento, Cal., favoring the passage of House bill 25782, for the establishment of a bureau of farm power in the Department of Agriculture; to the Committee on Agriculture.

Also, petition of the California Retail Grocers & Merchants' Association, San Francisco, Cal., protesting against the passage of the Oldfield patent bill, prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the Farmers' National Congress, favoring the passage of the Page bill for Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of the Los Angeles Examiner, Los Angeles, Cal., favoring the passage of legislation making appropriation for the prevention of frosts in the citrus region; to the Committee on Agriculture.

By Mr. LEVY: Petition of the Columbia & Snake River Waterways Association and other business clubs, etc., of Idaho and Washington, favoring the passage of legislation making an appropriation of $1,400,000 for the finishing of the Celilo Canal; to the Committee on Rivers and Harbors.

Also, petition of the National Academy of Design, of New York, protesting against any action on the part of Congress interfering with the development of Washington as set forth by the Washington Park Commission; to the Committee on the Library.

Also, petition of the American Automobile Association, Chicago, Ill., favoring the passage of legislation making appropriations for the building of national highways; to the Committee on Appropriations.

Also, petition of the Italian Chamber of Commerce of New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. MAGUIRE of Nebraska: Petition of citizens of Lincoln, Nebr., favoring the passage of legislation for the national control and ownership of all public telephone and telegraph lines; to the Committee on Interstate and Foreign Commerce.

By Mr. WICKERSHAM: Petition of Indians and other resident fishermen of Sitka, Alaska, praying for legislation by Congress preventing the setting of fish traps in the tidal waters of Alaska; to the Committee on the Territories.

SENATE.

WEDNESDAY, *January 15, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. GALLINGER and by unanimous consent, the further reading was dispensed with and the Journal was approved.

FOREIGN AND DOMESTIC COMMERCE (S. DOC. NO. 1009).

The PRESIDENT pro tempore (Mr. BACON) laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of Commerce and Labor, submitting an estimate of appropriation in the sum of $20,000 to enable the Bureau of Foreign and Domestic Commerce to carry out the provisions of the act approved August 23, 1912, relating to investigations concerning the cost of producing articles dutiable in the United States and leading countries where such articles are produced, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

REPORT OF THE CHESAPEAKE & POTOMAC TELEPHONE CO. (H. DOC. NO. 1270).

The PRESIDENT pro tempore laid before the Senate the annual report of the Chesapeake & Potomac Telephone Co. for the year 1912, which was referred to the Committee on the District of Columbia and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed a bill (H. R. 27148) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1914, and for other purposes, in which it requested the concurrence of the Senate.

The message also announced that the House insists upon its amendment to the bill (S. 109) authorizing the sale and disposition of the surplus and unallotted lands in the Standing Rock Indian Reservation, in the States of South Dakota and North Dakota, and making appropriation and provision to carry the same into effect, disagreed to by the Senate, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. STEPHENS of Texas, Mr. FERRIS, and Mr. BURKE of South Dakota managers at the conference on the part of the House.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (H. R. 20339) for the relief of Joseph W. McCall, and it was thereupon signed by the President pro tempore.

PETITIONS AND MEMORIALS.

Mr. GALLINGER presented petitions of the congregations of the First Baptist Church of Franklin; the West Congregational Church, of Concord; the First Baptist Church of Cornish; the Baker Memorial Methodist Episcopal Church, of Concord; the Unitarian Church of Charlestown; the Franklin Unitarian Church, of Franklin; the Christian Church of Franklin; the First Baptist Church of Claremont; the Baptist, Congregational, and Methodist Churches of Newport; the Curtis Memorial Free Baptist Church, of Concord; the Advent Christian Church of Dover; the Crown Hill Baptist Church and the Arlington Street Methodist Episcopal Church, of Nashua; and of the First Methodist Church of Concord, all in the State of New Hampshire, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a report of a special committee of the Georgetown Citizens' Association relative to assessment and taxation of property in the District, which was referred to the Committee on the District of Columbia.

Mr. BRISTOW presented petitions of sundry citizens of Altoona, Langton, and Alden, all in the State of Kansas, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. BURNHAM presented resolutions adopted by the congregations of the Baptist, Congregational, and Methodist churches of Newport, N. H., favoring the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. NELSON presented a resolution adopted by the Commercial Club of Mankato, Minn., remonstrating against the enactment of legislation transferring the control of the national forests to the several States, which was referred to the Committee on Forest Reservations and the Protection of Game.

He also presented a resolution adopted by Local Union No. 412, United Mine Workers of America, of Hymera, Ind., favoring the passage of the so-called Clayton contempt bill, which was referred to the Committee on the Judiciary.

Mr. JONES presented resolutions adopted by the Columbia and Snake River Waterways Association, Idaho State League of Commercial Bodies, Idaho-Washington Development League, the Commercial Club of Lewiston, Idaho, and of the Chamber of Commerce of Clarkston, Wash., favoring an appropriation for the completion of the Celilo Canal and the improvement of the Columbia and Snake Rivers, which were referred to the Committee on Commerce.

Mr. PERKINS presented resolutions adopted by the Chamber of Commerce of Los Angeles, Cal., and resolutions adopted by the Southern California Wholesale Grocers' Association, remonstrating against any reduction of the duty on sugar, which was referred to the Committee on Finance.

Mr. SHIVELY presented memorials of the congregations of the Seventh-day Adventist Churches of Marion, Elwood, Noblesville, South Bend, and Wolf Lake, all in the State of Indiana, remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

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Mr. SMOOT. No; of Montana.

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Mr. SMOOT. I yield.

Mr. JONES. If I understand correctly, the Senator intends to print the entire contract.

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The combination of water powers in the section where electrification work is to be done under practically one ownership and management is the one thing in Mr. Earling's opinion, that makes the projected improvement possible. Short stretches of road may be electrified where the power is supplied from one or two developments, but in this contract it is provided that nine separate and distinct water-power systems, to be connected through their transmission lines, will furnish the necessary power. Electrification of steam road on such a scale has never before been attempted.

President Earling gave it as his opinion that the Secretary of the Interior, in confirming the grant mentioned yesterday in Washington dispatches, had taken a greater step forward in the conservation of the country's resources than had been taken by any previous administration. Substitution of electric current for motive power over the mountains would not only conserve a great amount of coal in the ground, he pointed out, but would provide for the utilization of water power which has hitherto gone to waste.

[Clipping from the Washington Evening Star, Jan. 7, 1913.]

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The Department of the Interior to-day issued a grant which it regards as the most important step in water-power and electrical development that has been taken for many years. It marks the beginning of the long-predicted electrification of the transcontinental railroads between the Rocky Mountains and the Pacific coast, but much more important than this is the fact that this step is to be taken under a grant which embodies the fundamental principles of water-power policy which

Also, petition of the National Academy of Design, of New York, protesting against any action on the part of Congress interfering with the development of Washington as set forth by the Washington Park Commission; to the Committee on the Library.

Also, petition of the American Automobile Association, Chicago, Ill., favoring the passage of legislation making appropriations for the building of national highways; to the Committee on Appropriations.

Also, petition of the Italian Chamber of Commerce of New York, protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. MAGUIRE of Nebraska: Petition of citizens of Lincoln, Nebr., favoring the passage of legislation for the national control and ownership of all public telephone and telegraph lines; to the Committee on Interstate and Foreign Commerce.

By Mr. WICKERSHAM: Petition of Indians and other resident fishermen of Sitka, Alaska, praying for legislation by Congress preventing the setting of fish traps in the tidal waters of Alaska; to the Committee on the Territories.

SENATE.

WEDNESDAY, *January 15, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. GALLINGER and by unanimous consent, the further reading was dispensed with and the Journal was approved.

FOREIGN AND DOMESTIC COMMERCE (S. DOC. NO. 1009).

The PRESIDENT pro tempore (Mr. BACON) laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Secretary of Commerce and Labor, submitting an estimate of appropriation in the sum of $20,000 to enable the Bureau of Foreign and Domestic Commerce to carry out the provisions of the act approved August 23, 1912, relating to investigations concerning the cost of producing articles dutiable in the United States and leading countries where such articles are produced, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

REPORT OF THE CHESAPEAKE & POTOMAC TELEPHONE CO. (H. DOC. NO. 1270).

The PRESIDENT pro tempore laid before the Senate the annual report of the Chesapeake & Potomac Telephone Co. for the year 1912, which was referred to the Committee on the District of Columbia and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed a bill (H. R. 27148) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1914, and for other purposes, in which it requested the concurrence of the Senate.

The message also announced that the House insists upon its amendment to the bill (S. 109) authorizing the sale and disposition of the surplus and unallotted lands in the Standing Rock Indian Reservation, in the States of South Dakota and North Dakota, and making appropriation and provision to carry the same into effect, disagreed to by the Senate, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. STEPHENS of Texas, Mr. FERRIS, and Mr. BURKE of South Dakota managers at the conference on the part of the House.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (H. R. 20339) for the relief of Joseph W. McCall, and it was thereupon signed by the President pro tempore.

PETITIONS AND MEMORIALS.

Mr. GALLINGER presented petitions of the congregations of the First Baptist Church of Franklin; the West Congregational Church, of Concord; the First Baptist Church of Cornish; the Baker Memorial Methodist Episcopal Church, of Concord; the Unitarian Church of Charlestown; the Franklin Unitarian Church, of Franklin; the Christian Church of Franklin; the First Baptist Church of Claremont; the Baptist, Congregational, and Methodist Churches of Newport; the Curtis Memorial Free Baptist Church, of Concord; the Advent Christian Church of Dover; the Crown Hill Baptist Church and the Arlington Street Methodist Episcopal Church, of Nashua; and of the First Methodist Church of Concord, all in the State of New Hampshire, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented a report of a special committee of the Georgetown Citizens' Association relative to assessment and taxation of property in the District, which was referred to the Committee on the District of Columbia.

Mr. BRISTOW presented petitions of sundry citizens of Altoona, Langton, and Alden, all in the State of Kansas, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. BURNHAM presented resolutions adopted by the congregations of the Baptist, Congregational, and Methodist churches of Newport, N. H., favoring the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. NELSON presented a resolution adopted by the Commercial Club of Mankato, Minn., remonstrating against the enactment of legislation transferring the control of the national forests to the several States, which was referred to the Committee on Forest Reservations and the Protection of Game.

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Mr. JONES presented resolutions adopted by the Columbia and Snake River Waterways Association, Idaho State League of Commercial Bodies, Idaho-Washington Development League, the Commercial Club of Lewiston, Idaho, and of the Chamber of Commerce of Clarkston, Wash., favoring an appropriation for the completion of the Celilo Canal and the improvement of the Columbia and Snake Rivers, which were referred to the Committee on Commerce.

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the Department of the Interior has been advocating for the past two years.

It demonstrates not only that the provisions for the protection of the public interests, upon which the department insists, do not prohibit water-power development, as has been claimed by its opponents, but that the greatest development which has yet taken place in the practical application of electricity can be and is being taken under these very provisions.

COMPENSATION TO UNITED STATES PROVIDED.

The grant issued to-day provides for compensation to the Federal Government, very small at first, but subject to periodical readjustment every 10 years.

It provides for regulation of the rates and service, uniform accounting, and complete publicity of books and records; the sale of power to the United States, and to the State within which the transmission lines are located, and to municipal corporations in such State at as low a rate as given to any other purchaser for a like use under similar conditions; protection against fire; and prohibits any transfer or assignment of the permit without the written approval of the Secretary of the Interior. The company is forbidden to claim any earning value for the grant, or any selling value should the public take over the company's works at any time.

The compensation or rentals fixed for each decade must be reasonable, and the company has the right to contest in the courts any rental it believes to be unreasonable; but the burden of proof on this point rests on the company.

The railroad which is taking this epoch-making step is the Chicago, Milwaukee & Puget Sound Railroad, which is electrifying 450 miles of its main tracks between Harlowtown, Mont., and Avery, Idaho; and the company which is furnishing the electricity is the Great Falls Power Co. There is no act of Congress under which the policy which the department has been advocating can be adopted so far as it relates to power sites on the public domain.

PERMIT ESTABLISHES PRECEDENT.

However, under the act passed March 4, 1911, relating exclusively to electrical transmission, telephone, and telegraph lines, it has been found possible to work out a permit which the department regards as a precedent which will have far-reaching effect. The act is not as satisfactory as it should be, but it has been possible under it to demonstrate that private and public interests can be reconciled and coordinated with fairness and justice to both. Indeed, the fact that the power company is willing to accept the fullest provisions for the protection of public interests, even where all it is asking for is a permit for a transmission line, makes the transaction especially significant.

The power company and the Department of the Interior have found that they can cooperate cordially and effectively in working out general rules and regulations under this act and in fixing the terms of a grant so as to recognize effectively both public and private interests and rights. The department wishes to commend particularly the candor and public spirit shown by the representatives of the company in the negotiations which have led up to the issuance of the grant.

[Clipping from the New York Evening Post of Jan. 10, 1913.]

(Interview with Mr. John D. Ryan.)

NEW POWER FOR RAILROADS—ST. PAUL LINE OBTAINS GRANT FOR WESTERN WATERS—WILL OPERATE 450 MILES OF TRACK WITH ELECTRICITY GENERATED IN THE MOUNTAIN STREAMS—WILL COST $8,000,000 TO MAKE CHANGE, WHICH WILL PAY FOR ITSELF WITHIN FIVE YEARS.

John D. Ryan believes that the grant just received from the Government by the Great Falls Power Co., of Montana, to transmit over public domain power for the electrification of 450 miles of the Chicago, Milwaukee & St. Paul main line between Harlowtown, Mont., and Avery, Idaho, marks the most important step ever taken in the development of northwestern railroads.

In discussing the subject to-day, Ryan, who is president of the Amalgamated Copper Co., as well as the Great Falls Power Co., grew very enthusiastic. The man who succeeded H. H. Rogers as president of the Amalgamated Copper Co. belongs to the younger generation. That means, partly, that he is not afraid to talk for publication, when he has anything to say which concerns the public.

"Until you get into the subject, it is hard to realize what electrification will mean to the western railroad," the president of the Great Falls Power Co. said. "Railroad men themselves are only just beginning to understand. Yesterday one of the best-known operating officials in the Northwest said he was stunned by the announcement that our grant from the Government was based on the understanding that the electrification of 450 miles of St. Paul's track would be completed within three years. He said railroad men knew that the electrification of the northwestern railroads by use of water power was coming, but they all had supposed that it would not come inside of 10 years, and that, therefore, they would have plenty of time to plan."

WATER POWER WASTED.

When Ryan is interested in his subject he talks with almost boyish frankness, and as he picked up one paper after another at his desk on the twentieth floor of No. 42 Broadway, near a large window overlooking the Hudson River, his black eyes danced with excitement.

"Why, the water power that is now being wasted in the Northwest can be transformed into a finished product and delivered to the railroads so it can be turned on and off with a switch like pipe water or an electric light. Last year the St. Paul Railroad, not including its Pacific coast extension, spent $6,202,000 for fuel for locomotives. That was just the bare cost of coal. On a mountain line a railroad uses one-third of its entire equipment for hauling fuel. With electricity that equipment could be earning money and the cost of operating it to haul fuel could be saved.

"As for the economies made possible by electricity, the average cost of steam power in the West is $150 per horsepower. By simply harnessing the water power that is now going to waste electric power can be generated and delivered to the railroads ready for use by turning on a switch for $40 a horsepower.

"After a 150-mile run a steam locomotive has to go to a roundhouse for inspection; to-day the New York Central is using its electric locomotives for 1,200 miles between inspections. For the units of service derived from a ton of coal a steam locomotive is the most wasteful machine ever invented. Every railroad man knows that. An electric locomotive does not stand in a station or sidetrack and 'blow off.' When it is not being used the power is turned off.

"In many places in the Northwest it is physically impossible to build double tracks; the mountain passes will not permit it. Under electricity the capacity of a single-track road can be doubled. The trains move quicker; the equipment and labor now used to haul fuel can be used to handle revenue freight, and operating expenses can be reduced in many other ways. The St. Paul's work will cost $8,000,000, and carefully made estimates show that that amount can be saved in five years by reducing operating expenses."

A 50-YEAR RIGHT.

Ryan added that Secretary Fisher, of the Interior Department, had gone into the question of conservation thoroughly and had given every consideration to the needs of the power company and the railway company, and that the grant confers upon the power company, which has owned its water-power sites for many years, a right of way for 50 years over public lands for reasonable compensation to the Government, under reasonable conditions, which provide for compliance on the part of the power company with State regulations covering business of the kind in which the company is engaged.

He said the power company found no desire on the part of Secretary Fisher to impose any conditions that were not justified by the protection of public interest, and it is believed that general legislation will be enacted along the lines laid down in this grant, which will give a great impetus to water-power development and to railway electrification.

The water powers in the Rocky Mountains and the Cascades in the Northwestern States, he said, would be sufficient to operate every mile of railway west of a line drawn north and south through the center of the State of Montana and north of a line drawn from the southern boundary of Colorado to the Pacific coast.

Ryan said that the necessity for the consolidation of water powers by connecting transmission lines and provision for interchange of power is recognized by all who have given the question any consideration. Railways could not possibly depend for their operation upon power derived from one source or one transmission line.

He believed that not less than 10,000 miles of mountain railway in the Western States will be electrified within the next few years, because of the step taken by the Chicago, Milwaukee & Puget Sound Railway, and that the Government, through Secretary Fisher, has done a great deal to avert the waste which has gone on heretofore, both by the failure to harness water powers and in the consumption of coal which will be needed by future generations. In addition to this, the danger of fires from coal-burning locomotives in the great forests of the West will be avoided. Work on the St. Paul, he concluded, would begin at once.

REPORTS OF COMMITTEE ON PUBLIC LANDS.

Mr. CLARK of Wyoming, from the Committee on Public Lands, to which was referred the bill (S. 7746) to provide for agricultural entry of oil lands, reported it with amendments and submitted a report (No. 1108) thereon.

Mr. GUGGENHEIM, from the Committee on Public Lands, to which was referred the bill (H. R. 23293) for the protection of the water supply of the city of Colorado Springs and the town of Manitou, Colo., reported it with amendments and submitted a report (No. 1109) thereon.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BURNHAM:

A bill (S. 8119) granting an increase of pension to Lucinda M. Fuller (with accompanying papers); to the Committee on Pensions.

By Mr. CUMMINS:

A bill (S. 8120) to tax certain sales, options, and contracts for sale made upon, in, through, in connection with, or under the regulations of certain exchanges and boards of trade; to the Committee on Finance.

By Mr. NELSON:

A bill (S. 8121) to provide an annual vacation for all railway mail clerks; to the Committee on Post Offices and Post Roads.

By Mr. BORAH:

A bill (S. 8122) to amend an act entitled "An act to amend sections 2291 and 2297 of the Revised Statutes of the United States relating to homesteads"; to the Committee on Public Lands.

By Mr. KENYON:

A bill (S. 8123) granting an increase of pension to Ellen Maher;

A bill (S. 8124) granting an increase of pension to Thomas J. Tucker;

A bill (S. 8125) granting an increase of pension to George F. Brechtel; and

A bill (S. 8126) granting a pension to Elizabeth J. Edson; to the Committee on Pensions.

By Mr. JOHNSON of Maine (for Mr. GARDNER):

A bill (S. 8127) granting a pension to John F. Scribner; to the Committee on Pensions.

By Mr. JACKSON:

A bill (S. 8128) for the relief of Samuel Henson; to the Committee on Claims.

By Mr. McLEAN:

A bill (S. 8129) granting a pension to Margaret Brennan (with accompanying papers); to the Committee on Pensions.

By Mr. GUGGENHEIM:

A bill (S. 8130) granting to the town of Nevadaville, Colo., the right to purchase certain lands for the protection of water supply (with accompanying papers); to the Committee on Public Lands.

By Mr. CLAPP:
A bill (S. 8131) granting an increase of pension to Stanley A. Husted (with accompanying papers); to the Committee on Pensions.
By Mr. TOWNSEND (for Mr. SMITH of Michigan):
A bill (S. 8132) to remove the charge of desertion from the record of Joseph Neveux;
A bill (S. 8133) to remove the charge of desertion from the record of Joseph Hadden (with accompanying paper); and
A bill (S. 8134) to correct the military record of Capt. Daniel H. Powers; to the Committee on Military Affairs.
By Mr. DU PONT:
A bill (S. 8135) granting a pension to Mary Helen Harrison;
A bill (S. 8136) granting an increase of pension to John E. Devnish; and
A bill (S. 8137) granting a pension to Susan T. Saunders; to the Committee on Pensions.
By Mr. OWEN:
A bill (S. 8138) to authorize the Choctaw and Chickasaw Nations to bring suit in the Court of Claims, and for other purposes; to the Committee on Indian Affairs.
By Mr. JOHNSTON of Alabama:
A bill (S. 8139) for the relief of William W. Prude (with accompanying papers); to the Committee on Military Affairs.
By Mr. OWEN:
A bill (S. 8140) to authorize the Choctaw and Chickasaw Indians to bring suit in the Court of Claims, and for other purposes; to the Committee on Indian Affairs.
By Mr. SMITH of Maryland:
A joint resolution (S. J. Res. 153) granting to the Fifth Regiment Maryland National Guard the use of the corridors of the courthouse of the District of Columbia upon such terms and conditions as may be prescribed by the marshal of the District of Columbia; to the Committee on the District of Columbia.

AMENDMENTS TO THE INDIAN APPROPRIATION BILL.

Mr. CATRON submitted an amendment providing that no part of the $200,000 appropriated by the act of April 24, 1912, shall be used for the purpose of transporting or making settlement of Apache Indians, prisoners of war at Fort Sill Military Reservation, Okla., within the State of New Mexico or State of Arizona, intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate $1,000 to investigate the conditions on the Northeast Navajo Indian Reservation, in San Juan County, N. Mex., with respect to the necessity of constructing a bridge across the San Juan River, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

MARY CATHCART RANSDELL.

Mr. DILLINGHAM submitted the following resolution (S. Res. 431), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay out of the contingent fund of the Senate to Mary Cathcart Ransdell, widow of Daniel M. Ransdell, late Sergeant at Arms of the Senate, a sum equal to 12 months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

THE SENATE CHAMBER.

Mr. REED submitted the following resolution (S. Res. 432), which was read, considered by unanimous consent, and agreed to:

Resolved, That the President of the Senate pro tempore is hereby authorized to appoint a special committee of five Senators. Said committee shall investigate and at the earliest practicable date report to the Senate whether it is feasible and desirable to improve or remodel the Senate Chamber and the rooms thereunto appertaining.

CHOCTAW AND CHICKASAW INDIANS (S. DOC. NO. 1007).

Mr. OWEN. I present a paper, being a memorial from the principal chief of the Choctaw Nation of Indians, to accompany the bill (S. 8138) to authorize the Choctaw and Chickasaw Nations to bring suit in the Court of Claims, and for other purposes, introduced to-day by me. I ask that the memorial be printed as a Senate document, with illustrations, and referred to the Committee on Indian Affairs.

The PRESIDENT pro tempore. Without objection, it is so ordered.

HOUSE BILL REFERRED.

H. R. 27148. An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1914, and for other purposes, was read twice by its title and referred to the Committee on Post Offices and Post Roads.

IMPEACHMENT OF ROBERT W. ARCHBALD.

OPINIONS OF SENATORS FILED AND PUBLISHED BY ORDER OF THE SENATE SITTING ON THE TRIAL OF THE IMPEACHMENT OF ROBERT W. ARCHBALD, CIRCUIT JUDGE OF THE UNITED STATES FROM THE THIRD JUDICIAL CIRCUIT, AND DESIGNATED TO SERVE IN THE COMMERCE COURT.

OPINION OF MR. CULLOM.

On articles 1, 2, 3, 5, 9, and 13 I have voted "guilty" because I believe the respondent is guilty of high crimes and misdemeanors, as charged in these articles.

The testimony clearly shows, in my opinion, that the respondent, by reason of his influence as a judge of the Court of Commerce, secured for himself and others with whom he was associated favors and concessions of value from railroads, which were, or might be, involved in litigation before the Court of Commerce. It is evident that these favors and concessions were granted by the railroads because they believed it would result advantageously to them. To refuse the demands of the respondent would result to their detriment.

I further believe that by his acts the respondent dishonored the high office which he occupied; that he was not honored as one should be occupying so exalted a position, but was regarded as a go-between to further the interests of others.

While I do not believe in the doctrine of recall, yet I do believe that every judge, State or Federal, should have regard for his oath and the law, and if he violates either he should be subjected to impeachment. Judges are placed on the bench to conserve and protect the interests of the people, dealing with one and all alike, and not to connive with others to deprive them of justice and fair treatment.

I voted "not guilty" on articles 4, 6, 7, 8, 10, 11, and 12, believing that they do not constitute the offense of high crimes and misdemeanors, and not because the acts were committed while the respondent was a judge of the district court. In my opinion the Senate would have jurisdiction to try respondent if the articles should warrant such action.

S. M. CULLOM.

OPINION OF MR. CUMMINS.

Statement submitted by ALBERT B. CUMMINS to accompany his votes upon the impeachment of Robert W. Archbald.

The material facts relating to articles 1, 2, 3, 4, 5, 7, and 12 are not in dispute. In my judgment, they are stated in the evidence of Judge Archbald himself as clearly and strongly as in any other part of the testimony. Article 13 does nothing more than to charge a course of conduct which is the legal effect of the facts established and admitted under the seven articles I have first enumerated.

The moral quality of the things done by the respondent was barely mentioned by his counsel, much less defended. This phase of the matter has been substantially ignored by counsel for the respondent and they have seemed to rely upon two propositions, viz: First, that none of the articles accuse the respondent of an offense indictable under the laws of the United States and that therefore there can be no conviction in an impeachment proceeding.

Second, that the respondent being a circuit judge can not be impeached for offenses committed during the time he was a district judge.

I can not accept either of these propositions. While I believe that it is within the power of Congress to provide a distinct procedure for the ascertainment of the behavior of a judge appointed to hold his office during good behavior, yet I have no doubt whatever that there may be misconduct in office which comes within the constitutional phrase "high crimes or misdemeanors." The common law recognized misconduct in office as a crime or misdemeanor; and it can not be fairly questioned that the framers of the Constitution intended to authorize impeachment for such offenses, even though Congress should never pass a criminal statute. It also seems clear to me that a crime or misdemeanor committed by the respondent while district judge which indicates unfitness to hold the office of circuit judge presents an impeachable offense. The identity in the character of the duties to be performed and the continuity of the service emphasize the correctness of this conclusion.

Nothing remains but to say that the conduct and practices admitted by the respondent under articles 1, 2, 3, 4, 5, 7, and 12 were so flagrantly wrong and so obviously in violation of the civilized sense of honor and propriety on the part of a person holding the office of judge that they compelled me to vote "guilty" upon each of these articles, and my vote upon article 13 followed as an inevitable consequence. My vote of "not guilty" upon articles 6, 8, and 9 was because, in my opinion, the evidence failed in an essential particular in each instance. A like vote on article 10 was because there was nothing wrong in the

thing actually done by the respondent, and a similar vote on article 11 was because the act admitted, though censurable, does not warrant impeachment.

OPINION OF MR. PENROSE.

Mr. PENROSE. I submit a statement of my views on the impeachment of Judge Archbald, which I ask may be filed.

Judge Archbald is 65 years of age, and has been upon the bench 28 years. It is not alleged or proved that he ever violated any law or wronged anyone. It is not alleged or proved that he ever neglected any duty, denied or delayed justice, was partial to any litigant, or even impatient with or discourteous to counsel or clients in any case. On the contrary, it was expressly admitted by the managers who were presenting the case that his integrity, both as a judge and as a man, were incontrovertible; that he was able, industrious, and impartial in the performance of his judicial duties and of good behavior on the bench. His private and public life, so far as has been either charged or proved, is stainless; and it was shown that the people where he lives and has lived for nearly 60 years, the lawyers who practice before him, and his associates on the bench, respect, esteem, and love him. It would be supposed from those admitted facts that there could be no doubt that he was a faithful public official and ought to be retained in his office. Yet he is charged in each of the 13 articles of impeachment with being guilty of a "high crime and misdemeanor," a charge wholly inconsistent with the facts admitted by the managers themselves, as above stated. Under such circumstances but little need be said touching each charge, but they will each be briefly referred to.

The facts touching article 1 show that a gentleman named John M. Robertson owned the Katydid culm dump, and that he was washing the coal from it when his washery burned down. He was required by his lease to pay royalty to the Hillside Coal & Iron Co., a subsidiary of the Erie Railroad Co., for all the coal taken from the dump, and that company in turn paid royalty to the Everhart heirs, who owned a half interest in the land from which the coal in the dump had been taken. Judge Archbald and Edward J. Williams obtained an option from Mr. Robertson by which they were to pay him $3,500 for his interest in the dump, and upon application to the Hillside Coal & Iron Co. its general manager said he would recommend a sale of its interests for $4,500, thus capitalizing the royalties it would otherwise have received.

The matter never was consummated, because the Everhart heirs disputed the right to dispose of their interest. The Erie Railroad Co. had been a litigant before the Commerce Court, of which Judge Archbald was a member, but the litigation was then pending in the Supreme Court of the United States, and the judge did not take part in the decision of any case in which that road was interested during or after the time of these negotiations. It was alleged in the articles of impeachment that the dump was of greater value than the price being paid for it, but that claim was abandoned at the trial. It may be that it would have been better had the judge not engaged in any other business than in the performance of his judicial duties, but until the doing so is forbidden by law the fact that he or any other judge does so can not make their act a "high crime and misdemeanor." Especially can no inference of improper conduct be drawn as against Judge Archbald, in view of the express admissions above stated.

In article 2 the judge is charged with assisting in the settlement of certain pending litigation between the Delaware, Lackawanna & Western Railroad Co. and the Marian Coal Co. for a consideration to be paid him in case the settlement was made. At the trial the claim that he was to be paid was abandoned. The facts showed that one C. G. Boland, a neighbor and friend of Judge Archbald for over 30 years, employed one George M. Watson, an attorney in Scranton, to try and settle that litigation. Watson asked Judge Archbald to introduce him (Watson) to the proper official of the railroad. The judge wrote several letters and had several interviews with officials of the railroad to arrange for meetings between them and Watson, but took part in no negotiations touching the matter. Much of that which the judge did was done at the request of his friend Boland, who urged the judge to do what he did because he (Boland) feared that his brother, who was largely interested in the Marian Coal Co., would lose his mind if the case was not settled. It never was settled, and nobody was in any way harmed or wronged. To some it may seem that it would have been better had the judge not tried to help his old friend, but as no law forbade it surely it can not properly be called a "high crime and misdemeanor."

The facts as to article 3 show that the judge and three others tried to lease Packer No. 3 culm dump from the Girard estate with the consent of the Lehigh Valley Coal Co., which had a lease upon that and much other property of the Girard estate which lease was about expired. The Girard estate did not care to lease the dump, and nothing further was done in the matter. Here also it may be said that it would have been better had the judge not attempted to engage in business, but no law forbade it, and admittedly it did not affect him in any way.

The charge in article 4 is that the judge communicated with counsel on one side of a pending litigation without communicating the facts to counsel on the other side. It appeared that the case of the Louisville & Nashville Railroad Co. v. Interstate Commerce Commission had been argued in the Commerce Court, and in consultation the judges of that court had determined to decide the case against the railroad. Judge Archbald dissented from that conclusion, and in the course of writing his dissenting opinion discovered that there was a mistake in the typewritten testimony. He wrote to the counsel who offered that deposition in evidence to find if he was not correct in that conclusion, and upon receiving a reply that he was he pasted that letter on the margin of the testimony where everybody could see it. Subsequently he wrote to the same counsel in regard to a claim that there appeared in the evidence proof that the commodity rates which had been part of the litigation before the Interstate Commerce Commission showed frequent changes from what was known as the Cooley award, which formed the basis of all rates in the territory where the railroad operated. The answer showed that the case in the Commerce Court had nothing to do with commodity rates, because that matter had not yet been decided by the Interstate Commerce Commission. He did not show either letter to counsel on the other side, nor did either letter have anything to do with the decision of the case, the opinion in which, so far as relates to these two matters being written by another judge and decided upon grounds not referred to in either letter.

Article 5 charged that the judge received $500 for attempting to induce the Philadelphia & Reading Coal & Iron Co. to sell a culm dump to one Frederick Warnke. Six witnesses testified that that charge was untrue and no one testified that it was. The $500 was in fact paid as a commission for effecting the sale of a fill belonging to the Lacoe & Shiffer Coal Co. to the Premier Coal Co. Of that commission the judge received $250, but the matter had no connection whatever with Mr. Warnke and the Philadelphia & Reading Coal & Iron Co.

The allegation in article 6 that the judge used his influence to induce the Lehigh Valley Railroad Co. to purchase from the Everhart heirs their interest in 600 acres of land had no evidence to support it, nor would it have been a high crime and misdemeanor had the fact been so.

Article 7 charged that the judge corruptly agreed to purchase from one W. W. Rissinger an interest in a gold-mining scheme in Honduras; that while that matter was pending he acted as judge at the trial of a case in which Rissinger was largely interested and indorsed a note for $2,500, which was duly discounted and the proceeds of which was to pay for the interest in the gold-mining scheme. The evidence uncontradictedly showed that the note was indorsed five days after the case was ended, that it was not given for stock, but was purely for the accommodation of Rissinger, who had been a scholar in the judge's Bible class, and that the stock was held by the judge as collateral security for the payment of the note.

Articles 8 and 9 charged that the judge indorsed a note for $500, which he caused to be presented to C. G. Boland and W. P. Boland, who were interested in the company which was a party litigant in his court, and when they refused to discount it he caused it to be presented to one C. H. Von Storch, who had been a litigant in his court some time before, and that Von Storch caused his bank to discount it. The facts were shown to be that the judge indorsed the note as an accommodation to a friend, who alone arranged all the matters stated. All agreed that the judge saw no one in relation to the matter and that the only correspondence or conversation he had was with Von Storch, who called him up on the telephone to inquire if the indorsement was genuine. No one pretends that the judge ever did anything further in regard to the matter.

Article 10 charges that in 1910 the judge went to Europe at the expense of and as the guest of Henry W. Cannon, who was a director and officer of several corporations who might become litigants in the judge's court, which then was the middle district of Pennsylvania. The facts were that the corporations were the Great Northern Railroad and certain Pacific coast corporations, who never had and never were likely to have any litigation in that court; that Mrs. Archbald and Mr. Cannon were first cousins; had grown up together and been lifelong friends; that she had been ill; that Mr. Cannon invited her and the judge to visit him at his cottage near Florence; and that the judge, who had not had a vacation for several years,

consulted with the other judges in his circuit, and was advised to go with his wife, and did go. Why he should not have gone nobody can see. Certainly no one can understand how it is possible under the admission as to good character—integrity, as hereinbefore stated—it is possible to suppose that his going constituted a "high crime and misdemeanor."

Article 11 charged that when he went on that trip he accepted a gift of over $500 from attorneys practicing in his court. It appeared that a few minutes before the vessel sailed Judge Alonzo T. Searle, of Wayne County, Pa., handed Judge Archbald a sealed envelope, on which was written "Hon. R. W. Archbald. Sailing orders: Not to be opened until 24 hours at sea." When he asked what it meant he was told "A good sailor obeys orders." After the vessel sailed, he opened the envelope and found in it a list of subscribers to the fund who had been personal friends for many years and the sum of money. He was thus placed in a cruel dilemma, for if he returned the money it would appear as if he were accusing them of wrongdoing. For that reason he kept it. Until he opened the envelope he did not know that any attempt had been made or was being made in regard to that matter. That he can be guilty of a "high crime and misdemeanor" because when it was too late to return it to Judge Searle he did not metaphorically slap his friends in the face by returning it is not even conceivable.

Article 12 complains because he appointed a lawyer who was counsel for a railroad company as jury commissioner. The law requires that the jury commissioner shall be a citizen of the district in good standing and of the opposite party from the clerk of the court. The appointee, J. Butler Woodward, was all those things, and we are told, and no one contradicted it, that he comes from an honorable and respected family in Pennsylvania. The managers admitted at the trial that he had done nothing wrong, and it was proved by the records that he did not practice in the court of which he was jury commissioner. If a lawyer ought not to be a jury commissioner, it is easy to say so by act of Congress, but there is as yet no such act. Hence there can be no just ground of complaint against the judge.

Article 13 is a general clause without particulars, intended to embrace in general language the first nine articles, except the fourth, without adding anything new. Judge Archbald was declared not guilty upon the second, sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth articles.

OPINION OF MR. PAYNTER.

Mr. PAYNTER. Mr. President, I have prepared a statement of my reasons for my votes in the Archbald impeachment case. While I do not think it requires an order, I do not like to submit them without announcing that I am ready to file and do file them.

I have reached the conclusion to vote not guilty on each of the articles of impeachment. I do not intend to enter into an extended discussion in giving the reasons which have influenced me in reaching that conclusion. I shall not attempt to cite the precedents which bear upon the question, but I am of the opinion that they do not support the position of the prosecution. My opinion is that the reasoning of the authorities and eminent men who have taken the position that it is essential to maintain an article of impeachment that the accused should be charged with a crime for which an indictment would lie is conclusive.

The penalty in case of conviction is of a very serious character, and for that reason we are strongly admonished to proceed to the consideration of the case as just and impartial judges. If the respondent has committed the acts with which he is charged, then he violated neither statute or common law of the land, nor could such acts be the basis for a prosecution by indictment or information; besides, the alleged acts are not of a character which show turpitude.

After reading the testimony, and especially after hearing the respondent in his own behalf, I am thoroughly convinced that he did not do a single act with any purpose to misuse the official position which he then held. No act, save one, of which complaint is made was an official act. The only one that can be said to be official was the appointment of a jury commissioner, which was his duty under the law to do. The man appointed was not only capable but was a high type of man and worthy to fill the position.

The logic of the prosecution is reduced to this, that though the acts were not official and did not make him guilty of a crime, nor did they involve turpitude, still he should be removed from office and disgraced because he happened at that time to hold the official positions named.

It had been urged by the prosecution that each Senator should erect his own standard, determine the quality of the acts charged, and the respondent's guilt or innocence by that standard. The position of the prosecution is well stated by one of the managers when he said:

> Each Senator must fix his own standard, and the result of this trial depends upon whether or not these offenses we have charged against Judge Archbald come within the law laid down by the conscience of each Senator for himself.

If this be true, then each Senator can enact a statute at the time he votes and impose the penalty which is prescribed by the Constitution for entirely different acts than those for which one is being tried. Those who made the Constitution to protect the lives and the liberties of the people declared that there could be no ex post facto laws enacted, yet each Senator, in the trial of an impeachment proceeding, can then enact an ex post facto law and inflict a punishment for its violation. If this is to be the rule of action by a court, then it no longer can be said to be a government of law; it can no longer be said that the life and liberty of the citizen is safe. While such a rule differs in character from the rule of the mob, yet it is slightly less objectionable.

If such a doctrine is to prevail, then there is too much danger that the consciences of those who try impeachment cases will be affected by a hysterical or debauched public sentiment. Let us hope that this body may never proclaim such a rule, because if it does then is great danger that on some future occasion a sane and safe judicial sentiment may not pervade this Chamber, but, on the contrary, there may be seen the spirit of the mob stalking in its hideous form within these sacred walls.

Should this ever come to pass, the sane and patriotic people of the land will be justified in exclaiming "O judgment! Thou art fled to brutish beasts!" Mr. Story seems to have entertained the views which I have expressed, for he said, in his work on the Constitution, volume 1, page 538:

> The latter is so incompatible with the genius of our institutions that no lawyer or statesman would be inclined to countenance so absolute a despotism of opinion and practice which might make that a crime at one time or in one person which would be deemed innocent at another time or in another person.

At a time when passion was swaying the minds of the people in this country, and when a majority of the leaders of the then dominant political party desired to impeach Andrew Johnson, then President of the United States, the House of Representatives refused to break from its constitutional moorings and adopt a resolution looking to the impeachment of Andrew Johnson, when the articles reported did not charge him with a crime. The minority of the committee of the House of Representatives which passed upon the question presented their views to the House of Representatives, to the effect that as no indictable offense was charged an impeachment proceeding could not be sustained, and the House accepted their view of the law as the correct one.

It discusses with such great clearness the legal question involved in this case I take the liberty of quoting from that report as follows:

> The Constitution of the United States declares that "the House of Representatives * * * shall have the sole power of impeachment." What is the nature and extent of this power? Is it as boundless as it is exclusive? Having the sole power to impeach, may the House of Representatives lawfully exercise it whenever and for whatever a majority of the body may determine? Is it a lawless power, controlled by no rules, guided by no reason, and made active only by the likes or dislikes of those to whom it is intrusted? Have civil officers of the United States nothing to insure them against an exercise of this power except an adjustment of their opinions and official conduct to the standard set up by the dominant party in the House of Representatives? Happily for the Nation this power is not without its constitutional boundaries and is not above the law. When we examine the Constitution to ascertain in what cases the power of impeachment may be exercised—for what acts civil officers may be impeached—we are informed that—
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> "The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors." (Art. II, sec. 2.)
>
> In these cases only can the power of impeachment be lawfully used. It would seem to be difficult to mistake the import of this plain provision of the fundamental law of the land; and yet it is not free from conflicting interpretations. This conflict does not arise upon the terms "treason" and "bribery," for they are too well understood and too clearly defined in the Constitution and the laws of the land to admit of any disputation concerning them. They are both crimes of a high grade, and punishable upon indictment in the courts of the United States. They are offenses against the public weal, with just and adequate penalties prescribed for them by the law of the Nation. There is no difficulty in ascertaining the meaning of the Constitution, in so far as it relates to these crimes. Whatever conflict of opinion has arisen respecting the extent of the power of impeachment finds its origin in the terms "other high crimes and misdemeanors." These terms, it has been claimed, give a latitude to the power reaching far beyond the field of indictable offenses. This doctrine is denied. Here arises the only doubt concerning the jurisdiction of the impeaching power of the House of Representatives.
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> The fact that the framers of the Constitution selected by name two indictable crimes as causes of impeachment would seem to go far toward establishing as the true construction of the term "high crimes and misdemeanors" that all other offenses for which impeachment will

lic must also be indictable. Having fettered the House of Representatives by naming two well-defined crimes of the highest grade, it is not to be presumed that the same hands which did it clothed the House with the right to ramble through all grades of crimes and misdemeanors, all instances of improper official conduct and improprieties of official life, grave and unimportant, harmful and harmless, alike. It is unreasonable to say that the men who framed our Constitution, after undertaking to place a limitation on the power of impeachment, ended their effort by throwing away all restraints upon its exercise and placing it entirely within the keeping of those upon whom it was intended to confer only a limited power. There is something more stable than the whims, caprices, and passions of a majority established as a restraint upon this power by the Constitution. The House of Representatives may impeach a civil officer, but it must be done according to law. It must be for some offense known to the law and not created by the fancy of the Member of the House. As was very pertinently remarked by Hopkinson on the trial of Chase, "The power of impeachment is with the House of Representatives, but only for impeachable offenses. They are to proceed against the offense, but not to create the offense and make any act criminal and impeachable at their will and pleasure. What is an offense is a question to be decided by the Constitution and the law, not by the opinion of a single branch of the Legislature; and when the offense thus described by the Constitution or the law has been committed, then, and not till then, has the House of Representatives power to impeach the offender."

A civil officer may be impeached for a high crime. What is a crime? It is such a violation of some known law as will render the offender liable to be prosecuted and punished. "Though all willful violations of rights come under the generic name of wrongs, only certain of those made penal are called crimes." (Encyc. Brit., Vol. XIII, 275.) The offense must be a violation of the law of the sovereignty which seeks to punish the offender; for no act is a crime in any sovereignty except such as is made so by its own law. In England no act is a crime save such as is so declared either by the written or unwritten law of the Kingdom, and therefore only crimes by the law of England are indictable in England. Crimes are defined and punished by law—by the law of the sovereignty against which the crime is committed—and nothing is a crime which is not thus defined and punished. "Municipal law" (which, among its multiplicity of offices, defines and punishes crimes) "is a rule of action prescribed by the supreme power in a State, commanding what is right and prohibiting what is wrong." (1 Blackstone, 44.) Nothing is a crime which is not such a breach of this command or prohibition as carries with it a prescribed penalty. Hence Blackstone said: "All laws should be therefore made to commence in futuro." The citizen must be notified of what acts are crimes, and he can not be lawfully punished for any others. The reasonableness of this rule was appreciated and its enforcement provided for by the convention which framed the Constitution of the United States when they placed in that instrument the declaration that "no * * * ex post facto law shall be passed." No act which was not a crime at the time of its commission can be made so by subsequent legislative or judicial action; and this doctrine is as binding on the House of Representatives when exercising its powers of impeachment as when employed in ordinary criminal legislation.

All that has been said herein concerning the term "crimes" may be applied with equal force to the term "misdemeanors," as used in the Constitution. The latter term in nowise extends the jurisdiction of the House of Representatives beyond the range of indictable offenses. Indeed, the terms "crime" and "misdemeanor" are, in their general sense, synonymous, both being such violations of law as expose the persons committing them to some prescribed punishment; and, although it can not be claimed that all crimes are misdemeanors, it may be properly said that all misdemeanors are crimes. Blackstone, in his Commentaries, states it thus: "In common usage, the word crimes is made use of to denote such offenses as are of a more atrocious dye; while smaller faults, and omissions of less consequence, are comprised under the gentle name of misdemeanors only." Hale, in his Pleas of the Crown, states the doctrine in this wise: "Temporal crimes, which are offenses against the laws of this realm, whether the common law or acts of Parliament, are divided into two general ranks, or distributions, in respect to the punishments that are by law appointed for them, or in respect of their nature or degree; and thus they may be divided into capital offenses, or offenses only criminal, or rather, and more properly, into felonies and misdemeanors. And the same distribution is to be made touching misdemeanors, namely: They are such as are so by the common law, or such as are specially made punishable as misdemeanors by act of Parliament."

Thus it appears that the terms "crime" and "misdemeanor" merely indicate the different degrees of offenses against law—crime marking the felonious degree, misdemeanor denoting "all offenses inferior to felony." Both indicate indictable offenses. They are terms of well-established legal signification. There is nothing uncertain about them. The framers of the Constitution used these terms as terms of art, and we have no authority for expounding them beyond their true technical limits.

An examination of the several provisions of the Constitution which have any bearing upon this subject will strengthen the position hereinbefore assumed. Section 3, Article I, reads thus: "The Senate shall have the sole power to try all impeachments. When sitting for that purpose they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside, and no person shall be convicted without the concurrence of two-thirds of the Members present." When the Senate is organized under this section of the Constitution as a high court of impeachment, it is simply a court of special criminal jurisdiction—nothing more, nothing less. It is bound by the rules which bind other courts. It is as much restrained by law as any other criminal court. It is not a tribunal above the law and without rule to guide it; if it were, it might well be addressed in the language of Burke, in one of his speeches in the Hastings case, when he said: "This high court, * * * this highest court of criminal jurisdiction, exercised upon the requisition of the House of Commons, if left without a rule, would be as lawless as the wild savage and as unprincipled as the prisoner that stands at your bar." (Burke's Works, vol. 8, p. 8.) No man would be safe before such a court—a court that could make the crime, determine its mode of proof, pronounce and execute judgment without restraint from the Constitution or laws of the land. No such irresponsible engine of wrong and oppression has been created by the Constitution. The British constitution allows no such unrestricted power to the House of Lords. "An impeachment before the Lords by the Commons in Great Britain, in Parliament, is a prosecution of the already known and established law and has been frequently put in practice, being a presentment to the most high and supreme court of criminal jurisdiction by the most solemn grand inquest of the whole Kingdom" (4 Blackstone, 259); and when this most high and supreme court of criminal jurisdiction is assembled for the trial of a person impeached for a violation of the "already known and established law" it must proceed according to the known and established law, for although "the trial must vary in external ceremony, it differs not in essentials from criminal prosecutions before inferior courts. The same rules of evidence, the same legal notions of crimes and punishments prevail." (Woodeson, vol. 2, 611.) A doctrine which would assert for the Senate of the United States greater and more despotic power in cases of impeachment than is possessed by the House of Lords will never be accepted by the American people.

If the Senate, sitting as a high court of impeachment, is not to be bound by the laws which bind other courts, why require the Senators to be put on oath or affirmation? If this court may declare anything a high crime or misdemeanor which may be presented as such by the House of Representatives and pronounce judgment against a civil officer thereon, why swear the members of the court at all? The oath is not a solemn mockery. It is prescribed for some good purpose. What is it? The form of oath adopted by the Senate in Chase's case affords a very satisfactory answer, and it is therefore here quoted, as follows: "You solemnly swear or affirm that in all things appertaining to the trial of the impeachment of ————, you will do impartial justice according to the Constitution and laws of the United States." (Chase's Trial, vol. 1, p. 12.) This oath is very comprehensive. It covers the charge, the evidence, and all the rules thereof; the decisions upon all questions arising during the progress of the trial; and the final judgment. In all these several respects the members of the court are to be guided by the Constitution and laws of the United States. They can try upon no charges other than treason, bribery, or other high crimes and misdemeanors; and the offense charged must be known to the Constitution or to the laws of the United States. The rules of evidence under and in pursuance of which crimes may be proved upon indictment in the courts of the United States are to be observed. The judgment "shall not extend further than a removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States." The office of the oath is to insure a strict observance of these requirements of the Constitution and the laws. This seems clear without further reference to other provisions of the Constitution; but it is proper that we should look at all of its clauses bearing upon the question under discussion.

The Constitution having created a court for the trial of impeachments, prescribed its jurisdiction and placed a limitation on its power to pronounce judgment, then declares that "the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law." It would seem difficult, indeed, to misunderstand this language. A civil officer convicted on impeachment is, notwithstanding such conviction, still liable to a prosecution for the same offense in the courts of ordinary criminal jurisdiction. How can this be if his offense be not an indictable crime? The court of impeachment can not apply the usual statutory punishment. It can not go beyond removal from and disqualification to hold office under the United States. The enforcement of other penalties for the same criminal conduct is left to the criminal courts of the country after conviction upon indictment. Is not this substantially a constitutional direction to the court of impeachment not to convict a civil officer of any crime or misdemeanor for which an indictment will not lie? This view of the question was very forcibly stated by Mr. Martin in his argument in Chase's case, in these words: "The very clause in the Constitution of itself shows that it was intended the persons impeached and removed from office might still be indicted and punished for the same offense, else the provision would have been not only nugatory but a reflection on the enlightened body who framed the Constitution, since no person ever could have dreamed that a conviction on impeachment and a removal from office in consequence for one offense could prevent the same person from being indicted and punished for another and different offense." (Chase's Trial, vol. 2, p. 137.) How can the force of this argument be avoided? Wherein does it lack the support of sound reason and good sense? But it does not rest merely upon the clauses of the Constitution above quoted; others, yet to be noticed, give it much additional strength, and these will now be examined.

The section of the Constitution securing the trial by jury reads as follows: "The trial of all crimes, except in cases of impeachment, shall be by jury." (Sec. 2, Art. III.) Can it be successfully claimed that the word "crimes," as here used, is less comprehensive than it is where it occurs in section 4 of Article II? If not, then the crimes for which a civil officer may be impeached are the subjects of indictment or presentment; for such only can be tried by a jury. Any act which is a crime within the meaning of the last-named section is also a crime within the intent of the former, although the converse of this proposition is not true, as it is not every crime which a jury may try that will render a civil officer committing it liable to impeachment. For the latter purpose the crime must "have reference to public character and official duty." (Rawle on the Constitution, 204.) The plain inference to be drawn from the section is, "that cases of impeachment are cases of trials for crimes."

Again, in that part of the Constitution which clothes the President with the power to grant pardons, it is said, "He shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment." (Art. II, sec. 2.) What is the meaning of the term "offenses"? It can not mean less than such acts as render offenders liable to punishment, else why is a pardon necessary or even desirable? No one needs a pardon who has not committed a crime. A pardon shields from or relieves of punishment. Punishment follows trial and conviction. Trial and conviction for crime can be had only for a violation of an existing law declaring the act done a crime. The term offenses, then, means crimes, in which, of course, is included misdemeanors.

High crimes and misdemeanors are subject to two jurisdictions—first, in the ordinary criminal courts of the country; second, in the high court of impeachment. The same party, for the same acts, may be on trial in both tribunals at the same time. If convicted in both cases, the President may pardon the criminal and relieve him of the consequences resulting from a conviction by the first-named jurisdiction, but the Constitution forbids his interference with the last. The grant of power and the exception are both in the same clause of the same section, and the fact that they are thus intimately associated shows that they relate to the same subjects—indictable offenses.

So intimately are these several sections and clauses of the Constitution connected with each other; so unerringly do they point in the same direction; so irresistibly do they suggest a consecutive train of thought; so perfectly does each part adjust itself to the whole, that it seems impossible to escape the conclusion that nothing less than an indictable crime or misdemeanor will support an impeachment of a civil officer of the United States. A fact recorded in the trial of Chase is very suggestive in this connection. Eight articles were preferred against him by the House of Representatives. It seems to have been admitted that all of the articles except the fifth charged him with

criminal conduct. In regard to the fifth, his counsel made the point that it did not "charge in express terms some criminal intent on the respondent." The proof was as clear upon this article as it was upon the remaining seven. Thirty-four Senators voted on the several articles, and while the votes on seven of them ranged from 4 to 19 for conviction, every Senator answered "Not guilty" on the fifth. It is fair to conclude, in view of the proof submitted in support of the several articles, that the members of the court approved the position taken by the counsel of Chase on the trial.

It is claimed by those who oppose the doctrine herein advanced that it is contrary to the current of the English and American authorities. This is an error which a careful examination of the cases will not fail to expose. Comparatively little attention has been devoted to the power of impeachment and to the laws and principles which govern it in this country. Popular opinion is more at fault with respect to this subject than perhaps any other within the entire range of the Constitution. It is generally considered a kind of unlimited, undefined, and undefinable power, whose proper office it is to supply all defects of law and to provide all desired remedies respecting civil officers and their official conduct—a patent medicine for the speedy cure of all cases which baffle the skill of the regular practice. It seems strange that this idea should have become so prevalent, for it has not a fair, impartial, well-considered case in either the United States or Great Britain to support it.

The first case of impeachment by the House of Representatives was that of William Blount, a Senator from the State of Tennessee, in 1797. The articles in this case were five in number. "The first charged the said William Blount with intending to carry into effect a hostile expedition in favor of the English against the Spanish possessions of Louisiana and Florida; the second, with attempts to engage the Creek and Cherokee Indians in the said expedition; the third, with having alienated the affections of the said Indians from Ben. Hawkins, an agent of the United States among the Indians, the better to answer his said purposes; the fourth, with having seduced James Cary, an interpreter of the United States among the Indians, for the purpose of assisting in his criminal intentions; and the fifth, with having attempted to diminish the confidence of the Cherokee Indians in relation to the boundary line, which had been run in consequence of the treaty which had been held between the United States and the said Indians." (Annals of Congress, 5th Cong., vol 1, pp. 499, 919.) These charges were set out with great particularity and were declared to be criminal breaches of Blount's "trust and station as a Senator, in violation of the obligations of neutrality, and against the laws of the United States." They were undoubtedly regarded as indictable offenses. Why they were so regarded will appear hereafter.

Blount appeared by his counsel, Jared Ingersoll and A. J. Dallas, who entered in his behalf a plea to the jurisdiction of the court. The plea set up four reasons why the court should not entertain jurisdiction of the case, though it appears that the matter was disposed of upon a single point. After argument, the following motion was voted on by the court: "That William Blount was a civil officer of the United States, within the meaning of the Constitution of the United States, and therefore liable to be impeached by the House of Representatives; that as the articles of impeachment charge him with high crimes and misdemeanors, supposed to have been committed while he was a Senator of the United States, his plea ought to be overruled."

The vote of the Senators upon this motion stood—yeas 11, nays 14; and thereupon the managers of the House of Representatives and the counsel for Blount were informed that—

The court is of opinion that the matter alleged in the plea of the defendant is sufficient in law to show that this court ought not to hold jurisdiction of the said impeachment, and that the said impeachment is dismissed." (Ibid., vol. 2, pp. 2318, 2319.) This is the only point decided in the Blount case.

The next case presented by the House of Representatives was that against John Pickering, judge of the United States District Court of the District of New Hampshire. He was charged with gross misconduct in the trial of a revenue case which grew out of the seizure of a certain vessel for a breach of the revenue laws contrary to his "trust and duty as a judge of the said district court, against the laws of the United States, to the great injury of the public revenue, and in violation of the solemn oath which he had taken to administer equal and impartial justice"; and that he did this "wickedly, intending to injure the revenues of the United States, and thereby to impair their public credit." This was the substance of three of the articles presented in the case. The other one (there being four in all) charged him with "being a man of loose morals and intemperate habits"; and that he appeared on the bench for the purpose of administering justice "in a total state of intoxication," * * * "and did then and there frequently, in a most profane and indecent manner, invoke the name of the Supreme Being," etc. (Ibid., 1st sess., 8th Cong., 321.)

Judge Pickering did not appear in the case, but his son sent to the Vice President a petition, which was laid before the court, asking for a postponement of the trial, and that, as his father was incapable of defending himself, he might be defended by his friends. The petition alleged, among other things, that "at the time when the crimes wherewith the said John [Pickering] stands charged are supposed to have been committed the said John was, and for more than two years before and ever since has been, and now is, insane, his mind wholly deranged, and altogether incapable of transacting any kind of business which requires the exercise of judgment or the faculties of reason, and, therefore, that the said John Pickering is incapable of corruption of judgment, no subject of impeachment, or amenable to any tribunal for his actions." (Ibid., 328.)

A discussion arose on this petition, in which the managers of the House of Representatives opposed the reception of the petition and the introduction of evidence in support. But the court decided to "hear evidence and counsel respecting the insanity of John Pickering" by a vote of—yeas 18, nays 12. (Ibid., 332.) A number of depositions were read in support of the petition, and it will be difficult to find any fact in the case better supported or more substantially proved than that of the insanity of the respondent. This issue was a grave and pertinent one, and yet the court, after deciding to entertain it and proceeding to its trial, finally disposed of the case as though no such issue had been raised. This conduct of the court is both remarkable and discreditable; but not more so than its final action on the question of the guilt or innocence of the accused. Pickering was impeached for high crimes and misdemeanors. If convicted at all, the Constitution required that it should be for high crimes and misdemeanors, as there were no charges of treason or bribery in the case. In order that the guilt or innocence of the respondent should be directly passed upon by the court, without any improper evasion of its real and legal merits, Senator White moved that the "following question be put to each Member upon each article of impeachment, viz, Is John Pickering, district judge of the district of New Hampshire, guilty of high crimes and misdemeanors upon the charges contained in the —— article of impeachment, or not guilty?" The mover stated that he had borrowed the form of the question from the one used in the case of Warren Hastings. The question was fair in form, and presented the identical issue which the court was about to decide; but it did not suit the purposes of those who were determined to convict; and it was rejected by a vote of—yeas 10, nays 18. Thereupon Senator Anderson moved the following form, viz, "Is John Pickering, district judge of the district of New Hampshire, guilty as charged in the —— article of the impeachment exhibited against him by the House of Representatives?" This form was adopted by—yeas 18, nays 9. (Ibid., 364.) So the court, after entertaining the plea of insanity and neglecting to decide it, on the foregoing evasive and unmeaning question, convicted Pickering on each article, and removed him from office; but this end was reached by a strict party vote. Senator Dayton said of the form of the question and the reason of its adoption: "They were simply to be allowed to vote whether Judge Pickering was guilty as charged—that is, guilty of the facts charged in each article—aye or no. If voted guilty of the facts, the sentence was to follow, without any previous question whether those facts amounted to a high crime or misdemeanor. The latent reason of this course was too obvious.

There were Members who were disposed to give sentence of removal against this unhappy judge, upon the ground of the facts alleged and proved, who could not, however, conscientiously vote that they amounted to high crimes and misdemeanors, especially when committed by a man proved at the very time to be insane, and to have been so ever since, even to the present moment." (Ibid., 365.) If this rule is to be followed, any civil officer may be impeached, convicted, and removed from office, for acts entirely proper and strictly lawful. Who can wonder that members of the court denounced the whole proceeding as "a mere mockery of trial"? Surely, the case reflects no credit on the Senate which tried it, and in one short year the Members of the body seem to have arrived at the same conclusion; for, on the trial of Judge Chase, the form of the question adopted to be propounded to each member of the court was as follows, viz, "Mr. ——, how say you; is the respondent, Samuel Chase, guilty or not guilty of a high crime or misdemeanor, as charged in the —— article of impeachment?" (Ibid., 2d sess., 8th Cong., 664.) It is to be hoped that no one will ever quote the Pickering case as an authority to guide the House in presenting, or the Senate in trying, a case of impeachment. It decided nothing except that party prejudice can secure the conviction of an officer impeached in spite of law and evidence.

The next case carried to the Senate by the House of Representatives has gone into history as one "without sufficient foundation in fact or law." (Hildreth's History of the United States, Vol. V, 254.) The case of Samuel Chase, a judge of the Supreme Court of the United States, is now referred to. Chase was impeached for high crimes and misdemeanors in eight articles. It is not necessary to set out the substance of these articles. One of them was founded on his conduct at the trial of John Fries for treason, before the circuit court of the United States at Philadelphia, in April and May, 1800, more than four years before his impeachment. Five of them were based on his conduct at the trial of James Thompson Callender "for printing and publishing against the form of the act of Congress, a false, scandalous, and malicious libel," etc., "against John Adams, then President of the United States," etc. The remaining two rested on his charge to the grand jury in and for the district of Maryland in May, 1803, and his refusal to discharge the grand jury in and for the district of Delaware in June, 1800. The articles portrayed the conduct of Judge Chase in as offensive a manner as the committee could command. The bitterness of Randolph appeared in every article, and the enemies of the accused felt confident of his conviction.

Chase answered minutely and elaborately to the several articles, and filed against each the following plea, viz, "And the said Samuel Chase, for plea to the said article of impeachment, saith that he is not guilty of any high crime or misdemeanor, as in and by said first article is alleged; and this he prays may be inquired of by this honorable court in such manner as law and justice shall seem to them to require." (Ibid., 117.) This was the issue on which the case went to trial. The result was the acquittal of Chase on each article. This result was not owing to a failure of the evidence produced to support the facts alleged; for, so far as at least four of the articles are concerned, the allegations were supported in almost every particular; and had the same form of question been used on the conclusion of the trial as was adopted in the Pickering case, Chase doubtless would have been convicted. The questions propounded in both cases have already been quoted, and a mere glance at them will show how Pickering was convicted and Chase acquitted.

If this case establishes anything, it is that an impeachment can not be supported by any act which falls short of an indictable crime or misdemeanor. This point was urged by the able counsel for Chase with great ability and pertinacity; and the force with which it was presented drove the managers of the House of Representatives to seek shelter under that clause of the Constitution which says: "The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior." (Manager Nicholson's speech, ibid., 597.) This provision, respecting the tenure of the judicial office, it was claimed would authorize the impeachment of a judge for misbehavior which would not support an indictment. The court did not approve this position, and very properly; for as the Constitution provides that civil officers may be impeached for high crimes or misdemeanors, and nothing is known to the law as a high crime or misdemeanor which is not indictable, of course an impeachment for anything else would be improper.

If the position assumed by the managers in the Chase case, that a judge may be impeached for mere misbehavior in office, not amounting to an indictable offense, because such conduct is a breach of the tenure by which the judicial office is held, is correct, what would be its effect on the case which this committee now have in hand? If resort must be had to the clause of the Constitution which prescribes the tenure of the judicial office to justify an impeachment of a judge on account of conduct not known to the law as a crime, does it not reach too far to serve the purposes of those who would impeach the President of the United States because of acts for which he may not be indicted? The President holds his office by a different tenure. The Constitution says: "The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years." (Art II, sec. 1.) This provision of the Constitution stands firmly in the way of those persons who would tone down the term misdemeanor below the indictable standard by resorting to the clause fixing the judicial tenure. Judges hold their respective offices during good behavior; the President holds for a definite time—four years. If, therefore, the argument proves anything in the former case, it proves too much for the latter. If a judge may be impeached for nonindictable conduct because he holds his office during good behavior, it follows

logically that an officer who holds for a term of years can not be so impeached. This exposes the fallacy of the entire argument.

In 1830 the House of Representatives carried another impeachment to the Senate for trial. This was the case against James H. Peck, judge of the district court of the United States for the district of Missouri. The charge against Judge Peck was of high misdemeanor in office. But one article was presented, which set out with great particularity the facts on which the accusation was based and charged that the "said James H. Peck, judge as aforesaid, unmindful of the solemn duties of his station, and that he held the same, by the Constitution of the United States, during good behavior only, with intention wrongfully and unjustly to oppress, imprison, and otherwise injure Judge Edward Lawless, did, thereafter, at a term of the said district court of the United States for the district of Missouri, * * * arbitrarily, oppressively, and unjustly, and under color and pretense that the said Luke Edward Lawless was answerable to said court, * * * as for a contempt thereof," etc.; that he caused Lawless to be unlawfully arrested; that he unjustly, oppressively, and arbitrarily imprisoned said Lawless in the common prison and suspended him from practicing in said court, "to the great disparagement of public justice, the abuse of judicial authority, and to the subversion of the liberties of the people of the United States." (Trial of Judge Peck, 51.)

Peck filed a lengthy answer, in which he justified his conduct. He alleged that "in all the actions and doings of the respondent in the premises he avers that he was supported and justified by the Constitution and laws of the land." This was the issue tendered by the respondent. He did not rest upon any real or supposed weakness of the case, as presented by the House of Representatives, but boldly declared that his conduct was proper, lawful, and right. He elected to present an affirmative defense and to rely upon the strength of his own cause, and the court sustained him. The vote stood "guilty," 21; "not guilty," 22. (Ibid., 474.)

The next and last case of impeachment by the House of Representatives was that of West H. Humphries, judge of the United States district court for the several districts of the State of Tennessee, in 1862. Seven articles were preferred against Humphries. Each of them charged him in direct and indirect terms with the crime of treason, for they all occurred after the secession of South Carolina and the assembling of armed men to enforce and render successful the treasonable position assumed by that State. The South Carolina convention passed the ordinance of secession on the 17th day of December, 1860. The first criminal act laid to the charge of Humphries was alleged to have transpired on the 29th day of December, 1860, at which time he urged the people of Tennessee to secede, and thus made himself a party to the treason which had already levied war against the United States in South Carolina. The third article charged him with having, in conjunction with others, organized armed rebellion and levied war against the United States; and all of the other articles charged treasonable acts upon him. (Congressional Globe, vol. 48, p. 2277.) Humphries was convicted, as it was right he should be. He was charged with a crime against the known law of the land; he was a traitor against the Government of the United States.

Five cases only of impeachment have been presented to the Senate by the House of Representatives. One of them, as has been shown, was disposed of on a plea to the jurisdiction of the court, two resulted in the acquittal of the accused, and two in conviction.

An examination of the English cases will not, it is believed, lead to a different conclusion. Cases can doubtless be found wherein Parliament has exercised this high power in a most extraordinary manner and convicted persons upon charges not indictable. The power of Parliament over the subject is far greater than that which the two Houses of Congress can exercise over the citizen. The power of Parliament embraces impeachments, bills of attainder, and bills of pains and penalties. In times of high party excitement this power has been in some cases most shamefully and oppressively exercised. Excitement arising from other causes has sometimes put this irresponsible engine of good and evil into motion.

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When we take up the reports of the well-considered case of parliamentary impeachments, cases which were controlled by the judgments instead of the passions of men, we find but little difficulty in ascertaining the doctrines on which they rest. No unbiased mind can be misguided by them. They rest upon the known law of England, and were had for its enforcement. They exhibit the House of Lords sitting as a court and bound by the laws and rules which were observed by the other criminal courts of the realm, a court for the trial of offenders against laws which existed when the offenses were committed, and which looked into those laws to see whether or no the persons arraigned at its bar had violated a "rule of conduct prescribed by the supreme power of the State."

In the year 1724 the Commons impeached the Earl of Macclesfield, lord chancellor of England, of high crimes and misdemeanors, in that he had unlawfully sold offices, masterships in chancery, for his own private gain. He had realized large sums of money from this source. This case is given at length in 16 Howell, State Trials, and the conviction hinged exclusively on the fact that he had committed an indictable offense. Of this case Lord Campbell remarks: "There has been a disposition in recent times to consider that Lord Macclesfield was wrongfully condemned. 'The unanimity of his judges,' says Lord Mahon, 'might seem decisive as to his guilt, yet it may perhaps be doubted whether they did not unjustly heap the fault of the system on one man; whether Parker had not rather, in fact, failed to check gradual abuses, than introduced them by his authority or encouraged them by his example.' I must say that although it is impossible not to pity a man of such high qualities when so disgraced, and it must be acknowledged that, with good luck, notwithstanding all that he did, he might have escaped exposure and preserved an untarnished fame; yet, in my opinion, his conviction was lawful, and his punishment was mild. There can be no doubt that the sale of all offices touching the administration of justice (with the strange exception in favor of common law judges) was forbidden by the statute of Edward VI, and every chancellor who afterwards sold a mastership in chancery must have been aware that he was thereby violating that statute." (Lives of the Lord Chancellors, vol. 4, p. 554.)

The report of this case perfectly sustains this position of Lord Campbell. It establishes beyond doubt that had not Macclesfield's conduct been made criminal by the statute of Edward VI, he would not have been convicted. The action of both houses of Parliament outside of the case confirms this understanding of the record. Hatsell (vol. 4, 258), in a note to the case of Macclesfield, furnishes the following facts respecting the action had for the indemnity of the masters who had purchased offices of the lord chancellor. On the charge being sent to the House of Lords, Hatsell says: "The Commons immediately ordered in a bill for indemnifying the masters in chancery from the penalties of the act of fifth and sixth of Edward VI, chapter 16, against buying and selling offices, upon discovering what consideration they paid for their respective offices." The bill was quickly passed by both houses.

But we need not go outside of the very complete report of the case as given in the State trials to sustain the declaration that the proceedings would have resulted in an acquittal of Macclesfield had the charges made against him not involved indictable crimes. Not one of the several able managers for the Commons pretended to claim a conviction in the absence of proof of an indictable crime. The effort of the managers throughout the entire trial was to show that such crimes had been committed by the accused earl. They claimed that the acts with which he stood charged were crimes at common law, by the statute of 12 Richard II, and of Edward VI; in the language of one of the managers, "criminal by the common law and criminal by act of Parliament."

No unbiased mind can examine this case and arrive at a conclusion respecting it different from that which has been stated above. The doctrine of the case is, beyond all question, that an act, to be impeachable, must also be indictable.

The case was free from all passion, resentment, revenge, or partisan bias. It was well considered, and the vote in favor of conviction was unanimous. The case reflects the law of England respecting impeachments as well as any one that was ever tried by the House of Lords. The rules of law concerning crimes and their proof were observed and adhered to throughout, and Macclesfield was convicted because he was proved guilty of crimes declared by the law, and indictable in the courts of England.

The case of Warren Hastings is another full of instruction. No one can read the 22 articles preferred against Hastings and fail to discover a multitude of crimes prescribed by the law of England. Bribery, peculation, usurpation of powers, official corruption, official oppression, and extortion all appear in the long array of crimes laid to the charge of Hastings, and each of them was indictable in the criminal courts of the realm.

Of these crimes Burke, in his speech on the third day, said:

"As to the crime which we charge, we first considered well what it was in its nature and under all the circumstances which attended it. We weighed it with all its extenuations and with all its aggravations. On that review we are warranted to assert that the crimes with which we charge the prisoner at the bar are substantial crimes; that they are not errors or mistakes, such as wise and good men might possibly fall into; which may even produce very pernicious effects without being, in fact, great offenses. The Commons are too liberal not to allow for the difficulties of a great and arduous public situation. They know, too well, the domineering necessities which frequently occur in all great affairs. They know the exigency of a pressing occasion which in its precipitate career bears everything down before it, which does not give time to the mind to recollect its faculties, to reenforce its reason, and to have recourse to fixed principles, but, by compelling an instant and tumultuous decision, too often obliges men to decide in a manner that calm judgment would certainly have rejected. We know, as we are to be served by men, that the persons who serve us must be tried as men, and with a very large allowance indeed to human infirmity and human error. This, my Lords, we know, and we weighed before we came before you. But the crimes which we charge in these articles are not lapses, defects, errors of common human frailty, which as we know and feel we can allow for. We charge this offender with no crimes that have not arisen from passions which it is criminal to harbor; with no offenses that have not their root in avarice, rapacity, pride, insolence, ferocity, treachery, cruelty, malignity of temper; in short, in nothing that does not argue a total extinction of all moral principle, that does not manifest an inveterate blackness, dyed ingrain with malice, vitiated, corrupted, gangrened to the very core. If we do not plant his crimes in those vices which the heart of man is made to abhor, and the spirit of all laws human and divine to interdict, we desire no longer to be heard on this occasion. Let everything that can be pleaded on the ground of surprise or error upon those grounds be pleaded with success; we give up the whole of those predicaments. We urge no crimes that are not crimes of forethought. We charge him with nothing that he did not commit upon deliberation; that he did not commit against advice, supplication, and remonstrance; that he did not commit against the direct command of lawful authority; that he did not commit after reproof and reprimand, the reproof and reprimand of those who are authorized by the laws to reprove and reprimand him. The crimes of Mr. Hastings are crimes not only in themselves, but aggravated by being crimes of contumacy. They were crimes not against forms, but against those eternal laws of justice which are our rule and our birthright. His offenses are, not in formal, technical language, but in reality, in substance and effect, high crimes and high misdemeanors." (Burke's Works, vol. 7, pp. 13, 14.)

This is Mr. Burke's own interpretation of his articles against Warren Hastings. Apply to this the doctrine that acts which are malum in se are crimes at common law, and what must become of every attempt to torture this case into a prop to uphold the dangerous doctrine that public officers may be impeached for acts not known to the law as crimes or misdemeanors? It is believed safe to aver that every offense for which a conviction was really claimed by the managers on behalf of the Commons was known to the law of England as an indictable crime.

For some seven years the trial of this ponderous case "dragged its slow length along" before a conclusion was reached. During the whole trial the rules of the criminal law of England were applied to the case. Questions relative to which the Lords had doubts were submitted to the judges. The managers complained of some of the opinions of the judges, but the Lords followed the judges. The end of the case was an acquittal of Hastings. But it would be difficult to understand how this result could have been arrived at if the doctrine that an impeachment may be had for acts not indictable had been countenanced by the Lords, for no one can doubt that the evidence disclosed sufficient in the way of mistakes, errors, and misbehavior to justify a conviction under that doctrine.

The last English impeachment case was that of Viscount Melville in 1806. A very complete report of this case may be found in 29 How. S. T., 550 to 1482, inclusive, and it will well repay a careful perusal, as it was a thoroughly and calmly considered case, and undoubtedly presents the settled doctrine of the English law of impeachment.

Melville was treasurer of the navy, and the Commons charged him in 10 articles with having "fraudulently, corruptly, and illegally" used, and permitted others to use, the public money intrusted to him for private gain. Sir Samuel Romilly, solicitor general, who was one of the managers for the Commons, in his argument stated the case thus: "My Lords, the crimes imputed to the noble lord are of two kinds; they are offenses against the common law, and a direct breach of a positive act of Parliament. The first and the tenth articles of impeachment relate only to offenses at the common law, and the other articles comprise in them offenses at the common law and likewise

violations of the act of Parliament" (p. 1151). He insisted that Melville's acts were indictable crimes, and in no part of his argument did he claim, nor did any other manager for the Commons claim, that a conviction could be justified on any other ground than that the evidence disclosed an indictable offense. No one during the entire course of the proceeding and trial questioned that such was the law of England.

At the close of the case the Lords sent three questions to the judges, substantially directing them to inform the House whether the facts recited constituted such unlawful proceedings on the part of Melville as "would have been a misdemeanor or punishable by information or indictment." The judges answered that they were not such unlawful acts as could be thus punished (pp. 1469–1471). Melville was thereupon acquitted upon each of the 10 articles preferred against him. And this closes the list of parliamentary impeachments in England.

Cases can be found in parliamentary history in conflict with the doctrine stated. But that it would be wise, safe, or lawful for the House of Representatives to follow such cases is utterly denied. If we are to be guided at all by English cases, let us resort to those which were the best considered, the latest, the most calmly tried, the most enlightened to be found on the records of Parliament, and not those that were molded in the midst of revolution, directed by passion, and decided by unreasoning prejudice.

No precedent should be followed which is not founded in reason. The enlightenment of the present day should not be obscured, nor its progress obstructed, by the follies, mistakes, or passions of men who passed away centuries ago. Who would think of respecting the infamous ruling of Jeffreys in Sidney's case because it was the act of a judge upon the bench? And yet who does not know that many of the parliamentary impeachments were as full of passion and as void of law as the court in which Sidney, and Russell, and Armstrong, and Baxter were tried?

The idea that the House of Representatives may impeach a civil officer of the United States for any and every act for which a parliamentary precedent can be found is too preposterous to be seriously considered. However well such precedents may answer present purposes, they may return to plague those who give them countenance. Those who hold to the doctrine that the "Senate is the sole judge" of what are high crimes and misdemeanors, and that "there is no revising court" (Am. Law Reg., Sept., 1867, p. 660), forget how often appeals in this country are carried from Senates, Congresses, Presidents, and courts to the high tribunal of the people at the ballot box, and how inexorable are the mandates of reversal which proceed therefrom. The history of this country is crowded full of such appeals and of their results.

The Constitution provides that the judges, both of the Supreme Court and inferior courts, shall hold their office during good behavior. In the discussion of the case much importance has been attached to this clause. It seems to be the opinion of some that because the Constitution provides that a judge shall hold his office during good behavior the Senate can remove him for any act, regardless of its character or quality, if in its judgment it regards such an act misbehavior. The Senate is absolutely without jurisdiction to determine when a judge has been guilty of misbehavior which deprives him of the right to hold office except on the trial of impeachment proceedings. The only acts for which the Senate can remove a judge is when he is found guilty of treason, bribery, or other high crimes and misdemeanors.

The clause of the Constitution relating to the holding of office during good behavior has nothing whatever to do with the jurisdiction of the Senate of the question of removal. If the clause was entirely eliminated from the Constitution, still if the Senate should find that the accused had been guilty of treason, bribery, or high crimes or misdemeanors its power to adjudge a removal would be complete.

In conclusion, I desire to say that I do not believe Judge Archbald used his official position to aid him in the prosecution of business transactions. If I had any doubt about it, his 28 years' service as an impartial and upright judge would remove it.

T. H. PAYNTER.

OPINION OF MR. SIMMONS.

Mr. SIMMONS. Mr. President, in explanation of my votes, pursuant to consent given by the Senate, on the articles of impeachment against Robert W. Archbald, charging misbehavior in office while he held the office of district judge—an office which he did not hold at the time the Senate voted upon his impeachment—I wish to state I voted "not guilty" on these articles for the reason that I was in doubt as to whether we had the right to impeach the respondent for acts committed in an office which he no longer held, and I felt it my duty to give the respondent the benefit of this doubt.

The thirteenth article of impeachment charged the said Archbald with sundry acts of misconduct while he was district judge, and with sundry acts of misconduct while he was circuit judge, the latter being the office held by him at the time the Senate voted upon the articles of impeachment. I voted "guilty" upon this article because, in my opinion, the charge contained therein was sustained if he was guilty of some of the material acts of misconduct therein charged while he was holding the office of circuit judge.

EIGHT-HOUR LAW.

The PRESIDENT pro tempore. The morning business is closed.

Mr. WARREN. Agreeably with the notice given by me, I now ask to take up Senate bill 26680, the legislative, executive, and judicial appropriation bill.

The PRESIDENT pro tempore. The Senator from Wyoming ask that the Senate take up for consideration House bill 26680. Without objection, it will be so ordered.

Mr. SHIVELY. Will the Senator yield while I put a request to pass a bill on the calendar? It should not take three minutes to pass it.

Mr. WARREN. I do not like to deny the Senator. If it leads to no debate and if I am at liberty to yield, I shall be glad to do so, but I hope there will be no other request of that kind made.

Mr. SHIVELY. I conceive that it will not lead to debate. It is House bill 18787.

The PRESIDENT pro tempore. The Senator from Indiana asks for the present consideration of House bill 18787. Is there objection?

Mr. GALLINGER. Let it be read for information.

The PRESIDENT pro tempore. The Secretary will read the bill.

The Secretary read the bill (H. R. 18787) relating to the limitation of the hours of daily service of laborers and mechanics employed upon a public work of the United States and of the District of Columbia, and of all persons employed in constructing, maintaining, or improving a river or harbor of the United States and of the District of Columbia.

Mr. BURTON. I should like to inquire what change is made in the existing law by this proposed act?

Mr. SHIVELY. Mr. President, only this change is proposed to be made in the existing law: The courts have decided that workers on dredges engaged in the Government service fall in the category of sailors, and have therefore held them to be subject to maritime jurisdiction. This bill simply proposes to extend the eight-hour principle to the workers on dredges just as it is extended to workers on other public works.

Mr. BURTON. That is, it proposes to extend it to those engaged on dredges employed by contractors who are doing river and harbor work for the Government?

Mr. SHIVELY. Yes.

Mr. BURTON. From what committee does this bill come?

Mr. SHIVELY. From the Committee on Education and Labor.

Mr. CLARKE of Arkansas. Mr. President, the answer of the Senator from Indiana [Mr. SHIVELY] to the question propounded by the Senator from Ohio [Mr. BURTON] makes it necessary for me to ask another question. In the general eight-hour law an exception was made in favor of such work as was done upon the levees and upon the beds of streams in connection with bank protection and other safeguards against overflows. Dredging is a feature of that work at times. I should like to have an opportunity to see to what extent this proposed law would modify that. It is very undesirable to modify it at all, because that work is, in its nature, emergency work. If it would suit the Senator from Indiana to permit this matter to go over for a little while, I should be glad. That would afford me an opportunity to make the comparison between the two, with a view to determining whether this proposed law interferes with the recent action of Congress.

Mr. SHIVELY. Mr. President, when I called up this bill I engaged with the Senator from Wyoming [Mr. WARREN] that there would not be much time consumed in debate on it. Under the circumstances, I feel bound to let the bill go over.

Mr. CLARKE of Arkansas. Very well. I will promise the Senator that I will not unduly delay the consideration of the bill.

The PRESIDENT pro tempore. The bill goes over.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, which had been reported from the Committee on Appropriations with amendments.

Mr. WARREN. Mr. President, I ask unanimous consent to dispense with the formal reading of the bill and that it be read first for committee amendments, other amendments to follow.

The PRESIDENT pro tempore. The Senator from Wyoming asks unanimous consent that the formal reading of the bill be dispensed with and that the bill be now read for the consideration of committee amendments.

Mr. JONES. Mr. President, it seems to me that the policy we pursued at the last session with reference to offering amendments was a good one, and that the bill should be read, not only for committee amendments, but for all other amendments.

Mr. WARREN. Mr. President, I am perfectly willing to withdraw my request, but, as the Senator understands, unless we pursue this course, the bill will be formally read; the amendments will not be considered on that reading; and, then, there will have to be a second reading for amendments. I think Senators will understand the bill better if we proceed as I have indicated, by dispensing with the formal reading of the bill and considering the committee amendments as we go along.

Mr. JONES. I do not want to object to that part of the request, but the idea I had was that, if the bill is read for amendment, all amendments, whether committee amendments or amendments offered by Senators, might be considered as the reading proceeds; otherwise we will be compelled to wait here until the bill is read clear through and all the committee amendments have been disposed of before any individual amendments can be offered from the floor.

Mr. WARREN. Mr. President, in reply to that statement I have this to say: Oftentimes a Senator—and I think all should be here when the bill is being considered—will find what he seeks in some other part of the bill and he is better equipped to offer his amendment after the committee amendments have been disposed of.

Mr. JONES. I will say to the Senator that I know what amendments I intend to offer, and they are not in the bill.

The PRESIDENT pro tempore. Does the Senator make any motion in regard to it? The question before the Senate is the request of the Senator from Wyoming [Mr. WARREN], that the formal reading of the bill be dispensed with and that it be read for amendment, the committee amendments to be first considered.

Mr. JONES. I do not object at all to dispensing with the formal reading of the bill. I agree that that shall be done; and then I ask that the bill be read for amendment, so that all amendments may be considered.

Mr. WARREN. Mr. President, I withdraw my request.

The PRESIDENT pro tempore. The Senator from Wyoming withdraws his request. The Secretary will proceed with the reading of the bill.

Mr. LODGE. Mr. President, there is no objection, certainly, to dispensing with the formal reading of the bill.

The PRESIDENT pro tempore The Senator from Wyoming withdrew his request to that effect.

Mr. LODGE. Then, I ask that the formal reading of the bill be dispensed with.

Mr. WARREN. Of course, I am willing that any other Senator shall take charge of the bill if he thinks he is more competent.

Mr. LODGE. It is not a question of competency. I was simply seeking to save the time of the Senate.

Mr. WARREN. The question about the formal reading has come up here several times in the past, and sometimes there seems an insinuation that somebody wants to prevent enough reading of bills, so that I think that we ought to proceed under the rule.

Mr. LODGE. Mr. President, the Senator from Washington, as I understood, simply asked for a modification of the usual request in regard to amendments. Because he has made that request, it seems rather hard that the formal reading of this long bill shall therefore be inflicted upon the Senate.

The PRESIDENT pro tempore. The bill will have to be read at some time.

Mr. LODGE. Of course the bill is read when it is read for amendment. The Chair, of course, is aware, as I am, that there is no provision in the rules for the formal reading. A bill has to be read; and if it is read for amendment it entirely covers the requirement of the rule. The formal reading is a mere habit. After the bill is read formally, then you simply offer the amendments. If you read it for amendment, the same result is obtained.

The PRESIDENT pro tempore. The Secretary will proceed with the reading of the bill.

The Secretary read the bill.

Mr. WARREN. On page 2, lines 24 and 25, is the first amendment of the committee.

The PRESIDING OFFICER (Mr. LODGE in the chair). It will be stated.

The first amendment of the Committee on Appropriations was, under the head of "Legislative," subhead "Senate," in the item of appropriation for the maintenance of the office of the Secretary, on page 2, line 24, after the words "harbor bill," to insert the name "Woodbury Pulsifer," so as to read:

Compiler of Navy Yearbook and Senate report on river and harbor bill, Woodbury Pulsifer, $2,220.

The amendment was agreed to.

Mr. CHAMBERLAIN. Mr. President, I rise to a parliamentary inquiry. I suppose that amendments which Senators may desire to offer will be considered after the committee amendments are disposed of.

Mr. WARREN. There is no such inhibition. The bill is open for amendments to be offered as we go along. The privilege of considering committee amendments first was denied, so that the bill is open to amendment now.

Mr. CHAMBERLAIN. I desire to offer an amendment on page 2, and that was the reason of my inquiry.

Mr. CLARKE of Arkansas. It can be offered at any time.

Mr. WARREN. The next amendment of the committee is on page 7, unless the Senator from Oregon wants to put in an amendment now.

Mr. CHAMBERLAIN. I desire to offer an amendment on the second page.

The PRESIDING OFFICER. It will be read.

The SECRETARY. On page 2, line 15, after the amount "$3,250," and before the semicolon, insert "and $1,250 additional while the office is held by the present incumbent," so as to read:

Chief clerk, $3,250, and $1,250 additional while the office is held by the present incumbent.

Mr. WARREN. Mr. President, I have only this to say: The committee, in considering salary advancements of that kind, have felt indisposed to enter into the field at this time, believing that such advancements should pass over to the next Congress, which will take charge of the appropriations under a different régime.

This increase was not estimated for, but I shall make no point of order on that account. It is for the Senate to decide. But on this and other questions of a similar character I want to have it understood where the committee stands.

The committee has no desire to control arbitrarily these salaries, but it would submit the committee and the Senate itself to criticism to raise a line of salaries at this time, just as the administration and control of one side of the Chamber is about to change to the other.

That is all I have to say.

Mr. CHAMBERLAIN. Mr. President, I desire to say, in reply to the Senator from Wyoming, that this is not an innovation on the practice that the Senate has followed heretofore in recognizing efficient service performed by men who have been in the employ of the Senate for a great many years. This amendment proposes to increase the salary of the Chief Clerk, who has been in the service of the Senate for more than 30 years, and he not only acts as Chief Clerk but he acts as parliamentarian of the Senate as well. It is unnecessary for me to call the attention of the Senate to the efficient service that he has rendered at all times to the Vice President of the United States in matters that come before him. For the same service that he is rendering here, in the House of Representatives, I think, $4,250 or $4,500 is paid. The provision which I suggest ends with the term of the present incumbent, and the salary would then go back to the original amount. I hope the Senate will adopt the amendment.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Oregon [Mr. CHAMBERLAIN].

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in the item of appropriation for clerks and messengers to committees of the Senate, on page 7, line 3, before the word "messenger," to strike out "assistant clerk, $1,440," and, in line 13, after the words "in all," to strike out "$370,940" and insert "$369,940," so as to read:

Assistant clerk $1,800, messenger $1,440; Railroads—clerk $2,220, messenger $1,440; Revolutionary Claims—clerk $2,220, messenger $1,440; Rules—clerk $2,220, assitant clerk $1,800, messenger $1,440; Standards, Weights, and Measures—clerk $2,220, messenger $1,440; Territories—clerk $2,220, assistant clerk $1,440, messenger $1,440; Transportation and Sale of Meat Products—clerk $2,220, messenger $1,440; Transportation Routes to the Seaboard—clerk $2,220, messenger $1,440; University of the United States—clerk $2,220, messenger $1,440; Woman Suffrage—clerk $2,220, messenger $1,440; in all, $369,940.

The amendment was agreed to.

Mr. WARREN. I ask the Chair to instruct the Secretary to check up all totals, because the amendments that come in from time to time will change the totals. It is better to do that way than to undertake to change them as we go along.

The PRESIDING OFFICER. Without objection, that order will be made, and the Secretary will correct the totals as requested.

The next amendment of the Committee on Appropriations was, on page 7, after line 14, to insert:

For additional amount for the clerk to the Committee on Rules for revising and preparing for publication biennially, under the direction of the committee, the Senate Manual, to be immediately available, $1,000.

The amendment was agreed to.

Mr. PENROSE. I desire to offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment proposed by the Senator from Pennsylvania will be stated.

The SECRETARY. On page 7, in lines 22 and 23, it is proposed to strike out the words "two thousand five hundred and ninety-two dollars" where they occur and to insert in lieu thereof "three thousand dollars," so as to read:

Assistant Doorkeeper, $3,000; Acting Assistant Doorkeeper, $3,000.

Mr. WARREN. Mr. President, I wish to say that my remarks just now made as to another amendment are applicable here. I think I ought to say, however, that during the period in which I have had charge of this bill all, or nearly all, of these Senate employees' salaries have been raised, and it has been my pleasure to be one of the most liberal of all Senators. I do not object to the amendment, but I leave it in the same manner that I did the other—for the Senate to vote upon. I suggest, however, to the Senator that it ought to apply to these particular officials on both sides of the Chamber.

Mr. PENROSE. As I understand the amendment, it is applied to both sides.

Mr. CLARKE of Arkansas. Let the amendment be again stated.

The PRESIDING OFFICER. The amendment will be again stated.

The Secretary again read the amendment proposed by Mr. PENROSE.

Mr. CLARKE of Arkansas. What is the effect of that amendment?

Mr. PENROSE. The effect of it is to raise the salaries of the Assistant Doorkeeper and the Acting Assistant Doorkeeper, covering the Democratic and Republican officials in this Chamber holding those places. Their salaries, I understand, have not been changed for 40 years. This is putting them back to the condition which existed when Mr. Bassett held the position of Assistant Doorkeeper of the Senate. I think it is a very fair, meritorious, and well-earned increase.

Mr. CLARKE of Arkansas. What particular circumstance directs attention to these particular positions at this particular time, just at the end not only of a Congress but at the end of an administration?

Mr. PENROSE. The end of the administration has nothing to do with this Congress. When the Senate is organized by our friends on the other side of the Chamber the caucus nominee, who will then be the Assistant Doorkeeper, will be the beneficiary of this salary.

Mr. CLARKE of Arkansas. Nobody ought to be the beneficiary of it unless it is right. What are the grounds for insisting upon this increase at this time—the high cost of living?

Mr. PENROSE. The ground, Mr. President, is that these salaries have not been raised for 40 years.

Mr. CLARKE of Arkansas. Is there any rule which requires salaries to be raised every 40 years?

Mr. PENROSE. No; but a large number of other salaries in connection with positions in and about this Chamber have been raised. As I understand, when Mr. Bassett was here he had an appropriation which made the salary the equivalent of the one which this amendment will make it, and I sincerely hope that the Senator from Arkansas will not make any opposition, or, at least, that he will let the amendment go to conference.

Mr. CLARKE of Arkansas. Very well.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, in the item of appropriation for the maintenance of the office of Sergeant at Arms and Doorkeeper, on page 8, line 14, after the word "session," to strike out "$8,440" and to insert "$8,480," so as to read:

Sixteen pages for the Senate Chamber, at the rate of $2.50 per day each during the session, $8,480.

The amendment was agreed to.

The next amendment was, after the amendment just adopted, on page 8, line 15, to insert:

And the accounting officers of the Treasury Department are hereby directed to credit the Secretary of the Senate in the sum of $200 under the appropriation entitled "Salaries, officers, and employees, Senate, 1913," being the amount paid 16 pages of the Senate at the rate of $2.50 per diem for the five days remaining of the month of August, 1912, after the day of adjournment, and for said purpose the sum of $200 is hereby appropriated, said sum to be immediately available.

The amendment was agreed to.

Mr. BRISTOW. I should like to inquire of the chairman of the committee whether there is not an omission of a word in lines 20 and 21, on page 6, "clerk of printing records." Does not that refer to the clerk of a committee?

Mr. WARREN. As to what amendment?

Mr. BRISTOW. The provision on page 6, line 21. Is not the name of a committee omitted at that point?

Mr. WARREN. No; I think not.

Mr. BRISTOW. Just after the provision in reference to the Committee on Post Offices and Post Roads.

Mr. WARREN. "The clerk of printing records." That is not a committee at all, but it is authorized under the law, and a Senate clerk looks after that printing; but it does not really belong to any committee.

Mr. BRISTOW. I refer to the point where it reads:

Assistant clerk, $1,800; messenger, $1,440.

Mr. WARREN. They are the assistants of this man.

Mr. BRISTOW. Where are they employed?

Mr. WARREN. They are employed between the Printing Office and the Capitol, back and forth.

Mr. BRISTOW. They are put in here as though they were committee clerks. That is the reason I made the inquiry.

Mr. WARREN. That may be true; but the item is in the same position where it was originally put, and we saw no reason to change it. It is the existing law.

Mr. SWANSON. Mr. President, I offer the amendment which I send to the desk, to come in on page 29, line 11.

The PRESIDING OFFICER. The Senator from Virginia offers an amendment, which will be stated. The Chair, however, will state to the Senator from Virginia that that point in the bill has not yet been reached. Of course the Senator has a right to offer the amendment to any part of the bill if he so desires.

Mr. WARREN. We shall get to that in a few moments.

Mr. SWANSON. I have a very urgent engagement, and I should like to offer the amendment at this time.

The PRESIDING OFFICER. The amendment proposed by the Senator from Virginia will be stated.

The SECRETARY. On page 29, line 17, after the word "watchmen," it is proposed to strike out "$720" and to insert in lieu thereof "$900."

Mr. SWANSON. Mr. President, I should like to say in this connection that this amendment is to increase the salaries of the 17 men who are designated as watchmen, but who are really policemen for the Library. The policemen of the Capitol get $1,050, and $720 is all that these men have been getting since the completion of the Library, though the cost of living has greatly increased. This increase of salary has been recommended by Maj. Green, who was Superintendent of the Library for a great many years; but, through some oversight, there has been no increase. The men who are watchmen or policemen for the Library are a very fine class of men; it requires men of a high class of efficiency. They work eight hours a day and alternate day and night. It seems to me a salary of $900 is not excessive for these men.

Mr. CLARKE of Arkansas. Mr. President, it seems that we have set out here upon a systematic increase of salaries, without any definite basis upon which to fix them. This just seems to be an opportunity when things are going along easily that anybody who wants anything has only to butt in and get it. The services of the gentlemen who are to be the beneficiaries of this increase, as they are described by the Senator from Virginia [Mr. SWANSON], are not very onerous. The Library is not a place where criminals assemble, these men have no police duties to perform, and they are there but for the very extensive term of eight hours a day.

Mr. WARREN. Will the Senator from Arkansas allow me to interrupt him?

Mr. CLARKE of Arkansas. Certainly.

Mr. WARREN. They are not policemen; they are watchmen.

Mr. CLARKE of Arkansas. I was getting to that. I understood what the Senator from Virginia had said. He said that they were virtually policemen at that place. No policemen are required there; it is not a place where the services of an ordinary policeman are needed. They are simply to direct persons where to go. The service is a very light one, and the compensation provided by law is a very ample one. If it is intended to set out upon a readjustment of salaries, then we ought to do it in a systematic way, so that we may know who is being underpaid and who is being overpaid, and may cut down the salaries of those who are receiving more pay than they ought to have. It is quite the fashion here to take some extremely meritorious case as it is detailed by some particular Senator and make an allowance in one man's favor that when applied and confined to that particular person would not seem excessive on that occasion. Frequently his disabilities are taken advantage of as the foundation of the demand. Then the very next thing you know that circumstance is advanced as a reason why the salary of everybody else should be increased and a comparison is instituted between that particular person and others who render service of equal importance.

I am opposed to these increases without a systematic investigation by some responsible committee of the Senate. I think the amendment is subject to a point of order. It has not been reported from a committee and it is not estimated for. So I make the point of order against its further consideration.

Mr. SWANSON. Mr. President, I desire to occupy simply a few moments. These men receive $60 per month. They have to support their families and they work eight hours a day and alternate in the night work. As I have said, it takes a very fine class of men to fill these positions. More people visit the Library than visit the Capitol. Nearly everybody who comes to Washington as a visitor goes to the Library; it is crowded. The work of these men is heavy all the time, and, upon investigation, I am satisfied they are the poorest paid employees of the Government.

The Senator has well said that it is very easy to get increases in many cases, but I have noticed the increases are generally for the higher officials, and that the men who work and toil have much difficulty in securing proper increases. I do not know whether or not this bill carries an increase for the high officials of the Library, but I have noticed the antagonism to increases is generally directed to the employees who are paid the lower salaries. It takes more than an ordinary man to do this work in the Library.

Mr. CLARKE of Arkansas. If the Senator will permit the Chair to rule upon the point of order, it may not be necessary for me to reply.

Mr. SWANSON. I know the point of order has been interposed. I simply wish to put in the RECORD the reasons why these men should have their salaries increased, as I would not like to let pass unchallenged the statement of the Senator from Arkansas that they are amply compensated. There has been no increase in the salary of these employees, and anybody who visits the Library must know that it is crowded all the time. These men work excessively, and I know of no class of employees of this Government who receive so small a compensation for the class of work they perform as the watchmen at the Library. I hope the Senator will not make any point of order against the amendment.

Mr. CLARKE of Arkansas. I will have to disappoint the Senator; I insist upon the point of order.

The PRESIDING OFFICER. The amendment is clearly obnoxious to the rule. The Chair sustains the point of order.

The next amendment of the Committee on Appropriations was, at the top of page 9, to insert:

For the following for service of the Senate Chamber (heretofore paid from appropriation "Miscellaneous items on account of the Maltby Building"), namely: Messengers—4 at $1,440 each, 1 at $1,000; laborers—3 at $800, 5 at $720 each; in all, $12,760.

Mr. SMITH of Georgia. Mr. President, when the legislative, executive, and judicial appropriation bill was being considered at the last session, objection was made to the Maltby Building pay roll, and I wish to renew the objection. Nothing is going on there that requires any such force, and this is simply a way, it seems to me, of using the employees somewhere else.

Mr. WARREN. Will the Senator permit me a moment?

Mr. SMITH of Georgia. Yes.

Mr. WARREN. These men are now and have been for a long time employed here at the Senate doors.

Mr. SMITH of Georgia. I understand that.

Mr. WARREN. We have closed the Maltby Building, so far as any employees of the Senate are concerned. This amendment only refers to those who are daily employed here.

Mr. SMITH of Georgia. I understand that, Mr. President, and that is just what I am objecting to. I object to carrying on the pay roll as for the Maltby Building men who are not for the Maltby Building. If they are needed here, I do not object to them here, but I object to the system of appropriating for men for one place when in reality we are going to use them somewhere else. I think the bill should show where these employees are to be used, if they are to be used.

Mr. WARREN. Mr. President, I will say to the Senator that his wish is exactly mine and that of the committee, but the bill came over from the House with an entire cutting out of any reference to the Maltby Building. They did not understand the matter. I have here the list of these employees, and if the Senator wishes it to go into the RECORD, it can go in. The intention, of course, is when the next appropriation bill is taken up to have them estimated for among the employees in the regular way, but the committee had no authority to estimate for them, and the House, not understanding the situation, said that they would no longer make provision for the support of the Maltby Building as a Senate proposition, although they intended to use it, perhaps, for the overflow of their Members, and left it out. So the only way we can reach the matter is that provided in the bill. The employees covered by the amendment are not for the Maltby Building. As the Senator will notice, the amendment reads:

For the following for service of the Senate Chamber (heretofore paid from appropriation "Miscellaneous items on account of the Maltby Building"), etc.

I am entirely in sympathy with the Senator's idea about it. If the Senator wishes the list of the employees, I have it here and it can be put in the RECORD.

Mr. SMITH of Georgia. I have said all I care to say about it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, on page 9, line 9, before the word "attendant," to strike out "two messengers, at $1,440 each," and in line 14, after the words "in all," to strike out "$13,500" and to insert "$10,620," so as to make the clause read:

For the following for Senate Office Building under the Sergeant at Arms, namely: Stenographer in charge of furniture accounts and keeper of furniture records, $1,200; attendant in charge of bathing rooms, $1,800; 2 attendants in bathing rooms, at $720 each; 3 attendants to women's toilet rooms, at $720 each; janitor for bathing rooms, $720; 2 messengers, acting as mail carriers, at $1,200 each; messenger for service to the press correspondents, $900; in all, $10,620.

The amendment was agreed to.

The next amendment was, on page 10, line 11, before the word "annual," to strike out "thirty-five" and insert "thirty," and, in line 13, after the word "each," to strike out "$70,000" and insert "$60,000," so as to make the clause read:

Clerks to Senators: For 30 annual clerks to Senators who are not chairmen of committees, at $2,000 each, $60,000.

The amendment was agreed to.

The next amendment was, on page 10, line 15, before the word "stenographers," to strike out "twenty-two" and insert "twenty-three"; in line 17, before the word "minority," to strike out "the three junior" and insert "three"; and in the same line, after the word "each," to strike out "$30,000" and insert "$31,200," so as to make the clause read:

Stenographers to Senators: For 23 stenographers to Senators who are not chairmen of committees, and 3 stenographers to the chairman of three minority committees, at $1,200 each, $31,200.

Mr. BRISTOW. Mr. President, there is one amendment which the Secretary seems to have omitted. Is it proposed that the amendments shall be jumped just as is done when the bill is being read?

The PRESIDING OFFICER. The Chair will call the attention of the Senator to the fact that it was agreed that the Secretary should correct all totals throughout the bill, so that the amendments correcting totals are omitted from the reading.

Mr. BRISTOW. Very well; I was absent at the time that was done.

Mr. WARREN. It is a safer way.

The PRESIDING OFFICER. The question is on agreeing to the amendment stated by the Secretary.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, on page 11, after line 15, to insert:

For removal and expenses incident thereto of the documents now in a rented warehouse to a building or buildings owned by the Government, including the Maltby Building, and building or buildings on squares 634 and 685, to be under the supervision of the Sergeant at Arms of the Senate and Superintendent of the Capitol Building and Grounds, to whom authority is hereby given, to be immediately available, $3,500.

The amendment was agreed to.

The next amendment was, on page 11, after line 23, to insert:

For shoring building or buildings made necessary on account of removal of documents, including material, under the direction of the Superintendent of the Capitol Building and Grounds, to be immediately available, $1,200.

The amendment was agreed to.

The next amendment was, on page 12, line 7, after the word "page," to strike out "$25,000" and insert "$50,000," so as to make the clause read:

For expenses of inquiries and investigations ordered by the Senate, including compensation to stenographers to committees, at such rate as may be fixed by the Committee to Audit and Control the Contingent Expenses of the Senate, but not exceeding $1.25 per printed page, $50,000.

The amendment was agreed to.

The next amendment was, under the subhead "Capitol Police," on page 12, line 11, before the word "lieutenants," to strike out "two" and insert "three"; in line 13, before the word "privates," to strike out "thirty-three" and insert "sixty-seven"; and in line 16, after the words "in all," to strike out "$41,250" and insert "$78,150," so as to make the clause read:

For captain, $1,800; 3 lieutenants, at $1,200 each; 2 special officers, at $1,200 each; 67 privates, at $1,050 each; one-half of said privates to be selected by the Sergeant at Arms of the Senate and one-half by

the Sergeant at Arms of the House of Representatives; in all, $78,150, one half to be disbursed by the Secretary of the Senate and the other half to be disbursed by the Clerk of the House of Representatives.

The amendment was agreed to.

The next amendment was, on page 12, line 19, after the word "expenses," to strike out "$200" and insert "$300," so as to make the clause read:

For contingent expenses, $300, one half to be disbursed by the Secretary of the Senate and the other half to be disbursed by the Clerk of the House of Representatives.

The amendment was agreed to.

The next amendment was, under the subhead "Joint Committee on Printing," on page 12, line 23, after the word "Printing," to insert the name "George H. Carter," so as to make the clause read:

For clerk to the Joint Committee on Printing, George H. Carter, $3,000.

Mr. SMITH of Georgia. Mr. President, I object to that. It does not seem to me that the name of that clerk ought to be inserted.

Mr. SMOOT. Mr. President——

Mr. WARREN. Just a moment. I simply desire to say that this has been done heretofore in both the House and the Senate, where the man employed is one who is so peculiarly fitted and is so valuable that it is thought best to give him a permanent place. In this case there seemed to be assent on the part of all parties interested on both sides, and that is the reason for the committee inserting the name in this case as they have done in some other cases.

Mr. SMITH of Georgia. I do not think it ought to be done, and I object to the insertion of names in an appropriation that attaches the permanent office by legislative enactment.

Mr. WARREN. It is only for one year.

Mr. SMITH of Georgia. I think the matter ought to be left open for the action of those in authority.

Mr. SMOOT. Mr. President, it would have that effect for only one year. I will say to the Senator there is not a member of the committee of whom I know who is not in favor of putting the name of George H. Carter in the bill. One who has not been on the committee can hardly realize the amount of detail work that has to be taken care of by this committee, and Mr. Carter is eminently fitted and qualified for the place as is no other man in the United States. I understand that Senators on the other side of the Chamber have made the request that his name go in, and I certainly hope the Senator will not object to it. I am positive that if the Senator knew the work the man has to do and the qualifications he has for it, he would not object to it.

Mr. SMITH of Georgia. No doubt if I agreed with that view and were on the committee I would vote for the retention of the services of this gentleman, if I had the privilege of voting for it. I do not know anything about him, and it is not with any view of striking at him. I simply believe that the proper way to legislate is to leave out the name and not undertake to fill the office by legislation instead of by appointment.

Mr. SMOOT. Ordinarily that is true.

Mr. SMITH of Georgia. If I were on the committee and the services of this man were as indicated, I would be in favor of keeping him, and I have no doubt, from what the Senator says, that his services are of that character. I do not mean at all that I am in favor of changing such an employee. I think the good of the service should be first considered and that no changes should be made where the good of the service would be sacrificed; and I merely repeat that it is not in opposition to this gentleman, because I only caught the name here this morning and had before heard nothing about it; but I do not believe in putting in names in legislation.

Mr. OWEN. Mr. President, I observe that the same thing has been done in other cases, for instance, on page 2, where Mr. Pulsifer's name has been put in. I do not know Mr. Pulsifer or Mr. Carter, either one, but I do not think it is good practice, because it makes an exception in these cases, which, I presume, is based in each of these two cases on the peculiar fitness of these gentlemen; but if they should die the place which is expressly for them would be vacant, and this appropriation being made expressly for this individual person, if the person should resign or find it expedient to separate himself from the office for any reason, it would leave no appropriation for the office, because this appropriation is made expressly for Mr. Pulsifer and Mr. Carter.

I do not think it is a good practice, and I do not think the Senate ought to follow the practice. It has been done, I know, in previous years in several cases where the officers have been of extraordinary service, and I had not been inclined to make any objection to it heretofore, but I do not think it ought to be extended. It has now been done in a number of cases. I do not think it is good practice, and I do think the Senator from Georgia is right.

Mr. SMOOT. I want to call the attention of the Senator to the fact that there are in the House two or three cases similar to this, and I am positive good will come from this amendment if it is allowed to stand.

Mr. SMITH of Georgia. How many of those are there?

Mr. SMOOT. I think there are five altogether.

Mr. CLARKE of Arkansas. How many are there in other bills?

Mr. SMOOT. As I remember, five are all there are in all the appropriation bills.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, under the subhead "House of Representatives," on page 15, line 7, after the word "each," to insert "assistant engineer, $1,200"; in line 12, before the word "laborers," to strike out "four" and insert "three"; and in the same line, after the words "in all," to strike out "$40,300" and insert "$40,700," so as to make the clause read:

Under Superintendent of the Capitol Building and Grounds: Chief engineer, $1,900; 3 assistant engineers, at $1,300 each; assistant engineer, $1,200; 24 conductors of elevators, including 14 for service in the House Office Building, at $1,200 each, who shall be under the supervision and direction of the Superintendent of the Capitol Building and Grounds; machinist, $1,300; electrician, $1,200; 3 laborers, at $800 each; in all, $40,700.

The amendment was agreed to.

The next amendment was, under the subhead "Library of Congress," on page 23, line 17, before the word "junior," to insert "one $540," and in line 18, after the words "in all," to strike out "$3,480" and insert "$4,020," so as to make the clause read:

Mail and delivery: Assistant in charge, $1,500; assistants—one $900, one $720, one $540; junior messenger, $360; in all, $4,020.

The amendment was agreed to.

The next amendment was, at the top of page 25, to insert:

To pay Etta J. Giffin, assistant in charge of division for the blind, her salary for the months of July, August, and September, 1912, to be immediately available, $300.

The amendment was agreed to.

The next amendment was, on page 26, line 15, after the word "each," to strike out "three" and insert "four," and, in line 22, after the words "in all," to strike out "$100,780" and insert "$102,580," so as to make the clause read:

Copyright office, under the direction of the Librarian of Congress: Register of copyrights, $4,000; assistant register of copyrights, $3,000; clerks—4 at $2,000 each, 4 at $1,800 each, 7 at $1,600 each; 1 $1,500, 8 at $1,400 each, 10 at $1,200 each, 10 at $1,000 each; 18 at $900 each, 2 at $800 each, 10 at $720 each, 4 at $660 each, 2 at $480 each; 4 junior messengers, at $360 each. Arrears, special service: Three clerks, at $1,200 each; porter, $720; junior messenger, $360; in all, $102,580.

The amendment was agreed to.

The next amendment was, on page 29, line 11, before the word "watchmen," to strike out "sixteen" and insert "seventeen"; in line 13, before the word "each," to strike out "$480" and insert "$540"; in line 16, before the word "charwomen," to strike out "forty-seven" and insert "fifty-two"; in line 17, after the word "electrician," to strike out "$1,200" and insert "$1,500"; and in line 20, after the words "in all," to strike out "$72,185" and insert "$75,245," so as to make the clause read:

Custody, care, and maintenance of Library building and grounds: Superintendent, $5,000; chief clerk, $2,000; clerks—1 $1,600, 1 $1,400, 1 $1,000; messenger; assistant messenger; telephone switchboard operator; assistant telephone switchboard operator; captain of watch, $1,400; lieutenant of watch, $1,000; 17 watchmen, at $720 each; carpenter, painter, and foreman of laborers, at $900 each; 14 laborers, at $540 each; 2 attendants in ladies' room, at $480 each; 4 check boys, at $360 each; mistress of charwomen, $425; assistant mistress of charwomen, $300; 52 charwomen; chief engineer, $1,500; assistant engineers—1 $1,200, 3 at $900 each; electrician, $1,500; machinists—1 $1,000, 1 $900; 2 wiremen, and 1 plumber, at $900 each; 3 elevator conductors, and 10 skilled laborers, at $720 each; in all, $75,245.

The amendment was agreed to.

The next amendment was, under the head of "Civil Service Commission," on page 32, line 25, after the word "year," to strike out "clerks, 1 (in charge) of class 3, 2 of class 2, 3 of class 1, 1 (stenographer and typewriter), $1,000; 5 temporary clerks, at $900 each, needed for one year during the installation of the system; in all, $13,500," and insert: "For the establishment and maintenance of system of efficiency ratings for initial year, $15,000, to be immediately available. The Civil Service Commission shall investigate and report to the President, with its recommendations, as to the administrative needs of the service relating to personnel in the several executive departments and independent establishments in the District of Columbia, and report to Congress details of expenditure and of

progress of work hereunder at the beginning of each regular session."

The amendment was agreed to.

The next amendment was, under the head of "Department of State," on page 35, line 14, after the word "care," to strike out "exchange"; in line 17, after the word "wagon," to insert "including the exchange of same"; and in the same line, after the word "harness," to insert "equipment of drivers," so as to make the clause read:

For miscellaneous expenses, including the purchase, care, and subsistence of horses, to be used only for official purposes, repair and maintenance of vehicles and automobile mail wagon, including the exchange of the same, harness, equipment of drivers, street-car tickets not exceeding $100, and other items not included in the foregoing, $7,000.

Mr. BRISTOW. Is that an automobile mail wagon?

Mr. WARREN. The Senator will notice that the amendment below this refers to the same matter.

Mr. BRISTOW. What I wanted to inquire about was whether that could be construed so as to permit the purchase of an automobile, or is it an automobile truck that is used in handling the mail?

Mr. WARREN. I will say to the Senator that the Library mail has been thus handled for the last two years. The Senator probably has seen the truck coming and going.

Mr. BRISTOW. And it is for that purpose?

Mr. WARREN. It is for that purpose. In fact, some of the carriers in cities have automobile wagons for deliveries.

Mr. SMITH of Georgia. Is the entire paragraph, carrying $7,000, limited to vehicles for Government service, or does it include vehicles for private use?

Mr. WARREN. The bill states in the body of it that they are to be used only for official purposes. If the Senator will notice lines 15 and 16 he will see that it is restricted to public use.

The amendment was agreed to.

The next amendment was, under the head of "Treasury Department," on page 37, line 17, after the words "Chief of division," to strike out "$3,500" and insert "$4,000"; in line 18, after the words "assistant chief of division," to strike out "$2,700" and insert "$3,000"; and in line 23, after the words "in all," to strike out "$87,180" and insert "$87,980," so as to make the clause read:

Division of Bookkeeping and Warrants: Chief of division, $4,000; assistant chief of division, $3,000; estimate and digest clerk, $2,500; 2 principal bookkeepers, at $2,100 each; 12 bookkeepers, at $2,000 each; clerks—14 of class 4, 6 of class 3, 6 of class 2, 3 of class 1; messenger; 3 assistant messengers; messenger boy, $480; in all $87,980.

The amendment was agreed to.

The next amendment was, on page 48, after line 5, to insert:

For purchase of furniture, adding machines, labor-saving machines, tabulating equipment, including exchange, repairs, miscellaneous expenses of installation, cards and filing devices, and for rental of tabulating and card-sorting machines, for use in the office of the Treasurer of the United States, $6,000, to be immediately available.

The amendment was agreed to.

The next amendment was, on page 48, after line 11, to insert:

The Secretary of the Treasury is authorized, from the date of passage of this act until June 30, 1914, to detail such employees in the offices of Assistant Treasurers as may be necessary for duty in the District of Columbia in the office of the Treasurer of the United States.

The amendment was agreed to.

The next amendment was, on page 51, line 19, after the word "Chief," to strike out "$3,600" and insert "$4,500," and in line 23, after the words "in all," to strike out "$15,720" and insert "$16,620," so as to make the clause read:

Secret Service Division: Chief, $4,500; assistant chief, who shall discharge the duties of chief clerk, $3,000; clerks—1 of class 4, 1 of class 3, 2 of class 2, 1 of class 1, 1 at $1,000; assistant messenger; in all, $16,620.

The amendment was agreed to.

The next amendment was, on page 52, line 6, after the words "assay offices," to strike out "$10,000" and insert "$25,000," so as to make the clause read:

For freight on bullion and coin, by registered mail or otherwise, between mints and assay offices, $25,000.

The amendment was agreed to.

The next amendment was, on page 52, line 16, after the words "United States," to strike out "$3,000" and insert "$4,800," so as to make the clause read:

For examinations of mints, expense in visiting mints for the purpose of superintending the annual settlements, and for special examinations, and for the collection of statistics relative to the annual production and consumption of the precious metals in the United States, $4,800.

The amendment was agreed to.

The next amendment was, on page 52, line 20, before the words "of class 3," to strike out "two" and insert "three"; in line 21, before the words "of class 2," to strike out "six" and insert "seven"; in line 22, after the words "of class 1," to insert "3, at $1,000 each"; and in line 24, after the words "in all," to strike out "$43,780" and insert "$49,780," so as to make the clause read:

Office of the Surgeon General of Public Health Service: Surgeon General, $6,000; chief clerk, $2,000; private secretary to the Surgeon General, $1,800; assistant editor, $1,800; clerks—3 of class 4, 3 of class 3, 7 of class 2, one of whom shall be translator, 7 of class 1, 3 at $1,000 each; 3 at $900 each; messenger; 3 assistant messengers; 2 laborers, at $540 each; in all, $49,780.

The amendment was agreed to.

The next amendment was, on page 56, line 3, after the word "machines," to insert "and supplies for same," so as to make the clause read:

For purchase of labor-saving machines and supplies for same, including the purchase and exchange of registering accountants, numbering machines, and other machines of a similar character, including time stamps for stamping date of receipt of official mail and telegrams, and repairs thereto, $8,000.

The amendment was agreed to:

The next amendment was under the subhead "Collecting internal revenue," on page 58, after line 18, to insert:

On and after October 1, 1913, the whole number of collection districts for the collection of internal revenue and the whole number of collectors of internal revenue shall not exceed 67.

The amendment was agreed to.

The next amendment was, on page 59, line 2, after the word "storekeeper-gaugers," to strike out "$2,565,000" and insert "$2,620,000," so as to make the clause read:

For salaries and expenses of 40 revenue agents provided for by law, and fees and expenses of gaugers, salaries and expenses of storekeepers and storekeeper-gaugers, $2,620,000.

Mr. POMERENE. I note that on page 58 there is a provision to the effect that the number of collectors of internal revenue shall not exceed 67. Is that a reduction of the number?

Mr. WARREN. No. That is permission to have 4 more than there are now. I will say to the Senator that a year ago the Commissioner of Internal Revenue, in making his report, called attention to the fact that there was at that time and for two years preceding at three or four offices very light receipts, and hence the House thought it best to reduce the number from 67 to 63.

Now, in some way—and I have not tried to locate where the difficulty occurred—there were 4 offices taken out which the commissioner says are among the most valuable of the lot—1 in Pennsylvania, 1 in Texas, the only 1 in South Carolina, and 1 in California. The representation from that office is that it would very sadly cripple the work if they did not have these reinstated, and so we are putting the number back where it was. Of course, it is within the province of the President to reduce the number at any time.

The PRESIDING OFFICER. The question is on agreeing to the amendment which has been stated.

The amendment was agreed to.

The next amendment was, on page 59, line 14, after the word "killed," to strike out "$90,000" and insert "$100,000," so as to make the clause read:

For rent of offices outside of the District of Columbia, telephone service, and other miscellaneous expenses incident to the collection of internal revenue, and for the purchase of necessary books of reference and periodicals for the chemical laboratory and law library, at a cost not to exceed $500, and reasonable expenses for not exceeding 60 days immediately following the injury of field officers or employees in the Internal-Revenue Service while in line of duty, of medical attendance, surgeon's and hospital bills made necessary by reason of such injury, and for horses crippled or killed while being used by officers in making raids, not exceeding $150 for any horse so crippled or killed, $100,000.

The amendment was agreed to.

The next amendment was, under the subhead "Independent treasury," on page 61, line 3, before the words "vault clerk," to insert "assistant cashier, $2,000"; in line 7, before the word "nine," to strike out "2 at $1,600 each" and insert "1 $1,600"; and, in line 11, after the words "in all," to strike out "$83,320" and insert "$83,720," so as to make the clause read:

Office of assistant treasurer at Chicago: Assistant treasurer, $5,000; cashier, $3,000; assistant cashier, $2,000; vault clerk, $2,250; paying teller, $2,500; assorting teller, $2,000; redemption teller, $2,000; change teller, $2,000; receiving teller, $2,000; bookkeepers—1 at $1,800, 2 at $1,500 each; clerks—1 $1,750, 1 $1,600, 9 at $1,500 each, 22 at $1,200 each, 1 $900; hallman, $1,100; messenger, $840; 3 watchmen at $720 each; janitor, $720; 8 money counters and handlers for money laundry machines at $900 each; in all, $83,720.

The amendment was agreed to.

The next amendment was, on page 62, line 5, after the word "messenger," to strike out "$500" and insert "$600," and, in line 7, after the words "in all," to strike out "$32,490" and insert "$32,590," so as to make the clause read:

Office of assistant treasurer at St. Louis: Assistant treasurer, $4,500; cashier, $2,500; paying teller, $2,000; receiving teller, $2,000; vault clerk, $1,800; bookkeeper, $1,500; assorting teller, $1,200; clerks—1 $1,500, 6 at $1,200 each, 2 at $1,000 each; typewriter and stenographer, $1,000; day watchman, $720; night watchman, $720; messenger, $600; 4 money counters and handlers for money laundry machines at $900 each; in all, $32,590.

The next amendment was, under the head of "Mints and assay offices," on page 64, after line 21, to insert:

Mint at Carson, Nev.: Assayer in charge, who shall also perform the duties of melter, $2,250; assistant assayer, $1,500; chief clerk, $1,600; clerk, $1,000; in all, $6,350.
For wages of workmen and other employees, $5,550.
For incidental and contingent expenses, $3,000.

The amendment was agreed to.

The next amendment was, on page 67, after line 11, to insert:

Assay office at Boise, Idaho: Assayer in charge, who shall also perform the duties of melter, $2,250; assistant assayer, $1,600; chief clerk, who shall also perform the duties of cashier, $1,500; assayer's assistant, $1,500; clerk, $1,200; in all, $8,050.
For wages of workmen and other employees, $3,540.
For incidental and contingent expenses, $2,250.

The amendment was agreed to.

The next amendment was, on page 67, after line 18, to insert:

Assay office at Charlotte, N. C.: Assayer and melter, $1,500.
For wages of workmen and other clerks and employees, $900.
For incidental and contingent expenses, $400.

The amendment was agreed to.

The next amendment was, on page 67, after line 23, to insert:

Assay office at Deadwood, S. Dak.: Assayer in charge, who shall also perform the duties of melter, $2,000; clerk, $1,200; assistant assayer, $1,600; assayer's assistant, $1,400; in all, $6,200.
For wages of workmen and other employees, $3,000.
For incidental and contingent expenses, new machinery, etc., $1,500.

Mr. SHIVELY. Permit me to inquire of the chairman of the committee if the amendment involves the creation of new places?

Mr. WARREN. Not at all. It does not make new places. And, furthermore, it reduces the amounts under the current law in all, or nearly all, of these cases. We have not gone a penny beyond the estimate in any one particular, and the estimates are made as to nearly all of these offices on a lower basis than current law.

Mr. SHIVELY. These are not new establishments?

Mr. WARREN. Not at all; every man is in his place and every office is open, and will be until the 1st day of July, under current law.

Mr. SHIVELY. Then how does it become necessary for the Senate to act? Were these omitted in the House?

Mr. WARREN. They were. I will say they were not omitted by not having attention; they were intentionally omitted.

Mr. SHIVELY. What is the reason for their insertion here?

Mr. WARREN. I suppose they preferred that they should be inserted here. The reason for inserting them is that they are most important offices. I imagine that those who opposed them on the other side are not so located as to know the necessities for these offices. They are necessary not only for the business of to-day, but they are of immense help in the development of the country which is giving up its mineral riches to the Nation.

Mr. CRAWFORD. May I ask the Senator from Wyoming a question?

The PRESIDING OFFICER. Does the Senator from Wyoming yield?

Mr. WARREN. Certainly.

Mr. CRAWFORD. Is it not a fact that the Deadwood assay office is practically self-sustaining?

Mr. WARREN. Oh, that might be said of most of them.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee, which has been stated.

The amendment was agreed to.

The next amendment was, on page 68, after line 5, to insert:

Assay office at Helena, Mont.: Assayer in charge, $2,500; chief clerk, who shall also perform the duties of cashier, $1,800; assistant assayer, $1,700; assayer's assistant, $1,400; clerk, $1,400; in all, $8,800.
For wages of workmen and other employees, $4,600.
For incidental and contingent expenses, $3,000.

The amendment was agreed to.

Mr. REED. Is the bill open now to amendment other than committee amendments?

The PRESIDING OFFICER (Mr. BORAH in the chair). It is open to amendment.

Mr. WARREN. I desire to say that the bill is open to amendment from any Senator.

Mr. REED. I offer the following amendment. I would have waited until we reached the particular place in the bill, but I will not be able to stay in the Chamber very much longer.

The PRESIDING OFFICER. The amendment submitted by the Senator from Missouri will be stated.

The SECRETARY. On page 95, after line 5, insert:

To pay the expenses of a commission created by the President to investigate and make recommendation as to the necessity or desirability of establishing a national aerodynamical laboratory, $5,000, or so much thereof as may be necessary.

Mr. GALLINGER. I will suggest to the Senator that I think the title is aerodynamical laboratory commission. The Senator should insert the word "commission."

Mr. REED. I will accept that change if it is necessary.

The PRESIDING OFFICER. Without objection, the amendment as modified is agreed to.

The next amendment was, on page 68, line 22, after the word "melting," to insert "and refining," so as to make the clause read:

For incidental and contingent expenses, including new machinery and repairs, wastage in the melting and refining department, and loss on sale of sweeps arising from the treatment of bullion, $60,000.

The amendment was agreed to.

The next amendment was, at the top of page 69, to insert:

Assay office at Salt Lake City, Utah: Assayer in charge, who shall also perform the duties of melter, $2,500; assistant assayer, $1,600; chief clerk, who shall also perform the duties of cashier, $1,600; clerk, $1,400; in all, $7,100.
For wages of workmen and other employees, $4,500.
For incidental and contingent expenses, $3,500.

The amendment was agreed to.

THE PRESIDENTIAL TERM—VOCATIONAL EDUCATION.

Mr. CUMMINS. Has the hour of 2 o'clock arrived?

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. CUMMINS. Mr. President, I should like to renew my request, so often made, for consent that a vote be taken on this joint resolution. I have had some difficulty about fixing a time, in order to meet the views of various Senators. The two who are apparently most interested are not in the Chamber at this time.

Mr. WARREN. Would the Senator prefer to lay aside the joint resolution temporarily, subject to his call, and call it up at some later hour, when those Senators may be here?

Mr. CUMMINS. I do not feel like asking for a unanimous-consent agreement without the presence of the Senator from Vermont [Mr. PAGE] and the Senator from Kansas [Mr. BRISTOW]. Therefore, I will ask unanimous consent that the joint resolution may be temporarily laid aside, with the suggestion, however, that the very moment I can find both the Senator from Kansas and the Senator from Vermont in the Chamber I shall call it up and ask the unanimous consent of the Senate to fix a time to vote upon it.

Mr. WARREN. I assume the Senator would ask for a roll call, so that all might be advised of it at the time——

Mr. CUMMINS. No; I do not think I will promise that.

Mr. WARREN. I ask for no promise.

Mr. CUMMINS. Because it has been up so often and the points of objection seem to have come down to Vermont and Kansas instead of Vermont and Utah. Therefore, if I find those Senators here, I intend to present the request.

Mr. REED. Mr. President, lest the Senator from Iowa should be under any misapprehension, I want to say that I am not going to oppose fixing a date to vote upon the joint resolution at some reasonable time in the future, but I am opposed to the joint resolution in its present form. I will say to the Senator now that I shall hope that the time will not be fixed at too early a date. Does the Senator have in mind a very early date?

Mr. CUMMINS. I may say, in answer to the Senator from Missouri, that I am willing that the time shall be fixed for the 30th of the month, but the Senator from Vermont, who has a unanimous-consent agreement that follows the unfinished business, objects to that date, thinking that it ought to be fixed earlier. He tells me that he will agree that it shall be fixed for the 23d, a week from to-morrow.

The Senator from Kansas [Mr. BRISTOW] is now in the Chamber, and in order to bring the matter to the attention of the Senate, so that we can have it disposed of, I ask unanimous consent that a vote be taken upon this joint resolution on the legislative day of January 23, the joint resolution to be taken up for consideration immediately after the routine morning business is disposed of and continued until we reach a vote upon the joint resolution and all amendments that have been offered or may be offered to it.

The PRESIDING OFFICER. The Secretary will state the request of the Senator from Iowa.

The SECRETARY. The Senator from Iowa asks unanimous consent that on Thursday, January 23, 1913, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of the joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States, and before adjournment on that legislative day will vote upon any amendments that may be pending, any amendments that may be offered, and upon the joint resolution through the regular parliamentary stages to its final disposition.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Iowa?

Mr. REED. Mr. President, I do not want to make an objection, and I will not make an objection if the Senator can fix the date three or four days later. I will state my reasons for it. It is somewhat personal. I am obliged to be absent from the Senate for the next six or seven days. I am greatly interested in this question, as I think all Senators ought to be. I would not ask to have the question put off if it was merely to accommodate me personally, but if it could go a day or two longer I would be very thankful to the Senator.

Mr. CUMMINS. I will be very glad to meet the views of the Senator from Missouri. I am only embarrassed by the attitude which the educational bill bears toward this measure. If the Senator from Vermont will consent, I will suggest the following Tuesday; that is, the Tuesday coming after January the 23d, which will be the 28th.

Mr. BRISTOW. Mr. President, I wish the Senator would fix it for Thursday the 30th. Some Senators are likely to be away at that time. The 30th is only a week from the 23d, and it gives more time and fixes a definite date for the disposition of the joint resolution.

Mr. CUMMINS. As I said day before yesterday, I am willing to fix the 30th, but I owe an obligation to the Senator from Vermont in regard to the matter. If he does not object to the 30th, I am willing to accept that date.

Mr. PAGE. Mr. President, this joint resolution, as the Senator from Iowa well knows, has stood as a block to Senate bill No. 3 since as early as August last. Now, the Senator from Missouri asks that the time be extended for a day or two beyond a week from to-morrow. If a day or two days will answer I do not think I will interpose any objection. But if the suggestion of the Senator from Kansas is agreed to it puts off the consideration of Senate bill No. 3 until about the 1st of February, and we all know that at that time the appropriation bills and other matters will probably come, which would be likely to defeat the consideration of Senate bill No. 3.

It does seem to me that in view of the time the joint resolution has been before us, as it has been the blockade to other business since last August, we certainly ought to consent to fix a time, but that we should not extend it more than a day or two, as suggested by the Senator from Missouri.

Mr. REED. I do not understand how the joint resolution necessarily prevents the consideration of the bill the Senator from Vermont is interested in.

Mr. CUMMINS. If the Senator from Missouri will turn to the calendar of to-day and observe the first unanimous-consent order, he will see how they are connected. I beg that he will read it, so that the whole Senate may understand it. I may say, however, that this is the way it stands:

> It is agreed by unanimous consent that at the conclusion of the consideration of a joint resolution to amend the Constitution of the United States (S. J. Res. 78), Senate bill No. 3, a bill to cooperate with the States in encouraging instruction in agriculture, the trades and industries, etc., be made a special order and be taken up for consideration.

The Senator from Vermont, therefore, can not bring on his bill until this joint resolution is disposed of. I am sorry he ever got himself into that position, but there it is by unanimous consent, and it can not be changed.

Mr. TOWNSEND. May I suggest to the Senator from Iowa, in fixing upon a date for the consideration of any of these measures, I wish it might be borne in mind that the Senate has already taken action in appointing a committee to attend the memorial services of the late Congressman WEDEMEYER, who will leave here on Saturday, the 25th, and will not be back until Monday night, the 27th. So we will be away during those two days.

Mr. CUMMINS. There are only two days really mentioned—the 23d and the 30th—and neither of them would interfere with the arrangement suggested by the Senator from Michigan. I hope very much the Senator from Vermont will find it consistent with his ideas of duty to consent to the 30th.

Mr. BRISTOW. I want to say to the Senator from Vermont, if the Senator from Iowa will permit me——

Mr. CUMMINS. I yield to the Senator.

Mr. BRISTOW. I was talking with a Senator this morning who is interested in the measure, and he said the 30th would be perfectly safe for him, that he would be back by that time, but he did not want it set for an earlier date. The date suggested by the Senator from Missouri would be Tuesday, the 28th. It is only two days from the 28th to the 30th, and while it might make no difference in the consideration of the joint resolution, it will make a difference in the return of Senators who are away.

Mr. PAGE. If it might be agreed by the unanimous consent that we shall vote upon Senate bill No. 3 on the 3d day of February, I would be content with the suggestion of the Senator from Kansas.

Mr. CUMMINS. Mr. President, I do not believe that the fixing of a date for voting upon this joint resolution ought to be a matter of trade with any other measure pending before the Senate. I think that would be distinctly inappropriate.

Mr. WORKS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from California?

Mr. CUMMINS. I do.

Mr. WORKS. I have a rather special interest in this joint resolution, having introduced the joint resolution in its original form that was reported back from the Judiciary Committee. The joint resolution has been pending here for months as the unfinished business, going away back into the last session of Congress. I have been waiting patiently to have it brought to a vote, and I do hope that the Senator from Vermont and the Senator from Kansas can harmonize their views on this subject so that we may get it to a vote at an early day. I think to put it off until the 30th is longer than it should be delayed, but I am willing to consent to that if it can be agreed upon. However, I think the request of the Senator from Kansas that it shall be postponed until that date is rather unreasonable. It could certainly be fully discussed before that time, and unless there is some special reason for not fixing an earlier date I hope that date will not be insisted upon.

Mr. BRISTOW. It was to suit the desires of some Senators who do not expect to be able to be present during the early part of that week.

Mr. WORKS. The trouble about it is that there are too many Senators who are not here when these matters should be determined, and we are compelled from time to time to postpone the consideration and voting upon measures that ought to be disposed of because some Senators are absent from the Senate. I do not regard that as a very good reason, unless there is some imperative reason for a Senator to be absent. I do not know what the facts may be in this case.

Mr. BRISTOW. I have not inquired of the Senator whether he had a good reason for being away. I did not think that that was within my province. He said he would have to be away, and I accepted his word for it.

Mr. PAGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Vermont?

Mr. CUMMINS. I do.

Mr. PAGE. I should like to ask the Senator from Iowa, if he thinks it proper to do so, to withhold his request for a vote and let me prefer a request to the Senate that it give unanimous consent that my bill shall be taken up on the 3d of February.

Mr. CUMMINS. No.

Mr. SMITH of Georgia. The objection to that is this: We can not tell just how long the discussion of the constitutional amendment will take. I am perfectly willing to consent that immediately after disposing of the constitutional amendment on the next legislative day we shall take up the bill of the Senator from Vermont, but that we should agree now that we should dispose of Senate bill No. 3 on February 3, and take up the constitutional amendment on February 1, and we may not have it finished by February 3 or until sometime during February 3, it might leave no time for the discussion of the bill of the Senator from Vermont. It is not my desire to hinder the consideration of that bill. I wish we were able to consider it as soon as we have finished the pending appropriation bill. I will be glad to have it heard as soon as possible, but I do not think we ought to put our agreement in such a shape that it might leave us with no opportunity whatever to discuss that bill.

Mr. WARREN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Wyoming?

Mr. CUMMINS. In just a moment. I will say to the Senator from Vermont that I will do everything in my power to aid the Senator in securing a vote upon the bill to which he refers, but I do not think I ought to withdraw this request for the purpose of having him submit another, understanding that if he is not successful in his request he intends to object to the one that I have proposed.

Mr. SMITH of Georgia. If the Senator from Vermont will put his request in the shape of a consent that Senate bill No. 3 shall be disposed of during the next legislative day after the disposal of the constitutional amendment, I would not object. I desire merely to have it so arranged that we may be sure we will have an opportunity to consider that bill.

Mr. PAGE. I shall be very glad, indeed, to submit that request. It does seem to me as though it would not interfere

with the Senator from Iowa, if all others are willing, that on the next legislative day the Senate shall take up my bill, and that it be agreed to at this time.

Mr. WARREN. If the Senator from Iowa will allow me——

Mr. CUMMINS. I yield to the Senator from Wyoming.

Mr. WARREN. Mr. President, we are now in the middle of this session of Congress. We have not passed a single appropriation bill. There are 16 bills, including the river and harbor and public building bills, that are already begun or will be enacted in the House. All these must be considered in the Senate. I do not think there should be any unanimous-consent agreement to take up a matter and finish it on some legislative day which may run two or three weeks, unless the consideration of appropriation bills is excepted and those special orders not to interfere with consideration of any of these great supply bills.

I have no factious opposition to offer. I want to facilitate business. I want all the appropriation bills to pass and I want these other measures to have full attention.

If it should be proposed to vote upon the calendar day of the 20th, or at some hour the Senate would commence voting and finish in that day; but even then we ought to except the appropriation bills. I think it is my duty to call the attention of the Senate to the condition we are in.

I wish to say, furthermore, that no committee of the Senate can be blamed for the tardiness of the appropriation bills. The reasons are obvious. We have been tied up as a court. Senators had, in duty to their conscience and their constituents, to act as a jury. They have been forbidden to leave the Chamber except for a few moments at a time. The legislative appropriation bill, which is the most complicated of all, was reported on the very day that we had decided on finishing the other matter, so there can be no just criticism of the committee.

I think there should be help from all sides to the various committees. I do not speak for the Committee on Appropriations alone, but here are the Army appropriation bill, the naval appropriation bill, the agricultural appropriation bill, and others that all Senators are interested in. I beg them to take this into consideration, and in fixing dates to except the appropriation bills. As far as I am concerned, with those which I have charge of, I will say that I shall try to stand in no Senator's way, and I shall try to facilitate the business of the Senate.

Mr. PAGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Vermont?

Mr. CUMMINS. I yield to the Senator from Vermont.

Mr. PAGE. I should be very glad indeed to make the exception suggested by the Senator from Wyoming—that this bill shall not interfere with appropriation bills—if I may do so safely.

Mr. President, with that exception I ask unanimous consent that on the next legislative day following the consideration of Senate joint resolution No. 78, immediately at the conclusion of that, we shall take up Senate bill No. 3, and that not later than the conclusion of that legislative day the Senate shall proceed without further debate to vote upon any amendment that may be pending, or amendments that may be offered, and upon the bill, through the regular parliamentary stages to its final disposition.

Mr. WARREN. My attention was diverted. Did the Senator except the consideration of appropriation bills?

Mr. PAGE. Certainly; I except the consideration of appropriation bills.

Mr. GALLINGER. Not to interfere with appropriation bills.

Mr. WARREN. Not to interfere with appropriation bills.

The PRESIDING OFFICER. The Chair understands that the matter before the Senate is the request preferred by the Senator from Iowa.

Mr. CUMMINS. I understand the Senator from Vermont really adds that to the request I made, so that it may all be adopted at the same time.

Mr. PAGE. I am perfectly willing that that shall be done.

Mr. WARREN. Will the Senator from Iowa, as long as we give so much time, make it the calendar day and finish it up on that day?

Mr. CUMMINS. May I suggest to the Senator from Wyoming that I have tried to do that, and I meet with objection. Therefore I am driven to the legislative day. But there is no reason why it should take up a very great deal of time.

Mr. WARREN. I have no interest except what other Senators have.

Mr. CUMMINS. I know.

Mr. WARREN. The Senator will understand the embarrassment of the various committees.

Mr. CUMMINS. I can.

The PRESIDING OFFICER. The Secretary will state the request of the Senator from Vermont.

The SECRETARY. The Senator from Vermont asks unanimous consent that on Thursday, January 30, 1913, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of the joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States, and before adjournment on that legislative day will vote upon any amendment that may be pending, any amendment that may be offered, and upon the joint resolution, through the regular parliamentary stages, to its final disposition.

Further, that on the day following the disposition of Senate joint resolution 78, and immediately upon the conclusion of the routine morning business on that day, the Senate will proceed to the consideration of Senate bill 3, to cooperate with the States in encouraging instruction in agriculture, the trades and industries, and so forth, and that before adjournment on that day will vote upon any amendment that may be pending, any amendment that may be offered, and upon the bill, through the regular parliamentary stages, to its final disposition; such consideration, however, not to interfere with the consideration of appropriation bills.

Mr. SMITH of Georgia. That is not the agreement. I can not accept that, Mr. President. The Secretary did not read "legislative day." He said "on that day" as to Senate bill 3.

The SECRETARY. In the second paragraph read "and that before adjournment on that legislative day."

Mr. REED. Mr. President, a parliamentary inquiry. There is at present a unanimous-consent agreement that Senate bill 3 shall be made a special order and taken up for consideration immediately after the disposition of joint resolution 78. Is not the proposition now, in fact, a variation of that unanimous-consent agreement previously made, and if it is a variation, can it be made by unanimous consent?

I am not doing this, I want to say, to bar the Senator from Vermont from the right to have his bill considered, because I think he has been very patient, long suffering, slow to wrath, and of great kindness, but I do think that we are in a doubtful position.

Mr. SMOOT. Very doubtful, indeed.

Mr. CUMMINS. It does change the present situation very much. In the first place, there is no unanimous consent upon this joint resolution, and, in the second place, there is no unanimous consent at the present time for a vote upon Senate bill 3.

Mr. SMOOT. There is, however, a unanimous-consent agreement that Senate bill No. 3 shall follow immediately after the disposition of the joint resolution; that it shall be made a special order and be taken up for consideration immediately thereafter.

Mr. CUMMINS. But not to proceed to vote.

Mr. SMOOT. No. The unanimous-consent agreement asked for now is a change in that unanimous-consent agreement.

Mr. CUMMINS. That is the only addition to the unanimous-consent agreement now standing.

Mr. SMOOT. No unanimous consent can be changed by a unanimous consent. It was so held the other day.

Mr. CRAWFORD. This does not conflict with it in the slightest degree.

Mr. SMOOT. It is adding to it and making a change.

Mr. CRAWFORD. Both can stand without conflicting with each other.

Mr. REED. But there is a conflict, because it makes——

The PRESIDING OFFICER. Senators will address the Chair.

Mr. REED. It does conflict, because it now interjects the proposition to make it subject to the consideration of the appropriation bills, which is an absolute modification of the present unanimous consent.

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Utah?

Mr. CUMMINS. I do.

Mr. SUTHERLAND. It seems to me that there is absolutely no conflict between the unanimous-consent order that has already been entered and the one which is now requested. The unanimous-consent agreement now is that at the conclusion of the consideration of this joint resolution Senate bill No. 3 shall be made a special order and be taken up for consideration. That unanimous-consent agreement would be entirely satisfied if immediately after the disposition of the joint resolution the Senate would proceed to the consideration of Senate bill No. 3 for five minutes and then adjourn. That would be the end of that unanimous-consent agreement.

Now, the request is, first, by unanimous consent to take up the joint resolution and vote upon it before the end of the legis-

lative day of January 30, and then upon the day following that, to take up Senate bill No. 3 for consideration and vote before the end of that legislative day. So, before the second subdivision of this unanimous-consent agreement is entered upon the unanimous-consent agreement already upon the calendar will have been disposed of. I can not see that there is any conflict whatsoever.

Mr. GALLINGER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from New Hampshire?

Mr. CUMMINS. I do.

Mr. GALLINGER. I suggest to the Senator from Utah that while his suggestion is correct, if the bill the Senator from Vermont is interested in should be considered briefly and then the Senate should take up something else it would be displaced, but if it is considered during the day it then becomes the unfinished business. So the Senator from Vermont does not lose his rights because of that fact.

Mr. SUTHERLAND. No; but the point I make is that there is no conflict between the two.

Mr. GALLINGER. No; I think not, either.

Mr. SUTHERLAND. The Senate may certainly unanimously agree to do a particular thing and then unanimously agree to do something in addition to that particular thing. It can not agree by unanimous consent to do something in conflict with a unanimous-consent agreement. That is the point I am making.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Missouri?

Mr. CUMMINS. I do.

Mr. REED. I want to ask the Senator from Utah a question, if he will permit me. I do not agree with the Senator's last suggestion, but is not this the situation: We absolutely agree in the present unanimous-consent arrangement that at the conclusion of the consideration of joint resolution No. 78 we will consider Senate bill No. 3? That is unqualified and absolute and positive. Now, it is proposed to say we will consider it subject to appropriation bills. That is a qualification distinctly taking away from the previous agreement, so that, as the resolution now stands, it would be our duty to take up that matter and consider it. If the proposition now before the Senate is agreed to, then we would not be in the position of unqualifiedly taking it up, but we would take it up subject to the superior and dominant rights of appropriation bills. I ask the Senator if he does not think that is the situation? I want to get it right; that is all.

Mr. PAGE. Allow me——

Mr. SUTHERLAND. If the Senator from Vermont will permit me to answer the question, I was not directing my suggestions to that particular phase of the matter, the Senator will recall. I think there is much in the suggestion which the Senator now makes. Perhaps in that particular it may be regarded as a change or modification of the present unanimous-consent agreement.

Mr. SMITH of Georgia. I should like to make this further suggestion to the Senator from Vermont——

Mr. SUTHERLAND. If the Senator from Georgia will permit me, I suggest to the Senator from Vermont that it might be well if he would withdraw that part of his request.

Mr. SMITH of Georgia. I should like to ask the Senator from Utah if there is not this further trouble: We go to bill No. 3 under a unanimous-consent agreement that we will continue upon it during the legislative day until it is finished; we also have the exception that appropriation bills can come in at any time and stop it. We might be on appropriation bills and this bill, then, for a number of days without any morning hour. We would take the appropriation bills, then, in that legislative day, and we would have to finish the appropriation bills also during the legislative day. The injection of appropriation bills into the agreement would cause us a great deal of confusion.

Now, I should like to make this suggestion to the Senator from Vermont: I want to say to him that there is not the slightest desire on this side to stop action on this bill——

Mr. PAGE. Mr. President——

Mr. SMITH of Georgia. One moment. All I desire is that we should have just a few hours to discuss it. We can take it up at once; but it is stopped by the joint resolution proposing a constitutional amendment. If we set a day and get rid of the joint resolution relative to the constitutional amendment, then the bill of the Senator from Vermont becomes the unfinished business; we can take it up the very next day at 2 o'clock; and we shall have from 2 o'clock to 4 o'clock, and in all probability can finish it. As there is no desire to prolong debate and no desire to interfere with it, I do not really think it needs any unanimous consent at all to secure consideration.

Mr. PAGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Vermont?

Mr. CUMMINS. I do.

Mr. PAGE. I want to say that, in view of the very kindly attitude toward my bill, I want to withdraw my request.

Mr. CUMMINS. Now I ask that the request which I made may be put.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Iowa?

Mr. JONES. I simply want to find out what date was fixed for a vote, whether it was the 25th or the 30th.

Mr. CUMMINS. January 30.

Mr. JONES. Very well.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Iowa? The Chair hears none, and it is so ordered.

Mr. REED. Mr. President, this unanimous-consent agreement has not been passed upon, has it?

The PRESIDING OFFICER. It has been.

Mr. REED. In what form? I stopped and turned to answer a question. I thought I was watching the proceedings, and I should like to know what has been done.

The PRESIDING OFFICER. The Secretary will read the request of the Senator from Iowa, which has been agreed to.

The Secretary read as follows:

It is agreed by unanimous consent that on Thursday, January 30, 1913, immediately upon the conclusion of the routine morning business, the Senate will proceed to the consideration of Senate joint resolution 78, proposing an amendment to the Constitution of the United States, and before adjournment on that legislative day will vote upon any amendment that may be pending, any amendments that may be offered, and upon the resolution, through the regular parliamentary stages, to its final disposition.

Mr. REED. The agreement only applies to one measure?

The PRESIDING OFFICER. That is all.

Mr. REED. Very well.

The PRESIDING OFFICER. Does the Senator from Iowa now ask to have the unfinished business temporarily laid aside?

Mr. CUMMINS. In view of the unanimous consent just given, I ask that the joint resolution be temporarily laid aside.

The PRESIDING OFFICER. The Senator from Iowa asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none, and it is so ordered.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The Senate, as in the Committee of the Whole, resumed the consideration of the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes.

The next amendment of the Committee on Appropriations was, under the subhead "Government in the Territories," on page 69, line 16, before the words "of Alaska," to strike out "District" and insert "Territory," so as to make the clause read:

Territory of Alaska: Governor, $7,000; 4 judges, at $7,500 each; 4 attorneys, at $5,000 each; 4 marshals, at $4,000 each; 4 clerks, at $3,500 each; in all, $87,000.

The amendment was agreed to.

The next amendment was, on page 69, line 23, after the word "business," to strike out "rent of offices and quarters in Juneau" and insert "repair and preservation of executive mansion," so as to make the clause read:

For incidental and contingent expenses, clerk hire, not to exceed $2,250; janitor service, not to exceed $900; traveling expenses of the governor while absent from Juneau on official business; repair and preservation of executive mansion, stationery, lights, and fuel, to be expended under the direction of the governor, $7,150.

Mr. SHIVELY. Mr. President, I want to inquire why the words "repair and preservation of executive mansion" are employed? Is that a Government building now? Have we had a Government building constructed at Juneau within the last year?

Mr. WARREN. There is a building erected there. It was impossible to rent proper quarters, and appropriations were made for the building. I think it is called the executive mansion.

Mr. SHIVELY. Is this building owned by the Government?

Mr. WARREN. It is owned by the Government.

Mr. SHIVELY. And has been procured within the last year?

Mr. WARREN. No; it was provided for, I think, two years ago and has since been erected. That is my remembrance.

Mr. SHIVELY. I notice that in the current appropriation—that is, the appropriation for the present year—provision is simply made for rent.

Mr. WARREN. We took that provision out, because we presumed when we appropriated last year, though we were not certain, that they would have to pay rent for a part of the year; but now I assume that they have moved in and that it is not necessary to further provide for rent.

Mr. CUMMINS. Will the Senator from Wyoming allow me to ask him a question, as I was absent attending a committee meeting, and therefore do not know just what has happened?

Mr. WARREN. Certainly.

Mr. CUMMINS. Is the Senate now adopting any part of this bill or simply the amendments offered by the committee?

Mr. WARREN. The Senate is adopting or rejecting all amendments of the committee, and it is also considering amendments offered by Senators.

Mr. CUMMINS. But the whole bill will be open for amendment after the present order?

Mr. WARREN. I, of course, shall not object to a reasonable turning back, if it be necessary, to accommodate Senators.

Mr. CUMMINS. Very well.

Mr. WARREN. I assume that the Senator does not want to go back and reconsider, but to go back——

Mr. CUMMINS. I do not know that I want to go back at all; but there is an amendment that I desire to offer on page 87.

Mr. GALLINGER. We have not reached that point.

Mr. WARREN. The Senator can offer his amendment at any time he wishes.

Mr. CUMMINS. I will wait until the committee amendments are finished, because I think the committee ought to have its chance.

The PRESIDING OFFICER (Mr. PAGE in the chair). Without objection, the pending committee amendment is agreed to.

The next amendment of the Committee on Appropriations was, on page 70, after line 2, to insert:

For legislative expenses, namely: Salaries of members, $21,600; mileage of members, $6,500; salaries of employees, $5,160; printing of laws, $5,000; rent of legislative halls and committee rooms, $2,000; stationery, supplies, printing of bills, reports, etc., $5,000; in all, $45,260, to be immediately available.

The amendment was agreed to.

The next amendment was, on page 70, line 18, after the sum "$2,000," to insert "for traveling expenses of the governor while absent from the capital on official business, $500," and in line 19, after the words "in all," to strike out "$3,000" and insert "$3,500," so as to make the clause read:

For contingent expenses of the Territory of Hawaii, to be expended by the governor for stationery, postage, and incidentals, $1,000, and for private secretary to the governor, $2,000; for traveling expenses of the governor while absent from the capital on official business, $500; in all, $3,500.

The amendment was agreed to.

The next amendment was, under the head of "War Department," on page 70, line 23, after the sum "$5,000," to insert "assistant and chief clerk, $4,000," and, on page 71, after the words "in all," at the end of line 16, to strike out "$144,160" and insert "$148,160," so as to make the clause read:

Office of the Secretary: Secretary of War, $12,000; Assistant Secretary, $5,000; assistant and chief clerk, $4,000; private secretary to the Secretary, $2,500; clerk to the Secretary, $2,000; stenographer to the Secretary, $2,000; clerk to the Assistant Secretary, $2,400; assistant chief clerk, $2,400; disbursing clerk, $2,750; appointment clerk, $2,250; four chiefs of division, at $2,000 each; superintendent of buildings outside of State, War, and Navy Department Building, in addition to compensation as chief of division, $500; chief telegrapher, $1,800; clerks—4 of class 4, 5 of class 3, 15 of class 2, 19 of class 1, 6 at $1,000 each, 1 $900; foreman, $1,200; carpenter, $1,200; chief messenger, $1,000; carpenter, $1,080; skilled laborer, $1,080; 6 messengers; 7 assistant messengers; 2 assistant messengers, at $600 each; telephone switchboard operator; assistant telephone switchboard operator; engineer, $900; assistant engineer, $720; fireman; 4 watchmen; 5 watchmen, at $660 each; 8 laborers; hostlers—1 $600, 1 at $540; elevator conductors—1 at $600; 4 charwomen; in all, $148,160.

The amendment was agreed to.

The next amendment was, on page 74, line 11, after the words "Chief clerk," to strike out "$2,000" and insert "$2,250"; in line 13, before the words "of class 3," to strike out "eleven" and insert "thirteen"; in the same line, before the words "of class 2," to strike out "twenty-six" and insert "twenty-four"; and in line 22, after the words "in all," to strike out "$166,108" and insert "$166,758," so as to make the clause read:

Office of the Surgeon General: Chief clerk, $2,250; law clerk, $2,000; clerks—13 of class 4, 13 of class 3, 24 of class 2, 32 of class 1, 10 at $1,000 each, 3 at $900 each; anatomist, $1,600; engineer, $1,400; 3 firemen; skilled mechanic, $1,000; 2 messengers; 10 assistant messengers; 3 watchmen; superintendent of building (Army Medical Museum and Library), $250; 6 laborers; chemist, $2,088; assistant chemist, $1,500; principal assistant librarian, $2,250; pathologist, $1,800; microscopist, $1,800; assistant librarian, $1,800; 4 charwomen; in all, $166,758.

The amendment was agreed to.

The next amendment was, on page 75, line 18, after the words "Chief clerk," to strike out "$2,000" and insert "$2,250," and in line 23, after the words "in all," to strike out "$103,820" and insert "$104,070," so as to make the clause read:

Office of the Chief of Engineers: Chief clerk, $2,250; 2 chiefs of division, at $2,000 each; clerks—8 of class 4, 11 of class 3, 13 of class 2, 16 of class 1, 10 at $1,000 each, 11 at $900 each; 6 messengers; 3 assistant messengers; 2 laborers; in all, $104,070.

The amendment was agreed to.

The next amendment was, on page 76, line 16, before the words "of class 3," to strike out "three" and insert "seven"; in the same line, before the words "of class 2," to strike out "ten" and insert "eleven"; in line 17, before the words "of class 1," to strike out "nineteen" and insert "fourteen"; and in line 19, after the words "in all," to strike out "$88,430" and insert "$90,230," so as to make the clause read:

Office of the Bureau of Insular Affairs: Law officer, $4,500; chief clerk, $2,250; clerks—10 of class 4, 7 of class 3, 11 of class 2, 14 of class 1, 15 at $1,000 each; 3 messengers; 2 assistant messengers; 4 laborers; 2 charwomen; in all, $90,230.

The amendment was agreed to.

Mr. GALLINGER. Mr. President, I offer an amendment which I send to the desk, and I desire to say a word in reference to it.

The PRESIDING OFFICER. The amendment proposed by the Senator from New Hampshire will be stated.

The SECRETARY. On page 79, line 20, before the word "each," it is proposed to strike out "$720" and to insert in lieu thereof "$900," and on page 80, line 8, before the word "each," to strike out "$720" and to insert in lieu thereof "$900."

Mr. GALLINGER. Mr. President, my amendment relates to what are called park watchmen, more properly park policemen, and I want to read just a few words from a report made by Col. Spencer Cosby, who is in charge of the parks here. He says:

The Washington park policeman is probably the poorest paid man in the United States who has police duty to perform. He has practically the same duties to perform as the Metropolitan police. The same intelligence and physical qualifications are required of him. His moral character must be good; his discipline is much the same. He has as many arrests to make as the average policeman. He runs the same risks as to injury from vicious people as the man doing duty on the street. * * * He has a uniform to buy once a year in order to look neat, and yet the pay of these policemen is only $60 per month. The Government requires the street railway companies to pay their crossing police officers $75 per month for a great deal less exacting and laborious duty.

The fact is, Mr. President, that at the last session the pay of crossing policemen was increased to $100 per month, which they are now receiving. In a letter from Col. Cosby to the Committee on the District of Columbia, dated December 14, 1912, he says:

I desire to call the special attention of your committee to the changes asked for under the head of park watchmen, and to the request that the designation be changed to park police. In my last annual report is contained the following statement:

"The park watchmen receive only $60 a month and their uniforms, the allowance for which amounts to a little less than $5 per month. I do not know of any other men doing police duty in a large city who are as poorly paid. The Metropolitan police of this city, the crossing police, and the Capitol police all receive much higher salaries. This inequality should be removed and the pay of the park watchmen increased."

I believe it would be only fair and equitable to increase the pay of the privates of park police to $900 per year each.

The fact is, Mr. President, and I have a pretty correct knowledge of this matter, that here are men performing police duty and working long hours, and they are paid the miserable pittance of $60 per month. How on earth they live is beyond my comprehension. I should very much like to have this amendment agreed to and let it go into conference. If it fails, then I have done my duty and the Senate has done its duty. I trust that it will be permitted to become an amendment to the bill, and that it will be looked into very carefully before the bill finally becomes a law.

Mr. SMOOT. Mr. President, so that the record may be straight, I desire to call the Senator's attention to the fact that on page 80 there is a provision appropriating $2,800 "for purchasing and supplying uniforms to park, monument, and bridge watchmen." I do not know that the Senator's attention has been called to that. I understand that these employees do not furnish their uniforms, but they are furnished out of the appropriation to which I have just called the Senator's attention.

Mr. GALLINGER. Mr. President, that is news to me, for the reason that Col. Cosby states that they do purchase their uniforms; but whether they do or not, admitting that their uniforms are furnished—and it is possible that some change may have been made in the last year or two—admitting that to be the fact, I submit that to ask men to go into our parks to guard the parks and to arrest offenders, to risk their lives, and to work long hours for $60 a month at the present cost of living is bordering on what I think is inhuman.

Mr. SMOOT. I simply called the attention of the Senator to this matter so that the record might be straight, not that I objected to the increase.

Mr. GALLINGER. I am very glad the Senator did so. I was not aware of the fact to which he called attention.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from New Hampshire.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, under the head of "Navy Department," on page 82, line 2, before the words "of class 2," to strike out "four" and insert "five"; in line 3, before the words "of class 1," to strike out "five" and insert "six"; and in line 8, after the words "in all," to strike out "$75,060" and insert "$77,660," so as to make the clause read:

Office of the Secretary: Secretary of the Navy, $12,000; Assistant Secretary of the Navy, $5,000; chief clerk, $3,000; private secretary to Secretary, $2,500; clerk to Secretary, $2,250; clerk to Assistant Secretary, $2,000; disbursing clerk, $2,250; stenographer, $1,800; clerks—4 of class 4, 2 of class 3, 5 of class 2, 6 of class 1; 1, $1,100; 4 at $1,000 each; stenographer, $1,200; telegraph operator, $1,100; 2 copyists; carpenter, $900; 4 messengers; 4 assistant messengers; 3 laborers; 3 messenger boys, at $600 each; messenger boy, $420; messenger boy, $400; telephone switchboard operator; assistant telephone switchboard operator; in all, $77,660.

The amendment was agreed to.

The next amendment was, on page 84, line 23, after the figures "$2,000," to insert "chief clerk, $1,800," and in line 25, before the word "one," to strike out "two at $1,600 each," and insert "one $1,600," so as to read:

Hydrographic Office: Hydrographic engineer, $3,000; assistant, $2,200; assistant, $2,000; chief clerk, $1,800; nautical experts—one $1,800, one $1,600, one $1,400, three at $1,200 each.

The amendment was agreed to.

The next amendment was, on page 36, line 17, to change the total from $102,700 to $102,900.

The amendment was agreed to.

The next amendment was, on page 86, line 13, after the word "publications," to insert "books of reference," so as to make the clause read:

For purchase of copperplates, steel plates, chart paper, packing boxes, chart portfolios, electrotyping copperplates, cleaning copperplates; tools, instruments, power, materials for drawing, engraving, and printing; materials for and mounting charts; reduction of charts by photography; photolithographing charts for immediate use; transfer of photolithographic and other charts to copper; care and repairs to printing presses, furniture, instruments, and tools; extra drawing and engraving; translating from foreign languages; telegrams on public business; the preparation of Pilot Charts and their supplements, and the printing and mailing of the same; purchase of data for charts and sailing directions and other nautical publications; books of reference, works and periodicals relating to hydrography, marine meteorology, navigation, surveying, oceanography, and terrestrial magnetism, $26,000.

The amendment was agreed to.

The next amendment was, on page 87, line 4, after the word "established," to strike out "$11,000" and insert "$14,000," so as to make the clause read:

Contingent expenses of branch offices at Boston, New York, Philadelphia, Baltimore, Norfolk, Savannah, New Orleans, San Francisco, Portland (Oreg.), Portland (Me.), Chicago, Cleveland, Buffalo, Duluth, Sault Ste. Marie, Seattle, Panama, and Galveston, including furniture, fuel, lights, works and periodicals relating to hydrography, marine meteorology, navigation, surveying, oceanography, and terrestrial magnetism, stationery, miscellaneous articles, rent and care of offices, care of time balls, car fare and ferriage in visiting merchant vessels, freight and express charges, telegrams, and other necessary expenses incurred in collecting the latest information for the Pilot Charts, and for other purposes for which the offices were established, $14,000.

The amendment was agreed to.

The next amendment was, on page 87, line 5, after the word "offices," to strike out "$17,960" and insert $22,000," so as to make the clause read:

For services of necessary employees at branch offices, $22,000.

The amendment was agreed to.

Mr. CUMMINS. Mr. President, I offer the amendment which I send to the desk, to come in on page 87.

The PRESIDING OFFICER. The Senator from Iowa offers an amendment, which will be stated.

The SECRETARY. On page 87, at the end of line 25, it is proposed to insert:

The Hydrographic Office shall not be removed to the building and grounds of the Naval Observatory.

Mr. WARREN. Mr. President, as that is not estimated for and is new legislation, perhaps the Senator would like to give us his reasons, because otherwise, should the amendment go to conference, we would be without any basis for discussing it.

Mr. CUMMINS. Of course, there is no estimate for it, because it does not involve any appropriation.

Mr. WARREN. If the Senator will permit me before he proceeds, I will say that we left out what might have been considered an appropriation to effect the removal of that office. There is no appropriation in the bill for its removal.

Mr. CUMMINS. I am advised that it is now in the power of the President or of some other officer of the Government to remove the Hydrographic Office to the building of the Naval Observatory. I know that there has been such an enterprise on foot. I have given the matter a good deal of investigation, and I am deeply convinced that it would greatly interfere with the value of the work done at the Naval Observatory if it were combined with the Hydrographic Office. I want therefore to put it out of the power of any department, at least pending these appropriations, to make that removal and consolidation.

It is obvious to anyone who is familiar with the subject that there is nothing whatsoever in common between the work of the Hydrographic Office and the work of the Naval Observatory or the work connected with the Ephemeris or the Nautical Almanac, and I have become persuaded that it would be most injurious to this institution if the proposed consolidation or removal were brought about. For that reason I have offered the amendment just read.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Iowa.

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, on page 88, line 3, before the word "assistant," to strike out "2, at $1,800 each" and insert "1 $2,000, 1 $1,800"; in line 7, before the word "each," to strike out "$1,600" and insert "$1,200"; and in line 10, after the words "in all," to strike out "$43,640" and insert "$44,240," so as to make the clause read:

Naval Observatory: Assistant astronomers—1 $2,400, 1 $2,000, 1 $1,800; assistant in department of nautical instruments, $1,600; clerks—1 of class 4, 1 of class 2; instrument maker, $1,500; electrician, $1,500; librarian, $1,800; assistants—3 at $1,600 each, 3 at $1,400 each, two at $1,200 each; stenographer and typewriter, $900; foreman and captain of the watch, $1,000; carpenter and engineer, at $1,000 each; 5 firemen; 6 watchmen; elevator conductor, $720; 9 laborers; in all, $44,240.

The amendment was agreed to.

The next amendment was, on page 88, line 13, after the word "books," to insert "books of reference," so as to make the clause read:

For professional and scientific books, books of reference, periodicals (subscriptions to periodicals may be paid in advance), engravings, photographs, and fixtures for the library, $750.

The amendment was agreed to.

Mr. JONES. Mr. President, I offer an amendment, to come in on page 89.

The PRESIDING OFFICER. The Senator from Washington offers an amendment, which will be stated.

The SECRETARY. On page 89, line 8, after the sum "$2,000," it is proposed to insert "who may hereafter act as or be appointed director."

Mr. WARREN. Mr. President, that is not estimated for, and I notice in the hearings before the House committee the officials who appeared there from the department objected to its going in. I have no factious opposition to offer, but I want the Senator to know the situation. The House had before them only the fact that it was not requested nor desired by the department.

Mr. JONES. In the hearings the Senator will remember that Capt. Jayne simply said that these words were in the last bill, but were not put in at the request of the department, and they did not consider them necessary. That was the only objection they made to it. I hope the Senate will adopt the amendment. I am satisfied that the House will concur in the amendment, because it was understood, I am informed, that the language we put in the bill last year was considered permanent. I ask for a vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Washington.

The amendment was agreed to.

Mr. TOWNSEND. I was called from the Chamber at the time we passed page 83, and I should like to return to that page a moment for the purpose of offering an amendment.

Mr. CUMMINS. Mr. President, will the Senator from Michigan yield to me for a moment?

Mr. TOWNSEND. I yield.

Mr. CUMMINS. On the subject of the Naval Observatory and Ephemeris and Nautical Almanac, embraced in the provisions of the bill now before the Senate, I wish to suggest to the chairman of the committee that I intend to offer an amendment before the time is past for offering amendments striking out the word "Naval" and inserting the word "National," so that it will be the "National Observatory" instead of the "Naval Observatory." I will also offer an amendment transferring the National Observatory to the Department of Com-

merce and Labor, instead of allowing it to remain under the Navy Department, where it now is.

Mr. WARREN. Mr. President, of course, I do not want to say what I will do when the amendment is offered, but while I might not raise any objection to the change in the name, it seems to me that a matter so important as changing the department under which the Naval Observatory is to be administered ought to be considered in a measure outside of an appropriation bill, because, if we proceed in that way with appropriation bills we shall hardly find an end.

Mr. CUMMINS. I concede the force of the statement just made by the Senator from Wyoming; but is it not fair that we legislate on some subjects on appropriation bills and then restrict ourselves as to others. We have fallen into the habit of doing this thing. I am perfectly willing to abandon the habit; but so long as we are pursuing it I do not feel any moral wrong in participating in it, and I am so thoroughly convinced that the name "Naval Observatory" is a misnomer and so thoroughly convinced that it is very inadequate for the work which it is supposed to do that I desire to begin at least a campaign to make the observatory what it ought to be. It has no more relation to the Navy than it has to the Army.

Mr. PERKINS. Naval officers are in charge of it.

Mr. CUMMINS. Naval officers happen to be in charge of it, as suggested by my friend from California; but I do not think that necessarily naval officers ought to be in charge of it. I think it ought to be in the hands of distinguished scientists.

Mr. ROOT. Did it not grow from the Navy?

Mr. CUMMINS. The work which it does, or ought to do, is of practically no importance in the preparation of the Ephemeris or the Nautical Almanac. It is popularly supposed there is a very intimate connection between the work of the observatory and the work of the Ephemeris and the Almanac. I do not believe this is true. I believe that the observatory ought to be a purely scientific institution, carried on for the purpose of making observations not for our own use alone but for the use of the world, and in the end we will put the observatory in the hands of men who have demonstrated their qualifications for that kind of work, as other nations have already put their observatories into the hands of such scientists.

Mark you, I am not in any wise impeaching or even criticizing the management of the Naval Observatory or the skill or knowledge of the men who are connected with it. I only say that it is founded on a false principle, and I intend to do what little I can do to remove it from the sphere which I think it ought not to occupy.

I can not, however, offer the amendments which I have suggested at this moment. I did not believe that we would reach this part of the bill so soon, and therefore I have not prepared them; but before there is any adoption by the Senate of these two pages I desire to have an opportunity to present the amendments which I have outlined to the chairman of the committee and to the Senate.

Mr. TOWNSEND. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The Senator from Michigan offers an amendment, which will be stated.

The SECRETARY. On page 83, line 21, it is proposed to strike out "1 of class 2" and insert in lieu thereof "1 of class 3"; and also, in line 23, to strike out "$12,100" and insert "$12,300."

Mr. WARREN. Mr. President, I understand the Senator wishes to raise the salary of one clerk.

Mr. TOWNSEND. To raise his salary $200, as estimated for by the department.

Mr. WARREN. That is estimated for, and there is no objection on the part of the committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ROOT. Mr. President, I should like to say a few words regarding the remarks of the Senator from Iowa [Mr. CUMMINS]. I may not be here when he offers the amendment of which he has given notice, so that I will speak now. I do not know whether I would be in favor of such an amendment or not. I think it may be that it would be advisable, but I do not know, and I do not think the Senate can know that fact as the result merely of a discussion on the floor.

It seems to me that the proposal of so radical a change in the management of an institution which has grown up in one department, which has been under the direction of that department for many years, ought to be presented at such a time that it can be referred to the appropriate committee, and that the committee may inquire into the subject, call before them the representatives of the different departments involved, and come to a deliberate judgment which they can report to the Senate, as to whether this change or any such change ought to be made.

I do not believe we ought to step in, upon an amendment offered on the floor, never having been referred to a committee, and undertake to make such a change. I do not think we ought to consider it.

Mr. LODGE. Will the Senator from New York allow me?

Mr. ROOT. Certainly.

Mr. LODGE. I do not want now to discuss this question of the Naval Observatory. It is a very large question, and the amendment, which I understand the Senator from Iowa has suggested but not offered, would, of course, be clearly out of order as proposing general legislation and totally changing existing law. It is a subject that has been much discussed in past years, and Congress, on the whole, has thought it best to leave the observatory where it is.

There are certain functions of the Naval Observatory that are purely naval—the care of the chronometers and things of that sort—and it is too large a subject to be dealt with on an amendment offered without warning on an appropriation bill. There is a great deal to be said on both sides, I recognize. I have been familiar with the question for a great many years, and I think it would require a great deal of discussion before being acted upon. The proposition ought to be in the form of a bill, as the Senator from New York [Mr. ROOT] suggests, and go to the proper committee, so that the matter could be heard. We have had those hearings before, and they have generally resulted in leaving the matter where it was. A similar change was tried in France. They took the observatory out of naval hands and put it into civilian hands, and in a very short time they put it back again. So it does not follow that it is always wise to take such a step. I merely say this now because I want to give notice that if anything of that sort is contemplated it would, in my opinion, lead necessarily to a very great deal of discussion.

Mr. CUMMINS obtained the floor.

Mr. ROOT. May I say one word more?

Mr. CUMMINS. Yes.

Mr. ROOT. If this subject were to be acted upon I should want to have the Senate consider whether the institution ought to be put under the charge of the Department of Commerce and Labor or whether it should not be put under the direction of the Smithsonian Institution, which is really the scientific branch of the Government of the United States.

Mr. CUMMINS. I should much prefer that it should go under the charge of the Smithsonian Institution.

Mr. ROOT. I should think that would be very much to be preferred.

Mr. CUMMINS. While I realize the force of the statements made by the Senator from New York, they are somewhat impaired possibly or the objections are somewhat met by the immediately following statement of the Senator from Massachusetts, in which he said, and said very correctly, that this matter has been before Congress a great many times and in a great many phases; and I assume that most Senators have given the subject some investigation. I do not want to take time just now, but I suppose the consideration of this bill will not be concluded to-day, and I will have my amendment ready to-morrow morning.

Mr. WARREN. I hope it may be concluded to-day.

If the Senator will permit me, in addition to what has been said, this bill provides for certain employees specifically, and there are certain employees that you might say are quasi Naval Observatory and quasi Navy Department proper, and if such a change is to be made there should have been notice before the committee long ago, so that hearings could be had and the financial part of it arranged.

Mr. CUMMINS. I do not think there would be any difficulty about that, and I think the Senator from Wyoming will agree with me, save in one respect. I agree that if my amendments were to prevail, and nothing more were done, it would leave the observatory without a director, the present director being, of course, a naval officer, who receives compensation, I assume, through the ordinary channels of his rank. But I think that could be easily taken care of.

Mr. LODGE. I will say further that the question of separating the Naval Observatory from the Navy Department, is, of course, a subject that pertains to naval affairs, and has always been so recognized. This provides merely for the clerical and astronomical force there, but the Naval Observatory is part of the Naval Establishment, and would have to be dealt with in connection with the Navy. I have never known the change to be proposed on this bill; it has always been on the naval bill.

The PRESIDING OFFICER. The next amendment will be stated.

The next amendment was, on page 92, line 11, before the words "of class 2," to strike out "one" and insert "two," and in line 24, after the words "in all," to strike out "$18,550" and insert "$19,950," so as to make the clause read:

Bureau of Medicine and Surgery: Chief clerk, $2,250; clerks—2 of class 4, 1 of class 3, 2 of class 2, 1 of class 1, 2 at $1,100 each, 3 at $1,000 each; copyist, $840; assistant messenger; laborer; driver for naval dispensary, $600; laborer for naval dispensary, $480; in all, $19,950.

The amendment was agreed to.

The next amendment was, on page 94, after line 12, to strike out:

For the rental of the Mills Building during the fiscal year 1914, $24,500.

And insert:

For the rental of additional quarters for the Navy Department for the fiscal year ending June 30, 1914, $31,200, and the Secretary of the Navy is hereby authorized to enter into contract for the rental of a suitable fireproof building or buildings or parts thereof for the use of the Navy Department for a period of not exceeding 10 years from July 1, 1913, at an annual rental of not exceeding $31,200.

The amount heretofore appropriated for the rental of the Mills Building for the fiscal year ending June 30, 1913, is hereby made available for the rental of the Mills Building or any other building or buildings or parts thereof for the Navy Department for the period from April 1 to June 30, 1913, and the additional sum of $1,675, to be immediately available, is hereby appropriated for the same purpose.

The amendment was agreed to.

The next amendment was, under the head of "Department of the Interior," in the item of appropriation for the maintenance of the office of the Secretary of the Interior, on page 95, line 24, after the words "chief disbursing clerk," to strike out "$2,250" and insert "$2,750"; on page 96, line 3, before the words "of class 3" to strike out "eighteen" and insert "nineteen," so as to read:

Chief disbursing clerk, $2,750; clerk in charge of supplies, $2,250; clerk in charge of mails, files, and archives, $2,250; clerk in charge of publications, $2,250; private secretary to the Secretary, $2,500; clerks—4, at $2,000 each; 13 of class 4, 19 of class 3,

The amendment was agreed to.

The next amendment was, in the item of appropriation for the maintenance of the office of the Secretary of the Interior, on page 96, line 22, after the words "in all," to strike out "$275,570" and insert "$277,670," so as to make the clause read:

Assistant engineer, $1,000; 7 firemen; clerk to sign, under the direction of the Secretary, in his name and for him, his approval of all tribal deeds to allottees and deeds for town lots made and executed according to law for any of the Five Civilized Tribes of Indians in the Indian Territory, $1,200; in all, $277,670.

The amendment was agreed to.

The next amendment was, on page 98, line 4, after the words "chief clerk," to strike out "$2,750" and insert "$3,000"; in line 7, after the figures "$2,000," to insert "chief of division of surveys, $2,750"; in line 8, after the word "division," to strike out "two at $2,400 each" and insert "one at $2,500"; and in line 20, after the words "in all," to strike out "$630,650" and insert "$631,350," so as to make the clause read:

General Land Office: Commissioner, $5,000; assistant commissioner, $3,500; chief clerk, $3,000; chief law clerk, $2,500; 2 law clerks, at $2,200 each; 3 law examiners of surveyors general and district land offices, at $2,000 each; recorder, $2,000; chief of division of surveys, $2,750; chiefs of division—1 at $2,500, 10 at $2,000 each; assistant chief of division, $2,000; law examiners—13 at $2,000 each, 10 at $1,800 each, 18 at $1,600 each; clerks—27 of class 4, 51 of class 3, 74 of class 2, 77 of class 1, 65 at $1,000 each; 65 copyists; 26 copyists, at $720 each; 2 messengers; 10 assistant messengers; messenger boys—10 at $600 each, 6 at $480 each; 6 skilled laborers, who may act as assistant messengers when required, at $660 each; 16 laborers; laborer, $480; packer, $720; depositary acting for the commissioner as receiver of public moneys, $2,000; clerk and librarian, $1,000; in all, $631,350.

The amendment was agreed to.

The next amendment was, on page 100, line 3, after the words "chief clerk," to strike out "$2,250" and insert "$2,750"; in line 6, before the words "of class 4," to strike out "fourteen" and insert "fifteen"; in line 8, before the words "of class 1," to strike out "forty-three" and insert "forty-five"; and in line 11, after the words "in all," to strike out "$231,710" and insert "$236,410," so as to make the clause read:

Indian Office: Commissioner, $5,000; assistant commissioner, $3,500; second assistant commissioner, who shall also perform the duties of chief clerk, $2,750; financial clerk, $2,250; chiefs of division—1 at $2,250, 1 at $2,000; law clerk, $2,000; assistant chief of division, $2,000; private secretary, $1,800; clerks—15 of class 4, 25 of class 3, 24 of class 2, 2 at $1,500 each, 45 of class 1, 23 at $1,000 each; stenographer, $1,000; 29 copyists; messenger; 4 assistant messengers; 4 messenger boys, at $360 each; in all, $236,410.

The amendment was agreed to.

The next amendment was, on page 100, line 15, before the words "of class 4," to strike out "five" and insert "eight"; in the same line, before the words "of class 3," to strike out "four" and insert "seven"; in the same line, before the words "of class 2," to strike out "three" and insert "five"; in line 16, before the words "of class 1," to strike out "twelve" and insert "ten"; in line 23, after the word "one," to insert "Medical field supervision work: Clerk of class 2 (heretofore in the field). Field construction work: Draftsman, $1,600 (heretofore in the field)"; and in line 25, after the words "in all," to strike out "$71,340" and insert "$83,940," so as to make the clause read:

For the following heretofore paid out of annual appropriations provided for in the Indian appropriation act, namely: Allotment work: Expert accountant, $2,000; clerks—8 of class 4, 7 of class 3, 5 of class 2, 10 of class 1, 8 at $1,000 each, 5 at $900 each (formerly copyist). Forestry work: Forester, $3,600; clerks—1 of class 4, 2 of class 1; draftsman, $1,400. Irrigation work: Irrigation engineer, $2,000; examiner of irrigation accounts, $1,800; stenographer, $1,200; draftsman, $1,200. Indian employment: Clerk of class 2; 2 junior clerks, at $720 each. Indexing old files: Three clerks of class 1. Medical field supervision work: Clerk of class 2 (heretofore in the field). Field construction work: Draftsman, $1,600 (heretofore in the field). In all, $83,940.

The amendment was agreed to.

The next amendment was, on page 101, line 5, after the word "each," to insert "chief of finance division, $2,250"; in line 6, before the word "chief," to strike out "eight" and insert "seven"; and in line 22, after the words "in all," to strike out "$1,478,100" and insert "$1,478,350," so as to make the clause read:

Pension Office: Commissioner, $5,000; deputy commissioner, $3,000; chief clerk, $2,500; assistant chief clerk, $2,000; medical referee, $3,000; assistant medical referee, $2,250; 2 qualified surgeons, at $2,000 each; 15 medical examiners, at $1,800 each; chief of finance division, $2,250; 7 chiefs of division, at $2,000 each; law clerk, $2,250; chief of board of review, $2,250; 57 principal examiners, at $2,000 each; private secretary, to be selected and appointed by the Commissioner of Pensions, $2,000; 16 assistant chiefs of division, at $1,800 each; 3 stenographers, at $1,600 each; clerks—95 of class 4, 100 of class 3, 275 of class 2, 295 of class 1, 65 at $1,000 each; 30 copyists; 27 messengers; 12 assistant messengers; 17 skilled laborers, at $660 each; 20 messenger boys, at $400 each; superintendent of building, $1,400; 23 laborers; 10 female laborers, at $400 each; 15 charwomen; painter, and cabinet-maker, skilled in their trades, at $900 each; captain of the watch, $840; 3 sergeants of the watch, at $750 each; 20 watchmen; engineer, $1,200; 2 firemen; in all, $1,478,350.

The amendment was agreed to.

The next amendment was, on page 103, line 9, after the word "commissioner," to strike out "$3,500" and insert "$4,000"; in line 12, after the word "each," to strike out "examiner of interferences, $2,700" and insert "two examiners of interferences, at $2,700 each"; and in line 15, before the word "six," to insert "examiner of trade-marks and designs, $2,400," so as to read:

Patent Office: Commissioner, $5,000; first assistant commissioner, who shall perform such duties pertaining to the office of commissioner as may be assigned to him by the commissioner, $4,500; assistant commissioner, who shall perform such duties pertaining to the office of commissioner as may be assigned to him by the commissioner, $4,000; chief clerk, who shall be qualified to act as principal examiner, $3,000; 2 law examiners, at $2,750 each; 3 examiners in chief, at $3,500 each; 2 examiners of interferences, at $2,700 each; examiner of trade-marks and designs, $2,700; examiner of trade-marks and designs, $2,400.

The amendment was agreed to.

The next amendment was, in the item of appropriation for the maintenance of the Patent Office, on page 104, line 9, after the words "in all," to strike out "$1,311,010" and insert "$1,316,610," so as to read:

Ninety copyists; 50 copyists, at $720 each; 4 messengers; 25 assistant messengers; 14 laborers, at $600 each; 45 laborers, at $480 each; 40 messenger boys, at $360 each; in all, $1,316,610.

The amendment was agreed to.

The next amendment was, on page 105, after line 16, to insert:

For necessary traveling expenses of the commissioner and employes acting under his direction, $1,500.

The amendment was agreed to.

The next amendment was, on page 106, line 7, after the word "same," to strike out "$2,400" and insert "$2,500," so as to make the clause read:

For the purchase, distribution, and exchange of educational documents, and for the collection, exchange, and cataloguing of educational apparatus and appliances, textbooks, and educational reference books, articles of school furniture and models of school buildings illustrative of foreign and domestic systems and methods of education, and for repairing the same, $2,500.

The amendment was agreed to.

The next amendment was, on page 106, line 11, after the word "each," to strike out "clerk, $1,600; stenographer and typewriter, $1,000," and insert "2 clerks at $1,200 each"; in line 20, after the word "accountant," to strike out "$1,800" and insert "$2,200"; in the same line, before the words "in all," to strike out "stenographer, $720," and, in the same line, after the words "in all," to strike out "$30,480" and insert "$29,960," so as to make the clause read:

Office of the Superintendent of the Capitol Building and Grounds: Superintendent, $6,000; chief clerk, $2,000; chief electrical engineer, $3,000; civil engineer, $2,400; 2 draftsmen, at $1,200 each; 2 clerks, at $1,200 each; compensation to disbursing clerk, $1,000; messenger; person in charge of the heating of the Supreme Court and

central portion of the Capitol, $1,000; laborer in charge of water-closets in central portion of the Capitol, $660; 7 laborers for cleaning Rotunda, corridors, Dome, and old library portion of Capitol, at $660 each; 2 laborers in charge of public closets of the House of Representatives and in the terrace, at $720 each; bookkeeper and accountant, $2,200; in all, $29,960.

The amendment was agreed to.

The next amendment was, on page 108, line 16, after the words "Geological Survey," to strike out "$32,900" and insert "$37,400"; in line 17, before the words "in all," to strike out "Bureau of Mines, $10,000," and in the same line, after the words "in all," to strike out "$59,775" and insert "$54,275," so as to make the clause read:

For rent of buildings for the Department of the Interior: Geological Survey, $37,400; Civil Service Commission, $16,875; in all, $54,275.

The amendment was agreed to.

The next amendment was, on page 108, after line 18, to insert:

For rent of building for the Bureau of Mines, $12,000.

The amendment was agreed to.

The next amendment was, on page 108, after line 19, to insert:

For dismantling and removing chemical laboratories, equipment, and office furniture from the offices now occupied by the Bureau of Mines and for reinstalling the laboratories in the offices of the Bureau of Mines, with fixtures, including laboratory plumbing, sinks, hoods, coal sampling and crushing machinery, and the necessary connection with the central heating and power plant of the Interior Department, $2,000, to be immediately available.

The amendment was agreed to.

The next amendment was, on page 109, after line 2, to insert:

For rent for the Bureau of Mines for the months of March, April, May, and June, 1913, to be immediately available, $3,333.34: *Provided*, That the unexpended balance of the sum of $10,000 appropriated for rent for the Bureau of Mines for the fiscal year 1913 is hereby made available within said year for the payment of rent of any building designated by the Secretary of the Interior.

The amendment was agreed to.

The next amendment was, under the subhead "surveyors general and their clerks," on page 109, line 22, before the words "of Alaska," to strike out "District" and insert "Territory"; in the same line, after the word "office," to strike out "$7,000" and insert "$11,000"; and in line 23, after the words "in all," to strike out "$11,000" and insert "$15,000," so as to make the clause read:

For surveyor general and ex officio secretary of the Territory of Alaska, $4,000; clerks in his office, $11,000; in all, $15,000.

The amendment was agreed to.

The next amendment was, on page 110, line 3, after the word "typewriters," to strike out "$2,500" and insert "$3,205," so as to make the clause read:

For rent of offices for surveyor general, pay of messenger, stationery, printing, binding, drafting instruments, typewriters, books of reference for office use, furniture, fuel, lights, and other incidental expenses, including the exchange of typewriters, $3,205.

The amendment was agreed to.

The next amendment was, on page 110, line 12, after the word "office," to strike out "$11,400" and insert "$12,000," and, in the same line, after the words "in all," to strike out "$14,400" and insert "$15,000," so as to make the clause read:

For surveyor general of California, $3,000; clerks in his office, $12,000; in all, $15,000.

The amendment was agreed to.

The next amendment was, on page 110, line 19, after the word "office," to strike out "$22,000" and insert "$23,590," and, in the same line, after the words "in all," to strike out "$25,000" and insert "$26,590," so as to make the clause read:

For surveyor general of Colorado, $3,000; clerks in his office, $23,590; in all, $26,590.

The amendment was agreed to.

The next amendment was, on page 111, line 4, after the word "office," to strike out "$16,000" and insert "$17,500," and, in the same line, after the words "in all," to strike out "$19,000" and insert "$20,500," so as to make the clause read:

For surveyor general of Idaho, $3,000; clerks in his office, $17,500; in all, $20,500.

The amendment was agreed to.

The next amendment was, on page 111, line 17, after the word "office," to strike out "$8,000" and insert "$11,400," and, in the same line, after the words "in all," to strike out "$11,000" and insert "$14,400," so as to make the clause read:

For surveyor general of Nevada, $3,000; clerks in his office, $11,400; in all, $14,400.

The amendment was agreed to.

The next amendment was, on page 111, line 23, after the word "office," to strike out "$15,500" and insert "$18,100," and, in the same line, after the words "in all," to strike out "$18,500" and insert "$21,100," so as to make the clause read:

For surveyor general of New Mexico, $3,000; clerks in his office, $18,100; in all, $21,100.

The amendment was agreed to.

The next amendment was, on page 112, line 8, after the word "typewriters," to strike out "$900" and insert "$1,000," so as to make the clause read:

For stationery, telephone, towels, binding, post-office box rent, books of reference for office use, and other incidental expenses, including the exchange of typewriters, $1,000.

The amendment was agreed to.

The next amendment was, on page 112, after line 9, to insert:

For surveyor general of South Dakota, $2,000; clerks in his office, $5,000; in all, $7,000.

For rent of office for the surveyor general, pay of messenger, stationery supplies, drafting instruments, fuel, ice, binding records, post-office box rent, telegrams, registration of letters, towels, furniture and typewriter repairs, books of reference for office use, and other incidental expenses, including the exchange of typewriters, $800.

The amendment was agreed to.

The next amendment was, on page 112, line 19, after the word "office," to strike out "$14,000" and insert "$20,200," and, in the same line, after the words "in all," to strike out "$17,000" and insert "$23,200," so as to make the clause read:

For surveyor general of Utah, $3,000; clerks in his office, $20,200; in all, $23,200.

The amendment was agreed to.

The next amendment was, on page 113, line 8, after the word "office," to strike out "$17,000" and insert "$22,300," and, in the same line, after the words "in all," to strike out "$20,000" and insert "$25,300," so as to make the clause read:

For surveyor general of Wyoming, $3,000, and for the clerks in his office, $22,300; in all, $25,300.

The amendment was agreed to.

The next amendment was, under the head of "Post Office Department," on page 113, line 25, after the words "disbursing clerk," to strike out "$2,250" and insert "$2,500," and, on page 114, line 2, after the words "assistant to chief clerk," to strike out "$2,000" and insert "$2,250," so as to read:

Office Postmaster General: Postmaster General, $12,000; chief clerk, including $500 as superintendent of Post Office Department buildings, $4,000; private secretary, $2,500; disbursing clerk, $2,500; bookkeeper and accountant, $1,800; 2 stenographers, at $1,600 each; appointment clerk, $2,000; clerk, assistant to chief clerk, $2,250.

The amendment was agreed to.

The next amendment was, in the item of appropriation for the maintenance of the office of the Postmaster General, on page 114, line 20, after the words "in all," to strike out "$187,950" and insert "$188,450," so as to read:

Female laborers—1 $540, 3 at $500 each, 3 at $480 each; 45 charwomen; in all, $188,450.

The amendment was agreed to.

The next amendment was, on page 119, line 6, after the word "envelopes," to strike out "$20,000" and insert "$40,000," so as to make the clause read:

Contingent expenses, Post Office Department: For stationery and blank books, index and guide cards, folders, and binding devices, including amount necessary for the purchase of free penalty envelopes, $40,000.

The amendment was agreed to.

The next amendment was, on page 119, line 9, after the word "ashes," to strike out "$35,000" and insert "$40,000," so as to make the clause read:

For fuel and repairs to heating, lighting, and power plant, including repairs to elevators, purchase and exchange of tools, and electrical supplies, and removal of ashes, $40,000.

The amendment was agreed to.

The next amendment was, on page 119, line 12, after the word "telegraphing," to strike out "$4,000" and insert "$5,000," so as to make the clause read:

For telegraphing, $5,000.

The amendment was agreed to.

The next amendment was, on page 119, line 23, after the words "Universal Postal Union," to strike out "$29,000" and insert "$35,000," so as to read:

For miscellaneous items, including the purchase, exchange, and repair of typewriters, adding machines, and other labor-saving devices; street car tickets not exceeding $200; plumbing, floor covering; postage stamps for correspondence addressed abroad which is not exempt under article 11 of the Rome convention of the Universal Postal Union, $35,000.

Mr. WARREN. I offer the following committee amendment to the amendment.

The SECRETARY. On page 119, line 24, after the word "Union," insert:

The reimbursement of the Secretary of the Treasury for expenses incident to the preparation, issue, and registration of the bonds authorized by the act of June 25, 1910.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, on page 120, line 5, after the word "cabinets," to strike out "$5,000" and insert "$8,000," so as to make the clause read:

For furniture and filing cabinets, $8,000.

The amendment was agreed to.

The next amendment was, on page 120, line 7, after the words "Post Office Department," to strike out "$3,000" and insert "$4,000," so as to make the clause read:

For rent of a suitable building for storage of the files of the Post Office Department, $4,000.

The amendment was agreed to.

The next amendment was, on page 120, line 11, after the words "executive departments," to strike out "$24,000" and insert "$25,000," so as to make the clause read:

For the publication of copies of the Official Postal Guide, including not exceeding 3,000 copies for the use of the executive departments, $25,000.

The amendment was agreed to.

The next amendment was, under the head of "Department of Justice," in the item of appropriation for the maintenance of the office of the Attorney General, on page 122, line 10, before the words "of class 4," to strike out "seven" and insert "eight"; in the same line, before the words "of class 3," to strike out "eleven" and insert "ten"; in line 11, before the words "of class 1," to strike out "fifteen" and insert "sixteen"; in line 12, before the words "at $900 each," to strike out "twenty-one" and insert "twenty"; in line 19, before the figures "$2,500," to strike out "examiner" and insert "administrative accountant"; in line 20, before the words "of class 4," to strike out "four" and insert "three"; in line 21, before the words "of class 3," to strike out "five" and insert "six"; in the same line, before the words "of class 1," to strike out "six" and insert "five"; and in line 22, before the words "at $900 each," to strike out "two" and insert "three," so as to read:

Clerks—8 of class 4, 10 of class 3, 7 of class 2, 16 of class 1, 14 at $1,000 each, 20 at $900 each; chief messenger, $1,000; packer, $900; messenger, $960; 5 messengers; 13 assistant messengers; 7 laborers; 7 watchmen; engineer, $1,200; 2 assistant engineers, at $900 each; 4 firemen; 2 conductors of the elevator, at $720 each; head charwoman, $480; 22 charwomen. Division of Accounts: Chief of Division of Accounts, $2,500; administrative accountant, $2,500; chief bookkeeper and record clerk, $2,000; clerks—3 of class 4, 6 of class 3, 6 of class 2, 5 of class 1, 3 at $900 each; in all, $424,610.

The amendment was agreed to.

Mr. WARREN. I offer a committee amendment, returning to page 37, as follows:

The SECRETARY. On page 37, line 19, after "$2,500," insert "executive clerk, $2,500."

The amendment was agreed to.

The next amendment of the Committee on Appropriations was, under the head of "Department of Commerce and Labor," on page 128, line 8, after the figures "$711,240," to insert: "*Provided*, That the limitation placed upon the number of temporary clerks authorized in the Bureau of the Census for the fiscal year ending June 30, 1913, in the legislative, executive, and judicial act for said fiscal year, approved August 23, 1912, is hereby removed, and nothing herein contained shall be construed as increasing the appropriation made for temporary clerks in the above-named act."

The amendment was agreed to.

The next amendment was, on page 130, line 2, after the word "supplies," to strike out "$10,000" and insert "$20,000," so as to make the clause read:

For experimental work in developing tabulating machines and repairs to such machinery and other mechanical appliances, including technical and mechanical service in connection therewith, whether performed in Washington, D. C., or elsewhere, and the purchase of necessary machinery and supplies, $20,000.

The amendment was agreed to.

The next amendment was, on page 133, line 7, after the figures "$600," to insert "at Honolulu, $1,200; at Mobile, $1,200," and in line 12, after the words "in all," to strike out "$29,500" and insert "$31,900," so as to make the clause read:

Shipping service: For salaries of shipping commissioners in amounts not exceeding the following: At Baltimore, $1,200; at Bath, $1,000; at Boston, $3,600; at Gloucester, $600; at Honolulu, $1,200; at Mobile, $1,200; at New Bedford, $1,200; at New Orleans, $1,500; at New York, $5,000; at Norfolk, $1,500; at Pascagoula, $300; at Philadelphia, $2,400; at Portland, Me., $1,300; at Port Townsend, $3,500; at Providence, $1,800; at Rockland, $1,200; at San Francisco, $4,000; in all, $31,900.

The amendment was agreed to.

The next amendment was, on page 134, line 3, after the word "expenses," to strike out "$3,000" and insert "$3,500, to be immediately available," so as to make the clause read:

To enable the Commissioner of Navigation to secure uniformity in the admeasurement of vessels, including the employment of an adjuster of admeasurements at a salary not to exceed $2,100, purchase and exchange of admeasuring instruments, traveling and incidental expenses, $3,500, to be immediately available.

The amendment was agreed to.

The next amendment was, on page 135, line 14, before the words "of class 3," to strike out "eight" and insert "nine"; in the same line, before the words "of class 2," to strike out "ten" and insert "twelve"; in line 15, before the words "of class 1," to strike out "eleven" and insert "fifteen"; in the same line, before the words "at $1,000 each," to strike out "eight" and insert "ten"; and in line 17, after the words "in all," to strike out "$68,060" and insert "$79,260," so as to make the clause read:

For the purpose of carrying into effect the provisions of the act approved June 29, 1906, entitled "An act to establish a Bureau of Immigration and Naturalization, and to provide for a uniform rule for the naturalization of aliens throughout the United States," namely: Chief of Division of Naturalization, $3,500; assistant chief of division, $3,000; clerks—5 of class 4, 9 of class 3, 12 of class 2, 15 of class 1, 10 at $1,000 each, 2 at $900 each; messenger; 2 assistant messengers; messenger boy, $480; in all, $79,260.

The amendment was agreed to.

The next amendment was, in the item of appropriation for the maintenance of the Bureau of Standards, on page 136, line 14, after the word "librarian," to strike out "$1,400" and insert "$1,600," so as to make the clause read:

Bureau of Standards: Director, $6,000; physicists—chief, $4,800, 1 qualified in optics, $3,600, 2 at $3,600 each, 1 $3,000; associate physicists—3 at $2,700 each, 4 at $2,500 each, 4 at $2,200 each, 5 at $2,000 each; assistant physicists—9 at $1,800 each, 11 at $1,600 each, 14 at $1,400 each; chief chemist, $4,800; chemist, $3,500; associate chemists—1 $2,700, 2 at $2,500 each, 1 $2,200, 1 $2,000; assistant chemists—2 at $1,800 each, 3 at $1,600 each, 2 at $1,400 each; laboratory assistants—16 at $1,200 each, 13 at $1,000 each; 13 at $900 each; laboratory helpers—1 $840, 3 at $720 each; aids—10 at $720 each, 7 at $600 each; laboratory apprentices—6 at $540 each, 6 at $480 each; storekeeper, $1,000; librarian, $1,600.

The amendment was agreed to.

The next amendment was, on page 137, line 2, after the word "firemen," to strike out "two glass blowers, at $1,400 each" and insert "glass blower, $1,400; glassworker, $1,400," and in line 6, after the words "in all," to strike out "$290,740" and insert "$290,940," so as to make the clause read:

Pipe fitter, $1,000; 4 firemen; glass blower, $1,400; glassworker, $1,400; electricians—1 $1,200, 1 $900; 6 laborers; janitors—2 at $660 each, 1 $600; 2 female laborers, at $360 each; in all, $290,940.

The amendment was agreed to.

The next amendment was, on page 139, line 19, after the figures "$25,000," to insert "to be immediately available," so as to make the clause read:

For the purchase of storage batteries, transformers, switchboards, and other necessary equipment of the new electrical laboratory, $25,000, to be immediately available.

The amendment was agreed to.

The next amendment was, on page 140, line 22, after the words "amounting to," to strike out "$66,500" and insert "$68,500," so as to make the clause read:

Contingent expenses, Department of Commerce and Labor: For contingent and miscellaneous expenses, * * * $68,500.

The amendment was agreed to.

The next amendment was, in the item of appropriation for contingent expenses, Department of Commerce and Labor, on page 141, line 14, before the word "expenses," to insert "enforcement of wireless-communication laws, $2,000," and in line 18, after the words "sum of," to strike out "$126,500" and insert "$128,500," so as to make the clause read:

Steamboat-Inspection Service, $3,000; contingent expenses, shipping service, $500; instruments for measuring vessels and counting passengers, $500; enforcement of wireless-communication laws, $2,000; expenses of regulating immigration, $13,500; equipment, Bureau of Standards, $1,000; general expenses, Bureau of Standards, $1,800; general expenses, Coast and Geodetic Survey, $4,200; miscellaneous expenses, Bureau of Fisheries, $8,500; and the said total sum of $128,500 shall be and constitute the appropriation for contingent expenses, Department of Commerce and Labor, etc.

The amendment was agreed to.

The next amendment was, on page 142, after line 3, to insert:

The accounting officers of the Treasury are hereby authorized and directed to credit in the accounts of William L. Soleau, former disbursing clerk, Department of Commerce and Labor, the sum of $99.63, disallowed by the Auditor for the State and Other Departments.

The amendment was agreed to.

The next amendment was, on page 144, after line 11, to insert:

Commerce Court: For the Commerce Court, from March 5 to June 30, 1913, both dates inclusive, namely: Clerk, at the rate of $4,000 per annum; deputy clerk, at the rate of $2,500 per annum; marshal, at the rate of $3,000 per annum; deputy marshal, at the rate of $2,500 per annum; for rent of necessary quarters in Washington, D. C., and elsewhere, and furnishing same for the Commerce Court; for books, periodicals, stationery, printing, and binding; for pay of bailiffs and all other necessary employees at the seat of government and elsewhere, not otherwise specifically provided for, and for such other miscellaneous expenses as may be approved by the presiding judge, $16,111.11; in all, $19,977.78, to be immediately available.

Mr. DIXON. Mr. President——

Mr. WARREN. If the Senator will permit, perhaps we had better finish the remainder of the bill, if it is agreeable to the Senator, and then return to this amendment.

Mr. DIXON. I want to make a motion to strike out the item concerning the Commerce Court on page 144.

Mr. WARREN. Let us pass it for the time being.

Mr. GALLINGER. Yes; let us complete the remainder of the bill.

The PRESIDING OFFICER. Is it agreed that the pending amendment shall be passed over?

Mr. WARREN. Pass it over for a moment, and let us finish the rest of the bill.

The next amendment of the Committee on Appropriations was, on page 145, line 18, after the word "bailiff," to strike out "$1,500" and insert "$1,800"; in line 19, before the words "at $1,400 each," to strike out "two" and insert "three"; in the same line, before the words "at $1,200 each," to strike out "three" and insert "two"; and in line 22, after the words "in all," to strike out "$56,480" and insert "$56,980," so as to make the clause read:

Court of Claims: Chief justice, $6,500; 4 judges, at $6,000 each; chief clerk, $3,500; assistant clerk, $2,500; bailiff, $1,800; clerks—1 at $1,600, 3 at $1,400 each, 2 at $1,200 each; stenographer, $1,200; chief messenger, $1,000; 3 firemen; 3 watchmen; elevator conductor, $720; 2 assistant messengers; 2 laborers; 2 charwomen; in all, $56,980.

The amendment was agreed to.

The next amendment was, on page 146, line 2, after the word "court," to strike out "$6,000" and insert "$8,000," so as to make the clause read:

For auditors and additional stenographers, when deemed necessary, in the Court of Claims, and for a stenographer, at $1,600, for the chief justice, to be disbursed under the direction of the court, $8,000.

The amendment was agreed to.

The next amendment was, at the top of page 148, to add as a new section the following:

SEC. 5. That in the event of reductions being made in any force employed under the civil service or in any of the executive departments no honorably discharged soldier, sailor, or marine whose record is rated good shall be discharged or dropped or reduced in rank or salary. Any person knowingly violating the provisions of this section shall be summarily removed from office and may also upon conviction thereof be punished by a fine of not more than $1,000 or by imprisonment for not more than one year.

Mr. BORAH obtained the floor.

Mr. POMERENE. Mr. President——

Mr. BORAH. I yield to the Senator from Ohio.

Mr. POMERENE. I wish to offer an amendment to this section.

Mr. BORAH. Will the Senator withhold it for a moment until I make an inquiry about the matter?

Mr. POMERENE. Certainly.

Mr. BORAH. I see that this section 5 covers all honorably discharged soldiers, sailors, or marines. Under that section, I suppose, whether a person had ever seen any service or not, he would come under this rule.

Mr. WARREN. If he had made record service and had been honorably discharged. If the Senator will permit me, in the last bill, when we were arranging civil-service changes, providing for an efficiency board, we incorporated in that provision a similar clause to this in relation to the District of Columbia, and that is the only place where that particular provision prevails—that no honorably discharged soldier who has a good record shall be dropped. This carries those outside the District and puts them on the same footing.

Mr. OWEN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Oklahoma?

Mr. BORAH. I yield.

Mr. OWEN. I rise to make a point of order against section 5, on page 148. It is legislation not properly upon an appropriation bill. Senators who are not present in the Chamber have a right to rely upon the integrity of the rules of the Senate that new legislation shall not go on appropriation bills. I do not think it a wise practice to have this done, and I make a point of order against the section for that reason.

Mr. WARREN. Perhaps the Senator will withhold the point of order until the Senator from Ohio can be heard.

Mr. OWEN. The Senator from Ohio proposes to offer an amendment to this section, which would not in any way obviate the point of order. I will yield, of course.

Mr. POMERENE. I have no objection to stating the amendment which I propose to offer. The Senator from Idaho, by his question, evidently had in mind just what I had in mind at the time of the preparation of this proposed amendment.

Under this section, as it appears, no honorably discharged soldier, sailor, or marine could be dropped from the service.

Mr. GALLINGER. If he has a good record.

Mr. POMERENE. I can understand why there should be some favor given to a soldier who has seen actual service either during the Civil War or during the War with Spain, but if it is some soldier who enlisted and has been in camp for three or four years, and should later be discharged from that service honorably and get under the civil service, and he is to be preferred to other men who are engaged under the civil service, I do not think we should extend that privilege that length.

Mr WARREN. I have only to say, Mr. President, that this was inserted here with the idea that it was only fair to treat those outside of Washington as we treated those within the District. I should not object, if the point of order was withdrawn, to such an amendment as the Senator proposes, and perhaps indicated by the Senator from Idaho; but the only intention of the committee was to have the same privilege given to those who might be on the register or be employed by the United States outside the District as those inside the District of Columbia.

Mr. SMITH of Georgia. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Georgia?

Mr. POMERENE. I do.

Mr. SMITH of Georgia. I do not understand that the Senator from Oklahoma has withdrawn the point of order, but if he did I renew it. I am opposed to any such special privilege anywhere.

The PRESIDING OFFICER. The Chair understood that the Senator from Oklahoma yielded to the Senator from Ohio to make a suggestion after the point of order was raised, and he did not withdraw it.

Mr. SMITH of Georgia. I want to state that I am opposed to any such privilege being given anywhere. Believing that it is improper here in the District, I am opposed to enlarging it to places outside of the District. I have never heretofore pressed that view, because so large a number of those who are deriving the benefit were soldiers of the Civil War, and I have always been willing to yield somewhat my general convictions in their interest, but now the Spanish-American War is included; all soldiers are included. I think that service in the Army and in the Navy also ought to be treated as a distinct proposition, and we ought not to burden our general service with men who are not entirely competent or keep them because they have done something somewhere else. I think the departments and all the public service are entitled to men of the highest efficiency, and they should remain in office on account of their efficiency, and for that reason only.

Mr. SUTHERLAND. If the point of order which was made is insisted upon, I suppose that those of us who are in favor of this proposition are helpless, but I call attention to the fact that we had exactly the same provision in the legislative appropriation act which passed less than a year ago. However, it is in the shape of a proviso to a section which deals only with the District of Columbia. My understanding is that it was the belief at that time that this proviso would apply to all parts of the country and to all persons employed in the executive departments. The provision is found in section 4 of the legislative appropriation act at page 413 of the last session laws. That section provides that—

The Civil Service Commission shall, subject to the approval of the President, establish a system of efficiency ratings for the classified service in the several executive departments in the District of Columbia—

And so on. Then follows the proviso:

Provided, That in the event of reductions being made in the force in any of the executive departments no honorably discharged soldier or sailor whose record in said department is rated good shall be discharged or dropped or reduced in rank or salary.

So the language of that proviso is identical with the suggested amendment that is now under discussion. The Senator from Kansas [Mr. BRISTOW] says to me that there is something added, but on page 414 the law continues:

That any person violating section 4, etc., shall be summarily removed from office, and may also, upon conviction thereof, be punished by a fine—

And so on. It is the same thing.

Mr. President, as I said, I understand it was the understanding in putting this proviso in that it should apply to all the executive departments of the Government and to soldiers and sailors and marines wherever employed in those executive departments. But because it is in the form of a proviso the well-known rule of construction steps in, which is that a proviso is a mere limitation upon the main section of which it is a proviso, and therefore it can not have the wide scope it would have as an independent provision of law.

This amendment simply seeks to put in the law what it was the intention to put into the law in the legislative appropriation act of last year.

I very much hope the Senator from Oklahoma will see his way clear not to insist upon the point of order.

The Senator from Georgia has said that we ought not to make classes of this kind, but it has been the policy of the Government from the very beginning to make classifications of this very description. We are acting upon similar provisions all the time. Our laws provide that the ex-soldier shall be preferred in appointments under the civil service. This simply carries the proposition one step further and prevents an ex-soldier who has been appointed from being discharged. But the Government is amply protected, because the provision is that he shall be rated good in the department. If he has fallen below the standard, then, of course, he is amenable to the provisions of law which would authorize his dismissal.

Mr. SMITH of Georgia. Let me ask the Senator a question.

The PRESIDING OFFICER. The Chair understands that debate is proceeding by unanimous consent. Under the rule it is not debatable.

Mr. SMITH of Georgia. Suppose a soldier of the Spanish-American War had an $1,800 clerkship and was rated good, and lower down in the same service there is a clerk at $1,200 who is rated very good. There is a clerk, then, receiving a good deal less pay and doing a good deal better service, and simply because the $1,800 clerk had been in the Spanish-American War proficiency is not the test of his payment but something else is. That will be the practical effect of this rule. It is demoralizing to the effort to bring up the standard of proficiency.

Mr. SUTHERLAND. If the Senator will permit me to answer, the practical effect would be that the $1,200 clerk would not be prevented from being advanced if his record justified it, but the ex-soldier clerk who is receiving $1,800 would not be demoted if his record was good.

Mr. SMITH of Georgia. No; the appropriation bill fixes the number of $1,800 clerks, the number of $1,600 clerks, and $1,400 clerks, and $1,200 clerks, and he stands there at $1,800 without another $1,800 clerkship open, to the exclusion of the more proficient clerk in the same line or perhaps in the same office.

Mr. SUTHERLAND. It does exactly what I said. It will not interfere with the promotion if there is a place.

Mr. SMITH of Georgia. Oh, yes.

Mr. SUTHERLAND. If there is a place it will not interfere with the clerks of lower grade, but it will prevent the demotion of a clerk who occupies a place in that grade.

Mr. SMITH of Georgia. He occupies the place to the exclusion of one who is rendering better service to the Government.

Mr. SUTHERLAND. It will prevent his being supplanted by a clerk occupying a lower place, if the ex-soldier is rated good. Personally I am in favor of that sort of legislation. I am in favor of the provisions of law which are now upon the statute books, which permit a discrimination in favor of the ex-soldier.

Mr. ASHURST. Mr. President, I wish to make a parliamentary inquiry. I will inquire, if debate is in order, upon the merits.

The PRESIDING OFFICER. It is not; and the Chair has stated that this debate is proceeding by unanimous consent.

Mr. ASHURST. Then, under the rules, debate is not in order.

The PRESIDING OFFICER. Debate is not in order.

Mr. GALLINGER. It is in the hands of the Chair to permit debate or not, as the Chair sees fit.

The PRESIDING OFFICER. The Chair rules that the point of order made by the Senator from Oklahoma is well taken and that the amendment is not in order. The next amendment will be stated.

The next amendment was, on page 148, after line 9, to add as a new section the following:

SEC. 5. That section 8 of the District of Columbia appropriation act, approved June 26, 1912, shall not take effect or be operative during the fiscal year 1914 except to the extent that it prohibits the payment of membership fees or dues in societies or associations: *Provided*, That during the fiscal year 1914 expenses of attendance of officers or employees of the Government at any meeting or convention of members of any society or association shall be incurred only on the written authority and direction of the heads of executive departments or other Government establishments or the government of the District of Columbia; and a detailed statement of all such expenses incurred from June 30 until December 1, 1913, shall be submitted to Congress on or before January 1, 1914.

Mr. CRAWFORD. I simply wish to inquire what that language means. To one not acquainted with its purposes it is not clear.

Mr. WARREN. It will take but a moment to explain it. In the closing hours of the consideration of the District of Columbia appropriation bill last year there was a section inserted which was intended to remedy an acknowledged evil, that too much money was expended for the employees of different departments in traveling to meetings of associations, and so forth. It was, of course, supposed to be in the interest of the Government, but the conditions were made so drastic that the board of health, the Surgeon General, and others were prohibited from entering into any of these meetings or obtaining the benefit of the associations. So every department, I think, without exception, appealed to us, and in one bill and another—in the Agricultural appropriation bill and the others—in the last session we attempted to fix it.

When we got through the different bills they represented different privileges to different departments. So the committee on the House side put a provision like this one in the sundry civil bill. It was about the last measure enacted, and they put in this general provision, which would not only serve to remedy the evil, but would yet leave elasticity enough so that on the written order of a head of a department they could go to certain of these association meetings. But they are debarred from paying club or association fees, and so on.

It is merely continuing what was in the sundry civil appropriation act last year and is now current law.

Mr. OWEN. Mr. President, I feel constrained to make a point of order against this item. It is general legislation and changes existing law. I do not think it ought to go on the appropriation bill. I am very sorry not to be able to agree to it, but I do not think it should go on this appropriation bill.

Mr. WARREN. It does not change existing law. It simply continues law as everything in this appropriation bill does. It is word for word a continuation of the present law for the next fiscal year.

Mr. OWEN. It expressly changes existing law in its own language, that section 8 shall not take effect, and so on.

Mr. WARREN. But section 8 was repealed last year in the bill and this simply extends it the same as an appropriation of money would be extended.

Mr. GALLINGER. Mr. President, if the Senator will permit me, I desire to make only one observation about this matter. The original provision was on the District of Columbia appropriation bill, placed there against my judgment, and I think it was altogether too sweeping. It has worked a detriment to the service of the Government. It was put there under a misapprehension. As a matter of fact, it was intended to cure a small evil and it brought great harm.

Mr. WARREN. May I interrupt the Senator?

Mr. GALLINGER. Certainly.

Mr. WARREN. The same interest that insisted upon putting it in, later assented to this proposition and was glad to have it go in the bill.

Mr. GALLINGER. Mr. President, in the last bill corresponding to this one this provision was inserted. I think it was unfortunate that the word "hereafter" had not been put in the provision, because then it would have made it law. This is simply a continuation of the law that we enacted in the last legislative appropriation act.

While it is general legislation, I do hope the Senator from Oklahoma will withdraw his point of order. It affects the health service and many other departments of the Government, that really ought to be permitted to send a representative to a convention where he is expected to learn very much for the welfare of the people of the country.

Of course if the issue is to be made that no general legislation is to be permitted on appropriation bills, I think there will be some harm done in the future, because there are times, we have all learned, when it is the only way we can legislate to cure something that needs immediate attention. A bill can be introduced for this purpose, and possibly we might get it through Congress in one, two, or three years, but in the meantime harm is being done to the public good.

Mr. OWEN. I withdraw the point of order.

Mr. GALLINGER. I thank the Senator.

Mr. OWEN. I only wanted to emphasize upon the attention of the Senate the fact that appropriation bills shall not be made the vehicle for legislation. I realize that this provision has some value, and I do not insist upon the point of order.

Mr. GALLINGER. The Senator is right in his contention in a general way. I thank the Senator for withdrawing the point of order.

Mr. WARREN. Mr. President, I wish to say that I have no interest in this whatever, except an interest in the good of the service, and, as the Senator knows, it would not have gone into

effect until the 1st of July, when the Senator's party will be in charge. I agree with him that legislation ought not be put in appropriation bills. In this case it was merely to cure a fault of earlier legislation.

The PRESIDING OFFICER. The Chair understands that the point of order is withdrawn. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DIXON. I ask the Senate to return to the amendment on page 144.

The PRESIDING OFFICER. The amendment on page 144 will be read.

The SECRETARY. On page 144, after line 11, the Committee on Appropriations reported to insert:

Commerce Court: For the Commerce Court, from March 5 to June 30, 1913, both dates inclusive, namely: Clerk, at the rate of $4,000 per annum; deputy clerk, at the rate of $2,500 per annum; marshal, at the rate of $3,000 per annum; deputy marshal, at the rate of $2,500 per annum; for rent of necessary quarters in Washington, D. C., and elsewhere, and furnishing same for the Commerce Court; for books, periodicals, stationery, printing, and binding; for pay of bailiffs and all other necessary employees at the seat of government and elsewhere, not otherwise specifically provided for, and for such other miscellaneous expenses as may be approved by the presiding judge, $16,111.11; in all, $19,977.78, to be immediately available.

Mr. DIXON. Mr. President, it was the understanding, I think, of practically every Member of the House and Senate and the understanding with the country at large that after the series of events regarding appropriations for the Commerce Court transpired last year the Commerce Court would, in effect, go out of business on March 4.

Now, this is an effort—and we might as well understand it—to rejuvenate and give new life to the Commerce Court, which, as I said, everyone supposed was going out of business on the 4th day of March, with the close of the present administration. The present appropriation included here calls for about $20,000 to carry it on to the 1st day of July. The original amendment, as reported by the subcommittee, not only carried it to the 1st of July, but appropriated for the full year of 1914. That went out in committee.

If the pending amendment is adopted it merely means another continuation of the lease of life of the Commerce Court. If it is not adopted it means that on the 4th day of March the Commerce Court comes to an end for lack of an appropriation.

The argument was made in committee, and it will be made here on the floor of the Senate, that we should appropriate for the Commerce Court up to the 1st day of July in order to allow it to wind up its business properly. I doubt whether that argument can be really sustained. I doubt seriously whether that is the purpose of the present amendment.

Mr. SMITH of Georgia. Will the Senator yield to me for a question?

Mr. DIXON. With pleasure.

Mr. SMITH of Georgia. Will we not have exactly the same trouble on the question after next July? Was not the limitation of this appropriation to March 4 notice that in so far as they could wind up their business it should be wound up by the 4th of March? Can they not wind it up by that time just as quickly as in July?

Mr. DIXON. The Senator from Georgia states the case very well. On the 1st day of July there would again be renewed a proposition for another appropriation. Now, the way to resume is to resume, and the way to abolish this Commerce Court is to strike this amendment from the bill.

Mr. WARREN. Will the Senator from Montana allow me just a moment in reply to the Senator from Georgia?

Mr. DIXON. With pleasure.

Mr. WARREN. The talk in conference at the time, when it was found necessary to leave all legislation out, was that there would be legislation in the meantime, between the 1st of December and March 4, whereby the business would be provided for in other courts.

Mr. SMITH of Georgia. Mr. President——

Mr. WARREN. Permit me to say further, on the part of the committee, that the subcommittee which prepared the bill for the full committee entertained, I think, the same opinion that the committee and the Senate entertain, that the duty of the Appropriations Committee is to provide for what is ordered under the law.

This court was in existence with business before it, and we had failed meantime to provide any way whereby the business could go to other courts, as I understand it.

Now, a litigant, a shipper, who has a difference with a transportation company and goes to the Interstate Commerce Commission and wins his case, unless we do something to relieve him, is almost at the mercy of the corporation. They appeal the case, and there we are.

That is why the subcommittee presented an appropriation to the full committee for the fiscal year of 1914 and for the four months remaining unprovided for in the present fiscal year; and it ought not to go out, because we have failed to provide any other way for the continuance of the Commerce Court business.

One word more. I have in my hand here the hearings which the Senate committee had. It took pains to try to hear from all interested parties. It heard from shippers and also had before it the Interstate Commerce Commissioners, Messrs. Prouty and Clements, and also had the leading solicitor and attorney of the Interstate Commerce Commission. In my opinion, those are the persons of all others who might object to the court. They all stated, and the attorneys most emphatically, that chaos would follow unless we provided some way for handling appeals, with the necessary and appropriate legislation, so that the business of the public would not be obstructed and shippers would not be completely at the mercy of transportation corporations.

Mr. SMITH of Georgia. Will the Senator from Montana yield to me just a moment?

Mr. DIXON. I yield to the Senator from Georgia.

Mr. SMITH of Georgia. The Senator from Iowa [Mr. CUMMINS] at the last session of Congress, with the assistance of a few other Senators, perfected a plan by which the business before the Commerce Court was to be handled, and provided broadly for the distribution of the cases and the continuation in the courts of the country other than the Commerce Court—the district and circuit courts—of the business of the Commerce Court. We sent that from the Senate as the action of the Senate, and it was yielded in conferen .

Now, with very little difficulty, that amendment then perfected by the Senator from Iowa can be put into a separate bill, or, if the point of order is not made upon it, we can place it as an amendment on this appropriation bill. We can take care, with no difficulty, of the shippers who are concerned about the trial of their cases. We can easily provide for that, and the way to make sure that we will provide for it is to stop this appropriation. Then everybody will help us provide for it.

Mr. DIXON. As the Senator from Georgia remarked awhile ago, the continuation of the life of the Commerce Court by this appropriation until the 1st day of July will merely result in piling up more cases in the Commerce Court, whose jurisdiction must be redistributed to the Federal courts in different districts. I will be perfectly happy if the Senator will offer the amendment which the Senator from Iowa [Mr. CUMMINS] offered to the appropriation bill at the last session as a modus operandi of redistributing the jurisdiction of the cases already on file, but I reiterate this is merely allowing the camel's nose to get a little farther into the tent. It makes it more difficult all the time to abolish the court. The temper of the country is to abolish it. The record of the Commerce Court certainly has not reflected glory on itself, and the quicker it is abolished the happier the people of the country are going to be.

Mr. WARREN. May I ask this question: I take it for granted that, should there be an accumulation, the same legislation that would take ten cases would take a hundred if you should legislate and transfer the business to another court?

Mr. DIXON. Certainly. I would suggest to the chairman of the committee that I do not like to attack a bill from a committee of which I am a member, but I made this same fight in the committee. I did succeed there in striking out the appropriation for 1914.

I would be very happy to have the Senator from Iowa [Mr. CUMMINS] offer in lieu of this amendment the amendment which he offered to the appropriation bill last summer, providing a schedule for the transfer of the cases, and then on the 4th of March the thing will have been finally accomplished.

Mr. CUMMINS. Mr. President, my opposition to the Commerce Court began when it was originally proposed, and I have never ceased to be opposed to the existence of the court. But until the court is abolished and its jurisdiction is conferred upon some other court we ought to maintain the court. It would be an intolerable situation to preserve the jurisdiction of the court and refuse to give the court the means by which it could exercise its jurisdiction. No other court has the jurisdiction which is now conferred upon the Commerce Court. We must not, as it seems to me, allow a period from the 1st of March until the 1st of July to intervene in which the people of the country will have no opportunity to resort to the courts in those cases of which the Commerce Court now has jurisdiction. That seems to me to be fundamental.

Mr. BRISTOW. Mr. President——

Mr. CUMMINS. Just a moment. I will conclude what I was about to say, and I fancy I will advance the thought in

the mind of the Senator from Kansas in conclusion. The reason I have not offered to this bill the amendment which I offered to the bill of similar character of last session is that the bill, having passed Congress, went to the President for his approval. He disapproved the bill on the ground, among other things, that Congress had abolished the Commerce Court. His disapproval did not in any wise change my mind with regard to the matter, and I stand ready at any time to vote either for an amendment or an independent bill which abolishes the court and bestows its jurisdiction elsewhere. But we have the same President we had then, and I assume he has not changed his mind.

Mr. DIXON. Will the Senator allow me?

Mr. CUMMINS. In just a moment. I assume that the President would veto the bill as he did before, and that all we could do upon the return of the bill to us would be to surrender, as we did before, and pass the bill without the amendment. It has, therefore, seemed to me a rather foolish, or, at least, a futile, thing to do.

I now yield to the Senator from Kansas [Mr. BRISTOW], who, I think, asked me first to yield, if the Senator from Montana will allow me.

Mr. DIXON. I merely want to suggest, in connection with what the Senator has said, while we have the same President that we had when he vetoed the last bill, the President has, in the interim since he vetoed the last bill, heard from the country at large and, in consideration of what has happened, may have a different view of his own at this time.

Mr. CUMMINS. I do not know that the verdict of the country at large was a verdict upon that particular issue.

Mr. DIXON. I want to further suggest to the Senator from Iowa that this amendment, if it is necessary, can go on a half dozen appropriation bills which will come up between now and the 4th of March. Why not strike it from this bill, and in the meantime prepare the amendment which the Senator from Iowa offered last summer to be offered in connection with any supplementary appropriation bill on the sundry civil bill or on the deficiency bill or on half a dozen other appropriation bills which are coming up?

Mr. CUMMINS. Does the Senator from Montana really think that the President of the United States will approve an appropriation bill which abolishes the Commerce Court?

Mr. DIXON. I am not in the confidence of the President of the United States. There is plenty of time between now and the 4th of March—to which time an appropriation has already been provided for—for the Senator from Iowa to offer his schedule for redistributing the jurisdiction of cases now pending and to pass the bill through the Senate during the life of the present appropriation bill. I think, in view of the fact that this can very easily be done on any appropriation bill between now and the 4th of March, it is worth while to try it.

Mr. BRISTOW. Mr. President——

Mr. CUMMINS. I now yield to the Senator from Kansas.

Mr. BRISTOW. What I wanted to suggest to the Senator from Iowa was that there seems to be no effort being made to provide for the assignment of the jurisdiction to other courts which this court has had.

Mr. SMITH of Georgia. I have sent for a copy of the amendment prepared by the Senator from Iowa [Mr. CUMMINS], which was adopted by the Senate at the last session of Congress. I hope to have it in a few moments, and I think I shall offer it as an amendment to this bill.

Mr. CUMMINS. So far as I am concerned, I certainly shall vote for an amendment of that character, although I intend presently to take a resolution not to vote for any general legislation upon appropriation bills; but I have not yet taken it, and may defer it until the coming in of the next administration.

Mr. BRISTOW. What I wanted to further suggest was that we have here an appropriation continuing this court until the expiration of this fiscal year. If this amendment is defeated, the country will then be exactly in the same condition in which it will be on the 4th of March. This does no good; it simply postpones for three months the "chaos" we have been hearing about.

Mr. CUMMINS. No.

Mr. BRISTOW. Yes.

Mr. CUMMINS. This bill, to be logical, ought to make an appropriation for the fiscal year 1914.

Mr. BRISTOW. And if this goes through, I predict that that appropriation will find its way into some other bill continuing the court beyond the 1st of July. For one, I am very much in favor of an amendment to this bill, in lieu of this one, distributing the jurisdiction and directing this court to go out of business on the 4th of March.

Mr. CUMMINS. I also am very much in favor of such an amendment, but I have not believed, having met the experience of a disapproval of a similar bill, that it was worth while to attempt the abolition of the court without a majority of two-thirds in Congress under present circumstances.

Mr. GALLINGER, Mr. BRISTOW, and Mr. FOSTER addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Iowa yield, and to whom?

Mr. CUMMINS. I yield to the Senator from New Hampshire.

Mr. FOSTER. I wished to ask a question, as I thought the Senator from Iowa had yielded the floor.

Mr. GALLINGER. Mr. President, I voted for this provision in committee for the reason that I thought we would be in bad shape if we did not insert it in the bill. I am quite willing at any time to vote for the abolition of the Commerce Court. I believe that that is coming, and perhaps it had as well come at one time as another; but Mr. Farrell, who is the solicitor of the Interstate Commerce Commission—and I believe there is not any too kindly a feeling between the Interstate Commerce Commission and the Commerce Court—gave testimony which influenced me very much. Will the Senator from Iowa permit me to read a couple of paragraphs from his testimony?

Mr. CUMMINS. Certainly.

Mr. GALLINGER. Mr. Farrell said:

> Mr. FARRELL. Unless the Commerce Court is abolished or its appropriation continued a chaotic condition will ensue after March 4; and I have no hesitancy in saying that the Congress should either appropriate further for the Commerce Court or else abolish it and transfer its jurisdiction to other courts, so that they may operate on those cases after March 4.
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> * * * * * * *
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> Senator FOSTER. Mr. Farrell, you said that, in your opinion, conditions would be chaotic as to the cases pending and cases to be brought unless there were additional legislation. Will you please explain a little more fully what you mean by the condition of those cases being chaotic?
>
> Mr. FARRELL. I mean that the Commerce Court would still have its jurisdiction, but no practical way of exercising that jurisdiction; that it would have no money with which to do business, and still would have business to do.
>
> The CHAIRMAN. And the right of appeal from your commission would exist with no legal way of putting it into effect.
>
> Mr. FARRELL. That is correct.
>
> Senator FOSTER. The court still exists, and the jurisdiction of the court still exists, and there is no machinery to carry on the cases and enforce either the power or the jurisdiction of the court.
>
> Mr. FARRELL. Yes.

Then Mr. Needham, in giving testimony, practically repeated the same language that Mr. Farrell had used.

While, as I have said, I am quite ready at any time to vote for the abolition of the Commerce Court, if provision is made to transfer its jurisdiction to other courts, it occurs to me that we ought not to do it offhand to-day and leave cases hanging in the air, whereby litigants would be denied their rights for some time to come. That is the attitude I held in committee, and I think it is correct.

Mr. CUMMINS. I take much the same position; but I think, so long as the court exists, that we ought to maintain it. Our first step should be to abolish the court and transfer its jurisdiction, which is a highly necessary jurisdiction, to some other tribunal. Then, of course, the appropriation becomes unnecessary; but to leave the court in existence without the possibility of discharging its functions would be to impose a very great hardship upon the people of this country. I do not think the Senate would intentionally or consciously leave that void in the judicial system of the country.

Mr. FOSTER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Louisiana?

Mr. CUMMINS. I now yield the floor, having said all that I desire to say.

Mr. FOSTER. Mr. President, as a member of the Appropriations Committee I think it but just and proper that the Senate should understand the reasons that prompted at least a majority of the members of that committee in submitting this amendment.

In 1909 or 1910 the Commerce Court was created, and exclusive original jurisdiction was conferred upon that court for the trial of all cases wherein the orders of the Interstate Commerce Commission were involved. The jurisdiction which had theretofore extended to and been exercised by the circuit courts of the country was withdrawn and exclusive original jurisdiction was given to the Commerce Court for the purpose of trying all those cases. In the act creating this court there were also provisions made for certain officers, setting out the number of the officers and the salaries that should be paid to those officers. At the last session of Congress, after the bill carrying with it an abolition of the court had been vetoed—I think, upon that ground the veto was based—there was a compromise effected in the conference committee, by which an appropriation was made for rent, stationery, and the payment of the officials of that court

until the 4th of March. As we found the law in the committee, it was that the Commerce Court as a court still existed; that it enjoyed the identical jurisdiction which was conferred upon it in the act creating it; but that from the 4th of March until the end of the fiscal year there was no appropriation made for carrying on and operating the machinery of that court.

So, Mr. President, the law has left the court in existence and it has left it with its jurisdiction, but it has left it without any means of carrying on the court, because of the failure to appropriate for a building in which the court was to hold its sessions, for clerks to file the papers of the court, or for marshals to execute the orders of the court or to give notices. In that situation it seemed to me at least that it was necessary and that it was the duty of this committee to report an appropriaion in order to make available the money necessary to carry on that court from March until July. In fact, I favor an appropriation for the whole year. That did not involve, nor am I going to discuss, the question of the desirability of the abolition of the court. I did not believe that it was a proper method of legislating to carry into general appropriation bills general legislation. That has always been my position.

I believe, further, Mr. President, that the President would do just what he has heretofore done if this provision had been put in the bill.

Unless this amendment shall be adopted, what will be the result? You will have the Commerce Court as a court, you will have it with its jurisdiction, and you will have all the cases now pending before that court and the cases hereafter to be brought returnable to that court without any machinery at all to operate the court. It will completely tie up all of the interstate commerce litigation.

When this matter was up for consideration by the committee there appeared before the committee two lawyers of the Interstate Commerce Commission. Both of those lawyers have had large experience in the conduct of these cases. One of them was Mr. Farrell. I asked him before the committee:

Senator FOSTER. Of course, as you understand, this is an appropriation bill. The bill fails to make any appropriation for rent of building or purchase of stationery or the payment of any of the officials of the court. As I understand the bill, it does not abolish the Commerce Court, but it practically stops the operation of the machinery of the court. Now, if the bill passes in its present form, failing to make these appropriations, what will become of the cases now pending in that court and of the cases hereafter to be filed by any litigant?

Mr. Farrell's answer was:

Unless the Commerce Court is abolished or its appropriation continued, a chaotic condition will ensue after March 4; and I have no hesitancy in saying that the Congress should either appropriate further for the Commerce Court or else abolish it and transfer its jurisdiction to other courts, so that they may operate on those cases after March 4.

Then I asked Mr. Needham, who seems to have had a very extended experience in Commerce Court litigation, this question:

Senator FOSTER. We might ask Mr. Needham if he agrees with Mr. Farrell as to the chaos that would follow in the event that there were no other legislation than that which refuses to make any appropriation for the support and maintenance of the Commerce Court?

Mr. NEEDHAM. Oh, yes; that would be a deplorable condition.

The CHAIRMAN. Of course there must be either legislation or appropriation.

Mr. NEEDHAM. There would be no way of disposing of applications for restraining orders, and so forth.

The CHAIRMAN. Your cases would simply be hung up in the air, and both shippers and transportation companies would be in limbo.

Mr. NEEDHAM. Oh, yes; it would be a condition of chaos.

Mr. BRISTOW. Mr. President——

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from Kansas?

Mr. FOSTER. Certainly.

Mr. BRISTOW. Let me inquire of the Senator if this awful condition which we are about to confront can not be remedied by providing for the distribution of the jurisdiction of this court to other courts? Congress has very emphatically taken a position in regard to the continuance of this court. Now, instead of trying to force its continuance by presenting to the Senate and the country this chaotic condition that will exist if the appropriation is not made, why not offer some remedy for it and let the court go out of existence, as it is clearly and manifestly the intention of Congress that it shall?

Mr. FOSTER. Mr. President, I will answer the Senator. Of course, the Appropriations Committee had nothing to do with the legislation in regard to the Commerce Court and, in my opinion, ought not to have anything to do with it. If there is a bill passed abolishing the Commerce Court, that bill necessarily carries with it the abolition of all the officers under the court, and all appropriations for those officers will cease, because there will be no officers in existence to receive the appropriations.

These are the reasons, Mr. President, that impelled me to vote in committee for this amendment. As I have stated, general legislation of the character that was put on this bill last year, I believe, is against the better policy of legislation; and so far as I am concerned, I shall object to it being placed upon this bill.

Mr. CLARKE of Arkansas. Mr. President, I have cooperated for several sessions with that contingent in the Congress of the United States which sought to abolish the Commerce Court, and my service was that of an ally rather than a veteran.

So far as the court itself is concerned, it is a distinct improvement of the judicial system of the United States. It supplies a real want and will facilitate, as nothing else will facilitate, the administration of the interstate-commerce law so far as it relates to transportation. Anybody who is at all familiar with the history of one of these rate cases in a United States district court will understand at once that the delay in itself amounts almost to a denial of justice. That has been the experience in all the Western States; it has been the experience in Arkansas, and we have there just as industrious, just as competent, and just as able a judge as any of the district judges in this country. The defect is in the system and not due to any particular deficiency in the judge.

The subject of transportation in its relation to interstate commerce has grown to such an extent that it has become of itself an independent topic of sufficient proportions to justify a special tribunal to deal with it. In the contracts of merchants time is of the essence; and in the matter of transportation it is of the utmost importance to know just exactly what the law is, because it enters into commerce in all of its branches. The railroads have had no better friend than the procrastination that has been imposed upon litigation in this country by the congested condition of the dockets of the courts.

The Commerce Court was an experiment when it was tried; that is to say, the public demand was crudely responded to. I voted for that feature of the law in opposition to the wishes of some of my associates on this side of the Chamber.

My principal business in life has been in the courthouse, and, whilst I did not distinguish myself there very greatly, I have learned some things by observation, more particularly relating to lawsuits conducted by other and abler lawyers. One of the things I did learn is that promptness in the disposition of litigation is quite as important as correct decision in the end.

We are just in the infancy of interstate commerce. Every time the Supreme Court of the United States meets it lays down some novel, almost startling, doctrine. The business of transportation is nation-wide. The technicalities connected with it are such as to perplex those who devote their lives to attempting to unravel them. A special class of lawyers has been raised up in the profession to take charge of the litigation of that kind which has grown up. So special or technical is it in its character that lawyers familiar with the ordinary rules of law that would serve them in general practice are not deemed to be competent to take charge of such controversies.

I think that demand has extended beyond the bar, and has now become a necessity, so far as the court itself is concerned. The subjects of the enforcement of the rights of shippers and the protection of the rights of the public have become separate subjects of the law. It is a distinct achievement in the direction of a better condition to have to deal with these questions a court instructed in all of the rules and matters and all the peculiar practical features of railroad construction and railroad operation. There grows up there much more quickly than it can in the different district courts of the country a body of laws peculiarly applicable to controversies of that kind. A special court grows familiar with such controversies; it can act quicker; its decisions are rendered quicker; and cases are finally disposed of quicker. All those things contribute to the efficiency of government and reduce the expense and uncertainty of controversies such as these. They prevent many controversies which otherwise would be precipitated by the public-service corporations, whose activities are subject to the jurisdiction of that court, because they know now that the time usually devoted to business of that kind has been very greatly shortened; and where they know they are not right, they are not likely to contend.

I have voted to abolish the court and the judges of it. My objection, however, was to the character of judges who were put there. I was utterly disappointed when the President announced the list of judges whom he had selected to constitute the membership of that court. He had been looked upon as possessing peculiar qualifications for selecting, from among the body of lawyers, judges who were qualified to discharge the duties that would be imposed upon them; but he has made the impression upon me, and I feel safe in saying that he has made

the impression upon others, that if there is one particular service in which he has proven to be a signal failure, it has been in that behalf; and you do not have to go outside of the membership of that court to condemn him as being utterly incapable of rising above the peculiar group of circumstances, not at all to his discredit, when he comes to make nominations for places of that importance.

The character of judges that he placed there discredited the court before the country. The very first thing they did was to constitute themselves the censors of the Interstate Commerce Commission. They took it upon themselves to review de novo every order that had been made, not limiting their jurisdiction to laying down principles of law and accepting the findings of fact of that tribunal; but one of the members of the court who was taken from that commission sought to make his dissenting opinions as a commissioner the rule of the law of transportation of this country.

True, the Supreme Court has set them right in some of its opinions. It may be that the definition of jurisdiction contained in the amendment to the interstate-commerce act is not as accurate as it should be; but improvements along that line, with a different class of judges, would, in my opinion, remove whatever dissatisfaction there exists in connection with the Commerce Court.

I am not disposed here to undertake to cripple the court now. The court, as I have said, does not stand well, not because of the structure of the court or the constitution of the court, but rather because of the judges who were appointed to administer that particular feature of the judicial function. In the first place, they discredited themselves in the extravagance with which they fitted up their court room. That was exhibited here on this floor. No such recklessness has been displayed by any public officials who have had charge of the disbursement of money for purposes of that kind. They showed a weakness and a vanity about it that was certain to impress one with the thought that they felt themselves to be a little different from what the law intended they should be. Then their habitual raids upon the jurisdiction of the Interstate Commerce Commission were such as to create the impression that that tribunal had been abolished, except as a place where controversies could be originated, and that the real hearing and disposition was to take place in the Commerce Court.

I have my own notions about that kind of a court. I believe there should be a central court, composed of the very best judges who can be found on this continent, who should be paid a salary that will secure them. Whenever we have that kind of a court, they will vindicate the wisdom of the establishment of such a court by demonstrating to the country that no other means that can be adopted involving no greater expense than that can be inaugurated with such gratifying results.

The proposition now pending is to allow sufficient money to keep the court running until July. I believe I shall lend the aid of my vote to that proposition. I believe that before many months roll around, certainly before many years roll around, we will have an opportunity to deal with the court in a broader way, and it is possible that some means can be found by which the just criticisms of the country may be obviated and the usefulness of the court may be increased.

The PRESIDING OFFICER (Mr. SHIVELY in the chair). The question is on agreeing to the amendment reported by the committee on page 144 of the bill.

Mr. DIXON. I understood that the Senator from Georgia [Mr. SMITH] was going to offer as an amendment——

Mr. LODGE. The question will be divided anyway.

Mr. DIXON. I understood the Senator from Georgia was going to offer as an amendment the schedule prepared and adopted at the last session of Congress.

Mr. SMITH of Georgia. I understood that the Senator from Louisiana [Mr. FOSTER] would make the point of order against the amendment, and it clearly is out of order to put this proposed legislation on an appropriation bill. So I abandoned the idea of presenting the point of order. I think the proposition should be submitted to the Senate as a separate question.

Mr. DIXON. I should think that the Senator from Georgia would offer the amendment and allow the responsibility to rest on the Senator from Louisiana [Mr. FOSTER] for redistributing the cases now pending before the Commerce Court——

Mr. FOSTER. I hope the Senator does not think the Senator from Louisiana is going to hesitate to take the responsibility.

Mr. DIXON. No.

Mr. SMITH of Georgia. Mr. President, when I heard the statement of the Senator from Louisiana [Mr. FOSTER] I knew it was so, and I think the only remedy would be to kill this appropriation and introduce an independent bill. If we divide this appropriation an independent bill will certainly pass both Houses.

Mr. OWEN. Mr. President, I think this item should be stricken out of the bill. The Congress of the United States has heretofore expressed its desire that the Commerce Court should go out of existence. The President of the United States has used his veto power to prevent the will of Congress becoming effective. Therefore the Congress of the United States has the right, under the practice of government, to refuse supplies, in this connection, as a means of making good its protest against this court. Congress is entirely justified in this, in my judgment, and the refusal of the supplies necessary to carry on this court will make necessary the abolition of the jurisdiction of this court, the distribution of the cases before the court, and provision for dealing with cases which are on appeal from this court. That can be done in due order, but I think this item should be struck out, and I wish to say as much.

The PRESIDING OFFICER. The Chair wishes to suggest that the question is not on a motion to strike out. The question is on agreeing to the committee amendment.

Mr. GALLINGER. Yes; it has to be put affirmatively.

Mr. DIXON. On that let us have the yeas and nays.

The yeas and nays were ordered.

Mr. OWEN. Mr. President, I suggest the absence of a quorum.

Mr. GALLINGER. The motion will be put affirmatively upon agreeing to the committee amendment?

The PRESIDING OFFICER. That is the question. The question is, Shall the committee amendment be agreed to?

Mr. OWEN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is suggested. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names.

Ashurst	Crawford	Martin, Va.	Simmons
Bacon	Cullom	Martine, N. J.	Smith, Ariz.
Borah	Cummins	Nelson	Smith, Ga.
Bradley	Dillingham	Owen	Smith, Md.
Bristow	Dixon	Page	Smoot
Bryan	du Pont	Paynter	Sutherland
Burnham	Fletcher	Penrose	Swanson
Burton	Foster	Perkins	Thornton
Catron	Gallinger	Perky	Townsend
Chamberlain	Heiskell	Poindexter	Warren
Clapp	Jones	Pomerene	Wetmore
Clark, Wyo.	Kenyon	Root	
Clarke, Ark.	La Follette	Sanders	
Crane	Lodge	Shively	

The PRESIDING OFFICER. Fifty-three Senators have answered to their names. A quorum is present.

Mr. POINDEXTER. Mr. President, I was not here during the discussion of this item, and I do not know whether any attention has been called to the form of the amendment offered by the committee. I notice at the close of the amendment the amount appropriated in all is $19,977.78; but it appears from a tabulation of the items preceding that that the amount it provides for is a great deal more than that. The separate items, added together, amount to the sum of $31,977, apparently. As I say, I was not here during the previous discussion, and this matter may have been explained.

Mr. WARREN. I think the Senator is mistaken about his figures. It provides for these expenses at certain rates per annum, but only for the remainder of March after the 4th of March, and April, May, and June; in other words, it covers the contingent expenses and salaries of the employees from March 4 to June 30.

Mr. POINDEXTER. This paragraph, as I understand, does not specify the amount appropriated, but leaves it to be determined by a mathematical calculation.

Mr. WARREN. It is at the rate of so much per annum.

Mr. POINDEXTER. It does not state how much.

Mr. WARREN. Yes; it does. I beg the Senator's pardon, but if he will have it read he will see that it does.

Mr. POINDEXTER. It states how much per annum, but it does not state the amount of the appropriation for salaries.

Mr. WARREN. This is upon the basis of the current law, except they cut down in rent, and the basis on which the appropriation asked is the number of days in which the court would be provided for at the rates of salary established by law, and at a lower rate of rental, which is made as low as possible. Of course, the old appropriation for traveling expenses is left out entirely. But the amount is as stated, a little short of $20,000—$19,977.17.

Mr. POINDEXTER. There is nothing in the amendment proposed by the committee from which it can be determined how much of this money is to be expended for rent, how much for furniture, and how much for any other incidental expenses.

I notice in a statement which I have in my hand among some of the incidental expenses of this court, pasteboard fitting pipes and drapery, $150; slip covers for 55 window draperies and 7

court screens, $145; 13 mahogany and silk-lined window shades, $122; altering 5 judge's court-room chairs, original cost $945; 72 feet mahogany bookcases, $1,404; 1 leather davenport, $175; models for carved work, $160; 5 judge's court-room chairs, $600; 3 plate-glass tops for desks, $57; and 7 leather pillows, $77.

I should like to inquire of the Senator from Wyoming if he can state what portion of this item of $16,111, specified in the last item in the amendment, is available for expenses of the kind I have just mentioned.

Mr. WARREN. The first appropriation for this court was on a basis of $100,000 for the first year. For the current bill or the present fiscal year was a trifle over $62,000.

The proposed sum for four months to complete the present fiscal year is on the basis of the $62,000 a year, and amounts to a little less than $20,000 for the four months. This amount covers every expenditure of every character of the Commerce Court, excepting, of course, the salaries of the judges themselves.

Mr. DIXON. That would be $16,000.

Mr. POINDEXTER. It would take some little time, and I am not going to undertake to make the calculation the Senator refers to. My understanding has been that ordinarily in appropriation bills the amounts appropriated for the items specified are stated in the bill. Of course, it would make no difference what explanation the Senator from Wyoming would give or what were the intentions of the Senate in appropriating this amount. The law on the face of it leaves absolute discretion in the Commerce Court to spend the entire $16,000 for leather pillows, or mahogany bookcases, or altering judge's chairs, or plate-glass tops for desks.

I desire to call attention to the absolute lack of any limitation in this amendment of the proportion of the sum appropriated which may be used for incidental expenses. There is no specification of the portion of this sum which is to be spent for rent; and if we are to judge by the practice of the court heretofore in expending money, I would suggest that if the appropriation is going to be made at all it ought to be limited to the purposes for which Congress intends it to be used.

Mr. WARREN. The Senator does not strengthen his case by repeating it. There is no such latitude as the Senator states. This specifically provides that a certain amount, which it is easy to calculate if a man will take a pencil and a piece of paper, is to be spent within a certain length of time and for a certain purpose.

The difference between the salaries at the rate per annum stated for the length of time stated, which, as I have already said, amount to over $12,000 of this sum, and the total appropriation under this paragraph would be the amount available for the items referred to.

Mr. GALLINGER. The total amount is $19,000.

Mr. POINDEXTER. That is the entire sum.

Mr. DIXON. If the Senator from Washington will pardon me, the amount for salaries is less than $4,000. The $12,000 is for the entire year. You are appropriating for the period only from March to June. The amount that you are appropriating for salaries is the difference between $16,111.11 and $19,977.78. There is absolutely $16,000 that can be expended there on the certification of the presiding judge without any regard to the question whether it is for leather sofa pillows or mahogany bookcases or plate-glass tops or what not.

Mr. WARREN. The Senator will understand that this, in addition to rent, is to cover the cost of books and periodicals, pay of bailiffs, and so on, at the seat of government. These items are, of course, in the estimate, and if it is desired to make the point that each one should be specifically stated, it makes the case different from our appropriations for other courts. But that can be done.

Mr. POINDEXTER. Mr. President, this appropriation is for the support of the court, which the Senate, at its last session, after thorough debate and a full discussion of the record of the court, and the relations of the court with the Interstate Commerce Commission, and the revolution which the court had worked in the Interstate Commerce Commission, and the interference with the functions of that commission, had abolished to all intents and purposes. It seems to me it is not a particularly edifying spectacle before the country when the Senate, after great deliberation and thorough debate, has decided a matter of this kind, that we should reverse that action at the succeeding session of Congress. I am not aware of anything that has occurred in the meantime that renders this court more acceptable now than it was then, nothing that has occurred that has in any way indicated that the court is disposed to change its attitude toward the Interstate Commerce Commission, or in the construction and abuse of powers which the court has or claims to have under the law under which it was organized.

The same reasons that applied then apply now. So far as I am concerned, I expect to vote the same way now that I voted then, and it seems to me that the Senate, unless there is some reason proposed, ought to refuse to reverse the action which it took at the last session.

The Supreme Court of the United States has declared in one of its decisions, which has already been cited, that the action of the Commerce Court—the rules undertaken to be laid down by the Commerce Court—had the effect of revolutionizing the law under which the Interstate Commerce Commission was exercising its functions. Before this court was created the Interstate Commerce Commission was regarded as an administrative body, acting under a rule or policy laid down by Congress, and its administrative acts were final; its findings as to facts, except where there was an excess of jurisdiction, were final. But this court, set up as a supervisory power, or setting itself up as a supervisory power, as to the findings of fact made by the Interstate Commerce Commission, has rendered the Interstate Commerce Commission practically useless.

These things were all discussed at the last session, and it would be useless, and I do not propose to go into them now. I simply want to register an objection, as far as I am concerned, for one, to a reconsideration of the question, when there is no reason advanced for a reconsideration of it.

The experiences which we have had with other courts that undertake to set themselves up above the law has not tended in any way to support the position taken by the Commerce Court. Very recently in the State of Idaho the supreme court of that State took a position very analogous to that which has been taken by the Commerce Court in regard to its functions, and laid down the rule that the Legislature of the State of Idaho had no power to limit punishment for contempt of court; that the court was supreme; that the court was above the legislature; that it had some inherent power derived from some mysterious source, which it did not explain, which was not subject to regulation by the legislature. It undertook to imprison publishers of a newspaper for a period of time double the limitation fixed by the legislature of the State as a penalty for contempt, and expressly declared that the legislature had no right to limit the power of the court. That, to all intents and purposes, is the attitude that has been taken by this Commerce Court.

It is a superfluous body. It is not needed, even though it had subjected itself to the law that has been laid down by the Supreme Court of the United States. But it has not done that. It has assumed an authority which the law does not give it, and has announced the same doctrine in the performance of its functions, in the issuance of temporary injunctions to restrain orders made by the Interstate Commerce Commission, which the Supreme Court of Idaho announced in this contempt case, namely, that it had certain inherent powers above the people, acting through the legislature, which had undertaken to define the limit of its power.

The expenses of this court amount to almost $100,000 a year, taking into account those matters which are not included in the items specified in this bill. The money has been expended extravagantly and recklessly, and if this amendment passes it will leave absolutely in the discretion of the court, as has been already stated, an opportunity to continue the extravagant expenditure of this large amount of money for purposes which are utterly unnecessary and improper.

Mr. BORAH. Mr. President, the manner in which this amendment comes up makes it a little difficult and embarrassing to one who is opposed to the Commerce Court and at the same time would like to see its existence terminated in an orderly way. I was opposed to the creation of the Commerce Court and I am opposed to its continued existence. I hesitate, however, to vote against appropriating the money necessary to run the court so long as it is in existence.

If I were not of the opinion that the act would be followed, if successful, by some means or method of disposing of the cases and transferring them in an orderly way and in disposing of the court, I should not vote against this appropriation. But it seems to me that if we are successful in cutting off the appropriation it will be followed in an orderly way with an act which will dispense with the court and transfer its jurisdiction to other courts.

For that reason, while it is somewhat of an incongruous position for one to occupy who is in favor of appropriating money whenever a court is in existence, I propose to cast my vote against the appropriation. I am so thoroughly opposed to the

court that I can not give my consent to anything which would seem to favor its continuance.

The PRESIDING OFFICER. The question is on the amendment reported by the Committee on Appropriations, on page 144 of the bill, on which the yeas and nays have been ordered. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. CRANE (when his name was called). I am paired with the junior Senator from Maine [Mr. GARDNER] and therefore withhold my vote.

Mr. GALLINGER (when his name was called). I have a general pair with the junior Senator from New York [Mr. O'GORMAN]. I think that Senator is not in the Chamber. I will transfer my pair to the Senator from South Dakota [Mr. GAMBLE] and vote "yea."

Mr. THORNTON (when Mr. O'GORMAN's name was called). I desire to announce that the junior Senator from New York [Mr. O'GORMAN] is necessarily absent from the Chamber. He is paired with the senior Senator from New Hampshire [Mr. GALLINGER], as has been announced by that Senator.

Mr. PENROSE (when his name was called). I am paired with the junior Senator from Mississippi [Mr. WILLIAMS]. I observe that he is not in the Chamber. I transfer that pair to my colleague, the junior Senator from Pennsylvania [Mr. OLIVER], thereby permitting the junior Senator from Oregon [Mr. CHAMBERLAIN] and myself to vote. I vote "yea."

Mr. PERKINS (when his name was called). I have a general pair with the junior Senator from North Carolina [Mr. OVERMAN]. He is necessarily absent on account of sickness. Not knowing how he would vote if present, I withhold my vote.

The roll call was concluded.

Mr. DU PONT. I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. I transfer that pair to the junior Senator from Maryland [Mr. JACKSON] and vote. I vote "yea."

Mr. CLARK of Wyoming. I have a general pair with the Senator from Missouri [Mr. STONE]. In the absence of that Senator I transfer my pair to the Senator from New Mexico [Mr. FALL] and vote. I vote "yea."

Mr. BRADLEY. May I inquire whether the Senator from Indiana [Mr. KERN] has voted?

The PRESIDING OFFICER. He has not voted.

Mr. BRADLEY. I am paired with that Senator. On account of his absence I decline to vote. Were he here I would vote "yea."

Mr. MYERS. Has the Senator from Connecticut [Mr. MCLEAN] voted?

The PRESIDING OFFICER. He has not.

Mr. MYERS. I have a pair with the Senator from Connecticut [Mr. MCLEAN], and he being absent I withhold my vote.

Mr. SIMMONS. I desire to announce that my colleague [Mr. OVERMAN] is absent from the Senate on account of illness.

The result was announced—yeas 33, nays 20, as follows:

YEAS—33.

Bryan	Dillingham	Page	Sutherland
Burnham	du Pont	Paynter	Swanson
Burton	Fletcher	Penrose	Thornton
Catron	Foster	Root	Townsend
Clark, Wyo.	Gallinger	Sanders	Warren
Clarke, Ark.	Jones	Simmons	Wetmore
Cullom	Kenyon	Smith, Md.	
Cummins	Lodge	Smoot	
Curtis	Martin, Va.	Stephenson	

NAYS—20.

Ashurst	Crawford	Martine, N. J.	Pomerene
Borah	Dixon	Newlands	Shively
Bristow	Heiskell	Owen	Smith, Ariz.
Chamberlain	Johnson, Me.	Perky	Smith, Ga.
Clapp	La Follette	Poindexter	Tillman

NOT VOTING—41.

Bacon	Gamble	Lippitt	Reed
Bankhead	Gardner	McCumber	Richardson
Bourne	Gore	McLean	Smith, Mich.
Bradley	Gronna	Massey	Smith, S. C.
Brandegee	Guggenheim	Myers	Stone
Briggs	Hitchcock	Nelson	Watson
Brown	Jackson	O'Gorman	Williams
Chilton	Johnston, Ala.	Oliver	Works
Crane	Johnston, Tex.	Overman	
Culberson	Kern	Percy	
Fall	Lea	Perkins	

So the amendment of the committee was agreed to.

Mr. OWEN. On page 26, after line 6, I move to insert:

For legislative reference bureau, under the direction of the Librarian of Congress, $10,000.

Mr. WARREN. I make a point of order against the amendment. It is not estimated for and is not recommended by any committee.

The PRESIDING OFFICER. The point of order is sustained.

Mr. OWEN. I think the point of order is well made. I offered the amendment, however, because it is a matter of great importance to the future usefulness of the Senate and the House of Representatives to begin the establishment of a reference bureau from which a Senator or Representative may obtain authoritative information on legislative questions. It has been established in Wisconsin and has proved very useful there. I hope the Senator from Wyoming will not insist upon his point of order.

The PRESIDING OFFICER. The Chair will withdraw his ruling if the Senator from Wyoming desires to withdraw the point of order.

Mr. WARREN. Mr. President, I do not feel that I ought to withdraw the point of order, because, in the first place, there is no law or estimate for it, and it has not had the consideration of the committee. I think it should have the consideration of the committee, which the committee has not been able to give it. I therefore insist on the point of order.

Mr. OWEN. I remind the Senator that it passed the Senate a year ago, if I am not mistaken.

The PRESIDING OFFICER. The point of order made by the Senator from Wyoming is sustained.

Mr. MARTINE of New Jersey. I desire to present an amendment.

The PRESIDING OFFICER. The amendment will be read.

The SECRETARY. Under the head of "Legislative," insert:

That the salary of all employees of the United States Senate who are receiving less than $1,800 are hereby increased 25 per cent. In no case, however, shall the salary so increased exceed $1,800.

Mr. MARTINE of New Jersey. My purpose, Mr. President, in offering the amendment is that we may reach those of lower grade. I feel that it is manifestly fair. It is a universally admitted fact that the cost of living has increased from 40 to 60 per cent, and these salaries have not been increased in years. I feel that it is a matter of simple justice.

Mr. WARREN. Mr. President, early in the consideration of the bill the manager of the bill felt that those who were not satisfied with the committee's action upon these Senate positions ought to have the opportunity to settle it here on the floor of the Senate. Therefore, all similar amendments are for the Senate itself to settle.

Mr. CLARKE of Arkansas. Mr. President, I think this is an inopportune time for increasing salaries, and we should not increase a salary until we know that there is a special reason for so doing. The same reason which prompted me to object to the amendment offered by the Senator from Virginia prompts me to raise the point of order against this amendment. It may be that increases will hereafter be made. It may be that an equalization of salaries will take place. I raise the point of order that this item has not been estimated for and is not otherwise within our rule.

The PRESIDING OFFICER. A point of order is made by the Senator from Arkansas. The Chair must sustain the point of order.

Mr. WARREN. That completes the bill, so far as committee amendments are concerned.

Mr. CUMMINS. I desire to ask the Senator from Wyoming whether the amendment known as section 5 was adopted? I was called from the Chamber for a few minutes this afternoon.

Mr. WARREN. Section 5 was stricken out on a point of order made by the Senator from Oklahoma [Mr. OWEN] and sustained by the Chair.

Mr. CUMMINS. The whole of section 5?

Mr. WARREN. The whole of section 5.

The PRESIDING OFFICER. The bill is still as in Committee of the Whole and open to amendment.

Mr. CUMMINS. I wish to make one further statement. I stated this afternoon that before the disposition of the bill I intended to offer an amendment relating to the Naval Observatory, the American Ephemeris, and the Nautical Almanac. I have concluded not to do so, but I shall offer a resolution presently for an investigation of that subject by the Committee on Naval Affairs.

Mr. SMITH of Georgia. I wish to give notice that immediately after the conclusion of the omnibus claims bill, which is in charge of the Senator from South Dakota, I shall ask the Senate to take up and consider House bill 22871, to establish agricultural extension departments in connection with the agricultural colleges of the several States.

Mr. CRAWFORD. I could not hear the first part of the statement of the Senator from Georgia.

Mr. SMITH of Georgia. Immediately after action by the Senate upon the omnibus claims bill, which is under the Senator's direction, I shall then ask the Senate to take up the agricultural extension bill.

Mr. CRAWFORD. I am very glad the Senator is making that exception, but from the speed which I have been making with the omnibus claims bill I think it is a little discouraging to both the bill which I am trying to get action on and the bill in which the Senator from Georgia is interested.

Mr. LODGE. The regular order.

Mr. WARREN. What has become of the appropriation bill?

Mr. SMITH of Georgia. I understood the claims bill was to follow the appropriation bill.

Mr. WARREN. The appropriation bill has not yet been passed.

Mr. SMITH of Georgia. But I understood that the Senator from South Dakota intended to ask the Senate to take up his bill immediately after the appropriation bill is passed.

Mr. GALLINGER. The regular order.

The PRESIDING OFFICER. The bill is as in Committee of the Whole, and open to amendment. If there are no further amendments as in Committee of the Whole the bill will be reported to the Senate.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. MARTIN of Virginia. On page 16, in line 15, I move to amend by striking out "$2,500" and inserting "$3,000" after the word "clerk."

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 16, line 15, strike out "$2,500" and insert "$3,000."

Mr. MARTIN of Virginia. And in the same line, as a part of the same amendment, after the words "assistant clerk," I move to strike out "$1,600" and insert "$2,000"; and after the word "janitor," in the same line, to strike out "$720" and insert "$1,000."

I will say to the chairman of the committee that they are the salaries of the clerks of the Judiciary Committee of the House, and I have a letter from the chairman of the House committee asking that these amendments be made. I have a letter here from Mr. FITZGERALD, and also from the chairman of the Committee on the Judiciary of the House.

Mr. WARREN. Will the Senator allow me to see the letter of the chairman?

Mr. CLARKE of Arkansas. What is the necessity for it?

Mr. MARTIN of Virginia. I will say that it has been the uniform custom to let each House fix the expenses of its own employees.

Mr. WARREN. I wish only to have the letters read; and, if the Senator will permit me here, I desire to say that there is a comity between the Senate and the House committees. The Senate has never, to my knowledge, proposed an amendment, or those in charge of appropriation bills consented to an amendment, to strictly House of Representatives matters, such as salaries, except where there came a written request from the other House. There seems to be a request at the present time from the chairman of the House Committee on Appropriations to have this done.

Mr. SMOOT. Mr. President, I should like to ask the Senator from Virginia if this amendment was made to the bill in the other House or whether the House has acted on it at all?

Mr. MARTIN of Virginia. It was not made there. Through inadvertence attention was not called to it. The chairman of the Committee on the Judiciary in the House feels that his clerks are not sufficiently paid, but through inadvertence the matter was not taken up in the House at all, and he now asks that it be put on in the Senate and be permitted to go to conference. The chairman of the Committee on Appropriations of the House, Mr. FITZGERALD, writes a letter making a request that these increases be made, so that the matter may go to conference and have the consideration of the House.

Mr. WARREN. Let the letters go into the RECORD.

Mr. CLARKE of Arkansas. Let the letters be read.

Mr. CRAWFORD. May I ask the Senator from Virginia a question?

The PRESIDING OFFICER. Does the Senator from Virginia yield to the Senator from South Dakota?

Mr. MARTIN of Virginia. I do.

Mr. CRAWFORD. Is the amount which is already in the bill the amount which those officials have been receiving during a considerable period in the past?

Mr. MARTIN of Virginia. I suppose so; though the chairman of the Committee on the Judiciary in the House feels that his clerks are not paid salaries commensurate with the salaries paid to the clerks of committees of like dignity and with equal responsibility and work, and the thinks their salaries ought to be increased.

The PRESIDING OFFICER. The question is on the amendment submitted by the Senator from Virginia [Mr. MARTIN].

Mr. SMITH of Georgia. I ask that the letters be read.

The PRESIDING OFFICER. The Secretary will read the letters referred to.

The Secretary read as follows:

WASHINGTON, D. C., *January 13, 1913.*

To the COMMITTEE ON APPROPRIATIONS,
United States Senate.

DEAR SIRS: I should like to see the salaries of the clerks and the janitor of the House Committee on the Judiciary made commensurate with the duties performed by them. The bill was reported to the House before I took this matter up, and I am therefore addressing your committee on the subject.

The clerk of the Committee on the Judiciary of the House now receives $2,500. I think this salary ought to be increased to $3,000. The assistant clerk now receives $1,600; I think this salary ought to be raised to $2,000. The janitor now receives $720; I believe his salary ought to be increased to $1,000.

During the last session of Congress the Committee on the Judiciary was in session, on the average, every day of the session of Congress, and sat, on the average, two and a half hours for each session of the committee. The clerks were kept at the rooms of the committee in the discharge of their duties until late into the night more often than not. The work of the clerical force has greatly increased since the salaries were fixed at their present figures.

Respectfully, yours,

H. D. CLAYTON,
Chairman Committee on the Judiciary,
House of Representatives.

COMMITTEE ON APPROPRIATIONS,
HOUSE OF REPRESENTATIVES,
Washington, D. C., January 15, 1913.

Hon. F. E. WARREN,
Chairman Committee on Appropriations,
United States Senate.

DEAR SIR: The Committee on Judiciary of the House desires to have some changes made in the legislative, etc., bill with reference to its clerical force. After consulting with the House managers who will have it in charge I have to request that you will make such changes as Mr. CLAYTON requests, so that the matter may be taken up in conference.

Very truly, yours,

JOHN J. FITZGERALD,
Chairman Committee on Appropriations,
House of Representatives.

Mr. WARREN. Mr. President, it will be observed that the chairman of the House committee asks that this amendment be made here and that the matter go to conference. I hope that the Senate will follow that course. I feel sure that the chairman of the committee on the House side will in conference or House session bring the matter up in a way that will settle it to the general satisfaction of the House.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Virginia [Mr. MARTIN].

Mr. CLARKE of Arkansas. Mr. President, it seems to me that this practice is not one that is to be commended. The House of Representatives never will have an opportunity of passing upon the matter of fixing the salaries of some of its own subordinate employees. This is a request, addressed by two individual Members of the House, to an individual Member of the Senate. If they had communicated it to the Senate in an official way, bringing to the notice of this body the fact that an omission had been made through inadvertence, I think the rule would be a safe one, but I do not favor it as a general practice. I am not prepared to say how far I am willing to go on this occasion in having matters of that kind disposed of on such a basis.

The salaries named are in excess of the salaries paid generally in Congress to clerks of committees; they are higher than the salaries paid at this end of the Capitol.

Mr. LODGE and others. Oh, no.

Mr. CLARKE of Arkansas. It seems so to me. Are there any clerks here who receive as much as a salary of $3,000?

Mr. LODGE. The clerk of the Committee on Appropriations receives a salary of $4,000.

Mr. SMITH of Georgia. It is higher than the salary received by anyone around the office of the Senator from Arkansas.

Mr. BRISTOW. Mr. President——

The PRESIDING OFFICER. Does the Senator from Arkansas yield to the Senator from Kansas?

Mr. CLARKE of Arkansas. I do. The Senator from Kansas always says something worth while.

Mr. BRISTOW. I understand this is $500 more than the clerk of the Judiciary Committee of the Senate receives.

Mr. CLARKE of Arkansas. That is what I had particular reference to.

Mr. GALLINGER. But, if the Senator will permit me, the Judiciary Committee of the Senate, as I recall, has two employees—certainly one employee—more than has the Judiciary

Committee of the House, and I think two. I will look it up in a moment.

Mr. CLARKE of Arkansas. If it is a rule, I do not care to change it; if it is a practice based on comity, I do not care to change it; but I do say that it will set a precedent that will soon be followed in this Chamber when applications are made for the increase of somebody's salary because a similar salary is being paid for similar service elsewhere.

Mr. LODGE. I think this rests on the long practice of the Senate, and a right practice, that each House should fix absolutely the salaries of its own employees throughout, and that the other House should not interfere with them. I think that has been our universal practice, and I think it will be a great misfortune if we do not comply with the wishes of the House. What they choose to pay their clerks, it seems to me, is no business of ours.

Mr. SMITH of Georgia. I should like to ask the Senator from Massachusetts how does he think we ought to find out what the House wishes to pay—by letters written in this way or by what they actually do?

Mr. LODGE. This is a suggestion of the chairman of the Committee on Appropriations, who is responsible for the bill and will be one of the conferees. This amendment, if adopted in conference, will go back to the House, and can not be adopted without the approval of the House.

Mr. CLARKE of Arkansas. For the approval of the entire report on the bill.

Mr. LODGE. Certainly.

Mr. CLARKE of Arkansas. This item can not, then, be singled out for a vote.

Mr. LODGE. They can single out any item they wish and have a vote on it.

Mr. CLARKE of Arkansas. Not on the conference report.

Mr. LODGE. Excuse me; it is perfectly possible to select——

Mr. CLARKE of Arkansas. The conference report must be adopted as an entirety.

Mr. LODGE. Oh, no; but it can not be amended.

Mr. CLARKE of Arkansas. That is our rule.

Mr. LODGE. It can not be amended, but any item can be selected to be acted on.

Mr. CLARKE of Arkansas. What is the use of voting on it if you can not amend it? That would be a naked right.

Mr. LODGE. If the Senator will allow me a moment——

Mr. CLARKE of Arkansas. I think I understand that the object of having a vote is to do something that you want to do.

Mr. LODGE. The practice of the House differs from that of the Senate. They are in the habit of instructing their conferees on specific items of bills, and. if they choose to instruct on this item and refuse to assent to the Senate amendment, it is wholly in their power to do so.

Mr. CLARKE of Arkansas. I understand that is so before it goes to conference; but when the conference report is made it is acted upon as an entirety; it must be adopted as an entirety or rejected as an entirety. There is no such thing as taking out an item of a conference report.

Mr. LODGE. The Senator will remember that we are constantly accepting portions of conference reports in the Senate.

Mr. CLARKE of Arkansas. That is a partial report.

Mr. LODGE. It is a conference report to go back to the House.

Mr. CLARKE of Arkansas. Yes; that is in the case of partial reports from conference committees.

Mr. LODGE. We do not have the practice of selecting items, but it is wholly within the power of the House to do so; and it is within the power of the Senate to do so if it chooses.

Mr. CLARKE of Arkansas. A great many things are in the power of the House to do if attention is ever called to them. What I object to is that this matter may go in the bill as amendment numbered so and so, and the House may never know what it is.

Mr. LODGE. The motion in the House would be to instruct the conferees.

Mr. CLARKE of Arkansas. On a $2,500 clerkship?

Mr. LODGE. In any event, I think it is their business.

Mr. MARTIN of Virginia. Mr. President, as a matter of comity between the two Houses, each House has been permitted since I have been a Member of the Senate to determine the compensation of its own officers and employees.

Mr. CULLOM. That has always been the practice.

Mr. MARTIN of Virginia. I do not know whether or not the compensation asked for in this case is reasonable. I am not in a position, nor are other Members of the Senate in a position, to judge of the labor performed by these clerks and the responsibility imposed upon them, but the chairman of the House committee who, as we all know, was engaged in the impeachment trial, overlooked presenting this matter to the House committee when it had under consideration the legislative, executive, and judicial appropriation bill, and in the last few hours he wrote the letter which has been read. I read it very hastily. I did not know to whom it was addressed, and supposed it was addressed to me, because it was handed to me on the floor by a Member of the House of Representatives. The chairman of the House Committee on Appropriations also had a conversation with me, and there has also been read his letter asking the Senate to put this bill in such a shape that the House can consider these increases of salary. I think it is in accordance with sound usage that we should adopt this amendment requested of us in this way, so that the House may determine what compensation it will pay to its own employees.

When this matter was presented to the committee by me the chairman of the committee stated that the action desired was in accordance with the uniform custom of his committee, but that he would not favor the adoption of the amendment increasing these salaries unless he had a written request to that effect from the chairman of the Committee on Appropriations of the other House, as well as from the chairman of the Judiciary Committee of that body. Both have written such letters; and according to the custom of the Senate, and in view of the comity between the two bodies, I think the amendment ought to be adopted, and I hope it will be adopted.

Mr. BRISTOW. Mr. President, if the House had increased these salaries and the bill had come here containing such increases, of course I would not be disposed to oppose them, although I do not think they would be justified; but if these increases are made, it is fair to presume that the conferees on the part of the House will agree to them, because a member of the House Appropriations Committee, who will be on the conference committee, has requested that this amendment be incorporated in this bill, and the conference report——

Mr. WARREN. Mr. President, that was stated, I think, inadvertently. The chairman of the committee, who has written the letter, will probably not be one of the conferees unless they change the program in appointing conference committees. The members of the subcommittee—Mr. JOHNSON of South Carolina and Mr. BURLESON—would probably be the conferees from the House representing the majority.

Mr. BRISTOW. I had supposed the chairman of the Committee on Appropriations would be one of the conferees.

Mr. WARREN. Not on this particular bill.

Mr. BRISTOW. I may be mistaken about that; but, in any event, when the conference report is agreed upon it will be reported to both Houses, and the House will not have an opportunity to express its desires as to these specific salaries. The only way the House can get at it is to reject the conference report; and it certainly would be an unreasonable proposition to insist upon the rejection of a bill carrying something over $30,000,000 because an increase of $500 had been made in the salary of a clerk. The adoption of this amendment by the Senate will put the House in a position where they can not take the sense of the House upon this particular amendment.

Mr. WARREN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kansas yield to the Senator from Wyoming?

Mr. BRISTOW. Certainly.

Mr. WARREN. I know the Senator wants to be right, and, of course, I have no more interest in this than he has; but, as a matter of fact, the rules of the House provide that no bill shall go to conference except by unanimous consent unless it is referred first to a committee.

In the case of the legislative, executive, and judicial appropriation bill, last year when the bill went back to the House certain matters were passed on. For instance, an amendment offered by the Senator from Ohio as to the Pension Office clerks was taken up on motion of Mr. CANNON and settled before the bill went to conference. Then there were two or three other matters. Almost anything in this bill, under the House rules, can be taken up and be passed on by the House before the bill goes to conference; and it can only go to conference by unanimous consent when it goes over there without first going back to the committee, as I understand the House rules and practices.

Mr. BRISTOW. The chairman of the committee, of course, is very much better acquainted with the details of the House procedure than I am. I was judging from our own rules here.

I want to say, further, that if these employees of the Committee on the Judiciary of the House have earned more than their salary because of extra work that has been imposed upon them as a result of the impeachment trial, then there should be an appropriation made to pay them an additional amount for that additional work; but it seems to me that to increase the salaries of committee clerks and employees away beyond the

amount paid other committee clerks and employees in either body for the same services in this way is a very dangerous thing to do, and I intend to vote against it. It is proposed to pay $1,000 to a janitor. We do not pay that anywhere.

Mr. CLARK of Wyoming. Mr. President, I have no question whatever but that probably the salary of the clerk of the Committee on the Judiciary of the House should be $3,000. I would be glad if it were made that; but it occurs to me that the record in this case will show that if this amendment is adopted the Senate is fixing the salary of the employees of the House. The House sending the bill to the Senate has fixed the salary of the clerk of the Judiciary Committee at $2,500. It may have been through inadvertence, as undoubtedly it was; but notwithstanding that, the fact is that as this bill came here passed by the House it fixed the salary of its own employee at $2,500.

Mr. LODGE. Two thousand.

Mr. CLARK of Wyoming. No; $2,500. It appears in the Senate in that way. We have accompanying that a letter from the chairman of the House Judiciary Committee saying that, in his opinion, the salary ought to be $3,000. We also have a letter from the chairman of the Committee on Appropriations of the House saying that, so far as he is concerned, it ought to be $3,000; but we have the action of the House itself in passing on the bill as having fixed it at $2,500. Now, does not the Senate put itself in the position, if this amendment is agreed to, of saying to the House of Representatives, "We do not take your view as to what the salary of the committee clerks ought to be, but we take the view of the Senate, fortified by the view of the chairman of the Committee on the Judiciary and also of the chairman of the Appropriations Committee"? It occurs to me that, no matter how worthy this appropriation might be, we are putting ourselves in a strange position by seeking to remedy an oversight of the House in this particular way. If the House is in favor of this, I suppose a supplemental bill can be passed fixing the salary of the clerk at $3,000. I am only throwing out this as a suggestion, because I am convinced from what has been said that the salary of the clerk of that committee ought to be $3,000. I am merely suggesting it in the light of the conditions and the circumstances.

Mr. GALLINGER. Mr. President, I think we ought not to hesitate about this matter. The truth is that in the case of the Committee on the Judiciary of the Senate, which presumably has not more help than is needed, the salary list amounts to more than twice that of the same committee of the House; and, while I hesitate to call attention to any committee, for instance, the Committee on Pacific Islands and Porto Rico of the Senate has a salary list larger than that of the Judiciary Committee of the House.

Mr. BRISTOW. Mr. President——

Mr. GALLINGER. The Committee on Expenditures in the Department of Justice of the Senate pays more in salaries than is paid to the employees of the Committee on the Judiciary of the House. I do not mean to allude to any particular committee in any disagreeable way. The House in framing this bill have not interfered with our list of employees; they have been very generous; but it seems to me if we haggle over this matter the House may take a hand in saying that the Senate has more employees than it ought to have and make trouble for us in our appropriation bills.

Mr. CLARK of Wyoming. Will the Senator yield to me for a question?

The PRESIDING OFFICER. Does the Senator from New Hampshire yield to the Senator from Wyoming?

Mr. GALLINGER. Certainly.

Mr. CLARK of Wyoming. Are we not, in taking the action proposed, interfering with the action of the House as to their employees?

Mr. GALLINGER. I think not, inasmuch as the request has come from the chairman of the Committee on the Judiciary and the chairman of the Committee on Appropriations of the House. I think courtesy demands that we should accede to the request, and I do not think it is interfering at all——

Mr. CLARK of Wyoming. That is just the point, Mr. President, with which I had difficulty—that we were interfering with the action of the House. That is what I want to avoid.

Mr. GALLINGER. That does not trouble me at all. I think it is a matter of courtesy that we ought to accede to and not discuss it very much, because if we get into a wrangle between the two Houses as to the matter of the salaries that are paid our employees, I confess I think the Senate would get the worst of it. That is my judgment; and I should like to have this passed over as quietly as possible and let the request be acceded to, and I do not think we will ever hear from it again.

Mr. BRISTOW. Mr. President, I wanted to say in regard to the comparisons which the Senator from New Hampshire has been making, that I do not think they are fair, because the clerical allowance for a Senator is more than that for a Member of the House, and it ought to be, because his constituents embrace the entire State, and he has correspondence with the constituency of every Member of the House from his State. I do not think the comparisons made are at all pertinent to this question.

Mr. CRAWFORD. Mr. President, this looks queer to me. Here is a Senate Committee on the Judiciary. All judicial appointments come before the Senate for confirmation. They are referred to that committee. It certainly has as much work to do as the House committee.

Mr. CLARK of Wyoming. Mr. President——

Mr. CRAWFORD. And we have a clerk. We pay him $2,500 a year.

Mr. CLARK of Wyoming. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Wyoming?

Mr. CRAWFORD. Let me finish this.

Mr. CLARK of Wyoming. Very well.

Mr. CRAWFORD. The House pays $2,500 to its clerk, and it passed an appropriation bill with provision for paying him, as usual, and then it comes over here in this very strange way at the last minute, just after we have refused to give to our own employees in the Senate any increase, after we have refused to consider a proposition made here with relation to our own employees; and when the House has failed to provide for this man, passed the bill without doing it, it comes in here is this peculiar way and asks us to increase the salary of one of its clerks. It is a small matter, but it seems to me a very peculiar proceeding.

Mr. LODGE. Mr. President, it seems to me this debate illustrates just the reason for the comity which has heretofore existed between the Houses. We can not pass on the needs or the requirements of their committees or of their employees. We can not do it properly or intelligently, and we are not the guardian of the House. They have the power to look after their own expenses, and I should resent very much any attempt on the part of the House to say what we should pay our employees.

Mr. CLARK of Wyoming. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Wyoming?

Mr. LODGE. Certainly, I yield.

Mr. CLARK of Wyoming. I want to ask the Senator if the House of Representatives has asked for this?

Mr. LODGE. In my judgment, that point, if the chairman of the Committee on Appropriations and the chairman of the Committee on the Judiciary in the other House are to be called in question as representing the House, does not appeal to me. I think they are responsible to the House for what they do. Their request is published here; everybody in the House will read it to-morrow. If they do not represent the House and the House objects to what they are doing, then it is for the House to deal with them. But I do not think it is for us to question their responsibility.

Mr. ROOT. Mr. President, we know the chairman of the Judiciary Committee of the House and a considerable number of the members of that committee have been here during the entire session attending upon the trial of the Archbald impeachment. They undoubtedly have been very much engrossed in performing their duties as managers, and it is quite natural that they should have overlooked a matter of this kind, and as long as we are told that it is a matter of inadvertence I do not care about standing on details of punctilio about it. I think we ought to accede to it.

Mr. CUMMINS. Mr. President, I am not as familiar with the rules as possibly I ought to be, but I think this amendment is contrary to the rules of the Senate, and I make the point of order against it that it increases the appropriation already contained in the bill, and that it has not been moved by direction of a standing or select committee of the Senate or proposed in pursuance of an estimate of the head of any department, and therefore it is inadmissible under the rules of the Senate.

Mr. WARREN. Will the Senator from Iowa withhold for a moment? There has been some talk here as to the Senate controlling exclusively its own employees and their salaries. I was taught early in my work here that the Senate should control its employees and their salaries, and the House should control its employees and their salaries.

It will be remembered that last year we had a quite large addition—the Senator from Iowa was one of a subcommittee that reported to the full committee on this side—we had in the bill

a great many new Senate places. The point was made by the House that we had added too many and that they had a right—that is, the conferees—to have a say about the employees of the Senate. We contested the matter nearly three weeks in conference, the Senate conferees maintaining that they had the right to control the Senate employees, and that right was finally conceded by the House conferees.

Now, the Senator is right that the correct place to have fixed this item was in the House, but as it is to go into conference, in which the House would be represented, and as it has to go to the House first, they can cut it out if they want to. I very much fear that to change the rule or practice of comity between the House and the Senate may place in jeopardy some amendments of the Senate the retention of which may be deemed desirable.

I have felt that in conference the conferees would not allow higher salaries there than here, probably, and it would be adjusted so that each House could maintain its respective position.

Mr. CUMMINS. Mr. President, I do not believe that the House will recognize this infraction of the rule of courtesy, which permits each House to fix the salaries of its own employees. We have the House bill before us and this is not a proposition to reduce the salary.

If a mistake has been made, and one seems to have been made, the method that is suggested is not, in my opinion, the proper way to correct it, and therefore I insist upon my point of order.

The PRESIDING OFFICER. The Senator from Iowa makes the point of order that this amendment is out of order under Rule XVI. The Chair submits that point to the judgment of the Senate. Senators who think it is in order will say "aye," and those that think it is not in order will say "no." [Putting the question.] The "ayes" seem to have it.

Mr. CLARKE of Arkansas. I call for a division.

Mr. CUMMINS. I call for the yeas and nays.

Mr. WARREN. Just call for a division.

Mr. BRISTOW. No; let us have the yeas and nays.

Mr. CUMMINS. As we are to construe a rule of the Senate, I want it done with a proper sense of responsibility.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. BRISTOW. May I ask that the question be stated, so that we may know just what we are voting on?

The PRESIDING OFFICER. The question is, Is the amendment in order? Those who say that it is in order will say "yea" and those opposed will say "nay."

The Secretary resumed the calling of the roll.

Mr. DILLINGHAM (when his name was called). I withhold my vote on account of my general pair with the senior Senator from South Carolina [Mr. TILLMAN], who is absent.

Mr. GALLINGER (when his name was called). I again announce my pair with the junior Senator from New York [Mr. O'GORMAN], and I transfer that pair to the senior Senator from South Dakota [Mr. GAMBLE]. I vote "yea."

Mr. PENROSE (when his name was called). I transfer my pair with the junior Senator from Mississippi [Mr. WILLIAMS] to the junior Senator from Maryland [Mr. JACKSON] and vote "yea."

Mr. SIMMONS (when his name was called). I am paired with the junior Senator from Minnesota [Mr. CLAPP], and therefore withhold my vote.

The roll call was concluded.

Mr. CLARK of Wyoming. I have a general pair with the Senator from Missouri [Mr. STONE]. In the absence of that Senator, I withhold my vote.

Mr. THORNTON. I wish to announce the necessary absence from the Chamber of the junior Senator from New York [Mr. O'GORMAN]. He is paired with the senior Senator from New Hampshire [Mr. GALLINGER].

The result was announced—yeas 17, nays 14, not voting 63, as follows:

YEAS—17.

Catron	Lodge	Perky	Warren
Fletcher	Martin, Va.	Root	Wetmore
Foster	Martine, N. J.	Smith, Md.	
Gallinger	Page	Stephenson	
Jones	Penrose	Thornton	

NAYS—14.

Ashurst	Burton	Poindexter	Smith, Ga.
Borah	Clarke, Ark.	Sanders	Smoot
Bristow	Cummins	Shively	
Bryan	Heiskell	Smith, Ariz.	

NOT VOTING—63.

Bacon	Briggs	Clapp	Cullom
Bankhead	Brown	Clark, Wyo.	Curtis
Bourne	Burnham	Crane	Dillingham
Bradley	Chamberlain	Crawford	Dixon
Brandegee	Chilton	Culberson	du Pont
Fall	Kenyon	O'Gorman	Smith, Mich.
Gamble	Kern	Oliver	Smith, S. C.
Gardner	La Follette	Overman	Stone
Gore	Lea	Owen	Sutherland
Gronna	Lippitt	Paynter	Swanson
Guggenheim	McCumber	Percy	Tillman
Hitchcock	McLean	Perkins	Townsend
Jackson	Massey	Pomerene	Watson
Johnson, Me.	Myers	Reed	Williams
Johnston, Ala.	Nelson	Richardson	Works
Johnston, Tex.	Newlands	Simmons	

The PRESIDING OFFICER. The vote discloses no quorum.

Mr. WARREN. I give notice that I will ask to take up this bill for completion, if it is the pleasure of the Senate, immediately after the routine morning business to-morrow.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I desire to give notice that to-morrow, at the conclusion of the consideration of the legislative appropriation bill, I shall ask the Senate to resume the consideration of the omnibus claims bill.

Mr. WARREN. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 57 minutes post meridian) the Senate adjourned until to-morrow, Thursday, January 16, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January 15, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou who knowest the beginning and the end, and who boldest in Thy grasp the destiny of men, prepare us with fortitude to meet whatever may come to us this day, in joy or sorrow, victory or defeat, and give to us the courage and the strength to do our duty as it is given us to see it. In the spirit of the Lord Jesus Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

INCREASE OF JAPANESE IN CALIFORNIA.

Mr. RAKER. Mr. Speaker, I ask unanimous consent to address the House for three minutes.

The SPEAKER. The gentleman from California [Mr. RAKER] asks unanimous consent to address the House for three minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. RAKER. Mr. Speaker, as to the question whether or not the Japanese are increasing in California, or liable to increase, contrary to a statement that is being circulated, I desire to have the Clerk read an article in the San Francisco Chronicle, of January 8, 1913.

The SPEAKER. Without objection, the Clerk will read.

The Clerk read as follows:

ONE BRIDE IN EVERY SEVEN IS JAPANESE.

SACRAMENTO, *January 7.*

One-seventh of all the marriages in San Francisco are between Japanese subjects, according to George Leslie, statistician of the State board of health. During the year 1912 San Francisco had 6,102 marriages, and of this number 867 brides were of Japanese nativity, or 14.2 per cent. For 1911 the proportion of Japanese brides was only about one-tenth, the total number of brides being 5,226, of which 553, or 10.6 per cent, were from the Flowery Kingdom. Many of the Japanese brides are said to be recently arrived "picture brides," who are married American fashion.

Mr. RAKER. Now, Mr. Speaker, I yield the balance of my time.

LANDS IN STANDING ROCK INDIAN RESERVATION, SOUTH AND NORTH DAKOTA.

Mr. STEPHENS of Texas. Mr. Speaker, I desire to ask unanimous consent to call up Senate bill 109, an act authorizing the sale and disposition of the surplus and unallotted lands in the Standing Rock Indian Reservation, in the States of North Dakota and South Dakota, and making appropriation and provision to carry the same into effect, and to agree to a conference asked by the Senate on the bill.

The SPEAKER. The gentleman from Texas [Mr. STEPHENS] asks unanimous consent to agree to the conference asked by the Senate on the bill, which the Clerk will report.

The Clerk read the title of the bill, as follows:

An act (S. 109) to authorize the sale and disposition of the surplus and unallotted lands in the Standing Rock Indian Reservation, in the States of South Dakota and North Dakota, and making appropriation and provision to carry the same into effect.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The Chair announces the following conferees on the part of the House: Mr. STEPHENS of Texas, Mr. FERRIS, and Mr. BURKE of South Dakota.

QUESTION OF PERSONAL PRIVILEGE.

Mr. SIMS. Mr. Speaker, I rise to a question of personal privilege.

The SPEAKER. This is Calendar Wednesday, and the gentleman from Tennessee [Mr. SIMS] rises to a question of personal privilege. The gentleman will state his question.

Mr. SIMS. Mr. Speaker, I do not make a practice of asking the House to listen to a question of personal privilege connected with some newspaper remark or report. I do not think a man can afford to do that. But there is an investigation going on now before the House Committee on the District of Columbia with reference to the valuation in part of a building in the city of Washington known as the Southern Building. Witnesses are being examined under oath before that committee, and on the 30th day of December last, I believe it was, there was a witness before that committee, Mr. Charles C. Glover. After making a statement as to everything that was pertinent to the investigation then being made, on page 420, as published, Mr. Glover said:

Mr. JOHNSON. Mr. Glover, do you desire to make any other statement?

Mr. GLOVER. I would like you to indulge me for a moment in connection with a matter that has had some inquiry made in connection with the value of the property known as Massachusetts Avenue Heights. I would like to state very briefly my connection with that property.

In 1906, desiring to bring the Potomac Park and the Rock Creek Park together—that is, assuming that the Zoological Park is a part of Rock Creek Park—I got an option on 100 acres of this property for the sum of $420,000. In 1907 I caused to be introduced into the Senate and House a bill looking to the purchase of this property at the option named, but with $3,000 added by the Commissioners of the District of Columbia for expenses that might be incurred in acquiring it.

Mr. JOHNSON. Who introduced those measures?

Mr. GLOVER. A Member of the House and a Member of the Senate.

Mr. JOHNSON. Do you recall whom?

Mr. GLOVER. I do not at the present moment. I am not sure that the commissioners did not ask for the introduction of this bill. I took the bill to the then Commissioners of the District of Columbia and they thoroughly approved of the scheme.

My option was for two years, and for two sessions of Congress this property was offered at the price named—$420,000.

Mr. JOHNSON. How was the property described? Was there any particular name for it?

Mr. GLOVER. Yes; it was the property lying between Connecticut Avenue and Massachusetts Avenue Bridges, and ran out to the Protestant Episcopal Cathedral Foundation. There were also 3½ acres south of the Massachusetts Avenue Bridge. It was my intention to continue down Rock Creek until these parks were finally joined. As the panic had created a very extremely critical and serious condition in the money market——

Mr. JOHNSON. Which panic?

Mr. GLOVER. The panic of 1907, which ran well into 1908 and 1909. I endeavored to have this option renewed for another year, having failed within the two years to cause the passage of this bill. After much difficulty I succeeded in having it continued for another year, in writing. A short time ago somebody told me that I had better get the CONGRESSIONAL RECORD of 1909, of March 3; that I would probably find therein the cause of what I have been told has frequently occurred—a defense of my character by my friends before members of the House committees. Mr. Judson has told me that frequently he has had to defend me.

Mr. JOHNSON. In this committee?

Mr. GLOVER. In this committee, no; other committees of the House, and dating three years back.

I read this record for the first time about a week ago, and I find, Mr. Chairman, this statement by Mr. ANDRUS, of New York.

Mr. GEORGE. What is the date of that?

Mr. GLOVER. March 3, 1909; and I am reading from page 3877 of the CONGRESSIONAL RECORD. There is a good deal more of it, but I just want to read this statement, because it bears directly on what I have to say:

"Mr. NORRIS. Mr. Speaker, I yield five minutes to the gentleman from New York [Mr. ANDRUS]. [Applause.]

"Mr. ANDRUS. Mr. Speaker, the work of a session of Congress apparently is never completed until we have some little discussion in regard to an appropriation for the purchase of land in Rock Creek Park. My time is rather limited, but at the outset I want to state how I stand on parks. I am in favor of parks, as I am in favor of public schools, in favor of churches; churches to grow a better moral influence in the community, schools so that the children may acquire an education, and parks where the children can play and grow bone and muscle and nerve to help them bear the heavy burdens of life that will follow. I would like to give you just a hasty résumé of this matter for four years. On March 27, 1906, Senate bill 5289 called for $600,000. On the 27th of March a Senator wrote to the president of the District Commissioners asking certain information, and among the information asked for I find this.

"I read from his report. It is calendar No. 2811, near the bottom of the third page:

"'The price named in the bill, $600,000, for about 437,000 square feet of land, or about $1.37 a square foot, is in excess of the estimated value of the land by the board of assessors, their value being $230,000.'

"Mr. Speaker, I have had some experience, having bought a few lots during my life, and I found the assessor's value, as a rule, a pretty good criterion on which to act. On March 30, 1906, evidently a conscience was pricked, and a bill, H. R. 5102, was introduced for $550,000—$50,000 less. On February 16, 1907, conferees of the House and the Senate came to an agreement of $475,000, but it was not satisfactory to the House Committee on Public Buildings and Grounds, and the matter was dropped with the expiration of the Fifty-ninth Congress.

"The thing took on new life, and on January 27, 1908, the bill S. 4441—which I have here—was reported for $423,000, a gradual coming down. That bill went directly to one of the appropriation committees, and on May 26 last, under a suspension of the rules, it was defeated by a vote of 57 for and 164 against.

"Mr. NORRIS. That was this same bill?

"Mr. ANDRUS. This same bill that is brought up to-day. Now, what have the Government and the people lost in these three years? We are talking now about $423,000 as against $600,000 three years ago, a saving to some one of $177,000. The interest on $600,000 for three years at 2 per cent is $36,000. It makes a total of $213,000. It may be a small sum in this House, but, Mr. Chairman, there are 10,000 boys in my district who would be exceedingly happy if in a legitimate way they could make that money in three years. [Applause.]"

I want to now read what Mr. SIMS, of Tennessee, has to say on the same subject:

"Mr. NORRIS. I yield five minutes to the gentleman from Tennessee, Mr. SIMS.

"Mr. SIMS. Mr. Speaker, when this identical bill, without the change of a letter, was voted on by yeas and nays in this House on the 26th day of May last, 164 noes were recorded as against 57 ayes. How many gentlemen are going to change, and what reason are you going to give for your flop in so short a time? Now, there will be a yea-and-nay vote at this time on this bill, and you will have to explain some day why you changed in so short a time, without any new evidence or any new reason given for the change. There is no option on this land at this time. I will read from a statement made by Mr. Charles Glover in the hearing before the Committee on Appropriations last year, before this bill was voted on in May last.

"'The CHAIRMAN. How is it, Mr. Glover, with respect to the 88 or 98 acres; would it be possible for you to have the option renewed another year?

"'Mr. GLOVER. No, sir; that is out of the question, Mr. Tawney. They have assessed this ground at $7,500 an acre. The assessment has gone up tremendously.

"'Mr. FITZGERALD. The assessed valuation of it?

"'Mr. GLOVER. Yes; they have put it up enormously, and justly so. It is a pretty fine piece of ground. Bell told me the other day that they hardly knew what to do about this thing.

"'The CHAIRMAN. You think it would be impossible to renew the option?

"'Mr. GLOVER. Absolutely.

"'The CHAIRMAN. When will the option expire?

"'Now listen——

"'Mr. GLOVER. With this session of Congress.'"

I succeeded, after many conferences and much difficulty, and owing to the fact that the panic had made it almost impossible to borrow on that character of real estate, in securing an option for another year. This is the debate at the end of that last year that this property was offered to the Government of the United States.

Mr. SIMS continued as follows:

"That was the last session Mr. Glover said this option expired. When has it been renewed? If he told the truth then, and I do not question his veracity, there is no option on that land at this time. I was told by as good a Member as there is in this House that another Member, who is a Member now, is interested in one of the syndicates mentioned by Mr. Glover, in one of these pieces of land. Are you going to be influenced into enacting such legislation as this under suspension of the rules?

"Mr. CLAYTON. May I ask the gentleman a question?

"Mr. SIMS. Certainly.

"Mr. CLAYTON. Do you think it is fair to the membership of this House to make that statement without naming the man or at least giving the authority?

"Mr. SIMS. The gentleman who told me is in his seat on the floor of the House at this moment, and he can tell the name of the Member if he so desires.

"Mr. CLAYTON. On which side of the Chamber?

"Mr. SIMS. On the other side of the Chamber.

"Mr. CLAYTON. What is the color of his hair?

"Mr. SIMS. Oh, his hair is all right.

"Mr. CAMPBELL. I think that if the gentleman has any information upon that subject he ought to name the man.

"Mr. SIMS. The gentleman who told me is present, and he will tell you that a Member of this House is now or was, interested in one of these pieces of land, and has used his personal influence heretofore to pass this bill.

"Mr. CLAYTON. I insist that the gentleman from Tennessee ought to give the name of the Member from whom he obtained that information.

"Mr. SIMS. Oh, he is now in the Chamber.

"Mr. CLAYTON. I want to hear all the information and I insist that he furnish the name. Give us the name.

"Mr. SIMS. The gentleman who told me is on the floor of the House; he can give it.

"Mr. CLAYTON. Name him.

"Mr. SIMS. I will not name him. He is here and hears what I say. Will giving the name tend to prove anything except this: That whenever people in this District have land they can not sell to anybody else they try to sell it to the Government before it goes up? They started in on this tract at $600,000 and now they have got it down to $435,000. Of course, the gentleman from Ohio, Mr. BURTON, and the other gentlemen who have spoken in behalf of this bill, did not know that any Member of the House was interested in any of this land."

Mr. Chairman, the statement that I offered that property to the Congress of the United States at $600,000; that I was pricked by conscience and reduced the sum to $550,000; that it was embodied in any bill by my authority at $475,000, or, as Mr. SIMS says, it is now before this House at $435,000 is an absolute and unqualified falsehood. I never offered the property save at the one single price of $420,000 plus the $3,000 added by the Commissioners of the District of Columbia.

As that charge stands, I can well understand why Maj. Judson has had to defend my character before some Members of the House. It leaves me, instead of being a public-spirited citizen, a man with an option on a piece of property at $420,000 endeavoring to palm it off on the Government of the United States at $600,000.

I do not believe, Mr. Chairman, that these gentlemen intended to make an untrue statement, but the bill was before them. Here is the identical bill, and the last clause of that bill says that the price of that land was $423,000.

Mr. Speaker, I have examined Webster's Unabridged Dictionary as to the definition of the word "falsehood." True, the dictionary does not set out any distinction between an "absolute and an unqualified falsehood" and any other kind, but Webster says:

A falsehood is a deliberate, intentional assertion of what is known to be untrue; a departure from moral integrity; a lie.

As I say, this is in a sworn statement made before a committee of the House, and it becomes a part of the record of Congress and will remain here for all time.

I want to say, Mr. Speaker, that any Member of this House who in debate on the floor of the House makes a false statement about what is pertinent to be considered at the time and misleads the Members of the House and causes them to vote otherwise than they would ought to be expelled. No such man has any business in this House.

Now, I do not propose to do anything more than to give the facts. I am aware that Members of the House under the privileges of this House can get up and denounce individuals and make derogatory statements about men, and under the law they can be held responsible for it nowhere else. Consequently, I do not think it is a manifestation of great moral or physical courage to get up here and denounce individuals, when you can not be called to account for it, but I do think that when a Member is assailed in this way, under the solemn form of an oath, that a Member owes it not only to himself, but also to the House, to state the facts, and let the facts themselves constitute the characterization of the man who made it.

Now, this statement was made in connection with a bill that was before the House for a number of years, beginning several years ago, known as the Rock Creek Park addition bill, or a bill seeking to acquire about 100 acres of land in part lying on Rock Creek Valley, between Connecticut Avenue and Massachusetts Avenue, running out more or less at right angles to Rock Creek in the direction of the Cathedral Foundation, or the Cathedral School. That bill never came to any committee of which I was a member, but bills for that purpose had been considered before the Committee on Public Buildings and Grounds and before the Committee on Appropriations. In 1908, however, the Senate passed a bill, Senate bill 4441, pertaining to said lands.

Now, this gentleman, Mr. Charles C. Glover, had an option on the land, as he explained it, by which he could buy it for $420,000, and he added $3,000 to cover any expenses that might be incurred in connection therewith, making $423,000. He claimed to want the Government to own it for park purposes. This project had been examined several times, had been before the House several times, but the bill had never gotten through. By that I do not mean this particular bill, but a bill seeking to acquire this land had been before the House several times, but it never had passed.

This bill (S. 4441) passed the Senate and came to the House and was sent to the Committee on Appropriations, and that committee made the following report, report 1681, to accompany Senate bill 4441. The whole report consisted of four lines, and read as follows:

Report to accompany S. 4441.

The Committee on Appropriations, to whom was referred Senate bill 4441, to acquire certain land in the District of Columbia as an addition to Rock Creek Park, having considered the same, report it back herewith and recommend its passage.

There is absolutely not a line in that report to give anyone any information as to the desirability of that purchase, or anything about it. But I am not criticizing the Appropriations Committee about that, because the matter had been before the House so often that the subject was very well understood by Members who had been in the House when bills for the same purpose had formerly been considered, and they knew perfectly well what was referred to.

There was an attempt to pass this same bill at a former session of the House, but it was voted down. To be accurate, I will give the exact figures. I believe the vote was 57 for it and 164 against it.

The bill, of course, remained on the calendar, because that vote was on a motion to suspend the rules. On the 3d of March, 1909, the last day of that Congress, when, as we all know, we have to stay up all night to consider conference reports and matters of that kind, there was a motion made to suspend the rules and pass this bill, and it was debated for 20 minutes on a side. I did not happen to be in this Chamber at the time the motion was made, but came in while it was under discussion, the gentleman from Nebraska [Mr NORRIS] having demanded a second. The gentleman from New York [Mr. ANDRUS], who was a member of the Committee on Public Buildings and Grounds, had five minutes' time given him, and he made some remarks pertaining to the bill, because it had been before his committee, in which he said what I have already read to the House, and which appears in Mr. Glover's testimony.

I heard the remarks of the gentleman from New York [Mr. ANDRUS], and I was yielded five minutes, in which I discussed the bill as best I could from what I knew of it, and I did say, as appears in the RECORD, that whenever people in this district have land they can not sell to anybody else they try to sell it to the Government before it goes up; that they started in on this tract of land at $600,000, and now they have got down to $435,000; that, of course, the gentleman from Ohio [Mr. BURTON] and other gentlemen, who had spoken in behalf of this bill, did not know that any Member of this House was interested in any of this land.

Now, the facts were that the bill was for $423,000. I was quoted in the RECORD as saying $435,000. Now, at nearly the hour of midnight, on the last day of the session, on a motion to suspend the rules, when there was no time to investigate and understand anything, almost anyone was liable to be misled. But the gentleman from New York [Mr. ANDRUS] spoke before I did and read from a report by Senator GALLINGER, made April 23, 1906, to accompany Senate bill 5201, which did give the report of the Commissioners of the District of Columbia with reference to this tract of land; but as that bill, which this report accompanied, also embraced another tract of land, known as the Meridian Hill tract, the two being together, the gentleman from New York [Mr. ANDRUS] made the mistake of reading from that part of the Senate report which referred to the Meridian Hill property instead of this Rock Creek Park addition. He read it at the time. He held the report in his hand, and that report of the Commissioners of the District of Columbia contained the very language quoted by the gentleman from New York [Mr. ANDRUS], which I heard, and which I believed. Therefore, how could the gentleman from New York [Mr. ANDRUS] or myself, either of us have made a false statement, knowing it to be false at the time? The number of the bill was given by the gentleman from New York [Mr. ANDRUS], the number of the report was given by him and read from in my hearing; but the facts are that not a word in that report or in the speech of Mr. ANDRUS or myself ever charged that Mr. Glover had an option on that land at $423,000 and was trying to sell it to the Government at $600,000. I will admit that by Mr. ANDRUS saying it was this identical bill, and reading from the report of the Senate committee made on the same item in a former bill, I did think myself that was what it referred to, not being a member of the committee that had investigated it. But, Mr. Speaker, the report I have just mentioned, by Senator GALLINGER, is as follows:

Mr. GALLINGER, from the Committee on the District of Columbia, submitted the following report to accompany S. 5201:

The Committee on the District of Columbia, to whom was referred the bill (S. 5201) to acquire certain land in the District of Columbia as an addition to Rock Creek Park, having considered the same, report thereon with the following amendments:

On page 1, line 14, before the word "which," insert the words "and the location of proposed new streets."

On page 3, line 14, after the word "therefrom," insert the words "along the center of a proposed new street."

On page 3, line 16, after the word "line" where it first occurs, insert the words "following the center line of a proposed new street."

On page 6, line 1, after the word "plan," strike out the words "as 90 feet in width."

On page 6, line 2, after the word "are," strike out the word "not," and after the word "for," in the same line, strike out the words "in said plan" and substitute the word "herein."

Add sections 7, 8, 9, 10, and 11 to the bill.

Also amend the title so as to read: "To acquire certain land in the District of Columbia as an addition to Rock Creek Park and in Hall and Elvan's subdivision of Meridian Hill for a public park."

Two bills, (S. 5201) "To acquire certain land in the District of Columbia as an addition to Rock Creek Park" and (S. 5289) "To acquire certain ground in Hall and Elvan's subdivision of Meridian Hill for a Government reservation," were submitted to the Commissioners of the District of Columbia for examination and report, and their replies are hereto appended, as follows:

OFFICE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, March 27, 1906.

SENATOR: The Commissioners of the District of Columbia have the honor to submit the following on Senate bill 5201, Fifty-ninth Congress, first session, "To acquire certain land in the District of Columbia as an addition to Rock Creek Park," which you referred to them for report touching the merits of the bill and the propriety of its passage.

A blue print is inclosed, showing, on a large scale, the pieces and parcels of land proposed to be condemned for the addition to Rock Creek Park, and also a map on a smaller scale showing the relation of the proposed addition to Rock Creek Park and the connection between the two.

Rock Creek Park as now established starts at the District line, extends along both sides of Rock Creek to the Zoological Park, and then south of this latter park in a narrow strip along the east side of Rock Creek to Massachusetts Avenue. South of this point the United States owns a small strip of land about 500 or 600 feet in length, bought for the use of the Washington Aqueduct.

The addition proposed by this bill joins this latter part of the park. It will lie along the west of Rock Creek, and extends up the valley of a small branch running about parallel to Massachusetts Avenue. The valley of this branch is very deep, and the tract of land abutting the creek is well wooded with large and beautiful trees, making it an ideal piece of property for park purposes. The tract proposed to be acquired extends about 4,000 feet along Rock Creek and northwest about 4,000 feet along Massachusetts Avenue, with a width of 500 to 1,000 feet.

The tracts included in the proposed addition have been owned by two or three estates, which up to the present time have not developed the property. Recently, however, in continuation of the rapid development of that section, a large tract of land has been purchased by a syndicate

and arrangements are being made to lay off the land into lots and blocks for the purpose of building. This tract includes about 88 acres of the land this bill proposes to purchase for park purposes, and unless the land is acquired by the Government it will undoubtedly be built upon within a short time. All of this section will probably develop rapidly during the next year or two and the value be greatly enhanced.

In determining on the part of these tracts to be used for park purposes, it was endeavored to leave what was most suitable for building purposes and take for park purposes such part as was best adapted to such use. The area of the land proposed for a park is about 100 acres, and the price is about $4,200 per acre, which is considered to be reasonable, in view of all the circumstances. Options are held on it so that it can all be acquired at such figures as to bring it within the amount appropriated in the bill.

It is further provided in the bill that a small piece of property belonging to the United States lying south of Massachusetts Avenue may be exchanged for an equal amount of land lying to the north. The Naval Observatory grounds are located in this vicinity. The original grounds of the observatory contained about 75 acres, irregular in shape. The opening of Massachusetts Avenue and Observatory Circle, in accordance with the authorized system of highway extension, leaves two strips of the original tract—one on the north of Massachusetts Avenue, containing 14 acres, and one on the south side of the avenue, lying in the angle between Massachusetts Avenue and Observatory Circle, containing about seven-tenths of an acre. This latter strip is proposed to be exchanged. It is of little value to the observatory or to the United States on account of being separated from the remainder of the holdings of the observatory by streets, so that it would seem desirable to exchange it, as proposed in the bill, for an equal amount of land that can be used. The 14 acres to the north can be used as part of a park or such other use as the United States may desire.

The bill further provides that a short section of a projected street called Benton Street shall be abandoned as a highway. This is private property, and the provision means simply that the system of street extension is changed to that extent. It can be seen from the small map that this street will be superfluous if the land is acquired for park purposes.

The bill further provides that the landowners surrounding the proposed park shall dedicate 30 feet for a street and establish a building line of 15 feet, and that the United States shall do the same along the park boundary. This will give a street practically 90 feet wide around the park, which is eminently desirable.

In order to more fully carry out the intention, a few minor amendments are necessary to be made in the bill, as follows:

Insert, in line 14, page 1, before the word "which," the words "and the location of proposed new streets."

Insert after the word "therefrom," in line 14, page 3, the following words: "along the center of a proposed new street."

Insert, in line 16, page 3, after the word "line," the following: "following the center line of a proposed new street."

Strike out the words "as 90 feet in width," line 1, page 6, and also the words "not" and "in said plan," in line 2, page 6. Also insert after the word "for," in line 2, page 6, the word "herein."

The commissioners recommend the passage of this bill as being a measure of public benefit. The land is located within easy access of a large population. It is eminently suited to park purposes on account of the hilly character and the magnificent trees, which could not be grown in many years. It is to-day, although private property, used by many persons as a park, and with the rapid increase of population will certainly prove of the greatest value. The commissioners further believe that, if not purchased before being subdivided and developed, its cost would be greatly increased, and, besides, many of the trees will be cut down and the beauty impaired.

Very respectfully,

HENRY B. F. MACFARLAND,
President Board of Commissioners District of Columbia.

Hon. J. H. GALLINGER,
Chairman Committee on the District of Columbia,
United States Senate.

MARCH 30, 1906.

SENATOR: The Commissioners of the District of Columbia have the honor to submit the following on Senate bill 5289, Fifty-ninth Congress, first session: "To acquire certain ground in Hall and Elvan's subdivision of Meridian Hill for a Government reservation," which you referred to them for report touching the merits of the bill and the propriety of its passage.

A plat is inclosed showing in blue the land proposed to be condemned.

The object of the bill is to acquire for a Government reservation tracts of land aggregating about 10 acres in extent, lying between Euclid Street, Columbia Avenue or Fifteenth Street, W Street or Florida Avenue, and Sixteenth Street extended, in Hall & Elvan's subdivision of Meridian Hill. The reservation proposed is similar in nature to the small reservations or parks now existing throughout the city of Washington, such as Lincoln Park, Judiciary Square, Garfield Park, Franklin and Lafayette Squares, which reservations add so much to the attractiveness and health of the city. There are no parks of this type north of Florida Avenue and nothing in the shape of public reservations to the south, except some small triangles, nearer than Iowa or Dupont Circle, a mile or more distant, and the nearest large park is the Zoological Park, in the valley of Rock Creek, about three-quarters of a mile away. The land is being rapidly built up as a resident section, and a large section of the subdivisions of Columbia Heights, Mount Pleasant, and Meridian Hill, and, in addition, those living in the portion of the city to the south would make use of this reservation.

An inspection will show the great use of these small parks in the residence sections and will demonstrate their utility, as well as their beauty. This proposed reservation might also be made use of for governmental purposes, such as the construction of buildings, the laying off of gardens, etc. For a small reservation its location is unique. There is no other tract of land in this vicinity which could take its place for such use. It lies along the great boulevard, Sixteenth Street, which connects the White House with Rock Creek Park, and is situated on the crest of the line of hills surrounding the lower valley of the Potomac. All of this crest from North Capitol Street to Rock Creek is now practically built up, so that it is the only space of its kind that remains unimproved.

It has a view over the city and down the valley of the Potomac River, and in the summer is exposed to the southwest breezes prevalent in this section of the country. It extends down the steep slope of a hill from a point between Chapin and Belmont Streets to W Street, and this slope is necessary as a part of the reservation to prevent the construction of houses which would cut off the view and the sweep of the wind. This portion would also give greater diversity in the character of the park. The upper part is flat and well adapted either to the laying out of a garden or the erection of public buildings. To diminish the size of the park would be detrimental to its value as a park.

The price named in the bill—$600,000 for about 437,000 square feet of land, or about $1.37 per square foot—is in excess of the estimate of value of the land by the board of assessors, their value being $230,000. Very little property has changed hands in this immediate vicinity recently, so it is difficult to gauge the value, but from prices paid by the District for the condemnation of Sixteenth Street extended, about five years ago, which amounted to from $1.25 to $1.75 per square foot, and from figures at which it is known some of the owners of the land in this vicinity hold the same, it is not thought that the land could be obtained for less than that named in the bill. In fact, it is due to a large portion of this tract being on the market on account of the settlement of an estate that so low a figure as that proposed in the bill can be obtained. Conditions are improving in that vicinity, and an early increase in the value of the land is anticipated.

The commissioners believe that this is an opportunity to obtain a reservation in the line of those laid out in the original city limits in a locality which is without a park at present and where one is much needed now and will be more needed as this section of the city builds up; that to obtain this reservation will greatly enhance the beauty of the city and its environments and will add greatly to the beauty of the Sixteenth Street Boulevard, and in that way would be of benefit to all the people of the United States, a great number of whom in visting Washington drive on this boulevard; that at the present time the land can be purchased at a more reasonable figure than it can be in a year or two from now; and that there is no other site in the District as suitable for a Government reservation.

The commissioners therefore recommend favorable action on the bill.

Very respectfully,

HENRY B. F. MACFARLAND,
President Board of Commissioners District of Columbia.

Hon. J. H. GALLINGER,
Chairman Committee on the District of Columbia,
United States Senate.

It will be observed that the commissioners recommend the purchase of the properties included in both bills, and for the purpose of simplifying the matter your committee have combined them in one bill, the passage of which is recommended.

Mr. Glover says:

I read this record for the first time about a week ago, and I find, Mr. Chairman, this statement by Mr. ANDRUS of New York.

Now, I want to state that the facts are these about his not knowing anything about it: This debate occurred on the 3d of March, 1909, at night. In the following November, 1909, just before the meeting of the House of Representatives, I was in the city. Some acquaintances of mine were here, and I was showing them the sights. Among others, as I always do, I showed them the Riggs National Bank. It is one of the oldest banks in the city. It is historic, and the building in which it is located is a very fine building. While in there this same gentleman, Charles C. Glover, three years ago last November, spoke to me and said, in substance, that we had made a great mistake in not accepting that piece of property, and he went on to quote from the language that Mr. ANDRUS had used about its being offered at $600,000 and at $550,000, and about my using the words "$435,000." He said himself that that language read by Mr. ANDRUS had reference to the Meridian Hill land and not his—the Rock Creek Park addition—and that Mr. ANDRUS was mistaken. Not having the RECORD before me, I said, "Very likely." I said to him, "I will be glad, Mr. Glover, to correct anything in the RECORD that may have been said to put you in a false light, and anything that you will send to me I will be glad to put in the RECORD."

Mr. SAMUEL W. SMITH, who was then chairman of the Committee on the District of Columbia, was present and heard the very words that I am now telling you, and yet Mr. Glover, under oath, says that he knew nothing about this language, in substance, until a few days before, when his attention was called to it; and I state to you, as a Member of this House, that he talked with me about it three years ago in the presence of Mr. SAMUEL W. SMITH in a very pleasant manner.

Now, my opposition to the purchase of this land was that the Government did not need it and that it was under option. He stated, as you will see in the hearings which I have quoted, that he got an option in 1907; that in two years he had difficulty in renewing it; but on account of the panic and the conditions prevailing and the difficulty of borrowing money on such property he got it renewed one more year. I said in the debate that some people having land in the District of Columbia that they could not sell to anybody else tried to unload it on the Government, and when I use the word "Government" I mean the District of Columbia or the Government of the United States, or both.

He offered the land to the Government for $423,000—about $4,000 an acre. He stated himself in the hearing before the Appropriation Committee:

The CHAIRMAN. How is it, Mr. Glover, with respect to the 88 or 98 acres; would it be possible for you to have the option renewed another year?

Mr. GLOVER. No, sir; that is out of the question, Mr. Tawney. They have assessed this ground at $7,500 an acre. The assessment has gone up tremendously.

Now, the assessment is at two-thirds value, and as this was assessed at $7,500 an acre it was worth $11,200 an acre, and he had an option on it and the right to buy it at $423,000. At what he swears was then the value—over $1,100 an acre—he would make nearly, if not quite, a million dollars.

Now, if that language was true, and he says that it was and swears to it, the assessment shows that if he could have exercised his option, paid for it, and could have given the Government more than half of it he would have made a big profit out of the balance.

But he did not exercise that option. He let it go back to those who held the property or the option or contract on it. What has happened since? About a year ago the owners, or those acting for the owners, dedicated to or contributed to the District of Columbia 17½ acres of this land for nothing, to be used for park purposes. What does that prove? Does it not prove what I said—that when a man had land in the District he could not sell to anybody else he tried to unload it on the Government?

Now, I have a map here, and I wish I could hold it up so that you could all see it. The part marked in green is the part deeded to the Government. Here is Rock Creek, and this is the boundary on the westward part of the 84½ acres. Now, they have deeded the part that is marked here in green, lying along Rock Creek, and the green strip the entire length away up to the extreme western line of that land. They have absolutely dedicated it for nothing to the District of Columbia or the Government. Only three years ago they undertook to have Congress buy it at $4,000 an acre. At that rate it would have been worth $70,000.

Mr. MONDELL. Will the gentleman yield?

Mr. SIMS. Certainly.

Mr. MONDELL. Was the grant to which the gentleman refers made with the understanding that a road would be established and improved?

Mr. SIMS. It was given for park purposes, and that is all I know about it. That is what the assessor told me. Now, I want to tell gentlemen of the House what this strip is. It is a gulch, a deep ravine, between precipitous hills. It is a great advantage to have the Government take charge of it and improve it, a great advantage to those owning the adjoining land.

Mr. MONDELL. Is that the gulch up by Sixteenth Street?

Mr. SIMS. Oh, no; this is between Connecticut Avenue and Massachusetts Avenue. If the land was worth what Mr. Glover said it was before the Appropriations Committee—$11,250 an acre—then they deeded as a gift, dedicated to the Government or the District of Columbia nearly $200,000 worth of real estate, 17½ acres.

So I was right when I said that some people owned land in this District who, when they could not sell it to anybody else, lobbied around this House and the other end of the Capitol to turn it loose on the Government, because that is what has happened as to this identical piece of land.

What else has happened? I have not the slightest disposition to treat Mr. Glover unjustly. I have no quarrel with him. I have no reason to quarrel with him. He had a right to do this thing and to pursue his own course. I have not noticed anything unusual about Mr. Glover except that he appears to be a man of excessive modesty and rarely ever alludes to himself in connection with the discussion of any matters. He takes great credit for the acquisition of Rock Creek Park, acquiring 1,600 acres for about $1,200,000. Under oath he admitted that the land in Rock Creek Park that he takes so much credit for was unloaded on the Government at eight times its assessed value. In other words, he is a man who is disposed to help the Government by "causing" it to buy something at five or six times its market value, and then boasts of it.

Mr. MARTIN of South Dakota. Will the gentleman yield?

Mr. SIMS. I will.

Mr. MARTIN of South Dakota. How does the gentleman explain the statement that this property, which he says is comparatively valueless, appears to be assessed at $7,000?

Mr. SIMS. $7,500 per acre. I do not know, but Mr. Glover in the same testimony says that the land is now worth two to four million dollars on account of the rapid increase in value, but he never told the committee that many hundred thousands of dollars had been expended in improving the western portion of the land.

Another thing about which I think Mr. Glover was not candid or frank: In all the hearings that I have read, before the Committee on Appropriations, and in all of the talks that I had with Mr. Glover himself, or had up to the time this bill was considered, he never for one time told us that a then Member of the House owned part of the land embraced in this option. According to Mr. Glover's statement the land was worth over $11,000 an acre at the time he made the statement, and he was buying it for $4,000 an acre. He was simply offering to sell it to the Government without profit, but the Member of the House who owned part of the land was offering to sell it to the Government through that option at a loss, which was no discredit, if the facts had only been known. Why did he not tell us that one of our own Members thought so much of this for park purposes that he had agreed to let his part of the land go at this reduced, sacrificial price; but not a word of this did he ever mention. In the hearings before the subcommittee of the District Committee he never said a word about 17½ acres having been since deeded to the District of Columbia, and in a long statement of his, in which he tells what he had to do in acquiring Rock Creek Park, he goes on to state that afterwards he bought some land beyond a reservoir out on Sixteenth Street at from $1,000 to $2,500 an acre. He states also that since that time he has sold some of the land that cost him $1,000 to $1,100 an acre for $11,000 an acre. What else does he say? He claims to be the father of Rock Creek Park, the father of the movement. In his characteristically modest language, as will be seen all through these reports and hearings, he says that he caused the bill to be introduced; that he caused it to pass—"I did this, I did that, I did the other"—and among other things that he named three of the commissioners who were appointed to look after this Rock Creek original acquisition.

I desire to refer here to a section in the law by which Rock Creek Park was acquired. The law says, in reference to the acquisition of Rock Creek Park, that the—

commission having ascertained the cost of the land, including expenses, shall assess such proportion of such costs and expenses upon the land, lots, and blocks situated in the District of Columbia especially benefited by reason of the location and improvement of said park, as nearly as may be in proportion to the benefits resulting to such real estate.

What are the facts? There never was a dollar of improvements assessed against any of the abutting property, any of the adjoining land that was sold, according to his own statement, at eight times the assessed value. Yet he has the nerve to say that there was no improvements, no added value to the adjoining lands, when he admits himself that long afterwards he bought some land near this park at $1,000 to $1,100 an acre and has since sold it for $11,000 an acre.

When the chairman of the committee, the gentleman from Kentucky [Mr. JOHNSON] called his attention to this and asked why these assessments for benefits could not still be made, what does this modest man say? He replied:

Mr. Perry could give you the fullest information on the points on which you wish to be informed. I hope Mr. GEORGE'S suggestion will not be carried out, however, as I own quite a little patch of land out there.

He says that he hopes Mr. GEORGE'S suggestion will not be carried out, because he owns a little patch of land there, and the record shows by his own statement that it is 45 or 50 acres This public-spirited, high-minded gentleman, who is working for the public good, and who, as a result of the purchase of this land by the Government at eight times its assessed value, has property of his own, acquired since that time, which is now worth six, seven, or eight, or ten times as much as it was then, is not willing that the benefits be assessed against the adjoining property.

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. SIMS. Yes.

Mr. MOORE of Pennsylvania. In this Rock Creek Park matter did not a majority of the House vote with the gentleman from Tennessee?

Mr. SIMS. Why, it was almost a solid vote.

Mr. MOORE of Pennsylvania. That is what I thought.

Mr. SIMS. Only 31 Members on the roll call of March 3, 1909, voted to pass that bill.

Mr. MOORE of Pennsylvania. Does not the gentleman feel that he has the confidence of the House in the proposition that he is stating, and that he has had it all along in this Rock Creek matter?

Mr. SIMS. From everything that I can see, I think I have.

Mr. MOORE of Pennsylvania. I was wondering whether the confidence of the House was not enough to satisfy the gentleman.

Mr. SIMS. But here is a sworn statement put into the record of hearings by a committee of this House, and I feel that it is due to Mr. ANDRUS, an old and honest Member of the House from the State of New York, to state the facts. Mr. ANDRUS read a report from the Senate committee, and made no

statement which was unauthorized by that report, with the exception that he read a part that applied to the wrong tract of land.

Mr. MOORE of Pennsylvania. On the original proposition did not the gentleman from New York [Mr. ANDRUS] vote with the gentleman from Tennessee?

Mr. SIMS. Yes.

Mr. MOORE of Pennsylvania. And I think most of the Members of the House stood with him.

Mr. SIMS. All but 31.

Mr. MOORE of Pennsylvania. Was it not the sentiment of the House, as expressed by the vote, that the price asked for that land was entirely too high?

Mr. SIMS. Yes; 31 for and 192 against was the vote.

Mr. MOORE of Pennsylvania. I was wondering whether the gentleman ought not to be entirely satisfied with the situation as it is.

Mr. SIMS. I am satisfied so far as those Members of the House are concerned who know anything about it. But every newspaper in Washington printed in substance what this gentleman has stated, and one paper printed the entire matter as related by him. It must have been a paid advertisement.

Mr. MOORE of Pennsylvania. I have so much respect for the gentleman from Tennessee [Mr. SIMS] that I hoped he would not get so serious over what the newspapers say, because they say things about every Member of the House, and it is just as likely to happen to one as to another. And if everyone was to rise to a question of personal privilege because of newspaper reports there would not be much time for any other business.

Mr. SIMS. If it had been a newspaper report only I would not have said anything about it. But it is a sworn statement and a permanent record of the committee.

I want the Members of this House and of the next House to understand this thing. I have always had a suspicion of anybody who gets option on lands and comes to try to sell them to the Government. The Government does not need anybody's option. Private concerns have to do this thing. They have to get land by contract. The United States has the power of condemnation and can acquire it in spite of the owner, and the owner is entitled to full value for it, and I do not think it reflects any credit upon a banker of large means to have acquired an option on land at not much more than one-third of its value from private owners and then sell it to the Government even without profit, which is abundantly able to pay all that it is worth. Another thing: I do not approve of the members of the District government going around and getting options on land in this District and then lobbying in either House to have us purchase it. That thing will come again, or things like it, and it is very well for Members of the House to know how these things go. A great Government, worth billions of dollars, with the power of condemnation over every foot of land in this District, can acquire any property it needs, and ought to pay every dollar it is worth. To the extent that I had any part in defeating that bill I am proud of it; I saved the Government $70,000 for 17½ acres, even at the option price. And what else? I saved to you in round numbers $200,000 if the property had been acquired by condemnation, because these 17½ acres have since been given us absolutely for nothing. If I, by anything I did, caused this gentleman's option to expire, so that it was returned to the people who owned that land, and had paid for it, and it is now worth to them two to four millions of dollars, it seems to me they ought to get up and call Mr. ANDRUS blessed. I say that I am opposed to this option business. I hope it will never come up again in this or any other Congress. Let the Congress buy, as it always has bought, under its right of eminent domain, by condemnation. It may pay more for Rock Creek land, as it does in every case, than the market price, but the citizen is entitled to all the property is worth against the Government as purchaser.

As I said to Mr. Glover a few years ago, when he said he was going to quit and have nothing to do with it, that I thought he had done enough, and that I did not blame him for retiring from the field of action, as the Members of the House had not been convinced, and there was no use of him wasting his valuable time among Members of Congress who seemed averse to what he advocated.

Now, I have not said any unkind word in the way of adverse comment on Mr. Glover, but I will leave the question to you as to whether Mr. ANDRUS or myself ought to be expelled.

CONGRATULATIONS OF PORTO RICO ASSEMBLY.

The SPEAKER. The Chair lays before the House the following communication, which the Clerk will read.

The Clerk read as follows:

SAN JUAN, *January 11, 1913.*

HOUSE OF REPRESENTATIVES, *Washington:*

The House of Delegates of Porto Rico upon the opening of the seventh legislative assembly tenders to the House of Representatives of the United States its profound homage of sincere fraternity. Our house, the genuine representation of the people of Porto Rico, after 14 years of reiterated and fruitless demands for liberty and justice, now has absolute confidence that the cause of the great Democratic victory, the principles proclaimed by Jefferson, will from the Capitol and the White House reach Porto Rico. Our people request a new constitution providing for two elective houses, ample legislative powers in all local matters, an executive cabinet composed of bona fide residents of Porto Rico, and other measures of self-government worthy of the high sense of justice of the American people and of the demonstrated capacity and natural right of the people of Porto Rico.

JOSE DEDIEGO, *Speaker.*

LEAVE OF ABSENCE.

Mr. BATHRICK, by unanimous consent, was granted leave of absence, for one week, on account of illness.

CALENDAR WEDNESDAY.

The SPEAKER. This is Calendar Wednesday, and the unfinished business is the bill H. R. 23069.

TOWN SITES IN CONNECTION WITH RECLAMATION PROJECTS.

Mr. RUCKER of Colorado. Mr. Speaker, I ask unanimous consent to address the House upon this matter for two minutes.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. RUCKER of Colorado. Mr. Speaker, when this matter came up last Wednesday I was not then informed concerning the condition of my colleague, Mr. TAYLOR of Colorado, who reported this bill. Since then I have ascertained that he will be here on Saturday, and therefore I would like the House to pass this bill over until next Wednesday, when he can have charge of it. And I ask, therefore, unanimous consent for the passing of this bill from to-day's calendar until next Wednesday's calendar without prejudice.

The SPEAKER. The gentleman from Colorado [Mr. RUCKER] asks unanimous consent that on account of the probable appearance of his colleague, Mr. TAYLOR, who had charge of this bill and reported it, by next Wednesday, that this matter go over until that time as unfinished business.

Mr. MANN. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. MANN. Does the gentleman's request mean that it will come up next Wednesday the first thing, or would it be postponed for any other unfinished business that went over from to-day until next Wednesday?

The SPEAKER. The Chair does not really understand the request the gentleman from Colorado [Mr. RUCKER] preferred. The Chair understands that the House can start in with another bill and have it unfinished business next Wednesday.

Mr. RUCKER of Colorado. My request is, if the gentleman from Illinois will permit, that this bill go over without prejudice and be called up on next Wednesday, just as it is called up to-day, as unfinished business.

The SPEAKER. The Chair would hold that if the request is granted, if the House starts on another bill to-day and it is not finished, that the latter bill would have the right of way.

Mr. MARTIN of South Dakota. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. MARTIN of South Dakota. In the instance the Chair now states, is it correct that, on the disposition of that business, although it might take all of to-day and take both matters over to the following Wednesday, this matter would lose its place?

The SPEAKER. Of course, it is purely arbitrary. But in the judgment of the Chair this bill would follow whatever was unfinished. Is there objection to the request of the gentleman from Colorado [Mr. RUCKER]? [After a pause.] The Chair hears none. The Clerk will call the committees.

ALIEN INSANE.

Mr. BURNETT (when the Committee on Immigration and Naturalization was called). Mr. Speaker, I am directed by the Committee on Immigration and Naturalization to call up the bill H. R. 19544, House Calendar No. 195.

The SPEAKER. The Clerk will report the bill.

The Clerk read the bill, as follows:

A bill (H. R. 19544) to amend section 9 of the immigration act approved February 20, 1907.

Be it enacted, etc., That section 9 of the immigration act approved February 20, 1907, be amended as follows:

"After the word 'epileptics' insert the words 'insane persons,' so that section 9 shall read as follows:

"'SEC. 9. That it shall be unlawful for any person, including any transportation company other than railway lines entering the United States from foreign contiguous territory, or the owner, master, agent,

or consignee of any vessel to bring to the United States any alien subject to any of the following disabilities: Idiots, imbeciles, epileptics, insane persons, or persons afflicted with tuberculosis or with a loathsome or dangerous contagious disease, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any alien so brought to the United States was afflicted with any of the said diseases or disabilities at the time of foreign embarkation and that the existence of such disease or disability might have been detected by means of a competent medical examination at such time, such person or transportation company, or the master, agent, owner, or consignee of any such vessel shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $200 for each and every violation of the provisions of this section; and no vessel shall be granted clearance papers pending the determination of the question of the liability to the payment of such fine, and in the event such fine is imposed, while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such questions upon the deposit of a sum sufficient to cover such fine and costs, such sum to be named by the Secretary of Commerce and Labor.'"

Mr. BURNETT. Mr. Speaker, there are one or two verbal amendments to that bill. The purpose of the bill is to penalize the steamship companies for bringing in alien insane. As the law now is, the steamship companies are penalized and required to pay a fine of $100 for bringing in people who are idiots, imbeciles, epileptics, and so on, and, while the alien insane are excludable and deportable now, there is no penalty on the steamship companies for bringing them in.

That is one change. The other change is to increase the penalty in that section from $100 to $200. It is now $100 in the present law, as it stands now. This is to increase that.

I think the bill has the approval of the entire committee, according to my recollection. I know that some gentlemen tried to get it up by unanimous consent a few days ago. Certain gentlemen from New York were very much in favor of it, and gentlemen from other States along the Atlantic seaboard were in favor of it, because the insane asylums in cities along the Atlantic seaboard are being filled with alien insane; and, as I said before, while they are deportable, there is no penalty on the steamship companies under existing law for bringing them in.

Mr. MOORE of Pennsylvania. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Alabama yield to the gentleman from Pennsylvania?

Mr. BURNETT. Yes; I yield to the gentleman.

Mr. MOORE of Pennsylvania. I have just been able to get a copy of the bill. I wanted to ask the gentleman if any change has been made in this bill? I could not hear the earlier part of the gentleman's statement.

Mr. BURNETT. Change in existing law?

Mr. MOORE of Pennsylvania. Change in the bill. The gentleman referred to a couple of committee amendments.

Mr. BURNETT. It is apparent on the face of the bill what they are. In the original bill section 9 of the immigration act approved February 20, 1907, is proposed to be amended so as to read as follows:

After the word "epileptics" insert the words "insane persons."

Instead of that we amend it "so as to read as follows," and then put in the entire section amended.

Mr. MOORE of Pennsylvania. This adds to the classes to be excluded? It adds insane persons, and increases the penalty on the steamship companies from $100 to $200?

Mr. BURNETT. Yes. The insane are excludable now, but there is no penalty, as I say, imposed on the steamship company for bringing them in. It adds insane as one of the classes, and increases the penalty from $100 to $200 for bringing in any of those classes.

Mr. MOORE of Pennsylvania. I understand there are no serious objections to the bill—certainly not on my part—if it is the bill that the committee agreed upon. I ask these questions because I have had no opportunity to examine the bill—the print not being here. Listening to the gentleman's statement I was confused by the remark that there had been some changes of committee amendments.

Mr. BURNETT. Oh, none of committee amendments.

Mr. SABATH. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman yield?

Mr. BURNETT. Yes.

Mr. SABATH. I desire to inquire of the gentleman whether he would have any objection to eliminating that exception in the bill and make it applicable to the railroads as well as to the steamship companies? If it is wrong for the steamship companies to bring in the insane, why is it not just as wrong for the railroads to bring them in from Canada and Mexico?

Mr. BURNETT. I think it is. The attention of the committee was not called to that point.

Mr. GARNER. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman yield?

Mr. BURNETT. Yes.

Mr. GARNER. Has the gentleman ever taken into consideration the question of the expense to the railroad or transportation companies to have experts investigate, for instance, as to the sanity of passengers on all railroad trains? I can illustrate it no better than by saying that in my section of the country a train may have two or three hundred immigrants coming into this country from Mexico. Now, if this bill is to apply to the railroad companies, they would necessarily have to detain that train when it got to the border line for a sufficient length of time to enable an expert to examine all the passengers to determine whether or not any of them were insane and deportable.

Now, this law could properly apply to the steamship companies, because they have plenty of time in which to ascertain whether their passengers are of the nature or character that is described in this bill, whereas the railroad companies coming from Mexico or from Canada could not take the time to do that because they are making two or three daily passages to this country.

I would suggest to the gentleman from Alabama [Mr. BURNETT] and to the gentleman from Illinois [Mr. SABATH] that the complaints which this bill is intended to reach come from New York principally as to the steamship companies, and you have had no complaint from those people who have had to take care of insane coming from Mexico and Canada.

Mr. GARDNER of Massachusetts. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Alabama yield to the gentleman from Massachusetts?

Mr. BURNETT. I will yield to the gentleman from Massachusetts after I shall have concluded with the gentleman from Illinois [Mr. SABATH]. I would prefer that this amendment be not made now, and that the bill be not incumbered with it.

The argument of the gentleman from Texas [Mr. GARNER] is not a good one, from the fact that these people are now required to come in at the ports of entry that are established all along the Canadian border line and the Mexican border, and the immigrants have to be examined at those ports of entry; and for that reason it would be no greater hardship to examine them as to their sanity than to examine them as to any other question, as, for example, the question of head tax. If they have lived in Canada for a certain length of time, they have had to pay a head tax on coming from other countries. I think that the argument of the gentleman from Texas is not a good one.

However, I hope the gentleman from Illinois [Mr. SABATH] will not offer an amendment and will let the bill go in as it is.

Mr. MOORE of Pennsylvania. If the gentleman from Alabama would admit that amendment, would he not raise at once the question of the expense and supervision at all the railroad stations and crossings on both border lines?

Mr. BURNETT. Oh, of course, there is no question about that.

Mr. MOORE of Pennsylvania. And the inconvenience to passengers from holding up trains?

Mr. BURNETT. Yes; all that was referred to by the gentleman from Texas.

Mr. MOORE of Pennsylvania. It involves a big, broad question, which will probably interfere with the passage of this bill.

Mr. BURNETT. I think it ought not to be injected into the bill now.

Mr. GARDNER of Massachusetts. Mr. Chairman, in my opinion the principal purpose of this bill is to prevent the infliction of misery on an alien who comes from a long distance away—say Armenia—and gets to Ellis Island and finds that he must be turned back. Experience has shown that the steamship companies often bring doubtful immigrants here on the chance that they will be admitted. This bill is intended to discourage them from taking chances. It is largely a humanitarian bill. No such circumstances surround the rejection of aliens who come here by rail. He has not come from a long distance. He has not made a journey half way around the world in vain. The expense, difficulty, and delay would be great, by the way, in applying this law to the ferryboats crossing from Windsor to Detroit were it not for the fact that the same passengers cross back and forth every day. The reasons which call for this legislation do not apply to emigrants coming from foreign contiguous territory.

Mr. BURNETT. I will state to the gentleman that, as was stated by the gentleman from Texas, there has been no complaint from these border States. The complaint comes entirely from the seaport States—Massachusetts, New York, and other States—where the steamship companies bring in these insane.

Mr. MANN. Mr. Chairman——

Mr. BURNETT. The gentleman from Illinois [Mr. SABATH] desires to address himself to the bill, but I yield to the gentleman from Illinois [Mr. MANN] for a question.

Mr. MANN. I wish to ask a question. The bill, as I understand, only inserts insane persons in this paragraph, and doubles the penalty on the steamship companies.

Mr. BURNETT. That is all.

Mr. MANN. Now, supposing a man is in fact insane when he embarks at some place in Europe to come to this country, but gives no general appearance of insanity. While he is on shipboard he shows that he is insane. Of course, when he comes here he is excluded. Are the steamship companies to be fined for that because they have not made a competent medical examination by an expert alienist before the man starts? A competent medical examination for insanity means a careful examination by an expert alienist, and usually requires days of observation.

Mr. SABATH. Will the gentleman permit me to answer that?

Mr. BURNETT. Yes.

Mr. SABATH. I desire to say, in answer to my colleague, that the bill provides that if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any alien so brought to the United States was afflicted with any of the said diseases or disabilities at the time of foreign embarkation, and that the existence of such disease or disability might have been detected——

Mr. MANN. By means of a competent medical examination.

Mr. SABATH. By means of a competent medical examination at such time.

Mr. MANN. Which means that every person who comes from abroad must have a competent expert alienist examine him as to his mental condition, because no one can tell by a casual observation whether a man is sane or insane unless he is a maniac. The steamship companies can not tell unless they have an expert alienist examine him, and sometimes that requires days of observation, and even then they will not agree.

Mr. MOORE of Pennsylvania. There is no question——

Mr. FOSTER. There is a question about that.

Mr. MANN. About their agreeing?

Mr. FOSTER. About their agreeing, and the reason why. I will say to my colleague that there is no line of demarcation where you can say that upon this side of that line every man is sane and on the other side every man is insane; but there is a large borderland in which possibly no man can say whether people are sane or insane.

Mr. MANN. That is true; and there is a borderland condition in which it takes some time to ascertain.

Mr. FOSTER. I agree with my colleague that unless the symptoms are pronounced no man can tell on a casual examination whether a person is sane or insane.

Mr. MANN. The existing law forbids insane persons coming into the country.

Mr. BURNETT. Yes.

Mr. MANN. The only purpose of this amendment, so far as insane persons are concerned, is to invoke a penalty against the steamship companies for bringing them in.

Mr. BURNETT. That is it.

Mr. MANN. Of course, if a man is insane and the steamship company brings him here, they ought to be fined, but it seems to me somebody ought to have the authority not to require the fine when it would be impossible to have the services of an expert alienist—and that is what a "competent medical examination" means—to examine everybody in advance.

Mr. BURNETT. The same argument might apply against fining them for bringing in tuberculosis patients. Perhaps it would require considerable examination to detect that.

Mr. FOSTER. I take it that this provision in the bill means that an alien coming to this country would present to the steamship company a certificate from a recognized reputable physician in that country from which he comes certifying to the fact that he was of sound mind and body, and that all the steamship company would be expected to do would be to take that sort of a certificate and admit the man; but it would hardly be expected under the provisions of this bill that the company must have a certificate from an expert in that particular line.

Mr. MANN. What is the practice in the administration of the law now? Do the steamship companies take the certificate of any physician?

Mr. BURNETT. Oh, no. There is an examination when they get here, and one result of it is that on account of the congested conditions at New York there are so many who escape examination and the vigilance of the New York authorities that in the State of New York alone the alien insane are costing them $4,000,000 a year; and I notice that just before Gov. Sulzer was inaugurated, Gov. Dix was discussing the calling of a convention of twelve or fifteen of those States whose asylums are being overrun by these people, to take some action to memorialize Congress, asking that the Federal Government support these insane because they allow them to escape the Ellis Island examination and get in. Even if it were to work hardship occasionally, it seems to me better to require this than that this great influx of alien insane should be continued as it has been for the last few years.

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. BURNETT. I will.

Mr. MOORE of Pennsylvania. I want to say to the gentleman from Illinois [Mr. MANN] that this bill puts the burden on the steamship company to detect insane persons, and if detected on arrival at the port the steamship company would have to carry them back, and the steamship company would be fined $200 under this bill. Now, there were alienists before the committee—and I say this for the information of the gentleman from Illinois [Mr. FOSTER], who is a distinguished physician—who contended that by merely looking at a man, a specialist trained in the matter of insanity could detect symptoms of insanity; that a man standing at the port and looking at a line of people could pick out those who showed signs of being mentally unbalanced.

Mr. FOSTER. That may be in a certain proportion of cases. But there are a large number, as suggested by my colleague, that it would require a considerable length of time to determine whether a person was sane or insane. For instance, in the Army, in recruiting men for the service, at the large recruiting stations, there is an alienist whose duty it is to observe men enlisted into the Army. They sit there and study the young men from day to day and determine whether they are likely to go insane from some cause that may be brought out in the Army. They are not able to tell by a casual examination whether or not the young man is insane or sane at that particular time, and so they study them for that reason. There are cases, I will say to the gentleman, that are so plain that no one could make a mistake. A certificate given by a physician that that person was sane would involve the steamship company either paying a fine or refusing to accept the physician's affidavit from that particular locality.

Mr. MOORE of Pennsylvania. I did not want to bring on any difference of opinion between experts.

Mr. FOSTER. Oh, I am no expert.

Mr. MOORE of Pennsylvania. I have said that there were witnesses before the committee in support of the bill which provided that alienists should be placed at the various ports to inspect the incoming immigrants, who said that specialists could detect those that were mentally unbalanced, as subjects for special treatment. Their testimony was so clear that I felt that even if members of the committee had to pass, as we do between the tellers, with those alienists standing by, there might be some question whether some of us would get through.

Mr. FOSTER. Let me suggest this to the gentleman, that what they meant was, for instance, in a line of people passing along there may be those that they suspect who would be taken away for further observation. That is probably what they meant when they stated what they did.

Mr. CARY. Will the gentleman from Pennsylvania yield?

Mr. MOORE of Pennsylvania. I am speaking in the time of the gentleman from Alabama.

Mr. BURNETT. I will yield.

Mr. CARY. I want to ask the gentleman from Pennsylvania, who lives in the city of Philadelphia, where these boats arrive, is it true that many men desert ships when they arrive on this side and that vessels go back without a full crew?

Mr. MOORE of Pennsylvania. That is one of the real evils of the immigration law. Men do come to this country shipping as sailors, and I question whether the bill we passed at the last session, the seaman's bill, is effective in this respect. I undertook to offer an amendment to cover that point and it was rejected.

Mr. CARY. They desert and get away and no track is kept of the men.

Mr. MOORE of Pennsylvania. They are gone, but if they are detected by means of their own confession they may be apprehended and deported. The moment they leave the ship they are gone.

Mr. CARY. Has the gentleman any information as to the rumor which I have heard quite frequently—that men who can not pass an examination at the originating port in some way arrange with the steward and hire out as a sailor for the very purpose of getting over here and then deserting?

Mr. MOORE of Pennsylvania. The gentleman is getting down to an interesting point, in which there may be some basis of fact. The question raised by the gentleman from Illinois a moment ago involved that proposition—that we should inspect the emigrants on the other side of the water and not wait until

they get over here and inspect them and take the chance of losing some of them. Shall we put the burden on the steamship company of examining the emigrants before they enter the vessel or put the Government of the United States to the expense of apprehending them after they get here?

Mr. TALCOTT of New York rose.

Mr. SISSON. Will the gentleman yield?

Mr. MOORE of Pennsylvania. The gentleman from Alabama has the floor.

Mr. BURNETT. Mr. Speaker, I have yielded to the gentleman from Pennsylvania, and I now yield two minutes more.

Mr. MOORE of Pennsylvania. Then I yield first to the gentleman from New York [Mr. TALCOTT].

Mr. TALCOTT of New York. Is it a fact that many countries across the water object to making inspection there?

Mr. MOORE of Pennsylvania. I think some of them do. I do not think there is a great desire on the part of the Italian Government to promote emigration.

Mr. TALCOTT of New York. Are there not some countries that have objected to it?

Mr. MOORE of Pennsylvania. Yes. I think Germany has objected to it, and wants to hold her people.

Mr. BURNETT. Mr. Speaker, I will yield to the gentleman from Mississippi for a question.

Mr. SISSON. Mr. Speaker, I want to ask the gentleman from Alabama in reference to his bill. The law now prevents insane persons being admitted to the United States?

Mr. BURNETT. Yes.

Mr. SISSON. In the event a steamship company should bring an insane person, a person that they know to be insane or should have known to be insane by the exercise of reasonable diligence, would there be any penalty now attached to the steamship company for bringing such an insane person here?

Mr. BURNETT. Not at all; that is what this bill seeks to accomplish.

Mr. SISSON. The bill is really for the enforcement of the present law?

Mr. BURNETT. Yes; and to enlarge it.

Mr. SISSON. The law as it now stands is nugatory, because when they do bring the insane person here no penalty is attached to it, and they do not have to carry them back, and they become a charge to the respective States where they come. Is that true?

Mr. BURNETT. They are required to carry them back, and they can be sent back by the steamship company, but no penalty is attached to it. If they escape and get out into the country there is a great deal of trouble to get them deported, and they can not be deported unless you get an order from the Secretary of Commerce and Labor on the company to carry them back.

Mr. SISSON. And in the meantime there is a charge on the community?

Mr. BURNETT. Yes; and on that line this is asked for by the governor of New York, and I notice last year there was an agreement between the steamship company and the hospitals by which the company did agree to take back several hundred that the Secretary of Commerce and Labor had not issued a warrant for.

But it leaves it entirely optional with them to take them back, unless the Secretary of Commerce and Labor orders them deported by these lines, and this is to penalize them for bringing them over.

Mr. SISSON. It was suggested that in a great many countries there was an objection made to the inspection of an immigrant. Would not this law require ship companies to be more careful about the acceptance of an immigrant in foreign ports, and thereby give us the same protection that the Government of those countries decline to give?

Mr. BURNETT. That is the purpose of the law—to make the steamship companies more careful.

Mr. GARDNER of Massachusetts. I think, Mr. Speaker, that the gentleman from Alabama has pointed out to the gentleman from Mississippi the crux of the proposition.

Mr. MURRAY. Mr. Speaker, will the gentleman yield?

Mr. BURNETT. Certainly.

Mr. MURRAY. I merely wish to inquire of my colleague, the gentleman from Massachusetts [Mr. GARDNER], whether or not he understands this evil or unfortunate condition that has been pointed out by the chairman of the committee, as to the burdens placed upon local communities in the care of insane immigrants who have been brought over by the steamship companies, to be a local condition. My understanding is that we are able to transport them back, and the steamship companies are required to transport aliens to the country whence they came, just as soon as the place they came from is determined, and that fact is frequently determined in Massachusetts under our insane hospital boards. I desire to ask the gentleman from Massachusetts if he thinks it is a bad condition from which we are suffering?

Mr. GARDNER of Massachusetts. Mr. Speaker, I did not hear the whole of the gentleman's question, but perhaps I can answer it. Of course when an insane person is turned back in the port of Boston, he is deported at once in the vessel in which he came and at the expense of the steamship company that brought him.

Mr. MURRAY. Yes.

Mr. GARDNER of Massachusetts. If that insane person stays a certain length of time and is found in Boston, he is sent back at the expense of the company. If he has gone into the interior, my impression is that half of the expense to the port of embarkation is borne by the company and half by the United States Government. If he has been here more than a certain length of time, I think three years, we have no power to deport him at all. The gentleman from Alabama can tell me whether that is correct or not.

Mr. BURNETT. That is my recollection of the existing law.

Mr. GARDNER of Massachusetts. As I recollect it offhand, that is the existing law.

Mr. MURRAY. And that is upon the theory that the condition may have been caused since the time of entry into the United States?

Mr. GARDNER of Massachusetts. And also on the general feeling that we must make some limit. For instance, suppose the causes arose prior to entry into the United States, but that after entry the immigrant had married a wife and had children born to him in this country. We have come to the conclusion, after a good deal of discussion, that three years is about the correct time within which deportation may be made, except in the case of prostitutes and procurers, where under another law the Congress of the United States thought otherwise.

Mr. MURRAY. I am not out of sympathy with the legislation, if it seems to be desirable, from the local point of view and from the general point of view, but I have not seen anything in the bill that is at all supplementary of what we now have. In other words, I was inclined to believe that we had pretty general power to look after the situation as it is.

Mr. GARDNER of Massachusetts. I think the gentleman is correct, but experience has shown that these steamship companies will take a big risk if the only penalty is deportation at their expense; whereas, if we put a fine on them for bringing into the country inadmissible aliens, when they could have found out previously that the alien ought not to come in, they will be much more unwilling to take that risk. That is the purpose of the act, as I understand it.

Mr. BURNETT. Mr. Speaker, in answer to the gentleman's question of whether there has been any complaint, particularly from his section, I would state that quite a number of the North Atlantic States have made complaints through their boards of alienists. My recollection is that we have had very urgent complaints by those in charge of the insane hospitals of the gentleman's State. I have not the data before me and have not examined the matter lately, but that is my recollection. I know we have had complaints from Rhode Island, Connecticut, and New York, and I think from Massachusetts.

Mr. MURRAY. May I ask the gentleman to incorporate that in his remarks in the RECORD?

Mr. BURNETT. Yes. If I have the statement I will incorporate it.

Mr. SABATH. Mr. Speaker, will the gentleman yield?

Mr. BURNETT. Mr. Speaker, I yield 10 minutes to the gentleman from Illinois [Mr. SABATH].

Mr. SABATH. Mr. Speaker, it is not my intention to detain the membership of this House. All I desire to say is this: I am in favor of this bill. Furthermore, I am in favor of enlarging the scope of the bill and of including also the examination of all those aliens that come in here from contiguous territory, namely, those that come by railroad. This bill excludes all insane that seek to enter the United States from foreign territory. I am of opinion that an insane person is just as insane if he comes from Mexico or Canada as if he comes from England, Germany, or France.

And therefore I have suggested to the chairman of the committee to accept the amendment which would eliminate these words:

Other than railway lines.

So that we would force not only the steamship lines but also the railroad companies to carefully examine all those who are probably suffering from insanity. The present law excludes all of these. All that we desire to do is to impose higher fines on the steamship companies so as to force more careful examina-

tion in order to protect the unfortunate immigrant from being turned away after he arrives in this country.

Mr. SISSON. Will the gentleman yield?

Mr. SABATH. I will.

Mr. SISSON. Has the gentleman considered the condition of the facilities of the steamship companies for making examinations, and the facilities of the railroad companies coming from Canada or Mexico?

Mr. SABATH. Well, if I am not mistaken, we have very few lines that run between Mexico and the United States. I would say there are six border lines.

Mr. SISSON. I am not informed about the condition, but it just occurred to me that there may be a good deal of difference in the method of handling the railway passenger and the way of handling the ship passenger, and it might require a different kind of legislation. I will say to the gentleman I am in entire sympathy with his views.

Mr. GARDNER of Massachusetts. Mr. Speaker——

The SPEAKER. Does the gentleman from Illinois [Mr. SABATH] yield to the gentleman from Massachusetts [Mr. GARDNER]?

Mr. SABATH. I yield to the gentleman from Massachusetts.

Mr. GARDNER of Massachusetts. I call the attention of the gentleman from Illinois [Mr. SABATH] to the fact that there is a street railroad running across the Rio Grande where the fare is 10 cents. Does the gentleman think it right to force the railroad company to maintain a force of physicians and to fine the company $200 if it brings an alien here and it is found subsequently that he is insane?

Mr. SABATH. It might be a hardship to that street railway company; but if they are bringing hundreds and hundreds of people over here from Canada, why should we not protect ourselves on that border as well as on any other border?

Mr. GARDNER of Massachusetts. One other question: The gentleman is aware that the examination of European immigrants who come here through Canada takes place in the Canadian ports by agreement between the two Governments, and not on our border.

Mr. SABATH. I am aware of that fact.

Mr. GARDNER of Massachusetts. And suppose after a United States inspector has passed an immigrant in the port of Montreal and that that immigrant is found to be insane after he came to the United States and after having been passed by the inspector in the port of Montreal, would he consider it just to charge the railroad company $100 for bringing him in?

Mr. SABATH. Well, personally, I do not know whether under the present law they would not be subjected to a fine.

Of course, at the present time they are excluded, it is true, but if by chance they are brought across the channel on a boat, it matters not how small it may be, plying between some two points across a narrow strip of water, the boat would come under the provisions of this act. And if it is good law for a steamship line, why should it not be as good for the railroad? Personally, of course, the gentleman recognizes the fact that I am not trying in any way to eliminate the steamship companies from performing their duties.

Mr. GARDNER of Massachusetts. I understand.

Mr. SABATH. I believe that this is a good provision, and that we have a right to demand from the steamship lines that they should be careful in examining the people they are bringing to this country; but I go further and say that we should make some demand on the railroads.

Mr. GARDNER of Massachusetts. Let us take the Quebec Central Railroad, which runs from Quebec to Boston, part of the way over the Central Vermont. I suppose the trains may stop at 30 or 40 places between the St. Lawrence and the border. At each one of those stations passengers are likely to board the train. Does the gentleman think it right that the railroad should be required to have surgeons at each of those stations.

Mr. SABATH. The railroad company would not need to have specialists at each of those stations. It would suffice if they had one at the last station and examine all of those who were about to cross. So, instead of having one in each and every station, it would suffice to have one or two at the port of entry.

Mr. GARDNER of Massachusetts. And the gentleman would advocate, for instance, legislation which would produce this state of affairs: Suppose I came back, for instance, from Quebec in the daytime, as I often do, my train would be stopped by the railroad authorities pending the examination of persons for lunacy before we reached the United States line, and, after crossing it, would be stopped for examination once more?

Mr. SABATH. Notwithstanding the fact that I have not a great deal of confidence in these alienists or experts, I do hope that they would have sense enough not to interfere with the gentleman from Massachusetts when they saw him arrive, and that they would be easily able to detect that he does not come under the provisions of any of these exclusions.

Mr. MURRAY. May I ask my colleague from Massachusetts [Mr. GARDNER], if the situation that he assumes is less reasonable than the situation that is likely to come as the result of the probable passage of the literacy test at Detroit, where every day, as I understand it, hundreds of men come across the river to go to their daily employment and occupation in the city of Detroit, but where, in the future, under the provisions of the literacy test, if it becomes a law, as it is likely to do, they will daily have to be stopped while they read for the inspectors 30 or 40 words in the language they are supposed to speak?

The SPEAKER. The time of the gentleman from Illinois [Mr. SABATH] has expired.

Mr. BURNETT. Mr. Speaker, I yield five minutes more to the gentleman from Illinois [Mr. SABATH].

Mr. SABATH. Mr. Speaker, I yield to the gentleman from Massachusetts time to answer the question.

Mr. GARDNER of Massachusetts. I expect that at first there is going to be some difficulty such as the gentleman indicates connected with the enforcement of the illiteracy test. I think the evolution will be approximately the same as has resulted from existing law. The immigrant inspectors know practically everybody by sight who goes from Windsor to Detroit.

Mr. MURRAY. Is the gentleman unwilling to trust the operation of a wise provision such as the gentleman from Illinois suggests?

Mr. GARDNER of Massachusetts. Yes; but the railroads are an entirely different proposition. The ferryboat runs between two places, and it is very easy to become familiar with the passengers who habitually go to and from the same places every day. With passengers on railroad trains, however, it is entirely different.

Mr. MURRAY. Of course, that is true, and the number varies, and the persons from day to day vary on railroad trains to a greater extent than on steamships or ferryboats going from Windsor to Detroit. But could there not be some development under the law by wise administrators that would cure the defects which the gentleman conceives would make this law ridiculous as applied to railroads?

Mr. GARDNER of Massachusetts. No. You are going to put a penalty on the railroads for bringing the people here.

Mr. MURRAY. You are only going to penalize the railroads for doing the same thing that the steamship companies are penalized for doing under the law. The gentleman is unfair in his language when he says that that is our plan.

Mr. GARDNER of Massachusetts. What is the plan that the gentleman refers to?

Mr. MURRAY. To penalize the railroads for doing the same thing that the steamship companies under this are penalized for doing.

Mr. GARDNER of Massachusetts. What is that?

Mr. MURRAY. Bringing in the insane.

Mr. GARDNER of Massachusetts. Before the gentleman came on the floor of the House I endeavored to explain that there had been a very great demand that these immigrants should be protected against taking a journey half way around the world after selling their household goods, only to be turned back on arrival at the port of New York. I pointed out the difference between being turned back after a short land trip and being turned back after a trip from the other side of the world.

Mr. MURRAY. This measure is chiefly a measure of humanity for the suffering conditions now existing in the various States. I gathered the idea from the remarks of the chairman of the committee [Mr. BURNETT] that it was intended to protect such States as New York and Massachusetts, and the Nation generally, from the undesirable immigrants that we are getting. If the purpose is other than that I have entirely mistaken the progress of this debate, but I do hope that along the line of the suggestion that the gentleman from Illinois [Mr. SABATH] wisely makes his amendment may be made covering those immigrants that come in under the other conditions.

The SPEAKER. The time of the gentleman from Illinois [Mr. SABATH] has expired.

Mr. TALCOTT of New York. Mr. Speaker, I ask that the gentleman have his time extended.

Mr. BURNETT. The gentleman from Alabama has control of the time.

The SPEAKER. The gentleman from Alabama [Mr. BURNETT] has control of the time.

Mr. BURNETT. Mr. Speaker, how much time have I?

The SPEAKER. The gentleman has 10 minutes.

Mr. BURNETT. I want to yield five minutes to the gentleman from New York [Mr. KINDRED], the author of the bill, and I want myself about five minutes.

Mr. TALCOTT of New York. Mr. Speaker, will the gentleman from Alabama yield to me two minutes?

Mr. BURNETT. Yes.

Mr. TALCOTT of New York. Does not the amendment amending the section refer to all excluded classes, as well as the insane?

Mr. SABATH. Yes. It includes the insane. Formerly they were not included.

Mr. TALCOTT of New York. The gentleman's suggestion covers all classes?

Mr. SABATH. Yes; all these classes.

Now, Mr. Speaker, as I stated, I am in favor of the bill, and I desire to go even further than the gentleman who has drafted this bill, and I am in favor of making the bill apply to the railroads. For that reason I move that the words on line 9, after the word "company," be stricken out, namely "other than railway lines," so that the section of the bill would read:

It shall be unlawful for any person, including transportation companies entering the United States—

And so on.

The SPEAKER. The Chair will state to the gentleman from Illinois that he has the floor for the purpose of debate and not for the purpose of offering an amendment. After the time of the gentleman from Alabama [Mr. BURNETT] expires, the Chair will recognize the gentleman from Illinois, provided the gentleman from Alabama does not cut him off by the previous question.

Mr. SABATH. I presume he could do it under the rules of the House.

The SPEAKER. He could do it if he could get votes enough.

Mr. BURNETT. Mr. Speaker, have the two minutes of the gentleman from New York [Mr. TALCOTT] expired?

The SPEAKER. The gentleman's two minutes have expired.

Mr. BURNETT. How much time have I remaining, Mr. Speaker?

The SPEAKER. Nine minutes.

Mr. BURNETT. I yield four minutes to the gentleman from New York [Mr. KINDRED].

Mr. KINDRED. Mr. Speaker, as the author of this bill, I desire to refer very briefly to the aspect of humanity involved in it, which has been mentioned by the gentleman from Massachusetts [Mr. MURRAY] and others. In the first place, if the bringing in of the insane is made finable, the steamship companies and common carriers will refrain from allowing the insane to commence the trip.

At present the fact of their being brought in entails great hardships to individuals and to whole families. I have known personally of cases of insane who will be finable and excludable under this proposed act to stay at Ellis Island and first be detained indefinitely and then be taken to the almshouses and various institutions at great expense to the public in the first place, and in instances where the families are possessed of means the expense is chargeable directly to their relatives who live in this country.

Mr. SABATH. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman yield?

Mr. KINDRED. I will yield for a minute.

Mr. SABATH. Is it not a fact that under the present law the Government has the right to deport these people at any time within three years?

Mr. KINDRED. I will say to the gentleman that the bringing in of insane into this country is not finable under the present law.

Mr. SABATH. But they are deportable. Does not the gentleman know that last year we deported 524 insane?

Mr. KINDRED. They are deportable, and the very process of deportation and care for them is costing the State of New York over $2,500,000 each year.

Mr. SABATH. Is it not a fact that the Government pays for the deportation and the passage of the insane, and the State of New York is not obliged to expend a single cent?

Mr. KINDRED. As a matter of fact, the board of alienists, as the proper agency of the State of New York, is doing this work and charging it to the State of New York directly. In some cases the United States Government pays it.

Mr. SABATH. They make examinations, and of course we realize that they are very expensive gentlemen.

Mr. KINDRED. I want to make a statement along the line not of the economics of this great humanitarian question but along the line of humanity, as some gentleman has defined it. Not only, as I have stated, is it inhuman and cruel and inconvenient to the individual insane and their families to bring them here under the present conditions, subjecting them to the hardships to which I have briefly referred——

Mr. HAMILL. Will the gentleman yield for a question?

Mr. KINDRED. I have only a very brief time. Otherwise I would gladly yield.

We come now to the question of humanity involved in this, and that is the lesson which we get from the Jukes family, which in the matter of degeneracy from heredity represents a most colossal family tree and a most interesting one, perhaps the most interesting in the world. The origin of the Jukes family from a given parent was an origin of insanity. The descendants of that family ramify throughout the States, and the result has been not only calamity to the individuals who, through no fault of their own, came into the world under such abnormal conditions through such heredity, but our asylums and eleemosynary institutions have been caused untold expense. Therefore it is a question secondarly of economics and primarily of humanity to the individual and a question of the greatest social importance. [Applause.]

The SPEAKER. The time of the gentleman has expired.

Mr. BURNETT. Mr. Speaker, I call attention to the fact that where this deportation is not done under the warrant of the Secretary of Commerce and Labor the expense of it has to be borne either by the State or by private individuals; and the case to which I called attention a moment ago was a case where the State of New York, through some of its officials, had made a tentative agreement with the steamship companies by which there would be a deportation, as the paper stated, of something like 1,500 of these aliens who have gone recently into the insane asylums of New York, and the State is to bear the expense of that kind of deportation. Under the Federal law if the deportation is on the warrant of the Secretary of Commerce and Labor the steamship companies bear the expense of deportation; but they say that there are many cases that have escaped the investigation of Ellis Island, have gotten out, and gotten into the asylums, and in those cases the Secretary of Commerce and Labor will not order the deportation, and hence the steamship companies are in nowise responsible, and they will not take these people back unless somebody pays the expense of their passage. This newspaper article said that the State of New York had agreed to pay the expense of the deportation.

There is another difficulty. In some cases the country from which they have come refuses to take them back, and it puts them in an anomalous attitude. The steamship companies have made that excuse for refusing to deport them. The country that they come from will not receive them.

Therefore, as has been said by gentlemen, the putting of the penalty upon the steamship companies will increase the diligence of those companies in the investigation on the other side, because if they are penalized for bringing them in they will not bring them over here, and the trouble caused by the refusal of the mother country to take them back will be avoided.

The gentleman from Massachusetts [Mr. MURRAY] has referred to a similar anomalous condition that might arise along the border in regard to the railways. We have in the general law now and also in the Dillingham bill, if it should be passed as amended, and with amendments that perhaps the conference committee may agree upon, a provision that the Secretary of Commerce and Labor may make agreements with the railroad companies along these borders, where there is a contiguous foreign country, for the purpose of expediting this traffic. So the statement of the gentleman that a man who comes over from Canada on a street railway or a steam railroad will have to be examined every day to ascertain whether he can read or not is incorrect. The Secretary of Commerce and Labor arranged with the railway companies a method by which that examination might be made at one time, and the person admitted after that time.

Mr. MURRAY. Mr. Speaker, was the provision that the gentleman speaks of in the bill as it passed the House of Representatives?

Mr. BURNETT. If the gentleman had read the existing law, he would know that that is the law already; and the bill that passed the House of Representatives did not propose to amend that law.

Mr. MURRAY. Mr. Speaker, is the gentleman correct in saying that the bill we voted on, the amended Senate bill, did not propose to amend the existing law? It proposed an amendment to the existing law in the first paragraph of it, and the gentleman knows that I read the bill, because I read it with him. It changed existing law, and the objection I suggest was pointed out in debate on the floor of the House——

Mr. BURNETT. Does the gentleman, in asking his question, intend to interlard it with a speech?

Mr. MURRAY. No.

Mr. BURNETT. The Senate bill does not amend that feature of the existing law. It adds to the classes already excluded and leaves the existing law, with its 42 sections, absolutely as it is already.

I move the previous question on the bill and amendment to the final passage.

Mr. KINDRED. Will the gentleman reserve that motion for a moment in order that I may ask unanimous consent to extend my remarks in the RECORD on this question?

The SPEAKER. The gentleman from New York [Mr. KINDRED] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. SABATH. Mr. Speaker——

Mr. BURNETT. I move the previous question on the bill and amendments to the final passage.

The SPEAKER. The gentleman from Alabama [Mr. BURNETT] moves the previous question on the bill and amendments to the final passage.

Mr. SABATH. Mr. Speaker, a parliamentary inquiry. That precludes me from offering my amendment, does it not?

The SPEAKER. It does, provided enough gentlemen vote for that motion. If a majority vote the other way, then the gentleman from Illinois [Mr. SABATH] is entitled to an hour if the Chair recognizes him, which he will do.

The question being taken, the previous question was ordered.

The SPEAKER. The Clerk will report the first amendment.

The Clerk read as follows:

Page 1, line 4, after the word "amended," insert the words "so as to read."

The amendment was agreed to.

The Clerk reported the next committee amendment, as follows:

Page 1, strike out all of lines 6 and 7.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

On motion of Mr. BURNETT, a motion to reconsider the last vote was laid on the table.

Mr. SABATH. I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. The gentleman from Illinois asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

AMENDING THE NATURALIZATION LAWS.

The SPEAKER. Is that all the business that this committee has?

Mr. BURNETT. No, Mr. Speaker; I call up the bill (H. R. 20195) to amend the naturalization laws.

The SPEAKER. The Clerk will report the bill.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 4 of the act approved June 29, 1906, entitled "An act to establish a Bureau of Immigration and Naturalization and to provide for a uniform rule for the naturalization of aliens throughout the United States," is hereby amended by adding two subdivisions to read as follows:

"Seventh. That any alien of the age of 21 years and upward who has enlisted or may hereafter enlist in the Armies of the United States, either the Regular or the Volunteer forces, or in the United States Navy or Marine Corps, or in the Revenue-Cutter Service, or who is serving or has served on board a merchant vessel of the United States may, after three years of such service, while still in the service or within six months after an honorable discharge therefrom, petition for naturalization in any court authorized to grant citizenship; and the honorable-discharge certificate of such alien from the service of the United States, or a certificate of such three years' service and good conduct during that time, signed by a commissioned officer under whom he is serving, or an affidavit of the master of said merchant vessel certifying to such three years' service and good conduct, as aforesaid, and the affidavits of two credible witnesses, citizens of the United States, identifying the applicant as the person named in the certificate presented, shall be deemed competent and sufficient proof of the residence and good moral character required by law, and either the original or a verified copy of such discharge shall be attached to and made a part of the petition; such applicant shall not be required to prove one year's residence within the State in which he files his application to become a citizen; and the petition of any such alien shall be docketed and final hearing had thereon by the court immediately, or at the convenience of the court.

"Eighth. That every seaman being an alien shall, after his declaration of intention to become a citizen of the United States, and after he shall have served such three years upon such merchant vessel of the United States, be deemed a citizen of the United States for the purpose of manning and serving on board any such merchant vessel of the United States, anything to the contrary in any act of Congress notwithstanding; but such seaman shall, for all purposes of protection as an American citizen, be deemed such after the filing of his declaration of intention to become such citizen."

SEC. 2. That sections 2166 and 2174 of the Revised Statutes of the United States of America, and so much of an act approved July 26, 1894, entitled "An act making provisions for the naval service for the fiscal year ending June 30, 1895, and for other purposes," being chapter 165 of the laws of 1894 (28 Stat. L., p. 124), reading as follows: "Any alien of the age of 21 years and upward who has enlisted or may enlist in the United States Navy or Marine Corps, and has served or may hereafter serve five consecutive years in the United States Navy or one enlistment in the United States Marine Corps, and has been or may hereafter be honorably discharged, shall be admitted to become a citizen of the United States upon his petition, without any previous declaration of his intention to become such; and the court admitting such alien shall, in addition to proof of good moral character, be satisfied by competent proof of such person's service in and honorable discharge from the United States Navy or Marine Corps"; and all acts or parts of acts inconsistent with or repugnant to the provisions of this act are hereby repealed; but nothing in this act shall repeal or in any way enlarge section 2169 of the Revised Statutes: *Provided*, That for the purposes of the prosecution of all crimes and offenses against the naturalization laws of the United States which may have been committed prior to this act the statutes and laws hereby repealed shall remain in full force and effect: *Provided further*, That as to all aliens who, prior to January 1, 1866, served in the Armies of the United States and were honorably discharged therefrom, section 2166 of the Revised Statutes of the United States shall be and remain in full force and effect, anything in this act to the contrary notwithstanding.

Mr. GARDNER of Massachusetts. Mr. Speaker, the object of this bill is to make uniform conditions under which aliens who have served in the Army, Navy, or Marine Corps of the United States may be naturalized. Also to extend to persons in the Revenue-Cutter Service of the United States the same provisions which are extended to alien seamen in the matter of naturalization.

As the situation is at present, any alien who serves in the Army of the United States can be naturalized on his declaration of intention to become a citizen after one year's service. Any alien who serves in the Navy must have five years' service to his credit. Anyone who serves in the Marine Corps must have such term of service to his credit as an enlistment in the Marine Corps may from time to time require. I rather think that the term of enlistment for the Marine Corps was made four years by an act passed somewhere about the year 1900.

This bill seeks to make uniform the conditions of naturalization for all aliens who have served either in the Regular or Volunteer forces of the United States, or in the United States Navy, or Marine Corps, or in the Revenue Service, or who have served on board a merchant vessel of the United States a uniform period of three years.

Mr. HAMILL. Will the gentleman yield?

Mr. GARDNER of Massachusetts. Certainly.

Mr. HAMILL. Will the gentleman, so that we may have it clear in mind, state just what provisions are in the law that a man would have to comply with in the absence of this legislation?

Mr. GARDNER of Massachusetts. To the best of my ability I shall be glad to do so, but this bill has been on the calendar many months, and I have not refreshed my memory until this afternoon.

Mr. HAMILL. I understand from a rapid reading of the bill that the seventh section extends the present requirement of one year to three years in the case of a discharged soldier from the United States Army. Is that correct?

Mr. GARDNER of Massachusetts. Yes.

Mr. HAMILL. What is the necessity of adding to his term of probation? Is not his service of one year in the Army an indication of the patriotism desired of the coming citizen—is not that enough without making it a three-year period?

Mr. GARDNER of Massachusetts. It did not seem so to the committee.

Mr. HAMILL. What is the gentleman's own opinion?

Mr. GARDNER of Massachusetts. That is the gentleman's own opinion. I voted to report this bill. As the law stands at present, as the gentleman has pointed out, only one year's service is required of a soldier. On the other hand, an alien in the Navy is required to serve five years, or one enlistment in the United States Marine Corps, which is now four years. The Immigration Committee has made the period uniform at three years for all the classes which I have mentioned.

Now, in regard to the alien seamen on merchant vessels, I think the report is a little wrong. At present the alien seamen on merchant vessels can be naturalized at the end of three years. This bill leaves it permissible to naturalize them at the end of three years.

Mr. HAMILL. In that regard this proposed law does not change the existing law in regard to a seaman.

Mr. GARDNER of Massachusetts. Mr. Speaker, as I was about to say, my information is that the change in regard to seamen consists in permitting them to prove their three years' residence in a different way from that which is now required. The naturalization law passed in 1906 requires everyone to show by two witnesses evidence of their residence for the period of three years. This bill provides that the fact that seamen have served on a ship of the United States—that is, a merchant ship of the United States—and have been honorably discharged, shall in itself be taken as evidence of residence, inasmuch as it is impossible for a seaman to acquire a continuous residence ashore owing to the fact that he is in and out of port all the time.

Answering the gentleman from New Jersey, the three-year period required of seamen on merchant vessels is not changed by this bill from the requirement of section 2174 of the Revised Statutes.

Mr. HAMILL. I take it the gentleman draws this distinction between the proposed law and the law as it now exists—that the law as it exists calls for the proof of three years' residence, and the gentleman does not consider the three years' residence at sea would prove the residence, whereas this specifically says that three years' service at sea shall entitle him to the right of citizenship.

Mr. GARDNER of Massachusetts. I thank the gentleman for having stated it much more lucidly than I did. He is correct.

Mr. HAMILL. The gentleman will pardon me if I say I think the law to-day would consider three years' service on an American ship as proof of three years' citizenship in the United States, and that the proposed law does nothing really in that regard.

Mr. BURNETT. If the gentleman from Massachusetts will permit me, the department says that it has not been construed that way; that while it ought to be, yet the existing law is such that if a man has been afloat all that time and has been one year at one port with his family and another year at another, he can not be naturalized.

Mr. HAMILL. On an American ship?

Mr. BURNETT. Yes. That would not be construed as a residence at that place for the required time, and therefore the department recommended the changes in that way.

Mr. GARDNER of Massachusetts. Mr. Speaker, the gentleman from Alabama, I think, is correct. Now, as to the evidence as to character, if I recollect rightly, there is a requirement that one of the witnesses as to character must come from the same State as the applicant. I am by no means sure. That is my impression, but I have not examined the law for eight months. There are two things of which I am sure. One is that under this bill the period of time is not changed during which a seaman on a merchant vessel is required to serve prior to attaining a right to naturalization. The other thing of which I am sure is that the main purpose of the bill is to provide uniform conditions for the naturalization of aliens in the Army, the Navy, the Marine Corps, the Revenue-Cutter Service, and the merchant marine.

I call attention to one exception in this bill. A soldier who served in the War of the Rebellion and was honorably discharged at the end of his service is allowed to secure citizenship, as formerly, after one year's service.

Mr. HAMILL. What is the provision as to the Marine Corps that they must serve for the same number of years as are included in one contract of enlistment?

Mr. GARDNER of Massachusetts. That is existing law. This bill makes the period three years. I understand the present term of enlistment for the Marine Corps is four years. I have not looked into that question, but am trusting entirely to my memory. I did not know that this bill was on the calendar until an hour ago, and have been trying to refresh my memory ever since.

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. GARDNER of Massachusetts. I will.

Mr. MOORE of Pennsylvania. In the effort to establish uniformity in the matter of naturalization, was not it apparent to the committee that there was a decided advantage given to the sailor on the merchant vessel who in no way was in the service of the United States, in that he could be naturalized after three years of service upon a merchant vessel, where those who volunteered their services to the United States and served in the Army and the Navy were obliged to remain at least five years before they could become citizens?

Mr. GARDNER of Massachusetts. My recollection is that the gentleman is correct. I had not remembered that fact, but it comes back to me, now that he mentions it.

Mr. MOORE of Pennsylvania. And that it was regarded as unfair that we should hold up for a period of five or more years a man who entered the service of the United States as a soldier or sailor, when we permitted a sailor on a merchant vessel in no way connected with the United States to be admitted to citizenship, after a period of three years of such service, under an independent captain or under an independent concern.

Mr. HAMILL. Mr. Speaker, I would ask if the general idea of this bill is not restrictive—that is, it is to make it more difficult to-day for a man who has served his country as a soldier, or for a sailor on an American ship, to receive the rights of citizenship than it is under existing law? Outside of the uniformity feature, that is the effect of this law, is it not?

Mr. GARDNER of Massachusetts. The gentleman is mistaken. This bill makes it easier for a sailor to become a citizen of the United States, because the present law requires him to prove something which is not a fact.

Mr. HAMILL. That is a detail of procedure, and in so far as that is concerned the proposed law is commendable. But what is the necessity of extending from one year to three years the time of a discharged soldier? That is restrictive.

Mr. GARDNER of Massachusetts. So as to make it uniform with the period of service required of a discharged sailor.

Mr. HAMILL. It is restrictive.

Mr. GARDNER of Massachusetts. As to soldiers.

Mr. HAMILL. Would it not be far better instead of putting more hardships on the soldier who has served his country rather to bring the other qualifications down to the qualifications now required of him as to residence?

Mr. GARDNER of Massachusetts. No.

Mr. HAMILL. Why not?

Mr. GARDNER of Massachusetts. Three years is short enough time for any man to be in the United States before he is made a citizen.

Mr. HAMILL. When a man serves in the Army, is it not pretty strong, presumptive evidence, almost indisputable, that he is fit for the rights of citizenship, for he then takes the chances of fighting for this country in the case of war?

Mr. GARDNER of Massachusetts. Not in the least.

Mr. MOORE of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. GARDNER of Massachusetts. Yes.

Mr. MOORE of Pennsylvania. I am simply stating my recollection, which is somewhat at fault. The gentleman admits that his is slightly at fault, because this bill has been pending so long; but it was a matter of amazement to me to find that owing to some conditions, of which we were not fully informed, a sailor from any foreign country, embarking on a voyage on any American vessels in any foreign port, could, after a service of three years on that vessel, on the certificate of his captain, be admitted to naturalization in the United States—and that upon the simple certificate of the captain that the man had been in the service of the ship. It was after I heard that statement and learned that that condition prevailed, and that anyone from any foreign country, by the mere accident of service on an American ship, could, upon such an uncertain certificate presented to a court, become a citizen after three years of service on a ship that I agreed with the committee that there should be passed a bill which would give some aid to the foreigner who enlists in the service of the United States in the Army or in the Navy.

Mr. HAMILL. Mr. Speaker, has not the gentleman——

Mr. GARDNER of Massachusetts. O Mr. Speaker, I shall have to insist that I have the floor.

Mr. HAMILL. Let me ask the gentleman this question.

Mr. MOORE of Pennsylvania. I understand we have simply made it easier for men in the Army and Navy to become naturalized.

Mr. HAMILL. Have we not made it more difficult for a man in the Army?

Mr. MOORE of Pennsylvania. No; we have made it easier.

Mr. GARDNER of Massachusetts. No; the gentleman from New Jersey is correct. We have made it more difficult for an honorably discharged soldier to become naturalized.

Mr. FINLEY. Mr. Speaker, will the gentleman yield?

Mr. GARDNER of Massachusetts. I yield to the gentleman from South Carolina for a question.

Mr. FINLEY. Is there anything in this bill that enlarges the limitations as to race for those seeking or entitled to naturalization?

Mr. GARDNER of Massachusetts. No; there is no change, except as to what shall be deemed evidence of residence, and as to the length of service required before soldiers, sailors, marines, and seamen may become naturalized.

Mr. FOWLER. Mr. Speaker, will the gentleman yield?

Mr. GARDNER of Massachusetts. I yield to the gentleman from Illinois.

Mr. FOWLER. Is there any change made with reference to the proof of good moral character?

Mr. GARDNER of Massachusetts. I think that has been strengthened. I shall have to refresh my recollection as to that.

Mr. FOWLER. The proof of good moral character is required now, and if this bill does not pass it will be required in every one of the instances to which this bill deals. Is not that the fact?

Mr. GARDNER of Massachusetts. Yes.

Mr. SABATH. I refer the gentleman from Massachusetts to lines 14 and 15, on page 2. The gentleman will there find the provision.

Mr. GARDNER of Massachusetts. Yes. I read from the bill—

and the affidavits of two credible witnesses, citizens of the United States, identifying the applicant as the person named in the certificate presented.

That is to say, the certificate of good conduct and honorable discharge, which is required by line 7 of the bill, and the certificate of such three years' service, must be signed by a commissioned officer. Then line 14 provides that the affidavits of two credible witnesses, and so forth—

shall be deemed competent and sufficient proof of the residence and good moral character required by law.

Mr. FOWLER. Do you not think that the discipline in the Navy and in the Army is of such a high and strict character that no man could go through it for three years and be honorably discharged without being of good moral character?

Mr. GARDNER of Massachusetts. That is why I am in favor of the three-year provision. I should not agree with that as to one year's service.

Mr. FOWLER. One more question before I leave the subject: As the law now stands, is there any difference as to the requirements of the proof of good moral character by the United States of men dealt with in this bill?

Mr. GARDNER of Massachusetts. Why, I think they all now require certificates of good moral character from neighbors. I think one of the witnesses must be a resident of the same State as the applicant, although I am simply stating this from memory. But knowing that it is impracticable for persons on board ship to furnish the evidence now required, we propose by this bill that in lieu thereof they must bring certificates of honorable discharge and good conduct, signed by a commissioned officer under whom they serve. Moreover, they must furnish the certificate of credible witnesses for purposes of identification.

Mr. FOWLER. Not being a member of the committee, I am not sure whether there is a distinction made in the law as it now exists as to the requirements of proof of good moral character concerning the four classes of men dealt with in this bill.

Mr. GARDNER of Massachusetts. There is this difference: That the existing law requires that the petition shall be verified by the affidavits of two credible witnesses, who shall be citizens of the United States and who shall state that they have known the man for a period at least of one year preceding the date of the filing of his petition, and that they each have personal knowledge that the petitioner is of good moral character. In lieu thereof we now propose to accept a certificate of three years' service and good conduct, together with an honorable discharge certificate, signed by a commissioned officer under whom the applicant for naturalization has served, or the affidavit of a master of a merchant vessel, certifying to three years' service and good conduct. Obviously a man might be shifted from one ship to another in the Navy, and it might be impossible to find two citizens who could testify to everything required by the statute.

Mr. FOWLER. You understand that the statute applies to all the aliens serving in the United States?

Mr. GARDNER of Massachusetts. Distinctly. The naturalization law, I think, recites that persons may be naturalized in such and such a way, and in no other. I take it that that is the difficulty which we are trying to overcome by this bill, although, as I said before, my recollection is not as complete as I could wish. I think that what I have told the gentleman is substantially accurate.

Mr. FOWLER. One of the gentlemen here, in speaking of the service of the man on the American merchant vessel, said that all he had to do was to send in his certificate of service signed by a captain of such vessel.

Mr. GARDNER of Massachusetts. Under the old law.

Mr. FOWLER. Does that dispense with the proof of good moral character?

Mr. GARDNER of Massachusetts. Yes; it did under the Revised Statutes, page 2174. He produces his certificate of discharge and good conduct during that time.

Mr. BURNETT. Will the gentleman permit me a suggestion?

Mr. GARDNER of Massachusetts. Yes, sir.

Mr. BURNETT. That is a part of the reason for making this law uniform as to this particular as well as the length of term of service. Now, by reading the various statutes the gentleman will find that different proof along that very line that he inquires about was required of the applicants for naturalization who had been in these different lines of service. Now, briefly, I will call attention to it:

Any alien of the age of 21 years and upward, who has enlisted, or may enlist, in the Armies of the United States, either the Regular or the Volunteer forces, and has been or may be hereafter honorably discharged, shall be admitted to become a citizen of the United States upon his petition, without any previous declaration of his intention to become such; and he shall not be required to prove more than one year's residence within the United States previous to his application to become such citizen; and the court admitting such alien shall, in addition to such proof of residence and good moral character as now provided by law, be satisfied by competent proof of such person having been honorably discharged from the service of the United States.

Now, that was in the case of honorably discharged soldiers. Now, when we go over to section 174, that my colleague has called attention to, it gives the seaman there the right the soldier did not have. It says:

Every seaman, being a foreigner, who declares his intention of becoming a citizen of the United States in any competent court, and shall have served three years on board of a merchant vessel of the United States subsequent to the date of such declaration, may, on his application to any competent court and the production of his certificate of discharge and good conduct during that time, together with the certificate of his declaration of intention to become a citizen, be admitted a citizen of the United States; and every seaman, being a foreigner, shall, after his declaration of intention to become a citizen of the United States, and after he shall have served such three years, be deemed a citizen of the United States for the purpose of manning and serving on board any merchant vessel of the United States, anything to the contrary in any act of Congress notwithstanding; but such seaman shall, for all purposes of protection as an American citizen, be deemed such after the filing of his declaration of intention to become such citizen.

So that proof, it seems, of good moral character was not required of the seaman that was even of a soldier.

Mr. FOWLER. The proof of good moral character as the law is now is not uniform?

Mr. BURNETT. That is the proposition.

Mr. FOWLER. Now, you seek by this bill not only to make the proof of good moral character uniform but the length of service uniform also?

Mr. BURNETT. Exactly.

Mr. FOWLER. And are these the only two features this bill seeks to modify?

Mr. BURNETT. These are the two features, as I recollect. And I want to call attention to the Army and Navy and Marine Corps:

And the court admitting such aliens shall, in addition to proof of good moral character, be satisfied by competent proof of such person's service in and honorable discharge from the United States Navy or Marine Corps.

So you see, as to the soldiers and those serving in the Navy, there was proof of good moral character required, but as to merchant vessels that was not required.

Mr. MURRAY. Is it not true that you also extend this proviso to those who serve in the volunteer militia of the various States?

Mr. GARDNER of Massachusetts. Only the volunteer forces of the United States.

Mr. MURRAY. What does that mean?

Mr. GARDNER of Massachusetts. It means those who serve the United States in the case of war.

Mr. MURRAY. Not the State militia as now organized?

Mr. GARDNER of Massachusetts. Oh, no. If the gentleman will look at section 2766 of the United States Statutes, he will find——

Mr. MURRAY. Of course, that is not before me as it is before the gentleman.

Mr. GARDNER of Massachusetts. It provides for the naturalization of aliens in the Regular and Volunteer forces.

Mr. MURRAY. Under the provisions of the Dick bill, of course, every organization in the State national guard is part of the volunteer forces.

Mr. GARDNER of Massachusetts. Only when it becomes a volunteer force.

Mr. MURRAY. That was enacted as the result of our service and the service of like men in the Spanish War. The Dick bill was intended to put the country on a military basis. The gentleman knows that the militia are subject now to inspection only by an inspector of the United States, belonging to the United States Inspector General's Department. I would like to know if this provision means to include men in the various State militia organizations?

Mr. GARDNER of Massachusetts. That certainly was not its intention.

Mr. MURRAY. Well, it is in it.

Mr. GARDNER of Massachusetts. It would have the same effect, I should say, as the language in the existing law. If the gentleman is correct in his premise that by the passage of the Dick bill that which has hitherto been regarded as the militia of the various States has now become the volunteer force of the United States, then he is correct in his conclusion that this bill extends the privilege of a shorter residential requirement to any alien who might enlist in the Massachusetts Militia. But I think the gentleman is incorrect. I can not imagine that such a construction of the law would be correct.

Mr. MURRAY. Mr. Speaker, I can only say, upon my reading of the bill, that there was not any question in my mind but that it applied to the militia forces. I suppose my colleague had the point of view entertained by the committee with respect to it. That had not occurred to me when I read that section. I had in mind the fact that it does extend to the militia organization.

Mr. GARDNER of Massachusetts. In that particular respect there is no change from the present law. The present law extends this special naturalization privilege to the Regular and Volunteer forces. Now, even if the gentleman is correct, this bill proposes no change in the law as to the Volunteer forces.

Mr. BURNETT. Might it not be, on the idea that the Dick bill was passed since the law we are amending was enacted, and this being an amendment without exempting them, that there might be some force in the remarks of the gentleman from Massachusetts [Mr. MURRAY]?

Mr. MURRAY. I do not want to refer to it particularly.

Mr. GARDNER of Massachusetts. Does the gentleman mean that by reenacting the law in regard to the Regular and Volunteer forces, we make its application different from what it would be if we let it alone?

Mr. MURRAY. Mr. Speaker, I simply mean to say that in my mind "the volunteer forces" to-day have a very different meaning from what they had in 1898. I simply mean to say that those words, "volunteer forces," may have a very different meaning from what they had when the naturalization act was adopted.

Mr. GARDNER of Massachusetts. Let me ask the gentleman this question: Suppose we do not pass this legislation which I have in my hand?

Mr. MURRAY. Which is the pending legislation?

Mr. GARDNER of Massachusetts. Yes; which is the pending legislation. Does the law as it stands to-day permit the naturalization within one year of an alien in the Massachusetts militia?

Mr. MURRAY. I can only determine that question for myself, Mr. Speaker, when I find out when that naturalization act was passed with respect to the date of the enactment of the Dick bill. If it was before, I do not believe it does include militiamen. If it was after the passage of the Dick bill, I believe clearly that it does include them. I have in mind the date.

Mr. GARDNER of Massachusetts. This is 1906. No; I beg pardon; this is very old.

Mr. MURRAY. The Dick bill was passed in 1904. When was the existing naturalization law passed?

Mr. GARDNER of Massachusetts. It was passed in 1906, but it did not include the title to which we have been referring.

Mr. MURRAY. That is the way I determine the question for myself.

Mr. GARDNER of Massachusetts. This law with regard to the naturalization of soldiers was passed in 1862.

Mr. MURRAY. It seems to me the meaning of "volunteer forces" there is different from what it would be if you reenacted those words.

Mr. GARDNER of Massachusetts. The gentleman says the meaning of the words "volunteer forces" is now different from what it would be if we reenacted those words?

Mr. MURRAY. Yes.

Mr. GARDNER of Massachusetts. If the gentleman will prepare an amendment, without asking other questions, excluding the militiamen, I shall offer it myself.

Mr. MURRAY. I am not willing to do that, because I would be delighted to see the militiamen included. In every sense they are on the same basis as the regular forces, except continuous service. Under the Dick bill the militiamen are under the orders of the commander in chief of the State they are in, and I think that is a wise provision, and I want to commend the committee for drafting such a resolution. I am not willing to present an amendment.

Mr. MANN. Mr. Speaker, may I inquire what is pending?

The SPEAKER pro tempore (Mr. KINDRED). Amendments to the bill.

Mr. GARDNER of Massachusetts. Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore. Thirty minutes.

Mr. GARDNER of Massachusetts. Does the gentleman from Illinois [Mr. MANN] desire time?

Mr. MANN. I only wanted to ask a question about the bill. It may duplicate questions that have been already asked, because it has been impossible to hear the conversation that has been taking place over there.

Mr. GARDNER of Massachusetts. I invite the attention of the gentleman from Illinois to the fact that I can not hear him. [Laughter.]

Mr. FOSTER. I suggest that if gentlemen over there would come over here they would be heard.

Mr. KENDALL. Suppose the committee moves over to the House. [Laughter.]

Mr. SABATH. I suggest, Mr. Speaker, that the gentlemen from Massachusetts should not always be so far apart. They should get together.

Mr. GARDNER of Massachusetts. What is the gentleman's question.

Mr. MANN. I notice the bill provides that an original or a verified copy of such discharge shall be attached to and made a part of the petition. Just what is meant by that?

Mr. GARDNER of Massachusetts. What is that conundrum? What is the gentleman reading from?

Mr. MANN. Page 2, line 15, in reference to the evidence that is desired. It says that either the original or a verified copy of such discharge shall be attached to and made a part of the petition. Will that be obligatory in every case? Is that what it means?

Mr. GARDNER of Massachusetts. If the gentleman will tell me what kind of a trap he is trying to lead me into I will answer his question.

Mr. MANN. I am not trying to lead the gentleman into a trap, but I will explain what I have in mind.

Mr. GARDNER of Massachusetts. That is what I want to know.

Mr. MANN. The bill provides that the petition may be filed either before or after the discharge from the Government service. It may also be filed either before or after discharge from the merchant-marine service. In the first case there is an honorable discharge, and in the other case there may be a certificate of the master. Apparently the bill would require either a copy of the original discharge or the original itself to be filed with every petition, although there may have been no discharge, as in the case of surgeons on merchant vessels, where there is no discharge, but only a certificate to be filed.

Mr. GARDNER of Massachusetts. May I ask the gentleman a question?

Mr. MANN. Certainly.

Mr. GARDNER of Massachusetts. I do not want to interrupt the gentleman, but if he will turn to line 16, page 2, would the gentleman's difficulty be cured if the words "or certificate as aforesaid" are inserted after the word "discharge"?

Mr. MANN. It would if there is a discharge at all, but this petition may be filed before the sailor is discharged. At the top of page 2 the gentleman will see it says:

> After three years of such service, while still in the service, or within six months after an honorable discharge therefrom.

Mr. GARDNER of Massachusetts. The gentleman is correct. That must be remedied in some way.

Mr. MANN. I would suggest to the gentleman, then, that if he will add after the word "discharge" the words "or certificate, if any," that would probably cover the case.

Mr. GARDNER of Massachusetts. Insert the words "certificate, if any."

Mr. MANN. "Discharge, if any." I would put "certificate" before "discharge."

Mr. BURNETT. After the word "such."

Mr. MANN. So that it will read:

> Copy of such certificate or discharge, if any.

Mr. GARDNER of Massachusetts. I think the gentleman is perfectly correct.

Mr. MURRAY. If the gentleman has concluded, may I ask him to withhold his motion for the previous question until after I have opportunity to move an amendment?

Mr. GARDNER of Massachusetts. I will yield to the gentleman for debate, not for the purpose of offering an amendment.

Mr. MURRAY. I should like to be recognized, so that I can offer an amendment.

Mr. GARDNER of Massachusetts. I propose to offer an amendment myself. How much time does the gentleman want for debate?

Mr. MURRAY. Five or ten minutes will do for debate.

Mr. GARDNER of Massachusetts. I do not want to yield the floor.

Mr. MURRAY. I am not asking the gentleman to do that.

Mr. GARDNER of Massachusetts. I am going to move the previous question, in accordance with the custom of the House.

Mr. MURRAY. If the gentleman will allow me to offer this amendment I think it may save time.

Mr. GARDNER of Massachusetts. The gentleman can take his own course about that.

Mr. MURRAY. Before the House votes on the previous question, I should like to offer my amendment.

Mr. GARDNER of Massachusetts. The gentleman can read it in his time. I yield to my colleague five minutes.

Mr. MURRAY. Mr. Speaker, I have tried to arrange with the gentleman from Massachusetts [Mr. GARDNER] that he withhold his motion for the previous question, in order that I might move to amend by adding a new section to the measure that will bring clearly before the House at this time the matter of affirming or withholding affirmation from the present naturalization laws. I have sent to the Clerk's desk, in order that it might be presented to the House, a proposed amendment, which I will now read:

Seventh. That any alien of the age of 21 years and upward, who has lived continuously for five years in the United States of America, has declared his intention to forswear allegiance to any king, queen, prince, or foreign potentate, and to become a citizen of the United States of America, and has satisfied the judge of any court authorized to grant citizenship that the applicant alien is of sound mind and of healthy body, may petition for naturalization in any court authorized to grant citizenship; and the petition of any such alien shall be docketed and final hearing had thereon by the court immediately, or at the convenience of the court, and within 90 days.

Mr. Speaker, the purpose of that amendment is to get away from some of the conditions which, to my mind, are entire hardships in the matter of the administration of the present naturalization laws. My first question to the gentleman from Massachusets, my colleague [Mr. GARDNER], when I succeeded in obtaining recognition was to ask him to state directly what are the present requirements of the naturalization laws. That statement has not been made to the House, and the reason why the gentleman is withholding a statement of the present requirements of the naturalization laws is known to him, but is not known to me. It may be that it is because even he recognizes that those requirements are harsh, indeed, for any man who is of the right sort and the right material to become a valued citizen of our country.

The conditions not only require five years of actual residence and the filing of the request for first papers at a time several months in advance of the granting of the final papers, but they also require that no certificate of citizenship, regardless of the length of residence of the alien, regardless of the time that may have elapsed since the first papers were applied for, shall be issued to any alien within 90 days of his application or 30 days of a general election.

Mr. Speaker, I insist that that requirement of the naturalization laws is a hardship so great that it has deterred many desirable men from making final application. The matter of voting at an election is not uppermost in the mind of the average man during most of the days of the year. Men do not begin to think of matters pertaining to election until the elections are upon us. Many applications are not made, therefore, until just before an election or a primary that may cause general interest in the matter of the right to vote. I say that provision of application before an election is a hardship that ought not to be continued, and I say that it has done more to keep desirable aliens from making application for citizenship than any other single feature of the naturalization laws.

Mr. Speaker, my proposed amendment requires certain things as the test of the question whether a man shall have final citizenship papers granted to him or not. It requires first five years of continuous residence in the country—not a year of residence and a year of departure to other countries, as has been frequently done under the system that is even now in vogue, but five years continuous residence—in order that we may be sure that the applicant is one who values residence as he will value citizenship in this country of ours.

It requires, too, that the alien shall forswear allegiance to any foreign king, queen, prince, or potentate, which ought to be an early step in the progress toward citizenship. It requires, too, the clear determination or intention that is firmly fixed in the mind of the applicant, that he desires to become a citizen of this country, that he may boast with pride of his American citizenship as men in early days used to boast of the citizenship that was theirs. It requires that he must satisfy the judge of the court to whom his application is addressed that he is of sound mind and healthy body.

I think it is a shocking scandal for agents of the Bureau of Naturalization to require men to pass civil-service examinations in some instances before they may be permitted to receive their final citizenship papers. My words are a feeble protest against that system, and the purpose of this amendment is to force a vote, if I may do so, at this time upon that matter.

The SPEAKER. The time of the gentleman has expired.

Mr. GARDNER of Massachusetts. Mr. Speaker, I do not think that this is a suitable time to introduce an amendment changing the whole naturalization law without its being thoroughly considered by the committee.

Mr. MURRAY. Does the gentleman yield?

The SPEAKER. Does the gentleman from Massachusetts yield to his colleague?

Mr. GARDNER of Massachusetts. Yes; I yield.

Mr. MURRAY. May I inquire what opportunity has been afforded to get a hearing before the committee on similar propositions?

Mr. BURNETT. Has the gentleman ever asked for a hearing?

Mr. MURRAY. No; but many of my colleagues have.

Mr. BURNETT. None have been refused.

Mr. GARDNER of Massachusetts. I think the gentleman is doing an injustice to the chairman of the committee and the members of the committee. I know of no such case.

Mr. MURRAY. Does the gentleman know of any bill now pending before this House which has been referred to his committee, to lessen the requirements of the naturalization laws of the United States?

Mr. GARDNER of Massachusetts. We have a very long list of bills. I can not answer that question directly.

Mr. MURRAY. The thing that deterred me from introducing this bill and having it referred to the committee was a clear understanding that the point of view of the majority of the Democratic members and the majority of the Republican members of the committee was that this matter ought not to get into the subjects under consideration. I have informally discussed it with members of the committee. I have informally discussed it with my own colleague, Mr. CURLEY, a member of the committee. He is not here at this time, but I have understood from him and others that the committee was so busy with the Dillingham bill and the Burnett bill and other matters affecting the immigration laws that they were not willing to consider any proposed changes in the naturalization laws of the United States. It is a matter of surprise, indeed, to me to find even this bill to amend the naturalization laws, and I am taking advantage of the first opportunity that I reasonably believe I have to cause this amendment to be considered.

Mr. GARDNER of Massachusetts. How much time have I left?

The SPEAKER. The gentleman has 11 minutes.

Mr. GARDNER of Massachusetts. I yield to the gentleman from Illinois.

Mr. SABATH. Mr. Speaker, I desire to ask the gentleman from Massachusetts whether or not he is of the opinion that these high fees which are now paid by the applicant for citizenship should be remitted in these cases. At the present time every applicant is compelled to pay a fee of $5. I am of the opinion that after a man has served his country for five years in the Army or the Navy and is desirous to become naturalized it is unfair for us to impose this high fee upon him. I believe we can easily remit the fees of such applicants—men who have served their new adopted country faithfully for three or five years and have been honorably discharged.

Mr. GARDNER of Massachusetts. Mr. Speaker, the gentleman is a member of the committee. He knows that we never considered that proposition; at least, I do not remember that the committee considered it. I think it ought to have been brought to the attention of the committee for the committee to consider, and find out what the reasons were in favor or against the high fees. The gentleman from Illinois voted for reporting the bill as it stands.

Mr. SABATH. If I am not mistaken, Mr. Speaker, I did vote to report the bill, but I believe some consideration should be shown to these men who have faithfully and honestly served our country. It, however, did not occur to me while the bill was being considered in the committee, but it does occur to me now; and for that reason I thought that I might call the attention of the House to it and also call it to the attention of the gentleman from Massachusetts, and inquire of him whether he would not be in favor now of accepting such an amendment, as it never is too late to do right.

Mr. GARDNER of Massachusetts. The gentleman realizes perfectly well the situation which obtains here to-day. Some bills came up unexpectedly where the work had to be divided, where the committee was not as thoroughly prepared as it would like to have been, and the situation is such and I am acting in such a capacity that I am bound, no matter what my own views might be on remitting the dues, to insist on protecting the committee I happen to be representing at the present instance and insist that such questions should be reserved for the committee's prior consideration.

Mr. SABATH. I notice the chairman of the committee who is responsible for this measure sitting right close by the gentleman from Massachusetts. It would not take more than a minute to consult with him, and the chances are that he will agree to such an amendment.

Mr. BURNETT. If the gentleman from Massachusetts will pardon me, I will state that instead of reducing the fees I have been all the time in favor of increasing them. The fees are now so low that the clerks in the courts in the interior, where they have little of this business to do, have refused to take naturalization cases and have the papers on hand for the courts to pass upon. In my own town the clerks in our own courts have returned the papers. You can not force a State court to do it, and men are forced to go to Birmingham or somewhere else for the purpose of reaching a Federal court at great expense, because the fees are so insignificant that the clerks in the interior will not take them.

Now, we are making concessions to these men; we are making concessions that are not made to the German farmer that comes into the country for the purpose of making it a home, and why should we make any more concessions, cut off this measly fee of $5, to these men when we do not do it to men who come to make their homes among us? Why should we do it for these men when we are not doing it for others? I am for higher fees straight out.

Mr. SABATH. I mean to eliminate the fees only for those who have served the country in the Army and Navy. They surely can not be bad or objectionable people, and for that reason we should make it easier for them to become American citizens.

Mr. GARDNER of Massachusetts. Now, Mr. Speaker, I have an amendment to offer, which I send to the Clerk's desk.

The Clerk read as follows:

Page 2, line 16, strike out the word "discharge" and insert the words "certificate or discharge, if any."

Mr. HAMILL. Will the gentleman yield?

Mr. GARDNER of Massachusetts. Certainly.

Mr. HAMILL. What change does that make in the law?

Mr. GARDNER of Massachusetts. The law as we propose it says that the certificate or discharge must be attached to the petition; but we have provided also in the law that a man may make a petition before he gets his discharge, so that it might be possible that there would be no discharge.

Now, Mr. Speaker, I move the previous question on the bill and amendment.

The question was taken; and on a division (demanded by Mr. MURRAY) there were 43 ayes and 8 noes.

Mr. MURRAY. Mr. Speaker, I suggest the absence of a quorum.

The SPEAKER. Evidently no quorum is present. The Doorkeeper will close the doors and the Sergeant at Arms will notify the absentees. All those in favor of ordering the previous question will, when their names are called, answer "yea," and those who are opposed will answer "nay," and the Clerk will call the roll.

The question was taken; and there were—yeas 208, nays 10, answered "present" 8, not voting 157, as follows:

YEAS—208.

Adamson	Davis, Minn.	Gudger	Linthicum
Akin, N. Y.	Davis, W. Va.	Hamill	Littlepage
Alexander	Dent	Hamilton, Mich.	Lobeck
Allen	Dickinson	Hamlin	McCreary
Anderson	Dickson, Miss.	Hardwick	McGillicuddy
Anthony	Dies	Hardy	McGuire, Okla.
Ashbrook	Difenderfer	Hart	McKenzie
Austin	Dodds	Haugen	McKinley
Bartlett	Donohoe	Hayden	McKinney
Bates	Doremus	Hayes	McLaughlin
Beall, Tex.	Doughton	Heflin	Macon
Bell, Ga.	Draper	Helgesen	Maguire, Nebr.
Blackmon	Dupré	Helm	Martin, S. Dak.
Booher	Edwards	Henry, Tex.	Matthews
Brantley	Ellerbe	Higgins	Miller
Buchanan	Esch	Holland	Moon, Tenn.
Bulkley	Evans	Houston	Morgan, La.
Burke, S. Dak.	Faison	Howard	Morgan, Okla.
Burke, Wis.	Farr	Howland	Morrison
Burnett	Ferris	Hughes, Ga.	Moss, Ind.
Butler	Flood, Va.	Humphrey, Wash.	Murdock
Byrnes, S. C.	Floyd, Ark.	Jacoway	Nelson
Byrns, Tenn.	Foss	Johnson, S. C.	Nye
Calder	Foster	Kahn	Olmsted
Callaway	Fowler	Kennedy	O'Shaunessy
Candler	French	Kent	Padgett
Cannon	Gardner, Mass.	Kindred	Plumley
Cantrill	Gardner, N. J.	Kinkaid, Nebr.	Porter
Carlin	Garner	Kinkead, N. J.	Pou
Claypool	Garrett	Knowland	Powers
Clayton	Gill	Konop	Pray
Collier	Gillett	La Follette	Rainey
Cooper	Godwin, N. C.	Lamb	Raker
Copley	Good	Langham	Rauch
Covington	Goodwin, Ark.	Langley	Roberts, Mass.
Cox	Graham	Lawrence	Roberts, Nev.
Crago	Gray	Lee, Ga.	Roddenbery
Crumpacker	Green, Iowa	Lee, Pa.	Rodenberg
Cullop	Greene, Mass.	Lenroot	Rouse
Currier	Greene, Vt.	Lever	Rubey
Dalzell	Gregg, Pa.	Lewis	Russell
Danforth	Gregg, Tex.	Lindbergh	Sharp
Sims	Stephens, Nebr.	Thomas	Whitacre
Slayden	Stephens, Tex.	Tilson	Wilder
Slemp	Sterling	Towner	Willis
Sloan	Stone	Townsend	Wilson, Ill.
Smith, J. M. C.	Sweet	Tribble	Wilson, Pa.
Smith, N. Y.	Switzer	Tuttle	Witherspoon
Smith, Tex.	Taggart	Vare	Wood, N. J.
Stedman	Talcott, N. Y.	Volstead	Young, Kans.
Stephens, Cal.	Taylor, Ohio	Warburton	Young, Mich.
Stephens, Miss.	Thistlewood	Watkins	Young, Tex.

NAYS—10.

Borland	Gallagher	Reilly	Thayer
Burleson	Lafferty	Sabath	
Curley	Murray	Sherwood	

ANSWERED "PRESENT"—8.

Browning	Hobson	Kendall	Saunders
Hinds	Jackson	Mann	Talbott, Md.

NOT VOTING—157.

Adair	Finley	Lindsay	Redfield
Aiken, S. C.	Fitzgerald	Littleton	Rees
Ainey	Focht	Lloyd	Reyburn
Ames	Fordney	Longworth	Richardson
Andrus	Fornes	Loud	Riordan
Ansberry	Francis	McCall	Rothermel
Ayres	Fuller	McCoy	Rucker, Colo.
Barchfeld	George	McDermott	Rucker, Mo.
Barnhart	Glass	McKellar	Scott
Bartholdt	Goeke	McMorran	Scully
Bathrick	Goldfogle	Madden	Sells
Berger	Gould	Maher	Shackleford
Boehne	Griest	Martin, Colo.	Sheppard
Bradley	Guernsey	Mays	Sherley
Broussard	Hamilton, W. Va.	Merritt	Simmons
Brown	Hammond	Mondell	Sisson
Burgess	Harris	Moon, Pa.	Small
Burke, Pa.	Harrison, Miss.	Moore, Pa.	Smith, Saml. W.
Campbell	Harrison, N. Y.	Moore, Tex.	Smith, Cal.
Carter	Hartman	Morse, Wis.	Sparkman
Cary	Hawley	Mott	Speer
Clark, Fla.	Hay	Needham	Stack
Cline	Heald	Neeley	Stanley
Conry	Henry, Conn.	Norris	Steenerson
Cravens	Hensley	Oldfield	Stevens, Minn.
Curry	Hill	Page	Sulloway
Daugherty	Howell	Palmer	Taylor, Ala.
Davenport	Hughes, W. Va.	Parran	Taylor, Colo.
Davidson	Hull	Patten, N. Y.	Turnbull
De Forest	Humphreys, Miss.	Patton, Pa.	Underhill
Denver	James	Payne	Underwood
Dixon, Ind.	Johnson, Ky.	Pepper	Vreeland
Driscoll, D. A.	Jones	Peters	Webb
Driscoll, M. E.	Kitchin	Pickett	Weeks
Dwight	Konig	Post	White
Dyer	Kopp	Prince	Wilson, N. Y.
Estopinal	Korbly	Prouty	Woods, Iowa
Fairchild	Lafean	Pujo	
Fergusson	Legare	Randell, Tex.	
Fields	Levy	Ransdell, La.	

So the previous question was ordered.

The Clerk announced the following pairs:

For the session:

Mr. LITTLETON with Mr. DWIGHT.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. PALMER with Mr. HILL.

Mr. RIORDAN with Mr. ANDRUS.

Mr. FORNES with Mr. BRADLEY.

Mr. HOBSON with Mr. FAIRCHILD.

Until further notice:

Mr. SCULLY with Mr. BROWNING.

Mr. PATTEN of New York with Mr. MCCALL.

Mr. PUJO with Mr. MCMORRAN.

Mr. UNDERWOOD with Mr. MANN.

Mr. HENSLEY with Mr. KOPP.

Mr. SPARKMAN with Mr. DAVIDSON.

Mr. FINLEY with Mr. SULLOWAY.

Mr. CONRY with Mr. MICHAEL E. DRISCOLL.

Mr. MCKELLAR with Mr. PICKETT.

Mr. GOULD with Mr. HINDS.

Mr. AIKEN of South Carolina with Mr. AINEY.

Mr. ADAIR with Mr. AMES.

Mr. ANSBERRY with Mr. BARCHFELD.

Mr. AYRES with Mr. BARTHOLDT.

Mr. BARNHART with Mr. BURKE of Pennsylvania.

Mr. BATHRICK with Mr. CAMPBELL.

Mr. BOEHNE with Mr. CURRY.

Mr. BROWN with Mr. DYER.

Mr. BURGESS with Mr. FOCHT.

Mr. CARTER with Mr. FULLER.

Mr. CLARK of Florida with Mr. GRIEST.

Mr. DIXON of Indiana with Mr. HARTMAN.

Mr. ESTOPINAL with Mr. HAWLEY.

Mr. FIELDS with Mr. HEALD.

Mr. FITZGERALD with Mr. MERRITT.

Mr. FRANCIS with Mr. HENRY of Connecticut.

Mr. GEORGE with Mr. HOWELL.

Mr. GLASS with Mr. HUGHES of West Virginia.

Mr. HAMMOND with Mr. LAFEAN.

Mr. HARRISON of New York with Mr. FORDNEY.
Mr. HARRISON of Mississippi with Mr. MOON of Pennsylvania.
Mr. HAY with Mr. PATTON of Pennsylvania.
Mr. HULL with Mr. PAYNE.
Mr. HUMPHREYS of Mississippi with Mr. PRINCE.
Mr. JAMES with Mr. PROUTY.
Mr. JOHNSON of Kentucky with Mr. REES.
Mr. KITCHIN with Mr. NEEDHAM.
Mr. KONIG with Mr. REYBURN.
Mr. KORBLY with Mr. SCOTT.
Mr. LEVY with Mr. SELLS.
Mr. MCCOY with Mr. SIMMONS.
Mr. MCDERMOTT with Mr. SMITH of California.
Mr. OLDFIELD with Mr. SAMUEL W. SMITH
Mr. PAGE with Mr. SPEER.
Mr. PEPPER with Mr. STEVENS of Minnesota.
Mr. PETERS with Mr. WEEKS.
Mr. POST with Mr. VREELAND.
Mr. RICHARDSON with Mr. WOODS of Iowa.
Mr. ROTHERMEL with Mr. MOORE of Pennsylvania.
Mr. RUCKER of Missouri with Mr. MONDELL.
Mr. SMALL with Mr. MOTT.
Mr. UNDERHILL with Mr. LOUD.
Mr. WEBB with Mr. HARRIS.
Mr. STANLEY with Mr. GUERNSEY.

For this day:

Mr. SISSON with Mr. KENDALL.
Mr. LLOYD with Mr. DE FOREST.

Until February 1:

Mr. SHACKLEFORD with Mr. LONGWORTH.

Mr. BROWNING. Mr. Speaker, did the gentleman from New Jersey, Mr. SCULLY, vote?

The SPEAKER. He did not.

Mr. BROWNING. Mr. Speaker, I desire to withdraw my vote of "yea" and answer "present."

The name of Mr. BROWNING was called, and he answered "Present."

Mr. MANN. Mr. Speaker, I am paired with the gentleman from Alabama, Mr. UNDERWOOD. I desire to withdraw my vote of "yea" and be recorded "present."

The name of Mr. MANN was called, and he answered "Present."

The result of the vote was announced as above recorded.

A quorum being present, the doors were opened.

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read a third time, and passed.

On motion of Mr. GARDNER of Massachusetts, a motion to reconsider the vote by which the bill was passed was laid on the table.

EXPENDITURES IN THE STATE DEPARTMENT.

When the Committee on Expenditures in the State Department was called:

Mr. HAMLIN. Mr. Speaker, the Committee on Expenditures in the State Department instructed me to call up a bill, but after conference with certain members of said committee I think I shall ask unanimous consent to occupy about five minutes of time in making a statement in relation to it and not call up the bill at this time. I do this because there are so many bills of vital importance which ought to be passed before March 4 next that we feel, under the circumstances, we ought not to take up the time of the House now.

The SPEAKER. Is there objection?

There was no objection.

Mr. HAMLIN. I was instructed to call up the bill (H. R. 21224) to amend section 291 of the Revised Statutes of the United States. The purpose of this bill was to restrict expenditures of a certain fund appropriated each year for use in the State Department, known as the diplomatic or consular fund, commonly known as the "secret fund." The Members of the House are familiar with the fact that our committee held extended hearings some months ago in relation to the expenditures of moneys by the State Department, and found what we thought to be a very great abuse in the expenditures of that department, especially in the expenditure of the so-called "secret fund." As a result of that fact the committee reported a bill here providing for the creation of a joint committee, composed of three Members of the House, with three Members of the Senate, to which committee the President and Secretary of State should report each year by an itemized statement the expenditures out of this secret fund. Then that committee would determine what portion, if any, of this expenditure should be made public, and what portion, if any, should not be made public. The only purpose of this committee was to prevent the useless, reckless, and unlawful use of that fund by the State Department. Before the close of the hearings, however, we felt that the purpose we intended to bring about had been accomplished, as evidenced by the statement of the present Secretary of State. We called upon him for the production of certain vouchers which showed the expenditure of money covered in settlement with the Treasury under section 291 of the Revised Statutes of the United States. After refusing for some time to produce those vouchers, he finally did so, and made this statement in answer to the following question by the chairman:

The CHAIRMAN. Mr. Secretary, I certainly congratulate you upon getting around to our view of this matter.

Secretary KNOX. I had not the slightest hesitation in getting there when I got started.

The CHAIRMAN. We have certainly done some good if we have convinced you that these expenditures should not have been covered by secret certificates under section 291.

Secretary KNOX. There was no excuse for it whatever.

The CHAIRMAN. I do not hesitate to say, speaking for myself, that it was not so much this particular item as it was the principle of the thing for which I have been contending. We felt that you had a practice in the State Department of covering in settlement with the Treasury expenditures out of appropriations that ought not to be covered by certificates under section 291, and it was for the purpose of settling the question as to whether you could legally do that that you have been called upon to produce these vouchers.

Secretary KNOX. As I said to you the other day, it became evident to me that there had been loose practice in the department in regard to the authority conferred by section 291, and for that reason—and I think it is due to you to say that the investigations by this committee directed my attention to the subject—I issued the order that I told you about the other day, a copy of which I will furnish you.

The copy of the order is as follows, and I will ask permission to incorporate in the statement I am making a copy of those orders:

[No. 32.]

REGULATIONS GOVERNING EXPENDITURES FROM THE APPROPRIATION FOR "UNFORESEEN EMERGENCIES ARISING IN THE DIPLOMATIC AND CONSULAR SERVICE, AND TO EXTEND THE COMMERCIAL AND OTHER INTERESTS OF THE UNITED STATES."

1. Expenditures from the appropriation for emergencies will be made solely upon written authorizations signed by the President or by the Secretary of State, or, in his absence, by the Acting Secretary of State, in all cases prior to the making of an expenditure or the issuing of any instruction placing a charge upon the appropriation.

2. All authorizations when submitted for signature shall set forth, except as hereinafter ordered to the contrary, (1) the purpose of the expenditure; (2) the rate of compensation if for services; (3) the period of employment or expenditure, if for a fixed term, or, when not definitely known, the approximate term; (4) the total charge to be made against the appropriation, if it can be ascertained, and if not, an approximate estimate; (5) the available balance of the appropriation at the time of authorization (the balance to be inserted in the authorization by the Chief of the Bureau of Accounts over his initials prior to the signing of the authorization by the Secretary of State).

3. Persons traveling or on special detail in connection with the objects of the appropriation, whose accounts are payable from the appropriation, shall receive reimbursement for actual, reasonable, and necessary expenses in addition to their regular compensation provided by law or regulation. Persons not in the employ of the Government may be given a stipulated rate of compensation and actual and necessary expenses, or a per diem in lieu of compensation and expenses according to the direction of the President or the Secretary of State in each case. A per diem allowance for expenses in addition to salary provided by law is prohibited. A copy of the appointment, designation, or contract in each case must be annexed to the account when submitted for approval.

4. The disbursement of moneys from the appropriation shall ordinarily be made by check, but cash payment may be made in those cases authorized by Treasury Regulations when the payment is made by the disbursing officer in person or by his deputy and the exchange of money and the receipt therefor is simultaneous.

5. When for any reason the President or the Secretary of State may deem it inexpedient in the public interest to make known the purpose or manner of a proposed expenditure from the appropriation, the authorization will be so drawn for the amount stipulated and the money will be paid over to the President or the Secretary of State upon the execution of a receipt therefor, which shall be filed as a voucher.

6. When presented for approval, all accounts for moneys chargeable to the appropriation shall have attached thereto the authorization in each case, and shall be itemized and supported by vouchers according to the usual practice required by law and the regulations of the Comptroller of the Treasury, except in cases where from the nature and method of the expenditure it is impracticable or inexpedient in the public interest to do so, and in such cases the personal certificate of the person expending the money may be accepted in lieu of vouchers in support of the account, when approved by the Secretary of State.

7. All accounts for moneys payable from the appropriation for emergencies that are not of a confidential nature shall be settled with the accounting officers of the Treasury by submitting the original paid vouchers in the same manner as expenditures from other appropriations, but such as may be considered confidential will be settled upon a certificate signed by the Secretary of State, or in his absence by the Acting Secretary of State, under section 291 of the Revised Statutes.

8. All authorizations, accounts, and certificates relating to the aforesaid appropriation will be presented for the signature of the Secretary or Acting Secretary of State through the Director of the Consular Service or such other officer as shall have been designated by the Secretary of State to supervise the finances of the department.

9. The authorizations given shall be numbered and filed numerically by the Bureau of Accounts and separate from the paid voucher, the number and date of each authorization being noted upon the account to which it relates.

10. All correspondence in relation to expenditures from the appropriation for emergencies shall be signed by the Secretary of State, or in his absence by the Acting Secretary of State.

These regulations will become effective on and after June 15, 1911.

P. C. KNOX.

DEPARTMENT OF STATE,
Washington, June 1, 1911.

[No. 31.]

It is hereby ordered that from this date and until otherwise directed the general administrative departmental supervision of all financial matters affecting the foreign-service establishment shall be in charge of the Director of the Consular Service, acting under the general direction of the department.

The formal signature and approval required by law to be by Assistant Secretaries will continue as now allotted. The administrative direction and responsibility in all financial matters affecting the Departmental, Diplomatic, and Consular Services will continue, under the administrative direction and supervision of the chief clerk, the Third Assistant Secretary, and the Director of the Consular Service, respectively, as at present.

The Third Assistant Secretary of State and the Director of the Consular Service will require, respectively, from the Chiefs of the Diplomatic and Consular Bureaus, as well as from other departmental officers concerned, the most painstaking and methodical assistance. The chief clerk will make similar requirement of all departmental officers concerned, and including especially those in charge of the stationery room, mail room, stables, etc., and those concerned in the purchase or handling of departmental supplies. The chief clerk will also take all steps to introduce labor-saving methods in the department, and to make sure day by day that the clerical force is so distributed as to accomplish the maximum amount of work.

In this connection the chief clerk will proceed at once to collect and submit to the general direction of the department the absolutely accurate efficiency reports upon department personnel contemplated by the Executive order of November 26, 1909.

The Bureau of Accounts will report directly to the Director of the Consular Service in addition to conferring with the Third Assistant Secretary and the chief clerk. No class of correspondence will be carried on by the Bureau of Accounts except as specifically authorized by the Director of the Consular Service, the Bureau of Accounts limiting its activities to the actual processes of accounting, verification, disbursement, estimates, etc.

Every item of proposed expenditures must be passed upon by the bureau, division, or office within the sphere of the work of which the object of the expenditure falls. It must also be passed upon by the Diplomatic Bureau, the Consular Bureau, or the chief clerk, according to the branch of the service affected. It must also be passed upon by the Third Assistant Secretary if diplomatic, and if consular by the Director of the Consular Service, who also in all doubtful cases will always consult the comptroller and when desirable the solicitor, who will familiarize himself with the laws bearing upon the financial affairs of the department. In case of any particularly important or unusual item, the general direction of the department will also be consulted before final authorization is given. With the exception of signatures required by law, the fact of approval may be indicated by the initials of the officer so approving.

The same officers will be responsible for the determination of the fact that the department got value received for the expenditure made, the Bureau of Accounts being responsible for such questions as those of availability of funds and the correctness of the whole process. These rules shall be rigidly applied to all expenditures.

To enable the Director of the Consular Service to assume this additional responsibility, he is hereby authorized so to strengthen the Consular Bureau, by transfers or otherwise, as to enable that bureau to relieve him of such amount of the detail of consular work as will leave him only what is appropriate and necessary for the attention of the administrative officer directing that service.

P. C. KNOX.

DEPARTMENT OF STATE,
Washington, May 20, 1911.

[No. 34.]

The Third Assistant Secretary and the chief clerk of the department are hereby designated to make, semiannually, an examination of all expenditures made by the Chief of the Bureau of Accounts and disbursing clerk other than those subject to the examination and audit of the accounting officers of the Treasury. Particular attention is to be directed to all expenditures covered by certificate in pursuance of section 291 of the Revised Statutes. The examination will take place during the months of July and January and will include an inspection of all vouchers, account books, and other evidences of expenditures of money, and the proper checking of those vouchers against the accounts of the various appropriations, and of the accounts of the Chief of the Bureau of Accounts and disbursing clerk. Upon the completion of each examination a written report will be made to the Secretary of State showing the condition of the accounts and pointing out any irregularities that may be found to exist or any improvements in methods that may be thought to be desirable.

This order shall be in effect on and after July 1, 1911.

P. C. KNOX.

DEPARTMENT OF STATE,
Washington, July 1, 1911.

Afterwards he made this statement:

Secretary KNOX. Under the operation of that order no vouchers are passed under section 291 unless they are brought to me in a separate envelope printed on the back in legible type, "These vouchers are for the personal inspection of the Secretary of State," for the purpose of considering whether they are proper to be passed under section 291; they are not brought to me with the mail, and the chief clerk is directed to deliver them to my private secretary with instructions that these are vouchers proposed to be passed under section 291 and are to be handed to me personally, so that I am trying to do everything in my power, at least, to see that proper practice is followed.

The CHAIRMAN. I am very much obliged to you for that statement, and I will say, furthermore, that I am sure it is not the purpose of this committee to try to get hold of information that we ought not to have; but we had reached the conclusion—some of us at least—as I said a while ago, that the practice in the State Department had been such that many dollars of the public money was being expended and information in regard to the expenditures denied to Congress and to the public that ought not to be denied to the public. I feel, of course, that Congress being the body that appropriates the money, it is entitled to all the information as to how it is expended, and that if there is anything that ought to be kept secret we can keep it as well as anybody else.

In view of that statement, Mr. Speaker, the committee has felt that the only purpose that we had in view has perhaps been accomplished. We have no pride of authorship in any bill which we report here but only to prohibit the misuse of this money. If our efforts have been successful in calling the attention of the present Secretary of State to the fact, and he has finally consented to correct this evil, we express the hope and belief that the next Secretary of State will follow along the same lines and throw around the expenditure of this money all the safeguards necessary, in order that the money may not be misused. Then we will have accomplished our purpose and will therefore have no desire to impose upon the House the consideration of this bill at this time.

That is all I care to say. [Applause.]

The SPEAKER. For what did the gentleman from Missouri [Mr. HAMLIN] ask unanimous consent?

Mr. HAMLIN. Mr. Speaker, I desire to ask unanimous consent to insert some copies of orders of the Secretary of State, which I did not read, in my remarks. I will ask permission to extend my remarks in the RECORD for the purpose of inserting some documents.

The SPEAKER. What was the gentleman's request which he submitted a moment ago?

Mr. HAMLIN. That the bill be passed by now.

The SPEAKER. The gentleman asks unanimous consent——

Mr. HAMLIN. I did not ask unanimous consent to pass our committee. I said that we would not avail ourselves of the opportunity of calling up the bill at this time.

The SPEAKER. Is there objection to the gentleman from Missouri extending his remarks in the RECORD? [After a pause.] The Chair hears none.

BUSINESS OF COMMITTEE ON RULES.

Mr. HENRY of Texas (when the Committee on Rules was called). Mr. Chairman, I ask unanimous consent that the Committee on Rules be passed without prejudice.

The SPEAKER. The gentleman from Texas [Mr. HENRY] asks unanimous consent to pass the Committee on Rules without prejudice.

Mr. MANN. Reserving the right to object, it seems to me a strange request to come from the Committee on Rules, which at any time can bring in a rule to make anything in order. Why does the gentleman desire to have the Committee on Rules passed?

Mr. HENRY of Texas. There are one or two little matters that are not privileged but that are on the calendar, and I would like to call them up from the calendar.

Mr. MANN. There is nothing on the calendar reported from the Committee on Rules which has not been there for a long time, and the gentleman knows that we are approaching the end of Calendar Wednesday so far as this session of Congress is concerned. I think we ought to understand in the House what may possibly come up. If you pass over a committee without knowing what may be called up from that committee the House can have no conception of what may come before it.

What is the gentleman's purpose? Let us be frank in regard to it. There is only one thing on the calendar reported from the Committee on Rules, and the gentleman can state what his objection is in regard to that.

Mr. HENRY of Texas. There are several matters on the calendar from the Committee on Rules. I do not know that the committee will call up anything, but this is one time that the committee would like to be passed over for a while.

Mr. MANN. There are two propositions reported from the Committee on Rules. One is a good-roads proposition, introduced by the gentleman from Alabama [Mr. UNDERWOOD], which was incorporated in the Post Office appropriation bill last summer, and, I take it, is not likely to be called up again. The other is the Monticello proposition, in which Members of the House are interested, and I think we ought to know whether the gentleman intends to call that up or not.

Mr. HENRY of Texas. Well, I will state that I am not ready to say whether I will or not. I may, and I may not. I have not made up my mind that I shall call it up. But the good-roads proposition is on the calendar, and there are one or two incidental matters that may be hooked onto that that would be of interest to the House.

Mr. MANN. The good-roads proposition is to create a commission, and that commission has already been created by law.

Mr. HENRY of Texas. It is on the calendar yet, and we have the right to dispose of it. I hope the gentleman from Illinois will not object. I do not know that I shall bring up

anything, but I simply request that we pass this committee over.

Mr. MANN. I do not want to object to the request of the gentleman from Texas, but in view of the fact that his committee can at any time bring in a rule for the consideration of measures, I will ask him to break up the practice of passing over committees. If we commence to do that we are lost.

Mr. BURKE of South Dakota. I would like to ask the gentleman from Texas a question.

Mr. HENRY of Texas. Very well.

Mr. BURKE of South Dakota. I would like to ask the gentleman what is meant by passing a committee without prejudice?

Mr. HENRY of Texas. I suppose that it means that we can take it up on the next Calendar Wednesday as unfinished business.

Mr. BURKE of South Dakota. Is there any precedent for that, and would not the gentleman have to take his chance if the committee is simply passed over without prejudice?

Mr. HENRY of Texas. We could take our chance and go back as soon as the irrigation bill is considered.

Mr. BURKE of South Dakota. The gentleman is technical. I doubt very much if the passing of the committee without prejudice would entitle that committee to the privilege of calling up a bill on the next Calendar Wednesday.

Mr. HENRY of Texas. I think that would be the understanding.

Mr. SLAYDEN. Mr. Speaker, I want to ask my colleague a question.

The SPEAKER. Does the gentleman yield?

Mr. HENRY of Texas. Yes.

Mr. SLAYDEN. I want to ask if that is his interpretation of the rule and if he is reasonably confident of that fact, if the committee were now passed, that he would come in at the conclusion of the unfinished business on the following Calendar Wednesday?

Mr. HENRY of Texas. I think that would be the construction, that the House could afford to take up the business of that committee when the unfinished business is disposed of.

The SPEAKER. Is there objection?

Mr. MANN. I object.

The SPEAKER. The gentleman from Illinois [Mr. MANN] objects. Does the gentleman from Texas [Mr. HENRY] desire to call up anything of his committee?

Mr. HENRY of Texas. I pass now.

The SPEAKER. But the gentleman from Illinois [Mr. MANN] objected to passing.

Mr. HENRY of Texas. I do not care to call up anything from the Committee on Rules.

The SPEAKER. The Clerk will call the next committee.

The Clerk proceeded with the call of committees.

Mr. TALBOTT of Maryland (when the Committee on the Library was called). I move, Mr. Speaker, that the House do now adjourn.

The SPEAKER. The gentleman from Maryland [Mr. TALBOTT] moves that the House do now adjourn. The question is on agreeing to that motion.

The question was taken; and the Speaker announced that the "noes" seemed to have it.

Mr. LINTHICUM. I ask for a division, Mr. Speaker.

The House divided; and there were—ayes 39, noes 67.

So the House refused to adjourn.

The SPEAKER. The gentleman from Texas [Mr. SLAYDEN] is recognized.

AMERICAN ACADEMY OF ARTS AND LETTERS.

Mr. SLAYDEN. Mr. Speaker, I call up House bill 18505, House Calendar No. 351, incorporating the American Academy of Arts and Letters.

The SPEAKER. The Clerk will report the bill.

The Clerk read the bill, as follows:

A bill (H. R. 18505) incorporating the American Academy of Arts and Letters.

Be it enacted, etc., That William Dean Howells, of New York; Henry James, of Massachusetts; Henry Adams, of the District of Columbia; Thomas Raynesford Lounsbury, of Connecticut; Theodore Roosevelt, of New York; John Singer Sargent, of Massachusetts; Horace Howard Furness, of Pennsylvania; Alfred Thayer Mahan, of New York; Daniel Chester French, of New York; John Burroughs, of New York; James Ford Rhodes, of Massachusetts; Horatio William Parker, of Connecticut; William Milligan Sloane, of New York; Robert Underwood Johnson, of New York; George Washington Cable, of Massachusetts; Andrew Dickson White, of New York; Henry van Dyke, of New Jersey; William Crary Brownell, of New York; Basil Lanneau Gildersleeve, of Maryland; Woodrow Wilson, of New Jersey; Arthur Twining Hadley, of Connecticut; HENRY CABOT LODGE, of Massachusetts; Francis Hopkinson Smith, of New York; Edwin Howland Blashfield, of New York; William Merritt Chase, of New York; Thomas Hastings, of New York; Hamilton Wright Mable, of New Jersey; Brander Matthews, of New York; Thomas Nelson Page, of the District of Columbia; Elihu Vedder, of Massachusetts; George Edward Woodberry, of Massachusetts; Kenyon Cox, of New York; George Whitefield Chadwick, of Massachusetts; Abbott Handerson Thayer, of New Hampshire; John Muir, of California; Charles Francis Adams, of Massachusetts; Henry Mills Alden, of New Jersey; George de Forest Brush, of New Hampshire; William Rutherford Mead, of New York; John White Alexander, of New York; Bliss Perry, of Massachusetts; Francis Davis Millet, of New York; Abbott Lawrence Lowell, of Massachusetts; James Whitcomb Riley, of Indiana; Nicholas Murray Butler, of New York; Paul Wayland Bartlett, of New York; George Browne Post, of New York, and their successors, duly chosen, are hereby incorporated, constituted, and declared to be a body corporate of the District of Columbia, by the name of the American Academy of Arts and Letters.

SEC. 2. That the purposes of this corporation are and shall be the furtherance of the interests of literature and the fine arts.

SEC. 3. That the American Academy of Arts and Letters shall consist of not more than 50 regular members, and the said corporation hereby constituted shall have power to make by-laws and rules and regulations; to fill all vacancies created by death, resignation, or otherwise; to provide for the election of foreign, domestic, or honorary associate members, and the division of such members into classes, and to do all other matters needful or usual in such institutions.

SEC. 4. That the American Academy of Arts and Letters shall hold an annual meeting at such place in the United States as may be designated and shall make an annual report to the Congress, to be filed with the Librarian of Congress.

SEC. 5. That the American Academy of Arts and Letters be, and the same is hereby, authorized and empowered to receive bequests and donations of real or personal property and to hold the same in trust, and to invest and reinvest the same for the purpose of furthering the interests of literature and the fine arts.

The SPEAKER. The question is on the engrossment and third reading of the bill.

Mr. BARTLETT. Mr. Speaker, I am opposed to this bill.

The SPEAKER. The gentleman is recognized for an hour.

Mr. BARTLETT. I do not desire, Mr. Speaker, to take the gentleman from Texas [Mr. SLAYDEN] off the floor. I yield to the gentleman.

Mr. SLAYDEN. Mr. Speaker, I am entitled to the time, but the gentleman from Georgia can go ahead.

The SPEAKER. The gentleman from Texas [Mr. SLAYDEN] undoubtedly would have been entitled to the time, but the gentleman from Georgia [Mr. BARTLETT] rose and the gentleman from Texas did not.

Mr. BARTLETT. Mr. Speaker, I reserve my time, and yield the floor to the gentleman.

The SPEAKER. How much time does the gentleman yield?

Mr. BARTLETT. I reserve the balance of my time, and yield to the gentleman from Texas. I do not desire to take the floor in advance against the gentleman. I only took the floor because the Speaker was about to put the question.

Mr. GARNER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GARNER. If the gentleman from Georgia [Mr. BARTLETT] yields the floor and the gentleman from Texas [Mr. SLAYDEN] takes the floor, can the gentleman from Georgia reserve the right to take the floor again? I simply want to ask the question as a parliamentary inquiry.

Mr. MANN. Whoever has the floor in his own right can move the previous question.

Mr. GARNER. That is what I thought.

The SPEAKER. What was the remark of the gentleman from Illinois?

Mr. MANN. I said whoever yields the floor in his own right can move the previous question.

The SPEAKER. But suppose he does not want to move the previous question?

Mr. MANN. Then the gentleman from Georgia would be entitled to his time.

Mr. GARNER. This was the parliamentary inquiry that I asked in the endeavor to get from the Chair a ruling on this point: If the gentleman from Georgia reserves the balance of his time and yields the floor to the gentleman from Texas, and if the gentleman from Texas, in his own time, sees proper to move the previous question, would he not cut off the time of the gentleman from Georgia?

Mr. MANN. He would if it was ordered.

The SPEAKER. Undoubtedly. If the House sustained the demand, that is what would happen.

Mr. TALBOTT of Maryland. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. TALBOTT of Maryland. The gentleman from Georgia having been recognized, is he not entitled to an hour?

The SPEAKER. Answering the gentleman from Maryland, it is the uniform practice of the House for the Chairman or the Speaker, or whoever happens to be presiding, to recognize the gentleman that is in charge of the bill, and he is recognized for an hour if he shows any disposition to take it. If he uses up his hour and does not move the previous question, another gentleman is recognized, and so on, to the end of the chapter. But the Member who is managing the bill, or anybody else who

has the floor, can move the previous question, and if the House orders the previous question, that is the end of it.

Now, no one rose, and the Chair started to put the question as to the engrossment and third reading of the bill. After the Chair started to put that question the gentleman from Georgia rose and was undoubtedly entitled to the floor. If the gentleman from Georgia yields the floor and the gentleman from Texas takes the floor in his own right, whenever he gets ready he can move the previous question.

Mr. BARTLETT. Mr. Speaker, I desire to say that I was in the observance of the rights of a Member of the House when I rose and stated that I was opposed to the bill. At that time nobody suggested that he desired to take the floor in advocacy of the bill, but I desired to present some reasons for not supporting it. Now, out of courtesy, I desire to yield the floor, and, if the previous question is not ordered, could not the Chair recognize me again?

The SPEAKER. If the gentleman from Texas takes his seat without moving the previous question, the Chair will recognize the first gentleman who wants recognition.

Mr. KENDALL. But the gentleman from Georgia would have no prior right over anybody else.

The SPEAKER. No; but the Chair might see him a little more quickly.

Mr. SLAYDEN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SLAYDEN. I shall have to make a brief statement to make my inquiry clear. I called up this resolution and expected to make a brief statement about it, and then turn it over to my colleague on the committee, Mr. TOWNSEND. Just at that moment there was so much confusion that I could not hear what was going on, and by an accident my papers were knocked off the desk, and while I was endeavoring to recover the papers the Speaker, properly assuming that I had nothing to say about it, took it for granted I did not intend to offer any explanation and started to put the question as to the engrossment and third reading of the bill. I did intend to avail myself of the right to an hour, for the purpose of giving the gentleman from New Jersey an opportunity to make an explanation. If I had the floor I certainly would not move the previous question and shut off my friend, the gentleman from Georgia.

Mr. BARTLETT. Then, Mr. Speaker, as far as I am concerned, I yield the floor.

Mr. SLAYDEN. Mr. Speaker, I yield to the gentleman from New Jersey [Mr. TOWNSEND] for an explanation of the bill.

Mr. TOWNSEND. Mr. Speaker, this bill was so recently reported that I assume that Members have had little opportunity to read the report submitted by the committee. It is brief, and I shall take the liberty of reading it first because it makes a very clear exposition of why these gentlemen have come to Congress for this purpose. This bill, I may say, is supplementary to another bill already passed the House to incorporate the institute.

The report is as follows:

The purpose of this bill is to incorporate a distinguished body of authors, artists, and composers of music analagous to the National Academy of Sciences, which received a national charter in 1863. It may fairly be said to occupy the same relative position toward literature and the arts which the latter organization has always occupied toward science.

The object of the academy is to stimulate the production of good professional work by upholding the best standards and giving recognition to excellence.

It is neither the purpose nor desire to obtain financial aid from the Government, but merely to enable the organization to receive and expend any fund which, for the purpose of advancing literature and the arts, may be intrusted to its good faith, its experience, and its knowledge of the best use to which such fund may be put.

In the constitution of the academy there is no sectional, partisan, social, or other bias. The members are men of national reputation in their several activities. They are chosen, as vacancies occur, from the membership of the National Institute of Arts and Letters, by which the academy was established in 1905, and which, in turn, was organized in 1898 by the American Social Science Association.

The academy has no commercial purpose in view, and the granting of the charter will prove an encouragement and a stimulus to literature and the arts. The committee is unanimously of the opinion that the charter should be granted.

Now, Mr. Speaker, if the Members took notice during the reading of the bill of the names of the 50 gentlemen and their locality, they, of course, saw, without any argument, that they are the names of 50 men, distinguished gentlemen in arts, and letters, and composition of music in the United States. While it has never been the business of these gentlemen to favor any section, they have been very fortunate in finding men and women whose excellence either in art or letters or musical composition entitles them to be classed with these 50; there is scarcely a section of the country that is not represented by some literary or artistic person in this list.

These gentlemen are asking only what has been done by Congress for the scientific bodies of this country, and if this body is incorporated it will be to literature, arts, and music what the incorporated scientific body is to science, and no one with any interest in such matters but can have observed how greatly science has been encouraged by the promotion of this scientific body in giving encouragement to the young and eager workers in science. Just exactly such encouragement will be given to the workers in arts and letters by the measure we present here to-day.

Mr. Speaker, it is undoubtedly true, I think, as has been stated here, that the United States is the only country with any profession whatever for a love of or encouragement of literature and art that has not an incorporated body such as is here designed. Perhaps Members are most familiar with that incorporated in France, which has done for the literature of France immeasurable good. Undoubtedly this body could do a great deal of good, because those who work in this profession, perhaps, are the only ones who really recognize how much assistance it is to the young author to have his work recognized by the masters of his profession, men that he looks up to as able critics. Encouragement and other help will be given by this body to establish some definite basis of what constitutes that rather peculiar quality, style in work. Of course we have produced within the past 20 years numerous best sellers, but I think it will be the judgment of anyone here who has taken the pains to read the best sellers that some of them lack very largely in the best qualities of literature. Doubtless that is true in sculpture and the graphic arts and music, but with them I am not so familiar.

It seems to me that there is no good excuse to be argued against the desire of these gentlemen to encourage that which we so much admire. There was a great school of New England literature that has now almost died out. Possibly the encouragement of arts and literature by this body may re-create that school, and it may re-create it in some unlooked for portion of the United States. Young musicians, sculptors, and painters are not necessarily a product of the oldest cities. They may arise unexpectedly in places far removed from what we are accustomed to call the centers of literature and art, and it will be the effort of this body of gentlemen to encourage evidences of art progress wherever it may be discovered.

Mr. BARTLETT. May I ask the gentleman a question right there?

Mr. TOWNSEND. Certainly.

Mr. BARTLETT. I notice you say in the bill that this is declared to be a body corporate of the District of Columbia.

Mr. TOWNSEND. Yes.

Mr. BARTLETT. Why is it necessary that Congress should grant a charter to these men? Has not the District of Columbia a code of laws which provide for the incorporation or chartering of persons like these? And why should Congress be called upon to grant a charter of this kind?

Mr. TOWNSEND. Mr. Speaker, if what I have said has suggested to any gentleman here that this is a desirable incorporation, of course it follows, as a matter of course, that the greater the prestige given to this body the more useful its work will be, and I frankly confess that that is the greatest good this bill will do. It will give to this body a prestige which will be reflected in its criticism of the work which naturally it will consider.

Now, that is not a substantial fact. It is nothing which can be weighed or measured, if you please, but it is something nevertheless quite important. If these gentlemen have this very great prestige of being a national body, the encouragement and help which they give to those who are struggling in arts or letters will be just that much more weighty.

Mr. TOWNER. Will the gentleman yield for a question?

Mr. TOWNSEND. Certainly.

Mr. TOWNER. As I understand the bill it provides that vacancies are to be filled by the choice made by those who remain. Am I correct in that?

Mr. TOWNSEND. Yes.

Mr. TOWNER. So that one object and purpose of the bill is to recognize distinction in the arts or in literature.

Mr. TOWNSEND. I should say that that is so.

Mr. TOWNER. So that an election to this body will be considered in the future as a recognition of excellence in literature or in the arts.

Mr. TOWNSEND. The gentleman will remember that when Pierre Loti was elected to the French Academy it was considered that for the first time those competent to judge of literature in France had placed the seal of their approval on his works; and to carry the analogy here, with the possibility of this reward before men engaged in these professions, they certainly would take greater pains, would strive harder and more earnestly to accomplish good work, because they would desire

this recognition, which in its way would be the highest recognition they could gain.

Mr. TOWNER. Of course, an election to the French Academy is a recognition of merit and distinction that is known and goes all over the world. That is one of the objects and purposes of this incorporation. There is another, as I understand it, and that is for the purpose of encouraging the arts and literature and of establishing standards in art and literature in this country. That is really the double purpose that this association will have.

Mr. TOWNSEND. First, if you please, you establish a body which is by general consent the highest authority of criticism upon these classes of work. Then their approval of work naturally follows, and I think that no one will cavil at the statement that the approval by this body of any work done does place the stamp of excellence upon that work, an approval which now has no means of such expression.

Mr. TOWNER. I am exceedingly anxious that this bill should pass and only wanted to make these observations in order that the Members of the House might understand the proper purpose of it.

Mr. GARNER. I want to call the attention of the gentleman to section 5 in reference to the right of this corporation to own real and personal property, to inquire whether or not they could own it in any State of the Union; and if so, whether it would be subject to taxation, and so forth? If the gentleman has not reached that subject, I am perfectly willing to have him postpone the answer to my inquiry.

Mr. TOWNSEND. I am not prepared to answer that question. I think the chairman of the committee is competent to answer it.

Mr. GARNER. I think that is quite an important inquiry, because we want to know whether or not this company can own real estate in Texas, and if so, how much and how long, and whether or not it would have to pay taxes.

Mr. TOWNSEND. I hope the gentleman will withhold his question until the chairman of the committee has an opportunity to answer it.

Mr. GARNER. Certainly.

Mr. SHERLEY. Mr. Speaker, will the gentleman yield for a question?

Mr. TOWNSEND. Certainly.

Mr. SHERLEY. I should like to ask how these particular men were chosen to be the incorporators of the academy?

Mr. TOWNSEND. They were chosen from the national institute.

Mr. SHERLEY. How was that created?

Mr. TOWNSEND. I presume that was an accretion, a growth, from a meeting of people interested in arts and letters in the various cities, and upon occasion they got together, and the value of instituting some such body naturally suggested itself, just as there is a national body for automobiles, baseball, advertising, and so forth.

Mr. SHERLEY. If I understand the gentleman correctly, then, and if my own impressions, formed prior to the gentleman's statement, are correct, these gentlemen have associated themselves together, and under their self-perpetuating organization propose to determine hereafter who shall be among the elect in art and letters.

Mr. TOWNSEND. I can imagine no better jury to determine who shall number among the 50 foremost men in arts and letters than such a jury as it is here purposed to establish for that purpose.

Mr. SHERLEY. I think perhaps a determination in the first instance by some one other than those who are to exercise the power might be better, in order to get an impartial judgment. But, waiving that, I should like to ask the gentleman this question, following what the gentleman from Georgia [Mr. BARTLETT] suggests: Does the gentleman believe that the Federal Government should be asked to charter this association, in order to give it a better standing in arts and literature, and is it not the better rule that a voluntary association of self-elected judges of art or letters should have their prestige rest upon their deserved ability, and not upon the gift of the Government, to afford them prestige by a national incorporation?

Mr. TOWNSEND. I will say to the gentleman from Kentucky that these gentlemen are incapable of giving to themselves, by anything which they may do, any prestige which would make them a more helpful body as critics. That prestige must come from an outside source, and certainly the highest source that such prestige can be given to them is from the Congress of the United States. Possibly these gentlemen entertain an opinion, which I share, that they do constitute a jury of the highest qualifications, but they can not proclaim that fact, and if they did proclaim it it would not put the stamp of prestige upon them.

If Congress, by incorporating them as a national body for the purposes which have been set forth, gives them that prestige, then the force and effect and value of that prestige goes with their work, and their work is to encourage arts and letters.

Mr. SHERLEY. Mr. Speaker, if the gentleman will permit another observation, I suggest that perhaps the way to determine the prestige they are entitled to have is by what they do, and that the mere incorporation of them by the National Government should not be used for the purpose of giving them a prestige that they may not deserve. I am not undertaking to express an opinion upon whether they are or are not the people to make of themselves the critics of art, but, assuming that they are, the justice of that assumption will be demonstrated by their action and by themselves. The French Academy does not gain its prestige by an act of incorporation by France. It gains it by the personnel of the association and the wisdom with which it exercises its functions; and some of the great of France have been great in spite of the refusal of that academy to reward them with recognition within its limited folds.

Mr. TOWNSEND. Can the gentleman think of any distinguished author in France, aside from Zola, whose work was not promptly recognized by that academy?

Mr. SHERLEY. I can not while upon my feet at this moment, but I would guarantee to tell the gentleman several in a very few minutes if necessary.

Mr. GRAHAM. Mr. Speaker, will the gentleman yield?

Mr. TOWNSEND. Certainly.

Mr. GRAHAM. Mr. Speaker, I would like to ask the gentleman from New Jersey as to the merits of the whole matter. He refers to the French Academy, and suggests that this is in line with the idea it rests upon. Is it not true that English literature, without any academy, without any arbitrary critics, or any empirical method of deciding matters, is superior in nearly every respect to French literature, and is it not more in keeping with American affairs to leave the literary men, like other men, leeway, and let the public ultimately decide their merits without having them measured by any yardstick?

Mr. TOWNSEND. Mr. Speaker, I will answer the gentleman by saying, in response to one of his several questions, if my opinion in the matter is of any value whatever, that as literature the literature of France to-day is superior to that of England to-day or of any other country.

In response to the gentleman's suggestion that there is no such aid to art or letters in England, I will remind him that it is just as much a strife for an English artist to become an academician as it will be for any American artist to become a member of this academy, and I will impress this subject upon his mind by suggesting the story, which does not bear out my suggestion of the importance of the British Academy, of the American, Whistler, who was a member of the Academy of British Artists. Having resigned, he was asked about the academy, and responded, "It has become the Academy of British." However, I would say to the gentleman that the influence of the British Academy upon art has been most excellent. The British Museum to-day is growing rapidly to be one of the best in the world, and the selection and collection of these masterpieces in the British Academy has been the result of the work of the British academicians, the Associated Artists of Great Britain.

Mr. GRAHAM. But the gentleman has not answered my query as to letters.

Mr. TOWNSEND. I will be glad to answer that in a moment. For the present I yield to the gentleman from Texas, the chairman of the committee.

Mr. SLAYDEN. Mr. Speaker, I suggest to the gentleman that the gentleman from Massachusetts desires to ask him a question.

Mr. GARDNER of Massachusetts. Mr. Speaker, I desire to offer a suggestion to the gentleman from New Jersey, my colleague on the committee. I call the gentleman's attention to a portion of his answers to the gentleman from Kentucky [Mr. SHERLEY], who had asked about this incorporation of American Arts and Sciences. I do not think that the gentleman understands that the National Academy of Science is already incorporated and that this corporation is to do for art and letters what has already been done for science.

Mr. TOWNSEND. Precisely. The gentleman from Kentucky lacked the advantage of hearing the opening of my remarks. The Academy of Science is already incorporated.

Mr. SHERLEY. Mr. Speaker, the gentleman from Kentucky is still of the same opinion that he was before he heard the

statement of the gentleman from Massachusetts. I understood the other society had been incorporated, but I was trying to bring out how it occurred that these men here named were chosen as the men to perpetuate themselves and their successors.

Mr. TOWNSEND. Mr. Speaker, I tried to explain to the gentleman that this sort of body grows through the processes with which he is familiar. There is undoubtedly a very excellent club in the gentleman's town, a club of social distinction, which undoubtedly had its origin in this manner.

Mr. SHERLEY. Mr. Speaker, I never knew a social distinction worth having that required an act of incorporation to give it prestige.

Mr. TOWNSEND. This is not a social distinction that these gentlemen seek. Any literary distinction that could come to them has come to them from their own work. I call the gentleman's attention to the list here. Does he suppose that Mr. Woodrow Wilson, of New Jersey, requires to be a part of an incorporation to have the gentleman from Kentucky acclaim him to be a great literary genius?

Mr. SHERLEY. No; and for that reason I would not ask that he be made part of a national incorporation.

Mr. TOWNSEND. But he has asked it.

Mr. SHERLEY. I would suggest to the gentleman that we have in this country a population of 90,000,000 people and there are some 50 names mentioned in this act of incorporation. I find that of those 50 the great majority come from one little section of the country. It may be that that section has a monopoly upon art. It may also be that it has a monopoly simply on a belief in its own importance. In any event, it does not strike me that this Congress, without having examined into the matter at all, should undertake to give the prestige these gentlemen so much seek, of national incorporation, to 50 gentlemen who choose to select themselves to pass on the eligibility of others to enter their sacred portals.

Mr. TOWNSEND. In conclusion, I will say to the gentleman from Kentucky [Mr. SHERLEY] that he will find there is something like a geographical center attached to these names; that a great many of these names are the names of aspiring, competent young men and women who have come to New York from other States, and possibly a number of them from Kentucky.

Mr. DIES rose.

The SPEAKER. Does the gentleman yield to the gentleman from Texas [Mr. DIES]?

Mr. SLAYDEN. Mr. Speaker, how much time does my colleague desire?

Mr. DIES. About 10 minutes.

Mr. SLAYDEN. I will yield first to the gentleman from Georgia [Mr. ADAMSON].

Mr. ADAMSON. Mr. Speaker, I have given to the press the following interview:

"I have repeatedly been asked why I do not press the bill introduced by Mr. SIMS to repeal the exemption of coastwise ships from Panama Canal tolls. I have refrained from doing so for various reasons, some of which I will state, now that Senator ROOT has introduced a similar bill. I have always favored uniform tolls. I made the best fight I could and lost. I don't wish to appear ugly or sore, nor have I believed it wise to do anything that might embarrass the efforts of the President to settle differences with England by diplomacy. But the best reason of all is that I have not been satisfied that Congress is ready to repeal the exemption, nor that the President is ready to approve it. If I did so believe, I would vote to report out the Sims bill at once. When the President suggested that Congress disclaim intention to violate the treaty and provide for a judicial adjudication of the questions under the treaty, statesmen who helped him secure the discrimination refused to favor such disclaimer. I thought as the operation of the canal was a long ways off the President would have ample time to agree with England by making her some concessions elsewhere, if it should appear to be the settled policy of Congress to discriminate in favor of coastwise vessels. Just what concessions might be desired by England, or granted by this Government, I don't know, but there are a great many points at which the interests and transactions of the English people and our people come in contact. I thought that if there was a genuine desire for an adjustment it could be reached by a diligent effort to find a basis. I would never favor, however, making concessions of similar exemption to the Canadian coastwise trade. I have no doubt that would satisfy England, but it would mean a double burden to our people and a double inroad on the Treasury. If the exemption of our coastwise vessels deprives our Treasury of $2,000,000 per annum, a like concession to the Canadian coastwise trade would double the amount and deprive the Treasury of that much more money, and to that extent make the canal a heavier charge on the Treasury.

I do not care to discuss the question of arbitration. The State Department has that under consideration, and if Congress adheres to the position taken it is the duty of the State Department, first, to deal with international differences. It is not out of place, however, to say that when you are lost in the jungle the surest way to get out is to take the route by which you came in. It requires manhood to take the back track, and few men are big enough to display that much moral courage, but inasmuch as the President by a message aided the ship interests to mislead Congress into error, the President would earn a reputation for greatness if he would send a message to Congress advising a repeal of the exemption clause and confessing his error. There is no doubt that a great blunder has been committed, and the President could very greatly aid in correcting that blunder by adopting the above suggestion. Equality is common honesty. At the first blush that is what is naturally expected. The burden is on the party proposing a variation therefrom. Disinterested men expect and demand nothing else.

There are three reasons why uniform tolls should prevail.

First. All commerce using the canal, which shortens the journeys of all alike about 8,000 miles per journey, should equally share the expense of operating and maintaining the canal, which confers such great benefit upon all. There is little doubt that for the first few years the cost for the operation and maintenance will exceed the revenues derived from collecting from all vessels, except the official vessels belonging to our Government, all the uniform tolls that the traffic will bear. Optimists and theorists have prophesied otherwise, but their prophesy will come to naught. The operation and maintenance of the canal will for the first years be a charge upon the Treasury to some extent, and if our coastwise ships be exempt from tolls the charge on the Treasury will be a very large one. Just what effect discrimination in favor of our coastwise ships against all other vessels, including those of our own people in the foreign trade, will have in repelling business which would otherwise, under fair conditions, patronize our canal no man can tell, but whatever the extent may be it will surely be adverse to the patronage and profits of the canal.

Second. Exempting the coastwise ships from tolls is nothing more nor less than diverting from the common Treasury of the people a dollar and twenty cents per ton on ships belonging to a special interest, to which we give that large bonus and bounty out of the money belonging to all the people; and that special interest belongs to a body of people numerically insignificant, but financially powerful, already holding a monopoly of the coastwise trade against all the world, dividing up and parceling among them the ports and routes of travel, holding up rates by not competing with one another; they are the most highly protected people in the world and have absolutely no need of financial help from the Government.

The advocates and supporters of exemption make a mistake when they take comfort and press as unction to their souls the idea that there is a difference between this exemption and the ordinary subsidy; that they do not really take the money out out the Treasury, but only head it off and keep it from going into the Treasury. It is true the money is not actually in the Treasury, and it may be easier to fool the people and delude them into believing that nobody is taking their money and that there is nothing lost, but such people ought to read the ancient law which made it a greater crime to steal wet linen hanging out to dry than that which was actually locked up so it could be protected. If any difference, it is a meaner subsidy than taking from the Treasury direct. I am unable to find in the Constitution, my oath of office, or the Ten Commandments any justification to vote to take or divert money from the Treasury belonging to 96,000,000 people whom we represent and who are not here to pass on it themselves and give it to a small private interest.

Third. We are constructing that canal under a treaty. It was not convenient to cut the canal from ocean to ocean across our territory. We had to make two contracts, one with England and one with Panama, before we could construct a canal in a foreign country. Those who claim that conditions have changed by virtue of our sovereignty speak without due reference to diplomatic history. England expressly provided in the Hay-Pauncefote treaty that no change in sovereignty should affect the stipulations of that treaty as to equality. Our sovereignty is decidedly imperfect if you remember the stipulations we made with Panama and the treaty by which it is claimed that we acquired sovereignty, for in that selfsame treaty we reaffirmed the stipulation as to equality of charges and conditions of traffic. We are under obligation in that same treaty to pay perpetually an annual rental of $250,000. Unfortunately, the Ship Trust, by the most stupendous and extended lobbying

ever known on earth, conducted systematically ever since the work on the Panama Canal began, secured the aid of the yellow journals and procured the mistaken indorsements of various civic organizations throughout the country and inflamed the jingoes into obscuring the real question and substituting therefor in the popular mind the false and impertinent issue as to whether England shall be allowed to manage our affairs. There is no such question at issue. England has simply reminded us that we have agreed to charge everybody at the canal alike, which is the truth, and we ought to be honest with ourselves without the aid of England. If we would just observe Shakespeare's lines—

To thine own self be true, * * *
Thou canst not then be false to any man—

we would first deal fairly with our own people by refusing to give their money to special interests, then England would have no cause of complaint against us for broken faith through the violation of the treaty.

The construction England puts upon the treaty will inevitably and unavoidably be reached by anybody who will read the diplomatic history of transit across the Isthmus. Since the days of Henry Clay and John Quincy Adams, when Nicaragua first suggested to us the building of a canal, we have insisted on the very same position which England now holds—that all nations and all vessels and all commerce should be treated alike. We have ourselves often complained of alleged violations of that equality in other dealings and joint use of facilities with England, have insisted on correction, and have always obtained it. The claim that coastwise vessels can be treated differently from ships in the foreign trade is not sustained by an examination of our treaties. Among all the treaties we have made with other Governments for amity and commerce there is no distinction as to the privileges of different classes of vessels, except when it is expressly so stated. In every case when a nation desired to reserve domestic control of its coastwise trade it has been so stipulated in the treaty. The absence of such stipulations leaves no distinction in any case. In all treaties touching transit across the Isthmus the only case in which it is pretended that foreign vessels and commerce may be treated differently from domestic vessels and commerce is in the case of Mexico dealing with the Tehuantepec Railroad. Inasmuch as that railroad was built on Mexican soil entirely, beginning and ending at Mexican ports and constructed with Mexican capital or credit, she was not constrained by any consideration to grant equality to all. Standing in that condition, she rightfully and expressly stipulated that that railroad would treat all other nations alike, but favor Mexican commerce if it was desired. But constructing a canal across the Isthmus by a Government and by a people not resident on the Isthmus was entirely a different proposition. Under the Clayton-Bulwer treaty we were not permitted to build a Government canal; we were not permitted to fortify it; we were bound with other nations to protect its neutrality; and in the preamble and in section 8 we were all bound to exact equality in the operation of the canal in charges and conditions of traffic. In consideration of preserving those last provisions and stipulations unimpaired, and expressly so stated in the Hay-Pauncefote treaty, our Government and England modified the Clayton-Bulwer treaty so as to permit us to construct it at our Government's expense, operate, and take the profits, we further agreeing to relieve England and the balance of the world of preserving neutrality, and therefore we were permitted to police and fortify the canal. In brief, that is all there is to it. Unless we do have the manliness to protect our honor among the nations and protect the interests of our people and the integrity of the Treasury by voluntarily repealing the exemption of the coastwise ships from tolls, I do not see how we are going to escape submitting to arbitration and maintain any pretense to honor and respect among the nations of the world.

I am very much surprised to find advocates of the exemption opposing submission to arbitration, because one argument the advocates of the special privileges used to carry the exemption through Congress was that we could assume the right under the treaty to make the exemption, let England make the issue if she wished to object, formulate an issue, and submit it to arbitration. In the House, pending the consideration of the canal bill, that proposition was replied to by me. When the President manifested uneasiness and confusion on suddenly discovering the dissatisfaction of England, just before he signed the canal bill, I drew a bill to repeal the exemption, intending to introduce it as soon as the President signed the bill for the operation of the canal. Being called away before that approval came in, I gave the bill to Mr. SIMS and requested him to introduce it, which he afterwards did. I do not care to do a useless piece of work; but if I become satisfied in the next five weeks that Congress would pass the Sims bill and that the President would approve it, I will call it up in the committee and do my best to have it reported. If I discover no such favorable indications, I shall favor waiting for the next Congress and the next administration to deal with the subject—protect the interests of our people, preserve the integrity of our Treasury, and maintain the honor of our Republic among the nations of the world.

Mr. SLAYDEN. Mr. Speaker, I now yield to the gentleman from Georgia [Mr. BARTLETT].

The SPEAKER. How much time does the gentleman yield?

Mr. SLAYDEN. Mr. Speaker, I would like to submit a parliamentary question to the Chair.

The SPEAKER. The gentleman will state it.

Mr. SLAYDEN. My understanding of the rules is that I had one hour in which to address the House.

The SPEAKER. The gentleman had one hour, beginning at 5 minutes before 4 o'clock.

Mr. SLAYDEN. Does the opposition have an hour also?

The SPEAKER. Not if the gentleman moves the previous question and gets it carried during his hour.

Mr. SLAYDEN. Mr. Speaker, I have assured the gentlemen who are opposed to this measure that I will not move the previous question.

The SPEAKER. Then the gentleman who gets the floor has an hour, if he wants it, and can do as he pleases with it.

Mr. SLAYDEN. I reserve the balance of my time and yield to the gentleman from Georgia [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker——

Mr. SHACKLEFORD. Mr. Speaker, I want to be recognized in opposition to the bill.

The SPEAKER. The gentleman from Texas [Mr. SLAYDEN] reserves 30 minutes. The gentleman from Georgia was on his feet and had the eye of the Chair, and the Chair recognizes him for one hour.

Mr. BARTLETT. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BARTLETT. Is it not a privilige of the gentleman who has an hour to yield to other gentlemen?

The SPEAKER. Yes; he can yield every particle of it.

Mr. BARTLETT. That is what I thought.

Mr. Speaker, I have no desire to consume the time of the House in presenting my views in opposition to this bill. Its purpose may be meritorious, though it does not appeal to me that Congress should be called upon simply to give prestige to the incorporation, or give to the gentlemen who have sought to compose that corporation the power and authority to be incorporated by Congress, simply to give it prestige. I have nothing to say in criticism of these gentlemen here who are sought to be incorporated under this bill. It but demonstrates, Mr. Speaker, what I have called attention to before, that if Congress shall embark into the business of incorporating everybody for any and every purpose that they desire, we will be engaged in doing very little else. All powers of the State will be minimized, and if people think they can secure a charter from Congress which will carry with it the prestige and power of the National Government, you will find the House flooded with bills and our calendars crowded with this kind of legislation.

I had occasion, when the House was considering other bills of this character, Mr. Speaker, to state my opposition to them. It is true this bill says it is to be incorporated under a certain name in the District of Columbia.

To obviate the necessity of continually appealing to Congress to incorporate or grant charters incorporating people for the purposes of this and like character in the District of Columbia, Congress has already provided a method by which charters can be obtained in the District of Columbia. But that is too small a business for gentlemen who aspire to have the authority and prestige of the United States Government given them by special charters. They want the power and the prestige and the authority of the Government of the United States behind them. I do not believe, Mr. Speaker, that Congress either has the power to grant this sort of charter, or that it ought to be the policy of Congress to grant it.

Congress, if it saw fit, if it has the power, if it has the constitutional authority to grant indiscriminate charters of this kind, or every kind, it has it by reason of its supreme sovereignty over subjects matter of this character, by reason of its inherent power as a sovereign to grant charters, however far the courts may have gone with reference to extending the powers of Congress to grant charters. However far the courts may have gone with reference to extending the powers of Congress, the Supreme Court of the United States has never yet decided that Congress had any inherent power to grant a charter. On the contrary, the only enunciation upon that subject has been

that Congress did not have the inherent power to grant charters, and it only had power to grant them when it undertook to give to the corporation some public duty or performs some act for the Government.

I instance other occasions that carried out that theory, namely, when you created a bank to become the fiscal agent of the Government or to issue money as part of the fiscal agent of the Government, in the case of the United States Bank or the National Bank, or in the case of the incorporation of the great transcontinental railroad companies, with authority to convey the military forces of the United States or develop the undeveloped lands of the United States, and another, where they granted the right of a bridge company to build a bridge across a navigable stream, by reason of the fact that Congress could regulate interstate commerce and had control of the navigable streams of the country. Those are the only charters which the courts have yet approved as being within the power of Congress to grant. Here we have applications for charters of various kinds. There is, if I mistake not, upon the calendar an application to charter a national board of trade. Whenever a body of men want to display themselves before the United States or the world as something beyond the common ordinary corporations that can get a charter from the States or the District of Columbia or the Territories, they want attached to it the great seal of this great Republic, in order to give them prestige and power at home and abroad. So far as I am concerned, Mr. Speaker, I am deaf to all appeals like this and all requests to me to withdraw any objections I may have with reference to granting this kind of charter.

This charter, like the others, gives the incorporation power to hold real and personal property. Without some statement being contained in the bill to the contrary, it might be held by the courts, and doubtless it would be so held, that a State could not tax the property of a corporation that was incorporated by Congress, if Congress had authority to grant the charter. That was the decision in the case of McCullough against Maryland.

Mr. CULLOP. Mr. Speaker, I would like to ask the gentleman a question.

The SPEAKER. Does the gentleman yield?

Mr. BARTLETT. With pleasure, I yield to the gentleman from Indiana.

Mr. CULLOP. I see by section 5 it is provided that—

> The American Academy of Arts and Letters be, and the same is hereby, authorized and empowered to receive bequests and donations on real or personal property and to hold the same in trust, and to invest and reinvest the same for the purpose of furthering the interests of literature and the fine arts.

Now, by the provision of that section could not the organization enter into speculation in both real and personal property? It has the right under this provision to invest and reinvest. That, of course, would give the power to convey and to have conveyed and to buy and sell as a speculative matter, and easily it might take shelter under the other provision of the act. Now, has it not the power under that provision?

Mr. BARTLETT. The power is to hold and to receive donations of real and personal property, "and to hold the same in trust, and to invest and reinvest the same for the purpose of furthering the interests of literature and the fine arts." I do not doubt but that they could receive donations, which they could increase by investment either in personal or real estate. I do not know about speculation. I apprehend these gentlemen do not speculate. I do not know that they do. Anyhow, there is nothing in the charter to prevent them doing what the gentleman from Indiana thinks they might do. In other words, it would not be ultra vires, in order to increase their profits and administer the property they had, to speculate either in personal or real estate.

Mr. CULLOP. Now, if the power is given under that provision to purchase and sell real estate, although the intention for which the organization is to be incorporated now may be of the character expressed in the bill, yet in the succeeding management of the trustees the intention might be changed, and still under this provision, if it did change, they would have the right to enter it upon a business career and buy and sell and speculate, and should not that section, at least, be amended if the bill is passed?

Mr. BARTLETT. There is no limit in this bill at the present time as to what this corporation may do in the matter of holding and investing and reinvesting in property for the purpose of increasing its profits.

Mr. CULLOP. Mr. Speaker, will the gentleman yield further there?

Mr. BARTLETT. Yes; certainly.

Mr. CULLOP. Now, before the passage of this bill ought not some limitation be made as an amendment to section 5 to prevent just such procedure as that?

Mr. BARTLETT. I think it ought to be made. But so far as I am concerned, Mr. Speaker, I am not interested in perfecting a bad bill in order to enable it to pass, when I do not think that, however good it may be, I would under any circumstances vote for it. I am opposed to this kind of legislation, not altogether upon the idea that it is not as good as we may make it but because no matter how good you make it it is bad, and I shall not vote for it on other grounds. There is no purpose, Mr. Speaker, however good, that would lead me to support such a bill as this. I want to say that I voiced these views even when the purpose was good, as in the case of the Red Cross Society, when its incorporation was proposed here. I have said I would not vote for the incorporation of the Carnegie Fund, or vote to incorporate the Red Cross Society or the National Board of Trade. There is no purpose, however good, Mr. Speaker, which would induce me to forsake the position that I have occupied upon legislation of this kind, and that position is that such legislation ought not to find in this House a place to be considered and adopted. My objection to this legislation goes to the root and foundation of it, and not to the details of it.

Mr. WILLIS. Mr. Speaker, will the gentleman yield?

Mr. BARTLETT. Yes; I yield to the gentleman.

Mr. WILLIS. Does the gentleman find in this bill any reservation to a future Congress of the power to change or amend or alter the charter in any respect?

Mr. BARTLETT. I have not found it, but that power rests in Congress whether it is there or not.

Mr. WILLIS. The Dartmouth College case involved that question.

Mr. BARTLETT. Yes; and the Dartmouth College case has been in many cases departed from since that decision.

Mr. WILLIS. If the bill is to pass—and I am not in favor of its passage in its present form—ought there not to be a section inserted reserving the power to amend, alter, or repeal in a future Congress?

Mr. BARTLETT. It would not only be safe, but it would be advisable to amend it in that respect.

Mr. CULLOP. Mr. Speaker, will the gentleman yield again?

Mr. BARTLETT. Yes.

Mr. CULLOP. Does the gentleman believe that in the granting of a charter, even one that is proper at any time, we should make it perpetual? This is a perpetual charter which is asked for.

Mr. BARTLETT. No; I do not, and the amendment suggested by the gentleman from Ohio [Mr. WILLIS] would cure that feature.

Mr. CULLOP. Does the gentleman think that any charter ought to be granted for a longer period than 50 years? That is half a century.

Mr. BARTLETT. I would not think it ought to be longer. It depends on the purposes of the corporation and what they are required to do.

Now, Mr. Speaker, at the proper time I want to make a motion to strike out the enacting clause. I could not add to my objections if I were to repeat them, nor could I enforce them with any additional statement which I might make.

Mr. HAMILTON of Michigan. Will the gentleman yield for a question?

Mr. BARTLETT. With pleasure.

Mr. HAMILTON of Michigan. The inquiry of the gentleman from Indiana prompts me to submit an inquiry to the gentleman from Georgia as to whether he has any information as to the basis upon which this illustrious list was limited to 50?

Mr. BARTLETT. I have not.

Mr. HAMILTON of Michigan. Take for illustration the State of Indiana. Everybody knows that malaria in that State, commingled with natural gas, has been transformed into inspiration for genius. Yet we have in this list only one genius from Indiana. I want to know why George Ade and Booth Tarkington and the two McCutcheons have been excluded from this illustrious list? [Laughter.]

Mr. CULLOP. And Charles S. Major.

Mr. TOWNER. The gentleman should not forget the Sweet Singer of Michigan.

Mr. HAMILTON of Michigan. I do not forget any of the sweet singers of Michigan, but time will not permit me even to attempt to enumerate them.

Mr. BARTLETT. I can not answer the gentleman, except to say that it must appear from the colloquy between my friend from Kentucky [Mr. SHERLEY] and the gentleman from New Jersey [Mr. TOWNSEND] that these 50 immortals have met, either by themselves or in company with others who were willing to give them as much immortality of this sort as they could in this way, and put them forward as the 50 immortals who alone are worthy of this great consideration at the hands of Congress.

Mr. HAMILTON of Michigan. The gentleman will concede that it is not fair to Indiana.

Mr. TOWNSEND. If the gentleman will yield, I will say that Booth Tarkington, George Ade, and the entire McCutcheon family, as well as a large and estimable collection from the literary belt of Indiana, are already members of the institute. As suggested by my friend from Missouri, Mr. SHACKLEFORD, they are already members of the lower house, and undoubtedly will be elevated to the upper house when they grow older and are more dignified and have a more fatherly expression. George Ade is a very young-looking man and so is Booth Tarkington. The McCutcheon family range from 10 to 70. I do not know how many of them there are. They are all brilliant. They are Indianans, and that means that they are brilliant. They are all in the institute and they will all be in the academy some day, and that ought to satisfy the gentleman from Indiana.

Mr. HAMILTON of Michigan. No; I am from Michigan. But I want to ask the gentleman, is antiquity an essential element in eligibility to this list?

Mr. TOWNSEND. Not at all; but the gentleman has observed the progress of the work of artists and literary men, and he knows that they do not do their work best while they are in knickerbockers.

Mr. BARTLETT. Mr. Speaker, I want to say in conclusion that I am sorry that these distinguished gentleman from Indiana who have been referred to are not named in this bill if they desire to be. If they were, no doubt their names would add something to it; but whether those who have been left out were put in or whether those who have been embraced were stricken from it, I should still oppose the measure, although I might do so more reluctantly if the gentlemen from Indiana who have been referred to were among the incorporators.

I now yield to the gentleman from Missouri [Mr. SHACKLEFORD] 10 minutes.

The SPEAKER pro tempore (Mr. HOUSTON). The gentleman from Missouri [Mr. SHACKLEFORD] is recognized for 10 minutes.

Mr. SHACKLEFORD. Mr. Speaker, at the proper time I desire to offer this amendment as a new section:

SEC. 6. That said corporation shall not have power to buy, sell, rent, lease, or hold any real estate or any interest in any real estate for the purpose of deriving profit therefrom; that any real estate or any interest in any real estate which it shall receive by gift, grant, bequest, devise, or donation shall be converted into cash by public sale upon reasonable notice within one year from the time it is so received.

Mr. Speaker, this is said to be a harmless little corporation. I hope it is so. I hope it is only one of the highbrowed frills of upper literarydom; but I am not concerned with that feature.

The Committee on the Library has been bringing in here from time to time bills for Federal incorporation, conferring special privileges and special favors—privileges and favors not enjoyed by corporations otherwise incorporated.

If one corporation were all, I should not look with so much horror upon the possibilities of this legislation, but with the multitudinous number of these corporations coming in we shall have over this country a landlordism and a tenantry that will put old Ireland to shame.

There is now pending upon the calendar the bill for the incorporation of the Rockefeller Foundation Fund, authorizing it to invest $100,000,000 in real estate if it so desires. If they would take $100,000,000 into the State of my good friend, the gentleman from Mississippi who sits just in front of me [Mr. SISSON], and invest it in farm lands to-day, in 10 years that $100,000,000 would grow to be worth $1,000,000,0000, and upon that billion dollars' worth of real estate owned by the proposed corporation would be a tenantry as much subject to Rockefeller and his tribe as have been the unhappy citizens of old Ireland to the English landlords in days gone by.

Mr. Speaker, the lands of this country ought to belong to the people who live upon them.

It is said that the purposes of these corporations are for charity, for literature, for uplifts. But, Mr. Speaker, the capital they have is not devoted to that purpose. The capital of the Rockefeller Foundation is to be devoted to earning profit in competition with the citizens of this country who have to make a living for themselves and their families. The rents and profits that shall be derived by the Rockefeller Foundation Fund, by this high-browed literary crowd, and by the multitudinous other corporations that are being given these special charters, will all be brought to Washington and held in the District of Columbia. It is not for the common welfare that there should be built up in the capital at Washington the immense capitalism that these bills will stimulate. This capital ought not to be made the center of wealthy classes who drain profits from every part of the Republic, whether for charity, for self-enrichment, for the uplift of high-browed literati, or for any other purpose. The effects of such a policy must be vicious and hurtful to our people.

A few years ago foreign landlordism became so grievous that some of our States had to legislate against it. One English earl owns, I am told, 20,000 acres of the finest and fairest farm land in Missouri. It is inhabited by his tenants. He is farming in competition with the citizens of my State and taking the profits away to far-off England.

But, Mr. Speaker, that is not nearly so bad as to have corporations housed and homed here in Washington, with illimitable capital, with power of making illimitable investment in lands to be used to earn profit in competition with the people who have to earn a living for themselves and families.

What does Rockefeller want to do? Take his money and give it to charity? No; he wants to pursue the same line he has always pursued, of grasping profit in competition with the people. He says he will devote the profits to charitable purposes. Who will be the judge? The toplofty board of directors will be the judge as to what constitutes charity.

Mr. Speaker, an overspreading and overawing monopoly of land owned by the proposed Rockefeller Foundation Fund ought not have life breathed into it by Congress. It is said to be for charity; but that makes no difference. It would be oppressive to the people none the less.

Mr. SLAYDEN. Mr. Speaker, I will use five minutes of my time.

Mr. BARTLETT. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BARTLETT. Do I lose any of my rights or my time by not using it now?

The SPEAKER pro tempore (Mr. HOUSTON). The Chair thinks not.

Mr. SHACKLEFORD. Mr. Speaker, I ask unanimous consent to extend and revise my remarks.

The SPEAKER pro tempore. The gentleman from Missouri asks unanimous consent to extend and revise his remarks. Is there objection?

There was no objection.

Mr. SLAYDEN. Mr. Speaker, I have listened with interest to the eloquent and earnest remarks of my friend from Missouri [Mr. SHACKLEFORD], who always talks interestingly and sometimes convincingly; but I am afraid that in this instance he has set up a man of straw, and particularly is he wrong in his apparent charge against the Committee on the Library of having furthered that monstrosity, the Rockefeller Foundation, the aspect of which so affrights him.

The committee had nothing to do with that. As a Member of this House, I did say when the matter was up the other day that if Mr. Rockefeller wanted, out of his huge fortune, to give the people of this country $100,000,000 I would not object; that if he wanted to double the amount and turn it over to the public I should rejoice twice as much. My understanding of that bill was that he was not giving or investing this money for profit to retain control himself, but that he gave the principal to the Rockefeller Foundation, the earnings of which presumably will go on for centuries after Mr. Rockefeller has been gathered to his fathers and will be devoted to the spread of science and the advancement of medical and other branches of science in the interest of the human family.

But that has nothing to do with the bill. A statement was made by the gentleman from Ohio [Mr. WILLIS] to the effect that the bill should be amended so as to give Congress the right to alter, amend, or repeal the act. I want to say, in reply to the suggestion of the gentleman, that I have not the slightest objection to that being done. Nor have I any objection to the essence of what was proposed by my friend from Missouri [Mr. SHACKLEFORD]. Mr. SHACKLEFORD's argument was, when you get away from his talk about the Rockefeller Foundation and the monstrous accumulation of money in the hands of Mr. Rockefeller, that he objected to having the corporation become a landlord and objected to it owning large quantities of land from which it could exact rent forever. Mr. Speaker, I am not lacking in sympathy with that suggestion, and when properly shaped I think I would be willing, and I think the other members of the Committee of the Library would be willing, to accept it as an amendment to the bill.

This committee wants to do whatever is right to shape this measure, so that if this body of men is ever created it will be for the good of the public. If there shall be selected a few of these "high-brow" literati the gentleman speaks about, we want them chosen because of merit. We want them to be the most distinguished men in the country for art and letters. We want membership in that body to be an inspiration to the younger men in those various branches of the fine arts, to drive them on to better and ever better work, in order that they may

reflect glory upon themselves and be a credit to the country. I take it for granted, Mr. Speaker, that there is not much question of the right of this Congress to grant such a charter. It has done so in many instances. Whether that is a proper power to lodge with this body is not a question to-day. But I believe it has the power. I could not of course enter into a discussion of fine legal points with my learned friend from Georgia [Mr. BARTLETT]. I believe it has the power. The only question is whether it can exercise it with wisdom on this occasion.

Mr. HOBSON. Mr. Speaker, will the gentleman yield?

Mr. SLAYDEN. Yes.

Mr. HOBSON. I simply want to ask whether this measure, as drawn, still reserves to Congress sole authority to modify, repeal, or revoke it.

Mr. SLAYDEN. I have just stated that an amendment of that kind was suggested by the gentleman from Ohio [Mr. WILLIS], and I was quite willing to accept it as an amendment to the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTLETT. Mr. Speaker, I yield 10 minutes to the gentleman from Texas [Mr. DIES].

Mr. DIES. Mr. Speaker, before the very, very brief discussion that I want to give to the measure, I desire to beg leave respectfully to disagree with the sentiment expressed by my colleague [Mr. SLAYDEN]. I would not have the American Nation take the Rockfeller millions or the Carnegie millions. This is a great, a wealthy, and a wonderful nation of people. Our children ought to be taught that the accumulation of great wealth or the accumulation of wealth in any quantity, by means deemed in the eye of public justice to be wrong, is a disgrace to those who acquire it, rather than an honor. I commiserate men like Mr. Carnegie who want to bribe history and ameliorate the judgment of posterity upon their business careers; but as a Member of this great Congress I am not willing to help them soothe the wounds that come to them from having pursued a course which pricks their conscience.

Mr. Speaker, I shall vote against this bill, unless some satisfactory explanation of its origin and its purpose shall be presented to the House. I want to know by what process this committee selected these particular 50 names to incorporate in a sort of body of nobility of letters and arts and make them the 50-charter members upon which to base this exclusive order in America.

For instance, if another society selected these 50 names I would like to know the processes by which they selected them; and if they were selected by this committee I hope its chairman or some member of the committee will tell us how it arrived at the conclusion that these particular 50 names were entitled, by reason of their greatness in achievement, to have the seal of approval placed upon them by the Congress of the United States.

Mr. TOWNSEND. Mr. Speaker, will the gentleman yield in order that I may give him an answer to his inquiry?

Mr. DIES. Mr. Speaker, I strove with such vigor to obtain that information during the gentleman's remarks that I shall now have to forego the pleasure of hearing his explanation at this moment.

Mr. GARRETT. Mr. Speaker, will the gentleman yield?

Mr. DIES. Certainly.

Mr. GARRETT. Will the gentleman not add to the inquiry which he has made this: That there shall be an explanation of what this corporation is to do after it is created?

Mr. DIES. Precisely. That is true; and moreover, of course, you and I have read all the books and viewed all the paintings and gazed upon all of the sculpture, the product of these wonderful hundred hands; but perchance some gentleman from Indiana or from some Western State which is new, grown up like a mushroom, which has not yet produced its names for immortality, whose people have been too busy in careers of farming or politics—perchance they have not yet had time to gaze upon this architecture, this sculpture, these paintings; and gentlemen, before they vote as Members of Congress to set up an order of superiority, would like to know if the committee has gone into the merits of these several productions. I know you would at least like to know something about it yourselves.

Of course, you understand what Thomas Raynesford Lounsbury, of Connecticut, has done, and you understand what John Singer Sargent, of Massachusetts, has done, what Horace Howard Furness, of Pennsylvania, has done. That is known to all of you—that is, those of you who have devoted hours to the pursuit of knowledge and of literature and of art—as well as it is known to myself; but ought I, because my life has been more fortunate than yours, because the gentleman from New Jersey [Mr. TOWNSEND], for instance, and myself in our closets have delved into these wonderful works and gazed upon these wonderful works of art and read the productions of these wonderful men—ought we to take snap judgment on you gentlemen who are more or less rustic in the arts and in literature? [Laughter and applause.]

For myself, Mr. Speaker, as I gaze back now upon my moments of leisure, when I pored over literature and read the works of critiques of art while a good many of you were busily engaged getting elected to Congress, in the magnanimity of my soul, I am not willing to vote these 50 men upon you until you at least know which ones are painters, which sculptors, and which are authors. [Laughter and applause.]

Mr. HOBSON. Mr. Speaker, will the gentleman yield?

Mr. DIES. Certainly.

Mr. HOBSON. I do not desire to interrupt the charming flow of the gentleman's discourse, but I would like to know whether he should not regard the persons included in this particular list more as a matter of business, incorporated for promotive purposes, rather than as a matter of selection?

Mr. DIES. I take the explanation of a member of the committee, the gentleman from New Jersey [Mr. TOWNSEND], who says it is to be likened to the Academy of Arts in France, where it is worth a king's ransom to have your name enrolled, and where the body corporate places a badge of honor upon the remotest generations.

Mr. HOBSON. That is the gist of the question I am asking the gentleman. Does he regard a corporate body in America that might have any names, irrespective of accomplishments, that might involve many business operations in promotion of this or any other business, because they are incorporated and are made a body apart, subject to the laws——

Mr. DIES. And I say, in no degree of pique or resentment, that that new raw-beef-producing State of Texas is not honored with an inclusion here. I do not feel at all piqued that the great Southern States and the great Western States are not honored at all with an inclusion here. I know that we have come up like a mushroom. I know, of course, that we are new in the business, and could hardly be expected to be included in this list of men of letters. And, on the subject of lists, Mr. Speaker, I am just about thinking who would have been considered to have written the works of Shakespeare if these 50 had passed upon it? How about the letters of Junius, about which the world has never decided the authorship? And I am wondering as to Michael Montesquieu, when he presented his manuscript to the greatest pursuers of literature and art in France, and they said that its publication would disgrace him, if these 50 had to do with them?

I would not establish a corporation of literature and art in this country, where men may adorn themselves with badges and support themselves on the balance of the citizens. But if your committee want to do it, let us do it in a businesslike way.

Mr. BARTLETT. Mr. Speaker, I yield five minutes to the gentleman from Mississippi [Mr. SISSON].

Mr. SISSON. Mr. Speaker, I could not undertake to give all my objections to this bill in five minutes. I agree very heartily with what the gentleman from Missouri [Mr. SHACKLEFORD] and the gentleman from Texas [Mr. DIES] have said in reference to this bill, but my chief objection to the bill as it is now drawn is section 5. In the first place, I am opposed to any corporation, either State or Federal, owning any land for agricultural purposes, and I am unwilling the corporation shall own the land for any other purpose than that of executing the purpose for which the corporation was chartered. I am willing for a corporation to own land for the purpose of establishing manufacturing plants, building railroads, etc., but not to own land to rent, farm, or to speculate in, for there is no monopoly that is half so wicked as a land monopoly.

Now, in all of these charters that are being issued like this an effort is being made to get estate in land so that the income of the corporation will be fixed and permanent and nothing can be found that will be so permanent for vast sums of money as to invest in real estate.

Mr. SLAYDEN. Will my friend from Mississippi permit me a moment?

Mr. SISSON. Certainly.

Mr. SLAYDEN. Did you hear my statement that we were quite willing to accept an amendment to meet that objection about land owning?

Mr. SISSON. That does not mean necessarily that the amendment would pass the House. I presume it would if the gentleman would accept it. But it shows how poorly this bill has been conceived. It shows that the bill originally conceived the idea of permitting incorporations of this kind to buy and

sell and deal in and own real estate. I am opposed to any Federal charter that would grant to a Federal incorporation the right to own and to control land in any State.

Now, the gentleman from Texas [Mr. SLAYDEN] says that he is willing to accept the amendment offered by the gentleman from Missouri [Mr. SHACKLEFORD]. Some of these charters which have been passed have no such limitation or restriction in them as that, and I am glad the gentleman from Texas is now willing to accept that amendment. I also understand the gentleman from Texas is willing to accept an amendment limiting the life of a charter to 50 years.

Mr. SLAYDEN. What I said was at the suggestion of the gentleman from Ohio [Mr. WILLIS], which was as to the right of Congress to alter, amend, or repeal.

Mr. WILLIS. The gentleman states it correctly.

Mr. SISSON. This House on several occasions in the past has declined to grant charters of any kind for longer than 50 years. I do not know why this corporation should be exempt. But I sincerely trust that in the future when bills of this kind are brought into the House there will be no power in the bill granting the corporation authorizing them to own real estate in any of the States except just so much as is necessary to transact properly the business for which the corporation is organized. Why, out in my own State millions of dollars are being invested in farm lands by corporations organized in England, in Holland, in New Jersey, and in other places which grant the most liberal charters, and many thousands of acres of land in my State are passing out of the hands and control of the people of the State. The trouble with Ireland to-day is the fact that the land of Ireland is not owned by the Irish people. The revolution in Mexico to-day finds its reason originally in the landlord system in that country. There is a man in Mexico who owns an estate, which he got from a Spanish land grant, that is two-thirds as large as my own State. In other words, gentlemen of the House, no monopoly can ever be half as wicked as a land monopoly, and if this bill should pass as it was originally drawn it would give these people the right for all time to come to own real estate and to continue to buy real estate.

In the past the English people have had trouble with great corporations owning lands and passing them into dead hands so that the ownership may be perpetual.

The SPEAKER. The time of the gentleman has expired.

Mr. SISSON. Will the gentleman from Georgia give me a few minutes more?

Mr. BARTLETT. I yield three minutes more to the gentleman.

The SPEAKER. The gentleman from Mississippi [Mr. SISSON] is recognized for three minutes more.

Mr. SISSON. The struggle in England in reference to the ownership of land in the early days was a terrific struggle, because so much land had passed out of the hands of the people and into the hands of the church. Now, no man will deny that the establishment of the Christian church was one of the greatest of all the purposes of the organization of a corporation or any other institution in the world, and because this organization now under discussion happens to be an organization which intends to promote letters and the arts is no reason why it should become a part of numbers of corporations that may go out and own and operate farms in competition with the people of your State and mine.

Mr. GARNER. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Mississippi yield to the gentleman from Texas?

Mr. SISSON. Yes.

Mr. GARNER. Is it not a fact that a number of the States have adopted in their constitutions provisions which force all corporations to alienate their lands except what they have in actual use?

Mr. SISSON. Yes. In the constitution of the State of Oklahoma it is provided that no corporation shall own any land except for agricultural purposes, and that three years after the acquirement of an estate, if it is bought in to satisfy a judgment or other indebtedness, they are compelled to alienate the land. In the State of Illinois, in the case referred to by the gentleman from Missouri [Mr. SHACKLEFORD], a law was passed to prevent a corporation from owning farm lands and to prevent monopoly.

Mr. MANN. If the gentleman will yield, I will say we do not allow any corporation to own land for any purpose except for the purpose of incorporation.

Mr. GARNER. We require the same thing in the State of Texas.

Mr. CARLIN. And we require the same thing in Virginia.

Mr. SISSON. But many of the States of the Union do not do that. We had to pass in the Legislature of Mississippi, at the last session of the legislature, a law to prevent the corporate ownership of land, because in one body 80,000 acres of land had passed into the hands of an English syndicate, which proposed to farm it out with the cheapest labor they could get. The law in my own State is not half as drastic as it should be. The people of my State raised quite a protest, and the State legislature has endeavored to stop it, but have not gone far enough.

The SPEAKER. The time of the gentleman from Mississippi has again expired.

Mr. BARTLETT. Mr. Speaker, how much time have I remaining?

The SPEAKER. The gentleman has 10 minutes remaining.

Mr. BARTLETT. I yield 10 minutes to the gentleman from Missouri [Mr. BORLAND].

The SPEAKER. The gentleman from Missouri [Mr. BORLAND] is recognized for 10 minutes.

Mr. GARRETT. Mr. Speaker, I make the point that there is no quorum present.

The SPEAKER. The gentleman from Tennessee [Mr. GARRETT] makes the point that there is no quorum present. Evidently there is not.

ADJOURNMENT.

Mr. GARNER. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. The gentleman from Texas [Mr. GARNER] moves that the House do now adjourn. The question is on agreeing to that motion.

The question was taken, and the Speaker announced that the "ayes" seemed to have it.

Mr. MANN. Mr. Speaker, I demand a division.

The SPEAKER. The gentleman from Illinois [Mr. MANN] demands a division.

The House divided; and there were—ayes 49, noes 23.

So the House decided to adjourn.

Accordingly (at 5 o'clock and 20 minutes p. m.) the House adjourned until to-morrow, Thursday, January 16, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the president of the Chesapeake & Potomac Telephone Co., transmitting, pursuant to law, the annual report of said company for the year 1912 (H. Doc. No. 1270); to the Committee on the District of Columbia and ordered to be printed.

2. A letter from the Secretary of the Treasury, transmitting copy of a communication from the Acting Secretary of Commerce and Labor, reporting claims for damages which have been considered, adjusted, and determined by the Commission of Lighthouses in favor of the Union Steamship Co. and in favor of the S. E. Slade Lumber Co., all of San Francisco, Cal. (H. Doc. No. 1269); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. GARDNER of Massachusetts, from the Committee on the Library, to which was referred the joint resolution (H. J. Res. 369) authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass., reported the same without amendment, accompanied by a report (No. 1302), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. FLOOD of Virginia, from the Committee on Foreign Affairs, to which was referred the joint resolution (S. J. Res. 132) providing for an American commission for the investigation of rural credits in Europe, reported the same without amendment, accompanied by a report (No. 1303), which said bill and report were referred to the House Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Invalid Pensions was discharged from the consideration of the bill (H. R. 27713) granting an increase of pension to Annie Conroy, and the same was referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. RUSSELL: A bill (H. R. 28093) to amend the general pension act of May 11, 1912; to the Committee on Invalid Pensions.

By Mr. McCOY: A bill (H. R. 28094) to amend section 96, chapter 5, of the act of Congress of March 3, 1911, entitled "The Judicial Code"; to the Committee on the Judiciary.

By Mr. STEPHENS of Texas: A bill (H. R. 28095) authorizing the Secretary of the Interior to make per capita payments to members of the Five Civilized Tribes; to the Committee on Indian Affairs.

By Mr. CARY: A bill (H. R. 28096) granting an increase of compensation to bookbinders, printers, and pressmen in the Government Printing Office; to the Committee on Printing.

By Mr. CARLIN (by request): A bill (H. R. 28097) to establish land and coin banks and to increase the currency; to the Committee on Banking and Currency.

By Mr. DIES: A bill (H. R. 28098) to authorize the construction of a bridge across the Sabine River at Orange, Tex.; to the Committee on Interstate and Foreign Commerce.

By Mr. RAKER: A bill (H. R. 28099) to amend an act entitled "An act to establish postal savings depositories for depositing savings at interest with security of the Government for repayment thereof, and for other purposes," approved June 25, 1910; to the Committee on the Post Office and Post Roads.

By Mr. MOORE of Pennsylvania: A bill (H. R. 28100) authorizing the Secretary of the Navy to recover the hull, guns, and other equipment of the U. S. frigate *Philadelphia*, now lying in the harbor of Tripoli, and making appropriation therefor; to the Committee on Appropriations.

By Mr. GALLAGHER: Resolution (H. Res. 776) instructing the Committee on Banking and Currency to investigate profits of national banks, and to make report of such facts as it ascertains; to the Committee on Banking and Currency.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANSBERRY: A bill (H. R. 28101) granting an increase of pension to Benjamin F. H. Hankins; to the Committee on Invalid Pensions.

By Mr. ASHBROOK: A bill (H. R. 28102) granting an increase of pension to Mary H. Johnston; to the Committee on Invalid Pensions.

By Mr. CARY: A bill (H. R. 28103) granting a pension to Catherine C. Weeks; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28104) granting a pension to Mary MacArthur; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28105) granting an increase of pension to Mary A. Stewart; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28106) granting an increase of pension to Robert Pratt; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28107) granting an increase of pension to Fritz Janzen; to the Committee on Invalid Pensions.

By Mr. CULLOP: A bill (H. R. 28108) granting an increase of pension to John T. Langley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28109) granting an increase of pension to Reuben S. McClun; to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 28110) for the relief of F. G. Hodges; to the Committee on War Claims.

Also, a bill (H. R. 28111) for the relief of the heirs of John Van Landingham; to the Committee on War Claims.

By Mr. FOWLER: A bill (H. R. 28112) granting a pension to Daniel Linder; to the Committee on Pensions.

By Mr. GOULD: A bill (H. R. 28113) granting an increase of pension to Benjamin F. Hall; to the Committee on Invalid Pensions.

By Mr. GRAY: A bill (H. R. 28114) granting a pension to Rebbecca S. Merritt; to the Committee on Invalid Pensions.

By Mr. HINDS: A bill (H. R. 28115) granting a pension to Priscilla E. Fletcher; to the Committee on Pensions.

Also, a bill (H. R. 28116) to amend and correct the military record of Robert Pearson; to the Committee on Military Affairs.

By Mr. KONOP: A bill (H. R. 28117) granting a pension to Virginia M. Gaspard; to the Committee on Pensions.

By Mr. LANGHAM: A bill (H. R. 28118) granting an increase of pension to W. P. Altman; to the Committee on Invalid Pensions.

By Mr. LANGLEY: A bill (H. R. 28119) granting an increase of pension to Araminta Ward; to the Committee on Invalid Pensions.

By Mr. LINDBERGH: A bill (H. R. 28120) granting a pension to Jacob Heffley; to the Committee on Invalid Pensions.

By Mr. LITTLEPAGE: A bill (H. R. 28121) for the relief of M. E. Russell; to the Committee on War Claims.

Also, a bill (H. R. 28122) granting an increase of pension to Levi W. Moore; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28123) granting an increase of pension to Theresa Reed; to the Committee on Invalid Pensions.

By Mr. MILLER: A bill (H. R. 28124) granting a pension to Margeret E. Plummer; to the Committee on Invalid Pensions.

By Mr. PATTON of Pennsylvania: A bill (H. R. 28125) granting an increase of pension to George W. Livengood; to the Committee on Invalid Pensions.

By Mr. POST: A bill (H. R. 28126) granting a pension to Hannah Kizer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28127) granting an increase of pension to Cyrus W. Patch; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28128) granting an increase of pension to Ryerson J. Parkhurst; to the Committee on Invalid Pensions.

By Mr. RAINEY: A bill (H. R. 28129) granting a pension to Eliza Browning; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28130) granting a pension to Mary McKee; to the Committee on Invalid Pensions.

By Mr. REILLY: A bill (H. R. 28131) granting a pension to Charles Thomas; to the Committee on Pensions.

By Mr. REYBURN: A bill (H. R. 28132) granting an honorable discharge to George M. Bryan; to the Committee on Military Affairs.

By Mr. SMITH of New York: A bill (H. R. 28133) granting an increase of pension to Michael Minehan; to the Committee on Invalid Pensions.

By Mr. SPEER: A bill (H. R. 28134) granting an increase of pension to William Ashton; to the Committee on Invalid Pensions.

By Mr. STEPHENS of California: A bill (H. R. 28135) granting an increase of pension to Laura Hill; to the Committee on Invalid Pensions.

By Mr. VARE: A bill (H. R. 28136) granting an increase of pension to George D. Wilson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28137) to correct the lineal and relative rank of First Lieut. Thomas J. Leary, Medical Corps, United States Army; to the Committee on Military Affairs.

By Mr. YOUNG of Kansas: A bill (H. R. 28138) granting an increase of pension to Benjamin Butler; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28139) granting an increase of pension to George Klonz; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Resolutions of the Senate and House of Representatives of the State of Vermont, making application to Congress, under provisions of Article V of the Constitution of the United States, favoring the passage of legislation amending the Constitution so as to prohibit polygamy and polygamous cohabitation; to the Committee on the Judiciary.

By Mr. ASHBROOK: Petition of J. E. Russell and 40 other citizens of West Lafayette, Ohio, favoring the passage of the Webb-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of Dr. J. A. Honabargar and 4 other citizens of Warsaw, Ohio, asking for an appropriation for the continuance of an investigation as to the cultivation of ginseng and golden seal; to the Committee on Appropriations.

By Mr. CALDER: Petition of the Brooklyn Institute of Arts and Sciences, favoring the passage of the Crawford-Sulzer bill for an international conference on the high cost of living; to the Committee on Foreign Affairs.

By Mr. CARY: Petition of the Crex Carpet Co., New York, protesting against any legislation for the reduction of tariff on matting, carpeting, etc.; to the Committee on Ways and Means.

Also, petition of the American Machine Tool Manufacturers, protesting against the passage of any legislation for the reduction of tariff on machine tools, etc.; to the Committee on Ways and Means.

Also, petition of the social science section of the American Association of Advanced Science, favoring the passage of Senate bill 3 for Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of the Wisconsin beet sugar companies, protesting against any reduction of tariff on all raw and refined sugar; to the Committee on Ways and Means.

By Mr. CURRIER: Petition of New Hampshire merchants and business men, favoring the passage of legislation granting the Interstate Commerce Commission further power toward controlling the express companies; to the Committee on Interstate and Foreign Commerce.

Also, petition of the New Hampshire Historical Society, favoring the passage of legislation making an appropriation for the preservation of the national archives; to the Committee on the Library.

By Mr. GUERNSEY: Petition of W. W. Ansby, favoring the passage of legislation for the construction of the Lincoln memorial road from Washington to Gettysburg; to the Committee on the Library.

By Mr. HAYES: Petition of the Chamber of Commerce of San Francisco, Cal., favoring the passage of House bill 22589, making an appropriation for the building of embassy, legation, etc., buildings; to the Committee on Foreign Affairs.

Also, petition of P. W. Deckman, Omard, Cal., favoring the passage of House bill 19800, granting pension to veterans of the Indian wars; to the Committee on Pensions.

Also, petition of Judson G. Wall, New York, favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of the Chamber of Commerce of San Francisco, Cal., protesting against the reduction of tariff on raw and refined sugars; to the Committee on Ways and Means.

Also, petition of S. H. Frank & Co., of San Francisco, Cal., favoring the passage of legislation for the reduction of duty on tanning extracts; to the Committee on Ways and Means.

Also, petition of R. F. Shackelford, Bakersfield, Cal., favoring the amending of House bill 5392—the Sutherland compensation bill; to the Committee on the Judiciary.

By Mr. LINDSAY: Petition of Josiah Whippey, Newell, W. Va., favoring the passage of House bill 1339, granting an increase of pension to veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

Also, petition of the Navy League of the United States, of Washington, D. C., favoring the passage of House bill 1309, for a council of national defense; to the Committee on Naval Affairs.

By Mr. PADGETT: Petition of citizens of the seventh district of Pennsylvania, favoring the passage of legislation compelling all concerns selling goods direct to the consumer entirely by mail to contribute their portion of the funds for the development of the local community, etc.; to the Committee on Interstate and Foreign Commerce.

By Mr. REYBURN: Petition of the Philadelphia Chamber of Commerce, favoring the passage of legislation for the construction of a 1,700-foot dry dock at League Island; to the Committee on Naval Affairs.

By Mr. ROBERTS of Massachusetts: Petition of citizens of Stoneham, Mass., favoring the passage of the Kenyon-Sheppard liquor bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. SCULLY: Petition of the Italian Chamber of Commerce, New York, protesting against the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of Pine Bluff Lodge, No. 305, Brotherhood of Railroad Trainmen, protesting against the passage of the workmen's compensation bill; to the Committee on the Judiciary.

Also, petition of the National Society for the Promotion of Industrial Education, New York, favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

Also, petition of the Columbia and Snake River Waterways Association and other business clubs, etc., of Idaho and Washington, favoring the passage of legislation making an appropriation of $1,400,000 for the completion of the Celilo Canal; to the Committee on Rivers and Harbors.

By Mr. SLOAN: Petition of the Methodist congregation of Geneva, Nebr., favoring the passage of the Kenyon "red-light" injunction bill for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. TILSON: Petition of the Connecticut Pharmaceutical Association, favoring the passage of House bill 25834; to the Committee on Ways and Means.

By Mr. GUERNSEY: Petition of residents of Monticello, Me., favoring the passage of the Kenyon-Sheppard liquor bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. VARE: Petition of the Blaisdell Paper Pencil Co., Philadelphia, Pa., protesting against the proposed reduction of tariff on lead for pencils; to the Committee on Ways and Means.

By Mr. WILLIS: Papers to accompany House bill 28091, granting a pension to William Ash; to the Committee on Invalid Pensions.

By Mr. WILSON of New York: Petition of Judson G. Wall, of New York, favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

SENATE.

THURSDAY, *January 16, 1913.*

Rev. Oliver Johnson, of Winnsboro, S. C., offered the following prayer:

Our Father, who art in heaven, we all need that wisdom which cometh down from above, which is first pure, then peaceable, gentle, easy to be entreated, full of mercy and good fruits, without partiality and without hypocrisy. Make each of us earnestly to desire that his wisdom may be Thy wisdom and his will Thy will, that the Divine approval may rest upon all our acts. And whatsoever things are true and honest and of good report, may we think on those things, and so think on them that we shall love them and do them. Through our Lord Jesus Christ. Amen.

The Journal of yesterday's proceedings was read and approved.

FINDINGS OF THE COURT OF CLAIMS.

The PRESIDENT pro tempore (Mr. BACON) laid before the Senate communications from the assistant clerk of the Court of Claims, transmitting certified copies of the findings of fact and conclusions filed by the court in the following causes:

Benjamin Jarvis *v.* United States (S. Doc. No. 1011).
James Mums *v.* United States (S. Doc. No. 1012).
Charles M. Marshall *v.* United States (S. Doc. No. 1013).
James J. Buck *v.* United States (S. Doc. No. 1014).
Richard L. Gorman *v.* United States (S. Doc. No. 1015).
Louis W. Knobe *v.* United States (S. Doc. No. 1016).

The foregoing findings were, with the accompanying papers, referred to the Committee on Claims and ordered to be printed.

He also laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings of fact and opinion filed by the court in the case of T. L. Love, surviving partner of Robert Love & Son, *v.* United States (S. Doc. No. 1017), which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a memorial of members of the National Association of Audubon Societies, remonstrating against the transfer of the control of the national forests to the several States, which was referred to the Committee on Forest Reservations and the Protection of Game.

Mr. TOWNSEND (for Mr. SMITH of Michigan) presented memorials of the congregations of the Seventh-day Adventist Churches of Battle Creek, Sumner, Charlotte, North Branch, Lakefield, Lowell, Grandville, Berrien Springs, Flint, Lansing, Allegan, Sturgis, Grand Rapids, Chesaning, Hastings, Quincy, Oxford, and Urbandale, all in the State of Michigan, remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. KERN presented memorials of sundry citizens of South Bend, Ind., remonstrating against the enactment of legislation providing for the opening of post offices on Sunday, which were referred to the Committee on Post Offices and Post Roads.

Mr. GALLINGER presented a memorial of sundry citizens of Berlin, N. H., remonstrating against the enactment of legislation providing for the parole of Federal life prisoners, which was ordered to lie on the table.

He also presented petitions of the congregations of the Pilgrim Church, of Nashua; the Village Church, of Franklin; and the Baptist Church of Meriden, all in the State of New Hampshire, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. BRANDEGEE presented a petition of members of the Village Improvement Association, of Milford, Conn., and a petition of sundry citizens of Washington, Conn., praying for the enactment of legislation providing for the protection of migratory birds, which were ordered to lie on the table.

He also presented memorials of the congregations of the Seventh-day Adventist Churches of Norwich, Hartford, Guilford, and New London, all in the State of Connecticut, remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. LODGE presented petitions of the students of the Newton Technical High School, of Newtonville, Mass., praying for the passage of the so-called Page vocational-education bill, which were ordered to lie on the table.

Mr. SHIVELY presented a memorial of the congregation of the Seventh-day Adventist Church of Goshen, Ind., remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

He also presented memorials of Jacob Schott, Sherman L. Naftzger, A. G. Schafer, and 50 other citizens of South Bend,

Ind., remonstrating against the repeal of the law providing for the closing of post offices on Sunday, which were referred to the Committee on Post Offices and Post Roads.

Mr. OLIVER presented a petition of the East Liberty Presbyterian Congregation, of Pittsburgh, Pa., and a petition of the congregation of the First Presbyterian Church of Oil City, Pa., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

He also presented petitions of the Conference of Baptist Ministers of Philadelphia; of the East Liberty Presbyterian Congregation, of Pittsburgh; of the congregations of the Friendship Avenue Presbyterian Church, of Pittsburgh; the First Baptist Church of Hollidaysburg; and of the First Presbyterian Church of Oil City; and of the Men's Bible Class of the First Methodist Episcopal Church of Scottdale, all in the State of Pennsylvania, praying for the passage of the so-called Kenyon "red-light" injunction bill, which were ordered to lie on the table.

He also presented a petition of the Maritime Exchange of Philadelphia, Pa., praying for a reduction of the postage on first-class mail matter, which was referred to the Committee on Post Offices and Post Roads.

Mr. MARTIN of Virginia presented sundry papers to accompany the bill (S. 5554) granting a pension to Lucy W. Lockwood, which were referred to the Committee on Pensions.

Mr. WORKS presented a memorial of the Chamber of Commerce of Los Angeles, Cal., remonstrating against a reduction of the duty on sugar, which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. LODGE, from the Committee on Immigration, to which was referred the bill (H. R. 21220) to extend the power of the Commissioner General of Immigration, subject to the approval of the Secretary of Commerce and Labor, reported it with amendments.

Mr. CRAWFORD (for Mr. CRANE), from the Committee on Commerce, to which was referred the joint resolution (H. J. Res. 210) authorizing the President to appoint a member of the New Jersey and New York Joint Harbor Line Commission, reported it without amendment and submitted a report (No. 1112) thereon.

Mr. JOHNSTON of Alabama, from the Committee on Military Affairs, to which was referred the bill (H. R. 3769) for the relief of Theodore N. Gates, reported it without amendment and submitted a report (No. 1113) thereon.

He also, from the same committee, to which was referred the bill (S. 6082) granting an honorable discharge to George M. Bryan, submitted an adverse report (No. 1114) thereon, which was agreed to, and the bill was postponed indefinitely.

Mr. MARTIN of Virginia, from the Committee on Commerce, to which was referred the bill (S. 7792) authorizing James Sottile, his heirs and assigns, to construct, maintain, and operate a bridge and approaches thereto across Cooper River, Charleston County, S. C., and also a bridge and approaches thereto across Shem Creek, Charleston County, S. C., reported it without amendment.

Mr. SMOOT, from the Committee on Public Lands, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 5859. A bill to amend section 3 of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1902, and for other purposes," approved March 3, 1901 (31 Stat. L., p. 1133; Rept. No. 1115); and

S. 6506. A bill authorizing the State of California to select public lands in lieu of certain lands granted to it in Imperial County, Cal. (Rept. No. 1116).

Mr. HITCHCOCK, from the Committee on Military Affairs, to which was referred the bill (H. R. 18425) to remove the charge of desertion from the military record of Simon Nager, reported it with amendments and submitted a report (No. 1117) thereon.

Mr. NELSON, from the Committee on Commerce, to which was referred the bill (H. R. 23001) to amend section 4472 of the Revised Statutes of the United States, relating to the carrying of dangerous articles on passenger steamers, reported it without amendment and submitted a report (No. 1118) thereon.

CROW INDIANS OF MONTANA.

Mr. CHAMBERLAIN. From the Committee on Indian Affairs I report back Senate resolution 352, with a substitute, and I submit a report (No. 1110) thereon. It is short, and I ask unanimous consent for its immediate consideration.

The PRESIDENT pro tempore. The resolution will be read by title for information.

Mr. GALLINGER. Let it be read for information.

The PRESIDENT pro tempore. The resolution will first be read as introduced.

The Secretary read the resolution submitted by Mr. TOWNSEND July 6, 1912, as follows:

Resolved, That the Secretary of the Interior be, and he is hereby, authorized to place in the hands of the Attorney General such papers, records, and other information in reference to the affairs of the Crow Indians of Montana as will enable the Attorney General to investigate such affairs and to bring such action as may be necessary to protect the interests and secure the rights of said Indians; and the Attorney General is hereby authorized to make such investigation and to bring such action, if any, as the investigation may disclose to be necessary.

The PRESIDENT pro tempore. The Secretary will now read the amendment for the information of the Senate.

The SECRETARY. The Committee on Public Lands proposes a complete substitute, to read as follows:

Resolved, That the Attorney General be, and he is hereby, authorized to investigate the affairs of the Crow Indians of Montana and to bring and prosecute such action as may be necessary to protect the interests and secure the rights of such Indians, or of any member of them, and all departments of the Government are authorized to turn over to the Attorney General such records, papers, and other information as he may require to make such investigation or bring such action.

Mr. BORAH. Mr. President, what is the nature of the work which the resolution calls for?

Mr. CHAMBERLAIN. There have been a number of investigations of the Crow Indian Agency and its affairs, and it never seems to have been settled satisfactorily to anyone. This resolution is for the purpose of putting it under the Department of Justice and having that department investigate and make report, leaving to them discretion by moving in the matter or not, as they see fit.

Mr. BORAH. Does the resolution authorize and instruct the Attorney General to proceed?

Mr. CHAMBERLAIN. It authorizes him; it does not instruct him.

Mr. BORAH. Does he need any authorization now?

Mr. CHAMBERLAIN. I rather think he does, under the practice of the departments. I do not think he would feel disposed to do it without such an authorization.

Mr. BORAH. What I had in mind particularly was that at the last session when we undertook to pass a resolution here directing the Attorney General to proceed with a certain prosecution it was claimed that we had no authority to do it. I am very glad to see the precedent established.

Mr. CHAMBERLAIN. I should like to see it established myself.

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

Mr. DIXON. Mr. President——

The PRESIDENT pro tempore. The question now is simply the question of consideration, and that is not debatable.

Mr. DIXON. I do not care to object to the consideration of the resolution. I think, in justice to the Senate, there ought to be some explanation made of this matter by at least some member of the Committee on Indian Affairs who knows the circumstances.

If the purpose of the resolution was not to investigate an Indian reservation within my own State, I would object to it without any hesitancy whatever, but for fear my action might be misconstrued, simply because the Crow Reservation is situated in the State of Montana, I shall not object to its consideration. I do think that the passage of this resolution is a foolish piece of business.

Mr. WARREN. Then why not object?

Mr. DIXON. Because it is within my own State I fear my objection might be misconstrued. I want to say to Senators who are not familiar with the Crow Reservation matter that the Committee on Indian Affairs for five successive winters have heard this woman come before it and tell her story.

Mr. WARREN. I beg the Senator's pardon, but is this the woman Gray?

Mr. DIXON. Helen Pierce Gray. She has repeatedly been before the Senate Committee on Indian Affairs; last year she was before the House committee; and she has caused, I think, up to this time an expenditure of at least $25,000.

The PRESIDENT pro tempore. The question is now whether the resolution shall be considered.

Mr. DIXON. I shall not object to its consideration, but when it comes up for passage I shall want to make a statement to the Senate.

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

Mr. BROWN. I think the resolution ought to be printed and lie over for a day, so as to give us an opportunity to examine it.

The PRESIDENT pro tempore. Undoubtedly, if there is any objection, it will go over.

Mr. BROWN. I do object.

The PRESIDENT pro tempore. The Senator from Nebraska objects.

Mr. DIXON. I should like to ask unanimous consent of the Senate for just about three minutes to explain more than what appears in the report.

The PRESIDENT pro tempore. Without objection, the Senator from Montana will proceed.

Mr. DIXON. Five years ago Helen Pierce Gray came to Washington with a story of crime and misconduct and maladministration on the Crow Reservation.

I want to say that there is not an officer on the Crow Reservation, there is not an employee there, who was ever appointed through my recommendation or influence, and I do not think I know personally a single employee on the Crow Reservation. I have never seen the present agent. He has been there for two years.

When Mrs. Gray first appeared before the Committee on Indian Affairs of the Senate some of us were much impressed by this woman's story and sat patiently for six weeks and heard her story concerning Crow Reservation affairs. The committee authorized the bringing to Washington of Chief Plenty Coos and a delegation of 8 or 10 of the chiefs and head men of the tribe. They came down here and we heard their story day after day.

The result of that investigation was the printing of the hearings, a book of 800 pages, which is still on file, and any Member of the Senate can read it. It resulted in a lot of voluminous, indiscriminate charges against every employee of the reservation—against Commissioner Leupp, against Secretary Garfield, against President Roosevelt—charging every one of them with being criminally connected with the administration of Crow Reservation affairs.

After the whole winter's investigation the committee unanimously instructed the Secretary to send out special agents and investigate thoroughly. The Indian Bureau investigated not once but three different times, by three different special agents, all of the charges then made by this same woman.

The Indian Rights' Association was very much concerned over this woman's story and sent two of their special agents—Sniffens and Brosius—to the Crow Reservation to investigate. Before the investigation was over she had not only included in her list of indictments every member of the Interior Department but the Indian Rights' Association as well. She charged that the agents of the Indian Rights' Association were also in some way mixed up in some great, mysterious steal.

The next winter the Senate committee again heard the same story. I think the next winter we again heard Crow Reservation charges, and another delegation of Crow Indians again were brought to Washington to testify before the committee.

Last year the House Committee on Indian Affairs took up the matter and put this woman on the pay roll and gave orders to the Interior Department to give Mrs. Gray carte blanche authority to investigate all the records. She was there for months on the pay roll of the House Committee on Indian Affairs.

Every inspector who investigated reported the Crow Indian Reservation as clean of any maladministration as any other Indian reservation.

We never could get any specific charges made. If they were, they were of such character that immediately resolved themselves into thin air on a candid investigation of the records of the Indian office.

Now, what were the charges before the committee? I want to say to the Senate that the Committee on Indian Affairs at this time is simply running away from this continuous investigation of the Crow Reservation, and, by reporting this resolution to "authorize the Attorney General to investigate," washing its hands. They do not want to hear any more trouble about the Crow Indians, and they think it is the easiest way—I am putting it mildly—to pass a resolution and have the Attorney General's office investigate it.

It has been investigated by special agents of the Secretary's office and special agents of the Indian Office. This woman has charged both Commissioners Leupp and Valentine with being criminals, and she charged Secretary Fisher the other morning in open committee with being a criminal and mixed up with some great conspiracy "that would shock the world." Every person who has in any way sought to elucidate the charges made by Mrs. Gray and find out what has been the trouble on the Crow Reservation, has been immediately included in her category of criminals.

If there is anything on the Crow Reservation that needs investigating, I think I would be the first man in the Senate to ask to have it done. As I said, I do not even know the present Indian agent. He has been there over two years. I understand that he is a brother of ex-Congressman Scott, of Kansas, who had been in the Indian service and was transferred to Crow Agency from some other place.

I have heard Mrs. Gray make many charges about Crow Reservation matters which I knew were not true, which could not be true. I heard her one morning in the committee make the charge that 10 town sites on the Huntley irrigation project, which at one time was a part of the Crow Indian Reservation, had been surreptitiously turned over to the Burlington Railroad. As a matter of fact, these town sites do not even lie on the line of the Burlington Railroad; they are lands that lie along the Northern Pacific Railroad.

But charges of this kind have been made without any shadow of foundation of any kind, made equally with the same positive assertion as something which might possibly be founded in fact.

Mr. GALLINGER. Who is she?

Mr. DIXON. Helen Pierce Gray.

Mr. GALLINGER. A Montana woman?

Mr. DIXON. No; a Minnesota woman. In the Committee on Indian Affairs the other morning, with the kindest intent, I asked her to make specific these charges. Immediately the person who makes the inquiry is branded as a criminal himself.

She charged the other morning that Indians had been murdered there; that one Indian in the city of Billings had been murdered in a hotel and boxed up in a coffin, and hermetically sealed, and sent to the reservation to be buried, so that nobody could find out how he was killed. He was Alexander Upshaw. I remember him. As I now remember the actual facts, he was killed in a drunken row of some kind in the city of Billings. But these stories are spread before the Committee on Indian Affairs as positive facts.

As a Member of the Senate I think it is my duty, as one member of the Committee on Indian Affairs who has patiently heard these stories for five successive winters, who has heard delegations of the Crows themselves, to state that the Crow chiefs and the head men are on record in the Indian Office that they do not want this woman to come back there and make any more trouble. I heard Inspector McLaughlin, of the Indian service, the oldest inspector in that service, the man who wrote the book My Friend the Indian, and who is probably the best authority on Indian affairs of any man living, say that if this woman had gone to the Sioux Reservation and scattered these insinuating stories among those poor, ignorant, and illiterate Indians, you would have had to call out the United States troops to put down the insurrection that would have followed.

This resolution was reported by the committee with only three members present. Three different Secretaries of the Interior—Garfield, Ballinger, and Fisher—have investigated the charges made by Mrs. Gray.

Two different Indian commissioners, Leupp and Valentine, have investigated through their inspectors; the Indian Rights Association have patiently investigated all these matters; and this woman now brands each of these officials and all the inspectors as bad and criminal. Now, the Indian Committee pass the matter on to the Department of Justice and say they may or may not investigate it. That is the extent of the resolution. If the Senate wants to pass it, well and good. If it did not affect a matter within my State, I would fight it to a finish, because I believe it is a pure waste of time and money. You are authorizing the Department of Justice to make the investigation if they want to do so. That is all there is in it; it amounts to nothing more.

Mr. TOWNSEND. Mr. President, I do not feel that this matter ought to rest here even for the day, going over, as it does, until to-morrow, without some kind of a statement in reply to the Senator from Montana [Mr. DIXON].

I am not personally interested in any matter connected with any reservation; nor have I any friends that I know of who are. My attention was first called to this matter when I was a Member of the other House and by a member of the Committee on Indian Affairs there. I listened with a great deal of interest to the things which the now Senator from Montana [Mr. DIXON] and others had to say at that time, which compelled me to believe that perhaps there was not the best, the most economical, and the most honest administration of some of the Indian affairs.

I know very little about Mrs. Gray, but it is not true, if I understand the testimony correctly, that she has made no specific charges, for she has. Neither is it true that every investigation which has been made on that reservation has given a clean bill of health to the administration of affairs. For instance, I notice one very recent report by Inspector Holcomb, I think, which was to the effect that he discovered on the Crow Reservation a man in the employ of the United States Government who, under the law, was forbidden to have any dealings

with the Indians in the nature of purchasing their lands, and so forth; that he married an Indian woman, or one adopted by that tribe, and she had property dealings with the Indians while her husband was agent or superintendent, and that she had acquired considerable property. The inspector condemned this as being an improper thing to do and recommended that the offender be reprimanded and assigned to some other Indian reservation. Mrs. Gray makes specific charges. She brings up charges in reference to the Huntley village site, to which the Senator from Montana calls attention, and brings some certificates from there, showing that certain Indians had located claims where Huntley now is, and that these claims are legal, although the Indians are fraudulently deprived of them, and that these lands so claimed by the Indians are worth many thousands of dollars.

Furthermore, Mr. President, it is true, as the Senator says, that these investigations have been made by the Department of the Interior for the last five years. Whenever Mrs. Gray has been put upon the stand or has appeared before committees, she has been cross-examined unmercifully, and the records will disclose that the attempt seemed to be to convict her of something rather than to investigate the particular charges to which she had called specific attention.

My reason for introducing this resolution was because I believed that the Department of Justice, having an organized force which has been investigating the White Earth Reservation in Minnesota and the Pima Indian Reservation in Arizona, has accomplished much and is well equipped to do the proposed work, and I have asked that this resolution be passed authorizing that department to proceed, and I have done this without any intention to reflect upon any person or department of the Government. I would simply authorize the other departments to turn over to the Attorney General such papers, records, and information as might have a bearing upon this matter.

The committee proceeded to have hearings on this resolution, and proceeded for several days, having much difficulty in getting a quorum, but finally it was determined that, on account of the criminations and recriminations which were indulged in back and forth before the committee and the difficulties of securing records, and so forth, it would be better to end the hearings and turn it over to the Attorney General for proper investigation, if he shall see fit to make it. Sufficient evidence, however, was received by the committee to warrant this report. It is true, possibly, that only a few Members were actually present when the report was authorized. I do not remember just how many were there, but a constructive quorum was at least present. I understand that the pending resolution was presented to the members of the Committee on Indian Affairs on a poll, and that a majority of the committee voted to report it favorably. It is properly before the Senate.

I feel it will be a great mistake, if, after all that has occurred in reference to these investigations, this resolution shall not be speedily adopted. It is due to the Department of the Interior, it is due to everybody connected with it, that a proper investigation be made of these charges, for they are charges. There are specific charges to the effect that in the administration of the affairs of the Crow Indians in Montana great fraud has been practiced upon those Indians. Mrs. Gray charges that the rolls of the Interior Department have not been properly kept. As corroborating that at the last hearing, the Department of the Interior brought before the committee what purported to be Schedule B, if I recall it—either A, B, or C—which the gentleman in charge, Mr. Holcomb, said he was not able to find at the other hearing, but finally he found it in the archives of the department somewhere, and that paper, which purported to be the record of allotments of the Indians, amounting to millions of dollars in value, was the kind of a paper that a man would expect to find if he had carried the roll around in his hip pocket for months in the summer time. It was almost illegible. No permanent record was there, and anyone could carry this paper away in his pocket.

So it seems to me, Mr. President, that after all the investigations and hearings that have been had it is the part of wisdom that the department, which is organized to investigate these things and to prosecute them, should proceed to determine whether or not there is anything wrong. If there is something wrong, then Congress and the country ought to know it; and if there is nothing wrong, then that also should be disclosed, and thus put an end to these charges, which will never be terminated until a full, fair, and complete investigation has been had.

Personally I say to Senators upon my honor, after having investigated the subject quite carefully, I believe that there are things in connection with Crow Indians which ought to be investigated. There are men who have been connected with the Indian department who have been discharged and are no longer officially connected with it, who are able to get information from the department which others not so familiar with records there can not obtain.

I do not now want to reflect upon the Interior Department. I know that the Secretary of the Interior, Mr. Fisher, must necessarily rely upon people under him; he must rely on those who get in touch with these things from the outside; and these men, or some of them, are included among the offenders in the charges submitted to the Committee on Indian Affairs.

I am profoundly impressed with the conviction that our duty to our Indian wards has not been completely fulfilled. Their affairs from the very nature of things offer a great opportunity for the corrupt and the conscienceless, and we will fall far short of our full duty if we longer postpone what is clearly our obligation to do. Certainly enough has been presented to put us on notice, and no honest man can be hurt by a disclosure of the true situation in reference to the Crow Reservation.

Mr. DIXON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Michigan yield to the Senator from Montana?

Mr. TOWNSEND. I do.

Mr. DIXON. I should like to ask the Senator from Michigan what specific thing or wrong does he want investigated out there? Does he have any definite thing in view, or is this just a shotgun fire?

Mr. TOWNSEND. There are certain things in reference to the general question of allotments, the rights of descendants of dead Indians, and the actions of certain men interested as agents, which are specifically mentioned in that written statement which Mrs. Gray filed, and I think they ought to be investigated. There are many grave and specific charges before the committee. But, sir, I would not limit it. If, when the Department of Justice gets into this matter, it discovers that there are things which ought to be investigated, I want it to go to the limit. I do not believe that the Department of Justice will proceed on a cold track and simply for the purpose of conducting "a shotgun investigation." I believe that we owe it to ourselves that this investigation be made.

Mr. DIXON. Does the Senator have in mind any special wrongdoing which he wants investigated on the Crow Reservation?

Mr. TOWNSEND. I have mentioned certain matters. I can repeat them if the Senator wants me to do so.

Mr. DIXON. I was unable to get any definite information.

Mr. TOWNSEND. I can recall the two Indians whose claims were presented to the committee, one of them relating to the Huntley village site——

Mr. DIXON. I heard the statement which the Senator made about the rolls. The Senator charges that the rolls were kept in some unsafe place. Is the Senator aware that whenever an Indian reservation is surveyed, there is a plat book kept here in the Land Office showing by quarter sections the Indian allotments, and there are other plat books kept upon the reservation and in the Indian Office showing absolutely every Indian's allotment, the same as in the United States Land Office, so that there could be no misconstruction.

Mr. TOWNSEND. I understand that there should be such a roll kept.

Mr. DIXON. Did the Senator hear the chief inspector of the Indian Office say that the plat books were down here in the Land Office? Is the Senator aware of the fact that in Schedule B are the signatures—not copies, but the originals—of the three men who made the treaty with the Indians in 1891?

Mr. TOWNSEND. I saw all of that and that is why I am interested.

Mr. DIXON. Has the Senator read the hearing we had five years ago, which is embraced in a great big book of 800 pages?

Mr. TOWNSEND. I will not say that I have read all of that.

Mr. DIXON. Does the Senator recall the awful wrong which we investigated about Joe Cooper, a "white" Indian, a half-breed, who was alleged to have been starved and wronged and persecuted? This much-wronged Indian, this martyr, as Mrs. Gray made him out to be before the committee, was brought down here, and it turned out on the hearing that Cooper and his children had had allotted to them over 1,800 acres of irrigated land. It was developed that Joe Cooper, the martyr, as Mrs. Gray had held him out to the committee, this much-wronged Indian, living there for 20 years, had cultivated not to exceed 1 acre of this 1,800 acres of irrigated land, and that the house in which he had lived and which the Government agent had given him free of charge, he had burned for firewood? I am simply citing cases which she retailed here five years ago in listing the great wrongs of the Crow Indians. Joe Cooper, the "white" Indian, was one of them, and the main charge at that time was in relation to him.

Mr. TOWNSEND. I desire to state, Mr. President, that I am not making my statement upon an intimate knowledge of all of the previous investigations, but I have talked with members of the committee who were then in the Senate and who were convinced by those previous times that no sufficient investigation had been made. I repeat, with these charges pending and with the charge the Senator suggests, that men have been condemned in a wholesale manner by this woman—she makes some exceptions. There is no escape for us, it seems to me, from the duty to proceed under this resolution and have an investigation made.

Mr. DIXON. I only desire to ask the Senator one other question. Is the Senator aware that Secretary Garfield investigated the Crow Reservation; that Secretary Ballinger, with his inspectors, investigated it; and that Secretary Fisher, with his inspectors, has investigated the Crow Reservation? Is the Senator aware that, in addition to the fact that three Secretaries of the Interior, with their whole force of special agents, have investigated the Crow Reservation, Commissioner Leupp, with his inspectors, investigated it; that Commissioner Valentine, under this continuous agitation as to the Crow Reservation, investigated it with his inspectors; and that the present Assistant Commissioner of Indian Affairs, Mr. Abbott, went there personally and made an investigation?

Mr. TOWNSEND. I am aware of all that, and think I have so stated.

Mr. DIXON. Is the Senator aware that all these Government officials reported that the Crow Reservation was on a par with all the other Indian reservations in the West and that there was nothing in the charges made by this woman, who professes to be a newspaper correspondent?

Mr. TOWNSEND. With the statement of facts as stated by the Senator I can not agree. Those are matters which will be disclosed; but I do know that this woman has been persecuted relentlessly every time she has sought to bring conditions to official attention. I do know that she claims—and she shows pretty good authority for her statement—that she was to go out there under the administration of Secretary Garfield to look into these matters. I know, as a result of her activities, that before she got through she served time in jail and was accused of being insane, but was discharged, and that she was treated with all kinds of indignity, which she says was due to the fact that she was trying to disclose things that some of her persecutors were interested in. That may not be true; but if it is not true, it will be disclosed by a proper investigation, and in no other manner can the truth be known.

Mr. DIXON. I made a suggestion to the committee the other morning, which I will renew to the Senate. The lawyer who defended her after she was arrested after a year out there is T. J. Walsh, one of the best lawyers in my State, who will succeed me on the floor of the Senate on the 4th of March. I suggested that we wait until Mr. Walsh came here and took his oath of office; and as he was her attorney, if he should then say this investigation ought to be made, I would be perfectly happy to have it made.

Mr. TOWNSEND. Will the Senator advise me what his objection is to this investigation?

Mr. DIXON. Simply because this woman for five years has been appearing in the newspaper headlines, and she has caused the expenditure, I think, of $25,000—that, I think, would be the minimum expenditure which she has caused.

Mr. TOWNSEND. She is not unique in her position as a "headliner."

Mr. TOWNSEND subsequently said: Mr. President, in connection with the discussion on Senate resolution 352 the Senator from Montana [Mr. DIXON] suggested that no specific charges had been made by Mrs. Gray. I ask unanimous consent to have printed in connection with my remarks this morning the printed statement of Mrs. Gray, made before the Indian Affairs Committee on January 9.

The PRESIDING OFFICER (Mr. FLETCHER in the chair). Is there objection? The Chair hears none, and it is so ordered.

The matter referred to is as follows:

STATEMENT OF MRS. HELEN PIERCE GRAY.

Mrs. GRAY. Mr. Chairman and gentlemen, I will say in the beginning that I am going over some of the ground that some of the older members of the committee know probably too much about, but some of the newer members have asked me so many questions that I thought it would be better to go back so that they will fully understand the situation.

In 1906 I was associated with the Byles News Bureau at Omaha, Nebr., which was receiving the news service of the Omaha Bee. My business was to prepare special articles on western topics. To get data I often worked with the land departments of different railways, the Reclamation Service in the West, private irrigating and mining companies, and anyone interested in the development of western lands and resources. The return of Buffalo Bill's party from Europe to Cody, Wyo., the center of an irrigation district to be watered by the Shoshone Dam and Corbett Tunnel, gave opportunity for special stories concerning this district, introduced and featured with his picturesque personality. I collected a large amount of data and wanted to get away by myself to write it up. The nearby Crow Reservation was promising, and I went there. I secured a room in the boys' dormitory of the Government Indian School, and took meals with the teachers. Notice of the conditions of the school was impressed on me. I talked with Supt. Creel; the doctor; Reynolds, the agent; and the teachers, of the horrible eye disease that affected nearly every child, and a throat affection on the neck under the jaws. I noticed the matron washed all children in the same water, used one flesh brush for all, though the diseased eye and throat sores were discharging. When five years ago I told this story before this committee my statement so shocked the members of the committee that I fear it discredited many of the other things I then said. Investigations afterwards showed that I minimized the facts. This eye disease is trachoma. The gland disease, lumpy jaw.

Later I went back 30 miles to an Indian home on the Little Big Horn. Engaged in my writing, I found whenever I went out of doors Indians waiting to talk to me. They came in groups, two to five or six. They questioned me mainly about the conditions at Washington as to their property. I had never seen an Indian reservation before; knew nothing of Indians or Indian affairs, and never dreamed I was violating a law by telling them if they signed a 25-year lease for the entire reservation, which Commissioner Leupp was then promoting, they would probably come out paupers. I asked Agent Reynolds about this lease. He gave me the printed annual report of the commissioner for 1905–6, containing a statement under the heading of "Crow Indian sugar-beet project." I gave this to the Indians. Later they wanted to know more about this lease, but explained to me for the first time that the agent had threatened to arrest them if they talked to me any more about this business. They were willing to face imprisonment if only permitted to get the facts and save their people. They told me they had called a meeting of the Crow Indian lodge at an adjacent Indian's home and asked me if I were afraid to come to the house and meet the lodge and explain to them about the leases; that the older Indians did not understand what the returned students had explained, but that they would believe me. I went, but sent word to the agent, who had come to Lodgegrass to arrest them, that I wanted him present at the meeting. He sent word he would come, but did not.

They discussed the grazing leases; said they never received their money, though the land had been leased 35 years at $45,000 a year; that they were sure the lessors had very many more cattle and sheep on the reservation than they were paying for; that their stock trespassed on Indians' farms, so that the Indians had been obliged to give up farming; that lessors branded Indians' cattle as their own. They said that when the reservation was opened under the act of 1904 the Indians' allotments on the ceded portion should be protected; that they should receive $1,150,000 in cash and other things; that they had never received any money; that their allotments on the ceded portion had been taken away from them; that allotments had been made to Indians who had been dead for generations, and that the land so allotted has been sold; that there was such intimidation they believed that that night would be the only opportunity to discuss these matters. They were willing to suffer, but their children in the Government school had been tortured to bring the fathers to terms. We stayed until morning, and they told me of many other grievances. I was unspeakably shocked, and told them if they would take a petition to President Roosevelt I was certain he would put a stop to such conditions on the reservation. They said they had tried it, and it invariably ended in the agent dealing misery to everyone concerned. They begged me to go to Washington with them, and would raise the money and pay my expenses. They were in such a state of fear that I told them I would do everything I could to help them to put the matter before President Roosevelt in person. In the morning I was arrested by Agent Reynolds. He refused to tell me what I was arrested for; refused to let me communicate with anybody off the reservation. I was taken to Billings.

The agent told the Indians that I had been bought off. A number of them then started to Washington to carry out the plan. They were arrested and thrown into jail at Sheridan. I sent for the agent and told him that unless he released them I would telegraph the men's story all over the United States. Reynolds released the Indians; sent three of them to me in Billings, and we discussed the situation. They said that it would be impossible for them to leave the reservation, but gave me $300 for my expenses to go to Washington. I sent for Reynolds and told him what I was going to do, and his reply was that I would find that all the rights that the Indians had, or that I had was such as he chose to permit us. I told him I knew what he said was not true; that the Indians were American citizens and so was I. I have found Reynolds's statement, up to the present time, to be true. When I reached Washington I laid the case before President Roosevelt personally. The President directed that Commissioner Leupp give me access to the Crow records and furnish me with a stenographer and show me every courtesy in order that I might prepare a statement to accompany the petition that I brought for the Indians. I prepared such a statement. President Roosevelt spent some hours with me going over my statement and the petition of the Indians. He sent for the then Secretary, Garfield, to come to the White House. He put the statement in his hands, telling him to go over it with me very carefully; that he was going to handle the matter personally. It was arranged that Mr. Garfield's private secretary, Z. L. Dalby, should accompany me to the reservation and make an investigation along the lines that we had arranged. I told the President that I depended upon my writing for my living and had expected to use this story. But we agreed that, inasmuch as making it public would inform those whom we were to investigate, that I would not publish the story. Dalby and I were to spend the necessary time to look over records here. I then started west. I had waited in Chicago more than a month.

I wrote President Roosevelt that I had continual complaints from the Indians that their sheep as well as cattle were being taken off, thus cleaning up the reservation in advance of the investigation; that my promise of silence was solely on the condition that they keep silence and get to the investigation as soon as possible; that something like two months had already elapsed. I also asked that I be sent immediately a proper written commission to return to the reservation. In reply I received a letter from Secretary Garfield informing me that Mr. Dalby would start very shortly for the reservation, but he trusted that I would use none of the information that I had acquired for publication. I also received a letter from Commissioner Leupp, inclosing my authority to return to the reservation, and also a letter from Mr. Dalby explaining what he was doing to cause the delay. I replied that I was perfectly willing to keep silent, but was going to the reservation at once. In order to avoid any publicity on my return, I wired certain Indians to meet me at an out-of-the-way station. I was very much surprised the next night when Mr. Reynolds, in company with a number of other agency officials, came to the place where I was staying, tell-

ing me I was under arrest for returning to the reservation. I told him I had Mr. Leupp's permission to do so. He laughed and said he did not care anything about Mr. Leupp's permission, he had come there to arrest me. He compelled me to accompany him to the agency, about 30 miles distant, without adequate wraps, on a cold night. It was near midnight when we arrived. In the meantime I had nothing to eat.

The Indian court was in session to try my case, and Joe Cooper, president of the Crow Lodge, was in the guardhouse under arrest. They told me that I also was to be locked up in the guardhouse. This guardhouse was a cow shed and filthy beyond comprehension. It was one of the principal instruments for intimidation of the Indians. I warned Reynolds urgently against such a course, and he finally dismissed the court and telegraphed to Washington. I also telegraphed the Chicago Record-Herald, which was backing the investigation at the time, with the result that I was given a room at the hotel and released in the morning by order from Washington. However, I was ill and unable to leave my bed. Toward noon the hotel keeper, Fred Server, came to the door and told me under no circumstances to speak to anyone or to get up. He added that there were some things he could not stand for. About an hour afterwards Mr. Reynolds came to my room with a physician, and I discovered they were examining me as a lunatic. When they went out of the room I got up and found that they had a court in lunacy in session, the clerk acting as United States commissioner. Server secretly wired to Sheridan for a physician. The physician's arrival in the afternoon ended the proceedings in lunacy, and I accompanied him back to Sheridan, where I received a telegram that Mr. Dalby was starting from Washington. On Dalby's arrival he requested that I should remain in Sheridan while he went to the reservation and began the investigation. I consented, remaining there several days.

The residents warned me that Dalby was in continual conference with the gang on the reservation and it would be unsafe for me to go. I wired Dalby he must permit me to come to the reservation at once or I should abandon our plan. He came to Sheridan and agreed that if I would wait several days he would be ready to begin the investigation with me. I did so, starting at the time agreed upon. The Indians came to the train as it reached the reservation and told me that certain petitioners for the investigation had been arrested. I went to the agency, sent for Dalby, and asked him about the arrest. He said he had nothing to do with it. I introduced him to the Indians. He told them that he had come to make a thorough investigation, with their petition and my charges as the basis. They expressed relief and started out at once to summon the Indians, with his consent, to a council to meet him at Lodge Grass. It was raining and nearly dark; some of the Indians would have to ride 200 miles, but they started out at once in high hopes. I returned to my former stopping place on the Little Big Horn. Dalby set a time for the council which gave the Indians barely time to assemble. As Dalby progressed, he told them he would not have anything to do with them unless they dismissed me and had me arrested for interfering. This was against the wishes of the Indians. I was roughly handled. Dalby told the Indians my arrest was by the President's order, to show what he thought of me. He also showed them telegrams and letters that I had written to the President, saying that everything had been turned over to him. Dalby ordered Alex Upshaw to search my trunk. He did so, taking such papers as seemed to be wanted. I was then expelled from the reservation without money and without my baggage. Fortunately, a cattleman who knew Reynolds was at the station and urged me to accept a loan of $50, which I thankfully did. It was five days before I could get my baggage. Dalby then investigated by himself, threatening some and buying others.

Then Secretary Garfield came to Montana and opened the Huntley irrigation project. Continuing as a writer, I went to Billings. I found there the reservation ring in force, and that it would be impossible for me to go to Huntley. However, I went to Denver, to the lands convention, meeting Secretary Garfield and Mr. Pinchot there. Later I returned to Montana. Meantime I had written to magazine editors in New York of conditions on Crow, and had been asked to come to New York to handle the story. I started, by way of Billings. When I changed trains at Billings I was arrested while buying my ticket to New York, on charge of returning to the reservation after I had been put off. I was taken to the station. While I was sitting in the common room there, some man, who appeared to be a gentleman, and known to the officials, came and said that I would be more comfortable in a smaller room where I was to wait. A man was in this smaller room. He proved to be a United States commissioner, and I discovered the first man was conducting a hearing before him on my case. When I made this discovery I found the door locked. I threatened to open the window and call for help if he did not desist; said I wanted a lawyer, and I wanted to know what they were doing. This hearing was postponed; I was put under $500 bail, which some unknown person put up in cash. Meanwhile Dalby and Reynolds arrived from the reservation and made additional charges against me of having entered into a contract with restricted Indians without the consent of the Secretary. I was bound over to the grand jury and kept in jail in Helena, incommunicado, for nearly four months, until I managed to get bail. A petition for writ of habeas corpus was denied by Federal Judge Hunt, now of the Commerce Court here, by whom it was heard perfunctorily. After I got out of jail the cattlemen got together and started a paper in Billings, which was purchased by one of the lessors on the reservation, Charley Bair, for the purpose of preventing further publicity.

When the grand jury met they completely exonerated me. I came at once to Washington and had a hearing before this committee, which was reported in Senate Document 445, parts 1 and 2, Sixtieth Congress, first session. The result of the hearing was that the Senate ordered an investigation and made appropriations for the same. The Senate refused to confirm Dalby's appointment as Indian inspector until in August, 1909, at which time he was confirmed on condition that he would immediately resign from the service. Dalby did resign, but immediately returned to Washington as attorney for the very lessors on the Crow Reservation whom he had been sent to investigate, and whose conduct he had whitewashed in his report. Near midnight of March 3, 1909, the original resolution making the appropriation was rescinded by Senator Kean. The following year the House Indian Committee unanimously asked for an investigation, but, being near the end of the session, no appropriation was made. As the result of my first efforts, some of the conditions on the reservation were remedied and the income from the leases was increased from $45,000 to $150,000. Numerous pretended investigations have been made by officials of the Interior Department, all of which, in effect, whitewashed the conditions and protected the people engaged in looting the Indians.

The resolution which your committee is now considering is for the purpose of having an actual investigation by the Department of Justice.

ALLOTMENTS.

This is what I found: Allotments originally made, which had been for years enjoyed and upon which some cultivation had been made in each instance, and in many instances where the Indian owners had died and left heirs, were summarily and fraudulently canceled. The Indians were persuaded or driven from them if living, and if dead the allotments switched to their heirs on lands in a different locality, provided such heirs agreed in advance to sell to interested parties; but if the legal heirs were unwilling to sell, bogus heirs were substituted for the real ones.

Down on the Yellowstone there were some 300 or 400 Indians allotted. Under the act of 1882 these allotments were approved. In 1904 one John Rankin began allotting. The Indians were told that their allotments were not good, and he canceled many of them, although the Indians had been making these allotments their homes for years and had built irrigation ditches there. Some of these allotments were worth as much as $25,000 each. The Interior Department canceled these Yellowstone allotments where the Indians had died. Mr. Rankin reallotted the dead Indian to very choice land west of the Big Horn when sure the new allotments would be sold. New family rolls were prepared in such a way that the purported heirs to this land were those who would agree to sell it. These allottees on the Yellowstone have been subjected to every form of intimidation conceivable. Some of them are still holding on. Some of the allotments have been canceled within the past two or three years without any shadow of authority for having done so.

Second. Indians who had been allotted to the land where the Huntley irrigation project is, and to the land that is now covered by the Two Leggings ditch, had their allotments arbitrarily canceled. They were given new allotments under their protest on the diminished reservation, anywhere the students could be put in, the best land having been taken up.

Third. Indians whose allotments were on the diminished reservation were tricked into relinquishing the old allotments in such a way that they seemed to have taken a new allotment in 1904.

Fourth. Indians who had held allotments were forcibly removed and taken to community farms, compelling them in effect to abandon their old allotments. After this was done the irrigated allotments were cut down arbitrarily and without any legislative act from 160 acres to 80 and 40 acres. This irrigated land did not come under any reclamation project, but the irrigation had been put in with the money of the Crow Indians, received in payment for land.

Fifth. The rolls also have been padded fraudulently by the insertion of many employees on the reservation, with their families. These were thereby given the right to deal in Indian lands and the right to buy Indian allotments without competition and in private. All this is strictly contrary to that provision of the criminal code of the United States forbidding officers of the Indian service or Interior Department officials from dealing in Indian or public lands. The rolls have been further falsified by dropping the names of many Crow Indians who heretofore had valuable allotments. The rolls are further deficient in the fact that many children born since 1899 have not been enrolled for allotment, though there remains in the neighborhood of 2,000,000 acres of surplus land.

TRIBAL ROLLS.

The original rolls showing these allotment frauds have disappeared. The law says specifically that they shall be kept intact in Crow Agency and in Washington. To a proper investigating party I will show that this had not been done. When Commissioner Valentine was shown the discrepancy in the rolls he ordered the old rolls to be produced. After a diligent search the rolls were not found, and those whose duty it was to know about the rolls said they have been taken care of and they were not produced. At Crow Agency I found that the Crow land book, which is the old Crow rolls, had also disappeared. It could not be found. There are papers existent, some of which I have, that will demonstrate the falsity of the newly manufactured roll and the importance to the Interior Department of procuring certain attorneys to be attorneys for the Crow Indians and the desirability of the passage of certain legislation, approved by the Interior Department, designed to ratify and confirm the present roll and to destroy the rights of the Crow Indians to recover their allotments and other rights. These new rolls consist of three large books, which were placed in the hands of the Department of Justice by Commissioner Valentine's direction, to have them examined with a view of investigating and setting forth these frauds. It was with reference to the possession of these rolls that I was arrested last summer on the order of Assistant Secretary Adams.

GRAZING AND AGRICULTURAL LEASES.

There is in the neighborhood of 3,000,000 acres on Crow Reservation. The entire reservation is particularly fine grazing land. When Senator Teller was Secretary of the Interior, about 35 years ago, the surplus land on Crow Reservation, which then included the Yellowstone country, was leased for about $45,000 a year to stockmen. In 1906, when I met the Indians at their Crow Indian lodge meeting, they complained very bitterly that the cattle and sheep men occupied the reservation to their exclusion, and were paying very little for the privilege, some of them nothing, and that what money they did pay the Indians never saw. In the hearing before this committee it was established that the leases were not given to the highest bidders. That was proven to be a fact when the leases were made the next time. One lease to Frank Henry was especially discussed. He was paying that year $1,800 for his privileges. After Mr. Dalby's retirement as Indian inspector he appeared at the Indian Office as attorney for Frank Henry, and submitted a plan under which Henry voluntarily offered to pay $48,000 for the land he formerly obtained for $1,800. Higher bids then submitted, which the Indians wanted to accept, were refused in the Indian Office, all of which investigation will demonstrate. The lessors on Crow formed a ring of men who are acquiring the reservation, oppressing the Indians in every possible manner, and violating the law constantly. They are not checked by the officials at the agency, but the officials protect the lessors from the Indians and the Indians are thus left to their despoilers. The leases in almost every instance are let on the basis of per capita payment of live stock. There is no data at the agency to show how many head of stock are turned on under any lease or what are added.

The Indians complain that their own cattle and horses have been starved to death; that the lessors have branded their calves and colts, thus stealing them; that they have no protection against the cattle and the sheep of the lessors, which, as the Indians wrote me, were trampling them to death. These leases include the portion that was set aside for grazing the Indians' cattle, known as the I–D Range. Formerly this land had never been leased and the Indians bitterly opposed it, as they have no other place for their own stock. To force

the lease upon them, a business committee was appointed by the agent, a council was called; the agent wrote Commissioner Abbott he could not get consent from a general council; Chief Supervisor of Schools Holcomb was sent there to deal with this so-called business committee. The leases of this range had already been illegally approved by the Assistant Secretary of the Interior. Adams, the minutes of the council had been prepared in advance in Washington by Assistant Commissioner Abbott. Chief Supervisor Holcomb procured the signatures of the agent, the business council, and other necessary officers to these spurious council proceedings, and sent them all to Washington with his official sanction. The Crow Indians, being cattlemen, bitterly object to sheep on the reservation as they bring the loco weed and destroy the range. Nevertheless, large portions of the reservation was let to sheep and the sheep are permitted in portions of the reservation where there is no lease. The Indians' individual allotments are included in these grazing leases and they are prevented from acquiring possession of their own allotted lands which would be the only possible source of income they have. As a result the Indians are driven to eating the diseased beef which the lessors sell in violation of law at $15 a head. This disease is known technically as lumpy jaw. So deadly to the cattle and so contagious is it that there is a statute forbidding its interstate transportation and directing that the animals affected shall be slaughtered and buried. Instead of this, these lumpy-jawed cattle are sold to the Indians on the reservation and also to the Indian Government school. I am confident that real investigation will show not only on Crow, but nearly every other Indian reservation where there are cattle, that what is called a form of tuberculosis is, in fact, lumpy jaw.

As to agricultural leases: There is a large amount of very valuable irrigated land. More than $1,000,000 of Crow money was used putting in this system. When the allotments were fraudulently canceled much of this was taken from the Indians and termed surplus land. This land, under some alleged law, which I can not find, is being leased for agricultural purposes. Indians owning this irrigated land can not get the water from their own water systems and are compelled to lease. It is leased only to the ring for sums that are ridiculously small, in terms which permit the lessor to cut timber without building houses, to beyond that the Indians tell me they seldom see the price actually mine the coal on the land without any recompense to the Indians, and fixed for compensation; it disappears somewhere. On account of these conditions, young Indians returning from school have no land, and when they seek to lease lands belonging even to their own families they are prevented from doing so. Leases made by Indians to returning students are disapproved by the Interior Department. In this way the young educated Indian, both woman and man, who comes back from school has no possible means of support, and become the prey of the land and agency rings or returns to the blanket.

IRRIGATION.

On Crow there are two large rivers, the Big Horn and the Little Big Horn. There are also smaller streams—Soap Creek, Warm Springs, Lodge Grass, Pass Creek, and Pryor Creek. The land lying under these streams is mostly flat and can be irrigated easily without dams by mere diversion ditches. The Indians complain bitterly that private ditches are taken out by white men without authority. In particular, this is true of the Two Leggings ditch and the Pass Creek ditch. Prior to the year 1909 certain white men who had no authority to do so and could not obtain it properly took their chances and built a ditch 34 miles long, 50 feet wide, from the Big Horn River right across the allotted Indians' land, that would water the land through which it passed on the diminished reservation. This unlawful act was permitted by the Indian agent. It supplied also water to land taken by the act of 1904, in which, to the knowledge of some members of this committee, a forged power of attorney was used to procure the consent of Congress to the passage of the act. Those using the power of attorney now buy the land. The Indians whose land was crossed by this ditch have been asking relief from the oppression of these trespassers. Inspector Holcomb was sent to Crow Reservation and practically reported that the ditch did not cross the lands of certain complaining Indians. The facts show that his report was incorrect. The Indians also complained that these trespassers cut their large timber and had not built bridges over the ditch; that they had taken possession of their houses and of their lands and that the Indians could not get water to cultivate such portions of their land as might be left to them. These Indians are asking investigations and protection.

In the spring of 1912 these white trespassers were in Washington seeking the approval by the Interior Department of their trespassing ditch and other iniquities on Crow Reservation. A concerted attempt was made to accomplish this purpose, which included personal attacks on myself from high sources, and in spite of my protests and the petition signed by every Indian under the ditch, the trespassers accomplished their purpose in the Interior Department. The ditch was approved and the order of the House of Representatives ordering an investigation and making appropriations therefor was nullified.

The Two Leggings ditch is in the western extremity of the reservation. In the eastern extremity is another ditch almost identical in character, put in by the Spear Bros. and others. This ditch takes the water from Pass Creek and crosses many Indian allotments. It can not be less than 20 miles in length and may be as much as 40. It waters lands that have been acquired from the Indians by the lessors in such a manner that the Indians claim they have been defrauded in different ways; one way, of which they complain most bitterly, is that the location of their allotments has been changed so that where they supposed their land lay on the bottom of a valley they find it is on a bench where no water can reach it. The land the Indians claim has passed to the lessors. Pass Creek is one of the principal tributaries of the Little Big Horn. Diverting the water through the Pass Creek ditch has so lowered the water of the Little Big Horn that the irrigation system of the Indians, depending upon this river, is deficient in water. Another thing is the expenditure of money for irrigation. The income from the grazing leases, which is tribal money, is about $150,000 a year. Nearly all of this money is expended for irrigation. It will be readily seen from irrigation maps of Crow Reservation that the money is being expended to irrigate lands that belong to white men and not to Indians, including the land of very many of the employees of the reservation, whose land has been obtained in defiance of the criminal laws.

There is also the money from the sale of ceded land. This expenditure is specifically provided for by act of Congress. This act is disregarded.

I have now made an outline statement of a portion of the evils that are in existence to-day on Crow Reservation, protected and fostered by the Interior Department. This protection is given in different ways. But it amounts to this: That any Indian or white person who attempts to interfere with such graft is subjected to any form of intimidation that may appear to be most effective in the instance. The intimidation is exercised in different ways. One has been by calling out soldiers and shooting the Indians or arresting them. Another is by sending inspectors who will carry out the desires of the grafters—such men as Mr. Dalby, Holcomb, and McLaughlin, who have been before this committee.

On an Indian reservation the agent has power of life and death over the Indian. If an Indian attempts to appeal above the agent, he must do it through the agent. If he succeed in attracting the attention of any one above the agent, it is customary to send to the reservation an inspector or supervisor. If the Indian makes any formal charges to the inspector or supervisor against the agent, he must do it in the presence of the agent, who has power of life and death not only over him but over his family, including even his little children, who are in Government schools, any of whom may be subjected to torture in various forms. When I reported to President Roosevelt in 1906 the conditions I found in the Crow Reservation Mr. Z. Louis Dalby was sent out to investigate them.

Dalby's report, which is on file in the Indian Office, admitted the truth of many of the charges I made, but whitewashed the grafters entirely. Dalby's report was accepted by the Interior Department as gospel, but the Senate, on learning of his conduct, refused to confirm his appointment as Indian inspector, except on condition that he resign. This Dalby did, and in less than three weeks after his resignation he blossomed out as attorney before the Interior Department for the very grafters he had been sent to investigate and whom he had whitewashed and which fought so valiantly for his confirmation. And he has ever since been the favored son of the Interior Department, and has been able to accomplish more as the attorney for the ring on the Crow Reservation than he would have been able to accomplish had he remained inspector, being apparently in entire control of the situation. When it was found that Mr. Dalby had been put in control of other Indian reservations in the same manner, charges setting forth the history of his conduct on Crow Reservation were filed with the Interior Department looking toward his disbarment from practice. Acting Secretary Adams himself peremptorily ordered that these charges be dismissed and that no investigation of them be had. Secretary Ballinger visited the reservation, and after looking into the situation ordered an investigation. Jack Munroe made the investigation and submitted a report, which was suppressed by the Interior Department. Chief Supervisor E. P. Holcomb was the next to investigate. He ignored very many of the charges of the Indians and eulogized and exonerated not only Agent Reynolds but the other officials on the reservation. Other inspectors and supervisors have been to Crow Reservation and have made reports, of which I have heard but none of which I have read. The Secretary of the Interior has stated that a report was recently made of these conditions by Inspector Norris, but that this report was confidential and that I could not have access to it. Concerning these pretended investigations, it need only be said that practically nothing has been done by the Interior Department to remedy the conditions that have existed for years on Crow Reservation.

Another form of protecting the evils on the reservation is through the use of attorneys who are willing to carry out the iniquity of the Indian Bureau. One firm of attorneys in Washington, also favorite sons of the Interior Department, procured a contract from a delegation of Crow Indians while these Indians were in a state of intoxication, by the terms of which contract this firm was to become the tribal attorneys for them and represent them in presenting large claims against the Government. The conduct of this firm of attorneys in this matter was called to the attention of the Acting Secretary of the Interior Department. Charges sworn to in part by a former United States Senator, and sworn to entirely by myself, were submitted to him, but he refused to investigate them or call witnesses. At the same time he was urging this same firm upon the Osage Indians as their tribal attorneys. One of the most potent instruments of fraud is the business committee and tribal council. It is the custom of the Interior Department to appoint these councils and delegations in such a manner that the interests of the grafters will be represented rather than the interests of the Indians. Another way is by the use of money or its equivalent. This includes the preparation by Government officials in Washington, in advance, of the minutes of councils intended to be held on the reservations.

Mr. DIXON. And, as I have said, the matter has already been investigated by three successive Secretaries of the Interior, by three Commissioners of the Indian Office, with all their force of inspectors, and also by the Indian Rights Association. I say to the Senator from Michigan that if there was anything wrong there which needed investigation, certainly the Indian Rights Association would have added their request that this investigation be made for the eighth time.

While the reservation happens to be in my State, it is 400 miles from where I live. I will not interpose any objection to and I shall not vote against the resolution, but I think the United States Senate is being made a cat's-paw for a self-exploiting individual.

Mr. PAYNTER. Mr. President, I should like to take just one moment, or a little less, on this question. I was on the Committee on Indian Affairs of this body during the first session I was here, and perhaps also the second. Mrs. Gray appeared before that committee; she testified and attempted to give that committee a great deal of information regarding the subject matter of the proposed investigation. I can not to-day recall the charges which Mrs. Gray made, because I have not given the subject any attention or thought since that time, and I know nothing about how the agency is now being conducted or what has occurred there, but I do know of facts, which, under the circumstances, I think I ought to tell the Senate, because it has been stated here that Secretary Garfield's department investigated the Crow Agency and the charges made by Mrs. Gray. Secretary Garfield sent there one of his Indian inspectors by the name of Dalby to investigate the charges Mrs.

Gray made. She had gone to the Department of the Interior, Mr. Garfield then being Secretary of the Interior, and did not get any assurance there that there would be any investigation, and she went to President Roosevelt, and as the result of that visit an investigation was ordered. When Mr. Dalby appeared on the Crow Reservation upon the first day that the investigation began he had Mrs. Gray arrested. He was there to investigate the charges which she had made. She was present to assist in the investigation. She was almost immediately arrested at the instance of Mr. Dalby, soon removed from the reservation, and incarcerated in jail, where she remained for some time. So she was not even permitted to make good, if she could, the charges she had made, and there was, as stated by the Senator from Michigan [Mr. TOWNSEND], great hostility shown her.

Now, if what has been done in the subsequent investigations by Secretary Ballinger and Secretary Fisher is of the same character as that conducted by Secretary Garfield, I say some investigation by some branch of this Government ought to be made, and made speedily.

There is another thing I want to say, Mr. President, and that is I opposed the confirmation of Mr. Dalby when he was reappointed Indian inspector, because of his conduct, as stated by me. His nomination was held up for some time, and he would not have been confirmed, as I understood before it took place, if he had not given assurance to some Members of this body that he would resign as soon as his confirmation took place; and I was advised that immediately after his confirmation he did resign.

QUESTION OF PERSONAL PRIVILEGE.

Mr. ROOT. Mr. President, I ask the indulgence of the Senate while I make a statement in a matter of personal privilege.

On the 26th of October last there was published in the newspaper El Cronista, in Tegucigalpa, the capital of Honduras, a false and fabricated pretended speech alleged to have been made by me regarding the relations between the United States and Central and South America. I send to the desk a translation of this pretended speech, and will ask that it be printed in the RECORD as a part of my statement, without detaining the Senate by reading it in full.

[Translation of pretended speech falsely attributed to Senator ROOT.]

[El Cronista, Tegucigalpa, Oct. 26, 1912—No. 60.]

ELIHU ROOT BEFORE LATIN AMERICA.

The following paragraphs of a recent speech of Mr. ROOT, United States Senator, ex-Secretary of State, and one of the most eminent personages of the Yankee country, ought to be known in Central America.

As follows:

"Our position in the Western Hemisphere is unique and without example in modern history. This Nation is a greater and nobler Rome, placed by God to act as arbitrator, not only in the destinies of all America, but also in Europe and Asia, through its natural resources and industrial products which supply the world. The English and German Armies are fed with the meat which we send them. The supplies which Europe buys of us it could not obtain in any other world market if our exportation were suspended.

"Our manifest destiny as controller of the destinies of all America is a fact so inevitable and logical that only the means which we should employ in order to arrive at this end are left to be discussed; but no one doubts our mission and our intention to fulfill it, or, what is more significant, of our power to accomplish it.

"In the second half of the twentieth century they who study the map will be very surprised that we should have 'waited so long' to round out the natural frontiers of our territory to the Panama Canal, and on the other side, to the Southern Continent, and that in the same manner (haya pasado con las Antillas todas, como en el viejo mundo, de no haberse encontrado el nuevo) the same should have happened to all the Antilles as happened in the Old World—that is, not to have discovered the New World, with the difference that we have no need of a Columbus, but rather of a simple joint resolution of our Congress.

"It is a question of time when Mexico, Central America, and the islands which we still lack in the Caribbean Sea shall fall beneath our flag. When the Panama Canal is open it would be as insufficient to place a sentinel only in Porto Rico, without doing the same in Cuba, as if a man tied one arm in order to row, or a lady to put in one earring to adorn herself for a feast.

"Not long ago the Porto Rican delegates, headed by the representative of that island, who has a seat in our Congress, but does not vote, visited me in order that I, as president of the committee on Latin America affairs, should inform them what policy we proposed to follow in Porto Rico, and I expressed myself more or less as follows:

"I told them that I have been, and always shall be, opposed to granting North American citizenship to the Porto Ricans, as well as to other Latin Americans who, for inevitable reasons, pass under our control. I believe that it would be prejudicial for both parties.

"As this desired citizenship from the outset would have to be understood in autonomous form, once granted greater discontent would not be long in following, maintaining that as citizens they are not equal to those of the Union.

"The granting of citizenship implies many other things and is clothed with uncertainty; and in any case it is too much to ask that we compromise ourselves for the Antilles with their handful of millions of inhabitants whose race, civilization, aspirations, and customs are not only distinct, but even antagonistic to ours.

"I told them that they were, after all, Latins, and as such, although the inheritors of glorious historic and artistic traditions and possessed of great domestic virtue and instruction, above all in abstract sciences, and a disposition for the arts, as Latins, I repeat, they understood citizenship and other fundamental principles in a different way to the Saxons; and as these principles are judged by results, we are right and they are wrong. With the Latin Americans there does not exist, nor can we have anything in common, if we accept the good will which we mutually profess, but great as are these good wishes, they do not suffice to fill the gulf which separates us.

"The United States augments in population, riches, and importance daily, and we can with difficulty take care of our own affairs, but being the case, 'why complicate our task with new lodgers in the house, as the Latin Americans converted into citizens of our great Nation can not help but be?'

"I understand and confess that we are governing badly in Porto Rico, as we governed badly in Cuba the second time. But though we may do it badly we shall always do it better than the natives. In the Philippines, where our rule has been more strict, the results have been admirable. And the Porto Ricans, Cubans, and Filipinos should be convinced of the fact that, since our experience with the annexation of Hawaii, we will not repeat the expedient of citizenship.

"If it were possible for these Latin America nationalities to understand 'self-control' and 'self-government,' as is the case with our northern neighbors, then Pan Americanism would be a beautiful reality, without necessitating our learning to command in Spanish; but can they or do they know how to govern themselves? Let Haiti say; let Mexico say; let Colombia, Panama, Nicaragua, and, above all, Cuba, twice instructed by us, watched diplomatically since and whose present economical disorganization is as disastrous as in the colonial epochs, say. In the hands of these people is their fate; but I doubt whether it will be good, unless it is beneath our protectorate.

"Did not the North American Government find itself on the eve of change to replace the present administration or to confirm it in power, no one would deny that in these hours we would have already solved the Mexican and Central American complication and given special attention to the economical affairs of the Great Antilla (Cuba). And whoever speaks of national finances, speaks of all the Government and national system. Fortunately, and soon, we shall reach a tragical position, since 'alea jacta est,' and whoever of the three candidates occupies the White House, as they are of one opinion regarding foreign policy and, above all, expansion in America, the country can trust in the Congress, which with hands free will know how to second the Chief of State, as in 1812, 1845, 1861, and 1898."

This pretended speech contains most arrogant and offensive statements as to the relations which do and should exist between the United States and the Latin-American countries of these continents. I have denied over my own signature the authenticity of this speech, and my denial has been published in Tegucigalpa. I should let the matter rest there were it not that this pretended speech is being published all over Central and South America, and that some years ago, while Secretary of State, I made a visit to South America and represented the United States in many expressions of friendship toward the people of the Latin-American countries. Owing to this and to the fact that I am still connected with the Government of the United States, these expressions in this pretended speech are being treated by the people of Latin America as indicating either a change in the attitude of the people of the United States or insincerity in the former expressions of friendship.

I send to the desk and ask to have the Secretary read one illustration of the way in which this paper is being used. It is an extract from an editorial published in the newspaper El Fonografa, of Maracaibo, Venezuela, on the 28th day of November, 1912.

The PRESIDENT pro tempore. It will be read as desired.

The Secretary read as follows:

[El Fonografa, Maracaibo, Venezuela, November 28, 1912.]

Senator ELIHU ROOT, who before the whole Spanish America protested, when he was Secretary of State, that the United States did not desire even 1 inch more of territory than that which it already possessed and that the sovereignty of our different States would be respected, and who praised us for our ability and aptness for self-government, by one stroke of the pen has blotted out those statements and other still stronger ones which he made in regard to the autonomy and independence of Spanish America. In his last speech he says: "All America down to Panama, including the islands of the Caribbean Sea, must be under our flag. We need Cuba, Mexico, and Central America as a man needs his two arms and a woman her two earrings."

In view of this flagrant contradiction, will there be anyone amongst us who will have a particle of faith in the friendly protests of the United States?

We must not entertain any illusions. It is evident that the United States not only do not intend to endeavor to prevent Europe from taking possession of Latin America, but they themselves pretend to become the arbiters of our political and commercial destinies.

Mr. ROOT. Because of the use which is being made of this publication by the enemies of the United States, by the men who wish to stir up strife and create ill feeling between the Latin-American countries and the United States, I wish to repeat here in the most formal and public manner, and to make a public record of the denials which I have already made as to the authenticity of this pretended speech.

The alleged expressions which are thus imputed to me are impudent forgeries. I never made any such speech. I never said any such things or wrote any such things. The expressions contained in these spurious and pretended extracts are inconsistent with my opinions and abhorrent to my feelings. They are the exact opposite of the views which I have expressed on hundreds of occasions during many years, both publicly and privately, officially and personally, and which I now hold and maintain. I will add, Mr. President, that they are incon-

sistent with the views and the feelings of the great body of the American people.

ATCHISON, TOPEKA & SANTA FE RAILWAY.

Mr. JONES. From the Committee on Military Affairs I report favorably, with amendments, the bill (S. 7415) granting to the Atchison, Topeka & Santa Fe Railway Co. a right of way through the Fort Wingate Military Reservation in New Mexico, and for other purposes, and I submit a report (No. 1119) thereon. I call the attention of the Senator from New Mexico [Mr. CATRON] to the bill.

Mr. CATRON. I ask unanimous consent for the present consideration of the bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Military Affairs with amendments.

The amendments were, on page 1, line 5, after the word "hereby," to strike out "empowered" and insert "granted a revocable license," and on page 2, line 22, after the word "taken," to insert:

Provided further, That any other person or duly organized corporation constructing a railroad along a line necessitating the crossing of said reservation may, upon obtaining a license from the Secretary of War, use the track and other constructions herein authorized to be placed upon the reservation by the said Atchison, Topeka & Santa Fe Railway Co. upon paying just compensation; and, if the parties concerned can not agree upon the amount of such compensation, the sum or sums to be paid for said use shall be fixed by the Secretary of War: *Provided further*, That before this act shall become operative a description by metes and bounds of the lands herein authorized to be taken shall be approved by the Secretary of War.

On page 2, line 29, after the word "Kansas," to insert "and other parties obtaining license from the Secretary of War as hereinbefore provided," and to insert new sections, 3 and 4, so as to make the bill read:

Be it enacted, etc., That the Atchison, Topeka & Santa Fe Railway Co., of Kansas, a corporation created under and by virtue of the laws of the State of Kansas, be, and the same is hereby, granted a revocable license to survey, locate, construct, and maintain a railway, telegraph, and telephone line into and upon Fort Wingate Military Reservation, N. Mex., to connect with its present right of way, as may be determined and approved by the Secretary of War or the chief officer of the department under whose supervision such reservation may otherwise fall.

SEC. 2. That said corporation is authorized to take and use for all purposes of a railway, telegraph, and telephone line, and for no other purpose, a right of way 200 feet in width through said Fort Wingate Reservation, with the right to use other additional ground when cuts and fills may be necessary for the construction and maintenance of said roadbed, not exceeding 100 feet in width on each side of the said right of way, or as much thereof as may be included in said cut or fill, excepting, however, from said right of way hereby granted that strip or portion thereof which would be included within the limits of the present 200-foot right of way heretofore granted to said Atchison, Topeka & Santa Fe Railway Co. and used by it as its main line right of way: *Provided*, That no part of the lands herein authorized to be taken shall be used except in such manner and for such purposes as shall be necessary for the construction and convenient operation of said railway, telegraph, and telephone lines and the use and enjoyment of the rights and privileges herein granted; and when any portion thereof shall cease to be so used such portion shall revert to the United States, from which the same shall be taken: *Provided further*, That any other person or duly organized corporation constructing a railroad along a line necessitating the crossing of said reservation may, upon obtaining a license from the Secretary of War, use the track and other constructions herein authorized to be placed upon the reservation by the said Atchison, Topeka & Santa Fe Railway Co. upon paying just compensation; and, if the parties concerned can not agree upon the amount of such compensation, the sum or sums to be paid for said use shall be fixed by the Secretary of War: *Provided further*, That before this act shall become operative a description by metes and bounds of the lands herein authorized to be taken shall be approved by the Secretary of War: *Provided further*, That the said Atchison, Topeka & Santa Fe Railway Co., of Kansas, and other parties obtaining license from the Secretary of War as hereinbefore provided, shall comply with such other regulations or conditions as may from time to time be prescribed by the Secretary of War.

SEC. 3. That the powers herein granted are limited to a period of 50 years unless sooner altered, amended, or repealed by Congress.

SEC. 4. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill granting to the Atchison, Topeka & Santa Fe Railway Co. a right of way through the Fort Wingate Military Reservation in New Mexico, and for other purposes."

QUAGMIRE LANDS IN NEVADA.

Mr. NEWLANDS. I am directed by the Committee on Public Lands, to which was referred the bill (S. 4994) to authorize the inclosure of certain lands in the State of Nevada containing dangerous quagmires, to report it without amendment, and I submit a report (No. 1111) thereon. I ask unanimous consent for the present consideration of the bill.

The PRESIDENT pro tempore. The Senator from Nevada asks unanimous consent for the present consideration of the bill just reported.

Mr. WARREN. I do not want to——

Mr. CLARK of Wyoming. There is no objection to the present consideration of the bill, but I think it will evoke some considerable discussion.

Mr. WARREN. I rise to say that, while I do not object to this particular bill, I feel I ought, in justice to appropriation bills, to object to a bill that will consume any time in debate; and if this bill will probably consume time in debate, I should feel that I had to object.

Mr. NEWLANDS. I supposed, Mr. President, there would be no objection to this bill, which is reported from the Committee on Public Lands, and I ask the Senator from Wyoming whether he intends to discuss it?

Mr. WARREN. I have no intention of discussing the bill, but two or three Senators about me have said that it would lead to discussion, and that they wanted to discuss it.

Mr. CULLOM. Let it go over.

Mr. NEWLANDS. I ask the Senator from Wyoming whether he will not permit the present consideration of this bill?

Mr. CLARK of Wyoming. I do not object to the present consideration of this bill. I will say to the Senator from Nevada that, on the contrary, I am quite willing that it should be considered at this time, but I think it is quite evident that it will evoke some discussion in the Senate before it is finally voted upon. I certainly have some few suggestions that I should like to present upon the bill, and I think there are other Senators who have.

Mr. CRAWFORD. Mr. President——

The PRESIDENT pro tempore. The question is on the request for unanimous consent for the present consideration of the bill, which is not debatable except by unanimous consent.

Mr. CRAWFORD. I desire to object. If I am not allowed to say anything further, I simply object.

The PRESIDENT pro tempore. The Chair does not endeavor to control the Senator in that regard. The Senator from South Dakota objects and the bill will be placed on the calendar.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. MARTIN of Virginia:

A bill (S. 8141) for the relief of S. W. Niemeyer; to the Committee on Claims.

(By request.) A bill (S. 8142) to acquire certain land between Peabody and Underwood Streets, east of Georgia Avenue, for a public park; to the Committee on the District of Columbia.

By Mr. CULLOM:

A bill (S. 8143) for the relief of Edward N. McCarty; to the Committee on Claims.

By Mr. McCUMBER:

A bill (S. 8144) granting an increase of pension to William L. Sheaff;

A bill (S. 8145) granting an increase of pension to Joseph Cassiday;

A bill (S. 8146) granting an increase of pension to John Emanuel Smith (with accompanying papers); and

A bill (S. 8147) granting an increase of pension to Allen H. De Groff; to the Committee on Pensions.

By Mr. BRANDEGEE:

A bill (S. 8148) granting an increase of pension to Lottie E. Limont; and

A bill (S. 8149) granting a pension to Catherine Soper (with accompanying papers); to the Committee on Pensions.

By Mr. BORAH:

A bill (S. 8150) providing for an extension of the limits of time provided by sections 1 and 2 of the act of March 3, 1911, entitled "An act providing for the validation of certain homestead entries"; to the Committee on Public Lands.

A bill (S. 8151) to provide for the acquiring of additional ground for the site of the public building at Lewiston, Idaho; to the Committee on Public Buildings and Grounds.

By Mr. GRONNA:

A bill (S. 8152) providing for second homestead and desert-land entries; to the Committee on Public Lands.

By Mr. SANDERS:

A bill (S. 8153) to create in the War Department and the Navy Department, respectively, a roll designated as "The Civil War Volunteer Officers' Retired List," to authorize placing thereon with retired pay certain surviving officers who served in the Army, Navy, or Marine Corps of the United States in the

Civil War, and for other purposes; to the Committee on Military Affairs.

By Mr. NEWLANDS:

A bill (S. 8154) for the relief of Peter Magsam, alias Peter Moxom, alias Peter Groh; to the Committee on Military Affairs.

By Mr. KERN:

A bill (S. 8155) granting an increase of pension to Thomas Jared (with accompanying papers); and

A bill (S. 8156) granting a pension to Omar E. Brown (with accompanying papers); to the Committee on Pensions.

By Mr. CHAMBERLAIN:

A bill (S. 8157) granting an increase of pension to Louis C. Emmett (with accompanying papers); to the Committee on Pensions.

By Mr. OLIVER:

A bill (S. 8158) granting an increase of pension to Christian Bowman (with accompanying papers); to the Committee on Pensions.

By Mr. TOWNSEND:

A bill (S. 8159) granting an increase of pension to Stephen Collar (with accompanying papers); and

A bill (S. 8160) granting an increase of pension to Baxter Johnson (with accompanying papers); to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. SMOOT submitted an amendment proposing to appropriate $100,000 for the purchase of stock, seeds, implements, and such other articles as may be necessary to enable the Indians residing and having tribal rights on the Uintah and Ouray Reservations, Utah, to become established in a self-supporting industry on their allotments of land, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. MARTIN of Virginia submitted an amendment proposing to appropriate $10,000 and $7,483.01, respectively, to credit in the accounts of Pay Directors Lawrence G. Boggs and S. R. Colhoun, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Naval Affairs and ordered to be printed.

Mr. McCUMBER submitted an amendment proposing to appropriate $5,000 and interest thereon at the rate of 5 per cent per annum from October 30, 1843, to pay to the administrator of the estate of John W. West, deceased, out of any money in the Treasury standing to the credit of the Cherokee Nation of Indians, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

WITHDRAWAL OF PAPERS—JESSE J. LAMKIN.

On motion of Mr. CHAMBERLAIN, it was

Ordered, That the papers in the case of Jesse J. Lamkin, late of Troop H, First Regiment United States Cavalry, be withdrawn from the files of the Senate, there being no adverse report on the same.

CHOCTAW AND CHICKASAW INDIANS (S. DOC. NO. 1010).

Mr. OWEN. I present a paper in the nature of a memorial from the Choctaw and Chickasaw Indians with reference to their leased district. I ask that the memorial, with illustrations, be printed as a Senate document and referred to the Committee on Indian Affairs to accompany the bill (S. 8140) to authorize the Choctaw and Chickasaw Indians to bring suit in the Court of Claims, and for other purposes, introduced by me on yesterday.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PUBLICITY OF CAMPAIGN CONTRIBUTIONS.

Mr. OWEN. I submit a resolution and ask that it be read.

The resolution (S. Res. 433) was read, as follows:

Resolved, That the Committee on Privileges and Elections is directed to report on Senate bill 8118 by February 3.

Mr. OWEN. Mr. President, the bill referred to, Senate bill 8118, is a bill providing——

The PRESIDENT pro tempore. Does the Senator from Oklahoma ask for the present consideration of the resolution?

Mr. OWEN. I ask for its present consideration and I wish briefly to explain it.

The PRESIDENT pro tempore. The Senator from Oklahoma asks for the present consideration of the resolution which has just been read.

Mr. LODGE. The chairman of the committee is absent. I think the resolution had better go over until he is here as it proposes instructions to his committee.

The PRESIDENT pro tempore. Under the rule, on an objection, the resolution will go over until to-morrow.

Mr. OWEN. I shall not be able to be present again for some days, and I desire to call the attention of the Senate to it.

The PRESIDENT pro tempore. The Senator will proceed, by the consent of the Senate, to make such remarks as he may wish.

Mr. OWEN. The bill provides for making effective the law relating to the publicity of campaign contributions. There is no adequate method now by which it can be required. The bill provides that the circuit or district court, upon a proper showing, may require the publicity fixed by law to be made. It also provides means for an inquiry into the question of the campaign contributions. I think it is a bill which ought to be reported on, so as to make complete the law which we have passed. The committee will have three meetings between now and the date which I suggest should be fixed for the report. I hope that the matter may be acted on, whether I shall be present or not.

The PRESIDENT pro tempore. The resolution goes over on objection.

COL. RICHARD H. WILSON.

Mr. MYERS. I ask unanimous consent for the immediate consideration of the bill (S. 7515) for the relief of Col. Richard H. Wilson, Fourteenth Infantry United States Army.

Mr. SMOOT. That bill will lead to some discussion I think, will it not?

Mr. MYERS. I do not think so. It is a bill that I tried to get up the other day, and a couple of Senators who objected at that time have withdrawn their objection. I do not think there will be any discussion or objection to it. I may take two or three minutes to explain it, but I do not think it will lead to any discussion.

Mr. SMOOT. Let it be read first. I really do not remember the bill.

The PRESIDENT pro tempore. The bill will be read.

The SECRETARY. The Committee on Military Affairs report as an amendment to strike out all after the enacting clause and to insert:

That Col. Richard H. Wilson, Fourteenth Infantry United States Army, be, and he is hereby, exonerated from all responsibility for the loss of the sum of $7,181.64 at Fort William Henry Harrison, Mont., on or about May 16 to 20, 1912. And the accounting officers of the Treasury are hereby authorized and directed to credit in the accounts of Capt. Charles W. Castle, paymaster, the sum of $7,181.64.

Mr. WARREN. Mr. President, as I said a few moments ago, I shall feel constrained to object if the bill is to lead to an extensive debate. The bill is a most just one. The subject I know all about, and I should be glad to see it passed. So I shall not object if the bill does not lead to an extensive debate.

Mr. CRAWFORD. Mr. President, I am unable to find the report on this bill. It seems to me that we ought not to be asked to vote upon a measure under a unanimous consent where we can find out nothing to guide us in the report of the committee. The report of the committee certainly ought to be on file before we are asked to vote on these measures.

The PRESIDENT pro tempore. The Chair is informed that the report is on the desk.

Mr. CRAWFORD. It is not on our desks here.

Mr. MYERS. I should like to say to the Senator from South Dakota that I called up this bill about a week ago, and objection was made because the report had not been printed. It was printed a week ago and is on the desks of all Senators.

Mr. DU PONT. Mr. President, I merely wish to say that the full report submitted by the Committee on Military Affairs shows all the facts in the case. The bill was unanimously approved by the Military Committee, and is a most meritorious one, and it ought to pass unanimously.

Mr. DIXON. I should like to say to the Senator from South Dakota that Col. Wilson's pay is now being held up at the War Department on account of money sent to pay the troops being stolen from the paymaster. He was technically in charge. I never saw him. It happened at Fort Harrison. I think it is probably as crucial a little bill as has been reported here. I hope there will be no objection to it.

Mr. CRAWFORD. I withdraw my objection. I had not been able to find the report.

There being no objection, the bill was considered as in Committee of the Whole.

The PRESIDENT pro tempore. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. WARREN. I ask the Senate to take up the legislative, executive, and judicial appropriation bill, being House bill 26680.

There being no objection, the Senate resumed the consideration of the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes.

The PRESIDENT pro tempore. The present occupant of the chair was not in the chair when the Senate adjourned. The Chair is informed that the question is upon the amendment proposed in the Senate, which was pending at the time of adjournment, and upon which the yeas and nays had been ordered.

Mr. CUMMINS. I think the pending question is upon the point of order.

Mr. LODGE. And it was submitted by the Chair to the Senate.

Mr. CUMMINS. It was made by myself and submitted by the Chair to a vote of the Senate.

The PRESIDENT pro tempore. The pending question was on the point of order?

Mr. LODGE. Yes.

Mr. WARREN. And upon the vote the yeas and nays were called, and a want of a quorum was developed. I wish the Senator from Iowa could see his way clear to recall his point of order. In my own opinion a point of order hardly lies against the matter in any way, because the employees of the House and Senate are at the will of those Houses and there is no regular estimate expected and none had. Such matters are usually settled between the House and the Senate. This only requires it to go to conference.

Mr. CUMMINS. If there were any way in which the submission to the Senate could be avoided I would be very glad to have the Chair rule upon the point of order, so that it could be speedily disposed of.

Mr. LODGE. The Senator from Iowa can withdraw the point of order.

The PRESIDENT pro tempore. What is the suggestion of the Senator from Iowa?

Mr. CUMMINS. I said if there were any way in which the submission to the Senate could be avoided I would be very glad if the Chair in the regular way would decide the point of order.

Mr. LODGE. The point of order has been submitted to the Senate and a roll call has been had upon it. I do not see how the Chair can now rule upon it.

The PRESIDENT pro tempore. The Chair can not.

Mr. CUMMINS. I do not see that the Chair can.

The PRESIDENT pro tempore. Except by unanimous consent.

Mr. CUMMINS. I said I would be perfectly willing to take that course in order to avoid the consumption of time.

The PRESIDENT pro tempore. The Chair, unless there is a request for unanimous consent on that line, will direct the roll to be called.

Mr. LODGE. Mr. President, I am not sure, an ineffective roll call having been had, whether it is possible to make any further statement in regard to it, because we must call the roll on that question. Whether it is still open to debate, one roll call having been had, I confess for the moment I do not know.

The PRESIDENT pro tempore. The Chair thinks the Senate having adjourned for the lack of a quorum, the matter is before the Senate de novo.

Mr. BRISTOW. Mr. President——

Mr. LODGE. The roll call, of course, has been ordered. That can not be undone.

The PRESIDENT pro tempore. No.

Mr. LODGE. Then, I should like to say one word about it, if it is open.

The PRESIDENT pro tempore. The Senator from Massachusetts will proceed.

Mr. LODGE. A point of order was made on the amendment proposed by the Senator from Virginia [Mr. MARTIN]. I am not going to discuss the merits of the amendment. I am very clear as to what the Senate ought to do, and I said so last night. I am going to confine myself simply to the point of order. The point of order, if these are expenses estimated for, of course, is a good one. The chairman of the Committee on Appropriations suggests that these payments of employees are not estimated for in the ordinary way and that a point of order would not lie.

What I desired to call attention to was this: There seemed to be a misapprehension in regard to the question of submission. The Chair, under our rules, is required to submit a point of order to the effect that an amendment is not germane. He has permission to submit any other question of order. It has been the practice of the occupants of the chair to comparatively rarely submit questions of order, and I think it ought to be done very seldom, indeed; but the purpose of that power of submission is to relieve the Chair from the necessity of breaking a rule in a case where an emergency exists, so that the Senate, if it chooses, may suspend the rule for that particular item. It has been done here repeatedly—not often, but repeatedly. The famous Platt amendment, on which all our relations with Cuba depend, had to be passed at a certain time. It unquestionably was out of order; it was put on an appropriation bill, but it had to go on an appropriation bill in order to become a law. The point of order would certainly have thrown it out; it was general legislation beyond any question, but I do not remember whether the point of order was raised. I merely mean that if it had been raised it would have been a case for this action, which I have seen taken more than once in the Senate, to give the Senate an opportunity in a particular case to suspend the operation of one of its rules against amendments.

Mr. President, though that is, I am aware, a very large discretion and one to be very sparingly exercised, it is absolutely necessary that somewhere in the procedure of the two Houses there should be some point where there should be a little discretion, a little elasticity, in a case that might arise of the necessity of an amendment to an appropriation bill.

My own impression, I will say frankly, last night was that the amendment was clearly out of order. If I had been in the chair, I would have so ruled. The point which the Senator from Wyoming has just made had not occurred to me. If I had been compelled to rule, I should have so ruled; but the Chair, under the authority given him by the rules for that particular purpose, submitted that question to the Senate, and I voted in the affirmative—that is, I voted that it should be submitted—not that I thought it was in order, but because I felt very decidedly that it was an instance in which that rule ought to be suspended by the action of the Senate in order to admit the amendment—a very trifling amendment in itself, but one which in its nature involves the relations between the two Houses. That the relations between the two Houses should be good always is essential to the orderly conduct of Government business. Last night in the debate there was an illustration of the importance of it. We all know that it is the practice of the Senate not to refer to what has occurred in the other House. That is inherited from the English practice. We do not discuss what is said in the other House; so far as possible we avoid reference to their actions; we never refer to a Member of the other House by name or personally. That is a rule that is always strictly observed and it is absolutely necessary; yet last night, in the discussion which arose, we began to discuss here the authority of the chairman of the Judiciary Committee of the House, and of the chairman of the Appropriations Committee of the House, to make the request here. I only mention that to show to what sort of thing this would lead. We must not discuss their arrangements or the conduct of their own affairs in their own House, and they must not discuss ours, because, if we should do so, in a very short time there would grow up a fashion of recrimination between the two Houses which would lead to ill feeling, to the arrest of legislation, and to the greatest possible trouble.

That is the reason why I thought this trifling amendment, raising the pay of a House employee $500, or whatever it was, involved a matter of great importance, of such great importance that it seemed to me necessary to submit it to the Senate, and I thought the presiding officer was correct in submitting it to the Senate in view of its importance, and of such great importance that I thought it my duty to vote to sustain the rule. I did not undertake to vote that the amendment was in order, for I thought at the time it was distinctly out of order, and, as I have stated, I should have so ruled had I been in the chair; but I did think it was an occasion which justified the suspension of the rule in that manner, as I have seen it done more than once, as I have already said.

Mr. President, just a word in conclusion. I have said that much in explanation of my attitude and why I voted as I did, as I have known other Senators to vote in the past; but the point which the Senator from Wyoming has made did not occur to me—that this amendment referring to the salary of an employee to one of the Houses is not obnoxious to the rule and is not subject to the point of order.

Mr. BRISTOW. Let me inquire if those expenditures are not contained in the Book of Estimates the same as expenditures in the departments?

Mr. LODGE. They are transmitted, but the lists are made up here in the offices of the Senate and in those of the House; not a figure is changed, not a suggestion is offered, and no estimate——

Mr. BRISTOW. But they are contained in the Book of Estimates.

Mr. LODGE. Certainly, they are contained in the Book of Estimates.

Mr. BRISTOW. The same as all other department expenditures.

Mr. LODGE. As a memorandum only.

Mr. BRISTOW. Just as this Book of Estimates is made for the various departments and the various bureaus and for Congress.

Mr. LODGE. No; it is not.

Mr. BRISTOW. Of course, the information comes from the Secretary of the Senate and the Clerk of the House, the same as from the Cabinet officers for the various departments.

Mr. LODGE. The estimates proper come from the Cabinet officers. These estimates do not come from them. They really are not estimates, but are simply transmitted here to show what stands on the books as the current law.

Mr. BRISTOW. The estimates of the expenditures that come under the jurisdiction of a Cabinet officer are made by the Cabinet officer; the estimates that come under the Senate are made by the officers of the Senate and furnished to the Secretary of the Treasury.

Mr. LODGE. They have no authority to estimate for us; not the slightest.

Mr. BRISTOW. Well, but the Secretary of the Treasury is required to estimate for the expenses of the Government, and he does it under the law.

Mr. LODGE. Why, Mr. President, the Senator forgets our rule, "or proposed in pursuance of an estimate of the head of some one of the departments." There is no estimate from the head of a department about our expenditures. Would any Senator suggest for a moment that the Secretary of the Treasury or any other head of a department is to estimate what the contingent fund of the Senate or of the House should be or what they shall pay their clerks? Of course, Mr. President, these estimates are simply submitted for information. The mere inclusion of the figures in the Book of Estimates does not make an estimate. The rule says "an estimate of the head of some one of the departments." No head of a department estimates for the expenses of the Senate.

Mr. CUMMINS. Mr. President, I do not care whether the salary of the clerk of the Judiciary Committee of the House of Representatives is $2,500 or $3,000. If he earns $3,000, he ought to have it; but I do not want anybody to assume that I make the point of order because I have any disposition to interfere with the House in fixing the salaries of its own employees. It is to preserve that very rule that I have made the point of order. The House has fixed in this bill the salaries of its employees, and we have not interfered with their work, nor do we propose to do so.

The thing which it seems to me is wrong, and which may lead to great trouble in the future, is that certain suggestions made by certain Members of the House are offered here and submitted, and we are asked to accept their suggestions as the equivalent of an act of the House. It is not difficult to see that if we recognize that procedure we may in the end entirely lose the benefit of the rule of courtesy and comity to which reference has been made.

The Senator from Massachusetts [Mr. LODGE] spoke so emphatically, and so wisely, too, upon the rule which forbids a reference here to the individual Members of the House that it seems to me he condemned in the strongest possible way the introduction of a communication to the Senate from either the chairman of the Judiciary Committee or the chairman of the Appropriations Committee of the House. We must take the work of the House as it comes to us through the regular channels. I think that rule ought to be inviolably preserved.

Now, I want the Senate to know that I have no objection, of course, to the submission of the point of order to the Senate. The Presiding Officer was quite within his rights, and I think probably quite within a fair exercise of the discretion that officer has, in submitting to the Senate the interpretation of the rule. I am not complaining about that; but when the Senator from Massachusetts says that because these amounts are not estimated for by the head of a department therefore they are not within the rule which I invoke, I think he is obviously mistaken. The rule provides that—

> no amendments shall be received to any general appropriation bill the effect of which will be to increase an appropriation already contained in the bill, or to add a new item of appropriation, unless—

And then the rule proceeds to point out certain exceptions. If this increase is not within one of those exceptions, it is forbidden by the rule, and no one claims that it is within any of the exceptions.

I am inclined to differ from the Senator from Kansas [Mr. BRISTOW] with regard to the words "head of a department." I am inclined to think that does not apply to estimates submitted by the officers of the House of Representatives or of the Senate; but that makes no difference whatsoever. Unless you find some exception here which will take the case out of the general rule announced in the words which I have read, then it is plainly forbidden by the rule.

It seems to me, of course, that this is not a very material matter. We have many other appropriation bills, and if the House wants to put this provision in any other appropriation bill it can do so, and if it wants to pass an independent measure of that kind it can do so. I think the great importance of the matter lies in preserving the integrity of the rules of the Senate, for if we fall into the habit of disregarding them then we become rather chaotic in our procedure, it seems to me.

Mr. SHIVELY. Mr. President, having occupied the chair on yesterday when this amendment was offered, I choose now to submit an observation or two in reference to the situation and proceeding attending its consideration. As the RECORD discloses, after some explanatory discussion of the amendment the point was made by the senior Senator from Iowa [Mr. CUMMINS] that the amendment was not in order under the rules on the pending appropriation bill. It is only frankness to state that on the question being raised the then occupant of the chair had no doubt whatever as to the status of the amendment under either clause 1 or clause 3 of Rule XVI. But in the preliminary discussion it had developed that a somewhat delicate question of amity, or comity, or courtesy, or whatever you may see fit to call it, as between the two Houses was involved. Under the peculiar circumstances of the case the then occupant of the chair felt constrained in deference to the Senate to exercise the discretion lodged in the Chair under the rules and submit the question of order to the judgment of the Senate. The question could have been so framed as to simply submit the interrogatory whether the question on the amendment should be put to the Senate, but this would have been a palpable evasion of the question of order under the rule.

Mr. LODGE. Mr. President, if I may say one word more, this amendment, if not in order, could be so held only under two provisions. It is not general legislation. It is not a private claim. It must be out of order, because it is not "moved by direction of a standing or select committee of the Senate, or proposed in pursuance of an estimate of the head of some one of the departments." Last night, if I had been in the chair and had been called upon to rule, I should have ruled that it was not estimated for.

Mr. CUMMINS. Rule XVI, paragraph 1, provides:

> And no amendments shall be received to any general appropriation bill the effect of which will be to increase an appropriation already contained in the bill or to add a new item of appropriation—

How does the Senator from Massachusetts——

Mr. LODGE. It also says "unless"——

Mr. CUMMINS. How does the Senator from Massachusetts escape that prohibition?

Mr. LODGE. It may come under the "unless" clause.

Mr. CUMMINS. Read the exception.

Mr. LODGE. Of course, it is not to carry out any provision of existing law or treaty stipulation——

Mr. CUMMINS. That does not cover it.

Mr. LODGE. That does not cover it. I was about to say I should have ruled it out on the ground that it was not estimated for, and, therefore, did not fulfill that condition; but I think after the suggestion made by the Senator from Wyoming that that does not apply.

Mr. CUMMINS. But the——

Mr. LODGE. One moment. I am discussing the various suggestions. Last night I certainly should not have ruled it out, if I had to rule on it, on the ground that it was not proposed by a committee, because I should have held that an amendment accepted by the committee became a committee amendment and the work of the committee. It never would have occurred to me to rule it defective on that ground.

Mr. WARREN. It was offered by a member of the committee as a committee amendment.

Mr. LODGE. That is what takes it out of the rule.

Mr. CUMMINS. I did not understand that it was offered as a committee amendment.

Mr. LODGE. It was offered by a member of the committee and was accepted by the chairman, as I supposed, acting for the committee, and no member of the committee objected. That, I considered, made it a committee amendment. But the trouble I had last night was that I thought it was not estimated for.

Mr. CUMMINS. I does not need to be estimated for.

Mr. LODGE. The chairman has now made it clear that appropriations for the payment of our own employees or those of the House do not require to be estimated for; that we can fix them ourselves. I ought to have thought of that, but I did not. It is undoubtedly true.

Mr. CUMMINS. I do not want to be misunderstood. I supposed, as a general proposition, that no Member of the Senate could offer an amendment increasing an appropriation contained in the bill, or to add a new item, unless it is to carry out existing law, or unless it has been approved by a standing committee.

Mr. LODGE. I think this fulfills that provision——

Mr. CUMMINS. Or unless it has been estimated for.

Mr. LODGE. It does not need to be estimated for, and the amendment has been proposed by a standing committee.

Mr. CUMMINS. No; it does not have to be estimated for if it is moved by a standing committee, or if it is to carry out existing law; but this amendment is neither to carry out existing law nor moved by a standing committee——

Mr. LODGE. That is where I differ with the Senator.

Mr. CUMMINS. Nor estimated for. Now, if it is put this morning in the form of being offered or moved by the Appropriations Committee, then, of course, my point of order disappears at once.

Mr. SMITH of Georgia. Mr. President, I voted yesterday afternoon in accordance with my opinion that the proposed increase was out of order. I did not understand that the Committee on Appropriations was the father of this amendment or presented it. Of course, as the Senator from Iowa says, if the Committee on Appropriations takes the responsibility for it now, it is not subject to the point of order and it is clearly within the power of the Senate to act upon it.

Mr. LODGE. As I said, I supposed last night that it was offered by a member of the committee and that it was offered as a committee amendment. I have been informed that since then the committee has been formally polled and that a majority of the committee favor the amendment. It will let us out of the trouble we are in if the Senator from Iowa will withdraw his point of order and allow the amendment to be reoffered in the name of the committee.

Mr. CUMMINS. With the understanding that it is to take that form, and that the amendment is to be withdrawn as an individual amendment, I withdraw the point of order. I do not care to insist upon a vote on an immaterial question.

Mr. LODGE. Then if the Senator from Virginia will withdraw it as an individual amendment, all the subsequent proceedings fall, and he can reoffer it as a committee amendment.

Mr. MARTIN of Virginia. Mr. President, it is true I am a member of the committee, but I offered the amendment as an individual Senator. But I withdraw it, and it will now be presented as a committee amendment, the committee having in the meantime taken action in regard to it. If the chairman of the committee will indicate that he will make that motion, I will withdraw the amendment.

The PRESIDENT pro tempore. It will be necessary, first, in order that the parliamentary situation may be directly kept in view, that the Senate get rid of the order already passed for taking the vote by yeas and nays. That can be done by unanimous consent.

Mr. WARREN. I wish to say that even last night I would have asked to put the matter in the way now proposed except for the parliamentary situation. The true situation is this: The amendment was practically offered by the committee; it was considered by the committee in the method we have always followed and agreed to, provided we should later receive the written request of the chairman of the Committee on Appropriations. We received later the request in writing of the chairman of the committee on the other side of the Capitol that the committee report it. That came in at a later hour and was handed to the Senator from Virginia [Mr. MARTIN], who offered the amendment, not observing, probably, that one of the letters was addressed to the committee and the other to the chairman. It would have been perfectly competent for me to have offered it as a committee amendment because it was, in fact, such.

As to the parliamentary situation, I leave that to the Chair.

Mr. CUMMINS. I do not want to be put in a false position. The Senator from Wyoming is in error. If he will turn to the RECORD of the Senate he will see that the amendment was not offered on behalf of the committee, neither by the chairman nor by any other member of it. It was offered by the Senator from Virginia in his individual right.

Mr. WARREN. Oh, well, Mr. President, you might as well say that I offer in my individual right any amendment agreed upon by the committee. The Senator from Virginia is a member of the committee.

Mr. CUMMINS. Then may I ask the Senator from Wyoming what does the rule mean when it says "moved by a standing committee"? Who acts for the committee?

Mr. WARREN. The Senator can make his own construction of that; but amendments are offered by various members of the committee; sometimes by the chairman and sometimes by other members of the committee.

Mr. CUMMINS. Then I take it the Senator from Wyoming believes that whenever a Senator who happens to be a member of a committee offers an amendment relating to a bill of which the committee has been in charge, it is understood as being a committee amendment?

Mr. WARREN. If it is authorized by the committee.

Mr. CUMMINS. There was no suggestion in the RECORD of yesterday that that was the case.

Mr. WARREN. It is supposed to be taken as a matter of course. I may have been at fault in not elaborating that, but I supposed that that was taken as a matter of course.

Mr. BRISTOW. If I may be permitted to make a suggestion, the Senator who offered the amendment has just stated that he did not offer it as a committee amendment, but offered it as an individual amendment.

Mr. CUMMINS. I simply want the RECORD to be perfectly clear on that point. Otherwise I would not have made the point of order. The RECORD states:

> Mr. MARTIN of Virginia. On page 16, in line 15, I move to amend by striking out "$2,500" and inserting "$3,000" after the word "clerk."

And so on. Never a suggestion that it had received the concurrence of the committee or was authorized by the committee.

Mr. MARTIN of Virginia. Mr. President, I desire to say that when those two letters were sent to the desk I had not read them. I did not know they were addressed to the chairman of the committee. They were handed to me on the floor of the Senate when the bill was almost in the act of being passed. I had not taken time even to read them. The Member of the House who handed them to me told me what they contained as he handed them to me. If I had known the letters were addressed to the chairman of the committtee, I should have handed them to him and he would have made the motion instead of myself.

Mr. WARREN. Will the Senator from Virginia allow me?

Mr. MARTIN of Virginia. One minute, please. But when I made the motion I made it, I say, under those circumstances and as an individual Senator, and did not offer it as a committee amendment. I did not even know what was in those letters. But the chairman of the committee at once accepted the amendment, and I supposed that that made it a committee amendment.

Mr. WARREN. Now will the Senator from Virginia allow me?

Mr. MARTIN of Virginia. Certainly.

Mr. WARREN. Perhaps the Senator will remember that he brought the subject up to me and other members of the committee, and we stated then that if those letters appeared, we would offer it as a committee amendment.

Mr. MARTIN of Virginia. Beyond doubt that is the fact. At a full meeting the committee authorized this to be reported to the Senate as a committee amendment when these conditions were met. I did not know when I offered the amendment whether these conditions would be met, and I had not read the letters; but the letters being read, disclosed the fact that the conditions the committee had prescribed in order to have this offered as a committee amendment had been complied with. That is the condition of the matter.

Mr. GALLINGER. Mr. President, it seems to me we can easily get out of this trouble, which I think is unfortunate in every aspect. I am going to ask unanimous consent that the order for the yeas and nays be vacated. Then I suggest that a majority of the Committee on Appropriations have in writing now given their assent to this amendment, and it will then be offered by the Senator from Wyoming as a committee amendment. I first ask unanimous consent that the order for the yeas and nays be vacated.

The PRESIDENT pro tempore. The Senator from New Hampshire asks unanimous consent that the order directing the vote to be taken by yeas and nays be vacated. Is there objection? The Chair hears none, and the order is vacated by unanimous consent.

Mr. WARREN. There are two or three other committee amendments, which I send up.

Mr. LODGE. Let us dispose of this first.

The PRESIDENT pro tempore. The Chair understands that the Senator from Iowa practically withdraws his point of order. The amendment proposed by the Senator from Wyoming on behalf of the committee will be stated.

The SECRETARY. On page 16, line 15, strike out "$2,500" and insert in lieu thereof "$3,000"; in the same line strike out "$1,600" and insert "$2,000"; and in the same line strike out

"$720" and insert in lieu thereof "$1,000," so that if amended it will read:

Judiciary—Clerk $3,000, assistant clerk $2,000, janitor $1,000.

Mr. CUMMINS. Understanding, Mr. President, that this amendment is now offered by the authority of the committee and is therefore moved by a standing committee, I do not make any point of order against it.

The PRESIDENT pro tempore. The question is on the adoption of the amendment offered by the Senator from Wyoming.

The amendment was agreed to.

Mr. WARREN. I have a supplemental request or estimate from the Auditor of the Post Office Department which, as it leads to economy, I offer. It is to reduce or change 14 clerks to 7 clerks and 7 skilled laborers.

The SECRETARY. On page 46, line 13, strike out "14 at $1,000 each," and insert in lieu thereof "7 at $1,000 each; 7 skilled laborers at $900," and in line 14 change the total to read "$49,300."

The amendment was agreed to.

Mr. MARTIN of Virginia. I desire to ask the chairman of the committee the reason why on line 23, page 12, we find inserted the name "George H. Carter" as clerk of the Joint Committee on Printing. Other clerks of committees are, without exception, appropriated for by the office, and not by name.

Mr. President, I am not questioning the competency of this clerk or intimating that he ought not to be continued in the position he holds; but I do not understand why a clerk who has hitherto been appropriated for by his office as clerk to the Joint Committee on Printing should now be appropriated for by name. If that policy is to be adopted, I do not know why a particular clerk should be singled out and designated by name, when scores of clerks of committees are appropriated for by the office which they hold, and not by name. I should like to know from the chairman of the committee if there is any good reason why this exception should be made.

Mr. WARREN. It is not an innovation; it is nothing new. We have for many years carried one or more names, sometimes in the House and sometimes in the Senate, and now both. One of the gentlemen at the desk of the Senate has his name included in every bill. The superintendent of the document room has been appropriated for by name almost ever since I have been a member of the Senate. There is a man accredited to the Committee on Commerce whose name is inserted in the bill. It is not the plan followed, except in exceptional cases.

It was represented to the committee, and the committee's investigation bore out the representation, that this man had very great talent to fill this place, and it was the expressed wish of the members of the committee on both sides politically, and from both the House and the Senate, that this should be done; and in order to get at it it was brought up in that way.

I agree with the Senator that a general practice of putting the names of clerks in the appropriation bill would be improper, but there are cases where we have old and valued employees. For instance, the committee of which he is an honored member and of which I am chairman had inserted in the bill not the name but the words "the present incumbent," which every one knew to refer to the clerk—Mr. Cleaves. On the House side the same thing is true in the case of the clerk to the Committee on Appropriations. The clerk of that committee has been there longer than I have been a Member of this body. Every year, while his name is not mentioned, the extra appropriation is made for him as "the present incumbent." So whether the practice is good or bad it is not a new one, and, of course, it must require, I will not say unanimous consent, but large support. However, it is not new, and it was not put in in any surreptitious manner. It came in in the regular manner.

Mr. MARTIN of Virginia. Oh, Mr. President, I have not intimated that it got in in any surreptitious manner. Of course it did not get in in any surreptitious manner. It is printed here, and everybody knows it.

We all know that for several years, perhaps, an assistant secretary of the Senate has been mentioned by name in the appropriation act, and his very able and faithful and useful services here are such that I would not appear to be wounding him by making any suggestion as to a continuation in his case of what has heretofore been done. It having been done in his case, and he being an exceptionally admirable officer, I would not even make a suggestion by moving to amend it. I would not do that because it might be construed as unfriendly, perhaps, as his name has been inserted heretofore so often.

The same is true as to Mr. Boyd in the document room. I have not made any suggestion as to that, and for the same reason, although it is bad practice, and it ought not to be done. As a legislative procedure it can not be justified. Employees of the Senate ought not to be appropriated for by name, but by the offices which they hold, and so long as they hold those offices they would draw the pay assigned to the office by the action of the Senate. But I do say that this practice ought not to be extended. As to those two cases, I have not made any motion, and do not intend to make any motion, although I consider the practice a bad one. In the case of the other gentlemen I have referred to who have been included by name heretofore I shall not ask that any change be made, but I wanted to know whether there was any good reason why this bad rule should be extended.

If there is any reason why it should be extended in this case, why not extend it and name all the clerks and appropriate for all the committee clerks by name? I do not believe myself there is any justification for this extension of this bad rule, and as no reason has been assigned why it should be done, I move that the name be stricken out and that the bill be amended——

Mr. SMOOT. Will the Senator withhold his motion until I can make a statement?

Mr. MARTIN of Virginia. I will.

Mr. SMOOT. This question came up yesterday and was discussed somewhat, as the Senator will see if he has read the RECORD this morning.

Mr. George H. Carter is so eminently qualified for the position that there is not a member on the committee on the part of the Senate who has not requested that he be designated by name in the appropriation bill for the place. George H. Carter has given years of attention to the work, and the Senator himself knows that there is no committee of the Senate that has the daily detail drudgery to perform that the Joint Committee on Printing is called upon to do. Mr. Carter is familiar with every phase of the work. He knows the printing law and all the rules of the committee. He is eminently qualified for the position. It was for that reason his name was put in the bill.

It is not a question, Mr. President, of politics. Mr. George H. Carter is a gentleman from Iowa. I suppose many, many Senators know him. As I said yesterday, I do not believe there is a man in the United States so well qualified for the place as Mr. Carter. Think of the hundreds and thousands and even millions of documents printed by the Government. Yet Mr. Carter knows just where they are stored, how many there are, and how they should be distributed. It seems to me there should be no objection to his name being mentioned in the bill as clerk of the committee.

Mr. MARTIN of Virginia. Mr. President, if Mr. Carter is so eminently qualified and so thoroughly satisfactory to every one, why ask to tie the hands of those who are to come after him? I am not intimating that he ought not to be continued as clerk of that committee. From what has been stated, it seems to me there is no doubt about the fact that he will be continued as the clerk of the committee. But why single him out? There are other committee clerks here who are just as efficient and just as faithful and just as satisfactory. Why not let the committee determine that? If this high qualification exists, and I do not doubt it, why not trust the committee to use a wise discretion and continue him as clerk of the committee, if they think it is proper to do so? Why forestall their action and interfere with their freedom of choice in the selection of a clerk of that committee?

There can be, Mr. President, no good reason for that. I never imagined that it was politics. I did not think it was politics, but I did think that there was a desire—and not an objectionable desire—to be a little personal in this matter, and I do not know but that it was shared in just as much by Democrats as Republicans. Indeed I am sure of it, for at least one member of that committee has spoken to me on this subject very much on the line of the Senator from Utah. But I do not think we should be showing partiality and personal favors in the general legislation of Congress. I do not think this name ought to be inserted in the bill, unless you are going to adopt a new rule and appropriate for committee clerks by name. I look upon it as bad legislation. It has been done in a few instances in the past, and I am simply protesting against the extension of that system. In this particular instance no good reason has been assigned why it should be done.

I hope the Senate will, in that item of the appropriation bill, in lines 23 and 24, strike out the name George H. Carter.

Mr. SMOOT. I desire to say to the Senator——

Mr. CLARKE of Arkansas. May I ask the Senator from Utah a question?

Mr. SMOOT. Certainly.

Mr. CLARKE of Arkansas. What substantial advantage would Mr. Carter obtain by having his name included in the bill?

Mr. SMOOT. It will secure him the place for the next year. Every member of the committee on the part of the Senate desires that he should be continued as clerk of the committee.

Mr. CLARKE of Arkansas. I infer from the statement of the Senator from Utah that it will give a certain degree of permanency to his tenure in this particular place.

Mr. SMOOT. That is the object of it. I wish to say that there is no partiality shown to him as a man.

Mr. CLARKE of Arkansas. I am not objecting, I will say.

Mr. SMOOT. There are dozens of clerks around the Senate for whom I have just as high regard as I have for Mr. Carter, but I do know——

Mr. CLARKE of Arkansas. The Senator need not defend Mr. Carter against any implied accusation in any remarks I made. I simply wanted to know what he was doing and what the effect would be. The explanation made about Mr. Carter's competency is sufficient. The place requiring long training and experience, the explanation satisfies me, and I want to leave it there, but I want to know what I am doing when I leave it there. You legislate him into the bill until the appropriation expires in July, 1914?

Mr. SMOOT. It is continuing him only one year.

Mr. CLARKE of Arkansas. One year from June 30. Having known what I am to do and what my vote amounts to, I am prepared to cast it to leave his name in the bill.

Mr. WORKS. I should like to inquire what has become of the unfinished business.

Mr. WARREN. I do not understand that this question has been disposed of. There is a motion pending.

Mr. WORKS. I do not want any vote to be taken to displace the unfinished business. The hour has arrived.

The PRESIDING OFFICER (Mr. FLETCHER in the chair). The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. WORKS. Unless some Senator desires to address the Senate upon the unfinished business, I ask that it be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The pending question is on the motion of the Senator from Virginia. The question in the mind of the Chair is whether the motion should not be to reconsider the action whereby the amendmnet was agreed to.

Mr. GALLINGER. It has been adopted?

Mr. SMOOT. Yes.

Mr. GALLINGER. It should be reconsidered, then.

The PRESIDING OFFICER. The Chair understands that the amendment was agreed to by the Senate as in Committee of the Whole, and then in the Senate the action was to concur in the amendment made as in Committee of the Whole, and now the bill stands with that amendment concurred in. It seems to the Chair that the motion must be to reconsider the vote by which the amendment was concurred in.

Mr. MARTIN of Virginia. My understanding is that the bill came from the committee to the Senate with that amendment in it, and it is in order to act on the amendment when we get into the Senate.

The PRESIDING OFFICER. It is the recollection of the Chair, and the RECORD will show, that the amendments made as in Committee of the Whole were concurred in in the Senate.

Mr. MARTIN of Virginia. There has been nothing of that sort done, as I understand it.

The PRESIDING OFFICER. It will be found on page 1565 of the RECORD.

Mr. WARREN. The RECORD shows that the amendments made as in Committee of the Whole were concurred in in the Senate.

Mr. MARTIN of Virginia. They have not been approved in the Senate?

The PRESIDING OFFICER. Here is the language, on page 1565:

> The PRESIDING OFFICER. The bill is as in Committee of the Whole and open to amendment. If there are no further amendments as in Committee of the Whole, the bill will be reported to the Senate.
>
> The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. MARTIN of Virginia. I move, then, to reconsider the vote. I was not aware of the fact that the amendment had been concurred in in the Senate. I move, therefore, that the action of the Senate so far as this item is concerned be reconsidered.

Mr. SMITH of Georgia. I wish to ask that the Senator enlarge his motion so as to cover each one of the amendments inserting the name of an individual. There are several of them.

Mr. WARREN. The Senator surely does not mean to take those in the current law.

Mr. SMITH of Georgia. No; but each of the amendments reported by the committee adding a new name.

Mr. MARTIN of Virginia. I think the better practice is to act on each one as they come in different parts of the bill.

Mr. GALLINGER. One at a time.

Mr. MARTIN of Virginia. One at a time. This is an innovation. It is an extension of the practice which I think is a bad legislative practice. This name has not been in any other appropriation bill, and I prefer, therefore, that it should be singled out and disposed of individually and separately. Then any other name will be open to the same objection, if a Senator desires to offer the amendment. The present motion, therefore, is to reconsider the vote by which the amendment on lines 23 and 24 on page 12 was concurred in.

The PRESIDING OFFICER. The question is on the motion made by the Senator from Virginia, to reconsider the vote by which the amendment indicated by him was concurred in. [Putting the question.] The noes appear to have it.

Mr. SMITH of Georgia. A division!

Mr. MARTIN of Virginia. I ask for a division.

Mr. GALLINGER. We always gain time by calling for the yeas and nays when a division is demanded.

Mr. SMITH of Georgia. All right—the yeas and nays.

Mr. GALLINGER. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CLARK of Wyoming (when his name was called). I have a general pair with the senior Senator from Missouri [Mr. STONE]. In the absence of that Senator, I withhold my vote.

Mr. GALLINGER (when his name was called). I am paired with the junior Senator from New York [Mr. O'GORMAN]. I transfer that pair to the senior Senator from Kansas [Mr. CURTIS] and vote "nay."

Mr. MARTIN of Virginia (when Mr. O'GORMAN's name was called). The junior Senator from New York [Mr. O'GORMAN] is unavoidably absent from the city to-day.

Mr. OLIVER (when his name was called). I have a general pair with the junior Senator from Oregon [Mr. CHAMBERLAIN]. I transfer that pair to the Senator from New Mexico [Mr. FALL] and vote. I vote "nay."

Mr. PERKINS (when his name was called). I have a general pair with the junior Senator from North Carolina [Mr. OVERMAN], who is detained from the Senate on account of sickness. I transfer that pair to the junior Senator from Nevada [Mr. MASSEY] and vote "nay."

Mr. FOSTER (when Mr. THORNTON's name was called). I wish to announce that my colleague [Mr. THORNTON] is unavoidably absent from the Senate.

The roll call was concluded.

Mr. PAYNTER. I desire to inquire if the Senator from Colorado [Mr. GUGGENHEIM] has voted.

The PRESIDING OFFICER. He has not.

Mr. PAYNTER. I have a general pair with that Senator and I therefore withhold my vote.

Mr. LIPPITT (after having voted in the negative). In voting, I neglected to state that I have a pair with the senior Senator from Tennessee [Mr. LEA], which I transfer to the Senator from South Dakota [Mr. GAMBLE].

Mr. DU PONT (after having voted in the negative). When I voted I supposed that the senior Senator from Texas [Mr. CULBERSON] was in the Chamber. As I have a general pair with that Senator, and he is not present, I will withdraw my vote.

Mr. MYERS. I am paired with the Senator from Connecticut [Mr. MCLEAN]. I transfer that pair to the Senator from Arizona [Mr. ASHURST] and vote "yea."

Mr. MCCUMBER (after having voted in the negative). I understand that my pair is not present in the Chamber, and I therefore withdraw my vote.

The result was announced—yeas 32, nays 28, as follows:

YEAS—32.

Bankhead	Heiskell	Martin, Va.	Shively
Borah	Hitchcock	Martine, N. J.	Simmons
Bristow	Johnson, Me.	Myers	Smith, Ga.
Bryan	Johnston, Ala.	Newlands	Smith, Md.
Burton	Johnston, Tex.	Owen	Swanson
Clapp	Jones	Perky	Tillman
Crawford	Kern	Poindexter	Townsend
Gore	La Follette	Pomerene	Works

NAYS—28.

Bourne	Cummins	Kenyon	Root
Brandegee	Dillingham	Lippitt	Sanders
Brown	Fletcher	Lodge	Smoot
Burnham	Foster	Nelson	Stephenson
Catron	Gallinger	Oliver	Sutherland
Clarke, Ark.	Gronna	Page	Warren
Cullom	Jackson	Perkins	Wetmore

NOT VOTING—34.

Ashurst	Curtis	McLean	Smith, Ariz.
Bacon	Dixon	Massey	Smith, Mich.
Bradley	du Pont	O'Gorman	Smith, S. C.
Briggs	Fall	Overman	Stone
Chamberlain	Gamble	Paynter	Thornton
Chilton	Gardner	Penrose	Watson
Clark, Wyo.	Guggenheim	Percy	Williams
Crane	Lea	Reed	
Culberson	McCumber	Richardson	

So the motion of Mr. MARTIN of Virginia to reconsider was agreed to.

Mr. MARTIN of Virginia. I now move that the bill be amended by striking out the name "George H. Carter," in lines 23 and 24, on page 12.

The PRESIDING OFFICER. The Chair takes it that the motion having been reconsidered whereby the amendment was concurred in, the question now comes on concurring in the amendment made as in Committee of the Whole. A negative vote, of course, would be in favor of the proposition which the Senator from Virginia makes to strike out.

Mr. MARTIN of Virginia. I understand, then, the Chair will put the question whether or not the amendment shall be concurred in.

The PRESIDING OFFICER. That is the question.

Mr. MARTIN of Virginia. Those who want to have the name taken out will vote "nay."

The PRESIDING OFFICER. They will vote "nay." The question is on concurring in the amendment, made as in Committee of the Whole, inserting the name "George H. Carter." [Putting the question.] The "noes" seem to have it.

Mr. SMOOT. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CULLOM (when his name was called). I am paired with the junior Senator from West Virginia [Mr. CHILTON], I therefore withhold my vote.

Mr. DU PONT (when his name was called). I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. He is not present in the Chamber, and I will withhold my vote. If I were at liberty to vote, I would vote to sustain the committee.

Mr. GALLINGER (when his name was called). I will again announce my pair with the junior Senator from New York [Mr. O'GORMAN] and its transfer to the Senator from Kansas [Mr. CURTIS], as on the previous vote. I vote "yea."

Mr. LIPPITT (when his name was called). I again announce my pair with the senior Senator from Tennessee [Mr. LEA], which I transfer to the senior Senator from South Dakota [Mr. GAMBLE], and I vote. I vote "yea."

Mr. PAYNTER (when his name was called). I have a general pair with the Senator from Colorado [Mr. GUGGENHEIM]. In his absence I withhold my vote.

Mr. PERKINS (when his name was called). I again announce my pair with the junior Senator from North Carolina [Mr. OVERMAN] and its transfer to the junior Senator from Nevada [Mr. MASSEY]. I vote "yea."

The roll call was concluded.

Mr. SIMMONS (after having voted in the negative). I desire to announce that my colleague [Mr. OVERMAN] is absent from the Senate on account of illness. While I am on my feet I will inquire whether the junior Senator from Minnesota [Mr. CLAPP] has voted. I do not see him in the Chamber.

The PRESIDING OFFICER. He has not voted.

Mr. SIMMONS. I transfer my pair with that Senator to the Senator from Arizona [Mr. ASHURST] and vote. I vote "nay."

Mr. THORNTON. I desire, first, to announce the necessary absence from the Senate Chamber of the junior Senator from New York [Mr. O'GORMAN]. I wish to announce, further, that he is paired with the senior Senator from New Hampshire [Mr. GALLINGER]. I vote "nay."

Mr. CLARK of Wyoming. I have a general pair with the Senator from Missouri [Mr. STONE]. I transfer that pair to the Senator from New Mexico [Mr. CATRON] and vote "yea."

Mr. DU PONT. I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. I transfer that pair to the Senator from New Mexico [Mr. FALL] and vote. I vote "yea."

Mr. GALLINGER. I was requested to announce that the Senator from New Jersey [Mr. BRIGGS] is paired with the Senator from West Virginia [Mr. WATSON], that the Senator from Delaware [Mr. RICHARDSON] is paired with the Senator from South Carolina [Mr. SMITH], and that the Senator from Michigan [Mr. SMITH] is paired with the Senator from Missouri [Mr. REED].

The result was announced—yeas 31, nays 30, as follows:

YEAS—31.

Bourne	Cummins	Kenyon	Root
Bradley	Dillingham	Lippitt	Sanders
Brandegee	du Pont	Lodge	Smoot
Brown	Fletcher	McLean	Stephenson
Burnham	Foster	Nelson	Sutherland
Burton	Gallinger	Oliver	Warren
Clark, Wyo.	Gronna	Page	Wetmore
Crawford	Jackson	Perkins	

NAYS—30.

Bankhead	Johnston, Ala.	Newlands	Smith, Ga.
Bristow	Johnston, Tex.	Owen	Smith, Md.
Bryan	Jones	Perky	Swanson
Chamberlain	Kern	Poindexter	Thornton
Gore	La Follette	Pomerene	Tillman
Heiskell	Martin, Va.	Shively	Works
Hitchcock	Martine, N. J.	Simmons	
Johnson, Me.	Myers	Smith, Ariz.	

NOT VOTING—33.

Ashurst	Culberson	McCumber	Smith, Mich.
Bacon	Cullom	Massey	Smith, S. C.
Borah	Curtis	O'Gorman	Stone
Briggs	Dixon	Overman	Townsend
Catron	Fall	Paynter	Watson
Chilton	Gamble	Penrose	Williams
Clapp	Gardner	Percy	
Clarke, Ark.	Guggenheim	Reed	
Crane	Lea	Richardson	

So the amendment was concurred in.

Mr. SUTHERLAND. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. It is proposed to add at the end of the bill a new section, as follows:

SEC. 7. That hereafter in the event of reductions being made in any force employed under the civil service or in any of the executive departments or independent establishments no honorably discharged soldier, sailor, or marine who has had active service in the Civil War, the Spanish-American War, or the Philippine insurrection, whose record is rated good shall be discharged or dropped or reduced in rank, class, salary, or compensation. Any person knowingly violating the provisions of this section shall be summarily removed from office and may also upon conviction thereof be punished by a fine of not more than $1,000 or by imprisonment for not more than one year.

Mr. SUTHERLAND. Mr. President, the amendment which I have offered modifies section 5, which went out on a point of order yesterday, made by the Senator from Oklahoma [Mr. OWEN]. I have modified it now by limiting it to those soldiers, sailors, and marines who have had active service either in the Civil War, the Spanish-American War, or the Philippine insurrection. I hope in that form that we may be permitted to vote upon it.

Mr. WARREN. Mr. President, I assume that perhaps the Senator from Utah can assure me that the amendment is in the exact terms of the legislation of last year, which took care of those in Washington, and merely extends the same privilege to those outside the District that the original provision did to those inside.

Mr. SUTHERLAND. Not quite in the same terms. I have made it a little more definite. For example, I have put in after the first word, "That," the word "hereafter." It read in the original law, "That in the event of reductions." I simply put in the word "hereafter," so as to make it the permanent law. Then I have added, after the word "departments," the words "or independent establishments," because there are some establishments that are not under the executive departments. The original law did not include the word "hereafter." For the same reason, to make it entirely clear and definite, I have added after the word "rank" the word "class," and after the word "salary" the words "or compensation," so as to embrace the whole subject matter. With those changes, which simply add to the certainty and clearness of the law, I have simply put in the limitation to which I have already called attention, namely, that it shall only apply to soldiers, sailors, and marines who have seen active service in the Civil War, the Spanish-American War, or the Philippine insurrection.

Mr. JONES. I do not know at what point in the amendment the words should come in, but after the word "executive" I move to amend the amendment proposed by the Senator from Utah by inserting the words "or legislative."

Mr. SUTHERLAND. I have no objection to that.

The PRESIDING OFFICER. Does the Senator from Utah accept the modification suggested by the Senator from Washington as a part of his amendment?

Mr. SUTHERLAND. I accept the modification suggested by the Senator from Washington.

Mr. OWEN. Mr. President, I make the point of order against the proposed amendment as modified that it is legislation on an appropriaton bill and that it changes existing law. I commented on the matter yesterday, that it is not good policy to use appropriation bills for general legislation. Many Senators who are absent are absent relying upon the integrity of the rules of the Senate, not expecting that there will be put upon appropriation bills legislative items which they have not seen and which they would not perhaps agree to if they did see. I therefore make the point of order against the amendment.

Mr. POINDEXTER. Mr. President, it seems to me that the point of order made by the Senator from Oklahoma [Mr. OWEN], which is based upon the rule against general legislation being

attached to appropriation bills, is not exactly applicable to the amendment proposed by the Senator from Utah [Mr. SUTHERLAND] for the reason that the amendment simply proposes to establish conditions under which the appropriations shall be expended. The amendment relates to employees for whose salaries the appropriations are made and provides for conditions under which the salaries appropriated in the bill shall be apportioned to the various employees. It seems to me for that reason that the amendment is an exception to the general rule, and that the objection to it is not pertinent.

Mr. OWEN. In addition to the suggestions which I have heretofore made against the amendment, I suggest that it would be a criminal statute.

The PRESIDING OFFICER. It seems to the Chair that the amendment proposes general legislation. The Chair therefore holds that the point of order made by the Senator from Oklahoma is well taken, and it is sustained by the Chair.

Mr. LA FOLLETTE. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment proposed by the Senator from Wisconsin will be stated.

The SECRETARY. It is proposed to insert:

That the salaries of the members of the police force employed in the Capitol and in the Senate and House Office Buildings be made equal to the salaries paid to the elevator conductors employed in the said buildings, to wit, $1,200 per annum.

Mr. CLARKE of Arkansas. Mr. President, I think I shall make the point of order against that amendment for the same reason that I indicated yesterday. If it is a fact that there are gross and palpable inequalities in the pay that is being given to the different employees of the Senate, there ought to be some comprehensive and thorough examination into that matter and the inequalities developed. I am inclined to believe that some salaries will be found to be above the natural average, but by taking off from the employees who are overpaid and giving to those who are underpaid we may bring about an equilibrium that will come nearer doing justice than legislating in this blind way. I raise the point of order against the amendment.

The PRESIDING OFFICER. The point of order is sustained.

Mr. OWEN. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment proposed by the Senator from Oklahoma will be stated.

The SECRETARY. On page 26, after line 6, it is proposed to insert:

For legislative reference bureau under the direction of the Librarian of Congress, $10,000.

Mr. WARREN. Mr. President, that is not estimated for and it has not been brought before the committee for consideration.

Mr. OWEN. Before the Senator from Wyoming makes the point of order on the amendment I should like to be heard.

Mr. WARREN. I will withhold the point until the Senator from Oklahoma can speak on the amendment.

Mr. OWEN. Mr. President, I should like to have an opportunity to explain the purpose of this proposed provision. We have a very great volume of information in our Library and in the records of this Government, which is not conveniently digested altogether for the use of Members of the Senate and of the other House. The legislative reference bureau which has been established in Wisconsin has proved to be of very great value to that State in promoting the character of legislation, in enabling the members of the senate and of the house to perform their duties efficiently, with knowledge of the law relating to any given subject and the decisions of the courts in relation to any given statute. It has been so useful that I think it is obvious that the Congress of the United States ought to have a department of the same character. I should like to ask the Senator from Wisconsin [Mr. LA FOLLETTE], who is so familiar with this matter, to explain to the Senate in a few words the legislative reference bureau of Wisconsin. As I say, he is very familiar with it and its service. The matter has been reported on by the Librarian of Congress, who appreciates its importance. I will ask the Senator from Wisconsin to explain to the Senate what the system is in Wisconsin and its value there.

Mr. LA FOLLETTE. Mr. President, my attention was diverted when the Senator began to speak. I presume he is making his remarks upon an amendment which he has offered.

Mr. OWEN. Yes.

Mr. LA FOLLETTE. Well, Mr. President, I do not care to take the time of the Senate simply to spread some remarks upon the RECORD here. I presume that a point of order will be made against the amendment and that it will be ruled out as obnoxious to the rule. That being so, I will not at this time submit any observations on the subject. I will say, however, that I purpose to introduce a bill to establish a legislative reference department, which I deem to be of very great importance to Congress and to the country, and endeavor to secure a report upon it in time to offer it as an amendment to another appropriation bill at this session. Since conferring with my friend, the Senator from Oklahoma [Mr. OWEN], yesterday regarding the matter, I have made a partial canvass of the members of the Library Committee, and I believe we will be able to have a bill more complete and comprehensive than any amendment which could now be offered reported from that committee before another appropriation bill to which it would be germane as an amendment passes the Senate. Then I hope, Mr. President, to take the time of the Senate very briefly to set forth what has been done in Wisconsin by the establishment of the legislative reference department. I might say its work is broader than that; that does not properly describe it; it is a department of research and investigation and has been very helpful to legislators in Wisconsin in acquiring that exact and comprehensive knowledge of the subjects treated, to insure a body of economically sound progressive statutes.

Mr. OWEN. I withdraw the amendment, Mr. President.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. WARREN. Mr. President, I wish simply to say a word. I have nothing to urge against the merits of the amendment, and I am very glad the Senator from Wisconsin was given an opportunity to say that the proposition will be thoroughly perfected before it shall come before the Committee on Appropriations.

The PRESIDING OFFICER. Are there further amendments to be offered in the Senate? If not, the amendments will be ordered to be engrossed and to be read a third time.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

GERMAN ORPHAN ASYLUM ASSOCIATION.

Mr. CRAWFORD. I ask that the Senate resume consideration of House bill 19115, commonly known as the omnibus claims bill.

Mr. GALLINGER. Mr. President, I ask the Senator if he will kindly yield to me to request consideration of a bill which, if objected to or debated at all, I will immediately withdraw. It is a District of Columbia bill, which is important to a charitable organization.

Mr. CRAWFORD. If the matter will not provoke any discussion, I will yield to the Senator.

Mr. GALLINGER. It will be immediately withdrawn if it does.

Mr. CRAWFORD. I want to insist upon pushing the claims bill, because it has been before the Senate a long while and no vote has been had upon it.

Mr. GALLINGER. I ask unanimous consent for the present consideration of the bill (S. 7508) to amend an act entitled "An act to reincorporate and preserve all the corporate franchises and property rights of the de facto corporation known as the German Orphan Asylum Association of the District of Columbia."

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to amend the act entitled "An act to reincorporate and preserve all the corporate franchises and property rights of the de facto corporation known as the German Orphan Asylum Association of the District of Columbia," approved February 6, 1901, by adding to and making a part of section 1 of that act the following:

And the said German Orphan Asylum Association of the District of Columbia may hereafter fix, limit, and determine the number of directors to constitute its board of directors by any constitution or constitutions which may hereafter be adopted by the said association, and the number of its said directors may be decreased or increased as provided by any constitution or constitutions, or any amendment or amendments thereto, which the said association may lawfully adopt.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. GALLINGER. I thank the Senator from South Dakota for his courtesy.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. Mr. President, I ask for a vote upon the pending amendment, which is the amendment offered by me to the amendment proposed by the Senator from Massachusetts [Mr. LODGE].

The PRESIDING OFFICER. The Chair suggests that the bill has not yet been taken up in the regular way.

Mr. CRAWFORD. I thought the bill was before the Senate.

The PRESIDING OFFICER. The Senator withdrew his request before the bill was taken up in favor of the Senator from New Hampshire [Mr. GALLINGER].

Mr. CRAWFORD. I did not withdraw it; I simply withheld the request in order that a small bill might be considered.

The PRESIDING OFFICER. The bill was not regularly taken up.

Mr. CRAWFORD. Then I renew my request that the Senate resume the consideration of House bill 19115, known as the omnibus claims bill.

I desire to say that we have discussed more or less now for a number of days the question of incorporating the French spoliation claims into this bill. I am anxious to have that matter disposed of one way or the other, because in a large degree it will determine whether or not we are to go on with this bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

Mr. CLARKE of Arkansas. Mr. President, before we take a vote on any of the features of the amendment offered by the Senator from Massachusetts [Mr. LODGE] I think we ought to have a fuller attendance of the Senate, and I make the point——

Mr. CRAWFORD. If the Senator will permit me, the Senator from Massachusetts has said to me several times that, so far as my amendment to the amendment proposed by him is concerned, he would not ask for a roll call. I desire to have that amendment to the amendment disposed of. Then I should not want to take up the amendment of the Senator from Massachusetts without his being in the Chamber, and I shall send for him.

Mr. CLARKE of Arkansas. I supposed that the amendments would follow in natural order and that after the amendment of the Senator from South Dakota to the amendment of the Senator from Massachusetts had been disposed of the question would recur on the amendment offered by the Senator from Massachusetts. If that be not the case, I see no necessity for taking the time.

Mr. CRAWFORD. I should like to have a vote on the amendment offered by me to the amendment of the Senator from Massachusetts.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota [Mr. CRAWFORD] to the amendment of the Senator from Massachusetts [Mr. LODGE].

Mr. LODGE. Mr. President, I only want to say a word in regard to the matter of premium, which was alluded to the other day. The war premium, as was held in the Alabama cases, was paid on account of the war, on account of the danger, in one case from the Confederate cruisers and in the other from the cruisers of France, and they were obliged to pay the excessive premiums which constituted a part of their loss because of the situation of France. That is all I wanted to say, merely to explain that. I am perfectly ready now to take a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota to the amendment offered by the Senator from Massachusetts.

The amendment to the amendment was agreed to.

Mr. LODGE. On the main amendment, as amended, I should like to have the yeas and nays.

The PRESIDING OFFICER. Is there a second?

Mr. CLARKE of Arkansas. Mr. President, while the calling of the yeas and nays may automatically disclose the absence of a quorum, I make the point, technically, that there is no quorum present.

The PRESIDING OFFICER. The absence of a quorum being suggested, the Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	du Pont	McCumber	Shively
Bankhead	Fletcher	McLean	Simmons
Bourne	Gallinger	Martin, Va.	Smith, Ariz.
Bradley	Gronna	Martine, N. J.	Smith, Md.
Brandegee	Heiskell	Myers	Smoot
Brown	Hitchcock	Oliver	Stephenson
Bryan	Jackson	Owen	Sutherland
Burnham	Johnson, Me.	Page	Swanson
Burton	Johnston, Ala.	Paynter	Thornton
Chamberlain	Johnston, Tex.	Perkins	Tillman
Clapp	Jones	Perky	Wetmore
Clark, Wyo.	Kern	Poindexter	Williams
Cullom	La Follette	Pomerene	Works
Cummins	Lippitt	Root	
Dillingham	Lodge	Sanders	

Mr. THORNTON. I announce the necessary absence from the Chamber of the junior Senator from New York [Mr. O'GORMAN], and ask that this announcement stand for the day.

Mr. KERN. I desire to announce that the junior Senator from South Carolina [Mr. SMITH] is absent on account of a death in his family. I ask that this announcement stand for the day.

The PRESIDING OFFICER. Fifty-eight Senators have answered to their names. A quorum of the Senate is present. The question is on the adoption of the amendment offered by the Senator from Massachusetts [Mr. LODGE] as amended on motion of the Senator from South Dakota [Mr. CRAWFORD], on which the yeas and nays have been ordered.

Mr. CRAWFORD. Mr. President, before the vote is taken, as a matter of justice to myself, I am glad to say that as the French spoliation claims amendment is now proposed, if it were here as an independent proposal I should vote for it. But representing the committee, and in view of the policy of the committee, and the rules adopted by the committee in framing this bill, and as it was decided there that it was inexpedient to attach the French spoliation claims to this bill, inasmuch as it would simply mean the defeat of the omnibus claims bill, I shall, simply because of my belief that it is inexpedient, vote against the amendment to incorporate them on this bill.

Mr. CLARKE of Arkansas. Mr. President, I quite fall in with the idea indicated by the Senator from South Dakota [Mr. CRAWFORD], the chairman of the Committee on Claims. I shall not at this time address myself to the merits, or so-called merits, of the French spoliation claims, because in my judgment it is inexpedient for some of us to vote for the incorporation of these claims in this bill at the present time. As the bill came from the House it contained several hundred thousand dollars of so-called Southern war claims, the validity of which had been adjudicated by the Court of Claims. As a part of the policy announced by the Senator from South Dakota all of the individual claims of that class were omitted from the bill and only such items included as related to the injury or destruction of churches or schoolhouses.

Many of us interested in the passage of the bill in its original form acquiesced in that under the belief that we thereby facilitated the payment of some part of the indebtedness, and we simplified the issues that would arise subsequently, not only in regard to the individual claims in favor of southern claimants, but that we would also be in a more independent attitude with reference to these French spoliation claims. So purely as a matter of legislative procedure many of us will vote against the consideration of these claims at the present time.

There has been developed a sharp and irreconcilable conflict between the two Houses in reference to the payment of these claims, and at least two bills failed of enactment because both classes of claims were largely represented in the same bill. So I may say that now—and I think I speak not only for myself but for a number of other Senators on this side of the Chamber who are similarly situated—that wholly without reference to the merits or demerits of the so-called French spoliation claims, we deem it inexpedient to vote to put them on this bill at the present time.

There has been no claims bill since 1907, and while a great many reasons have cooperated to produce that result, none has contributed more than the fact of the so-called French spoliation claims being made a part of the bill. Their merits are distinct, if they have any merits, and I say they have none. But I will devote a little time to that at a later stage of their consideration.

But now, having acquiesced in the elimination of all the claims that come from the section of the country from which many of us on this side come, we feel it would be nothing but fair to test out the sentiment of Congress in the matter of paying these claims of churches and schoolhouses. They are in a class distinct from other claims that are usually included in this bill. They were never founded in absolute right. They were never recognized for some 30 years after the war. A sentiment developed here, under the leadership of the late Senator from Massachusetts, Mr. Hoar, in favor of recognizing these claims as sort of a benevolence. I think it was an egregious blunder. The people of the South are not particularly concerned about what churches and schoolhouses were destroyed 50 years ago. That whole section has been rehabilitated entirely beyond the dream of the wildest friend that section had. These things are not at all essential to the prosperity of the community, but, having been allowed and recognized as claims, individual communities have taken them up, and they feel that the same treatment should be accorded to those, the validity of which has now been adjudged, that has been accorded to the same class of claims on former occasions.

It is to get rid of that so-called exhibition of benevolence on the part of Congress that I have been inclined to agree to

the proposition made by the Committee on Claims. The people of the South did not need such an exhibition of generosity on the part of the late Senator from Massachusetts to convince them that they had rights that were to be respected and duties that were to be discharged.

The reconciliation of the sections and of the classes did not depend upon a few dollars here and a few dollars there for a destroyed or damaged church. That was a mere bagatelle, and it has come into prominence only by reason of the fact that payments of that character have been made, and claim agents have become busy and have stirred up claims locally, and that reacts on us here, and we find ourselves continually prodded for our negligence in failing to get recognition for claims that now remain, whereas similar claims have received favorable recognition.

As I desire to reduce the number of conflicts in connection with this bill and come down to a basis where we can fairly and independently consider the merits of the so-called French spoliation claims and open up a way to increase the independence of the other side of the Chamber to investigate the merits of the so-called southern war claims, I think this bill ought to pass just in accordance with the plan laid down by the Committee on Claims. I shall therefore vote against the consideration of the spoliation claims at this time, without indicating in detail the reasons why I do so.

Mr. BRISTOW. Mr. President, I devoted considerable time to a discussion of these claims upon a former occasion. Having talked with a number of Senators, I am convinced that it is not the purpose of the Senate to incorporate these claims into the bill at this time; and not wishing to occupy the time of the Senate in discussing the merits of the claims, believing that they will not be made a part of the bill, I therefore will not discuss them at this time, as otherwise I would.

Mr. WILLIAMS. Before the Senator from Kansas takes his seat I should like to ask him a question. Did not the United States Government receive from the French Government a large amount of money for the purpose of paying these claims?

Mr. BRISTOW. It did not.

Mr. LODGE. It received its equivalent.

Mr. WILLIAMS. I have always thought that the United States did. In the Louisiana treaty there were some three and one-half million dollars——

Mr. BRISTOW. That is not the treaty upon which these claims are based.

Mr. WILLIAMS. It may not be; but under the Louisiana treaty there was an amount—I forget precisely what it was, but I think it was three million and a fraction dollars—that the Government of the United States assumed as claims of Frenchmen against the United States Government, in consequence of the war de facto, although never declared by either nation; and that is the point to which I am referring.

Mr. BRISTOW. That does not relate to these claims. It relates to a different matter.

Mr. LODGE. If the Senator from Mississippi will allow me, what was done was this: In consideration of our undertaking the payment of our claimants, France undertook the payment of her claimants against us.

Mr. WILLIAMS. I understand that, and that was a part of the same treaty.

Mr. LODGE. No; I think that was an earlier treaty.

Mr. WILLIAMS. Well, I may be mistaken about that.

Mr. BRISTOW. That was a separate treaty.

Mr. WILLIAMS. But my recollection is that in the sum total we had to pay for Louisiana; in addition to the $15,000,000, which we paid in cash, there were some three million and a fraction of dollars that were included, which we assumed for our own citizens who had claims against France. I do not mean for French subjects who had claims against us.

Mr. BRISTOW. That was another treaty and related to a different matter, I will say to the Senator from Mississippi.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts [Mr. LODGE] as amended, upon which the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. CULLOM (when his name was called). I have a general pair with the junior Senator from West Virginia [Mr. CHILTON], which I transfer to the Senator from New Mexico [Mr. CATRON] and will vote. I vote "yea."

Mr. DU PONT (when his name was called). I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. I transfer it to the Senator from New Mexico [Mr. FALL] and will vote. I vote "yea."

Mr. PAYNTER (when his name was called). I have a general pair with the Senator from Colorado [Mr. GUGGENHEIM]. In his absence, I withhold my vote. Except for that, I would vote "yea."

Mr. PERKINS (when his name was called). I have a pair with the junior Senator from North Carolina [Mr. OVERMAN], which I transfer to the junior Senator from Nevada [Mr. MASSEY] and will vote. I vote "nay."

The roll call was concluded.

Mr. WARREN. I am paired with the senior Senator from Louisiana [Mr. FOSTER]. If he were present and I were at liberty to vote, I should vote "yea."

Mr. GALLINGER. I have a general pair with the junior Senator from New York [Mr. O'GORMAN]. I transfer it to the junior Senator from Maryland [Mr. JACKSON], who would vote for this amendment, and will vote. I vote "yea."

Mr. LIPPITT. I again announce the transfer of my pair with the senior Senator from Tennessee [Mr. LEA] to the senior Senator from South Dakota [Mr. GAMBLE]. I vote "yea."

The result was announced—yeas 21, nays 41, as follows:

YEAS—21.

Bradley	du Pont	McLean	Thornton
Brandegee	Gallinger	Martin, Va.	Wetmore
Burnham	Johnson, Me.	Oliver	Williams
Clapp	Lippitt	Page	
Cullom	Lodge	Penrose	
Dillingham	McCumber	Root	

NAYS—41.

Ashurst	Curtis	La Follette	Smith, Ga.
Bankhead	Dixon	Martine, N. J.	Smoot
Bourne	Fletcher	Myers	Stephenson
Bristow	Gronna	Perkins	Sutherland
Brown	Heiskell	Perky	Swanson
Bryan	Hitchcock	Poindexter	Tillman
Burton	Johnston, Ala.	Pomerene	Townsend
Chamberlain	Johnston, Tex.	Sanders	Works
Clarke, Ark.	Jones	Shively	
Crawford	Kenyon	Simmons	
Cummins	Kern	Smith, Ariz.	

NOT VOTING—32.

Bacon	Fall	Massey	Reed
Borah	Foster	Nelson	Richardson
Briggs	Gamble	Newlands	Smith, Md.
Catron	Gardner	O'Gorman	Smith, Mich.
Chilton	Gore	Overman	Smith, S. C.
Clark, Wyo.	Guggenheim	Owen	Stone
Crane	Jackson	Paynter	Warren
Culberson	Lea	Percy	Watson.

So Mr. LODGE's amendment as amended was rejected.

EXECUTIVE SESSION.

Mr. SMOOT. Mr. President, I move that the Senate proceed to the consideration of executive business.

Mr. CRAWFORD. I desire to give notice that I will ask the Senate to resume consideration of the omnibus claims bill after the routine morning business to-morrow, and hope we may then be able to dispose of it.

The PRESIDING OFFICER (Mr. POMERENE in the chair). The question is on agreeing to the motion of the Senator from Utah, that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 1 hour and 27 minutes spent in executive session the doors were reopened, and (at 4 o'clock and 47 minutes p. m.) the Senate adjourned until to-morrow, Friday, January 17, 1913, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate January 16, 1913.

COLLECTOR OF CUSTOMS.

John R. Willis, of Alaska, to be collector of customs for the district of Alaska, in the Territory of Alaska. (Reappointment.)

REGISTER OF THE LAND OFFICE.

John L. Lockhart, of South Dakota, to be register of the land office at Pierre, S. Dak., his term expiring January 27, 1913. (Reappointment.)

PROMOTIONS IN THE NAVY.

Ensign Henry E. Rossell to be an assistant naval constructor in the Navy from the 7th day of January, 1913, to fill a vacancy (vice John C. Sweeney, jr., late assistant naval constructor, United States Navy, declared a deserter from the naval service from June 6, 1910).

The following-named machinists to be chief machinists in the Navy from the 27th day of December, 1912, upon the completion of six years' service as machinists:

Arthur W. Bird and
Willis Dixon.

Pharmacist Stephen W. Douglass to be a chief pharmacist in the Navy from the 22d day of August, 1912, in accordance with the provisions of an act of Congress approved on that date.

The following-named citizens to be assistant surgeons in the Medical Reserve Corps of the Navy from the 6th day of January, 1913, in accordance with the provisions of the act of Congress approved August 22, 1912:

John C. Da Costa, a citizen of Pennsylvania, and

Hobart A. Hare, a citizen of Pennsylvania.

APPOINTMENTS IN THE ARMY.

FIELD ARTILLERY ARM.

Richard Christian Scott, of Virginia, late midshipman, United States Navy, to be second lieutenant of Field Artillery, with rank from January 15, 1913.

CORPS OF ENGINEERS.

John Carl Gotwals, of New York, to be probational second lieutenant in the Corps of Engineers for a period of one year.

PROMOTIONS IN THE ARMY.

QUARTERMASTER CORPS.

Capt. Julius N. Kilian, Quartermaster Corps, to be major from November 1, 1912.

Capt. Salmon F. Dutton, Quartermaster Corps, to be major from November 1, 1912.

POSTMASTERS.

CALIFORNIA.

James C. Arthur to be postmaster at Petaluma, Cal., in place of James E. Olmsted, resigned.

ILLINOIS.

Frederick H. Ballinger to be postmaster at Chenoa, Ill., in place of Frederick H. Ballinger. Incumbent's commission expires February 20, 1913.

Eva J. Harrison to be postmaster at Johnson City, Ill., in place of Eva J. Harrison. Incumbent's commission expires January 26, 1913.

W. A. Perrine to be postmaster at Herrin, Ill., in place of W. A. Perrine. Incumbent's commission expires February 9, 1913.

Seneca Selby to be postmaster at Golden, Ill., in place of Seneca Selby. Incumbent's commission expired January 11, 1913.

IOWA.

G. H. Mohr to be postmaster at Wall Lake, Iowa, in place of Charles B. Dean, deceased.

KANSAS.

Floyd E. Richmond to be postmaster at Logan, Kans., in place of Floyd E. Richmond. Incumbent's commission expired January 11, 1913.

LOUISIANA.

Edward I Hall to be postmaster at Jennings, La., in place of Edward I. Hall. Incumbent's commission expires January 29, 1913.

MINNESOTA.

William K. Wilcox to be postmaster at Elysian, Minn. Office became presidential October 1, 1912.

NEW JERSEY.

Charlotte C. Ketcham to be postmaster at Belvidere, N. J., in place of Charlotte C. Ketcham. Incumbent's commission expired January 11, 1913.

Erurn Knapp Kenworthy to be postmaster at Millington, N. J., in place of Frederick P. Baker. Incumbent's commission expired January 5, 1913.

NEW YORK.

Thomas A. Chisholm to be postmaster at Fort Covington, N. Y., in place of Thomas A. Chisholm. Incumbent's commission expired December 16, 1912.

Edward L. Ware to be postmaster at Lake Placid, N. Y., in place of Edward L. Ware. Incumbent's commission expired January 11, 1913.

OHIO.

W. E. Halley to be postmaster at Greenville, Ohio, in place of W. E. Halley. Incumbent's commission expires February 11, 1913.

Thomas J. Maxwell to be postmaster at Fremont, Ohio, in place of Gustavus A. Gessner. Incumbent's commission expires February 9, 1913.

Joseph R. Taber to be postmaster at Canfield, Ohio, in place of Joseph R. Taber. Incumbent's commission expires February 9, 1913.

OKLAHOMA.

George M. Massingale to be postmaster at Leedey, Okla. Office became presidential January 1, 1913.

Olin W. Meacham to be postmaster at Henryetta, Okla., in place of Olin W. Meacham. Incumbent's commission expired January 14, 1913.

PENNSYLVANIA.

Frank R. Alter to be postmaster at Parnassus, Pa., in place of Renwick Rowan, deceased.

Clarence L. Dindinger to be postmaster at Zelienople, Pa., in place of Clarence L. Dindinger. Incumbent's commission expires March 1, 1913.

Thomas Pickrell to be postmaster at Old Forge, Pa., in place of Thomas Pickrell. Incumbent's commission expires February 20, 1913.

TEXAS.

Prince A. Hazzard to be postmaster at Colorado, Tex., in place of Prince A. Hazzard. Incumbent's commission expired January 11, 1913.

UTAH.

William H. Capwell to be postmaster at Tremonton, Utah. Office became presidential January 1, 1913.

VIRGINIA.

Thomas C. Bunting to be postmaster at Exmore, Va. Office became presidential October 1, 1911.

WASHINGTON.

John C. Davis to be postmaster at Leavenworth, Wash., in place of John C. Davis. Incumbent's commission expires February 9, 1913.

P. R. Parks to be postmaster at Colville, Wash., in place of P. R. Parks. Incumbent's commission expires February 11, 1913.

George B. Stocking to be postmaster at Republic, Wash., in place of George B. Stocking. Incumbent's commission expires February 20, 1913.

WEST VIRGINIA.

Harry W. Smith to be postmaster at Middlebourne, W. Va., in place of Harry W. Smith. Incumbent's commission expired January 14, 1913.

CONFIRMATION.

Executive nomination confirmed by the Senate January 16, 1913.

PROMOTION IN THE ARMY.

Edward J. McClernand to be brigadier general.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January 16, 1913.*

The House met at 12 o'clock noon.

Rev. William I. McKenney, pastor of the Wesley Methodist Episcopal Church, Washington, D. C., offered the following prayer:

Almighty God, our heavenly Father, we come to acknowledge Thy sovereignty and express our thanksgiving and praise to Thee for Thy manifold blessings. Thou hast said, If any man lack wisdom, let him ask of God, who giveth to all men liberally and upbraideth not. Give to these, Thy servants, wisdom and righteousness in the discharge of their duties, and breadth of sympathy and vision. We pray for God's blessing upon Thy servant, our Chief Magistrate. Bless our President elect. Preserve his life and health to enter upon the duties of his great office, and God grant that his administration may be a conspicuous success and a blessing to all the people. Command Thy blessing, we beseech Thee, upon Thy servant, the Chaplain of the House. Lay Thy healing hand upon him and restore him to health and strength. These blessings we ask through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

THE LATE REPRESENTATIVE MALBY.

Mr. MERRITT. Mr. Speaker, I ask unanimous consent for the present consideration of the order which I send to the Clerk's desk.

The SPEAKER. The gentleman from New York asks unanimous consent for the present consideration of a resolution which the Clerk will report.

The Clerk read as follows:

Ordered, That Sunday, January 26, 1913, at 12 o'clock noon, be set apart for addresses on the life, character, and public services of Hon. GEORGE R. MALBY, late a Representative from the State of New York.

The SPEAKER. Is there objection?

There was no objection.

ARMY APPROPRIATION BILL.

Mr. HAY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the Army appropriation bill, H. R. 27941.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 27941) making appropriations for the support of the Army for the fiscal year ending June 30, 1914, with Mr. SAUNDERS in the chair.

Mr. HAY. Mr. Chairman, this bill is, I may say, a straight appropriation bill. It carries very little if any new legislation. There are one or two items in the bill which have not been in the Army appropriation bill before, one of which is a provision increasing the pay of officers engaged in aviation. It may be remembered that in the last session of this Congress the House passed a bill increasing the pay of these aviation officers. That bill went to the Senate and has not been acted upon there, and we have thought that the matter is of sufficient importance to include it now in this bill.

There is also an appropriation of $25,000 for the international shooting match at Camp Perry, Ohio. It makes provision for the entertainment of the rifle teams from other countries, and provides that they shall bring in their paraphernalia, in the way of arms, and so forth, free of duty. I think those are the only two items in the bill that may be called new.

The bill carries an appropriation of $93,830,177, which is a reduction of $1,717,453 of the estimate.

Last year the bill carried an appropriation of $90,907,466. This bill is an increase of about two and one-half million dollars over last year's bill.

Mr. SHERWOOD. Will the gentleman yield for a question?

Mr. HAY. Yes.

Mr. SHERWOOD. What is the aggregate increase in the pay of officers?

Mr. HAY. There is no increase except in the pay of aviation officers.

Mr. SHERWOOD. How large is that increase?

Mr. HAY. It will be about $30,000.

Last year the committee, in making appropriations for the pay of the Army, thought they had provided a sufficient amount for that purpose, but during the present fiscal year the Army has been materially increased, and there will be a deficiency of $2,500,000 in the pay of the Army, as I am informed by the War Department.

There will also be a deficiency of about $750,000 in the subsistence of the Army, due to a great extent to the increase of the price of the articles of food which go to make up the Army ration. For that reason the present bill is increased beyond what it was last year.

Also last year the usual appropriation of $1,000,000 for the maneuvers of the Organized Militia was in a separate bill, because of the necessity of getting it passed by the 1st of July. For that reason the bill of last year would have been $1,000,000 more, and the expenses of the Army were in reality $1,000,000 more than were carried in that bill.

I think I have stated the salient points in the bill, and unless somebody desires to ask me a question, I reserve the balance of my time.

Mr. BURKE of South Dakota. Mr. Chairman, I desire to ask the gentleman if there is anything in this bill which authorizes expenditures for polo tournaments, race-track events, horse shows, and things of that kind?

Mr. HAY. There is no such provision in the bill.

Mr. BURKE of South Dakota. Is there any language in the bill that would prohibit it different from what has been in other bills?

Mr. HAY. There has been no change in the bill in regard to polo tournaments. So far as I know there has never been in the bill any provision for polo tournaments.

Mr. BURKE of South Dakota. I should like to read from a letter which I have received——

Mr. KAHN. Will the gentleman from Virginia yield to me for a moment?

Mr. HAY. I can only yield to one gentleman at a time. I have yielded to the gentleman from South Dakota.

Mr. BURKE of South Dakota. I have a letter from the Assistant Secretary of the Treasury, under date of August 23, 1912, in which he states that there are on file in the office of the Auditor for the War Department vouchers paid by disbursing officers of the Army on account of expenses in connection with the attendance of officers, enlisted men, and civilians upon polo tournaments, race-track events, and horse shows, which were paid from the appropriations for "Regular supplies, Quartermaster's Department," "Incidental expenses, Quartermaster's Department," "Transportation of the Army and its supplies," "Barracks and quarters," "Subsistence of the Army," and "Mileage to officers."

That would indicate that money is being expended from some appropriation, made, I assume, in the Army appropriation bill, and it is on that account that I make my inquiry.

Mr. HAY. I will say that all those appropriations are carried in this bill, but under what particular provision of those items these expenses have been paid I am unable to say.

Mr. BURKE of South Dakota. Then I understand the gentleman has not intended that any appropriation carried in the bill should be expended for these purposes, and if the proper amendment is proposed at a suitable place in the bill, and if the gentleman shall be convinced that money is being so expended, I presume he will consent to an amendment prohibiting it.

Mr. HAY. I would if it was demonstrated that these polo tournaments are held for the benefit of the public and not for the benefit of the service.

Mr. BURKE of South Dakota. There are a few other items in the bill that I would like to bring to the attention of the chairman, but perhaps I had better wait until the bill is taken up under the five-minute rule.

Mr. HAY. I will answer them now.

Mr. BURKE of South Dakota. In regard to the expenditure of the appropriation carried in this bill which has reference to commutation—I think it is on page 13 of the bill, commutation of quarters to commissioned officers, and so forth. I would like to ask the gentleman to explain, if he will, how that is expended. As I understand it, if an officer is entitled by his rank to quarters at a military post of, say, five rooms, if he is detailed at some point other than a military post, for instance, at the War Department in the city of Washington, that he receives in cash on the basis of five rooms, $12 a month, which would be $60. He receives also in cash for the lighting and heating of five rooms, though he may only occupy one room or two rooms. Will the gentleman explain how that is?

Mr. HAY. I will state that the item to which the gentleman calls my attention refers to officers, dental surgeons, and so forth, who have not quarters at a military post and who have to have hired quarters. They get commutation of quarters in accordance with their rank, a second lieutenant getting two rooms and a first lieutenant three rooms, and so forth.

Mr. BURKE of South Dakota. Does not a captain get five rooms?

Mr. HAY. No; a captain gets four rooms, a major five rooms, and so forth. It is fixed by the rank of the officer, each room is $12 a month, and they are paid in cash when not stationed at military posts.

Mr. BURKE of South Dakota. And are they not always paid for heat and light for that number of rooms, regardless of the fact whether they occupy that number of rooms or not?

Mr. HAY. The commutation of heat and light is based on the number of rooms which they are allowed.

Mr. BURKE of South Dakota. They receive it for fuel in the summer months the same as in winter months, do they not?

Mr. HAY. I think not, but I am not positive about that.

Mr. BURKE of South Dakota. Is it not true in many instances a great many officers are drawing $75 and $100 a month in cash in lieu of quarters and light and heat?

Mr. HAY. I suppose they are—a colonel, a major, a lieutenant colonel.

Mr. BURKE of South Dakota. Is it not true that there are a large number of officers in the city of Washington, as many as 175, that are drawing money in lieu of quarters and for fuel and light?

Mr. HAY. All officers in the city who are not stationed at the military post here at the Washington Barracks are drawing their commutation of quarters and allowances for fuel and light.

Mr. BURKE of South Dakota. I will discuss the matter further under the five-minute rule, and will make some further observations.

Mr. KAHN. If the chairman of the committee will allow me, I think there is a provision in the Military Academy bill which permits the purchase of horses of a certain size, which are used as polo ponies at West Point. That is allowed by law.

Mr. HAY. The gentleman from South Dakota was talking about the expenses of the polo tournaments held not at West Point, but at other places; one was held here last summer. Now, Mr. Chairman, I reserve the balance of my time.

Mr. PRINCE. Mr. Chairman, I yield one hour to the gentleman from Iowa [Mr. TOWNER].

Mr. TOWNER. Mr. Chairman, the Constitution of the United States, Article II, section 3, provides:

He—

The President—

may on extraordinary occasions convene both Houses or either of them.

The word "extraordinary" in its usual and ordinary signification means beyond or exceeding the common order or degree. An "extraordinary occasion" as thus construed would be an uncommon, an unwonted, an unusual occasion. This was the view of the older commentators.

St. George Tucker, in his comments on Blackstone's Commentaries, volume 1, page 344, says:

The power of the President to convene either or both Houses of Congress was a provision indispensably necessary in a Government organized as the Federal Government is by the Constitution. Occasions may occur during the recess of Congress for taking the most vigorous and decisive measures to repel injury or provide for defense; Congress only is competent to these objects; the President may therefore convene them for that purpose. Or it may happen that an important treaty hath been negotiated during the recess of the Senate, and their advice be required thereupon without delay, either that the ratification may be exchanged in due time or for some other important reason. On such extraordinary occasions as these if there were not a power lodged in the President to convene the Senate, or the Congress, as the case might require, the affairs of the Nation might be thrown into confusion and perplexity, or worse.

Story on the Constitution, volume 2, section 1562, says:

The power to convene Congress on extraordinary occasions is indispensable to the proper operation and even safety of the Government. Occasions may occur in the recess of Congress requiring the Government to take vigorous measures to repel foreign aggressions, depredations, and direct hostilities; to provide adequate means to mitigate or overcome unexpected calamities; to suppress insurrections; and to provide for innumerable other important exigencies arising out of the intercourse and revolutions among nations.

In practice the earlier Presidents in summoning both Houses recognized this interpretation.

John Adams, May 15, 1797, by proclamation convened Congress, stating: "Whereas an extraordinary occasion exists for convening Congress." In his message giving reasons he cites the refusal of the French Republic to receive the American minister until the United States had acceded to their demands for "redress of grievances," the decrees of the Directory under which our commerce was being destroyed, and the necessity under the circumstances of strengthening our Army and Navy. In reply to this message both the Senate and the House passed "addresses" to the President approving the action in convening Congress "on this momentous occasion."

James Madison, May 22, 1809, convened Congress in special session, the "critical state of our foreign relations" being the occasion. War was threatened with both France and England, whose outrages on our seamen, depredations on our commerce, and contemptuous disregard for our rights were continually augmenting.

The War of 1812 with Great Britain made it necessary for President Madison to again call Congress in special session May 25, 1813, for the purpose of strengthening our Army and Navy and providing a revenue to meet the extraordinary demands of a conflict with the most powerful nation in the world.

Martin Van Buren, September 4, 1837, issued a proclamation convening Congress in extraordinary session, stating that "great and weighty matters claiming the consideration of the Congress of the United States form an extraordinary occasion for convening them." The suspension of specie payment by the banks and the panic which ensued made it necessary to provide for these "unexpected exigencies," which were "indispensably necessary to the public service before the regular period of your meeting."

William Henry Harrison, March 17, 1841, issued a proclamation calling Congress together May 31, 1841, to consider "sundry important and weighty matters, principally growing out of the conditions of the revenue and finances of the country."

President Harrison did not live until the date when Congress was to convene. He died April 4, 1841.

President Tyler, who succeeded to the Presidency, in his special-session message said he did not feel it would be becoming to him to disturb what had been ordered by his predecessor, and was "most happy" to have the counsel and advice of Congress "as to the best mode of extricating the Government and the country from the embarrassments weighing heavily on both."

Franklin Pierce, August, 1856, called Congress together, his proclamation stating:

Whereas whilst hostilities exist with various Indian tribes on the remote frontiers of the United States, and whilst in other respects the public peace is seriously threatened, Congress has adjourned without granting the necessary supplies for the Army, depriving the Executive of the power to perform his duty in relation to the common defense and security, an extraordinary occasion has thus arisen for assembling the two Houses of Congress.

Abraham Lincoln, July 4, 1861, convened Congress in extraordinary session. The Southern States had seceded, Sumter had been fired upon, war was then in progress, armies were in the field, a blockade had been ordered, and the President called upon Congress to give him "the legal means for making the contest a short and decisive one."

Rutherford B. Hayes, October 15, 1877, called Congress together because the preceding Congress had adjourned without making appropriations for the Army, the Navy, and to defray the expenses of the United States courts.

Again, March 18, 1879, he called Congress together because the Forty-fifth Congress made no appropriations for the Army or for the legislative, executive, and judicial branches of the Government.

Grover Cleveland called a special session August 8, 1893, his message stating:

The existence of an alarming and extraordinary business situation, involving the welfare and prosperity of all our people, has constrained me to call together in extra session the people's Representatives in Congress.

It will be seen from this review that on only 10 occasions during the first century of the Republic had its Presidents exercised their power to convene Congress in extra session. War, foreign aggressions, widespread panic, or a failure to make the necessary appropriations to carry on the Government were the reasons assigned. There will be no contention that the existence of any of these conditions would not constitute an "extraordinary occasion" justifying the exercise of the Executive prerogative.

The few instances of the exercise of this power by our Presidents during the first century of our history, and the facts existing in each case clearly justifying the call, merit the language of Justice Miller in his lectures on the Constitution:

The power of the President to convene both Houses, or either of them, on extraordinary occasions has been rarely exercised, and certainly has not been abused during the history of the Government.

While the exercise of the power during these years is clearly justified in calling both Houses, it is by no means so clear with regard to the exercise of the power in calling one alone. No President has ever convened the lower House alone, but special sessions of the Senate have been frequently called from the beginning of our Government down to the present time. Washington called the Senate in special session four times, John Adams twice, and Jefferson, Madison, Monroe, John Quincy Adams, Jackson, Van Buren, Tyler, and Polk once each. Indeed, the practice has continued down to the present day.

The occasion for these calls for a special session of the Senate has been the necessity of action by the Senate in confirming the important appointments of the President. Especially does it appear necessary when an administration changes. The President assuming his duties March 4, and the regular session of the Senate not occurring until the following December, the executive department can not be fully organized without the appointment and confirmation of the Cabinet officers. Hence it has been the practice to call special sessions of the Senate for the purpose of securing these important confirmations. While the exercise of the Executive prerogative is not so clearly justified in these cases, it has been considered indispensable so long as the Constitution makes no provision for dealing otherwise with such exigencies. It has therefore never been questioned.

In later years we find a new practice with regard to the calling of both Houses established which constitutes in reality an entire abandonment of the "extraordinary occasion" requirement for the exercise of the power. Our later Presidents call Congress in special session whenever in their judgment any important reason exists for so doing. Thus, William McKinley, March 15, 1897, called Congress in special session. In his message he said:

Regretting the necessity which has required me to call you together, I feel that your assembling in extraordinary session is indispensable because of the condition in which we find the revenues of the Government. It is conceded that its current expenditures are greater than its receipts, and that such a condition has existed for now more than three years.

It was true that the revenues of the Government were not equal to the expenditures. Prior deficits had been met, however, by bond issues, which, while undesirable, were not sufficiently serious to constitute an extraordinary emergency. To have awaited from March until December would not have materially changed conditions or seriously injured the country. The bulk of the President's special session message, however, was devoted to a discussion of the tariff, and it was generally understood that Congress was called together for the purpose of revising the tariff.

It may well be doubted if tariff revision under any circumstances can constitute an "extraordinary occasion" within the meaning of the Constitution. When it is remembered that such

action is in response to a political rather than an essential or inherently justifiable demand, its wisdom as well as its constitutionality may fairly be questioned. It will hardly be contended that a seeming political advantage will justify the exercise of a doubtful constitutional power, and it may be safely assumed that no such exercise of power can in the long run help the party in whose supposed interest it is made.

The unwise precedent set by President McKinley was followed by Theodore Roosevelt November 9, 1903, who convened Congress in extraordinary session to "consider the legislation necessary to put into operation the commercial treaty with Cuba."

The treaty had been ratified by the Senate and by Cuba, but its reciprocal features contemplated legislation by Congress. In this case there was hardly a pretense that the occasion was "extraordinary." The President did not even allude to it as such. He merely desired early action and took this means of securing it on a pet measure of no general interest or particular importance.

It is unquestionably true that it is entirely within the power of the President to determine what is an "extraordinary occasion." Thus Watson on the Constitution (vol. 2, p. 1001), a late work, discussing the exercise of this power, says:

> The term "extraordinary occasions" would imply that the framers of the Constitution thought that some urgent necessity might arise, when it would be necessary for Congress, or either branch thereof, to be called together, and they accordingly conferred upon the President the power to do so at such times. What is an extraordinary occasion is for the President to determine. A State constitution by a similar provision authorized the governor to call the State legislature together, and it was held that though the governor might err in doing so there was no power to prevent him or to correct the error. Another State constitution contained the exact language on this subject which is found in the Constitution of the United States—that is, it authorized the governor to call the legislature, or either branch thereof, together on "extraordinary occasions." The governor having exercised his authority and called the legislature together, it was claimed by a very large part of the people of the State that no "extraordinary occasion" existed, and that in consequence the call was invalid and the proposed legislation unnecessary. The court said the fact that a large majority of the people of the State might not consider that an "extraordinary occasion" existed, or that they believed that the legislation which it was proposed should be enacted was unnecessary, vicious, or injurious to the interests of the State, would not justify a court in declaring that the governor had violated his constitutional prerogative in calling the legislature together.

Whatever view may be taken as to the justification for calling Congress in extraordinary session in any given case, there is no way to legally contest it. The President is the sole judge as to what constitutes an extraordinary occasion, and his only restraint in the exercise of the power is moral. The determination of what is his duty under the Constitution he is sworn to support and obey ought to be a sufficient guide. If he shall determine to disregard his constitutional duty or to lightly treat its obligations, he has the power to do so, but it will not redound to his credit or to the credit of his administration.

William Howard Taft, March 16, 1909, convened Congress "in order to enable it to give immediate consideration to the revision of the Dingley Tariff Act." Conditions had so changed, he said, as to require a readjustment of rates. The revenues were not sufficient to pay the authorized expenditures, the successful party was pledged to revision, the country expected it, and the suspense as to the nature of the change caused a halt in business. "For these reasons I have deemed the present to be an extraordinary occasion within the meaning of the Constitution justifying and requiring the calling of an extra session."

It is perhaps needless to say that none of the matters stated as constituting an "extraordinary occasion," nor all of them together, justified the call. There was no emergency that under a fair interpretation demanded immediate legislation. There was no condition shown to exist which might not reasonably have been borne from March until December. It may fairly be stated that the revision of the tariff could have been better and more satisfactorily accomplished had the President allowed the matter to wait until the regular session. If there is any one subject of legislation that can and should await the opportunity for full consideration and calm deliberation it is a revision of the tariff.

President Taft again exercised his prerogative by assembling the Sixty-second Congress in special session April 4, 1911. His purpose was to secure the adoption of the proposed reciprocal trade agreement with Canada.

In concluding the negotiations—

He said—

> the representatives of the two countries bound themselves to use their utmost efforts to bring about the tariff changes provided for in the agreement by concurrent legislation at Washington and Ottawa. I have felt it my duty, therefore, not to acquiesce in relegation of action until the opening of Congress in December, but to use my constitutional prerogative and convoke the Sixty-second Congress in extra session in order that there shall be no break in continuity in considering and acting upon this most important subject.

President Taft endeavored to secure the approval of this trade agreement by the Sixty-first Congress. It passed the House February 14, 1911, a majority of the Republicans voting against it. A determined opposition to the bill developed in the Senate, whereupon the President announced that if no action was taken on the bill before Congress came to an end, March 4, he would call a special session of the Sixty-second Congress to pass upon it. The statement, however, had no effect, and the Senate took no action. The special session was called and the President secured the passage of the reciprocity pact by the Sixty-second Congress, July 22, 1911.

No action was taken by Canada until July 29, when Laurier dissolved Parliament and appealed to the people. The vote in Canada was taken September 21 following, when the Conservatives won an almost unprecedented victory and secured a new Parliament overwhelmingly opposed to reciprocity.

It will be seen that there was no occasion for haste. It was apparent that the President thought the chance of passage in the United States was better early and that the influence of successful action here would be helpful in Canada. Such considerations were far from constituting a justification of the exercise of the power of calling an extraordinary session of Congress. The President might well have acquiesced in "relegation of action until the opening of Congress in December," and it would have been fully as wise to have allowed a "break of continuity" here as in Canada.

The country is now at peace. Our people are enjoying an unprecedented measure of prosperity. Business conditions are good. The largest crops ever produced have been harvested. There is more money on deposit in our banks than ever before. Our exports and imports are the largest ever recorded, and the balance of trade is strongly in our favor. Our revenues exceed our expenditures, and we have a surplus in the Treasury. It is vehemently declared that these conditions will and must continue. Nevertheless it is announced by the President elect that he will summon Congress early in the year in extraordinary session to revise the tariff. And this is to be done not because of any announced constitutional sanction but because his party associates demand it. Indeed, it is almost ludicrous to consider that the President in November announces that an "extraordinary occasion" will arise for the exercise of his constitutional prerogative the next March or April. In effect this is a determination that, no matter what conditions then may exist in the country, the political pressure of his party associates for tariff revision as a party policy, in fulfillment of party pledges, constitutes an "extraordinary occasion" within the contemplation of the Constitution for calling an extra session of Congress.

It cost the country in increased expenditures for the extra session of 1911 probably more than a quarter of a million dollars. For session employees of the House and Senate the cost was $33,591.64. For mileage it was $183,480.20. Other expenditures, such as increased amounts for stationery, materials, light, heat, and so forth, were incurred, the amount of which can not be readily ascertained. It is not probable that the contemplated extra session will cost less.

Have those who have advised the President elect that it would be good politics to call the extra session considered this feature? Are those Democrats who are pledged to rebuke the "mad extravagance" of the Republicans ready to stand responsible for this utterly needless expense? Is a quarter of a million dollars less in their consideration than the salary of a superfluous clerk? An opinion is somewhat generally entertained that the lavish and almost limitless expenditures for investigations, which have marked if not distinguished the history of the present House, were incurred more for party advantage than for justifiable ends. Will it be wise now to add this large additional expenditure whose only possible purpose is pure politics?

It will be claimed that this call of an extra session to revise the tariff is but the call of the people, to which faithful and obedient statesmen should immediately respond. But the people, or at least a large majority of them, do not want any such revision of the tariff as is promised by the Democratic Party.

It should begin to be understood by the leaders of that party that it was neither their principles or their candidate that caused their success. It was Republican division and not Democratic worth that brought about Republican defeat.

Of the three parties which really contended for the supremacy at the last election two declared unequivocally for the policy of protection. The other declared against it. A majority of over a million votes was cast for the parties which declared against a tariff for revenue revision. The popular vote for Mr. Wilson was 6,303,000; that for Mr. Taft was 3,439,000; and that for Mr. Roosevelt was 4,168,000. The combined vote for Mr. Taft and Mr. Roosevelt, or the total vote for protection,

was 7,608,000, a majority on the vote cast for protection as against tariff for revenue of 1,305,000. The vote of Mr. Wilson with the normal increase as measured by the increase of population should have been 6,931,000. Instead, it was 628,000 less, and 104,919 less than Mr. Bryan received in 1908.

In view of these facts there is little appearance of an imperious, unappeasable, immediately-to-be-answered demand for tariff revision. Indeed, when it is considered that the total vote of 1912 was only 155,000 larger than the vote for 1908, despite the fact that two new States had been admitted and suffrage to women had been granted in California and Washington, and that if the additional vote of those States be omitted, the total vote of 1912 was smaller than in 1908, notwithstanding the fact that during that period the population of the country had increased 8 per cent; if, in addition, it is remembered that the total vote cast at the last election, including the Socialist, Prohibition, and Socialist-Labor vote, was only 15,041,000, while the number of males of voting age in the United States was 26,999,000, it is apparent both that no great interest was taken in the demand for tariff revision, and that the less than one-quarter of our total voting population who demand such action ought reasonably to be satisfied if action be deferred until reached in the ordinary course of orderly procedure.

The only avowed purpose of the extra session is to revise the tariff. That the tariff needs revision may be freely admitted, but that surely can wait until the regular session. The country is at least not suffering under our present tariff. It may be too high in some of its items, but that will always be the case. It may be too low in some particulars, but such conditions will always exist. Under it as it now is we are prospering mightily. All admit the year just closed was the golden year of the Nation's progress and prosperity. We have ample revenue. There is no deficit. Business is sound. There is no panic. There is no sudden emergency calling for action; no "occasion" justifying the exercise of the "extraordinary" powers of the Government.

The President elect in his letter of acceptance said that as the business of the country had been built up on protective-tariff schedules "its foundations must not be too radically or too suddenly disturbed." Later during the campaign he said:

> These changes can not be brought about suddenly. We can not arbitrarily turn right about face and pull our policy up by its roots and cast it aside while we plant another in virgin soil. A great industrial system has been built up in this country under the fosterage of the Government behind a wall of unproductive taxes. This change must be brought about first here, and then there, and then there again. We must move from step to step with as much prudence as resolution.

These words were fair words; they were wise words; they were words of moderation and wisdom. It will scarcely be contended that they were not honestly spoken. It can hardly be believed they were uttered for campaign purposes only; that they were only intended to allay alarm, to win confidence, to secure votes, and that the real purpose was something exactly opposite. And yet that is exactly the reproach the persons who have induced the President to call this extra session bring upon him. His words before the election promised moderation, deliberation, consideration. His act will belie all this and will do the very things he promised not to do.

One wonders if history is again to repeat itself. Grover Cleveland in his letter of acceptance said:

> We will not destroy any industry; we will remodel the tariff; we will give lower duties; we will even the burdens of the people; and we will give freer raw material.

And yet when President he became the earnest advocate not of freer but of free raw materials, denounced the Wilson-Gorman law as "party perfidy and party dishonor," and refused to sign it, not because it was too radical but because it was not radical enough. Nevertheless, as it was, Senator Hoar declared in Congress that the experiment of radical tariff revision made under the Cleveland administration cost the people of this country more in dollars and cents than the entire cost of the Civil War.

What may be expected at the coming extra session in the present state of mind of the dominant leaders may be determined by the words of Mr. UNDERWOOD, leader of the majority, who is reported as saying recently, "The bills already passed by the House indicate the line of revision that will be followed." These bills put on the free list nearly $6,000,000,000 of products now on the dutiable list. They greatly reduce the duty on $9,000,000,000 more of our products. And these bills left many of the schedules untouched which it is now proposed shall be "revised."

Yet Mr. Wilson declares that they "do not want to disturb the industry of the country; we are here not to destroy." And yet with such an announced program of radical, revolutionary revision he yields to the pressure of politicians, whom he is unwilling or unable to resist.

The Springfield Republican refers to the past tariff activities of the present House as "more of a study in political jockeying than in tariff making." Political success seemed so desirable, so deliciously sweet, so rapturously blissful, that the end to be attained appeared to justify almost any means to secure it. But the hour of responsibility will end the pleasant pastime of jockeying, and the stage play, which both diverted and deceived, must cease when in the cold, clear light of open day the handling of elemental forces begins.

The coming administration holds in its hands four years of our country's history. It may write on its pages much good or much evil. To an extent that is not realized the policies of an administration affect the happiness of the people. It is sometimes lightly said that it makes little difference which party succeeds or who is elected, but that is a mistaken idea. In some manner every administration touches every citizen—the humblest as well as the highest. It reaches every hearthstone; it is felt in remotest regions. In the success of the coming administration every patriotic American citizen must be interested. For its success every one not blinded by partisanship or actuated by sinister motives must wish. Every wrong step, every mistake, every blunder hurts us all, and in the glory that may come from continued or increased progress and prosperity we can not help but share.

Extra sessions of Congress called for political purposes to serve party ends have never brought satisfaction to the Executive, credit to the administration, or benefit to the country. The proposed extra session will be no exception. Looking merely for party advantage, Republicans might view with complacency this first blunder of the new administration; but as Americans, with the best interests of the people at heart, it is difficult to see any possible good to our country in the proposed extra session of Congress.

Mr. PRINCE. Mr. Chairman, I now yield 15 minutes to the gentleman from California [Mr. KAHN].

Mr. KAHN. Mr. Chairman, when the Army appropriation bill was before the House last summer my colleagues on this side of the House and myself endeavored to point out the fact that unless the items for pay were increased there would positively be a deficit this year. Our prediction has come true. The chairman of the committee, the gentleman from Virginia [Mr. HAY], said in his statement that the deficit is due to the increase in the Army. It is true that the Army was increased, but the order for the increase was issued on the 30th of March, 1911, some months before the Army bill was finally passed; and the fact that the order for the increase had been made before the bill had passed was all the more reason why the amendments offered by my colleagues and myself should have been adopted. But the political campaign is over, and the present bill carries the amounts which the real necessities of the Army demand.

The bill of last summer carried considerable legislation. One of the provisions was for an increase of the enlistment period. In the San Francisco Chronicle, a few weeks ago, I noticed an article to the effect that there had been a considerable falling off in the number of enlistments at that point since the new law went into effect on the 1st of last November. Having read the item, I took occasion to find out just what that falling off might be. Of course, one can only make a comparison of the enlistments and reenlistments that occurred in the months of November and December of previous years.

I find that the total enlistments and reenlistments for 1910 was 6,331 during the months of November and December. The total enlistments and reenlistments during these two months in 1911 was 7,559. The total enlistments and reenlistments during the months of November and December, 1912, fell to the remarkably low figure of 3,677, or less than 50 per cent of what it had been during these two months in the year before. Again the predictions of the minority have come true. The long period of enlistment does not meet with the favor of the men who are likely to enlist in the Army. I firmly believe that it will become necessary by law to change the enlistment period.

Mr. HAY. Mr. Chairman, will the gentleman yield?

Mr. KAHN. Yes.

Mr. HAY. The present period of enlistment is, under the law, seven years.

Mr. KAHN. Yes.

Mr. HAY. Three years of which are served in the reserves.

Mr. KAHN. Yes.

Mr. HAY. Is it not a fact that the Secretary of War and the Chief of Staff insisted upon having that reserve feature, thereby adding the three years?

Mr. KAHN. The Secretary of War and the Chief of Staff did want a reserve period. Their preference was for a three-year enlistment period, with two years in the reserves; but

when it became evident that it was impossible to secure a three-year enlistment period, then they advocated the four-year period, which a majority of the conferees had agreed upon, plus three years in the reserves. During the summer I had occasion to speak with many of the enlisted men regarding this matter of the enlistment period, and I found that practically all of them preferred the short-enlistment period. Personally, I feel that many men should be allowed to retire from the Army at the end of the first year. I feel that where a man finds that he has no aptitude for the service he should be allowed to retire at the end of the first year, without being compelled to purchase his discharge. In that way the men who would have had a year's experience would go out into the body of the citizenship of the country with a friendly feeling toward the Army. I feel that if the call to the colors should come, a very large percentage of those men would respond in case they were required for actual service in the field.

Many of the desertions in the Army are due to the fact that young men who enlist, after they have been in the service a few months, become homesick and want to get out. If they felt that they could get an honorable discharge at the end of the year, I believe that very few of them would ever desert. They would practically all remain. A three-year term with two years in the reserves should be the longest in the Army, in my judgment. You would find that men would continue to enlist just as they had been enlisting before this increased term became the law. I hope, however, that the system which the law provided for will have a thorough test, and if it should develop that the falling off in the number of enlistments shall continue, then I hope that the Committee on Military Affairs will promptly bring in another bill to reduce the term of enlistment.

Mr. MURDOCK. What does the gentleman mean by a thorough test—what length of time?

Mr. KAHN. Oh, I should say a year. A year would undoubtedly develop the fact very thoroughly as to whether the present law is a success or not.

Mr. MURDOCK. Then if the present rate of diminution, which has developed in November and December, should continue for one year the gentleman would offer an amendment to cure that?

Mr. KAHN. I should introduce a bill.

Mr. MURDOCK. To reduce the term of service to one year?

Mr. KAHN. No; to three years; but I would have a proviso to give the soldier the privilege of taking an honorable discharge at the end of one year if he should desire to do so.

Mr. HOBSON. Mr. Chairman, will the gentleman yield?

Mr. KAHN. Certainly.

Mr. HOBSON. I would ask the gentleman whether they have been able to find from the recruiting officers any cause that they can put their finger on? I will put the question in another way, and ask whether the fact that the soldier is to receive no compensation during the three years of reserve is not the reason for the falling off rather than the length of service? I want to say that I agree with the gentleman that it may be it is the length of enlistment that may have produced this falling off, but there is also the question there of three years of service in the reserves without compensation.

Mr. KAHN. I have not had information upon that point, and therefore I stated that I would give the present law an opportunity to work out its own salvation. If, after the end of the first year, it should develop that the enlistments still continue to fall off and that the reason for the falling off is the one suggested by the gentleman from Alabama [Mr. HOBSON], then the correction should be made as to that. I will state that, having spoken on that subject with a number of enlisted men, I believe it is the long period of service that is responsible for the falling off.

Mr. Chairman, there are a number of matters contained in the bill of a year ago that should be given a thorough opportunity to be tried. There was a provision in the sections providing for a Quartermaster Corps that, I think, will develop a condition that ought to be carefully studied. Perhaps I should say that it will develop an improvement that ought to be worked out right through the Army. I refer to the matter of having one list with all the officers upon it, with rank upon that list from the date of their commission. There is a grievous complaint in the Army that officers frequently get promotions over their seniors, due to the branch of the service which the officer enters. For instance, one officer will graduate from West Point, say, in 1902. He goes into a certain branch of the service. Four or six years afterwards another officer will graduate from West Point who possibly will have been appointed from the same congressional district. That second officer goes into another branch of the service where promotions are much more rapid, and in the course of a few years he is a captain, while the man who graduated four or six years earlier is still a lieutenant. That condition is bound to create dissatisfaction, and if the provision contained in the Army bill passed last summer, to place all officers in the Quartermaster Corps on one list, according to the date of their commission, shall work out satisfactorily, then I believe that a law should be passed so that we may place all of the officers in the various branches of the Army on one list. I am satisfied that a great deal of the dissatisfaction would be dissipated, and it would work to the advantage of the Army. The Navy has only one list, and a man can look forward with absolute certainty to his promotion from rank to rank. That is impossible in the Army to-day, and such a condition should not be allowed to prevail. [Applause.]

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. PRINCE. Mr. Chairman, I do not know of anybody else on this side of the House who desires to speak.

The CHAIRMAN. Does the gentleman from Virginia desire to use any more time?

Mr. HAY. I do not.

Mr. PRINCE. Then I do not.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted, etc., That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Army for the year ending June 30, 1914.

Mr. MANN. Mr. Chairman, I move to strike out the last word. The agreement was that there should be three hours of general debate, which, of course, does not bind the committee to use the time. Many Members went away on the supposition that there would be three hours of general debate, and I will ask the gentleman whether in the bill he knows of any controverted items that Members who perhaps are not present might wish to be heard upon?

Mr. HAY. I do not. The only item I heard about was the one concerning which the inquiry was made by the gentleman from South Dakota [Mr. BURKE]. That is the only controverted item I know anything about. I do not know that there is any item in this bill that is opposed by any member of the committee.

Mr. MANN. I am not speaking of the members of the committee. It is their business to be here.

Mr. KAHN. The gentleman from South Dakota [Mr. BURKE] told me in the cloakroom that when those items were reached in the bill he desired to call the attention of the committee to some abuses that he thought ought to be corrected, and I judged from what he said that he would offer some amendment.

Mr. HAY. That item will not be reached for some time, I will say to the gentleman.

Mr. MANN. Very well.

The Clerk read as follows:

OFFICE OF THE CHIEF OF STAFF.

Army War College: For expenses of the Army War College, being for the purchase of the necessary stationery, typewriters and exchange of same, office, toilet, and desk furniture, textbooks, books of reference, scientific and professional papers and periodicals, printing and binding, maps, police utensils, employment of temporary, technical, or special services, and for all other absolutely necessary expenses, including $25 per month additional to regular compensation to chief clerk of division for superintendence of the War College Building, $9,000.

Mr. HAY. Mr. Chairman, I offer the following amendment as a new paragraph.

The CHAIRMAN. The gentleman from Virginia offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 2, after line 8, insert the following as a new paragraph:

"That hereafter the President of the United States be, and is hereby, authorized to detail from the Army or Navy of the United States one officer, who shall serve as his personal aide, and who while so serving shall have the rank, pay, and allowances of a colonel of the Army."

Mr. PRINCE. Mr. Chairman, I reserve a point of order against that.

Mr. HAY. I will say to the gentleman from Illinois that this is offered upon the request of the President of the United States, and I would ask the Clerk to read the communication which I have received from the President.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

THE WHITE HOUSE,
Washington, January 13, 1913.

Hon. JAMES HAY,
Chairman Committee on Military Affairs,
House of Representatives.

MY DEAR MR. HAY: I write to urge upon you the introduction into the military appropriation bill of a provision for a personal aide to the President, to be detailed by him from officers of either the Army or the Navy, and to hold during such detail the rank and to receive the pay of a colonel of Infantry.

I do this after four years' experience, which makes me feel that a personal aide is necessary to the President, and that he should have the rank and pay of a colonel. This is the rank of aides to governors.

It is the rank of the aide of a full general in the Army, and as the President is the Chief Executive and the Commander in Chief of the Army and Navy, it would seem as if his aide ought to have equal rank and emolument.

I would not recommend it if my personal experience did not make me feel that such an aide is essential. It is true that the Engineer officer in charge of the public grounds and parks and, indeed, of the White House has the rank and pay of a colonel. In the old times it probably was given with the idea that he would serve as the personal aide of the President as well. But his duties are so many that, except at special social functions at the White House, it is impossible for him to be in attendance upon the President.

There is no law expressly authorizing a personal aide to the President, but my predecessors and I have exercised the power of the Commander in Chief to detail a captain or a major for the purpose. I think it would be better to have special authority on this subject, and, in the interest of my successor, to furnish him what I regard as needed assistance, I venture to send you this letter.

I have written a similar letter to Mr. MANN, leader of the opposition, with the hope that the provision may be treated in a nonpartisan spirit.

Sincerely, yours,

WM. H. TAFT.

Mr. SIMS. Mr. Chairman, has an amendment been offered to carry out the suggestion of the letter?

Mr. HAY. Yes; and the gentleman from Illinois [Mr. PRINCE] reserved a point of order.

Mr. SIMS. A point of order, then, is reserved?

Mr. PRINCE. It is reserved.

Mr. SIMS. If you decide to surrender it, I want an opportunity to make it.

Mr. HAY. I suggest that if you are going to make it that it be made now. There is no question that it is subject to a point of order.

Mr. SIMS. I understand from the letter that the Superintendent of Public Buildings and Grounds does act as aide to the President, with rank of colonel.

Mr. HAY. It states just the opposite, namely, that the duties of the Superintendent of Public Buildings and Grounds in the city are such that it is not possible for him now to so act, and that heretofore the President and other Presidents have exercised their right as Commander in Chief of the Army to detail some person to act as their personal aide, generally a captain. The object of this amendment is to authorize the President to detail an officer of the Army or Navy, and while such officer is serving as personal aide he shall receive the rank, pay, and allowances of a colonel.

Mr. MURDOCK. May I ask the gentleman what the duties of the military aide of the President are, as a fact?

Mr. HAY. The gentleman from Kansas knows them as well as I do.

Mr. MURDOCK. I will say to the gentleman that all I ever see of him is at the presidential receptions. What are his duties outside of that?

Mr. HAY. His duties are greater than that. He travels with the President, he meets many people for the President, and he is constantly in attendance on him, and his duties, in my judgment, are very onerous.

Mr. MURDOCK. Does the military aide, as a mater of fact, have daily duties?

Mr. HAY. Undoubtedly; yes.

Mr. MURDOCK. What are his duties at the White House?

Mr. HAY. He is there at the call of the President to perform any duty which the President chooses to impose upon him. He has to be there, as I understand it, all the time.

Mr. SIMS. Let me ask the gentleman this question: At present he does detail an officer of the rank of captain?

Mr. HAY. I think the present aide has the rank of major.

Mr. SIMS. And pay of major?

Mr. HAY. I think the present aide is a major in the Medical Corps.

Mr. SIMS. Is it the idea that a major, when serving as an aide, should have higher pay than when serving with his command?

Mr. HAY. That is the purpose of the amendment, namely, to give him the rank, pay, and allowances of a colonel.

Mr. SIMS. Is the service so much more onerous than it would be when serving in his regular position that he should receive extra pay? Is that the ground on which this is based?

Mr. HAY. The President informed me that the expenses of a man in that position were very much increased by reason of the position, and he thought he ought to have this increase of pay.

Mr. SIMS. On account of the social functions he has to attend? I remember that Col. Bingham used to introduce visitors and people attending the White House receptions to the President.

Mr. HAY. It may be that the Superintendent of Public Buildings and Grounds does that now. That is a very small part. You will remember that Maj. Butt, whom we all remember pleasantly and whose unfortunate end we lament, was the military aide of the President, and I happen to know that he was constantly on duty, and, occupying the position he did in relation to the President, he had a great many more expenses probably and had to live in a manner which he certainly would not otherwise have had to do.

Mr. SIMS. Does the gentleman from Virginia [Mr. HAY], the chairman of this committee, personally think, as a matter of personal judgment, that this ought to be a law? Is the gentleman acting as a matter of courtesy or upon his own judgment?

Mr. HAY. I am acting upon the request and information and experience of the President, who thinks this ought to be done; and he places it also upon the further ground that if every governor has a personal aide with the rank of colonel, that if a general of the Army has a personal aide with the rank of colonel, the Chief Executive of the country ought at least to have an aide with the same rank as that of a governor of a State or a general of the Army. Now, personally I know nothing about it. The President states in his letter that he does not expect to receive any benefit from this himself, but that he is doing it in the interest of his successor.

Mr. SIMS. I want to say to the chairman of this committee, in whom I have great confidence, that I have never yet made a point of order on an amendment that he offered, and if he approves of this I will make no point of order against it, but will rely on the gentleman exclusively if he is confident that he is correct in this matter.

Mr. HAY. I am relying on the information I have received, and I think that information is entitled to still more consideration when it is remembered that the amendment will cost very little; and if it is any satisfaction to the President to have a man with the rank of colonel as his aide I think Congress ought not to withhold it.

Mr. COVINGTON. Mr. Chairman, will the gentleman permit an interruption?

The CHAIRMAN. Does the gentleman from Virginia yield?

Mr. HAY. Certainly.

Mr. COVINGTON. The President is Commander in Chief of the Army, is he not?

Mr. HAY. Yes; he is.

Mr. COVINGTON. Does not the gentleman believe that if the President desires to have as his personal aide an officer with the rank of colonel he can find somewhere among the colonels in the Army a man who might be of such a personal character as to perform most efficiently and satisfactorily such service as may be required of him as aide to the President?

Mr. HAY. Yes; and if he did it he would have the pay and the emoluments and allowances of a colonel. If you restrict him to the selection of a man with the rank of colonel, he could not select the officer he desires from any other rank, but would have to select a colonel. I do not think it would be wise to select a colonel, who ought to be in command of his regiment, and it would be a pretty bad precedent to set to take a colonel away from his command and bring him here to the White House to be the personal aide of the President.

Mr. SLAYDEN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. HAY. Yes.

Mr. SLAYDEN. I would like to ask the gentleman from Maryland [Mr. COVINGTON], with the permission of the committee, whether it would not be satisfactory to provide that the person to be selected for this position should not be below the grade of major or lieutenant colonel?

Mr. COVINGTON. I do not see why you should discriminate against captains and lieutenants if you want to select an aide below the rank of colonel.

Mr. SLAYDEN. I think there is a reason. I think the captains are of vastly more use and benefit with their companies, to be frank with the gentleman.

Mr. COVINGTON. Then the gentleman thinks that the colonel is of great use to the Army in the command of his regiment, and that the captain is of great use to the Army in command of his company, but that the major, coming in between the two, is of doubtful use to anybody?

Mr. HAY. Mr. Chairman, I do not think the President ought to be restricted in the right to name any person he pleases in the Army to serve as his personal aide. I believe that under the Constitution he has the power, as Commander in Chief of the Army, to detail anybody he pleases for that purpose unless restricted by law. The only question here is whether you will give that man the rank and pay and allowances of a colonel.

Mr. COVINGTON. Mr. Chairman, if the gentleman will permit a question, I would like to ask if it is not a fact that at the present time these appointments at the White House, as they are commonly termed, are greatly sought by Army officers?

Mr. HAY. I think that is so; indeed, I know it is so.

Mr. COVINGTON. And that, even with only the pay of their rank, the peculiar attractiveness of service at the White House makes appointments as aides to the President peculiarly sought after by certain officers of the Army in grades as low as captain and lieutenant?

Mr. HAY. Yes; by certain officers of the Army. There are certain officers who are very anxious to receive such assignments.

Mr. COVINGTON. Under the present conditions, then, the President has no difficulty in procuring a suitable officer as his personal aide?

Mr. HAY. No; there is no difficulty. The only question here is whether or not the person selected is going to receive the rank, pay, and allowances of a colonel.

Mr. PRINCE. The question has been presented rather suddenly, and for that reason I reserve a point of order so as to get my memory to work. I have been told, whether correctly or not, that Mr. Lincoln got along with a civilian; that Gen. Grant got along with a civilian; that President Cleveland got along with civilians. I do not like this idea of having an Army officer act as the personal aide to the President, who is elected by the people. It smacks, to my western way of thinking, a little too much of flunkeyism. It may be all right. The people may approve of it, but I do not like it myself.

Now, the President is Commander in Chief of the Army and Navy, and if as Commander in Chief of the Army and Navy he wants to order them all to be around him in Washington, that is his right. But I am not going to be one, as a Member of this House, to consent by legislative enactment to an indorsement of that kind of work. For that reason I shall not only reserve a point of order, but will insist on the point of order.

The CHAIRMAN. Is the point of order insisted on?

Mr. HAY. Yes.

The CHAIRMAN. The point of order is sustained. The Clerk will read.

The Clerk read as follows:

Contingencies Military Information Section, General Staff Corps: For contingent expenses of the Military Information Section, General Staff Corps, including the purchase of law books, professional books of reference, professional and technical periodicals and newspapers, and of the military attachés at the United States embassies and legations abroad; and of the branch office of the Military Information Section at Manila, to be expended under the direction of the Secretary of War, $10,000: *Provided*, That section 3648, Revised Statutes, shall not apply to subscriptions for foreign and professional newspapers and periodicals to be paid for from this appropriation, $10,000.

Mr. FOWLER. Mr. Chairman, I desire to ask the chairman of the committee what force the figures "$10,000" at the end of this paragraph have?

Mr. HAY. I was just going to move to amend by striking out those figures at the end of the proviso.

Mr. FOWLER. And put a period at the end of the word "appropriation"?

Mr. HAY. Yes.

The CHAIRMAN. The gentleman from Virginia is recognized.

Mr. HAY. I move, Mr. Chairman, to strike out the figures "$10,000" at the end of the proviso, and in place of the comma after the word "appropriation" put a period.

The CHAIRMAN. The Chair will place the two amendments together. The Clerk will read the amendment.

The Clerk read as follows:

Amend, page 2, line 20, by striking out the figures "$10,000" at the end of the proviso, and in place of the comma after the word "appropriation" insert a period.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For contingent expenses of the Military Information Section, General Staff Corps, including the purchase of law books, professional books of reference, professional and technical periodicals and newspapers, drafting and messenger service, and of the military attachés at the United States embassies and legations abroad, and of the branch office of the Military Information Section at Manila, to be expended under the direction of the Secretary of War, $10,000: *Provided*, That hereafter sections 3648 and 3682, Revised Statutes, shall not apply to subscriptions for foreign and professional newspapers and periodicals, nor to official or clerical compensation to be paid for from this appropriation.

Mr. HAY. Mr. Chairman, this is a duplication of the preceding paragraph, and was put in the bill by mistake, with the exception that section 3682 of the Revised Statutes shall not apply to subscriptions, and so on.

The second paragraph is the form in which the department desire this language to be inserted; but upon examination of section 3682, which they do not wish to have apply to this appropriation, I am satisfied that it ought not to be in the bill, because out of this appropriation, if we repeal or suspend section 3682, they could pay both officers and clerks, and it never was intended that that should be done. Therefore I move to strike out that paragraph.

Mr. PRINCE. This is a duplication, is it not?

Mr. HAY. With the exception I have stated.

Mr. PRINCE. What is section 3682?

Mr. HAY. That section provides that contingencies shall not be used to pay officials or clerical employees.

Mr. PRINCE. Yes; I remember that.

Mr. HAY. If this exception is put in there, they can take from this appropriation money to pay clerks and officers in addition to what they already receive. I do not think that ought to be done.

Mr. PRINCE. You want to strike it all out?

Mr. HAY. Yes.

The CHAIRMAN. The Clerk is not very clear as to what the gentleman's amendment is.

Mr. HAY. I move to strike out the entire paragraph.

The amendment was agreed to.

The Clerk read as follows:

United States service schools: To provide means for the theoretical and practical instruction at the Staff College (including the Army School of the Line, Army Field Engineer School, and the Army Signal School) at Fort Leavenworth, Kans., the Mounted Service School at Fort Riley, Kans., and the School of Fire for Field Artillery at Fort Sill, Okla., by the purchase of textbooks, books of reference, scientific and professional papers, the purchase of modern instruments and material for theoretical and practical instruction, and for all other absolutely necessary expenses, to be allotted in such proportions as may, in the opinion of the Secretary of War, be for the best interests of the military service, $30,350.

Mr. FOWLER. Mr. Chairman, I move to strike out the last word, for the purpose of asking the chairman of the committee what was the occasion for increasing this item $5,000 above that appropriated in the last session of Congress?

Mr. HAY. The increase was made because of increased expenditures at these various schools.

Mr. FOWLER. Was there any deficiency in the appropriation of the last session?

Mr. HAY. The appropriation last year was $30,000, so that the increase is only $350.

Mr. FOWLER. The appropriation last year was $25,000, was it not?

Mr. HAY. I beg the gentleman's pardon, but if he will look at the last Army bill, under the head of "United States service schools," he will find that the appropriation was $30,000.

Mr. FOWLER. If I made no mistake in making the comparison, it was $25,000. I may have made a mistake. The comparison was made by an assistant.

Mr. HAY. I have the law here.

Mr. FOWLER. I take the gentleman's word for it. He states that the $350 is the only increase.

Mr. HAY. The only increase is $350.

Mr. FOWLER. Is there any deficit this year?

Mr. HAY. No; I think not. I am very sure there is not. The $350 was added for the purpose of meeting some additional expenditures at one of these schools.

Mr. FOWLER. I withdraw the pro forma amendment.

The CHAIRMAN. The pro forma amendment is withdrawn. The Clerk will read.

The Clerk read as follows:

THE ADJUTANT GENERAL'S DEPARTMENT.

Contingencies, headquarters of military divisions and departments: For contingent expenses at the headquarters of the several military divisions and departments, including the Staff Corps serving thereat, being for the purchase of the necessary articles of office, toilet, and desk furniture, binding, maps, technical books of reference, professional and technical newspapers and periodicals, and police utensils, to be allotted by the Secretary of War, and to be expended in the discretion of the several military division and department commanders, $7,500.

Mr. BURKE of South Dakota. I move to strike out the last word. I want to call the attention of the chairman to the words in line 2 of this paragraph:

The necessary articles of office.

Mr. Chairman, it seems to me this language is so general that there is no limit to the purchases which may be made under it.

Mr. KAHN. Necessary articles of office furniture.

Mr. BURKE of South Dakota. No; it says:

The necessary articles of office.

I am only speaking as to this particular item, because provisions of this kind creep into appropriation bills, and it generally results in advantage being taken of them and expenditures being made that Congress has not contemplated. For the purpose of ascertaining whether or not any money has been expended under this item that perhaps Congress did not intend to authorize, I have made some inquiry to ascertain how this amount was expended in the last appropriation bill, or for the fiscal year ending June 30 last.

If I understand the law, official envelopes have to be purchased through the Postmaster General under contract. The different bureaus are not permitted to purchase penalty envelopes for the use of their offices except through the Postmaster General under authority of law.

In this particular instance I find that an account was submitted for envelopes and stationery. The item in the particular concrete case that I am referring to is a small one—only $58—and it was disallowed by the Treasury Department because it was not authorized by the language that I have referred to and because the law provides that official envelopes must be purchased under contract through the Postmaster General. The officer who incurred the expenditure stated that the envelopes and stationery were used for semiofficial correspondence and that it was desirable to have stationery that was a little more "classy"—that is the word used—than that furnished by the Government under the contract. The stationery was, it seems, in this instance embossed, $13 of the amount being for embossing the stationery that was used. The Treasury Department disallowed the item, as I have stated, because they thought it was not authorized by law and because of the statement that it was not to be used entirely for official purposes. The matter went to the Comptroller, and the Comptroller decided that under the language I have called attention to in line 2 the expenditure was authorized by that language.

I am only mentioning this particular case to call the attention of the committee to the fact that we put language in appropriation bills that enables expenditures to be made that are not contemplated by the appropriation.

Mr. HAY. I will say to the gentleman from South Dakota that the language of the paragraph seems to me to justify the decision made by the first officer of the Treasury Department who passed upon it, and that the comptroller ought to have sustained his subordinate officer, because it says clearly, "necessary articles of office, toilet, and desk furniture." Surely embossed stationery is not a necessary article of office in the War Department or elsewhere, and I do not think the language of the paragraph is of such a character as to authorize the comptroller to permit an expenditure of that kind. I do not see how you could confine the language any closer than it now is. "Necessary" is a word well understood as applied to an office. I do not know how we could make the language any stronger so as to prohibit what the gentleman has pointed out as an abuse, and I agree with him it is an abuse and ought not to be allowed.

Mr. BURKE of South Dakota. Mr. Chairman, I withdraw my pro forma amendment.

Mr. MANN. I will ask the gentleman from South Dakota or the gentleman from Virginia whether they think it a terrible abuse to have embossed stationery, and whether both of them do not use it at the Government expense?

Mr. HAY. I say that embossed stationery for personal use is an abuse. Stationery that I have embossed is stationery which I use, and I suppose the gentleman from Illinois uses, in an official capacity.

Mr. MANN. All the stationery I get I use in an official capacity, in a private capacity, or any other capacity that I want to use stationery. I do not keep one bunch for official use and another bunch for other purposes. As a rule I do not use embossed stationery because I think there is no occasion for it. I notice, however, that nearly all Members of Congress do, and nearly all the heads of departments want it, and I think it ought to be abolished all through. But I wonder that gentlemen should criticize the department for buying $50 worth of embossed stationery when they use it themselves.

Mr. BURKE of South Dakota. The law prohibits the purchase of envelopes except through the Postmaster General, and here are envelopes purchased out of the appropriation "Necessary expenses of office."

Mr. MANN. I am not seeking to review the decision of the Comptroller of the Treasury. It is quite safe to say to the gentleman from South Dakota that the law does not require the purchase of any envelopes through the Postmaster General unless they are penalty envelopes.

Mr. BURKE of South Dakota. It is contemplated that all the envelopes used by the department for the Government are being used for official business, and envelopes so used do bear the penalty stamp.

Mr. MANN. There are many envelopes used by the department for official business that are not penalty envelopes.

The Clerk read as follows:

Signal Service of the Army: For expenses of the Signal Service of the Army, as follows: Purchase, equipment, and repair of field electric telegraphs, signal equipments and stores, binocular glasses, telescopes, heliostats, and other necessary instruments, including necessary meteorological instruments for use on target ranges; war balloons and airships, including their maintenance and repair; telephone apparatus (exclusive of exchange service) and maintenance of the same; electrical installations and maintenance at military posts; fire control and direction apparatus and material for field artillery; maintenance and repair of military telegraph lines and cables, including salaries of civilian employees, supplies, and general repairs, and other expenses connected with the duty of collecting and transmitting information for the Army by telegraph or otherwise, $375,000: *Provided, however*, That not more than $125,000 of said amount shall be used for the purchase, maintenance, operation, and repair of airships and other aerial machines: *Provided further*, That from and after the passage and approval of this act the pay and allowances that are now or may be hereafter fixed by law for officers of the Regular Army shall be increased 50 per cent for such officers as are now or may be hereafter detailed by the Secretary of War on aviation duty: *Provided*, That this increase of pay and allowances shall be given to such officers only as are actual flyers of heavier-than-air-craft, and while so detailed, as provided in section 1: *Provided further*, that no more than 30 officers shall be detailed to the aviation service: *Provided further*, That paragraph 2 of section 26 of an act of Congress approved February 2, 1901, entitled "An act to increase the efficiency of the permanent military establishment of the United States," shall not limit the tour of detail to aviation duty of officers below the grade of lieutenant colonel: *Provided further*, That nothing in this provision shall be construed to increase the total number of officers now in the Regular Army.

Mr. FOWLER. Mr. Chairman, I reserve a point of order to that paragraph.

Mr. HAY. I will say that a part of it, providing for aviation officers, is subject to a point of order.

Mr. FOWLER. I desire to make an inquiry concerning the expenditure of $100,000 appropriated last year for aviation purposes. Has that amount been expended?

Mr. HAY. It either has been expended for the fiscal year or arrangements have been made to buy airships which will consume it all.

Mr. FOWLER. In the judgment of the military authorities, was that sufficient for making adequate preparations for airships?

Mr. HAY. It was not. The military authorities are asking a much larger appropriation than $125,000 carried in the bill. I mean that they are in favor of it; they did not estimate for it; but they are in favor of expending more money on these airships.

Mr. FOWLER. The amount, you say, was not estimated by them. The increase to $125,000 was the result of the deliberation of your committee?

Mr. HAY. I will say that heretofore in all bills that carried this item for some years it has been $125,000; that has been set aside for the purchase and repair of airships; but last year, owing to some difficulty on the floor, that was reduced to $100,000.

Mr. FOWLER. The bill for 1910 did not carry anything for aviation purposes, did it?

Mr. HAY. That is probably true; but I will say to the gentleman that the military authorities regard this airship proposition from a military standpoint as very important, and they regard the expenditure of $125,000 as a mere bagatelle and not furnishing them with sufficient airships. The reason why they have not asked or estimated for more money is that owing to the size of the Signal Corps of the Army they have not officers enough to man the airships if we provide more than we are providing under this appropriation. They are asking that we shall increase the Signal Corps of the Army by 55 officers, in order that they may have men enough to provide a fleet of airships to operate with the Army.

Mr. FOWLER. Is that the reason you offer the additional 50 per cent for aviators, because of the insufficiency of aviators?

Mr. HAY. No; there is no lack of aviators.

Mr. FOWLER. Then I misunderstood the gentleman.

Mr. HAY. They can get aviators; these officers are not detailed to aviation duty unless they volunteer. The service is a very hazardous one and four officers of the United States Army have been killed in this service.

Mr. FOSTER. Will the gentleman yield?

Mr. FOWLER. I will.

Mr. FOSTER. I would like to ask the chairman if an officer loses his life in the discharge of his duty he is paid anything extra by the Government?

Mr. HAY. Not any more than if he was in any other service.

Mr. FOSTER. They get double pay, I understand.

Mr. HAY. No; they do not get double pay.

Mr. FOSTER. I thought the bill of last year provided for that.

Mr. HAY. That bill did not pass the Senate. They serve at the same pay as officers in the Infantry, the Cavalry, or any other branch of the service.

Mr. COX. Do their heirs or their family get any more by reason of losing their life in the aviation service?

Mr. HAY. They do not; but there is a provision providing that an officer or enlisted man can designate a beneficiary who shall receive six months' pay.

Mr. KAHN. Mr. Chairman, I desire to call to the attention of the chairman of the committee the words in lines 12 and 13, as provided in section 1.

Mr. HAY. If no point of order is made, we will perfect that.

Mr. FOWLER. I desire to know why the 50 per cent increase is offered as a reward to aviators. Is that because you can not get volunteer aviators to take charge of these airships?

Mr. HAY. No; the 50 per cent increase that we are proposing to give to these aviation officers is given to them because of the hazardous duties which they have to perform, and because the insurance companies refuse to insure them. When they undertake this duty, they carry their lives practically in their hands every time they go up into the air in one of these ships, and it has been thought that they should receive extra compensation. The House at the last session passed a bill, by unanimous consent, giving them an increase of 100 per cent instead of 50 per cent, as is carried in this bill. From my observation and from what I know of this service and from what I have learned in the hearings before the committee, I am satisfied it is nothing but an act of justice that these men who are employed in perfecting military aviation should receive larger pay than men who do not run the same risk.

Mr. FOWLER. I agree with the gentleman, but why does not the bill fix an outright salary for this grade of Army men?

Mr. HAY. We do—50 per cent.

Mr. FOWLER. Yes; but the gentleman says that the bill at the last session made it 100 per cent of the salary paid, and now it is only 50 per cent. What I am after in my interrogatory is, Why not fix a specific sum as a salary for these men, so that it may not be left to the caprice of the membership of the committee? I am using the word "caprice" with a great deal of reservation, not having any application to any committee whatever, but sometimes there is a caprice. Why not fix a sum so that it will be definite?

Mr. HAY. I will say to the gentleman that the paragraph does that very thing. It provides that hereafter the pay of these officers engaged in aviation duty shall be 50 per cent greater for such officers that are now or may hereafter be detailed to that duty. The officers detailed are generally second lieutenants and first lieutenants and captains, and you can not fix any certain amount for each individual; but by this language you simply add 50 per cent to their pay as a second or a first lieutenant or as a captain, as the case may be, and it would not be at the caprice of the committee every year to change it.

Mr. FOWLER. That is just what I was after. The gentleman's line of argument for the increase is because of the extra danger. You now limit this increase to those who are actual aviators. If that be the theory upon which the increase is to be based, why not give all of them the same salary, because undoubtedly every time one man goes up in the air his life is as much in danger as that of his superior in rank, so far as the salary is concerned.

Mr. HAY. That is very true, but I will say to the gentleman from Illinois that it is a principle of military discipline and of military law that the man of higher rank receives a higher pay than the man of lower rank.

Mr. FOWLER. Why not put all of the aviators as first lieutenants, then?

Mr. HAY. Because you might not be able to get a sufficient number of first lieutenants to volunteer for this service.

Mr. FOWLER. A provision could be made for that purpose.

Mr. HAY. Oh, yes; it could be made. Of course we could confine the aviators to the rank of first lieutenant. That could be done, but the question is whether it would be wise.

Mr. FOWLER. Does not the gentleman think that would be a wise provision?

Mr. HAY. I do not, because then you could not get a second lieutenant or a captain into this service.

Mr. FOWLER. Yes; you could do that. Whenever a man qualifies himself for an aviator, let him at once become a first lieutenant.

Mr. SLAYDEN. But suppose he was a captain.

Mr. FOWLER. By virtue of law you could make an aviator a first lieutenant as soon as he was inducted into the aviator business. He would then become a first lieutenant.

Mr. HAY. Of course, that would apply to the second lieutenant, but a captain would have already passed the rank of first lieutenant and it would not apply to him.

Mr. FOWLER. I agree with the gentleman that the danger ought to receive some consideration, and I am heartily in favor of this provision; but I am seeking to put the danger of one man on the same plane as the danger of another man, whether the rank of office be the same or not.

Mr. HAY. I understand the gentleman's purpose, and I will point out to him that in a war when a regiment goes into battle and all of the officers of the regiment and the enlisted men of the regiment are exposed to equal danger from the fire of the enemy, yet the colonel gets a larger pay than the lieutenant colonel, and so on down. This is so in all armies, and in the aviation corps. The man of higher rank, for the sake of discipline and for the purpose of maintaining the relative rank, always receives a higher pay than the may of lower rank.

Mr. FOWLER. I understand that full well; but you limit your increase to the man who is actually a flyer.

Mr. HAY. That is true.

Mr. FOWLER. A man who is a flyer ought not to be subordinated, in my opinion, so far as the question of danger is concerned. He ought to receive the same pay, although he might be a captain, as the man who is a second or a first lieutenant. I would be very glad to see the bill amended so that all aviators who are flyers might receive the salary of a first lieutenant, and that the increase might be made 50 per cent.

Mr. SLAYDEN. Mr. Chairman, will the gentleman yield?

Mr. FOWLER. Certainly.

Mr. SLAYDEN. As a matter of fact, there are some gentlemen now in the aviation service, capable officers, doing good work, helping to develop that branch of the military service, who are captains. It would certainly be no temptation to them to take on extra hazard in that vocation if it involved a reduction in pay.

The captain would not like to be reduced to the rank of second lieutenant and get 50 per cent in addition to the pay of first lieutenant, when under the terms of this act he would be entitled to increase of pay with the rank of captain. The most active men in the Aviation Corps of the Army are second lieutenants, who are usually young and generally of lighter weight, and thereby better suited for this particular branch of the service. This measure has been thought out and is entirely satisfactory to the officers of the corps, and is less expensive to the Government than would be the gentleman's idea of creating a military grade to be conferred on everybody in the Aviation Corps engaged in that work.

Mr. FOWLER. It would emphasize the position, and it ought to be so on account of the danger, and there ought to be an increase of salary, on account of the danger. There ought not to be any distinction in grade. Where a man can take an airship through the air for Army service he certainly ought to receive the same pay that any man does who performs the same dangerous work.

Mr. SLAYDEN. He does receive the same relative increase of pay, and they are entirely satisfied with it, and the bill is a more economical one than would be the suggestion of the gentleman from Illinois, and when it provides what is satisfactory and is more economical to the people, and does not disturb the relative military rank, and does not create new military rank, I can see no reason for adopting the idea which the gentleman proposes.

Mr. FOWLER. I submit it is not in harmony with the plan of a superior in everything in the Army. There seems to be an idea in the Army that a superior must always be at the head of every department in the Army. But here is one department where, if a man goes into the air as the manager of an airship, he becomes the sole owner of it for that purpose, like a great pilot on a great vessel on a large body of water, when the ship or vessel is in his hands. Here the airship is in the hands of the flyer, or the manager, or the captain.

I do not, Mr. Chairman, desire to interpose a point of order, but I am very anxious that all men who take like risks in the air shall receive like pay. I withdraw the point of order.

Mr. SHARP. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Ohio [Mr. SHARP] offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 6, in line 8, substitute for the word "fifty" the words "one hundred."

Mr. SHARP. Mr. Chairman, I very much appreciate and approve the remarks of the very able chairman of this important committee, in so far as they pertain to the proper recognition of the aviation service of this country. I am very glad that not only the chairman but the entire Committee on Military Affairs have given this subject so much favorable consideration during the past two years. It was pointed out the other day in an objection to an amendment which I offered pertaining to establishing this service in the Post Office Department that the Army and the Navy were the proper places for the recognition of the aviation service. While I in part subscribe to that,

yet I answer that objection by the statement, and it is a very fortunate fact, that our country at present is not engaged in warfare. I hope it never will be, but we are constantly giving evidence of the need and the practicability of carrying mails by aeroplane or other air craft.

This subject of aviation appealed to me when I first learned what was being done by the late Prof. Langley, and which afterwards was successfully carried out by the Wright Bros. From that day to this I have been very greatly interested in all that pertains to aviation, and, as some of my colleagues on this floor know, have taken occasion at different times to advocate governmental aid and recognition to this coming means, not only of national defense and attack, but of transportation in every phase of that subject. I introduced a bill, after giving it some attention, with the thought to better recognize the services of these men who fly through the air and who every time they do so literally and actually take their lives in their hands. I arose a minute ago to answer, for the information of the gentleman from Illinois [Mr. FOSTER] a question as to what provision, if any, was made in the case of the sudden taking away of these bold experimenters. There is no provision whatever beyond that which applies in Army circles to give six months pay in case of the death of an Army officer. And yet it is a well-known fact, as pointed out by the chairman of this committee, that because of the very vocation of these men who sail the air there is no life insurance company that will write them for a dollar, because aviation is by all odds the most hazardous vocation or undertaking to which men can devote themselves.

I introduced the bill referred to, in company with the gentleman from Georgia [Mr. HARDWICK]. We happened, by coincidence, neither of us knowing the intention or purpose of the other, to introduce bills about a year ago on the same day in the House, and they were referred to the Committee on Military Affairs. Those bills embrace similar features, but are not exactly the same.

My bill, I remember in particular, not only provided for a larger increase in the pay of these men, but also an increase in rank, and had in it a provision which I wish might be incorporated in this bill at this time, to give, instead of six months' pay in the case of the sudden taking away of these men while making actual flights, a whole year's pay. I think that would be fairer, more just, and equitable.

I am not, Mr. Chairman, going to enter into a lengthy discussion of this very important subject. I am very glad to say its importance is becoming more apparent before the House at every session. I want to say, while it was pointed out by my friend from Texas, Mr. SLAYDEN, that the Army officers were satisfied with this provision, that that statement ought to be qualified. They were satisfied, because at this time they thought it was the best proposition they could get; but from my talk with several of these gentlemen who have been engaged in this service for two or three years past, one of them having made more than 200 flights, every time taking his life in his hands, I am convinced that they believe they should have more of an increase than this bill provides. I must say to their praise and credit that there has not been a time in the last two years when these men could not have quit the service and received much better compensation.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. KENDALL. Mr. Chairman, I ask unanimous consent that the gentleman from Ohio may proceed for five minutes longer.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SHARP. I was told by one of these officers, who is the leading aviator in our service under the Signal Corps, that he had been offered time and time again by the men who conduct exhibition flights several times the salary that he is now getting as an officer in the United States Army. There has not been any question but that some of these spectacular aviators can command and have commanded from $25,000 to $30,000 at a single season. But none of those men was willing for a single moment, at the inducement of any financial consideration, to leave the service of the flag that they had sworn to protect. They are in the service to-day, and they expect to live and die in that service.

In appealing to this House for an increase of recognition in their behalf, I am doing that which has already been granted to men in like service in European countries. Why, to draw a comparison between what we have done and what France, Germany, and England have done, not only in providing for their national defense, but also for the promotion of this entire field of aviation, would be like comparing the strength of a child with that of a giant. In popular subscriptions they have raised millions of dollars over there for the advancement of this science of aviation, and in continental Europe a man is considered a hero and almost a martyr, I might say, who enlists under this particular service, involving so much of danger.

I stated recently upon the floor here, that it is one of the most encouraging signs of recent legislation or proposed legislation that this House has now—thanks to the gentleman who is chairman and his colleagues of this committee, and also to the Committee on Naval Affairs—come to recognize the growing and urgent importance of this line of research. The President of the United States within the last two weeks has appointed a commission of most distinguished personnel, consisting of noted scientific men, who have given several years of thought to this particular line, in order that they may recommend the establishment, according to the best known plans, of an aerodynamic laboratory.

We all know how, nearly a quarter of a century ago, M. Eiffel, the distinguished Frenchman, astounded the world and won its admiration by the construction of a sky-piercing tower in Paris. It is standing there intact to-day and is still the highest of all monuments. It is this mechanician Eiffel in the ripening years of his old age—and he is a man now upward of 80 years of age and is still a devotee to the sciences—who has erected one of the most magnificent temples to this science of aviation by the building of a great aerodynamic laboratory.

These are the things which are the forerunners of what we must have here if we would intelligently master its problems. I think that not alone is my amendment of importance in giving to these men a better recognition for their services, but above all else the chief value of such an amendment is to serve notice upon those men who would enlist under the Signal Corps that Congress, the representative legislative body of the Government, is back of the work with its encouragement.

A question was asked a moment ago as to whether there was any difficulty in recruiting this service, whether there was any difficulty in getting a sufficient number of men willing to volunteer in this hazardous work. I want to say—and it is to the credit of the American youth and to those who want to distinguish themselves not only in the Army but also in scientific exploitation—that we always have a liberal supply of volunteers, away beyond the number that our present law will accommodate, owing to the restricted size of the Signal Corps. Until the provision was made in this or a former bill, I think only seven men were detailed to that particular service. I do not recall whether this bill now provides for 30 or 40. Which is correct, Mr. Chairman?

Mr. HAY. Thirty.

Mr. SHARP. The bill provides for 30. Gen. Allen, of the Signal Corps, who has given much time during the last few years to this splendid subject of aviation, has done more than any other one man in the Government to bring it to fruition. He is a man of unerring vision—one whose chief monument, if I mistake not, shall in the years to come be the evolution brought about by the successful navigation of the air as it affects alike the problems of warfare, transportation, and scientific research.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SHARP. Mr. Chairman, I ask the privilege of extending my remarks in the RECORD.

The CHAIRMAN. The gentleman from Ohio [Mr. SHARP] asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. HARDWICK. Mr. Chairman, I earnestly hope that the committee will adopt the amendment. In doing so, if the committee sees fit to do it, we shall only be standing by our own record.

Last July this House, by a unanimous vote, passed a bill, which I had the honor to introduce, giving a 100 per cent increase. That bill was reported with the unanimous support of the Committee on Military Affairs on this floor, and it had the approval of the department. In the Senate some objection was raised——

Mr. MANN. I do not think it had the approval of the department.

Mr. HARDWICK. I think I am right. The chairman will correct me if I am wrong.

Mr. HAY. I will state to the gentleman that I understood the department to recommend a 50 per cent increase.

Mr. HARDWICK. I am in error, then, in that one particular. I know that every other detail of the bill had the approval of the department, and I thought they had agreed to the 100 per cent increase. However, this House, without a dissenting vote, put in a 100 per cent increase last July. There is no reason why we should modify our position.

Mr. MURDOCK. What was the objection in the Senate?

Mr. HAY. They objected to the size of the increase.

Mr. HARDWICK. They did not want 100 per cent increase. They wanted, I think, some increases to other branches of the Signal Corps. I am not familiar with all the details. They wanted to apply the same sort of increase to some other branches of the Signal Corps and they did not want to put this higher than the others. But, gentlemen of the committee, it seems to me this amendment of the gentleman from Ohio [Mr. SHARP] is absolutely right, and that we ought to enact it.

To-day this country is behind, is woefully behind, every other civilized country on earth, every other great power on earth, in this great matter of aviation. While I join with my friend from Ohio [Mr. SHARP] in congratulating the able chairman of this committee and the other members of the committee for the splendid progress that we are making, and upon the fact that we have apparently awakened at last to the necessity of doing something in this matter, the step we propose to-day is only a very short step in the right direction. Gentlemen, these officers can not even get life insurance. The percentage of mortality here and abroad is simply frightful among the men engaged in this work.

Mr. MONDELL. Can a soldier ordinarily get life insurance?

Mr. HARDWICK. This is the only branch of the service under the War Department in which the officers are unable to obtain life insurance, according to the testimony.

Mr. MONDELL. Then insurance companies do not consider ordinary warfare as particularly dangerous?

Mr. HARDWICK. They do not insure any of them in time of war, but these men can not get insurance even in time of peace.

Mr. MONDELL. I understand that it is difficult.

Mr. HARDWICK. They can not get it at all, I think. All the best life insurance companies refuse it.

Mr. GREENE of Vermont. Mr. Chairman, I do not know what may be the practice of insurance companies now, as I am not particularly informed about it, but I know from my own personal experience that they do insure in time of war, or did during the Spanish War.

Mr. HARDWICK. The gentleman means that life insurance companies insured officers?

Mr. GREENE of Vermont. Yes.

Mr. SLAYDEN. The Spanish War was not regarded as very dangerous.

Mr. HARDWICK. If my friend from Wyoming [Mr. MONDELL] wants real information, I will say to him that no matter what they do about other Army officers in time of war, they will not insure the officers in this aviation corps even in time of peace. The mortality among them is frightful. The rate of pay even at the 100 per cent increase proposed by the gentleman from Ohio [Mr. SHARP], and that this House unanimously adopted a few months ago, is not equal to what it is in any other great country on earth.

Mr. ANTHONY. Will the gentleman state what the rate of mortality is—how many deaths have occurred in our service?

Mr. HARDWICK. The chairman of the committee can state.

Mr. HAY. Four officers, and I think about 12 in all have been detailed to this duty.

Mr. HARDWICK. That would be 33⅓ per cent. Anyhow, I know the mortality is perfectly frightful, and I do think that even with double pay these men are underpaid, as my friend from Ohio [Mr. SHARP] has said; and as numbers of these officers have told me in person, and as they have stated before your committee, any one of them could make many times more just as a matter of speculation if he would go into commercial aviation.

Mr. SHARP. Double pay, as the language states, only applies while the officer is in actual duty.

Mr. HARDWICK. It is only when they are actually engaged in aviation for the Government. If they were engaged in aviation as a private enterprise, taking exactly the same chances, no more and no less, they would get many times more than they will even with an increase of 100 per cent.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HARDWICK. I would like two minutes more.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent for two minutes more. Is there objection?

There was no objection.

Mr. HARDWICK. I earnestly urge that we adopt this amendment. If we can not get it through the Senate at 100 per cent, if we have to accept some compromise later, it will be time enough to do so then, but I do think we ought to make a stand here to-day for a 100 per cent increase, just as we did last July, and take the matter into conference at least.

Mr. SLAYDEN. Mr. Chairman, I voted for the 100 per cent increase of pay last year. I did so under the impression that it was not excessive, and I do not know that it is excessive. I have been interested in this legislation, and in an humble way I have cooperated to bring it about. I have conferred with the authorities; I have conferred with a gentleman connected with the Signal Corps who is jealous of the honor and rights of that corps and who wants to do what he can to promote it reasonably. This measure came to us as the recommendation of the War Department. I have also conferred with gentlemen who have been detailed to duty as aviators. They have expressed themselves to me as being satisfied with the proposed legislation and have said they would be glad to see it enacted. Naturally they would be glad to get still more money if possible, but they are entirely content to have this legislation go through.

Mr. SHARP. I want to say that Capt. Paul Beck, who is one of the leading aviators, and I think outside of Capt. Chandler the leading aviator in our service, with whom I have had many conversations, and who has made 250 flights in different parts of the country, says they should have at least 100 per cent increase. He thought they ought to have an increase in rank; but when we came before this committee and had our hearings we became satisfied that that would create embarrassment, if not dissention, in changing the rank, so it was confined purely to a question of compensation. That is my understanding of it from the aviators themselves.

Mr. HARDWICK. If the gentleman will permit, I think the position taken by these officers detailed as aviators is very disinterested and patriotic. They would not interfere with this legislation. They would rather have the legislation for the improvement of the service, even if they could get nothing in the way of increased pay. But the gentleman does not mean to leave them in the attitude of saying that a 50 per cent increase is perfectly satisfactory to them, I am sure.

Mr. SLAYDEN. I have talked with some of them who told me that they would be glad to have this legislation, and that it would be satisfactory.

Mr. HARDWICK. Only 50 per cent?

Mr. SLAYDEN. On the 50 per cent proposition; yes. I do not know what caused them to reach that conclusion, whether they were afraid that they would have to go on serving, as they do now under detail to that duty, without additional pay. That would be looking behind their statements and trying to dig up the reasons that induced them to come to that conclusion. Naturally, as I said a moment ago, they would like more pay.

Mr. PRINCE. Mr. Chairman, the Committee on Military Affairs have done the best they could under all the circumstances toward these aviators. We have recommended—

That from and after the passage and approval of this act the pay and allowances that are now or may be hereafter fixed by law for officers of the Regular Army shall be increased 50 per cent for such officers as are now or may be hereafter detailed by the Secretary of War on aviation duty: *Provided*, That this increase of pay and allowances shall be given to such officers only as are actual flyers of heavier-than-air craft, and while so detailed, as provided in section 1.

We worked this out as a workable proposition, although we may not have done all that ought to be done.

Mr. HARDWICK. Last July you worked it out on 100 per cent basis.

Mr. PRINCE. That is true, but that bill is not yet a law.

Mr. HARDWICK. But you have taken this bill and put it in the exact words of the other.

Mr. PRINCE. That may be, but we want to accomplish something. Those of us who have been here a number of years know that it is better to do something than to attempt to do something that you can not do. This is what we are trying to do, and that is to accomplish something for the material benefit of the men who are engaged in this hazardous enterprise under orders from superiors. The 100 per cent proposition has not passed the other body and has not been reported, as I understand, out of the committee. There may be plenty of time to do that, but it has not come yet. We are now as far as we can be in the future, and that is the present.

My friend from Ohio states that a distinguished aviator had made 250 flights and has met with no harm thus far.

Mr. SHARP. Will the gentleman permit me?

Mr. PRINCE. Certainly.

Mr. SHARP. During that time he states that he has had three or four narrow escapes, as narrow as a man is ever permitted to have and still live. He has fallen from 50 to 100 feet in height and wrecked his machines.

Mr. PRINCE. We want to do what is best and to take a step in the right direction. If later on it should be established that 100 per cent is the proper thing, we can do it by subsequent legislation. But under all the circumstances, I think the Committee of the Whole should stand by the committee in the bill, because it has presented to this House the best bill it believes can become effective in the form of law.

Mr. TOWNSEND. Will the gentleman yield?

Mr. PRINCE. Certainly.

Mr. TOWNSEND. Is it the gentleman's understanding that the increase of pay attaches to the service from the time the officer is detailed for aviation service, not necessarily that he shall become an actual flyer?

Mr. PRINCE. I rather think this language is clear.

Mr. TOWNSEND. It seems to say that when he is detailed, and then qualifies it. I should think it ought to apply to all of those who enter the service with the chance of being made flyers.

Mr. PRINCE. No; our purpose was as we have expressed it in the proviso:

Provided, That this increase of pay and allowances shall be given to such officers only as are actual flyers of heavier than air craft and while so detailed, as provided in section 1.

There may be two or three officers detailed who may be mechanical experts just watching the machines, never flying, in fact, but studying and preparing themselves. They are in no more danger by reason of that detail than though they had not been detailed. The hazardous part in the whole detail is in actual flying. We seek to pay for the hazardous part, and pay the men who are the actual flyers.

Mr. MANN. Mr. Chairman, the item in reference to the purchase of airships was inserted in the Army bill several years ago on my motion, after the War Department had refused to make an estimate for it and the committee had failed to make any provision in the bill. I have consistently supported all such provisions since that time and the increase of the amount that might be appropriated for aviation. I think I may be considered a friend of aviation.

Mr. FOWLER. Will the gentleman yield?

Mr. MANN. I will.

Mr. FOWLER. Does the gentleman know when the War Department first made a recommendation for money to be set apart for aviation in the Army appropriation bill?

Mr. MANN. My recollection is that the first time it came in as an estimate was last year.

Mr. FOWLER. When was the first time that any amount was set apart for that purpose?

Mr. MANN. I think two years ago by the bill, but I may be mistaken.

Mr. FOWLER. I see in the law of June, 1910, no money was set apart for that purpose.

Mr. MANN. I think that is correct. I think it was two years ago that the Signal Service asked for an estimate. The Secretary of War did not make an estimate, and hence it was not transmitted to Congress.

Now, I remember that when the bill passed at the last session it went through by unanimous consent, although I stated then that I thought 50 per cent was enough of an increase for the interests of the aviation service, which to me is the controlling feature.

If I had supposed this morning that the proposition was to be presented to the House to make this 100 per cent, I should have made a point of order on the paragraph. For this reason, while this proposition is supposed to be confined to actual flyers of airships, still we all know as a matter of fact that anyone can qualify under that in a few minutes time and without any danger at all. A man can become an actual flyer of a machine without getting more than 4 feet from the ground. All of them who are detailed will probably become actual flyers of machines. I take it that the purpose of the Government now is largely to educate officers who may be able to handle flying machines in time of need in addition to the experimentation with flying machines.

If you make it too much of an object for a man to remain in the aviation detail it will be very difficult to dislodge him from it. They go there practically by their own consent.

Mr. KAHN. Will the gentleman yield?

Mr. MANN. I will.

Mr. KAHN. The Chief of the Signal Corps stated before the committee that men do withdraw from the aviation force after they have learned to fly.

Mr. MANN. They do now because they do not get any extra pay, but the purpose of this scheme is to educate men to handle the flying machines. In time of war we can increase the number of flying machines very rapidly. We want men who understand how to handle them.

Mr. SHARP. Will the gentleman allow an interruption?

Mr. MANN. Certainly.

Mr. SHARP. The proof of the pudding is in the eating, and it applies to the illustration I may give. In the countries where aviation has made the most advancement and where they have come to the front rank, they have pursued a different policy from what the gentleman outlines. They give the aviators two or three times the amount of salary that they would otherwise give.

Mr. MANN. While that is true, Mr. Chairman, it is also true—and I have just received the figures from the Navy and War Departments to substantiate it—that we pay more for our small Army and Navy than any other nation in the world pays for their large ones. We pay for our Army, to our officers and enlisted men, many times the compensation that Germany pays to her immense army.

So it can not be said that they are not fairly well paid; but it is not desirable when an officer is detailed to this aviation service, not often flying a machine but still receiving the extra pay, to make it so large that he wants to stay there forever and become the envy of every other officer in the field. You can not give officers extra pay without the desire on the part of other men to get the extra pay, unless there really is extra-hazardous service. I have always supposed that one reason that the Army and Navy were fairly well paid and provided with pensions in case of injury, pensions to their widows in case of death, and retired pay in case of injury, was that the whole undertaking was hazardous. My understanding of the Army is that an Army officer takes the risk of being injured. That is what he goes into the service for. That is the whole theory of the Government's treatment of him. While I think it is perfectly proper to give some extra attention to these aviation officers, yet to double their pay is only to excite discontent among all the rest of the Army officers and to do more injury to the Army in the end than good.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. MANN. Certainly.

Mr. SHARP. I ask the question purely for information and not to challenge the accuracy of the gentleman's statement. Has that been the experience in the Ordnance Department, where, recognizing the extra hazard of that department, the Government has uniformly increased the pay of the men in that service, as I understand it?

Mr. HAY. Oh, no.

Mr. MANN. How much is the increase, I will ask the gentleman?

Mr. SHARP. I do not know what it is.

Mr. MANN. I never heard of it before.

Mr. HAY. The Ordnance officers do not get any more than any other officer.

Mr. SHARP. Then I have been misinformed.

Mr. MANN. On the contrary, the House at the last session cut off, in part at least, the extra pay for foreign duty, because a good many officers were seeking foreign duty to get the extra pay, which was only 10 per cent. I thought it was worth that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio.

The question was taken; and on a division (demanded by Mr. SHARP) there were—ayes 8, noes 37.

So the amendment was rejected.

Mr. KAHN. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 6, lines 12 and 13, strike out the words "as provided in section 1."

The CHAIRMAN. The question is on the amendment offered by the gentleman from California.

The question was taken, and the amendment was agreed to.

Mr. ANTHONY. Mr. Chairman, I offer the amendment that, in line 7, on page 6, after the word "officers," there be added the words "and enlisted men."

The Clerk read as follows:

Amend, page 6, line 7, by inserting after the word "officers" the words "and enlisted men."

Mr. ANTHONY. Also the same amendment after the word "officers" in lines 8 and 11.

Mr. MANN. Mr. Chairman, I reserve the point of order on those amendments.

Mr. ANTHONY. Mr. Chairman, I offer this amendment for the reason that while enlisted men are not now engaged in the work of actual flying, there is no reason why they should not be so used, and the encouragement should be held out to the enlisted men of the Army if they are used in this work, and they should be given the same advance in pay.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. ANTHONY. Yes.

Mr. MANN. The purpose of this provision is to give extra pay because of the extreme hazard. Officers of the Army now receive at the very lowest rate $125 a month, and that pay does not last very long. The enlisted man receives at the highest rate less than $50 a month, unless he has been in the service a long while and has become old. Upon what theory does the gen-

tleman propose to say that you will add 50 per cent to the pay of officers for this service, thereby adding from seventy to one hundred and fifty or two hundred dollars a month, and add only seven or eight dollars a month to the pay of the enlisted man for exactly the same service?

Mr. ANTHONY. Mr. Chairman, I would say to the gentleman that there are unquestionably a number of noncommissioned officers who receive, as he says, from $50 to $60 a month. An increase of 50 per cent in their pay would be a very substantial increase.

Mr. MANN. But they are usually too old to go to work and operate flying machines.

Mr. ANTHONY. Oh, no; there are a number of young men, and I think every inducement should be held out to enlisted men to interest themselves in this service. I am not in harmony with the idea of the department that they should be excluded from it. If a young enlisted man is bright and capable and has a tendency toward this art, we ought to give him an opportunity.

Mr. MANN. Mr. Chairman, I would agree with the gentleman in this proposition: That the Army might well afford to employ the services of men for the special purpose of operating flying machines and pay them accordingly along the same grade. I should not be in favor of a proposition which will permit some Army officer getting 50 per cent more pay, amounting to a large sum of money, and having alongside of him an enlisted man who receives only $25 a month, and ordering the enlisted man to start a flying machine and run it while he watched it. That would be the result.

Mr. KENDALL. That would be voluntary service.

Mr. MANN. Oh, no; it would not.

Mr. KENDALL. The private is not compelled to go into the service.

Mr. HAY. I would say that enlisted men as well as officers volunteer for this service.

Mr. MANN. But that is not the law.

Mr. HAY. That is not the law, but that is a regulation of the department.

Mr. MANN. That is now, but at present the enlisted men are not permitted to operate these flying machines.

Mr. HAY. I know they are not permitted to do so now, but they would not be required to operate them unless they volunteered for that service, in my judgment. There is no more reason why they should be required to do it than an officer should be required to do it.

Mr. MANN. Well, this is a new service. It will not be a long time that men will be taken simply because they volunteer, any more than in any other branch of the service. Men who are thought to have satisfactory qualifications will be put in this service.

Mr. HAY. I think it ought to be so.

Mr. MANN. I think it ought to be so.

Mr. HAY. Particularly if there is an increase in pay. The gentleman's argument is the same as that of his colleague [Mr. FOWLER]—that all these men ought to be placed on the same basis. The gentleman knows very well that in time of war an enlisted man is as much exposed to danger as an officer; but he does not get the same pay as the officer, and the only way you can increase the pay of enlisted men or officers there is to increase it upon the basis of the pay they are receiving. That is the only way you can do it, and I agree with my friend from Kansas [Mr. ANTHONY] that the enlisted man ought to be offered an inducement, as well as the officer.

Mr. BUTLER. Double his pay?

Mr. HAY. I have no objection to giving him a hundred per cent.

Mr. KENDALL. Will the gentleman permit an inquiry?

Mr. HAY. Yes.

Mr. KENDALL. What officers are permitted to volunteer for this service?

Mr. HAY. Any officer in the Army who is eligible.

Mr. KENDALL. Then, if the proposition of the gentleman from Kansas [Mr. ANTHONY] is regarded favorably, why not give a private while on that detail the same pay as an officer?

Mr. HAY. Because you would destroy military discipline. Why not give to the private soldier in battle the same pay as an officer?

Mr. KENDALL. I think there is too much discrepancy there.

Mr. HAY. The officer has responsibility, has the command, and has to do the thinking. The officer is placed in a position where he is not only exposed to danger, but he has all the responsibility that attaches to the service which he is performing, whereas the enlisted man simply obeys orders.

Mr. KENDALL. Well, an officer up in a flying machine has no more responsibility than a private in a flying machine.

Mr. HAY. The probability is the private would go up with the officer in the flying machine.

Mr. MANN. Mr. Chairman, I think the amendment is subject to a point of order. The proposition in the bill, of course, was subject to a point of order, and is subject, of course, to a germane amendment, and if this were a bill presented by itself I think the amendment offered by the gentleman from Kansas [Mr. ANTHONY] would be germane. But the rulings have been quite consistent in recent years that, although a proposition is subject to a point of order which is not made, that an amendment made to that, covering new matter, is itself subject to a point of order. At any rate, I make the point of order.

Mr. HAY. Mr. Chairman, I hardly think this is subject to a point of order. It is a clause in this bill referring to the aviation service, and referring to men in the Army detailed to perform that duty. And the enlisted man is as capable of performing the duty as an officer. Surely it seems to me to be germane to the object and purpose of the paragraph.

Mr. MANN. But the gentleman will admit that the item in the bill only relates to detail of officers.

Mr. HAY. Yes; but while it is true it only relates to detail of officers, and would have been subject to the point of order—the whole paragraph, if anybody had made it—it not having been made it is not now subject to the point of order.

Mr. MANN. It would be akin to this: Suppose a proposition were offered to add after the words "Army" and "Navy," so as to make it read "officers of the Army and Navy who would receive increased pay," I think that would be subject to a point of order. Because it is a new proposition, an enlargement of the original one, that was subject to a point of order, and while any amendment relating to officers would be in order, I do not think you could introduce under the guise of an amendment a new subject, although this was itself subject to a point of order.

The CHAIRMAN. Of course, in a large sense this matter might be considered germane. It relates to a military matter. But it strikes the Chair, however, that under the paragraph relating to officers of the Regular Army who may be detailed on aviation duty, an amendment providing for men who may be detailed for like duty is new legislation, and is a detail perfecting the paragraph in a germane way. The Chair sustains the point of order.

Mr. ROBERTS of Massachusetts. Mr. Chairman, I desire to offer the following amendment.

The CHAIRMAN. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 6, line 7, after the word "Army," insert the words "Navy and Marine Corps."

Mr. FOSTER. Mr. Chairman, I make a point of order against that.

Mr. ROBERTS of Massachusetts. Will the gentleman reserve the point of order?

Mr. FOSTER. Yes; I reserve the point of order.

Mr. ROBERTS of Massachusetts. I will say to the gentleman from Illinois [Mr. FOSTER] that when the bill was up in the last session of Congress, and the clause relating to the Army aviators was under discussion, a similar amendment was offered and accepted, placing the aviators of the Navy on the same footing with those in the Army. If we are going to consider the matter of permanent law for the aviators in the military service of the Government, it would seem, while this is the Army bill, perfectly proper that we should recognize that the Navy is engaged in aviation, and that the hazards are as great for the naval officers, if not greater, than for the Army officers, and that they should be put on an equality. That is the purpose I have in offering this amendment at the present time. In view of that, I would like to ask the gentleman if he will not withdraw his point of order, and let us make one bite of the cherry instead of bringing the matter up in the naval bill?

Mr. FOSTER. Mr. Chairman, this being purely a bill for the support of the Army for the next fiscal year, it seems to me that it is hardly the proper thing to put on it certain things relating to the Navy, and I can not withdraw the point of order under the circumstances.

Mr. HAY. I understand the gentleman makes a point of order?

Mr. FOSTER. Yes. I make the point of order.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

That all laws and parts of laws inconsistent with the provisions of this act be, and the same are hereby, repealed.

Mr. MANN. Mr. Chairman, I reserve a point of order on that paragraph.

Mr. HAY. Mr. Chairman, I move to strike out lines 23 and 24. They were put in inadvertently.

Mr. MANN. Of course, there is no question but that a point of order would take them out?

Mr. HAY. No.

The CHAIRMAN The Clerk will report the amendment offered by the gentleman from Virginia [Mr. HAY].

The Clerk read as follows:

Amend, page 6, by striking out lines 23 and 24.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Washington-Alaska military cable and telegraph system: For defraying the cost of such extension and betterments of the Washington-Alaska military cable and telegraph system as may be approved by the Secretary of War, to be available until the close of the fiscal year 1915, from the receipts of the Washington-Alaska military cable and telegraph system that have been covered into the Treasury of the United States, the extent of such extensions and the cost thereof to be reported to Congress by the Secretary of War, $50,000.

Mr. MANN. Mr. Chairman, I move to strike out the last word, for the purpose of asking the chairman if he has convenient or at hand the information concerning the receipts and expenditures of this cable.

Mr. HAY. Yes; I have. I can give the gentleman the cash receipts from 1907 down to the last fiscal year.

Mr. MANN. I mean only for the last fiscal year.

Mr. HAY. Yes. For the last fiscal year the receipts were $182,641.94. For the present fiscal year we have no figures as yet. They have not yet come in.

Mr. MANN. Are the receipts that the gentleman gives the gross receipts or the net receipts?

Mr. HAY. The gross receipts.

Mr. MANN. What was the cost of maintenance?

Mr. HAY. The cost of maintenance is difficult to ascertain, because it comes out of the item of $375,000 for the Signal Corps, which we have just passed. Gen. Allen, the Chief Signal Officer, states that the average commercial receipts from 1907 to 1912 were $198,000 and that they are not decreasing, but that in 1912 they were interrupted because of an earthquake, which destroyed part of the lines which were in use, and it took some two months to have them mended, and they lost the receipts that they were in the habit of receiving from that part of the line.

Mr. MANN. I am aware of the fact that this cable is a military necessity as yet. If we had information that would let us know whether it was maintained out of its commercial receipts it would be a matter of great interest.

Mr. HAY. It costs more than we receive from it. There is no question about that.

Mr. MANN. How much of it would be charged to military needs and how much of the maintenance is defrayed by the commercial receipts? I do not care about going into minute details.

Mr. HAY. I can not give the gentleman that information in figures, but I think the commercial receipts do not pay for this telegraph and cable system, and do not pay for it by a good deal. But the subject was pretty fully developed in the hearings of last year. If the gentleman desires, I will procure a copy for the gentleman and give him what the actual cost of it is.

Mr. MANN. What extensions are proposed? Are these land extensions or sea extensions?

Mr. HAY. As I understand, they do not propose this year any extension. This is altogether for the maintenance.

Mr. MANN. Betterments?

Mr. HAY. Yes.

Mr. MANN. This item is not for maintenance.

Mr. HAY. They have to maintain it, of course.

Mr. MANN. I think the maintenance is not paid for out of this item.

Mr. HAY. No. The maintenance is paid for out of the other items.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For pay of officers of the line, $7,710,800.

Mr. FOWLER. Mr. Chairman, I move to strike out the last word. I see this item is for the pay of officers in line.

Mr. HAY. Of the line.

Mr. FOWLER. Yes; of the line. I discovered that in the bill of June last the appropriation was $6,890,908, and that in June, 1910, the amount was $7,000,000 even. What is the cause of the increase here of something near a million dollars over the appropriation of last year?

Mr. HAY. I will state to the gentleman that we did not appropriate money enough last year, and that is the cause of the increase.

Mr. FOWLER. Is there a deficiency in this item?

Mr. HAY. Yes; there is a deficiency in the item of pay of the Army which includes this item of $2,500,000.

Mr. KAHN. Two million eight hundred thousand dollars.

Mr. HAY. Two million five hundred thousand dollars is what I understand.

Mr. FOWLER. I understand that there is a deficiency of $2,800,000, but two years ago $7,000,000 paid this item.

Mr. HAY. No; it did not. There was a deficiency two years ago of over a million dollars.

Mr. FOWLER. In this item?

Mr. HAY. In the item of pay of the Army. The gentleman will find that there is a provision at the end of these pay items providing that they shall all be disbursed as one fund, and these items have been very carefully worked out.

Mr. FOWLER. There has been no increase in the number of officers this year?

Mr. HAY. No; there has been no increase in the number of officers this year, but last year there was an increase in the surgeons in accordance with the bill passed several years ago, which provided that every year so many should be added. I will say to the gentleman that the Chief of the Quartermaster Corps has worked out this item very carefully, based on the number of officers in the Army. He has worked that out with great care, and that is the conclusion he has arrived at. I know he is very accurate.

Mr. FOWLER. Is the increase in the item following because of a deficiency also? That is length of service pay.

Mr. HAY. Yes.

Mr. FOWLER. That is the reason for the increase of both of these items?

Mr. HAY. Yes; and of every item in this pay part of the bill.

Mr. FOWLER. Mr. Chairman, I withdraw the pro forma amendment.

Mr. MANN. Mr. Chairman, I could not hear distinctly, so that I could catch the colloquy which took place between my colleague and the gentleman from Virginia with reference to the pay of the officers of the line. I notice that there are several items there where there are considerable increases over last year. Is there any increase in the number of officers or the number of enlisted men to cause this?

Mr. HAY. There is an increase in the number of enlisted men, but not in the number of officers—that is, it is proposed by the present administration, as I understand it, to increase the number of enlisted men during the fiscal year beginning June 30, 1913. I do not think there is any increase in the number of officers.

Mr. MANN. Is there a deficiency estimate on these items?

Mr. HAY. There has been no deficiency estimate sent to Congress, but the Chief of the Quartermaster Corps informed the Committee on Military Affairs that there would be a deficiency—I understood him to say of $2,500,000—in the pay department. It may be $2,800,000.

Mr. MANN. Then the appropriation which was made last year was not sufficient?

Mr. HAY. No; it was not enough.

Mr. MANN. The gentleman will remember that there was considerable controversy in the House as to whether it would be enough.

Mr. HAY. I remember all about that, and I remember that the same controversy took place in the last session of the Sixty-first Congress, when I insisted that they would not have a sufficient amount, and it turned out that I was right, and there was a deficiency then.

Mr. MANN. Undoubtedly, and the gentleman with that experience ought to have provided against it last year. He ought to have gained wisdom by experience.

Mr. HAY. I do not deny that. We all live and learn.

Mr. MANN. There is no gentleman in the House who has more the confidence of the House than the gentleman from Virginia [Mr. HAY]. [Applause.] Of course, we all know that the decrease in the appropriation last year was a part of the game of politics which I believe the gentleman from Virginia entered into with great reluctance, and I doubt whether he will ever repeat it.

Mr. HAY. I will assure the gentleman that so far as I am concerned there will be no deficiency in the Army appropriation bill hereafter if I can prevent it.

The Clerk read as follows:

Additional pay for length of service, $2,291,574.56: *Provided*, That hereafter no officer or enlisted man in active service, who shall be absent from duty on account of disease resulting from his own intemperate

use of drugs, or alcoholic liquors, or other misconduct, shall receive pay for the period of such absence from any part of the appropriation in this act for the pay of officers or enlisted men, the time so absent and the cause thereof to be ascertained under such procedure and regulations as may be prescribed by the Secretary of War.

Mr. MANN. I reserve a point of order on that paragraph.

Mr. HAY. I will state to the gentleman, if he desires an explanation of that proviso——

Mr. MANN. Does the gentleman think it is desirable to enact that into permanent law at this time?

Mr. HAY. The committee put that in the bill because it is not considered desirable to carry the proviso constantly in the bill each year, if it is advisable to make it permanent law.

Mr. MANN. I thought last year we had some sort of an understanding that we would try it and see how it worked before we made it permanent law.

Mr. HAY. The Surgeon General tells us it has operated very efficiently.

Mr. MANN. That may be, but it has been on trial only a very short time—a few months.

Mr. HAY. If the gentleman objects, I will move to strike out the word "hereafter," in line 23, page 7.

Mr. MANN. I withdraw the point of order.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

In line 23, page 7, strike out the word "hereafter."

The amendment was agreed to.

The Clerk read as follows:

Additional pay for length of service, $83,000.

Mr. FOWLER. I move to strike out the last word. The quartermaster's department, the subsistence department, and the pay department were consolidated last year into the Quartermaster Corps.

Mr. HAY. Yes.

Mr. FOWLER. It was urged at that time that such a consolidation would result in a great saving, as I recollect, in the way of expenses.

Mr. HAY. Yes.

Mr. FOWLER. I have studied this bill in the best light I have. I would be glad to have the chairman of the committee point out some of the savings which have been made.

Mr. HAY. I will say to the gentleman that the savings that have been made have been made in the items of regular supplies, barracks and quarters, incidental expenses, subsistence of the Army, transportation, and so forth.

Now, the gentleman is evidently leading up to the question why it is that there are 407 quartermaster sergeants when only 200 were appropriated for last year. I will state to the gentleman that in last year's bill there were 207 commissary sergeants appropriated for, and these 207 commissary sergeants are now in the Quartermaster Corps. They, added to the 200 quartermaster sergeants appropriated for last year, make the 407, so that there is no increase at all on account of the consolidation. We have simply brought them under the Quartermaster Corps.

Mr. FOWLER. And there is no decrease by this consolidation?

Mr. HAY. Not in this particular item.

Mr. FOWLER. Is there any decrease in the service in this department or in the administration of the department?

Mr. HAY. Yes; the chief of the Quartermaster Corps stated in our hearings that the estimate for this bill, by reason of the consolidation, had been decreased in the department by $2,750,000. In that one item alone there was a decrease of 43 clerks, who are not, however, carried in this bill, but are carried in the legislative bill. Their pay amounted to over $50,000.

Mr. FOWLER. How much do you estimate has been saved by this consolidation?

Mr. HAY. On this bill?

Mr. FOWLER. Yes.

Mr. HAY. There has been a saving of $2,750,000.

Mr. FOWLER. How much by this one consolidation?

Mr. HAY. A saving of $2,750,000 on the estimates made by the War Department in this bill. Of course it does not save any pay except the 40 officers who will eventually be gotten rid of by that consolidation. The pay of the Army is one thing. The supplies of the Army are something else.

Mr. FOWLER. The distinguished chairman is certainly to be complimented because of his long vision in the make-up of the Army appropriation bill last year, and I congratulate him and his committee.

The Clerk read as follows:

For pay of 135 first-class sergeants, at $540 each, $72,900.

Mr. FOWLER. Mr. Chairman, I move to strike out the last word. The number of men cared for by the bill last session was 132. What is the necessity for the increase?

Mr. HAY. Mr. Chairman, the law authorizes the employment of 135 first-class sergeants.

Mr. FOWLER. Was that carried in the bill last session?

Mr. HAY. No; this session the department estimated for the three additional first-class sergeants. That is the information we had, and we thought that they ought to be given the three first-class sergeants.

Mr. FOWLER. You make an increase from 36 to 42 Signal Corps electricians in the paragraph just above. Is that because of the provisions of the law?

Mr. HAY. Yes; they are allowed that by law, and these estimates are on that basis.

Mr. FOWLER. I did not see the necessity of the increase and that is the reason I asked the question.

Mr. HAY. They said they had to have them.

Mr. FOWLER. And you took their word for it?

Mr. HAY. Yes.

Mr. FOWLER. I withdraw my pro forma amendment, Mr. Chairman.

The Clerk read as follows:

For pay of 552 first-class private, at $18 per month each, $119,232.

Mr. MURDOCK. Mr. Chairman, I would like to ask the gentleman what a first-class private is. What is the meaning of that term?

Mr. MURRAY. With the permission of the Chairman, I will answer the gentleman from Kansas. I do so because I happen to have been a first-class private in the Signal Corps and I may be qualified therefore to answer it. There are various grades in the Signal Corps, and it is entirely because of the convenience of rating for the purpose of payment to have the different grades, and also for the purpose of rating men in the particular grades of work that the difference is made between privates of one class and another and sergeants of one class and another. The Signal Corps, as the gentleman probably knows, has to do largely with technical kinds of work in the Army in connection with the matter of conducting a campaign either of warfare or of occupation. The Signal Corps is charged with the conduct and maintenance of the telephone communication as soon as a brigade or corps command has been established. The Signal Corps has the work of maintaining and carrying on telegraphic communication. The Signal Corps, since the development of aeroplanes and flights through the air, has had had that kind of work to do. Manifestly, it is important to have men of one grade of experience and mental equipment to do particular kinds of work as distinguished from men of another grade.

Mr. MURDOCK. How many grades of privates are there?

Mr. MURRAY. I think only two.

Mr. MURDOCK. How are they designated?

Mr. MURRAY. Privates of the first class and privates.

Mr. MURDOCK. It is a mere matter of gradation?

Mr. MURRAY. That is all.

Mr. FOWLER. And of pay.

Mr. MURRAY. It is for the purpose of compensation, also, just as in the navy yards we have first-class machinists and first-class wiremen. The separation is mainly for the kind of work to be done and largely for the purpose of the pay roll.

Mr. TILSON. May I interrupt the gentleman?

Mr. MURRAY. Certainly.

Mr. TILSON. There is this further convenience, if I may suggest to the gentleman, that in the Signal Corps oftentimes they are split up into very small detachments.

Mr. MURRAY. Frequently.

Mr. TILSON. In the mobile army of the Infantry the smallest detachment is the squad with a corporal in command. In the Signal Corps it is often the case that they are sent out with only two men together, and in that case it is a convenience for one man to rank the other and have charge over the station. In that case the first-class private would have charge of it rather than the other private.

Mr. MURRAY. The suggestion of the gentleman from Connecticut is entirely sound.

The Clerk read as follows:

Additional pay for length of service, $61,064.64.

Mr. FOWLER. Mr. Chairman, I move to strike out the last word. I would be glad to have the chairman explain the cause for the increase in this item, "Additional pay for length of service," on page 9.

Mr. HAY. Additional pay for length of service is fixed by law. The department knows how long each man has served, and in this instance it happens that men have served the requisite time which entitles them to additional pay to the extent of the increase in the item.

Mr. FOWLER. This is for privates.

Mr. HAY. Yes; every private is entitled to additional pay for length of service.

Mr. FOWLER. If he serves a certain length of time.

Mr. HAY. Automatically so much is added to the pay.

Mr. FOWLER. It was $50,000 last year.

Mr. HAY. I think so.

Mr. FOWLER. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

For additional pay to such officers for length of service, to be paid with their current monthly pay, $55,180.

Mr. FOWLER. Mr. Chairman, I move to strike out the last word. I see in line 7 for additional pay to such officers there is an increase from $104,990 to $118,610. In line 11, for additional pay to such officers for length of service, $55,180. The appropriation heretofore, as I recollect, in August last was $61,620. I desire to ask the chairman why the increase is in one instance and a decrease in the other?

Mr. HAY. They are two different departments. One is the Corps of Engineers and the other the Ordnance. There is a much larger number of officers in the Corps of Engineers than in the Ordnance Department.

Mr. FOWLER. That says for pay for length of service. I see in the Corps of Engineers you appropriate for officers $460,300. That is the same as two years ago and also for last year. Now, when you come to the Ordnance Department your appropriation there for officers is exactly the same—$228,500. Now, for the additional pay of men it is only $55,180, whereas it was $61,620 last year?

Mr. HAY. The gentleman wants to know about the decrease?

Mr. FOWLER. Yes.

Mr. HAY. The reason is that officers may have died.

Mr. FOWLER. Can the gentleman tell which one it is?

Mr. HAY. No; that operates automatically. For example, an officer who has served five years in the Army gets an increase at the end of the five years of 10 per cent of the pay which he is receiving. At the end of 10 years he gets 20 per cent, and at the end of 15, 30 per cent; and at the end of 20 years he gets 40 per cent. That is fixed by law, and it is automatic and if in the Ordnance Corps it turns out this year there are not as many officers entitled to this length-of-service pay as there were last year, of course there would be a decrease in the item.

Mr. FOWLER. I presume the gentleman relied upon the report from the War Department for this estimate.

Mr. HAY. Yes; we relied, of course, upon the estimate. We had nothing else to go by.

Mr. FOWLER. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

For additional pay to such officers for length of service, to be paid with their current monthly pay, $22,350.

Mr. FOWLER. Mr. Chairman, I reserve the point of order to that paragraph.

Mr. HAY. Mr. Chairman, I do not think it is subject to the point of order.

Mr. FOWLER. Mr. Chairman, I am not disposed to make the point of order.

Mr. HAY. Mr. Chairman, I will be very glad to explain the matter to the gentleman.

Mr. FOWLER. The reason I reserve the point of order is because I am inclined to think that it is subject to a point of order, but I do not desire to make the point of order now. I do desire to ask the chairman the reason for limiting the number by positive law to the number fixed in this paragraph.

Mr. HAY. The purpose of it is to decrease the expense. On May 18, 1911, the Quartermaster General of the Army, in hearings before the Committee on Military Affairs on the bill to create a general service corps in the Army, stated, concerning the first provision of the bill then before the committee, that if the rate of pay was increased from $150 a month to $175 a month all of the pay clerks could be replaced by enlisted men of the service corps, as some of the pay clerks receive as high as $2,000 a year. The change making the highest pay in the service corps $175 a month was made in section 4 of an act making appropriations for the support of the Army for the fiscal year ending June 30, 1913. It is not desired to displace any pay clerks now in the service, but as it is thought that sergeants of the first class and sergeants of the Quartermaster Corps can be trained to perform the duty efficiently, in the interest of economy it was recommended that a provision be inserted, after the lines in the Army appropriation bill providing for pay of pay clerks, that hereafter no vacancies shall be filled.

Mr. FOWLER. They are all placed on a salary now of $1,125 a year, are they not?

Mr. HAY. No; they get an increase by virtue of length of service; and after a service of some years, as I understand it, they get $2,000 a year.

Mr. FOWLER. Are these pay clerks looked upon favorably by the War Department?

Mr. HAY. I think they are considered a very excellent body of men; yes.

Mr. FOWLER. I understood the gentleman to say, in answer to my first question, that the limitation was placed and the only reason given was that certain other men might do the same work in the department.

Mr. HAY. Yes; do the same work as the pay clerks.

Mr. FOWLER. Then, if they are looked upon favorably, why limit the number so that it can not be increased hereafter?

Mr. HAY. The number is limited now. Under the law they can only have 85 pay clerks. This provision provides that hereafter no further appointments shall be made.

Mr. FOWLER. Suppose all of the pay clerks that are now in the service as pay clerks should by some means be taken out of that department of the service, by death or otherwise, then what would you do if this paragraph be passed?

Mr. HAY. Of course if they were all to fall down and die at the same time, it would be very unfortunate, but that is hardly within the range of possibilities.

Mr. FOWLER. I concede that is true.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. FOWLER. Yes.

Mr. MANN. These pay clerks were covered into this corps under the consolidation act that we passed, were they not?

Mr. HAY. The pay clerks were provided for before that time.

Mr. MANN. I understand; but they were covered into the Quartermaster Corps by the consolidation act that we passed.

Mr. HAY. They were.

Mr. MANN. And there was a proposition at one time to dispense with all civilians in that service, but they were kept in the service.

Mr. HAY. Yes; they were kept in the service.

Mr. MANN. And now as they disappear it is desired to have their places taken by enlisted men.

Mr. HAY. That is right, by sergeants in the Quartermaster Corps.

Mr. MANN. Because it would be more economical?

Mr. HAY. Yes.

Mr. FOWLER. And the same work could be done by other men for less money?

Mr. HAY. That is right.

Mr. FOWLER. Then they are not really looked upon so very favorably by the department?

Mr. HAY. I think they are a very excellent body of men.

Mr. FOWLER. The work is looked upon as favorable to be done, I know, but these pay clerks might be dispensed with and other men might do the work for less money.

Mr. HAY. That is the purpose of this amendment.

Mr. FOWLER. Mr. Chairman, I withdraw the point of order.

The Clerk read as follows:

For pay of 85 pay clerks, at $1,125 each per annum, $95,625: *Provided*, That hereafter no further appointments of pay clerks shall be made.

Mr. HAY. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 11, line 22, after the word "department," insert the words "and acting dental surgeons and contract surgeons."

Mr. HAY. Mr. Chairman, I offer this amendment because acting dental surgeons and contract surgeons are not officers. And therefore if those words were not added they could not receive that pay.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. HAY].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For pay of one superintendent Nurse Corps, at $1,800 per annum, $1,800: *Provided*, That hereafter the superintendent shall receive such allowances of quarters, subsistence, and medical care during illness as may be prescribed in regulations by the Secretary of War.

Mr. MANN. Mr. Chairman, I reserve a point of order on that. There is just one superintendent, I take it. There has been a good deal of talk about the reorganization of the Nurse Corps, has there not?

Mr. HAY. A reorganization of what?

Mr. MANN. Of the Nurse Corps.

Mr. HAY. No; there has not. There is only one superintendent.

Mr. MANN. I have had a number of communications about it.

Mr. HAY. Some project of that sort has been spoken of, but we have never had anything submitted to us with regard to the reorganization that I know of.

Mr. MANN. What does the superintendent of the Nurse Corps now get? Are these allowances for quarters?

Mr. HAY. This item was carried in the bill last year giving these quarters, and so forth, and we put the word "hereafter" in so as not to make it permanent law.

Mr. MANN. What does this superintendent receive?

Mr. HAY. Eighteen hundred dollars.

Mr. MANN. And fogey pay?

Mr. HAY. No. The superintendent does not receive any fogey pay. It only provides for allowances and quarters, but the superintendent of the Nurse Corps does not receive fogey pay. She is not an officer, nor is she enlisted.

Mr. MANN. Does the gentleman say how much the allowances for quarters and subsistence are to the superintendent? There is no statement in here of what the allowance for quarters will be.

Mr. HAY. As may be prescribed in regulations by the Secretary of War. It gives the Secretary of War——

Mr. MANN. I know; but what is the allowance now? Does the gentleman know?

Mr. HAY. I do not think she gets any now.

Mr. MANN. It is in the current law——

Mr. HAY. You mean last year. I do not know how much she got.

Mr. MANN. It seems to me as a rule it ought not to be left as permanent law to the discretion of the Secretary of War as to what allowances shall be.

Mr. HAY. I agree with the gentleman, except it is very difficult in a case of this sort, where a person has no status as an officer or enlisted man, to fix just what the quarters should be. It might be that the superintendent would have better quarters at some posts than others.

Mr. MANN. There is only the one superintendent?

Mr. HAY. Only one.

Mr. MANN. After it is ascertained what that superintendent receives, I think it would be just as easy to enact it into law as it would be to leave it to the War Department to be hereafter—I will not say harried, because that might occur with another superintendent——

Mr. HAY. I do not think there will ever be but one superintendent of the Nurse Corps.

Mr. MANN. In course of time the superintendent will pass away and another will come in.

Mr. HAY. Oh, yes.

Mr. MANN. Does the gentleman know if there is any exception, where if it is left to the supervisory officer to fix the salary and amount of compensation, that officer is not in the end besieged by some occupant of the position?

Mr. HAY. I know that to be the practice, and I think we ought to have it determined in the law; but I will say to the gentleman that the matter was not called personally to my attention. Next year I will try to see if I can learn what her allowances are, and fix them in the law accordingly.

Mr. MANN. Then why not leave out the word "hereafter"?

Mr. HAY. Mr. Chairman, I move to strike out the word "hereafter" on page 12, line 2.

The CHAIRMAN. The question is on agreeing to the amendment of the gentleman from Virginia.

The amendment was agreed to.

The Clerk read as follows:

For pay of officers on the retired list and for officers who may be placed thereon during the current year, $2,877,000.

Mr. TILSON and Mr. CULLOP rose.

The CHAIRMAN. The Chair will recognize the gentleman from Connecticut [Mr. TILSON], a member of the committee.

Mr. TILSON. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from Connecticut offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 12, line 23, strike out "$2,877,000" and insert in lieu thereof the following: "$2,874,500: *Provided*, That hereafter when any officer who has been retired for disability is found by an examining board, to be appointed by the Secretary of War, to be physically and mentally qualified for active service, the President may, in his discretion, reinstate such officer upon the active list as an extra officer, with the rank and relative position he would have held if he had not been retired: *Provided further*, That such officer shall continue as an extra officer only until such time as a vacancy shall occur in his grade and arm of the service, and if again retired for disability he shall be retired with the rank and pay received by him before his reinstatement."

Mr. HAY. Mr. Chairman, I make a point of order on that.

The CHAIRMAN. Does the gentleman make it or reserve it.

Mr. HAY. I make it.

The CHAIRMAN. Does the gentleman from Connecticut [Mr. TILSON] desire to be heard on the point of order?

Mr. TILSON. Yes, Mr. Chairman. I do not believe this is subject to a point of order. It clearly would be except for the so-called Holman rule. It is very clear that the effect of this, if the amendment is enacted into law, would be to reduce the retired pay.

In this case I have made a reduction in the total equal to the retired pay of one captain, because I happen to have in mind a bill in regard to it—and it is on the calendar of this House with the unanimous report of this committee—one captain who under the terms of this law would be reinstated; and the total result of that reinstatement is the taking from the retired list this one retired officer. In other words, the total retired pay would be reduced by $2,508. I have subtracted this sum from the appropriation. There might be others; there probably would be others; there should be others.

Mr. Chairman, without going into the merits of the case, which I could not properly do under this point of order, it is very clear that the retired list has been abused. There are men on that list who ought to be doing active service; men who are as well as you and I; men who having served on the active list of the Army until they could be retired are now drawing three-quarters pay and are engaged in the civil activities of life. I believe these men should go back on the active list and do actual service; and if they do every one that can do so under the provisions of this amendment would reduce the retired list just to that extent.

As we all know, there are just so many officers provided for in the Army, and when that list is filled we add one more and he becomes an extra officer. In the course of every 10 days, we will say—we could take the average for several years past—about once in 10 days throughout the year there occurs a vacancy. As soon as the vacancy occurs this extra officer would slip into that vacancy, and thereafter there would be no extra officer, and after this officer ceased to be an extra officer there would be a saving of the amount of his retired pay.

In other words, he would be on the active list serving where he ought to be, and some other man, who otherwise would have filled this particular place, would not be there—that is, he would be out of the service, because there would not be any place for him in the service. Therefore clearly, Mr. Chairman, it is a reduction of retired pay if any man avails himself of this amendment. It seems to be beyond question a reduction, and it is in order under the Holman rule.

Mr. HAY. Mr. Chairman, I would like to see the amendment if the Chair has no immediate use for it. I want to call the attention of the Chair to the fact that while there seems to be a reduction under this item, yet if you put this man on the active list he will be receiving a larger amount from the Government than he is receiving now.

Mr. TILSON. Mr. Chairman, may I interrupt the gentlemen?

Mr. HAY. Yes.

Mr. TILSON. Will he not fill the place of some man who otherwise would be on the active list?

Mr. HAY. Not at all.

Mr. TILSON. Oh, yes. Are there any vacancies to-day in the rank of captain?

Mr. HAY. I do not know.

Mr. TILSON. They would fill them right up.

Mr. HAY. I do not know whether there are any vacancies in that rank or not.

Mr. TILSON. If there is such a vacancy it would be filled at once, would it not?

Mr. HAY. I do not know. I only know that the effect of this amendment would be to increase the amount in this bill, because if you take this amount that the gentleman speaks of from the item of retired officers, you must put it on to the pay of officers of the line, because you will have to provide for the pay of a captain on the active list.

Mr. TRIBBLE. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. Does the gentleman from Virginia yield?

Mr. HAY. Certainly.

Mr. TRIBBLE. If you retire a man and another man is put in his place, what is the reason that you are not paying for two? You are paying the man who is put in the place of the man on the retired list, and you are paying the man on the retired list, too.

Mr. HAY. The gentleman's proposition is this, that hereafter when any officer is retired for disability and he should be found by an examining board, to be appointed by the Secretary of War, to be physically and mentally qualified for active service, the President may, in his discretion, reinstate such

officer on the active list as an extra officer. Therefore, he would be an extra officer. I say, Mr. Chairman, this amendment provides that he shall be placed on the active list as an extra officer, and if he is placed on the active list as an extra officer he could not take the place of some other man who is on the active list.

Mr. TILSON. Mr. Chairman, may I interrupt the chairman there?

Mr. HAY. Yes.

Mr. TILSON. The gentleman will realize, if he will read the whole amendment, that that will last only until there is a vacancy.

Mr. HAY. We do not know how long it will be until there is a vacancy.

Mr. TILSON. If we take the average number of vacancies last year, or of two years ago, or as long back as the gentleman wishes to cover, we know that a vacancy in this rank does not exist certainly longer than a month.

Mr. HAY. Then for that length of time you would be increasing the appropriation, instead of decreasing it.

Mr. TILSON. That would be maximum, a month, and 10 days would be the average. During the rest of the year we would be decreasing it.

Mr. HAY. I might be willing, Mr. Chairman, to have this done in the case of a particular officer about whose condition I was satisfied and who I knew ought to be returned from the retired list to the active list. But to make this a general provision and a general law, and make it mandatory on the Secretary of War to receive these men into the active service, notwithstanding the fact that they are to be examined, seems to me to be bad legislation. There is no question about the fact, that instead of decreasing the appropriation it would increase it, and that being true, it does not come within the Holman rule.

Mr. ROBERTS of Massachusetts. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Virginia [Mr. HAY] yield to the gentleman from Massachusetts?

Mr. HAY. Yes.

Mr. ROBERTS of Massachusetts. If this amendment as proposed should become law, would it not be possible for a man on the retired list with the rank of first lieutenant to get back into the Army with the rank of major?

Mr. HAY. Undoubtedly.

Mr. ROBERTS of Massachusetts. In other words, he would be getting promotion while on the retired list?

Mr. HAY. Undoubtedly; and he would be disarranging the promotion, probably, of all the officers in the arm of the service to which he would go back, and the possibilities contained in this amendment are such that, in my judgment, it would be very bad legislation to enact. And if it is subject to the point of order, as I believe it is, that it does not decrease expenditures, I can not consent to accept it.

Mr. ROBERTS of Massachusetts. There is nothing on the face of it to show that it decreases expenditures.

Mr. HAY. It does not decrease them.

The CHAIRMAN. As the Chair understands the effect of this amendment—and he would like the members of the Military Committee to correct him if he is in error—potentially everybody on the retired list could be restored to the active list. Once restored they would draw the increased pay that would attach as a result of that restoration. It is not contended however that such a wholesale restoration is likely, or probable.

The reduction made in the total is, I believe, the sum of $3,500.

Mr. TILSON. It is intended to be the pay of one captain for one year on the retired list, $2,500.

The CHAIRMAN. Having in mind the possible number of restorations that will reasonably follow upon the enactment of this amendment, and the suggestion of the gentleman from Massachusetts [Mr. ROBERTS] that an officer who was retired in one rank, might be restored in an advanced rank carrying larger pay, it is perfectly clear, to the Chair at least, that it can not be reasonably ascertained that the operation of this amendment will reduce expenditures. The view taken by the Chair is that the crucial test of a proposition submitted under the Holman rule is whether it will effect a retrenchment. In this connection, I am referring to the legislative features of the amendment. The Chair before holding such a legislative proposition to be in order must be satisfied to a reasonable certainty, that in its working effect, it will reduce expenditures. I am not satisfied that a reduction of expenditures will attach to the operation of this amendment. Hence it is not within the rule, and the point of order must be sustained.

Mr. TILSON. Mr. Chairman, one moment. The amendment itself carries a reduction.

The CHAIRMAN. Yes, but the Chair has ruled heretofore that a reduction can not be made a peg on which to hang any sort of legislation. If the legislation brings about the reduction, that is another situation; but the mere fact that a reduction is offered in an aggregate total, does not justify legislation which can not be reasonably regarded as the efficient cause of the reduction. The legislation must be the efficient inducing cause of the reduction.

Mr. TILSON. There is no use arguing with the court after he has made his decision, but it seems to me the Chair has stated only half the proposition.

The CHAIRMAN. The Chair is perfectly willing to have the other half stated.

Mr. MILLER. If I may have the privilege, although I am not a military man, and although the Chair has ruled, I desire to submit——

The CHAIRMAN. The Chair is perfectly willing to correct his ruling if he is in error. The Chair has no desire save to carry out the reasonable intent of the Holman rule.

Mr. MILLER. It seems to me that the logical conclusion which must be drawn from the remarks of the chairman of the committee is that the more you increase the retired list, the more you retrench expenditures, and the more you reduce the retired list, the more you increase expenditures. As a matter of fact an enlargement of the retired list, it seems to me, must necessitate an increase of expenditures, and a decrease of the retired list must of necessity reduce expenditures. They are supernumeraries. I do not say that in any disrespectful sense, either. They are no longer in active service. The active work of the Army must be performed, and the law provides the number of officers who must be kept to do that work.

Mr. TILSON. That is correct.

Mr. MILLER. It seems to me an absolutely necessary deduction that if you decrease the number on the retired list you must reduce expenditures.

Mr. HAY. But if you replace them, you replace them at increased pay, and they do not take the places of other active officers.

Mr. ROBERTS of Massachusetts. They go back as extra numbers.

The CHAIRMAN. Will the gentleman answer one question? Can the gentleman figure out how many officers under this amendment could conceivably be restored to full pay?

Mr. MILLER. I could not; but suppose there are 2,000 officers in the active service of the United States Army. That is the number authorized by law, and it is kept as nearly full as possible. There is always a shortage. Suppose there are 1,000 men on the retired list. If we reduce that number by 50, we leave 950 on the retired list and put 50 back, who will form a part of the 2,000.

Mr. ROBERTS of Massachusetts. No; they are extra numbers.

Mr. MILLER. It may be that they would not for a moment become a part of the 2,000. Perhaps each man would stay 10 days. Suppose he stayed 20 days or 3 months. After he had passed the time in which he would get increased pay he would spend the rest of the time in taking the place of some one of the 2,000 active officers.

The CHAIRMAN. In the meantime the extra compensation might amount to a geat deal more than the reduction of $2,500. That is what the Chair is seeking to point out. You can not possibly figure out that the reduction of $2,500 is a necessary consequence of this amendment. The arguments pro and con are too nearly balanced, the facts are too uncertain to furnish the ground for a satisfactory conclusion of retrenchment.

Mr. MANN. Will the Chair permit me a moment on the point of order?

Mr. HAY. I thought the Chair had ruled on the point of order.

The CHAIRMAN. The Chair will hear the gentleman from Illinois.

Mr. MANN. Under the Holman rule there are four phases of adding legislation to an appropriation bill. The last one, which, of course, is not applicable to this amendment, is that it shall be in order further to amend such bill upon the report of a committee, and so forth, which amendment being germane to the subject matter of the bill shall retrench expenditures.

Under that provision of the Holman rule, as I understand the decisions, it is necessary for the Chair to be able to see on the face of the amendment, or with such information as he is furnished, that the amendment will reduce expenditures.

There is the other provision in the Holman rule—

Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill shall retrench expenditures by the reduction of the number and salary of the officers of the United States, by the

reduction of the compensation of any person paid out of the Treasury of the United States, or by the reduction of amounts of money covered by the bill.

It is admitted that the amendment is germane to the bill.

Mr. HAY. Oh, no, Mr. Chairman, I do not admit that at all.

Mr. MANN. I assume that it is because it is perfectly patent on its face. The amendment is germane to the bill. Now, the amendment does reduce the amount of money covered by the bill carrying legislation with that which it is claimed will further reduce the expenditures of the Government. But I do not understand from the decisions heretofore made that it is the duty of the Chair to determine whether the additional legislation will reduce expenditures or not when it is coupled with the proposition which does in fact reduce the amount carried by the bill.

It is for the House, then, to determine whether, in their opinion, there will be a reduction of expenditures which would entitle the House to favor the amendment. It is impossible in any event, except where you cut off officers or cut off salaries, or dispense with the service through officers or salary, to say that anything will reduce expenditures. These two points are carried by the first two provisions of this rule—"shall retrench expenditures by the reduction of the number and salary of the officers or by reduction of the compensation of any person." There is practically no other way of reducing expenditures except by decreasing the purchase of supplies.

Here is an amendment which does, in fact, reduce the amount of money carried by the bill, but it is claimed that the reason for making that reduction is that the legislation proposed will accomplish the reduction. I do not see how there is any escape from the proposition that the amendment making a reduction in the amount carried by the bill and carrying legislation with it for the purpose of making the retrenchment is in order.

The CHAIRMAN. The Chair would like to ask the gentleman a question. The gentleman puts his contention on the ground that this will reduce the number of officers?

Mr. MANN. My contention is that it reduces the amount carried in the bill, with a germane amendment which it is contended accounts for that reduction; in fact, I think it reduces the total number of officers, but that may be speculation.

The CHAIRMAN. The Chair will ask the chairman of the committee whether, in his judgment, the effect will be to reduce the number of officers?

Mr. HAY. No, Mr. Chairman; the effect of it will be to increase the number of officers, and admittedly so; that is, to increase the number of officers on the active list, where they receive a larger compensation than they do on the retired list.

Mr. TILSON. It is perfectly clear on the face of the amendment that there would be no additional officer, because you take one off the retired list and put him on the active list. The net result is there is no more than you started with.

The CHAIRMAN. But is there a reduction?

Mr. TILSON. After the first vacancy occurs there is a reduction of one. The chairman of the committee is not satisfied that there will be a vacancy soon. I know that during the year 1912, which was a normal year, there were three such vacancies every month, so there would be a reduction at the end of the first vacancy which might occur in a week, and it might possibly be a month.

Mr. HAY. Will the gentleman inform the House how many officers under his amendment would be carried from the retired list to the active list?

Mr. TILSON. No one knows.

Mr. HAY. That is the point I make—nobody can tell.

Mr. TILSON. Every one that occurred would be so much reduction.

Mr. HAY. Not at all; they might all be extra officers. There might be 40 officers added to the Army by virtue of this amendment.

Mr. TILSON. They could not last as extra officers.

Mr. HAY. They might be there six months or a year.

Mr. TILSON. There would still be a reduction.

Mr. TRIBBLE. Mr. Chairman, as I understand this question, the gentleman from Virginia [Mr. HAY] and the gentleman from Connecticut [Mr. TILSON] are both wrong as to increase and decrease of officers. There is no increase of official positions and no decrease of active officers, but you do take officers from the retired list, and in so removing them reduce the amount carried in the bill—that is to say, keep them in the active list of officers.

The CHAIRMAN. According to the rule there must be a reduction or a decrease of officers.

Mr. TRIBBLE. Mr. Chairman, this question was discussed before the Naval Committee, and the same statement made before the Naval Committee is now made by the chairman of this committee. I sought information from the Secretary of the Navy, and here is his statement, which I hold in my hand; 12 retired men, retired by the plucking board, were placed on the retired list, at a salary of $44,700 in the total. Now, their successors, who filled their places, received $65,065. I mean, the successors of these men who have gone to the retired list. All along down the line they have created 33 vacancies—commanders and lieutenant commanders. They amounted approximately to $128,000. Now these are the successors of those retired. After they are promoted it increases their salary to $157,000.

Now, Mr. Chairman, there is an increase from $128,000 to $157,000 in one year, and what would it amount to in 100 years, 12 being retired or plucked each year? Those retired are receiving $44,000 after they go on the retired list. If you keep them on the active list, there is no retired $44,000 to pay and no increase in pay of the 33 promotions to fill vacancies. When you take one man from the active list you create a vacancy that goes all the way down the line, and you promote the men all the way from one end of the line to the other. If you refuse to move the men to the retired list, then, sir, you do not create any retired list, and you keep them there, and there is no vacancy to fill, and consequently no $44,000 retired pay. This is not a difficult proposition. It seems to me any one can see this enormous increase as applied to any retirement. I think the proposition before the House is the same.

Mr. HAY. Mr. Chairman, I do not see that what the gentleman says about the Navy would apply to this question here. We have not in the Army what they call a plucking board. We have no institution of that kind in the Army; and, moreover, the fact is the gentleman is mistaken in his view that the object of this amendment is to put somebody on the retired list. It is to put somebody from the retired list onto the active list.

The CHAIRMAN. The Chair is prepared to rule. First, in relation to the suggestion of the gentleman from Illinois [Mr. MANN], that the amount covered in this bill is reduced, it may be said that the suggestion is well taken. The aggregate total is reduced by the amount of $2,500. Having this reduction in mind it is argued that germane legislation sufficient to account for that reduction, is in order. The Chair admits that this argument is sound, and holds that germane legislation effecting the reduction is in order. But unrelated legislation can not be attached to the reduction, for an amendment reducing a total does not require the authority of the Holman rule, and hence can not be made the basis of legislation which is not the necesary and efficient cause of the reduction. Using the reduction in the total as a peg, you can not hang all sorts of unrelated legislation on that reduction. The reduction must be accounted for by the legislation, and the point that the Chair undertakes to present in this connection is that, after listening to the contention of the participants in his debate, and looking to the amendment, he is unable to perceive that in its necessary operation it will effect the reduction of $2,500, or any portion thereof. If it does not effect this reduction, then it is not in order. If it does account for it, the Chair will hold that the amendment is in order. From the arguments submitted, the Chair understands that the possible effect of this amendment will be to restore an indefinite number of officers to their old pay, or possibly to greater pay, since their grade may be advanced. They may, or may not render the promotions of other officers unnecessary or reduce the number required. For a time at least they might receive this increased pay without rendering service. It is difficult to see that in its operation as a whole this amendment will reduce expenditures. In fact its economic operation is altogether problematical. The Chair sustains the point of order.

Medical Department: For pay of officers in the Medical Department, $1,600,000.

Mr. HELM. Mr. Chairman, I move to strike out the last word for the purpose of inquiring of the chairman what is the total amount carried in the bill.

Mr. HAY. $93,833,177.

Mr. HELM. Has the chairman made any estimate, or is he in a position to tell the committee, what portion of that sum, including length of service pay, is paid to officers of the Army, the staff, line, commissioned, noncommissioned, and retired officers?

Mr. HAY. I can state to the gentleman that the pay of the Army is about one-half of the amount of the bill.

Mr. HELM. One-half of the $93,000,000 goes to the officers of the Army?

Mr. HAY. The officers and men of the Army.

Mr. HELM. Does that mean the enlisted soldiers?

Mr. HAY. Yes. I say that about one-half of the amount carried in the bill goes to the pay of the Army.

Mr. HELM. Do I understand the chairman to mean the pay of the Army includes the pay for all classes and grades and enlisted men?

Mr. HAY. Yes.

Mr. HELM. Is not the gentleman mistaken when he says that one-half of the $93,000,000 goes to the officers of the Army and to the enlisted men?

Mr. HAY. Of course that includes the officers on the retired list and the enlisted men on the retired list.

Mr. HELM. What I am trying to get at is this: Is it not a fact that one-half of the $93,000,000 goes to the officers of the Army of all classes—staff, line, commissioned, and noncommissioned, and their increased pay, and so forth, and length of service pay, and so forth. Does not that include one-half of the $93,000,000, exclusive of the pay of the enlisted men?

Mr. HAY. No.

Mr. HELM. I believe if the gentleman will investigate it closely he will find that about $40,000,000 of this sum of money that is carried by this bill goes to the officers, exclusive of the enlisted men.

Mr. HAY. The gentleman is mistaken. If the gentleman will add up the pay items, including the $16,000,000 for enlisted men, he will find that the pay is about $47,000,000, and that includes the entire pay of the Army.

Mr. HELM. I am not in a position to take issue with the gentleman directly on this bill, but if this bill corresponds approximately with the bill of last year, I believe that I am in a position to state, and I believe that I will be sustained by the fact, that one-half of this $93,000,000 goes to the officers of the Army, exclusive of the enlisted men.

Mr. HAY. I can only say to the gentleman that he can very easily verify it by adding up the pay items, but I can assure him that he is mistaken.

Mr. KAHN. Mr. Chairman, if the gentleman from Virginia will yield, I will call the attention of the gentleman from Kentucky to the items in this bill on page 7.

Mr. HELM. Will the gentleman permit me to interrupt him a moment?

Mr. KAHN. Yes.

Mr. HELM. Does this bill, in its appropriations for the pay of the officers of the Army, differ materially from the bill of last year in amount or in the number of officers?

Mr. KAHN. Not in the appropriation features.

Mr. HELM. In the amount for the pay of men and officers?

Mr. KAHN. It is a little larger than last year.

Mr. HELM. But the underlying principle is the same?

Mr. KAHN. Yes. On page 7, as I was informing the gentleman, the pay of officers of the line is $7,710,800, appropriated in this bill. The additional pay of officers for length of service is $1,742,916.73. The pay of enlisted men is $16,973,474, and the additional pay for length of service of enlisted men is $2,291,574.56. In that one item alone the pay allowed to enlisted men is more than double the amount of the same character of pay allowed to the officers.

Mr. HELM. The gentleman refers to the pay of officers of the line on page 7. From page 7 of the bill to line 5 on page 13 of the bill, are not all of the items that have just been read, inclusive, for the pay of officers of some grade in the Army?

Mr. KAHN. Not of officers, but principally of enlisted men.

Mr. HAY. One item alone of $750,000 is for 20 per cent foreign pay. I will say to the gentleman from Kentucky that more of the items appropriated for pay of the Army is for enlisted men than for the officers. There can not be any question about that.

Mr. COX. I would like to ask the gentleman this question, if he is prepared to give the figures on it.

Mr. HELM. Pardon me a moment. Do I understand the gentleman from Virginia [Mr. HAY] to say that the enlisted men receive more of the entire appropriation in this bill than the officers?

Mr. HAY. Yes, sir.

Mr. HELM. Officers of all grades—officers of the line, staff, commissioned, and noncommissioned?

Mr. HAY. Yes, sir.

Mr. MONDELL. Will the gentleman from Kentucky yield to me for a moment? The very last statement of the gentleman from Kentucky [Mr. HELM] brings a new consideration into the argument. The gentleman used the term "commissioned and noncommissioned." Of course, if the gentleman from Kentucky is adding the noncommissioned officers—sergeants and corporals—to the commissioned officers and is segregating everybody from the buck private in the rear rank, he is probably correct.

Mr. HELM. That is just what I meant at the outset of the statement——

Mr. MONDELL. The sergeants and corporals are just as much enlisted men as the buck private who has no sort of rank, and the item——

Mr. HELM. I understand that when a man is in the Army he is in the Army.

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. HELM] has expired.

Mr. HAY. Mr. Chairman, I ask unanimous consent that the gentleman may be allowed to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. HELM. The point I am trying to make to the committee is this: That we have got a top-heavy arrangement; that when we come to speak of the Army, our officers, to use an expression of the street, seem to me to be "hogging the patch"; that if we are going to appropriate $90,000,000 that we should be getting better results for the amount of money that you are expending. And I do not think that I miss the mark very far when I say that I doubt extremely whether there is an officer in the United States Army to-day that could stand behind a line of battle such as is drawn in the Bulgarian-Turkish War and command that line of battle.

Now, what strikes me as being out of balance in this Army of ours is that instead of getting some results in the way of effective tactical organization with this expenditure of ninety millions, the entire contest here on the floor, when the Army appropriation bill comes up, is for some class or grade of officers to get some promotion and increase in their pay or some additional emolument; some amendment that gives some other particular class of the Army officers so much per month or per year more than they are now receiving; they are getting so much for quarters; they are getting so much for light and heat, so much for salary, and every imaginable thing, and they all want more. It occurs to me that this whole thing has grown up in a contest between the different grades or divisions of the officers of the Army as to who will get the most money out of this Army appropriation bill, instead of service and efficiency, and not how good a machine for war purposes can be obtained.

Now, I know it is an unpopular thing for a Member to stand on the floor here and criticize the officers of the Army. I have had them take very serious exceptions to positions I have had to take as the chairman of the Committee on Expenditures in the War Department. They are quite tender. You have to sort of tiptoe around. They are very touchy. They are very jealous of the position and the rank that they occupy. But it occurs to me the time has come when we ought to do some pruning, to cut off some of these good things that you are handing out annually to these officers.

Mr. MONDELL. Will the gentleman yield?

Mr. HELM. I certainly will.

Mr. MONDELL. Did the gentleman vote for the bill before the House the other day proposing to give rank and increase of pay to horse doctors as officers?

Mr. HELM. Unfortunately, I was not on the floor. This is the first information I have had that that bill was up for consideration; but I will say, since you have brought it to my mind, that you have more horse doctors for the amount of horses that you have in the Army than you have any use for. I come from a section of the country where they have a good many horses and very good ones, too. Now, if I understand, you have one regiment of Cavalry in the Philippine Islands. Is not that a fact? I would like to ask some one.

Mr. HAY. We have two regiments of Cavalry there.

Mr. HELM. Is it not a fact that you have four regiments of Infantry and one regiment of Cavalry?

Mr. HAY. Two regiments of Cavalry and four regiments of Infantry.

Mr. HELM. How many veterinary surgeons have you?

Mr. HAY. Four.

Mr. HELM. Is it not a fact that you have nine?

Mr. HAY. Each regiment of Cavalry is entitled to two veterinarians.

Mr. HELM. I believe, if the gentleman will examine it closely, he will find that we have nine veterinary surgeons in the Philippine Islands.

Mr. HAY. If they have them, they are not with the command.

Mr. HELM. Where else are they?

Mr. HAY. The quartermaster may have them out there. They have veterinarians in the Field Artillery, but there is no Field Artillery there, I think.

Mr. HELM. I would like to ask the chairman of the committee——

The CHAIRMAN. The time of the gentleman from Kentucky [Mr. HELM] has again expired.

Mr. HELM. Mr. Chairman, I would like two minutes more.

Mr. HAY. Mr. Chairman, I ask unanimous consent that the gentleman may have two minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. HELM. How many horses is a veterinary surgeon supposed to be able to look after and care for?

Mr. HAY. I will say to the gentleman that a full regiment of Cavalry, such as they have in the Philippine Islands, has in it somewhere about 1,300 or 1,400 horses, and therefore there would be, say, 650 horses to be cared for by a veterinarian.

Mr. HELM. That is all I wanted to know.

Mr. HAY. Mr. Chairman——

Mr. SISSON. I want to ask the gentleman one question.

The CHAIRMAN. Does the gentleman from Virginia [Mr. HAY] yield to the gentleman from Mississippi?

Mr. HAY. I yield to the gentleman.

Mr. SISSON. Can the gentleman from Virginia [Mr. HAY] tell the proportion of men and officers in the Army? About what is the proportion?

Mr. HAY. As I understand it, there are about 80,000 enlisted men now, and about 4,000 officers; something like that.

Mr. COX. Can the gentleman tell the committee about what is the total amount carried in this bill to pay retired officers, and then to cover appropriations for additional pay on account of length of service, and so on? Has the gentleman any calculation showing the total amount that is paid for that?

Mr. HAY. I may say that it is $2,877,600.

Mr. COX. Has the gentleman got it anywhere in the act—the sum total?

Mr. HAY. The number of officers, does the gentleman mean?

Mr. COX. The amount appropriated in this bill for the officers, and the amount that is appropriated in this bill for extra length of service.

Mr. HAY. The amount appropriated for retired officers——

Mr. COX. I could find out if I looked into it, if the chairman please, but what is the sum total?

Mr. HAY. I will state to the gentleman that it is about one-half. I have not segregated those items from the other items.

Mr. COX. That is what I wanted to ask, whether that had been added up.

Mr. HAY. It has been added up by the clerk of the committee, and in examining the result of his computation I was struck by the fact that about one-half of the amount went to the pay of the Army.

Mr. COX. Then it would take about six or seven million dollars, would it not, to pay the retired officers for their pay and——

Mr. HAY. No; it would not.

Mr. COX. I am not through with my question. It would take something like six or seven million dollars, would it not, to pay the officers who have been retired, and then to pay officers for length of service and to pay enlisted men extra pay for length of service? It will approximate about six or seven million dollars, will it not?

Mr. HAY. It is about $5,400,000.

Now, Mr. Chairman, I want to say in answer to the statemnet of the gentleman from Kentucky [Mr. HELM] that there is not a single provision carried in this bill that adds any emoluments to any officers beyond what they are already receiving on account of existing law. The pay of the Army is fixed by law, and the appropriation bill is made up of items taken from the law.

I want to say, too, to the gentleman in regard to his statement to the effect that the officers of the Army of the United States could not stand behind a battle line and command the army as is now being done in Bulgaria, that there has never been a time in the history of this Government when the officers of the United States Army have not been equal to every task which has been committed to their care. [Applause.] They are equal now to do their duty in battle and measure up to the officers of any army under the shining sun, I do not care where they may be. [Applause.]

I am proud of the records which the officers of the Army of the United States have made through all our history, and I am sure my friend from Kentucky hardly measured his words when he stated what he did about the ability of the officers of the Army of this country. In every branch of the Army, in every duty, whether that of the Army proper or the civilian duties, such as this great task of building the Panama Canal, the Army officers have always been called upon in emergencies of that character [applause], and they have always measured up to the occasion. [Applause.]

Mr. MONDELL. Mr. Chairman, it seems to me there ought to be no difference of opinion in regard to the views just expressed by the gentleman from Virginia [Mr. HAY] as to the gallantry and efficiency of the officers of the Army of the United States. We have, in my opinion, the best military schools in the world, and we have certainly the best material in the world from which to draw the young men who attend those schools for the purpose of preparing themselves to become officers of the Army and of the Navy. And we have the best plan in the world under which we select the young men who are to become the officers of the Army and of the Navy. We are the only Nation in the world that gives all of the young men of the country who are ambitious to serve their country an opportunity to secure an appointment and a military education, and there never has been a time, in my opinion, when the Army, both the men and officers, was as thoroughly fit and prepared for any emergency as it is this day. There has never been a time when we had as good an organization, when the men and officers were kept so thoroughly up to a concert pitch of preparedness, physically and mentally, as they are to-day.

And yet I sympathize somewhat with the views expressed by the gentleman from Kentucky [Mr. HELM]. He makes a mistake, in my opinion, when he attempts to segregate the enlisted men and to assume that the noncommissioned men among the enlisted men are officers. They are in no sense, as the term is ordinarily used in the Army, officers. They are enlisted men holding a higher rank than their fellows by reason of their ability and their service.

But it is true, in my opinion, that we have been much given in this country of late years to yielding to the importuning of the Army, to the social influence of the Army, in increasing the Army pay and the Army emoluments, and in no way have we erred more, in my opinion, than in giving rank and title and other peculiar military recognition to men who are not performing, or who are not called upon to perform, purely military duty. We are wiping out the line between the fighting men and the auxiliaries of the fighting force. In my opinion that is not a wise thing to do. And we have increased the pay and allowances, pay active and fogy, allowances and commutation, and all that sort of thing—well, at least as much as they should have been increased.

Mr. PRINCE. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. And it is only very recently that we have realized the gap between the rewards of the officers and the rewards of the enlisted men, and have sought more nearly to equalize the pay.

The CHAIRMAN. Does the gentleman yield?

Mr. MONDELL. Yes.

Mr. PRINCE. I was just going to ask my colleague if we have not made very liberal provision for the pay of enlisted men?

Mr. MONDELL. We have made much more liberal provision than we did formerly, and in my opinion the enlisted men of the Army are at this time very well paid, and the service is one that should and does command the attention of some of the best young men of the country.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. HELM. Mr. Chairman, I move to strike out the last two words.

The CHAIRMAN. The gentleman from Kentucky [Mr. HELM] moves to strike out the last two words.

Mr. HELM. I do not want to consume the time of the committee, but in response to the statement of my very much esteemed friend from Wyoming I want to add this observation in support of the statement I have made. He says that we have fine schools for the education of the officers of the Army. Well, a fine law school does not necessarily make a fine lawyer, and a fine medical school does not necessarily make a fine doctor. I doubt very much whether your fine schools come up to the standard which you have stated they do. I presume you refer to the War College, do you not?

Mr. MONDELL. I refer, primarily, to the Military and Naval Academies.

Mr. HELM. We are speaking now of the Army. We are not talking about the Navy.

Mr. MONDELL. The various service schools carry on the work.

Mr. HELM. If it is true that we have such exceptionally fine schools for the training of these officers, why have they not effected a tactical divisional organization? Nearly all the members of the Military Affairs Committee are here, and I want to ask you, Have you to-day a tactical divisional organization? Please, some of you, answer me.

Mr. HAY. I will state to the gentleman that that is wholly a matter for the Executive, and not for the Military Affairs Committee.

Mr. HELM. You concede that you have not such an organization, do you not?

Mr. HAY. If we have not the proper tactical arrangements, it is the fault of the War Department, and not the fault of Congress.

Mr. HELM. Ah, there you are. Now when you get up here and boast of what you have, it sounds all right. It reads well. We like to hear it. It falls good on our ears; but when you come to put the test to it you have not got it. Now, what is the work that your good schools are doing? Let me ask you this question: Can we go to war with anything less than a division? Can this country go to war with anything less than a division? We are speaking now of a fighting machine. Now answer me that question, please.

Mr. KAHN. The gentleman knows that the War Department at the present time is working out a system of tactical units.

Mr. HELM. They have been doing that ever since I have been in Congress.

Mr. KAHN. No.

Mr. HELM. Just about this time of the year. I leave it to your candor. About the time the Army appropriation bill comes up you see it stated here and there that there is a group of Army officers somewhere incubating something that will look like a system if it ever hatches, but it never borns. It dies aborning. Now, you will not hear anything more of this thing for 12 months more. I understand quite a number of distinguished officers of the Army have been here in the city for the purpose of working out a plan, and the newspapers state that it has been accomplished and that the report is ready to be submitted. But where is that report?

Mr. KAHN. Will the gentleman yield?

Mr. HELM. I will.

Mr. KAHN. About a year ago the War Department for the first time undertook to organize the Army along——

Mr. HELM. I have yielded to the gentleman for a question, not a statement.

Mr. KAHN. The gentleman asked me a question, and I am trying to give him the answer.

Mr. HELM. The simple question I asked was if you have a division tactical organization, which question can be answered yes or no.

Mr. KAHN. No; but one was started less than a year ago, and is nearly perfected.

Mr. HELM. Is it nearly perfected?

Mr. KAHN. Yes.

Mr. MADDEN. It is out of the incubator. [Laughter.]

Mr. HELM. Have you any information as to when we will receive it? Will it be about the time the next Army appropriation bill comes up?

Mr. KAHN. I will say, for the information of the gentleman, that the matter has been worked on all through the period since the adjournment of the last session.

Mr. HELM. For how many years?

Mr. KAHN. Less than one year.

Mr. HELM. Does the gentleman make that statement advisedly?

Mr. KAHN. I do.

Mr. HELM. That they have been working on this particular proposition for one year?

Mr. KAHN. Less than one year.

Mr. HELM. What other propositions have they had similar to this, and how long?

Mr. KAHN. The question of reorganization along lines of tactical or divisional units was not taken up by the Army until about last April or May.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. HELM. I ask unanimous consent for five minutes longer.

Mr. HAY. I ask unanimous consent that all debate on this paragraph and amendments thereto be closed in five minutes.

The CHAIRMAN. The gentleman from Virginia [Mr. HAY] asks unanimous consent that at the expiration of five minutes the debate upon this paragraph and amendments thereto be closed. Is there objection?

There was no objection.

The CHAIRMAN. The gentleman from Kentucky [Mr. HELM] asks unanimous consent for five minutes more. Is there objection?

There was no objection.

Mr. HELM. Mr. Chairman, I think the proposition that I laid down in the outset has been fairly well sustained, by reason of the failure of the members of the Military Affairs Committee to show that you have what they claim to have. I want to ask my good friend from Wyoming [Mr. MONDELL] when was there ever a division of the Army assembled since the Civil War; and how can you get up on the floor here and say—and how can my good friend, the chairman of the Military Affairs Committee, the gentleman from Virginia [Mr. HAY], get up on the floor here and say that you have the officers to do the work that is being done in the Balkan-Turkish War, when, in the first place, you have not a divisional organization, and, in the second place, there has not been such a thing since the Civil War?

Mr. MONDELL. Does the gentleman complain because the Army is not large enough?

Mr. HELM. I say the Army is too large. I am not complaining about the Army not being large enough.

Mr. MONDELL. Does the gentleman complain that we have not a large enough Army, or that we have not our present Army so concentrated as to have a division in one locality that can be easily gathered together and concentrated quickly? Is that the gentleman's complaint?

Mr. HELM. I am not complaining that the Army is too small. I am complaining that you have nothing that resembles a divisional organization within the Army. I will say that a well-organized army of 25,000 men is better than an unorganized army of 75,000 men.

Mr. HAY. Will the gentleman allow me to ask him a question?

Mr. HELM. Certainly.

Mr. HAY. Was there before the Civil War an Army of the United States large enough to gather together a division? Of course, the gentleman must say there was not, because we did not have as many men in the Army as we have now.

Mr. HELM. As I was born since the war, of course I can not answer.

Mr. HAY. The officers of that Army who served on the northern side and the southern side displayed an amount of genius that has never been displayed by any other set of officers in any other country in any other age.

Mr. HELM. Mr. Chairman, that sounds good again. That appeals to you, that stirs your blood and starts you going; it makes you feel good. [Laughter.] You like to hear your Army bragged about as my good friend likes to hear his children bragged about.

Mr. ANTHONY. Will the gentleman yield?

Mr. HELM. I will.

Mr. ANTHONY. Is the gentleman arguing that the standing Army should be increased?

Mr. HELM. No, sir.

Mr. ANTHONY. Does the gentleman know how many men compose a divisional unit? He is speaking of nine or eighteen thousand men.

Mr. HELM. I do not know how to run a railroad train, but I can sit in the passenger coach and tell when the track is in good shape and whether the men in charge of the train know how to run the train.

Mr. ANTHONY. The gentleman is talking about something that he knows very little about.

Mr. HELM. As I said, I do not know anything about operating a railroad, but I can tell something about the roadbed as soon as I take passage, and I can tell by the way the trains are handled whether the Chesapeake & Ohio Railroad is as good a railroad proposition as the Pennsylvania Railroad.

Mr. MANN. Is the Chesapeake & Ohio a good proposition? [Laughter.]

Mr. HELM. It is not as well organized or systematized as the Pennsylvania Railroad, and yet I do not know a thing in the world about railroads, either as to construction or operation.

Mr. BURKE of Pennsylvania. Is there any division in the Chesapeake & Ohio?

Mr. HELM. Oh, there are plenty of them—divisional organizations.

Mr. BURKE of Pennsylvania. Will the gentleman yield?

Mr. HELM. Yes.

Mr. BURKE of Pennsylvania. How much does the gentleman think that the Army ought to be increased?

Mr. HELM. I would say just as small as you could possibly get it, and as soon as we can get rid of the Philippine Islands I would say reduce it to 25,000 men. These islands are the only excuse you men have for a big army and big navy. The moment you get rid of the Philippine Islands your big navy and your big army is gone. You recognize it, and the War Department and the Navy Department recognize it.

The CHAIRMAN. The time of the gentleman from Kentucky has again expired.

The Clerk read as follows:

For pay of the enlisted men of the Army on the retired list, $2,400,935.20.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. I hoped that I could entirely concur in the latest speech of my friend from Kentucky, but unfortunately he has fallen into a common error. In discussing what it may be are the faults of our military organizations, he insists that we should have a smaller military organization, and yet we should have one large enough so that we may have divisional units; and I assume that he would have this small Army so located that it would be divided up into a considerable number of very large units. His wish is a good deal like that of the little boy who hoped it would rain just hard enough so that he did not have to go to school and not so hard but that he could go fishing. He wants the Army so small that it will not be efficient and yet big enough to divide into large units. You can not do those two things. I am one of the people who believe that it is not so tremendously important that we shall have worked out every problem that the very latest craze of military development in Europe may have suggested as being important. Our history, the history of all the world, is that it is not necessary to have a great army, and that it is not necessary to have an army concentrated, and it is not necessary for men to have had in time of peace a great number of men to operate in order to develop military genius in order to be able to handle great military problems.

At the beginning of the Civil War, as the gentleman from Virginia stated a moment ago, we had men who had never commanded more than a fragment of a regiment; men who had had no experience with large numbers of troops, who immediately developed the ability to handle corps, divisions, and armies. I dare say that the men who have been handling the armies of the allied troops in the Balkans are men who never had experience with large commands.

Mr. HELM. Will the gentleman yield?

Mr. MONDELL. My time is very brief.

Mr. HELM. How long between the time that the war was declared between the Balkans and the Turks until the allied troops drove the Turks back to Constantinople; how many days elapsed?

Mr. MONDELL. I was engaged in my duties here, and was not giving all my attention to that fact.

Mr. HELM. The gentleman has made statements about not being prepared; does the gentleman want to know how long it was?

Mr. MONDELL. It was only a few days until they had advanced, and they were prepared to advance.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. MONDELL. Mr. Chairman, I ask unanimous consent for five minutes more.

The CHAIRMAN. The gentleman from Wyoming asks unanimous consent that he may proceed for five minutes. Is there objection?

There was no objection.

Mr. HELM. Does the gentleman believe the result could have been accomplished unless the men in charge of the Balkan troops and their allies had made preparations and knew what to do and how to command these troops and drive the Turks back in 18 days?

Mr. MONDELL. Certainly no man ever accomplished anything if he did not know how to do it; but many men have accomplished great things once that they never had the opportunity to practice before, and a great many men have won great battles and have proven themselves great strategists and soldiers who have never commanded great armies; and while the gentleman belongs to that class of people who want an army so small that it would be entirely insufficient, practically valueless in the present condition of the country, at the same time he is arguing for the very things in organization that men argue for who want a very large army. We have grown way beyond an army of 25,000 men. We have grown to an Army of the present size beyond all question, whether we have the Philippines or no, and being one of those who do not believe in ever sending soldiers to the Panama Canal, except, perhaps, a corporal's guard possibly, I still believe we need all the soldiers we now have without regard to the Panama Canal, because we have not too many men to form the nucleus that will be necessary for expansion if we have foreign trouble. But it is not necessary to concentrate these men in great bodies. To do it is un-American. It is not necessary to have worked out to the last gnat's heel of detail some peculiar scheme of organization. It is necessary to get the right kind of material, men and officers, give them the proper instruction in the schools and in the fields, select them carefully for command as they discover their ability, and with the population to draw from that we have, the schools of instruction that we furnish, the field operations we now have, no one can doubt but that when called upon the Army of the United States will respond, men and officers, as nobly to the duties they are called upon to perform as ever did a soldier in the history of the world. [Applause.]

The Clerk read as follows:

For commutation of quarters to commissioned officers, dental surgeons, veterinarians, and pay clerks on duty without troops at stations where there are no public quarters, $500,000.

Mr. HAY. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 13, line 22, insert the word "acting" after the word "dental."

Mr. HAY. Mr. Chairman, I offer this amendment, because otherwise these acting dental surgeons could not receive the commutation of quarters.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. HAY. Certainly.

Mr. MANN. Are there not dental surgeons also?

Mr. HAY. Yes; but they are commissioned officers.

Mr. MANN. They will be included under the term "commissioned officers"?

Mr. HAY. Yes.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Virginia.

The question was taken, and the amendment was agreed to.

Mr. WEBB. Mr. Chairman, I move to strike out the last word. I desire to ask the chairman of the committee a question or two, and then I may offer an amendment. I would like to know how many officers under this provision which has just been read receive commutation here in Washington?

Mr. HAY. I could not state to the gentleman how many officers are now in the city, but I can state to him that all of those who are stationed here who are not at the military posts get commutation of quarters.

Mr. WEBB. That commutation of quarters includes room rent?

Mr. HAY. And fuel and light.

Mr. WEBB. Can the gentleman tell me how many Army officers are transferred from Fort Myer to Washington on detailed duty who receive this commutation?

Mr. HAY. I do not think there are any detailed from Fort Myer. Those stationed at Fort Myer do not get commutation of quarters.

Mr. WEBB. Mr. Chairman, the object of this question was to bring out the fact that there has grown up in this commutation allowance an abuse which I think will be apparent. Under the present law, as I understand it, a captain, if he is detailed away from his barracks, or his Government quarters, gets five rooms at the rate of $12 a month for each room. That is $60 a month for room rent. A lieutenant gets three rooms, or $36. A colonel gets seven rooms, or $84, and a brigadier general gets eight rooms, at $12, or $96 a month. That was all that the Government originally intended to pay these officers as commutation, as I understand it, but according to the ruling of the Comptroller of the Treasury on January 31, 1907, it seems to me apparent that that ruling engrafted on to what Congress intended to allow them for commutation an additional allowance for heat and light. It is my understanding that there are 175 of these officers in this city who are drawing this unusual and splendid commutation of $12 a month a room, and heat and light pay also.

Mr. BURKE of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. WEBB. Certainly.

Mr. BURKE of South Dakota. I understand the number to be 192, I will state to the gentleman.

Mr. WEBB. Then the number is larger than I thought it was.

Mr. HAY. Mr. Chairman, I would point out to the gentleman that a captain may have a wife and family.

Mr. WEBB. I will get to that.

Mr. HAY. And therefore four rooms would not be too great an amount, and he could not rent for himself and family proper quarters in this city for $48 a month.

Mr. WEBB. Mr. Chairman, while that may be so now and then, I am informed that there are many captains and colonels and the rest of them who get this entire commutation and do not use but one or two of the rooms, or one-half of the rooms, and receive not only the entire commutation for room rent, but heat and light allowance also, although practically every room in this city is furnished heat free with the rent. Where an officer gets his room rent for $12 a month, say, a colonel who gets $96 per month for room rent, in addition to that he also gets $30 a

month for heat and light. I say that is a species of—well, I shall not call it graft, but Congress never intended to allow that, and it ought not to be allowed by this House. Something like $50,000 to $60,000 are paid out in this city every year as commutation for heat and light alone, or about $5,000 per month.

Mr. HELM. Mr. Chairman, will the gentleman yield?

Mr. WEBB. Certainly.

Mr. HELM. How many rooms is a brigadier general allowed commutation of quarters, heat, and light for?

Mr. WEBB. Eight rooms—I really believe nine now.

Mr. HELM. Suppose he is a bachelor?

Mr. WEBB. I have heard of a case where a colonel had seven rooms and occupied only two, but he drew his entire seven-room rent, and heat and light besides, and I learn that this practice is general.

Mr. HELM. Of course, the theory of the law was that in allowing a man five or six or seven rooms it was to house his family; but suppose he is an officer without a family; is he still entitled to this $12 a room a month?

Mr. WEBB. Oh, yes; that is as certain and regular as his salary.

Mr. HELM. Do I understand that a brigadier general gets $96 per month?

Mr. WEBB. Yes. I believe it is now $108 for nine rooms.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

Mr. FOSTER. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. WEBB. Certainly.

Mr. MURDOCK. The gentleman seems to have investigated this subject, and I would like to ask him if I am under a wrong impression. I have been informed that the gas and electric light companies of this city do not present bills for electricity and gas to officers of the Army who are resident in Washington. Does the gentleman know whether that is true or not?

Mr. WEBB. I could not answer that, but I have heard that such is the case, though I can not vouch for its accuracy. I communicated with The Adjutant General's office this afternoon and asked what was the commutation allowance for a captain.

Mr. MURDOCK. An officer has commutation for gas and electricity?

Mr. HAY. He has a certain allowance for heat and light.

Mr. WEBB. It averages for a captain about $19 a month for four rooms, whether he uses one room or four. The total allowance for his room rent by the year is $576, and $228 additional for heat and light, or a total of $804 for four rooms, heat, and light per year.

Mr. COX. Who furnished the figures to the gentleman?

Mr. WEBB. The Adjutant General's office.

Mr. COX. It is authoritative, then?

Mr. WEBB. I suppose it is. Now, take a colonel, and he gets $84 a month for room rent, $30 a month for heat and light—a total of $1,368 a year for room rent, heat, and light.

Mr. HELM. Mr. Chairman, does this colonel have some horses furnished him, and some provender, and a caretaker for the horses, and blacksmith service, and a stable in which to keep his horse, and heat and light for his horse?

Mr. WEBB. I have not investigated that yet, Mr. Chairman. I understand a colonel has a chance to buy a good horse which costs the Government $75 or $100 when it is young, and when it——

Mr. HELM. As a matter of fact, does he not get two instead of one?

Mr. WEBB. Yes; I think they all have plenty of horses and vehicles, and things like that, and a veterinary surgeon to doctor them, and maintenance.

Mr. BURKE of Pennsylvania. Does the gentleman regard $110 a month as excessive to furnish a colonel of the United States Army with a home, and light and heat for the same?

Mr. WEBB. That depends very largely. In some instances it might not be too much and in others it might be a great deal too much.

Mr. BURKE of Pennsylvania. I am asking the gentleman to state it from the standpoint of the argument he is making in reference to these officers he has under observation.

Mr. WEBB. A colonel ought not to be allowed to draw room rent for eight rooms at $12 each, and light and heat allowances, $30, for that number of rooms and live in only two of them.

Mr. BURKE of Pennsylvania. If the Army officer is allowed so much money per annum to furnish him a home, has not he a right to choose whether he shall live in two comfortable rooms or six uncomfortable rooms?

Mr. WEBB. No; I think he ought to be paid what he necessarily and economically spends for room rent and heat and light.

Mr. MANN. Will the gentleman yield for a question?

Mr. WEBB. Yes, sir.

Mr. MANN. Congress having provided that the officer shall have that as a part of his compensation, is the officer to blame for taking it?

Mr. WEBB. I will reply to that by saying that Congress has never authorized, so far as I can find, giving these officers heat and light commutation in addition to the room rental. The Comptroller of the Treasury made that ruling and grafted it on to the congressional act.

Mr. MANN. We passed a law to that effect. Congress has specifically provided for the number of rooms, and also provided for the heat and light by law.

Mr. WEBB. Now, tell me what a captain gets for heat and light by law? I do not think it has ever been specifically authorized by law when the officer is away from Government quarters.

Mr. MANN. I can not tell the gentleman now. I know that we had it up when we had the Public Health Service under consideration, which was asking the same thing. We did not give it to them in the law passed at the last session. The gentleman was probably in favor of the bill that did give them that. We did not provide that in the public health bill, and I wanted to correct that matter at that time. Congress had provided by law compensation for rooms and for heat and light to the Army officers who did not have it furnished in kind.

Mr. HAY. And that is only to those who are not stationed at the Army posts.

Mr. MANN. Not furnished in kind.

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. WEBB] has again expired.

Mr. SLAYDEN. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. Does the gentleman from Texas [Mr. SLAYDEN] wish to occupy the time in his own right?

Mr. SLAYDEN. I intended to do so and to yield to the gentleman from North Carolina [Mr. WEBB].

The CHAIRMAN. Well, the gentleman can use time in his own right, and then the Chair will ask if the gentleman from North Carolina desires more time.

Mr. SLAYDEN. I will take the time in my own right as a member of the committee. I think the gentleman is in error when he says there is no law for heat, fuel, and light to officers who are occupying houses not at military posts, where they have quarters.

Mr. WEBB. If the gentleman will permit me, I said I thought the law originated by interpretation of the Comptroller of the Treasury. That is the first time we had it grafted on the law—heat and light allowance—as payable to these officers. It was built up by construction and interpretation.

Mr. SLAYDEN. I do not remember exactly the time the law was passed that did give them fuel and lights. I remember I was opposed to it. But it is a law, and it made a very material increase in the allowance to officers not stationed at military posts.

Now, there is no objection that I can see to an officer taking the allowances that are provided by Congress. If they are excessive, cut them down; but no just criticism can be leveled at a colonel or a man of any other rank for taking the compensation that is provided for him by law.

Mr. WEBB rose.

The CHAIRMAN. Does the gentleman from North Carolina [Mr. WEBB] desire to submit a request?

Mr. WEBB. I would like to have five minutes, Mr. Chairman.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. BURKE of South Dakota. Mr. Chairman, will the gentleman yield for just a moment?

Mr. WEBB. Yes.

Mr. BURKE of South Dakota. I want to call the gentleman's attention to a provision in the statutes. I agree with him in what he is contending for. I want to call the gentleman's attention to the statute authorizing payment for fuel and light. It provides:

> That hereafter the heating and lighting actually necessary for the authorized allowance of quarters for officers and enlisted men shall be furnished at the expense of the United States under such regulations as the Secretary of War may prescribe.

Now, under that language it is held that they could not pay for fuel and light that was not actually furnished.

Mr. WEBB. What is the date of that act?

Mr. BURKE of South Dakota. March 2, 1907. Now, as I understand it, what the gentleman is contending for is that they are being allowed for fuel and light a certain amount, although it has not been expended?

Mr. WEBB. Exactly; and that law, I think, applies to officers in Government quarters, and was not intended to be given them when detailed away from such quarters, but only an allowance for room rent.

Mr. BURKE of South Dakota. In other words, an officer who gets $96 a month is allowed in cash $36.

Mr. WEBB. Thirty-four dollars.

Mr. BURKE of South Dakota. It is under a regulation of the War Department, and the Auditor for the War Department held that that could not be done. But the Comptroller of the Treasury held otherwise and reversed the Auditor for the War Department, since which time they have been paying in cash to each one of these officers this amount. I think it averages about $25 a month, if I am not mistaken; and to the officers located in the city of Washington it would be between fifty and sixty thousand dollars a year. It is based on the number of rooms.

Mr. WEBB. It was never intended, Mr. Chairman, that this allowance for heat and light should be grafted on the law as it has been. Let us give them enough room rent and stop heat and light allowance. It was no doubt understood that the room rent should include heat and light. It is ridiculous to provide that a colonel should have $480 a year for heat and light alone. Usually heat and light are furnished with a rented room, or at least the room is heated. I do not censure officers for taking this allowance, for it is lawful for them to do so, but I am contending that we should change this ruling or law.

Mr. MANN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Illinois?

Mr. WEBB. Certainly.

Mr. MANN. Is it not the experience of the gentleman, when it comes to renting quarters in the city of Washington, that they will take all you have got? [Laughter.]

Mr. WEBB. There is something in that, I will agree, especially if you are a Member of Congress.

Now, Mr. Chairman, I want to offer the following amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman will send it to the desk. The Clerk will report the amendment offered by the gentleman from North Carolina [Mr. WEBB].

The Clerk read as follows:

Add, after "$500,000," in line 24, page 13, the following: "*Provided*, That no part of this appropriation shall be expended in payment for heat and light to commissioned officers, dental surgeons, veterinarians, and pay clerks drawing commutation of quarters."

Mr. HAY. Mr. Chairman, I want to be frank with the gentleman. No part of this amount is paid for fuel and light, anyway. This is the pay for commutation of quarters. The money that is paid for heat and light is paid out of an appropriation for regular supplies. If the gentleman wants to offer an amendment, he ought to wait until we get to the item where the appropriation is made.

Mr. WEBB. I understood that this commutation was paid out of this particular appropriation of $500,000.

Mr. HAY. No; fuel and light are not paid out of this. This is commutation of quarters.

Mr. WEBB. Does not commutation of quarters come under that head?

Mr. HAY. That is for the pay of room rent.

Mr. WEBB. Where does it come in?

Mr. HAY. Under supplies in the Quartermaster's Department.

Mr. BURKE of South Dakota. Mr. Chairman, in regard to that, may I ask the gentleman in charge of the bill a question?

The CHAIRMAN. Does the gentleman from North Carolina yield?

Mr. WEBB. Yes.

Mr. BURKE of South Dakota. Is any part of this money paid for heat and light?

Mr. HAY. No.

Mr. BURKE of South Dakota. Then the amendment should be offered to some other part of the bill.

Mr. HAY. I will say to the gentleman from North Carolina that the item to which he refers is carried on page 21, line 22:

For furnishing heat and light for the authorized allowance of quarters for officers and enlisted men, for contract surgeons and contract dental surgeons when stationed at and occupying public quarters at military posts.

Mr. WEBB. Then I shall offer my amendment after the word "school," on page 22, line 2, and withdraw it for the present.

The CHAIRMAN. The Clerk will read:

The Clerk read as follows:

For interest on soldiers' deposits, $90,000.

For pay of translator and librarian of the military information section, General Staff Corps, $1,800.

For pay of expert accountant for the Inspector General's Department, $2,500.

Mr. MANN. Mr. Chairman, I move to strike out the last word for the purpose of asking a question. Is there any provision in the bill as presented for paying back soldiers' deposits?

Mr. HAY. That has been carried in the bill heretofore for paying back soldiers' deposits, but we were told it was not necessary to do it; that the appropriation that was made was not enough to pay them back, and therefore it was not necessary to have that appropriation.

Mr. MANN. Heretofore you carried the item, and now you say it is not necessary to carry it?

Mr. HAY. It is not necessary to carry the item.

Mr. MANN. But, of course, it is necessary to pay them back.

Mr. CULLOP. Mr. Chairman, I desire to ask the chairman of the Committee on Military Affairs a question for information. On page 14, line 6, is the item "For pay of expert accountant for the Inspector General's Department, $2,500." Do they employ accountants outside or some person connected with the department or the Army to do this work? If it is done by men in the department, do they pay them extra compensation for it?

Mr. HAY. No. This is one particular man, who is the expert accountant of the Inspector General's Department.

Mr. CULLOP. Is he connected with the department?

Mr. HAY. He is connected with the Inspector General's Department. He is the only expert accountant connected with that department.

Mr. CULLOP. It is not an outside man, then, employed for the purpose?

Mr. HAY. Oh, no. This has been in the bill for a good long time.

The Clerk read as follows:

For mileage to officers, dental surgeons, veterinarians, contract surgeons, pay clerks, and expert accountant, Inspector General's Department, when authorized by law, $550,000.

Mr. HAY. I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Virginia offers an amendment, which the clerk will report.

The Clerk read as follows:

Page 14, line 20, after the word "surgeons," insert the words "acting dental surgeons."

Mr. MANN. All the gentleman needs to do is to insert the word "acting," as the words "dental surgeons" are already in the bill.

Mr. HAY. Yes; that will do it.

The CHAIRMAN. Does the gentleman withdraw his amendment?

Mr. HAY. I withdraw my amendment and move to amend by inserting the word "acting" before the word "dental," in line 20.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 14, line 20, insert, before the word "dental," the word "acting."

The amendment was agreed to.

Mr. COX. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Indiana offers an amendment, which the clerk will report.

The Clerk read as follows:

Amend, page 14, by striking out lines 20, 21, 22, and 23 and inserting in lieu thereof the following:

"For mileage to officers, dental surgeons, veterinarians, contract surgeons, pay clerks, and expert accountant, Inspector General's Department, when authorized by law, $392,855: *Provided*, That hereafter all officers of the Army when traveling under orders shall be paid their actual traveling expenses and no more."

Mr. MANN. I reserve a point of order on the amendment.

Mr. HAY. So do I.

Mr. COX. In order to make the amendment conform to the section as already amended by the committee, I believe my amendment should contain the word "acting" before the word "dental."

Mr. MANN. The gentleman does not change the wording of the paragraph. He simply changes the amount and adds a proviso.

Mr. COX. That is all. Is the gentleman from Illinois going to make the point of order?

Mr. MANN. I think I will in the end. I think it is subject to the point of order.

Mr. COX. I do not think the amendment which I have submitted is subject to a point of order.

Mr. HAY. Suppose we have that disposed of first.

Mr. COX. Yes; it had just as well be disposed of now as afterwards.

Mr. MANN. Mr. Chairman, it seems to me that precisely the same question arises here on the point of order that arose on the amendment offered by the gentleman from Connecticut [Mr. TILSON]. The gentleman from Indiana [Mr. COX], in his amendment, offered to reduce the amount, with a provision that officers shall be paid their actual expenses. I know of no way by which anybody can determine whether the actual expenses of officers will be greater than the amount allowed now by law. It is a mere matter of argument to say that they will, and I understood the Chair awhile ago to make the ruling that the reduction of the amount was not of itself sufficient to bring an amendment within the Holman rule, unless on the face of the amendment or in connection with the statement made to the Chair it appeared that the legislation proposed would in fact accomplish the reduction.

I do not know how anyone can tell. A few years ago there was a provision inserted in a bill in the House here authorizing the payment of an Army officer or a naval officer his actual expenses, which were four or five times the amount then authorized by law, and necessarily so.

Mr. HAY. If the gentleman will allow me the interruption I will make this statement, in support of what he has said: Under the present law an officer receives 7 cents a mile, which includes subsistence at the point to which he is ordered. For example, suppose an officer stationed at Fort Sheridan is ordered down into Missouri to buy mules, and he stays there 7 or 10 days, or 2 weeks, on that service. He gets only the 7 cents a mile between Chicago and the point to which he goes, and has to subsist himself during that 10 days or 2 weeks on the 7 cents a mile. So that, as the gentleman says, the actual expenses would be very much more than the 7 cents a mile. And I may say to the gentleman that this matter has been threshed out, about this mileage of officers, over and over again. Various methods have been sought to be arrived at in order to decrease this item, but it was found that after all the best way to decrease it was to give them the 7 cents a mile, rather than to give them the actual expenses, and it is very evident that a man's actual expenses in traveling can be made to be very much more than if the allowance is a fixed sum; for instance, 7 cents a mile. I really think there is no way of finding out whether or not this will be a reduction.

Mr. BURKE of Pennsylvania. Will the gentleman allow a suggestion in that connection?

Mr. HAY. The gentleman from Illinois has the floor.

Mr. MANN. I yield to the gentleman from Pennsylvania.

Mr. BURKE of Pennsylvania. At the time the hearings were held, Gen. Aleshire was asked whether or not the experience of the department in these two methods had not resulted in leading to the inevitable conclusion that the present mileage system was the cheaper and the more economical for the United States Government? I think the chairman of the committee will recall that fact. His statement is the only record on the subject which there is before us.

Mr. HAY. Gen. Aleshire said in the hearings——

Mr. KAHN. At page 66.

Mr. HAY. Gen. Aleshire said—

I believe it would cost the Government more if they undertook to pay the actual traveling expenses, but I believe it would be better for the officers—

That is, that the officer would get more out of it than they do under the present system.

Mr. MANN. Mr. Chairman, I believe I am in sympathy with what the gentleman from Indiana [Mr. Cox] is seeking to accomplish. I have no doubt there have been abuses about this mileage.

In the investigation that I made in connection with the Public Health Service there was bitter complaint many times that it cost officers more than they received, and I have heard the same complaints about the Army. That, however, goes only to the point of order. I do not think the amendment shows that it would effect any reduction in the expenditures to the Government, and personally I do not believe that it would effect any reduction.

The CHAIRMAN. The Chair will say that the principle of the Holman rule, as the Chair understands it, was stated a moment ago by the gentleman from Illinois. So the burden is on the gentleman from Indiana to show reasonably and sufficiently that the operation of the legislation would bring about the result.

Mr. COX. Mr. Chairman, if I understand parliamentary law, the burden is always on the person who makes the point of order to show that the point of order is well taken, but I am willing to abide by the suggestion of the Chair. I do not know whether I will be able to do it, but I will undertake it. The suggestion of the gentleman from Illinois as to the amendment offered by the gentleman from Connecticut a moment ago being decisive of this case, I do not think it is parallel at all. I do not believe the Chair will have great difficulty in distinguishing between the amendment offered by the gentleman from Connecticut as applied to the Holman rule, and the amendment offered by myself when the Holman rule is applied to it. If I understood the amendment of the gentleman from Connecticut offered a moment ago, under which the Holman rule was sought to be invoked to make his amendment germane to the bill, it was that his amendment on its face showed that it failed to reduce expenditures. When an Army officer is retired, no matter at what age—62 or 64—he is retired at three-quarters pay. Then if the gentleman's amendment had obtained and the officer had been restored to active duty he would naturally have been restored to the pay he was drawing at the time and before he was retired. Therefore it was disclosed upon the face of the amendment that it did not reduce expenditures, but, on the contrary, as the chairman of the Military Committee well argued and as the Chairman finally took the view of it, it increased expenditure.

So I can readily see, unless I am mistaken, a vast difference between the two, and a difference in the line of argument between the amendment offered by the gentleman from Connecticut and mine when the Holman rule is applied to both of them.

Now, then, as the Chair has announced that the burden is on me to show that my amendment does reduce expenditure, I will try and demonstrate it. I take it that the Chair has a perfect right to surround himself with all the physical facts and circumstances connected with this particular item. I remember when I began the practice of law, one of the first principles I ever learned from the law books was that the court judicially knew certain things; that no proof was required one way or the other to substantiate or maintain them. I ask this Chair whether or not it is not fair to invoke the same rule when the Chair comes to pass upon the point of order made against the amendment which I submit? If it be fair, I say to the Chair that almost universally the rule of railroads over this country, of which I know of no exception, especially the trunk lines, transport people for 2 cents a mile. I take it the Chair or any other person can travel from Washington City to San Francisco at a rate of 2 cents a mile, and from Chicago to New Orleans at the same rate.

Mr. HAY. Does the gentleman understand that in this 7 cents a mile, when they get to the point to which they are ordered that they have to pay their subsistence out of it?

Mr. COX. Yes; I understand that. I repeat, and put it to the Chair, that the Chair has a right to judicially take cognizance of the fact that, as far as the ordinary transportation is concerned, you can travel all over the United States on the trunk lines at 2 cents a mile.

Mr. TILSON. Will the gentleman yield?

Mr. COX. Not just now.

The CHAIRMAN. The Chair will take cognizance of that fact.

Mr. COX. To that, Mr. Chairman, must be added the Pullman service. To that must be added the food while traveling on the train. At the ordinary rate of travel, a passenger train will travel per day, I take it, 750 miles. An Army officer traveling that distance would get approximately $50 or a little more. And yet, if the Chairman please, paying his 2-cent fare, $4 for Pullman fare, allowing him $2 or $3 per meal for his three meals a day would amount to less than $25. So he has $25 absolutely to his credit.

Now, the amount allowed in my amendment is 5 cents a mile, and that is the amount that is allowed in most instances to witnesses attending court. That is what the Federal Government allows their witnesses when they subpœna them all over the country to attend courts and trials. They give them 5 cents a mile, and I have never heard it argued for a moment that it was too small.

Mr. KAHN. Will the gentleman allow me?

Mr. COX. Yes.

Mr. KAHN. If the gentleman will remember, during the trial of the Hyde-Benson cases in Washington there was complaint——

Mr. COX. I only yielded to the gentleman for a question.

Mr. KAHN. The gentleman does not want to misstate the facts.

Mr. COX. The gentleman can make his statement in his own time. I looked up the question of mileage, and I find it has been changed several times. I do not know that I have all the

citations bearing on the question of mileage. In 1873 Congress passed an act giving the Army officers 10 cents a mile while traveling under orders. It was 10 cents a mile from 1873 to 1876, when it was reduced to 8 cents a mile. In 1885 it was put on an actual-expense basis. I am not clear, Mr. Chairman, how many years it remained on the expense basis nor have I looked that question up, but in 1905 it was then put on a 4-cents-a-mile basis, and in 1899 it was increased to 7 cents a mile, where it has remained ever since.

Now, that shows to my mind, Mr. Chairman, one thing conclusively, and that is that these Army officers have had an awful struggle in order to get the tremendous mileage question finally settled. It was evidently found at one time that 10 cents a mile was too much; at another that 8 cents a mile was too much. Whether or not it was found that the actual-expense basis was not satisfactory to the Army officers I do not know, or whether it was further found at one time that the 4-cents-a-mile basis was not sufficient I do not know.

The CHAIRMAN. Will the gentleman permit the Chair to ask him a question?

Mr. COX. Certainly.

The CHAIRMAN. What is the mileage allowance now?

Mr. COX. Seven cents a mile.

The CHAIRMAN. What is that intended to cover?

Mr. COX. It is intended to pay traveling expenses, train fare, Pullman fare, food on the train, and I expect where they stop at hotels in places where they do not have Army quarters, it is also to pay their hotel bills. If I understood the chairman of the committee a moment ago, he said he did not know any plan or any way whereby it could be determined as a question of fact whether or not 7 cents a mile was too much or whether if they be put upon the actual expense basis that would amount to more than 7 cents a mile. I recall this instance, and it is a matter of record since I have been in this Congress. I think I have repeated it before, and at the risk of repetition, I will repeat it again. Up until three or four or possibly five years ago all post-office inspectors were paid $4 per diem. I raised the question in the Post Office Committee. It was strenuously argued there and insisted upon that post-office inspectors could not get along for anything less than $4 per diem. Finally the Postmaster General made this agreement, to make a test case out of it, that he would try the post-office inspectors and put them on the actual expense basis, if I recall correctly, for three months, with a view of seeing whether or not $4 per diem was too much and with a further view of seeing whether or not the per diem could be reduced and whether or not it would be better to put them on the actual expense basis. What was the result? Mr. Chairman, after three months' experience it was found that if the post-office inspectors were reduced from $4 to $3 per day it would save this Government sixty thousand dollars and odd a year, if I recollect correctly, and I do not want to misquote it. It was further found by a matter of calculation, by reducing the per diem from $4 to $3, that that would practically equal the actual expense basis, and it was reduced to $3 per day.

I merely repeat that for the purpose of meeting the argument made by the chairman of the Military Committee, if I remember his statement correctly, when he said that he knew of no way whereby this question could be determined whether or not 7 cents a mile was too much and whether or not, if it be put on the actual basis, it would amount to more than 7 cents a mile. Let a test be made by putting it on the expense basis.

The CHAIRMAN. Will the gentleman permit me to ask another question?

Mr. COX. Certainly.

The CHAIRMAN. If an officer is ordered from one post to another he has an allowance of 7 cents a mile?

Mr. COX. Yes.

The CHAIRMAN. As the Chair understands it, that is to cover the railway fare, Pullman fare, and meals on the train?

Mr. COX. Yes.

The CHAIRMAN. When he reaches his place of destination he is provided for there in some other way?

Mr. COX. No.

The CHAIRMAN. When he reaches his destination, if he stops in a town or a city where there are no Army quarters, out of this 7 cents a mile he pays his hotel bills?

Mr. COX. I think that is correct.

Mr. HAY. It is only when he is traveling on orders that he gets the 7 cents a mile at all.

Mr. COX. Yes; but he may be traveling from one Army post to another Army post, and while traveling between those two points he gets his 7 cents a mile, and when he reaches his final destination, if it is an Army post, it does not cost him anything to stay there.

The CHAIRMAN. That is the fact that the Chair is trying to develop.

Mr. ANTHONY. Mr. Chairman, I think the gentleman is mistaken.

Mr. COX. I do not think I am, and I refuse to be interrupted, Mr. Chairman.

The CHAIRMAN. The gentleman declines to yield. Those are the facts the Chair is trying to develop. What do the records show as to the proportion of traveling between posts and posts?

Mr. HAY. Mr. Chairman, in order that the Chairman may be informed, whether the gentleman from Indiana is or not, I will state that there is no allowance of 7 cents a mile paid to an Army officer for traveling from one post to another when he is ordered to change stations. It is only when he is traveling on orders away from his post to some other place, like Chicago or Omaha, where he is sent on duty, that he gets the 7 cents a mile. He does not get 7 cents a mile every time he goes from one Army post to another. He does not get 7 cents a mile when he comes from the Philippine Islands here, when his regiment or command is ordered from the Philippine Islands here.

Mr. COX. But that is covered by another statute entirely. When he is traveling outside of the United States he draws his mileage under another statute, which pays less than 7 cents per mile.

Mr. HAY. He does not get anything personally.

The CHAIRMAN. If he is ordered from Washington to Chicago or to some place where there is not an Army post, and he has to stay there in connection with that assignment for a week or less or more, does he have to pay his own expenses out of that allowance of 7 cents a mile?

Mr. HAY. Yes; out of his own pocket.

Mr. COX. But if he goes to an Army post, then he is not required to pay anything out of the 7 cents a mile.

Mr. ANTHONY. Mr. Chairman——

Mr. COX. Mr. Chairman, I believe I have the floor.

Mr. ANTHONY. Does the gentleman want to talk all of the time?

Mr. COX. No; but the chairman has thrown the burden upon me of showing that my amendment reduces or tends to reduce expenditures, and I want to do it if I can.

Mr. HAY. Oh, I think the gentlemen ought, when he makes a statement, if we happen to know that he is mistaken in that statement, to permit us to correct him so that the Chair may be properly informed.

Mr. COX. If I make an erroneous statement, they can correct me in their own time, Mr. Chairman.

The CHAIRMAN. The Chair will state the exact status. The gentleman from Indiana has the floor. He can not be interrupted by other gentlemen except with his consent. If he yields, very well; if he declines to yield, the gentleman from Indiana is within his rights. Any request, of course, must be directed to the gentleman from Indiana.

Mr. COX. I will state to the Members that when I reach the point I will readily yield. I do not want to present an erroneous statement at all, but I never could present a matter satisfactorily to myself with several persons picking at me, and the only person I am trying to satisfy now is myself.

Now, Mr. Chairman, with all due deference to the committee that investigated this item, a very small amount of evidence was brought out, and I am now going to call attention to the hearings before the committee on this question with a view of meeting the question of whether or not my amendment is within the Holman rule, as far as the evidence developed by the committee sheds any light on the subject. It only covers a little more than one page. No request is made here at all by the chairman of the Military Committee or any member of the committee in order to let us determine this question in some way or other by putting this, at least for a period of time, upon the actual expense basis and trying it out with a view of seeing whether or not 7 cents a mile was too much or too little. And I want to state here, Mr. Chairman, that I am not caring so much about the economy of the proposition, although I do believe that 5 cents a mile would be sufficient, and, if my amendment obtains, it will save one hundred and fifty thousand and odd dollars, and while this is small, yet it is an item worthy of being looked after. But that is not the primary purpose of my amendment, Mr. Chairman, at all. My purpose not only in this amendment, but in all mileage propositions, is to bring the Government as near as we possibly can upon the same basis that all business men treat these propositions. No business concern in all this country would think of paying their employees mileage. The argument that this is not enough does not appeal to me, and should not appeal, in my candid judgment,

to anybody else. I mean the amount carried in my amendment, which is 5 cents per mile.

Now, reading from the hearings on page 66:

Mr. LEWIS. Have you any figures that would throw light upon that proposition?

Gen. ALESHIRE. I do not know, sir.

Mr. KAHN. If an officer were sent to some out-of-the-way post, like Sequoia National Park, his transportation by stagecoach would cost him almost 7 cents a mile.

Well, that is an isolated case. Not many Army officers travel to-day, I imagine, by stagecoach. Why was this isolated case selected?

And then the following:

Mr. SLAYDEN. Is it not true, General, that mileage has been made a very considerable source of profit to some officers, somewhat to the scandal of the service on occasion?

Gen. ALESHIRE. I do not know, Mr. SLAYDEN.

Mr. SLAYDEN. Omitting the last part of that question, is it not true that mileage has been made a source of considerable profit on occasion?

Gen. ALESHIRE. I think perhaps there are some officers who draw more mileage than others, but I would rather not express an opinion.

Mr. MCKELLAR. Why do dental surgeons and veterinarians have to travel? Do they not have one at each post ordinarily?

Gen. ALESHIRE. They are mentioned specifically there because their allowances are those of a second lieutenant. All commissioned officers get mileage, and therefore they include dental surgeons and veterinarians. They do not travel very much.

Mr. LEWIS. Suppose an officer takes a trip to Chicago, which is about 900 miles. That would amount to $63 going there and $63 coming back, $126. Let us say he is a day at Chicago. The actual train fare would be about 2½ cents a mile, which would include Pullman fare. His whole expense would be about $55 and his allowance $126.

I have read that, Mr. Chairman, for the purpose of showing that there was not much testimony before the committee upon this question. But I repeat what I said a moment ago, that the amendment which I have offered reduces this appropriation $157,000. It is a separate and independent amendment when you undertake to apply the Holman rule to it and the amendment offered by the gentleman from Connecticut [Mr. TILSON] a moment ago. Again, as I said a moment ago, under the rulings of the Chair heretofore made, if it can be fairly inferred from the fact set out in the amendment that it tends to reduce expenditures, then it comes within the Holman rule. Now, does it reduce expenditures or even tend to secure expenditures? If it does, the point of order is not well taken. Meeting that question or that query, I will put it to the Chair to take under consideration the usual modes of travel in this country. As Mr. LEWIS puts it here, the average rate of travel, paying Pullman fare, would be 2½ cents a mile. The proviso which I intend to make permanent law, if the committee chooses to pass it when taking all the facts and circumstances into consideration, which the Chair will judicially notice, tends to reduce expenditures under this item.

The CHAIRMAN. The Chair will ask, taking off the cost of Pullman fare, railroad fare, the meals on the train, what expenses are to be paid out of the 7 cents a mile?

Mr. COX. Well, I think I have told the Chair.

The CHAIRMAN. The Chair means in addition to the railway fare and Pullman fare and the cost of meals on the train.

Mr. COX. Nothing, except when they stop at cities where there is no Army post, and at those places they have to pay their expenses.

Now, in that connection, Mr. Chairman, there is but one great department of this Government that has had the nerve to recommend to Congress that its mileage be repealed. The Department of Commerce and Labor in its recommendation has asked Congress to repeal their mileage and put them on an actual expense basis, and on the strength of their recommendation I wrote them a letter as to how much it would save this country, and the reply was that it would save $15,000 a year. The Department of Commerce and Labor, recognizing this evil, in its recommendation this year recommends that their employees be taken off the mileage basis and that they be paid on the actual expense basis. And I understand most of the employees who will be affected there are Army officers, and for this recommendation I desire to heartily commend this great department. So if it will work economy and save $15,000 a year to put the employees of the Department of Commerce and Labor on an actual expense basis, when most of their employees who would be thus affected are officers of the Army, why will it not be economy to put all the officers when traveling under orders on an actual expense basis?

The CHAIRMAN. What was the mileage allowance of the Department of Commerce and Labor?

Mr. COX. I think 7 cents a mile.

Mr. HAY. What has been the result since they have had the actual expense basis?

Mr. COX. They are not on the actual expense basis. The Department of Commerce and Labor recommends that their department be taken off the mileage basis and put on the actual expense basis, and this recommendation was only made this year. When the head of a great department shows a Democratic House how we can economize and save the country $15,000, are we going to turn a deaf ear to it? Is this in line with the economy we have talked so long and loud about?

Mr. HAY. Then it will be very much better for the employees because they will get more money out of it.

Mr. COX. No. The Secretary of Commerce and Labor says they will save $15,000 a year by it, and I imagine the Secretary knows just what he is talking about. The Democratic Party pledged the people economy. Here is a Republican Secretary of the Department of Commerce and Labor telling us where we can save money and asking us to do it, and we are putting ourselves in the attitude of refusing it.

Mr. BURKE of Pennsylvania. Mr. Chairman, the Chair has indicated that he is desirous of determining this question on the record. The gentleman from Indiana, in sustaining the burden that has been placed upon him, fortifies himself in a very ingenious special plea by quoting from the testimony of Gen. Aleshire, beginning at the foot of page 66 in the hearings had before the Committee on Military Affairs. And if the Chair will take the pains to consult the very line at which the gentleman from Indiana began his reading, the Chair will be impressed with the fact that the gentleman from Indiana began just where Gen. Aleshire left off the important or salient points of his testimony in this regard. The Chair wishes, as I understand, to determine whether or not this provision will result in an actual decrease of the expenses of the Government?

The CHAIRMAN. That is what the Chair inquired about.

Mr. BURKE of Pennsylvania. There is but one record available, and that, so far as this committee is concerned, is the record of the hearings and the testimony of the Army officer in charge of this particular expenditure, under the examination and the cross-examination of the Committee on Military Affairs; and Gen. Aleshire, the authority on this subject, was asked this specific question:

What sort of mileage allowance is actually made them? Is it the actual cost of transportation?

The CHAIRMAN. On what page is that?

Mr. BURKE of Pennsylvania. On page 66. Here is the answer:

Gen. ALESHIRE. No, sir; they get 7 cents a mile.

Mr. LEWIS. A dental surgeon gets 7 cents a mile?

Gen. ALESHIRE. Yes, sir; when he is making certain journeys; and the order provides that the travel is necessary in the public service.

Mr. LEWIS. What is the idea of giving him 7 cents when 2 cents would pay his fare?

In the answer that follows, Gen. Aleshire covers the question put by the Chair. Here is Gen. Aleshire's answer:

Gen. ALESHIRE. Perhaps I can better answer that by referring to the experience of an officer assigned to duty purchasing animals. This officer would be ordered from Chicago, his station, to a point in Missouri or Kentucky, where he would remain for 10 days or two weeks, receiving 7 cents a mile going and returning. All hotel bills and other expenses incident to the journey and absence from his station.

Now mark, Mr. Chairman, how comprehensive that is:

All hotel bills and other expenses incident to the journey and absence from his station, in addition to the cost of transportation, must be paid from the mileage allowance, and if this is not sufficient the deficit must be met from the officer's private funds.

Now, that is the record so far. That answers the question as to what burden is borne by the officers whose allowance is here in question. The examination proceeds:

Mr. KAHN. You also have to pay your Pullman fare out of that allowance?

Gen. ALESHIRE. Everything; and the 7 cents a mile is simply to enable an officer to provide his own transportation and pay his other expenses as far as he can while he is on such a journey. For instance, an officer sent to Chicago from St. Louis received 7 cents a mile and remained at Chicago six months, living at a hotel.

That is all he would be entitled to; an aggregate of 14 cents a mile between the city of Chicago and the city of St. Louis. I read further:

Mr. LEWIS. Of course, a special case could be cited to sustain almost any proposition; but would it not be better to give them actual expenses?

Now, here is the testimony of the expert, the one man of experience, and the only testimony that the Chair has before him:

Gen. ALESHIRE. I believe it would cost the Government more if they undertook to pay the actual traveling expenses and allowances, but I believe it would be better for the officers.

In other words, it would be more remunerative for the officers if the change suggested by the gentleman from Indiana were to be made and more burdensome to the Government.

Now, at that point the gentleman from Indiana began to read, and all that I have read the gentleman from Indiana omitted, and the gentleman from Indiana, furthermore, added

the suggestion that there was very little testimony taken on the subject. Of course there was very little testimony taken on the subject if the gentleman's observation, so far as the record is concerned, began at the foot of the page instead of at the head of the page.

Now, if there is any other testimony that any other gentleman on the committee can submit that will refute the testimony of the individual in charge of these disbursements, an officer of long years' experience, then it is in the province of the gentleman from Indiana to submit it, and by refuting it possibly get in a position where he can successfully controvert the argument of the chairman of the committee who has reported this bill, and that of the gentleman from Illinois who makes the point of order. But until he has refuted it with something better than mere hearsay, I think the Chair ought to have very little difficulty in deciding that the point of order is well taken.

Mr. KAHN. Mr. Chairman, the gentleman from Indiana starts out with a false premise. He says you can travel on any of the trunk lines of this country for 2 cents a mile. I have just taken occasion to ring up one of the agents of one of the transcontinental trunk lines of this country, and he tells me that in the ride across the continent there are parts of the line on which the fare is from 3 to 4 cents a mile, especially between stations. There are stretches of railroad in the West where they could not afford to carry passengers for 2 cents a mile, by reason of the fact that they pass station after station where they do not take on any passengers at all. So they charge from 3 to 4 cents a mile.

Mr. COX. Will the gentleman yield?

Mr. KAHN. Certainly.

Mr. COX. Does the gentleman mean to say that they charge from 3 to 4 cents a mile on through tickets on any trunk line?

Mr. KAHN. I say on some portions of the line.

Mr. COX. That is not the question I am propounding to the gentleman.

Mr. KAHN. That is what I said.

Mr. COX. Does the gentleman say it costs 3 or 4 cents a mile from the city of Washington to Seattle?

Mr. KAHN. No; I said on portions of the line. Of course the gentleman knows, if he knows anything about the proposition, that a through ticket is sold for a certain amount.

Mr. COX. For $63 from here to Seattle.

Mr. KAHN. I think the gentleman is mistaken about that amount.

Mr. COX. No; I have called up and found out.

Mr. KAHN. I know it is more than that from here to San Francisco, and I believe from here to Seattle is a greater distance than from here to San Francisco; but the total amount is distributed between the various roads that carry the passengers. Here in the East the trunk lines do carry passengers for 2 cents a mile; but when you get west of Chicago, and especially west of the Missouri River, you pay from 3 to 4 cents a mile. Those are the facts. Officers are frequently sent from Chicago to Cheyenne, from Chicago to Denver, from Chicago to Seattle, and on those western roads they can not travel for 2 cents a mile.

The CHAIRMAN. Are any further remarks desired?

Mr. COX. I just want to say a word, in response to the statement of my friend the gentleman from Pennsylvania [Mr. BURKE], that I did not read all that Gen. Aleshire said. That is true; but, Mr. Chairman, the absolute physical facts meet Gen. Aleshire and convince this committee, on a moment's consideration, that he did not know what he was talking about. By the physical facts I mean the very things to which I called the attention of the Chair awhile ago as to the cost of travel in this country.

The idea that the Army are in favor of economy in this thing is absurd to me. It is ridiculous. It is laughable. If they were not making money out of it they would be up here at every opportunity they got, insisting upon additional mileage pay.

To repeat, if the Chairman please, I insist seriously that the point of order is not well taken. My amendment shows a reduction of expenditures on its face, and the part which I propose to make permanent law, taken in connection with all the physical facts concerning it, tends to show a reduction of expenditures, so far as this item is concerned, and the point of order should be overruled.

The CHAIRMAN. Before ruling the Chair will make a statement of the essential facts. The principle of the ruling having been heretofore announced, it is unnecessary to restate it.

First with relation to the reduction in the total amount, it may be stated that an amendment to this effect does not need the authority of the Holman rule to make it in order. The gentleman from Indiana can offer an amendment affecting a reduction in any aggregate total without reference to this rule.

Now in respect to the legislative portion of the amendment, the Chair will say that if the allowance of 7 cents a mile was merely intended to cover the cost of railroad transportation, the Pullman cost, tips, and meals on the train, the Chair would not have the slightest hesitation in reaching the conclusion that a provision for actual expenses would necessarily reduce expenses, having reference to facts of the cost of railway travel that are matters of common knowledge.

But another feature is presented. It appears that this allowance of 7 cents a mile is intended to cover other expenses than the cost of travel on the railways, tips, Pullman fares, and the cost of meals. When the party entitled to this allowance reaches his destination, his expenses for an indefinite period are paid out of this same fund. Sometimes the allowance might be more than sufficient to pay the costs of travel, and the further costs accruing at the point of destination. At other times this allowance might be insufficient. Having reference to the entire body of expenses it is a matter of speculation, whether an allowance of 7 cents a mile, or the payment of actual expenses would be the cheaper policy for the Government. But looking in the hearings to the testimony of one man who ought to have some practical, I might almost say expert knowledge on the subject, (I refer to the testimony of Gen. Aleshire), I find that he states that in his judgment, under the policy of paying actual expenses, as compared with an allowance of 7 cents a mile, the Government would be the loser, and the officers the gainers.

Having in mind all the facts, including the statement of this witness how can the Chair conclude that this amendment will reasonably and sufficiently operate to reduce expenses? And yet to hold that this amendment is in order the Chair must be reasonably satisfied that the legislative portion of the amendment operating of its own force will effect a reduction of expenditures. This is the whole question as the Chair sees it, and so far as the Chair is apprised this amendment will not necessarily effect a retrenchment.

There seems to be such a succession of rulings necessary to be made under the Holman rule, that the Chair would be very glad to have an appeal taken from some one ruling, and the question of principle involved, affirmatively settled by the committee. The Chair has no pride of opinion. He merely desires to see the controlling principle of interpretation correctly and authoritatively announced. On an appeal, the committee could determine whether this amendment will operate with reasonable certainty to reduce expenditures. Unless it will so operate, it is not in order. The Chair sustains the point of order to the amendment.

Mr. HAY. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 27941) making appropriations for the support of the Army for the fiscal year ending June 30, 1914, and had come to no resolution thereon.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. SPARKMAN, from the Committee on Rivers and Harbors, reported a bill (H. R. 28180) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report (No. 1341), ordered to be printed.

Mr. MANN. Mr. Speaker, I reserve all points of order on the bill.

The SPEAKER. The gentleman from Illinois reserves all points of order on the bill.

Mr. SPARKMAN. I desire to give notice that I wish to call up this bill for consideration immediately after the conclusion of the Army appropriation bill.

IMMIGRATION.

Mr. BURNETT. Mr. Speaker, I desire to present the conference report on the immigration bill, S. 3175, an act to regulate the immigration of aliens to and the residence of aliens in the United States.

The SPEAKER. It will be printed, under the rule.

Mr. SABATH. Mr. Speaker, is it necessary to now reserve points of order against the conference report?

The SPEAKER. The gentleman can reserve them now or make them some other time.

Mr. SABATH. I do not desire to be deprived of my rights.

The SPEAKER. The gentleman can make his points of order before the statement is read.

Mr. BURNETT. Mr. Speaker, I give notice that I will call this report up immediately after the reading of the Journal in the morning.

BRIDGE ACROSS THE ILLINOIS RIVER NEAR HAVANA, ILL.

Mr. GRAHAM. Mr. Speaker, I call up from the Speaker's table a similar bill, being on the House Calendar, the bill (S. 7637) authorizing the construction of a bridge across the Illinois River near Havana.

The SPEAKER laid the bill before the House, which the Clerk read, as follows:

Be it enacted, etc., That Chicago, Peoria & St. Louis Railroad Co., a corporation organized and existing under and by virtue of the laws of the State of Illinois, and its successors and assigns, be, and they are hereby, authorized to construct, maintain, and operate a bridge and approaches thereto across the Illinois River, at a point suitable to the interests of navigation, at or near the city of Havana, in the State of Illinois, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, was read the third time, and passed.

The SPEAKER. Without objection, a similar House bill will lie on the table.

There was no objection.

ENROLLED BILL PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bill:

H. R. 26339. An act for the relief of Joseph W. McCall.

EXPENSES OF INVESTIGATIONS ORDERED BY THE SENATE.

Mr. FITZGERALD. Mr. Speaker, by direction of the Committee on Appropriations I report the following Senate joint resolution, and ask unanimous consent for its present consideration in the House as in Committee of the Whole. (H. Rept. 1342.)

The Clerk read as follows:

Senate joint resolution 150.

Joint resolution appropriating $40,000 for expenses of inquiries and investigations ordered by the Senate.

Resolved, etc., That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the following sum:

"For expenses of inquiries and investigations ordered by the Senate, including compensation to stenographers to committees at such rate as may be fixed by the Committee to Audit and Control the Contingent Expenses of the Senate, but not exceeding $1.25 per printed page, to be immediately available, $40,000."

The SPEAKER. The gentleman from New York asks unanimous consent for the present consideration of the resolution in the House as in Committee of the Whole. Is there objection?

There was no objection.

The resolution was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. FITZGERALD, a motion to reconsider the vote whereby the resolution was passed was laid on the table.

CHANGE OF REFERENCE.

By unanimous consent, the Committee on Rivers and Harbors was discharged from the consideration of the bill (H. R. 25518) for constructing a fish ladder over Derby Dam, Truckee River, Nev., and the same was referred to the Committee on Irrigation of Arid Lands.

ADJOURNMENT.

Mr. HAY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 12 minutes p. m.) the House adjourned until to-morrow, Friday, January 17, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communciations were taken from the Speaker's table and referred as follows:

1. A letter from the Acting Secretary of Commerce and Labor, transmitting a statement of expenditures in the Coast and Geodetic Survey for the fiscal year ended June 30, 1912 (H. Doc. No. 1271); to the Committee on Expenditures in the Department of Commerce and Labor and ordered to be printed.

2. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of John A. Kress *v.* The United States (H. Doc. No. 1272); to the Committee on War Claims and ordered to be printed.

3. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of Lorenzo W. Cooke *v.* The United States (H. Doc. No. 1273); to the Committee on War Claims and ordered to be printed.

4. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of Daniel C. Pearson *v.* The United States (H. Doc. No. 1274); to the Committee on War Claims and ordered to be printed.

5. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings filed by the court in the case of Abner H. Merrill *v.* The United States (H. Doc. No. 1275); to the Committee on War Claims and ordered to be printed.

6. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings of the court in the case of Quincy O'M. Gillmore *v.* The United States (H. Doc. No. 1276); to the Committee on War Claims and ordered to be printed.

7. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings of the court filed in the case of Charles E. L. B. Davis *v.* The United States (H. Doc. No. 1277); to the Committee on War Claims and ordered to be printed.

8. A letter from the assistant clerk of the Court of Claims, transmitting a copy of the findings of the court filed in the case of Edward Davis *v.* The United States (H. Doc. No. 1278); to the Committee on War Claims and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. GRAHAM, from the Committee on Expenditures in the Interior Department, submitted a report (No. 1336) in the matter of the investigation of the White Earth Reservation, situated in the State of Minnesota, with transcript of testimony taken and exhibits offered from July 25, 1911, to March 28, 1912, which report was referred to the House Calendar.

Mr. HENSLEY, from the Committee on Expenditures in the Interior Department, submitted a report (No. 1335) in the matter of the investigation of charges that the Interior Department permitted the unlawful fencing and inclosure of certain lands of the public domain in the States of Colorado and Wyoming, and more particularly the fencing and inclosure of 46,330 acres of public lands in Wyoming and 1,120 acres in Colorado by the Warren Live Stock Co., which said report was referred to the House Calendar, together with the minority views.

Mr. BRANTLEY, from the Committee on Ways and Means, to which was referred the resolution (H. Res. 767) requesting from the President of the United States information concerning the exemption of American importers of manila hemp from payment of the export tax thereon, reported the same with amendment, accompanied by a report (No. 1338), which said resolution and report were referred to the House Calendar.

Mr. SLAYDEN, from the Committee on Military Affairs, to which was referred the bill (H. R. 27875) authorizing the President to convey certain land to the State of Texas, reported the same with amendment, accompanied by a report (No. 1337), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. BRANTLEY, from the Committee on Ways and Means, to which was referred the bill (H. R. 27323) to provide for refund or abatement under certain conditions of penalty taxes imposed by section 38 of the act of August 5, 1909, known as the special excise corporation-tax law, reported the same without amendment, accompanied by a report (No. 1339), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. LEVY, from the Committee on Claims, to which was referred the bill (H. R. 28056) for the relief of Albert W. Phelps, reported the same with amendment, accompanied by a report (No. 1304), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 28043) for the relief of the legal representatives of the estate of Robert B. Pearce, reported the same without amendment, accompanied by a report (No. 1305), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 28075) for the relief of the Pennsylvania Engineering Co., of the city of Philadelphia, reported the same without amendment, accompanied by a report (No. 1306), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 28040) providing for the refund of certain duties incorrectly collected on wild-celery seed, reported the same without amendment, accompanied by a report (No. 1307), which said bill and report were referred to the Private Calendar.

Mr. CANTRILL, from the Committee on Claims, to which was referred the bill (H. R. 28063) for the relief of Thomas Haycock, reported the same without amendment, accompanied by a report (No. 1308), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 28080) for the relief of W. W. Blood, reported the same without amendment, accompanied by a report (No. 1309), which said bill and report were referred to the Private Calendar.

Mr. FRANCIS, from the Committee on Claims, to which was referred the bill (H. R. 28060) for the relief of Preston B. C. Lucas, reported the same with amendment, accompanied by a report (No. 1310), which said bill and report were referred to the Private Calendar.

Mr. MOTT, from the Committee on Claims, to which was referred the bill (H. R. 28072) for the relief of H. A. Shirkey, reported the same without amendment, accompanied by a report (No. 1311), which said bill and report were referred to the Private Calendar.

Mr. FRANCIS, from the Committee on Claims, to which was referred the bill (H. R. 28050) for the relief of Wickliff Fry, for horse lost while hired by the United States Geological Survey, reported the same with amendment, accompanied by a report (No. 1312), which said bill and report were referred to the Private Calendar.

Mr. DICKINSON, from the Committee on Claims, to which was referred the bill (H. R. 28084) for the relief of Thomas R. Mason, reported the same without amendment, accompanied by a report (No. 1313), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 391) to reimburse William Van Derveer, of Millboro, Va., for excess revenue taxes assessed against and collected from him, reported the same without amendment, accompanied by a report (No. 1314), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (S. 4166) for the relief of Lawson Reno, collector second district of Kentucky, reported the same without amendment, accompanied by a report (No. 1315), which said bill and report were referred to the Private Calendar.

Mr. GREEN of Iowa, from the Committee on Claims, to which was referred the bill (H. R. 19445) for the relief of Edward William Bailey, reported the same with amendment, accompanied by a report (No. 1316), which said bill and report were referred to the Private Calendar.

Mr. MOTT, from the Committee on Claims, to which was referred the bill (H. R. 28077) for the relief of the estate of William D. Allen, reported the same with amendment, accompanied by a report (No. 1317), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 28034) for the relief of James Stanton, reported the same without amendment, accompanied by a report (No. 1318), which said bill and report were referred to the Private Calendar.

Mr. GREEN of Iowa, from the Committee on Claims, to which was referred the bill (H. R. 28092) for the relief of Mrs. L. A. Royster, reported the same with amendment, accompanied by a report (No. 1319), which said bill and report were referred to the Private Calendar.

Mr. MOTT, from the Committee on Claims, to which was referred the bill (H. R. 28057) for the relief of Amanda Honert, reported the same without amendment, accompanied by a report (No. 1320), which said bill and report were referred to the Private Calendar.

Mr. MAGUIRE of Nebraska, from the Committee on Claims, to which was referred the bill (H. R. 28047) for the relief of John Streckfus, reported the same with amendment, accompanied by a report (No. 1321), which said bill and report were referred to the Private Calendar.

Mr. FOWLER, from the Committee on Claims, to which was referred the bill (H. R. 28058) for the relief of James A. Showen, reported the same with amendment, accompanied by a report (No. 1322), which said bill and report were referred to the Private Calendar.

Mr. POU, from the Committee on Claims, to which was referred the bill (H. R. 28044) for the relief of W. W. Wall, reported the same without amendment, accompanied by a report (No. 1323), which said bill and report were referred to the Private Calendar.

Mr. DICKINSON, from the Committee on Claims, to which was referred the bill (H. R. 28059) to reimburse Gaston R. Poitevin for property lost by him while assistant light keeper at East Pascagoula River (Miss.) light station, as recommended by the Lighthouse Board, reported the same without amendment, accompanied by a report (No. 1324), which said bill and report were referred to the Private Calendar.

Mr. FOWLER, from the Committee on Claims, to which was referred the bill (H. R. 28082) for the relief of Jeanie G. Lyles, reported the same with amendment, accompanied by a report (No. 1325), which said bill and report were referred to the Private Calendar.

Mr. GREEN of Iowa, from the Committee on Claims, to which was referred the bill (H. R. 28079) for the relief of Oscar F. Lackey, reported the same without amendment, accompanied by a report (No. 1326), which said bill and report were referred to the Private Calendar.

Mr. FRANCIS, from the Committee on Claims, to which was referred the bill (H. R. 28049) for the relief of John H. Rheinlander, reported the same with amendment, accompanied by a report (No. 1327), which said bill and report were referred to the Private Calendar.

Mr. CANTRILL, from the Committee on Claims, to which was referred the bill (H. R. 28041) to carry out the findings of the Court of Claims in the case of James H. Dennis, reported the same without amendment, accompanied by a report (No. 1328), which said bill and report were referred to the Private Calendar.

Mr. AINEY, from the Committee on Claims, to which was referred the bill (H. R. 28090) to carry out the findings of the Court of Claims in the case of Herbert O. Dunn, reported the same without amendment, accompanied by a report (No. 1329), which said bill and report were referred to the Private Calendar.

Mr. DICKINSON, from the Committee on Claims, to which was referred the bill (H. R. 28085) for the relief of the heirs of the late Peter Deel, reported the same without amendment, accompanied by a report (No. 1330), which said bill and report were referred to the Private Calendar.

Mr. AINEY, from the Committee on Claims, to which was referred the bill (H. R. 28070) for the relief of J. N. Whittaker, reported the same without amendment, accompanied by a report (No. 1331), which said bill and report were referred to the Private Calendar.

Mr. POU, from the Committee on Claims, to which was referred the bill (H. R. 28045) for the relief of W. H. Carter, reported the same without amendment, accompanied by a report (No. 1332), which said bill and report were referred to the Private Calendar.

Mr. LEVY, from the Committee on Claims, to which was referred the bill (H. R. 8849) for the relief of Emory Scott Land, reported the same without amendment, accompanied by a report (No. 1333), which said bill and report were referred to the Private Calendar.

Mr. CANTRILL, from the Committee on Claims, to which was referred the bill (H. R. 21234) for the relief of George T. Larkin, reported the same with amendment, accompanied by a report (No. 1334), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Invalid Pensions was discharged from the consideration of the bill (H. R. 13447) granting a pension to Frederick M. Miller, and the same was referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. MANN: A bill (H. R. 28140) to acquire a site for post-office building on East Sixty-third Street in the city of Chicago, State of Illinois; to the Committee on Public Buildings and Grounds.

By Mr. LAFFERTY: A bill (H. R. 28141) providing for second homestead and desert-land entries; to the Committee on the Public Lands.

By Mr. KENT: A bill (H. R. 28142) for the protection and increase of State game preserves; to the Committee on Agriculture.

By Mr. FOSTER: A bill (H. R. 28143) for the erection of laboratories and other buildings for the Bureau of Mines, at Pittsburgh, Pa., and for other purposes; to the Committee on Public Buildings and Grounds.

By Mr. GUERNSEY: A bill (H. R. 28144) authorizing the Secretary of War to furnish to the Hannah Weston Chapter, Daughters of the American Revolution Society, of Machias, in the State of Maine, three condemned bronze or brass cannon or fieldpieces, with their carriages and with suitable outfit of cannon balls; to the Committee on Military Affairs.

By Mr. BRADLEY: A bill (H. R. 28145) to provide for the enlargement of the Federal building and the site thereof at Newburgh, N. Y.; to the Committee on Public Buildings and Grounds.

By Mr. STEPHENS of Texas: A bill (H. R. 28146) to provide for the payment of improvement taxes assessed against unsold town lots in Oklahoma belonging to any of the Five Civilized Tribes; to the Committee on Indian Affairs.

By Mr. PUJO: A bill (H. R. 28147) for the appropriation of an additional sum for the construction of a public building and the purchase of a site at Crowley, La.; to the Committee on Public Buildings and Grounds.

By Mr. CURLEY: A bill (H. R. 28148) establishing compensation of certain customs officials; to the Committee on Ways and Means.

By Mr. GARDNER of Massachusetts: A bill (H. R. 28179) to provide for the erection of a public building at Newburyport, in the State of Massachusetts; to the Committee on Public Buildings and Grounds.

By Mr. SPARKMAN: A bill (H. R. 28180) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes; to the Committee of the Whole House on the state of the Union.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANTHONY: A bill (H. R. 28149) granting a pension to Evaline Welch; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28150) to correct the military record of Oliver T. Worman; to the Committee on Military Affairs.

Also, a bill (H. R. 28151) granting an increase of pension to James M. Dumenil; to the Committee on Invalid Pensions.

By Mr. BATES: A bill (H. R. 28152) granting an increase of pension to Mary E. Hollister; to the Committee on Invalid Pensions.

By Mr. BORLAND: A bill (H. R. 28153) granting an increase of pension to Rachel Stewart; to the Committee on Invalid Pensions.

By Mr. CALDER: A bill (H. R. 28154) for the relief of Daniel J. Ryan; to the Committee on Claims.

Also, a bill (H. R. 28155) granting an increase of pension to Margaret E. L. Kenny; to the Committee on Invalid Pensions.

By Mr. DAVIDSON: A bill (H. R. 28156) granting a pension to Mary MacArthur; to the Committee on Pensions.

Also, a bill (H. R. 28157) granting an increase of pension to Albert J. Bailey; to the Committee on Invalid Pensions.

By Mr. DONOHOE: A bill (H. R. 28158) authorizing Capt. P. H. Uberroth, United States Revenue-Cutter Service, and Gunner Carl Johannson, United States Revenue-Cutter Service, to accept watches tendered to them by the Canadian Government; to the Committee on Interstate and Foreign Commerce.

By Mr. FAIRCHILD: A bill (H. R. 28159) deeding to city of Oneonta, N. Y., a 10-foot strip of land off South Main Street side of the Federal building site in said city; to the Committee on Public Buildings and Grounds.

By Mr. FERGUSSON: A bill (H. R. 28160) granting an increase of pension to Maria C. Lopez; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28161) to provide compensation for the owners of property injured or destroyed by overflow caused by the Government works at Lake McMillan, a part of the Carlsbad project in New Mexico; to the Committee on Claims.

By Mr. FERRIS: A bill (H. R. 28162) granting an increase of pension to William R. Sanner; to the Committee on Invalid Pensions.

By Mr. GARDNER of Massachusetts: A bill (H. R. 28163) granting a pension to Annette B. Wonson; to the Committee on Invalid Pensions.

By Mr. GUERNSEY: A bill (H. R. 28164) granting an increase of pension to Isaiah Davis; to the Committee on Invalid Pensions.

By Mr. LOBECK: A bill (H. R. 28165) granting an increase of pension to Barbara Wilkinson; to the Committee on Invalid Pensions.

By Mr. MANN: A bill (H. R. 28166) granting an increase of pension to Ora E. Jones; to the Committee on Invalid Pensions.

By Mr. NELSON: A bill (H. R. 28167) granting an increase of pension to Harlow J. Greenfield; to the Committee on Invalid Pensions.

By Mr. O'SHAUNESSY: A bill (H. R. 28168) granting an increase of pension to Sarah E. McCann; to the Committee on Invalid Pensions.

By Mr. PORTER: A bill (H. R. 28169) granting an increase of pension to Sophia Davis; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28170) granting an increase of pension to Susanna Barclay; to the Committee on Invalid Pensions.

By Mr. RICHARDSON: A bill (H. R. 28171) for the relief of the heirs of John Y. Jackson, deceased; to the Committee on War Claims.

Also, a bill (H. R. 28172) granting an increase of pension to Oscar Knott; to the Committee on Pensions.

By Mr. ROUSE: A bill (H. R. 28173) granting an increase of pension to James L. Young; to the Committee on Invalid Pensions.

By Mr. THISTLEWOOD: A bill (H. R. 28174) granting an increase of pension to Robert Morray; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28175) granting an increase of pension to Louisa M. King; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28176) granting an increase of pension to Henry C. Nevill; to the Committee on Invalid Pensions.

By Mr. WARBURTON: A bill (H. R. 28177) granting an increase of pension to Joseph Legarde; to the Committee on Pensions.

Also, a bill (H. R. 28178) to remove the charge of desertion from Wilson Douglas; to the Committee on Military Affairs.

By Mr. COVINGTON: A bill (H. R. 28181) for the relief of James A. Merritt; to the Committee on Claims.

By Mr. NEELEY: A bill (H. R. 28182) granting a pension to Margaret E. Oursborn; to the Committee on Pensions.

By Mr. J. M. C. SMITH: A bill (H. R. 28183) granting an increase of pension to Fannie E. Newberry; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of the National Wholesale Liquor Dealers' Association of America, Cincinnati, Ohio, protesting against the passage of the Kenyon liquor bill (S. 4043), preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the American Federation of Labor, favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

By Mr. AYRES: Petition of the Eastern Talking Machine Dealers' Association, protesting against the passage of the Oldfield patent bill, preventing the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

By Mr. BATES: Petition of the Baptist, Methodist, Presbyterian, and United Brethren Churches, Union City, Pa., favoring the passage of the Kenyon "red light" injunction bill, for cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

Also, petition of the State Federation of Pennsylvania Women, favoring the passage of the Page bill (S. 3), for Federal aid for vocational education; to the Committee on Agriculture.

By Mr. CALDER: Petition of the Brooklyn Merchants Ladies' Tailors Association, Brooklyn, N. Y., protesting against any reduction of tariff on wearing apparel imported from foreign countries; to the Committee on Ways and Means.

By Mr. DRAPER: Petition of the Eastern Talking Machine Dealers' Association, New York, protesting against the passage of section 2 of the Oldfield patent bill, preventing the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

By Mr. FORNES: Petition of the Eastern Talking Machine Dealers' Association and Joseph P. Glassmacher, New York, N. Y., protesting against the passage of section 2 of the Oldfield patent bill, preventing the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the Navy League of the United States, Washington, D. C., favoring the passage of House bill 1309, for appointing a council of national defense; to the Committee on Naval Affairs.

By Mr. FULLER: Petition of the Eastern Talking Machine Dealers' Association, protesting against the passage of section 2 of the Oldfield patent bill, prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of Wesley J. Knaggs, Bay City, Mich., favoring the passage of House bill 1339, granting an increase of pension to veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

Also, petition of Judson G. Wall, New York, favoring the passage of Senate bill 3, for Federal aid to vocational education; to the Committee on Agriculture.

By Mr. GEORGE: Petition of citizens of New York, N. Y., favoring the passage of House bill 26277, to establish a United States court of patent appeals; to the Committee on Patents.

By Mr. HAYDEN: Petition of X. N. Steeves and sundry other citizens of northern Arizona, protesting against the passage of the Lever bill (H. R. 19857) providing for the leasing of the public domain; to the Committee on the Public Lands.

By Mr. HAYES: Petition of Leon Lebhmann, A. Levy, Charles Doulan, J. M. Waterman, Charles F. Blackstock, Louis G. Maulhardt, Joseph D. McGrath, and I. W. Stewart, of Oxnard, Cal., protesting against the proposed reduction of tariff on sugar; to the Committee on Ways and Means.

By Mr. KINDRED: Petition of the Eastern Talking Machine Dealers' Association, New York, protesting against the passage of section 2 of the Oldfield patent bill, preventing the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the board of trustees of the Trinity Methodist Episcopal Church, Astoria, Long Island, N. Y., favoring the passage of the Kenyon bill (S. 4043), preventing the shipment of liquor into dry territory; to the Committee on the Territories.

By Mr. MILLER: Petition of farmers and citizens of Minnesota, protesting against any legislation proposing a reduction of tariff on foreign potato starch; to the Committee on Ways and Means.

By Mr. MOORE of Pennsylvania: Resolutions of the board of directors of the Philadelphia Chamber of Commerce, favoring legislation to build a 1,700-foot dry dock at the Philadelphia Navy Yard; to the Committee on Naval Affairs.

By Mr. NEELEY: Petition of citizens of Langdon, Kans., favoring the passage of the Kenyon-Sheppard bill, for preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. PUJO: Letter from the Secretary of the Treasury with reference to the building of the post office at Crowley, La.; to the Committee on Public Buildings and Grounds.

By Mr. RICHARDSON: Papers to accompany bill for the relief of the estate of John Y. Jackson, Giles County, Tenn.; to the Committee on War Claims.

By Mr. SCULLY: Petition of Thomas A. Edison (Inc.), Orange, N. J., protesting against the passage of the Oldfield patent bill (H. R. 23417), prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

By Mr. TILSON: Petition of the Eastern Talking Machine Dealers' Association, New York, protesting against the passage of the Oldfield patent bill, prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

By Mr. WEEKS: Petition of citizens of Newtonville, Mass., favoring the passage of the Kenyon-Sheppard liquor bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr WOOD of New Jersey: Papers to accompany bill (H. R. 28016) granting an increase of pension to Catharine J. Wesley; to the Committee on Invalid Pensions.

Also, papers to accompany bill (H. R. 28015) granting a pension to Wesley C. Beatty; to the Committee on Pensions.

SENATE.

FRIDAY, *January 17, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

NAMING A PRESIDING OFFICER.

Mr. HITCHCOCK (at the Vice President's desk) directed the Secretary to read the following communication:

UNITED STATES SENATE,
Washington, D. C., January 17, 1913.

To the Senate:

I hereby name Hon. GILBERT M. HITCHCOCK, junior Senator from the State of Nebraska, to perform the duties of the Chair during my absence Friday, the 17th day of January, 1913.

AUGUSTUS O. BACON,
President of the Senate pro tempore.

Mr. HITCHCOCK thereupon took the chair as presiding officer for to-day, and directed that the Journal be read.

The Secretary proceeded to read the Journal of yesterday's proceedings when, on request of Mr. CULBERSON and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 19544. An act to amend section 9 of the immigration act, approved February 20, 1907; and

H. R. 20195. An act to amend the naturalization laws.

CREDENTIALS.

Mr. JOHNSON of Maine presented the credentials of EDWIN C. BURLEIGH, chosen by the Legislature of the State of Maine a Senator from that State for the term beginning March 4, 1913, which were read and ordered to be filed.

Mr. CRANE presented the credentials of JOHN W. WEEKS, chosen by the Legislature of the State of Massachusetts a Senator from that State for the term beginning March 4, 1913, which were read and ordered to be filed.

PETITIONS AND MEMORIALS.

Mr. CULLOM presented resolutions adopted by sundry citizens of Brooklyn, N. Y., favoring the ratification of an arbitration treaty between the United States and Great Britain regarding Panama Canal tolls, which were referred to the Committee on Foreign Relations.

Mr. JOHNSON of Maine presented a petition of sundry citizens of Fryeburg, Me., praying for the enactment of legislation providing for the protection of migratory birds, which was ordered to lie on the table.

Mr. McLEAN presented a petition of sundry citizens of Canaan, Conn., praying for the enactment of legislation providing for the protection of migratory birds, which was ordered to lie on the table.

Mr. GRONNA presented a petition of sundry citizens of Wimbledon, N. Dak., praying for the enactment of legislation providing for the protection of migratory birds, which was ordered to lie on the table.

Mr. BROWN presented a petition of sundry citizens of Laurel, Nebr., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. ROOT presented the petition of Miss Eugenia McGarrah, of Brooklyn, N. Y., praying for the passage of the so-called Kenyon red-light bill, which was ordered to lie on the table.

Mr. WORKS presented a memorial of the pupils in the history and civil-government classes of the Pine Avenue School, of Long Beach, Cal., approving certain legislation regarding the Panama Canal and remonstrating against interference from any other country with the commercial policy of the United States, which was referred to the Committee on Interoceanic Canals.

THE PRESIDENTIAL TERM.

Mr. WORKS. I have here a memorial of the National Business League of America in support of Senate joint resolution 78, together with some short newspaper editorials bearing upon the same subject. Some of these editorials go back as far as 1904, at which time this same business league was supporting the principle involved in the joint resolution. I ask that the memorial and the editorials be printed in the RECORD.

There being no objection, the matter was ordered to lie on the table, and to be printed in the RECORD, as follows:

THE BEGINNING OF THE MOVEMENT FOR A SINGLE SIX-YEAR TERM FOR THE PRESIDENT OF THE UNITED STATES OF AMERICA.

At a meeting of the executive committee of the National Business League, held in Chicago, January 14, 1904, a movement was inaugurated, by unanimous adoption of the following preamble and resolutions, to amend the Constitution of the United States, so as to provide for a six-year presidential term, making the Chief Executive ineligible for reelection:

Whereas in view of the vast, diversified, and rapidly increasing industries and commerce of the United States and the multitude of people relying on the successful operation of productive and trade enterprises, which, to be continuously and evenly prosperous, should be unhampered by frequent distracting influences of the public mind; and

Whereas the President of the United States of America is, as provided in section 1, Article II, of the Constitution of the United States, elected to office for the brief term of four years, and thereafter is eligible for reelection as President for a like term or terms; and

Whereas a presidential campaign, aside from its frequent recurrence, and by reason of its expensive methods, inevitable political excitement over candidates, new issues and the possibility of a change of policy by new administrations, especially as to the tariff and finances, involves the commercial interests of the country in a condition of unrest and uncertainty, producing a partial paralysis of business activities and delaying promotion of new undertakings for at least one year before and possibly for some time subsequent to, the election of a Chief Executive: Therefore be it

Resolved, That, as a measure of the greatest import to the manufacturing and commercial interests, wage earners, and the people generally, by reason of a consequent longer period of industrial tran-

quility and prosperity, also as a means of relieving the President of many annoyances that seriously interfere with the unrestricted discharge of his official duties to the people, the National Business League hereby recommends an amendment to the Constitution of the United States, fixing the presidential term at six years and making the Chief Executive ineligible for reelection; and be it also

Resolved, That the National Business League hereby adopts the proposition as an important subject of its efforts for the common good, on which its best endeavors shall be directed until the aforesaid proposed amendment is duly ratified by the States and confirmed by the Congress of the United States; and be it further

Resolved, That copies of these resolutions be sent to each Member of the Senate and House of Representatives at Washington, to all manufacturers, commercial organizations, prominent business firms, and the press throughout the country.

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[Editorial from the Chicago Evening Post, Aug. 17, 1904.]

SIX-YEAR PRESIDENTIAL TERM.

Elsewhere in this issue the Evening Post presents the views of prominent business and professional men of the country regarding the movement set afoot by the National Business League to secure an amendment to the Constitution of the United States which would lengthen the presidential term to six years and make the Chief Executive ineligible for reelection. The reasons advanced for the change are eminently sound and the Evening Post heartily indorses the proposition.

As the league points out in the letter which invited the responses printed, presidential campaigns now are too frequent, enormously expensive to business interests, and sure creators of turmoil and uncertainly "to the great disadvantage of capital and labor." They "indefinitely prevent the beginning and check the growth of industrial enterprises," and presidential years show a decidedly bad effect on commercial transactions generally.

Such arguments as the foregoing must appeal with peculiar force to business interests everywhere; but the fourth reason given by the league should have the thoughtful consideration of every citizen: "The President during his first term naturally being anxious to succeed himself is kept busy considering the demands of politicians and planning for a second term; meanwhile important legislation for the general good waits."

Commenting on this Judge Tuley says that such a constitutional amendment "will mean the overthrow of the 'boss' and 'machine' government of the people now existing." Deprived of patronage the "boss" and the "machine" must cease to exist. Then, in the words of Judge Tuley, "the people will again govern themselves."

Of the hundreds of replies received by the league not more than 1 per cent are unfavorable or indifferent to the movement. It is a plan certain to be indorsed by every business interest in the country. Add to this the desirableness of a return to genuine self-government through freeing the President from the dictation of the political "boss" and the political "machine" and we easily may foresee hearty popular commendation of the initiative taken by the National Business League.

The practical politician may oppose the movement because he is the only one to be hurt by its success. But let it once be clearly understood that the people and the business interests desire the amendment; that the welfare of the Nation demands it, and there will be few States in the Union that will hesitate to give to Congress the necessary authority to act finally once the question is submitted to them.

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[Editorial from Chicago Evening Post, Oct. 24, 1904.]

THE SIX-YEAR TERM.

To-day the Evening Post prints a second installment of letters that have come to the National Business League of Chicago in response to its proposal regarding a six-year single-tenure term for the President of the United States. These letters show that the efforts of the league are systematic and well organized; but they show, with equal force, that the business interests of the country are taking up this matter with an earnestness that promises ultimate success.

As clearly brought out in this and the previous article in the Evening Post, there are many strong argumcnts in favor of the proposition and very few against it. Here and there a politician objects to lengthening the presidential term, and especially to making an incumbent of the high office ineligible for reelection, but the reasons given are among the most convincing arguments offered in support of the change—they show so plainly the manifest evils of the present system.

The National Business League is not unmindful of the difficulties that lie in the way of securing any amendment to the National Constitution, but it realizes the vast power and influence that must be wielded by the united business interests of this preeminently commercial Nation. It does not follow that because the only amendments made to the Constitution since its adoption were a result of war that nothing but war can secure an amendment. Great changes have taken place in this country and in the world since the latest additions were made to the fundamental law of the United States, not the least of which is the growing general recognition that the advances due to peaceful agitation are more likely to be safe and permanent than those forced by the sword.

What our business interests demand they sooner or later succeed in getting. The National Business League is securing the cordial cooperation of other business organizations and of influential men throughout the country. It has announced its determination not to relax its efforts until a satisfactory conclusion is reached. In this fact rests the greatest promise of success. The presidential election seriously disturbs business; the eligibility of the President to reelection has a baneful effect on our political life. Thurman said: "You will never have any genuine reform in the civil service until you adopt the one-term principle in reference to the Presidency."

Business wishes to have these periods of disturbance farther apart; the increasing number of independent citizens desires a genuine civil-service reform, cleaner politics, fewer opportunities for corruption in public life. These forces are certain to unite in support of the constitutional amendment advocated by the National Business League, and, once united, the object of their concerted effort is certain of attainment.

It is a very difficult but not an impossible thing to amend the Constitution of the United States, and in this age of unparalleled commercial and industrial activity we can fancy no more likely amendment than one intended primarily to protect and conserve our business interests.

—

[Editorial from the Chicago Daily News.]

In urging the adoption of a constitutional amendment extending the presidential term to six years, and forbidding the reelection of a Chief Magistrate of the Nation, the executive committee of the National Business League has thrown its influence on the side of an important reform.

The business men of the country realize keenly that with the presidential year they are entering upon a period of political turmoil which in the existing circumstances is worse than useless. There are no great issues pressing for settlement. The country is prosperous and contented. Yet the approach of the national campaign has set the demagogues at work hunting issues and manufacturing party cries merely to get the voters stirred up and to render the public uneasy and apprehensive. The psychological effect of all this must be to spread the blight of uncertainty and vague alarm in business affairs, to the grievous hurt of the people generally. Why not lengthen the presidential term and thus reduce the number of these costly disturbances?

Students of political conditions are well aware that the first term of every President is largely influenced by the desire of himself and his supporters in and out of office to prepare the way for his reelection. Thus it comes about that the inducements to run the administration so as to gratify the President's personal ambition are almost irresistible. The interests of millions of people are continually subordinated to his longing for a second term.

To give the President a term of six years, with no possibility of obtaining a second under any circumstances, would be to bestow upon the country a larger measure of tranquillity and a government genuinely planned to promote the general welfare.

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[From the Chicago Record-Herald.]

No doubt the argument that will appeal most strongly to the business interests of the country, in fact to all men who love the peaceful pursuit of productive industry, is found in the fact that a six-year term would make the intervals between presidential campaigns longer and the disturbance of business conditions less frequent. The average business man does not believe that his aversion to political excitement and upheaval is incompatible with patriotism. He is willing to have the country "set on fire" by the spellbinders and business suspended for a few months in order to elect a President, provided it doesn't come too often. Once every six years would suit him perfectly.

But to most men who are familiar with politics and politicians the strongest feature of the proposed amendment is the one-term idea. If the President were ineligible for reelection, he would be absolutely free and untrammeled in the administration of his high office. He need not be hampered by the hungry horde of place hunters that generally dogs the steps of the President for months after his election. The business of "laying wires" to hold State delegations for a future nominating convention would be a thing of the past. The most high-minded, patriotic President is not free from an ambition to succeed himself. It is too much to expect him to offend the leaders who control the sources of party power, even though a high sense of public duty may seem at times to demand it.

The six-year-one-term idea for President will grow in popular favor the more its very obvious benefits are studied and understood.

—

[Editorial from the Chicago Daily Journal, June 18, 1904.]

CHANGING THE PRESIDENTIAL TENURE.

The proposition to extend the presidential term to six years and to render the occupant ineligible for reelection will find favor in the business world.

Many good reasons for the change are set forth by the National Business League, which has taken the matter up with a vigor and persistence worthy of success.

It is claimed that presidential campaigns are too frequent, too expensive, and too disturbing in their effects upon business.

It is shown by the league that presidential years are marked by an increase of business failures and by a decrease of exports, bank clearings, stock sales, and commercial transactions generally.

Certainly these are strong reasons why national campaigns should not so frequently disturb the country.

But they will not appeal so readily to public sentiment as the second proposition—limiting the President to a single term.

The most serious menace to our republican form of government is the liberty afforded an ambitious Chief Executive, with unlimited patronage at his disposal, to build up a machine and continue himself in office.

While such power exists the people, no matter how ardently they may desire a change, are practically helpless.

Fortunately few of our Presidents have been disposed to exercise this unbridled advantage. The time may come, however, when its employment by an unscrupulous occupant of the White House will reveal to the people their political impotency.

Not the business interests of the country alone but the whole people are interested in the preservation of whatever rights the electorate may have in the choice of a Chief Magistrate.

—

IN RE A SINGLE SIX-YEAR TERM FOR THE PRESIDENT OF THE UNITED STATES OF AMERICA.

Whereas on May 21, 1912, the Committee on the Judiciary of the United States Senate reported favorably the Senate joint resolution No. 78, introduced by Mr. WORKS of California, the text being as follows:

"The executive power shall be vested in a President of the United States of America. The term of the office of President shall be six years; and no person who has held the office by election, or discharged its powers or duties, or acted as President under the Constitution and laws made in pursuance thereof, shall be eligible to again hold the office by election.

"The President, together with a Vice President chosen for the same term, shall be elected as follows."

Therefore be it

Resolved, That the board of directors of the National Business League of America hereby indorses the said Senate joint resolution No. 78, as favorably reported by the Committee on the Judiciary.

Chicago, January 14, 1913.

GEO. W. SHELDON,
President.

[SEAL.]

AUSTIN A. BURNHAM,
General Secretary.

ARMY AND NAVY UNION.

Mr. BRISTOW, from the Committee on Military Affairs, to which was referred the joint resolution (H. J. Res. 239) author-

izing the Secretary of War to deliver a condemned cannon to the Army and Navy Union, United States of America, reported it without amendment and submitted a report (No. 1122) thereon.

MOUNT OLIVET CEMETERY LANDS, SALT LAKE COUNTY, UTAH.

Mr. SMOOT. From the Committee on Public Lands I report back favorably without amendment the bill (S. 8092) granting to the Emigration Canon Railroad Co., a corporation of the State of Utah, permission, in so far as the United States is concerned, to occupy for a right of way for its railroad track a certain piece of land now included in the Mount Olivet Cemetery, Salt Lake County, Utah, and I submit a report (No. 1120) thereon. I ask for the immediate consideration of the bill.

The PRESIDING OFFICER. The bill will be read for the information of the Senate.

Mr. CULBERSON. From what committee does it come?

Mr. SMOOT. From the Committee on Public Lands.

Mr. CULBERSON. Is it a unanimous report?

Mr. SMOOT. It is a unanimous report, Mr. President.

The PRESIDING OFFICER. The bill will be read for the information of the Senate.

The Secretary read the bill, as follows:

Be it enacted, etc., That the Emigration Canon Railroad Co., a corporation of the State of Utah, is hereby granted permission, in so far as the United States is concerned, to occupy, for a right of way for its railroad track, that piece of land now included in the Mount Olivet Cemetery, Salt Lake County, Utah, particularly bounded and described as follows: Commencing at a point 169 feet east and 100 feet north of the southwest corner of the Fort Douglas Military Reservation, in Salt Lake County, Utah; thence northwesterly rounding a twenty-degree curve, a distance of 351.99 feet, to a point on the west line of the said military reservation, a distance of 387.9 feet north from the southwest corner of said reservation; thence south to a point 100 feet north of the southwest corner of said Fort Douglas Military Reservation; thence east a distance of 169 feet to place of beginning; containing in all 0.319 acre.

Mr. BRISTOW. My attention was diverted. What is the bill, and what is the request?

Mr. SMOOT. By an act of Congress approved January 23, 1909, a portion of this reservation, amounting to about 50 acres, was conveyed by deed to the Mount Olivet Cemetery Association, Salt Lake, for the burial of the dead, with the reservation that it should be used for that purpose, and when not so used it should revert to the Government of the United States.

The Emigration Railroad has a track upon one side of it, and has had for years. At the end of it there is a 5½ per cent grade with a seventy-degree curve, and it is quite dangerous. The Mount Olivet Cemetery people are perfectly willing that the railroad company should take about one-third of an acre of the corner of the land so as to make a curve instead of a sharp turn.

There is no objection on the part of the department and no objection on the part of the cemetery people. It is simply obviating a very dangerous situation.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PUBLIC BUILDING AT BAY CITY, TEX.

Mr. CULBERSON. From the Committee on Public Buildings and Grounds I report back favorably without amendment the bill (S. 7639) to provide for the erection of a public building in the city of Bay City, in the State of Texas, and I ask for its present consideration.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It authorizes to be erected upon the site already acquired in the city of Bay City, Tex., a suitable building, including fireproof vaults, heating and ventilating apparatus, elevators, and approaches, for the use and accommodation of the United States post office in the city of Bay City, Tex., the cost of the building, including vaults, heating and ventilating apparatus, elevators, and approaches complete not to exceed $75,000.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CROW INDIANS OF MONTANA.

Mr. CHAMBERLAIN. I reported yesterday a resolution from the Committee on Indian Affairs, and it was discussed at some length. I desire now to renew the request for unanimous consent to consider that resolution.

The PRESIDING OFFICER. The resolution will be stated.

The SECRETARY. Senate resolution 352, authorizing the Secretary of the Interior to furnish information to the Attorney General and the Attorney General to make an investigation and bring action in reference to the affairs of the Crow Indians.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

The Senate, by unanimous consent, proceeded to consider the resolution.

The PRESIDING OFFICER. The amendment of the Committee on Indian Affairs will be read.

The SECRETARY. The Committee on Indian Affairs report to strike out all after the resolving clause and to insert:

That the Attorney General be, and he is hereby, authorized to investigate the affairs of the Crow Indians of Montana and to bring and prosecute such action as may be necessary to protect the interests and secure the rights of such Indians, or of any member of them, and all departments of the Government are authorized to turn over to the Attorney General such records, papers, and other information as he may require to make such investigation or bring such action.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The resolution as amended was agreed to.

JACOB M. COOPER.

Mr. SANDERS. From the Committee on Military Affairs I report back favorably, without amendment, the bill (S. 3859) for the relief of Jacob M. Cooper, and I submit a report (No. 1121) thereon. I ask for the immediate consideration of the bill.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It provides that in the administration of the pension laws and the laws governing the National Home for Disabled Volunteer Soldiers, or any branch thereof, Jacob M. Cooper, now a resident of Iowa, shall hereafter be held and considered to have been honorably discharged from the military service of the United States as a private in Company C, Twenty-second Regiment United States Infantry, July 18, 1868. But no pension shall accrue prior to the passage of this act.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. TOWNSEND:

A bill (S. 8161) to provide for the erection of a public building in the city of Midland, Mich.; to the Committee on Public Buildings and Grounds.

By Mr. JOHNSON of Maine:

A bill (S. 8162) granting an increase of pension to Joseph A. Libby; to the Committee on Pensions.

By Mr. PAGE:

A bill (S. 8163) granting an increase of pension to Mary E. Allen (with accompanying papers); to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 8164) granting an increase of pension to Ellen M. Vinton (with accompanying papers);

A bill (S. 8165) granting an increase of pension to Don Pedro Griswold (with accompanying papers);

A bill (S. 8166) granting an increase of pension to Sarah J. Wheatley (with accompanying papers); and

A bill (S. 8167) granting an increase of pension to Anna R. Atwood (with accompanying papers); to the Committee on Pensions.

By Mr. PERKINS:

A bill (S. 8168) for the relief of George F. Schild; to the Committee on Claims.

A bill (S. 8169) for the protection and increase of State game preserves; to the Committee on Agriculture and Forestry.

By Mr. CURTIS:

A bill (S. 8170) granting an increase of pension to Monroe Garrett;

A bill (S. 8171) granting an increase of pension to Isaac M. White;

A bill (S. 8172) granting a pension to Thomas Taylor Moss; and

A bill (S. 8173) granting an increase of pension to Georgiana Packard; to the Committee on Pensions.

By Mr. BRADLEY:

A bill (S. 8174) granting an increase of pension to James W. New (with accompanying papers); to the Committee on Pensions.

By Mr. KERN:

A bill (S. 8175) granting a pension to Durance R. McFeely (with accompanying papers); and

A bill (S. 8176) granting an increase of pension to Benjamin F. Havens (with accompanying papers); to the Committee on Pensions.

By Mr. OWEN:

A bill (S. 8177) to prevent the transportation by interstate commerce of adulterated, concentrated, commercial feeding material for domestic animals and poultry, and providing a penalty for the violation of the act; to the Committee on Interstate Commerce.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. MARTIN of Virginia submitted an amendment proposing to appropriate $12,000 for grading and macadamizing Longfellow Street in the District of Columbia, etc., intended to be proposed by him to the District of Columbia appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. DIXON submitted an amendment proposing to increase the appropriation for continuing the construction of irrigation systems to irrigate the allotted lands of Indians on the Flathead Reservation in Montana, etc., from $150,000 to $400,000, intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate $2,573.25 to pay Omer D. Lewis, lease clerk at the Flathead Indian Agency, Mont., for expenses incurred for hospital and doctors' fees for personal injuries received while aiding Federal officers in suppressing the sale of liquor to Indians, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. BROWN submitted an amendment proposing to appropriate $1,200 to repair the Government bridge across the Niobrara River in Knox County, Nebr., for the use of the Santee and Ponca Indians, intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

PENSIONS AND INCREASE OF PENSIONS.

Mr. JONES submitted an amendment intended to be proposed by him to the bill (H. R. 27475) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, which was referred to the Committee on Pensions and ordered to be printed.

FOREST RESERVES IN WASHINGTON.

Mr. JONES submitted the following resolution (S. Res. 434), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Secretary of Agriculture be, and he is hereby, directed to report to the Senate at as early a date as possible the names of the forest reserves in the State of Washington; the area of each; the number of homestead entries allowed in each under the act of June 11, 1906; the number of ranger stations in each and the area reserved for ranger purposes; the number of acres under cultivation in connection with ranger stations; the number of applications that are now pending under said act of June 11, 1906; the number rejected and the number allowed in each of said reserves.

FRIEDMANN CURE FOR TUBERCULOSIS (S. DOC. NO. 1018).

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying papers, referred to the Committee on Public Health and National Quarantine, and ordered to be printed:

To the Senate of the United States:

I transmit herewith a memorandum of the Secretary of State, inclosing a report prepared by the consul general at Berlin, in regard to the Friedmann cure for tuberculosis.

The report is sent in reply to a resolution of the Senate of January 2, 1913, by which I am requested to submit to the Senate the results of any investigation of the Friedmann cure made or being made by the American consul general in Germany or any other officer of the United States.

WM. H. TAFT.

THE WHITE HOUSE, *January 16, 1913.*

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles and referred to the Committee on Immigration:

H. R. 19544. An act to amend section 9 of the immigration act approved February 20, 1907; and

H. R. 20195. An act to amend the naturalization laws.

ABATEMENT OF NUISANCES.

Mr. CURTIS. I ask unanimous consent for the present consideration of the bill (S. 5861) to enjoin and abate houses of lewdness, assignation, and prostitution; to declare the same to be nuisances; to enjoin the person or persons who conduct or maintain the same and the owner or agent of any building used for such purpose; and to assess a tax against the person maintaining said nuisance and against the building and owner thereof. The bill was read in full on the 13th.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. CRAWFORD. Is that a bill which is going to provoke discussion?

Mr. CURTIS. I think not. I will not press it if it does.

Mr. CRAWFORD. I will not object if it leads to no discussion.

Mr. CURTIS. I will withdraw it, if there is any trouble.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on the District of Columbia with amendments.

The first amendment was, in section 1, page 1, line 4, after the word "own," to insert "occupy," so as to read:

That whoever shall erect, establish, continue, maintain, use, own, occupy, or re-lease any building, erection, or place used for the purpose of lewdness, assignation, or prostitution in the District of Columbia is guilty of a nuisance, and the building, erection, or place, or the ground itself in or upon which such lewdness, assignation, or prostitution is conducted, permitted, or carried on, continued, or exists, and the furniture, fixtures, musical instruments, and contents are also declared a nuisance, and shall be enjoined and abated as hereinafter provided.

The amendment was agreed to.

The next amendment was, in section 5, page 5, line 6, after the word "section," to strike out the following:

For removing and selling the movable property the officer shall be entitled to charge and receive the same fees as he would for levying upon and selling like property on execution, and for closing the premises and keeping them closed a reasonable sum shall be allowed by the court.

The amendment was agreed to.

The next amendment was, in section 8, page 6, line 22, after the word "to," to insert "the," and on page 7, line 6, after the word "act," to strike out "excepting that 10 per cent of the amount collected shall be paid by the collector of taxes to the attorney representing the United States for the District of Columbia in the injunction action at the time of final judgment," so as to read:

In case the assessor fails or neglects to make said assessment the same shall be made by the chief of police, and a return of said assessment shall be made to the collector of taxes. Said tax shall be a perpetual lien upon all property, both personal and real, used for the purpose of maintaining said nuisance, and the payment of said tax shall not relieve the person or building from any other penalties provided by law. The provisions of the law relating to the collection and distribution of taxes upon personal and real property shall govern in the collection and distribution of the tax herein prescribed in so far as the same are applicable and not in conflict with the provisions of this act.

The amendment was agreed to.

The next amendment was, on page 7, to strike out section 9, in the following words:

SEC. 9. That this act shall take effect and be in force 90 days after its passage.

The amendment was agreed to.

The next amendment was, on page 7, to insert a new section, as follows:

SEC. 9. The United States district attorney or other attorney representing the prosecution for violation of this statute, with the approval of the court, may grant immunity to any witness called to testify in behalf of the prosecution.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. I ask that the Senate resume the consideration of House bill 19115, known as the omnibus claims bill.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts.

Mr. CRAWFORD. Mr. President, there are two or three amendments from the Committee on Claims in relation to longevity or overtime navy-yard charges, exactly similar to those which have already been incorporated in the bill. I will send them to the desk and ask to have them adopted:

The PRESIDING OFFICER. The amendments proposed by the Senator will be stated.

The SECRETARY. On page 153, after line 12, it is proposed to insert the following:

To Joseph M. Padgett, $451.09.

The amendment was agreed to.

The PRESIDING OFFICER. The next amendment proposed by the Senator from South Dakota will be stated.

The SECRETARY. It is also proposed, on page 157, after line 14, to insert the following:

To Hannah McCray, widow of John McCray, deceased, $362.67.
To James H. Macon, sr., $126.50.

The amendment was agreed to.

The PRESIDING OFFICER. Does the Senator desire to have the findings in these cases printed in the RECORD?

Mr. CRAWFORD. I do.

The PRESIDING OFFICER. It will be so ordered.

Mr. CRAWFORD. I also submit an amendment covering several cases, which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. On page 203, after line 18, it is proposed to insert:

To Eleanor L. and Henry C. Lovell, sole heirs of Henry C. Lovell, deceased, $906.66.
To Annie I. Fernald Crowell, widow (remarried) of Alonzo Fernald, deceased, $586.40.
To Margaret A. Norton, widow of Daniel C. Norton, deceased, $596.86.
To Emma S. Wherren, administratrix of James W. Wherren, deceased, $140.43.

The PRESIDING OFFICER. Without objection, the amendment will be agreed to, and the findings will be printed in the RECORD.

The findings referred to are as follows:

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, June 3, 1912.

Hon. JAMES S. SHERMAN,
President of the Senate.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact and conclusion filed by the court in the aforesaid cause, which case was referred to this court by resolution of the United States Senate under the act of March 3, 1887, known as the Tucker Act.

I am, very respectfully, yours,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[Court of Claims. Congressional, No. 13727. Subnumbers 237 and 239. 237, Hannah McCray, widow of John McCray, deceased; 239, James H. Macon, sr., *v.* The United States. Pensacola Navy Yard.]

STATEMENT OF CASE.

This is a claim for the payment of the above-named claimants for services rendered at the Pensacola Navy Yard between March 21, 1878, and September 22, 1882, for extra labor above the legal day of eight hours.

On the 22d day of May, 1908, the United States Senate referred to the court a bill in the following words:

"[S. 6702, Sixtieth Congress, first session.]

"A bill for the relief of John W. Knight and others.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to John W. Knight, and to the others who have joined with him in a petition to this Congress, dated April 6, 1908, the amounts that may be found due to each of them, respectively, for extra labor, above the legal day of 8 hours, while employed by the United States as workmen, laborers, or mechanics of the various navy yards of the United States, performed by them by reason of and under the provisions of Circular No. 8, issued by the Secretary of the Navy on March 21, 1878."

Thereafter the claimants named above, and each of them, offered and filed their respective petitions herein, in which they, and each of them, aver substantially as follows:

That between March 21, 1878, and the 21st day of September, 1882, they, and each of them, were employed by the Government of the United States at the navy yard at Pensacola, Fla.; that on the 21st day of March, 1878, the Secretary of the Navy issued the order referred to in claimant's petition, known as "Circular No. 8" and set forth in Finding I herein.

That during the six months in each year from the date of said order to the 21st day of September, 1882, they worked during all or a portion of the time they were so employed in excess of eight hours per day, and that they, and each of them, were paid for only eight hours' work per day for the time that they were so employed during said period, and that they, and each of them, are entitled to the amounts set forth in their respective petitions, being the pay for all time worked during said period in excess of eight hours per day.

The case was brought to a hearing on the evidence and merits on the 8th day of January, 1912.

Messrs. Clarence W. De Knight and Brandenburg & Brandenburg appeared for the claimants, and the Attorney General, by Percy M. Cox, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. Between the 21st day of March, 1878, and the 22d day of September, 1882, the claimants herein, or their decedents, and each of them, were in the employ of the United States in the navy yard at Pensacola, Fla., during which time the following order was in force:

Circular No. 8.] NAVY DEPARTMENT,
Washington, D. C., March 21, 1878.

The following is hereby substituted, to take effect from this date, for the circular of October 25, 1877, in relation to the working hours at the several navy yards and shore stations:

The working hours will be, from March 21 to September 21, from 7 a. m. to 6 p. m.; from September 22 to March 20, from 7.40 a. m. to 4.30 p. m., with the usual intermission of one hour for dinner.

The department will contract for the labor of mechanics, foremen, leading men, and laborers on the basis of eight hours a day. All workmen electing to labor ten hours a day will receive a proportionate increase of their wages.

The commandant will notify the men employed or to be employed of these conditions, and they are at liberty to continue or accept employment under them or not.

R. W. THOMPSON,
Secretary of the Navy.

II. Said claimants, and each of them, or their decedents, while in the employ of the United States as aforesaid, worked on the average the number of hours set opposite their respective names in excess of 8 hours a day at the wages stated, to wit: 237, John McCray, 1,450½ hours, at $2 per day; 239, James H. Macon, sr., 166½ hours, at $1.50 per day; 33 hours, at $1 per day; 419⅝ hours, at $1.74 per day.

III. If it is considered that 8 hours constituted a day's work during the period from March 21, 1878, to September 22, 1882, under said Circular No. 8, then the claimants, or their decedents, have been underpaid the sums set opposite their respective names, as follows:

Hannah McCray, widow of John McCray, deceased, $362.67.
James H. Macon, sr., $126.50.

IV. Said claims were never presented to any department or officer of the Government prior to their presentation to Congress and reference to the court as hereinbefore set forth in the statement of the case, and no competent evidence is adduced to show why claimants did not earlier prosecute their said claims.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claims herein are not legal ones against the United States, and are equitable only in the sense that the United States received the benefit of the services of claimants, or their decedents, in excess of 8 hours a day, as above set forth.

BY THE COURT.

Filed February 12, 1912.
A true copy.
Test this 29th day of May, 1912.
[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, June 14, 1912.

Hon. JAMES S. SHERMAN,
President of the Senate.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact and conclusion filed by the court in the aforesaid cause, which case was referred to this court by resolution of the United States Senate, under the act of March 3, 1887, known as the Tucker Act.

I am, very respectfully, yours,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[In the Court of Claims of the United States. Congressional, No. 15476—23, 27, 32. No. 23, Annie I. Fernald Crowell, widow (remarried) of Alonzo Fernald, deceased; No. 27, Margaret A. Norton, widow of Daniel C. Norton, deceased; No. 32, Emma S. Wherren, administratrix of James W. Wherren, deceased, *v.* The United States.]

The claims herein are for services rendered by claimants at the Portsmouth (N. H.) Navy Yard between March 21, 1878, and September 22, 1882, for extra labor above the legal day of eight hours.

On the 19th day of February, 1908, the United States Senate by resolution referred to the court Senate bill No. 5528, which is in the following words:

"A bill for the relief of Joseph M. Padgett and others.

"*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Joseph M. Padgett, and to the others who have joined with him in a petition to this Congress, dated February 17, 1908, the amounts that may be found due to each of them, respectively, for extra labor above the legal day of eight hours, while employed by the United States as workmen, laborers, or mechanics at the various navy yards of the United States, performed by them by reason and under the provisions of Circular No. 8, issued by the Secretary of the Navy on March 21, 1878."

Thereafter, the claimants above named appeared and filed their petitions in this court, in which they aver substantially as follows:

That between March 21, 1878, and September 21, 1882, they were employed by the Government of the United States at the navy yard at Portsmouth, N. H.; that on March 21, 1878, the Secretary of the Navy issued the order referred to in claimants' petitions, known as "Circular 8," and hereinafter set forth in Finding I.

That during the six months in each year from the date of said order to the 21st day of September, 1882, they worked during all or a portion of the time they were so employed during said period, and that they are entitled to the value of the time worked in excess of eight hours a day.

The cases were brought to a hearing on the evidence and merits on the 28th day of May, 1912.

Messrs. Brandenburg & Brandenburg and Clarence W. De Knight appeared for the claimants, and the Attorney General, by Percy M. Cox, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. Between the 21st day of March, 1878, and the 22d day of September, 1882, the decedents herein were in the employ of the United

States in the navy yard at Portsmouth, N. H., during which time the following order was in force:

Circular No. 8.] NAVY DEPARTMENT,
Washington, D. C., March 21, 1878.

The following is hereby substituted, to take effect from this date, for the circular of October 25, 1877, in relation to the working hours at the several navy yards and shore stations:

The working hours will be, from March 21 to September 21, from 7 a. m. to 6 p. m., from September 22 to March 20, from 7.40 a. m. to 4.30 p. m., with the usual intermission of one hour for dinner.

The department will contract for the labor of mechanics, foremen, leading men, and laborers on the basis of eight hours a day. All workmen electing to labor ten hours a day will receive a proportionate increase in their wages.

The commandants will notify the men employed or to be employed of these conditions, and they are at liberty to continue or accept employment under them or not.

R. W. THOMPSON,
Secretary of the Navy.

II. Said decedents and each of them, while in the employ of the United States as aforesaid, worked on the average the number of hours set opposite their respective names in excess of eight hours a day and at the wages below stated, to wit:

	Hours.
No. 23. Alonzo Fernald, at $3 per day	1,030½
No. 27. Daniel C. Norton:	
At $3 per day	1,438
At $2.74 per day	10
At $3.26 per day	133
No. 32. James W. Wherren, at $3 per day	374½

III. If it is considered that eight hours constituted a day's work during the period from March 21, 1878, to September 22, 1882, under said Circular No. 8, then claimants' decedents have been underpaid the sums set opposite their respective names, as follows:

No. 23. Annie I. Fernald Crowell, widow (remarried) of Alonzo Fernald, deceased, $386.40.

No. 27. Margaret A. Norton, widow of Daniel C. Norton, deceased, $596.86.

No. 32. Emma S. Wherren, administratrix of James W. Wherren, deceased, $140.43.

IV. The claim of Alonzo Fernald was filed in this court in 1888 under No. 16321, general jurisdiction, and same was dismissed in 1906 for want of prosecution, and no reason is given why the claim was not prosecuted to a final judgment in this court.

Except as above stated, the claims herein were never presented to any department or officer of the Government prior to the presentation thereof to Congress and reference to this court as set forth in the statement of the case, and no evidence is adduced to show why said claimants did not earlier prosecute their claims.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claims herein are not legal ones against the United States and are equitable only in the sense that the United States received the benefit of the services of said decedents in excess of eight hours a day as above set forth.

BY THE COURT.

Filed June 3, 1912.
A true copy.
Test this 13th day of June, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, June 14, 1912.

Hon. JAMES S. SHERMAN,
President of the Senate.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact and conclusions filed by the court in the aforesaid cause, which case was referred to this court by resolution of the United States Senate, under the act of March 3, 1887, known as the Tucker Act.

I am, very respectfully, yours,
JOHN RANDOLPH,
Assistant Clerk Court of Claims.

[In the Court of Claims of the United States. Congressional, No. 14188-70. Eleanor L. and Henry C. Lovell, sole heirs of Henry C. Lovell, v. The United States. Portsmouth (N. H.) Navy Yard.]

STATEMENT OF CASE.

This is a claim for payment of the above-named claimants for services rendered at the Portsmouth (N. H.) Navy Yard, between March 21, 1878, and September 22, 1882, for extra labor above the legal day of eight hours.

On the 22d day of May, 1908, the United States Senate referred to the court a bill in the following words:

"[S. 6702, Sixtieth Congress, first session.]

"A bill for the relief of John W. Knight and others.

"*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay out of any money in the Treasury not otherwise appropriated to John W. Knight and to the others who have joined with him in a petition to this Congress, dated April 6, 1908, the amounts that may be found due to each of them, respectively, for extra labor above the legal day of eight hours while employed by the United States as workmen, laborers, or mechanics of the various navy yards of the United States, performed by them by reason of and under the provisions of Circular No. 8, issued by the Secretary on March 21, 1878."

Thereafter the claimants above named, and each of them, offered and filed their respective petitions herein in which they, and each of them, aver substantially as follows:

That between March 21, 1878, and the 21st day of September, 1882, they and each of them were employed by the Government of the United States at the navy yard at Portsmouth, N. H.; that on the 21st day of March, 1878, the Secretary of the Navy issued the order referred to in claimant's petition, known as "Circular No. 8," and set forth in Finding I herein.

That during the six months in each year from the date of said order to the 21st day of September, 1882, they worked during all of a portion of the time they were so employed in excess of eight hours per day, and that they, and each of them, were paid only for eight hours' work per day for the time that they were so employed during said period, and that they, and each of them, are entitled to the amounts set forth in their respective petitions, being the pay for all time worked during said period in excess of eight hours per day.

The case was brought to a hearing on the evidence and merits on the 29th day of May, 1912.

Messrs. Clarence W. De Knight and Brandenburg & Brandenburg appeared for the claimants, and the Attorney General, by Percy M. Cox, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The court, upon the evidence and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. Between the 21st day of March, 1878, and the 22d day of September, 1882, the claimants herein, or their decedents, and each of them, were in the employ of the United States in the navy yard at Portsmouth, N. H., during which time the following order was in force:

Circular No. 8.] NAVY DEPARTMENT,
Washington, D. C., March 21, 1878.

The following is hereby substituted, to take effect from this date, for the circular of October 25, 1877, in relation to the working hours at the several navy yards and shore stations:

The working hours will be, from March 21 to September 21, from 7 a. m. to 6 p. m.; from September 22 to March 20, from 7.40 a. m. to 4.30 p. m., with the usual intermission of one hour for dinner.

The department will contract for the labor of mechanics, foremen, leading men, and laborers on the basis of eight hours a day. All workmen electing to labor ten hours a day will receive a proportionate increase of their wages.

The commandant will notify the men employed, or to be employed, of these conditions, and they are at liberty to continue or accept employment under them or not.

R. W. THOMPSON,
Secretary of the Navy.

II. Said decedent while in the employ of the United States as aforesaid worked on the average 1,450⅝ hours in excess of eight hours a day, at the rate of $5 per day.

III. If it is considered that eight hours constituted a day's work during the period from March 21, 1878, to September 22, 1882, under said Circular No. 8, then said decedent has been underpaid the sum of $906.66.

IV. The claim herein was filed in this court in 1888 under No. 16321, general jurisdiction, and was dismissed in 196, for want of prosecution, and no reason is given why said claim was not prosecuted to final judgment in this court.

Except as above stated, the claim was never presented to any officer or department of the Government prior to its presentation to Congress and reference to this court, as set forth in the statement of the case, and no evidence is adduced to show why said claimants did not earlier prosecute the claim.

CONCLUSION.

Upon the foregoing findings of fact the court concludes that the claim herein is not a legal one against the United States, and is equitable only in the sense that the United States received the benefit of the services of said decedent in excess of eight hours a day, as above set forth.

BY THE COURT.

Filed June 3, 1912.
A true copy.
Test this 13th day of June, 1912.
[SEAL.] JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. BRADLEY. I offer an amendment, to which the chairman of the committee has agreed.

Mr. CRAWFORD. It is a longevity claim, and is exactly similar to the others we have provided for in the bill.

The PRESIDING OFFICER. The amendment proposed by the Senator from Kentucky will be stated.

The SECRETARY. On page 261, after line 10, it is proposed to insert the following:

To William L. Marshall, of Washington, $1,786.27.

The amendment was agreed to.

The PRESIDING OFFICER. The findings of the Court of Claims in the case will be printed in the RECORD.

The findings referred to are as follows:

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, May 31, 1912.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact filed by the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims, House of Representatives, under the act of March 3, 1883, known as the Bowman Act.

I am, very respectfully, yours, JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Hon. CHAMP CLARK,
Speaker of the House of Representatives.

[Court of Claims of the United States. Congressional, No. 15589. William L. Marshall *v.* The United States.]

STATEMENT OF CASE.

The claim in the above-entitled case for longevity pay alleged to be due on account of the services of claimant in the United States Army was transmitted to the court by the Committee on War Claims of the House of Representatives on the 21st day of December, 1911, under the act of March 3, 1883, known as the Bowman Act.

The case was brought to a hearing on its merits on the 8th day of May, 1912.

Richard R. McMahon, Esq., appeared for the claimant, and the Attorney General, by George M. Anderson, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The claimant in his petition makes the following allegations:

That he is a citizen of the United States, residing in the city of Washington, District of Columbia.

That he served as an enlisted man in Company A, Tenth Kentucky Cavalry, from August 16, 1862, to September 17, 1863; that he entered the United States Military Academy as a cadet July 1, 1864.

That he was appointed brevet second lieutenant of Engineers June 15, 1868; was promoted to be second lieutenant February 22, 1869; first lieutenant June 21, 1871; captain June 18, 1882; major May 10, 1895; lieutenant colonel April 23, 1904; colonel August 27, 1907; brigadier general, Chief of Engineers, July 2, 1908; accepted July 6, 1908; and was retired June 11, 1910.

That during the period of the petitioner's service as a commissioned officer in the Army of the United States the following statutory provisions respecting longevity pay were in force:

"That every commissioned officer of the line or staff, exclusive of general officers, shall be entitled to receive one additional ration per diem for every five years he may have served or shall serve in the Army of the United States." (Act of July 5, 1838, sec. 15; 5 Stat. L., p. 258.)

"There shall be allowed and paid to each commissioned officer below the rank of brigadier general, including chaplains and others having assimilated rank or pay, 10 per cent of their current yearly pay for each term of five years' service." (Act of July 15, 1870, now sec. 1262, R. S.)

"* * * the actual time of service in the Army and Navy, or both, shall be allowed all officers in computing their pay." (Act of Feb. 24, 1881; 21 Stat. L., p. 346.)

That under a decision of the Second Comptroller of the Treasury, made July 24, 1838, the accounting officers of the Treasury, in the settlement of the petitioner's accounts, did not count his service at the Military Academy in computing his longevity pay and allowances for service prior to February 24, 1881.

That upon the construction of the act of July 5, 1838, by the Supreme Court of the United States, in the case of United States *v.* Watson (130 U. S., 80), the petitioner made application to the proper accounting officers of the Treasury for a settlement of his longevity pay and allowances in accordance with said decision, and, under the then prevailing ruling that service as a cadet could not be counted in computing longevity pay and allowances for service prior to February 24, 1881, petitioner's application was rejected December 13, 1890.

That upon the revocation of that ruling by the Comptroller of the Treasury on May 18, 1908, the petitioner again made application to the accounting officers of the Treasury for settlement of the longevity pay and allowances due him for service prior to February 24, 1881, but the Auditor for the War Department, October 21, 1909, refused to consider the petitioner's claim because it had been previously disallowed by the settlement of 1890.

That by this action of the accounting officers, in refusing to allow petitioner credit for his service at the Military Academy prior to February 24, 1881, there has been withheld from the petitioner the sum of $1,795.49, the amount he would have received had he been dealt with according to law.

That this claim had not been paid, assigned, or transferred, in whole or in part, and that petitioner has all his life been loyal to the Government of the United States.

The court, upon the evidence, and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. The claimant herein, William L. Marshall, is a citizen of the United States, residing in the District of Columbia. He served as a private in the Tenth Kentucky Volunteer Cavalry from August 16, 1862, to September 17, 1863. He entered the United States Military Academy as a cadet July 1, 1864, and graduated therefrom and was appointed brevet second lieutenant of Engineers June 15, 1868. He was promoted to be second lieutenant February 22, 1869; first lieutenant June 21, 1871; captain June 15, 1882; major May 10, 1895; lieutenant colonel April 23, 1904; colonel August 27, 1907; brigadier general, Chief of Engineers, July 6, 1908; and was retired June 11, 1910.

He was paid his first longevity increase from June 15, 1873; second from June 15, 1878; third from May 14, 1882; and fourth longevity increase from November 1, 1884; and by settlements the accounting officers of the Treasury have allowed claimant longevity increase under the decisions of the Supreme Court in the cases of Tyler (105 U. S., 244) and Morton (112 U. S., 1), but said officers disallowed his claim for longevity increase under the Watson decision.

II. Under the decision of the Supreme Court in the case of United States *v.* Watson (130 U. S., 80) said claimant would be entitled to additional allowance, as reported by the Auditor for the War Department, amounting to $1,786.27.

BY THE COURT.

Filed May 13, 1912.
A true copy.
Test this 29th day of May, 1912.
[SEAL.]
JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Mr. GALLINGER. I submit an amendment, it being a longevity claim. I also ask that the findings relating thereto may be printed in the RECORD.

Mr. CRAWFORD. There is no objection on the part of the committee to the amendment proposed by the Senator from New Hampshire. It is the same as the others.

The PRESIDING OFFICER. The amendment proposed by the Senator from New Hampshire will be stated.

The SECRETARY. On page 263, after line 5, it is proposed to insert the following:

To James W. Scully, of Atlanta, $2,341.12.

The amendment was agreed to.

The PRESIDING OFFICER. The findings in the case will be printed in the RECORD.

The findings referred to are as follows:

COURT OF CLAIMS, CLERK'S OFFICE,
Washington, May 31, 1912.

SIR: Pursuant to the order of the court, I transmit herewith a certified copy of the findings of fact filed by the court in the aforesaid cause, which case was referred to this court by the Committee on War Claims, House of Representatives, under the act of March 3, 1883, known as the Bowman Act.

I am, very respectfully, yours,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Hon. CHAMP CLARK,
Speaker of the House of Representatives.

[Court of Claims of the United States. Congressional, No. 15526. James W. Scully *v.* The United States.]

STATEMENT OF CASE.

This case was referred to the court by the Committee on War Claims of the House of Representatives on the 15th day of August, 1911, under the act of March 3, 1883, known as the Bowman Act.

The case was brought to a hearing on its merits on the 8th day of May, 1912.

Richard R. McMahon, Esq., appeared for the claimant, and the Attorney General, by George M. Anderson, Esq., his assistant and under his direction, appeared for the defense and protection of the interests of the United States.

The claimant in his petition makes the following allegations:

That he is a citizen of the United States, residing in the city of Atlanta, in the State of Georgia.

That he served in the United States Army as an enlisted man from September 20, 1856, to September 20, 1861; was appointed first lieutenant and regimental quartermaster Tenth Tennessee Infantry July 14, 1862; lieutenant colonel August 21, 1863; colonel June 6, 1864, and was honorably mustered out of the volunteer service May 25, 1865; was appointed captain and assistant quartermaster in the Regular Army September 27, 1865, and accepted October 2, 1865; was appointed major and quartermaster January 25, 1883; lieutenant colonel and deputy quartermaster general September 12, 1894; colonel and assistant quartermaster general February 4, 1898; was retired November 1, 1900, after having been in the service more than 42 years, at his own request, and was given the rank of brigadier general, retired, April 23, 1904.

That during the period of petitioner's service as a commissioned officer in the Army of the United States the following statutory provisions respecting longevity pay were in force:

"That every commissioned officers of the line or staff, exclusive of general officers, shall be entitled to receive one adidtional ration per diem for every five years he may have served or shall serve in the Army of the United States." (Act of July 5, 1838, sec. 15; 5 Stat. L., p. 258.)

"There shall be allowed and paid to each commissioned officer below the rank of brigadier general, including chaplains and others having assimilated rank or pay, 10 per cent of their current yearly pay for each term of five years' service." (Act of July 15, 1870, now sec. 1262, R. S.)

"That on and after the passage of this act all officers of the Army of the United States who have served as officers in the volunteer forces during the War of the Rebellion, or as enlisted men in the armies of the United States, Regular or Volunteer, shall be and are hereby credited with the full time they may have served as such officers and as such enlisted men in computing their service for longevity pay and retirement." (Act of June 18, 1878, sec. 7; 20 Stat. L., p. 150.)

That in the settlement of petitioner's accounts the accounting officers of the Treasury did not count his service as an enlisted man from September 20, 1856, to September 20, 1861, in computing his longevity pay and allowances for services prior to June 18, 1878.

That under the decision of the Supreme Court of the United States in the case of United States *v.* Tyler (105 U. S., 244), petitioner was allowed the percentage increase upon his current pay, without counting petitioner's service as an enlisted man.

That upon the petitioner's application for the allowance of arrearages of longevity pay due him, the accounting officers, December 6, 1909, refused to consider his claim on the ground that the settlement under the Tyler decision was an adjudication of all his rights to longevity pay, under the ruling then in force that service as an enlisted man could not be counted in computing longevity pay prior to June 18, 1878.

That by this action of the accounting officers there has been withheld from the petitioner the sum of $2,500, which is lawfully due.

That he petitioner was always loyal to the Government of the United States.

The court, upon the evidence, and after considering the briefs and arguments of counsel on both sides, makes the following

FINDINGS OF FACT.

I. The claimant herein is an officer of the United States Army, having served as an enlisted man from September 20, 1856, to September 20, 1861. He was mustered in as a first lieutenant, Tenth Tennessee Infantry, July 14, 1862; promoted to be lieutenant colonel August 21, 1863; colonel June 6, 1864; and was mustered out June 6, 1865. He was appointed captain and assistant quartermaster of Volunteers September 25, 1865; accepted October 2, 1865, and the position was vacated on same date. He was appointed captain and acting quartermaster, United States Army, September 27, 1865; accepted his commission October 2, 1865; was appointed major, quartermaster, January 25, 1883; lieutenant colonel, Deputy Quartermaster General, September 12, 1894; colonel and Acting Quartermaster General, February 4, 1898; and was retired November 1, 1900.

II. Claimant was paid his first longevity ration from November 9, 1867, and 10 per cent increase for each five years subsequent thereto. By settlement with the accounting officers he was allowed longevity increase under the Tyler decision (105 U. S., 244), and his claim for longevity increase on account of service as an enlisted man was disallowed December 9, 1909.

III. Under the decision of this court in the case of James Stewart *v.* The United States, No. 20810, decided February 23, 1899, from which no appeal was taken, service as an enlisted man should be counted in computing longevity pay and allowances, and the difference between the amounts actually paid to claimant on account of longevity pay and the amount to which he would be entitled under said decision, as reported by the Auditor for the War Department, is $2,341.12.

BY THE COURT.

Filed May 20, 1912.
A true copy.
Test this 29th day of May, 1912.
[SEAL.]
JOHN RANDOLPH,
Assistant Clerk Court of Claims.

The PRESIDING OFFICER. Are there further amendments?

Mr. CRAWFORD. The committee has nothing further to offer.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The question is on concurring in the amendments made as in Committee of the Whole.

Mr. CATRON. I wish to ask the Senate to consider three amendments separately. They are on page 66, under the head of "New Mexico."

The PRESIDING OFFICER. Those amendments will then be reserved for separate consideration. The question now is, Will the Senate concur in the other amendments made as in Committee of the Whole? Without objection, the other amendments will be concurred in. The bill is still in the Senate and open to amendment.

Mr. CATRON. Mr. President, I object to the amendments of the committee striking out the provisions of the bill found under the head of "New Mexico," on page 66. There are three of them. I will take them up in the order in which they appear. I do not know whether we can vote on them separately.

Mr. CRAWFORD. We might as well act on them all together.

Mr. CATRON. Mr. President, the first amendment to which I desire to refer is the claim of Anastacio de Baca for pay for a number of sheep, which were stolen from Francisco de Baca in the year 1862 by the Navajo Indians. Immediately after those sheep were stolen by the Navajo Indians Baca reported the occurrence to the then governor of New Mexico, Gov. Connelly. Gov. Connelly immediately sent word to the commanding officer at Fort Craig, on the Rio Grande. As this Indian depredation took place on the east side of the Canadian River and the Navajo Indians lived on the west side, supposing, naturally, that they would carry the sheep back, he sent word to Fort Craig, which is on the Rio Grande, and asked the commanding officer to look out for them. He did so, and his command captured or took away from the Indians 1,500 of these sheep, 2 donkeys or burros, and 1 mule. The commanding officer, after taking them away from the Indians, turned over 500 of these sheep to some Mexicans who were with them, not connected at all with the owner, and let them take the sheep away for their own use. The other thousand sheep were turned over to the commissary at Fort Craig. They were taken up by him on his property returns, and they were killed and issued to the soldiers as a part of their rations. The governor of New Mexico, at the request of Mr. Baca, asked Gen. Carleton, who was then commanding in New Mexico, to have the sheep returned to their owner, but nothing was ever done about it. Afterwards, in the year 1871, the Delegate in Congress from New Mexico, Col. Chaves, called the attention of the Commissary General to the fact that these sheep had been taken and applied to the Government's own use, and asked that the sheep be accounted for and paid for, but the Commissary Department did nothing in reference to it.

The matter remained in this condition under consideration from 1871 to 1876, when the Commissary General, who took the report from the Army officer who had taken the sheep and used them, concluded that the proofs did not satisfy him that the sheep were the property of the claimant, nor that the claimant was thoroughly loyal to the Government of the United States during the Civil War. The claimant, when asked to prove that they were his sheep, presented his certified brand or certified mark, and it was identified. So there was no trouble about that. Subsequently he established his ownership of the sheep and also established his loyalty.

The matter thus remained until 1886, when the papers were transmitted to the Third Auditor of the Treasury, "not recommended for settlement." On June 17, 1886, the accounting officer of the Treasury refused to take jurisdiction over the matter. In February, 1900, the case was referred to the Court of Claims under the Bowman Act for findings of fact. The Court of Claims found that the sheep had been taken and used by the Government and that the claimant was loyal. They found first that the value of the sheep was $325, but, as that was evidently a mistake, on reconsideration they found the value of the property taken to be $1,325.

This claim is, without doubt, as valid a claim as any that can be made. It has been rejected by the committee on the ground that the party slept on his rights for 38 years. The Government had notice of the claim right from the start, and it was kept before the Government. This man had no opportunity to present his claim before any tribunal until the passage of the Bowman Act. When the Bowman Act passed the claim was referred to the Court of Claims, proof was taken, the findings were in his favor, and the value of the property used was ascertained to be $1,325. I ask that the amendment striking out that claim be not concurred in.

The next claim is that of Col. Edward H. Bergmann, who claims $1,200 on account of money he expended in getting clothing for a company of troops of which he was captain during the Civil War.

It appears from the testimony and the facts in the case that Col. Bergmann was a Prussian by birth, and that when Gen. McClellan and several other officers went over to Europe to observe and inspect the armies of Europe to ascertain how they were managed and handled, for the purpose of improving the condition of our own Army, they came in contact with Bergmann and invited him to come over to the United States, promising that he might get a commission in the United States Army. Bergmann came over, but instead of getting a commission he enlisted in the Regular Army of the United States. When the Civil War broke out Bergmann was in New Mexico. There he raised a company of Volunteers, of which he was made captain, the company forming a part of Kit Carson's regiment. This was in 1862. His company had no clothing; there was at that time no clothing in New Mexico that could be issued to them, and they were in a ragged and destitute condition. In this situation Col. Bergmann, having some money of his own, expended $1,200 to buy clothing for these men. It was bought by him, given to the soldiers, and used in the service of the United States to clothe its troops. Being a very loyal and very patriotic man and getting his salary, and being a foreigner and not understanding our laws, he did not think of putting in his claim for the amount until sometime after the war closed. Then he had become impecunious. His attention was called to the fact that he had advanced this money, and he then put in his claim for the amount of $1,200, which he had previously paid for this clothing, of which, as I have said, the United States got the benefit for its soldiers.

The claim was not allowed. Afterwards, under the Bowman Act, it was referred to the Court of Claims. The Court of Claims found the facts to be as I have stated them—that he had paid the money and that it had never been paid back to him. Col. Bergmann had no earlier opportunity to put in his claim before any tribunal, although if he had thought about it he might have presented it to some accounting officer; but he took no action until 1890, when the claim was referred to the Court of Claims.

When his case was referred to the Court of Claims he immediately applied to the Assistant Attorney General to designate an attorney to take the proof in his case. The Assistant Attorney General intimated that the attorney whom they wanted was busy and they could not get him, but he would try to get a special attorney. A partial arrangement was then made to get a Mr. M. W. Mills, of Springer, N. Mex. Mr. Mills agreed to accept the appointment, but they never referred the case to him. The matter continued along until 1902, when the Government made arrangements to take the testimony and designated an attorney to appear. On a presentation of the case, the court found, as I have stated, that Col. Bergmann advanced this money; that the soldiers used the clothing; that the Government got the benefit of it in the actual service of the Government during the war; and that money had never been refunded.

The next claim—there are three of them, as I have stated—is that of Mary W. Littell, widow of William J. Littell. This is a claim in which the Senator from Kentucky might be interested. It seems that a regiment was organized in Kentucky during the Civil War, but the company did not reach a sufficient number of men to entitle it to the necessary lieutenants, and they had no lieutenant. Littell was first sergeant of the company. The governor of Kentucky, however, commissioned him as a lieutenant. I do not know what the law was at that time as to the appointment of lieutenants, as I was not on that side of the question; but Littell continued with the company until it was discharged and performed in every respect all the duties of a second lieutenant, although he only drew pay as first sergeant of the company and also drew rations. The Court of Claims has found these facts, and stated that if Littell could be considered a lieutenant, as he had been commissioned by the governor of Kentucky, the amount of his claim was $632.18, after deducting what he received as first sergeant and the value of his rations. I do not know so much about this claim as I do of the previous ones, but the Court of Claims found that Littell did this service; that he performed the duties of a first lieutenant, but only drew the pay of a sergeant and the rations of a sergeant; and that his pay would amount to $632.18 if he was considered as a lieutenant.

I ask that the amendments of the committee striking out these items of the bill be not concurred in.

Mr. CRAWFORD. Mr. President, the statement made by the Senator from New Mexico [Mr. CATRON] is very similar to the statements which are presented in most of these cases; that is, it comes from some attorney. I would not say specifically that it is true in the case which the Senator presents, but a similarity in the reasons given leads me to believe that some attorney, representing the claimants, has furnished this kind of information to the Senator. I have not the slightest doubt of the Senator's good faith in regard to the matter. The Bowman Act, under which the Senator seems to think he is justified in saying that laches can be waived, was passed in 1883. That is 20

years ago. The Tucker Act, which required the court to find what excuse the claimant had, if any, for his long delay, was passed in 1887, 25 years ago; and no excuse whatever is found by the Court of Claims in its report to explain the long delay in either of these cases.

That is not all. In the de Baca case claim is made on account of the loss of sheep in 1862. At a time when the claimant must have had in his possession fresh proof of the facts, and when witnesses must have been alive by whom he could establish his loyalty, he undertook to establish his claim, but the Government found against him on both propositions, finding that he did not prove the fact as to his loss and that he was unable to satisfy them as to his loyalty. While the Bowman Act was passed in 1883 and the Tucker Act in 1887, he did not ask to go to the Court of Claims until the year 1900, and in 1905 he secured in some way from it a finding of his loyalty. If that does not show a doubtful situation, under which it would be rather reckless for us to pay stale claims, it would be impossible to present one here.

The case of Bergmann, so far as concern laches and delays, is exactly in the same class. If we were to allow these claims to come in here now, it would open the door so that practically all of the items rejected by the Committee on Claims would be placed in the bill.

The third item is one of difference-in-pay claims, where an officer in the Army during the war was serving in a certain rank—he may have been captain, or he may have been major, or he may have been colonel—but his State gave him a rank higher than that held under the Federal Government. There may have been a vacancy ahead of him, into which he stepped and performed the service in a rank higher than that for which he held a commission from the Federal Government; but if his command was under the minimum, a law was passed—I have all the laws here—which allowed officers serving in a higher rank than that to which they were commissioned by the Federal Government under those circumstances to receive the pay of the higher rank, providing their command was not below the minimum.

In the last Congress a statute was passed absolutely barring all these claims, and it is sought, by putting them in the omnibus claims bill, to repeal that statute which fixed an absolute bar against these claims.

Mr. CATRON. I should like to ask the Senator if he thinks a statute passed a year ago, or at the last Congress, would apply to a claim which had originated a year before that statute was passed?

Mr. CRAWFORD. I do not; but these claims never had any foundation under the laws of the United States; absolutely none. The act of February 24, 1897, contained a proviso that—

That this act shall be construed to apply only to those cases where the commission bears date prior to June 20, 1863, or after that date when the commands of the persons appointed or commissioned were not below the minimum number required by then existing laws and regulations.

In every one of these cases the court finds that the commission was dated after June 20, 1863, and the command was below the minimum. There are about a hundred-odd of these claims, and the committee did not propose to go against that statute passed at the time and the statutes passed since that time, one of them in 1897, which put up a bar to these claims.

I ask that the claim be rejected.

Mr CATRON. Just one word. The fact that this might open all the other claims is no argument at all. I know nothing about what the other claims are, but if they are as meritorious as these, I think they ought to be paid and ought to be included. If they are not, then each one stands upon its own footing. It seems to me this record shows a sufficient vigilance on the part of these first two claimants, and I ask that the first two claims be voted on separately from the others, because they are different—the Anastacio Baca and the Bergmann claim.

The PRESIDING OFFICER. The question is on concurring in the amendment made as in Committee of the Whole, proposing to strike out two New Mexico items, on page 66, lines 5 to 9.

The amendment was concurred in.

The PRESIDING OFFICER. The question is now upon concurring in the amendment to strike out lines 10, 11, and 12, on the same page.

The amendment was concurred in.

The PRESIDING OFFICER. The question is on concurring in the remaining amendments made as in Committee of the Whole.

The amendments were concurred in.

The PRESIDING OFFICER. The bill is still in the Senate and open to amendment.

Mr. BRADLEY. I rise to make an inquiry.

The PRESIDING OFFICER. The Senator from Kentucky will state it.

Mr. BRADLEY. On the 7th of December, in my absence from this body, the Senator from Tennessee [Mr. SANDERS] was kind enough to offer an amendment to this bill. I should like to inquire what disposition has been made of that amendment?

The PRESIDING OFFICER. Can the Senator state upon what page of the bill the amendment appears?

Mr. CRAWFORD. What was it?

Mr. BRADLEY. It was:

To the wardens of Christ Protestant Episcopal Church, Bowling Green, $300.

Mr. CRAWFORD. That was rejected.

Mr. BRADLEY. I simply wanted to know what became of it. I suspected that it had been rejected.

The PRESIDING OFFICER. Does the Senator from Kentucky desire to offer an amendment?

Mr. BRADLEY. I did; but I understand it was rejected by the committee, and I do not deem it worth while to offer the amendment now.

The amendments were ordered to be engrossed and the bill read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

Mr. CRAWFORD. Mr. President, just a word or two before the bill is finally disposed of. I desire to call attention to some of the items rejected by the committee that the Senate may form some idea about the character of a considerable number of claims that were in this bill when it came to the Senate.

Here is a sample. I call attention to paragraph 560. I do this because we may have something to do about this bill in some form after it has gone to conference. Here is an item in this bill for a chuck-a-luck gambler, a man following the rear of the Union Army in the South—a professional gambler. He comes in here in 1906 with a claim for some money lost in chuck-a-luck, and which he claims was not all gambling funds, but that part of it was money that was not won from him in chuck-a-luck but was taken from him by the commanding officer. He comes in and asks for an appropriation out of the Treasury to give him back his money. An inquiry was had in 1865 under the order of Gen. Hazen, and the claimant was required to present proofs that the money taken from him was not the fruits of gambling. The court, after considering the evidence, recommended that $376 be refunded and that the remaining $454 be forfeited, as coming within the instructions of Gen. Hazen for the confiscation of the proceeds of chuck-a-luck. The forfeited sum of $454 was disbursed by the commander of the division and not returned to the Treasury Department. None of the $860 has ever been returned to claimant. Claimant allowed his claim to sleep until 1891, for a period of 27 years, when he presented a claim to the Auditor for the War Department, and it was rejected. Then he came in here 42 years afterwards, without having peeped all that time during the interim, and asks the Congress of the United States to engage itself in the business of giving him back that fund. None of it ever went into the Treasury of the United States. That is one item in here.

I will call the attention of the Senate to one or two others. Here is paragraph 599. Five hundred and ninety-nine is an item that has long since been paid and satisfied. Ten thousand five hundred and twenty dollars was claimed. The money was appropriated in an appropriation act approved March 3, 1877, Nineteenth Statutes of the United States, page 538. The money was paid and the claim released and receipted for, and yet here is inserted a claim in the omnibus claims bill, as it comes over to the Senate, with that $10,000 item in it to be paid over again.

Here is another one—paragraph 737 in this bill. Seven hundred and thirty-seven is the claim of Henry E. Hilliard. It was absolutely paid and satisfied by an appropriation found in Thirty-third Statutes, part 1, page 768.

Here is an old claim, originating way back during the war, in which the claimant has slept on his rights for over a generation, and then comes here and asks money for hay which he claims he delivered to a commissary, and he wants pay at the rate of $55 a ton.

How such things get through I do not understand.

Here is a hotel company down in Memphis called the Overton Hotel Co. The claim is that the property was occupied by soldiers during the war. We all know what were the conditions in Memphis. You could not rent buildings for any considerable amount under the conditions that existed there. Several years ago that company got a bill through here appropriating, as I understand, some $53,000, took the money and released the claim. And yet they get inserted in the bill an item calling for the appropriation of $12,000 or $15,000, or more, because an

attorney claims that some sort of technical error was committed in making the computation.

On the matter of proof of loyalty—and I will stop with this case—I want to call the attention of the Senate to one claim, paragraph 800, which is typical of many of the claims we have stricken from this bill. In this particular case property was taken from the administrator, N. C. Perkins, during the War of the Rebellion, in Shelby County, in the State of Tennessee, by the military forces of the United States for the use of the Army—stores and supplies worth the sum of $5,684. It does not appear from the statement of facts whether the property was taken by any authority of the Government at all. The plantation from which the stores were taken, it was claimed, belonged to J. J. Todd at the commencement of the war, but he died in 1861, leaving by will his property to his daughter, Mrs. Newton C. Perkins. She is the wife of the administrator, N. C. Perkins, who makes this claim, and he was a captain in the Confederate Army. Understand that under the statute these claims can not be allowed unless loyalty is proven. Her husband, who appears here as administrator, was a captain in the Confederate Army. He was appointed administrator of the estate of his wife's father in 1862, and then he resigned his commission and came home to take charge of that estate—right out of the Confederate Army. I dare say Mrs. Perkins is a good woman; I would not say a word disrespectful about her, but this is what the court finds as to her loyalty:

> Mrs. Perkins desired her husband to keep out of the Confederate service; she did not desire to take up arms; she did not wish him to join either army; after the war actually began she did not desire the subjugation of the South, and she did not wish for the defeat of the Confederacy to secure the perpetuity of the Union.

Now, with that sort of a straddle on the question of loyalty, and with the administrator himself having been an officer in the Confederate Army, thereafter, in 1900, a finding is made upon which an appropriation claim of that character is made.

Having thus characterized in a general way the items stricken out of the bill, I ask for the action of the Senate upon the bill.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill was passed.

Mr. NEWLANDS subsequently said: The omnibus claims bill was passed this morning during my absence from the Senate. I had pending before the Senate an important amendment involving the claims for extra pay of mechanics and laborers on public buildings, and it was my expectation to bring that matter before the Senate for its consideration. I have seen the Senator from South Dakota [Mr. CRAWFORD], who had charge of the bill, and he informs me that he will have no objection to a motion for a reconsideration of the bill in order to enable the Senate to consider the amendment which I tendered.

I therefore ask that the vote by which the bill was passed be reconsidered and that the bill stand on the calendar for consideration.

The PRESIDING OFFICER. The Chair will call the attention of the Senator from Nevada to the fact that the Senator from South Dakota, the chairman of the committee, is not present.

Mr. NEWLANDS. I consulted with the Senator from South Dakota about 15 minutes ago and he told me he would have no objection. I have sent word asking him to be here, but he is not here.

Mr. CLARKE of Arkansas. Mr. President, I would not assume to act instead of the chairman of the committee, the Senator from South Dakota, nor do I in the slightest degree desire to indicate any doubt about the statement made by the Senator from Nevada; but after the motion indicated by him has been made and considered there will be other motions made, and they should be made at once, so as not to delay the passage of the bill beyond to-day. If it would be agreeable to the Senator from Nevada to renew his motion at a somewhat later hour, we will undertake to have the Senator from South Dakota here, so that the whole matter may be disposed of.

Mr. NEWLANDS. It is entirely agreeable to me, Mr. President, that the action be had to-day.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nevada yield to the Senator from Utah?

Mr. NEWLANDS. I have made my motion to reconsider the vote by which the omnibus claims bill was passed.

Mr. SMOOT. That is what I was going to suggest to the Senator from Nevada, to enter the motion, and then if it so happens that we can not act on the motion to-day, it will be pending.

Mr. CULBERSON (to Mr. NEWLANDS). Make the motion now.

Mr. NEWLANDS. I make the motion now.

Mr. CULBERSON. I understand that the Senator from Nevada makes the motion now to reconsider the vote by which the bill was passed.

The PRESIDING OFFICER. The motion will be entered.

Mr. CULBERSON. And it will be passed over for the future consideration of the Senate.

The PRESIDING OFFICER. The motion has been entered. The bill will be held here.

LANDS IN PENSACOLA, FLA.

Mr. SMITH of Georgia obtained the floor.

Mr. FLETCHER. Mr. President——

Mr. SMITH of Georgia. If, without losing my position in the premises, I can yield for a moment to the Senator from Florida, who desires to call up two local bills, I shall be glad to do so, although I can not afford to lose my place.

Mr. FLETCHER. It will take only a moment.

Mr. SMITH of Georgia. I yield, if I can, under the circumstances indicated.

Mr. FLETCHER. I desire to call up two bills, being Orders of Business 961 and 962, releasing the claims of the United States Government to certain lands in the city of Pensacola, Fla.

Mr. SMITH of Georgia. I yield for that purpose, if I may.

Mr. FLETCHER. I ask unanimous consent for the present consideration of the bill (S. 5378) releasing the claim of the United States Government to that portion of land, being a fractional block, bounded on the north and east by Bayou Cadet, on the west by Cevallos Street, and on the south by Intendencia Street, in the old city of Pensacola.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. FLETCHER. I now ask unanimous consent for the present consideration of the bill (S. 5377) releasing the claim of the United States Government to lot No. 306 in the old city of Pensacola. It is a bill of the same kind as the one just passed.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PRACTICE OF PHARMACY AND SALE OF POISONS.

Mr. GALLINGER. I ask for the consideration of the bill (H. R. 8619) to amend an act entitled "An act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes," approved May 7, 1906.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on the District of Columbia with an amendment to strike out all after the enacting clause and to insert:

> That "An act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes," approved May 7, 1906, be amended by adding after section 11 thereof a new section to be known as "section 11a," and to read as follows:
>
> "SEC. 11a. That nothing contained in this act shall apply to sales at wholesale by any dental supply depot, carrying only a general stock of dental supplies, without being required to have a licensed pharmacist employed therein or connected therewith, to lawfully authorized practitioners of dentistry or medicine, for personal use in the practice of their profession, or to incorporated dental or medical colleges, for use therein, or to incorporated hospitals, for use therein, all drugs, chemicals and poisons used in the legitimate practice of dentistry: *Provided, however*, That no such dental supply depot shall so sell at wholesale any such drugs, chemicals, or poisons except upon the original written order of a lawfully authorized practitioner of dentistry or medicine, which order shall be dated and shall disclose the full name and address of such practitioner, and whether the articles ordered are for his personal professional use and account, or for the account, and use therein, of such college or hospital, and all such original orders shall, for a period of three years, be retained on file by the dental supply depot selling or furnishing the drugs, chemicals, or poisons specified therein. No proprietor, officer, agent, or employee of any dental supply depot shall sell or furnish any such drugs, chemicals, or poisons otherwise than as in this section provided, and no practitioner of dentistry or medicine shall purchase or obtain from any dental supply depot any such drugs, chemicals, or poisons otherwise than as in this section provided, or for any other purpose than as in this section permitted."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

COLVILLE INDIAN RESERVATION LANDS.

Mr. JONES. I ask unanimous consent for the present consideration of the bill (S. 5379) granting certain lands of the diminished Colville Indian Reservation, in the State of Wash-

ington, to the Washington Historical Society. This is purely a local bill.

Mr. SMOOT. I shall not object to the consideration of this bill, but I give notice that I shall object to the consideration of any further bills this morning by unanimous consent.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Indian Affairs with an amendment to strike out all after the enacting clause and to insert:

That the Secretary of the Interior be, and he is hereby, authorized to patent to the Washington State Historical Society, for memorial and park purposes, the following-described lands in the diminished Colville Indian Reservation, in the State of Washington, to wit: A tract of land not exceeding 4 acres in area located in the northwest corner of lot 2 of section 17, the precise description of said tract to be determined by said Washington Historical Society and the Secretary of the Interior prior to the issuance of the patent therefor, and lot 7, containing 20.90 acres of section 21, all in township 30 north, range 25 east of the Willamette meridian in Washington: *Provided*, That the lands hereby granted shall be paid for by the said society at their appraised value, to be ascertained in such manner as the Secretary of the Interior may prescribe, and the proceeds thereof placed in the Treasury of the United States to the credit of the Indians belonging on the reservation of which the lands herein described are a part and thereafter paid to the said Indians or used for their benefit in such manner as the Secretary of the Interior may deem for their best interests: *Provided further*, That the lands hereby granted shall be subject for a period of 25 years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

AGRICULTURAL EXTENSION DEPARTMENTS.

Mr. SMITH of Georgia. I move that the Senate take up for consideration the bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress, approved July 2, 1862, and of acts supplementary thereto.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry with an amendment.

The PRESIDING OFFICER. The amendment of the committee will be read.

The SECRETARY. In section 6, page 5, line 14, strike out the words "duly appointed by the governing boards of said colleges" and insert "of the State, duly authorized by the laws of the State," so as to make the section read:

SEC. 6. That the sums hereby appropriated for extension work shall be annually paid in equal semiannual payments on the 1st of January and July of each year by the Secretary of the Treasury, upon the warrant of the Secretary of Agriculture, out of the Treasury of the United States, to the treasurer or other officer of the State, duly authorized by the laws of the State to receive the same; and such officer shall be required to report to the Secretary of Agriculture, on or before the 1st day of September of each year, a detailed statement of the amount so received during the previous fiscal year, and of its disbursement, on forms prescribed by the Secretary of Agriculture.

Mr. SMITH of Georgia. That is a mere verbal change to make the language perfectly accurate.

The amendment was agreed to.

Mr. SMITH of Georgia. I now send to the Secretary's desk the report made by the Committee on Agriculture and Forestry on this bill, which I would be glad to have read.

The PRESIDING OFFICER. The Secretary will read the report.

The Secretary read the report submitted by Mr. SMITH of Georgia December 14, 1912, as follows:

[Senate Report No. 1072, Sixty-second Congress, third session.]

ESTABLISHMENT OF AGRICULTURAL EXTENSION DEPARTMENTS.

Mr. SMITH of Georgia, from the Committee on Agriculture and Forestry, submitted the following report, to accompany H. R. 22871:

The Committee on Agriculture and Forestry, to whom was referred the bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and of acts supplementary thereto, having considered the same, beg to report it back to the Senate with one amendment and with the recommendation that the bill as amended do pass.

The object of the bill is to make provision for the establishment of extension departments in the land-grant agricultural colleges of each State and to carry to the farmers at their homes the knowledge gathered at the agricultural colleges and experiment stations.

Fifty years ago the Morrill Act became a law, and by aid from the appropriation which it made colleges of agriculture are now successfully conducted in every State.

Twenty-five years ago the Hatch bill became a law, and by aid from the appropriations which it made agricultural experiment stations are now successfully conducted in every State. Other legislation has also been enacted since the Morrill and Hatch Acts of further aid to the colleges and experiment stations.

The Morrill Act provides for the endowment and support of colleges, the leading object of which shall be "to teach such branches of learning as are related to agriculture and the mechanic arts." The Hatch Act provides for agricultural experiment stations where by investigation and experiment accurate knowledge is obtained upon farm problems.

The experiment stations were essential to proper instructions in the colleges. In most of the States these colleges and experiment stations have for years worked in close association. They have conducted investigations and made tests bearing upon many important questions connected with the farm, and their investigations and tests have been especially with reference to conditions in their respective States. They have studied plants and determined with accuracy the foods upon which they live and mature crops. They have analyzed different classes of soil in their respective States to determine the plant food contained and have learned how to make it available. They have ascertained defects of soils and how to remove them. They have worked out the improvement of seeds and have found the way to resist many plant diseases. They have tested stock, cattle, and hog foods and diseases. They have found what foods will bring the best results and have advanced in the treatment of diseases.

I do not claim that the knowledge which has been obtained is absolutely accurate in all lines, but I insist that they have learned many things of great value to those engaged upon farms; and their officers are as a rule able and capable men, practical as well as scientific, and devoted to their work.

These institutions are now engaged in their best work and will continue to demonstrate new truths which would be most helpful if understood and used in the daily work of the farm.

There are students at these colleges who are obtaining much aid from the instructions which they receive, but there is not sufficient provision to carry to the farmers at their homes the valuable information which has been and will be obtained by the work of the colleges and experiment stations.

The last census shows that the rural population of the 48 States was 49,384,882. The majority of our population is engaged in agricultural pursuits. It is my urgent plea that they should receive as speedily as possible the help which the successful use of all that has been learned and may yet be learned at the agricultural colleges and experiment stations would be to them.

The National Government has spent on the agricultural colleges and experiment stations, in round figures, $70,000,000. It spends now $3,940,000 cash annually upon them. From State appropriations and other sources they receive annually $11,000,000. A large part, however, of this last-named amount is required for new buildings and equipment required to meet the growing demands upon the colleges.

For the year ended June 30, 1912, Congress appropriated $15,000,000 for carrying on the exclusively agricultural work of the Department of Agriculture. Much the larger portion of this money is spent for investigation and experimentation. Information of great value to the rural interests of the country is secured, but a comparatively small amount is devoted to showing those at work upon farms how to apply this information.

Dr. True, Director of the Office of Experiment Stations, has stated:

"Heretofore interest in the agricultural development has largely been in the direction of securing new truths. A vast amount of valuable information is now in existence awaiting some effective means of getting it into operation by the farming people of the United States. It has been found that the mere publication of results in the bulletins and pamphlets is not sufficient, and that there is much even that these publications do not contain and can not be taught by them.

"The agricultural colleges were created and organized chiefly for the benefit of agriculture. They have devoted themselves to perfecting their organization and courses of study for the education of their students and by means of experiment stations to the investigation and discovery of agricultural truths. Recently there have arisen demands upon these institutions for information and assistance outside of their classrooms by persons engaged in agriculture unable to attend these colleges as students. These demands became so insistent that at the meeting of the Association of Agricultural Colleges and Experiment Stations held at Portland, Oreg., in 1909, the association by formal action changed its constitution by recognizing the obligation of the colleges to the rural people outside of their halls as equal to the obligation of resident students and their work of research. Forty-five colleges, representing 43 States, were conducting extension work during the college year which closed June 30, 1911, but their work was limited by lack of sufficient funds."

We are confronted, therefore, with the fact that the National Government has spent, and is spending, large sums of money upon the agricultural colleges and the experiment stations. The money so spent has aroused interest in the States, and they are appropriating to this work sums in excess of those appropriated by the National Government, but the inspiration for the work and the leadership in the work came from the national appropriation. These institutions are doing good, but much that they might do fails of accomplishment because there is no organized machinery, backed by necessary funds, to carry the information they gather to those actually engaged in agricultural pursuits.

The agricultural colleges, agencies in a sense of the National Government, are ready for immediate service at the home of the farmer. They are ready to furnish the information they have acquired to all upon the farms instead of to a few at the colleges. The bill which has passed the House is intended to enable them to increase their extension work at once and develop it in time upon a broad scale.

It is of vital importance to carry promptly to the farmers the knowledge acquired at these institutions.

A number of bills have been introduced during the past few years intended to accomplish this result. Last fall the executive committee of the State Agricultural Colleges and Experiment Stations, officers of the National Soil Fertility League, and representatives of the Agricultural Department prepared a bill, which was introduced in the Senate on the 16th day of January and in the House of Representatives on the 17th day of the same month. The House of Representatives has passed this bill with only two important amendments. One requires that 75 per cent of the money appropriated shall be used in actual demonstration work and the other provides that this bill shall not interfere with the demonstration work now being done by the Agricultural Department.

Many State legislatures will meet in January, and the passage of the House bill by the Senate at the earliest day possible is necessary to give them an opportunity to act.

The bill provides for the establishment and maintenance in each of the land-grant colleges of agriculture of an extension department to give instruction in agriculture and home economics to farmers at their homes.

This instruction is to be given by demonstration work and other means in the local farm communities.

It provides for a fixed appropriation from the Treasury of $10,000 unconditionally to each State. It provides also an appropriation be-

ginning with $300,000 a year, July 1, 1913, to be prorated among the States on a basis of rural population. This appropriation is to be increased each year $300,000 until the maximum of $3,000,000 is reached in 1923. No State is to receive a pro rata of this sum unless it provides an equal amount for the same purpose. The money is to be expended by the State colleges of agriculture through their extension departments in each State. Seventy-five per cent of the money must be used in actual field demonstration; 5 per cent may be used for printing and publications, and the remaining 20 per cent for instructions in household economics or for further field demonstrations. The bill provides that any Federal money lost or misused must be made good by the State, and it prohibits the use of the money for purposes except those specified. It provides for reports from the colleges to the Secretary of Agriculture, and through the Secretary of Agriculture to Congress.

The bill permits the purchase of no land by the Government. The representatives of the colleges in the various communities in each county in each State will enlist farmers, who, under the direction of the representative of the agricultural college, will test the value on their own land of the information brought by the representative of the agricultural college. The farmer will be invited to plant under the direction of the representative of the college. The character of the soil will be tested, the nature of the fertilizer to be used explained, the selection of seed advised, and the time of planting and manner of cultivation suggested, and demonstrations will be made which will teach and prove the value of the knowledge acquired at the colleges and stations. In another place the representative of the college will teach and by experimentation demonstrate the best manner for caring for fruit trees. In another, the best system for feeding cattle and stock and of dairying and butter making may be the subject of the demonstration.

Demonstrations will also be made in home economics and labor-saving machines.

The colleges of agriculture and the experiment stations in each State have devoted themselves to the study of the peculiar conditions of their State and the localities of their State and will, through their representatives, carry to the farmer in his home the accurate information which experimentation has demonstrated and in turn give a practical demonstration in the locality before the farmer and his neighbors of the value of the information acquired and how to use it. This class of work will be supplemented by printed discussions of the best mode of farming, of hygiene, and of household economics, and the means available will be used to give those on the farm all that research can develop which will be of service to them.

The value of such instruction is not a matter of experiment. It has been tried in other countries, as well as to a limited extent in our own. A number of European countries for the past 25 years have been carrying the information gathered in their colleges and experiment stations to the homes of the farmers. Detailed information as to how the extension departments in other countries have been conducted and the beneficial results from them has been gathered by the National Director of the Office of Experiment Stations.

We have selected Belgium as an example and have examined the statistics prepared by the Department of Agriculture showing the effect there of agricultural extension work upon the lines proposed for our country by the bill under consideration. They disclose an average increase of production per acre in 20 years of 30 per cent. They also disclose a lessened cost of production per acre, and this splendid accomplishment is attributed to the information and instruction carried to the farmers by agricultural extension work.

The testimony before the Senate Committee on Agriculture and Forestry and the House Committee on Agriculture furnishes convincing proof of the great benefits which have been accomplished by the limited work upon this line already carried on by the agencies created principally through congressional action.

Dr. Russell, dean of the college of agriculture of the University of Wisconsin, pointed out its value in the improvement of cattle and dairying in Wisconsin. Among other things, Dr. Russell said:

"The extension work is designated generally to take that work right to the man on the field, and it seems to me the advantageous feature of this bill is that it leaves it to the discretion of the agricultural college to organize this work along those lines that are going to be most effective for the community concerned."

He also pointed out a development of corn seed which in a portion of Wisconsin had enabled an increase of production per acre of over 50 bushels. He dwelt upon the necessity for soil diagnosis, and how at one point more phosphate was needed and at another more nitrogen and another more potash, and how for various crops portions of those necessary plant foods could be supplied and at other places other ingredients could be locally found, and he urged the importance of carrying accurate information upon this subject to the farmer at home, and he showed the work he was doing endeavoring to give such information to the farmers of Wisconsin.

Dr. Russell relates this incident, told him by Dr. Hopkins, of Illinois:

"Dr. Hopkins had demonstrated in southern Illinois what could be done with a dollar and a half's worth of phosphate to soil that needed this plant food. The average yield of corn in that locality was about 13 bushels. Dr. Hopkins demonstrated that with a little phosphorus and brains the yield could be increased fourfold. An old man came up with tears in his eyes and said: 'Dr. Hopkins, I want to thank you for what I have seen to-day; but, God help me, if I only knew that 40 years ago.' He said, 'I have six sons in my family and have labored night and day to keep body and breeches together and to keep the family together, and what have I got on my farm? Twelve to 15 or 16 bushels of corn to an acre—that's all I can make. I would have liked to send my boys to college. I would have liked to give those children an education; but I could not raise enough crop on the piece of land that I owned, so I have toiled all my life and have earned barely enough to support my family. Now, if a man had only come to me when I was comparatively young and told me the things you have told me to-day—that one dollar and a half's worth of phosphate would have given me 50 bushels of corn like the crop which was raised right over the fence from where I am—I could have sent my children to the high school and to a university.'"

Dr. Soule, of Georgia, discussed the subject along the same lines, and pointed out how corn and cotton production had been increased in various parts of the State nearly 100 per cent by the application of the knowledge developed in the State College of Agriculture and Experiment Station. He called attention to the different varieties of soil even in Georgia and the different character of plant foods contained in the different soils of the State. Among other things, he said:

"I have told you of the variations of our soil in Georgia. How can we direct this thing from a centralized position? It is impossible to do it. There is not a man not familiar with the agricultural conditions of California who would attempt to advise the farmers of that State. It is not possible to send out information and literature from Washington that will meet the needs of the farmers in Georgia, as well as in all the other States. We must conduct this as a localized proposition, studying and teaching through the agricultural colleges."

Dr. W. D. Gibbs, president of the New Hampshire College of Agriculture and Mechanic Arts, gave an illustration of the benefit of agricultural-extension work of the kind that this bill contemplates through a young man who studied at the College of Agriculture of New Hampshire. He said:

"This old orchard was full of San Jose scale, and was an unproductive orchard, producing mediocre fruit in small quantity. The father had made his living by selling milk 8 miles away. This young man went to work on the orchard and pruned it and sprayed it and cared for it in other ways, and to-day they have one of the best apple orchards in New England. Instead of producing 800 barrels of poor fruit a year it is producing about 1,500 barrels of good fruit a year. The result is that the town has become an apple-producing center. Now, these farmers might have read agricultural experiment station bulletins for a hundred years on how to develop an orchard and they never would have done it. They believed their eyes and changed their methods.

"We are tremendously interested in this thing. The salvation of New England, it seems to me, is dependent upon increased agricultural prosperity. Agricultural extension is the way to bring it about. You can talk to farmers at farmers' institutes and you can send them bulletins by the ton, but they do not change their practice. But when you go to the farm and 'show' the man then he is your friend for life, and that, in my opinion, is the way to develop agriculture in New England or any other part of the United States."

Dr. Thompson, president of the University of Ohio, presented a strong appeal for the bill and declared that it was necessary to "develop the work of the American farmers," and as a "supplementary move that will reach the matured men and women, who, for one reason or another are not able to bring themselves to the school, and give them the full benefit of the appropriations already made to the colleges and experiment stations."

Dr. Howard H. Gross, president of the National Soil Fertility League, of Chicago, among other things, said:

"I believe this bill for agricultural extension, measured by its general benefits, is the most important constructive measure since the days of Abraham Lincoln. I believe that is the concensus of opinion of the gentlemen who have given it careful study."

He pointed out that at a low estimate the proposed extension work is not only the way to an increase of average yield per acre of 20 per cent, but also made the following statement:

"The approximate area of farm lands is 900,000,000 acres. The present crop value is about $9,000,000,000. Twenty per cent increase means $1,800,000,000, equal to $18 per capita on 100,000,000 population. This sum equals one-half of all the money in circulation. Surely the figures are tremendous. The maximum cost to the Federal Treasury under the bill before you will be $3,000,000 per year. The value of 20 per cent increase on one year's crop will pay for the proposed demonstration work for 600 years."

He also said:

"There appeared before the committee representatives of agricultural associations, representatives of the agricultural colleges and experiment stations, students of agricultural development, and leading bankers, all of whom urged the passage of this measure as one necessary for the improvement of the agriculture of the country, and they dwelt upon both the benefits which would go to the farmer and to the urban citizen as a consequence of the improved methods on the farm which this bill would bring about."

At a recent meeting of the presidents of the colleges of agriculture and experiment stations the following resolutions were passed:

"The Association of American Agricultural Colleges and Experiment Stations, in session at Atlanta, Ga., November 14, 1912, most respectfully requests the United States Senate to pass the agricultural extension bill, H. R. 22871, during the coming session of the Sixty-second Congress.

"For some years the institutions represented in this association have been urging the development of work in agricultural extension for the purpose of carrying to the farmer in his own community the successful experience of the experiment stations and the approved teachings of the colleges of agriculture.

"During the sessions of the Sixty-first Congress several bills looking to this end were introduced and hearings given to the representatives of the agricultural colleges, of the National Grange, of bankers' associations, and of others interested in the development of the Nation's agricultural resources.

"On January 16, 1912, the Hon. HOKE SMITH introduced in the United States Senate and Hon. A. F. LEVER introduced in the House of Representatives a bill to establish agricultural extension departments in connection with the agricultural colleges in the several States receiving the benefits of the act of Congress approved July 2, 1862. The bill now known as H. R. 22871, embodying substantially the provisions of the two bills referred to above, has passed the House of Representatives and is now pending in the Senate.

"The provisions of this bill have been fully discussed in the hearings before the Committees on Agriculture in both the House of Representatives and the Senate. Its provisions are simple and clear. The bill seeks to bring to the practical farmer by correspondence, instruction, and demonstration the accumulated and approved experience and methods of the colleges and experiment stations during the past 50 years.

"Fifty years ago the United States Congress passed the act providing for the land-grant colleges. Twenty-five years ago Congress pased the act providing for the experiment stations. Both these acts have been supplemented with legislation increasing the funds and the efficiency of both colleges and stations. It is now urged that on this anniversary year the agricultural extension bill be passed in order to enable these colleges to carry to the farmer who can not come to the college or station such demonstration of the results obtained in these institutions as shall enable him to maintain and develop the agricultural resources under his direction. This movement we believe to be in accord with sound public policy lying at the basis of the economic policies looking toward increased production as an important factor in determining the comfort and welfare of the whole people. This bill naturally and logically completes the chain of agencies fostered by the Federal Government for the betterment of agriculture. Hitherto we have maintained laboratories and field experiments at our colleges and stations, have put the results into bulletins, and have taught them in the classroom. It is now proposed to take these results to the local community, carry

the school to the farmer, and make his own fields a laboratory in which we can demonstrate the value of science when applied to agriculture.

"The association would call the attention of the Senate to two facts: First, the universal approval the country over of the wisdom of passing the land-grant act after an experience of 50 years; of the equally universal approval of the country of the act providing for the experiment stations after an experience of 25 years; and, second, to the fact that the agricultural interests as represented by the farmers, the colleges, the experiment stations, the agricultural press, and other interests as represented in bankers' associations and philanthropic agencies of various names are all united in a desire to see the bill for agricultural extension become a law.

"The Association of Agricultural Colleges, believing that these extension departments should be established without delay, and believing that this measure should receive favorable consideration upon its own merits without complication with other legislation, does most respectfully urge upon the Senate of the United States the importance of passing the bill for the establishing of agricultural extension departments in the agricultural colleges of the several States at the earliest possible date, to the end that the legislatures of the different States, many of which meet in January, may have opportunity to accept the provisions of the bill and to put the departments into operation during the coming year.

"Attention is respectfully called to the hearings before the Committee on Agriculture and Forestry in the United States Senate, Sixty-second Congress, second session (S. 4563), March 1, 1912, for a more complete statement of the merits of the bill and of the reasons for its enactment into law.

"Passed by the Association of American Agricultural Colleges and Experiment Stations, Atlanta, Ga., November 14, 1912.

"WINTHROP E. STONE, *President.*

"Attest:

"JOSEPH L. HILLS, *Secretary.*"

The International Dry Farming Congress at Colorado Springs indorsed the bill by unanimous vote.

The New England Conference of Rural Progress, comprising 70 organizations, at a meeting in Boston, said:

"Of all the bills now before Congress, we believe the Lever bill to be the most practical form of legislation yet proposed."

The Tri-State Grain Growers' convention, comprising Minnesota and the two Dakotas, passed resolutions emphatically indorsing the bill.

The executive officers of the State Grange, the State Federation of Farmers' Clubs, and State Horticulture Society, of Michigan, unanimously indorsed the bill.

The Farmers' Union indorsed the bill.

The Third Wisconsin Country Life Conference, at Madison, passed a resolution urging the Members of Congress to pass the agricultural extension bill.

Secretary of Agriculture Hon. James Wilson, in a memorandum prepared for the President of the United States, after full discussion of the provisions of the bill, says:

"From time to time during the past three or four years bills have been introduced in Congress having for their object agricultural extension work, and upon these bills there has been considerable discussion. Public sentiment has gradually been crystallized on the matter until now we have before us House bill 18160, known as the Lever bill—a concrete proposition in regard to carrying the results of agricultural knowledge directly to the man on the land. Unquestionably such a plan, if properly carried out, would result in great good and would do much toward making useful and valuable the rapidly growing store of knowledge developed along agricultural lines."

(Secretary Wilson designated House bill 18160 as the bill to which he was referring. The present bill, as heretofore explained, is the substitute for that bill.)

The following are abstracts of indorsements of the bill as it was first introduced into the Senate, the present bill being practically the same measure, with only the changes to which we have heretofore called attention:

ALABAMA.

President State Agricultural and Mechanical College says it is "a splendid piece of prospective legislation."

President Alabama Polytechnic Institute: "We regard this work as one of the greatest possible good that can be rendered by the Government to our great farming interests. * * * This sort of constructive work done with the Government money seems to me is of even more value than what might be called the destructive work of the appropriations for guns and battleships."

ARIZONA.

President University of Arizona: "The newer sections of the country are in great need of the national help that such a bill as yours contemplates. * * * I am glad the whole subject is engaging the attention of Congress * * *."

ARKANSAS.

President University of Arkansas: "I heartily approve of the bill and hope that it will be passed."

Dean and director College of Agriculture: "Senate bill 4563 * * * is a piece of proposed legislation which, to my mind, is of great importance."

CALIFORNIA.

President University of California: "There is no way in which we can do real good for the masses of our people better than through agricultural extension work. * * * There can be no question about our favoring the bill; we know what it means."

CONNECTICUT.

President Connecticut Agricultural College: "My personal opinion is that carrying of the latest scientific knowledge to the working farmer is one of the most important duties of the land-grant colleges. I sincerely hope that this bill will have favorable consideration by the present session of Congress."

DELAWARE.

President Delaware College: "I am very much pleased, indeed, to hear that the bill * * * has been read twice and referred to the Committee on Agriculture and Forestry. * * * Boys and girls of the common-school and high-school ages usually decide into what sphere of life they wish to enter. Formerly the dearth of agricultural education in that formative period rendered it impossible for the boy or girl to realize the importance of such instruction and consequently the country boy usually found a home in the city. I believe that this condition of affairs will be remedied by the operation of such a bill as you have proposed."

FLORIDA.

President University of Florida: "I sincerely hope that you will be successful in passing this measure. Our State at the present time is giving $7,500 annually for farmers' institutes and agricultural extension work. With double this amount we believe that the efficiency of the agricultural extension work would be quadrupled, as paradoxical as this may seem."

GEORGIA.

Chancellor University of Georgia: "It is the best bill for extension work that I have ever seen. It is the only bill for extension work which I have been able to read and understand. If there is any way in which I can aid in its passage I will be glad to know it."

President State College of Agriculture: "We are naturally very much gratified to see the progress you are making with your measure in the Senate, and hope Mr. LEVER will have equal success in the House."

HAWAII.

President College of Hawaii: "I have read the bill over carefully and heartily commend your efforts to secure this benefit for the large and important class of our people who are in need of its provisions. This is constructive legislation of the truest type. Efficiency and contentment in agriculture are at the foundation of the Nation's welfare. * * * I believe that extension teaching is most important of all our methods for the propagation of knowledge. * * * There is sufficient data to show that the endowment for the agricultural colleges and experiment stations and the appropriations for the Department of Agriculture must be considered as among the best investments that the Nation has ever made."

IDAHO.

President University of Idaho: "Even with the best preparation we can make, and the most generous support from the Government in all of its divisions, we expect to be swamped by applications for assistance through extension instruction. Practically every community in the State is clamoring for extension work, and only a small percentage of the requests can be complied with. With reasonable support, however, from the United States and the State, we may expect that practically the whole agricultural population of Idaho will go to school for a portion of each year."

ILLINOIS.

Vice president University of Illinois: "The bill (S. 4563) introduced by you into the Senate of the United States is one of very great importance to the people of our country, and if passed is destined to work wonderfully great results. It is well known to everybody who has thought on the matter that agriculture with us is in a state of low development. * * * The people of the rural districts are not sharing adequately in the general prosperity of the country, and the latter can not be maintained without a forward movement among these rural people. Everywhere of late is heard the cry, 'Back to the farm.' But until the farm becomes desirable as a source of living and of community life no adequate result can be reached. This bill will serve in a practical way to make this movement really successful. * * * The University of Illinois is doing a great deal of this work now from State appropriations. It can do much more with the aid that the bill is destined to give."

Editor Orange Judd Farmer, Chicago: "The demonstration idea has not been given great attention at the North. Its wonderful success South ought to be sufficient proof that it would be just as satisfactory at the North. We are heartily in favor of this kind of work. I am very anxious to do what I can to help this bill along."

INDIANA.

President Purdue University: "I am in favor of this kind of legislation rather than some of the other measures which are now before Congress. * * * I find the demands upon us for attention and for work which we would like to do far in excess of our resources. This kind of work is the thing now most needed in our agricultural colleges, and I hope the measure will pass."

KANSAS.

President State Agricultural College: "We shall be very glad to do anything necessary to be done to indicate the interest of the farming classes in this matter and to assure the Members of Congress that they will appreciate the enactment of a law along the line of this bill."

KENTUCKY.

Editor Home and Farm, Louisville: "The policy will result in great good. * * * Only through a better agricultural education will the farmers be able to diversify their crops intelligently, care for their soils, and increase their profits."

MAINE.

President University of Maine: "I have gone over Senate bill 4563 with very great interest. I see nothing whatever to criticize or change in the bill. If this bill becomes a law it will enable the land-grant colleges to render unusual service to the people of this country. If I can be of any service in bringing about the favorable consideration of this bill it will be a pleasure."

MASSACHUSETTS.

President Massachusetts Agricultural College: "I am more than glad to give a hearty indorsement to the bill. * * * I think that this is one of the most important educational measures ever introduced into Congress. I believe the time is ripe for a great Federal movement in popular education in agriculture and rural affairs. The States are doing something, but we need the stimulus, direction, and practical assistance of the National Government. * * * You will find the agricultural educators and farmers of America back of you in this effort to inaugurate a great movement. I know of nothing that the present Congress could do that would be more popular. I hope the bill may be passed at this session."

MICHIGAN.

President Michigan Agricultural College: "This bill has my hearty indorsement and I hope may pass. I shall do all I can to that end."

MINNESOTA.

Indorsements received from the officers of the State College of Agriculture and Experiment Stations of Minnesota.

MISSISSIPPI.

President Agricultural and Mechanical College: "I heartily indorse your bill. While I was president of the American Association of Institute Workers I delivered an address urging that such a bill be passed by the National Congress. Extension work is by far the most important work of the land-grant colleges at this time. * * * We

already have enough information to transform our agriculture if we could get the people to incorporate it in their practices."

MONTANA.

President Montana State College of Agriculture and Mechanic Arts: "I am heartily in favor of this movement, and I believe that the provisions of this bill will meet the approval of all the interests concerned. The amount required to carry out this bill is insignificant, and yet it will stimulate the States to expend several times this amount."

NEBRASKA.

Chancellor University of Nebraska: "The University of Nebraska has already organized a department of agricultural extension. For lack of funds, however, our work is conducted mainly along the line of farmers' institutes. I have read the bill, and most cordially indorse it in every particular."

NEW JERSEY.

President Rutgers College: "I am glad to express to you my emphatic indorsement of this measure and my earnest hope that it will be passed. The State Agricultural College of New Jersey, Rutgers College, is surely in position to do extension work throughout the State, and the work ought to be done."

NEVADA.

President College of Agriculture and Mechanical Arts: "I heartily approve your bill and hope that it will be adopted."

NEW HAMPSHIRE.

President New Hampshire College of Agriculture and the Mechanic Arts: "My personal belief is that if this bill is passed by Congress it will be one of the wisest pieces of legislation since the land-grant act of 1862. * * * To my mind agricultural extension work is of the utmost importance at the present time. Our experiment stations have accumulated a large mass of facts and our colleges have done a wonderful work in accumulating and assimilating agricultural information of all kinds, and the most important thing we can do now is to extend this information to the farmers. This can be done only by demonstration and by other practical thorough-going methods. I hope that your bill will receive the hearty support of every Member of Congress."

NEW MEXICO.

President New Mexico College of Agriculture and Mechanic Arts: "I have read the bill with great care, and will say that I believe it to be the best of the several bills now pending before Congress which have this object in view. Whatever may be the merits of the various propositions to have the Federal Government support agricultural high schools, trade schools, district agricultural schools, and branch experiment stations, it seems clear that none of these ought to be tied up with the agricultural extension proposition, of which almost everybody is in favor. The Association of Agricultural Colleges at its recent meeting took the position that the support of agricultural extension work was the most important advance movement to be accomplished by legislation at this time."

NEW YORK.

President Cornell University: "It is a species of instruction which appeals to the public more than college instruction or investigation, for which provision has been made in previous acts of Congress."

NORTH CAROLINA.

President College of Agriculture and Mechanic Arts: "There is no work which the Nation can do now which would tell more for material progress than the extension work which would be so healthfully aided by your bill. If there is anything that our farmers need more than another it is for some one to carry directly to them the vast amount of scientific knowledge about crops and methods which has been made available in the past few years. The passage of this bill would give an opportunity to do this thing, and I am sure no step could count more for progress than would be taken by such action on the part of our Congress."

NORTH DAKOTA.

President North Dakota Agricultural College: "A resolution was adopted at the Tri-State Grain Growers' Convention indorsing the passage of your bill, and, as president of the convention, I sent copies of the resolution to the members of both houses in Minnesota and the two Dakotas. I trust the bill will find favor with both Congressmen and Senators and become a law."

OHIO.

Dr. Thompson, of the University of Ohio, appeared in person before the committee, advocating the bill.

OKLAHOMA.

President Oklahoma Agricultural and Mechanical College: "I am in hearty sympathy with the purpose of your bill."

OREGON.

President Oregon Agricultural College: "I am in hearty accord with all the provisions of this bill. I have already written Members of the Oregon delegation, urging that they give it their support. The Oregon State Agricultural College has a regularly organized department or division for extension work in agriculture and home economics. One great need is for money with which to carry on this work. I sincerely trust that your bill may be passed by the present Congress."

PENNSYLVANIA.

President Pennsylvania State College: "Let me thank you for copy of Senate bill 4563. * * * Wishing the bill success and thanking you for your efforts for the benefit of public education, I am, * * *."

Secretary State Horticultural Association of Pennsylvania: "I take this opportunity to especially commend Senate bill 4563, introduced by you, and to assure you of the interest and support of this association. This is a matter of immediate need and far-reaching advantage to the agricultural interests of the country. I sincerely hope that it may become a law."

RHODE ISLAND.

President Rhode Island State College: "I heartily approve of your bill and have no criticisms to make. This college has been prosecuting extension work for seven or eight years, laboring under the difficulty of lack of funds. * * * I am anxious to do whatever is possible to aid in the passage of this measure, and have written our Senators accordingly."

SOUTH CAROLINA.

President Clemson Agricultural College: "I have read this bill with a great deal of interest. * * * I consider it one of the most important pieces of constructive legislation proposed since the Hatch Act, establishing the agricultural experiment stations. There is no question but that the great need to-day is the dissemination of agricultural information among our rural people. We would welcome the passage of such a bill as yours, and assure you that we would try to make its application in South Carolina of the greatest usefulness to our people."

SOUTH DAKOTA.

President South Dakota State College: "The cause is one that has our hearty indorsement. I have not been negligent of Senate bill 4563. I believe that our delegation will support it."

Principal, School of Agriculture: "I think our farming people * * * have almost no realization of the advantages that will come from legislation of this kind. * * * I feel positive that this work will greatly advance the agricultural interests of this great State of South Dakota."

TENNESSEE.

President University of Tennessee: "I am heartily in favor of the passage of this act. I believe the work contemplated by it to be of the greatest importance. I will be glad to do anything in my power to influence its passage."

TEXAS.

President Agricultural and Mechanical College: "If this bill should become a law, I am sure that it will mark a new era in agricultural education among the masses in America. * * * I can think of no expenditure of money by the Government that would be more remunerative to the Nation and which would redound to the amelioration of so large a number of our most deserving fellow citizens."

Editor Farm and Ranch: "This is a very important measure and one that should be passed without opposition."

UTAH.

President Agricultural College of Utah: "Utah established an agricultural extension department several years ago. * * * We are unable, however, with the means at our disposal, to meet the demands made upon us. * * * You are at perfect liberty to quote the officials of the Utah Agricultural College as being in very hearty sympathy with any measure for the promotion of our industrial life through the development of extension work among the farmers and farmers' wives throughout the country. It is possibly the most important work now lying before the agricultural colleges, since it permits the proper distribution among those who need it of the splendid mass of facts gathered by the agricultural experiment stations."

VIRGINIA.

President Virginia Polytechnic Institute: "This is by far the best proposition which has yet come forward. * * * The bill seems carefully drawn, and I can most heartily indorse it."

WASHINGTON.

Vice president State College of Washington: "I have been waiting a little to find what was recommended by the meeting of the agricultural college representatives and find that they are all of them backing this particular bill. There is certainly a large demand for more extension work in the country. We need to rationalize our education and make it more helpful to the young men and young women who do not expect to enter professional life. I will write to our Representatives and Senators and ask for their hearty cooperation in the passage of Senate bill 4563."

WEST VIRGINIA.

President West Virginia University: "I thank you very much for a copy of the bill sent, and hasten to express my wish that it may become a law. * * * This is one of the greatest works for the benefit of the entire country to which public money can be devoted. It is through the extension work, and through it alone, as far as I can see, that the people of most of our rural communities can be thoroughly awakened to the need and value of agricultural education. The proposed bill seems to me to be satisfactory in every detail, and I hope that you will be successful in securing its passage."

Dean and director College of Agriculture, West Virginia University: "I am sending out a letter to some of our leading people urging the support of your bill, and would like to send a copy of the bill with these letters. * * * We shall give this measure every support possible."

WISCONSIN.

Dean University of Wisconsin: "Senate bill 5463 * * * is, to my mind, the most suggestive measure that is under consideration in Congress for the advancement of the agricultural welfare of the Nation. What is needed most imperatively is the carrying of present agricultural knowledge to the man on the farm. * * * The agricultural extension service is the only way in which this can be most effectively accomplished, and your bill most satisfactorily fulfills this need. * * * We in Wisconsin will do all that we can to aid in the passage of this measure."

Secretary Wisconsin Country Life Conference Association: "The following resolution was unanimously adopted by the conference association, representing all the varied interests of country life and rural progress in all parts of Wisconsin:

"'*Resolved*, That it is the sentiment of this conference association that we urge our Representatives in Congress to support the bill "To establish agricultural extension departments in connection with the agricultural colleges in the several States, etc." House bill 18160, Senate bill 4563.'

"I take pleasure in acquainting you with representative Wisconsin sentiment on this measure."

Secretary Wisconsin Live Stock Breeders' Association: "Inclosed herewith please find copy of resolution passed unanimously by the Wisconsin Live Stock Breeders' Association, an organization representing all of Wisconsin's best live-stock breeders:

"'MADISON, WIS., *February 8, 1912.*

"'*Resolved*, That the Wisconsin Live Stock Breeders' Association assembled in annual convention heartily indorses the principle of Government aid to agricultural college extension as embodied in the Lever bill (House bill 18160), and that we authorize the secretary of this association to send a copy of these resolutions to the chairmen of the Senate and House Committees on Agriculture and to Members of the Wisconsin delegation in Congress.'"

Secretary National Association of State Universities: "I am deeply interested in your Senate bill 4563. The bill ought to pass, and I should be glad to cooperate with you in any way within my power to bring about the desired result."

Mr. W. O. Thompson, member executive committee Association of American Agricultural Colleges and Experiment Stations and president Ohio State University: "As chairman of the executive committee of the Association of American Agricultural Colleges and Experiment Sta-

tions I should be very much pleased to be heard before the committees of both the House and Senate. As a little evidence of our interest, I may say that we started agricultural extension four years before the legislature authorized it, and had as many as 8,000 boys on the farms doing experimental work. * * * The Agricultural College Association expressed itself very decidedly last November in favor of agricultural extension."

Secretary New England Conference on Rural Progress: "At a meeting of the New England Conference on Rural Progress, March 8, at the offices of the State board of agriculture, statehouse, Boston, the following resolutions were unanimously voted:

"'Recognizing the latent possibilities of the New England States for agricultural development, especially along certain high-class, specialized lines, and realizing that this development can be most speedily and effectively brought about through well-organized extension teaching in agriculture, the New England Conference on Rural Progress—representing more than 70 organizations interested in rural life—to-day assembled in convention in the city of Boston, would respectfully urge upon Congress the necessity and advisability of passing legislation granting Federal funds for the development of extension teaching in agriculture. Of the bills now before Congress we believe Senate bill 4563 and House bill 18160 to be the wisest and most practical forms of legislation yet proposed.'

"The delegates represent the agricultural colleges, the experiment stations, the State granges, and various special agricultural, live stock, dairying, and other organizations and agencies of New England."

State superintendent of farmers' institutes, Lansing, Mich.: "At the Michigan State Round-up Farmers' Institute, held at this place on February 27 to March 1, at which representative farmers from more than 50 of the counties of the State were present, the following resolution was adopted:

"'Whereas Representative A. F. LEVER, of the seventh district of South Carolina, has introduced a bill to establish agriculture extension departments in connection with agricultural colleges in the several States receiving the benefits of an act approved July 2, 1862, and acts supplementary thereto, and referred to the Committee on Agriculture: Therefore

"'*Resolved*, That the members of the Seventeenth Annual Farmers' Institute Round-up, in session at the Michigan Agricultural College, ask and urge its Senators and Members of Congress to favor the passage of this bill.'

"I would say that, in addition to the above delegates, the executive officers of the State Grange, State Federation of Farmers' Clubs, State Horticultural Society, and nearly 1,000 farmers were present and voted unanimously for the resolution."

Editor Agricultural Epitomist, Spencer, Ind.: "I congratulate you on so far-reaching a measure as Senate bill 4563 is intended to be. If Congress does nothing else than pass this bill, it will justify the wisdom of the forefathers."

UNION CITY, GA., *February 26, 1912.*

Dr. A. M. SOULE
(*Care Hon. Hoke Smith*), *Washington, D. C.:*

Resolutions adopted by Georgia Farmers' Union that the bills now pending in Congress which propose to appropriate a sum of money to each State for agricultural education, providing the State will appropriate a similar amount, known as House bill 18160 and Senate bill 4563, be heartily indorsed and supported.

J. F. MCDANIEL, *Secretary-Treasury.*

The committee recommends the passage of the bill as it came from the House, with only the following amendment:

On page 5, line 14, strike out the words "duly appointed by the governing boards of said colleges," and insert "of the State, duly authorized by the laws of the State."

During the reading of the report,

Mr. SMOOT. Mr. President, I should like to ask the Senator from Georgia if he would be satisfied to have the report printed in the RECORD without further reading?

Mr. SMITH of Georgia. There are a few suggestions I desire to make about it a little later on. This is the noon hour, and I would rather let the reading continue for the present, because when Senators get through with their lunch the probabilities are that there will be more of them in the Senate Chamber a little later on.

Mr. SMOOT. I thought there were so few in the Chamber that it would make no difference to the Senator if the report were printed in the RECORD without further reading.

The PRESIDING OFFICER. The Senator from Georgia requests that the reading be completed.

After the reading of the report had been concluded,

Mr. SMITH of Georgia. Mr. President, the Senator from Vermont [Mr. PAGE] has a substitute which he intends to offer to the pending bill, and I think this would probably be an appropriate time for him to offer it.

Mr. PAGE. I move, touching the bill now before the Senate, House bill 22871, to strike out all after the enacting clause and substitute what I send to the desk.

Mr. SMITH of Georgia. Before the Secretary reads the substitute, I would like to say to the Senate that under the provisions of the bill which the House has passed, to make the appropriations effective, with the exception of $10,000 to each State, duplicate appropriations must come from the respective States. It is also necessary that the States should accept the plan.

Nearly every State in the Union has its legislature in session at the present time. A number of the States will have no legislatures in session again for two years. It is, therefore, of very great importance that this House bill should pass as speedily as possible, so that the legislatures of the respective States may at once take up the subject of the acceptance of the provisions of the bill and of the appropriations which the respective States must make.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. WORKS. If no Senator desires to discuss this joint resolution, I ask that the unfinished business be temporarily laid aside. It would be an excellent opportunity for discussion, if Senators desire.

The PRESIDING OFFICER. The Senator from California asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none. The Senator from Georgia will proceed.

Mr. SMITH of Georgia. Mr. President, I only desire at this time to urge upon the Senate the importance of speedy action upon this bill. The Senator from Vermont has offered as a substitute the measure which has been pending for some time before the Senate, known as the Page vocational-educational bill. Whether the Senate adopts his substitutes or adopts the original bill, if we are to have legislation at this session of Congress it is important that action should be speedily taken.

Of course if the Senate adopts the substitute of the Senator from Vermont, it must go to conference, and we will see what can be done as a result of the conference. If the Senate adopts the bill as it has passed the House, we have the legislation certain, the House already having acted upon it.

But whatever may be the vote of the Senate, whether for the substitute of the Senator from Vermont or for the bill as it comes from the House, I wish to beg that the Senate give very speedy time for the hearing. If the bill passes as it comes from the House and we notify the States at once, nearly every State in the Union will through its legislature act upon this matter within the next two months.

I will not discuss the merits of the two measures just now, but I wish to ask Senators to consider whether we may not fix a day, within the next two or three days, when we will take up and dispose of this bill, together with the substitute of the Senator from Vermont. I do not think the debate would last long. I should like to request the Senator from Vermont to state what he thinks about it.

Mr. PAGE. I would be very glad, indeed, to know that the Senate would take up this substitute measure and discuss it at length, but I regret to say that my efforts to bring about a discussion have not yet been successful. I had hoped, and I join with the Senator from Georgia in the opinion, that there will not be much discussion on this measure. I also am very anxious that it shall receive early consideration, as suggested by the Senator from Georgia.

Mr. SMITH of Georgia. Mr. President——

Mr. GALLINGER. Will the Senator yield to me for a moment?

Mr. SMITH of Georgia. Certainly.

Mr. GALLINGER. I observe the Senator from Vermont suggested that he would like to have the bill discussed at length and then modified his statement. It seems to me that no lengthy discussion is needed. The Senator from Vermont has made one or two very illuminating speeches, and the Senator from Georgia is now discussing the measure. I am not quite sure how I shall vote, but this is a very important matter, and it does seem to me that we ought to get a vote without any very lengthy discussion of it.

Mr. SMITH of Georgia. I do not think I will wish to take over half an hour. I spoke before very briefly upon the House bill. The bill of the Senator from Vermont contains also, in a modified form, the measure which has been sent us from the House. As I understand it, no one is opposed to the agricultural extension work. We are all for that.

Mr. GALLINGER. It is a mere question of form, rather than substance

Mr. SMITH of Georgia. Well, as to the form, it is not so important. The real difference between the substitute of the Senator from Vermont and the House bill is whether just at this time we shall stop with the agricultural extension work or whether we are ready now to undertake to go further with the vocational educational work, and also whether we are satisfied with the measure for vocational educational work as it is presented.

I wish to disclaim opposition to the vocational educational work. I am for it. To-night the Senator from Vermont and I are to meet with a gentleman whom he regards as a special master of this subject to see if there is objection to the way in which the proposed substitute for the House bill provides vocational education.

I hope to be able while I am in the Senate to vote for a vocational educational bill. I have some doubt as to the details of this particular bill, but I am——

Mr. GALLINGER. If the Senator will permit me just a moment——

Mr. SMITH of Georgia. Certainly.

Mr. GALLINGER. I did not mean when I said it was a matter of form that there was no difference in the details. I understand perfectly the difference in the bills, and it is for the Senate to decide which, in the judgment of the Senate, is the better measure. Personally, while I am very strongly in favor of some legislation, I trust the suggestion the Senator has just made that there is to be a consultation may result in a compromise bill.

Mr. SMITH of Georgia. I wish to say that the Senator from Vermont has been just as courteous about his bill as a man possibly could be. He has urged me to suggest amendments where I felt there was just criticism. But I have not been able to satisfy myself about just what shape the measure should take. I would rather see his substitute pass and go to conference than not to have either the substitute or the original bill pass. I do not think the debate upon the bill will last two hours if we set a time for action upon it.

Mr. SMOOT. I suggest to the Senator that perhaps we can get to a vote at an earlier date by not agreeing upon a time. If there is to be no discussion and the Senate is ready to vote, it seems to me to be more likely that we can vote upon it at a much earlier date than if we should set a day at some future time.

Mr. SMITH of Georgia. Unless we set a date just a couple of days off. I think a good many Senators who are now absent wish to be present when the vote is taken. I stated to the Senator from Vermont and to the Senator from Utah that I would not undertake to press the bill to a vote to-day, because I understood there were Senators interested in the measure who would be absent.

Mr. SMOOT. That is true. Therefore it would be better not to ask for a unanimous-consent agreement at this time to fix a day. I believe that the quicker way to secure the passage of the bill would be to bring it up and discuss it, and when the discussion is through to vote on it.

Mr. SMITH of Georgia. Mr. President, just a word or two further to the Senate with reference to the subject.

The substitute that has been offered contains about seven or eight different provisions for the contribution of money to educational work. The first is to schools of a secondary grade, what we would usually term high schools. They are divided into two classes, those that have an equipment or a plant for manual training and those that have not. It appropriates $3,000,000 to be used toward the introduction of vocational work, manual training, and household economics into the latter class of schools. Then it puts $3,000,000 into those that have plants especially for vocational education. So $6,000,000 is to go to the secondary schools, which are the high schools, half of it to those that have a special plant or equipment for manual training or industrial schools exclusively and the other half to schools of secondary grade, even though they are generally engaged in high-school educational work free from vocational training.

It also appropriates money to the colleges of agriculture to establish a chair for the education of teachers on these lines. It also appropriates money to establish a chair in the normal schools for the training of teachers on these lines. It appropriates money for additional experiment stations throughout the States. It appropriates money to establish an agricultural high school in each congressional district.

These are the elements of appropriation which the substitute contains that are not covered by the House bill. In all, the Page substitute appropriates $13,000,000 for the purposes named not covered by the House bill. It also appropriates, in round sums, $3,000,000 to be used by the colleges of agriculture for the establishment of extension departments, to enable the colleges of agriculture and experiment stations to carry the information which they have gathered during the past 50 years and the truths that they have made clear by their experiment stations and demonstrate them alongside the home of the farmer.

The farm-demonstration work is one of seven things that the bill of the Senator from Vermont undertakes to do. That is the only thing the bill sent us by the House undertakes to do.

As to that particular work—the establishment of extension departments in the colleges of agriculture—each bill has exactly the same purpose. It might be said for the bill which has come to us from the House that it has been worked out a little more completely in detail and is in more perfect shape than the measure as it is found in the bill of the Senator from Vermont.

The friends of each measure approve the House bill. There is no conflict between us or between the advocates of either of the bills as to the wisdom of passing the House bill. The Page bill contains it as one of more than half a dozen things which it undertakes.

There is much that the Page bill undertakes to do that I am exceedingly desirous of seeing done. I am not satisfied that it is yet worked out in detail in a manner to suit the condition of the States and to justify the appropriations. If I had the control of both, and if I could satisfy the Senator from Vermont, I would say pass the House bill as it had been sent to us, and then pass a joint resolution and send it to the House providing for the appointment of a commission of about 25 men, each from a different State, two-thirds of them engaged in educational work, to whom the vocational bill might be referred, so that they could give us a more detailed plan for the work, with more perfect limitations as to the way in which the money is to be spent.

But I do not expect to make any fight upon the bill of the Senator from Vermont. I simply wish to point out the trouble in my mind upon it. I am so cordially in favor of doing something in that line that I hesitate even to criticize its details.

Now, I suppose the substitute of the Senator from Vermont will be read.

The PRESIDING OFFICER. The Senator from Vermont [Mr. PAGE] has offered Senate bill No. 3 as a substitute for House bill 22871. The substitute bill, as the Chair recalls it, has already been read, and it will be considered as read now.

Mr. PAGE. I am not positive that it has been read in its present form.

The PRESIDING OFFICER. The Chair is so informed.

Mr. PAGE. The Secretary will know.

Mr. GALLINGER. I think it has been read.

The PRESIDING OFFICER. It has been read.

Mr. PAGE. Mr. President, I wish to say in answer to what the Senator from Georgia has said—and I will take just a moment—that so far as I am concerned I am willing to submit my amendment to his bill to a vote this afternoon; but perhaps that had best not be done, because I have no doubt the Senator and myself can get together in a friendly way and discuss it to-night and improve the measure in some way. But as far as I am concerned I would be glad to have the earliest possible date named for a vote on the bill.

The PRESIDING OFFICER. Without objection, the substitute will be considered as having been read, and it is pending.

The amendment submitted by Mr. PAGE is to strike out all after the enacting clause of the bill and to substitute the following:

CONSTRUCTION.

That the following words and phrases, as hereafter used in this act, shall, unless a different meaning is plainly required by the context, have the following meanings:

First. "School of secondary grade" or "secondary school" or "high school" shall mean a school offering studies and courses of lower than college grade which are designed to provide vocational education in agriculture and home making for persons above 12 years of age and in the trades and industries for persons above 14 years of age; and which, by courses of training approved under the provisions of this act, give vocational instruction in all-day classes to those persons who are preparing for agricultural, industrial, or home-making occupations; or in part-time and continuation classes to persons engaged in or experienced in agricultural, industrial, or home-making vocations; or in evening classes to persons above 16 years of age employed during the day in the respective vocations for which they are given instruction.

Second. "State college of agriculture and the mechanic arts" shall mean a college now receiving, or which may hereafter receive, the benefits of the act of Congress of July 2, 1862, entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts" and of acts supplementary thereto.

Third. "Agricultural-extension department or division" shall mean a department or division which is established under the provisions of this act and under the direction of a State college of agriculture and the mechanic arts in any State, and which gives instruction and demonstrations in agriculture and home economics to persons not residing at said college nor at the district agricultural schools provided for in this act and which conveys or imparts to such persons information on such subjects through field demonstrations, publications, and otherwise.

Fourth. "Separate industrial or home economics school" shall mean a school fitting for useful service in the trades and industries and the home, and having a separate plant and equipment, and separate organization of teachers and courses of study.

Fifth. "District agricultural high school" shall mean a separate agricultural school of secondary grade, in a district composed of a group of counties, and located on a farm.

Sixth. "Branch station" shall mean a branch of a State experiment station conducting field tests and breeding work, and located on a district agricultural high-school farm.

APPROPRIATIONS.

SEC. 2. That the several sums as herein provided in section 3 to section 10, inclusive, be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be paid, as hereinafter provided, to the respective States and the District of Columbia and to the Federal departments named herein, for instruction in agri-

culture, the trades and industries, and home economics, for agricultural tests and demonstrations, and for administrative purposes.

SEC. 3. That for the maintenance of instruction in agriculture, the trades and industries, and home economics in departments or divisions of schools of secondary grade, other than the separate industrial or home economics schools and the separate district agricultural high schools for which provision is hereinafter made, the sum of $3,000,000 annually, beginning with the fiscal year ending June 30, 1916, such sum to be allotted annually to the States and the District of Columbia in proportion to their population as shown by the Federal census next preceding the year for which such allotment is made. The moneys appropriated under this section shall be known as the secondary school department fund.

SEC. 4. That for the maintenance of instruction in the trades and industries and home economics in separate industrial or home economics schools of secondary grade, the sum of $3,000,000 annually, beginning with the fiscal year ending June 30, 1916, such sum to be allotted annually to the States and the District of Columbia in proportion to their population engaged in trades and transportation and in manufacturing and mechanical pursuits as shown by the Federal census next preceding the year for which such allotment is made. The moneys appropriated under this section shall be known as the industrial or home economics school fund.

SEC. 5. That for the maintenance of instruction in agriculture and home economics in district agricultural high schools of secondary grade as hereinafter provided, the sum of $3,000,000 annually, beginning with the fiscal year ending June 30, 1916, such sum to be allotted annually to the States in proportion to the number of persons engaged in agricultural pursuits as shown by the Federal census next preceding the year for which such allotment is made; and for each State with less than 100,000 people engaged in agriculture, according to such Federal census, the additional sum of $5,000 for the fiscal year ending June 30, 1916, and annually thereafter. The moneys appropriated under this section shall be known as the district agricultural high-school fund.

SEC. 6. That for the maintenance of branch stations, as provided for in this act, the sum of $1,000,000 annually, beginning with the fiscal year ending June 30, 1916, to be allotted annually to the States in proportion to the number of persons engaged in agricultural pursuits as shown by the Federal census next preceding the year for which such allotment is made; and for the maintenance of such branch stations in each State with less than 100,000 people engaged in agriculture, according to such Federal census, the additional sum of $2,000 for the fiscal year ending June 30, 1916, and annually thereafter. The moneys appropriated under this section shall be known as the branch-station fund.

SEC. 7. That for the support in each State college of agriculture and the mechanic arts of an extension department or division, the sum of $640,000 annually, beginning with the fiscal year ending June 30, 1913, of which annual appropriation $10,000 shall be allotted to each of the 48 States for the benefit of such extension departments; and for the maintenance of such extension departments, the additional sum of $400,000 for the fiscal year ending June 30, 1914; the additional sum of $700,000 for the fiscal year ending June 30, 1915; the additional sum of $1,000,000 for the fiscal year ending June 30, 1916; the additional sum of $1,300,000 for the fiscal year ending June 30, 1917; the additional sum of $1,600,000 for the fiscal year ending June 30, 1918; the additional sum of $1,900,000 for the fiscal year ending June 30, 1919; the additional sum of $2,200,000 for the fiscal year ending June 30, 1920; the additional sum of $2,500,000 for the fiscal year ending June 30, 1921, and annually thereafter; these additional sums to be allotted annually to the States in proportion to their population engaged in agriculture, as shown by the Federal census next preceding the year for which such allotment is made. The moneys appropriated under this section shall be known as the extension work fund.

SEC. 8. That for the preparation of teachers to give instruction in or closely related to agriculture, the trades and industries, and home economics, in departments or divisions of education in the State colleges of agriculture and the mechanic arts of the respective States, the sum of $640,000 for the fiscal year ending June 30, 1913, and annually thereafter; of which annual appropriation $20,000 shall be allotted for the use and benefit of said departments or divisions of education in land-grant colleges in each of the 16 States which maintain separate land-grant colleges for persons of the colored race, $10,000 of which shall be for the education of persons of the white race and $10,000 for the education of persons of the colored race; and $10,000 shall be annually allotted for the use and benefit of said departments or divisions of education in each of those States which do not maintain separate land-grant colleges for persons of the colored race. The moneys appropriated under this section shall be known as the college teachers' training fund.

SEC. 9. That for the preparation of teachers to give instruction in or closely related to agriculture, the trades and industries, and home economics in State normal schools and in other schools furnishing special training for teachers, the sum of $1,000,000 annually, beginning with the fiscal year ending June 30, 1913, to be allotted annually to the States and the District of Columbia in proportion to their population as shown by the Federal census next preceding the year for which such allotment is made; and, for such instruction as in this section is provided, in each State with less than 300,000 inhabitants the additional sum of $3,000 for the fiscal year ending June 30, 1913, and annually thereafter. The moneys appropriated under this section shall be known as the normal teachers' training fund.

SEC. 10. That the sum of $40,000 annually, beginning with the fiscal year ending June 30, 1913, to be expended under the direction of the Secretary of the Interior in paying the necessary expenses of administering the provisions of this act relating to schools of secondary grade and to the preparation of teachers in agriculture, trades and industries, and home economics; the sum of $20,000 annually, beginning with the fiscal year ending June 30, 1913, to be expended under the direction of the Secretary of Agriculture in paying the necessary expenses of administering the provisions of this act relating to extension departments or divisions and branch stations; the sum of $15,000 annually, beginning with the fiscal year ending June 30, 1913, to be expended by the Secretary of Agriculture in paying the necessary expenses of giving advice and assistance, as herein provided, to the Secretary of the Interior in the administration of the provisions of this act relating to all schools of secondary grade giving training in agriculture and home economics, and to the preparation of teachers in these vocations; the sum of $15,000 annually, beginning with the fiscal year ending June 30, 1913, to be expended under the direction of the Secretary of Commerce and Labor in paying the necessary expenses of giving advice and assistance, as herein provided, to the Secretary of the Interior in the administration of the provisions of this act relating to instruction in the trades and industries and to the preparation of teachers for these vocations. The moneys appropriated under this section shall be known as the administration fund.

SEC. 11. That the Secretary of the Interior is hereby charged with the duty, and to him is hereby given all necessary power, to administer the provisions of this act relating to all schools of secondary grade and to the preparation of teachers in agriculture, the trades and industries, and home economics as herein provided; to secure advice and assistance from the Secretary of Agriculture and the Secretary of Commerce and Labor in carrying out the provisions of this act, in the making of investigations concerning education in the industries, home economics, and agriculture, and in the making of reports thereon; to cooperate with the State boards for vocational education herein provided for the respective States and the District of Columbia in developing the work of such secondary schools and in the training of such teachers; and to give to such boards for vocational education such advice and assistance as will best enable them to carry out the provisions of this act.

SEC. 12. That the Secretary of Agriculture is hereby charged with the duty, and to him is hereby given all necessary power to administer the provisions of this act relating to extension departments and branch stations; to make investigations and studies relating to the work of such departments and branch stations, and to issue reports thereon; to cooperate with the authorities of the State colleges of agriculture and the mechanic arts and the State experiment stations in developing the work of such departments and branch stations and in giving such State experiment stations such advice and assistance as will best enable them to carry out the provisions of this act; and to aid the Secretary of the Interior by giving advice and assistance to him in carrying out the provisions of this act relating to instruction in agriculture and home economics in schools of secondary grade and to the preparation of teachers for these vocations, and to make such investigations in relation to agriculture and home economics and such reports thereon as may be necessary in discharging this responsibility.

SEC. 13. That the Secretary of Commerce and Labor is hereby charged with the duty, and to him is hereby given all necessary power to aid the Secretary of the Interior by giving advice and assistance to him in carrying out the provisions of this act relating to instruction in the trades and industries in schools of secondary grade and to the preparation of teachers for these vocations, and to make investigations relating to education and research in the trades and industries and issuing reports thereon.

SEC. 14. That in order to secure the benefits of any fund provided for in this act any State shall, through the legislative authority thereof, accept the provisions of this act relating to such fund, and shall appoint the State treasurer custodian, to be known as custodian for vocational education, for all moneys received by such State under this act, and shall provide for the proper custody, administration, and disbursement of such moneys, as herein provided; and the District of Columbia shall, through the commissioners thereof, accept the provisions of this act, and shall appoint a custodian of all the moneys received by the District of Columbia under this act, to be known as custodian for vocational education, and shall provide for the proper custody, administration, and disbursement of such moneys. Any State or the District of Columbia may accept the benefit of any one or more of the respective funds herein appropriated to it, and may defer the acceptance of the benefit of any one or more of such funds, and shall be required to meet only the conditions imposed in relation to those funds the benefit of which it has accepted.

SEC. 15. That no State or the District of Columbia shall be entitled to the benefit of the secondary-school department fund, the industrial or home-economic school fund, the district agricultural high-school fund, the college teachers' training fund, or the normal teachers' training fund until the legislative authority thereof shall, by law, have created or designated a board of control, to be known as the board for vocational education, consisting of not less than three members, and having all necessary power to cooperate with the Secretary of the Interior in the administration of the provisions of this act relating to such schools of secondary grade and to such training of teachers; and such a board for vocational education for any State or the District of Columbia may consist of the board of education or other body having charge of the administration of public education therein.

SEC. 16. That no State shall be entitled to the benefit of the district agricultural high-school fund until it has, through the legislative authority thereof or through its board for vocational education, divided the State into districts, providing in each district for one district agricultural high school and in connection therewith a branch station, the total number of such districts and branch stations in a given State to be not less than one for each 15 counties nor more than one for each 5 counties and fraction of 5 counties; and in any State where separate district agricultural high schools are provided for the negro race the legislative authority of such State may divide the entire State into districts, providing in each district for one such school for the white race, and may divide the entire State into other and different districts, which need not be coterminous with those for the white race, providing in each such district for one school for the negro race; but the total number of such schools for the white and the negro races in such a State shall not be less than one for each 15 counties nor more than one for each 5 counties or fraction of 5 counties. Any district agricultural high school shall be open to admission without tuition charges and upon the same conditions to all persons, otherwise qualified as herein provided, residing in the district in which such school is located; but such school may be supported and controlled by the State, or by the district in which it is located, or by a portion thereof.

SEC. 17. That no State shall be entitled to the benefit of the branch station fund until its legislative authority shall, by law, have provided for one branch station in connection with each district agricultural high school receiving funds under this act, and shall have provided as an appropriation for the annual maintenance of such branch stations a sum at least equal to that allotted annually for this purpose to the State under this act; and the sum paid to each State for branch stations shall be applied only to paying the necessary expenses of conducting, by such branch stations, field tests, plant breeding, and other scientific work bearing directly on the occupation of agriculture in the United States, having due regard for the varying conditions and needs of the respective States.

SEC. 18. That no State shall be entitled to any part or all of its allotment for extension department work until its legislative authority shall, by law, provide for the establishment of an extension department or division in the State college of agriculture and the mechanic arts as herein provided, and shall have provided as an appropriation for that work an amount at least equal to the amount annually allotted to the State for such extension work under this act.

SEC. 19. In order to secure the benefit of the secondary school department fund, the industrial or home economics school fund, the district agricultural school fund, the college teachers' training fund, or the normal teachers' training fund, the board for vocational education for each State and the District of Columbia shall adopt, with the approval of the Secretary of the Interior, and place in operation a general administrative scheme or plan, with such modifications as may be made from time to time, for the proper distribution of moneys to school of secondary grade and to colleges and normal schools as herein provided; for the inspection and approval of such schools and colleges under the provisions of this act; and for the formulation and application in such inspection and approval of standards and requirements in vocational education as to types of schools, location, course of study, qualifications of teachers, methods of instruction, conditions of admission, and employment of pupils. In order that such a plan may be adapted to the needs of the State or the District of Columbia in which it is to become operative, the Secretary of the Interior shall, in passing upon it and its modifications from time to time, take into consideration the social, economic, industrial, educational, and administrative conditions, and all other relevant circumstances in such a State or the District of Columbia. It shall be the duty of such board for vocational education for any State or the District of Columbia to make annually to the Secretary of the Interior a full and detailed report of its administration of the provisions of this act relating to all such schools of secondary grade and to the training of teachers in colleges and normal schools as herein provided, and to make such additional statements and reports as may be required by the Secretary of the Interior in the discharge of his responsibility under this act.

SEC. 20. That it shall be the duty of the board of trustees or other authority having charge of any State college of agricultnre and the mechanic arts receiving the benefit of the extension work fund to administer the provisions of this act relating to such extension work, under general plans approved by the Secretary of Agriculture; to cooperate with the Secretary of Agriculture in the development of such work; to make to the Secretary of Agriculture a full and detailed report of its operations in the direction of extension work as defined in this act, including a detailed statement of receipts and expenditures from all sources for this purpose, and to make such additional statements and reports as may be required by the Secretary of Agriculture in the discharge of his responsibility for such extension work under this act.

SEC. 21. That it shall be the duty of the board of trustees or other authority having charge of any State experiment station receiving the benefit of the branch station fund to administer the branch station work herein provided in accordance with the provisions of this act and as a part of such State experiment station, under general plans approved by the Secretary of Agriculture; to cooperate with the Secretary of Agriculture in the development of the work of such branch stations; to make to the Secretary of Agriculture a full and detailed report of all its operations in branch station work as defined in this act, including a detailed statement of receipts and expenditures from all sources for this purpose, and to make such additional statements and reports as may be required by the Secretary of Agriculture in the discharge of his responsibility for such branch stations under this act.

SEC. 22. That any school of secondary grade, or school or college for the preparation of teachers in agriculture, the trades and industries, and home economics, receiving funds under this act in any State or the District of Columbia shall, in order to receive the benefits of this act, conform to the requirements of the board for vocational education of such State or the District of Columbia; shall cooperate with such board in the development of the work of such school or college as herein provided; shall make to the board for vocational education of such a State or the District of Columbia a full and detailed report of its operations in the administration of the funds received by it under this act, including a detailed statement of receipts and expenditures from all sources for this purpose; and shall make such additional statements and reports as may be required by such board for vocational education in the discharge of its responsibility for such school under this act.

SEC. 23. That in order that any State or the District of Columbia may receive the benefit of the secondary-school department fund, the industrial and home-economics school fund, the district agricultural high-school fund, the college teachers' training fund, or the normal teachers' training fund under this act, it shall be the duty of the custodian for vocational education of such State or the District of Columbia, as herein provided, to make annually to the board for vocational education of such State or the District of Columbia a full and detailed report of his administration of the moneys received by him from such fund, as herein provided; and in order that any State may receive the benefit of the extension-work fund or the branch-station fund under this act it shall be the duty of such custodian to make annually to the Secretary of Agriculture a full and detailed report of his administration of the moneys received by him from such fund as herein provided, and to make from time to time such additional statements and reports relating to moneys received by him from the secondary-school department fund, the industrial and household arts school fund, the district agricultural high-school fund, the college teachers' training fund, or the normal teachers' training fund as may be required by such board for vocational education, and such additional statements and reports relating to moneys received by him from the extension-work fund or the branch-station fund as may be required by the Secretary of Agriculture in the discharge of their respective responsibilities under this act.

SUPPORT.

SEC. 24. That the Secretary of the Interior shall annually, upon the basis of the annual reports and recommendations made by the board for vocational education for any State or the District of Columbia, together with such additional investigations as he may make in the discharge of his responsibility, ascertain whether such State or the District of Columbia is using the moneys received by it out of the secondary school department fund, the industrial or home economics school fund, the district agricultural high school fund, the college teachers' training fund, or the normal teachers' training fund, in accordance with the terms of this act. On or before the 1st day of July in each year after this act becomes operative he shall certify to the Secretary of the Treasury as to each State or the District of Columbia whether it has complied with the provisions of this act and is entitled to receive its share of such fund, as herein provided, for such State or the District of Columbia and the amounts from such fund which each State or the District of Columbia is entitled to receive. Upon the certification of the Secretary of the Interior, as herein provided, the Secretary of the Treasury shall pay quarterly in advance to the custodian for vocational education of such State or the District of Columbia the moneys to which it is entitled for such schools under this act. Upon the requisition of the board for vocational education of such State or the District of Columbia, such custodian shall pay to the governing board of any school of secondary grade, or school or college preparing teachers in agriculture, the trades and industries, and home economics, or other authority legally qualified to receive moneys for such school or college the sum which it is entitled to receive under the provisions of this act.

SEC. 25. That the Secretary of Agriculture shall annually ascertain through investigations and reports whether the States receiving the benefit of the extension work fund or the branch station fund under the provisions of this act are using the funds granted to them in accordance with the terms of this act. On or before the 1st day of July in each year after this act becomes operative he shall certify to the Secretary of the Treasury as to each State whether it has complied with the provisions of this act and is entitled to receive its share of such extension work fund or such branch station fund herein provided for such State, and the amounts which each State is entitled to receive from such fund. Upon the certification of the Secretary of Agriculture herein provided, the Secretary of the Treasury shall pay quarterly in advance to the custodian for vocational education of such State the moneys to which such State is entitled for extension departments and branch stations under this act. Upon the requisition of the board of trustees or other board of control of any State college of agriculture and the mechanic arts or of any State experiment station of any State, such custodian shall pay to the treasurer or other officer duly appointed by such board of control the moneys to which such college or State experiment station is entitled under the provisions of this act.

SEC. 26. That the secondary school department fund shall be used only for distinctive studies in or closely relating to agriculture, the trades and industries, and home economics; the industrial or home economics school fund shall be used only for distinctive studies in or closely relating to the trades and industries and home economics; the district agricultural school fund of secondary grade shall be used only for distinctive studies in or closely relating to agriculture and home economics; the college teachers' training fund shall be used only by departments or divisions of education in these colleges and only in the preparation of teachers to give practical or technical instruction fitting for useful service in agriculture, the trades and industries, or the home; the normal teachers' training fund shall be used only for distinctive studies which are given in separate units organized as departments or divisions of State normal schools or other training schools under a properly qualified head, and which are designed to prepare teachers to give practical or technical instruction fitting for useful service in agriculture, the trades and industries, or home economics; the extension-work fund shall be used only for instruction and demonstrations in agriculture, home economics, and rural affairs; and the branch-station fund shall be used only for field tests, plant breeding, animal breeding, home economics, and other scientific work under plans approved by the directors of the State experiment stations of the respective States.

SEC. 27. That if any portion of the moneys received by the custodian for vocational education of any State or the District of Columbia under this act, for any given purpose named in this act, shall, by any action or contingency, be diminished, lost, or misapplied, it shall be replaced by such State or the District of Columbia, and until it is so replaced no subsequent appropriation for such purpose shall be paid to such State; no portion of any moneys appropriated under this act for the benefit of the States or the District of Columbia shall be applied, directly or indirectly, to the purchase, erection, preservation, or repair of any building or buildings or equipment, or to the purchase or rental of lands; and no portion of such moneys shall be expended other than in institutions supported and controlled by the public.

SEC. 28. That whenever it shall appear to the Secretary of the Interior, from the annual statement of receipts and expenditures of the custodian for vocational education of any State or the District of Columbia, that a portion of the preceding annual disbursement made to such State or the District of Columbia from the secondary-school department fund, the industrial or home economics school fund, the district agricultural high-school fund, the college teachers' training fund, or the normal teachers' training fund remains unexpended, a sum equal to such portion or amount shall be deducted by him from the next succeeding annual disbursement from such fund to such State or the District of Columbia; and whenever it shall appear to the Secretary of Agriculture, from the annual statement of receipts and expenditures of the custodian for vocational education of any State or the District of Columbia, that a portion of the preceding disbursement made to such State or the District of Columbia from the extension-work fund or the branch-station fund remains unexpended, a sum equal to such portion shall be deducted by him from the next succeeding annual disbursement from such fund to such State or the District of Columbia, in order that the amount of money distributed to any State or the District of Columbia from any fund provided for in this act shall not exceed the amount actually and necessarily required by the State for the purpose for which such money from such fund may be expended under the provisions of this act.

SEC. 29. That each State and the District of Columbia shall receive for the respective purposes herein provided only such portion of the full amount of any fund to which such State or the District of Columbia would otherwise be entitled as in the judgment of the Secretary of the Interior or of the Secretary of Agriculture, in the discharge of their respective responsibilities under this act, it has made ample preparations to use to advantage. And all such moneys as would otherwise be allotted to the respective States and the District of Columbia, but as are not so allotted by the Secretary of the Interior or the Secretary of Agriculture, shall remain in the Treasury.

SEC. 30. That the Secretary of the Interior may withhold a certificate from any State or the District of Columbia for the whole or any part of its annual allotment of money for schools of secondary grade, or for the training of teachers in agriculture, the trades and industries, and home economics to which he decides it not to be entitled under the provisions of this act; and the Secretary of Agriculture may withhold a certificate from any State for the whole or any part of its annual allotment for extension departments or branch stations to which he decides it not to be entitled under the provisions of this act. If the Secretary of the Interior or the Secretary of Agriculture, as herein provided, shall withhold a certificate from any State or the District of Columbia for the whole or any part of its allotment, the facts and reasons therefor shall be reported to the President, in order that the State or the District of Columbia may, if it shall so desire, appeal to Congress from the determination of the Secretary of the Interior or the Secretary of Agriculture. If the next Congress shall not direct such sum to be paid, it shall be covered into the Treasury.

SEC. 31. That the moneys received by any State or the District of Columbia for any given purpose under the provisions of this act shall be used only for such purpose, and shall be distributed among the institutions entitled to the benefit of such moneys in proportion to the amount which each expends out of other income derived from general

or from local public funds for the same purpose during the same period; or such money shall be distributed on some other basis and according to some other plan previously adopted by the Board for Vocational Education or by legislative authority for such State or the District of Columbia, with the approval of the Secretary of the Interior; but there shall in no case be disbursed under the terms of this act to any school or college, out of moneys derived from the secondary school department fund, the industrial or home economics school fund, the district agricultural school fund, the college teachers' training fund, or the normal teachers' training fund, as provided in this act, more money than 50 per cent of the amount which is supplied and expended during the same period for the same purpose for which such fund is to be expended out of either State and local or State or local public moneys.

SEC. 32. That all States, Territories, and the District of Columbia accepting the benefit of any fund under this act shall provide other moneys with which to pay the cost of providing the necessary lands and buildings, and to pay the entire cost of all instruction, supplementary to the practical and technical instruction provided for in this act, necessary in order to complete well-rounded courses of training, the main purposes of which are to give vocational as well as general preparation for agriculture, the trades and industries, and home making, or to prepare teachers for these vocations, suited to the needs of the respective sections and communities of the United States.

SEC. 33. That all correspondence for the furtherance of extension work, as provided for in this act, issued from the State colleges of agriculture and the mechanic arts, receiving the benefits of this act shall be transmitted in the mails of the United States and dependencies free of charge for postage, under such regulations as the Postmaster General may from time to time prescribe.

SEC. 34. That the Secretary of the Interior shall make an annual report to Congress on his administration of the secondary school department fund, the industrial and household arts school fund, the district agricultural high school fund, the college teachers' training fund, and the normal teachers' training fund, under the provisions of this act, and on the work of the boards for vocational education of each State and the District of Columbia in their administration of the moneys received from such funds under the provisions of this act; and he shall make one or more reports to Congress not later than June 30, 1915, concerning the organization of vocational education as provided for in this act.

SEC. 35. That the Secretary of Agriculture shall make an annual report to Congress on his administration of the extension department fund, and the branch station fund, and on the work of the boards of control of the colleges and experiment stations in their administration of the moneys received by them from such funds under the provisions of this act.

SEC. 36. That this act shall take effect immediately on its passage.

Mr. SMOOT. Mr. President, I wish to say that I shall vote for substituting Senate bill No. 3 for what is known as the Lever bill; but if that is carried and the Senate is to consider that bill, then I shall hope at least that, as the Lever bill refers only to extension work, it will be substituted for that part of Senate bill No. 3, because I believe that the Lever bill covers the extension department work in a much more satisfactory form than that work is covered under the Page bill. That can be done afterwards, if the Senate sees fit to substitute the Page bill for the Lever bill.

Mr. SMITH of Georgia. Or it can be done in conference.

Mr. PAGE. I wish to say in regard to that matter what I have said to the Senator from Georgia repeatedly, that the same purpose is aimed at, and if there is any way in which my bill could be amended to make good the purpose of his bill I would be very glad to have it done. I only ask that the fundamentals of the bill be maintained; and I shall hope that every Senator who can see any way to amend the bill in any detail will be prompt to move amendments to the substitute which I have offered.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Vermont [Mr. PAGE] to the bill.

Mr. BURTON. Mr. President, I desire to offer two amendments to the bill under consideration, House bill No. 22871. I ask to have them printed and lie on the table.

The PRESIDING OFFICER. The Senator from Ohio offers two amendments, and asks that they be printed and lie on the table.

Mr. PAGE. I wish that they might be read, if they are brief.

The PRESIDING OFFICER. Without objection, the amendments will be read.

The SECRETARY. At the end of section 2 strike out the period and add the words:

And farm-management work.

Mr. SMITH of Georgia. One moment, Mr. President. I think we would be glad to accept that amendment.

Mr. BURTON. I move its adoption.

Mr. GALLINGER. The substitute is pending.

The PRESIDING OFFICER. There is an amendment pending, the substitute offered by the Senator from Vermont.

Mr. SMITH of Georgia. This is an amendment to the original bill, and we have the right, of course, to perfect the original bill.

Mr. PAGE. Mr. President, a parliamentary inquiry. We are trying to make the measure acceptable, and so far as I am concerned, I would be glad to accept the amendment of the Senator from Ohio at this time.

The PRESIDING OFFICER. The Chair thinks as it is an amendment to the original bill and not to the substitute that it is in order to perfect the original bill.

Mr. GALLINGER. Yes; I beg pardon. I had the two bills confounded. It is evidently in order.

The PRESIDING OFFICER. The Secretary will again read the amendment proposed by the Senator from Ohio [Mr. BURTON].

The SECRETARY. At the end of section 2 strike out the period and insert the words:

And farm-management work.

Mr. GRONNA. Mr. President, I have no objection to this particular amendment. I had hoped the Senator from Vermont would ask that a day be fixed for the consideration of these two bills, and I also hope that all amendments presented now will be pending until such day as we may consider the bill.

Mr. PAGE. I had supposed the request to fix a time for the consideration of the bill should properly come from the Senator from Georgia, and I did not make that request.

Mr. SMITH of Georgia. I am just waiting to confer with Senators.

Mr. GRONNA. I understand that the bill is up for consideration now.

The PRESIDING OFFICER. It is now under consideration and open to amendment. An amendment is pending.

Mr. GRONNA. Very well.

The PRESIDING OFFICER. Does the Senator from Georgia accept the amendment offered by the Senator from Ohio [Mr. BURTON]?

Mr. SMITH of Georgia. I think, perhaps, at the suggestion of other Senators, it had better be printed, and that all the amendments lie on the table for the present.

Mr. CLARKE of Arkansas. Mr. President, I think the suggestion made by the Senator from North Dakota [Mr. GRONNA] an excellent one. For the first time many of us have come face to face with a situation that requires us to familiarize ourselves in absolute detail as to the difference between the two bills and the general purposes that they are to accomplish. It may be that there are some features in one that are excellent not contained in the other that we would desire to include in a composite bill if we had the opportunity, but if it is submitted now as a single question to take one or the other we may be deprived of that opportunity.

I think it a good idea to have all the amendments that are offered pending as well as the proposition to substitute the Page bill for the Lever bill, and when we come to deal with that on some fixed day we will then be prepared to know just exactly whether we want to substitute one bill or a part of it for the other, or take a part of one and a part of the other. It will contribute to a more intelligent disposition of the matter which everybody ought to feel an interest in, and I assume every Senator does feel an interest in it. Because of my own deficiencies in that respect, and I assume others are in the same fix that I am, I quite earnestly hope that it will be the pleasure of the Senate to agree to the suggestion made by the Senator from North Dakota.

Mr. PAGE. I ask that the second amendment, submitted by the Senator from Ohio [Mr. BURTON], may be read.

The PRESIDING OFFICER. The second amendment, submitted by the Senator from Ohio, will be read.

The SECRETARY. It is proposed to add at the end of section 9:

And he shall have authority to coordinate the extension work contemplated in this act with the agricultural demonstration work now being conducted by the United States Department of Agriculture.

The PRESIDING OFFICER. Without objection, this amendment will be printed and lie on the table for consideration with the substitute and the original bill. What is the pleasure of the Senate?

DEBORAH A. GRIFFIN AND MARY J. GRIFFIN.

Mr. JONES. While Senators are conferring with reference to the bill under consideration, I ask unanimous consent that the Senate consider the bill (S. 7785) confirming titles of Deborah A. Griffin and Mary J. Griffin, and for other purposes. It is purely a local measure.

The PRESIDING OFFICER. The Senator from Washington asks unanimous consent for the present consideration of the bill, which will be read for the information of the Senate.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

Mr. CULBERSON. From what committee does that bill come?

Mr. JONES. From the Committee on Public Lands.

The bill was reported from the Committee on Public Lands with amendments.

The first amendment was, in section 1, page 1, line 4, after the word "allotment," to insert "in accordance with the provisions of the act of July 4, 1884 (23 Stat. L., 79)," and on page 2, line 2, after the name "Mary J. Griffin," to insert "and trust patent issue thereon under the provisions of the act of March 8, 1906 (34 Stat. L., 55)," so as to make the section read:

That the Secretary of the Interior be, and is hereby, authorized and directed to make an allotment, in accordance with the provisions of the act of July 4, 1884 (23 Stat. L., 79), of not more than 200 acres of land within the diminished Colville Indian Reservation, in the State of Washington, for the benefit of the heirs of Que-lock-us-soma, deceased, Moses agreement allottee No. 35, jointly, in lieu of the portion of the Moses agreement allotment No. 35 embraced within the patented homestead entries of Deborah A. Griffin and Mary J. Griffin, and trust patent issue thereon under the provisions of the act of March 8, 1906 (34 Stat. L., 55).

The amendment was agreed to.

The next amendment was, in section 2, page 2, line 13, after the word "quarter," to insert "of the southwest quarter," and in line 18, after the word "allotment," to strike out "for" and insert "of," so as to make the section read:

SEC. 2. That the patent in fee heretofore issued in the name of Deborah A. Griffin, June 30, 1906, for lots 1 and 2 and the northeast quarter southeast quarter section 6, and lots 1 and 2, section 5, township 36 north, range 27 east of the Willamette meridian; and a similar patent issued in the name of Mary J. Griffin, November 21, 1910, for the southeast quarter of the southwest quarter, and lots 5, 6, and 9 of section 31, township 37 north, range 27 east of the Willamette meridian, all situated in Okanogan County, Wash., be, and the same are hereby, confirmed and declared valid notwithstanding the previous allotment of a portion of this land under Moses agreement allotment No. 35.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

LICENSES OF DRIVERS OF PASSENGER VEHICLES.

Mr. GALLINGER. I ask unanimous consent for the present consideration of the bill (H. R. 22010) to amend the license law, approved July 1, 1902, with respect to licenses of drivers of passenger vehicles for hire.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

AGRICULTURAL EXTENSION DEPARTMENT.

Mr. SMOOT. Mr. President——

Mr. SMITH of Georgia. Mr. President, one word, if the Senator from Utah will allow me——

Mr. SMOOT. I yield to the Senator.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. SMITH of Georgia. Mr. President, I think now that it probably would be best to discontinue the consideration of the House bill for the creation of the extension divisions of the agricultural colleges; and, with the consent of the Senate, I will do so; but I desire to give notice that on Monday morning next, immediately after the morning business, I shall ask the Senate to again take up the bill for consideration, and at that time I shall endeavor to keep it before the Senate until a vote is had upon it. I do not ask unanimous consent, but simply give notice, so that Senators may all understand that the probability is that the bill will go forward on Monday to a vote, both upon the substitute and upon the original bill. I take this course in deference to the views of some of the Senators who are disposed to cooperate with me to give the bill a hearing on Monday and yet hesitate about making a unanimous-consent agreement.

EXECUTIVE SESSION.

Mr. SMOOT. I move that the Senate proceed to the consideration of executive business.

Mr. SMITH of Georgia. Mr. President, I do not think we have a quorum.

Mr. CULBERSON. Let us have an executive session.

Mr. CLARKE of Arkansas. Let us first have a quorum. I suggest the absence of a quorum.

The PRESIDING OFFICER. Pending the motion of the Senator from Utah [Mr. SMOOT], the Senator from Arkansas [Mr. CLARKE] suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bourne	Clapp	Curtis	Heiskell
Bradley	Clarke, Ark.	Dillingham	Hitchcock
Brandegee	Crane	Fletcher	Johnson, Me.
Bryan	Crawford	Gallinger	Johnston, Tex.
Burton	Culberson	Gore	Jones
Chamberlain	Cullom	Gronna	Kenyon
La Follette	Myers	Root	Stephenson
Lippitt	Newlands	Shively	Stone
Lodge	Oliver	Simmons	Sutherland
McCumber	Paynter	Smith, Ariz.	Swanson
McLean	Perkins	Smith, Ga.	Wetmore
Martin, Va.	Perky	Smith, Md.	
Martine, N. J.	Poindexter	Smoot	

The PRESIDING OFFICER. Fifty Senators have answered to their names. A quorum of the Senate is present. The question is on agreeing to the motion of the Senator from Utah, that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After two hours and three minutes spent in executive session, the doors were reopened, and (at 4 o'clock and 45 minutes) the Senate adjourned until to-morrow, Saturday, January 18, 1913, at 12 o'clock m.

NOMINATIONS.

Executive nominations received by the Senate January 17, 1913.

RECEIVERS OF PUBLIC MONEYS.

Elisha B. Wood, of Minnesota, to be receiver of public moneys at Cass Lake, Minn., his term expiring January 20, 1913. (Reappointment.)

Louis H. Arneson, of Oregon, to be receiver of public moneys at The Dalles, Oreg., his term having expired December 12, 1911. (Reappointment.)

APPOINTMENTS IN THE ARMY.

MEDICAL RESERVE CORPS.

To be first lieutenants with rank from January 16, 1913.

Frank Nicholas Cochems, of Colorado.
James Quitman Fountain, of Mississippi.
Edward Starr Judd, of Minnesota.
Joseph MacDonald, jr., of New Jersey.
Justus Matthews, of Minnesota.
Charles Horace Mayo, of Minnesota.
Irving David Steinhardt, of New York.

PROMOTIONS IN THE NAVY.

Medical Inspector Andrew R. Wentworth to be a medical director in the Navy from the 28th day of December, 1912, to fill a vacancy.

Surg. Edward S. Bogert, jr., to be a medical inspector in the Navy from the 28th day of December, 1912, to fill a vacancy.

Surg. Leckinski W. Spratling to be a medical inspector in the Navy from the 12th day of January, 1913, to fill a vacancy.

Machinist Adolph Peterson to be a chief machinist in the Navy from the 27th day of December, 1912, upon the completion of six years' service as a machinist.

Second Lieut. Robert W. Voeth to be a first lieutenant in the Marine Corps from the 22d day of August, 1912, to fill a vacancy.

POSTMASTERS.

ALABAMA.

Dallas B. Smith to be postmaster at Opelika, Ala., in place of Dallas B. Smith. Incumbent's commission expired January 11, 1913.

ARKANSAS.

Edward Bowers to be postmaster at De Witt, Ark., in place of Edward Bowers. Incumbent's commission expired January 14, 1913.

James N. Dowell to be postmaster at Danville, Ark. Office became presidential January 1, 1913.

CALIFORNIA.

Robert R. Allen to be postmaster at King City, Cal., in place of Robert R. Allen. Incumbent's commission expires February 20, 1913.

James T. Clayton to be postmaster at Elsinore, Cal., in place of James T. Clayton. Incumbent's commission expires January 20, 1913.

Lena O. Gregory to be postmaster at Rocklin, Cal., in place of Lena O. Gregory. Incumbent's commission expires January 20, 1913.

CONNECTICUT.

Edward E. Ashley to be postmaster at Plainfield, Conn. Office became presidential October 1, 1912.

Jerome S. Gainer to be postmaster at Norton Heights, Conn., in place of Jerome S. Gainer. Incumbent's commission expired January 11, 1913.

FLORIDA.

D. W. Burke to be postmaster at De Funiack Springs, Fla., in place of William C. Eddy. Incumbent's commission expires February 9, 1913.

GEORGIA.

Sallie S. Dailey to be postmaster at McDonough, Ga., in place of Samuel E. Dailey, deceased.

IDAHO.

A. L. Trenam to be postmaster at Weiser, Idaho, in place of Albert J. Hopkins. Incumbent's commission expired February 19, 1912.

ILLINOIS.

Lulu R. Anderson to be postmaster at Kirkland, Ill., in place of Lulu R. Anderson. Incumbent's commission expired January 11, 1913.

Philip H. Baker to be postmaster at Jonesboro, Ill., in place of Philip H. Baker. Incumbent's commission expired January 11, 1913.

Omer N. Custer to be postmaster at Galesburg, Ill., in place of Omer N. Custer. Incumbent's commission expired January 14, 1913.

Charles J. Ferguson to be postmaster at East Alton, Ill., in place of Charles J. Ferguson. Incumbent's commission expires February 20, 1913.

INDIANA.

Hattie Yarger to be postmaster at Wanatah, Ind., in place of Hattie Yarger. Incumbent's commission expired January 14, 1913.

IOWA.

Richard M. Boyd to be postmaster at Sanborn, Iowa, in place of Richard M. Boyd. Incumbent's commission expired January 11, 1913.

Clinton S. Grouse to be postmaster at Prescott, Iowa, in place of Clinton S. Grouse. Incumbent's commission expired January 11, 1913.

E. E. Heldridge to be postmaster at Milford, Iowa, in place of E. E. Heldridge. Incumbent's commission expires February 9, 1913.

James M. Hutcheson to be postmaster at Blanchard, Iowa, in place of James M. Hutcheson. Incumbent's commission expires February 9, 1913.

Chris Jensen to be postmaster at Graettinger, Iowa. Office became presidential January 1, 1912.

John M. Ryan to be postmaster at Eddyville, Iowa, in place of J. M. Crosson. Incumbent's commission expires February 9, 1913.

Thomas R. Shaw to be postmaster at Coin, Iowa, in place of Thomas R. Shaw. Incumbent's commission expires February 20, 1913.

Robert M. Willard to be postmaster at Lost Nation, Iowa, in place of Robert M. Willard. Incumbent's commission expired April 9, 1912.

KANSAS.

Charles E. Green to be postmaster at Effingham, Kans., in place of Charles E. Green. Incumbent's commission expires February 11, 1913.

LOUISIANA.

Lavinia Insley to be postmaster at Delhi, La., in place of Lavinia Insley. Incumbent's commission expires February 18, 1913.

Charles Manning to be postmaster at Cheneyville, La. Office became presidential January 1, 1913.

Adah Rous to be postmaster at Lake Providence, La., in place of Adah Rous. Incumbent's commission expires January 29, 1913.

MAINE.

Jacob F. Hersey to be postmaster at Patten, Me., in place of Jacob F. Hersey. Incumbent's commission expires January 20, 1913.

MASSACHUSETTS.

George A. Birnie to be postmaster at Ludlow, Mass., in place of George A. Birnie. Incumbent's commission expired January 11, 1913.

Lawrence W. Dower to be postmaster at Easthampton, Mass., in place of Lawrence W. Dower. Incumbent's commission expires February 11, 1913.

MICHIGAN.

R. F. Lemon to be postmaster at Harbor Springs, Mich., in place of R. F. Lemon. Incumbent's commission expired January 11, 1913.

Newton E. Miller to be postmaster at Athens, Mich., in place of Newton E. Miller. Incumbent's commission expired January 12, 1913.

Joseph H. Stephenson to be postmaster at Boyne Falls, Mich. Office became presidential January 1, 1913.

MINNESOTA.

John H. Frost to be postmaster at Minneota, Minn., in place of Gunnar B. Bjornson, resigned.

John P. Lundin to be postmaster at Stephen, Minn., in place of John P. Lundin. Incumbent's commission expired January 12, 1913.

Sterling V. Nixon to be postmaster at Eyota, Minn., in place of Rollo C. Dugan, resigned.

NEBRASKA.

Ray Hicks to be postmaster at Sargent, Nebr., in place of Similien L. Perin. Incumbent's commission expired March 31, 1912.

NEVADA.

Charles F. Littrell to be postmaster at Austin, Nev., in place of Charles F. Littrell. Incumbent's commission expired February 7, 1911.

NEW JERSEY.

W. Burtis Havens to be postmaster at Toms River, N. J., in place of W. Burtis Havens. Incumbent's commission expired December 18, 1911.

Charles D. Stainton to be postmaster at Englewood, N. J., in place of Charles D. Stainton. Incumbent's commission expired March 11, 1912.

NEW MEXICO.

R. E. Rowells to be postmaster at Clovis, N. Mex., in place of W. A. Davis, removed.

NEW YORK.

James P. Fulton to be postmaster at Stanley, N. Y. Office became presidential January 1, 1913.

OHIO.

Walter Elliott to be postmaster at Ada, Ohio, in place of Walter Elliott. Incumbent's commission expires January 26, 1913.

Guy M. Kingsbury to be postmaster at Dunkirk, Ohio, in place of Guy M. Kingsbury. Incumbent's commission expires February 11, 1913.

Henry G. Rock to be postmaster at Sherwood, Ohio. Office became presidential January 1, 1913.

Lawrence H. Warren to be postmaster at Ohio City, Ohio, in place of Sidney J. Winney, removed.

PENNSYLVANIA.

Joseph B. Colcord to be postmaster at Port Allegany, Pa., in place of Joseph B. Colcord. Incumbent's commission expired January 13, 1913.

Thomas J. Davis to be postmaster at Avoca, Pa., in place of Thomas J. Davis. Incumbent's commission expires February 9, 1913.

William Krause to be postmaster at Richland Center, Pa., in place of William Krause. Incumbent's commission expired January 12, 1913.

RHODE ISLAND.

Walter A. Kilton to be postmaster at Providence, R. I., in place of Walter A. Kilton. Incumbent's commission expires February 17, 1913.

SOUTH DAKOTA.

Peter R. Stading to be postmaster at Freeman, S. Dak. Office became presidential January 1, 1913.

TEXAS.

John J. Bartlett to be postmaster at Hughes Springs, Tex., in place of John J. Bartlett. Incumbent's commission expired April 28, 1912.

WASHINGTON.

Charles E. Gehres to be postmaster at Connell, Wash., in place of Emery Troxel, resigned.

George F. Russell to be postmaster at Seattle, Wash., in place of George F. Russell. Incumbent's commission expired December 9, 1912.

WISCONSIN.

Joseph Brehm to be postmaster at Rib Lake, Wis., in place of Duncan McLennan, deceased.

Donal P. Butts to be postmaster at Frederic, Wis., in place of Donal P. Butts. Incumbent's commission expires February 9, 1913.

George M. Carnachan to be postmaster at Bruce, Wis., in place of George M. Carnachan. Incumbent's commission expired January 12, 1913.

Arthur R. Curtis to be postmaster at National Home, Wis., in place of Matthew O'Regan, deceased.

Charles F. Fine to be postmaster at Hillsboro, Wis., in place of Charles F. Fine. Incumbent's commission expires February 18, 1913.

Ray Haggerty to be postmaster at Park Falls, Wis., in place of Ray Haggerty. Incumbent's commission expired December 14, 1912.

Charles F. Henrizi to be postmaster at Menomonee Falls, Wis., in place of Charles F. Henrizi. Incumbent's commission expired February 22, 1910.

Jessie P. Horan to be postmaster at Friendship, Wis. Office became presidential January 1, 1913.

Elizabeth K. Nevins to be postmaster at Bloomington, Wis., in place of Elizabeth K. Nevins. Incumbent's commission expired January 12, 1913.

Alfred S. Otis to be postmaster at Maiden Rock, Wis., in place of Alfred S. Otis. Incumbent's commission expired January 12, 1913.

WYOMING.

John T. Johnson to be postmaster at Superior, Wyo., in place of Henry Harris, resigned.

WITHDRAWAL.

Executive nomination withdrawn from the Senate January 17, 1913.

POSTMASTER.

Matthew O'Regan to be postmaster at National Home, in the State of Wisconsin.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January 17, 1913.*

The House met at 12 o'clock noon.

Rev. W. R. Wedderspoon, D. D., of Washington, D. C., offered the following prayer:

Almighty God, our heavenly Father, we bow before Thee with reverence and with devotion. We realize our own weaknesses and our limitations, and we come to the God of wisdom and of power and of blessing and of guidance. We pray that Thou wilt peculiarly bless these, Thy servants, this day as they meet here together in deliberation. Give them a portion of the wisdom that Thou Thyself dost contain. Grant Thy peculiar blessings to these in Thy presence and to their homes, and bless the Chaplain in his sickness, and all Members of the House who may be detained for the same reason to-day.

Hear us for all the high interests that dominate and control us. Bless our own land and all in authority over us, from the one who sits in the chief place to the lowest in life's affairs; and all who have positions of trust, may they seek to live in Thy sight and move in Thy fear. Hear us for our own blessed land, and for the lands of the earth, and hasten the time when men everywhere will be found before Thee clothed in their right mind and dwelling as brothers everywhere. We ask for the pardon of every transgression in the name of our Lord and Master. Amen.

The Journal of the proceedings of yesterday was read and approved.

Mr. MOORE of Pennsylvania. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The Chair will ask the gentleman to withhold his point of order until a few small matters may be disposed of.

Mr. MOORE of Pennsylvania. Certainly, Mr. Speaker, I will withhold the point of order for the present.

EUGENE C. BONNIWELL.

The SPEAKER. The Chair has in his possession two communications. One of them purports to be a notice of contest by Eugene C. Bonniwell against Mr. Butler, of the seventh Pennsylvania district. On examination of the document, however, it turns out not to be a notice of contest but to be something more in the nature of a memorial to this House, setting forth that the gentleman from Pennsylvania [Mr. BUTLER] ought to be expelled from the House. The Chair also has a copy of the reply of the gentleman from Pennsylvania [Mr. BUTLER], and without consuming any more time the Chair refers both papers to the Committee on Elections No. 1.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed with amendments bill of the following title, in which the concurrence of the House of Representatives was requested.

H. R. 26680. An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 7515. An act for the relief of Col. Richard H. Wilson, Fourteenth Infantry, United States Army;

S. 7508. An act to amend an act entitled "An act to reincorporate and preserve all the corporate franchises and property rights of the de facto corporation known as the German Orphan Asylum Association of the District of Columbia; and

S. 7415. An act granting to the Atchison, Topeka & Santa Fe Railway Co. a right of way through the Fort Wingate Military Reservation, in New Mexico, and for other purposes.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 7515. An act for the relief of Col. Richard H. Wilson, Fourteenth Infantry, United States Army; to the Committee on Claims.

S. 7508. An act to amend an act entitled "An act to reincorporate and preserve all the corporate franchises and property rights of the de facto corporation known as the German Orphan Asylum Association of the District of Columbia; to the Committee on the District of Columbia.

S. 7415. An act granting to the Atchison, Topeka & Santa Fe Railway Co. a right of way through the Fort Wingate Military Reservation in New Mexico, and for other purposes; to the Committee on Military Affairs.

EMANCIPATION ACT CELEBRATION.

Mr. FITZGERALD. Mr. Speaker, by direction of the Committee on Appropriations I report back Senate bill 180, providing for the celebration of the semicentennial anniversary of the act of emancipation, and for other purposes, and move that it be referred to the Committee on Industrial Arts and Expositions.

Mr. HEFLIN. Mr. Speaker, I ask unanimous consent to address the House on this proposition.

The SPEAKER. The motion itself is not debatable. The gentleman from Alabama has asked unanimous consent to address the House. For how long?

Mr. HEFLIN. For 10 minutes.

Mr. FITZGERALD. Mr. Speaker, I suggest that if the gentleman desires to address the House he also ask that some one on behalf of the Committee on Appropriations be granted the same privilege.

Mr. HEFLIN. Mr. Speaker, if some one from the Committee on Appropriations would like to address the House, I shall not object.

The SPEAKER. The gentleman from Alabama asks unanimous consent to address the House for 10 minutes on the motion of the gentleman from New York [Mr. FITZGERALD].

Mr. HAMILL. Mr. Speaker, reserving the right to object, I would ask the introducer of the measure to tell us just what are the purposes of it.

Mr. FITZGERALD. Mr. Speaker, I can not. The motion is not debatable unless unanimous consent is given by the House.

Mr. HEFLIN. Mr. Speaker, let me put the proposition in this way, that seven and one-half minutes be given to me and that seven and one-half minutes be given to some member of the Committee on Appropriations, the time to be in control of the chairman of that committee.

The SPEAKER. The Chair will state that the gentleman from Pennsylvania made the point of no quorum, and that is a right which the Chair feels very much like reserving.

Mr. MOORE of Pennsylvania. Mr. Speaker, I think the gentleman from Alabama had better withhold his request for the present, because I shall insist upon the point of order unless he does. There are some very important matters pending, which may be called up at any time, and I think there should be a quorum present.

The SPEAKER. This matter is not debatable.

Mr. MOORE of Pennsylvania. Then, Mr. Speaker, I object to the request of the gentleman, and make the point of order that there is no quorum present.

The SPEAKER. Evidently there is no quorum present.

Mr. FITZGERALD. Mr. Speaker, I move a call of the House.

The question was taken; and on a division (demanded by Mr. FITZGERALD) there were—ayes 72, noes 5.

So the motion was agreed to.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Aiken, S. C.	Fields	Lewis	Randell, Tex.
Ainey	Flood, Va.	Lindsay	Reyburn
Akin, N. Y.	Focht	Longworth	Riordan
Ames	Fordney	McCall	Scully
Ansberry	Fornes	McCoy	Sells
Barchfeld	George	McKellar	Smith, J. M. C.
Bathrick	Goeke	Maher	Smith, Cal.
Berger	Gould	Martin, Colo.	Sparkman
Burleson	Gregg, Pa.	Matthews	Speer
Carter	Hammond	Merritt	Stack
Cary	Harrison, N. Y.	Moon, Pa.	Sulloway
Conry	Henry, Conn.	Moore, Tex.	Talbott, Md.
Covington	Hill	Mott	Taylor, Ala.
Cravens	Howard	Needham	Taylor, Colo.
Currier	Howell	Nelson	Taylor, Ohio
Danforth	Howland	Oldfield	Townsend
Daugherty	James	Olmsted	Turnbull
Davis, Minn.	Johnson, Ky.	O'Shaunessy	Underwood
Davis, W. Va.	Kitchin	Palmer	Vare
De Forest	Konig	Parran	Vreeland
Dixon, Ind.	Lafean	Patten, N. Y.	Watkins
Driscoll, D. A.	Lafferty	Payne	White
Dwight	Langham	Peters	Wilson, Ill.
Dyer	Legare	Post	Wilson, N. Y.
Ellerbe	Lenroot	Pujo	Woods, Iowa
Fairchild	Levy	Rainey	

The SPEAKER. On this roll call 279 Members answered to their names, a quorum. The Doorkeeper will open the doors.

Mr. FITZGERALD. Mr. Speaker, I move to dispense with further proceedings under the call.

The question was taken, and the motion was agreed to.

Mr. HEFLIN. Mr. Speaker——

Mr. BURNETT. Mr. Speaker——

Mr. FITZGERALD. Mr. Speaker, there is a motion pending.

The SPEAKER. The motion pending is for a change of reference.

Mr. GARRETT. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. FITZGERALD] may have five minutes and the gentleman from Alabama [Mr. HEFLIN] may have five minutes in which to address the House on this motion.

The SPEAKER. The gentleman from Tennessee [Mr. GARRETT] asks unanimous consent that the gentleman from New York [Mr. FITZGERALD] and the gentleman from Alabama [Mr. HEFLIN] may each have five minutes to address the House on this change of reference. Is there objection?

Mr. FOSTER. Mr. Speaker, I would just inquire if those gentlemen desire this time to make a statement?

The SPEAKER. Yes. Is there objection? [After a pause.] The Chair hears none.

Mr. FITZGERALD. Mr. Speaker, I ask that the bill be read in my time.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

A bill (S. 180) providing for the celebration of the semicentennial anniversary of the act of emancipation, and for other purposes.

Be it enacted, etc., That whenever the President of the United States shall be satisfied that the Semicentennial American Emancipation Exposition Co., a corporation organized under the laws of the State of Georgia, has made provision for an exposition to be held during the year 1913, to illustrate the history, progress, and present condition of the Negro race, and to celebrate the fiftieth anniversary of the proclamation of emancipation by President Lincoln, on the 1st day of January, 1863, and that the said corporation has raised and secured money or property to the amount of not less than $50,000 for the purposes of such exposition, the President is authorized and respectfully requested to make proclamation of the time and place and purpose of such exposition and celebration and of such other information in relation thereto as he may deem expedient.

SEC. 2. That in furtherance of the object set forth in section 1 of this act there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $250,000, to be expended under rules and regulations to be prescribed by the Secretary of the Treasury and upon vouchers to be approved by him.

SEC. 3. That the location, plan and scope, designs for buildings, provisions for public health and comfort, and rules for the conduct of the business and affairs of the exposition shall be subject to the approval and control of the Secretary of Commerce and Labor, who shall exercise supervision over the exposition through such representatives of the department as he shall designate.

Mr. FITZGERALD. Mr. Speaker, this bill provides for extending aid to an exposition to be held to commemorate the fiftieth anniversary of the Emancipation Proclamation. Under the rules of the House the Committee on Industrial Arts and Expositions has jurisdiction of all matters concerning expositions, excepting revenue and appropriations. The Committee on Appropriations on consideration of this bill believed that before it would be justified in recommending an appropriation of $250,000 to assist an exposition company which has only to raise $50,000 some investigation should be made by the committee most familiar with, and which, under the rules of the House, has control of such matters, in order to determine how much, if any, aid should be rendered and what safeguards, if any, should be placed in the bill.

Not desiring to encroach upon the jurisdiction of other committees, the Committee on Appropriations directed me to report back the bill and to make the motion, which is now pending, to refer it to the Committee on Industrial Arts and Expositions.

Mr. Speaker, at various times there seems to have been an impression that the Committee on Appropriations desires to usurp the functions of other committees. During my service at the head of that committee it has endeavored, as far as possible, to distribute the work of the House in order that no committee will be deprived of any of its functions because of the activities of the Committee on Appropriations. I respectfully submit that in this instance the Committee on Industrial Arts and Expositions should be given an opportunity to perform its duties in accordance with the rules of the House. The object of the bill I believe to be most commendable; yet, because of the necessity of taking such precautions as would ordinarily be taken in legislation, the committee asks the House to make this reference.

The SPEAKER. The gentleman from Alabama [Mr. HEFLIN] is recognized for five minutes. [Applause.]

Mr. HEFLIN. Mr. Speaker, this unselfish and generous conduct on the part of the Committee on Appropriations has touched me deeply.

I must apologize for an impression that I have had regarding that committee. I have mistaken the zeal and jealous care with which the members of that committee have guarded its jurisdictional bounds. I had thought that when that committee once laid its hands on anything in the way of a bill it would never give its consent to release its hold in behalf of another committee claiming jurisdiction, and I have been of the opinion that in no instance would the Committee on Appropriations of its own motion deliver over to another committee for consideration a bill once in the sacred precincts of its jurisdiction—so unanimously and magnanimously as it has in referring to my committee this "emancipation" bill. [Laughter.]

Mr. Speaker, I have done the committee an injustice, and I hasten to apologize. [Laughter.] I am glad to make this acknowledgment and I desire to express my appreciation for this unasked for, unselfish, and generous action on the part of the Committee on Appropriations. [Laughter.] Mr. Speaker, if I should live until my head is as white as a Norwegian rat's back I could never make my gratitude to these gentlemen fully understood. [Laughter and applause.] On the tablets of my memory I shall write their names in letters that can not be obliterated. [Laughter and applause.]

Mr. Speaker, if the House in its wisdom ratifies the action of the Committee on Appropriations in delivering this bill over to the Committee on Industrial Arts and Expositions, I shall cheerfully acquiesce in that decision. I am chairman of that committee and I am reminded of the fellow who went half shot, uninvited, and unannounced into a ballroom on the second floor where the dance was on in full swing. He whirled in the maze of the misty dance until two able-bodied men seized him and escorted him to the door and hurled him down the stairway, bumping and bruising his head against the sidewalk. He arose, pulled himself together, and gazed for a moment at the angry gentlemen at the top of the stairway and said, "Gentlemen, you can fool some people, but you can't fool me. I know why you throwed me down from up thar. You throwed me down from up thar because you didn't want me up thar." [Loud applause and laughter.]

I am reminded of another story, Mr. Speaker. A gentleman owned a piece of land of 120 acres—hilly, rocky, and rough. He said he could work one side as well as the other, that it hung up like a slate. [Laughter.] He met a gentleman in the road with a yoke of steers, and he said, "I will give you 60 acres of land for your steers." He said, "Good." They went to a justice of the peace to make the deed to the land, and the man who owned the land had forgotten the name of the fellow who owned the steers, and the justice did not know it, so when they reached the place in the deed where it says, "I bargain, sell, and convey," he said to the fellow, "Write your name here." He said, "I can not write." Then the land man whispered to the justice and stood back behind the door and laughed. He went his way rejoicing, and when he reached his home he was still laughing, and his sister said, "What is the matter?" He said, "I gave a fellow 60 acres of land for these steers, and when I went to make the deed I found that he could not read and write, and I put the whole 120 acres off on him." [Applause and laughter.]

The SPEAKER. The time of the gentleman has expired.

Mr. LINTHICUM. Mr. Speaker, I move that the gentleman be allowed five minutes additional time.

The SPEAKER. The gentleman from Maryland [Mr. LINTHICUM] moves that the gentleman from Alabama [Mr. HEFLIN] have five minutes more. Is there objection?

Mr. MANN. Reserving the right to object, I would like to ask the gentleman whether this is more important than transacting business?

The SPEAKER. Is there objection?

Mr. HEFLIN. I want only two minutes.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. HEFLIN. Mr. Speaker, this too generous conduct on the part of this Appropriations Committee reminds me of another thing. I have read the beautiful story of two brothers, one of whom was a man with a family—a wife and several children—and the other was an old bachelor. These brothers had wheat fields on opposite sides of the road, and one moonlight night the old bachelor had reasoned in his heart that the brother with the family needed more wheat than he did, and he was down there moving shocks of wheat out of his field across the road into his brother's field. At the same time a little farther up the road the brother who had the family was moving shocks of wheat out of his field across the road into his brother's field, reasoning after this fashion that his brother was an old bachelor and had no family to comfort and make him happy, and he needed more of this world's goods for that reason. They happened to meet, and each fell upon the neck of the other expressing love and gratitude for the generosity displayed. [Laughter.]

I have not discovered any member of my committee bearing gifts and meeting gentlemen of the Appropriations Committee as they came bearing aloft this kindly gift to the Committee on Industrial Arts and Expositions. [Laughter.] Some of the members of this committee may feel like falling on the neck of the chairman of the Committee on Appropriations—not, however, for the same purpose that the brothers fell on each other's neck. [Applause and laughter.]

The SPEAKER. The time of the gentleman from Alabama has again expired.

Mr. HEFLIN. Mr. Speaker, having submitted these serious observations for the consideration of the House, I stand ready to accept its judgment and do its will regarding this re-referred bill. [Loud applause and laughter.]

The SPEAKER. The question is on agreeing to the motion to change the reference of the Senate bill from the Committee on Appropriations to the Committee on Industrial Arts and Expositions.

The motion was agreed to.

THE LATE SENATOR WILLIAM P. FRYE.

Mr. GUERNSEY. Mr. Speaker, I wish to present an order for memorial services.

The SPEAKER. The Clerk will report the resolution offered by the gentleman from Maine [Mr. GUERNSEY].

The Clerk read as follows:

Ordered, That Sunday, the 9th day of February, 1913, at 12 o'clock, be set apart for addresses on the life, character, and public services of Hon. WILLIAM P. FRYE, late a Senator from the State of Maine.

The SPEAKER. The Chair will state to the gentleman from Maine that the words "at 12 o'clock" will have to be stricken out there. Memorial services for another have already been ordered for that hour. Without objection, the words "at 12 o'clock" will be stricken out.

There was no objection.

The SPEAKER. The question is on agreeing to the order as amended.

The order was agreed to.

FORTIFICATION APPROPRIATION BILL.

Mr. SHERLEY, by direction of the Committee on Appropriations, reported the bill (H. R. 28186) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes, which was read a first and second time, referred to the Committee of the Whole House on the state of the Union, and, with the accompanying report (No. 1345), ordered to be printed.

Mr. MANN. Mr. Speaker, I reserve all points of order on the bill.

The SPEAKER. The gentleman from Illinois [Mr. MANN] reserves all points of order on the bill.

AMERICAN HOSPITAL OF PARIS.

Mr. CLAYTON. Mr. Speaker, I ask that the bill (S. 6380) to incorporate the American Hospital of Paris be taken from the Speaker's table, and that the House agree to the conference requested by the Senate.

The SPEAKER. The gentleman from Alabama [Mr. CLAYTON] asks that Senate bill 6380 be taken from the Speaker's table, and that the House agree to the conference requested by the Senate. The Clerk will read the title of the bill.

The Clerk read as follows:

An act (S. 6380) to incorporate the American Hospital of Paris.

Mr. CLAYTON. Mr. Speaker, I ask that the House agree to the conference requested by the Senate.

Mr. MANN. Mr. Speaker, may I ask the gentleman what is the Senate amendment?

Mr. CLAYTON. The Senate amendment lengthens the time. The time limit for the existence of this charter was 50 years in the bill as it passed the House. The Senate has lengthened it to 75 years.

The SPEAKER. The gentleman from Alabama moves that the House agree to the conference asked by the Senate on that bill. The question is on agreeing to that motion.

The motion was agreed to.

The SPEAKER. The Chair announces the following conferees, whose names the Clerk will report.

The Clerk read as follows:

Mr. CLAYTON, Mr. DAVIS of West Virginia, Mr. STERLING.

IMMIGRATION.

Mr. BURNETT. Mr. Speaker, I desire to call up the conference report on Senate bill 3175, an act to regulate the immigration of aliens to and the residence of aliens in the United States, and ask for the adoption of the report of the conference committee.

Mr. SABATH. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SABATH. As a member of the conference committee making the report who disagrees with the majority of the conferees, I desire to know whether I have the right to go on record as dissenting and protesting against this report? What I mean is as to going on record on the report that has been submitted.

Mr. GARDNER of Massachusetts rose.

The SPEAKER. The gentleman from Massachusetts is recognized.

Mr. GARDNER of Massachusetts. Mr. Speaker, I have no objection, but if I recollect the rules correctly a minority member of the managers on the part of the House has no right to make a supplementary report. That is my recollection.

Mr. MOORE of Pennsylvania. Mr. Speaker, may I ask, as a parliamentary inquiry, how much time will be permitted for the discussion of this report

The SPEAKER. That is not exactly a parliamentary inquiry. The House determines that. The Chair is of the impression that a minority Member, under the rules or precedents, can not file a minority report, although the Chair recollects that he himself, as a member of a conference committee, threatened to do it once on a very serious question.

Mr. MANN. I think I have never known minority views to be filed on a conference report during my service.

The SPEAKER. The Chair will state that he investigated that matter some years ago, because he was on a conference and there was a very bitterly contested proposition, and the present occupant of the chair then threatened to file a minority report. But the present occupant of the chair finally got what he wanted into the conference report and did not have to do that. He investigated the authorities as best he could at that time and found out that he could not make a minority report under the rules and precedents.

Mr. SABATH. I am in an unlike position, Mr. Speaker, in that I have not succeeded in getting all that I wanted in the conference report, though I have got everything else that I did not want.

The SPEAKER. The last part of the Chair's statement applies to that.

Mr. GARDNER of Massachusetts. Mr. Speaker, there is a direct ruling on the question——

The SPEAKER. The gentleman need not read it. The Chair rules that way. Of course, if the gentleman from Illinois [Mr. SABATH] does not sign the conference report, that shows prima facie that he is against it

Mr. SABATH. But I submit, Mr. Speaker, that that does not show that I am opposed to the report.

The SPEAKER. The remarks of the gentleman here this morning show that very conclusively. [Laughter.]

Mr. MOORE of Pennsylvania. May I ask the gentleman from Alabama [Mr. BURNETT], the chairman of the committee, whether he has arranged for the control of the time on the part of those who are opposed to the conference report?

Mr. BURNETT. I think in view of the pressure of other business we ought not to consume more than the hour which, I believe, is usually allowed in these cases, under the rule.

Mr. MOORE of Pennsylvania. It happens that on this side of the House I am the only member of the committee who is opposed to the report in some particulars.

Mr. BURNETT. The gentleman means that he is the only member of the Committee on Immigration and Naturalization on that side who is opposed?

Mr. MOORE of Pennsylvania. Yes. A number of gentlemen desire to speak in opposition to the report, which contains 24 pages of new matter that has never been considered by the House. As the bill left the House there was about a page and a half of printed matter upon which the House had acted. Now the conference committee returns with a recommendation involving 24 pages in fine italic print of new matter, which has been considered only by the conferees. It seems to me the gentleman ought to permit the discussion of this new matter, because it is of vital importance to a vast number of people in this country.

Mr. SABATH. Let me correct the gentleman. There are 59 pages of new matter that has not been considered by the House.

Mr. MOORE of Pennsylvania. Can not the gentleman agree to give a little more time to those who would like to speak on some phases of this report that have not been considered in the House at all?

The SPEAKER. The House itself determines the question of the length of debate on a conference report. Under the rule the gentleman from Alabama [Mr. BURNETT] will have an hour if he wants to use it, and he can move the previous question at any time within that hour. If he fails to do that, then any other gentleman who can get recognition from the Chair has an hour, and so on, ad infinitum. If the gentleman from Alabama [Mr. BURNETT] makes the motion for the previous question, and other gentlemen have not had as much time as they want, they have the privilege of voting his motion for the previous question down if there are enough of them to do it.

Mr. HAMILL. Mr. Speaker, in view of the statement made by the gentleman from Pennsylvania and indorsed by his colleague from Illinois [Mr. SABATH] regarding the large amount of new matter injected into the report that was not in the bill as it passed the House, I desire now to move—and I have the motion in writing—that consideration of this conference report be postponed for one week, until next Friday, January 24. I believe that motion is in order.

Mr. LANGLEY. The gentleman will remember that next Friday is pension day.

The SPEAKER. The gentleman from Alabama [Mr. BURNETT] has the floor.

Mr. GOLDFOGLE. Mr. Speaker——

Mr. MOORE of Pennsylvania. Mr. Speaker, a parliamentary inquiry.

Mr. BURNETT. I have not yielded for any motion.

Mr. MANN. I submit, Mr. Speaker, that no one has the floor yet. The gentleman from Alabama [Mr. BURNETT] has called up the conference report, and unless some one makes a motion—that can not be made yet—it is the duty of the Chair to have the conference report laid before the House and read.

The SPEAKER. Of course that is the proper course of procedure.

Mr. BURNETT. Mr. Speaker, I certainly had the floor, and these remarks are coming out of my time.

Mr. MANN. The gentleman can not retain the floor. All he does is to call up the conference report. He has the right to call it up, unless the question of consideration is raised, and then I think the Chair should direct that the conference report be read to the House.

The SPEAKER. That is exactly what the Chair was going to do.

Mr. CANNON. And the proper time to raise the question of consideration or to move to postpone to a day certain is before the beginning of the reading of the conference report.

Mr. MANN. After it has been reported and read, I take it.

Mr. MOORE of Pennsylvania. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MOORE of Pennsylvania. A moment ago, in answer to my question, the Speaker stated that the matter of the time for discussion was one to be determined by the House. It was then upon my mind to make a motion that a definite time be fixed for debate, but the gentleman from New Jersey [Mr. HAMILL] made a motion that there be a postponement of the consideration of the conference report until a day certain. I ask the Speaker now whether the question is for the House or whether the gentleman from Alabama [Mr. BURNETT] has the floor? If the gentleman from Alabama has the floor, that precludes it.

The SPEAKER. No Member has the floor until the report is read, and the Clerk will read it.

Mr. CANNON. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. CANNON. After the report is read it will be proper, if any Member desires to do so, to raise the question of consideration?

The SPEAKER. Undoubtedly.

Mr. CANNON. And not until that time to move to postpone to a day certain?

Mr. MANN. If he got the floor to make the motion.

The SPEAKER. After the report is read, then the question of consideration can be raised and also any of the motions that are permissible by the rule.

Mr. GARDNER of Massachusetts. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GARDNER of Massachusetts. Is it not also true, if, after the question of consideration is voted on, the gentleman moves to postpone to a day certain, the gentleman from Alabama can take the question away from him by moving the previous question at once as a motion of higher precedence than a motion to postpone?

Mr. MANN. I think that question ought not to be answered until it is reached.

The SPEAKER. The motion for the previous question is next to the highest motion to be made in the House.

Mr. GARDNER of Massachusetts. In that case does the Chair think there will be 40 minutes' debate after the previous question is moved and carried?

The SPEAKER. On any question where there has been no debate if the previous question is ordered there is 40 minutes debate.

Mr. GARDNER of Massachusetts. Then there would be no hardship done if the gentleman moved a postponement——

Mr. SHERLEY. Oh, Mr. Speaker, that is not a parliamentary inquiry.

The SPEAKER. The Chair thinks that is not a parliamentary inquiry, and the Chair will not pass upon it.

Mr. CANNON. Mr. Speaker, my reason for asking the question was to know what rights the Members of the House had. I do not want to see those rights sacrificed. There is a general complaint that this long bill is reported here for the first time, a report that I have not read myself, and I would like to know the proper time, first, for consideration, and, second, when a motion would be in order to postpone to a day certain, not to antagonize the consideration of the conference report, but to give the House an opportunity to look into it.

The SPEAKER. The Chair will state his view upon the matter. The first thing to do is to read the report so that Members may be informed as to what is attempted to be done. Anyone can raise the question of consideration. If consideration is determined on, then any of the motions that are permissible to be made, for instance, to postpone to a day certain, and so forth, will be in order, and the gentleman from Alabama will have a right to move the previous question, and there will be 40 minutes' debate, provided nobody debates it beforehand.

Mr. HAMILL. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. HAMILL. If the motion to postpone to a day certain is made, will that entitle the maker of the motion to 40 minutes' time in which to debate the motion?

The SPEAKER. No; the gentleman from Alabama [Mr. BURNETT], for instance, moves the previous question, and that gives 40 minutes' debate, provided nobody debates it before the motion is made. Naturally the gentleman from Illinois [Mr. SABATH] would be entitled to 20 minutes of that time, as he seems to be the chief one in opposition.

Mr. HAMILL. He would move the previous question on the motion to postpone to a day certain and not shutting off debate on the conference report.

The SPEAKER. It would be 40 minutes' debate on the conference report.

Mr. BARTLETT. Mr. Speaker, section 4 of Rule XVI says that a motion to postpone to a day certain is to be decided without debate.

The SPEAKER. The Chair thinks the gentleman from Georgia is mistaken about the interpretation of that rule.

The rule is:

When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motion shall be decided without debate), to postpone to a day certain.

And so forth. The motions to postpone to a day certain, to refer, or to amend are debatable.

Mr. GARDNER of Massachusetts. Mr. Speaker, another parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GARDNER of Massachusetts. If the gentleman from New Jersey makes a motion to postpone and subsequently, at once, the gentleman from Alabama moves the previous question, does the gentleman's motion take precedence, although it is made subsequent to the motion to postpone?

The SPEAKER. The Chair thinks so.

Mr. SHERLEY. Does the Chair mean by that that the motion for the previous question excludes the motion to postpone to a day certain?

The SPEAKER. No; that is the very question he is going to move the previous question on.

Mr. SHERLEY. The gentleman's motion seems to exclude the motion to postpone.

The SPEAKER. It is the motion to postpone that the gentleman proposes to order the previous question on.

Mr. MANN. Mr. Speaker, under the rule that says "which several motions shall have precedence in the foregoing order," would it not be in order, after a motion to postpone is made, to move the previous question on the conference report? That was the query that I understand was submitted.

Mr. GARDNER of Massachusetts. That is my query. Otherwise, there is no point in giving precedence under the rule.

Mr. MANN. I think the rule is quite plain, but I do not see why the Chair should be called upon to decide all of these things in advance on hypothetical propositions which may never arise.

The SPEAKER. The Chair agrees with the gentleman about that.

Mr. GARDNER of Massachusetts. Mr. Speaker, it is a very important question. I have always believed that that rule was unnecessary if the only question was who was active enough and vociferous enough to get on his feet first. The very purpose of the rule is that in case some one makes a motion of inferior preference, to wit, the motion to postpone the conference report, then somebody else may move a motion of superior preference, to wit, the previous question on the conference report.

Mr. MANN. It is too plain for argument.

The SPEAKER. The Chair will rule upon that, although it is out of time. The Chair does not believe that to move the previous question on the motion to postpone would automatically or in any other way order the previous question on the conference report itself. It seems to the Chair that that proposition is not tenable.

Mr. MANN. But supposing instead of moving the previous question on the motion to postpone the gentleman moves the previous question on the adoption of the conference report. It seems to me that under the rule he clearly has that right.

The SPEAKER. Then what becomes of the motion to postpone?

Mr. MANN. If the previous question is ordered on the conference report, that ends it.

Mr. GARDNER of Massachusetts. It goes out. The motion of superior preference takes its place.

Mr. MANN. If the previous question on the conference report is not ordered, then the motion to postpone comes before the House.

The SPEAKER. Provided the question of consideration is determined so that the conference report shall be considered, then the motion to postpone to a day certain is in order. A motion to order the previous question on that motion can then be made. That does not, in the opinion of the Chair, carry with it the conference report. If the House determines to consider the conference report, the Chair will recognize the gentleman from New Jersey [Mr. HAMILL] to make his motion to postpone. Then he will recognize the gentleman from Alabama [Mr. BURNETT] to move the previous question.

Mr. HAMILL. On what?

The SPEAKER. On the motion to postpone.

Mr. MANN. And, Mr. Speaker, if the Chair is making a ruling upon it, allow me to call attention to the rule. If consideration is ordered, then the conference report is before the House on a presumed motion to adopt the report, which is put without being made. Under the rules a motion to postpone would be in order, or a motion to amend is in order, and a motion to refer is in order. All three of them might be made if the previous question is not ordered on the conference report, but they are to be put in the order in which they have precedence.

The SPEAKER. That is true.

Mr. MANN. If you adopt a motion to postpone to a day certain, although you may have pending a motion to refer, you would dispose of the motion to refer by the adoption of the motion to postpone to a day certain. In the same way a motion for the previous question, having precedence over a motion to postpone, can be offered, and if the previous question be adopted—that is, Shall the main question be now put?—if agreed to, that disposes itself of the motion to postpone.

The SPEAKER. The Chair will ask the gentleman a question for information. Some gentleman makes a motion to postpone to a day certain. The previous question is moved on that motion. Does the gentleman from Illinois think it would be fair to the House to construe that motion as being a motion on the previous question on the bill?

Mr. MANN. Certainly not; but suppose, instead of moving the previous question on the motion to postpone, the gentleman moves the previous question on the motion to adopt the conference report, which has priority under the rules over the motion to postpone; having priority, it is in order.

The SPEAKER. The Chair will ask the gentleman another question: Was this privilege of making the motion to postpone put in the rule for amusement, or was it put in there to give somebody a right in the House?

Mr. MANN. There is a right to move to postpone as long as the previous question is not demanded or is not operating.

The SPEAKER. Has the gentleman any authority on that?

Mr. MANN. The rule itself says that, Mr. Speaker. I suggest, instead of the Speaker endeavoring to determine the matter at this time, that the report be read in the meantime, during which time the Speaker will have an opportunity to look into the question.

Mr. MOORE of Pennsylvania. Mr. Speaker, I call for the reading of the conference report.

Mr. LENROOT. Mr. Speaker, I would like to call attention to a ruling upon the point suggested by the Speaker.

The SPEAKER. The Chair suggests that that go over until we get this report read.

Mr. MOORE of Pennsylvania. Mr. Speaker, I call for a reading of the report.

The SPEAKER. The Clerk will read the report.

The Clerk read the report as follows:

CONFERENCE REPORT (NO. 1340).

The committee of conference on the disagreeing votes of the two Houses to the bill (S. 3175) entitled "An act to regulate the immigration of aliens to and the residence of aliens in the United States" having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

Strike out all of said amendment and insert in lieu thereof the following:

"An act to regulate the immigration of aliens to and the residence of aliens in the United States.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the word 'alien' wherever used in this act shall include any person not a native born or naturalized citizen of the United States, but this definition shall not be held to include Indians not taxed or citizens of the islands under the jurisdiction of the United States. That the term 'United States' as used in the title as well as in the various sections of this act shall be construed to mean the United States and any waters, territory, or other place subject to the jurisdiction thereof, except the Isthmian Canal Zone; but if any alien shall leave the Canal Zone and attempt to enter any other place under the jurisdiction of the United States, nothing contained in this act shall be construed as permitting him to enter under any other conditions than those applicable to all aliens. That the term 'seaman' as used in this act shall include every person signed on the ship's articles and employed in any capacity on board any vessel arriving in the United States from any foreign part or place.

"That this act shall be enforced in the Philippine Islands by officers of the General Government thereof designated by appropriate legislation of said Government.

"SEC. 2. That there shall be levied, collected, and paid a tax of $5 for every alien, including alien seamen regularly admitted as provided in this act, entering the United States. The said tax shall be paid to the collector of customs of the port of customs district to which said alien shall come, or, if there be no collector at such port or district, then to the collector nearest thereto, by the master, agent, owner, or consignee of the vessel, transportation line, or other conveyance or vehicle bringing such alien to the United States, or by the alien himself if he does not come by a vessel, transportation line, or other conveyance or vehicle. The tax imposed by this section shall be a lien upon the vessel or other vehicle of carriage or transportation bringing such aliens to the United States, and shall be a debt in favor of the United States against the owner or owners of such

vessel or other vehicle, and the payment of such tax may be enforced by any legal or equitable remedy. That the said tax shall not be levied on account of aliens who shall enter the United States after an uninterrupted residence of at least one year, immediately preceding such entrance, in the Dominion of Canada, Newfoundland, the Republic of Cuba, or the Republic of Mexico, nor on account of otherwise admissible residents of any possession of the United States, nor on account of aliens in transit through the United States, nor upon aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided*, That the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor, by agreement with transportation lines, as provided in section 23 of this act, may arrange in some other manner for the payment of the tax imposed by this section upon any or all aliens seeking admission from foreign contiguous territory: *Provided further*, That said tax, when levied upon aliens entering the Philippine Islands, shall be paid into the treasury of said islands, to be expended for the benefit of such islands: *Provided further*, That in the cases of aliens applying for admission from foreign contiguous territory and rejected, the head tax collected shall upon application be refunded to the alien: *Provided further*, That the provisions of this section shall not apply to aliens arriving in Guam or Hawaii; but if any such alien, not having become a citizen of the United States, shall later arrive at any port or place of the United States on the North American Continent the provisions of this section shall apply.

"SEC. 3. That the following classes of aliens shall be excluded from admission into the United States: All idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane within five years previous; persons who have had one or more attacks of insanity at any time previously; paupers; persons likely to become a public charge; professional beggars; vagrants; persons afflicted with tuberculosis in any form or with a loathsome or dangerous contagious disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living; persons who have committed a felony or other crime or misdemeanor involving moral turpitude; citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate; polygamists, or persons who admit their belief in the practice of polygamy; anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all forms of law, or who disbelieve in or are opposed to organized government, or who advocate the assassination of public officials; persons who are members of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocate or teach the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character; prostitutes, or women or girls coming into the United States for the purpose of prostitution or for any other immoral purpose; persons who procure or attempt to bring in prostitutes or women or girls for the purpose of prostitution or for any other immoral purpose; persons who are supported by or receive in whole or in part the proceeds of prostitution; persons hereinafter called contract laborers, who have been induced, assisted, encouraged, or solicited to migrate to this country by offers or promises of employment, whether such offers or promises are true or false, or in consequence of agreements, oral, written or printed, express or implied, to perform labor in this country of any kind, skilled or unskilled; persons who have come in consequence of advertisements for laborers printed, published, or distributed in a foreign country; persons who have been deported under any of the provisions of this act, and who may again seek admission within one year from the date of such deportation, unless prior to their reembarkation at a foreign port, the Secretary of Commerce and Labor shall have consented to their reapplying for admission; persons whose ticket or passage is paid for with the money of another, or who is assisted by others to come, unless it is affirmatively and satisfactorily shown that such person does not belong to one of the foregoing excluded classes; persons whose ticket or passage is paid for by any corporation, association, society, municipality, or foreign Government, either directly or indirectly; stowaways, except that any such stowaway may be admitted in the discretion of the Secretary of Commerce and Labor; all children under 16 years of age, unaccompanied by one or both of their parents, at the discretion of the Secretary of Commerce and Labor or under such regulations as he may from time to time prescribe; persons who can not become eligible, under existing law, to become citizens of the United States by naturalization, unless otherwise provided for by existing agreements as to passports, or by treaties, conventions, or agreements that may hereafter be entered into. The provision next foregoing, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, and travelers for curiosity or pleasure, nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section 19 of this act.

"That after four months from the approval of this act, in addition to the aliens who are by law now excluded from admission into the United States, the following persons shall also be excluded from admission thereto, to wit:

"All aliens over 16 years of age, physically capable of reading, who can not read the English language, or some other language or dialect, including Hebrew or Yiddish: *Provided*, That any admissible alien or any alien heretofore or hereafter legally admitted, or any citizen of the United States, may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to enter. That for the purpose of ascertaining whether aliens can read the immigrant inspectors shall be furnished with slips, of uniform size, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than 30 nor more than 40 words in ordinary use, printed in plainly legible type in the various languages and dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made, and shall be required to read the words printed on the slip in such language or dialect. No two aliens coming in the same vessel or other vehicle of carriage or transportation shall be tested with the same slip. That the following classes of persons shall be exempt from the operation of the illiteracy test, to wit: All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious persecution; all aliens in transit through the United States; all aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided*, That nothing in this act shall exclude, if otherwise admissible, persons convicted of an offense purely political, not involving moral turpitude: *Provided further*, That the provisions of this act relating to the payments for tickets or passage by any corporation, association, society, municipality, or foreign Government shall not apply to the tickets or passage of aliens in immediate and continuous transit through the United States to foreign contiguous territory: *Provided further*, That skilled labor, if otherwise admissible, may be imported if labor of like kind unemployed can not be found in this country, and the question of the necessity of importing such skilled labor in any particular instance may be determined by the Secretary of Commerce and Labor upon the application of any person interested, such application to be made before such importation, and such determination by the Secretary of Commerce and Labor to be reached after a full hearing and an investigation into the facts of the case: *Provided further*, That the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, ministers of any religious denomination, professors for colleges or seminaries, persons belonging to any recognized learned profession, or persons employed strictly as personal or domestic servants: *Provided further*, That whenever the President shall be satisfied that passports issued by any foreign Government to its citizens or subjects to go to any country other than the United States or to any insular possession of the United States or to the Canal Zone are being used for the purpose of enabling the holder to come to the continental territory of the United States to the detriment of labor conditions therein, the President shall refuse to permit such citizens or subjects of the country issuing such passports to enter the continental territory of the United States from such other country or from such insular

possessions or from the Canal Zone: *Provided further*, That nothing in this act shall be construed to prevent, hinder, or restrict any alien exhibitor, or holder of a concession or privilege for any fair or exposition authorized by act of Congress, from bringing into the United States, under contract, such alien mechanics, artisans, agents, or other employees, natives of his country, as may be necessary for installing or conducting his exhibit or for preparing for installing or conducting any business authorized or permitted under any concession or privilege which may have been or may be granted by any such fair or exposition in connection therewith, under such rules and regulations as the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may prescribe both as to the admission and return of such persons: *Provided further*, That nothing in this act shall be construed to apply to accredited officials of foreign Governments nor to their suites, families, or guests: *Provided further*, That nothing in this act shall exclude the wife or minor children of a citizen of the United States.

"SEC. 4. That the importation into the United States of any alien for the purpose of prostitution, or for any other immoral purpose, is hereby forbidden; and whoever shall, directly or indirectly, import, or attempt to import, into the United States any alien for the purpose of prostitution or for any other immoral purpose, or shall hold or attempt to hold any alien for any such purpose in pursuance of such illegal importation, or shall keep, maintain, control, support, employ, or harbor in any house or other place, for the purpose of prostitution or for any other immoral purpose, any alien, in pursuance of such illegal importation, shall in every such case be deemed guilty of a felony, and on conviction thereof shall be punished by imprisonment for a term of not more than 10 years and by a fine of not more than $5,000. Jurisdiction for the trial and punishment of the felonies hereinbefore set forth shall be in any district to or into which said alien is brought in pursuance of said importation by the person or persons accused, or in any district in which a violation of any of the foregoing provisions of this section occur. That any alien who shall, after he has been excluded and deported or arrested and deported in pursuance of the provisions of this act which relate to prostitutes, procurers, or other like immoral persons, attempt thereafter to return to or to enter the United States shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not more than two years. In all prosecutions under this section the testimony of a husband or wife shall be admissible and competent evidence against a wife or husband.

"SEC. 5. That it shall be unlawful for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation or in any way to induce, assist, encourage, or solicit the importation or migration of any contract laborer or contract laborers into the United States, unless such contract laborer or contract laborers are exempted under the provisions of section 3 of this act, and for every violation of any of the provisions of this section the person, partnership, company, or corporation violating the same shall forfeit and pay for every such offense the sum of $1,000, which may be sued for and recovered by the United States, or by any person who shall first bring his action therefor in his own name and for his own benefit, including any such aliens thus offered or promised employment as aforesaid, as debts of like amount are now recovered in the courts of the United States; or for every violation of the provisions hereof the person violating the same may be prosecuted in a criminal action for a misdemeanor, and on conviction thereof shall be punished by a fine of $1,000, or by imprisonment for a term of not less than six months nor more than two years; and under either the civil or the criminal procedure mentioned separate suits or prosecutions may be brought for each alien thus offered or promised employment as aforesaid.

"SEC. 6. That it shall be unlawful and be deemed a violation of section 5 of this act to induce, assist, encourage, or solicit any alien to come into the United States by promise of employment through advertisements printed, published, or distributed in any foreign country, whether such promise is true or false, and either the civil or the criminal penalty imposed by said section shall be applicable to such a case: *Provided*, That States or Territories, the District of Columbia, or places subject to the jurisdiction of the United States may advertise, and by written or oral communication with prospective alien settlers make known, the inducements they offer for immigration thereof, respectively.

"SEC. 7. That it shall be unlawful for any person, association, society, company, partnership, corporation, or others engaged in the business of transporting aliens to the United States, including owners, masters, officers, and agents of vessels, directly or indirectly, by writing, printing, or oral representation, to solicit, invite, or encourage any alien to come into the United States, and anyone violating any provision hereof shall be subject to either the civil or the criminal prosecution prescribed by section 5 of this act; or if it shall appear to the satisfaction of the Secretary of Commerce and Labor that there has been such a violation by an owner, master, officer, or agent of a vessel, such owner, master, officer, or agent shall pay to the collector of customs of the customs district in which the port of arrival is located or in which any vessel of the line may be found the sum of $400 for each and every such violation; and no vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, or while the fine imposed remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such questions upon the deposit with the collector of customs of a sum sufficient to cover such fine: *Provided further*, That whenever it shall be shown to the satisfaction of the Secretary of Commerce and Labor that the provisions of this section are persistently violated by or on behalf of any transportation company, it shall be the duty of said Secretary to deny to such company the privilege of landing alien immigrant passengers of any or all classes at United States ports for such a period as in his judgment may be necessary to insure an observance of such provisions: *Provided further*, That this section shall not be held to prevent transportation companies from issuing letters, circulars, or advertisements, confined strictly to stating the sailings of their vessels and terms and facilities of transportation therein.

"SEC. 8. That any person, including the master, agent, owner, or consignee of any vessel, who shall bring into or land in the United States, by vessel or otherwise, or shall attempt, by himself or through another, to bring into or land in the United States, by vessel or otherwise, or shall conceal or harbor, or attempt to conceal or harbor, or assist or abet another to conceal or harbor in any place, including any building, vessel, railway car, conveyance, or vehicle, any alien not duly admitted by an immigrant inspector or not lawfully entitled to enter or to reside within the United States under the terms of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $1,000, or by imprisonment for a term not exceeding two years, or by both such fine and imprisonment for each and every alien so landed or brought in or attempted to be landed or brought in.

"SEC. 9. That it shall be unlawful for any person, including any transportation company other than railway lines entering the United States from foreign contiguous territory, or the owner, master, agent, or consignee of any vessel, to bring to the United States any alien afflicted with idiocy, insanity, imbecility, epilepsy, tuberculosis in any form, or a loathsome or dangerous contagious disease, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any alien so brought to the United States was afflicted with any of the said diseases or disabilities at the time of foreign embarkation, and that the existence of such disease or disability might have been detected by means of a competent medical examination at such time, such person or transportation company, or the master, agent, owner, or consignee of any such vessel, shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $200 for each and every violation of the provisions of this section. It shall also be unlawful for any such person to bring to any port of the United States any alien afflicted with any mental or physical defect of a nature which may affect his ability to earn a living, as contemplated in section 3 of this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any alien so brought to the United States was so afflicted at the time of foreign embarkation, and that the existence of such mental or physical defect might have been detected by means of a competent medical examination at such time, such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $25 for each and every violation of this provision. It shall also be unlawful for any such person to bring to any port of the United States any alien who is unable to read or who can not become eligible, under existing law, to become a citizen of the United States by naturalization, as provided in section 3 of this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that these disabilities might have been detected by the exercise of reasonable precaution prior to the departure of such aliens from a foreign port such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $100 for each and every violation of this provision. And no vessel shall be granted clearance papers pending the determination of the question of the liability to the payment of such fine, or while the fine remains unpaid, nor shall such fine

be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such questions upon the deposit of a sum sufficient to cover such fine and costs, such sum to be named by the Secretary of Commerce and Labor.

"SEC. 10. That it shall be the mandatory and unqualified duty of every person, including owners, officers, and agents of vessels or transportation lines, other than those lines which may enter into a contract as provided in section 23 of this act, bringing an alien to any seaport or land border port of the United States to prevent the landing of such alien in the United States at any time or place other than as designated by the immigration officers, and the failure of any such owner, officer, or agent to comply with the foregoing requirements shall be deemed a misdemeanor and on conviction thereof shall be punished by a fine in each case of not less than $100 nor more than $1,000, or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment; or, if in the opinion of the Secretary of Commerce and Labor it is impracticable or inconvenient to prosecute the owner, master, officer, or agent of any such vessel, a pecuniary penalty of $1,000 shall be a lien upon the vessel whose owner, master, officer, or agent violates the provisions of this section, and such vessel shall be libeled therefor in the appropriate United States court.

"SEC. 11. That whenever he may deem such action necessary the Secretary of Commerce and Labor may, at the expense of the appropriation for the enforcement of this act, detail immigrant inspectors and matrons of the United States Immigration Service for duty on vessels carrying immigrant or emigrant passengers, or passengers other than first and second cabin passengers, between ports of the United States and foreign ports. On such voyages said inspectors and matrons shall remain in that part of the vessel where immigrant passengers are carried. It shall be the duty of such inspectors and matrons to observe such passengers during the voyage, and report to the immigration authorities in charge at the port of landing any information of value in determining the admissibility of such passengers under the laws regulating immigration of aliens into the United States. It shall further be the duty of such inspectors and matrons to observe violations of the provisions of such laws and the violation of such provisions of the 'passenger act' of August 2, 1882, as amended, as relate to the care and treatment of immigrant passengers at sea, and report the same to the proper United States officials at ports of landing. Whenever the Secretary of Commerce and Labor so directs, a surgeon of the United States Public Health Service, detailed to the Immigration Service, not lower in rank than a passed assistant surgeon, shall be received and carried on any vessel transporting immigrant or emigrant passengers, or passengers other than first and second cabin passengers, between ports of the United States and foreign ports. Such surgeon shall be permitted to investigate and examine the condition of all immigrant and emigrant passengers in relation to any provisions of the laws regulating the immigration of aliens into the United States, and such provisions of the 'passenger act' of August 2, 1882, as amended, as relate to the care and treatment of immigrant passengers at sea, and shall immediately report any violation of said laws to the master or commanding officer of the vessel, and shall also report said violations to the Secretary of Commerce and Labor within 24 hours after the arrival of the vessel at the port of entry in the United States. Such surgeon shall accompany the master or captain of the vessel in his visits to the sanitary officers of the ports of call during the voyage, and, should contagious or infectious diseases prevail at any port where passengers are received, he shall request all reasonable precautionary measures for the health of persons on board. Such surgeon on arrival at ports of the United States shall also, if requested by the examining board, furnish any information he may possess in regard to immigrants arriving on the vessel to which he has been detailed. While on duty such surgeons shall wear the prescribed uniform of their service and shall be provided with first-class accommodations on such vessel at the expense of the appropriation for the enforcement of this act. For every violation of this section any person, including any transportation company, owning or operating the vessel in which such violation occurs shall pay to the collector of customs of the customs district in which the next United States port of arrival is located the sum of $1,000 for each and every day during which such violation continues, the term "violation" to include the refusal of any person having authority so to do to permit any such immigrant inspector, matron, or surgeon to be received on board such vessel, as provided in this section, and also the refusal of the master or commanding officer of any such vessel to permit the inspections and visits of any such surgeon, as provided in this section, and no vessel shall be granted clearance papers pending the determination of the question of the liability of such fine, or while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of all such questions upon the deposit of a sum sufficient to cover such fine and costs, such sum to be named by the Secretary of Commerce and Labor.

"SEC. 12. That upon the arrival of any alien by water at any point within the United States on the North American Continent from a foreign port or a port of the Philippine Islands, Guam, Porto Rico, or Hawaii, or at any port of the said insular possessions from any foreign port, from a port in the United States on the North American Continent, or from a port of another insular possession of the United States, it shall be the duty of the master or commanding officer, owners, or consignees of the steamer, sailing, or other vessel having said alien on board to deliver to the immigration officers at the port of arrival lists or manifests made at the time and place of embarkation of such alien on board such steamer or vessel, which shall, in answer to questions at the top of said list, contain full and accurate information as to each alien as follows: Full name, age, and sex; whether married or single; calling or occupation, personal description (including height, complexion, color of hair and eyes, and marks of identification); whether able to read; nationality; country of birth; race; country of last permanent residence; name and address of the nearest relative in the country from which the alien came; seaport for landing in the United States; final destination, if any, beyond the port of landing; whether having a ticket through to such final destination; by whom passage was paid; whether going to join a relative or friend, and if so, what relative or friend, and his or her name and complete address; whether ever before in the United States, and if so, when and where; whether ever in prison or almshouse or an institution or hospital for the care and treatment of the insane or supported by charity; whether a polygamist; whether an anarchist; whether a person who believes in or advocates the overthrow by force or violence of the Government of the United States or of all forms of law, or who disbelieves in or is opposed to organized government, or who advocates the assassination of public officials, or is a member of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character; whether coming by reason of any offer, solicitation, promise, or agreement, express or implied, to perform labor in the United States; the alien's condition of health, mental and physical; whether deformed or crippled, and if so, for how long and from what cause; and such master or commanding officer, owners, or consignees shall also furnish information in relation to the sex, age, class of travel, and the foreign port of embarkation of arriving passengers who are United States citizens. That it shall further be the duty of the master or commanding officer of every vessel taking passengers from any port of the United States on the North American Continent to a foreign port or a port of the Philippine Islands, Guam, Porto Rico, or Hawaii, or from any port of the said insular possessions to any foreign port, to a port of the United States on the North American Continent, or to a port of another insular possession of the United States to file with the immigration officials before departure a list which shall contain full and accurate information in relation to the following matters regarding all alien passengers, and all citizens of the United States or insular possessions of the United States departing with the stated intent to reside permanently in a foreign country, taken on board: Name, age, and sex; whether married or single; calling or occupation; whether able to read; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States or insular possessions thereof; if a citizen of the United States or of the insular possessions thereof, whether native born or naturalized; intended future permanent residence; and time and port of last arrival in the United States, or insular possessions thereof; and such master or commanding officer shall also furnish information in relation to the sex, age, class of travel, and port of debarkation of the United States citizens departing who do not intend to reside permanently in a foreign country, and no master of any such vessel shall be granted clearance papers for his vessel until he has deposited such list or lists with the immigration officials at the port of departure and made oath that they are full and complete as to the name and other information herein required concerning each person of the classes specified taken on board his vessel; and any neglect or omission to comply with the requirements of this section shall

be punishable as provided in section 14 of this act: *Provided*, That in the case of vessels making regular trips to ports of the United States the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may, when expedient, arrange for the delivery of such lists of outgoing aliens at a later date: *Provided further*, That it shall be the duty of immigration officials to record the following information regarding every resident alien and citizen leaving the United States by way of the Canadian or Mexican borders for permanent residence in a foreign country: Name, age, and sex; whether married or single; calling or occupation; whether able to read; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States; intended future permanent residence; and time and port of last arrival in the United States; and, if a United States citizen, whether native born or naturalized.

"SEC. 13. That all aliens arriving by water at the ports of the United States shall be listed in convenient groups, the names of those coming from the same locality to be assembled so far as practicable, and no one list or manifest shall contain more than 30 names. To each alien or head of a family shall be given a ticket on which shall be written his name, a number or letter designating the list in which has name, etc., is contained, and his number on said list, for convenience of identification on arrival. Each list or manifest shall be verified by the signature and the oath or affirmation of the master or commanding officer, or the first or second below him in command, taken before an immigration officer at the port of arrival, to the effect that he has caused the surgeon of said vessel sailing therewith to make a physical and oral examination of each of said aliens, and that from the report of said surgeon and from his own investigation he believes that no one of said aliens is of any of the classes excluded from admission into the United States by section 3 of this act, and that also according to the best of his knowledge and belief, the information in said lists or manifests concerning each of said aliens named therein is correct and true in every respect. That the surgeon of said vessel sailing therewith shall also sign each of said lists or manifests and make oath or affirmation in like manner before an immigration officer at the port of arrival, stating his professional experience and qualifications as a physician and surgeon, and that he has made a personal examination of each of the said aliens named therein, and that the said list or manifest, according to the best of his knowledge and belief, is full, correct, and true in all particulars relative to the mental and physical condition of said aliens. If no surgeon sails with any vessel bringing aliens, the mental and physical examinations and the verifications of the lists or manifests shall be made by some competent surgeon employed by the owners of the said vessels, and the manifests shall be verified by such surgeon before a United States consular officer.

"SEC. 14. That it shall be unlawful for the master or commanding officer of any vessel bringing aliens into or carrying aliens out of the United States to refuse or fail to deliver to the immigration officials the accurate and full manifests or statements or information regarding all aliens on board or taken on board such vessel required by this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that there has been such a refusal or failure, or that the lists delivered are not accurate and full, such master or commanding officer shall pay to the collector of customs at the port of arrival or departure the sum of $10 for each alien concerning whom such accurate and full manifest or statement or information is not furnished, or concerning whom the manifest or statement or information is not prepared and sworn to as prescribed by this act. No vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, or while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine.

"SEC. 15. That upon the arrival at a port of the United States of any vessel bringing aliens it shall be the duty of the proper immigration officials to go or to send competent assistants to the vessel and there inspect all such aliens, or said immigration officials may order a temporary removal of such aliens for examination at a designated time and place, but such temporary removal shall not be considered a landing, nor shall it relieve the transportation lines, masters, agents, owners, or consignees of the vessel upon which said aliens are brought to any port of the United States from any of the obligations which, in case such aliens remain on board, would, under the provisions of this act bind the said transportation lines, masters, agents, owners, or consignees: *Provided*, That where removal is made to premises owned or controlled by the United States, said transportation lines, masters, agents, owners, or consignees, and each of them shall, so long as detention there lasts, be relieved of responsibility for the safekeeping of such aliens. Whenever a temporary removal of aliens is made the transportation lines which brought them and the masters, owners, agents, and consignees of the vessel upon which they arrive shall pay all expenses of such removal and all expenses arising during subsequent detention, pending decision on the aliens' eligibility to enter the United States and until they are either allowed to land or returned to the care of the line or to the vessel which brought them, such expenses to include those of maintenance, medical treatment in hospital or elsewhere, burial in the event of death, and transfer to the vessel in the event of deportation, excepting only where they arise under the terms of any of the provisos of section 18 thereof. Any refusal or failure to comply with the provisions hereof to be punished in the manner specified in section 18 of this act.

"SEC. 16. That the physical and mental examination of all arriving aliens shall be made by medical officers of the United States Public Health Service who shall have had at least two years' experience in the practice of their profession since receiving the degree of doctor of medicine, and who shall certify, for the information of the immigration officers and the boards of special inquiry hereinafter provided for, any and all physical and mental defects or diseases observed by said medical officers in any such alien; or, should medical officers of the United States Public Health Service be not available, civil surgeons of not less than four years' professional experience may be employed in such emergency for such service, upon such terms as may be prescribed by the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor. Medical officers of the United States Public Health Service who have had especial training in the diagnosis of insanity and mental defect shall be detailed for duty or employed at all large ports of entry, and such medical officers shall be provided with suitable facilities for the detention and examination of all arriving aliens in whom insanity or mental defects is suspected, and the services of interpreters shall be provided for such examination. That the inspection, other than the physical and mental examination, of aliens, including those seeking admission or readmission to or the privilege of passing through or residing in the United States, and the examination of aliens arrested within the United States under this act, shall be conducted by immigrant inspectors, except as hereinafter provided in regard to boards of special inquiry. Immigrant inspectors are hereby authorized and empowered to board and search for aliens any vessel, railway car, conveyance, or vehicle in which they believe aliens are being brought into the United States. Said inspectors shall have power to adminster oaths and to take and consider evidence touching the right of any alien to enter, reenter, pass through, or reside in the United States, and where such action may be necessary, to make a written record of such evidence; and any person to whom such an oath has been administered under the provisions of this act, who shall knowingly or willfully give false evidence or swear to any false statement in any way affecting or in relation to the right of any alien to admission, or readmission to, or to pass through, or to reside in the United States shall be deemed guilty of perjury and be punished as provided by section 125 of the act approved March 4, 1909, entitled "An act to codify, revise, and amend the penal laws of the United States." Any commissioner of immigration or inspector in charge shall also have power to require the attendance and testimony of witnesses before said inspectors and the production of books, papers, and documents touching the right of any alien to enter, reenter, reside in, or pass through the United States, and to that end may invoke the aid of any court of the United States, and any district court within the jurisdiction of which investigations are being conducted by an immigrant inspector may, in the event of neglect or refusal to respond to a subpœna issued by any commissioner of immigration or inspector in charge or refusal to testify before said immigrant inspector, issue an order requiring such person to appear before said immigrant inspector, produce books, papers, and documents is demanded, and testify; and any failure to obey such order of the court shall be punished by the court as a contempt thereof. That any person, including employees, officials, or agents of transportation companies, who shall assault, resist, prevent, impede, or interfere with any immigration official or employee in the performance of his duty under this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not less than six months nor more than two years, or by a fine of not less than two hun-

dred nor more than two thousand dollars; and any person who shall use any deadly or dangerous weapon in resisting any immigration official or employee in the performance of his duty shall be deemed guilty of a felony and shall on conviction thereof be punished by imprisonment for not less than 1 nor more than 10 years. Every alien who may not appear to the examining immigrant inspector at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for examination in relation thereto by a board of special inquiry. In the event of rejection by the board of special inquiry, in all cases where an appeal to the Secretary of Commerce and Labor is permitted by this act, the alien shall be so informed and shall have the right to be represented by counsel or other advisor on such appeal. The decision of an immigrant inspector, if favorable to the admission of any alien, shall be subject to challenge by any other immigrant inspector, and such challenge shall operate to take the alien whose right to land is so challenged before a board of special inquiry for its investigation.

"SEC. 17. That boards of special inquiry shall be appointed by the commissioner of immigration or inspector in charge at the various ports of arrival as may be necessary for the prompt determination of all cases of immigrants detained at such ports under the provisions of the law. Each board shall consist of three members, who shall be selected from such of the immigrant officials in the service as the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, shall from time to time designate as qualified to serve on such boards. When in the opinion of the Secretary of Commerce and Labor the maintenance of a permanent board of special inquiry for service at any sea or land border port is not warranted, regularly constituted boards may be detailed from other stations for temporary service at such port, or, if that be impracticable, the Secretary of Commerce and Labor shall authorize the creation of boards of special inquiry by the immigration officials in charge at such ports, and shall determine what Government officials or other persons shall be eligible for service on such boards. Such boards shall have authority to determine whether an alien who has been duly held shall be allowed to land or shall be deported. All hearings before such boards shall be separate and apart from the public. Such boards shall keep a complete permanent record of their proceedings and of all such testimony as may be produced before them; and the decision of any two members of a board shall prevail, but either the alien or any dissenting member of the said board may appeal through the commissioner of immigration at the port of arrival and the Commissioner General of Immigration to the Secretary of Commerce and Labor, and the taking of such appeal shall operate to stay any action in regard to the final disposal of any alien whose case is so appealed until the receipt by the commissioner of immigration at the port of arrival of such decision, which shall be rendered solely upon the evidence adduced before the board of special inquiry. In every case where an alien is excluded from admission into the United States, under any law or treaty now existing or hereafter made, the decision of a board of special inquiry if adverse to the admission of such alien shall be final, unless reversed on appeal to the Secretary of Commerce and Labor: *Provided*, That the decision of a board of special inquiry, based upon the certificate of the examining medical officer, shall be final as to the rejection of aliens affected with tuberculosis in any form or with a loathsome or dangerous contagious disease, or with any mental or physical disability which would bring such aliens within any of the classes excluded from admission to the United States under section 3 of this act.

"SEC. 18. That all aliens brought to this country in violation of law shall, if practicable, be immediately sent back, in accommodations of the same class in which they arrived, to the country whence they respectively came on the vessels bringing them. The cost of their maintenance while on land, as well as the expense of the return of such aliens, shall be borne by the owner or owners of the vessels on which they respectively came. That it shall be unlawful for any master, purser, person in charge, agent, owner, or consignee of any such vessel to refuse to receive back on board thereof, or on board of any other vessel owned or operated by the same interests, such aliens; or to fail to detain them thereon; or to refuse or fail to return them in the manner aforesaid to the foreign port from which they came; or to pay the cost of their maintenance while on land; or to make any charge for the return of any such alien; or to take any security from him for the payment of such charge; or to take any consideration to be returned in case the alien is landed; or knowingly to bring to the United States at any time within one year from the date of deportation any alien rejected or arrested and deported under any provision of this act, unless prior to reembarkation the Secretary of Commerce and Labor has consented that such alien shall reapply for admission, as required by section 3 hereof; and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that such master, purser, person in charge, agent, owner, or consignee has violated any of the foregoing provisions such master, purser, person in charge, agent, owner, or consignee shall pay to the collector of customs of the customs district in which the port of arrival is located, or in which any vessel of the line may be found, the sum of $300 for each and every violation of any provision of this section; and no vessel shall have clearance from any port of the United States while any such fine is unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine. If the vessel by which any alien ordered deported came has left the United States and it is impracticable for any reason to deport the alien within a reasonable time by another vessel owned by the same interests, the cost of deportation may be paid by the Government and recovered by civil suit from any agent, owner, or consignee of the vessel: *Provided further*, That the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may suspend, upon conditions to be prescribed by the Commissioner General of Immigration, the deportation of any alien found to have come in violation of any provision of this act if, in his judgment, the testimony of such alien is necessary on behalf of the United States Government in the prosecution of offenders against any provision of this act; and the cost of maintenance of any person so detained resulting from such suspension of deportation, and a witness fee in the sum of $1 per day for each day such person is so detained, may be paid from the appropriation for the enforcement of this act, or such alien may be released under bond, in the penalty of not less than $500, with security approved by the Secretary of Commerce and Labor, conditioned that such alien shall be produced when required as a witness and for deportation. No alien certified, as provided in section 16 of this act, to be suffering from tuberculosis in any form, or from a loathsome or dangerous contagious disease other than one of quarantinable nature, shall be permitted to land for medical treatment thereof in any hospital in the United States, unless with the express permission of the Secretary of Commerce and Labor: *Provided further*, That upon the certificate of a medical officer of the United States Public Health Service to the effect that the health or safety of an insane alien would be unduly imperiled by immediate deportation, such alien may, at the expense of the appropriation for the enforcement of this act, be held for treatment until such time as such alien may, in the opinion of such medical officer, be safely deported: *Provided further*, That upon the certificate of a medical officer of the United States Public Health Service to the effect that a rejected alien is helpless from sickness, mental or physical disability, or infancy, if such alien is accompanied by another alien whose protection or guardianship is required by such rejected alien, such accompanying alien may also be excluded, and the master, agent, owner, or consignee of the vessel in which such alien and accompanying alien are brought shall be required to return said alien and accompanying alien in the same manner as vessels are required to return other rejected aliens.

"SEC. 19. That any alien, at any time within three years after entry, who shall enter the United States in violation of law; any alien who within three years after entry becomes a public charge from causes existing prior to the landing; except as hereinafter provided, any alien who is hereafter sentenced to imprisonment for a term of one year or more because of conviction in this country of a crime involving moral turpitude, committed within three years after the entry of the alien to the United States; any alien who shall be found an inmate of or connected with the management of a house of prostitution or practicing prostitution after such alien shall have entered the United States, or who shall receive, share in, or derive benefit from any part of the earnings of any prostitute; any alien who is employed by, in, or in connection with any house of prostitution or music or dance hall or other place of amusement or resort habitually frequented by prostitutes, or where prostitutes gather, or who in any way assists, protects, or promises to protect from arrest any prostitute; any alien who shall import or attempt to import any person for the purpose of prostitution or for any other immoral purpose; any alien who, after being excluded and deported or arrested and deported as a prostitute, or as a procurer, or as having been connected with the business of prostitution or importation for prostitution or other immoral purposes in any of the ways hereinbefore specified, shall return to and enter the United States; any alien convicted and im-

prisoned for a violation of any of the provisions of section 4 hereof; any alien, at any time within three years after entry, who shall enter the United States by water at any time or place other than as designated by immigration officials, or by land at any place other than one designated as a port of entry for aliens by the Commissioner General of Immigration, or at any time, not designated by immigration officials, shall, upon the warrant of the Secretary of Commerce and Labor, be taken into custody and deported: *Provided*, That the provision of this section respecting the deportation of aliens convicted of a crime involving moral turpitude shall not apply to one who has been pardoned, nor shall such deportation be made or directed if the court sentencing such alien for such crime shall, at the time of imposing judgment or passing sentence, make a recommendation to the Secretary of Commerce and Labor that such alien shall not be deported in pursuance of this act; nor shall any alien convicted as aforesaid be deported until after the termination of his imprisonment: *Provided further*, That the provisions of this section, with the exceptions hereinbefore noted, shall be applicable to the classes of aliens therein mentioned irrespective of the time of their entry into the United States. In every case where any person is ordered deported from the United States under the provisions of this act or of any law or treaty now existing, the decisions of the Secretary of Commerce and Labor shall be final.

"SEC. 20. That the deportation of aliens provided for in this act shall, at the option of the Secretary of Commerce and Labor, be to the country whence they came or to the foreign port at which such aliens embarked for the United States; or, if such embarkation was for foreign contiguous territory, to the foreign port at which they embarked for such territory; or, if such aliens entered foreign contiguous territory from the United States and later entered the United States, or if such aliens are held by the country from which they entered the United States not to be subjects or citizens of such country, and such country refuses to permit their reentry, or imposes any condition upon permitting reentry, then to the country of which such aliens are subjects or citizens, or to the country in which they resided prior to entering the country from which they entered the United States. If effected at any time within five years after the entry of the alien, such deportation, including one-half of the entire cost of removal to the port of deportation, shall be at the expense of the contractor, procurer, or other person by whom the alien was unlawfully induced to enter the United States, or, if that can not be done, then the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this act, and the deportation from such port shall be at the expense of the owner or owners of such vessels or transportation line by which such aliens, respectively, came; or, if that is not practicable, at the expense of the appropriation for the enforcement of this act. If such deportation is effected later than five years after the entry of the alien, or, if the deportation is made by reason of causes arising subsequent to entry, the cost thereof shall be payable from the appropriation for the enforcement of this act. A failure or refusal on the part of the masters, agents, owners, or consignees of vessels to comply with the order of the Secretary of Commerce and Labor to take on board, guard safely, and transport to the destination specified any alien ordered to be deported under the provisions of this act shall be punished by the imposition of the penalties prescribed in section 18 of this act: *Provided*, That when in the opinion of the Secretary of Commerce and Labor the mental or physical condition of such alien is such as to require personal care and attendance, he may employ a suitable person for that purpose, who shall accompany such alien to his or her final destination, and the expense incident to such service shall be defrayed in like manner. Pending the final disposal of the case of any alien so taken into custody he may be released under a bond in the penalty of not less than $500 with security approved by the Secretary of Commerce and Labor, conditioned that such alien shall be produced when required for a hearing or hearings in regard to the charge upon which he has been taken into custody, and for deportation if he shall be found to be unlawfully within the United States.

"SEC. 21. That any alien liable to be excluded because likely to become a public charge or because of physical disability other than tuberculosis in any form or a loathsome or dangerous contagious disease may, if otherwise admissible, nevertheless be admitted in the discretion of the Secretary of Commerce and Labor upon the giving of a suitable and proper bond or undertaking, approved by said Secretary, in such amount and containing such conditions as he may prescribe, to the United States and to all States, Territories, counties, towns, municipalities, and districts thereof, holding the United States and all States, Territories, counties, towns, municipalities, and districts thereof harmless against such alien becoming a public charge. The admission of such alien shall be a consideration for the giving of such bond or undertaking. Suit may be brought thereon in the name and by the proper law officers either of the United States Government or of any State, Territory, District, county, town, or municipality in which such alien becomes a public charge.

"SEC. 22. That wherever an alien shall have taken up his permanent residence in this country, and shall have filed his declaration of intention to become a citizen, and thereafter shall send for his wife or minor children to join him, if said wife or any of said children shall be found to be affected with any contagious disorder, such wife or children shall be held, under such regulations as the Secretary of Commerce and Labor shall prescribe, until it shall be determined whether the disorder will be easily curable or whether they can be permitted to land without danger to other persons; and they shall not be either admitted or deported until such facts have been ascertained; and if it shall be determined that the disorder is easily curable and the husband or father or other responsible person is willing to bear the expense of the treatment, they may be accorded treatment in hospital until cured and then be admitted, or if it shall be determined that they can be permitted to land without danger to other persons, they may, if otherwise admissible, thereupon be admitted.

"SEC. 23. That the Commissioner General of Immigration shall perform all his duties under the direction of the Secretary of Commerce and Labor. Under such direction he shall have charge of the administration of all laws relating to the immigration of aliens into the United States, and shall have the control, direction, and supervision of all officers, clerks, and employees appointed thereunder; he shall establish such rules and regulations, prescribe such forms of bond, reports, entries, and other papers, and shall issue from time to time such instructions, not inconsistent with law, as he shall deem best calculated for carrying out the provisions of this act and for protecting the United States and aliens migrating thereto from fraud and loss, and shall have authority to enter into contract for the support and relief of such aliens as may fall into distress or need public aid, and to remove to their native country, at any time within three years after entry, at the expense of the appropriations for the enforcement of this act, such as fall into distress or need public aid from causes arising subsequent to their entry and are desirous of being so removed; he shall prescribe rules for the entry and inspection of aliens along the borders of Canada and Mexico, so as not to unnecessarily delay, impede, or annoy persons in ordinary travel between the United States and said countries, and shall have power to enter into contracts with transportation lines for the said purpose; it shall be the duty of the Commissioner General of Immigration to detail officers of the Immigration Service from time to time as may be necessary, in his judgment, to secure information as to the number of aliens detained in the penal, reformatory, and charitable institutions (public and private) of the several States and Territories, the District of Columbia, and other territory of the United States and to inform the officers of such institutions of the provisions of law in relation to the deportation of aliens who have become public charges. He may, with the approval of the Secretary of Commerce and Labor, whenever in his judgment such action may be necessary to accomplish the purposes of this act, detail immigration officers, and also surgeons of the United States Public Health Service employed under this act for service in foreign countries. The duties of commissioners of immigration and other immigration officials in charge of districts, ports, or statons shall be of an administrative character, to be prescribed in detail by regulations prepared under the direction or with the approval of the Secretary of Commerce and Labor: *Provided*, That for the purpose of making effective the provisions of this section relating to the protection of aliens from fraud and loss, and also the provisions of section 30 of this act, relating to the distribution of aliens, the Secretary of Commerce and Labor shall establish and maintain immigrant stations at such interior places as may be necessary, and, in the discretion of the said Secretary, aliens in transit from ports of landing to such interior stations shall be accompanied by immigrant inspectors.

"SEC. 24. That immigrant inspectors and other immigration officers, clerks, and employees shall hereafter be appointed and their compensation fixed and raised or decreased from time to time by the Secretary of Commerce and Labor, upon the recommendation of the Commissioner General of Immigration and in accordance with the provisions of the civil-service act of January 16, 1883: *Provided*, That said Secretary, in the enforcement of that portion of this act which excludes contract laborers, may employ, without reference to the provisions of the said civil-service act, or to the various acts relative to the compilation of the official register, such persons as he may deem advis-

able and from time to time fix, raise, or decrease their compensation. He may draw annually from the appropriation for the enforcement of this act $50,000, or as much thereof as may be necessary, to be expended for the salaries and expenses of persons so employed and for expenses incident to such employment; and the accounting officers of the Treasury shall pass to the credit of the proper disbursing officer expenditures from said sum without itemized account whenever the Secretary of Commerce and Labor certifies that an itemized account would not be for the best interests of the Government: *Provided further*, That nothing herein contained shall be construed to alter the mode of appointing commissioners of immigration at the several ports of the United States as provided by the sundry civil appropriation act approved August 18, 1894, or the official status of such commissioners heretofore appointed.

"SEC. 25. That the district courts of the United States are hereby invested with full and concurrent jurisdiction of all causes, civil and criminal, arising under any of the provisions of this act. That it shall be the duty of the United States district attorney of the proper district to prosecute every such writ when brought by the United States under this act. Such prosecutions or suits may be instituted at any place in the United States at which the violation may occur or at which the person charged with such violation may be found. That no suit or proceeding for a violation of the provisions of this act shall be settled, compromised, or discontinued without the consent of the court in which it is pending, entered of record, with the reasons therefor.

"SEC. 26. That all exclusive privileges of exchanging money, transporting passengers or baggage, or keeping eating houses, and all other like privileges in connection with any United States immigrant station, shall be disposed of after public competition, subject to such conditions and limitations as the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor, may prescribe, and all receipts accruing from the disposal of such exclusive privileges shall be paid into the Treasury of the United States. No intoxicating liquors shall be sold at any such immigrant station.

"SEC. 27. That for the preservation of the peace and in order that arrests may be made for crimes under the laws of the States and Territories of the United States where the various immigrant stations are located, the officers in charge of such stations, as occasion may require, shall admit therein the proper State and municipal officers charged with the enforcement of such laws, and for the purpose of this section the jurisdiction of such officers and of the local courts shall extend over such stations.

"SEC. 28. That any person who knowingly aids or assists any anarchist or any person who believes in or advocates the overthrow by force or violence of the Government of the United States, or who disbelieves in or is opposed to organized government, or all forms of law, or who advocates the assassination of public officials, or who is a member of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, to enter the United States, or who connives or conspires with any person or persons to allow, procure, or permit any such anarchist or person aforesaid to enter therein shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine of not more than $5,000 or by imprisonment for not more than five years, or both.

"SEC. 29. That the President of the United States is authorized in the name of the Government of the United States, to call, in his discretion, an international conference, to assemble at such point as may be agreed upon, or to send special commissioners to any foreign country, for the purpose of regulating by international agreement, subject to the advice and consent of the Senate of the United States, the immigration of aliens to the United States; of providing for the mental, moral, and physical examination of such aliens by American consuls or other officers of the United States Government at the ports of embarkation, or elsewhere; of securing the assistance of foreign Governments in their own territories to prevent the evasion of the laws of the United States governing immigration to the United States; of entering into such international agreements as may be proper to prevent the immigration of aliens who, under the laws of the United States, are or may be excluded from entering the United States, and of regulating any matters pertaining to such immigration.

"SEC. 30. That there shall be maintained a division of information in the Bureau of Immigration and Naturalization; and the Secretary of Commerce and Labor shall provide such clerical and other assistance as may be necessary. It shall be the duty of said division to promote a beneficial distribution of aliens admitted into the United States among the several States and Territories desiring immigration. Correspondence shall be had with the proper officials of the States and Territories, and said division shall gather from all available sources useful information regarding the resources, products, and physical characteristics of each State and Territory, and shall publish such information in different languages and distribute the publications among all admitted aliens at the immigrant stations of the United States and to such other persons as may desire the same. When any State or Territory appoints and maintains an agent or agents to represent it at any of the immigrant stations of the United States, such agents shall, under regulations prescribed by the Commissioner General of Immigration, subject to the approval of the Secretary of Commerce and Labor, have access to aliens who have been admitted to the United States for the purpose of presenting, either orally or in writing, the special inducements offered by such State or Territory to aliens to settle therein. While on duty at any immigrant station such agents shall be subject to all the regulations prescribed by the Commissioner General of Immigration, who, with the approval of the Secretary of Commerce and Labor, may, for violation of any such regulations, deny to the agent guilty of such violation any of the privileges herein granted.

"SEC. 31. That any person, including the owner, agent, consignee, or master of any vessel arriving in the United States from any foreign port or place, who shall knowingly sign on the ship's articles, or bring to the United States as one of the crew of such vessel, any alien, with intent to permit such alien to land in the United States in violation of the laws and treaties of the United States regulating the immigration of aliens, or who shall falsely and knowingly represent to the immigration authorities at the port of arrival that any such alien is a bona fide member of the crew, shall be liable to a penalty not exceeding $5,000, for which sum the said vessel shall be liable and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

"SEC. 32. That no alien excluded from admission into the United States by any law or treaty of the United States regulating the immigration of aliens, and employed on board any vessel arriving in the United States from any foreign port or place, shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to regulations prescribed by the Secretary of Commerce and Labor providing for the ultimate removal or deportation of such alien from the United States, and the negligent failure of the owner, agent, consignee, or master of such vessel to detain on board any such alien after notice in writing by the immigration officer in charge at the port of arrival, and to deport such alien, if required by such immigration officer or by the Secretary of Commerce and Labor, shall render such owner, agent, consignee, or master liable to a penalty not exceeding $1,000, for which sum the said vessel shall be liable, and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

"SEC. 33. That it shall be unlawful and be deemed a violation of the preceding section to pay off or discharge any alien employed on board any vessel arriving in the United States from any foreign port or place, unless duly admitted pursuant to the laws and treaties of the United States regulating the immigration of aliens: *Provided*, That in case any such alien intends to reship on board any other vessel bound to any foreign port or place he shall be allowed to land for the purpose of so reshipping, and may be paid off, discharged, and permitted to remove his effects, anything in such laws or treaties or in this act to the contrary notwithstanding, provided due notice of such proposed action first be given to the principal immigration officer in charge at the port of arrival.

"SEC. 34. That any alien seaman who shall desert his vessel in a port of the United States or who shall land therein contrary to the provisions of this act shall be deemed to be unlawfully in the United States and shall, at any time within three years thereafter, upon the warrant of the Secretary of Commerce and Labor, be taken into custody and brought before a board of special inquiry for examination as to his qualifications for admission to the United States, and if not admitted said alien seaman shall be deported at the expense of the appropriation for this act as provided in section 20 of this act.

"SEC. 35. That it shall be unlawful for any vessel carrying passengers between a port of the United States and a port of a

foreign country, upon arrival in the United States, to have on board employed thereon any alien afflicted with idiocy, imbecility, insanity, epilepsy, tuberculosis in any form, or a loathsome or dangerous contagious disease, if it appears to the satisfaction of the Secretary of Commerce and Labor, from an examination made by a medical officer of the United States Public Health Service, and is so certified by such officer, that any such alien was so afflicted at the time he was shipped or engaged and taken on board such vessel and that the existence of such affliction might have been detected by means of a competent medical examination at such time; and for every such alien so afflicted on board any such vessel at the time of arrival the owner, agent, consignee, or master thereof shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $25; and no vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine and while it remains unpaid: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine: *Provided further*, That such fine may, in the discretion of the Secretary of Commerce and Labor, be mitigated or remitted.

"SEC. 36. That upon arrival of any vessel in the United States from any foreign port or place it shall be the duty of the owner, agent, consignee, or master thereof to deliver to the principal immigration officer in charge of the port of arrival lists containing the names of all aliens employed on such vessel, stating the positions they respectively hold in the ship's company, when and where they were respectively shipped or engaged, and specifying those to be paid off and discharged in the port of arrival, or lists containing so much of such information as the Secretary of Commerce and Labor shall by regulation prescribe; and after the arrival of any such vessel it shall be the duty of such owner, agent, consignee, or master to report to such immigration officer, in writing, as soon as discovered, all cases in which any such alien has deserted the vessel, giving a description of such alien, together with any information likely to lead to his apprehension; and before the departure of any such vessel it shall be the duty of such owner, agent, consignee, or master to deliver to such immigration officer a further list containing the names of all alien employees who were not employed thereon at the time of the arrival, but who will leave port thereon at the time of her departure, and also the names of those, if any, who have been paid off and discharged, and of those, if any, who have deserted or landed or been duly admitted; and in case of the failure of such owner, agent, consignee, or master so to deliver either of the said lists of such aliens arriving and departing, respectively, or so to report such cases of desertion or landing, such owner, agent, consignee, or master shall, if required by the Secretary of Commerce and Labor, pay to the collector of customs of the customs district in which the port of arrival is located the sum of $10 for each alien concerning whom correct lists are not delivered or a true report is not made as above required; and no such vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine and, in the event such fine is imposed, while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon deposit of a sum sufficient to cover such fine.

"SEC. 37. The word 'person' as used in this act shall be construed to import both the plural and the singular, as the case may be, and shall include corporations, companies, and associations. When construing and enforcing the provisions of this act, the act, omission, or failure of any director, officer, agent, or employee of any corporation, company, or association acting within the scope of his employment or office shall in every case be deemed to be the act, omission, or failure of such corporation, company, or association, as well as that of the person acting for or in behalf of such corporation, company, or association.

"SEC. 38. That this act, except as otherwise provided in section 3, shall take effect and be enforced from and after July 1, 1913. The act of March 26, 1910, amending the act of February 20, 1907, to regulate the immigration of aliens into the United States; the act of February 20, 1907, to regulate the immigration of aliens into the United States, except section 34 thereof; the act of March 3, 1903, to regulate the immigration of aliens into the United States, except section 34 thereof; and all other acts and parts of acts inconsistent with this act are hereby repealed on and after the taking effect of this act: *Provided*, That this act shall not be construed to repeal, alter, or amend existing laws relating to the immigration or exclusion of Chinese persons or persons of Chinese descent, nor to repeal, alter, or amend section 6, chapter 453, third session, Fifty-eighth Congress, approved February 6, 1905, or the act approved August 2, 1882, entitled 'An act to regulate the carriage of passengers by sea,' and amendments thereto: *Provided*, That nothing contained in this act shall be construed to affect any prosecution, suit, action, or proceedings brought, or any act, thing, or matter, civil or criminal, done or existing at the time of the taking effect of this act, except as mentioned in the last proviso of section 19 hereof; but as to all such prosecutions, suits, actions, proceedings, acts, things, or matters, the laws or parts of laws repealed or amended by this act are hereby continued in force and effect."

JOHN L. BURNETT,
AUGUSTUS P. GARDNER,
Managers on the part of the House.
H. C. LODGE,
WM. P. DILLINGHAM,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the House to the Senate bill (S. 3175) regulating the immigration of aliens, submit the following detailed statement in explanation of the effect agreed upon and recommended in the conference report:

The Senate having disagreed to the entire House amendment, which in its turn had stricken out the entire Senate bill, the whole subject of immigration came before the conference committee.

The bill as it passed the House contained no features except the illiteracy test. The Senate bill contemplated many changes in the law and an illiteracy test substantially similar to that proposed in the House, the principal difference being that the Senate included "writing" in its test and differed somewhat from the House as to the admissibility of illiterate relatives of qualified immigrants. On all substantial matters of difference between the Senate and the House touching the illiteracy test the Senate receded.

The principal changes in existing law proposed by the Senate to which the managers on the part of the House agreed are as follows:

First. An increase of the head tax from $4 to $5 per alien.

Second. The exclusion of aliens not eligible for naturalization.

Third. Making it permissible for the Secretary of Commerce and Labor to decide beforehand as to the necessity of importing such skilled contract labor as is now admissible under the existing contract-labor law.

Fourth. Providing more severe penalties for transportation lines which violate the law against advertising for immigrants and which bring to the United States aliens who are ineligible to enter.

Fifth. Providing for matrons, inspectors, and surgeons on immigrant ships at the discretion of the Secretary of Commerce and Labor.

Sixth. Providing machinery for compelling the attendance and testimony of witnesses before the immigration authorities when required.

Seventh. Providing for the deportation of aliens who become criminals within three years subsequent to entry.

Eighth. Providing for interior immigrant stations.

Ninth. Providing against the illegal entry of seamen and stowaways.

Tenth. Permitting aliens to be represented by counsel in the case of appeals from the decision of boards of special inquiry.

Eleventh. Providing experts in insanity at large ports of entry.

Twelfth. A definition of the meaning of the word "alien" where it appears in the bill.

A provision was added in conference requiring the production of penal certificates in certain cases for the purpose of facilitating the execution of that part of the Senate bill and of the present law which relates to the exclusion of criminals.

JOHN L. BURNETT,
AUGUSTUS P. GARDNER,
Managers on the part of the House.

During the reading,

Mr. MANN. Mr. Speaker, as this is the only time we have had an opportunity to have the bill read in any way, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Illinois [Mr. MANN] makes the point of order that there is no quorum present, and evidently there is not.

Mr. BURNETT. Mr. Speaker, I move a call of the House.

The question was taken, and the motion was agreed to.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The roll was called, and the following Members failed to answer to their names:

Aiken, S. C.	Focht	Lindsay	Scully
Ainey	Fordney	Littleton	Sells
Akin, N. Y.	Fornes	Longworth	Shackleford
Ames	George	McCall	Sisson
Anthony	Gillett	McCoy	Smith, J. M. C.
Ayres	Glass	McGuire, Okla.	Smith, Cal.
Bates	Goeke	McKellar	Smith, N. Y.
Bathrick	Gould	Madden	Sparkman
Berger	Greene, Vt.	Maher	Speer
Brown	Gregg, Pa.	Martin, Colo.	Stack
Byrnes, S. C.	Harris	Matthews	Stephens, Nebr.
Calder	Harrison, N. Y.	Merritt	Stevens, Minn.
Cantrill	Hart	Miller	Sulloway
Carlin	Haugen	Moon, Pa.	Talbott, Md.
Carter	Hill	Moore, Tex.	Talcott, N. Y.
Cary	Howard	Nelson	Taylor, Ala.
Conry	Hughes, W. Va.	Nye	Taylor, Colo.
Cox	Hull	Oldfield	Townsend
Curry, N. Mex.	Humphreys, Miss.	Olmsted	Turnbull
Danforth	James	Palmer	Tuttle
Davis, Minn.	Johnson, Ky.	Parran	Underwood
De Forest	Kindred	Patten, N. Y.	Vare
Dixon, Ind.	Kitchin	Payne	Vreeland
Doremus	Lafean	Peters	Warburton
Driscoll, D. A.	Lafferty	Plumley	Weeks
Dwight	Langham	Post	White
Dyer	Lawrence	Pujo	Wilson, N. Y.
Estopinal	Lee, Ga.	Randell, Tex.	Wood, N. J.
Fairchild	Legare	Redfield	Woods, Iowa
Ferris	Lever	Reyburn	
Fields	Levy	Richardson	
Fitzgerald	Lewis	Riordan	

The SPEAKER. Two hundred and fifty-eight Members—a quorum—have responded to their names.

Mr. BARTLETT. Mr. Speaker, I move that further proceedings under the call of the House be dispensed with.

The SPEAKER. The gentleman from Georgia [Mr. BARTLETT] moves that further proceedings under the call be dispensed with.

The question was taken, and the motion was agreed to.

The SPEAKER. The Doorkeeper will open the doors, and the Clerk will proceed with the reading.

Mr. GARDNER of Massachusetts. Mr. Speaker, I ask unanimous consent that the further reading of the report be dispensed with and that the statement be read in lieu of the remainder.

Mr. MOORE of Pennsylvania. Mr. Speaker, I object——

Mr. SABATH. Mr. Speaker, I object.

The Clerk resumed and completed the reading of the conference report.

Mr. SABATH. Mr. Speaker——

Mr. HAMILL. Mr. Speaker——

Mr. SABATH. Mr. Speaker, I reserve all points of order.

Mr. MANN. Mr. Speaker, I make the point of order that the report can not be considered in the House until the original papers are before the House, and that the original papers are not in the possession of the House. I understand the original Senate bill is in the possession of the Clerk. The House adopted an amendment striking out all after the enacting clause, so it is claimed.

The SPEAKER. The Speaker wishes that the gentleman would go over that again. The House will be in order.

Mr. MANN. The House, I believe, agreed to an amendment striking out all after the enacting clause. Under the rules and the laws and the practice that amendment is sent by resolution from the House to the Senate. I have the form of the resolution in my hand, and the form of the resolution is in the possession of the Clerk. It has to be certified to or attested by the Clerk. That has not been done, and the papers that are before the Speaker, I have no doubt the original papers, properly attested by the Clerk, are in the possession of the Senate. I make the point of order that, in the absence of the original papers, the House can not consider the conference report.

The SPEAKER. How did the Senate ever get possession of it, then?

Mr. MANN. I suppose the Senate has possession of the original papers. I do not know what the Senate has done about it.

The SPEAKER. The original Senate bill is here, properly attested by "Charles G. Bennett, Secretary," and "H. M. Rose, Assistant Secretary."

Mr. MANN. The Senate bill is properly attested, as I understand it.

The SPEAKER. The House part, that is attached to the original Senate bill, does not seem to have been attested by the House Clerk. If we can get hold of him we can have him sign it nunc pro tunc.

Mr. MANN. By unanimous consent I suppose he could do that.

The SPEAKER. Why would it take unanimous consent? The Speaker has never investigated it, but he thinks he would have the same power in that kind of a case that a nisi prius judge has. The Chair is not certain about that, however.

Mr. MANN. I take it that we are entitled to the original papers.

The SPEAKER. Unquestionably.

Mr. MANN. We must proceed on what is officially before the House. The House did have this bill up for consideration and did agree to an amendment. We have not official information at this time as to what that amendment consists of, in the absence of the original papers, and if we adopt the practice of considering a bill without the original papers and without the attestation of the Clerk, no one knows what might be presented as the original papers.

Mr. GARDNER of Massachusetts. Mr. Speaker, I raise the point of order that the gentleman's point of order comes too late. The House has proceeded to consider such papers as it had before it.

The SPEAKER. The Chair thinks that that point of order is not well taken. This document, purporting to be the conference report, has been read. That is all the proceeding that has been taken on this matter except the parliamentary skirmish that took place earlier in the day. The Chair does not think that the gentleman's point of order comes too late.

Mr. MOORE of Pennsylvania. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MOORE of Pennsylvania. I desire to know whether it is now in order to raise the question of consideration.

The SPEAKER. It is not in order to raise the question of consideration until this other matter is determined. The Chair does not have any doubt about the right of the Speaker to order the Clerk to sign that document.

Mr. MANN. Mr. Speaker, the question is whether the original papers are the ones that were presented to the Senate. Is the Speaker prepared to say that the resolution which was sent to the Senate, not attested, is not merely a copy of the papers that we want—is not merely a copy of the papers we are entitled to?

The SPEAKER. Here is the situation: We have a certified copy of the Senate bill. Then we have the conference report sent over by the Senate, with this House amendment, striking out all after the enacting clause and enacting a new law, so far as the House could make a law, and the Clerk failed to sign it. But the fact that the Senate bill has come back here attached to the House amendment seems to the Chair to be reasonable proof that the document that purports to be the report from the House that is included in this bundle of papers is the same document that the Clerk sent over to the Senate.

Mr. MANN. Well, that might be a guess. How can the Chair know that? It is presumed that the officers of the House properly perform their duties, in which case they sent to the Senate an attested copy of the House amendment.

The SPEAKER. Now comes the Clerk of the House and attests it. [Laughter.]

Mr. MANN. Without examining it?

The SPEAKER. The Chair will have him examine it.

Mr. SABATH. Mr. Speaker, it is rather late in the day for him to sign it.

The SPEAKER. The gentleman from Illinois [Mr. MANN] is a lawyer——

Mr. MANN. Used to be——

The SPEAKER. And has seen a hundred times, if not more, orders entered nunc pro tunc in a nisi prius court without objection from anybody. If there was any doubt about this being the correct paper, of course we would not tolerate it for a second.

Mr. MANN. Mr. Speaker, I do not know but that I would rule the same way the Speaker has ruled if I were in the chair.

The SPEAKER. That is what the Chair thinks himself. [Laughter.]

Mr. MANN. I make a further point of order. The matter is before the House, and perhaps some other Members desire to make a point of order. But the conferees have included matters in the conference report which were not in disagreement.

The SPEAKER. The gentleman will suspend a moment. The gentleman from Pennsylvania [Mr. MOORE] a while ago asked the Chair if the time had come to raise the question of consideration.

Mr. MOORE of Pennsylvania. I want to raise that question when the time comes.

Mr. MANN. I do not think that question can be raised until there has been a disposition of the point of order.

Mr. MOORE of Pennsylvania. I think I addressed the Chair in the interim between the determination of one point of order and the other.

The SPEAKER. The Chair thinks that if the House is not going to consider the bill there is no use arguing points of order about it.

Mr. MANN. If the question is raised, I think it is probably beyond a point of order, but I do not care.

The SPEAKER. The Chair will hear the gentleman on his point of order as soon as this question is determined. The question is, Will the House now consider this conference report on the immigration bill?

Mr. SHERLEY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SHERLEY. Does the consideration of this motion preclude the making of other motions, such as to lay on the table, or should they be made now?

The SPEAKER. Oh, no; they can be made afterwards.

Mr. HAMILL. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. HAMILL. For the purpose of making a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HAMILL. Is it in order now, before the determination of this motion, to present a motion for the postponement of the consideration of this conference report?

The SPEAKER. That will come afterwards. The question is, Will the House consider this conference report at this time?

The question being taken, the Speaker announced that the ayes appeared to have it.

Mr. SABATH and Mr. MOORE of Pennsylvania demanded a division.

The House divided; and there were—ayes 66, noes 49.

Mr. SABATH and Mr. MOORE of Pennsylvania demanded the yeas and nays.

Pending the division on the ordering of the yeas and nays,

Mr. MOORE of Pennsylvania. Mr. Speaker, I make the point that no quorum is present.

The SPEAKER. The gentleman from Pennsylvania raises the point of no quorum present. Evidently there is no quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll. Those in favor of the consideration of this bill will, when their names are called, answer aye, those opposed no, and the Clerk will call the roll.

The question was taken; and there were—yeas 179, nays 73, answered "present" 6, not voting 125, as follows:

YEAS—179.

Adair	Doughton	Higgins	Porter
Adamson	Draper	Hinds	Pou
Aiken, S. C.	Edwards	Holland	Powers
Alexander	Evans	Houston	Pray
Allen	Faison	Hughes, Ga.	Prince
Anderson	Farr	Hughes, W. Va.	Raker
Anthony	Ferris	Hull	Rauch
Austin	Finley	Humphrey, Wash.	Redfield
Ayres	Flood, Va.	Humphreys, Miss.	Rees
Barnhart	Floyd, Ark.	Jackson	Richardson
Bartlett	Focht	Jacoway	Roddenbery
Beall, Tex.	Foss	Jones	Rouse
Bell, Ga.	Foster	Knowland	Rubey
Blackmon	Fowler	Kopp	Russell
Borland	Francis	La Follette	Sharp
Brantley	French	Langley	Sheppard
Burke, S. Dak.	Gardner, Mass.	Lawrence	Simmons
Burnett	Garner	Lenroot	Sims
Butler	Garrett	Lever	Slayden
Byrnes, S. C.	Glass	Lindbergh	Small
Byrns, Tenn.	Godwin, N. C.	Linthicum	Smith, Saml. W.
Callaway	Goodwin, Ark.	Littlepage	Smith, Tex.
Campbell	Gray	Lloyd	Stanley
Candler	Greene, Vt.	McGuire, Okla.	Stedman
Cantrill	Gregg, Pa.	McKenzie	Stephens, Cal.
Carlin	Gregg, Tex.	McKinley	Stephens, Miss.
Clark, Fla.	Griest	McKinney	Stephens, Tex.
Claypool	Gudger	McLaughlin	Sterling
Clayton	Guernsey	Macon	Sweet
Cline	Hamilton, Mich.	Maguire, Nebr.	Switzer
Collier	Hamilton, W. Va.	Mays	Taggart
Copley	Hamlin	Mondell	Thomas
Covington	Hardwick	Moon, Tenn.	Towner
Cox	Hardy	Morgan, Okla.	Tribble
Cullop	Hartman	Morrison	Underhill
Currier	Hay	Morse, Wis.	Warburton
Dalzell	Hayden	Moss, Ind.	Watkins
Daugherty	Hayes	Mott	Webb
Davenport	Heald	Murdock	White
Davis, W. Va.	Heflin	Neeley	Willis
Dent	Helgesen	Padgett	Wilson, Pa.
Dickinson	Helm	Page	Witherspoon
Dickson, Miss.	Henry, Conn.	Patton, Pa.	Young, Kans.
Dies	Henry, Tex.	Pepper	Young, Tex.
Difenderfer	Hensley	Plumley	

NAYS—73.

Barchfeld	Buchanan	Crago	Denver
Bartholdt	Bulkley	Crumpacker	Donohoe
Boehne	Burke, Wis.	Curley	Doremus
Booher	Cooper	Curry	Dupré
Esch	Howell	Murray	Steenerson
Estopinal	Kahn	O'Shaunessy	Stevens, Minn.
Fergusson	Kennedy	Pickett	Stone
Fitzgerald	Kinkead, N. J.	Prouty	Talcott, N. Y.
Fuller	Konop	Reilly	Thayer
Gallagher	Korbly	Roberts, Mass.	Thistlewood
Gill	Lafferty	Roberts, Nev.	Tilson
Goldfogle	Lee, Pa.	Rodenberg	Tuttle
Good	Lobeck	Rucker, Colo.	Whitacre
Graham	McCreary	Sabath	Wilder
Green, Iowa	McDermott	Scott	Wilson, Ill.
Greene, Mass.	Madden	Sherley	Young, Mich.
Hamill	Miller	Sherwood	
Harrison, N. Y.	Moore, Pa.	Sloan	
Hawley	Morgan, La.	Smith, N. Y.	

ANSWERED "PRESENT"—6.

Browning	Driscoll, M. E.	McMorran	Mann
Davidson	Kendall		

NOT VOTING—125.

Ainey	Fordney	Littleton	Rothermel
Akin, N. Y.	Fornes	Longworth	Rucker, Mo.
Ames	Gardner, N. J.	Loud	Saunders
Andrus	George	McCall	Scully
Ansberry	Gillett	McCoy	Sells
Ashbrook	Goeke	McGillicuddy	Shackleford
Bates	Gould	McKellar	Sisson
Bathrick	Hammond	Maher	Slemp
Berger	Harris	Martin, Colo.	Smith, J. M. C.
Bradley	Harrison, Miss.	Martin, S. Dak.	Smith, Cal.
Broussard	Hart	Matthews	Sparkman
Brown	Haugen	Merritt	Speer
Burgess	Hill	Moon, Pa.	Stack
Burke, Pa.	Hobson	Moore, Tex.	Stephens, Nebr.
Burleson	Howard	Needham	Sulloway
Calder	Howland	Nelson	Talbott, Md.
Cannon	James	Norris	Taylor, Ala.
Carter	Johnson, Ky.	Nye	Taylor, Colo.
Cary	Johnson, S. C.	Oldfield	Taylor, Ohio
Conry	Kent	Olmsted	Townsend
Cravens	Kindred	Palmer	Turnbull
Danforth	Kinkaid, Nebr.	Parran	Underwood
Davis, Minn.	Kitchin	Patten, N. Y.	Vare
De Forest	Konig	Payne	Volstead
Dixon, Ind.	Lafean	Peters	Vreeland
Dodds	Lamb	Post	Weeks
Driscoll, D. A.	Langham	Pujo	Wilson, N. Y.
Dwight	Lee, Ga.	Rainey	Wood, N. J.
Dyer	Legare	Randell, Tex.	Woods, Iowa
Ellerbe	Levy	Ransdell, La.	
Fairchild	Lewis	Reyburn	
Fields	Lindsay	Riordan	

So the House decided to consider the conference report.

The following pairs were announced:

For the session:

Mr. LITTLETON with Mr. DWIGHT.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. HOBSON with Mr. FAIRCHILD.

Mr. FORNES with Mr. BRADLEY.

Mr. RIORDAN with Mr. ANDRUS.

Mr. PALMER with Mr. HILL.

Until further notice:

Mr. KITCHIN with Mr. FORDNEY.

Mr. RAINEY with Mr. MCCALL.

Mr. PUJO with Mr. MCMORRAN.

Mr. CONRY with Mr. LANGHAM.

Mr. UNDERWOOD with Mr. MANN.

Mr. SPARKMAN with Mr. DAVIDSON.

Mr. BURGESS with Mr. M. E. DRISCOLL.

Mr. SCULLY with Mr. BROWNING.

Mr. DIXON of Indiana with Mr. CARY.

Mr. ELLERBE with Mr. HAUGEN.

Mr. GEORGE with Mr. GILLETT.

Mr. GOEKE with Mr. HOWLAND.

Mr. GOULD with Mr. LAFEAN.

Mr. HAMMOND with Mr. LOUD.

Mr. HARRISON of Mississippi with Mr. MARTIN of South Dakota.

Mr. HART with Mr. MATTHEWS.

Mr. JAMES with Mr. NEEDHAM.

Mr. JOHNSON of South Carolina with Mr. MERRITT.

Mr. JOHNSON of Kentucky with Mr. MOON of Pennsylvania.

Mr. KINDRED with Mr. NYE.

Mr. LAMB with Mr. OLMSTED.

Mr. LEWIS with Mr. SELLS.

Mr. MCCOY with Mr. REYBURN.

Mr. OLDFIELD with Mr. J. M. C. SMITH.

Mr. PATTEN of New York with Mr. SLEMP.

Mr. POST with Mr. SMITH of California.

Mr. ROTHERMEL with Mr. SPEER.

Mr. RUCKER of Missouri with Mr. SULLOWAY.

Mr. TAYLOR of Alabama with Mr. VOLSTEAD.

Mr. TOWNSEND with Mr. TAYLOR of Ohio.

Mr. WILSON of New York with Mr. VREELAND.

Mr. TAYLOR of Colorado with Mr. VARE.

Mr. MCGILLICUDDY with Mr. WEEKS.

Mr. MCKELLAR with Mr. WOODS of Iowa.

Mr. PETERS with Mr. PAYNE.

Mr. ANSBERRY with Mr. DAVIS of Minnesota.

Mr. ASHBROOK with Mr. DE FOREST.
Mr. BATHRICK with Mr. DODDS.
Mr. BROWN with Mr. DYER.
Mr. BURLESON with Mr. AMES.
Mr. CARTER with Mr. BATES.
Mr. DANIEL A. DRISCOLL with Mr. DANFORTH.
For consideration of conference report:
Mr. HOWARD (for) with Mr. CALDER (against).
Mr. FIELDS (for) with Mr. BURKE of Pennsylvania (against).
Mr. NELSON (for) with Mr. FITZGERALD (against).
Mr. KENT (for) with Mr. CANNON (against).
Mr. HARRIS (for) with Mr. LEVY (against).
Mr. SHACKLEFORD with Mr. LONGWORTH until February 1.
Mr. TRUMBULL with Mr. GARDNER of New Jersey until Monday.
Mr. LEE of Georgia with Mr. WOOD of New Jersey for this day.
Mr. SISSON with Mr. KENDALL on this vote.

Mr. BROWNING. Mr. Speaker, I have a general pair with the gentleman from New Jersey, Mr. SCULLY. He has not voted, and I wish to withdraw my vote of "aye" and answer "present."

The Clerk called the name of Mr. BROWNING, and he answered "Present," as above recorded.

Mr. MANN. Mr. Speaker, I voted "aye." I am paired with the gentleman from Alabama, Mr. UNDERWOOD, and I wish to withdraw my vote and answer "present."

The Clerk called the name of Mr. MANN, and he answered "Present," as above recorded.

Mr. KENDALL. Mr. Speaker, I voted "no," but I am paired with the gentleman from Mississippi, Mr. SISSON. I wish to withdraw that vote and answer "present."

The Clerk called the name of Mr. KENDALL, and he answered "Present," as above recorded.

Mr. LANGLEY. Mr. Speaker, I voted "aye." I am paired with my colleague, Mr. FIELD, but he is in favor of this bill, and I feel justified in voting as I did.

The SPEAKER. Does the gentleman wish his vote to stand?

Mr. LANGLEY. I do.

The SPEAKER. The Chair has nothing to do with pairs.

The result of the vote was then announced as above recorded.

The SPEAKER. A quorum is present. The Doorkeeper will open the doors.

Mr. MANN. Mr. Speaker, I make the point of order that the conference report is not in order, because it contains matter which was not properly before the conferees and matter not in dispute between the two Houses. I reserve all points of order on the conference report, so that other gentlemen may present their matters. The Speaker will notice by the original papers in possession of the House that the amendment adopted by the House was to strike out all after the enacting clause and insert certain matter that is set forth.

As a matter of fact, the title to the bill and the enacting clause were not in dispute. Yet the conferees have included in their report as a part of the amendment to be agreed to an enacting clause and a title, in addition to the title and enacting clause which go with the Senate bill. As the enacting clause and title were not in dispute, not in disagreement, it was without the power of the conferees to include in their report as a part of the proposition agreed upon a title and an enacting clause.

The conference report provides:

That the Senate recede from its disagreement to the amendment of the same with an amendment as follows: Strike out all of said amendment and insert in lieu thereof the following:

"An act to regulate the immigration of aliens to and residence of aliens in the United States.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled"—

And so on.

That is the matter which the conferees have included now as matter in lieu of the House amendment, but that matter was not in dispute, and if the conference report should be agreed to we will then have this anomalous condition.

We will pass an act containing—

An act to regulate the immigration of aliens to and the residence of aliens in the United States.

Containing an enacting clause—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

And then following that will again appear—

An act to regulate the immigration of aliens to and the residence of aliens in the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

And so forth.

The title and enacting clause not being in dispute, it was not in order for the conferees to insert that in the conference report, so that if agreed to it will appear twice in the law that may be enacted.

Mr. GARDNER of Massachusetts. Mr. Speaker, I felt perfectly sure that the point of order would certainly be made, either that we had two enacting clauses or that we had none. The fact is this: The amendment adopted by the House not only inserted certain words in lieu of the Senate bill, but it provided that the enacting clause should stand. The Senate and the conferees agreed to strike out the House amendment, which may be construed as the equivalent of saying that the enacting clause shall not stand, and therefore that its reinsertion is required. We gave this question some thought, and then we looked the matter up to see what happened under precisely similar circumstances on February 18, 1907, when the conference report on the immigration bill of that year was adopted. In fact, we used that report as our model, and copied the exact wording, used under exactly the same circumstances. Here is what we found:

That the Senate recede from its disagreements to the amendment of the House, and agree to the same with an amendment as follows:

Strike out all of said amendment and insert in lieu thereof the following: "An act entitled 'An act to regulate the immigration of aliens into the United States.'"

The cases are exactly parallel, and that was why we included the title in our conference report. Mr. Speaker, it does not make a particle of difference whether the bill has a double title or not. The conferees have the widest discretion, and the fact that we have duplicated words which the gentleman claims that both Houses have agreed upon is not in any way outside the discretion of the managers of the conference.

The SPEAKER. The point of order of the gentleman from Illinois [Mr. MANN] is overruled.

Mr. HAMILL. Mr. Speaker, I wish to offer the following motion, which I send to the desk and ask to have read.

Mr. SABATH. But, Mr. Speaker, I have reserved all points of order, and I desire to make a point of order to the report.

The SPEAKER. The Chair will recognize the gentleman from Illinois [Mr. SABATH] to state his point of order.

Mr. SABATH. Mr. Speaker, my point of order is that the conferees have exceeded their authority, and did not confine themselves to the differences committed to them; that they have inserted in this report matter and provisions that were not contained in the House bill or in the Senate bill. The language will be found beginning with the fourth line on the third page of the printed conference report, and is as follows:

Citizens and subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate.

That language, Mr. Speaker, is absolutely new, inserted by the conferees in violation of the rules of the House.

The SPEAKER. That was not in the Senate bill?

Mr. SABATH. No; nor in the House bill. It is a new provision. It is new matter, and I maintain, Mr. Speaker, that the conferees had no jurisdiction to insert that provision in the report or to agree to it. If there is any doubt in the Speaker's mind, I will refer him to the rules of the House. I read from page 279 of Jefferson's Manual, section 539:

The managers of a conference must confine themselves to the differences committed to them, and may not include subjects not within the disagreements, even though germane to the question in issue.

The SPEAKER. Is the gentleman finished?

Mr. SABATH. Mr. Speaker, I have also other authorities, but I do not think it is necessary for me to cite them. They hold the same way.

Mr. GARDNER of Massachusetts. Mr. Speaker, the gentleman is perfectly correct in his statement of the facts. It is entirely new matter, but it was not inserted until a very careful examination of the decision rendered by Mr. Speaker CLARK on August 14, 1911, in the matter of the woolen bill. I quote from the words of Mr. Speaker CLARK when a similar point of order was raised at that time:

The Chair does not know anything about the parliamentary clerks to Mr. Speaker Colfax and Mr. Speaker Carlisle, but the Chair is fully persuaded that every Member of this House who has served in prior Congresses will agree that Mr. Speaker Henderson and Mr. Speaker CANNON had the advantage of being advised by one of the most skillful parliamentarians in this country, the present Member from Maine [Mr. HINDS]. [Applause.]

All four of these Speakers, three Republicans and one Democrat, have passed on this question, and they have all ruled that where everything after the enacting clause is stricken out and a new bill substituted it gives the conferees very wide discretion, extending even to the substitution of an entirely new bill.

Then the Speaker proceeded to have incorporated in his opinion the opinions of Mr. Speaker Colfax, Mr. Speaker Carlisle, Mr. Speaker CANNON, and Mr. Speaker Henderson, the opinion of Mr. Speaker CANNON being delivered on a case exactly on all fours with this. The opinion related to the conference on the immigration bill of 1907, to which I have already alluded. The much-discussed provision as to Japanese passports did not appear either in the House or in the Senate bill,

but was inserted in conference. That decision was cited by Mr. Speaker CLARK in overruling the point of order made under precisely similar circumstances against the new legislation in the woolen bill last year.

The SPEAKER. The Chair overrules the point of order, and the Clerk will report the motion of Mr. HAMILL, of New Jersey.

The Clerk read as follows:

Postpone the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. 3175) entitled "An act to regulate the immigration of aliens to and residence of aliens in the United States" until Thursday, January 23, 1913.

Mr. BURNETT. Mr. Speaker, I move the previous question on the motion to adopt the report of the conference committee.

Mr. SHERLEY. Mr. Speaker, I make the preferential motion that the report lie upon the table.

The SPEAKER. The motion of the gentleman from Kentucky [Mr. SHERLEY] has preference.

Mr. SABATH. What is his motion?

The SPEAKER. To lay on the table. That finishes the bill if carried.

Subdivision 4 of Rule XVI runs as follows:

When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motion shall be decided without debate), to postpone to a day certain, to refer, or to amend, or postpone indefinitely; which several motions shall have precedence in the foregoing order.

Now, there are three motions pending at once. The motion of the gentleman from Alabama takes precedence of the motion of the gentleman from New Jersey, and the motion of the gentleman from Kentucky takes precedence of both of them.

Mr. MOORE of Pennsylvania. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. The Chair thinks that motion is dilatory. The question is on the motion of the gentleman from Kentucky [Mr. SHERLEY] to lay on the table.

The question was taken; and the Speaker announced the noes seemed to have it.

Mr. SHERLEY. Division, Mr. Speaker.

The House divided; and there were—ayes 39, noes 91.

Mr. BOEHNE. Mr. Speaker, I raise the point of order that there is no quorum present.

Mr. FOSTER. Mr. Speaker, I make the point of order that that motion is dilatory.

Mr. MANN. A point of no quorum can not be dilatory; that is a constitutional right.

Mr. FOSTER. We have just had a roll call and determined there was a quorum present.

Mr. MANN. The Speaker can determine whether there is a quorum present or not.

The SPEAKER. On this vote the ayes are 39 and the noes are 91.

Mr. BOEHNE. And I make the point of order that there is no quorum present.

Mr. FOSTER. Mr. Speaker, and I make the point of order that that is dilatory.

The SPEAKER. One hundred and seventy-three gentlemen are present; not a quorum. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees——

Mr. GARDNER of Massachusetts. Mr. Speaker, is it too late to raise the point of order——

Mr. SHERLEY. Mr. Speaker, I demand the regular order.

Mr. GARDNER of Massachusetts. I am raising a point of order.

The SPEAKER. What is the gentleman's query?

Mr. GARDNER of Massachusetts. That it is not in order to lay a conference report on the table under the rule.

Mr. SHERLEY. Mr. Speaker, I make the point of order that it is too late and that in the absence of a quorum no business is in order.

Mr. GARDNER of Massachusetts. My query is, is it too late to raise that point of order?

The SPEAKER. One at a time, the gentleman from Massachusetts——

Mr. MANN. Mr. Speaker, I make the point of order that the Speaker having declared that no quorum was present the House can not transact any business until a quorum is here.

The SPEAKER. That is undoubtedly correct and the Clerk will call the roll.

The question was taken; and there were—yeas 60, nays 192, answered "present" 8, not voting 123, as follows:

YEAS—60.

Barchfeld	Bulkley	Esch	Goldfogle
Bartholdt	Burke, Wis.	Estopinal	Good
Boehne	Burleson	Fergusson	Graham
Booher	Curley	Fuller	Green, Iowa
Borland	Donohoe	Gallagher	Greene, Mass.
Broussard	Dupré	Gill	Hamill
Kahn	Madden	Roberts, Mass.	Thayer
Kinkead, N. J.	Miller	Rodenberg	Tilson
Konig	Moore, Pa.	Sabath	Towner
Konop	Morgan, La.	Scott	Tuttle
Korbly	Murray	Sherley	Volstead
Lee, Pa.	Nye	Smith, N. Y.	Whitacre
Lobeck	O'Shaunessy	Stevens, Minn.	Wilder
McCreary	Ransdell, La.	Stone	Wilson, Ill.
McDermott	Reilly	Talcott, N. Y.	Young, Mich.

NAYS—192.

Adair	Dodds	Holland	Pray
Adamson	Doughton	Houston	Prince
Alexander	Draper	Howell	Prouty
Allen	Edwards	Hughes, Ga.	Raker
Anderson	Evans	Hughes, W. Va.	Redfield
Anthony	Faison	Humphrey, Wash.	Rees
Ashbrook	Farr	Humphreys, Miss.	Roberts, Nev.
Austin	Ferris	Jackson	Roddenbery
Ayres	Finley	Jacoway	Rothermel
Bartlett	Flood, Va.	Jones	Rouse
Beall, Tex.	Floyd, Ark.	Kennedy	Rubey
Bell, Ga.	Focht	Kinkaid, Nebr.	Rucker, Colo.
Blackmon	Foss	Knowland	Russell
Brantley	Foster	Kopp	Saunders
Buchanan	Fowler	Lafferty	Sharp
Burke, S. Dak.	Francis	La Follette	Sheppard
Burnett	French	Langley	Sherwood
Butler	Gardner, Mass.	Lenroot	Simmons
Byrnes, S. C.	Garner	Lever	Sims
Byrns, Tenn.	Garrett	Lindbergh	Slayden
Callaway	Glass	Linthicum	Slemp
Campbell	Godwin, N. C.	Littlepage	Sloan
Candler	Goodwin, Ark.	Lloyd	Small
Cantrill	Gray	McKenzie	Smith, Saml. W.
Carlin	Greene, Vt.	McKinney	Smith, Tex.
Clark, Fla.	Gregg, Pa.	McLaughlin	Stanley
Clayton	Gregg, Tex.	Macon	Stedman
Cline	Gudger	Maguire, Nebr.	Steenerson
Collier	Guernsey	Martin, S. Dak.	Stephens, Cal.
Cooper	Hamilton, Mich.	Mays	Stephens, Miss.
Copley	Hamilton, W. Va.	Mondell	Stephens, Tex.
Covington	Hamlin	Moon, Tenn.	Sterling
Crago	Hardwick	Morgan, Okla.	Sweet
Cravens	Hardy	Morrison	Switzer
Crumpacker	Harrison, Miss.	Morse, Wis.	Taylor, Ala.
Cullop	Hart	Moss, Ind.	Thistlewood
Currier	Hartman	Murdock	Thomas
Dalzell	Hay	Needham	Tribble
Daugherty	Hayden	Neeley	Underhill
Davenport	Hayes	Nelson	Warburton
Davis, Minn.	Heflin	Padgett	Watkins
Davis, W. Va.	Helgesen	Page	Webb
Dent	Helm	Patton, Pa.	White
Denver	Henry, Conn.	Pepper	Willis
Dickinson	Henry, Tex.	Pickett	Wilson, Pa.
Dickson, Miss.	Hensley	Plumley	Witherspoon
Dies	Higgins	Porter	Young, Kans.
Difenderfer	Hinds	Powers	Young, Tex.

ANSWERED "PRESENT"—8.

Browning	Haugen	Kendall	Mann
Fairchild	Hawley	McMorran	Sparkman

NOT VOTING—123.

Aiken, S. C.	Ellerbe	Legare	Rainey
Ainey	Fields	Levy	Randell, Tex.
Akin, N. Y.	Fitzgerald	Lewis	Rauch
Ames	Fordney	Lindsay	Reyburn
Andrus	Fornes	Littleton	Richardson
Ansberry	Gardner, N. J.	Longworth	Riordan
Barnhart	George	Loud	Rucker, Mo.
Bates	Gillett	McCall	Scully
Bathrick	Goeke	McCoy	Sells
Berger	Gould	McGillicuddy	Shackleford
Bradley	Griest	McGuire, Okla.	Sisson
Brown	Hammond	McKellar	Smith, J. M. C.
Burgess	Harris	McKinley	Smith, Cal.
Burke, Pa.	Harrison, N. Y.	Maher	Speer
Calder	Heald	Martin, Colo.	Stack
Cannon	Hill	Matthews	Stephens, Nebr.
Carter	Hobson	Merritt	Sulloway
Cary	Howard	Moon, Pa.	Taggart
Claypool	Howland	Moore, Tex.	Talbott, Md.
Conry	Hull	Mott	Taylor, Colo.
Cox	James	Norris	Taylor, Ohio
Curry	Johnson, Ky.	Oldfield	Townsend
Danforth	Johnson, S. C.	Olmsted	Turnbull
Davidson	Kent	Palmer	Underwood
De Forest	Kindred	Parran	Vare
Dixon, Ind.	Kitchin	Patten, N. Y.	Vreeland
Doremus	Lafean	Payne	Weeks
Driscoll, D. A.	Lamb	Peters	Wilson, N. Y.
Driscoll, M. E.	Langham	Post	Wood, N. J.
Dwight	Lawrence	Pou	Woods, Iowa
Dyer	Lee, Ga.	Pujo	

So the motion to lay the conference report on the table was rejected.

The Clerk announced the following additional pairs:

Until further notice:

Mr. ANSBERRY with Mr. SPEER.

Mr. BATHRICK with Mr. AINEY.

Mr. JAMES with Mr. GILLETT.

Mr. HULL with Mr. AMES.

Mr. CLAYPOOL with Mr. BATES.

Mr. COX with Mr. HEALD.

Mr. FITZGERALD with Mr. MCKINLEY.

Mr. HARRISON of New York with Mr. MOTT.

Mr. NEELEY with Mr. CURRY.

Mr. POU with Mr. LAWRENCE.
Mr. TAGGART with Mr. VARE.
Mr. CARTER with Mr. MCGUIRE of Oklahoma.

Mr. MANN. Mr. Speaker, I voted "nay," but because I am paired with the gentleman from Alabama, Mr. UNDERWOOD, I desire to be recorded "present."

The SPEAKER. Call the gentleman's name.

The Clerk called the name of Mr. MANN, and he answered "Present."

The result of the vote was announced as above recorded.

The SPEAKER. A quorum is present, and the Doorkeeper will open the doors.

Mr. GOLDFOGLE. Mr. Speaker, I desire to raise the point of order that the conferees exceeded their jurisdiction. I do not think the attention of the Chair was called——

The SPEAKER. It is too late. The Chair passed on that matter after elaborate argument.

Mr. GOLDFOGLE. Well, I wanted to say to the Chair that I do not think the attention of the Chair was called to the fact that there are certain provisions in this conference report that are in nowise pertinent to the provisions of the bill as it came from the Senate or as it was reported from the House committee.

The SPEAKER. The Chair ruled that it is too late. The gentleman from Illinois [Mr. SABATH] reserved a point of order; and the gentleman from Illinois [Mr. MANN] and the gentleman from Illinois [Mr. SABATH] both took a turn at that very question which the gentleman raises now, and the Chair passed on it and overruled their objections and points of order, and the House has passed on the question of laying the conference report on the table.

Mr. MURRAY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MURRAY. Do I understand the Chair to rule that if the gentleman from New York [Mr. GOLDFOGLE] suggests something in addition to what has already been suggested as having been done beyond the rights of the conferees, it is not in order?

The SPEAKER. The bill has passed that stage, and the Chair has passed on it.

Mr. MURRAY. So that, even if additional matter is presented as having been included in the conference report outside of the rights of the conferees, it could not be in order?

The SPEAKER. No. There must be an end to everything.

Mr. GOLDFOGLE. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. GOLDFOGLE. If, as has occurred, the motion to lay the conference report on the table was voted on and defeated, would that prevent the raising of a point of order that the conferees had exceeded their jurisdiction?

The SPEAKER. That matter is res adjudicata. It has been passed upon, and there is a motion pending before the House——

Mr. GOLDFOGLE. Mr. Speaker, another parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GOLDFOGLE. If the point of order that I desire now to raise relates to matter that did not come up at all under the point of order that was raised before, am I not in order to raise that point now?

The SPEAKER. The orderly conduct of the House requires that everything have a time and a season, and when you pass that you can not get that up any more.

Mr. GOLDFOGLE. But that which is now to be presented is what we did not consider.

The SPEAKER. But the gentleman had the opportunity to consider it.

Mr. GOLDFOGLE. The gentlemen who argued the points of order presented their propositions, and thereupon a motion was made, which the Chair very properly recognized, namely, to lay the conference report on the table. The Chair was bound to put that motion when it was made.

The SPEAKER. Here is the situation: The gentleman from Illinois, Mr. MANN, and the gentleman from Illinois, Mr. SABATH, raised points of order, and each one of them raised the question that the gentleman raises now. They argued it elaborately and learnedly, and the Chair ruled them out of order, and that closed the incident, unless somebody else did then what the gentleman from New York is trying to do now.

Mr. GOLDFOGLE. But the further opportunity to raise points of order was cut off when the motion to lay on the table was made.

The SPEAKER. The Chair is aware of that, but a motion for the previous question is now pending. The question is on agreeing to the motion for the previous question.

The question was taken, and the Speaker announced that the "ayes" seemed to have it.

Mr. SABATH. Mr. Speaker, I demand a division.

The SPEAKER. The gentleman from Illinois [Mr. SABATH] demands a division.

The House divided; and there were—ayes 111, noes 67.

Mr. SABATH. Mr. Speaker, I demand the yeas and nays.

Mr. MADDEN. I make the point of no quorum.

The SPEAKER. This is the easiest way of finding out whether there is a quorum.

Mr. GOLDFOGLE. I raise the point of no quorum.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll. Those in favor of ordering the previous question will, when their names are called, answer "aye"; those opposed will answer "no," and the Clerk will call the roll.

The question was taken; and there were—yeas 167, nays 76, answered "present" 9, not voting 131, as follows:

YEAS—167.

Adair	Dodds	Hensley	Pray
Adamson	Doughton	Higgins	Prince
Alexander	Draper	Hinds	Raker
Anthony	Edwards	Holland	Rauch
Ashbrook	Evans	Houston	Rees
Austin	Faison	Hughes, Ga.	Roberts, Nev.
Ayres	Farr	Hughes, W. Va.	Roddenbery
Bartlett	Ferris	Humphrey, Wash.	Rothermel
Beall, Tex.	Finley	Humphreys, Miss.	Rouse
Bell, Ga.	Flood, Va.	Jackson	Rubey
Blackmon	Floyd, Ark.	Jacoway	Rucker, Colo.
Borland	Focht	Johnson, S. C.	Russell
Brantley	Foss	Jones	Saunders
Buchanan	Foster	Kinkaid, Nebr.	Sharp
Burke, S. Dak.	Fowler	Knowland	Sheppard
Burnett	Francis	Kopp	Simmons
Butler	French	La Follette	Sims
Byrnes, S. C.	Fuller	Langley	Slayden
Callaway	Gardner, Mass.	Lawrence	Slemp
Campbell	Garner	Linthicum	Small
Candler	Glass	Littlepage	Smith, Saml. W.
Cantrill	Godwin, N. C.	Lloyd	Smith, Tex.
Carlin	Goodwin, Ark.	McKenzie	Stedman
Clark, Fla.	Gregg, Pa.	McKinney	Stephens, Cal.
Clayton	Gregg, Tex.	McLaughlin	Stephens, Miss.
Cline	Gudger	Macon	Stephens, Tex.
Collier	Guernsey	Maguire, Nebr.	Sterling
Copley	Hamilton, Mich.	Mays	Sweet
Covington	Hamilton, W. Va.	Moon, Tenn.	Switzer
Cravens	Hamlin	Morgan, Okla.	Taggart
Cullop	Hardwick	Morrison	Thomas
Currier	Hardy	Morse, Wis.	Tribble
Dalzell	Harrison, Miss.	Moss, Ind.	Underhill
Daugherty	Hartman	Mott	Webb
Davenport	Hay	Murdock	White
Davis, W. Va.	Hayden	Neeley	Willis
Dent	Hayes	Nelson	Wilson, Ill.
Denver	Heflin	Padgett	Wilson, Pa.
Dickinson	Helgesen	Page	Witherspoon
Dickson, Miss.	Helm	Patton, Pa.	Young, Kans.
Dies	Henry, Conn.	Pepper	Young, Tex.
Difenderfer	Henry, Tex.	Plumley	

NAYS—76.

Allen	Esch	Lenroot	Roberts, Mass.
Anderson	Fergusson	Lindbergh	Rodenberg
Barchfeld	Gallagher	Lobeck	Sabath
Barnhart	Gill	McCreary	Scott
Bartholdt	Goldfogle	McDermott	Sherley
Boehne	Good	Madden	Sherwood
Booher	Graham	Miller	Sloan
Broussard	Gray	Mondell	Steenerson
Bulkley	Green, Iowa	Moore, Pa.	Stevens, Minn.
Burleson	Greene, Mass.	Morgan, La.	Stone
Byrns, Tenn.	Hamill	Murray	Talcott, N. Y.
Cooper	Howell	Norris	Thayer
Crago	Kahn	Nye	Tilson
Crumpacker	Kennedy	O'Shaunessy	Towner
Curley	Kinkead, N. J.	Pickett	Townsend
Davis, Minn.	Konig	Powers	Tuttle
Donohoe	Konop	Prouty	Volstead
Doremus	Korbly	Ransdell, La.	Warburton
Dupré	Lee, Pa.	Reilly	Whitacre

ANSWERED "PRESENT"—9.

Bradley	Haugen	Kendall	McMorran
Browning	Hawley	Loud	Mann
Fairchild			

NOT VOTING—131.

Aiken, S. C.	Curry	Gould	Lamb
Ainey	Danforth	Greene, Vt.	Langham
Akin, N. Y.	Davidson	Griest	Lee, Ga.
Ames	De Forest	Hammond	Legare
Andrus	Dixon, Ind.	Harris	Lever
Ansberry	Driscoll, D. A.	Harrison, N. Y.	Levy
Bates	Driscoll, M. E.	Hart	Lewis
Bathrick	Dwight	Heald	Lindsay
Berger	Dyer	Hill	Littleton
Brown	Ellerbe	Hobson	Longworth
Burgess	Estopinal	Howard	McCall
Burke, Pa.	Fields	Howland	McCoy
Burke, Wis.	Fitzgerald	Hull	McGillicuddy
Calder	Fordney	James	McGuire, Okla.
Cannon	Fornes	Johnson, Ky.	McKellar
Carter	Gardner, N. J.	Kent	McKinley
Cary	Garrett	Kindred	Maher
Claypool	George	Kitchin	Martin, Colo.
Conry	Gillett	Lafean	Martin, S. Dak.
Cox	Goeke	Lafferty	Matthews

Merritt	Pou	Smith, J. M. C.	Thistlewood
Moon, Pa.	Pujo	Smith, Cal.	Turnbull
Moore, Tex.	Rainey	Smith, N. Y.	Underwood
Needham	Randell, Tex.	Sparkman	Vare
Oldfield	Redfield	Speer	Vreeland
Olmsted	Reyburn	Stack	Watkins
Palmer	Richardson	Stanley	Weeks
Farran	Riordan	Stephens, Nebr.	Wilder
Patten, N. Y.	Rucker, Mo.	Sulloway	Wilson, N. Y.
Payne	Scully	Talbott, Md.	Wood, N. J.
Peters	Sells	Taylor, Ala.	Woods, Iowa
Porter	Shackleford	Taylor, Colo.	Young, Mich.
Post	Sisson	Taylor, Ohio	

So the previous question was ordered.

The Clerk announced the following additional pairs:

Until further notice:

Mr. WATKINS with Mr. DE FOREST.

Mr. ESTOPINAL with Mr. BATES.

Mr. GARRETT with Mr. MERRITT.

Mr. POU with Mr. GREENE of Vermont.

Mr. LEVER with Mr. MARTIN of South Dakota.

Mr. REDFIELD with Mr. PORTER.

Mr. SHERWOOD with Mr. THISTLEWOOD.

Mr. STANLEY with Mr. TAYLOR of Ohio.

Mr. SMITH of New York with Mr. LAFFERTY.

Mr. TAYLOR of Colorado with Mr. WILDER.

Mr. RANDELL of Texas with Mr. YOUNG of Michigan.

Mr. BRADLEY. Mr. Speaker, I am paired with the gentleman from New York, Mr. FORNES. I voted "aye," and I desire to withdraw that vote and to be recorded present.

The result of the vote was announced as above recorded.

The SPEAKER. A quorum is present. The Doorkeeper will open the doors. There will be a debate of 40 minutes, 20 minutes to be controlled by the gentleman from Alabama [Mr. BURNETT] and 20 minutes by the gentleman from Illinois [Mr. SABATH].

[Mr. BURNETT addressed the House. See Appendix.]

Mr. BURNETT. I now yield to the gentleman from Kentucky [Mr. POWERS].

[Mr. POWERS addressed the House. See Appendix.]

Mr. SABATH. Mr. Speaker, I will thank the Chair to notify me when I have consumed five minutes of time. I admit, Mr. Speaker, that the three provisions that the gentleman from Alabama [Mr. BURNETT] has stated were eliminated from the Dillingham bill were of some importance, but for every elimination from the Dillingham bill the conferees have substituted and inserted at least 10 harsh, stringent, and unfair provisions, so that now it is without doubt the most vicious, the most drastic, the most undemocratic and un-American measure that was ever brought to this House. [Applause.] Some weeks ago the House was called upon to vote upon the so-called Burnett bill, comprising a page and a half, which simply provided for the educational test. To-day you are urged to consider and vote upon a bill that contains 60 pages, and I venture to say that there are not 10 Members present who have read or who are acquainted with all of the provisions contained in this bill.

Mr. MURRAY. Mr. Speaker, will the gentleman yield?

Mr. SABATH. Certainly.

Mr. MURRAY. Is it not a fact that the bill itself is not yet printed, and is not available for distribution in the House?

Mr. SABATH. A copy of the report is printed, but I am satisfied that hardly a dozen Members have had an opportunity to see it or read it. I say without fear of successful contradiction that everything that was good in the Dillingham bill was eliminated, and everything that could possibly be inserted to make it harsher and more stringent was injected by the conferees. The limited time at my disposal does not permit of my going into details and pointing out to the Members of this House the various matters that have been inserted in the bill, but I wish to call attention to some of the harshest provisions now incorporated in this bill.

On the very first page we find that should this bill pass it will apply not only to immigrants but to all aliens, it matters not whether they have resided here for 5, 10, 15, or 20 years. Unless they become citizens, and our strict naturalization laws practically preclude this in the majority of instances, they will be subjected to all of the harsh provisions of this bill if, perchance, they go abroad to visit their aged father and mother or other relatives or to adjust any estate they may have in the old country.

The deportation clause in the bill provides that anyone who may be found guilty of a crime punishable by imprisonment for one or more years will be deported after the expiration of his sentence, though he has paid the penalty for his indiscretions, and notwithstanding the fact that he may have resided here for any number of years and may have an American wife and children born in this country.

The bill increases the head tax from $4 to $5, and this applies not only to immigrants but to all aliens.

Then, on the fourth page of this bill, we find the provision that "citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate shall be debarred." What is the significance of this, gentlemen? It means that practically one-half of the immigrants from such European countries as Russia, Austria, and other countries that issue such certificates will be prevented from entering this country, due to the fact that they will be unable to secure these certificates, for practically that number leave their homes surreptitiously for fear that if they make known their plans they will be prevented from embarking. I ask you, gentlemen, is it just that we should demand from these people a certificate of character when they already have so many obstacles interposed to prevent their leaving their native land? Is it fair that we should give to these Governments the power to say who can and who can not emigrate to America? [Applause.]

As to the educational test, the House managers did attempt to make some exceptions in the case of the wives, parents, and children of the immigrants, so that they would be exempted from this test, but further on in the bill this exemption is nullified by a provision which directs that a fine shall be imposed on anyone and on any steamship company that brings into this country anyone who does not know how to read. Are you gentlemen aware that this provision would debar practically all of the women who emigrate from Russia, Roumania, Galacia, Poland, and many other countries? These women are denied the opportuity of learning to read, and therefore this clause would absolutely prevent their entry into the United States. Then let me direct your attention to the proviso which stipulates that all persons shall be excluded who "have committed a felony"; notice that this does not provide for the exclusion of those who have been convicted of a felony, but those who have committed a felony. This will give the Russian spies an opportunity to cause the deportation of anyone whom they desire to have excluded, for all that is necessary is that they accuse the immigrant of having committed a felony. It also confers arbitrary power on immigrant inspectors to try aliens and punish them by deportation under an act which confers authority on the immigrant inspector to subpœna witnesses, but gives no such authority to the alien. No other law ever proposed was ever so unjust to one party to a trial.

I have mentioned only a few of the more drastic provisions which have been inserted in this bill, but there are numerous others which impose unjust and unreasonable restrictions upon those seeking admission to the United States.

I feel sure that those of you who voted for the passage of the Burnett bill were convinced that the literacy test which that measure provided was the utmost restriction that should be demanded. When the Dillingham bill was originally reported to the House it was very evident that the provisions contained therein were deemed most obnoxious, and it was voted that they be stricken out; yet you now have presented to you a much harsher and more drastic measure, the passage of which is advocated by a few professional patriots and narrow-minded restrictionists. [Applause.] Will you yield to their demands? For fear that you may, I again appeal to you to carefully consider your action lest you may later regret your haste and indiscretion.

Mr. Speaker, when the managers on the part of the House were appointed to this conference it was understood that they would represent the wishes of this House; yet they have tolerated and agreed to the insertion of practically all of the most stringent provisions of the original Dillingham bill—provisions that were rejected by this body—as well as additional provisions that were never considered by this House.

Will the Members of the House now ratify the action of the conferees, who have deliberately exceeded their power, by passing the measure. I hope not. If you do, you will establish a dangerous precedent, as you will sanction legislation by six—yes, by four—conferees, as in this case, instead of legislation by the House as a whole.

Before concluding permit me again to counsel you not to be carried away by prejudice. This legislation means a great deal to thousands upon thousands of honest, industrious, freedom and liberty seeking people, now persecuted and oppressed by tyrannical governments, for this bill will not keep out educated disturbers and anarchists, but it will exclude honest, thrifty, hard-working people, who have, on account of conditions over which they exercise no control, been deprived of an opportunity to secure an education.

Mr. Speaker, as a member of the Immigration Committee, as a member of this conference, and upon the floor of this House, I have done everything within my power to secure certain changes and modifications in this bill. In a few cases I have succeeded, in the majority I have failed, but I am confident that you will agree with me that my failure has not been due to indifference on my part. I am satisfied that I have done everything possible to convince the Members of this House of the justice of my views. If I have failed, I regret it exceedingly and feel sure that in the near future you will. [Applause.]

The SPEAKER. The gentleman has consumed five minutes.

Mr. SABATH. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. The gentleman from Illinois [Mr. SABATH] asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. BURNETT. Mr. Speaker, how much time have I remaining?

The SPEAKER. Eight minutes.

Mr. BURNETT. I yield to the gentleman from California [Mr. HAYES], if he is present.

Mr. HAYES. Mr. Speaker, I desire to call to the attention of the House one of the provisions included by the conferees in this bill. It provides for the exclusion of a class of aliens not heretofore excluded under our laws by adding the following to the excluded classes:

Persons who can not become eligible under existing law to become citizens of the United States by naturalization unless otherwise provided for by existing agreements as to passports, or by treaties, conventions, or agreements that may hereafter be entered into. The provision next foregoing, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, and travelers for curiosity or pleasure, nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section 19 of this act.

Some of the exceptions of this provision I do not approve. I wish they were not in the bill. I doubt the wisdom of substituting a sort of gentlemen's agreement between nations for the provisions of legislative enactment, especially in a matter so vital as immigration. But I do enthusiastically indorse the principle which by the provision above quoted is incorporated into the immigration law. Any people who are not to be fully assimilated and included in the whole body of our citizenship, with all the rights and duties incident thereto should be rigidly excluded from our shores. This rule should be made a fundamental principle of our immigration laws, to be strictly adhered to at all times and under all circumstances. To admit to this country any considerable number of immigrants from a country the inhabitants of which we do not admit to citizenship under our laws is to import another race problem similar to the one we now have in the South. I believe that no man on this floor would like to see that problem duplicated in the West.

Four years ago I introduced a bill embodying the principle above referred to, and have been advocating it ever since. I am much gratified that the conferees on the part of the House have incorporated this provision in their report.

For many years I have advocated the extension of the Chinese-exclusion act so as to exclude all Asiatic laborers. I still believe that some positive legislative enactment which would effectually exclude them would be better than the gentleman's agreement between this country and Japan, and I still hope to see such an act take the place of that agreement. I will admit, however, that so far this agreement has worked fairly well. It is only fair to say that under it laborers from Japan have been generally excluded. It has worked quite as satisfactorily as the Chinese-exclusion act has in excluding Chinese laborers. When it ceases to so work the agreement can be abrogated and the provisions of the bill to which I have referred made applicable.

I also desire to especially commend the provision in the bill that when the classes excepted from the operation of its provisions—

fail to maintain in the United States a status or occupation placing them within the excepted classes they shall be deemed to be in the United States contrary to law, and shall be subject to deportation.

The lack of such a provision has always been a great weakness in the Chinese-exclusion law. In the Fifty-ninth Congress I introduced a bill to incorporate such a provision in our exclusion laws, and have reintroduced it in every subsequent Congress, and I am gratified that at last it is in a fair way of becoming a part of the law of the land.

On the whole, the bill is a long step in the right direction. I shall cheerfully vote to adopt the conference report.

Mr. BURNETT. Mr. Speaker, I yield to the gentleman from North Carolina [Mr. GUDGER].

[Mr. GUDGER addressed the House. See Appendix.]

Mr. BURNETT. Will the gentleman from Illinois yield some of his time?

Mr. SABATH. I yield to the gentleman from Pennsylvania [Mr. MOORE].

Mr. MOORE of Pennsylvania. Mr. Speaker, it seems to me to be a very bad and dangerous practice to place in the hands of six conferees the power to write legislation that has never been considered in the House. We are confronted in this instance with a bill, the print of which in italics in the report covers 24 pages—the bill itself covering some 60 pages—and being a bill which practically revises all the immigration and naturalization laws of the United States. The House has not considered any phase of this legislation as it now comes up to us except the illiteracy test, which we discussed here in a separate bill several weeks ago. It seems to me this kind of legislation ought to originate in the House, and the House ought surely to have the right to discuss the change of laws affecting immigration.

As for the bill itself, I have not had the time to read it, and I question whether any other gentleman in the House has had time to read it carefully or to make comparisons with the existing law, but as I read some sections of the bill I find it to be very objectionable. There are some admirable features in the bill; some intended to prevent, for instance, the admission of those who surreptitiously ship as sailors or who seek to come in as stowaways. I have not time to enumerate any of these features. What I particularly object to is that feature of the bill providing an illiteracy test which bars from the country poor but law-abiding labor, which we need here and which comes of its own volition. Of course the anarchist, the murderer, the criminal, and certain objectionable classes are barred, but we have ample existing law against them. The hardship is as to the common laborer who can not read, and while the bill denies him admission, it excepts from the forbidden classes certain other classes that may be equally undesirable. Let me show you: Here is the lawyer. He can come in. Judging from the number of lawyers in this House and elsewhere throughout the country, it is fair to presume we have enough lawyers already. [Laughter.] But the American lawyer has no protection in this bill against the foreigner. The bill admits "ministers, religious teachers and missionaries, and students." The Lord knows we have enough poorly paid ministers in this country now. We also have plenty of students to preach all sorts of doctrines and stir up all sorts of unrest. Then the bill admits the "journalist." Will anyone tell me what a journalist is?

The SPEAKER. The time of the gentleman from Pennsylvania has expired.

Mr. MOORE of Pennsylvania. May I have one minute more?

Mr. SABATH. I am very sorry, but I can not yield to the gentleman.

Mr. MOORE of Pennsylvania. The journalist is that high-grade gentleman who trades upon the reputation of legitimate newspaper men——

The SPEAKER. The time of the gentleman has expired.

Mr. MOORE of Pennsylvania. Who are competed with in this bill. I ask unanimous consent to revise and extend my remarks.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. MOORE of Pennsylvania. Mr. Speaker, what has just transpired illustrates the absurdity of attempting to discuss a bill of this importance in three minutes. Altogether only 40 minutes of debate is to be allowed on this bill, and in that time the House is to learn all it is intended it should know about the repeal, revision, and amendment of nearly all the laws affecting immigration in addition to the new matter which has been injected into the bill in conference, without regard to either the Senate or the House. If the majority is satisfied to do business this way, however, there is no alternative but to submit until the people at large more thoroughly understand the sumptuary methods of propulsion and suppression that are possible under the rules of the House. If in the past, under any system of rules, there has been any just cause for grievance on the part of those who constitute a deliberative body, the action of to-day does not fall far short of the high record mark in the annals of parliamentary gagging.

But I was saying, Mr. Speaker, that the bill which has thus been thrust upon us keeps out the downtrodden poor and admits the elect. I have already referred to the lawyers, the

ministers, and the missionaries as excepted classes. The list must be extended to include physicians, chemists, engineers, teachers, students, authors, editors, merchants, bankers, and journalists. I have commented briefly upon journalists and have wondered whether, under this denomination, common labor being barred, it is proposed to admit every nonworking writer who has peculiar notions of government and who will unload upon us the moment he is admitted. It would seem to me we have enough poorly paid editors in this country, but the bill proposes to take on more, and apparently there is no labor union to step in and say "nay." It is interesting to note that "merchants" are to come in, the term being sufficiently elastic to include anyone from the shoe-string vender up to the mail-order house magnate, but common labor is not desired. To the Pujo investigating committee is commended that clause of the bill which admits "bankers" free. Evidently we have not enough of this commodity in the United States and invite competition.

Indeed, it is interesting to observe how we shut out the trench diggers and sewer builders, while we admit the professional classes, particularly the actors and actresses, the authors and preachers, who come over to pick up a few American dollars and go back to write up their impressions of the country. In the effort to prevent the separation of families, which is one of the cruel features of existing law, the bill makes some progress, but it is so severe on children under 16 years that it would exclude any child below that age who is sent to this country to be educated, and yet we have universities and colleges, particularly in medicine and dentistry, that are the admiration of the world.

On the whole, the bill as rewritten seems to favor the admission of nonworking professionals of whom we would seem to have a plenty in the United States, but it cuts out the drudge for whom, at least in some families and in some employments, there is a present need. I am obliged to the House for the leave thus granted to extend by remarks.

Mr. SABATH. I yield to the gentleman from New Jersey [Mr. HAMILL].

[Mr. HAMILL addressed the House. See Appendix.]

Mr. SABATH. Mr. Speaker, I yield two minutes to the gentleman from Wisconsin [Mr. LENROOT].

Mr. LENROOT. Mr. Speaker, I voted for the House bill. I have been in full sympathy with those who desire legislation upon this subject at this session, and have done what I could to bring it about. But, Mr. Speaker, I can not vote for this conference report chiefly because of one provision in the bill which reads as follows, as to excluded classes:

> Citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate.

That means, Mr. Speaker, that this country, for the first time in its history, is willing by this legislation to say to the world that in addition to the classes that we propose to exclude we will let them say what others shall be excluded as well from admission into the United States. Mr. Speaker, what will be the result? Russia could to-morrow issue certificates of character when this becomes a law, and does anyone believe for one moment a Jew after that could be admitted into the United States? You know he could not. And it is the same with other countries.

Another provision a little later in the bill exempts those who have been convicted of political offenses, but with this provision that I have quoted in the bill, though they have been convicted of political offenses, and they ought not to be excluded for that reason, does anyone believe any nation on earth would issue a certificate of character to one of its subjects who had been convicted of a political offense? And in the absence of the certificate they could not be admitted.

Another provision permits certain relatives of a citizen of the United States to come in without passing the illiteracy test. As the bill stands they will be required to produce a certificate of character. Failing to secure it, a man's wife will not be permitted to come into this country. Are we by this vote to say to these countries, "We will let you decide who shall not be admitted into this country," instead of deciding it for ourselves? [Applause.]

The SPEAKER. The time of the gentleman has expired.

Mr. MURRAY. Mr. Speaker, in order to get it clearly in the RECORD, may I inquire of the Chair whether it is in order during this debate to move to strike out from the pending bill any of the objectionable provisions mentioned by the gentleman from Wisconsin [Mr. LENROOT]?

The SPEAKER. It is not. You will have to take the conference report as a whole or reject it as a whole.

Mr. KONIG. Mr. Speaker, I raise the point of no quorum.

Mr. BURNETT. I yield four minutes to the gentleman from Massachusetts [Mr. GARDNER].

Mr. KONIG. Mr. Speaker, I make the point of no quorum.

Mr. BURNETT. Mr. Speaker, I make the point of order that that motion is dilatory.

The SPEAKER. Does the gentleman from Maryland [Mr. KONIG] withdraw his point?

Mr. KONIG. I raise the point of order that there is no quorum present. You can not do business without a quorum.

The SPEAKER. The question is not debatable. The Chair will count. [After counting.] One hundred and fifty-three gentlemen are present, not a quorum.

Mr. BURNETT. Mr. Speaker, I move a call of the House.

Mr. SABATH. Mr. Speaker, I move to adjourn.

The SPEAKER. The gentleman from Alabama [Mr. BURNETT] moves a call of the House.

Mr. SABATH. I move to adjourn.

The SPEAKER. The gentleman from Illinois [Mr. SABATH] moves that the House do now adjourn.

Mr. BURNETT. I hope that will be voted down.

The SPEAKER. That is not debatable. The question is on the motion of the gentleman from Illinois [Mr. SABATH] that the House do now adjourn.

The question was taken; and the Speaker announced that the "noes" seemed to have it.

Mr. SHERLEY. Division, Mr. Speaker.

Mr. GARDNER of Massachusetts. To save time, Mr. Speaker, I demand the yeas and nays.

The SPEAKER. The gentleman from Massachusetts [Mr. GARDNER] demands the yeas and nays. Those in favor of ordering the yeas and nays will rise and stand until they are counted. [After counting.] Nineteen gentlemen have arisen—not a sufficient number. The yeas and nays are refused. The gentleman from Kentucky [Mr. SHERLEY] demands a division on the motion to adjourn.

The House divided; and there were—ayes 63, noes 81.

So the House refused to adjourn.

Mr. MURRAY. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. A quorum is not required on a question of adjournment.

Mr. MURRAY. But it requires a quorum to do business.

Mr. MANN. The motion for a call of the House has already been made.

The SPEAKER. The question is on the motion of the gentleman from Alabama [Mr. BURNETT], that there shall be a call of the House.

The question was taken; and the Speaker announced that the "ayes" seemed to have it.

Mr. GARNER. A division, Mr. Speaker.

The House divided; and there were—ayes 73, noes 65.

So a call of the House was ordered.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

The Clerk proceeded to call the roll, when the following Members failed to answer to their names:

Aiken, S. C.	Fuller	Legare	Rucker, Colo.
Ainey	Gardner, N. J.	Levy	Rucker, Mo.
Akin, N. Y.	George	Lewis	Scully
Ames	Gillett	Lindsay	Sells
Andrus	Glass	Littleton	Shackleford
Ansberry	Goeke	McCall	Sisson
Anthony	Good	McCoy	Slayden
Bates	Gould	McGillicuddy	Smith, J. M. C.
Bathrick	Guernsey	McGuire, Okla.	Smith, Cal.
Berger	Hammond	McKellar	Smith, N. Y.
Blackmon	Harris	McKinley	Speer
Brown	Harrison, N. Y.	Maher	Stack
Burgess	Hart	Martin, Colo.	Steenerson
Burke, Pa.	Haugen	Matthews	Stephens, Nebr.
Calder	Heald	Merritt	Sulloway
Cannon	Henry, Conn.	Moon, Pa.	Taggart
Cary	Hensley	Moore, Tex.	Talbott, Md.
Claypool	Higgins	Morgan, La.	Talcott, N. Y.
Conry	Hill	Needham	Taylor, Ala.
Covington	Hobson	Oldfield	Taylor, Colo.
Crumpacker	Howard	Olmsted	Taylor, Ohio
Curry	Howell	Parran	Thayer
Danforth	Howland	Patten, N. Y.	Thistlewood
Davidson	Hull	Peters	Townsend
De Forest	Humphreys, Miss.	Post	Turnbull
Dickson, Miss.	James	Prince	Underwood
Driscoll, D. A.	Johnson, Ky.	Prouty	Vare
Driscoll, M. E.	Johnson, S. C.	Pujo	Vreeland
Dupré	Kent	Rainey	Weeks
Dwight	Kindred	Randell, Tex.	Wilder
Dyer	Kinkaid, Nebr.	Ransdell, La.	Wilson, N. Y.
Estopinal	Lafean	Reyburn	Wood, N. J.
Fields	Lamb	Richardson	Woods, Iowa
Fitzgerald	Langham	Riordan	
Fornes	Lawrence	Rouse	

The SPEAKER. Two hundred and forty-four Members have responded to their names—a quorum.

Mr. FOSTER. I move to dispense with further proceedings under the call.

The motion was agreed to.

The SPEAKER. The Doorkeeper will open the doors. The gentleman from Alabama [Mr. BURNETT] has seven minutes and the gentleman from Illinois [Mr. SABATH] has eight minutes remaining.

Mr. BURNETT. I yield four minutes to the gentleman from Massachusetts [Mr. GARDNER].

Mr. GARDNER of Masachusetts. Mr. Speaker, the gentleman from Wisconsin [Mr. LENROOT], who has discussed this question of penalty certificates, or certificates of character, evidently does not understand the meaning of the clause to which he objects. Italy—and, I believe, other countries—have a system under which every citizen is supplied with a document which he must show on demand. If he has ever been convicted of an offense the fact is entered on that document. When the Immigration Commission was abroad it was pointed out to them that it would be very wise to put into our law a provision of this sort which we are discussing. In order to exclude criminals, it was suggested that we should ordain that when an immigrant comes here who is a citizen of any country which issues these certificates of character and penal certificates, we should say to him, "Now, sir, show us that paper which your Government requires you to possess. If that paper shows that you are a criminal, then you can not come in. If there are no convictions against you, we judge that you are no criminal. If you come from Italy and refuse to show us your papers we shall believe that there is something wrong with you."

Mr. BARTHOLDT. Will the gentleman yield?

Mr. GARDNER of Massachusetts. I ask the gentleman to let me complete my statement. Now, Mr. Speaker, the Secretary of Commerce and Labor, Mr. Nagel, is at the head of the Bureau of Immigration, and this clause in the law is included in the recommendation of that bureau. I think section 10 of the draft bill submitted by the Bureau of Immigration contains exactly this language——

Mr. CURLEY. Mr. Speaker——

Mr. GARDNER of Massachusetts. I can not yield. The provision is:

> Citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate.

The commissioner points out in his report that this provision will be effective in preventing men with criminal records slipping by at Ellis Island.

Mr. GOLDFOGLE. Mr. Speaker——

Mr. GARDNER of Massachusetts. I can not yield.

The SPEAKER. The gentleman declines to yield.

Mr. GARDNER of Massachusetts. The gentleman says, "Oh, but suppose Russia passes a law and takes up that same system of criminal jurisprudence."

Was ever anything more fantastic than such a supposition? The gentleman perhaps believes that Russia is going to change her whole system of criminal jurisprudence for the purpose of keeping the Jews in Russia. Why, we know that the fact is that the Russian Government dislikes the Jews and does not wish to keep them in Russia. Nothing more fanciful has been dreamed in the whole course of this debate. Russia telling us whom we shall admit, forsooth!—and that was a very effective way in which the gentleman put it—Russia changing her criminal system merely to keep some of her people at home. She has plenty of ways of keeping them at home if she so desires. Do not be alarmed, Mr. Speaker, at the ghost of Russia instructing us as to whom we shall admit to this country. Russia is not going to tell us whom we shall admit and whom we shall exclude; but when would-be immigrants are in possession of documents which show whether or not they have criminal records, we propose to see those documents. Before men who possess certificates pass through Ellis Island they must produce those certificates, so that this country shall not be flooded with criminals.

The SPEAKER. The time of the gentleman has expired.

Mr. SABATH. I yield two minutes and a half to the gentleman from New York [Mr. GOLDFOGLE].

The SPEAKER. The gentleman from New York [Mr. GOLDFOGLE] is recognized for two minutes and a half.

Mr. GOLDFOGLE. Mr. Speaker, the brief time allotted to me to speak in opposition to the conference report affords no fair opportunity to analyze the many provisions which have been inserted by the conferees. I can but utter my earnest, vigorous, and emphatic protest against the adoption of this measure. It abounds with provisions that are pernicious and which, if enacted, will give rise to hardship. It is, with few exceptions, the Dillingham bill all over again, and in some one or two respects is somewhat worse than when that measure came to us from the Senate.

The method adopted to secure the enactment of this legislation calculated to restrict immigration is amazing. The House Committee on Immigration struck out the provisions of the Dillingham bill, and, lo, the conferees bring back the measure with most of the features of that bill all reinserted and even more drastic than before. I am conscious that the temper of this House to-day favors the report, yet I would not sit by and see this measure go through by this steam-roller process without uttering any protest against both this report and the hasty, ill-considered way in which it is proposed this bill shall become a law.

Only last night the conferees reported this measure to the House. As we passed the bill it contained but one provision. It was the literacy-test provision. It was the reading test proposed in the Burnett bill. Behold now, we get from the conferees a lengthy bill of about 60 printed pages, and this only found printed for the first time this morning. Certain it is that few Members have read the provisions of the bill. Few, indeed, could have in these few hours familiarized themselves with its many clauses and provisions. Legislation produced in this way and rushed through in this fashion can not ever be said to be the result of statesmanlike consideration or of deliberate action.

It has been already well suggested that under the bill as now reported by the conferees an alien who has been in this country for a considerable period of time and who for any reason may have temporarily returned to his mother country can not return here without being subjected to all the examinations and inconveniences and restrictions that apply to immigrants that come to our shores for the first time. I wish I had the time to illustrate fully the viciousness of this and the abuses to which such legislation may lead. A father or mother, though having been for years a law-abiding inhabitant of this country and then returning to his or her native land, might, through means of being subjected to the provisions of this restrictive legislation, be debarred from coming in again, and perhaps be separated from their families forever. So it might be in respect to sons and daughters who, returning from their native lands after having been lawfully here for some years, might meet with the obstacles and difficulties which this proposed law would put in their way when seeking readmittance to this country.

Yet, Mr. Speaker, while the first section of the bill brings forth these observations, because no longer, as in the present law, is the statute to apply to immigrants who have not heretofore been lawfully admitted to the country, but the bill is made to apply to "any person not a native-born or naturalized citizen of the United States" and is to include all these aliens. Yet important as it may be to carefully consider such a situation, or the effect of the language which the conferees have inserted, you want to rush this bill hastily and hurriedly to a vote.

In the third clause of the bill it is proposed to absolutely exclude from entrance into this country all "citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate." In countries such as Russia and Roumania the emigrant desirous of leaving to migrate hither might find himself or herself in severe plight and encounter intolerable hardships to get such certificate, if he or she belong to the class of people who come within their policy of proscription or against whom their religious or racial intolerance is directed.

In some countries, whether Russia or Italy, Roumania or Hungary, Poland or elsewhere, conditions might and at times are likely to arise when those who would seek to leave these foreign lands to come here would encounter difficulty to get such certificates. Any country may at any time adopt a system of issuing such certificates, and thus her subjects or citizens would come under these provisions. Russia already issues certificates of the nature called for by the bill before us. Need I tell you, from what you already know of the unfortunate and pitiful condition of the Jew in that autocratic country, what difficulty he would meet with there? How rich might be the field of petty officials in foreign lands when they would be called on to grant these certificates that would enable the intending emigrant to leave his country to turn his footsteps to this land of freedom and opportunity? Only a little more than a year ago this House by practically a unanimous vote condemned the autocratic and outrageous conduct of Russia against the Jew, and now here to-night you propose to subject the very class for whom you professed your sympathy to being compelled to seek a certificate from the hands of a government under whose oppression he lives before you will permit him

entrance to our shores. You would invest the Government of the Czar with the power, if it or its officials, high or low, great or petty, saw fit to exercise it, to keep the man or woman from coming here, though he or she would be in every way a desirable immigrant.

But I have not time to pursue this subject. I have heretofore opposed, as I still oppose, the educational or literacy test. It is no test of fitness or character. Under it the bad, the vicious, or criminal minded might, if they can read, come in, while those who may be worthy, able-bodied, capable of self-support, and honest, but, unfortunately, illiterate, be kept out.

So, with these hurried remarks, I conclude my protest. Regarding the measure proposed by the conferees as harsh, ill conceived, undemocratic, un-American, and opposed to American principles, and attended with a spirit of narrowness, I can not give it my vote.

The SPEAKER. The time of the gentleman has expired.

Mr. SABATH. Mr. Speaker, I yield three minutes to the gentleman from Missouri [Mr. BARTHOLDT].

Mr. BARTHOLDT. Mr. Speaker, hundreds of years ago the Chinese built a wall around their country for the purpose of keeping out foreigners, foreign influences, foreign culture, and whatever smacked of foreigners. We are much smarter than that. We do not build a physical wall, but we build a Chinese wall in the shape of a law, and we do it because we believe we already have a monopoly upon all the culture, all the science, all the arts the world is possessed of to-day. We do not need any more from the outside.

Mr. Speaker, I dislike to see the spirit which is behind this bill; it is not in harmony with the conception I have of true Americanism; it is a spirit of proscription, of intolerance, and of race prejudice; it is a spirit of nativism which has not been in the books of the fathers of this Republic.

It is impossible, of course, to discuss in the short time I have the several sections in this bill. I have been in this House for 20 years, but never within my recollection has it been attempted to pass a bill of this magnitude without the House of Representatives asserting its rights in at least preserving a chance to discuss and amend it. Yet we are confronted here with a parliamentary situation which requires this important measure to be acted upon without a chance for amendment, without a chance to discuss it. You are increasing the head tax from $4 to $5, and you think the steamship companies are to pay that. Nothing of the kind. The steamship companies will put it onto the immigrant, and taking a dollar from that poor man at a time when he needs it more than ever in all his life is like taking a nickel from the eyes of a blind man. Yet you insist on filching it from his pockets in spite of the fact that the immigrant fund is already overflowing with "blood money" collected in the same heartless manner.

Furthermore, you require a certificate of character from all immigrants coming from countries issuing such certificates. There may now be but one or two of such countries, but this new American statute will be incentive to all European countries to immediately pass laws stipulating, in effect, that certificates of character may be issued to those they want to get rid of and withheld from all those whom the authorities wish to stay at home. To this class belong, among others, all the young men subject to military duty, and thus the very flower of European manhood, the most desirable of all immigrants, will be prevented from coming to our shores.

I venture the prediction, Mr. Speaker, that it will not be long before you will deeply regret the action that is about to be taken. By this legislation you will build up Canada, Mexico, Brazil, and the Argentine Republic at the expense of the United States. You will find that you have killed the hen that lays the golden eggs, and that if our present prosperity is allowed to continue under Democratic rule, scarcity of labor will soon be the standing complaint of American industries. You will find that in enacting this bill you are listening to the voice of prejudice and ignorance rather than that of wisdom, to the braying of the jackass rather than to the voice of reason and intellect, and I can foresee the time when you will be willing not only to again open wide the doors of the Republic, but to offer premiums to immigrants whose coming you now regard as a hostile invasion; but then I am afraid it will be too late. By our unfriendly attitude we have already scared off the best—the Germans, the Irish, the Scandinavians—and with this new piece of legislation we will divert from us the balance of them.

I realize that those of us who have more closely studied the problem of immigration, and therefore more fully appreciate the monumental folly of this Know-nothing legislation, could preach until doomsday and yet could not make a dent on the prejudice which is responsible for it. It requires, like in the case of tariff legislation, the lessons of practical experience to change the people's minds. Indeed, it seems to be a human trait to exhaust every folly to its utmost extremity before reason will be given its way. This is true with respect to the war preparations of the nations at the time when the great masses of all of them are entirely willing to dwell in peace and harmony and settle their differences peacefully. It is true in regard to the prohibition movement, which foolishly contemplates the changing of innocent individual habits by law rather than by moral suasion; and it seems to be true in the matter of regulating the immigration problem, which you now propose to solve by simply stopping the influx of foreigners, totally ignoring the fact that you will thereby create a new problem much more serious than the one you are trying to solve. We shall see who is right.

The SPEAKER. The time of the gentleman from Missouri has expired.

Mr. KAHN. Mr. Speaker, the gentleman from Massachusetts [Mr. GARDNER] undertook to explain that Russia dislikes her Jewish subjects and does not want to keep them in that country. As a matter of fact, however, the reason assigned by the Government of the Czar for refusing to allow Jewish citizens of the United States of Russian birth to return to their native land under passports issued to them by the country of their adoption is that the Jews expatriated themselves and left Russia without the consent of the Russian Government. It seems to me that the provision contained in the conference report, which requires the production of penal certificates or certificates of character of any country that issues such certificates, in order to secure admission into the United States, will make it exceedingly difficult for the citizens of Russia of the Jewish faith to enter our ports in case Russia should adopt a law for the issuance of such certificates. It would also be difficult for political offenders from that country to come here. In my travels I have learned that it takes very little to constitute a political offense in most of the monarchical countries of Europe. The provision which has been inserted by the conferees requiring the production of such certificates to our officials constitutes one of my objections to the conference report. I think this feature of the law would result in many hardships.

I freely admit that there are many excellent provisions in the law, but there are also many provisions that, in my judgment, should never be enacted into law. The matter of the literacy test is the most important of these. I discussed that at some length when the Burnett bill was up for consideration in the House. The application of that test will be particularly hard in the case of the Territory of Hawaii, for the provisions in this bill will require all immigrants who go to the Territory of Hawaii to be able to read. For many years the labor in the sugar fields and plantations of Hawaii has been oriental. At first it was altogether Chinese coolies who were the workmen on these plantations. When we annexed Hawaii we extended our Chinese exclusion laws to the islands. Subsequently there was a large influx of Japanese coolies to the Territory. Indeed, the immigration of the latter was of such proportions that to-day the Japanese population far outnumbers any other on the Islands. The experience of many years has demonstrated that the oriental is not a satisfactory laborer. The planters and the citizens of Hawaii desire to supplant these orientals with Caucasian labor. An effort has been made to bring Portuguese and Spanish laborers to the islands to supplant the Chinese and Japanese laborers. Several shiploads of the former were brought to Hawaii to work on the plantations. This experiment met with great success. The natives of the Iberian Peninsula were paid one-third more salary than was paid the coolies of the Orient for similar services. The planters willingly paid the increase because they found that the Caucasian was a more desirable workman. But the Portuguese and Spaniards are largely illiterates. Under the terms of the conference report they could not be permitted to enter Hawaii and we will have the remarkable spectacle of one of our own Territories, which is trying to supplant its oriental workmen with Caucasian workmen, frustrated in its plans by the immigration laws of our own country. We find one of our Territories compelled to seek its labor from the exceedingly cheap labor countries of China and Japan. We of the West are decidedly averse to the orientalization of any section of our country. We of the West feel that Caucasian laborers are to be preferred to Chinese and Japanese coolies, and we feel that this bill, so far as Hawaii is concerned, discriminates in favor of the oriental and against the Caucasian.

It is needless for me to go into other details that make the conference report objectionable. I think those that I have enumerated show plainly that the measure has features that should never be placed upon the statute books, and for that reason I shall oppose the conference report.

Mr. SABATH. I now yield two minutes to the gentleman from Massachusetts [Mr. CURLEY].

Mr. CURLEY. Mr. Speaker, with reference to the section pointed out by the gentleman from Wisconsin [Mr. LENROOT] and which has been referred to by the gentleman from Massachusetts [Mr. GARDNER], which refers to the certificate of character from foreign governments, I want to point out that it is not the subjects of Russia alone with whom we are concerned as Members of this House, it is that splendid German citizenship, that French citizenship, that Italian citizenship, that we would have lost for the last 50 years if a bill of this character was on the statute books. We got the youth, we got the muscle, we got the intelligence, we got the determination, we got the ambition of those older civilizations in Europe whose people fled here to escape compulsory military service in Germany, in France, in Italy, and in every other section of Europe. [Applause.] This is the same old story. This bill comes in here, some 58 pages long, and in one afternoon's discussion an abomination has been discovered. I venture to say if we had seven days to discuss it there is not a man in the House who would be ready to vote for the bill. It is the same character of proscription that would have deprived this country of the splendid services of Thomas Francis Meagher, who at the head of his brigade captured more colors and standards than the rest of the Union Army put together in 1864. It would have deprived this country of the splendid attainments and qualifications of that masterly genius, John Boyle O'Reilly, who in protesting against the same character of proscriptive legislation, speaking for his own people, said:

No treason we bring from Erin,
Nor bring we shame nor guilt;
The sword we hold may be broken,
But we have not dropped the hilt.
The wreath we bear to Columbia
Is twisted of thorns, not bays,
And the songs we sing are saddened
By the thoughts of desolate days.
But the hearts we bring for freedom
Are bathed in a surge of tears,
And we claim our right by a freeman's fight
Outlasting a thousand years.

[Mr. BURNETT addressed the House. See Appendix.]

The SPEAKER. All time has expired.

Mr. SABATH. Mr. Speaker, I move that the House do now adjourn.

Mr. GARDNER of Massachusetts. Mr. Speaker, I make the point of order that the motion is dilatory.

Mr. SHERLEY. I submit, Mr. Speaker, that since any motion of that kind has been made we have debated at some length.

The SPEAKER. The motion is not debatable. The question is on the motion of the gentleman from Illinois that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. SABATH) there were—ayes 31, noes 141.

So the motion was rejected.

Mr. SABATH. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. A quorum is not required on a motion to adjourn.

Mr. MURRAY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MURRAY. Is a quorum required to do business?

The SPEAKER. Certainly it is.

Mr. MURRAY. I suppose the thing the House will do is to proceed to do business after the declaration of the vote on the motion to adjourn?

The SPEAKER. The roll call which was had a short time ago disclosed the presence of a quorum; 244 Members answering to their names. [Applause.]

Mr. MURRAY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MURRAY. Does the vote just declared by the Speaker disclose the absence of a quorum?

The SPEAKER. Every Member of the House does not stand up on a division.

Mr. MURRAY. A further parliamentary inquiry. Will the Chair take judicial notice of the fact that a quorum is present even in the absence of a quorum as disclosed by a recent division?

The SPEAKER. The Chair will take judicial notice of the fact that 10 minutes ago the roll was called and 244 Members answered to their names. [Applause.] The question is on agreeing to the conference report.

Mr. BOEHNE. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BOEHNE. Mr. Speaker, is a motion in order at this time?

The SPEAKER. That depends upon what it is.

Mr. BOEHNE. Mr. Speaker, I move that the House disagree to the conference report and send it back to the conferees.

The SPEAKER. That is not in order. The question is on agreeing to the conference report.

Mr. BARTHOLDT. Mr. Speaker, I move to recommit the conference report to the committee on conference.

The SPEAKER. The gentleman will send his motion to the Clerk's desk, and the Clerk will report it.

The Clerk read as follows:

Mr. BARTHOLDT moves to recommit the bill to the committee on conference, with instruction to report forthwith and strike out the following: "Citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate."

The SPEAKER. The question is on agreeing to the motion to recommit.

The question was taken; and the Speaker announced the "noes" seemed to have it.

On a division (demanded by Mr. BARTHOLDT) there were—ayes 62, noes 132.

Mr. GOLDFOGLE. Mr. Speaker, I demand the yeas and nays.

The SPEAKER. The Chair will count. [After counting.] Thirty-six gentlemen have arisen, not a sufficient number.

Mr. SABATH. Mr. Speaker, I demand the other side.

Mr. BURNETT. Too late; I make the point of order, Mr. Speaker.

Mr. SHERLEY. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. But there is a quorum present on this count.

Mr. SHERLEY. I beg the Chair's pardon, the count did not disclose a quorum.

The SPEAKER. One hundred and thirty-one plus 62 makes 193, and the Speaker makes 194. [Applause.]

Mr. SHERLEY. Mr. Speaker, a parliamentary inquiry. What is twice that number?

The SPEAKER. Why, there are certain vacancies in the House that makes 194 a quorum.

Mr. SABATH. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. SABATH. I ask for the other side on this question.

Mr. BURNETT. It is too late.

The SPEAKER. No; it is not too late. The gentleman from Illinois demands the other side. [After counting.] Thirty-six have risen for the yeas and nays and 138 against it; that is one-fifth, and the Clerk will call the roll.

Mr. GARDNER of Massachusetts. Mr. Speaker, I ask for tellers upon the yeas and nays.

Mr. MANN. The gentleman has no right to demand tellers.

Mr. GARDNER of Massachusetts. Mr. Speaker, I withdraw the demand.

The SPEAKER. The Clerk will call the roll.

The question was taken; and there were—yeas 70, nays 149, answered "present" 9, not voting 155, as follows:

YEAS—70.

Allen	Esch	Lee, Pa.	O'Shaunessy
Anderson	Fergusson	Lenroot	Reilly
Barchfeld	Gallagher	Lindbergh	Roberts, Mass.
Bartholdt	Goldfogle	Lobeck	Rodenberg
Bartlett	Graham	Loud	Sabath
Boehne	Gray	McCreary	Scott
Booher	Green, Iowa	McDermott	Sherley
Broussard	Hamill	McLaughlin	Sherwood
Bulkley	Hardy	Madden	Sloan
Burke, Wis.	Hawley	Maguire, Nebr.	Stone
Burleson	Helgesen	Miller	Tilson
Byrns, Tenn.	Kahn	Mondell	Towner
Cline	Kendall	Moore, Pa.	Volstead
Cooper	Kennedy	Morgan, Okla.	Warburton
Curley	Kinkead, N. J.	Morse, Wis.	Wilson, Ill.
Denver	Konig	Murdock	Young, Mich.
Donohoe	Konop	Murray	
Doremus	Korbly	Nelson	

NAYS—149.

Adair	Carter	Dies	Foster
Alexander	Clark, Fla.	Difenderfer	Fowler
Ashbrook	Clayton	Dodds	Francis
Austin	Collier	Doughton	French
Ayres	Copley	Draper	Gardner, Mass.
Beall, Tex.	Cox	Edwards	Garner
Bell, Ga.	Crago	Ellerbe	Garrett
Borland	Cravens	Faison	Godwin, N. C.
Brantley	Cullop	Farr	Goodwin, Ark.
Buchanan	Currier	Ferris	Greene, Vt.
Burke, S. Dak.	Dalzell	Finley	Gregg, Pa.
Burnett	Daugherty	Flood, Va.	Gregg, Tex.
Butler	Davis, W. Va.	Floyd, Ark.	Griest
Byrnes, S. C.	Dent	Focht	Gudger
Candler	Dickinson	Fordney	Guernsey
Cantrill	Dickson, Miss.	Foss	Hamilton, Mich.

Hamilton, W. Va.	Knowland	Pepper	Smith, Saml. W.
Hamlin	Kopp	Plumley	Smith, Tex.
Hammond	La Follette	Porter	Stanley
Hardwick	Langley	Pou	Stedman
Harrison, Miss.	Lee, Ga.	Powers	Stephens, Cal.
Hartman	Lever	Pray	Stephens, Miss.
Hay	Linthicum	Rainey	Stephens, Tex.
Hayes	Littlepage	Raker	Sterling
Heflin	Lloyd	Rauch	Switzer
Helm	McKenzie	Rees	Thomas
Henry, Tex.	McKinney	Roberts, Nev.	Tribble
Hinds	Macon	Roddenbery	Underhill
Holland	Mays	Rothermel	Watkins
Houston	Moon, Tenn.	Rubey	Webb
Hughes, Ga.	Morrison	Russell	Willis
Hughes, W. Va.	Moss, Ind.	Saunders	Wilson, Pa.
Humphrey, Wash.	Mott	Sharp	Witherspoon
Jackson	Neeley	Sheppard	Young, Kans.
Jacoway	Norris	Simmons	Young, Tex.
Johnson, S. C.	Padgett	Sims	
Jones	Page	Sisson	
Kitchin	Payne	Small	

ANSWERED "PRESENT"—9.

Adamson	McMorran	Palmer	Ransdell, La.
Bradley	Mann	Pickett	Sparkman
Browning			

NOT VOTING—155.

Aiken, S. C.	Fairchild	Lawrence	Rucker, Colo.
Ainey	Fields	Legare	Rucker, Mo.
Akin, N. Y.	Fitzgerald	Levy	Scully
Ames	Fornes	Lewis	Sells
Andrus	Fuller	Lindsay	Shackleford
Ansberry	Gardner, N. J.	Littleton	Slayden
Anthony	George	Longworth	Slemp
Barnhart	Gill	McCall	Smith, J. M. C.
Bates	Gillett	McCoy	Smith, Cal.
Bathrick	Glass	McGillicuddy	Smith, N. Y.
Berger	Goeke	McGuire, Okla.	Speer
Blackmon	Good	McKellar	Stack
Brown	Gould	McKinley	Steenerson
Burgess	Greene, Mass.	Maher	Stephens, Nebr.
Burke, Pa.	Harris	Martin, Colo.	Stevens, Minn.
Calder	Harrison, N. Y.	Martin, S. Dak.	Sulloway
Callaway	Hart	Matthews	Sweet
Campbell	Haugen	Merritt	Taggart
Cannon	Hayden	Moon, Pa.	Talbott, Md.
Carlin	Heald	Moore, Tex.	Talcott, N. Y.
Cary	Henry, Conn.	Morgan, La.	Taylor, Ala.
Claypool	Hensley	Needham	Taylor, Colo.
Conry	Higgins	Nye	Taylor, Ohio
Covington	Hill	Oldfield	Thayer
Crumpacker	Hobson	Olmsted	Thistlewood
Curry	Howard	Parran	Townsend
Danforth	Howell	Patten, N. Y.	Turnbull
Davenport	Howland	Patton, Pa.	Tuttle
Davidson	Hull	Peters	Underwood
Davis, Minn.	Humphreys, Miss.	Post	Vare
De Forest	James	Prince	Vreeland
Dixon, Ind.	Johnson, Ky.	Prouty	Weeks
Driscoll, D. A.	Kent	Pujo	Whitacre
Driscoll, M. E.	Kindred	Randell, Tex.	White
Dupré	Kinkaid, Nebr.	Redfield	Wilder
Dwight	Lafean	Reyburn	Wilson, N. Y.
Dyer	Lafferty	Richardson	Wood, N. J.
Estopinal	Lamb	Riordan	Woods, Iowa
Evans	Langham	Rouse	

So the motion to recommit was rejected.

The Clerk announced the following additional pairs:

For the session:

Mr. ADAMSON with Mr. STEVENS of Minnesota.

On the vote:

Mr. PRINCE with Mr. CRUMPACKER.

Mr. TOWNSEND (to recommit) with Mr. GLASS (against).

Mr. FITZGERALD (in favor) with Mr. HIGGINS (against).

Mr. GILL (to recommit) with Mr. HENSLEY (against).

Mr. NYE (to recommit) with Mr. DAVIS of Minnesota (against).

Mr. RANSDELL of Louisiana (to recommit) with Mr. ROUSE (against).

Mr. DUPRÉ (to recommit) with Mr. BLACKMON (against).

Mr. PROUTY (to recommit) with Mr. COVINGTON (against).

Until further notice:

Mr. WHITE with Mr. LAFFERTY.

Mr. TUTTLE with Mr. PATTON of Pennsylvania.

Mr. TALCOTT of New York with Mr. MCKINLEY.

Mr. STEPHENS of Nebraska with Mr. MARTIN of South Dakota.

Mr. MORGAN of Louisiana with Mr. MCCALL.

Mr. MAHER with Mr. LAWRENCE.

Mr. HAYDEN with Mr. HOWELL.

Mr. HARRISON of New York with Mr. HENRY of Connecticut.

Mr. EVANS with Mr. GREENE of Massachusetts.

Mr. CARLIN with Mr. FULLER.

Mr. AIKEN of South Carolina with Mr. CAMPBELL.

Mr. SLAYDEN with Mr. PICKETT.

Mr. KINKAID of Nebraska with Mr. STEENERSON.

Mr. PALMER. Mr. Speaker, has the gentleman from Connecticut, Mr. HILL, voted?

The SPEAKER. He has not.

Mr. PALMER. I have a pair with the gentleman, Mr. Speaker. I voted "nay" upon this proposition. I wish to withdraw my vote and vote "present."

The name of Mr. PALMER was called, and he voted "Present."

The result of the vote was announced as above recorded.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken; and the Speaker announced that the "ayes" seemed to have it.

Mr. SABATH. Mr. Speaker, I demand the yeas and nays on that.

The SPEAKER. The gentleman from Illinois [Mr. SABATH] demands the yeas and nays. All those in favor of demanding the yeas and nays will rise and stand until counted. [After counting.] Twenty-six gentlemen have risen.

Mr. SABATH. Mr. Speaker, I demand the other side.

The SPEAKER. The other side is demanded. All those opposed to taking the vote by yeas and nays will rise and stand until counted. [After counting.] One hundred and thirty-six gentlemen have risen. Not a sufficient number, and the conference report is agreed to.

On motion of Mr. BURNETT, a motion to reconsider the vote by which the conference report was agreed to was laid on the table.

LEAVE OF ABSENCE.

Mr. MCCOY, by unanimous consent, was granted leave of absence for three days, on account of important business.

EXTENSION OF REMARKS.

Mr. BURNETT. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. BURNETT. Mr. Speaker, I move that the House do now adjourn.

THE LATE SENATOR NIXON.

Mr. ROBERTS of Nevada. Mr. Speaker, I ask unanimous consent for the present consideration of the order which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the order.

The Clerk read as follows:

Ordered, That Sunday, February 16, 1913, be set apart for addresses on the life, character, and public services of Hon. GEORGE S. NIXON, late a United States Senator from the State of Nevada.

The SPEAKER. The question is on agreeing to the order.

The order was agreed to.

EXTENSION OF REMARKS.

Mr. BURNETT. Mr. Speaker, I ask unanimous consent that everyone who has spoken on the question may be permitted to extend his remarks in the RECORD.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I object. However, I do not object to the gentleman from Alabama [Mr. BURNETT] extending his remarks.

The SPEAKER. That was not his request. The request of the gentleman from Alabama was that all gentlemen who had spoken on this question might have unanimous consent to extend their remarks in the RECORD. To that the gentleman from Illinois [Mr. MANN] objected.

Mr. SABATH. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. REILLY. Mr. Speaker, I make the same request.

The SPEAKER. The gentleman from Connecticut makes the same request. Is there objection?

There was no objection.

Mr. FOCHT. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. GARDNER of Massachusetts. Mr. Speaker, I make a similar request.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

ADJOURNMENT.

The SPEAKER. The question is on the motion of the gentleman from Alabama that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 15 minutes p. m.) the House adjourned until Saturday, January 18, 1913, at 12 o'clock m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Florida at the election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

2. A letter from the Secretary of the Treasury, submitting an estimate of appropriation for the protection of the person of the President elect of the United States (H. Doc. No. 1279); to the Committee on Appropriations and ordered to be printed.

3. A letter from the Secretary of War, transmitting, pursuant to law, a list of leases granted by the Secretary of War during the calendar year 1912 (H. Doc. No. 1280); to the Committee on Appropriations and ordered to be printed.

4. A letter from the Acting Secretary of the Treasury, transmitting copy of communication from the Secretary of State, submitting estimates of urgent deficiency appropriation for subjects relating to safety of life at sea (H. Doc. No. 1281); to the Committee on Appropriations and ordered to be printed.

5. A letter from the Acting Secretary of the Treasury, transmitting copy of communication from the Secretary of State, submitting estimate of increase in appropriation for expenses connected with the international joint commission under the waterways treaty between the United States and Great Britain (H. Doc. No. 1282); to the Committee on Appropriations and ordered to be printed.

6. A letter from the Acting Secretary of the Treasury, transmitting copy of communication from the Secretary of the Navy, submitting supplemental estimate of appropriation for the purchase of additional land for extension of landing facilities at the naval station, Narragansett Bay, R. I. (H. Doc. No. 1283); to the Committee on Naval Affairs and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. HOBSON, from the Committee on Naval Affairs, to which was referred the bill (H. R. 27992) to authorize the creation of a temporary commission to investigate and make recommendation as to the necessity or desirability of establishing a national aerodynamical laboratory, and prescribing the duties of said commission, and providing for the expenses thereof, reported the same without amendment, accompanied by a report (No. 1343), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HUGHES of Georgia, from the Committee on Military Affairs, to which was referred the bill (S. 1673) providing for the retirement of certain officers of the Philippine Scouts, reported the same without amendment, accompanied by a report (No. 1344), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. HAMILL: A bill (H. R. 28184) to constitute Jersey City, in the State of New Jersey, a port of entry, and extending the privileges of the act of June 10, 1880, thereto; to the Committee on Ways and Means.

By Mr. BATES: A bill (H. R. 28185) for the better payment of pensioners; to the Committee on Invalid Pensions.

By Mr. SHERLEY: A bill (H. R. 28186) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, and for other purposes; to the Committee of the Whole House on the state of the Union.

By Mr. LITTLEPAGE: A bill (H. R. 28187) to authorize the construction, maintenance, and operation of a bridge across and over the Great Kanawha River, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BORLAND: A bill (H. R. 28188) to provide for the reconstruction and maintenance of the old national road from Cumberland, Md., to St. Louis, Mo., and extensions to the same, making it a continuous trunk-line road from the Atlantic Ocean to the Pacific Ocean; to the Committee on Agriculture.

By Mr. TOWNER: A bill (H. R. 28189) providing for a monument to commemorate the services and sacrifices of the women of the country at the time of the American Revolution; to the Committee on Public Buildings and Grounds.

By Mr. ROBERTS of Massachusetts: A bill (H. R. 28190) to authorize the construction of a public building at Malden, Mass.; to the Committee on Public Buildings and Grounds.

By Mr. FERRIS: A bill (H. R. 28191) authorizing the extension of payments on certain town lots in the Kiowa, Comanche, and Apache ceded lands in Oklahoma; to the Committee on Indian Affairs.

By Mr. AUSTIN: A bill (H. R. 28192) for the relief of the city authorities of the city of Harriman, Roane County, Tenn.; to the Committee on Claims.

By Mr. BULKLEY: A bill (H. R. 28193) to provide for the construction of the Patent Office of the United States, and for other purposes; to the Committee on Public Buildings and Grounds.

By Mr. GOLDFOGLE: A bill (H. R. 28230) to promote the safety of travelers and employees upon railways engaged in interstate and foreign commerce; to the Committee on Interstate and Foreign Commerce.

By Mr. FRANCIS: A bill (H. R. 28231) to provide for the reconstruction and maintenance of the old national road from Cumberland, Md., to St. Louis, Mo., and extensions to the same, making it a continuous trunk-line road of macadam or other permanent material from New York City to the Pacific coast; to the Committee on Agriculture.

By Mr. GOODWIN of Arkansas: Resolution (H. Res. 777) congratulating the people of Ireland on the passage of an Irish home-rule bill by the British House of Commons; to the Committee on Foreign Affairs.

By Mr. HOWLAND: Joint resolution (H. J. Res. 384) proposing an amendment to the Constitution of the United States relating to impeachments; to the Committee on the Judiciary.

By Mr. TAGGART: Joint resolution (H. J. Res. 385) to grant a leave of absence to certain employees of the United States; to the Committee on Reform in the Civil Service.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADAIR: A bill (H. R. 28194) granting an increase of pension to Lauretta Elston; to the Committee on Invalid Pensions.

By Mr. ASHBROOK: A bill (H. R. 28195) granting a pension to Harry Adelbert Nichols; to the Committee on Invalid Pensions.

By Mr. AYRES: A bill (H. R. 28196) for the relief of William W. Case and Mattie E. Case; to the Committee on Claims.

By Mr. BURGESS: A bill (H. R. 28197) for the relief of J. O. King; to the Committee on Claims.

By Mr. CULLOP: A bill (H. R. 28198) granting a pension to Jennie Bridwell; to the Committee on Invalid Pensions.

By Mr. FERGUSSON: A bill (H. R. 28199) granting an increase of pension to Arthur L. Douglass; to the Committee on Pensions.

By Mr. FOCHT: A bill (H. R. 28200) granting a pension to William N. Hoffman; to the Committee on Invalid Pensions.

By Mr. FORDNEY: A bill (H. R. 28201) granting a pension to Polly R. Parker; to the Committee on Invalid Pensions.

By Mr. FRENCH: A bill (H. R. 28202) granting a pension to Albert Seelig; to the Committee on Pensions.

By Mr. GOEKE: A bill (H. R. 28203) granting an increase of pension to Cornelius Roush; to the Committee on Invalid Pensions.

By Mr. HUMPHREY of Washington: A bill (H. R. 28204) for the relief of George W. Trahey; to the Committee on Claims.

Also, a bill (H. R. 28205) for the relief of James Bender; to the Committee on Military Affairs.

Also, a bill (H. R. 28206) granting a pension to Arthur C. Dexter; to the Committee on Pensions.

Also, a bill (H. R. 28207) granting an increase of pension to George T. Murray; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28208) granting an increase of pension to Lanson S. Hogle; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28209) granting an increase of pension to Estelle H. Wholley; to the Committee on Invalid Pensions.

By Mr. KAHN: A bill (H. R. 28210) granting a pension to Katherine S. Neeland; to the Committee on Pensions.

By Mr. KORBLY: A bill (H. R. 28211) granting a pension to Samantha West Miller; to the Committee on Pensions.

By Mr. LAWRENCE: A bill (H. R. 28212) restoring the name of Melina Day to the pension roll; to the Committee on Invalid Pensions.

By Mr. LITTLEPAGE: A bill (H. R. 28213) granting an increase of pension to George W. Conley; to the Committee on Invalid Pensions.

By Mr. MADDEN: A bill (H. R. 28214) granting a pension to Monroe Flowers; to the Committee on Pensions.

Also, a bill (H. R. 28215) to remove the charge of desertion from the military record of Frederick Frosch; to the Committee on Military Affairs.

By Mr. MARTIN of South Dakota: A bill (H. R. 28216) granting an increase of pension to John Ferguson; to the Committee on Invalid Pensions.

By Mr. MOSS of Indiana: A bill (H. R. 28217) granting an increase of pension to James Chambers; to the Committee on Invalid Pensions.

By Mr. NEEDHAM: A bill (H. R. 28218) granting an increase of pension to Samuel Turpin; to the Committee on Invalid Pensions.

By Mr. NEELEY: A bill (H. R. 28219) granting a pension to Martha L. Manly; to the Committee on Invalid Pensions.

By Mr. POST: A bill (H. R. 28220) granting an increase of pension to James D. Brown; to the Committee on Invalid Pensions.

By Mr. RAUCH: A bill (H. R. 28221) granting an increase of pension to Benjamin Dorwart; to the Committee on Invalid Pensions.

By Mr. RUCKER of Colorado: A bill (H. R. 28222) granting a pension to Sarah P. Brown; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28223) to correct the military record of Eugene J. Rizer; to the Committee on Military Affairs.

By Mr. STANLEY: A bill (H. R. 28224) for the relief of the estate or heirs of Philip P. Phillips, deceased; to the Committee on War Claims.

By Mr. STEPHENS of Nebraska: A bill (H. R. 28225) granting an increase of pension to Orlando Wood; to the Committee on Invalid Pensions.

By Mr. SWITZER: A bill (H. R. 28226) granting a pension to Gabriel H. Leighty; to the Committee on Invalid Pensions.

By Mr. TAGGART: A bill (H. R. 28227) granting a pension to William H. Haight; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28228) granting an increase of pension to Alfred H. Guest; to the Committee on Invalid Pensions.

By Mr. WHITACRE: A bill (H. R. 28229) granting an increase of pension to Charles M. Reilly; to the Committee on Invalid Pensions.

By Mr. McKENZIE: A bill (H. R. 28232) granting a pension to Ida Wingart; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of Judson C. Wall, New York, favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

Also, papers to accompany special bill for the relief of Mary H. Johnston; to the Committee on Invalid Pensions.

By Mr. CALDER: Petition of the Women's League of the Clinton Avenue Congregational Church, Brooklyn, N. Y., favoring action on the part of Congress that the tolls at the Panama Canal be adjusted by diplomacy; if that can not be done, by arbitration; to the Committee on Interstate and Foreign Commerce.

By Mr. DAVIS of West Virginia: Petition of the Randall County Bar Association, favoring the passage of legislation for a term of Federal district court of the United States of America at Elkins, W. Va.; to the Committee on the Judiciary.

By Mr. DIFENDERFER: Petition of Ezra W. Spragell and others, of Buck County, favoring the passage of the Kenyon-Sheppard bill for preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. ESCH: Petition of citizens of Curtis, Wis., protesting against the passage of the Lever agriculture bill; to the Committee on Agriculture.

By Mr. FITZGERALD: Petition of the National Academy of Design, of New York, urging that the proposed Lincoln memorial be erected on the site recommended by the Washington Park Commission; to the Committee on the Library.

Also, petition of the Italian Chamber of Commerce, of New York, protesting against the passage of Senate bill 3175, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Social Science Section of the American Association for the Advancement of Science, favoring the passage of Senate bill 3, for Federal aid to vocational eduction; to the Committee on Agriculture.

By Mr. LEVY: Petition of Sol Bloom (Inc.), New York, and the Eastern Talking Machine Dealers' Association, New York, protesting against the passage of section 2 of the Oldfield patent bill, prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

By Mr. LINDSAY: Petition of Jerome D. Greene, trustee of the Rockefeller Institute for Medical Research, etc., favoring the passage of House bill 21532, to incorporate the Rockefeller Foundation; to the Committee on the Judiciary.

Also, petitions of the American Talking Machine Co., Brooklyn, N. Y.; the Eastern Talking Machine Dealers' Association, New York; and E. S. Cragen, Brooklyn, N. Y., protesting against the passage of section 2 of the Oldfield patent bill prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of Hogan & Son and Earl & Wilson, New York, favoring the passage of House bill 27567, for a 1-cent letter rate; to the Committee on the Post Office and Post Roads.

Also, petitions of John Otterbacher, Charlottesville, Va.; Knaggs & Phm, Bay City, Mich.; and Hugh Thompson, Eastport, Me., favoring the passage of House bill 1339, granting an increase of pension to veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

By Mr. MOON of Tennessee: Papers to accompany bill (H. R. 7465) for the relief of Emma A. Ford; to the Committee on Pensions.

By Mr. NEELEY: Petition of citizens of Meade County, Kans., favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. NORRIS: Petition of citizens of Nebraska, protesting against the passage of any legislation reducing the tariff on sugar; to the Committee on Ways and Means.

By Mr. TILSON: Petition of the Manufacturers' Association of Bridgeport, Conn., protesting against the passage of Senate bill 3175, for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. UNDERHILL: Petition of the Eastern Talking Machine Dealers' Association, New York, protesting against passage of section 2 of the Oldfield patent bill prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

By Mr. WILLIS: Paper to accompany bill (H. R. 27326) granting a pension to Mary B. Showalter; to the Committee on Invalid Pensions.

SENATE.

SATURDAY, *January 18, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

NAMING A PRESIDING OFFICER.

Mr. SHIVELY (at the Vice President's desk) handed to the Secretary the following communication, which was read:

UNITED STATES SENATE,
Washington, D. C., January 18, 1913.

TO THE SENATE:

I hereby name Hon. BENJAMIN F. SHIVELY, senior Senator from the State of Indiana, to perform the duties of the Chair during my absence Saturday, the 18th day of January, 1913.

AUGUSTUS O. BACON,
President of the Senate Pro Tempore.

Mr. SHIVELY thereupon took the chair as Presiding Officer for to-day, and directed the Secretary to read the Journal of yesterday's proceedings.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. LODGE and by unanimous consent, the further reading was dispensed with and the Journal was approved.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDING OFFICER laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of ascertainment of electors for President and Vice President appointed in the State of Florida at the election held in that State December 5, 1912; which was ordered to be filed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the following bill and joint resolution:

S. 7637. An act to authorize the construction of a railroad bridge across the Illinois River near Havana, Ill.; and

S. J. Res. 150. Joint resolution appropriating $40,000 for expenses of inquiries and investigations ordered by the Senate.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States.

The message further announced that the House insists upon its amendments to the bill (S. 6380) to incorporate the American Hospital of Paris, disagreed to by the Senate; agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. CLAYTON, Mr. DAVIS of West Virginia, and Mr. STERLING managers at the conference on the part of the House.

PETITIONS AND MEMORIALS.

Mr. CURTIS presented petitions of sundry citizens of Holsington, Altoona, and Larned, all in the State of Kansas, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. MARTINE of New Jersey presented a petition of sundry citizens of Summit, N. J., praying for the enactment of legislation providing for the protection of migratory birds, which was ordered to lie on the table.

Mr. GALLINGER presented resolutions adopted by the Associated Charities of the District of Columbia, favoring an appropriation being made for the erection of a municipal hospital in the District of Columbia, which were referred to the Committee on Appropriations.

He also presented petitions of the congregations of the Belknap Congregational Church and the Free Baptist Church, of Dover, N. H., and of the board of managers of the National Temperance Society and Publication House of New York City, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. McCUMBER presented a petition of sundry citizens of Wimbledon, N. Dak., praying for the enactment of legislation providing for the protection of migratory birds, which was ordered to lie on the table.

Mr. PAGE presented a petition of the congregation of the First Congregational Church of St. Johnsbury, Vt., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented a petition of the congregation of the First Congregational Church of St. Johnsbury, Vt., praying for the passage of the so-called Kenyon "red-light" injunction bill, which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. McCUMBER, from the Committee on Pensions, submitted a report (No. 1129) accompanied by a bill (S. 8178) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, the bill being a substitute for the following Senate bills heretofore referred to that committee:

S. 45. Michael Liebhart.
S. 503. William M. Copeland.
S. 531. E. Belle Platt.
S. 642. Charles Stewart.
S. 804. Robert R. Whiteman.
S. 1191. Joseph Lasier, jr.
S. 1459. Stephen Rice.
S. 1512. Isaac Henninger.
S. 1662. Ira Lyle.
S. 1759. Edgar W. Lauck.
S. 1824. George Alexander.
S. 1835. Frank Laflame.
S. 1999. Carrie Kellogg.
S. 2630. Jerome McWethy.
S. 2944. Mary J. Irwin.
S. 3305. Monroe J. Potts.
S. 3410. Henry D. Jayne.
S. 3412. Samuel R. Vose.
S. 3428. Jacob Lingenfelter.
S. 3492. Henry B. Spencer.
S. 3534. Hiram Rhodes.
S. 3663. Ozro M. Hale.
S. 3667. Dennis McCarthy 2d.
S. 3668. Jesse Nott.
S. 3698. Susan E. Miller.
S. 3742. Daniel Tracy.
S. 3996. Joseph A. Funk.
S. 4193. Andrew W. Stevens.
S. 4203. John Mallet.
S. 4304. Francis Kramer.
S. 4620. Martin Ressler.
S. 4690. John Scherff.
S. 4902. John Gordon.
S. 5012. Jackson Truit.
S. 5023. Joseph Antram.
S. 5049. Martha Ann Harvey.
S. 5209. John Chenoweth.
S. 5222. Joshua Eckman.
S. 5234. Charles T. Howard.
S. 5273. Frederick Buckmaster.
S. 5563. Emma C. Palmer.
S. 5584. Henrietta P. Cowgill.
S. 5969. Ellen S. Kirkham.
S. 5971. Cornelia M. Hale.
S. 6072. James J. Hasson.
S. 6300. Clement F. S. Aimes.
S. 6416. Franklin W. Chapman.
S. 6514. Elizabeth A. Fisher.
S. 6544. James Smith.
S. 6737. Reuben Cooley.
S. 6756. John T. Craddock.
S. 6778. Edward Brown.
S. 6789. William T. Hutton.
S. 6828. James Hawkins.
S. 6999. John S. Edwards.
S. 7049. Samuel C. Planck.
S. 7095. David F. Eutsler.
S. 7151. Jasper Fleener.
S. 7166. Job S. Sims.
S. 7178. John J. Jameson.
S. 7179. Charles T. Knight.
S. 7207. Cyrus N. Lyons.
S. 7270. George W. Jones.
S. 7272. Joseph Troyer.
S. 7311. Josephine M. Perry.
S. 7313. Oscar B. Vibert.
S. 7341. Albert T. Wharton.
S. 7364. David L. Denee.
S. 7387. Mary A. Bingaman.
S. 7478. Nettie W. Sisson.
S. 7485. Emily J. Chambers.
S. 7530. Sarah Tout.
S. 7576. Susan J. Littlefield.
S. 7580. Clinton E. Olmstead.
S. 7612. Daniel H. Strout.
S. 7618. John Miller.
S. 7643. Julius A. Record.
S. 7644. William L. Ham.
S. 7648. Lucretia B. Crockett.
S. 7676. George W. Barrett.
S. 7708. Olive Stull.
S. 7714. John W. Culver.
S. 7720. Gustaf Swanson.
S. 7741. Sophronia Dixon.
S. 7777. Eben S. Welch.
S. 7779. Thomas C. Aldrich.
S. 7789. Emily S. Reader.
S. 7790. Clara A. Long.
S. 7839. Maria L. Mann.
S. 7846. Mary J. Hubbard.
S. 7859. George W. Sumpter.
S. 7861. Lurinda P. Barnes.
S. 7864. Electa Marsh.
S. 7880. Edward A. Mace.
S. 7881. Mary J. Van Orden.
S. 7892. Susan M. Wyatt.
S. 7932. Luke Cassidy.
S. 7933. Lewis F. Branson.
S. 7934. Amanda E. Glenn.
S. 7935. Solomon Kessinger.
S. 7953. Peter Binkley.
S. 7962. Edmond Melton.
S. 7963. Eli W. Pierce.
S. 7978. Melissa A. McGowan.
S. 7984. Hannah Peavey.

Mr. SUTHERLAND, from the Committee on Public Buildings and Grounds, to which was referred the bill (S. 184) for the erection of a public building at Lancaster, Ky., reported it with amendments and submitted a report (No. 1123) thereon.

He also, from the same committee, to which were referred the following bills, reported them each with an amendment and submitted reports thereon:

S. 4524. A bill to increase the appropriation of $60,000 for the purchase of a site and the erection of a building for the use and accommodation of a post office at Middlesboro, Ky., to $125,000 (Rept. No. 1124); and

S. 7502. A bill for the erection of a public building at Ridgway, Pa. (Rept. No. 1125).

Mr. STEPHENSON, from the Committee on Public Buildings and Grounds, to which were referred the following bills, reported them each with an amendment and submitted a report thereon:

S. 7298. A bill for the purchase of a site and the erection thereon of a public building at Rhinelander, Wis. (Rept. No. 1126); and

S. 7297. A bill for the purchase of a site and the erection thereon of a public building at Mineral Point, Wis. (Rept. No. 1127).

Mr. MARTIN of Virginia, from the Committee on Commerce, to which was referred the bill (S. 7855) to authorize the Northern Pacific Railway Co. to construct a bridge across the Missouri River in section 36, township 134 north, range 79 west, in the State of North Dakota, reported it without amendment and submitted a report (No. 1128) thereon.

Mr. PERKINS, from the Committee on Naval Affairs, to which was referred the bill (H. R. 20193) authorizing the Secretary of the Navy to pay a cash reward for suggestions submitted by civilian employees of the Navy Department for improvement or economy in manufacturing processes or plant, reported it with amendments and submitted a report (No. 1130) thereon.

MEMORIAL SERVICES FOR THE LATE VICE PRESIDENT.

Mr. CUMMINS. From the Committee on Rules, to which was referred Senate resolution 426, directing the Committee on Rules to report an order for ceremonies in honor of the memory of the late Vice President JAMES S. SHERMAN, I report a resolution which I ask to have read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

The resolution (S. Res. 435) was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate, as follows:

Resolved, That Saturday, the 15th day of February, be set apart for appropriate exercises in commemoration of the life, character, and public service of the late JAMES S. SHERMAN, Vice President of the United States and President of the Senate of the United States.

That a committee of three Senators, composed of ELIHU ROOT, JAMES O'GORMAN, and CHARLES CURTIS, is hereby appointed with full power to make all arrangements and publish a suitable program for the aforesaid meeting of the Senate, and to issue the invitations hereinafter mentioned.

That invitations shall be extended to the President of the United States, the members of the Cabinet, the Chief Justice and Justices of the Supreme Court, the Speaker and Members of the House of Representatives, the judges of the Commerce Court, the judges of the Court of Customs Appeals, the judges of the courts of the District of Columbia, the officers of the Army and Navy stationed in Washington, the members of the Interstate Commerce Commission, the members of the Civil Service Commission. That such other invitations shall be issued as to the said committee shall seem best.

All expenses incurred by the committee in the execution of this order shall be paid from the contingent fund of the Senate.

HARRY S. WADE.

Mr. CRAWFORD. The Committee on Claims reported favorably just before the close of the last session the bill (H. R. 15181) for the relief of Harry S. Wade. It was passed by the Senate, and at the request of the Senator from Oregon [Mr. BOURNE] I entered a motion to reconsider the vote, and the bill was returned from the House. The session ended without its being acted upon, but the papers are here, the bill was passed here, and I should like to have the bill with the report of the Committee on Claims placed on the calendar so that the motion for reconsideration may come up in regular order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

CLAIMS OF AMERICAN CITIZENS.

Mr. DU PONT. On December 14, 1912, the Secretary of War transmitted to the Senate a report of the commission appointed by the War Department to investigate the claims of American citizens for damages suffered within American territory and growing out of the late insurrection in Mexico, which was referred to the Committee on Military Affairs. I ask that that committee be discharged from the further consideration of the report, and that it be referred to the Committee on Foreign Relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. ASHURST:

A bill (S. 8179) for the relief of Alfred Cluff, Orson Cluff, Henry E. Norton, William B. Ballard, Elijah Hancock, Susan R. Saline, Oscar Mann, Celia Thayne, William Cox, Theodore Farley, Adelaide Laxton, Clara L. Tenney, George M. Adams, Charlotte Jeusen, and Sophia Huff (with accompanying papers); to the Committee on Claims.

By Mr. NELSON:

A bill (S. 8180) granting an increase of pension to Mary J. White; to the Committee on Pensions.

By Mr. KENYON:

A bill (S. 8181) granting an increase of pension to Farmer P. Oldfield; to the Committee on Pensions.

By Mr. CULLOM:

A bill (S. 8182) granting to the Inter-City Bridge Co., its successors and assigns, the right to construct, acquire, maintain, and operate a railway bridge across the Mississippi River; to the Committee on Commerce.

By Mr. TILLMAN:

A bill (S. 8183) for the relief of Capt. Frank Parker; to the Committee on Military Affairs.

By Mr. CATRON:

A bill (S. 8184) extending the provisions of an act of Congress approved April 28, 1904 (33 Stat. L., 547), to apply to the State of New Mexico; to the Committee on Public Lands.

A bill (S. 8185) granting an increase of pension to Grace A. Overhuls; to the Committee on Pensions.

By Mr. GORE:

A bill (S. 8186) to prohibit contracts with the members of certain Indian tribes in relation to tribal money, property, etc.; to the Committee on Indian Affairs.

By Mr. BOURNE:

A bill (S. 8187) granting a pension to Josephine E. Miller; to the Committee on Pensions.

By Mr. CHILTON:

A bill (S. 8188) to amend section 113 of the act to codify, revise, and amend the laws relating to the judiciary, approved March 3, 1911; to the Committee on the Judiciary.

By Mr. LODGE:

A joint resolution (S. J. Res. 154) authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass.; to the Committee on Finance.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. McCUMBER submitted an amendment proposing to appropriate $35,200 for the support and education of 200 Indian pupils at the Indian school, Wahpeton, N. Dak., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate $43,200 for the support and education of 100 Indian pupils at the Indian school, Bismarck, N. Dak., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to appropriate $100,000 for the purchase of cattle for the Northern Cheyenne Indians, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. JONES submitted an amendment proposing to appropriate $55,000 for the protection of Valdez, Alaska, and adjacent territory from glacial floods, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

AGRICULTURAL EXTENSION DEPARTMENTS.

Mr. GRONNA submitted an amendment intended to be proposed by him to the bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and of acts supplementary thereto, which was ordered to lie on the table and be printed.

Mr. McCUMBER submitted an amendment intended to be proposed by him to the bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States, receiving the benefits of an act of Congress, approved July 2, 1862, and of acts supplementary thereto, which was ordered to lie on the table and be printed.

COMPILATION OF SENATE ELECTION CASES.

Mr. DILLINGHAM submitted the following resolution (S. Res. 436), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Committee on Privileges and Elections be, and is hereby, authorized and directed to have compiled and printed as a document a revised edition of the document entitled "Compilation of Senate Election Cases," bringing the same down to the close of the Sixty-second Congress.

ALICE V. HOUGHTON.

Mr. CRAWFORD. The bill (S. 5137) for the relief of Alice V. Houghton, the young lady who met with a serious accident in the Census Office Building was, at the request of the Senator from New Jersey [Mr. MARTINE] recalled from the House and

nothing has been done about it since. I have had a conversation on the subject with the Senator from New Jersey. It seems to be proper to send the bill back to the Committee on Claims so that the subcommittee may make an investigation of the condition of the case at the present time and report it again to the full committee. I ask that the bill be rereferred to the Committee on Claims.

Mr. MARTINE of New Jersey. Mr. President, I trust the Senator from South Dakota will not press a rereference of the matter. It will only entail a further humiliation upon this poor young woman, who has suffered for nearly two years. I think the 30th of this January it will be two years since this unfortunate woman met with the horrid accident.

Night before last I went to her home in order that I might fortify myself with further facts regarding the case. I say today that she is blind in one eye; the other is in a weeping and weak condition; and she is unable to read and unable to write. Her scalp is still in an unhealed condition. A thin, crackly skin covers a portion of her skull, breaking out at the least provocation. The wounds are dressed each day now by the family. The son of the doctor, Dr. White, stated to me in my own office yesterday that he felt it was making a bill against the family that it would be hardly possible for them to meet, and he said to them, "I will teach you to dress these wounds, though I will come once a week," and he says that studiously and punctiliously he has been there every week for the purpose of dressing the wounds.

The horrid story need not be recited. Two years ago this accident occurred while in performance of her duties as tabulator in the Census Bureau. The girl has suffered the agony and tortures of the damned through being coiled on an unprotected revolving shaft, whereby she was bereft of her splendid shock of hair; a comely woman, 28 years old, has been in suffering and torture.

I have on my desk, and desire to bring it up, if possible, today, a bill proposing that the Senate shall appropriate for her the sum of $8,000, $2,000 of which shall be paid upon the passage of the bill and the further sum of $6,000 paid in installments of $75 a month until the $6,000 shall have been used up.

I feel that this is but humanity; and here in Christmas time, while we are talking good will and kind fellowship and love of our fellows, this poor girl is disfigured beyond parallel. The scalp was torn from the back of her head and from the nape of her neck, over to and including the eyebrows, and the skin was torn from the bridge of her nose. I will state that the skin on the bridge of her nose has healed, but the veins and muscles stand out like whipcords on this poor girl's forehead. For all purposes in life, with her comeliness gone, money recompense can not bring back to her her splendid shock of hair, her glorious tresses, the pride of womanhood, and money can not make compensation for it. None of us, for ourselves, our wives, or daughters, would take a sum three times that which I earnestly urge. But this in a way can relieve at least the situation in which this poor girl is placed.

I urge you, my fellow Senators, with big hearts and broad and generous impulses, in God's name do not press this young woman to further humiliation and torture. I have here the affidavit of three or four physicians; I have the statement of Director Durand, of the Census Office—all certifying to this case. We had it thrashed out in our committee, and I urge that this further humiliation be not placed on this poor and unfortunate woman.

Mr. NEWLANDS. Mr. President——

The PRESIDING OFFICER. Does the Senator from New Jersey yield to the Senator from Nevada?

Mr. MARTINE of New Jersey. Certainly.

Mr. NEWLANDS. I should like to ask what is the amount of this claim?

Mr. MARTINE of New Jersey. There is no claim. The Senate passed a bill appropriating, I believe, $4,200.

Mr. NEWLANDS. How long has the case been pending?

Mr. MARTINE of New Jersey. Nearly two years.

Mr. NEWLANDS. I will ask the Senator if he does not think that any jury in a suit against a private corporation would bring in a verdict of ten or fifteen or twenty thousand dollars for such injuries?

Mr. MARTINE of New Jersey. Surely, against any private corporation in this land, I care not what. No jury in a civilized community would pretend to fix less than $25,000, and I believe in such a case the party could recover $50,000. That I do not ask.

Mr. NEWLANDS. I desire to inquire of the Senator from New Jersey the parliamentary attitude of this bill. I wish to say, so far as I am individually concerned, I have read of this accident in the newspapers and of the suffering of this poor woman from time to time; I have felt from the start that if it had been an ordinary case of employer's liability in a suit against a private corporation a verdict of an enormous amount would have been found. I have witnessed with indignation the delay of Congress in satisfying this claim. So far as I am concerned I want to act speedily and justly and liberally on this subject.

Mr. CULBERSON. I desire to ask what is the parliamentary status of the claim presented by the Senator from New Jersey?

The PRESIDING OFFICER. The Senator from South Dakota [Mr. CRAWFORD] asks unanimous consent for the reference of the bill back to the Committee on Claims.

Mr. CRAWFORD. May I be permitted to say a word?

Mr. CULBERSON. I should like to have the Senator explain the parliamentary status of the matter.

Mr. CRAWFORD. Mr. President, we are all, I think, in sympathy with what the Senator from New Jersey has said. It is an appealing case, and I do not for one moment wish it to be understood that I desire in the slightest degree, directly or indirectly, to retard the case, nor to take any steps that are unnecessary in the matter of having it fairly presented to the Senate.

The Committee on Claims had the bill before it. It gave it consideration and it made a report to the Senate. The report was adopted after some debate and the bill passed. Afterwards, during the last session, the Senator from New Jersey [Mr. MARTINE] made an appeal to the Senate on the ground that in his belief we had not allowed a sufficient amount, and the Senator from Mississippi [Mr. WILLIAMS] joined him in the request, and we brought the bill back from the House.

I do not think that responsibility for inaction since that time is chargeable to the Committee on Claims or to its chairman, because we have had no jurisdiction over it. The Senate recalled the bill from the House; and the Senator from New Jersey, who was active in having it recalled, has never brought the matter up, nor has the Senator from Mississippi. The chairman of the Committee on Claims has been engaged with the omnibus claims bill, and after having a conversation with the Senator from New Jersey, and sympathizing with him in his desire, my only object in bringing up the matter in this way was that we might, in an orderly manner, in the situation as it now exists, have the bill brought before the Senate and that we might take such action in regard to it as the merits of the case require.

If it is better to have it acted upon without going back to the committee, I will not insist upon it at all; but because it has been lying idle and nothing has been done about it since it came back from the other House, I desired to present it to the Senate, and I assure the Senator from New Jersey that he need have no apprehension that the claim upon its merits will not be considered by the Committee on Claims, so far as I am concerned.

Mr. MARTINE of New Jersey. I believe that.

The PRESIDING OFFICER. Does the Senator from New Jersey insist upon his objection?

Mr. MARTINE of New Jersey. I object, sir.

Mr. LODGE. Mr. President——

The PRESIDING OFFICER. Objection is made.

Mr. MARTINE of New Jersey. In deference to the Senator from Massachusetts, I withdraw the objection until he may be heard in regard to the bill.

Mr. LODGE. Mr. President, I merely wanted to say that, as I understand, this bill has been recalled from the other House, and therefore it occupies exactly the same position as it did when it left the Senate. I can see no reason for recommitting the bill. I think we can dispose of it now, and I think we ought to dispose of it now.

Mr. MARTINE of New Jersey. Let me give one reason why the matter has been seemingly delayed. During the last session, in the interest and with the general purpose of facilitating public business, I was urged to hold the bill over from time to time, which I did. At that time I conferred with the Senator from South Dakota [Mr. CRAWFORD] regarding the matter. His suggestion was that the bill be again rereferred, and that prompted me immediately to go to the home of this young woman, and I have come back fortified and reenforced with the facts. I feel that I am justified, with no purpose other than to do justice to this suffering young woman, in asking that the bill be not rereferred to the committee. I should like, as the Senator from Massachusetts [Mr. LODGE] says, to have the bill taken up and disposed of now.

The PRESIDING OFFICER. Does the Senator from New Jersey ask unanimous consent for the present consideration of the bill?

Mr. MARTINE of New Jersey. Mr. President——

Mr. LODGE. I ask unanimous consent for the present consideration of the bill.

Mr. NEWLANDS. I ask unanimous consent for the present consideration of the bill.

The PRESIDING OFFICER. Unanimous consent is asked for the present consideration of the bill. Is there objection?

There being no objection, the Senate proceeded to consider the bill.

Mr. MARTINE of New Jersey. Now, Mr. President, I move to amend the bill, on page 1, line 5, after the name "Houghton," by adding the words:

Sum of $8,000, $2,000 of said sum to be paid to Alice V. Houghton upon the passage of this act, and the balance of said amount to be paid in monthly installments of $75 each: *Provided*, That no sum of money due or to become due to said Alice V. Houghton under this act shall be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, but shall inure wholly to the benefit of said Alice V. Houghton.

The PRESIDING OFFICER. The Chair suggests to the Senator from New Jersey that it would seem necessary to first move a reconsideration of the votes by which the bill was ordered to a third reading, read the third time, and passed.

Mr. MARTINE of New Jersey. Then, I move, Mr. President, a reconsideration of the votes by which the bill was ordered to a third reading, read the third time, and passed.

The motion was agreed to.

Mr. GALLINGER. Now, I should like to hear the bill read before we do anything further.

Mr. CRAWFORD. I inquire of the Senator from New Jersey whether he is using the printed copy of the bill as it previously passed the Senate? There were some changes made in it.

Mr. MARTINE of New Jersey. I am.

The PRESIDING OFFICER. The Secretary will read the bill as it passed the Senate.

The Secretary read the bill (S. 5137) for the relief of Alice V. Houghton, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Alice V. Houghton the sum of $4,200, for injuries received while employed in the Bureau of the Census, Washington, D. C., January 31, 1911, said amount to be paid in monthly installments of $50 each, and not otherwise, for the period of seven years: *Provided*, That no sum of money due or to become due to the said Alice V. Houghton under this act shall be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, but shall inure wholly to the benefit of the said Alice V. Houghton.

Mr. CULBERSON. Let the amendment proposed by the Senator from New Jersey be stated.

The PRESIDING OFFICER. The Secretary will state the amendment proposed by the Senator from New Jersey.

The Secretary again stated the amendment.

Mr. CULBERSON. Mr. President, I presume the Senator from New Jersey means to strike out certain words that appear in the bill and to insert the amendment proposed by him, though it is not so stated.

Mr. MARTINE of New Jersey. Undoubtedly; that is my proposition, Mr. President.

Mr. GALLINGER. Mr. President, I ask the chairman of the Committee on Claims what amount has already been paid to this unfortunate woman? I think there was a bill passed in her behalf some time ago.

Mr. CRAWFORD. Mr. President, no bill for her relief except this one has ever passed. At the time she was injured the Director of the Census came before the committee and some proceeding was had which possibly resulted in a bill being introduced.

Mr. SMOOT. It resulted in a bill being passed.

Mr. CRAWFORD. I think that is correct, but that was before I was chairman of the committee.

Mr. GALLINGER. It is unquestionably true.

Mr. CRAWFORD. There was an allowance for expenses in the hospital while she was there and for nurses, I think, although I am not sure about it, because it was before I had jurisdiction.

Mr. SMOOT. And her wage for one year.

Mr. CRAWFORD. It amounted to about $1,500, but it has now all been expended.

Mr. GALLINGER. Yes; I so understand, but I wanted the record correct. A payment has already been made.

Mr. CRAWFORD. I think that statement is absolutely correct, and I think the amount provided was $1,500. The Senator from Utah was on the committee at that time, and he may have some distinct recollection about it.

Mr. GALLINGER. I had an impression it was a thousand dollars, but I am not sure about it.

Mr. SMOOT. A relief bill for Miss Houghton was passed which allowed her her wage for one year, which, I think, amounted to a thousand dollars.

Mr. CRAWFORD. Eight hundred and forty dollars.

Mr. SMOOT. Eight hundred and forty dollars and whatever expenses there were. I do not remember just the exact amount.

Mr. CRAWFORD. My recollection is that it was $1,500.

Mr. McCUMBER. Was the $1,500 paid to her individually, for her own benefit?

Mr. CRAWFORD. I understand that some of it was expended in paying her expenses.

Mr. NEWLANDS. Mr. President, it is impossible to hear what is being said.

Mr. McCUMBER. What I am trying to get at is what has been received by this young lady herself.

Mr. CRAWFORD. Practically nothing, because, as I understand, every dollar of the appropriation which was made was used in defraying her expenses in the hospital and for nurses during the early period of her injury.

Mr. McCUMBER. Is that true, I will ask the Senator, regarding the $840 which was paid?

Mr. CRAWFORD. I understand so.

Mr. McCUMBER. And she received no benefit from that?

Mr. CRAWFORD. I have that impression about it—that it all went for her expenses.

Mr. MARTINE of New Jersey. That, I think, is correct, Mr. President.

Mr. NEWLANDS. I should like to ask the Senator from South Dakota whether he thinks the sum allowed by this amendment sufficiently compensates this young woman for this terrible accident?

Mr. CRAWFORD. No sum of money can compensate one for an injury of this kind. Money could not compensate the Senator for losing his sight or losing his hearing or losing a leg. There is no money which can compensate for injuries of that kind.

Mr. NEWLANDS. Let me ask the Senator another question. Does he not think that in a case against a private corporation involving an employer's liability the judgment obtained would be a larger sum than the Government of the United States proposes to pay, even under the amendment proposed by the Senator from New Jersey?

Mr. CRAWFORD. That would depend entirely upon the question of negligence and some other questions that might be involved whether it was purely accidental or not. This case was what you might class as an accident, not attributable to the negligence of this young lady nor attributable to the negligence of the Government. It was one of those unfortunate happenings which sometimes occur.

Mr. NEWLANDS. Was it not negligence to have such a shaft as that in that room uncovered and unprotected?

Mr. CRAWFORD. It was not unprotected. We went into that very carefully. There was a revolving shaft running horizontally next to the floor, which was protected by rods.

Mr. NEWLANDS. By what?

Mr. CRAWFORD. By rods; a network of rods covered it. I think it might be said it is just about a stand-off, when you come to the consideration of the question of negligence. This young lady had been working there for months; she knew about this shaft being there; she dropped some cards, as the record shows, and some of them fell under this revolving shaft, so that it was necessary for her to get down on the floor, apparently on her hands and knees, and put her head down pretty close to the floor to reach under and get what she had lost. In that way her hair came in contact with the shaft, even through these rods. Perhaps the electricity or magnetic influence of that shaft was responsible. At any rate her hair was caught and wrapped around the shaft. The accident occurred in that way.

I think the question of negligence is scarcely to be considered in the case at all, because it would be unfortunate for her if we should apply any such rule as that. It is not a clear case where you could charge the Government with being negligent, in view of the fact that the protecting rods had been placed over the shaft. That is the situation with reference to that matter.

If we follow the rule of undertaking to give full compensation, we will have to go back and reconsider many and many a case of injury in the gun shops and on the Isthmus, where we have paid the unfortunate victims only one year's salary, even where they have lost their eyes or both legs or both hands, and where there is present every element that appeals to sympathy.

Mr. NEWLANDS. Mr. President, so far as I am individually concerned, I regard this as a very inadequate compensation for this terrific injury and for the sufferings this poor girl has undergone, and I should be glad largely to increase this amount, but the Senator from New Jersey urges me to permit it to go through granting the amount provided for in his amendment, and, as he has had charge of the matter, I yield to his judgment, although individually, I repeat, I regard this as a very meager allowance to this young woman.

The PRESIDING OFFICER. The question is on the amendment submitted by the Senator from New Jersey. Does the Chair understand the Senator desires to modify his amendment?

Mr. MARTINE of New Jersey. I desire to modify it, as I have indicated to the Secretary.

The PRESIDING OFFICER. The amendment as modified will be stated.

The SECRETARY. On page 1, line 6, after the words "sum of," it is proposed to strike out "$4,200" and in lieu to insert "$8,000," and in line 9, after the date "1911," to strike out:

Said amount to be paid in monthly installments of $50 each, and not otherwise, for the period of seven years: *Provided*, That no sum of money due or to become due to the said Alice V. Houghton under this act shall be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, but shall inure wholly to the benefit of the said Alice V. Houghton.

And insert:

Two thousand dollars of said sum to be paid to the said Alice V. Houghton upon the passage of this act and the remainder of said sum to be paid in monthly installments of $75 each: *Provided*, That no sum of money due or to become due to said Alice V. Houghton under this act shall be liable to attachment, levy, or seizure by or under any legal of equitable process whatever, but shall inure wholly to the benefit of the said Alice V. Houghton.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from New Jersey.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

UNANIMOUS-CONSENT AGREEMENTS.

Mr. LODGE. Mr. President, I desire to have put into the RECORD certain precedents bearing on the question of unanimous-consent agreements, which we discussed here the other day, as to the power of the Chair to resubmit a request and whether the Chair should ask unanimous consent to resubmit it. I have only had opportunity to examine or have examined the RECORD of this Congress partly.

I find that on January 23, 1912, the following occurred:

Mr. BROWN. I wish to appeal to the Senator from Utah to let the bill go over. No hearing on the bill has been printed——

The VICE PRESIDENT. The Chair hardly thinks that this proceeding is regular. The motion is not debatable. It has been declared carried, and no Senator has questioned it.

Mr. BROWN. I question now whether the motion has been carried.

The VICE PRESIDENT. The Chair asked the Senator from Missouri if he questioned it; the Chair understood that he simply asked to make a statement; and the Chair asked if unanimous consent would be given therefor.

Mr. REED. The President is in error in regard to my position. I——

The VICE PRESIDENT. If that is so, the Chair will again put the motion. The Chair did not mean to foreclose anybody's right to vote on the proposition.

I find that on April 11, 1912, the following occurred:

Mr. WILLIAMS. I think it is absolutely necessary to have a fair expression of the Senate as to whether one-fifth of its membership or one-fifth of a quorum can demand the yeas and nays if a quorum is not present.

Mr. LODGE. Let the request be again put, Mr. President.

The VICE PRESIDENT. The Chair will again put the request.

Which had already been put and announced as carried.

On the 1st of May, 1912, the following took place:

The PRESIDING OFFICER. Without objection, the message of the President, with the accompanying report, will be referred to the Committee on Foreign Relations.

Mr. BACON. Mr. President, I had not finished.

The PRESIDING OFFICER. And, without objection, the resolution offered by the Senator from Maryland is referred to the Committee on Foreign Relations.

Mr. GALLINGER. The resolution should be stated from the desk.

Mr. BACON. Mr. President, I had the floor, and I had not finished.

The PRESIDING OFFICER. The Chair begs the pardon of the Senator from Georgia. The Chair supposed the Senator had finished.

The question was again put, as follows:

The PRESIDING OFFICER. The resolution proposed by the Senator from Maryland [Mr. RAYNER] will be read.

And it was again put.

Mr. GALLINGER. Mr. President——

Mr. LODGE. Just one more.

On August 10, 1912, the following took place:

Mr. SMOOT. I ask unanimous consent that the Senator from New Hampshire [Mr. GALLINGER] be the President of the Senate pro tempore from Monday, August 12, 1912, to Saturday, August 17, 1912, both inclusive.

The PRESIDENT pro tempore. The Senate has heard the motion of the Senator from Utah. Without objection, it will be so ordered.

Mr. GRONNA. We can not hear in this part of the Chamber.

The PRESIDENT pro tempore. The Senator from North Dakota not having heard the motion, the Secretary will state it from the desk.

And he put it again.

I merely wish to show that it is not unheard of for the Chair, without asking unanimous consent, to again put the question when any Senator rose and said he had not heard the request or could not obtain the floor before the request was announced as granted.

Mr. GALLINGER. I think there will be no controversy with the Senator from Massachusetts, and I do not think it very important that he should have put this in the RECORD.

None of the cases to which he alludes involved a unanimous-consent agreement to vote upon a bill on a certain day, and voting upon a bill on a certain day is very much more important than the questions involved in the citations the Senator has made.

I suggested, when interrogated, that had I been in the chair, and objection had been made, I would not have felt it my privilege to put the request again. But it is inconsequential. The Chair can do pretty much anything on matters of that kind as long as it is agreeable to Senators. But I doubt very much whether the authority of the Chair extends to the point the Senator from Massachusetts contends.

THE CALENDAR.

Mr. SMOOT. I ask unanimous consent that the Senate proceed, under Rule VIII, to the consideration of bills on the calendar to which there is no objection.

The PRESIDING OFFICER. The Senator from Utah asks unanimous consent for the consideration of unobjected cases on the calendar. Is there any objection? The Chair hears none, and the first bill in order will be stated.

The bill (S. 2493) authorizing the Secretary of the Treasury to make an examination of certain claims of the State of Missouri was announced as first in order.

Mr. SMOOT. Let the bill go over.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 1505) for the relief of certain officers on the retired list of the United States Navy was announced as next in order.

Mr. GALLINGER. Let the bill go over.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 2151) to authorize the Secretary of the Treasury to use, at his discretion, surplus moneys in the Treasury in the purchase or redemption of the outstanding interest-bearing obligations of the United States was announced as next in order.

Mr. SMOOT. The bill has been read a couple of times.

Mr. GALLINGER. The bill has heretofore been read.

Mr. SMITH of Georgia. We should like to have the bill again read.

The Secretary again read the bill.

Mr. SMITH of Georgia. This bill has been on the calendar for a very great length of time, so much so that it has almost escaped the attention of a number of us. I had reached the conclusion that it would not be pressed. It seems to me, if it is desired to press it, it ought to go over for a few days, and that we ought to have a distinct understanding, so that all Senators may be notified that the bill is to come up.

Mr. SMOOT. Make the objection.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 256) affecting the sale and disposal of public or Indian lands in town sites, and for other purposes, was announced as next in order.

Mr. SUTHERLAND. The consideration of this bill has heretofore been objected to by the senior Senator from Georgia [Mr. BACON], whom I do not see in his seat, and I ask that it go over.

Mr. SMITH of Georgia. I desire to state that the senior Senator from Georgia is detained at home on account of serious illness in his family. He is in Macon.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 3) to cooperate with the States in encouraging instruction in agriculture, the trades, and industries and home economics in secondary schools; in maintaining instruction in these vocational subjects in State normal schools; in maintaining extension departments in State colleges of agriculture and mechanic arts; and to appropriate money and regulate its expenditure, was announced as next in order.

Mr. GALLINGER. Let the bill go over; and the next one.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 5076) to promote instruction in forestry in States and Territories which contain national forests, was announced as next in order.

Mr. SMOOT. I know there are a number of Senators who have objected to the bill in the past, and they are not at present in the Chamber. Therefore I ask that it go over, although I have no special objection to it.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 2234) to provide for a primary nominating election in the District of Columbia, at which the qualified electors of the said District shall have the opportunity to vote for their first and second choice among those aspiring to be candidates of their respective political parties for President and Vice Presi-

dent of the United States, to elect their party delegates to their national conventions, and to elect their national committeemen, was announced as next in order.

Mr. SUTHERLAND. Let the bill go over.

The PRESIDING OFFICER. The bill will go over.

THE LIFE-SAVING SERVICE.

The bill (S. 2051) to promote the efficiency of the Life-Saving Service was announced as next in order.

The PRESIDING OFFICER. The bill has heretofore been considered in Committee of the Whole, and has been read.

Mr. SMOOT. Has the bill been read?

The PRESIDING OFFICER. It has been read twice.

The Senate, as in Committee of the Whole, resumed the consideration of the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS, ETC., PASSED OVER.

The bill (S. 5728) conferring jurisdiction on the Court of Claims to hear, determine, and render judgment in claims of the Osage Nation of Indians against the United States, was announced as next in order.

Mr. CRAWFORD. I ask that it go over.

The PRESIDING OFFICER. It will go over.

The resolution (S. Res. 242) directing the Committee on Post Offices and Post Roads to inquire into and report to the Senate whether post-office inspectors are being sent through the country to influence postmasters to aid in the election of delegates for or against any candidate for the Presidency, etc., was announced as next in order.

Mr. LODGE. Let the resolution go over.

The PRESIDING OFFICER. Being objected to, it will go over.

Mr. GALLINGER. Let it go over under Rule IX, if it is to remain on the calendar at all. It ought to be indefinitely postponed.

Mr. SMOOT. I think so, too.

Mr. GALLINGER. I move its indefinite postponement.

Mr. BRISTOW. Let it go to the calendar under Rule IX instead of being indefinitely postponed.

Mr. GALLINGER. That is satisfactory.

The PRESIDING OFFICER. In the absence of objection, the resolution will go over under Rule IX.

Mr. GALLINGER. I withdraw my motion.

The PRESIDING OFFICER. The Senator from New Hampshire withdraws his motion to indefinitely postpone.

The bill (S. 3316) to repeal an act entitled "An act to promote reciprocal trade relations with the Dominion of Canada, and for other purposes," approved July 26, 1911, was announced as next in order.

Mr. GORE. Let the bill go over. I object.

The PRESIDING OFFICER. The bill is objected to, and goes over.

CONTRACTORS FOR BATTLESHIP INDIANA.

The bill (S. 4840) to carry into effect the judgment of the Court of Claims in favor of the contractors for building the United States battleship *Indiana* was announced as next in order.

Mr. GALLINGER. Let this and the next three bills be passed over.

Mr. CRAWFORD. I move that the bill be indefinitely postponed. There has been an adverse report here for months.

Mr. LODGE. And the next three bills.

Mr. CRAWFORD. The next three bills ought to be placed under Rule IX.

Mr. SMOOT. I hope the Senator will allow the bill for the relief of the contractors of the battleship *Indiana* to go over under Rule IX.

Mr. CRAWFORD. I desire to say to the Senator from Utah that that is utterly ridiculous. I have allowed that bill, notwithstanding an adverse report, to be kept here because parties have said they wanted to propose it as an amendment to the omnibus claims bill, and they have never even proposed the amendment.

Mr. SMOOT. Mr. President——

Mr. CRAWFORD. There is a unanimous adverse report here. No minority views have ever even been filed. As a matter of courtesy I allowed the bill to stand on the calendar, when it should have been indefinitely postponed months ago. It has been here for several months.

Mr. SMOOT. Does the Senator from South Dakota say the bill has received a unanimous adverse report from the committee?

Mr. CRAWFORD. It is a unanimous adverse report.

Mr. SMOOT. I did not so understand it.

Mr. OLIVER. I did not so understand it, either.

Mr. CRAWFORD. Where is the minority report, then?

Mr. OLIVER. It is not necessary to file the views of the minority.

Mr. SMOOT. Let the bill go over under Rule IX.

Mr. CRAWFORD. I insist upon the indefinite postponement of the bill. If counsel insist upon the bill remaining upon the calendar of the Senate, I will entertain the Senate with a two or three hours' discussion of the claim, and its merits can be aired. Otherwise Senators had better let it be indefinitely postponed. I am willing to give counsel a challenge on that right now. If anyone wants the merits of that claim challenged, he can get it.

Mr. OLIVER. What does the Senator from South Dakota mean by "counsel"?

Mr. SMOOT. Yes.

Mr. CRAWFORD. I mean "Senator." "Counsel" is an honorable designation, but I will change it.

The PRESIDING OFFICER. The Senator from South Dakota——

Mr. CRAWFORD. I move that the further consideration of the bill be indefinitely postponed, basing it upon the adverse report.

Mr. SMOOT. Under the unanimous-consent agreement we are proceeding here with the consideration of bills to which there is no objection.

Mr. GALLINGER. That is right; by unanimous consent.

Mr. SMOOT. We are proceeding with the consideration of bills to which there is no objection. Any Senator can object to the consideration of the bill. I have no more interest in this claim than I have in any other claim.

Mr. CRAWFORD. We will discuss it at length some day.

Mr. SMOOT. Under that rule I shall now reserve the right to object.

Mr. CRAWFORD. I ask that the bill may go over. I do not want it to go under Rule IX. There is no graveyard for the bill, unless it is going to be indefinitely postponed.

The PRESIDING OFFICER. The present consideration of the bill is objected to, and it goes over.

BILLS PASSED OVER.

Mr. GALLINGER. Let the next three bills be passed over.

The bill (S. 4159) for the relief of F. M. Lyman, jr., the bill (S. 4230) for the relief of Robert F. Scott, and the bill (S. 364) for the relief of Ranney Y. Lyman were announced as next in order on the calendar.

The PRESIDING OFFICER. The bills will be passed over.

Mr. GALLINGER. Let them go over under Rule IX, unless there is objection.

The PRESIDING OFFICER. The Chair hears no objection, and it is so ordered.

The bill (S. 111) to authorize the sale and disposition of the surplus and unallotted lands in Washabaugh County, in the Pine Ridge Indian Reservation, in the State of South Dakota, and making appropriation to carry the same into effect, was announced as next in order.

Mr. CRAWFORD. Let that bill go over.

Mr. CLAPP rose.

Mr. CRAWFORD. Did the Senator from Minnesota desire to have it read?

Mr. CLAPP. The Senator's colleague, who is interested in the bill, is absent.

Mr. CRAWFORD. My colleague is likely to be here within a day or two. I think the bill should go over.

The PRESIDING OFFICER. The consideration of the bill is objected to, and it goes over.

The bill (S. 5186) to incorporate the Brotherhood of North American Indians was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDING OFFICER. The consideration of the bill is objected to, and it goes over.

The bill (S. 461) conferring jurisdiction on the Court of Claims to hear, determine, and render judgment in claims of the Ponca Tribe of Indians against the United States was announced as next in order.

Mr. GALLINGER. Let that go over, Mr. President.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 5917) relating to procedure in United States courts was announced as next in order.

Mr. BRISTOW. I ask that the bill may go over.

The PRESIDING OFFICER. The consideration of the bill is objected to, and it goes over.

Mr. BRISTOW subsequently said: Inadvertently I objected to the consideration of Senate bill 5917. I thought the Secre-

tary was referring to Senate bill 461. Personally I have no objection to Senate bill 5917.

The PRESIDING OFFICER. Does the Senator from Kansas withdraw his objection?

Mr. BRISTOW. I do.

Mr. GALLINGER. Then let the bill be read.

The PRESIDING OFFICER. The objection having been withdrawn, the Senate will return to the bill, without objection.

Mr. CLARKE of Arkansas. Mr. President, the scope of that bill goes beyond its title. The effect of it would be to make a very radical change in the entire judicial system as administered in the Federal courts, and it ought to have very thorough discussion before it is seriously considered by the Senate. I object to its present consideration.

The PRESIDING OFFICER. Being objected to, the bill goes over.

The bill (S. 118) granting an increase of pension to Harriet Pierson Porter was announced as next in order.

Mr. McCUMBER. The Senator from Delaware [Mr. DU PONT] not being present, I ask that the bill go over.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 1) to establish a department of health, and for other purposes, was announced as next in order.

Mr. GALLINGER. Let the bill go over, Mr. President.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 5169) authorizing the Ponca Tribe of Indians to intervene in the suit of the Omaha Indians in the Court of Claims, and for other purposes, was announced as next in order.

Mr. CRAWFORD. I ask that the bill may go over.

The PRESIDING OFFICER. Consideration being objected to, the bill goes over.

The bill (S. 6497) to protect migratory game and insectivorous birds in the United States was announced as next in order.

Mr. SMOOT. Let the bill go over, as I understand the Senator from Connecticut [Mr. McLEAN], who has the bill in charge, has given notice that he will call it up next Wednesday.

The PRESIDING OFFICER. The consideration of the bill is objected to, and it goes over.

The bill (S. 3463) to establish a Bureau of National Parks, and for other purposes, was announced as next in order.

Mr. GALLINGER. Let the bill go over.

The PRESIDING OFFICER. Objection is made, and the bill goes over.

The bill (S. 2371) to amend section 3224 of the United States Compiled Statutes so as to prevent the restraining of the assessment or collection of any tax—State, county, municipal, district, or Federal—was announced as next in order.

Mr. SUTHERLAND. Let that bill go over.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 5455) to establish a system of wireless telegraphy in the Philippine Islands was announced as next in order.

Mr. BRISTOW. Let that go over.

The PRESIDING OFFICER. Consideration is objected to, and the bill goes over.

The bill (S. 1231) for the relief of the heirs of John W. West, deceased, was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDING OFFICER. The bill will go over.

Mr. GORE. I should like to have it go to Rule IX.

The PRESIDING OFFICER. The Senator from Oklahoma asks that the bill go over under Rule IX. Is there objection?

Mr. SMOOT. I have no objection.

Mr. GALLINGER. No objection.

The PRESIDING OFFICER. The Chair hears none, and it is so ordered.

The bill (S. 5955) for the relief of certain retired officers of the Navy and Marine Corps was announced as next in order.

Mr. CLARKE of Arkansas. Let that go over.

The PRESIDING OFFICER. The consideration of the bill is objected to, and it goes over.

The bill (H. R. 1332) regulating Indian allotments disposed of by will was announced as next in order.

Mr. GALLINGER. The Senator reporting the bill not being present, I ask that it may go over.

The PRESIDING OFFICER. Present consideration is objected to, and the bill goes over.

The bill (S. 5863) for the retirement of employees in the civil service, and for other purposes, was announced as next in order.

Mr. CLARKE of Arkansas. I object to the present consideration of that bill.

The PRESIDING OFFICER. Present consideration is objected to, and the bill goes over.

The bill (S. 4654) to regulate contracts for the future delivery of cotton was announced as next in order.

Mr. SMOOT. Let that bill go over.

The PRESIDING OFFICER. Consideration is objected to, and the bill goes over.

STATE GAME RESOURCES.

The bill (S. 6109) for the protection and increase of State game resources was announced as next in order.

Mr. SMOOT. The Senator reporting the bill is not here to explain it.

Mr. BRANDEGEE. I have sent for the Senator from Connecticut [Mr. McLEAN], and he will be here in just a minute. Until he arrives I will take care of the bill, if the Senator will withhold his objection until that time.

Mr. SMOOT. I will withhold it.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read.

Mr. BRANDEGEE. There is a report accompanying the bill, which I have not had time to look into. I notice that the bill was introduced by the Senator from California [Mr. PERKINS], who is a member of the committee from which it was reported. The chairman of the committee will be here in a minute. I will ask, if there be no objection, that the bill be put on its passage.

Mr. CLARKE of Arkansas. Mr. President, this is another measure of very comprehensive application. It is rather a novel subject to be treated by national legislation. I had always rested under the impression that the game of the several States belonged to the State until it was taken by the citizens of the State, and that it was subject to the statutes the several States saw proper to pass. It would be an interesting investigation to determine that ownership is in the National Government or subject to the regulation of the National Government, and I think the bill had better wait until we have time to discuss that. We are working to-day under a rule which provides for the consideration of unobjected bills, which practically means those that provoke no discussion and require no explanation—bills that are somewhat local in character or which are so obviously proper that nobody objects to their consideration.

I have no more interest in the general question involved in the bill than other Senators, but I would rather have it discussed and be ready to discuss it when there would be room for some remarks from me. I believe I will ask that the bill shall go over.

Mr. BRANDEGEE. Of course, what the Senator says is equivalent to an objection, and I therefore make no further request.

The PRESIDING OFFICER. The consideration of the bill is objected to, and it goes over.

PUBLIC BUILDING AT LAS VEGAS, N. MEX.

The bill (S. 6744) to provide for the purchase of an extension to the site and the erection of a Federal building in Las Vegas, N. Mex., was considered as in Committee of the Whole.

The bill was reported from the Committee on Public Buildings and Grounds with an amendment, to strike out all after the enacting clause and to insert:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to contract for the erection and completion in the city of Las Vegas, N. Mex., of a suitable building, including fireproof vaults, heating and ventilating apparatus, elevators, and approaches, complete, for the use and accommodation of the United States post office, Federal court, and other Government offices upon ground already authorized by the Government for such purpose, the cost of said building not to exceed the sum of $100,000.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to provide for the erection of a Federal building in Las Vegas, N. Mex."

BILLS, ETC., PASSED OVER.

The next business on the calendar was the joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. LODGE. Let that go over.

The PRESIDING OFFICER. The joint resolution will go over.

The bill (S. 4584) to promote the efficiency of the Naval Militia, and for other purposes, was announced as next in order.

Mr. CLARKE of Arkansas. I object to that bill being considered to-day.

The PRESIDING OFFICER. The consideration of the bill being objected to, it goes over.

The bill (S. 5069) to promote the efficiency of the enlisted personnel of the United States Navy was announced as next in order.

Mr. CLARKE of Arkansas. I make the same request as to that bill.

The PRESIDING OFFICER. The present consideration of the bill being objected to, it goes over.

PAROLE OF PRISONERS.

The bill (H. R. 14925) to amend "An act to parole United States prisoners, and for other purposes," approved June 25, 1910, was considered as in Committee of the Whole. It proposes to amend section 1 of the "Act to parole United States prisoners, and for other purposes," approved June 25, 1910, so as to read:

That every prisoner who has been or may hereafter be convicted of any offense against the United States and is confined in execution of the judgment of such conviction in any United States penitentiary or prison for a definite term or terms of over one year, or for the term of his natural life, whose record of conduct shows that he has observed the rules of such institution, and who, if sentenced for a definite term, has served one-third of the total of such term or terms for which he was sentenced, or, if sentenced for the term of his natural life, has served not less than 15 years, may be released on parole as hereinafter provided.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. BRANDEGEE. I ask permission to insert the following letter from the Attorney General in relation to the bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE, *July 31, 1912.*

MY DEAR SENATOR: I am very much interested in a bill now pending before the Senate, having passed the House, being H. R. 14925, amending the act to parole United States prisoners, approved June 25, 1910, by extending the benefit of the parole law to prisoners who have been sentenced for life terms. This amendment was recommended by the members of the Federal boards of parole (see Report Attorney General, Appendix 29, p. 398) and by me in my annual report for 1911 (p. 73). In that report I used the following language:

"I concur in the recommendations made by the boards of parole in their report that the law should be modified so as to include within its provisions prisoners undergoing life sentences by providing, as is done in the statutes of a number of States, that such prisoners shall be eligible to parole when they shall have actually served some long period of years. There are now upward of 200 prisoners serving life sentences in Federal penitentiaries. At present the only hope of a life prisoner, no matter how exemplary his conduct may be, lies in the exercise by the President of the power of Executive clemency. I believe it to be more to the interests of society that such prisoners should be liberated on parole, subject to the supervision and regulation which is possible under the parole law, than that they should be discharged absolutely by Executive pardon. In this connection I invite careful attention to a consideration by Congress of the desirability of adopting the indeterminate sentence for prisoners, such as prevails in many of the States. That system is an important, if not a necessary, adjunct to a parole law. The system has produced excellent results and is regarded by the most enlightened penologists as embodying the most successful method of dealing with the punishment of crime."

The subject of the extension of the parole law to life prisoners was considered by the American Prison Association, among whose members are the most able and prominent students of prison discipline and reform in the country, at its meeting held at Richmond, Va., in 1908, and a committee of five was appointed to make investigations and report the following year upon the advisability of extending the benefit of parole to life prisoners. That committee submitted a report to the association at its meeting in Seattle in 1909, which is printed in the report of the transactions of the association for that year. It unanimously reported in favor of the extension of the benefit of parole to life prisoners, discussing very fully all of the arguments for and against such action, and its report was adopted by the association. The committee discusses the two main hostile criticisms which have been urged against the extension of the parole law to cover life prisoners, namely, first, that it would tend to blur the deterrent effects of life imprisonment; and, second, that the power of parole might be exercised unwisely. These objections, the committee states, seem to mistake fears for facts and shadows for substance. The first for the reason that, after a period ranging from 10 to 30 years and after the details of the crime have faded from public memory, the deterrent influence which life imprisonment exerts upon others becomes vitiated, if, indeed, the value of life penalties is not rated too highly as a preventive force; and the second for the reason that, to quote the words of the committee:

"* * * every consideration by which responsible authorities are moved would encourage the avoidance of rashness and the exercise of caution and discrimination in granting conditional releases to life prisoners and would operate against any reckless breaking of eggs to make liberty omelets."

The conclusions reached by the committee are as follows:

"1. The extension of parole to life prisoners who, according to expert judgment, are safe to be at large, whose offense was born of an overmastering impulse, and whose previous record was not vicious puts in their hands the tools of social rehabilitation, interprets penalties in terms of humanity and of hope, fosters a more even distribution of justice, and is a sound public policy.

"2. No parole that would offend public opinion in the State should be granted. Conditional releases that affront popular sentiment would tend to discredit the whole parole system and would be a tragedy of administration.

"3. No life prisoner should be paroled until he has served long enough to satisfy the reasonable requirements of justice, as construed by the enlightened sentiment of the Commonwealth, and until the immediate prejudices growing out of the crime disappear and suitable employment for the convict has been procured.

"4. A parole should not be based on any arbitrary compliance with prison rules, but the question should be determined by a broad consideration of all the facts bearing on the case, such as the nature and circumstances of the crime, the man's record in prison and out of prison, his general character, and the likelihood of his leading an honorable life. Emphatically no political or personal pressure should be permitted to influence the calm judgment of the paroling authority.

"5. The wisdom of discarding the definite life penalty for an indeterminate sentence, whose minimum term shall be fixed by law or by the court, and whose maximum term shall be the offender's natural life, is commended to the attention of State legislatures."

I inclose a memorandum of the laws of those States which have extended the benefits of the parole system to life prisoners. Fifteen States in all have taken this action. In probably not more than two of them is it necessary for a life prisoner to serve more than 15 years before he is eligible to parole. This period would seem to be amply sufficient to impress upon the prisoner the seriousness of his crime and to act as a deterrent to others, while at the same time not being long enough to prevent his release until the period when his mental and physical powers are so deteriorated that he can not be of any value in the community. The alternative to granting a parole is the present system of Executive clemency. I inclose a memorandum showing the commutations of sentences which have resulted in the release of prisoners sentenced for terms of life imprisonment during the past five years. There are 51 of them in all, an average of about 10 a year, and of that number only 10 had actually served more than 15 years' imprisonment, the average being about 11¼ years. Of course, these prisoners being discharged on the commutation of sentence, the authorities had no further hold upon them, and the experiment of release must be solved in advance, whereas under the parole system, should the release of the prisoner prove to be detrimental to society, he may be retaken and returned to the penitentiary.

There are applications for Executive clemency in 21 life cases now pending before the department, action on which has been delayed because of the pendency of the bill H. R. 14925.

I believe the proposed law is in conformity with the views of the best-known penologists and of the most thoughtful students of prison reform. I sincerely hope you may see your way clear to support it, and I should be much obliged if you would give me an opportunity to discuss the matter further with you in case you are not disposed to favor the passage of the bill.

Very respectfully, yours, GEORGE W. WICKERSHAM,
Attorney General.

BOTANICAL LABORATORY.

The bill (S. 93) to establish a botanical laboratory at Denver, Colo., was announced as next in order.

Mr. OLIVER. Let that go over.

The PRESIDING OFFICER. Objection is made and the bill goes over.

MOUNT RAINIER NATIONAL PARK.

The bill (S. 4958) to accept the cession by the State of Washington of exclusive jurisdiction over the lands embraced within the Mount Rainier National Park, and for other purposes, was announced as next in order.

Mr. JONES. Mr. President, I simply desire to state that the bill is practically a copy of the law that is now in force with reference to the protection of the Yellowstone National Park. While it contains a number of provisions of a criminal character and so on, those provisions are just the same as those which have been in force in connection with the Yellowstone National Park. The bill is urged very strongly by the Secretary of the Interior, and it is a matter of considerable importance.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Public Lands with amendments.

The first amendment was, in section 2, page 2, line 15, before the word "courts," to strike out "and circuit," so as to make the section read:

SEC. 2. That said park shall constitute a part of the United States judicial district of Washington, and the district courts of the United States in and for said district shall have jurisdiction of all offenses committed within said boundaries.

The amendment was agreed to.

The next amendment was, on page 6, to strike out section 7, in the following words:

SEC. 7. That any United States commissioner duly appointed by the United States Court for the Western District of Washington and residing in said district shall have power and jurisdiction to hear and act upon all complaints made of any and all violations of this act or of the rules and regulations made by the Secretary of the Interior for the government of the park and for the protection of the animals, birds, and fish, and objects of interest therein, and for other purposes authorized by this act. That any such commissioner shall have power, upon sworn complaint, to issue process in the name of the United States for the arrest of any person charged with a violation of this act or of the rules and regulations made by the Secretary of the Interior, as aforesaid, or with any misdemeanor or other like offense, the punishment provided for which does not exceed a fine of $100, and to try the person thus charged, and, if found guilty, to impose the punishment and adjudge the forfeiture prescribed. In all cases of conviction an appeal shall lie from the judgment of any such commissioner to the United States District Court for the Western District of Washington. The said United States district court shall prescribe rules of procedure and practice for said commissioner in the trial of cases and with reference to said appeals.

And to insert in lieu thereof a new section, as follows:

SEC. 7. That the United States District Court for the Western District of Washington shall appoint a commissioner, who shall reside in the park and who shall have jurisdiction to hear and act upon all complaints made of any violation of law or of the rules and regulations made by the Secretary of the Interior for the government of the park and for the protection of the animals, birds, and fish, and objects of interest therein, and for other purposes authorized by this act. Such commissioner shall have power, upon sworn information, to issue process in the name of the United States for the arrest of any person charged with the commission of any misdemeanor, or charged with a

violation of the rules and regulations, or with a violation of any provision of this act prescribed for the government of said park and for the protection of the animals, birds, and fish in said park, and to try the person so charged, and, if found guilty, to impose the punishment and adjudge the forfeiture prescribed. In all cases of conviction an appeal shall lie from the judgment of said commissioner to the United States District Court for the Western District of Washington, and the United States district court in said district shall prescribe rules of procedure and practice for said commissioner in the trial of cases and for appeal to said United States district court.

The amendment was agreed to.

The next amendment was, on page 8, to strike out section 10, in the following words:

SEC. 10. That such commissioner and the marshal of the United States and his deputies in the western district of Washington shall be paid the same fees and compensation as are now provided by law for like services in said district.

And to insert in lieu thereof a new section, as follows:

SEC. 10. That the commissioner provided for in this act shall, in addition to the fees allowed by law to commissioners of the district courts of the United States, be paid an annual salary of $1,500, payable quarterly.

The amendment was agreed to.

Mr. SUTHERLAND. I call attention to the word "courts," in section 2, page 2, line 15. It should be in the singular number; it should be "court."

The PRESIDING OFFICER. The amendment suggested by the Senator from Utah will be stated.

The SECRETARY. In section 2, page 2, line 15, after the words "the district," it is proposed to strike out "courts" and insert "court."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM MULLALLY.

The bill (S. 1485) for the relief of William Mullally was announced as next in order.

Mr. LODGE. That bill is adversely reported, and I suggest that it be indefinitely postponed.

The PRESIDING OFFICER. Does the Senator from Massachusetts object to the present consideration of the bill?

Mr. LODGE. No; I do not object.

Mr. SANDERS. The Senator from Ohio [Mr. POMERENE] asked that this bill go to the calendar, and I see that he is now in the Chamber. The bill is accompanied by an adverse report, and, unless the Senator from Ohio objects, I think it should be indefinitely postponed.

Mr. POMERENE. Mr. President, I ask that the bill be passed over.

The PRESIDING OFFICER. On objection of the Senator from Ohio, the bill goes over.

NATIONAL INSTITUTE OF ARTS AND LETTERS.

The bill (S. 4355) incorporating the National Institute of Arts and Letters was considered as in Committee of the Whole.

Mr. ROOT. The bill has been read, Mr. President.

The PRESIDING OFFICER. The bill has been read. The Secretary will state the amendments.

The bill was reported from the Committee on the Judiciary with amendments.

The first amendment was, in section 1, page 1, line 11, after the name "Bliss," to strike out the name "Carmen" and insert "Carman"; in the same line, after the word "of," to insert "Massachusetts"; on page 2, line 11, before the name "Virginia," to insert "West"; in the same line, after the name "Virginia," to strike out "Henry B. Fuller, of Illinois"; in line 24, after the word "of" where it occurs the second time, to strike out "Connecticut" and insert "New York"; on page 3, line 8, before the name "Clair," to strike out "Saint" and to insert "St."; on page 4, line 1, before the word "of," to strike out "Seaton" and insert "Seton"; in line 4, after the name "Thomas," to strike out "Russel" and insert "Russell"; in line 9, before the name "Dyke," to strike out "Van" and insert "van"; on page 6, line 4, after the word "of," to strike out "Kentucky" and insert "Ohio"; in line 21, after the word "of" where it occurs the second time, to strike out "California" and insert "Ohio"; in line 24, after the word "of" where it occurs the first time, to insert "Connecticut"; on page 7, line 5, after the name "Pennsylvania," to strike out "their associates"; and in the same line, before the word "successors," to insert "their," so as to make the section read:

That Brooks Adams, of Massachusetts; Charles Francis Adams, of Massachusetts; Henry Adams, of the District of Columbia; George Ade, of Indiana; Henry M. Alden, of New Jersey; Richard Aldrich, of New York; James Lane Allen, of New York; Simeon E. Baldwin, of Connecticut; Arlo Bates, of Massachusetts; Robert Bridges, of New York; W. C. Brownell, of New York; John Burroughs, of New York; Richard Burton, of Minnesota; George W. Cable, of Massachusetts; Bliss Carman, of Massachusetts; Madison J. Cawein, of Kentucky; Robert William Chambers, of New York; Edward Channing, of Massachusetts; John Vance Cheney, of California; Winston Churchill, of New Hampshire; James B. Connolly, of Massachusetts; Royal Cortissoz, of New York; Wilbur Lucius Cross, of Connecticut; Samuel McChord Crothers, of Massachusetts; Charles de Kay, of New York; Finley P. Dunne, of New York; Maurice F. Egan, of the District of Columbia; Chester Bailey Fernald, of California; Henry T. Finck, of New York; John Huston Finley, of New York; Worthington C. Ford, of Massachusetts; John Fox, jr., of West Virginia; Horace Howard Furness, of Pennsylvania; Horace Howard Furness, jr., of Pennsylvania; Hamlin Garland, of Illinois; Basil L. Gildersleeve, of Maryland; William Gillette, of Connecticut; Lawrence Gilman, of New York; George A. Gordon, of Massachusetts; Robert Grant, of Massachusetts; Ferris Greenslet, of Massachusetts; W. E. Griffis, of New York; A. T. Hadley, of Connecticut; Arthur Sherburne Hardy, of Connecticut; George McLean Harper, of New Jersey; Oliver Herford, of New York; Robert Herrick, of Illinois; Ripley Hitchcock, of New York; M. A. De Wolfe Howe, of Massachusetts; W. D. Howells, of New York; Archer M. Huntington, of New York; Henry James, of Massachusetts; Owen Johnson, of New York; R. U. Johnson, of New York; George Kennan, of New York; Nelson Lloyd, of New York; Henry Cabot Lodge, of Massachusetts; John Luther Long, of Pennsylvania; T. R. Lounsbury, of Connecticut; Robert Morss Lovett, of Illinois; Abbott Lawrence Lowell, of Massachusetts; Charles F. Lummis, of California; H. W. Mable, of New Jersey; Percy Mackaye, of New Hampshire; A. T. Mahan, of New York; Edwin Markham, of New York; Edward S. Martin, of New York; Brander Matthews, of New York; St. Clair McKelway, of New York; John Bach McMaster, of Pennsylvania; Joaquin Miller, of California; John A. Mitchell, of New York; Langdon E. Mitchell, of Pennsylvania; Paul Elmer More, of New York; Harrison S. Morris, of Pennsylvania; John Torrey Morse, jr., of Massachusetts; John Muir, of California; Meredith Nicholson, of Indiana; Thomas Nelson Page, of the District of Columbia; Will Payne, of Illinois; William Morton Payne, of Illinois; Harry Thurston Peck, of New York; Bliss Perry, of Massachusetts; Thomas Sergeant Perry, of Massachusetts; William Lyon Phelps, of Connecticut; A. S. Pier, of Massachusetts; James Ford Rhodes, of Massachusetts; James Whitcomb Riley, of Indiana; Charles G. D. Roberts, of New York; Edward A. Robinson, of New York; Theodore Roosevelt, of New York; Josiah Royce, of Massachusetts; Felix E. Schelling, of Pennsylvania; Montgomery Schuyler, of New York; Clinton Scollard, of New York; Henry D. Sedgwick, of New York; Ernest Thompson Seton, of Connecticut; Frank Dempster Sherman, of New York; Paul Shorey, of Illinois; William M. Sloane, of New York; F. Hopkinson Smith, of New York; Thomas Russell Sullivan, of Massachusetts; Booth Tarkington, of Indiana; Abbott Handerson Thayer, of New Hampshire; William R. Thayer, of Massachusetts; Augustus Thomas, of New York; Frank L. Tooker, of New York; Ridgely Torrence, of New York; William P. Trent, of New York; Henry van Dyke, of New Jersey; John C. Van Dyke, of New Jersey; Barrett Wendell, of Massachusetts; Andrew F. West, of New Jersey; Andrew Dickson White, of New York; William Allen White, of Kansas; Charles G. Whiting, of Massachusetts; Jesse Lynch Williams, of New Jersey; Harry Leon Wilson, of Indiana; Woodrow Wilson, of New Jersey; Owen Wister, of Pennsylvania; George E. Woodberry, of Massachusetts; Herbert Adams, of New Hampshire; John W. Alexander, of New York; George F. Babb, of New York; Hugo Ballin, of New York; George Gray Barnard, of New York; Paul W. Bartlett, of New York; J. Carroll Beckwith, of New York; Frank W. Benson, of Massachusetts; Karl Bitter, of New Jersey; Edwin H. Blashfield, of New York; Richard E. Brooks, of New York; Glenn Brown, of the District of Columbia; George De Forest Brush, of New York; William Gedney Bunce, of Connecticut; Daniel Hudson Burnham, of Illinois; Francis D. Millet, of New York; H. Siddons Mowbray, of Connecticut; Leonard Ochtman, of Connecticut; Maxfield Parrish, of New Hampshire; Robert S. Peabody, of Massachusetts; Charles Sprague Pearce, of Massachusetts; Joseph Pennell, of Pennsylvania; Charles A. Platt, of New Hampshire; George B. Post, of New York; Edward Clark Potter, of Massachusetts; Bela L. Pratt, of Massachusetts; A. Phimister Proctor, of New York; Edward W. Redfield, of Pennsylvania; Robert Reid, of New York; F. G. R. Roth, of New York; F. W. Ruckstuhl, of New York; Albert P. Ryder, of New York; John S. Sargent, of Massachusetts; W. E. Schofield, of Pennsylvania; H. M. Shrady, of New York; Edward Simmons, of New York; William T. Smedley, of New York; Lorado Taft, of Illinois; Edmund C. Tarbell, of Massachusetts; Abbott H. Thayer, of New York; E. C. Tarbell, of Massachusetts; D. W. Tryon, of New York; Elihu Vedder, of Massachusetts; Lionel Walden, of Connecticut; Henry Oliver Walker, of New Jersey; Horatio Walker, of Canada; Whitney Warren, of New York; Adolph A. Weinman, of New York; J. Alden Weir, of New York; Irving R. Wiles, of New York; Emil Carlsen, of New York; William M. Chase, of New York; Timothy Cole, of New York; Walter Cook, of New York; Kenyon Cox, of New York; Frederic Crowninshield, of New York; William T. Dannat, of New York; Frank Miles Day, of Pennsylvania; Joseph De Camp, of Massachusetts; Charles Melville Dewey, of New York; Thomas W. Dewing, of New York; Frederick Dielman, of New York; John M. Donaldson, of Michigan; Paul Dougherty, of New York; Frank Duveneck, of Ohio; Ben Foster, of New York; Daniel C. French, of New York; Walter Gay, of Massachusetts; Charles Dana Gibson, of New York; Cass Gilbert, of New York; Charles Grafly, of Pennsylvania; Jules Guérin, of New York; H. J. Hardenburgh, of New Jersey; Alexander Harrison, of Pennsylvania; Birge Harrison, of South Carolina; Childe Hassam, of New York; Thomas Hastings, of New York; Robert Henri, of New York; John Galen Howard, of California; William Henry Howe, of New York; Samuel Isham, of New York; Francis C. Jones, of New York; H. Bolton Jones, of New York; W. Sergeant Kendall, of New York; Bancel La Farge, of New York; Will H. Low, of New York; Frederick Macmonnies, of New York; Carl Marr, of Wisconsin; Walter McEwen, of Illinois; Hermon A. MacNeil, of New York; William Rutherford Mead, of New York; Gari Melchers, of New York; Willard L. Metcalf, of New York; H. K. Hadley, of New York; Victor Herbert, of New York; Edgar Stillman Kelley, of Ohio; Charles M. Loeffler, of Massachusetts; Horatio W. Parker, of Connecticut; Harry Rowe Shelley, of New York; David S. Smith, of Connecticut; F. Van der Stucken, of Ohio; Arthur Whiting, of New York; Arthur Bird, of Massachusetts; Howard Brockway, of Maryland; G. W. Chadwick, of Massachusetts; F. S. Converse, of Massachusetts; Walter Damrosch, of New York; Reginald De Koven, of New York; Arthur Foote, of Massachusetts; W. W. Gilchrist, of Pennsylvania; and their successors duly chosen, are hereby incorporated, constituted, and declared to be a body corporate of the District of Columbia, by the name of the National Institute of Arts and Letters.

The amendment was agreed to.

The next amendment was, on page 7, after line 8, to insert:

SEC. 2. That the purposes of this corporation are, and shall be, the furtherance of the interests of literature and the fine arts.

The amendment was agreed to.

The next amendment was, in section 2 (3), line 14, before the word "members," to strike out "ordinary" and insert "regular"; in line 15, after the word "its," to strike out "own organization, including its constitution"; in line 18, before the word "domestic," to strike out "and"; in line 19, after the word "domestic," to insert "or honorary associate"; in the same line, after the word "division," to insert "of such members"; and, in line 21, after the word "institution," to strike out "and to report the same to Congress," so as to make the section read:

SEC. 3. That the National Institute of Arts and Letters shall consist of not more than 250 regular members, and the said corporation hereby constituted shall have power to make its by-laws and rules and regulations; to fill all vacancies created by death, resignation, or otherwise; to provide for the election of foreign, domestic, or honorary associate members, the division of such members into classes, and all other matters needful or usual in such institution.

The amendment was agreed to.

The next amendment was, in section 3 (4), page 7, line 24, after the word "designated," to insert "and shall make an annual report to the Congress, to be filed with the Librarian of Congress," so as to make the section read:

SEC. 4. That the National Institute of Arts and Letters shall hold an annual meeting at such place in the United States as may be designated, and shall make an annual report to the Congress, to be filed with the Librarian of Congress.

The amendment was agreed to.

The next amendment was, in section 4 (5), page 8, line 5, after the word "receive," to insert "devises"; in the same line, after the word "donations," to insert "of real or personal property"; in line 6, after the word "and," to insert "to"; and, in the same line, after the word "trust," to strike out "to be applied by the said institute in aid of investigations in art and literature and according to the will of the said donors" and insert "and to invest and reinvest the same for the furtherance of the interests of literature and the fine arts," so as to make the section read:

SEC. 5. That the National Institute of Arts and Letters be, and the same is hereby, authorized and empowered to receive devises, bequests, and donations of real or personal property, and to hold the same in trust, and to invest and reinvest the same for the furtherance of the interests of literature and the fine arts.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

NATIONAL ACADEMY OF ARTS AND LETTERS.

The bill (S. 4356) incorporating the National Academy of Arts and Letters was considered as in Committee of the Whole.

The PRESIDING OFFICER. This bill was read in full on August 12 of last year. The amendment will be stated.

The bill was reported from the Committee on the Judiciary with an amendment, in section 5, page 3, line 20, after the word "receive," to insert "devises," so as to make the section read:

SEC. 5. That the American Academy of Arts and Letters be, and the same is hereby, authorized and empowered to receive devises, bequests, and donations of real or personal property and to hold the same in trust, and to invest and reinvest the same for the purpose of furthering the interests of literature and the fine arts.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

IMMIGRATION OF ALIENS.

Mr. LODGE. I submit a conference report on the immigration bill.

The PRESIDING OFFICER. The Senator from Massachusetts submits a privileged report, which will be read.

The Secretary read as follows:

The committee of conference on the disagreeing votes of the two Houses to the bill (S. 3175) entitled "An act to regulate the immigration of aliens to and the residence of aliens in the United States" having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows.

Strike out all of said amendment and insert in lieu thereof the following:

"An act to regulate the immigration of aliens to and the residence of aliens in the United States.

"Be it enacted, etc., That the word 'alien' wherever used in this act shall include any person not a native born or naturalized citizen of the United States, but this definition shall not be held to include Indians not taxed or citizens of the islands under the jurisdiction of the United States. That the term 'United States' as used in the title as well as in the various sections of this act shall be construed to mean the United States and any waters, territory, or other place subject to the jurisdiction thereof, except the Isthmian Canal Zone; but if any alien shall leave the Canal Zone and attempt to enter any other place under the jurisdiction of the United States, nothing contained in this act shall be construed as permitting him to enter under any other conditions than those applicable to all aliens. That the term 'seaman' as used in this act shall include every person signed on the ship's articles and employed in any capacity on board any vessel arriving in the United States from any foreign part or place.

"That this act shall be enforced in the Philippine Islands by officers of the General Government thereof designated by appropriate legislation of said Government.

"SEC. 2. That there shall be levied, collected, and paid a tax of $5 for every alien, including alien seamen regularly admitted as provided in this act, entering the United States. The said tax shall be paid to the collector of customs of the port of customs district to which said alien shall come, or, if there be no collector at such port or district, then to the collector nearest thereto, by the master, agent, owner, or consignee of the vessel, transportation line, or other conveyance or vehicle bringing such alien to the United States, or by the alien himself if he does not come by a vessel, transportation line, or other conveyance or vehicle. The tax imposed by this section shall be a lien upon the vessel or other vehicle of carriage or transportation bringing such aliens to the United States, and shall be a debt in favor of the United States against the owner or owners of such vessel or other vehicle, and the payment of such tax may be enforced by any legal or equitable remedy. That the said tax shall not be levied on account of aliens who shall enter the United States after an uninterrupted residence of at least one year, immediately preceding such entrance, in the Dominion of Canada, Newfoundland, the Republic of Cuba, or the Republic of Mexico, nor on account of otherwise admissible residents of any possession of the United States, nor on account of aliens in transit through the United States, nor upon aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided*, That the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor, by agreement with transportation lines, as provided in section 23 of this act, may arrange in some other manner for the payment of the tax imposed by this section upon any or all aliens seeking admission from foreign contiguous territory: *Provided further*, That said tax, when levied upon aliens entering the Philippine Islands, shall be paid into the treasury of said islands, to be expended for the benefit of such islands: *Provided further*, That in the cases of aliens applying for admission from foreign contiguous territory and rejected, the head tax collected shall upon application be refunded to the alien: *Provided further*, That the provisions of this section shall not apply to aliens arriving in Guam or Hawaii; but if any such alien, not having become a citizen of the United States, shall later arrive at any port or place of the United States on the North American Continent the provisions of this section shall apply.

"SEC. 3. That the following classes of aliens shall be excluded from admission into the United States: All idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane within five years previous; persons who have had one or more attacks of insanity at any time previously; paupers; persons likely to become a public charge; professional beggars; vagrants; persons afflicted with tuberculosis in any form or with a loathsome or dangerous contagious disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living; persons who have committed a felony or other crime or misdemeanor involving moral turpitude; citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate; polyg-

amists, or persons who admit their belief in the practice of polygamy; anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all forms of law, or who disbelieve in or are opposed to organized government, or who advocate the assassination of public officials; persons who are members of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocate or teach the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character; prostitutes, or women or girls coming into the United States for the purpose of prostitution or for any other immoral purpose; persons who procure or attempt to bring in prostitutes or women or girls for the purpose of prostitution or for any other immoral purpose; persons who are supported by or receive in whole or in part the proceeds of prostitution; persons hereinafter called contract laborers, who have been induced, assisted, encouraged, or solicited to migrate to this country by offers or promises of employment, whether such offers or promises are true or false, or in consequence of agreements, oral, written or printed, express or implied, to perform labor in this country of any kind, skilled or unskilled; persons who have come in consequence of advertisements for laborers printed, published, or distributed in a foreign country; persons who have been deported under any of the provisions of this act, and who may again seek admission within one year from the date of such deportation, unless prior to their reembarkation at a foreign port the Secretary of Commerce and Labor shall have consented to their reapplying for admission; persons whose ticket or passage is paid for with the money of another, or who is assisted by others to come, unless it is affirmatively and satisfactorily shown that such person does not belong to one of the foregoing excluded classes; persons whose ticket or passage is paid for by any corporation, association, society, municipality, or foreign Government, either directly or indirectly; stowaways, except that any such stowaway may be admitted in the discretion of the Secretary of Commerce and Labor; all children under 16 years of age, unaccompanied by one or both of their parents, at the discretion of the Secretary of Commerce and Labor or under such regulations as he may from time to time prescribe; persons who can not become eligible, under existing law, to become citizens of the United States by naturalization, unless otherwise provided for by existing agreements as to passports, or by treaties, conventions, or agreements that may hereafter be entered into. The provision next foregoing, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, and travelers for curiosity or pleasure nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section 19 of this act.

"That after four months from the approval of this act, in addition to the aliens who are by law now excluded from admission into the United States, the following persons shall also be excluded from admission thereto, to wit:

"All aliens over 16 years of age, physically capable of reading, who can not read the English language, or some other language or dialect, including Hebrew or Yiddish: *Provided*, That any admissible alien or any alien heretofore or hereafter legally admitted, or any citizen of the United States, may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to enter. That for the purpose of ascertaining whether aliens can read the immigrant inspectors shall be furnished with slips, of uniform size, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than 30 nor more than 40 words in ordinary use, printed in plainly legible type in the various languages and dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made, and shall be required to read the words printed on the slip in such language or dialect. No two aliens coming in the same vessel or other vehicle of carriage or transportation shall be tested with the same slip. That the following classes of persons shall be exempt from the operation of the illiteracy test, to wit: All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious persecution; all aliens in transit through the United States; all aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided*, That nothing in this act shall exclude, if otherwise admissible, persons convicted of an offense purely political, not involving moral turpitude: *Provided further*, That the provisions of this act relating to the payments for tickets or passage by any corporation, association, society, municipality, or foreign government shall not apply to the tickets or passage of aliens in immediate and continuous transit through the United States to foreign contiguous territory: *Provided further*, That skilled labor, if otherwise admissible, may be imported if labor of like kind unemployed can not be found in this country, and the question of the necessity of importing such skilled labor in any particular instance may be determined by the Secretary of Commerce and Labor upon the application of any person interested, such application to be made before such importation, and such determination by the Secretary of Commerce and Labor to be reached after a full hearing and an investigation into the facts of the case: *Provided further*, That the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, ministers of any religious denomination, professors for colleges or seminaries, persons belonging to any recognized learned profession, or persons employed strictly as personal or domestic servants: *Provided further*, That whenever the President shall be satisfied that passports issued by any foreign government to its citizens or subjects to go to any country other than the United States or to any insular possession of the United States or to the Canal Zone are being used for the purpose of enabling the holder to come to the continental territory of the United States to the detriment of labor conditions therein, the President shall refuse to permit such citizens or subjects of the country issuing such passports to enter the continental territory of the United States from such other country or from such insular possessions or from the Canal Zone: *Provided further*, That nothing in this act shall be construed to prevent, hinder, or restrict any alien exhibitor, or holder of a concession or privilege for any fair or exposition authorized by act of Congress, from bringing into the United States, under contract, such alien mechanics, artisans, agents, or other employees, natives of his country, as may be necessary for installing or conducting his exhibit or for preparing for installing or conducting any business authorized or permitted under any concession or privilege which may have been or may be granted by any such fair or exposition in connection therewith under such rules and regulations as the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may prescribe both as to the admission and return of such persons: *Provided further*, That nothing in this act shall be construed to apply to accredited officials of foreign governments nor to their suites, families, or guests: *Provided further*, That nothing in this act shall exclude the wife or minor children of a citizen of the United States.

"SEC. 4. That the importation into the United States of any alien for the purpose of prostitution, or for any other immoral purpose, is hereby forbidden; and whoever shall, directly or indirectly, import, or attempt to import, into the United States any alien for the purpose of prostitution or for any other immoral purpose, or shall hold or attempt to hold any alien for any such purpose in pursuance of such illegal importation, or shall keep, maintain, control, support, employ, or harbor in any house or other place, for the purpose of prostitution or for any other immoral purpose, any alien, in pursuance of such illegal importation, shall in every such case be deemed guilty of a felony, and on conviction thereof shall be punished by imprisonment for a term of not more than 10 years and by a fine of not more than $5,000. Jurisdiction for the trial and punishment of the felonies hereinbefore set forth shall be in any district to or into which said alien is brought in pursuance of said importation by the person or persons accused, or in any district in which a violation of any of the foregoing provisions of this section occur. That any alien who shall, after he has been excluded and deported or arrested and deported in pursuance of the provisions of this act which relate to prostitutes, procurers, or other like immoral persons, attempt thereafter to return to or to enter the United States shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not more than two years. In all prosecutions under this section the testimony of a husband or wife shall be admissible and competent evidence against a wife or husband.

"SEC. 5. That it shall be unlawful for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation or in any way to induce, assist, encourage, or solicit the importation or migration of any contract laborer or contract laborers into the United States, unless such contract laborer or contract laborers are exempted under the provisions of section 3 of this act, and for every violation of any of the provisions of this section the person, partnership, company, or corporation violating the same shall forfeit and pay for every such offense the sum of $1,000, which may be sued for and recovered by the United States, or by any person who shall first bring his action therefor in his own name and for his own benefit, including any such aliens thus offered or promised employment as aforesaid, as debts of like amount are now recovered in the courts of the United States; or for every violation of the provisions hereof the person violating the same may be prosecuted in a criminal action for a misdemeanor, and on conviction thereof shall be punished by a fine of $1,000, or by imprisonment for a term of not less than six months nor more than two years; and under either the civil or the criminal procedure mentioned separate suits or prosecutions may be brought for each alien thus offered or promised employment as aforesaid.

"SEC. 6. That it shall be unlawful and be deemed a violation of section 5 of this act to induce, assist, encourage, or solicit any alien to come into the United States by promise of employment through advertisements printed, published, or distributed in any foreign country, whether such promise is true or false, and either the civil or the criminal penalty imposed by said section shall be applicable to such a case: *Provided*, That States or Territories, the District of Columbia, or places subject to the jurisdiction of the United States may advertise, and by written or oral communication with prospective alien settlers make known, the inducements they offer for immigration thereto, respectively.

"SEC. 7. That it shall be unlawful for any person, association, society, company, partnership, corporation, or others engaged in the business of transporting aliens to the United States, including owners, masters, officers, and agents of vessels, directly or indirectly, by writing, printing, or oral representation, to solicit, invite, or encourage any alien to come into the United States, and anyone violating any provision hereof shall be subject to either the civil or the criminal prosecution prescribed by section 5 of this act; or if it shall appear to the satisfaction of the Secretary of Commerce and Labor that there has been such a violation by an owner, master, officer, or agent of a vessel, such owner, master, officer, or agent shall pay to the collector of customs of the customs district in which the port of arrival is located or in which any vessel of the line may be found the sum of $400 for each and every such violation; and no vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, or while the fine imposed remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such questions upon the deposit with the collector of customs of a sum sufficient to cover such fine: *Provided further*, That whenever it shall be shown to the satisfaction of the Secretary of Commerce and Labor that the provisions of this section are persistently violated by or on behalf of any transportation company, it shall be the duty of said Secretary to deny to such company the privilege of landing alien immigrant passengers of any or all classes at United States ports for such a period as in his judgment may be necessary to insure an observance of such provisions: *Provided further*, That this section shall not be held to prevent transportation companies from issuing letters, circulars, or advertisements, confined strictly to stating the sailings of their vessels and terms and facilities of transportation therein.

"SEC. 8. That any person, including the master, agent, owner, or consignee of any vessel, who shall bring into or land in the United States, by vessel or otherwise, or shall attempt, by himself or through another, to bring into or land in the United States, by vessel or otherwise, or shall conceal or harbor, or attempt to conceal or harbor, or assist or abet another to conceal or harbor in any place, including any building, vessel, railway car, conveyance, or vehicle, any alien not duly admitted by an immigrant inspector or not lawfully entitled to enter or to reside within the United States under the terms of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $1,000, or by imprisonment for a term not exceeding two years, or by both such fine and imprisonment for each and every alien so landed or brought in or attempted to be landed or brought in.

"SEC. 9. That it shall be unlawful for any person, including any transportation company other than railway lines entering the United States from foreign contiguous territory, or the owner, master, agent, or consignee of any vessel, to bring to the United States any alien afflicted with idiocy, insanity, imbecility, epilepsy, tuberculosis in any form, or a loathsome or dangerous contagious disease, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any alien so brought to the United States was afflicted with any of the said diseases or disabilities at the time of foreign embarkation, and that the existence of such disease or disability might have been detected by means of a competent medical examination at such time, such person or transportation company, or the master, agent, owner, or consignee of any such vessel, shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $200 for each and every violation of the provisions of this section. It shall also be unlawful for any such person to bring to any port of the United States any alien afflicted with any mental or physical defect of a nature which may affect his ability to earn a living, as contemplated in section 3 of this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any alien so brought to the United States was so afflicted at the time of foreign embarkation, and that the existence of such mental or physical defect might have been detected by means of a competent medical examination at such time, such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $25 for each and every violation of this provision. It shall also be unlawful for any such person to bring to any port of the United States any alien who is unable to read or who can not become eligible, under existing law, to become a citizen of the United States by naturalization, as provided in section 3 of this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that these disabilities might have been detected by the exercise of reasonable precaution prior to the departure of such aliens from a foreign port such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $100 for each and every violation of this provision. And no vessel shall be granted clearance papers pending the determination of the question of the liability to the payment of such fine, or while the fine remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such questions upon the deposit of a sum sufficient to cover such fine and costs, such sum to be named by the Secretary of Commerce and Labor.

"SEC. 10. That it shall be the mandatory and unqualified duty of every person, including owners, officers, and agents of vessels or transportation lines, other than those lines which may enter into a contract as provided in section 23 of this act, bringing an alien to any seaport or land border port of the United States to prevent the landing of such alien in the United States at any time or place other than as designated by the immigration officers, and the failure of any such owner, officer, or agent to comply with the foregoing requirements shall be deemed a misdemeanor and on conviction thereof shall be punished by a fine in each case of not less than $100 nor more than $1,000 or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment; or, if in the opinion of the Secretary of Commerce and Labor it is impracticable or inconvenient to prosecute the owner, master, officer, or agent of any such vessel, a pecuniary penalty of $1,000 shall be a lien upon the vessel whose owner, master, officer, or agent violates the provisions of this section, and such vessel shall be libeled therefor in the appropriate United States court.

"SEC. 11. That whenever he may deem such action necessary the Secretary of Commerce and Labor may, at the expense of the appropriation for the enforcement of this act, detail immigrant inspectors and matrons of the United States Immigration Service for duty on vessels carrying immigrant or emigrant passengers, or passengers other than first and second cabin passengers, between ports of the United States and foreign ports. On such voyages said inspectors and matrons shall remain in that part of the vessel where immigrant passengers are carried. It shall be the duty of such inspectors and matrons to observe such passengers during the voyage, and report to the immigration authorities in charge at the port of landing any information of value in determining the admissibility of such passengers under the laws regulating immigration of aliens into the United States. It shall further be the duty of such inspectors and matrons to observe violations of the provisions of such laws and the violation of such provisions of the "passenger act" of August 2, 1882, as amended, as relate to the care and treatment of immigrant passengers at sea, and report the same to the proper United States officials at ports of landing. Whenever the Secretary of Commerce and Labor so directs, a

surgeon of the United States Public Health Service, detailed to the Immigration Service, not lower in rank than a passed assistant surgeon, shall be received and carried on any vessel transporting immigrant or emigrant passengers, or passengers other than first and second cabin passengers, between ports of the United States and foreign ports. Such surgeon shall be permitted to investigate and examine the condition of all immigrant and emigrant passengers in relation to any provisions of the laws regulating the immigration of aliens into the United States and such provisions of the "passenger act" of August 2, 1882, as amended, as relate to the care and treatment of immigrant passengers at sea, and shall immediately report any violation of said laws to the master or commanding officer of the vessel, and shall also report said violations to the Secretary of Commerce and Labor within 24 hours after the arrival of the vessel at the port of entry in the United States. Such surgeon shall accompany the master or captain of the vessel in his visits to the sanitary officers of the ports of call during the voyage, and, should contagious or infectious diseases prevail at any port where passengers are received, he shall request all reasonable precautionary measures for the health of persons on board. Such surgeon on arrival at ports of the United States shall also, if requested by the examining board, furnish any information he may possess in regard to immigrants arriving on the vessel to which he has been detailed. While on duty such surgeons shall wear the prescribed uniform of their service and shall be provided with first-class accommodations on such vessel at the expense of the appropriation for the enforcement of this act. For every violation of this section any person, including any transportation company, owning or operating the vessel in which such violation occurs shall pay to the collector of customs of the customs district in which the next United States port of arrival is located the sum of $1,000 for each and every day during which such violation continues, the term 'violation' to include the refusal of any person having authority so to do to permit any such immigrant inspector, matron, or surgeon to be received on board such vessel, as provided in this section, and also the refusal of the master or commanding officer of any such vessel to permit the inspections and visits of any such surgeon, as provided in this section, and no vessel shall be granted clearance papers pending the determination of the question of the liability of such fine, or while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of all such questions upon the deposit of a sum sufficient to cover such fine and costs, such sum to be named by the Secretary of Commerce and Labor.

"SEC. 12. That upon the arrival of any alien by water at any point within the United States on the North American Continent from a foreign port or a port of the Philippine Islands, Guam, Porto Rico, or Hawaii, or at any port of the said insular possessions from any foreign port, from a port in the United States on the North American Continent, or from a port of another insular possession of the United States, it shall be the duty of the master or commanding officer, owners, or consignees of the steamer, sailing, or other vessel having said alien on board to deliver to the immigration officers at the port of arrival lists or manifests made at the time and place of embarkation of such alien on board such steamer or vessel, which shall, in answer to questions at the top of said list, contain full and accurate information as to each alien as follows: Full name, age, and sex; whether married or single; calling or occupation, personal description (including height, complexion, color of hair and eyes, and marks of identification); whether able to read; nationality; country of birth; race; country of last permanent residence; name and address of the nearest relative in the country from which the alien came; seaport for landing in the United States; final destination, if any, beyond the port of landing; whether having a ticket through to such final destination; by whom passage was paid; whether going to join a relative or friend, and if so, what relative or friend, and his or her name and complete address; whether ever before in the United States, and if so, when and where; whether ever in prison or almshouse or an institution or hospital for the care and treatment of the insane or supported by charity; whether a polygamist; whether an anarchist; whether a person who believes in or advocates the overthrow by force or violence of the Government of the United States or of all forms of law, or who disbelieves in or is opposed to organized government, or who advocates the assassination of public officials, or is a member of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character; whether coming by reason of any offer, solicitation, promise, or agreement, express or implied, to perform labor in the United States; the alien's condition of health, mental and physical; whether deformed or crippled, and if so, for how long and from what cause; and such master or commanding officer, owners, or consignees shall also furnish information in relation to the sex, age, class of travel, and the foreign port of embarkation of arriving passengers who are United States citizens. That it shall further be the duty of the master or commanding officer of every vessel taking passengers from any port of the United States on the North American Continent to a foreign port or a port of the Philippine Islands, Guam, Porto Rico, or Hawaii, or from any port of the said insular possessions to any foreign port, to a port of the United States on the North American Continent, or to a port of another insular possession of the United States to file with the immigration officials before departure a list which shall contain full and accurate information in relation to the following matters regarding all alien passengers, and all citizens of the United States or insular possessions of the United States departing with the stated intent to reside permanently in a foreign country, taken on board: Name, age, and sex; whether married or single; calling or occupation; whether able to read; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States or insular possessions thereof; if a citizen of the United States or of the insular possessions thereof, whether native born or naturalized; intended future permanent residence; and time and port of last arrival in the United States, or insular possessions thereof; and such master or commanding officer shall also furnish information in relation to the sex, age, class of travel, and port of debarkation of the United States citizens departing who do not intend to reside permanently in a foreign country, and no master of any such vessel shall be granted clearance papers for his vessel until he has deposited such list or lists with the immigration officials at the port of departure and made oath that they are full and complete as to the name and other information herein required concerning each person of the classes specified taken on board his vessel; and any neglect or omission to comply with the requirements of this section shall be punishable as provided in section 14 of this act: *Provided*, That in the case of vessels making regular trips to ports of the United States the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may, when expedient, arrange for the delivery of such lists of outgoing aliens at a later date: *Provided further*, That it shall be the duty of immigration officials to record the following information regarding every resident alien and citizen leaving the United States by way of the Canadian or Mexican borders for permanent residence in a foreign country: Name, age, and sex; whether married or single; calling or occupation; whether able to read; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States; intended future permanent residence; and time and port of last arrival in the United States; and if a United States citizen, whether native born or naturalized.

"SEC. 13. That all aliens arriving by water at the ports of the United States shall be listed in convenient groups, the names of those coming from the same locality to be assembled, so far as practicable, and no one list or manifest shall contain more than 30 names. To each alien or head of a family shall be given a ticket on which shall be written his name, a number or letter designating the list in which his name, and so forth, is contained, and his number on said list, for convenience of identification on arrival. Each list or manifest shall be verified by the signature and the oath or affirmation of the master or commanding officer, or the first or second below him in command, taken before an immigration officer at the port of arrival, to the effect that he has caused the surgeon of said vessel sailing therewith to make a physical and oral examination of each of said aliens, and that from the report of said surgeon and from his own investigation he believes that no one of said aliens is of any of the classes excluded from admission into the United States by section 3 of this act, and that also according to the best of his knowledge and belief, the information in said lists or manifests concerning each of said aliens named therein is correct and true in every respect. That the surgeon of said vessel sailing therewith shall also sign each of said lists or manifests and make oath or affirmation in like manner before an immigration officer at the port of arrival, stating his professional experience and qualifications as a physician and surgeon, and that he has made a personal examination of each of the said aliens named therein, and that the said list or manifest, according to the best of his knowledge and belief, is full, correct, and true in all particulars

relative to the mental and physical condition of said aliens. If no surgeon sails with any vessel bringing aliens the mental and physical examinations and the verifications of the lists or manifests shall be made by some competent surgeon employed by the owners of the said vessels, and the manifests shall be verified by such surgeon before a United States consular officer.

"SEC. 14. That it shall be unlawful for the master or commanding officer of any vessel bringing aliens into or carrying aliens out of the United States to refuse or fail to deliver to the immigration officials the accurate and full manifests or statements or information regarding all aliens on board or taken on board such vessel required by this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that there has been such a refusal or failure, or that the lists delivered are not accurate and full, such master or commanding officer shall pay to the collector of customs at the port of arrival or departure the sum of $10 for each alien concerning whom such accurate and full manifest or statement or information is not furnished, or concerning whom the manifest or statement or information is not prepared and sworn to as prescribed by this act. No vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, or while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine.

"SEC. 15. That upon the arrival at a port of the United States of any vessel bringing aliens it shall be the duty of the proper immigration officials to go or to send competent assistants to the vessel and there inspect all such aliens, or said immigration officials may order a temporary removal of such aliens for examination at a designated time and place, but such temporary removal shall not be considered a landing, nor shall it relieve the transportation lines, masters, agents, owners, or consignees of the vessel upon which said aliens are brought to any port of the United States from any of the obligations which, in case such aliens remain on board, would, under the provisions of this act bind the said transportation lines, masters, agents, owners, or consignees: *Provided*, That where removal is made to premises owned or controlled by the United States, said transportation lines, masters, agents, owners, or consignees, and each of them shall, so long as detention there lasts, be relieved of responsibility for the safekeeping of such aliens. Whenever a temporary removal of aliens is made the transportation lines which brought them and the masters, owners, agents, and consignees of the vessel upon which they arrive shall pay all expenses of such removal and all expenses arising during subsequent detention, pending decision on the aliens' eligibility to enter the United States and until they are either allowed to land or returned to the care of the line or to the vessel which brought them, such expenses to include those of maintenance, medical treatment in hospital or elsewhere, burial in the event of death, and transfer to the vessel in the event of deportation, excepting only where they arise under the terms of any of the provisos of section 18 thereof. Any refusal or failure to comply with the provisions hereof to be punished in the manner specified in section 18 of this act.

"SEC. 16. That the physical and mental examination of all arriving aliens shall be made by medical officers of the United States Public Health Service who shall have had at least two years' experience in the practice of their profession since receiving the degree of doctor of medicine, and who shall certify, for the information of the immigration officers and the boards of special inquiry hereinafter provided for, any and all physical and mental defects or diseases observed by said medical officers in any such alien; or, should medical officers of the United States Public Health Service be not available, civil surgeons of not less than four years' professional experience may be employed in such emergency for such service, upon such terms as may be prescribed by the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor. Medical officers of the United States Public Health Service who have had especial training in the diagnosis of insanity and mental defect shall be detailed for duty or employed at all large ports of entry, and such medical officers shall be provided with suitable facilities for the detention and examination of all arriving aliens in whom insanity or mental defect is suspected, and the services of interpreters shall be provided for such examination. That the inspection, other than the physical and mental examination, of aliens, including those seeking admission or readmission to or the privilege of passing through or residing in the United States, and the examination of aliens arrested within the United States under this act, shall be conducted by immigrant inspectors, except as hereinafter provided in regard to boards of special inquiry. Immigrant inspectors are hereby authorized and empowered to board and search for aliens any vessel, railway car, conveyance, or vehicle in which they believe aliens are being brought into the United States. Said inspectors shall have power to administer oaths and to take and consider evidence touching the right of any alien to enter, reenter, pass through, or reside in the United States, and, where such action may be necessary, to make a written record of such evidence; and any person to whom such an oath has been administered, under the provisions of this act, who shall knowingly or willfully give false evidence or swear to any false statement in any way affecting or in relation to the right of any alien to admission, or readmission to, or to pass through, or to reside in the United States shall be deemed guilty of perjury and be punished as provided by section 125 of the act approved March 4, 1909, entitled 'An act to codify, revise, and amend the penal laws of the United States.' Any commissioner of immigration or inspector in charge shall also have power to require the attendance and testimony of witnesses before said inspectors and the production of books, papers, and documents touching the right of any alien to enter, reenter, reside in, or pass through the United States, and to that end may invoke the aid of any court of the United States; and any district court within the jurisdiction of which investigations are being conducted by an immigrant inspector may, in the event of neglect or refusal to respond to a subpœna issued by any commissioner of immigration or inspector in charge or refusal to testify before said immigrant inspector, issue an order requiring such person to appear before said immigrant inspector, produce books, papers, and documents if demanded, and testify; and any failure to obey such order of the court shall be punished by the court as a contempt thereof. That any person, including employees, officials, or agents of transportation companies, who shall assault, resist, prevent, impede, or interfere with any immigration official or employee in the performance of his duty under this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not less than six months nor more than two years, or by a fine of not less than $200 nor more than $2,000; and any person who shall use any deadly or dangerous weapon in resisting any immigration official or employee in the performance of his duty shall be deemed guilty of a felony and shall on conviction thereof be punished by imprisonment for not less than 1 nor more than 10 years. Every alien who may not appear to the examining immigrant inspector at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for examination in relation thereto by a board of special inquiry. In the event of rejection by the board of special inquiry, in all cases where an appeal to the Secretary of Commerce and Labor is permitted by this act, the alien shall be so informed and shall have the right to be represented by counsel or other advisor on such appeal. The decision of an immigrant inspector, if favorable to the admission of any alien, shall be subject to challenge by any other immigrant inspector, and such challenge shall operate to take the alien whose right to land is so challenged before a board of special inquiry for its investigation.

"SEC. 17. That boards of special inquiry shall be appointed by the Commissioner of Immigration or inspector in charge at the various ports of arrival as may be necessary for the prompt determination of all cases of immigrants detained at such ports under the provisions of the law. Each board shall consist of three members, who shall be selected from such of the immigrant officials in the service as the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, shall from time to time designate as qualified to serve on such boards. When in the opinion of the Secretary of Commerce and Labor the maintenance of a permanent board of special inquiry for service at any sea or land border port is not warranted, regularly constituted boards may be detailed from other stations for temporary service at such port, or, if that be impracticable, the Secretary of Commerce and Labor shall authorize the creation of boards of special inquiry by the immigration officials in charge at such ports, and shall determine what Government officials or other persons shall be eligible for service on such boards. Such boards shall have authority to determine whether an alien who has been duly held shall be allowed to land or shall be deported. All hearings before such boards shall be separate and apart from the public. Such boards shall keep a complete permanent record of their proceedings and of all such testimony as may be produced before them; and the decision of any two members of a board shall prevail, but either the alien or any dissenting member of the said board may appeal through the commissioner of immigration at the port of arrival and the Commissioner General of Immigration to the Secretary of Commerce and Labor, and the taking of such appeal shall operate

to stay any action in regard to the final disposal of any alien whose case is so appealed until the receipt by the commissioner of immigration at the port of arrival of such decision, which shall be rendered solely upon the evidence adduced before the board of special inquiry. In every case where an alien is excluded from admission into the United States, under any law or treaty now existing or hereafter made, the decision of a board of special inquiry if adverse to the admission of such alien shall be final, unless reversed on appeal to the Secretary of Commerce and Labor: *Provided*, That the decision of a board of special inquiry, based upon the certificate of the examining medical officer, shall be final as to the rejection of aliens affected with tuberculosis in any form or with a loathsome or dangerous contagious disease, or with any mental or physical disability which would bring such aliens within any of the classes excluded from admission to the United States under section 3 of this act.

"SEC. 18. That all aliens brought to this country in violation of law shall, if practicable, be immediately sent back, in accommodations of the same class in which they arrived, to the country whence they respectively came on the vessels bringing them. The cost of their maintenance while on land, as well as the expense of the return of such aliens, shall be borne by the owner or owners of the vessels on which they respectively came. That it shall be unlawful for any master, purser, person in charge, agent, owner, or consignee of any such vessel to refuse to receive back on board thereof, or on board of any other vessel owned or operated by the same interests, such aliens; or to fail to detain them thereon; or to refuse or fail to return them in the manner aforesaid to the foreign port from which they came; or to pay the cost of their maintenance while on land; or to make any charge for the return of any such alien; or to take any security from him for the payment of such charge; or to take any consideration to be returned in case the alien is landed; or knowingly to bring to the United States at any time within one year from the date of deportation any alien rejected or arrested and deported under any provision of this act, unless prior to reembarkation the Secretary of Commerce and Labor has consented that such alien shall reapply for admission, as required by section 3 hereof; and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that such master, purser, person in charge, agent, owner, or consignee has violated any of the foregoing provisions such master, purser, person in charge, agent, owner, or consignee shall pay to the collector of customs of the customs district in which the port of arrival is located, or in which any vessel of the line may be found, the sum of $300 for each and every violation of any provision of this section; and no vessel shall have clearance from any port of the United States while any such fine is unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine. If the vessel by which any alien ordered deported came has left the United States and it is impracticable for any reason to deport the alien within a reasonable time by another vessel owned by the same interests, the cost of deportation may be paid by the Government and recovered by civil suit from any agent, owner, or consignee of the vessel: *Provided further*, That the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may suspend, upon conditions to be prescribed by the Commissioner General of Immigration, the deportation of any alien found to have come in violation of any provision of this act if, in his judgment, the testimony of such alien is necessary on behalf of the United States Government in the prosecution of offenders against any provision of this act; and the cost of maintenance of any person so detained resulting from such suspension of deportation, and a witness fee in the sum of $1 per day for each day such person is so detained, may be paid from the appropriation for the enforcement of this act, or such alien may be released under bond, in the penalty of not less than $500, with security approved by the Secretary of Commerce and Labor, conditioned that such alien shall be produced when required as a witness and for deportation. No alien certified, as provided in section 16 of this act, to be suffering from tuberculosis in any form, or from a loathsome or dangerous contagious disease other than one of quarantinable nature, shall be permitted to land for medical treatment thereof in any hospital in the United States, unless with the express permission of the Secretary of Commerce and Labor: *Provided further*, That upon the certificate of a medical officer of the United States Public Health Service to the effect that the health or safety of an insane alien would be unduly imperiled by immediate deportation, such alien may, at the expense of the appropriation for the enforcement of this act, be held for treatment until such time as such alien may, in the opinion of such medical officer, be safely deported: *Provided further*, That upon the certificate of a medical officer of the United States Public Health Service to the effect that a rejected alien is helpless from sickness, mental or physical disability, or infancy, if such alien is accompanied by another alien whose protection or guardianship is required by such rejected alien, such accompanying alien may also be excluded, and the master, agent, owner, or consignee of the vessel in which such alien and accompanying alien are brought shall be required to return said alien and accompanying alien in the same manner as vessels are required to return other rejected aliens.

"SEC. 19. That any alien, at any time within three years after entry, who shall enter the United States in violation of law; any alien who within three years after entry becomes a public charge from causes existing prior to the landing; except as hereinafter provided, any alien who is hereafter sentenced to imprisonment for a term of one year or more because of conviction in this country of a crime involving moral turpitude, committed within three years after the entry of the alien to the United States; any alien who shall be found an inmate of or connected with the management of a house of prostitution or practicing prostitution after such alien shall have entered the United States, or who shall receive, share in, or derive benefit from any part of the earnings of any prostitute; any alien who is employed by, in, or in connection with any house of prostitution or music or dance hall or other place of amusement or resort habitually frequented by prostitutes, or where prostitutes gather, or who in any way assists, protects, or promises to protect from arrest any prostitute; any alien who shall import or attempt to import any person for the purpose of prostitution or for any other immoral purpose; any alien who, after being excluded and deported or arrested and deported as a prostitute, or as a procurer, or as having been connected with the business of prostitution or importation for prostitution, or other immoral purposes in any of the ways hereinbefore specified, shall return to and enter the United States; any alien convicted and imprisoned for a violation of any of the provisions of section 4 hereof; any alien, at any time within three years after entry, who shall enter the United States by water at any time or place other than as designated by immigration officials, or by land at any place other than one designated as a port of entry for aliens by the Commissioner General of Immigration, or at any time not designated by immigration officials, shall, upon the warrant of the Secretary of Commerce and Labor, be taken into custody and deported: *Provided*, That the provision of this section respecting the deportation of aliens convicted of a crime involving moral turpitude shall not apply to one who has been pardoned, nor shall such deportation be made or directed if the court sentencing such alien for such crime shall, at the time of imposing judgment or passing sentence, make a recommendation to the Secretary of Commerce and Labor that such alien shall not be deported in pursuance of this act; nor shall any alien convicted as aforesaid be deported until after the termination of his imprisonment: *Provided further*, That the provisions of this section, with the exceptions hereinbefore noted, shall be applicable to the classes of aliens therein mentioned irrespective of the time of their entry into the United States. In every case where any person is ordered deported from the United States under the provisions of this act or of any law or treaty now existing, the decision of the Secretary of Commerce and Labor shall be final.

"SEC. 20. That the deportation of aliens provided for in this act shall, at the option of the Secretary of Commerce and Labor, be to the country whence they came or to the foreign port at which such aliens embarked for the United States; or, if such embarkation was for foreign contiguous territory, to the foreign port at which they embarked for such territory; or, if such aliens entered foreign contiguous territory from the United States and later entered the United States, or if such aliens are held by the country from which they entered the United States not to be subjects or citizens of such country, and such country refuses to permit their reentry, or imposes any condition upon permitting reentry, then to the country of which such aliens are subjects or citizens, or to the country in which they resided prior to entering the country from which they entered the United States. If effected at any time within five years after the entry of the alien, such deportation, including one-half of the entire cost of removal to the port of deportation, shall be at the expense of the contractor, procurer, or other person by whom the alien was unlawfully induced to enter the United States, or, if that can not be done, then the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this act, and the deportation from such port shall be at the expense of the owner or owners of such

vessels or transportation line by which such aliens respectively came, or, if that is not practicable, at the expense of the appropriation for the enforcement of this act. If such deportation is effected later than five years after the entry of the alien, or, if the deportation is made by reason of causes arising subsequent to entry, the cost thereof shall be payable from the appropriation for the enforcement of this act. A failure or refusal on the part of the masters, agents, owners, or consignees of vessels to comply with the order of the Secretary of Commerce and Labor to take on board, guard safely, and transport to the destination specified any alien ordered to be deported under the provisions of this act shall be punished by the imposition of the penalties prescribed in section 18 of this act: *Provided*, That when in the opinion of the Secretary of Commerce and Labor the mental or physical condition of such alien is such as to require personal care and attendance, he may employ a suitable person for that purpose, who shall accompany such alien to his or her final destination, and the expense incident to such service shall be defrayed in like manner. Pending the final disposal of the case of any alien so taken into custody he may be released under a bond in the penalty of not less than $500 with security approved by the Secretary of Commerce and Labor, conditioned that such alien shall be produced when required for a hearing or hearings in regard to the charge upon which he has been taken into custody, and for deportation if he shall be found to be unlawfully within the United States.

"SEC. 21. That any alien liable to be excluded because likely to become a public charge or because of physical disability other than tuberculosis in any form or a loathsome or dangerous contagious disease may, if otherwise admissible, nevertheless be admitted in the discretion of the Secretary of Commerce and Labor upon the giving of a suitable and proper bond or undertaking, approved by said Secretary, in such amount and containing such conditions as he may prescribe, to the United States and to all States, Territories, counties, towns, municipalities, and districts thereof, holding the United States and all States, Territories, counties, towns, municipalities, and districts thereof harmless against such alien becoming a public charge. The admission of such alien shall be a consideration for the giving of such bond or undertaking. Suit may be brought thereon in the name and by the proper law officers either of the United States Government or of any State, Territory, district, county, town, or municipality in which such alien becomes a public charge.

"SEC. 22. That wherever an alien shall have taken up his permanent residence in this country, and shall have filed his declaration of intention to become a citizen, and thereafter shall send for his wife or minor children to join him, if said wife or any of said children shall be found to be affected with any contagious disorder, such wife or children shall be held, under such regulations as the Secretary of Commerce and Labor shall prescribe, until it shall be determined whether the disorder will be easily curable or whether they can be permitted to land without danger to other persons; and they shall not be either admitted or deported until such facts have been ascertained; and if it shall be determined that the disorder is easily curable and the husband or father or other responsible person is willing to bear the expense of the treatment, they may be accorded treatment in hospital until cured and then be admitted, or if it shall be determined that they can be permitted to land without danger to other persons, they may, if otherwise admissible, thereupon be admitted.

"SEC. 23. That the Commissioner General of Immigration shall perform all his duties under the direction of the Secretary of Commerce and Labor. Under such direction he shall have charge of the administration of all laws relating to the immigration of aliens into the United States, and shall have the control, direction, and supervision of all officers, clerks, and employees appointed thereunder; he shall establish such rules and regulations, prescribe such forms of bond, reports, entries, and other papers, and shall issue from time to time such instructions, not inconsistent with law, as he shall deem best calculated for carrying out the provisions of this act and for protecting the United States and aliens migrating thereto from fraud and loss, and shall have authority to enter into contract for the support and relief of such aliens as may fall into distress or need public aid, and to remove to their native country, at any time within three years after entry, at the expense of the appropriations for the enforcement of this act, such as fall into distress or need public aid from causes arising subsequent to their entry and are desirous of being so removed; he shall prescribe rules for the entry and inspection of aliens along the borders of Canada and Mexico, so as not to unnecessarily delay, impede, or annoy persons in ordinary travel between the United States and said countries, and shall have power to enter into contracts with transportation lines for the said purpose; it shall be the duty of the Commissioner General of Immigration to detail officers of the Immigration Service from time to time as may be necessary, in his judgment, to secure information as to the number of aliens detained in the penal, reformatory, and charitable institutions (public and private) of the several States and Territories, the District of Columbia, and other territory of the United States and to inform the officers of such institutions of the provisions of law in relation to the deportation of aliens who have become public charges. He may, with the approval of the Secretary of Commerce and Labor, whenever in his judgment such action may be necessary to accomplish the purposes of this act, detail immigration officers, and also surgeons of the United States Public Health Service employed under this act for service in foreign countries. The duties of commissioners of immigration and other immigration officials in charge of districts, ports, or stations shall be of an administrative character, to be prescribed in detail by regulations prepared under the direction or with the approval of the Secretary of Commerce and Labor: *Provided*, That for the purpose of making effective the provisions of this section relating to the protection of aliens from fraud and loss, and also the provisions of section 30 of this act, relating to the distribution of aliens, the Secretary of Commerce and Labor shall establish and maintain immigrant stations at such interior places as may be necessary, and, in the discretion of the said Secretary, aliens in transit from ports of landing to such interior stations shall be accompanied by immigrant inspectors.

"SEC. 24. That immigrant inspectors and other immigration officers, clerks, and employees shall hereafter be appointed and their compensation fixed and raised or decreased from time to time by the Secretary of Commerce and Labor, upon the recommendation of the Commissioner General of Immigration and in accordance with the provisions of the civil-service act of January 16, 1883: *Provided*, That said Secretary, in the enforcement of that portion of this act which excludes contract laborers, may employ, without reference to the provisions of the said civil-service act or to the various acts relative to the compilation of the official register, such persons as he may deem advisable and from time to time fix, raise, or decrease their compensation. He may draw annually from the appropriation for the enforcement of this act $50,000, or as much thereof as may be necessary, to be expended for the salaries and expenses of persons so employed and for expenses incident to such employment; and the accounting officers of the Treasury shall pass to the credit of the proper disbursing officer expenditures from said sum without itemized account whenever the Secretary of Commerce and Labor certifies that an itemized account would not be for the best interests of the Government: *Provided further*, That nothing herein contained shall be construed to alter the mode of appointing commissioners of immigration at the several ports of the United States as provided by the sundry civil appropriation act approved August 18, 1894, or the official status of such commissioners heretofore appointed.

"SEC. 25. That the district courts of the United States are hereby invested with full and concurrent jurisdiction of all causes, civil and criminal, arising under any of the provisions of this act. That it shall be the duty of the United States district attorney of the proper district to prosecute every such writ when brought by the United States under this act. Such prosecutions or suits may be instituted at any place in the United States at which the violation may occur or at which the person charged with such violation may be found. That no suit or proceeding for a violation of the provisions of this act shall be settled, compromised, or discontinued without the consent of the court in which it is pending, entered of record, with the reasons therefor.

"SEC. 26. That all exclusive privileges of exchanging money, transporting passengers or baggage, or keeping eating houses, and all other like privileges in connection with any United States immigrant station shall be disposed of after public competition, subject to such conditions and limitations as the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor, may prescribe, and all receipts accruing from the disposal of such exclusive privileges shall be paid into the Treasury of the United States. No intoxicating liquors shall be sold at any such immigrant station.

"SEC. 27. That for the preservation of the peace and in order that arrests may be made for crimes under the laws of the States and Territories of the United States where the various immigrant stations are located, the officers in charge of such stations, as occasion may require, shall admit therein the proper State and municipal officers charged with the enforcement of

such laws, and for the purpose of this section the jurisdiction of such officers and of the local courts shall extend over such stations.

"SEC. 28. That any person who knowingly aids or assists any anarchist or any person who believes in or advocates the overthrow by force or violence of the Government of the United States, or who disbelieves in or is opposed to organized government, or all forms of law, or who advocates the assassination of public officials, or who is a member of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, to enter the United States, or who connives or conspires with any person or persons to allow, procure, or permit any such anarchist or person aforesaid to enter therein shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine or not more than $5,000 or by imprisonment for not more than five years, or both.

"SEC. 29. That the President of the United States is authorized, in the name of the Government of the United States, to call, in his discretion, an international conference, to assemble at such point as may be agreed upon, or to send special commissioners to any foreign country, for the purpose of regulating by international agreement, subject to the advice and consent of the Senate of the United States, the immigration of aliens to the United States; of providing for the mental, moral, and physical examination of such aliens by American consuls or other officers of the United States Government at the ports of embarkation, or elsewhere; of securing the assistance of foreign Governments in their own territories to prevent the evasion of the laws of the United States governing immigration to the United States; of entering into such international agreements as may be proper to prevent the immigration of aliens who, under the laws of the United States, are or may be excluded from entering the United States, and of regulating any matters pertaining to such immigration.

"SEC. 30. That there shall be maintained a division of information in the Bureau of Immigration and Naturalization; and the Secretary of Commerce and Labor shall provide such clerical and other assistance as may be necessary. It shall be the duty of said division to promote a beneficial distribution of aliens admitted into the United States among the several States and Territories desiring immigration. Correspondence shall be had with the proper officials of the States and Territories, and said division shall gather from all available sources useful information regarding the resources, products, and physical characteristics of each State and Territory, and shall publish such information in different languages and distribute the publications among all admitted aliens at the immigrant stations of the United States and to such other persons as may desire the same. When any State or Territory appoints and maintains an agent or agents to represent it at any of the immigrant stations of the United States, such agents shall, under regulations prescribed by the Commissioner General of Immigration, subject to the approval of the Secretary of Commerce and Labor, have access to aliens who have been admitted to the United States for the purpose of presenting, either orally or in writing, the special inducements offered by such State or Territory to aliens to settle therein. While on duty at any immigrant station such agents shall be subject to all the regulations prescribed by the Commissioner General of Immigration, who, with the approval of the Secretary of Commerce and Labor, may, for violation of any such regulations, deny to the agent guilty of such violation any of the privileges herein granted.

"SEC. 31. That any person, including the owner, agent, consignee, or master of any vessel arriving in the United States from any foreign port or place, who shall knowingly sign on the ship's articles, or bring to the United States as one of the crew of such vessel, any alien, with intent to permit such alien to land in the United States in violation of the laws and treaties of the United States regulating the immigration of aliens, or who shall falsely and knowingly represent to the immigration authorities at the port of arrival that any such alien is a bona fide member of the crew, shall be liable to a penalty not exceeding $5,000, for which sum the said vessel shall be liable and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

"SEC. 32. That no alien excluded from admission into the United States by any law or treaty of the United States regulating the immigration of aliens, and employed on board any vessel arriving in the United States from any foreign port or place, shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to regulations prescribed by the Secretary of Commerce and Labor providing for the ultimate removal or deportation of such alien from the United States, and the negligent failure of the owner, agent, consignee, or master of such vessel to detain on board any such alien after notice in writing by the immigration officer in charge at the port of arrival, and to deport such alien, if required by such immigration officer or by the Secretary of Commerce and Labor, shall render such owner, agent, consignee, or master liable to a penalty not exceeding $1,000, for which sum the said vessel shall be liable, and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

"SEC. 33. That it shall be unlawful and be deemed a violation of the preceding section to pay off or discharge any alien employed on board any vessel arriving in the United States from any foreign port or place, unless duly admitted pursuant to the laws and treaties of the United States regulating the immigration of aliens: *Provided*, That in case any such alien intends to reship on board any other vessel bound to any foreign port or place he shall be allowed to land for the purpose of so reshipping, and may be paid off, discharged, and permitted to remove his effects, anything in such laws or treaties or in this act to the contrary notwithstanding, provided due notice of such proposed action first be given to the principal immigration officer in charge at the port of arrival.

"SEC. 34. That any alien seaman who shall desert his vessel in a port of the United States or who shall land therein contrary to the provisions of this act shall be deemed to be unlawfully in the United States and shall, at any time within three years thereafter, upon the warrant of the Secretary of Commerce and Labor, be taken into custody and brought before a board of special inquiry for examination as to his qualifications for admission to the United States, and if not admitted said alien seaman shall be deported at the expense of the appropriation for this act as provided in section 20 of this act.

"SEC. 35. That it shall be unlawful for any vessel carrying passengers between a port of the United States and a port of a foreign country, upon arrival in the United States, to have on board employed thereon any alien afflicted with idiocy, imbecility, insanity, epilepsy, tuberculosis in any form, or a loathsome or dangerous contagious disease, if it appears to the satisfaction of the Secretary of Commerce and Labor, from an examination made by a medical officer of the United States Public Health Service, and is so certified by such officer, that any such alien was so afflicted at the time he was shipped or engaged and taken on board such vessel and that the existence of such affliction might have been detected by means of a competent medical examination at such time; and for every such alien so afflicted on board any such vessel at the time of arrival the owner, agent, consignee, or master thereof shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $25; and no vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine and while it remains unpaid: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine: *Provided further*, That such fine may, in the discretion of the Secretary of Commerce and Labor, be mitigated or remitted.

"SEC. 36. That upon arrival of any vessel in the United States from any foreign port or place it shall be the duty of the owner, agent, consignee, or master thereof to deliver to the principal immigration officer in charge of the port of arrival lists containing the names of all aliens employed on such vessel, stating the positions they respectively hold in the ship's company, when and where they were respectively shipped or engaged, and specifying those to be paid off and discharged in the port of arrival; or lists containing so much of such information as the Secretary of Commerce and Labor shall by regulation prescribe; and after the arrival of any such vessel it shall be the duty of such owner, agent, consignee, or master to report to such immigration officer, in writing, as soon as discovered, all cases in which any such alien has deserted the vessel, giving a description of such alien, together with any information likely to lead to his apprehension; and before the departure of any such vessel it shall be the duty of such owner, agent, consignee, or master to deliver to such immigration officer a further list containing the names of all alien employees who were not employed thereon at the time of the arrival, but who will leave port thereon at the time of her departure, and also the names of those, if any, who have been paid off and discharged, and of those, if any, who have deserted or landed or been duly admitted; and in case of the failure of such owner, agent, consignee, or master so to deliver either of the said lists of such aliens arriving and departing, respectively, or so to report such

cases of desertion or landing, such owner, agent, consignee, or master shall, if required by the Secretary of Commerce and Labor, pay to the collector of customs of the customs district in which the port of arrival is located the sum of $10 for each alien concerning whom correct lists are not delivered or a true report is not made, as above required; and no such vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, and, in the event such fine is imposed, while it remains unpaid; nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon deposit of a sum sufficient to cover such fine.

"SEC. 37. The word 'person' as used in this act shall be construed to import both the plural and the singular, as the case may be, and shall include corporations, companies, and associations. When construing and enforcing the provisions of this act, the act, omission, or failure of any director, officer, agent, or employee of any corporation, company, or association acting within the scope of his employment or office shall in every case be deemed to be the act, omission, or failure of such corporation, company, or association, as well as that of the person acting for or in behalf of such corporation, company, or association.

"SEC. 38. That this act, except as otherwise provided in section 3, shall take effect and be enforced from and after July 1, 1913. The act of March 26, 1910, amending the act of February 20, 1907, to regulate the immigration of aliens into the United States; the act of February 20, 1907, to regulate the immigration of aliens into the United States, except section 34 thereof; the act of March 3, 1903, to regulate the immigration of aliens into the United States, except section 34 thereof; and all other acts and parts of acts inconsistent with this act are hereby repealed on and after the taking effect of this act: *Provided*, That this act shall not be construed to repeal, alter, or amend existing laws relating to the immigration or exclusion of Chinese persons or persons of Chinese descent, nor to repeal, alter, or amend section 6, chapter 453, third session Fifty-eighth Congress, approved February 6, 1905, or the act approved August 2, 1882, entitled 'An act to regulate the carriage of passengers by sea,' and amendments thereto: *Provided*, That nothing contained in this act shall be construed to affect any prosecution, suit, action, or proceedings brought, or any act, thing, or matter, civil or criminal, done or existing at the time of the taking effect of this act, except as mentioned in the last proviso of section 19 hereof; but as to all such prosecutions, suits, actions, proceedings, acts, things, or matters, the laws or parts of laws repealed or amended by this act are hereby continued in force and effect."

H. C. LODGE,
WM. P. DILLINGHAM,
Managers on the part of the Senate.
JOHN L. BURNETT,
AUGUSTUS P. GARDNER,
Managers on the part of the House.

Mr. LODGE. Mr. President, as several Senators interested in the bill are absent, and the Senate is so thin, I desire to give notice that I shall call up the conference report for consideration on Monday, immediately after the routine morning business.

Mr. GALLINGER. Mr. President, this is a bill of great public interest and concern, and I will ask the Senator in a word to state the salient changes proposed to be made in the existing law.

Mr. LODGE. I am very happy to comply with the suggestion of the Senator from New Hampshire. The Senate disagreed to the entire House amendment. The House struck out the whole bill which passed the Senate and inserted an illiteracy test of their own. The House illiteracy test consisted of reading alone, while the Senate test provided both reading and writing. I read from the statement of the action of the conference committee:

The Senate having disagreed to the entire House amendment, which in its turn had stricken out the entire Senate bill, the whole subject of immigration came before the conference committee.

The bill as it passed the House contained no features except the illiteracy test. The Senate bill contemplated many changes in the law and an illiteracy test substantially similar to that proposed in the House, the principal difference being that the Senate included "writing" in its test and differed somewhat from the House as to the admissibility of illiterate relatives of qualified immigrants. On all substantial matters of difference between the Senate and the House touching the illiteracy test the Senate receded.

We accepted the House illiteracy test, which was based on reading alone. In other respects, as to the exceptions and the methods of enforcing the test, the Senate provision and the House provision were the same.

The principal changes in existing law proposed by the Senate to which the managers on the part of the House agreed are as follows:

First. An increase of the head tax from $4 to $5 per alien.

The Senate, it will be remembered, increased the head tax from $4 to $5, and the House accepted that proposed change in existing law.

Second. The exclusion of aliens not eligible for naturalization.

I will say that the conferees also agreed to strike out all the provisions in the bill relating to the Chinese, so as to leave the subject of Chinese immigration under the law exactly as it exists now, with no change. The repealing clauses and all relating to that subject were stricken out. The conferees decided that it was better to leave the Chinese-exclusion law and the situation of Chinese in the United States precisely as they are to-day.

Third. Making it permissible for the Secretary of Commerce and Labor to decide beforehand as to the necessity of importing such skilled contract labor as is now admissible under the existing contract-labor law.

Fourth. Providing more severe penalties for transportation lines which violate the law against advertising for immigrants and which bring to the United States aliens who are ineligible to enter.

Senators will understand that I am reading now the provisions of the Senate bill which have been agreed to by the House.

Fifth. Providing for matrons, inspectors, and surgeons on immigrant ships at the discretion of the Secretary of Commerce and Labor.

Sixth. Providing machinery for compelling the attendance and testimony of witnesses before the immigration authorities when required.

Seventh. Providing for the deportation of aliens who become criminals within three years subsequent to entry.

Eighth. Providing for interior immigrant stations.

Ninth. Providing against the illegal entry of seamen and stowaways.

Tenth. Permitting aliens to be represented by counsel in the case of appeals from the decisions of boards of special inquiry.

Eleventh. Providing experts in insanity at large ports of entry.

Twelfth. A definition of the meaning of the word "alien" where it appears in the bill.

Thirteenth. A provision was added in conference requiring the production of penal certificates in certain cases for the purpose of facilitating the execution of that part of the Senate bill and of the present law which relates to the exclusion of criminals.

I have touched on all the salient points, I think, but, in a general way, it may be said that the House took, with very few modifications, and those chiefly in details, the Senate revision of the existing law as it passed the Senate, and the Senate accepted the House illiteracy test, which is confined to reading alone. I believe the bill to be an extremely good one, especially in its administrative features.

Mr. SIMMONS. Mr. President, I did not understand the Senator's explanation as to the provision of the bill with reference to——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from North Carolina?

Mr. LODGE. Certainly; I yield.

Mr. SIMMONS. I did not understand the Senator's statement with reference to the provision as to contract labor.

Mr. LODGE. The law now provides, and has for many years provided, that in a case where skilled labor was required in a new industry, for instance, and could not be found in the United States, it could be imported and could remain in the country, if approved by the Secretary of Commerce and Labor. It is not a case that occurs very often. Now and then some new industry is started and mechanics capable of doing the work are not to be found in our country, but have to be brought from abroad in order to teach others. In such cases it is very hard to bring men over here and have the question of their right to enter the United States decided subsequent to their coming. The provision as found in the conference report simply allows the Secretary of Commerce and Labor to decide before the men are imported whether the case is one which comes within the law. The change was urged by the Department of Commerce and Labor, was embodied in the Senate bill, passed the Senate in that form, and was agreed to by the House.

Mr. SIMMONS. Is the decision of the Secretary of the Department of Commerce and Labor to be made before such persons embark on the other side?

Mr. LODGE. Yes. A person desiring to import skilled labor lays the case before the Secretary of Commerce and Labor for his decision. I believe this provision will be better both for the men and for the enforcement of the law.

Mr. CHAMBERLAIN. May I interrupt the Senator?

Mr. LODGE. Certainly.

Mr. CHAMBERLAIN. I understand the Senator to say that the bill is so framed as to leave the present laws with reference to Chinese exclusion intact?

Mr. LODGE. Precisely.

Mr. CHAMBERLAIN. Does it have any effect at all upon the question of Japanese immigration? Is there anything contained in the measure with reference to that?

Mr. LODGE. Well, the clause in the bill which passed the Senate, providing that no alien who was not eligible for natu-

ralization should be admitted, has been retained in the bill. As the Senator is well aware, the old naturalization law, which has been on the statute books for many years, excludes from entry into the United States anyone who does not belong either to the white or to the black race. Therefore any Asiatic would be excluded under the bill as it now stands unless provision is made otherwise by treaty or by agreement. It is just as it passed the Senate.

Mr. SMOOT. The bill, of course, applies to all immigrants, but does it apply to all aliens?

Mr. LODGE. It applies to all aliens.

Mr. SMOOT. But suppose a person has resided in this country 5 or 10 years, and has not taken out his naturalization papers, and returning to his former home, comes to the United States again. Is he subject to the provisions of this measure?

Mr. LODGE. He comes in just like any other alien.

Mr. SMOOT. But suppose he can not read and has heretofore lived here 10 years. He can not go home if he ever intends to come back to the United States?

Mr. LODGE. I think that is probable. I think that is the case to-day.

Mr. GALLINGER. If the Senator will permit me, I will ask whether or not the bill does not provide that the reading and writing shall be in any language.

Mr. LODGE. Any language.

Mr. GALLINGER. That covers that.

Mr. LODGE. Any language or any dialect. It is to read in any language or dialect, but does not include writing.

Mr. GALLINGER. Not writing.

Mr. LODGE. Not writing.

Mr. GALLINGER. I understand there has been a somewhat remarkable decision in one of the Western States, upon which I will not now elaborate, to the effect that a law providing for a reading qualification can only be applied to the English language. I think we ought to be careful in our legislation to make it broad enough to cover any language.

Mr. LODGE. I will explain to the Senator how that confusion in regard to the "English language" arose: When there was put into the bill the clause excluding all persons not eligible for naturalization, the attention of the committee of the Senate was called to the fact that the naturalization act required that every person who applied for naturalization should be able to sign his name to his application and should be able to speak English. The point was made that if we adopted language excluding persons not eligible for naturalization, it might be interpreted to mean persons who could not write and who were unable to speak in English, or read in English. I do not think it was legitimately open to that interpretation, but for greater precaution we put in a clause that inability to read English or to write should not be ground of exclusion.

In conference we framed the exclusion on the ground of noneligibility to naturalization in such a way that it removed all possible question as to the qualification for naturalization being applied to the admission of the immigrant. The only thing applied to the immigrant is that if he does not belong to the white race or to the black race he can not come in, unless otherwise provided by treaty or agreement.

That was the origin of the confusion about the reading test being in English. The reading test is not in English. It is in the broadest possible language—to read in any language or dialect, including Hebrew and Yiddish. It was made as broad as possible and even went so far as to say specifically "including Hebrew or Yiddish," because the point was made by some of those who were anxious about it that Hebrew and Yiddish might not be construed strictly as either an existing language or dialect. I think they were entirely covered by the clause, but we put it in by excess of caution. That is the substance of the literacy test. The exceptions are exactly the same as when the bill passed the Senate.

I understood the Senator from Missouri to say he thought it desirable that the bill should go over on account of the absence of the Senator from New York [Mr. O'GORMAN].

Mr. SIMMONS. I understand the Senator from Massachusetts to say that, with the exception of the change of the literacy test resulting from the elimination of the word "write," the remainder of the Senate amendment was substantially adopted.

Mr. LODGE. Substantially; precisely the same; in fact, a large part of the Senate provision and House provision were in identical language.

Mr. STONE. I suggest to the Senator from Massachusetts that the report be printed in the RECORD, and that its further consideration go over until Monday.

Mr. LODGE. That is the request I made—that it go over and be printed in the RECORD. The report is really the bill. The report, of course, is privileged, and I gave notice that I would call it up immediately after the morning business on Monday.

The PRESIDING OFFICER. The Secretary will state the next bill in order on the calendar.

Mr. POINDEXTER. Before we leave this subject, I should like to ask the Senator from Massachusetts whether this bill includes any outlying territory of the United States; whether it is applicable, say, to the Hawaiian Islands or to Porto Rico?

Mr. LODGE. In what respect; on the reading test?

Mr. POINDEXTER. On all tests.

Mr. LODGE. Of course, the old law has applied to those islands hitherto, and the only question that has arisen is in regard to the reading test being applied to Hawaii, to which great objection was made, and I think with justice. Owing to an accident—it was nothing else—Hawaii was omitted as an exception to the reading test. I do not want to take the time of the Senate, but it is necessary to explain the point for a moment.

They are very anxious to replace Japanese labor and Chinese labor with European labor, and are making every effort in that direction. The European labor they are getting is chiefly Portuguese, and the percentage of illiteracy among the Portuguese happens to be higher than among any other immigrants. Therefore the imposition in Hawaii of the literacy test as framed in the bill they think would work a great hardship to them. It was the intention of the Senate committee to make an exception in that respect for the islands of Hawaii, but by an omission, for which I suppose I am more responsible than anybody else, we took the amendment of the Senator from North Carolina in the place of our illiteracy amendment, and in accepting his we forgot to add the exception of Hawaii, which was in our bill.

Mr. ROOT. It was done on the floor.

Mr. LODGE. It was done on the floor, and we forgot to add the Hawaiian exception. We expected it to be put in in the House. It was not put in in the House, and though the conferees, I think, were unanimous in desiring to put it into the bill, they had no power to do it, because neither House had inserted it. I think it is an error that ought to be corrected.

I do not know whether that is the point the Senator from Washington desired me to explain.

Mr. POINDEXTER. It is exactly the point I had in mind, and I am very much obliged to the Senator for explaining it. I understand the Senator from Massachusetts to state that the law is to be amended by this bill so as to exclude all persons who are not qualified to become citizens of the United States.

Mr. LODGE. Not able to become eligible for naturalization.

Mr. POINDEXTER. Is that the language of the bill?

Mr. LODGE. That is the language of the bill.

Mr. POINDEXTER. Does that provision apply to Hawaii and Porto Rico?

Mr. LODGE. Yes; to everything under our jurisdiction.

Mr. POINDEXTER. And that is an amendment to the existing law, as I understand.

Mr. LODGE. That is a new provision, changing existing law, which passed the Senate. It was in the Senate bill.

Mr. POINDEXTER. And it is reported by the conferees, I understand?

Mr. LODGE. Yes. The House conferees agreed to it just as it passed the Senate.

Mr. President, I understand consent was given that this report go over and be printed in the RECORD, together with the statement I sent to the desk.

The PRESIDING OFFICER. Consent was given.

Mr. GRONNA subsequently said: May I ask what was done with the conference report? My attention was diverted for a moment.

The PRESIDING OFFICER. The conference report was ordered to be printed in the RECORD, and notice given that it would be called up on Monday next.

CREEK INDIANS.

The bill (S. 2344) to pay the balance due the loyal Creek Indians on the award made them by the Senate on February 16, 1903, was announced as the next business in order on the calendar.

Mr. CURTIS. Let the bill go over.

The PRESIDING OFFICER. There being objection, the bill will go over.

M'CLELLAN PARK.

The bill (S. 2845) to acquire certain land in Washington Heights for a public park to be known as McClellan Park was announced as next in order.

Mr. SMOOT. Let the bill go over.

Mr. SUTHERLAND. I hope no objection will be made to considering this bill. It has been read, and it went over on the objection of the Senator from New Hampshire [Mr. GALLINGER]. I understand he does not press his objection at this time. I think it is a very necessary bill and ought to be passed.

Mr. SMOOT. If I understand the bill correctly, it proposes to create a park out of a little piece of ground up on Connecticut Avenue.

Mr. SUTHERLAND. Yes.

Mr. SMOOT. Or Columbia Road, I should say.

Mr. SUTHERLAND. I think it is on Columbia Road.

Mr. GALLINGER. It is on Columbia Road.

Mr. SMOOT. On Columbia Road. I have heard a good many Senators and others criticize it, and for that reason I objected to it. I should like to look into it myself before consenting to its passage.

Mr. GALLINGER. Before objection is made, and lest the bill at some time should be called up and passed in its present form, I should like to submit two or three amendments. They are not very material, but yet necessary.

The Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. GALLINGER. In the committee amendment, on page 3, after the word "commissioners," in line 12, I move to insert the words "of the District of Columbia."

The amendment was agreed to.

Mr. GALLINGER. In line 1, page 4, where it is provided that the Government shall pay this entire amount of $180,000 and that one-half of the sum shall be reimbursed by the District of Columbia in four equal annual installments, after the word "installments" I move to amend by adding "with interest at the rate of 3 per cent per annum."

Mr. SMOOT. Had we not better pay it all at once?

Mr. GALLINGER. The government of the District of Columbia is paying one-half. It is the usual form. We give them time to pay their one-half back. They have not any money.

The amendment was agreed to.

Mr. GALLINGER. I call the attention of the Senator from Utah to one further proposed amendment. The sum named in this bill is exactly the sum that the owner of this property is willing to take; and there is a provision commencing in line 9, on page 4, that—

> If said commissioners shall be unable to purchase said land at a price not exceeding $180,000, then they shall proceed to acquire said land by condemnation.

After the word "dollars," in line 11, I move to insert "or if said commissioners shall deem the price to be excessive"; so that they can go to condemnation if they, in their judgment, think the price is excessive.

Mr. SUTHERLAND. There is no objection to that.

Mr. BRISTOW. I do not think the Government ought to be paying $180,000——

Mr. GALLINGER. I will ask whether the amendment has been agreed to, if the Senator will permit me.

The PRESIDING OFFICER. It has not. It is pending. The question is on agreeing to the amendment.

Mr. BRISTOW. I am perfectly willing to have the bill amended, but after that I want to object to the consideration of the bill.

The PRESIDINIG OFFICER. Without objection, the amendment is agreed to.

Mr. BRISTOW. As I understand, this tract of land is about two blocks from the Zoological Park, and I can not see why we should be spending money for parks there. If we want to spend money for parks, we ought to put them in other parts of the city, where they are not adjacent to other parks.

The PRESIDING OFFICER. Does the Senator from Kansas object to the present consideration of the bill?

Mr. BRISTOW. I do.

The PRESIDING OFFICER. Being objected to, the bill goes over.

BILLS, ETC., PASSED OVER.

The motion by Mr. POINDEXTER that the Senate Committee on Interstate Commerce be discharged from the further consideration of Senate bill 3297, to abolish the Commerce Court, etc., and that said bill be placed upon the calendar, under Rule VIII, for consideration by the Senate, was announced as next in order.

Mr. SMOOT. Let the motion go over.

The PRESIDING OFFICER. It will go over.

The bill (S. 7030) to provide for a permanent supply of coal for the use of the United States Navy and other governmental purposes, to provide for the leasing of coal lands in the Territory of Alaska, and for other purposes, was announced as next in order.

Mr. SMOOT. I ask that that go over.

The PRESIDING OFFICER. It goes over.

The bill (S. 6896) to reopen and extend certain letters patent granted to Richard B. Painton, to insert certain claims in said letters patent dated May 9, 1899, was announced as next in order.

Mr. SMOOT. I ask that the bill go over.

The PRESIDING OFFICER. The bill will go over, on objection by the Senator from Utah.

Mr. GALLINGER subsequently said: I was unavoidably out of the Chamber a few moments ago. I will ask what became of Senate bill 6896.

Mr. SMOOT. It went over.

Mr. GALLINGER. That is right. It ought to go over.

The PRESIDING OFFICER. Senate bill 6896 went over on objection.

Mr. GALLINGER. It ought to have gone over. That is proper.

Mr. SMOOT. I ask that Senate bill 6896 be placed under Rule IX.

The PRESIDING OFFICER. The Senator from Utah asks unanimous consent that the bill go over under Rule IX.

Mr. BRANDEGEE. The Senator who reported the bill is not on the floor.

Mr. SMOOT. If there is any objection, I will withhold the request until the Senator comes in. I did not observe that the Senator who reported it is absent.

The PRESIDING OFFICER. The Senator from Utah withdraws the request.

The bill (S. 2518) to provide for raising the volunteer forces of the United States in time of actual or threatened war was announced as next in order.

Mr. SMOOT. Has the bill been read, Mr. President?

The PRESIDING OFFICER. It has not been read.

Mr. CHAMBERLAIN. Mr. President, this is a measure of a good deal of importance, and as the chairman of the Committee on Military Affairs is not here for the moment, I think the bill ought to go over until he may be present.

The PRESIDING OFFICER. Does the Senator from Oregon object to its present consideration?

Mr. CHAMBERLAIN. I do.

The PRESIDING OFFICER. On the objection of the Senator from Oregon the bill goes over.

The bill (S. 6172) to regulate the method of directing the work of Government employees, was announced as next in order.

Mr. SMOOT. Let the bill go over.

The PRESIDING OFFICER. The bill goes over. The hour of 2 o'clock having arrived, it becomes the duty of the Chair to lay before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. WORKS. I ask that the unfinished business be temporarily laid aside.

The PRESIDING OFFICER. The Senator from California requests that the unfinished business be temporarily laid aside. In the absence of objection, it will be so ordered.

BUREAU OF MINES.

The bill (H. R. 17260) to amend an act entitled "An act to establish in the Department of the Interior a Bureau of Mines," approved May 16, 1910, was considered as in Committee of the Whole.

The bill was reported from the Committee on Mines and Mining with amendments.

The first amendment was, on page 2, line 13, after the word "the," where it occurs the first time, to strike out "direction" and insert "approval"; in line 18, after the word "and," to insert "conserving resources through"; in line 22, before the word "peat," to strike out "the"; in the same line, after the word "and," where it occurs the second time, to insert "on behalf of the Government to investigate the"; and in line 25, after the word "efficient," to insert "mining, preparation, treatment, and," so as to read:

> SEC. 2. That it shall be the province and duty of the Bureau of Mines, subject to the approval of the Secretary of the Interior, to conduct inquiries and scientific and technologic investigations concerning mining, and the preparation, treatment, and utilization of mineral substances with a view to improving health conditions, and increasing safety, efficiency, economic development, and conserving resources through the prevention of waste, in the mining, quarrying, metallurgical, and other mineral industries; to inquire into the economic conditions affecting these industries; to investigate explosives and peat; and on behalf of the Government to investigate the mineral fuels and unfinished mineral products belonging to, or for the use of, the United States, with a view to their most efficient mining, preparation, treatment and use; and to disseminate information concerning these subjects in such manner as will best carry out the purposes of this act.

The amendment was agreed to.

The next amendment was, on page 3, after line 17, to strike out:

SEC. 4. That nothing in this act shall be construed as authorizing the Bureau of Mines or any employee of said bureau to undertake any investigation or operation in behalf of any private party, except for the health and safety of persons employed in the mining, quarrying, metallurgical, or other mineral industries and with the approval of the Secretary of the Interior; nor shall the director or any member of said bureau have any personal or private interest in any mine or the products of any mine under investigation.

And in lieu thereof to insert the following:

SEC. 4. In conducting inquiries and investigations authorized by this act neither the director nor any member of the Bureau of Mines shall have any personal or private interest in any mine or the products of any mine under investigation, or shall accept employment from any private party for services in the examination of any mine or private mineral property, or issue any report as to the valuation or the management of any mine or other private mineral property.

The amendment was agreed to.

The next amendment was, on page 4, line 16, after the word "investigations," to insert "of explosives," so as to read:

SEC. 5. That for tests or investigations of explosives authorized by the Secretary of the Interior under the provisions of this act, other than those performed for the Government of the United States or State governments within the United States, a reasonable fee covering the necessary expenses shall be charged, according to a schedule prepared by the Director of the Bureau of Mines and approved by the Secretary of the Interior, who shall prescribe rules and regulations under which such tests and investigations may be made. All moneys received from such sources shall be paid into the Treasury to the credit of miscellaneous receipts.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

INTERSTATE SHIPMENT OF LIQUORS.

The bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases was announced as next in order.

Mr. SMOOT. That is a special order, Mr. President.

The PRESIDING OFFICER. The bill goes over, being a special order.

SANTIAM NATIONAL FOREST.

The bill (S. 7237) to reserve certain lands and to incorporate the same and make them a part of the Santiam National Forest was considered as in Committee of the Whole.

The bill was reported from the Committee on Public Lands with an amendment, on page 1, line 11, after the word "Oregon," to strike out "be, and the same are hereby, reserved and withdrawn from entry and made a part of and included in the Santiam National Forest" and insert "in the event of final decision vacating, annulling, or setting aside the outstanding patents heretofore issued therefor, shall be, and are hereby, reserved and withdrawn from all disposition and included within the Santiam National Forest," so as to make the bill read:

Be it enacted, etc., That the following-described lands, to wit, the southeast quarter of section 24, township 14 south, range 2 east; all of section 14, the north half of section 20, the northwest quarter of section 22, the west half of section 24, the northwest quarter of section 28, the northeast quarter of section 31, all of section 34, and all of section 35, township 14 south, range 3 east; all in Linn County, Oreg., in the event of final decision vacating, annulling, or setting aside the outstanding patents heretofore issued therefor, shall be, and are hereby, reserved and withdrawn from all disposition and included within the Santiam National Forest.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. GRONNA. I should like to have some explanation from a Senator who is interested in the bill as to why this legislation is necessary.

Mr. CHAMBERLAIN. The land proposed to be withdrawn embraces about 3,000 acres, I think. Patents to it have already issued to a large lumber concern, and the United States has instituted a suit to cancel the patents. In the event that the suit is won by the Government of the United States it was desired to have these lands included within the reserve so that they might not be taken up by speculators. If, however, the suit is decided in behalf of the defendants, the bill will be inoperative and will not affect the lands at all.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS PASSED OVER.

The bill (H. R. 21524) for the relief of Frederick H. Ferris was announced as next in order.

Mr. CLARKE of Arkansas. Is there a report accompanying that bill?

Mr. SMOOT. There is a report.

Mr. CLARKE of Arkansas. It seems to me that the bill was reported adversely at one time by the Committee on Military Affairs, but I may be mistaken about it. Let it go over.

The PRESIDING OFFICER. The bill goes over on the objection of the Senator from Arkansas.

The bill (S. 6812) to amend section 3 of an act entitled "An act to provide for the allotment of land in severalty," etc., approved February 28, 1891, was announced as next in order.

Mr. CLARKE of Arkansas. I object to that bill.

The PRESIDING OFFICER. Objection is made, and the bill goes over.

The next business on the calendar was the resolution (S. Res. 362) for an investigation into the expenditures of the Forest Service and the appointment of a committee for the purpose.

Mr. GALLINGER. Let that go over, Mr. President.

The PRESIDING OFFICER. The resolution goes over on the request of the Senator from New Hampshire.

The bill (H. R. 22913) to create a Department of Labor was announced as next in order.

Mr. SMOOT. Let that go over, Mr. President.

The PRESIDING OFFICER. The bill goes over on the request of the Senator from Utah.

The bill (S. 7089) to remove the charge of desertion against Charlie Meyers was announced as next in order.

Mr. ROOT. I think that bill had better go over.

The PRESIDING OFFICER. The bill goes over on the objection of the Senator from New York.

The bill (S. 2058) for the relief of William Wentworth was announced as next in order.

Mr. GALLINGER. Let that bill go over likewise, Mr. President.

The PRESIDING OFFICER. The bill goes over on the request of the Senator from New Hampshire.

INSPECTION AND GRADING OF GRAIN.

The bill (S. 223) to provide for the inspection and grading of grain entering into interstate commerce, and to secure uniformity in standards and classification of grain, and for other purposes, was announced as next in order.

Mr. NELSON. Let that bill go over.

Mr. CRAWFORD. Will the Senator permit me to say that it of course would be entirely futile to ask the Senate to dispose of the bill under Rule VIII, but, as I understand it, the Senate passed a similar bill once. The Senator from North Dakota [Mr. MCCUMBER] is very much interested in the measure and he wanted me to submit the matter to the Senate whether it was possible to get a unanimous-consent agreement to take up the bill at some day in the near future. I simply am putting out that feeler to see whether it can possibly be done.

The PRESIDING OFFICER. Does the Senator from Minnesota object to the present consideration of the bill?

Mr. NELSON. I object to its present consideration.

The PRESIDING OFFICER. The bill goes over on the objection of the Senator from Minnesota.

INTERSTATE COMMERCE COMMISSION.

The bill (S. 6100) appropriating $100,000 for the use of the Interstate Commerce Commission in addition to the sum or sums already appropriated for their use was announced as next in order.

Mr. GALLINGER. Let that go over.

The PRESIDING OFFICER. The bill goes over on the objection of the Senator from New Hampshire.

LIMIT OF VISITORIAL POWERS.

The bill (H. R. 24153) to amend and reenact section 5241 of the Revised Statutes of the United States was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDING OFFICER. The bill goes over on the objection of the Senator from Utah.

Mr. WILLIAMS. Do I understand that the consideration of the bill was objected to?

The PRESIDING OFFICER. It was, by the Senator from Utah.

Mr. WILLIAMS. I hope the Senator who made the objection will withdraw it. The Pujo investigating committee in the House can not proceed another step until this legislation is enacted. By the morning papers and the papers of the day before the proceedings of the committee are within the information of all Senators. The present law reads as follows:

No association shall be subject to any visitorial powers other than such as are authorized by this title, or are vested in the courts of justice.

When the Pujo investigating committee began to examine witnesses for the purpose of arriving at the information which the House of Representatives desired, they found this statute

lying athwart their pathway. It is subject to some doubt as to construction, it is true, but many of the witnesses have refused to answer questions and permit to be examined certain evidence within their possession because of this statute.

The House passed a bill, and in the Senate Committee on Finance certain members of that committee proposed as a substitute for the House bill the following; and if Senators will follow me they will note that down to the word "justice" it is a repetition of the existing law. It proposes to amend the act so that it will read:

SEC. 5241. No national banking association shall be subject to any visitorial powers other than such as are authorized by this title, or are vested in the courts of justice.

Then begins the new language, and I call the attention of Senators to it:

Or such as shall be necessary to secure information by any committee appointed by Congress or either House thereof, within the limits of the authority conferred by Congress or either House on said committee.

The bill was adversely reported from the Finance Committee. The views of the minority are signed by Senators MCCUMBER, LA FOLLETTE, SIMMONS, WILLIAMS, and JOHNSON.

I think it is a right serious thing, Mr. President, for a Senator or for the Senate to take the position of blocking an investigation by the House of Representatives. I think it is more serious of course for one Senator to do it than for the entire Senate. I am satisfied that if this bill could come before the Senate for a vote it would be passed. Ordinary comity between the two Houses would demand it, if nothing else. Besides that, ordinary justice demands it, because the House ought to have the opportunity, the Senate ought to have the opportunity, both Houses ought to have it, of investigating the affairs of its own creature.

The national banks are the creatures of the National Government; they are the creatures of the law passed by us; and to say that we shall permit to stand upon the statute book a provision to prevent the Congress of the United States, the law-making authority of the people, from getting that information which in the opinion of Congress or either House of Congress is necessary for the public welfare, is a position I take it which nobody ought to stand upon.

I do not know whether under the present arrangement it would be in order to move to take up the measure or not. I will make the inquiry.

The PRESIDING OFFICER. The Chair thinks it would not be in order, as the Senate is operating now under a unanimous-consent agreement to go to the Calendar to consider only unobjected bills.

Mr. WILLIAMS. I asked because I was not present when the unanimous-consent agreement was adopted, but I judged from the manner in which we have been proceeding that it had been adopted in that form.

I appeal to the Senator who made the objection to withdraw it, and at least permit the Senate to consider this matter, and not have it appear to the country that the Senate is thwarting an investigation by the House of Representatives, an investigation with the very highest purpose in view and of the highest importance to the people of the United States.

Mr. SMOOT. Mr. President, I have no desire whatever to interfere with the investigation on the part of the House of any matter, but this bill was referred to the Finance Committee of the Senate, and a majority of that committee voted upon it adversely. It was reported by the chairman adversely, and the chairman is not in the city to-day. It would be very unjust to him and to the committee, I think, to have the bill acted upon to-day, when there are very few Senators in the Chamber.

Mr. President, I shall certainly insist upon my objection to the consideration of the bill.

Mr. WILLIAMS. I hope the Senator will pardon me for an interruption merely to this extent: While it is true that the bill was acted upon adversely in the committee, it is also true that the committee sent it here to be placed on the calendar for the consideration of the Senate.

Mr. SMOOT. The chairman of the committee is not here. The bill proposes to change the existing law in a most radical way. I think the question would lead to a great deal of discussion, which is impossible at this time and under the present order.

The PRESIDING OFFICER. Under the objection of the Senator from Utah, the bill goes over.

Mr. WILLIAMS. I must rest satisfied with having called the attention of the country to it.

ANNIVERSARY OF THE TREATY OF GHENT.

The bill (S. 4256) to approve of the celebration of the one hundredth anniversary of the treaty of Ghent was considered as in Committee of the Whole.

The bill was reported from the Committee on Foreign Relations with an amendment, to strike out all after the enacting clause and insert:

That the President is hereby authorized to appoint a commission of seven members, to be known as the Peace Centennial Commission. It shall be the duty of the commission to confer with such other commissions or committees as may be constituted for similar purposes in other English-speaking countries, and to report to the Congress a plan for the appropriate celebration of the one hundredth anniversary of the treaty of Ghent. The commissioners shall serve without compensation. For the expenses of the commission, including salary of secretary, clerical service, traveling and office expenses, and printing plans, the sum of $100,000 is hereby appropriated from any moneys in the Treasury not otherwise appropriated, and to be immediately available.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CAMPAIGN CONTRIBUTIONS.

The bill (S. 3315) to prohibit corporations from making contributions in connection with political elections and to limit the amount of said contributions by individuals or persons was announced as next in order.

Mr. JONES. The chairman of the Committee on Privileges and Elections [Mr. DILLINGHAM] is not present, and the senior Senator from Texas [Mr. CULBERSON], who is interested in the bill, is also absent. So I ask that it may go over.

The PRESIDING OFFICER. The bill goes over under the objection of the Senator from Washington.

TRADE RESTRAINTS AND MONOPOLIES.

The bill (S. 3345) to amend the act of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies" was announced as next in order.

Mr. SMOOT. From what committee was the bill reported? The Committee on Interstate Commerce?

Mr. GALLINGER. The committee was discharged and the bill placed on the calendar.

Mr. SMOOT. I see that the committee was discharged. The bill had better go over.

The PRESIDING OFFICER. The bill goes over on the objection of the Senator from Utah.

NATIONAL MILITARY PARKS.

The bill (S. 6616) to provide for the protection of national military parks was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment, in section 7, page 4, line 2, after the word "before," to strike out "any judge of any district or circuit court of the United States of the district in which such park is situated, or before any United States commission thereof" and insert "the nearest United States commissioner," so as to make the section read:

SEC. 7. That the park commissioners, superintendent, officers, or guardians of such park, or any of them, are authorized to arrest forthwith any person engaged, or who may have been engaged, in committing any misdemeanor named in this act, and shall bring such persons before the nearest United States commissioner, who, for the purpose of this act, shall have and exercise civil and criminal jurisdiction which is conferred upon justices of the peace by this act, the common law, and by the statute of the State in which such national military park is situated and such misdemeanor has been committed.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

FIRST LIEUT. SYDNEY SMITH.

The bill (S. 7288) to authorize the transfer of First Lieut. Sydney Smith from the retired to the active list of the Army was announced as next in order.

Mr. POMERENE. On behalf of the Senator from West Virginia [Mr. CHILTON] I ask that the bill go over.

The PRESIDING OFFICER. The bill goes over.

SALE OF BURNT TIMBER ON THE PUBLIC DOMAIN.

The bill (H. R. 24266) to authorize the sale of burnt timber on the public domain was considered as in Committee of the Whole.

The bill was reported from the Committee on Public Lands with an amendment, in section 1, page 1, line 6, after the name "United States," to insert "outside the boundaries of national forests," so as to make the section read:

That the Secretary of the Interior is hereby authorized, under such rules as he may prescribe, to sell and dispose of to the highest bidder at public auction, or through sealed bids, the timber on any lands of the United States outside the boundaries of national forests, including those embraced in unperfected claims under any of the public land laws, also upon the ceded Indian lands, that may have been killed or seriously and permanently damaged by forest fires prior to the passage of this act, the proceeds of all such sales to be covered into the Treasury of the United

States: *Provided*, That the damaged timber upon any lands embraced in an existing claim shall be disposed of only upon the application or with the written consent of such claimant, and the money received from the sale of damaged timber on any such lands shall be kept in a special fund to await the final determination of such claim.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

STANDARD OIL AND AMERICAN TOBACCO COS.

The resolution (S. Res. 375) discharging the Committee on the Judiciary from further consideration of the concurrent resolution (S. Con. Res. 4) instructing the Attorney General of the United States to prosecute the Standard Oil Co. and the American Tobacco Co. was announced as next in order.

Mr. SMOOT. Let that go over, Mr. President.

The PRESIDING OFFICER. The resolution goes over.

DOMMICK TAHENY AND JOHN W. MORTIMER.

The bill (S. 4309) for the relief of Dommick Taheny and John W. Mortimer was considered as in Committee of the Whole.

The bill was reported from the Committee on Post Offices and Post Roads with an amendment, on page 1, line 6, after the words "sum of," to strike out "$5,000" and to insert "$4,801.42," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Dommick Taheny and John W. Mortimer the sum of $4,801.42, in full payment and satisfaction of their claim against the United States for loss sustained on account of the cancellation of contract for the erection and lease of quarters for the Frankford station of the post office in Philadelphia, Pa.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ROBERT N. CAMPBELL.

The bill (S. 6877) to reinstate Robert N. Campbell as a first lieutenant in the Coast Artillery Corps, United States Army, was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with amendments.

The first amendment was, in section 1, page 1, line 6, after the words "First Lieutenant," to strike out the name "John G. Hotz" and insert "Robert O. Edwards," so as to make the section read:

That the President of the United States be, and he is hereby, authorized to appoint Robert N. Campbell a first lieutenant in the Coast Artillery Corps, United States Army, to take rank next after First Lieut. Robert O. Edwards, Coast Artillery Corps, the said Robert N. Campbell having served for a period of 8 years and 6 months, from June, 1902, to December, 1910.

The amendment was agreed to.

The next amendment was, in section 2, page 2, after the word "appointment," to strike out "and he shall be additional to the number of officers prescribed by law for the grade of first lieutenant in the Coast Artillery Corps and to any grade to which he may hereafter be promoted, and that for the purpose of computing his pay his longevity shall be considered the same as if he had never been out of the service," so as to make the section read:

SEC. 2. That the said Robert N. Campbell shall receive no pay or emolument except from the date of his appointment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

COUNTRY PARKS AND COMMUNITY CENTERS.

The bill (S. 6105) for the creating of country parks and community centers, and referring especially to one created in the State of Montana, in the Fort Shaw unit of the Sun River reclamation project, was considered as in Committee of the Whole.

The bill was reported from the Committee on Public Lands with an amendment to strike out all after the enacting clause and to insert:

That the Secretary of the Interior be, and he is hereby, authorized to withdraw from other disposition and reserve for country parks, public playgrounds, and community centers for the use of the residents upon the lands such tracts as he may deem advisable in each reclamation project or the several units of such reclamation projects undertaken under the act of June 17, 1902, known as the reclamation act.

SEC. 2. That every such tract of land so set apart shall be supplied with water from the Government irrigation system, the cost thereof to be charged to the remaining lands of the project as a part of the construction charge of such project, and shall be maintained and used in perpetuity by the people upon said reclaimed lands for a pleasure park, public playground, and community center.

SEC. 3. That for the purpose of carrying out and effecting the objects of this act the Secretary of the Interior is authorized to enter into a contract with the organization formed by the owners of the lands irrigated within said project or project unit pursuant to section 6 of the act of June 17, 1902, stipulating and providing that the organization will maintain and use such of the lands so reserved for the purposes prescribed in this act as such organization may desire, and that upon failure to so maintain and use such lands, or in the event that same shall be permitted to be used or occupied for other purposes than those stipulated in this act, the control of the lands shall revert to the United States, and same shall be thereafter disposed of in accordance with the public-land laws applicable thereto.

SEC. 4. That any of such lands not contracted for in accordance with the provisions of section 3 of this act within 10 years from the time water is available for the same, or sooner, if the Secretary of the Interior may deem it desirable, shall be disposed of in accordance with the public-land laws applicable thereto, and the proceeds from the sale of a water right for the same shall be turned over to the organization representing the owners of the lands within such project.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to authorize the reservation of public lands for country parks and community centers within reclamation projects, and for other purposes."

HOURS OF LABOR ON PUBLIC WORKS.

The bill (H. R. 18787) relating to the limitation of the hours of daily services of laborers and mechanics employed upon a public work of the United States and of the District of Columbia, and of all persons employed in constructing, maintaining, or improving a river or harbor of the United States and of the District of Columbia, was announced as next in order.

Mr. NELSON. My impression is that the Senator from Arkansas [Mr. CLARKE] has some amendments which he wants to offer to that bill. I therefore ask that it go over.

The PRESIDING OFFICER. The bill goes over, on the objection of the Senator from Minnesota.

OVERDUE PERSONAL TAXES IN THE DISTRICT.

The bill (S. 7430) providing for the cancellation of certain overdue personal taxes in the District of Columbia was considered as in Committee of the Whole. It proposes that section 6 of "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1903, and for other purposes," approved July 1, 1902, be amended by adding thereto the following paragraph:

PAR. 20. The assessor of the District of Columbia is hereby authorized, under the direction of the commissioners, to cancel all personal taxes, in the month of July of each year, standing on his books, which are over five years old and which the collector of taxes and the corporation counsel report to be uncollectible.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PUNISHMENT OF MURDER IN THE DISTRICT.

The bill (S. 7162) to amend section 801 of the Code of Law for the District of Columbia was considered as in Committee of the Whole.

The bill was reported from the Committee on the District of Columbia with an amendment, on page 1, after line 9, to strike out:

SEC. 801. The punishment of murder in the first degree shall be death by hanging. The punishment of murder in the second degree shall be imprisonment for life, or for not less than 20 years. In all cases where the accused is found guilty of the crime of murder in the first degree the jury may qualify their verdict by adding thereto "without capital punishment," and whenever the jury shall return a verdict qualified as aforesaid the person convicted shall be sentenced to imprisonment for life.

And in lieu thereof to insert:

SEC. 801. The punishment of murder in the first degree shall be death by electrocution. The punishment of death must, in every case, be inflicted by causing to pass through the body of the convict a current of electricity of sufficient intensity to cause death, and the application of such current must be continued until such convict is dead. The punishment of murder in the second degree shall be imprisonment for life or for not less than 20 years. In all cases where the accused is found guilty of the crime of murder in the first degree the jury may qualify their verdict by adding thereto "without capital punishment," and whenever the jury shall return a verdict as aforesaid the person convicted shall be sentenced to imprisonment for life.

So as to make the bill read:

Be it enacted, etc., That section 801 of an act entitled "An act to establish a Code of Law for the District of Columbia," approved March 3, 1901, as amended by the acts approved January 31 and June 30, 1902, and subsequent acts to and including March 4, 1911, be, and the same is hereby, amended to read as follows:

SEC. 801. The punishment of murder in the first degree shall be death by electrocution. The punishment of death must, in every case,

be inflicted by causing to pass through the body of the convict a current of electricity of sufficient intensity to cause death, and the application of such current must be continued until such convict is dead. The punishment of murder in the second degree shall be imprisonment for life or for not less than 20 years. In all cases where the accused is found guilty of the crime of murder in the first degree the jury may qualify their verdict by adding thereto "without capital punishment," and whenever the jury shall return a verdict as aforesaid the person convicted shall be sentenced to imprisonment for life.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PENSIONS OF SURVIVING SOLDIERS OF INDIAN WARS.

The bill (H. R. 14053) to increase the pensions of surviving soldiers of Indian wars in certain cases was considered as in Committee of the Whole.

The bill was reported from the Committee on Pensions with an amendment, on page 1, line 9, before the word "dollars," to strike out "thirty" and to insert "twelve," so as to make the bill read:

Be it enacted, etc., That from and after the passage of this act the rate of pension to surviving soldiers of the various Indian wars who are now on the pension roll or who may hereafter be placed thereon under the acts of July 27, 1892, June 27, 1902, and May 30, 1908, shall be $12 per month.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

LANDS OF FORMER FORT NIOBRARA MILITARY RESERVATION, ETC.

The bill (H. R. 25764) to subject lands of former Fort Niobrara Military Reservation and other lands to homestead entry was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JUDICIAL PROCEDURE IN UNITED STATES COURTS.

The bill (H. R. 16461) to regulate judicial procedure of the courts of the United States was announced as next in order.

Mr. CATRON. Let that go over, Mr. President.

The PRESIDING OFFICER. The bill goes over.

AGRICULTURAL EXTENSION DEPARTMENTS.

The bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and acts supplementary thereto, was announced as next in order.

Mr. SMOOT. Mr. President, the Senator from Georgia [Mr. SMITH] has given notice that he will call this bill up on next Monday. I therefore ask that it go over.

The PRESIDING OFFICER. The bill goes over.

Mr. McCUMBER. Before the bill goes over, I ask to offer an amendment to it, which I send to the desk. I ask that the amendment, without reading, may be printed and lie on the table.

The PRESIDING OFFICER. That order will be made in the absence of objection.

ACQUISITION OF DEPOSITS OF BORAX, ETC.

The bill (H. R. 4002) defining the manner in which deposits of borax, borate of lime, borate of soda, and borate material may be acquired was considered as in Committee of the Whole.

The bill had been reported from the Committee on Mines and Mining with an amendment to strike out all after the enacting clause and to insert:

That all public lands within the United States containing valuable deposits of borax, borate of lime, borate of soda, or borate material shall be subject to location, entry, and patent under the placer mining laws of the United States, and no location hereafter made, whether by an individual, association of individuals, or by a corporation, shall exceed 20 acres in area. Patents heretofore issued for lands containing such deposits, whether as patents for lodes or patents for placer, are hereby confirmed, if otherwise regular and valid, notwithstanding the formation or mode of occurrence of the deposits. Placer patents heretofore issued and hereafter issued for lands containing such deposits shall vest in and convey to the patentee or patentees therein named, his or their successors or assigns, the title to all lands containing such deposits within the exterior boundaries of the land described in such patents: *Provided*, That where lands containing such deposits have heretofore been located under the laws providing for the entry of mineral lode claims, such locations may be perfected and patents issued under the laws applicable to lode claims: *And provided further*, That no conflicting rights, contests, or litigation as between locators under the placer laws and the mineral lode laws on locations heretofore made of lands containing such deposits shall be affected by the provisions of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CAPT. FRANK E. EVANS.

The bill (S. 7169) to transfer Capt. Frank E. Evans from the retired to the active list of the Marine Corps was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. PERKINS. I ask that the report in that case be printed in the RECORD.

The PRESIDING OFFICER. In the absence of objection, it will be so ordered.

The report referred to, which was submitted by Mr. WETMORE on December 18, 1912, is as follows:

The Committee on Naval Affairs, to whom was referred the bill (S. 7169) to transfer Capt. Frank E. Evans from the retired to the active list of the Marine Corps, have had the same under consideration and report it back without amendment.

This officer was placed on the retired list of the Marine Corps after a total service, including Volunteer Army service in the Spanish War, of eight years and three months. Since that time he has led an active life and last year was accepted for life insurance by one of the conservative companies as a perfect risk. He has also been advised on expert authority that his cause of disability, heart disease, no longer exists to the point where it unfits him for the demands of active service. A similar case, that of Capt. Harold S. Jackson, United States Army, passed the Senate at the last session and in addition restored Capt. Jackson to the next higher grade in the number which he would have reached had he not been retired. Capt. Robert M. Gilson, United States Marine Corps, was restored by Congress to the active list, in his original number, following his resignation. Capt. Glison's length of service at the time was approximately half as long as that of Capt. Evans, his separation from the active list approximately the same, and his resignation was voluntary, while the retirement of Capt. Evans was not desired by that officer. Other cases in which officers of the Navy have been restored to the active list by Congress were those of Leonard M. Cox, Corps of Civil Engineers, on March 4, 1907; Commander K. McAlpine on June 25, 1910; Capt. S. M. Ackley on April 18, 1904.

Capt. Evans is now drawing pay as a retired officer but performing no duty. If restored to the active list, the Marine Corps would have the services of a trained officer at a comparatively small increase of pay. It is not considered likely, moreover, that he would reach a higher grade only to be again retired for disability, as the regulations of the Navy now require monthly tests of the officers on the active list. There is now pending in Congress a bill to increase the number of officers in the Marine Corps by appointments from the Naval Academy and from civil life. The passage of this bill would give the Marine Corps the services of an officer of more than eight years' total service as an enlisted man and officer at sea, in the Tropics, at the headquarters of the Marine Corps, on special duty in connection with the training of officers and enlisted men, and recruiting duty.

NATIONAL CARTAGE & WAREHOUSE CO., OF NEW YORK CITY.

The bill (H. R. 24137) to refund to the National Cartage & Warehouse Co., of New York City, N. Y., excess duty was considered as in Committee of the Whole. It directs the Secretary of the Treasury to refund to the National Cartage & Warehouse Co., of New York City, N. Y., $95.40 collected on two cases of majolica ware in excess of the actual duty thereon.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CIGARS FURNISHED EMPLOYEES BY MANUFACTURERS.

The bill (H. R. 25741) amending section 3392 of the Revised Statutes of the United States, as amended by section 32 of the act of August 5, 1909, was announced as next in order.

Mr. SMOOT. Mr. President, I see there is no report accompanying that bill. I therefore ask that it go over, because I desire to obtain some information concerning it.

Mr. BRYAN. If the Senator from Utah will withhold his objection for just a moment, I think I can explain to him the situation which this bill is designed to relieve.

Mr. SMOOT. I did not hear the Senator.

Mr. BRYAN. I say I think I can explain to the Senator from Utah the position taken by the Commissioner of Internal Revenue in reference to this bill.

The PRESIDING OFFICER. Does the Senator from Utah withhold his objection?

Mr. SMOOT. Mr. President, I know what the object of the bill is, but I do not know what position the Commissioner of Internal Revenue takes regarding it nor do I know what effect the passage of the bill will have upon the collection of revenue hereafter from the manufacturers of cigars. It may be perfectly feasible, it may be all right; but I ask the Senator to allow the bill to go over to-day, and I promise him that I will look the matter up before the calendar is again considered.

Mr. BRYAN. Before the bill goes over I should like to say a few words, if the Senator from Utah will withhold his objection. In September, 1911, a question was raised by the Commissioner of Internal Revenue as to whether or not the internal-revenue tax should be imposed on the small amounts of cigar

tobacco used by the employees of factories, the Commissioner of Internal Revenue at that time taking the position that he would enforce the tax. Subsequently to that, in March of this year, the Secretary of the Treasury, in commenting upon this bill and similar bills, made this statement:

No objection, however, would be offered to the bills submitted amended so as to read that: "On and after the passage of this act no manufacturer of cigars shall be taxed for cigars consumed on the factory premises by the cigar makers employed in the actual fabrication or production of cigars, and the manufacturers themselves"—

And so forth.

The bill has been amended so as to meet that view. The only change from existing law is now found in the second proviso of the bill, which permits employees to use for their own consumption 21 cigars a week, or an average of 3 cigars a day. It seems to me the Secretary himself has practically said in his letter of March 11, 1912, that he has no objection to it.

Now, the contest, prior to October, 1911, by the cigar manufacturers was that for the whole time no Secretary of the Treasury or Commissioner of Internal Revenue had undertaken to enforce a tax on cigars used by employees. The Commissioner of Internal Revenue at that time, Mr. Cabell, took the position that they ought to be taxed, and a friendly suit was brought, which, so far as I know, has not yet been determined.

This bill was introduced to avoid the payment of the internal-revenue tax in case it should be held that they could, under existing law, be forced to pay this tax, inasmuch as it was not anything out of which the manufacturers would reap any benefit and was something which in the nature of things they had to yield to to satisfy their employees. As I have said, the proposition seems not to have met with any objection on the part of the Secretary of the Treasury, as I gather from his letter as it appears in the House report upon this bill. In view of that statement and in view of the fact that the bill has been reported by the Ways and Means Committee of the House and by the Finance Committee of the Senate, if the Senator from Utah could allow this bill, which has remained upon the calendar for some considerable time, to be acted upon now, I do not feel that either the Secretary of the Treasury or any one else would have the right to complain of it.

Mr. SMOOT. I appreciate the position of the Senator, but for reasons already stated I shall have to object to the consideration of the bill.

The PRESIDING OFFICER. Under objection the bill goes over.

VALIDATION OF CERTAIN HOMESTEAD ENTRIES.

The bill (S. 7568) to validate certain homestead entries was considered as in Committee of the Whole. It provides that all pending homestead entries made in good faith prior to September 1, 1911, under the provisions of the enlarged homestead laws, by persons who before making such enlarged homestead entry had acquired title to land under the homestead laws and therefore were not qualified to make an enlarged homestead entry, shall be validated, if in all other respects regular, in all cases where the original homestead entry was for less than 160 acres of land.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LANDS IN TIMBER LAKE AND DUPREE, S. DAK.

The bill (H. R. 45) affecting the town sites of Timber Lake and Dupree, in South Dakota, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

VEHICLES IN THE DISTRICT OF COLUMBIA.

The bill (S. 6919) to amend subchapter 2 of chapter 19 of the Code of Law for the District of Columbia was considered as in Committee of the Whole.

The bill had been reported from the Committee on the District of Columbia with amendments, on page 1, line 6, after the word "Any," to strike out "chauffeur or other"; in line 10, after the word "building," to strike out "or place"; and on page 2, line 3, after the word "shall," to strike out "suffer imprisonment for not less than 1 nor more than 10 years" and insert "be punished by a fine not exceeding $1,000 or imprisonment not exceeding five years, or both such fine and imprisonment," so as to make the bill read:

Be it enacted, etc., That the Code of Law for the District of Columbia be amended by adding to subchapter 2 of chapter 19 the following section:

SEC. 826b. Unauthorized use of vehicles.—Any person who, without the consent of the owner, shall take, use, operate, or remove, or cause to be taken, used, operated, or removed from a garage, stable, or other building, or from any place or locality on a public or private highway, park, parkway, street, lot, field, inclosure, or space, an automobile or motor vehicle, and operate or drive, or cause the same to be operated or driven, for his own profit, use, or purpose, shall be punished by a fine not exceeding $1,000 or imprisonment not exceeding five years, or both such fine and imprisonment.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time and passed.

EXTENSION OF CERTAIN HIGHWAYS.

The bill (S. 7509) to authorize the extension of Twenty-fifth Street SE. and White Place, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PHOSPHATE AND OIL LANDS IN IDAHO.

The bill (S. 7638) to provide for State selections on phosphate and oil lands was considered as in Committee of the Whole.

Mr. BRISTOW. It seems to me that this is rather an unusual bill, Mr. President.

Mr. SMOOT. No. Such a bill has been passed heretofore for every State in the West.

Mr. BRISTOW. It has?

Mr. SMOOT. It applies to lands that have been withdrawn for oil or phosphate, and under the law of withdrawal people can not homestead these lands. This gives a homesteader a right to homestead those lands, reserving to the Government the phosphate or oil there may be under them.

The bill had been reported from the Committee on Public Lands with amendments.

The first amendment was, in section 1, on page 1, line 6, after the word "shall," to insert "if otherwise available under existing laws," so as to make the section read:

That from and after the passage of this act unreserved public lands of the United States in the State of Idaho which have been withdrawn or classified as phosphate or oil lands or are valuable for phosphates or oil shall, if otherwise available under existing laws, be subject to selection by the State of Idaho under indemnity and other land grants made to it by Congress, whenever such selections shall be made with a view of obtaining or passing title, with a reservation to the United States of the phosphates and oil in such lands and of the right to prospect for, mine, and remove the same.

The amendment was agreed to.

The next amendment was, on page 2, to strike out section 3 and insert in lieu thereof the following:

SEC. 3. That upon satisfactory proof of full compliance with the provisions of the laws under which selection is made and this act, the State shall, upon approval of the selection by the Secretary of the Interior, be entitled to have the lands certified to it, with a reservation to the United States of all the phosphates and oil in the land so certified, together with the right in the United States, or persons authorized by them, to prospect for, mine, and remove the same; but before any person shall be entitled to enter upon the lands certified for the purpose of prospecting, mining, or removing phosphates or oil therefrom he shall furnish, subject to approval by the Secretary of the Interior, a bond or undertaking as security for the payment of all damages to the crops and improvements on said lands by reason of such prospecting for and removal of phosphates or oil. The reserved phosphate and oil deposits in approved selections under this act shall not be subject to exploration or entry other than by the United States, except as hereinafter authorized by Congress.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PENSIONS AND INCREASE OF PENSIONS.

The bill (H. R. 27062) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, was considered as in Committee of the Whole. The bill had been reported from the Committee on Pensions with amendments.

The first amendment was, on page 2, after line 16, to strike out:

The name of Narcisse Menard, helpless and dependent son of John Menard, who served under the name of John Miner, late of Company I, One hundred and twenty-third Regiment New York Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 4, line 13, after the word "Tennessee," to strike out "Mounted," and in the same line, after the word "Volunteer," to insert "Mounted," so as to make the clause read:

The name of John Howell, late of Company H, Second Regiment Tennessee Volunteer Mounted Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 5, after line 2, to strike out:

The name of Julia A. Ferber, former widow of Richard Kershaw, late of Companies K and G, Sixteenth Regiment Wisconsin Volunteer Infantry, and Company F, Fourth Regiment United States Veteran Infantry, and pay her a pension at the rate of $20 per month.

The amendment was agreed to.

The next amendment was, on page 7, line 19, before the name "Brandau," to strike out the initial "A." and insert "C.," and in line 20, after the name "Gustavus," to strike out the initial "A." and insert "R.," so as to make the clause read:

The name of Charlotte C. Brandau, widow of Gustavus R. Brandau, surgeon Eleventh Regiment Tennessee Volunteer Cavalry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 7, after line 22, to strike out:

The name of Sarah J. Kelley, widow of Curtis Kelley, late of Company C, Eleventh Regiment New Jersey Infantry, and the Fifty-seventh Company, Second Battalion Veteran Reserve Corps, and pay her a pension at the rate of $20 per month.

The amendment was agreed to.

The next amendment was, on page 9, line 3, before the word "widow," to insert "former," so as to make the clause read:

The name of Frances A. Ginther, former widow of Sidney Ginther, late of Company D, Eighty-eighth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 10, after line 12, to strike out:

The name of Phoebe Cosgriff, widow of James Cosgriff, late of Company A, Twelfth Regiment Missouri Volunteer Cavalry, and of Detachment Veteran Reserve Corps, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 10, line 22, after the word "Regiment," to insert "United States Reserve Corps"; and in line 23, after the word "Infantry," to strike out "and United States Reserve Corps," so as to make the clause read:

The name of Conrad Oppermann, late of Company I, First Regiment United States Reserve Corps, Missouri Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 11, line 2, before the word "late," to strike out the name "Johnston" and insert "Johnson," so as to make the clause read:

The name of Emily S. Hewett, former widow of Cyrus P. Johnson, late of Company C, Sixth Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 11, after line 8, to strike out:

The name of John Jeffery, late of Company B, Twenty-fifth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 12, after line 12, to strike out:

The name of Sue B. Merrill, widow of Sherman M. Merrill, chaplain, One hundred and seventy-seventh Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 13, line 19, before the words "per month," to strike out "$36" and insert "$24," so as to make the clause read:

The name of David W. Weston, late of Company G, Second Regiment Vermont, Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 14, line 13, after the word "Company," to strike out the letter "D" and insert "B," so as to make the clause read:

The name of George Duphorn, late of Company B, Sixty-third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 15, line 5, before the word "Cavalry," to strike out "Militia" and insert "Volunteer," so as to make the clause read:

The name of Isaac D. Combs, late of Company D, Sixth Regiment Missouri Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 17, after line 4, to strike out:

The name of James F. Conway, late of Company K, Thirteenth Regiment New York State Militia Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, at the top of page 18, to strike out:

The name of Dorcas Cuppy, former widow of William Quigg, late of Company F, Fifth Regiment Pennsylvania Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 19, after line 9, to strike out:

The name of Anna Bishop, former widow of James D. Ross, late of Company I, Eighty-third Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 19, line 19, before the word "Volunteer," to strike out "Mounted," and in the same line, after the word "Volunteer," to insert "Mounted," so as to make the clause read:

The name of Drury Craig, late of Company H, Third Regiment North Carolina Volunteer Mounted Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 20, line 12, after the word "receiving," to insert "*Provided*, That in the event of the death of Edward Faulder, helpless and dependent child of said Cyrenus Faulder, the additional pension herein granted shall cease and determine," so as to make the clause read:

The name of Mary E. Faulder, widow of Cyrenus Faulder, late of Company C, Seventy-first Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Edward Faulder, helpless and dependent child of said Cyrenus Faulder, the additional pension herein granted shall cease and determine.

The amendment was agreed to.

The next amendment was, on page 23, line 2, before the word "Volunteer," to strike out "Mounted," and in the same line, after the word "Volunteer," to insert "Mounted," so as to make the clause read:

The name of John H. Slatton, late of Company K, Fourth Regiment Kentucky Volunteer Mounted Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The amendment was agreed to.

The next amendment was, on page 23, line 18, after the word "late," to strike out "of" and insert "first lieutenant and adjutant," so as to make the clause read:

The name of Ella Scott, widow of Joseph P. Scott, late first lieutenant and adjutant Second Regiment Wisconsin Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 24, after line 16, to strike out:

The name of Margaret Berg, widow of Frank J. Berg, late of Company D, Ninth Regiment Illinois Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 27, after line 12, to strike out:

The name of Margaret Scanlon, widow of John Scanlon, late of Company H, First Regiment United States Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The next amendment was, on page 31, line 23, before the words "per month," to strike out "$24" and insert "$12," and in the same line, after the word "month," to strike out "in lieu of that he is now receiving," so as to make the clause read:

The name of John W. Morse, late of Company G, One hundred and ninety-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The amendment was agreed to.

The next amendment was, on page 32, line 12, after the word "Volunteer," to strike out "Infantry" and insert "Cavalry," so as to make the clause read:

The name of Daniel H. Rankin, late of Company C, Thirteenth Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time and passed.

The bill (S. 8034) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors was considered as in Committee of the Whole. It proposes to pension the following persons at the rates per month stated:

Ellen B. Kittredge, widow of Perry Kittredge, late hospital steward, Third Regiment New Hampshire Volunteer Infantry, $20.

Thomas W. Dickey, late scout, United States Army, $12.

Mary E. McDermott, widow of John E. McDermott, late captain Company G, One hundred and eighth Regiment Illinois Volunteer Infantry, $20.

Henry Frink, late of Company I, Eighteenth Regiment Connecticut Volunteer Infantry, $30.

Christian C. Bradymeyer, late of Company E, Seventieth Regiment Indiana Volunteer Infantry, $36.

George M. Pierce, late of Company I, Second Regiment New York Volunteer Cavalry, $30.

Joseph C. Trickey, late of Company B, First Regiment Maine Volunteer Heavy Artillery, $30.

James M. Kinnaman, late of Company G, Twelfth Regiment Indiana Volunteer Infantry, $30.

Addie Roof, widow of Daniel P. Roof, late of Twenty-first Battery, Indiana Volunteer Light Artillery, $12.

Leeman Underhill, late of Company D, First Regiment Wisconsin Volunteer Heavy Artillery, $40.

Charles W. Morgan, late of Company E, Tenth Regiment West Virginia Volunteer Infantry, $30.

Alphonso L. Stasy, late of Company G, Twenty-first Regiment Massachusetts Volunteer Infantry, $50.

Jeramiah Lushbough, late of Company I, One hundred and fourteenth Regiment Illinois Volunteer Infantry, $30.

James B. Sales, late of Company C, Eighty-eighth Regiment Ohio Volunteer Infantry, $24.

Mary E. Rikard, widow of James M. Rikard, late of Company B, First Regiment Alabama Volunteer Cavalry, and Company A, One hundred and forty-fifth Regiment Illinois Volunteer Infantry, $24: *Provided*, That in the event of the death of Minnie V. Rikard, helpless and dependent child of said James M. Rikard, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Mary E. Rikard the name of the said Minnie V. Rikard shall be placed on the pension roll at $12, from and after the date of death of said Mary E. Rikard.

Margaret H. Benjamin, widow of Edson A. Benjamin, late of the U. S. S. *Ohio*, United States Navy, $20.

Benjamin F. Ferris, late of Company K, Fifty-eighth Regiment Pennsylvania Volunteer Infantry, $50.

Hiram Ferrier, late of Company G, Sixty-seventh Regiment Pennsylvania Volunteer Infantry, $50.

Henry B. Leach, late of Company I, Sixty-sixth Regiment Indiana Volunteer Infantry, $36.

John Bell, late of Company I, Twelfth Regiment Wisconsin Volunteer Infantry, $24.

Elizabeth Lile, widow of Lewis Lile, late of Company C, Tenth Regiment Kansas Volunteer Infantry, $20.

George M. Conner, late of Companies F and M, First Regiment Vermont Volunteer Cavalry, $30.

Lola B. Hendershott and Louise Hendershott, helpless and dependent children of Henry B. Hendershott, late captain, Second Regiment United States Artillery, and major, United States Army, retired, and pay each of said children a pension of $12.

Daniel H. Grove, late of Company H, Sixty-fourth Regiment Illinois Volunteer Infantry, $30.

Charlotte R. Coe, widow of Edward D. Coe, late second lieutenant Company B, First Regiment Alabama Volunteer Cavalry, $20.

Caroline M. Packard, widow of William H. Packard, late of Company G, First Regiment, and Company E, Eleventh Regiment Rhode Island Volunteer Infantry, $20.

Benjamin C. Smith, late of Company A, One hundred and fifth Regiment Pennsylvania Volunteer Infantry, $36.

George R. Griffith, late second lieutenant Company B, Two hundred and eleventh Regiment Pennsylvania Volunteer Infantry, $24.

Rolly Wright, late of Battery A, First Regiment West Virginia Volunteer Light Artillery, $30.

Charles J. Higgins, late of Company C, First Regiment Maine Volunteer Cavalry, and Eighty-first Company, Second Battalion, Veteran Reserve Corps, $30.

Joseph Letzkus, late of Company G, First Regiment West Virginia Volunteer Infantry, $30.

Israel H. Phillips, late of Company C, Ninety-seventh Regiment Illinois Volunteer Infantry, $30.

John E. Woodward, late captain Company F, Eighteenth Regiment Connecticut Volunteer Infantry, $40.

Josephine A. Davis, former widow of James H. Sackett, late of Company K, Ninth Regiment Minnesota Volunteer Infantry, $12.

Osmer C. Coleman, late of Company D, One hundred and eightieth Regiment Ohio Volunteer Infantry, $24.

Hugh McLaughlin, late of Company F, Seventh Regiment Minnesota Volunteer Infantry, $30.

Joseph Striker, late of Company E, Eighty-third Regiment Indiana Volunteer Infantry, $30.

Mary Glancey, widow of James Glancey, late of Company D, Ninth Regiment Connecticut Volunteer Infantry, $20.

Joby A. Howland, late of Company F, Fifty-first Regiment Indiana Volunteer Infantry, $24.

Andrew King, late of Company A, Sixth Regiment West Virginia Volunteer Infantry, $30.

Mary S. Hull, widow of John P. Hull, late of Company C, Seventeenth Regiment Illinois Volunteer Cavalry, $20.

Sarah E. Haskins, widow of John A. Haskins, late of Company D, First Regiment Connecticut Volunteer Heavy Artillery, $20.

Ira Walde, late of Company I, Sixth Regiment Iowa Volunteer Cavalry, $50.

Ellis C. Howe, late of Company D, Fifty-third Regiment Pennsylvania Volunteer Infantry, $40.

Thomas M. Dixon and Joanna L. Dixon, helpless and dependent children of Barton S. Dixon, late captain Company F, Eighth Regiment Kentucky Volunteer Infantry, $12.

Solomon Wilburn, late of Company H, Thirty-second Regiment Kentucky Volunteer Infantry, $24.

William O. Sutherland, late of Company A, Eighth Regiment Michigan Volunteer Infantry, and Company B, Battalion United States Engineers, $30.

Annie H. Ross, widow of D. Laning Ross, late of U. S. S. *Peri*, United States Navy, $12.

John Dixon, late of Company A, Fiftieth Regiment Indiana Volunteer Infantry, $30.

Arnold Bloom, late of Company K, Forty-second Regiment Pennsylvania Volunteer Infantry, $30.

John D. Perkins, late of Company B, Second Regiment, and Company F, Twenty-ninth Regiment, Maine Volunteer Infantry, $30.

William Harrison, late of Company H, Twenty-sixth Regiment Indiana Volunteer Infantry, $30.

Sarah E. Johnson, widow of Absalom Y. Johnson, late lieutenant colonel Twenty-eighth Regiment Kentucky Volunteer Infantry, and colonel Seventh Regiment Veteran Reserve Corps, $20.

Willis Dobson, late of Company B, Fiftieth Regiment, and Company A, Fifty-second Regiment, Indiana Volunteer Infantry, $30.

Zachariah T. Fortner, late of Company G, Fifty-third Regiment Kentucky Volunteer Infantry, $30.

Jesse A. Moore, late of Company H, Sixth Regiment Illinois Volunteer Cavalry, $30.

James Moynahan, late second lieutenant Company B, and first lieutenant Company D, Twenty-seventh Regiment Michigan Volunteer Infantry, $36.

Dustin Berrow, late of Company F, First Regiment United States Volunteer Sharpshooters, and Company G, Fourth Regiment Vermont Volunteer Infantry, $36.

Sarah J. Viall, widow of Horace T. Viall, jr., late of Company B, Second Regiment Rhode Island Volunteer Infantry, $20.

James Luther Justice, late of Company L, Twentieth Regiment New York Volunteer Cavalry, $30.

Mary A. Crocker, widow of George A. Crocker, late captain Company A, Sixth Regiment New York Volunteer Cavalry, $20.

Winfield S. McGowan, late of Company B, Eighth Regiment New Jersey Volunteer Infantry, $30.

Martha J. Stephenson, widow of Ferdinand D. Stephenson, late captain Company B, Forty-eighth Regiment, and colonel One hundred and fifty-second Regiment, Illinois Volunteer Infantry, $30.

George E. Smith, late of Company B, First Regiment Rhode Island Volunteer Light Artillery, $24.

Roscoe B. Smith, late of Company I, Fifteenth Regiment Maine Volunteer Infantry, $24.

Mate Fulkerson, widow of Alexander C. Fulkerson, late of Company A, Seventy-sixth Regiment Pennsylvania Volunteer Infantry, $12.

Fred D. Bryan, late of Company C, Thirtieth Regiment Michigan Volunteer Infantry, $24.

Ada M. Wade, widow of Charles O. Wade, late of Company I, Seventh Regiment Michigan Volunteer Infantry, and Companies I and L, Second Regiment Missouri Volunteer Cavalry, $12.

Charlotte M. Snowball, widow of Edwin R. Snowball, late of Company C, Second Regiment California Volunteer Infantry, $24: *Provided*, That in the event of the death of Franklin M. Snowball, helpless and dependent child of said Edwin R. Snowball, the additional pension herein granted shall cease and determine.

Albert White, late of Company H, Seventeenth Regiment United States Infantry, $36.

William W. Lane, late of Company B, Thirty-fourth Regiment Iowa Volunteer Infantry, $50.

Lydia M. Jacobs, widow of William H. Jacobs, late of Company G, Thirty-ninth Regiment Massachusetts Volunteer Infantry, $12.

Albert Burgess, late of Company C, Seventeenth Regiment Illinois Volunteer Cavalry, $30.

Rosa L. Couch, widow of Simon A. Couch, late first lieutenant Company D, Thirteenth Regiment Wisconsin Volunteer Infantry, $20.

John Cook, alias Joseph Moore, late of Company C, Sixth Regiment New Hampshire Volunteer Infantry, $36.

Amanda Barrett, former widow of Austin M. Kay, late of Company B, Ninth Regiment New Hampshire Volunteer Infantry, and Ninety-first Company, Second Battalion Veteran Reserve Corps, $12.

Alvah S. Howes, late of Company H, Sixtieth Regiment New York Volunteer Infantry, $50.

George C. Rider, late of Company G, Forty-fourth Regiment New York Volunteer Infantry, and Company G, Eighteenth Regiment New York Volunteer Cavalry, $40.

Charles C. Littlefield, late of Company D, Forty-sixth Regiment Massachusetts Militia Infantry, $30.

Martha Dye, widow of John H. Dye, late of Company H, Fourteenth Regiment, and Company M, Eighth Regiment Missouri State Militia Cavalry, $20.

Carrie Hitchcock, widow of James W. Hitchcock, late captain Company K, Thirty-seventh Regiment Wisconsin Volunteer Infantry, $20.

Sarah McLaury, widow of George S. McLaury, late of Company I, One hundred forty-fourth Regiment New York Volunteer Infantry, $12.

William H. Frederick, late of Company F, First Regiment Ohio Volunteer Light Artillery, $24.

Joseph D. Iler, late of Company K, One hundred and thirty-first Regiment Ohio Volunteer Infantry, $50.

Rodney S. Vaughan, late of Company A, Sixteenth Regiment New York Volunteer Cavalry, and Company C, Ninety-first Regiment New York Volunteer Infantry, $30.

Isaac A. Sharp, late of Company G, Eighth Regiment Indiana Volunteer Infantry, $24.

Turner S. Bailey, late of Company A, Third Regiment Iowa Volunteer Infantry, $50.

Alpheus K. Rodgers, late of Company B, One hundred and forty-second Regiment Indiana Volunteer Infantry, $30.

Christina Higgins, widow of Asa T. Higgins, late of Company B, Twenty-fourth Regiment Massachusetts Volunteer Infantry, $20.

Josiah B. Hall, late of Company B, Fifty-seventh Regiment Massachusetts Volunteer Infantry, $50.

Ellen Tyson, former widow of Almon B. Gardner, late of Company B, Forty-sixth Regiment Wisconsin Volunteer Infantry, $12.

William Hoover, late of Company G, Fifth Regiment Minnesota Volunteer Infantry, $30.

Abby E. Carpenter, widow of Charles A. Carpenter, late first lieutenant Company H, Twenty-ninth Regiment Massachusetts Volunteer Infantry, $20.

Sarah Gross, widow of Henry S. Gross, late assistant surgeon, Twenty-sixth Regiment Pennsylvania Volunteer Infantry, $20.

Nelson Taylor, late of Company K, One hundred and second Regiment Illinois Volunteer Infantry, $30.

Carrie Crockett, widow of Hugh T. Crockett, late of Company A, Forty-sixth Regiment Indiana Volunteer Infantry, $20.

Lucy H. Collins, widow of Oscar Collins, late of Company L, Third Regiment Ohio Volunteer Cavalry, $20.

Royal H. Stevens, late of Company A, First Regiment Michigan Volunteer Infantry, and first lieutenant Company B, First Regiment Michigan Veteran Volunteer Infantry, $30.

Araminta G. Sargent, widow of George G. Sargent, late of Company C, Seventy-fourth Regiment Ohio Volunteer Infantry, $20.

Sidney P. Jones, late of Company B, Twelfth Regiment Indiana Volunteer Cavalry, $30.

Ann T. Smith, widow of William W. Smith, late captain Company G, Twenty-fourth Regiment Iowa Volunteer Infantry, $20.

Ellen E. Clark, widow of John Clark, late of Company I, Twenty-first Regiment Iowa Volunteer Infantry, and former widow of Joseph Kirk, late of Company B, One hundredth Regiment Pennsylvania Volunteer Infantry, $12.

Sarah B. Paden, widow of Thomas F. Paden, late of Company A, Third Regiment Pennsylvania Volunteer Heavy Artillery, $20.

Edmund P. Banning, late second lieutenant of Marines, U. S. S. *Powhatan*, United States Navy, $36.

Winchester E. Moore, late acting third assistant engineer, United States Navy, $24.

Mary P. Pierce, widow of Edwin S. Pierce, late lieutenant colonel, Third Regiment Michigan Volunteer Infantry, $24.

John B. Ladeau, late of Company D, First Regiment Vermont Volunteer Heavy Artillery, $50.

Christopher P. Brown, late of Company D, Second Regiment Vermont Volunteer Infantry, $50.

Allen Price, late of Company F, Tenth Regiment Tennessee Volunteer Infantry, $24.

Delphine R. Burritt, widow of Loren Burritt, late major, Eighth Regiment United States Colored Volunteer Infantry, $35.

Mr. McCUMBER. On page 20, in line 19, I move to strike out the word "him" and insert in lieu thereof the word "her." I have information, which has been filed since this item was considered, justifying me in asking that in line 20, page 20, the sum "$35" should be stricken out and "$40" inserted in lieu thereof; and in the same line the word "he" should be stricken out and the word "she" substituted.

The PRESIDING OFFICER. The amendments will be stated.

The SECRETARY. On page 20, line 19, it is proposed to strike out "him" and insert "her"; in line 20 to strike out "$35" and insert "$40"; and in the same line to strike out "he" and insert "she," so as to read:

The name of Delphine R. Burritt, widow of Loren Burritt, late major, Eighth Regiment United States Colored Volunteer Infantry, and pay her a pension at the rate of $40 per month in lieu of that she is now receiving.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The bill (S. 8035) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, was considered as in Committee of the Whole. It proposes to pension the following persons at the rates per month stated:

Caroline M. Anthony, late nurse, Medical Department, United States Volunteers, War with Spain, $12.

Arthur F. Shepherd, late of Company H, First Regiment Nebraska Volunteer Infantry, War with Spain, $12.

Walter L. Donahue, late of Company I, Thirty-third Regiment Michigan Volunteer Infantry, War with Spain, $12.

Calvin R. Lockhart, late of Company G, Twenty-third Regiment United States Infantry, $16.

Albert J. Wallace, late of Company E, Tenth Regiment United States Infantry, War with Spain, $12.

Thomas M. F. Delaney, late of Company G, Fourth Regiment Wisconsin Volunteer Infantry, War with Spain, $24.

Joseph Hurd, late of Company G, First Regiment Maine Volunteer Infantry, War with Spain, $12.

John D. Sullivan, late of Company F, Third Regiment United States Volunteer Engineers, War with Spain, $46.

Mary E. Maher, widow of John A. Maher, late of Company D, First Regiment District of Columbia Volunteer Infantry, War with Spain, $12 per month and $2 per month additional on account of each of the minor children of the said John A. Maher until they reach the age of 16 years.

George W. James, late of Company E, Fourth Regiment United States Volunteer Infantry, War with Spain, $12.

George G. Thirlby, late of Company M, Thirty-fourth Regiment Michigan Volunteer Infantry, War with Spain, $24.

Lansing B. Nichols, late of Company C, First Regiment South Dakota Volunteer Infantry, War with Spain, $20.

Jacob Korby, late of Company C, Thirty-sixth Regiment United States Volunteer Infantry, War with Spain, $10.

John J. Ledford, late of Company F, Fouth Regiment Missouri Volunteer Infantry, War with Spain, $24.

Deborah H. Riggs, widow of Ashley C. Riggs, late of Capt. James M. Morgan's company, Iowa Mounted Volunteers, War with Mexico, $12.

Elmer E. Rose, late of Companies I and H, Twenty-third Regiment United States Infantry, War with Spain, $12.

Cyrenius Mulkey, late of Capt. Bailey's Company A, Second Regiment Oregon Mounted Volunteers, $16.

Patrick J. Whelan, late of Company E, First Regiment Connecticut Volunteer Infantry, War with Spain, $17.

John F. Burton, late of Company B, Fifth Regiment Missouri Volunteer Infantry, War with Spain, $16.

Ephraim W. Baughman, late of Capt. Nathan Olney's Company B, Oregon Volunteers, Oregon and Washington Territory Indian War, $16.

James J. Blevans, late of Company B, Second Regiment Oregon Mounted Volunteers, Oregon and Washington Territory Indian war, $16.

Henry H. Woodward, late of Capt. Chapman's Company I, Second Regiment Oregon Mounted Volunteers, Rogue River Indian war, $16.

Bertie L. Wade, late of Company L, Twenty-second Regiment United States Infantry, $30.

Charlotte R. Wynne, widow of James W. Wynne, late of Capt. Blackmore's company, First Regiment Tennessee Volunteer Infantry, War with Mexico, $20.

Otto Weber, late of Company B, Sixteenth Regiment United States Infantry, War with Spain, $16.

Carl W. Carlson, late of Company B, Third Regiment United States Volunteer Cavalry, War with Spain, $20.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOSHUA H. HUTCHINSON.

The bill (H. R. 25515) for the relief of Joshua H. Hutchinson was considered as in Committee of the Whole. It authorizes the Secretary of the Interior to issue a patent to Joshua H. Hutchinson for the land embraced in his homestead entry, serial No. 02245, Susanville, Cal., for the east half of the southwest quarter and the west half of the southeast quarter of section 33, township 43 north, range 17 east, Mount Diablo meridian, upon submission of proof of residence upon and improvement and cultivation of the land as required by the homestead laws.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HEIRS OF ANNA M. TORESON.

The bill (H. R. 22437) for the relief of the heirs of Anna M. Toreson, deceased, was considered as in Committee of the Whole. It directs the Secretary of the Interior to restore to public entry a certain parcel of land in Modoc County, Susanville land district, State of California, and to issue therefor to the heirs of Anna M. Toreson, deceased, a patent.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

TOWN SITES ON HARBORS, ETC.

The bill (S. 7294) to amend sections 2380 and 2381, Revised Statutes of the United States, was considered as in Committee of the Whole. It proposes to amend the sections referred to so as to read as follows:

SEC. 2380. The President is authorized to reserve from the public lands, whether surveyed or unsurveyed, town sites on the shores of harbors, at the junction of rivers, important portages, or any natural or prospective centers of population; also lands having a particular value for subdivision into villa sites at places suitable for resort by persons seeking pleasure, recreation, or health.

SEC. 2381. When, in the opinion of the President, the public interests require it, it shall be the duty of the Secretary of the Interior to cause any of such reservations or part thereof to be surveyed into urban, suburban, or villa lots of suitable size, and to fix by appraisement of disinterested persons their cash value, and to offer the same for sale at public outcry to the highest bidder, and thence afterwards the unsold lots to be held subject to sale at private entry according to such regulations as the Secretary of the Interior may prescribe; but no lot shall be disposed of at public sale or private entry for less than the appraised value thereof; and all such sales shall be conducted by the register and receiver of the land office in the district in which the reservations may be situated, in accordance with the instructions of the Commissioner of the General Land Office.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

FORT BIDWELL (CAL.) PEOPLE'S CHURCH ASSOCIATION.

The bill (H. R. 25878) granting certain lands for a cemetery to the Fort Bidwell People's Church Association, of the town of Fort Bidwell, State of California, and for other purposes, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PETACA LAND GRANT, NEW MEXICO.

The bill (S. 7385) to relinquish the claim of the United States against the grantees, their legal representatives, and assigns, for timber cut on Petaca land grant, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

NATIONAL AERODYNAMICAL LABORATORY.

The bill (S. 8053) to authorize the creation of a temporary commission to investigate and make recommendation as to the necessity or desirability of establishing a national aerodynamical laboratory and prescribing the duties of said commission, and providing for the expenses thereof, was announced as next in order.

Mr. SMOOT. The Senator reporting this bill is not present. No doubt many Senators would like to ask the Senator questions in relation to the policy outlined in the bill. I therefore ask that it may go over.

The PRESIDING OFFICER. The bill goes over.

Mr. GALLINGER subsequently said: I was called from the Chamber when some bills were acted on. I wish to inquire what became of the bill (S. 8053) to authorize the creation of a temporary commission to investigate and make recommendation as to the necessity or desirability of establishing a national aerodynamical laboratory, and so forth?

The PRESIDING OFFICER. The bill went over under objection.

Mr. GALLINGER. I trust that the objection will be withdrawn. This is a very simple matter. The President has appointed a commission corresponding to commissions that almost every other country in the world has in existence, and it is only to be continued until the 4th day of March next. It is simply an appropriation of $5,000, and I hope that the objection will be withdrawn.

Mr. SMOOT. I notice that the commission has already been appointed, and I also call to mind that there was an appropriation made in the appropriation act of $5,000 for this particular purpose. I therefore withdraw my objection.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WATER SUPPLY OF COLORADO SPRINGS, ETC.

The bill (H. R. 23293) for the protection of the water supply of the city of Colorado Springs and the town of Manitou, Colo., was announced as next in order.

Mr. SMOOT. Personally I have no objection to this bill, but I know there are Senators who wish to be present when it is considered, and, as there are very few here now, I ask that it go over.

The PRESIDING OFFICER. The bill goes over.

OIL LANDS IN WYOMING.

The bill (S. 7746) to provide for agricultural entry of oil lands was considered as in Committee of the Whole.

The bill was reported from the Committee on Public Lands with amendments, on page 2, line 14, after the word "made," to insert "but shall receive the limited patent provided for in this act," and, on page 3, after line 2, to strike out: "SEC. 3. That upon satisfactory proof of full compliance with the provisions of the laws under which entry is made and of this act the entryman shall be entitled to a patent to the land entered by him, which patent shall contain a reservation to the United States of all the oil and gas in the lands so patented, together with the right to prospect for, mine, and remove the same upon rendering compensation to the patentee for all damages that may be caused by prospecting for and removing such oil or gas. The reserved oil and gas deposits in such lands shall be disposed of only as shall be hereafter expressly directed by law," and insert: "SEC. 3. That upon satisfactory proof of full compliance with the provisions of the laws under which entry, selection, or location is made, and of this act, the applicant shall be entitled to a patent or certification to the lands entered or selected, with a reservation to the United States of all the oil or gas in the lands so patented or certified, together with the right, in the United States or persons authorized by it, to prospect for, mine, and remove the same; but before any person shall be entitled to enter upon the lands patented or certified for the purpose of prospecting, mining, or removing oil or gas therefrom, he shall furnish, subject to approval by the Secretary of the Interior, a bond or undertaking as security for the payment of all damages to the crops and improvements on said lands by reason of such prospecting for and removal of oil or gas. The reserved oil and gas deposits in lands patented or certified under this act shall not be subject to exploration or entry, other than by the United States, except as hereinafter authorized by Congress," so as to make the bill read:

Be it enacted, etc., That from and after the passage of this act unreserved public lands of the United States in the State of Wyoming, which have been withdrawn or classified as oil lands, or are valuable for oil, shall be subject to appropriate entry under the homestead laws by actual settlers only, the desert-land law, to selection by the State

of Wyoming under grants made by Congress and under section 4 of the act approved August 18, 1894, known as the Carey Act, and to withdrawal under the act approved June 17, 1902, known as the reclamation act, and to disposition in the discretion of the Secretary of the Interior under the law providing for the sale of isolated or disconnected tracts of public lands, whenever such entry, selection, or withdrawal shall be made with a view of obtaining or passing title, with a reservation to the United States of the oil and gas in such lands and of the right to prospect for, mine, and remove the same. But no desert entry made under the provisions of this act shall contain more than 160 acres: *Provided*, That those who have initiated nonmineral entries, selections, or locations in good faith, prior to the passage of this act, on lands withdrawn or classified as oil lands, may perfect the same under the provisions of the laws under which said entries were made, but shall receive the limited patent provided for in this act.

SEC. 2. That any person desiring to make entry under the homestead laws or the desert-land law, and the State of Wyoming desiring to make selection under section 4 of the act of August 18, 1894, known as the Carey Act, or under grants made by Congress, and the Secretary of the Interior in withdrawing under the reclamation act lands classified as oil lands, or valuable for oil, with a view of securing or passing title to the same in accordance with the provisions of said acts, shall state in the application for entry, selection, or notice of withdrawal that the same is made in accordance with and subject to the provisions and reservations of this act.

SEC. 3. That upon satisfactory proof of full compliance with the provisions of the laws, etc.

The amendments were agreed to.

The bill was reported to the Senate as amended and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CERTAIN LANDS IN NEVADA.

The bill (S. 4994) to authorize the inclosure of certain lands in the State of Nevada containing dangerous quagmires was announced as next in order.

Mr. SMOOT. Let that bill go over.

The PRESIDING OFFICER. The bill goes over.

IMMIGRANT STATIONS.

The bill (H. R. 21220) to extend the power of the Commissioner of Immigration, subject to the approval of the Secretary of Commerce and Labor, was considered as in Committee of the Whole.

The bill was reported from the Committee on Immigration with amendments, on page 1, line 3, after the word "That," to insert "for the purpose of making effective"; on page 2, line 1, after the word "seven," to strike out "shall be, and the same is hereby, extended to the supervision of the transportation of aliens to their respective places of destination in the interior of the United States, and of their safe conduct upon arrival at such places, and the Secretary of Commerce and Labor may establish stations for the purpose of such supervision within the limits of the amount that may be appropriated for that purpose and subject to the terms and conditions of the act making such appropriations" and insert "the Secretary of Commerce and Labor shall establish and maintain immigrant stations at such interior places as may be necessary, and, in the discretion of the said Secretary, aliens in transit from ports of landing to such interior stations shall be accompanied by immigrant inspectors"; in line 20, after the words "nineteen hundred and," to strike out "thirteen" and insert "fourteen"; and at the top of page 3, to strike out "SEC. 3. That for succeeding years estimates of the appropriations necessary for the service hereby established shall be included in the estimates for the Immigration Service annually submitted to Congress," so as to make the bill read:

Be it enacted, etc., That for the purpose of making effective the power of establishing rules and regulations for protecting the United States and aliens migrating thereto from fraud and loss, conferred upon the Commissioner General of Immigration, subject to the direction and with the approval of the Secretary of Commerce and Labor, by section 22 of an act entitled "An act to regulate the immigration of aliens into the United States," approved February 20, 1907, the Secretary of Commerce and Labor shall establish and maintain immigrant stations at such interior places as may be necessary, and, in the discretion of the said Secretary, aliens in transit from ports of landing to such interior stations shall be accompanied by immigrant inspectors: *Provided*, That nothing in this act shall be construed as authorizing the Commissioner General of Immigration to pay the cost of transportation of any arriving alien.

SEC. 2. That for the establishment and maintenance of such a station in the city of Chicago for the fiscal year ending June 30, 1914, there is hereby authorized, from moneys in the Treasury not otherwise appropriated, the sum of $75,000, which shall be expended in such manner consistent with the purpose hereof as the Secretary of Commerce and Labor may direct.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

NEW JERSEY AND NEW YORK HARBOR LINE COMMISSION.

The joint resolution (H. J. Res. 210) authorizing the President to appoint a member of the New Jersey and New York Joint Harbor Line Commission, was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. LODGE. I move to strike out the preamble.

Mr. SMOOT. Let it be stricken out.

The PRESIDING OFFICER. Without objection, the preamble will be stricken out.

THEODORE N. GATES.

The bill (H. R. 3769) for the relief of Theodore N. Gates was considered as in Committee of the Whole. It provides that in the administration of the pension laws Theodore N. Gates, late of Company K, Twenty-fifth Regiment Massachusetts Volunteer Infantry, shall be held and considered to have been honorably discharged from the military service of the United States as a member of said company and regiment on the 29th day of September, 1863, but no pension shall accrue prior to the passage of this act.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

COOPER RIVER (S. C.) BRIDGE, ETC.

The bill (S. 7792) authorizing James Sottile, his heirs and assigns, to construct, maintain, and operate a bridge and approaches thereto across Cooper River, Charleston County, S. C., and also a bridge and approaches thereto across Shem Creek, Charleston County, S. C., was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

RESTORATION OF LANDS TO PUBLIC DOMAIN.

The bill (S. 5859) to amend section 3 of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1902, and for other purposes," approved March 3, 1901 (31 Stat. L., 1133), was considered as in Committee of the Whole. It proposes to amend section 3 of the act of Congress approved March 3, 1901 (31 Stat. L., 1133), so as to read:

That section 4 of the act of August 18, 1894, entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1895, and for other purposes," be, and the same is hereby, amended so that the 10-year period within which any State shall cause the lands applied for under said act to be irrigated and reclaimed, as provided in said section, as amended by the act of June 11, 1896, shall begin to run from the date of approval by the Secretary of the Interior of the State's application for the segregation of such lands; and if actual construction of reclamation works is not begun within three years after the segregation of the lands or within such further period not exceeding two additional years as shall be allowed by the Secretary of the Interior in his discretion, the said Secretary of the Interior may restore such lands to the public domain; and if the whole or any portion of the lands so segregated shall not be so irrigated and reclaimed within 10 years after the date of such segregation or within such further period as the Secretary of the Interior may, in his discretion, upon good cause shown, allow, not exceeding five additional years, the Secretary of the Interior may restore such lands or such part thereof to the public domain.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LANDS IN IMPERIAL COUNTY, CAL.

The bill (S. 6506) authorizing the State of California to select public lands in lieu of certain lands granted to it in Imperial County, Cal., was considered as in Committee of the Whole. It provides that the State of California, or its grantees, may, with the approval of the Secretary of the Interior, reconvey to the United States any of the lands heretofore granted to that State in the townships authorized to be resurveyed by the act of July 1, 1902 (32 Stat. L., p. 728), and select in lieu thereof an equal amount of vacant, unappropriated, surveyed, unreserved, nonmineral public lands within the State. But any application to select land under this act must be presented within three years from the date of its passage.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SIMON NAGER.

The bill (H. R. 18425) to remove the charge of desertion from the military record of Simon Nager was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment, to strike out all after the enacting clause and to insert:

That in the administration of the pension laws and the laws governing the National Home for Disabled Volunteer Soldiers, or any branch thereof, Simon Nager, who was a member of Company A, First Regiment United States Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as of said organization on the 1st day of May, 1864: *Provided*, That no pension or other emolument shall accrue or become payable prior to the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time, was read the third time, and passed.

The title was amended so as to read: "An act for the relief of Simon Nager."

GASOLINE MOTORS FOR LIFEBOATS.

The bill (H. R. 23001) to amend section 4472 of the Revised Statutes of the United States, relating to the carrying of dangerous articles on passenger steamers, was considered as in Committee of the Whole. It proposes to further amend section 4472 of the Revised Statutes of the United States, as amended by the act of March 3, 1905, and by the act of May 28, 1906, by substituting a colon for the period at the end of said section as amended and adding thereto the following proviso: "*Provided further*, That nothing in the foregoing or following sections of this act shall prohibit the use, by steam vessels carrying passengers for hire, of lifeboats equipped with gasoline motors, and tanks containing gasoline for the operation of said motor-driven lifeboats: *Provided, however*, That no gasoline shall be carried other than that in the tanks of the lifeboats: *Provided further*, That the use of such lifeboats equipped with gasoline motors shall be under such regulations as shall be prescribed by the board of supervising inspectors with the approval of the Secretary of Commerce and Labor."

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CONDEMNED CANNON FOR ARMY AND NAVY UNION.

The joint resolution (H. J. Res. 239) authorizing the Secretary of War to deliver a condemned cannon to the Army and Navy Union, United States of America, was considered as in Committee of the Whole. It authorizes the Secretary of War to deliver to the order of Charles H. Baxter, first vice president of the Army and Navy Union, United States of America, one dismounted bronze cannon used in the Civil War, to be used by the Army and Navy Union for the purpose of furnishing official badges of the order; but no expense shall be caused to the United States through the delivery of the condemned cannon.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CONTRACTORS FOR BUILDING OF BATTLESHIP INDIANA.

Mr. CRAWFORD. Having closed the calendar under Rule VIII, I move that the Senate now take up the bill (S. 4840) to carry into effect the judgment of the Court of Claims in favor of the contractors for building the U. S. battleship *Indiana*, that the report made by the Committee on Claims adversely be adopted, and the bill be indefinitely postponed.

Mr. SMOOT. Evidently there is not a quorum here.

Mr. CRAWFORD. We will have one, then. I suggest the absence of a quorum. I am not going to be played with on this bill, I will say to the Senator from Utah.

Mr. SMOOT. If the Senator will just wait a minute——

Mr. CRAWFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from South Dakota suggests the absence of a quorum, and the roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	du Pont	Myers	Root
Bourne	Gallinger	Nelson	Sanders
Brandegee	Gardner	Oliver	Shively
Bristow	Lodge	Page	Simmons
Catron	McCumber	Perkins	Smoot
Chilton	Martin, Va.	Perky	
Clapp	Martine, N. J	Pomerene	

The PRESIDING OFFICER. Twenty-six Senators have answered to their names. There is not a quorum present.

Mr. LODGE. I move that the Senate adjourn.

The motion was agreed to; and (at 3 o'clock and 58 minutes p. m.) the Senate adjourned until Monday, January 20, 1913, at 12 o'clock m.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January 18, 1913.*

The House met at 12 o'clock noon.

Rev. Earle Wilfley, pastor of the Vermont Avenue Christian Church, Washington, D. C., offered the following prayer:

Almighty and most merciful God, in whose hands are all things, we bow in Thy presence this morning, weak and needy, and ask Thee to supply all our needs. We pray Thee that Thou wilt direct us in thought and deed and help us to do this day some worthy thing. And to Thee shall be all the praise. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 8092. An act granting to the Emigration Canon Railroad Co., a corporation of the State of Utah, permission, in so far as the United States is concerned, to occupy for a right of way for its railroad track a certain piece of land now included in the Mount Olivet Cemetery, Salt Lake County, Utah;

S. 7639. An act to provide for the erection of a public building in the city of Bay City, in the State of Texas;

S. 3859. An act for the relief of Jacob M. Cooper;

S. 5861. An act to enjoin and abate houses of lewdness, assignation, and prostitution; to declare the same to be nuisances; to enjoin the person or persons who conduct or maintain the same and the owner or agent of any building used for such purpose; and to assess a tax against the person maintaining said nuisance and against the building and owner thereof;

S. 5378. An act releasing the claim of the United States Government to that portion of land, being a fractional block, bounded on the north and east by Bayou Cadet, on the west by Cevallos Street, and on the south by Intendencia Street, in the old city of Pensacola;

S. 5379. An act granting certain lands of the diminished Colville Indian Reservation in the State of Washington to the Washington Historical Society;

S. 7785. An act confirming titles of Deborah A. Griffin and Mary J. Griffiin, and for other purposes; and

S. 5377. An act releasing the claim of the United States Government to lot No. 306, in the old city of Pensacola.

The message also announced that the Senate had passed without amendment bill of the following title:

H. R. 22010. An act to amend the license law approved July 1, 1902, with respect to licenses of drivers of passenger vehicles for hire.

The message also announced that the Senate had passed with amendment bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 8619. An act to amend an act entitled "An act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes," approved May 7, 1906.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 8092. An act granting to the Emigration Canon Railroad Co., a corporation of the State of Utah, permission, in so far as the United States is concerned, to occupy for a right of way for its railroad track a certain piece of land now included in the Mount Olivet Cemetery, Salt Lake County, Utah; to the Committee on the Public Lands.

S. 7639. An act to provide for the erection of a public building in the city of Bay City, in the State of Texas; to the Committee on Public Buildings and Grounds.

S. 3859. An act for the relief of Jacob M. Cooper; to the Committee on Military Affairs.

S. 5861. An act to enjoin and abate houses of lewdness, assignation, and prostitution; to declare the same to be nuisances; to enjoin the person or persons who conduct or maintain the same and the owner or agent of any building used for such purpose; and to assess a tax against the person maintaining said nuisance and against the building and owner thereof; to the Committee on the District of Columbia.

S. 5378. An act releasing the claim of the United States Government to that portion of land, being a fractional block, bounded on the north and east by Bayou Cadet, on the west by

Cevallos Street, and on the south by Intendencia Street, in the old city of Pensacola; to the Committee on the Public Lands.

S. 5379. An act granting certain lands of the diminished Colville Indian Reservation, in the State of Washington, to the Washington Historical Society; to the Committee on Indian Affairs.

S. 7785. An act confirming titles of Deborah A. Griffin and Mary J. Griffin, and for other purposes; to the Committee on the Public Lands.

S. 5377. An act releasing the claim of the United States Government to lot No. 306 in the old city of Pensacola; to the Committee on the Public Lands.

THE LATE GEORGE H. UTTER, REPRESENTATIVE FROM RHODE ISLAND.

Mr. O'SHAUNESSY. Mr. Speaker, I ask unanimous consent for the consideration of the order which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the order.

The Clerk read as follows:

Mr. O'SHAUNESSY introduced the following order:

"*Ordered*, That Sunday, the 9th day of February, 1913, be set apart for addresses on the life, character, and public services of Hon. GEORGE H. UTTER, late a Representative from the State of Rhode Island."

The SPEAKER. Is there objection to the present consideration of this order? [After a pause.] The Chair hears none. The question is on agreeing to the order.

The order was agreed to.

ARMY APPROPRIATION BILL.

Mr. HAY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 27941, the Army appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 27941, the Army appropriation bill, with Mr. SAUNDERS in the chair.

The CHAIRMAN. The Committee of the Whole House on the state of the Union is in session for the further consideration of the bill H. R. 27941. The Clerk will read.

The Clerk read as follows:

For three months' additional pay to enlisted men reenlisting within the period of three months from date of discharge from first enlistment, $200,000.

Mr. ESCH. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Wisconsin [Mr. ESCH] moves to strike out the last word.

Mr. ESCH. I notice that about this same sum was carried in the last appropriation bill. In the appropriation bill for 1911 the amount was $247,000. I wish to inquire whether that indicates a less number of reenlistments, notwithstanding this inducement of three months' extra pay.

Mr. HAY. I suppose it does. This is the sum asked for by the War Department.

Mr. ESCH. The hearings give no explanation of the item?

Mr. HAY. No. We did not inquire whether more men were reenlisting than had been doing so before.

Mr. ESCH. The department considers it a wise policy to continue this bonus for reenlistment?

Mr. HAY. I think so. It is part of the law that increased the pay of enlisted men—the act of May, 1908—and it has to be provided for.

Mr. ESCH. I understand the law makes it compulsory?

Mr. HAY. Yes.

Mr. ESCH. I was wondering as to the general effect of the law.

Mr. HAY. I understand from the officers that they regard it as important as serving to induce men to reenlist.

Mr. ESCH. Mr. Chairman, I withdraw the pro forma amendment.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

For six months' additional pay to beneficiaries of officers and enlisted men who die while in active service from wounds or disease not the result of their own misconduct, $60,000.

Mr. COX. Mr. Chairman, I move to strike out the last word. I would like to ask the chairman of the committee in charge of this bill what class of relatives are next of kin; in other words, to whom is this paid—to the wives and mothers and fathers, or does it go down the line to brothers and sisters?

Mr. HAY. I will say to the gentleman that the law provides that the officer or soldier shall designate to whom this shall be paid.

Mr. COX. When he enlists?

Mr. HAY. Yes; when he enlists, and it is paid accordingly. I take it that it is paid either to the wife, mother, father, sister, or brother.

Mr. COX. To no one any further removed than those degrees of kindship?

Mr. HAY. I think not. The soldier is allowed to designate the person.

Mr. COX. What is the law to which the gentleman refers? I had an inquiry from one of my constituents about that recently.

Mr. HAY. It was passed on an appropriation bill several years ago.

Mr. COX. It is permanent law, is it?

Mr. HAY. Yes.

Mr. SLAYDEN. If the gentleman will look in the compilation of military laws, which he can get in three minutes, he can find it by reference to the index.

Mr. COX. I withdraw the pro forma amendment.

The Clerk read as follows:

For Porto Rico Regiment of Infantry, composed of two battalions of four companies each:
Pay of officers, $65,100.
For additional pay for length of service, $9,860.05.
Pay of enlisted men, $134,052.
Additional pay for length of service, $30,220.12.

Mr. ANTHONY. Mr. Chairman, I move to strike out the last word. I want to make a suggestion in regard to this item which covers the appropriation for the Porto Rico Regiment of Infantry, and to mention some legislation which, while it should not be considered at this time, will soon be necessary for this regiment, and something of the kind may soon be recommended to us by the War Department.

I recently had the pleasure of spending two weeks in the island of Porto Rico, and one of the things that struck me most favorably was the fact that we have down there a regiment of native Porto Ricans, organized into the military service of the United States, which is equal in point of appearance and evident soldierly qualities to any Infantry regiment I have ever seen in the United States service.

The work of bringing this regiment to its present state of efficiency has been done by American officers who were sent down there shortly after the Spanish War with the rank of captain. They have done their work faithfully and well, but these officers are unfortunately situated. Under the present law they can never hope to secure further advancement or promotion in the United States Army, although they are doing work similar to that which the other officers of similar rank and of no greater ability in the other regiments of the Army are doing.

The remedy that I propose is that the Porto Rico Regiment of Infantry shall be known as the Thirty-first Regiment of United States Infantry; that its regular complement of officers shall be placed upon the lineal list of the officers of the United States Army, the same as other officers of the Army; and that they shall have the same advantages of promotion and advancement. It would be only the fair and just thing to do, or at least the officers of the Porto Rico Regiment should have the opportunity of promotion to be field officers of their regiment instead of detailing field officers from other regiments, as is now the case.

When this regiment was organized we thought it was to be a temporary affair. We thought we were going to use it for a few years only, but Porto Rico is American territory. It will always be a part of the United States, and therefore the Porto Rico Regiment of Infantry should be known no longer as the Porto Rico Regiment, but as the Thirty-first Regiment of Infantry of the United States Army. The regiment should not be considered as local militia, but should in every respect be incorporated in our regular military establishment.

Mr. MANN. Why is the appropriation for this regiment less than the current law? What is the occasion for reducing it?

Mr. ANTHONY. I did not notice that there was any reduction.

Mr. MANN. There is a slight reduction in the pay of officers and a reduction of nearly $5,000 in the pay of enlisted men.

Mr. HAY. I will state to the gentleman that the reduction in the pay of officers is only $600, and the committee appropriated what was estimated for by the department.

Mr. MANN. I am not criticizing the committee in any way. I am just asking for information.

Mr. HAY. I understand that.

Mr. MANN. The pay of officers is reduced $600, and the appropriation for enlisted men is reduced $4,908.

Mr. HAY. I can only state that it was computed upon the number of officers, with their rank, and the number of enlisted men whom they expect to have during the fiscal year 1914.

Mr. MANN. I apprehended that was true, and I wondered whether there was any reduction in the rank of the officers, or any proposed reduction in the number of men, in view of the statements of the gentleman from Kansas [Mr. ANTHONY].

Mr. HAY. To be frank with the gentleman, I do not know why the department made the estimate.

Mr. MANN. The gentleman's explanation is entirely satisfactory under the circumstances.

Mr. ANTHONY. Mr. Chairman, I want to say one word.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. ANTHONY. I ask for two minutes more.

The CHAIRMAN. The gentleman asks unanimous consent for two minutes more. Is there objection?

There was no objection.

Mr. ANTHONY. I want to say one word more in regard to the native officers of this regiment. They are a particularly fine body of men. There are 16 or 17 of them, I think. Every one of them is a graduate either of a college in the United States or a college in Spain or South America.

They are an unusually well-equipped lot of men, and there is every reason why we should admit them into the United States Army fully and let them take their places in the lineal list of officers. They will rank up fully with American officers of a similar rank in the Army, and I hope at no distant day the legislation I suggest will be adopted.

Mr. MANN. Will the gentleman yield?

Mr. ANTHONY. Certainly.

Mr. MANN. Are these officers now Porto Rico men?

Mr. ANTHONY. The captains of the eight companies are American officers sent there in 1899. The lieutenants are native Porto Ricans. The field officers, lieutenant colonels, and two majors are from our regular service detailed there.

Mr. MANN. Do these lieutenants have any opportunity of promotion?

Mr. ANTHONY. Absolutely none, except to be first lieutenants. They have no chance to become captains even.

Mr. MANN. If they were covered into the regular service they would have no chance of appointment.

Mr. ANTHONY. Yes; then this regiment would become fully a part of the Regular Army.

Mr. SLAYDEN. Mr. Chairman, it happens that within the last two or three days I have received a letter which is now lying on my desk from a former Commissioner of Porto Rico, Tulio Larrinaga, in which he protests against this suggestion of my friend from Kansas, for whose judgment in military matters I have a profound respect. It shows that a different opinion exists in the islands among the Porto Ricans themselves. Since I have been on my feet I learn that the gentleman does not propose to submit an amendment, but I suggest to the gentleman that legislation of this kind should be deferred until the other side of the question can be heard. The Porto Ricans, according to former Commissioner Larrinaga, want to maintain the regiment as it is, preserve its identity as a Porto Rican regiment.

Mr. ANTHONY. To give them the opportunity for promotion is only doing an act of simple justice to these eight captains who went down there 12 years ago and who have been in the same rank ever since.

Mr. SLAYDEN. Are they commissioned officers of the Regular Army?

Mr. ANTHONY. They were mostly appointed from the Volunteer Army during the War with Spain.

Mr. SLAYDEN. It would be increasing the number of officers in the Army?

Mr. ANTHONY. No; the Porto Rican regiment is now really a part of the Army.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

The Clerk read as follows:

PHILIPPINE SCOUTS.

For pay of officers: For 52 captains, $124,800.

Mr. DIES. Mr. Chairman, I move to strike out the last word. I do not want to trespass on the House with an academic discussion even for five minutes, but I just want to make an observation. The standing Army of the United States in 1872, a few years after the close of the Civil War, was about 25,000, including officers and enlisted men. So recently as Cleveland's last administration, in 1894, the standing Army was less than 25,000 men. I believe the chairman of the committee stated a few days ago that the standing Army at the present time is about 90,000. I know, Mr. Chairman, of no reason either in the history of the world or the history of this country that our standing Army should have increased, unless it was the acquisition of the Philippine Islands.

It has been the policy and the genius of this Republic from the age of its foundation to maintain a very small standing Army. The only excuse for a standing Army in the first periods of the Republic was to afford a guard for the frontiers against Indian marauders. But for the ownership of the Philippine Islands there is practically no excuse at this hour why this Government should maintain a large standing Army.

On the north we are bounded by Canada, a peaceful people similar to ours and much weaker in strength than we. On the other side, to the south, we are bounded by Mexico, a helpless Republic, that never could jeopardize the liberty of this country. On the east we are bounded by the Atlantic and on the west by the Pacific.

So that this people, if God ever gave a country to a race of any kind of people to protect their liberty without a standing Army, and without the burden of great taxes to maintain them, this is the spot and these are the people to enjoy that great blessing.

Of course, it is idle to say that we maintain an Army against European invasion. I see, Mr. Chairman, the philosophy of a large standing German army, I see the philosophy of a great standing army in France, where a day's journey can bring them at each other's throats. But in this Republic, separated by high seas, separated by those natural and impassable barriers that make us immune against encroachment of foreign lands, there is absolutely no excuse for 100,000 soldiers in this Republic to be supported by the taxes of the people.

The gentleman from Virginia [Mr. HAY] the other day said he was proud of our Army. So am I. Wherever an American army, whether in foreign war or in civil contest, has been marshaled upon a field of battle it has given a glorious account of American manhood and American valor. But I do not want an army for which we have no use at all. Armies are either for defensive purposes or offensive purposes.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. DIES. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. DIES. Certainly, Mr. Chairman, there can be no excuse for a standing army for defensive purposes. Surely this magnificent Republic, with all its wealth, with all of its patriotic millions of people, is safe against encroachment from foreign lands where armies must be assembled by passage over the seas. Then, unless it is sought to build up a standing army for offensive purposes, these hundreds of millions of the people's money might as well be left in the people's pockets. Every great writer who has discussed the probability of the success of this Republic, whether it has been the first writers along that line or more recent ones, has based a prophecy that this Republic, based upon the theory of the consent of the governed, should exist and succeed because of its isolated location. The fall of the republics of ancient times is traceable to the fact that their situation required great armies and armaments, and that the Man on Horseback came, as a result, to destroy the liberties of the people.

God has placed us upon this great, rich continent, separate and secure from the broils and wars of Europe. Mr. Chairman, with all due respect and reverence to and for that great Admiral who secured the victory of Manila Bay, I think he did the saddest day's work ever done for this Republic when he gave us possession of a territory which our public men say we can not turn loose. [Applause.] We have all the land that we need. We have this beautiful spot segregated from the world, and under the providence of God and the Constitution of this Republic we might work out our destiny, based upon the theory of the consent of the governed; but instead of that, short-sighted politics, short-sighted statesmen, men who either do not know or do not care about the lessons of history, are constantly embroiling this Nation in an attempted acquisition and acquisition of territory that is not contiguous to this Republic. It means a standing Army. The Army of practically 100,000 to-day will grow. In a few years it has grown from 25,000 to 90,000. In a few years more it will be 125,000 or 150,000, to be supported by the people who need no offensive operations and whose geographical situation makes them secure and makes it unnecessary for defensive operations.

Mr. Chairman, I wish that the old genius of this Republic would return. I wish that its spirit would hover over the destiny of this Nation, that we might return to the old simple days of a Republic for the people and that we might get rid of this modern appendage of democracy, namely, colonial possessions. [Applause.]

Mr. CANNON. Mr. Speaker, I move the pro forma amendment. Under present conditions I apprehend the pending Army appropriation bill has been well made, and I do not rise for the purpose of criticizing it. I am not in harmony with the re-

marks of the gentleman from Texas [Mr. DIES], who has just taken his seat, although I have a very sincere respect for him personally. I am not in harmony with the position taken by the Democratic Party in its platform and in speeches made in the House touching a proper policy for the great Republic. I am not in harmony with the outgivings of the President elect touching the Philippine Islands. I am not in harmony with the outgivings of your great leader, William Jennings Bryan, who is more responsible for the Philippines and our ownership of them than any man, living or dead, because it was the "peerless leader" who came to Washington and by his influence furnished the Democratic votes in the Senate that ratified the treaty of Paris by which we obtained the Philippines.

Mr. GARRETT. Mr. Chairman, will the gentleman yield?

Mr. CANNON. One moment. I can not yield during a five-minute speech. If I had a little more time, if desired, I would very cheerfully yield to a question.

Then we had the issue of imperialism when Mr. Bryan was a candidate in 1900. Mr. Chairman, we have the Philippines, and the position of the Democratic Party, including Mr. Bryan, and of the President elect, in my judgment will lead to the loss of tens of thousands of men belonging to the Army and Navy, and to hundreds of millions of treasure.

Oh, gentlemen, we have got the Philippines, and the American people, when they come to consider the question, are not going to forsake their duty to the Philippines. As I said once before, you can no more get rid of them, in my opinion, than Hercules could get rid of the shirt of Nessus, and you will find that public sentiment will not let you forsake them. However much in the future it will cost the country in treasure and blood to perform our duty toward those islands, in the fullness of time I think our possession of the Philippines will be worth all they may cost, although we may all be dead before the problem is solved. You may ask, Are we going to keep the Philippines and oppress them? No; but whenever the people of that great archipelago, with different languages and different religions and no religion, become competent for self-government, by that time they will not want to sever their relations with this great Republic. We have now a Regular Army of 80,000, or possibly a little more, and, with the great expenditure for fortifications, with the Monroe doctrine to maintain, with the Panama Canal to protect and defend, with almost 100,000,000 people, I would not have an Army less in number than it is now, and I would increase the Army from time to time as necessity and prudence may require.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GARRETT. Mr. Chairman, I ask unanimous consent that the gentleman's time may be extended for five minutes.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent that the time of the gentleman may be extended for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. CANNON. I am quite in harmony with those who advocate a liberal policy touching the expenditures in connection with the militia, and I stand ready to vote, when given an opportunity, for larger appropriations that we may have young men of this and the oncoming generations enlisted in the service of the United States—in the meantime remaining in civil life—ready as trained soldiers to enter the active service when the national defense might require.

Mr. Chairman, if we had had at the time of the War with Spain 100,000 well-trained men in the Regular Army, it would not have been necessary for us to have called upon the citizen soldiery, which volunteered in great numbers, for that contest. It takes a volunteer citizen soldier on the average at least six months to become well trained for efficient service. In the meantime disease and death incapacitate and destroy greater numbers than six months of active service in actual warfare after they are trained. If there had been 100,000 young men in the United States ready for active service, already organized, subject to call, the loss of life and expense would have been very small in comparison with the actual expense and loss, saying nothing of the expense to result in the coming 50 years.

Mr. Chairman, we have our responsibility down on the borderland on the south, with Mexico and the South American Republics. God knows we do not want them to enlarge our boundary in that direction. My friend from Texas [Mr. DIES] does not want Mexico. Nay, nay, but, gentleman, we have got to abandon the Monroe doctrine; we have got to play a happy-go-lucky game and take all things for granted or we have got to realize the obligation that the present and future brings to us. Therefore I am entirely in sympathy with the effort to provide an adequate Navy. I have voted for battleships, and I stand ready to vote for the men and munitions to supply the Navy, and I stand ready——

Mr. GARNER. Will the gentleman yield?

Mr. CANNON. In a moment. I stand ready to vote for more supplies, powder, and mobile artillery, because we may have ever so many men ready and willing to serve the Republic, but unless we are prepared with material as well as men we are powerless and liable to be knocked out before we can get a good start. Now I will yield to the gentleman from Texas.

Mr. GARNER. The gentleman is soon to leave this Chamber, and I believe it is well known that a certain element of the people of this country have great respect for his views, and I would like for him to take the time to define his version of the Monroe doctrine at this time that it may go into the RECORD. There are various opinions as to what the Monroe doctrine means, and I would like to know what the gentleman's version is.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BUCHANAN. Mr. Chairman, I ask unanimous consent that the time of the gentleman be extended for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. CANNON. The Monroe doctrine is pretty well defined. Under that doctrine it is our duty to see that no Old World nations shall establish governments, as I understand, upon this continent. We had a fair illustration of it when in the great stress of the Civil War a combination was made in Europe to place Maximilian upon the throne of Mexico. A protest was made against that action, but our hands were full with that great internecine contest. When it ceased, however, the Confederate soldier and Union soldier stood ready, backed by the sentiment of all parts of this country, to throw Maximilian into the sea. [Applause.] A portion of our troops went down toward the border; but the old leader, Juarez, was able to do that job himself without any soldier of the United States placing foot upon the soil of Mexico.

Our domestic relations have kept me so busy in my almost 40 years of service in this House that it is difficult for me to be accurate in an offhand talk of five minutes in matters affecting our foreign relations. Questions affecting the Monroe doctrine will be worked out from the standpoint of self-protection in the performance of our duty upon this continent, in South America and North America, and in the islands of the Caribbean, but not for conquest or the acquirement of territory.

Now, the gentleman has said that I am soon to retire from this House. That is true, and there is no personal regret in my heart at going. True, I did not ask for the leave of absence [laughter], but I feel a little different about it now than I did 22 years ago, when I was granted a leave of absence for two years for which I did not ask. I have gotten to be a pretty old man, but I feel as well as I ever did in my life. [Loud applause.] I am going home to Danville and remain with the people who have honored me with 19 indorsements, covering a period of almost 40 years, and if perchance I should never appear in public life again during the remainder of my life, I am going to perform as one man, as one voter, my duties as one of the sovereigns of the United States [applause] in advocating those policies that I believe will tend to secure the well-being of our country. The great citizenship of the Republic, both Democrats and Republicans, at heart believe in a representative democracy under the Constitution of the United States, and will maintain the same, and these are the only reliable party organizations in the country. [Applause.]

I do not fear for the perpetuity of the Republic. In the past we have made mistakes that involved great penalties, but we have paid the penalty; and in the future we will make mistakes and will pay the penalty.

I am a partisan Republican because I believe in the economic policies of that party; but I trust I am also a patriotic American citizen, as I grant that you all are.

By a constitutional majority you have been clothed with and will soon assume complete power, and that involves full responsibility. You have been successful as critics, but you must now take up the burden of construction and maintenance. If under your policies and administration the country prospers, then you will deserve to continue in power. I desire that you shall succeed, but I can not hope that you will, for hope consists of a combination of desire and expectation. If your policies fail to enable the people to maintain their present condition, then at the next opportunity they will repudiate you. The proof of the pudding is the eating of it, and I, in common with all the people, await results.

The CHAIRMAN. The Clerk will read:

The Clerk read as follows:

All the money hereinbefore appropriated for pay of the Army and miscellaneous, except the appropriation for mileage of officers, dental surgeons, contract surgeons, veterinarians, pay clerks, and expert accountant Inspector General's Department, when authorized by law,

shall be disbursed and accounted for by officers of the Quartermaster Corps as pay of the Army, and for that purpose shall constitute one fund: *Provided*, That hereafter section 3620, Revised Statutes, as amended by the act of Congress approved February 27, 1877, shall not be construed as precluding Army paymasters from drawing checks in favor of the person or institution designated by indorsement made on his monthly pay account by any officer of the Army if the pay account has been deposited for payment on maturity in conformity with such regulations as the Secretary of War may prescribe: *Provided further*, That payment by the United States of a check on the indorsement of the indorsee specified on the pay account shall be a full acquittance for the amount due on the pay account.

Mr. COX. Mr. Chairman, I reserve a point of order on that paragraph.

The CHAIRMAN. The gentleman from Indiana [Mr. Cox] reserves a point of order.

Mr. HAY. The paragraph is subject to a point of order if the gentleman desires to make it.

Mr. COX. I want to reserve the point of order only on a portion of the paragraph, Mr. Chairman, and if I can get some information, possibly not on that. That part of the paragraph beginning on line 2, 'except the appropriation for mileage of officers, dental surgeons, contract surgeons, veterinarians, pay clerks, and expert accountant Inspector General's Department, when authorized by law." That is the proposition that I reserve a point of order on.

Mr. HAY. I do not think that part of it is subject to a point of order. What is the information that the gentleman desires?

Mr. COX. Why is that language put in this bill?

Mr. HAY. It is put in the bill because they do not want the appropriation for mileage to be included as one fund together with the other funds appropriated for the payment of the Army.

Mr. COX. How has that been disbursed heretofore?

Mr. HAY. As one fund.

Mr. COX. Has it not been disbursed on vouchers heretofore?

Mr. HAY. Oh, yes.

Mr. COX. Does this language prevent the disbursement of this fund by vouchers?

Mr. HAY. No, sir. I will say to the gentleman that this language has been in the bill for a long time.

Mr. COX. I beg the gentleman's pardon. It was not in the bill last year.

Mr. MANN. Oh, yes; it was in the last bill. The words used were Pay Department, and that is now consolidated with the Quartermaster's Corps.

Mr. HAY. The gentleman will find, on reference to that paragraph, that the provision reads:

All the money hereinbefore appropriated for pay of the Army and miscellaneous, except the appropriation for mileage of officers, dental surgeons, contract surgeons, veterinarians, pay clerks, and expert accountant Inspector General's Department, when authorized by law, shall be disbursed and accounted for by officers of the Quartermaster Corps as pay of the Army, and for that purpose shall constitute one fund.

Mr. COX. I find, Mr. Chairman, that the language was in the preceding bill. I did not read page 10. I am not versed as to whether that changes existing legislation or not. Does it?

Mr. HAY. No; it does not.

Mr. COX. It changes no existing legislation?

Mr. HAY. No; it does not change any law whatever.

Mr. COX. None whatever?

Mr. HAY. None whatever.

Mr. COX. How long has that been carried in the appropriation?

Mr. HAY. To my certain knowledge it has been carried for 16 years. I do not know whether it was carried before I became a Member of this House, but since I have been a Member that has been carried in the law.

Mr. MANN. I will ask the gentleman from Virginia, Is not this really a matter of bookkeeping?

Mr. HAY. Certainly.

Mr. MANN. Without this a separate account would have to be kept of all these different items in the bill?

Mr. HAY. Undoubtedly.

Mr. COX. Are they required now to keep the mileage separate?

Mr. MANN. It is kept separate by this provision.

Mr. COX. And without this provision in the bill the mileage would not be kept separate from the other items?

Mr. MANN. Without this provision in the bill all these matters would have to be kept under separate accounts.

Mr. COX. I am not making a point of order against any paragraph except that portion of it.

Mr. MANN. The gentleman will notice that that excepts mileage.

Mr. COX. That attracted my attention to it. Why is that?

Mr. HAY. In order to give Congress the opportunity of knowing how much is disbursed for mileage, and to whom it is disbursed, so that we can keep tab on it and, if possible, reduce it.

Mr. COX. With all due deference to the gentleman's committee, it has not reduced it very much. It was $500,000 last year and it is $550,000 this year. But that is neither here nor there. Without this language in the bill would Congress be in possession of any data showing how that mileage was disbursed?

Mr. HAY. Oh, yes; because they disburse every item that is disbursed upon a voucher; not only the mileage, but every other item.

Mr. COX. But why is this exception made?

Mr. MANN. This particular item does not include mileage.

Mr. HAY. The exception is made so that no more than $550,000 can be disbursed for mileage.

Mr. COX. Then if it were not for this exception here, would it be in the power of the War Department to disburse more than $550,000 for mileage?

Mr. HAY. Yes. That is the reason why it is put in there, so that they shall not exceed that amount for mileage.

Mr. COX. In other words, the language to which I have called attention amounts to a limitation upon the appropriation. No more than $550,000 can be allowed for mileage.

Mr. HAY. That is true.

Mr. COX. I withdraw my point of order on that particular part of the paragraph.

Mr. MANN. Reserving the point of order, may I ask the chairman, as long as he desires to make permanent law of the provision about the payment of checks, where I suppose the officers direct payment to be made to their beneficiaries, just what is that practice?

Mr. HAY. The practice has been for these officers to designate their wives, or people dependent upon them, as the beneficiaries of their checks, and to allow them to deposit those checks in the bank.

Mr. MANN. Without this provision in the law would the check have to be made payable to the officer?

Mr. HAY. Yes; the comptroller has so ruled, and has put a stop to the practice which has been in vogue, and it works a very great hardship, especially on officers in the Philippines.

Mr. MANN. I withdraw the point of order.

Mr. HAY. Now, Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Virginia offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 17, line 3, after the word "surgeons," insert the words "acting dental surgeons."

Mr. MANN. Why not insert "acting" before the words "dental surgeons"?

Mr. HAY. That will do. I ask that the amendment be so changed as to insert the word "acting," in line 3, before the word "dental."

The CHAIRMAN. The Clerk will report the amendment as now proposed by the gentleman from Virginia.

The Clerk read as follows:

Page 17, line 3, before the word "dental," insert the word "acting."

So that it will read:

Acting dental surgeons.

Mr. HELM. Mr. Chairman, I move to strike out the last word. I notice in this paragraph of the bill that dental surgeons, contract surgeons, and veterinarians are excepted.

Mr. HAY. May I ask what the gentleman means by their being excepted?

Mr. HELM. The language in the bill is:

That all money heretofore appropriated for pay of the Army and miscellaneous, except appropriations for mileage, dental surgeons, contract surgeons, and veterinarians.

Mr. HAY. It does not except those particular people. It excepts the appropriation for mileage.

Mr. HELM. Mileage for them, or pay of officers.

Mr. HAY. It excepts the appropriation for mileage for the officers, and all people in the Army who get mileage.

Mr. HELM. Let us see if I understand the gentleman. Does this exception apply to the compensation of these dental surgeons and contract surgeons and veterinarians, or to the mileage?

Mr. HAY. Not at all. They get their mileage, but the exception is that the fund which is appropriated for mileage must be disbursed as one fund, and not included with the other funds which are provided for the pay of the Army.

Mr. HELM. The mileage of these contract surgeons and veterinarians.

Mr. HAY. It is paid to them just as it is paid to officers.

Mr. HELM. The exception applies to the mileage of these men, and not to their compensation.

Mr. HAY. That is correct. Now, the gentleman from Kentucky [Mr. HELM] seemed to be under the impression the other day that the pay of the officers of the Army is larger than the pay of the enlisted men. I have had the items computed, and I find that the pay of the officers is $17,569,345 and the pay of the enlisted men is $28,148,466. Then there are other items in the bill, such as pay clerks, superintendent of the Nurse Corps, nurses, and so forth, which amount to $1,185,910, making the pay of the Army in all $46,903,721.

Mr. HELM. If I understand the gentleman, he now states that the compensation is something over $17,000,000?

Mr. HAY. Yes.

Mr. HELM. That includes what class of officers?

Mr. HAY. That includes commissioned officers.

Mr. HELM. What is the compensation of the commissioned and noncommissioned officers, of all ranks, grades, and classes?

Mr. HAY. The noncommissioned officer is an enlisted man, and it would be impossible for me to get the information which the gentleman wants without having the War Department file a statement showing how much each noncommissioned officer receives. The noncommissioned officers are first sergeants, quartermaster sergeants, sergeants, and corporals. There are so many to each company and so many to each regiment.

Mr. HELM. The gentleman understands the statement I have made in response to him was that the compensation of all the officers, including both commissioned and noncommissioned, in the last year's bill, which it is stated this bill follows, was substantially about $40,000,000. Is the gentleman in a position to say that the compensation of the commissioned and noncommissioned officers as carried in this bill does not amount to approximately $40,000,000?

Mr. HAY. I am.

Mr. HELM. What is the approximate amount?

Mr. HAY. I am prepared to say, from what I know of the number of enlisted men other than noncommissioned officers, that their pay would be in the neighborhood of $10,000,000. I mean the privates.

Mr. HELM. And you have a total of $46,000,000?

Mr. HAY. Yes.

Mr. HELM. If the privates get $10,000,000 of the $46,000,000, then $36,000,000 goes to the class of men I have referred to.

Mr. HAY. You take off $1,185,000 for the pay clerks, and so forth.

Mr. HELM. Is the gentleman including in his estimate the length of service?

Mr. HAY. Every item in these pay items of the bill.

Mr. HELM. The gentleman's statement is that about $35,000,000 of this appropriation carried in this bill goes to the commissioned and noncommissioned officers?

Mr. HAY. I think it might be approximately that.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. Mr. Chairman, I think it is not possible from the bill to tell what the pay of the noncommissioned officers is, because the noncommissioned officers and privates are all carried in the same item, which is only two lines of the bill, outside of the longevity pay in the Regular Army.

Mr. HAY. The Engineer Corps, Signal Corps, and the Ordnance Corps are separate.

Mr. MANN. Those are carried separately. The total pay carried is a little less than $17,000,000 for regular pay and a little over $2,000,000 for longevity pay.

Mr. HELM. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. HELM. Do I understand the gentleman to state that that $17,000,000 includes compensation for the privates and noncommissioned officers?

Mr. MANN. That is what I understand; there is no other place in the bill for them.

Mr. HELM. I think the gentleman is mistaken.

Mr. HAY. No; the gentleman from Illinois is correct, but there are a good many enlisted men in the Signal Corps and in——

Mr. MANN. There are special departments of the Army where you make provision for enlisted men separate from the noncommissioned officers.

Mr. HELM. The point I am trying to get at is the $17,000,000 does not include the entire compensation of the enlisted men, the privates and noncommissioned officers?

Mr. MANN. It includes the pay of the men in the regiments, including the noncommissioned officers, in the Infantry, Cavalry, and Artillery. That is the Army as I call it. It does not include the Engineer Corps, the Signal Corps, the Quartermaster Corps, or the subsidiary branches.

Mr. HELM. That does not conflict with my statement at all.

Mr. MANN. I am not seeking to make conflicting statements. I say there is no way of telling from the appropriation bill or the law the amount of the noncommissioned officers' pay.

Mr. KENDALL. Does not the $17,000,000 include much more than the pay of enlisted men and the noncommissioned officers?

Mr. MANN. I do not know of anything else it could include.

Mr. HAY. That is the flat pay; it does not include clothing or subsistence.

Mr. MANN. Mr. Chairman, in that connection it is interesting, possibly, to state the amount that is paid by the foreign governments on account of officers and men, which I do not intend to do very completely. Great Britain has commissioned officers in the regular army to the number of nearly 10,000; in the territorial army something over 9,000; in the Indian army something over 3,000; to which are paid a little over $25,000,000, including all allowances, commutations, and so forth, and to the retired officers something over $9,000,000. I do not understand whether the gentleman from Virginia, in stating the amount of the pay of commissioned officers, included in that the allowances for commutation.

Mr. HAY. I did not include anything but commutation of quarters.

Mr. MANN. The German Army has over 25,000 commissioned officers, to whom are paid a little over $18,000,000. The Austrian Army has nearly 23,000 commissioned officers, to whom are paid $18,000,000. The French has twenty-eight thousand and some odd commissioned officers. The infantry officers receive $9,300,000, the cavalry officers $2,600,000, and the artillery officers $3,000,000. I do not think it is necessary or instructive, possibly, to detain the committee with a lot of other information which I have been endeavoring to secure upon this subject.

Mr. COX. I would suggest that the gentleman put it in the RECORD.

Mr. MANN. No. I may have other uses for it, where it will be more convenient to get at than if it were in the RECORD.

Mr. HELM. The English Army has a total of how many officers all told?

Mr. MANN. A little over 22,000.

Mr. HELM. Commissioned officers?

Mr. MANN. Yes.

Mr. HELM. What compensation do they receive?

Mr. MANN. The regular pay, including allowances, is $25,000,000.

Mr. HELM. How many officers are there in the United States Army?

Mr. MANN. I could not answer.

Mr. HELM. Are there not about 5,000?

Mr. MANN. I think in that neighborhood.

Mr. HELM. They receive about 75 per cent as much as the entire British officers receive. Is not that true?

Mr. MANN. I am not under cross-examination. The gentleman can give figures as well as I.

Mr. HELM. I was trying to let the gentleman do the figuring. He has the figures in his hand.

Mr. MANN. Oh, I beg the gentleman's pardon. I have not.

Mr. HELM. The gentleman has a statement from which he was reading.

Mr. MANN. I beg the gentleman's pardon. I have some information about other matters, but not about the matter to which the gentleman just alluded. The gentleman extracted that information or received it from the gentleman from Virginia, and not from me.

Mr. HELM. I do not think the gentleman from Virginia had anything to say about the British Army.

Mr. MANN. No; but I have given the gentleman information in reference to the British Army.

Mr. ANTHONY. Mr. Chairman, a second lieutenant in the continental European armies gets about $30 a month. A second lieutenant in the United States Army gets $150 a month. Is it the purpose of the gentleman from Kentucky to intimate that a second lieutenant in the United States Army ought to receive less money than he now gets, or what is the purpose of these comparisons? Does the gentleman feel that the American Army officer is overpaid?

Mr. HELM. Here is the whole purpose of it: It is to let the country understand how much an unorganized, inefficient Army of about 80,000 men is costing the people of the United States. That is my purpose.

Mr. ANTHONY. The gentleman does not propose to reduce the pay of the commissioned officer of the Army to $30 a month, the same rate of pay received by the same grade in the European armies?

Mr. HELM. No. If I did make any such proposition as that of course it would not go through this body or the other body, and if it did go through, it would be vetoed. But I do believe something can be accomplished by calling attention to the fact

that we are paying about $100,000,000 annually for something that is not an army.

Mr. MANN. Mr. Chairman, if the gentleman will pardon me one word more in that connection, I will say that some time ago it occurred to me that it might be instructive and possibly beneficial if we could obtain information showing the cost of the American Army for maintenance, including the cost for officers and men, and the cost of armies in foreign countries. I find it is not a very easy matter to obtain that information, although one would think it might easily be obtained. I have received some data from the Secretary of War in response to a request which I submitted to him, and some data from the Secretary of the Navy in response to a request which I submitted to him. I have also received some information from Mr. Griffin, in the Library, who is supposed to be able to find out anything in the world that is known and published in books. I have not secured all the information yet, and do not know that I ever shall be able to, but I think it would be beneficial to us all to know what the cost of our military operations is and what is the cost of the military operations of foreign countries, so far at least as maintenance is concerned.

Mr. KAHN. Mr. Chairman, if the gentleman from Illinois [Mr. MANN] will permit me for a moment, I will state that the cost for subsistence in this country is probably much larger than it is in any other country in the world. During the Boxer troubles in China, when troops were brought in from all the nations, the officers of the armies of Continental Europe purchased from the commissaries of the American Army supplies that we were giving to our private soldiers.

That is, they purchased for themselves some supplies that we were giving to our private soldiers; so that it would seem to me the officers in the armies of Europe do not receive from their respective Governments the quality of supplies or the quantity of supplies that we issue to our private soldiers in this country.

Mr. MANN. I doubt whether the proof of what was purchased in the Boxer trouble is proof of what might take place under ordinary conditions, and I see no reason why the supplies furnished to our Regular Army should cost a great deal more here than in foreign countries, considering the fact we ship those same supplies from America to the foreign countries to a considerable extent—not quite so much now as we used to do—and we produce them here at home, whereas very few foreign countries do produce them at home.

Mr. KAHN. I spoke of the quality and variety of the ration more than the cost.

Mr. MANN. I apprehend, after all, the American in the Army does not eat any more than the Frenchman or the German or the Englishman; he may possibly get a little better provender, but I doubt that.

Mr. KAHN. He probably gets more meat than in other armies.

Mr. MANN. And, I expect, more meat than is good for him.

Mr. KAHN. And he gets more articles of subsistence than they do.

Mr. MANN. Well, I am not criticizing the maintenance of the American Army—far from it—but I wanted to get the figures.

Mr. KAHN. The figures I had were 23.8 cents per man; I think that is the ration for the private soldier.

Mr. MANN. Which does not seem excessive.

Mr. KAHN. It has been increased from 21 cents to 23 cents by reason of the increased cost of some of the various articles that enter into the ration. That has brought about the deficiency in the item of subsistence for the Army; the cost of the ration has increased.

Mr. HOBSON. In the Navy the ration runs, I think, to 30 cents, or possibly more.

Mr. HAY. Mr. Chairman, I move that all debate on this amendment and paragraph and all amendments thereto be closed in—did the gentleman from Wyoming want to say anything?

Mr. MONDELL. I should like to have five minutes.

Mr. HAY. In five minutes.

Mr. ANTHONY. I should like to say a word.

Mr. HAY. In 10 minutes.

The question was taken, and the motion was agreed to.

Mr. MONDELL. Mr. Chairman, quite recently I read a very interesting article, I regret now I did not read it with more care, on this Army pay and supply question, comparing the American Army pay and supplies with the pay and supplies of foreign armies. In a way it was very startling, and I regret I do not recall the exact figures, but it made clear the fact that the enlisted man—the drafted man, for they are such—of continental armies receives a mere pittance, a very few cents per day, and that the officers, compared with the officers of our Army, are paid a very insignificant sum. I saw a little squib the other day relating to the pay of the men who have been so gallantly carrying the Turkish fortifications in the Balkans recently, giving the very extraordinary titles and the small pay that those men receive. My recollection is that a colonel in the Bulgarian Army receives about what a first lieutenant receives in our Army. Now, in the matter of supplies and rations, the gentleman from Illinois [Mr. MANN] and the gentleman from California [Mr. KAHN] are both to a certain extent correct. Our ration costs more per man, because we do give the men more. We give the men more pounds per day food and we give them a much greater variety and a much better quality of food than the enlisted men of continental armies receive. The amount of meat which the American soldier has allotted to him, as I recollect, is more than twice the amount allotted to any soldier of any European army per day, but we all understand, those who have some knowledge of military affairs, and I do not claim to have much, that our Army ration is such that by carefully husbanding it the men are able to purchase many articles outside of the regular ration, and they do enjoy constantly, at least when not in the field, a very much wider range of ration and a very much greater variety of food than the ration itself produces, and that is secured by a saving on the ration and the commutation of the saving in other articles.

The enlisted man of the United States Army is as well fed as any man in the world need be, and fed on the best of food and furnished entirely sufficient quantities of it. It is true, as the gentleman from Illinois says, that, per pound of the articles furnished, the cost is often actually less in the United States than the same articles cost European armies.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. ANTHONY. Mr. Chairman, I would like to make an observation in reference to the statement made by the gentleman from Kentucky [Mr. HELM], in which he declared there was room for large economy in the maintenance of our Army. Now, I agree with the gentleman from Kentucky [Mr. HELM]. There is room for economy in Army expenditures, but the place for it is not in a reduction of the ration of the soldier or in the pay of the soldier or of the officer, but the place for it is to pursue a policy of stationing our mobile Army in places where the men can be subsisted at the most economical cost to the Government, where the animals of the Cavalry and Artillery can be fed with grain and forage where it can be obtained at the very least cost to the Government. And I make the statement here now, that the way our Army is scatterd over this country, that at fully two-thirds of the posts in this country the cost of a ration is substantially higher than in other parts of the country; that we have Cavalry in parts of the country where forage costs twice as much as in other parts of the country. I believe several millions of dollars could be saved in distributing our Army properly over this country.

Mr. HOBSON. If the gentleman will yield, could not the restationing also be arranged so as to increase the efficiency as well as to reduce the cost? That is, let there be more concentration, and therefore efficiency in larger degree.

Mr. ANTHONY. Concentration in larger degree, but where subsistence, grain, and forage can be had at less cost.

Mr. MONDELL. Will that be in Kansas?

Mr. ANTHONY. That will be in the great Middle West, ranging from the Lakes to the Gulf of Mexico and from the valley of the Mississippi west to the Rocky Mountains.

Mr. HELM. I understood you to say that the Army ought to be concentrated where it could be subsisted the cheapest?

Mr. ANTHONY. That is correct.

Mr. HELM. I want to take issue in part with the gentleman and say that the Army ought to be stationed where it can be brought into action in concert with the Navy and with the Coast Artillery.

Mr. ANTHONY. If the gentleman will permit, I will make a statement along those lines.

Mr. HELM. Our Army ought to be located along our ocean coasts and our frontiers of Canada and Mexico.

Mr. ANTHONY. I do not agree with the gentleman at all. Now, Mr. Chairman, I have a high opinion personally of our Secretary of War, but I have a very poor opinion of the ideas he has lately advanced, that our Army ought to be stationed in this country purely along "tactical" and "strategic" lines, as he calls it. I think that is all bosh, if I can use that expression when used in connection with the manner in which the mobile army should be garrisoned in the United States in times of peace.

That idea might have been all right a hundred years ago when there was a necessity, for instance, of maintaining an

army on the Canadian or Atlantic border in order to resist invasion, but I say the policy we should pursue now to secure the best results is to station our Army and subsist it where it can be done the cheapest as well as concentrated for tactical and maneuver purposes. To-day our troops can be taken in 24 to 48 hours from one part of this country to another—from its geographical center to any coast or border in two or three days at most. The Army ought to be permanently stationed where it will cost the taxpayers of the country the least amount of money.

Another proposition that the War Department has advanced, and which I think is going to cost the people of this country an unnecessarily large abount of money, is their evident intention to take 12,000 of our troops and place them in garrison in Hawaii and to send 9,000 troops to Panama. It is going to cost one-third more to take care of those soldiers in those countries than it is in the United States, and as regards the real military necessity of stationing 9,000 troops on the Panama Canal I believe there is none. We could place 9,000 troops there one month ahead of any enemy that could possibly menace the canal, and a permanent police force is all that is really needed. I want to see Congress sit down on these tremendous contemplated expenditures for these unnecessary foreign garrisons.

Mr. HOBSON. Before our Naval Committee, Col. Goethals stated this morning that 25,000 men was the minimum that would be required to hold the Panama Canal and protect the locks of the canal against an enemy that had control of the sea. I wonder if that has military backing in his opinion.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ANTHONY. Mr. Chairman, I ask for five minutes more.

The CHAIRMAN. All time has expired on the paragraph.

Mr. ANTHONY. I ask for unanimous consent for sufficient time to answer the gentleman's question.

The CHAIRMAN. Without objection, the gentleman's request will be granted.

There was no objection.

Mr. ANTHONY. I want to say that I agree that Col. Goethals is undoubtedly correct; that 25,000 men would be needed in time of war to protect the canal, but only in time of war. But I insist that we could send 25,000 men to Panama three weeks in advance of the time any public enemy could send a force there. There is no military necessity, in my opinion, of stationing them there now in permanent garrison. In these days of rapid transportation troops can be sent from our southern coast to Panama in less than three days.

Mr. HOBSON. I want the gentleman to understand the colonel's statement. The colonel's statement was that it would require behind the line of our fortifications 25,000 men to protect the locks; and he said, furthermore, that he did not expect and could not expect to receive any reenforcement after a war came.

Mr. ANTHONY. Does the gentleman mean that the American Navy would be of no avail to protect our line of communication with the Canal Zone?

Mr. HOBSON. In order to receive reenforcements you must be in control of the sea, and you can not be in control of it under those circumstances.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Encampment and maneuvers, Organized Militia: For paying the expenses of the Organized Militia of any State, Territory, or of the District of Columbia which may be authorized by the Secretary of War to participate in such encampments as may be established for the field instruction of the troops of the Regular Army, as provided by sections 15 and 21 of the act of January 21, 1903, entitled "An act to promote the efficiency of the militia, and for other purposes," to be immediately available and to remain available until the end of the fiscal year 1915, $350,000.

Mr. MANN. Mr. Chairman, I desire to strike out the last word. I desire to trespass on the patience of the House for a moment, only to continue the discussion of the provision before referred to.

It is very difficult to be sure that you are getting accurate figures about these costs, either at home or abroad, as I have often discovered. I certainly have no desire to express anything but thankfulness to the officials who have furnished me with the information that I have received, and I hope that none of them will consider that I am criticizing them in any way. This may be correct. I find by a statement from the War Department that in France the infantry officers receive $9,300,000, that the men receive $2,800,000; that the officers in the cavalry service of France receive $2,600,000, and the men receive $544,000; that in the artillery service the officers receive $3,000,000, and the men receive $1,000,000.

That may be correct; I do not know. If so, they have a very different system of providing for the men from what we have, and certainly they do not pay the men very much.

From the same statement I find that they compute the German Army at 587,000 men and the French Army at 564,000, which is practically the same. They compute subsistence and clothing for the German Army at $45,000,000, and subsistence and clothing for the French Army at $18,000,000, counting subsistence alone in the French Army at $8,000,000, which of course seems very small for an army of 564,000 men. But I find further, upon comparing the figures furnished to me by the War Department concerning the German Army with the figures furnished by the Library of Congress concerning the same army in the same time, that the subsistence and clothing in the German Army cost approximately $45,000,000, according to the statement of the War Department, and $35,000,000, according to the statement of the librarian.

Now, of course, $10,000,000 is not very much, although it happens to be more than they report the entire cost of the subsistence of the French Army to amount to. I suppose it may be very difficult to obtain these figures, but certainly you need to get them from several different quarters before you are sure you are right.

Mr. HELM. Mr. Chairman, will the gentleman yield?

Mr. MANN. Certainly.

Mr. HELM. Have you any statement there showing the cost per enlisted man for the German and French Armies?

Mr. MANN. I do not have it figured out that way at all.

Mr. COX. Mr. Chairman, has the gentleman the figures there, showing the total cost of the French Army and the German Army? If he has, I wish he would put them in.

Mr. MANN. The total cost of the German Army here, in the statement—I do not know how much it includes—is about $200,000,000.

Mr. HELM. How many men?

Mr. MANN. Five hundred and eighty-seven thousand, and the total cost of the French Army, numbering 565,000, is given, approximately, at $165,000,000.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN (Mr. MURRAY). The gentleman from Wyoming moves to strike out the last word.

Mr. MONDELL. Mr. Chairman, I was very much interested in the statement made a moment ago by the gentleman from Alabama [Mr. HOBSON], to the effect that Col. Goethals had stated this morning before the committee of which he is a member that it would require 25,000 men properly to protect the Panama Canal if it is to be fortified. I am glad to have such high military authority for an estimate so far in excess of what was claimed to be the excessive estimate I made in the House last year in a speech opposing the fortification of the Panama Canal. At that time it was stated that approximately 12,000 men would be sufficient to protect the canal against an ordinary expeditionary force, though, of course, neither 12,000 nor 25,000 men could protect the canal against a long-continued movement by a great power having command of the sea.

This is a startling statement. Twenty-five thousand men in the Tropics on the canal will cost at least $35,000,000. So, if we are to fortify the Panama Canal we must look forward to increasing this bill by at least $35,000,000, in addition to increases in other bills. For what? In the attempt to do what in case the matter is ever brought to the touch we can not accomplish.

All of this military expenditure is opposed to what we anticipated when we began the building of the canal. In the first years of its construction we carried on the building of the canal without a thought in the mind of anyone other than that it should be a great highway of commerce devoted to the welfare of mankind, to intercommunication, and forever dedicated to peace. We have a treaty proposing that. All the world stands ready to join with us in dedicating this great waterway to peace. Its fortification can serve no useful purpose. It is not in any sense an outer line of defense. If fortified it is the heel of Achilles, where any foreign foe would first strike and smite us.

Only a policy of nonfortification, of the maintenance of neutrality by international agreement, can make the canal useful to us in time of war as well as in time of peace; for it matters not how many men maintain or how many guns we mount, the moment war is declared with any great power the canal is sealed effectually to our Navy, our commerce, and the commerce of the world.

Gentlemen have been talking about the great cost of the Army and have been suggesting that it is too large and unnecessarily expensive. Such gentlemen, and all who desire that our influence shall be an influence for peace and not for war, for de-

velopment and not for conquest, will within a short time have a chance to cast their votes on the question whether we are going on with the work just recently started, of building fortifications at Panama which will eventually cost us $50,000,000 to $100,000,000 and $30,000,000 to $35,000,000 annually to maintain, or whether we shall dedicate that great waterway to our continual use without cost for defense and to perpetual peace. [Applause.]

Mr. HELM. Mr. Chairman, I move to strike out the last two words. I think it would be just as wise to leave the Panama Canal unfortified and expect to retain possession and control of it as it would be to put a coop of chickens in a negro settlement over night without lock on the coop and expect to find chickens in that coop the next morning. [Applause.]

My object in rising is to answer a statement of the gentleman from Kansas [Mr. ANTHONY]. He made the statement that the Army should be housed in the places where it could be most cheaply done. I take issue, in part, with the gentleman, and say, as I have said before, that the purpose of an Army is for fighting, and it is to be effective when needed. In my humble opinion the Army should be quartered where it can be the most effectively used if its use becomes necessary.

We have three forces for defense—the Navy, the Coast Artillery, and the mobile Army. In my humble opinion the mobile Army should be quartered along the Atlantic and Pacific coasts and adjacent to the Canadian and Mexican borders, so that, if the occasion ever arises, these three forces can sustain each other in any attack that is made or any effort to land an alien army on our coast. For instance, Atlanta might be selected as a suitable place in which to quarter a large portion of our Army. It is suitable in that it is close to the Atlantic coast and also close to the Gulf of Mexico, and is located in a section of country where supplies of all kinds are to be obtained with reasonable cheapness. It occurs to me that instead of placing the mobile Army in the central portion of the Mississippi Valley it would be better to place it where it can be used effectively in conjunction with the Navy and the Coast Artillery. Further, if the time comes when you want to have maneuvers, when the mobile Army, the Coast Artillery, and the Navy can be maneuvered in concert, the cost of assembling these forces will be minimized. I hope this plan will be adopted. I have tried, to the best of my ability, to show the importance of concentrating the troops in larger numbers in fewer quarters. If it can ever be effected it appears to me that the War Department would do well not to consider altogether the cheapness of the proposition, but the effectiveness of it, and I believe that when this is done those who are familiar with military propositions will take the view I have stated.

The Clerk read as follows:

To meet the expenses incident to holding an International Rifle Shooting Competition at Camp Perry, Ohio, in cooperation with the Perry Victory Centennial Celebration to be held in September, 1913. In connection therewith, the Secretary of War is hereby authorized to loan to the management of the tournament such new United States magazine rifles, caliber .30, model 1903, as may be necessary to carry out the regulations of the International Union, and to detail officers and men to conduct the tournament, such detailed officers not to be affected by the Army appropriation act approved August 24, 1912, $25,000: *Provided*, That the rifles and equipment of the visiting riflemen be admitted under bond and that the ammunition and personal effects of such riflemen be admitted to the United States without the imposition of duty.

Mr. COX. Mr. Chairman, I make a point of order on that paragraph.

Mr. HAY. It is subject to a point of order, of course. Does the gentleman make it?

Mr. COX. I make it.

Mr. HAY. I hope the gentleman will not make the point of order. I will state to the gentleman that we have heretofore ourselves accepted invitations of other countries to these international shooting matches. They have extended to us their courtesy and their entertainment, and I think it would be very poor policy on our part to refuse to do the same thing. It is particularly important to cultivate cordial relations with South American Republics. We went to the Argentine last year; we sent a team there composed partly of the Regular Army and the Marine Corps, and I hope the gentleman, under the circumstances, will not insist on his point of order.

Mr. MANN. Will the gentleman yield for a question?

Mr. COX. Certainly.

Mr. MANN. Of course, this international rifle-shoot competition will not be held unless this appropriation goes in?

Mr. HAY. I do not think it will.

Mr. MANN. There will be no authority for inviting anybody here?

Mr. HAY. I will say that the State Department has already issued invitations.

Mr. MANN. Upon what authority?

Mr. HAY. I do not know; but I understand that the State Department had issued invitations to these countries to come and compete in this match. I do not know that they had any authority to do it.

Mr. MANN. We passed some legislation in reference to a centennial celebration, and it may be included in that; but I do not recollect of any such authority.

Mr. HAY. I do not know upon what authority it was issued, but as a matter of fact we have accepted similar invitations from other countries and have been entertained, our expenses paid while there, and it seems to me that this country is large enough and ought to have enough courtesy to return what we have received from other people.

Mr. MANN. I have no objection as far as I am concerned to holding the international rifle shooting competition. I would like to ask whether they have been held as a side show to the main tent?

Mr. HAY. I do not quite understand what the gentleman means.

Mr. MANN. There is to be celebration of a one hundredth anniversary, and I believe that the United States and Canada and other countries are to fall upon each other's necks and say how pleased they are that we have had 100 years of peace. That is the main tent. Now, this is the side show in connection with it. All I ask is whether we are to have this rifle competition as a side show to some other main celebration.

Mr. WILLIS. Will the gentleman yield to me?

The CHAIRMAN. The gentleman from Indiana has the floor.

Mr. HAY. But, Mr. Chairman, there is no question about the paragraph being subject to a point of order if the gentleman from Indiana insists on his point of order. If he does, there is no use in discussing it further.

Mr. COX. I want to get some information.

Mr. WILLIS. Mr. Chairman, I want to say that I think the characterization that the gentleman from Illinois has placed on this proposition is hardly fair. It is not intended as "a side show to the main tent" or anything of the kind. As a matter of fact, probably the finest target range in the United States is located at Camp Perry, Ohio.

Mr. COX. Is that in the gentleman's district?

Mr. WILLIS. No; it is not; but that does not make any difference; it is in the State of Ohio and is a national affair. The fact is that the target range at Camp Perry has been used for a number of years for these meetings. Riflemen come from all over the country to that range, and the fact that there is an appropriation here does not indicate that it is intended to boost the centennial celebration, about which I know very little. This is carrying out the usual policy that has obtained. Anyone interested in the work of the riflemen knows that.

Mr. COX. Do I understand the gentleman to say that the range has been maintained for a great many years?

Mr. WILLIS. I do not know how many years, but I should say 8 or 10 years.

Mr. COX. Has it been maintained by Federal aid or is it a State range?

Mr. WILLIS. I do not know what part the Federal Government has had in it, but I do know that the State of Ohio has expended a vast sum of money on the range. Gentlemen may be familiar with the geography of that country. It is quite flat and an ideal place for a target range, and without doubt the target range at Camp Perry is one of the finest in the world. It seems to me that the gentleman ought not to insist on his point of order, because it would absolutely break up and interfere with our relations with other countries in this matter of target practice, as the chairman of the committee has stated. We have been entertained by these other nations. I know that personally, and it now is our turn to entertain.

Mr. COX. How many times have we been entertained in the last 10 years?

Mr. WILLIS. I do not know how many times, but a number of times. The chairman of the committee said that last year our team went somewhere in South America.

Mr. COX. Can the gentleman tell us anything about that trip to Buenos Aires in South America last year?

Mr. WILLIS. I know nothing about that, except that we had a team that went there and was entertained and made a good record. That has occurred at least a half dozen times and it is our turn now. It seems to me it will be extremely discourteous and undesirable for this Nation to say, now that we have been entertained, that it is our turn but that we will not appropriate anything for a similar purpose.

Mr. COX. Is this the first time that the United States has ever tendered an invitation of this kind to come here?

Mr. WILLIS. I am not able to answer that. Probably some member of the committee can do so.

Mr. HAY. It is the first time.

Mr. SLAYDEN. Mr. Chairman, I want to say to the gentleman, with his permission, that the statement was made to me by those in authority that our people were very hospitably entertained, and an appropriation of twice as much as we now propose was made by some one of the countries—which one I have forgotten—for the purpose of entertaining foreign visitors at the international rifle contest.

Mr. HAY. In France.

Mr. SLAYDEN. The chairman suggests that it was France. I do not know, but twice as much money was appropriated by that Government which did entertain us as we are asking now. Also, the statement was made to me by one of the officers that in Sweden our people were very hospitably entertained and taken care of. There is no doubt that the item must go out if the gentleman makes the point of order. It is only a question of whether as a matter of policy we ought to reciprocate the courtesy that we have received.

Mr. COX. Can the gentleman point out any benefit at all that this Government would now or in the future receive if this item remains in the bill except the mere matter of courtesy?

Mr. SLAYDEN. Well, from acts of courtesy sometimes flow very practical advantages in the way of administering government and maintaining peaceful relations. Our commerce can only go on with satisfaction during periods of peace, and all of those things contribute to the good of the country in that way. You can not trace the effect of this policy as you can some characters of work in which men engage. If you go out to fell a tree, you can see with each blow of the axe something accomplished. On the other hand, spiritual movements, matters of sentiment, and the development of cordial relations between nations may be fostered and developed by a line of courtesy and work that is impossible to trace in that way. I believe, personally, it is a good thing to do, besides the advantages to come from the contest itself.

Mr. COX. Will the gentleman explain what is meant by "management of the tournament." What does that mean?

Mr. HAY. The tournament will be managed by the officers of the Regular Army.

Mr. SLAYDEN. We have our own riflemen engaged every year in contests of this nature.

Mr. COX. What additional cost will there be to the Government of the United States if this tournament is held, besides the $25,000 intended to be appropriated?

Mr. SLAYDEN. I think the men and officers who go there and engage in the shoot, I mean the militiamen, get the pay of officers and men in the Army while they are actually in camp and engaged in the contest.

Mr. HAY. I would state to the gentleman that that comes out of a permanent annual appropriation.

Mr. SLAYDEN. But the gentleman is asking how much it was.

Mr. HAY. That would not be affected by this. Whether you made this appropriation or not, they would still go there just the same.

Mr. COX. Would it cost the Government anything to hold this tournament in addition to this $25,000?

Mr. HAY. It would cost the Government the transportation of the officers and men. I do not think there are very many of them.

Mr. COX. How many?

Mr. SLAYDEN. There are a few from the State of Texas.

Mr. HAY. The gentleman is talking about officers and men of the Regular Army. I do not know what the size of a team is.

Mr. COX. Would it be safe to estimate that it would cost the Government an additional $25,000?

Mr. HAY. I think it might; yes.

Mr. HELM. Will the gentleman yield?

Mr. HAY. I will.

Mr. HELM. I notice the first appropriation in this bill says:

Contingencies in the Army: For all contingencies in the Army not otherwise provided for, and embracing all branches of the military service, including the office of the Chief of Staff, to be expended under the immediate orders of the Secretary of War, $25,000.

What is that $25,000 to be used for unless it is to be used for just such a purpose as this?

Mr. HAY. Well, I will state to the gentleman it is used as follows, if the gentleman would like to have the items of this particular item.

Mr. HELM. I did not catch the gentleman's statement.

Mr. HAY. I will state to the gentleman it is not used for any such purpose as this. It is used for laundering towels, for one dozen typewriter ribbons, for one stamp and three typewriter ribbons, and for various things of that sort. It is not used for any military purpose.

Mr. MANN. They make an annual report.

Mr. HAY. They make an annual report, which I hold in my hand for the last fiscal year.

Mr. HELM. What I was trying to get at is, would not a portion of this fund be available for this purpose?

Mr. HAY. It is for contingencies of the War Department, and they buy, for instance, photographic supplies, transportation of one person from Charleston, W. Va., to Washington, and so forth; law books, and so forth. It is not used for any purpose of this sort, and never has been and could not be.

Mr. HELM. This further question: Is there any fund available in the State Department which can be used for this purpose?

Mr. HAY. Not that I know of.

Mr. COX. Mr. Chairman, I shall have to insist upon the point of order.

Mr. WILLIS. Mr. Chairman——

Mr. HAY. If the gentleman is going to make the point of order——

The CHAIRMAN (Mr. SAUNDERS). The point of order is sustained.

Mr. HAY. I do not make it.

Mr. COX. I make the point of order.

The CHAIRMAN. The point of order is sustained.

The Clerk read as follows:

SUBSISTENCE OF THE ARMY.

Purchase of subsistence supplies: For issue, as rations to troops, civil employees when entitled thereto, hospital matrons, nurses, applicants for enlistment while held under observation, general prisoners of war (including Indians held by the Army as prisoners, but for whose subsistence appropriation is not otherwise made), Indians employed with the Army, as guides and scouts, and military convicts at posts; for the subsistence of the masters, officers, crews, and employees of the vessels of the Army transport service; hot coffee for troops traveling when supplied with cooked or travel rations; meals for recruiting parties, and applicants for enlistment while under observation; for sales to officers and enlisted men of the Army: *Provided*, That the sum of $12,000 is authorized to be expended for supplying meals or furnishing commutation of rations to enlisted men of the Regular Army and the Organized Militia who may be competitors in the national rifle match: And *provided further*, That no competitor shall be entitled to commutation of rations in excess of $1.50 per day, and when meals are furnished no greater expense than that sum per man per day for the period the contest is in progress shall be incurred. For payments: Of commutation of rations to the cadets at the United States Military Academy in lieu of the regular established ration, at the rate of 30 cents per ration; of the regular allowances of commutation in lieu of rations to enlisted men on furlough, enlisted men, and male and female nurses when stationed at places where rations in kind can not be economically issued, and when traveling on detached duty where it is impracticable to carry rations of any kind, enlisted men selected to contest for places or prizes in departments and Army rifle competitions while traveling to and from places of contest, male and female nurses on leaves of absence, applicants for enlistment, and military convicts while traveling under orders; of commutation of rations in lieu of the regular established ration for members of the Nurse Corps (female) while on duty in hospital, at 40 cents per ration, and for enlisted men, applicants for enlistment while held under observation, and military convicts sick therein, at the rate of 30 cents per ration (except that at the general hospital at Fort Bayard, N. Mex., 50 cents per ration, and at other general hospitals 40 cents per ration are authorized for enlisted patients therein) to be paid to the surgeon in charge; advertising; for providing prizes to be established by the Secretary of War for enlisted men of the Army who graduate from the Army schools for bakers and cooks, the total amount of such prizes at the various schools not to exceed $900 per annum; for other necessary expenses incident to the purchase, testing, care, preservation, issue, sale, and accounting for subsistence supplies for the Army; for extraordinary expense of subsistence of West Point cadets while attending inaugural ceremony, to be immediately available; in all $9,098,517.

Mr. FOSTER. Mr. Chairman, I reserve a point of order on this item.

Mr. HAY. To what part of the paragraph?

Mr. FOSTER. To that portion of the paragraph providing for extraordinary expense of subsistence of West Point cadets while attending the inauguration.

Mr. HAY. Well, if the gentleman wants to make that point of order, I have no objection.

Mr. FOSTER. I make the point of order on that.

The CHAIRMAN. Does the gentleman desire to be heard on the point of order?

Mr. HAY. I do not care to be heard on it, Mr. Chairman, except to say it has been the custom for many years in an inaugural year to provide for the subsistence of these cadets who take part in the inauguration ceremonies. I will say that the Corps of Cadets at West Point could not come here unless this is included.

Mr. FOSTER. Mr. Chairman, I do not believe for the necessary inaugural ceremonies to be held in the city of Washington the 4th day of next March that it is necessary to put the expense in this bill for the purpose of bringing cadets from West Point to Washington. We have in the last two or three days had some words from the man who is to be inaugurated on the 4th day of March that he desires some return to Democratic

simplicity in the inaugural ceremonies to be held at that time, and I do not believe that it is the desire of Gov. Wilson that his inauguration should be held in such a manner as to cause great expense to the people of this country or an unnecessary military display, and, so far as this provision of the bill is concerned, I do not believe that it is of any value to the American people. I do not believe that it adds anything more to the success of the incoming administration that we should have a great display in the city of Washington at that particular time.

Mr. SLAYDEN. Is the gentleman against the ball?

Mr. FOSTER. I am against the ball, and I believe Mr. Wilson very wisely acted in saying he did not desire it. [Applause.] I believe that this aping of royal flunkyism in the city of Washington should stop, and we should go ahead and have a simple inaugural and then go about doing the work that our party believes should be done.

Mr. GILLETT. Is not the ball the only self-supporting feature of the whole inauguration?

Mr. FOSTER. Well, I judge that the ball is held for the purpose of giving some people an opportunity of displaying the clothes that they may wear, and another reason is that it helps the city of Washington that desires at this particular time to make what money the citizens can out of the people who come here.

Mr. MANN. Is the ball for the purpose of selling tickets to innocents from abroad?

Mr. FOSTER. To skin those who come here to attend the inauguration, and to that end the people of Washington advertise it very largely, because they make money and it is a profit that they rake in to themselves.

Mr. SLAYDEN. I am afraid the gentleman's dancing days are over.

Mr. FOSTER. That is true. But I understand there is not much dancing at an inauguration, but that it is principally an opportunity to show themselves and walk around in a parade—a sort of a "peacock alley" place.

Mr. HAY. Mr. Chairman, this has nothing to do with the inaugural ball. It is an entirely different proposition. I want to say to my friend from Illinois [Mr. FOSTER] I am as much in favor of simplicity in the inauguration as anybody else, but the gentleman must remember that the inauguration of a President is not only for the President who is inaugurated. Thousands of people come here from all parts of this country for the purpose of seeing the inauguration. It is the only time when they have an opportunity of seeing the cadets from West Point and from the Naval Academy in a parade and to see how they perform, and if any troops—and a large number of them are to be in this parade—it seems to me that it is most proper that the cadets from these two institutions, West Point and Annapolis, should come here, not only that the people of the country may see how they are learning their duties as soldiers and sailors, but to impress upon the cadets themselves the importance of the event in which they are taking part and to in part teach them the duties of patriotism. And I hope my friend from Illinois [Mr. FOSTER] will not break all precedents by insisting on this point of order. I think it probably is subject to a point of order.

Mr. MANN. Does not this item properly belong in the Military Academy bill if it goes in any bill?

Mr. HAY. I do not think it would be any more in order on the Military Academy bill than on this bill.

Mr. MANN. It probably would not be more in order, but would it not be more beneficial if so enacted? This bill will not become the law until about five minutes before the ceremony begins.

Mr. HAY. I hope the gentleman's prophecy is not correct.

Mr. MANN. And the Military Academy bill will.

Mr. HAY. I do not see anything that will cause this bill to be delayed until such time.

Mr. MANN. There is nothing yet, but there will be before it passes.

The CHAIRMAN. The gentleman from Illinois [Mr. FOSTER], I understand, makes a point of order.

Mr. FOSTER. I want to reserve it for a moment.

Mr. CARLIN. I think the gentleman's criticism of the people of Washington is not only unjust but unfair. It is not a fact that the inaugural ceremonies are a matter of profit to the people of this city. On the contrary, it is a great burden and expense in the requirement of extension of hospitality to almost every citizen of the city and the vicinity. They have always been glad to do it, but it never has been a source of profit, but always one of expense.

Mr. FOSTER. Mr. Chairman, I might go ahead and say to the gentleman, and I think I could, that living here only close to the city of Washington he has not come up against the hotel prices.

Mr. CARLIN. The hotel prices are a very small feature of the cost.

Mr. FOSTER. I will say that the city of Washington is glad to have the display, and I do not think it is adding anything to the patriotism of the country to have this additional expense at that particular time, and I therefore make the point of order.

The CHAIRMAN. The point of order is sustained. The Clerk will read.

Mr. HAY. I understand the point of order, Mr. Chairman, goes to these words:

For extraordinary expense of subsistence of West Point cadets while attending inaugural ceremony, to be immediately available?

The CHAIRMAN. That is so understood. The Chair sustains the point of order.

Mr. FOSTER. There is one particular matter I want to call the attention of the chairman to, that is different than last year, and that is the pay for Indians.

Mr. HAY. Does the gentleman mean the words "without pay"?

Mr. FOSTER. The words "without pay" are left out this year.

Mr. HAY. The chief of the Quartermaster Corps informed the committee they had not any Indians employed who were without pay. As a matter of fact, we do pay them.

Mr. FOSTER. So we are not starting on a new way of doing this?

Mr. HAY. No.

Mr. KAHN. Mr. Chairman, I move to strike out the last word. A few minutes ago an inquiry was made in regard to the cost of the ration of the American soldier. The chief of the Quartermaster Corps appeared before the Committee on Military Affairs and presented a statement of items that go to make up the ration of the soldiers of our country. There are some 25 items included in that ration.

The cost per man is 23.8 cents per day, and I ask unanimous consent to insert in the RECORD a full statement on the item of cost of the ration for the American soldier.

The CHAIRMAN. Without objection, the statement indicated will be inserted in the RECORD.

Mr. PRINCE. Mr. Chairman, I suggest to my colleague that he also state that while these rations are good and sufficient, the Government in addition furnishes excellent soldier cooks to put them into shape.

Mr. KAHN. I am glad the gentleman from Illinois has made that suggestion. A few years ago the War Department organized a school for cooking. It was found that frequently the rations furnished to the soldiers were spoiled in their preparation. Upon the request of the War Department an item was inserted in the Army appropriation bill to enable the department to establish cookery schools. I believe there are two or three of these schools in existence at present, and the officers of the department have testified that this departure has added materially to the welfare of the soldier.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. KAHN. Certainly.

Mr. MANN. How many cooks do they have to a company who are paid outside of the enlisted men?

Mr. HAY. The cooks are enlisted men.

Mr. KAHN. None; they are all enlisted men.

Mr. MANN. So that the Government does not furnish cooks apart from the men who are doing their own cooking?

Mr. KAHN. No; it does not.

Mr. MANN. One might have gotten that impression from the statement of my colleague, the gentleman from Illinois [Mr. PRINCE].

Mr. KAHN. Enlisted men detailed to do the cooking are furnished from the cookery schools.

Mr. MANN. The men are not furnished cooks outside of the Army?

Mr. KAHN. No. The cookery schools are recruited from the ranks, and the schools have proved to be of material advantage to the soldier.

Mr. HAY. Mr. Chairman, I simply wish to state that the Chief Quartermaster in the hearings stated that the price that that is based on is 24.9 cents per ration.

Mr. KAHN. He also gave to the committee, on page 90 of the hearings, a statement showing just exactly what each ration costs.

Mr. KENDALL. A ration is an allowance of food for one day, is it not?

Mr. KAHN. It is.

The CHAIRMAN. The gentleman from California [Mr. KAHN] has asked unanimous consent to have inserted in the RECORD the matter indicated by him. Is there objection?

There was no objection.

Following is the tabular statement referred to:

Statement showing the cost of the components of the garrison ration per 100 rations and per 1 ration.

Number of rations.	Articles.	Unit.	In bulk.	Price.	Cost per 100 rations.	Cost per 1 ration.
				Cents.		
70	Beef, fresh	Pound	87½	9.734	$8.51725	$0.08517
30	Bacon, issue	do	22½	14.915	3.35587	.03356
100	Flour, issue	do	112½	2.685	2.40412	.02404
100	Baking powder	No. ½ can	1	12.068	.12068	.00121
50	Beans	Pound	7½	5.162	.38715	.00387
50	Rice	do	5	5.376	.26880	.00269
70	Potatoes, fresh	do	87½	2.127	1.85603	.01856
20	Onions, fresh	do	25	2.313	.57825	.00578
10	Tomatoes, canned	Small can	6¼	11.068	.69175	.00692
30	Prunes	Pound	2⅛	7.343	.17623	.00176
50	Jam	No. 2 can	2½	20.12	.51098	.00511
10	Apples, evaporated	Pound	⅛	8.053	.06442	.00034
10	Peaches, evaporated	do	⅛	8.184	.06547	.00035
100	Coffee, R. and G	do	7	22.176	1.55232	.01552
100	Sugar	do	20	5.324	1.06480	.01065
100	Milk, evaporated	Family can	4½	5.93	.24708	.00247
50	Vinegar	Gallon	⅛	15.094	.03773	.00038
50	Pickles, cucumber	do	¼	26.585	.06462	.00055
100	Salt	Pound	4	.62	.00248	.00002
100	Pepper, black	No. ¼ can	1	5.3	.05300	.00053
100	Cinnamon	do		5.862	.02051	.00021
100	Lard	Pound	4	12.522	.50088	.00501
100	Butter	do	3½	28.376	.88675	.00887
100	Sirup	Gallon	1	31.122	.31122	.00311
100	Flavoring extract, lemon	2-ounce bottle	1/10	9.363	.06554	.00066
	Total				23.80398	.23804

Statement showing cost of the components of the garrison ration.

Component.	Cost.
	Cents.
Beef, fresh	7.614
Bacon, issue	3.227
Flour, issue	2.604
Baking powder	.112
Beans	.317
Rice	.222
Potatoes, fresh	1.643
Onions, fresh	.674
Tomatoes, canned	.578
Prunes	.260
Jam	.506
Apples, evaporated	.09
Peaches, evaporated	.081
Coffee, R. and G	1.454
Sugar	1.088
Milk, evaporated	.2
Vinegar	.600
Pickles, cucumber	.073
Salt	.023
Pepper, black	.049
Cinnamon	.032
Lard	.448
Butter	.799
Sirup	.328
Flavoring extract, lemon	.066
Total	22.617

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Regular supplies, Quartermaster Corps: Regular supplies of the Quartermaster Corps, including their care and protection, consisting of stoves and heating apparatus required for heating offices, hospitals, barracks and quarters, and recruiting stations, and United States military prison; also ranges, stoves, coffee roasters, and appliances for cooking and serving food at posts, in the field, and when traveling, and repair and maintenance of such heating and cooking appliances; authorized issues of candles and matches; for furnishing heat and light for the authorized allowance of quarters for officers and enlisted men, for contract surgeons and contract dental surgeons when stationed at and occupying public quarters at military posts, for officers of the National Guard attending service and garrison schools, and for recruits, guards, hospitals, storehouses, offices, the buildings erected at private cost in the operation of the act approved May 31, 1902; for sale to officers, and including also fuel and engine supplies required in the operation of modern batteries at established posts; for post bakeries, including bake ovens and apparatus pertaining thereto, and the repair thereof; for ice machines and their maintenance where required for the health and comfort of the troops and for cold storage; ice for issue to organizations of enlisted men and offices at such places as the Secretary of War may determine, and for preservation of stores; for the construction, operation, and maintenance of laundries at military posts in the United States and its island possessions; for the authorized issues of laundry materials for use of general prisoners confined at military posts without pay or allowances, and for applicants for enlistment while held under observation; authorized issues of soap; for hire of employees; for the necessary furniture, textbooks, paper, and equipment for the post schools and libraries; commercial newspapers, market reports, etc.; for the tableware and mess furniture for kitchens and mess halls, each and all for the enlisted men, including recruits; of forage, salt and vinegar for the horses, mules, oxen, and other draft and riding animals of the Quartermaster Corps at the several posts and stations and with the armies in the field, and for the horses of the several regiments of Cavalry, the batteries of Artillery, and such companies of Infantry and Scouts as may be mounted; for remounts and for the authorized number of officers' horses, including bedding for the animals; for seeds and implements required for the raising of forage at remount depots, and for labor and expenses incident thereto; for straw for soldiers' bedding, stationery, typewriters and exchange of same, including blank books and blank forms for the Quartermaster Corps, certificates for discharged soldiers, and for printing department orders and reports, and for printing and binding: *Provided*, That no part of the appropriations for the Quartermaster Corps shall be expended on printing unless the same shall be done at the Government Printing Office, or by contract after due notice and competition, except in such cases as the emergency will not admit of the giving notice of competition, and in cases where it is impracticable to have the necessary printing done by contract the same may be done, with the approval of the Secretary of War, by the purchase of material and hire of the necessary labor for the purpose. For the fiscal year ending June 30, 1914, whenever the ice machines, steam laundries, and electric plants shall not come in competition with private enterprise for sale to the public, and in the opinion of the Secretary of War it becomes necessary to the economical use and administration of such ice machines, steam laundries, and electric plants as have been or may hereafter be established in pursuance of law, surplus ice may be disposed of, laundry work may be done for other branches of the Government, and surplus electric light and power may be sold on such terms and in accordance with such regulations as may be prescribed by the Secretary of War: *Provided*, That the funds received from such sales and in payment for such laundry work shall be used to defray the cost of operation of said ice, laundry, and electric plants; and the sales and expenditures herein provided for shall be accounted for in accordance with the methods prescribed by law; and any sums remaining, after such cost of maintenance and operation have been defrayed, shall be deposited in the Treasury to the credit of the appropriation from which the cost of operation of such plant is paid, $7,634,553.

Mr. WILLIS. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Ohio [Mr. WILLIS] moves to strike out the last word.

Mr. WILLIS. I do that in order to get some information from members of the committee about an item that seems to me to be very unusual and peculiar. On page 22, line 25, there is an item that seems peculiar to me. It reads there—

of forage, salt and vinegar for the horses, mules, oxen, and other draft and riding animals.

Now, I know something about horses and a little about mules, and a little, too, about oxen; but this is the first time it ever occurred to me that vinegar was a proper article of diet for them. And it can not be claimed that the vinegar referred to in this paragraph is to be used as medicine for the animals, because in line 10, page 26, distinct provision is made in a separate item for "purchase of medicines for horses and mules."

Mr. KAHN. Mr. Chairman, the vinegar, I find, is used for cleaning the troughs from which the horses eat, to keep them sweet and clean. The amount of vinegar required is exceedingly small. I believe that one-tenth of 1 gill per day is used for each animal in the service. The quantity of salt used for each animal per day is about eight-tenths of an ounce.

Mr. HAY. Mr. Chairman, on page 21, line 24, I move to strike out the word "contract" at the end of the line and insert the word "active."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Virginia [Mr. HAY].

The Clerk read as follows:

Amend, page 21, line 24, by striking out the word "contract" at the end of the line and inserting in lieu thereof the word "active."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HAY. Now, Mr. Chairman, on page 23, beginning on line 12, I move to strike out the words "and for printing and binding."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 23, lines 12 and 13, strike out the words "and for printing and binding."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WEBB. Mr. Chairman, I send forward an amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from North Carolina [Mr. WEBB].

The Clerk read as follows:

Page 24, line 17, after the figures "$7,634,553," insert: "*Provided*, That no part of this or any other appropriation shall be expended in payment for heat and light for quarters of officers who receive commutation of quarters."

Mr. WEBB. Mr. Chairman, I just want to call the attention of the House to the fact that the expenses of commutation of quarters is growing very rapidly. In 1906 the amount allowed was $303,000. This bill carries $500,000. I am making no ob-

jection to that provision, for it is law and can not be changed in this bill. The objection I have to this proposition, or, rather, to the ruling of the Treasury Department in regard to it, is that without warrant of law we are now paying $285,000 a year to something like 950 Army officers who are detached from troops, and Congress has never authorized that $285,000 payment as an allowance or commutation for heat and light.

The act of 1907 came as near allowing heat and light commutation as you can find in any of these statutes, and that was passed upon by the Auditor of the Tresury Department in these words:

The authorized allowance of quarters for officers and enlisted men is the allowance of quarters actually assigned to them in accordance with law and regulations. The light and heat to be paid for by the United States is strictly limited by law to that which is actually necessary for the authorized allowance of quarters for officers and enlisted men. Where there is no allowance of quarters, as authorized by law and regulations, there can be no payment for heat and light.

I am therefore of the opinion, and so decide, that there can be no legal payment by the United States for the heat and light actually necessary and actually used for the authorized allowance of quarters for officers and enlisted men unless the quarters have been assigned to them as provided by law and regulations, and that there can be no such payment for heat and light for quarters occupied by officers who have been paid or are entitled to be paid commutation of quarters for the same period.

I contend, Mr. Chairman and gentlemen, that the proper interpretation of the act of 1907 bears out that construction of the Auditor of the Treasury Department. But Mr. Comptroller Mitchell was called upon and, I imagine, importuned by officers who received this tremendous extra allowance for heat and light, he overruled the Auditor of the Treasury Department, and now it is for this House to say whether or not by law we shall allow these Army officers not only commutation for quarters but, in addition, $19 a month extra for heat and light for a captain, and not only allowing a colonel $12 a month for each room up to seven rooms, $84 a month, and in addition to that $36 for heat and light. I say Congress never intended it, and we ought not to do it.

Something was said as to what is the yearly pay of these captains and other officers. I imagine the House would be glad to know it. I have a tabulated statement, which I can make very plain, if Members desire to hear it.

I do not want the officers of the Army underpaid, and I do not think they ought to be overpaid; but if they are to be overpaid it ought to be done by the act of this body, and not by a ruling of the Treasury Department.

Mr. MANN. Will the gentleman yield for a question?

Mr. WEBB. Certainly.

Mr. MANN. The gentleman is familiar with the fact, I take it, that this appropriation has for years carried this provision:

For furnishing heat and light for the authorized allowance for quarters for officers.

Mr. WEBB. Yes; that is the point I made. The "authorized allowance" is for the allowance to officers who maintain their quarters in Government Army posts, where they have been assigned to duty. For instance, over here at Fort Myer they get their heat and light under the law as long as they stay there, but there is no allowance by law when these officers are detached from their troops and sent to Washington, San Francisco, and other places. There is no authorization by law except for quarters. It is not intended that they shall get heat and light in addition, and that gave rise to this opinion from which I have just read.

Mr. MANN. If that opinion is based on this paragraph, I should say clearly that the auditor was wrong.

Mr. WEBB. If you are going to authorize it, I think you ought to do it directly and not by indirection, and not allow the Comptroller of the Treasury Department to say what ought to be expended, when this Congress is the body that should determine.

Mr. MANN. Quarters means so much room or so much commutation.

Mr. WEBB. That is for quarters.

Mr. MANN. Yes. This provision, which has been carried for years in the appropriation bill, is for furnishing heat and light for the authorized allowance for quarters.

Mr. WEBB. Not for years, because 1907 was the first time this question arose, and it was turned down by the Auditor for the Treasury Department.

Mr. MANN. It has been carried for years.

Mr. WEBB. True; but it always applied to Government quarters where men were attached to their troops, not where they were detailed to duty away from their troops, as they are in Washington and other parts of the United States.

Mr. BURKE of South Dakota. Will the gentleman yield for a question?

Mr. MANN. Certainly.

Mr. BURKE of South Dakota. I want to call the attention of the gentleman from Illinois to the part of the provision which reads as follows:

For quarters of officers when stationed at and occupying public quarters at military posts.

The point the gentleman from North Carolina, I take it, is trying to make is that, even if there is an authorization of law upon which you can base an appropriation, there is no language in the bill that will justify an expenditure of any part of the appropriation except for fuel and light where the quarters are at a military post.

Mr. WEBB. That is my understanding exactly.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

Mr. BURKE of South Dakota. I ask unanimous consent that the gentleman from North Carolina have five minutes more.

The CHAIRMAN. The gentleman from South Dakota asks unanimous consent that the gentleman from North Carolina may have five minutes more. Is there objection?

There was no objection.

Mr. WEBB. Mr. Chairman, a captain can come to Washington and rent one or two rooms and draw commutation of quarters and for heat and light for 4 rooms for the entire year; $219 for a captain for heat and light and $576 for rooms. I think Congress either ought to cut that out or put it into law in plain language.

Mr. TILSON. Will the gentleman yield?

Mr. WEBB. I will.

Mr. TILSON. The gentleman does not have an idea that an officer can get a room at the Army and Navy Club for $12?

Mr. WEBB. I suppose not, but the practice, I understand, is for two officers to occupy one suite of rooms. That is frequently done. There are 192 of them in this city, and they draw commutation for heat and light aggregating $60,000 per year in Washington. I do not think Congress ever intended they should have that.

Mr. TILSON. How many officers do that?

Mr. WEBB. I do not know, but I can give the gentleman many instances of it. You have an officer detailed from Fort Myer, for instance, to San Francisco. He is detailed to take quarters on the *Logan*. He takes up his quarters, which are provided for him by the Government, with heat and light, splendid quarters, but he has a nominal attachment in San Francisco and draws his commutation for quarters, heat, and light, although he may never have seen a light in a room in San Francisco. When that matter came before the War Department the auditor turned it down. In order to circumvent that ruling, an additional order was made by The Adjutant General to this effect:

In consequence of the adverse decision of the Comptroller of the Treasury on a claim for the allowances of heat and light in the case of an officer detailed as transport quartermaster on a particular transport with station at San Francisco, on the ground that his station and duty were on board the transport, where heat and light were furnished by the United States, it will be necessary hereafter, in ordering officers to similar duty, to detail them in the transport service and to direct them to report to the proper superintendent in that service at the home port, for duty accordingly, without specifying their duty or the vessel on which it is to be performed.

So now, to circumvent that ruling of the comptroller, they are sent to report for duty at San Francisco and immediately ordered on the transport, and draw commutation of quarters and heat and light besides. I submit that in all good conscience that ought not to be allowed to go all the year around, drawing commutation for something he never uses and never had any use for, when such quarters and light and heat are furnished him free on the transport.

Now, Mr. Chairman, as I said a moment ago, I do not think an Army officer ought to be underpaid, neither do I think he ought to be overpaid. Let me give you an illustration of what a captain drawing commutation of quarters receives.

After serving 10 years in the Army, he gets $2,880 salary; four rooms, at $12 a month, $576; heat and light commutation, $213; total, $3,669.92. Besides, if he buys a horse the Government gives him $150 a year, and in addition to that, if he has two, they give him $200. In addition he gets forage, $140 a year. If he has two it is $280. His stabling, the Government pays for that—$170 for one horse or $340 for two horses, which he is entitled to.

A captain detailed for duty here in Washington—and I do not know what they have to do—draws $4,120.92, including stabling and forage.

A colonel gets $5,000 a year salary straight. Seven rooms, $12, $1,008; commutation heat and light—which the Government never intended he should have—$315.20; total, $6,323.20. He is paid $140 if he has bought a horse and $280 if he has two. One hundred and seventy dollars it cost for feeding him and

$340 for stabling the two horses, a total of $6,843.20 which the Government pays for the services of a colonel.

Mr. HELM. Will the gentleman yield?

Mr. WEBB. Certainly.

Mr. HELM. Does the officer have to buy his own bridle and saddle?

Mr. WEBB. I can not tell. I found so much that was furnished free that I became weary in going over what they did get.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HELM. Mr. Chairman, I ask unanimous consent that his time be extended.

Mr. WEBB. Mr. Chairman, I am about through, and I want to say only one or two words more. I would like to have two minutes.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent to proceed for two minutes. Is there objection?

There was no objection.

Mr. WEBB. Mr. Chairman, for some reason or other I say this detail business is growing. It is fat pickings. We have 4,704 officers in the United States, and nearly one-fourth of them are on detail duty, where they get commutation of quarters and heat and light. In other words, we pay out on account of this heat and light in the United States for these detail officers about $285,000, and I am informed that it would shock the House to know what tremendous amounts for heat and light officers detached or attachés of the United States in foreign countries, and especially in Madrid, Spain, draw. I am trying now to get that information, and I shall give it to the House a little later if I can.

Mr. HELM. Does the gentleman know that these officers of the Army have their medical attention furnished free?

Mr. WEBB. Yes; they have a medical doctor and a horse doctor.

Mr. HELM. Do they also have a dentist?

Mr. WEBB. I see dental surgeons are provided for. I imagine they do. They also get all of the food they eat, if they want to, at Government prices, and therefore I think the officers are well paid, and that they ought not to have this extra commutation on account of heat and light.

Mr. GARNER. Mr. Chairman, how do they get this compensation unless it is authorized by law?

Mr. WEBB. If the gentleman had been on the floor when I began, I think he would have understood.

The CHAIRMAN. The time of the gentleman from North Carolina has again expired.

Mr. GARNER. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended for one minute.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. WEBB. Mr. Chairman, I would state that Congress never intended that this heat and light commutation should be allowed to detached officers who draw commutations for quarters, but the Comptroller of the Treasury overruled the decision of the Auditor of the Treasury and held it was an incident to quarters commutation and therefore they are given both quarters and heat and light commutation.

Mr. HELM. Do these officers of the Army have a place to store their baggage?

Mr. WEBB. Yes; and if an officer moves the Government pays the freight on his goods and baggage. Not only does the Government pay the freight, but it pays for crating his household goods.

Mr. HELM. Do they get storage charges free?

Mr. WEBB. I imagine they would get such a little thing as that free. They get so much else.

Mr. HAY. Mr. Chairman, I hope that the committee will not adopt the amendment offered by the gentleman from North Carolina. I want to point out why these officers on detached service receive this commutation for heat and light. Every officer of the Army when he is stationed at a military post where quarters are furnished him also receives from the Government heat and light. He receives also forage for his horses and medical attention. He receives everything that the Government has an implied contract with him to furnish when he goes into the Army. When the officer is ordered away from the military post, where he is furnished all of these things free of charge, and is ordered to take station in a city where the Government has no quarters for him, it has been the custom to give him a commutation of quarters, about which the gentleman does not complain, as I understand.

Mr. WEBB. I want to say that I do not complain, because it is useless to complain. I could not change that in an appropriation bill by amendment, because such amendment would be subject to a point of order. It might be too high or too low, but I am not taking issue with the chairman on that.

Mr. HAY. That is what I say. It is regarded as just that these officers who are brought here upon orders should receive commutation for heat and light. They do not come here because they want to come, but they are ordered here. They have to come whether they want to come or not. They come here from a post where all of these things are furnished them, and because they are ordered here and have to obey orders is that a reason why there should be taken from them what they are already receiving, and that they should be compelled to pay out of their own pockets for expenses which they must incur by obeying orders? That is the philosophy of this allowance for heat and light and for commutation of quarters.

Mr. ROBERTS of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. HAY. Yes.

Mr. ROBERTS of Massachusetts. To take away from the officer detached from his post that which he has at the post would be to penalize him for performing his duty away from the post.

Mr. HAY. Of course. And I may say to the gentleman from North Carolina that every custom is more or less abused, but I do want to say this: That these Army officers as a class are as clean and honest a set of men as I have ever been brought in contact with. [Applause.]

If some of them have abused this privilege it is no reason why all of them should be punished. Now, if there is a colonel or a captain who is living in Washington in one room and drawing commutation of quarters for four rooms or six rooms, that is no reason why another captain who has to bring his family here and who may be living in five or six rooms should be punished because this other man is abusing the privilege which is given him.

Mr. WEBB. My understanding is that Congress when it authorized $12 per room per month, four rooms to a captain, seven rooms to a colonel, and eight to a brigadier general and so on up, intended that that amount of commutation should be for quarters and heat and light. The gentleman probably knows that you can rent apartments in most any apartment house in this city for $12 a month per room where they furnish the heat and a great many of them the light.

Mr. HAY. No; I do not know any apartment house where you can rent for $12——

Mr. WEBB. I meant per room, with heat and sometimes light furnished.

Mr. HAY. I do not know where you can get rooms in an apartment house for $12.

Mr. WEBB. I can tell the gentleman a great many.

Mr. HAY. Of course there are some places where rooms can be rented for $12 a month, but neither the gentleman nor I would probably care to live there.

Mr. WEBB. Oh, yes; in good apartment houses.

Mr. HAY. Well, I do not know where they are. I say the philosophy and the reason for this allowance of heat and light is based upon the fact that when they are stationed at military posts they receive it and when they are ordered away and detached away from their posts there is no reason why they should be penalized and made to pay what they would not have to pay if they stayed at the military post, and a great majority of them would prefer to do it. When they are ordered to a large city like this on detached service they are put to a great deal of expense which they do not have to incur when stationed at the military post, and there is no justice in my opinion in taking away from them this allowance.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. HAY. I ask for two minutes more.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. HAY. And the statement of the gentleman from North Carolina that when this commutation was allowed that that included heat and light I think is erroneous. My recollection is that the officer was allowed $3 for a cord of wood; that is the way this heat proposition first began; he was allowed so much wood, at $3 a cord, to heat his quarters, and from that grew the present arrangement by which his heat is allowed. I agree with the gentleman from North Carolina that this practice of the transport officers being allowed heat and light, when they do not get them, is altogether wrong and ought to be taken away, and I will be very glad to unite with the gentleman in trying to do it, and if he will put an amendment to this bill or offer an amendment to the bill pro-

viding that no part of this appropriation shall be paid to that class of officers I shall as cheerfully advocate it and be in favor of it, but I do not think——

Mr. ANTHONY. Will the gentleman permit an interruption?

Mr. HAY. Certainly.

Mr. ANTHONY. Can not the allowance of commutation of quarters of heat and light to that officer detached for transport duty be justified? Now, it occurs to me that that is temporary duty to which that officer is assigned, for instance, as the quartermaster of a transport. He has a family and he is assigned to duty on that transport, and if you compel him to pay for rent and quarters for his wife and family while he is doing special duty for the Government, I think he is entitled to quarters for his family as much as if he stays with his regiment.

Mr. HAY. Well, I had not looked at it in that light.

Mr. ANTHONY. That just occurred to me and I believe that will be found to be the case and you will be imposing a hardship on such an officer.

Mr. HAY. I was thinking about the officer who did not have a family and who was living on the transport.

Mr. WEBB. I call the gentleman's attention that the act of 1907 was, "provided hereafter the heat and light actually necessary for authorized allowance of officers, and so forth."

Mr. HAY. If the gentleman will put those words in his amendment I will agree to it.

Mr. WEBB. That is the law now so far as it affects officers assigned to quarters with their troops.

Mr. HAY. As I understand it the commutation has been upon the number of rooms, heat and light, that is allowed to each officer according to his rank, and I think they have endeavored not to give the officer more than he is entitled to or give him some emolument that he ought not to have, and they have endeavored in a proper and just way to ascertain just what that allowance ought to be and what is actually necessary for them to have in order to have it. I hope the amendment of the gentleman from North Carolina will not prevail.

Mr. BURKE of South Dakota. I would like to have the attention of the chairman of the committee [Mr. HAY]. As I followed the gentleman from North Carolina [Mr. WEBB], I take it that he is not criticizing so much that this money is expended—while I do not think it meets with his best judgment—but he questions that it is being expended for purposes which Congress did not intend. And I want to say that there is no committee of this House in whose judgment I have greater confidence or that I am willing to follow more readily and willingly, than the Committee on Military Affairs, and that I am not criticizing in any way the work of the committee. But I do want to call their attention to what I believe is language in this bill that is limited and yet expenditures are being made under it that are not authorized by the bill. I would call the gentleman's attention to the bottom of page 13, where he provides for commutation of quarters to commissioned officers. Then, I would call his attention to page 21, after the semicolon on line 22, where it says:

> For furnishing heat and light for the authorized allowance of quarters for officers and enlisted men, for contract surgeons, and contract dental surgeons when stationed at and occupying public quarters at military posts.

I say to the gentleman that if he were a disbursing officer of the Government he would not undertake to expend a dollar for the commutation of fuel and light in the face of the limitation that is placed upon this appropriation. And, as the gentleman from North Carolina [Mr. WEBB] stated, the Treasury Department turned down an account for commutation of fuel and light because it was not authorized, and I think that when the Auditor for the War Department made that decision he placed upon the law the interpretation that it not only bears, but that Congress intended, and that the comptroller was wrong in his decision holding otherwise.

I want to ask the gentleman from Virginia [Mr. HAY], the chairman of the committee, a question. I want to ask the gentleman from Virginia that, assuming that it is authorized by law that there may be commutation of allowances for fuel and light, if he believes that this language would permit of the expenditure of any part of the appropriation for commutation of fuel and light?

Mr. HAY. No; I do not think so. I understand that it is disbursed under the act of 1907.

Mr. BURKE of South Dakota. There may be an act of 1907 which justifies an appropriation being made, but I do not think there is; but unless we directly authorize the appropriation, no disbursing officer would be safe in expending any part of it. This appropriation says that it is for furnishing heat and light where officers are stationed at and occupy public quarters at military posts; that does not authorize expending any part of it for commutation of fuel and light.

Mr. HAY. I will state to the gentleman that this money which is disbursed to officials for heat and light when they are stationed away from military posts is not disbursed under the language to which he has just called attention.

Mr. BURKE of South Dakota. Will the gentleman point out the language?

Mr. HAY. It is disbursed by virtue of the act of 1907, which has this provision in it:

> *Provided*, That hereafter the heat and light actually necessary for the authorized allowance of quarters for officers and enlisted men shall be furnished at the expense of the United States under such regulations as the Secretary of War may prescribe.

Mr. BURKE of South Dakota. I think that the interpretation of that act is that it only intends to pay the actual cost of the fuel and light at a military post.

Mr. HAY. No; not at all; because this is a permanent law. The words and language to which the gentleman has referred are carried in the bill every year.

Mr. BURKE of South Dakota. Certainly. I would like to ask the gentleman so that he can catch my point. If the gentleman wants to make this appropriation available for the commutation of fuel and light, why does he not say so in the bill?

The CHAIRMAN. The time of the gentleman from South Dakota [Mr. BURKE] has expired.

Mr. BURKE of South Dakota. Mr. Chairman, I ask unanimous consent for two minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BURKE of South Dakota. Then I ask him why not include the words "and for commutation of fuel and light"? I am like the gentleman from North Carolina [Mr. WEBB]; if this is going to be done, let us authorize it.

Mr. HAY. It is already authorized in existing law; and under the act of 1907, as I say, the Chief of the Quartermaster Corps now has the right, out of this appropriation for regular supplies, to furnish the heat and light actually necessary under the authorized allowance of quarters for officers and enlisted men.

Mr. BURKE of South Dakota. I would like to ask the gentleman if he believes it is good administration to make appropriations to be expended in accordance with the regulations of the head of a department?

Mr. HAY. I do not think so as a general proposition, but in a matter of this sort it was impossible for Congress to say exactly how it should be fixed.

Mr. BURKE of South Dakota. Well, I will say to the gentleman that Congress did fix it, so far as commutation of quarters were concerned, by designating the number of rooms according to the rank of the officer, and it would be just as easy for Congress to say the same thing in regard to the commutation of fuel and light.

Mr. HAY. I think not, because light, for instance, costs more in one city than it does in another, and fuel costs more in one city than in another, and it is impossible to do it.

Mr. BURKE of South Dakota. Is not that true of rent also?

Mr. HAY. That is also true of rent, but the rent is fixed in amount to $12 a room.

Mr. BURKE of South Dakota. The rent is higher in one part of the country than in another.

Mr. HAY. That is true; but we figure it at $12 per room.

Mr. BURKE of South Dakota. You do not have to go outside of the city of Washington to find that out. Unless the gentleman from Virginia [Mr. HAY] will consent to an amendment, I shall vote for the amendment offered by the gentleman from North Carolina [Mr. WEBB].

Mr. MANN. Mr. Chairman, I would like to make a little contribution on this subject. I had this matter called to my attention through the activities of the Public Health and Marine-Hospital Service, or Members of Congress in their behalf, seeking to obtain an increase in the pay and commutation for quarters and allowance for heat and light. Last year one of the ablest committees of this House——

Mr. MADDEN. Which one?

Mr. MANN. The Committee on Interstate and Foreign Commerce—unanimously reported a certain bill into the House, which has passed recently, I believe, unanimously, in relation to the Public Health Service, and included this language concerning the officers of the Public Health Service:

> And shall receive commutation for necessary fuel and light for the same—
>
> That is, the room—
>
> at rates to be fixed by the Secretary of the Treasury.

The same proposition had been presented before the committee when I was the chairman of it, and I had declined to favor any proposition which provided a commutation for heat and light for officers in the Public Health Service. The bill that was passed last year was passed leaving that out. The officers of the Public Health Service insisted—no; I will not say "insisted," because they were very gentlemanly and courteous about it—they thought, at least, that they were entitled to the same allowances which were made for the Army and Navy and the Revenue-Cutter Service.

As an original proposition I would not be in favor of giving light and heat to Army officers, but the naval officers receive it, and at the present time the revenue-cutter officers receive it. Possibly they would lose it if this amendment went in, because my recollection is that they receive the same allowances as are made to officers of the same importance in the Army and in the Navy. I think they have it so worded in the Revenue-Cutter Service law that the revenue-cutter officers get the benefit of any increases or allowances that are made either to the Army or to the Navy. That is in accordance with a bill that passed this House. Many gentleman voted for it at the time, I did not.

Now, these officers receive this light and heat. It is a part of their compensation. Possibly there was originally no good reason for granting it. They were given light and heat in kind when they were given quarters in kind. If they occupied actual quarters the Government furnished the light and heat. It seemed perfectly reasonable in the first place that if an officer was to be given quarters in a Government building free, and could not obtain those quarters, then he ought to receive some compensation in lieu thereof. Possibly the same would be true with respect to light and heat.

The gentleman from South Dakota [Mr. BURKE] suggested to the gentleman from Virginia [Mr. HAY] that Congress ought to fix it. My distinguished friend from Virginia replied, "Oh, but light and heat differ in price and cost in different cities." And yet it makes no difference whether they do or not, they all get the same. Light may cost more in San Francisco than it does in Washington, although I doubt it. If there is anything that has practically the same cost, light and heat and rent of rooms vary widely. But we fixed that by act of Congress. Light and heat, which we could easily fix, we do not fix by act of Congress, but leave it to regulation. The regulation is not excessive, probably. The amount is in the neighborhood of $3 a month for all of this service.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from North Carolina [Mr. WEBB], which the Clerk will report.

The Clerk read as follows:

Page 24, line 17, after the figures "$7,634,553," insert: "*Provided*, That no part of this or any other appropriation shall be expended in payment for heat and light for quarters of officers who receive commutation of quarters."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the Chairman announced that the "ayes" seemed to have it.

Mr. HAY. A division, Mr. Chairman.

The committee divided; and there were—ayes 24, noes 16.

Accordingly the amendment was agreed to.

Mr. SMITH of Texas. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 24, line 17, by striking out the figures "$7,634,553" and inserting in lieu thereof the figures "$7,647,353," and add the following: "*Provided*, That of the sum herein appropriated $12,800 may be used to provide necessary heating apparatus in any buildings which may be constructed in connection with Fort Bliss, Tex."

Mr. HAY. I reserve a point of order on that amendment.

Mr. SMITH of Texas. Mr. Chairman, when the paragraph in this bill is reached relating to barracks and quarters, I intend to offer another amendment providing for the construction of additional barracks and quarters at Fort Bliss, Tex., and this amendment providing for heating apparatus for buildings at that place is intended to provide heating apparatus for the buildings which will be provided in that amendment. So the question of constructing additional barracks and quarters at Fort Bliss, Tex., is involved in this amendment.

Mr. FOSTER. May I interrupt the gentleman? I should like to inquire if Fort Bliss is one of the forts that it is proposed to abandon when the consolidation is made, or whether it is proposed to keep it up?

Mr. SMITH of Texas. It is a post that is proposed to be made permanent and kept up.

For the information of the House I send to the Clerk's desk two letters from the War Department bearing upon this question and ask that they be read.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

WAR DEPARTMENT,
Washington, January 6, 1913.

Hon. JAMES HAY,
Chairman Committee on Military Affairs,
House of Representatives.

SIR: I return herewith bill H. R. 21281, authorizing the Secretary of War to enlarge Fort Bliss, Tex., into a regimental post, referred to this department for information and remark by your indorsement, and received on the 3d instant.

The accommodations now at Fort Bliss are for a battalion of Infantry, but other troops are stationed there, for the time at least, and a comparatively small sum of money is now being expended in the erection of temporary shelter for a part of these additional troops. In the plans of the War Department, in which considerable progress has been made, although a final conclusion with reference to the whole country has not been reached, it is contemplated that a regiment of Cavalry shall be stationed at Fort Bliss, as being a railroad center and probable future center of population for the region along the Mexican border between San Antonio and the Pacific coast. The plan, therefore, calls for the enlargement of the post to the extent contemplated in the bill, and since the necessary garrison is now without permanent shelter, there is no project of construction in the United States proper which is now more pressing than this one.

The principal present concern of this department, however, as regards the construction of additional accommodations for troops is for the housing of the necessary garrisons for our foreign possessions, including the Panama Canal Zone, which are now without the number of troops which prudent forethought requires. The department has therefore not included an estimate for the enlargement of Fort Bliss among those which it has sent to Congress of the appropriations for the coming fiscal year, but it has been the intention to submit such an estimate after the appropriations shall have been secured, as contemplated, for the foreign possessions.

Very respectfully,
HENRY L. STIMSON,
Secretary of War.

(Supplemental estimates for construction work at Fort Bliss, Tex.)

JANUARY 15, 1913.

The honorable the SECRETARY OF THE TREASURY.

SIR: 1. Herewith is forwarded for transmission to Congress supplemental estimates under appropriations—

Barracks and quarters, in the sum of	$306,180
Regular supplies	25,600
Water and sewers, military posts	20,620
Total	352,400

required by the War Department for the fiscal year 1914 for the construction of the necessary barracks, officers' quarters, and other buildings, including heating, lighting, and water and sewers, required at Fort Bliss, Tex., for the accommodation of one regiment of Cavalry.

2. The submission of these estimates at the present time is made necessary in order to provide for two additional squadrons of Cavalry now in camp and temporary shelter at that post.

3. The conditions existing at Fort Bliss in the matter of quarters and necessary shelter is fully set forth in the accompanying memorandum of the Chief of the Quartermaster Corps, United States Army, which is made a part of this estimate.

4. The estimates were not included in the regular estimates for the fiscal year 1914, for the reason that the establishment of a regimental post at Fort Bliss had not at that time been definitely determined upon by the department.

Respectfully,
H. L. STIMSON,
Secretary of War.

This recommendation is not intended to supplant or modify the stress laid upon the paramount importance of completing the posts in Hawaii and Panama.

H. L. STIMSON.

Mr. SMITH of Texas. Mr. Chairman, I have a more detailed statement of the estimates by the War Department, which I will insert in the RECORD as a part of my remarks.

The statement is as follows:

WAR DEPARTMENT.
OFFICE OF THE CHIEF OF THE QUARTERMASTER CORPS,
Washington, January 15, 1913.

1. In view of the fact that it has been decided to station a regiment of Cavalry at Fort Bliss, Tex., the following supplemental estimates are submitted for the construction of the necessary shelter for the troops at that post.

2. The following statement, relative to the status of barracks and quarters and the necessary buildings at Fort Bliss, is submitted in connection therewith:

The following buildings are now at this post:

(A) PERMANENT STRUCTURES.

4 barracks, 78 men each.
6 double noncommissioned officers quarters.
14 single officers' quarters, line.
1 commanding officer's quarters.
1 quartermaster stable, 50 animals.
1 six-set bachelor officers' quarters.
1 fire-apparatus house.
1 guardhouse.
1 powder magazine.
1 hospital.
1 mess hall, 425 men.
1 post exchange and gymnasium.
1 bowling-alley building.
1 power house and heating plant.
1 hospital steward's quarters.
2 blacksmith and wheelwright shops.
1 coal shed.

1 forage shed.
1 hay storehouse.
1 ordnance storehouse.
1 quartermaster storehouse.
1 subsistence storehouse.
1 wagon shed.
1 ice plant.

(B) TEMPORARY STRUCTURES BUILT FROM FUNDS OF FISCAL YEAR 1913.

9 temporary stables	$12,138.20
8 temporary troop barracks	15,200.00
Temporary shelter for wagon masters, teamsters, etc	476.00
Addition to veterinary hospital	4,000.00
Temporary shelter for animals, First Battalion, Eighteenth Infantry	256.48
Bathhouses and closets for Second Squadron, Second Cavalry	1,100.00
Plumbing in same	1,934.00
Walling up houses and kitchens and constructing temporary kitchens and dining rooms, flooring of tents, etc	4,315.00
Sewer in rear of officers' quarters (permanent)	8,300.00
Total	47,719.68

The annual apportionment from fiscal year 1913, for barracks and quarters, was $5,000. The total apportionment was $6,865.

(C) TEMPORARY STRUCTURES BUILT FROM FUNDS OF FISCAL YEAR 1912.

4 Cavalry stables.
1 veterinary hospital.

RECAPITULATION.

12 barracks.
13 Cavalry stables.
15 sets officers' quarters, single.
1 six-officer set.
1 mess hall.
1 quartermaster stable.
And the miscellaneous buildings mentioned above.

All of the permanent structures are in good condition and are satisfactory for their purposes. This office has no information as to what the temporary structures are.

There is an amount of $48,000, "Barracks and quarters," for this post in the 1914 estimate. This will provide 8 sets of officers' quarters, making accommodations for 29 officers.

It will be seen that, with the exception of officers' quarters, a regiment of Cavalry can be cared for at Fort Bliss, but that many of the structures are temporary. In order to provide permanent buildings the following will be necessary, assuming that the mess hall will accommodate the regiment in two shifts:

8 troops barracks, with lavatories	$101,260
1 band barracks, with mess and lavatory	6,640
13 stables	63,500
4 double stable, guard, and shop buildings	14,800
1 guardhouse	20,000
2 hay sheds	9,000
1 ordnance storehouse	3,000
15 single officers' quarters	74,700
4 double noncommissioned officers' quarters	13,280
"Water and sewers" for water and sewer systems	20,620
"Regular supplies" for heating and lighting	25,600
Total	352,400

This estimate contemplates the use of wood frames and metal laths and cement plaster by the cement gun process for all except the guardhouse and ordnance storehouse, which will be of concrete, and the hay sheds, which will be of galvanized iron.

In addition to the above buildings, provided the construction work referred to is carried out, it will be necessary to construct at a later date an addition to the hospital at that post. This is not included in the supplemental estimates submitted in view of the fact that such construction work will have to be done from the appropriation "Construction and repair of hospitals," and the addition is not absolutely necessary at the present time.

(Signed) J. B. ALESHIRE,
Chief, Quartermaster Corps.

Mr. SMITH of Texas. Mr. Chairman, I regret very much that these estimates were not sent in for the consideration of the committee before the bill was reported to the House, because I am convinced that from the facts that could have been laid before the committee they would not have hesitated a moment to provide for this work. I do not understand the reason of the War Department, as stated in one of the letters which I have had read to the committee, for withholding these estimates until appropriations have been secured for the construction of barracks and quarters in our foreign possessions. It does seem to me that the proper and fair way to have presented this matter would have been to submit all of the estimates and lay all the facts before the committee, and have had the committee decide which of these projects was of the most pressing necessity.

Mr. MONDELL. Will the gentleman yield?

Mr. SMITH of Texas. Yes.

Mr. MONDELL. Is Fort Bliss, Tex., one of the points of concentration, or in the vicinity of one of the points of proposed concentration, of which we have heard so much of late?

Mr. SMITH of Texas. I am not posted in regard to that. This post is some six or seven hundred miles from Fort Sam Houston, and the War Department states that it is necessary to maintain a regiment of Cavalry there for an indefinite length of time in the future. I want to state to the gentleman that there is a large body of Cavalry now there which has been there, I believe, for almost two years, patrolling the border. The War Department has decided that it is necessary to keep them there indefinitely.

Fort Bliss is a small post with accommodations for a battalion of Infantry. A large part of the troops stationed there now are living in tents, practically outdoors. I was there a few weeks ago and saw them. During the severe weather that we have had recently, when the thermometer there was 4 below zero, our officers and men down there were living practically outdoors, and that condition will continue to exist unless an appropriation is made and these barracks and quarters are constructed.

Mr. MANN. Are not these troops there temporarily on account of conditions in Mexico?

Mr. SMITH of Texas. They are there on account of conditions in Mexico. The War Department has determined that it will be necessary to keep them there in the future.

Mr. MANN. The War Department can not determine as to the future. Now, is it the gentleman's contention that where the Army is used in field operations for emergency purposes the Government should construct permanent barracks in every place of that kind?

Mr. SMITH of Texas. No, I do not contend that; and I am as far from advocating an appropriation for a post of that kind as any man in the House. This is a post that they have decided to make permanent in the future and keep a full regiment of Cavalry there. I believe myself it is going to be necessary to do it for years to come and maybe always.

Mr. MANN. Suppose Congress should do what the House attempted to do last year, throw the Cavalry on the waste heap; then it could not be kept there. We may determine that we have too many regiments of Cavalry.

Mr. SMITH of Texas. I say that as long as we keep these troops down there we ought to give them shelter. I believe in sheltering our Army wherever it is, and especially situated as these troops are, in the most active service of the Government, and has been for some time past and will be for some time in the future. We can not expect officers and men to live out of doors on the border. I submit that this amendment ought to be adopted, and barracks and quarters ought to be provided for.

Mr. HAY. Mr. Chairman, I sympathize with my friend from Texas in his desire to have this appropriaton made, and if it were only this small increase of appropriation for this item, I do not know that I would object to it or raise a point of order. But other amendments are to follow, as he states himself, which would make the entire amount to be appropriated in this bill $185,000. The Committee on Military Affairs has had no opportunity to investigate the matter. It is brought up here without our having had that opportunity, and under these circumsances I feel compelled to make the point of order.

The CHAIRMAN. The amendment proposes to give authority which we have not at present. It does not effect a reduction, and the point of order is sustained. The Clerk will read.

The Clerk read as follows:

Incidental expenses, Quartermaster Corps: Postage; cost of telegrams on official business received and sent by officers of the Army; extra pay to soldiers employed on extra duty, under the direction of the Quartermaster Corps, in the erection of barracks, quarters, and storehouses, in the construction of roads and other constant labor for periods of not less than 10 days, and as clerks for post quartermasters at military post, and for prison overseers at posts designated by the War Department for the confinement of general prisoners, and for the United States military prison guard; of extra-duty pay at rates to be fixed by the Secretary of War for mess stewards and cooks at recruit depots, who are to be graduates of the schools for bakers and cooks, and instructor cooks at the schools for bakers and cooks; for expenses of expresses to and from frontier posts and armies in the field, of escorts to officers or agents and to trains where military escorts can not be furnished; authorized office furniture; authorized issues of towels; hire of laborers in the Quartermaster Corps, including the care of officers' mounts when the same are furnished by the Government, and the hire of interpreters, spies, or guides for the Army; compensation of clerks and other employees to the officers of the Quartermaster Corps, and clerks, foremen, watchmen, and organist for the United States military prison, and incidental expenses of recruiting; for the apprehension, securing, and delivering of deserters, including escaped military prisoners, and the expenses incident to their pursuit, and no greater sum than $50 for each deserter or escaped military prisoner shall, in the discretion of the Secretary of War, be paid to any civil officer or citizen for such services and expenses; for a donation of $5 to each dishonorably discharged prisoner upon his release from confinement, under court-martial sentence, involving dishonorable discharges; for the following expenditures required for the several regiments of Cavalry, the batteries of Field Artillery, and such companies of Infantry and Scouts as may be mounted, the authorized number of officers' horses and for the trains, to wit: Hire of veterinary surgeons, purchase of medicines for horses and mules, picket ropes, blacksmith's tools and materials, horseshoes and blacksmith's tools for the Cavalry service, and for the shoeing of horses and mules; chests and issue outfits; and such additional expenditures as are necessary and authorized by law in the movements and operations of the Army, and at military posts, and not expressly assigned to any other department, $1,960,000.

Mr. MANN. Mr. Chairman, I reserve a point of order. I would like to ask the gentleman as to page 25, line 8, what is the extra-duty pay for mess stewards and cooks and instructor cooks?

Mr. HAY. Really, I can not tell the gentleman. I do not know what the extra-duty pay is that has been fixed. The usual extra-duty pay for enlisted men is sometimes 50 cents and sometimes 35 cents a day. I think the cooks are paid more than that for extra duty.

Mr. MANN. Why is it necessary to insert the authority to the Secretary of War to fix this extra-duty pay?

Mr. HAY. I think that provision of the law was in the former bill under the head of "Subsistence in the Army."

Mr. TILSON. Mr. Chairman, with the permission of the gentleman, I believe I can give the information asked for by the gentleman from Illinois as to the extra-duty pay of cooks. On page 185 of the hearings it is given in general order 142, as follows:

General Orders, No. 142.

WAR DEPARTMENT, *Washington, October 21, 1911.*

Paragraph 333, Army Regulations, is amended to read as follows:

"In case the mess stewards and cooks at recruit depots are graduates of the schools for bakers and cooks, extra-duty pay will be paid them by the Subsistence Department at the following rates, approved by the Secretary of War: To mess stewards, $1 a day, and to cooks, 50 cents a day, and they will receive no further extra compensation."

Mr. MANN. I see that it was carried last year under the head of "Subsistence." Now, may I ask the gentleman, referring to lines 12 and 13, for the payment of escorts to officers or agents: Heretofore that provision has been carried as to the payment of escorts to paymasters and other disbursing officers, where I can readily see there was a reason for having an escort to protect him. What object is there in allowing this authority to the department when some gentleman gets in the Army sometimes as an officer who is very fond of his regimentals, and orders out a lot of people to escort him to some place? Why should we pay for that?

Now, I will not say that it will occur, but we just had demonstrated that under a provision of the law which probably no one contemplated at the time the provision was inserted they allowed commutation of light and heat. If you put this provision in the law allowing for the payment of an escort for any officer of the Army, and that officer has the power to order out an escort to take him to any place, I do not know whether any of us would be able to resist the temptation.

Mr. KAHN. If the gentleman will allow me, the chief of the Quartermaster Corps, when he appeared before the committee, explained that there was no allowance made for this particular item from the last bill. The item was carried in the appropriation, but the department did not set aside any funds for that purpose. This is simply asked for to be carried in case the need should arise for it.

Mr. MANN. What need can arise for the payment of an escort for an officer of the Army who is not in any manner a disbursing officer?

Mr. HAY. Mr. Chairman, I notice in the last bill that this language was used:

Of escorts to paymasters and other disbursing officers, and to trains where military escorts can not be furnished.

I am willing to amend the language in this bill by making it read:

Of escorts to officers and agents of the Quartermaster Corps.

The pay officers are now in that corps.

Mr. MANN. Very well. I withdraw the point of order.

Mr. HAY. Mr. Chairman, I move to amend, on page 25, line 13, by inserting after the word "agents" the words "of the Quartermaster Corps."

The Clerk read as follows:

Amend, page 25, line 13, after the word "agents," by inserting "of the Quartermaster Corps."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Horses for Cavalry, Artillery, Engineers, etc.: For the purchase of horses of ages, sex, and size as may be prescribed by the Secretary of War, for remounts, for officers entitled to public mounts, for the Cavalry, Artillery, Signal Corps, and Engineers, the United States Military Academy, service schools, and staff colleges, and for the Indian scouts, and for such Infantry and members of the Hospital Corps in field campaigns as may be required to be mounted, and the expenses incident thereto, and for the hire of employees: *Provided*, That the number of horses purchased under this appropriation, added to the number now on hand, shall be limited to the actual needs of the mounted service, including reasonable provisions for remounts, and, unless otherwise ordered by the Secretary of War, no part of this appropriation shall be paid out for horses not purchased by contract after competition duly invited by the Quartermaster Corps and an inspection under the direction and authority of the Secretary of War. When practicable, horses shall be purchased in open market at all military posts or stations, when needed, at a maximum price to be fixed by the Secretary of War: *Provided further*, That no part of this appropriation shall be expended for the purchase of any horses below the standard set by Army Regulations for Cavalry and Artillery horses, except when purchased as remounts or for instruction of cadets at the United States Military Academy, $325,240.

Mr. CULLOP. Mr. Chairman, I desire to ask the chairman of the committee a question in regard to the purchase of horses. Two years ago, as I remember it, when the military bill was under consideration, there was a clause inserted that the Army should undertake to raise horses for its use.

Mr. HAY. There never was any such clause as that. The gentleman does not mean to breed horses?

Mr. CULLOP. As I understood it at that time they were to make the experiment. Was that experiment made?

Mr. HAY. No. There never has been any provision in the Army bill for breeding horses by the Government.

Mr. CULLOP. Was there not a provision for buying young horses?

Mr. HAY. Yes. There was a provision some time back for remount stations, where young horses are broken and trained for the use of the Army.

Mr. CULLOP. As I remember it, there was quite a debate in the House on that question at the time the Army appropriation bill was under consideration.

Mr. HAY. Yes; and that has proved to be a very excellent experiment, and a larger proportion of horses are now bought when young and broken at these remount stations, of which there are three in the country, and then furnished to the Army.

Mr. CULLOP. What I want to inquire is, are they kept in reserve while they are breaking them and raising them?

Mr. HAY. They do not raise them. They are kept at the remount stations until broken and made ready for use.

Mr. CULLOP. At what age do they purchase them?

Mr. HAY. From 2 to 3 years old.

Mr. CULLOP. How long after purchase before they can be used by the service?

Mr. HAY. If a horse is 3 years old, he can be used in about a year.

Mr. CULLOP. So that plan has been adopted and is working out well?

Mr. HAY. Yes.

Mr. WEBB. Mr. Chairman, may I ask the chairman of the committee a question?

Mr. HAY. Certainly.

Mr. WEBB. Mr. Chairman, I understand that the Government buys the young horses at the age of 2 or 3 years and later on sells them to the officers.

Mr. HAY. No; I do not think they do. I think the officer has to buy his own horses.

Mr. WEBB. But he buys them from the remount stations.

Mr. HAY. I think not.

Mr. WEBB. My information is that the Government buys these young horses and keeps them until they are developed into good horses, and then the officer buys them; that the Army regulation provides that he shall pay for them the average price, so that a horse that is worth $240 on the market is sold to the officer for $146.

Mr. HAY. I do not so understand. I understand that these horses from the remount stations are furnished to the Army for the Cavalry and Field Artillery, and they are not sold to the officer or to anybody else. They are Government property used by the Government.

Mr. WEBB. I think the chairman of the committee will find that the Army officers have the privilege of buying these horses which were once ponies.

Mr. HAY. They never were ponies. They were young horses.

Mr. WEBB. Not ponies, but young horses, but they are permitted by the War Department to buy them at the average price, and consequently a horse that would sell for $250 on the market is bought for $146. My idea is that the officer ought to pay the Government the price of the horse and the cost of maintaining him for two or three years, at least.

Mr. HAY. I will say to the gentleman that I will ascertain whether that practice is in vogue, and if that is true I agree with the gentleman that the officer ought to pay as much as anybody else.

Mr. CULLOP. Mr. Chairman, I would like to ask the chairman of the committee another question with reference to the purchase of horses. Is that done after advertising, or is it done by going out to auction sales.

Mr. HAY. I think horses are purchased in the open market, and an officer is sent out to buy them.

Mr. CULLOP. Advertisements are made and circulated in the locality that at a certain time horses will be purchased there for the use of the Government?

Mr. HAY. Yes; and the officer buys the horses.

Mr. CULLOP. And they are put in competition with other horses owned by persons who have them for sale.

Mr. HAY. Anybody who has a horse to sell can take his horse and have it examined.

Mr. KAHN. The language of the section shows the horses are purchased in the open market.

Mr. SLAYDEN. Mr. Chairman——

The CHAIRMAN. Has the gentleman from North Carolina concluded?

Mr. WEBB. Mr. Chairman, the first provision in the beginning of this section is for the purchase of horses of the ages, sex, and size, and so forth, United States Military Academy. Do I understand that is to buy polo ponies for use at the Military Academy?

Mr. HAY. The polo ponies are found in the last part of the section, where it is provided:

That no part of this appropriation shall be expended for the purchase of any horses below the standard set by Army regulations for Cavalry and Artillery horses, except when purchased as remounts or for instruction of cadets at the United States Military Academy.

Mr. WEBB. The gentleman understands by that language that you can only purchase polo ponies for the Military Academy?

Mr. HAY. Yes.

Mr. WEBB. I understand if they purchase them for the Military Academy those polo ponies can be ordered down to Washington to participate in polo games here.

Mr. HAY. Undoubtedly the President or the Secretary of War could order everything at the Military Academy down here if they wanted to—cadets, horses, and all.

Mr. WEBB. Would the chairman object to a provision that the ponies should be——

Mr. HAY. Confined to the Military Academy?

Mr. WEBB. Confined to West Point.

Mr. HAY. I have no objection to that.

Mr. WEBB. I will offer that sort of an amendment. Now, I want to call attention to another thing. I have just read line 15, page 27, where it says that no horses below the standard set by Army regulations shall be purchased, and so forth. Now, there are no Army regulations with respect to the purchase of these horses except in 1901. There have been other regulations, but not on this point, and I will suggest to the chairman that if he wants to bring this down to give force to the law he ought to refer to the regulations of 1901, because those are the last.

Mr. HAY. I would not like to do it now without having time to examine it. I have no objection to the gentleman's amendment in regard to the use of polo ponies at West Point.

Mr. WEBB. Mr. Chairman, I offer this amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

At the end of line 18, page 27, add the following proviso:
"*Provided*, That no part of this appropriation shall be expended for polo ponies except for West Point Military Academy, and such ponies shall not be used at any other place."

Mr. WEBB. Mr. Chairman, I understand the chairman of the committee accepts that?

Mr. HAY. I do; yes.

Mr. MANN. Mr. Chairman, I make a point of order against the amendment. The amendment is not a limitation only. The amendment specifically provides legislation as to the use of polo ponies purchased for West Point. The amendment provides that those ponies shall not be used at any other place. That is legislation and not a limitation.

Mr. WEBB. Mr. Chairman, it seems to me this is an express limitation on an appropriation which provides if they are used at any other place that no part of this appropriation is to be paid for that use. Now, I understand that if they purchase these polo ponies for West Point they can be ordered down to Washington or any other point in the United States. I understand if proper orders are issued by the War Department men can be detailed, express on the horses paid, provender provided, and so forth.

Now, I want to limit the use of these ponies to West Point. Within the Holman rule this amendment would come, because it does reduce the expense to the Government.

Mr. MANN. This is not an amendment under the Holman rule. This purports to be a limitation on the appropriation.

Mr. WEBB. That is exactly what I thought it was, Mr. Chairman, and I wanted to make it a limitation on the appropriation. My idea is that no part of this appropriation shall be spent for ponies to be used anywhere except at West Point if bought for West Point, and that they shall be used there. That is a limitation on the appropriation.

Mr. HELM. Will the gentleman yield?

Mr. WEBB. Yes.

Mr. HELM. Is this polo a game?

Mr. WEBB. Yes.

Mr. HELM. And the United States Government is furnishing ponies to these boys?

Mr. WEBB. Yes.

Mr. HELM. Are they furnishing football outfits to them?

Mr. WEBB. I know they charge you to see the games.

Mr. HELM. Does the United States Government furnish baseball outfits for the baseball team?

Mr. WEBB. That is taken care of, I understand, by the athletic association.

The CHAIRMAN (Mr. SAUNDERS). The Chair just came in and would like to know who has the floor.

Mr. MANN. I have the floor. I make the point of order. Now, the amendment purports to be a limitation on the appropriation, and is to a certain extent, that provides that no portion of the money shall be expended, as I understand it, for the purchase of polo ponies except for West Point, and then provides that those ponies shall not be used anywhere else. That part of the amendment is not limitation. It is legislation. We have the right to provide that no portion of the money shall be used for a certain purpose, but we have not the right to provide that no portion of the money shall be used except for something which shall be used in a specific manner, because that is legislation.

Mr. WEBB. I think it is a limitation on this appropriation, because it means that this money shall be expended only for polo ponies to be used only at West Point, and if they are used anywhere else this appropriation does not pay for them. It is a limitation on the appropriation, and I think is proper and germane. I want to state to the present occupant of the chair that the chairman of the Committee on Military Affairs agreed to the amendment.

The CHAIRMAN. The Chair would like to ask in respect to the law: Is there present authority for the purchase of polo ponies?

Mr. HAY. Well, there is present authority for the purchase of polo ponies for use at the Military Academy at West Point.

The CHAIRMAN. At the Military Academy?

Mr. HAY. Yes, sir; and they are used there and have been used there for some time.

The CHAIRMAN. And there is no authority for using them elsewhere?

Mr. HAY. No. The bill especially provides they shall not be bought at all for use elsewhere.

The CHAIRMAN. Let me see that.

Mr. HAY. I will read the Chair the proviso.

Mr. MANN. It is already in the bill.

Mr. HAY. It says:

Provided further, That no part of this appropriation shall be expended for the purchase of any horses below the standard set by Army regulations for Cavalry and Artillery horses, except when purchased as remounts or for instruction of cadets at the United States Military Academy.

And under that they have been purchasing polo ponies, which they have used at West Point for the instruction of cadets.

The CHAIRMAN. The Chair can not see the exact difference between the effect of the amendment and the bill itself.

Mr. WEBB. The amendment confines the use of the ponies to West Point and prohibits the War Department or any other department from ordering a dozen or half a dozen polo ponies down to Washington to take part in these games.

The CHAIRMAN. Is there any authority under the law for them to be ordered elsewhere than at West Point?

Mr. WEBB. Only under the all-embracing power of the War Department, so far as I know. It has been done, I understand. They are ordered here from Georgia, and all parts of the United States, with a detail of men to take charge of them. If we are going to authorize the use of polo ponies being transported from one part of the United States to another for these games, we ought to confine their use to what Congress intends—the training of boys at West Point.

Mr. BURKE of South Dakota. I would like to call the gentleman's attention to the decision of the comptroller on this particular question of paying the expenses in connection with the polo games. It was held by the comptroller:

The War Department is intrusted with the control of the Army and what in its judgment will promote efficiency.

It was held by the comptroller, overruling the Treasury Department, that the War Department is intrusted with the control of the Army and what in its judgment will promote its efficiency, and therefore the comptroller sustained the expenditure of money that clearly, I think, was contrary to the intention of the law.

The CHAIRMAN. The effect of this amendment very clearly would be to reduce the expenditure of the amount covered by the operation of the present law.

Mr. WEBB. That is the point I made, Mr. Chairman.

Mr. MANN. Mr. Chairman, I am not very much of a sport [laughter]——

Mr. SHERLEY. But a good deal of a sportsman.

Mr. MANN. I have never played polo, and I dare say most of the gentlemen who are opposed to this provision would be afraid to play polo, as I would be. But I know of no sport and no practice which so well fits a man in the cavalry service of an army to be free from what would be called muscular fear as playing polo, and there is nothing in the world so valuable to a man in the Army or in the Navy in time of battle as to be free from muscular fear.

Nearly every man, as everyone knows, when he first gets under fire is scared for fear he will run away, if he has strength enough in his legs to run at all. The playing of polo gives to these men that practice and precision which make the brain and the muscles work correspondingly with perfect accord, and at the same time frees them from the fear of personal injury which everyone naturally has. You throw a ball or a brickbat at any man in this Chamber, although it may not start to come within 5 feet of him, and he will dodge. What is that? That is muscular fear. A man may know that he will not be struck, and yet he dodges. Let any Member of this House anywhere walk under a low doorway and he will bow his head as he goes under, although if he watches he would know that he could pass under without striking his head. That is muscular fear.

If there be any one thing which will render a man capable in battle, it is to free himself from muscular fear. These men who play polo—I confess I have watched them at times with great interest—learn to lose that fear, because no man can play polo for any length of time with success against others playing it who does not lose the fear of being hurt. A man can not ride his pony just as fast as the pony can run right into another pony without losing the sense of fear.

Playing "shinny" among boys was very much the same thing. No boy who ever played shinny in his day did not profit by it. I would have every boy in the land play shinny. If I had my way I would let the Army officers play polo. The cost is very little; the profit is great, indeed. [Applause.]

Mr. WEBB. Mr. Chairman, I have listened with much interest to this dissertation on "muscular fear" from the gentleman from Illinois [Mr. MANN]. I did not know before just what it was that made a man dodge or duck when he went under a low door. [Laughter.] If there is any way to enable a man to go into battle without dodging I would be glad to support such a method. But for the life of me I can not see and understand what a polo game has to do with going into battle and dodging bullets. I suppose the gentleman from Illinois has seen that game played from time to time. I have no objection to playing it, but my objection is against the Government of the United States transporting a detachment of men from West Point with a certain number of ponies and paying the freight to Washington and having a polo game and charging a dollar a head admission to see the game.

Mr. SHERLEY. Does the objection of the gentleman extend to the charging of a dollar or to the playing of the game? [Laughter.]

Mr. WEBB. My objection is to the entire proposition. I do not think the gentleman from Illinois will contend that the Government of the United States ought to send about 12 officers to Washington from Fort Oglethorpe in Georgia with a lot of horses to play a polo game. They can learn lessons against muscular fear in Georgia just as well as they can on the Mall in Washington.

Mr. MANN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Illinois?

Mr. WEBB. Yes.

Mr. MANN. I do not know whether the gentleman was present when we passed the appropriation for defraying the expenses of rifle contests, but does the gentleman see any more reason for transporting a number of men to Fort Oglethorpe in Georgia for the purpose of engaging in a rifle contest, when those men can shoot just as far and just as straight at Fort Oglethorpe as they can at any other place in the country?

Mr. WEBB. I do not think there is any parallel between the two, because they do not play polo in battle, and they do shoot.

Mr. MANN. They run horses in battle.

Mr. WEBB. But they do not have polo sticks in their hands.

Mr. MANN. They do the same thing with a sword that they do with a polo stick.

Mr. WEBB. Polo is nothing but a game, and they spend an immense amount of money simply to gratify their desire for pleasure. The chairman of the Committee on Military Affairs thinks this amendment ought to be adopted.

Mr. HAY. No; I did not say that. I said I would accept the amendment.

Mr. WEBB. Then I misunderstood the gentleman. I supposed that meant the same thing.

Mr. SHERLEY. Does the gentleman know how much money has been expended for this purpose.

Mr. WEBB. No.

Mr. SHERLEY. Then why state that it is an immense sum of money?

Mr. WEBB. I can give the gentleman an idea by reading to him the history of one shipment:

The following-named officers and enlisted men were ordered to proceed to Washington, D. C., so as to arrive not later than July 10, 1912, to enable them to participate in a polo tournament, beginning about July 10, 1912:

Capt. George T. Langhorne, Eleventh Cavalry.
First Lieut. Eben Swift, Jr., Eleventh Cavalry.
Second Lieut. Clark P. Chandler, Eleventh Cavalry.
Second Lieut. Richard H. Kimball, Eleventh Cavalry.
Second Lieut. Chester P. Mills, Eleventh Cavalry.
Pvt. Brevard L. Culp, Troop C, Eleventh Cavalry.
Pvt. Attilio Concloni, Troop K, Eleventh Cavalry.
Pvt. William Parker, Troop I, Eleventh Cavalry.
Pvt. Russell Monaghan, Troop K, Eleventh Cavalry.

The authorized horses were ordered to be shipped from this station to Washington, D. C.

Second Lieut. Richard H. Kimball was placed in charge of the enlisted attendants.

Mr. SHERLEY. Is the gentleman reading from the order?

Mr. WEBB. Such an order was issued. Now, what I want to do is to stop the shipping of polo ponies from West Point to Washington with which to play polo. I think the House ought to agree to it. The boys can play polo up there. They can play it at every post, but there is no use in sending them from all parts of the United States to play on the Mall in Washington. [Applause.]

Mr. BURKE of South Dakota. Mr. Chairman, I have an amendment to offer at the proper place in the bill, limiting the payment of any expenses in connection with polo tournaments, horse-race events, and other similar exhibitions; I had not expected that the matter would be debated at this time upon the amendment which the gentleman from North Carolina [Mr. WEBB] has offered, which simply limits the purchase of polo ponies for use at any particular place except the Military Academy at West Point.

This matter was first brought to my attention last summer when there was a polo tournament here in this city. Everyone who was here, I think, will recall that that exhibition continued for a number of days in Potomac Park, and whoever was conducting it was assuming the right to charge $1 at a certain place in the park to anyone who desired to stop in the road and look at the game. I believe one person was arrested because he refused to pay a dollar, and the matter in that way got into the newspapers. It was stated that the charge was to get money to pay the expenses of the tournament, and that put me upon inquiry, and I made some investigation of the matter and found that the expenses, or at least some part of the expenses, were being paid out of the Treasury of the United States. I have not yet been able to ascertain how much was collected by this charge of $1, or how it was expended. I certainly know that it did not go into the Treasury, and was not expended as Government funds ordinarily are.

Mr. Chairman, when one of the deficiency bills was pending in the last session I inquired of gentlemen on the Military Committee, and they stated that there was no appropriation available for the paying of the expenses of polo tournaments, race-track events, and so forth, because they had attempted, as I understood it, and I think very wisely, to limit appropriations so that the money could not be so expended.

Upon looking the matter up I find that back in 1910, when the military appropriation bill was pending in the House, this very question was discussed. I think the gentleman from Illinois [Mr. MADDEN] took part in it, as well as some other gentlemen, and it certainly was expressly understood that no money could be expended for the purchase of polo ponies, polo tournaments, rack-track events, and so forth.

Mr. MANN. I think the gentleman is hardly correct about that. I took part in that discussion and insisted that they had the right.

Mr. BURKE of South Dakota. I have here the CONGRESSIONAL RECORD, containing the verbatim report of what transpired at that time. My understanding is, if I can read the English language, that this had reference to the same item as the one now under discussion.

Mr. MADDEN. Mr. Chairman, I reserve a point of order on the last proviso for the purpose of getting an explanation.

Mr. HULL of Iowa. I do not believe it is subject to a point of order, but I am glad to give the gentleman the reasons for the committee putting it in. There has been a proposition in the last few years to supply polo ponies for the different camps. The proposition was to cut down the regular standard horses, five to a troop of Cavalry, and have five polo ponies. The committee did not believe that the Congress of the United States should give a sum to buy polo ponies from unless it was a direct appropriation, so that they would know what they were doing.

Mr. MADDEN. Is it the idea of the officers to buy polo ponies at the expense of the Federal Treasury in order that they may have the instrumentalities to play the game?

Mr. HULL of Iowa. We were afraid they might get at it, and so we have fixed it so they can not.

Mr. MADDEN. And have they been doing that?

Mr. HULL of Iowa. I think they bought a few undersized horses.

Then the gentleman from Illinois withdrew his pro forma amendment. On this floor I asked some gentleman on the Military Affairs Committee if there was money being expended for the purpose of paying expenses of the polo tournaments and horse-track events and the gentleman from Texas [Mr. SLAYDEN], I remember distinctly, said that the understanding was that there was no money being expended for that purpose that was appropriated for in the military appropriation bill.

The CHAIRMAN. The time of the gentleman from South Dakota has expired.

Mr. BURKE of South Dakota. I ask unanimous consent for three minutes more.

The CHAIRMAN. The gentleman from South Dakota asks that his time be extended three minutes. Is there objection?

There was no objection.

Mr. BURKE of South Dakota. I then wrote a letter to the Secretary of the Treasury in which I asked specifically to be informed whether or not there was any money being expended for this purpose, and in passing I want to call attention to a circumstance that, notwithstanding my letter was written on July 29, I did not receive a reply until I wrote the second letter, on the 13th of August, and then I did not get any reply until August 23. I am unable to state why such a length of time was required to furnish this information. I suspect that my letter was probably transmitted to the War Department to get some information there as to whether or not the letter should be answered; but that, however, is only a suspicion. I know it took a month to get the answer.

The letter is as follows:

TREASURY DEPARTMENT,
Washington, August 23, 1912.

Hon. CHARLES H. BURKE, M. C.,
House of Representatives, Washington, D. C.

SIR: Your letter of the 13th instant has been received, making reference to your letter of July 29, 1912, in which you request certain information relative to expenses in the War Department in connection with the purchase of polo ponies and moneys expended for polo contests.

In reply you are informed that there are on file in the office of the Auditor for the War Department vouchers paid by disbursing officers of the Army on account of expenses in connection with the attendance of officers, enlisted men, and civilians upon polo tournaments, race-track events, and horse shows, and which were paid from the appropriations "Regular supplies, Quartermaster's Department"; "Incidental expenses, Quartermaster's Department"; "Transportation of the Army and its supplies"; "Barracks and quarters"; "Subsistence of the Army"; and "Mileage to officers."

By direction of the Secretary.

Respectfully,

R. O. BAILEY,
Assistant Secretary.

I say, Mr. Chairman, it is not a question, as suggested by the gentleman from Illinois, as to the merits of the proposition. I say that Congress has intended and endeavored to so limit the appropriation that the money could not be expended for this purpose, and I maintain that if Congress desires to change its policy it ought to provide specifically for the payment for such exhibition.

Mr. SHERLEY. Will the gentleman yield?

Mr. BURKE of South Dakota. Certainly.

Mr. SHERLEY. Has the gentleman any information to show whether the payment was for any purpose other than the bringing of horses and men here—anything to show a payment in connection with the expenses of the tournament itself?

Mr. BURKE of South Dakota. I have not looked the matter up sufficiently to answer the gentleman's question. I do know that money has been expended for transporting horses and men from one part of the country to Washington and other places, and that the horses as a rule are transported by express at considerable expense.

Mr. SHERLEY. That seems to be understood. I was trying to find out, inasmuch as the gentleman went into the matter, whether he had any detailed information as to what the expense was, either the amount or for what purpose.

Mr. BURKE of South Dakota. Of course, the gentleman from Kentucky knows, and he would not favor the expenditure of any sum of money by any department of the Government being collected from the people who might be attracted by the particular show or exhibition and then let them expend the money without any accounting.

Mr. SHERLEY. Of course not; and I suspect that nothing of the kind happened. I suspect this is what happened: That whatever money was collected for witnessing the game—and the wisdom of collecting it I am not now discussing—was used simply in the payment of expenses in connection with the tournament, which was a volunteer affair, and the gentleman will find that probably the only money that the Government has expended has been in bringing the men and horses here.

Mr. BURKE of South Dakota. I will say that I do know that there were park policemen and men in the uniform of United States soldiers who were patrolling the roadway in front of where the game was being played and holding up people and requesting and requiring them to either move on or to pay $1 to remain.

Mr. MADDEN. And not only requesting them to move on, but they arrested a man.

Mr. MANN. Does the gentleman state that of his own knowledge?

Mr. BURKE of South Dakota. Yes; and one man was arrested.

Mr. MADDEN. I can testify to the fact that they did insist upon people moving along the driveway, and I saw officers making people move on or pay the price that was to be charged. In one case, I recollect, when I went there myself they said that unless a certain charge was paid people could not witness the polo games from the point of vantage that was designated by the officers as being the best place from which to view it.

Mr. HAY. Mr. Chairman, I would like to ask the gentleman from South Dakota if he will not publish in the RECORD the communication that he received from the Treasury Department.

Mr. BURKE of South Dakota. Mr. Chairman, I will say to the gentleman that I referred to it while we were discussing the bill in general debate, and with the consent of the House I shall incorporate in my remarks the letter from the Assistant Secretary of the Treasury, on debate of August 23, 1912.

Mr. HAY. That will show what was spent.

Mr. BURKE of South Dakota. And I will say to the gentleman, furthermore, that at the proper point in the bill I will submit an amendment, for the consideration of the committee, which limits the expenditures.

Mr. MANN. Mr. Chairman, whether the law authorized the purchase of polo ponies heretofore I will not undertake to argue at this time. Last year the Army appropriation bill contained a provision subject to a point of order which anyone in the House could have made, directing the removal or suspension of regulations for the purchase of horses under size. I think that was after the polo games had been played here. Possibly gentlemen in the House were not here.

Mr. HAY. Mr. Chairman, I will state that that applied to the case of Maj. Carson, who was quartermaster.

Mr. MANN. It would also apply to the purchase of polo ponies which were under size.

Mr. HAY. That was the only instance where they were bought.

Mr. MANN. I do not know anything about that.

Mr. HAY. That was what was stated, that Maj. Carson at West Point had bought these polo ponies.

Mr. MANN. That is neither here nor there. Mr. Chairman, I had never seen a game of polo until last year. I had read many times about the polo games of the British Army, and long ago had concluded that the playing of polo by the British officers was one of the reasons they had so much courage in time of battle. Last year when the polo tournament was here I went every afternoon, I think, to see the polo games. I found that in a small portion of the road in front of where the polo games were played they had set aside a section for people who might wish to remain there during the afternoon with their carriages or automobiles, and that for the privilege of remaining there they charged $1. I paid that, being in an automobile which I borrowed for part of the time, and I found that so far as seeing the polo games was concerned one could see them just as well from this side of the park area where the polo games were played where there was no charge, where anyone could and many people did go, as from the other side, on a portion of which they made a charge.

Mr. MADDEN. They made a charge on both sides.

Mr. MANN. I say they did not make a charge on both sides.

Mr. MADDEN. To which side does the gentleman refer? To the river side?

Mr. MANN. I said the other side.

Mr. MADDEN. Is that the river side?

Mr. MANN. Everybody knows where the polo game was played.

Mr. MADDEN. I know they charged on the side away from the river.

Mr. MANN. I was at the other side away from the river several afternoons with an automobile, and there was no charge.

Mr. MADDEN. The gentleman might have had more influence than those who had charges made against them.

Mr. MANN. No one else was being charged there. The gentleman is mistaken.

Mr. BURKE of South Dakota. Mr. Chairman, I went down there on one occasion and stopped on the side away from the river, and a demand was made for a charge upon that side, I will say to the gentleman.

Mr. MANN. I am sorry the gentleman did not pay it. Every afternoon I went to those polo games after the adjournment of the House. It seemed to me a fascinating sport. I believe it is the best training that ever was given to men on horseback, and I did not pay the charge when I did not desire to go to the particular place. You could see the games just as well without paying the charge as you could by paying the charge. I suppose people were not expected to remain all afternoon, blocking up the roadway, except in a particular place. The officers of the Army were not attending to the matter. It was not an officer of the Army who collected the dollar from me.

Mr. MADDEN. Was it a soldier?

Mr. MANN. It was not a soldier who collected it from me.

Mr. COOPER. Mr. Chairman, will the gentleman yield for a question?

Mr. MANN. I will for a question.

Mr. COOPER. Who took the money, and who kept the money that was collected down there?

Mr. MANN. I do not know. I was told by a very courteous gentleman the first day I went there, in reference to the place for which they desired to make a charge, that the money was used to pay the expense of handling the tournaments, fixing the ground, and things of that sort. It seems to me perfectly proper, so far as that was concerned. No sightseer was prevented from seeing those grounds. I do not believe any gentleman would object if he was asked to pay a dollar for putting his automobile in a particular place to stay the afternoon to the exclusion of other people who might go when, if he did not desire that particular place, there were plenty of places where he could go where he could see the play.

Mr. BURKE of South Dakota. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. BURKE of South Dakota. I would like to ask the gentleman if he would be in favor of permitting the Marine Band to make a charge of 25 cents or a dollar for the privilege of standing on the east steps of the Capitol when that band was playing?

Mr. MANN. I would not; the gentleman need not finish the question.

Mr. BURKE of South Dakota. Then I would like to ask the gentleman if they went down in Potomac Park and some person stopped in an automobile——

Mr. MANN. I would not. I have questioned even having the Army going to Chicago and holding a military drill there on the lake front, for which the people were charged admission and which all of those people from Chicago have been advocating.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HAY. Mr. Chairman, I move that all debate on this amendment, paragraph, and amendments thereto, be now closed.

Mr. MADDEN. Mr. Chairman, I would like to have about five minutes.

Mr. HELM. Mr. Chairman, I would like to have about five minutes.

Mr. MONDELL. And I would like to have five minutes.

Mr. HAY. We must get through and gentlemen are talking here to-day on subjects generally that do not pertain to the bill. I must insist on my motion.

The CHAIRMAN. The question is on the motion of the gentleman from Virginia that all debate on this paragraph and amendments thereto shall cease.

The question was taken, and the motion was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina.

The question was taken; and the Chairman announced the "ayes" seemed to have it.

Upon a division (demanded by Mr. MANN) there were—ayes 30, noes 24.

Mr. MANN. Mr. Chairman, I make the point of order there is no quorum present.

The CHAIRMAN. The Chair will count—obviously the point of order is well taken.

Mr. HAY. Mr. Chairman, I ask that the Chair count.

The CHAIRMAN. The Chair has sufficiently counted.

Mr. HAY. Other gentlemen have come into the Chamber.

Mr. MANN. Well, I withdraw the point of order as long as the Chair is still counting. We will have a separate vote on it in the House.

The CHAIRMAN. On this amendment the ayes are 30 and the noes are 24.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk began the reading.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. Debate is exhausted.

Mr. MONDELL. Mr. Chairman, I did not understand that debate was closed on the pargaraph—only on the amendment.

The CHAIRMAN. On the paragraph and all amendments thereto.

Mr. GARNER. Debate has been closed on the paragraph and all amendments thereto and the Clerk had started the reading of the bill.

The CHAIRMAN. The Clerk is now reading another paragraph.

Mr. MONDELL. Thank you.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Military post exchange: For continuing the construction, equipment, and maintenance of suitable buildings at military posts and stations for the conduct of the post exchange, school, library, reading, lunch, amusement rooms, and gymnasium, including repairs to buildings erected at private cost in the operation of the act approved May 31, 1902, to be expended in the discretion and under the direction of the Secretary of War, $40,000.

Mr. SLAYDEN. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend by adding, after the "$40,000," in line 6, page 29, the following: "*Provided*, That not to exceed $13,000 of this sum, to be immediately available, may be used for the payment of existing indebtedness on the chapel building at Fort Sam Houston, Tex., which was incurred subsequent to March 3, 1911, for putting this chapel in condition for temporary use for recreation purposes by enlisted men of the maneuver division then encamped at Fort Sam Houston, Tex."

Mr. FOSTER and Mr. MANN. Mr. Chairman, I reserve a point of order.

Mr. SLAYDEN. Mr. Chairman, I will say that when the maneuver camp was ordered at Fort Sam Houston in March, 1911, the building that embraced the chapel, the library, and, I believe, the post exchange work also was not completed.

That chapel had been erected very largely at the expense of the people of San Antonio, who had undertaken to give $25,000 toward its construction and, indeed, had expected to complete it for that sum of money, but the chaplain, who was better known for enthusiasm than for business acumen, developed the design and spent so much money on it that they actually contributed about $40,000 in cash and material. It was not quite completed, and debts of about $5,000 were created. Congress appropriated $5,000 to pay these debts, and that sum did pay all the debts that had been incurred prior to March 4, 1911, except about $50, and in order to get the matter cleared up the people to whom that money was due surrendered that much of their claim, but the money appropriated was only applicable to debts incurred prior to March 4, 1911. Subsequent to that time a further debt was created by order of the governmental authorities to put the building in condition for the enlisted men who use it, and the man who furnished the material and did the work has never been paid a cent. The Government owes him $1,230. There is no increase of appropriation asked. The Secretary of War and the Quartermaster General recommend that the amendment go into the bill.

Mr. MANN. Has the claim been audited, or do they claim they had no authority?

Mr. SLAYDEN. They have no authority.

Mr. MANN. Was it presented for audit?

Mr. SLAYDEN. Yes.

Mr. MANN. What did the auditor say about it?

Mr. SLAYDEN. I do not know whether it was presented here. I only know it has not been paid; that the quartermaster at Fort Sam Houston and the chaplain, who now has charge of the chapel and post exchange, have repeatedly written to me requesting that authority be secured to pay the debt.

Mr. MANN. When a man has a contract for Government work he presents his bill.

Mr. SLAYDEN. This man was authorized and directed to do this work; he did the work, furnished the material, and presented his bill, but payment was not made.

Mr. MANN. And who turned him down?

Mr. SLAYDEN. The military authorities here.

Mr. MANN. The bills go to the auditor for decision.

Mr. SLAYDEN. I know, Mr. Chairman, that they asked for authority to pay it.

Mr. MANN. Well, what I wanted to get at was the reason that they declined to pay it, because there was lack of authority, or some other reason?

Mr. SLAYDEN. For lack of appropriation and authority.

Mr. MANN. The gentleman does not know why because he does not know who determined against it?

Mr. SLAYDEN. The Quartermaster General. The quartermaster at Fort Sam Houston declined to pay it, and the Quartermaster General here approved his declination to pay it, and the man who furnished the material and did the work has never been given a penny.

Now, here is a report giving all the facts leading up to the incurring of this debt, and gives all the transaction, and the language that the Quartermaster General recommends and which is approved by the Secretary of War has been incorporated in the amendment I offer, namely, that that sum, not more than $1,300, shall be used for the payment of this debt. My recollection is the debt is precisely $1,230.

Mr. MANN. Does the gentleman think it wise to include a claim bill in an appropriation bill?

Mr. SLAYDEN. Mr. Chairman, I do not think this is properly a claim. This man in San Antonio was called on by military authorities to furnish the material and do the work. I think the gentleman from Connecticut, who was stationed down there during that maneuver camp for awhile, may have some familiarity with the facts.

Mr. MANN. He was called upon by whom? By an Army officer? Who decides the work should not be paid for?

Mr. SLAYDEN. It was decided in the War Department, in the Quartermaster General's office.

Mr. MANN. It seems to me we ought to have information in regard to that. The gentleman does not seem to have it. Here is a man ordered to do some work by contract, and otherwise, by an Army officer. If the Army officer is decided not to have authority to do this, we ought to know why.

Mr. SLAYDEN. I thought for a long time the creditor had been paid. It was called to my attention after Congress adjourned.

Mr. MANN. The gentleman has had plenty of time to find out.

Mr. SLAYDEN. It was not again brought to my attention until I received the letter from the chaplain, who has charge of it, saying he had never been paid for the material or the work done, and asked me to have authority inserted in this bill for the payment. I took it up with Gen. Aleshire, who recommended that it be done in this way, but, unfortunately, it was not incorporated in the Book of Estimates.

Mr. HAY. Mr. Chairman, I will state to the gentleman that from information I have here, after paying what was due for this work performed by Mr. Dielman, who seems to be the man who performed the work, there was left an indebtedness of $1,231.20, which was done between the dates of March 11 and April 7, 1911, or during the fiscal year 1911.

In accordance with the opinion of the Judge Advocate General of the Army, dated December 19, 1911, the additional $5,000 appropriated by Congress could not be expended for the purpose of paying the indebtedness of $1,231.20 unless the total amount—$5,000—would also defray the necessary expenses for completing the chapel. It seems the source of the trouble was the fact that the work was done in a different fiscal year from the year that the matter was appropriated for.

Mr. MANN. Was not the trouble the fact that Congress provided $5,000, and thereupon, in order to have things look a little bit more beautiful down there, they expended something over $6,000?

Mr. SLAYDEN. No, Mr. Chairman; the gentleman is wrong about that.

Mr. MANN. I am asking the question.

Mr. SLAYDEN. Five thousand dollars was appropriated for the specific purpose of paying a debt previously incurred.

Mr. MANN. The exposition given by the chairman of the committee, which I understand is the official statement, is different.

Mr. SLAYDEN. I have not read that document, but Mr. Dielman was paid for work that he did prior to March 4, 1911.

Mr. MANN. Mr. Chairman, I am not usually such a soft mark, but in this case I will withdraw the point of order.

Mr. SLAYDEN. I want to congratulate the gentleman on the fact that he is not bursting with generosity even now. It is simply the payment of an honest debt.

Mr. SISSON. The gentleman from Illinois [Mr. MANN] withdrew his point of order, Mr. Chairman. I do not know how many other gentlemen made the point of order, but I want to renew the point of order. This is either a deficiency or a claim, and unless there has been some proof adduced or some hearings had on the matter——

Mr. SLAYDEN. What does the gentleman say about the hearings?

Mr. SISSON. I say, Mr. Chairman, that unless there is some evidence about the propriety of the claim——

Mr. SLAYDEN. If the gentleman will permit me, there is exact evidence of the propriety of this item. It was for material furnished and work done which met with the O. K. of the quartermaster at the time. It was not paid because of the confusion growing out of the fact that there had been debt incurred prior to March 3, and because of this debt created subsequent to that date which should have been paid as incident to the completion of the chapel which was provided for.

Mr. SISSON. That may be true; but what right has an Army officer to incur debt without authority of Congress?

Mr. SLAYDEN. I do not know what right he has, but I do know that this citizen was requested to do this work, and he did it.

Mr. SISSON. By whom and by what authority was it done?

Mr. SLAYDEN. By military authority. Between fifteen and sixteen thousand troops had been assembled at Fort Sam Houston. They needed this building. It had not been completed.

Mr. SISSON. I am not questioning that, but I want to know whether those people who incurred that obligation were authorized to do it by a law or act of Congress.

Mr. SLAYDEN. Their position, Mr. Chairman, is that they had not authority to pay it out of any appropriation that they had, and we want to give them the authority now to pay it.

Mr. SISSON. Mr. Chairman, I make the point of order, because if this is a claim it ought to go to the Committee on Claims, and if it is a deficiency it ought to go to the Committee on Appropriations.

Mr. SLAYDEN. Mr. Chairman, in an emergency like this was supposed to be, when the Army of the United States is assembled at a particular place to meet possible foreign danger, and a citizen is called upon to furnish materials and supplies for the Army by the high military authorities having charge of the camp, it is particularly hard to compel that citizen to do without pay for material furnished and the work done for an indefinite period because the general or other officer who directed it had no specific authority to issue the order and to put him in the attitude of pressing a claim against this Government, which the gentleman knows may result either in a denial of payment or in a delay of such a nature as to work a great hardship on the man. This is no claim in the ordinary sense of the word as it is used when you speak of claims made against the Government. This is a bill for work done and material furnished on specific direction of certain military officers, and so recently done that the correctness of it is not disputed by anybody, and these military authorities have urged its payment.

Mr. SISSON. Mr. Chairman, I may state, in reply to that, that there is a method by which all these matters that are unpaid may be properly provided for under the rules of the House, and all deficiencies should be taken care of there.

Mr. HAY. I would like to call the attention of my friend to the fact that under the Army appropriation act of 1911, $10,000 was appropriated for the completion of the chapel building at Fort Sam Houston, Tex. Subsequently in a deficiency act approved July 21, 1911, Congress provided that the amount authorized to be expended for the completion of the chapel, by the act making appropriations for the support of the Army, was made available upon the payment of any existing indebtedness on said building not in excess of $5,000.

It seems that this work, for which this amendment provides, was done out of the $10,000, but the Judge Advocate General of the Army held that an additional $5,000 appropriation by Congress could not be expended for the purpose of paying the indebtedness, because the expenditure was made between March 11 and April 7, 1911. As a matter of fact, the money was provided, but because of the time when it was expended, under a decision of the Judge Advocate General, although it was appropriated, it could not be paid over.

Mr. SISSON. I presume the chairman of the committee will admit that this claim can be paid legally if it is now a deficiency.

Mr. HAY. No; I do not admit that at all.

Mr. SISSON. If it is not a deficiency, then it is a claim.

Mr. SLAYDEN. Will the gentleman from Virginia permit me to make this explanation of the decision? The chapel building has not been completed. It was estimated in February, 1911, that the debts were about $5,000. It was also estimated by the quartermaster general in charge of the department at Fort Sam Houston that it would take about $10,000 to complete the chapel building and pay the debt, $5,000 of that sum to be used in the payment of debts incurred prior to March 4, 1911. This would have been a part of the cost of the completion of the chapel building, but according to estimates submitted by build-

ers and contractors with whom the authorities conferred, it was found that after the payment of the $5,000 debt the remaining $5,000, which would have gone to the payment of this claim, a part of the work of completion and to the completion of the chapel, was inadequate, and therefore they let it lapse and go back into the Treasury.

Mr. SISSON. I understand from the statement that that is true, but if the estimates had been made properly, this party expending this money could not have exceeded the amount appropriated for that purpose.

Mr. SLAYDEN. He did not exceed it.

Mr. SISSON. But it seems that the people of the city who were interested in the proposition very laudably raised——

Mr. SLAYDEN. Let me correct the gentleman. He did not exceed it. He took an order to do certain work, and did it, and his bill was $1,230, a reasonable and proper sum.

Mr. SISSON. Originally this was a proposition which was undertaken not by the Government, but by the people of your city.

Mr. SLAYDEN. Yes; and they had given $45,000.

Mr. SISSON. I understand that from the gentleman's statement.

Mr. SLAYDEN. The gentleman's statement is correct, permit me to say.

Mr. SISSON. I have no doubt of that, absolutely none in the world. I am not questioning it. I am taking it as being absolutely true; but all that the gentleman states about it does not prevent this either being a claim that ought to be proven against the Government or else a deficiency, and for that reason I make the point of order.

Mr. SLAYDEN. It is proven to the satisfaction of the War Department.

Mr. SISSON. They have nothing to prove it by.

Mr. HAY. I understood the gentleman to make the point of order.

Mr. SISSON. Yes.

The CHAIRMAN. The Chair sustains the point of order.

Mr. BARTHOLDT. Mr. Chairman, I offer the amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Missouri offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 29, line 6, strike out "$40,000" and in lieu thereof insert the following: "$35,000: *Provided*, That post commanders, in their discretion, may permit soft drinks, including beers and light native wines containing not to exceed 4 per cent of alcohol, to be sold at the post exchanges during the hours set apart for the recreation of the enlisted men, the sale to be conducted exclusively by civilian employees and under such further rules and regulations as the post commanders may prescribe."

Mr. HAY. Mr. Chairman, I make the point of order on that amendment.

Mr. BARTHOLDT. I hope the gentleman will reserve it.

Mr. HAY. I will reserve the point of order.

Mr. RODDENBERY. I make the point of order on the amendment.

The CHAIRMAN. The point of order is made to the amendment.

Mr. BARTHOLDT. I should like to be heard on the point of order.

The CHAIRMAN. The gentleman from Missouri will be recognized on the point of order.

Mr. HAY. The gentleman understands that the gentleman from Georgia made the point of order.

Mr. BARTHOLDT. Yes; I understand that.

Mr. Chairman, in my judgment this amendment is not subject to a point of order, for the reason that it complies strictly with the Holman rule, or is within that rule. The reduction proposed is not a hypocritical one offered merely for the purpose of securing a change of existing law, but it is a real reduction within the Holman rule which says, in effect, that changes of law may be based upon reductions of the amounts of money covered by the bill.

Before the legislation of February 2, 1901, when by an amendment to the Army reorganization bill the privilege of our soldiers to drink a glass of beer at their club, commonly called the canteen, was taken away from them, there were no appropriations for the canteens at Army posts. I believe by the adoption of this amendment not only $5,000 can be saved to the Government, but the whole $40,000 which Congress is asked to appropriate for that purpose can be saved. In accordance with all arguments we have heard here during the last three or four days, especially on the amendment offered by the gentleman from Kansas [Mr. MURDOCK] on the liquor advertisements, which arguments, as gentlemen will remember, were sustained by the Chair, this amendment is now in order. I submit, Mr. Chairman, that it being an honest reduction, the point of order should be overruled by the Chair.

It was a sad day, Mr. Chairman, for the American Army when by the legislation enacted in February——

Mr. HAY. Mr. Chairman, I make the point of order that the gentleman from Missouri must confine his remarks to the point of order.

The CHAIRMAN. The point of order is well taken, and the gentleman must confine himself to the point of order.

Mr. MANN. I hope the gentleman from Virginia will not do that.

Mr. HAY. The gentleman from Missouri is not speaking to the point of order.

Mr. MANN. Very well, I make the point of order that no quorum is present.

The CHAIRMAN. The gentleman from Illinois makes the point of order that no quorum is present. The Chair will count. [After counting.] Sixty-seven Members present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Aiken, S. C.	Draper	Konig	Pepper
Ainey	Driscoll, D. A.	Kopp	Peters
Akin, N. Y.	Dyer	Lafean	Pickett
Ames	Ellerbe	Lamb	Porter
Andrus	Estopinal	Langham	Pou
Ansberry	Evans	Lawrence	Pray
Anthony	Farr	Lee, Pa.	Pujo
Austin	Fields	Legare	Randell, Tex.
Ayres	Fitzgerald	Levy	Ransdell, La.
Bates	Flood, Va.	Lewis	Rauch
Bathrick	Focht	Lindbergh	Reyburn
Berger	Fornes	Lindsay	Richardson
Blackmon	Fuller	Linthicum	Riordan
Bradley	Gardner, Mass.	Littlepage	Rucker, Colo.
Broussard	Gardner, N. J.	Littleton	Rucker, Mo.
Brown	George	Longworth	Scully
Browning	Gillett	Loud	Sells
Burgess	Glass	McCall	Shackleford
Burke, Pa.	Goeke	McCoy	Sherley
Burleson	Goldfogle	McCreary	Simmons
Calder	Gould	McKellar	Slemp
Callaway	Greene, Vt.	McKenzie	Smith, J. M. C.
Carlin	Gregg, Pa.	McKinley	Smith, Cal.
Carter	Gregg, Tex.	Maher	Smith, N. Y.
Conry	Griest	Martin, Colo.	Speer
Cooper	Hardwick	Matthews	Stack
Copley	Harris	Merritt	Stephens, Nebr.
Covington	Harrison, N. Y.	Moon, Pa.	Sulloway
Crago	Hart	Moore, Pa.	Switzer
Cravens	Haugen	Moore, Tex.	Talbott, Md.
Crumpacker	Hawley	Morgan, La.	Taylor, Ala.
Curley	Heald	Morse	Taylor, Colo.
Currier	Henry, Conn.	Mott	Taylor, Ohio
Curry	Hensley	Murdock	Turnbull
Dalzell	Higgins	Needham	Underwood
Danforth	Hill	Nelson	Vare
Davidson	Hobson	Oldfield	Vreeland
De Forest	Howard	Olmsted	Whitacre
Dent	Howland	O'Shaunessy	Wilder
Denver	Hughes, W. Va.	Padgett	Wilson, N. Y.
Difenderfer	James	Palmer	Wood, N. J.
Dixon, Ind.	Johnson, Ky.	Parran	Woods, Iowa
Donohoe	Kindred	Patten, N. Y.	Young, Mich.
Doremus	Kinkaid, Nebr.	Payne	

The committee rose; and the Speaker having resumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee having under consideration the Army appropriation bill had found itself without a quorum; that he had directed the roll to be called and 208 Members had answered to their names, and he presented herewith a list of the absentees.

The SPEAKER. A quorum being present, the committee will resume its session.

The CHAIRMAN. The gentleman from Missouri is recognized on the point of order.

Mr. BARTHOLDT. Mr. Chairman, if the Chair will indulge me still further, I will confine myself to the point of order, and should like to read from an argument made by the present occupant of the chair on the Murdock amendment, as follows:

It has been said in argument, in connection with the pending parliamentary proposition, that the Holman rule must be construed strictly. I deny that absolutely. It has been ruled that this rule is one of beneficence, and on that account should be liberally construed, in order that its essential purpose may be carried out and retrenchments effected.

Then the gentleman from Virginia [Mr. SAUNDERS] went on to argue that the Murdock amendment was in order. This seems to be a case on all fours with the Murdock amendment. In that case it was a plain change of existing law, only with this difference, that in the Murdock amendment the reduction of expenditures was merely guesswork, while with regard to my amendment the reduction of expenditures is a necessary incident and a sequence to the legislation. As will be well remembered by all those present, the Murdock amendment was ruled in order by the gentleman from Tennessee [Mr. GARRETT], the then Chairman of the Committee, and ruled out of order

by the Speaker of the House only on a technicality, not because it changed existing law but for the reason that two amendments were proposed at one and the same time. That technicality has been avoided in my case, and I think my amendment is strictly in order from that point of view. I submit that the point of order does not lie.

Mr. HAY. Mr. Chairman, the amendment of the gentleman from Missouri proposes to change existing law, which law is contained in the Army organization act of February 2, 1901, and which law prohibits the use of any alcoholic beverage or beer in any Army post or reservation. In order to change that law he proposes to cut down the appropriation to $35,000, and he hangs his proposed change of law upon that. Of course his motion to cut down the appropriation $5,000 is divisible from his motion to change the existing law, and his motion to cut down the appropriation is in order without regard to the Holman rule. The Holman rule never was intended to be used for the purpose of changing existing law by offering an amendment to cut down an appropriation and hanging onto it something which in itself does not cut down the appropriation. The gentleman says that if his amendment is adopted this change of law will save something. He has not indicated how it would save, and nobody can see how it would save. I know I am very well assured it would save nothing. Therefore, in accordance with the ruling which was made by the Chair a few days ago when two other amendments of similar character were offered, I have no doubt that the Chair will rule that this amendment is out of order.

Mr. BARTHOLDT. Mr. Chairman, will the gentleman yield?

Mr. HAY. Yes; for a question.

Mr. BARTHOLDT. Mr. Chairman, I think it could well be shown, if we have the time to do so, that this legislation, besides having some other purposes in view, is merely intended to save expenditures, for this reason: That before the legislation of 1901——

Mr. HAY. Mr. Chairman, I yielded to the gentleman for a question.

Mr. BARTHOLDT. Mr. Chairman, I thought the gentleman had finished his remarks. I would like to ask the floor in my own behalf when he is through.

Mr. HAY. I am through now.

Mr. BARTHOLDT. Mr. Chairman, I would like to be indulged for a moment longer.

The CHAIRMAN. The gentleman from Missouri is recognized.

Mr. BARTHOLDT. Mr. Chairman, I stated that before the legislation of 1901, to which the gentleman from Virginia [Mr. HAY] has referred, there was no appropriation for Army post exchanges at all, as I remember, and appropriations became necessary only because the canteen was abolished. If you adopt my amendment it will save money to the Government. It is offered for the purpose of going back to the old system, which did not require an appropriation from Congress for the maintenance of these post exchanges, and consequently the reduction proposed in my amendment and the legislation attached to it belong together. They are not divisible. I would not think of proposing one and not proposing the other. It is offered in good faith, for the purpose of retrenchment and of saving expense to the Government, outside of the other purposes suggested in the amendment.

The CHAIRMAN. The Chair is prepared to rule. The gentleman from Missouri quoted an extract from an argument made by the present occupant of the chair a few days since, in connection with the Murdock amendment. It is the opinion of the present occupant of the chair as stated in that argument that the Holman rule should be construed liberally, but if the gentleman will go a little further into the argument that I made on that occasion, he will find that in supporting the Murdock amendment the gentleman from Virginia submitted this contention to the Chair, that the legislation attached to the reduction in the appropriation, effected the reduction. The gentleman from Missouri will also find in two or three later rulings made by the present occupant of the chair that he maintained the proposition that you can not make a reduction in a total, and convert that reduction into a peg on which to hang unrelated legislation. The legislation must efficiently cause a reduction in order to be in order. Now take this amendment upon which a ruling is sought. First there is a reduction in the total, and then follows legislation to the following effect:

Provided, That post commanders, in their discretion, may permit soft drinks, including beers and light native wines containing not to exceed 4 per cent alcohol, to be sold at the post exchanges during hours set apart for the recreation of the enlisted men, the sale to be conducted exclusively by civilian employees and under such further rules and regulations as the post commanders may prescribe.

It is difficult for the Chair to see how this legislation will necessarily effect any reduction in the total appropriation. The gentleman from Missouri [Mr. BARTHOLDT] stated that he offered the amendment in all sincerity. The Chair does not question this for a moment, but the moral or beneficent effect of the legislation proposed, whatever it may be, is not a question for the Chair to decide. On the point of order the Chair is concerned to determine the economic operation of the legislation proposed. Looking to this legislation, the Chair is not satisfied that it will effect a reduction of expenditures. On this ruling the Chair is in strict conformity with the principles which he has undertaken to lay down in several expositions of the Holman rule. Following these rulings the Chair sustains the point of order.

Mr. BARTHOLDT. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 29, line 6, strike out "$40,000" and in lieu thereof insert the following: "$39,000: *Provided*, That the Secretary of War shall cause an investigation to be made into the effect of the prohibition of the sale of beers and light wines at the post exchanges, such investigation to be conducted by a commission consisting of the Chief of Staff, the chief of the Quartermaster Corps, and the Surgeon General of the United States Army; the commission to report its findings and recomendations to the Secretary of War and by him transmitted to Congress on or before December 10, 1913."

Mr. HAY. Mr. Chairman, I make the point of order on the amendment.

Mr. BARTHOLDT. Mr. Chairman, will the gentleman withhold his point of order for a few moments?

Mr. HAY. I will reserve the point of order.

Mr. RODDENBERY. Mr. Chairman, I make the point of order on the amendment.

The CHAIRMAN. The point of order is renewed.

Mr. BARTHOLDT. Mr. Chairman, I do not desire to discuss the point of order beyond saying that I believe this to be in order. This does not change existing law. It merely provides for an investigation and reduces expenditures, and it will be for the purpose of causing a further retrenchment in the expenses for post exchanges, and for these reasons I think the amendment is in order.

Mr. HAY. It does not change existing law, but creates a commission and makes law.

The CHAIRMAN. The amendment furnishes authority not now afforded by law and does not reduce expenditures. This being so, and in conformity with principles already announced, the point of order is sustained.

The Clerk read as follows:

Transportation of the Army and its supplies: For transportation of the Army and its supplies, including transportation of the troops when moving either by land or water and of their baggage, including the cost of packing and crating; for transportation of recruits and recruiting parties; of applicants for enlistment between recruiting stations and recruiting depots; for travel allowance to enlisted men on discharge; of persons on their discharge from the United States military prison to their homes (or elsewhere, as they may elect), provided the cost in each case shall not be greater than to the place of last enlistment; of supplies furnished to the militia for the permanent equipment thereof; of the necessary agents and other employees; of clothing and equipage and other quartermaster stores from Army depots or places of purchase or delivery to the several posts and Army depots and from those depots to the troops in the field; of horse equipment; of ordnance and ordnance stores, and small arms from the foundries and armories to the arsenals, fortifications, frontier posts, and Army depots; for payment of wharfage tolls and ferriage; for transportation of funds of the Army; for the hire of employees; for the payment of Army transportation lawfully due such land-grant railroads as have not received aid in Government bonds (to be adjusted in accordance with the decisions of the Supreme Court in cases decided under such land-grant acts), but in no case shall more than 50 per cent of full amount of service be paid: *Provided*, That such compensation shall be computed upon the basis of the tariff or lower special rates for like transportation performed for the public at large and shall be accepted as in full for all demands for such service: *Provided further*, That in expending the money appropriated by this act a railroad company which has not received aid in bonds of the United States, and which obtained a grant of public land to aid in the construction of its railroad on condition that such railroad should be a post route and military road, subject to the use of the United States for postal, military, naval, and other Government services, and also subject to such regulations as Congress may impose restricting the charge for such Government transportation, having claims against the United States for transportation of troops and munitions of war and military supplies and property over such aided railroads, shall be paid out of the moneys appropriated by the foregoing provision only on the basis of such rate for the transportation of such troops and munitions of war and military supplies and property as the Secretary of War shall deem just and reasonable under the foregoing provision, such rate not to exceed 50 per cent of the compensation for such Government transportation as shall at that time be charged to and paid by private parties to any such company for like and similar transportation; and the amount so fixed to be paid shall be accepted as in full for all demands for such service; for the purchase and hire of draft and pack animals in such numbers as are actually required for the service, including reasonable provision for replacing unserviceable animals; for the purchase, hire, operation, maintenance, and repair of such harness, wagons, carts, drays, and other vehicles as are required for the transportation of troops and supplies, and for official, military, and garrison purposes; for drayage

and cartage at the several depots; for the hire of teamsters and other employees; for the purchase and repair of ships, boats, and other vessels required for the transportation of troops and supplies and for official, military, and garrison purposes; for expenses of sailing public transports and other vessels on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific Oceans, $10,555,555.

Mr. WILLIS. Mr. Chairman, I desire to submit an amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 31, lines 20 and 21, after the word "vessels," strike out the words "on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific Oceans.

Mr. HAY. Mr. Chairman, I make a point of order on that.

Mr. WILLIS. Mr. Chairman, I do not think it is subject to a point of order, but I am willing for the Chair to pass on that now.

Mr. MANN. The gentleman makes the point of order on that?

Mr. HAY. Of course I make the point of order on that, otherwise the appropriation would not mean anything.

Mr. WILLIS. Will the gentleman withhold his point of order?

Mr. HAY. I will reserve the point of order; yes.

Mr. WILLIS. Mr. Chairman, I introduced this amendment simply to call attention to what seems to me to be a peculiar statement of the law. I assume this is a provision in former appropriation bills, though I did not get an opportunity to look it up Here it says:

For expenses of sailing public transports and other vessels on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific Oceans.

Now, then, suppose it is desirable to sail transports on the Panama Canal. That is not a river; it is not the Gulf of Mexico; it is not the Atlantic Ocean or the Pacific Ocean. Or, say, the Suez Canal——

Mr. ROBERTS of Massachusetts. Or the Indian Ocean or the Mediterranean Sea.

Mr. WILLIS. Or the Indian Ocean or the Mediterranean Sea or the Red Sea.

Mr. BURKE of South Dakota. Or the Black Sea.

Mr. WILLIS. Or the Black Sea, or any of those suggested here. None of those comes under the head stated in this paragraph. Now, as a matter of fact, if this should be left in the appropriation bill as it stands here, might not the auditing officer, the Comptroller of the Treasury, or whoever it is, have the question raised there and lead to embarrassment and confusion?

Because obviously sailing a vessel on the Caribbean Sea or on the Indian Ocean, or any of these places, does not come within the provisions of the law, and what is the use of enumerating these navigable waters as the only places for sailing public transports and other vessels? The enumeration of certain navigable waters excludes others by implication. If this amendment is adopted it simply strikes out the language which is in the bill and which I have read.

Mr. HAY. I will say to the gentleman this language has been in the bill, according to my recollection, ever since we have acquired the Philippine Islands and inaugurated the system of transportation. The transports ply on the Atlantic Ocean, on the Gulf of Mexico, and on the Pacific Ocean, and on various rivers in the Philippine Islands and elsewhere. I do not know of any other place where they could very well go.

Mr. WILLIS. What does the gentleman say now as to my suggestion of the Indian Ocean?

Mr. HAY. I will say to the gentleman that as this language has been in the law, and has been the law for a long time, I think, unless the gentleman has a very good reason for it, we had better let it remain as it is. No harm has come from it.

Mr. WILLIS. That is the very point—harm may come from it. It is clearly within the provisions of the law.

Mr. HAY. I do not think so. I do not think any possible injury could come to the Government.

Mr. WILLIS. If that point should be made by the auditing officer, does the gentleman think the expenses of sailing a transport through the Mediterranean Sea or the Suez Canal or the Red Sea or the Indian Ocean would be covered by this language?

Mr. HAY. They do go through the Indian Ocean and through the Suez Canal.

Mr. WILLIS. But does the gentleman think the language here covers that, if the point would ever be raised?

Mr. HAY. They sail over the Indian Ocean to get to the Pacific Ocean.

Mr. MANN. It is a part of the Indian Ocean, or it was when I went to school.

Mr. WILLIS. The gentleman from Illinois studied a very ancient geography. What does he say about the Panama Canal? That is not a part of the Atlantic Ocean.

Mr. MANN. I could give the gentleman a very much better instance than he has cited, and that is the Caribbean Sea.

Mr. WILLIS. I cited that.

Mr. MANN. What is the gentleman seeking to accomplish? It is always fair to be perfectly frank.

Mr. WILLIS. Certainly. It occurred to me that the point might be raised by the comptroller. I have no interest in the form of language at all, aside from that.

Mr. HAY. I will ask the gentleman not to insist on the amendment.

Mr. WILLIS. All right. I will withdraw the amendment.

Mr. BURKE of South Dakota. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The gentleman from South Dakota offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 31, after line 21, add the following:

"*Provided*, That no part of this or any other appropriation carried herein shall be used for the payment of expenses of holding, going to, attendance on, and returning from, polo tournaments, horse shows, Olympic games, or race track, by officers, enlisted men, horses, or equipments belonging to the United States, except at the United States Military Academy.

Mr. HAY. Mr. Chairman, I reserve a point of order on that.

Mr. BURKE of South Dakota. Mr. Chairman, the matter was quite fully discussed when the amendment was offered by the gentleman from North Carolina [Mr. WEBB] against the purchase of polo ponies. I do not wish to take up the time of this committee in discussing the matter unless the chairman of the committee resists the adoption of the amendment.

Mr. HAY. I understood the other amendment was adopted.

Mr. BURKE of South Dakota. The other amendment was adopted, and I want to say, because that was mentioned——

Mr. HAY. I do not believe it is subject to a point of order, Mr. Chairman.

Mr. BURKE of South Dakota. Will the gentleman accept the amendment? I do not care to take up the time of the committee at this hour of the evening.

Mr. MANN. May I hear the amendment reported?

Mr. BURKE of South Dakota. It is a limitation on the appropriation.

Mr. MANN. I ask to have the amendment reported.

The amendment was again read.

Mr. MANN. Mr. Chairman, I am surprised that my friend from South Dakota [Mr. BURKE] has not offered an amendment to provide that Army officers shall be kept on feather beds all the time and not be permitted to go out of their feather-bed buildings for fear they might be hurt. [Laughter.] I may be mistaken. I never have been in favor of a large Army, but I have always been in favor of making efficient the Army that we have.

Here is a proposition to prevent the drilling of Cavalry officers in the way they need to be drilled for service in time of battle. You might as well say they shall not have saber exercises. Why not provide that cavalrymen shall not ride horses? Why does the gentleman stop there? Why not provide that these Cavalry officers shall superintend their Cavalry regiments on foot, for fear they may be hurt?

Mr. ADAIR. Why not limit them to Army hobbyhorses?

Mr. MANN. The gentleman need not cite the Army hobbyhorses. They have them now. That is what they ride now. Because some man over here was asked, or disrespectfully asked, to contribute a dollar and was too mean to give it up, we have had an excitement about polo games ever since.

Mr. BURKE of South Dakota. Mr. Chairman, I had not intended to debate the amendment, as it was discussed very fully when the former amendment was adopted.

The basis of my action in offering this amendment, as I fully explained when the other amendment was discussed, is that I found upon inquiry of the gentlemen composing the Committee on Military Affairs of this House—a number of the members of that committee, including the chairman—that they had undertaken to prohibit expenditures from the appropriations that were being made to pay the expenses of polo tournaments and other similar exhibitions, and supposed they had. It was only after I ascertained by a letter from the Secretary of the Treasury that has been read here, and which was incorporated in my remarks earlier in the afternoon, that I discovered that they were expending money to pay the expenses of such exhibitions out of these funds.

I have here a newspaper clipping from the Washington Herald of November 16, 1912, that I happened to read about the time I arrived in Washington at the beginning of this session, and I will send to the Clerk's desk to have it read. I may say that I believe that that is an item involving expenses which are paid from the appropriations made in this bill.

The CHAIRMAN. Without objection, the Clerk will read.

The Clerk read as follows:

DEPART FOR HORSE SHOW—FORT MYER OFFICERS LEAVE FOR NEW YORK WITH THEIR MOUNTS.

Capt. L. R. Lindsey, with his famous horse Experiment, and Lieut. W. H. Shepherd, with Marshal Ney, left Fort Myer yesterday over the Pennsylvania Railroad for New York, where they will take part in the annual horse show which opens there Saturday.

Trumpeter James T. Purcell, of Battery D, and Pvt. Johnson, of Troop A, went along to look out for the horses. The Fort Myer men expect to win high honors with their mounts.

Mr. BURKE of South Dakota. Mr. Chairman, the only question is whether or not we are going to authorize expenditures for such purposes; and if we are I say we ought to say so in so many words. As I have already stated from the best information I could get from the men who are well informed on the subject it appears that we had limited the appropriation so that such expenses could not be paid from them, and since the department had found a way by which they can pay such expenses from these appropriations I am asking to put on the appropriation bill a limitation which will prohibit it in the future.

Mr. FOSTER. Mr. Chairman will the gentleman yield?

The CHAIRMAN. Does the gentleman yield?

Mr. BURKE of South Dakota. I do.

Mr. FOSTER. Does the gentleman know that the United States Government is also putting horses in races on different race tracks?

Mr. BURKE of South Dakota. I just sent to the desk and had read a newspaper clipping concerning a horse show.

Mr. FOSTER. I mean regular races.

Mr. MADDEN. Are there any pools being made on them?

Mr. FOSTER. Yes; that is a fact. Pools are being made on them.

Mr. KAHN. May I ask where United States horses are being entered in races?

Mr. FOSTER. In New York they were entered last year.

Mr. COX. Did they win any money?

Mr. FOSTER. I understand they did.

Mr. COX. Who kept it?

Mr. FOSTER. I do not know.

Mr. MANN. Would it be improper to enter them at a county fair? Would it be improper?

Mr. FOSTER. I do not know.

Mr. MANN. This would prohibit it.

Mr. MADDEN. Mr. Chairman, I think it is proper to place a limitation upon the expenditure of money carried in this bill. There is not any reason on earth why the United States Treasury should be called upon to pay for the amusements of those who are occupying positions as officers of the Army. Polo games and horse shows and all that should be left to people who are willing to pay their own money for that sort of amusement.

Why should an Army officer be privileged to draw money out of the Federal Treasury for doing something that every other citizen of the United States is called upon to pay for himself? There is no necessity for taking the cavalrymen off the horses in order to prevent men who are in the Army from playing polo at the expense of the Government Treasury.

Polo has nothing whatever to do with soldiery. Cavalry service is quite another thing. It has been said that men are better qualified for service in the Army because of their activities in polo games. I doubt that. When they are in these polo games their minds are taken away from the work for which they are employed. They run from one end of this country to the other at the expense of the Government, and in addition to having all their expenses paid they insult the people who pay taxes, because forsooth those people drive along a public driveway, built at the expense of the public, and want to stop to look at the game, they compel them to pay a dollar, or whatever the price is, if they wish to stand at a particular place. It is no evidence of niggardliness because a man refuses to pay a charge which there is no authority to levy. I take it that if a man wants to go to a game of baseball or football or polo, performed by private individuals, he is willing to pay; but if the Government of the United States builds parks, surrounds the parks with beautiful shrubbery and trees, builds beautiful boulevards for the purpose of giving the people an opportunity to drive for pleasure, those parks and boulevards are not to be controlled by soldiers who are assigned to duty to prevent the citizens from enjoying the privileges of the boulevards. It is an outrage. It is an insult that the Army should be permitted, through any officer or private, to say to any citizen "You shall not stay on a public street in a public park, unless you pay whatever charge we see fit to impose." They charged a fee on both sides of the park, on the river side and on the side across from the river. They ought not to be permitted to charge on either side, and I hope this amendment will prevail, and that in the future no dollar of the public money will be expended for the purpose of transporting officers and polo ponies from one section of the Nation to another for the edification of the officers of the Army. [Applause.]

Mr. KAHN. Mr. Chairman, it seems to me that the gentleman who introduced this amendment has mistaken his remedy. What he ought to do is to offer an amendment providing that no charge of $1 or any other amount shall be levied upon any citizen for the privilege of looking upon a game of polo which is being conducted by officers or soldiers of the Army.

Mr. CULLOP. Mr. Chairman——

The CHAIRMAN. Does the gentleman from California yield to the gentleman from Indiana?

Mr. KAHN. Yes.

Mr. CULLOP. I understand the gentleman is a member of the Committee on Military Affairs?

Mr. KAHN. I am.

Mr. CULLOP. Is it not an abuse of the appropriation to use any part of it for the transporting of horses or men to engage in a horse race at Baltimore?

Mr. KAHN. I never heard until this afternoon that money was being diverted for that purpose. I personally do not believe that it can be done under the law.

Mr. CULLOP. I understand from the statement of the gentleman from Illinois [Mr. FOSTER] that it was done last year.

Mr. KAHN. I understood so from the gentleman; but it is the first time I ever heard of it.

Mr. CULLOP. It ought not to require an amendment to purge that abuse, because no part of the appropriation was ever made for any such purpose as that, even if it has been diverted to that use.

Mr. KAHN. I am inclined to agree with the gentleman from Indiana on that. I believe that that money can not lawfully be diverted for that purpose.

Mr. CULLOP. And there is no authority of law for the use of the appropriation for such transportation.

Mr. KAHN. I know of no authority of law. I know that instruction in riding is given in the Army. Many of our constituents who come to Washington have heard of the wonderful riding exhibitions by the soldiers at Fort Myer on Fridays. It is a thrilling drill, and we are frequently importuned to secure tickets for our visiting constituents. They enthuse over the skill of the soldiers in horsemanship. The gentleman who offered this amendment would probably like to stop that riding drill at Fort Myer. To my mind, it aids enlistments. It creates an interest in the Army.

Then, too, the matter of procuring suitable horses for the service has been a serious question with Army officers. They have had a great deal of difficulty in getting proper mounts. In order to obviate that we established a remount station some two or three years ago. It is a good thing for those who raise horses throughout this country to see Army officers ride their animals; besides its educational effect there is no doubt but that the farmer or the citizen who witnesses a demonstration of that sort is frequently led to try to produce the kind of horses that are required by the Army. It is in the interest of the service that these men be permitted to perform at these various fairs.

Mr. MADDEN. Will the gentleman yield?

Mr. KAHN. Certainly.

Mr. MADDEN. How many farmers attend the horse show at Madison Square Garden, New York?

Mr. KAHN. A great many farmers, I have no doubt. They are naturally interested in good stock.

Mr. MADDEN. How many farmers attend the polo game on the grounds down here?

Mr. KAHN. I dare say many farmers from Virginia and Maryland, who reside in the vicinity of Washington, come here and pay the dollar for the privilege of looking at the game.

Mr. SLAYDEN. Mr. Chairman, this discussion has taken a wide range. I want to direct the attention of Members to the part of the bill that has provoked it all and that suggested the amendment:

Provided further, That no part of this appropriation shall be expended for the purchase of any horses below the standard set by Army Regulations for Cavalry and Artillery horses, except when purchased as remounts or for instruction of cadets at the United States Military Academy.

Of course, this purchase of undersized horses—polo ponies—is made to train them in horsemanship.

Mr. KAHN. But the amendment that is proposed is entirely different from that.

Mr. SLAYDEN. I know of no authority in law, and I have been surprised here at hearing it stated that certain things have been done—I know of no authority in law for ordering

officers and enlisted men, at the expense of the mileage appropriation, to leave Washington to engage in games. Whether it is proper for them to do that I am not undertaking to discuss.

Mr. KAHN. I know of no authority.

Mr. SLAYDEN. I was surprised to know that it had been done.

Mr. MANN. Mr. Chairman, I want to say that in Chicago for several years they have held—I do not know what they call it—some kind of a show on the Lake front, at which they have had a portion of the Cavalry and a part of the Infantry of the Army. They charged an admission for reserved seats. I understood some years ago, although I never made application in reference to the matter, that they claimed to have authority to transport these troops—I suppose from Fort Sheridan, which is only a few miles from Chicago. Perhaps they do not pay the expenses of transportation, but whether they do or not would make no difference.

Mr. SLAYDEN. A mere order by an officer who had no authority of law would be sufficient for them.

Mr. MANN. I am not saying there is authority; I do not know who pays the expense. No one else has a right to contribute to the Government for the transportation of troops.

Mr. SLAYDEN. The officers and enlisted men might get leave for that purpose.

Mr. MANN. They do not get leave; they send the men there, and send men who do not want to go.

Mr. KAHN. They are probably detailed.

Mr. MANN. They are detailed by order of the Government, and I think it has been a good thing for the Army and probably has been a good thing for the hundreds and thousands of people who have seen them.

Mr. HAY. That is a different proposition from the one proposed by the gentleman from South Dakota.

Mr. MANN. In what respect? They are ordered to a tournament where there is an admission charged.

Mr. HAY. The proposition of the gentleman from South Dakota is against the payment of the expenses for transportation of polo ponies. The proposition the gentleman is talking about, the exhibition on the shore front of the lake at Chicago, is where troops are ordered by competent authority to go to a certain place.

Mr. MANN. I did not understand the amendment of the gentleman from South Dakota was confined to the transportation of polo ponies.

Mr. HAY. And horses taking part in races, Olympic events, and so forth. I do not know exactly what the gentleman means by "Olympic events."

Mr. MANN. That is what I was talking about; wherever there is Cavalry riding there is racing, and where they have drills they are Olympic events.

Mr. HAY. I have known cases where troops of Cavalry participated, where they have been sent to different fairs, and I have requested it to be done in my district, and it has been done.

Mr. MANN. I think it would be barred by this amendment.

Mr. HAY. If it was, I should be opposed to the amendment, because I believe it is a matter of education of the people to see the soldiers and see them ride.

Mr. KAHN. I think it is a matter of education.

Mr. HAY. It aids enlistments.

Mr. MANN. That is the reason I agree with the gentleman and the reason that I am opposed to the amendment.

Mr. BURKE of South Dakota. The gentleman from Virginia went to the desk and examined the amendment, and I think he discovered that it does not go to the extent that the gentleman from Illinois has stated.

Mr. HAY. I do not so understand.

Mr. BURKE of South Dakota. It is limited entirely to certain events that are enumerated. The gentleman from Texas [Mr. SLAYDEN] states that in his judgment there is no authority of law for paying these expenses, if they are paying them, and so has the gentleman from California [Mr. KAHN], and they are both members of the committee. Is not that sufficient ground to justify placing a limitation on the appropriation?

Mr. COX. If there is no authority in law for it, how do these items get past the Comptroller of the Treasury?

Mr. BURKE of South Dakota. I can explain that in about two minutes' time, if I may be yielded that much.

Mr. GARNER. Mr. Chairman, is there not another remedy for this illegal expenditure of money? If the Committee on Military Affairs would go into the question of the necessary amount and cut down the appropriation for this work sufficiently, so that they would not have money enough to go into polo games, would not that remedy the matter?

Mr. HAY. Mr. Chairman, I will say to the gentleman that every particle of this appropriation is itemized and allotted by the Chief of the Quartermaster Corps, and that there is no allotment of this appropriation for polo games or anything of that sort. The only thing that could be paid out of this item—transportation—would be for transporting the horses from one place to another; and then, of course, the Secretary of War has the power to order the horses to be transported, and I do not know any law which we could properly enact which would prevent him from transporting the horses of the Army.

Mr. COX. Mr. Chairman, I will ask the gentleman from South Dakota to tell us how these claims get past the Comptroller of the Treasury?

Mr. BURKE of South Dakota. Certain expenses were incurred in connection with some races at Pimlico race track, Arlington, Md., and when the voucher reached the Treasury Department it was disallowed.

Mr. COX. By whom?

Mr. BURKE of South Dakota. By the Auditor for the War Department, who is an official of the Treasury Department. He decided it could not be paid, because it was not authorized by law, and I think when he did that he followed the intention of Congress when it made the appropriation. The matter went to the Comptroller of the Treasury.

Mr. COX. Was there an appeal taken from his decision?

Mr. BURKE of South Dakota. Yes; and here is the substance of the comptroller's decision:

> The War Department is intrusted with the control of the Army and what, in its judgment, will promote its efficiency. The Secretary of War represents the President and exercises his power on the subjects confided to his department. If the War Department in the exercise of its jurisdiction and control of the Army is of the opinion that polo tournaments among the officers and enlisted men tend to promote the efficiency of the Army, and accordingly orders the officers and men to participate in such tournaments, which involve expenditures for transportation of officers and men and horses to attend such tournaments, I do not think the accounting officers can revise the judgment of the War Department in such matters or that they are authorized to disallow them the reasonable cost of such transportation.

So the decision of the comptroller is based entirely upon the authority that he says the Secretary of War possesses, and enables the expenditure of money that Congress did not intend to authorize.

Mr. MADDEN. Does he define what a game of polo is?

Mr. BURKE of South Dakota. My position is, and I am willing to accept the judgment of the Committee on Military Affairs on the matter, that if this is a proper subject for which to appropriate money, then appropriate for that purpose.

Mr. COX. As I gather from the reading of the decision of the comptroller, he really winds up by deciding a state of facts not stated in the first part of the decision. Did not that case arise on the proposition of certain horses being sent to a race track?

Mr. BURKE of South Dakota. I think so.

Mr. COX. And then finally he decides the question on a polo game.

Mr. BURKE of South Dakota. No; the particular item in this case was a voucher for a race-track event, but he goes on very fully and discusses polo tournaments and gives the Century Dictionary definition of what polo is and of what hockey is, and so forth. It is quite interesting, I will say to the gentleman, and it shows clearly how the comptroller found a way to pay the expenses, but I do not think his decision is correct.

Mr. MANN. In accordance with the law.

Mr. HAY. Mr. Chairman, I think this matter has been discussed sufficiently, and I hope to have a vote on the amendment now.

The question was taken; and the Chairman announced the "noes" seemed to have it.

On a division (demanded by Mr. BURKE of South Dakota) there were—ayes 14, noes 23.

Mr. MADDEN. Mr. Chairman, I make the point of order there is no quorum present.

Mr. HAY. Mr. Chairman, I move the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 27941, the Army appropriation bill, and had come to no resolution thereon.

ENROLLED BILLS SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 22010. An act to amend the license law, approved July 1, 1902, with respect to licenses of drivers of passenger vehicles for hire.

The SPEAKER announced his signature to enrolled joint resolution and bill of the following titles:

S. J. Res. 150. Joint resolution appropriating $40,000 for expenses of inquiries and investigations ordered by the Senate; and

S. 7637. An act to authorize the construction of a railroad bridge across the Illinois River near Havana, Ill.

DESIGNATION OF SPEAKER PRO TEMPORE FOR TO-MORROW.

The SPEAKER. The Chair will appoint the gentleman from Indiana, Mr. CLINE, to preside at the session of the House to-morrow.

ADJOURNMENT.

Mr. HAY. Mr. Chairman, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 3 minutes p. m.) the House adjourned to meet to-morrow, Sunday, January 19, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Navy, transmitting a statement of expenses incurred from June 30 to December 1, 1912, by officers and employees of the Navy Department in attending conventions of societies or associations (H. Doc. No. 1284); to the Committee on Expenditures in the Navy Department and ordered to be printed.

2. A letter from the Acting Secretary of the Treasury, transmitting copy of a communication from the Secretary of War submitting estimate of appropriation for barracks and quarters at Fort Bliss, Tex. (H. Doc. No. 1285); to the Committee on Military Affairs and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. RUSSELL, from the Committee on Invalid Pensions, to which was referred the bill (H. R. 28093) to amend the general pension act of May 11, 1912, reported the same without amendment, accompanied by a report (No. 1346), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Invalid Pensions was discharged from the consideration of the bill (H. R. 27960) granting a pension to William Costello, and the same was referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. COPLEY: A bill (H. R. 28233) for the purchase of a site at Woodstock, Ill., for the purpose of erecting a public building thereon; to the Committee on Public Buildings and Grounds.

By Mr. CLINE: A bill (H. R. 28234) to place on the retired list of the Army the names of the surviving officers who were mustered out under the provisions of the act of Congress approved July 15, 1870; to the Committee on Military Affairs.

Also, a bill (H. R. 28235) to amend a portion of the act of July 1, 1908, volume 30, Statutes at Large, page 614, relating to the exclusive jurisdiction, control, and custody of courthouses, customhouses, post offices, etc., under the exclusive jurisdiction of the Secretary of the Treasury; to the Committee on Public Buildings and Grounds.

By Mr. HUMPHREY of Washington: A bill (H. R. 28236) to prevent ships in combines and conferences from passing through the Panama Canal; to the Committee on Interstate and Foreign Commerce.

By Mr. PICKETT: A bill (H. R. 28237) to authorize the construction of a bridge across the Mississippi River at or near Dubuque, Iowa, and to establish it as a post road; to the Committee on Interstate and Foreign Commerce.

By Mr. RICHARDSON: A bill (H. R. 28238) authorizing the Secretary of War to donate to the city of Sheffield, in the State of Alabama, a bronze cannon and carriage; to the Committee on Military Affairs.

By Mr. CALDER: A bill (H. R. 28239) providing that one competent officer of the United States Navy, who shall be nominated by the Secretary of the Navy for the approval of the President, with two other competent persons appointed by the President, shall constitute a commission to be known as the Labrador Current and Gulf Stream Commission, defining its powers and duties, and making an appropriation for its expenses; to the Committee on Naval Affairs.

By Mr. HINDS: A bill (H. R. 28240) to amend the act authorizing the construction of a public building at Biddeford, Me.; to the Committee on Public Buildings and Grounds.

By Mr. TUTTLE: Resolution (H. Res. 778) directing the Committee on the Post Office and Post Roads to institute and carry forward an investigation into the letting of contracts, etc.; to the Committee on Rules.

By Mr. HARDWICK: Resolution (H. Res. 779) requesting from the President of the United States information concerning the exemption of American importers of manila hemp from payment of the export tax thereon; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON: A bill (H. R. 28241) granting a pension to Elmo M. Kellar; to the Committee on Pensions.

By Mr. AYRES: A bill (H. R. 28242) granting a pension to Ellen Louise Tripp; to the Committee on Pensions.

By Mr. BATHRICK: A bill (H. R. 28243) granting a pension to Clarence J. Hoskins; to the Committee on Pensions.

By Mr. BELL of Georgia: A bill (H. R. 28244) granting a pension to Mariena E. Wehunt; to the Committee on Invalid Pensions.

By Mr. BYRNS of Tennessee: A bill (H. R. 28245) for the relief of Gethsemane Baptist Church; to the Committee on War Claims.

By Mr. CRAVENS: A bill (H. R. 28246) for the relief of the estate of Samuel N. Pryor; to the Committee on War Claims.

By Mr. DAVIDSON: A bill (H. R. 28247) granting a pension to Hans Hanson; to the committee on Invalid Pensions.

Also, a bill (H. R. 28248) granting an increase of pension to Ludwig W. Kaempf; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28249) granting an increase of pension to Newton Peters; to the Committee on Invalid Pensions.

By Mr. FERGUSSON: A bill (H. R. 28250) granting an increase of pension to Juan Andres Aragon; to the Committee on Pensions.

Also, a bill (H. R. 28251) granting an increase of pension to Petra Archuleta de Vigil; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28252) granting a pension to Charles M. Hines; to the Committee on Pensions.

By Mr. FERRIS: A bill (H. R. 28253) granting an increase of pension of Joshua P. Neeley; to the Committee on Invalid Pensions.

By Mr. GILL: A bill (H. R. 28254) granting a pension to John J. Seithel; to the Committee on Pensions.

By Mr. HARTMAN: A bill (H. R. 28255) granting an increase of pension to Lucinda Hainley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28256) granting an increase of pension to Margaret L. Miller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28257) granting an increase of pension to Peter Miller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28258) granting an increase of pension to Lydia Barclay; to the Committee on Invalid Pensions.

By Mr. HAMILTON of Michigan: A bill (H. R. 28259) for the relief of Park B. Chase; to the Committee on Naval Affairs.

By Mr. HAMLIN: A bill (H. R. 28260) for the relief of J. H. Alexander; to the Committee on War Claims.

By Mr. HAYDEN: A bill (H. R. 28261) for the relief of G. O. Nolan; to the Committee on Claims.

By Mr. JOHNSON of Kentucky: A bill (H. R. 28262) for the relief of George W. Stout; to the Committee on Claims.

Also, a bill (H. R. 28263) granting an increase of pension to John T. Stasel; to the Committee on Invalid Pensions.

By Mr. LANGLEY: A bill (H. R. 28264) for the relief of Cyrus H. Abbott and others; to the Committee on War Claims.

By Mr. LEE of Georgia: A bill (H. R. 28265) for relief of the trustees of Pea Vine Academy, Catoosa County, Ga.; to the Committee on War Claims.

Also, a bill (H. R. 28266) for relief of the trustees of Pea Vine Church, Catoosa County, Ga.; to the Committee on War Claims.

By Mr. LLOYD: A bill (H. R. 28267) granting an increase of pension to John M. Davis; to the Committee on Invalid Pensions.

By Mr. MADDEN: A bill (H. R. 28268) granting a pension to Vincent S. Drain; to the Committee on Pensions.

By Mr. NEELEY: A bill (H. R. 28269) granting a pension to Parmelia R. Parris; to the Committee on Pensions.

By Mr. RANSDELL of Louisiana: A bill (H. R. 28270) for the relief of James M. Morgan; to the Committee on War Claims.

By Mr. REILLY: A bill (H. R. 28271) granting an increase of pension to Margaret Carmody; to the Committee on Invalid Pensions.

By Mr. ROBERTS of Nevada: A bill (H. R. 28272) granting a pension to Jasper Jennings; to the Committee on Invalid Pensions.

By Mr. SWITZER: A bill (H. R. 28273) granting a pension to Sampson Johnson; to the Committee on Invalid Pensions.

By Mr. TOWNER: A bill (H. R. 28274) granting a pension to Mary Bullard; to the Committee on Invalid Pensions.

By Mr. ELLERBE: A joint resolution (H. J. Res. 386) exempting Capt. Frank Parker, United States Army, from a provision of the act entitled "An act making appropriation for the support of the Army for the fiscal year ending June 30, 1913, and for other purposes"; to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Papers relative to contest case of Fulton *v.* Morgan; to the Committee on Elections No. 2.

By Mr. ALLEN: Petition of officers of the Historical and Philosophical Society of Ohio, favoring the passage of legislation for the erection of a national archives building at Washington, D. C.; to the Committee on Public Buildings and Grounds.

By Mr. ANDERSON: Papers to accompany bill granting a pension to Elmo M. Kellar; to the Committee on Pensions.

By Mr. ANSBERRY: Petition of Thomas J. Littlejohn and others, of Middletown, Ohio, favoring the passage of the Lafean pension bill; to the Committee on Invalid Pensions.

Also, petition of the Eastern Talking Machine Dealers' Association, protesting against the passage of section 2 of the Oldfield patent bill, prohibiting fixing of prices by manufacturers of patent goods; to the Committee on Patents.

Also, petition of the National Society for the Promotion of Industrial Education, New York, favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

By Mr. BYRNS of Tennessee: Papers to accompany bill for the relief of Gethsemane Baptist Church; to the Committee on War Claims.

By Mr. CARY: Petition of the Milwaukee Chamber of Commerce, favoring the passage of legislation granting a Federal charter to the Chamber of Commerce of the United States; to the Committee on the Judiciary.

Also, petition of the Milwaukee Chamber of Commerce, favoring the passage of House bill 3010, for regulation of telephone and telegraph messages; to the Committee on Interstate and Foreign Commerce.

Also, petition of the National Association of Employing Lithographers, protesting against the reduction of tariff on lithography; to the Committee on Ways and Means.

By Mr. CRAVENS: Papers to accompany bill for the relief of the estate of Samuel M. Pryor; to the Committee on War Claims.

By Mr. ESCH: Petition of the Chamber of Commerce of Milwaukee, favoring the passage of House bill 3010, for regulation of telephone and telegraph messages; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Chamber of Commerce of Milwaukee, Wis., favoring the passage of the pending legislation granting a Federal charter to the Chamber of Commerce of the United States; to the Committee on the Judiciary.

By Mr. FULLER: Petition of the Illinois Chapter of the American Institute of Architects, relative to the erecting of a fitting memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of Wallace Gillespie, Franklin, Ohio, favoring the passage of House bill 13399 to increase the pensions of the veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

By Mr. HINDS: Petition of employees in paper mills in Maine, New Hampshire, Vermont, Connecticut, Massachusetts, New York, Pennsylvania, District of Columbia, Virginia, West Virginia, Ohio, Indiana, Michigan, Minnesota, Iowa, Wisconsin, Oregon, and Washington, praying that section 2 of the reciprocity act be repealed; to the Committee on Ways and Means.

By Mr. LINDSAY: Petition of the New York Leather Belting Co., New York, favoring the passage of House bill 27567 reducing the rate of first-class letter postage to 1 cent; to the Committee on the Post Office and Post Roads.

Also, petition of Employees' Aid Society, of the Eberhard Faber Pencil Co., Greenport, Brooklyn, protesting against the passage of any legislation making downward revision of tariff on lead pencils and leads; to the Committee on Ways and Means.

By Mr. MARTIN of South Dakota: Petition of business men of Dallas, Burke, and Gregory, S. Dak., favoring the passage of legislation compelling the firms that sell direct to the consumer by mail to pay their portion of funds for the development of the local community, county, and State; to the Committee on Interstate and Foreign Commerce.

Also, petition of Frank Smith, Sturgis, S. Dak., relative to special act granting a pension to Daniel J. Newell; to the Committee on Invalid Pensions.

By Mr. NEELEY: Petition of citizens of Kansas, favoring the passage of House bill 25040, making an eight-hour limit for the telegrapher; to the Committee on Interstate and Foreign Commerce.

By Mr. PLUMLEY: Petition of the First Congregational Church and the Methodist Episcopal Church of St. Johnsbury Center, Vt., favoring the passage of the Kenyon "red-light" injunction bill to clean up Washington during the inauguration; to the Committee on the District of Columbia.

Also, petition of the First Congregational Church and the Methodist Episcopal Church of St. Johnsbury Center, Vt., favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. RAKER: Petition of the Illinois Chapter of the American Institute of Architects, relative to the erection of a fitting memorial to the memory of Abraham Lincoln; to the Committee on the Library.

By Mr. REILLY: Petition of the Village Improvement Association, Milford, Conn., favoring the passage of the McLean bill granting Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of the Eastern Talking Machine Dealers' Association, New York, N. Y., protesting against the passage of section 2 of the Oldfield patent bill, prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the German-American Peace Society, protesting against the passage of House bill 8141, putting the soldiers and officers of the State militia on the national pay roll; to the Committee on Military Affairs.

By Mr. SMITH of New York: Petition of the Methodist Men's Club of East Aurora, N. Y., favoring the passage of the Kenyon-Sheppard liquor bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. STEPHENS of California: Petition of the Russell Borate Mining Co., Ventura, Cal., protesting against any reduction of the tariff on borate; to the Committee on Ways and Means.

By Mr. TAGGART: Memorial of the Uncle Sam Oil Co., relating to its business transactions with the Standard Oil Co. and the Post Office and Interior Departments; to the Committee on Interstate and Foreign Commerce.

By Mr. THAYER: Petition of citizens of Worcester, Mass., favoring the passage of the Kenyon "red-light" injunction bill to clean up Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. TILSON: Petition of the Village Improvement Association (Inc.), Milford, Conn., favoring the passage of the McLean bill for Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. TUTTLE: Petition of the Eastern Talking Machine Dealers' Association of New York, protesting against the passage of section 2 of the Oldfield patent bill preventing the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the National Society for the Promotion of Industrial Education, favoring the passage of the Page bill (S. 3) for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the Board of Trade of the city of Newark, N. J., favoring the passage of legislation for the establishment of a Federal court at Newark, N. J.; to the Committee on the Judiciary.

Also, petition of employees of the Railway Mail Service, second division, protesting against the recent orders of the Post Office Department requiring the cancellation of the photographic commissions, upon which their transportation to and from duty depends; to the Committee on the Post Office and Post Roads.

By Mr. WILLIS: Papers to accompany bill (H. R. 27526) granting a pension to Emma B. Showalter; to the Committee on Invalid Pensions.

HOUSE OF REPRESENTATIVES.

SUNDAY, *January 19, 1913.*

The House met at 12 o'clock noon, and was called to order by Mr. CLINE as Speaker pro tempore.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Eternal and everliving God, our heavenly Father, out of the deeps we cry unto Thee, "Our refuge and our strength, a very present help in trouble." We thank Thee for all the disclosures Thou has made of Thyself, which enables us to interpret the meaning of life and its far-reaching purposes; especially for that light which broke in splendor upon the world in the resurrection of the Christ, demonstrating the immortality of the soul and the unbroken continuity of life. We realize the fitness of this service in memory of one who served with distinction upon the floor of this House and left behind him an enviable record as a statesman, a Christian gentleman, a warm-hearted friend, a faithful husband, a loving father. Help us to cherish with his dear ones his memory, to copy his virtues, and leave behind us a record worthy of emulation; looking forward with bright anticipations to one of the Father's many mansions where all the longings, hopes, and aspirations of our souls shall find their full fruition, in Jesus Christ our Lord. Amen.

The Clerk began the reading of the Journal of Saturday, January 18, 1913.

Mr. PLUMLEY. Mr. Speaker, I ask unanimous consent that the reading of the Journal be dispensed with.

The SPEAKER pro tempore. The gentleman from Vermont asks unanimous consent that the reading of the Journal be dispensed with. If there be no objection that request will be granted, and the Journal will be considered as approved.

There was no objection.

THE LATE REPRESENTATIVE FOSTER, OF VERMONT.

The SPEAKER pro tempore. The Chair lays before the House the order for to-day.

The Clerk read as follows:

On motion of Mr. PLUMLEY, by unanimous consent,

Ordered, That Sunday, January 19, 1913, at 12 o'clock m., be set apart for addresses upon the life, character, and public services of Hon. DAVID J. FOSTER, late a Representative from the State of Vermont.

Mr. GREENE of Vermont. Mr. Speaker, I offer the resolution which I send to the Clerk's desk.

The SPEAKER pro tempore. The gentleman from Vermont offers a resolution, which the Clerk will report.

The Clerk read as follows:

House resolution 780.

Resolved, That in pursuance of the special order heretofore adopted, the House proceed to pay tribute to the memory of the Hon. DAVID JOHNSON FOSTER, late a Representative in Congress from the State of Vermont.

Resolved, That as a further mark of respect to the memory of the deceased, and in recognition of his distinguished career and his great service to his country as a Representative in Congress, the House, at the conclusion of the memorial proceedings of this day, shall stand adjourned.

Resolved, That the Clerk of the House communicate these resolutions to the Senate.

Resolved, That the Clerk of the House be, and he is hereby, instructed to send a copy of these resolutions to the family of the deceased.

The resolution was agreed to.

Mr. GREENE of Vermont. Mr. Speaker, I need not suggest to you the peculiarly delicate situation of one who, now attempting to do justice to the splendid merits of his predecessor, is himself just beginning to learn to live up to the record in Congress that his predecessor left.

It is now nearly 13 years since the Hon. DAVID J. FOSTER was chosen by his district to represent Vermont in Congress. I knew him some time before this honor came to him. And I knew him with something of intimacy during all the years since. I felt it was my duty as a citizen and it was my pride as a friend to lend my voice and my vote to support his biennial return to this Chamber. And I was never disappointed in the return of public service that he made for citizens and friends alike.

While at home in Vermont I knew pretty closely the character of Mr. FOSTER; had been associated with him time and again in important affairs that tended to bring out the best there is in a man. Yet it remained for my brief experience here to emphasize to me even more directly the opinion that other men had of him, too. I myself have been welcomed here by scores of men that sit in this Chamber merely out of grateful and affectionate recollection of my predecessor. I have been told that I was welcome in his name, and I appreciate the depth of feeling that has stirred them to this saying. He was one of the men of rugged character that grow out of the New England hills. He made himself all that he was, and he was all that the best of his friends and admirers could expect.

It does not become me to say too much on this occasion, because if I were to undertake to tell what I believe the people of Vermont and his associates in this Chamber thought of Mr. FOSTER and the great and good work he had accomplished or helped to accomplish for the good of the people at large I should simply reiterate the eulogies that are to be heard to-day.

I desire simply to say, as the present Representative of Mr. FOSTER's district and as his personal friend, that Vermont was proud to feel that he was here to protect her interests and to help safeguard the interests of the Nation, and that his security in the confidence and affection of the people whose servant he was could not be broken.

There is so much that I might say of Mr. FOSTER, so much that I do so eagerly desire to say of him and his good works, that I am halted now, not by disinclination, but by the embarrassment of one that fears he may not under these peculiar circumstances be understood.

I may only hope that Vermont and that the country may always have here in this Congress men of such high purpose and splendid ability as DAVID J. FOSTER, and that the ideals we all are striving for may find supporters in the kind of men that my predecessor most nobly represented.

Mr. MARTIN of South Dakota. Mr. Speaker, in the stress of legislative business it had not come to my notice until last evening that these memorial exercises were set down for to-day. Under ordinary circumstances I would let an occasion of this sort pass, perhaps, but I have not felt that I would be willing to allow the memorial exercises of DAVID J. FOSTER to pass in this House of Representatives without adding my heartfelt, although halting, tribute to his memory.

It is not in any sense underestimating the warm attachment that I have for my colleagues from many States to say that, partly from circumstances and partly from the strong and winning personality of Mr. FOSTER, I formed for him a friendship more intimate than for any other Member of this body.

We came into Congress at the same time, he from the far East and I from the West. We met first at the grave of the lamented William McKinley, during the funeral services at Canton, Ohio. I was then impressed with Mr. FOSTER's strong personality, his striking and attractive appearance, his warm and cordial greeting to his fellows. The new Republican membership of the Fifty-seventh Congress formed what I have not known to be formed at any other time in the history of the House, a club or association of new Members of that Congress, known as the Tantalus Club, for the purpose of more prompt acquaintance of new Members among themselves, and of making the beginning of the legislative life of the new Members of greater service and of more ready application to the great problems of the time. Mr. FOSTER, if not the originator, certainly was the mover and the controlling spirit of that organization. We lived for some years in the same apartment house and I had the opportunity of seeing him often in his home—that sanctuary and environment where a good man appears at his best and where the meanness and selfishness of the bad man is disclosed and known. There was nothing yellow in the life of DAVID J. FOSTER. He was the solicitous and helpful parent, the courteous and affectionate husband, and the superb and gentlemanly neighbor and host.

With great rapidity Mr. FOSTER rose from the position of a new Member to become the chairman of our Committee on Foreign Affairs, one of the most responsible, dignified, and important positions in the House and, indeed, in the legislative and administrative life of the country; a position on the wise and intelligent administration of which our peace and standing among the nations in considerable part depends.

Statecraft came naturally to Mr. FOSTER. Statesmanship was his inheritance, his constant study, and his ample accomplishment. He belonged to that long line of great New Englanders, who for now several generations have come down from the schoolhouse discipline of those rugged hills to take a prominent part in leadership in the industrial, legislative, and professional life of the Nation.

So long as the Republic shall rear men of the type of DAVID J. FOSTER to shape her legislation and to interpret and administer her laws, the future of our country will be in safe hands, and we may look forward with confidence to the fulfillment of her glorious destiny.

Mr. HAWLEY. Mr. Speaker, the most important factor in modern life is the unearned increment that those who have preceded us on this stage of affairs have contributed to the general welfare and prosperity of the world, and which has added to the joys and happiness and comfort of those who shall succeed them for their advancement and upbuilding. In making an estimate of that distinguished man, Hon. DAVID J. FOSTER,

of Vermont, whose memorial services claim our attention this afternoon, I wish to speak briefly on this point.

The material things—the building of great cities, the construction of vast systems of transportation, the conquest of the wilderness and the plain by those who have preceded us—have multiplied our comforts and our opportunities. The story of what the past has done for us of the present is a long story. There is hardly a century that has not contributed things which, if they were taken away from us, would be most sincerely missed and would be felt as a great loss to us as a people and as individuals. The political principles that we enjoy were not of this century, nor the past century, nor the century before that, but they have come down to us through tens of centuries. The educational advantages that have made the American people a great people were not altogether originated within the confines of our territory. The religious sentiments which we profess, which have strengthened our moral fiber and made us a great people, come down the ages from far across the seas, and especially from that place where, on the Galilean hills, walked the divine and immortal Nazarene.

But among all the things the past has given us its material contributions to our welfare are the least of the things we prize. If our cities were razed, our transportation systems destroyed, our farms returned to the wilderness, within a hundred years we would have replaced them all; but if there were taken from us the teaching of the centuries of earth's great and good men, the record of their lives, the sum total of their achievements, a thousand or many thousands of years would not suffice to replace that great loss.

The thing I am endeavoring to say is that the greatest contribution ever made by any country or by our own country, by any generation or by this generation, is the characters of the men and women who have lived for the good of mankind. Every strong man is a leader in his place and time. Every man who can think clearly and see clearly is a leader, and upon the sufficiency of his knowledge, the soundness of his judgment, and the purity of his intentions depends the quality and strength of his leadership.

There was a man down in the land of Egypt who was a stranger there, sold as a slave into that country, who, by reason of three things alone, rose to control the country, to its benefit and good; first, that his sense of personal honor was more to him than life; second, that he was untiring in his industry in the acquisition of information concerning the things in which he was concerned; and, third, that he had a judgment as sound and as perfect as that of any man who ever lived. That man was Joseph, a stranger in a strange land, but he controlled that country for that country's good, because he was worthy of its utmost confidence.

I could multiply such instances. It is to such a class of men that the man in whose honor we are assembled to-day belonged. He was a leader by reason of the adequacy of his knowledge concerning the things with which he dealt, by the soundness and clearness of his discernment and judgment, and because we had implicit confidence in him. Everything he spoke of, everything he touched, everything he said was illuminated with the light of that high personal honor that appeals to the hearts of men. What he said we believed. What he desired we thought for the good of the country. Those things he advocated we considered to be essential for the welfare of the people of the United States.

Mr. FOSTER was a distinguished Member of this body when I had the privilege of joining it. There were certain qualities about him that attracted me to him at the beginning, and I learned sincerely to love him, and with the rest of my associates to follow his lead in those matters in which he was our appointed leader. I do not regret one act I took under his advice, one vote I cast following his judgment, or one thing I ever heard him say on the floor of this House.

I remember when David J. Livingstone came back from Africa, worn with his long service to a benighted people. He was to receive from one of the greatest universities of England, in company with Alfred (Lord) Tennyson, a distinguished honor. When the university had been assembled and the authorities had taken these two men to the place of honor, and Alfred (Lord) Tennyson was called to the front of the stage to receive his distinction, he was met with somewhat of jeers by the assembled undergraduates, who made just a little sport of some of his pretensions, saying:

If you're waking, call me early, Alfred, dear.

When Livingstone was announced for the honor, a man whose whole life had been devoted to the service of mankind without hope of reward or expectation of remuneration or honor, but simply for the opportunity of doing his duty as a man, that entire university rose and with uncovered heads, an honor rarely given, stood in solemn and reverent silence while he received his distinction.

The greatest thing that mortal times afford is spotless reputation, and in these modern days, in the midst of the fierce light that beats around a distinguished place upon the floor of this House, it is gratifying to know that a man can close his labors among the universal plaudits of his fellows and can have it said country-wide and world-wide that his sense of personal honor was such that it gilded everything he touched. Such a life, Mr. Speaker, must have been well spent. DAVID J. FOSTER was one of the men who in the future will be looked back to as those who have preserved for us the purity of our public life, has left a glorious record of an efficient service, and one who has proved that a man's private life may so adorn his public station that all will join in granting him the honor dear to every true man's heart—of loving and universal recollection.

Mr. NYE. Mr. Speaker, slowly, but I believe surely, humanity is learning that goodness is not only compatible with greatness, but that goodness is greatness, and that there is no greatness without it. I have been deeply impressed with the beautiful train of thought so eloquently expressed by the last speaker, and I think it is a theme upon which we may properly comment on occasions of this character. We are the heirs of all the rich and wondrous past, and when I say "rich and wondrous past" I do not mean the riches which are temporal and which moth and rust corrupt, but I mean that enduring wealth of character to which we pay our respects to-day. Every martyr to truth, every hero, every philosopher, every poet, every artist, every musician of all the past ages comes to us to-day and lays his treasure of wealth at our feet.

If an intimate personal acquaintance with the deceased were essential to take part on this occasion, I should be almost wholly disqualified to speak; but there are people we meet in this world whom we feel we have always known. There is a soul fraternity which the outer world does not know. We catch the inspiration of the character and the atmosphere of the life intuitively. It is not scholastic or learned, but we read human character as we read a face. We feel, and no power can convince us to the contrary, that this man is genuine or the other man is largely spectacular and counterfeit. During four years as a colleague of this distinguished son of Vermont I always felt that I was in the presence of an upright, noble man, not only with the clear mind and the studious qualities which enabled him to understand his subject, but one whose life was animated and illumined by conscience and by enduring integrity. I believed in him intuitively. I knew that if he made a mistake it was a mistake of judgment and not of motive. In the eloquent invocation here to-day he was referred to as a Christian man.

I believe with Carlyle that men are essentially what they are religiously and nothing else—not their church, that may be an accident; not their profession, for we see good men and bad men in every church and profession; but that which men take to heart, that in which they are rooted in life, that attitude of heart toward God and their fellowmen—this determines the man, and without it he is a sham. And in this sense—and I know nothing about his history in that regard—he was in character, I know, profoundly and constitutionally religious, which simply means honesty, integrity, and reverence and love. I do not know that I can say more of him personally. I was not associated with him on committees. I saw him often here in the House. I had occasion during my four or five years' acquaintance with him to work with him in some of the measures in which he was personally and deeply interested, and I always felt a sense of confidence and reliance not alone upon his judgment but upon that which is greater, his integrity.

Mr. Speaker, it so chances that in a brief experience of six years in this Chamber this is the first time I have attempted to utter a word upon occasions of this character. I try only to speak in simple, unstudied words that spring from the heart in kindly memory of one I esteemed and loved.

I thought to-day, when I was coming up the hill to this Capitol, of the vast procession of illustrious men who for more than a century and a quarter have come and gone, men who for a day stood high in ability and character, but I could not help but reflect after all how transitory are all things human. The things which are seen are temporal, but the things which are not seen—that is, by the physical senses—are the eternal. That character which this man expressed lives on to enrich the future as the worthy men of the past enrich to-day.

How fleeting and how unsubstantial is human fame! How wealth turns to ashes in our hands and how the prizes we struggle for are but the toys of an hour! All must pass away. Childishly ambitious to-day to write our names upon the shore

of time's restless sea, to-morrow's waves will sweep away both writer and inscription. But that which is enduring, that which calls us here to-day to pay our tribute of love to this man, that which is born, I believe, of God and partakes of immortality, that which the Great Teacher of Galilee taught and demonstrated to humanity, that for which He toiled and suffered on earth can not and will not pass away.

These shall resist the empire of decay,
When time is o'er and worlds have passed away.
Cold in the dust the perished heart may lie,
But that which warmed it once can never die.

Mr. WEEKS. Mr. Speaker, New England is so limited in area and her interests in the several States are so similar that her Representatives have as close association in most cases as they would if they came from the same State. That condition at least marked my acquaintance with and friendship for Mr. FOSTER. He was one of those who in my first days in Congress took an interest in me and the things I was trying to do; advised and criticized and praised when the occasion offered, in short assumed the position of a real friend, and it is as such that I like to think of and shall always remember him. I soon learned that he was well equipped for the public service. He was a good lawyer, which, despite the frequent criticism that there are too many lawyers in legislative bodies, is a desirable qualification, which should always be considered and obtained, other conditions being equal; and this qualification was supplemented by a judicial temperament which enabled him to give suitable weight to the opinions of others and to incorporate them in his final conclusions. Added to these characteristics, he was industrious; no man can be entirely satisfactory to his constituents, whatever may be his other qualities, unless he has industry; and, finally, he was intensely interested in his work. Having all of these qualities, coupled with excellent native ability, it was but natural that his tenure of office should have seemed to be secure, especially as he came from a State which has been particularly loyal to faithful and deserving sons who have represented her in Congress. Indeed, there are few places in our public service more permanent than a Senatorship or Representative from Vermont. For two decades vacancies in the office of Senator from that State have only come as a result of death or resignation. It is not my purpose to speak in detail of Mr. FOSTER's public service, except a word about his last activities. One of his characteristics was that he did not seem to have malice or continued resentment in his makeup; this led him to speak of men only when he could speak well of them, and he had a gracious courtesy, both qualities which especially adapted him for the delicate work of the Committee on Foreign Affairs, of which he was long a member, and for one Congress its chairman. During this service he not only performed his work in Congress with great credit, but was also commissioned to represent our Government to two foreign countries—Mexico and Italy—as a member of commissions appointed for special purposes, and we may well believe that in this work he displayed those qualities "which transmutes aliens into trusting friends and gives its owner passport around the world."

Last March I went to Panama knowing that he was not well, but was assured that his trouble was only temporary, and expecting to find him entirely recovered on my return, and was correspondingly shocked to find that he had passed on to his reward.

I shall not forget DAVID J. FOSTER, the able legislator, the loyal Republican, the upright citizen, the true friend, and I greatly regret that these words so inadequately express my sincere sorrow at his untimely death and the deep sense of personal loss which I feel.

Mr. KAHN. Mr. Speaker, the mortality record of the present Congress has been exceptionally large. I believe 16 Members of this House have answered the final summons since the Sixty-second Congress was convened in extraordinary session. To-day we meet in solemn conclave to pay a tribute of respect to one of these, our late colleague the Hon. DAVID JOHNSON FOSTER, of Vermont. He had a large experience in public life. For many years honors were heaped upon him by his friends and neighbors in his native State. His rise from one public station to another was almost meteoric. No man who failed to possess the unqualified confidence of his constituency could have attained the honors that were bestowed upon him. Successively prosecuting attorney, State senator, commissioner of State taxes, chairman of the State board of railroad commissioners from 1886 to 1900; and in the latter year he was elected to the National House of Representatives. Here his splendid ability soon found recognition. His courteous manner, his knowledge of affairs, his industry, his absolute fairness at all times, and especially upon every momentous public question, gained for him the esteem and confidence of all his colleagues, regardless of political affiliation. As chairman of the Committee on Foreign Affairs he was called upon to take an active part in the settlement of grave questions of international relationship. He performed the duties that devolved upon him fearlessly, earnestly, honestly, patriotically.

And in the very prime of life, in the very vigor of manhood, he was suddenly stricken by the Grim Reaper. The news of his death was a severe shock to all those who had learned to know and esteem him. In his death they felt they had lost a sincere friend. They knew his State and the Nation had lost an able and faithful Representative, his family an affectionate and devoted husband and father. Peace to his ashes.

Mr. PLUMLEY. Mr. Speaker, DAVID JOHNSON FOSTER, son of Jacob Prentiss Foster and Matilda Cahoon Foster, was born in Barnet, Caledonia County, Vt., June 27, 1857, and died 8.30 p. m., Thursday, March 21, 1912, at his residence in Washington.

He was a slender youth of delicate health, having neither ability nor liking for the rough sports of his young comrades, but from early boyhood he was an omnivorous reader, and found his glad employment among his books, a pastime which he indulged late into the night. He obtained his early education in a district school of 24 weeks each year; during the remainder of the year he aided his father upon the farm, and while school was in progress his mornings and evenings were similarly employed. Meanwhile he seized every available means to store up useful knowledge. Fortunately for the lad, the father was a great lover of good literature, and surrounded himself, to the extent of his financial ability, with the means for indulging his tastes, and to these the boy had access.

While his comrades played ball and games of that character, he sat at home an eager student. He entered St. Johnsbury Academy in the fall of 1872, graduated in 1876, entered Dartmouth that fall, and graduated in 1880. While attending the academy he worked for his board, received such aid as the father, mother, and other members of the family could give him, and supplemented their aid by teaching school. During his college life he taught school in the winter, gained scholarships by studious application, tutored students in the lower classes, won money prizes in elocution, and trained his associates in prize speaking. It was while teaching at Chelsea, Vt., that he made the acquaintance of his future wife, Mabel M. Allen, of that town.

From college he went immediately to Burlington, Vt., to read law, was admitted to the Chittenden County court in 1883, began the practice of law at once in the city of Burlington, and was married during the year. He was elected prosecuting attorney for the county of Chittenden for two terms, 1886 to 1890; in 1890 to 1894 he was one of the State senators from that county; was State tax commissioner by appointment of the governor for four years, 1894 to 1898; chairman of the railroad commissioners of the State of Vermont, by appointment of the governor, from 1898 to 1900, and in the spring of 1900 was nominated to the Fifty-seventh Congress and elected that fall. His first committee assignments were those of Foreign Affairs, Claims, and Expenditures in the State Department. He held similar committee positions in the Fifty-eighth Congress, also the Committee on Labor. He retained a position on the Committee on Foreign Affairs throughout his congressional career. He was made chairman of the Committee on Expenditures in the Department of Commerce and Labor in the Fifty-ninth Congress, which position he held until, following the death of the chairman of the Committee on Foreign Affairs, James Brock Perkins, during the Sixty-first Congress, he was appointed by the Speaker to the chairmanship thus made vacant, when he resigned his position upon the Committee on Commerce and Labor. In the Sixty-second Congress, there being a Democratic majority in the House, he was given the position of the ranking member of the minority in the Committee on Foreign Affairs.

In September, 1910, by the appointment of the President, he headed the delegation which represented this country at the Centennial of Mexican Independence, and during his service as chairman of the Committee on Foreign Affairs he was made chairman by President Taft of the delegation from the United States to the General Assembly of the International Institute of Agriculture at Rome. During the winter of 1910–11 he gave a banquet in honor of the Secretary of State, which was a most brilliant and successful affair.

On the 16th of January, 1907, he delivered a speech in the House of Representatives on the treaty power of the Government, which was regarded by his colleagues as a most able and successful effort, of large value in the discussion of the questions then pending, and important in the House and

throughout the United States. In the course of this speech he spoke of the intense State pride which had characterized the American people from the very Declaration of Independence, saying:

It was written of old "that one star differeth from another star in glory," and it certainly was never truer than it is to-day that the stars that on the blue firmament of the flag represent the several States of the Union differ one from another in glory. You who come here from the State of New York insist that the star which represents your Empire State shines with a glory that is all its own; and we who come from the little State that lies nestled among the Green Mountains insist that the star which represents our State has a glory that is peculiarly its own; and so you who come from Virginia and Pennsylvania and Texas and Illinois and California and all the other States insist the star which on the flag represents your State has its own peculiar glory. And so to-day, as ever before, the citizens of each of the 45 States are proud of their State. They rejoice in her achievements in peace and war. They guard with zealous care her ancient rights and privileges. They resent with just indignation any reflection upon her fair fame. They rejoice in the part vouchsafed to them in maintaining her honor and prestige; and, best of all, they see in all this nothing incompatible with their absolute and unswerving loyalty and devotion to the Republic.

He concluded his speech with the eloquent passage which follows:

From the days of Benjamin Franklin, our first and still our greatest diplomat, the American people have insisted that our foreign relations should be grounded in the highest morality and justice. Our foreign relations have become one of the most important functions of the Government. Our own growth and expansion during the last hundred years, and the contraction of the world through the extinction of distance, have brought the nations of the earth to our door and have taken us to their door. Hundreds of thousands of Americans are constantly in foreign lands. They are there for business, for pleasure. In addition to the tourists who come to our country from other lands we have a million immigrants per year. These people leave kindred and friends at home and form new friendships here. Hundreds of thousands of them return each year, leaving kindred and friends here. Our vast foreign commerce brings us into contact with the other nations of the earth, for the products of our field and our factory go to nearly every harbor in the world. And so it comes to pass in these days of modern development and modern enterprise and modern invention and modern unification that no nation lives unto itself alone. Our diplomacy has assumed new proportions. And in all her foreign relations the great Republic, standing for equality of opportunity, must continue to shape her conduct by the principles of the highest morality and justice.

On Friday, February 25, 1910, he replied in the House to the gentleman from North Carolina [Mr. KITCHIN] upon the subject of Mr. FOSTER's insurgency in connection with others. During the course of his remarks he said:

It is an axiomatic fact that in popular government, wherever situated, the majority must rule. It is the fundamental principle of popular government that the minority must submit to the rule of the majority so long as it remains the majority. So I, as an American citizen, am bound to yield peacefully to the will of the majority so long as that majority remains. But while this is true, it is also true that it is my right and privilege as an American citizen and my duty as an American citizen if I believe that the majority is wrong and that I am right, to use my best endeavors to see that the minority of to-day becomes the majority of to-morrow.

So it is with parties. Political parties are necessary in this country. We are governed by political parties. And in order to secure party solidarity and therefore party efficiency it is equally necessary that the majority should rule within the party; that the minority yield peacefully to the will of the majority so long as it remains the majority. But while this is true it is equally true that I, as a member of my party and still an American citizen, have the right and privilege and the duty, if I believe that I am right and the majority of my party is wrong, to use my best endeavors to see to it that my minority within my party to-day becomes the majority of to-morrow. It is this that gives vitality and virility to parties and preserves them from stagnation. Old ocean itself would stagnate into rottenness but for the ceaseless action of the remorseless waves and tides.

I resent the implication that a Republican who shows the least inclination toward independence is an insurgent. Lincoln expressed the true doctrine of republicansim in the phrase: "In essentials, unity; in nonessentials, liberty; in all things, charity." I stand for party unity as to all essentials, and I insist that I shall not be called opprobrious names when I stand for individual freedom as to nonessentials.

Mr. FOSTER addressed the House on the occasion of memorial services on the death of Hon. Redfield Proctor, late United States Senator from Vermont, and as illustrative of his finished style of oratory I quote a portion of his closing remarks on that occasion:

He was a typical son of his native State. The jocular remark made years ago, that Vermont was a good State to emigrate from, contained a great truth. That is a good home for the young man to go out from whose choicest decorations are the simple but enduring virtues of human life. Whether that home be a costly mansion, stored with the rarest productions of art and the handiwork of man, or a humble cottage furnishing scant protection against the winter blasts, the recollection of its faith and love and devotion will go with him farther and abide with him longer and be of infinitely more service to him than aught else he can take with him. And that is a good State to go out from whose cardinal principles are the simple but profound truths of human life and human relationship, and whose citizens see in their State the ancient torch of celestial fire handed down from generation to generation and by them to be passed on unimpaired to the generation yet to come. From its earliest history Vermont has been the cradle of human freedom. The sturdy pioneers who went thither in search of homes fell under the most potent spell of nature.

The wild freedom of the forest, the rugged strength of the hills, the beauty of the valleys, and the fierce struggle with savagery developed within them that stern love of liberty, that resolute independence, and that profound respect for government and all the instrumentalities of human progress which have characterized the true sons of Vermont in all succeeding time. And he was one of those true sons. He loved her hills and valleys. He cherished her history, her traditions, her institutions, her achievements. He was jealous of her good name and fair fame, and throughout his long life his heart beat true to her every interest. He honored the State as the State honored him, and no higher tribute can be paid to his memory than the simple truth that the State is better by reason of his life, his character, his career.

June 27, 1857; March 21, 1912. Birth—death. Between these two events a genuine and striking life history may be written. It will be the truth, but it shall read like a romance. It is elementary in that it deals with the triumph of resolute will, untiring zeal, and inflexible purpose over poverty, obscurity, and countless formidable obstacles. It tells of his ceaseless efforts to advance, while it reveals, if closely scanned, the willing and loving sacrifice and service of a devoted family that they might promote the aspirations of a beloved son and brother.

Between these two dates there is the history of one whose life was much more than usually successful in what it brought to him and much more than commonly valuable in what it did for his fellows and his country, and yet a few wholly inadequate paragraphs must contain all that can be said here. How greatly the heart feels, how little the tongue can express!

As the years of his life ran on he climbed with willing feet the more rugged steeps and from those exalted plains breathed a purer air and had a broader, clearer vision. He loved his country and his State with a depth and quality of affection that permitted no rival, while it marked the limits, set the bounds, and laid out the course of his political affiliations and activities.

More and more as the days ripened into years and the years sped on he was developing a statesmanlike grasp of all national problems. Conscious of a high purpose throughout and with a developing confidence in his ability to rightly comprehend and settle the great questions of state, the natural hesitancy of the novice had disappeared and there was a promptness in conclusion, a readiness of action, a steadfastness of position which gave him prominence in party councils and a place of honor among his colleagues.

He was a loyal friend. He counted nothing as too great a hardship if in the end it served and pleased a friend. And his friends were not few. The warm hand of constancy and regard went out alike to the humble and the exalted, the rich and the poor. Born and bred in a home of limited means, among neighbors of like circumstances, he was destitute of ostentatious pride or affectation, and knowing the genuine worth of these sons and daughters of toil was glad always to render them generous service and to knit them closely to his great warm heart. He had a passion for service to his fellow men and delighted most when he could yield most of his time and talent in advancing their interests in promoting their welfare.

He was ready always to serve another regardless of the personal labor and sacrifice which the service involved; he even sought the opportunity to befriend others, especially such as were new to their position and embarrassed by the wealth of their ignorance in the performance of their duties. He was discreet and tactful, and, while vigorously defending his positions, spoke and acted in such a manner and in such language as not to offend but rather to win his opponent, if not to his view at least to a full appreciation of his worth and worthiness as an antagonist. He won all by his manly and courteous bearing, and when death came it was to a man who, true to his convictions as any knight of old, had not an enemy. On the day following his decease, when his draped desk announced at the morning hour the sad tidings to his associates in Congress, all hearts were sad, and many eyes were moist with unshed but gathering tears as they looked upon his vacant seat. No man ever passed out in death from the Hall of this House with fewer enemies or more sincere and mourning friends.

He was not a frequent speaker in this Hall, but when he spoke he commanded the attention of his colleagues to an unusual degree. He spoke only when he deemed speech more potent than silence. From the beginning to the end of his congressional career he was a hard working, painstaking, honorable, and efficient Representative of his district, with augmenting confidence in his resourcefulness and capacity on the part of his colleagues and increasing faith in his character and worth on the part of his constituents.

His ability as an orator on great occasions upon matters of world-wide bearing and importance, of grave character and deep significance, had only begun to be generally appreciated; and yet he had spoken in most of our cities of the first class to large, admiring, and appreciative audiences with a demonstrated power to touch these great themes before vast assemblies with the potent hand of a master.

From his appointment as chairman of the Committee on Foreign Affairs to the end of his life he was easily in the very front rank of the membership of the House, possessing the respect and enjoying the regard of all his colleagues, irrespective of party, to an unusual, even to a remarkable degree; and when with inexpressible shock and sadness the knowledge came to them that his earthly career had closed, the depth, breadth, and warmth of the affection with which he was enshrined in their hearts was revealed to them in its completeness.

He had not reached but he was steadily approaching the zenith of his career as a statesman. His life had been, and without question it would have continued to be, one of constant growth in character, in gathering resources, in mental strength and acumen, in increasing faith in his own powers coupled with a steadily growing conviction on the part of the citizens of his native State that in him they had one in high place worthy of unlimited trust and confidence.

His was a manly spirit—virile, pervasive, indomitable. It was manifest in his early boyhood when, struggling against adverse conditions, he broke through his repressive environments and by his own well-directed efforts acquired a liberal education, the goal of his early ambition. It has been manifest since on many noteworthy occasions when battling against strong contending and opposing influences he has risen above them or has overcome them, has illuminated despair with the bright beam of hope, and out of seeming defeat has plucked unquestioned victory.

His was a noble soul, lofty, inflexible, and inspired. He dared to attempt great things, to rise that he might seize great opportunities, and measured by things accomplished there are few of his compeers who show larger or better results. Grand, indeed, was the course which lay before him. It was no easy task to set limitations to his increasing power, honor, and usefulness. It was in the effulgence of a risen sun that his manly, noble life went out, and we who were his comrades and his friends are left to mourn his untimely death.

By the few to whom he gave access to his innermost being, where they could catch the faintest throbs of his warm, true heart, there was abiding faith and fervent love. They who knew him best loved him most. These are the mourners who find no surcease. His memory reigns eternal in their breasts. His widow and his daughters, his aged mother, and his near kin—deep and sad is their bereavement. The chords of human sympathy yield plaintive and tender music when touched by the hand of affliction, and God in infinite love will be their "shield and buckler."

Mr. Speaker, I ask unanimous consent that all Members who desire be granted leave to print remarks in the RECORD for 20 legislative days.

There was no objection, and it was so ordered.

ADJOURNMENT.

And then, in accordance with the resolution heretofore adopted, the House (at 1 o'clock and 10 minutes p. m.) adjourned until to-morrow, Monday, January 20, 1913, at 12 o'clock noon.

SENATE.

MONDAY, *January 20, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

Mr. GALLINGER took the chair as President pro tempore under the order of the Senate of December 16, 1912.

ROBERT J. GAMBLE, a Senator from the State of South Dakota, appeared in his seat to-day.

The Secretary proceeded to read the Journal of the proceedings of Saturday last, when, on request of Mr. OLIVER and by unanimous consent, the further reading was dispensed with and the Journal was approved.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore laid before the Senate communications from the Secretary of State, transmitting, pursuant to law, authentic copies of the certificates of ascertainment of electors for President and Vice President appointed in the States of Colorado, Mississippi, Nebraska, and Wyoming at the elections held in those States November 5, 1912, which were ordered to be filed.

CROW INDIANS OF MONTANA.

The PRESIDENT pro tempore laid before the Senate a communication from the Attorney General, acknowledging the resolution of the Senate of January 17, 1913, with reference to an investigation of the affairs of the Crow Indians, Montana, which was referred to the Committee on Indian Affairs and ordered to be printed.

SENATOR FROM COLORADO.

Mr. GUGGENHEIM. Mr. President, I present the credentials of Hon. CHARLES S. THOMAS, of Colorado, Senator elect, which I send to the desk to be read.

The PRESIDENT pro tempore. The credentials will be read.

The credentials of CHARLES SPALDING THOMAS, chosen by the Legislature of the State of Colorado a Senator from that State for the unexpired portion of the term ending March 3, 1915, occasioned by the death of Hon. Charles J. Hughes, jr., January 11, 1911, were read and ordered to be filed.

Mr. GUGGENHEIM. The Senator elect is now in the Chamber and ready to take the oath of office.

The PRESIDENT pro tempore. The Senator elect will present himself at the desk for that purpose.

Mr. THOMAS was escorted to the Vice President's desk by Mr. GUGGENHEIM, and the oath prescribed by law having been administered to him he took his seat in the Senate.

SENATOR FROM MICHIGAN.

Mr. TOWNSEND presented the credentials of WILLIAM ALDEN SMITH, chosen by the Legislature of the State of Michigan a Senator from that State for the term beginning March 4, 1913, which were read and ordered to be filed.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a concurrent resolution adopted by the Legislature of Oklahoma, which was ordered to lie on the table and to be printed in the RECORD, as follows:

House concurrent resolution 1, memorializing the Congress of the United States to pass the measure now pending in the Senate known as the Kenyon-Sheppard bill.

Whereas the people of the State of Oklahoma believe in the due observance of all laws; and

Whereas there is now on the statutes of the State a law forbidding the sale or transportation of intoxicating liquor in the State of Oklahoma; and

Whereas the Federal law now protects the people in one half of the State from having intoxicating liquor brought into their midst, but does not so protect the other half of the State; and

Whereas the interstate common carriers are bringing into our State every day large quantities of intoxicating liquors to be sold in open violation of our State laws, and to the great injury of the people of the State; and

Whereas there is now pending in the Congress of the United States a measure known as the Kenyon-Sheppard bill, which has for its purpose the prevention of interstate shipments of liquors into States where the laws of the State forbid the sale of same: Therefore be it

Resolved by the House of Representatives of the State of Oklahoma (the Senate concurring), That the Congress of the United States be, and the same is hereby, earnestly memorialized and requested to pass the Kenyon-Sheppard bill at the earliest date possible, and without amendment; be it further

Resolved, That a copy of these resolutions, properly certified, be forwarded at once to the Speaker of the House of Representatives and to the President of the Senate.

Passed by unanimous vote of the house of representatives, January 9, 1913.

J. H. MAXEY,
Speaker of the House of Representatives.
E. T. SORRELL,
Acting President of the Senate.

I hereby certify that this is a true and correct copy of the above and foregoing resolution.

GUS POOL, *Chief Clerk.*

Mr. OLIVER. In behalf of my colleague [Mr. PENROSE], who is unavoidably absent, I send to the desk a telegram from Hon. Mayer Sulzberger, one of the judges of the court of common pleas of Philadelphia County, Pa., with reference to the pending immigration bill, which I ask to have read and printed in the RECORD.

There being no objection, the telegram was read and ordered to lie on the table and to be printed in the RECORD, as follows:

PHILADELPHIA, PA., *January 19, 1913.*

Hon. BOIES PENROSE,
United States Senate, Washington, D. C.:

Conference immigration bill contains provision for character certificate, which by reason of the cruelty of Russian officials will practically bar out all Russian Jews. Louis Marshall, my successor as president of the American Jewish committee, has telegraphed you to-day. Please note his reasons and do what you can to avert calamity.

MAYER SULZBERGER.

Mr. OLIVER. I present a telegram in the nature of a memorial from Louis Marshall, president of the American Jewish committee, which I ask may lie on the table and be printed in the RECORD.

There being no objection, the telegram was ordered to lie on the table and be printed in the RECORD, as follows:

NEW YORK, *January 19, 1913.*

GEORGE T. OLIVER,
United States Senate, Washington, D. C.:

Conference immigration bill, in section 3, contains provision not previously considered, excluding subjects of countries issuing character cer-

tificate failing to produce such certificate to immigration officials. This will exclude majority Jews coming from Russia and Roumania owing to practical legal difficulties attending procurement of certificates, the compliance with elaborate conditions imposed, their military regulations, and the large expense involved. How could victims of Kishineff or the thousands constantly expelled from their homes by police or those suspected of being political offenders expect to secure such a certificate? Such reversal of our attitude toward the persecuted can not be intended. Bill should be amended to preclude cruel consequences inevitably resulting from present phraseology.

LOUIS MARSHALL,
President American Jewish Committee.

Mr. SUTHERLAND presented telegrams in the nature of petitions from the Symes Grocery Co., of Salt Lake City; of L. G. Webber, of Salt Lake City; and Willard Hansen, dairy and food commissioner of Salt Lake City, all in the State of Utah, praying for the enactment of legislation to prevent the transportation of adulterated or misbranded goods, which were referred to the Committee on Manufactures.

He also presented a telegram in the nature of a petition from E. G. Peterson, director of extension division of the Utah Agriculture College, of Logan, Utah, praying for the enactment of legislation providing for the establishment of agricultural extension departments in connection with the agricultural colleges in the several States, which was ordered to lie on the table.

Mr. BROWN. I present a telegram from the State superintendent of education in Nebraska, which I ask may lie on the table and be printed in the RECORD.

There being no objection, the telegram was ordered to lie on the table and to be printed in the RECORD, as follows:

LINCOLN, NEBR., *January 16, 1913.*

Senator NORRIS BROWN,
Washington, D. C.:

Trust you will give Page bill your hearty support. Every educator in Nebraska will appreciate your active, earnest interest in same.

JAMES DELZELL, *State Superintendent.*

Mr. BRISTOW presented petitions of the Christian Endeavor Society of the United Brethren Church of Russell; of the congregation of the Methodist Episcopal Church of Medicine Lodge; and of sundry citizens of Meade County, Baldwin City, Hoisington, and Gas, all in the State of Kansas, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. HITCHCOCK presented a petition of sundry citizens of Laurel, Nebr., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

He also presented a memorial of 105 Italian residents and American citizens of Omaha, Nebr., remonstrating against the adoption of the so-called literacy test amendment to the immigration bill, which was ordered to lie on the table.

He also presented a petition of 20 citizens of West Point, Nebr., praying that an investigation be made into the action of the Interior Department in declining to approve a lease granted to the Uncle Sam Oil Co. by the Osage national council, which was referred to the Committee on Public Lands.

He also presented a memorial of sundry citizens of Grand Island, Nebr., remonstrating against the parole of Federal life prisoners, which was ordered to lie on the table.

Mr. BRANDEGEE presented a petition of members of the Business Men's Association of Milford, Conn., praying for the enactment of legislation providing for the protection of migratory birds, which was ordered to lie on the table.

Mr. PERKINS presented resolutions adopted by the Chamber of Mines and Oil, of Los Angeles, Cal., remonstrating against any reduction in the duty on borax, which were referred to the Committee on Finance.

He also presented resolutions adopted by General George A. Custer Council, No. 22, Junior Order United American Mechanics, of California, remonstrating against the adoption of any amendments to the law providing tolls for the Panama Canal, which were referred to the Committee on Interoceanic Canals.

Mr. MARTINE of New Jersey presented a telegram in the nature of a memorial from Louis Marshall, president of the American Jewish committee, of New York, remonstrating against the adoption of section 3 of the immigration bill now pending between the two Houses of Congress, which was ordered to lie on the table.

CONNECTICUT RIVER DAM.

Mr. BURTON, from the Committee on Commerce, to which was referred the bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut, reported it without amendment and submitted a report (No. 1131) thereon.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BRANDEGEE:

A bill (S. 8189) repealing a provision of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes," approved August 24, 1912; to the Committee on Commerce.

By Mr. JONES:

A bill (S. 8190) authorizing settlers on unsurveyed lands to make final proof under laws existing at the time of settlement; to the Committee on Public Lands.

By Mr. SHIVELY:

A bill (S. 8191) granting an increase of pension to Charles W. Allen (with accompanying papers);

A bill (S. 8192) granting an increase of pension to Samuel Waggoner;

A bill (S. 8193) granting an increase of pension to James E. Bacon; and

A bill (S. 8194) granting an increase of pension to John F. Yarnell; to the Committee on Pensions.

Mr. SMITH of Arizona. I introduce a bill to be referred to the Committee on Foreign Relations. It is in the matter of the injuries sustained by American citizens in El Paso, Tex., and Douglas, Ariz. The matter came from the Committee on Foreign Relations, and, though it is in the form of a claim, I think that committee has proper jurisdiction.

The bill (S. 8195) granting relief to certain American citizens in El Paso, Tex., and Duglas, Ariz., was read twice by its title and referred to the Committee on Foreign Relations.

By Mr. SMITH of Arizona:

A bill (S. 8196) authorizing homestead entrymen who are officers of water users' associations to reside off their entries during their terms as such officers; to the Committee on Public Lands.

By Mr. JOHNSTON of Alabama:

A bill (S. 8197) for the relief of Jacob Jones (with accompanying papers); to the Committee on Claims.

By Mr. HITCHCOCK:

A bill (S. 8198) to correct the military record of Nathaniel Monroe; to the Committee on Military Affairs.

A bill (S. 8199) granting a pension to Martha E. Tracy; to the Committee on Pensions.

By Mr. JACKSON:

A bill (S. 8200) to authorize the investigation and survey of swamp and other wet lands in the State of Maryland, to devise plans and systems for the reclamation of such lands, to authorize the Secretary of Agriculture to undertake such reclamation projects and to cooperate with the State drainage commissioners, and to appropriate money to carry out the provisions of the bill; to the Committee on Public Lands.

By Mr. NELSON:

A bill (S. 8201) granting an increase of pension to Delia H. Austin (with accompanying papers); to the Committee on Pensions.

By Mr. LA FOLLETTE:

A bill (S. 8202) to establish a legislative drafting bureau and to establish a legislative reference division of the Library of Congress; to the Committee on the Library.

By Mr. BURNHAM:

A bill (S. 8203) granting an increase of pension to Wendell P. Hood; to the Committee on Pensions.

By Mr. CHILTON (for Mr. WATSON):

A bill (S. 8204) to authorize the Buckhannon & Northern Railroad Co. to construct and operate a bridge across the Monongahela River in the State of West Virginia; to the Committee on Commerce.

A bill (S. 8205) granting an increase of pension to William Martin (with accompanying papers);

A bill (S. 8206) granting an increase of pension to Lucy Gamble (with accompanying papers);

A bill (S. 8207) granting a pension to Emma F. Davis (with accompanying papers);

A bill (S. 8208) granting an increase of pension to Elizabeth Croft (with accompanying papers);

A bill (S. 8209) granting an increase of pension to George W. Parsons (with accompanying papers);

A bill (S. 8210) granting an increase of pension to Joseph G. Ross; and

A bill (S. 8211) granting a pension to George Sorrell; to the Committee on Pensions.

ALCOHOL FOR TESTING CITRUS FRUITS.

Mr. WORKS. I introduce a joint resolution extending the privilege of the proviso of section 2 of the act of June 7, 1906,

to persons using alcohol for testing citrus fruits, and I ask for its present consideration.

The joint resolution (S. J. Res. 155) extending the privilege of the proviso of section 2 of the act of June 7, 1906, to persons using alcohol for testing citrus fruits was read the first time by its title and the second time at length, as follows:

Resolved, etc., That in addition to manufacturers employing processes in which the alcohol used free of tax under the provisions of the act of June 7, 1906 (34 Stat., 217), is expressed or evaporated from the articles manufactured, persons using such alcohol for testing citrus fruits shall be permitted to recover such alcohol and to have such alcohol restored to a condition suitable solely for reuse in testing citrus fruits under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe.

The PRESIDENT pro tempore. The Senator from California asks unanimous consent for the present consideration of the joint resolution. Is there objection?

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. JONES submitted an amendment proposing to appropriate $40,000 for repairs to the fisheries steamer *Albatross*, intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

He also submitted an amendment proposing to confirm titles of Deborah A. Griffin and Mary J. Griffin to certain lands situated in Okanogan County, Wash., etc., intended to be proposed by him to the Indian appropriation bill, which was ordered to be printed and, with the accompanying paper, referred to the Committee on Indian Affairs.

Mr. NELSON submitted an amendment proposing to appropriate $116,000 for improving the Mississippi River between Winnibigoshish and Pokegama Reservoirs and the Leech River from its mouth to Leech Lake Dam, Minn., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. GUGGENHEIM submitted an amendment proposing to appropriate $3,500 each for the salaries of 15 division superintendents and $2,500 each for the salaries of 4 assistant superintendents, Railway Mail Service, etc., intended to be proposed by him to the Post Office appropriation bill, which was referred to the Committee on Post Offices and Post Roads and ordered to be printed.

COOPER RIVER (S. C.) BRIDGE, ETC.

Mr. TILLMAN. I move to reconsider the votes by which the bill (S. 7792) authorizing James Sottile, his heirs and assigns, to construct, maintain, and operate a bridge and approaches thereto across Cooper River, Charleston County, S. C., and also a bridge and approaches thereto across Shem Creek, Charleston County, S. C., was ordered to a third reading and passed.

The motion to reconsider was agreed to.

Mr. TILLMAN. I ask that the bill be placed on the calendar.

The PRESIDENT pro tempore. It will go to the calendar.

MEMORIAL ADDRESSES ON THE LATE REPRESENTATIVE UTTER.

Mr. WETMORE. I desire to give notice that on Saturday, February 22, 1913, I will ask the Senate to consider resolutions commemorative of the life, character, and public services of Hon. GEORGE H. UTTER, late Member of the House of Representatives from the State of Rhode Island.

EXTENSION DEPARTMENTS IN AGRICULTURAL COLLEGES.

Mr. BRYAN. The junior Senator from Georgia [Mr. SMITH] gave notice that he would call up this morning House bill 22871, to establish extension departments in connection with agricultural colleges, and so forth. The Senator from Georgia is slightly indisposed and unable to be here. He asked me to extend the request for him and make it apply for Friday morning, January 24, instead of to-day.

WASHED MONEY (S. DOC. NO. 1020).

Mr. MARTINE of New Jersey. I have an article taken from the Plate Printer on the subject of "Washed money." I ask that it be printed as a Senate document.

The PRESIDENT pro tempore. Without objection, it is so ordered.

IMMIGRATION OF ALIENS.

Mr. LODGE. I call up the conference report on the immigration bill.

The PRESIDENT pro tempore. The Chair lays the conference report before the Senate.

The Senate proceeded to consider the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States.

The PRESIDENT pro tempore. The question is on agreeing to the conference report.

Mr. LODGE. Mr. President, I desire to say a word in regard to the clause referred to in the telegram presented by the Senator from Pennsylvania [Mr. OLIVER] to-day. We have all, I suppose, received telegrams in regard to that clause. I have received one from Mr. Marshall, of New York, a very able lawyer, as we all know. I think it important to say something in regard to it, because it is evidently entirely misconceived.

The clause in question is the following, under the excluded classes:

Citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate.

The theory expressed in the telegram of Mr. Marshall to me and of the other telegrams of similar character is that the effect of that would be to prevent the immigration of Hebrews from Russia. On that particular point, of Russia, let me say that no such certificate exists in Russia. With a view of the better prevention of the entry of criminals into the United States we have been endeavoring to get from other governments, under existing law, some form of penal certificate in order to show that a man has been convicted of a crime. Application was made to Russia, I am informed, and Russia replied that any such system was impracticable for her, and declined absolutely to do anything of the sort.

The certificates referred to there, so far as I have been able to learn and so far as the State Department has been able to learn, exist only in Italy. They are not certificates of citizenship such as those with which we are familiar in France, which exist also in Germany and possibly in Russia and in other countries, which are mere certificates of citizenship, containing in France, at least, an extract from the register of birth. Those certificates are held by all French citizens, and have no effect or relation whatever to immigration. This is a certificate showing that a man has been sentenced for an offense or has not been sentenced for an offense, and, as I say, it exists solely in Italy.

The only purpose of this clause, which was recommended by the department, was for the better exclusion of criminals. It is really an addition to clauses now existing in the law to exclude criminals. If it could possibly have such an effect as is suggested in these telegrams, I think I am at liberty to say that not only none of the conferees but neither of the committees would have agreed to it for a moment; but it has and can have no such effect.

It so happens, as I have already said, that in Russia, when we asked for certificates of that character simply as a matter of information, they informed us explicitly that they had no such certificates; that it would be impracticable to use them, and that they could not think of doing it. The provision will have no effect on the question of immigration whatever; it is not intended in any degree to restrict or exclude anyone except criminals.

Mr. STONE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from Missouri?

Mr. LODGE. Certainly.

Mr. STONE. Before adverting directly to the statement of the Senator from Massachusetts that this provision of the bill, if enacted, would not affect emigrants from Russia, because, as he thinks and as he has been informed by the State Department, there is no law or regulation in Russia that would require any such certificate as is provided for in the bill——

Mr. LODGE. I should say, to be exact, that the Department of Commerce and Labor, through the State Department, made these inquiries of Russia some time ago without reference to this section.

Mr. STONE. Before I go further than that, I should like to ask the Senator from Massachusetts if this particular clause in the report of the conference committee was inserted by the conference committee?

Mr. LODGE. It was.

Mr. STONE. I should like to know whether that clause, or anything of that nature, of which this might be considered an amendment or modification, appeared in either the House or the Senate bill?

Mr. LODGE. That clause was inserted in conference on the request of the department. The conferees considered very carefully whether it would come under any rule relating to exclu-

sions from conference reports, and came to the conclusion that this was not open to that objection. The House, as I need not say here, is extremely strict on this point. On August 14, 1911, the present Speaker of the House made a ruling in regard to a point of order of a similar character, in which he said:

> The particular matter at bar seems to have been differentiated into two classes by previous Speakers: One, where the dispute between the two Houses is simply a dispute about rates or about amounts, and the other where one House strikes out everything after the enacting clause and substitutes an entirely new bill.

In this case it is just reversed. The House struck out everything after the enacting clause and inserted a new bill.

> Last Saturday there did not seem to be any precedents to fit the point under consideration. This time, fortunately for the Chair at least, four great Speakers of this House have ruled on the proposition involved—Mr. Speaker Colfax, who was subsequently Vice President; Mr. Speaker Carlisle, subsequently Senator and Secretary of the Treasury; Mr. Speaker Henderson; and Mr. Speaker CANNON.
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> All four of these Speakers, three Republicans and one Democrat, have passed on this question, and they have all ruled that where everything after the enacting clause is stricken out and a new bill substituted it gives the conferees very wide discretion, extending even to the substitution of an entirely new bill. The Chair will have three of these decisions read, and will have the decision of Mr. Speaker CANNON, just read by the gentleman from New York [Mr. FITZGERALD], incorporated into this opinion, because the question ought to be definitely settled during the life of this Congress at least.

Mr. CANNON's ruling was in regard to the passport clause inserted in the immigration bill of 1907. He then said that that was in order because the whole subject of immigration was open to the conference. The present Speaker of the House has adopted those opinions from those four Speakers, the previous Speakers—Mr. Colfax, Mr. Carlisle, Mr. Henderson, and Mr. CANNON—and he makes the fifth, holding that where the entire subject is before the conference it is open to the conferees to substitute, if they so desire, an entirely new bill.

This conference committee, I desire to say, has been extremely careful. After full consideration it came to the conclusion that this particular clause relating to the subject of immigration, and especially to the exclusion of criminals, was distinctly in order under the rulings of the Speakers to whom I have referred.

Mr. SIMMONS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from North Carolina?

Mr. LODGE. I do.

Mr. SIMMONS. I should like to request the Senator from Massachusetts, if he has it before him, to read the amendment made by the conferees upon this particular subject.

Mr. LODGE. It is in the exclusion list, and reads:

> Citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate.

Mr. MARTINE of New Jersey. Mr. President, will the Senator from Massachusetts yield for a moment?

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from New Jersey?

Mr. LODGE. Certainly.

Mr. MARTINE of New Jersey. The Senator from Massachusetts refers to telegrams relative to this matter. I presume those are the same as the telegram I have received signed by Mr. Lewis Marshall, president of the American Jewish committee.

Mr. LODGE. Yes; that is the one.

Mr. MARTINE of New Jersey. It would seem to me that this telegram was prompted to him even after the conference committee's report, and I would ask that the telegram be read for the edification of the Senate.

Mr. LODGE. A precisely similar telegram has already been read and gone into the RECORD.

Mr. MARTINE of New Jersey. I was not aware of that, and I withdraw the request.

Mr. LODGE. It was offered by the Senator from Pennsylvania [Mr. OLIVER].

Mr. MARTINE of New Jersey. Then I send the telegram which I hold in my hand to the desk.

Mr. STONE. Will the Senator from Massachusetts yield to me?

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from Missouri?

Mr. LODGE. Certainly.

Mr. STONE. I find, on page 436 of the Manual, a rule laid down, which I suppose is the governing law in proceedings of this character in this body. Clause 29, on page 436, is as follows:

> Conferees may not include in their report matters not committed to them by either House.

Mr. LODGE. That undoubtedly is the case as a general statement of law; but in this instance the House struck out the entire bill, and the Speakers whom I have quoted have held that when the entire bill was stricken out by one House and another bill substituted, then the whole subject was before the conferees. The only point on which there is even a doubt—and Mr. Speaker Colfax holds back on that point and leaves it open—is when in the two bills there is a clause in precisely the same language which both Houses have agreed to. Speaker Colfax expressed a doubt whether such a clause could be touched; but beyond that all the Speakers have ruled with the greatest breadth that where the entire bill was stricken out the whole subject was before the conference, and that where anything that fairly relates to the conference—of course, I am excluding amounts of money or rates of duty—that where anything relating to the subject came before the conferees connected with other portions of the bill, it was in order for the conferees to act upon it, and it was not to be considered new matter.

Mr. STONE. Has the Senator any ruling made by a presiding officer of this body on that point?

Mr. LODGE. Mr. President, the Senator is familiar with the procedure here and is aware, of course, that our procedure on new matter in conference reports has been very different from the practice in the other body. In the House, if a point of order of new matter or a point that the conferees have gone beyond their power is made and sustained, that sends the bill back to conference without any action by the body at all. It is like a point of order made on their own bill. That has never been the practice here. If the Senate felt that there was a clause that ought not to have been put in the bill they have sent the bill back to conference with implied instructions to the conferees that they should make the necessary change. Our practice on the question of new matter reported by conferees has been extremely loose.

Mr. STONE. Mr. President, as I understand the facts in this case, they are substantially as the Senator has stated them. The Senate passed a bill; the House struck out all after the enacting clause of that bill and inserted another bill. In the main, the chief provisions of the two measures were the same, though there were some differences.

Mr. LODGE. Oh, no. If the Senator will excuse me, the only provision that was the same in principle was the sole provision put in by the House—the illiteracy test. Everything else, including the administrative provisions, was stricken out by the House.

Mr. STONE. I know they were stricken out——

Mr. LODGE. They substituted nothing but the illiteracy test in their own form.

Mr. STONE. I so understand; but the bill, then, to which the House agreed after the enacting clause contained in the main provisions similar to those which were embodied in the Senate bill.

Mr. LODGE. It contained nothing but the illiteracy test—not a single sentence beyond the illiteracy test.

Mr. STONE. However that may be, the question submitted——

Mr. LODGE. The whole Senate bill was before the conferees as well as, of course, the illiteracy test, the substitute by the House; that is, the whole subject was before the conferees.

Mr. STONE. The question before the conferees was as to the differences growing out of the two bills.

Mr. LODGE. Yes; the whole subject was before them.

Mr. STONE. The differences between the two bills. Those were the issues. The conferees insert very important independent provisions on their own motion. It seems to me that is in conflict with the rules that govern this body; and I intend to make a point of order and have it ruled upon.

Mr. LODGE. That is a question to be decided by the Senate.

Mr. STONE. I know it is—to be decided by the Senate, but before——

Mr. LODGE. We do not follow the House practice.

Mr. STONE. But before that is done I wish to call the Senator's attention and the attention of the Senate to something which, I think, will show that the Senator from Massachusetts is in error about there being no laws and regulations in Russia that would compel a citizen of that country to present certificates such as are provided for in this bill.

Mr. LODGE. They have certificates of citizenship, but I do not think they have certificates of this character.

Mr. STONE. I hold in my hand a statement of the Russian regulations for emigrants. It was prepared and circulated by the Russian-American Steamship Line, a line plying between the ports of Russia and the United States, and bringing a great many emigrants to this country. I assume that that corporation would not likely be mistaken as to what the laws and regulations are in Russia. It would not be likely to issue

and publish a document for general circulation that would be calculated to retard immigration when they were seeking as great a number of passengers as possible.

I am going to ask the Secretary to read this excerpt from the publication to which I have referred, and I wish to invite the attention of the Senator from Massachusetts and the Senator from Vermont to its language, and see what they think of it.

The PRESIDENT pro tempore. Without objection, the Secretary will read as requested.

The Secretary read as follows:

RUSSIAN REGULATIONS FOR EMIGRANTS.

Every Russian subject, in order to be able to leave his country, must have a passport issued by the governor of his State. Every person, in order to be able to secure such a frontier passport, must have his legal papers on which he is allowed to live in Russia in good order—that is, such papers should not expire just about the time he desires to emigrate. The following are the different legal papers recognized and on which a Russian subject can secure his frontier passport:

State passport.
Legal ordinary passport (Meszansky passport).
Local ordinary passport (Wolostnoi passport).

A Russian in possession of any one of these passports must have the names of all the members of his family desiring to emigrate entered on same, should the members of his family not be in possession of their own passport.

Wives and minor children, in case they desire to travel alone, although in possession of their own passport or their names are entered on their husbands' or parents' passport, must secure a certificate from their husband or parents agreeing to their journey, which must be certified by a notary public and by the police department. In villages these papers are signed by the local head of such village (Starosta).

Wives and minor children whose husbands and parents have emigrated to the United States or Canada and desire to have their families join them can obtain a frontier passport, if they are in possession of a power of attorney from their husband or parents, allowing them to leave Russia. This power of attorney must be made out in duplicate, the husband or parent must sign same, have his signature attested by a notary public, and afterwards legalized by a Russian consul. One of these copies remains on file with the consul and the other is returned to the sender to be sent to his wife and children in Russia. This power of attorney is recognized in Russia, even if the husband or father has left that country unlawfully.

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No male Russian subject, if he is 18 years of age, can leave his country unless besides being in possession of his passport he has documentary proof that he has presented himself for military service and has been refused for some reason or other. If such subject is 21 years of age, he must have documentary proof that he has served the army or that his name has been added to the reserve list, if these facts are not already mentioned in his passport.

In addition to being in possession of any one of these papers, a Russian subject must also present a certificate from the police department of the city where he resides, that there is no objection against such passenger leaving his home. In villages such certificates are issued by the village authorities and are obtained without any difficulty, if the person applying for same has no criminal or civil judgment against him, or if a fine has not been imposed upon him. A Russian in possession of these papers can then apply for a frontier passport to the governor of his State.

Mr. LODGE. Mr. President, I have said that I have read those passport regulations of Russia. This clause in the bill under consideration would not exclude anybody who failed to have a passport as required by those Russian provisions or failed to have evidence of military service. No one would be excluded on that ground under this clause. It relates to a particular kind of a certificate, affecting solely the question of whether the immigrant has been convicted of crime; and those certificates are not issued by the Russian Government at all. All the clauses that have been read in that paper relate to the getting of passports. A man does not have to have a passport to come into this country and there is nothing in this clause which makes it a positive requisite.

Mr. STONE. But, Mr. President, this regulation does provide that before a man can secure a passport he must present a certificate to the Russian authorities from the police department of the city where he resides, saying that there is no objection to his emigration.

Mr. LODGE. That is perfectly true; I understand that. But that is preliminary to getting a passport; and if a man comes here from Russia without a passport that does not exclude him.

Mr. STONE. Here is a provision requiring him to get a certificate.

Mr. LODGE. But it does not require a passport. It is a particular kind of certificate—a certificate of freedom from criminal conviction.

Mr. O'GORMAN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from New York?

Mr. LODGE. Certainly.

Mr. O'GORMAN. Will not the adoption of this law encourage Russia or any other foreign country to alter its domestic law so as to provide for the issuance of certificates of character, knowing that the withholding of such a certificate will cause this country to refuse admission to one of its subjects?

Mr. LODGE. I do not think so, Mr. President, because, as I have already stated, we endeavored, as I am informed through the Department of Commerce and Labor, to get some arrangement with Russia as well as with other countries for the issuance of penal certificates—certificates of character—and Russia absolutely declined to enter into such an arrangement, saying it was totally impracticable.

Mr. O'GORMAN. I should like to ask the Senator whether this clause does not make it possible for every foreign power to limit and restrict emigration on its borders? In other words, will it not make it possible for Russia and other foreign powers to defeat our policy as to expatriation?

Mr. LODGE. I do not think it is possible, Mr. President. I do not see how it could be tortured into anything of that kind.

Mr. O'GORMAN. All Russia has to do is to pass a law prohibiting its subjects from leaving the country without securing a certificate of character, in which event, if this law were to be adopted, we would nullify the principle of expatriation, for which this country has stood against the world.

Mr. LODGE. I am entirely in agreement with the Senator about the principle of expatriation. As I said when I began, if I thought this clause would have any such effect as is depicted in these telegrams, not one of the conferees nor any Member of either House, I think, would have agreed to it. But I totally disagree with the Senator in the idea that it can be twisted into anything of the sort. This is a particular kind of certificate.

Mr. O'GORMAN. Yes.

Mr. LODGE. Of course, if an immigrant has a penal certificate, the chances are he will not offer it. But the issuance of a penal certificate, with access to the records, which we should have through our consular officers, would enable us to know when criminals come.

Mr. O'GORMAN. While it confers that benefit, it puts it within the power of every foreign nation to restrict, if not to prohibit, its subjects leaving that country to come to the United States.

Mr. LODGE. I do not see that it does, because it is a particular kind of certificate. There is only one country that now issues them. They have been required in the case of Italian immigrants for some time. I do not mean to say they have been required as a matter of regulation. They have been asked for; they have been used. They have never led to the exclusion of anyone nor to any remonstrance that I am aware of.

Mr. O'GORMAN. As I understand the Senator from Massachusetts, this proposal did not originate with anyone of the conferees, either in the Senate or in the House. The Members of the Senate and of the House have given diligent thought and study to this subject for many months. It does seem to me that a gratuitous suggestion, coming from the head of one of our departments, that dealing with immigration should not find a lodgment in this law, when it affects the spirit of our country, and more particularly the right of expatriation, for which this country stood alone 100 years ago.

Mr. DILLINGHAM. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from Vermont?

Mr. LODGE. I yield to the Senator from Vermont.

Mr. DILLINGHAM. In reply to the Senator from New York, I should like to say that one of the greatest problems that was presented to the Immigration Commission for solution was the question of how best to exclude the criminal classes from this country. The members of the commission studied that question very thoroughly, and after the completion of their work they called the attention of the President of the United States—both the President now in office and the one who preceded him—to the possibility, under the law authorizing the appointment of the commission, of securing agreements with different European governments under which regulations might be made for the exclusion of the criminal classes. That scheme has not worked out.

The commission then took up the question of reaching that evil by legislation. I think we were all united in the opinion that if the different nations of Europe were in the habit of keeping these records and issuing these individual certificates the requirement that they should be presented on admission to this country would furnish a very good means of reaching that evil. When this bill was framed that matter was overlooked, and it came up in conference. It there appeared that only Italy issues these certificates at this time. For that reason the conferees, believing that they had authority to introduce that clause into the bill at this stage of the proceedings, and their attention being called to it by the department, thought it best to do so.

The point that I wanted to make, in answer to the Senator from New York, was that this was a question which was very carefully considered by the commission. The question was a

difficult one. There is no doubt about that. They thought that the requirement of such certificates on the part of those coming from countries granting such certificates would be an admirable means for keeping out the criminal classes.

I do not know that I need say anything further by way of explanation of the reason why the conferees adopted that provision.

Mr. STONE. Mr. President, if the Senator from Vermont will permit me to ask him a question for information, for what purpose are these certificates of character issued?

Mr. DILLINGHAM. It is simply to show the criminal record of the alien, I understand. In Italy the individual can receive such a certificate and bring it with him. The Government issues it and he brings it with him when he comes here.

Mr. STONE. Then there is no agreement between this country and Italy that would give any official character to the certificate, so far as concerns our law or the administration of it?

Mr. DILLINGHAM. Not at all. It is received as a matter of evidence of the fact that the man's record is clear so far as criminal prosecutions are concerned.

Mr. LODGE. That is all it does.

Mr. STONE. Is a passport necessary in Italy, so that without it an Italian can not go aboard a ship for foreign travel or for emigration?

Mr. DILLINGHAM. They do not issue passports, I understand.

Mr. STONE. They issue a certificate, then, which in a measure takes the place of a passport?

Mr. DILLINGHAM. No; there is no certificate issued which is recognized by this Government.

Mr. STONE. That is to say, it gives the consent of that Government for the emigrant to embark?

Mr. DILLINGHAM. I know of nothing of that kind. Does the Senator from Massachusetts?

Mr. LODGE. No; I know nothing of it.

Mr. DILLINGHAM. I know of nothing whatever of that kind.

Mr. STONE. I understand that is the case under the regulations in Russia.

Mr. LODGE. That is a passport.

Mr. STONE. I know it is a passport; but a Russian can not get a passport until he presents his certificate.

Mr. LODGE. Under this clause, nobody could possibly be excluded because he did not have a passport as required by the Russian law.

I only want to say this in connection with the point of order: The Senator from Vermont called my attention to it, and I had not had time to look it up. The point of order that is made by the Senator from Missouri was made by Mr. SABATH in the House. He read the same extract from Jefferson's Manual the Senator from Missouri has read. Then this occurred:

THE SPEAKER. The Chair overrules the point of order.

It was overruled in the House on the ground to which I have already alluded, which was set forth with elaboration by the Speaker, on the 14th of August, 1911. I think his ruling was sound.

I will ask to have the decision of the Speaker of August 14, 1911, printed in the RECORD; also the record in regard to the point of order which was made on the 17th of January, 1913.

Mr. President, I do not think, under the best practice, there can be any doubt as to the point of order.

Mr. O'GORMAN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from New York?

Mr. LODGE. Certainly; I yield.

Mr. O'GORMAN. Would it not offend the rules of the Senate not only to introduce in this discussion, but to make part of the record, something that transpired in the House?

Mr. LODGE. I think not. I think rulings of previous Speakers may legitimately come in as part of the record.

Mr. O'GORMAN. The Senator is alluding not only to the ruling of the Speaker, but to the attitude assumed by a Member of the House on the question.

Mr. LODGE. It always has been the practice to quote the rulings of Speakers on points of parliamentary law. I do not think that infringes the very wise practice of not referring to debates in the House. This is a point of parliamentary law affecting the procedure of both Houses, and I think it properly comes in.

The matter referred to is as follows:

[CONGRESSIONAL RECORD, Aug. 14, 1911.]

THE SPEAKER. The particular matter at bar seems to have been differentiated into two classes by previous Speakers: One, where the dispute between the two Houses is simply a dispute about rates or about amounts, and the other where one House strikes out everything after the enacting clause and substitutes an entirely new bill.

The Chair has no doubt whatever that at least one contention of the gentleman from Illinois [Mr. MANN] is correct. That is, that if it is a mere squabble about amounts or rates, the conferees can not go above the higher amount or rate named in one of the two bills or lower than the lower rate named in one of the two bills. But that is not this case. In this case the Senate struck out everything after the enacting clause and substituted a new bill. Last Saturday there did not seem to be any precedents to fit the point under consideration. This time, fortunately for the Chair at least, four great Speakers of this House have ruled on the proposition involved—Mr. Speaker Colfax, who was subsequently Vice President; Mr. Speaker Carlisle, subsequently Senator and Secretary of the Treasury; Mr. Speaker Henderson, and Mr. Speaker CANNON. The Chair does not know anything about the parliamentary clerks to Mr. Speaker Colfax and Mr. Speaker Carlisle, but the Chair is fully persuaded that every Member of this House who has served in prior Congresses will agree that Mr. Speaker Henderson and Mr. Speaker CANNON had the advantage of being advised by one of the most skillful parliamentarians in this country, the present Member from Maine [Mr. HINDS]. [Applause.]

All four of these Speakers, three Republicans and one Democrat, have passed on this question, and they have all ruled that where everything after the enacting clause is stricken out and a new bill substituted it gives the conferees very wide discretion, extending even to the substitution of an entirely new bill. The Chair will have three of these decisions read, and will have the decision of Mr. Speaker CANNON, just read by the gentleman from New York [Mr. FITZGERALD], incorporated into this opinion, because the question ought to be definitely settled during the life of this Congress at least. The Chair will first have the decision of Mr. Speaker Colfax read, and the Clerk will announce the volume and section of Hinds' Precedents.

The Clerk read as follows:

Hinds' Precedents, volume 5, section 6421:

"Where one House strikes out all of the bill of the other after the enacting clause and inserts a new text, and the differences over this substitute are referred to conference, the managers have a wide discretion in incorporating germane matters, and may even report a new bill on the subject. On March 3, 1865, Mr. Robert C. Schenck, of Ohio, from the committee of conference on the disagreeing votes of the two Houses on the bill H. R. 51, entitled 'An act to establish a bureau of freedman's affairs,' reported that the Senate had receded from their amendment, which was a substitute, and the committee had agreed upon, as a substitute, a new bill, entitled 'An act to establish a bureau for the relief of freedmen and refugees.'

"As soon as the report had been read, Mr. William S. Holman, of Indiana, made the point that the report did not come within the scope of the conference committee. It did not report the proceedings of the Senate or an agreement by the committee on an amendment to the Senate's amendment to the House bill, but it reported an entire substitute for both the original bill and the substitute adopted by the Senate, and it established a department unprovided for by either of the other bills."

The Speaker, Mr. Colfax, said:

"The Chair understands that the Senate adopted a substitute for the House bill. If the two Houses had agreed upon any particular language or any part of a section, the committee of conference could not change that; but the Senate having stricken out the bill of the House and inserted another one, the committee of conference have the right to strike out that and report a substitute in its stead. Two separate bills have been referred to the committee, and they can take either one of them or a new bill entirely, or a bill embracing parts of either. They have a right to report any bill that is germane to the bills referred to them."

On an appeal the Chair was sustained—yeas 89, nays 35.

THE SPEAKER. The Clerk will now read the ruling of Mr. Speaker Carlisle.

The Clerk read as follows:

Section 6422 of Hinds' Precedents, volume 5:

"6422. On August 3, 1886, the House had under consideration the report of the committee of conference on the river and harbor bill.

"Mr. William M. Springer, of Illinois, made the point of order that the conferees had included new matter in their report.

"The Speaker, Mr. Carlisle, ruled:

"The House passed a bill to provide for the improvement of rivers and harbors and making an appropriation for that purpose. That bill was sent to the Senate, where it was amended by striking out all after the enacting clause and inserting a different proposition in some respects, but a proposition having the same object in view. When that came back to the House it was treated, and properly so, as one single amendment and not as a series of amendments as was contended for by some gentlemen on the floor at the time.

"It was nonconcurred in by the House and a conference was appointed upon the disagreeing votes of the two Houses. That conference committee having met, reports back the Senate amendment as a single amendment with various amendments, and recommends that it be concurred in with the other amendments which the committee has incorporated in its report. The question, therefore, is not whether the provisions to which the gentleman from Illinois alludes are germane to the original bill as it passed the House, but whether they are germane to the Senate amendment which the House had under consideration and which was referred to the committee of conference. If germane to that amendment, the point of order can not be sustained on the ground claimed by the gentleman from Illinois. The Chair thinks they are germane to the Senate amendment, for, though different from the provisions contained in the Senate amendment, they relate to the same subject, and therefore the Chair overrules the point of order."

THE SPEAKER. The Clerk will read the decision by Mr. Speaker Henderson.

The Clerk read as follows:

Section 6423, volume 5, Hinds' Precedents:

"6423. On February 25, 1901, Mr. GILBERT N. HAUGEN, of Iowa, presented the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. 2799) to carry into effect the stipulations of article 7 of the treaty between the United States and Spain, concluded on the 10th day of December, 1898.

"The conferees recommended that the House recede from its amendment, which was in the nature of a substitute, striking out all after the enacting clause and inserting a new text; and they further recommended that the House agree to the Senate text with certain specified amendments.

"Mr. OSCAR W. UNDERWOOD, of Alabama, made a point of order that the conferees had exceeded their authority and incorporated in their report matters not in difference between the two Houses. The House text had substituted reference to the Court of Claims instead of to the commission proposed by the Senate text. The conferees not only recom-

mended the adoption of the Senate text, but had enlarged the provisions of it, making the number of commissioners five instead of three, although, he asserted, there was no issue between the two Houses on this point, and also materially changing the Senate text in those portions relating to the right of appeal.

"After debate the Speaker, Mr. Henderson, held:

"The current of authorities in regard to the action of the conferees is that they must be held strictly to the consideration of such matters as are in issue beween the two Houses. That is the general governing principle, and a most valuable one and a necessary one. In this case, however, the Chair sees no difficulty. As stated by the gentleman from Pennsylvania [Mr. Mahon], the Senate presents a proposition for a commission; the House turns that down, so to speak, and adopts an amendment, by way of substitute, providing that these Spanish claims shall be referred for determination to the Court of Claims. In other words, the Senate contends for a commission, the House for the Court of Claims. The method of treating these Spanish claims is thus put in issue. The House, when it sent over to the Senate its amendment by way of substitute, said: 'We will not entertain your method; we have a better one; we offer you a substitute whereby these matters shall be referred to the Court of Claims instead of a commission.' That puts in issue every question bearing upon this controversy between the two Houses. The able remarks of the gentleman from Alabama [Mr. UNDERWOOD] have not suggested a single question that is not brought in issue between the two Houses in the present position of this question. The conferees have not gone beyond the matters in issue. On this point the Chair will ask the Clerk to read from the Parliamentary Precedents of the House of Representatives, section 1420, a decision made by Speaker Colfax.

"The section having been read, the Speaker concluded:

"The House will readily see that the precedent just read bears strongly on this question, although in the present case the conferees have not gone so far as they did in that case. There is nothing here that is not germane to the main issue. In reference to no matter in controversy between the two Houses have the conferees attempted to trench upon or change a single expression that the two Houses have agreed upon. The Senate sends to this House a bill for which the House presents a substitute, and the report of the conferees seeks only to treat of matters in issue. The Chair feels clear that he is justified in overruling the point of order. The question is on agreeing to the report."

The SPEAKER. The Clerk will now read the decision by Mr. Speaker CANNON.

The Clerk read as follows:

Section 6424, volume 5, Hinds' Precedents:

"6424. Where the disagreement is as to an amendment in the nature of a substitute for the entire text of a bill, the managers have the whole subject before them and may exercise a broad discretion as to details.

"A point of order against a conference report should be made or reserved after the report is read and before the reading of the statement.

"On February 18, 1907, Mr. William S. Bennet, of New York, submitted the report of the managers of the conference on the bill (S. 4403) entitled 'An act to amend an act entitled "An act to regulate the immigration of aliens into the United States," approved March 3, 1903.'

"Before the report was read Mr. JOHN L. BURNETT, of Alabama, proposed to reserve a point of order.

"The Speaker said:

"The Chair will state to the gentleman from Alabama, who desired to reserve points of order, that it is the impression of the Chair that the point of order, if any is made, is in time after the report is read; but if the gentleman desires, out of abundant caution, he may reserve at this time points of order. * * * All points of order are reserved. The proper time to reserve points of order, as the Chair is informed, on conference reports is after the conference report is read and before the statement is read."

The report having been read, a point of order was made by Mr. BURNETT, who insisted that the managers had exceeded their authority in inserting the following provisions:

"*Provided further*, That whenever the President shall be satisfied that passports issued by any foreign government to its citizens to go to any country other than the United States or to any insular possession of the United States or to the Canal Zone are being used for the purpose of enabling the holders to come to the continental territory of the United States, to the detriment of labor conditions therein, the President may refuse to permit such citizens of the country issuing such passports to enter the continental territory of the United States from such other country or from such insular possessions or from the Canal Zone."

And in another portion of the report the following:

"SEC. 42. It shall not be lawful for the master of a steamship or other vessel wherein immigrant passengers, or passengers other than cabin passengers, have been taken at any port or place in a foreign country or dominion (ports and places in foreign territory contiguous to the United States excepted) to bring such vessel and passengers to any port or place in the United States unless the compartments, spaces, and accommodations hereinafter mentioned have been provided, allotted, maintained, and used for and by such passengers during the entire voyage; that is to say, in a steamship the compartments or spaces, unobstructed by cargo, stores, or goods, shall be of sufficient dimensions to allow for each and every passenger carried or brought therein 18 clear superficial feet of deck allotted to his or her use, if the compartment or space is located on the main deck or on the first deck next below the main deck of the vessel, and 20 clear superficial feet of deck allotted to his or her use for each passenger carried or brought therein if the compartment or space is located on the second deck below the main deck of the vessel: *Provided*, That if the height between the lower passenger deck and the deck immediately above it is less than 7 feet," etc. (continuing in detail).

After debate, the Speaker [Mr. CANNON] held:

"The Senate during the last session passed an act entitled 'An act to amend an act entitled "An act to regulate the immigration of aliens into the United States,'" etc.

"This Senate bill was broad in its provisions and substantially amended the immigration laws then in force. It was very general in its nature, as will be found upon examination. The bill came to the House. The House struck out all of the Senate bill after the enacting clause, by way of amendment, and passed a substitute therefor. So that the House entirely disagreed with every line, with every paragraph, with every section of the Senate bill—everything except the enacting clause—and proposed a substitute therefor, and this substitute, on examination, is found to be a complete codification and amendment of existing immigration laws and, incidentally, the labor laws connected therewith, especially those dealing with contract labor, and with many other questions to which it is not necessary to refer. And in the final clause of the House substitute there is the provision:

"'That the act of March 3, 1903, being an act to regulate the immigration of aliens into the United States, except section 34 thereof, and the act of March 22, 1904, being an act to extend the exemption from head tax to citizens of Newfoundland entering the United States, and all acts and parts of acts inconsistent with this act are hereby repealed: *Provided*, That this act shall not be construed to repeal, alter, or amend existing laws relating to the immigration or exclusion of Chinese persons,' etc.

"So that not only does the House by its substitute amendment codify and amend all the laws touching immigration, but incidentally changes those relating to labor, especially contract labor. The House substitute is found to be abounding in section after section with the prohibition of contract labor in connection with immigration, and with various other provisions of a similar nature.

"The House substitute, by way of amendment, went to the Senate. The Senate disagreed to every line, paragraph, and section of the House provision; and with that disagreement to the Senate provision, and with the House provision in effect a disagreement to the original Senate bill, the whole matter went to conference. That is, by this action there was committed to conference the whole subject of immigration, and, as connected therewith, the prohibition of immigration by way of contract labor in the fullest sense of the words. * * * The Chair has not had time to hunt up all the provisions of the immigration laws of the country, but the repealing clause, with the exception as proposed by the House and the disagreement of the Senate, sent this whole matter, in the opinion of the Chair, to the conferees.

"Now, then, there is but one provision that is seriously contended for in the point of order that is made, and that is to be found on page 2 of the House conference report, No. 6607, and is as follows:

"'That whenever the President shall be satisfied that passports issued by any foreign government to its citizens to go to any country other than the United States or to any insular possession of the United States or to the Canal Zone are being used for the purpose of enabling the holders to come to the continental territory of the United States to the detriment of labor conditions therein, the President may refuse to permit such citizens of the country issuing such passports to enter the continental territory of the United States, from such other country or from such insular possessions or from the Canal Zone.'

"Now, then, one of the principal efforts in legislation heretofore have been to exclude labor that is brought in under contract or is promoted, so to speak; and the very reason of that legislation has been and is that the labor conditions in the United States should not be affected unfavorably. Three sections of the House substitute deal expressly with that question. It is not like unto the precedent cited by the gentleman from Mississippi, which was made by the ruling of Mr. Speaker Henderson. The only thing there was a disagreement between the House and the Senate as to certain specified claims, and between the Senate and House as to certain other specified claims. The conferees in that case, taking in the whole sea or ocean of claims, from the birth of Christ to the supposed death of the man with hoofs and horns, picked out a number of claims that the House or Senate never had heard of or dealt with and put them in the conference report, and Mr. Speaker Henderson properly sustained the point of order to the conference report. The Chair has no difficulty nor any hesitation in holding that this is germane first; and, second, that it comes within the scope of the disagreement between the House and Senate as affects immigration on the one hand and the interest of labor on the other, and therefore overrules the point of order."

"Mr. BURNETT having appealed, the appeal was laid on the table on motion of Mr. SERENO E. PAYNE, of New York, by a vote of yeas 198, nays 104."

The SPEAKER. It will be observed from one of these decisions that in days gone by the gentleman from Alabama [Mr. UNDERWOOD] had the other end of this question than the one he has to-day [laughter], and that he was overruled. In view of this long line of decisions by illustrious Speakers, the Chair overrules the point of order of the gentleman from Illinois [Mr. MANN]. [Applause on the Democratic side.]

[CONGRESSIONAL RECORD, Jan. 17, 1913.]

Mr. SABATH. Mr. Speaker, I reserve all points of order.

Mr. MANN. Mr. Speaker, I make the point of order that the report can not be considered in the House until the original papers are before the House, and that the original papers are not in the possession of the House. I understand the original Senate bill is in the possession of the Clerk. The House adopted an amendment striking out all after the enacting clause, so it is claimed.

The SPEAKER. The Speaker wishes that the gentleman would go over that again. The House will be in order.

Mr. MANN. The House, I believe, agreed to an amendment striking out all after the enacting clause. Under the rules and the laws and the practice that amendment is sent by resolution from the House to the Senate. I have the form of the resolution in my hand, and the form of the resolution is in the possession of the Clerk. It has to be certified to or attested by the Clerk. That has not been done, and the papers that are before the Speaker, I have no doubt the original papers, properly attested by the Clerk, are in the possession of the Senate. I make the point of order that, in the absence of the original papers, the House can not consider the conference report.

The SPEAKER. How did the Senate ever get possession of it, then?

Mr. MANN. I suppose the Senate has possession of the original papers. I do not know what the Senate has done about it.

The SPEAKER. The original Senate bill is here, properly attested by "Charles G. Bennett, Secretary," and "H. M. Rose, Assistant Secretary."

Mr. MANN. The Senate bill is properly attested, as I understand it.

The SPEAKER. The House part, that is attached to the original Senate bill, does not seem to have been attested by the House Clerk. If we can get hold of him we can have him sign it nunc pro tunc.

Mr. MANN. By unanimous consent I suppose he could do that.

The SPEAKER. Why would it take unanimous consent? The Speaker has never investigated it, but he thinks he would have the same power in that kind of a case that a nisi prius judge has. The Chair is not certain about that, however.

Mr. MANN. I take it that we are entitled to the original papers.

The SPEAKER. Unquestionably.

Mr. MANN. We must proceed on what is officially before the House. The House did have this bill up for consideration and did agree to an amendment. We have not official information at this time as to what that amendment consists of. In the absence of the original papers, and if we adopt the practice of considering a bill without the original papers and without the attestation of the Clerk, no one knows what might be presented as the original papers.

Mr. GARDNER of Massachusetts. Mr. Speaker, I raise the point of order that the gentleman's point of order comes too late. The House has proceeded to consider such papers as it had before it.

The SPEAKER. The Chair thinks that that point of order is not well taken. This document, purporting to be the conference report, has been read. That is all the proceeding that has been taken on this matter except the parliamentary skirmish that took place earlier in the day. The Chair does not think that the gentleman's point of order comes too late.

Mr. MOORE of Pennsylvania. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MOORE of Pennsylvania. I desire to know whether it is now in order to raise the question of consideration.

The SPEAKER. It is not in order to raise the question of consideration until this other matter is determined. The Chair does not have any doubt about the right of the Speaker to order the Clerk to sign that document.

Mr. MANN. Mr. Speaker, the question is whether the original papers are the ones that were presented to the Senate. Is the Speaker prepared to say that the resolution which was sent to the Senate, not attested, is not merely a copy of the papers that we want—is not merely a copy of the papers we are entitled to?

The SPEAKER. Here is the situation: We have a certified copy of the Senate bill. Then we have the conference report sent over by the Senate, with this House amendment, striking out all after the enacting clause, and enacting a new law, so far as the House could make a law, and the Clerk failed to sign it. But the fact that the Senate bill has come back here attached to the House amendment seems to the Chair to be reasonable proof that the document that purports to be the report from the House that is included in this bundle of papers is the same document that the Clerk sent over to the Senate.

Mr. MANN. Well, that might be a guess. How can the Chair know that? It is presumed that the officers of the House properly perform their duties, in which case they sent to the Senate an attested copy of the House amendment.

The SPEAKER. Now comes the Clerk of the House and attests it. [Laughter.]

Mr. MANN. Without examining it?

The SPEAKER. The Chair will have him examine it.

Mr. SABATH. Mr. Speaker, it is rather late in the day for him to sign it.

The SPEAKER. The gentleman from Illinois [Mr. MANN] is a lawyer——

Mr. MANN. Used to be——

The SPEAKER. And has seen a hundred times, if not more, orders entered nunc pro tunc in a nisi prius court without objection from anybody. If there was any doubt about this being the correct paper, of course we would not tolerate it for a second.

Mr. MANN. Mr. Speaker, I do not know but that I would rule the same way the Speaker has ruled if I were in the chair.

The SPEAKER. That is what the Chair thinks himself. [Laughter.]

Mr. MANN. I make a further point of order. The matter is before the House, and perhaps some other Members desire to make a point of order. But the conferees have included matters in the conference report which were not in disagreement.

The SPEAKER. The gentleman will suspend a moment. The gentleman from Pennsylvania [Mr. MOORE] a while ago asked the Chair if the time had come to raise the question of consideration.

Mr. MOORE of Pennsylvania. I want to raise that question when the time comes.

Mr. MANN. I do not think that question can be raised until there has been a disposition of the point of order.

Mr. MOORE of Pennsylvania. I think I addressed the Chair in the interim between the determination of one point of order and the other.

The SPEAKER. The Chair thinks that if the House is not going to consider the bill there is no use arguing points of order about it.

Mr. MANN. If the question is raised, I think it is probably beyond a point of order, but I do not care.

The SPEAKER. The Chair will hear the gentleman on his point of order as soon as this question is determined. The question is, Will the House now consider this conference report on the immigration bill?

Mr. SHERLEY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SHERLEY. Does the consideration of this motion preclude the making of other motions, such as to lay on the table, or should they be made now?

The SPEAKER. Oh, no; they can be made afterwards.

Mr. HAMILL. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. HAMILL. For the purpose of making a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HAMILL. Is it in order now, before the determination of this motion, to present a motion for the postponement of the consideration of this conference report?

The SPEAKER. That will come afterwards. The question is, Will the House consider this conference report at this time?

The question being taken, the Speaker announced that the ayes appeared to have it.

Mr. SIMMONS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from North Carolina?

Mr. LODGE. Certainly.

Mr. SIMMONS. I thought the Senator from Massachusetts had concluded.

Mr. LODGE. No; I had not. I have just a few more words to say.

Mr. SIMMONS. If the Senator will permit me, I can say right now what I desire to say.

Mr. LODGE. Certainly.

Mr. SIMMONS. The proposed provision for penal certificates follows immediately after the clause with reference to exclusion on account of crime?

Mr. LODGE. Yes; it is in connection with that.

Mr. SIMMONS. The clause immediately preceding is:

Persons who have committed a felony or other crime or misdemeanor involving moral turpitude.

Then follows the clause that is in controversy. I imagine that everybody is anxious for this country to exclude the criminal classes of Europe. I imagine that one of the most difficult things immigrant officers have to deal with is the matter of determining who are subject to this provision and who are not.

The Senator from New York suggests that if this amendment inserted by the conferees is allowed to stand, the countries of Europe might pass laws requiring these penal certificates and thereby exclude the classes that otherwise might be admitted to this country. I should like to ask the Senator if he does not think it would help this country to exclude the criminal classes if all the countries of Europe were to adopt laws providing for penal certificates, so that we might have the finding of those countries that this and that man was a criminal without having to search the records ourselves in order to get the information which it is so difficult to secure?

Mr. O'GORMAN. Mr. President, may I say a word?

Mr. LODGE. Mr. President, in reply to the Senator from North Carolina. I will say that I think it would be of very great assistance.

I yield to the Senator from New York.

Mr. O'GORMAN. I am afraid the Senator from North Carolina misconceives the view I entertain with respect to the harmful tendencies of this provision. If this provision be adopted, it will be within the power of every foreign nation to make a rule or enact a law requiring every person, before leaving the country, to procure a certificate of good character, and then they may be indifferent about furnishing the certificate; so that the harm will not reach the criminal alluded to by the Senator from North Carolina. As to the criminal, we are in perfect accord; but it may be the means by which honest, worthy men, eager to come to the United States, may be prevented from landing here, because they may be denied a certificate to which in justice they would be entitled, but which may be withheld from them so long as it suits the purposes of the nation in question, so long as it is anxious to restrict, discourage, or prohibit its subjects from coming to the United States.

Mr. JOHNSTON of Alabama. Mr. President, will the Senator yield to me for a moment?

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from Alabama?

Mr. LODGE. Certainly.

Mr. JOHNSTON of Alabama. I wish to suggest to the Senator from New York that if we found any foreign nation adopting any such plan as that, to prohibit the emigration of industrious and worthy citizens, we could very easily repeal this clause.

Mr. LODGE. Perfectly easily.

Mr. O'GORMAN. I do not know how easily it could be done.

Mr. JOHNSTON of Alabama. We have all stood against any clause of that kind which affected honest, upright citizens.

Mr. LODGE. Mr. President, what the Senator from Alabama says is perfectly true, of course. Nobody would for a moment favor such a clause if it could be twisted into the uses which the Senator from New York thinks possible. If anything of that sort occurred it would be a matter of great ease to change it.

I will say just one word more. Italy has issued these certificates. We have used them, of course, as a matter of evidence. It has not had the effect of checking emigration from Italy at all. It has been a protection to the innocent immigrant, because there he had complete proof at once that he had no criminal record, whereas it is a very easy thing for some enemy, perhaps somebody on board ship he has a quarrel with, to make a suggestion that he has a criminal record, and then he is held up for days that the matter may be looked into. My own belief is that it protects the innocent instead of injuring them. But if any such result flowed from this, it is within our power to stop it in a moment. There would not be the slightest difficulty about that.

I desire to call the attention of the Senate to the fact that this is but one small clause, easily disposed of if put to bad uses, in a great bill such as occupied the attention of Congress, through the Immigration Commission and through both its committees, for years. It contains new provisions of the very greatest importance to the better administration of our criminal laws.

I am not speaking now of the illiteracy test, which has been the point in contest. For instance, we have some 15,000 aliens excluded under our laws who come back here as seamen on ships, shipping just for the voyage, getting in those ships and passing into this country, perhaps diseased, perhaps with criminal records, without any examination at all. For the first time we have made provision for meeting that very serious difficulty.

The whole administration of the Immigration Service has been greatly improved by this bill. An immense amount of work has been put upon it. The bill passed the Senate carrying all these provisions, except the one we are now discussing, with only 9 votes against it. It passed the House by a vote of over 3 to 1. This is the Senate bill substantially as it was before us. I described the slight changes in the illiteracy test, and those the Senate conferees receded from and made it only reading instead of both reading and writing, as it passed here.

The rest of the bill is substantially the bill as it passed the Senate by that great vote. In the same way the House passed it by overwhelming majorities. The conferees have been at work on it for many days. It has been a bill which involved the greatest possible care and study. I have no doubt there are mistakes in it; in a bill of such magnitude there are certain to be mistakes; but I believe it is as nearly perfect as the department, the Immigration Commission, the immigrant officials, and the two Houses of Congress through their committee can make it, and I am extremely anxious that the report should be agreed to.

If I did not firmly believe there was misapprehension in regard to this clause and the fears suggested by the Senator from New York were wholly unfounded, I should feel exactly as he does, but I am certain that if by any possibility, which I consider to be out of the question, there should be any attempt to use that clause for the purposes the Senator from New York suggests, no Member of Congress would tolerate it for a moment, and the clause would be stricken from the law as rapidly as the forms of legislation could be complied with. But I think it would be a great misfortune not to pass this bill now and send it to the President.

Mr. O'GORMAN. I should like to ask the Senator from Massachusetts one further question. Is it not a fact that in Russia, perhaps in Germany and in some other European countries, a native who leaves the country in violation of the rules respecting the military organizations and the necessity of enlisting is regarded as a criminal?

Mr. LODGE. They are not regarded as criminals by us, and this would not affect that.

Mr. O'GORMAN. I am speaking now of those foreign countries. To be specific: Is it not the case with Germany to-day that a subject of that country who leaves without performing his military service is a criminal in the eyes of the German nation? It is true also in Russia and in other European countries. Would not such men be denied by those countries a certificate of good character no matter how virtuous their lives may have been and however deserving they are of taking a place in this country as citizens?

Mr. LODGE. The fact that he avoided military service would not become a crime until he reached here and if it was a crime for him to leave without having performed his military service.

Mr. O'GORMAN. I do not agree with the Senator with respect to that provision.

Mr. LODGE. Because if he stayed there he would not be a criminal.

Mr. O'GORMAN. If he stated that he intended to leave the country at a certain time, the certificate would be withheld, because in the view of the local authority he was seeking to evade military duty.

Mr. LODGE. I do not see how it could possibly be effective, because it would not be incurred until after he had come to this country.

Mr. O'GORMAN. I can see how it would occur before.

Mr. STONE. How would he get the certificate?

Mr. LODGE. They have the certificate now in Germany; that is, they have certificates of citizenship.

Mr. O'GORMAN. The Senator says he might escape and it would not be known until he came to this country, but would he come here with a good character certificate, such as is contemplated by this provision?

Mr. LODGE. Of course he would.

Mr. O'GORMAN. He would get it?

Mr. LODGE. Certainly he would have his character certificate. A man can get this certificate without intending to emigrate at all. It is not a prerequisite. It is issued to all citizens of Italy alike, as I understand it.

But, Mr. President, there is no danger. This is connected with the immediately preceding clause, which defines the persons excluded for crime who have committed a felony or other crime or misdemeanor involving moral turpitude. You could not abandon that definition in deciding whether the man was a criminal.

Mr. O'GORMAN. I can not agree with the Senator from Massachusetts. There is no personal relation or connection between the two propositions. They are absolutely separate and distinct, because the force of one is not affected by the other provision. We have a naked, bald proposition that no citizen or subject of a foreign country shall be permitted to land in the United States unless he is able to produce to the immigrant officials a certificate of good character, if such certificates are issued in the foreign country. While at the present time, perhaps, there are only two countries, Italy and Russia, issuing such certificates——

Mr. LODGE. Russia issues no such certificate.

Mr. O'GORMAN. The equivalent of such a certificate.

Mr. LODGE. No.

Mr. O'GORMAN. It is so stated.

Mr. LODGE. Those are the conditions of getting a passport. This is a certificate, not a passport.

Mr. O'GORMAN. But apart from the circumstance as to whether Russia to-day issues such a certificate as suggested, in my judgment the adoption of this law will be an encouragement to every foreign power to immediately provide for the issuance of a certificate of character, knowing that the United States would not receive anyone not possessing such a certificate.

Mr. LODGE. I can only say that I do not think that interpretation could be put upon it; in the second place, I do not think there is the slightest practical danger of it because other countries have already refused; and, finally, if such a state of things should arise, it is within our power to end it within 48 hours.

Mr. GRONNA. Mr. President, as a member of the Immigration Committee I would hesitate to discuss any of the provisions of the bill as it passed the Senate, because the chairman of this committee has shown the utmost courtesy to me, and I believe to the entire membership of the committee. I am, however, very much opposed to the new matter that has been inserted in the bill.

It may be true, as has been stated, that there is only one, although I believe there are two countries that issue penal certificates, namely, Italy and Asiatic Turkey. But be that as it may, Mr. President, I believe that this is a very unwise provision. Anyone familiar with the conditions in northern Europe to-day knows that in all of the north European countries they are, as a rule, very much opposed to the emigration of their young men from those countries.

Take Germany, for instance. Will anyone suppose that we would get the splendid citizenship from that country if this provision is left in the bill? Within six months it will bar out every male German and Scandinavian of the age for military service, as Germany, which does not desire the emigration of its young men, will be glad to take advantage of this provision. As to Italy, it puts it in the power of the mayors of the cities of Italy to issue certificates to their least desirable, and the bill provides no way of authenticating these certificates. But, above these considerations, the bill puts into the hands of European nations the right to say which of their citizens or subjects shall come to us. We have heretofore maintained our right to say whom we shall admit or exclude, but this proposal is to abdicate that right. It will keep out the Jews from Russia, Armenia, and Austria and the Armenian and other Christians from Turkey. If it had been in force in 1848, it would have kept out Germans like Carl Schurz, who fled after the German revolutions, and it is an outrageous provision to be thought of by a free country. Incidentally it nullifies, at the option of foreign countries, every favorable proviso in the immigration law.

The new provision I find is on page 3 of the conference report. I will read the first two lines on page 2:

> That the following classes of aliens shall be excluded from admission into the United States.

Then it goes on to name different classes to be excluded, which I will omit, but the language inserted as a new matter reads as follows:

> Citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate.

It is perfectly evident, Mr. President, that unless the immigrants have those certificates they will not be admitted to this country. It is obvious that in any of the foreign countries where they are opposed to the emigration of their young men regulations will be made requiring these certificates, and these certificates they will not be able to obtain.

So, Mr. President, I believe that we should ask to have this report referred to the committee of conference. I do not care to argue the point of order made against it, but we know that it is new matter; that it is matter which was neither in the House bill nor in the Senate bill.

It has been said that we must restrict immigration in order to give labor a better and a fairer show.

Mr. LA FOLLETTE. Mr. President, will the Senator yield to me?

Mr. GRONNA. I will be glad to yield.

Mr. LA FOLLETTE. I believe, Mr. President, that this is a matter of sufficient importance to have it discussed in the presence of a quorum if it can be, and as a quorum will have to pass upon it ultimately, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Wisconsin suggests the absence of a quorum, and the roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	du Pont	McCumber	Smith, Ariz.
Bankhead	Fletcher	McLean	Smoot
Bourne	Foster	Martin, Va.	Stephenson
Bradley	Gallinger	Martine, N. J.	Stone
Brandegee	Gardner	Myers	Sutherland
Bristow	Gore	O'Gorman	Swanson
Brown	Gronna	Oliver	Thomas
Bryan	Heiskell	Paynter	Thornton
Burton	Jackson	Percy	Tillman
Cairon	Johnson, Me.	Perkins	Townsend
Chilton	Johnston, Ala.	Perky	Wetmore
Clapp	Jones	Poindexter	Williams
Clarke, Ark.	Kern	Pomerene	Works
Crawford	La Follette	Sanders	
Cummins	Lippitt	Shively	
Dillingham	Lodge	Simmons	

Mr. STONE. I desire to make the announcement that my colleague [Mr. REED] is unavoidably absent from the city.

Mr. KERN. I wish to announce the unavoidable absence of the junior Senator from South Carolina [Mr. SMITH] on account of illness in his family.

The PRESIDENT pro tempore. Sixty-one Senators have answered to their names. A quorum of the Senate is present. The Senator from North Dakota will proceed.

Mr. GRONNA. Mr. President, as I said, I am very much opposed to the provision that has been inserted in the conference report, because I believe that it is an unwise provision; that it is wholly unnecessary so far as this country is concerned; that it is a dangerous precedent to establish; and that it is an admission of weakness by us as a great Nation to say that we are incapable of providing whom we shall admit or whom we want to exclude as immigrants to this country.

It is claimed by some that we must not oppose this bill or any provision of it because it has been asked by labor organizations to have these provisions inserted. No one will go further to protect labor than I; but labor organizations, sir, have no more right to ask the American Congress to enact into law provisions that will be detrimental to the country at large than have any other class of our people. We who come from the West, who desire immigration, who are interested in seeing that progress is made, and that our new country is developed, feel that we have a right to be heard on this question. No one is more anxious than I to exclude every alien, I care not from what country he may come, who will not make a good law-abiding citizen when he comes to this country.

There is another provision which I want to touch upon briefly, and that is the increase in the head tax. I believe that tax was increased on the floor of the Senate. If I remember correctly, the bill as it was reported from the committee provided for a $4 head tax.

Mr. LODGE. It was increased on the floor of the Senate. Five dollars was the provision in the bill as it passed the Senate.

Mr. GRONNA. Yes. I thank the Senator.

Mr. President, what is the necessity of increasing this head tax, when in the year 1911 there was a surplus in this fund of more than a million dollars? Upon whom will this burden bear the heaviest? Will it fall upon those who come here seeking labor and then return to their native lands, or will it fall upon those who come here with their families seeking homes? We all know that those who come from the northern part of Europe are those who come with large families. This head tax must be paid by them; and it is upon that class of people that the burden will fall.

So far as the people from northern Europe are concerned, it matters but little what kind of illiteracy test you apply. Nearly all of those who come from Ireland, from Scotland, from England, from the Scandinavian countries, and from Germany can read and write. Statistics show that. I am not complaining, however, of the provision in this bill so far as the illiteracy test is concerned, because the old provisions of the law remain in the bill. The writing test is not applied as the Senate bill provided when it passed this Chamber.

I said a moment ago, and I say again, Mr. President, that subjects coming from such countries as Germany and the Scandinavian countries would be barred in a few months from coming into this country. None of those countries desire that their young men shall emigrate from their shores; they wish to keep them home, and there are laws on the statute books of those countries making it a crime when an emigrant leaves his country to escape military service. How, then, would it be possible for such men to get their certificate of good character or good conduct? So I believe, Mr. President, that this is of such great importance that the bill should be recommitted to the conference committee and that we should insist that this language shall be taken out of it.

I have just received a telegram from New York from a gentleman whom I know very well, and I wish to have his telegram read and incorporated in my remarks.

The PRESIDENT pro tempore. Without objection, that order will be made. The Secretary will read the telegram.

The Secretary read as follows:

NEW YORK, *January 20, 1911.*

Hon. A. J. GRONNA,
Washington, D. C.:

Society of Friends of Russian Freedom protests against character-certificate provision in immigration conference bill as encouragement to oppression and reversal of our traditional policy of welcoming liberty-loving immigrants.

HERBERT PARSONS, *President.*

Mr. GRONNA. Mr. President, I have also received another telegram, which I shall not ask to have printed, because a similar one has formerly been ordered printed in the RECORD, but I have asked that the telegram just read be printed because it is signed by an influential, honorable ex-Member of the other House.

There are other provisions in the bill to which I might call attention, but I shall not take up any more time of the Senate. I believe, however, that this country has been benefited by its liberal policies and its liberal immigration laws. I care not what restrictions are made to keep out the criminal class; we are all equally patriotic in seeing that none but good, honest, law-abiding men shall come to our shores and become citizens of this great country; but we also have the right, so long as the condition exists that we need more people, to have proper legislation on this subject. Nothing can benefit the western country more, Mr. President, than the immigration of good, honest, law-abiding citizens to this country. The men engaged in the industries of our country are entitled to some consideration, and I ask you who will take the places of some of the men who are working in the ditch? It is just as important to the success and the welfare of our people to have those come here as it is to have men who are engaged in the professions and the trades. Very few of the native born are willing to take their places.

So, Mr. President, I sincerely hope that the distinguished chairman of the Committee on Immigration will not insist that this conference report shall be adopted before it has again been considered by the conference committee.

Mr. SHIVELY. I ask the attention of the Senator from Massachusetts for a moment. What does the Senator understand is meant by the penal certificate?

Mr. LODGE. The penal certificate, as I understand, under the practice in vogue in Italy, is a certificate showing whether or not a man has been convicted of crime.

Mr. SHIVELY. And under this bill the immigrant is required to produce that certificate, if he has it?

Mr. LODGE. Yes.

Mr. SHIVELY. And if he produces it does that fact admit him?

Mr. LODGE. No. The object is to secure knowledge as to those who are criminals.

Mr. SHIVELY. Section 3 begins:

That the following classes of aliens——

Mr. LODGE. If he produces a penal certificate, unless he can show he was not convicted of a crime involving moral turpitude, it would exclude him.

Mr. SHIVELY. As I understand, he would fall within the class to be excluded. Section 3 provides:

That the following classes of aliens shall be excluded from admission into the United States.

And, then, after a series of descriptions of classes to be excluded, the following language is used:

Citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate.

Mr. LODGE. That is a certificate of character showing that he never has been convicted for a penal offense.

Mr. SHIVELY. Then, he must produce either a penal certificate or a certificate of good character before he can be admitted?

Mr. LODGE. That is simply a different denomination of the certificate. It is really a certificate to the effect simply that

he has never committed a crime. The two classes of certificates are really descriptions of the same thing.

Mr. SHIVELY. Does the Senator mean that they refer to the same document? Do penal certificates and certificates of character mean the same thing?

Mr. LODGE. They are practically the same certificate. One is called "a penal certificate," and that excludes the immigrant if it shows that he has been convicted of a crime. The other shows no crime, of course, but is simply a certificate of character. If it shows a crime, it is a penal certificate.

Mr. SHIVELY. Does the Senator mean to say that the provision I have quoted would not require every person who applies for admission to produce a certificate of this kind?

Mr. LODGE. No; only when the immigrant comes from a country where they issue certificates of character. For instance, Italy issues them, and has done so for some time. Russia was asked if she would not issue certificates of that character, and declined. She said it was entirely impracticable.

Mr. SHIVELY. I recall the alleged incident that Oliver Cromwell and John Hampden were at one time on the point of embarking for the New World.

Mr. LODGE. They were suspected of that intention.

Mr. SHIVELY. Yes; and it is claimed that they were detained and restrained from taking their departure by the British Government. If the British had in force to-day provisions of law for the issue of the certificates referred to in and contemplated by the language of these lines of the conference report, and were Cromwell and Hampden living to-day, neither could be admitted to this country under the proposed procedure without producing such certificate, could he?

Mr. LODGE. No, Mr. President, all citizens of Italy have these certificates of good character, as I understand, just as they have certificates of citizenship, and whether they are going to migrate or not makes no difference. It is not a prerequisite of migration. If a man is going to migrate he does not have to procure such a certificate; he has it anyway; he does not have to give notice.

Mr. SHIVELY. How does the certificate of character become associated with or merged in the penal certificate?

Mr. LODGE. Of course, if a man holding a certificate of character is tried and convicted of an offense, then the entry that he has been convicted of a crime is made on his certificate, and it is returned to him with that entry; but he has that certificate; everybody there has one, without regard to migration.

Mr. SHIVELY. The Senator says this rule of issue of certificates is at present in force only in Italy?

Mr. LODGE. That is true of Italy to-day, but it has no effect at all on Italian immigration.

Mr. SHIVELY. It is a rule easily capable of adoption in every European country. Whether the rule be made with or without reference to immigration, the certificate issued by a foreign Government becomes determining whether the immigrant shall be admitted to the United States. The applicant must be provided with the certificate from a foreign Government. Such requirement is directly in the teeth of our well-settled and long-cherished doctrine on the right of expatriation.

Mr. LODGE. He would have the certificate in any event. It is only a question of whether we require it.

Mr. SHIVELY. Oh, yes; he would have the certificate in any event if his Government required him to have it, but it is only——

Mr. LODGE. He would not have to go and ask for it.

Mr. SHIVELY. But it is only in the event that the lines in this conference report that I have quoted become law that the certificate issued by a foreign Government would carry any significance so far as admission of its bearer to the United States is concerned.

Mr. LODGE. Yes; it would have no value to him as an innocent man—none whatever.

Mr. LA FOLLETTE. Mr. President, the last remark of the Senator from Massachusetts is indicative of the wrong basis upon which this discussion has proceeded. It has proceeded upon the assumption that this provision was intended to apply only to criminals—those seeking admission to this country as immigrants who have been convicted of crime.

Mr. LODGE. That is its intent.

Mr. LA FOLLETTE. If that is its intent, it is so worded as to go entirely beyond the purpose of those who framed it. It can have but one effect. Observe the language of the provision. After enumerating several classes of aliens to be prohibited, in the exclusion of which all will agree, the conferees add the following:

> Citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the officials such a certificate,

That clause provides not only for penal certificates, but it also provides for certificates of character. Make that the law and no citizen or subject of any country can expatriate himself excepting with the consent of his Government.

Mr. ROOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from New York.

Mr. LA FOLLETTE. Certainly.

Mr. ROOT. I would not go so far as the Senator from Wisconsin and say that it can have but one effect. I think there is a legitimate effect—that is, to require persons coming here from countries that give penal certificates to produce the certificates, so that the immigration officers may have that very easy evidence regarding their character.

I have no doubt that that was the intention of the provision, and that it would have that effect. But I think it ought to be guarded so that it will not also produce the other effect that the Senator from Wisconsin suggests.

Mr. LA FOLLETTE. I am very glad to hear the Senator from New York make that declaration, because if all that was required and all that was intended by this clause was what the Senator from New York now says it should provide, it should be limited to penal certificates.

Mr. President, I want to turn aside just for a moment to comment on the wide latitude given to conferees, of which this is one of the most striking examples, in the way of engrafting onto legislation new matter which neither House of Congress has ever considered. Sir, the rules and the precedents of this body and the body at the other end of the Capitol have been so framed as to put legislation in the hands of a very few men. I venture to hope, Mr. President, that the day is near at hand when both branches of Congress will be made more democratic and more responsive to the public will.

Here is a provision inserted in this bill which never had a moment's consideration in the Senate nor in the House of Representatives—a provision of the widest sweep and the most important effect, if it is to be enacted into law, upon the future of this country and the class of immigrants that are to be admitted to citizenship.

Why, sir, under the provisions of the clause which is now under discussion Carl Schurz would have been excluded from this country; also the great body of German refugees and emigrants from northern Europe who were resisting the encroachments of tyranny in the Old World. That period seemed to be one of the cycles in the life of liberty of the human race. In Germany, in France, in Austria-Hungary, in Poland, all over Europe, empire was crowding liberty back to the wall.

Carl Schurz broke jail and came to this country with some of his associates. Thank the Lord for it! He came up into Wisconsin. The thousands of liberty-loving Germans and emigrants from northern Europe that came into the State in which I had my birth laid at that time the foundations for the thoroughly democratic population which has gone leagues ahead of all the other Commonwealths of this country in bringing government back to the people.

Mr. LODGE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from Massachusetts?

Mr. LA FOLLETTE. Oh, in just a moment, if the Senator will permit. I suppose the Senator rises to call my attention to the fact that this bill provides that people convicted of political crimes are not excluded. Am I right?

Mr. LODGE. Yes.

Mr. LA FOLLETTE. That is what I anticipated. But Carl Schurz had not been convicted of a political crime. And this conference report would admit to this country only those who have been actually convicted of political crime, but not those who have been persecuted for their political opinions; not those who love liberty and who have preached the doctrine of a republican form of government in Russia and in other countries of the Old World—and there are thousands and thousands of them doing it to-day. They can not have the shield of protection of this bill as you propose it unless they have been put upon their trial and convicted of a political crime.

If they have been under police surveillance and police espionage, watched and dogged at every step and turn, and finally, in despair of enlarging the liberties of the people of their own country, they desire to seek a home for themselves and their families in America, they would have small chance indeed of procuring a certificate of good character, without which they would be excluded from this country under this provision.

How can a subject of Russia get a certificate of good character in the Russian Empire? You can not leave that empire to come to America without a passport. You can not get a passport without its being signed by the governor of the province in which

you live. You can not get the signature of the governor of the province in which you live without its first being certified by the police authorities that you are a suitable person, according to Russian police standards, to receive that passport. It may be that you have not been convicted of any political crime. It may be that you have simply published some pamphlet advocating larger freedom for the people of Russia. If you have done that you fall under police surveillance, and you can not hope to get the certificate of the police which will enable you to apply for the passport of the governor of the province in which you live. Therefore you can not get a passport at all. Without a passport you can not get a certificate under the proposed law, of course.

Mr. LODGE. It does not seem to me that that follows.

Mr. LA FOLLETTE. Why, Mr. President, here is a nation that will not permit its subjects to leave the country without a passport.

Mr. LODGE. But the Senator is aware, of course, that thousands come from Russia without passports.

Mr. LA FOLLETTE. Ah! But does the Senator suppose they come with the approval of Russia? No.

Mr. LODGE. Certainly not.

Mr. LA FOLLETTE. No; no. They come surreptitiously across the border; and if they come in that way, does the Senator suppose they are going to be able under this new provision of law to apply for and get a certificate of good character from the Government?

Mr. LODGE. Of course not. Russia does not issue those certificates.

Mr. LA FOLLETTE. No; but the day after this bill becomes a statute Russia can adopt a provision that will make it applicable to every single subject that leaves her borders.

Here is a most ingenious device engrafted upon this bill by the conferees—not intentionally, I am bound to say, but inadvertently, I have to say—to promote and aid the system that prevails in Russia to-day, to restrain from coming to this country those of her subjects who may wish to come over here and preach larger liberty for Russia.

It was suggested in the debate on this paragraph in the House that any one of the governments would be glad to get rid of these disturbing subjects and to give them these certificates to come to this country. Not so. We would get, under this provision, those whom they could easily and would willingly spare. But the virile, sturdy, aggressive, progressive subjects of every country, who make the foundation stock of our best civilization when mixed with the blood of New England and every other State, we would not get. They would be retained in Germany to serve in the army; they would be kept in Russia, where they would be under their strict police system. Why? Because they fear them in America more than they do in Russia.

Mr. President, I do not mean to speak discourteously of the conferees, but think of the proposition of turning over to another country the determination of what class of immigrants shall be received in the United States! If they be not diseased, we may receive the weaklings of a foreign country. But the sturdy, virile type which makes up the German Army and the French Army and the armies of the other countries of Europe that require military service would be denied admission here because, unless the country wants to part with them and gives them certificates, they can not be admitted. The Secretary of Commerce and Labor has no discretion in the matter. No officer of this Government can exercise any discretion. The certificate of a foreign country disposes of the whole matter.

Mr. President, I remember that when this conference report was under discussion in another place in the Capitol the criticism which I am making was met in this way: It was said that Russia would be very glad to get rid of the people who were making political disturbances over there. Russia knows better than did the gentleman who made that argument. Russia knows that one free tongue in New York is more harmful to Russian despotism than 10,000 shackled subjects in Siberia. No! Russia does not want—and I am constrained to believe that that is the reason why some other people do not want—these people who are seeking freedom for mankind admitted to the United States.

Mr. President, they are not only a menace to Russia, they are a menace to plutocracy in America. There are some gentlemen in various places in our social order who are defending plutocracy and guarding every encroachment upon its sacred preserve.

The PRESIDENT pro tempore. The Senator from Wisconsin will suspend for a moment. The hour of 2 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. WORKS. I ask that the unfinished business be temporarily laid aside.

The PRESIDENT pro tempore. The Senator from California asks that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none. The Senator from Wisconsin will proceed.

Mr. LA FOLLETTE. Mr. President, any person who has been active in founding a republican form of government in Russia such as we enjoy could only come to this country by leaving Russia surreptitiously. There is not any question about that at all. They can not get a passport, and they can not get a certificate of good character.

Of course, if it is your purpose to exclude those people from coming here—that is, people who are opposed to the Russian system but who do believe in the system of government we have in the United States, and who would like to see that system of government adopted in Russia—if you want to exclude the subjects of Russia who so believe when disheartened in the fight for Russian freedom they seek an asylum in this country, and if you wish to deny them that asylum, stand for this provision that the conferees have put into this immigration bill without a moment's consideration from either branch of Congress.

I started with my opening word upon this subject to say something in criticism of that practice by conference committees. We have seen it many times.

A conference report has to be accepted or rejected in toto. You have to swallow the whole conference report or you have to defeat all the good things in the conference report in order to get some one bad thing taken out.

I tell you, Mr. President, that is a vicious practice in legislation, and to the Senators who are to have some power in molding the rules under which laws shall be framed in future, let me appeal to you to give your attention to reforming this abuse.

Let me recall something to your minds. In May, 1908, I stood on this floor for 19 hours protesting against the passage of a bill. I did not do that as an exhibition of my physical endurance. I believed that that bill was a bad bill, but the methods employed to pass that bill I believed to be vicious, and I was willing to go to the very limit of risk in order to emphasize to the country the iniquity of that proceeding.

It was an emergency currency bill—the so-called Vreeland-Aldrich currency bill. It had been proposed in the Senate. It had been put upon its passage in the Senate. When it was proposed in the Senate it contained a provision that railroad bonds should be made the basis of the issuance of emergency currency. Since 1903 there had been pending an appeal to Congress from the Interstate Commerce Commission to value the physical properties of railroads of the country in order to determine how much the railroad securities represent actual investment and how much they represent water—a fraud upon the American public.

Without any determination on the part of the Government, pursuant to the recommendations of the Interstate Commerce Commission as to the real, true value, the real investment in the railroads in this country in the Aldrich-Vreeland bill, it was proposed through this side door to work into the foundation, as it were, the financial system of this country, as a basis for circulation, railroad bonds, regardless of the value that was back of them. I was opposed to that, Mr. President, and gave notice that I should attack it. Twenty minutes before I took the floor to make my argument against the railroad-bond provision in the emergency currency bill Senator Aldrich, the leader on the Republican side, withdrew the proposition making railroad bonds one of the securities upon which emergency currency could issue. Why? Because he well knew that he could not stand for a moment the attack that would be made, based upon the historic and economic development of the railroads of the country and the known facts as to fictitious capitalization. So 20 minuts before I was to begin an argument he rose and withdrew that provision. Then what happened? I took the floor. I made my argument notwithstanding the withdrawal. I predicted that that proposition withdrawn would be found in the conference report before that legislation was over.

Now, what happened? The bill passed the Senate. It was finally thrown into conference. Shortly thereafter we were told that the conferees could not agree, and that no legislation upon that subject would be enacted. Finally, just at the close of the session, when it was impossible to secure serious consideration for any measure, Congress and the country were suddenly informed that the conferees had agreed, and the Aldrich-Vreeland bill, in the form of a conference report, was thrust upon the House and the Senate.

And in that conference report, Mr. President, just as I had predicted, the railroad-bond provision had a secure place.

Do you understand, Senators? The railroad-bond provision was back in the bill, not in the original form, for under the bill as it came from the Committee on Finance there were some restrictions as to the bonds which might be accepted as a basis for emergency currency circulation. But as the provision appeared in the conference report any sort of railroad bonds could be accepted as security.

Mr. President, that is a bad method, a vicious method of legislating, and we should make an end of it at once and for all time.

Now, take this conference report. It is an exemplification of the abuse. I do not mean to reflect on the Senators who were on the conference. They have done what other Senators have done. The rules and the practice sanctions it. I think the Senator from Massachusetts is absolutely right. He is within the precedents and within the decisions of the House of Representatives, and I am not assailing the conferees. But I am assailing this system. It is not the way to legislate, Senators. It does not reflect the will of the people in legislation, and that is what our kind of a government ought to mean.

Now, Mr. President, I beg pardon of the Senate for having digressed at such length. I did not intend to do so. I just want to call attention to another provision in this conference report that I am sure escaped the attention of the Senator from Massachusetts. As to that portion of the conference report which I have discussed I am led to believe that the Senator from Massachusetts regarded this certificate provision as applying only to convicts.

Mr. LODGE. I certainly did not suppose it was open or susceptible to the interpretation which has been put upon it by Senators or I never would have agreed to it, and no other member of the conference would have agreed to it.

Mr. LA FOLLETTE. I am bound to believe that; but I submit when you read the language it is evident that my contention is right. Of course, we all know how conference reports are adopted. It may be that it was adopted at the end of a long conference, that had exhausted the members of that conference committee.

Mr. LODGE. I will say, if the Senator will permit me to interrupt him, the history of that particular clause is that it was not adopted in that way. It was a suggestion from the department and was very strongly urged by the department.

Mr. LA FOLLETTE. I remember now, since the Senator from Massachusetts says so, that it is in the recommendations of the——

Mr. LODGE. It is in the draft of the bill sent up to the Senate by the Commissioner General of Immigration.

Mr. LA FOLLETTE. That leads me to wonder why it did not find its place in one or the other of the bills, in view of the fact that it had the indorsement of this official.

Mr. LODGE. I mean the draft of the bill of the Department of Commerce and Labor.

Mr. LA FOLLETTE. I would not undertake to say that. It was not in the bill reported to the Senate and passed by the Senate.

Mr. LODGE. No; it was not.

Mr. LA FOLLETTE. Now, there is another matter that I want to call the attention of the conferees to. I have gathered here, Mr. President, a mass of cases, not suppositions, not speculations, but concrete cases which come within the provisions of this proposed law that would be excluded if it were to become a statute of the United States. I do not want, unless there is a disposition to press this matter, to take the time to read these particular cases. I will, if there is a disposition to do so; otherwise, I ask, Mr. President, to incorporate them in what I have to say.

In Russia a "certificate of good character" is required from every applicant for a foreign passport, and under the Russian law no one may leave the Empire without such a passport.

It is therefore clear that the Russian Government does issue "certificates of good character" to prospective emigrants. There are numerous other cases where the Russian law requires the production of a "certificate of good character."

Such certificates are issued by the police and may be denied in its discretion. The substance of the certificate is that the bearer has not been convicted of any crime. Under the antiquated Russian law such certificate could be denied to many persons innocent of any offense involving moral turpitude.

Section 1171 of the Russian Penal Code reads as follows:

> Jews convicted of engaging in any mercantile pursuit except that which is allowed to them in specific cases provided by law, outside the pale assigned to them for permanent settlement, shall be sentenced to confiscation of their merchandise and immediate deportation.

There are a series of decisions of the supreme court of the Empire (the cassation departments of the governing senate) which illustrate the character of the offenses coming within the purview of this section.

In re Mandelstamm, which was No. 731 of the decisions rendered in 1874, it was held that a Jewish artisan is allowed to sell only the products of his own manufacture, but not the products of other factories than his own.

In re Goorvich (1877, No. 20) it was held that a Jewish baker may sell bread, but not flour.

In re Kroopkin (1877, No. 12) it was held that a Jewish butcher may sell meat from cattle slaughtered by him according to the Jewish rites only to his coreligionists, but not to gentiles.

The Jews in Russia are restricted in choice of domicile to urban settlements of a few provinces, and are debarred from the rest of the Empire. There are, however, special exemptions in favor of a few privileged classes of Jewish citizens. Among these are graduates of dental colleges.

Recently 200 Jewish merchants residing in Moscow, which is a forbidden city to Jews, were indicted for procuring illegally dentists' diplomas, which enabled them to live in Moscow and engage in business. The penalty for their offense ranges, under section 294 of the penal code, from imprisonment in a penitentiary for not less than two and one-half years to banishment to Siberia for life.

If these men, to whom all doors of opportunity to earn an honest living are shut in Russia, should attempt to enter this country they will be shut out, if this bill becomes a law, on the ground that they could not furnish a certificate of good character from the Russian police.

They were all men of means, and were making an honest living as business men. Yet the Russian law says that an ordinary Jewish citizen must not do business in Moscow. He may secure that privilege by renouncing the faith of his fathers and joining some Christian denomination, a form of religious persecution which is abhorrent to the spirit of our institutions.

Another class of offenders against the Russian law that would be debarred by the pending bill are young men who emigrate in order to evade compulsory service in the Russian army. Every young man of the age of 20 must report for two years of active service in the army. His labor may help support his parents and younger brothers and sisters, but he must give two years of his life to the Czar. Most people in Russia do it reluctantly. The Jewish recruit is as a rule transported for service to those Provinces where people of his race are ordinarily not permitted to reside. As soon as his term of service expires, he is ordered to leave the place and return to the place of his legal residence. Can he wax patriotic in the defense of a country from which he himself is excluded as a citizen?

Shall we who have no compulsory enlistments condemn him if he seeks to escape service in the army of a country which he leaves for good in order to become a citizen of the United States?

Still, such a man could not secure a certificate of good moral character from the Russian police.

The other day the cable news carried an item characteristic of Russian conditions. A detachment of 130 Cossacks, serving on the Austrian frontier, crossed over the boundary line to Austria, lay down their arms, and declared that they had left Russia for good. The Cossacks, it must be understood, are a special force used chiefly to suppress revolutionary outbreaks of the people. These 130 Cossacks got tired of such duties and resolved to leave the country rather than to shoot down their countrymen who are fighting for liberty. Should any of these Cossacks come to this country, we shall ask them to produce certificates of good character from the Russian police, and upon their failure to do so we shall send them back to Russia.

We have retrograded in our attitude toward political refugees. The act of August 3, 1882, which for the first time debarred foreign convicts, excepted "those convicted of political offenses." The act of March 3, 1891, made the exemption bill stronger by the insertion of the following proviso:

> *Provided*, That nothing in this act shall be construed to apply to or exclude persons convicted of a political offense, notwithstanding said political offense may be designated as a "felony, crime, infamous crime, or misdemeanor involving moral turpitude" by the laws of the lands whence he came, or by the court convicting.

The provision was in agreement with the best authorities on international law, which recognize that most political offenses are "admixt crimes," which would be considered common crimes if it were not for the political motive of the offender.

The reason for the exemption in favor of political refugees is the general recognition of the fact that men and women who fight tyranny in the country of their birth may prove very useful and peace-loving citizens in their adopted country. We have erected monuments in this city to two Polish political offenders, Kosciuszsco and Pulaski.

I have referred to the German refugees who came to this country after the revolution of 1848 to escape capital punishment in their own country; some of them fought in our Civil

War. One of these revolutionists, Carl Schurz, sat in the Cabinet of a President, an honored leader of the Republican Party. The son of another of these revolutionists, Charles Nagel, is a member of the Cabinet of President Taft, and, by the irony of fate, under the provisions of this conference report, should it become a law, would be compelled to enforce the law barring immigrants guilty of political offenses which do not differ from those committed by the German revolutionists of 1848.

The bill as reported by the conference committee qualifies political offenses by adding the words "purely political," and further as "not involving moral turpitude."

Opinions may differ as to when an act is just simply political or "purely political," also whether or not it involves "moral turpitude." Arson, murder, when committed by an individual from personal motives are crimes involving moral turpitude. Yet when a revolution is on these same acts are generally looked upon as acts of heroism, and free nations erect monuments to their fighters for liberty who committed them.

Within the last few years the Russian Government made demands upon the United States for the extradition of its former subjects on the ground that they were guilty of common crimes, such as murder, arson, and assaults upon officials. In every case the League for the Defense of Political Refugees was able to prove to our officials by documentary evidence that the act complained of was of a political nature. But if this provision becomes law, a Secretary of Commerce and Labor who happens to regard such an act as involving moral turpitude will have the power to shut out such a revolutionist from this country on the ground that he can not produce a certificate of good moral character from his Government.

It appears from the case of the English newspaper man, Mylius, who is just now awaiting deportation under a decision of the Secretary of Commerce and Labor, that our law in effect denies an asylum to persons convicted of political offenses. The facts in this case deserve the closest attention of the Senate.

Mylius was convicted of "seditious libel" for accusing the King of England of bigamy. It appears from the record of the case that the English court regarded the offense as one of a political character. In fact, Mylius was tried not for libel, but for defamation of character. In a prosecution for libel truth is a complete defense. In a prosecution for defamation the defendant is not permitted to prove the truth of his accusations. Mylius offered evidence to prove the truth of his publication, but his evidence was not admitted.

There is a similar distinction in the New York Penal Code. A person may be prosecuted for defamation of character of a private citizen even though his accusations may be true. But there is a very important exception to this rule: If the complainant holds a public office and the accusation is made with a public purpose, truth is a complete defense. It is evident that a King holds a public office, and the allegation of Mylius that the object of his publication was to arouse the public sentiment against the institution of monarchy was very material. Certainly there was no personal malice in his act, for he is too far removed from the King to nurture any personal spite against him. If there ever was a "purely political offense," this was one of them. The Secretary of Commerce and Labor holds the political motive of the publication is insufficient to make it "a purely political offense" and that it "involves moral turpitude." And back to England Mylius must go. Under this interpretation the Declaration of Independence, which charged King George III that "he has plundered our seas, ravaged our coasts, burnt out towns, and destroyed the lives of our people," was libel involving moral turpitude. It is clear that the bill gives no adequate protection to political refugees.

Now, permit me to call the attention of the Senator from Massachusetts to one provision which I believe has wholly escaped the attention of the conferees. In the paragraph——

Mr. LODGE. From what section does the Senator read?

Mr. LA FOLLETTE. It is in section 3, in the paragraph beginning "All aliens." Has the Senator a copy of the conference report before him?

Mr. LODGE. I have that section before me.

Mr. LA FOLLETTE. It is section 3.

Mr. LODGE. Yes; I have section 3.

Mr. LA FOLLETTE. Now, just run along to the third paragraph beginning "All aliens over 16 years." Has the Senator found that?

Mr. LODGE. The illiteracy test?

Mr. LA FOLLETTE. Yes. Now, then:

All aliens over 16 years of age, physically capable of reading, who can not read the English language, or some other language or dialect, including Hebrew or Yiddish—

That is, they are excluded—

Provided, That any admissible alien or any alien heretofore or hereafter legally admitted, or any citizen of the United States, may bring in or send for his father or grandfather over 55 years of age——

That was "50 years of age" in the Senate bill. The age limit is raised for some reason.

Mr. LODGE. That is the House bill.

Mr. LA FOLLETTE. The provision continues:

his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to enter.

There is an omission right at that point. After the word "grandmother," there is omitted "of children over 18 years of age," which appeared in the Senate bill.

Mr. LODGE. The House insisted on their language at that point, and the argument they made was that this would admit the daughter at any age.

Mr. LA FOLLETTE. No; it admits the daughter if she is widowed.

Mr. LODGE. Oh, no; if unmarried or widowed. It admits the daughter at any age.

Mr. LA FOLLETTE. Yes; that is right.

Mr. LODGE. It admits sons under 16.

Mr. LA FOLLETTE. Yes.

Mr. LODGE. The House took the ground that a son over 16 could learn to read and write in order to be able to get in. They made that distinction, and insisted on it.

Mr. LA FOLLETTE. No son over that age; no boy.

Mr. LODGE. No son.

Mr. LA FOLLETTE. No boy over that age can be admitted to this country unless he can read and write although both his father and his mother and all the rest of the family are here. I can not believe that it ministers to the good of this country or to the betterment of social conditions to separate the father and the mother from their 16-year-old boy.

Mr. LODGE. I do not think that the cases that would arise would be very serious or very numerous.

Mr. LA FOLLETTE. Well, but if that rule——

Mr. LODGE. I see the Senator's point. If the matter should be reopened in conference, of course we would bring that point up.

Mr. LA FOLLETTE. It is not a question of how many are hurt, but whether any of those who in good faith cast their lot with us are made to suffer needlessly. The family is separated only temporarily—long enough for the father to come to this country to earn the money with which to bring over the wife and their boys and girls. The Senate of the United States ought not to stand for a provision that would deny the right, when the father and mother and daughters are here, to bring over the boys of 16, 17, 18, and 19, even though they might not meet the literacy test, when the father and mother have been admitted before that test went into effect. What a hardship to that family, and what a cruel wrong to those young boys, who will later, in all probability, come to this country and become a part of our political and social life, but who in the meantime have been deprived of the parents' guidance and of all the precious home ties. It can not make for good citizenship or be an advantage to this country.

There is a provision later on, at the end of that section, which reads:

Provided further, That nothing in this act shall exclude the wife or minor children of a citizen of the United States.

But a man must be five years in this country before he can become a citizen of the United States, and many good men within my own knowledge have been in this country much longer than that without becoming citizens. They have moved from one State to another in order to find employment or to secure better advantages for themselves and their families. These changes in residence sometimes make it difficult to secure the necessary two witnesses, so that under the provisions of this conference report many minor boys might be excluded whose parents are already here. It is wrong.

Now, Mr. President, I have taken more time than I intended, as I purposed only very briefly to point out the obvious wrongs that might result if the bill was not amended. I hope that there will be no opposition to sending it back to conference. Here is a great measure, of vital importance to the country. It can not be too well considered. I know that we need legislation upon this subject. Because of the large number of people of foreign birth that we have in Wisconsin, I have watched the progress of this kind of legislation since I was old enough to understand.

It has seemed to me the purpose of our legislation generally should be not so much the limitation as the improvement of immigration, the uplifting of the people who come here to

become a part of our citizenship. With that, Mr. President, I am most thoroughly and completely in sympathy.

But there is going on in many countries of Europe a struggle for larger freedom, with which the American people are in sympathy, and we should not write into a measure of this kind any provision that would militate against the great movement for a truer democracy that is sweeping over the world.

Mr. LA FOLLETTE subsequently said: I ask leave, in connection with my remarks, to print many telegrams which I have received, one of them from a former member of the Russian Douma, now living in Massachusetts, in which he makes a most touching and pathetic appeal for the dropping out of the provision which has been the subject of principal discussion here to-day, which I hope the Senators will find time to read.

The PRESIDENT pro tempore. Without objection, the order will be made.

The telegrams referred to are as follows:

DORCHESTER, MASS., *January 20, 1913.*

Senator LA FOLLETTE,
Washington, D. C.:

In behalf of my friends and political refugees from Russia I most emphatically protest against the clause of the pending immigration bill requiring from political refugees a certificate of character from their home Government. This will bar all political refugees coming from Russia, where they are denied all political and civil rights merely on account of their republican views inimical to the autocratic government of the Czar. I wish to emphasize the fact that even the members of the Duma who belong to opposition parties are prosecuted for their political beliefs and are forced to emigrate. Furthermore, I wish to state that political refugees never leave their countries upon their free will. They keep their places among their native people in their native country as long as they possibly can, fighting for freedom of their own nation. A successful revolution in any country means more happiness and more contentment among the bulk of the people. Bad home government makes for large immigration. Democratic governments are apt to keep their people home. It is my firm conviction that the great Republic of the United States should not help to thwart the government for freedom in Russia in trying to punish once more those who are being punished severely enough by the Czar's Government, which forces them unwillingly to choose banishment from their beloved country.

JOHN OSHOL,
Ex-Member of the Second Duma of Russia.

CHICAGO, ILL., *January 20, 1913.*

Senator ROBERT LA FOLLETTE,
Washington, D. C.:

Urge defeat conference bill requiring immigrant bringing certificate of character. Reversal of American policy.

GRACE ABBOTT,
Director Immigrants' Protective League.

NEW YORK, *January 20, 1913.*

Hon. R. M. LA FOLLETTE,
The Senate, Washington, D. C.:

Many thanks for telegraphing, giving me certificate provision in immigration conference report. Earnestly hope that provision will not be adopted. It would operate to deprive us of finest immigrants from oppressed people.

HERBERT PARSONS,
President Society Friends of Russian Freedom.

NEW YORK, *January 19, 1913.*

Hon. ROBERT M. LA FOLLETTE,
United States Senate, Washington, D. C.:

Political Refugees' Defense League, New York, respectfully requests that you oppose provision in immigration bill demanding immigrant furnish certificates good character from Government issuing same. This means Russia only, who refuses such certificates to revolutionists, democrats, liberals, and all only suspected of opposition. Officials exact bribes from all not suspected for issuance certificates. Thousands honest immigrants unable to secure certificates for these and other reasons not within their control will be excluded, for Government will be tool of Russia.

POLITICAL REFUGEES' DEFENSE LEAGUE, NEW YORK,
M. OPPENHEIMER, *Chairman.*
DR. PAUL S. KAPLAN, *Treasurer.*
SIMON O. POLLOCK, *Attorney.*

NEW YORK, *January 19, 1913.*

Senator LA FOLLETTE,
Senate, Washington, D. C.:

We protest vigorously against clause said to be included in immigration bill in conference committee which would demand from immigrants good character certificates from their government. Some of the best citizens America has had would have been excluded under such ruling. Please use your influence in Senate against this.

LILLIAN D. WALD,
Head Worker Henry Street Settlement.

CHICAGO, ILL., *January 20, 1913.*

ROBERT LA FOLLETTE,
United States Senate, Washington, D. C.:

Members of Immigrants' Protective League protest against proposed requirement of character test as unreasonable, oppressive, un-American, designed to strengthen the hand of oppressive government.

S. P. BRECKENRIDGE,
Secretary Immigrants' Protective League.

NEW YORK, *January 19, 1913.*

ROBERT M. LA FOLLETTE,
United States Senate, Washington, D. C.:

Conference immigration bill, in section 3, contains provisions not previously considered, excluding subjects of countries issuing character certificate failing to produce such certificate to immigration officials. This will exclude majority Jews coming from Russia and Roumania, owing to practical legal difficulties attending procurement of certificates, the compliance with elaborate conditions imposed, their military regulations, and the large expense involved. How could victims of Kishineff or the thousands constantly expelled from their homes by police or those suspected of being political offenders expect to secure such a certificates? Such reversal of our attitude toward the persecuted can not be intended. Bill should be amended to preclude cruel consequences inevitably resulting from present phraseology.

LOUIS MARSHALL,
President American Jewish Committee.

DORCHESTER, MASS., *January 20, 1913.*

Senator LA FOLLETTE,
Washington, D. C.:

In behalf of the Boston Political Defense League, we emphatically protest against the pending immigration bill, particularly against the clause requiring from immigrants a certificate of character from their Government. This would be tantamount to absolute exclusion of political refugees from Russia, whose Government stamps as crime any political view differing from those of autocracy and tyranny, and whose courts and officials regard any immigrant leaving the country without the consent of the Czar's Government as criminal and outlaw, whose property may be confiscated. It is our firm belief and hope that the Republic of the United States will not become a party to the oppressive policy of the autocratic Government of the Czar.

For the Boston Political Refugees Defense League,
Mr. M. J. KONIKOW, *Secretary.*

CHICAGO, ILL., *January 20, 1913.*

Hon. ROBERT M. LA FOLLETTE,
186½ Wyoming Avenue, Washington, D. C.:

Bohemian American National Council appeals to you to lead the fight against the vicious conference immigration bill; un-American, useless; only helps for European Government to oppress.

E. S. VRAY, *President.*

CHICAGO, ILL., *January 20, 1913.*

Hon. ROBERT M. LA FOLLETTE,
186½ Wyoming Avenue, Washington, D. C.:

Section 3 of the conference immigration bill contains provision for certificate of character that would be complete reversal of the United States attitude toward those of other nations persecuted for political opinion. If this provision were enacted into law it would exclude the majority of Jews coming from Russia and Roumania, owing to legal difficulties in securing certificates. I hope that you will use your influence to have bill amended to preclude cruel consequence inevitably resulting from present phraseology.

ALEX. A. MCCORMACK,
President of the Board of Commissioners of Cook County.

CHICAGO, ILL., *January 20, 1913.*

Hon. ROBERT M. LA FOLLETTE,
186½ Wyoming Avenue, Washington, D. C.:

We have just learned that conference immigration bill, section 3, requires immigrants to produce certificates of character from their home Governments. Should this bill become a law, it would bar political refugees from entering this country, as no Government would give certificates of good character to political agitators who endeavor to secure laws for the betterment of their conditions, while it might readily give such certificates to criminals and other undesirables, in order to be rid of them. This country has always been the asylum of political refugees, and we, on behalf of 70,000 members of the Polish Catholic Union of America, who are citizens of this country, protest against this bill as being unjust and un-American; and we respectfully appeal to you to use your influence to defeat this measure.

STANISHLAUS ADAMKIEWOZ,
President Polish Catholic Union of America.
N. S. BUDZBAN, *Secretary.*

Mr. ROOT. Mr. President, as I was not a member of the committee which reported this bill or of the conference committee, I did not read the terms of the conference report until the report was printed in Saturday's RECORD. I am, however, somewhat familiar with the history of the long struggle of the United States to establish and maintain the American doctrine of expatriation, and I feel deeply interested in having nothing embodied in our legislation which may tend to strike down that doctrine or which may tend to put it in the power of any other country to limit the operation of the doctrine that every man in this world is entitled to change the country of his residence.

I think, upon reading this clause, that it probably would open the door to make it possible that the right of immigration from foreign countries to the United States might be limited or prevented by the action or refusal to act of the country from which the immigrant seeks to come. For that reason I hope that the Senators in charge of the bill will ask to have it sent back to conference, in order that the following words may be stricken out:

Citizens or subjects of any country that issues penal certificates or certificates of character who do not produce to the immigration officials such a certificate.

I am in favor of the bill, Mr. President. I think it contains many provisions of very great value, and I would regret exceedingly to have its passage prevented.

Let me make one further suggestion. I think I can appreciate, probably better than most Senators, the reasons which perhaps led to the inclusion of this clause, because it is in my own State and in my own city that the evil resulting from the immigration of criminals has been most deeply felt. It has been a very great evil; it is so now. It is making collections, groups of the most desperate criminals in our American cities, and especially in my own city of New York; and I feel sure that the recommendation for the insertion of this clause by the department was with the sincere desire to make it possible for the immigration officers to keep out the Black Hand and the Camorra, which are so injurious to the maintenance of order and the enforcement of law in the city of New York. I feel sure that the clause was inserted with a good intention. I do not want, however, to let this occasion pass without expressing my belief that this clause was framed by officers who were thinking about keeping out Italian criminals and were not thinking about Russia at all; but because, as so frequently happens, a clause put in with one idea in mind may produce unexpected results in other directions, I think the clause ought to go out.

Mr. President, I think this is a very good illustration of the value and importance of discussion of having for measures of legislation the scrutiny of many, and an opportunity for discussion upon every provision. That opportunity having been given, I hope the evident sense of the Senate on this subject may receive effect on the part of the conferees.

Mr. LODGE. Mr. President, the Senator from Wisconsin [Mr. LA FOLLETTE] and the Senator from New York [Mr. O'GORMAN] have both recognized that the intent of the conferees was not to usurp power or put in any language which they did not thing was proper. I think, as a mere question of parliamentary procedure and precedent, we had a right to put in the provision under the very sweeping decisions to which I have referred. However, that is not the question; the question is whether it ought to be there at all.

I hesitate very much to disagree on questions of interpretation of law with either Senator from New York; but I find, Mr. President, that an interpretation of which I did not think it susceptible is given to that clause, not merely by Senators who are opposed to the bill, but by Senators who are as strongly in favor of the bill as I am. If the provision is open to the interpretation which has been given to it here in debate, to which both Senators from New York, the Senator from Wisconsin, and others think it is open, I feel, Mr. President, reluctant as I am to cause any delay in the adoption of this report, that it ought to be sent back to conference. I therefore move that the Senate disagree to the report of the conference committee, and request a further conference with the House, the conferees on the part of the Senate to be appointed by the Chair.

Mr. LIPPITT. Mr. President, before that motion is put, if the bill is going back to conference, I hope the conferees will not overlook the other point which was brought up by the Senator from Wisconsin [Mr. LA FOLLETTE] and which, it seems to me, is very worthy of consideration. I refer to the point which he made in regard to limiting the age at which children may be brought into this country by their parents and under which only the sons under 16 years of age can be brought into this country, unless they can pass the literacy test. I have had recently one or two very sad and deplorable cases brought to my attention, where parents who are in this country have attempted to bring in their children.

One case in particular occurs to me, of a young girl, perhaps 10 or 11 years old, who under the operation of the present law, if in the charity of the Secretary of Commerce and Labor it had not been interpreted very liberally, would have been sent back to Europe under conditions which seemed to me almost equivalent to murder. She would have been landed upon the docks there with absolutely nobody to take care of her, with no relatives, and with no means of support.

In addition to that, as suggested by the Senator, such a provision would have a tendency to break up families and leave boys of 16 years of age to become waifs in the great cities of Europe or to be brought up under conditions that would almost surely make for criminality, or something of that character. I hope that if it is possible that part of the bill will also receive the attention of the conferees.

Mr. LODGE. I assure the Senator that the matters to which the Senator from Wisconsin has called attention will receive the consideration of the conferees.

Mr. LA FOLLETTE. Mr. President, I think if the conferees would restore the language of the Senate bill at that point it would cure what I conceive to be the defect there.

Mr. LODGE. Yes; by restoring the Senate provision.

The PRESIDENT pro tempore. The question is on agreeing to the conference report.

Mr. LODGE. Mr. President, I moved to disagree to the report. Of course the other motion takes precedence if anyone makes it, but I made the motion to disagree.

Mr. STONE. Mr. President, I made a point of order against the provision which has been discussed most extensively here; but I am not going to press the point of order now, in view of the attitude of the Senator from Massachusetts. I desire to say, however, that it seems to me, notwithstanding the decisions of several Speakers of the House of Representatives, for whom I have great respect, that the better and safer practice is the one laid down in the Manual. I think it is an unwise and dangerous practice to confer power upon conference committees to introduce into legislation important provisions like the one now before us without giving to the Senate or to the House any opportunity to discuss them.

The Senator from New York [Mr. ROOT] well remarked that this is a fine illustration of the necessity of having matters of this kind brought before the body of the Senate—the Senate itself—for discussion and elaboration. True, various Speakers of the House of Representatives have held otherwise, or seemingly so at least; but I do not know whether there are any precedents of the Senate—I have not had time to have them looked up—embodying rulings upon like questions.

Mr. LODGE. Mr. President, if the Senator will allow me at that point, there was a question involving this principle decided both by the Senate and the House in the case where the conference committee put what was known as the "Japanese passport clause" into the immigration bill of 1907. It was absolutely new matter; but it was held under the general rule, which I have cited, that the whole subject was before the committee, and both the Senate and the House ruled it in order.

Mr. STONE. All I care now to say is that if this provision is brought back in any objectionable form—I am not sure, in any form—as an entirely new clause in the bill, I shall ask the judgment of the Senate as to whether the practice which the Senator from Massachusetts says is established in the House shall prevail in the Senate. The Senate, of course, can adopt its own rules——

Mr. LODGE. Oh, absolutely.

Mr. STONE. And its own practices.

Mr. LODGE. The Senator can search this bill from beginning to end and he will not find anything in it that was not in one bill or in the other——

Mr. STONE. Well, we have found one very important provision that was not in either bill.

Mr. LODGE. Except this provision; and of that the conferees were perfectly aware.

Mr. STONE. Now, Mr. President, I am going to ask that the part of an article I have marked, appearing in to-day's New York Times, prepared by Mr. Herbert Friedenwald, with relation to this particular clause, may be inserted in the RECORD without reading. I now withdraw the point of order.

The PRESIDENT pro tempore. The Senator from Missouri withdraws his point of order. The matter which he desires printed in the RECORD will be ordered printed, in the absence of objection.

The matter referred to is as follows:

Statement, signed by Herbert Friedenwald, secretary of the American Jewish committee:

"The conference committee on the immigration bill which has for more than a year been under consideration in Congress, reported what is practically a new measure late on Thursday. On the following day the House of Representatives adopted the bill as reframed by the Senate and the Senate will probably act on it on Monday.

"It has just been discovered that the bill thus reported contains a clause which will exclude the majority of all Jews coming to this country from Russia and Roumania, and practically all immigrants who are suspected of being political offenders, and a large number of immigrants of all religious denominations from continental Europe. This provision adds a new class of aliens to those who are to be excluded from the United States, namely, 'citizens or subjects of any country that issues penal certificates or certificates of character, who do not produce to the immigration officer such a certificate.'

"The Russian laws regulating the issuance of such certificates are minute and onerous in their provisions. First of all, the possession of a Russian passport is required. This calls for the signatures and counter signatures of police and Government officials and of notaries. If the intending immigrant is a male 18 years of age, he must also present documentary proof that he has presented himself for military service and has been refused; if more than 21 years of age, that he has served in the army or is among the reserves. He must procure a police certificate that there is no objection to his leaving his home; that no fine has been imposed upon him; and that there is no civil judgment against him. If any member of the applicant's family is under disabilities his application is rejected.

"The legal fee to be paid for the passport is $9. The exactions of the police officials frequently amount to much larger sums, and it is conceivable that under the 'system' it will be easier for a real criminal to purchase the necessary certificate of character than it would be for a poor and honest man to obtain it.

"When one considers the exactions to which the Russian Jew is constantly subjected, his harsh and oppressive treatment by police officials,

the fact that he is driven from pillar to post, and is frequently excluded from his home and stripped of his belongings on the pretext that he has overstepped the pale of settlement, it becomes at once apparent that for the average man compliance with the proposed amendment will be a practical impossibility. How could the victims of Kishineff or the thousands who are suspected of political offenses expect to secure such a certificate?

"In Roumania Jews are regarded neither as citizens nor as subjects. They are declared by statute to be 'aliens.' In their case compliance with the act is literally impossible.

"It is thus evident that this objectionable clause must have crept into the bill of the conference committee through inadvertence or without due appreciation of its consequences. It certainly can not have been intended to reverse our historic policy of affording an asylum within our hospitable gates to the persecuted and to those supposed to be political offenders.

"Congress has had no opportunity to give the slightest consideration to this important change in the law. It was never even suggested during the protracted consideration that has been given to the bill, and we are now confronted with the grave peril of having this un-American clause thus hastily injected into our legislation without the realization of its consequences.

"By means of it foreign Governments will be able to regulate immigration into the United States by arbitrarily granting or withholding certificates of character. This feature of the immigration bill, superadded to the literacy test, in itself a sufficient objection, should determine its fate."

Mr. SIMMONS. Mr. President, I desire to detain the Senate only a moment. I want to express my sympathy with the views set forth by the Senator from Wisconsin [Mr. LA FOLLETTE] in regard to the powers of conference committees and the manner in which the two Houses are handicapped under the present rules in dealing with conference reports. I am glad the Senator from Wisconsin brought that matter up, and I am glad we have had this discussion with regard to the rules governing conference reports. I think there ought to be a liberalization of these rules. I believe that the House and the Senate ought to have the right to adopt the report of a conference committee with amendments, and that these amendments should go back to the conference committee for further consideration. I do not suggest that as the best method of reaching and remedying this difficulty, but I do wish to say, Mr. President, that I have felt repeatedly since I have been a Member of this body the necessity of some liberalization of the rules under which the Houses act with reference to conference reports.

Now, one word, Mr. President, in reference to the provision as to penal and character certificates incorporated by the conference committee. I think that if there is anything emphasized under our immigration laws it is the purpose on the part of the people of this country to exclude so far as practicable from admission to our shores the criminal classes of Europe. I am heartily in sympathy with any provision which will accomplish that purpose. I believe that a part of the provision proposed by the conferees does contribute to that end. I believe that that part which refers to penal certificates would be most valuable in accomplishing our fundamental purpose in excluding European criminals.

I think, however, the committee has presented the provision in a form that is rather too drastic, too mandatory, too binding upon our immigration officers, and as this bill, probably by unanimous consent, is to be allowed to go back to the conference committee, I suggest that that provision might be retained not as a mandatory provision, but allowing such certificates to be considered as prima facie evidence of the criminality and the nonadmissibility of the alien.

The great difficulty, Mr. President, in administering the provision of our laws against the admission of criminal aliens is in ascertaining the facts bearing upon the record of the immigrant. If we can secure some official evidence under the laws of the country from which he proposes to emigrate showing that he is or is not entitled to admission, I think it would be a matter of wise precaution to take advantage of that law. I do think, however, that the provision in the conference report is entirely too drastic.

Now, so far as the character of the second certificates provided for in the report are concerned, I am very glad the Senator from Massachusetts feels the force of the argument which has been made with reference to them. I do not think the mischief apprehended by some Senator would follow the adoption of this provision, but it would open the door to possible abuses, which would intrench upon the traditional policy of this Government with reference to expatriation. Feeling that way about it, I went over to the Senator from Massachusetts shortly after the discussion upon this report began this morning and suggested to him that possibly under the circumstances it would be well to let the report go back to the conference committee in order that this subject might have further consideration.

Mr. LA FOLLETTE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Carolina yield to the Senator from Wisconsin?

Mr. SIMMONS. Yes.

Mr. LA FOLLETTE. Before the Senator takes his seat I wish to call his attention to another provision in this conference report, which enlarges the powers of the Secretary of Commerce and Labor with respect to the importation of contract labor. I think the provision may have escaped the attention of Senators on the other side.

Mr. SIMMONS. That matter was under discussion here on Saturday, when the Senator, I apprehend, was not present.

Mr. LA FOLLETTE. This conference report was not up at that time.

Mr. SIMMONS. Yes; I think the conference report was up then.

Mr. LA FOLLETTE. I think the conference report has been called up to-day.

Mr. SIMMONS. Yes; but it was called up informally on Saturday and went over until to-day. I ask the Senator from Massachusetts if I am not right about that? I interrogated the Senator from Massachusetts on Saturday with reference to the provision as to contract labor.

Mr. LA FOLLETTE. May I say to the Senator——

Mr. LODGE. If the Senator will allow me, the provision to which the Senator refers was in the Senate bill.

Mr. LA FOLLETTE. I understand that.

Mr. LODGE. It has been reproduced here; but I think it makes no enlargement at all.

Mr. LA FOLLETTE. But oftentimes, Mr. President, bills which pass the Senate contain provisions not well understood by all Senators, and I desire simply to call the attention of the Senator, while he is on his feet, to one provision in this conference report. On page 4, as printed in pamphlet form, at the bottom of the page, the Senator will find this:

Provided further, That skilled labor, if otherwise admissible, may be imported if labor of like kind unemployed can not be found in this country.

That is the existing law.

Mr. SIMMONS. Yes; so I understand.

Mr. LA FOLLETTE. The existing law is enlarged by the conference report to this extent—and I submit this for the consideration of Senators on that side and on this side:

And the question of the necessity of importing such skilled labor in any particular instance may be determined by the Secretary of Commerce and Labor upon the application of any person interested, such application to be made before such importation and such determination by the Secretary of Commerce and Labor, to be reached after a full hearing and an investigation into the facts of the case.

This is new matter and modifies the existing law. It gives the Secretary of Commerce and Labor the right to say when skilled employees shall be imported into this country under a contract to labor in this country. He conducts the hearing. "After a full hearing," it is true, but he determines what constitutes a full hearing, and he conducts that hearing upon the application of any individual who is interested in having that contract labor imported into this country.

Mr. DILLINGHAM. Mr. President——

The PRESIDENT pro tempore. Does the Senator yield to the Senator from Vermont?

Mr. LA FOLLETTE. Certainly.

Mr. DILLINGHAM. I should like to say, in explanation of that provision, that it was in the bill as adopted by the Senate.

Mr. LA FOLLETTE. I am aware of that.

Mr. DILLINGHAM. There are a great many cases in the development of our industries in this country like one I have in mind that happened in Connecticut, where American citizens proposed to establish a manufactory of lace. They went abroad and purchased machinery for that purpose, the machinery being made under European patents and not procurable in this country. They brought it over here and established their mills, and then it became necessary to bring in foreign labor that was acquainted with that machinery in order to operate it.

There was no such skilled labor in this country as was required to operate that machinery. Under the present law all they could do was to go and make a contract to bring them over, which would be in violation of the law unless it was afterwards ratified by the American authorities. They had to bring them to Ellis Island, and then when objection was made to their coming in as contract laborers under the law they made their appeal to the Secretary of Commerce and Labor, and then he had to hear the question of whether skilled labor was necessary under the existing law and whether for that reason they ought to be admitted. It put these people to the expense, and to the risk as well, of bringing them over, with a possibility that they might be rejected if the decision was adverse.

Mr. LA FOLLETTE. If the Senator will permit me, I should like to inquire right at that point why it would not have been well for the manufacturers seeking to bring in these foreign skilled laborers to have applied for permission to do so before going abroad?

Mr. DILLINGHAM. Because the law gave the Secretary no authority; and this is to give the Secretary the authority to let them come and present their case in advance.

Mr. LA FOLLETTE. That is perfectly true; but the law provided that they should have a hearing.

Mr. DILLINGHAM. But they could not have a hearing until after the persons had been imported, had been held up at Ellis Island, and the question was certified up.

Mr. LA FOLLETTE. It is not proposed here to give them a hearing in advance.

Mr. DILLINGHAM. Yes, it is.

Mr. LODGE. That is the point.

Mr. DILLINGHAM. That is the very point of the amendment and the only object of it.

Mr. LODGE. That is the object of it and that is all there is to it.

Mr. LA FOLLETTE. I want to say this, Mr. President, if the Senator has concluded: I do not believe it should be left to the Secretary of Commerce and Labor to have the final word on that subject without some provision for an appeal, and I want to suggest to the Senator from Massachusetts that the conferees could well incorporate in this connection a provision for an appeal on the part of any dissatisfied party.

We know perfectly well—and we may as well look this matter squarely in the face—that the manufacturers of this country desire to bring skilled labor and other labor into this country from abroad whenever they can, because they can get it cheaper there than they can here. That is the whole basis for our protective system and for our claim of the necessity of a protective tariff. I am in favor of their bringing in that labor if it can not be found in this country. I am not in favor of their bringing it in if it can be found in this country. I do not believe we should give to any single official the final word as to whether they shall have that authority or not. I would not leave the matter in any doubt.

I was going to say to the Senator from Massachusetts, in conclusion, that it is a very easy matter to add to that paragraph, and I would suggest adding that the decision of the Secretary of Commerce and Labor shall be subject to appeal.

Mr. LODGE. I think it is now, as a matter of fact; but it will do no harm to put it in.

Mr. LA FOLLETTE. There will not be any doubt about it if it is specified.

Mr. LODGE. Not the slightest. I am much in favor of such a course.

Mr. DILLINGHAM. I should like to say, in connection with the remarks of the Senator from Wisconsin, that there is no branch of the present immigration law which is enforced with greater strictness than the contract-labor provision. The department is exceedingly careful to see that the law is observed. The execution of the law in some instances seems to be rather drastic, and yet it is nothing to be criticized. I say that because I know the Senator desires to have it so executed; and I can assure him now that that class of immigration gets no sympathy from the department.

Mr. LA FOLLETTE. But I am sure the Senator from Vermont will agree with me that no matter of such tremendous importance should be left to the discretion of any individual. It may be well administered to-day, and it may be ill administered to-morrow.

Mr. SIMMONS. Mr. President, I think I have the floor.

The PRESIDENT pro tempore. The Senator from North Carolina had the floor.

Mr. LA FOLLETTE. I beg the Senator's pardon.

Mr. SIMMONS. Mr. President, I had about concluded what I had to say with reference to the resubmission of this report to the conferees. The Senator from Wisconsin, when he addressed the Senate on this question a little while ago, referred to the contract-labor provision. I stated then that this conference report had been up on Saturday. I think I was correct in that statement. I remember asking the Senator from Massachusetts for an explanation of that provision of the conference report. I distinctly recall asking for an explanation. I had examined it, and it was not quite satisfactory to me. I had somewhat the same objections that the Senator from Wisconsin has expressed.

Mr. LA FOLLETTE. Mr. President, I think perhaps I was in error in saying to the Senator from North Carolina that the conference report was not before the Senate on Saturday, although perhaps not technically in error. I believe it was not called up until this morning. The Senator from North Carolina may have interrogated the Senator from Massachusetts about it upon its coming into the Senate.

Mr. SIMMONS. The matter was somewhat discussed here on Saturday, and went over by unanimous consent.

Mr. LA FOLLETTE. Perhaps it was.

Mr. SIMMONS. After the Senator from Massachusetts had made the statement on Saturday, it appeared to be the situation, so far as contract labor is concerned. We would, under this provision in the report, admit contract labor under certain conditions. Those conditions raised an issue of fact. Upon the determination of that fact the immigrant was to be admitted or he was to be denied admission, and, of course, somebody had to be vested with the authority to decide that question of fact. The only debatable question is whether the decision so rendered should be final.

There would be great force in what the Senator from Wisconsin suggests if there were no right of appeal from the decision of that officer. But my understanding is that under the present law there exists the right of appeal from the finding upon that question. That right, I understood, is provided in the existing law. I desire to inquire of the Senator from Massachusetts whether I am right about that.

Mr. LODGE. I explained that fully on Saturday.

Mr. SIMMONS. I did not understand the Senator from Massachusetts. There was some confusion at the time. There is the right to appeal, as I understand.

Mr. LODGE. There is the right to appeal. I misunderstood the Senator.

Mr. SIMMONS. I said I would have the same objections which the Senator from Wisconsin has urged unless I thought there was a right of appeal.

Mr. LODGE. The decision of the Secretary can not be final if it is in violation of law. The matter goes into court whenever that question is raised.

Mr. LA FOLLETTE. I just wanted to suggest to the Senator from North Carolina that if the conferees made it specific there could be no doubt about it.

Mr. SIMMONS. But, Mr. President, if the Senator will permit me, I think that right is outside of the immigration bill. It is provided in other law, and therefore need not be repeated in the present one.

Mr. LA FOLLETTE. No harm can come from its repetition.

Mr. SIMMONS. I do not think any harm can come, but I think there is no necessity for duplicating the law.

Mr. WORKS. Mr. President, I think we ought not to pass over the suggestion made by the Senator from Massachusetts and accept it as correct that there is a right of appeal in cases of this kind. The Supreme Court of the United States has held directly the contrary in some cases.

Mr. LODGE. I spoke carelessly when I said "the right of appeal." I meant that the Secretary's decision does not estop suit being brought for violation of the law.

Mr. WORKS. Oh, certainly not; but the Supreme Court has directly held that the decision of the Secretary of Commerce and Labor is conclusive upon that question.

Mr. LODGE. I was not aware of that. If that is the case, it shows the necessity of providing an appeal.

Mr. WORKS. I think the Senator will find that to be so.

Mr. STONE. Mr. President, before this report goes back, if it does, to the conference committee, I should like very briefly to call the attention of the Senator from Massachusetts, who I suppose will be a member of the conference committee on the part of the Senate——

Mr. LODGE. Yes; I am chairman of the committee.

Mr. STONE. I should like to call his attention to one or two other provisions of this bill which seem to me to be objectionable, and which, if it goes to conference again, might receive consideration from the conferees.

There appears to me to be an inconsistency between one of the clauses of section 3 and one of the clauses of section 9 in the particular I shall state.

On page 4 of the report, as part of section 3, is the provision that all aliens over 16 years of age, and so forth, capable of reading may be admitted.

Mr. LODGE. Yes; the illiteracy test.

Mr. STONE. Then follows this proviso:

That any admissible alien or any alien heretofore or hereafter legally admitted, or any citizen of the United States, may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not.

Of course, that plainly permits one living here—a naturalized citizen, for example—to send for the particular relatives named.

Mr. LODGE. It is not limited to naturalized citizens. It applies to any admitted alien.

Mr. STONE. I was using that simply as an illustration.

Section 9 provides that it shall be unlawful for any person, including any transportation company, and so on, to bring in people of certain descriptions—those having certain diseases, idiots, and so forth—without being subjected to an examina-

tion in advance, and without the master of the vessel, or one of the two officers immediately under him, making a statement on the manifest that the passengers have been legally admitted and that they are not subject to any of the objections particularly set forth in section 3. The particular clause to which I want to call the attention of the Senator is at the bottom of page 7:

It shall also be unlawful for any such person—

That is, any transportation company—

to bring to any port of the United States any alien who is unable to read or who can not become eligible under existing law.

And a penalty of $100 is prescribed if the officer does not comply with that provision of the bill.

I put this question to the Senator to think of it: Suppose a person who is here sends for his wife, mother, or father; how does the master of the vessel know, when the man or woman comes aboard, that he or she sustains that relationship? There must be some method of proof of it or else the master will not take the word of the individual and assume the risk of the imposition of the penalty.

Mr. LODGE. I see the force of the Senator's suggestion, that it might lead to a refusal on the part of the master. The exceptions ought to be expressed in the section.

Mr. STONE. Yes. I think it is sufficient to call the Senator's attention to it.

Mr. LODGE. I am obliged to the Senator for calling attention to it.

Mr. STONE. I do not know whether the Senator from Massachusetts or the conference committee will agree with me, but instead of the clause in section 3, at the top of page 3 of this report, which reads—

Persons who have committed a felony or other crime or misdemeanor involving moral turpitude—

it seems to me it would be better to employ the language of the present law, which, as I understand, is that any person who has been convicted of or admits having committed a felony, crime, or other misdemeanor shall be excluded.

Mr. LODGE. The language here is the language of the Senate bill. It was very carefully considered. It is based on the recommendation of the Immigration Commission. We had a specific case brought to our attention at Messina, where a man had committed murder and escaped to this country, and under that law he could not be turned back.

Mr. DILLINGHAM. And yet the consul at that place knew the facts.

Mr. LODGE. The consul knew the facts and informed our Government; but we were unable to do anything about it, because he never had been convicted.

Mr. STONE. The language here is:

Persons who have committed a felony or other crime or misdemeanor involving moral turpitude.

Who is to judge whether or not he has committed such an offense? How are we to know?

Mr. LODGE. That is a question of evidence, to be passed on by the Immigration Board, of course, as they pass on all these questions.

Mr. STONE. If some foreign official, acting for his Government, telegraphed to his consul in New York that A. B., an immigrant passenger on a certain ship, had committed a crime in his country, and asked that he be deported——

Mr. LODGE. Of course he could ask for extradition if he chose.

Mr. STONE. The offense might be extraditable, or it might not be.

Mr. LODGE. All felonies are extraditable.

Mr. STONE. Suppose he charges that he has committed a crime. Will the immigrant be tried here by the inspector, or will he be tried by a court, and will he not have the benefit of witnesses. He may never have had a trial or a hearing in his native country.

Mr. LODGE. All that is necessary for the immigration officials is to have it proved that he has committed a crime. Then they could exclude him. That is all.

Mr. STONE. Then is he to be tried here, before an administrative officer, with his witnesses in Europe?

Mr. LODGE. Certainly. He can appeal from the decision. That is done now. Cases of exclusion are constantly appealed.

Mr. STONE. Of course he can appeal from it, but I am talking about the difficulties that would confront a man, charged by some one in that indefinite way with having committed an offense, in proving that he had not committed it.

Mr. LODGE. Of course, the board will have to be satisfied by the evidence that he has committed the offense or he has confessed it.

Mr. STONE. But the present law is that if he has been convicted of committing an offense, or admits it, he shall not be permitted to land.

Mr. LODGE. This is enlarged, and was intentionally enlarged, in the bill that passed the Senate.

Mr. STONE. It seems to me that it places in the hands of foreign Governments a large power to retard the landing of people here upon a mere charge by a foreign Government that the person has committed an offense.

Mr. LODGE. We must have evidence of it, of course.

Mr. STONE. I do not see how it would be furnished if the man had not had a hearing or a trial.

Mr. LODGE. He could be extradited if they wished.

Mr. STONE. I simply desire to call attention to it at this time.

Mr. LODGE. Certainly.

The PRESIDENT pro tempore. The question is on the motion made by the Senator from Massachusetts [Mr. LODGE] that the conference report be disagreed to.

The motion was agreed to.

Mr. LODGE. I now move that the Senate insist on its disagreement to the amendment of the House, and ask a further conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to, and the President pro tempore appointed Mr. LODGE, Mr. DILLINGHAM, and Mr. PERCY the conferees on the part of the Senate.

EIGHT-HOUR LAW.

Mr. SHIVELY. Mr. President, I ask unanimous consent of the Senate to call up House bill 18787 for present consideration.

The PRESIDENT pro tempore. The Senator from Indiana asks unanimous consent for the present consideration of the bill, which will be read for the information of the Senate.

The Secretary read the bill (H. R. 18787) relating to the limitation of the hours of daily service of laborers and mechanics employed upon a public work of the United States and of the District of Columbia, and of all persons employed in constructing, maintaining, or improving a river or harbor of the United States and of the District of Columbia, and there being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Education and Labor with amendments.

The first amendment was, on page 2, line 8, after the word "dredging," to strike out "snagging"; in line 11, after the word "shall," to strike out "terminate within nine hours from beginning of workday" and insert "be continuous, except for customary intervals for meals or rest"; in line 19, after the word "dredging," to strike out "snagging"; and in line 24, after the word "dredging," to strike out "snagging," so as to read:

That sections 1, 2, and 3 of an act entitled "An act relating to the limitation of the hours of daily service of laborers and mechanics employed upon the public works of the United States and of the District of Columbia" be amended to read as follows:

"SEC. 1. That the service and employment of all laborers and mechanics who are now, or may hereafter be, employed by the Government of the United States or the District of Columbia, or by any contractor or subcontractor, upon a public work of the United States or of the District of Columbia, and of all persons who are now, or may hereafter be, employed by the Government of the United States or the District of Columbia, or any contractor or subcontractor, to perform services similar to those of laborers and mechanics in connection with dredging or rock excavation in any river or harbor of the United States or of the District of Columbia, is hereby limited and restricted to eight hours in any one calendar day, which eight hours shall be continuous except for customary intervals for meals or rest; and it shall be unlawful for any officer of the United States Government or of the District of Columbia, or any such contractor or subcontractor whose duty it shall be to employ, direct, or control the services of such laborers or mechanics or of such persons employed to perform services similar to those of laborers and mechanics in connection with dredging or rock excavation in any river or harbor of the United States or of the District of Columbia, to require or permit any such laborer or mechanic or any such person employed to perform services similar to those of laborers and mechanics in connection with dredging or rock excavation in any river or harbor of the United States or of the District of Columbia, to work more than eight hours in any calendar day, except in case of extraordinary emergency.

The amendment was agreed to.

The next amendment was, on page 3, line 5, after the word "persons," to strike out "performing directory, supervisory, or clerical duties, nor to masters, pilots, or mates," and insert "while not directly operating dredging or rock excavating machinery or tools," so as to read:

Provided, That nothing in this act shall apply or be construed to apply to persons while not directly operating dredging or rock excavating machinery or tools.

Mr. CLARKE of Arkansas. Mr. President, I move to amend the committee amendment by adding the words which I send to the desk. I will say in explanation of my action in offering the amendment that it is an exact copy of the exception contained in the eight-hour law, which was approved June 19,

1912. I thought that possibly some provision of this bill might operate to supersede that exception, and as it was thoroughly understood by the Senate that it would constitute an exception, I want to preserve that right by incorporating that feature now. I have presented it to the Senator from Indiana, who has charge of the bill, and if he has any objection he will indicate it.

The PRESIDENT pro tempore. The amendment to the amendment proposed by the Senator from Arkansas will be read.

The SECRETARY. On page 3, line 7, after the amendment of the committee and before the period, add the following:

Nor to persons engaged in the construction or repair of levees or revetments necessary for protection against floods or overflow on the navigable rivers of the United States.

Mr. SHIVELY. Mr. President, the language of the proposed amendment to the amendment is substantially the same as that creating an exception in the eight-hour bill enacted last year. That exception was at the time of its adoption the subject of some discussion in the Senate. The exception here created is not as broad, however, as in that case. I have not had time in which to fully forecast in my own mind its scope and effect, but it seems to apply to dredge workers on certain work a rule applied under the existing eight-hour law to all the workers on Government work under the same circumstances. In any event while I do not give to the amendment to the amendment an unqualified indorsement, I still do not feel that any consequence attaching to it is such as to justify me in delaying expeditious action on the bill.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment of the Committee on Education and Labor was, on page 3, line 17, after the word "dredging," to strike out "snagging," so as to read:

VIOLATION OF ACT BY OFFICER OR CONTRACTOR PUNISHABLE.

SEC. 2. That any officer or agent of the Government of the United States or of the District of Columbia, or any contractor or subcontractor whose duty it shall be to employ, direct, or control any laborer or mechanic employed upon a public work of the United States or of the District of Columbia, or any person employed to perform services similar to those of laborers and mechanics in connection with dredging or rock excavation in any river or harbor of the United States or of the District of Columbia, who shall intentionally violate any provision of this act, shall be deemed guilty of a misdemeanor, and for each and every such offense shall, upon conviction, be punished by a fine not to exceed $1,000, or by imprisonment for not more than six months, or by both such fine and imprisonment, in the discretion of the court having jurisdiction thereof.

The amendment was agreed to.

The next amendment was, on page 4, line 8, after the word "dredging," to strike out "snagging"; and, in line 11, after the word "act," to insert "or may be entered into under the provisions of appropriation acts approved prior to the passage of this act," so as to read:

EXISTING CONTRACTS NOT AFFECTED BY ACT.

SEC. 3. That the provisions of this act shall not be so construed as to in any manner apply to or affect contractors or subcontractors, or to limit the hours of daily service of laborers or mechanics engaged upon a public work of the United States or of the District of Columbia, or persons employed to perform services similar to those of laborers and mechanics in connection with dredging or rock excavation in any river or harbor of the United States or of the District of Columbia, for which contracts have been entered into prior to the passing of this act or may be entered into under the provisions of appropriation acts approved prior to the passage of this act.

The amendment was agreed to.

The next amendment was, on page 4, after line 13, to insert a new section, as follows:

SEC. 4. That this act shall become effective and be in force on and after January 1, 1913.

Mr. SHIVELY. On page 4, line 15, I move to amend the amendment by striking out "January" and inserting "March," so as to read:

That this act shall become effective and be in force on and after March 1, 1913.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. SHIVELY. On page 2, line 11, there is evidently a typographical error. After the word "in" the word "and" should be "any." I move to strike out "and" and insert "any."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

PROTECTION OF INTERSTATE SHIPMENTS.

Mr. SMOOT obtained the floor.

Mr. CUMMINS. Will the Senator from Utah yield for a moment? I desire to submit a report from the Committee on the Judiciary.

Mr. SMOOT. I yield for that purpose.

Mr. CUMMINS. I am directed by the Committee on the Judiciary, to which was referred the bill (H. R. 16450) to punish the unlawful breaking of seals of railroad cars containing interstate or foreign shipments, the unlawful entering of such cars, the stealing of freight and express packages or baggage or articles in process of transportation in interstate shipment, and the felonious asportation of such freight or express packages or baggage or articles therefrom into another district of the United States, and the felonious possession or reception of the same, to report it favorably with an amendment (S. Rept. 1132).

I ask unanimous consent for the present consideration of the bill. It is quite important, and I believe there will be no opposition whatever to it.

Mr. SMOOT. I yield for that purpose.

The PRESIDENT pro tempore. The Senator from Iowa asks for the present consideration of the bill just reported. The bill will be read for the information of the Senate.

The Secretary read the bill.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. WILLIAMS. Mr. President, reserving the right to object to the present consideration of the bill, I wish to ask the Senator from Iowa a question. I understand the reason for this bill to be that it is difficult, in many cases impossible, to prove the venue.

Mr. CUMMINS. That is the only reason for it.

Mr. WILLIAMS. I understand that is the only reason for it. Then, I should not object to the present consideration of the bill if it were so amended as to provide that in cases where the prosecution had been instituted, and there had been a failure to prove a venue, this should become the law; but in its present shape, it seems to me, it is obnoxious to objection, because, I think, it provides later on in the bill that nothing shall operate to prevent the exercise of the jurisdiction of the State in criminal cases of this sort, and that where one has been convicted before the State court he shall not be convicted before the Federal court. Yet, notwithstanding that, the practical operation of the bill would be this: The carriers interested in the execution of the law would invariably bring their prosecutions in the Federal court for two reasons—first, because it would be more convenient to them; and, secondly, because they have the idea at any rate that conviction would more certainly follow.

I will not object to the bill if the Senator will agree to amend it, and let the bill take effect only in cases where there has been a failure to prove the venue; but, in its present shape, I would object to its consideration at this time.

Mr. CUMMINS. I do not feel that I have any authority to agree to the amendment proposed by the Senator from Mississippi. There is an amendment reported by the committee, namely, that where there is a judgment of conviction, or a judgment of acquittal, if the prosecution be in the Federal court that is a bar.

Mr. WILLIAMS. I understand that it applies to either jurisdiction.

Mr. CUMMINS. If it is in the State court it is a bar in the Federal court.

Mr. WILLIAMS. I understand that.

Mr. CUMMINS. But I do not feel that I could for the committee agree to an amendment which would make the prosecution in the Federal court conditioned upon the failure of the prosecution in the State court. The Senator from Mississippi may remember that this is a House bill.

Mr. WILLIAMS. Yes; but, Mr. President, if the Senator from Iowa will excuse me a moment, I do not want to make the prosecution in the Federal court conditional upon the failure of prosecution in the State court, or vice versa. What I want is that the condition upon which the Federal court shall take jurisdiction shall be the impossibility or difficulty of proving the venue; in other words, that there shall be an affidavit made to that effect as a foundation of the jurisdiction of the Federal court.

Mr. CUMMINS. An affidavit by whom?

Mr. WILLIAMS. By whoever is prosecuting the case.

Mr. CUMMINS. The district attorney oftener than otherwise is the prosecutor, of course.

Mr. WILLIAMS. I understand that.

Mr. CUMMINS. And he might not be able to make an affidavit of that character.

Mr. WILLIAMS. But the carrier would be able to find somebody to make the affidavit. There would be no trouble about making the affidavit and about that becoming a part of the indictment.

Mr. CUMMINS. Of course, if we have the bill up for consideration the Senator from Mississippi can very easily move

that amendment. I do not know that I would oppose it at all, but I do not feel like agreeing for the committee to the amendment.

Mr. WILLIAMS. This is a request for unanimous consent. It seems to me that the danger is so palpable and obvious that if the bill becomes a law it will take the jurisdiction of all offenses of this sort practically out of the State courts into the Federal courts, to the detriment, where a man is really innocent, of the arrested person, forcing him to go to a distant forum instead of one near home; and it will become so evident in the interest of the real prosecutors, the carriers, the express companies, to throw all these cases into the Federal court that it will substantially do away with the jurisdiction of the State courts upon questions of this sort.

So I am not willing to grant unanimous consent for the present consideration of the bill until the committee has at least had an opportunity to consider that point and see if they can not amend the bill to meet the objection. I object to its present consideration.

Mr. CLARKE of Arkansas. Mr. President, I hope the Senator from Mississippi will withdraw the objection until I can say just a few words.

Mr. WILLIAMS. I withhold the objection.

Mr. CLARKE of Arkansas. The objection indicated by the Senator, if it is an objection, is a minor one. The fundamental objection to the bill is that it disregards one of the specific provisions of the Constitution of the United States. If there is a principle in our system of government which is fundamental, it is that the venue of a prosecution shall be established before a trial can take place. The system of dragging persons to distant points and to try them there for offenses went out of existence when the Constitution of the United States was adopted. The mere difficulty of proving the venue does not dispense with the necessity of doing it. It may be that the uncertainty was one of the possible means of escape that was contemplated when this system of government was established. It is no reason for dispensing with the necessary and fundamental principle of proving venue that it is difficult to prove it. There are a number of cases where that result has worked out. It would be better that the defendant should go free than that that fundamental principle of American citizenship should be violated.

I am not prepared to admit that because violence is practiced or crimes committed against property that is in transit in interstate commerce it shall constitute an offense against the National Government. It may be that in these times when that particular feature of our Constitution is growing all the time something has been said heretofore by courts or done by Congress that would make that a necessary extension of a doctrine already established and recognized. It is a close question, with the doubt in my mind against it; but I have no sort of doubt about the proposition that the mere uncertainty of the particular place where a certain crime is committed can not be made to dispense with the sixth amendment of the Constitution of the United States, which says:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district—

Not only the State but the district—

> wherein the crime shall have been committed, which district shall have been previously ascertained by law.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Arkansas yield to the Senator from Iowa?

Mr. CLARKE of Arkansas. I do.

Mr. CUMMINS. Of course, the bill does not relieve the Government from the necessity of proving the venue of the crime.

Mr. CLARKE of Arkansas. It must prove it to be within the jurisdiction.

Mr. CUMMINS. The only difference is that when a case is prosecuted in the Federal court the crime must be proved to have been committed in the district, I assume, in which the prosecution is brought forward, whereas in the other case it generally must be proven to have occurred in the county in which the crime was committed.

Mr. CLARKE of Arkansas. You can not prove that it occurred in a district without proving that it occurred in some county. It is no more difficult to prove that it occurred in a county than to prove that it occurred in a district, because the district is made up of counties.

Mr. CUMMINS. It is a little more difficult, because the county is smaller than the district.

Mr. CLARKE of Arkansas. The particular locus of the crime will be established in either event. But in addition to that very essential feature, I think the Senator from Iowa could enlighten some of us at least if he would give us the benefit of an explanation by him as to why he thinks that the simple fact that an interstate train has been burglarized—for it is burglary in Arkansas to break into a freight car that has been sealed—constitutes an offense against the National Government.

Mr. CUMMINS. I did not introduce the bill.

Mr. CLARKE of Arkansas. I do not know anyone who is better able to sustain that position, if it is capable of being sustained, notwithstanding the Senator did not introduce the bill.

Mr. CUMMINS. I reported the bill at the command of the Judiciary Committee.

Mr. CLARKE of Arkansas. The committee owes it to the Senate to be able to demonstrate the legality or validity of the bills it presents. If the Senator is not able to do it, I do not know anyone on this floor who can do it.

Mr. CUMMINS. I have no real doubt about its validity if it passes. Of course, if it is passed it is passed by virtue of our power to regulate commerce among the States, because we have the right to protect and defend commodities in interstate commerce. The Senator from Arkansas is altogether too well versed in the judicial literature of that subject to need any further suggestion of mine.

Now, as to the necessity for such a bill, all that I can say is that it was represented and proven to us that there had been recently more than one miscarriage of justice because it had been found to be impossible to establish in the State courts the venue of the crime charged, and it was believed that this would enable prosecutions to be more effective. There is one case brought to our attention where a baggageman committed larceny upon a trunk coming up, I think, possibly from Jacksonville, through South Carolina, North Carolina, and Virginia, to Washington. He stole a large amount of jewelry from the trunk. It was found upon his person in the District of Columbia. He was prosecuted in the District of Columbia, and he was acquitted because he did not commit the larceny here and because there is no statute in the District of Columbia making it a crime to be found in the possession of stolen property. That is an instance of the inadequacy of the present law.

Mr. CLARKE of Arkansas. That is a defect in the legislation of the District. That does not tend to support the constitutional principle that the mere circumstance of property being transported in interstate commerce is immune, or rather so completely subjects it to the national authority that any interference with it constitutes an offense against the National Government. That matter can be carried a long way. If that were true, no one would dare to assault, except under pain of prosecution in a Federal court, an employee upon a railroad train hauling interstate freight; two passengers could not engage in a broil without subjecting themselves to prosecution in the Federal court. Felony or larceny or any other offense committed on a train engaged in interstate commerce would immediately cease to become a violation of the law of the particular State in which the transaction took place. That would become a national offense. The logic of the thing leads it beyond the doctrine for which the Senator is contending.

Now, I would suppose that when the Judiciary Committee proposed a measure that so radically interferes with the existing condition of affairs that committee would be able to sustain its position by some tangible reference to existing authority, and would not leave it to be assumed that it is because of the provision of the Constitution of the United States, which gives Congress the power to regulate commerce between the States, was a cure-all and a cover-all that embraces everything anybody chooses to say was within its jurisdiction.

As I caught the reading of the bill, the prosecution was not confined to any particular district. It seemed to be a kind of blanket proposition that if an interstate train was robbed from the time it started out anywhere along the route it would give jurisdiction to deal with the offender if they could find him anywhere.

The Senator from Iowa admits now that the territorial scope has been limited by the provision of the Constitution which I have just read, which brought it down as one of the districts in which the United States court served in the several States, and it would be necessary to establish the venue before the prosecution could take place. That, of course, limits the scope of the bill very much from what those who were so ardently interested in it deemed to be the case.

I think myself this is so radical a measure I believe the Senator from Iowa would be justified in taking a little time to prepare himself and see what has become of similar efforts to extend the national jurisdiction, if any such have ever been made, and see if the adjudicated cases would in the slightest degree justify this attempted extension of national authority.

I am not one of the cranks who think that the National Government has no powers. I think it ought to have ample power to carry out every duty imposed upon it. I am not a

strict constructionist on any line any further than the rationale of the situation requires. When I make the suggestions I do it is not at all out of any special jealousy of the jurisdiction of the State courts. I express a preference in many respects for the measure and character of justice administered in the Federal courts. But what I have to say about it is prompted entirely by considerations from that view of it.

Mr. CUMMINS. Mr. President, I shall not enter upon any argument in regard to the bill now. I have no great interest in the bill. I presented it to the Senate because I was commanded to do so by the Judiciary Committee. I believed it was good legislation and I believe it is constitutional. But, at any rate, it would be idle to discuss the bill at this time inasmuch as it is not to be considered at this time. If hereafter it shall come before the Senate, I will be very glad to respond to some of the suggestions which have been made by the Senator from Arkansas.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

Mr. WILLIAMS. I object.

The PRESIDENT pro tempore. The Senator from Mississippi objects, and the bill goes to the calendar.

PUBLIC BUILDINGS IN THE STATE OF WASHINGTON.

Mr. POINDEXTER. From the Committee on Public Buildings and Grounds I report back favorably, with an amendment, the bill (S. 4545) to provide for the erection of a public building in the city of Ellensburg, in the State of Washington, and I also report back with amendments the bill (S. 4547) to provide a site and to erect a public building at Aberdeen, Wash.

Mr. JONES. I ask unanimous consent that the two bills just reported may be put on their passage.

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from Washington?

Mr. SMOOT. I do. I suppose it will not take any time.

The PRESIDENT pro tempore. The Senator from Washington asks for the present consideration of the bill (S. 4545) to provide for the erection of a public building in the city of Ellensburg, in the State of Washington. Is there objection?

There being no objection, the Senate as in Committe of the Whole proceeded to consider the bill.

The amendment of the committee was, in line 12, before the word "thousand," to strike out "two hundred" and insert "eighty-five," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to cause to be erected upon the site already acquired in the city of Ellensburg, Wash., a suitable building, including fireproof vaults, heating and ventilating apparatus, elevators, and approaches, for the use and accommodation of the United States post office in the said city of Ellensburg, Wash., the cost of said building, including said vaults, heating and ventilating apparatus, elevators, and approaches, complete, not to exceed the sum of $85,000.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. JONES. I ask the Senate to proceed to the consideration of Senate bill 4547.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. 4547) to provide a site and erect a public building at Aberdeen, Wash., reported from the Committee on Public Buildings and Grounds with amendments.

The amendments were, on page 1, line 4, to strike out "purchase or acquire by condemnation of a site for and"; in line 5, after the word "erected," to strike out "thereon" and insert "upon the site already acquired"; in line 11, before the word "building," to strike out the words "site and"; and, in line 12, before the word "thousand," to strike out "fifty" and insert "twenty," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to cause to be erected upon the site already acquired a suitable and commodious building for the use and accommodation of the post office and other offices of the Government at Aberdeen, Wash

The plans, specifications, and full estimates for said building shall be previously made and approved according to law, and shall not exceed, for the building complete, the sum of $120,000: *Provided*, That the site shall leave the building unexposed to danger from fire in adjacent buildings by an open space of not less than 80 feet, including streets and alleys; and no money appropriated for the purpose shall be available until a valid title to the site for said building shall be vested in the United States.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. JONES. I suggest that the title be amended by striking out the reference to a site. The site has already been purchased.

The title was amended so as to read: "A bill to provide for the erection of a public building at Aberdeen, in the State of Washington."

PROPOSED EXECUTIVE SESSION.

Mr. SMOOT. I move that the Senate proceed to the consideration of executive business.

Mr. MARTIN of Virginia. Mr. President, it is very evident that there is no quorum present. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Virginia suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Dixon	Lippitt	Simmons
Bankhead	du Pont	McCumber	Smith, Ariz.
Bourne	Fletcher	Martin, Va.	Smith, Md.
Bradley	Foster	Martine, N. J.	Smoot
Bristow	Gallinger	Nelson	Stephenson
Brown	Gamble	O'Gorman	Stone
Bryan	Gardner	Oliver	Sutherland
Burton	Gore	Page	Swanson
Chilton	Gronna	Paynter	Thomas
Clapp	Guggenheim	Percy	Thornton
Clarke, Ark.	Heiskell	Perkins	Townsend
Crawford	Hitchcock	Perky	Wetmore
Culberson	Johnston, Ala.	Poindexter	Williams
Cullom	Jones	Pomerene	Works
Cummins	Kern	Sanders	
Curtis	La Follette	Shively	

The PRESIDENT pro tempore. Sixty-two Senators have answered to their names. A quorum of the Senate is present. The question is on the motion made by the Senator from Utah [Mr. SMOOT] that the Senate proceed to the consideration of executive business. [Putting the question.] By the sound the "ayes" appear to have it.

Mr. CLARKE of Arkansas. Mr. President, I call for the yeas and nays. I think we are entitled to have a yea-and-nay vote on the question.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. FOSTER (when his name was called). I have a general pair with the junior Senator from Wyoming [Mr. WARREN], and I think upon this question I will observe that pair.

Mr. LIPPITT (when his name was called). I transfer my pair with the senior Senator from Tennessee [Mr. LEA] to the Senator from New Mexico [Mr. FALL] and will vote. I vote "yea."

Mr. LODGE (when his name was called). I have a general pair with the junior Senator from Georgia [Mr. SMITH] and therefore withhold my vote.

Mr. MYERS (when his name was called). I have a general pair with the Senator from Connecticut [Mr. MCLEAN] and therefore withhold my vote.

Mr. OLIVER (when his name was called). I have a general pair with the junior Senator from Oregon [Mr. CHAMBERLAIN]. I transfer that pair to the junior Senator from New Hampshire [Mr. BURNHAM] and will vote. I vote "yea."

Mr. SIMMONS (when Mr. OVERMAN'S name was called). I wish to say that my colleague [Mr. OVERMAN] is absent on account of sickness.

Mr. PAYNTER (when his name was called). I have a general pair with the senior Senator from Colorado [Mr. GUGGENHEIM], and I therefore decline to vote.

Mr. PERKINS (when his name was called). I have a general pair with the junior Senator from North Carolina [Mr. OVERMAN], who is detained from the Senate by illness. I transfer that pair to the junior Senator from Nevada [Mr. MASSEY] and will vote. I vote "yea."

Mr. STONE (when Mr. REED'S name was called). I desire to state that my colleague [Mr. REED] has been called from the Senate by imperative business.

Mr. SIMMONS (when his name was called). I wish to ask if the junior Senator from Minnesota [Mr. CLAPP] has voted?

The PRESIDENT pro tempore. The Chair is informed that he has not voted.

Mr. SIMMONS. I have a pair with that Senator and therefore withhold my vote.

Mr. STONE (when his name was called). I have a general pair with the Senator from Wyoming [Mr. CLARK]. He not being present, I withhold my vote.

The roll call was concluded.

Mr. LODGE. I transfer my pair with the junior Senator from Georgia [Mr. SMITH] to the Senator from New Mexico [Mr. CATRON] and will vote. I vote "yea."

While I am on my feet I announce by request that my colleague, the Senator from Massachusetts [Mr. CRANE] is paired with the Senator from Maine [Mr. GARDNER]; that the Senator from New Jersey [Mr. BRIGGS] is paired with the Senator from West Virginia [Mr. WATSON]; that the Senator from Kansas [Mr. CURTIS] is paired with the Senator from Oklahoma [Mr. OWEN]; that the Senator from Delaware [Mr. RICHARDSON] is paired with the Senator from South Carolina [Mr. SMITH]; and that the Senator from Connecticut [Mr. BRANDEGEE] is paired with the Senator from Georgia [Mr. BACON].

Mr. SIMMONS. I transfer my pair with the junior Senator from Minnesota [Mr. CLAPP] to the Senator from Maine [Mr. JOHNSON] and will vote. I vote "nay."

Mr. WILLIAMS (after having voted in the negative). I have just been informed of the absence of the senior Senator from Pennsylvania [Mr. PENROSE]. I have a general pair with that Senator, and I therefore desire to withdraw my vote.

Mr. MYERS. I transfer my pair with the Senator from Connecticut [Mr. MCLEAN] to the Senator from Nevada [Mr. NEWLANDS] and vote. I vote "nay."

The result was announced—yeas 26, nays 30, as follows:

YEAS—26.

Bradley	Gallinger	McCumber	Stephenson
Brown	Gronna	Nelson	Sutherland
Burton	Jackson	Oliver	Townsend
Cullom	Jones	Page	Wetmore
Cummins	La Follette	Perkins	Works
Dillingham	Lippitt	Sanders	
du Pont	Lodge	Smoot	

NAYS—30.

Ashurst	Fletcher	Myers	Smith, Ariz.
Bankhead	Gore	O'Gorman	Smith, Md.
Bourne	Heiskell	Percy	Swanson
Bristow	Hitchcock	Perky	Thomas
Bryan	Johnston, Ala.	Poindexter	Thornton
Chilton	Kern	Pomerene	Tillman
Clarke, Ark.	Martin, Va.	Shively	
Culberson	Martine, N. J.	Simmons	

NOT VOTING—39.

Bacon	Crawford	Kenyon	Richardson
Borah	Curtis	Lea	Root
Brandegee	Dixon	McLean	Smith, Ga.
Briggs	Fall	Massey	Smith, Mich.
Burnham	Foster	Newlands	Smith, S. C.
Catron	Gamble	Overman	Stone
Chamberlain	Gardner	Owen	Warren
Clapp	Guggenheim	Paynter	Watson
Clark, Wyo.	Johnson, Me.	Penrose	Williams
Crane	Johnston, Tex.	Reed	

So the Senate refused to proceed to the consideration of executive business.

Mr. SMOOT. I move that the Senate adjourn.

The motion was agreed to; and (at 4 o'clock and 15 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, January 21, 1913, at 12 o'clock m.

HOUSE OF REPRESENTATIVES.

MONDAY, *January 20, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Help us, O God, our heavenly Father, to take up the work of the week with joy and gladness, praise and gratitude; putting our minds and hearts into each task, great or small, that we may accomplish something for ourselves, for those we love, and our fellow men that will redound to the glory and honor of Thy holy name. Amen.

The Journal of the proceedings of yesterday was read and approved.

UNANIMOUS CONSENT CALENDAR.

The SPEAKER. The Clerk will call the first bill on the Unanimous Consent Calendar.

HOMESTEAD ALLOTMENTS OF CHOCTAW AND CHICKASAW INDIANS.

The first business on the Calendar for Unanimous Consent was the bill (H. R. 25507) to authorize certain changes in homestead allotments of the Choctaw and Chickasaw Indians in Oklahoma.

The bill was read in full.

The SPEAKER. Is there objection?

Mr. MANN. I reserve the right to object.

Mr. BURKE of South Dakota. I would like to know what bill is up. Is it a bill from the Committee on Indian Affairs?

Mr. MANN. A bill to authorize certain changes in Indian allotments.

Mr. BURKE of South Dakota. I see the gentleman from Oklahoma [Mr. FERRIS] is present.

Mr. FERRIS. Mr. Speaker, if the gentleman from Illinois [Mr. MANN] will consent, this is a bill of my colleague Mr. CARTER, who is ill in bed. I do not know anything about it, and I do not know if he were here he could explain away the objections of the gentleman from Illinois; but I ask that the bill remain on the calendar, without prejudice, on account of Mr. CARTER being absent.

The SPEAKER. The gentleman from Oklahoma [Mr. FERRIS] asks unanimous consent that this bill be passed without prejudice. Is there objection?

There was no objection.

ENLARGED HOMESTEADS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 23351) to amend an act entitled "An act to provide for an enlarged homestead."

The Clerk proceeded with the reading of the bill.

Mr. MANN. Mr. Speaker, is the Clerk reading the original bill or the committee amendment, may I ask?

The SPEAKER. The Clerk is reading the original bill.

Mr. MANN. I ask unanimous consent that the Clerk report the substitute instead of the original bill. It is merely a matter of saving time.

The SPEAKER. The gentleman from Illinois [Mr. MANN] asks unanimous consent that the Clerk read the substitute in lieu of the original bill. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the substitute.

The Clerk read as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

"That sections 3 and 4 of the act entitled 'An act to provide for an enlarged homestead,' approved February 19, 1909, and of an act entitled 'An act to provide for an enlarged homestead,' approved June 17, 1910, be, and the same are hereby, amended to read as follows:

"'SEC. 3. That any homestead entryman of lands of the character herein described, upon which entry final proof has not been made, shall have the right to enter public lands, subject to the provisions of this act, contiguous to his former entry, which shall not, together with the original entry, exceed 320 acres.

"'SEC. 4. That at the time of making final proofs, as provided in section 2291 of the Revised Statutes, the entryman under this act shall, in addition to the proofs and affidavits required under said section, prove by two credible witnesses that at least one-sixteenth of the area embraced in such entry was continuously cultivated for agricultural crops other than native grasses beginning with the second year of the entry, and that at least one-eighth of the area embraced in the entry was so continuously cultivated beginning with the third year of the entry: *Provided*, That any qualified person who has heretofore made or hereafter makes additional entry under the provisions of section 3 of this act may be allowed to perfect title to his original entry by showing compliance with the provisions of section 2291 of the Revised Statutes respecting such original entry, and thereafter in making proof upon his additional entry shall be credited with residence maintained upon his original entry from the date of such original entry, but the cultivation required upon entries made under this act must be shown respecting such additional entry, which cultivation, while it may be made upon either the original or additional entry, or upon both entries, must be cultivation in addition to that relied upon and used in making proof upon the original entry; or, if he elects, his original and additional entries may be considered as one, with full credit for residence upon and improvements made under his original entry, in which event the amount of cultivation herein required shall apply to the total area of the combined entry, and proof may be made upon such combined entry whenever it can be shown that the cultivation required by this section has been performed; and to this end the time within which proof must be made upon such combined entry is hereby extended to seven years from the date of original entry: *Provided further*, That nothing herein contained shall be so construed as to require residence upon the combined entry in excess of the period of residence, as required by section 2291 of the Revised Statutes.'"

During the reading.

Mr. BURKE of South Dakota. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BURKE of South Dakota. I would like to ask if it has not been the custom in submitting request for unanimous consent to first read the title of the bill? I can not see the necessity for reading a bill, especially a bill of some length, if there is going to be an objection.

The SPEAKER. There is no rule about that, but the Chair thinks the better practice is to read the bill, so that Members will be informed as to what it is. The title might convey no information at all. The Clerk will proceed with the reading.

The Clerk resumed and completed the reading of the substitute.

Mr. MANN. Mr. Speaker——

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I wish the gentleman would state just what this bill accomplishes.

Mr. TAYLOR of Colorado. Mr. Speaker, prior to the enactment of the enlarged-homestead law of February 19, 1909 (35 Stat., 639), many homestead entrymen had made a filing upon 160 acres of land within the territory that was afterwards designated as dry-farming land, subject to entry under the

enlarged 320-acre homestead law. Section 3 of that law as above set forth expressly authorizes any homestead entryman of land of the character therein described, who had not made final proof, to take 160 acres, or such an additional amount necessary, where there was contiguous vacant land, in order that he might have the benefits of the 320-acre homestead law, providing he made the requisite cultivation and complied with the law as to residence. In other words, that section of the law was intended to put the homestead entryman who had already located on the same basis as those who were thereafter permitted to locate, providing there was vacant adjoining or contiguous land which the original entryman could take. It was never intended that he should reside 10 years or any longer period on the land than the 320-acre entryman was required to do to secure title.

This bill is simply intended to carry out the object of section 3, and the purpose of Congress in enacting the enlarged homestead law and to correct the hardships which the adverse ruling referred to has inflicted upon a great many homestead entrymen. In fact, it is quite positively asserted by large numbers of the homestead entrymen that they never would have taken the additional 160 acres if they had had any intimation at that time that the Interior Department would ever require them to make a full additional period of residence upon their claims after the taking of such additional entry before they were permitted to prove up and obtain title to their additional entries.

This bill does not relieve them from making the necessary cultivation and improvements, nor from making the full residence, as required of all homestead entrymen; but it does relieve them from any additional residence requirements. The measure is looked upon as eminently fair and just, and the committee therefore recommends its adoption.

It may be suggested that unless the bill is passed in the very near future that those entrymen can not get the benefit of it, but will be compelled to submit to the inconveniences and hardships of the unjust additional residence before they can be permitted to obtain title to their land. The committee therefore deems it especially appropriate that Congress should act upon this measure as expeditiously as possible.

Mr. McGUIRE of Oklahoma. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Colorado yield?

Mr. TAYLOR of Colorado. Yes.

Mr. McGUIRE of Oklahoma. I understand that under one law the homesteader holds 160 acres of land to which he may obtain title, and under another and subsequent law a homesteader takes 320 acres of land to which he may obtain title. There is that discrimination at present in the law?

Mr. TAYLOR of Colorado. Yes, sir.

Mr. McGUIRE of Oklahoma. And it is only sought here to modify the law so as to give the former entryman and the subsequent entryman an equal show under the law, or to make the law apply to each the same? Is that the only difference?

Mr. TAYLOR of Colorado. That is the only difference; and it applies only in the sections designated as dry or arid land by the Secretary of the Interior; only in portions of the country where dry farming 320-acre homesteads is applicable. That is all there is to the bill. The Secretary of the Interior states that in his judgment it is only fair and just to the original entryman, and approves of the measure.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill as amended.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. TAYLOR of Colorado, a motion to reconsider the vote whereby the bill was passed was laid on the table.

The SPEAKER. The Clerk will call the next one.

EXCHANGE OF SCHOOL LANDS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 25738) to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, and for other purposes.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized to make exchange of lands with the several States for those portions of the lands granted in aid of common schools, whether surveyed or unsurveyed, which lie within the exterior limits of any Indian, military, national forest, or other reservation, the said exchange to be made in the manner and form and subject to the limitations and conditions of sections 2275 and 2276 of the Revised Statutes, as amended by act of February 28, 1891 (26 Stat., p. 796), and any such exchange, whether heretofore or hereafter approved, shall restore full title in the United States to the base land without formal conveyance thereof by the State: *Provided*, That upon completion of the exchange the lands relinquished, reconveyed, or assigned as base lands shall immediately become a part of the reservation within which they are situate, and in case the same shall be found within the exterior limits of more than one reservation they shall become a part of that reservation which was first established: *Provided further*, That this act shall not be construed to authorize the approval of selections embracing lands withdrawn as mineral under the act of June 25, 1910, entitled "An act to authorize the President of the United States to make withdrawals of public lands in certain cases" (36 U. S. Stat. L., pp. 847–848), until such lands have been found to be nonmineral and for that reason restored, but nothing herein contained shall prevent a limited approval, when the lands are within only a coal withdrawal, excluding from the approval coal deposits.

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, Mr. Speaker, does the gentleman from California [Mr. RAKER] desire to pass this over again or not?

Mr. RAKER. I would like the House to take up the bill and act upon it, if possible, I will say to the gentleman from Illinois, and I trust that he will not see his way clear to object.

Mr. MANN. I am afraid I do.

Mr. RAKER. I will state to the gentleman that the Senate bill, of which this is a counterpart, word for word, except the last paragraph, which provides that the act shall not apply to the State of Idaho, should be passed over. There is a Senate amendment put onto this bill, stating that it shall not apply to the State of Idaho at the instance of the late Senator Heyburn. Otherwise the Committee on Public Lands of the Senate, after fully considering the matter, unanimously passed it, and it passed the Senate. Now, the House Committee on Public Lands again took up this bill and recommended that the Senate bill be called up and for the House bill to be laid aside, and that the Senate bill be passed.

Mr. MANN. The Senate bill was on the calendar?

Mr. RAKER. That was before the Senate bill was referred to the committee. Two weeks ago, when the matter came up, the Speaker then referred the Senate bill to the Committee on Public Lands, since which time they have not had a meeting. But I am satisfied, if this bill passes, the Senate will see fit to pass the House bill, although it has already passed the Senate bill. Of course, as to the details of the matter, I am satisfied that the gentleman from Illinois is quite familiar with them.

Mr. MANN. More or less.

Mr. RAKER. Well, both more or less. I feel that it is a just bill, one that our people demand, and one that will actually bring good results.

Mr. BURKE of South Dakota. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from California yield?

Mr. RAKER. Yes; I yield.

Mr. BURKE of South Dakota. I would like to ask the gentleman wherein and in what respect this bill, if it becomes a law, will change existing law, so far as concerns the right of a State to select lands in lieu of section 16 and section 36 within an Indian reservation?

Mr. RAKER. It will not change it in any way except that it will make it clear and it will obviate a decision of the Federal judge for the southern district of California relative to land in place. As to Indian reservations, it will make no change at all. The Department of the Interior have been holding that they could make the exchange and that the law was sufficient. Now, the district court of southern California held that a school section in place, surveyed, could not be exchanged. That decision stands and has been acted upon by our courts in California and many others, and it makes a conflict, whereas if this bill becomes a law it will permit the department immediately to take up the matter and make a full and thorough investigation of these school sections on the lands in the reserve and approve or disapprove them, as the case may be. In regard to California, the House last year put on an appropriation bill $28,000 for the purpose of investigating the lands in that State that were in these reserves, to determine whether or not they were mineral or nonmineral. That work has been practically all done. It is up now to the department to go over each case separately—that is, the lists that have been presented by the State of California—to determine whether or not any of them should be approved. With this bill enacted, the moment they approve them the question of title is eliminated and the parties obtain their title, and the Government of the United States will then have the land exchange complete, with its title free from all complications.

Mr. BURKE of South Dakota. If we reenact existing law for exchanging lands in lieu of those in Indian reservations, I do not see that it will change the matter, so far as your court decision is concerned, if the court has held that the exchange can not be made.

Mr. RAKER. There is a question of interpretation there, and this act would provide that these lands in place are subject to exchange, and it will leave no question outstanding. In other words, it puts it in shape so that the matter can be fully disposed of.

Mr. ADAIR. Why is the State of Idaho excepted from this legislation?

Mr. RAKER. Senator Heyburn was one of the members of the Senate Committee on Public Lands. He made a brief statement in regard to the matter, and said he did not desire the department to have anything to do with the lands in Idaho, and therefore in order to obviate any question as to Idaho, the committee placed upon the bill a provision excluding the lands in that State.

Mr. ADAIR. If this legislation is good for California, why would it not be good for Idaho?

Mr. RAKER. It is, and the Committee on the Public Lands took it up, and there seemed to be no question about it from any section. Gentlemen on the committee who had had wide experience in these matters could see no detrimental effect, but, on the contrary, only a beneficial effect from the passage of this legislation. In other words, if the gentleman will examine the report of the Department of the Interior he will see that the Commissioner of the General Land Office, the Secretary of the Interior, the Assistant Secretary, and the attorney for the Department of the Interior have gone fully into this matter.

Mr. ADAIR. Does not the gentleman believe that the State of Idaho should be included, notwithstanding the fact that Senator Heyburn objected to it?

Mr. RAKER. If I had my personal way about it, knowing all the facts, I should say yes.

Mr. ADAIR. Do you not believe we should make it include Idaho, and that the House should pass it in that way?

Mr. RAKER. I do; yes.

Mr. ADAIR. In other words, there does not seem to be any just reason why any State should be discriminated against, or any State left out of this legislation.

Mr. RAKER. None at all.

Mr. ADAIR. If it is good for one State, it is good for any other.

Mr. RAKER. I think so.

Mr. ADAIR. If it is fair and just legislation, it should apply to all States alike.

Mr. RAKER. The Senator made no special objections.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. MANN. Reserving the right to object——

The SPEAKER. The gentleman from Illinois did reserve the right to object.

Mr. MANN. I should like to suggest to the gentleman that if a similar Senate bill is pending before the Committee on the Public Lands it would be a work of supererogation to pass this bill and send it to the Senate.

Mr. RAKER. Mr. Speaker, I do not want to appear overanxious or tenacious about these matters, but the matter has been up many times and has been gone over in all its phases before the Committee on the Public Lands at least four times. I began last fall to take it up personally with the authorities in California, and with such a general feeling on the part of the authorities of the State and the Land Department in relation to this matter it seemed as though the House ought to take up the bill and consider it and then pass the bill, or take any other course in relation to it. I think the bill as it stands fully and thoroughly covers the matter and that the parties are entitled to have it enacted into legislation. I trust the gentleman from Illinois will see his way clear not to object.

Mr. MANN. I examined the first bills on the subject in the House and at first I thought that they were bad bills. I know the gentleman from California maintains quite a different view. But if the bill is to be acted upon in the House at all naturally it would be the Senate bill which is now reposing in the hands of the Committee on the Public Lands.

Mr. RAKER. Mr. Speaker, while I am not a bit desirous of having any bill contain my name, it is a question of legislation and, out of deference to the gentleman from Illinois, who has the right to object, I would ask that this bill be passed for this call, so that we may take up the Senate bill if it is acted on by the Committee on the Public Lands the coming week.

The SPEAKER. The gentleman from California asks unanimous consent that this bill be passed without prejudice. Is there objection?

There was no objection.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 2051. An act to promote the efficiency of the Life-Saving Service;

S. 4002. An act defining the manner in which deposits of borax, borate of lime, borate of soda, and borate material may be acquired;

S. 4256. An act to approve of the celebration of the one hundredth anniversary of the treaty of Ghent;

S. 4309. An act for the relief of Dominick Taheny and John W. Mortimer;

S. 4355. An act incorporating the National Institute of Arts and Letters;

S. 4356. An act incorporating the American Academy of Arts and Letters;

S. 4958. An act to accept the cession by the State of Washington of exclusive jurisdiction over the lands embraced within the Mount Rainier National Park, and for other purposes;

S. 5137. An act for the relief of Alice V. Houghton;

S. 5859. An act to amend section 3 of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1902, and for other purposes," approved March 3, 1901 (31 Stat. L., p. 1133);

S. 6105. An act to authorize the reservation of public lands for country parks and community centers within reclamation projects, and for other purposes;

S. 6506. An act authorizing the State of California to select public lands in lieu of certain lands granted to it in Imperial County, Cal.;

S. 6616. An act to provide for the protection of national military parks;

S. 6744. An act to provide for the erection of a Federal building in Las Vegas, N. Mex.;

S. 6877. An act to reinstate Robert N. Campbell as a first lieutenant in the Coast Artillery Corps, United States Army;

S. 6919. An act to amend subchapter 2 of chapter 19 of the Code of Law for the District of Columbia;

S. 7162. An act to amend section 801 of the Code of Law for the District of Columbia;

S. 7169. An act to transfer Capt. Frank E. Evans from the retired to the active list of the Marine Corps;

S. 7237. An act to reserve certain lands and to incorporate the same and make them part of the Santiam National Forest;

S. 7294. An act to amend sections 2380 and 2381 of the Revised Statutes of the United States;

S. 7385. An act to relinquish the claim of the United States against the grantees, their legal representatives, and assigns for timber cut on Petaca land grant;

S. 7430. An act providing for the cancellation of certain overdue personal taxes in the District of Columbia;

S. 7509. An act to authorize the extension of Twenty-fifth Street SE. and of White Place;

S. 7568. An act to validate certain homestead entries;

S. 7638. An act to provide for State selections on phosphate and oil lands;

S. 7746. An act to provide for agricultural entry of oil lands;

S. 8034. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 8035. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors; and

S. 8053. An act to authorize the creation of a temporary commission to investigate and make recommendation as to the necessity or desirability of establishing a national aerodynamical laboratory, and prescribing the duties of said commission, and providing for the expenses thereof.

The message also announced that the Senate had passed without amendment bills of the following titles:

H. R. 45. An act affecting the town sites of Timber Lake and Dupree in South Dakota;

H. R. 3769. An act for the relief of Theodore N. Gates;

H. R. 22437. An act for the relief of the heirs of Anna M. Toreson, deceased;

H. R. 23001. An act to amend section 4472 of the Revised Statutes of the United States relating to the carrying of dangerous articles on passenger steamers;

H. R. 24137. An act to refund to the National Cartage & Warehouse Co., of New York City, N. Y., excess duty;

H. R. 25515. An act for the relief of Joshua H. Hutchinson;

H. R. 25764. An act to subject lands of former Fort Niobrara Military Reservation and other lands to homestead entry;

H. R. 25878. An act granting certain lands for a cemetery to the Fort Bidwell People's Church Association, of the town of Fort Bidwell, State of California, and for other purposes;

H. J. Res. 239. Joint resolution authorizing the Secretary of War to deliver a condemned cannon to the Army and Navy Union, United States of America; and

H. R. 14925. An act to amend "An act to parole United States prisoners, and for other purposes," approved June 25, 1910.

The message also announced that the Senate had passed with amendments bills of the following titles, in which the concurrence of the House of Representatives was requested:

H. R. 14053. An act to increase the pensions of surviving soldiers of Indian wars in certain cases;

H. R. 17260. An act to amend an act entitled "An act to establish in the Department of the Interior a Bureau of Mines," approved May 16, 1910;

H. R. 18425. An act to remove the charge of desertion from the military record of Simon Nager;

H. R. 21220. An act to extend the power of the Commissioner General of Immigration, subject to the approval of the Secretary of Commerce and Labor;

H. R. 24266. An act to authorize the sale of burnt timber on the public domain;

H. R. 27062. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war; and

H. J. Res. 210. Joint resolution authorizing the President to appoint a member of the New Jersey and New York Joint Harbor Line Commission.

SENATE BILLS REFERRED.

Under clause 2, Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 8053. An act to authorize the creation of a temporary commission to investigate and make recommendation as to the necessity or desirability of establishing a national aerodynamical laboratory, and prescribing the duties of said commission, and providing for the expenses thereof; to the Committee on Appropriations.

S. 7385. An act to relinquish the claim of the United States against the grantees, their legal representatives and assigns, for timber cut on Petaca land grant; to the Committee on the Judiciary.

S. 7294. An act to amend sections 2380 and 2381, Revised Statutes of the United States; to the Committee on the Public Lands.

S. 7169. An act to transfer Capt. Frank E. Evans from the retired to the active list of the Marine Corps; to the Committee on Naval Affairs.

S. 6105. An act to authorize the reservation of public lands for country parks and community centers within reclamation projects, and for other purposes; to the Committee on the Public Lands.

S. 5859. An act to amend section 3 of an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1902, and for other purposes," approved March 3, 1901 (31st Stat. L., p. 1133); to the Committee on the Public Lands.

S. 4958. An act to accept the cession by the State of Washington of exclusive jurisdiction over the lands embraced within the Mount Rainier National Park; to the Committee on the Public Lands.

S. 4256. An act to approve of the celebration of the one hundredth anniversary of the treaty of Ghent; to the Committee on Foreign Affairs.

S. 6616. An act to provide for the protection of national military parks; to the Committee on Military Affairs.

S. 7237. An act to reserve certain lands and to incorporate the same and make them a part of the Santiam National Forest; to the Committee on the Public Lands.

S. 8035. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; to the Committee on Pensions.

S. 8034. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; to the Committee on Invalid Pensions.

S. 7746. An act to provide for agricultural entry of oil lands; to the Committee on the Public Lands.

S. 7638. An act to provide for State selections on phosphate and oil lands; to the Committee on the Public Lands.

S. 7568. An act to validate certain homestead entries; to the Committee on the Public Lands.

S. 7509. An act to authorize the extension of Twenty-fifth Street SE. and of White Place; to the Committee on the District of Columbia.

S. 7430. An act providing for the cancellation of certain overdue personal taxes in the District of Columbia; to the Committee on the District of Columbia.

S. 7162. An act to amend section 801 of the Code of Law for the District of Columbia; to the Committee on the District of Columbia.

S. 6919. An act to amend subchapter 2 of chapter 19 of the Code of Law for the District of Columbia; to the Committee on the District of Columbia.

S. 6877. An act to reinstate Robert N. Campbell as a first lieutenant in the Coast Artillery Corps, United States Army; to the Committee on Military Affairs.

S. 6744. An act to provide for the erection of a Federal building in Las Vegas, N. Mex.; to the Committee on Public Buildings and Grounds.

S. 6506. An act authorizing the State of California to select public lands in lieu of certain lands granted to it in Imperial County, Cal.; to the Committee on the Public Lands.

S. 4355. An act incorporating the National Institute of Arts and Letters; to the Committee on the Judiciary.

S. 4356. An act incorporating the American Academy of Arts and Letters; to the Committee on the Judiciary.

S. 5137. An act for the relief of Alice V. Houghton; to the Committee on Claims.

S. 4309. An act for the relief of Dominick Taheny and John W. Mortimer; to the Committee on Claims.

S. 4002. An act defining the manner in which deposits of borax, borate of lime, borate of soda, and borate material may be acquired; to the Committee on Mines and Mining.

S. 2051. An act to promote the efficiency of the Life-Saving Service; to the Committee on Interstate and Foreign Commerce.

TREATMENT OF JUVENILE AND FIRST OFFENDERS.

The next bill on the Calendar for Unanimous Consent was the bill (H. R. 21594) to appoint a commission to consider and report upon the general subject of the treatment of juvenile and first offenders, together with the best system of detention of Federal prisoners.

The Clerk read the bill as follows:

Be it enacted, etc., That the President is authorized to appoint three commissioners, one of whom may be nominated by the Attorney General, who shall consider and report upon the general subject of the treatment of juvenile and first offenders, and in connection with the investigation the commissioners, under the direction of the Attorney General, may inquire into the conditions of jails and places of detention throughout the United States in which offenders against Federal statutes are confined, either before or after sentence, and then shall report to Congress at its next session its recommendations with respect to the best system of dealing with juvenile and first offenders and the best system of the detention of Federal prisoners while waiting trial and such other recommendations upon the subject as may seem to them expedient. For the expense of the commission there is hereby appropriated the sum of $20,000, or so much thereof as may be necessary.

With the following amendment recommended by the committee:

Page 1, lines 4 and 5, strike out the words "one of whom may be nominated by the Attorney General."

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, I would like to have a statement from the gentleman in charge of the bill as to what may be accomplished by it.

Mr. HOUSTON. Mr. Speaker, I think the object of this bill appears very plainly on the face of it. It is in response to a general demand all over the country for some method of treatment of juvenile offenders. A large number of charitable organizations and humane societies have manifested great interest in this subject as to the treatment of this class of offenders and looking into the matter of improving the handling of juvenile offenders. It is admitted that there is no system for treating these offenders that has been satisfactory and sufficient and that there is great need for an improvement in any method so far adopted or suggested.

For that reason, under the limitation of $20,000, the committee thought it right and appropriate to have a commission of three appointed to investigate the entire subject, also to include in the investigation the best method of detention of Federal prisoners awaiting trial. I say that the expenditure of this amount of money, $20,000, would be justified and, it is believed, would furnish the information to Congress that would

be very valuable for providing a method for the treatment of these young offenders.

Mr. MANN. Mr. Speaker, we have an International Prison Congress which has had a number of meetings both in this country and abroad for the purpose of studying and devising the manner of treatment of offenders, and now does the gentleman believe that the appointment of three gentlemen to report at the next session of Congress on the subject of the treatment of juvenile offenders would enlighten us much?

Mr. HOUSTON. In reply to that, I will say that the very congress referred to by the gentleman has discussed this subject and asked or suggested that Congress should legislate on the subject. They have not pointed out or designed a method or plan, but have appealed to the Attorney General of the United States, and the Attorney General, as the hearings in the case show, states that this bill is a very proper one, and he favors the appointment of a commission, recognizing the fact that it is better for Congress to investigate before a measure is proposed. The suggestion comes from him as well as the international congress referred to by the gentleman from Illinois.

Mr. MANN. The bill also provides that the commission shall investigate the conditions of the jail and places of detention throughout the United States in which offenders against Federal statutes are confined either before or after sentence. Does not that practically provide for an investigation of State penitentiaries, of county jails, and of many municipal places of confinement? Is it the intention to have three commissioner appointed by the President make a report as to these jails throughout the country, and if so, what purpose is there in that?

Mr. HOUSTON. The limitation on the appropriation providing for the commission would limit the amount of work they could do. As a matter of course, they could not investigate all the jails, but they could make many investigations in different sections of the country of the different conditions from which we could get some idea, and it is thought by the Attorney General a sufficient amount of information to formulate legislation that is much needed and that is called for by the humane organizations throughout the country. The spirit of the age is to devise a more humane system and one that will reform rather than demoralize the youth of the country that fall into this class. The comment has been made that the mode of treating juvenile offenders now in practice in this country makes more criminals than all our reformatory institutions reform.

Mr. MANN. But the gentleman will remember that while the bill carries an appropriation of $20,000, when that is exhausted it would be in order in the House to make an additional appropriation, because there is no limitation in this bill, except that the commission shall report at the next session of Congress. Whether that would be at the special session that we are about to hold, I do not know, but I am quite certain that the commission would not be able to report at that time.

Mr. HOUSTON. Mr. Speaker, I would suggest that the necessity requiring the commission to report at the next session of Congress necessarily limits the amount of work to be done, and furthermore in the case of a somewhat similar commission it filed a report, and experience showed that it did not take a great length of time, and that some very valuable help was the result of that.

Under leave to print, I append herewith the following:

[House Report No. 919, Sixty-second Congress, second session.]

TREATMENT OF JUVENILE AND FIRST OFFENDERS.

Mr. HOUSTON, from the Committee on the Judiciary, submitted the following report to accompany H. R. 21594:

The Committee on the Judiciary, having had under consideration House bill 21594, report the same back with the following amendment, and recommend that the bill as amended do pass.

Page 1, lines 4 and 5, strike out the words "one of whom may be nominated by the Attorney General."

The Hon. George W. Wickersham, Attorney General of the United States, appeared by invitation of the committee and was requested to give the purpose and scope of this bill and also such reasons as appeared to furnish a necessity for the enactment of this measure. He informed the committee that the bill grew out of suggestions made at the meeting of the International Prison Association last fall, and suggestions made in a letter from Paul U. Kellogg, one of the active participants in the Associated Charities in New York, to Senator ROOT, which had been transmitted to the Attorney General with a view that it should be taken up by the Department of Justice.

In this letter appears the following paragraph:

"There were several things which the visit to this country of the international leaders in prison reform brought out clearly: First, that to the minds of the great prison men of Europe our county jails are breeding places of crime, and ought to be wiped out. Second, that our plan of iron-bar interior cells, even with more than one person in a cell, is a moral and sanitary anachronism. For two generations prison architects have been copying the cell scheme which was built into Auburn, but of which such men as Maj. Rogers, of the English prison system; J. S. Gibbons, of the Irish prison board; Dr. Vambery, of Hungary, and others, were unsparing in their private comment. Third, that our system of handling minor offenders in the petty courts and jails probably produces more criminals than our world-famous reformatories reform. Fourth, that the prison industries in the different States present a wide range of good and evil, calling for a thorough overhauling of the whole question."

It is claimed further that—

"We have no criminal statistics worth anything, either to reveal our errors and mistakes or to prove the excellencies of our reformatory institutions."

The Attorney General insists that great difficulty arises constantly in the treatment of juvenile offenders and calls attention to the fact that there are two Federal institutions to which juvenile offenders can be sent; that for boys is the National Training School for Boys, and the maximum age there is 16 years. There is an institution in the District for colored girls; there is no place for white girls. In the case of juvenile offenders over 16 years of age we are dependent wholly on State institutions. He further states that—

"At the present time I believe there is only one institution to which we can now send Federal prisoners over 16 years of age and under 21."—

That is, within the reform-school age—

"and that is the Elmira Reformatory, for the reason that in almost all of the States they have adopted the indeterminate sentence plan and they will not receive a Federal prisoner who is not subjected to the complete discipline of the State, which does not involve dealing on the indeterminate sentence basis; and, of course, I have no power under the law to subject a Federal prisoner to an indeterminate sentence by State authority."

He also states that many complaints are made as to the condition of jails to which Federal prisoners have to be sent, who are awaiting trial and can not give bail.

The Attorney General calls attention to the fact that in 1908 an act was passed by Congress (35 Stat., 303) authorizing the President to appoint three commissioners to investigate the condition of the jails of the District of Columbia and, in connection with this investigation, other similar institutions of the United States and report to the President; also, to make such recommendations as seemed to them expedient. As a result of this investigation a report was transmitted to Congress (Doc. 648, 60th Cong., 2d sess.), after which Congress enacted the Federal parole law, applying to persons who are sentenced to the penitentiary for more than one year; a probation law for the District of Columbia; a law for the establishment of the workhouse, which has been erected at Occoquan, and which the Attorney General regards as a model institution of its kind.

The committee regards the subject of this inquiry sufficiently important to authorize the expenditure within the limits proposed in this measure. It is believed that the treatment of juvenile offenders and short-term prisoners should call for careful investigation with the purpose in view of improving, by legislation, the conditions now existing.

The care of juvenile offenders is entitled to the most serious consideration in order that reformation may be effected rather than demoralization by the conditions surrounding their custody.

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COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Washington, D. C., June 18, 1912.

The committee this day met, Hon. HENRY D. CLAYTON (chairman) presiding.

Hon. George W. Wickersham, Attorney General of the United States, appeared by invitation of the committee and was heard on H. R. 21594, which is as follows:

"[H. R. 21594, Sixty-second Congress, second session.]

"A bill to appoint a commission to consider and report upon the general subject of the treatment of juvenile and first offenders, together with the best system of detention of Federal prisoners.

"*Be it enacted, etc.*, That the President is authorized to appoint three commissioners, one of whom may be nominated by the Attorney General, who shall consider and report upon the general subject of the treatment of juvenile and first offenders, and in connection with the investigation the commissioners, under the direction of the Attorney General, may inquire into the conditions of jails and places of detention throughout the United States in which offenders against Federal statutes are confined, either before or after sentence, and then shall report to Congress at its next session its recommendations with respect to the best system of dealing with juvenile and first offenders, and the best system of the detention of Federal prisoners while waiting trial, and such other recommendations upon the subject as may seem to them expedient. For the expense of the commission there is hereby appropriated the sum of $20,000, or so much thereof as may be necessary."

The CHAIRMAN. Mr. Attorney General, the committee has invited you to come and give the purpose and scope of H. R. 21594 and the reason for its enactment, and any views that you may think proper in respect thereto. We will be glad to hear you.

STATEMENT OF THE HON. GEORGE W. WICKERSHAM, ATTORNEY GENERAL OF THE UNITED STATES.

The ATTORNEY GENERAL. Mr. Chairman and gentlemen, this bill grew out of a suggestion made to me at the time of the meeting of the International Prison Association here a year ago last fall. At that time I received a letter from Paul U. Kellogg, who is one of the most active people in the Associated Charities in New York, who wrote to me that he had sent a suggestion to Senator ROOT which, at the suggestion of Senator ROOT, he transmitted to me, the Senator thinking that that had better be taken up through the Department of Justice than in any other way.

In his letter to Senator ROOT he said [reading]:

"There were several things which the visit to this country of the international leaders in prison reform brought out clearly: First, that to the minds of the great prison men of Europe our county jails are breeding places of crime and ought to be wiped out; second, that our plan of iron-bar interior cells, even with more than one person in a cell, is a moral and sanitary anachronism. For two generations prison architects have been copying the cell scheme which was built into Auburn, but of which such men as Maj. Rogers, of the English prison system; J. S. Gibbons, of the Irish prison board; Dr. Vambery, of Hungary, and others were unsparing in their private comment; third, that our system of handling minor offenders in the petty courts and jails probably produces more criminals than our world-famous reformatories reform; fourth, that the prison industries in the different States present a wide range of good and evil, calling for a thorough overhauling of the whole question.

"And finally, to quote Sir Evelyn Ruggles-Brise, the head of the British prison commission, we have no criminal statistics worth anything either to reveal our errors and mistakes or to prove the excellencies of our reformatory institutions.

"These delegates came to this country anticipating great things. They were not altogether disappointed, and stated that American theory and practice, notably the probation system, indeterminate sentences, and the reformatory methods, would influence legislation and procedure in every country of Europe. At the same time their presence here afforded a means for stock taking on the part of Americans, and it strikes me that the congress which met in Washington at the invitation of this Government might be made the occasion for pressing forward for a nation-wide reformation in this field. Mr. Taft's repeated expressions with respect to the law's delays makes me think that he would be responsive to a program of constructive reform in this complementary field. The American member of the International Prison Commission is, as you will remember, in Dr. Barrow's case, officially responsible to the Department of State. Would it be possible, through that department or through the Attorney General's office, to institute such a commission or inquiry as could make a general presentation of the whole situation? I have in mind something as thorough as the United States Industrial Commission of 1900 or the recent poor-law commission in England, which has presented a remarkable report to Parliament within the last two years.

"It may be that a congressional commission would be more effective. The matter is one of which you, as a former Cabinet member and a present Member of the Senate, are in an especially favorable position to judge."

That being transmitted to me, of course I could not see at once that there was much involved in the suggestion which was hardly within the practical cognizance of the Federal Government; but there was also a great deal that was a proper subject of Federal consideration.

A great difficulty arises constantly in the treatment of juvenile offenders. There are two Federal institutions to which juvenile offenders can be sent—that for boys is the National Training School for Boys and the maximum age there is 17 years. There is an institution for colored girls only—that is the Girls' Reform School in the District of Columbia, which has a maximum capacity of about 100. There is no place for white girls. Therefore, in the case of all juvenile offenders over 17 we are dependent wholly on State institutions. At the present time I believe there is only one institution to which we can now send Federal prisoners over 17 years of age and under 21 (that is, within the reform-school age) and that is the Elmira Reformatory, for the reason that in almost all of the States they have adopted the indeterminate-sentence plan, and they will not receive a Federal prisoner who is not subjected to the complete discipline of the State which does not involve dealing on the indeterminate-sentence basis, and, of course, I have no power under the law to subject a Federal prisoner to an indeterminate sentence by State authority.

We have also constant complaints with respect to the conditions of the jails to which Federal prisoners have to be sent who are detained awaiting trial and who can not get bail. The condition of many of these jails is worthy of the Middle Ages rather than of modern times. My attention was called to this by Mr. Kellogg; I determined to see what had been done by Congress along this line. I found that in 1908 the act of May 26 was passed (35 Stats., 303) which authorized the President to appoint three commissioners to investigate the condition of the jail of the District of Columbia, the workhouse, and other buildings adjacent to the jail, and in connection with the investigation to visit and investigate similar institutions of the United States, and to report to the President on the conditions of the buildings so as to secure suitable facilities, and also to make such other recommendations on the subject as may seem to them expedient.

Now, that commission studied the conditions, practically, of adult offenders, both in the District of Columbia and elsewhere, and made a report which was transmitted to Congress on January 20, 1909, which is printed as Document No. 648, Sixtieth Congress, second session, as a result of which Congress has enacted the Federal parole law, applying to persons who are sentenced to the penitentiary for more than one year; a probation law for the District of Columbia; a law for the establishment of the District workhouse, which has been erected at Occoquan, Va., and which is a model institution of its kind—one that I think everyone interested in prisoners, and especially short-term offenders, ought to visit; and it provided for a reformatory, the progress of which has been checked owing to the objections that were raised to it being established within a few miles of Mount Vernon.

It seems to me that a similar inquiry should take in that class of persons, which is not a very large but is still sufficiently numerous to be taken cognizance of by Congress—I speak of juvenile and first offenders—and also to investigate the conditions under which offenders against the Federal law are detained in jails and prisons, held awaiting trial. I should also say that as a result of the investigation referred to and of the legislation that Congress subsequently enacted a year or two later, the jail of the District of Columbia, instead of being a disgrace to civilization as it was two years ago, has become a decent, sanitary, and respectable place. The control of the jail has been turned over to the Commissioners of the District as a result of legislation which was recommended both by the commissioners and by the Department of Justice; and to complete the work which the Federal Government has begun on this great subject I have drafted and ventured to recommend the passage of this bill, which will deal with the subject of juvenile or first offenders and the place of detention of Federal prisoners awaiting trial and under short sentences.

That, Mr. Chairman and gentlemen, is the outline of the plan. In this connection I might say that perhaps one of the most useful things that could be considered by a commission appointed under such a bill as this would be the extension of the indeterminate sentence to Federal prisoners, and particularly to juvenile and first offenders. It seems to be the consensus of opinion of all the most advanced of modern penologists that that is the best way to deal with first offenders. The system has been adopted in a great many of the States, and the Federal Government ought not to be laggard in the careful consideration of this matter.

The CHAIRMAN. Then you think this is proper and necessary as a part of the general scheme for the reform, or a movement that is world-wide to-day?

The ATTORNEY GENERAL. Absolutely.

The CHAIRMAN. Humanity seems to demand it?

The ATTORNEY GENERAL. Yes, sir. I attended the International Prison Congress, which was held here a year ago last fall, and I also attended the last meeting of the American Prison Association at Omaha, and on both of those occasions this subject of the treatment of juvenile offenders, and the subject of the indeterminate sentence, were among those that were pressed most earnestly.

Mr. WEBB. Is it your idea that this commission will have to actually visit the jails of the country?

The ATTORNEY GENERAL. Well, they can not visit them all. They will do as this last commission did; that is, visit some of them. Of course, we have a great deal of information in the Department of Justice and we can suggest typical institutions which they can visit. They could not, of course, visit them all.

Mr. WEBB. How long do you think it would take them to complete the work?

The ATTORNEY GENERAL. Well, this commission appointed under the act of May 26, 1908, reported to the President on January 11, 1909; that is, they were about six months in doing their work.

Mr. WEBB. Do you think it could be done for $40,000,

The ATTORNEY GENERAL. Yes; I think it could be done for less.

My attention has been called, Mr. Chairman, to the language of the bill as drafted, which provides that the President is authorized to appoint three commissioners, one of whom may be nominated by the Attorney General, etc. I may say that in drafting the bill in that language I merely adopted the language employed by Congress in the act of May 26, 1908, authorizing the appointment of the commission investigating the workhouse and reformatory system, but I am entirely willing that the committee shall make such modifications of that as it sees fit. I have no personal desire to appoint one of the commissioners; I only followed that language as a precedent which had been set.

Mr. RUCKER. May I ask a question?

The ATTORNEY GENERAL. Certainly.

Mr. RUCKER. What do you mean, exactly, by "indeterminate sentence"?

The ATTORNEY GENERAL. The indeterminate sentence is a sentence of imprisonment for not less than a certain time, or not more than a certain time, with the right of probation and parole. They can discharge the prisoner at any time between those dates, upon such terms as they may see fit to impose.

Mr. RUCKER. You mean the court fixes the punishment at not less than 1 year nor more than 10 years, for instance?

The ATTORNEY GENERAL. Yes, sir. Sometimes, in grave cases, it is for "not less than," so that it may be for life.

Mr. RUCKER. Now, I am familiar with the practice in many of our States—many of our statutes run that way. Some of them say "not less than" a certain time or "not more than" a certain time, but they generally fix some time between those terms, say three years, don't they?

The ATTORNEY GENERAL. Yes, sir.

The CHAIRMAN. The object being to work a reform in the criminal himself.

The ATTORNEY GENERAL. That is it, exactly.

The CHAIRMAN. The inducement is held out to him: "If you don't behave yourself, then you will get the maximum of your sentence," say 10 years?

The ATTORNEY GENERAL. Yes, sir.

The CHAIRMAN. "But if you give evidence of your real determination to become a good citizen——"

The ATTORNEY GENERAL. Yes.

The CHAIRMAN. "You may get off with a shorter sentence, as a parole board may determine?"

The ATTORNEY GENERAL. Yes, sir.

Mr. RUCKER. In some States the law provides that for good behavior the executive may pardon.

The ATTORNEY GENERAL. You get it under the Federal parole law. If a prisoner has served not les than one-third of the sentence, he is eligible to parole, and if the board recommends his parole and that recommendation is approved by the Attorney General, he may be paroled under such terms as may be fixed by the Attorney General, but he is subject to be taken back at any time if he violates his parole.

Mr. RUCKER. Well, I have not been a graduate in law, but I thought it was that if he conducts himself properly he is eligible for a parole.

The ATTORNEY GENERAL. Well, that is the theory, and it is peculiarly so in the case of juvenile offenders. Take a boy who has committed a crime. The probability is that his crime was committed in a spirit of youthful bravado or was the result of bad home surroundings; the possibility is that if he is taken away from his bad surroundings and placed in a good position he may be made into a law-abiding citizen.

Mr. RUCKER. My recollection is that the late Gov. Taylor immediately issued a pardon for every minor under 16 years of age until the State established a reform school, but he would not send them to the penitentiary.

The CHAIRMAN. I want to say that this Federal parole law has done good, and it will do much more good. Some years ago we enacted a parole law in my State—Alabama—and I think there has been no wiser enactment in the history of the State.

The ATTORNEY GENERAL. I think we have, Mr. Chairman—I know I was speaking accurately three or four months ago, and I do not think it has been changed since—we have but one instance of a Federal prisoner violating his parole since that law was put into operation. Our universal experience is that prisoners, when liberated upon parole, obey their paroles, and the theory is that during that period they will get restored into a normal position in the community; then they go out of the path of lawbreakers into the path of law keepers.

Mr. RUCKER. I used to think it was putting it into the power of the judiciary to discriminate, show favoritism, but in the course of a great many years I have come in contact with a great many of the criminals, and I think it is a very wise law.

The ATTORNEY GENERAL. I think the very large preponderance of opinion among the judges of to-day is in favor of that theory.

Mr. RUCKER. Down in my State a man was paroled about three years ago. I am convinced now that it was one of the best things that could be done, because that man was one of the most violent men before and he is now a very good citizen, one of the best men in his town.

The ATTORNEY GENERAL. The House of Representatives has passed at this session a bill which I very earnestly recommended, applying the parole law to life prisoners.

The CHAIRMAN. That is a bill introduced by Representative HOWARD, of Georgia?

The ATTORNEY GENERAL. Yes, sir; he introduced it at my request. I think that embodies the view of the most able penologists of to-day.

Mr. GRAHAM. Is it the experience of European countries that they effect reforms of practiced criminals?

The ATTORNEY GENERAL. Well, there is a good deal of difference of opinion as to this, but I think there is a class of criminals who are always beyond reform.

Mr. GRAHAM. The nature of the crime has a great deal to do with it?

The ATTORNEY GENERAL. Yes.

Mr. GRAHAM. A man who gets into prison for a crime of violence might never commit another?

The ATTORNEY GENERAL. Yes.

Mr. GRAHAM. But the man who is a professional thief—that would not follow, of course?

The ATTORNEY GENERAL. Yes; but criminologists say that while you may cure for a while, you may palliate, there is a residuum that you can not cure. They are devoting more and more time to juvenile offenders and to first offenders. The theory is that if you can take him away from his bad environment you can save him. Personally my interest is far keener in these first offenders than in any others. I recollect a very distinguished specialist in children's diseases whom I met in New York. On one occasion I asked him what led him to that specialty. He said, "Oh, I got so tired of patching up old human hulks that I took up this specialty, where the saving of children may mean the saving of human souls for the Nation."

The CHAIRMAN. Very much obliged to you.

The ATTORNEY GENERAL. Much obliged to you for giving me this hearing.

WESTBORO, MASS., *June 10, 1912.*

CHAIRMAN OF THE COMMITTEE ON THE JUDICIARY,
House of Representatives, Washington, D. C.

DEAR SIR: At a meeting of the National Conference on the Education of Backward, Truant, Delinquent, and Dependent Children that was held in Cleveland, Ohio, on Monday, June 10, the following resolution was passed:

Resolved by the National Conference on the Education of Backward, Truant, Delinquent, and Dependent Children, That we respectfully recommend to the favorable attention of the Committee on the Judiciary of the United States House of Representatives the bill to provide a commission to investigate and propose reforms in the system of jails throughout the United States in which Federal prisoners may be confined.

Respectfully, yours,

ELMER L. COFFEEN,
Secretary and Treasurer.

JUVENILE PROTECTIVE ASSOCIATION,
Chicago, November 18, 1912.

The Hon. HENRY D. CLAYTON,
Chairman Committee on the Judiciary,
House of Representatives, Washington, D. C.

MY DEAR SIR: The Juvenile Protective Association of Chicago is very much interested in the number of young boys—many of them first offenders—held in the county jail and police stations of Chicago awaiting trial.

In an investigation just concluded our association found that last year 1,328 boys between the ages of 17 and 21 were confined in the county jail, and that 599 of these boys were first offenders. While the conditions in the county jail are fairly good, no vocational training is given, nor is any employment provided for the boys. They get very little exercise; they are not kept busy, and the result is that they very quickly deteriorate. The police stations of Chicago, where large numbers of young men and women are held awaiting their preliminary hearings, are in a very terrible condition, and young people held there are in danger of not only moral but physical deterioration through the insanitary surroundings.

I understand that House bill 21594, to appoint a commission to consider and report upon the general subject of the treatment of juvenile and first offenders, has been favorably reported on by the Committee on the Judiciary, but has not yet been called up in the House. Our association feels that the passage of this bill is of the utmost importance, and we therefore respectfully urge you to use your best endeavors to bring this about. We feel sure that an investigation which shall inquire into the conditions in jails and places of detention throughout the United States will result in lasting good, and in recommendations by the Government for better methods in dealing with the young and for improved places of detention while awaiting trial.

Sincerely, yours,

Mrs. JOSEPH TILTON BOWEN, *President.*

WOMAN'S CITY CLUB OF CHICAGO,
December 3, 1912.

Hon. HENRY D. CLAYTON,
House of Representatives, Washington, D. C.

DEAR SIR: At a meeting of the board of directors of the Woman's City Club of Chicago held yesterday, December 2, it was unanimously voted that you be urged to use your influence in support of bill H. R. 21594, which will come before the House of Representatives some time this month.

The Woman's City Club believes the provisions of the bill, that the Federal Government make an appropriation sufficient for the investigation of police stations and jails where first offenders are held awaiting trial, to be wise and just and in accordance with the policy of conserving what is good in the youth of our land.

We respectfully solicit your earnest interest in the passage of this bill.

Very truly, yours,

CAROLINE S. P. WILD,
Secretary.

CHICAGO POLITICAL EQUALITY LEAGUE,
December 11, 1912.

Hon. HENRY D. CLAYTON,
House of Representatives, Washington, D. C.

DEAR SIR: The Chicago Political Equality League emphatically urges the passage of House bill 21594 and put themselves on record as indorsing this bill as a step toward protecting boys from the association of hardened criminals.

We hope you will use every influence to further this bill.

Yours, respectfully,

THE CHICAGO POLITICAL EQUALITY LEAGUE,
Per Mrs. A. H. SCHWEIZER,
Corresponding Secretary.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I shall not object, although I think the appointment of these commissioners on matters of this sort is not the proper way of getting information in preparation for legislation.

Mr. SISSON. Mr. Speaker, I shall object.

The SPEAKER. The gentleman from Mississippi objects, and the bill is stricken from the calendar.

COAL MINING COMPANIES, OKLAHOMA.

The next business on the Calendar for Unanimous Consent was the bill (S. 3843) granting to the coal mining companies in the State of Oklahoma the right to acquire additional acreage adjoining their mine leases, and for other purposes.

The Clerk proceeded to read the bill.

Mr. STEPHENS of Texas. Mr. Speaker, I ask unanimous consent that the bill S. 3843, now before the House, be passed over without prejudice, for the reason that the gentleman from Oklahoma [Mr. CARTER] is sick.

The SPEAKER. The gentleman from Texas asks unanimous consent to pass this bill over without prejudice, on the ground of the sickness of the gentleman from Oklahoma [Mr. CARTER]. Is there objection?

There was no objection.

INTERSTATE TRANSPORTATION OF IMMATURE CALVES.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 24927) to regulate the interstate transportation of immature calves.

The Clerk read the bill, as follows:

Be it enacted, etc., That no person, firm, or corporation shall ship or deliver for shipment, nor shall any common carrier nor the receiver, trustee, or lessee thereof, receive for transportation or transport from one State or Territory or the District of Columbia into or through another State or Territory or the District of Columbia any live calf not accompanied by its mother unless the same is six weeks old or over: *Provided*, That the Secretary of Agriculture may make rules and regulations permitting, in cases of emergency only, the shipment in interstate commerce of live calves less than six weeks old; and the Secretary of Agriculture may also permit, under such restrictions as he may deem proper, one shipment in interstate commerce of live calves less than six weeks old and over three weeks old when the entire time consumed in such interstate shipment to final destination, including time of loading and unloading, does not exceed 12 hours.

SEC. 2. That any person, firm, or corporation, or any common carrier or the receiver, trustee, or lessee thereof, who shall violate any of the provisions of this act shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by a fine of not less than $20 nor more than $50 for each calf offered for shipment, shipped, or received for transportation or transported in violation of any of the provisions of this act.

The SPEAKER. Is there objection?

Mr. MICHAEL E. DRISCOLL. Mr. Speaker, I reserve the right to object if the gentleman from Michigan wishes to use a little time.

Mr. HAMILTON of Michigan. Mr. Speaker, it is very kind of the gentleman from New York [Mr. MICHAEL E. DRISCOLL] to reserve his objection. I only wish that he might continue his kindness by not objecting to the consideration of the bill after he has heard a statement that I desire to make.

This bill was reported by the Committee on Interstate and Foreign Commerce. It has the support of the Department of Agriculture and the support of every humane society in the United States, because its purpose is to stop a traffic which is cruel to animals, dangerous to public health, and disgusting in its revelation of cheap and nasty cupidity.

Mr. GARNER. Mr. Speaker, let me suggest to the gentleman that he address his remarks to the gentleman from New York [Mr. MICHAEL E. DRISCOLL], who seems to have some doubt as to the wisdom of this legislation.

Mr. HAMILTON of Michigan. Mr. Speaker, the gentleman from New York is listening, and possibly I may be able to induce him not to object. My attention was first attracted to this cruel and disgusting practice by a shipper of stock living in my own State. He told me it was the custom of stock shippers to take little calves from their mothers before they had learned to eat or drink, put them in these slat cars, expose them to all kinds of temperature, keep them three or four days on the road without nourishment—a process of slow starvation—and if they survive, then kill them for human food. I thereupon started an inquiry through the Bureau of Animal Industry, which resulted in this bill.

Gentlemen may want to know to what extent this cruel business is carried on. Dr. Francis H. Rowley, of Boston, who in appearing before the Committee on Interstate and Foreign Commerce represented all of the humane societies of the United States, testified that on May 2 and May 3, 1910, 790 calves arrived at Brighton, a suburb of Boston, and out of these 790 calves 183 arrived dead—starved to death. Their stomachs were examined by experienced veterinarians, and were found to be as dry as a powder horn. Those that were still alive were killed for human food. He further testified that in six days on which an account was kept 1,690 of these calves were shipped to the Boston market, and in one week 6,056, and that numbers of these poor little calves were starved to death or trampled to death by larger cattle with which they were shipped.

Mr. MURRAY. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON of Michigan. Certainly.

Mr. MURRAY. May I inquire of the gentleman from Michigan whether or not an attempt was made to regulate this matter in Massachusetts?

Mr. HAMILTON of Michigan. Yes.

Mr. MURRAY. Through the activities of Dr. Rowley and the humane societies, and that regulation could not be had, and they were forced to come to this Congress for this legislation.

Mr. HAMILTON of Michigan. That is true. We have meat-inspection laws, and, so far as possible, the Federal inspectors protect the public from this nefarious traffic; but the testimony is that in Massachusetts they have accommodating State officials who are not exacting as to State inspection.

Why do men go into this business, Mr. Speaker? The testimony is that there are men who hang around dairy farms and positively know when a cow is about to have a calf. They buy the calf when it is a day old or a week old or two weeks old, and they buy it as cheaply as they can, and the owners of these calves are willing to sell when the calf is young, because they want to sell the milk the calf would require. They tie its legs, they put it in a wagon, and they carry it off to the railroad station, and when they have accumulated enough of these poor little unfortunate calves they start them off for Boston or Buffalo or some other market.

Why do these dairymen sell these very young calves? It was frankly admitted by some of the dairymen who came before the Committee on Interstate and Foreign Commerce that it does not pay to teach a calf to drink and that the milk a calf would drink is more valuable than the calf, and so they are willing to connive at this cruel traffic. But if this suffering does not appeal to men, then I appeal to them on the ground that the public health is involved and on the ground that their own health is involved.

What do these shippers of calves make out of this business? Why, they buy a calf from one of these dairy farms for a dollar and a half. They sell the sweetbreads for 50 cents out of one of these calves; they sell the liver for 60 cents; they sell the stomach for 15 cents; they sell the hide for a dollar or a dollar and a half; and they sell the carcass for from $3 to $6. What do they do with the carcass?

Mr. GARNER. Will the gentleman yield?

Mr. HAMILTON of Michigan. In just a moment; I want to emphasize this. What do they do with the carcass? They bone it off, so the witnesses testified, and make canned chicken out of it. Do you gentlemen like canned chicken?

Mr. BUTLER. Not canned chicken?

Mr. FOSTER. Is not that a violation of the pure-food law?

Mr. HAMILTON of Michigan. They do it.

Mr. GARNER. The gentleman must remember that is under a Republican administration. We propose to enforce the law, and there will be no danger of that kind when the Democrats get in.

Mr. HAMILTON of Michigan. This is a calf question; it is not a political question at all. [Laughter and applause.] Mr. Speaker, they make sausage out of this meat.

Mr. GARNER. Pig sausage?

Mr. SISSON. Hog sausage?

Mr. HAMILTON of Michigan. Yes; I suppose so.

Mr. FOSTER. Country sausage?

Mr. HAMLIN. Did not the evidence show that they canned a good deal of this stuff and it was sold as canned chicken?

Mr. HAMILTON of Michigan. Yes; I stated that at the outset. That is one of the important facts developed.

Mr. GARNER. Is not that in violation of the law?

Mr. HAMILTON of Michigan. Yes. They are violating the law not only in this respect, but in other respects.

Mr. GARNER. Why have not they been prosecuted and made to obey the law?

Mr. HAMILTON of Michigan. I will tell the gentleman as I go along; there are several phases I want to develop.

Mr. MURRAY. Will the gentleman yield?

Mr. HAMILTON of Michigan. Yes.

Mr. MURRAY. May I inquire whether it is a fact that attempts were made to reach these people under the interstate-commerce law by the forces that the gentleman has mentioned in Massachusetts and it was found that this legislation was needed to reach the violators?

Mr. HAMILTON of Michigan. It is true. Now I will depart a little from the order in which I desired to present this to the House, and say that they have in the State of New York a law which prevents, or is supposed to prevent, the shipment of calves under 4 weeks old unless they are accompanied by their mothers and are for breeding purposes. Now, what do they do? They collect these calves around these dairy farms, and they put three or four old cows that have not given milk for a generation [laughter] with the little calves, and they arrive at their destination with the cows' teats lacerated, because the little chaps have been tugging at those dry sources of theoretical supply. [Laughter.]

Mr. HAY. Why does not the gentleman go on and try to pass the bill?

Mr. HAMILTON of Michigan. There is a gentleman talking about objecting to it.

The SPEAKER. Is there objection?

Mr. FOSTER. Mr. Speaker——

Mr. MICHAEL E. DRISCOLL. Mr. Speaker, I do not want to object, but I want to say a word before we get through.

The SPEAKER. What is the point of the gentleman from Illinois [Mr. FOSTER]?

Mr. FOSTER. I want the gentleman to proceed with the explanation of his bill.

Mr. GARNER. Mr. Speaker, I do not want to call for the regular order. I want to give each gentleman an opportunity to explain his bill, so that any other Member in the House may intelligently know whether he wants to object; but I doubt the advisability of taking up the entire unanimous-consent day by a long speech on a bill that we know is going to be objected to in the end.

The SPEAKER. The gentleman has the right at any time to demand the regular order. The gentleman from Michigan [Mr. HAMILTON] may proceed.

Mr. BURKE of South Dakota. I will ask the gentleman from Michigan [Mr. HAMILTON] if he will submit to an inquiry?

Mr. HAMILTON of Michigan. Yes. I want to say before replying that I promise not to continue much longer.

Mr. BURKE of South Dakota. If we pass this bill, how would it affect the condition that there is still in the State of New York; that is, assuming that these calves are shipped within the State?

Mr. HAMILTON of Michigan. This bill prohibits the shipment of calves in interstate commerce under 6 weeks old. And I may say—and I say it looking at my friend from New York [Mr. MICHAEL E. DRISCOLL]—that every witness who appeared before the committee admitted that the traffic was cruel, and admitted that it was dangerous to health, and the only objection finally that any of them made was that the age limit should be reduced to 4 weeks.

Mr. MICHAEL E. DRISCOLL. Will the gentleman yield to a question there?

Mr. HAMILTON of Michigan. Yes; in a moment. The difficulty about reducing the age to 4 weeks is—and I have considered it carefully, because I am anxious to get this bill on the statute books, and have conferred with the Agricultural Department in relation to it—the difficulty about reducing the age limit to 4 weeks is that if you do that these men will put calves into these cars that are much under 4 weeks. If you put the age limit at 6 weeks you may get a good many 4-weeks-old calves, but you will not be so likely to get calves a day old. The testimony is that calves are started out for Boston and other markets when they can scarcely stand on their legs and are not 24 hours old.

Now, I yield to the gentleman from New York [Mr. MICHAEL E. DRISCOLL].

Mr. MICHAEL E. DRISCOLL. The gentleman has substantially answered one of the questions. Is it not true that all the references to the cruelty practiced on these calves applied to calves that were very young—from a day to a week old?

Mr. HAMILTON of Michigan. I can scarcely answer the gentleman as his question implies he would like to have me answer him.

Mr. MICHAEL E. DRISCOLL. Answer according to the truth, whether I like it or not.

Mr. HAMILTON of Michigan. All right. The testimony is that they ship calves that are incapable of taking nourishment. I have the testimony here, but I have not the time to read it——

Mr. MICHAEL E. DRISCOLL. You ought to know the laws on that subject.

Mr. HAMILTON of Michigan. The State law is being evaded. I have a letter of no later date than December 26 last, from an inspector of the Bureau of Animal Industry, setting forth that the custom still prevails of shipping these young calves, and it is not alone the calves that are very young that suffer en route. Few, if any, of these calves have been taught to eat or drink. It is probable, of course——

Mr. MICHAEL E. DRISCOLL. Is there any reference in the whole record to a calf over 2 weeks old?

Mr. HAMILTON of Michigan. Why, the testimony is that the dairymen of New York—and I can cite the gentleman to the exact page—say they do not think it is worth while to teach calves to drink.

Mr. MICHAEL E. DRISCOLL. That does not answer the question.

Mr. HAMILTON of Michigan. They say the milk is worth more than the calf. If the milk is worth more than the calf, then the testimony is that they get rid of the calf.

Mr. MICHAEL E. DRISCOLL. The testimony is if they keep a calf six weeks it would not pay, but if they keep it four weeks it would pay.

Mr. SISSON. In answer to the gentleman from South Dakota [Mr. BURKE], I believe reference was made to intrastate shipments. Your bill would not affect those shipments, would it?

Mr. HAMILTON of Michigan. It would not.

Mr. SISSON. And could not do that under the Constitution, could it?

Mr. HAMILTON of Michigan. No; and, further than that, let me say this in relation to cattle in the Southwest: When I first drew the bill, or when it was first drawn for me, in part, in the Bureau of Animal Industry, it was not known that sometimes it becomes necessary in the plains country, in case the pasture grows short and in case the grass is destroyed by fire, or otherwise, to move the cattle over a State line, and so a provision was incorporated in the bill susbequently to permit emergency removals.

Mr. GOLDFOGLE. Mr. Speaker, will the gentleman yield?

Mr. HAMILTON of Michigan. Yes.

Mr. GOLDFOGLE. Is it not a fact——

Mr. BURKE of Pennsylvania. Mr. Speaker, will the gentleman yield?

The SPEAKER. To whom does the gentleman yield?

Mr. HAMILTON of Michigan. To the gentleman from New York [Mr. GOLDFOGLE].

The SPEAKER. The gentleman yields to the gentleman from New York.

Mr. GOLDFOGLE. Is it not a fact that the statute of the State of New York fixes the age limit at four weeks?

Mr. HAMILTON of Michigan. I have so stated.

Mr. GOLDFOGLE. And in the State of Pennsylvania I believe that is about the same limit?

Mr. HAMILTON of Michigan. I understand so.

Mr. GOLDFOGLE. In how many States of the Union does the law make a greater limit than four weeks?

Mr. HAMILTON of Michigan. I do not know the laws of all the States, but my judgment is that in most of the States there is no limit whatever. I doubt if there is a limit in the Western States at all.

Mr. GOLDFOGLE. Now, in the State of New York it is possible under the statutes of that State to ship calves four weeks old from Buffalo all the way down to Montauk Point, is it not?

Mr. HAMILTON of Michigan. In the State of New York?

Mr. GOLDFOGLE. Yes; in the State of New York.

Mr. HAMILTON of Michigan. How far is it from Buffalo down to Montauk Point?

Mr. GOLDFOGLE. It is less than 500 miles.

Mr. HAMILTON of Michigan. How long do they keep them in transit?

Mr. GOLDFOGLE. That I do not know exactly.

Mr. HAMILTON of Michigan. The time in transit is important, as the gentleman from New York will recognize, and the testimony is that they keep them all the way from two days to six days under the existing conditions. There should be some time limit, and there should be an age limit. They tried in Massachusetts to fix a limit according to weight.

Mr. MICHAEL E. DRISCOLL. Mr. Speaker, the gentleman has had 20 minutes, and I want to talk 5 minutes.

Mr. HAMILTON of Michigan. I would not have talked so long, Mr. Speaker, if I had not been interrupted.

I want to state one other thing, and I want the Members of the House to hear me. Dr. Eliot, former president of Harvard, discussing this abhorrent traffic, says that when an animal is subjected to suffering, such as these calves are subjected to, it sets up toxic processes and make the meat dangerous to human health.

In addition to this, the testimony of experts in the Bureau of Animal Industry is to the effect that the meat of these calves is water-soaked; that it is dropsical; that it is the best kind of a medium for the deposit of germs of disease; that it enables the formation of ptomaine poisons and bacterial toxins; and the doctors who have testified have made statements to the effect that there are many cases of death by reason of eating this poisoned, dropsical, disgusting food.

Mr. MANN. Mr. Speaker, does the gentleman yield for a question?

Mr. HAMILTON of Michigan. Yes.

Mr. MANN. I understood the gentleman to quote Dr. Eliot, former president of Harvard University?

Mr. HAMILTON of Michigan. Yes.

Mr. MANN. He qualifies, no doubt, as an expert on immature calves because he was former president of Harvard University? [Laughter.]

Mr. HAMILTON of Michigan. The gentleman seeks to be facetious.

Mr. MANN. I am very serious about it.

Mr. HAMILTON of Michigan. No; the gentleman is not serious. I stated that Dr. Eliot said this because I thought that the opinion of a man like Dr. Eliot, who carefully weighs his words, might have weight. That is why I quoted him.

Mr. GARNER. Mr. Speaker, I ask unanimous consent that the gentleman from Michigan may have permission to extend his remarks in the RECORD.

Mr. HAMILTON of Michigan. I do not care to do so, except that I would like to have unanimous consent to print my report from the Committee on Interstate and Foreign Commerce.

The SPEAKER. The gentleman from Texas [Mr. GARNER] asks unanimous consent that the gentleman from Michigan [Mr. HAMILTON] have the privilege of extending his remarks in the RECORD. Is there objection?

There was no objection.

Mr. HAMILTON of Michigan. By permission of the House, I will print as part of my remarks the report of the Committee on Interstate and Foreign Commerce accompanying this bill.

The report is as follows:

[House Report No. 837, Sixty-second Congress, second session.]

INTERSTATE TRANSPORTATION OF IMMATURE CALVES.

Mr. HAMILTON of Michigan, from the Committee on Interstate and Foreign Commerce, submitted the following report, to accompany H. R. 24927:

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 24927) to regulate the interstate transportation of immature calves, having considered the same, report thereon with a recommendation that it pass.

This bill is designed to prevent a cruel, disgusting, and dangerous traffic—cruel to animals, dangerous to human health, and disgusting in its revelation of cheap and nasty cupidity in perpetrating upon unsuspecting consumers food unfit for human consumption.

Dr. Francis H. Rowley, of Boston, who appeared before the Committee on Interstate and Foreign Commerce, as he said, "in behalf of all the humane societies in the United States, that are a unit in their indorsement of this bill and their hope that the bill may become a law," and also "in behalf of the one society in the United States that has put up the hardest fight for the past two years that has been put up by any organization in this country to prevent the horrible abuses connected with the shipment of immature calves," said:

"This meat (of immature calves) is boned off and made up into sausages and sold to the poor. (Hearings, p. 7.) There are men—and I want you to understand, gentlemen, everything I say to you here to-day I can substantiate by facts and figures secured by our agents, and for which we are willing to take our oath—there are men in New York State and in Maine, New Hampshire, and Vermont, knowing the dates when the cows are to calf, and they are there the days the calves are dropped.

"In many instances the calves are taken that day. Their legs are tied together, and in many cases they are thrown under the boot of a wagon.

"They get a carload and then ship them.

"The farmer gets from a dollar to a dollar and a half for this little calf.

"Now, you know that the Holstein and other breeds will weigh, the day of birth, 50, 60, or 70 pounds dressed, and quite frequently 80 pounds the day when born.

"That is a pretty good calf, especially when you blow it up with compressed air.

"If they can get this calf through to market, then they get, say, a dollar or a dollar and a half for the hide.

"If they can get some inspector to pass it, 60 cents for the liver, 50 cents for the sweetbreads, and from three to six dollars for the carcass.

"First, a little return to the farmer of 80 cents or a dollar for the calf, and then one, five, or six dollars to the butcher." (Hearings, p. 9.)

Continuing, Dr. Rowley said:

"On May 2 and 3, 1910, there arrived at Brighton 790 calves in carloads in those two days, of which 183 were dead; dead from starvation; dead from utter exhaustion. We had one of the best veterinarians in Boston examine the stomachs, and the inside of the stomach was as dry as the palm of your hand; they had simply starved to death." (Statement Dr. Rowley, Hearings, p. 10.)

Further on he says:

"These are simply samples of reports handed me by our agents. I just brought a few of the most notable. Here is another: In six days 1,690 calves were brought over from the State of New York.

"Here is a record of one week of 6,056 calves shipped to the New England Dressed Meat & Wool Co. Three hundred of the calves were thrown out by the Federal inspectors as unfit for food.

"That Massachusetts is not the only State that has suffered from this is evidenced by a letter I have from the secretary of the Humane Society of Detroit, Mich. He says that:

"'The practice of taking young calves from their mothers in warm stables, driving them several miles through frost and snow, allowing them to stand shivering in the snow for half a day before loading them on the train, is a very cruel practice. Many of these calves are thus exposed in shipping from 30 to 90 hours. Outside of the matter of cruelty, such meat is unquestionably unfit for food.'

"Then there is also a similar statement from the president of the Connecticut Humane Society. As we began to make it unprofitable to these butchers, they began to turn them into Connecticut, and this is what the president of their humane society writes. He says:

"'On April 25 a carload of about 120 calves was received. They were thin, eyes sunken, and apparently a number of them were dead. On being taken from the car, some revived. These calves were shipped without crates. We had an examination made of two dead calves, and

nothing was found in their stomachs. Out of the entire number it is believed that 75 per cent were bobs.'

"Now, you say, why can not this be stopped by State legislation? The attorney general of New York says:

"'I find no authority in this provision of law or elsewhere that would justify the commissioner of agriculture to seize shipments of calves destined to a point without the State, under the conditions mentioned in your letter. The above section is intended to prohibit the offering or exposing for sale in the market of calves under 4 weeks of age or when they are not in healthy condition. The shipping therein referred to must be construed as meaning shipping for the purpose of killing within the State and can not refer to the shipping of calves without the State, as the legislature has no authority to prohibit such shipments.'

"These calves were shipped according to the laws of New York State to 'John Smith,' a little butcher in Connecticut, Rhode Island, or Massachusetts, as a 'dairyman.'

"Mr. DRISCOLL. Does not this law require that they be shipped in crates or accompanied by their mothers?

"Dr. ROWLEY. They are shipped there in crates, or are supposed to go with their mothers if not crated. The attorney general of New York can not stop it, because they go out to our State in conformity with the law. We can not do anything in Massachusetts except to cooperate with the Federal inspectors and such local inspectors as we can scare into destroying these calves and not allow them to get on the market as food. In many cases we have driven many of these butchers out of this business.

"Last Sunday a man came through from New York State following one of these carloads of calves. There is an attempt to evade the law by claiming that they are shipping the dams with these calves, because if they ship the dam with the calf they are complying with the law, even if they are only 1 or 2 days old. They take along old, worn-out, dried-up milch cows that are to be made into bologna sausage. They put them into the car with 60 or 70 calves. Capt. Walsh was with us—they unloaded 99 calves and 4 old cows. When these cows come out of the car with the calves they will walk away, with no more thought of the calf than you have of the child walking in the streets of New Orleans now. I have found the teats of these cows raw from the continual sucking of the calves put in with them." (Hearings, p. 13.)

Mr. Benedict, superintendent Stevens-Swan Humane Society, of Utica, N. Y., says:

"The skins are worth $1.15 and the stomach is worth 15 cents, making $1.30." (Hearings, p. 6.)

Mr. Benedict followed a shipment of calves from New Berlin, N. Y., to Brighton, Mass.

He says:

"Fifty-seven bob calves, none claimed to be over 1 week of age, were brought for shipment at New Berlin and 10 of them were so exceedingly youthful and weak that they were not placed in the car, and they simply placed 47 in the car."

One of the calves brought for shipment was so young that it could hardly stand, and the man who brought it stated that it had "only come last night."

The car started from New Berlin at 11.15 in the morning, and it is fair to assume that these calves had been separated from their mothers up to the time of starting—from two to five hours.

The car stopped at Leonardsville, and 17 more "bob-veal" calves were loaded, and at Bridgewater 15 more were brought in a wagon.

A bob-veal calf is defined to be a calf from 1 day to 1 week old.

The car left Bridgewater at 1.30 p. m.

"It was placed in the yard at Utica at 6.50 p. m., and remained there until 1.11 the morning of the 30th, when it was conveyed by a New York Central engine to the New York Central tracks."

The car left Utica at 4.30 that morning and arrived at New Albany at 5.31.

Inasmuch as the shipment was being watched by humane officers, a pretense was made of trying to feed these 78 calves in an hour and a half—between the arrival and departure of the car.

"They had two quart dippers and two funnels and pieces of hose attached to the ends of the funnels, so that if any calves could not eat from the pail and the dipper they would raise up their heads and put the rubber hose in their mouths and pour some of the mixture down their throats."

The pails and dippers were perfectly new, and it was apparent that they were going through the cruel farce of pretending to feed these calves—all of them too young to take other nourishment than milk from their mothers—because they were being watched.

It was claimed that the stuff in the pails was composed of milk and water. There were in all 9 pails of this stuff for 78 calves.

Mr. Benedict's testimony was corroborated in detail by Mr. Murray, field secretary of the American Humane Association. (Hearings, p. 32.)

The car left by way of the Boston & Albany Railroad for Brighton yard, a stockyard near Boston, and arrived there at 8.47 p. m. Sunday night, March 31.

At 9.55 that night the calves were unloaded at J. J. Kelly & Co.'s abattoir to be killed, having been more than 58 hours en route without nourishment, unless the pretense of feeding them at West Albany be called nourishment.

Twelve of them were so weak that they could not stand, and had been trampled upon. They were still alive and were carried to wagons, which transported them and the rest of the carload to a merciful death.

These calves, according to the testimony, arrived in better condition than calves ordinarily arrive because the shipment was being watched and because, at the outset, 11 calves were rejected as being no more than a day old.

These shipments are constantly occurring, and the attorney general of the State of New York held, on request for construction of the New York law entitled "Shipping, slaughtering, and selling veal for food," that there is "no authority in the provision of the law or elsewhere that could justify the commissioner of agriculture seizing shipments of calves destined to a point outside the State."

"The shipment there referred to must be construed as meaning shipping for the purpose of killing within the State, and can not refer to the shipping of calves without the State, as the legislature has no authority to prohibit such shipments."

Mr. Jefferson Butler, president of the Michigan Humane Association, of Detroit, Mich., in the course of his testimony, said:

"Now, this last winter some organization that was perfected there took up the question and went down and they found two carloads of young calves frozen to death on the Pere Marquette Railroad—the cows got through all right—and they asked the reason from experts, and they said it was simply because they were not in a fit condition. They were not old enough to stand that severe weather. I saw a shipment of young calves billed from Kalamazoo to East Buffalo. They were put in one end of a car, and they were not able to lie down; there was simply room to stand up, and when I was there it was 9° above zero. We followed that shipment, as best we could, and they were over three days getting from Kalamazoo to East Buffalo. We followed another shipment, and they were six days in that kind of weather, going through in these slat cars where it was only about 12 or 13 above zero." (Hearings, p. 82.)

It is unnecessary to multiply instances in this report.

The traffic is not local.

Dr. A. D. Melvin, Chief of the Bureau of Animal Industry, of the Department of Agriculture, states in a memorandum, supplementing what he said before the committee, that "the shipment for slaughter of very young calves in interstate commerce has grown into a practice. The reports of department agents and officials of State sanitary live-stock boards, and of the State and National live-stock humane associations, show that shippers of live stock take young calves, not yet weaned and therefore incapable of taking any other kind of nourishment than milk, separate them from their mothers, and ship them to distant points in interstate commerce. At the time of slaughter these young animals have often been separated from their mothers for three or four days, or more."

In his memorandum, Dr. Melvin refers to reports of department agents, some of which are as follows:

"The opinion of Mr. Frank Burke, of Niles, Mich., a well-informed stockman, who expresses the hope that something will be done to put a stop to the cruelty practiced in the shipment of young calves in interstate commerce, is typical of the position of a great many other shippers.

"Another well-informed shipper cites a not uncommon case, in referring to a shipment of calves 3 weeks old from southwestern Michigan to Buffalo. These calves could take no food except from their mothers, and were separated from the cows and sent on the journey, which took 48 hours or longer. They reached their destination nearly dead. The following quotation from a letter from Dr. Francis H. Rowley, president of the American Humane Education Society, to the Assistant Secretary of Agriculture, describes the cruelties incident to the shipment of very young calves:

"'The difficulty is that these many thousands of young calves which have been shipped into Massachusetts in crates from New York State, where they can only be shipped to be used for dairy purposes, are shipped here to some of our most disreputable butchers and consigned to them as dairy companies. It seems to me that this shipping of them under false pretenses must be a flagrant violation of interstate regulations at least. They are brought from New York State into Massachusetts under an absolutely false pretense, shipped, for example, to the Tom Keenan Dairy Co., when Tom Keenan is as innocent of any purpose connected with them, except to slaughter them, as possible.'

"The following quotations from reports of inspectors of the department regarding the shipment of very young calves are also pertinent in this connection:

"Under date of January 3, 1911, Dr. B. F. Wende, inspector in charge, Buffalo, N. Y., says:

"'Such animals are not given any more consideration with respect to feed, water, and rest than other animals, and have often been confined in cars without feed, water, and rest from 38 to 45 hours when unloaded at these yards.'

"Dr. James S. Kelly, inspector in charge, Cleveland, Ohio, under date of April 4, 1911, writes as follows:

"'On yesterday, April 3, there were several mixed shipments of live stock at the Cleveland Union Stockyards from points in Michigan. Among these shipments were a number of very young veal calves. The Cleveland city inspectors tagged out some 40 or 50 which apparently ranged in age from 8 to 14 days, and which were too young to slaughter under the city code. Not being able to slaughter these calves in Cleveland, they were bunched together with others, by Bower & Bower, live-stock commission men, for shipment to Armour & Co., Pittsburgh, Pa.'

"In this connection it should be stated that the establishment at Pittsburgh to which the calves were shipped was not under inspection by the Department of Agriculture."

Here is a letter which Dr. Melvin read to the committee:

"This is a letter written by our inspectors at Worcester, Mass. It is addressed to me.

"'For your information I wish to advise you that N. Y. C. car No. 26297, containing approximately 140 calves, 5 cows, and a bull, shipped March 23, 1912, from New York, consigned to J. Malone, Providence, R. I., in care of New York Central and B. & R. R., 28-hour limitation, was reported as fed and watered at Albany March 25 at 2 p. m., and arrived at Worcester at 11.30 a. m., March 26, and was transferred to N. Y., N. H. & H. yards at 12.30 p. m. on March 26. There was from March 23, 1912, to March 26, noon, and it was unloaded and fed and watered at 1.30 p. m. At the time of unloading we found 17 calves in one cow bin. Many calves were in a semiexhausted condition and, in my judgment, many calves were not over 10 days old, and the cows were in a very poood condition and were nearly exhausted from being nursed by so many calves. The stock was unloaded in the N. Y., N. H. & H. yards and fed, and the dead ones removed. Ten cans, containing 85 quarts of milk, was given to the calves, some of which were too young to drink. The calves were reloaded at 6.30 p. m. at Providence, the remaining four cows and the bull were loaded into a separate car and shipped also.'

"I could have brought up a large number of letters similar to that; but I do not think it is necessary. There is a very great cruelty that ought to be abated in some way. If the States will not do it, the Federal Government ought to do it. That is about all the testimony that I care to give."

Dr. Melvin mentions many other instances, and closes his memorandum with this recommendation:

"From consideration of the whole subject it is apparent that the enactment of a statute prohibiting the shipment of immature calves in interstate commerce is needed in order to prevent the excessive cruelty which is now being practiced. The department is unable to recommend prosecution unless the stock are confined in transit beyond 28 hours without water, feed, or rest, or unless an attempt is made to slaughter immature calves at any packing establishment where Federal inspection is maintained. While both these statutes in respect to immature calves are being enforced rigidly by the department, it is clear that additional legislation is needed in order to prevent the cruelty which is still being practiced."

As bearing upon time in transit, Dr. Melvin testified (hearings, p. 18):

"This applies to the time that they are in transit. There is possibly half a day to a day before the calves are loaded, and that much time elapses, perhaps, after they are unloaded, so that even when you get

the 28-hour proposition, that can be extended to 36 on the written request of the shipper. Then add this additional time before loading and after loading to that 36 hours and you have got two or three days where the animals are absolutely without anything to eat. They want to eat and can not eat, because they haven't learned how to eat, and that pretense that they go through of feeding them is a mere farce."

THE PUBLIC HEALTH.

As to the danger to the public health from the eating of the meat of these calves, we quote Dr. Rowley, as follows:

"I have here a letter from Dr. Butler, of the Suffolk District Medical Society. This is the leading medical society of Boston. He says:

"'Our committee believes that the weight of evidence is in favor of an age limit for the sale of veal, and not a weight limit, as we favor legislation along these lines.'

"To defeat the law, some of the butchers want to make it a weight limit of the calf and not an age limit.

"Dr. A. T. Cabot, of Boston, writes me:

"'I am quite willing, in view of the authorities that you cite, to express my conviction that "bob veal" is unsuited for human food.'

"Dr. Herbert Clapp is certainly one of the leading physicians of Boston, and he says:

"'During the years of my practice I have seen quite a number of cases of sickness produced by eating veal from immature calves, and some of them were very severe. I think there should be very stringent laws against slaughtering for food calves during the first few weeks of life (no matter what they weigh), not only because their flesh may be poisonous, but also because to most people who know anything about it the very idea is repulsive.'

"Dr. Eliot, the former president of Harvard College, when he heard of our contention, wrote me:

"'The bill introduced into the Massachusetts Legislature to allow the sale of any calf that will weigh 40 pounds dressed gives no security against the abominable cruelty of taking a newborn calf away from its mother, depriving it of all food, shipping it on long railroad journeys in crowded cars exposed to any extremes of heat or cold, and selling it for human food in this starved and agonized condition. Independently of the question of the wholesomeness of such meat, I think a civilized community has a right to prevent any buying and selling for a money profit which involves such cruelty. Moreover, I can not but think that consumers ought to be protected against all chance of eating the meat of any animal which has been in torment for many hours before the moment of killing. Man is by no means the only animal in which suffering and terror set up toxic processes. The fact that thorough cooking may destroy the germs or poisons in a raw food does not invalidate the instinctive and reasonable objection to food which was noxious when raw. We all vastly prefer as food milk, meats, cereals, vegetables, and fruits which are pure and sound, and always have been, to the same materials in which impurity and rottenness have been artificially corrected or rendered imperceptible; and this preference is wise.'

"Mr. Esch. Do the medical authorities find that the eating of 'bob' veal leads to ptomain poisoning?

"Dr. Rowley. Yes; the sickness that results could be so called. May I quote to you a paragraph or two from the Department of Agriculture, which has been sending to me articles on this very question. This is on the health condition—on the quality of this food as food or unfit for eating:

"'"Bob veal," or the flesh of immature calves, is objectionable on esthetic grounds and prohibitive from a hygienic standpoint. It is repulsive in appearance, owing to the water-soaked condition of the flesh and fat. This condition is due partly to the abundance of water, producing a dropsical condition of the connective tissue constituents, and partly to the presence of certain metabolic products in the tissues which are produced in the fetus as the result of tissue changes or metabolism, and which are cleared away and carried off some time after birth, owing to the purgative properties of the colostrum in the milk of the mother.

"'Besides reducing its nutritive value, the presence of the greatest amount of water acts also as a good media or fertile soil for germs, and not only lessens the keeping quality of such meat but actually enables the formation of ptomaine poisons, bacterial toxins, tox-albumins, and toxigenic substances which the unsuspecting purchaser of such meat can not detect. As a consequence of eating such flesh profuse and sometimes fatal diarrhea may develop in the consumer, as has been shown in literature. Meat-poisoning bacilli find a ready media for luxuriant growth in "bob-veal" carcasses even at low temperature.'

"Now, at the time I published this in a Boston paper a Boston physician came into my office and said:

"'Last night a patient of mine died. I am perfectly convinced, from eating "bob veal." She ate very heartily, and at 10 o'clock she became very ill, and she died before morning.'

"There are a number of other quotations here to the same effect. I have also a translation from a distinguished German authority, in which bears out the same statement—that the flesh of these prematurely born calves comes under the head of 'spoiled foods' and is not to be eaten."

The following statement bears upon the methods by which this meat enters into human consumption:

"The following are two instances which I quote from a report given me by the New York State department of agriculture: On March 29, 1911, 90 carcasses of calves and 5 barrels of parts of calves, head, liver, etc., were seized. This consignment was made by one George May. Also, April 8, 1911, the department seized 15 boxes and 4 barrels containing boned-out meat of immature calves. These boxes weighed 50 pounds apiece. The consignment was made by T. Morey, Middleville, N. Y.

"The absolute truthfulness of the following I can not vouch for, but a friend of mine asked a large dairyman how he got rid of his newborn calves. The answer was: 'Why, there is a chicken-canning factory not far from my farm.' I can vouch for the statement that many small boxes have been seen by our agents carried away from places where it has been known these little calves were slaughtered. While we had no right to open the boxes, we were morally certain they contained the carcasses of these little calves boned out." (Hearings, p. 87.)

It appears that the meat of these calves is "blown up with compressed air" to deceive the public.

The hide is sold for a dollar or a dollar and a half.

The liver is sold for about 60 cents.

The sweetbreads for about 50 cents.

The stomach for about 15 cents.

And that when the meat is not sold openly as fit for food it is "boned out" and sold for sausage and canned chicken.

TRAFFIC CRUEL AND MEAT UNFIT FOR FOOD.

The issue upon this bill is not as to the cruelty of the traffic.

All the witnesses who appeared before the committee agreed that the traffic is cruel.

The issue is not as to the unwholesomeness of the meat and its danger to the public health.

All the witnesses who appeared before the committee admit that the meat is dangerous to health, and all admit that the traffic is disgusting.

Mr. Boshart, who appeared against the bill, said:

"I am not here to argue anything about the immature—this so-called immature bob veal.

"Mr. Hamilton. You do not defend that?

"Mr. Boshart. I won't defend that in any way. I am here to defend an honest industry that not only exists in New York State but in every State surrounding it. I know this traffic has gone on, and I am not here to defend it. I am against it.

"Mr. Hamilton. I am glad to hear you say that.

"Mr. Boshart. They are virtually helpless in the State of Massachusetts to stop the transportation of these immature calves. I will tell you just what it is.

"Mr. Driscoll. What is that?

"Mr. Boshart. I do not know much about these conditions, but the bill is all right if it will stop it. I should stop it, and if you people here in Washington deem it proper that this system should be stopped you will stop it, and you will stop it with the four weeks' limitation carried on the statute books." (Hearings, pp. 44–45.)

Mr. Vary, who appeared against the bill, said:

"Now, so far as I know, none of the men who are here with me stand for shipping immature veal. We are against it, but we do believe veals are mature and fit for food and that they are at the same time better veals at 4 weeks of age than they are at 6." (Hearings, p. 46.)

"Mr. Hamilton. Isn't it customary in certain parts of your State, as well as other States—this practice isn't confined to one State—to let the cow have the calf primarily for the production of milk, the object being to get rid of the calf as soon as possible?

"Mr. Vary. The sooner you can get rid of the calf under those circumstances the more profit there is in it.

"Mr. Hamilton. Isn't it true that in many parts of the country they sell the calf very soon because the calf is in the way, and what they want the cow for is to have a supply of milk?

"Mr. Vary. That is, in different sections some do that.

"Mr. Hamilton. Isn't it from that very very custom that this cruel custom of shipping immature calves arises?

"Mr. Vary. I am not defending that custom at all. That may be. We are against the shipment of immature calves. We are always against it. I speak for the New York State Grange, and also for the department of agriculture in our State. We are against that, and favorable to any reasonable proposition that tends to do away with it. All we ask is that you fix the age limit at 4 weeks instead of 6, and we will be perfectly satisfied." (Hearings, p. 48.)

Senator Cobb, of New York, who appeared against the bill, declared against the traffic.

"Mr. Hamilton. As bearing upon your reply to Mr. Martin, I hold in my hand a letter from Hon. James Wilson, Secretary of Agriculture, and I would like to have you state whether you agree with his conclusion.

"Mr. Cobb. I have heard that read. I am just as much against it as you are.

"Mr. Hamilton. I understood you to say that you were able to take care of the cruelty end of it, if I quote you correctly? You agree with that, then?

"Mr. Cobb. There is no one who would do more to prevent abuses than we would.

"Mr. Goeke. I would be glad if Mr. Hamilton would read the whole letter.

"Mr. Cobb. I do not want to rest here and have it understood for a minute that we feel that the Secretary is in favor of permitting cruelty in shipments, or anything of the kind. He wants to do everything he can to stop it, the same as we do.

"Mr. Sims. It is a cruelty to the people who eat these calves more than the cruelty to the animals. I do not want to eat the immature things. If they are sold people will buy them and eat them. The public health is what I am considering more than anything else." (Hearings, p. 59.)

Mr. Gerow, of Washingtonville, N. J., who appeared against the bill, said:

"Mr. Gerow. Of course I think that I voice the sentiment of the farmers, and I think that New York State has been foremost in advocating a pure-food law and doing everything they can to hold the consumer in that way. I think that is the past record of the New York organization of farmers. We want to sell no goods that are objectionable.

"Mr. Hamlin. I got that impression from the testimony before this committee, that a great many calves shipped to New York and Boston were not taught to eat, did not know how, and they came into Boston or New York in a starved condition, absolutely unfit for food.

"Mr. Hamilton. And several of them died.

"Mr. Driscoll. They were very young calves.

"Mr. Gerow. They were bob veals, were they not?

"Mr. Hamlin. I presume they were.

"Mr. Gerow. We are not asking to ship bob veals.

"Mr. Hamilton. I understand you are not in favor of that?

"Mr. Gerow. We do not like it."

Mr. J. G. Curtis, Union Stock Yards, New York, who runs a dairy farm and is also engaged in the live-stock commission business, testified as follows:

"Mr. Hamilton. You do not bother to teach the calves to drink? I suppose on your farm there are produced—about how many calves will there be produced by the 1st of June?

"Mr. Curtis. Forty or fifty.

"Mr. Hamilton. Forty or fifty calves. It would be quite a job to teach them to drink.

"Mr. Curtis. We do not attempt it.

"Mr. Hamilton. So, after all, it comes to a commercial proposition; you dispose of those calves as soon as you can. They are not taugh to drink?"

Mr. Saunders, a live-stock commission merchant, of Jersey City, N. J., who appeared against the bill, testified as follows:

"Mr. Saunders. Some claim 2 weeks old. You can get a calf 2 weeks old heavier than one 3 weeks old.

"Mr. Hamilton. Are you prepared to argue that a calf a week old, if it should be shipped from some point in Michigan to Cleveland, being

obviously unable to take any nourishment, and should be held in Cleveland without any nourishment, and finally shipped down to Armour & Co., at Pittsburgh, Pa., and there slaughtered—are you prepared to say that the flesh of that calf is fit for human consumption? Even if you are unwilling to take into consideration the suffering of these poor animals, are you willing to say it is fit for human consumption?

"Mr. SAUNDERS. I am willing to say it is not.

"Mr. HAMILTON. Are you willing to say it is not cruel? You would say it was cruel to the calf, would you not?

"Mr. SAUNDERS. Yes; certainly, to a week-old calf.

"Mr. HAMILTON. To a 2-weeks-old calf?

"Mr. SAUNDERS. It would be cruel; you know what I mean, it is cruel to load any of these cattle in a car. It is cruel the minute you take these cattle away from their homes, for that matter, whether they are 2 weeks old, 2 years old, or 4 years old. It is cruel the moment you take any of these cattle or sheep and put them in the car, and I am not trying to make you people believe it is not cruel to crowd these cattle in the cars; but I do tell you gentlemen the improvements in this business the last two years have been so great that one not in the business would not believe it."

It is clear from the testimony that if 24 hours in transit were permitted, the entire time between the separation of the calf from its mother and its slaughter would be not less than 30 hours, and would probably be nearer 36 hours, because of the time consumed in getting the calf from the farm to the place of loading and the time consumed at destination after unloading and before slaughter.

After the testimony upon the bill as originally introduced had been heard, the first section was changed by adding at the end of the section these words:

"*Provided*, That the Secretary of Agriculture may make rules and regulations permitting, in cases of emergency only, the shipment in interstate commerce of live calves less than 6 weeks old; and the Secretary of Agriculture may also permit, under such restrictions as he may deem proper, one shipment in interstate commerce of live calves less than 6 weeks old, and over 3 weeks old when the entire time consumed in such interstate shipment to final destination, including time of loading and unloading, does not exceed 12 hours."

After making this change, the bill was ordered by the committee to be reintroduced and reported favorably.

Mr. McConnell, secretary of the Tri-State Live Stock Association, which covers northern Indiana and Ohio and southern Michigan, testified as follows (hearings, p. 76):

"Mr. MCCONNELL. Our calves there are usually held about five weeks. I personally and our shippers there will not buy anything unless it is first-class veal; in fact, not 1 veal out of 50 I ship but sells at the top of the market. Most of the farmers in Hilldale market and through there prefer to make a calf prime before they let it go, and that takes four or five weeks; they do not like to hold them over five weeks; but they hold them from four to five weeks and make the calf weight 150 to 180 pounds in that time, where they have grade mothers; that is home weight; a Jersey cow will not do it.

"Mr. HAMILTON. Then, if this bill prescribed that calves should not be shipped under 4 weeks old, it would conform to your views, would it not?

"Mr. MCCONNELL. It would; yes, sir.

"Mr. HAMILTON. What would you say about five weeks?

"Mr. MCCONNELL. It would not be so much of a hardship with us, although here is a question to decide. Gentlemen, I confess I think a calf 3 to 3½ weeks old, 3 weeks old more particularly, could be distinguished quite readily; after they got up much beyond 3 weeks, I think it would be hard for anybody to tell their age up to a certain point."

The issue is not as to the cruelty of the traffic or as to its danger to health. It is admitted by everybody that the traffic is cruel and that the meat is unwholesome, but it is claimed that the age limit should be 4 weeks instead of 6 weeks, and that the time of transit should be at least 24 hours.

The case is summed up in a letter of Dr. W. O. Stillman, president of the American Humane Association, printed on pages 87 and 88 of the hearings, as follows:

THE AMERICAN HUMANE ASSOCIATION,
Albany, N. Y., April 24, 1912.

Hon. EDWARD L. HAMILTON,
Committee on Interstate and Foreign Commerce,
House of Representatives.

DEAR MR. HAMILTON: I understand that a hearing was given before the House Committee on Interstate and Foreign Commerce on April 16, 1912, in regard to the "bob-veal" bill, H. R. 17222. I am also informed that representatives of dairy farmers from New York, Indiana, and Michigan appeared against the bill.

The contentions of those appearing against the bill, it is said, were—

First. That a 6-weeks age limit would be unreasonable, and that 4 weeks would be sufficient.

Second. That the practice of shipping immature calves is a local matter and confined largely to New York State and Massachusetts, and that the conditions complained of should be cared for in each State and regulated only by local laws.

Third. That immature calves do not suffer greatly in being shipped to market, and that there is a very small loss from either injury or death.

In reply to these claims this association respectfully submits—

First. That where the 4-weeks age limit holds large numbers of calves are shipped much under that age and anywhere from 1 to 2 weeks old, or even younger. The constant tendency seems to be, according to the experience of our anticruelty societies, to evade the 4-weeks limit and send the calves to market as soon as possible, for obvious reasons.

From our experience with the 4-weeks limit we are convinced that a 6-weeks limit is positively required and would practically result in large numbers of calves being shipped at considerably under the 6-weeks limit, making the age in actual practice much nearer 4 weeks than 6. In other words, it is desirable to have the limit at least 6 weeks in order to prevent the shipment of calves much under 4 weeks of age.

We claim that a 6-weeks limit is not unreasonable, as the shipment of younger calves is much more likely to be injurious for human consumption, and, furthermore, that it is constantly found in practice that it is the younger calves which are apt to die during transit from starvation and weakness. We submit that this is only reasonable and self-evident.

Second. In regard to the second point we submit that the shipment of immature calves is not a local matter, confined to any one section, but that it is an abuse which exists everywhere that dairy farming is practiced, as a natural result of the desire to sell the cows' milk as promptly as possible for the increased profit which accrues. Many States have failed to pass laws satisfactorily regulating the shipment and sale of bob veal, and if they did have such laws they would not reach the interstate-shipment abuses. The contention that such cruelty should be controlled under State laws does not work out satisfactorily, even where the State laws are considered efficient.

For instance, under the New York agricultural law, chapter 1, section 106, entitled "Shipping, slaughtering, and selling veal for food," calves under the age of 4 weeks "can not be shipped or killed for food even when they are accompanied by their dams to the point of destination." There is, therefore, an absolute prohibition to the sale of bob veal. An energetic attempt having been made to invoke this law to prevent an interstate shipment of bob veal, the case was submitted to the attorney general of New York, whose opinion was, in part, as follows: "I find no authority in this provision of the law or elsewhere that would justify the commissioner of agriculture seizing shipments of calves destined to a point outside the State. * * * The shipment there referred to must be construed as meaning shipping for the purpose of killing within the State, and can not refer to the shipping of calves without the State, as the legislature has no authority to prohibit such shipments."

If the allegation is true that this is only a local abuse, peculiar to New York and Massachusetts, why should farmers be present from Indiana and Michigan in opposition to this bill, and why should the American Humane Association receive complaints from many remote sections of the United States concerning such abuses?

Third. In regard to the allegation that the shipment of immature calves to market is not associated with any great suffering on their part, I must say that an experience of nearly 20 years in enforcing anticruelty laws, of which about 7 have been connected with the American Humane Association, goes to show that such shipments are attended with frightful cruelty. I note that the evidence brought out during the farmers' hearing in opposition to the bill showed that calves, in interstate shipments, sometimes went as long as 40 hours without food or water. Is this not sufficient evidence that young and unweaned calves should be absolutely excluded from interstate shipment for market, and that the calves should be allowed to reach an age when they are stronger and have more resisting power? The constant tendency has seemed to be, on the part of shippers of veal, to try to crowd under the age limit just as far as possible without detection and punishment, although in some instances, particularly in the West, much older calves are frequently shipped.

In conclusion, the American Humane Association would respectfully urge that the shipment of unweaned calves and those under 6 weeks of age must necessarily be fraught with great cruelty and suffering; that the use of the flesh of such calves for human consumption carries with it serious danger; that this abuse is found in every State where extensive dairy farming is carried on, and that it will spread with the development of the country; that in order to supply the enormous amount of veal consumed in large cities, amounting, it is claimed, to 215,000 calves per year in New York City alone, that such calves must necessarily come from long distances, and therefore be subject to interstate-traffic regulation, if regulated at all; that there are no Federal laws at present which may be invoked to prevent this cruel and dangerous traffic; and that with Congress lies the power and the responsibility to relieve the condition which has become at once dangerous and intolerable.

Earnestly soliciting your support of this bill, I am,
Very truly, yours,

W. O. STILLMAN, *President.*

Mr. MICHAEL E. DRISCOLL. Mr. Speaker and gentlemen, I wrote the views of the minority on this bill, and if you will give me your attention for about five minutes I will tell you why we were opposed to it.

In the first place, it was not necessary for the gentleman from Michigan [Mr. HAMILTON] to harrow your feelings or turn your stomachs on the "bob veal" part of this proposition, because it does not apply; because all the evidence before the committee applied to very young calves, a day old or less than a week old; and we agree with the gentlemen that a law should be enacted to prevent the transportation of that class of calves.

Mr. HAMILTON of Michigan. Will the gentleman yield?

Mr. MICHAEL E. DRISCOLL. I prefer not to yield at this time.

Mr. HAMILTON of Michigan. The gentleman has made a broad statement.

Mr. MICHAEL E. DRISCOLL. If you will allow me to talk five minutes first, then I will yield.

Mr. HAMILTON of Michigan. The gentleman is mistaken in his statement, that is all.

Mr. MICHAEL E. DRISCOLL. Why do we object to this bill? We said to these gentlemen before the committee, and I have said time and again to the gentleman from Michigan, that if he would consent to an amendment making it four weeks instead of six weeks the farmers of New York, the grazing people of New York, would all be with him for the enactment of this law.

Mr. HAMILTON of Michigan. I am willing the gentleman should offer his amendment reducing the time to four weeks and let the House determine.

Mr. MICHAEL E. DRISCOLL. Here is the situation with reference to the State of New York: The Vermont law provides that calves 4 weeks old are fit for veal. The law of Massachusetts makes the same provision. The law of Connecticut has the same provision, that calves 4 weeks old or older are fit for food. The law of New Jersey makes the limit three weeks. The United States Department of Agriculture puts its stamp of approval on veal of calves 3 weeks old or over.

Mr. HAMILTON of Michigan. Where?

Mr. MICHAEL E. DRISCOLL. It allows that veal to go into interstate commerce.

Mr. HAMILTON of Michigan. Where?

Mr. MICHAEL E. DRISCOLL. I object to these interruptions for the moment.

The SPEAKER. The gentleman from Michigan will not interrupt the gentleman from New York without his consent.

Mr. MICHAEL E. DRISCOLL. As I say, the limit in New York is four weeks. Now, what is the result? The New York Central Railroad tracks run easterly and westerly through the State of New York from Albany to Buffalo and down to the city of New York east of the Hudson without crossing any other State line. Therefore the farmers of New York who ship their calves to New York City by the New York Central road can send them there at 4 weeks of age, but the man from the western or southern part of the State who wants to send his calves to New York by the West Shore, the Delaware, Lackawanna & Western, the Erie, or the Pennsylvania, all of which cross State lines into either New Jersey or Pennsylvania, and therefore shipments over those lines go into interstate commerce, can not ship them under 6 weeks of age.

The man east of the Hudson or between Buffalo and Albany can ship his calves into New York City at 4 weeks of age. The man who ships them by the West Shore road can not ship them under 6 weeks. Is that fair to the farmers of New York? Is it fair that the man from one section may send his calves to New York City at 4 weeks while the man from another section can not send them at less than 6 weeks? We say it is not uniform, we say it is not fair, we say that the 4-weeks' law accomplishes just what the humane society wants. Dr. Rowley, of Boston, and Mr. Coleman, and the others all said that if the calves were 4 weeks of age there would be no complaint, because a calf which is well fed on sweet milk until it is 4 weeks of age becomes prime veal, whereas if they try to feed it sweet milk until it is 6 weeks old it is more expensive. The value of the milk it drinks is greater than the value of the flesh it puts on in those intervening two weeks. Therefore it does not pay to feed a calf all the sweet milk it will drink until it is 6 weeks old, as compared with feeding it until it is 4 weeks old and then butchering it. It is the best veal and it is the most profitable way to dispose of the calves. These humanitarians said that if calves were four weeks old before they were shipped there would be no complaint. They said that so far as they knew a calf 6 weeks of age would suffer as much as a calf 4 weeks of age. Therefore, in order to satisfy these people on this technicality, you want to change the law and make it different from the laws of all the States of the Union and put a part of New York State under one law and a part under another law with two weeks' difference in the age limit. The representatives of the humane society said that if the law providing that a calf should be 4 weeks old were enforced, they would be satisfied, but because they thought it might not be strictly enforced they wanted to make it 6 weeks in order to have two weeks' leeway.

I stand here demanding equality for all the farmers of New York. I stand here opposed to a law which will let the New York Central ship calves to New York City at the age of 4 weeks, when the West Shore, the Erie, the Pennsylvania, and other roads can not ship calves to New York at less than 6 weeks of age.

The SPEAKER. Is there objection?

Mr. BURKE of Pennsylvania. I understand the gentleman from Michigan is willing to have the bill amended.

Mr. MICHAEL E. DRISCOLL. If the gentleman will consent to a change from 6 weeks to 4 weeks we will not oppose the passage of the bill.

Mr. HAMILTON of Michigan. Will the gentleman permit an answer?

Mr. MICHAEL E. DRISCOLL. The gentleman can answer that yes or no.

Mr. HAMILTON of Michigan. But I am not prepared to permit the gentleman from New York to direct how I shall answer.

Mr. BURKE of Pennsylvania. If the gentleman is not willing to have the bill amended, I object.

Mr. MICHAEL E. DRISCOLL. I object.

The SPEAKER. The gentleman from New York and the gentleman from Pennsylvania object, and the bill will be stricken from the calendar.

Mr. MICHAEL E. DRISCOLL. I will print as a part of my remarks the views of the minority.

The views of the minority are as follows:

VIEWS OF THE MINORITY.

The undersigned members of the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 24927) to regulate the interstate transportation of immature calves, which bill has been reported favorably, beg leave to submit herewith our views in opposition to the enactment of said bill into law in its present form.

The report raises and accentuates an issue which does not exist between the majority and minority members of the committee, or between the humane societies and the agricultural organizations. We wish to make it clear at the outset that we favor the bill if the age limit of "6 weeks" is changed to "4 weeks," and we hope that those who read the report and the minority's views will constantly bear this in mind.

The report says:

"This bill is designed to prevent cruel, disgusting, and dangerous traffic—cruel to animals, dangerous to human health, and disgusting in its revelation of cheap and nasty cupidity in perpetrating upon unsuspecting consumers food unfit for human consumption."

About half of the report is given to prove that very young calves have been shipped in interstate commerce in a cruel manner. That is principally made up of extracts from the hearings, some direct statements and some hearsay, but all tending to show that very young calves have been subjected to cruel treatment in transportation. All this could as well have been omitted from the report; for, while we do not know whether or not these statements are true, we do not deny them, and are ready to join hands with the majority in preventing such practices in the future.

Practically all the balance of the report is given to proof that "bob veal" is unwholesome and unfit for food. Again we agree with the majority, and all the men who appeared at the hearings in opposition to this bill in its present form agreed with the humane societies that the veal of immature calves should not be sold for food. The majority report quotes from the evidence of Mr. Boshart, Mr. Vary, Senator Cobb, Mr. Gerow, Mr. Curtis, Mr. Saunders, and Mr. McConnell, all of whom appeared in opposition to the 6 weeks limit in this bill, and all of whom condemned the practice of selling for food the meat of immature calves, and all of whom stated that calves well fed on sweet milk to the age of 4 weeks make prime veal, which brings the highest price in the market because it is the best veal.

There was no real contention on the facts between those who advocated and those who opposed this bill in its present form. Both groups of men—those who represented the humane societies and those who represented the agricultural organizations—asserted that very young calves should not be permitted to enter interstate commerce or any other commerce. Both asserted that the meat of such calves is unfit for food, and both agreed that the practice should be stopped, to avoid unnecessary suffering of calves and to protect the public from unwholesome and dangerous "bob veal."

In view of this agreement and mutual desire to accomplish the same end, all of the report except the Stillman letter is entirely immaterial so far as the real issue here is concerned, unless the intention is to harrow the feelings and turn the stomachs of those who read it, prejudice their minds, and unfit them to give the bill and the proposed amendment fair and impartial consideration.

What is the difference between the humane societies and the practical dairymen on the question of this proposed legislation? It is two weeks in the age of calves. The humane societies say that calves should be 6 weeks old before they are admitted to interstate commerce, and the dairymen say that calves 4 weeks old or older should be admitted to such commerce. Which view is the reasonable and practicable one and the one which should be enacted into law? Read the report and the hearings so far as they bear on the question of cruelty, and you will find that practically all the cases cited and all the evidence refer to very young calves, from 1 day to 1 week old. One or two references are made to calves from 1 to 2 weeks old, but not one case is cited of cruelty to a calf 3 weeks old or older. Then read the report and the hearings and you will not find one word or suggestion that the meat products of well-fed calves 4 weeks old are not palatable and wholesome food.

No point was made in the hearings that calves 4 weeks of age suffer more in transportation than do calves 6 weeks of age. In the transportation of live animals of any kind suffering can not be avoided. When a calf is taken from its dam both suffer. When a calf of any age is taken from the farm, put into a jolting wagon, thence into a jolting freight car and transported many miles, it suffers pain and privation. Every animal that is slaughtered suffers pain and death; and yet butchers are not held to be guilty of cruelty to animals. According to the law of creation and existence the weaker animals furnish food for the stronger ones, and all the lower animals, directly or indirectly, contribute toward the comfort, enjoyment, convenience, and support of man.

The primary definition of "cruel," according to the dictionaries, is:

"Disposed to hurt or to take pleasure in the hurt of others; inhuman, unfeeling, hard-hearted; void of pity or feeling for others; savage."

And the primary definition of "cruelty" is:

"A cruel disposition or temper; a disposition to take pleasure in inflicting pain or hurt on others, or in looking at the pain of others."

If the humane societies are opposed to inflicting pain and suffering on animals, then, to be consistent, they should not only preach but also practice strict vegetarianism.

We submit, therefore, that the bill, with the proposed amendment changing "6 weeks" to "4 weeks," will accomplish all that the humane societies demand to protect very young calves from unnecessary suffering and to protect the public from the consumption of unwholesome veal.

Most of the evidence before the committee was directed against the practice of shipping very young calves from the State of New York to the State of Massachusetts, where they were butchered and the content sold for food. A few references were made to this practice in other parts of the country, but the real grievance was based upon the interstate commerce in those calves between New York and Massachusetts.

Dr. Francis H. Rowley, of Boston, who had charge of the bill in behalf of the humane societies, admitted that if such a law as is here proposed by the agricultural organizations of the country were enforced it would accomplish all that he demanded or expected in the protection of very young calves from cruel treatment and in the protection of the public from "bob veal." He said (hearings, p. 12):

"We have a law in Massachusetts that I think would control it if we could enforce it. We have two statutes on our books. One says, 'No calf shall be sold for food under 4 weeks of age,' and we have another that says that 'if a calf when dressed will weigh 40 pounds, with 2 pounds allowed for shrinkage overnight'—that is, 38 pounds—'it may pass inspection.'"

It is manifest that, if those provisions of the Massachusetts law could be enforced, Dr. Rowley would not come to Congress for Federal legislation; that he has applied to Congress for this legislation because he admits that Massachusetts is unable to enforce its law.

When pressed for an explanation why he came to Congress instead of protecting the calves and the people of Massachusetts by State legislation, he said (p. 12 of the hearings):

"I am sorry to answer that Massachusetts is not up to New York State. For two years, in the public press and in every possible way,

I have tried to force upon the Boston Board of Health and the State board of health the necessity for action, and it can not be done at the present time. Massachusetts is behind, sadly behind, in its legislation in this matter."

Again he said (p. 12 of the hearings):

"The local inspectors in our 400 little slaughterhouses will act on the 38-pound law—when the calf is dressed—and if you try to enforce it on the 4-weeks law they fall back on the statute which says 'if it weighs 38 pounds,' and the local inspector can be induced to put his stamp on it. If we could only stir up the State of Massachusetts to realize this situation, we could do a great deal."

As bearing on our contention that this bill was conceived and drafted, not to stop the sale of calves 4 weeks old, which make prime veal, but to stop the transportation of very young calves under a week old, which would suffer greatly and which are not wholesome food, and to show what was in the mind of Mr. HAMILTON of Michigan, who introduced the bill, conducted the hearings before the committee, and wrote the report, we refer to the hearings, pages 43 and 44.

After the first witness for the agricultural societies of New York, Mr. Boshart, had stated that he was against the sale of very young calves and was in favor of the strict enforcement of the New York law, which provides that calves under "4 weeks" of age shall not be slaughtered and sold for food, the following colloquy occurred:

"Mr. DRISCOLL. Now, Mr. HAMILTON, can't we agree on four weeks, and not take any more time here? I do not think that anybody will ask for a higher age limit really on the merits. Can't we agree here on four weeks and not consume any more time in this matter?

"Mr. HAMILTON. I want to ask this gentleman a few questions, but perhaps it isn't important to do that.

"Mr. DRISCOLL. A man who is as fair as he is, and wants to do what is fair——

"Mr. BOSHART. We are here to protect an honest and legitimate industry.

"Mr. HAMILTON. The primary purpose of this bill was to prevent, I will say (and I think every member of the committee who has heard the testimony understands it), the cruel and inhuman practice which has grown up of taking calves less than 1 week old, as shown by the testimony, and often as young as a day, and shipping them to Boston, for illustration—that is generally the objective point. Many of them die en route, and some of them arrive at their destination with their stomachs as dry as a powderhorn. The Federal inspection, as this gentleman has said, is recoghized to be good and adequate, but the local inspection of Massachusetts is understood to be defective. These calves are consigned under the law of New York for, I have forgotten the term, for agricultural purposes, for farming purposes to Richard Roe or John Doe

"Mr. DRISCOLL. For breeding purposes?

"Mr. HAMILTON. For breeding purposes; but, as a matter of fact, John Doe, or Richard Roe, is a butcher, and the calves pass inspection, and the livers are sold for about 60 cents and the sweetbreads for something like that, and the hides for something, and the carcasses are then boned and sold for chicken. The testimony is that the meat is unfit for human consumption, and it has produced ptomaine poison, it is said, in some instances. This abuse is not trivial, but runs up into the hundreds of thousands. That is what this bill was introduced to reach."

This statement of Mr. Hamilton clearly indicates what he had in mind when he introduced the bill, and we submit that the bill as modified by changing "6 weeks" to "4 weeks" would accomplish all that he and the advocates of the bill expected or intended to accomplish by it.

The only statement in the hearings that squints toward an argument in favor of the "6 weeks" limit is contained in a letter from W. O. Stillman, president of the American Humane Association, to Mr. Hamilton, dated April 24, 1912, after the close of the hearings before the committee. In considering his letter due allowance must be given to the fact that it is not verified and he was not subjected to cross-examination. It says (pp. 87 and 88):

"That where the 4 weeks age limit holds large numbers of calves are shipped much under that age and anywhere from 1 to 2 weeks old, or even younger. The constant tendency seems to be, according to the experience of our anticruelty societies, to evade the 4 weeks limit and send the calves to market as soon as possible for obvious reasons.

"From our expperience with the 4 weeks limit we are convinced that a 6 weeks limit is positively required and would practically result in large numbers of calves being shipped at considerably under the 6 weeks limit, making the age in actual practice much nearer 4 weeks than 6. In other words, it is desirable to have the limit at least 6 weeks, in order to prevent the shipment of calves much under 4 weeks of age."

Mr. Stillman admits that if a law making the age limit "4 weeks" were enforced, it would be satisfactory to the humane societies and accomplish what they want. He urges a "6 weeks" limit in order to have 2 weeks leeway on the theory that the law will be violated and that a "6 weeks" limit loosely enforced will not accomplish any more or even as much as a law with a "4 weeks" limit strictly enforced. We doubt if that is a sound principle on which to base legislation. A provision should not be placed in the statutes unless there is a public sentiment back of it which will insist on its enforcement and approve severe penalties for its violation. We submit that his letter is really an indorsement of our contention for a "4 weeks" limit, severe penalties, and rigid enforcement.

We now submit the reasons why this bill should be amended by changing "6 weeks" to "4 weeks," as urged by the agricultural and dairy associations.

It would tend toward uniformity of law, which always tends toward obedience to the law and uniformity in practice under it.

New York State has a statute which provides that calves under the age of "4 weeks" shall not be slaughtered and sold for food. Massachusetts, Vermont, and Connecticut have statutes to the same effect. New Jersey has a law providing that calves under the age of 3 weeks shall not be slaughtered and sold for food. The Federal regulation provides that the veal of calves of 3 weeks of age or older is fit for food, and puts the stamp of the Federal Government on such product and permits it to go into interstate commerce.

A Federal statute providing that calves under the age of "4 weeks" shall not be admitted to interstate commerce would conform to the laws of the States where the practice of shipping in interstate commerce immature calves has mostly prevailed, according to the hearings, and could be more effectively administered and enforced because of its harmony with the laws which now exist in those States.

Greater New York and the surrounding cities and towns are the great consuming center of the East, and should be given fair consideration in the enactment of all food laws, particularly those which affect the surrounding States. Since none of the States in that part of the country requires that a calf shall be over 4 weeks of age when it may be slaughtered and sold for food, a Federal statute prohibiting a calf under 6 weeks of age from interstate commerce would be very difficult of administration and enforcement because of its conflict with the State laws; and if it were enforced its effect would be to raise the price of food, which is now very high.

This bill with the "6-weeks" limit would be unfair to New York City consumers, and would discriminate unfairly between the farmers in different sections of the State. To illustrate: All farmers in the eastern and northeastern parts of the State could ship their calves to New York City at the age of "4 weeks," because they would go by way of the New York Central and not enter interstate commerce; while all farmers in the southern and southwestern parts of the State could not ship their calves to New York under 6 weeks of age, because they would enter that city by way of the West Shore, Delaware, Lackawanna & Western, the Erie, or Pennsylvania Railroad, and would of necessity pass through Pennsylvania or New Jersey, or both, and would therefore constitute interstate commerce. The Hudson River would be the dividing line. One the east side of that river the law would permit farmers to send calves 4 weeks of age to New York City for food. On the west side of that river they could not send calves of less than 6 weeks of age to New York. Such a law would be manifestly so unfair and unreasonable that the average man might feel justified in violating it. It would not only be unfair, but useless and unnecessary either to protect very young calves from cruelty or to protect the public from unwholesome veal. In that event Mr. Stillman's assumption would perhaps be realized, that the 2-weeks part of the Federal law would become dead and inactive and the "4-weeks" law of New York and all the surrounding States would be respected and enforced.

Representatives of humane societies and societies for the prevention of cruelty to animals may be suspicious because in a multitude of transactions they have discovered some violations of law. Yet we believe that the great majority of men are honest and disposed to obey the law, especially when that law is fair and reasonable and not discriminatory.

It appeared in the hearings, without contradiction, that a farmer would make more money by feeding a calf well on sweet milk till the age of 4 weeks than he would if required to keep it until the age of 6 weeks. Indeed, it was stated that he would lose money on it if required to keep it till 6 weeks of age; that it would consume as much milk during the two weeks from 4 to 6 as during the first four weeks, and that it would not increase in weight accordingly. Further, that it would be apt to lose in quality and selling price. That it would require 40 pounds of milk a day to properly nourish it from the age of 4 to 6 weeks, and that if it did not get all it could drink the veal would become stringy and not as palatable or desirable as if well fed to the age of 4 weeks and then slaughtered. It was also strongly urged before the committee that if farmers were not permitted to sell their calves for food until 6 weeks of age it would raise the cost of food.

In conclusion we submit that this bill with the amendment proposed by the farmers' associations will, if enacted into law and strictly enforced, accomplish all that the humane societies demand, and it will fully protect the public from dangerous and unwholesome "bob veal." We therefore recommend that the bill as reported should not pass, but that it should be amended by changing the limit of "6 weeks" to "4 weeks," and as so amended be enacted into law.

WILLIAM RICHARDSON.
WILLIAM R. SMITH.
WILLIAM M. CALDER.
M. E. DRISCOLL.

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STATEMENT OF HON. H. M. GOLDFOGLE.

Believing that if the limit were fixed at 4 weeks, as it is in the New York statute, and the law strictly and properly enforced, the purposes the framers of the bill have in view would be met, I concur in the recommendation to amend the bill by making the limit 4 weeks.

H. M. GOLDFOGLE.

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STATEMENT OF HON. A. J. SABATH.

I am in favor of the principle underlying this bill, as I have always favored, and favor now, humane treatment for our dumb animals. I regret the inhuman treatment that is being accorded to young calves 1 and 2 weeks old during transportation; but I am of the opinion that to prohibit the transportation of calves under 6 weeks old is unreasonable. That, I believe, would preclude the possibility of calves being transported in interstate commerce at all, as no farmer will keep a calf for 6 weeks with profit, unless, of course, he does so for raising purposes. Four weeks would seem to be the proper limitation. With 6 weeks as the earliest period after birth upon which calves could be permitted to be transported in interstate commerce, it would be cheaper for the farmer to kill when a calf was only a few days old and thereby preventing the large centers from securing any veal and also which would also tend to further increase the already high price of meats.

The city of Chicago being the largest center of the meat industry, and one of the largest consumers, would necessarily suffer more than any other city in the Union, for the reason that 90 per cent of the calves that are shipped to that city come from other States, and these shipments would therefore be affected by this act.

A. J. SABATH.

STANDARD BARREL FOR FRUITS AND VEGETABLES.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 23113) to fix the standard barrel for fruits and vegetables.

The Clerk read the title to the bill.

Mr. ASHBROOK. Mr. Speaker, I ask unanimous consent that this bill be passed without prejudice.

The SPEAKER. The gentleman from Ohio asks unanimous consent that this bill be passed over without prejudice. Is there objection?

There was no objection.

AMENDMENT OF MEAT-INSPECTION LAW.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 26329) to amend proviso in meat-inspection

law concerning products prepared according to directions of foreign purchasers.

The Clerk read the bill, as follows:

A bill (H. R. 26329) to amend proviso in meat-inspection law concerning products prepared according to directions of foreign purchasers.

Be it enacted, etc., That the proviso in the act entitled "An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1907," approved June 30, 1906, which reads as follows: "*Provided*, That, subject to the rules and regulations of the Secretary of Agriculture, the provisions hereof in regard to preservatives shall not apply to meat-food products for export to any foreign country and which are prepared or packed according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is to be exported; but if said article shall be in fact manufactured, sold, or offered for sale for domestic use or consumption, then this proviso shall not exempt said article from the operation of all the other provisions of this act," be, and the same is hereby, amended by inserting after the word "preservatives" the words "and coloring matter," so that said proviso as amended shall read as follows: "*Provided*, That, subject to the rules and regulations of the Secretary of Agriculture, the provisions hereof in regard to preservatives and coloring matter shall not apply to meat-food products for export to any foreign country and which are prepared or packed according to the specifications or directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is to be exported; but if said article shall be in fact sold or offered for sale for domestic use or consumption, then this proviso shall not exempt said article from the operation of all the other provisions of this act."

The SPEAKER. Is there objection?

Mr. FOWLER. Mr. Speaker, reserving the right to object, I desire to ask the author of the bill if it is not a fact that in coloring oleomargarine a chemical is used?

Mr. MANN. This bill, if passed, would permit a mineral chemical to be used in coloring oleomargarine where it was so ordered by the foreign purchaser, but it could not be used in oleomargarine manufactured and sold in the United States and could not be used if forbidden by the country to which it was exported.

Mr. FOWLER. Can the gentleman give any reason why the United States refused to permit a chemical to be used in the coloring of butter or oleomargarine in this country?

Mr. MANN. I understand the department holds that the use of chemical dyes is deleterious to health.

Mr. FOWLER. In the gentleman's opinion, is the dye deleterious to health which will be necessary to color the oleomargarine provided for in this bill?

Mr. MANN. I do not think that it is.

Mr. FOWLER. The gentleman does not agree, then, with the pure-food authorities of this country?

Mr. MANN. Well, there is a wide difference of opinion; some chemical dyes are supposed to be deleterious to health and some are not. When we passed the pure-food law we made special provisions giving authority to use coloring matters which were not deleterious to health, and in some cases they allowed chemical dyes to be used in food.

Mr. FOWLER. I understand in talking with Members interested in this bill that a reddish color is desired to be produced in oleomargarine sold to some islanders.

Mr. MANN. That is correct.

Mr. FOWLER. What chemical could be used to produce a reddish color that would not be deleterious to health?

Mr. MANN. They have a reddish chemical dye which it is claimed by many people is not deleterious to health; and, as a matter of fact, in some of the Lesser Antilles, such as Barbados, they used to purchase from the United States a reddish-colored butter and oleomargarine. That continued, I believe, until about a year ago, when the department made a ruling that they could not use that chemical dye for the coloring of such substances. Since that time we have lost that trade, but they still use the articles purchased in Europe.

Mr. FOWLER. Does not the gentleman think it would be better for the United States to lose the trade which this bill seeks to secure than to authorize the use of chemicals which are deleterious to health?

Mr. MANN. Mr. Speaker, when we passed the pure-food law I suppose that no matter was more thoroughly discussed than was this. We inserted this proviso in the pure-food law:

Provided, That no article shall be deemed misbranded or adulterated within the provisions of this act when intended for export to any foreign country and prepared or packed according to specifications or directions of the foreign purchaser when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is intended to be shipped.

As a matter of fact, there were various meat articles then being prepared by the use of a preservative which the English purchasers insisted upon and which the English law recognized as proper. It was not intended to permit those articles to be used in the United States, there being a difference of opinion between the scientists of this country and the scientists of England. So we put in a provision that so long as the articles used were not contrary to the laws of the country to which they were shipped and were ordered to be inserted by the purchaser, that that might be done. It leaves it to that country to determine, and the provision in the pending bill would be in the same way. There is a difference of opinion in reference to these things. Besides that, while all preservatives, in my judgment, are in a way deleterious to health, yet in some cases it is far better to preserve food than it is to let it spoil and take the chance of eating it when it is partly spoiled. The use of red coloring matter, chemical dyes, in the Tropics, where they desire red coloring matter, is probably less deleterious to health than the use of putrid butter.

Mr. SLAYDEN. Mr. Speaker, will the gentleman yield?

Mr. MANN. Certainly.

Mr. SLAYDEN. Mr. Speaker, as I understand it, these products are sent from Europe now and are colored with this aniline coloring matter, to meet the demand of the trade in the West Indies.

Mr. MANN. They are.

Mr. SLAYDEN. Does the gentleman know whether there has been any ill effect from the use of those dyes?

Mr. MANN. Oh, they have been using this chemically dyed butter and oleomargarine for years down there. I saw them using it when I was there. I do not know whether it is injurious to them or not. They have not as much vitality as some people in the United States.

Mr. SLAYDEN. Perhaps they are still wrestling with the hookworm.

Mr. MANN. Possibly so. There is no complaint there with reference to that, and without the use of the chemical dyes they can not obtain what they want, so they claim. At any rate, they buy that same product from Europe instead of from the United States.

Mr. SLAYDEN. Mr. Speaker, remembering the yeomen service that the gentleman from Illinois [Mr. MANN] rendered in getting passed that very desirable piece of legislation known as the pure-food law, more properly a truthful labor law, I am almost ready to follow the gentleman blindly in matters of this kind.

Mr. MANN. I never have proposed anything to this body that I thought would put bad food or improperly labeled food upon anyone.

Mr. SLAYDEN. I am quite certain of that.

The SPEAKER. Is there objection?

Mr. FOWLER. Mr. Speaker, still reserving the right to object, I desire to ask the gentleman if he is willing to commit America to a commercial policy which would be detrimental to the health of the people who buy our products?

Mr. MANN. I would not be, I will say to the gentleman very frankly.

Mr. FOWLER. Then, if this aniline dye, or whatever is used for coloring this butter, is deleterious to health, does the gentleman believe it is wise for us to pass such a bill in order to gain the trade of a few negroes in a few of the islands?

Mr. MANN. I do not believe it is deleterious to health. I do not think anyone claims as a matter of fact that it is deleterious to health.

Mr. CARY. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Wisconsin makes the point of order that there is no quorum present. The Chair will count. [After counting.] One hundred and one Members present; not a quorum.

Mr. GARNER. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adair	Carter	Focht	Howland
Aiken, S. C.	Claypool	Fornes	Hughes, Ga.
Akin, N. Y.	Conry	Fuller	Hull
Ames	Cooper	Garrett	Humphreys, Miss.
Andrus	Cravens	George	Johnson, Ky.
Ansberry	Crumpacker	Gillett	Kahn
Austin	Curley	Goeke	Kent
Ayres	Curry	Gregg, Pa.	Kitchin
Barchfeld	Dalzell	Gregg, Tex.	Lafean
Bartholdt	Davis, W. Va.	Griest	Lafferty
Bartlett	Denver	Hamill	Langham
Bates	Difenderfer	Hamilton, W. Va.	Langley
Bathrick	Dixon, Ind.	Hardwick	Legare
Berger	Dwight	Harris	Lever
Boehne	Dyer	Hart	Lewis
Brown	Ellerbe	Hartman	Lindsay
Calder	Fairchild	Heald	Littleton
Campbell	Farr	Heflin	Lloyd
Cantrill	Fields	Hill	Longworth
Carlin	Flood, Va.	Hinds	Loud

McCall	Pujo	Smith, J. M. C.	Underwood
McCoy	Randell, Tex.	Smith, Cal.	Vare
McCreary	Reyburn	Smith, N. Y.	Volstead
McKellar	Richardson	Speer	Vreeland
McMorran	Riordan	Stack	Warburton
Maher	Roberts, Mass.	Steenerson	Webb
Martin, Colo.	Rothermel	Stephens, Nebr.	Whitacre
Matthews	Rucker, Mo.	Sulloway	White
Merritt	Sabath	Taggart	Wilson, Ill.
Moon, Pa.	Saunders	Talbott, Md.	Wilson, N. Y.
Needham	Scully	Talcott, N. Y.	Wood, N. J.
Oldfield	Sells	Taylor, Colo.	Woods, Iowa
Olmsted	Sherley	Taylor, Ohio	Young, Mich.
Palmer	Simmons	Thistlewood	
Parran	Slemp	Townsend	
Patten, N. Y.	Small	Turnbull	

The SPEAKER. On this call 242 Members, a quorum, have answered to their names.

Mr. FITZGERALD. Mr. Speaker, I move to dispense with further proceedings under the call.

The question was taken, and the motion was agreed to.

The SPEAKER. The Doorkeeper will open the doors. Is there objection to the consideration of this bill?

Mr. FOWLER. Mr. Speaker, I object.

The SPEAKER. The gentleman from Illinois objects, and the bill is stricken from the calendar, and the Clerk will call the next bill.

INTERSTATE TRANSPORTATION OF IMMATURE CALVES.

Mr. ADAMSON. Mr. Speaker, before we get too far away from the dead-calf question I want to make a request. I desire permission to extend my remarks on the subject, in order to show that if the people up there can not protect themselves against these dead calves we ought to make beef cheaper——

The SPEAKER. The question is not debatable. The gentleman from Georgia asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. ADAMSON. Then I will put it in; I will say it anyhow [laughter]—by prohibiting the slaughter, shipment, and sale in interstate commerce of calves before they are large enough to make beef. It will not do to say the people of Boston and New York ought to have more sense than to eat dead calves, for everybody knows that all Boston people are highbrows and have more culture and literary attainments than anybody else since Adam, while it is equally notorious that the people of New York have more financial sense and know more about fiscal legerdemain and practice it more than anybody since Shylock. Neither is it proper to say they ought to have better taste. Taste is not debatable, therefore I will not say that they ought to have better taste than to eat dead calves; but if any of them had been here to-day to hear the revolting details of that traffic as stated by the eloquent and able gentleman from Michigan [Mr. HAMILTON], which caused me to cancel my order for lunch, they certainly would have been moved by some sort of qualms of conscience, stomach, or brain to abstain from eating veals, sweetbreads, and liver forever. The liver of any sort of an animal is the scavenger of the system, and, of course, introduces that much poison into the stomach which receives the liver. Veal is not fit to eat, and it is a waste to kill the calf before it has an opportunity to grow into palatable beef.

If babies were treated as cupidity permits the dairyman and townfolk to treat calves there would not be enough people on earth to elect one Congressman. It would be more deplorable than the slaughter of the first born in Egpyt, or the wholesale order of Herod for the destruction of all children. Too parsimonious to sustain the calf until he can eat grass and other food, the people who keep milch cows give the calves over to the butcher more for the sake of getting rid of the calf than for the price they receive for him. I shall go to work to study out a plan which will enable us by amendment of the interstate-commerce law to prevent animals of the cattle kind from being slaughtered, shipped, and sold in interstate commerce until they are large enough to make palatable beef. There is no doubt on earth that that will reduce the price of beef, and I ask some of my philanthropic friends from Boston, who are always talking about humanitarianism and trying to improve the practices and morals of other people, why they do not establish a foundling asylum for calves and save from death the innocents discarded by their owners and doomed to destruction before they have an opportunity to grow into usefulness? And right here I will suggest that any man would find it profitable if, having a few acres of land in the vicinity of any town where there are many cows, he would collect up the calves and keep them for a year or two until they are fit for beef. On this subject I ask the reading of the following abstracts from a current newspaper, which contains some wise suggestions and wholesome statements of facts:

IN THE ARGENTINE YOU CAN NOT KILL A COW LESS THAN 7 YEARS OLD, IT'S AGAINST THE LAW—WE SHOULD HAVE SOME SUCH LAW IN AMERICA—STOP THE KILLING OF YOUNG CALVES, WE SHALL BE SHORT OF MEAT VERY SOON.

(Copyright, 1912, by the New York Evening Journal Publishing Co.)

Mr. M. J. Sulzberger, vice president of the big packing concern that bears his name, sat philosophizing in his solid mahogany office in Chicago.

"When my father first went into the business," said he, "you could buy a steer for about the price that you pay now for a hog.

"People complain about the cost of meat. They don't complain any more than the packers complain, and not as much.

"It would surprise the public—and it would be absolutely true—if the statement were made that there is no profit in the beef business. There is an actual loss on every steer slaughtered so far as the beef goes. If it were not for the by-products and the extreme economies of the packing business it would be a business entirely impossible."

Every day the problem becomes more difficult. It is rather startling to say that you once could buy a steer for the price that you pay now for a hog. But figures are remorseless. With ranch lands vanishing, farms cut up, population increasing, it is not as ridiculous as it sounds to say that unless something is done we shall some day have the hog that costs the price of the steer, followed by the chicken that costs the former price of a hog.

Of course, the necessary thing will be done. For human intelligence always meets emergencies as they arise. But it is time for human intelligence to get to work, think over the beef problem, realize that we can no longer export a pound of beef to England—except the few head that are sent over alive to be killed on the other side. It is time to realize that the Argentine is to supply the beef of the world, and that this country, which once proudly talked of itself as the Nation feeding all nations, is getting rapidly to a condition where it won't be able to feed itself.

Mr. Sulzberger, in describing the great development of beef production in the Argentine and other South American countries, mentioned casually the fact that in the Argentine the killing of a cow under 7 years of age is forbidden. The idea is to compel development of the beef industry by forbidding the slaughter of cows that produce the calves and the beef.

Long ago this newspaper suggested that a law might be passed here preventing the constant wasteful slaughter of young calves.

Out of a thousand beef cattle born in the United States, except on the big ranches, only a very small number are actually brought to maturity.

And, worst of all, in the big dairies the calf is killed as soon as it is born. The mother never sees it. And the carcass, unfit for food, is thrown away.

That is a criminal waste. And with all due respect for the vested rights of property and the proud privilege of knocking calves on the head, the Government should interest itself in the matter.

Naturally the milk supply is important. The dairyman, looking at the matter from a cash standpoint, is hardly to be blamed, under modern conditions of competition, when he knocks his young calves on the head the hour they are born or when he makes up his mind that it is cheaper to "burn a cow up," as the expression goes, and kill her at the end of two years of maximum milk production.

The Government and the people, taking a broader view, realizing that the price of beef can not rise forever, understanding what it means when the people pay for a hog what they used to pay for a steer, should make provision for a continued supply of beef, as the German Government, for instance, in its wonderfully wise forestry makes provision for continued supplies of lumber.

The young calves should be protected. A premium should be put upon the raising of calves or a punishment upon their destruction.

We might borrow an idea from the Argentine, that insists upon keeping cows alive until they should have had a reasonable number of years in which to make good the havoc wrought by the slaughterhouses.

There will, of course, be wise men to tell you that supply and demand rule all these things, but intelligence could rule.

When five children out of seven died of preventable disease, they used to say that it was the will of God. But it wasn't.

It was the stupidity and the brutality of man. Clean streets, decent plumbing, boards of education, vaccination, scientific institutions have protected the lives of children and lengthened the lives of human beings.

The Government might in one way or another protect the lives of calves and let them stretch out into beef for the benefit of the race.

The great problem to-day is feeding. Science might supply to the calf after a few weeks inexpensive substitutes for the mother's milk—one that would supply bone and a good quality of beef.

At all events, it ought to be somebody's business to think about it. With pork selling at $8.15 a hundred pounds and good beef entirely beyond the reach of poor people and with tens of thousands of calves being knocked on the head annually—every one of them unfit for food, for veal is not fit to eat—it is time to think about the beef supply.

Here is a chance for those whose favorite topic is conservation of national resources.

When you see a little newborn calf staggering on its thin, weak legs in the field, you see in front of you the possibility of 1,400 pounds of good meat. But the calf is killed, and in place of 1,400 pounds of good meat two years from now you have a few pounds of bad veal, not fit to eat.

Wise gentlemen at Washington in and out of the Department of Agriculture, please think about this.

BRIDGE ACROSS NORTH RIVER.

The next business on the Calendar for Unanimous Consent was the bill (S. 4978) to supplement and amend the act entitled "An act to incorporate the North River Bridge Co. and to authorize the construction of a bridge and approaches at New York City across the Hudson River, to regulate commerce in and over such bridge between the States of New York and New Jersey, and to establish such bridge a military and post road," approved July 11, 1890.

Mr. GOLDFOGLE. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman from New York rise?

Mr. MANN. Mr. Speaker, reserving the right to object——

Mr. GOLDFOGLE. I ask to have the bill passed over without prejudice.

The SPEAKER. The gentleman from New York asks leave to pass this bill over without prejudice, and the gentleman from Illinois [Mr. MANN] reserves the right to object. Is there any objection to the request of the gentleman from New York [Mr. GOLDFOGLE] to pass this bill over without prejudice?

Mr. GOLDFOGLE. Mr. Speaker, I received a telegram advising me that the mayor of the city and the board of estimates and apportionment have under consideration, in the way of hearings or in some other way, the proposition embodied in this bill, and therefore I ask that until this matter is disposed of this bill be passed over.

The SPEAKER. Is there objection to passing this bill over without prejudice? [After a pause.] The Chair hears none.

BRIDGE ACROSS THE HUDSON RIVER.

The next business on the Calendar for Unanimous Consent was the bill (S. 5659) to supplement and amend an act entitled "An act to authorize the New York and New Jersey bridge companies to construct and maintain a bridge across the Hudson River between New York City and the State of New Jersey," approved June 7, 1894.

Mr. FOSTER. Mr. Speaker, I ask unanimous consent that the bill be passed without prejudice.

Mr. MICHAEL E. DRISCOLL. Mr. Speaker, I make the same request.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the next bill.

AIDS TO NAVIGATION.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 27789) to authorize aids to navigation and other works in the Lighthouse Service, and for other purposes.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of Commerce and Labor is hereby authorized to establish, provide, or improve the following aids to navigation and other works in the Lighthouse Service, under the Department of Commerce and Labor, in accordance with the respective limits of cost hereinafter respectively set forth, which shall in no case be exceeded.

To construct and equip a lighthouse tender for general service at cost not exceeding $250,000.

FIRST LIGHTHOUSE DISTRICT.

To establish a light at or near Dog Island, entrance to St. Croix River, Me., at a cost not exceeding $3,500.

To construct and equip a light vessel to be placed near Mohegan Island, off the entrance to Penobscot Bay, Me., at a cost not to exceed $125,000.

THIRD LIGHTHOUSE DISTRICT.

Improvements at Great Salt Pond Light Station, R. I., including moving the fog signal and building a keeper's dwelling, at a cost not to exceed $25,000.

Improvement of the offices and laboratory at the general lighthouse depot, Tompkinsville, Staten Island, N. Y., at a cost not exceeding $21,000.

Completion of the reestablishment of Passaic Light and Fog-Signal Station, Newark Bay, N. J., including authority to build on a new site, if necessary, at a cost not to exceed $45,000.

FIFTH LIGHTHOUSE DISTRICT.

Aids to navigation in Cambridge Harbor, Md., at a cost not to exceed $4,000.

SIXTH LIGHTHOUSE DISTRICT.

Purchase of a site and construction of a wharf and buildings, and purchase of the necessary equipment, so far as funds may permit, for a depot for the sixth lighthouse district, at a cost not to exceed $125,000.

EIGHTH LIGHTHOUSE DISTRICT.

Aids to navigation in Atchafalaya Entrance Channel, La., at a cost not to exceed $50,000.

To construct and equip light vessels for South Pass and Southwest Pass Entrances to the Mississippi River, La., at a cost not to exceed $250,000.

Improvements of the aids to navigation and establishment of new aids on the Mississippi River below New Orleans, La., at a cost not to exceed $50,000.

NINTH LIGHTHOUSE DISTRICT.

Light station on Navassa Island, in the West Indies, at a cost not to exceed $125,000, of which authorization not exceeding $500 shall be applied to securing and placing in some appropriate place on the lighthouse or the base thereof a durable and ornamental tablet, on which shall be made suitable memorial mention of the researches and contributions of Commander Matthew Fontaine Maury, United States Navy, to the science and cause of navigation.

Purchase for lighthouse purposes of approximately one-half acre of land in the vicinity of the lighthouse reservation at Port Ferro Light Station, Porto Rico, for the purpose of constructing a watershed and cistern, and the appropriation "General expenses, Lighthouse Service," for the fiscal year in which the purchase is effected, is hereby made available for the purchase of said site.

TENTH LIGHTHOUSE DISTRICT.

Rearrangement, rebuilding, and improvement of the aids to navigation at Ashtabula Harbor, Ohio, at a cost not to exceed $45,000.

Removal, reconstruction, and improvement of the fog-signal station at Cleveland, Ohio, at a cost not to exceed $17,000.

Light and fog-signal station and improvement of aids to navigation at Lorain Harbor, Ohio, at a cost not to exceed $35,000.

Establishment of aids to navigation at Huron Harbor, Ohio, at a cost not exceeding $4,500.

ELEVENTH LIGHTHOUSE DISTRICT.

Additional aids to navigation at Ashland, Wis., at a cost not to exceed $25,000.

A pierhead light and lighted buoy at Oconto Harbor, Wis., at a cost not to exceed $5,000.

Improvements at Detroit Lighthouse Depot, Michigan, at a cost not to exceed $15,000.

TWELFTH LIGHTHOUSE DISTRICT.

Establishment of aids to navigation in the harbor of Manistique, Mich., at a cost not to exceed $20,000.

Improvement of the fog signal at Manistee Pierhead Range, Michigan, at a cost not to exceed $9,000.

Improvement of the fog signal at Poverty Island, Mich., at a cost not to exceed $9,000.

SIXTEENTH LIGHTHOUSE DISTRICT.

Light and fog signal at or near Cape St. Elias, Alaska, at a cost not to exceed $115,000.

SEVENTEENTH LIGHTHOUSE DISTRICT.

Aids to navigation and improvements of existing aids in Puget Sound and adjacent waters, Washington, at a cost not to exceed $30,000.

Improvement of Warrior Rock Light Station, Columbia River, Oreg., including the purchase of additional land, at a cost not to exceed $2,000.

For the construction and equipment of a light vessel to mark Orford Reef, Oreg., $125,000.

EIGHTEENTH LIGHTHOUSE DISTRICT.

Improvements at Point Pinos Light Station, Cal., at a cost not to exceed $30,000.

To authorize the completion of the unfinished portion of the Government road from Rollerville to the Point Arena Lighthouse, Mendocino County, Cal., at a cost not to exceed $3,000.

For establishing a light and fog-signal station on or near North Farallon Island, Cal., $100,000.

Light and fog-signal station at or near Point Vincente, Cal., at a cost not to exceed $75,000.

NINETEENTH LIGHTHOUSE DISTRICT.

Aids to navigation in Pearl Harbor, Hawaii, at a cost not to exceed $80,000.

Improvements of light station at Kauhola Point, Hawaii, at a cost not to exceed $15,000.

Hereafter the purchase of necessary additional land for light stations and depots is authorized under rules prescribed by the Secretary of Commerce and Labor: *Provided*, That no single acquisition of such additional land shall cost in excess of $500.

Hereafter supplies and equipment for special works of the Lighthouse Service may be furnished from general stock and the appropriation "General expenses, Lighthouse Service," reimbursed therefor from the respective appropriations for special works.

Hereafter when any condemned supplies, materials, equipment, or land can not be profitably used in the work of the Lighthouse Service the same shall be appraised and sold, either by sealed proposals for the purchase of the same or by public auction after advertisement of the sale for such time as in the judgment of the Secretary of Commerce and Labor the public interests require, the proceeds of such sales, after the payment therefrom of the expenses of making the sales, to be deposited and covered into the Treasury as miscellaneous receipts as now provided for by law in like cases.

Hereafter the salaries of lighthouse inspectors, including one inspector for the general service, and excepting the inspector of the third lighthouse district, shall not exceed $3,000 each, or an average of $2,700 each.

The following committee amendment was read:

Amend, page 2, by inserting, after line 7, the following as a separate paragraph:

"To erect a carpenter shop at the general lighthouse depot, Tompkinsville, Staten Island, N. Y., at a cost not exceeding $23,000."

The SPEAKER. Is there objection?

Mr. FOSTER, Mr. MOORE of Pennsylvania, and Mr. MANN reserved the right to object.

Mr. MOORE of Pennsylvania. Mr. Speaker, I would like to ask the gentleman from Maryland [Mr. COVINGTON], who is in charge of the bill, as to the reason for bringing in a bill authorizing large appropriations to be considered on the Unanimous Consent Calendar? Is not it unusual?

Mr. COVINGTON. I will say to the gentleman from Pennsylvania [Mr. MOORE] that it is unusual to bring in a bill authorizing appropriations of large sums of public money and place that bill upon the Calendar for Unanimous Consent. But it will be recalled by all of the Members of this House that at the last session of Congress the general lighthouse bill was reported from the Committee on Interstate and Foreign Commerce and placed upon the calendar, carrying about the usual number of authorizations for urgently needed public works in the Lighthouse Service, and that the stress of that session and the peculiar situation existing between the Senate and the House caused that bill to be stripped down to the point where it was denominated as "an emergency lighthouse bill," carrying only three or four hundred thousand dollars in authorization for the most immediate and urgent needs. At that time it was generally understood that in lieu of that bill there would be introduced, considered, and reported for passage at this session of Congress a lighthouse bill carrying authorization for

all such works as are really needed for the proper maintenance of the Lighthouse Service. When this bill was reported to the House after full hearings in the committee it was found that the situation of the call of committees on Calendar Wednesday is such that there is practically no possibility for the Committee on Interstate and Foreign Commerce to be reached in that call during the present Congress. Having regard, therefore, for the fact that there had been no general lighthouse bill in the last Congress, and that all of the works reported in this bill are needed for the proper maintenance of the Lighthouse Service, the committee thought it was proper that this rather unusual course should be pursued and the bill placed on the Calendar for Unanimous Consent.

Mr. MOORE of Pennsylvania. Does the gentleman put it entirely on the ground of the urgency of the work provided for?

Mr. COVINGTON. The gentleman puts it on the ground of urgency and necessity for the passage of a lighthouse bill.

Mr. MOORE of Pennsylvania. There has been a great deal of damage along the Atlantic coast during the winter as the result of very heavy storms. I observe some matters that have been before the Interstate and Foreign Commerce Committee are not incorporated in this bill, but that very large appropriations are made to certain other sections of the country, where perhaps the same emergency may not have arisen. We had great floods on the Mississippi River last year, about which we heard a great deal, and very heavy appropriations have been made for the purposes of navigation and for reconstruction of levees along the banks of that river, and I notice this bill carries over $300,000 for aids to navigation along the lower Mississippi. I wanted to know if this bill is so urgent, or these aids to navigation are so urgent, that it is advisable to put a bill of this character where we may not have an opportunity to amend it—on the Unanimous-Consent Calendar?

Mr. COVINGTON. I will state to the gentleman that in framing this bill the committee had before it the Commissioner of Lighthouses, and in order to determine which were the more urgent projects, it considered them all, and in the end took less than half of the items that are embodied in the report of 1912 as necessary by the Commissioner of Lighthouses himself. I do not now recall any particular items along the Atlantic seaboard that the commissioner urged as of immediate necessity that were not included.

Mr. STEVENS of Minnesota. Mr. Speaker, may I ask the gentleman a question right there?

The SPEAKER. Does the gentleman yield?

Mr. COVINGTON. Yes; I yield to the gentleman from Minnesota.

Mr. STEVENS of Minnesota. Did not the subcommittee also take into consideration every bill and every project submitted by any Member of this House and consider each one of them in preparing this bill?

Mr. COVINGTON. I will state to the gentleman from Minnesota, who was with me as a member of the subcommittee, that it is a fact that the subcommittee took into consideration every bill introduced by a Member of Congress and every Senate bill which had been passed and had come to the House of Representatives and been referred to the Committee on Interstate and Foreign Commerce in addition to the recommendations of the Commissioner of Lighthouses; and in formulating that bill I may say it was made up with due regard for what were considered the more urgent projects, having in view not merely the commissioner's report, but the bills introduced by Members and the bills that had been passed by the Senate. The hearings were, in fact, quite exhaustive, and the bill was afterwards considered thoroughly in the full committee.

Mr. MOORE of Pennsylvania. May I ask the gentleman about the Atchafalaya Channel, which comes in the eighth lighthouse district? Is that an approach to the Passes of the Mississippi?

Mr. COVINGTON. That is not, I will say to the gentleman, an approach to the Passes of the Mississippi River. The "Chaffellaya" River, as I believe they call it—and I was not aware of that peculiar and remarkable pronunciation myself until I was told of it by Members of the Louisiana delegation—is a river to the westward of the Mississippi River, and it carries a somewhat large and important commerce. That river has been improved at a considerable expense, and the lights therefor are in line with the channel and river and harbor improvements made thereto in recent years.

Mr. MOORE of Pennsylvania. In the report accompanying the bill, if the gentleman will allow me, reference is made to "the completion of the channel now being dredged in the Atchafalaya to the 20-foot contour in the Gulf of Mexico."

Mr. COVINGTON. That is true. The channel from the Atchafalaya to the 20-foot contour in the Gulf of Mexico has been completed. This is a direct channel in the Atchafalaya River. That has no connection with the Mississippi River, and it leads into a portion of Louisiana that has a large and important commerce.

Now, it is stated in the report of the Commissioner of Lighthouses that that channel is important enough to warrant Congress in including it in an urgent list of places where additional aids to navigation ought to be constructed.

Mr. MOORE of Pennsylvania. I wanted to ask the gentleman whether the committee was influenced by the amount of commerce that is transported upon this Atchafalaya entrance channel?

Mr. COVINGTON. I will state to the gentleman that the committee did not attempt to draw exact comparisons of commerce in providing the projects in the present bill, nor did it attempt to have the Commissioner of Lighthouses arrive at what were the comparative volumes of commerce on waterways to be benefited by additional navigation aids.

Mr. MONDELL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ADAMSON. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Maryland yield?

Mr. COVINGTON. I do.

The SPEAKER. The gentleman from Georgia [Mr. ADAMSON] is recognized.

Mr. ADAMSON. I would like to ask the gentleman from Maryland, in charge of the bill, if it is not entirely competent for the House, in the consideration of the bill, in the event the House grants unanimous consent to consider it, to amend it on the motion of any Member by striking out any project that it deems improper or by inserting any other that it wishes to insert?

Mr. COVINGTON. I understand, if it comes up without objection and is to be considered in the House, that as a matter of right under the rules it would be open to amendment under the five-minute rule. I would not have placed it on the Calendar for Unanimous Consent if such were not the case.

Mr. ADAMSON. That is what I wanted to bring out.

The SPEAKER. Does the gentleman from Wyoming [Mr. MONDELL] still wish to propound his parliamentary inquiry?

Mr. MONDELL. Yes. Mr. Speaker, my inquiry is as to what order we are proceeding under?

Mr. MOORE of Pennsylvania. Under unanimous consent.

The SPEAKER. The gentleman from Maryland [Mr. COVINGTON] is trying to get unanimous consent.

Mr. MONDELL. This discussion is quite interesting if we are going into the merits of the bill, but it is rather apparent that there is such a wide diversity of opinion as regards the merits that a great deal of time is being consumed before we know whether or not there is to be an objection.

Mr. MOORE of Pennsylvania. That is the point. Here is an appropriation bill, brought in on the Unanimous Consent Calendar, and we are supposed to pass it without consideration, unless a gentleman arises and offends the rest of the Members of the House by proposing to take up a little time to discuss it.

The SPEAKER. This is a proposal to get unanimous consent to consider the bill. If unanimous consent is given the bill will come under the general rule.

Mr. MOORE of Pennsylvania. I do not want to object to the consideration of the bill, Mr. Speaker. If the bill is to be considered section by section, I am satisfied. But I do want to ask the gentleman from Maryland [Mr. COVINGTON] one more question before we proceed, if the gentleman will permit.

Mr. COVINGTON. Yes.

Mr. MOORE of Pennsylvania. I want to ask the gentleman from Maryland whether it has been the policy of the committee he represents, in considering these authorizations, to take up the question of commerce and obtain a statement as to whether commerce in the vicinity warrants the expenditure contemplated by the Government?

Mr. COVINGTON. I will state to the gentleman that I sent to the clerk of the Committee on Rivers and Harbors and asked him to take from the various reports of the Chief of Engineers for channel improvement as best he could the statement relative to the amount of commerce on the various waterways for which we have provided aids to navigation. That was the only practical method, it has occurred to me, that we could take to arrive at the question of the amount or volume of commerce on rivers and other waters where aids to navigation are either to be improved or newly established. The Committee on Interstate and Foreign Commerce was satisfied that the

water commerce at all places covered by the present bill is of such volume as to make the proposed projects a real necessity.

The SPEAKER. Is there objection?

Mr. MANN. Reserving the right to object, may I ask the gentleman whether the salaries of the lighthouse inspectors are now $2,400 a year, outside of the one in the third district?

Mr. COVINGTON. They are.

Mr. MANN. This proposes to increase the average to $2,700.

Mr. COVINGTON. That is about the purpose of the new legislation in the final paragraph of this bill. I think that the gentleman from Illinois ought to understand—and by reason of his long and unusually capable service as chairman of the Committee on Interstate and Foreign Commerce he probably does understand—that the duties of the various inspectors of lighthouse districts of the United States vary both in the volume of work that they have to perform and in the quality of service that the inspectors must give. In the present situation they get $2,400 a year each, without regard to whether they are in a relatively unimportant district in the less traversed waters of the country or in a metropolitan district having great and important aids to navigation. That seemed to the committee to be a sufficient reason why there should be some latitude in the Commissioner of Lighthouses in the Department of Commerce and Labor in apportioning the salaries of the inspectors.

The gentleman knows full well that some years ago—I think while he was a member of the committee—it was necessary to give to the inspector of lighthouses for the New York district a salary of $3,600 because his services were of such a character that a competent man could not be obtained for less money. The present item only pushes that principle a little further. Some districts are of such a character that a $2,400 man may adequately perform the service. There are other districts where a $2,400 man is not the kind of man who can properly perform the work.

Mr. MANN. Mr. Speaker, the third lighthouse district is the general depot for lighthouses of the United States. That is the reason why that salary was made higher. The man there has a great deal more work and responsibility than simply the inspection service.

Mr. COVINGTON. That is true.

Mr. MANN. In the reorganization law we authorize a rearrangement of the districts. Now, where are the districts in which we are to pay salaries of $2,400 as compared with the $3,000 salary in another district? Is it the New England district, or the New York district, or the Pennsylvania and Maryland district, or the Carolina district? Is it the Florida district, or the Gulf district, or either one of the Pacific coast districts? Where would you make this discrimination, so as to pay $3,000 and yet make only an average of $2,700? It seems to me quite certain that if you pay one of these superintendents $3,000 in the end you will have to pay all the others $3,000. Perhaps that is proper. I doubt whether it is proper to put the lighthouse superintendent under the pressure of having one inspector of one district seeking to have his salary raised at the expense of the inspector of another district.

Mr. COVINGTON. I can only say to the gentleman in reply that that is a pressure to which the commissioner of lighthouses himself seemed to be willing to be subjected, for he stated that the districts did have that disparity of service in them which made it possible and proper that there should be an unequal apportionment of salaries. I can give you a concrete instance. I do not propose to discuss those districts where the service is not of an important character, but the gentleman well knows that in the great lighthouse district at Baltimore, which takes in the entire area of the Chesapeake Bay and the Virginia capes, and the hundreds of lights and other aids to navigation, from the mouth of the Susquehanna River down to the Atlantic Ocean, there are several times the amount of work to perform that there are in several other districts of the United States.

Mr. MANN. The gentleman speaks of one district where probably he has greater knowledge than he has of other districts. On the contrary, I should say that the Lake Michigan district, with which I have had close connection, is of much more importance than the Maryland district. Every gentleman will say that about the district which he knows the most about. Will the gentleman permit me to ask him another question?

Mr. COVINGTON. First let me say that when the gentleman says that every Member will say that about the district he knows the most about the gentleman is speaking in regard to the district in which he lives, and I speak of the district in which I do not live.

Mr. MANN. Oh, yes; the gentleman lives in the Maryland district.

The SPEAKER. Is there objection?

Mr. MANN. I object.

The SPEAKER. The gentleman from Illinois objects, and the bill is stricken from the calendar.

WESTERN AVENUE NW., DISTRICT OF COLUMBIA.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 16319) to extend and widen Western Avenue NW., in the District of Columbia.

The Clerk read the bill, as follows:

Be it enacted, etc., That under and in accordance with the provisions of subchapter 1 of chapter 15 of the Code of Law for the District of Columbia, the Commissioners of the District of Columbia be, and they are hereby, authorized and directed to institute in the Supreme Court of the District of Columbia a proceeding in rem to condemn the land that may be necessary for the extension of Western Avenue NW. from its present terminus at Beech Street northeastward along the northwestern boundary line of the District of Columbia, with a uniform width of 120 feet, to Rock Creek Park: *Provided, however*, That the entire amount found to be due and awarded by the jury in said proceedings as damages for and in respect of the land to be condemned for said extension, plus the costs and expenses of the proceedings hereunder, shall be assessed by the jury as benefits.

SEC. 2. That there is hereby appropriated, out of the revenues of the District of Columbia, an amount sufficient to pay the necessary costs and expenses of the condemnation proceedings herein provided for and for the payment of the amounts awarded by the jury as damages, to be repaid to the District of Columbia from the assessments for benefits and covered into the Treasury to the credit of the revenues of the District of Columbia.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER. The bill is on the Union Calendar.

Mr. MANN. I ask unanimous consent that the bill be considered in the House as in Committee of the Whole?

The SPEAKER. The gentleman from Illinois asks unanimous consent that this bill be considered in the House as in Committee of the Whole. Is there objection?

There was no objection.

The Clerk again read the bill.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

FIFTH-THIRD NATIONAL BANK OF CINCINNATI, OHIO.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 26279) granting the Fifth-Third National Bank of Cincinnati, Ohio, the right to use original charter No. 20.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Comptroller of the Currency be, and he is hereby, authorized and directed to issue to the Fifth-Third National Bank, of Cincinnati, Ohio, charter No. 20 in lieu of their present charter No. 2798, said charter No. 20 being the original charter number of the Third National Bank, of Cincinnati, Ohio, which bank was merged and consolidated with the Fifth National Bank, of Cincinnati, Ohio, in the year 1908, under the name of the Fifth-Third National Bank, of Cincinnati, Ohio, said consolidated bank having succeeded to all the assets, good will, rights, privileges, and emoluments of the said Third National Bank, of Cincinnati, Ohio.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

Mr. ALLEN. Mr. Speaker, unless some Member desires me to make a further explanation other than what the report shows, I do not care to say anything. I ask for its passage.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. ALLEN, a motion to reconsider the vote whereby the bill was passed was laid on the table.

BRIDGE ACROSS ROCK RIVER, ILL.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 27157) granting an extension of time to construct a bridge across Rock River at or near Colona Ferry, in the State of Illinois.

The Clerk read the bill, as follows:

Be it enacted, etc., That the time for the construction, maintenance, and operation of a bridge and approaches thereto across the Rock River at a point suitable to the interests of navigation at or near Colona Ferry, in the State of Illinois, by the counties of Henry and Rock Island, in the State of Illinois, in accordance with the provisions of the act entitled "An act to construct a bridge across Rock River at or near Colona Ferry, in the State of Illinois," approved August 19, 1911, is hereby extended to one year from the date of the passage of this act.

SEC. 2. That the construction, maintenance, and operation of the bridge and approaches thereto therein authorized by the aforesaid act shall be in all respects in accordance with and subject to the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 3. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. Is there objection to the consideration of the bill?

There was no objection.

Mr. MANN. Mr. Speaker, I think the bill needs to be amended, and I offer the amendment which I send to the Clerk's desk.

The Clerk read as follows:

Amend, page 1, by striking out all of line 3, after the second word "the," and lines 4, 5, 6, 7, and line 8 up to and including the word "of," and insert in lieu thereof the words "commencement of the bridge authorized," so that it will read: "that the time for the commencement of the bridge authorized by the act entitled," etc.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. COVINGTON, a motion to reconsider the vote whereby the bill was passed was laid on the table.

PURCHASE OF MOTOR BOAT FOR CUSTOMS SERVICE.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 26549) to provide for the construction or purchase of motor boat for customs service.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to construct or purchase one gasoline motor boat for service in the Corpus Christi collector's district at a cost not to exceed the sum of $6,000.

With the following amendment recommended by the committee:

In line 5, page 1, strike out the words "Corpus Christi collector's district" and insert in lieu thereof the words "customs collection district of Corpus Christi, Tex."

And add at the end of the bill the following proviso:

"*Provided*, That the Secretary of the Treasury may use this boat elsewhere than at Corpus Christi, as the exigencies of the service may require."

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill as amended.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. COVINGTON, a motion to reconsider the vote by which the bill was passed was laid on the table.

LIEN FOR TAXES.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 25780) to amend section 3186 of the Revised Statutes of the United States.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 3186 of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

"SEC. 3186. If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount shall be a lien in favor of the United States from the time it was due until paid, with the interest, penalties, and costs that may accrue in addition thereto upon all property and rights to property belonging to such person: *Provided, however*, That such lien shall not be valid as against any mortgagee, purchaser, or judgment creditor until notice of such lien shall be filed by the collector in the office of the registrar or recorder of deeds of the county or counties or parish or parishes in the State of Louisiana within which the property subject to such lien is situated: *Provided further*, That the provision herein relating to the filing of notice shall be applicable whenever, and only whenever, the laws of the State wherein the property is situated shall authorize the filing of such notice in the office of the registrar or recorder of deeds as provided herein."

The SPEAKER. Is there objection?

Mr. CULLOP. Mr. Speaker, reserving the right to object, I would like to ask the author of the bill to explain the purposes of this change or amendment to existing law.

Mr. STERLING. Mr. Speaker, the purpose of the bill is to amend section 3186 of the Revised Statutes. That section relates to liens for delinquent taxes, and in order that the House may know just what is sought to be done in the matter I will read section 3186:

SEC. 3186. If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount shall be a lien in favor of the United States from the time when the assessment list was received by the collector, except when otherwise provided, until paid, with the interest, penalties, and costs that may accrue in addition thereto upon all property and rights to property belonging to such person.

Under that provision of the statute, whenever any internal revenue in the way of whisky tax or tobacco tax or corporation tax becomes due, it becomes a lien on all the property of the delinquent, wherever it may be situated in the United States, and there is no provision in the law for the protection of innocent purchasers or mortgagees or judgment creditors without notice.

Mr. CULLOP. Mr. Chairman, I would like to ask the gentleman from Illinois a further question. One of the differences between the existing law and this amendment, as I understand it, is that the existing law makes a tax assessment a lien from the date of the assessment, and this makes it a lien from the date of demand for its collection?

Mr. STERLING. No; the gentleman is not exactly correct about that. But I want to say this: When this bill was prepared the law was copied from the statute of 1874. That statute provides that it shall be a lien from the time it was due, and continuing until it is paid. I have an amendment to offer here in reference to that. A little later the Forty-fifth Congress amended the statute of 1874 by providing that the lien should begin from the time the assessment list was filed with the collector until it was paid. After the bill was introduced I discovered that mistake in quoting the statute. That is, the old statute was quoted instead of the statute now in force, and I have an amendment here correcting that, leaving the language in that regard just the same as it is in the present statute, substituting for the three words in the ninth line, "it was due," the words now in the statute, as follows: "when the assessment list was received by the collector, except when otherwise provided." I shall offer that amendment and ask that it be adopted.

I will say in regard to the purpose of the bill, it simply provides that notice may be given to purchasers or mortgagees of property on which there is any possibility of a lien of this kind by requiring the collector to file notice of the lien in the office of the recorder of deeds or the registrar of deeds in any county in the United States in which the delinquent happened to have property.

Mr. CULLOP. Mr. Speaker, will the gentleman permit another question there?

Mr. STERLING. Yes.

Mr. CULLOP. Is that a requirement to be fulfilled when the tax is levied or only when it becomes delinquent?

Mr. STERLING. When it becomes a lien, and that is the time when the assessment list is placed in the hands of the revenue collector. Then it will be his duty, if he desires to preserve the lien as against innocent purchasers or mortgagees without notice, to file this notice in the office of the recorder of deeds.

Mr. CULLOP. That is, where a mortgage is given between the time of the assessment list accruing and the delinquency, in order to get ahead of the mortgage creditor, the lien must be filed by the collector in the county in which the land is situated.

Mr. STERLING. That is the idea, and I will say further that it becomes applicable only when the States adopt legislation providing for the filing of these notices. It is left entirely with the States as to whether or not they will undertake to protect their citizens who in good faith purchase property in a way that they can purchase it without taking the chance of liens of this character.

Mr. CULLOP. Does the gentleman mean that if no legislation is passed in States requiring notice of existing tax lien to be filed that this law will not be applicable?

Mr. STERLING. I would not say that the States ought to adopt legislation requiring notice to be filed, but rather permitting it to be filed in the records of the county where the property is situated. Without such legislation a notice of that kind, I think, would be of no avail. Let me suggest to the gentleman this: That provision is identical with the provision in the United States statute which allows the judgment of the Federal court to be indexed or recorded in the several counties. That only takes effect when the States adopt legislation providing for it, and this provision is identical with that.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. STERLING. Mr. Speaker, I offer the amendment which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amend, by striking out the words "it was due," in the ninth line, page 1, of the bill, and insert in lieu thereof the following: "When the assessment list was received by the collector, except when otherwise provided."

The question was taken, and the amendment was agreed to.

Mr. STERLING. Now, Mr. Speaker, it is suggested that in lines 3 and 4, page 2 of the bill, that a comma should be inserted after the word "counties" in the third line, and after the word "Louisiana" in the fourth line, which I think is proper, and I ask that that amendment be made to the bill.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

On page 2, line 3, insert after the word "counties" a comma, and in line 4, after the word "Louisiana," insert a comma.

The question was taken, and the amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. STERLING, a motion to reconsider the vote by which the bill was passed was laid on the table.

STATE SELECTION OF PHOSPHATE AND OIL LANDS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 26812) to provide for State selection of phosphate and oil lands.

The Clerk read as follows:

Be it enacted, etc., That from and after the passage of this act unreserved public lands of the United States in the State of Idaho which have been withdrawn or classified as phosphate or oil lands, or are valuable for phosphates or oil, shall be subject to selection by the State of Idaho under indemnity and other land grants made to it by Congress whenever such selections shall be made with a view of obtaining or passing title, with a reservation to the United States of the phosphates and oil in such lands, and of the right to prospect for, mine, and remove the same.

SEC. 2. That the State of Idaho, when applying to select lands classified as phosphate or oil lands, or valuable for phosphates or oil, with a view to securing or passing title to the same in accordance with the provisions of the indemnity and other granting acts, shall state in the application for selection that same is made in accordance with and subject to the provisions and reservations of this act.

SEC. 3. That upon satisfactory proof of full compliance with the provisions of the laws under which selection is made and this act the State shall be entitled to a patent to the lands selected by it, which patent shall contain a reservation to the United States of all the phosphates and oil in the land so patented, together with the right to prospect for, mine, and remove the same upon rendering compensation to the patentee for all damages that may be caused by prospecting for and removing such phosphates or oil. The reserved phosphate and oil deposits in such lands shall be disposed of only as shall be hereafter expressly directed by law.

The SPEAKER. The Clerk will report the amendments.

The Clerk read as follows:

Amend, page 1, line 6, after the word "shall," by inserting "if otherwise available under existing law."

Amend, page 2, by striking out all of section 3 and inserting in lieu thereof a section reading as follows:

"SEC. 3. That upon satisfactory proof of full compliance with the provisions of the laws under which selection is made and this act, the State shall, upon approval of the selection by the Secretary of the Interior, be entitled to have the lands certified to it, with a reservation to the United States of all the phosphates and oil in the land so certified, together with the right in the United States, or persons authorized by them, to prospect for, mine, and remove the same; but before any person shall be entitled to enter upon the lands certified for the purpose of prospecting, mining, or removing phosphates or oil therefrom he shall furnish, subject to approval by the Secretary of the Interior, a bond or undertaking as security for the payment of all damages to the crops and improvements on said lands by reason of such prospecting for and removal of phosphates or oil. The reserved phosphate and oil deposits in approved selections under this act shall not be subject to exploration or entry other than by the United States, except as hereinafter authorized by Congress."

Mr. FOSTER. Mr. Speaker, reserving the right to object, I take it that this permission to settle on the oil and phosphate lands does not permit any exploration to be made except by the United States Government.

Mr. FRENCH. That is all, except under laws that may hereafter be passed by the Congress.

Mr. FOSTER. Is it the gentleman's idea that, while we provide for damages to the person owning the surface of the land in case an exploration is made, there ought not to be such an exploration on public lands?

Mr. FRENCH. That point is covered by an amendment which I propose to offer and which has been submitted to the department and meets with the department's approval.

Mr. MANN. What was the gentleman's question?

Mr. FOSTER. That this permits no exploration except that done by the Government of the United States.

Mr. MANN. The bill so provides.

Mr. FOSTER. Yes. Then I want to know, when we provide for damages to be paid to the owner of the surface land, that in case anyone prospected there we should limit it to the United States Government.

Mr. FRENCH. That is a matter that can be taken up later on if Congress wants so to provide, and the difference between this bill and the law that it follows to some extent is that the existing law provides for the acquisition of certain coal lands, while there is no general law providing for the disposition of such lands as these, and it is with that in view that the language is a little bit different here from that provided in the bill authorizing the selection to be made of coal lands.

Mr. FOSTER. I will say to the gentleman in prospecting, for instance, for oil it does not injure the farm very much in doing that work, and I do not see the necessity of providing in a bill of this kind, if you safeguard the owner of the surface, that you should confine it to the United States Government.

Mr. MONDELL. Will the gentleman yield? The gentleman understands that the bill authorizes the State of Idaho to select the surface of certain lands?

Mr. FOSTER. Yes.

Mr. MONDELL. Of course, in passing that limited title to the State it is essential that all the rights of the United States or any of its grantees ought to be fully reserved in the patent issued to the State, and it is for the purpose of preserving those rights of entry and those rights of allowing others to enter that these provisions are contained in the bill. Of course, at the end of the bill there is a provision to the effect that until Congress shall act upon these particular lands there shall be no right granted to any individual to go upon them. But when Congress does act, then the State will have its limited act with all necessary reservations under which the Federal Government can act.

Mr. FOSTER. As I understand, the United States Government has now proposed to permit the State of Idaho to take the surface of these lands; reserving the phosphate and oil that may be under the surface. It is proposed here that no one shall have the right to prospect except the United States Government itself.

Mr. MANN. At present.

Mr. FOSTER. At present; yes; unless other laws are passed. Now, then, if we should provide that the owner of the surface has ample bond for any damage that may occur to him on account of prospecting for oil—and I will say that it does not hurt the land very much to prospect for oil—why should we limit it?

Mr. MANN. They are not permitted to prospect anywhere on these lands that are reserved at present, and will not be until Congress legislates. This simply maintains the status quo.

Mr. FOSTER. As to all public lands.

Mr. MANN. As to all the lands that will be withdrawn because of these deposits, from entry.

Mr. FOSTER. I understand that.

Mr. LENROOT. As the bill now stands, the United States itself can not prospect without paying something.

Mr. FOSTER. Certainly. I understand that. The United States under the bill would have to give bond to prospect.

Mr. MANN. The gentleman has an amendment which I understand he is to offer in order to make it complete, if that does make it complete, in reference to prospecting hereafter when the Government does allow it, so that if the State makes a selection now and patents the land, it patents it with the conditions that hereafter if Congress allows prospecting it may add "and damages paid for."

Mr. FOSTER. Does not my colleague think this is a little different state of affairs than that in which the Government owns all the surface and all beneath the surface? Here is a case where you are giving away the surface of the land and the Government is retaining all the oil and phosphate that may be under that surface. And does not the gentleman think it a little different case than where the Government has retained both the surface and what is beneath it?

Mr. MANN. The Government has withdrawn this land from entry on the ground that it is oil and phosphate land. Now no one can take it or do anything with it. We have passed a law in reference to coal on some other lands, and permit people to take the land up for agricultural purposes without having the right to the deposits under the land. This extends to the State of Idaho that privilege as to these oil and phosphate lands. There is no reason why you should take those deposits out on the same terms that control the deposits on other lands where the Government retains both above and underneath. The Government does not desire to give the right to take the surface in order to have somebody get hold of the deposits until further legislation is had.

Mr. FRENCH. And the Government desires to protect itself in the future in different grants it may make by laws under which mining or exploration for phosphate or oil may be carried on, and reserves to itself the complete authority to determine under what terms mining and exploration may be conducted.

Mr. Speaker, I desire to have several amendments that I propose to offer read at this time.

The Clerk read as follows:

First. Amend, page 3, line 1, by striking out "them" and inserting "it."

Second. Amend, page 3, line 3, by striking out the comma after the word "prospecting," together with the words "mining, or removing," and insert in lieu thereof the word "for."

Third. Amend, page 3, line 4, by striking out the word "therefrom."

Fourth. Amend, page 3, line 8, by striking out the words "and removal of."

Fifth. Amend, page 3, line 8, by inserting the following sentences after the sentence ending with the word "oil": "Any person who has acquired from the United States the oil or phosphate deposits in any such land, or the right to mine or remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the oil or phosphate therefrom and mine and remove the oil or phosphate upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages: *Provided*, That nothing herein contained shall be held to deny or abridge the right of the State of Idaho to present and have prompt consideration of applications to select lands, which have

been classified as oil or phosphate lands, with a view to disproving such classification and securing a certificate without reservation."

Sixth. Amend, line 8, page 3, by inserting before the word "The" as a part of the sentence to which the word belongs the following words: "*And provided further,* That."

The SPEAKER. Is there objection?

Mr. FOSTER. Just a moment, Mr. Speaker.

Mr. MURRAY. Mr. Speaker, does the gentleman yield?

Mr. FOSTER. I just wanted to say to the gentleman from Idaho that, from listening to the reading of his amendments, it appears that the State of Idaho would have the right to determine whether or not there was any oil or phosphate underneath this land.

Mr. FRENCH. Oh, no. As the gentleman may probably be aware, all of this land is now under a blanket reservation. It has not been sufficiently explored to enable anybody to know whether or not it contains oil or phosphate. If it should be developed that some of the land does not contain oil or phosphate, the Government does not care to include it within the area to which the phosphate law may apply. The provision to which the gentleman refers seeks to give the State the privilege of making that representation to the Government if it can do so.

Mr. FOSTER. Do I understand from the gentleman from Idaho that he or anybody can tell without exploration whether there is oil or phosphate underneath this land?

Mr. FRENCH. Oh, no. The final determination rests with the Federal Government, not with the State of Idaho. We only have the privilege, under the amendments read, of making application to remove these restrictions, and if it is shown to the satisfaction of the Government that there is no oil or phosphate there, the Government may eliminate those parts from the reservation. It can eliminate that part which does not contain oil or phosphate from the withdrawal.

Mr. MURRAY. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Idaho yield to the gentleman from Massachusetts?

Mr. FRENCH. Yes.

Mr. MURRAY. Mr. Speaker, I rise, as a member of the committee having this matter in charge, simply to say that these amendments which the gentleman from Idaho presents are designed to meet the objections that were made when the bill was before the House a couple of weeks ago. Some of us believe that these amendments cure such defects as may have been in the bill heretofore, and that they meet objections such as those made by the gentleman from Illinois [Mr. FOSTER] and the gentleman from Wisconsin [Mr. LENROOT] and the gentleman from Wyoming [Mr. MONDELL] and others, who at that time made objection. I believe that in its amended form the bill will meet those objections and ought to pass.

Mr. FERRIS. Mr. Speaker, in addition to what has been suggested by the gentleman from Massachusetts [Mr. MURRAY], I want to say that the committee in the first instance reported the bill precisely as the Secretary of the Interior recommended, putting in each and every amendment that he suggested. Objection was made on the floor two weeks ago owing to the fact that the legislation was not uniform with the other surface land legislation that had been enacted before. We now have the additional amendment that the Secretary wants in order to make the legislation uniform, and each one is offered so that in any event the bill is fully satisfactory to the Secretary and the department which has given it attention. It has been presented to the Secretary twice.

Mr. FOSTER. This complies with recent acts in reference to surface land and the reservation of oil and coal?

Mr. FERRIS. Precisely. The gentleman will remember that we had quite an extended debate a couple of years ago—in 1910, I think it was—on surface and coal land legislation.

Mr. FOSTER. Yes.

Mr. FERRIS. It was thought that we ought to make it uniform. It was carried back to the Secretary to enable him to examine it, in order to reach that uniformity, and these amendments that have been read at the desk were suggested in order to meet each one of those objections.

Mr. LENROOT. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman yield?

Mr. FRENCH. Yes.

Mr. LENROOT. There is just one question that I have any doubt about. I want to ask the gentleman from Idaho if he thinks the United States should be compelled to furnish an indemnity bond to a private individual? That is required under the bill as it stands now.

Mr. FRENCH. I imagine that that provision is in the bill in order that the Government of the United States might be fully authorized to impose such a provision upon a private individual, should legislation along that line be deemed advisable later on.

Mr. LENROOT. Very true; but if the bill passes in the present form the Government of the United States could not enter upon that land without furnishing such a bond.

Mr. MANN. What makes the gentleman from Wisconsin think that?

Mr. LENROOT. Line 2, page 3, contains the clause, "Before any person shall enter upon the land," and so forth.

Mr. MANN. Does the gentleman think that includes the Government?

Mr. LENROOT. It says, "Before any person shall enter upon the land a bond must be furnished." My suggestion would be to change it so that it would read, "Before any person not employed by or acting for the Government of the United States shall enter upon the land a bond must be furnished."

Mr. MONDELL. Does the gentleman think that the United States, in making this grant to the State of Idaho, should reserve to itself the right to send its agents there to acquire all the surface it may need for its operations, to do all that may be necessary, without paying anything?

Mr. LENROOT. This only applies to the prospecting. I would not raise to actual occupation the objection that I now raise to prospecting.

Mr. MONDELL. Without further examination, I must say that my thought has been that so far as the prospecting was concerned it would not apply.

Mr. LENROOT. It ought not to, and yet clearly the bill reads in that way.

Mr. FRENCH. The Government must necessarily reserve to itself the right to determine the phosphate or oil character of the lands. Suppose the State should apply to have parts of it eliminated, I think the Government ought to have the right to send its agents to make such an examination. If there is any question about it, I would be very glad to have those words included.

Mr. MONDELL. I make this suggestion to the gentleman: My thought is that originally this would not apply to the Government. There is a question as to the character of the land in the first instance. The Government, claiming the mineral, would have the right to do any such prospecting as was necessary to determine whether the mineral was there or not.

Mr. LENROOT. Of course, up to that point there could be no possible damages, because there would be no private entering.

Mr. MONDELL. Yes; as to the private entering——

Mr. LENROOT. That is after the Government has made the determination that the gentleman speaks of.

Mr. MONDELL. If that were true, the worst that could happen would be that the Secretary of the Interior would file with himself a formal bond.

Mr. LENROOT. That would raise the question whether there is any authorization for him to furnish such a bond.

Mr. FRENCH. I should be glad to see incorporated the words that the gentleman proposes.

Mr. LENROOT. There could not have been any intention on the part of the committee that this should apply to the Government.

Mr. FRENCH. I do not think so.

Mr. GREEN of Iowa. Possibly the gentleman from Wisconsin has overlooked the final clause in the act, which provides that—

The reserved phosphate and oil deposits in approved selections under this act shall not be subject to exploration or entry, other than by the United States, except as hereinafter authorized by Congress.

Mr. LENROOT. That is not at all inconsistent with the idea of the United States furnishing a bond. If the United States furnishes a bond, it can explore as much as it pleases.

Mr. GREEN of Iowa. I will say to the gentleman that it hardly seems to me that the word "person" could possibly apply to the Government of the United States. It is true that when a person goes on the land, in one sense it would apply to any individual; but in the legal sense it means the person for whom the entry is being made, and if it is made by some person for the United States, it is the United States entering upon the land and not the person himself.

Mr. LENROOT. I think possibly that might be, but it is certainly not without doubt; and if that is so, there ought not to be the slightest objection to changing the language.

Mr. FRENCH. I have no objection to that.

Mr. FERRIS. I rather think if the gentleman had before him the fifth amendment suggested by the Interior Department in its last draft this objection would not lie. The fifth amendment proposed by the Secretary reads like this:

Amend, page 3, line 8, by inserting the following sentences after the sentence ending with the word "oil."

"Any person who has acquired from the United States the oil or phosphate deposits in any such land, or the right to mine and remove the same, may reenter and occupy"—

And so forth.

Mr. LENROOT. That certainly removes any question as far as operation is concerned, but the part of the bill I am now directing my attention to relates to prospecting only, and this amendment does not. It relates to operation. I have no objection to the operaing part.

Mr. FERRIS. The genleman's idea was that the one relating to prospecting should be the same as the one relating to operation?

Mr. LENROOT. Yes.

Mr. FRENCH. I think the language the gentleman proposes is what we have tried to incorporate in the bill, and I should be very glad to agree to the amendment.

Mr. FERRIS. I do not see any objection to it, as it certainly was not intended to exclude the Federal Government.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. This bill is on the Union Calendar.

Mr. FRENCH. Mr. Speaker, I ask that the bill be considered in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Idaho asks unanimous consent to consider this bill in the House as in Committee of the Whole. Is there objection?

There was no objection.

The Clerk, reading the bill for amendment, read as follows:

That from and after the passage of this act unreserved public lands of the United States in the State of Idaho which have been withdrawn or classified as phosphate or oil lands, or are valuable for phosphates or oil, shall be subject to selection by the State of Idaho under indemnity and other land grants made to it by Congress whenever such selections shall be made with a view of obtaining or passing title, with a reservation to the United States of the phosphates and oil in such lands, and of the right to prospect for, mine, and remove the same.

With the following amendment recommended by the committee:

In line 6, page 1, after the word "shall," insert the words "if otherwise available under existing law."

The amendment was agreed to.

The Clerk read as follows:

SEC. 3. That upon satisfactory proof of full compliance with the provisions of the laws under which selection is made and this act, the State shall be entitled to a patent to the lands selected by it, which patent shall contain a reservation to the United States of all the phosphates and oil in the land so patented, together with the right to prospect for, mine, and remove the same upon rendering compensation to the patentee for all damages that may be caused by prospecting for and removing such phosphates or oil. The reserved phosphate and oil deposits in such lands shall be disposed of only as shall be hereafter expressly directed by law.

With the following amendment recommended by the committee:

Strike out all of section 3 and insert the following:

"SEC. 3. That upon satisfactory proof of full compliance with the provisions of the laws under which selection is made and this act, the State shall, upon approval of the selection by the Secretary of the Interior, be entitled to have the lands certified to it, with a reservation to the United States of all the phosphates and oil in the land so certified, together with the right in the United States, or persons authorized by them, to prospect for, mine, and remove the same; but before any person shall be entitled to enter upon the lands certified for the purpose of prospecting, mining, or removing phosphates or oil therefrom he shall furnish, subject to approval by the Secretary of the Interior, a bond or undertaking as security for the payment of all damages to the crops and improvements on said lands by reason of such prospecting for and removal of phosphates or oil. The reserved phosphate and oil deposits in approved selections under this act shall not be subject to exploration or entry, other than by the United States, except as hereinafter authorized by Congress."

Mr. MONDELL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MONDELL. The committee has offered an amendment to strike out section 3 and insert a new section. The amendments that the gentleman from Idaho proposes to offer are amendments to the amendment of the committee?

Mr. FRENCH. That is correct; and I offer the first amendment now.

The Clerk read as follows:

Amend the amendment by striking out, on page 3, in line 1, the word "them" and insert in lieu thereof the word "it."

The amendment to the amendment was agreed to.

Mr. LENROOT. Now, Mr. Speaker, I offer my amendment.

The SPEAKER. Is the amendment of the gentleman from Wisconsin an amendment to the amendment?

Mr. LENROOT. It is.

The SPEAKER. The Clerk will report the amendment to the amendment.

The Clerk read as follows:

Amend, page 3, line 2, by inserting after the word "person" the following: "not employed by or acting for the United States."

Mr. MANN. Mr. Speaker, I would like to ask the gentleman if it would not be better to make it "not representing the United States." In other words, if a man employed by the United States took up an entry himself, you would not have it refer to him. You might use the words "not acting for the United States."

Mr. LENROOT. Mr. Speaker, I ask to modify the amendment by inserting after the word "person" the words "not acting for the United States."

The SPEAKER. The Clerk will report the amendment as modified.

The Clerk read as follows:

Amend the amendment by inserting after the word "person," in line 2, page 3, the words "not acting for the United States."

The amendment to the amendment was agreed to.

Mr. FRENCH. Mr. Speaker, I have several amendments, which I have sent to the desk.

Mr. LENROOT. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. LENROOT. I would like to know the status of my amendment now.

The SPEAKER. The status is this: That the committee offered an amendment or a substitute to section 3, and the amendment of the gentleman from Wisconsin was an amendment to that amendment.

Mr. LENROOT. I ask to have the Clerk report the amendment as agreed to.

The Clerk read as follows:

Amend, page 3, line 2, by inserting after the word "person" the following: "Not acting for the United States."

Mr. LENROOT. And the record shows that that was the amendment adopted?

The SPEAKER. It does.

Mr. FRENCH. Now, Mr. Speaker, I offer the following amendments to section 3.

The Clerk read as follows:

Amend, page 3, line 3, by striking out the comma after the word "prospecting," together with the words "mining or removing," and insert in lieu thereof the word "for."

The amendment to the amendment was agreed to.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Amend, page 3, line 4, by striking out the word "therefrom."

The amendment to the amendment was agreed to.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Amend, page 3, line 8, by striking out the words "and removal of."

The amendment to the amendment was agreed to.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Amend, page 3, line 8, by inserting the following sentences after the sentence ending with the word "oil":

"Any person who has acquired from the United States the oil or phosphate deposits in any such land, or the right to mine or remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the oil or phosphate therefrom and mine and remove the oil or phosphate upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages: *Provided*, That nothing herein contained shall be held to deny or abridge the right of the State of Idaho to present and have prompt consideration of applications to select lands, which have been classified as oil or phosphate lands, with a view to disproving such classification and securing a certificate without reservation."

The SPEAKER. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The Clerk read as follows:

Amend, line 8, page 3, by inserting before the word "the," as a part of the sentence to which the word belongs, the following words: "*And provided further*, That."

The SPEAKER. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The SPEAKER. The question now is on agreeing to the amendment in the nature of a substitute as amended.

The question was taken, and the amendment in the nature of a substitute was agreed to.

The SPEAKER. The question now is on the engrossment of the third reading of the bill as amended.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

Mr. FRENCH. Mr. Speaker, I ask unanimous consent that the title be amended by striking out the word "State" and inserting, after the word "selection," the words "by the State of Idaho."

The SPEAKER. Without objection, the title will be amended in accordance with the statement of the gentleman from Idaho.

There was no objection.

On motion of Mr. FRENCH, a motion to reconsider the vote by which the bill was passed was laid on the table.

AGRICULTURE APPROPRIATION BILL.

By unanimous consent, Mr. LAMB, chairman of the Committee on Agriculture, at the direction of that committee, reported the bill (H. R. 28283) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1914, which was referred to the Committee of the Whole House on the state of the Union and, with the accompanying report (No. 1348), ordered printed.

Mr. MANN. Mr. Speaker, I reserve all points of order on the bill.

The SPEAKER. The gentleman from Illinois reserves all points of order.

LEAVES OF ABSENCE.

By unanimous consent, leave of absence was granted to—

Mr. MCCOY, for three days, on account of important business.

Mr. J. M. C. SMITH, for one week, on account of important business.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

The SPEAKER. If there be no objection, this being unanimous-consent day, the Chair will lay before the House the bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, with Senate amendments thereto.

There was no objection.

Mr. JOHNSON of South Carolina. Mr. Speaker, I ask unanimous consent to take the bill from the Speaker's table, disagree to the Senate amendments, and ask for a conference.

Mr. MANN. Mr. Speaker, I hope the gentleman will not prefer that request at this time, but will prefer a request to have the bill printed with the Senate amendments thereto.

Mr. JOHNSON of South Carolina. Very well. Mr. Speaker, I ask unanimous consent that the bill be printed with the Senate amendments properly numbered, and I shall make the other request later.

The SPEAKER. The gentleman from South Carolina asks unanimous consent to have the bill printed with the Senate amendments thereto properly numbered. Is there objection?

There was no objection, and it was so ordered.

HOMESTEADERS ON COEUR D'ALENE RESERVATION.

The next business on the Calendar for Unanimous Consent was H. J. Res. 326, providing for extending provisions of the act authorizing extension of payments to homesteaders on the Coeur d'Alene Indian Reservation, Idaho.

The Clerk read the resolution, as follows:

Resolved, etc., That the provisions of an act of Congress approved April 15, 1912, authorizing the extension of time within which to make payments of certain moneys by homestead entrymen upon the Coeur d'Alene Indian Reservation, in the State of Idaho, be extended and held to apply to payments that became due prior to the passage of the act under the same conditions that apply to payments becoming due subsequent to the passage of the law.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I will ask how many entrymen would be affected by this proposition?

Mr. FRENCH. Mr. Speaker, the department reports about 96, and 96, I think, is the accurate figure.

Mr. MANN. Are these people still on the land, or where are they? Have they lost their rights?

Mr. FRENCH. Of course they have lost their rights unless this resolution be passed, and I would say that these entrymen forfeited their rights prior to the passage of the act. I assume a large number of them are living upon their lands, because the demand has been made or the request has been taken up with me that the legislation be extended. I am also advised that the department has not taken adverse action in the way of canceling the entry in any case.

Mr. MANN. Nobody else has made application?

Mr. FRENCH. I would say with respect to that, that in the original bill we have this language:

That nothing herein contained shall affect any valid adverse claim initiated prior to the passage of this act.

The question has been raised whether or not the resolution is broad enough to prevent a conflict on that score, and this amendment has been suggested, "that nothing herein contained shall affect any valid adverse claim initiated prior to the passage of this resolution." That amendment I propose to offer at the proper time, because I desire, of course, to head off any difficulty in that regard.

Mr. BURKE of South Dakota. Mr. Speaker, may I ask the gentleman for what reason that provision was not put in when the bill was considered by the committee? I was not present.

Mr. FRENCH. The provision is in the act itself, and as I drafted the resolution I did not think it necessary to restate it in the resolution, and apparently the department did not think it necessary, and the matter was not raised in the committee, and I assume no member of the committee thought it was necessary, but I see there is that possibility.

Mr. BURKE of South Dakota. One further question. These acts that are passed granting extensions of time, I supposed always extended the time as to any entry subject to the provisions which the gentleman now proposes, and how does it happen there were 96 who did not come under the provisions of the act passed at the last session?

Mr. FRENCH. Because they had forfeited their entries prior to the passage of the law.

Mr. BURKE of South Dakota. Well, did not the law provide——

Mr. FRENCH. No; the law did not reach back and take care of the 96.

Mr. BURKE of South Dakota. This is one time when the gentleman from Idaho was not as careful of his constituents as he usually is.

Mr. FRENCH. I overlooked a point that time.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. This resolution is on the Union Calendar.

Mr. FRENCH. Mr. Speaker, I ask unanimous consent that the joint resolution be considered in the House as in Committee of the Whole.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. FRENCH. Mr. Speaker, I have this amendment to offer, which I send to the Clerk's desk.

The SPEAKER. To which section?

Mr. FRENCH. There is only one section.

The SPEAKER. The Clerk will report the joint resolution.

The Clerk read as follows:

Resolved, etc., That the provisions of an act of Congress approved April 15, 1912, authorizing the extension of time within which to make payments of certain moneys by homestead entrymen upon the Coeur d'Alene Indian Reservation, in the State of Idaho, be extended and held to apply to payments that became due prior to the passage of the act under the same conditions that apply to payments becoming due subsequent to the passage of the law.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Add at the end of line 10 the following: "That nothing herein contained shall affect any valid adverse claim initiated prior to the passage of this resolution."

The question was taken, and the amendment was agreed to.

The joint resolution as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. FRENCH, a motion to reconsider the vote by which the joint resolution was passed was laid on the table.

DONATION OF OLD GOVERNMENT DOCUMENTS TO THE OLD NEWBURY HISTORICAL SOCIETY.

The next business on the Calendar for Unanimous Consent was H. J. Res. 369, authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass.

The Clerk read as follows:

Resolved, etc., That the Secretary of the Treasury is hereby authorized to give to the Old Newbury Historical Society, of Newburyport, Mass., any or all documents in the customhouse building at Newburyport, Mass., which are of no further value to the United States Government.

The SPEAKER pro tempore (Mr. FERRIS). Is there objection? [After a pause.] The Chair hears none. This resolution is on the Union Calendar.

Mr. SLAYDEN. Mr. Speaker, this resolution being on the Union Calendar I ask unanimous consent that it be considered in the House as in Committee of the Whole.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. SLAYDEN. Mr. Speaker, the resolution simply proposes to give the historical society of that town some old documents which would be destroyed otherwise. There can be no possible objection to it.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. SLAYDEN, a motion to reconsider the vote by which the joint resolution was passed was laid on the table.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Curtiss, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States, had further insisted upon its disagreement to the amendment of the House of Representatives, had asked a further conference with the

House, and had appointed Mr. LODGE, Mr. DILLINGHAM, and Mr. PERCY as the conferees on the part of the Senate.

REPEALING CERTAIN PROVISIONS OF THE INDIAN APPROPRIATION ACT OF JUNE 30, 1907.

The next business on the Calendar for Unanimous Consent was the bill (S. 3952) for the purpose of repealing so much of an act making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indians located in Kansas City, Kans., providing for the sale of a tract of land located in Kansas City, Kans., reserved for a public burial ground under a treaty made and concluded with the Wyandotte Tribe of Indians on the 31st day of January, 1855, said section of said act relating to the sale of said land be, and the same is hereby, repealed.

The Clerk read as follows:

Be it enacted, etc., That so much of an act making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1907, approved June 21, 1906, providing for the sale of a tract of land located in Kansas City, Kans., reserved for a public burial ground under a treaty made and concluded with the Wyandotte Tribe of Indians on the 31st day of January, 1855 (said section of said act relating to the sale of said land), be, and the same is hereby, repealed.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object to whoever has this bill in charge, I would suggest that they examine the law which it is proposed to repeal, because I am quite confident that no one on earth, much less in heaven, can tell from this bill and an examination of the original law what is intended to be repealed.

Mr. JACKSON. Mr. Speaker, I will state to the gentleman that the understanding of the committee was that the provision originally was contained in an annual appropriation bill. That seems to be the understanding of the persons who drew the bill.

Mr. MANN. The bill was not drawn here and probably not drawn by anybody who is a Member of the other body, and the bill is very much like the title. The title itself repeals the law. Of course, it is not a proper title, and the bill is drawn just as loosely. I examined the original act, and I defy, in my judgment, anyone to state what is repealed by this bill if it becomes a law.

Mr. JACKSON. The gentleman will see the committee recommends a change of the title. Of course the gentleman understands what is intended.

Mr. MANN. I see the title is amended. The committee examined the title and probably did not examine the law which is proposed to be repealed. I think the gentleman ought to ask to pass this bill over and put in proper shape whatever is intended to be done.

Mr. TAGGART. Will the gentleman yield?

Mr. MANN. Yes.

Mr. TAGGART. I suggest that the amendment to the title, as suggested by the Committee on Indian Affairs, might possibly clear up any doubt as to what was intended to be repealed. The suggestion of the amendment is to the title——

Mr. MANN. I have read the suggestion.

Mr. TAGGART. It reads:

An act repealing the provision of the Indian appropriation act for the fiscal year ending June 30, 1907, authorizing the sale of a tract of land reserved for a burial ground for the Wyandotte Tribe of Indians, in Kansas City, Kans.

It means that portion of the appropriation bill.

Mr. MANN. I have read the report and the original act. The original act contained a lot of matters relating to the sale of property which I am sure it is not the desire of the gentleman to repeal. I do not think anyone can tell what is repealed by this provision.

Mr. FERRIS. Will the gentleman yield?

Mr. MANN. I will.

Mr. FERRIS. This matter has been hawked around in courts for a great many years, and I rather think this is a solution of a very troublesome proposition, so far as Congress, the department, and everybody connected with it are concerned. I want to ask the gentleman if he would not let us go into the committee——

Mr. MANN. It would be a very easy matter to insert by way of amendment, which could be prepared, the language that should be repealed. There is no language inserted here. So much of an act providing for a tract of land is repealed. Now, there were a great many provisions in the original act providing for the sale of this land which I think it is not intended to repeal, and some of them, I think, ought not to be repealed. Will the gentleman pass it over and prepare an amendment covering the language which it is proposed to repeal, so that he can show what you want to repeal?

Mr. TAGGART. Mr. Speaker, I ask unanimous consent to pass the bill over without prejudice.

The SPEAKER. The gentleman from Kansas asks unanimous consent to pass the bill over without prejudice. Is there objection?

There was no objection.

NEW DIVISION OF WESTERN JUDICIAL DISTRICT OF TEXAS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 24194) "to create a new division of the western judicial district of Texas, and to provide for terms of court at Pecos, Tex., and for a clerk for said court, and for other purposes."

The Clerk read the bill, as follows:

Be it enacted, etc., That the counties of Reeves, Ward, Martin, Reagan, Winkler, Ector, Gaines, Andrews, Upton, Midland, Loving, Jeff Davis, and Crane shall constitute a division of the western judicial district of Texas.

SEC. 2. That terms of the district court of the United States for the said western district of Texas shall be held twice in each year at the city of Pecos, in Reeves County, and that, until otherwise provided by law, the judge of said court shall fix the times at which said court shall be held at Pecos, of which he shall make application and give due notices.

Also the following committee amendment was read:

Page 2, line 3, after the word "notice," insert:

"*Provided, however*, That suitable rooms and accommodations shall be furnished for the holding of said court and for the use of the officers of said court at Pecos, free of expense to the Government of the United States."

The SPEAKER. Is there objection?

Mr. MONDELL. I reserve the right to object. I would like to know how large this district is, and how large the area is which it is proposed to include in this subdistrict.

Mr. SMITH of Texas. You mean the whole judicial district?

Mr. MONDELL. What is the area of this subdivision?

Mr. SMITH of Texas. It comprises 13 counties, the smallest of which are 30 miles square, and some of them are larger, returnable to this division of the court mentioned in this bill.

Mr. MONDELL. And within which there is now no provision for holding court?

Mr. SMITH of Texas. No court.

Mr. MONDELL. How large a population is there, approximately?

Mr. SMITH of Texas. About 25,000. There is no court within 200 miles of this proposed site.

Mr. MONDELL. No court within 200 miles?

Mr. SMITH of Texas. No, sir.

The SPEAKER. Is there objection?

Mr. FOSTER. Reserving the right to object, I would like to ask the gentleman if there is no public building at this place now.

Mr. SMITH of Texas. There is no public building there now.

Mr. FOSTER. How large a city is Pecos?

Mr. SMITH of Texas. It is a city of about 2,000 people.

Mr. FOSTER. I suppose this means that in the course of a little time a public building will be asked for there?

Mr. SMITH of Texas. I suppose in the course of events it may be so, but there is nothing pending to that effect at the present time. The gentleman will note that the Committee on the Judiciary requires that quarters be furnished for this court without expense to the Government.

Mr. FOSTER. I understand; but that does not provide any definite time?

Mr. SMITH of Texas. No.

Mr. FOSTER. The gentleman would not be willing to put in an amendment to furnish quarters for a definite length of time?

Mr. SMITH of Texas. I think not. I do not think this provision should be put in. It was already in the bill, but rather than raise a row about it I thought we would let it go through.

Mr. FOSTER. Is it usual to put on bills of this kind, establishing a court, a provision that there shall be suitable offices or quarters for holding the court when it is established?

Mr. SMITH of Texas. I was told by some member of the committee that was so, but I know of some bills which passed without that provision.

Mr. GARNER. And I might suggest to the gentleman from Illinois [Mr. FOSTER] that in a case like this such a provision ought not to be carried in the bill. It will be a hardship on these people to furnish these quarters. This court is being established because it is a hardship for them now to be without one and be compelled to travel from 200 to 500 miles to attend Federal court. And now, because they ought to be relieved of this burden, and because it is a rural population, it is a hardship to establish quarters for the purpose of holding a court, and Congress ought not to demand such an unreasonable proposition.

Mr. FOSTER. I may say that the gentleman from Texas [Mr. GARNER] may be right on that proposition. If it is neces-

sary to establish a court, the Government ought to furnish the necessary accommodations. But I notice there is a provision here that suitable rooms and accommodations shall be furnished free of charge to the Government, and I want to know how long it will last?

The reason the gentleman from Texas accepted that is because his people are suffering by reason of the fact that they have to travel so far to attend a Federal court, and he is willing to go to this extra expense in order to relieve the situation.

Mr. MANN. What expense is there in allowing a Federal court to use a building?

Mr. SMITH of Texas. I am making no objection.

Mr. MANN. That has been inserted in these bills for many years.

Mr. FOSTER. I am not going to object. The only thing I was driving at is that possibly in 10 years from now they will not want to hold this court without a public building——

Mr. MANN. In less than 10 years from now they will erect a public building there.

Mr. FOSTER. The gentleman did not wait until I had finished my sentence. I was saying that before that time they would be asking a public building, and one of the reasons will be that they are holding United States court there.

Mr. MANN. Why, certainly; that is one of the ways of getting a public building.

Mr. FOSTER. Yes.

Mr. MANN. That is a legitimate way.

Mr. FOSTER. I guess it is legitimate; yes. I am not complaining of that.

Mr. SMITH of Texas. I suppose the gentleman does not want to pledge here that he will never ask for a public building.

Mr. FOSTER. No; I would not ask the gentleman to do such a thing as that. The only thing in my mind was, if the accommodations are to be furnished in that particular locality, whether or not there should be a definite time fixed in which they should be furnished. It should not be held out as an excuse for urging the necessity of an appropriation.

Mr. MANN. It is just the other way, I will say to my colleague. They are required to furnish these quarters.

Mr. FOSTER. But there is no definite time set.

Mr. MANN. As long as the court remains there.

Mr. FOSTER. Under this provision I do not understand they would have to furnish it next year.

Mr. MANN. Oh, certainly. They have to furnish these quarters free as long as the court is maintained there, until the Government provides a Government building.

Mr. SMITH of Texas. It would be a question for the Government to determine hereafter.

Mr. FOSTER. I understand; but there is no provision saying that "so long as the court is held at that place," and so forth.

Mr. SMITH of Texas. That is what it means.

Mr. MANN. That is the construction of the language. It has been inserted in the bills all these recent years, partly to keep out the claims for public buildings.

Mr. FOSTER. I will ask my colleague, with all his experience in this House, whether that has succeeded in keeping out appropriations for public buildings? Has it not been more often a claim for a public building?

Mr. MANN. This provision does not make a claim for a public building.

The SPEAKER. The regular order is demanded. Is there objection? [After a pause.] The Chair hears none. This bill is on the Union Calendar.

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The SPEAKER. The gentleman from Texas [Mr. SMITH] asks unanimous consent to consider this bill in the House as in Committee of the Whole. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the bill for amendment.

The Clerk again read the bill, as follows:

Be it enacted, etc., That the counties of Reeves, Ward, Martin, Reagan, Winkler, Ector, Gaines, Andrews, Upton, Midland, Loving, Jeff Davis, and Crane shall constitute a division of the western judicial district of Texas.

SEC. 2. That terms of the district court of the United States for the said western district of Texas shall be held twice in each year at the city of Pecos, in Reeves County, and that, until otherwise provided by law, the judge of said court shall fix the times at which said court shall be held at Pecos, of which he shall make application and give due notice.

With a committee amendment:

Amend by adding, after the word "notice," in line 3, page 2, the following:

"*Provided, however,* That suitable rooms and accommodations shall be furnished for the holding of said court and for the use of the officers of said court at Pecos, free of expense to the Government of the United States."

The SPEAKER. The question is on agreeing to the amendment.

Mr. MANN. Mr. Speaker, may I ask the gentleman a question?

Mr. SMITH of Texas. Certainly.

Mr. MANN. On page 2, line 2, just what is meant by the statement, "of which he shall make application and give due notice"? What does the language mean there—"make application"?

Mr. SMITH of Texas. I am glad the gentleman called attention to that. I think that should be "proclamation."

Mr. MANN. "Make proclamation and give due notice?"

Mr. SMITH of Texas. Yes.

Mr. Speaker, I ask that that amendment be made; that the word "application" be stricken out and the word "proclamation" be inserted.

The SPEAKER. Is that an amendment to the amendment?

Mr. MANN. No.

Mr. SMITH of Texas. That is an amendment to the original bill.

The SPEAKER. The vote will be taken first on the committee amendment The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The SPEAKER. The Clerk will now read the other amendment.

The Clerk read as follows:

On page 2, line 2, strike out the word "application" and insert in lieu thereof the word "proclamation."

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the amended bill.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "To create a new division in the western judicial district of Texas and to provide for terms of court at Pecos, Tex., and for other purposes."

On motion of Mr. SMITH of Texas, a motion to reconsider the vote whereby the bill was passed was laid on the table.

The SPEAKER. This ends the Unanimous Consent Calendar. When the House adjourned——

Mr. GARNER. Mr. Speaker, does this complete the Unanimous Consent Calendar?

The SPEAKER. It does. There were two or three more bills on the calendar, but they have not been on long enough.

Mr. GARNER. Mr. Speaker, the next bill on the calendar was placed there on the 15th of January.

Mr. MANN. It was not reported into the House until the 16th.

Mr. GARNER. Is it exclusive of the day it is placed on the calendar?

The SPEAKER. You can not count both the day it was put on and to-day.

THE ROCKEFELLER FOUNDATION.

The SPEAKER. When the House adjourned two weeks ago to-day the unfinished business was the bill (H. R. 21532) to incorporate the Rockefeller Foundation. A motion had been made to suspend the rules and pass the bill, a second had been ordered, and the debate had been had. The House voted on it, and the gentleman from Illinois [Mr. MANN] raised the point of no quorum, whereupon the House adjourned. So the question now is on suspending the rules and passing that bill.

Mr. PETERS. Mr. Speaker, before putting that motion, I ask unanimous consent to offer at this time an amendment to the bill.

The SPEAKER. The gentleman from Massachusetts [Mr. PETERS] asks unanimous consent to offer at this time an amendment. Is there objection to the request of the gentleman from Massachusetts [Mr. PETERS]?

Mr. MANN. I take it that the gentleman is asking unanimous consent to modify his motion to suspend the rules, so that it will include this amendment. It could not be acted upon in any other way.

Mr. PETERS. That is my request.

The SPEAKER. The gentleman is technically correct. The gentleman asks unanimous consent to modify his motion by including the amendment.

Mr. MANN. Let the amendment be reported.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Insert, page 8, after line 21, as a separate section:

"SEC. 14. That said corporation shall not have power to buy, sell, rent, lease, own, hold, or maintain any real estate or any interest in any real estate for the purpose of deriving profit therefrom except as herein otherwise expressly provided: *Provided*, That said corporation shall have power to loan its funds upon real estate securities and to acquire such real estate in collection of debts due to it: *Provided further*, That said corporation shall have power to receive donations, grants, gifts, and devices of real estate and interests in real estate: *And provided further*, That any real estate or any interest in any real estate that shall be acquired or received by said corporation in compliance with the provisions of this act shall within four years after the same is so acquired or received be sold, and in the event it shall not be so sold said real estate or interest in real estate shall escheat to the State or Territory in which it is situated."

The SPEAKER. The gentleman from Massachusetts [Mr. PETERS] asks unanimous consent at this stage of the proceedings to modify the bill in the manner which has been read. Is there objection?

[Mr. SHACKLEFORD addressed the House. See Appendix.]

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. SHERLEY. Mr. Speaker, reserving the right to object, it occurs to me that it is hardly fair to ask to suspend the rules on a particular bill and then permit an individual amendment. I should like the chance to amend this bill in a good many particulars. I want to be frank and say that I am opposed to a national incorporation anyway. I think we ought not to give special charters; but particularly I would like to see an amendment prohibiting exemption from taxation. I know no reason why this fund should be exempt from taxation. What we are asked now is to enable an individual to amend the bill without giving the rest of us a chance to do so. If the gentleman is willing to throw his bill open to amendment and let the House have a chance at it, that is another proposition.

The SPEAKER. That can not be done under a motion to suspend the rules.

Mr. PETERS. It is impossible to throw the bill open to amendment at this stage of the proceedings under the procedure of the House. If the gentleman from Kentucky has any specific amendment which he wishes to suggest, I would be glad to consider it.

Mr. SHERLEY. I will make it specific. I would like an amendment which would prevent the exemption from taxation from Federal or other taxes.

Mr. PETERS. By whom?

Mr. SHERLEY. I would have this fund subject to taxation just as the fund of a private individual would be subject to taxation.

Mr. CANNON. This is taxable in all the States.

Mr. SHERLEY. Not where church property would be exempt, according to the statement of the gentleman a few moments ago.

The SPEAKER. The Chair will inquire for his own information, has the gentleman from Kentucky any amendment?

Mr. SHERLEY. No. Supposing under the suspension of the rules that there would be no opportunity to amend, I could not be expected to have.

The SPEAKER. There can not be any amendment except by unanimous consent.

Mr. SHERLEY. I understand that there can not.

Mr. SAUNDERS. Mr. Speaker, I suggest that the bill itself per se does not operate to relieve this property from taxation. It is taxable by the State, and it is only exempt in the District of Columbia and the Territories. It is taxable in all the States pursuant to the laws of the States.

Mr. MANN. Why not strike out section 11 entirely?

Mr. SHERLEY. Mr. Speaker, I suggest striking out section 11. The gentleman wanted a specific amendment, and I propose that one.

Mr. PETERS. I will accept it and will include it in my motion.

Mr. SHERLEY. The gentleman appreciates that I am still opposed to his bill.

The SPEAKER. Will the gentleman from Kentucky state what it is he wants.

Mr. SHERLEY. To strike out section 11.

The SPEAKER. Is there objection?

Mr. DIES. I object.

The SPEAKER. The gentleman from Texas objects, and the question is on suspending the rules and passing the bill.

The question was taken; and the Speaker announced that the ayes seemed to have it.

Mr. SHACKLEFORD demanded a division.

Mr. FOWLER. Mr. Speaker, I suggest the absence of a quorum.

The SPEAKER. The gentleman from Illinois raises the point of no quorum. The Chair will count.

Mr. FOWLER. Mr. Speaker, I withdraw the point of no quorum.

Mr. DIES. I renew the point of no quorum.

Mr. MANN. I make the point of order that no quorum is present, as that is the easiest way to get the yeas and nays.

The SPEAKER. The gentleman from Texas and the gentleman from Illinois make the point that no quorum is present, and the Chair will count. [After counting.] One hundred and five gentlemen present, not a quorum. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees.

Mr. SHERLEY. Mr. Speaker, I move that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. PETERS) there were 49 ayes and 48 noes.

Mr. CANNON. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. This question is being taken on the motion to adjourn. All those in favor will answer "aye" and those opposed will answer "no," and the Clerk will call the roll.

The question was taken; and there were—yeas 36, nays 179, answered "present" 9, not voting 159, as follows:

YEAS—36.

Adamson	Daugherty	Johnson, S. C.	Sheppard
Bell, Ga.	Dies	Korbly	Sherley
Booher	Garner	Linthicum	Sisson
Byrnes, S. C.	Garrett	Macon	Stephens, Miss.
Callaway	Gudger	Mays	Taylor, Colo.
Candler	Harrison, Miss.	Moon, Tenn.	Tribble
Cline	Hensley	Moss, Ind.	Willis
Collier	Houston	Raker	Wilson, Pa.
Cullop	Humphreys, Miss.	Roddenbery	Witherspoon

NAYS—179.

Adair	Esch	Jackson	Pickett
Aiken, S. C.	Estopinal	Jacoway	Plumley
Ainey	Evans	James	Post
Alexander	Faison	Jones	Powers
Allen	Fergusson	Kendall	Redfield
Anderson	Ferris	Kennedy	Rees
Ashbrook	Finley	Kinkaid, Nebr.	Reilly
Barnhart	Fitzgerald	Kinkead, N. J.	Roberts, Mass.
Bates	Floyd, Ark.	Knowland	Roberts, Nev.
Beall, Tex.	Foss	Konop	Rothermel
Blackmon	Foster	Kopp	Rouse
Borland	Fowler	Lafferty	Rubey
Broussard	Francis	La Follette	Russell
Buchanan	French	Lawrence	Saunders
Bulkley	Fuller	Lee, Ga.	Scott
Burke, Pa.	Gallagher	Lee, Pa.	Sharp
Burke, S. Dak.	Gardner, Mass.	Lenroot	Sherwood
Burnett	Gillett	Lever	Sims
Byrns, Tenn.	Godwin, N. C.	Levy	Slayden
Cannon	Goldfogle	Lindbergh	Sloan
Cary	Good	Lobeck	Small
Clark, Fla.	Goodwin, Ark.	Loud	Smith, Saml. W.
Claypool	Gould	McDermott	Smith, Tex.
Clayton	Gray	McGillicuddy	Stanley
Cooper	Green, Iowa	McKenzie	Stedman
Cox	Greene, Mass.	McKinley	Steenerson
Crago	Gregg, Tex.	McKinney	Sterling
Cravens	Guernsey	McLaughlin	Stevens, Minn.
Currier	Hamilton, Mich.	Madden	Stone
Dalzell	Hamilton, W. Va.	Maguire, Nebr.	Sweet
Danforth	Hardy	Martin, S. Dak.	Switzer
Davis, Minn.	Harrison, N. Y.	Mondell	Talcott, N. Y.
Davis, W. Va.	Hay	Moore, Pa.	Taylor, Ala.
De Forest	Hayden	Morgan, La.	Thayer
Dent	Heflin	Morgan, Okla.	Thomas
Dickinson	Helgesen	Mott	Tilson
Dodds	Helm	Murdock	Towner
Donohoe	Henry, Conn.	Murray	Underhill
Doremus	Henry, Tex.	Neeley	Warburton
Doughton	Higgins	Nelson	Watkins
Draper	Hobson	Norris	White
Driscoll, D. A.	Holland	Nye	Wilder
Driscoll, M. E.	Hughes, Ga.	Padgett	Young, Kans.
Dupré	Hughes, W. Va.	Page	Young, Tex.
Edwards	Humphrey, Wash.	Peters	

ANSWERED "PRESENT"—9.

Boehne	McGuire, Okla.	Mann	Sparkman
Browning	McMorran	Morrison	Talbott, Md.
Butler			

NOT VOTING—159.

Akin, N. Y.	Brown	Curry	Focht
Ames	Burgess	Davenport	Fordney
Andrus	Burke, Wis.	Davidson	Fornes
Ansberry	Burleson	Denver	Gardner, N. J.
Anthony	Calder	Dickson, Miss.	George
Austin	Campbell	Difenderfer	Gill
Ayres	Cantrill	Dixon, Ind.	Glass
Barchfeld	Carlin	Dwight	Gocke
Bartholdt	Carter	Dyer	Graham
Bartlett	Conry	Ellerbe	Greene, Vt.
Bathrick	Copley	Fairchild	Gregg, Pa.
Berger	Covington	Farr	Griest
Bradley	Crumpacker	Fields	Hamill
Brantley	Curley	Flood, Va.	Hamlin

Hammond	Lewis	Payne	Smith, N. Y.
Hardwick	Lindsay	Pepper	Speer
Harris	Littlepage	Porter	Stack
Hart	Littleton	Pou	Stephens, Cal.
Hartman	Lloyd	Pray	Stephens, Nebr.
Haugen	Longworth	Prince	Stephens, Tex.
Hawley	McCall	Prouty	Sulloway
Hayes	McCoy	Pujo	Taggart
Heald	McCreary	Rainey	Taylor, Ohio
Hill	McKellar	Randell, Tex.	Thistlewood
Hinds	Maher	Ransdell, La.	Townsend
Howard	Martin, Colo.	Rauch	Turnbull
Howell	Matthews	Reyburn	Tuttle
Howland	Merritt	Richardson	Underwood
Hull	Miller	Riordan	Vare
Johnson, Ky.	Moon, Pa.	Rodenberg	Volstead
Kahn	Moore, Tex.	Rucker, Colo.	Vreeland
Kent	Morse, Wis.	Rucker, Mo.	Webb
Kindred	Needham	Sabath	Weeks
Kitchin	Oldfield	Scully	Whitacre
Konig	Olmsted	Sells	Wilson, Ill.
Lafean	O'Shaunessy	Shackleford	Wilson, N. Y.
Lamb	Palmer	Simmons	Wood, N. J.
Langham	Parran	Slemp	Woods, Iowa
Langley	Patten, N. Y.	Smith, J. M. C.	Young, Mich.
Legare	Patton, Pa.	Smith, Cal.	

So the motion to adjourn was rejected.

The Clerk announced the following pairs:

For the session:

Mr. BARTLETT with Mr. BUTLER.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. LITTLETON with Mr. DWIGHT.

Mr. HOBSON with Mr. FAIRCHILD.

Mr. FORNES with Mr. BRADLEY.

Mr. RIORDAN with Mr. ANDRUS.

Mr. PALMER with Mr. HILL.

Until further notice:

Mr. RAINEY with Mr. MCCALL.

Mr. PUJO with Mr. MCMORRAN.

Mr. CONRY with Mr. LANGHAM.

Mr. UNDERWOOD with Mr. MANN.

Mr. SPARKMAN with Mr. DAVIDSON.

Mr. SCULLY with Mr. BROWNING.

Mr. CARTER with Mr. MCGUIRE of Oklahoma.

Mr. FIELDS with Mr. LANGLEY.

Mr. HULL with Mr. NEEDHAM.

Mr. HENSLEY with Mr. KOPP.

Mr. KITCHIN with Mr. FORDNEY.

Mr. ANSBERRY with Mr. BARTHOLDT.

Mr. AYRES with Mr. CALDER.

Mr. BATHRICK with Mr. AMES.

Mr. BRANTLEY with Mr. ANTHONY.

Mr. BROWN with Mr. AUSTIN.

Mr. BURGESS with Mr. BARCHFELD.

Mr. BURLESON with Mr. COPLEY.

Mr. CANTRILL with Mr. DYER.

Mr. CARLIN with Mr. FARR.

Mr. COVINGTON with Mr. FOCHT.

Mr. CURLEY with Mr. GARDNER of New Jersey.

Mr. DAVENPORT with Mr. CURRY.

Mr. DENVER with Mr. GREENE of Vermont.

Mr. DIFENDERFER with Mr. GRIEST.

Mr. DIXON of Indiana with Mr. CRUMPACKER.

Mr. EDWARDS with Mr. HARTMAN.

Mr. ELLERBE with Mr. HAUGEN.

Mr. FLOOD of Virginia with Mr. HAWLEY.

Mr. GEORGE with Mr. HAYES.

Mr. GLASS with Mr. HEALD.

Mr. GOEKE with Mr. HINDS.

Mr. GRAHAM with Mr. HOWLAND.

Mr. HAMILL with Mr. KAHN.

Mr. HAMLIN with Mr. LAFEAN.

Mr. HARDWICK with Mr. CAMPBELL.

Mr. HAMMOND with Mr. HOWELL.

Mr. HART with Mr. MCCREARY.

Mr. HOWARD with Mr. MATTHEWS.

Mr. JOHNSON of Kentucky with Mr. MILLER.

Mr. KINDRED with Mr. MERRITT.

Mr. KONIG with Mr. MOON of Pennsylvania.

Mr. LAMB with Mr. OLMSTED.

Mr. LEWIS with Mr. PATTON of Pennsylvania.

Mr. LITTLEPAGE with Mr. PORTER.

Mr. LLOYD with Mr. PAYNE.

Mr. MCCOY with Mr. PRAY.

Mr. MCKELLAR with Mr. PRINCE.

Mr. MAHER with Mr. PROUTY.

Mr. OLDFIELD with Mr. REYBURN.

Mr. O'SHAUNESSY with Mr. RODENBERG.

Mr. PATTEN of New York with Mr. SELLS.

Mr. PEPPER with Mr. SIMMONS.

Mr. POU with Mr. SLEMP.

Mr. RAUCH with Mr. J. M. C. SMITH.

Mr. RICHARDSON with Mr. SMITH of California.

Mr. RUCKER of Missouri with Mr. SPEER.

Mr. RUCKER of Colorado with Mr. STEPHENS of California.

Mr. SMITH of New York with Mr. THISTLEWOOD.

Mr. SABATH with Mr. TAYLOR of Ohio.

Mr. STEPHENS of Texas with Mr. VOLSTEAD.

Mr. STEPHENS of Nebraska with Mr. VARE.

Mr. TAGGART with Mr. VREELAND.

Mr. TOWNSEND with Mr. WEEKS.

Mr. TURNBULL with Mr. WILSON of Illinois.

Mr. TUTTLE with Mr. WOODS of Iowa.

Mr. WEBB with Mr. SULLOWAY.

Mr. WILSON of New York with Mr. WOOD of New Jersey.

Mr. RANDELL of Texas with Mr. YOUNG of Michigan.

Until February 1:

Mr. SHACKLEFORD with Mr. LONGWORTH.

Mr. BUTLER. Mr. Speaker, I would inquire if the gentleman from Georgia, Mr. BARTLETT, voted. I have a general pair with him.

The SPEAKER. The gentleman from Georgia did not vote.

Mr. BUTLER. Then I will withdraw my vote of "nay" and answer "present."

The name of Mr. BUTLER was called, and he answered "Present."

Mr. MANN. Mr. Speaker, I am paired with the gentleman from Alabama, Mr. UNDERWOOD. I voted "nay." I desire to withdraw my vote and be recorded "present."

The name of Mr. MANN was called, and he answered "Present."

The result of the vote was announced as above recorded.

A quorum being present, the doors were opened.

The SPEAKER. The question is on the motion of the gentleman from Massachusetts to suspend the rules and pass the bill.

Mr. SHACKLEFORD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 155, nays 65, answered "present" 4, not voting 159, as follows:

YEAS—155.

Adair	Esch	Kent	Pickett
Aiken, S. C.	Estopinal	Kinkaid, Nebr.	Plumley
Ainey	Evans	Kinkead, N. J.	Post
Alexander	Faison	Kopp	Pou
Allen	Fitzgerald	Korbly	Powers
Ashbrook	Floyd, Ark.	Lafferty	Redfield
Barnhart	Foss	La Follette	Rees
Bates	Foster	Lawrence	Reilly
Boehne	French	Lee, Ga.	Roberts, Mass.
Brantley	Fuller	Lenroot	Roberts, Nev.
Broussard	Gallagher	Lever	Rothermel
Buchanan	Gardner, Mass.	Levy	Rouse
Bulkley	Gillett	Linthicum	Russell
Burke, Pa.	Godwin, N. C.	Littlepage	Saunders
Burke, S. Dak.	Good	Lobeck	Scott
Burleson	Gould	Loud	Sherwood
Burnett	Green, Iowa	McCall	Sims
Byrns, Tenn.	Greene, Mass.	McCoy	Slayden
Cannon	Greene, Vt.	McDermott	Sloan
Cantrill	Gregg, Pa.	McGillicuddy	Small
Cary	Gregg, Tex.	McKenzie	Smith, Saml. W.
Clayton	Gudger	McKinley	Steenerson
Covington	Guernsey	McKinney	Sterling
Cox	Hamilton, Mich.	McLaughlin	Stevens, Minn.
Crago	Hamilton, W. Va.	Madden	Stone
Currier	Hardy	Mann	Sweet
Dalzell	Hay	Martin, S. Dak.	Switzer
Danforth	Heflin	Moore, Pa.	Talcott, N. Y.
Davis, Minn.	Helgesen	Morgan, La.	Taylor, Ala.
Davis, W. Va.	Helm	Morse, Wis.	Taylor, Colo.
De Forest	Higgins	Mott	Thayer
Dent	Hobson	Murray	Thomas
Dodds	Holland	Norris	Tilson
Doremus	Houston	Nye	Towner
Doughton	Hughes, Ga.	O'Shaunessy	Underhill
Draper	Hughes, W. Va.	Padgett	Weeks
Driscoll, M. E.	Humphrey, Wash.	Page	White
Dupré	James	Patton, Pa.	Wilder
Ellerbe	Kennedy	Peters	

NAYS—65.

Adamson	Dies	Kendall	Roddenbery
Anderson	Donohoe	Konop	Rubey
Beall, Tex.	Edwards	Lee, Pa.	Sheppard
Blackmon	Fergusson	Lindbergh	Sherley
Booher	Fowler	Lloyd	Sisson
Borland	Francis	Macon	Smith, Tex.
Burgess	Garner	Maguire, Nebr.	Stephens, Miss.
Byrnes, S. C.	Garrett	Mays	Tribble
Callaway	Goodwin, Ark.	Moon, Tenn.	Warburton
Clark, Fla.	Gray	Morgan, Okla.	Willis
Claypool	Harrison, Miss.	Morrison	Wilson, Pa.
Cline	Hayden	Moss, Ind.	Witherspoon
Cooper	Henry, Tex.	Murdock	Young, Kans.
Cullop	Hensley	Neeley	Young, Tex.
Daugherty	Humphreys, Miss.	Nelson	
Dickinson	Jackson	Porter	
Dickson, Miss.	Jacoway	Raker	

ANSWERED "PRESENT"—4.

Browning	Butler	McMorran	Sparkman

NOT VOTING—159.

Akin, N. Y.	Finley	Lafean	Rucker, Colo.
Ames	Flood, Va.	Lamb	Rucker, Mo.
Andrus	Focht	Langham	Sabath
Ansberry	Fordney	Langley	Scully
Anthony	Fornes	Legare	Sells
Austin	Gardner, N. J.	Lewis	Shackleford
Ayres	George	Lindsay	Sharp
Barchfeld	Gill	Littleton	Simmons
Bartholdt	Glass	Longworth	Slemp
Bartlett	Goeke	McCreary	Smith, J. M. C.
Bathrick	Goldfogle	McGuire, Okla.	Smith, Cal.
Bell, Ga.	Graham	McKellar	Smith, N. Y.
Berger	Griest	Maher	Speer
Bradley	Hamill	Martin, Colo.	Stack
Brown	Hamlin	Matthews	Stanley
Burke, Wis.	Hammond	Merritt	Stedman
Calder	Hardwick	Miller	Stephens, Cal.
Campbell	Harris	Mondell	Stephens, Nebr.
Candler	Harrison, N. Y.	Moon, Pa.	Stephens, Tex.
Carlin	Hart	Moore, Tex.	Sulloway
Carter	Hartman	Needham	Taggart
Collier	Haugen	Oldfield	Talbott, Md.
Conry	Hawley	Olmsted	Taylor, Ohio
Copley	Hayes	Palmer	Thistlewood
Cravens	Heald	Parran	Townsend
Crumpacker	Henry, Conn.	Patten, N. Y.	Turnbull
Curley	Hill	Payne	Tuttle
Curry	Hinds	Pepper	Underwood
Davenport	Howard	Pray	Vare
Davidson	Howell	Prince	Volstead
Denver	Howland	Prouty	Vreeland
Difenderfer	Hull	Pujo	Watkins
Dixon, Ind.	Johnson, Ky.	Rainey	Webb
Driscoll, D. A.	Johnson, S. C.	Randell, Tex.	Whitacre
Dwight	Jones	Ransdell, La.	Wilson, Ill.
Dyer	Kahn	Rauch	Wilson, N. Y.
Fairchild	Kindred	Reyburn	Wood, N. J.
Farr	Kitchin	Richardson	Woods, Iowa
Ferris	Knowland	Riordan	Young, Mich.
Fields	Konig	Rodenberg	

So, two-thirds having voted in favor thereof, the rules were suspended, and the bill was passed.

The Clerk announced the following additional pairs:

Until further notice:

Mr. CANDLER with Mr. DYER.

Mr. COLLIER with Mr. HAUGEN.

Mr. FERRIS with Mr. HENRY of Connecticut.

Mr. FINLEY with Mr. KNOWLAND.

Mr. GOLDFOGLE with Mr. MCKENZIE.

Mr. DENVER with Mr. MONDELL.

Mr. HARRISON of New York with Mr. PAYNE.

Mr. STANLEY with Mr. ANTHONY.

Mr. JOHNSON of South Carolina with Mr. PRAY.

Mr. RAINEY with Mr. RODENBERG.

Mr. UNDERWOOD with Mr. OLMSTED.

Mr. LEWIS with Mr. SLEMP.

Mr. SHARP with Mr. HARTMAN.

Mr. STEDMAN with Mr. MCCREARY.

Mr. WATKINS with Mr. WILSON of Illinois.

Mr. BUTLER. Mr. Speaker, may I withdraw my vote? I voted "aye," but, being paired, I feel obliged to withdraw that vote and answer "present."

The name of Mr. BUTLER was called, and he answered "Present."

The result of the vote was announced as above recorded.

Mr. PETERS. Mr. Speaker, I move that the motion to reconsider the vote by which the bill was passed be laid on the table.

The SPEAKER. That motion is unnecessary and out of order.

Mr. HOBSON. Mr. Speaker——

Mr. FITZGERALD. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. The gentleman from New York moves that the House do now adjourn.

Mr. RUSSELL. Mr. Speaker, before that I would like to ask unanimous consent to call up a bill and agree to a Senate amendment.

Mr. CLARK of Florida. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CLARK of Florida. The gentleman from Alabama addressed the Chair and was recognized. Now, can the gentleman from New York take the gentleman off his feet by a motion?

The SPEAKER. The gentleman from New York can do a thing which is equivalent to that. The gentleman from Alabama had a right to make his motion, but the gentleman from New York had a right to make a preferential motion to adjourn, so the Chair shortened it a little——

Mr. HOBSON. I will make my motion, Mr. Speaker——

Mr. FITZGERALD. Mr. Speaker, I move to adjourn.

Mr. HOBSON. I have the floor, Mr. Speaker.

The SPEAKER. The Chair will recognize the gentleman——

Mr. FITZGERALD. But I object to any consent being given to make any motion.

Mr. GARNER. Mr. Speaker——

The SPEAKER. But the gentleman from Alabama was trying to make a motion before the gentleman from New York got up.

Mr. FITZGERALD. I have already made the motion to adjourn, which is a preferential motion.

Mr. HOBSON. Mr. Speaker, I move to suspend the rules and take up for consideration the bill H. R. 1309——

The SPEAKER. The gentleman from New York moves to adjourn.

Mr. RUSSELL. Mr. Speaker, before that I would like to ask unanimous consent to agree to a Senate amendment on a bill.

Mr. FITZGERALD. I withhold my motion for that purpose, and for that purpose only.

Mr. RODDENBERY. Mr. Speaker, reserving the right to object——

The SPEAKER. The Chair thinks if the gentleman from New York [Mr. FITZGERALD] makes a motion to adjourn and withdraws it, the gentleman from Alabama [Mr. HOBSON] has the floor.

Mr. FITZGERALD. I said I would withhold it for that purpose and no other.

The SPEAKER. The gentleman withholds it for that purpose. Now, what does the gentleman from Missouri [Mr. RUSSELL] want?

Mr. RUSSELL. I want to ask unanimous consent to call up the House bill and agree to the Senate amendment.

Mr. RODDENBERY. I reserve the right to object. [Cries of "Regular order!"] I object.

Mr. HOBSON. Mr. Speaker, I have the floor.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] made a preferential motion.

Mr. HOBSON. How does he know it has the highest preference?

The SPEAKER. The Chair knows it, even if the gentleman from New York [Mr. FITZGERALD] does not. [Laughter.] A motion to adjourn is the highest motion that can be made in the House.

Mr. HOBSON. But it can not interrupt a sentence that is being spoken.

The SPEAKER. The gentleman had finished his sentence. He had moved to suspend the rules, and the gentleman from New York made a motion to adjourn.

Mr. HOBSON. And pass this bill. That is all I desire to see in the RECORD, Mr. Speaker.

Mr. FITZGERALD. I have no desire to stand in the way of the gentleman doing that.

Mr. HOBSON. I move that the House suspend the rules and pass the bill H. R. 1309.

The SPEAKER. That is the motion the gentleman made a short time ago, and the Chair recognized him for that purpose, and then the Chair recognized the gentleman from New York to move to adjourn.

ADJOURNMENT.

The SPEAKER. The question is on the motion of the gentleman from New York that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 10 minutes p. m.) the House adjourned until Tuesday, January 21, 1913, at 12 o'clock m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of the final ascertainment of electors for President and Vice President appointed in the State of Wyoming at an election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

2. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Colorado at an election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

3. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Nebraska at an election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

4. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed

in the State of Mississippi at an election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

5. A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Chief Clerk of the Treasury Department submitting an urgent deficiency estimate of appropriation for 12 clerks for the general supply committee (H. Doc. No. 1286); to the Committee on Appropriations and ordered to be printed.

6. A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Secretary of War submitting a deficiency estimate of appropriation for the National Home for Disabled Volunteer Soldiers (H. Doc. No. 1287); to the Committee on Appropriations and ordered to be printed.

7. A letter from the Secretary of the Treasury, transmitting a copy of a communication from the Secretary of War submitting an estimate of deficiency appropriation for pay of the Army (H. Doc. No. 1288); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. BURKE of Wisconsin, from the Committee on Invalid Pensions, to which was referred sundry bills, reported in lieu thereof the bill (H. R. 28282) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War, and certain widows and dependent children of soldiers and sailors of said war, accompanied by a report (No. 1347), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. BROWN: A bill (H. R. 28275) to amend section 113 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911; to the Committee on the Judiciary.

By Mr. BROWNING: A bill (H. R. 28276) amending section 1 of the act of May 11, 1912, relating to pension of Civil War soldiers and sailors; to the Committee on Invalid Pensions.

By Mr. HARRISON of New York: A bill (H. R. 28277) to impose a tax upon the production, manufacture, sale, and distribution of certain drugs, and providing for registration with the collectors of internal revenue of dealers in or producers of certain drugs; to the Committee on Ways and Means.

By Mr. GOULD: A bill (H. R. 28278) authorizing the Secretary of War to furnish to the Hannah Weston Chapter, Daughters of the American Revolution Society, of Machias, in the State of Maine, three condemned bronze or brass cannon or fieldpieces, with their carriages and with suitable outfit of cannon balls; to the Committee on Military Affairs.

By Mr. TOWNER: A bill (H. R. 28279) providing for a monument to commemorate the services and sacrifices of the women of the country at the time of the American Revolution; to the Committee on Public Buildings and Grounds.

By Mr. LINTHICUM: A bill (H. R. 28280) to authorize the use as a site for the United States immigration station and grounds at the port of Baltimore of a piece of land acquired by the United States about the year 1836 as part of an addition to Fort McHenry, in the State of Maryland, and which is now under the control of the War Department, and authorizing the Secretary of the Treasury to acquire an outlet therefrom to the city streets and to contract and arrange for necessary railroad facilities; to the Committee on Military Affairs.

By Mr. VREELAND: A bill (H. R. 28281) authorizing the erection of a public building at Salamanca, N. Y.; to the Committee on Public Buildings and Grounds.

By Mr. LAMB: A bill (H. R. 28283) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1914; to the Committee of the Whole House on the state of the Union.

By Mr. AINEY: A bill (H. R. 28284) for the purchase of a site and erection of a public building thereon at Sayre, Bradford County, Pa.; to the Committee on Public Buildings and Grounds.

By Mr. KORBLY: A bill (H. R. 28285) to amend section 5192 of the Revised Statutes of the United States; to the Committee on Banking and Currency.

By Mr. BULKLEY: A bill (H. R. 28286) to amend sections 4931 and 4934 of the Revised Statutes of the United States; to the Committee on Patents.

Also, a bill (H. R. 28287) to amend section 4934 of the Revised Statutes of the United States; to the Committee on Patents.

By Mr. DICKSON of Mississippi: A bill (H. R. 28288) authorizing the purchase of certain lands in Louisiana and Mississippi; to the Committee on Rivers and Harbors.

By Mr. LAFFERTY: A bill (H. R. 28289) to amend an act entitled "An act to amend sections 2291 and 2297 of the Revised Statutes of the United States relating to homesteads," approved June 6, 1912; to the Committee on the Public Lands.

By Mr. WILLIS: Resolution (H. Res. 781) for printing additional copies of Bulletin No. 85, Bureau of Soils; to the Committee on Printing.

By Mr. BATES: Joint resolution (H. J. Res. 387) to discontinue publication of the CONGRESSIONAL RECORD; to the Committee on Printing.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURKE of Wisconsin: A bill (H. R. 28282) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war; to the Committee of the Whole House.

By Mr. BARCHFELD: A bill (H. R. 28290) granting an increase of pension to Thomas H. McIlvaine; to the Committee on Invalid Pensions.

By Mr. BROWN: A bill (H. R. 28291) for the relief of the heirs of William A. Griffin, deceased; to the Committee on War Claims.

By Mr. CANNON: A bill (H. R. 28292) granting a pension to Barbara Ann Long; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28293) granting a pension to Ida Pasteur, alias Ida Pastor; to the Committee on Invalid Pensions.

By Mr. CURRIER: A bill (H. R. 28294) granting an increase of pension to Allen P. Gilson; to the Committee on Invalid Pensions.

By Mr. DAVIS of Minnesota: A bill (H. R. 28295) granting an increase of pension to Gertrude Meyer; to the Committee on Invalid Pensions.

By Mr. DE FOREST: A bill (H. R. 28296) granting an increase of pension to Ira N. Haney; to the Committee on Pensions.

By Mr. FERGUSSON: A bill (H. R. 28297) granting an increase of pension to Juan de la Luz Gallegos; to the Committee on Pensions.

By Mr. FIELDS: A bill (H. R. 28298) granting a pension to Mary Bradley; to the Committee on Invalid Pensions.

By Mr. GOULD: A bill (H. R. 28299) granting an increase of pension to Stephen M. Shaw; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28300) to correct the military record of Augustus Ronco; to the Committee on Military Affairs.

By Mr. HINDS: A bill (H. R. 28301) granting a pension to Isaac E. Foss; to the Committee on Pensions.

Also, a bill (H. R. 28302) granting a pension to Elizabeth L. Williams; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28303) granting a pension to Mary J. Gooding; to the Committee on Pensions.

By Mr. HUGHES of West Virginia: A bill (H. R. 28304) granting a pension to John Galloway; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28305) granting a pension to William J. Smith; to the Committee on Pensions.

Also, a bill (H. R. 28306) granting a pension to J. P. McClintock; to the Committee on Pensions.

Also, a bill (H. R. 28307) granting a pension to Absolem Maynard; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28308) granting a pension to John Muck Maynard; to the Committee on Invalid Pensions.

By Mr. KENT: A bill (H. R. 28309) granting a pension to Edward Coffee; to the Committee on Invalid Pensions.

By Mr. LAFEAN: A bill (H. R. 28310) granting an increase of pension to William Axe; to the Committee on Invalid Pensions.

By Mr. LANGLEY: A bill (H. R. 28311) for the relief of Jarrett C. Coffey; to the Committee on War Claims.

Also, a bill (H. R. 28312) for the relief of the heirs of Ebenezer Park; to the Committee on War Claims.

Also, a bill (H. R. 28313) granting a pension to Ross D. Caudill; to the Committee on Pensions.

Also, a bill (H. R. 28314) granting a pension to William Little; to the Committee on Pensions.

Also, a bill (H. R. 28315) granting a pension to Henry Fields; to the Committee on Pensions.

Also, a bill (H. R. 28316) granting a pension to James H. Gilley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28317) granting a pension to William Cunagim; to the Committee on Pensions.

Also, a bill (H. R. 28318) granting a pension to Susan Webb; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28319) granting an increase of pension to Alexander Childers; to the Committee on Invalid Pensions.

By Mr. LENROOT: A bill (H. R. 28320) granting an increase of pension to Gustav A. Haas; to the Committee on Pensions.

By Mr. NEELEY: A bill (H. R. 28321) granting a pension to Otto Haner; to the Committee on Invalid Pensions.

By Mr. PICKETT: A bill (H. R. 28322) granting a pension to Joseph B. Thompson; to the Committee on Invalid Pensions.

By Mr. SMITH of New York: A bill (H. R. 28323) granting an increase of pension to Orion P. Howe; to the Committee on Invalid Pensions.

By Mr. SPARKMAN: A bill (H. R. 28324) for the relief of Harvey W. Lane; to the Committee on War Claims.

By Mr. STEPHENS of Texas: A bill (H. R. 28325) for the relief of the estate of E. R. Gaines, deceased; to the Committee on War Claims.

By Mr. WHITACRE: A bill (H. R. 28326) to authorize the Secretary of the Interior to issue a deed to the persons hereinafter named for part of a lot in the District of Columbia; to the Committee on the District of Columbia.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BARCHFELD: Papers to accompany bill to increase the pension of Thomas H. McIlvaine; to the Committee on Invalid Pensions.

By Mr. BATES: Petition of the Erie Board of Trade, favoring the passage of Senate bill 7503, for a reduction of postage on first-class mail; to the Committee on the Post Office and Post Roads.

By Mr. BROWNING: Petition of James Milton Conover, Carlisle, Pa., favoring the passage of legislation for the founding of the proposed university of the United States at Washington, D. C.; to the Committee on Education.

By Mr. BURKE of Wisconsin: Papers to accompany bill (H. R. 28093) granting an increase of pension to Frederick Strasburg; to the Committee on Invalid Pensions.

Also, petition of the Wisconsin State Board of Forestry, favoring the renewal of the appropriation as provided for in the Weeks law for the protection of the forest and timberlands in northern Wisconsin from forest fires; to the Committee on Agriculture.

By Mr. CALDER: Petition of Illinois Chapter, American Institute of Architects, protesting against the adoption of the design as approved by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. CARY: Petition of the Wisconsin Talking Machine Co., of Milwaukee; Eastern Talking Machine Dealers' Association, of New York; Peter F. Piasecki, of Milwaukee; and Nordberg Manufacturing Co., protesting against the passage of the Oldfield patent law, prohibiting the fixing of prices by manufacturers of patent goods; to the Committee on Patents.

Also, petition of W. F. White, protesting against the reduction of tariff on Japanese matting; to the Committee on Ways and Means.

Also, petition of the Milwaukee-Florida Orange Co., protesting against the reduction of tariff on fruits; to the Committee on Ways and Means.

Also, petition of the State Board of Forestry of Wisconsin, favoring the renewal of the appropriation, as provided for in the Weeks law, for the protection of the forest and timberlands in northern Wisconsin; to the Committee on Agriculture.

Also, petition of the South Side Woman's Club, of Milwaukee, Wis., favoring the passage of House bill 25685, for the labeling and tagging of all fabrics and articles for sale which enter into the interstate commerce; to the Committee on Interstate and Foreign Commerce.

Also, petition of Illinois Chapter, American Institute of Architects, Chicago, Ill., protesting against the adoption of the design as approved by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petitions of the Mahr & Lange Drug Co. and Julius Andrae & Sons Co., Milwaukee, Wis., favoring the passage of House bill 27567, for a 1-cent postage rate on first-class mail; to the Committee on the Post Office and Post Roads.

Also, petition of Local Union No. 75, Journeymen Plumbers' Union, favoring the passage of the old-age pension bill (H. R. 13144); to the Committee on Pensions.

By Mr. DRAPER: Petition of Illinois Chapter, American Institute of Architects, Chicago, Ill., protesting against the adoption of the design as approved by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. ESCH: Petition of the Wisconsin State Board of Forestry, favoring the renewal of the appropriation as provided by the Weeks law for the protection of the forest and timberlands of northern Wisconsin against fires; to the Committee on Agriculture.

Also, petition of Illinois Chapter, American Institute of Architects, protesting against the adoption of the design as approved by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. FULLER: Petition of H. W. Taylor and L. D. Trabert, protesting against the reduction of the tariff on citrus fruits; to the Committee on Ways and Means.

Also, petition of William Riley, favoring the passage of House bill 1339, to increase the pension of those who lost an arm or leg in the Civil War; to the Committee on Invalid Pensions.

By Mr. GOLDFOGLE: Petition of the Murial Painters, New York, N. Y., and the Architectural League of New York, favoring the adoption of the Mall site, as approved by the National Commission of Fine Arts, for a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of Illinois Chapter, American Institute of Architects, Chicago, Ill., protesting against the adoption of the design as approved by the National Commission of Fine Arts, for a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of Reliance Ball-Bearing Door Hanger Co., of New York; Earl & Wilson, of New York; New York Leather Belting Co., of New York; and American Laundry Machinery Co., of Rochester, N. Y., favoring the passage of the bill (H. R. 27567) for 1-cent letter postage rate; to the Committee on the Post Office and Post Roads.

By Mr. HAMILTON of Michigan: Petition of citizens of Newburg Township, Mich., favoring the passing of the Kenyon-Sheppard liquor bill, prohibiting the shipping of liquor in dry territory; to the Committee on the Judiciary.

By Mr. HIGGINS: Petition of the Milford (Conn.) Business Men's Association, favoring the passage of legislation for Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. HINDS: Papers to accompany bill granting an increase of pension to Elizabeth L. Williams; to the Committee on Invalid Pensions.

Also, papers to accompany bill granting a pension to Isaac E. Foss; to the Committee on Pensions.

Also, papers to accompany bill granting a pension to Mary J. Gooding; to the Committee on Pensions.

By Mr. KINDRED: Petition of the Architectural League of New York and the Murial Painters of New York, favoring the passage of the design as approved by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of Illinois Chapter, American Institute of Architects, Chicago, Ill., protesting against the adoption of the design as approved by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. LEVY: Petition of Illinois Chapter, American Institute of Architects, Chicago, Ill., protesting against the adoption of the design as approved by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. LINDSAY: Petition of the Mural Painters of New York and the Architectural League of New York, favoring the adoption of the Mall site for the memorial, as proposed, to Abraham Lincoln; to the Committee on the Library.

Also, petition of Illinois Chapter, American Institute of Architects, Chicago, Ill., protesting against the adoption of the design as approved by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of Osa Parshall, Howell, Mich., favoring the passage of House bill 1339, granting an increase of pension to veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

Also, petition of Rev. T. M. C. Birmingham, of Beatrice, Nebr., relative to the passage of a private bill granting him an increase of pension; to the Committee on Invalid Pensions.

Also, petition of the American Laundry Machinery Co., Rochester, N. Y., favoring the passage of House bill 27567, for 1-cent letter postage; to the Committee on the Post Office and Post Roads.

Also, petition of Myron C. Skinner, Yorkville, Ill., favoring the passage of House bill 1339, granting an increase of pension to the veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

Also, petition of a German-American mass meeting, New York, protesting against the passage of House bill 8141, placing the State militia on the national pay roll; to the Committee on Military Affairs.

By Mr. LINTHICUM: Petition of the Enterprise Farmers' Club and other citizens of Montgomery County, Md., favoring the passage of legislation for the adoption of the great national highway from Washington, D. C., to Gettysburg, Pa., for a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. McCALL: Petition of John W. Ayres, of Somerville, Mass., favoring a subsidy for the establishment of fast mail steamers between Boston and Fishguard; to the Committee on the Post Office and Post Roads.

By Mr. NEELEY: Petition of certain citizens of Meade County, Kans., favoring the passage of the Kenyon-Sheppard bill, prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. RAKER: Petition of citizens of California, favoring the passage of legislation for the establishment of a national redwood park in Humboldt County, Cal.; to the Committee on Agriculture.

Also, petition of the Chamber of Mines and Oils, protesting against any reduction in the tariff on borax and borate products; to the Committee on Ways and Means.

By Mr. SCULLY: Petition of Illinois Chapter, American Institute of Architects, protesting against the adoption of the design as adopted by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of the National Society for the Promotion of Industrial Education, New York, favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the Eastern Talking Machine Dealers' Association, New York, protesting against the passage of section 2 of the Oldfield patent bill, prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the Board of Trade of Newark, N. J., favoring the passage of legislation for the establishment of a term of Federal court in Newark, N. J.; to the Committee on the Judiciary.

By Mr. UNDERHILL: Petition of a German-American mass meeting, New York, protesting against the passage of House bill 8141, to place the State militia on the national pay roll; to the Committee on Military Affairs.

By Mr. WILLIS: Petition of S. M. Overfield and 2 other citizens of Woodstock, Ohio, and of Kite & Tomlin and 13 other citizens of St. Paris, Ohio, favoring the passage of legislation compelling concerns selling direct to the consumer by mail to contribute their portion of the funds for the development of the local community, county, etc.; to the Committee on Interstate and Foreign Commerce.

SENATE.

TUESDAY, *January 21, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. CULLOM and by unanimous consent, the further reading was dispensed with and the Journal was approved.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore (Mr. GALLINGER) laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, an authentic copy of the final ascertainment of electors for President and Vice President appointed in the State of Tennessee at the election held in that State on November 5, 1912, which was ordered to be filed.

IRRIGATION IN WESTERN KANSAS AND OKLAHOMA (S. DOC. NO. 1021).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of Agriculture, transmitting, pursuant to law, a report of an investigation of the feasibility and economy of irrigation from reservoirs in western Kansas and Oklahoma, which, with the accompanying papers and illustrations, was referred to the Committee on Irrigation and Reclamation of Arid Lands and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had agreed to the amendment of the Senate to the bill (H. R. 27062) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

The message also announced that the House further insists upon its amendment to the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States, disagreed to by the Senate; agrees to the further conference asked for by the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. BURNETT, Mr. SABATH, and Mr. GARDNER of Massachusetts managers at the conference on the part of the House.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 17260) to amend an act entitled "An act to establish in the Department of the Interior a Bureau of Mines," approved May 16, 1910; asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. FOSTER, Mr. WILSON of Pennsylvania, and Mr. HOWELL managers at the conference on the part of the House.

The message also announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

H. R. 16319. An act to extend and widen Western Avenue NW., in the District of Columbia;

H. R. 21532. An act to incorporate the Rockefeller Foundation;

H. R. 23351. An act to amend an act entitled "An act to provide for an enlarged homestead";

H. R. 24194. An act to create a new division of the western judicial district of Texas and to provide for terms of court at Pecos, Tex., and for other purposes;

H. R. 25780. An act to amend section 3186 of the Revised Statutes of the United States;

H. R. 26279. An act granting the Fifth-Third National Bank, of Cincinnati, Ohio, the right to use original charter No. 20;

H. R. 26549. An act to provide for the construction or purchase of motor boat for customs service;

H. R. 26812. An act to provide for selection by the State of Idaho of phosphate and oil lands;

H. R. 27157. An act granting an extension of time to construct a bridge across Rock River at or near Colona Ferry, in the State of Illinois;

H. J. Res. 326. Joint resolution providing for extending provisions of the act authorizing extension of payments to homesteaders on the Coeur d'Alene Indian Reservation, Idaho; and

H. J. Res. 369. Joint resolution authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass.

The message further announced that the House had passed resolutions commemorative of the life, character, and public services of Hon. DAVID JOHNSON FOSTER, late a Representative from the State of Vermont.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions, and they were thereupon signed by the President pro tempore:

S. 7637. An act to authorize the construction of a railroad bridge across the Illinois River near Havana, Ill.;

H. R. 45. An act affecting the town sites of Timber Lake and Dupree, in South Dakota;

H. R. 3769. An act for the relief of Theodore N. Gates;

H. R. 14925. An act to amend an act to parole United States prisoners, and for other purposes, approved June 25, 1910;

H. R. 22010. An act to amend the license law, approved July 1, 1902, with respect to licenses of drivers of passenger vehicles for hire;

H. R. 22437. An act for the relief of the heirs of Anna M. Torreson, deceased;

H. R. 23001. An act to amend section 4472 of the Revised Statutes of the United States relating to the carrying of dangerous articles on passenger steamers;

H. R. 24137. An act to refund to the National Cartage & Warehouse Co., of New York City, N. Y., excess duty;

H. R. 25515. An act for the relief of Joshua H. Hutchinson;

H. R. 25764. An act to subject lands of former Fort Niobrara Military Reservation and other lands to homestead entry;

H. R. 25878. An act granting certain lands for a cemetery to the Fort Bidwell People's Church Association, of the town of Fort Bidwell, State of California, and for other purposes;

H. J. Res. 239. Joint resolution authorizing the Secretary of War to deliver a condemned cannon to the Army and Navy Union, United States of America; and

S. J. Res. 150. Joint resolution appropriating $40,000 for expenses of inquiries and investigations ordered by the Senate.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented the petition of A. W. Lawson, of New York City, praying that an appropriation be made for the organization of an aerial fleet for the American Navy, which was referred to the Committee on Naval Affairs.

Mr. WETMORE presented a memorial of the congregation of the Seventh-day Adventist Church of Westerly, R. I., remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. TOWNSEND presented memorials of the congregations of the Seventh-day Adventist Churches of Mason, Owosso, and Coldwater, all in the State of Michigan, remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. BRISTOW presented a petition of sundry citizens of Meade, Kans., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. GARDNER presented a petition of Local Grange, Patrons of Husbandry, of Wayne, Me., praying for the passage of the so-called Page vocational education bill, which was ordered to lie on the table.

He also presented a memorial of members of the Pierian Club of Presque Isle, Me., remonstrating against the transfer of the control of the national forests to the several States, which was referred to the Committee on Forest Reservations and the Protection of Game.

He also presented a memorial of Local Branch, German-American Alliance, of Lisbon Falls, Me., and a memorial of the German-American Alliance of Maine, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. MYERS. I present resolutions adopted at a meeting of the railroad brotherhood's joint legislative board of Montana, which I ask may lie on the table and be printed in the RECORD.

There being no objection, the resolutions were ordered to lie on the table and to be printed in the RECORD, as follows:

RAILROAD BROTHERHOOD JOINT
LEGISLATIVE BOARD OF MONTANA,
Helena, January 4, 1913.

Hon. HENRY L. MYERS,
United States Senate, Washington, D. C.

DEAR SENATOR: At a meeting of the railroad brotherhoods' joint legislative board, consisting of delegates from all divisions and lodges of the Order of Railway Conductors, Brotherhood of Railroad Trainmen, Brotherhood of Locomotive Engineers, and Brotherhood of Locomotive Firemen and Enginemen the following resolution was passed:

Resolved, That this joint board indorse the resolution presented to the United States Senate by United States Senator HENRY L. MYERS, of Montana, in behalf of the Brotherhood of Locomotive Engineers, against Senate bill 5382 and House bill 20487, workingmen's compensation law, under date of April 10, 1912, and printed in the CONGRESSIONAL RECORD of May 6, 1912; and be it further

Resolved, That we are opposed to any substitute legislation that may interfere with our present liability laws.

Respectfully submitted.

JAMES O'RILEY, *Chairman.*
J. H. HALL, *Acting Secretary.*

Mr. MYERS. I present a memorial signed by citizens of Missoula, Mont., remonstrating against the parole of Federal life prisoners as provided in House bill 14925. I ask that the memorial lie on the table and be printed in the RECORD.

There being no objection, the memorial was ordered to lie on the table and to be printed in the RECORD, as follows:

To the honorable Senate and House of Representatives in Congress assembled:

The undersigned citizens of Missoula, Mont., respectfully remonstrate against the parole of Federal life prisoners as provided in H. R. 14925, as follows, to wit: "That every prisoner who has been or may hereafter be convicted of any offense against the United States and is confined in execution of the judgment of such conviction in any United States penitentiary or prison for a definite term or terms of over one year, or for the term of his natural life, whose record of conduct shows that he has observed the rules of such institution, and who, if sentenced for a definite term, has served one-third of the total of such term or terms for which he was sentenced, or, if sentenced for the term of his natural life, has served not less than 15 years, may be released on parole as hereafter provided."

F. S. LUSK, *Banker, Missoula, Mont.*
E. A. NEWTON, *Banker, Missoula, Mont.*
F. H. ELMORE, *Banker, Missoula, Mont.*

Mr. OLIVER presented a petition of the Men's Brotherhood of the Baptist Church of Montrose, Pa., and a petition of the congregation of the Bridgewater Baptist Church, of Montrose, Pa., praying for the passage of the so-called Kenyon-Sheppard interstate liquor law, which were ordered to lie on the table.

Mr. PERKINS presented a memorial of the Chamber of Commerce of San Francisco, Cal., remonstrating against the adoption of certain amendments to the law relating to bills of lading, which was referred to the Committee on Commerce.

Mr. BRANDEGEE presented a petition of the executive board of the Audubon Society of Connecticut, praying for the enactment of legislation providing for the protection of migratory birds, which was ordered to lie on the table.

Mr. SHIVELY presented memorials of A. H. Keck, Merritt C. Beale, Charles B. Eddy, M. C. Price, Rev. Frank K. Dougherty, and 139 other citizens of South Bend, Ind., remonstrating against the repeal of the law providing for the closing of post offices on Sunday, which were referred to the Committee on Post Offices and Post Roads.

He also presented memorials of the congregations of the Seventh-day Adventist Churches of Boggstown and Fort Wayne, in the State of Indiana, remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. FLETCHER presented a memorial of the Scott Bros. Co., of Arcadia, Fla., remonstrating against a reduction of the duty on citrus fruits, which was referred to the Committee on Finance.

Mr. GRONNA presented a memorial of sundry citizens of Fargo, N. Dak., remonstrating against a reduction of the duty on harness and saddles, which was referred to the Committee on Finance.

Mr. PENROSE presented a memorial of the Board of Trade of Philadelphia, Pa., remonstrating against the enactment of legislation to abolish involuntary servitude imposed upon seamen in the merchant marine of the United States while in foreign ports, etc., which was referred to the Committee on Commerce.

Mr. JOHNSON of Maine presented telegrams in the nature of petitions from S. L. Merriman, principal of the Aroostook State Normal School; of Albert F. Richardson, of the State Normal Schools, of Castine; of Mrs. Stanley Plummer, president of the Maine Federation of Women's Clubs; of D. J. Callahan, superintendent of schools of Lewiston; of F. G. Wadsworth, president of the Maine Superintendents' Association; of Charles N. Perkins, of Waterville; of Payson Smith, State superintendent of public schools, of Augusta; of H. H. Randall, superintendent of schools, of Auburn; of W. G. Mallett, of Farmington; of W. L. Powers, principal of the Normal School of Machias; and of Androscoggin Grange, No. 8, Patrons of Husbandry, of Greene, all in the State of Maine, praying for the passage of the so-called Page vocational education bill, which were ordered to lie on the table.

Mr. GALLINGER presented a petition of the congregation of the First Universalist Church of Dover, N. H., and a petition of the congregation of the Evangelical Congregational Church of Charlestown, N. H., praying for the passage of the so-called Kenyon-Sheppard interstate-liquor bill, which were ordered to lie on the table.

He also presented a petition of members of the Woman's Club of Berlin, N. H., praying that an appropriation be made for the erection of a Federal building in that city, which was referred to the Committee on Public Buildings and Grounds.

OLD NEWBURY HISTORICAL SOCIETY OF MASSACHUSETTS.

Mr. LODGE, from the Committee on Finance, to which was referred the joint resolution (S. J. Res. 154) authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass., reported it without amendment.

THE MESA VERDE.

Mr. CURTIS. From the Committee on Indian Affairs I desire to make a favorable report, and because of the importance of the case I ask unanimous consent for the immediate consideration of the bill. I report back favorably from that committee, without amendment, the bill (S. 5678) to ratify an agreement with the Weeminuchi (or Wiminuche), and hereafter referred to as the Wiminuche Band of Southern Ute Indians in Colorado, for the relinquishment to the United States of their rights to occupancy of the tract of land known as the Mesa Verde; and I submit a report (No. 1133) thereon.

The PRESIDENT pro tempore. The bill will be read for the information of the Senate.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. CURTIS. I ask that the letters of the Secretary of the Interior recommending the passage of the bill be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE INTERIOR,
Washington, February 21, 1912.

Hon. ROBERT J. GAMBLE,
Chairman Committee on Indian Affairs, United States Senate.

SIR: In the Indian appropriation act approved March 3, 1903 (32 Stat. L., 998), it is provided:

"That the Secretary of the Interior be, and he is hereby, directed to negotiate with the Weeminuchi Ute Tribe of Indians for the relinquishment of their right of occupancy to the United States to the tract of land known as the Mesa Verde, a part of the reservation of said tribe, situate in the county of Montezuma, in the State of Colorado, the said tract to include and cover the ruins and prehistoric remains situate therein. And the Secretary of the Interior shall report to the next session of Congress the terms and conditions upon which the said tribe of Indians will relinquish to the United States their right of occupancy to said tract of land."

By departmental letter of March 18, 1903, Joseph O. Smith, United States Indian agent in charge of the Southern Ute Agency, Colo., was designated to conduct negotiations with the Indians. Agent Smith held a council with the Weeminuche Band of Southern Ute Indians in the fall of 1903, but the Indians, through their chiefs, refused to enter into any agreement for the cession of that part of their reservation known as the Mesa Verde.

This question was taken up with the Indians in council in June and August, 1904, by William M. Peterson, superintendent in charge of the Fort Lewis School, Colorado, but the Indians were still obdurate and refused to consider an agreement to relinquish any of their reservation.

This question was presented further to them by Supt. U. L. Clardy, in charge of the Navajo Springs Reservation, in the summer of 1910, at which time, as is shown by the records, the matter was thoroughly gone into with the Indians, who absolutely refused to come to any terms.

Under departmental instructions of April 20, 1911, this question was again taken up with the Indians by F. H. Abbott, Assistant Commissioner of Indian Affairs, and James McLaughlin, United States Indian inspector.

These officers arrived at the Navajo Springs Indian Agency, Colo., on May 4, 1911, and on the following day held a council with the Indians and carefully explained to them what was wanted. The Indians were reluctant to entertain any proposition to relinquish their lands, and it was suggested to them that a committee of their leading men be appointed to accompany Mr. Abbott and Inspector McLaughlin to Mesa Verde, that these officers might point out to them the land wanted and that offered in exchange. These officers, accompanied by the Indian committee, visited the Mesa Verde National Park, as created by the act approved June 29, 1906 (34 Stats., 616), and ascertained that the park did not contain important prehistoric ruins, these being situated within the Southern Ute Reservation in township 34 north, range 15 west, adjoining the national park, the area embracing the ruins being about 5¼ miles in length, extending south into the Indian reservation about 3¼ miles from its northern boundary line.

After the committee of the tribal council had made its report to the council, negotiations with the Indians were resumed and an agreement reached whereby they agreed to accept in exchange for the land in the reservation containing historic ruins two certain tracts of land bordering on their reservation, one of which is within the present Mesa Verde National Park, containing approximately 7,840 acres, and the other situated in what is known as the Ute Mountain district, containing approximately 19,520 acres, a total of 27,360.

It is pointed out by Messrs. Abbott and McLaughlin that while the agreement provides for giving the Indians from the public domain about 2 acres for 1 relinquished, yet they call attention to the fact that the Ute Mountain tract is of little value, being rough and mountainous and largely devoid of vegetation, and say that its proximity, however, to the Navajo Springs superintendency, adjacent to the present habitations of the Indians, and upon which their stock now range, influenced them largely in assenting to the exchange as concluded.

Reports show that the total number of male adult members of the Weeminuchi Band of Southern Ute Indians on the rolls of the Navajo Springs Agency is about 108; and a certificate of the superintendent in charge of these Indians, dated Navajo Springs, Colo., May 10, 1911, shows that the 65 names attached to the agreement constitute a majority of the adult members of the band and practically all the male adults residing on the reservation.

In order that the territory wanted in exchange by the Indians may be available for them if the agreement should be ratified, the following-described lands were temporarily withdrawn from all forms of settlement, entry, sale, or other disposition, subject to any valid existing rights of any persons, to wit:

The W. ½ of sec. 4, sec. 5, fractional NW. ¼ of sec. 9, fractional sec. 8, T. 34 N., R. 16 W.; sec. 32 and W. ½ of sec. 33, T. 35 N., R. 16 W.; secs. 5 and 6 and fractional secs. 7 and 8, T. 34 N., R. 17 W.; secs. 1, 2, 3, 4, and 5 and fractional secs. 8, 9, 10, 11, and 12, T. 34 N., R. 18 W.; secs. 19, 20, 29, 30, 31, and 32, T. 35 N., R. 17 W.; and secs. 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, and 36, T. 35 N., R. 18 W., of the New Mexico principal meridian; all of which lands are situate north of the northern boundary line of the Southern Ute Indian Reservation and in Montezuma County, Colo.

In the discussions had with the Indians, both at the council proceedings and on the grounds themselves, when the committee appointed by the council in conjunction with Inspector McLaughlin and Assistant Commissioner Abbott visited the scenes of the prehistoric ruins, it was understood that "the Balcony House," one of the most important ruins, was to be included in the lands which the Indians agreed to surrender. The Indians themselves understood this and so expressed themselves to the representatives of the Government in the council assembled. A subsequent survey, however, made under the direction of the Geological Survey, discloses that "the Balcony House" is situated just below the south line of the proposed addition to the park, as defined in the agreement.

It becomes necessary, therefore, in order to take in these ruins, which the Indians understood were included in the description given in their agreement, to slightly modify the description as given by extending the southern boundary 30 chains farther south. The additional area included thereby in the addition to the park embraces approximately 1,320 acres, for which it is proposed to surrender to the Indians as an addition to their reservation all of secs. 26 and 27 and the SE. ¼ of sec. 28, T. 35 N., R. 16 W., New Mexico principal meridian, now a part of the Mesa Verde National Park, but in which no ruins of importance exist, 1,440 acres.

After the agreement hereinbefore mentioned was entered into with the Indians and filed with the department, Ralph W. Berry, assistant topographer, and R. B. Marshall, chief geographer, both of the Geological Survey, who during the summer of 1911 had made an inspection of the topographic survey in the park vicinity, suggested that the western, northern, and eastern boundary lines of the park be changed as indicated on the map inclosed and shown by the draft of bill, and Mr. Marshall, in letter of January 23, 1912, copy herewith, gives the reasons why, in his judgment, these changes should be made, and recommends that the boundary lines be amended accordingly.

If these changes in said boundary lines are made, secs. 36, 25, 26, 27, and the SE. ¼ sec. 28, T. 35 N., R. 16 W.; also the SE. ¼ sec. 6, SE ¼ sec. 9, and the NE. ¼ sec. 16, T. 35 N., R. 14 W., will be eliminated, and the W. ½ sec. 6 and the NW. ¼ of fractional sec. 7 (unsurveyed), T. 34 N., R. 16 W., "north of the Ute boundary," which it was originally intended to give the Indians in the exchange, will remain a part of the park.

And lands described as follows, not within the park, will be included therein:

Sec. 19, W. ½ sec. 20, the NE. ¼ sec. 20, the S. ½ sec. 14, T. 35 N., R. 15 W., the NW. ¼ sec. 7, the N. ½ sec. 5, the NE. ¼ sec. 22, T. 35 N., R. 14 W., and all land east of the eastern boundary of the park, from a point on the east bank of the Mancos River directly east of the northeast corner of the NW. ¼ sec. 26, T. 35 N., R. 14 W., south along the east bank of said river to a point where said river intersects the northern boundary of the Southern Ute Indian Reservation.

Originally it was intended that the SE. ¼ of sec. 28, secs. 25, 26, 27, and 30,, T. 35 N., R. 16 W., should be retained in the park, but on the recommendation of Mr. Marshall the west line was changed, as indicated on the map and in the draft of bill, and it is now proposed to give these lands to the Indians in addition to those covered by the agreement; also sec. 36, T. 35 N., R. 18 W. This is a school section, as is also sec. 36, T. 35 N., R. 16 W., but the records of the General Land Office show that the State has selected other lands in lieu of them.

Provision has also been made in the draft of bill for extinguishing the jurisdiction of the department over prehistoric ruins within what is known as the Five Mile Strip on lands adjacent to the eastern, western, and northern boundaries of the park.

The inclosed map shows the boundary of the Mesa Verde National Park as originally established, the proposed new boundary, the northern boundary of the Southern Ute Indian Reservation, the boundary of the tract proposed to be relinquished by the Indians, together with the enlargement thereof necessary to include the "Balcony House" and the lands within the Mesa Verde National Park and on the public domain which it is proposed to give the Indians in exchange.

In the agreement the lands proposed to be ceded to the Government by the Indians and part of the lands to be given the Indians by the Government in exchange are incorrectly described, as the agreement recites that they are in township 34½ north. The proper description of these lands is township 34 north, with the correct range, and "south of the Ute boundary," or north thereof, as the case may be, and in the body of the proposed act this description has been followed so far as said township is concerned.

By the agreement, as modified, 14,520 acres within the reservation, containing important ruins, will be acquired by the United States, for which the Indians will receive in exchange 30,240 acres. The department is satisfied that the Indians thoroughly understand the conditions, and they have expressed a willingness, practically unanimous, to surrender the lands wanted on the terms set forth in their agreement.

Accordingly a bill has been prepared and is transmitted herewith, accepting and ratifying the agreement of May 10, 1911, as modified, in order to take in certain lands containing important ruins, which the Indians understood they were giving up and which they agreed to surrender.

A copy of the joint report of Inspector McLaughlin and Assistant Commissioner Abbott is inclosed herewith for your information.

The department would be pleased to see the suggested legislation given favorable consideration by your committee and the Congress.

Very respectfully,

SAMUEL ADAMS, *Acting Secretary.*

DEPARTMENT OF THE INTERIOR,
Washington, July 19, 1912.

MY DEAR SENATOR: My attention has been directed to the bill (S. 5678) pending before your committee in connection with the Mesa Verde National Park, upon which it is desirable to secure action at this session of Congress if practicable. It appears that the present limits of the Mesa Verde Park do not include some of the more important ruins and points of interest, and that negotiations have been had with the Indians to provide for an exchange of lands by which the park can be appropriately extended. It is desirable that the transaction should be perfected as promptly as practicable, and for this purpose the passage of the pending bill is necessary.

Yours, very truly, WALTER L. FISHER, *Secretary.*

Hon. ROBERT J. GAMBLE,
Chairman Committee on Indian Affairs,
United States Senate.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WETMORE:

A bill (S. 8212) granting a pension to Eric Edin (with accompanying papers); to the Committee on Pensions.

By Mr. OLIVER:

A bill (S. 8213) granting an increase of pension to Stephen B. Johnson (with accompanying papers); to the Committee on Pensions.

By Mr. SMITH of Maryland:

A bill (S. 8214) to provide for the permanent marking of the spot within the walls of Fort McHenry where the flagstaff was

planted at the Battle of North Point; to the Committee on Military Affairs.

By Mr. KERN:

A bill (S. 8215) granting an increase of pension to William H. Sumption (with accompanying papers); and

A bill (S. 8216) granting an increase of pension to Aaron B. Waggoner (with accompanying papers); to the Committee on Pensions.

By Mr. MARTIN of Virginia:

A bill (S. 8217) authorizing the extension of Seventeenth, Evarts, and Bryant Streets NE., in the District of Columbia; to the Committee on the District of Columbia.

By Mr. GARDNER:

A bill (S. 8218) granting a pension to Emily L. Dow (with accompanying papers);

A bill (S. 8219) granting an increase of pension to William O. Steele (with accompanying papers);

A bill (S. 8220) granting an increase of pension to Charles Burns; and

A bill (S. 8221) granting an increase of pension to Peter Prock (with accompanying papers); to the Committee on Pensions.

By Mr. SWANSON:

A bill (S. 8222) for the relief of Edward William Bailey; to the Committee on Claims.

By Mr. PENROSE:

A bill (S. 8223) granting an increase of pension to Eugene Lenhart; and

A bill (S. 8224) granting a pension to Ida E. Carter; to the Committee on Pensions.

A bill (S. 8225) granting an honorable discharge to James Kennedy (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 8226) granting a pension to Kate G. Caton (with accompanying papers); to the Committee on Pensions.

By Mr. GALLINGER:

A bill (S. 8227) for the relief of Charlotte J. Pile, Eastmond P. Green, and Easie C. Gandell, owners of lots Nos. 53, 54, and 55, in square No. 753, Washington, D. C., with regard to assessment and payment of damages on account of change of grade due to construction of the Union Station in said District (with accompanying papers); to the Committee on the District of Columbia.

By Mr. BROWN:

A bill (S. 8228) granting a pension to Ida M. Smith; to the Committee on Pensions.

By Mr. JOHNSON of Maine:

A bill (S. 8229) granting a pension to Melissa J. Chandler (with accompanying papers); to the Committee on Pensions.

By Mr. POMERENE:

A bill (S. 8230) for the relief of Loren W. Greeno; to the Committee on Naval Affairs.

By Mr. STEPHENSON:

A bill (S. 8231) granting an increase of pension to James Jameson (with accompanying paper); to the Committee on Pensions.

REGENT OF SMITHSONIAN INSTITUTION.

Mr. CULLOM. I introduce a joint resolution and ask unanimous consent that it be put on its passage.

The joint resolution (S. J. Res. 156) to appoint George Gray a member of the Board of Regents of the Smithsonian Institution was read the first time by its title, and the second time at length, as follows:

Resolved, etc., That the vacancy in the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, shall be filled by the reappointment of George Gray, a citizen of Delaware.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THE INAUGURAL CEREMONIES.

Mr. OVERMAN. I introduce the following joint resolution and ask unanimous consent for its present consideration.

The joint resolution (S. J. Res. 157) to enable the Secretary of the Senate and the Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States on March 4, 1913, was read the first time by its title, and the second time at length, as follows:

Resolved, etc., That to enable the Secretary of the Senate and Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States March 4, 1913, in accordance with such program as may be adopted by the joint committee of the Senate and House of Representatives, appointed under a concurrent resolution of the two Houses, including the pay for extra police for three days, at $3 per day, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, $25,000, or so much thereof as may be necessary, the same to be immediately available.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. GRONNA submitted an amendment providing for a fair to be held at Fort Totten, N. Dak., and proposing to appropriate $1,000, to be expended under the direction and supervision of the superintendent of the Fort Totten Indian School, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. JONES submitted an amendment proposing to appropriate $1,800,000, to be expended by the Reclamation Service for the purpose of constructing storage reservoirs to impound flood waters of the Yakima River, on the Yakima Indian Reservation, State of Washington, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. MYERS submitted an amendment providing that in all cases where Indians have taken or may hereafter take homesteads or have been or may hereafter be allotted lands upon the public domain, they and their respective families and descendants shall not thereby forfeit their rights to the lands and funds of the tribe to which they belong, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. GUGGENHEIM submitted an amendment proposing to settle and adjust the rights under existing treaties and laws of the White River Utes and Southern Utes and other bands of Ute Indians known as the Confederated band of Ute Indians of Colorado, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. JOHNSON of Maine submitted an amendment proposing to appropriate $10,000 for completing the improvement of Bass Harbor Bar, Me., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. DU PONT submitted an amendment proposing that whenever any officer, who has been retired for disability, is found by an examining board, to be appointed by the Secretary of War, to be physically and mentally qualified for active service, the President may, in his discretion, reinstate such officer upon the active list as an extra officer, etc., intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

Mr. CULBERSON submitted an amendment providing for the improvement of the Houston Ship Channel, Tex., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment proposing to appropriate $217,693.39 to reimburse the State of Texas in full payment of all claims on account of expenses incurred by that State prior to February 9, 1861, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

WITHDRAWAL OF PAPERS—MARTHA E. PATTERSON.

On motion of Mr. TOWNSEND, it was

Ordered, That the papers accompanying the bill (S. 7868) granting a pension to Martha E. Patterson, Sixty-second Congress, third session, be withdrawn from the files of the Senate, no adverse report having been made thereon.

COUNTING OF THE ELECTORAL VOTE.

Mr. DILLINGHAM. I offer the following concurrent resolution, for the immediate consideration of which I ask unanimous consent.

The concurrent resolution (S. Con. Res. 35) was read, considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 12th day of February, 1913, at 1 o'clock in the afternoon, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President of the Senate

pro tempore shall be their presiding officer; that two tellers shall be previously appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate pro tempore, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate pro tempore, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

EMPLOYMENT OF STENOGRAPHERS.

Mr. MARTIN of Virginia submitted the following resolution (S. Res. 437), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay for two stenographers to Senators who are not chairmen of committees, at $1,200 each per annum, from January 11 and January 20, 1913, respectively, to be paid from the contingent fund of the Senate until the expiration of the present Congress.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. The Senate document room report that they have but one copy left of House bill 19115, the omnibus claims bill, and that there are frequent demands for it by parties interested. I ask that an order be made for printing 200 additional copies to supply the demand.

There being no objection, the order was agreed to, and it was reduced to writing, as follows:

Ordered, That 200 additional copies of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, be printed for the use of the Senate document room.

Mr. NEWLANDS. Mr. President, the other day I entered a motion to reconsider the vote by which the omnibus claims bill was passed. I should be glad to have that motion considered now and to have the Senate consider the amendment which I have to offer to the bill.

Mr. CRAWFORD. Mr. President, I have no objection to that course. On the part of the committee I practically agreed to it, with the understanding that it was not to open the door for a rediscussion of the bill and new amendments, but simply to give the Senator from Nevada an opportunity to be heard regarding a class of cases he wished to have incorporated in the bill. I raise no objection and agree that that may be done.

Mr. LODGE. I should like to call the attention of the Senator from Nevada to the fact that the Senator from New York [Mr. ROOT] gave notice, which has appeared on the calendar for some days, that he would desire to address the Senate to-day at the close of the routine morning business.

Mr. NEWLANDS. Then I will bring up the matter after the Senator from New York has concluded his remarks. I ask that the order of reconsideration be entered.

The PRESIDENT pro tempore. It has been entered.

EIGHT-HOUR LAW.

Mr. MCCUMBER. Yesterday there was passed by the Senate the bill (H. R. 18787) relating to the limitation of the hours of daily service of laborers and mechanics employed upon a public work of the United States and of the District of Columbia, and of all persons employed in constructing, maintaining, or improving a river or harbor of the United States and of the District of Columbia. There were very few in the Senate at the time the bill was passed. I desire to make a motion at this time to reconsider the vote by which the bill was passed and to allow that motion to remain until at least after the Senator from New York has completed his remarks or until the Senator reporting the bill is present in the Senate. So I ask that the bill may be held in abeyance until I can call up the motion and have it acted upon at a future time.

The PRESIDENT pro tempore. The motion for reconsideration will be entered.

ANNUAL REPORT OF THE PHILIPPINE COMMISSION (H. DOC. NO. 1293).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read, ordered to be printed, and, with the accompanying paper, referred to the Committee on the Philippines:

To the Senate and House of Representatives:

I transmit herewith, for the information of the Congress, the Thirteenth Annual Report of the Philippine Commission for the fiscal year ended June 30, 1912, together with the reports of the Governor General and the secretaries of the four executive departments of the Philippine government for the same period.

WM. H. TAFT.

THE WHITE HOUSE, *January 21, 1913.*

INDIANS OCCUPYING RAILROAD LANDS.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 5674) for the relief of Indians occupying railroad lands.

Mr. CURTIS. I move that the Senate disagree to the amendments of the House of Representatives, request a conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. GAMBLE, Mr. CURTIS, and Mr. ASHURST conferees on the part of the Senate.

BUREAU OF MINES.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 17260) to amend an act entitled "An act to establish in the Department of the Interior a Bureau of Mines," approved May 16, 1910, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. POINDEXTER. I move that the Senate insist upon its amendments, agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. POINDEXTER, Mr. SUTHERLAND, and Mr. TILLMAN conferees on the part of the Senate.

HOUSE BILLS REFERRED.

The following bills and joint resolution were severally read twice by their titles and referred to the Committee on Public Lands:

H. R. 23351. An act to amend an act entitled "An act to provide for an enlarged homestead";

H. R. 25780. An act to amend section 3186 of the Revised Statutes of the United States;

H. R. 26812. An act to provide for selection by the State of Idaho of phosphate and oil lands; and

H. J. Res. 326. Joint resolution providing for extending provisions of the act authorizing extension of payments to homesteaders on the Coeur d'Alene Indian Reservation, Idaho.

The following bills were severally read twice by their titles and referred to the Committee on the Judiciary:

H. R. 21532. An act to incorporate the Rockefeller Foundation; and

H. R. 24194. An act to create a new division of the western judicial district of Texas and to provide for terms of court at Pecos, Tex., and for other purposes.

The following bills were severally read twice by their titles and referred to the Committee on Commerce:

H. R. 26549. An act to provide for the construction or purchase of motor boats for customs service; and

H. R. 27157. An act granting an extension of time to construct a bridge across Rock River at or near Colona Ferry, in the State of Illinois.

H. R. 16319. An act to extend and widen Western Avenue NW., in the District of Columbia, was read twice by its title and referred to the Committee on the District of Columbia.

H. R. 26279. An act granting the Fifth-Third National Bank, of Cincinnati, Ohio, the right to use original charter No. 29, was read twice by its title and referred to the Committee on Finance.

PANAMA CANAL TOLLS.

Mr. ROOT. Mr. President, in the late days of last summer, after nearly nine months of continuous session, Congress enacted, in the bill to provide for the administration of the Panama Canal, a provision making a discrimination between the tolls to be charged upon foreign vessels and the tolls to be charged upon American vessels engaged in coastwise trade. We all must realize, as we look back, that when that provision was adopted the Members of both Houses were much exhausted; our minds were not working with their full vigor; we were weary physically and mentally. Such discussion as there was was to empty seats. In neither House of Congress, during the period that this provision was under discussion, could there be found more than a scant dozen or two of Members. The provision has been the cause of great regret to a multitude of our fellow citizens, whose good opinion we all desire and whose leadership of opinion in the country makes their approval of the

course of our Congress an important element in maintaining that confidence in government which is so essential to its success. The provision has caused a painful impression throughout the world that the United States has departed from its often-announced rule of equality of opportunity in the use of the Panama Canal, and is seeking a special advantage for itself in what is believed to be a violation of the obligations of a treaty. Mr. President, that opinion of the civilized world is something which we may not lightly disregard. "A decent respect to the opinions of mankind" was one of the motives stated for the people of these colonies in the great Declaration of American Independence.

The effect of the provision has thus been doubly unfortunate, and I ask the Senate to listen to me while I endeavor to state the situation in which we find ourselves; to state the case which is made against the action that we have taken, in order that I may present to the Senate the question whether we should not either submit to an impartial tribunal the question whether we are right; so that if we are right, we may be vindicated in the eyes of all the world, or whether we should not, by a repeal of the provision, retire from the position which we have taken.

In the year 1850, Mr. President, there were two great powers in possession of the North American Continent to the north of the Rio Grande. The United States had but just come to its full stature. By the Webster-Ashburton treaty of 1842 our northeastern boundary had been settled, leaving to Great Britain that tremendous stretch of seacoast including Nova Scotia, New Brunswick, Newfoundland, Labrador, and the shores of the Gulf of St. Lawrence, now forming the Province of Quebec. In 1846 the Oregon boundary had been settled, assuring to the United States a title to that vast region which now constitutes the States of Washington, Oregon, and Idaho. In 1848 the treaty of Guadalupe-Hidalgo had given to us that great empire wrested from Mexico as a result of the Mexican War, which now spreads along the coast of the Pacific as the State of California and the great region between California and Texas.

Inspired by the manifest requirements of this new empire, the United States turned its attention to the possibility of realizing the dream of centuries and connecting its two coasts—its old coast upon the Atlantic and its new coast upon the Pacific—by a ship canal through the Isthmus; but when it turned its attention in that direction it found the other empire holding the place of advantage. Great Britain had also her coast upon the Atlantic and her coast upon the Pacific, to be joined by a canal. Further than that, Great Britain was a Caribbean power. She had Bermuda and the Bahamas; she had Jamaica and Trinidad; she had the Windward Islands and the Leeward Islands; she had British Guiana and British Honduras; she had, moreover, a protectorate over the Mosquito coast, a great stretch of territory upon the eastern shore of Central America which included the river San Juan and the valley and harbor of San Juan de Nicaragua, or Greytown. All men's minds then were concentrated upon the Nicaragua Canal route, as they were until after the treaty of 1901 was made.

And thus when the United States turned its attention toward joining these two coasts by a canal through the Isthmus it found Great Britain in possession of the eastern end of the route which men generally believed would be the most available route for the canal. Accordingly, the United States sought a treaty with Great Britain by which Great Britain should renounce the advantage which she had and admit the United States to equal participation with her in the control and the protection of a canal across the Isthmus. From that came the Clayton-Bulwer treaty.

Let me repeat that this treaty was sought not by England but by the United States. Mr. Clayton, who was Secretary of State at the time, sent our minister to France, Mr. Rives, to London for the purpose of urging upon Lord Palmerston the making of the treaty. The treaty was made by Great Britain as a concession to the urgent demands of the United States.

I should have said, in speaking about the urgency with which the United States sought the Clayton-Bulwer treaty, that there were two treaties made with Nicaragua, one by Mr. Heis and one by Mr. Squier, both representatives of the United States. Each gave, so far as Nicaragua could, great powers to the United States in regard to the construction of a canal, but they were made without authorization from the United States, and they were not approved by the Government of the United States and were never sent to the Senate. Mr. Clayton, however, held those treaties in abeyance as a means of inducing Great Britain to enter into the Clayton-Bulwer treaty. He held them practically as a whip over the British negotiators, and having accomplished the purpose they were thrown into the waste basket.

By that treaty Great Britain agreed with the United States that neither Government should "ever obtain or maintain for itself any exclusive control over the ship canal"; that neither would "make use of any protection" which either afforded to a canal "or any alliance which either" might have "with any State or people for the purpose of erecting or maintaining any fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same," and that neither would "take advantage of any intimacy, or use any alliance, connection, or influence that either" might "possess with any State or Government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other."

You will observe, Mr. President, that under these provisions the United States gave up nothing that it then had. Its obligations were entirely looking to the future; and Great Britain gave up its rights under the protectorate over the Mosquito coast, gave up its rights to what was supposed to be the eastern terminus of the canal. And, let me say without recurring to it again, under this treaty, after much discussion which ensued as to the meaning of its terms, Great Britain did surrender her rights to the Mosquito coast, so that the position of the United States and Great Britain became a position of absolute equality. Under this treaty also both parties agreed that each should "enter into treaty stipulations with such of the Central American States as they" might "deem advisable for the purpose"—I now quote the words of the treaty—"for the purpose of more effectually carrying out the great design of this convention, namely, that of constructing and maintaining the said canal as a ship communication between the two oceans for the benefit of mankind, on equal terms to all, and of protecting the same."

That declaration, Mr. President, is the cornerstone of the rights of the United States upon the Isthmus of Panama, rights having their origin in a solemn declaration that there should be constructed and maintained a ship canal "between the two oceans for the benefit of mankind, on equal terms to all."

In the eighth article of that treaty the parties agreed:

> The Governments of the United States and Great Britain having not only desired, in entering into this convention, to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection, by treaty stipulations, to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America, and especially to the interoceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. In granting, however, their joint protection to any such canals or railways as are by this article specified, it is always understood by the United States and Great Britain that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

There, Mr. President, is the explicit agreement for equality of treatment to the citizens of the United States and to the citizens of Great Britain in any canal, wherever it may be constructed, across the Isthmus. That was the fundamental principle embodied in the treaty of 1850. And we are not without an authoritative construction as to the scope and requirements of an agreement of that description, because we have another treaty with Great Britain—a treaty which formed one of the great landmarks in the diplomatic history of the world, and one of the great steps in the progress of civilization—the treaty of Washington of 1871, under which the Alabama claims were submitted to arbitration. Under that treaty there were provisions for the use of the American canals along the waterway of the Great Lakes, and the Canadian canals along the same line of communication, upon equal terms to the citizens of the two countries.

Some years after the treaty, Canada undertook to do something quite similar to what we have undertaken to do in this law about the Panama Canal. It provided that while nominally a toll of 20 cents a ton should be charged upon the merchandise both of Canada and of the United States there should be a rebate of 18 cents for all merchandise which went to Montreal or beyond, leaving a toll of but 2 cents a ton for that merchandise. The United States objected; and I beg your indulgence while I read from the message of President Cleveland upon that subject, sent to the Congress August 23, 1888. He says:

> By article 27 of the treaty of 1871 provision was made to secure to the citizens of the United States the use of the Welland, St.

Lawrence, and other canals in the Dominion of Canada on terms of equality with the inhabitants of the Dominion, and to also secure to the subjects of Great Britain the use of the St. Clair Flats Canal on terms of equality with the inhabitants of the United States.

The equality with the inhabitants of the Dominion which we were promised in the use of the canals of Canada did not secure to us freedom from tolls in their navigation, but we had a right to expect that we, being Americans and interested in American commerce, would be no more burdened in regard to the same than Canadians engaged in their own trade; and the whole spirit of the concession made was, or should have been, that merchandise and property transported to an American market through these canals should not be enhanced in its cost by tolls many times higher than such as were carried to an adjoining Canadian market. All our citizens, producers and consumers as well as vessel owners, were to enjoy the equality promised.

And yet evidence has for some time been before the Congress, furnished by the Secretary of the Treasury, showing that while the tolls charged in the first instance are the same to all, such vessels and cargoes as are destined to certain Canadian ports—

Their coastwise trade—

are allowed a refund of nearly the entire tolls, while those bound for American ports are not allowed any such advantage.

To promise equality and then in practice make it conditional upon our vessels doing Canadian business instead of their own, is to fulfill a promise with the shadow of performance.

Upon the representations of the United States embodying that view, Canada retired from the position which she had taken, rescinded the provision for differential tolls, and put American trade going to American markets on the same basis of tolls as Canadian trade going to Canadian markets. She did not base her action upon any idea that there was no competition between trade to American ports and trade to Canadian ports, but she recognized the law of equality in good faith and honor; and to this day that law is being accorded to us and by each great Nation to the other.

I have said, Mr. President, that the Clayton-Bulwer treaty was sought by us. In seeking it we declared to Great Britain what it was that we sought. I ask the Senate to listen to the declaration that we made to induce Great Britain to enter into that treaty—to listen to it because it is the declaration by which we are in honor bound as truly as if it were signed and sealed.

Here I will read from the report made to the Senate on the 5th day of April, 1900, by Senator Cushman K. Davis, then chairman of the Committee on Foreign Relations. So you will perceive that this is no new matter to the Senate of the United States and that I am not proceeding upon my own authority in thinking it worthy of your attention.

Mr. Rives was instructed to say and did say to Lord Palmerston, in urging upon him the making of the Clayton-Bulwer treaty, this:

The United States sought no exclusive privilege or preferential right of any kind in regard to the proposed communication, and their sincere wish, if it should be found practicable, was to see it dedicated to the common use of all nations on the most liberal terms and a footing of perfect equality for all.

That the United States would not, if they could, obtain any exclusive right or privilege in a great highway which naturally belonged to all mankind.

That, sir, was the spirit of the Clayton-Bulwer convention. That was what the United States asked Great Britain to agree upon. That self-denying declaration underlaid and permeated and found expression in the terms of the Clayton-Bulwer convention. And upon that representation Great Britain in that convention relinquished her coign of vantage which she herself had for the benefit of her great North American empire for the control of the canal across the Isthmus.

Mr. CUMMINS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Iowa?

Mr. ROOT. I do, but——

Mr. CUMMINS. I will ask the Senator from New York whether he prefers that there shall be no interruptions? If he does, I shall not ask any question.

Mr. ROOT. Mr. President, I should prefer it, because what I have to say involves establishing the relation between a considerable number of acts and instruments, and interruptions naturally would destroy the continuity of my statement.

Mr. CUMMINS. The question I was about to ask was purely a historic one.

Mr. ROOT. I shall be very glad to answer the Senator.

Mr. CUMMINS. The Senator has stated that at the time of the Clayton-Bulwer treaty we were excluded from the Mosquito coast by the protectorate exercised by Great Britain over that coast. My question is this: Had we not at that time a treaty with New Granada that gave us equal or greater rights upon the Isthmus of Panama than were claimed even by Great Britain over the Mosquito coast?

Mr. ROOT. Mr. President, we had the treaty of 1846 with New Granada, under which we undertook to protect any railway or canal across the Isthmus. But that did not apply to the Nicaragua route, which was then supposed to be the most available route for a canal.

Mr. CUMMINS. I quite agree with the Senator about that. I only wanted it to appear in the course of the argument that we were then under no disability so far as concerned building a canal across the Isthmus of Panama.

Mr. ROOT. We were under a disability so far as concerned building a canal by the Nicaragua route, which was regarded as the available route until the discussion in the Senate after 1901, in which Senator Spooner and Senator Hanna practically changed the judgment of the Senate with regard to what was the proper route to take. And in the treaty of 1850, so anxious were we to secure freedom from the claims of Great Britain to the eastern end of the Nicaragua route that, as I have read, we agreed that the same contract should apply not merely to the Nicaragua route but to the whole of the Isthmus. So that from that time on the whole Isthmus was impressed by the same obligations which were impressed upon the Nicaragua route, and whatever rights we had under our treaty of 1846 with New Grenada we were thenceforth bound to exercise with due regard and subordination to the provisions of the Clayton-Bulwer treaty.

Mr. President, after the lapse of some 30 years, during the early part of which we were strenuously insisting upon the observance by Great Britain of her obligations under the Clayton-Bulwer treaty and during the latter part of which we were beginning to be restive under our obligations by reason of that treaty, we undertook to secure a modification of it from Great Britain. In the course of that undertaking there was much discussion and some difference of opinion as to the continued obligations of the treaty. But I think that was finally put at rest by the decision of Secretary Olney in the memorandum upon the subject made by him in the year 1896. In that memorandum he said:

Under these circumstances, upon every principle which governs the relation to each other, either of nations or of individuals, the United States is completely estopped from denying that the treaty is in full force and vigor.

If changed conditions now make stipulations, which were once deemed advantageous, either inapplicable or injurious, the true remedy is not in ingenious attempts to deny the existence of the treaty or to explain away its provisions, but in a direct and straightforward application to Great Britain for a reconsideration of the whole matter.

We did apply to Great Britain for a reconsideration of the whole matter, and the result of the application was the Hay-Pauncefote treaty. That treaty came before the Senate in two forms: First, in the form of an instrument signed on the 5th of February, 1900, which was amended by the Senate; and, second, in the form of an instrument signed on the 18th of November, 1901, which continued the greater part of the provisions of the earlier instrument, but somewhat modified or varied the amendments which had been made by the Senate to that earlier instrument.

It is really but one process by which the paper sent to the Senate in February, 1900, passed through a course of amendment; first, at the hands of the Senate, and then at the hands of the negotiators between Great Britain and the United States, with the subsequent approval of the Senate. In both the first form and the last of this treaty the preamble provides for preserving the provisions of article 8 of the Clayton-Bulwer treaty. Both forms provide for the construction of the canal under the auspices of the United States alone instead of its construction under the auspices of both countries.

Both forms of that treaty provide that the canal might be—

constructed under the auspices of the Government of the United States, either directly at its own cost or by gift or loan of money to individuals or corporations or through subscription to or purchase of stock or shares—

that being substituted for the provisions of the Clayton-Bulwer treaty under which both countries were to be patrons of the enterprise.

Under both forms it was further provided that—

Subject to the provisions of the present convention, the said Government—

The United States—

shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

That provision, however, for the exclusive patronage of the United States was subject to the initial provision that the modification or change from the Clayton-Bulwer treaty was to be for the construction of such canal under the auspices of the Government of the United States, without impairing the general principle of neutralization established in article 8 of that convention.

Then the treaty as it was finally agreed to provides that the United States "adopt, as the basis of such neutralization of such ship canal," the following rules, substantially as embodied in the convention "of Constantinople, signed the 29th of Octo-

ber, 1888," for the free navigation of the Suez Maritime Canal; that is to say:

First. The canal shall be free and open * * * to the vessels of commerce and of war of all nations "observing these rules on terms of entire equality, so that there shall be no discrimination against any nation or its citizens or subjects in respect to the conditions or charges of traffic, or otherwise." Such conditions and charges of traffic shall be just and equitable.

Then follow rules relating to blockade and vessels of war, the embarkation and disembarkation of troops, and the extension of the provisions to the waters adjacent to the canal.

Now, Mr. President, that rule must, of course, be read in connection with the provision for the preservation of the principle of neutralization established in article 8 of the Clayton-Bulwer convention.

Let me take your minds back again to article 8 of the Clayton-Bulwer convention, consistently with which we are bound to construe the rule established by the Hay-Pauncefote convention. The principle of neutralization provided for by the eighth article is neutralization upon terms of absolute equality both between the United States and Great Britain and between the United States and all other powers.

It is always understood—

Says the eighth article—

by the United States and Great Britain that the parties constructing or owning the same—

That is, the canal—

shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable, and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

Now, we are not at liberty to put any construction upon the Hay-Pauncefote treaty which violates that controlling declaration of absolute equality between the citizens and subjects of Great Britain and the United States.

Mr. President, when the Hay-Pauncefote convention was ratified by the Senate it was in full view of this controlling principle, in accordance with which their act must be construed, for Senator Davis, in his report from the Committee on Foreign Relations, to which I have already referred——

Mr. McCUMBER. On the treaty in its first form.

Mr. ROOT. Yes; the report on the treaty in its first form. Mr. Davis said, after referring to the Suez convention of 1888:

The United States can not take an attitude of opposition to the principles of the great act of October 22, 1888, without discrediting the official declarations of our Government for 50 years on the neutrality of an Isthmian canal and its equal use by all nations without discrimination.

To set up the selfish motive of gain by establishing a monopoly of a highway that must derive its income from the patronage of all maritime countries would be unworthy of the United States if we owned the country through which the canal is to be built.

But the location of the canal belongs to other governments, from whom we must obtain any right to construct a canal on their territory, and it is not unreasonable, if the question was new and was not involved in a subsisting treaty with Great Britain, that she should question the right of even Nicaragua and Costa Rica to grant to our ships of commerce and of war extraordinary privileges of transit through the canal.

I shall revert to that principle declared by Senator Davis. I continue the quotation:

It is not reasonable to suppose that Nicaragua and Costa Rica would grant to the United States the exclusive control of a canal through those States on terms less generous to the other maritime nations than those prescribed in the great act of October 22, 1888, or if we could compel them to give us such advantages over other nations it would not be creditable to our country to accept them.

That our Government or our people will furnish the money to build the canal presents the single question whether it is profitable to do so. If the canal, as property, is worth more than its cost, we are not called on to divide the profits with other nations. If it is worth less and we are compelled by national necessities to build the canal, we have no right to call on other nations to make up the loss to us. In any view, it is a venture that we will enter upon if it is to our interest, and if it is otherwise we will withdraw from its further consideration.

The Suez Canal makes no discrimination in its tolls in favor of its stockholders, and, taking its profits or the half of them as our basis of calculation, we will never find it necessary to differentiate our rates of toll in favor of our own people in order to secure a very great profit on the investment.

Mr. President, in view of that declaration of principle, in the face of that declaration, the United States can not afford to take a position at variance with the rule of universal equality established in the Suez Canal convention—equality as to every stockholder and all nonstockholders, equality as to every nation whether in possession or out of possession. In the face of that declaration the United States can not afford to take any other position than upon the rule of universal equality of the Suez Canal convention, and upon the further declaration that the country owning the territory through which this canal was to be built would not and ought not to give any special advantage or preference to the United States as compared with all the other nations of the earth. In view of that report the Senate rejected the amendment which was offered by Senator Bard, of California, providing for preference to the coastwise trade of the United States. This is the amendment which was proposed:

The United States reserves the right in the regulation and management of the canal to discriminate in respect of the charges of traffic in favor of vessels of its own citizens engaged in the coastwise trade.

I say, the Senate rejected that amendment upon this report, which declared the rule of universal equality without any preference or discrimination in favor of the United States as being the meaning of the treaty and the necessary meaning of the treaty.

There was still more before the Senate, there was still more before the country to fix the meaning of the treaty. I have read the representations that were made, the solemn declarations made by the United States to Great Britain establishing the rule of absolute equality without discrimination in favor of the United States or its citizens to induce Great Britain to enter into the Clayton-Bulwer treaty.

Now, let me read the declaration made to Great Britain to induce her to modify the Clayton-Bulwer treaty and give up her right to joint control of the canal and put in our hands the sole power to construct it or patronize it or control it.

Mr. Blaine said in his instructions to Mr. Lowell on June 24, 1881, directing Mr. Lowell to propose to Great Britain the modification of the Clayton-Bulwer treaty.

I read his words:

The United States recognizes a proper guarantee of neutrality as essential to the construction and successful operation of any highway across the Isthmus of Panama, and in the last generation every step was taken by this Government that is deemed requisite in the premises. The necessity was foreseen and abundantly provided for long in advance of any possible call for the actual exercise of power. * * * *Nor, in time of peace, does the United States seek to have any exclusive privileges accorded to American ships in respect to precedence or tolls through an interoceanic canal any more than it has sought like privileges for American goods in transit over the Panama Railway, under the exclusive control of an American corporation.* The extent of the privileges of American citizens and ships is measurable under the treaty of 1846 by those of Colombian citizens and ships. *It would be our earnest desire and expectation to see the world's peaceful commerce enjoy the same just, liberal, and rational treatment.*

Secretary Cass had already said to Great Britain in 1857:

The United States, as I have before had occasion to assure your Lordship, *demand no exclusive privileges in these passages*, but will always exert their influence *to secure their free and unrestricted benefits, both in peace and war, to the commerce of the world.*

Mr. President, it was upon that declaration, upon that self-denying declaration, upon that solemn assurance, that the United States sought not and would not have any preference for its own citizens over the subjects and citizens of other countries that Great Britain abandoned her rights under the Clayton-Bulwer treaty and entered into the Hay-Pauncefote treaty, with the clause continuing the principles of clause 8, which embodied these same declarations, and the clause establishing the rule of equality taken from the Suez Canal convention. We are not at liberty to give any other construction to the Hay-Pauncefote treaty than the construction which is consistent with that declaration.

Mr. President, these declarations, made specifically and directly to secure the making of these treaties, do not stand alone. For a longer period than the oldest Senator has lived the United States has been from time to time making open and public declarations of her disinterestedness, her altruism, her purposes for the benefit of mankind, her freedom from desire or willingness to secure special and peculiar advantage in respect of transit across the Isthmus. In 1826 Mr. Clay, then Secretary of State in the Cabinet of John Quincy Adams, said, in his instructions to the delegates to the Panama Congress of that year:

If a canal across the Isthmus be opened "so as to admit of the passage of sea vessels from ocean to ocean, the benefit of it ought not to be exclusively appropriated to any one nation, but should be extended to all parts of the globe upon the payment of a just compensation for reasonable tolls."

Mr. Cleveland, in his annual message of 1885, said:

The lapse of years has abundantly confirmed the wisdom and foresight of those earlier administrations which, long before the conditions of maritime intercourse were changed and enlarged by the progress of the age, proclaimed the vital need of interoceanic transit across the American Isthmus and consecrated it in advance to the common use of mankind by their positive declarations and through the formal obligations of treaties. Toward such realization the efforts of my administration will be applied, ever bearing in mind the principles on which it must rest and which were declared in no uncertain tones by Mr. Cass, who, while Secretary of State in 1858, announced that "What the United States want in Central America next to the happiness of its people is the security and neutrality of the interoceanic routes which lead through it."

By public declarations, by the solemn asseverations of our treaties with Colombia in 1846, with Great Britain in 1850, our

treaties with Nicaragua, our treaty with Great Britain in 1901, our treaty with Panama in 1903, we have presented to the world the most unequivocal guaranty of disinterested action for the common benefit of mankind and not for our selfish advantage.

In the message which was sent to Congress by President Roosevelt on the 4th of January, 1904, explaining the course of this Government regarding the revolution in Panama and the making of the treaty by which we acquired all the title that we have upon the Isthmus, President Roosevelt said:

If ever a Government could be said to have received a mandate from civilization to effect an object the accomplishment of which was demanded in the interest of mankind, the United States holds that position with regard to the interoceanic canal.

Mr. President, there has been much discussion for many years among authorities upon international law as to whether artificial canals for the convenience of commerce did not partake of the character of natural passageways to such a degree that, by the rules of international law, equality must be observed in the treatment of mankind by the nation which has possession and control. Many very high authorities have asserted that that rule applies to the Panama Canal even without a treaty. We base our title upon the right of mankind in the Isthmus, treaty or no treaty. We have long asserted, beginning with Secretary Cass, that the nations of Central America had no right to debar the world from its right of passage across the Isthmus. Upon that view, in the words which I have quoted from President Roosevelt's message to Congress, we base the justice of our entire action upon the Isthmus which resulted in our having the Canal Zone. We could not have taken it for our selfish interest; we could not have taken it for the purpose of securing an advantage to the people of the United States over the other peoples of the world; it was only because civilization had its rights to passage across the Isthmus and because we made ourselves the mandatory of civilization to assert those rights that we are entitled to be there at all. On the principles which underlie our action and upon all the declarations that we have made for more than half a century, as well as upon the express and positive stipulations of our treaties, we are forbidden to say we have taken the custody of the Canal Zone to give ourselves any right of preference over the other civilized nations of the world beyond those rights which go to the owner of a canal to have the tolls that are charged for passage.

Well, Mr. President, asserting that we were acting for the common benefit of mankind, willing to accept no preferential right of our own, just as we asserted it to secure the Clayton-Bulwer treaty, just as we asserted it to secure the Hay-Pauncefote treaty, when we had recognized the Republic of Panama, we made a treaty with her on the 18th of November, 1903. I ask your attention now to the provisions of that treaty. In that treaty both Panama and the United States recognize the fact that the United States was acting, not for its own special and selfish interest, but in the interest of mankind.

The suggestion has been made that we are relieved from the obligations of our treaties with Great Britain because the Canal Zone is our territory. It is said that, because it has become ours, we are entitled to build the canal on our own territory and do what we please with it. Nothing can be further from the fact. It is not our territory, except in trust. Article 2 of the treaty with Panama provides:

The Republic of Panama grants to the United States in perpetuity the use, occupation, and control of a zone of land and land under water for the construction, maintenance, operation, sanitation, and protection of said canal—

And for no other purpose—

of the width of 10 miles extending to the distance of 5 miles on each side of the center line of the route of the canal to be constructed.

* * * * * * *

The Republic of Panama further grants to the United States in perpetuity the use, occupation, and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said enterprise.

Article 3 provides:

The Republic of Panama grants to the United States all the rights, power, and authority within the zone mentioned and described in article 2 of this agreement—

From which I have just read—

and within the limits of all auxiliary lands and waters mentioned and described in said article 2 which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority.

Article 5 provides:

The Republic of Panama grants to the United States in perpetuity a monopoly for the construction, maintenance, and operation of any system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific Ocean.

I now read from article 18:

The canal, when constructed, and the entrances thereto shall be neutral in perpetuity, and shall be opened upon the terms provided for by section 1 of article 3 of, and in conformity with all the stipulations of, the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901.

So, Mr. President, far from our being relieved of the obligations of the treaty with Great Britain by reason of the title that we have obtained to the Canal Zone, we have taken that title impressed with a solemn trust. We have taken it for no purpose except the construction and maintenance of a canal in accordance with all the stipulations of our treaty with Great Britain. We can not be false to those stipulations without adding to the breach of contract a breach of the trust which we have assumed, according to our own declarations, for the benefit of mankind as the mandatory of civilization.

In anticipation of the plainly-to-be-foreseen contingency of our having to acquire some kind of title in order to construct the canal, the Hay-Pauncefote treaty provided expressly in article 4:

It is agreed that no change of territorial sovereignty or of international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty.

So you will see that the treaty with Great Britain expressly provides that its obligations shall continue, no matter what title we get to the Canal Zone; and the treaty by which we get the title expressly impresses upon it as a trust the obligations of the treaty with Great Britain. How idle it is to say that because the Canal Zone is ours we can do with it what we please.

There is another suggestion made regarding the obligations of this treaty, and that is that matters relating to the coasting trade are matters of special domestic concern, and that nobody else has any right to say anything about them. We did not think so when we were dealing with the Canadian canals. But that may not be conclusive as to rights under this treaty. But examine it for a moment.

It is rather poverty of language than a genius for definition which leads us to call a voyage from New York to San Francisco, passing along countries thousands of miles away from our territory, "coasting trade," or to call a voyage from New York to Manila, on the other side of the world, "coasting trade." When we use the term "coasting trade" what we really mean is that under our navigation laws a voyage which begins and ends at an American port has certain privileges and immunities and rights, and it is necessarily in that sense that the term is used in this statute. It must be construed in accordance with our statutes.

Sir, I do not for a moment dispute that ordinary coasting trade is a special kind of trade that is entitled to be treated differently from trade to or from distant foreign points. It is ordinarily neighborhood trade, from port to port, by which the people of a country carry on their intercommunication, often by small vessels, poor vessels, carrying cargoes of slight value. It would be quite impracticable to impose upon trade of that kind the same kind of burdens which great ocean-going steamers, trading to the farthest parts of the earth, can well bear. We make that distinction. Indeed, Great Britain herself makes it, although Great Britain admits all the world to her coasting trade. But it is by quite a different basis of classification—that is, the statutory basis—that we call a voyage from the eastern coast of the United States to the Orient a coasting voyage, because it begins and ends in an American port.

This is a special, peculiar kind of trade which passes through the Panama Canal. You may call it "coasting trade," but it is unlike any other coasting trade. It is special and peculiar to itself.

Grant that we are entitled to fix a different rate of tolls for that class of trade from that which would be fixed for other classes of trade. Ah, yes; but Great Britain has her coasting trade through the canal under the same definition, and Mexico has her coasting trade, and Germany has her coasting trade, and Colombia has her coasting trade, in the same sense that we have. You are not at liberty to discriminate in fixing tolls between a voyage from Portland, Me., to Portland, Oreg., by an American ship, and a voyage from Halifax to Victoria in a British ship, or a voyage from Vera Cruz to Acapulco in a Mexican ship, because when you do so you discriminate, not between coasting trade and other trade, but between American ships and British ships, Mexican ships, or Colombian ships. That is a violation of the rule of equality which we have solemnly adopted, and asserted and reasserted, and to which we are bound by every consideration of honor and good faith. Whatever this treaty means, it means for that kind of trade as well as for any other kind of trade.

The suggestion has been made, also, that we should not consider that the provision in this treaty about equality as to tolls really means what it says, because it is not to be supposed that

the United States would give up the right to defend itself, to protect its own territory, to land its own troops, and to send through the canal as it pleases its own ships of war. That is disposed of by the considerations which were presented to the Senate in the Davis report, to which I have already referred, in regard to the Suez convention.

The Suez convention, from which these rules of the Hay-Pauncefote treaty were taken almost—though not quite—textually, contained other provisions which reserved to Turkey and to Egypt, as sovereigns of the territory through which the canal passed—Egypt as the sovereign and Turkey as the suzerain over Egypt—all of the rights that pertained to sovereigns for the protection of their own territory. As when the Hay-Pauncefote treaty was made neither party to the treaty had any title to the region which would be traversed by the canal, no such clauses could be introduced. But, as was pointed out, the rules which were taken from the Suez Canal for the control of the canal management would necessarily be subject to these rights of sovereignty which were still to be secured from the countries owning the territory. That is recognized by the British Government in the note which has been sent to us and has been laid before the Senate, or is in the possession of the Senate, from the British foreign office.

In Sir Edward Grey's note of November 14, 1912, he says what I am about to read. This is an explicit disclaimer of any contention that the provisions of the Hay-Pauncefote treaty exclude us from the same rights of protection of territory which Nicaragua or Colombia or Panama would have had as sovereigns, and which we succeed to, pro tanto, by virtue of the Panama Canal treaty.

Sir Edward Grey says:

I notice that in the course of the debate in the Senate on the Panama Canal bill the argument was used by one of the speakers that the third, fourth, and fifth rules embodied in article 3 of the treaty show that the words "all nations" can not include the United States, because, if the United States were at war, it is impossible to believe that it could be intended to be debarred by the treaty from using its own territory for revictualling its warships or landing troops.

The same point may strike others who read nothing but the text of the Hay-Pauncefote treaty itself, and I think it is therefore worth while that I should briefly show that this argument is not well founded.

I read this not as an argument but because it is a formal, official disclaimer which is binding.

Sir Edward Grey proceeds:

The Hay-Pauncefote treaty of 1901 aimed at carrying out the principle of the neutralization of the Panama Canal by subjecting it to the same régime as the Suez Canal. Rules 3, 4, and 5 of article 3 of the treaty are taken almost textually from articles 4, 5, and 6 of the Suez Canal Convention of 1888. At the date of the signature of the Hay-Pauncefote treaty the territory on which the Isthmian Canal was to be constructed did not belong to the United States, consequently there was no need to insert in the draft treaty provisions corresponding to those in articles 10 and 13 of the Suez Canal Convention, which preserve the sovereign rights of Turkey and of Egypt, and stipulate that articles 4 and 5 shall not affect the right of Turkey, as the local sovereign, and of Egypt, within the measure of her autonomy, to take such measures as may be necessary for securing the defense of Egypt and the maintenance of public order, and, in the case of Turkey, the defense of her possessions on the Red Sea.

Now that the United States has become the practical sovereign of the canal, His Majesty's Government do not question its title to exercise belligerent rights for its protection.

Mr. President, Great Britain has asserted the construction of the Hay-Pauncefote treaty of 1901, the arguments for which I have been stating to the Senate. I realize, sir, that I may be wrong. I have often been wrong. I realize that the gentlemen who have taken a different view regarding the meaning of this treaty may be right. I do not think so. But their ability and fairness of mind would make it idle for me not to entertain the possibility that they are right and I am wrong. Yet, Mr. President, the question whether they are right and I am wrong depends upon the interpretation of the treaty. It depends upon the interpretation of the treaty in the light of all the declarations that have been made by the parties to it, in the light of the nature of the subject matter with which it deals.

Gentlemen say the question of imposing tolls or not imposing tolls upon our coastwise commerce is a matter of our concern. Ah! we have made a treaty about it. If the interpretation of the treaty is as England claims, then it is not a matter of our concern; it is a matter of treaty rights and duties. But, sir, it is not a question as to our rights to remit tolls to our commerce. It is a question whether we can impose tolls upon British commerce when we have remitted them from our own. That is the question. Nobody disputes our right to allow our own ships to go through the canal without paying tolls. What is disputed is our right to charge tolls against other ships when we do not charge them against our own. That is, pure and simple, a question of international right and duty, and depends upon the interpretation of the treaty.

Sir, we have another treaty, made between the United States and Great Britain on the 4th of April, 1908, in which the two nations have agreed as follows:

Differences which may arise of a legal nature or relating to the interpretation of treaties existing between the two contracting parties and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the convention of the 29th of July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two contracting States, and do not concern the interests of third parties.

Of course, the question of the rate of tolls on the Panama Canal does not affect any nation's vital interests. It does not affect the independence or the honor of either of these contracting States. We have a difference relating to the interpretation of this treaty, and that is all there is to it. We are bound, by this treaty of arbitration, not to stand with arrogant assertion upon our own Government's opinion as to the interpretation of the treaty, not to require that Great Britain shall suffer what she deems injustice by violation of the treaty, or else go to war. We are bound to say, "We keep the faith of our treaty of arbitration, and we will submit the question as to what this treaty means to an impartial tribunal of arbitration."

Mr. President, if we stand in the position of arrogant refusal to submit the questions arising upon the interpretation of this treaty to arbitration, we shall not only violate our solemn obligation, but we shall be false to all the principles that we have asserted to the world, and that we have urged upon mankind. We have been the apostle of arbitration. We have been urging it upon the other civilized nations. Presidents, Secretaries of State, ambassadors, and ministers—aye, Congresses, the Senate and the House, all branches of our Government have committed the United States to the principle of arbitration irrevocably, unequivocally, and we have urged it in season and out of season on the rest of mankind.

Sir, I can not detain the Senate by more than beginning upon the expressions that have come from our Government upon this subject, but I will ask your indulgence while I call your attention to a few selected from the others.

On the 9th of June, 1874, the Senate Committee on Foreign Relations reported and the Senate adopted this resolution:

Resolved, That the United States having at heart the cause of peace everywhere, and hoping to help its permanent establishment between nations, hereby recommend the adoption of arbitration as a great and practical method for the determination of international difference, to be maintained sincerely and in good faith, so that war may cease to be regarded as a proper form of trial between nations.

On the 17th of June, 1874, the Committee on Foreign Affairs of the House adopted this resolution:

Whereas war is at all times destructive of the material interests of a people, demoralizing in its tendencies, and at variance with an enlightened public sentiment; and whereas *differences between nations should in the interests of humanity and fraternity be adjusted, if possible, by international arbitration:* Therefore,

Resolved, That the people of the United States being devoted to the policy of peace with all mankind, enjoining its blessings and hoping for its permanence and its universal adoption, hereby through their representatives in Congress recommend such arbitration as a rational substitute for war; and they further recommend to the treaty-making power of the Government to provide, if practicable, that hereafter in treaties made between the United States and foreign powers war shall not be declared by either of the contracting parties against the other until efforts shall have been made to adjust all alleged cause of difference by impartial arbitration.

On the same 17th of June, 1874, the Senate adopted this resolution:

Resolved, etc., That the President of the United States is hereby authorized and requested to negotiate with all civilized powers who may be willing to enter into such negotiations for the establishment of an international system whereby matters in dispute between different Governments agreeing thereto may be adjusted by arbitration, and, if possible, without recourse to war.

On the 14th of June, 1888, and again on the 14th of February, 1890, the Senate and the House adopted a concurrent resolution in the words which I now read:

Resolved by the Senate (the House of Representatives concurring), That the President be, and is hereby, requested to invite, from time to time, as fit occasions may arise, negotiations with any Government with which the United States has, or may have, diplomatic relations, to the end that any differences or disputes arising between the two Governments which can not be adjusted by diplomatic agency may be referred to arbitration and be peaceably adjusted by such means.

This was concurred in by the House on the 3d of April, 1890.

Mr. President, in pursuance of those declarations by both Houses of Congress the Presidents and the Secretaries of State and the diplomatic agents of the United States, doing their bounden duty, have been urging arbitration upon the people of the world. Our representatives in The Hague conference of 1899, and in The Hague conference of 1907, and in the Pan American conference in Washington, and in the Pan American conference in Mexico, and in the Pan American conference in Rio de Janeiro were instructed to urge and did urge and pledge

the United States in the most unequivocal and urgent terms to support the principle of arbitration upon all questions capable of being submitted to a tribunal for a decision.

Under those instructions Mr. Hay addressed the people of the entire civilized world with the request to come into treaties of arbitration with the United States. Here was his letter. After quoting from the resolutions and from expressions by the President he said:

Moved by these views, the President has charged me to instruct you to ascertain whether the Government to which you are accredited, which he has reason to believe is equally desirous of advancing the principle of international arbitration, is willing to conclude with the Government of the United States an arbitration treaty of like tenor to the arrangement concluded between France and Great Britain on October 14, 1903.

That was the origin of this treaty. The treaties made by Mr. Hay were not satisfactory to the Senate because of the question about the participation of the Senate in the make-up of the special agreement of submission. Mr. Hay's successor modified that on conference with the Committee on Foreign Relations of the Senate, and secured the assent of the other countries of the world to the treaty with that modification. We have made 25 of these treaties of arbitration, covering the greater part of the world, under the direction of the Senate of the United States and the House of Representatives of the United States and in accordance with the traditional policy of the United States, holding up to the world the principle of peaceful arbitration.

One of these treaties is here, and under it Great Britain is demanding that the question as to what the true interpretation of our treaty about the canal is shall be submitted to decision and not be made the subject of war or of submission to what she deems injustice to avoid war.

In response to the last resolution which I have read, the concurrent resolution passed by the Senate and the House requesting the President to enter into the negotiations which resulted in these treaties of arbitration, the British House of Commons passed a resolution accepting the overture. On the 16th of July, 1893, the House of Commons adopted this resolution:

Resolved, That this house has learnt with satisfaction that both Houses of the United States Congress have, by resolution, requested the President to invite from time to time, as fit occasions may arise, negotiations with any government with which the United States have or may have diplomatic relations, to the end that any differences or disputes arising between the two governments which can not be adjusted by diplomatic agency may be referred to arbitration and peaceably adjusted by such means, and that this house, cordially sympathizing with the purpose in view, expresses the hope that Her Majesty's Government will lend their ready cooperation to the Government of the United States upon the basis of the foregoing resolution.

Her Majesty's Government did, and thence came this treaty.

Mr. President, what revolting hypocrisy we convict ourselves of, if after all this, the first time there comes up a question in which we have an interest, the first time there comes up a question of difference about the meaning of a treaty as to which we fear we may be beaten in an arbitration, we refuse to keep our agreement? Where will be our self-respect if we do that? Where will be that respect to which a great nation is entitled from the other nations of the earth?

I have read from what Congress has said.

Let me read something from President Grant's annual message of December 4, 1871. He is commenting upon the arbitration provisions of the treaty of 1871, in which Great Britain submitted to arbitration our claims against her, known as the Alabama claims, in which Great Britain submitted those claims where she stood possibly to lose but not possibly to gain anything, and submitted them against the most earnest and violent protest of many of her own citizens. Gen. Grant said:

The year has been an eventful one in witnessing two great nations speaking one language and having one lineage, settling by peaceful arbitration disputes of long standing and liable at any time to bring those nations into costly and bloody conflict. An example has been set which, if successful in its final issue, may be followed by other civilized nations and finally be the means of returning to productive industry millions of men now maintained to settle the disputes of nations by the bayonet and by broadside.

Under the authority of these resolutions our delegates in the first Pan American conference at Washington secured the adoption of this resolution April 18, 1890:

ARTICLE 1. The Republics of North, Central, and South America hereby adopt arbitration as a principle of American international law for the settlement of the differences, disputes, or controversies that may arise between two or more of them.

And this:

The International American Conference resolves that this conference, having recommended arbitration for the settlement of disputes among the Republics of America, begs leave to express the wish that controversies between them and the nations of Europe may be settled in the same friendly manner.

It is further recommended that the Government of each nation herein represented communicate this wish to all friendly powers.

Upon that Mr. Blaine, that most vigorous and virile American, in his address as the presiding officer of that first Pan American conference in Washington said:

If, in this closing hour, the conference had but one deed to celebrate we should dare call the world's attention to the deliberate, confident, solemn dedication of two great continents to peace and to the prosperity which has peace for its foundation. We hold up this new Magna Charta, which abolishes war and substitutes arbitration between the American Republics, as the first and great fruit of the International American Conference. That noblest of Americans, the aged poet and philanthropist, Whittier, is the first to send his salutation and his benediction, declaring, "If in the spirit of peace the American conference agrees upon a rule of arbitration which shall make war in this hemisphere well-nigh impossible, its sessions will prove one of the most important events in the history of the world."

President Arthur in his annual message of December 4, 1882, said, in discussing the proposition for a Pan American conference:

I am unwilling to dismiss this subject without assuring you of my support of any measure the wisdom of Congress may devise for the promotion of peace on this continent and throughout the world, and I trust the time is nigh when, with the universal assent of civilized peoples, all international differences shall be determined without resort to arms by the benignant processes of arbitration.

President Harrison in his message of December 3, 1889, said concerning the Pan American conference:

But while the commercial results which it is hoped will follow this conference are worthy of pursuit and of the great interests they have excited, it is believed that the crowning benefit will be found in the better securities which may be devised for the maintenance of peace among all American nations and the settlement of all contentions by methods that a Christian civilization can approve.

President Cleveland, in his message of December 4, 1893, said, concerning the resolution of the British Parliament of July 16, 1893, which I have already read, and commenting on the concurrent resolution of February 14 and April 18, 1890:

It affords me signal pleasure to lay this parliamentary resolution before the Congress and to express my sincere gratification that the sentiment of two great kindred nations is thus authoritatively manifested in favor of the rational and peaceable settlement of international quarrels by honorable resort to arbitration.

President McKinley, in his message of December 6, 1897, said:

International arbitration can not be omitted from the list of subjects claiming our consideration. Events have only served to strengthen the general views on this question expressed in my inaugural address. The best sentiment of the civilized world is moving toward the settlement of differences between nations without resorting to the horrors of war. Treaties embodying these humane principles on broad lines without in any way imperiling our interests or our honor shall have my constant encouragement.

President Roosevelt, in his message of December 3, 1905, said:

I earnestly hope that the conference—

The second Hague conference—

may be able to devise some way to make arbitration between nations the customary way of settling international disputes in all save a few classes of cases, which should themselves be sharply defined and rigidly limited as the present governmental and social development of the world will permit. If possible, there should be a general arbitration treaty negotiated among all nations represented at the conference.

Oh, Mr. President, are we Pharisees? Have we been insincere and false? Have we been pretending in all these long years of resolution and declaration and proposal and urgency for arbitration? Are we ready now to admit that our country, that its Congresses and its Presidents, have all been guilty of false pretense, of humbug, of talking to the galleries, of fine words to secure applause, and that the instant we have an interest we are ready to falsify every declaration, every promise, and every principle? But we must do that if we arrogantly insist that we alone will determine upon the interpretation of this treaty and will refuse to abide by the agreement of our treaty of arbitration.

Mr. President, what is all this for? Is the game worth the candle? Is it worth while to put ourselves in a position and to remain in a position to maintain which we may be driven to repudiate our principles, our professions, and our agreements for the purpose of conferring a money benefit—not very great, not very important, but a money benefit—at the expense of the Treasury of the United States, upon the most highly and absolutely protected special industry in the United States? Is it worth while? We refuse to help our foreign shipping, which is in competition with the lower wages and the lower standard of living of foreign countries, and we are proposing to do this for a part of our coastwise shipping which has now by law the absolute protection of a statutory monopoly and which needs no help.

Mr. President, there is but one alternative consistent with self-respect. We must arbitrate the interpretation of this treaty or we must retire from the position we have taken.

O Senators, consider for a moment what it is that we are doing. We all love our country; we are all proud of its history; we are all full of hope and courage for its future; we love its good name; we desire for it that power among the nations

of the earth which will enable it to accomplish still greater things for civilization than it has accomplished in its noble past. Shall we make ourselves in the minds of the world like unto the man who in his own community is marked as astute and cunning to get out of his obligations? Shall we make ourselves like unto the man who is known to be false to his agreements; false to his pledged word? Shall we have it understood the whole world over that "you must look out for the United States or she will get the advantage of you"; that we are clever and cunning to get the better of the other party to an agreement, and that at the end——

Mr. BRANDEGEE. "Slippery" would be a better word.

Mr. ROOT. Yes; I thank the Senator for the suggestion—"slippery." Shall we in our generation add to those claims to honor and respect that our fathers have established for our country good cause that we shall be considered slippery?

It is worth while, Mr. President, to be a citizen of a great country, but size alone is not enough to make a country great. A country must be great in its ideals; it must be great-hearted; it must be noble; it must despise and reject all smallness and meanness; it must be faithful to its word; it must keep the faith of treaties; it must be faithful to its mission of civilization in order that it shall be truly great. It is because we believe that of our country that we are proud, aye, that the alien with the first step of his foot upon our soil is proud to be a part of this great democracy.

Let us put aside the idea of small, petty advantage; let us treat this situation and these obligations in our relation to this canal in that large way which befits a great nation.

Mr. President, how sad it would be if we were to dim the splendor of that great achievement by drawing across it the mark of petty selfishness; if we were to diminish and reduce for generations to come the power and influence of this free Republic for the uplifting and the progress of mankind by destroying the respect of mankind for us! How sad it would be if you and I, Senators, were to make ourselves responsible for destroying that bright and inspiring ideal which has enabled free America to lead the world in progress toward liberty and justice!

During the delivery of Mr. ROOT's speech,

The PRESIDING OFFICER (Mr. LIPPITT in the chair). The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. CUMMINS. I ask unanimous consent that the unfinished business be temporarily laid aside.

The PRESIDING OFFICER. Without objection, the unfinished business will be temporarily laid aside. The Senator from New York will proceed.

After the conclusion of Mr. ROOT's speech,

Mr. NEWLANDS. Mr. President, I give notice that to-morrow at the close of the morning business, if the convenience of the Senate will permit, I shall speak upon the question discussed to-day by the Senator from New York [Mr. ROOT]—the Panama Canal tolls. Assuming even more than the Senator from New York has contended for, namely, that the United States holds the canal in trust for civilization; that the canal is to be regarded as a great international public utility through which the Government of the United States as its administrator is bound to render the same service to all for the same price, I shall endeavor to show that no unjust burthen has been placed upon foreign nations, but that, on the contrary, the United States is bearing and will continue for many years to bear an enormous burthen, the larger portion of which, in justice and in right, it could impose upon the shipping of foreign nations, whose tonnage will for many years constitute at least nine-tenths of the total tonnage of the canal. I refer to the interest charge upon its enormous investment of $400,000,000 in the Panama Canal, which for many years it will be unable to collect.

I shall endeavor to show that there is no necessity for arbitration upon this question; that all that is necessary can be accomplished by adding a few lines to the statute which we have already enacted, providing that the charges from which our domestic ships shall be freed shall not be imposed as an additional charge upon foreign or international shipping, but shall be credited on our interest charge against the Panama investment; that those few lines will demonstrate to the world that the United States intends to administer the canal with justice to all nations and without imposing an unfair burthen upon any, and at the same time to maintain its traditional domestic policy of an untrammeled and unburthened traffic upon its domestic waterways. I shall contend that the Panama Canal is not only an international public utility, but a domestic waterway, and as such, so far as our domestic policies are concerned, is to be administered like any other waterway of the country upon which public moneys have been expended—as a free and untrammeled channel of transportation, trade, and commerce between the various sections of our country.

Mr. BRANDEGEE. Mr. President, I assume the Senator from Nevada means his remarks to follow those for which notice already stands on the calendar after the routine morning business to-morrow.

Mr. NEWLANDS. What notice is that?

Mr. BRANDEGEE. My colleague [Mr. MCLEAN] has given notice that immediately upon the conclusion of the routine morning business to-morrow he will ask the Senate to take up another matter.

Mr. NEWLANDS. Of course that will have precedence.

OLD NEWBURY HISTORICAL SOCIETY, MASSACHUSETTS.

The PRESIDENT pro tempore laid before the Senate the joint resolution (H. J. Res. 369) authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass., which was read the first time by its title.

Mr. LODGE. The Committee on Finance has favorably reported a joint resolution identical with that joint resolution, and I now ask for the present consideration of the House joint resolution. It is only 5 lines, and will not take long.

Mr. CULBERSON. Let the title of the joint resolution be again read.

The PRESIDENT pro tempore. The joint resolution will be read in full before the request for its consideration is put.

The Secretary read the joint resolution (H. J. Res. 369) authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass., the second time at length, as follows:

Resolved, etc., That the Secretary of the Treasury is hereby authorized to give to the Old Newbury Historical Society, of Newburyport, Mass., any or all documents in the customhouse building at Newburyport, Mass., which are of no further value to the United States Government.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. LODGE. I move that the joint resolution (S. J. Res. 154) authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass., reported by me this morning from the Committee on Finance, be postponed indefinitely.

The motion was agreed to.

M'CLELLAN PARK.

Mr. MARTINE of New Jersey. I ask unanimous consent for the present consideration of the bill (S. 2845) to acquire certain land in Washington Heights for a public park to be known as McClellan Park.

The PRESIDENT pro tempore. The bill has heretofore been read. Is there objection to its present consideration?

Mr. BRISTOW. Mr. President, I objected to that bill the other day. I did so very largely because I believe when we are establishing public parks they ought to be established where they are most needed. The site of the proposed park is within a couple of blocks of the Zoological Park, and I thought if we were expending money for park purposes we ought to spend it in the congested part of the city where there are no parks.

Mr. MARTINE of New Jersey. Mr. President, this matter was before the Committee on Public Buildings and Grounds, and it was there referred to a special committee. The committee investigated the question and were thoroughly convinced that the situation as it is now was certainly not in existence at the time the original idea and plan of public parks was inaugurated. This plat comprises about 2 acres. It is surrounded with streets and in itself to-day is a park so far as requiring the expenditure of a dollar to put it in shape is concerned. There is a very handsome house on the plat that might be used for a public rest. This plat is surrounded with apartment buildings from 7 to 12 stories high and is about 1 mile from the other end of Rock Creek Park. It was the opinion of the committee that the public need and demand at that point warranted the purchase of this plat. I do not at the moment recall the exact figure involved, but it is something over $100,000.

The PRESIDENT pro tempore. If the Chair may be allowed to make the suggestion, the amount is $180,000.

Mr. MARTINE of New Jersey. $180,000.

Mr. NEWLANDS. I should like to ask if any objection has been interposed to the consideration of this bill? If not, I will have to object.

Mr. WILLIAMS. I should like to propound a parliamentary inquiry. Are we sounding the calendar under the unanimous-consent rule?

The PRESIDENT pro tempore. The Senator from New Jersey has asked unanimous consent for the present consideration of the bill named by him.

Mr. WILLIAMS. Yes; but are we sounding the calendar?

The PRESIDENT pro tempore. No; not at all.

Mr. WILLIAMS. This bill comes up irregularly, then?

The PRESIDENT pro tempore. It does.

Mr. WILLIAMS. Very well.

The PRESIDENT pro tempore. Is there objection to the consideration of the bill?

Mr. NEWLANDS. I object to the present consideration of the bill, as I desire to bring up the motion I made to reconsider the votes by which the omnibus claims bill was ordered to a third reading, read the third time, and passed.

The PRESIDENT pro tempore. Objection is made.

OMNIBUS CLAIMS BILL.

Mr. NEWLANDS obtained the floor.

Mr. CRAWFORD. Mr. President——

The PRESIDENT pro tempore. The Senator from Nevada has been recognized.

Mr. CRAWFORD. I ask the Senator to yield to me.

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from South Dakota?

Mr. NEWLANDS. Yes.

Mr. CRAWFORD. Mr. President, the omnibus claims bill passed the Senate the other day while the Senator from Nevada was absent. He had given notice of his intention to offer an amendment, but on account of his absence he did not have that opportunity, so that he gave notice of a motion to reconsider. The bill, if the votes are reconsidered, will be before the Senate for that purpose only, and not with any idea of going into a general discussion or of submitting amendments.

Mr. NEWLANDS. Mr. President, I was absent when the omnibus claims bill was finally disposed of the other day. At that time I had pending an amendment providing for the payment of some 80 claims for extra pay of mechanics and laborers on public buildings in some 25 different States, including Alabama, Arkansas, California, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, South Carolina, Texas, Virginia, and Wisconsin—claims aggregating from $500 to $7,000 and totaling about $92,000.

These claims are asserted under the findings of the Court of Claims, which acted upon a bill referred to that court by Congress for consideration, providing for the payment of claims for extra pay. The claims were founded upon the act of August 1, 1892, known as the eight-hour law. Prior to that time the eight-hour law had existed for some period, but it was declared by the courts to be not mandatory, and the result was that a new law was passed on August 1, 1892, from which I quote:

SECTION 1. That the service and employment of all laborers and mechanics who are now or may hereafter be employed by the Government of the United States, by the District of Columbia, or by any contractor or subcontractor upon any of the public works of the United States or of the said District of Columbia, is hereby limited and restricted to eight hours in any one calendar day, and it shall be unlawful for any officer of the United States Government or of the District of Columbia, or any such contractor or subcontractor whose duty it shall be to employ, direct, or control the services of such laborers or mechanics, to require or permit any such laborer or mechanic to work more than eight hours in any calendar day, except in case of extraordinary emergency.

It will be observed that not only was an eight-hour day fixed, but it was made unlawful for any officer of the United States Government to permit work in excess of eight hours. The record shows that with reference to a certain class of laborers, namely, engineers, firemen, mechanics, and laborers, the Treasury Department fixed the compensation by the year, and presumably they fixed that compensation with reference to the requirements of the law as to an eight-hour day. Notwithstanding that fact, all of the men whose claims are now presented were compelled to work in excess of eight hours. That fact is found by the Court of Claims; the fact of compensation is found by the Court of Claims; the number of extra hours is found by the Court of Claims; and the compensation to which these men are entitled for the extra work is also ascertained. The Court of Claims, in presenting these findings of fact, found in reference to all of them practically what they found regarding the claim of one Glanzmann, a resident of the State of Nevada, and from which I will read a quotation:

II. In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth without regard to the number of hours they might be required to labor.

The chairman of the Committee on Claims insists that, in fixing this compensation, they took into consideration the number of hours in excess of the legal requirement which these laborers might be compelled to labor. I take exception to that statement. The finding of the Court of Claims is simply that the compensation was fixed without regard to the number of hours; and the presumption is that in fixing the compensation they fixed it with a view to the requirements of the law, that no man should be required to work more than eight hours a day. This is proved by the fact that numerous laborers of the same class—common laborers, firemen, engineers, and so forth—were employed for differing hours. Some of them were only compelled to work according to the legal requirement of eight hours, and yet they received the same pay for their class as did the men who were called by their superior officers to work for 12 hours. It is clear, therefore, that the men who fixed this compensation did not take into consideration any extra time, but simply fixed the compensation according to the character of the employment, assuming that the men would only be called upon to work the legal number of hours, for we can not assume that these officials deliberately proposed to break the law, when that very law made it unlawful for them to permit any employment beyond the eight hours.

This contention is verified by the affidavits presented by Mr. W. W. Ludlow and Mr. Fred Casady, who, as I understand, were Treasury officials, charged with the duty of determining the compensation to be paid to these various classes of laborers. These affidavits were made only a few weeks ago, and they were made in view of the statement presented by the chairman of the Committee on Claims that in fixing compensation they had taken into consideration the extra number of hours that the men would be called upon to serve. These men all denied this, and their affidavits are presented in Senate Document No. 985 of the present session.

I read from the statement of W. W. Ludlow, dated December 17, 1912, and sworn to before a notary public:

W. W. Ludlow on oath deposes and says that he is the W. W. Ludlow who testified—

I presume in the Court of Claims—

in connection with the employment and fixing of the compensation of certain engineers, firemen, and laborers in the custodian service; that when he testified that the salary of such employees was fixed "at what the work was worth" without regard to the number of hours they might be required to labor, he meant that he fixed such salary at what the character of the employment was worth; for example, engineers at a certain compensation, firemen at a certain compensation, laborers at a certain compensation. Deponent further deposes and says that in fixing said salary he did not know how many hours the employee might be required to work, and only fixed the salary with a view to the character of the work which the employee would be called upon to perform.

Depositions are made by Mr. Fred Casady and Mr. Robert Tobin to the same effect; and the truth of their statements is proved by the fact that the men who work only 8 hours a day in these various classes of employment receive the same annual compensation as the men who work 12 hours a day.

Mr. President, I do not wish to take the time of the Senate in the discussion of this matter. It is perfectly clear that the intention of Congress from the start has been to enforce the eight-hour law regarding laborers employed on the public buildings, and that after the courts had declared that the provision of law covering that question was not mandatory Congress changed the law and made it mandatory, and made it unlawful for any official of the Government to exact work beyond the eight hours. We have the fact, ascertained by the Court of Claims, that these men did work beyond the eight hours, and the fact that, judged by the compensation for the eight hours, the extra time was worth so much, aggregating in all $92,000.

I wish to say that there is no danger of a large amount of claims being precipitated upon Congress under this law, for of late years the officials of the departments have been careful to enforce the law as to an eight-hour day, and where they have called upon employees to give service beyond the eight hours the various departments, by rules and regulations, have provided for compensation for the extra time. So we find, as a matter of fact, that, with the exception of these claims which arose early under the law, and which were presented to the

Court of Claims, it has now become the settled custom and practice of the departments to pay these amounts for extra time without contest. All this is shown in Senate Document No. 985.

In this statement it appears that Congress has already paid claims of this nature. In the House of Representatives a claim of this nature was pending some time in 1899. As I have already stated, it is not found that many claims of this nature have been presented to Congress since the act of August 1, 1892, owing to the fact that the requirements of that law have been very generally complied with by Government officers, and therefore the instances of claims prosecuted in Congress are few. Most of them are present here, but at least one claim has been settled by an act of Congress.

Joint resolution 307 was presented at the third session of the Fifty-fifth Congress. When this measure was called up in the House of Representatives on February 11, 1899, the following debate ensued:

Mr. DOCKERY. I thought there was an eight-hour law upon the statute books preventing the working of laborers, mechanics, and artisans over eight hours. I shall not object to this bill, because laborers should be paid for any excess of time over eight hours.

Mr. HOPKINS. Well, Mr. Speaker, how are we to construe the remarks of the gentleman from Missouri? Is he in favor or against the joint resolution?

Mr. DOCKERY. "The gentleman from Missouri" stated very clearly that he was in favor of paying any laborer for any excess of time he may have worked over eight hours. As I understand the joint resolution, it proposes to accomplish that result. My query, however, was how they could have been worked over eight hours under existing law.

Mr. HOPKINS. This bill proposes to pay them for the excess of time and 50 per cent in addition to that allowed by law. * * *

That was a very apt inquiry on the part of Mr. Dockery, for, as I have already shown, the law explicitly makes it unlawful for any official to exact more than eight hours' work from any laborer.

This measure thereupon passed the House and later passed the Senate without debate, becoming a law on February 25, 1899. (30 Stat. L., 1389.)

When these claims, aggregating nearly $92,000, were turned over to the Court of Claims to ascertain the facts the contemporaneous debate shows clearly that it was the intention of Congress to see to it that this law was enforced, and that wherever it was not enforced the equitable claim of the laborer for the extra time should be paid. We find Senator CULLOM, in discussing the very resolution under which these claims were considered by the Court of Claims, on September 27, 1890, speaking as follows:

All that I have to say is that it does seem to me that this law, which has been so long upon the statute books, ought to be enforced, and if it is not enforced, certainly the men who are called upon to work more hours than a legal day's work ought to have some way for securing the pay for their extra labor.

Senator Dawes, of Massachusetts, in the same debate, said:

* * * these laborers and mechanics, with as just a claim upon the Government as the bonds of the United States * * *.

Senator Stewart, of Nevada, said:

I agree with the Senator from Massachusetts that we ought to turn these accounts over to the accounting officers and settle them speedily and without delay. It is one of those obligations that the Government should execute at once, without question.

Senator Spooner, of Wisconsin, in the same debate, said:

It is my conviction, Mr. President, that in every case where one of these men was compelled by the officers of the Government as a condition of having employment and of being able to support his family to work one hour or one-half hour over the eight-hour day which Congress had declared for, and which President Grant had sought to enforce, he ought to be paid for that overtime.

Not to do so seems to me to put the Government of the United States in an attitude of allowing its executive officers to violate in essence and in spirit the law which Congress had enacted upon the ground of public policy and which public sentiment has approved, and attempting to filch from these men hours of unrequited toil.

I am perfectly willing to take the responsibility of adjudicating the question of liability, sending these men to the Court of Claims for that tribunal only to ascertain and declare how many hours in each case these men worked beyond the lawful day. I shall vote with great pleasure for the substitute which I understand the Senator from New Hampshire will offer to this bill, which is the same bill as it passed this body at a previous session. In doing so, I only vote for the payment of debts honestly due and too long left unpaid.

Representative Caruth, of Kentucky, said:

Here is a proposition embodied in this bill to allow these men who have performed labor for the Government beyond what would have been their day's labor under the law to receive just compensation for their extra work. * * * I say that if there is to be any sanctity in the statutes of the United States, if the laws we put upon the statute books are to amount to anything, then these men are entitled to the relief they seek.

Representative Gest, of New Jersey, said, referring to a resolution passed by the House of Representatives May 9, 1878, after the decision in the Martin case:

It indicates the sense of the House of Representatives on this subject: that these men should be paid for the time that they had worked above and beyond eight hours a day.

Representative Thomas M. Bayne, of Pennsylvania, said:

The Supreme Court of the United States in a case coming before it has held that the departments of the Government have the right to employ men for 8 hours and pay them for 8 hours; and when it employs men for 10 hours it has the right to pay them an additional sum for their services. That is common sense, common honesty, fair dealing; anything short of that is not.

Representative William D. Kelley, of Pennsylvania, said:

Until that statute is repealed every workingman who is forced by the Government to work 10 hours for a day's wages is defrauded of his legal rights.

The executive policy under the act of 1892 has been to pay these claims in the current administration of the departments, without forcing the claimants to go to Congress or to the courts.

In the Navy Department the regulations passed in 1893 provide:

The following rules shall be observed in estimating the pay of laborers, workmen, and mechanics for work performed in excess of eight hours per day.

Then they go on to say what the extra compensation shall be. All these matters are adjusted in the ordinary course of administration.

So far as I am concerned, Mr. President, I originally represented simply the claim of John Glanzmann, a laborer and custodian in the United States customhouse and post-office building at Carson City, Nev., whose salary as such laborer was fixed at $720 a year, the compensation given for similar work to all men employed by the National Government under the eight-hour law. Yet he was compelled for a long period of time, as a matter of economy to the Government, to work 12 hours a day. His claim does not amount to a large sum. But I found upon pressing it that there were other claims in the same category that ought to be adjusted. So I presented an amendment covering all of these claims and aggregating $92,000.

I do hope the chairman of the committee will not further contest these claims—certainly not upon the intangible ground upon which he stood at the last hearing of this matter.

The PRESIDENT pro tempore. Does the Senator from Nevada move to reconsider the vote whereby the bill was passed? That question has not been stated.

Mr. NEWLANDS. I had an impression that it was done this morning.

The PRESIDENT pro tempore. It has not been done.

Mr. NEWLANDS. Then I will ask that the question be put.

The PRESIDENT pro tempore. The Senator from Nevada moves to reconsider the votes by which the so-called omnibus claims bill was ordered to a third reading, read the third time, and passed.

Th motion to reconsider was agreed to.

The PRESIDENT pro tempore. The bill is before the Senate.

Mr. CRAWFORD. The Senator from Nevada offers his amendment at this stage?

Mr. NEWLANDS. I do.

The PRESIDENT pro tempore. The Senator from Nevada offers an amendment, which will be read by the Secretary.

The SECRETARY. It is proposed to add to the bill the following:

CLAIMS OF LABORERS AND MECHANICS IN PUBLIC BUILDINGS FOR EXTRA TIME.

Alabama: Joseph A. Decatur, Mobile, $2,644.50.

Arkansas: Peter Jarrett, Texarkana, $1,462.35; Perry McCarthy, Texarkana, $65.97.

California: John D. Cash, Stockton, $91.31; Joseph A. Workings, Stockton, $165.

Connecticut: William F. Burns, Hartford, $932.25; Fred H. Collins, Hartford, $300.65; Archie E. Galpin, Bridgeport, $109.50; James B. Garrison, Bridgeport, $218.81; William G. Govan, Hartford, $1,576; Joseph M. Mohr, Hartford, $1,088.50; Edmund R. Wadhams, Torrington, $391.16.

Florida: Forrest Crockett, Jacksonville, $230.06; Nelson F. English, Key West, $124.50; John W. Graham, Jacksonville, $168.85; Catherine Lewis, widow of Albert A. Lewis, Key West, $735; James M. Taylor, Key West, $2,300.50; Dennie Kelly, Key West, $918.

Georgia: Moses Mollette, Brunswick, $628.03.

Illinois: Lemuel Gay, Quincy, $763.75; Silas S. Myers, Joliet, $391.79; John O'Neill, Peoria, $1,181.25; Emmett W. Smith, Aurora, $2,093.58.

Indiana: Timothy C. Harrington, Lafayette, $684.66.

Iowa: John Brown, Des Moines, $1,427.28; Joseph O. Drennan, Des Moines, $3,382.25; John Jordan, Des Moines, $159.37; Edward B. Murphy, Des Moines, $187.87; William Halloran, Des Moines, $1,218.

Kansas: William M. Terrill, Topeka, $609.16.

Maine: David B. Hannegan, Portland, $1,405; James E. Rogers, Bangor, $1,105.83; Llewellyn K. Webber, Bangor, $1,862.91.

Massachusetts: Wilson R. Scribner, Lynn, $1,900.45.

Michigan: Harry E. Drake, Jackson, $2,294.40; Willis E. Stimson, Kalamazoo, $2,522.50.

Missouri: Erbin P. Higgins, Sedalia, $772.08.

Nebraska: Wilson Byerly, Norfolk, $205.50; Jacob Renner, Lincoln, $2,514; John J. Rodgers, Blair, $992.79.

Nevada: John Glanzmann, Carson City, $3,296.

New Hampshire: Henry C. Mace, Concord, $461.45.

New Jersey: Silas A. Bryant, Newark, $599.06; George Jacobus, Newark, $1,596.75; William G. Jell, Newark, $1,418; Fergus McCarthy, Newark, $458.75; Conrad Wagner, Newark, $295.31; Andrew J. Meade, Hoboken, $1,147.18.

New York: Daniel P. Culhane, Rochester, $2,078.75; Joseph C. Leddy, Utica, $191.25; Ezra T. Marney, Ogdensburg, $1,956.66; George Miller, Utica, $767.06; Stephen A. Smith, Utica, $259.50; Abraham Epstein, Ogdensburg, $1,242.50; Robert Tobin, Troy, $2,131.56.

Ohio: John Brodie, Columbus, $639.20; Leslie E. Drake, Toledo, $848.75; Stephen A. Ingles, Portsmouth, $556.25; Rudolph L. Johns, Cleveland, $532.25; Theodore Kipp, Dayton, $540; William L. Krautman, Columbus, $669.77; Joseph Kuehne, Cleveland, $2,496.56; Charles H. McCann, Columbus, $213.58; Thomas Murnane, Columbus, $122.17; Ignac Rosinski, Cleveland, $807.18; David Scurry, Columbus, $533.40; Fred Sinclair, Columbus, $386.25; Joseph Sledz, Cleveland, $720.69; Alonzo Thirlkill, Dayton, $775.31.

Pennsylvania: James Dowling, Altoona, $382.59; Adam Hoke, Harrisburg, $1,151.62; William T. Jordan, York, $583.50; William H. Witta, York, $2,145.

South Carolina: James Butler, Columbia, $1,041.96; John Pinckney, Columbia, $871.92; Louis Pryor, Columbia, $4,310.66.

Texas: Frank Broddeker, Galveston, $1,956.62; Sandy Hester, Galveston, $2,273.33; George King, Austin, $351.18; Thomas Thompson, Waco, $1,169.53; Ambrose B. Williams, Beaumont, $736.50; Sidney B. Williams, Beaumont, $593.76.

Virginia: Charles B. Carter, Richmond, $219.80; William H. Parker, Norfolk, $1,147.87; William G. Singleton, Richmond, $2,050.56; Alfred Strange, Lynchburg, $647.29.

Wisconsin: Olaf Swanson, Ashland, $2,001.99.

The PRESIDENT pro tempore. The question is on agreeing to the amendment submitted by the Senator from Nevada [Mr. NEWLANDS].

Mr. CRAWFORD. Mr. President, the rules under which the Committee on Claims proceeded in making up the omnibus claims bill confined the items which were to go into the bill to those which had been referred to the Court of Claims and in regard to which the Court of Claims had made specific findings in favor of the claims. These are not the claims of laborers engaged on public works, serving contractors or subcontractors, and they do not come within the provisions of the eight-hour-day law.

Mr. NEWLANDS. May I ask the Senator a question?

The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from Nevada?

Mr. CRAWFORD. I do.

Mr. NEWLANDS. I do not understand that statement on the part of the Senator.

Mr. CRAWFORD. The statute, known as the eight-hour-day law, found in volume 2 of the Supplement to the Revised Statutes of the United States, at page 62, fixing the limit of service per day at eight hours, applies to laborers and mechanics—

who are now, or may hereafter be, employed by the Government of the United States, by the District of Columbia, or by any contractor or subcontractor upon any of the public works of the United States or of the said District of Columbia.

Mr. NEWLANDS. Does the Senator insist that it applies only to laborers who are engaged upon public works?

Mr. CRAWFORD. If the Senator will permit me to finish my statement he will see just exactly what I mean.

The class of employees included in the proposed amendment is not a class of laborers employed by contractors and subcontractors in the construction of public works or upon public works. These men are engineers, custodians, and janitors employed in the public buildings of the United States—in post-office buildings and buildings of that sort.

The Court of Claims, in making its report upon each one of these claims, made this specific finding, which excluded them from consideration in making up the bill under the rule adopted by the Committee on Claims in framing the omnibus claims bill. On each one there is the following finding. The court finds that—

In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States, the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth without regard to the number of hours they might be required to labor.

That is the clear, specific finding of the Court of Claims in each case.

I am not going to discuss with the Senator from Nevada the question whether or not that finding is a just one, or as to whether this group of claims, presented in another way and for consideration at another time, might not have some merit. I do not care to express an opinion upon that subject now. I am not out of sympathy with this class of men, nor with the claim for an eight-hour-day law. But after the committee has worked for months along certain specific lines and within certain specific rules in determining what items should be placed in the bill and reported favorably it would not be fair to others who may have just claims against the Government, at the last moment, here in the Senate, to depart from the rules adopted in making up the bill and open the door to a large class of claims with this finding from the Court of Claims standing here as it does to prohibit their going into the bill unless we violate the rules which we followed in framing it.

It is upon that ground, so as to be consistent and fair and just to other claimants whose claims, because they did not fall within the rules that governed us here, shall not be discriminated against, that we can not consent to this amendment and must insist, in fairness to others, that it be rejected.

For instance, the Senator from Oregon [Mr. CHAMBERLAIN], who is most earnestly interested in a claim, came to me only the other day about the claim. Knowing the Senator's earnestness in its behalf, and the courtesy which he always extends to others, I would have been glad to have given it consideration. But it was not suggested nor presented when we were making up the bill, nor even considered. It would be unfair to the claim of the Senator from Oregon now to reconsider the bill simply for the purpose of allowing the claims which the Senator from Nevada has presented and not to include his. If we included his, some one else might bring forward for the first time some claim that had possible merit in it, which never had been considered by the committee, and which did not come within the rules under which the committee was acting, and there would be a contention that that ought to be included. So there would be no line circumscribing the items going into the bill.

Those considerations, together with this finding from the Court of Claims, impel me to resist the amendment offered at this time by the Senator from Nevada.

Mr. NEWLANDS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Nevada suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cullom	Lodge	Root
Bankhead	Dillingham	McCumber	Sanders
Bourne	Fletcher	Martin, Va.	Shively
Bradley	Foster	Martine, N. J.	Simmons
Brandegee	Gallinger	Myers	Smith, Ariz.
Bristow	Gamble	Newlands	Smith, Md.
Bryan	Gardner	O'Gorman	Smith, Mich.
Burnham	Guggenheim	Oliver	Smoot
Burton	Heiskell	Overman	Swanson
Catron	Hitchcock	Paynter	Thomas
Chamberlain	Johnson, Me.	Penrose	Thornton
Chilton	Johnston, Ala.	Percy	Townsend
Clark, Wyo.	Johnston, Tex.	Perkins	
Clarke, Ark.	Kern	Perky	
Crawford	La Follette	Pomerene	

Mr. KERN. I desire to announce again the unavoidable absence of the Senator from South Carolina [Mr. SMITH] on account of illness in his family.

The PRESIDENT pro tempore. On the call of the roll 57 Senators have answered to their names. A quorum of the Senate is present. The question is on the amendment submitted by the Senator from Nevada [Mr. NEWLANDS].

Mr. NEWLANDS. Mr. President, I will simply state to the Senate that we are about to take a vote upon these claims for extra pay for mechanics and laborers employed on public buildings under a law which required only eight hours' work and which made it absolutely unlawful for the officials of the Government to employ any man in excess of eight hours. We have here the findings of the Court of Claims that these 87 men, living in 25 States of the Union, as stated in this document, worked overtime, and their extra compensation would amount to about $92,000. A similar claim was passed some years ago by Congress. No such claim, to my knowledge, has been denied.

All that the chairman of the committee can say is that the finding of the Court of Claims determines that the officials of the Treasury Department in fixing the salaries did not take into consideration the number of hours. That is true; because they assumed, and they had the right to assume, that the number of hours would be the legal number of hours—eight hours a day—and that no official of the Government would commit a misdemeanor by requiring of an employee time in excess of eight hours. So, of course, the compensation was fixed without regard to the number of hours upon the assumption that the number of hours during which these men would be employed would comply with the legal requirements.

Mr. President, we have been legislating for years upon the labor question. Congress has determined that the Government of the United States shall be a model employer. It passed an eight-hour law with reference to mechanics and laborers engaged in the public service and prescribed that the limit of

their work should be eight hours. The courts determined that to be simply discretionary, and then Congress passed another act making it mandatory—making it unlawful for any official to employ a man in excess of eight hours.

Here are these men, our constituents in the various States, called upon in defiance of law to work often as many as 12 hours a day when the law requires only 8, rendering their claims to the Government, which have been favorably ascertained by the Court of Claims, and we are told that the Committee on Claims has selected a certain batch of claims which it thinks it can pass through the processes of accommodation or compromise between sections and classes and between the two Houses that have prevailed with reference to this matter.

I insist upon it that if it is a just claim it ought to be recognized by the Congress of the United States. It is the claim of a laboring man who has rendered an employer service under the command of his superior in defiance of law, and it presents equitable consideration to the Government for settlement, the Government itself having received in the case of many of these men four hours more work every day than they were called upon by the law to render.

Mr. PAYNTER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from Kentucky?

Mr. NEWLANDS. Certainly.

Mr. PAYNTER. I just entered the Chamber a few moments ago, and I have not heard the discussion. Has the Court of Claims adjudicated this sum to be due these laborers?

Mr. NEWLANDS. I will give as a sample the case of John Glanzman, who is a laborer and watchman at a public building in Nevada. The Court of Claims finds that while employed as a watchman and laborer at a salary of $720 a year, presumed to be fixed with reference to eight hours a day, the officials at the Treasury Department—

> In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States, the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth without regard to the number of hours they might be required to labor.

The chairman of the committee seems to assume that when a court says that they fixed this compensation without regard to the number of hours, it is equivalent to a finding that they fixed the labor with regard to the number of hours; that the compensation was therefore fixed for a 9, 10, or 12 hour day instead of an 8-hour day, and that hence the $720 allowed this man is ample compensation. The court finds that they fixed that compensation without considering at all the number of hours, and it is simply with reference to the character of the location that the law fixed the number of hours at 8 hours a day, not 12 hours a day.

Mr. PAYNTER. Mr. President——

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). Does the Senator from Nevada yield to the Senator from Kentucky?

Mr. NEWLANDS. Certainly. I wish to say to the Senator that that is a sample of these claims.

Mr. PAYNTER. I wish to ask an additional question. Has the court ascertained the number of hours that they worked in excess of eight hours a day?

Mr. NEWLANDS. In each case the number of extra hours and the value.

Mr. PAYNTER. Has the court made any statement as to how it was that these employees worked more hours than they were required to do by law?

Mr. NEWLANDS. No; the court makes no statement about that. It simply finds the facts as to the employment, the character of the employment, the actual number of hours of overtime, and what that overtime was worth judged by the compensation which they received.

Mr. PAYNTER. The question in my mind is whether the service was voluntarily rendered by the parties.

Mr. NEWLANDS. The Senator will hardly claim that a laborer who responds to the demand of an official to work 12 hours when the law requires 8——

Mr. PAYNTER. I did not pretend to make any claim about it. I simply wish to be informed as to the facts.

Mr. NEWLANDS. Now, Mr. President, I should like to have a vote upon the amendment.

Mr. KERN. Mr. President, I should like to ask the Senator from Nevada a question. I observe from the papers I have here in all the cases where they set out the proceedings that one attorney appeared for all of them. I wish to inquire whether some attorney has scoured the United States to hunt up these claims and whether he or they will get a very large part of this appropriation.

That is my first question. My second is this: I see that from my own State there is only one claim, and I imagine under this law, if the attorneys had used the proper diligence, they might have found a very large number of cases.

Mr. CRAWFORD. Mr. President, it is impossible for us to hear what the Senator from Indiana says.

The PRESIDING OFFICER. The Senate will please observe order.

Mr. KERN. My question is whether the adoption of the amendment will not open the door to a large flood of similar claims, amounting to millions of dollars.

Mr. NEWLANDS. I will state regarding that that I represent simply a constituent of mine in Nevada, an honest, hard-working man named John Glanzman, universally respected there, who worked 12 hours a day as a watchman and laborer when the law required him to work only 8 hours a day, and that his pay was $720 a year. He comes in with this claim aggregating $3,296. He wrote me in regard to this matter and gave me the name of his attorney. I sent word to his attorney asking him to familiarize me with the facts in the case. The attorney seemed to me to be a very reputable and respectable man, who is practicing law here as any other man would, and who was presenting what he regarded as just claims against the Government. I found that there were other claims in the same category with that of my client, and I thought it would be better to get the united support of the Senators from the various States whose constituents were similarly affected with a view to getting action by this body, for I know how powerful the Committee on Claims is and how likely the body is always to accept its advice and to reject any claim which it does not favor, or, at all events, to postpone its consideration until the future. Hence, I want as much supporting power as possible in this matter. Having looked into all the findings, I had them grouped and I looked over them carefully; and having been satisfied with the justness of these claims, I presented them in one amendment.

I wish to say that this attorney has never been obtrusive in any way; that he has never been lobbying; that he has never been pushing. I sent for him to ascertain the facts, and the facts are presented in the statement which he got up at my request.

Now, with reference to a flood of claims, I wish to say there is no probability of a flood of claims, for the reason that of late years the departments have recognized their obligation under the law to pay for this overtime, and under regulations they are now paying for overtime without compelling the employees to resort to Congress or to the Court of Claims wherever they work more than eight hours a day. That is a matter of common occurrence in the departments, and I think I am safe in saying that all the claims extant are now covered by these judgments. That is my impression, at least.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nevada yield to the Senator from North Carolina?

Mr. NEWLANDS. Certainly.

Mr. SIMMONS. I understood the Senator to say that now the departments are paying for overtime under the law of Congress. The question I wish to ask the Senator is whether in making the calculation as to what is due to these claimants the Court of Claims recognized the principle laid down by the law of Congress under which he says the departments are now paying for overtime, and whether it is based upon that principle adopted by Congress.

Mr. NEWLANDS. I assume they did. The Court of Claims ascertained the facts. The Court of Claims do not render judgments against the United States. They ascertain the facts, and those facts I have read. Those facts cover, first, the character of the employment; second, the rules which are followed in fixing the compensation of employees.

Mr. SIMMONS. When was that judgment rendered?

Mr. NEWLANDS. December 20, 1909.

Mr. SIMMONS. Has Congress fixed a scale of wages where employees work overtime since that date?

Mr. NEWLANDS. My understanding is that in all these employments of laborers, etc., the compensation is fixed by certain officials in the Treasury Department.

Mr. SIMMONS. That is under an act of Congress?

Mr. NEWLANDS. I presume it is under an act of Congress.

Mr. SIMMONS. And that act prescribes the basis of the calculation.

Mr. NEWLANDS. I do not know whether it prescribes the basis or not. At all events it fixed the compensation, and the

officials whose duty it was to fix the compensation say that they fixed it without considering the number of hours.

Mr. SIMMONS. The question I wish to ask is whether they fixed it under any rule of law or whether they fixed it upon some theory of just compensation evolved by themselves.

Mr. HITCHCOCK. I can answer the question asked by the Senator from North Carolina by reading finding No. 3 in the case quoted:

III. The number of hours worked by claimant in excess of 8 hours a day during the period from August 1, 1892, as set forth in Finding I, is 13,184; and his services for said hours, computed upon the basis of the salary he was receiving during said period, namely, $720 per annum, would amount to $3,296.

So the additional pay is allowed pro rata to the salary he received.

Mr. NEWLANDS. Mr. Casady, one of the officials of the Treasury Department, charged with the duty of fixing the compensation, says:

In fixing the compensation of these employees no consideration was given to the fact that they might or might not be required to work more than eight hours per day.

Employees, such as the claimants, whose duties required them to work more than eight hours per day at the public buildings where they were employed, do not receive any greater compensation than similar employees performing work at other public buildings who were not required to work more than eight hours per day.

Seven hundred and twenty dollars was fixed as the compensation, for instance, of a watchman and laborer. In the case of a man who labored in the building during the day and also acted as watchman his compensation was fixed, regardless of the number of hours. The record is that in some public buildings men worked 8 hours a day and got $720, and in others they were called on to work 12 hours a day and received only $720.

The PRESIDENT pro tempore. The question is on the amendment submitted by the Senator from Nevada.

Mr. CRAWFORD. Mr. President, I do not want the statement of the Senator from Nevada to go entirely without challenge, and some Senators have come in since I was on my feet before.

I desire again to disclaim absolutely and sweepingly any disposition to deprive any laborer anywhere of his right to benefit under any provision of law for an eight-hour day. I simply want to say that the Committee on Claims, as I said a while ago, had to fix a boundary line somewhere in determining what items would be placed in this particular bill, and it decided to confine the items to claims which had express decisions in their favor coming from the Court of Claims.

The claims which the Senator from Nevada is advocating do not have such a decision in their favor from the Court of Claims. I will again read the finding of that court which runs through every one of these cases. The court finds that:

II. In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth, without regard to the number of hours they might be required to labor.

As I said a while ago, without making an issue or going into a discussion of these particular claims, the Committee on Claims, under the rules which they adopted for guidance as to what should be put into the omnibus claims bill, had to reject these claims from that bill to be fair to other claims which were excluded by its rules, because these claims did not come within their rules.

As I said, if we open up this bill now, the Senator from Oregon [Mr. CHAMBERLAIN], who has been so considerate and fair with reference to his claim, has just as much right to insist that we send his claim to the committee and travel over the whole question with reference to the Oregon claim and have it up for discussion here as the Senator from Nevada has a right to have this whole question reviewed for this class of claims.

If we concede it to the Senator from Oregon any other Senator might think there was some claim that was not within the rules governing the committee which should be considered, and the whole question would come up for review, and the procedure on which it was necessary for the committee to follow in deciding what should go into the omnibus claims bill would be completely broken down and we would be simply at chaos. It is hardly——

Mr. NEWLANDS. May I ask the Senator a question?

Mr. CRAWFORD. In just a moment, when I finish the sentence. The Senator is hardly fair to this committee in making the inference that it has made up this bill simply by balancing one claim against another for the purpose of passing it. I care very little about the question of the mere passage of the bill. The committee has done faithful and diligent work in attempting at least to scrutinize very closely the character of every claim in the bill. I think we have excluded more items that were questionable than has ever been done before in an omnibus claims bill. Our work has been along that line particularly rather than trying with a dragnet to pull claims in concerning which there might be some doubt.

Mr. PAYNTER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from Kentucky?

Mr. CRAWFORD. Certainly.

Mr. PAYNTER. I did not rise for the purpose of criticizing the conduct just described by the Senator from South Dakota. I am almost tempted to do so, however, by reason of the fact that so many very just claims were excluded by the committee from the bill.

Mr. CRAWFORD. I will say to the Senator that they go to conference, and if the Senator feels that they have been put out unjustly they have to be dealt with in conference.

Mr. PAYNTER. I wish to call the Senator's attention to this fact for the purpose of inquiring as to whether my view is correct or not. If I understood the finding which the Senator read a moment ago to the Senate, it was to the effect that the compensation was fixed for these watchmen and laborers regardless of the hours which they might be employed. Is that correct?

Mr. CRAWFORD. I simply read the finding which said it was fixed at what the service was worth.

Mr. PAYNTER. If that is the case, then it would look like those who fixed the salary fixed it at a less amount than was fixed by the law under which eight hours had been established as a day's work.

Mr. CRAWFORD. I think that is a fair inference.

Mr. PAYNTER. That is a fair inference to be drawn from the finding. I understood the Senator to state that there had been no finding in favor of these claims by the Court of Claims.

Mr. CRAWFORD. The only finding is the one which I read.

Mr. PAYNTER. Except the one which the Senator read.

Mr. CRAWFORD. Yes; except that they did ascertain from their time-keeping records how many hours these men worked. That is true; but the finding as to the merits of their claim and the conclusion of the Court of Claims was the one which I read, where they said they took into consideration the environment, the cost of living, the conditions surrounding them, and fixed the yearly compensation at what the service was worth.

Mr. NEWLANDS. But the Senator construes that as fixing the compensation at what the work was worth with regard to the number of hours instead of, as the Court of Claims says, without regard to the number of hours.

Mr. CRAWFORD. No; the Senator construed it and the committee construed it simply to this extent, that it did not bring these claims within the group and class of claims we were putting in the omnibus claims bill, because we were putting in that bill only those claims where the findings of the Court of Claims were clear and unequivocal in their favor, and with this finding we could not put this group of claims in that class.

Mr. NEWLANDS. I can not understand how a finding can be clearer than this one, when they fix the compensation and then say, "We did not take into consideration at all the number of hours." The assumption is, of course, that the number of hours would be the legal number of hours.

Mr. CRAWFORD. Mr. President, the mere fact that we, under these rules, did not embrace these claims in the bill, finding it necessary to follow some rule, does not mean, as I said, foreclosing these people or erecting a bar or entering judgment against them. Whatever merit they have, I think, it would be fairly well to group them together in one bill and present it here and let it be considered on its merits. But I repeat that in a great bill embracing claims—and they are stacked up before the committee by the hundreds and by the thousands—it is necessary in framing the bill to fix some boundary line and some rule, and after you have once established it to follow it, or there will be just reason of complaint on the part of different Senators. If you break it down and discriminate in favor of one Senator and show a disposition to be partial here and partial there, your troubles would certainly be abundant. We have tried to honestly and fairly adhere to the rules which were adopted by the committee.

Mr. HITCHCOCK. I should like to ask the chairman of the committee whether it is not a fact that the findings of the court, as far as the facts are concerned, are clear and unqualified?

Mr. CRAWFORD. That is true.

Mr. HITCHCOCK. First, that the men did work so many hours overtime?

Mr. CRAWFORD. That is true.

Mr. HITCHCOCK. Second, that the rate of pay was so much; and, third, that at that rate of pay they would be entitled to so much money if the eight-hour law was to be respected?

Mr. CRAWFORD. That is all true.

Mr. HITCHCOCK. Now, if those findings of fact are clear, does not the chairman of the committee think these claims presented by laborers should have been entitled to come within the boundary which he laid out for the bill?

Mr. CRAWFORD. Well, it is too late to go back and go all over that ground again. I do not think so, for this reason: Suppose the compensation was $10,000 a year. Let us make an extravagant assumption. If that salary of $10,000 a year had been prorated per hour, they worked so many hours, and they would be entitled, if the time was limited to eight hours a day, to so much more than they received. You can not cut that loose from the conclusion of the Court of Claims, where the Court of Claims says that in fixing that yearly salary they fixed it at what this labor was worth, and if they fixed it at $1,600 a year, they fixed it because in the opinion of the Treasury officials the services of that janitor were worth $1,600. Although he might work 8 hours one day and 9 hours the next day, and under some emergency 10 hours the next day, when they gave $1,600 for the year they gave him what that service was worth. There is that finding to which we considered we should give some weight.

Mr. HITCHCOCK. I should like to continue my question. If the Court of Claims made these findings of fact, I ask the chairman of the committee was there anything else for the committee to do, or is there anything else for Congress to do, but to say whether the eight-hour law shall be applied to those facts? If that be true, why should that not be done now, rather than keep these laboring men waiting 15 or 20 years to secure the payment of their claims?

Mr. CRAWFORD. I think there was something else to do.

Mr. HITCHCOCK. Nothing but the application of the law.

Mr. CRAWFORD. There was the duty of giving consideration to its conclusion that in fixing the yearly salary they fixed it at what the service was worth; and if these men have received what that service is worth, if that finding by the Court of Claims is true in fact, then wherein does the Government do these men any injustice?

Mr. NEWLANDS. Did they not fix this compensation at what it was worth at eight hours a day?

Mr. CRAWFORD. They do not say anything of the sort, but they do say that they fixed it for what the service was worth, without regard to the number of hours.

Mr. HITCHCOCK. Will the chairman contend——

The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from Nebraska?

Mr. CRAWFORD. Yes.

The PRESIDENT pro tempore. Senators will kindly address the Chair and get permission to interrupt.

Mr. HITCHCOCK. Mr. President——

The PRESIDENT pro tempore. The Senator from Nebraska.

Mr. HITCHCOCK. Will the chairman of the committee contend that these administrative officers of the department had any right to fix the amount which should be paid to these men for a year's work, without regard to the hours of daily labor, after Congress had prescribed the hours that they should work each day?

Mr. CRAWFORD. The Senator there opens up another question, which shows——

Mr. HITCHCOCK. Is not that the only question in the case?

Mr. CRAWFORD. Oh, no; the Senator opens up another question, which shows how unfair it is to the committee at this late day to bring in this amendment, when the rules followed by the committee do not permit it, because the language of the eight-hour statute applies to men engaged upon public works; and a post-office building in which a man is acting as a janitor or custodian is certainly a different class of work, and, in contemplation of the language used, there is a question of whether that statute applies to the janitor or to the engineer or the custodian in such a building.

Mr. HITCHCOCK. Let me ask the Senator this question——

Mr. CRAWFORD. What about the custodian of a public building?

Mr. HITCHCOCK. Let me ask the chairman this question right there. Is it not a fact that universally the eight-hour law applies not only to public works but to all work done by a contractor for the Government and to these very custodians and watchmen?

Mr. CRAWFORD. I think that is true.

Mr. HITCHCOCK. Well, if that is the fact and that was the intention of Congress, why are the claims of these men not upon a just basis?

Mr. CRAWFORD. I have tried to explain.

Mr. HITCHCOCK. The chairman complains that this is called to the attention of the committee at this late hour. I want to call his attention to the fact that the hour is still later for these men who have been waiting a good many years to ascertain whether Congress meant what the law said it should mean.

Mr. CRAWFORD. I understand the situation very well; but I say to the Senator, if this finding is true and correct, that their compensation was fixed at what the service was worth. It was not fixed by the hour; it was not fixed by the month; but it was fixed by the year.

Mr. HITCHCOCK. But I will say to the Senator again——

Mr. CRAWFORD. And it was fixed at what the service was worth. Then, if that contention is correct as to every farmer in the United States who has employed a plowboy or has employed a man to work by the year, at $400 or $600 a year, it would be equally just to go back and review that contract and to say that, in the contemplation of law, it was only intended that that plowboy or that man working in the field should be engaged for eight hours a day, and ask the farmer to go back and compute the number of hours the boy milking the cows late at night and getting up at 4 o'clock in the morning, going into the field and working 14 and even 15 hours a day, as I know many and many of them do—you would have in principle just as much right to go back and make that farmer review the service of that employee, to clip off the service at the end of eight hours, and apportion that $400 a year to it, and then give the employee a judgment for the difference.

There are two sides to this question. The Senator drives me to it, and I do it with the utmost liberality, kindness, and fairness toward these janitors and these engineers, but I say the committee was justified, and it was consistent, after establishing these rules, in adhering to them and keeping this group of claims upon which this finding was made for consideration strictly upon their merits instead of putting them into this bill, and that is as far as we go in the matter.

Mr. HITCHCOCK. Mr. President, I am amazed that the Senator from South Dakota should attempt to compare or to give as a parallel case the farmer employing a man by the year or the month without any limitation by law as to the number of hours that he can contract with his man to work——

Mr. CRAWFORD. I am discussing——

Mr. HITCHCOCK. Let me finish.

Mr. CRAWFORD. Very well.

Mr. HITCHCOCK. And the case of a Government employee, who is supposed to be acting under the direction of Congress, after Congress has directed that the men employed shall work only eight hours, and when, as a matter of fact, the employee of the Government has no power to make a contract, but has a right to depend upon the acts of Congress made for his protection.

Mr. CRAWFORD. Will the Senator permit me to say he is now discussing a law that was passed after this service was rendered?

Mr. HITCHCOCK. I am not discussing a law that was passed afterwards. I am discussing a law that was passed previously. It has been necessary, however, since 1892 to pass a number of supplemental acts in order to enforce and emphasize the will of Congress and to compel these administrative officials to obey it. That is the only reason subsequent laws were passed.

Mr. CRAWFORD. The Senator can not make any issue with me as to the justice and soundness of the eight-hour-day law, but I reiterate that in principle, in morals, and from the standpoint of the personal right of the individual, the janitor in a public building is not any better than the plowboy; the engineer in the basement of a Government post-office building is not any better than the boy who gets up at 4 o'clock in the morning on the farm and works until 10 o'clock at night—not a bit. I am speaking as a matter of principle and of moral right.

Mr. CLARKE of Arkansas. May I ask the Senator from South Dakota a question?

The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from Arkansas?

Mr. CRAWFORD. Certainly.

Mr. CLARKE of Arkansas. Does it appear that these claims have been assigned or is there an affirmative showing that they are still in the ownership of the persons who rendered this so-called service?

Mr. CRAWFORD. We know nothing about that, if the Senator please.

Mr. CLARKE of Arkansas. Does the Senator know what part of this money would go to the claim agents, who probably worked up these claims, in the event this item should be included?

Mr. CRAWFORD. I will say that a number of these claims have been worked up by attorneys. I am going to discuss one in a few moments, if we ever get through with this matter, the case of the Cramp Shipbuilding Co., and I should like to get through with this so as take that up. I have a few things to say to the Senate about it.

Mr. CLARKE of Arkansas. If the Senator is not prepared to answer at this time the question I submitted to him, I will ask permission to ask him again at a little later stage of the discussion.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Nevada [Mr. NEWLANDS].

Mr. HITCHCOCK. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. GARDNER (when his name was called). I am paired for the day with the Senator from Massachusetts [Mr. CRANE] and therefore withhold my vote.

Mr. TOWNSEND (when the name of Mr. JONES was called). The senior Senator from Washington [Mr. JONES] is unavoidably detained from the Senate on official business.

Mr. KERN (when his name was called). I have a general pair with the Senator from Kentucky [Mr. BRADLEY]. Not knowing how he would vote if he were present, I withhold my vote.

Mr. LIPPITT (when his name was called). I transfer my pair with the senior Senator from Tennessee [Mr. LEA] to the junior Senator from Maryland [Mr. JACKSON] and will vote. I vote "nay."

Mr. LODGE (when his name was called). I have a general pair with the junior Senator from Georgia [Mr. SMITH]. I do not know how that Senator would vote if present, and I therefore withhold my vote.

Mr. PAYNTER (when his name was called). I have a general pair with the senior Senator from Colorado [Mr. GUGGENHEIM] and therefore withhold my vote.

Mr. PERKINS (when his name was called). I have a general pair with the junior Senator from North Carolina [Mr. OVERMAN]. Not knowing how he would vote on this question if present, I withhold my vote.

Mr. SIMMONS (when his name was called). I have a general pair with the junior Senator from Minnesota [Mr. CLAPP]. I do not know how he would vote if present, and I therefore withhold my vote.

Mr. STONE (when his name was called). I have a general pair with the Senator from Wyoming [Mr. CLARK]. I do not know how he would vote if present, and so I withhold my vote.

The roll call was concluded.

Mr. CURTIS. I desire to announce that I have a pair with the Senator from Oklahoma [Mr. OWEN], and I therefore withhold my vote.

Mr. DU PONT. I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. As he is not in the Chamber I withhold my vote.

Mr. MYERS. I have a general pair with the Senator from Connecticut [Mr. MCLEAN]. I transfer that pair to the junior Senator from Florida [Mr. BRYAN] and will vote. I vote "yea."

The PRESIDENT pro tempore (when Mr. GALLINGER's name was called). The occupant of the chair is paired with the junior Senator from New York [Mr. O'GORMAN] and therefore withholds his vote.

The result was announced—yeas 19, nays 28, as follows:

YEAS—19.

Ashurst	Fletcher	Martine, N. J.	Shively
Bankhead	Gore	Myers	Smith, Ariz.
Burton	Hitchcock	Newlands	Smith, Md.
Chamberlain	Johnson, Me.	Perky	Works
Chilton	La Follette	Pomerene	

NAYS—28.

Bourne	Dillingham	Martin, Va.	Smoot
Bristow	Gamble	Nelson	Sutherland
Brown	Gronna	Oliver	Swanson
Burnham	Heiskell	Page	Thornton
Clarke, Ark.	Johnston, Ala.	Poindexter	Tillman
Crawford	Lippitt	Root	Townsend
Cullom	McCumber	Sanders	Wetmore

NOT VOTING—48.

Bacon	Briggs	Clark, Wyo.	Curtis
Borah	Bryan	Crane	Dixon
Bradley	Catron	Culberson	du Pont
Brandegee	Clapp	Cummins	Fall
Foster	Kern	Paynter	Smith, Mich.
Gallinger	Lea	Penrose	Smith, S. C.
Gardner	Lodge	Percy	Stephenson
Guggenheim	McLean	Perkins	Stone
Jackson	Massey	Reed	Thomas
Johnston, Tex.	O'Gorman	Richardson	Warren
Jones	Overman	Simmons	Watson
Kenyon	Owen	Smith, Ga.	Williams

The PRESIDENT pro tempore. Less than a quorum has voted.

Mr. CRAWFORD. I ask for a call of the absentees.

The PRESIDENT pro tempore. The roll will be called under the rule.

The Secretary called the roll, and the following Senators answered to their names:

Bankhead	Dillingham	Lippitt	Poindexter
Bourne	du Pont	Lodge	Pomerene
Brandegee	Foster	McCumber	Sanders
Bristow	Gallinger	Martin, Va.	Simmons
Brown	Gardner	Martine, N. J.	Smith, Md.
Burnham	Gore	Myers	Smoot
Burton	Gronna	Nelson	Sutherland
Chamberlain	Heiskell	Newlands	Swanson
Chilton	Hitchcock	Oliver	Thomas
Clarke, Ark.	Johnson, Me.	Page	Thornton
Crawford	Johnston, Ala.	Paynter	Townsend
Cullom	Johnston, Tex.	Perkins	Wetmore
Cummins	La Follette	Perky	Works

The PRESIDENT pro tempore. Fifty-two Senators have answered to their names. A quorum of the Senate is present. The question is on the amendment submitted by the Senator from Nevada [Mr. NEWLANDS], upon which the Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. DU PONT (when his name was called). I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. In his absence from the Chamber I withhold my vote.

Mr. FOSTER (when his name was called). I have a general pair with the junior Senator from Wyoming [Mr. CLARK], who is absent. I therefore withhold my vote.

The PRESIDENT pro tempore (when Mr. GALLINGER's name was called). The occupant of the chair is paired with the junior Senator from New York [Mr. O'GORMAN]; but he transfers that pair to the junior Senator from Nevada [Mr. MASSEY], and will vote "yea."

Mr. GARDNER (when his name was called). I again announce my pair with the Senator from Massachusetts [Mr. CRANE].

Mr. KERN (when his name was called). I again announce my general pair with the Senator from Kentucky [Mr. BRADLEY]. Not knowing how he would vote if he were present, I withhold my vote.

Mr. TOWNSEND (when Mr. JONES's name was called). I again desire to announce the necessary absence on business of the Senate of the Senator from Washington [Mr. JONES].

Mr. LIPPITT (when his name was called). I again announce the transfer of my pair with the senior Senator from Tennessee [Mr. LEA] to the junior Senator from Maryland [Mr. JACKSON] and will vote. I vote "nay."

Mr. LODGE (when his name was called). I have a general pair with the junior Senator from Georgia [Mr. SMITH]. I transfer that pair to the senior Senator from New Mexico [Mr. CATRON] and will vote. I vote "yea."

Mr. MYERS (when his name was called). I have a general pair with the Senator from Connecticut [Mr. MCLEAN]. I transfer that pair to the junior Senator from Florida [Mr. BRYAN] and will vote. I vote "yea."

Mr. PAYNTER (when his name was called). I again announce my pair with the senior Senator from Colorado [Mr. GUGGENHEIM]. In his absence I withhold my vote.

Mr. PERKINS (when his name was called). I again announce my general pair with the junior Senator from North Carolina [Mr. OVERMAN].

The roll call was concluded.

Mr. DILLINGHAM. I have a general pair with the Senator from South Carolina [Mr. TILLMAN]; but I am advised that on the previous roll call he voted as I did, and, therefore, I feel at liberty to vote, and will allow my vote in the negative to stand.

Mr. SIMMONS. I desire again to announce my pair with the Senator from Minnesota [Mr. CLAPP].

The result was announced—yeas 20, nays 29, as follows:

YEAS—20.

Ashurst	Gallinger	Martine, N. J.	Pomerene
Bankhead	Hitchcock	Myers	Shively
Brown	Johnson, Me.	Newlands	Smith, Ariz.
Burton	La Follette	Percy	Smith, Md.
Chamberlain	Lodge	Perky	Works

NAYS—29.

Bourne	Burnham	Cullom	Gamble
Brandegee	Clarke, Ark.	Cummins	Gore
Bristow	Crawford	Curtis	Gronna

Heiskell	Martin, Va.	Sanders	Townsend
Johnston, Ala.	Nelson	Smoot	Wetmore
Johnston, Tex.	Oliver	Sutherland	
Lippitt	Page	Swanson	
McCumber	Poindexter	Thornton	

NOT VOTING—46.

Bacon	Dixon	McLean	Smith, Ga.
Borah	du Pont	Massey	Smith, Mich.
Bradley	Fall	O'Gorman	Smith, S. C.
Briggs	Fletcher	Overman	Stephenson
Bryan	Foster	Owen	Stone
Catron	Gardner	Paynter	Thomas
Chilton	Guggenheim	Penrose	Tillman
Clapp	Jackson	Perkins	Warren
Clark, Wyo.	Jones	Reed	Watson
Crane	Kenyon	Richardson	Williams
Culberson	Kern	Root	
Dillingham	Lea	Simmons	

So Mr. NEWLAND'S amendment was rejected.

The bill was ordered to a third reading, read the third time, and passed.

Mr. CRAWFORD. Mr. President, the omnibus claims bill, just passed, has been amended so radically that there is not the slightest doubt that the House will reject the amendments and ask for a conference. To save time—and I understand it is not without precedent—I move that the Senate request a conference with the House of Representatives upon its amendments, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. CRAWFORD, Mr. TOWNSEND, and Mr. BRYAN the conferees on the part of the Senate.

CONSTRUCTORS OF THE BATTLESHIP "INDIANA."

Mr. CRAWFORD. Mr. President, I move that the Senate proceed to the consideration of the bill (S. 4840) to carry into effect the judgment of the Court of Claims in favor of the contractors for building the U. S. battleship *Indiana*, with a view to its indefinite postponement. It is accompanied by an adverse report from the Committee on Claims.

The motion was agreed to.

The PRESIDENT pro tempore. The question is upon the indefinite postponement of the bill.

Mr. CRAWFORD. Mr. President, on that question I desire to be heard.

Mr. SMOOT. Mr. President——

Mr. CRAWFORD. Does the Senator from Utah desire to submit a statement?

Mr. SMOOT. Yes; I desire to submit a statement.

Mr. CRAWFORD. I yield to the Senator for that purpose.

Mr. SMOOT. Mr. President, in 1908 a bill identical with this passed the Senate, upon a favorable report from the Committee on Claims. At that time it was referred to me as a subcommittee, and I made a favorable report. When the report was made at this session of Congress I was not at the meeting that authorized the report, and I claim no courtesy because of that fact. I received a letter from a party in New York asking me if I had changed my views upon this particular bill, and among other things asking me if not to let him know. He inclosed a copy of the report that I made on February 17, 1908.

I wish to say to the Senate that at that time I went into the claim very thoroughly, as I thought. I had the contract before me. I secured all the information that I could from the Court of Claims. I submitted a favorable report on the bill. The bill under consideration is a claim by the builders of the battleship *Indiana*, by which they are seeking reimbursement of the expenses to which they were put for the care, maintenance, preservation, insurance, and wharfage during a delay or two years after the expiration of the contract period, brought about by the failure of the United States to furnish them with the armor "in the time and in the order necessary to carry on the work properly." This has been agreed to not only by the department and the Secretary of the Navy, but the Senators will find in the report that I made a statement from each and every one of the parties that had anything to do with the contract and building of the battleship *Indiana*.

The Court of Claims, after a protracted trial, found that the necessary and reasonable cost during this delay, which they found was solely and entirely due to the fault of the United States, amounted to $177,823.55; but on account of a release given on May 10, 1894, at the time of an advance payment by which the builders agreed to waive so much of the claim as accrued prior to that date, the court allowed only the expenses incurred after that date, for a period of one year, six months, and nine days, and gave judgment for the sum of $135,560. In the report you will see these findings set out in detail.

The case was appealed to the Supreme Court, and that court reversed the judgment upon the sole ground that a final receipt and release given May 19, 1896, upon the payment to the builders of the balance of the contract price, viz, $41,132.80, was intended by the parties to be a final settlement of the present claim, which the Court of Claims found amounted to $177,823.55 additional. The equities were not considered by the Supreme Court, as fully appears in the correspondence between Mr. Justice Brewer, who delivered the opinion, and one of the counsel for the company. Of course I included a copy of that letter in my report.

The builders now ask that Congress, upon equitable grounds, shall reimburse them for these expenses, and they file in support of their petition the affidavits of the ex-Secretary of the Navy, Gen. Tracy; his assistants, Admiral Hichborn, Chief of the Bureau of Construction, and ex-Naval Constructor Nixon, who designed the vessel, being all the Government officers that had any part in the preparation of the contract; of ex-Secretary Herbert, who took the receipt, and Mr. Charles H. Cramp, president of the company, who signed both contract and receipt, each and all unanimously declaring in specific terms that it was never the intent of either of the parties to the contract by the giving or accepting of the receipt to in any way waive, bar, or settle the claim now presented.

This evidence was not before the Supreme Court, and the facts now presented differ in this material respect from the case as presented to that court. The delays in furnishing the armor were caused by the praiseworthy desire of Secretary Tracy to obtain for these new vessels of war the most invulnerable armor that it was possible to procure. At that time the subject of armor plate was in its infancy, and new processes of its manufacture were being devised and presented to the department for adoption. A series of exhaustive tests and experiments were made, which consumed most of the contract period, and it was not until February, 1893, that the Secretary finally adopted the nickel-steel harveyized armor, and that surpassed all armor in any of the navies of the world. These delays had a similar effect upon the builders of the *Oregon*, *Maine*, *Terror*, and *Texas*, and these were the only vessels that were delayed from this cause aside from the *Indiana* and *Massachusetts*, built by the Cramp Co. The Richmond Locomotive Works, builders of the machinery for the *Texas*, and N. F. Palmer & Co. (the Quintard Iron Works), builders of the machinery of the *Maine*, have both been reimbursed by special acts of Congress on the recommendation of Secretaries Herbert, Morton, and Moody—notwithstanding they signed precisely the same final receipts and releases.

The Pneumatic Gun Carriage Co., builders of the *Terror*, recovered judgment in the Court of Claims, notwithstanding they signed the identical form of final receipt and release, that court holding, as it did in the *Indiana* case, that it did not relate to this class of claims, and Attorney General Griggs acquiesced in that decision and declined to appeal the case, and that company was paid.

I do not want to take the time of the Senate to go into all of the details, but I simply wanted to tell the Senate why I made the favorable report upon this claim. It was not on account of any lack of endeavor on the part of the Cramp people to finish the *Indiana* on time that the loss to the company occurred, as the Secretary of the Navy states, not only by letter, but by a statement made under oath. All parties concerned recommend that this claim be paid, because it was no fault of the company that a loss occurred.

I will take it for granted that there is not a Senator who knows my record upon the Claims Committee who does not know that I am not in favor of paying claims against the Government unless I find that there is some good reason for doing so. I am not going to go into any lengthy discussion of this matter. The committee reported adversely upon the claim, and I simply make this statement now to place myself right, having been asked as to whether or not I had changed my views upon this particular claim.

I do not think there is any necessity for my saying any more. The builders of all the other vessels that were built under the same conditions and that were held up for the same identical reasons have been reimbursed. If the Senate of the United States does not desire to reimburse this company for the same kind of loss that all of the other companies sustained and have been paid for, I have not another word to say in relation to the matter.

Mr. CRAWFORD. Mr. President, in view of the rather peculiar situation of this claim, I am glad the Senator made his statement. I also wish to make a statement, because I want it to be a matter of record. It is not very long.

The Committee on Claims made an adverse report on this bill for the relief of William Cramp & Sons on March 28, 1912. Under the regular procedure it would have been indefinitely

postponed at once. At the time the adverse report was presented, however, an amendment had been proposed by the Senator from Pennsylvania and referred to the Committee on Claims, by which he sought to amend what is known as the omnibus claims bill—which at that time was being considered by the same committee—by inserting this claim in that bill. For that reason I asked that this bill go on the calendar, so that the proposed amendment and the bill might be considered together in connection with the adverse report when the omnibus claims bill came before the Senate.

The committee having reported the bill adversely, declined to accept the proposed amendment, of course. During all the time we were considering the omnibus claims bill here this amendment was not presented by the Senator from Pennsylvania, nor by any other Senator. The Senator who proposed it told me that he did not intend to press it.

After the omnibus claims bill had passed the Senate, I assumed, as a matter of course, that this bill, upon my suggestion and upon the adverse report, would be indefinitely postponed. This adverse report has been here for 10 months. No minority views have been presented. An amendment proposing the same relief has been abandoned; and it is difficult to understand why at this late date there should be a disposition to depart from the usual practice of indefinite postponement in such cases.

The Senator from Utah the other day asked that the bill be placed under Rule IX, which would indicate that he preferred to have it die there rather than to have the Senate act in the usual way by indefinitely postponing it upon the adverse report. In fact, sir, I have discovered several attempts to get that adverse report out of the way in some manner other than the usual one, of either taking issue with it by presenting minority views or having the bill indefinitely postponed upon it.

Very soon after the adverse report was filed a gentleman who was actively engaged in lobbying for the bill came into my committee room and asked the clerk of the committee to show him the records and minutes kept of the proceedings, so that he might, if possible, make the claim that a quorum of the committee was not present when the report was ordered. He did this in my absence and without so much as asking my leave. It looked like impudence and effrontery to me for a lobbyist to go to a committee room and in the absence of the chairman attempt to secure evidence upon which to impeach the committee's report.

Failing in that, I next discovered that this same gentleman was attempting to canvass the individual members of the committee and to secure their signatures to a written request that this adverse report be withdrawn. I am glad to say that he did not get very far with that; but it was a most extraordinary proceeding.

It seems to me there is a manifest desire to deal with this adverse report in some unusual way instead of following the regular procedure. Under the circumstances, I think it is my duty to lay before the Senate briefly the facts disclosed in the report.

The William Cramp & Sons Ship and Engine Building Co. entered into a written contract with the Government on November 10, 1890, in which it undertook, for the sum of $3,020,000, at its own risk and expense, to construct a coast-line battleship, afterwards known as the *Indiana*. Certain portions of the armor were to be furnished by the Government and delivered at the Cramp shipyards in the order and at the times required to carry on the work properly. The vessel was to be completed within three years from the date of the contract, and heavy penalties were provided in case of delays beyond this period for which the shipbuilding company was to blame. On the other hand, it was clearly provided when the delay was caused by the fault of the Government that the builder should be relieved of penalties and entitled to a corresponding extension of the period prescribed for the completion of the vessel. The contract was carefully balanced in this as in all other particulars. The expenses incurred in the preparations for trial tests and of the preliminary trial tests of the vessel were to be borne by the shipbuilder, but the expense of the final trial before acceptance, if successful, was to be paid by the Government. Payment was to be made by the Government in 30 equal installments as the work progressed, with a reservation of 10 per cent from each installment. The last three installments and the reservations, except the sum of $60,000, were to be made after the preliminary trial test if approved. The $60,000 was not to be paid until the final trial and acceptance of the vessel, and then only upon the execution by the shipbuilder of a full and complete release of all claims of any kind or description under or by virtue of the contract.

The contract is clear and unequivocal throughout. There is no ambiguity or uncertainty in it. There is nothing in it calling for oral interpretation or explanation. It speaks plainly. It is an all-sufficient witness as to its meaning, and parol testimony to vary or explain its clear meaning would not be admitted in any court in the absence of any charge of fraud, duress, or mistake.

Because the Government was unable to furnish the armor when needed the completion of the vessel was delayed about two years. This delay caused the parties on May 10, 1894, to execute a written memorandum modifying the original contract in one respect only, but providing that in all other respects it should remain unchanged and unaffected in its legal effect. The agreement of modification was to this effect:

It was agreed that the payment of the last three installments of the contract price and the reservations of 10 per cent in previous payments should not be withheld until after the preliminary trial and conditional acceptance of the vessel, but that the Government would pay the contractor at once these installments and reservations, retaining only a sufficient sum to cover the special reserve of $60,000, the cost of all unfinished work, all deductions likely to be made on account of deficiencies in speed, and other contingencies that might arise. In such event the building company was to give the Government a bond with approved security for indemnity against loss or injury by reason of the payment. The shipbuilding company, in consideration of these advance payments, released the Government from every claim for loss or damage occasioned by its failure to furnish armor as contemplated in the original agreement.

The ship was finally completed and accepted on the 18th of May, 1896, at which time the Government paid the Cramp Shipbuilding Co. the reserved balance of the $60,000, and received from that company a release forever discharging and releasing the United States of and from "all and all manner of debts, dues, sums, and sums of money, accounts, reckonings, claims, and demands whatsoever, in law or in equity, for or by reason of or on account of the construction of said vessel under the contract aforesaid."

This release was signed and sealed by Charles H. Cramp, president of the company, and delivered to the Department of the Navy. There was nothing unconscionable in this contract. It is not claimed that, notwithstanding the delay, the Cramp Shipbuilding Co. did not make a good profit in the performance of it. It is not claimed that it was deceived by any misrepresentations into making it. No action to re-form the contract or be relieved from its terms because of fraud, mistake, or duress was ever begun in any court of equity. No proceeding of that kind was ever hinted at or suggested. At the time of final acceptance of the vessel and payment of the balance due the Cramp Shipbuilding Co. executed this full and sweeping release, without asserting or suggesting that it had sustained damages. It received the money, executed the release, and delivered over the vessel to the Government without making any such claim. These things were done under and within the clear provisions of the contract itself.

But after a whole year and a quarter had passed this company began a suit against the Government in the Court of Claims.

It was not referred there by Congress. They began an original suit there in which the company asked judgment for the sum of $480,231.

To show the character of this claim, I wish to call the attention of the Senate to some of the items specified in the petition which it filed:

It says its business was so large that in order to obtain more room for materials for the vessels under construction, of which the *Indiana* was one, it purchased additional ground at a cost of $121,756.03 and erected thereon shops in which to handle material at an additional cost of $3,000, and it wants to be reimbursed the sums it thus paid out for enlarging its own plant. It apportioned and charged up to this vessel a proportionate share of the value of the use of its yard, its tools, and machinery, the cost of superintendence, and the general upkeep of its yard for the period of two years, for which it asked $72,000. It asked $48,000 more for the care and protection of the vessel for two years; $23,360 more for wharfage, which is the amount a merchant vessel of the same tonnage would have had to pay in the port of Philadelphia while stopping there on a commercial voyage; it asked to be reimbursed over $5,000 for tug service not incurred in construction of the vessel but expended for its own benefit and convenience independently of the construction of this vessel; it wanted pay for dredging the basin occupied by the vessel and repayment of the insurance it had paid on the vessel for the period of two years immediately preceding the acceptance by the Government. It took the contract to build this vessel at its own risk and responsibility.

The Court of Claims found in its favor, by what seemed to me a very strange sort of computation, for $135,560, and entered judgment against the Government for that amount from which an appeal was taken to the Supreme Court of the United States, which reversed the judgment on the merits and remanded the case with instructions to enter a judgment on the findings for the Government.

Mr. Justice Brewer delivered the opinion of the court, which was unanimous, and the court says, among other things:

To rightly understand the scope of this release we must consider the conditions of the contract and especially the clause in it which calls for a release. The contract was a large one, the price to be paid for the work and material being over $3,000,000, and the contract was evidently designed to cover all contingencies. Provision was made for changes in the specifications, for penalties on account of delays of the contractor, deductions in price on certain conditions, approval of the work by the Secretary of the Navy, forfeiture of the contract, with authority to the Secretary to complete the vessel. The last paragraph contains the stipulations as to the amounts and times of payment with authority for increase of the gross amount upon certain conditions. The sixth clause of this paragraph makes special provision for the last payment, to be made—

The court quotes there the contract—

"when all the conditions, covenants, and provisions of said contract shall have been performed and fulfilled by and on the part of the party of the first part" and "on the execution of a final release to the United States in such form as shall be approved by the Secretary of the Navy, of all claims of any kind or description under or by virtue of said contract." Evidently the parties contemplated and specially provided by this stipulation that the whole matter of the contract should be ended at the time of the final release and the last payment. That which was to be released was "all claims of any kind or description under or by virtue of said contract." Manifestly included within this was every claim arising not merely from a change in the specifications, but also growing out of the delay caused by the Government. The language is not alone "claims under," but "claims by virtue" of the contract—"claims of any kind or description." All the claims for which allowances were made in the judgment of the Court of Claims come within one or the other of these clauses. It may be that, strictly speaking, they were not claims under the contract, but they were clearly claims by virtue of the contract. Without it no such claims could have arisen. Now, it having been provided in advance that the contract should be closed up by the execution of a release of this kind it can not be that the company, when it signed the release, understood that some different kind of release was contemplated. It must have understood that it was the release required by the contract—a release intended to be of all claims of any kind or description under or by virtue of the contract, and that the form of words which the Secretary had approved was used to express that purpose. With that release stipulated for in the contract the company signed the instrument of May 18, 1896, which in terms purported to "remise, release, and forever discharge the United States of and from all manner of debts, dues, sum and sums of money, accounts, reckonings, claims, and demands whatsoever in law or in equity, for or by reason of or on account of the construction of said vessel under the contract aforesaid." Now, whatever limitation may be placed upon the words "for" or "on account of" the construction of the provision for the release of all claims and demands whatsoever, "by reason of the construction of the vessel under the contract aforesaid," is a recognition of the contract, and includes claims which arise by reason of the construction of the vessel under it. "By reason of" may well be considered as equivalent to "by virtue of." It is only by reason of the performance of the contract in the construction of the vessel that these claims arise. But for the contract and the construction of the vessel under it there would be no such claims. No payment of moneys not due is necessary to sustain this release. It is under seal, and the contract is itself full consideration. As of significance it must be borne in mind that the release referred specifically to the provisons in the sixth paragraph of the nineteenth clause of the contract which provided for the character of the release. Indeed, the general language of the release itself and the number of words of description in it show that it was the intent of the Secretary of the Navy to have a final closing of all matters arising under or by virtue of the contract.

Stipulations of this kind are not to be shorn of their efficiency by any narrow, technical, and close construction. The general language "all and all manner of debts," etc., indicates an intent to make an ending of every matter arising under or by virtue of the contract. If parties intend to leave some things open and unsettled their intent so to do should be made manifest. Here was a contract involving $3,000,000, and after the work was done, the vessel delivered and accepted and this release entered, claims are presented amounting to over $500,000. Surely the parties never intended to leave such a bulk of unsettled matters. As bearing upon this matter, it may be noticed that while the release was signed and the contract between the building company and the Government closed on May 18, 1896, this action was not brought until August 10, 1897, nearly a year and a quarter thereafter.

We are of opinion that the parties by the release of May 18, 1896, which was executed in performance of the requirements of the original contract, settled all disputes between the parties as to the claims sued upon.

The judgment of the Court of Claims is reversed and the case remanded with instructions to enter a judgment on the findings for the defendant.

Now, Mr. President, this powerful claimant voluntarily chose the forum in which to have the merits of its claim adjudicated. It brought the suit which terminated in this adverse decision by the highest judicial tribunal in the land. That court construed the contract and held that the claim could not be sustained under the law of the land. Ex parte affidavits made by Admiral Hichborn, Charles H. Cramp, and Lewis Nixon, who at the time of the building of the vessel was an employee of the Cramp Shipbuilding Co., and an affidavit of ex-Secretary Herbert have been obtained since the Supreme Court rendered the final decision in the case to support a contention that the contract meant something different, or that the parties to it had a different intention in agreeing to it than its clear and unequivocal language shows, and that it was not intended to mean what it plainly says and what the Supreme Court says it means. But these affidavits are utterly worthless so far as they are intended to vary the plain terms of this long since executed contract by parole. Every lawyer knows that. The claim amounts to nothing more than a bounty or donation, and why should Congress give it to these claimants? What private suitor who had failed upon the merits to obtain a judgment would ask the successful defendant to make him a present of the amount in controversy?

This shipbuilding company has enjoyed a special privilege under the navigation laws of this country for years.

Mr. President, the present occupant of the chair will remember this incident. A few months ago an American citizen, who had purchased a foreign-built ship, appeared before the Senate Committee on Commerce in behalf of a bill which would admit this vessel to American registry. He was to expend a substantial sum of money in American shipyards in rebuilding and repairing this secondhand vessel. Nevertheless, a representative of this powerful shipbuilding company appeared and protested against the registry of this foreign-built vessel. I say it has enjoyed, and does now enjoy, a special privilege which makes the cost of building vessels in American shipyards 100 per cent higher than the same vessels would cost in foreign shipyards—a privilege which has made it impossible to build and maintain American vessels in over-seas trade. On top of this special privilege it asks for this gratuity, for it is nothing more than a donation.

Why should it receive such a favor? It is said that at other times, in connection with the construction of other vessels, this company and other shipbuilders have received donations of this kind. If that be true, there was never a better time than now to stop the bad practice. If instead of being a great and powerful shipbuilding company this claimant was a poor and obscure citizen, his claim would not be considered for a moment.

I call to mind many really pathetic cases of humble claimants who have had claims pending before Congress for years, in which there is no legal basis for the claims, but where there is much in the situation of the parties and the circumstances surrounding them to call forth the deepest sympathy and touch any heart that is human. I have in my mind now a helpless woman of culture and refinement, whose husband, while serving his country abroad as a consul, met with serious losses occasioned by the fluctuation and depreciation of the rupees in which his salary was paid; a splendid man who, in entertaining visiting Americans who came to Bombay, used funds which he had received as fees and perquisites—according to a custom which had previously prevailed—but for which he was required to account. To save his bondsmen from loss he returned to the United States and sold all the property he had in the world, including his homestead. He died penniless and of a broken heart. The widow, who survived him, presented a claim for the amount he had lost through the depreciation of the money paid to him as a salary. She has told her pathetic story over and over again to members of the committee and other Senators—session after session, year after year, for many years. She is now an old woman whose bodily and mental health is fading away under the long strain, the disappointment, the long-deferred hope, and sickness of heart. Her sweet face and thin figure haunt the corridors of the Senate Office Building year after year. I would be glad to see her receive something, even though it be a bounty or donation, but she has never been able to get a majority of the committee to authorize a favorable report of her claim. We shall miss her one of these days, when, with a broken heart, she shall have gone to join her broken-hearted husband in the grave.

Ah, Mr. President, shall we pass the cries of a poor woman like this unheeded and yet give ear to a demand like this of the Cramp Shipbuilding Co., because it is great and powerful and can secure the services of lawyers and lobbyists and recommendations from men of high station and influence? Shall we refuse to give to a beautiful, sweet-faced, broken-hearted woman a pittance of $5,000 and then grant to this great company a bounty or donation of $135,000? I do not believe the Senate will do such a thing as that.

The Committee on Claims was not in favor of doing it, and made this report.

I insist on the indefinite postponement of this bill.

Special privilege leads to just such unjust discriminations as this, and I say to you that the American people are determined to abolish special privilege. This is a good place to begin.

I ask for a vote on the motion to indefinitely postpone the bill.

Mr. SMOOT. Mr. President, just a word. I agree with the Senator that the contract was specific, and I so stated in the opening. It was found by the Court of Claims that it was specific, and the bill does not provide for any of the items mentioned by the Senator, with the exception of those that were found to be due the company by the Court of Claims.

Mr. CRAWFORD. They are all set forth in the findings of the Court of Claims and in the record, and they are taken from the petition which the claimant had filed.

Mr. SMOOT. I said the bill does not include any item, with the exception of those items that the Court of Claims found was due the company.

Mr. CRAWFORD. Will the Senator permit me there to make just a comment in three words?

Mr. SMOOT. Certainly.

Mr. CRAWFORD. The title of this bill contains a falsehood. The title of the bill purports to give effect to the judgment of the Court of Claims in favor of the contractors for building the United States battleship *Indiana*, when at the time the bill was introduced there were no such findings in its favor, because they had been reversed by the decision of the Supreme Court of the United States, and until we went in and found that decision of the Supreme Court reversing those findings the Senate might have been led, from the title of the bill, into a belief that it was resting upon the valid findings and judgment of the Court of Claims.

Mr. SMOOT. I simply want to state again that the bill provides for one hundred and thirty-five thousand and some odd dollars, and that was the amount the Court of Claims found due the Cramp Co., and the items are stated in detail by the Court of Claims in the findings.

I admit, as I stated before, that the Supreme Court of the United States reversed the judgment of the Court of Claims. I did, however, refer to a letter from Justice Brewer, who wrote the opinion, in relation to what the reasons of the Supreme Court were in reversing the decision.

Mr. CRAWFORD. Will the Senator permit me?

Mr. SMOOT. Certainly.

Mr. CRAWFORD. The letter from Mr. Justice Brewer was drawn out by soliciting him in a letter written to him by the attorney of record in the Cramp ship case, who was disappointed over his loss of the decision in the Supreme Court.

Mr. SMOOT. I do not know what drew it out. I can not say. But I say this copy of the letter is in the report, and I made my report upon the bill based upon all the information that I could receive from the Navy Department officials.

I wish to say to the Senator that it makes no difference to me who the person is or what company it is that tries to collect a claim from the Government of the United States, they all stand upon the same footing, whether it is a small claim or whether it is a large claim. If it is a just claim it should be paid, and if it is an unjust claim it ought not to be paid.

Mr. President, without taking the time of the Senate further, I ask that, in connection with what I have just stated, the report submitted by me in 1908 be printed as a part of my remarks. That report gives a complete history of this case from the standpoint of the Navy Department officials. As I have already said, this company is only asking the same treatment the Government has already accorded to other concerns which found themselves in exactly the same condition. They were all paid by the Government, with the exception of Cramp & Sons.

The PRESIDING OFFICER (Mr. NELSON in the chair). Without objection, the report referred to will be printed in the RECORD.

The report referred to is as follows:

Mr. SMOOT, from the Committee on Claims, submitted the following report, to accompany S. 3126:

The Committee on Claims, to whom was referred Senate bill 3126, have had the same under consideration and beg leave to submit the following report:

This is a claim by the builders of the battleship *Indiana* seeking reimbursement of the expenses they were put to for the care, maintenance, preservation, insurance, and wharfage during a delay of two years after the expiration of the contract period, brought about by the failure of the United States to furnish them with the armor "in the time and in the order necessary to carry on the work properly," as it had covenanted and agreed to do. The Court of Claims, after a protracted trial, found that the necessary and reasonable costs during this delay, which they found was solely and entirely due to the fault of the United States, amounted to $177,823.55, but on account of a release given on May 10, 1894, at the time of an advance payment, by which the builders agreed to waive so much of the claim as accrued prior to that date, the court allowed only the expenses incurred after that date for a period of one year six months and nine days, and gave judgment for the sum of $135,560. (See findings of Court of Claims accompanying this report marked "Exhibit A.") The case was appealed to the Supreme Court, and that court reversed the judgment upon the sole ground that a final receipt and release given May 19, 1896, upon the payment to the builders of the balance of the contract price, viz, $41,132.80, was intended by the parties to be a final settlement of the present claim, which the Court of Claims found amounted to $177,823.55 additional. The equities were not considered by that court, as fully appears in the correspondence between Mr. Justice Brewer, who delivered the opinion, and one of the counsel for the company, accompanying this report, marked "Exhibit B."

The builders now ask that Congress, upon equitable grounds, shall reimburse them for these expenses, and they file in support of their petition the affidavits of ex-Secretary of the Navy, Gen. Tracy; his assistants, Admiral Hichborn, Chief of the Bureau of Construction, and ex-Naval Constructor Nixon, who designed the vessel, being all the Government officers that had any part in the preparation of the contract; of ex-Secretary Herbert, who took the receipt, and Mr. Charles H. Cramp, president of the company, who signed both contract and receipt, each and all unanimously declaring in specific terms that it was never the intent of either of the parties to the contract, by the giving or accepting of the receipt, to in any way waive, bar, or settle the claim now presented. (See Exhibits C, D, E, F, and G herewith.)

This evidence was not before the Supreme Court, and the facts now presented differ in this material respect from the case as presented to that court. The delays in furnishing the armor were caused by the praiseworthy desire of Secretary Tracy to obtain for these new vessels of war the most invulnerable armor that it was possible to procure. At that time the subject of armor plate was in its infancy and new processes of its manufacture were being devised and presented to the department for adoption. A series of exhaustive tests and experiments were made, which consumed most of the contract period, and it was not until February, 1893, that the Secretary finally adopted the nickel-steel harveyized armor, and that surpassed all armor in any of the navies of the world. These delays had a similar effect upon the builders of the *Oregon*, *Maine*, *Terror*, and *Texas*, and these were the only vessels that were delayed from this cause aside from the *Indiana* and *Massachusetts*, built by the Cramp Co. The Richmond Locomotive Works, builders of the machinery for the *Texas*, and N. F. Palmer & Co. (the Quintard Iron Works), builders of the machinery of the *Maine*, have both been reimbursed by special acts of Congress on the recommendation of Secretaries Herbert, Morton, and Moody—notwithstanding they signed precisely the same final receipts and releases. (See Richmond case, 30 Stat., 1431; Palmer case, 33 Stat., 1397.)

The Pneumatic Gun Cariage Co., builders of the *Terror*, recovered judgment in the Court of Claims, notwithstanding they signed the identical form of final receipt and release, that court holding, as it did in the *Indiana* case, that it did not relate to this class of claims, and Attorney General Griggs acquiesced in that decision and declined to appeal the case, and that company was paid. (36 C. C. Rep., p. 71.) The Union Iron Works, by a supplemental contract relieved the United States of its obligation to take the vessel without armor, as Article III of the contract provided, and in lieu thereof accepted a contract with Secretary Tracy by which the United States was to pay these expenses monthly as the delays occurred, and that company was so paid. (See affidavit ex-Secretary Tracy, Exhibit C.) The Cramp Co. relied upon the obligation of the United States to take the vessel without armor, under Article III, and the Secretary concurred in this view of the obligation of the United States and went so far as to detail officers to supervise the erection of temporary facilities to take the vessel to sea and weight it down to its normal draft, which was done at an additional expense to the builders of $17,000 (see twelfth findings, Court of Claims, Exhibit A), but on May 1, 1894, he arbitrarily refused to permit a trial trip to be made because, in his judgment, the interests of the United States would be best subserved by delaying the trial trip until the vessel was fully completed, with all the armor on.

It is shown by the affidavits of Admiral Hichborn (Exhibit D) and Secretary Tracy (Exhibit C) that the United States had no navy yard at which these vessels could be taken care of. It may be that the company had the right to cut the vessel loose and let her float down the Delaware River to its destruction, but the United States then owed the company upward of $500,000 for work already performed and unpaid for, and the United States had already paid $2,300,000 on account of its construction, and to save this amount of Government property from destruction the company yielded to the request of the Secretary and cared for, preserved, and maintained the vessel at their yard for an additional one year, six months, and nine days, at an expense of $135,560, as found by the Court of Claims. Your committee can not believe that the company should now be punished for the performance of this most praiseworthy and patriotic action, nor should the technical receipt be held to prevail over the conspicuous equities of the case. It may be true that a contractor should be careful in the wording of papers that he signs, but if through want of care or inadvertence the receipt does not express the real intent of the parties to it, it would be extremely unfair, if not positively dishonest, for one of the parties to try to enforce it against the other contrary to the intent of both.

Your committee therefore report back Senate bill 3126 favorably and recommend that it do pass.

EXHIBIT A.

FINDINGS OF FACT BY THE COURT OF CLAIMS.

[Court of Claims. No. 20858. (Decided January 29, 1906.) The William Cramp & Sons Ship & Engine Building Co. v. The United States.]

This case having been heard by the Court of Claims, the court, upon the evidence, makes the following

FINDINGS OF FACT.

I. The claimant herein is a corporation incorporated under the laws of the State of Pennsylvania, and carries on the business of ship and engine building, with its yards and plant and works located in the city of Philadelphia, in said State.

II. On November 19, 1890, the claimant entered into a contract with the United States, through their Secretary of the Navy, whereby, in consideration of the sum of $3,063,000, to be paid as provided in said contract, it agreed to construct and complete within three years from said date as in said contract provided, a seagoing, coastline battleship, designated as No. 1, and subsequently named the *Indiana*, all in accordance with the specifications attached to and made a part of said contract, which contract, marked "Exhibit W. C. & S. No. 1," is annexed to and made a part of the petition herein.

III. Immediately after the making of said contract the claimant arranged and systematized a working program for the construction of said vessel by organizing its working force so as to cooperate with each

other in harmony on coordinate work, and to secure economy in the construction of the vessel within the contract time and to escape the penalties imposed thereby for delays. The claimant would have completed the vessel within the contract period if it had not been for the failure of the United States to furnish materials within the time and in the order to properly carry on the work, which by the terms of the contract they had agreed to furnish.

By reason of the failure of the defendants to furnish the materials, which by the third clause of the contract they had agreed to furnish, within the time and in the order as aforesaid, the completion of the vessel was delayed for two years beyond the contract period.

The armor to be furnished in accordance with said clause of the contract was obtained by the defendants from other contractors, who, without any fault on the part of the claimant, failed to complete the manufacture thereof in time for the defendants to deliver the same to the claimant as they had agreed to do.

The various kinds of armor, including the necessary bolts, nuts, etc., were delivered as follows:

Diagonal armor, beginning June 6, 1892, and ending July 3, 1892.
Casemate armor, beginning March 16, 1893, and ending May 1, 1893.
Conning tower tube, May 1, 1893.
Barbette armor, beginning July 10, 1893, and ending September 23, 1893.
Sponson armor, beginning December 2, 1893, and ending March 24, 1894.
Ammunition tubes, beginning April 24, 1894, and ending May 22, 1894.
Eight-inch turret, beginning September 22, 1894, and ending December 7, 1894.
Conning tower shield and covers, complete, October 5, 1894.
Side armor, beginning August 13, 1894, and ending August 6, 1895.
Thirteen-inch turrets, beginning May 16, 1895, and ending September 5, 1895.

IV. On December 4, 1895, and after the completion and delivery of the vessel at the time hereinafter stated, the Secretary of the Navy decided that the cause of delay for the period of two years in the completion of the vessel was due to the failure of the United States to furnish the claimant the materials contracted to be furnished by them within the time and in the order to properly carry on the work; and for that reason the time within which to complete the vessel, and thereby release the claimant from the penalties provided for in the nineteenth paragraph of the contract, was on said date extended by the Secretary of the Navy a corresponding length of time, to wit, to November 19, 1895, on which latter date the vessel so contracted for was completed and delivered.

V. On May 10, 1894, before the Secretary of the Navy had finally decided the cause of delay, as aforesaid, and before there had been a preliminary or conditional acceptance of the vessel, owing to the failure of the defendants to furnish, in the order required, the material which they had agreed to furnish, the contract was modified, which modification is made a part of the petition herein and marked "Exhibit W. C. & S. No. 2," by the terms of which modification the defendants agreed to pay the claimant a portion of the reservations of installments, which under the original contract were not payable, as therein set forth, until after a preliminary or conditional acceptance of the vessel; and $234,830, being the amount of the reservations of the first 23 out of the 27 installments earned by the claimant, were paid on or about June 20, 1894. The claimant, as provided in the modification aforesaid, furnished security against any loss to the defendants on account of such payment, but no demand for any refund was ever made upon it. In consideration of the payment aforesaid, the claimant, as recited in said modification, released the defendants "from all and every claim for loss or damage hitherto sustained by reason of any failure on the part of the" defendants to comply with its contract, "or on account of any delay hitherto occasioned" by them.

To the modification of the contract and the release as aforesaid the claimant at the time does not appear to have made objection or protest.

VI. On May 18, 1896, after the completion and delivery of the vessel, in accordance with the sixth paragraph of the nineteenth clause of the contract, the balance of the money due thereunder, but withheld in accordance therewith until the final acceptance of the vessel, was paid to the claimant and the same was accepted and a release and receipt was executed therefor by it in the terms following:

"Whereas by the eleventh clause of the contract dated November 19, 1890, by and between the William Cramp & Sons Ship & Engine Building Co., a corporation created under the laws of the State of Pennsylvania, and doing business at Philadelphia, in said State, represented by the president of said company, party of the first part, and the United States, represented by the Secretary of the Navy, party of the second part, for the construction of a seagoing coast-line battleship of about 10,000 tons displacement, which, for the purpose of said contract is designated and known as 'coast-line battleship No. 1,' it is agreed that a special reserve of $60,000 shall be held until the vessel shall have been finally tried; provided that such final trial shall take place within five months from and after the date of the preliminary or the conditional acceptance of the vessel; and

"Whereas by the sixth paragraph of the nineteenth clause of said contract it is further provided that when all the conditions, covenants, and provisions of said contract shall have been performed and fulfilled by and on the part of the party of the first part, said party of the first part shall be entitled, within 10 days after the filing and acceptance of its claim, to receive the said special reserve or so much thereof as it may be entitled to on the execution of a final release to the United States in such form as shall be approved by the Secretary of the Navy of all claims of any kind or description under or by virtue of said contract; and

"Whereas the final trial of said vessel was completed on the 11th day of April, 1896; and

"Whereas all the conditions, covenants, and provisions of said contract have been performed and fulfilled by and on the part of the party of the first part:

"Now, therefore, in consideration of the premises, the sum of $41,132.86, the balance of the aforesaid special reserve ($60,000), to which the party of the first part is entitled, being to me in hand paid by the United States, represented by the Secretary of the Navy, the receipt whereof is hereby acknowledged, the William Cramp & Sons Ship & Engine Building Co., represented by me, Charles H. Cramp, president of said corporation, does hereby for itself and its successors and assigns, and its legal representatives, remise, release, and forever discharge the United States of and from all and all manner of debts, dues, sums and sums of money, accounts, reckonings, claims, and demands whatsoever, in law or in equity, for or by reason of, or on account of, the construction of said vessel under the contract aforesaid.

"In witness whereof I have hereunto set my hand and affixed the seal of the William Cramp & Sons Ship & Engine Building Co. this 18th day of May, A. D. 1896.

"[SEAL.] "CHAS. H. CRAMP, *President.*

"Attest:

"JOHN DOUGHERTY, *Secretary.*"

to the giving of which release and receipt the claimant does not appear at the time to have objected or protested.

VII. Before and during the period of delay, as aforesaid, the claimant's business was so large that in order to obtain more room for materials for the vessels under construction at the claimant's yard, of which the *Indiana* was one, it purchased additional ground at a cost of $121,756.03, and erected thereon temporary shops, in which to handle and rehandle material, at an additional cost of $3,000. It is not shown that the purchase of said real estate was necessary to the construction of the *Indiana*, or that any portion of the outlay therefor was attributable to the vessel during the period of delay.

VIII. After the expiration of the contract period and during the two years that the vessel was delayed in completion, as hereinbefore found, the reasonable value for the use of the claimant's yard, machinery, and for superintendence in the construction of the vessel, including the general upkeep of the yard chargeable to the *Indiana*, was $3,000 per month, or $72,000 for the two years' delay.

The proportion of said expenses chargeable to the *Indiana* from May 10, 1894, the date of the release set forth in Finding VI, being for one year six months and nine days, was $54,887.67.

IX. For the proper care and protection of the vessel during the two years' delay, including expense of cleaning the bottom, furnishing material and painting, temporary awnings and tents over caps left for the introduction of turrets, additional scaling to remove rust before painting, electric lighting, keeping up steam to prevent freezing of valves, wetting down decks, going over machinery, and keeping vessel free from snow, dust, ice, and débris, the reasonable cost was $48,000.

The proportion of said expenses for the period from May 10, 1894, being for one year six months and nine days, was $36,591.78.

X. The customary rate of wharfage of merchant vessels at the port of Philadelphia during the time the *Indiana* was being constructed was 1 cent per net registered ton, and upon that basis, if allowed, the wharfage on the *Indiana*, with a net tonnage which we find was 3,203.58, during said two years' delay was $32 a day, or $23,360.

The proportion of expense during the period from May 10, 1894, being for one year six months and nine days, was $17,808, inclusive of the dredging of the basin or bed in which to accommodate the vessel.

The claimant also incurred an expense of $5,783 for tug service in removal of the vessel from time to time. Such expense is not shown to have been necessary to the construction of the vessel during the period of delay. It appears to have been for the benefit and convenience of the claimant.

XI. During the two years' delay the claimant was required to and did keep the vessel insured for the benefit and protection of the United States, and the reasonable cost thereof aggregated during said period the sum of $34,463.55.

The proportionate expense for the period from May 10, 1894, being one year six months and nine days, was $26,272.55.

XII. March 23, 1894, the claimant notified the Secretary of the Navy that the vessel, other than the fitting of the armor, had reached a stage of completion ready for an official trial and proposed to offer said vessel therefor between May 1 and 10 following.

Seven other vessels built by the claimant for the United States had been permitted to go on trial trips before their completion. The *Indiana* was the first battleship constructed, and before the armor was completed thereon the claimant proposed an official trial.

March 9, 1894, the Secretary of the Navy addressed to the claimant the following letter:

WASHINGTON, *March 9, 1894.*

GENTLEMEN: In view of the fact that the trial of the *Indiana* will take place at an early date, and as you are probably now making preparation therefor, your attention is invited to the tenth clause of the contract for the construction of that vessel, which provides that the expenses of a successful trial of the vessel shall be borne by the Government.

With a view to an expeditious settlement of the bill for the trial expenses of the vessel after the trial shall have taken place, the department has to-day directed Chief Engineer J. W. Thomson and Naval Constructor J. F. Hanscom, United States Navy, to inform themselves as to what expenses you incur in preparing the vessel for trial, on the trial, and in furnishing the supplies of all kinds to be used, in order that they may be able to report to the department after such examination, if any, as they may be required to make of your bill as to whether the items included therein are properly chargeable to the Government, and as to whether the prices charged therefor are proper and reasonable.

The department requests that you will confer with the above-named officers in regard to the expenses necessary to be incurred in the trial of the *Indiana* and afford them such information as will enable them to fully comply with the department's instructions, as above stated.

Very respectfully,

H. A. HERBERT,
Secretary of the Navy.

The WILLIAM CRAMP & SONS
SHIP & ENGINE BUILDING CO.,
Philadelphia, Pa.

The expense so incurred was verified by such officers and no objection was found to the amount thereof. But in the meantime the Secretary of the Navy was in doubt as to whether the vessel was ready for such official trial, and to ascertain that fact did, on April 12, 1894, appoint a board, consisting of three naval officers, to inquire into the matter.

The board made such inquiry, and on April 18, 1894, reported to the Secretary that the hull of the vessel was about eighty-four one-hundredths completed, and that but one-half of the armor had been fitted in place. The board unanimously reported that the vessel was not then and would not be by May 1, 1894, ready for the official trial trip in accordance with the tenth article of the contract, and that such trial should not, in the interest of the Government, take place until the vessel was fully completed and ready for delivery.

Upon that report the Secretary acted, refusing to give his approval to the proposed trial, and the same was not made.

If the claimant is entitled to recover the expense so incurred in the preparation for the preliminary trial of the vessel, the amount as verified by the officers of the Navy and which we find reasonable was $17,514.94.

XIII. The items of cost and expense set forth in the several findings herein, both upon the basis of two years' delay and of one year six months and nine days' delay, are as follows:

Finding.	Item.	Two years.	One year 6 months and 9 days.
VIII	Superintendence and upkeep of yard	$72,000.00	$54,887.67
IX	Protection of vessel, cleaning, painting, etc	48,000.00	36,591.78
X	Wharfage of vessel	23,300.00	17,808.00
XI	Insurance on vessel	34,463.55	26,272.55
		177,833.55	135,560.00

CONCLUSION OF LAW.

Upon the foregoing findings of fact the court decides as a conclusion of law that the claimant is entitled to recover against the United States the loss and damage sustained by it during the delay of one year six months and nine days, as set forth in Finding XIII, the sum of $135,560.

EXHIBIT B.

LETTER OF MR. JUSTICE BREWER, SUPREME COURT.

SUPREME COURT OF THE UNITED STATES,
Washington, D. C., December 17, 1907.

MY DEAR MR. FAY: Do not think I have neglected the matter to which you called my attention a few nights since. I spoke first to some of the brethren individually and finally I brought the matter up before the court in conference. The brethren without dissent advised me not to write the letter you suggest. There is nothing in the opinion which ignores the equity upon which you rely and of course nothing to intimate that Congress can not if it sees fit grant all the relief desired.

The brethren thought it would be unwise to intimate that Congress might or ought to act in the matter, and prefer to leave it for the action of that body, based upon such showing of the facts as can be made. It is not to be supposed, of course, that Congress will not be willing to do what is right in the premises.

I return herewith the inclosures in your letter, thinking that you may have use for them in your further efforts.

Very truly, yours,

DAVID J. BREWER.

HON. JOHN C. FAY,
Glover Building, 1419 F Street.

EXHIBIT C.

AFFIDAVIT OF HON. BENJAMIN F. TRACY, EX-SECRETARY OF THE NAVY.

STATE OF NEW YORK,
County of New York, Borough of Manhattan, ss:

Benjamin F. Tracy, being duly sworn, says:

That he was Secretary for the Department of the Navy of the United States during the administration of the late President Harrison.

That as such Secretary, under the provisions of the act of Congress approved June 30, 1890, for the building of battleships for the Navy, he, on or about the 19th day of November, 1890, entered into three contracts for the building of battleships designated as Nos. 1, 2, and 3; said battleships were to be built according to the same plans and specifications and were identical in all respects. Contracts for battleships Nos. 1 and 2, subsequently named the *Indiana* and the *Massachusetts*, were made with the William Cramp & Sons Ship & Engine Building Co., of Philadelphia, Pa. A contract in identical form for battleship No. 3, afterwards named the *Oregon*, was made with the Union Iron Works, of San Francisco, Cal. By provisions in these three contracts the United States was to furnish all the heavy armor and each vessel was to be completed within three years from the date of contract, under onerous penalties against contractor for delay, the United States agreeing to furnish the armor and their accessories within the "time and in order to carry on the work properly." Each contract provided for the accepting of the vessel by the United States without armor in case its building was delayed by the default of the United States in furnishing armor, and each contract provided in similar terms for a final receipt of all claims of any kind or description under or by virtue of the contract.

Before and at the time of making these contracts "all-steel" armor had been the standard in the Navy, it being considered the best then known, but in 1889 his attention had been directed to nickel steel and the so-called Harvey process, and early in 1890 he had begun an investigation as to their respective merits which had proceeded so far as to have resulted in a comparative test between the compound steel, the all steel, and the nickel steel at Annapolis, September 18–22, 1890, as set forth in his annual report of 1890, and in consequence Congress had appropriated $1,000,000 for the purchase of nickel metal; but deponent was unwilling to determine definitely upon the character of armor to be applied to the new battleships without further tests, experiments, and investigation both as to nickel steel and the Harvey process, and to leave the department free to continue these investigations when he came to make the contracts of November 19, 1890, for the *Indiana*, *Massachusetts*, and *Oregon*, the proviso of Article III, binding the Government to accept the vessels without armor, if the United States was unable to supply it in the time and in the order to carry on the work properly, was inserted so as not to impose upon the builders the necessary expense of the care of the vessels during the time required for the Government experiments calculated to obtain the very best armor.

After these contracts were let he proceeded with further tests of both nickel steel and the harveyized nickel steel and the various other kinds of armor, which continued up to July 30, 1892, as set forth in detail in his annual reports of 1890, 1891, and 1892, before he reached the conclusion to adopt the harveyized nickel-steel armor, and, accordingly, in February, 1893, made contracts for the production of this character of armor. During all this time the coordinate work on these vessels had been progressing satisfactorily to the department, and it became evident that this decision would result in a very considerable delay in their completion, and that the necessary cost of their care, maintenance, preservation, insurance, and extra dockage and wharfage during this period of delay would amount to a large sum, and the United States having no proper facilities at its navy yards to take over these vessels in their unfinished condition and care for and complete them, all of which being brought to his attention by the builders of the *Oregon*, he entered into the supplemental contract attached hereto with that company, by which these several expenses were to be currently ascertained and paid by the United States, and he is informed and believes they were so paid. That a similar supplementary contract would have been made by him with the Cramp Co. for the *Indiana* and *Massachusetts* if it had been brought to his attention.

That the sixth clause of Article XIX of the contract was an old form that had been in use in Navy contracts for many years, and, while it was very properly applicable when the builder furnished all the material and labor for the construction of a vessel, was not, standing alone, very appropriate for a contract where part of the material was to be furnished by the United States; but it was never intended by him to impose upon the builder the loss, expense, or damage that accrued to it by reason of the failure of the United States to perform its part of the contract. He can confidently state that at the time of making these contracts that, by providing for this final receipt and release, it was not the purpose, intent, or design of either party to the contract that it should extend to or cover damages which the contractor might sustain by reason of the failure of the Government to perform the contract on its part, nor is he aware that the department in any case has so construed a similar final release or receipt.

BENJAMIN F. TRACY.

Subscribed and sworn to before me this 31st day of October, A. D. 1907.

[SEAL.] CHAS. A. CONLON,
Notary Public, New York County.

EXHIBIT D.

AFFIDAVIT OF ADMIRAL PHILIP HICHBORN, UNITED STATES NAVY, RETIRED, LATE CHIEF OF THE BUREAU OF CONSTRUCTION AND REPAIR.

DISTRICT OF COLUMBIA, *ss:*

Philip Hichborn, of the city of Washington, being duly sworn, says:

That he is on the retired list of the United States Navy, having been retired while chief constructor, after a service in its construction corps of more than 30 years.

That he was intimately connected with the building of the so-called "New Navy" from its inception to the time of his retirement from active service, as member of the Naval Advisory Board, Assistant to Chief, and afterwards Chief of the Bureau of Construction and Repair.

That during the preparartion of the contracts for the *Indiana*, *Massachusetts*, and *Oregon* he was, either personally or through his assistants, in constant communication with the Secretary and the Judge Advocate General as to their terms, but more particularly as to technical parts of it, although the whole contract was referred to him for examination and report and was carefully examined and considered before it was finally signed.

That he distinctly recalls the fact that Article III, providing for a trial trip without armor, was fully discussed, and its purpose to avoid entailing the costs and expenses arising from delays in the delivery of armor upon the contractors was well understood by all parties connected with the contract, and some additional language was inserted at Mr. Cramp's suggestion to render the understanding clearer.

The sixth clause of Article XIX was an old form in use for many years in the Navy Department, and at no time during the preparation of the contract did he ever hear any of the officers of the department who had any hand in the preparation of the contract suggest that it might be so construed as to require release of any damages that might accrue to the contractors from any breach of the contract on the part of the United States as a condition to final payment; he certainly did not so understand it, nor does he believe that if such a construction of that clause had been avowed by the department, it would have been able to have secured a contract from any responsible shipbuilding concern in the country.

That after the armor had been so long delayed and the contract time had expired, and the time within which the armor could be secured was indefinite and uncertain, the company, under the special direction of officers of the Navy, charged with that duty by direction of the Secretary of the Navy, proceeded to install temporary work and weights down the *Indiana* for a trial trip without armor, under the provisions of the third article of the contract, and expended some $17,000 in such work, took her on a contractors' trial trip, and tendered her for official trial.

That deponent thought that such a trial in her unfinished condition would be of great service in developing the vessel and exhibiting any weak places or errors in design, and was strongly in favor of submitting her to trial irrespective of the provisions in the contract so to do, but the United States was not then equipped to take charge of the vessel and care for her during the subsequent delay which it was then well known was certain to continue for a very considerable length of time, and the Secretary, for reasons satisfactory to himself, through other agencies than the Bureau of Construction and Repair, declined to permit her to make a trial trip until finally completed.

Deponent further says that after the completion and acceptance of the vessel he was called upon to make up the final account, and in so doing he made no allowances for damages for delay, nor was the matter at all considered or embraced in the final account, for the reason that it had long been held in the department that the department had no authority or jurisdiction to entertain, audit, or consider such claims, nor was any appropriation available for their payment; that all claims of such character that had been or afterwards were during his term of office considered or audited by the department had been under special legislation giving the department jurisdiction in certain specified cases.

That he personally, by direction of the Secretary, examined the claim of the *Indiana*, and made a report to the Senate committee in the Fifty-fourth Congress, and from his examination he is able to say that the allowance by the Court of Claims is, in his judgment, fair and reasonable, and leaving out the item that he was unwilling to pass on for lack of evidence, and which was allowed by the court, an analysis of the award of the court shows it to be less than the report made by him as Chief of the Bureau of Construction and Repair.

PHILIP HICHBORN.

Sworn and subscribed to before me this 5th day of November, A. D. 1907.

[SEAL.] GEORGE J. JOHNSTON,
Notary Public, District of Columbia.

EXHIBIT E.

AFFIDAVIT OF EX-NAVAL CONSTRUCTOR LEWIS NIXON.

STATE OF NEW YORK, *Borough of Manhattan:*

Lewis Nixon, of Tompkinsville, Staten Island, State of New York, being duly sworn, says that he is by occupation a shipbuilder; that he graduated at the United States Naval Academy at Annapolis, and the Royal Academy at Greenwich, England, and served in the United States Navy as an assistant naval constructor to about January 1, 1891; that in 1890 he was ordered to the Bureau of Construction and Repair in Washington, and was assigned to the duty of designing and preparing

the plans and specifications of the coast-defense battleships provided for under the act of June 30, 1890, which designs were adopted, and the *Indiana*, *Massachusetts*, and *Oregon* were built thereunder; that in the formulation of the contracts for these vessels he was in constant and almost daily consultation with both Secretary Tracy and Judge Advocate General Remy; that he was deeply interested in the successful building of these battleships, both from a professional as well as a patriotic standpoint, and took great care and aimed to insert such stringent provisions as were calculated to stimulate the builders to great energy in speedily constructing the vessels, but not so harsh and unjust that might deter a shipbuilder from undertaking a contract, and with this end in view, at his suggestion, the obligation of the United States to furnish the armor at the time and in the order to carry on the work properly and the provision that, in default of so doing, the vessel was to be accepted without armor, were inserted, and to free this clause from any ambiguity the words "and to continue with reasonable diligence" were afterwards added in manuscript in the printed contract at the suggestion of Mr. C. H. Cramp before he signed the formal contract.

If this provision of the contract had been lived up to by the United States, no part of the claim or damage sued for in the Court of Claims ever would or could have arisen in behalf of the Cramp Co. for the expense of the care, preservation, and maintenance of the vessels which did accrue by reason of the delay in furnishing the armor would have been borne by the United States, as the contract intended to provide that it should be; that from his personal connection with the preparation of the contract and his intercourse and consultation with the Secretary and The Judge Advocate General he can confidently state that it never was the intention of the United States, as represented by its officers, as parties to the contract, that the provision for a final release, embodying in it as a condition precedent to the payment of the balance of the contract price, to require the release of or cover any claim for damage arising out of the breach of contract by the United States or exempt the United States from the cost and expense of the care, preservation, and maintenance of either of these vessels during the period of enforced delay occasioned by the inability of the United States to fulfil its part of its contract.

That shortly after the making of the contract, the Cramp Co. tendered to him the position of superintendent of their yard to supervise the building of these vessels, and, in his anxiety to see his designs successfully carried out, he resigned from the Navy, accepted the offer and built two of these vessels, the *Indiana* and *Massachusetts*. That when the delays began to accrue he pushed the coordinate work so that the vessels should have a preliminary trial trip, and with the sanction of the Secretary of the Navy and under the supervision of two naval officers specially directed by the Secretary to supervise the temporary work necessary to take the vessel to sea, performed all such necessary work on the *Indiana* and weighed her down to her normal draft, at an expense of $17,000, took her to sea on her contractors' trial trip and tendered for official trial, ready in all respects to make such trip without her armor; but the Secretary of the Navy declined to allow her to make a trial trip unless fully completed, utterly ignoring the provisions of article 3. That during all the time of the delays he had frequent consultations with the officers of the Construction Bureau and the Secretary, and while it was frankly conceded by all of them that very serious expenses were being necessarily incurred by reason thereof, it never was intimated that, by any construction of the contract, such expense was to be borne by or claim for them was to be waived by the contractor.

LEWIS NIXON.

Sworn and subscribed before me this 30th day of October, A. D. 1907.

[SEAL.] LAURA E. SMITH,
Notary Public, Kings County.

(Certificate filed in New York County.)

EXHIBIT F.

STATEMENT OF HON. H. A. HERBERT, EX-SECRETARY OF THE NAVY.

WASHINGTON, D. C., *December 16, 1907.*

DEAR SIR: At the request of Messrs. Hunton & Creecy, I am condensing in a letter to you a statement made more at length in the correspondence between them and myself, which is to be filed with the committee.

Under the contract for the construction of the *Indiana* and all other armored ships the Government was to furnish and deliver at times and places as needed all heavy armor. When I became Secretary of the Navy the Government was far behind with its deliveries of armor for the *Indiana*, partly by reason of delays on the part of the armor contractors and partly because of experiments with a new process of harveyizing, which had been begun under Secretary Tracy and which were continued under me, thus causing further delay.

The Cramp Co., builders of the *Indiana*, in August, 1893, earnestly protested against further delay, asked to be furnished with nickel steel armor, as previously decided upon. On August 25, 1893, I, as Secretary, replied:

"The department thinks it for the best interests of the service that this armor should be harveyized, even if it should occasion some delay in the completion of the vessel, as you state."

I was deciding solely what was to the interests of the Government. The question of compensation to the contractors for losses that might result to them from enforced delays was not before me, nor had I as an executive officer any jurisdiction over that matter. But whenever I had occasion subsequently to consider this matter, my every act and deed showed that in my opinion the Government was responsible to the builders for all losses caused by its failure to comply with its contracts to deliver armor when required to do so under its contracts.

When, on May 10, 1894, I advanced to the Cramp Co. a considerable sum of money already earned but not then payable, I exacted from the company a release of the United States "from all and every claim for loss and damage hitherto sustained by reason of any failure" on their part or "on account of any delay hitherto occasioned by" their action.

The panic of 1893–94 was then on. The company was in urgent need of the money, and I thought the release of their claim for damages on account of the Government's delay was a valuable consideration for the advance payment of this money.

Again, on February 27, 1895, as Secretary I stated in a letter to the Naval Committee that I saw no objection to the passage of a bill which had been referred to me for the relief of the builders of the *Texas*, whose claim was exactly similar to that of the Cramp Co. in the matter of the *Indiana*.

Again, after this bill for the *Texas* was passed, Assistant Secretary McAdoo, December 20, 1895, reported that, "in the opinion of the department," the contractors were "justly and equitably entitled to $80,049.35."

Again, December 8, 1896, responding to an inquiry from Congress as to whether the claims of the builders of the *Indiana* and other vessels for damages incurred in like cases should be decided by Congress or the Court of Claims, as Secretary I stated that, "in my judgment, the interests of justice demand" that these cases should be referred to the Court of Claims, giving as my reason that the court could consider with more deliberation and care than the committees of Congress could.

Again, Chief Constructor Hichborn, then under me, February 9, 1897, recommended the payment of items on account of the losses of the *Indiana* of $97,214.85, and this without considering, as he said, another large amount which he thought the committee was more competent than he to investigate.

Thus, without a break, every act of the department touching this matter, when I presided over it, showed that, in its opinion, the builders had a just claim for the losses resulting to them from delays caused by the Government in furnishing armor according to its contracts.

The Supreme Court, however, decided in the *Indiana* case that by the final release stipulated for in the building contract and given when the last payments were made, all claims for damages by the builders were released, although the Court of Claims had held otherwise.

That my view of this release was that taken by the Court of Claims and not that taken by the Supreme Court is clear from the following consideration:

In my letter transmitting the Cramp cases to Congress (see H. R. 816, 55th Cong., 2d sess.) I called special attention to the release of May 10, 1894, from all damages theretofore incurred in the case of the *Indiana* and to a similar release in the case of the *Massachusetts*. This I did because I thought it my duty to see that Congress, before taking any action, should have before it any written release that might have been given.

Per contra.—On December 8, 1896, when I expressed the opinion that the "interests of justice demanded" that these Cramp cases and others should be sent to the Court of Claims, the final release which the Supreme Court afterwards construed in the case of the *Indiana* had already been given, to wit, May 18, 1896.

If, in my opinion, at that time the Cramp Co. had released all claim for damages in writing by its receipt for the final payment, it would have been clearly my duty to call the attention of Congress to that fact. But this was not done, for the reason that it was not my opinion that the company had by its receipt for the last regular payments released the Government from the claim for damages which I was recommending should be sent to the Court of Claims.

Very respectfully,

H. A. HERBERT.

Hon. C. W. FULTON,
Chairman Committee on Claims, United States Senate.

EXHIBIT G.

AFFIDAVIT OF MR. CHARLES H. CRAMP, EX-PRESIDENT THE WILLIAM CRAMP & SONS SHIP AND ENGINE BUILDING CO.

STATE OF PENNSYLVANIA:

Charles H. Cramp, being duly affirmed, says: That he was the president of the William Cramp & Sons Ship and Engine Building Co. during the period that company was building the battleships and cruisers for the new Navy of the United States, including the battleships *Indiana*, *Massachusetts*, and *Iowa*, and the cruisers *New York*, *Brooklyn*, and *Columbia*, all of which vessels were seriously delayed during their construction by reason of the failure of the United States to fulfill the obligations on its part assumed under the terms of the contract.

That at the time, in November, 1890, when the terms of the contract for the building of battleship No. 1, afterwards called the *Indiana*, were under consideration, he had frequent consultations with the chief constructor and his chief assistant and Secretary Tracy, and while the company agreed to submit to penalties for delay caused by it in the construction of the vessel, the United States agreed to take the vessel off the hands of the contractor in an unfinished condition in case the delays were caused by the United States. If these latter terms had been carried out there would have been no cost to the company for the care and preservation, insurance, wharfage, and similar items during the enforced delay brought about by the delay in furnishing the armor on the part of the United States, and there was never any intimation on the part of any officer of the Government in all the negotiations or during the contract period that the contract price included or was intended to include the expense of the maintenance, care, preservation, or other expenses made necessary by the delay after the contract term expired. The price fixed in the contract included nothing but the work provided for under the plans and specifications. There was never any understanding, agreement, or pretense on the part of either party to the contract that the final receipt covered or intended to cover anything except the construction of the vessel under the contract, and it was given and accepted with the full knowledge and understanding both of the Secretary of the Navy and the company that it was not intended to be any bar to the recovery by the company of the expenses of care, wharfage, insurance, etc., of the vessel during the time of the delay.

At the moment, May, 1896, when the receipt was signed there was pending in Congress a petition of the company for the passage of a law conferring on the Secretary of the Navy authority to audit and pay this identical claim. This was well known to the Secretary, and he had before that time recommended similar legislation in a similar case.

At the time of signing the receipt the Secretary conceded that the Government's delay had caused the company great loss, and that they had a valid claim for reimbursement, but held that he was without jurisdiction to pass upon it and without funds to liquidate it.

Enlightened by these surrounding facts and circumstances, it is not possible to construe the words of the receipt "for, or by reason of, or on account of the construction of the vessel under the contract" to embrace the claim for the care and preservation of the vessel, which was no part of the construction of the vessel and which did not arise by virtue of any provision in the contract or specifications. Neither party intended that it should, and the contemporaneous acts of both parties emphasized it.

The Secretary of the Navy had treated a partial release of this claim as a valid and valuable consideration for the payment of what he claimed to be an advance of money not yet due under the contract, and the company had presented it and were pressing it before Congress with the knowledge and acquiescence of the Secretary.

In May, 1894, the Secretary refused an official trial trip and declined to accept the vessel in an unfinished condition and refused to make further payments till a trial trip was had. The company had, under the eye of specially detailed officers, expended $17,000 for temporary work so the vessel could be taken to sea and had made a con-

tractor's trial trip. The company was then in dire need of money. It was carrying more than a million and a quarter of dollars in loans at abnormal rates of interest, with a weekly pay roll of upward of $10,000 a day and upward of 5,000 employees, which represented fully 20,000 persons dependent upon the continuation of work in the company's yard.

It was the time of financial panic, and to have thrown these men out of employment would have been a calamity to the city and State. To avert so disastrous a calamity, against his earnest remonstrance he was coerced into signing the special release of May 10, 1894, in order to receive, not an advance payment, for the money was then long overdue, but to save the company from threatened bankruptcy and the city and State from a disastrous calamity. Personal violence to him or imprisonment itself would not have been more potent in obtaining the release than were the circumstances that surrounded him at the time.

CHAS. H. CRAMP.

Affirmed and subscribed to before me at Devon, Pa., this 10th day of August, A. D. 1907.

[SEAL.] ISAAC ABBOTT, *Notary Public.*

(My commission expires February 29, 1909.)

The PRESIDING OFFICER. The question is, Shall the bill be indefinitely postponed?

The bill was indefinitely postponed.

ACADEMY AND INSTITUTE OF ARTS AND LETTERS.

Mr. LODGE. I ask that an order be made to recall from the House of Representatives two bills passed on Saturday last, because I find one bill precisely similar is here from the House. The Senator from New York [Mr. ROOT] has asked me to request the order. I ask that the bill (S. 4355) incorporating the National Institute of Arts and Letters and the bill (S. 4356) incorporating the National Academy of Arts and Letters be recalled from the House.

The PRESIDING OFFICER. Without objection, that order will be made.

Mr. KERN. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 20 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, January 22, 1913, at 12 o'clock m.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January 21, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Blessed be the name of the Lord our God, whose mercy is from everlasting to everlasting.

That God which ever lives and loves;
One God, one law, one element,
And one far-off divine event,
To which the whole creation moves.

Impart unto us of Thy grace sufficient unto the needs of this day, and help us by faith and confidence, by courage and fortitude, by the rectitude of our behavior, to hasten the coming of Thy kingdom upon the earth, that righteousness, peace, and good will may reign in every heart, through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

IMMIGRATION.

Mr. BURNETT. Mr. Speaker, I move that the House further insist upon its amendment to the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States, and agree to a further conference.

The SPEAKER. The Clerk will read the title of the bill.

The Clerk read as follows:

S. 3175. An act to regulate the immigration of aliens to and the residence of aliens in the United States.

The SPEAKER. The gentleman from Alabama [Mr. BURNETT] moves that the House further insist upon its amendment to the Senate bill and agree to a further conference asked for by the Senate.

The motion was agreed to.

The SPEAKER announced the following conferees on the part of the House: Mr. BURNETT, Mr. SABATH, and Mr. GARDNER of Massachusetts.

BUREAU OF MINES.

Mr. FOSTER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table House bill 17260, disagree to the Senate amendments, and ask for a conference.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

H. R. 17260. An act to amend an act entitled "An act to establish in the Department of the Interior a Bureau of Mines," approved May 16, 1910.

Mr. FITZGERALD. What is this?

Mr. FOSTER. This is the Bureau of Mines bill.

The SPEAKER. The gentleman from Illinois [Mr. FOSTER] moves to disagree to the Senate amendments and ask for a conference.

The motion was agreed to.

The SPEAKER announced the following conferees on the part of the House: Mr. FOSTER, Mr. WILSON of Pennsylvania, and Mr. HOWELL.

PENSIONS.

Mr. RUSSELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H. R. 27062 for the purpose of agreeing to the Senate amendments.

The SPEAKER. The Chair lays before the House the bill H. R. 27062, with Senate amendments. The Clerk will read the title.

The Clerk read the title of the bill, as follows:

H. R. 27062. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War, and to certain widows and dependent children of soldiers and sailors of said war.

Mr. RUSSELL. Mr. Speaker, I ask unanimous consent that the House concur in the Senate amendments.

The SPEAKER. The gentleman asks unanimous consent that the House concur in the Senate amendments. The Clerk will report the amendments.

The Senate amendments were read.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The Senate amendments were concurred in.

CHARLES CURTIS AND WIFE.

Mr. LLOYD. Mr. Speaker, I ask for the present consideration of a privileged resolution, which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 782 (H. Rept. 1352).

Resolved, That the Clerk of the House is hereby authorized to pay, out of the contingent fund of the House, the sum of $211.50 to William S. Riley, for the funeral expenses of Charles Curtis, late an employee of the House, and of his wife, whose death occurred within three days after that of her husband, in lieu of the allowance usually made of funeral expenses not exceeding $250.

Mr. LLOYD. Mr. Speaker, in this case the employee died during the holiday recess, leaving a widow, but in three days his widow died. Under the rule she would have been entitled to an amount equal to his salary for six months and the expenses of his funeral not exceeding $250. He left no children, and this resolution provides for payment to the undertaker of the expenses of the funerals, both of Mr. Curtis and of his wife, the total of which does not equal the $250 which is ordinarily allowed for the funeral expenses of an employee.

The resolution was agreed to.

LILLIE M. REESCH.

Mr. LLOYD. Mr. Speaker, I ask for the present consideration of another privileged resolution, which I send to the Clerk's desk.

The SPEAKER. The gentleman from Missouri offers a resolution, which the Clerk will report.

The Clerk read as follows:

House resolution 744 (H. Rept. 1354).

Resolved, That there shall be paid, out of the contingent fund of the House, the sum of $600 to Lillie M. Reesch, for extra services rendered in connection with the sending out of blanks, receiving, filing, and compiling expense statements filed by the Members of Congress in accordance with H. R. 2958, "An act to amend an act entitled 'An act providing for publicity of contributions made for the purpose of influencing elections at which Representatives in Congress are elected,' and extending the same to candidates for nomination and election to the offices of Representative and Senator in the Congress of the United States and limiting the amount of campaign expenses."

Mr. MANN. What is this?

Mr. LLOYD. Mr. Speaker, this resolution provides for pay to a clerk in the office of the Clerk of the House for sending out the notices with reference to the statements required of the campaign expenses of Members and for compiling the statements after they were sent in. There is no provision of law for anyone to do this work, excepting that these statements are required to be sent to the Clerk. A vast amount of work has been done in connection with these statements, giving notice to Members, and filing and compiling the statements after their receipt by the Clerk. This resolution provides compensation to the lady who did it.

Mr. MANN. How much?

Mr. LLOYD. Six hundred dollars.

The resolution was agreed to.

C. L. GILBERT.

Mr. LLOYD. Mr. Speaker, I present the following privileged resolution.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 754 (H. Rept. 1353).

Resolved, That there shall be paid out of the contingent fund of the House the sum of $167.50 to C. L. Gilbert, session clerk of the Committee on Expenditures in the Department of Commerce and Labor, for one month and two weeks' services rendered said committee during the interval between the second and third session of the Sixty-second Congress.

Mr. LLOYD. Mr. Speaker, this resolution provides for pay to the clerk of the Committee on Expenditures in the Department of Commerce and Labor for one month and two weeks' services rendered during the vacation. This clerk came here and actually rendered the service. He is not the private secretary of any Member, so that the passage of this resolution is necessary in order to provide the usual compensation of $125 a month.

Mr. MANN. This committee has a session clerk?

Mr. LLOYD. Yes.

Mr. MANN. When was this service rendered?

Mr. LLOYD. In September and October.

Mr. MANN. What was the occasion of his coming here at that time, when he ought to have been engaged in the campaign? [Laughter.]

Mr. LLOYD. I do not know why he came, but he came here and performed the services. I move to amend the resolution by changing the figure 6 to 8.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amend, line 2, by striking out the figure 6 and inserting the figure 8.

The amendment was agreed to.

The resolution as amended was agreed to.

POSTAL CLERKS AND THE PARCEL POST.

Mr. KENDALL. Mr. Speaker, I ask unanimous consent to address the House for one minute for the purpose of presenting a letter from Carl C. Van Dyke, president of the tenth division of the Railway Mail Association with reference to the parcel post.

Mr. MANN. What is the letter about?

Mr. KENDALL. About the parcel post and the necessity for increased help in the service.

The SPEAKER. The gentleman from Iowa asks unanimous consent to print in the RECORD the letter referred to. Is there objection?

There was no objection.

The letter is as follows:

WASHINGTON, *January 16, 1913.*

Hon. NATHAN E. KENDALL,
House of Representatives, Washington, D. C.

MY DEAR SIR: I desire to call your attention to a talk and to the newspaper clippings which were caused to be read in the House last Saturday afternoon by Congressman COX, of Indiana.

I represent the railway postal clerks of the tenth division, and because of the fact that I have been elected and reelected to this office by a referendum vote of our men regardless of the department's and Mr. Schardt's opposition, I am led to believe that I represent the views and will of these clerks.

As to the newspaper clippings which were caused to be read, I have this to say: I have never caused to be published any statement wherein it was presumed that it was the desire or intention of the clerks to strike, and in furtherance of this contention I wish to quote from the hearings before the Committee on Reform in the Civil Service on H. R. 5970, Sixty-second Congress, second session:

"Mr. DIES. You do not take the position that it is unlawful for a Government clerk to resign or strike?

"Mr. VAN DYKE. I do; and if they should resign in a body or send in their resignation en bloc that it is more or less of a conspiracy; but we do not take the stand that we want to organize to strike, but to stop such a thing, and, further, to have our grievances rectified by taking them through to Congress if necessary."

I am led to believe that this talk of strike on the part of postal employees which has been given publicity during the last two years originated with the department officials for the purpose of crushing such organizations of postal employees which they could not dominate and silence.

Since handing in my resignation to the Post Office Department I have done all in my power to help this class of employees of whom so little was known. I have appeared before committees of both the House and the Senate in their behalf, and am pleased to state that they are very grateful to Congress for the beneficial legislation passed last session.

The interview which I gave in the two cases quoted by Mr. COX was in reply to my opinion of the inauguration of parcel post, and was in substance as follows:

"It seems that the department, as far as the Railway Mail Service is concerned, has made little or no preparation to handle additional mail, which, in my opinion, if the parcel-post proposition is to be made a success, must be done and done quickly, inasmuch as additional car space and more men will be needed to get this mail through on time. The mail service was in bad shape a year ago because of the economy policy of the department, and I am afraid that it will again be in bad shape unless men and space are allowed for the increase in volume which is to be expected because of parcel post. It is needless to state that unless these parcels are sent through without delay the parcel post will become somewhat of a failure instead of the great success it should be.

"Quite naturally, we will enter a protest if extra duty is assigned to the Railway Postal Service, inasmuch as there are thousands of men who are now averaging more than eight hours a day 313 days in a year and who receive no extra compensation for extra duty and are probably about the only men in Government service who receive no annual vacation. These same men have just finished doing extra duty because of the holiday rush, and I doubt very much if it is the desire of either Congress or the public to overwork them, and I shall certainly take means to let both Congress and the public know if extra-duty schedules are prepared."

The foregoing is, as I stated, the substance of my interview with the newspaper men in regard to parcel post.

Since coming to Washington I have been notified that extra-duty schedules have already started on Chicago and Minneapolis railway post office and Pembina and St. Paul railway post office.

I sincerely hope that, in justice to myself and railway mail clerks whom I have the honor to represent, you will give this letter the same publicity as Mr. COX gave the one from Mr. Schardt, stating that the men were willing to do extra duty.

Respectfully, yours,

CARL C. VAN DYKE,
President Tenth Division Railway Mail Association.

ARMY APPROPRIATION BILL.

Mr. HAY. I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the Army appropriation bill—H. R. 27941.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. SAUNDERS in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the further consideration of the Army appropriation bill. The Clerk will report the amendment that was pending when the committee rose.

The Clerk read as follows:

Page 31, after line 21, add the following:

"*Provided*, That no part of this or any other appropriation carried herein shall be used for the payment of expenses of holding, going to, attendance on, and returning from polo tournaments, horse shows, Olympic games, or race track, by officers, enlisted men, horses, or equipments belonging to the United States, except at the United States Military Academy."

Mr. HAY. Mr. Chairman, I move that all debate on this amendment be now closed unless somebody wants to make some further remarks.

Mr. BURKE of South Dakota. I do not object to the debate being closed, so far as this amendment is concerned. The House was dividing, I believe, when the committee rose.

Mr. HAY. If the Chair is going to put the question, I have no objection.

The CHAIRMAN. The question is on the amendment.

The question was taken; and on a division (demanded by Mr. FOSTER) there were—ayes 15, noes 47.

So the amendment was rejected.

Mr. HAY. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amend, page 29, line 15, by striking out the words "to their home (or elsewhere as they may elect)" and insert the words, "or from any place in which they have been held under a sentence of dishonorable discharge and confinement for more than six months, or from the Government Hospital for the Insane after transfer thereto from such prison or place to their home (or elsewhere as they may elect)."

Mr. HAY. Mr. Chairman, the reason for the amendment is that I am informed that the law in effect only applies to prisoners discharged from the United States military prison at Fort Leavenworth and the prison at Alcatraz, Cal.

There are other places for confinement of prisoners than those, and one-third of the prisoners are confined elsewhere than at military prisons.

Mr. MANN. Where are these prisoners to be sent, under the gentleman's amendment?

Mr. HAY. Nowhere, but when discharged they are to be transported to their home as they may elect at the expense of the Government, as other military prisoners are.

Mr. MANN. I thought the gentleman's amendment as reported struck out the words "or elsewhere, as they may elect."

Mr. HAY. It does; but the amendment as offered retains in the law the same words.

Mr. MANN. Then those words still remain in the gentleman's amendment?

Mr. HAY. They do. I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia.

The question was taken, and the amendment was agreed to.

Mr. HAY. Now, Mr. Chairman, I move that all debate on this paragraph and amendments thereto close in 10 minutes.

Mr. BURKE of South Dakota. Mr. Chairman, I want to say to the gentleman from Virginia that I have an amendment that I propose to offer which I do not care to debate. If that amendment is voted down, then I have another amendment that I would like to debate about 5 minutes. With that understanding, I have no objection.

Mr. HAY. Very well, Mr. Chairman, I withdraw the motion.

Mr. BURKE of South Dakota. Mr. Chairman, I now offer the following amendment, which I send to the desk.

The Clerk read as follows:

Page 31, after line 21, add the following: *"Provided*, That no part of this or any other appropriation carried herein shall be used for the payment of expenses of holding, going to, attendance on, and returning from any polo tournaments except at the United States Military Academy."

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Dakota.

The question was taken; and on a division (demanded by Mr. KAHN) there were 27 ayes and 37 noes.

So the amendment was rejected.

Mr. BURKE of South Dakota. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amend, page 30, line 1, after the word "ferriage," insert "transportation of officers, enlisted men, and horses for attendance on polo tournaments, horse shows, Olympic games, and race-track events."

Mr. HAY. Mr. Chairman, I make the point of order on that amendment.

Mr. BURKE of South Dakota. Mr. Chairman, I would like the gentleman to state what his point of order is.

Mr. HAY. Mr. Chairman, it is a change of existing law.

Mr. BURKE of South Dakota. I thought the gentleman had been maintaining that under the law expenditures for this purpose might be made.

Mr. HAY. But this is a change in existing law. This is not a limitation on the appropriation.

Mr. BURKE of South Dakota. Mr. Chairman, will the gentleman reserve his point of order for a moment?

Mr. HAY. I will reserve the point of order.

Mr. BURKE of South Dakota. Mr. Chairman, I have been prompted to offer the amendments that have been voted down because during the last session of Congress on the floor of the House when one of the deficiency appropriation bills was pending I inquired of some of the members of the Committee on Military Affairs as to whether or not there was any authority of law for paying out of any appropriation made in the Army appropriation bill moneys to cover the expenses connected with polo tournaments, and I was informed by several members of that committee that there was no law authorizing any such expenditure. It has been stated since this bill has been before the committee and on Saturday last by no less than three members of the Committee on Military Affairs that in their opinion there is no law that will justify paying the expenses of polo tournaments, race-track events, Olympic games, and other similar exhibitions.

It seems that there was a voucher that reached the Treasury Department to pay certain expenses in connection with a polo tournament. The Auditor for the War Department, who is an officer of the Treasury Department, interpreted the law just as the members of the Committee on Military Affairs interpreted, and said:

I am of opinion and so decide that the regular appropriations for the support of the Army are not available for the payment of any expenses in connection with polo tournaments or polo matches, either for the transportation of polo ponies and equipments or for the transportation of officers and enlisted men or for the subsistence of enlisted men while attending such tournaments.

That was the decision of the Auditor for the War Department upon this question. The Comptroller of the Treasury in deciding this case, which was taken to him on appeal, held that the expenditure was authorized, and in doing so said:

The War Department is intrusted with the control of the Army and what, in its judgment, will promote its efficiency. The Secretary of War represents the President and exercises his power on the subjects confided to his department. If the War Department in the exercise of its jurisdiction and control of the Army is of the opinion that polo tournaments among the officers and enlisted men tend to promote the efficiency of the Army, and accordingly orders the officers and men to participate in such tournaments, which involve expenditures for transportation of officers and men and horses to attend such tournaments, I do not think the accounting officers can revise the judgment of the War Department in such matters or that they are authorized to disallow them the reasonable cost of such transportation.

Mr. Chairman, this committee, by rejecting the amendments which I have offered, has gone on record in favor of expenditures being made for this purpose. The Comptroller of the Treasury may change at any time, and the next comptroller may hold differently from the last comptroller. As long as we are now going to commit and have committed this House to the policy of making these expenditures for this purpose, let us put it in the law so that there can be no question about it.

Mr. HAY. Mr. Chairman, if the gentleman will permit me, I will withdraw the point of order and state that I have no objection to his amendment.

Mr. MANN. Mr. Chairman, I make the point of order.

Mr. BURKE of South Dakota. Mr. Chairman, I do not care to discuss the point of order. We have a decision of the comptroller that moneys may be expended for this purpose, as I have just read. It seems to me that if this is something that is considered necessary in connection with the efficiency of the Army it is quite within the power of this House and this committee to specifically appropriate for it, just as the language in the bill appropriates for many other purposes. It is upon the theory that it is a necessary part of the military organization, including maneuvers and other matters connected therewith.

Mr. MANN. Mr. Chairman, if the gentleman desires to proceed I will reserve the point of order.

Mr. BURKE of South Dakota. Mr. Chairman, I do not care to discuss the matter further, since the chairman of the committee is willing to accept the amendment.

Mr. PRINCE. Mr. Chairman, the gentleman's amendment, if adopted by the House, will be in line with the decision of the Auditor for the War Department?

Mr. BURKE of South Dakota. No; my amendment, if adopted, will be directly opposite from the decision of the Auditor of the War Department, but will be in line with the decision of the comptroller, who reversed the decision of the auditor.

Mr. PRINCE. So as to make it lawful for doing this work.

Mr. SLAYDEN. Will the gentleman permit a question?

Mr. BURKE of South Dakota. Certainly.

Mr. SLAYDEN. I could not hear the amendment when read. Am I to understand from the gentleman's statement just now that the gentleman proposes to make lawful what the gentleman thought was unlawful heretofore and what has been done?

Mr. BURKE of South Dakota. Yes; and I propose to do it, because I do not think we ought to leave this matter, now we have gone on record, to the decision of the comptroller because another comptroller may make another decision. Another comptroller might hold the same as the Auditor for the War Department.

Mr. SLAYDEN. But the gentleman switched from an inclination to save money now to a frank effort to increase an expenditure.

Mr. BURKE of South Dakota. No; it is in line with good administration of the Government, in my judgment. We have gone on record as favoring such expenditures, and therefore let us authorize it so it will not require a decision of some officer of the Treasury to determine what Congress intended.

Mr. KAHN. Mr. Chairman, since this matter was up last, I took occasion to call at the War Department to find out just how far the department was going in the way of shipping horses to race tracks and to Olympic games, and how far the department was going in the matter of getting up polo tournaments. I found that the matter of horsemanship is one of absorbing interest in the Army. Up to a few years ago the officers of the United States Army were woefully deficient in horsemanship as compared with the horsemanship of officers of other countries. They had poor mounts and the horses which were provided by the officers made no showing. Thereupon one of the societies interested in the breeding of good horses gave to the United States Government a number of well-bred horses for use of the officers. These horses are the ones that are being transported from one place to another, to various track events, so called. The races are not the ordinary races that occur at certain race tracks day after day. They are generally gentlemen's events, and the officers of the United States participate in them as gentlemen riders. Instead of riding for large purses they ride for trophies and sometimes a small purse is made up in addition, but it is not in any sense such a race as takes place on the ordinary race tracks of the country. It seems that last summer there was a race at the Benning track in the District. It was held after Congress adjourned. It was in the interest of good horsemanship. I believe they rode 15 miles in one race, which wound up with a steeplechase at the end. Every officer who went within that inclosure to see those officers ride in the races paid his admission fee. The general public, to a certain extent, went there and paid an admission fee, and it was that admission fee that paid the entire expenses of the tournament, or rather paid a portion of the expense, and the Army officers interested in the improvement of horsemanship in the military service went into their own pockets and paid the rest of it.

I find that in the polo tournament that was the subject of so much discussion on this floor last Friday or Saturday the officers went into their own pockets to pay the necessary expenses, but they suggested that where the citizens who came in automobiles and desired to see this game and who parked their automobiles along the road should be approached with a view of having them contribute a dollar toward the expense. The payment of the dollar was to be purely optional.

Mr. BURKE of South Dakota. Will the gentleman yield?

Mr. KAHN. Certainly.

Mr. BURKE of South Dakota. I would like to ask the gentleman if while he was getting information he ascertained how much money was collected in the aggregate from the people?

Mr. KAHN. No; but I understand there was not enough to pay the expenses, and the officers paid out of their own pockets a good deal of the share of the expenses.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RAKER. Mr. Chairman, in this same connection, to show the disposition of the people of California toward these tournaments, I desire to say there is to be a western polo championship at Coronado, San Diego County, Cal., and to show that these people will not only pay the expenses of the officers, horses, and attendants while attending this tournament, except the mere transportation of the officers and horses, I desire to have the following telegram read.

The CHAIRMAN. The Clerk will read the telegram.

The Clerk read as follows:

SAN DIEGO, CAL., *January 20, 1913.*

JOHN E. RAKER,
Member of Congress, Washington, D. C.:

Coronado Country Club has been in correspondence with the War Department for past two years to allow military teams to enter in western polo championship; also compete for a new regimental polo trophy at Coronado, Cal., furnished by club. War Department strongly in favor of doing so on grounds of improved horsemanship, citing foreign countries, including United States, sending teams to compete for honors in horsemanship in Europe. War Department believes such tournaments incite greater individual effort to skill and horsemanship, and therefore of great benefit to the service, and will gladly consider matter if Senators and Representatives will indorse the undertaking. The Coronado Country Club will entertain three teams during tournament, covering hotel bills for accommodations and board for attendants and free feed and stabling for horses during tournament if War Department will find transportation. I earnestly solicit your support. Everything that helps anywhere in California helps the State. This is the best proposition of the kind ever offered the Government.

D. C. COLLIER.

Mr. RAKER. Mr. Chairman, this telegram voices the sentiment of the House, simply shows what benefit will be had to the Army in the improvement of horses, and by the House voting that they will encourage this it will be an indication to the War Department to furnish these horses and send their men to San Diego, Cal., for the purpose of participating in this splendid tournament.

Mr. MANN. Mr. Chairman, I make the point of order.

The CHAIRMAN. The effect of this amendment will be to authorize payment for transportation of officers, enlisted men, and horses for attendance upon polo tournaments, horse shows, Olympic games, and race-track events. Of course, this language is broad enough to authorize payment of expenses not only in connection with the particular type of races referred to by the gentleman from California [Mr. KAHN], but with every variety of race-track events. It is not contended, nor have I been referred to any law from which it can be reasonably inferred, that any authority exists to pay for the transportation of these officers, men, and horses to race-track events generally. Without going into the other features of the amendment, this statement is sufficient to show that the amendment affords authority not now afforded by law, and the point of order is sustained.

The Clerk read as follows:

Roads, walks, wharves, and drainage: For the construction and repairs by the Quartermaster Corps of roads, walks, and wharves; for the pay of employees; for the disposal of drainage; for dredging channels and for care and improvement of grounds at military posts and stations, $642,597.

Mr. ROBERTS of Massachusetts. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 32, end of line 2, insert:

"*Provided*, That no part of this appropriation shall be available until the Secretary of War shall pay to the town of Winthrop, Mass., one-half of the cost, not to exceed the sum of $1,500, of a sidewalk and edge stones on the side of Revere Street in said town of Winthrop, upon which abuts the Fort Banks Military Reservation."

Mr. FOSTER. Mr. Chairman, I make a point of order against that.

Mr. ROBERTS of Massachusetts. Will the gentleman reserve the point of order?

Mr. FOSTER. I reserve it.

Mr. ROBERTS of Massachusetts. Mr. Chairman, I hope to be able to convince the gentleman from Illinois that this is not really the right place to raise his point of order. I concede that the amendment is subject to the point of order, but under the conditions surrounding this case I hope he will not insist upon his rights. The town of Winthrop, in Massachusetts, is one of the unfortunate communities which has been selected by the Government of the United States in which to establish seacoast batteries for coast defense. The people of the town of Winthrop did not seek the location of these works in their midst, and would be very glad indeed if they never had been placed there or if the Government would see fit to abandon them and get out of the town.

Now, in the town, on one of the main highways—Revere Street—there has been placed the Fort Banks Reservation. There are about 1,500 feet abutting on that street. On that street are located the officers' quarters, the hospital, and the gymnasium connected with the fort. The town desires to improve the street, not only that part of it in front of the military reservation, but the entire length of it. It is a main highway leading from the center of the town to what is called Winthrop Heights. The town desires a decent street after the work is done. They propose to place sidewalks on the easterly side and resurface the street proper, and they wish a sidewalk the entire length on the westerly side on which abuts the military reservation. The sidewalk, if constructed, will be of advantage to the reservation, in that the officers and others using the fort will have a convenient walk upon which they can proceed in going to and from their quarters. The entire cost of the sidewalk and edge stone for the distance along the military reservation will not exceed $3,000. The matter has been brought to the attention of the Quartermaster General, and he is ready to pay one-half of that expense if he can have the authorization from Congress.

Mr. SHERLEY. Will the gentleman yield?

Mr. ROBERTS of Massachusetts. Certainly.

Mr. SHERLEY. The fortification which the gentleman says the people of the town object to is part of the defenses of Boston, is it not?

Mr. ROBERTS of Massachusetts. Yes.

Mr. SHERLEY. Does the gentleman recall the attitude of that section of the country during the Spanish-American War touching seacoast defense?

Mr. ROBERTS of Massachusetts. Oh, I recall it very well indeed, but the fact is that the town of Winthrop is no part of Boston. It is a separate community, and this burden of a military reservation, from which the town derives no benefit whatever, has been placed upon them against their will and desire. The case is not like that of a public building located in a community. In those cases the people of the community come down here personally, write letters, or importune their Members to secure a public building for their town.

Mr. SHERLEY. If the gentleman will permit, what I wanted really to find out was whether any part of the State of Massachusetts was desirous of having the defenses for the protection of Boston removed.

Mr. ROBERTS of Massachusetts. The people of Winthrop would like to have those particular forts located in some other locality. I presume the question might be called a selfish one. They would like to have the defense, but they would like to have it located in some other fellow's town.

The point I make is this: Here is a small town of ten or twelve thousand population. It happens to be so located geographically that the War Department conceived the project of locating in it a fort. The fort is a serious detriment to the town, not only because it takes a certain amount of taxable property out of the town valuation, but also because it stands there as a dog in the manger, as it were, stopping any town development, because the War Department, unless specifically authorized, has no power to spend any of that money.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROBERTS of Massachusetts. I want to say one word further in a minute of time, Mr. Chairman.

The CHAIRMAN. The gentleman asks for one minute more. Is there objection to the gentleman's request?

There was no objection.

The CHAIRMAN. The gentleman from Massachusetts is recognized for one minute more.

Mr. ROBERTS of Massachusetts. Mr. Chairman, the chairman of the Committee on Military Affairs, to whom I submitted the amendment, is agreeable to this going on the bill, and I hope the gentleman from Illinois [Mr. FOSTER] will not, under these circumstances, raise a point of order. I concede, under the circumstances, a point of order would be sustained.

Mr. MURRAY. Mr. Chairman, may I ask my colleague from Massachusetts [Mr. ROBERTS] a question?

Mr. HAY. I insist, Mr. Chairman, on having the point of order either made or not made. We must hurry on with this bill.

The CHAIRMAN. That rests with the gentleman from Illinois [Mr. FOSTER] to reserve the point of order.

Mr. HAY. I understand that, Mr. Chairman.

The CHAIRMAN. Anybody can make the point of order.

Mr. HAY. I understand that; but the debate on the point of order proceeds under unanimous consent.

The CHAIRMAN. Yes; to this extent, that in order to cut it off somebody must make the point of order.

Mr. HAY. I will yield two minutes to the gentleman from Massachusetts [Mr. MURRAY].

Mr. MURRAY. Mr. Chairman, the town of Winthrop is in the district I now represent, but it has been taken out of the district from which I have been elected to the Sixty-third Congress, so that my interest in the matter is not at all political. It is based entirely on what I believe to be the justice of the situation.

I can not hope to add anything to the lucid explanation that has been given by the gentleman in whose district this town has been placed by the redistricting of the Massachusetts Legislature. I simply wish to join with him in an earnest request to the gentleman from Illinois [Mr. FOSTER] to withhold his point of order, because I am sure if he were made to appreciate the situation and circumstances that exist there, which my colleague, Mr. ROBERTS, and I know to exist, he would not put a point of order in the way, but would assist us in getting this matter straightened out by means of the proposed amendment. I hope the gentleman from Illinois will not insist upon his point of order.

Mr. FOSTER. Mr. Chairman, I realize that the gentleman from Massachusetts [Mr. ROBERTS] has offered an amendment which is important to the city of Winthrop, in his locality, but I suggest that there are hundreds of other cases all over the United States that are just as meritorious, and if you enter upon the policy of making this improvement, which the Government has never done, I do not think that we ought to do it in this way unless we also take care of other cases, and I therefore make the point of order.

The CHAIRMAN. The point of order is sustained. The Clerk will read.

The Clerk read as follows:

Water and sewers at military posts: For procuring and introducing water to buildings and premises at such military posts and stations as from their situation require it to be brought from a distance; for the installation and extension of plumbing within buildings where the same is not specifically provided for in other appropriations; for the purchase and repairs of fire apparatus, including fire-alarm systems; for the disposal of sewage, and expenses incident thereto, including the authorized issue of toilet paper; for repairs to water and sewer systems and plumbing within buildings; and for hire of employees, $1,519,290.

Mr. HAY. Mr. Chairman, I offer an amendment, to come in as a new paragraph immediately after the paragraph that has just been read.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Virginia [Mr. HAY].

The Clerk read as follows:

On page 32, after line 13, insert, as a new paragraph, the following: "Construction and maintenance of military and post roads, bridges, and trails, Alaska: For the construction, repair, and maintenance of military and post roads, bridges, and trails in the District of Alaska, to be expended under the direction of the board of road commissioners described in section 2 of an act entitled 'An act to provide for the construction and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the District of Alaska, and for other purposes,' approved January 27, 1905, as amended by the act approved May 14, 1906, and to be expended conformably to the provisions of said act as amended, $100,000."

Mr. HAY. Mr. Chairman, by some inadvertence that paragraph was not included in the bill.

Mr. MANN. I suggest that where the term "District of Alaska" first appears it should be changed to "Territory of Alaska." Where it appears the second time it should be "Territory of Alaska" instead of "District of Alaska."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois.

The Clerk read as follows:

In the fourth line of the amendment, change the word "District" to "Territory."

The CHAIRMAN. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The CHAIRMAN. The question now is on agreeing to the amendment as amended.

The amendment as amended was agreed to.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. FITZGERALD having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed bills and joint resolution of the following titles, in which the concurrence of the House of Representatives was requested:

S. 4547. An act to provide for the erection of a public building at Aberdeen, Wash.;

S. 4545. An act to provide for the erection of a public building in the city of Ellensburg, in the State of Washington; and

S. J. Res. 155. Joint resolution extending the privilege of the proviso of section 2 of the act of June 7, 1906, to persons using alcohol for testing citrus fruits.

ARMY APPROPRIATION BILL.

The committee resumed its session.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Barracks and quarters, Philippine Islands: Continuing the work of providing for the proper shelter and protection of officers and enlisted men of the Army of the United States lawfully on duty in the Philippine Islands, including repairs and payment of rents, the acquisition of title to building sites, and such additions to existing military reservations as may be necessary, and including also shelter for the animals and supplies, and all other buildings necessary for post administration purposes, $500,000: *Provided*, That no part of said sum shall be expended for the construction of quarters for officers of the Army the total cost of which, including the heating and plumbing apparatus, wiring and fixtures, shall exceed in the case of quarters of a general officer the sum of $8,000; of a colonel or officer above the rank of captain, $6,000; and of an officer of and below the rank of captain, $4,000.

Mr. HELM. I move to strike out the paragraph.

Mr. Chairman, I observe that this appropriation is part of a $6,000,000 scheme to erect concrete barracks and quarters in the Philippine Islands; also for stables for the Cavalry stationed in those islands.

The Democratic Party in convention has three times gone on record as opposed to imperialism and a colonial exploitation in the Philippine Islands or elsewhere. I believe that at the extra session soon to be called the Democrats will present and pass a bill declaring for the independence of the Philippine Islands, and it occurs to me that it is unwise at this time to expend further sums of money upon an enterprise of this character. This appropriation is for $500,000. If it is to result in the very near future that our Government is to strike tents and pull away from the Philippine Islands and turn that archipelago over to the people of the islands, it occurs to me that this is an additional unnecessary charge upon our Treasury.

According to Senate Document 416, Fifty-seventh Congress, first session, the Philippine Islands for the fiscal years 1898 to 1902 cost this Government over $170,000,000.

I also find that the Chief of Staff reports, in the hearings before the Committee on Expenditures in the War Department, that since the treaty of Paris was adopted to July 1, 1911, that portion of the United States Army that we were compelled to have in the Philippine Islands cost this Government $167,486,403 more than it would have cost to have kept the same number of soldiers in the United States.

Mr. SHERWOOD. You are not counting the pensions paid to the dependent relatives of soldiers who lost their lives in the Philippine Islands, $5,000,000 more.

Mr. HELM. I think the gentleman's statement is reasonably correct. I do not believe these two sums of money which I have mentioned cover one-tenth of the cost entailed upon our Government by reason of our possession and control of those islands.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. HELM. I ask unanimous consent for five minutes more.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent to address the House for five minutes more. Is there objection?

There was no objection.

Mr. HELM. In response to a resolution introduced by the gentleman from Ohio, Mr. Cox, asking the President of the United States to inform Congress as to the total cost to the United States of the occupation of the Philippine Islands, after referring to the two items which I have mentioned, the President, in his response to that resolution, says:

The total amount thus expended can not be determined with any degree of accuracy.

Mr. SHERWOOD. The Anti-Imperialistic League of Boston has estimated the cost of the Philippines to the Government of the United States to be over $1,000,000,000 up to a year ago.

Mr. MANN. Does anybody think that the estimate of the Anti-Imperialistic League is any better than the estimate of the officials of the Government who have reported to Congress on the subject?

Mr. HELM. The trouble about the report that we got from the President of the United States is that he says it is impossible to estimate the actual cost that these islands have entailed upon our Treasury. And if there is anybody who ought to be in a position to know, it is the President of the United States, because he has been governor of those islands. He was Secretary of War, and he is in a position to obtain more information than any other one officer in the United States. He virtually says that proposition is absolutely beyond his grasp,

and that there is no way of estimating what the islands are costing this Government.

Now, I submit, that government has its business features. The Government of the United States is a business proposition, and if we are engaged in conducting a kind of side show, which it is impossible to tell the cost of to us, it seems to me it is about time that we were getting rid of this side show.

There is no doubt that the next House and the next Senate will be Democratic. The next President of the United States will be a Democrat.

Mr. MANN. By title.

Mr. HELM. You will find that he will be a good performer as a Democrat, and furthermore you will find that he is standing squarely upon the Baltimore platform, which declares for the independence of the Philippine Islands.

Mr. HAMILTON of Michigan. It is not where he is standing, but which way he is moving that is important.

Mr. HELM. He is moving away from those islands. [Applause on the Democratic side.]

Mr. MANN. That is what Cleveland did as to the Hawaiian Islands.

Mr. HELM. With this program confronting us, it has occurred to me that it is an unwise proposition for this House now to appropriate this sum of money for that purpose. There will be abundance of time at the extra session of Congress. If the bill declaring the independence of the islands does not become a law in this Congress, then this appropriation can be made at the extra session. It seems to me to be the wise thing and the proper thing not to make any further appropriations of good American money to be expended in the Philippine Islands.

The CHAIRMAN. The time of the gentleman from Kentucky has again expired.

Mr. HAY. I do not know what policy is to be pursued hereafter with regard to the Philippine Islands. I do not suppose that anybody knows just what policy is going to be pursued. At all events, the bill which has been considered does not propose to abandon these islands until 1921, which is seven years from now.

This proposition is not for the benefit of the Philippine Islands. It is for the benefit of the soldiers of the United States, and, in my judgment, no matter what policy may be hereafter pursued by this Government in regard to these islands, it is our duty, so long as we retain them, and so long as we have troops there, to furnish them proper shelter and proper care. [Applause.]

Mr. HELM. We have had troops in the Philippine Islands how long?

Mr. HAY. We have had troops there since 1898.

Mr. HELM. Have they not been properly quartered and sheltered and cared for since that date?

Mr. HAY. They have been quartered and sheltered in a certain way, but not in a proper way. The evidence is that some of the quarters that they have been occupying are now made of grass, branches of trees, and lumber from the United States which has been destroyed by the insects peculiar to those islands, and it is absolutely necessary for their comfort and proper shelter that some of this money shall be expended in providing permanent shelter for them which will not be destroyed by typhoons and insects.

Mr. HELM. Does the gentleman think it is a wise thing to spend $5,000,000 in view of the position that the Democratic Party has taken concerning these islands?

Mr. HAY. I know of no scheme to spend $5,000,000.

Mr. HELM. Is not this a part of a scheme to expend $5,000,000 in the Philippines?

Mr. HAY. I do not know what scheme the present administration has. I do not think that any scheme of the present administration will be the scheme of the next administration, either as to the building of posts in the Philippine Islands or in this country. If the gentleman was as familiar as I am with the changing opinions of the Secretary of War and the Chief of Staff now, he would know that nobody on earth could tell what the next Secretary of War or the next Chief of Staff would do about these matters.

Mr. HELM. The gentleman is aware that in the hearings had on this present bill, on page 390, it is stated that this appropriation is a part of the scheme there set forth to appropriate $5,000,000 for the purpose I have stated.

Mr. HAY. I am aware that the present administration of the War Department proposes to spend a certain amount of money in the Philippines, but the point I am getting at now is that this $500,000 is and ought to be spent specifically as stated by the Chief of the Quartermaster Corps, for the building of shelter for the troops and animals and for the repair of barracks which they already have there.

Mr. HELM. I do not understand that the troops are without shelter.

Mr. HAY. Not all of them, but some of them are very inadequately sheltered.

Mr. HELM. Can the gentleman inform me how much has been expended in the construction of barracks and quarters for the soldiers in the Philippine Islands?

Mr. HAY. I can not, for I have not the figures before me; but I want to call the attention of the committee to the Chief Quartermaster's statement in the hearings where he says:

> Mr. SLAYDEN. How are those troops sheltered now?
> Gen. ALESHIRE. At Fort Kiethley, for instance, they are using nipa, which is a native palm or grass, for the construction of shelter. They use the branches of trees, etc., and they are trying to build permanent concrete structures. Of course, there has been a great deal of money spent over there for buildings, the same as has been done in this country, to provide accommodations and shelter at temporary posts. These Army posts were necessary once, but are no longer needed. They have also constructed buildings from lumber from this country which have been blown away by typhoons. In fact, these frame buildings do not stand a typhoon much better than the native shacks.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. HAY. I ask for five minutes more.

The CHAIRMAN. The gentleman from Virginia asks that his time be extended five minutes. Is there objection?

There was no objection.

Mr. HAY. Now, Mr. Chairman, whatever may be the policy which is to be pursued with regard to these islands, whatever may take place in the future, I for one, who am in a measure charged with the responsibility for the appropriations for the Army of the United States, do not propose to assume the responsibility of refusing a reasonable, right, and proper appropriation for the shelter and accommodation of the Army. [Applause.]

Mr. HELM. Will the gentleman yield?

Mr. HAY. For a question.

Mr. HELM. I notice that in the proviso of this appropriation it is stated that the quarters of a general officer shall not exceed a cost of $8,000, a colonel or officer above the rank of captain, $6,000, and an officer of and below the rank of captain, $4,000. Is it not a fact that the present policy of the War Department, instead of constructing barracks and quarters for the soldiers, is giving them commutation of quarters and permitting the officers to secure their own quarters instead of constructing such quarters, as they have at Fort Myer and elsewhere?

Mr. HAY. I know of no such policy. I think the policy of the department is, and always has been, to construct the quarters at military posts, and only to construct quarters for the accommodation of officers who may be stationed at these posts.

Mr. HELM. Mr. Chairman, is it not a fact that the present policy of the War Department is to quarter the troops close to the large cities, where they can secure quarters instead of constructing buildings or houses to quarter the men; and if that is the policy, how do they square that policy with the policy of expending these sums of money in the Philippine Islands for the construction of quarters, or a policy that they condemn?

Mr. HAY. Mr. Chairman, I do not understand that that is the policy of the War Department. The proviso in this bill is a limitation on the appropriation for the purpose of keeping down the cost of these quarters for officers.

Mr. HELM. They have the same thing here, do they not?

Mr. HAY. No.

Mr. HELM. Does not the colonel and the general and the captain, and so forth——

Mr. HAY. As I understand, they spend as much as $12,000 for quarters for a general officer and $10,000 for those officers above the rank of captain and $6,000 for officers of the rank of captain.

Mr. HELM. And the cost of construction is represented as being more over there in the Philippines than it is here.

Mr. HAY. Of course it is more expensive to construct quarters there than it is here. They have to transport the material there. They are now constructing buildings of concrete, which are permanent, and to be less expensive than to put up quarters from timber, which is liable to be destroyed on account of the climate of those islands.

Mr. SHERWOOD. Mr. Chairman, I will ask the gentleman from Virginia what is the number of soldiers now in the Philippine Islands?

Mr. HAY. I think there are now in the Philippine Islands about 13,000 soldiers.

Mr. SHERWOOD. What is the necessity for so many soldiers, when Spain kept only about 1,200 soldiers on the islands?

Mr. HAY. I could not tell the gentleman the necessity for keeping that number of soldiers there, unless it be that the islands are scattered. It is a large archipelago, and the inhabitants are scattered all over it. The troops have to be stationed in various places there, and to preserve order it is necessary to have these troops.

Mr. SHERWOOD. The presumption is that the people of those islands are still disloyal to the United States Government?

Mr. HAY. I would not say to the gentleman what the presumption is.

Mr. SHERWOOD. Otherwise there would be no necessity for such an Army there.

Mr. HAY. I do not know whether they are disloyal or not.

Mr. KAHN. Mr. Chairman, if the gentleman will permit, I believe the department has ordered home four regiments of Infantry and two of Cavalry, so that the number of troops in the islands is materially decreased.

Mr. HAY. But they have filled up the regiments they have kept there to their full strength.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. JONES. Mr. Chairman, I make the request that I may be permitted to address the House for 30 minutes. This is the first time during this session of Congress that I have taken up, or asked to take up, one moment of the time of the House, and I hope that the request will not be opposed.

Mr. HAY. Mr. Chairman, I do not want to cut off the gentleman from discussing the future policy of the Government with regard to the Philippine Islands, but if the gentleman makes a speech of 30 minutes some one else will want to make a speech of 30 minutes. If the committee is, then I am willing to hear the gentleman for 30 minutes, provided that will be the end of the discussion.

Mr. SHERLEY. Mr. Chairman, I desire to say to the gentleman that I do not want to let go unchallenged certain statements as to what is to happen in the future relative to the Philippines, when I do not agree with those statements at all, and I should feel that the other side of any discussion should have an equal opportunity to present its views.

Mr. JONES. Mr. Chairman, I wish to say to my friend from Kentucky, who seems to be afraid that I wish to enter upon a discussion of the whole Philippine question, that I understand quite well that he does not agree with me in my position as to the Philippines, but that such is not my purpose. I propose to confine my remarks, in the main, to the subject now being discussed, but I also wish to comment briefly upon a speech which the President of the United States is reported to have made before the Ohio Society in New York City on Saturday night last. I do not propose to go into the question of the capacity or fitness of the Filipino people for self-government; I do not propose to discuss that subject at this time; but, Mr. Chairman, the President is alleged to have said—and that bears upon this very point——

Mr. HAY. Mr. Chairman, I ask unanimous consent that this discussion may proceed for 40 minutes, 20 minutes to be consumed by the gentleman from Virginia and 20 minutes on the other side.

Mr. MANN. Mr. Chairman, well, that it is very liberal; has the gentleman eliminated this side of the House?

Mr. HAY. I said on the other side; I have no objection; I will yield time to the gentleman.

Mr. MANN. That is not the way the gentleman put it. Now, I suggest to the gentleman from Virginia that when this bill is passed there will be general debate on the river and harbor bill which is pending, there will be general debate on the fortifications bill which is pending, and it is hardly fair when the House, is considering an appropriation bill under the five-minute rule, to inject another subject entirely in the way of general debate——

Mr. JONES. Mr. Chairman, I do not propose to inject another subject. I will state to the gentleman frankly that the President of the United States is reported to have said that the expenses of our military operations in the Philippine Islands, to use his own words, were practically nil, meaning thereby, I suppose, nothing. This bill carries something less than $2,000,000 to pay Philippine scouts in the Philippine Islands and to build shelter for our troops there, and as bearing upon this question I wish to show the House, if I can, by facts and figures, that President Taft is very much misinformed if he thinks our expenditures for military purposes in the Philippines have been practically nothing. Now, that statement has gone all over the country, and I feel that the sooner it can be answered the better it will be for a correct understanding of this subject, and I hope my friend from Illinois will not object to my now undertaking to do so. The facts should be known.

Mr. MANN. The gentleman will recall the resolution which passed the House asking the President, as soon as possible, to ascertain and let us know what the expenses were caused by the Philippine Islands.

Mr. JONES. Does the gentleman know what the President's reply to that was—that the problem was insoluble?

Mr. MANN. I do; he replied what everybody ought to have known, what he ought to have replied—that nobody could tell. If the gentleman wants to introduce this subject into the House and spend a day or two discussing it, and if gentlemen on that side of the House think the appropriation bills are far enough along so we can spend a lot of time discussing a subject that is not going to be brought before the House at this session, why, I am quite willing to do it; but if the gentleman is going to enter upon that subject, either on this bill or subsequent bills, we will demand time on this side of the House.

Mr. JONES. I certainly shall be glad for the gentleman to have it.

The CHAIRMAN. The request of the gentleman from Virginia was that 20 minutes be occupied by the gentleman from Virginia [Mr. JONES] and 20 minutes be occupied by some one opposing the views presented by the gentleman from Virginia.

Mr. MANN. I understood that was the request, Mr. Chairman; but this opens up a subject that will have to be discussed on the next bill under general debate in all probability.

Mr. JONES. Will the gentleman permit me to address one remark to him? The gentleman said this debate could take place on the river and harbor bill. I understand the Committee on Rivers and Harbors do not intend to permit any general discussion upon their bill, and this bill can easily be finished before the end of to-day. It does seem to me that, in view of the importance of this subject and in view of the recent statement which the President is credited with having made in the city of New York, which has gone all over the country, I should be permitted a few moments in which to give to the House the real facts of the case——

Mr. HELM. Mr. Chairman, I can not conceive of a more opportune time or occasion for a discussion of this Philippine proposition than this present moment. The last time this bill was up before the House we spent about three or four hours discussing polo ponies; but when you meet a vital, important proposition for discussion under the five-minute rule, then time suddenly becomes so precious and so valuable that we must hurry on post haste to some other matter.

Mr. PRINCE. Mr. Chairman——

The CHAIRMAN. Does the gentleman yield?

Mr. HELM. In just a moment. It has been my observation that whenever we have general debate discussion goes far afield, and then it is stated that the time to discuss propositions of this kind is under the five-minute rule; and when we get under the five-minute rule, then we must go back to general debate. It does seem to me that this is a pertinent question and that now is the time for its best discussion, when the Members can best comprehend it and understand the proposition better than any other time, and therefore I move that the gentleman from Virginia [Mr. JONES] have 30 minutes and some gentleman in opposition to the proposition have 30 minutes.

Mr. MANN. Mr. Chairman, it is now 20 minutes of 2 o'clock. We have read one page of this bill to-day. There are 10 or 12 more pages to be read. If gentlemen on that side of the House think they can afford to take up the time in discussing extraneous matter, I am not going to object. I do not want to hear gentlemen afterwards complain that this side of the House is delaying appropriation bills, because the chances are that if this matter gets into the debate the appropriation bills will not all become laws at this session of Congress.

Mr. COX. We would not do that.

Mr. MANN. You would not do that? That is what we will hear the last month of the session.

Mr. JONES. If the gentleman will yield time to me on the river and harbor bill, I will withdraw my request.

Mr. SHERLEY. I have no objection to yielding it to the gentleman on the fortification bill.

Mr. JONES. I would like to ask the gentleman from Kentucky [Mr. SHERLEY] when the fortification bill will be before the House?

Mr. SHERLEY. I hope to bring it before the House immediately following the river and harbor bill, if not immediately preceding.

Mr. JONES. Will it be during this week?

Mr. SHERLEY. I think it will, unquestionably.

Mr. JONES. Some of my friends here think I ought to insist on being given time now. As I can not get this consent, however, except by unanimous consent, and as opposition has developed, if the gentleman will promise me an hour on the fortification bill I will reluctantly withdraw my request, although I feel, Mr. Chairman, that this matter ought to be discussed at this time.

Mr. SHERLEY. I do not desire either that the gentleman ought to press or withdraw his request; but I am perfectly willing, being in charge of the fortification bill, to grant him an hour's time, although I am opposed to his views.

Mr. JONES. The gentleman can not know that he is opposed to my views, because he has not heard them.

The CHAIRMAN. Does the gentleman from Virginia [Mr. JONES] withdraw his request?

Mr. JONES. With that understanding I withdraw the request.

Mr. KAHN. Mr. Chairman, there is an amendment pending.

Mr. HAY. The amendment was the one offered by the gentleman from Kentucky, to strike out the paragraph.

Mr. GARRETT. Will the gentleman from Virginia [Mr. HAY] permit me a question right there?

Mr. HAY. Surely.

Mr. GARRETT. In lines 16 and 17, page 32, I find this:

Officers and enlisted men of the Army of the United States lawfully on duty.

I was just wondering as a matter of curiosity what that word "lawfully" means in that connection.

Mr. HAY. I presume it means officers or enlisted men who are ordered by the President of the United States on duty in the Philippine Islands. In other words, it means what it says.

Mr. GARRETT. It seems rather a strange expression.

Mr. HAY. It always has been in the bill.

Mr. GARRETT. I thought perhaps it might have some technical meaning, I will say to the gentleman.

Mr. HAY. My recollection is that the history of this item in the bill is that when it was first offered a point of order was made and an amendment was very skillfully drawn by the gentleman from Illinois [Mr. CANNON], who was then chairman of the Committee on Appropriations.

Mr. MANN. That is correct. That is the way the word got in there.

Mr. HAY. It has a technical meaning that makes it in order.

Mr. GARRETT. As a matter of information, inasmuch as I would like to learn these things, I would be glad to have the gentleman inform me what the technical meaning is.

Mr. MANN. If the gentleman will pardon me, there was an item in this bill, or some other bill, to which an amendment was offered, against which a point of order was made and sustained on the ground, I think, that we had no authority to construct these quarters in the Philippine Islands, but if they were lawfully there we did have the authority. Thereupon the item was drawn accordingly.

Mr. HAY. I remember it very well.

Mr. GARRETT. The constitutional and legal questions which were raised at that time brought about the use of this word?

Mr. MANN. Undoubtedly.

Mr. GARRETT. And the preservation of it in the bill retains the doubt?

Mr. MANN. I have no doubt myself. It was not a doubt of our right to have the troops in the Philippine Islands, but our right to construct barracks. That was all.

Mr. GARRETT. And it has been carried in the bill since that time because of the still unsettled policy of this Government with respect to the Philippine Islands?

Mr. MANN. It has been carried in the bill because it is the custom to copy the current law into a bill. There is no special reason for changing it.

Mr. GARRETT. That is the opinion of the gentleman from Illinois [Mr. MANN] about it. I was wondering what the gentleman from Virginia would say about that.

Mr. HAY. My opinion is it has been carried in the bill every year because it was put there in the first place.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky [Mr. HELM].

The question was taken, and the amendment was rejected.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. SHERLEY having taken the chair as Speaker pro tempore, a message in writing from the President of the United States was communicated to the House of Representatives by Mr. Latta, one of his secretaries, who also informed the House of Representatives that the President had approved and signed bills of the following titles.

On January 7, 1913:

H. R. 10169. An act to provide for holding the district court of the United States for Porto Rico during the absence from the island of the United States district judge and for the trial of cases in the event of the disqualification of or inability to act by the said judge.

On January 8, 1913:

H. R. 10648. An act amending an act entitled "An act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with the Indian tribes, and to protect the same."

On January 21, 1913:

H. R. 20339. An act for the relief of Joseph W. McCall.

ARMY APPROPRIATION BILL.

The committee resumed its session.

The Clerk read as follows:

MEDICAL DEPARTMENT.

Medical and Hospital Department: For the purchase of medical and hospital supplies, including ambulance and disinfectants, and the exchange of typewriting machines, for military posts, camps, hospitals, hospital ships, and transports; for expenses of medical supply depots; for medical care and treatment not otherwise provided for, including care and subsistence in private hospitals of officers, enlisted men, and civilian employees of the Army, of applicants for enlistment, and of prisoners of war and other persons in military custody or confinement, when entitled thereto by law, regulation, or contract: *Provided*, That this shall not apply to officers and enlisted men who are treated in private hospitals or by civilian physicians while on furlough; for the proper care and treatment of epidemic and contagious diseases in the Army or at military posts or stations, including measures to prevent the spread thereof, and the payment of reasonable damages not otherwise provided for, for bedding and clothing injured or destroyed in such prevention; for the pay of male and female nurses, not including the Nurse Corps (female), and of cooks and other civilians employed for the proper care of sick officers and soldiers, under such regulations fixing their number, qualifications, assignment, pay, and allowances as shall have been or shall be prescribed by the Secretary of War; for the pay of civilian physicians employed to examine physically applicants for enlistment and enlisted men, and to render other professional services from time to time under proper authority; for the pay of other employees of the Medical Department; for the payment of express companies and local transfers employed directly by the Medical Department for the transportation of medical and hospital supplies, including bidders' samples and water for analysis; for supplies for use in teaching the art of cooking to the Hospital Corps; for the supply of the Army and Navy Hospital at Hot Springs, Ark.; for advertising, laundry, and all other necessary miscellaneous expenses of the Medical Department, $750,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, I would like to ask the chairman of the committee if the War Department builds ships or transports, or whether it has adopted the practice of purchase?

Mr. HAY. I can say to the gentleman that the department is not now engaged in building any transports or ships. The department does have ships and boats constructed.

Mr. MOORE of Pennsylvania. But nowhere in this bill is an appropriation made for the construction of a ship or a transport?

Mr. HAY. No; there is not.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ORDNANCE DEPARTMENT.

Ordnance service: For the current expenses of the Ordnance Department, in connection with purchasing, receiving, storing, and issuing ordnance and ordnance stores, comprising police and office duties, rents, tolls, fuel, light, water, and advertising, stationery, typewriters and adding machines, including their exchange, and office furniture, tools, and instruments of service; for incidental expenses of the ordnance service and those attending practical trials and tests of ordnance, small arms, and other ordnance stores; for publications for libraries of the Ordnance Department, including the Ordnance Office; subscriptions to periodicals which may be paid for in advance, and payment for mechanical labor in the office of the Chief of Ordnance, $300,000.

Mr. SHERLEY. Mr. Chairman, I will ask the gentleman whether this item carries any sum for ammunition of any sort, or does that follow subsequently?

Mr. HAY. It does not. The item that comes immediately afterwards carries ammunition.

The CHAIRMAN (Mr. DENT). The Clerk will read.

The Clerk read as follows:

Ordnance stores—Ammunition: Manufacture and purchase of ammunition and materials therefor for small arms for reserve supply; ammunition for burials at the National Soldiers' Home in Washington, D. C.; ammunition for firing the morning and evening gun at military posts prescribed by General Orders, No. 70, Headquarters of the Army, dated July 23, 1867, and at National Home for Disabled Volunteer Soldiers and its several branches, including National Soldiers' Home in Washington, D. C., and soldiers' and sailors' State homes, $200,000.

Mr. SHERLEY. Mr. Chairman, I offer the following amendment at the end of the paragraph.

The CHAIRMAN. The gentleman from Kentucky [Mr. SHERLEY] offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 41, at the end of line 21, insert the following: "*Provided*, That no part of this sum shall be expended in the purchase of ordnance powder at a price in excess of 53 cents or for small-arms powder in excess of 65 cents per pound."

Mr. MANN. Where does that come in?

Mr. SHERLEY. At the end of the paragraph, at the end of line 21.

Mr. Chairman, the subcommittee on fortifications of the Committee on Appropriations undertook a rather elaborate investigation into the cost of powder. It had before it not only the officers of the Army and Navy who have been engaged in the manufacture of powder, but it also had before it a representative of the Du Pont people and a Mr. Waddell, who had been a manufacturer of powder and was a severe critic of the policy of the Government touching the purchase of powder and the price paid for it.

As a result of this very elaborate hearing the committee came to the conclusion that we were paying a price for powder that is unwarranted, and that the price proposed in the amendment that I have offered represents a fair price to the manufacturer, having in view all of the proper factors touching the cost of making the powder and the hazardous nature of the business.

There will be found in the report of the committee certain tables published from the hearings, which show that the cost to the Government of manufacturing powder at the Army arsenal is 40.43 cents; that at the Du Pont works, basing the cost there on the cost at the Government works and adding thereto such other items as should be properly credited to a private concern and which should not be charged as against a Government concern, the cost of powder was 50.15, and that included an item of 5½ cents a pound as representing interest at 5 per cent on $5,500,000 invested by the Du Pont people.

Now, we did not believe that it was proper in arriving at a sale price to first consider interest on the entire capital invested and then subsequently figure a profit on the cost price arrived at. So, eliminating the 5½ cents per pound from the cost, it will be observed that the cost to the Du Pont people, according to this table, is 44.66 cents. Twenty per cent profit on that would bring the cost of powder to a fraction over 53 cents per pound.

I am now speaking of ordnance powder. Now, the figures submitted by the Navy as to the cost of manufacturing powder at the Navy arsenal and the cost upon their basis to the Du Pont people gave 48.95 cents a pound. Also carrying into the computation 5½ cents as interest upon the investment of $5,500,000 and subtracting that from the figures you get 43.6 cents—very close to the figures of the Army; and, figuring 20 per cent on that, you get as a selling cost something under 53 cents.

Now, it will be observed that in arriving at this cost to the Du Pont people, we have taken into consideration what may be called the factory cost, then depreciation of the plant, insurance, rejections, freight, pensions, stock bonuses, selling expenses, experimentation, administration, and all of the items that could by any argument properly be considered; and having considered those, you have presented to you the proposition of an ordinary manufacturing concern. We think that that being so, 20 per cent profit upon the cost price is certainly a fair sale price.

Mr. MADDEN. Does the depreciation charge include losses by explosions?

Mr. SHERLEY. We figured depreciation separately from loss by fire direct, but I mentioned that as showing that we have gone to the extreme in allowing for any proper charge due to the hazardous character of the business. Having allowed that, you have presented the case of an ordinary business. Twenty per cent profit upon the cost price ought, in our judgment, to satisfy any going concern. We have presented this as our judgment, as the result of a very elaborate investigation.

As to small-arms powder, while we did not go into that in detail, because the bill that we were dealing with does not deal with small-arms powder, but only with ordnance powder, the testimony is that it costs about 10 cents per pound more for small-arms powder than it does to make ordnance powder. In arriving at the figure of 65 cents a pound I have figured 11 cents as an addition to the cost to the manufacturer, and then upon that have added 20 per cent profit, which brought me to approximately 65 cents as representing a proper cost for small-arms powder.

Mr. MADDEN. How much saving would that indicate?

Mr. SHERLEY. We are now paying 60 cents for ordnance powder and heretofore have paid as high as 75 cents, I think, for small-arms powder.

Mr. HAY. As high as 80 cents.

Mr. SHERLEY. Seventy-five and eighty cents. I understand a limitation of 71 cents for small-arms powder was placed upon one of the bills, and that contracts have not yet been made under that bill, but I have no reason to doubt—and I am prepared to say to this committee that after a very careful examination I believe the price suggested in the proposed amendment is a fair price to the Du Pont people, who are the only manufacturers of this powder for the Government, and that it is a reasonable price for the Government to pay for their powder. They are entitled to a reasonable price. Beyond that they ought not to receive any additional profit. I ask the adoption of the amendment.

Mr. HEALD. May I ask the gentleman a question?

Mr. SHERLEY. Certainly.

Mr. HEALD. I have gone over the hearings which were had upon this subject, and I think the statement made by the gentleman from Kentucky is a fair résumé of these hearings, and that, as he has stated it to the House, he has handled it in a very fair and impartial manner. There is one matter, however, that appeals to me from a different point of view than his, and that is as to the profit to which a private corporation is entitled in the manufacture of smokeless powder. Of course the 20 per cent profit on the manufacturing cost is a different proposition from a return upon invested capital. I want to ask the gentleman if he thinks that 5½ per cent upon the invested capital necessary for the manufacture of smokeless powder is a sufficient profit for a hazardous enterprise of this kind, particularly as an investment return as large as that can be secured with greater safety in other lines of business?

Mr. SHERLEY. My answer to the gentleman is this: In the first instance, I doubt very much whether the Du Pont people are entitled to be credited with a capital investment of five and one-half million dollars. I am not questioning that that may be a book account—that the books may actually show an investment of that amount. But when you consider the amount that is always and properly allowed for depreciation, and when you consider other items, and what we now know to be the cost of creating a plant that would have an output of the capacity of the Du Pont plant, I should think that was an extravagant allowance. That is my first answer. The second answer is that the Du Pont people are not engaged entirely in making powder for the United States, but they are now manufacturing and selling the same kind of powder to other governments, and therefore it is not to be assumed in this computation that you must figure all of their profits upon the sales that they make to the Federal Government. Having in mind these conditions, I think what the committee has recommended is fair. And its recommendation is not an allowance of 5½ per cent on investment, but of 20 per cent on cost of making the powder. I have not worked out and have not the data to determine what per cent on investment is made by the Du Ponts, because I do not know just what their output will be or what they will sell at to others than the Government.

Mr. HEALD. May I ask the gentleman another question?

Mr. SHERLEY. Certainly.

Mr. HEALD. In the manufacture of smokeless powder it has, as the gentleman well knows, heretofore been the practice for the powder company to maintain partially in idleness all the time one of the three plants which they use in its manufacture; the policy of the department being, according to their well-expressed views, to retain in active service the three plants, while, as a matter of fact, only one plant out of the three is actually used at a time, thus requiring on the part of the powder company an investment much larger than would ordinarily be the case. Has the committee taken that into consideration?

Mr. SHERLEY. We did; and it may be that the policy of having idle plants will be discontinued by the Du Pont people. The gentleman will appreciate that it is impossible to undertake to determine with mathematical nicety all the questions such as the gentleman puts. We had no opportunity to examine the figures of the Du Pont people. They declined—and I am not criticizing them for the declination—they declined to submit cost figures. I believe I could demonstrate to this House by a number of reasons why the factory cost of the Government should not be the factory cost of the Du Pont people, and that their factory cost should be less; that there are certain economies that they ought to have over the Government. Yet that is a matter of inference, but we accepted the factory cost to the Government as their cost, and then as to all of the items we added as being properly creditable to the Du Pont people and not chargeable to the Government we take the figures of the Du Pont people as furnished by Col. Buckner a year ago. The best I can say is that the committee diligently inquired, and I think the hearings will show that the diligence was not without reward, to find actual facts, approaching the subject without prejudice, without a desire to do harm to anybody, and the committee united in the view that the prices suggested are reasonable prices.

As justification of the action taken by the committee, the following tables, touching the cost of manufacturing powder at the Picatinny Arsenal and at the Du Pont Works submitted

by Gen. Crozier, and the tables submitted by Admiral Twining of the cost of the manufacture of powder at Indianhead and at the Du Pont Works, found on pages 282 and 301, respectively, of the hearings, are submitted:

TABLE SUBMITTED BY GEN. CROZIER.

Cost of powder at Army factory compared with cost at the Du Pont Works, conditions of operation being similar, i. e., each occupied fully at one shift.

Item.	Picatinny Arsenal, annual output 1,000,000 pounds.	Du Pont Works, annual output 5,000,000 pounds.	Remarks.
Factory cost[1]	$0.3300	$0.3300	Assumed same.
Depreciation:			
Machinery, at 10 per cent	.0202		Taking company's statement of total investment and assuming it divided in buildings, machinery, and materials with same rate of depreciation as for United States.
Factory buildings, at 5 per cent.	.0020	.476	
Other buildings, at 2 per cent.	.0040		
Fire losses	.0070	.0070	
Rejections	.0060	.0060	
Transportation service	.0020	.0020	
Total manufacturing cost.	.3712	.3926	
Selling expenses		.0062	Company's statement for theirs.
Administration	.0126	.0254	Do.
Taxes		.0011	Do.
Experimental work		.0054	Do.
Interest, 3 per cent Government, 5 per cent Du Pont.	.0205	.055	Total investment taken.
Freight		.006	
Stock bonuses		.0015	Company's statement.
Pensions, etc.		.0083	Do.
Total cost	.4043	.5015	

[1] The following items are included under factory cost:
(a) All material used in the manufacture of powder.
(b) All labor, direct and indirect.
(c) Manufacture and repair of powder boxes.
(d) Current repairs and improvements to buildings.
(e) Current repairs and improvements to machinery.
(f) Cost of chemical tests.
(g) Cost of clerical labor.

TABLES SUBMITTED BY ADMIRAL TWINING.

Cost of powder manufactured at Indianhead, calculated on a basis suitable for comparison with commercial costs.

Invoice price	$0.30511
Overhead charges, not paid from the same appropriation	.08025
Interest	.02210
Total cost to the Government	.40746

The following items taken from the testimony of Col. E. G. Buckner, of the Du Pont Co., before the House Committee on Naval Affairs Feb. 16, 1912. This company being the only one manufacturing powder, it is necessary to take data given by them for this purpose.

Items of cost to a private corporation but not to the Government.

Stock bonuses	$0.00150
Selling expense	.00620
Idle mills	.00730
Taxes	.00110
Total cost of production at private works	.42356

In the statement next following is given an estimate of the cost of powder to a private manufacturer, estimating the same production cost as at Indianhead and adding thereto overhead charges as furnished by Col. E. G. Buckner at the hearing above referred to:

Statement of cost of smokeless powder at a private plant, using Indianhead invoice price for 1912 ($0.30511) and overhead charges obtained from statement of Col. E. G. Buckner, representing the Du Pont Powder Co., before the Committee on Naval Affairs, Feb. 16, 1912.

Invoice price from Indianhead		$0.30511
Interest at 5 per cent	$0.0550	
Depreciation of plants	.03323	
Insurance	.0070	
Rejected powders	.0060	
Powder boxes	.0100	
Freight	.0060	
Tug service	.0020	
		.11923
Pensions and personal liability	.0083	
Stock bonuses	.0015	
Selling expense	.0062	
Administration	.0254	
Experimental	.0054	
Idle mills	.0073	
Taxes	.0011	
		.05320
		.47954
Estimated interest on stock in suspension, at 5 per cent		.01000
Total		.48954

Mr. HEALD. Mr. Chairman, in addition to the questions which I have asked the gentleman from Kentucky and the answers, which have covered the points very thoroughly, I want to say that, in my opinion, the relations between the Government and the powder company in the past have been such that imposed upon them an excessive investment, and that condition exists to-day. The powder company, by the requirements of the departments, is maintaining three plants to obtain the output of only one. Getting away from the necessities of that condition would, of course, create a different condition as to the price of the finished material.

The investigation that Congress and the committee has made into the cost of powder has been very thorough and very complete in the last four sessions of Congress, and I could only wish that the expenditures of the Army and the Navy, aggregating $250,000,000, only 1 per cent of which is expended in ammunition, might meet with the same thorough investigation and examination of prices that has been given to the manufacture of powder. To-day the manufacturers of smokeless powder are meeting that competition which comes from continued probing and examination at the hands of Congress and the exact knowledge which is in the hands of the officers of the War and Navy Departments. And this, I believe, is more effective than competing manufacturers.

This examination, probing, and criticism, however, has been almost entirely confined to the 1 per cent spent for powder, while the 99 per cent spent for guns, battleships, colliers, and other equipment is accepted as a matter of fact, none of which is valuable without the best powder and plenty of it.

Our apparent object might be criticized as being more of a desire to secure a cheap powder than the best powder and enough powder.

Mr. HAY. Mr. Chairman, through the courtesy of the gentleman from Kentucky the Committee on Military Affairs had, after it had completed this bill, an opportunity to see the hearings had on this question as to the price of powder, and we think that the amendment of the gentleman from Kentucky is fair and just, and I hope it will be agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky.

The question was taken, and the amendment was agreed to.

Mr. SHERLEY. Mr. Chairman, in order to avoid a repetition of this same amendment as to each item covering moneys for ammunition, I ask unanimous consent that the amendment just adopted be modified so as to read:

Provided, That no part of any sum in this act appropriated shall be expended in the purchase of ordnance powder at a price in excess of 53 cents or for small-arms powder in excess of 65 cents per pound.

The reason is simply to prevent a constant repetition of the amendment.

Mr. MANN. What is the proposition?

Mr. SHERLEY. By unanimous consent to amend the amendment just agreed to by providing that no part of any moneys appropriated shall be expended for powder, and so forth, instead of having it relate simply to the particular fund in that paragraph.

Mr. MANN. It only comes in two paragraphs, does it not?

Mr. SHERLEY. No; there are several others, I will say to the gentleman.

Mr. GOOD. There are four paragraphs.

Mr. MANN. There are only four paragraphs in the present law that have a limitation.

Mr. HAY. Yes; but there is a paragraph, on page 44, for storing reserve ammunition for field artillery.

Mr. SHERLEY. It occurred to me that instead of having four provisos we would have one to cover the entire matter.

Mr. MANN. How much do we now pay for ordnance ammunition?

Mr. SHERLEY. We pay for ordnance ammunition now 60 cents. I ask unanimous consent to have the amendment just adopted modified as I have indicated.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent that the amendment just adopted be modified in the manner indicated by him, which the Clerk will report.

The Clerk read as follows:

Page 41, at the end of line 21, insert the following:
"*Provided*, That no part of any sum in this act appropriated shall be expended in the purchase of ordnance powder at a price in excess of 53 cents, or for small-arms powder at a price in excess of 65 cents per pound."

Mr. MANN. Ought not that to read 53 cents a pound?

Mr. SHERLEY. I think it might be clear to add, after the words "53 cents," the words "per pound," and I will ask unanimous consent that those words be added.

The CHAIRMAN. Without objection, it will be so ordered. Is there objection to the request of the gentleman from Kentucky that the matter now in the bill be modified by the addition of the language just read at the desk?

Mr. BUCHANAN. Mr. Chairman, I would like to ask what is the need of purchasing powder at 53 cents a pound when the Government can manufacture it at about 30 cents a pound? I

would like to have some gentleman state to me any reason why we should buy powder at all when the Government is now prepared to manufacture its own powder, but is operating its equipments only about one-quarter of the time, which naturally makes the powder cost more than if the factories were operated all the time.

Mr. SHERLEY. Mr. Chairman, I will answer the gentleman, first, that you can not make powder for 30 cents, and secondly, that if you run the full capacity of Indianhead and Picatinny you would not be able to make all of the powder that the Government would otherwise buy.

Mr. BUTLER. Or need?

Mr. SHERLEY. Or need.

Mr. BUCHANAN. My information is different from that. We are now equipped to make all of the powder that we use at the present time.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky [After a pause.] The Chair hears none, and it is so ordered.

Mr. GOOD. Mr. Chairman, I offer the following amendment which I send to the desk and ask to have read, to follow the amendment just adopted.

The Clerk read as follows:

Page 41, to follow the amendment just adopted, add the words: "The appropriations herein made for ammunition, when expended for manufacture of powder at the powder factory at the Picatinny Arsenal at Dover, N. J., shall be so expended only on the basis of and toward the operation of said powder factory to not less than one-half of the full capacity thereof during the calendar year."

Mr. MANN. Mr. Chairman, I reserve the point of order on that.

Mr. HAY. Mr. Chairman, I make the point of order.

The CHAIRMAN. Does the gentleman from Iowa wish to be heard on the point of order?

Mr. GOOD. Mr. Chairman, the point of order was reserved.

The CHAIRMAN. It was made by the gentleman from Virginia.

Mr. GOOD. Mr. Chairman, this is clearly a limitation. However, if, in the opinion of the Chair, it should appear that that is not clearly a limitation, I have an amendment under which it would be a little more difficult to operate, but which in exact terms is a limitation. This amendment provides that the money that is expended here for powder, in the manufacture of powder at the Government arsenal, shall be expended only upon the basis of keeping the powder plant in operation at one-half of its maximum capacity. Part of this appropriation that is expended for powder will be expended for the purchase of powder. A part of it will be expended for the manufacture of powder. In the testimony before the Committee on Appropriations having to do with fortifications it appears that last year we purchased about 1,000,000 pounds of powder and that we manufactured in the neighborhood of 450 pounds of powder. This provides that, as far as the manufacture is concerned, any money that is appropriated or expended in the manufacture of powder at the Government arsenal shall be expended on the basis of maintaining that plant in operation at one-half of its maximum capacity.

It is clearly a limitation in my opinion and is not subject to a point of order.

Mr. MANN. Will the gentleman permit me to ask him a question?

Mr. GOOD. Certainly.

Mr. MANN. This may not be on the subject of the point of order. Are these factories capable of being run 24 hours a day?

Mr. GOOD. The factory at Indian Head is now run at its maximum capacity of three shifts, 24 hours per day, 8 hours per shift. The factory at Picatinny Arsenal, Dover, is now run at one-sixth of its capacity.

Mr. MANN. That is not what I asked. Is it capable of being run 24 hours a day? I take it it must be if the other is.

Mr. GOOD. It is; and it was the intention, I understand, of Gen. Crozier to increase the output.

Mr. MANN. Now, how are you going to arrange where you have three shifts and require it to be run at 50 per cent of its capacity? Will that be one shift and a half?

Mr. GOOD. The amendment was drawn so that the matter of detail could be left to the Chief of Ordnance, and at times the Chief of Ordnance could run three shifts a day if he so desired, if he found it was in the line of economy to do so, or he could run one shift at a time or two shifts at a time.

Mr. MANN. How can he under this amendment?

Mr. GOOD. This provides that for the calendar year the plant shall be run at one-half of its maximum capacity, not at one-half of its capacity, for every day in the year, when it comes to determining the amount of production for the year. The difference between the cost of manufacturing powder at the Army plant and Navy plant last year was a difference of several cents per pound. The appropriation cost or first cost at the naval plant was only 30½ cents per pound; at the Army plant it was 33 cents a pound; and Gen. Crozier said the difference in cost largely lay in the fact he did not operate the Army plant at anything like the full capacity, but at only one-sixth its full capacity.

Mr. MANN. Well, I do not see how you are going to run the factory for a half a day or go on the theory that you will keep two shifts and operate them part of the time. That is not fair to the men.

Mr. GOOD. The amendment which I have offered does not provide that they shall run two shifts or one shift or three shifts, but it is left so that the production for the whole year shall equal one-half of the maximum capacity of that plant.

Mr. MANN. It provides that the production for the whole year shall equal one and a half shifts a day.

Mr. GOOD. I beg the gentleman's pardon.

Mr. MANN. Three shifts is the maximum capacity of the factory for a year?

Mr. GOOD. Yes.

Mr. MANN. The gentleman's amendment provides for 50 per cent of that maximum capacity; that is equivalent to one and a half shifts per day for a year.

Mr. GOOD. Yes; but it does not——

Mr. MANN. If you are going to run two shifts, run two; if you are going to run one shift, run one; but do not make a proposition which seems to me to provide for a shift and a half. It is neither fair to the Government nor to the men.

Mr. FITZGERALD. Will the gentleman yield for a question?

Mr. GOOD. I yield to the gentleman; I have the floor.

Mr. FITZGERALD. At present the factory at Picatinny Arsenal runs one shift a day, and yet it is only turning out one-sixth of its capacity. Now, one shift is one-third, yet it is only running at one-sixth of its capacity, so that the mathematics of this thing is very peculiar.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GOOD. I ask for two minutes additional.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. GOOD. I only want to say to the gentleman from Illinois that this matter was thoroughly considered by the Subcommittee on Appropriations, and we felt we would be hampering the Ordnance Department by providing the number of shifts that were to be run. Matters of detail of that kind were not considered, but looking at the matter in a broader way we took cognizance of the maximum capacity of the plant only, leaving it to the judgment of the Chief of Ordnance as to how many shifts he would work.

Mr. BUCHANAN. Will the gentleman yield?

Mr. GOOD. I will.

Mr. BUCHANAN. I would like to ask the gentleman if there is any stage in the manufacture of powder where it is of great advantage to operate three shifts a day or continuously?

Mr. GOOD. I think that is true.

Mr. BUCHANAN. Has the gentleman any information as to whether that is the fact or not?

Mr. GOOD. Gen. Crozier gave it as his opinion that the reason that it has cost more to manufacture smokeless powder in the Army arsenal than in the Navy was the fact largely that they were running practically at their full capacity in the Navy factory while the Army factory only ran at one-sixth of its capacity.

Mr. BUCHANAN. My information is that powder could be manufactured cheaper where they are running at full capacity of the mill.

Mr. GOOD. I will say, Mr. Chairman, this amendment that I have offered is in the exact language of a provision in the fortification bill, and while I have an amendment that I like a little better than this, yet this was the amendment that was agreed upon, and it reaches the proposition. I have offered it here, and believe it is not subject to a point of order.

Mr. HAY. It is clearly subject to a point of order, because it is directing something to be done affirmatively, and according to the gentleman's own statement it would cost more under this amendment than it costs now. He says the arsenal is now run only at one-sixth of its capacity. This provides it should be run at one-half of the full capacity. I do not think it is in order on this bill anyway, for the reason that the Appropriations Committee deals directly with this arsenal, and the Committee on Military Affairs makes no appropriation for it. It is clearly subject to a point of order.

Mr. GOOD. Will the gentleman yield?

Mr. HAY. I will.

Mr. GOOD. The item to which this is offered is for the manufacture as well as the purchase of ammunition. The same thing might be true of the amendment that was offered limiting the price. Nothing was said with regard to powder when it came——

Mr. HAY. I said nothing about the powder, but the running of the arsenal, which the gentleman's amendment proposes to do.

Mr. GOOD. The manufacture of powder is at the arsenal.

The CHAIRMAN. The clear effect of this amendment is to provide that this particular arsenal shall be run on a basis of not less than one-half time as a minimum requirement. There is more affirmative authority than limitation in this amendment. The Chair sustains the point of order.

Mr. GOOD. Mr. Chairman, I offer the following amendment which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Iowa offers an amendment, which the Clerk will report.

The Clerk read as follows:

Add to the amendment the following:

"*Provided*, That in expenditures of this appropriation, or any part thereof, for powder, no powder shall at any time be purchased unless the powder factory at the Picatinny Arsenal, at Dover, N. J., shall be operated on a basis of not less than one-half of its full capacity during each calendar year."

Mr. HAY. Mr. Chairman, I make a point of order on the amendment.

The CHAIRMAN. Does the gentleman from Iowa [Mr. GOOD] desire to be heard on the point of order?

Mr. HAY. I think it is subject to the same point of order as the previous amendment.

Mr. GOOD. If any limitation can be placed on this appropriation at all in regard to powder, it is included in the amendment which I send to the Clerk's desk. That is clearly a limitation that not a penny of this appropriation can be expended unless there is the happening of that contingency.

The CHAIRMAN. The Chair thinks this may be fairly held as a mere limitation.

Mr. HAY. I call for a vote on the amendment.

The question was taken, and the Chair announced that the Chair was in doubt.

The committee divided; and there were—ayes 17, noes 31.

Mr. BUCHANAN. Mr. Chairman, I raise the point of no quorum. I do not intend that this Powder Trust shall get in its work of this nature, if I can avoid it.

The CHAIRMAN. Evidently there is no quorum. The Clerk will call the roll.

Mr. BUCHANAN. Mr. Chairman, may I ask if the vote is on the question of this amendment.

The CHAIRMAN. The vote is now simply on the ascertainment of the number of Members present, and not on the amendment.

The Clerk proceeded to call the roll, when the following Members failed to answer to their names:

Adair	Fornes	Legare	Rodenberg
Akin, N. Y.	Francis	Lindsay	Rucker, Mo.
Ames	George	Linthicum	Sabath
Andrus	Gill	Littleton	Scully
Ansberry	Gillett	Longworth	Sells
Austin	Goeke	Loud	Shackleford
Ayres	Graham	McCall	Simmons
Bartholdt	Greene, Vt.	McCoy	Slemp
Bates	Gregg, Pa.	McCreary	Smith, J. M. C.
Bathrick	Griest	McKellar	Smith, Cal.
Berger	Guernsey	McLaughlin	Speer
Broussard	Hammond	Maher	Stack
Brown	Hardwick	Martin, Colo.	Stanley
Burke, Pa.	Harris	Martin, S. Dak.	Steenerson
Calder	Harrison, N. Y.	Matthews	Stephens, Nebr.
Carter	Hart	Merritt	Stevens, Minn.
Clark, Fla.	Hartman	Moore, Tex.	Sulloway
Conry	Hayes	Needham	Taggart
Copley	Henry, Tex.	Nelson	Taylor, Colo.
Covington	Hill	Oldfield	Thistlewood
Crago	Hinds	Palmer	Townsend
Cravens	Howard	Patten, N. Y.	Tuttle
Dalzell	Hughes, W. Va.	Payne	Underwood
Daugherty	Hull	Peters	Volstead
Davis, Minn.	Humphrey, Wash.	Pray	Vreeland
Dickson, Miss.	James	Prouty	Warburton
Dixon, Ind.	Johnson, Ky.	Pujo	Weeks
Esch	Kitchin	Rainey	Whitacre
Estopinal	Konop	Randell, Tex.	Wilder
Farr	Lafean	Redfield	Wilson, Ill.
Fields	Lamb	Reyburn	Wilson, N. Y.
Finley	Langham	Richardson	Wood, N. J.
Focht	Langley	Riordan	Woods, Iowa
Fordney	Lee, Ga.	Roberts, Mass.	

The committee rose; and Mr. SISSON having assumed the chair as Speaker pro tempore, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee having found itself without a quorum, he had directed the roll to be called, whereupon 250 Members, a quorum, had answered to their names, and he reported the list of absentees.

The SPEAKER pro tempore. The gentleman from Virginia [Mr. SAUNDERS], Chairman of the Committee of the Whole House on the state of the Union, reports that that committee, having found itself without a quorum, he had directed the roll to be called, whereupon 250 Members, a quorum, answered to their names, and he reports the names of the absentees. The Clerk will note the names of the absentees in the RECORD. The committee will resume its sitting.

The committee resumed its sitting, with Mr. SAUNDERS in the chair.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Iowa [Mr. GOOD].

Mr. GOOD. Mr. Chairman, I ask unanimous consent to address the committee for two minutes.

The CHAIRMAN. The gentleman from Iowa [Mr. GOOD] asks unanimous consent to address the committee for two minutes. Is there objection?

There was no objection.

The CHAIRMAN. The gentleman from Iowa is recognized for two minutes.

Mr. GOOD. Mr. Chairman, the amendment which has just been reported applies as properly, or perhaps more properly, to the fortification bill, wherein appropriations are made for the Picatinny Arsenal. I did not know at the time I offered the amendment that there was not a complete understanding by Members on the other side of the House to the effect that this amendment would be accepted by the committee. I was under the impression that there was such an understanding and that it would be accepted, and my impression was that the gentleman from Kentucky [Mr. SHERLEY] had overlooked offering the amendment.

I am more concerned with regard to the adoption of the proposition of the Government manufacturing the larger part of its powder than I am that this particular amendment to this particular bill shall prevail. The provision contained in the fortification bill is the same as I have offered in this amendment with regard to the amount of powder that the Government shall manufacture, and inasmuch as that bill has been unanimously reported to the House and this item has not been thoroughly discussed, I desire to ask unanimous consent to withdraw my amendment.

The CHAIRMAN. The gentleman from Iowa [Mr. GOOD] asks unanimous consent to withdraw his amendment. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Automatic rifles: For the purchase, manufacture, and test of automatic rifles, including their sights and equipments, to be available until the close of the fiscal year ending June 30, 1915, $150,000.

Mr. HAY. Mr. Chairman, I move to strike out that paragraph.

The amendment was agreed to.

The Clerk read as follows:

Ammunition for field artillery for Organized Militia: For procuring reserve ammunition for field artillery for the Organized Militia of the several States, Territories, and the District of Columbia, $500,000.

Mr. HAY. Mr. Chairman, I offer the following amendment to take the place of the last item just read.

The CHAIRMAN. The gentleman will send the amendment to the desk.

The Clerk read as follows:

Page 44, strike out all of lines 3, 4, 5, and 6, which read as follows: "Ammunition for field artillery for Organized Militia: For procuring reserve ammunition for field artillery for the Organized Militia of the several States, Territories, and the District of Columbia, $500,000," and insert in lieu thereof the following: "Ammunition for field artillery for Organized Militia: For procuring reserve ammunition for field artillery for the Organized Militia of the several States, Territories, and the District of Columbia, $500,000; the funds to be immediately available and to remain available until the end of the fiscal year ending June 30, 1915."

Mr. MANN. I reserve a point of order upon the amendment.

Mr. HAY. I will state to the gentleman that the Acting Chief of Ordnance sent that amendment to me, with the explanation that in order to assemble the various materials for the manufacture of this ammunition it was necessary to have this appropriation available as soon as possible, in order to begin the manufacture at the beginning of the fiscal year.

Mr. MANN. What is the object in having it available until the end of the fiscal year 1915?

Mr. HAY. For the same reason.

Mr. MANN. That is not made in another powder factory, is it?

Mr. HAY. As I understand it, the cases in which this ammunition is included can be manufactured more cheaply outside, but they can not be assembled within the fiscal year. The ammunition is not the same as that for small arms. It is an

ammunition that takes time to manufacture, and in order to assemble the parts of it it is important that contracts should run from one year to another.

Mr. MANN. Is that done as to ammunition in any other case?

Mr. HAY. Not in this bill. I do not know how it is in the fortification bill. This is the only ammunition in this bill for Field Artillery or for any other kind of Artillery. As I understand it, the Ordnance Department finds it necessary to continue the manufacture from year to year and to run from one year to another, and it will be much cheaper and better to do it in that way.

Mr. MANN. What I want to get at, if possible, is whether it is proposed to differentiate this from other appropriations for ammunition.

Mr. HAY. Only this kind of ammunition. As I say, there is no other ammunition appropriated for in this bill for Artillery except this. All the other ammunition carried in this bill is for small arms.

Mr. MANN. I withdraw the point of order, Mr. Chairman.

The CHAIRMAN. The point of order is withdrawn. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HAY. Mr. Chairman, I offer another amendment.

The CHAIRMAN. The gentleman from Virginia will send the amendment to the desk.

The Clerk read as follows:

Insert as a new paragraph at the end of the bill the following:

"The sum of $13,913.25, a part of the sum of $200,000 appropriated by the act of March 3, 1909, for automatic rifles and set aside by the Ordnance Department for payment of royalties, is hereby made available for the payment of such royalties on automatic rifles completed during the fiscal year 1912: *Provided*, That hereafter appropriations made by the Ordnance Department shall be available for the payment of royalties on royalty contracts made during the availability of such appropriaton."

Mr. MANN. I reserve the point of order.

The CHAIRMAN. The point of order is reserved.

Mr. HAY. I will state to the gentleman that this is an estimate sent down by the Secretary of War to the Secretary of the Treasury to meet a decision of the Comptroller of the Treasury that all royalties must be paid from appropriations available at the time of completion of the article on which the royalty is due. I propose to amend that amendment by striking out the proviso that provides that "hereafter all royalties," and so forth, so that it will only apply to that one particular case.

Mr. MANN. Mr. Chairman, I withdraw the point of order.

Mr. HAY. Mr. Chairman, I move to amend the amendment by striking out the proviso.

The CHAIRMAN. Without objection, that modification will be made.

There was no objection.

The amendment as modified was agreed to.

Mr. HAY. Mr. Chairman, I ask unanimous consent that where in the bill in the various amounts there are two ciphers after the period they may be stricken out, as I understand it causes confusion and some trouble about having the bill enrolled.

Mr. MANN. The gentleman means that where there are two ciphers in the place of cents that they go out of the bill?

Mr. HAY. Yes.

Mr. MANN. I think that is a wise thing to do.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent that the minor correction to which he refers shall be made. Is there objection?

There was no objection.

Mr. MOON of Tennessee. Mr. Chairman, I offer the following, which I send to the Clerk's desk, as an independent section to follow the end of the bill.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Insert as a new section at the end of the bill the following:

"The Secretary of War, in his discretion, may loan or grant the temporary use of tents and other camp equipage belonging to the United States to any organization of the Grand Army of the Republic and to the Confederate Veterans: *Provided*, That no cost or expense shall accrue to the United States on account of said loan or temporary use of said tents, equipage," etc.

Mr. MANN. Reserving a point of order, may I ask the gentleman, Does this have in contemplation the meeting at Gettysburg?

Mr. MOON of Tennessee. It has in contemplation the meeting of the Confederate Veterans and the Grand Army of the Republic and the Army of the Cumberland at Chickamauga primarily, but it is drawn so as to give the use of the tents and equipage at Gettysburg or anywhere else.

Mr. MANN. If the gentleman will confine it to Chickamauga, I have no objection; but my recollection is that we appropriated money last year for the meeting at Gettysburg providing for this same thing. Under the gentleman's amendment that money could not be expended.

Mr. MOON of Tennessee. This does not call for the expenditure of any money.

Mr. MANN. No; but we have appropriated money for the purpose of furnishing these things both to the Union and the Confederate soldiers at the meeting at Gettysburg. The gentleman's amendment provides for the use of these articles without any expense to the Government, and that would forbid the expenditure of money which we have appropriated for that purpose.

Mr. MOON of Tennessee. I did not know about anything of that sort and have no disposition to do anything of that kind. In order to avoid that trouble I will ask to modify my amendment by making it apply only to Chattanooga and Chickamauga Park during the year 1913.

Mr. MANN. That is for the one occasion?

Mr. MOON of Tennessee. Yes.

Mr. KENDALL. Will the gentleman yield?

Mr. MOON of Tennessee. I will.

Mr. KENDALL. Would not the terms of this amendment require both the Grand Army and the Confederate Veterans to apply?

Mr. MOON of Tennessee. I think not; but if the gentleman thinks so the word "and" may be stricken out and the word "or" put in its place.

Mr. MANN. That would not do, for then only one could get it.

Mr. KENDALL. That is not the purpose of the gentleman from Tennessee. He wants to make them available to both the Grand Army and the Confederate Veterans. By using the word "and" it might be interpreted that only one could get it.

Mr. MOON of Tennessee. I do not think so, because it does not say jointly, and I do not think it would be so construed.

The CHAIRMAN. The Clerk will report the amendment changed by the gentleman from Tennessee.

The Clerk read as follows:

The Secretary of War, in his discretion, may loan or grant for temporary use at Chattanooga and at Chickamauga and Chattanooga Park for the year 1913, tents and other equipage belonging to the United States, etc.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee as modified.

The amendment was agreed to.

Mr. HAY. Mr. Chairman, I move that the committee do now rise and report the bill with amendments to the House, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee determined to rise; and the Speaker having resumed the chair, Mr. SAUNDERS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 27941) making appropriations for the support of the Army for the fiscal year ending June 30, 1914, and had directed him to report the same back with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. HAY. Mr. Speaker, I demand the previous question on the bill and amendments to final passage.

The previous question was ordered.

The SPEAKER. Is there a separate vote demanded on any amendment?

Mr. LEVY. Mr. Speaker, I demand a separate vote on the amendment which was adopted at the end of line 17, page 24, after the figures "$7,634,553," which reads as follows:

Provided, That no part of this or any other appropriation shall be expended in payment for heat and light for quarters of officers who receive commutation of quarters.

The SPEAKER. Is a separate vote demanded on any other amendment? If not, the other amendments will be voted on in gross.

The question is on agreeing to the amendments, except that upon which a separate vote is demanded.

The question was taken, and the amendments were agreed to.

The SPEAKER. The question now is on the amendment which the Clerk has reported and on which the gentleman from New York demands a separate vote.

The question was taken; and on a division (demanded by Mr. LEVY) there were—ayes 49, nays 63.

Mr. WEBB. Mr. Speaker, I demand the yeas and nays.

Mr. RODDENBERY. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Georgia makes the point of order that there is no quorum present. Evidently there is no quorum present. The Doorkeeper will close the

doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll. The question is on the amendment, on which the gentleman from New York demands the separate vote.

The question was taken; and there were—yeas 84, nays 142, answered "present" 10, not voting 147, as follows:

YEAS—84.

Aiken, S. C.	Dickson, Miss.	Kendall	Ruby
Anderson	Dies	Konop	Saunders
Barnhart	Difenderfer	Kopp	Scott
Beall, Tex.	Doughton	Lever	Sheppard
Boehne	Faison	Lindbergh	Sherwood
Booher	Floyd, Ark.	Lloyd	Sims
Buchanan	Foster	McLaughlin	Sisson
Burke, S. Dak.	Garner	Macon	Stedman
Burke, Wis.	Garrett	Maguire, Nebr.	Stephens, Miss.
Byrnes, S. C.	Good	Martin, S. Dak.	Stephens, Tex.
Byrns, Tenn.	Goodwin, Ark.	Mays	Stone
Callaway	Gray	Mondell	Thomas
Candler	Green, Iowa	Morse, Wis.	Tribble
Claypool	Gregg, Tex.	Moss, Ind.	Vare
Cline	Gudger	Murdock	Volstead
Cox	Hardy	Neeley	Warburton
Danforth	Helm	Norris	Webb
Daugherty	Hensley	Nye	Wilson, Pa.
Davenport	Jackson	Page	Witherspoon.
Denver	Jacoway	Rauch	Young, Kans.
Dickinson	Jones	Roddenbery	Young, Tex.

NAYS—142.

Adamson	Driscoll, M. E.	Howell	Powers
Ainey	Dupré	Hughes, Ga.	Pray
Alexander	Dyer	Humphrey, Wash.	Prince
Allen	Edwards	Humphreys, Miss.	Raker
Ayres	Esch	Kindred	Ransdell, La.
Barchfeld	Estopinal	Kinkaid, Nebr.	Rees
Bartlett	Evans	Kinkead, N. J.	Reilly
Bell, Ga.	Fairchild	Knowland	Roberts, Nev.
Blackmon	Fergusson	Konig	Rothermel
Borland	Ferris	Korbly	Rouse
Bradley	Fitzgerald	Lafferty	Rucker, Colo.
Brown	Flood, Va.	La Follette	Russell
Bulkley	Foss	Lawrence	Sharp
Burgess	Fowler	Lee, Pa.	Sherley
Burleson	French	Lenroot	Simmons
Butler	Fuller	Levy	Sloan
Campbell	Gallagher	Lobeck	Small
Cannon	Gardner, N. J.	Loud	Smith, Saml. W.
Cantrill	Gill	McDermott	Sparkman
Carlin	Godwin, N. C.	McGillicuddy	Stanley
Cary	Greene, Mass.	McKenzie	Steenerson
Cooper	Greene, Vt.	McKinney	Stephens, Cal.
Crumpacker	Guernsey	Madden	Sterling
Curley	Hamill	Miller	Stevens, Minn.
Currier	Hamilton, Mich.	Moon, Tenn.	Taggart
Curry	Hamlin	Moore, Pa.	Talcott, N. Y.
Davidson	Hartman	Morgan, La.	Taylor, Ala.
Davis, Minn.	Hay	Morgan, Okla.	Taylor, Ohio
Davis, W. Va.	Hayden	Morrison	Thistlewood
De Forest	Helgesen	Mott	Tilson
Dent	Henry, Conn.	Olmsted	Towner
Dodds	Henry, Tex.	O'Shaunessy	Watkins
Donohoe	Higgins	Padgett	Willis
Doremus	Hinds	Patton, Pa.	Young, Mich.
Draper	Holland	Porter	
Driscoll, D. A.	Howard	Post	

ANSWERED "PRESENT"—10.

Browning	McCall	Mann	Talbott, Md.
Dwight	McGuire, Okla.	Murray	
Langley	McMorran	Parran	

NOT VOTING—147.

Adair	Gardner, Mass.	Langham	Riordan
Akin, N. Y.	George	Lee, Ga.	Roberts, Mass.
Ames	Gillett	Legare	Rodenberg
Andrus	Glass	Lewis	Rucker, Mo.
Ansberry	Goeke	Lindsay	Sabath
Anthony	Goldfogle	Linthicum	Scully
Ashbrook	Gould	Littlepage	Sells
Austin	Graham	Littleton	Shackleford
Bartholdt	Gregg, Pa.	Longworth	Slayden
Bates	Griest	McCoy	Slemp
Bathrick	Hamilton, W. Va.	McCreary	Smith, J. M. C.
Berger	Hammond	McKellar	Smith, Cal.
Brantley	Hardwick	McKinley	Smith, N. Y.
Broussard	Harris	Maher	Smith, Tex.
Burke, Pa.	Harrison, Miss.	Martin, Colo.	Speer
Burnett	Harrison, N. Y.	Matthews	Stack
Calder	Hart	Merritt	Stephens, Nebr.
Carter	Haugen	Moon, Pa.	Sulloway
Clark, Fla.	Hawley	Moore, Tex.	Sweet
Clayton	Hayes	Needham	Switzer
Collier	Heald	Nelson	Taylor, Colo.
Conry	Heflin	Oldfield	Thayer
Copley	Hill	Palmer	Townsend
Covington	Hobson	Patten, N. Y.	Turnbull
Crago	Houston	Payne	Tuttle
Cravens	Howland	Pepper	Underhill
Cullop	Hughes, W. Va.	Peters	Underwood
Dalzell	Hull	Pickett	Vreeland
Dixon, Ind.	James	Plumley	Weeks
Ellerbe	Johnson, Ky.	Pou	Whitacre
Farr	Johnson, S. C.	Prouty	White
Fields	Kahn	Pujo	Wilder
Finley	Kennedy	Rainey	Wilson, Ill.
Focht	Kent	Randell, Tex.	Wilson, N. Y.
Fordney	Kitchin	Redfield	Wood, N. J.
Fornes	Lafean	Reyburn	Woods, Iowa
Francis	Lamb	Richardson	

So the amendment was rejected.

The Clerk announced the following pairs:

Ending February 1:

Mr. SHACKLEFORD with Mr. LONGWORTH.

Until further notice:

Mr. MURRAY with Mr. HARRIS.

Mr. RAINEY with Mr. MCCALL.

Mr. HARRISON of New York with Mr. PAYNE.

Mr. KITCHIN with Mr. FORDNEY.

Mr. HOBSON with Mr. AUSTIN.

Mr. FORNES with Mr. WILDER.

Mr. PUJO with Mr. MCMORRAN.

Mr. CONRY with Mr. LANGHAM.

Mr. UNDERWOOD with Mr. MANN.

Mr. SCULLY with Mr. BROWNING.

Mr. CARTER with Mr. MCGUIRE of Oklahoma.

Mr. FIELDS with Mr. LANGLEY.

Mr. HULL with Mr. NEEDHAM.

Mr. ADAIR with Mr. BARTHOLDT.

Mr. ANSBERRY with Mr. BATES.

Mr. ASHBROOK with Mr. BURKE of Pennsylvania.

Mr. BATHRICK with Mr. AMES.

Mr. BURNETT with Mr. CALDER.

Mr. BROUSSARD with Mr. COPLEY.

Mr. CLARK of Florida with Mr. CRAGO.

Mr. CLAYTON with Mr. FOCHT.

Mr. COLLIER with Mr. WOODS of Iowa.

Mr. COVINGTON with Mr. FARR.

Mr. CULLOP with Mr. GILLETT.

Mr. DIXON of Indiana with Mr. DALZELL.

Mr. FINLEY with Mr. SULLOWAY.

Mr. GEORGE with Mr. SMITH of California.

Mr. GLASS with Mr. SLEMP.

Mr. GOLDFOGLE with Mr. GRIEST.

Mr. GRAHAM with Mr. HAUGEN.

Mr. HAMMOND with Mr. HAWLEY.

Mr. HARDWICK with Mr. MCCREARY.

Mr. HARRISON of Mississippi with Mr. MCKINLEY.

Mr. HEFLIN with Mr. MATTHEWS.

Mr. HOUSTON with Mr. MERRITT.

Mr. JAMES with Mr. MOON of Pennsylvania.

Mr. JOHNSON of Kentucky with Mr. NELSON.

Mr. LEE of Georgia with Mr. PICKETT.

Mr. LEWIS with Mr. PLUMLEY.

Mr. LINTHICUM with Mr. PROUTY.

Mr. MCCOY with Mr. ROBERTS of Massachusetts.

Mr. OLDFIELD with Mr. REYBURN.

Mr. PATTEN of New York with Mr. RODENBERG.

Mr. PEPPER with Mr. SPEER.

Mr. PETERS with Mr. SWITZER.

Mr. POU with Mr. VREELAND.

Mr. SABATH with Mr. WILSON of Illinois.

Mr. RUCKER of Missouri with Mr. WEEKS.

Mr. SLAYDEN with Mr. WOOD of New Jersey.

Mr. SMITH of New York with Mr. HAYES.

Mr. SMITH of Texas with Mr. HEALD.

Mr. STEPHENS of Nebraska with Mr. HUGHES of West Virginia.

Mr. TAYLOR of Colorado with Mr. KAHN.

Mr. TOWNSEND with Mr. KENNEDY.

Mr. TUTTLE with Mr. LAFEAN.

Mr. UNDERHILL with Mr. SELLS.

Mr. BRANTLEY with Mr. ANTHONY.

Mr. WHITE with Mr. J. M. C. SMITH.

For the session:

Mr. PALMER with Mr. HILL.

Mr. LITTLETON with Mr. DWIGHT.

Mr. RIORDAN with Mr. ANDRUS.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. MCCALL. Mr. Speaker, I voted "no," but I am paired with Mr. RAINEY, so I would like to change my vote and answer "present."

The SPEAKER. Call the gentleman's name.

The name of Mr. MCCALL was called and he answered "Present."

Mr. MURRAY. Mr. Speaker, is Mr. HARRIS, of Massachusetts, recorded?

The SPEAKER. He is not recorded.

Mr. MURRAY. I desire to change my vote and answer "present."

The SPEAKER. How did the gentleman vote?

Mr. MURRAY. I voted "no."

The SPEAKER. Call the gentleman's name.

The name of Mr. MURRAY was called, and he answered "Present."

The result of the vote was announced as above recorded.

The SPEAKER. A quorum is present, the Doorkeeper will open the doors, and the question is on the engrossment and third reading of the amended bill.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. HAY, a motion to reconsider the vote by which the bill was passed was laid on the table.

LEAVE OF ABSENCE.

By unanimous consent, Mr. FERGUSSON was granted leave of absence for two days, on account of important business.

REPORT OF THE PHILIPPINE COMMISSION, 1912 (H. DOC. NO. 1293).

The SPEAKER laid before the House the following message from the President of the United States, which was read and, with the accompanying papers, ordered printed, and referred to the Committee on Insular Affairs.

The Clerk read as follows:

To the Senate and House of Representatives:

I transmit herewith, for the information of the Congress, the Thirteenth Annual Report of the Philippine Commission for the fiscal year ended June 30, 1912, together with the reports of the governor general and the secretaries of the four executive departments of the Philippine Government for the same period.

WM. H. TAFT.

THE WHITE HOUSE, *January 21, 1913.*

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. JOHNSON of South Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H. R. 26680, for the purpose of disagreeing to the Senate amendments and asking for a conference.

The SPEAKER. The Chair lays before the House the bill H. R. 26680. The Clerk will report it by title.

The Clerk read as follows:

A bill (H. R. 26680) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes.

The SPEAKER. The gentleman from South Carolina moves to disagree to all the Senate amendments and asks for a conference.

Mr. MANN. Mr. Speaker, I desire to have a separate vote on amendments Nos. 31 and 68.

The SPEAKER. The gentleman from Illinois asks for a separate vote on amendment No. 31 and amendment No. 68. The Clerk will report amendment No. 31.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield for a moment?

The Clerk read as follows:

Amendment 31. Page 15, line 4, strike out "$2,500" and insert "$3,000."

The SPEAKER. For what purpose does the gentleman from Illinois [Mr. FOSTER] rise?

Mr. FOSTER. I want to ask the gentleman from Illinois if he did not want to include the three items—31, 32, and 33?

Mr. MANN. Well, I think if the House would express its opinion on one, that would be a guide to the conferees.

The SPEAKER. The Clerk will report the amendment again, there was so much uproar in the House.

The amendment was again reported.

Mr. BARTLETT. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BARTLETT. Mr. Speaker, is this a proposition for unanimous consent? Is this a proceeding by unanimous consent, or how is it?

The SPEAKER. Ordinarily this would have to go to the committee, but the gentleman from South Carolina asked unanimous consent to consider it in the House.

Mr. BARTLETT. Is it to disagree to all the amendments?

The SPEAKER. The gentleman asked to disagree to all the amendments, but the gentleman from Illinois [Mr. MANN] asked for a separate vote on two.

Mr. BARTLETT. That is done by unanimous consent, too?

The SPEAKER. The whole thing is done by unanimous consent. Is there objection?

Mr. MARTIN of South Dakota. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. MARTIN of South Dakota. Was the request of the gentleman from South Carolina for unanimous consent put to the House?

The SPEAKER. It never was.

Mr. RODDENBERY. Mr. Speaker, I reserve the right to object for the purpose of making an inquiry. Is the amendment just reported the amendment where, in conference, an increase of salary has been allowed to certain employees on the House side that was not considered in the House?

Mr. MANN. The amendment on which I asked for a separate vote was one of the amendments inserted by the Senate for employees. I asked for a separate vote on one of these amendments, for an additional employee to the Committee on the Judiciary, as a guide to the conferees, thinking that one vote would be sufficient.

The SPEAKER. Is there objection to considering this motion in the House as in the Committee of the Whole?

Mr. RODDENBERY. Mr. Speaker, if I can proceed somewhat further I can announce whether I object or do not object. I would like to inquire as to the items in order that the Members may understand what is involved in expressing themselves for or against the request of the gentleman from Illinois [Mr. MANN], who makes it. I would like to know if that is on an amendment on this bill put in by the Senate, increasing the salary of a certain clerk to one of the committees of the House, namely, the Judiciary Committee?

Mr. MANN. That is correct.

Mr. RODDENBERY. And the gentleman is now desiring to get an expression of the House before it goes to conference on that amendment?

Mr. MANN. That is correct.

Mr. RODDENBERY. The House never having expressed itself upon that point?

Mr. MANN. That is right.

Mr. GARNER. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. GARNER. If unanimous consent is given as requested by the gentleman from South Carolina [Mr. JOHNSON], will it be subject to discussion on this separate vote suggested by the gentleman from Illinois [Mr. MANN]?

Mr. MANN. It will, unless the House orders the previous question.

Mr. RODDENBERY. Mr. Speaker, that is the difficulty. I have no disposition to interfere with an expression of the House, but to call up an amendment coming from the Senate and have the House express itself on it when it has never been considered or discussed in the House, it seems to me a rather dangerous procedure.

Mr. MANN. If the gentleman from Georgia [Mr. RODDENBERY] will permit. We are about having a separate vote on that now. If it goes to conference without it the House may never have an opportunity to express its opinion on it. That is the reason I ask a separate vote.

Mr. RODDENBERY. I will ask the gentleman if no objection is filed and if the gentleman from South Carolina [Mr. JOHNSON] or another gentleman moves the previous question, where we will stand?

Mr. MANN. If the House orders the previous question, of course it would be decided without debate, but I take it that that course will not be pursued.

Mr. FOWLER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. FOWLER. If there should be an objection to the consideration of the motion by the gentleman from South Carolina, would this bill not be subject to a point of order, and be required to be sent to the Committee of the Whole House on the state of the Union?

The SPEAKER. It would go to the Committee on Appropriations.

Mr. FITZGERALD. I think the gentleman misunderstands. This amendment would not be subject to a point of order in the present condition if in the Committee of the Whole House on the state of the Union. The only thing that can be done is to vote on the amendments that they be considered in the House or in the committee. This is the more expeditious way of ascertaining the sentiment of the House in regard to these matters.

The SPEAKER. The Chair will state to the gentleman from Illinois [Mr. FOWLER] that if the motion of the gentleman from South Carolina [Mr. JOHNSON] prevails, this will be open for debate and discussion, the same as any other proposition, unless some gentleman moves the previous question.

Mr. FOWLER. If unanimous consent should not be granted then, under Rule XX, would not this bill be referred to the committee and reported back with these amendments to be considered in the Committee of the Whole House on the state of the Union?

The SPEAKER. If objection is made to the request of the gentleman from South Carolina for unanimous consent to consider this in the Committee of the Whole House on the state of the Union, then it goes, in the first instance, to the Committee on Appropriations, and then, when it gets back to the House,

inasmuch as it involves the appropriation of money, it would have to be considered in the Committee of the Whole House on the state of the Union unless somebody gets permission to consider it in the House as in the Committee of the Whole.

Mr. FOWLER. Mr. Speaker, I do not desire to object, but I give notice that when the Senate adopts something like 200 or 300 amendments hereafter I shall object, unless there is an opportunity given for a consideration of those amendments.

The SPEAKER. Is there objection?

Mr. SISSON. Mr. Speaker, I do not know just exactly how this matter got in, or why the Senate should assume authority over House employees. This matter ought to have been considered in the Committee on Appropriations originally. Now, I would like to know from the chairman of the committee who has this bill in charge how much it would delay the passage of this bill to let it go back to the Committee on Appropriations?

Mr. JOHNSON of South Carolina. I can not answer that question, Mr. Speaker. I think this House is fairly full now, and it can vote on this proposition now as well as it can after bringing the bill back from the Committee on Appropriations.

Mr. SISSON. And the gentleman's proposition is to disagree to all the Senate amendments except this one?

Mr. JOHNSON of South Carolina. I asked to disagree to all the Senate amendments. The gentleman from Illinois [Mr. MANN] wants a separate vote on this particular amendment as an instruction to the House conferees not to agree to it, whatever else they may do.

Mr. SISSON. I have no objection to that course.

The SPEAKER. Is there objection. [After a pause.] The Chair hears none.

Mr. FOWLER. Mr. Speaker, I object to the consideration of the bill, and ask that it be referred to the Committee on Appropriations.

Mr. FITZGERALD. Mr. Speaker, will the gentleman withhold his objection? It may be that the gentleman believes that after the bill is reported from the Committee on Appropriations and these items are taken up in the Committee of the Whole House on the state of the Union these increases are subject to a point of order.

Mr. RODDENBERY. Mr. Speaker, I object.

The SPEAKER. The gentleman from Georgia [Mr. RODDENBERY] has settled this controversy by objecting.

Mr. RODDENBERY. Having found out the attitude of the gentleman from New York [Mr. FITZGERALD] on this particular question, Mr. Speaker, I object.

Mr. FITZGERALD. Mr. Speaker, I think the gentleman misunderstands what I am saying.

Mr. RODDENBERY. I do not fully understand what the gentleman has been saying, except that I understand that the gentleman wants the motion submitted, and because this had been put on in the Senate without reference to the House I object.

Mr. FITZGERALD. If the gentleman will withhold his objection until I make a statement, I shall be glad.

The SPEAKER. Does the gentleman withhold his objection?

Mr. RODDENBERY. Yes; I withhold the objection.

Mr. EDWARDS. Mr. Speaker, I object.

The SPEAKER. The gentleman from Georgia [Mr. EDWARDS] objects, and the bill is referred to the Committee on Appropriations.

RIVER AND HARBOR BILL.

Mr. SPARKMAN rose.

The SPEAKER. The gentleman from Florida [Mr. SPARKMAN] is recognized.

Mr. SPARKMAN. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 28180) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes; and, pending that, I ask unanimous consent that general debate be limited to an hour and a half, one half to be controlled by myself and the other half by the gentleman from Massachusetts [Mr. LAWRENCE].

The SPEAKER. The gentleman from Florida [Mr. SPARKMAN] moves that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 28180, the river and harbor bill; and, pending that, he asks unanimous consent that general debate be limited to an hour and a half. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the motion of the gentleman from Florida.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 28180, the river and harbor bill, with Mr. MOON of Tennessee in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the river and harbor bill, of which the Clerk will report the title.

The Clerk read as follows:

A bill (H. R. 28180) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

Mr. SPARKMAN. Mr. Chairman, I ask that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Florida [Mr. SPARKMAN] asks unanimous consent that the first reading of the bill be dispensed with. Is there objection?

There was no objection.

[Mr. SPARKMAN addressed the committee. See Appendix.]

Mr. SPARKMAN. Now, Mr. Chairman, I should like to ask if I have any time left; and if so, how much?

The CHAIRMAN. The gentleman has eight minutes left.

Mr. SPARKMAN. Mr. Chairman, I yield those eight minutes to the gentleman from Ohio [Mr. SHARP].

Mr. SHARP. Mr. Chairman, may I ask the gentleman who is at the head of the minority how much of his time I may have? If I should have only eight minutes or a shorter time now, I would rather defer my remarks until later on.

Mr. LAWRENCE. I will state to the gentleman that I do not propose to occupy any time myself in general debate, but I am going to yield just a moment to the gentleman from California [Mr. KNOWLAND], and then I had planned to yield all the balance of my time to the gentleman from Ohio [Mr. SHARP], which would give the gentleman from Ohio practically three-quarters of an hour out of my time.

Mr. SHARP. If the gentleman from California wishes to follow at this time, I will yield to him.

Mr. LAWRENCE. Then, Mr. Chairman, I will now yield to the gentleman from California [Mr. KNOWLAND] five minutes.

The CHAIRMAN. The gentleman from California [Mr. KNOWLAND] is recognized for five minutes.

Mr. KNOWLAND. Mr. Chairman, I rise simply to ask unanimous consent to place in the RECORD articles by two British authorities, dealing with the controverted sections of the Panama Canal bill; articles taken from the Law Magazine and Review, a quarterly review on jurisprudence, published in London.

The CHAIRMAN. The gentleman from California [Mr. KNOWLAND] asks unanimous consent to place in the RECORD certain articles named by him. Is there objection to his request?

There was no objection.

[The articles referred to are printed in the Appendix.]

Mr. KNOWLAND. Mr. Chairman, I yield back the balance of my time to the gentleman from Massachusetts [Mr. LAWRENCE].

Mr. SHARP. Mr. Chairman, I yield one minute to the gentleman from Missouri [Mr. BOOHER].

The CHAIRMAN. The gentleman from Missouri [Mr. BOOHER] is recognized for one minute.

Mr. BOOHER. Mr. Chairman, I want to ask permission to print in the RECORD an article written by Hon. BENJAMIN G. HUMPHREYS, my colleague from Mississippi, entitled "A glance at the richest valley in the world," published in the National Waterways Magazine.

The CHAIRMAN. The gentleman from Missouri [Mr. BOOHER] asks unanimous consent to print in the RECORD the article named by him. Is there objection?

There was no objection.

Following is the article referred to:

A GLANCE AT THE RICHEST VALLEY IN THE WORLD.

[By BENJAMIN G. HUMPHREYS, M. C.]

[Overflowing abundance and overwhelming disaster, prosperity and poverty, life and death, tragedy and humor are strangely mingled in this brief article. The problem is both local and national, and it is one for which a solution must be found, if it be not already known. Congressman HUMPHREYS presents a limited panorama of the Mississippi Valley. He is an entertaining writer and a speaker of great force. What he says is well worth attention. He has represented the third Mississippi district since 1903.—Editor.]

Rollins, the great historian, says that it is glory enough for Philip of Macedon that he be known in history as the "father of Alexander the Great." In like spirit, may not the Mississippi River claim recognition among the rivers of the earth when it can point to the Ohio and Missouri as its tributaries?

Consider one of these—the Ohio, for instance. There are only a few rivers on this earth which actually float a tonnage as

large as the Ohio River, and fewer still which serve the commercial needs of so rich and prosperous a valley.

The commission appointed a few years ago to investigate the reservoirs on the tributaries above Pittsburgh, known as the Pittsburgh Flood Commission, stated rather casually in their report that the flood of 1907 destroyed property in the Ohio River Valley alone which they estimated at $100,000,000. Think of a single valley, a valley on one of our tributary streams, where one flood destroys $100,000,000 in property values, with really no serious or permanent interference with the industrial development or the commercial activities of the people.

When the Iron Chancellor demanded as the price of peace at the end of the Franco-Prussian War that France should pay a war indemnity of a billion dollars all the world stood aghast at what was believed to be the deathblow to that great nation. To-day a spring flood on the Ohio River lays one-tenth that sum as tribute upon the people of this single valley, and not a wheel stops turning nor a furnace fire dies. There were only a limited number of our people outside that valley who knew at the time what this flood was up to, and they forgot about it as soon as the headline artist turned his attention to another theme.

We are spending, or about to spend, some $60,000,000 to secure a 9-foot depth all the way from Pittsburgh to Cairo in order that the millions of tons of raw material and manufactures originating in this valley may find reasonable transportation facilities to the markets. The tonnage which originates on the Ohio River is so great that an exact statement of its total is sure to challenge belief. The tonnage created in the Pittsburgh district alone exceeds the sum originating at any other three places in the world combined.

It will require $60,000,000 to complete the improvement of the Ohio River from Pittsburgh to Cairo, a distance of a thousand miles. The Manchester Ship Canal in England, which cost $75,000,000, is only 35 miles long, and its annual commerce is less than 3,000,000 tons. The Clyde was only 15 inches deep, but at the cost of $70,000,000 it was deepened so as to admit ships from the sea, and Glasgow became the second port of Europe.

Pittsburgh alone originates more tonnage than Manchester and Glasgow combined, and the improvement of the Ohio River will help not only Pittsburgh, but will give a thousand miles of navigation through one of the world's busiest valleys. Last year the tonnage of the Ohio River was about 11,000,000, about five times greater than the tonnage of the Manchester Canal.

A few years ago I saw one boat come out of the Ohio, when the rains had given sufficient depth for temporary navigation, towing 58,000 tons of coal. It would have required 50 locomotives, pulling 1,900 cars, to have hauled that load.

No wonder the people of that valley are impatient for the great work of improving this river to be pushed with all possible speed to completion.

MR. HILL AND HIS CLOCK.

Mr. J. J. Hill, the great railroad magnate, and withal a most interesting and farseeing statesman, declared some years ago that the "clock had struck" for the upper Mississippi, by which term we designate that reach of the river above the mouth of the Missouri. Congress refused to accept this diagnosis—or maybe I should say prognosis. At any rate we had not heard the clock strike, and as so many interests were to be affected thereby we demanded strict proof.

To take issue with Mr. Hill on the efficiency of any transportation facility requires some assurance, and so Congress set about to investigate the question critically before adopting the more ambitious project then pending for the improvement of the river. Fortunately the proof seemed to be ample and convincing, and the upper Mississippi is now under improvement for a 6-foot channel.

How was Congress led to this conclusion? Was it proof of politics? Was it to build up commerce or build up fences? Permit me to say this by way of preamble, or prelude, or prologue, as you prefer:

I have served on the Committee on Rivers and Harbors for 10 years, under Republican and Democratic rule, and I have never seen that committee include any river or harbor project in their bill as a matter of political favoritism or expediency or as the result of legislative logrolling. Every project must be approved and recommended by the Board of Engineers of the United States Army before the committee will pass it. The committee must be satisfied that the project is worth the outlay. There is but one way to persuade their will in such matters, and that is to convince their judgment. And now, having tossed this bouquet to my colleagues of this really great committee, let me proceed.

Some years ago I heard the distinguished gentleman from Minnesota, ex-Gov. Lind, on the floor of the House, ask his colleague, Mr. DAVIS, "Where will your farmer neighbors and mine land when 'Pillsbury's Best' has ceased to stand for what it now stands for?" And it was agreed that whatever might seriously impair the world market for "Pillsbury's Best" would work disaster to the wheat farmers of Minnesota. All of which is preliminary to the suggestion that this Pillsbury must evidently be a man of some consequence, as we all, in fact, know him to have been. In testifying before the special committee which was considering the Mississippi River Mr. Pillsbury said this—and a good many others said the same thing and many other things in addition, but for a "short story" this must suffice:

"We consider the presence of the Mississippi River and the fact that it is kept in a navigable condition the great regulator of railroad rates; that the benefits should not be measured by the tonnage as much as by the possibilities of sending the freight by water.

"The amount of flour shipped out of Minneapolis is something enormous—13,000,000 barrels. A great deal of this would go by the Mississippi River unless the railroads maintained the cheapest rate known in the country almost.

"Mr. NELSON. And the Mississippi being there keeps the rates down?

"Mr. PILLSBURY. The fact of the Mississippi being there prevents them from making any combination to maintain excessive rates. The necessity is not so much the amount carried by the steamers as the amount that can be carried."

Railroad rates from the Atlantic seaboard to the Dakotas and the extreme Northwest are made on combinations through St. Paul; that is, the rate to St. Paul plus the rate thence west. The rate to and from St. Paul, however, is materially lowered by reason of the competition by water routes from Duluth through the Lakes. And so it is that the Lakes from Duluth east to the ocean and the river from St. Paul south to the Gulf regulate railroad rates to cities and shippers many hundred miles from either.

HOW THE DEVIL SHOWED MISSOURI.

No river in the world has such a tributary as the Missouri. Winding for 2,400 miles through the greatest granary in the world, draining some dozen States where corn and wheat, hog and hominy enough are produced to fatten the rest of us, it is in many respects the most useful and neglected river of the continent. Sargent Prentiss, the great Whig orator, once declared in a burst of partisanship that when the Almighty created the Mississippi River and the Democratic Party He devoted them both to the service of the devil, and he admitted, facetiously, "that both had kept the faith."

However some of us may resent this thrust at the Democratic Party, the truth is that the Missouri River, which is in fact the Mississippi, has been permitted to so disport itself as to justify no complaint from the Prince of Darkness. It has literally wandered about over the face of the earth like the scriptural lion, seeking whom it might devour.

If you look at the map you will see how the Mississippi has brought down acres and acres of soil, which by successive deposits has gradually encroached upon the sea until many miles of now beautiful farms are stretched along its lower reaches. Engineers tell us that the amount of sediment borne by the Mississippi at its mouth is exactly equal to the amount carried by the Missouri at its mouth, and this is just another way of saying that all the rich plantations along the river below New Orleans and all those vast swamps of cypress and jungle were caved into the Missouri River in the years gone by and transported to the sea.

What this toll has cost the farmers of Iowa and Nebraska and their neighbors can not be measured, but it has been tremendous. Mr. S. Waters Fox, a civil engineer, who for 25 years was employed by the Government on the Missouri River work, places it at 10,490 acres annually in the 807 miles from its mouth to Sioux City.

Still it is argued that this isn't any of Uncle Sam's business at last. But it is. Listen to this: There is but one way to improve the Missouri for navigation—only one way. All of the engineers are agreed on that. Revet the banks, and so prevent further caving. What will this cost? Twenty millions from the mouth to Kansas City. Is the game worth the candle?

HOW MUCH IS $15,000,000,000?

This is a great valley, this Mississippi Valley. There is nothing like it upon the earth. It equals in area the combined areas of Austria, Germany, Holland, France, Italy, Portugal, Spain, Norway, and Great Britain. The annual value of its manufactures had in 1910 reached the enormous total of seven and a half billion dollars.

Too much to comprehend. We can not take in just what that means. Let us speak in different terms. What is seven and a

half billion dollars? It would equal the total appropriations for the War and Navy Departments from 1861 to 1865 plus the appropriations for these departments in 1898 and 1899, the period of the Spanish War, plus the appropriations which have been made for all the rivers and all the harbors from the beginning of the Government to date, plus the cost of the Panama Canal, and even then we would have a balance remaining large enough to pay off the national debt. This is what seven and a half billion dollars amounts to.

But in addition to this, this valley produces 85 per cent of the corn raised in the United States, 75 per cent of the wheat, 70 per cent of the live stock, 70 per cent of the cotton, 70 per cent of the iron ore, 70 per cent of the petroleum, 50 per cent of the copper, 50 per cent of the lumber, 50 per cent of the coal, and has 70 per cent of the farm areas and farm values of this country. The total value of all the products of this valley is $15,000,000,000 annually.

Every pound of this $15,000,000,000 worth of products is affected by the transportation facilities at hand. There are 150,000 miles of railroads in this valley which are trying to transport these products and bring into the valley whatever is needed from the rest of the world in exchange. Can they do it? No; they can not; but suppose they could, suppose they do.

Mr. H. G. Wilson, for many years an official in the freight traffic department of the Kansas City, Fort Scott & Memphis Railroad, is recognized as one of our most efficient authorities on the subject of transportation rates. In an address before the Rivers and Harbors Committee of Congress two years ago he stated that railroad rates from the territory known as "seaboard territory" (lying east of Pittsburgh and Buffalo) to points as far west as Galena, Kans., and Denver, Colo., were all affected by the water transportation of the Mississippi River, and that 5,000,000 tons of traffic across Missouri points into the Southwest were materially lowered by the potential competition furnished by the physical presence of the Missouri River.

After a good deal of cross-questioning on all related subjects, the late Senator Frye, then chairman of the Commerce Committee, brought Mr. Wilson directly to the point:

"The CHAIRMAN. Well, now, what about the Missouri River? How is that going to help you out? What do you want done about that?

"Mr. WILSON. As far as the commercial situation is concerned, a transportation line operated on the Missouri River, a waterway carrier being effective, having sufficient capacity to carry—and, in fact, carrying—a sufficient quantity of tonnage to make that tonnage noticeable to the rail carriers, will exert an influence on the rail lines, forcing them to meet the competition so established, which will result in a lowering of the freight rates, not only to and from Kansas City and the other southwestern Missouri River points but to and from all of the trade territories in the Southwest—Kansas, Oklahoma, Texas, Denver (Colo.), New Mexico, Arizona, and Nebraska. All of this territory, all of these States, will be benefited by a reduction in the freight rates."

I believe he answered the question.

THE FATHER OF WATERS AND THE PASSOVER.

From Cairo south the Mississippi traverses the most fertile valley in the world. I use the word "traverses" advisedly. Mr. Webster says traverse means "to cross, to pass over," and that is what this big river does. Last spring it "passed over" some 14,000 square miles of the most productive lands in the world. At one time during this passover the Secretary of War was furnishing food and shelter to 161,000 of our citizens who had been made homeless and helpless by the flood. How many millions of property values were lost and destroyed nobody knows, and nobody ever will know.

But the loss can not be measured that way. There were many lives lost, many homes destroyed, many hopes turned to despair. If it were not for its marvelously productive soil, which renders its recuperative powers therefore beyond compare, this valley would be abandoned to the wilderness and its denizens. But it is blessed with a gentle climate; the rains fall in season and the sunshine warms into fruitage its abundant crops of corn and cane and whitens its fields of cotton into waving beauty.

There are 26,000 square miles of these lowlands, which, expressed in different terms, means an area larger than Maryland, Delaware, Connecticut, Rhode Island, and Massachusetts combined. All of the lower Mississippi is not lowland, subject to overflow, not by any means. There are broad acres of upland and towns and cities, too, high above such danger. Memphis, Vicksburg, Natchez, Baton Rouge are far beyond the reach of the floods; but in this I speak only of the lowlands.

It would be a foolish thing to provide 9 feet in the Ohio and 6 feet in the upper Mississippi and 12 feet in the Missouri unless we are to secure and maintain a navigable depth in the Mississippi below their confluence. The present adopted project is for 9 feet over the bars, but there are many who are insisting upon "14 feet through the valley." There is but one way to get either. Secure the banks against erosion and confine the waters at all seasons to the channel.

When Gen. Suter, now retired, was a lieutenant colonel in the Engineer Corps of the Army he was set to work on this great problem, and after long and diligent study and experiment he reported as far back as 1890 that the river could not be improved without levees. I quote the record:

"Senator GIBSON. You stated a moment ago, in reply to a question by the chairman, that if you were improving the Mississippi River, even if it were running through a wilderness, if the country through which it ran were not peopled, you would still build levees on the banks?

"Lieut. Col. SUTER. Yes, sir.

"Senator GIBSON. Why do you hold that opinion?

"Lieut. Col. SUTER. Because I consider that the improvement of the stream for navigable purposes without it is impossible."

But it does not run through a wilderness. The riparian owners of the lower valley have been busy conjuring up different systems of taxation whereby money enough could be taken from their fields to build these levees high enough and strong enough to prevent further disaster from recurring overflows. In this way they have raised and put into these levees some sixty-odd million dollars since the close of the Civil War, which left the old levee system totally destroyed. But all through the upper valley there has been a most rapidly advancing civilization. The peoples of all the world have been attracted there, and the barren prairies and the trackless forests have both been subdued by the energies of man and brought under productive cultivation.

Under the stimulus of scientific study and intelligent experiment the drainage of vast areas has been undertaken. The bends have been cut off in the natural channels, main canals have been dug, the farms undertiled, and now when the rain falls instead of lagging superfluous in innumerable slashes and undrained swamps serving as natural reservoirs, it rushes into the tributaries and down the great river, bringing destruction to the farmers of the lower valley. The greatest of all floods, for instance, was the one just passed, 1912. Mr. Moore, Chief of the Weather Bureau at Washington, says that this flood was caused by "six rainstorms in the upper valley, which fell between March 10 and April 2, a period of three weeks."

These floods, thus precipitated upon the lower valley, wash away the banks, tumble the levees into the river, and verify all that Prentiss said about the river.

Col. Leach, of the Engineer Corps of the Army, said before the Senate committee:

"I may say generally with regard to the history of the levee system that over three-fourths, probably, of the entire sum of money expended by the States in the last 10 or 15 years in the construction of levees would have been saved if the United States had prevented the banks from caving."

Of course the planter in the lower valley does not wish to see the farmer in the upper valley injured by the surplus water which can be carried off by drainage, nor does the farmer in the upper valley at all relish the idea of destroying his brother farther down the river by turning this surplus water upon him too precipitately. What they both most earnestly desire is that out of the common Treasury of all the people the Congress shall appropriate money enough to so improve the river, which is the Nation's drainage ditch, that this surplus water may pass out to sea between permanent leveed banks.

To complete the levee system so as to bring it up to the grade and section believed to be strong enough to do this will require about $35,000,000. There are just about 35,000,000 people in the whole valley, and they would be very willing to contribute their per capita, 35 cents annually for the next three years, and that would settle it.

There are 15,000 miles of tributaries of this great stream, but I have touched only on those which are most prominent now in the public mind, leaving 10,000 miles of the Arkansas, the Red, the Yazoo, the White, and others of less tonnage and national concern.

I fear I have already overstepped the reasonable limitations of a short story. For this I must plead as excuse a lack of time to bring this article to a shorter measure.

Senator Morgan, of Alabama, was once asked how long he could speak on a certain subject. "If I had time to thoroughly digest the subject and prepare my address, I think I could talk for three days," he replied.

"But if you had no such time for preparation how long could you speak?

"Oh, indefinitely."

Mr. SHARP. Mr. Chairman, I yield one minute of my time to the gentleman from Georgia [Mr. TRIBBLE].

Mr. TRIBBLE. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD by inserting an address delivered by Miss Mildred Lewis Rutherford, historian general of the United Daughters of the Confederacy, entitled "History relating to the War between the States."

The CHAIRMAN. The gentleman from Georgia [Mr. TRIBBLE] ask unanimous consent to print in the RECORD the article mentioned by him. Is there objection?

There was no objection.

[The address referred to is printed in the Appendix.]

Mr. SHARP. Mr. Chairman, I wish first to express my appreciation of the courtesy which has been so generously extended to me by both the gentlemen representing the majority and minority of this committee in yielding so much of the time to me. Although taking up one-half of the whole time allotted for general debate may seem as though it was an unwarranted consumption of the time of the House considering the need of expedition; yet if the grant of time that has been given to me is unfortunate in a personal sense, still the subject on which I wish to speak is worthy, not only of the most considerate attention of Members, but of many hours of the time of this House. Indeed this is one of the most important of all the appropriation bills, as the chairman of the committee has taken occasion to say, involving each year one of the largest items of our public expense.

I listened with much interest to the manly apology—I will put it in that way, although perhaps it does not deserve that name and was not so intended—of the worthy gentleman who is the chairman of this committee [Mr. SPARKMAN]. I can assure him that in so far as the precedent for the action of his committee, or the motives governing that action in reporting out the bill, comprehensive and large as it is, are concerned, no apology is needed. But if I may be permitted to read between the lines of his comments upon the features of this bill, I would say, rather, that the reason which prompted that apology, if I may again use that expression, comes from the fact that there is a generally recognized impression among the people at large that for some reason or other these appropriations are altogether too large for the benefits received, and that the few are getting special favors who ought to reimburse the Government therefor. And it is upon that phase of this subject that I wish to address my remarks this afternoon.

Of all subjects concerning which Congress has to deal in a legislative way, it seems to me that there is none more important than that of taxation and all that it involves. The very word itself means a contribution from the people, and as such a burden on them. Too often it also means, in a correlative sense, the development of an extravagance and a wastefulness of their money. Perhaps no better example could be given of a bill which, especially as it is regarded among the large class of our people who are not directly benefited thereby, comes in for more criticism at its annual appearance upon this floor than the rivers and harbors bill, which, together with its companion, the public-buildings bill, are supposed to be typical of "pork-barrel" legislation.

While what I shall say will have to do necessarily with several phases of the rivers and harbors legislation, yet I shall direct my remarks in the main to its consideration as it involves not only the element of taxation, but the maintenance of a special privilege more in the negative sense from exemption of a just imposition of a tollage system than from any positive action, which, it seems to me, has come to be indefensible. If there has been one complaint emphasized above another, which has been continuously voiced by public sentiment during the past few years, it has been that which has been directed against the so-called special-privilege legislation. It is obvious that such advantages may come from exempting from a just proportionate share of the burden of taxation quite as well as from the positive act granting such privileges to the few as against the many.

At different times, finding the urgent necessity of raising revenue to meet the constantly increasing burden of taxation upon our people, this method and that method have been resorted to in order to raise the revenues to equal these gigantic sums necessary to pay the bills of our billion-dollar Congresses. We have had excise bills, we have had personal income-tax bills amending the Constitution therefor, we have had corporation-tax bills, and we have had for many years that which like the poor we have always with us, the high tariff rates rendered absolutely necessary because of the exigencies presented in running the Government if we would keep our credit good.

We are all familiar with some of the definitions of taxation. I am not going into an abstruse consideration of these definitions as they concern political economy, but if I may take the time, I do want to quote briefly from the words of Mr. Justice Miller in the case of Loan Association v. Topeka, reported in Twentieth Wallace, page 655. Speaking of this power of taxation, he says:

> Of all the powers conferred upon the Government that of taxation is most liable to abuse. Given a purpose or object for which taxation may be lawfully used and the extent of its exercise is in its very nature unlimited. * * * The power to tax is therefore the strongest, the most pervading of all the powers of government, reaching directly or indirectly to all classes of the people. It was said by Chief Justice Marshall, in the case of McCullough v. the State of Maryland, that the power to tax is the power to destroy. * * * This power can as readily be employed against one class of individuals and in favor of another, so as to ruin the one class and give unlimited wealth and prosperity to the other, if there is any implied limitation of the uses for which the power may be exercised.
>
> To lay with one hand the power of the Government on the property of the citizen and with the other to bestow it upon favored individuals to aid private enterprises and build up private fortunes is none the less a robbery because it is done under the forms of law and is called taxation. This is not legislation; it is a decree under legislative forms.

That is the definition of the power of taxation by a former learned judge of the Supreme Court of the United States.

We are familiar with the four maxims laid down by Adam Smith, the noted political economist of England, and it is a coincidence that in the year of the declaration of our national independence, away back in 1776, he gave expression in his Wealth of Nations to these rules governing this power of taxation. The first is the one that is most fundamentally important, and of all the others is most commonly violated:

> The subjects of every state ought to contribute to the support of the government as nearly as possible in proportion to their respective abilities; that is, in proportion to the revenue which they respectively enjoy under the protection of the state. In the observation or neglect of this maxim consists what is called the equality or inequality of taxation.

Thus wrote Adam Smith nearly a century and a half ago.

That shall be the text of the remarks which I wish to make this afternoon, and it concerns a method of taxation, if I may call it such, which, while a radical innovation in this country as applied to our river and harbor legislation, is quite common in other commercial countries, especially in Europe.

I refer in so many words to the advisability now, if not even the necessity, if we are to keep on with the widespread Government improvements of our rivers and harbors, of taxing the special beneficiaries of these indulgences from the Government according to the measure in which they receive them. There is no more patent reform needed and no more legitimate source of revenue than the levying of what may be called tonnage tolls upon what have been objects of our governmental paternalism since the very creation of the Government. I refer to the shipping interests which have been favored by our Government to an extent unparalleled by any other nation. Let me in other words epitomize my remarks in this single sentence—I would require those who are using our great national waterways for transportation purposes to pay into the Public Treasury a fair amount for the valuable privileges the Government is extending to them every year by the expenditure of many millions of dollars in the improvement of navigation.

Mr. MURRAY. Will the gentleman from Ohio yield?

Mr. SHARP. My time is very brief.

Mr. MURRAY. I do not care to interrupt the gentleman unless he wishes, but I had a question that occurred to me on occasions when similar suggestions have been made, that under such an arrangement would not the burden of this right be borne ultimately by the shippers and then by the consumers of the country, and that more than likely the consumers would be required to pay a greater proportion of the cost than they are now compelled to pay through Government taxation?

Mr. SHARP. I wish to say in answer to the suggestion of the gentleman from Massachusetts that I intend to come to that before I finish my remarks, and if I do not I ask the gentleman to interrupt me that I may answer him specifically.

Mr. MURRAY. I asked the gentleman that as a question and not as stating my opinion.

Mr. SHARP. The distinguished gentleman from Tennessee [Mr. HULL], who was justly given the credit by the chairman of the Committee on Ways and Means, Mr. UNDERWOOD, at the last session, for being the author of the excise bill, called attention in his able discourse to the system by which personal property so largely escaped taxation in this country. He took occasion at that time to quote from the special tax commission appointed under the laws of the State of New York within the last six years. If there is anything that is enlightening upon this subject, it is certainly the conclusion of the statement made by the chairman of that commission, who was a former United States Senator, if I am not mistaken. He said that they had discovered that although there was only something like $800,000,000 of personal property upon the tax duplicate in the great State of New York, yet they had found, as a matter of

fact, that there was actually an excess of 30 times that amount of personal property in that State; in other words, less than 3½ per cent of the personal property was taxed at all, and I presume that no considerable amount of that $25,000,000,000 had anything to do with franchises and intangible rights and privileges that many times, as we all know, approximate the real value of the taxable property itself. It is indeed, Mr. Chairman, one of these privileges, analogous in character, that our Government is extending every year to those who are the special beneficiaries under present-day river and harbor legislation.

To the merest tyro in the knowledge as to the manner in which taxes are levied a man's home and his visible personal property, tangible and real in their nature, are the first objects to be taxed. But it is the intangible, the unseen, mere rights or privileges, which go untaxed, that are often of really the most value and from which the greatest revenues are derived. Such property, if I may use that expression, of this intangible character very commonly comes from grants, either to individuals or to corporations, at almost no cost whatever. In many cases, in their exercise and use, preempted as they are by first possession of those holding such grants, they become exclusive monopolies, and it remains only in theory and not at all in possible practice that such rights and privileges are common and equally open to others.

Justice Bradley, in the case of the Transportation Co. against Parkersburg, in the One hundred and seventh United States, referring to a case brought up from West Virginia, used this language, which I think is exceedingly appropriate as outlining the authority which the United States Government possesses not only upon our navigable waters but to what extent it has been exercised:

> In the exercise of this authority over navigable waters Congress has, from the commencement of the Government, erected lighthouses, breakwaters, and piers, not only on the seacoast but in the navigable rivers of the country, and has improved the navigation of rivers by dredging and cleaning them and making new channels and jetties and adopting every other means of making them more capable of meeting the growing and extending demands of commerce. It has extended its supervision in an especial manner to the Ohio River. Amongst other things, it has overcome the obstacle presented by the falls at Louisville by the construction of an expensive canal. It has created ports of delivery along the river, of which the city of Parkersburg itself is one, and others are at Pittsburgh, Wheeling, Cincinnati, Louisville, Madison, Jeffersonville, New Albany, Evansville, Paducah, and Cairo. It has regulated the bridges which have been thrown across the river by authority of the States. It authorized the Wheeling Bridge to stand after this court had declared it to be a nuisance, requiring the officers of all vessels to regulate their pipes and chimneys so as not to interfere with the bridge, thus extending its common protection to commerce by land and commerce by water. It required the Newport and Cincinnati Bridge to be moved or placed at a greater height above the water, after having been constructed in accordance with the laws of the States and of the United States.

But if the learned judge who rendered this decision, more than 35 years ago, should inspect the bill before us and see to what extent we were now extending our Government paternalism, I wonder if he would not, along with many of us, ask the question, For whom are these special benefits created, and for what return? There is not a Member on the floor who has courage enough or, shall I not better say, who is imprudent enough to stand in his place and propose that a subsidy or some special benefit be given by the Government of the United States to any railroad in this country. Surely what the governments of foreign countries—and that whether the improvements are made by private enterprises or by the Government—long ago inaugurated in imposing reasonable tolls for such privileges ought not to be unjust when applied in this country, where dollars to their dimes are annually expended. Even automobilists are taxed in order that they may contribute to the better improvement of our highways, while in our reclamation and irrigation projects no one would think for a moment that the Government ought not to be reimbursed by those who are especially benefited by such improvements.

But what are we doing for these great water highways? While no one would think of extending that aid to the railroads, yet for the steamships which ply upon our Great Lakes and upon our larger rivers we virtually, though figuratively speaking, give to them the right of way—in fact, do the grading, lay the ties, and furnish the rails for them; nay, more, we erect beacons and danger signals for their guidance. And we do not ask a single dollar in return. Is this just?

Mr. MURRAY. Mr. Chairman, will the gentleman yield?

Mr. SHARP. Mr. Chairman, I will ask not to be interrupted just now. It is because the people have come to understand that certain privileges of this kind are unfairly given, though they do not perhaps know just how, that they believe that the greatly increasing concentration of wealth in the hands not alone of our transportation companies, but in many other lines of activity, has been due to this practice, and they look upon any further legislation in their interests with suspicion. I may say, as amplifying the suggestion of the gentleman from Pennsylvania [Mr. MOORE], when he asked if there had been hearings upon this bill, it would not be a bad practice, as I look at it, if hereafter in all of these bills appropriating, as the chairman of the committee has said, for many, many different items, aggregating several hundred, if there was—especially in the absence of the printing of these hearings—appended to the bill with each appropriation a statement, not necessarily involving more than three or four lines in length, that would show not only what the present appropriation of money is, but what has been the total up to date and what tonnage is carried upon those particular waters. Then this membership of 391—370 of whom are not members of that committee and are not in touch with the work, thus having no special knowledge of the facts presented—would have some basis on which to rest their judgment when they come to vote. This is only a suggestion. It is intended in no way as a reflection upon the judgment or good intent of this committee, for the personnel of which, collectively as well as individually, I have the highest regard.

I speak from a decided conviction on this subject as coming from a personal observation of many years. Recently, within the past few months, I have had these views somewhat accentuated, and I have been more than ever confirmed in the belief that I am right in my contention that those who are specially benefited ought to contribute to the Government in making these great appropriations to the extent at least of the cost of maintenance. Recently I had occasion to appear before the Board of Engineers upon a matter calling for a survey of a river entering a harbor located in my district. The answer of that board was about what I expected. I was not disappointed in their reply, nor in the position they took. It was entirely consistent, in so far as the answer itself went, when the board said it would be very glad to make this recommendation of an extension of the Government work back of the harbor line, if possible, but that precedents had been set which commit the Government to making improvements only to the shore line. The board frankly expressed the opinion that the Government was unable financially to make any improvements involving so great an expenditure. They believed such work ought to be placed upon the shoulders of the community in which the project was located. Now, I would as soon take the judgment of that board as to the necessity for and value of our river and harbor improvements as I would the opinions of any other set of experts in the United States, because they have had to consider many phases of legislation involving a great variety of projects. When, however, they took the position that the community or city located at the mouth of that river ought to itself make these improvements, this thought came to my mind very strongly. If the Government of the United States, by the authority given to Congress under the Constitution to develop and regulate commerce, can not afford to do this, why should a community be asked to do it? Possibly I may indulge in some sophistry in asking this question. The answer probably would be because the community obtains certain special benefits which would be derived from the improvement of the harbor. While the logic of this answer seems sound, is there any good reason why it should not be carried to its legitimate conclusion and place upon the carriers, for whose more expeditious and economical operations these improvements are made, a just proportion of their cost? A little more than three years ago the rivers and harbors bill contained a provision as follows:

> The Secretary of War is authorized to appoint a board of engineers to examine those harbors on the Great Lakes and elsewhere in which the whole or a part of the harbor is improved at local expense, which board shall make recommendations with a view to determining whether the improvements so made by local authorities should be undertaken or maintained by the General Government and to establishing uniform rules in making harbor improvements.

In accordance with such authority the Secretary appointed a board of officers of the Corps of Engineers, which board, after visiting many harbors, not only on the Great Lakes but several upon the Atlantic seacoast, made a most interesting report containing several recommendations covering the questions involved. One of these recommendations reads as follows:

> 2. That no work of construction or maintenance be undertaken by the Government at any harbor constructed by and operated in the interest of a corporation or private person, and adapted to the promotion of such interest only.

The recommendation further declares against the General Government undertaking to maintain improvements where they have been carried on at local expense. In reviewing the report, however, the Board of Engineers for Rivers and Harbors qualified the conclusions above referred to to the extent that there might be such conditions where improvements already made by local interests might be further improved or maintained by the General Government.

The most interesting part of that report consists in the differentiation of the classes of harbor or river projects as concerns

the disposition of the freight or tonnage business respectively carried on. With much justice it was maintained that where a large proportion of such tonnage was merely in transitu—that is, was not to be stopped at the harbor of entrance for fabrication into finished products, but was to be carried on to distant points—the duty of the local community to improve such harbor was at least not so clearly established. In such cases, to use the language of the report, "they could properly be provided and maintained at the national expense." But with an equal degree of justice it was pointed out that the case would be entirely different where practically all of the tonnage was to be manufactured into finished products in the city where the harbor was located. The benefits of such manufacturing industries to the communities are fully discussed, not only as they have to do directly with the growth of population of the community, but also as the increased value of real estate is affected. Again, let me quote from the report mentioned as bearing upon these last-named conditions:

In the ordinary improvements made in cities, such as the paving of streets, the laying of sewers, or the opening of parks, the property immediately benefited is made to pay a part at least of the cost of the improvement, and the city can in time recoup itself for the rest by the increased taxes that will follow from the added value of the property. In the improvement of a harbor the United States can not do this, for these things are out of reach of the General Government and can only be dealt with locally.

It follows, therefore, that in the case of harbors or parts of harbors devoted to the class of commerce destined for local consumption or distribution, or for local manufacture or milling in transit, there is a special local interest, advantage, and profit in excess of the general interest and value. There is a gain in which the general public does not and can not share, and there are sources of revenue resulting from such harbor development that are accessible to the local government, but are beyond the reach of the General Government. Therefore in the improvement and maintenance of harbors or parts of harbors where the commerce is of this character there ought to be a division of cost between the local and the General Governments in a proportion that should bear the same relation that the local and special profit and value of the commerce bears to the general profit and value.

While of no particular interest to the present discussion, it seems to me there is still some application in the fact that the city of Lorain, whose interest I was pleased to represent, although having a population of somewhat under 30,000 according to the last census, has in years past bonded itself to the extent of more than $500,000 to improve the river entering into that harbor, and yet more than 80 per cent of the tonnage of the harbor, which is one of the most important on Lake Erie, found no lodgment there, but was carried out over the railroads for general distribution to distant points. Clearly the character of that commerce comes within the exception made by the board of engineers under which the harbor "could properly be provided and maintained at the national expense." Into that harbor arrive and depart the largest steamers on the Lakes, rivaling in size those that sail on the ocean, and which, during the past season alone, carried into and out of that port more than six and a half millions of tons of freight in less than eight months of navigation. How many tons of freight do you think those great lake steamers carry? I have seen them time after time leave harbors up at the north end of Lake Superior having in their holds a tonnage that 4 freight trains with 50 cars to a single train, each a half mile long, could not carry. The report of the National Waterways Commission, to which I will refer later on, states that as far as the Great Lakes are concerned this tonnage can be brought down from a fifth to a sixth of what it can be carried for by rail.

This great economic saving in the cost of transportation has not been accomplished in a day nor at the expense of any ordinary sum of money. In so far as the traffic on the Great Lakes is concerned, the volume was comparatively light until 1885. From that time down to the present the percentage carried has increased from something more than 3,000,000 to approximately 60,000,000 tons. These figures are confined to the business going through St. Marys Canal alone; they do not include a considerable traffic which did not go through the canal. While the discovery of large beds of iron ore at the head of the Lakes had much to do with this increase of business, yet it could not have been possibly accomplished without the use of many millions of dollars expended by the Government in improving navigation. These aids have taken the form of construction of additional locks at the Soo Canal, the widening of channels, dredging of rivers, and deepening of harbors. The extent of such improvements may be illustrated in the fact that during the past seven years upward of $35,000,000 have been expended in this kind of work alone. One of these improvements, the Nebish Canal, extending something like a mile in length and involving the removal of many thousands of tons of solid rock, cost upward of $4,500,000. Many other projects less ambitious in character have been constructed by the Government.

We are all familiar with the methods of getting under way these projects involving the improvements to navigation. Sometimes the movement is started by those directly engaged in the transportation business, thus being the special beneficiaries of such legislation, sometimes by the communities in which the expenditures are to be made, and very frequently by the joint efforts of both. The ultimate object presumably—and it is entirely proper that it should be so—is the securing of better transportation facilities which follow from the ability to carry freight with greater expedition and in larger volume at a material reduction in cost.

Assuming that the survey for such project has been authorized and it is found to be a meritorious proposition, the improvement as recommended is commenced. In due time, its duration depending largely upon the character of the improvement and the expedition with which it is prosecuted, the work is completed at an expense to the Government running all the way from a few thousand dollars to many millions. It needs no uncommon discernment to see to whom the benefits, in a large measure, of the Government's aid go. Why, they go to those who are carrying on commerce in the transportation business, just the same as the railroad companies are carrying on theirs. There is no difference in its character except that one cargo is carried by water and the other is carried by land. That is the only difference.

And the railroad companies, be it said to the credit of their shrewdness, in more than one instance upon the Great Lakes, as you will find, and upon our larger rivers, seeing that for some reason or other the Government is so much kinder to the fellow who carries a cargo by water, have themselves done a little business of their own in that line, and have taken to the water. They, too, own some big boats. I do not quote the figures from official sources, but I am surely warranted in saying that whereas 20 years ago there were 90 per cent of the vessels upon the northern lakes of less than 3,500 tons capacity, to-day 80 per cent of this tonnage is carried in boats from 500 to 600 feet in length, bearing cargoes of from 8,000 to 12,000 tons. As a natural sequence of this evolution in the development of transportation, the inevitable result followed—the small boats have been driven off from the Lakes. While this may be considered as merely an incident in the inexorable law of commercial and industrial progress, yet such advantages have been made no less truly possible by our Government's beneficence.

Would I oppose Government aid to our navigable waterways? Not at all. On the contrary, where the development of a project can be predicated upon a reasonable belief that a legitimate competition in the carrying of freight can be secured and to such an extent as will justify the expenditure, I think it properly affords an object for governmental aid. Neither have I any criticism to offer of those, big and little, who have been fortunate enough to receive such aid under the present system of river and harbor legislation. It would indeed be unfair, in pointing out the extravagance or lack of merit of some of these propositions, to lose sight of the fact that through them in very many instances, especially where deep-waterway projects have been involved, the benefit to commerce has been very great. Undoubtedly in the past, before transportation by railroad became so general, such cooperation was absolutely necessary to facilitate the carrying of freight at any reasonable cost. But with the enormous development of our country in population and resources transportation problems have greatly changed in their character. To-day for every ton of freight carried by water there are more than 12 tons carried by rail. While admitting that the alternative choice of shipping by water has had a most salutary effect in affording competition with the charges made by railroad companies, yet it is undeniable that in many instances such competition is out of the question, no matter to what extent artificial aid may be given to navigation in its development.

I am not at all so sure, gentlemen, and I feel a little diffidence in putting up my own views against the riper experience, born of long knowledge, of the members of this committee, when I say that I am not at all sure that there are not many items in the present bill of unimportant waterways and harbors that never ought to be encouraged by a single dollar.

In considering such projects, Mr. Chairman, may I not draw an analogy with the plant which can not stand alone but must find its strength in the latticework upon which it grows, and the higher it grows the tighter it clings to its friendly support? That is often the attitude of the paternalistic objects of governmental aid. Two years ago, by authority of law, a commission was appointed called the National Waterways Commission. Senator BURTON, for many years the able chairman of the Rivers and Harbors Committee, headed this commission. It made a most elaborate and instructive report. That report covers almost every conceivable condition that would be de-

sirable to know as it affects European waterways as well as those of this country.

While in poring through the commission's report I did not find any specific recommendations for establishing tolls in this country—for, as I stated in the outset of my remarks, such a system would be a radical innovation in our practice—yet it nowhere, so far as I am able to discover, contains any criticism of the efficiency or justice of the tollage plan as applied to European waterways. Its findings and recommendations are certainly interesting, as they have to do with what I may properly term a reformation in our own practice of making appropriations for navigable waterways.

Nearly every page contains facts as to foreign waterways on which they impose tolls and the satisfactory operation of such a system. This tollage question, as you know, has been emphasized more recently upon this floor in the matter involving the maintenance of the Panama Canal. We know what has been done as to the Suez Canal. That canal cost nearly one-third as much as the Panama Canal, something like $125,000,000, but that great work has not only been self-sustaining almost since the day it was completed, over 40 years ago, but it has yielded millions of dollars of revenue for the stockholders of the concern, and, if I am correctly informed, the company has a provision in its franchise that whenever the earnings exceed a certain amount the tollage will be automatically decreased. I believe that to be a fact. President Taft has seen fit to impose a toll for the Panama Canal somewhat less than that of the Suez Canal, not upon the freight carried but upon the net tonnage of the vessel itself.

Let me now apply the principle of the payment of tolls or tonnage tax to the traffic upon our own domestic navigable waters. During the past few years there has been in excess of 130,000,000 tons of freight annually carried upon our navigable waters, about one-half of which is handled at the harbors on the Great Lakes. Would it be unjust to impose upon these shippers handling this immense tonnage such a duty as would at least maintain and repair all such Government-aided improvements? I believe the imposition of a moderate duty ranging from 5 cents to 10 cents per ton—less than the average rate imposed in other countries—placed upon the net tonnage capacity of the vessels would fully meet these demands. Such a toll so levied should yield a net annual revenue exceeding $8,000,000. Under such a manifestly fair plan of raising revenue, and which I hope in due time to see authorized by Congress, the maintenance items in this bill totaling, as the chairman of the committee points out in his fair-minded report, $2,222,650, could not only be readily taken care of, but the balance expended in making additional improvements where warranted. Indeed, aside from the inherent justice of the proposition to require a fair return from those who reap these special benefits, I believe such legislation would be in the interest of a better development of our waterways.

I referred a moment ago to the plan recently decided upon in reference to the imposition of tolls for the use of the Panama Canal. To those of my colleagues who have not had an opportunity of reading the report of Emery R. Johnson, special commissioner of Panama Canal traffic and tolls, I would recommend its early perusal. I can not speak in terms too high in its praise. Not only is the information therein contained of great value, but it is most logically and systematically presented.

As bearing upon the contention which I am making, I can not do better than to quote from one who has given an exhaustive study to the subject of levying tolls in return for special privileges under our navigation laws. Under the subhead of "Principles and considerations that should control in fixing tolls" the author says:

> The canal will cost the United States Government $375,000,000, much of which has been or will be secured by borrowing funds. The interest and principal of this debt must be paid either from funds secured by general taxes or from the revenues derived from canal tolls. It seems wise and prudent that the United States should adhere to sound business principles in the operation of the canal and in levying tolls. Public expenditures are increasing rapidly. Funds are required in increasing amount for the promotion of the public health, for irrigation and reclamation, and for maintaining the military power and naval prestige of the United States. Large expenditures upon rivers and harbors are urgently needed. Taxes must inevitably increase. The demands upon the United States are certain to be much greater in the future than they have been in the past, and it does not seem wise for the Federal Government to construct and maintain at the expense of the general budget such a costly public work as the Panama Canal. Those who derive immediate benefit from the use of the Panama Canal may properly return to the Government a portion of the profit secured from using the canal, provided this policy can be followed out without burdening commerce.

In summarizing his conclusions, the author, Mr. Johnson, further says:

> The United States should adhere to business principles in the management of the Panama Canal. The Government needs to guard its revenues carefully. Present demands on the general budget are heavy and are certain to be larger. Taxes must necessarily increase. Those who directly benefit from using the canal, rather than the general taxpayers, ought to pay the expenses of operating and carrying the Panama Canal commercially.

If there is any difference of principle involved or reason therefor concerning the levying of tolls as to the subject matter just quoted, as it applies to the navigation of our domestic waters, I fail to see it. If it is urged that the Panama Canal is a much greater proposition because it has cost so great a sum of money, my answer is that the aggregate of appropriations for river and harbor improvements in this country is still much in excess of that amount, great as it is.

If it is still further urged that the volume of business to be carried on at the Panama Canal is much larger, I am again sustained in my argument by pointing to the fact that the traffic upon our Great Lakes alone each year amounts to three times the tonnage that is estimated to go through the Panama Canal 10 years hence, while upon all of our navigable waters it is six times as great. Are you aware of the fact that within the past five years, including the amount of the present bill—$40,872,958—there has been a total sum appropriated by the Rivers and Harbors Committee exceeding $175,000,000, and that, with a single exception, the appropriation each year has greatly exceeded that of the preceding one? Indeed, the right and propriety of levying such tolls has been sustained time and again by our State and Supreme Courts. When the ordinance of 1787 was set up in the early cases as a defense against the imposition of such tolls the decisions of the courts uniformly considered its provisions as referring to navigation in its natural state. Upon this point, in the case of Huse *v.* Glover (119 U. S. Repts., 543), Justice Fields succinctly says:

> The provision of the clause that the navigable streams should be highways without any tax, impost, or duty has reference to their navigation in their natural state. It did not contemplate that such navigation might not be improved by artificial means, by the removal of obstructions, or by the making of dams for deepening the waters, or by turning into the rivers waters from other streams to increase their depth. For outlays caused by such work the State may exact reasonable tolls. * * *
>
> By the terms "tax, impost, and duty" mentioned in the ordinance is meant a charge for the use of the Government, not compensation for improvements.

The same view was taken some years later by the learned Justice Campbell, of the Supreme Court of Michigan, in the case of Manistee River Improvement Co. *v.* Sands (53 Mich. Rep., 596), in which he says:

> The idea that tolls for the actual use of passage over land or water highways can be treated as taxes and as invasions of private property does not appear to us tenable. They are not levied on property or on persons as their share of any public burden laid on the people, but they are a fixed compensation in lieu of a quantum valet for the use of that which has value and which is actually used to advantage. * * *

While decisions of similar import could be quoted from many other cases in our highest courts, I would like to refer to a rather curious and, I think, little known provision of an old-time instrument of historical interest, which, while specifically directing that duties shall be levied upon navigation improved by Government aid to pay the cost thereof, also sought to narrow the power to appropriate money for any internal improvement for commercial development whatever. Let me quote a section of the constitution of the Confederate States of America adopted in 1861. In enumerating the powers of the general government, I find this language:

> To regulate commerce with foreign nations, and among the several States, and with the Indian tribes; but neither this nor any other clause contained in the constitution shall ever be construed to delegate the power to congress to appropriate money for any internal improvement intended to facilitate commerce except for the purpose of furnishing lights, beacons, and buoys, and other aids to navigation upon the coasts, and the improvement of harbors and the removing of obstructions in river navigation, in all which cases such duties shall be laid on the navigation facilitated thereby, as may be necessary to pay the costs and expenses thereof.

How impotent, indeed, would be the efforts of those of my colleagues under such a constitution in behalf of so many of their favorite projects. Indeed, the laudable plans now contemplated in the further improvement of the Mississippi River with its great tributaries, the Missouri and Ohio, even for sanitation purposes and the better security from inundations, let alone for purposes of navigation, might be seriously endangered or at least much retarded by such drastic restrictions of such a constitutional provision. Fortunately I believe there is no sentiment or feeling on the part of Congress against granting appropriations for such purposes. But the reasoning of the framers of that old Confederate instrument, in so far as levying reasonable duties or tolls upon navigation facilities by Government appropriations, to my mind is still sound.

While, Mr. Chairman, the remainder of the time allotted me is short, I am reminded of the question raised by the gentleman from Massachusetts [Mr. MURRAY] as to whether ultimately the consumer would not have to pay this additional toll or

tonnage charge so levied. I do not know that I can answer the gentleman in a better way than to quote from a most excellent treatise by Prof. Harold G. Moulton, instructor in political economy in the University of Chicago, which is devoted to a consideration of many of the problems now under discussion. Upon the particular point which the gentleman raises, Prof. Moulton says:

> Freight rates have now become so small in proportion to the value of the commodities of traffic that in most cases nothing short of a tremendous cheapening of transportation would be reflected in the prices of the articles, and rate reductions now usually accrue almost wholly to the benefit of middlemen.

Quoting from McPherson, on railroad freight rates, the author says:

> The transportation charge on the material entering into a pair of shoes made in a St. Louis factory averages 1¼ cents. The transportation charge required to place that pair of shoes in the hands of the consumer in any part of the United States averages between 2 cents and 3 cents. This makes a total charge of approximately 4 cents.

Suppose our waterways should effect even a 50 per cent reduction of freight rates, we should have a saving of only 2 cents on a pair of shoes. It is hardly probable that such a saving would cause the shoes to retail at 2 cents less than formerly. The saving would be absorbed by the shipper and middlemen, and the consumer would be benefited not at all. But this charge, even as small as it is, applies to half of the entire freight charge on a single pair of shoes. Surely it would not be seriously contended that the buyer of such pair of shoes would be required to pay his proportionate share of a toll charge of 5 cents on a whole ton of such footwear.

In considering the more bulky kind of freight, which after all constitutes a very great proportion of the tonnage carried upon our navigable waters, for it is of that class of freight in which I take it that the greatest economy is effected, the author quoted says:

> Even with the more bulky class of freight the cost is not greatly different. The railways which carry coal to Chicago were recently permitted to make a freight raise of 7 cents a ton on coal. The result was a 25-cent increase in the price of coal, 18 cents of which represents the increased profits of middlemen. Is it reasonable to believe that under reversed conditions a reduction of 7 cents a ton in the railway charge on coal would lead the coal dealers to lower their price 25 cents a ton, or indeed at all?

He adds the sage conclusion, which is coming to be quite generally recognized, that "this is fast coming to be the age of monopolized retail trade." If I remember correctly, Commissioner Johnson, in his canal report referred to, takes substantially the same view of this question. As a matter of fact, however, too well known to be controverted, especially as the statement applies to navigation on the Great Lakes, a very large proportion of the tonnage carried is owned by the vessel owners themselves. In such cases they often own the mines, the products of these mines, the boats which carry them, and the mills which convert them into finished products.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SHARP. I would like to have one minute more.

Mr. SPARKMAN. Mr. Chairman, I yield two minutes more to the gentleman.

The CHAIRMAN. The gentleman from Ohio [Mr. SHARP] is recognized for two minutes more.

Mr. SHARP. It would be an interesting digression for me, if I had the time and you had the patience, to consider the merits of these different phases of the subject as they relate to advantages accruing from lower rates. I thank you very much for your patience in remaining here so late in the day and hearing me talk. But the main point I wish to fix upon your minds, Members of this House—because I know I speak in the interest of equal taxation and justice—is that those who get these special benefits ought to pay their just proportion of the burden, which, under our present system, is wholly placed upon the shoulders of the American people.

Mr. RANSDELL of Louisiana. May I ask the gentleman just one question?

Mr. SHARP. Just one question.

Mr. RANSDELL of Louisiana. The gentleman says that there have been something over $100,000,000 expended on the Great Lakes. I should like to ask him if there is not now passing through the Detroit River a commerce approximating 70,000,000 to 75,000,000 tons annually, carried at an actual cost to the American people of about eight-tenths of 1 mill per ton per mile as compared with an average railroad cost of about 7¼ mills per ton per mile? And I should like to ask the gentleman, if you compute this enormous commerce, approximating 70,000,000 tons carried at this very cheap rate, benefiting thereby the whole American people—for they all get the benefit of cheap coal and cheap iron ore—if you compute that commerce at the average rail rate, would not the American people have had to pay about $300,000,000 annually for transportation in excess of what they now pay?

Mr. SHARP. May I have time to answer that question, Mr. Chairman?

Mr. SPARKMAN. I will yield to the gentleman one minute more.

Mr. SHARP. I am very glad that the distinguished gentleman from Louisiana [Mr. RANSDELL], who is the chairman of an organization favoring this legislation, and knows very much about the subject, has asked me that question. I think if there is any sophistry that can be plainly seen and easily uncovered, it is that which is so thinly veiled in his statement as it relates to the cost.

The cost to whom? When you figure the cost to a railroad, you figure the cost of the construction, the cost of the operation and everything combined; but when you figure the cost of the transportation upon these Great Lakes and rivers of our country, do you ever stop to figure the cost that the Government has paid, and not the vessel owners themselves? If you consider the cost to the Government of the United States—that which the people, if you please, have paid for the benefit of these transportation companies in improving our navigable waters—then there would be a different story to tell. But even then is there anything unjust in asking the fellow who shipped the goods to pay it, and not the people at large?

But does not the gentleman's question in itself furnish a sufficient reason for the justice of requiring a fair return for the advantages which he states? Surely, if the improvement of navigation upon the Great Lakes, which is largely due to governmental aid, has enabled the shipping interests to so successfully prosecute their business by means of much lower freight rates, is it unjust to ask from them some return therefor? And is not the gentleman aware of the fact that in many instances the very ability of the larger shippers to carry at such reduced rates has greatly enhanced the value of their holdings in the mines, forests, and other properties from which these products are transported?

The CHAIRMAN. The time of the gentleman has expired.

Mr. RANSDELL of Louisiana. I should like to ask the gentleman some more questions.

Mr. SHARP. I should be only too glad to answer them.

Mr. SPARKMAN. I yield the balance of my time to the gentleman from North Carolina [Mr. SMALL].

The CHAIRMAN. The gentleman from North Carolina [Mr. SMALL] is recognized for four minutes.

[Mr. SMALL addressed the committee. See Appendix.]

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. FOSTER having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Curtiss, one of its clerks, announced that the Senate had passed the following resolution, in which the concurrence of the House of Representatives was requested:

Senate concurrent resolution 35.

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 12th day of February, 1913, at 1 o'clock in the afternoon, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President of the Senate pro tempore shall be their presiding officer; that two tellers shall be previously appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate pro tempore, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate pro tempore, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

RIVER AND HARBOR APPROPRIATION BILL.

The committee resumed its session.

The CHAIRMAN. The time for general debate has expired, and the Clerk will read the bill for amendment.

The Clerk proceeded with the reading of the bill and read as follows:

Be it enacted, etc., That the following sums of money be, and are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to be immediately available, and to be expended under the direction of the Secretary of War and the supervision of the Chief of Engineers, for the construction, completion, repair, and preservation of the public works hereinafter named.

Mr. MOORE of Pennsylvania. Mr. Chairman, I make the point of order that there is no quorum present.

Mr. SMALL. Will the gentleman withhold his point, as I may not be able to be here on Thursday?

Mr. MOORE of Pennsylvania. I will reserve the point of order for the present.

Mr. SMALL. I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. SPARKMAN. Mr. Chairman, I ask leave to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida? [After a pause.] The Chair hears none.

Mr. SMALL. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent to address the committee for five minutes. Is there objection?

There was no objection.

[Mr. SMALL addressed the committee. See Appendix.]

Mr. SHARP. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

The Clerk read as follows:

Improving harbor at Boston, Mass.: For maintenance, $25,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, I wish the chairman of the committee would tell whether Chelsea Creek, for which the appropriation was made last year, is wholly within the port of Boston?

Mr. SPARKMAN. I am under the impression that it is.

Mr. MOORE of Pennsylvania. It bisects the city?

Mr. SPARKMAN. Yes; it runs into the city some distance.

Mr. MOORE of Pennsylvania. Wholly within the city limits?

Mr. SPARKMAN. Yes.

The Clerk read as follows:

Improving Providence River and Harbor, R. I.: Completing improvement in accordance with the report submitted in House Document No. 919, Sixtieth Congress, first session, $164,800.

Mr. MOORE of Pennsylvania. Mr. Chairman, may I inquire of the chairman whether the city of Providence or the State of Rhode Island make any contribution toward this improvement?

Mr. SPARKMAN. I am under the impression there is none being made at this time. I do not think any ever has been made by the city or any local authorities there. That is my recollection of it.

Mr. MOORE of Pennsylvania. I was under the impression that Rhode Island did make a contribution.

Mr. SPARKMAN. Not to this project, but on another project on the other side of the channel.

The Clerk read as follows:

Improving Connecticut River, Conn.: For maintenance of improvement below Hartford, $15,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, may I ask the gentleman from Florida what has become of the appropriation for improving the Connecticut River above Hartford?

Mr. SPARKMAN. I do not recall. Probably the gentleman from Massachusetts [Mr. LAWRENCE] can answer the question, as he is quite familiar with the project.

Mr. LAWRENCE. As I understand, none of the appropriation carried in the last bill for the Connecticut River above Hartford, amounting to $25,000, has been used. I assume this is the reason: There is now pending in Congress a favorable report from the War Department upon a project for the development of power and navigation at Windsor Locks, which is some distance above Hartford. If the corporation which is seeking the right to build a dam and develop power at that point is given the right, it has been recommended that something in the neighborhood of about $1,000,000 be expended by the National Government, which would give very excellent navigation all the way from Hartford up to Holyoke, and while this is pending I assume the War Department will not expend the $25,000 which was appropriated in 1912.

Mr. MOORE of Pennsylvania. Then it is held up pending the adjustment of the water-power question?

Mr. LAWRENCE. Pending the action of Congress on that water-power question.

Mr. MOORE of Pennsylvania. The Connecticut is an interstate river?

Mr. LAWRENCE. Yes.

Mr. MOORE of Pennsylvania. It runs through Connecticut and Massachusetts?

Mr. LAWRENCE. Yes.

Mr. MOORE of Pennsylvania. And taps Holyoke and Springfield and other manufacturing towns?

Mr. LAWRENCE. Yes. The river has been for many years navigable up as far as Hartford. Above Hartford are the important cities of Springfield and Holyoke, and for some years there has been an effort made to make the river navigable up as far as Holyoke. The engineers have made unfavorable reports because of the great expense involved, and it is to get around the great expense that the proposition is now being considered to have a large part of such expense borne by private parties.

Mr. MOORE of Pennsylvania. Is not that about $2,000,000?

Mr. LAWRENCE. The original estimate was that it would cost the Government $6,000,000 to provide suitable navigation from Hartford to Holyoke. If private parties go to the expense of the construction of a dam and lock, the Government will be called upon to expend less than a million dollars.

The Clerk read as follows:

Improving Jamaica Bay, N. Y.: Continuing improvement in accordance with the report submitted in House Document No. 1488, Sixtieth Congress, second session, $300,000, from which amount the Secretary of War may reimburse the city of New York each month for the dredging and the disposition of dredged material of the preceding month at the actual unit price per cubic yard, place measurement: *Provided*, That such cost shall not exceed 8 cents per cubic yard.

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman explain if the city of New York contributes to the expense of this project?

Mr. SPARKMAN. It contributes in this way: It agrees to do a part of that work at a very small unit price. It is a large project, to cost the Government seven or eight millions of dollars. The city is to do certain dredging, for which the Government is to pay up to 8 cents per cubic yard. Besides, the city is to do other work, the cost of which is variously estimated from thirteen to seventy millions of dollars.

Mr. MOORE of Pennsylvania. Probably no State in the Union has done so much for the improvement of waterways as the State of New York. The question sometimes arises in the discussion of this bill as to whether there is any intent on the part of States or municipalities to help. I desire to know whether in this particular instance an obligation has been laid upon New York State or city to contribute to the expense of this improvement, which, of course, is general.

Mr. SPARKMAN. Well, the obligation is upon the city. I consider there is a very considerable contribution made by the city of New York.

Mr. MOORE of Pennsylvania. In his general statement a little while ago the chairman of the committee [Mr. SPARKMAN] referred to the contribution that the States along the Mississippi have made toward the construction of levee work. He indicated that the Government has spent about $26,000,000, if I remember the figures. He also stated that the States had contributed about twice as much, and that Louisiana has been very strong in its contributions. The question sometimes arises as to whether these large centers and great commercial centers—and that is the purpose of my question to the gentleman—get the treatment they ought to get in the distribution of the public money, and whether an unequal obligation is not laid upon them to contribute of their own funds to bring about national improvements.

The Clerk read as follows:

Improving Staten Island Sound, N. Y. and N. J., in accordance with the report submitted in House Document No. 1124, Sixty-second Congress, third session, $500,000; for maintenance of improvement of Arthur Kill and the waters connecting Raritan Bay with New York Harbor, including channel north of Shooters Island, $30,000; in all, $530,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, in his opening address the chairman of the Rivers and Harbors Committee stated that the volume of tonnage there amounted to 30,000,000 tons, I think.

Mr. SPARKMAN. Yes.

Mr. MOORE of Pennsylvania. Is it not a fact, now that improvements have actually begun upon this very important stream, which in 16 miles carries this vast tonnage, that for years and years only about $5,000 was required for maintenance?

Mr. SPARKMAN. I do not recall the amount, but the item for maintenance there has been quite small. I can not remember just at the moment the amount.

Mr. MOORE of Pennsylvania. The total appropriations for permanent improvements probably in the aggregate would not exceed $100,000, all told.

Mr. SPARKMAN. I can give the exact figures. The total appropriations to date are $1,207,500.

Mr. MOORE of Pennsylvania. On a stream producing 30,000,000 tons per annum.

The Clerk read as follows:

Improving Woodbury Creek, N. J., in accordance with the report submitted in House Document No. 635, Sixty-second Congress, second session, and subject to the conditions set forth in said document, $8,000.

Mr. MOORE of Pennsylvania. Is the gentleman ready to quit? I desire to offer an amendment at this point, but if I may have the privilege of offering it later, I will be very glad to do so.

Mr. LAWRENCE. Mr. Chairman, I ask unanimous consent that this paragraph be passed over without prejudice.

Mr. MOORE of Pennsylvania. I want to offer a new paragraph here.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. MOORE of Pennsylvania. I desire to offer an entirely new paragraph.

Mr. MANN. I suggest to the gentleman from Florida that he ask unanimous consent to pass pages 10 and 11.

Mr. LAWRENCE. Mr. Chairman, I ask unanimous consent that we pass over line 23, on page 9, to and including line 25, on page 11, without prejudice.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

The Clerk read as follows:

Improving inland waterway between Rehoboth Bay and Delaware Bay, Del.: Continuing improvement in accordance with the reports submitted in House Document No. 823, Sixtieth Congress, first session, and in Rivers and Harbors Committee Document No. 51, Sixty-first Congress, third session, $41,725.

Mr. MOORE of Pennsylvania. Mr. Chairman, I ask unanimous consent that I may have leave later on to offer an amendment at that point?

Mr. SPARKMAN. Mr. Chairman, I ask unanimous consent that this paragraph be passed without prejudice, to be returned to later.

Mr. MOORE of Pennsylvania. I desire to offer an entirely new paragraph.

Mr. SPARKMAN. Well, the gentleman will have that opportunity.

The CHAIRMAN. The gentleman asks unanimous consent that this item be passed without prejudice. Is there objection?

Mr. MANN. That is, to offer an amendment following line 13, page 12.

Mr. MOORE of Pennsylvania. That is my request.

Mr. SPARKMAN. The committee will have no objection.

The CHAIRMAN. Without objection, it is so ordered. [After a pause.] The Chair hears no objection.

The Clerk read as follows:

Improving Susquehanna River above and below Havre de Grace, Md.: Completing improvement, $51,230.

Mr. MOORE of Pennsylvania. Mr. Chairman, this paragraph proposes to improve the Susquehanna River above and below Havre de Grace. The river is quite rocky above that point. I want to know how far it is contemplated to carry the improvement, because it may involve an important question of transportation.

Mr. SPARKMAN. It is only a very few miles. I forget the exact distance above Havre de Grace.

Mr. MOORE of Pennsylvania. Can the gentleman tell me whether any survey has been made recently of the Susquehanna River above Havre de Grace?

Mr. SPARKMAN. Yes; under an authorization in the bill of 1911.

Mr. MOORE of Pennsylvania. I want to say to the gentleman that I think the committee ought to be informed that the Susquehanna River is an interstate river and traverses the coal sections of Pennsylvania. If opened up for navigation it would have much to do in reducing the cost of living in carrying coal. I wanted to know if this paragraph would carry the improvements so far above Havre de Grace that it would reach the coal fields?

Mr. SPARKMAN. I do not think it would go that far, but it is a very imposing stream, and no doubt will receive just treatment.

The Clerk read as follows:

Improving inland waterway from Norfolk, Va., to Beaufort Inlet, N. C.: Continuing improvement in accordance with the report submitted in House Document No. 391, Sixty-second Congress, second session, $800,000: *Provided*, That no part of this amount shall be expended until the canal and appurtenant property belonging to the Chesapeake and Albemarle Canal Co. shall have been acquired by the United States by purchase in accordance with the agreement entered into between the Secretary of War and said company under date of February 17, 1912.

Mr. MANN. Mr. Chairman, I reserve a point of order on that paragraph. I want to ask whether there is any authority of law now for the Secretary of War to make an agreement for the purchase of this canal?

Mr. SPARKMAN. Oh, yes; there is ample authority for that, and the Secretary of War has gone ahead and entered into a contract, the terms of which have not yet been carried out.

Mr. MANN. What I wanted to inquire was whether the agreement entered into was some tentative agreement, or whether it was entered into under authority of some act of Congress?

Mr. SPARKMAN. There was authority contained in the act of Congress adopting the project.

Mr. MANN. I withdraw the point of order.

Mr. FOSTER. Mr. Chairman, I move to strike out the paragraph. I understand that the former river and harbor appropriation bill provided for the buying of this Chesapeake & Albemarle Canal and that up to this time the Government has never received title to this property. I do not know whether the Government will ever get title to it or not. But in a former bill $100,000 was appropriated, if I remember correctly, for the improvement of this canal when acquired by the Government. Now, we have have appropriated already $500,000 for acquiring the canal.

Mr. MANN. Will the gentleman yield?

Mr. FOSTER. Yes.

Mr. MANN. I understood the gentleman was going to make a motion to strike out the paragraph. Why not ask unanimous consent to pass it over?

Mr. FOSTER. Well, I am willing to do that. I ask unanimous consent that it be passed.

Mr. SMALL. Mr. Chairman, I think this might be disposed of now.

Mr. FOSTER. I do not think, Mr. Chairman, we could dispose of it without a hundred Members here, because, to my mind, it is an important thing, and I will not let it pass without that number being here.

Mr. SPARKMAN. Mr. Chairman, I ask unanimous consent that this item be passed over without prejudice.

The CHAIRMAN. The gentleman from Florida asks unanimous consent that the item be passed over without prejudice. Is there objection?

There was no objection.

Mr. SMALL. If it is passed over, when does it recur? We do not have to complete the bill before we recur to it?

The CHAIRMAN. I think that is in the option of the committee.

Mr. SMALL. I would like to have some understanding about that for personal reasons.

Mr. MANN. If the gentleman has any reason for it, let it be understood, and have it taken up the first thing when the House goes into committee again on this bill.

Mr. SPARKMAN. I should have no objection.

Mr. FOSTER. I have no objection. I should like for these two other paragraphs to go along with that.

Mr. MANN. Which paragraphs?

Mr. FOSTER. The two items following, on lines 21, 22, 23, and 24.

Mr. MANN. They will be taken up when the House again goes into Committee of the Whole on this bill.

The CHAIRMAN. The gentleman from Illinois [Mr. FOSTER] asks unanimous consent to pass over the three sections just read, to be taken up when the House again goes into Committee of the Whole. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Improving Swift Creek, N. C.: For maintenance, $500.

Mr. HELM. Mr. Chairman, in listening to the reading of the bill I have heard quite a number of creeks mentioned—several in New Jersey and one or two in North Carolina. I would like to have some information about them. Do we appropriate money to lock and dam creeks? I presume we do. It seems we are going into the improvement of creeks generally in this appropriation bill. In my section of the country a creek is not a very large stream, never navigable.

Mr. SPARKMAN. A creek?

Mr. HELM. What I am trying to get at is the size of these creeks—for instance, Fishing Creek, in North Carolina. I think such a creek was mentioned. I would like to ask the chairman of the committee something about the size of these streams.

Mr. MANN. Suppose the gentleman asks that question on Thursday.

Mr. SPARKMAN. I will be glad to answer the gentleman right now. These creeks rise to the dignity of rivers. Certainly they are very important streams, and each one of them carries a large commerce, or at least many of them. For instance, here is Coopers Creek, which carries over 264,000 tons

of commerce annually. Mantua Creek carries 170,440 tons; Raccoon Creek, 58,107 tons.

Mr. HELM. Raccoon Creek. Where does that stream rise?

Mr. SPARKMAN. That is one of the rivers up in New Jersey.

Mr. HELM. I thought the gentleman said it was a creek.

Mr. SPARKMAN. I was saying they all rise to the dignity of rivers.

Mr. HELM. I would like to ask the chairman, What is the size of the boats that ply these creeks?

Mr. SPARKMAN. Most of them carry good-sized boats; not ocean-going vessels, of course, but vessels drawing 5, 6, 7, 8, 9, or 10 feet, some of them.

Mr. MANN. Canoes, anyhow. [Laughter.]

Mr. HELM. What does the gentleman from Florida mean by his statement? Does he refer to the length of the boats?

Mr. SPARKMAN. Draft.

Mr. ADAMSON. Mr. Chairman, will the gentleman yield?

Mr. SPARKMAN. Yes; with pleasure.

Mr. ADAMSON. Mr. Chairman, if the two gentlemen will yield to me a minute, I think I can cite another precedent which the Committee on Rivers and Harbors wisely follows, to show that the word "creek" is not a provincialism, and that they do not follow provincialisms in selecting terms for use in their bill. My recollection is that when I was a boy and went to Sunday school I read about St. Paul and party being shipwrecked and having trouble many days and nights, but "they discovered a certain creek with a shore, into the which they were minded to thrust in the ship." [Laughter.]

Mr. SPARKMAN. I am obliged to the gentleman for reminding me of that scriptural reference. I should be glad to have these creeks called rivers. The fact is they all rise to the importance of rivers, as the gentleman from Kentucky will see by a reference to the statements of the commerce they carry.

Mr. HELM. Will the gentleman tell me what is the total amount of money carried by this bill?

Mr. SPARKMAN. Oh, about $40,800,000.

Mr. HELM. Could not some of that money be saved if you cut out some of these creek projects?

Mr. SPARKMAN. Oh, yes. You would save money, of course.

Mr. HELM. How much money in this bill is appropriated for the improvement of creeks?

Mr. SPARKMAN. A very small sum, relatively.

Mr. HELM. How much?

Mr. SPARKMAN. I should say about $100,000. Certainly less than $150,000.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I should be glad to furnish that information if the gentleman from Florida will permit me.

Mr. SPARKMAN. I will be glad to have the gentleman do so.

Mr. HUMPHREYS of Mississippi. The appropriations carried for creeks that the gentleman complains of, out of a total of $40,000,000, amount to approximately $130,000. The tonnage carried on these creeks is about 7,000,000 tons; more than half as much as is carried on the Ohio River, for instance.

Mr. HELM. Does the gentleman mean to say there is more than half as much tonnage carried on these creeks as there is on the Ohio River?

Mr. HUMPHREYS of Mississippi. Yes; more than half as much tonnage is carried on these creeks as is carried on the Ohio River, and there is appropriated for all the creeks about $130,000, whereas the project of the Ohio River, in which the gentleman from Kentucky is deeply interested, contemplates an ultimate expenditure of more than $60,000,000.

Mr. HELM. I do not think this gentleman is particularly interested in the Ohio River.

Mr. HUMPHREYS of Mississippi. It is one of the great rivers of the world, and I assume that the gentleman is deeply interested in it.

And the value of the tonnage carried on these creeks is approximately $225,000,000 a year.

Mr. GALLAGHER. In other words, they are navigable rivers.

Mr. HUMPHREYS of Mississippi. In other words, the tonnage carried on these creeks will, I think, be equal to half as much as the American tonnage carried through the Panama Canal for the first several years after its completion. That canal cost about $400,000,000, and the appropriations carried for creeks in this bill amount to about $130,000.

Mr. HELM. Of course, I may be misled in my general idea of what a creek is, but it seems to me that any commerce that is moving on streams of this size must be largely of an individual or private nature.

Mr. HUMPHREYS of Mississippi. It is the same kind of tonnage that moves on all other streams. Take Newtown Creek, for instance. It carries a tonnage almost as great as the Mississippi River.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOORE of Pennsylvania. Mr. Chairman, it is now nearly half past 6 o'clock. There are very few Members present, and I make the point of no quorum.

Mr. SPARKMAN. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. MOON of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 28180) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, and had come to no resolution thereon.

ASSISTANT CLERK, COMMITTEE ON APPROPRIATIONS.

Mr. FITZGERALD. Mr. Speaker, on behalf of the Committee on Appropriations I ask unanimous consent for the present consideration of a resolution which I send to the Clerk's desk.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] asks unanimous consent for the present consideration of a resolution, which the Clerk will report.

The Clerk read as follows:

House resolution 783.

Resolved, That the Committee on Appropriations be authorized to employ an additional assistant clerk at $1,800 per annum.

The SPEAKER. Is there objection to the present consideration of this resolution?

Mr. GARRETT. Mr. Speaker, reserving the right to object, does the gentleman from New York desire to make any statement?

Mr. FITZGERALD. Mr. Speaker, there has been no increase in the clerical force of the Committee on Appropriations in 30 years. During that time the aggregate session appropriations have increased from $355,000,000 for 1884 to $1,019,000,000 for 1913, and the volume of the sundry civil bill, as represented in printed pages, is more than two-thirds as large as all of the annual bills at that time, and the sum it appropriates has increased from $23,679,000 to $142,265,000 for 1912, or much more than one-third of all the appropriations then.

The annual Book of Estimates has increased from a volume of 316 pages to one of 936 pages for the fiscal year 1914.

The House has recognized the augmented labors of the committee during that period by increasing its membership from 15 to 17, and finally to 21, and its office rooms from 2 to 4.

It was not until 1890 that the committee had stenographic reports made of hearings conducted in the preparation of appropriation bills, and at that time they made in all 368 printed pages. During the first session of this Congress they make five large volumes containing 4,675 printed pages.

These hearings have to be edited, duplicated, and irrelevant matter eliminated, headings inserted, proofs corrected, and indexes made. They are available to all, and used by many Members of the House and Senate and by all departments of the Government.

The work of the committee is necessarily continuous throughout the year, and without reference to whether Congress is in session or not, the vacation period being availed of for the preparation of tentative or subcommittee forms of the bills and putting records in permanent shape for reference and preservation.

The entire membership of the House, almost without exception, have to do with the work of the Committee on Appropriations, and an adequate and efficient clerical staff is quite indispensable in giving to the individual Members information concerning matters immediately affecting their constituencies or in reference to the public service, over which the committee have jurisdiction. This relation, too, of the committee to the whole membership of the House and the public generally extends into the vacation periods and is represented by no inconsiderable amount of correspondence and response to personal inquiries.

In 1883, aside from the Appropriation and Ways and Means Committees, only 10 committees of the House had annual clerks; now 36 of them are so provided, and in some cases—Interstate and Foreign Commerce, Invalid Pensions, and War Claims—they have three annual clerks each.

The work of the committee is in such condition that as a temporary relief it has been compelled to ask the Doorkeeper to detail one of his pages to assist the present force. So desperate is the need for additional help that the committee at a meeting directed me to submit this resolution to the House. We have six appropriation bills, and we are the center of information not

only for the House but for nearly every department of the Government.

Mr. GARRETT. Mr. Speaker, I understand the gentleman from New York to say that this is a unanimous request of the committee.

Mr. FITZGERALD. The unanimous request.

Mr. GARRETT. It is permanent in character.

Mr. FITZGERALD. It is to be permanent. The clerk of the Committee on Appropriations has been with that committee 33 years. The assistant clerk has been there 8 years. One of the present reporters of debates in the House graduated from that committee. The clerk of the Committee on Appropriations in the Senate was an assistant clerk of this committee. It is necessary that these men be trained in the work, so that they may become familiar with all the details of the vast appropriations of the Government, and they go on from Congress to Congress regardless of the political complexion of the House.

The SPEAKER. Is there objection to the present consideration of the resolution?

There was no objection.

The resolution was agreed to.

On motion of Mr. FITZGERALD, a motion to reconsider the vote whereby the resolution was agreed to was laid on the table.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolution of the following titles, when the Speaker signed the same:

H. R. 25878. An act granting certain lands for a cemetery to the Fort Bidwell People's Church Association of the town of Fort Bidwell, State of California, and for other purposes;

H. R. 14925. An act to amend an act to parole United States prisoners, and for other purposes, approved June 25, 1910;

H. R. 23001. An act to amend section 4472 of the Revised Statutes of the United States, relating to the carrying of dangerous articles on passenger steamers;

H. R. 3769. An act for the relief of Theodore N. Gates;

H. R. 24137. An act to refund to the National Cartage & Warehouse Co., of New York City, N. Y., excess duty;

H. R. 45. An act affecting the town sites of Timber Lake and Dupree in South Dakota;

H. R. 25764. An act to subject lands of former Fort Niobrara Military Reservation and other lands to homestead entry;

H. R. 22437. An act for the relief of the heirs of Anna M. Torreson, deceased;

H. R. 25515. An act for the relief of Joshua H. Hutchinson; and

H. J. Res. 239. Joint resolution authorizing the Secretary of War to deliver a condemned cannon to the Army and Navy Union, United States of America.

HOUSE BILL WITH SENATE AMENDMENTS.

Under clause 2 of Rule XXIV, House bill (H. R. 14053) to increase the pensions of surviving soldiers of Indian wars in certain cases, with Senate amendment, was referred to the Committee on Pensions.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills and joint resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 4547. An act to provide for the erection of a public building at Aberdeen, Wash.; to the Committee on Public Buildings and Grounds.

S. 4545. An act to provide for the erection of a public building in the city of Ellensburg, in the State of Washington; to the Committee on Public Buildings and Grounds.

S. J. Res. 155. Joint resolution extending the privilege of the proviso of section 2 of the act of June 7, 1906, to persons using alcohol for testing citrus fruits; to the Committee on Ways and Means.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

H. R. 22010. An act to amend the license law, approved July 1, 1902, with respect to licenses of drivers of vehicles for hire;

H. R. 24137. An act to refund to the National Cartage & Warehouse Co., of New York City, N. Y., excess duty;

H. R. 3769. An act for the relief of Theodore N. Gates;

H. R. 23001. An act to amend section 4472 of the Revised Statutes of the United States relating to the carrying of dangerous articles on passenger steamers;

H. R. 14925. An act to amend an act to parole United States prisoners, and for other purposes, approved June 25, 1910;

H. R. 25878. An act granting certain lands for a cemetery to Fort Bidwell People's Church Association, of the town of Fort Bidwell, State of California, and for other purposes;

H. R. 25764. An act to subject lands of former Fort Niobrara Military Reservation and other lands to homestead entry;

H. R. 25515. An act for the relief of Joshua H. Hutchinson;

H. R. 22437. An act for the relief of the heirs of Anna M. Torreson, deceased;

H. R. 45. An act affecting the townsites of Timber Lake and Dupree in South Dakota; and

H. J. Res. 239. Joint resolution authorizing the Secretary of War to deliver a condemned cannon to the Army and Navy Union, United States of America.

WITHDRAWAL OF PAPERS.

Mr. BOOHER, by unanimous consent, was given leave to withdraw from the files of the House, without leaving copies, papers in the case of Daniel O'Connor (H. R. 27398), Sixtieth Congress, no adverse report having been made thereon.

ADJOURNMENT.

And then, on motion of Mr. SPARKMAN (at 6 o'clock and 20 minutes p. m.), the House adjourned until to-morrow, Wednesday, January 22, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Mermentau River, La. (H. Doc. No. 1290); to the Committee on Rivers and Harbors and ordered to be printed.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of special board of engineers on examination and survey on system of impounding reservoirs at the headwaters of the Allegheny, Monongahela, and Ohio Rivers and their tributaries (H. Doc. No. 1289); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

3. A letter from the Secretary of War, transmitting, pursuant to section 230, Revised Statutes, abstracts of proposals received during the fiscal year ended June 30, 1912, for material and labor in connection with works under the Engineer Department (H. Doc. No. 1294); to the Committee on Rivers and Harbors and ordered to be printed.

4. A letter from the Acting Secretary of the Treasury, transmitting copy of a communication from the Secretary of Agriculture submitting deficiency estimate of appropriations for the Department of Agriculture (H. Doc. No. 1291); to the Committee on Appropriations and ordered to be printed.

5. A letter from the Secretary of State, transmitting, pursuant to law, an authentic copy of the certificate of final ascertainment of electors for President and Vice President appointed in the State of Tennessee at an election held therein on November 5, 1912; to the Committee on Election of President, Vice President, and Representatives in Congress.

6. A letter from the Secretary of the Treasury, submitting supplemental estimates for appropriations for public buildings under control of the Treasury Department for the year 1913 (H. Doc. No. 1292); to the Committee on Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named as follows:

Mr. SHEPPARD, from the Committee on Public Buildings and Grounds, to which was referred the joint resolution (H. J. Res. 380) authorizing the granting of permits to the committee on inaugural ceremonies on the occasion of the inauguration of the President elect on March 4, 1913, etc., reported the same with amendment, accompanied by a report (No. 1349), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. HOUSTON, from the Committee on the Census, to which was referred the bill (H. R. 27996) to amend an act approved August 23, 1912, entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes," reported the same with amendment, accompanied by a report (No. 1350), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. CULLOP, from the Committee on Industrial Arts and Expositions, to which was referred the bill (H. R. 27876) to provide for the participation of the United States in the Panama-Pacific International Exposition, reported the same with amendment, accompanied by a report (No. 1358), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. NORRIS, from the Committee on the Judiciary, to which was referred the bill (S. 8000) providing for publicity in taking evidence under act of July 2, 1890, reported the same without amendment, accompanied by a report (No. 1356), which said bill and report were referred to the House Calendar.

Mr. MARTIN of South Dakota, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 27879) providing authority for the Northern Pacific Railway Co. to construct a bridge across the Missouri River in section 36, township 134 north, range 79 west, in the State of North Dakota, reported the same without amendment, accompanied by a report (No. 1363), which said bill and report were referred to the House Calendar.

Mr. STEVENS of Minnesota, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 27986) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city, reported the same with amendment, accompanied by a report (No. 1361), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (H. R. 27987) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city, reported the same with amendment, accompanied by a report (No. 1362), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (H. R. 27044) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city, reported the same with amendment, accompanied by a report (No. 1359), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (H. R. 27988) to authorize the city of Minneapolis, in the State of Minnesota, to construct a bridge across the Mississippi River in said city, reported the same with amendment, accompanied by a report (No. 1360), which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. BRADLEY, from the Committee on Invalid Pensions, to which was referred the bill (H. R. 3967) granting an increase of pension to John R. Fugill, reported the same without amendment, accompanied by a report (No. 1355), which said bill and report were referred to the Private Calendar.

Mr. REDFIELD, from the Committee on Invalid Pensions, to which was referred the bill (H. R. 27806) granting a pension to Mary MacArthur, reported the same with amendment, accompanied by a report (No. 1357), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. HOLLAND: A bill (H. R. 28327) authorizing the extension of Seventeenth, Evarts, and Bryant Streets NE., in the District of Columbia; to the Committee on the District of Columbia.

By Mr. FRANCIS: A bill (H. R. 28328) to authorize the donation of certain unused and obsolete guns now at Chickamauga Park, Ga., to the J. S. McCready Post, Grand Army of the Republic, of Cadiz, Ohio; to the Committee on Military Affairs.

By Mr. LAFFERTY: A bill (H. R. 28329) giving settlers on unsurveyed public lands who have made their entries of record since June 6, 1912, the option of acquiring title under sections 2291 and 2297 of the Revised Statutes of the United States as they existed prior to the passage of the act of June 6, 1912; to the Committee on the Public Lands.

Also, a bill (H. R. 28330) to extend additional time to bona fide homestead entrymen to complete residences and cultivation of their lands; to the Committee on the Public Lands.

By Mr. FRENCH: A bill (H. R. 28331) extending to the members of Capt. Henson's Company A, Stone County (Mo.) Militia, the provisions of the pension acts granting pensions to the soldiers and sailors of the War of the Rebellion; to the Committee on Invalid Pensions.

By Mr. HOBSON: A bill (H. R. 28332) to promote the efficiency of the Marine Band; to the Committee on Naval Affairs.

By Mr. RUCKER of Missouri: A bill (H. R. 28333) to increase the limit of cost of the United States post-office building at Chillicothe, Mo., heretofore authorized by Congress and to provide for the construction of a building suitable for post office, United States courts, and other governmental offices; to the Committee on Public Buildings and Grounds.

By Mr. ANTHONY: A bill (H. R. 28334) to authorize the exchange of certain properties between the insular government of Porto Rico and the War Department; to the Committee on Insular Affairs.

By Mr. MACON: A bill (H. R. 28335) to amend an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911; to the Committee on the Judiciary.

By Mr. DICKSON of Mississippi: A bill (H. R. 28336) authorizing the purchase of certain lands in Louisiana and Mississippi; to the Committee on Rivers and Harbors.

By Mr. GREGG of Texas: A bill (H. R. 28337) to provide for reconstructing the appraisers' stores for a courthouse, for acquiring and reconstructing property for an appraisers' store, and for rearranging the third story of the post office and customhouse at Galveston, Tex.; to the Committee on Public Buildings and Grounds.

By Mr. NEEDHAM: Joint resolution (H. J. Res. 388) extending the privilege of the proviso of section 2 of the act of June 7, 1906, to persons using alcohol for testing citrus fruits; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. AINEY: A bill (H. R. 28338) granting an increase of pension to Mary Quinlan; to the Committee on Invalid Pensions.

By Mr. ANSBERRY: A bill (H. R. 28339) granting an increase of pension to William H. Gump; to the Committee on Invalid Pensions.

By Mr. CALDER: A bill (H. R. 28340) granting an increase of pension to John P. Murphy; to the Committee on Pensions.

By Mr. CARLIN: A bill (H. R. 28341) for the relief of Albert O. Tucker; to the Committee on War Claims.

Also, a bill (H. R. 28342) granting an increase of pension to Mary C. Scrivener; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28343) for the relief of Emma E. Frauner, George W. Seaton, Hiram K. Seaton, Howard Seaton, Mary Seaton, Blanche Seaton, George W. Taylor, Edward Taylor, and Catharine Pomeroy; to the Committee on War Claims.

By Mr. FERGUSSON: A bill (H. R. 28344) granting an increase of pension to Jesse Hubbert; to the Committee on Pensions.

By Mr. HAMMOND: A bill (H. R. 28345) granting a pension to Elizabeth McClarg; to the Committee on Invalid Pensions.

By Mr. HINDS: A bill (H. R. 28346) to amend and correct the military record of Rodney Woodman; to the Committee on Military Affairs.

By Mr. LAFFERTY: A bill (H. R. 28347) granting an increase of pension to Edward D. Hamilton; to the Committee on Invalid Pensions.

By Mr. LENROOT: A bill (H. R. 28348) granting a pension to Mary MacArthur; to the Committee on Invalid Pensions.

By Mr. MARTIN of South Dakota: A bill (H. R. 28349) granting an increase of pension to George W. Brown; to the Committee on Invalid Pensions.

By Mr. PORTER: A bill (H. R. 28350) granting a pension to Catherine Mann; to the Committee on Invalid Pensions.

By Mr. POST: A bill (H. R. 28351) to remove the charge of desertion from the record of James A. Cordell; to the Committee on Military Affairs.

By Mr. WHITACRE: A bill (H. R. 28352) granting a pension to Robert D. Patterson; to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 28353) granting a pension to Peter C. Deardorff; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of farmers and others of Montgomery County, Md., favoring the passage of legislation for the building of the Lincoln boulevard from Washington to Gettysburg; to the Committee on the Library.

By Mr. ALLEN: Resolutions of the Boot and Shoe Workers' Union, Local No. 222, Cincinnati, Ohio, with reference to the prosecution by officials of the Department of Justice of the editors of the Appeal to Reason; to the Committee on Expenditures in the Department of Justice.

Also, resolution of the Illinois Chapter of the American Institute of Architects, approving site for the Lincoln memorial, but disapproving type of memorial; to the Committee on the Library.

By Mr. AINEY: Petition of the Bridgewater Baptist Church, Montrose, Pa., favoring the passage of the Kenyon "red light" injunction bill, to clean up Washington for the inauguration; to the Committee on the District of Columbia.

Also, petition of the Bridgewater Baptist Church and the Men's Brotherhood of the Baptist Church of Montrose, Pa., favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. ANSBERRY: Petition of the Ohio State legislative committee of the Railway Conductors of America, Columbus, Ohio, protesting against the passage of the Brantley bill (S. 5382), known as the Federal accident-compensation act; to the Committee on the Judiciary.

Also, petition of Illinois Chapter American Institute of Architects, Chicago, Ill., approving site proposed for the memorial to be erected to Abraham Lincoln at Potomac Park, Washington, D. C., but opposing the design as approved by the National Commission of Fine Arts; to the Committee on the Library.

By Mr. BURKE of Wisconsin: Papers to accompany bill (H. R. 27998) granting an increase of pension to Elvin A. Estey; to the Committee on Invalid Pensions.

By Mr. CARY: Petition of the Jewett & Sherman Co., Milwaukee, Wis., protesting against any change in the present tariff on spices; to the Committee on Ways and Means.

By Mr. ESCH: Petition of the Association of Eastern Foresters, Trenton, N. J., protesting against the passage of proposed legislation to transfer the national forests to the States within which they lie; to the Committee on Agriculture.

By Mr. FITZGERALD: Petition of the German-American Peace Society, New York, protesting against the passage of House bill 8141, placing the State militia on the national pay roll; to the Committee on Military Affairs.

Also, petition of Illinois Chapter of the American Institute of Architects, approving site proposed for the memorial to be erected to Abraham Lincoln at Potomac Park on the river at Washington, D. C.; to the Committee on the Library.

Also, petition of board of directors of the National Business League of America, favoring the passage of legislation favoring the purchase of embassy sites and buildings by the United States of America in the foreign commercial centers of the world; to the Committee on Foreign Affairs.

By Mr. FORNES: Petition of the New York Leather Belting Co., New York; R. E. Dietz Co., New York; the American Laundry Machinery Co., Rochester, N. Y.; Louis Schulman, New York; Wood & Selick, New York; the Reliance Ball-Bearing Door Hanger Co., New York; Oliver Bros. Purchasing Co., New York; Hogan & Son, New York; and the Rogers, Peet Co., New York, all in the State of New York, favoring the passage of House bill 27567, for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

By Mr. FOSS: Petition of citizens of Chicago, Ill., favoring the passage of the Kenyon-Sheppard bill prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. FULLER: Petition of the Moran & Hastings Manufacturing Co., Chicago, Ill., in favor of House bill 27567, for 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of Myron C. Skinner and others, favoring passage of House bill 1339, to increase pensions of those who lost an arm or a leg in the Civil War; to the Committee on Invalid Pensions.

By Mr. HINDS: Papers to accompany bill correcting the military record of Rodney Woodman; to the Committee on Military Affairs.

By Mr. LINDSAY: Petition of the Brooklyn and New York Chapters, American Institute of Architects, New York, favoring the passage of legislation for the adoption of the Mall as a proper site for the memorial to Abraham Lincoln; also favoring the proposed design; to the Committee on the Library.

By Mr. PARRAN: Papers to accompany bill (H. R. 28009) for the relief of Joseph Sedlack; to the Committee on Naval Affairs.

By Mr. POST: Petition of Orville Wright and others, of Dayton, Ohio, protesting against the passage of House bill 23417, relating to compulsory patent licenses; to the Committee on Patents.

Also, petition of H. A. Toulman and others, of Dayton, Ohio, favoring the passage of House bill 26277, for the establishment of a United States patent court of appeals; to the Committee on the Judiciary.

By Mr. REILLY: Petition of the Southington (Conn.) Board of Trade, favoring the passage of legislation for the establishment of a tariff commission to collect information pertaining to tariff to aid Congress in tariff legislation; to the Committee on the Judiciary.

Also, petition of the Audubon Society of Bridgeport, Conn., and the Milford Business Men's Association, Milford, Conn., favoring the passage of the McLean bill for granting Federal protection for all migratory birds; to the Committee on Agriculture.

By Mr. TILSON: Petition of the executive board of the Audubon Society of the State of Connecticut, Bridgeport, Conn., and the Milford Business Men's Association, Milford, Conn., favoring the passage of the McLean bill for the protection of all migratory birds by the Federal Government; to the Committee on Agriculture.

By Mr. WILSON of New York: Petition of the Eastern Talking Machine Dealers' Association, New York, protesting against the passage of section 2 of House bill 23417, prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

SENATE.

WEDNESDAY, *January 22, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. SMOOT and by unanimous consent, the further reading was dispensed with and the Journal was approved.

SEWERAGE AND DRAINAGE SYSTEMS, HOT SPRINGS, ARK. (H. DOC. NO. 1298).

The PRESIDENT pro tempore (Mr. GALLINGER) laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the existing sanitary and storm-water sewerage and drainage systems in the city of Hot Springs, Ark., together with plans and estimates for extension, which, with the accompanying papers and illustrations, was referred to the Committee on Appropriations and ordered to be printed.

YAKIMA INDIAN RESERVATION, WASH. (H. DOC. NO. 1299).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the conditions existing on the Yakima Indian Reservation, Wash., which, with the accompanying paper and illustrations, was referred to the Committee on Indian Affairs and ordered to be printed.

FINDINGS OF THE COURT OF CLAIMS.

The PRESIDENT pro tempore laid before the Senate communications from the assistant clerk of the Court of Claims, transmitting certified copies of the findings of fact and conclusions filed by the court in the following causes:

Elias S. Dennis, jr., son and sole heir of Elias S. Dennis, deceased, *v.* United States (S. Doc. No. 1034);

Joseph Hayes *v.* United States (S. Doc. No. 1033);

John A. Hobson, executor of Edward H. Hobson, deceased, *v.* United States (S. Doc. No. 1032);

Charles J. Hovey, administrator of Alvin P. Hovey, deceased, *v.* United States (S. Doc. No. 1031);

Byron R. Pierce *v.* United States (S. Doc. No. 1030);

Ella S. Marsh, Francis C. Sherman, Eaton G. Sherman (children), Martha Miller, Louis S. Aldrich, and Eleanor A. Radonavitz (grandchildren), sole heirs of Francis T. Sherman, deceased, *v.* United States (S. Doc. No. 1029);

Simon Lyon, administrator of Adolph von Steinwehr, deceased, *v.* United States (S. Doc. No. 1028);

Charles V. McAdams, administrator of George D. Wagner, deceased, *v.* United States (S. Doc. No. 1027);

Charles C. Walcutt, Sherman Walcutt, and John M. Walcutt, children and sole heirs of Charles C. Walcutt, deceased, *v.* United States (S. Doc. No. 1026);

Cyrus Bussey *v.* United States (S. Doc. No. 1025); and

Robert P. Bradley, executor of Luther P. Bradley, v. United States (S. Doc. No. 1024).

The foregoing findings were, with the accompanying papers, referred to the Committee on Claims and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had disagreed to the amendment of the Senate to the bill (H. R. 14053) to increase the pensions of surviving soldiers of Indian wars in certain cases, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. RICHARDSON, Mr. DICKSON of Mississippi, and Mr. WOOD of New Jersey managers at the conference on the part of the House.

The message also announced that the House had passed the following order, in which it requested the concurrence of the Senate:

Ordered, That a message be sent to the Senate, notifying that body that an error has been made in the engrossment of the bill H. R. 26874, entitled "An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914," approved January 9, 1913, as sent from this House to the Senate, which error consists in incorporating in said engrossed bill a section thereof, on page 24, lines 7 to 15, inclusive, as follows:

"The sum of $300,000 to be expended in the discretion of the Secretary of the Interior, under rules and regulations to be prescribed by him, in aid of the common schools in the Cherokee, Creek, Choctaw, Chickasaw, and Seminole Nations in Oklahoma, during the fiscal year ending June 30, 1914: *Provided*, That this appropriation shall not be subject to the limitation in section 1 of this act limiting the expenditure of money to educate children of less than one-fourth Indian blood."

Said section having been stricken from the original bill by this House previous to the passage of the bill; and that the Senate be requested to permit the Clerk to correct said error.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented resolutions adopted by the Woman's Christian Temperance Union of the District of Columbia, favoring the enactment of legislation authorizing the closing of all bar rooms and saloons in Washington on March 4 next, and also to permanently abolish the "red-light" district, which were referred to the Committee on the District of Columbia.

Mr. ASHURST presented resolutions adopted by the conservation department of the General Federation of Woman's Clubs, of Phoenix, Ariz., remonstrating against transferring the control of the national forests to the several States, which were referred to the Committee on Forest Reservations and the Protection of Game.

Mr. McLEAN presented a memorial to the State Grange, Patrons of Husbandry, of Connecticut, remonstrating against the repeal of the oleomargarine law, which was referred to the Committee on Agriculture and Forestry.

Mr. PERKINS presented a petition of members of the Shakespeare Club of Pasadena, Cal., and a petition of members of the Audubon Society of Los Angeles, Cal., praying for the enactment of legislation for the protection of migratory birds, which were ordered to lie on the table.

Mr. LODGE presented a petition of sundry citizens of Everett, Mass., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. WETMORE presented a memorial of the congregation of the Seventh-day Adventist Church of Slocum, R. I., remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. JOHNSON of Maine presented petitions of the State Grange, of Local Grange of Winthrop, and of Local Grange No. 452, of Hartland, Patrons of Husbandry, all in the State of Maine, praying for the passage of the so-called Page vocational education bill, which were ordered to lie on the table.

He also presented a memorial of the congregation of the Seventh-day Adventist Church of Cornville, Me., remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. ROOT presented a petition of citizens of Binghamton, N. Y., praying for the passage of the so-called Kenyon "red light" injunction bill, which was ordered to lie on the table.

Mr. GALLINGER presented a memorial of the congregation of the Seventh-day Adventist Church of Keene, N. H., remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. SMOOT, from the Committee on Public Lands, to which was referred the bill (H. R. 25780) to amend section 3186 of the Revised Statutes of the United States, asked to be discharged from its further consideration and that it be referred to the Committee on the Judiciary, which was agreed to.

Mr. MYERS, from the Committee on Public Lands, to which was referred the bill (S. 3130) to authorize the Secretary of the Interior to permit the Conrad-Stanford Co. to use certain lands, reported it with an amendment and submitted a report (No. 1134) thereon.

EMPLOYMENT OF STENOGRAPHERS.

Mr. BRISTOW, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution No. 437, submitted by Mr. MARTIN of Virginia on the 21st instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay for two stenographers to Senators who are not chairmen of committees, at $1,200 each per annum, from January 11 and January 20, 1913, respectively, to be paid from the contingent fund of the Senate until the expiration of the present Congress.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CULLOM:

A bill (S. 8232) authorizing the State Department to deliver to J. F. Reynolds Landis a gift from the Government of Italy; to the Committee on Foreign Relations.

By Mr. JONES:

A bill (S. 8233) authorizing the Secretary of War to relieve the Washington-Oregon Corporation, as far as he may deem advisable in the public interests, from certain conditions in an act entitled "An act granting to the Washington-Oregon Corporation a right for an electric railroad, and for telephone, telegraph, and electric transmission lines, across the Vancouver Military Reservation in the State of Washington," approved August 9, 1912 (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 8234) granting an increase of pension to Estelle H. Wholley (with accompanying papers); to the Committee on Pensions.

By Mr. SUTHERLAND:

A bill (S. 8235) in relation to forfeited bail bonds and recognizances; to the Committee on the Judiciary.

By Mr. DILLINGHAM:

A bill (S. 8236) granting a pension to Rosa E. Pennell (with accompanying papers); to the Committee on Pensions.

By Mr. GAMBLE:

A bill (S. 8237) granting an increase of pension to Ferdinand O. Tennison (with accompanying papers);

A bill (S. 8238) granting an increase of pension to Michael McDonald (with accompanying papers);

A bill (S. 8239) granting an increase of pension to Thomas Moody (with accompanying papers); and

A bill (S. 8240) granting an increase of pension to Charles Belknap (with accompanying papers); to the Committee on Pensions.

By Mr. McLEAN:

A bill (S. 8241) granting an increase of pension to Mary B. Stockbridge (with accompanying papers); to the Committee on Pensions.

By Mr. STEPHENSON:

A bill (S. 8242) granting an increase of pension to Johanna R. Busch (with accompanying papers); to the Committee on Pensions.

By Mr. JOHNSON of Maine:

A bill (S. 8243) granting an increase of pension to Lavina G. Clark (with accompanying paper); to the Committee on Pensions.

By Mr. TILLMAN:

A bill (S. 8244) authorizing the Secretary of the Treasury to give to the city of Charleston the "Old Exchange" Building (with accompanying papers); to the Committee on Public Buildings and Grounds.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. ASHURST submitted an amendment authorizing the Postmaster General to investigate all claims of postmasters for the loss of money-order funds, postal funds, postal-savings funds, postal-savings stamps, and other stamp paper relating to the Postal Savings System, etc., intended to be proposed by him to the Post Office appropriation bill, which was referred to the Committee on Post Offices and Post Roads and ordered to be printed.

Mr. JOHNSON of Maine submitted an amendment proposing to appropriate $16,000 for improving Carvers Harbor, Vinalhaven, Me., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. SUTHERLAND submitted an amendment providing that hereafter no part of an appropriation shall be available for the

payment of the salary of the head of any executive department, bureau, or independent establishment, who, in making reductions in any force employed under the civil service or in any of the executive departments, shall discharge, drop, or reduce in rank, class, position, salary, or compensation any honorably discharged soldier, sailor, or marine whose record is rated good, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

VENTILATION OF SENATE CHAMBER.

Mr. TILLMAN. I submit a resolution, and ask unanimous consent for its present consideration.

The resolution (S. Res. 438) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the special committee authorized by Senate resolution 432 be instructed to consider the propriety of securing purer air in the Senate Chamber by submitting a rule of the Senate forbidding smoking in the Chamber at any time by anybody.

Mr. TILLMAN. I ask that the resolution be referred to the special committee when appointed.

The PRESIDENT pro tempore. That order will be made.

IMMIGRATION OF ALIENS.

Mr. LODGE. I ask, for the convenience of the Senate, that the immigration bill as agreed upon by the conferees may be printed, so that it may be ready for the use of the Senate when the conference report comes from the House.

The PRESIDENT pro tempore. Without objection, that order will be made.

Mr. LODGE. It can not be taken up until the conference report has been received from the House.

WOMAN SUFFRAGE.

Mr. OVERMAN. Several documents in the document room are out of print, and I ask that they be printed as a Senate document. They are in regard to woman suffrage.

Mr. SMOOT. I will simply ask whether those are the documents the Senator brought to my attention yesterday?

Mr. OVERMAN. They are the documents the Senator put his O. K. on.

There being no objection, the order was agreed to, and it was reduced to writing, as follows:

Ordered, That Senate Report No. 686, and part 2 of said report (47th Cong., 1st sess.); Senate Report No. 399, and part 2 of said report (48th Cong., 1st sess.); House of Representatives Report No. 1330 (48th Cong., 1st sess.); Senate Report No. 1143, and views of minority (52d Cong., 2d sess.); and "Hearings before a joint committee of the Committee on the Judiciary and the Committee on Woman Suffrage of the Senate on woman suffrage," be printed as a Senate document.

PANAMA RAILROAD CO. (S. DOC. NO. 1022).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying paper, referred to the Committee on Interoceanic Canals and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith, for the information of Congress, the Sixty-third Annual Report of the Board of Directors of the Panama Railroad Co. for the fiscal year ending June 30, 1912.

WM. H. TAFT.

THE WHITE HOUSE, *January 22, 1913.*

INTERNATIONAL CONGRESS ON SCHOOL HYGIENE (S. DOC. NO. 1023).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read, referred to the Committee on Appropriations, and ordered to be printed:

To the Senate and House of Representatives:

On the 19th of August last Congress passed the following resolution:

Resolved, etc., That the President of the United States is hereby requested to direct the Secretary of State to issue invitations to foreign Governments to participate in the Fourth International Congress on School Hygiene, to be held in Buffalo, N. Y., August 25 to 30, 1913: *Provided*, That no appropriation shall be granted at any time hereafter in connection with said congress.

At the time the resolution was passed there were three gentlemen in Buffalo whose means and whose interest in the Congress were such that the people of Buffalo had every reason to believe that the expense of the congress would be contributed by these, their citizens. Since that time the three citizens have died, and there is no written obligation on the part of their estates to meet the necessary expenses.

I recommend the appropriation of $30,000 (to which the citizens of Buffalo will have to add a substantial sum) as a contribution of the Government to the fund necessary to make the reception of the congress accord with what we regard as American hospitality.

Personally I am very much opposed to any invitation of this sort at the instance of the Government in which the Government does not assume all the expenses of entertainment. Other countries much less able than the United States never extend an invitation of this sort without having proper preparation for the reception of the guests of the nation.

In the peculiar circumstances of the present resolution I urgently recommend the appropriation of the sum mentioned to enable the obligation of the invitation to be properly met. The proviso in the resolution was an unfortunate one, in my judgment, but, whether it was so or not, under the circumstances it offers no reason for Congress not to take the proper course.

WM. H. TAFT.

THE WHITE HOUSE, *January 22, 1913.*

PROTECTION OF BIRDS.

The PRESIDENT pro tempore. The morning business is closed.

Mr. McLEAN. Mr. President, I shall detain the Senate for a moment only. I gave notice last week that I would this morning call the attention of the Senate to S. 6497, a bill to protect migratory game and insectivorous birds in the United States, with the hope of securing the consent of the Senate to a vote upon the bill in the near future. I think perhaps I ought to say that at the time the bill was reported in April last I was advised by the friends of the measure not to press for a vote during the first part of the Sixty-second Congress. It seemed to me to be good advice then, and I hope I shall not have occasion to change that opinion. But under the circumstances, Mr. President, inasmuch as the method of conducting the business of the Senate has reached that stage of refinement where it is utterly impossible to secure affirmative legislation without the consent of every Member of the body, there is nothing for me to do but appeal to the Senate to consent to a vote upon this bill.

I have not burdened the Senate with this matter, but since the bill was reported I have received telegrams, day letters, night letters, and petitions in great numbers from all portions of the United States urging me to press the bill to a vote, and I will now ask the Secretary to read two communications, one of which is from Mr. Spear, of Texas.

The PRESIDENT pro tempore. Without objection, the Secretary will read as requested.

The Secretary read as follows:

2015 BRYAN STREET, *Dallas, Tex.*

United States Senator McLEAN,
Washington, D. C.

DEAR SENATOR: I am glad to notice that you are urging a bill for the protection of migratory birds. The slaughter of robins during extreme cold weather when driven to this country for feed and shelter is beyond computation. Men, void of principle, go to the robins' roosts at night and, by blinding the poor birds with a bright light, the birds are thrashed down by hundreds. I have talked with men who have seen sacks full of dead birds. I have seen large numbers that were trapped as I have noted.

Last winter boys shot 20 to 30 each day for a long period of cold weather. People of the Middle and New England States may conclude that the robins have gone elsewhere when it is noticed that they are not building nests as of yore or that so few have been noticed. The cause of it is that they have been slaughtered in the South during the winter.

Senator CULBERSON is a humane man and no doubt would agree with the writer if his attention were called to the gradual extermination of robins, ducks, and all other migratory birds. You can be told here that we have a law making the killing of robins an act punishable by a fine of $5. This law is not enforced. There are many good people throughout all Southern States that would be delighted to have the Government, through the Agricultural Department or any other department, take measures to more fully protect migratory birds.

With best wishes, I remain,
Yours, most respectfully,

THOS. S. SPEAR.

Mr. McLEAN. I now ask to have this telegram read, which I received a few days ago.

The PRESIDENT pro tempore. Without objection, the telegram will be read.

The Secretary read the telegram, as follows:

CHICAGO, ILL., *January 16, 1913.*

Hon. GEORGE P. McLEAN,
United States Senate, Washington, D. C.:

You can't possibly comprehend how widespread and deep is the sentiment generally in favor of your bill for the protection of migratory birds. Your appeal for an early and favorable vote on this matter should have the earnest support of all the Members of the United States Senate who would serve their country by saving for it one of our most valuable and interesting natural resources, now being rapidly destroyed. No measure now pending before Congress is more far-reaching in its importance or is more greatly needed. We strongly urge its passage.

GLEN BUCK.

For John Burroughs and Ernest Thompson Seton.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from Kansas will propound the inquiry.

Mr. CURTIS. In view of the statement made by the Senator from Connecticut that the only way to get up the bill is by

unanimous consent, I desire to ask the Chair if it would not be properly within the rules for the Senator from Connecticut to move during the morning hour to proceed to the consideration of the bill.

The PRESIDENT pro tempore. It would be in order.

Mr. McLEAN. I thank the Senator from Kansas. I intended to make that or a kindred motion, but I want, first, to call the attention of the Senate to the fact that I have here expressions from two extremes. The letter which was read was written by a practicable, civilized farmer, and, I think, represents the class of appeals that I have received pretty generally from the Southern States. The telegram, as you will note, was received from John Burroughs and Ernest Thompson Seton, who represent the very highest authority we have upon this subject, and it seems to me that it is an authority to which we should lend a willing ear before it is too late.

If there is objection to the consideration of this measure today, I desire to propose a unanimous-consent agreement. I do not know that there will be opposition to its consideration, and I will ask the consent of the Senate to take up the bill now.

The PRESIDENT pro tempore. The Senator from Connecticut asks unanimous consent to proceed to the consideration of the bill which he has indicated. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. 6497) to protect migratory game and insectivorous birds in the United States.

The PRESIDENT pro tempore. The bill has been heretofore read in full. It is before the Senate as in Committee of the Whole and open to amendment. If no amendment be proposed the bill will be reported to the Senate.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PANAMA CANAL TOLLS.

Mr. O'GORMAN. Mr. President, I desire to address a few observations to the Senate with respect to the bill to repeal certain features of the Panama Canal act which was passed at the last session of Congress.

Mr. GARDNER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Maine?

Mr. O'GORMAN. I do.

Mr. GARDNER. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Maine suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Culberson	Lodge	Shively
Bourne	Cullom	McCumber	Simmons
Bradley	Dillingham	Martin, Va.	Smith, Ariz.
Brandegee	Fletcher	Martine, N. J.	Smoot
Bristow	Gallinger	Myers	Stephenson
Brown	Gardner	Newlands	Sutherland
Bryan	Gronna	O'Gorman	Swanson
Burnham	Guggenheim	Oliver	Thomas
Burton	Heiskell	Overman	Thornton
Catron	Hitchcock	Page	Tillman
Chamberlain	Johnston, Ala.	Penrose	Townsend
Chilton	Johnston, Tex.	Percy	Wetmore
Clark, Wyo.	Jones	Perkins	
Clarke, Ark.	Kern	Pomerene	
Crawford	Lippitt	Root	

Mr. THORNTON. I desire to announce the absence of my colleague [Mr. FOSTER] on account of illness in his family. I ask that this announcement stand for the day.

Mr. KERN. I again announce, for the day, the unavoidable absence of the junior Senator from South Carolina [Mr. SMITH] on account of illness in his family.

The PRESIDENT pro tempore. On the call of the roll 57 Senators have answered to their names. A quorum of the Senate is present. The Senator from New York will proceed.

Mr. O'GORMAN. Mr. President, as I understand the bill which is being discussed, it provides for the repeal of a clause in the Panama Canal law exempting coastwise vessels from the payment of tolls, or, in the alternative, recommends that the disputed question of interpretation and construction of the Hay-Pauncefote treaty be referred to arbitration. I am unalterably opposed to both propositions.

It has been stated that the legislation enacted at the last session was ill-advised and hasty and without proper consideration. I am sure when that statement was made to the Senate the Senators who heard the declaration were surprised, because it is within the knowledge of every Member of the body that the bill enacted at the last session for the regulation of the Panama Canal received the consideration of the Interoceanic Canal Committee for many months and was the subject of discussion on the floor of the Senate from time to time for perhaps four or five weeks. Many Senators participated in the discussion; and after very thoughtful consideration of the merits of the bill, with the same objections then urged that we have heard in the last day or two, the Senate adopted the existing law by a vote of 45 in its favor against 15 in opposition.

The great remedy which was sought to be accomplished by that law receives very little attention and was scarcely alluded to by those who opposed its passage. It was sought by the proper use of the Panama Canal to place a wholesome restraint upon the transcontinental railroads in the imposition of their charges. It is common knowledge that for many years the transcontinental railroads looked with disfavor upon the building of a Panama Canal, because those interested in the railroads knew that with the opening of the Panama Canal cheap transportation by water would require the railroads to reduce their rates and would deprive them of the monopoly which they sought to obtain.

There was a time when the Southern Pacific Railroad was found in competition with the Pacific Mail Steamship Co. There was a wholesome competition which worked for the benefit of the people of the country. That competition was destroyed as soon as the Southern Pacific Railroad was able to secure 51 per cent of the stock of the Pacific Mail. Rates were then placed so high as in some instances to be prohibitive; and it appeared from the lips of many witnesses, many citizens from different parts of the country who testified before our committee, that the best results to the people from the use of the Panama Canal could be secured only by prohibiting the use of the canal by railroad-controlled boats. The proposal to enact this legislation encountered opposition at every step, and I remember during some remarks I had the honor of making in this body on the 17th of July last that I called attention to what was really within the knowledge of every Member—that no railroad corporation in this country ever secured the control of a competing water line without destroying competition. I called attention to the fact that every foot of rail east of the city of New York, that every foot of rail through New England, was controlled by one railroad system; that every boat on the Sound engaged in water transportation between New York and New England was controlled by the same corporation; and that that corporation, perfecting its monopoly, had sought, and had almost acquired, control of every foot of trolley-line service through that important section of the United States.

I called attention to the circumstance that the city of Bridgeport, one of the great cities of New England, a great manufacturing center, did not own a single foot of its own water front; that it was owned by the New Haven Railroad; that no independent boat could get a landing in Bridgeport; that the boats of the New Haven road had the business of Bridgeport by water and the railroad had its business by land; that every pound of freight going in and out of that great city was subject to such rates and charges as one corporation saw fit to impose upon the people, and that, contrary to the practice that has prevailed at different times in other parts of the country, the cost of transportation by water on the New Haven Railroad boats was as large as the charge in most instances by rail, although every student of transportation knows that it is less expensive to transport goods by water than by rail.

After making those statements, three of my distinguished colleagues from New England took occasion to say that I was in error in supposing that the New Haven system had any monopoly, and asserted that the people were well satisfied with the service and conduct of the New Haven Railroad. But within two months after that declaration all the people of New England were up in arms against the aggressions of that road. The governor of Rhode Island, the governor of Massachusetts, and the legislatures of most of the New England States were loud in their condemnation of the conduct of the New Haven system, and urged that the municipalities or the States should take over the control of the railroads as their only relief from burdens that were too heavy to bear.

You rarely hear in the discussion of the Panama Canal bill any reference to its railroad features. I concede that the provisions which seek to exclude railroads from the use of the waterways of the country are drastic, but I insist that they are necessary if the people of the country are to be saved from the domination of great monopolies.

We provided in the bill that our coastwise ships should be permitted to use the canal free. We were induced to this course by two considerations: First, to encourage our coastwise shipping, and, second and more important, to secure the cheapest possible transportation by water. Cheap water transportation will compel the competing transcontinental railroads to maintain reasonable rates. The main purpose of the legis-

lation was to reduce the cost of domestic transportation. This clearly presents a question of domestic policy, having no relation to international obligations.

Of course, we hear it said "You have violated the treaty with Great Britain," and we are told from time to time that we must maintain our reputation for national integrity with the countries of the world. But we have not violated the treaty by exempting our coastwise vessels. England, under a similar act passed in 1815 guaranteeing equality to the ships of the United States in the harbors of Great Britain, has for 98 years discriminated in favor of her local shipping. We have some people in this country who are more English than the English themselves in the consideration of our treaty relations.

We are told that possibly a painful impression will be made. I am sure that a painful impression will be made abroad if we surrender one of the most essential attributes of sovereignty. We can never permit a foreign power to intrude upon us its views affecting our domestic policy. If we yield once, further encroachments will be made upon our integrity as a Nation.

The Law Magazine and Review, of London, in its issue of November last has two instructive and illuminating articles on the controverted interpretation or construction of the treaty, both written by Englishmen who are good lawyers, one of whom concludes his consideration of the question as follows:

Much again has been said, with little approach to accuracy, by those who demand investigation, regarding the supposed obligation on the part of the United States to refer, as a matter of abstract opinion, the issue of the validity of the decision of the Legislature of the United States, and the construction of the international documents which such decision may affect, to any international tribunal of arbitration, whether one constituted ad hoc or one existing as a matter of international recognition in the shape of what is shortly known as The Hague Tribunal. The latter court, gradually advancing though it may be to international acceptance, can not yet be said to have reached the point of supplanting the traditional right and efficacy of national courts to deal with questions of international treaty construction. When the United States is directed with newspaper unanimity, but with scant courtesy, to refer the abstract question of the capacity of its Legislature to act in accord with treaty obligations, one has only to consider the probable attitude of Great Britain if a similar statute of its Parliament was on similar grounds called into question. Firstly, Great Britain could point out that, if the perfection of impartiality is demanded, it would be difficult to constitute an international tribunal, the members of which would not be drawn from States interested in the commercial neutrality of the Panama Canal. Secondly, it could point out that its own courts were fully qualified, according to the acknowledged doctrine of international usage, to pass upon any issue involving the application of the law of nations. And thirdly, it could rest upon the immemorial practice by virtue of which an act of its legislature has not been treated as subject to the juridical review of constituted foreign opinion. It would be a courageous jurist who would aver that the Supreme Court of the United States, the ultimate arbiter of the very Constitution of its country, is ill equipped, it would be a courageous statesman who would suggest that that court could not be trusted to hold the balance fairly, for the purpose of enforcing, or at any rate of declaring, the claims of all conflicting interests.

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It would appear that recourse to context and preamble would enable the United States, having regard to the "general sense and spirit," to succeed. There is no contractual understanding by any States outside the United States on the one hand, and Great Britain on the other. There is no provision analogous to that contained in the Clayton-Bulwer treaty providing for the adherence to the convention of any third State. The whole of the advantages are to be enjoyed by any State for the time being accepting the conditions of working, without any obligation on the part of any State to remain bound to such conditions further than during periods which may be of intermittent uses. Even between the actual contracting parties, Great Britain and the United States, there are no collateral or reciprocal obligations by way of consideration explicitly undertaken. Any State for the time being using the canal, and so assenting to be bound by the conditions, can, by bounty to its own vessels or in any other way not amounting to a breach of international obligations, differentiate in favor of its own vessels and against those of any other State, including the United States.

To sum up, it is reasonably arguable—

(a) That the United States can support its action on the precise words of the material articles of the treaty, that its case is strengthened by reference to the preamble and context, and that its case is difficult to challenge on grounds of general justice;

This is not the declaration of an American; it is the declaration of a subject of Great Britain—

(b) That there is no international obligation to submit the construction of its legislative act to any process of arbitration; and

(c) That any aggrieved party has an appropriate, an impartial, and a competent tribunal in the Supreme Court of the United States.

That article is written by Edward S. Cox-Sinclair.

Mr. BRADLEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Kentucky?

Mr. O'GORMAN. I do.

Mr. BRADLEY. Will the Senator please read that third proposition? I did not catch it exactly.

Mr. O'GORMAN. The third proposition is this:

That any aggrieved party has an appropriate, an impartial, and a competent tribunal in the Supreme Court of the United States.

Mr. TOWNSEND. Does the Senator agree with him on that?

Mr. O'GORMAN. I have no comment to make at this time with reference to the third point. I am only quoting the English attitude. We have been taught to believe that they look with disfavor upon our legislation. I am demonstrating that they do not.

I now read from the same volume an article by Mr. C. A. Hereshoff Bartlett. I quote:

The provision of the treaty referred to means that there shall be no discrimination by the United States against any one foreign nation, or its citizens or subjects, in favor of any other foreign nation, or its citizens or subjects, in respect of the conditions of or charges for traffic or otherwise. "On terms of entire equality" refers to the equality extended to all nations other than the United States; that is to say, it is prohibitive of the United States favoring one foreign nation as against another. Its purpose was to provide that vessels of commerce of all nations foreign to the United States should enjoy the same equality among themselves; but this is quite another thing from saying that vessels of commerce of foreign nations shall enjoy the same equality as the vessels of commerce of the United States, and that the Federal Government can not, without infringing the terms of the treaty, extend the free use of the canal even to its own vessels engaged in the constwise trade. What else does the expression "there shall be no discrimination against any such nation" mean? It means that no attempt should be made by the Federal Government to promote the interests of one foreign power to the detriment or exclusion of another; that all foreign nations should stand together equal and alike in the use of the canal.

"On terms of entire equality" was intended to prevent the United States discriminating in favor of one foreign nation against another foreign nation. The Federal Government was laying down its own rules, not for the regulation of its own ships of war and of commerce, but for the ships of war and of commerce of the stranger beyond its ports, and it unhesitatingly declared that the canal that might be built under its auspices should be free and open to them on terms of entire equality. No advantage should be obtained by one foreign nation over another foreign nation; there should be no favoritism, no special benefit or privilege extended to one that should not be open alike to all foreign nations. This is what the provision means and nothing more. It would require the interpolation of terms not contained in the treaty itself to sustain any other construction.

There is no invidious discrimination against any one foreign nation under the Panama Canal act. All foreign nations engaged in the same commerce—over-seas trade—are treated alike; are subject to the same restrictions and are entitled to the same privileges under similar conditions. On general principles treaties as well as legislation discriminating against some and favoring others are objectionable; but treaties and legislation which in carrying out a public purpose are limited in their application—if within the sphere of their operation they affect alike all persons or objects similarly situated—are not unjust discrimination.

Specific regulations of one kind of commerce which may be necessary for its protection can never be the just ground of complaint because like regulations are not imposed upon commerce of a different kind. The discriminations which are open to objection are those where persons engaged in the same commerce and plying their trade under the same conditions enjoy different privileges. It is only then that the discrimination can be said to impair that equal right which all can claim to whom it is accorded by law.

There is no evasion of the rule of equality where all foreign vessels are subjected to the same duties and liability under similar circumstances.

The treaty could never have been intended to prevent the Federal Government from arranging and regulating its domestic or constwise commerce and in the use and enjoyment of its own property as it saw fit.

No such restriction could have been in view in adopting "as the basis of neutralization" a rule that the canal should be free and open to the vessels of commerce and of war of all nations on terms of entire equality. It would be absurd for the United States to solemnly declare that its own vessels of war might openly and freely navigate its own landlocked waterways and enjoy the privileges that belong to the Nation as a sovereign power in the use of its own territory. The use of the words "vessels of war" shows plainly that the word "vessels" as used referred only and exclusively to those of all nations other than those of the United States, and that the word "nations" was restricted to foreign nations; that is to say, nations foreign to the United States. What the opponents of the canal act seek to accomplish is to add to this phrase after the word "equality" the words "with its own," so that it would read "on terms of entire equality with its own." But that is precisely what was not contemplated and what was never within the minds of the contracting parties. The United States was not adopting a rule for the use of its own canal—its own enterprise and work achieved at the cost of its own national treasure—but was simply laying down a rule for the equal treatment alike of all foreign vessels in a ship canal that might be built beyond its territory, but under its supervision and direction. That is to say, it was not laying down rules to regulate its own conduct in the beneficial use and enjoyment of its own property, or abandoning what one day might belong to the Nation just as much as Porto Rico or the Philippines. No such relinquishment by the Federal Government was ever within the contemplation of those who negotiated the treaty.

It is inconceivable that the United States, when it agreed in the treaty that the canal should be free and open to the vessels of commerce of all nations, intended to recognize or to feel itself bound to recognize on terms of entire equality foreign vessels of commerce with those of its own engaged in domestic or constwise trade, or to so restrict its sovereign authority over its own commerce that it could not consistently with the treaty abolish tolls on its own shipping that might be entirely foreign to the conceptions of the American people and inconsistent with their commercial interests.

The Hay-Pauncefote treaty not only referred to vessels of foreign nations engaged in foreign trade, but it excluded those engaged in the constwise trade. The contracting parties did not have these in mind in framing the treaty. The disputed provision refers to perfect equality, and therefore must necessarily include only those vessels capable of falling within this term; and the only vessels of commerce that were then, are now, or ever have been treated on the same terms of equality under the usage of nations are vessels of commerce engaged in foreign trade. Vessels of commerce following the constwise trade have never

been placed on an equality with those engaged in commerce with foreign nations, nor could they be without violating national laws or the inherent right of a nation to control its domestic shipping. There is a well-defined distinction between vessels engaged in foreign commerce and the local coastwise vessel sailing under its own nation's flag between home ports. Coastwise vessels ply their trade under different conditions from those engaged in foreign commerce. They form a separate and distinct class; they are governed by different laws; they are subjected in their own ports to lesser duties and charges or to none at all; and they are jealously protected by their own government which, invariably by one means or another, discriminates in their favor.

Congress has always adhered to the policy of restricting domestic commerce—that is, vessels trading from one port in the United States to another port in the United States—to American vessels owned and navigated by American citizens. There is nothing special and peculiar in this legislation. It is in harmony with the policy not only of the United States, but of every sea-bound nation, to encourage and protect under special privileges its domestic maritime trade. The same system has been observed by the treaty-making power of the Government, which has frequently given emphasis to the doctrine by express reservations in treaties.

The terms "vessels of a nation," or even "vessels," as used in treaties, have received among commercial countries their own interpretation by long-continued custom and acquiescence, and are universally accepted as not embracing vessels other than those plying between one foreign country and another, so that in the negotiation of treaties the high contracting parties have never had in contemplation coastwise vessels in laying down rules for equality of treatment of the vessels of their respective countries.

In addition to the 3 treaties above mentioned, 28 other treaties of commerce and navigation were concluded between the United States and foreign countries between the years 1825 and 1887, which expressly excepted their respective coastwise trade.

England has always carried out the same policy as that of the United States with reference to her coastwise vessels, either by safeguarding her home trade diplomatically in express exemptions in treaties or by subjecting her coastwise vessels to other and different dues and charges from vessels engaged in the over-seas trade, thus practically discriminating in favor of her own domestic marine.

In principle the two things are the same, the result being that the stranger coming from over the seas, in spite of all the pretense of uniformity, mutuality, and equality of treatment, has to pay larger and heavier port dues than the British coastwise vessel, and this is the practice at British ports to-day, as it has always been, even in spite of the most formal treaty stipulations to the contrary. While to-day England's coastwise trade is open to ships of other nations, yet this was not always so, for at one time it was provided by law that no goods or passengers should be carried coastward from one port of the United Kingdom to another except in British ships, the same act defining what the coastwise trade was, and as late as in 1870 it was provided by act of Parliament that no goods or passengers should be carried by water from one port of Canada to another except in British ships. The whole history of English diplomacy has been uniform with that of the United States and other commercial countries, either in specifically exempting coastwise trade from its conventions and treaties, or by doing so in establishing different and other duties and charges for her coastwise marine than those imposed at the same port on vessels engaged in the over-seas trade.

It may be argued that these treaty provisions specifically exempting coastwise vessels are evidence that Great Britain and the United States in omitting them in their treaties thereby recognized that the treaties between these countries included both foreign and coastwise vessels, but such an argument is without merit, because the fact exists to-day, as it has for generations, that England herself discriminates in favor of her own vessels engaged in the coasting trade. The treaty of 1815 provides:

"That no higher or other duties or charges shall be imposed * * * in the ports of any of His Britannic Majesty's territories in Europe on the vessels of the United States than shall be payable in the same ports on British vessels."

If England's interpretation of the Hay-Pauncefote treaty holds good, then how does she justify, under the language just quoted of the treaty of 1815, her discrimination in tonnage duties in favor of her coasting vessels? And yet this is precisely what she has always done and is doing to-day. No explanation or recrimination can alter the fact that Great Britain has always adhered tenaciously, like other seagirt nations, to the policy of favoring coastwise vessels, and that wherever Britannia rules they form a class separate and distinct from vessels employed in foreign trade, and that they have always been excepted from the term "vessels" as used in all international agreements. So true is this that it would seem unnecessary to go into details, although abundant proof is at hand.

Take, for instance, the port of Bristol. Every vessel entering from or departing for the east coast of the United States of America, including ports of the United States of America in the Gulf of Mexico, pays 1s. 1½d. per registered ton, while every vessel entering or departing for the Channel Islands, Ireland, the Isle of Man, or any part of Great Britain, not including Barry, Penarth, Cardiff, Newport, and other ports to the eastward of the Holmes, pays only 5d. per registered ton.

From a comparison of the foregoing port charges it appears that an American vessel of 5,000 tons on entering or departing from the port of Bristol from or for the east coast of America pays tonnage dues at the rate of 28 cents per ton, or 56 cents for entering and departing, while vessels entering or departing for the Channel Islands, the Isle of Man, or any part of Great Britain, with a few exceptions, pay only 10 cents a ton, or 20 cents for both entering and departing. At these rates an American vessel of 5,000 tons arriving from over seas is compelled to pay at the port of Bristol on entering or departing $90 tonnage dues, or on entering and departing $180, while if no other or higher duties or charges were imposed than those payable in the same ports on British vessels according to the treaty of 1815, then such American vessel would only have to pay $50 on entering or departing, or $100 on entering and departing, making a difference in the first instance of $40 and in the second of $80. This may not be discrimination according to English views, but it looks exceedingly like it from an American standpoint.

The rates and dues exacted at the port of Liverpool (Mersey docks and harbor board) afford some startling illustrations of this discrimination. Dock tonnage rates on vessels are imposed according to the class of voyage, that is to say, the vessel's destination. Those coming within class 6, which includes all ports on the east coast of North America, pay 1s. 4d. per ton, while those under class 2, between the Mull of Galloway and Duncans Bay Head, including the Orkney Isles and all the islands on the western coast of Scotland, and between St. Davids Head and the Lands End, including the Scilly Island and the east coast of Ireland from Cape Clear to Malling Head, pay 4½d. per ton, and those included in class 3, covering all parts of the east and southern coasts of Great Britain between Duncans Bay Head and the Lands End, including the islands of Shetland and all parts of the west coast of Ireland from Cape Clear to Malling Head, including the islands on that coast, pay 6d. per ton.

Harbor rates on vessels bear out the same discrimination. Those under class 2 pay five-eighths of a penny per ton; those under class 3 pay three-fourths of a penny per ton; while vessels under class 6, embracing the trans-Atlantic trade, have to pay 1½d. per ton, or exactly double. There are also differential dock tonnage rates on vessels in which the same discrimination is carried out as they provide for one-half of the rates specified under classes 2, 3, and 6.

Wharf rates on vessels are as follows: Under class 2, 1½d. per ton; under class 3, 1½d. per ton; and under class 6, 4d. per ton. This is a clear preference in favor of domestic coasting vessels as against vessels engaged in foreign or over-seas trade of 2½d. per ton.

These figures of the port of Liverpool furnish additional examples of the same rigid discrimination in favor of England's coasting vessels. American vessels coming across seas, for entering and leaving port pay harbor rates of 33 cents a ton, while some coasters pay only 9 cents a ton, or 27 cents per ton less than the American vessel.

Tonnage dues at the port of London are as follows: (1) For every vessel trading coastwise or entering inward or clearing outward from or to any place north of latitude 48° 30′ N., and between longitude 12° W. and 65° E. of Greenwich, for every voyage both in and out, 1d. per ton. (2) For every vessel entering inward or clearing outward beyond those limits, 1½d. per ton. (3) For vessels under 100 tons which do not pass beyond the seaward limit of the port, a halfpenny per ton. (4) Coastwise vessels not exceeding 45 tons, vessels bringing corn coastwise, fishing smacks, and lobster and oyster boats are exempt from dues.

This discrimination of 1 cent a ton for entering and clearing port in favor of coastwise vessels and against trans-Atlantic vessels may on first impression seem trifling; but when on calculation it is found that on a vessel of 5,000 tons this additional 1 cent per ton on entering and leaving port amounts to $50, it is evident that all sense of equality between ocean-going vessels and those employed in the home trade only is completely discarded.

If England for a moment believed that the words "British vessels" or "vessels of the United States" as used in the treaty of 1815 included or was ever intended to include coasting vessels, she would not have established and enforced differential rates at her various ports in favor of coasting vessels, for that would then be a flagrant violation of the rights secured to vessels of the United States under the treaty. Not only this, but such an interpretation on the part of England would afford the United States to justly demand that vessels of the United States pay the same dues and charges at British ports as are exacted from British vessels engaged in the coastwise trade, instead of those largely increased and heavier dues and charges that American vessels have to pay.

But, in addition to this, Great Britain, by assent and ratification under circumstances similar to those that have arisen under the Panama Canal act, is not in a position to now insist on an interpretation of the equality clause of the Hay-Pauncefote treaty different from that in accordance with the established interpretation she herself has put upon the treaty of 1815 and of like clauses in other treaties.

The second article of the treaty of 1815 is as follows:

"No higher or other duties or charges shall be imposed in any of the ports of the United States on British vessels than those payable in the same ports by vessels of the United States, nor in the ports of any of His Britannic Majesty's territories in Europe on the vessels of the United States than shall be payable in the same ports on British vessels."

This treaty was to be obligatory for four years from its ratification; but it was extended for 10 years by the convention of October 20, 1818, and indefinitely extended by the convention of August 6, 1827, so that it is a subsisting treaty to-day.

It will be seen that the provision above quoted from the treaty of 1815 is as broad and comprehensive as the equality clause contained in the Hay-Pauncefote treaty and that it embraces all vessels of either country without exception or distinction as to whether they may be engaged in over-seas commerce or the coastwise trade. If, therefore, the expressions "British vessels" and "vessels of the United States" do not embrace vessels employed in the coastwise trade as England has herself interpreted the words for nearly a century, it is incomprehensible that she should now pretend in an outburst of indignation that the words "vessels of commerce of all nations" contained in the Hay-Pauncefote treaty does refer to and include those very vessels that she has always excluded under the terms "British vessels" and "vessels of the United States."

It is an interesting fact not generally known that the provision of the treaty of 1815, to which reference has been made, has been judicially interpreted by the courts of the United States in a litigation ending in a judgment rendered by the Supreme Court of the United States in 1904, which declared that a British vessel engaged in foreign commerce was not entitled under the treaty of 1815 to the exemption from paying pilotage accorded by law to American vessels engaged in the coasting trade. (Olsen v. Smith, 195 U. S.)

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Not only has this interpretation of the treaty of 1815 been adopted and carried into practice by Great Britain for nearly a century, thus giving it the same validity as though a clause excepting coastwise trade had been therein inserted, but England's continued silence and acquiescence and failure to object to a like interpretation by the Supreme Court of the United States in the case cited is in itself an implied ratification and adoption thereof and is equivalent in its consequences to an express declaration of approval.

If, therefore, the words "British vessels" and "vessels of the United States," as used in the treaty of 1815, do not include vessels engaged in the coasting trade, as I feel has been sufficiently demonstrated, it is difficult to understand how the words "vessels of commerce of all nations," as used in the Hay-Pauncefote treaty does include them.

Mr. President, these articles confirm the views presented by Senators when this subject was under discussion last session. They are the views of President Taft and his distinguished Sec-

retary of State, Mr. Knox, and afford ample authority for the conclusion reached by the Senate last August. It has been stated that during the progress of the negotiations preceding the adoption of the Hay-Pauncefote treaty Senator Bard proposed, in substance, the adoption of a declaration that the provisions under discussion were not intended to affect the vessels of the United States. It is said that was voted down at the time, and that therefore it is a concession that no vessels of the United States should be exempted from the provisions of the Hay-Pauncefote treaty. But I ask whether it is not more probable that the reason the suggested provision was voted down was that many of the lawyers in this body deemed it wholly unnecessary; that the treaty as it was originally proposed conferred that right upon the United States, and needed no modification in that regard?

We are reminded that we have been the apostles of the peace movement; that we would be untrue to our traditions if we did not permit this question to be disposed of by an arbitration court. In some quarters it is forgotten that a year ago, after long discussion, the Senate refused to enter into a treaty with any foreign power by which every controversy was to be settled by arbitration. We have numerous arbitration treaties now, but every treaty excludes from submission to arbitration three classes of questions—those affecting our national honor, our vital interests, and the rights of third parties. And we have solemnly refused to go further in support of arbitration policies.

The question confronting us is, Shall we permit foreign governments to dictate to the United States respecting our domestic policies? If our right to pursue a domestic policy be challenged by a foreign power, our national integrity is impeached if we yield to such an influence.

Senators, I can conceive of no question more vitally affecting our national honor and integrity than a question such as is proposed to us now—that a domestic policy inaugurated by the Congress of the United States for the benefit of the American people must first secure the approval of a foreign nation.

As suggested in one of the articles to which I have invited your attention, can you imagine what would happen if our positions were reversed and if we presumed to dictate to a foreign power what its domestic policy should be, and if when the foreign power refused to yield to our dictation we should say, "Well, this is a proper case for an international tribunal"?

As President Cleveland said on an historic occasion, "There is no calamity which a great nation can invite which equals that which follows a supine submission to wrong and injustice and the consequent loss of national self-respect and honor, beneath which are shielded and defended a people's safety and greatness."

It must not be forgotten that you can never have an international tribunal where the representatives of a foreign power are in sympathy with the Monroe doctrine. Foreign powers tolerate the Monroe doctrine, but they do not recognize it as international law.

If Great Britain had expended almost half a billion dollars in a public enterprise affecting the people of that country, what would be her answer if the United States undertook to impose undue restraint upon Great Britain's use of her own property? Nor should the circumstance be overlooked that in this legislation the very thing of which complaint is made is something which Great Britain concededly can do. Yet she would refuse the like privilege to us, notwithstanding the fact that we built the canal and that the people of the United States contributed over $400,000,000 for that purpose.

England and every European country for years have been subsidizing their vessels going through the Suez Canal. It is fair to suppose that England and other European powers will continue to subsidize their vessels going through the Panama Canal in their struggle for the commerce of the world. While there is nothing in the treaty which would prevent England or France or Germany or Spain subsidizing their vessels, Great Britain would impose certain restraints upon us. That, at least, was the attitude of the British Government in the first message which was received in June or July of last year. I understand the British Government has receded somewhat from the position it then took; that in a measure it now recognizes our right to subsidize our vessels and to remit the tolls, but insists that we must collect them in the first instance; and because we refuse to do that, the suggestion is made that England is discriminated against and that we must have an arbitration.

There is no principle better established than that the law never requires the performance of an idle ceremony, because an idle ceremony is a useless and unsubstantial performance. Yet under one view advanced by Great Britain she would insist that we must collect the toll as our vessel passes through, even though we immediately return it.

Of course, the claim was made at first, in the general discussion last July or August, that we could not under any circumstances return any part of the toll, but I believe that Great Britain herself has receded from that position.

I do not intend, Mr. President, in view of the time I devoted to a discussion of this question on a former occasion, to delay the Senate further than to insist that we have passed a wholesome law, a law that will confer lasting benefits upon the people of the United States, and that we would indeed create a painful impression abroad if this mighty Nation should surrender the control of its domestic policies at the suggestion of a foreign power. That we never can do and maintain unimpaired the prestige and the honor and the glory of the Republic.

BURDEN OF MAINTENANCE OF CANAL HEAVILY AGAINST THE UNITED STATES.

Mr. NEWLANDS. Mr. President, after over half a century of diplomatic negotiation, of engineering investigation, and of financial negotiation, the Panama Canal is approaching completion, and within a year will be open to the ships of the world. It is estimated that of the tonnage passing through that canal about nine-tenths will be international tonnage, and one-tenth will be domestic tonnage in the coastwise trade. Therefore the immediate benefit of this enormous enterprise, involving an expenditure upon the part of the United States of $400,000,000, will be enjoyed by foreign countries to the extent of nine-tenths and by the United States to the extent of one-tenth.

In the passage of the act relating to the operation and maintenance of this canal Congress, pursuing its traditional policy of maintaining an untrammeled, an unburdened, and an unfettered domestic waterway transportation, and regarding the Panama Canal, in addition to its international use, as a great domestic waterway connecting the waterway systems of the two coasts and enabling free communication by water between them, declared that no tolls should be levied upon ships passing through the canal engaged in the coastwise trade of the United States.

SOURCE OF ENGLAND'S PROTEST.

England, under the inspiration of Canada—that inspiration doubtless quickened by the action of the Transcontinental Canadian Railroad, whose action in turn was quickened by that of American transcontinental railroads—protests against this declaration that no tolls shall be levied upon ships in the coastwise trade as a violation of the rule of equality fixed by solemn treaty between England and the United States.

The Senator from New York [Mr. ROOT] has contended that this provision is such a violation of the treaty that we are under obligation either to strip the exemption from our statute or to submit the entire matter to international arbitration.

Mr. President, I shall not enter into any contention as to the character of the occupation of the United States on the Isthmus of Panama as to whether it is there as a sovereign in the ownership and control of a strip of territory 50 miles long and 10 miles wide, with all the powers of sovereignty, or whether the United States is simply there as a trustee for mankind, a trustee for civilization, vested with the occupation and control of this strip, and charged with its administration and under such rules as would attach to any trustee holding a public trust.

I am willing for the purpose of argument to admit that the Panama Canal is to be regarded as a great international public utility, bound by the rule which prevails with regard to every public utility in our domestic concerns to render the same service to all at the same price, and that price a reasonable price. But whilst I am prepared to admit this, I shall contend that it is to be regarded also as a domestic waterway, connecting our two coasts, dovetailed with our entire river and waterway system upon two coasts, and thus constituting a connecting link and part of the great waterway system of the United States.

Assuming that this canal in our international relations is to be regarded as an international public utility which the United States is to administer, I shall contend that it is entitled in justice and right to declare that no tolls shall be levied upon its domestic ships, provided that exemption does not increase the burden of foreign ships engaged in international trade.

NO DISCRIMINATION AGAINST FOREIGN SHIPPING.

Mr. President, what are the facts regarding the construction of this canal and its operation? We first have to maintain its operation. That is to be done by the United States as a trustee of civilization. We have then to maintain the canal. We have then to protect the canal apart entirely separate from our sovereign powers. The protection of that canal is essential to civilization itself, and any expense, however great, which we are subjected to in the fortification and protection of that canal is a charge against the commerce of the world and not simply against the United States as a sovereign.

Then, in addition to that, as a public utility we are entitled not only to a return of the cost of operation, of maintenance, and of protection, but to a fair interest upon an enormous investment of $400,000,000, a return which should equal at least 5 per cent and which could without exaction be increased to 7 or 8 per cent, for we have the example of the Suez Canal in the interest which it exacts from the commerce of the world, an interest amounting, I believe, to about 10 per cent upon the amount of the investment.

Assuming, then, Mr. President, that we have the right to exact 5 per cent upon $400,000,000, the commerce of the world, including our domestic commerce, is subjected to a charge in favor of the United States of $20,000,000 for interest alone annually. Add this to the cost of operation, maintenance, and protection, aggregating $10,000,000 annually, and you have a claim of the United States as the administrator of this trust against the commerce of the world amounting to $30,000,000 annually.

Now, how much of that $30,000,000 do we propose under the Panama Canal act to impose upon the commerce of the world? We have provided that the tolls shall not exceed $1.25 per ton, and we have provided for lower rates upon ships in ballast. The assumption is that there will be some 10,000,000 tons annually passing through that canal, at an average of about $1 a ton, or $10,000,000 annually. So the United States, having a just charge against the commerce of the world of $30,000,000 annually, will for a long period of time be able, under this Panama Canal act, to collect only $10,000,000.

Now, how is that apportioned, and how is it distributed among the nations of the world? Assuming that we must treat them all without discrimination, fairly and impartially, we find that, according to the statistics of the tonnage, only one-tenth will be American tonnage and that nine-tenths will be foreign tonnage. So, having a charge against the commerce of the world of $30,000,000, and our proportionate part of that being only one-tenth, or $3,000,000, the proportion chargeable to the rest of the world should be nine-tenths, or $27,000,000; and having that charge against the international commerce of the world, we let it off for $10,000,000. Yet it is claimed that the United States as a Nation is discriminating against the other nations of the world.

But it is said this condition will not last always, that this proportion will not always continue to exist, that the proportion of American tonnage will increase, and that the foreign tonnage will also increase. We hope it will increase, and we propose to do all we can to stimulate that increase. But at the time the canal act was passed this was the condition of things: We were providing for tolls which would impose upon international tonnage, amounting to nine-tenths of the entire tonnage of the canal, only one-third of our legitimate charge for operation, maintenance, protection, and interest.

REASONS FOR FREEING COASTWISE TRAFFIC FROM TOLLS.

Mr. President, why was it that we declared in the act that no tolls should be levied upon ships engaged in our coastwise trade? We did it, first, because we had imposed upon international tonnage very much less than a fair proportionate charge of our cost of operation, maintenance, and interest, and therefore, in justice to domestic commerce, we could exempt American ships. We did it, further, in pursuance of the traditional policy of the United States, which demanded, so far as our domestic waterways are concerned, that our rivers should be improved, our lakes developed, our canals constructed at the expense of the National Treasury, and without imposing a dollar of burden upon the commerce of the country.

Was it to be expected that the United States, having pursued this traditional policy for over a century, should, when it was assuming the position of a benefactor to the commerce of the world, abandon it and substitute for an unfettered and unburdened domestic commerce a fettered and a burdened commerce?

Now, Mr. President, what is the occasion of this difficulty? What has been the difficulty all the way through with reference to the Panama Canal? Our difficulty has always been the opposition of the transcontinental railway carriers of the country, determined, first, to prevent interoceanic communication and then to paralyze it by the burdens imposed upon it. It was for this reason that for years they prevented and delayed the inauguration of the canal enterprise and that, later on, as its completion approached, they sought to induce us to permit ships owned by transcontinental railroads to traverse the canal, knowing very well from past experience that through their ownership of ships subsidized by the profits from the rail traffic they could paralyze water transportation. Then, having failed in that, they were eager to have us impose a burden upon the domestic transportation between the two coasts in the shape of tolls, such burdens as all the other waterway transportation of the country is entirely free from.

Having failed to influence and control our legislation, they then sought their brother carrier to the north in Canada, a transcontinetnal railway running from ocean to ocean and interested with the transcontinental railroads of the United States in monopolizing transportation between the two oceans and in paralyzing the canal. They sought to make that railroad the instrumentality of foreign interference, and through it they appealed to its sovereign country—Great Britain—to protest against this action as a discrimination against foreign commerce in violation of the terms of the Hay-Pauncefote treaty.

Mr. President, I think I have demonstrated that as between nations no disproportionate cost of the maintenance, operation, and interest charge of the Panama Canal has by the act been imposed upon the foreign shipping, but, on the contrary, having the right to impose upon it $27,000,000 annually we imposed upon it only $10,000,000 annually, and that we have an interest charge against the enterprise of $20,000,000 annually, which for years will remain unpaid.

FOREIGN NATIONS CAN NOT OBJECT TO THIS EXEMPTION.

Will it be contended for a moment that having that charge upon this enterprise we can not relieve domestic ships of their tolls and credit those tolls upon the interest due to the enterprise? And if we credit the tolls which are remitted to the interest upon the enterprise do we not to that extent relieve the burdens of foreign international commerce?

All that foreign nations have the right to insist upon is not that we should allow them to control our domestic policy, but that in carrying out the domestic policy which involves levying no tolls upon domestic ships we should see to it that the tolls remitted are not imposed as an additional charge upon the ships of foreign nations. That is all the right which they have either in morals or under treaty obligations.

It is true that when we passed the act we did not expressly provide, in declaring that no tolls should be levied upon American ships, that those tolls should be entered as a credit upon the interest charge of the Nation against the enterprise, but doubtless Congress had it in mind. Throughout the debate you will find the thought running current that the United States was being put to an enormous annual operating and interest expense in this enterprise, chargeable against the world and from which the world was to be largely relieved, and therefore we had a right, so far as the unpaid portion of the interest expense was concerned, to offset the tolls chargeable against domestic tonnage and to enter them as a credit upon our books against the interest charge.

Now, what is the principle of a public utility, assuming that that principle is to control here?

Mr. SIMMONS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from North Carolina?

Mr. NEWLANDS. Certainly.

Mr. SIMMONS. Do I understand the Senator from Nevada to be taking the position that in fixing rates upon the canal we should estimate the amount of probable commerce and fix a rate that would yield to the United States a given interest upon its investment? Does the Senator think that that would be the proper standard?

Mr. NEWLANDS. I think we have a right to demand that, Mr. President. I think we have a right to demand the application of a principle that applies to every public utility, and that is that the administrator of a public utility should receive not only the expenses of operation, maintenance, and protection, but a fair interest charge upon the investment.

Mr. SIMMONS. Can not the Senator see that that same condition might impose a rate that would paralyze the commerce of the country, so far as the use of this waterway is concerned?

Mr. NEWLANDS. That might be the effect if you fixed the rate so high that commerce would not pay it.

Mr. O'GORMAN. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from New York?

Mr. NEWLANDS. Certainly.

Mr. O'GORMAN. There is no danger of paralyzing the activities of the canal by the mere circumstance that a rate is fixed based upon the cost of construction and cost of maintenance; but it is well to bear in mind that the Panama Canal will always be in competition with the Suez Canal, and, irrespective of the question as to what amount might compensate the United States, the United States must always fix a charge which will permit the Panama Canal to compete with the Suez Canal for a large part of the business that may well flow through the Panama Canal.

Mr. SIMMONS. That being so, if the Senator from Nevada will permit me, might that very condition not make it impossible for us to fix a rate based upon a given income from the commerce through that canal?

Mr. O'GORMAN. In my judgment it would be impossible to fix a rate upon that basis, and the rate already indicated by the President was fixed with reference to the rate now charged in the Suez Canal. In passing, I might say, from such knowledge as I have acquired through the Interoceanic Canal Committee hearings and conferences, that there will not come a time in this generation when the United States will receive from the shipping of the world 2 per cent on the money it has expended in the construction and maintenance of that canal.

Mr. NEWLANDS. And therefore has a greater right——

Mr. SIMMONS. Will the Senator yield to me further?

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from North Carolina?

Mr. NEWLANDS. After I close my sentence. It has a much greater right to relieve its domestic ships of these tolls provided they are credited upon the interest charge of the Nation. I prefer, if the Senator from North Carolina will permit me, not to yield further, as I wish to close my remarks.

Mr. SIMMONS. Very well.

PROPOSED AMENDMENT OF THE ACT.

Mr. NEWLANDS. Mr. President, I wish to say, in explanation of what I have already said in reply to these interruptions, that the United States has the undoubted right to charge against the commerce of the world the operation, maintenance, and interest charges, aggregating $30,000,000. Whether it can collect that amount from the present commerce is another question. That involves the exercise of discretion by the United States as to the toll which will yield the largest revenue, but it is fair to assume that in time, even at existing tolls, the tonnage of the Panama Canal will advance from its now anticipated tonnage of about 10,000,000 tons annually to 30,000,000. Then existing tolls will furnish a revenue sufficient to pay for operation, maintenance, and interest charges at the rate of 5 per cent, and then, and then only, will the nations of the world have the right to insist that when we have secured a fair rate of interest upon our investment further increases in the tonnage of the canal shall tend toward a reduction in rates rather than an increase in income, applying the ordinary rules controlling public utilities to this matter; but until that point is reached they will have no right to contend that the present tolls are unreasonble or oppressive. If in making these computations we credit the tolls chargeable against American ships to the interest charge of the United States, in the end the commerce of the world is unburthened by the fact that we have refused to levy these tolls upon American ships, but, on the contrary, have credited those tolls as a part payment of the interest with which the enterprise is chargeable.

It would be very simple to arrange this. If it is necessary to give an assurance to the world that we intend to act fairly and justly, as I contend we have acted fairly and justly, all that we have to do is to provide in this very statute by amendment that there shall be a Panama Canal fund dedicated to the payment of the expenses of operation, maintenance, and the interest charges of the United States; that into that fund all tolls collected from foreign ships shall go; and that there shall be credited in that fund against the interest charge of the Nation the tolls properly assignable to American ships in order to do equal and exact justice to the entire world.

RELATION OF THE CANAL TO OUR DOMESTIC WATERWAYS.

Mr. President, the maintenance of our domestic waterway system is of the highest importance. We have expended over $600,000,000 in the development of the rivers of our country, and as yet we have not navigable rivers. We have met in this work always the opposition of the railway carriers, who have been content that we should expend public moneys upon these rivers, provided they are spent in such a way as not to promote navigation. We have been expending these moneys without a proper system, without regarding each river as a unit with all its tributaries and sources, and controlling and regulating the flow of that river from source to mouth as an instrumentality of transportation, holding back the floods, preventing them from pursuing a destructive course below, and putting them to a beneficent use above, by spreading the flood waters over the arid plains, by storing them artificially for the development of water power, and by constructing by-passes in such a way as that when the floods come below they can be distributed and take their way to the Gulf or to the ocean without destroying vast areas of cultivable land within their reach. This policy, which would regard the river from source to mouth as a unit, which would secure several beneficial uses of the waters of the river, instead of simply one beneficial use in navigation, and which would make the river itself, with its connections in coordination with the railways, with transfer facilities and sites, and proper legislation, an effective instrumentality of commerce—this policy we will have to pursue. It is the great problem of the future; it involves every river in the country. No stream tributary to a navigable river can be regarded as inconsequential under this plan. If we will only pursue this system, we shall have, in addition to the splendid development of our railway carriers, a development of domestic waterway carriers, and we shall have them both coordinated with ocean carriers that will carry our commerce to the remotest ends of the world. It is this magnificent system that Germany has pursued, equally and cooperatively developing river transportation railway transportation, and ocean transportation, that is rapidly making her the mistress of the commerce of the world. Shall we discourage that policy, the policy which means an unfettered, unburdened domestic waterway transportation? Shall we, simply because the Canadian transcontinental railway has united with the American transcontinental railways to secure foreign intervention in order to secure them a monopoly of the transportation of the country and in order to enable them to paralyze the Panama Canal as an instrumentality of commerce, shall we meekly yield to this demand—this demand not based upon justice or equity—that we should abandon our traditional domestic policy of a free and unfettered domestic commerce? Will we not discharge every obligation to the nations of the world and will we not further increase their obligations to us by declaring that all the tolls remitted to domestic ships shall be credited upon the interest charge of the United States against the nations of the world for the construction and conduct of this gigantic enterprise?

WE HAVE SHOWN A JUST AND GENEROUS SPIRIT.

Mr. President, I contend that the whole history of this transaction furnishes convincing proof, not of the desire of this Nation to oppressively burthen international tonnage passing through the canal, but of a just and generous spirit—a spirit which recognizes our obligations as an international trustee without contention for domestic advantage. No unjust burthen has been placed by its action upon foreign nations. On the contrary, our Nation is to-day bearing, and will for many years continue to bear, a disproportionate part of the burthen of this great international enterprise. Having only one-tenth of the tonnage carried through the canal, it will for a long time bear at least two-thirds of the charges for operation, maintenance, and interest, and against this charge it will receive only a paltry credit of the tolls which it might, if it saw fit, impose upon domestic ships engaged in the coastwise trade, but which, in pursuance of a traditional policy of unrestricted domestic waterways, it proposes to remit. Such remittance imposes no inequality or injustice upon foreign nations. Such nations can easily pay into the canal fund the tolls imposed upon their ships, if they see fit, and those tolls will be righteously adjusted whether they be paid by the ships themselves or by the nations whose flags they bear.

The credit of the tolls of domestic ships upon the interest charge of the United States against the world is the payment of such tolls, and to hold the contrary is to indulge in a refinement of reasoning unworthy of a logician.

ARBITRATION OF AMERICAN QUESTION BY EUROPEAN TRIBUNALS.

There is no necessity for arbitration. If the purpose of the United States is not clear from the reading of the statute and the records of contemporaneous history are necessary to interpret it, let us amend the statute, not by striking out the provision declaring that no tolls shall be levied upon ships engaged in the coastwise trade of the United States, but by adding thereto the simple statement that an account of the tonnage of such ships shall be kept and that the tolls assignable to such tonnage shall be credited upon the interest charges of the United States against the enterprise. If, after this has been done, England still persists in her contention for arbitration, which I do not anticipate, an agitation may arise for the termination of all such treaties, for Americans are beginning to realize that the problems which are to come up for determination under them are not the problems of Europe, of Asia, or of Africa, but the purely domestic problems of the American Continent, which are to be determined in large degree by European juries.

Confident of the justice of our position, let us adhere to our time-honored policy of an unburthened domestic commerce, at the same time seeing to it that an accurate account be kept of our domestic tonnage through the canal and that a proportionate charge on this account be credited upon our interest charge against the canal enterprise. Thus, no disproportionate charge will be made against international tonnage and the

burthens of the canal will be fairly distributed among the nations using it.

Mr. MARTINE of New Jersey. Mr. President, my former vote on the question of tolls on the Panama Canal was the result of my conscientious and deliberate judgment. Notwithstanding the splendid argument of the senior Senator from New York [Mr. ROOT], I am frank to say that I am still unconvinced of any wrong or injustice in my position.

Mr. President, I feel that the Senator from New York was most unfortunate in that part of his remarks where he referred, at least by innuendo, to those who opposed his proposition as "playing to the galleries." No, Mr. President; higher motives prompted my vote on this question. I yield to no man in love and admiration for the lofty sentiments expressed by the Senator from New York. This, however, is not a question of the peace of the world nor of the honor of the American Nation, but it is a question of right and justice to the American people.

The Senator from New York asks, "Are we Pharisees?" No; we are not Pharisees nor hypocrites, but a brave and honorable people demanding our rights. It seems to me that it comes with ill grace for Great Britain even to suggest bad faith on our part, when her whole history has been that of greed and avarice in dealing with the nations of the earth. Read, Mr. President, the story of Great Britain's occupancy of India and of Egypt, and you find it is one long story of commercialism for England, right or wrong.

The Senator calls for arbitration. History tells us that Great Britain's policy has been to arbitrate only with nations stronger than herself. How well I recall a few years ago when that Spartan band, the Boers, in their heroic contest for liberty, prayed and pleaded for arbitration. Humanity the world over joined in that plea; but the ear of Great Britain was deaf to all supplications. Shall we arbitrate this question of our right to regulate the canal we have built and paid for? No; never.

Mr. President, the whole question, I feel, is summed up in this editorial from the London Times of recent date:

> If this bill becomes a law it will prove a little short of disastrous to British shipowners. With their best brains and energy devoted to their work, the United States will now proceed to turn out vessels on a wholesale scale, and, aided by their freedom from Panama Canal tolls, there is little to prevent them from entering with success all those trades in which British shipowners are now the principal carriers.

As I said heretofore when this question was before this body for consideration, I now repeat that I favor free tolls for American craft, both ocean and coastwise, and desire that the tolls for all other vessels of the world be only sufficient to maintain the physical condition of the canal, and that the cost and interest thereon shall be America's contribution to the world. I believe that such a policy on the part of this Government with reference to the Panama Canal would rehabilitate our merchant marine, and that in a few years we would command the carrying trade of this hemisphere.

Mr. President, I stand by my former vote on this question, and will vote "no" on the proposition to rescind our former action.

The PRESIDENT pro tempore. The calendar under Rule VIII is in order.

Mr. SIMMONS. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from North Carolina suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names.

Ashurst	Clarke, Ark.	Johnston, Ala.	Percy
Bankhead	Crawford	Johnston, Tex.	Perkins
Bourne	Cullom	Jones	Pomerene
Bradley	Cummins	Kern	Root
Brandegee	Curtis	La Follette	Simmons
Bristow	Dillingham	Lippitt	Smoot
Brown	du Pont	Lodge	Stephenson
Bryan	Fletcher	McLean	Stone
Burnham	Gallinger	Martin, Va.	Sutherland
Catron	Gamble	Myers	Swanson
Chamberlain	Gardner	Oliver	Thomas
Chilton	Gronna	Overman	Thornton
Clapp	Hitchcock	Page	Works
Clark, Wyo.	Johnson, Me.	Paynter	

The PRESIDENT pro tempore. On the call of the roll 55 Senators have answered to their names. A quorum is present.

EXECUTIVE SESSION.

Mr. SMOOT. I move that the Senate proceed to the consideration of executive business.

The PRESIDENT pro tempore. The Senator from Utah moves that the Senate proceed to the consideration of executive business. [Putting the question.] By the sound the "ayes" appear to have it.

Mr. CLARKE of Arkansas. I ask for a division.

The Senate proceeded to divide.

Mr. CLARKE of Arkansas. Mr. President, I call for the yeas and nays. That will be more satisfactory.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. LIPPITT (when his name was called). I transfer my pair with the Senator from Tennessee [Mr. LEA] to the Senator from New Mexico [Mr. FALL] and will vote. I vote "yea."

Mr. PENROSE (when his name was called). I will transfer my pair with the junior Senator from Mississippi [Mr. WILLIAMS] to the junior Senator from Nevada [Mr. MASSEY] and will vote. I vote "yea."

The roll call was concluded.

Mr. LODGE (after having voted in the affirmative). I will ask whether the junior Senator from Georgia [Mr. SMITH] has voted?

The PRESIDENT pro tempore. The Chair is informed that that Senator has not voted.

Mr. LODGE. I have a pair with that Senator, but I will transfer it to the Senator from Maryland [Mr. JACKSON], and let my vote stand.

While I am on my feet I will announce, by request, that my colleague the Senator from Massachusetts [Mr. CRANE] is paired with the Senator from Maine [Mr. GARDNER]; that the Senator from Kansas [Mr. CURTIS] is paired with the Senator from Oklahoma [Mr. OWEN]; that the Senator from Delaware [Mr. RICHARDSON] is paired with the Senator from South Carolina [Mr. SMITH]; that the Senator from Michigan [Mr. SMITH] is paired with the Senator from Missouri [Mr. REED]; and that the Senator from Wyoming [Mr. WARREN] is paired with the Senator from Louisiana [Mr. FOSTER].

Mr. CHILTON. I desire to announce that my colleague [Mr. WATSON] is paired with the Senator from New Jersey [Mr. BRIGGS].

The result was announced—yeas 36, nays 27, as follows:

YEAS—36.

Bourne	Clark, Wyo.	La Follette	Perkins
Bradley	Cullom	Lippitt	Root
Brandegee	Cummins	Lodge	Sanders
Bristow	Dillingham	McCumber	Smoot
Burnham	du Pont	McLean	Stephenson
Burton	Gallinger	Nelson	Sutherland
Catron	Gamble	Oliver	Townsend
Chamberlain	Gronna	Page	Wetmore
Clapp	Jones	Penrose	Works

NAYS—27.

Ashurst	Heiskell	Myers	Smith, Ariz.
Bankhead	Johnson, Me.	O'Gorman	Stone
Bryan	Johnston, Ala.	Overman	Swanson
Chilton	Johnston, Tex.	Paynter	Thomas
Clarke, Ark.	Kern	Percy	Thornton
Fletcher	Martin, Va.	Shively	Tillman
Gore	Martine, N. J.	Simmons	

NOT VOTING—32.

Bacon	Dixon	Lea	Richardson
Borah	Fall	Massey	Smith, Ga.
Briggs	Foster	Newlands	Smith, Md.
Brown	Gardner	Owen	Smith, Mich.
Crane	Guggenheim	Perky	Smith, S. C.
Crawford	Hitchcock	Poindexter	Warren
Culberson	Jackson	Pomerene	Watson
Curtis	Kenyon	Reed	Williams

So the motion was agreed to; and the Senate proceeded to the consideration of executive business. After 52 minutes spent in executive session the doors were reopened, and (at 2 o'clock and 45 minutes p. m.) the Senate adjourned until to-morrow, Thursday, January 23, 1913, at 12 o'clock m.

NOMINATIONS.

Executive nominations received by the Senate January 22, 1913.

COMMISSIONERS OF THE DISTRICT OF COLUMBIA.

Cuno H. Rudolph, of the District of Columbia, to be a Commissioner of the District of Columbia for a term of three years. (Reappointment.)

James F. Oyster, of the District of Columbia, to be a Commissioner of the District of Columbia for a term of three years, vice John A. Johnston.

UNITED STATES ATTORNEY.

William E. Lee, of Idaho, to be United States attorney, district of Idaho, vice Curg H. Lingenfelter, whose term has expired.

PROMOTIONS IN THE PUBLIC HEALTH SERVICE.

Passed Asst. Surg. John S. Boggess to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Donald H. Currie to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Gustave M. Corput to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Mervin W. Glover to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Edward Francis to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Joseph Goldberger to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Matthew K. Gwyn to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. William A. Korn to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Bolivar J. Lloyd to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. John D. Long to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. George W. McCoy to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Allan J. McLaughlin to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Dunlop Moore, to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Claude C. Pierce to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Carl Ramus to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Joseph W. Schereschewsky to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Frederick E. Trotter to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Charles W. Vogel to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Benjamin S. Warren to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Clarence W. Wille to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

Passed Asst. Surg. Louis P. H. Bahrenburg to be surgeon in the Public Health Service, United States, to rank as such from December 1, 1912. This officer has served the required time in his present grade and has passed the necessary examination for promotion.

PROMOTIONS IN THE ARMY.

CAVALRY ARM.

First Lieut. Charles C. Winnia, Fifth Cavalry, to be captain from January 16, 1913, vice Capt. Timothy M. Coughlan, First Cavalry, detailed in the Quartermaster Corps on that date.

Second Lieut. Joseph C. King, Tenth Cavalry, to be first lieutenant from January 16, 1913, vice First Lieut. Charles C. Winnia, Fifth Cavalry, promoted.

APPOINTMENTS IN THE NAVY.

Morris B. Miller, a citizen of Pennsylvania, to be an assistant surgeon in the Medical Reserve Corps of the Navy from the 14th day of January, 1913, in accordance with a provision contained in an act of Congress approved August 22, 1912.

Julian H. Maynard, a citizen of Maryland, to be an assistant paymaster in the Navy from the 18th day of January, 1913, to fill a vacancy.

PROMOTION IN THE NAVY.

Asst. Civil Engineer Norman M. Smith to be a civil engineer in the Navy from the 3d day of December, 1912, to fill a vacancy.

POSTMASTERS.

INDIANA.

Thomas W. Basinger to be postmaster at Petersburg, Ind., in place of Commodore D. Houchin, deceased.

IOWA.

William M. Boylan to be postmaster at Hubbard, Iowa, in place of William M. Boylan. Incumbent's commission expires March 1, 1913.

MAINE.

Albert Greenlaw to be postmaster at Eastport, Me., in place of Albert Greenlaw. Incumbent's commission expired January 11, 1913.

MICHIGAN.

Hugh W. Parker to be postmaster at Bancroft, Mich., in place of Hugh W. Parker. Incumbent's commission expires February 9, 1913.

Charles H. Stevens to be postmaster at Perry, Mich., in place of Charles H. Stevens. Incumbent's commission expires February 9, 1913.

MINNESOTA.

Mary J. Dillingham to be postmaster at Granite Falls, Minn., in place of Mary J Dillingham. Incumbent's commission expires February 9, 1913.

Charles A. Lee to be postmaster at Morris, Minn., in place of Charles A. Lee. Incumbent's commission expired January 12, 1913.

Gustaf E. Lundberg to be postmaster at Murdock, Minn. Office became presidential January 1, 1913.

Peter O. Roe to be postmaster at Sacred Heart, Minn., in place of Peter O. Roe. Incumbent's commission expires February 9, 1913.

William H Smith to be postmaster at Cambridge, Minn., in place of William H. Smith. Incumbent's commission expired January 12, 1913.

MISSISSIPPI.

David A. Adams to be postmaster at Iuka, Miss., in place of David A. Adams. Incumbent's commission expires February 11, 1913.

James N. Atkinson to be postmaster at Summit, Miss., in place of James N. Atkinson. Incumbent's commission expires January 29, 1913.

Edward F. Brennan to be postmaster at Brookhaven, Miss., in place of Edward F. Brennan. Incumbent's commission expires January 29, 1913.

Mary E. Brigham to be postmaster at Tunica, Miss., in place of William J. Brigham. Incumbent's commission expires March 1, 1913.

William W. Cain to be postmaster at West, Miss. Office became presidential January 1, 1913.

Edward M. Carr to be postmaster at Oakland, Miss. Office became presidential January 1, 1913.

David G. Dunlap to be postmaster at Sardis, Miss., in place of David G. Dunlap. Incumbent's commission expires January 26, 1913.

Fannie Hillerman to be postmaster at Kosciusko, Miss., in place of Fannie Hillerman. Incumbent's commission expires February 11, 1913.

Rosa Mayers to be postmaster at Shelby, Miss., in place of Rosa Mayers. Incumbent's commission expired January 11, 1913.

Sam E. Rees to be postmaster at Purvis, Miss., in place of Benjamin A. Weems. Incumbent's commission expired April 28, 1912.

MISSOURI.

Zach P. Caneer to be postmaster at Senath, Mo., in place of Zack P. Caneer. Incumbent's commission expires January 26, 1913.

John N. McDavitt to be postmaster at Rockville, Mo. Office became presidential October 1, 1912.

Thomas Meyer to be postmaster at Forest City, Mo. Office became presidential January 1, 1913.

Cord P. Michaelis to be postmaster at Cole Camp, Mo., in place of Cord P. Michaelis. Incumbent's commission expires January 22, 1913.

Henry J. Schofield to be postmaster at Norwood, Mo. Office became presidential January 1, 1913.

Ben B. Thurmond to be postmaster at Auxvasse, Mo. Office became presidential January 1, 1913.

James A. Williams to be postmaster at Crane, Mo. Office became presidential January 1, 1913.

NEBRASKA.

Wilfred C. Dorsey to be postmaster at Louisville, Nebr., in place of Wilfred C. Dorsey. Incumbent's commission expires January 25, 1913.

NEW YORK.

Albert H. Clark to be postmaster at Silver Springs, N. Y., in place of Albert H. Clark. Incumbent's commission expires February 9, 1913.

John F. Heim to be postmaster at Lancaster, N. Y., in place of John F. Heim. Incumbent's commission expired December 16, 1912.

David L. Jamieson to be postmaster at New York Mills, N. Y., in place of David L. Jamieson. Incumbent's commission expired January 11, 1913.

NORTH CAROLINA.

Thomas P. Newnam to be postmaster at Madison, N. C., in place of Thomas P. Newnam. Incumbent's commission expired May 26, 1912.

NORTH DAKOTA.

Ruby Bickford to be postmaster at Bowbells, N. Dak., in place of Thomas B. Hurly. Incumbent's commission expires March 1, 1913.

PENNSYLVANIA.

Abraham F. Berkey to be postmaster at Windber, Pa., in place of Abraham F. Berkey. Incumbent's commission expired January 11, 1913.

Edward M. Frye to be postmaster at Monessen, Pa., in place of Edward M. Frye. Incumbent's commission expires February 11, 1913.

James R. McCoy to be postmaster at Lewistown, Pa., in place of William F. Eckbert, jr., resigned.

John J. Riddle to be postmaster at Bala, Pa., in place of John J. Riddle. Incumbent's commission expires February 9, 1913.

Frank J. Roethline to be postmaster at Northampton, Pa., in place of Frank J. Roethline. Incumbent's commission expires February 9, 1913.

VERMONT.

Arthur F. Stone to be postmaster at St. Johnsbury, Vt., in place of Arthur F. Stone. Incumbent's commission expired January 5, 1913.

VIRGINIA.

Warner J. Kenderdine to be postmaster at Radford, Va., in place of Warner J. Kenderdine. Incumbent's commission expires March 2, 1913.

Thomas G. Peachy to be postmaster at Williamsburg, Va., in place of Thomas G. Peachy. Incumbent's commission expires February 9, 1913.

Richard B. Wilson to be postmaster at Crewe, Va., in place of Richard B. Wilson. Incumbent's commission expires March 2, 1913.

WEST VIRGINIA.

William R. Brown to be postmaster at West Union, W. Va., in place of William R. Brown. Incumbent's commission expires February 18, 1913.

Lynn Kirtland to be postmaster at Sistersville, W. Va., in place of Lynn Kirtland. Incumbent's commission expired January 12, 1913.

CONFIRMATION.

Executive nomination confirmed by the Senate January 22, 1913.

PROMOTION IN THE ARMY.

CAVALRY ARM.

Lieut. Col. Edwin P. Brewer, to be colonel.

INJUNCTION OF SECRECY REMOVED.

The injunction of secrecy was removed from the International Radiotelegraphic Convention (Executive A, 62d, 3d).

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January 22, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Lord God, our King and our Father, from whom cometh life and all its attendant blessings, cleanse our hearts from guile; pour down upon us Thy spiritual gifts that we may control our passions and direct our thoughts in conformity to our highest conceptions of right and truth and justice, touching all the complicated problems of life, that we may quit ourselves as God-fearing men, now and always, in the spirit of the Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

PENSIONS OF SURVIVORS OF INDIAN WARS.

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent to discharge the Committee on Pensions from further consideration of the bill (H. R. 14053) to increase the pensions of surviving soldiers of Indian wars in certain cases, disagree to the Senate amendments thereto, and ask for a conference.

The SPEAKER. The gentleman from Alabama asks unanimous consent to discharge the Committee on Pensions from further consideration of the bill H. R. 14053, disagree to the Senate amendments thereto, and ask for a conference. Is there objection?

There was no objection.

The Chair appointed the following conferees: Mr. RICHARDSON, Mr. DICKSON of Mississippi, and Mr. WOOD of New Jersey.

LOAN COMPANIES IN THE DISTRICT OF COLUMBIA.

Mr. DYER. Mr. Speaker, I desire to call up the conference report on the bill (H. R. 8768) to regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia.

Mr. MANN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. Is it in order to call up this conference report on Calendar Wednesday except by unanimous consent?

The SPEAKER. The Chair thinks it is not.

Mr. MANN. Mr. Speaker, I hope the gentleman will not make his request at this time.

Mr. DYER. Very well, Mr. Speaker, but I give notice that I will call it up to-morrow morning.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed bill and joint resolutions of the following titles, in which the concurrence of the House of Representatives was requested:

S. 5678. An act to ratify an agreement with the Weeminuche (or Wiminuche), and hereafter referred to as the Wiminuche Band of Southern Ute Indians in Colorado, for the relinquishment to the United States of their rights to occupancy of the tract of land known as the Mesa Verde;

S. J. Res. 156. Joint resolution to appoint George Gray a member of the Board of Regents of the Smithsonian Institution; and

S. J. Res. 157. Joint resolution to enable the Secretary of the Senate and the Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States on March 4, 1913.

The message also announced that the Senate had passed the following resolution:

Resolved, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (S. 4355) incorporating the National Institute of Arts and Letters and the bill (S. 4356) incorporating the American Academy of Arts and Letters.

The message also announced that the Senate had insisted on its amendment to the bill (H. R. 17260) to amend an act entitled "An act to establish in the Department of the Interior a Bureau of Mines," approved May 16, 1910, had agreed to the conference asked by the House, and had appointed Mr. POINDEXTER, Mr. SUTHERLAND, and Mr. TILLMAN as the conferees on the part of the Senate.

The message also announced that the Senate had passed without amendment joint resolution of the following title:

H. J. Res. 369. Joint resolution authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass.

The message also announced that the Senate had passed with amendments bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 19115. An act making appropriation for payment of certain claims in accordance with findings of the Court of Claims reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, asked a conference with the House of Representatives on said bill and amendments, and had appointed Mr. CRAWFORD, Mr. TOWNSEND, and Mr. BRYAN as the conferees on the part of the Senate.

The message also announced that the Senate had disagreed to the amendments of the House of Representatives to the bill (S. 5674) for the relief of Indians occupying railroad lands, asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. GAMBLE, Mr. CURTIS, and Mr. ASHURST as the conferees on the part of the Senate.

SENATE BILL AND JOINT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate bill and joint resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 5678. An act to ratify an agreement with the Weeminuche (or Wiminuche) and hereafter referred to as the Wiminuche Band of Southern Ute Indians in Colorado for the relinquishment to the United States of their rights to occupancy of the tract of land known as the Mesa Verde; to the Committee on Indian Affairs.

S. J. Res. 156. Joint resolution to appoint George Gray a member of the Board of Regents of the Smithsonian Institution; to the Committee on the Library.

INDIAN APPROPRIATION BILL.

Mr. STEPHENS of Texas. Mr. Speaker, before the House proceeds with the regular order of business to-day I wish to state that we have discovered a mistake in the enrollment of the Indian appropriation bill, and I ask unanimous consent to have read from the Clerk's desk an order, and to have the same adopted.

The SPEAKER. The gentleman from Texas asks unanimous consent for the present consideration of the order which the Clerk will report.

The Clerk read as follows:

Ordered, That a message be sent to the Senate notifying that body that an error has been made in the engrossment of the bill H. R. 26874, entitled "An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914," approved January 9, 1913, as sent from this House to the Senate, which error consists in incorporating in said engrossed bill a section thereof on page 24, lines 7 to 15, inclusive, as follows:

"The sum of $300,000 to be expended in the discretion of the Secretary of the Interior, under rules and regulations to be prescribed by him, in aid of the common schools in the Cherokee, Creek, Choctaw, Chickasaw, and Seminole Nations in Oklahoma during the fiscal year ending June 30, 1914: *Provided*, That this appropriation shall not be subject to the limitation in section 1 of this act limiting the expenditure of money to educate children of less than one-fourth Indian blood."

Said section having been stricken from the original bill by this House previous to the passage of the bill; and that the Senate be requested to permit the Clerk to correct said error.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I suggest to the gentleman that where the word "section" occurs in the order just read it should read "paragraph."

Mr. STEPHENS of Texas. Mr. Speaker, I think that is correct.

The SPEAKER. Without objection, the change will be made.

There was no objection.

Mr. MANN. Mr. Speaker, do I understand that the gentleman from Texas asks unanimous consent to adopt the order?

The SPEAKER. The gentleman asks unanimous consent for its present consideration.

Mr. STEPHENS of Texas. Yes; and then I shall ask that the order be adopted.

The SPEAKER. Is there objection to the present consideration of the order? [After a pause.] The Chair hears none. Is there objection to adopting the order?

Mr. MANN. Mr. Speaker, I think the statement ought to be made to the House, so that it may go into the RECORD, that that error is in no way whatever the fault of the engrossing clerk.

Mr. STEPHENS of Texas. That is correct, Mr. Speaker.

The SPEAKER. Is there objection to adopting the order?

Mr. MURRAY. Mr. Speaker, reserving the right to object, may I inquire how the error happened to be made?

Mr. STEPHENS of Texas. A point of order was made by the gentleman from Illinois to this paragraph. That point of order was sustained by the Chair. In some way, I do not know how, notwithstanding that, the paragraph crept into the bill, and we find it now in the bill as it went to the Senate. We desire to correct that error.

The SPEAKER. Is there objection to making this order? [After a pause.] The Chair hears none, and it is so ordered. The unfinished business is the Lincoln Memorial report.

Mr. SLAYDEN. Mr. Speaker, I think the Chair is mistaken in that.

The SPEAKER. The Chair is mistaken about that; it is the bill (H. R. 18505) to incorporate the American Academy of Arts and Letters.

Mr. SLAYDEN. Mr. Speaker, I have been directed by the Committee on the Library to ask the withdrawal from present consideration of the bill H. R. 18505.

The SPEAKER. The gentleman from Texas asks unanimous consent——

Mr. SLAYDEN. No, Mr. Speaker.

The SPEAKER. Well, what does the gentleman ask, then?

Mr. SLAYDEN. I am directed to withdraw it, and I will, with the permission of the Chair, read from Hinds' Precedents as to the authority for doing so.

The SPEAKER. There is no question about the gentleman having the right to withdraw it.

Mr. SLAYDEN. I thought there was a question. No; I made no request for unanimous consent, Mr. Speaker.

The SPEAKER. The gentleman withdraws the bill, and the call is on the Committee on Arid Lands, and the unfinished business is——

Mr. TAYLOR of Colorado. Mr. Speaker——

Mr. CANNON. Mr. Speaker, that is by unanimous consent this bill was to be considered now. The call is not on the Committee on Arid Lands, as I understand it. That is the unfinished business by unanimous consent to come up after other unfinished business was disposed of which precedes it.

The SPEAKER. The situation as the Chair remembers it is this: After the House had begun the consideration of that bill the gentleman from Colorado [Mr. RUCKER] arose and asked that that committee be passed over without prejudice.

Mr. MANN. That the bill under consideration be passed over for one week.

The SPEAKER. That the bill under consideration be passed until this Wednesday in the absence of the other gentleman from Colorado [Mr. TAYLOR], who had been detained by illness. Then the following parliamentary dialogue took place:

Mr. RUCKER of Colorado. My request is, if the gentleman from Illinois will permit, that this bill go over without prejudice and be called up on next Wednesday, just as it is called up to-day, as unfinished business.

The SPEAKER. The Chair would hold that if the request is granted, if the House starts on another bill to-day and it is not finished, that the latter bill would have the right of way.

Mr. MARTIN of South Dakota. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. MARTIN of South Dakota. In the instance the Chair now states, is it correct that, on the disposition of that business, although it might take all of to-day and take both matters over to the following Wednesday, this matter would lose its place?

The SPEAKER. Of course, it is purely arbitrary. But in the judgment of the Chair this bill would follow whatever was unfinished.

That is, it would give the Committee on the Library the right to go on and finish that bill and then when that was finished this irrigation bill would come up.

Is there objection to the request of the gentleman from Colorado [Mr. RUCKER]? [After a pause.] The Chair hears none. The Clerk will call the committees.

Evidently under that arrangement the gentleman from Colorado has the right of way with that bill. The bill is on the Union Calendar, and the House will automatically resolve itself into the Committee of the Whole House on the state of the Union, and the gentleman from Illinois [Mr. FOSTER] will take the chair.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 23669, with Mr. FOSTER in the chair.

RECLAMATION TOWN-SITE FUNDS.

The CHAIRMAN. The Clerk will report the bill by title.

The Clerk read as follows:

A bill (H. R. 23669) providing for the disposition of town sites in connection with reclamation projects, and for other purposes.

Mr. TAYLOR of Colorado. Mr. Chairman, this bill has reference to the establishment of town sites upon the various Government reclamation projects throughout the Western States. There are some 32 reclamation projects at the present time, and there are something like 30 town sites reserved and designated by the Government of the United States as towns for municipalities upon those various reclamation projects. This bill provides for the aiding in the construction and building up of those various towns. It has been a matter that has been thrashed out by the Department of the Interior, through the Reclamation Service, and by the citizens of the Western States for several years.

This measure is not in all respects, probably, an ideal measure, but, nevertheless, it is as near perfect as the Committee on Irrigation, the Department of the Interior, and the people affected could agree upon. Some gentlemen, members of the committee, have objections to it both as to its principle and as to its form, as I understand, but I may say that the majority of the committee, after considering the matter very exhaustively, have determined that this is the best that they can agree upon at the present time, and that if the Congress sees fit to enact this measure it will very greatly accelerate the building up of these municipalities and making them a credit to the reclamation project as well as a benefit to the inhabitants and to the surrounding country. I realize that the matter has been exhaustively considered in the debate on the 8th, in which I did not participate, not having been present, and possibly many of you are thoroughly familiar with it. I am not going into an exhaustive discussion of the measure at this time, but will reserve the balance of my time, and probably take up some further consideration of it later on, or yield to other members of the committee and others who desire to discuss it.

Mr. CULLOP. Mr. Chairman, I would like to ask the gentleman from Colorado [Mr. TAYLOR] a question. On page 3, commencing with line 17, I would like to have the gentleman's opinion of that provision, which is as follows:

> That in no case shall the operation and maintenance of such building and works by or under the authority of the Secretary of the Interior be continued for a longer period than two years after the organization of a municipal corporation or school district as aforesaid.

Does not the gentleman think that it would be wise to place the provision in the bill as to when the municipal organization should be made? As the bill now stands the matter might be continued for an indefinite period, and during this indefinite period the Government would be conducting the municipality of that town, or school, or whatever the organization might be. Would not that be an inducement to defer organization and leave the responsibility with the National Government to conduct it? Under this provision it has ample power to do so, and it would therefore be a very strong inducement to the people of that locality or municipality not to perfect an organization, so they can take upon themselves the responsibility of government, or shift it from the National Government to the locality. And in that respect, is not this a very dangerous measure and is it not entering upon an untried and a very dangerous and questionable policy?

Mr. TAYLOR of Colorado. Mr. Chairman, in the first place, the Government of the United States would only be expending one-half of the money that these people themselves have paid into the fund for this purpose, and it seems to me inconceivable that the inhabitants of a town would want to remain unorganized indefinitely merely for the sake of having the Government of the United States expend one-half of the proceeds of the sales of lots.

In reality I apprehend that one-half might be exhausted, and unless there was a continuation of the sales of lots it would seem to me that it would be impracticable. I do not see how that could follow. It is one of the traits of the American people to want to govern themselves, and I have never heard of a municipality or an organization of people that wanted indefinitely to be governed by Federal agents, but, sooner or later, they want to organize and elect their own mayor and boards of trustees, and their own organization, have their own municipal government, and the only reason that these buildings and works and everything should be turned over at once upon the organization was because the Government might be in process of constructing a system of sewers, or of electric light plants, or something of that kind, and it would be impracticable to just stop the work in the middle of the construction and turn it over. I want to say generally, Mr. Chairman——

Mr. CULLOP. That is exactly the vice of the bill.

Mr. TAYLOR of Colorado. I want to say that this measure, while I do not consider it personally, is nevertheless deemed by those who have had practical observation and experience on the ground to be the nearest workable of anything that they can devise. I may say that this measure has been prepared in this form by people who have had personal observation of these projects and by the Secretary of the Interior and the Reclamation Service, and it would seem to me that their judgment and their experience and their knowledge ought to be considered of some weight in the Congress of the United States.

Mr. CULLOP. Yes; but the taxpayers of such a locality might find that it would be very much to their financial benefit if the National Government would operate their town, government, or school district government instead of themselves, and I want to call the gentleman's attention now to section 3 upon that subject, which is as follows:

> That all income received from the operation of any such buildings or works, while they are under control of the Secretary of the Interior, shall be paid into and become a part of the reclamation town-site fund.

Now, by that provision the Secretary of the Interior is given the right to operate the municipal government two or three thousand miles away; and might not such an arrangement be made by citizens of these towns as that they would find it to their financial benefit, in the management of their municipal affairs, to have the Secretary of the Interior, two or three thousand miles away, manage and control their domestic municipal affairs? That seems to me to be clearly a vice in this measure, and one that might lead to very great abuses. In other words, it is the Government entering on a policy of building towns away off from the seat of government, away off from the management. It is to be done at a long distance, and anyone, I think, will concede that that is a very inconvenient process of building up cities and towns. It is proposed thus to operate waterworks, schools, sewerage, and other things necessary to the building up of a modern city.

Now, it may leave it in the hands of men so far distant from the seat of government as that they would lend themselves to imposing these abuses upon the people of such localities. It seems to me that the measure as it now stands, if passed, would become the subject of very great abuses, and burdens could be imposed, and this character of government could be continued for an indefinite period upon the people who are entitled to local self-government. It is long-range government, and it is a dangerous policy.

Mr. MONDELL. Mr. Chairman, will the gentleman from Colorado [Mr. TAYLOR] yield to me?

The CHAIRMAN. Does the gentleman from Colorado yield to the gentleman from Wyoming?

Mr. TAYLOR of Colorado. Yes; I yield to the gentleman from Wyoming.

Mr. MONDELL. I am inclined to think that the gentleman from Indiana [Mr. CULLOP], not being entirely familiar with the situation—and of course it is impossible that he should be familiar with it—does not clearly understand what is proposed. The Government now takes absolutely raw land which otherwise would be homesteaded, land for which the Government would get nothing—the homesteader would acquire it—and makes a town site of that land; and, as matters now stand, the sums received from the sale of the town lots go as a credit to the reclamation project, and whatever sum is received decreases by that amount the charge against the farmers on the project. No part of these funds remains in the Treasury of the United States now.

Now, this has developed, that the distribution of that fund among the people on a great project is no great relief to them, and the people living in the town are left, under past policy, without source of income with which to improve the town, for the Government sells only a few lots at a time, leaving the major portion of the town site untaxed and untaxable. You have, then, this situation: One hundred and sixty or three hundred and twenty acres in a town site not taxable. Perhaps 10 acres of that tract are sold and taxable. Consequently the sources of income for the improvement of the town is very limited. The town is raw prairie land. Streets are needed; sidewalks, curbing, bridges, and schoolhouses are needed—all of the things necessary to start a town site on the road to growth and development.

Now, as to the receipts heretofore accrued: They run from $5,000 to $20,000 in the different town sites. The Secretary of the Interior is to make the improvements. As to the receipts that will hereafter accrue if the community is organized into a municipality—and all these communities are—when the sales take place half of the proceeds would be placed in the hands of the municipality, to be expended by it for municipal improvements.

The fact is that the half of the receipts of the sale of town lots that the people of the town receive for the improvement of the town will not, in the majority of cases, exceed what the community would receive in the way of taxes if these were ordinary privately owned town sites, because in that case the entire town site would be subject to taxation. The people would do as people ordinarily do in cases of that kind—assess

the unsold lots at a pretty high rate and secure from the unsold lots as well as from those that are sold sufficient sums to care for the community—to provide schools, a town hall, and graded streets, and to make those other improvements that are imperatively necessary.

Now it has been suggested that this is taking money out of the Treasury. That is not so at all. These funds go into the fund for the benefit of the project as it is, and this in no way changes the policy as to the sale of the lots. It leaves the whole matter with the Secretary of the Interior. The only change made is to give the town community itself half of the sums received from the sale of the lots. It is an ideal arrangement. It is the arrangement that we would all say was ideal, if it could be generally practiced in town sites.

Mr. TALCOTT of New York. Will the gentleman yield for a moment?

Mr. MONDELL. Yes.

Mr. TALCOTT of New York. Is there any provision in the law for the return to the reclamation fund of any part of the cost of these improvements?

Mr. MONDELL. No. The gentleman understands that a reclamation project is built out of the general reclamation fund.

Mr. TALCOTT of New York. Yes; but the entryman under the reclamation project buys under an appraisal which takes into consideration the expenses of the reclamation project.

Mr. MONDELL. Yes. In other words, the entryman on a reclamation project pays nothing for the land. The Government receives nothing whatever for the land.

Mr. TALCOTT of New York. But he pays all the charges before he gets a patent.

Mr. MONDELL. If the gentleman will allow me a moment, I will show him that the same thing follows in this case. The entryman pays nothing for the land. The Government receives nothing for any of the land in any reclamation project in any case. The entryman simply pays for the cost of reclamation. So does the town site, because one of the charges assessed against the town site in the sale of the land is the water-right charge for the tract, so that the tract pays the water-right charge per acre, just as if a farmer had taken it, and the net proceeds of the sale of lots are the proceeds over and above the charges against the land, which are the same in this case as they are in the case of a farm. So that, so far as the Government is concerned, it receives just as much from these town-site tracts and no more than it receives for the other land, to wit, the cost of reclamation.

Mr. CULLOP. Will the gentleman permit a question there?

Mr. MONDELL. Yes.

Mr. CULLOP. I understood the gentleman to say that no money was received by the Government from the sale of these lots. Is that correct?

Mr. MONDELL. Oh, no; I did not say that. The inquiry was if, instead of these lands being embraced within a town site, they had been homesteaded like the lands around them, would the Government receive anything for the lands? Not at all; not a cent. The Government gives the land free to the homesteader. The homesteader pays simply the cost of reclamation, and following that theory the Government has never expected to receive anything from these town sites except the cost of the reclamation of the town sites—the same amount per acre that is paid for the land all around the town site—because the water furnished is the same and the cost is the same.

Mr. CULLOP. Does not the Government put up these lots and sell them?

Mr. MONDELL. When the Government builds a reclamation project it makes an estimate of what the project will cost. It makes no estimate of the land at all, but an estimate of what the project will cost. If a project costs $1,000,000, the price per acre that the settler pays is a sum which, divided among all the acres, will bring in that $1,000,000.

Mr. CULLOP. The very first section of this bill provides:

> That one-half the net proceeds heretofore or hereafter received from the sale of town lots in reclamation town sites are hereby reserved, set aside, and appropriated as a special fund in the Treasury, to be known as the reclamation town-site fund, to be used in the construction, maintenance, and operation of schoolhouses, water, light, and sewer systems, and other school and municipal improvements in the towns where lots have been or shall be sold as aforesaid in proportion to the amounts received from each of the said towns, respectively.

Now, does not the Government sell these lots?

Mr. MONDELL. Yes.

Mr. CULLOP. It derives money from the sale of them, does it not?

Mr. MONDELL. It derives no money from the sale of them that goes into the Treasury.

Mr. CULLOP. Then, why is this language in this bill, that one-half of the amount received from the sale of these lots shall be set aside in the Treasury for these improvements?

Mr. MONDELL. Under the present law, as I tried to explain a moment ago, the proceeds from the sale of these lots go into the reclamation fund as a credit to the project. For illustration, the Shoshone project in my State contains 100,000 acres, in round numbers, and there is one town site on it.

If that town site should ultimately bring $100,000, the settlers would pay the cost of that great project—over 30 miles in length—less $100,000. In other words, the theory of the law is that the Government is not to make money on these town sites, but the people whose settlements and improvements make the town shall have the benefit of it, and all we do by this statute is to divide the fund between the people of the project generally, many of whom live so far away from the given town that they do not contribute anything to its growth and development, and the people of the town. In doing that, of course, it is necessary to provide as a matter of bookkeeping for a fund. That is simply a designation.

Mr. SMITH of Texas. Will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. SMITH of Texas. The gentleman talks about the right of the people who buy the town site to have half of the money they paid contributed back to them. I will ask the gentleman if when the people buy the lots they do not get the worth of their money in the value of the lots? Does it not come down to the proposition of the Government investing the money back for speculative purposes on the enhanced value of the lots?

Mr. MONDELL. Not at all. In the first place, the Government never has a penny of investment in the town. It never has any money in it. Gentlemen will remember that such towns are largely a school center for the entire surrounding country; that the people in the surrounding country can not be taxed for at least seven or eight years while these lands are held as homesteads, and the responsibility devolves largely upon the town to furnish school facilities for the people around and about.

Referring again to the little town of Powell, they have a central school organization and send wagons out and bring the scholars in from the surrounding country. Surely it is not fair to ask a community to do all that and not give them any of the increment of the values they themselves have largely created.

The sums are not great; they are small; they are coming in slowly, and together with the taxes raised in the ordinary way, they will enable the town to provide the things necessary for its growth and development.

It has been suggested that the Government ought to adopt a different policy in regard to town sites, in this, that instead of selling a few lots in the town, the Government ought in the first instance to advertise for sale and sell to the highest bidder, for whatever price they could get, all of the town sites. Whether that would be wise or not, that situation is not affected by this bill in any way, because we do not in any way seek to modify the law giving to the Secretary of the Interior full control of the sale of lots. Personally I do not think that would be wise, because it would result that when all of a town site is all open for sale the entire tract would bring but a song, and the result would be a town of considerable area with no fixed center about which to begin development, and in that case the increase of values would go to speculators and the people of the town would secure no benefits.

I think the plan now followed by the Secretary, which plan is in nowise affected one way or the other by this bill, is a wise one, to wit, to select a proper place on town site for the building up of a business center and surrounding it with a residence section, selling only such area of lots for which there is a real demand, and by reason of this sale of restricted area securing very good prices. In the town of Newell they sold small lots, 50 by 150 feet, I think, for something like $2,000. Those lots brought those prices because they were Government town sites, with a restricted area for sale, and selling the restricted area, it held the town compactly, and then, as there is real demand, additional lots are offered as they are needed and as they will bring fair prices. I am sure the gentleman from Indiana [Mr. CULLOP] will not disagree with me in the proposition that if we can secure a condition whereby the people who create values shall themselves have the benefit of those values, we should do it, and not give the values made by the people of the community to some speculators who may buy lots to hold them for future sales.

Mr. CALLAWAY. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. I am speaking in the time of the gentleman from Colorado [Mr. TAYLOR].

Mr. CALLAWAY. It has been suggested by the gentleman that the Secretary of the Interior should select the proper place for the center of the town, and then put 2 per cent of the lots on the market, although he is located here in Washington some thousand of miles away from the town.

Mr. MONDELL. The gentleman knows that on these reclamation projects——

Mr. CALLAWAY. It occurs to me——

Mr. MONDELL. Oh, I wish the gentleman would permit me to finish.

Mr. CALLAWAY. I understand what these reclamation projects are.

Mr. MONDELL. They have a great enterprise. They have upon them, first, a project engineer, who is an educated man, a man of standing, a man who can command and does command a high salary, and would command a very much larger one if he were in private practice. Then there is the project manager, also a man of standing and reputation, and the other employees, and they are all on these projects. They are men of standing and reputation and judgment. Some one must decide the matter, and I am rather inclined to think that with the knowledge of where the canals are to be built, where the roads are to be built, where the centers of population are to be, they are as good judges as we can get of where the center of the town ought to be, provided, of course, that the Government is to do the job at all.

Mr. RAKER. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. RAKER. Is not one of the complaints by gentlemen appearing before the committee on this bill that the town site of Newell is laid out so poorly as to location and elevation that all of the surrounding towns, even 5 miles away, are prospering because the land is in private ownership, and the town of Newell, because of its location, can not prosper? That is the testimony of gentlemen appearing before the Committee on Irrigation.

Mr. MONDELL. Very true; and why? Because Congress has refused to be as enlightened as the private owners of town sites are on the one hand, and on the other hand Congress has refused to give the people themselves the opportunities they have to tax the private owners of the private town sites. The gentleman, coming as he does from a new and growing country, and living many years in that growing country, as I have, knows that ordinarily the taxes that the owners of speculative town sites have to pay are a plenty. I do not say that they have always been as wise as Solomon in deciding how many lots should be sold at a time, and in the case of the town site in my own State, the people have thought they were not selling rapidly enough; but the general policy is a sound one, and that is to open only such area as is needed, by so doing securing quite a considerable sum from the sale, providing that when we secure those sums we give them to the people who really make those values—the settlers and the men in the towns.

Mr. RAKER. Will the gentleman yield there?

Mr. MONDELL. If the gentleman from Colorado [Mr. TAYLOR], the best-natured man in the world, will give me the time.

Mr. RAKER. Is it not a fact that under the condition now existing and always will exist under a new project that the farmer the gentleman speaks of, who is building up that country, will not buy a town lot, because he can not live in the town if he wants to do so? He must remain and reside upon his farm and improve that farm, so therefore the town lots revert and go to those who are dealing in speculation, to those who are running stores and hotels. That is just to show that the farmer does not assist in building up the town lots, as far as he is concerned.

Mr. MONDELL. Of course what the gentleman says is partly true; but I do not see what application it has to the case in hand.

Mr. RAKER. Simply to show that the gentleman said the settler was the man who is getting the benefits from these town lots and——

Mr. MONDELL. Well, if there is anything in the gentleman's statement at all that contains an argument, it is an argument in favor of this bill. His suggestion that the farmer does not buy town lots, and therefore the farmer is not helping to build up the town—following logically to a conclusion the gentleman's premises, the farmer should not have all the benefit which he now has, but we should divide the benefit between the man who purchases the lot and lives in the town and builds the schoolhouses and builds the city halls and improves the streets—divide that with the farmer. I think it is a well-nigh ideal arrangement.

Mr. LEWIS. Will the gentleman yield for a question?

Mr. MONDELL. I will.

Mr. LEWIS. In the minority report it is stated that the proceeds from the sale of these lots under the present law go for the purpose of irrigation. Is that correct?

Mr. MONDELL. Well, in a way that is correct; but the minority might have been—I will not say more frank, but a little more lucid.

Mr. FRENCH. Each project is a unit.

Mr. RAKER. Not at all.

Mr. MONDELL. If the gentlemen will permit, the reclamation town-site law recognizes the town site as an asset to the project. I will refer again, if I may, to the project in my State, which is over 35 miles in length. There were several towns in the vicinity of the project, but in the center of it one reclamation town site was considered necessary. Now, the law provides that money received from the sale of town lots shall go into the reclamation fund. To use an illustration I have used often, if an entire project costs a million dollars to the settlers who had to pay for it, as they do, and the town site brought $100,000 out of the land, then the amount they must ultimately pay would be $900,000. The Government does not receive the return; the return goes to the farmer, as it ought to do. Now, we are simply proposing to make it a credit to the farmer and the town people, and the increased value will help both.

Mr. LEWIS. Will the gentleman yield further?

Mr. MONDELL. I will be glad to do so if the gentleman from Colorado will yield more time.

Mr. TAYLOR of Colorado. I will say I have promised a number of gentlemen time, and we will take this up under the five-minute rule.

Mr. LEWIS. I want to ask the gentleman if he can tell us any better purpose to which the Government might apply the money from the proceeds of these lots than to irrigation and improve the farming in this country?

Mr. MONDELL. I can not think of any better purpose than the purpose contemplated by the original law as amended by this bill.

Mr. LEWIS. But the gentleman desires to divert it to schoolhouses and sewers and light plants and other projects.

Mr. MONDELL. I am sure the gentleman from Maryland, the fairest of men, would not say that the Government should take a piece of valueless land, which it is willing to give to the homesteader for nothing, and make a town site of it and sell a few lots at a time, secure a large amount of money for it, and have that go into the Treasury. Congress never contemplated that and never ought to.

Mr. RAKER. Will the gentleman yield right there?

Mr. MONDELL. In just a moment. It followed that policy, and it gave the returns to the farmers as a credit overlooking—and if I had the time I would explain that that was not an oversight; that the original town-site bill contained just such a provision as this, except there were a lot of other matters in connection with it—overlooking the fact that these towns were raw and unimproved; that there is no taxable property within them except the personal property of the people and a small number of lots sold that can be assessed.

The balance the Government retains untaxable, and therefore there is no source of income for the development of the town. If the town belonged to a private individual, that private individual could be taxed during the running of the years until he sold his lots; and those taxes, you may depend upon it, would be high, and through that source an income would be received. We propose the better plan of giving to the people the benefit of those values which they create.

Mr. CANDLER. Why is not the real estate subject to taxation?

Mr. MONDELL. It is Government land, and no Government land is subject to taxation.

Mr. CANDLER. Is there no private ownership?

Mr. MONDELL. The Government only sells a small part of the town site at a time, leaving the balance during the years the town is developing entirely free from taxation.

MESSAGES FROM THE PRESIDENT OF THE UNITED STATES.

The committee informally rose; and Mr. WILSON of Pennsylvania having taken the chair as Speaker pro tempore, sundry messages in writing from the President of the United States were communicated to the House of Representatives by Mr. Latta, one of his secretaries.

RECLAMATION TOWN-SITE FUNDS.

The committee resumed its session.

Mr. TAYLOR of Colorado. Mr. Chairman, I yield to the gentleman from Arizona [Mr. HAYDEN].

Mr. HAYDEN. Mr. Chairman, we have been discussing this bill for about three days, and it seems to me we have devoted a great deal of time to a very minor matter. According to the figures furnished by the Reclamation Service, there has been received up to December 31, 1911, a total of $219,793 from the sale of town lots in 10 different reclamation town sites. This bill proposes to set aside one-half of the money received from the sale of these lots and one-half of the money received at all future sales into a town-site fund for improvements in the various reclamation town sites. If this bill passes, about $110,000 will be divided among 10 towns giving, on the average, about $11,000 to each town for such improvements as street grading, waterworks, or schoolhouses.

There was contained in the reclamation fund, according to the tenth annual report of the director, on June 30, 1910, $65,525,446, and he made an estimate that there would be $71,590,572 in the fund on December 31, 1912. So that compared with the total amount of the reclamation fund this town-site money is a very small matter. Now, if the reclamation fund increases in the next 10 years as it has in the last 10, there will probably be twice the present amount, or $140,000,000, on hand, and if new town sites are created in the same ratio there will be about $250,000 in the town-site fund.

Mr. RAKER. Will the gentleman yield right there?

Mr. HAYDEN. Certainly.

Mr. RAKER. Does the gentleman claim that there is $60,000,000 available now in the reclamation fund?

Mr. HAYDEN. The receipts from the sale of public lands, which create the reclamation fund, amounted to $65,525,446.88 on the 30th day of June, 1910.

Mr. RAKER. How much has been expended of that amount? Has not there been in the neighborhood of $55,000,000 expended?

Mr. HAYDEN. About $60,000,000.

Mr. RAKER. And it leaves only a few millions in that fund now?

Mr. HAYDEN. I understand, but I am considering the whole fund.

Mr. RAKER. If they are handling so much money, why do they want to take a part of it and build up a beautiful town on paper, instead of letting the people build up their own town, as they ought to?

Mr. HAYDEN. The argument has been made in the course of this debate that this bill will establish a new system and a bad precedent if we provide funds for the improvement of town sites. I want to read from a bill that passed this House less than two weeks ago, namely, "An act to provide for the opening of the Standing Rock Indian Reservation, in North and South Dakota." I shall read from this act, and I shall say, further, that every act passed by this House in the last five or six years providing for the opening of an Indian reservation contains practically the same language:

> The Secretary of the Interior is authorized to reserve from said lands such tracts for town-site purposes as in his opinion may be required for the future public interests, and he may cause same to be surveyed into lots and blocks and disposed of under such regulations as he may prescribe, and he is hereby authorized to set apart and reserve for school, park, and other public purposes not more than 10 acres in any one town site, and patents shall be issued to the lands so set apart and reserved for school, park, and other public purposes to the municipality legally charged with the care and custody of lands donated for such purposes. The purchase price of all town lots sold in town sites, as hereinafter provided, shall be paid at such time and in such installments as the Secretary of the Interior may direct.

Listen to this language:

> He shall cause not more than 20 per cent of the net proceeds arising from such sales to be set apart and expended under his direction in the construction of schoolhouses and other public buildings, or in improvements within the town sites wherein such lots are located.

This bill was passed not more than two weeks ago. Almost the same language is contained in the act opening the Yakima Indian Reservation in the State of Washington, which passed on May 6, 1910. Another act opening the Pine Ridge Reservation in South Dakota, passed on May 27, 1910, contains the same language. The bill opening the Rosebud Indian Reservation in South Dakota, and the acts providing for the settlement of the Fort Berthold and the Cheyenne Reservations all contain the same provisions. I could cite you half a dozen other instances showing that it is not a new thing to set aside a part of the proceeds derived from the sale of lots in town sites for public purposes.

The CHAIRMAN. The time of the gentleman from Arizona has expired.

Mr. HAYDEN. I should like to have three minutes more.

Mr. TAYLOR of Colorado. Mr. Chairman, I yield to the gentleman three minutes more.

The CHAIRMAN. The gentleman from Arizona is recognized for three minutes more.

Mr. HAYDEN. The Reclamation Service is under the control of the Secretary of the Interior just as is the Indian service. There has been no complaint about the improvements made under the direction of the Secretary of the Interior in town sites when the Indian reservations are opened, and there will be no cause for complaint if this bill passes. The theory is that the money spent for improvements will cause a higher price to be paid for the lots when sold at auction, so that this advance of 20 per cent results in a net profit to the Indians. In the case of the reclamation town sites you would not be authorizing anything but what the department had been accustomed to do in connection with the Indian service.

Mr. CALLAWAY. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Arizona yield to the gentleman from Texas?

Mr. HAYDEN. Certainly.

Mr. CALLAWAY. Is it not a fact that it is not the buildings that make these lands valuable, but the farming country that is developed in the neighborhood, that gives the town trade, which makes the land valuable? Here you propose to take value from the people who imparted the value to the town lots—the farmers and the people under the reclamation project as a whole, people who are creating something instead of being merely traders; you are taking value away from them and from the fund that belongs to them and putting it into a municipality to beautify the town for the benefit of the people who have settled there, not for the purpose of helping the project, but for the purpose of filling their own pockets.

Mr. HAYDEN. Let me answer the gentleman by asking him a question. Would he not pay more for a lot in a town site where the streets were graded and a domestic water supply had been provided or an electric light plant installed and schoolhouses built? Would he not pay more for a lot in that town than in a town where none of these improvements existed?

Mr. CALLAWAY. I would pay for the lot in the town in proportion as trade came to the town, and in proportion as I could use it for the purposes for which I was moving to the town; and then when I got in there I would pay my pro rata share for building the streets that I wanted to walk on or for building the town hall that I wanted to sit in unless, as the merchants do, I could get somebody else to pay it. If I could saddle it on the farmers, I would be doing as the merchants do; I would make the surrounding farmers build my schoolhouses and lodge houses and town halls. That is what you are trying to do in this bill—trying to saddle the burden of the town on the community outside.

Mr. HAYDEN. If I believed that the passage of this act would place any burden on the farmers of the community, I would not support it.

Mr. CALLAWAY. It takes one-half of the value of these lands from the people on the project, does it not?

Mr. HAYDEN. It adds to the value of the lots that are improved and yet remain to be sold.

Mr. CALLAWAY. The lots are of no value to the people out in the country. The thing that should be attended to is the payment of the debt that is saddled upon them for this project.

The CHAIRMAN. The time of the gentleman from Arizona has again expired.

Mr. HAYDEN. May I have one more minute?

Mr. TAYLOR of Colorado. Mr. Chairman, I yield to the gentleman one more minute.

The CHAIRMAN. The gentleman from Arizona is recognized for one minute more.

Mr. HAYDEN. If I believed that this bill would saddle one cent's worth of burden on the farmers of the community, I would not vote for its passage. But I do believe that a greater sum will be derived from the sale of the balance of the lots than will be diverted from the reclamation fund. Much more money can be obtained for lots that are improved than for lots that are not improved, and this ultimate increase in the price of the lots will redound to the benefit of the farmer.

Mr. SMITH of Texas. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman yield to the gentleman from Texas?

Mr. HAYDEN. Certainly.

Mr. SMITH of Texas. Would not that depend on the condition existing at any particular place? You would not lay that down as a general rule? The gentleman will not contend that you can build up a town in that way under any sort of conditions?

Mr. HAYDEN. Oh, that is true. Even speculators have lost money on town lots.

The CHAIRMAN. The time of the gentleman has expired.

Mr. TAYLOR of Colorado. Mr. Chairman, I yield two minutes to the gentleman from Idaho [Mr. FRENCH].

The CHAIRMAN. The gentleman from Idaho [Mr. FRENCH] is recognized for two minutes.

Mr. FRENCH. Mr. Chairman, we are quite removed from the question that was asked by the gentleman from Indiana [Mr. CULLOP], which I wanted to answer, with respect to the possibility of the Secretary of the Interior continuing the management of schools and other municipal institutions for a longer period than would be altogether desirable, providing that the present bill shall be passed. I will say, however, in reply to the gentleman's objection, that the natural pride of the communities in interest is so great that it is impossible to conceive of a condition of that kind obtaining. My judgment is that all of those communities would make haste to perfect their municipal organizations of various kinds. If not, I would suggest that a very simple amendment would cure that provision of the bill. It can be worked out in language something like this: After the word "aforesaid," in section 2, line 21, where it provides for the responsibility of the Federal Government in maintaining the improvements for a period of time, insert this language: "Nor in any event for a longer period than three years." That language will further tend to make each community organize itself into a municipal corporation for town purposes, or into a school district for the handling of school matters.

Mr. TAYLOR of Colorado. Mr. Chairman, I reserve the balance of my time.

Mr. CULLOP. Mr. Chairman, the proposition advanced by the gentleman from Idaho [Mr. FRENCH] is a timely one and is applicable here. It also concedes the vice which we have contended is contained in this bill.

If the bill is left to stand in its present form it will enable scheming individuals in the development of these town sites to exploit the people. It will do more. It will be an inducement to prevent the organization of municipal governments for these town sites after they have been established, and will leave it under the control of the Government to multiply officeholders and to furnish berths for office-seeking individuals.

Mr. FRENCH. Does the gentleman think the amendment I have proposed will meet that situation?

Mr. CULLOP. I think it will tend to meet it, and I think that such an amendment is absolutely necessary. I would gladly vote for such an amendment.

Mr. TAYLOR of Colorado. Will the gentleman yield a moment?

Mr. CULLOP. Yes.

Mr. TAYLOR of Colorado. So far as I am advised, representing the committee I will say that we have not the slightest objection to that amendment. We do not feel that the objection made by the gentleman from Indiana is well founded, but nevertheless we are willing to put in a clause obviating what he fears. We do not think it would ever occur, but we have no objection to the amendment.

Mr. SMITH of Texas. Will the gentleman yield?

Mr. CULLOP. With pleasure.

Mr. SMITH of Texas. Suppose such an amendment as is suggested by the gentleman from Idaho should be adopted. Suppose these municipal improvements of various kinds should be made on one of these town sites before any municipal corporation is organized and the Government should undertake to operate them. Suppose the town did not develop to the degree anticipated and that the revenues derived from the operation of these various works is not sufficient to pay the cost of maintenance and operation. I believe the gentleman will agree with me that in that case the people on the town site would have no disposition to assume the burden of operating these municipal improvements which are not self-sustaining, and so would have no inducement to organize a municipal corporation.

Mr. CULLOP. That is exactly the point I am making.

Mr. SMITH of Texas. And, furthermore, if the Government should be required to give up the operation of these works at a definite date, I think a case can be imagined where the people would not organize into a municipality, and if the Government was prevented from operating these improvements beyond a certain date, there would be nobody to operate them, and they would simply fall into disuse.

Mr. CULLOP. I think the suggestion of the gentleman from Texas is a good one. I wanted to call attention at the time I was interrupted to a matter bearing directly upon that point. As this bill now reads, it would be an inducement to prolong the completion of the public works herein provided for. Not only that, but it would have a tendency to induce the people managing these affairs for the Federal Government to let them out gradually—a sewerage system, after the light plant was completed; a schoolhouse, after the lighting plant and the sewerage system; and so on, for an indefinite period. All that time the municipal government, of whatever character it might be, would be under the management of the Secretary of the Interior at long range, three or four thousand miles away, and subject to the worst kind of abuses. It strikes me that the effect of this bill will be to hand over to individuals a ready-made town. The people there would not build it up, but if the provisions of this bill should be adopted the National Government would build a town for the inhabitants. Now, the reclamation fund was never provided for any such purpose. It was provided for the sole purpose of reclaiming the land for agricultural purposes and increase the productivity of the soil, aiding the farmers of our country, encouraging the people to engage in that important industry, and we should not divert that purpose.

Mr. RAKER. Will the gentleman yield there for a question?

Mr. CULLOP. With pleasure.

Mr. RAKER. In order to get the gentleman's idea of the policy, I want to make a statement and then ask a question. It was shown from the gentlemen appearing before the Committee on Irrigation of Arid Lands that close to the town of Newell is the town of Nisland, a privately owned town, and another town a short distance away by the name of Fruitdale. Newell has over 500 inhabitants, and they claim it is doing nothing. It is a Government town. Nisland and Fruitdale have less than 300 inhabitants, and it is shown that these people have assessable property amounting to $500,000; they have a system of waterworks, good electric lights, and all the facilities, because the people can tax the land. Now, if the Government in the town that they have worked for has made a failure, is it right to put into their hands a further control to handle all the money, when it is shown that there are privately owned towns nearby which are prosperous? Here is a Government town to-day that has made a failure, and is it not going to continue to make a failure if you start out with the idea of the Government building up the municipality?

Mr. CULLOP. It is forcing the building of a town, and that you can not do. Towns must be built up to meet conditions, and you can not force them unless they have those conditions. That has been the history of all boom towns. You can not force the upbuilding of any town which has not the conditions surrounding it to support a town of the size which it is attempted to force on the public. To make the modern improvements alone will not bring population; it is an inducement, that is true.

Mr. BUCHANAN. Will the gentleman yield?

Mr. CULLOP. Certainly.

Mr. BUCHANAN. The gentleman does not think that a public official would undertake to build a town where it was not desired by the people in that locality, does he? I would like to ask if the gentleman does not think that people would be safer in the hands of a Government official who was located at long distance in looking after the best interests of the people than they would be in the hands of real-estate speculators and contractors at a short distance? I believe I would select the Government official at a long distance.

Mr. CULLOP. I would not want to select either. I would want to select the sound judgment of the people in the town who are interested in its welfare and leave the responsibility with them. I would not want the National Government to attempt to build a town for somebody out in a far western State, put upon them improvements that when they come into possession of their property the taxes required to support them would exhaust the value of the property in a very short time.

Now, an inducement of this kind of legislation would be to the contractor to work around and manipulate affairs so as to get contracts and put in an expensive sewer system, an expensive lighting system, an expensive water plant, and expensive school buildings far beyond the requirements of the public in these localities, and would burden it with such expense of maintenance that the people would never feel like organizing and taking it out of the hands of the Government. It would do more to retard the upbuilding of the country than it would to promote it, in my judgment.

Now, such things are not only possible, but they are highly probable; they have occurred and they may occur again. So that the bill as it now stands is open to aggravated abuses, and these abuses are possible and probable both when we come to look at the situation as it really exists.

Now, this is the reclamation fund—and a fund created solely for that purpose—and if diverted from that use to the purpose of building up towns in localities perhaps long before the people

are ready for them is a diversion of its purpose. That is my objection to the bill. The amendment proposed by the gentleman from Idaho, if the bill is to pass, would be a very timely one; but I do not think this bill as it now stands ought to pass. I believe it would prove more injurious than beneficial.

Mr. RAKER. Will the gentleman yield?

Mr. CULLOP. I will.

Mr. RAKER. I watched carefully the proposed amendment of the gentleman from Idaho, and is it not a fact that it makes a limit of three years, and the Government would just get started and about half through its work when you cut off the entire completion of it, and the very limitation would be another condition that would show that it could not be carried out?

Mr. FRENCH. Would the gentleman increase the limitation?

Mr. RAKER. No; I think the private individuals ought to build up the town to suit themselves.

Mr. CULLOP. That is my idea, that the people ought to do this instead of the National Government, and then it will be done as the public requires and demands, but in this way you are building up in advance of the public requirements. That would be the result of this legislation if it should pass. Now if the gentleman from Texas desires time I will yield to him.

Mr. SMITH of Texas. Not just now.

Mr. CULLOP. Then I will yield 10 minutes to the gentleman from California [Mr. RAKER].

Mr. RAKER. Mr. Chairman, in addition to what I have said on this matter this morning, I desire to call the attention of the committee to a further fact which is worthy of consideration. In one of these towns of 160 acres a small piece of the land is sold or laid off, some 4 per cent of it, in the center. The balance of the land is to be sold after the Government builds its jails, its roads, its schoolhouses, its town hall, and all other things, which may be put off in entirely another part of these 640 acres, leaving out those who have been the first purchasers. Their ideas might change as the administration might change.

The main feature of this matter, and one of the things that seems to be more vital than anything else, is that which, to my mind, appears from the hearings in this case. I want to read just a little bit. I read from page 16 of part 1. Mr. MARTIN of South Dakota, speaking before the committee, said:

I am very familiar with these conditions, because right where I live, on this Government town-site tract, the people—because it is a Government town site—can not assess taxes, whereas these other towns right on the railroad and a little nearer market than Newell, although much smaller, are in position to proceed and make their municipal improvements, whereas Newell has so small a per cent of property there that they are not able to turn a wheel.

Now, if you want to build up these towns, if you want to improve them the same as the country that surrounds them is improved—that is, the farming district—comply with the reclamation act and the acts amendatory thereof, and appraise all of the lots in this town site after having platted it, laid off your location for your jail and your public assembly building, and your schoolhouse——

Mr. BUCHANAN. Oh, they do not need any jails out there.

Mr. RAKER. Just give them one for good measure—and all of the streets and byways, and it can then be opened up for bids of those who desire to buy this property, and just as fast as the town is in condition to improve, these lots will be for sale from time to time, and they will enhance in value, and the entire town will be in private ownership. They will then be in a position to assess the land and improve it, and no man will be in a position to hold any quantity of it, because he will be in such a hopeless minority that those living in the town will assess it sufficiently high to induce him to sell off part of it or improve the balance. They will then be able to use the money to improve the town and build up these necessary public improvements as they ought to be built up.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. RAKER. Certainly.

Mr. BUCHANAN. I know the gentleman is well informed in regard to these matters out West, but is it not a fact that the system that has been in vogue has been that real estate speculators got hold of these town sites and put up buildings and improved the town for the purpose of selling the property at a high price?

Mr. RAKER. It is not only true as to Illinois, but it is true of the West. Wherever you go, men are bound to speculate in real estate.

Mr. BUCHANAN. That being the case, the gentleman seems to feel that a public official is going to place a town site where the people in that locality do not want it. I can not conceive of such an idea. He could not succeed in doing it. He must respond to the will of the people in regard to these matters, and it seems to me the people's interest ought to be better off in the hands of a public official than in the hands of real estate speculators.

Mr. RAKER. There are no real estate speculators in it.

Mr. BUCHANAN. I have never seen a town yet where there were not.

Mr. RAKER. Then, the gentleman must place himself in a position to say that no man shall be able to advance the town in which he lives. In other words, after a man goes into one of the western towns, or in the gentleman's town, if he improves the street in front of his place, or fixes up his back alley, if he plants trees, and builds a house and sells it to some one that wants it, at a reasonable price, he is a speculator, according to the gentleman, and the gentleman would prefer that kind of improvement——

Mr. BUCHANAN. I would prefer it; yes.

Mr. RAKER. I am in favor of building up these towns.

Mr. BUCHANAN. I have done those things myself and I know it is the easiest money ever made, but I would stop it.

Mr. RAKER. It can not be possible that the Government is going to take over the policy of building up all your towns, large, small, and intermediate. Is it possible that this great Government is to go out into my State and lay off in one of those desert valleys 160 acres of land and build up a town?

Mr. BUCHANAN. I would say to the gentleman, on the contrary, instead of obstructing the progress of the West I would have the Government do this for the protection of the people's interest, so that the West might progress without the obstruction of real estate sharks and speculators.

Mr. RAKER. Well, that does not apply to the West, so far as building up farm communities where the towns are concerned. It may apply to Chicago and it may apply to the additions there, but it does not apply to the West if we give these men a free hand—the farmers and those who come there from other States and those who desire to become a part and parcel of that community and that town. They are not land sharks; they are not speculators. The farmers are going there to build up the country. Those who live in the towns are merchants, blacksmiths, teachers, and what not. They want to buy a piece of land to live on and build up a home, and because some man sells to them they are not land sharks. But you want to put the Government in a position of doing business, not on the ground but 3,800 miles distant; not that the people need them, but you lay out plans and specifications for an imaginary town, with an imaginary beautiful school house, with its plans and specifications, with its marble front and walks and cement driveways to and from it, with its jail in the same condition, whereas a log jail will do for many years and it will have a deterrent effect upon those who try to break the law instead of a fanciful stone structure with beautiful statuary surrounding it.

The same way with all the other buildings, and you would want to put upon the corners of each street a monument to some individual who may be a part of that country in future years. The people in those western towns do not build them up that way. They build them up as the necessities demand, just as the testimony is before the committee upon this same matter. I will read a portion of it:

The entire land is private land and subject to taxation, whereas here 96 per cent of the land is Government town site. The Government, however, had three towns established under the Belle Fourche project—one Newell; Nisland, a private town, and the other Fruitdale, a private town. Newell has more people than both of the others, attracted to it because it was a Government town site and because of these representations, but the people in the other town sites proceeded to get everything they wanted. They have got their waterworks in Fruitdale, although I do not suppose there are over 100 people living in the town.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RAKER. I would like to have five minutes additional.

Mr. CULLOP. I yield five minutes to the gentleman.

Mr. RAKER (reading)—

But in this town site of Newell we have not any water at all; no means to raise funds for waterworks; they draw it a mile and a half.

Think of that. That is the town site laid out by those who are laying it out in the interest of those who are going to live in the vicinity of this project. They have to haul their water for drinking and washing purposes miles and miles in barrels and leave it standing out in the open, and then they want us to take the money from the reclamation fund and give it for the purpose of building beautiful buildings in these towns, whereas in a little town 4 miles from it, with 100 inhabitants, they have electricity, water supply, good streets, and good school buildings. Now the gentleman says further:

Mr. MARTIN of South Dakota. In a word, an investor looking over those three towns would take this view. He would say, "Here is to be a Government town; they will have every advantage over these other two towns." And the representations in the literature as to what was to be done for the purchasers of lots in the town undoubtedly has had influence to bring these 500 people to this Government town, and put improvements of a half million of dollars on it, as between the other two competing towns. There can not be over 300 people in both of the two other towns, but they have these facilities and con-

veniences of living, good water, and have put in other improvements, bonding their towns for considerable, whereas the Government town-site people appear to be helpless to do anything or to rely upon the Government to help them.

There, right side by side, is shown what can be done if the Government adopts that policy of selling town lots in these reclamation town sites at public auction after they are appraised. Nobody can be injured and the Government gets the best price, and then you are in a position of improving your towns as they ought to be. The policy of the bill is what strikes me. The idea at this day, at this time, with only a few towns involved, for the Government to start into the policy of building up municipalities seems to me beyond the power and function of the Government.

Those acts referred to by my distinguished colleague from Arizona relate to Indian towns.

The CHAIRMAN. The time of the gentleman from California [Mr. RAKER] has expired.

Mr. CULLOP. I yield to the gentleman one minute more.

Mr. RAKER. Now, are you going to compare the building up of these western towns with the handling of town sites and those interested in towns? The Government handles and takes care of the Indians, their money, and their property. Now it is attempting to take care of the people in the West. They do not want it in that way. Furthermore, whatever money has been in any instance allowed, you will find, has been handled and turned over, whatever small per cent it was, to the Government authorities of those towns. And if gentlemen would just call to mind their own local homes, when they were boys, and the building up of their towns, they will remember that burning questions always occurred as to what should be the first improvement, whether it should be the schoolhouse, whether it should be the town hall, whether it should be waterworks, or whether it should be an electric-light system, or some other necessary improvement. But under this bill, under the policy that is intended to be enacted into law by this Congress, these questions are entirely taken from the local authorities; some individual goes into a community or into a town, and for that community fixes their policies contrary to their wishes and their desires.

The CHAIRMAN. The time of the gentleman from California [Mr. RAKER] has expired.

Mr. CULLOP. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Indiana [Mr. CULLOP] has 30 minutes remaining.

Mr. MARTIN of South Dakota. Mr. Chairman, I desire to ask the gentleman from Indiana if he wishes to conclude the balance of his time? I wish to make some concluding remarks in regard to the bill, but wish to make them after the other arguments are all in.

Mr. CULLOP. If the matter stops here now, I do not expect to use it, but the debate may make it such that I will desire to use it.

Mr. TAYLOR of Colorado. I have no further request for time, Mr. Chairman.

Mr. MARTIN of South Dakota. It being my bill, I would like to have the concluding argument, in order to answer the arguments which have been made, and if the gentleman has any desire to use his time, I wish he would do so.

Mr. CULLOP. I have no desire, I will say to the gentleman from South Dakota [Mr. MARTIN], to use any more of it.

Mr. MARTIN of South Dakota. Mr. Chairman, with the indulgence of the committee, I will take a few minutes in making some reference to the arguments pro and con which have been made as to this bill. The debate has continued over so long a period and has been made in such a fragmentary manner that it perhaps has not been satisfactory to Members of the House who are not, from force of circumstances, acquainted with the facts involved. And I would remind Members in that condition that I think, as is usual, doubt can probably be very easily resolved in behalf of the committee which reports this bill favorably.

A committee of 15 considered this matter and had hearings before it, covering some two or three different periods, and a majority of the committee reports in favor of the bill. Indeed, the minority report is signed by only 2 members of the committee of 15, namely, the distinguished chairman and the gentleman from California [Mr. RAKER], whose positions, I am entirely satisfied, are taken with the utmost sincerity. I believe, however, a closer contact with the conditions which make this legislation necessary and cause it to be recommended by the department and by Members who come from these localities would remove the objections in the minds of any who have felt disposed to question the wisdom of the legislation. It is suggested that it is the adoption of a new policy. It is not a new policy. As the gentleman from Arizona [Mr. HAYDEN] has said, the Government has not at any time sought to obtain profit to itself from lands within located town sites, and there is precedent for this legislation in effect in bills we have passed from time to time as to town sites created in Indian reservations when the lands about them are open for settlement.

And as we have been reminded by the remarks of the gentleman from Arizona [Mr. HAYDEN], the Congress has with great uniformity provided that a portion of the proceeds of the lots sold on these Government town sites made from Indian reservations should be used for public utilities, upon the same general plan and system as here proposed. And, indeed, the general town-site law that has been in the statutes of the Government of the United States for many, many years, under which many towns of the West have obtained their titles, was administered by the Government purely and simply for the benefit of the inhabitants of the towns themselves. Lots that were in actual occupancy in such town sites under the general town-site law were set aside to the persons occupying them without any payment for the lot except a proper proportion of the expenses of administration leading to the passage of titles. As to all remaining areas, the general town-site law gives the land to the municipality, and the proceeds are generally used for the benefit of the school fund as such lots are disposed of.

When we started out with the reclamation town-site act the provisions apparently were not given careful consideration as to their effect. We started out contrary to all our precedents in such matters and set aside the entire proceeds from the sale of lots under the reclamation town-site projects for the benefit of the reclamation fund.

This bill simply proposes to give one-half of the proceeds of the sale of the town sites in these reclamation projects for the benefit of public utilities, such as waterworks, streets, lights, and other necessary utilities for the benefit of the town, and when this law is passed, if it becomes a law, it will still place the occupants of Government town sites upon reclamation projects at a disadvantage to the extent of the other one-half as compared with our general town-site law.

I think it is an equitable proposition. The argument that is made against it is based upon unnecessary fear of the working out of this proposed legislation. The gentleman from Texas [Mr. SMITH], the distinguished chairman of the committee, says that it is creating a system of paternalism, to be administered by a bureau chief or a Secretary here in Washington. Well, the charge of paternalism can be made against many of the necessary legislative steps for the proper progress and development of the country, but there is less paternalism in this proposed amendment to the town-site law than there is in the entire reclamation act.

What are the facts there? This whole subject of reclaiming the arid lands of the United States is a piece of paternalism, if we are to measure it by those standards. The Government proceeds and builds these great reclamation projects and puts the Government money into them, amounting to millions of dollars. The Government does the whole service without any compensation to the Government, and simply charges to the settlers under the project the cost of the works when completed. And the Government not only constructs the works, but it absolutely manages them for a period of not less than five years in the interest of the people under the project.

It is paternalism, it is true, if we are captious and insistent upon that idea with respect to legislation; but it has been the means of developing the arid lands of the West in a way that they could not have been developed otherwise. Those works require the interposition of the Nation. The Nation is very much interested in the development of those vast areas of rich land that are naturally without water unless it is brought in artificially; and the progress of the community, the building up of new communities and cities and towns, forming new circles of civilization, is the justification for the Government taking part in these great enterprises.

As to the management of the irrigation projects themselves, the Interior Department absolutely conducts those projects in all of their particulars for the first five years after they are constructed, and only when one-half of the cost is paid for does the management pass to the settlers under the form of water users' associations.

Now, there is much less paternalism in this proposition regarding reclamation town sites. The Secretary of the Interior, having this machinery all about him in the construction of the project generally, is authorized to make the necessary improvements in the town for the public utilities, using only one-half of the money that the town-site occupants themselves put into the Treasury for their lands.

Mr. LINTHICUM. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from South Dakota yield to the gentleman from Maryland?

Mr. MARTIN of South Dakota. I do.

Mr. LINTHICUM. Would not the passage of this bill have the effect of making this land sell for so much more that the Government would not lose anything?

Mr. MARTIN of South Dakota. That is absolutely true. The Government in any event would not get any of this fund. It goes into the reclamation fund for the benefit of the settlers. But the gentleman is right. The Government must take the initial steps for the improvement of these town undoubtedly, and a much higher price would be paid for the land if the improvements are made.

Mr. LINTHICUM. Would it not be improved much better than under the old régime?

Mr. MARTIN of South Dakota. Yes. That is the idea of the Department of the Interior. They claim that they can construct these initial improvements much more economically and under a much better system than is likely to be done in the haphazard way that would apply if the department does not itself start these initial improvements. I think the gentleman's suggestion is right.

And so far as some of these towns are concerned town lots are sold at such a figure as to be very advantageous to the project. For instance, in the town of Newell the land brought $2,000 an acre. Otherwise it would not have brought anything to the reclamation project at all, because it would have been taken by homesteaders under the reclamation act. A small part of the Newell town site was sold to occupants at the rate of $2,000 an acre, and it was upon the expectation that these improvements would be made under the direction of the Interior Department. Under the policy that has been adopted of selling only a small part of the town site at first, this is the only way that these improvements can be made at all. The town site I have referred to has 640 acres in it. Gentlemen differ as to whether the Government ought to throw the whole 640 acres onto the market at once and place it in the hands of speculators away in advance of the time it is needed for occupancy, or whether the Government ought to do what the Interior Department is doing—sell simply the portion needed for occupancy and give the town-site fund the benefit of the appreciation of the other lots as they are needed when the town grows. Whatever may be said by way of fundamental argument on one side or the other, there is no doubt in my mind that the policy of the department of selling only that which is needed for actual improvement from time to time will bring a great deal more out of the future sale of lots than if the whole thing were thrown upon the market at one time. Inevitably the areas not needed for use would fall into the hands of speculators, and the man who came along and wanted a lot would be up against a speculative market, and the speculator would get the profit instead of the farmer. Some one or more gentlemen here, assuming to be solicitous for the farmers, say this bill would operate against the farmers. In no sense. The interest of the community is a common interest.

The farmer is advantaged by having a good town in the center of such a project, where he can obtain his supplies at a minimum of inconvenience, and if he gets one-half the proceeds of the sale of town lots to help reduce the cost of the waterworks that bring to him his water supply, he is evidently favored over any other occupant of public lands. This matter has been up for months since the first hearing. I live out in the general neighborhood of one of these great projects. Other Members from the West live near other projects, and I have heard no suggestion from any farmer or any settler of any objection to this sort of a plan. The equity and justice of it seem to be comprehended by all, and if this were in any sense likely to operate to the disadvantage of settlers and farmers in these communities, do you suppose Members would not have heard of it? Do you suppose the farmers would have been silent all these weeks and months? The objections raised by gentlemen are purely imaginary. The farmer is getting the best of this in any view of the case, and he knows it.

Mr. LOBECK. How far apart are these towns located on the reclamation project?

Mr. MARTIN of South Dakota. Do you mean how far apart are the Government towns?

Mr. LOBECK. Yes.

Mr. MARTIN of South Dakota. As a rule, there is only one Government town on each project. Taking the case of the Belle Fourche project in South Dakota, Newell is the Government town site, located in about the center of the project, which embraces something like 100,000 acres. It is on the railroad. There are other towns, which are not Government towns, located either in the project or right on the edge of it. That affords me an opportunity to illustrate the difference in the condition of the people in the Government towns and the other towns. As is customary, and as would have been the case here if these lands were in private ownership, the other towns are built upon lands owned by private individuals. If the area of the town is a mile square, which it generally is, or about that, of course all of the land within that mile square is subject to taxation.

Consequently these towns simply proceed to issue bonds to build their public utilities, and the whole square mile within the corporate limits is subject to taxation for the payment of the interest and principal of the bonds. In that way these towns can proceed to make the necessary municipal improvements. But when you come to the Government town, only 4 per cent of the 640 acres is sold, and the balance is held by the Government and not subject to taxation. The result is that whatever they have in the way of schools or any other general advantage has to be done by private subscription. I have here a telegram from the people of that town showing that the assessed taxation is less than $600. Now, if the entire town site was passed over to the municipality or private ownership, it would be all subject to taxation; but under the policy of the Interior Department—a wise policy—they are not selling the surplus lands around, but keep them to give the appreciation in value to the reclamation fund and the inhabitants of the town.

Mr. LOBECK. Will the gentleman yield?

Mr. MARTIN of South Dakota. Certainly.

Mr. LOBECK. That would be for the great benefit of the people generally.

Mr. MARTIN of South Dakota. There is no conflict between the settlers and the inhabitants of the town; they are all interested in the preservation of the town-site land, because that is for the general benefit.

Mr. LOBECK. And the improvements would be better.

Mr. MARTIN of South Dakota. Absolutely; and this town of Newell with the disadvantages, with the inability to proceed and make municipal improvements, nevertheless, being a Government town site, is outstripping the other towns in a business way, but is perfectly helpless in the way of public utilities.

Mr. LOBECK. They have to issue bonds that get into the hands of somebody that forecloses, and then they have the burden to bear. In this way the Government is behind it, and the people who live in the towns are not stuck for final payment.

Mr. MARTIN of South Dakota. I think the policy of the Interior Department is a wise one, and I only took the floor in concluding upon our side of this proposition with the desire that no Member might be opposed to this legislation by reason of lack of knowledge of the facts and the real questions involved.

Now, Mr. Chairman, I yield 15 minutes to the gentleman from Maryland [Mr. LINTHICUM].

Mr. LINTHICUM. Mr. Chairman, I do not desire to take up 15 minutes of the time of the House on this bill, but I do feel favorable to the bill, because I believe all such improvements redound not only to the benefit of the town itself but to the entire community. I do not believe this bill would cost the Government of the United States one cent, because I believe the balance of the lots will sell for more than sufficient to make up the difference for the half allowed for improvements; that they would make up in this way enough to pay for all the public improvements and leave the reclamation fund no poorer.

I have had considerable experience in the development of property, and I know that improved streets and other improvements are always an asset to the town, because when you have improved streets you have a better class of development and a better town, and you develop a community worthy of these improvements. I believe if we pass this bill and this money is expended in streets and public buildings that it will make a far better town and not the Government a whole lot more money.

I do not take much stock in the question of paternalism. I found at the last session, when the army worm invaded the South, we made a large appropriation to go down and destroy the army worm or discover how they might be destroyed and what might be done to prevent them. I remember on my father's place, before the Government undertook the appropriation of money for these things, the tomato worm was a terrible thing and a formidable pest. We did not come to the Government at that time, but we got a lot of turkeys and put them into the tomato patches and destroyed the worm. But I believe the policy of the Government to-day to take care of its people and make possible a high order of development is a proper policy. I believe if this bill passes and the money is used in the construction of streets and the building of schoolhouses, a water

system, and a light system, we will build a town as it should be and a credit to the State. When towns start they start in a small way. We do not know how much they will develop, but we know if they start right they are going to develop right, and build into large and creditable towns to benefit the whole country. The assessments will be larger, the tax receipts will be larger, and the Government will be benefited, the State will be benefited, and I for one would like to see the bill pass. [Applause.]

Mr. MARTIN of South Dakota. Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I make the point of order that no quorum is present.

The CHAIRMAN (Mr. WITHERSPOON). The gentleman from Texas makes the point of order that no quorum is present. The Chair will count. [After counting.] Seventy-eight Members are present—not a quorum—and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Adair	Fordney	Legare	Richardson
Akin, N. Y.	Fornes	Lindsay	Riordan
Alexander	Fuller	Littlepage	Rucker, Mo.
Ames	George	Littleton	Sabath
Andrus	Gillett	Lloyd	Scully
Ansberry	Goeke	Longworth	Sells
Anthony	Goldfogle	McCall	Shackleford
Barnhart	Good	McCoy	Sheppard
Berger	Gould	McCreary	Slemp
Burgess	Gregg, Pa.	McGillicuddy	Small
Burke, Pa.	Gregg, Tex.	McGuire, Okla.	Smith, J. M. C.
Burke, Wis.	Hamill	McKellar	Smith, Sami. W
Campbell	Hammond	McMorran	Smith, Cal.
Cantrill	Hardwick	Maher	Smith, N. Y.
Carlin	Hardy	Martin, Colo.	Sparkman
Carter	Harris	Matthews	Speer
Cline	Harrison, N. Y.	Merritt	Stack
Conry	Hart	Moore, Pa.	Stanley
Copley	Hayes	Morrison	Stephens, Nebr.
Crago	Heflin	Needham	Stephens, Miss.
Cravens	Hill	Neeley	Sulloway
Curry	Howell	Nelson	Taylor, Ala.
Daugherty	Hughes, Ga.	Oldfield	Taylor, Ohio
Davis, Minn.	Hughes, W. Va.	Palmer	Thayer
Davis, W. Va.	Hull	Patten, N. Y.	Tilson
Dixon, Ind.	James	Pepper	Underwood
Doremus	Johnson, Ky.	Peters	Volstead
Ellerbe	Johnson, S. C.	Post	Vreeland
Estopinal	Kahn	Pou	Weeks
Fairchild	Kinkead, N. J.	Prouty	Whitacre
Farr	Kitchin	Pujo	Wilder
Fergusson	Knowland	Rainey	Wilson, Ill.
Fields	Konig	Randell, Tex.	Wilson, N. Y.
Floyd, Ark.	Lafferty	Redfield	Woods, Iowa
Focht	Langham	Reyburn	

The committee rose; and Mr. FITZGERALD having assumed the chair as Speaker pro tempore, Mr. FOSTER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee finding itself without a quorum, he had directed the roll to be called, that 244 members answered to their names, a quorum, and he reported the names of the absentees.

The committee resumed its session.

The CHAIRMAN. The Clerk will read.

The Clerk proceeded to read.

Mr. SMITH of Texas (interrupting the reading). Mr. Chairman, if I am in order at this time, I move to amend by striking out the enacting clause of the bill.

The CHAIRMAN. The Chair will state to the gentleman from Texas that amendment is not in order until after the first section of the bill has been read.

The Clerk read as follows:

Be it enacted, etc., That one-half the net proceeds heretofore received from the sale of town lots in towns within or in the vicinity of reclamation projects, sold under the provisions of the acts of April 16, 1906, and June 27, 1906 (34 Stat. L., 116, 619), and acts amendatory thereof and supplementary thereto, and one-half the net proceeds hereafter received from such sales shall be, and the same are hereby reserved, set aside, and appropriated as a special fund in the Treasury, to be known as the reclamation town-site fund, to be used in the construction, maintenance, and operation of schoolhouses, water and sewer systems, and other municipal improvements in the towns where lots have been or shall be sold as aforesaid. And the aforesaid one-half of the net proceeds heretofore received from such sales shall be forthwith transferred from the reclamation fund to the reclamation town-site fund hereby created.

Mr. SMITH of Texas. Mr. Chairman, I move to amend by striking out the enacting clause of the bill.

The Clerk read as follows:

Amend by striking out the enacting clause.

Mr. SMITH of Texas. Mr. Chairman, when this bill was pending before the House on a former day of this session, I discussed it at some length. I do not know that I can say much more now than I said at that time. I believe that if the bill is properly understood by the membership of the House the amendment which I have offered will be adopted, so convinced am I that the bill ought not to pass. The bill provides that when the Government lays out a town site in connection with a reclamation project, surveys and subdivides it, and sells the lots, it shall take one-half of the proceeds of the sale of the lots and donate those proceeds back to the purchasers of the town lots by constructing municipal improvements in the town, without any contribution whatsoever from the purchasers of the lots or the settlers of the town.

Under this bill the purchasers who buy lots receive the full benefit of their purchase. In other words, they have got value received by getting the lots, as the lots are worth the money. This bill provides that one-half of the money shall be returned in the way of municipal improvement, the money which under the present law is credited to the benefit of the farmers who improve the land under the reclamation project.

The bill is broad enough to cover all sorts of municipal improvements—schoolhouses, water, light, sewers, streets, sidewalks, and street cars if necessary—and it is without any limitation on the power of the Secretary of the Interior to do that except by the amount of money that may be available for the purpose. Not only that, but it provides that after these various works are constructed that the Secretary of the Interior shall maintain and operate them; that they may be constructed before there is any municipal government organized, and it provides that the Government shall operate and maintain them until the municipality is organized, and not longer than two years thereafter; and I submit in cases where the burden of doing this is heavy that the people, if left to their own choice, as is done under this bill, will never see fit to organize a municipal government, and therefore the Government of the United States will have to operate them for an indefinite time. But gentlemen say that if these works are constructed by the Government the Government will be out nothing; that it will enhance the lots which may be unsold belonging to the Government. Gentlemen, that is the merest sort of speculation. It may or it may not enhance the value of the remaining lots, and this is a proposition here to put the Government in the same attitude as the town lots and the town-site boosters of the country, to speculate upon the advance in value of the town sites. Now, Mr. Chairman, it seems to me that this is a new departure. It proposes to establish a new policy for this Government; and I want to ask gentlemen here why it is that these towns are not permitted and required to grow up in response to the business done as other towns are required to grow up? I take the position that the town with sufficient business and wealth and progress will construct its own municipal improvements——

Mr. LINTHICUM. Will the gentleman yield?

Mr. SMITH of Texas (continuing). And if it has not the population and wealth and business to authorize the construction of municipal improvements, then they ought not to be made. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. LINTHICUM. Mr. Chairman, I ask unanimous consent that the gentleman from Texas be allowed five minutes. I desire to ask him a question.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland that the time of the gentleman from Texas be extended for five minutes? [After a pause.] The Chair hears no objection.

Mr. LINTHICUM. I would like to ask the gentleman how these people are to get the public improvements in a township like that of Newell, for instance, where only 4 per cent of the lands are to be sold and the balance are still owned by the Government and not subject to taxation?

Mr. SMITH of Texas. I will say to the gentleman if there is any demand there by the growth of the town that these lots should be sold, there will be purchasers for them just as there are everywhere else, and if there is not such a demand then there is no reason to construct these improvements.

Mr. LINTHICUM. Does not the gentleman believe, though, by the construction of these improvements that the town will grow faster and be a better town than it would be without these improvements?

Mr. SMITH of Texas. I do not. I believe the towns are built up by the business that is furnished by the surrounding country and not by the construction of useless municipal improvements, and that is illustrated all over this country.

Mr. TALCOTT of New York. I would like to ask the gentleman from Texas if it is not a fact that out of these 32 township sites the larger number are not occupied at all?

Mr. SMITH of Texas. I think that is the fact.

Mr. TALCOTT of New York. Only 10 of them?

Mr. SMITH of Texas. That is the fact, and yet this bill proposes to authorize the Government to construct municipal improvements in every one of them where the Government is receiving any money.

Mr. TAYLOR of Colorado. Mr. Chairman, it seems to me it is a violent assumption to assume that the Government of the United States is going to uselessly expend the money of the people in the construction of municipal improvements. It seems to me that we can trust the Reclamation Service to only build such improvements upon these town sites as are needed by the people, and when the money to construct these improvements is paid by the people themselves, drawn by the Government out of the inhabitants of this land and put in the reclamation fund, it seems to me there can be no more legitimate expenditure of that money than to devote it to municipal improvements in the way of streets, sewers, and other necessary improvements for the upbuilding of those towns. The very reason that there are 30 town sites and 31 reclamation projects throughout this country and there are only very few towns that are to-day amounting to anything is because there is no money with which to build those towns. And it further seems to me that when the Reclamation Service of the United States had gone over this matter exhaustively, and where every one of us gentlemen from those States affected are here agreeing to this bill, and when the Irrigation Committee reports this bill out with only two dissenting members, it would seem to me that when there is no voice of protest from any one State in the Union that has one of these town sites affected by this bill, that we ought to pay some attention to the wishes, the welfare, and the judgment of the Interior Department and the people who are affected directly by this legislation.

We feel that the House ought, as a matter of justice to the upbuilding of these municipalities in the West, to consider our welfare and our wishes. We thrashed this out for three hours the other day and for three hours to-day, and it would seem this motion now to strike out the enacting clause ought certainly to be voted down in the interests of the development of these 32 irrigation projects throughout the West. Nobody appears here showing that there is any objection from anybody who knows anything personally about this legislation. The opposition is theoretical and speculative. The gentleman from Indiana [Mr. CULLOP] says they might never incorporate. We are perfectly willing to make them incorporate or not get the benefit of this act. That objection does not apply. As a matter of fact, the American people will incorporate whenever they get an opportunity. I feel that the objections that have been thus far made are speculative, visionary, and theoretical, and do not come from the people who have the personal knowledge of and the personal welfare of the inhabitants at stake. Therefore I hope that this motion will be voted down.

Mr. RAKER. Mr. Chairman, I move to strike out the last two words.

I wish to call the committee's attention really to the proposition that there are 30 town sites in these 32 projects. Up to date there are only 2 in the State of Idaho; in Montana, 6 towns; South Dakota, 1; Wyoming, 1; and in all the other western public-land States there is not a town site on which there has been an acre of land sold or a lot or a plat of the town made to-day. And as far as the western land States are concerned, there are only these four States, and when you read the record here you will find they are not demanded. It is a speculative idea that these town sites will be a benefit to the community, when you find there are within 4 miles of this town of Newell two prosperous towns, with electric-light and water systems, and in the town of Newell, a Government project up on the hill, they are without water, except where they draw it. It is a question of whether this Government ought to enter into the policy of building up town sites in advance of inhabitants. Ought they to go out there and build town halls, town eating places, waterworks, electric-light systems, and all other improvements, without any inhabitants in the town or in the surrounding country getting the benefit? That is the question involved here and not the question that those individuals will build it up. In every place in the West where you find the town lots under private ownership, so that they may be taxed, you will find the towns are prospering, electric-light and power plants and all other necessary buildings are being built, and just as fast as the demand of that community may warrant.

I want to call your attention to section 2 of the bill.

Mr. LOBECK. What is the mortgage on these prosperous towns?

Mr. RAKER. It will be a mortgage indebtedness if you take the fund from the reclamation project that should be used to irrigate these arid lands for the purpose of building up an ideal, imaginary town, that the people can not afford to assume and pay the price that will be assessed.

In regard to the bill, section 2 says:

That the Secretary of the Interior may, in his discretion, from time to time, expend, or cause to be expended, from said reclamation townsite fund, for the construction, maintenance, and operation of schoolhouses—

He may operate schoolhouses, employ teachers, and run the business of schools in these towns—

water, light, and sewer systems, and other school and municipal improvements in each of such town sites—

Every conceivable municipal improvement could be built and maintained. And I want to call your attention further to this fact:

The buildings and works so constructed may, in the discretion of the Secretary of the Interior, be operated and maintained by him or under his authority, and the expense thereof paid from the reclamation townsite fund, pending the organization of a municipal corporation or school district qualified to operate and maintain the same, and upon the organization of such municipal corporation or school district the Secretary of the Interior may transfer to such corporation or school district the said buildings or work.

In other words, under this bill the Secretary of the Interior, notwithstanding the organization of the municipal corporation, may continue forever, in his discretion, not only to build but to operate and run schoolhouses, city jails, city waterworks——

Mr. MONDELL. Will the gentleman yield for a question?

Mr. RAKER. He may maintain city electric-lighting privileges——

The CHAIRMAN. The time of the gentleman from California [Mr. RAKER] has expired.

Mr. RAKER. Mr. Chairman, I ask unanimous consent for one more minute.

The CHAIRMAN. The gentleman from California asks unanimous consent for one minute more. Is there objection? [After a pause.] The Chair hears none.

Mr. MONDELL. Assuming that there is any foundation for the gentleman's recent criticism of the bill, will the gentleman vote for the bill if the amendment offered by him to meet that objection is carried?

Mr. RAKER. Well, I will answer the question of the gentleman from Wyoming. The fundamental principle——

Mr. MONDELL. The gentleman is against the bill——

Mr. RAKER (continuing). Is such that the Government ought not to go into the business not only of building, but of operating municipalities where there is not a sufficient number of people in the surrounding country to build it up and maintain it as it ought to be built up and maintained. [Applause.]

Mr. MONDELL. Then the gentleman's objections are not those that he voices, but other objections?

Mr. RAKER. My objection applies to the bill all through. I have mentioned only a few of my objections to things that appear in this bill. Why should the National Congress enter upon the policy of building and operating municipalities?

The CHAIRMAN. The time of the gentleman has expired.

Mr. LINTHICUM. Mr. Chairman, I move to strike out the last two words.

The CHAIRMAN. That is not in order. The last two words have been stricken out.

Mr. LINTHICUM. Then I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. LINTHICUM. Mr. Chairman, I hope the amendment will not prevail. I can see no objection to the bill whatever.

The gentleman from California [Mr. RAKER] lays great stress on the fact that the Secretary of the Interior may expend money for all manner of things. The Secretary can not expend more than one-half of what is received from the lots that are sold, and, judging from what the Secretary says, he does not think there will be many lots sold, so that there will not be much money to spend. But, in any event, he can not expend more than one-half of what he receives from the lots that are sold.

The gentleman from California speaks of a town within 4 miles which has electric lights and water, and so forth, but the gentleman does not tell us what the mortgage indebtedness is upon that town 4 miles away. The fact is that in the town of Newell only 4 per cent of the lots can be sold, and therefore a public bond issue can not be made, because you can not tax the other 96 per cent of those lots to secure the bond issue, because they belong to the National Government and are not taxable.

Mr. RAKER. Mr. Chairman, will the gentleman yield right there?

The CHAIRMAN. Does the gentleman yield?

Mr. LINTHICUM. Yes; certainly.

Mr. RAKER. Is it not a sufficient answer, if the statement of the gentleman from Maryland is correct, that only 4 per cent can be sold—is it not conclusive evidence that the Government ought not to go into the building up of that town away out there and sell only 4 per cent of 40 acres?

Mr. LINTHICUM. I think it is incumbent upon the Government to develop as fine a town there as can be developed. I think it is the duty of the Government to go in and help those

people in this way. It is not only an economic question, but also a practical business question, because I know, and every man who has dealt in real estate knows, that when you improve property by a good system of streets and a good lighting system and good schoolhouses you are doubling the value of the land you are offering for sale.

Mr. SMITH of Texas. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Maryland yield to the gentleman from Texas?

Mr. LINTHICUM. Yes.

Mr. SMITH of Texas. Does not the gentleman think it would be more equitable for the advocates of this bill to come in here and propose that the Government shall contribute its share of the taxes within this municipality for these purposes? The gentleman says that these unsold town lots can not be taxed, and yet he and those who believe with him are coming here and asking that the Government shall devote the whole amount for these improvements.

Mr. LINTHICUM. The fact is that the Government does not pay taxes nor collect land taxes, and therefore that could not be put into effect.

Mr. SMITH of Texas. An act of Congress can be passed to that effect.

Mr. LINTHICUM. Will the gentleman support such a bill if the Government can do that and agrees to do it?

Mr. SMITH of Texas. I will support a bill providing that the Government shall contribute a proportional part for these improvements.

Mr. LINTHICUM. Then, the gentleman talks about paternalism and talks about the Government contributing money to do this thing, when these people only ask for half of the money that the people themselves pay for the lots. What is the difference between paying money from the Treasury to do this work and taking the money from the lots that are sold and doing the work with that? There is not an old city in this country that has not suffered and is not suffering to-day from the fact, and that has not expended millions of dollars to rectify the fact, that the town was not begun aright.

Mr. EDWARDS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from Maryland has expired.

Mr. BORLAND. Mr. Chairman, I ask that the gentleman from Maryland have five minutes more.

The CHAIRMAN. The gentleman from Missouri [Mr. BORLAND] asks unanimous consent that the gentleman from Maryland [Mr. LINTHICUM] proceed for five minutes more. Is there objection?

Mr. CANNON. Mr. Chairman, I shall not object; but at the end of that five minutes I will demand the regular order.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. LINTHICUM. Mr. Chairman, as I only have five minutes, I must decline further interruptions. As I say, there is not a large city in this country that is not suffering to-day from the fact that it was not begun aright; that it was not laid out by engineers and public improvements provided for. Take my own city of Baltimore. We are expending $20,000,000, and it may run to $30,000,000, in the construction of sewers. Why? Because we are compelled to tear up splendid improved streets to put down that sewerage system. If we had started out properly we would not be expending these millions to-day.

Mr. RAKER. Will the gentleman yield for a question?

Mr. LINTHICUM. Yes.

Mr. RAKER. Is it not a fact that the testimony before the committee shows that in none of these places have the department laid out a town site? They have selected 10 or 12 acres without any regard to the laying out of the rest of the town site with any regard to roads, streets, sewers, public parks, or otherwise.

Mr. MARTIN of South Dakota. Will the gentleman permit me?

Mr. LINTHICUM. Certainly.

Mr. MARTIN of South Dakota. It is certainly a very loose statement of the evidence to say that the department has laid out these towns without any system. Quite the reverse is true. They have sold only a part of the lots, but the part that they have sold has due reference to the entire town site which the engineers have selected. Being entirely familiar with the testimony, I take the liberty of answering the gentleman's statement.

Mr. MONDELL. Will the gentleman yield?

Mr. LINTHICUM. I will yield if the House will extend my time, but I have only a very little more time.

Mr. CANNON. At the end of the five minutes I shall demand the regular order.

Mr. LINTHICUM. Then I can not yield.

The CHAIRMAN. The gentleman declines to yield.

Mr. LINTHICUM. I was saying that if this town is started properly, and if the Government is allowed to expend half its receipts from the sale of these lots in the improvement of the town, then we will have a town worth while. If, however, you leave it to the building of houses alongside of roads, you can not issue bonds for improvements, because you can not secure the bonds that you might issue, for the reason that the Government owns all the property, and you are going to have a town that is not worth while. Now I will yield to the gentleman from Georgia [Mr. EDWARDS].

Mr. EDWARDS. The proposition in this bill is to donate one-half of the amount that the land sells for for the purpose of improving the town. Would it not be better for the Government in the first place just to give the people half the lots, donating each alternate lot, and say, "Now, you go ahead and make these improvements and relieve the Government from further responsibility"?

Mr. LINTHICUM. That might work well if you owned all the property, but the fact is that the Government still has 96 per cent of it, which you can not tax. Therefore you can not issue any bonds to construct these public improvements. That is something which must be done by the city. No individual is going to improve the property in front of his few lots when the next individual will not improve his. You can not build a lighting system unless you have the whole town back of you with a fund, secured by bonds or otherwise. You must have it done by a bond issue, and in this case you can not have it done in that way because the Government owns the property and pays no taxes. Therefore you must do it in this way, by taking a part of the proceeds derived from the sale of lots.

Mr. MONDELL. Will the gentleman yield for a question?

Mr. LINTHICUM. Certainly.

Mr. MONDELL. The gentleman from Texas [Mr. SMITH] asked the gentleman from Maryland a question a moment ago which indicates that he still harbors the idea that the Government is asked to make some contribution toward the building of these town-site improvements. Is it not a fact that the Government makes no contribution whatever, but simply uses 50 per cent of the proceeds of the sale of lots?

Mr. LINTHICUM. The bill provides that they shall use 50 per cent of the proceeds of the sales of these lots, and you can not expend more than that one-half of those proceeds.

Mr. MONDELL. But the gentleman from Texas [Mr. SMITH] continues to refer to that as a contribution by the Government. The Government contributes nothing.

Mr. LINTHICUM. I think the Government will benefit by this system, because when it is an assured fact that the property is going to be improved by the construction of these schoolhouses and these lighting and sewerage systems I think the lots will sell for more than double what they now sell for, and not only does the Government not pay anything, but the reclamation fund will not be lessened.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LINTHICUM. I ask unanimous consent to revise and extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Maryland asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. BOEHNE. Mr. Chairman——

Mr. CANNON. I demand the regular order.

The CHAIRMAN. The gentleman from Illinois demands the regular order, which is the amendment of the gentleman from Texas [Mr. SMITH].

The question was taken; and on a division (demanded by Mr. SMITH of Texas) there were 52 ayes and 72 noes.

Mr. SMITH of Texas. Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. SMITH of Texas and Mr. TAYLOR of Colorado.

The committee again divided; and the tellers reported that there were 47 ayes and 75 noes.

So the amendment was rejected.

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Page 1, line 3, after the word "heretofore," insert the words "or hereafter."

The amendment was agreed to.

The Clerk read as follows:

Page 1, strike out all of line 4 after the word "in"; strike out lines 5, 6, 7, 8, and on page 2 lines 1, 2, 3, and line 4 to and including the word "same"; and in line 4 insert "reclamation town sites."

The amendment was agreed to.

The Clerk read as follows:

Page 2, line 8, insert after the word "water" the word "light" and a comma.

The amendment was agreed to.

The Clerk read as follows:

Page 2, line 8, insert after the word "other" the words "school and."

The amendment was agreed to.

The Clerk read as follows:

Page 2, line 10, insert after the word "aforesaid" the words "in proportion to the amounts received from each of the said towns, respectively."

The amendment was agreed to.

Mr. FERRIS. Mr. Chairman, is this paragraph, section 1, open to amendment?

The CHAIRMAN. It is.

Mr. FERRIS. I would like to ask the gentleman in charge of the bill a question. What is the theory on which the 50 per cent of the total town-site sales is given to the local community for public improvement purposes? Is not this a much larger sum than we have given before to any local community out of the proceeds of any sale of Indian lands, let alone taking from the reclamation fund?

Mr. TAYLOR of Colorado. I may say that the Reclamation Service, the people under the various reclamation projects, have been considering this matter for several years, and they have come to a mutual agreement that that is a fair proportion of the proceeds. There is no objection to that amount made by either the farmers, the homesteaders under the project, or the inhabitants of the town, or the Reclamation Service. It is a compromise arbitrary amount.

Mr. FERRIS. Does not this reduce the total amount of the reclamation fund just the amount that you expend in these local communities?

Mr. TAYLOR of Colorado. It reduces that amount of money being spent on further construction, or something of that kind, but it is deemed that it is more important that this small amount should be expended toward the municipal improvements than otherwise. The attention of the House was called to that fact by the gentleman from Arizona [Mr. HAYDEN], that out of $60,000,000 that has been received from the reclamation fund there is only $200,000 received from the sale of town sites, so that this is to that extent a comparatively small sum. But let me say to the gentleman that in reality it increases the receipts that go to the development of these projects.

Mr. FERRIS. Mr. Chairman, I think that this bill ought undoubtedly to be amended or defeated altogether, for two well-defined reasons. In the first place, in the sale of the Indian town sites on Indian lands the largest per cent I ever heard of being given to the local community was 20 per cent—that is, in dealing with Indian lands. I think the reclamation fund is even a more sacred fund than that. Each of the several States has contributed to the reclamation fund and undoubtedly have an interest in the total fund. Until the act of 1910 was passed, which partially swept that away, each State had its individual direct interest in the amount contributed.

Now, it seems to me that, while this may not be a heavy drain on the fund, I am advised by somebody—I think the gentleman from Arizona—that it was $110,000, and a half would only be about $50,000. But if we begin to carve out of the fund that ought to be sacred the amount of $50,000 to-day and $50,000 to-morrow, in the last analysis that fund will be dissipated and destroyed.

Mr. SMITH of Texas. Has the gentleman offered an amendment?

Mr. FERRIS. I will do so at the proper time. It occurs to me that every man in this House ought to at least try to follow the spirit of that law. The spirit of the reclamation act undoubtedly was that every cent expended for this purpose should be brought back to this fund, and if we begin to divert it here and divert it there it will not be very long until there will be no reclamation fund, and we can all then point to the errors that we have made.

Mr. Chairman, has a motion been voted on to strike out the enacting clause?

The CHAIRMAN. Yes; it has.

Mr. FERRIS. Mr. Chairman, I move to strike out "one-half" and insert in lieu thereof "5 per cent."

I would say, in this connection, that I would strike it all out if I could, but I take it that that would not be in order.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Oklahoma.

The Clerk read as follows:

Amend, page 2, line 12, by striking out the words "one-half" and inserting in lieu thereof the words "5 per cent."

Mr. MANN. Mr. Chairman, I move to amend the amendment by inserting 30 per cent.

Mr. FERRIS. Mr. Chairman, would not the gentleman make it 20 per cent, so that it would at least be uniform with the Indian legislation upon the subject? The largest amount that has ever been given of these proceeds has been 20 per cent.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend the amendment by substituting for "5 per cent" "30 per cent."

Mr. MANN. Mr. Chairman, it seems to me that one-half, 50 per cent, is rather a large amount to take for these improvements. On the other hand, I am inclined to think that 20 per cent, as provided in the Indian bills, is not quite enough in these reclamation projects. I do not care to discuss the matter at any length. It occurs to me that somewhere below 50 per cent and above 20 per cent would be right, and I have suggested 30 per cent, which comes near to being one-third. Whether that amount prevails or not, I propose to offer another amendment to strike out "maintenance and operation," so that the bill will provide only for the construction of these improvements.

Mr. MONDELL. Mr. Chairman, there have been some very remarkable developments in the discussion of this bill. First, the chairman of the committee in opposition to it, in writing his report, stated that the funds proposed to be used for the improvement of the town sites were to come out of the Treasury of the United States. He has discovered his error during the debate.

Mr. SMITH of Texas. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. I will not.

Mr. SMITH of Texas. I do not want the gentleman to misstate my position.

Mr. MONDELL. I yield to the gentleman.

Mr. SMITH of Texas. Where does this money go when the town lots are sold and the proceeds are received?

Mr. MONDELL. When the town lots are sold, as the gentleman knows, under the present law the proceeds go into the reclamation fund to the credit of the project. Not a penny of it ever becomes Government money, not a penny of it goes into the Treasury of the United States to remain there.

Mr. SMITH of Texas. Where is the reclamation fund that it goes into? Is it not in the Treasury of the United States? The gentleman can not dispute that.

Mr. MONDELL. Oh, I suppose if these moneys were paid in silver dollars as a physical fact they might be put into the Treasury of the United States; and if that is what the gentleman is basing his argument upon let the House understand it, that while this money never belonged to the Government, and never could belong to the Government, yet, because of the physical fact that some silver dollars might be placed in the Treasury, the gentleman from Texas asks you to vote against the bill. If that is all there is to the gentleman's argument it does not count for much.

Mr. PADGETT. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. I can not yield at this moment. That error has been disposed of. Now comes the gentleman from Oklahoma [Mr. FERRIS], who has been unfortunate in not being here during the discussion, and he plunges headlong into the same error, out of which we have finally pulled the gentleman from Texas. He does not want the reclamation fund dissipated. He wants to save it to build some reclamation projects in Oklahoma, and not having heard the debate, not knowing the facts or understanding the law, he imagines that we are proposing now to take some moneys out of the reclamation funds.

Mr. FERRIS. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Yes.

Mr. FERRIS. The gentleman recites the fact that we are expecting to have some of the fund expended in Oklahoma. I call his attention to the fact that we have contributed six and one-half million dollars to the fund and have had nothing, so it would not be absurd if we did hope to get something after a while.

Mr. MONDELL. Not at all; the gentleman will have just as much in Oklahoma, and there will be just as much in the reclamation fund without regard to whether this bill passes or not, because the moneys received from the sale of town lots are a credit to the people of the community, and all there is in this bill is the proposition whether you shall give it to all the people in the community in the towns and country or shall you give to the people of the country alone the benefit. That is all there is in the legislation.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. FERRIS. Mr. Chairman—— [Cries of "Regular order!"] I wish to oppose the amendment of the gentleman from Wyoming.

Mr. MANN. Agree to it.

Mr. FERRIS. Not at all. I do not intend to agree at any time, now or in the future, to vote for any provision in any law in this House anywhere that will take any part of the reclamation fund out and divert it for any other purpose. Now, we did not issue $20,000,000 of bonds a year or two ago for the purpose of letting Tom, Dick, and Harry build bridges and schoolhouses and build waterworks and local plants for local communities, so that the money would never come back into this fund——

Mr. MANN. Will the gentleman yield for a question?

Mr. FERRIS. I will.

Mr. MANN. In the Indian bills which we have passed, which come from the gentleman's committee, which proposed to use 20 per cent of the sale of town lots where towns are laid out in the Indian reservations, for local improvements, does the gentleman consider that is robbing the Indians of that much, or that it comes back in the increased sale of the lots?

Mr. FERRIS. The gentleman's question is entirely pertinent, and the committee has considered precisely that phase of it to which the gentleman referred, and the theory of the committee has been this, that by giving 20 per cent to the local community it would encourage the people to bid a larger amount for the lots, so that in the last analysis perhaps the Indians would not lose anything, but let me call attention to the difference in this case. These town lots have already been sold——

Mr. MARTIN of South Dakota. Oh, no; a very small proportion.

Mr. FERRIS. What per cent?

Mr. MARTIN of South Dakota. Not over 2 per cent of the lots have been sold under the entire project.

Mr. FERRIS. They have already been appraised, have they not?

Mr. MARTIN of South Dakota. A very limited appraisement so far.

Mr. FERRIS. They are almost all appraised or the prices fixed. This appraisement, of course, was made not knowing of any such provision, hence in the face of this legislation it would be an unwise appraisement and really would not represent the value of the lots.

Mr. MARTIN of South Dakota. Only in 10 towns out of 30 have lots been sold at all.

Mr. FERRIS. May I inquire of the gentleman how many will be sold by competitive bid and how many will be sold at a fixed price?

Mr. MARTIN of South Dakota. They are all sold upon the condition that they must bring as much as the appraisement. They are all sold upon competitive bid, and the minimum must be the appraised value. They can not be sold for less.

Mr. FERRIS. I am asking purely as a matter of information. Is it or is it not the fact that these town sites on a reclamation project are sold to the highest bidder as we do anything else?

Mr. MARTIN of South Dakota. Yes.

Mr. FERRIS. And that is true in every case?

Mr. MARTIN of South Dakota. Absolutely.

Mr. MANN. I will say to the gentleman that statement was made here and not contradicted before. The lots that were sold were sold by competitive bids. That was the statement made here the other day that that was the policy of the department.

Mr. FERRIS. Does not the gentleman think, so far as the lots that have already been sold, the theory of getting the bidders to bid more by reason of local improvements that are being constructed would be inoperative so far as those lots that are sold are concerned?

Mr. MANN. If the gentleman had happened to have heard the remarks I made on this subject the other day——

Mr. FERRIS. I regret no little I did not hear them——

Mr. MANN (continuing). I called attention to that very thing.

Mr. MARTIN of South Dakota. Will the gentleman permit me?

Mr. FERRIS. I have only a moment's time—go ahead.

Mr. MARTIN of South Dakota. The gentleman unfortunately was not here when the debate was on. As to the town of Newell the sales were made under representations that the money would be used for betterments, and the lands brought something like $2,000 an acre under those circumstances.

Mr. FERRIS. Who had the right to make those representations?

Mr. MARTIN of South Dakota. They did that through some authorization——

The CHAIRMAN. The time of the gentleman has expired.

Mr. FERRIS. If I can proceed for five minutes more—I did not get the use of any of this time.

The CHAIRMAN. The gentleman from Oklahoma asks unanimous consent to proceed for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. FERRIS. I again repeat that I am opposed to the use of one penny of this money for any local purpose at any time or at any place, but if any amendment should be adopted at all—which, in my judgment, would be wrong—it ought not to exceed 20 per cent. There is no theory by which you can take more than that, and the theory is quite a poor one to take 20 per cent of it. I again repeat that the act of 1892, the reclamation act, was express in its terms that every cent of that money should be paid back to the Federal Government to build other reclamation projects. It is a revolving fund and no one ought to consent to let one cent of it get entirely away.

Let me call your attention to the inequality of such a proceeding as this. We will suppose Wyoming has four million to her credit and Oklahoma has six and one-half million dollars; even these large amounts will not irrigate scarcely any per cent at all of the lands to be irrigated in those States. What is the result? We irrigate for Mr. A to-day. Why? Because on the theory that on to-morrow he will pay back every penny, and we will irrigate for B to-morrow, and we will irrigate for him on the theory that he will pay back this fund, and we can irrigate for C. But if you begin to allow this fund to be used for public improvements—for schoolhouses, jails, paved streets, and to dig sanitary sewers—in a short time you will have a few people who have had their lands irrigated and you will have millions of acres of homesteaders' lands that can have no irrigation and who can raise nothing without irrigation. This will be a condition that no one will cherish, that all will be sorry for.

Mr. PADGETT. And what about the repayment of the bonds that are issued?

Mr. FERRIS. And the Federal Government will necessarily hold the sack on the $20,000,000 that is issued. I hope the amendment of the gentleman from Illinois [Mr. MANN] will be voted down.

Mr. MONDELL. Mr. Chairman, the gentleman from Oklahoma [Mr. FERRIS] is basing his opposition to this legislation entirely on a misunderstanding of fact. He is opposed to it because he fancies in some way the passage of this legislation will decrease or shorten the amount of the reclamation fund, when, as a matter of fact, it can have no such effect. The funds from the proceeds of these town lots now go to the project as a credit, and all that is proposed in this bill is to give a part of the credit to the people who live in the towns and a part to the people in the country. It does not shorten the reclamation fund one penny.

The gentleman from Oklahoma endeavors to draw an analogy between these towns and the Indian towns. In that case the Indian is the proprietor. He owns the land. The money is his. We take from him by main force 20 per cent of it and use it for the improvement of the town.

In the case before us these moneys are the property of the people of the community, and the question simply is whether we shall divide it equally in the community or unequally, as at present, and there can be no parallel drawn between these town sites and the town sites on Indian reservations. If it is proper to take from the Indian proprietor, without giving him any direct return, 20 per cent of that which is his, on the theory that you may increase the value of the balance, it is certainly proper that these funds which belong to all the people, their credit on the project, shall be equitably distributed—one-half to those living in the towns, who must support largely the schools for the entire surrounding territory, and one-half to the farmer in the surrounding region.

Mr. FERRIS. How can the gentleman advocate a theory that will not use the same discretion and the same judgment and the same economy for the Federal Government that is used for the Indian?

Mr. MONDELL. Again the gentleman falls into the slough that we are trying to pull him out of. The Federal Government has not any interest in these moneys. No part of them now belong to the Federal Government. It is a credit to the people in the project.

Mr. GARNER. Why on earth do you have to come to Congress to get permission to do this?

Mr. MONDELL. Again, another Texas gentleman falls into a pit-hole of error.

Mr. GARNER. From what I can understand from the gentleman from Wyoming, he is in that pit and he can not see anything else but that everybody else is in the same pit.

Mr. MONDELL. We have the gentleman's colleague [Mr. SMITH of Texas] now opposing the bill on diametrically different grounds from those on which he started to oppose it. We have gotten that far along, and we will have the same from the other gentleman from Texas [Mr. GARNER] if he will give us time. It is a good thing to know about the facts in a case before arguing.

Mr. SMITH of Texas. You say that this money arising from the sale of town lots belongs to the people of the community?

Mr. MONDELL. It goes to the project owners as a credit; yes.

Mr. SMITH of Texas. Every dollar of it goes back to the Federal Government, and the Federal Government is the ultimate owner of it.

Mr. MONDELL. Oh, yes; the gentleman now rings on us——

Mr. SMITH of Texas. And the gentleman proposes to divert it to a purpose where it will stay and never come back to the Government.

Mr. MONDELL. The gentleman rings on us the physical fact that the Government does have the dollars, and that the dollars as a physical fact might go into the United States Treasury. But as a legal fact, as a real proposition, no part of it now belongs to the Federal Government. It is the property of the people of the locality, and the only question before the House is how you will divide it among the people of the locality.

Mr. FERRIS. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. Yes.

Mr. FERRIS. If the gentleman is right in his theory——

Mr. MONDELL. It is no theory; it is a fact. The gentleman from Texas [Mr. SMITH] admitted it this morning, after denying it the other evening.

Mr. SMITH of Texas. I did not admit any such thing.

Mr. FERRIS. The gentleman from Wyoming has asserted here, with all the force that he has, that the Federal Government has no interest in this fund at all. I ask the gentleman why the Federal Government has no interest in this, when in 1910 it was necessary to issue $20,000,000 in bonds to take up the various blunders of the Reclamation Service?

Mr. MONDELL. I do not see what the point of the gentleman's statement is.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONDELL. How does the Government get their bonds?

Mr. MANN. Mr. Chairman, I ask for a vote.

Mr. RAKER. Mr. Chairman, I would like to be heard a moment or two on this.

Mr. MANN. I will withdraw my request, Mr. Chairman.

Mr. RAKER. I believe that the committee ought to have the facts on which to base an argument. In other words, the gentleman from Wyoming [Mr. MONDELL], in speaking now upon the facts, ought to have some premises upon which to act. Now, the argument of the gentleman from Wyoming is not based upon the facts or upon the law as they actually exist. I want to read to the committee the law governing the disposition of the funds in these town sites. It says the funds are converted into the reclamation fund. The reclamation fund is all the money that is obtained from the sale of public lands. The bond issue of $20,000,000 and the payment of the money that is obtained from the settlers for their lands, and the water rights when they pay it back to the Government, all goes in under the reclamation fund. The gentleman from Wyoming says——

Mr. MONDELL. Mr. Chairman, will the gentleman yield?

Mr. RAKER. In a moment. The gentleman from Wyoming says that the proceeds from the sale of these town lots do not go into the reclamation fund. That is not the fact. That is not the law. It is not practiced that way. It could not be practiced that way, because it is in direct contravention of the statute. I want to read it to you. In the act approved April 16, 1910 (34 Stat., 116), occurs this provision:

> Reclamation funds may be used to defray the necessary expenses of appraisement and sale, and the proceeds of such sale shall be covered into the reclamation fund.

In the act approved June 27, 1906 (34 Stat. L., 519), there is this provision:

> And the proceeds of all sales of town sites shall be covered into the reclamation fund.

Now, turning to the report of the committee as to the money, we find from their own report that $219,793.55 from the sale of town lots has been conveyed into the reclamation fund. That money is in the general reclamation fund to-day, and the purpose of this bill to-day is to reach into this sacred fund and draw out over $110,000 and divert it from the purpose of reclaiming the arid lands and putting it into local town sites for city jails and for other improvements and other purposes. [Applause.]

I want to say to the Members of this House that the very object and purpose of the Congress and the people in maintaining this reclamation act is to see to it that the money that goes into this trust fund shall be used for the maintenance of the Reclamation Service and shall be kept a sacred fund to be expended for those purposes and all matters incident thereto and the works and improvements and repairs occasioned thereby and that as the money comes back it shall be again used for those purposes. The argument of the gentleman from Wyoming is based upon wrong premises and upon a wrong theory, and therefore his argument of necessity must fall.

Mr. MANN. I ask for a vote, Mr. Chairman.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. MANN].

The question was taken, and the amendment was rejected.

Mr. FERRIS. The question now recurs on my amendment.

The CHAIRMAN. The question now recurs on the amendment of the gentleman from Oklahoma.

Mr. MARTIN of South Dakota. Mr. Chairman, let the amendment be reported again.

The CHAIRMAN. The Clerk will again report the amendment.

The Clerk read as follows:

> Amend, page 2, line 12, by striking out the words "one half" and inserting in lieu thereof "5 per cent."

Mr. MARTIN of South Dakota. Mr. Chairman, it is perfectly evident that this amendment of the gentleman from Oklahoma—who I am sorry has not had the benefit of the entire argument in this case, but has jumped into it with the vehemence, the enthusiasm, and the energy with which he devotes himself to all public questions—is simply an effort to kill the bill. The gentleman from Oklahoma is a distinguished member of the Committee on Indian Affairs. Therefore the gentleman knows that as to Indian town sites, although the Indian has no interest in the sale of the lots further than to get good prices for them, and where the Government is the trustee of a sacred trust, to wit, the Indian funds, it has been the habit of Congress, on the recommendation of the Committee on Indian Affairs, to devote 20 per cent of the proceeds of the sale of town lots on Indian town sites to general improvements and betterments. That is taking money from the Indians to improve the town under the idea that eventually it will come back in higher prices for the lots, and I think that idea is justified. But the position of the gentleman from Oklahoma in seeking to defeat this bill is inconsistent. This is proposed to be done for the benefit of all parties interested, the farmers in the neighborhood of the town, and the people in the town who buy the lots.

These gentlemen who are opposing this bill have become very much interested and have rushed loudly to the defense of this fund because they say it is taking something from the farmers on the outside of these towns. They seem to forget entirely that if this town site was not there, and if this land was not laid out into town lots, no money would come into the reclamation fund either locally or generally. Any homesteader could take his share of the 640 acres as a homestead and nothing whatever would come into the reclamation fund.

Mr. RAKER. Could not the same argument be made in a case where you expend a large sum of money to develop a water power that is worth millions of dollars?

Mr. MARTIN of South Dakota. The cases are not parallel at all. Here is a case of land which could be taken as a homestead, which is reserved for the building of a town, but whatever the settlers get out of it is that much clear gain. There is no parallel between the two cases at all. Certainly this amendment to reduce this appropriation from 50 per cent to 5 per cent is only an effort to kill the bill. The friends of the measure, who defeated the motion to strike out the enacting clause, should for the same reason sustain the bill and defeat this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. FERRIS].

The question being taken, on a division (demanded by Mr. FERRIS) there were—ayes 39, noes 62.

Mr. FERRIS. Tellers, Mr. Chairman.

Tellers were ordered, and the Chairman appointed Mr. FERRIS and Mr. TAYLOR of Colorado.

The committee again divided; and the tellers reported—ayes 40, noes 63.

Accordingly the amendment of Mr. FERRIS was rejected.

Mr. FERRIS. Mr. Chairman, I move to strike out "one-half" and insert "20 per cent"; and I want to be heard just a moment on that amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

> Amend, page 2, line 12, by striking out "one-half" and inserting "20 per cent."

Mr. MANN. Make it 25 per cent.

Mr. LOBECK. I wish to offer an amendment to the amendment.

The CHAIRMAN. The gentleman from Oklahoma [Mr. FERRIS] has the floor.

Mr. FERRIS. Mr. Chairman, it has been suggested—and the proposition undoubtedly has some friends here—that this ought to be 25 per cent instead of 20 per cent. Now, at first blush it looks as though there is not much difference between 25 per cent and 20 per cent, and it may seem to some gentlemen that we ought to make it 25 per cent. There is, however, a well-defined reason why we should not make it 25 per cent, and the difference is greater than the mere difference in percentage.

The facts are these: In the State of Oklahoma, the State of South Dakota, and in other States where there are Indian tribes Indian town sites have been opened, and there is a provision in each bill that 20 per cent of the net proceeds from the sale of town lots shall be used for local improvements. The theory of this sort of legislation has always been that it would induce bidders to bid more for the lots, and I think that has proved to be true.

But if you make this 25 per cent it would be a breach of the rule and a raising of the limit, so to speak, until the next bill that comes in from the Indian Committee will in all probability be 25 per cent instead of 20 per cent. I want to say that I have supported amendments in this House in the past to have 20 per cent of the net proceeds taken from the Indian fund for town-site improvement purposes. That has worked pretty well.

Mr. MARTIN of South Dakota. Will the gentleman yield?

Mr. FERRIS. Yes.

Mr. MARTIN of South Dakota. Will the gentleman explain why, if he is in favor of 20 per cent taken from the Indian fund for town-site purposes, he sought in his previous amendment to reduce it to 5 per cent?

Mr. FERRIS. I thought I answered that before, but I am very glad to answer it again. I do not think a penny should be taken from the reclamation fund. I believe 20 per cent is a lack of wisdom and 50 per cent is a lack of a great deal more wisdom, but as there has been an amendment voted down to strike out the enacting clause and the amendment providing for 5 per cent has been voted down, 20 per cent seems to be the best we can get. I think probably 25 per cent would be agreed to, but it cuts deeper than it appears to on the surface, because there will be an effort to raise it in Indian town sites to 25 per cent, and that ought not to be done.

Mr. MANN. Mr. Chairman, this bill provides "that one-half the net proceeds heretofore or hereafter received from the sale of town sites shall be used in the construction, maintenance, and operation," and so forth, of these municipal functions. I had expected to offer an amendment to reduce the percentage and to strike out the word "heretofore" and to cut off the maintenance and operation, so that the bill would only provide that the percentage which would be carried in the bill received from the sale of town sites hereafter sold, which would probably bring a larger price, because of the fact that it could be used for the construction of these improvements for municipal purposes.

Mr. FERRIS. Will the gentleman yield?

Mr. MANN. Certainly.

Mr. FERRIS. I wondered if the gentleman in his amendment to strike out the word "heretofore," which undoubtedly ought to be done, would agree to have the words inserted "or hereafter sold at competitive bids at public auction," so there would be no chance of letting them go in and appraise the land and divest it of the feature of competition?

Mr. MANN. I think that would be a proper proposition. Of course, I do not know whether such a proposition as I have suggested will prevail in the House, but if that should be done, or something like it, it seems to me we could afford to make the amount 25 per cent. It is true that heretofore the Indian bills that have passed have carried 20 per cent. It is also true after experience in the sale of Indian town sites, it has been stated to the House by gentlemen on both sides acquainted with the facts, that the lots, in fact, were usually sold for more than enough to make up the amount deducted, or at least the amount that was deducted. I think we can afford to pay 25 per cent of the proceeds of the sale of the lots hereafter. To test the sense of the House I move to amend the amendment offered by the gentleman from Oklahoma by making it read, in place of "one-half," "25 per cent of."

The Clerk read as follows:

Amend the amendment by substituting for 20 per cent the words "25 per cent of."

The CHAIRMAN. The question is on the amendment to the amendment.

The question was taken; and on a division (demanded by Mr. MANN) there were 39 ayes and 25 noes.

So the amendment to the amendment was agreed to.

The CHAIRMAN. The question recurs on the amendment of the gentleman from Oklahoma as amended by the gentleman from Illinois.

The amendment as amended was agreed to.

Mr. MANN. Now, Mr. Chairman, I move to amend, page 1, line 3, by striking out the word "heretofore."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 1, line 3, by striking out the words "heretofore or."

Mr. MARTIN of South Dakota. Mr. Chairman, I am opposed to the amendment offered by the gentleman from Illinois. So far as the particular town site of Newell is concerned, the Members of the House who did me the honor to hear the remarks I made know the facts involved. The department started out at the beginning with the idea that the original law gave them authority to use all of the fund that would come from the sale of the town lots for the betterment of the town. They later discovered that it was not a correct interpretation of the law; but as to the sale of the town lots in Newell, they were sold on the representation not of an arbitrary amount of 20 or 25 per cent, but that the whole was to be used in the betterment of the town.

I have in my hand here one of the circulars or booklets compiled under the direction of the Reclamation Service, which contains a statement to this effect, and it would amount to nothing less than obtaining money under false pretenses if that money, or a liberal portion of it, is not used in that way. I read from page 9 of this booklet:

A new town, for which a section has been reserved, is to be built by the Government in the center of the irrigated district. The Government will conduct the sale of lots, and with the proceeds streets will be laid out, a sewage system constructed, and every possible measure taken to improve and beautify the city.

That literature went over the United States. It brought people from various States. I know an instance where a man sold out his business in the State of Indiana and came there, relying upon the representations in this circular.

Mr. MADDEN. Why did not the Government authorities use the money as they advertised they would use it?

Mr. MARTIN of South Dakota. They discovered, before they got further along, that it would require a strained, if not an incorrect, interpretation of the town-site law to do it. There is no time to go into a discussion of that mistake now; but that was a mistake on their part.

Mr. WILLIS. Mr. Chairman, what is the document from which the gentleman is reading, and who issued it? Did the Government have anything to do with it?

Mr. MARTIN of South Dakota. Yes. On the front of the booklet is the following:

BELLE FOURCHE IRRIGATION PROJECT, SOUTH DAKOTA.

Information compiled by the United States Reclamation Service, October 1, 1909.

On the back of it it says:

Further information may be obtained by addressing any of the following:

"Project Engineer, United States Reclamation Service, Bellefourche, S. Dak.

"Statistician, United States Reclamation Service, Washington, D. C.

"Information bureau, United States Reclamation Service, 777 Federal Building, Chicago."

Mr. WILLIS. The gentleman states, then, that that was issued with the knowledge, consent, and approval of the Government of the United States?

Mr. MANN. Oh, I am sure the gentleman will decline to state that.

Mr. MARTIN of South Dakota. The Reclamation Service has sought to relieve themselves, not from the responsibility of its issuance, for it evidently was issued, but responsibility for all of its statements. But, as far as the public is concerned, it is a statement that went out, and land right there on the prairie that any homesteader could have taken but for this reservation sold for $41,000 for less than 10 acres upon those assurances.

Mr. MADDEN. Was anybody ever called to account by any Government official for circulating these false statements as to what disposition would be made of the funds?

Mr. MARTIN of South Dakota. It has never been repudiated. They have expressed regret that it got into that shape.

Mr. BURKE of South Dakota. How much of this town site has actually been sold?

Mr. MARTIN of South Dakota. Out of the 640 acres in all 4 per cent has been sold, and that brought the $41,000. The balance of it, or 96 per cent, remains still to be sold.

Mr. SMITH of Texas. Mr. Chairman, I want to state to the gentleman that the Reclamation Service wholly repudiates that circular. They say they are not responsible for it, but it was circulated by some railroad company, and they absolutely repudiate any responsibility for it whatever.

Mr. MARTIN of South Dakota. Mr. Chairman, we went into this on general debate, when we had unlimited time, and I read a great deal on the subject from the testimony and otherwise. A succinct and fair statement would be this: The attitude of the Reclamation Service is that they permitted an agent of the service to prepare this literature; that probably their attention was not called specifically to this statement, separate from others, until it was in fact public, but they did know of its publication very soon after it was issued.

The CHAIRMAN. The time of the gentleman from South Dakota has expired.

Mr. FERRIS. Mr. Chairman, I ask unanimous consent that the time of the gentleman may be extended for one minute?

The CHAIRMAN. Is there objection?

There was no objection.

Mr. FERRIS. Does the gentleman think the Federal Government ought to be bound by circulars or advertisements placed in newspapers by railroads and boomers?

Mr. MARTIN of South Dakota. It is not placed in newspapers by boomers or others.

Mr. FERRIS. What is the document?

Mr. MARTIN of South Dakota. It is a reclamation document.

Mr. FERRIS. The chairman of the committee says that a department came to his committee and repudiated the document.

Mr. MARTIN of South Dakota. Mr. Chairman, I will ask for four minutes more in which to complete my statement.

Mr. CANNON. Will the gentleman yield for a question?

Mr. MARTIN of South Dakota. Certainly.

Mr. CANNON. Is it true, however, that these 10 acres were sold for the $40,000, and that there has been nothing sold since that time, and that the money goes into the fund?

Mr. MARTIN of South Dakota. Absolutely true.

Mr. CANNON. Well, it seems to me that settles it.

Mr. FERRIS. Mr. Chairman, will the gentleman yield for a question?

The CHAIRMAN. The time of the gentleman from South Dakota has expired.

Mr. MARTIN of South Dakota. Mr. Chairman, I ask for four minutes more in order that we may have a correct understanding of this subject.

The CHAIRMAN. The gentleman from South Dakota asks unanimous consent to proceed for four minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. MANN. Mr. Chairman, then I ask unanimous consent that all debate on this amendment may close in six minutes.

Mr. LEWIS. I object.

Mr. FERRIS. Mr. Chairman, I do not know what the gentleman reads from or what he has in his hand, but whatever the facts may be or whatever representations were made to them, they did it in the face of the reclamation act, which reads as follows on page 15 of the act:

> And the proceeds of all sales of town sites shall be covered into the reclamation fund.

Now, whatever the gentleman may read from or whatever may have been represented to the settlers through the newspapers, you can not bind the Federal Government by it.

Mr. MARTIN of South Dakota. If the gentleman will read the whole act, he will see that in the act of 1906 there was certain implied authority given to the Secretary of the Interior as to reclamation improvements. It is very vague and there is no time to debate that here, but this is the fact: A field representative of the Reclamation Service, with the knowledge of the service, prepared this booklet.

I do not know what the fact was, whether or not the chief of the service here in Washington saw the booklet before it was prepared or not, but that it was prepared under the knowledge and direction of authority there can be no doubt. It was later discovered that that was an unfortunate statement, but the mischief had been done and this literature had gone out to the country. I have a telegram from the Newell Commercial Club of date of January 14, 1913, in which they say this:

> Booklet relative to Belle Fourche project was distributed here entirely by Reclamation Service and not by railroad. Distributed all over the country by thousands by Reclamation Service.

Mr. MANN. Will the gentleman yield for a question?

Mr. MARTIN of South Dakota. Certainly.

Mr. MANN. Does the gentleman think even if there be a particular case where there is a hardship that is the reason for providing by a law that will cover 32 projects, a permanent law——

Mr. MARTIN of South Dakota. The gentleman will notice that of the thirty-two-odd towns but a very small proportion have been sold. Two towns in Idaho brought $135,000; six towns in Montana only $23,000; the single town of Newell, S. Dak., project, brought $41,103, and the Wyoming project only $17,000. Now, probably 98 per cent of all those lands remain to be sold, and by doing justice to those we are not in any way harming anybody. In my State a prominent citizen of the State capital of Pierre is under prosecution by the Federal authorities and is now facing a judgment and decree and a sentence to the Government penitentiary, based upon the charge of selling lots by representing through literature that a street railway ran across some suburban lots, an addition, when it was not there. He was prosecuted and convicted of making those false representations, and he is facing a penitentiary punishment to-day. Here is an instance of a Government project in which it must make its representation good or the citizens of my State and your State have given up their money under false pretenses.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. Mr. Chairman, I ask unanimous consent that all debate on this amendment shall close in 10 minutes.

Mr. LEWIS. I want time.

Mr. MANN. The gentleman from Maryland [Mr. LEWIS] to have five minutes, and the gentleman from Wyoming to have five minutes.

Mr. FERRIS. Mr. Chairman, I think the gentleman had better not do that. I want to make some remarks myself.

Mr. MANN. We have spent two Wednesdays on this bill.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that all debate on this amendment shall close in 10 minutes.

Mr. FERRIS. I think I shall have to object to that.

Mr. MANN. I move that the debate on the pending amendment be closed in 10 minutes. How much time does the gentleman from Oklahoma want?

Mr. FERRIS. I do not know how much I may want.

Mr. MANN. Two minutes will do, will it not? I am not asking any time. Mr. Chairman, I ask unanimous consent that debate on the amendment close in 11 minutes, 5 minutes to be given to the gentleman from Maryland [Mr. LEWIS], 3 minutes to the gentleman from Oklahoma [Mr. FERRIS], and 3 minutes to the gentleman from Wyoming [Mr. MONDELL]. I will do without any time myself.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] asks unanimous consent that the debate on the pending amendment close in 11 minutes, 5 minutes of the time to be given to the gentleman from Maryland [Mr. LEWIS], 3 minutes to the gentleman from Wyoming [Mr. MONDELL], and 3 minutes to the gentleman from Oklahoma [Mr. FERRIS]. Is there objection? [After a pause.] The Chair hears none.

Mr. LEWIS. Mr. Chairman, I can not speak on this subject with authority. I merely rise to suggest the state of facts presented to the House, if I understand that state of facts.

The first fact is that these public lands belong to the whole people of this country, and their benefits and advantages should be distributed as far as practicable to the whole people of the country. Taking the disposition of these lands up with that end in view, I understand irrigation legislation has been passed under the terms of which Congress first supplies the capital for the irrigation project and then fixes upon the lands that are profited by irrigation a system of liens to the extent of the benefits that accrue. In determining that disposition of the public lands Congress was doubtless influenced by the fact that agriculture is the mainstay of the Nation, and that any policy that would improve the agriculture of the Nation would result in a profit to all. Accordingly I am advised that when town lots are sold, town values themselves being results of irrigation values and the irrigation policy, the law provides that the product of the sale of town lots shall be applied to the reduction of this lien indebtedness of the irrigation farmer. That is, to the extent the project is successful in creating land values which the Government sells, those values shall be applied to lightening the burdens of the farmer in reducing his liens and thus further promoting the spirit and success of agriculture in the country. That may be called a subsidy to farming and to improve farming, but it is a subsidy that perhaps the majority of the people of the country would sustain at any time.

Now, it is proposed, however, that the subsidy given to the irrigation farmer shall be half taken away from the farmer and handed over to the real-estate owner of the town. Now, I want to say in this presence if there is one citizen, if there is one proprietary interest under the sun that should be the last

to be subsidized by the Government it is the landowner in a town or city. What is he now? He is an idler upon the face of the earth. His land he leaves vacant—a garden of dirt and weeds—while his industrious fellow citizens build a town around him and make his land valuable. This measure proposes to further subsidize an owner like that. It proposes to subsidize him in the measure it may reduce his burden of supporting the schools of his town, paying for the sewers of his town and those other common municipal conveniences in the way of public utilities. I do not think this country would sustain as a public policy the taking away of half of the aid now granted to this irrigation farmer and handing it over to the speculator in town values in any part of the Republic, and it is in order to have this statement of facts before the House, if it be a correct statement of facts—and I think it is—that I have made in this brief address. [Applause.]

The CHAIRMAN. The gentleman from Wyoming [Mr. MONDELL] is recognized for three minutes.

Mr. MONDELL. Mr. Chairman, how unfortunate it is that the opponents of this measure can not agree as to the facts. The gentleman from Texas [Mr. SMITH] and the gentleman from California [Mr. RAKER] still insist that these are not credits to the reclamation project, although they can find out their error by inquiring at the reclamation office. The gentleman from Maryland [Mr. LEWIS], however, who always goes to the foundation of things in a way, has learned the truth, and he is opposing it for an entirely different reason than that given by the gentleman from Texas and the gentleman from California, and based upon an entirely different statement of facts.

The gentleman from Maryland [Mr. LEWIS] is correct as to facts. He says, however, that none of the benefits should go to the people in the towns. We believe that what is proposed in this bill would be fair, equitable, and just, because the people of the town furnish much of the school facilities for the people of the surrounding region, and they are as much entitled to some of the benefits of the increase of values as the farmers, some of whom live 30 to 40 miles away, and who have little to do with increasing the values in the town.

The sum has been reduced by an amendment to 25 per cent. It is now proposed still further to reduce it by having the bill apply only to future receipts. Why, in the case of the town site of Newell the town lots were sold with the understanding that all the money was to be used, and while that representation was not made to the same extent or in the same way in my State, yet there was a general understanding when the people bought these lots at a high price out there on the raw, bald prairie that they were to get back some of the high prices they were paying for the improvement of the town; and if they shall have no aid now until more town lots shall have been sold, the Lord only knows when they are to receive any benefits, because the lots have been sold quite recently up to the present necessities of the town, and possibly up to the necessities of the town for two or three or four years to come, and now those people who paid high prices, with the understanding that a part of the money was to be used for the improvement of the town, would be robbed of the benefits to which they are entitled and of which they will be deprived for years to come.

Mr. FERRIS. Mr. Chairman, I rise to advocate the adoption of the amendment by the gentleman from Illinois [Mr. MANN], which, in effect, keeps this bill from applying to town-lot sales that have already been made, where the money has already been covered into the Treasury.

If the gentleman's amendment is not adopted, they will not only receive 25 per cent on what they sell in the future but also on what has been sold in the past, so that I think the amendment of the gentleman from Illinois is fair and should be adopted.

The only reason why this legislation was ever adopted for the Indian tribes was to stimulate bidding. In the town where I live they sold an addition to the town where 20 per cent went to the people for improvements and the auctioneer, in auctioning off the lots, would say, "Eighty dollars for the Indian and $20 for the people of Lawton; $4 for the Indians and $1 for the people of Lawton." In that way they really did some good and made the lots bring a larger sum than they would otherwise have brought. But if the amendment of the gentleman from Illinois is not adopted, there will be no way of stimulating bids and getting a larger price for the land and it will be, in a way, the taking out of the Treasury and out of the reclamation fund moneys that have already been placed there. I think the gentleman from Maryland [Mr. LEWIS] suggests that it will be taking money from the farmer that we agreed to leave with him, and I believe that is true also. I did not, however, deal with that phase of it?

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. MANN].

The question was taken, and the Chairman announced that the ayes seemed to have it.

Mr. MARTIN of South Dakota. A division, Mr. Chairman.

Mr. MONDELL. Mr. Chairman, I ask for a division.

The committee divided; and there were—ayes 49, noes 24.

So the amendment was agreed to.

Mr. LOBECK. Mr. Chairman, I understand that the amendment offered to make this amount 25 per cent instead of one-half applies on page 2, line 12.

The CHAIRMAN. The gentleman is correct.

Mr. LOBECK. An amendment should also be made in line 3 of page 1, so as to make it read "25 per cent of" instead of "one-half." I move that the words "25 per cent of" be inserted in line 3, page 1, in lieu of the words "one-half."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Nebraska [Mr. LOBECK].

The Clerk read as follows:

On page 1, line 3, strike out the words "one-half" and insert in lieu thereof the words "25 per cent of."

Mr. LOBECK. Mr. Chairman, I move the adoption of the amendment.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Nebraska.

The amendment was agreed to.

Mr. FERRIS. Mr. Chairman, I move to amend line 4, after the word "lots," by inserting the words "sold at public auction."

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Oklahoma [Mr. FERRIS].

The Clerk read as follows:

Amend, page 1, line 4, by inserting after the word "lots" the words "sold at public auction."

Mr. FERRIS. Mr. Chairman, I think the necessity for that amendment will be apparent to all from the debate that we have just had on the subject. If these lots are to be sold by appraisement, there can be no reason on earth why the local citizens should have part of the funds derived from the sale; but if they are to be sold at public auction, then a part of the funds will go to the local community, and it will stimulate the bidding. I hope the amendment may be adopted.

Mr. MONDELL. Does the gentleman understand that under the provisions of the present law these town lots are all appraised and then sold at public auction, provided they bring more than the appraised price? If they do not bring more than the appraised price, they are not sold at all. Now, if the gentleman's amendment has any effect at all it will provide for the sale of the lots, even if they do not bring more than $1 apiece.

Mr. FERRIS. Not at all. This would not repeal the present law.

Mr. MONDELL. If it did not, what purpose will it serve?

Mr. FERRIS. It is not compulsory that any of the lots shall be sold.

Mr. MONDELL. That is exactly the effect of the gentleman's amendment as to lots that are ordered, although I do not think he meant that.

Mr. FERRIS. I do not think it has that effect at all. On the contrary, the department has the power to offer the lots in the same way that it is now necessary to offer them. The fact that there is an appraisement merely limits the minimum price at which the land can be sold, and it is up to the department to get all they can for the lots. If a lot does not bring the appraised price, it is turned back and held by the Federal Government. No harm is done. If the lots bring the appraisement or more, they are sold, and the local community gets 25 per cent of the amount received. There can not be anything in the argument of the gentleman. This provision repeals nothing. It only makes that portion of the law apply where the lots are sold at public auction, and it ought not to apply elsewhere.

Mr. MONDELL. Mr. Chairman, the present town-site law as carried out by the department provides for the sale of these lots at public auction at an appraised minimum price. The result is that unless the lots bring a fair price they are not sold at all.

Mr. FERRIS. That is true.

Mr. MONDELL. The effect of the gentleman's amendment would be to have the lots sold at any price that they would bring, because he does not provide in his amendment for a minimum price.

Mr. FERRIS. Will the gentleman yield?

Mr. MONDELL. Certainly.

Mr. FERRIS. You can not sell them now unless you get the appraised price, can you?

Mr. MONDELL. No; but under the gentleman's amendment they will be sold at whatever price is offered, because the gen-

tleman provides for their sale at auction without any other limitation.

Mr. FERRIS. Not at all.

Mr. MONDELL. The necessary interpretation of that is that they shall be sold at auction. If they are offered, they must be sold at any old price.

Mr. FERRIS. The gentleman is entirely in error. From my practical experience all over my State in the last 20 years, during a part of which time it was a Territory, I can say that they have sold lots at public auction after they have been appraised, and if a lot did not bring the appraisement it was turned back and retained by the Government; but if it brought the appraisement or more, then the lot was sold; and they almost always bring more than the appraisement.

Mr. MONDELL. If that is the gentleman's theory——

Mr. FERRIS. That is the fact.

Mr. MONDELL. If that is the gentleman's theory in regard to his amendment, then it is absolutely unnecessary, because that is what is done under the town-site law now. It is not amended in this particular by this act. The town lots are appraised and sold at auction at what they will bring above the appraised price, and if they do not bring more than the appraised price they are not sold at all, whereas under the gentleman's amendment any lot offered would have to be sold at whatever price it would bring.

Mr. FERRIS. Not at all.

Mr. MONDELL. This is simply an effort to give speculators a chance to buy lots at whatever they may bring, and if the Secretary of the Interior should be unwise enough to offer all of these town sites at one time speculators would come in and buy up a whole town site for a mere song.

Mr. FERRIS. I do not want to be contentious, but does the gentleman think my amendment repeals that appraisement law?

Mr. MONDELL. If it does not repeal it, then it is without any force or effect and is senseless.

Mr. FERRIS. Oh, not at all. The gentleman is in error worse than I ever knew him to be before.

Mr. MONDELL. The amendment has no force, and therefore there is no rhyme or reason in it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. FERRIS].

The amendment was agreed to.

Mr. MARTIN of South Dakota. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from South Dakota.

The Clerk read as follows:

Amend, after line 15, page 2, by inserting the following proviso: "*Provided*, That one-half of the proceeds received from sales heretofore made of lots in the Newell town site in South Dakota shall be reserved, set aside, and appropriated as a portion of the reclamation town-site fund of the said town."

Mr. FERRIS. Mr. Chairman, I make the point of order that that identical proposition has been voted on; that it was involved in the same town-site proposition along with others.

The CHAIRMAN. The Chair is inclined to think that the amendment is in order and will overrule the point of order.

Mr. MARTIN of South Dakota. Mr. Chairman, as I have already reminded the committee, I know nothing of other town-site sales, but justice can not be done to the people who have been induced to purchase town-site lots and made purchases without an amendment of this kind, and in this case only half justice will be done. I will read again the representations upon which these town-site lots were sold, or, rather, misrepresentations:

The Government will conduct the sale of lots and with the proceeds streets will be laid out, a sewage system constructed, and other means usually taken to improve and beautify the city.

It is not represented that a portion of the proceeds will be taken, but all the proceeds. I may say that when this idea of using the town-site fund for the betterment and improvement was first broached it was for a time considered that all the proceeds of the sales should be used for the betterment and improvement of the town. It seems to me that in general legislation, these facts being before Congress, it will save the necessity of special bills being brought in to incorporate that proviso in this bill.

Mr. SMITH of Texas. Will the gentleman yield?

Mr. MARTIN of South Dakota. Certainly.

Mr. SMITH of Texas. The gentleman says that it was supposed that the Reclamation Service had the power to make these improvements some time ago. Will the gentleman refer me to any law from which any such inference could be drawn?

Mr. MARTIN of South Dakota. I think it was a strained interpretation, but if the gentleman will look at one of the sections in the original law of 1906 he will find where it authorizes the Secretary of the Interior to take certain steps toward a water system for the town.

Mr. SMITH of Texas. The sale of water rights?

Mr. MARTIN of South Dakota. No; to provide water rights for the town and, I suppose, get remuneration; but, as I say, the interpretation was not justified, as I have said many times. It seems to me that we ought at least to do half justice to these people who have paid fabulous prices for their lots on the representation that the whole of this fund was to go to the improvement of the municipality, and who were induced not only to purchase, but to put the rest of their little accumulations into the stores and buildings to improve and make the town. We would be doing scant justice if we made good the representations to the extent of dividing the money already received for that purpose. It is no justice to these people who gave their money and paid such high prices to tell them if any more lots are sold 25 per cent will be used for the betterment and improvement of the city.

Mr. GARRETT. Will the gentleman yield?

Mr. MARTIN of South Dakota. Yes.

Mr. GARRETT. Who made these representations to which the gentleman alludes?

Mr. MARTIN of South Dakota. Mr. Chairman, this is getting to be a good deal like the puzzle of "How old is Ann?" Every time a new gentleman comes into the Chamber we have to go all over the story again. I know that the gentleman from Tennessee has been otherwise engaged in important public business. The representations were prepared under the authority of the Reclamation Service, by a field representative in its employ, and at a salary, in the city of Chicago. The expense of printing these circulars was paid by the railroad company, although there is nothing on the document to show that the railroad company was interested in it. The distribution was under the direction of the Reclamation Service.

Mr. GARRETT. I have understood it was made in some such way, but has not the Reclamation Service denied any responsibility for it?

Mr. MARTIN of South Dakota. No; they have denied nothing that I have stated. "The Reclamation Service" is a broad statement. If the gentleman means the Director of the service personally, his statement is that he was not aware that all of the statements were put in there, and that probably is true, but that the man was authorized to prepare the literature as an agent of the department no one disputes.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Dakota.

The question was taken; and on a division (demanded by Mr. MARTIN of South Dakota) there were 30 ayes and 47 noes.

So the amendment was rejected.

Mr. LOBECK. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend, line 12, page 2, by striking out the word "heretofore" and inserting in lieu thereof the word "hereafter."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska.

Mr. MANN. Mr. Chairman, a short time ago there was an amendment adopted to line 12, on page 2. I am under the impression that that entire paragraph ought to be stricken out of the bill. I would ask the gentleman from South Dakota [Mr. MARTIN] to give me his attention. Ought not the last sentence of the first section of the bill, beginning with the word "and," in line 11, on page 2, to be stricken out? It relates only to proceeds heretofore received. Does not the other part of the bill provide that proceeds hereafter received shall go into the reclamation town-site fund?

Mr. MARTIN of South Dakota. Mr. Chairman, the previous part of this section provides that.

Mr. MANN. That is what I thought. The gentleman from Nebraska [Mr. LOBECK] has now offered an amendment to strike out "heretofore," in line 12, page 2, and insert "hereafter." That paragraph, as I understand it, only related to funds heretofore received.

Mr. MARTIN of South Dakota. That is right.

Mr. MANN. And it is not necessary to change it. The whole paragraph ought to go out.

Mr. BURKE of South Dakota. Was there an amendment adopted to line 3, on page 1, of the bill?

Mr. MANN. There was.

Mr. BURKE of South Dakota. Then the gentleman is correct.

Mr. MANN. Mr. Chairman, I hope the gentleman from Nebraska will withdraw his amendment and move to strike out that whole sentence.

Mr. LOBECK. Mr. Chairman, I ask unanimous consent to withdraw my amendment and offer the amendment suggested by the gentleman from Illinois.

The CHAIRMAN. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment now offered by the gentleman from Nebraska.

The Clerk read as follows:

Page 2, beginning with line 12 and running to the end of the paragraph, strike out the following:

"And the aforesaid one-half of the net proceeds heretofore received from such sales shall be forthwith transferred from the reclamation fund to the reclamation town-site fund, hereby created."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. MANN. Mr. Chairman, the committee amendment, in line 3, page 1, was agreed to before the word "heretofore" was stricken out. I ask unanimous consent to change that amendment so as to leave out of it the word "or."

The CHAIRMAN. The Chair will state to the gentleman from Illinois that the amendment included the word "or."

Mr. MANN. The amendment, as a matter of fact, did not include it. It would not have been in order to include it.

The CHAIRMAN. The Clerk informs the Chair that that is the case.

Mr. MANN. The words "or hereafter" were inserted. Has the Clerk got the word "or" in or out?

The CHAIRMAN. The word "or" is out.

Mr. MANN. Mr. Chairman, I move to amend, in line 7, page 2, by striking out the words "maintenance and operation."

The CHAIRMAN. The Clerk will report the amendment of the gentleman from Illinois.

The Clerk read as follows:

Page 2, line 7, strike out the words "maintenance and operation."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

SEC. 2. That the Secretary of the Interior may, in his discretion, from time to time, expend, or cause to be expended, from said reclamation town-site fund, for the construction, maintenance, and operation of schoolhouses, water, and sewer systems, and other municipal improvements in each of such town sites a sum not greater than one-half the net proceeds theretofore received from such sales of lots therein plus one-half the estimated net proceeds to be thereafter received from such sales. The buildings and works so constructed may, in the discretion of the Secretary of the Interior, be operated and maintained by him or under his authority, and the expense thereof paid from the reclamation town-site fund, pending the organization of a municipal corporation or corporations qualified to operate and maintain the same, and upon the organization of such municipal corporation or corporations the Secretary of the Interior may transfer to such corporation or corporations the said buildings or works, or both, as the case may be, and the lands or easements necessary to their use, and thereafter said Secretary shall be free of all duty or responsibility with respect thereto: *Provided*, That whenever the said buildings, works, lands, easements, or any part thereof, shall cease to be used by such corporation or corporations exclusively for the purposes for which they were respectively transferred, the ownership and control thereof shall revert to the United States: *And provided further*, That in no case shall the operation and maintenance of such buildings and works by or under the authority of the Secretary of the Interior be continued for a longer period than five years after the construction thereof.

The following committee amendments were severally reported by the Clerk and severally agreed to:

Page 2, line 20, insert the word "light" at the beginning of the line, and after the word "other" insert the words "school and."

Page 2, lines 23 and 24, strike out the words "plus one-half the estimated net proceeds to be thereafter received from such sales."

Page 3, line 4, strike out the word "corporations" and insert the words "school district."

Page 3, line 6, strike out the word "corporations" and insert the words "school district."

Page 3, line 8, strike out the word "corporations" and insert the words "school district."

Page 3, in lines 12, 13, 14, 15, 16, and 17, strike out "That whenever the said buildings, works, lands, easements, or any part thereof, shall cease to be used by such corporation or corporations exclusively for the purposes for which they were respectively transferred, the ownership and control thereof shall revert to the United States: *And provided further*."

Page 3, line 20, strike out the word "five" and insert the word "two," and strike out the words "construction thereof" and insert the words "organization of a municipal corporation or school district as aforesaid."

Mr. FERRIS. Mr. Chairman, I move to strike out, in line 19, page 2, the words "maintenance and operation." I do that for the purpose of saying that the whole paragraph ought to be stricken out and the whole bill ought to be referred to the committee from whence it came. Section 2 goes on the theory of the granting to a corporation or corporations for school districts, and the whole paragraph relates to maintenance and operation, which has been stricken out in the first section of the bill.

Mr. MANN. The gentleman is not quite correct.

Mr. FERRIS. Almost. I may not be quite correct, but in five or six distinct places the section refers to maintenance and operation.

Mr. MANN. The gentleman and I can at least understand each other. The gentleman proposes to strike out "maintenance and operation" there. I think it ought to go out, but that is the only authority contained in the bill for the construction of plants. Then, if the gentleman will move to strike out all of the section after the word "the," in line 24, it will cover what he has in his mind. It is very easy to cover it.

Mr. FERRIS. The suggestion of the gentleman is, beginning with the word "the," in line 24, to strike out the remaining paragraph, and then in line 19 to strike out the words "maintenance and operation."

Mr. MANN. And in line 22, change one-half to 25 per cent.

Mr. FERRIS. What condition will the paragraph be in then?

Mr. MANN. That will authorize the Secretary to construct these municipal improvements.

Mr. FERRIS. Does not he have that power granted him by the first paragraph?

Mr. MANN. No; the first section provides for reserving the fund, 25 per cent, and covering into the town-site reclamation fund.

Mr. FERRIS. But I call the gentleman's attention to the language in line 6, which reads like this: "To be used in the construction," and so forth.

Mr. MANN. True; but this will authorize him to construct in his discretion these municipal improvements, which I think is necessary to have in the bill.

Mr. GARNER. Will the gentleman yield?

Mr. MANN. The gentleman from Oklahoma has the floor.

Mr. GARNER. Will the gentleman yield?

Mr. FERRIS. I will.

Mr. GARNER. It is evident from the discussion here that the gentleman from Oklahoma [Mr. FERRIS], the gentleman from Texas [Mr. SMITH], or the gentleman from Illinois [Mr. MANN] are somewhat in doubt as to what this bill does or what it does not do.

Mr. MANN. Oh, the gentleman from Texas [Mr. GARNER] has not been here——

Mr. GARNER. I have been here long enough to find out these gentlemen do not understand each other.

Mr. MANN. I think we understand each other pretty well.

Mr. GARNER. Well, the gentleman from Oklahoma did not seem to understand the gentleman from Illinois.

Mr. MANN. I think the gentleman did entirely.

Mr. GARNER. It occurred to me we had not started very far on this bill so far and it is very nearly 5 o'clock, and if the gentleman had a week until next Wednesday to go over the bill, if we should recommit the bill to the committee and get some intelligent legislation in here, we might be able to get through on next Wednesday.

Mr. FERRIS. Mr. Chairman, undoubtedly the section has to be changed in many respects if not almost entirely stricken out, but I think the gentleman from Illinois [Mr. MANN] has digested the thing to the extent that we can by making two or three amendments correct it. I move to amend line 19——

The CHAIRMAN. Does the gentleman withdraw his first amendment?

Mr. FERRIS. No; I want to modify the amendment.

The CHAIRMAN. The gentleman asks unanimous consent to modify his amendment. Is there objection? [After a pause.] The Chair hears none.

Mr. FERRIS. Mr. Chairman, I move, in line 19, page 2, to strike out the words "maintenance and operation," so it will conform to paragraph 1.

Mr. RAKER. Before passing that, lines 16 to 24 provide for funds heretofore obtained, and we had disposed of that part of the bill. Did the gentleman notice that?

Mr. FERRIS. No; there is no "heretofore."

Mr. RAKER. Theretofore.

Mr. FERRIS. There is no "theretofore" there.

Mr. RAKER. Yes; in line 22.

Mr. FERRIS. I am going to move to strike out that.

The question was taken, and the amendment was agreed to.

Mr. FERRIS. Now I move to amend, in line 22, page 2, by striking out the word "one-half" and inserting in lieu thereof "25 per cent of."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, line 22, strike out the word "one-half" and insert in lieu thereof "25 per cent of."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. FERRIS. Now, Mr. Chairman, I move to strike out the word "theretofore," in line 22, page 2, and insert in lieu thereof the word "thereafter."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 22, line 2, strike out the word "theretofore" and insert in lieu thereof the word "thereafter."

Mr. MARTIN of South Dakota. I think the gentleman ought to consider that a moment before offering it to the committee. The words are in there so that the Secretary shall not anticipate funds and expend them before they are in the Treasury.

Mr. MANN. It does relate to the expenditure. He receives 25 per cent of the money before he makes the expenditure.

Mr. FERRIS. Does the gentleman think if he does not make that change it does not modify——

Mr. MANN. It relates to that time.

Mr. FERRIS. They may be correct about that, and I withdraw the amendment.

Now, I move to strike out, beginning with the word "the," in line 24, page 2, the rest of the section.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, line 24, beginning with the word "the," strike out the remainder of the section.

Mr. MARTIN of South Dakota. I would like to ask the gentleman if he has considered that and its effects sufficiently to satisfy himself, if not the gentleman from Illinois [Mr. MANN], that it is not a good thing? If we can get this bill in shape to satisfy the gentleman from Oklahoma [Mr. FERRIS] and the gentleman from Illinois [Mr. MANN], that will be all there is of it. But the gentleman will notice the section so far as we have gone has provided only for the construction of these municipal improvements. Does not the gentleman think that some provision of what should be done after construction should be in there?

Mr. FERRIS. It is the intention to turn them over to the local community as soon as constructed.

Mr. MARTIN of South Dakota. So far as the maintenance is concerned, I agree with the gentleman. But here it provides that the improvements shall be turned over to the corporation. Now, the gentleman is leaving nothing in the way of provision as to what shall be done with these improvements after they are constructed.

Mr. FERRIS. They become a part of the municipality and become municipal improvements. If the gentleman thinks that an amendment is necessary reciting that the department shall formally turn them over to the municipality, I would not think there would be any objection to that, but certainly after we have amended paragraph 1 as we have amended it we should not go on in section 2 and provide for maintenance.

Mr. MARTIN of South Dakota. I quite agree with you. You have already stricken that out.

Mr. FERRIS. Does not the gentleman think that the balance of the paragraph, beginning with the word "the" on line 24 and extending over on to page 3, all relates to maintenance and operation?

Mr. MARTIN of South Dakota. Oh, not at all.

Mr. MANN. If the gentleman will pardon me, I was going to suggest, when this amendment was agreed to, that the gentleman should offer as an amendment following the sentence that is left in the bill the following:

And the Secretary of the Interior may transfer to the municipal corporation or school district the said buildings or works, or both, as the case may be, and the lands or easements necessary to their use, and thereafter said Secretary shall be free of all duty or responsibility with respect thereto.

Mr. FERRIS. That accomplishes it, I think.

Mr. MANN. It makes it simpler to strike all out and reinsert that proposition.

Mr. BOEHNE. Mr. Chairman, I make the point of no quorum.

Mr. MANN. I hope the gentleman will not do that.

Mr. FERRIS. If the gentleman is going to do it, I move that the committee do now rise.

The CHAIRMAN. The Chair will count.

Mr. GARRETT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GARRETT. The gentleman from Oklahoma [Mr. FERRIS] moved that the committee rise. That is a privileged motion, and the Chair is not obliged to count.

Mr. FERRIS. Mr. Chairman, I move that the committee do now rise. It is now 5 o'clock, and the bill has some important features to it that may require consideration.

The CHAIRMAN. The Chair thought the gentleman from Oklahoma [Mr. FERRIS] withdrew his motion when the Chair proposed to count. The gentleman from Oklahoma now moves that the committee rise. The question is on agreeing to that motion.

The question was taken, and the Chairman announced that the noes seemed to have it.

Mr. FERRIS. A division, Mr. Chairman.

Mr. SMITH of Texas. I ask for a division.

The committee divided; and there were—ayes 41, noes 53.

Mr. BOEHNE. I make the point of no quorum, Mr. Chairman.

Mr. MANN. I ask for tellers, Mr. Chairman, on the motion to rise.

Tellers were ordered, and the Chairman appointed Mr. FERRIS and Mr. MANN.

The committee again divided; and the tellers reported—ayes 30, noes 62.

So the committee refused to rise.

Mr. FERRIS. Mr. Chairman, I make the point of no quorum.

The CHAIRMAN. The gentleman from Oklahoma [Mr. FERRIS] makes the point of no quorum. The Chair will count. [After counting.] There are 101 Members present, a quorum of the committee. The question is on agreeing to the amendment offered by the gentleman from Oklahoma [Mr. FERRIS].

Mr. CULLOP. Mr. Chairman, I ask to have the amendment again reported.

The CHAIRMAN. Without objection, the amendment will again be reported.

There was no objection.

The Clerk again reported the amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Oklahoma [Mr. FERRIS].

The amendment was agreed to.

Mr. MANN. Mr. Chairman, I move to insert, after the word "therein," in line 23, page 2, the following amendment, which I send to the Clerk's desk.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. MANN].

The Clerk read as follows:

On page 2, line 23, after the word "therein," insert the following: "And the Secretary of the Interior may transfer to the municipal corporation or school district the said buildings or works, or both, as the case may be, and the lands or easements necessary to their use, and thereafter said Secretary shall be free of all duty or responsibility with respect thereto."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois.

Mr. RAKER. Mr. Chairman, I would like to have the gentleman from Illinois explain what he means by that transfer. Transfer of what?

Mr. MANN. These improvements that have been made—school buildings and electric-light plant, or whatever it is.

Mr. RAKER. I know; but the title is already in the school district under the original reclamation act.

Mr. MANN. The title of the building is not in the school district.

Mr. RAKER. I know; but if the building is built on land that belongs to the municipality for that purpose, undoubtedly it belongs to the municipality. I am asking for information. Where does the Secretary get the right to transfer? What is he transferring?

Mr. MANN. He transfers the improvements. He obtains control of the improvements, at least, while he is making them, and when he is through he transfers them. He must have the authority of law to do it. This gives him the authority.

Mr. FOWLER. Does the word "transfer," as used in that amendment, mean the same as "turn over"? [Laughter.]

Mr. MANN. Whatever is necessary.

Mr. FOWLER. I ask in good faith, Does it mean the same as "turn over"?

Mr. MANN. I take the language that I offered from the bill itself. I suppose it covers turning over and also, if necessary, the issuance of the patent. I do not know whether that is necessary or not. That is the custom. This is authority that is necessary for the Secretary to have.

Mr. SMITH of Texas. Mr. Chairman, I want to call the gentleman's attention to the fact that the first section refers to town sites and not municipal corporations, and the second section adopted says nothing about corporations, but only about town sites. I did not understand from the gentleman's amendment that he provides for transferring to any other than the municipal corporation.

Mr. MANN. Or school districts.

Mr. SMITH of Texas. Or school districts. Now, suppose there is no organization when these works are completed. No transfer can be made.

Mr. MANN. It can not be transferred until there is one, but meanwhile under the bill as amended it does not operate, so there will be one, I apprehend, immediately.

Mr. SMITH of Texas. There may not be.

Mr. MANN. If there is not, nobody is hurt.

Mr. RAKER. I ask to have that amendment reported again, for information.

The CHAIRMAN. If there be no objection, the Clerk will again report the amendment.

The amendment was again read.

Mr. RAKER. Now, I call the attention of the committee to the fact that if there is anything in virtue of the reclamation act and the town-site law, the title is to be transferred before any municipal work is had upon these places at all. In other words, a piece of land is set apart for school purposes, and before the Secretary does any work that land is transferred to the municipality. Otherwise the Secretary of the Interior is directing a building for a municipality upon the public domain.

Mr. MANN. Will the gentleman permit?

Mr. RAKER. I yield.

Mr. MANN. The gentleman does not claim that when the town site is laid out there is any municipality? What he intended to say, I take it, was that certain tracts of ground are reserved for municipal purposes.

Mr. RAKER. Yes; that is correct.

Mr. MANN. There is no municipality.

Mr. RAKER. That is true.

Mr. MANN. There is no patent issued to them.

Mr. RAKER. That is true.

Mr. MANN. The Government goes ahead and constructs a building. Certainly there must be some authority given to the Secretary of the Interior to turn that over to the municipality whenever it is organized.

Mr. MARTIN of South Dakota. Will the gentleman yield?

Mr. RAKER. I yield to the gentleman from South Dakota.

Mr. MARTIN of South Dakota. If the gentleman from Illinois had incorporated in his amendment a little more of the language that is already contained in the section, his proposed amendment would have been more clear. He refers to a municipal corporation, but he omits the preceding reference to the corporation which is in lines 3 and 4, on page 3—

The organization of a municipal corporation or school district qualified to operate and maintain the same,

If the gentleman had included those words, his meaning would have been more clear.

Mr. RAKER. I want to call the attention of the gentleman to the fact that if under the town-site bill the Secretary should set aside a tract of land for school purposes and make a patent for it or issue a deed, which is the same as a patent, or for public parks and other necessary tracts for these various purposes, that being done in advance of the organization of the municipality, you must remember that the Secretary is spending the people's money there upon Government land before the municipality has determined what particular tract they want. It seems to me that this ought to be specified in the first instance before you permit the building to be made by the Secretary or the improvement to be done, not knowing that it will ever go to the municipality.

Mr. MARTIN of South Dakota. There is no embarrassment whatever in that.

Mr. MONDELL. If the gentleman has read the town-site law recently, he recalls that the Secretary now makes reservations for public purposes.

Mr. RAKER. Yes.

Mr. MONDELL. He would undoubtedly erect these buildings on the reservation so made. If the legislation is passed, the committee having stricken out of the bill the provisions for the transfer, provisions like those contained in the gentleman's amendment are essential.

Mr. RAKER. Why, no; I have read the act, and read it again to-day. The Secretary is directed to reserve these plats of ground for the purpose named, and convey to the proper authorities the necessary title to be held in trust for these town purposes. That is done before any agreement is made whatever.

Mr. MARTIN of South Dakota. I suggest that the amendment of the gentleman from Illinois to transfer covers the whole subject. If there is a legal and equitable title, that goes. If, on the other hand, there is only a building and improvements, that is transferred.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. RAKER. Mr. Chairman, I ask for two minutes more, that we may get this matter straightened out.

Mr. SMITH of Texas. Mr. Chairman, I offer the following amendment to the amendment offered by the gentleman from Illinois.

The CHAIRMAN. Is this amendment to be added to the amendment offered by the gentleman from Illinois?

Mr. SMITH of Texas. It is added as a proviso.

The CHAIRMAN. The Clerk will report the amendment to the amendment.

The Clerk read as follows:

Add to the amendment the following:
"*Provided*, That the Secretary of the Interior shall not be authorized to construct any such improvement upon any town site until after the municipal corporation is organized thereon."

Mr. RAKER. Mr. Chairman, I would like to ask the Chair whether or not an amendment to that is in order?

The CHAIRMAN. It is not.

Mr. SMITH of Texas. Mr. Chairman, I offer this amendment because I do not think the Secretary of the Interior ought to be authorized to construct improvements upon these town sites until there is a reasonable number of people in the town, and until they have shown their good faith toward building up the town by organizing a municipal corporation qualified to take charge of the improvement when constructed. I think that unless an amendment of this sort is adopted we may find ourselves in the condition that these improvements will be made in some instances and the town site may prove a failure, and after the work is done the people in the town will not be sufficiently interested to organize a municipal government and take over the property after the Government has constructed it.

Mr. MANN. Mr. Chairman, the proof of the pudding is in the eating. They will not have any money to spend on town sites in the way of public improvements unless enough people buy the lots at sufficiently high prices to raise the money. If these people contribute 100 per cent in the purchase of the lots, or if they raise any sort of a sum at all, it seems to me that they show interest enough to have the schoolhouse built at once and the sidewalks constructed, and that is about all you can do at the best. They ought not to have to wait for a year, but should be entitled to have it done at once, "Johnny on the spot"; that is what will make the lots sell for that much more.

Mr. GARNER. Mr. Chairman, this is one of the most important of the many amendments offered in this bill, and I do not think it ought to be voted upon without a quorum of the committee being present, and I make the point of order that no quorum is present.

Mr. CANNON. Mr. Chairman, I make the point that that is dilatory.

Mr. GARNER. Well, we have had several amendments and considerable business transacted since the ascertainment of a quorum.

Mr. MANN. This is not the only bill that can be filibustered on, I will say to the assistant whip.

Mr. GARNER. I am not filibustering. I think it is full time that we took out. I have heard the gentleman from Illinois say that many times at this hour in the day.

Mr. MANN. Not at this time in the session. Last night we ran for more than an hour, until 6 o'clock and after, with no quorum, but we will not do it to-morrow night if the point of order is insisted on now. What is sauce for the goose is sauce for the gander.

Mr. GARNER. Well, Mr. Chairman, if the gentlemen want to go on with the bill, I will withdraw the point of order.

The CHAIRMAN. The gentleman from Texas withdraws his point of no quorum.

Mr. RAKER. Mr. Chairman, I offer as a substitute for the amendment of the gentleman from Illinois the following.

The CHAIRMAN. The substitute is not in order until the amendment is perfected. The gentleman can have his substitute read for information.

The Clerk read as follows;

Add as a substitute the following:
"*And provided further*, That the municipality must first have determined that the particular improvement is desired."

Mr. MANN. I make the point of order that that is not in order.

Mr. RAKER. This is a substitute for the amendment offered by the gentleman from Illinois and the amendment to it by the gentleman from Texas.

Mr. MANN. The gentleman can offer it after the amendment is perfected.

The CHAIRMAN. The Chair thinks that is not a substitute. The question is on the amendment offered by the gentleman from Texas to the amendment offered by the gentleman from Illinois.

The question was taken, and the amendment to the amendment was rejected.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Illinois.

The amendment was agreed to.

Mr. RAKER. Mr. Chairman, I offer the following amendment to the amendment.

Mr. CANNON. But there is no amendment pending.

Mr. RAKER. Then, Mr. Chairman, I offer this as an amendment to the bill to follow the amendment just adopted offered by the gentleman from Illinois.

The CHAIRMAN. The Clerk will report the amendment of the gentleman from California.

The Clerk read as follows:

Add to the amendment just adopted the following:
"*And provided further*, That the municipality must first have determined the particular improvement desired."

Mr. RAKER. Mr. Chairman, just a word. The purpose of the amendment is this: The municipality knows what it desires before the Secretary of the Interior makes these improvements, and the amendment provides that the municipality shall say through its organization what particular thing it most desires to have done. It speaks for those people in that community, representing them. Before the Secretary of the Interior or any other officer goes in there and makes any particular improvement the municipality, by its vote and through its officers, should say which particular improvement shall be made first. I think the amendment should be adopted. It is a matter of economy and of control.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California.

The question was taken, and the amendment was rejected.

Mr. FERRIS. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Add at the end of the paragraph the following:
"*Provided*, That whenever the lands, improvements, or any part thereof cease to be used for the purposes for which they were granted the same shall revert to the United States."

Mr. MARTIN of South Dakota. Mr. Chairman, I make the point of order against that that the committee has already, in striking out lines 12 to 16, inclusive, on page 3, passed upon that same proposition.

Mr. FERRIS. Not at all, Mr. Chairman. The whole paragraph was stricken out, and it has been amended and modified in three or four particulars since then, and this amendment is undoubtedly necessary.

The CHAIRMAN. The Chair thinks this amendment simply provides that this property shall revert to the United States in case it ceases to be used for the purpose for which it is intended, and the Chair overrules the point of order.

Mr. FERRIS. Mr. Chairman, this simply provides that in the event any of these improvements constructed by part public money shall cease to be used for the purposes granted they shall revert to the Federal Government.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma.

The question was taken; and on a division (demanded by Mr. FERRIS) there were—ayes 42, nays 3.

So the amendment was agreed to.

The Clerk read as follows:

SEC. 3. That all income received from the operation of any such buildings or works shall be paid into and become a part of the reclamation town-site fund.

Mr. MANN. Mr. Chairman, I move to strike out the section.

The CHAIRMAN. The question is on the amendment of the gentleman from Illinois to strike out the section.

The amendment was agreed to.

The Clerk read as follows:

SEC. 4. That the Secretary of the Interior may, in his discretion, from time to time, transfer from the reclamation town-site fund to the reclamation fund any and all moneys in excess of the amount estimated by him to be necessary for the construction, operation, and maintenance under this act of the buildings and works hereby authorized.

With a committee amendment as follows:

Strike out the entire section.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The Clerk read as follows:

Insert as a new section the following:
"SEC. 4. That all sums hereafter received into the reclamation town-site fund from towns having a municipal organization and an organized school district shall at the beginning of the fiscal year following the receipt of such sums be divided, one-fourth to the school district and three-fourths to the municipality, and paid to the proper officers of the said school district and municipality, respectively, to be expended for school and municipal purposes; and sums heretofore received from the sale of town lots and covered into the reclamation town-site fund by the terms of this act and sums hereafter accruing from towns having no municipal or school-district organization and not expended by the Secretary of the Interior as provided by section 2 of this act shall upon the organization of municipalities and school districts be divided in the same proportion and paid to the school districts and municipalities, respectively, to be expended for school and municipal purposes."

Mr. FERRIS. Mr. Chairman, does not the gentleman in charge of the bill think in lieu of the language that appears in lines 11 and 12, where it specifically provides that one-fourth shall go to the school district and three-fourths to the municipality, that it would be better to leave a little discretion in the Secretary of the Interior so that he might not have trouble with the handling of the fund? I would say to him in other legislation of a similar character, where it relates to the Indian funds, we have almost uniformly left it to the Secretary, and he in turn has counseled and worked with the local communities, and I think that ought to be.

Mr. MARTIN of South Dakota. That is as to the subject of the apportionment of the division?

Mr. FERRIS. Yes.

Mr. MARTIN of South Dakota. I will say to the gentleman, as he appeals to me upon it, that provision giving a definite proportion of this fund for school purposes was not championed by me. I will be entirely satisfied without it, but others have felt an interest in it, and thought a definite proportion of this fund ought to be set aside for school purposes. Personally, I am not contentious about it.

Mr. FERRIS. Suppose this situation should occur. Evidently the gentleman is thinking along the same line I am. Suppose a municipality should, of its own initiative and from its own funds, construct sewers, storm and sanitary, as the case may be, and construct improvements as they might need them from the small funds for school purposes. It is easy to see what would happen. It is easy to see it would be perplexing. I move, Mr. Chairman, in lines 11 and 12, to strike out the words "one-fourth to the school district and three-fourths to the municipality" and insert in lieu thereof the words "and apportioned within the discretion of the Secretary of the Interior."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 2, line 11, strike out the words "one-fourth to the school district and three-fourths to the municipality" and insert——

Mr. MANN. I think the gentleman ought to make it read "to be apportioned to the school district and to the municipality, in the discretion of the Secretary of the Interior."

Mr. FERRIS. Well, I have no objection to that. I ask that the amendment be modified as suggested by the gentleman from Illinois.

Mr. MANN. Strike out the word "divided" and make it read, after the word "divided," "apportioned to the school district and to the municipality, in the discretion of the Secretary of the Interior."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 4, line 11, strike out the words "one-fourth to the school district and three-fourths to the municipality" and insert "and apportioned to the school district and to the municipality, in the discretion of the Secretary of the Interior."

Mr. MANN. Also strike out the word "divided."

The question was taken, and the amendments were agreed to.

Mr. FERRIS. Now, Mr. Chairman, I am not sure I am right about this, but I think some of it ought to go out, and for the purpose of getting it before the House I move to strike out, beginning with the word "and," line 14, all the rest of the paragraph.

Mr. MANN. Down to and including the word "act," in line 16.

Mr. FERRIS. What effect will that have?

Mr. MANN. It instructs in reference to sums heretofore received.

Mr. FERRIS. I move to strike out, beginning in line 14, with the word "and," all following, down to and including the word "act," in line 16.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 4, line 14, strike out the following: "And sums heretofore received from town lots and covered into the reclamation town-site fund by the terms of this act."

The question was taken, and the amendment was agreed to.

Mr. MARTIN of South Dakota. Mr. Chairman, in order to make the section harmonious, I move to strike out, in lines 20 and 21, the words "divided in the same proportion" and insert "apportioned in the discretion of the Secretary of the Interior as hereinbefore provided."

The CHAIRMAN. The Clerk will report the amendment.

Mr. MARTIN of South Dakota. Mr. Chairman, I am inclined to think a suggestion made to me by the gentleman from Illinois is in the interest of clearness and I will modify my motion by striking out the words "divided in the same proportion," in lines 20 and 21, page 4, and inserting "apportioned in the same manner."

The CHAIRMAN. The Clerk will report the amendment of the gentleman from South Dakota as modified.

The Clerk read as follows:

Page 4, lines 20 and 21, strike out the words "divided in the same proportion" and insert the words "apportioned in the same manner."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

SEC. 4. That all sums hereafter received into the reclamation town-site fund from towns having a municipal organization and an organized school district shall at the beginning of the fiscal year following the receipt of such sums be divided one-fourth to the school district and three-fourths to the municipality and paid to the proper officers of the said school district and municipality, respectively, to be expended for school and municipal purposes; and sums heretofore received from the sale of town lots and covered into the reclamation town-site fund by the terms of this act and sums hereafter accruing from towns having no municipal or school district organization and not expended by the Secretary of the Interior as provided by section 2 of this act shall upon the organization of municipalities and school districts be divided in the same proportion and paid to the school districts and municipalities, respectively, to be expended for school and municipal purposes.

Mr. MANN. In the new section 4 the committee amendment was amended, but it has not yet been agreed to.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 5. That the Secretary of the Interior is further authorized to reserve from entry such lands within or near such town sites as he may deem necessary for cemetery purposes, and to make appropriate regulations for the supervision and sale of lots in such cemetery at an appraised value, through the Reclamation Service, until such time as a municipal corporation or corporations shall be created capable of operating and maintaining such cemetery, and thereupon a legal title for the lands so reserved and then unsold shall be transferred to the municipal corporation or corporations for cemetery purposes, and the proceeds of the sales of cemetery lots by the municipal corporation or corporations shall be used for cemetery improvements. The proceeds of sales of cemetery lots by the United States shall be paid into and become a part of the reclamation town-site fund, and the cost of the improvement, maintenance, and operation of such cemeteries may be paid from said fund in the discretion of the Secretary of the Interior: *Provided*, That whenever the lands or any part thereof so transferred shall be used for any other than cemetery purposes the ownership and control thereof shall revert to the United States.

Also, the following committee amendment was read:

Page 5, line 12, after the word "States," insert the words: "Prior to the transfer to the municipalities, respectively."

The CHAIRMAN. The question is on agreeing to the committee amendment.

The question was taken and the amendment was agreed to.

The CHAIRMAN. The Clerk will also report the other committee amendment.

The Clerk read as follows:

After the word "Interior," line 17, page 5, strike out:

"*Provided*, That whenever the lands or any part thereof so transferred shall be used for any other than cemetery purposes the ownership and control thereof shall revert to the United States."

The CHAIRMAN. The question is on agreeing to the committee amendment.

Mr. FERRIS. Why is it necessary to strike out that proviso? That is merely a reversionary clause.

Mr. MARTIN of South Dakota. It is pretty hard to revert the cemetery to the Government if used for a chapel or school site.

Mr. FERRIS. If it was to be used, the bodies would be removed. But I do not care anything about it.

The Clerk read as follows:

SEC. 6. That the survey, subdivision, and sales of lots in the cemeteries prior to transfer to municipal corporations and the survey, subdivision, and sale of lots in reclamation town sites heretofore and hereafter established under the acts aforesaid shall be conducted by the Secretary of the Interior through the Reclamation Service, and patents for the lots shall be issued in the usual manner through the General Land Office.

Also, the following committee amendment was read:

Page 5, line 22, after the word "cemeteries," strike out the words "and town sites" and insert:

"Prior to transfer to municipal corporations and the survey, subdivision, and sale of lots in reclamation town sites."

Mr. FERRIS. This paragraph goes ahead and provides how the town sites shall be sold.

Mr. MANN. This is a cemetery. It refers to cemetery lots, and I hope it will be many years before the gentleman from Oklahoma occupies one.

Mr. FERRIS. Thank you.

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. TAYLOR of Colorado. Mr. Chairman, I move that the committee do now rise and report the bill to the House with amendments with the recommendation that the amendments be agreed to, and that the bill as amended do pass.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. FOSTER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 23669) providing for the disposition of town sites in connection with reclamation projects, and for other purposes, and had directed him to report the same to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The SPEAKER. Is a separate vote demanded on any amendment?

Mr. FERRIS. Mr. Speaker, I demand a separate vote on the amendment agreed to on page 1, line 3, wherein "25 per cent" was adopted in lieu of "5 per cent."

Mr. CANNON. Mr. Speaker——

The SPEAKER. The gentleman from Illinois is recognized.

Mr. CANNON. Pending that, I move the previous question upon the bill and amendments to final passage.

The SPEAKER. The gentleman from Illinois moves the previous question on the bill and amendments thereto to final passage. The question is on agreeing to the motion.

The question was taken; and the Speaker announced that the "ayes" seemed to have it.

Mr. FERRIS. Division, Mr. Speaker.

The House divided; and there were—ayes 66, noes 15.

So the previous question was ordered.

The SPEAKER. Is a separate vote demanded on any of the amendments?

Mr. FERRIS. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. FERRIS. Mr. Speaker, the bill as reported from the committee contained a provision authorizing 50 per cent of the town-site fund to be used for local improvements. The committee adopted a provision making it 25 per cent. Another amendment was voted down to the effect that it should be 5 per cent. Is there a way to get a vote to determine whether the House elects to have 5 per cent of those funds used or 25 per cent used?

The SPEAKER. There is not.

Mr. FERRIS. Then I withdraw my request for a separate vote.

Mr. GARNER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GARNER. As the previous question has been ordered, and a separate vote is demanded on each amendment adopted by the committee, when will the vote be taken on each amendment?

The SPEAKER. Next Wednesday morning.

Mr. GARNER. Then I shall ask for a separate vote.

Mr. CANNON. I think we can arrange it all right to-night.

Mr. GARNER. I will say to the gentleman from Illinois [Mr. CANNON] that we can not pass the bill to-night, because there are a number of us on this side who propose to have a yea-and-nay vote on this bill to its final passage. Now, unless we are going to call a quorum here for the purpose of taking a yea-and-nay vote, it would be perfectly frivolous for us to undertake to pass the bill to-night. But I think this: The previous question has been ordered; we could adjourn now and take up the bill next Wednesday.

Mr. MANN. Let us first agree to the amendments and then take it up next Wednesday.

Mr. GARNER. I will say to the gentleman from Illinois [Mr. MANN] that I understand his anxiety and the anxiety of the other gentleman from Illinois [Mr. CANNON] with reference to this particular bill being gotten out of the way. I speak for myself. I am not in accord with that movement, and there are a number of others over here who are in the same attitude, and I think it is perfectly legitimate to ask, at least for the present, that all the rights of Members with respect to this bill may be preserved from the parliamentary standpoint in order that we may take advantage of it to fight a bill that is to come up later.

Mr. MANN. I do not blame the gentleman.

The SPEAKER. Of course, all this colloquy is proceeding by unanimous consent.

Mr. MANN. I think it will serve a useful purpose to spend all day next Wednesday in voting on this bill.

The SPEAKER. The gentleman from Texas [Mr. GARNER] demands a separate vote on each amendment, and the Clerk will report the first one.

Mr. CANNON. It may be necessary to get a quorum.

Mr. GARNER. If the gentleman from Illinois thinks it is necessary to get a quorum, he may make a point of order for that purpose.

Mr. MANN. I demand the regular order, Mr. Speaker.

The SPEAKER. The regular order is to vote on amendment No. 1, which the Clerk will report. But before that is done, the Chair would like to ask unanimous consent to——

Mr. MANN. Well, I will not give unanimous consent. I ask for the regular order.

The SPEAKER. The regular order is to vote on amendment No. 1, which the Clerk will report.

The Clerk read as follows:

On page 1, line 3, strike out "one-half" and insert the words "25 per cent of."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

Mr. GARNER. Mr. Speaker, to make a long story short, I make the point that there is no quorum present.

Mr. MANN. I thought we would force the gentleman to it.

The SPEAKER. The Speaker would like the gentleman from Texas [Mr. GARNER] to reserve that point of order until the Speaker can submit——

Mr. MANN. I shall demand the regular order, Mr. Speaker, and shall do so as long as the gentleman from Texas [Mr. GARNER] insists on his point of order.

Mr. GARNER. Mr. Speaker, I will withdraw my point of order for the present.

The SPEAKER. The gentleman from Texas [Mr. GARNER] reserves for the present his point of order that there is no quorum present.

Mr. MANN. Then I call for the regular order.

The SPEAKER. The regular order is demanded.

Mr. MANN. I call for the declaration of the result.

The SPEAKER. The declaration of the result was that the amendment is carried.

Mr. MANN. Then the next amendment will be the thing that is in order to be taken up.

The SPEAKER. The Chair understands that as well as the gentleman from Illinois. The Clerk will report amendment No. 2.

The Clerk read as follows:

On page 1, line 3, strike out the words "heretofore or."

The SPEAKER. The question is on agreeing to the amendment.

The question was taken; and the Speaker announced that the "ayes" seemed to have it.

Mr. GARNER. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Texas makes the point of order that there is no quorum present, and the Chair will count. [After counting.] One hundred and fourteen gentlemen are present—not a quorum.

Mr. FOSTER. Mr. Speaker, I move a call of the House.

The SPEAKER. There is an automatic call of the House. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

Mr. SISSON. Mr. Speaker, I make the motion that the House do now adjourn.

The SPEAKER. The gentleman from Mississippi moves that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. SISSON) there were 56 ayes and 58 noes.

Mr. SISSON. Mr. Speaker, I demand tellers.

Mr. CANNON. We may as well have the yeas and nays, Mr. Speaker.

Mr. MANN. I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. The question is on the motion of the gentleman from Mississippi that the House do now adjourn.

The question was taken; and there were—yeas 96, nays 88, answered "present" 9, not voting 190, as follows:

YEAS—96.

Adair	Cline	Francis	Konop
Aiken, S. C.	Collier	Garner	Korbly
Alexander	Cravens	Garrett	Lafean
Allen	Cullop	Gill	Lamb
Barnhart	Davenport	Godwin, N. C.	Lee, Ga.
Bathrick	Dent	Goodwin, Ark.	Lee, Pa.
Bell, Ga.	Denver	Gregg, Tex.	Lewis
Blackmon	Dickinson	Hamlin	Linthicum
Boehne	Dickson, Miss.	Harrison, Miss.	Lloyd
Borland	Dies	Hay	Macon
Brown	Difenderfer	Hayden	Maguire, Nebr.
Buchanan	Dixon, Ind.	Helm	Mays
Byrnes, S. C.	Donohoe	Hensley	Moon, Tenn.
Byrns, Tenn.	Doughton	Jacoway	Moss, Ind.
Callaway	Driscoll, D. A.	James	Neeley
Candler	Edwards	Jones	O'Shaunessy
Cantrill	Ferris	Kinkead, N. J.	Page
Claypool	Fowler	Konig	Post
Raker	Russell	Taggart	Underwood
Ransdell, La.	Sherwood	Talcott, N. Y.	Whitacre
Rauch	Sisson	Thayer	White
Reilly	Smith, Tex.	Thomas	Wilson, Pa.
Roddenbery	Stedman	Tribble	Witherspoon
Rubey	Stephens, Miss.	Underhill	Young, Tex.

NAYS—88.

Ainey	Finley	Kent	Porter
Anderson	Fitzgerald	Kinkaid, Nebr.	Pray
Austin	Foster	Kopp	Rees
Berger	French	Lafferty	Roberts, Mass.
Bradley	Gallagher	La Follette	Roberts, Nev.
Bulkley	Gardner, Mass.	Lenroot	Rodenberg
Burke, S. Dak.	Gardner, N. J.	Lindbergh	Scott
Calder	Gray	Lobeck	Slayden
Campbell	Greene, Mass.	McKenzie	Sloan
Cannon	Griest	McKinney	Steenerson
Cary	Hamill	McLaughlin	Stephens, Cal.
Cooper	Hamilton, Mich.	Madden	Stone
Cox	Hamilton, W. Va.	Mann	Sweet
Currier	Haugen	Martin, S. Dak.	Switzer
Dalzell	Hawley	Miller	Taylor, Colo.
Danforth	Higgins	Mondell	Towner
Dodds	Howell	Moore, Pa.	Tuttle
Dwight	Howland	Morgan, Okla.	Vare
Dyer	Humphreys, Miss.	Murdock	Volstead
Esch	Jackson	Murray	Warburton
Evans	Kendall	Pickett	Willis
Faison	Kennedy	Plumley	Young, Mich.

ANSWERED "PRESENT"—9.

Andrus	Hull	Rainey	Talbott, Md.
Browning	Longworth	Stephens, Tex.	Watkins
Butler			

NOT VOTING—190.

Adamson	Focht	Lawrence	Reyburn
Akin, N. Y.	Fordney	Legare	Richardson
Ames	Fornes	Lever	Riordan
Ansberry	Foss	Levy	Rothermel
Anthony	Fuller	Lindsay	Rouse
Ashbrook	George	Littlepage	Rucker, Colo.
Ayres	Gillett	Littleton	Rucker, Mo.
Barchfeld	Glass	Loud	Sabath
Bartholdt	Goeke	McCall	Saunders
Bartlett	Goldfogle	McCoy	Scully
Bates	Good	McCreary	Sells
Beall, Tex.	Gould	McDermott	Shackleford
Booher	Graham	McGillicuddy	Sharp
Brantley	Green, Iowa	McGuire, Okla.	Sheppard
Broussard	Greene, Vt.	McKellar	Sherley
Burgess	Gregg, Pa.	McKinley	Simmons
Burke, Pa.	Gudger	McMorran	Sims
Burke, Wis.	Guernsey	Maher	Slemp
Burleson	Hammond	Martin, Colo.	Small
Burnett	Hardwick	Matthews	Smith, J. M. C.
Carlin	Hardy	Merritt	Smith, Saml. W.
Carter	Harris	Moon, Pa.	Smith, Cal.
Clark, Fla.	Harrison, N. Y.	Moore, Tex.	Smith, N. Y.
Clayton	Hart	Morgan, La.	Sparkman
Conry	Hartman	Morrison	Speer
Copley	Hayes	Morse, Wis.	Stack
Covington	Heald	Mott	Stanley
Crago	Hedin	Needham	Stephens, Nebr.
Crumpacker	Helgesen	Nelson	Sterling
Curley	Henry, Conn.	Norris	Stevens, Minn.
Curry	Henry, Tex.	Nye	Sulloway
Daugherty	Hill	Oldfield	Taylor, Ala.
Davidson	Hinds	Olmsted	Taylor, Ohio
Davis, Minn.	Hobson	Padgett	Thistlewood
Davis, W. Va.	Holland	Palmer	Tilson
De Forest	Houston	Parran	Townsend
Dieremus	Howard	Patten, N. Y.	Turnbull
Draper	Hughes, Ga.	Patton, Pa.	Vreeland
Driscoll, M. E.	Hughes, W. Va.	Payne	Webb
Dupré	Humphrey, Wash.	Pepper	Weeks
Ellerbe	Johnson, Ky.	Peters	Wilder
Estopinal	Johnson, S. C.	Pou	Wilson, Ill.
Fairchild	Kahn	Powers	Wilson, N. Y.
Farr	Kindred	Prince	Wood, N. J.
Fergusson	Kitchin	Prouty	Woods, Iowa
Fields	Knowland	Pujo	Young, Kans.
Flood, Va.	Langham	Randell, Tex.	
Floyd, Ark.	Langley	Redfield	

So the motion to adjourn was agreed to.

The following pairs were announced:

For the session:

Mr. PALMER with Mr. HILL.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. BARTLETT with Mr. BUTLER.

Mr. HOBSON with Mr. FAIRCHILD.

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. RIORDAN with Mr. ANDRUS.

Until further notice:

Mr. FIELDS with Mr. LANGLEY.

Mr. BURGESS with Mr. MICHAEL E. DRISCOLL.

Mr. HULL with Mr. NEEDHAM.

Mr. PUJO with Mr. MCMORRAN.

Mr. CONRY with Mr. LANGHAM.

Mr. HARRISON of New York with Mr. PAYNE.

Mr. GEORGE with Mr. SMITH of California.

Mr. CARTER with Mr. MCGUIRE of Oklahoma.

Mr. SCULLY with Mr. BROWNING.

Mr. SPARKMAN with Mr. DAVIDSON.

Mr. GOULD with Mr. HINDS.

Mr. RAINEY with Mr. MCCALL.
Mr. KITCHIN with Mr. FORDNEY.
Mr. STEPHENS of Texas with Mr. AMES.
Mr. ANSBERRY with Mr. ANTHONY.
Mr. ASHBROOK with Mr. BARCHFELD.
Mr. BEALL of Texas with Mr. BARTHOLDT.
Mr. BOOHER with Mr. BURKE of Pennsylvania.
Mr. BRANTLEY with Mr. COPLEY.
Mr. BROUSSARD with Mr. CRAGO.
Mr. TURNBULL with Mr. CURRY.
Mr. BURLESON with Mr. CRUMPACKER.
Mr. BURNETT with Mr. DE FOREST.
Mr. CARLIN with Mr. DRAPER.
Mr. CLARK of Florida with Mr. FARR.
Mr. CLAYTON with Mr. FOCHT.
Mr. COVINGTON with Mr. FOSS.
Mr. CURLEY with Mr. FULLER.
Mr. DAVIS of West Virginia with Mr. GILLETT.
Mr. DOREMUS with Mr. GOOD.
Mr. DUPRÉ with Mr. GREENE of Vermont.
Mr. ESTOPINAL with Mr. GREEN of Iowa.
Mr. FERGUSSON with Mr. GUERNSEY.
Mr. FLOOD of Virginia with Mr. HARRIS.
Mr. FLOYD of Arkansas with Mr. HARTMAN.
Mr. FORNES with Mr. HAYES.
Mr. GLASS with Mr. HEALD.
Mr. GOLDFOGLE with Mr. HELGESEN.
Mr. GRAHAM with Mr. HENRY of Connecticut.
Mr. GUDGER with Mr. HUGHES of West Virginia.
Mr. HAMMOND with Mr. HUMPHREY of Washington.
Mr. HARDWICK with Mr. KAHN.
Mr. HARDY with Mr. KNOWLAND.
Mr. HEFLIN with Mr. LAWRENCE.
Mr. HENRY of Texas with Mr. LOUD.
Mr. HOLLAND with Mr. MCCREARY.
Mr. HUGHES of Georgia with Mr. MCKINLEY.
Mr. HOWARD with Mr. BATES.
Mr. JOHNSON of Kentucky with Mr. MATTHEWS.
Mr. JOHNSON of South Carolina with Mr. MERRITT.
Mr. KINDRED with Mr. MOTT.
Mr. LEVER with Mr. NELSON.
Mr. LITTLETON with Mr. NORRIS.
Mr. MCCOY with Mr. NYE.
Mr. MCDERMOTT with Mr. REYBURN.
Mr. MCGILLICUDDY with Mr. OLMSTED.
Mr. MORGAN of Louisiana with Mr. PATTON of Pennsylvania.
Mr. MORRISON with Mr. PROUTY.
Mr. OLDFIELD with Mr. SELLS.
Mr. PADGETT with Mr. SIMMONS.
Mr. PEPPER with Mr. SLEMP.
Mr. PETERS with Mr. J. M. C. SMITH.
Mr. POU with Mr. SAMUEL W. SMITH.
Mr. ROTHERMEL with Mr. POWERS.
Mr. ROUSE with Mr. SPEER.
Mr. RUCKER of Missouri with Mr. STERLING.
Mr. SABATH with Mr. SULLOWAY.
Mr. SAUNDERS with Mr. TAYLOR of Ohio.
Mr. SHARP with Mr. TILSON.
Mr. SHEPPARD with Mr. WEEKS.
Mr. SHERLEY with Mr. VREELAND.
Mr. SMALL with Mr. WILDER.
Mr. STANLEY with Mr. WILSON of Illinois.
Mr. WEBB with Mr. WOOD of New Jersey.
Mr. LEVY with Mr. YOUNG of Kansas.
Mr. GOEKE with Mr. WOODS of Iowa.
Mr. RICHARDSON with Mr. THISTLEWOOD (either to be released when the other would vote the same way).

For the balance of this day:

Mr. SIMS with Mr. DAVIS of Minnesota.

Until February 1:

Mr. SHACKLEFORD with Mr. LONGWORTH.

Mr. BROWNING. Mr. Speaker, I voted "no." I have a general pair with Mr. SCULLY, and I wish to withdraw my vote and answer "present."

Mr. TALBOTT of Maryland. Mr. Speaker, I would like to inquire if my colleague, Mr. PARRAN, voted?

The SPEAKER. He did not.

Mr. TALBOTT of Maryland. I wish to withdraw my vote of "aye" and answer "present."

Mr. RAINEY. Mr. Speaker, did the gentleman from Massachusetts, Mr. MCCALL, vote?

The SPEAKER. He did not.

Mr. RAINEY. I wish to withdraw my vote of "aye" and answer "present."

ADJOURNMENT.

The result of the vote was then announced as above recorded.

Accordingly the House (at 6 o'clock and 26 minutes p. m.) adjourned until to-morrow, Thursday, January 23, 1913, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Ashtabula Harbor, Ohio (H. Doc. No. 1295); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

2. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Shrewsbury River, N. J. (H. Doc. No. 1296); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

3. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Horse Shoe Lake, Miss. (H. Doc. No. 1297); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

4. A letter from the Secretary of the Interior, transmitting reports of the geographer in charge of the Rocky Mountain division of the United States Geological Survey and the consulting engineer on preliminary survey of the sewer system of Hot Springs, Ark. (H. Doc. No. 1298); to the Committee on Appropriations and ordered to be printed with illustrations.

5. A letter from the Secretary of the Interior, transmitting a joint report of the supervising engineer of the Reclamation Service and superintendent and supervising irrigation engineer of the Indian service on the condition of the Yakima Indian Reservation (H. Doc. No. 1299); to the Committee on Indian Affairs and ordered to be printed with illustrations.

6. A letter from the Acting Secretary of the Treasury, submitting a statement of traveling expenses incurred by officers and employees of the Treasury Department in connection with meetings and conventions of societies and associations from June 30 until December 1, 1912 (H. Doc. No. 1300); to the Committee on Expenditures in the Treasury Department and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. GARDNER of Massachusetts, from the Committee on the Library, to which was referred the bill (S. 745) providing for the erection of a statue to Thomas Jefferson at Washington, D. C., reported the same with amendment, accompanied by a report (No. 1366), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House as follows:

Mr. RICHARDSON, from the Committee on Pensions, to which was referred the bill (S. 8035) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, reported the same with amendment, accompanied by a report (No. 1364), which said bill and report were referred to the Private Calendar.

Mr. RUSSELL, from the Committee on Invalid Pensions, to which was referred the bill (S. 8034) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, reported the same with amendment, accompanied by a report (No. 1365), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. GOLDFOGLE: A bill (H. R. 28354) to promote the interstate and foreign commerce of the United States, and provide for the relocation of the pierhead line in the Hudson River between pier 1 and West Thirtieth Street, in the Borough of

Manhattan, in the city of New York; to the Committee on Interstate and Foreign Commerce.

By Mr. HINDS: A bill (H. R. 28355) to acquire at Portland, Me., an immigrant station; to the Committee on Immigration and Naturalization.

By Mr. MOON of Tennessee: A bill (H. R. 28356) providing that the United States in certain cases shall aid States and local authorities in the construction and maintenance of post roads; to the Committee on the Post Office and Post Roads.

By Mr. HOBSON: A bill (H. R. 28357) to provide for the erection of a public building at Jasper, Ala.; to the Committee on Public Buildings and Grounds.

By Mr. LEGARE: A bill (H. R. 28358) authorizing James Sottile, his heirs and assigns, to construct, maintain, and operate a bridge and approaches thereto across Cooper River, Charleston County, S. C., and also a bridge and approaches thereto across Shem Creek, Charleston County, S. C.; to the Committee on Interstate and Foreign Commerce.

By Mr. McMORRAN: A bill (H. R. 28359) to provide for the purchase of a site and the erection of a public building thereon at Bad Axe, in the State of Michigan; to the Committee on Public Buildings and Grounds.

By Mr. GOEKE: Resolution (H. Res. 784) authorizing the printing of 3,000 copies of Senate Document No. 987, Sixty-second Congress, third session; to the Committee on Printing.

By Mr. SLAYDEN: Resolution (H. Res. 785) to print 100,000 copies of an article entitled "Antityphoid vaccination in the Army and in civil life," by Maj. F. F. Russell, Medical Corps, United States Army; to the Committee on Printing.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANTHONY: A bill (H. R. 28360) granting an increase of pension to Georgiana Packard; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28361) to place John Kiernan on the retired list of the United States Army; to the Committee on Military Affairs.

By Mr. AYRES: A bill (H. R. 28362) granting a pension to Ellen Louise Tripp; to the Committee on Pensions.

By Mr. BROWN: A bill (H. R. 28363) granting a pension to John B. Page; to the Committee on Invalid Pensions.

By Mr. CALDER: A bill (H. R. 28364) for the relief of Oscar Frommel & Bro.; to the Committee on Claims.

By Mr. EDWARDS: A bill (H. R. 28365) granting a pension to W. J. Massey; to the Committee on Pensions.

Also, a bill (H. R. 28366) for the relief of the heirs of Asbury Hodges, deceased; to the Committee on War Claims.

Also, a bill (H. R. 28367) for the relief of the heirs of Samuel Way, deceased; to the Committee on War Claims.

By Mr. LEGARE: A bill (H. R. 28368) authorizing the Secretary of the Treasury to give to the city of Charleston the "Old Exchange" Building; to the Committee on Public Buildings and Grounds.

By Mr. LITTLEPAGE: A bill (H. R. 28369) granting an increase of pension to George G. Young; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28370) granting an increase of pension to Rebecca Wriston; to the Committee on Invalid Pensions.

By Mr. OLMSTED: A bill (H. R. 28371) granting an increase of pension to Alexander H. Mitchell; to the Committee on Invalid Pensions.

By Mr. RODENBERG: A bill (H. R. 28372) granting a pension to Phoebe Cosgriff; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Colorado: A bill (H. R. 28373) granting an increase of pension to Benjamin F. Jay; to the Committee on Invalid Pensions.

By Mr. YOUNG of Kansas: A bill (H. R. 28374) granting an increase of pension to Daniel Baughman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28375) granting an increase of pension to John Maddy; to the Committee on Invalid Pensions.

By Mr. DICKINSON: A bill (H. R. 28376) granting an increase of pension to Daniel Palmer; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. CALDER: Petition of Mrs. C. K. Buckley, of Brooklyn, N. Y., favoring the passage of House bill 19115, making an appropriation for payment of certain claims in accordance with findings of the Court of Claims; to the Committee on War Claims.

Also, petition of the New York Leather Belting Co. and Hogan & Son, of New York City, favoring the passage of House bill 27567, for 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of E. S. Cragin, of Brooklyn, N. Y., protesting against the passage of section 2 of the Oldfield patent bill, preventing the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the Peerless Laundry Co., of Cumberland, Md., favoring the passage of House bill 25685, for the labeling and tagging of all fabrics intended for sale which enter into interstate commerce; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Architectural League of New York, N. Y., favoring the adoption of the Mall site as approved by the National Commission of Fine Arts as a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. CARY: Petition of the United States Live Stock Sanitary Association, favoring the passage of legislation for the increase of the Federal appropriation for tick eradication; to the Committee on Agriculture.

Also, petition of the National Committee for the Celebration of the One Hundredth Anniversary of Peace among the English-speaking Peoples, favoring the passage of legislation to create a commission to represent the United States Government in the celebration of the Ghent treaty; to the Committee on Agriculture.

Also, petition of the German-American Peace Society of New York, protesting against the passage of House bill 8141, for placing the State militia on the national pay roll; to the Committee on Military Affairs.

Also, petition of the Milwaukee Reliance Boiler Works, favoring passage of House bill 27567, for 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

By Mr. DICKINSON: Papers to accompany bill (H. R. 27594) granting an increase of pension to Samuel J. Boyer; to the Committee on Invalid Pensions.

Also, papers to accompany bill (H. R. 27456) for the relief of James M. Mock; to the Committee on Military Affairs.

Also, papers to accompany bill (H. R. 22021) granting a pension to Martha J. Collier; to the Committee on Invalid Pensions.

By Mr. DRAPER: Petition of the American Group of the Société des Architects Diplômes par le Gouvernement Français, New York, favoring the adoption of the Mall site and design as approved by the National Commission of Fine Arts as a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. DYER: Petition of W. S. Eames, Theron E. Catlin, and Thomas K. Niedringhaus, St. Louis, Mo., favoring the adoption of the Mall site and the design as approved by the National Commission of Fine Arts for the memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of Rev. M. D. Krnpotic, Kansas City, Kans., favoring the plan of dealing with immigrants as proposed by Mr. DYER in his speech on the immigration bill; to the Committee on Immigration and Naturalization.

Also, petition of the manager of the southwestern branch of Corliss, Coon & Co., St. Louis, Mo., protesting against the reduction of tariff on collars and cuffs; to the Committee on Ways and Means.

Also, petition of the Roth Homeyer Coffee Co. and the Eddy & Eddy Manufacturing Co., St. Louis, Mo., protesting against the passage of legislation placing a duty on spices of any kind; to the Committee on Ways and Means.

By Mr. ESCH: Petition of the United States Live Stock Sanitary Association, Chicago, Ill., favoring the passage of legislation to increase the Federal appropriation for the eradication of the tick; to the Committee on Agriculture.

By Mr. HAYES: Petition of Charles D. Blaney, Saratoga, Cal., protesting against the passage of the Oldfield patent bill for the regulation of patents; to the Committee on Patents.

Also, petition of the Humboldt County Dairy Association, Ferndale, Cal., favoring the passage of the Haugen bill preventing the sale of butter substitutes colored in the imitation of butter; to the Committee on Agriculture.

Also, petition of the Southern California Wholesale Grocers' Association, protesting against the passage of legislation for the reduction in tariff on sugar; to the Committee on Ways and Means.

Also, petition of E. Myron Wolf, San Francisco, Cal., favoring passage of House bill 27419, for reimbursement of the Virginia Military Institute for damages sustained during the Civil War; to the Committee on War Claims.

By Mr. HENRY of Connecticut: Petition of the Connecticut State Grange, protesting against the repeal of the present oleomargarine law; to the Committee on Agriculture.

By Mr. KENNEDY: Petition of the employees of the S. R. & I. C. McConnell Co., of Burlington, Iowa, wholesale saddlery manufacturers, protesting against the passage of House bills 27569 and 27576, for reduction of tariff relating to the saddlery business; to the Committee on Ways and Means.

By Mr. LEVY: Petitions of the New York Leather Belting Co., New York; Schoverling, Daly & Gales, New York; American Laundry Machinery Co., Rochester, N. Y.; R. E. Dietz Co., New York City; Crockery Board of Trade of New York, New York City; Wood & Selleck, New York City; Reliance Ball-Bearing Door Hanger Co., New York City, favoring passage of House bill 27567, for 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of Judson G. Wall, New York, favoring the passage of Senate bill 3, for Federal aid for the promotion of vocational education; to the Committee on Agriculture.

Also, petition of the Navy League of the United States, Washington, D. C., favoring the passage of House bill 1309, for appointing a council of national defense; to the Committee on Naval Affairs.

By Mr. LINDSAY. Petition of C. H. Caldwell and the American Group of the Société des Architects Diplômes par le Gouvernement Français, New York, favoring the adoption of the site and design as approved by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of the Duchess Manufacturing Co., Poughkeepsie, N. Y., favoring the passage of House bill 27567, for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of John W. Davis, Birdsboro, Pa.; C. M. Perrigs, Dryden, N. J.; and George Shango, Wesley, Pa., favoring the passage of House bill 1339, granting an increase of pension to veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

By Mr. REILLY: Petition of the Connecticut State Grange, New London, Conn., protesting against any change in the present oleomargarine law; to the Committee on Agriculture.

By Mr. SCULLY: Petition of the general executive committee of the Railway Business Men's Association, favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the Industrial Exposition of the Industries of Union County, Elizabeth, N. J., favoring the passage of Senate bill 3, for Federal aid for industrial education; to the Committee on Agriculture.

By Mr. SIMS: Petition of the women of Sandy Springs, Md., favoring the adoption of the proposed boulevard from Washington to Gettysburg as a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. WILLIS: Papers to accompany bill (H. R. 26453) granting an increase of pension to Helen G. Davis; to the Committee on Invalid Pensions.

By Mr. WILSON of New York: Petition of the German-American Peace Society, New York, protesting against the passage of House bill 8141, for placing the State militia on the national pay roll; to the Committee on Military Affairs.

Also, petition of the Eberhard-Faber Pencil Co. Employees' Aid Society, Greenpoint, Brooklyn, protesting against the reduction of tariff on lead pencils and leads; to the Committee on Ways and Means.

Also, petition of Illinois Chapter, American Institute of Architects, favoring the Mall site as approved by the National Commission of Fine Arts, but protesting against the proposed design for the memorial to Abraham Lincoln; to the Committee on the Library.

SENATE.

THURSDAY, *January 23, 1913.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Journal of yesterday's proceedings was read and approved.

INDIAN APPROPRIATION BILL.

The PRESIDENT pro tempore (Mr. GALLINGER). The Chair lays before the Senate a communication from the House of Representatives, which will be read.

The Secretary read as follows:

IN THE HOUSE OF REPRESENTATIVES,
January 22, 1913.

Ordered, That a message be sent to the Senate, notifying that body that an error has been made in the engrossment of the bill H. R. 26874, entitled "An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1914," approved January 9, 1913, as sent from this House to the Senate, which error consists in incorporating in said engrossed bill a section thereof, on page 24, lines 7 to 15, inclusive, as follows:

"The sum of $300,000 to be expended in the discretion of the Secretary of the Interior, under rules and regulations to be prescribed by him, in aid of the common schools in the Cherokee, Creek, Choctaw, Chickasaw, and Seminole Nations in Oklahoma, during the fiscal year ending June 30, 1914: *Provided*, That this appropriation shall not be subject to the limitation in section 1 of this act limiting the expenditure of money to educate children of less than one-fourth Indian blood."

Said section having been stricken from the original bill by this House previous to the passage of the bill; and that the Senate be requested to permit the Clerk to correct said error.

The PRESIDENT pro tempore. The usual procedure in such cases has been the passage of a concurrent resolution instructing the Clerk to make changes of this kind. In view of the fact that this matter comes in an unusual form, the Chair will take the liberty of referring it to the Committee on Indian Affairs for their consideration.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed a bill (H. R. 27941) making appropriations for the support of the Army for the fiscal year ending June 30, 1914, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented a memorial adopted by the Elstophos Science Club, of Washington, D. C., remonstrating against transferring the control of the natural resources of the country to the several States, which was referred to the Committee on Conservation of National Resources.

Mr. PENROSE presented a petition of Washington Camp, No. 568, Patriotic Order Sons of America, of Anslomink, Pa., praying for the enactment of legislation to further restrict immigration, which was ordered to lie on the table.

Mr. BRANDEGEE presented a memorial of the State Grange, Patrons of Husbandry, of Connecticut, remonstrating against the repeal of the present oleomargarine law, which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of the State Board of Agriculture of Connecticut, praying for the passage of the so-called Page vocational education bill, which was ordered to lie on the table.

Mr. JONES presented resolutions adopted by members of the Commercial Club, of Hoquiam, Wash., favoring the extension of the north jetty of Grays Harbor, in that State, which were referred to the Committee on Commerce.

Mr. McLEAN presented a petition of sundry citizens of New Haven, Conn., praying the enactment of legislation to further restrict immigration, which was ordered to lie on the table.

Mr. TOWNSEND presented petitions of the congregations of the Seventh-day Adventist Churches of Cedar Lake, Bauer, Petoskey, and Memphis, all in the State of Michigan, remonstrating against compelling the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. BURTON presented a petition of Local Branch, Boy Scouts of America, of Ada, Ohio, praying for the enactment of legislation for the protection of migratory birds, which was ordered to lie on the table.

Mr. PAGE presented a petition of the congregation of the Methodist Episcopal Church of St. Johnsbury Center, Vt., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. ROOT presented petitions of sundry citizens of Bainbridge, N. Y., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. LIPPITT. I present a memorial from members of the Society of St. Volodymyr, of Woonsocket, R. I., remonstrating against the adoption of the illiteracy test clause in the pending immigration bill. I ask that the memorial lie on the table and be printed in the RECORD.

There being no objection, the memorial was ordered to lie on the table and to be printed in the RECORD, as follows:

(Saporozska Slcz of St. Volodymyr, Woonsocket, R. I. Incorporated May 3, 1911.)

WOONSOCKET, R. I., *January 29, 1913.*

To the Senate of the United States:

GENTLEMEN: It has been a painful surprise to us to see the House pass the Burnett bill, providing for a literary test. This test, as is well known, does not aim at selection but merely at the cutting of numbers. It is a move against present immigration which we very earnestly regret. It is a departure from our traditions and the principle that has guided us in the past, through the means of which our country stands preeminent as the land of equal opportunity. It overlooks also the need of the country for a continuous fresh supply of labor. We can only hope now that the Senate will not join the House in its decision, but will come to a better understanding as to the wishes of the majority of the American people and the best interests of the country.

REPORTS OF COMMITTEES.

Mr. OLIVER, from the Committee on Claims, to which was referred the bill (H. R. 8861) for the relief of the legal representatives of Samuel Schiffer, reported it without amendment and submitted a report (No. 1137) thereon.

Mr. JONES, from the Committee on Military Affairs, to which was referred the bill (S. 2492) to place William F. Greeley on the retired list of the Army, reported adversely (S. Rept. 1138) thereon and the bill was postponed indefinitely.

Mr. BURTON, from the Committee on Commerce, to which was referred the bill (H. R. 26549) to provide for the construction or purchase of motor boat for customs service, reported it without amendment and submitted a report (No. 1139) thereon.

Mr. BRADLEY, from the Committee on Post Offices and Post Roads, to which was referred the bill (S. 7488) for the relief of George L. Thomas, reported it without amendment and submitted a report (No. 1140) thereon.

Mr. DU PONT, from the Committee on Military Affairs, to which was referred a memorial submitted by Mr. TOWNSEND (for Mr. SMITH of Michigan) on the 10th instant, remonstrating against the passage of the so-called Swanson bill for the relief of certain Confederate officers, asked to be discharged from its further consideration and that it be referred to the Committee on Claims, which was agreed to.

PUBLIC BUILDING AT GREENVILLE, ALA.

Mr. CULBERSON. From the Committee on Public Buildings and Grounds I report back favorably, with amendments, the bill (S. 7522) for the erection of a public building at the city of Greenville, Ala., and I call the attention of the Senator from Alabama [Mr. JOHNSTON] to it.

Mr. JOHNSTON of Alabama. I ask unanimous consent for the present consideration of the bill just reported by the Senator from Texas.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendments were, on page 1, line 4, after the words "directed to," to strike out "contract for the erection and completion" and insert the words "acquire by condemnation or otherwise a suitable site and to cause to be erected thereon"; on the same page, line 9, before the word "building," to insert the words "site and"; and, in lines 10, 11, and 12, to strike out the words "which said sum is hereby appropriated for said building out of any money in the Treasury not otherwise appropriated," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to acquire by condemnation or otherwise a suitable site and to cause to be erected thereon in the city of Greenville, Ala., a suitable building, including fireproof vaults, heating and ventilating apparatus, elevators, and approaches, complete, for the use and accommodation of the United States post office and other Government offices, the cost of said site and building not to exceed the sum of $75,000.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the purchase of a site and the erection of a public building at the city of Greenville, Ala."

FIFTH REGIMENT MARYLAND NATIONAL GUARD.

Mr. SMITH of Maryland. From the Committee on the District of Columbia I report favorably, with an amendment, the joint resolution (S. J. Res. 153) granting to the Fifth Regiment Maryland National Guard the use of the corridors of the courthouse of the District of Columbia upon such terms and conditions as may be prescribed by the marshal of the District of Columbia, and I submit a report (No. 1135) thereon. I ask unanimous consent for the present consideration of the joint resolution.

The amendment was, in line 8, after the date "March fourth" to insert "nineteen hundred and thirteen," so as to make the joint resolution read:

Resolved, etc., That the marshal of the District of Columbia be, and he is hereby, authorized to permit the Fifth Regiment Maryland National Guard to occupy and use the corridors of the courthouse of the District of Columbia from 6 o'clock in the evening of March 3 to 7 o'clock in the evening of March 4, 1913, upon such terms and conditions as the marshal of the District of Columbia shall impose upon the colonel of the Fifth Regiment Maryland National Guard.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

LOAN OF TENTS.

Mr. JOHNSTON of Alabama. From the Committee on Military Affairs I report back favorably with an amendment the joint resolution (S. J. Res. 143) authorizing the Secretary of War to loan certain tents for use at the meeting of the Imperial Council of the Ancient Arabic Order of the Nobles of the Mystic Shrine to be held at Dallas, Tex., in May, 1913, and I submit a report (No. 1136) thereon.

Mr. CULBERSON. I ask for the present consideration of the joint resolution.

Mr. CLARKE of Arkansas. I am not going to object to its present consideration, but I am going to ask if there is any precedent for such action. I thought we carried the business pretty far when we began to lend tents for veterans' reunions.

Mr. JOHNSTON of Alabama. I wish to say that there are a number of precedents.

Mr. CULBERSON. There are a number of precedents.

Mr. JOHNSTON of Alabama. The committee have reported an amendment to the joint resolution providing that in future there shall be no loan of tents except to the Grand Army of the Republic and the Confederate Veterans' Association unless in a case of grave emergency.

Mr. CLARKE of Arkansas. Leave out the grave emergency business and it is all right, because every emergency will be a grave one when they want to get something out of the Government. I have no objection to loaning tents to veterans of the late war, but I am going to oppose any movement to commit the Government to contributing to every meeting that may be held.

I have not any prejudice against these particular people. The fact of the business is, I am a member of that organization. I am not going to object to the consideration of the joint resolution, but when it comes up for consideration I should like to hear what is to be said in its favor.

The PRESIDENT pro tempore. The joint resolution will first be read.

The Secretary read the joint resolution, as follows:

Resolved, etc., That the Secretary of War be, and he is hereby, authorized to loan, at his discretion, to the executive committee of Hella Temple of the Ancient Arabic Order of the Nobles of the Mystic Shrine, at Dallas, Tex., having in charge the arrangements for the meeting of the imperial council of said order, to be held in Dallas, Tex., in May, 1913, such tents, with necessary flies, poles, ridges, and pins for each, as may be required at said meeting: *Provided*, That no expense shall be caused the United States Government by the delivery and return of such property, the same to be delivered to said executive committee of Hella Temple at such time prior to the date of such meeting as may be agreed upon by the Secretary of War and Mike H. Thomas, chairman of said executive committee: *Provided further*, That the Secretary of War shall, before delivering such property, take from said Mike H. Thomas a good and sufficient bond for the safe return of said property in good order and condition, the whole transaction to be without expense to the Government of the United States.

Mr. SANDERS. I merely wish to say for the information of the senior Senator from Arkansas that the emergency clause was put in the joint resolution for the purpose of taking care of people in times of flood along the Mississippi River, in the State of Arkansas and other States.

Mr. CLARKE of Arkansas. That bears no analogy to this. This is an appeal to the charitable instincts of Congress. It is an appeal by well-to-do people who want to have a frolic.

I think the business of supplying rations and tents on the Mississippi River has been overworked. It ought to be stopped or it ought to be investigated and its effect limited to actual necessities that could not otherwise be provided against. There is no possible analogy between that case and this one. The business of issuing tents and rations during the prevalence of overflows on the Mississippi River has become an absolute abuse. It ought to be looked into more closely than it is, and wherever it is necessary it ought to be limited to cases of necessity.

It is not a fact that that is a poverty-stricken land. It is an exceedingly prosperous one under normal conditions, and the people are generally able to withstand somewhat the effects of a single overflow, unless it is one of the unprecedented overflows like that which happened during the last season. Even in that case there were demands made here which Senators from that section of the country refused to communicate to Congress.

I have grown somewhat tired of it, and when the subject comes up again for consideration I take it for granted that some of us will have sufficient independence to ask even that that matter be scrutinized with a view of limiting it to actual necessities, and not make it an investment for people who can capitalize an outcry when calamities come upon them. The whole business has been abused. This thing is a farce. There is no reason why every particular organization that wants to have an outing or a display should come to the Congress of the

United States and demand that a part of the expense of it should be borne by the public.

If we purchase immunity from similar requests in the future by passing this particular joint resolution, it is a very good investment for us to make, but I would leave out the qualification that it should only be approved in the case of extraordinary necessity. I forget the language indicated by the Senator from Alabama, but there will always be an extraordinary emergency whenever they want to get into the Treasury. Leaving out that qualification—and I ask the Secretary to read the qualification so that I may move to strike it out—so far as I am concerned, I am willing to vote for this particular joint resolution, with the understanding that we have done something, at least, to disclose the displeasure of Congress at such utterly foolish expenditures of public moneys.

The PRESIDENT pro tempore. The Chair will suggest to the Senator that the proviso is an amendment proposed by the committee; it is not in the original joint resolution.

Mr. CLARKE of Arkansas. I want to amend the amendment when we reach that point.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. The Committee on Military Affairs propose to amend the joint resolution by adding, on page 2, line 9, after the words "United States" and before the period, the following proviso:

Provided further, That hereafter no loan of tents shall be made except to the Grand Army of the Republic and the Confederate Veterans' Association or when some grave and serious emergency exists.

Mr. CLARKE of Arkansas. I move to strike out the words "or when some grave and serious emergency exists."

The PRESIDENT pro tempore. The Chair will first——

Mr. CULBERSON. Mr. President——

The PRESIDENT pro tempore. The Chair will first inquire if there is objection to the present consideration of the joint resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The PRESIDENT pro tempore. The question is on the amendment proposed by the Senator from Arkansas [Mr. CLARKE] to the amendment reported by the committee. The Senator from Texas.

Mr. CULBERSON. Mr. President, I want to say a word in reference to this joint resolution. The statement that this will be an expense to the United States is a mistake. The United States are protected by a bond to be approved by the Secretary of War against all damage to the tents which may be loaned. The Government is held harmless against the expenditure of any money at all by this bond.

So far as the precedents are concerned, there are a number of them outside of the Confederate veterans and the Grand Army of the Republic, some of which I will note:

Joint resolution of May 14, 1908, authorizing the loan of tents to the Benevolent and Protective Order of Elks for their national convention at Dallas, Tex.

Joint resolution of June 25, 1910, authorizing loan of tents to the Elks for their national convention at Detroit, Mich.

Joint resolution of June 25, 1910, authorizing loan of tents to the Appalachian Exposition at Knoxville, Tenn.

Joint resolution of January 27, 1909, authorizing loan of tents to the inaugural committee, Washington, D. C.

Joint resolution of February 17, 1909, authorizing loan of tents to the International American Gymnastic Union, for their celebration at Cincinnati, Ohio.

These precedents show that there have been numberless cases in which the tents of the United States have been loaned to civic associations, such as the Shrine, which is covered by the joint resolution now under consideration. Therefore, I say, in the first place, it is not unprecedented, and, in the next place, it will cost the Government of the United States comparatively nothing, if indeed anything at all. I hope the joint resolution will pass.

Mr. CLARKE of Arkansas. Mr. President, I was not aware that the abuse had proceeded to the extent that seems to be indicated by the list of instances read by the Senator from Texas. I thought it was merely in its infancy. It seems to be an old offender. That formidable array of instances collected by the Senator from Texas seems to have impressed the committee only in one way, and that was that the business ought to be stopped, and that in order to stop it it is only willing that it might be exercised one more time. I am going to accept the judgment of the committee on that; but I want to eliminate the clause that seems to be a standing invitation to bring subsequent applications within a certain saving clause. I am perfectly willing to permit this joint resolution to go through at this time, but my reason for doing so is not the merit of the application, but because it affords an opportunity to permit Congress to express itself in opposition to the entire business. I think, therefore, that we ought to make an express, unconditional notification to all such organizations that we have done with that business; and we shall do that when we strike out that saving clause and permit the joint resolution to go through as a mere permission to this particular organization. That is my position about it.

Mr. SUTHERLAND. Let the committee amendment be again reported.

The PRESIDENT pro tempore. The amendment will be again read.

The SECRETARY. The committee proposes to add to the joint resolution the following proviso:

Provided further, That hereafter no loan of tents shall be made except to the Grand Army of the Republic and the Confederate Veterans' Association, or when some grave and serious emergency exists.

Mr. SUTHERLAND. Mr. President, I do not object to the consideration of the joint resolution at this time, but I intend to vote against it. The proposed amendment, in the form of a proviso, is itself a confession that the joint resolution is absolutely wrong, as I think it is. We are here in a representative capacity; we have a right to be generous with our own property, to give it away if we please, and let other people use it if we please; but we have no business to be generous with the property of the United States. The loaning of these tents for this purpose is bound to be of expense to the Government. The wear and tear upon them nobody can foresee. They are subject to damage by the elements, by becoming wet and dirty; and nobody can tell how much damage, that can not be estimated and can not be recovered under this bond, will be caused to the Government of the United States. I think it has been a thoroughly bad practice in the past, and if we are going to stop it at all we ought to stop it now.

The PRESIDENT pro tempore. The question is on the amendment proposed by the Senator from Arkansas [Mr. CLARKE] to the amendment of the committee, which will be stated.

The SECRETARY. It is proposed to strike out from the proviso the words "or when some grave and serious emergency exists."

Mr. BRANDEGEE. Mr. President, I want to ask the Senator from Arkansas, who proposed the amendment to the amendment, why is it necessary to foreclose ourselves against loaning tents if there should really be a grave and serious emergency?

Mr. CLARKE of Arkansas. We can not foreclose ourselves from doing anything that a subsequent Congress might see proper to do on this particular question.

Mr. BRANDEGEE. Well, then, what is the use of the amendment at all?

Mr. CLARKE of Arkansas. As the language now is, it is a standing intimation that if they make their claim loud enough and wide enough it will come within some exception. My purpose is to utilize this occasion as a notification to all similar organizations that we have done with this business.

Mr. BRANDEGEE. I am in sympathy with the Senator in that respect, and I am not sure that I shall vote for the joint resolution anyway; but if we are to loan tents to the two organizations mentioned in the amendment it seems to me that there is no reason for saying we would not, if a grave emergency should arise, loan tents, for instance, to the Red Cross or some institution that was engaged in alleviating distress.

Mr. CLARKE of Arkansas. Mr. President, the Senator quite misapprehends my purpose if he thinks I intend to incorporate into the joint resolution affirmative language to the effect that we will not hereafter do this. I want to consider each application on its own merits, without being bound in advance to treat it in any particular way. I think that each application should be considered on its own merits. That certainly ought to apply to a case of emergency and distress. I am not seeking to put into this joint resolution a statement that hereafter we never will do anything of the kind, but I want to exclude from it an intimation that "we will do it if you can make your clamor loud enough."

Mr. BRANDEGEE. I think the debate which has taken place is sufficient notice for the future without the amendment.

Mr. CLARKE of Arkansas. I think it would be better to have it in specific terms.

Mr. CULBERSON. Mr. President, in answer to the suggestion of the Senator from Utah [Mr. SUTHERLAND], I want to invite his attention to the second proviso of the joint resolution:

Provided, further, That the Secretary of War shall, before delivering such property, take from said Mike H. Thomas a good and sufficient bond for the safe return of said property in good order and condition.

Showing that the bond covers even the wear and tear of the tents.

Mr. JOHNSTON of Alabama. Mr. President, I desire to say that the committee adopted the amendment for the purpose of giving notice at this time to all organizations that hereafter the intention of the Senate is not to grant the loan of tents except to the Grand Army of the Republic and the Confederate Veterans' Association, in order to cut off, so far as we can, requests that we may hereafter have.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Arkansas [Mr. CLARKE] to the amendment of the committee.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, and read the third time.

Mr. BRANDEGEE. Let us have a yea-and-nay vote on the passage of the joint resolution.

The PRESIDENT pro tempore. The question is, Shall the joint resolution pass?

Mr. ROOT. I ask for the yeas and nays, Mr. President.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. RICHARDSON (when his name was called). I have a general pair with the Senator from South Carolina [Mr. SMITH], and therefore withhold my vote.

Mr. SIMMONS (when his name was called). I have a general pair with the junior Senator from Minnesota [Mr. CLAPP]. I will transfer that pair to the Senator from Virginia [Mr. MARTIN] and vote. I vote "yea."

Mr. KERN (when the name of Mr. SMITH of South Carolina was called). I make the announcement for the day that the junior Senator from South Carolina [Mr. SMITH] is detained from the Senate on account of illness in his family.

The roll call was concluded.

Mr. LODGE. I notice that the junior Senator from Georgia [Mr. SMITH], with whom I have a pair, did not vote. I transfer that pair to the Senator from New Mexico [Mr. FALL], and will allow my vote in the negative to stand.

Mr. LIPPITT. I transfer my pair with the senior Senator from Tennessee [Mr. LEA] to the junior Senator from Nevada [Mr. MASSEY] and will vote. I vote "nay."

Mr. SHIVELY. I desire to announce that both the senior Senator from Georgia [Mr. BACON] and the junior Senator from Georgia [Mr. SMITH] are absent on account of illness.

Mr. THORNTON. I wish to announce the necessary absence from the Chamber of my colleague [Mr. FOSTER] on account of illness in his family.

Mr. SWANSON. I desire to announce that my colleague [Mr. MARTIN of Virginia] is unavoidably detained from the Senate. I make that announcement for the day.

Mr. CHILTON. I desire to make the announcement as to my colleague [Mr. WATSON] that he is unavoidably absent and is paired with the Senator from New Jersey [Mr. BRIGGS].

Mr. STONE. I desire to announce that my colleague [Mr. REED] is unavoidably absent. I make this announcemnt for the day.

Mr. JOHNSON of Maine. I wish to announce that my colleague [Mr. GARDNER] is necessarily detained from the Chamber upon important public business.

The result was announced—yeas 45, nays 22—as follows:

YEAS—45.

Ashurst	Fletcher	Newlands	Smoot
Bankhead	Gallinger	O'Gorman	Stephenson
Bourne	Gronna	Overman	Stone
Bradley	Hitchcock	Paynter	Swanson
Brown	Jackson	Percy	Thomas
Bryan	Johnson, Me.	Perkins	Thornton
Catron	Johnston, Ala.	Pomerene	Tillman
Chilton	Jones	Shively	Townsend
Clark, Wyo.	Kern	Simmons	Williams
Clarke, Ark.	McLean	Smith, Ariz.	
Culberson	Martine, N. J.	Smith, Md.	
du Pont	Myers	Smith, Mich.	

NAYS—22.

Brandegee	Cummins	La Follette	Poindexter
Bristow	Dillingham	Lippitt	Root
Burnham	Dixon	Lodge	Sanders
Burton	Gamble	Nelson	Sutherland
Crawford	Guggenheim	Oliver	
Cullom	Heiskell	Page	

NOT VOTING—28.

Bacon	Fall	McCumber	Richardson
Borah	Foster	Martin, Va.	Smith, Ga.
Briggs	Gardner	Massey	Smith, S. C.
Chamberlain	Gore	Owen	Warren
Clapp	Johnston, Tex.	Penrose	Watson
Crane	Kenyon	Perky	Wetmore
Curtis	Lea	Reed	Works

So the joint resolution was passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. PENROSE:

A bill (S. 8245) granting an annuity of $100 to officers and enlisted men of the United States Army, Navy, and Marine Corps who have been awarded medals of honor for gallantry in active and other soldier-like qualities under acts of Congress, and authorizing the President of the United States to make rules and regulations for carrying the act into effect; to the Committee on Military Affairs.

By Mr. JONES:

A bill (S. 8246) forbidding the use of spurious currency, and for other purposes; to the Committee on Finance.

By Mr. CLARK of Wyoming:

A bill (S. 8247) authorizing the Northern Arapahoe Tribe of Indians residing on the Wind River Reservation in Wyoming to submit claims to the Court of Claims; to the Committee on Indian Affairs.

By Mr. NELSON:

A bill (S. 8248) to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.;

A bill (S. 8249) to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.;

A bill (S. 8250) to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.; and

A bill (S. 8251) to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn.; to the Committee on Commerce.

By Mr. TILLMAN:

A bill (S. 8252) authorizing James Sottile, his heirs and assigns, to construct, maintain, and operate a bridge and approaches thereto across Cooper River, Charleston County, S. C., and also a bridge and approaches thereto across Shem Creek, Charleston County, S. C.; to the Committee on Commerce.

By Mr. BURTON:

A bill (S. 8253) granting a pension to Ellen C. Beam (with accompanying paper); to the Committee on Pensions.

By Mr. GUGGENHEIM:

A bill (S. 8254) granting a pension to Henry C. Doll; and

A bill (S. 8255) granting an increase of pension to Daniel Cressman (with accompanying papers); to the Committee on Pensions.

A bill (S. 8256) for the relief of Amos Abbott; to the Committee on Military Affairs.

By Mr. O'GORMAN:

A bill (S. 8257) granting a pension to Judson P. Adams (with accompanying paper); to the Committee on Pensions.

By Mr. CURTIS:

A bill (S. 8258) granting an increase of pension to John W. Shults; to the Committee on Pensions.

By Mr. McCUMBER:

A bill (S. 8259) to provide for the retirement and longevity pay for certain medical officers of the Army; to the Committee on Military Affairs.

By Mr. BOURNE:

A bill (S. 8260) granting an increase of pension to Horace M. Patton (with accompanying papers); to the Committee on Pensions.

RETIREMENT OF CIVIL SERVICE EMPLOYEES.

Mr. PENROSE submitted an amendment intended to be proposed by him to the bill (S. 7887) to provide for the retirement of employees in the civil service, which was referred to the Committee on Civil Service and Retrenchment and ordered to be printed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. LODGE submitted an amendment proposing to appropriate $85,500 for improving the harbor at Plymouth, Mass., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment proposing to appropriate $200,000 for continuing the work upon the substructure of the breakwater at Sandy Bay Harbor of Refuge, Mass., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. CULBERSON submitted an amendment proposing to increase the appropriation for regular supplies, Quartermaster Corps, from $7,634,553 to $7,660,153, and appropriating therefrom $25,600 to provide a necessary heating apparatus in any building which may be constructed in connection with Fort Bliss, Tex., etc., intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

He also submitted an amendment proposing to increase the appropriation for water and sewers at military posts from $1,519,290 to $1,539,910, and appropriating therefrom $20,620 to be used to provide the necessary water and sewer systems in any building which may be constructed in connection with Fort Bliss, Tex., etc., intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

He also submitted an amendment proposing to increase the appropriation for barracks and quarters from $1,847,500 to $2,153,680, and appropriating therefrom $354,180 to be used to construct officers' quarters, barracks, stables, sheds, and other necessary buildings at Fort Bliss, Tex., intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

Mr. GORE submitted an amendment proposing to appropriate $200,000 in aid of the common schools in the Cherokee, Creek, Choctaw, Chickasaw, and Seminole Nations in Oklahoma during the fiscal year ending June 30, 1914, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. GALLINGER submitted an amendment proposing to appropriate $3,000 to reimburse the estate of George W. Dant for losses and expenses incurred growing out of the Ford's Theater disaster, June 9, 1893, etc., intended to be proposed by him to the general deficiency appropriation bill, which was ordered to be printed and, with the accompanying papers, referred to the Committee on Appropriations.

He also submitted an amendment proposing to appropriate $200,000 for cooperation with any State or group of States in the protection from fire of the forested watersheds of navigable streams under the provisions of section 2 of the act of March 1, 1911, etc., intended to be proposed by him to the Agriculture appropriation bill, which was ordered to be printed and, with the accompanying papers, referred to the Committee on Agriculture and Forestry.

CAROLINE O. BALLARD.

Mr. PENROSE submitted the following resolution (S. Res. 439), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay, out of the contingent fund of the Senate, to Caroline O. Ballard, widow of William S. Ballard, late a messenger of the Senate, a sum equal to six months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

IMPEACHMENT OF ROBERT W. ARCHBALD.

Mr. CLARK of Wyoming. I submit a concurrent resolution, which I ask may be read and referred to the Committee on Printing.

The concurrent resolution (S. Con. Res. 36) was read and referred to the Committee on Printing, as follows:

Resolved by the Senate (the House of Representatives concurring), That there be printed and bound 10,000 copies of the proceedings in the Senate of the United States, and in the House of Representatives, and before the Judiciary Committee thereof, in the matter of the impeachment of Robert W. Archbald, additional circuit judge of the United States for the third judicial circuit, and designated a judge of the Commerce Court, of which 4,000 shall be for the use of the Senate and 6,000 for the use of the House of Representatives.

INCREASE OF PENSIONS.

Mr. POINDEXTER. I ask the Chair to lay before the Senate the action of the House of Representatives on House bill 14053.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendment of the Senate to the bill (H. R. 14053) to increase the pension of surviving soldiers of the Indan wars in certain cases, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. POINDEXTER. I move that the Senate insist upon its amendments and agree to the conference asked by the House, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the President pro tempore appointed Mr. McCUMBER, Mr. POINDEXTER, and Mr. GORE conferees on the part of the Senate.

COOPER RIVER (S. C.) BRIDGE, ETC.

Mr. TILLMAN. A few days ago, at my request, the vote by which the bill (S. 7702) authorizing James Sottile, his heirs and assigns, to construct, maintain, and operate a bridge and approaches thereto across Cooper River, Charleston County, S. C., and also a bridge and approaches thereto across Shem Creek, Charleston County, S. C., was passed was reconsidered, and it is now on the calendar. I wish to have the bill recommitted to the Committee on Commerce.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and the bill is recommitted to the Committee on Commerce.

HOUSE BILL REFERRED.

H. R. 27941. An act making appropriations for the support of the Army for the fiscal year ending June 30, 1914, was read twice by its title and referred to the Committee on Military Affairs.

MEMORIAL ADDRESSES ON THE LATE SENATOR ISIDOR RAYNER.

Mr. SMITH of Maryland. I desire to give notice that on Saturday, February 15, 1913, I will ask that the business of the Senate may be suspended in order that fitting tribute may be paid to the memory of my late colleague, Hon. ISIDOR RAYNER.

Mr. CUMMINS. I desire to suggest to the Senator from Maryland that the 15th day of February has been designated for the exercises commemorative of the life and public services of the late Vice President, Mr. SHERMAN.

Mr. SMITH of Maryland. I presume both exercises could be held on that day.

Mr. ROOT. I am afraid they would be inconsistent, Mr. President.

Mr. CUMMINS. The resolution has not yet been adopted, but it is in the hands of the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. SMITH of Maryland. Then, I will ask that the 22d of February be set apart for the purpose I have indicated, after the usual Washington's Birthday exercises.

Mr. SMOOT. I will call the Senator's attention to the fact that the Senator from Rhode Island [Mr. WETMORE] has already given notice for memorial exercises on February 22. That date will be perfectly satisfactory, however, because there is only one memorial service set for that day.

Mr. SMITH of Maryland. Then, I will ask that the date fixed in my notice be changed to the 22d.

The PRESIDENT pro tempore. In the absence of objection, that order will be made.

THE CALENDAR.

The PRESIDENT pro tempore. Is there further morning business? If not, the morning business is closed.

Mr. SMOOT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of bills on the calendar under Rule VIII to which there is no objection.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Utah? The Chair hears none. The Secretary will state the first bill on the calendar.

The bill (S. 2493) authorizing the Secretary of the Treasury to make an examination of certain claims of the State of Missouri was announced as next in order.

Mr. SMOOT. I ask that the bill go over, Mr. President.

The PRESIDENT pro tempore. The bill will go over, under objection.

The bill (S. 1505) for the relief of certain officers on the retired list of the United States Navy was announced as next in order.

Mr. BRISTOW. Let that go over, Mr. President.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 2151) to authorize the Secretary of the Treasury to use at his discretion surplus moneys in the Treasury in the purchase or redemption of the outstanding interest-bearing obligations of the United States was announced as next in order.

Mr. SMOOT. Mr. President, the Senator from Georgia [Mr. SMITH] desires to be here when that bill is under consideration. He is not now present. I ask that the bill go over.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 256) affecting the sale and disposal of public or Indian lands in town sites, and for other purposes, was announced as next in order.

Mr. SMOOT. Let that bill go over.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 3) to cooperate with the States in encouraging instruction in agriculture, the trades and industries, and home economics in secondary schools; in maintaining instruction in these vocational subjects in State normal schools; in maintaining extension departments in State colleges of agriculture and mechanic arts; and to appropriate money and regulate its expenditure, was announced as next in order.

Mr. PAGE. I ask that the bill may go over.

The PRESIDENT pro tempore. The bill will be passed over.

FORESTRY INSTRUCTION.

The bill (S. 5076) to promote instruction in forestry in States and Territories which contain national forests was considered as in Committee of the Whole.

The bill was reported from the Committee on Public Lands with an amendment, in section 2, page 2, line 16, after the word "instruction," to strike out "offered to forest rangers" and insert "in forestry offered," so as to make the section read:

SEC. 2. That when any State or Territory which contains national forests shall provide instruction in forestry at the State university or other educational institution maintained by the State or Territory, which, in the judgment of the Secretary of Agriculture, is adapted to the training of forest rangers employed or to be employed in the protection and administration of the national forests, the Secretary of the Treasury shall pay to the State or Territory for the benefit of such institution, designated by the Secretary of Agriculture, from the moneys made available by this act, to be expended during the fiscal year for which said allotment is made, such sum as in the judgment of the Secretary of Agriculture will adequately assist the State or Territory in the instruction in forestry offered at such institution: *Provided*, That only one institution may receive benefits under this act in any State or Territory during any one fiscal year, and the amount paid to any State or Territory during any one fiscal year shall not exceed $7,500.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS PASSED OVER.

The bill (S. 2234) to provide for a primary nominating election in the District of Columbia, at which the qualified electors of the said District shall have the opportunity to vote for their first and second choice among those aspiring to be candidates of their respective political parties for President and Vice President of the United States, to elect their party delegates to their naional conventions, and to elect their national committeemen, was announced as next in order.

Mr. SUTHERLAND. That is a bill which will lead to a good deal of discussion. I think we had better let it go over until we have more time to consider it.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 5728) conferring jurisdiction on the Court of Claims to hear, determine, and render judgment in claims of the Osage Nation of Indians against the United States was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDENT pro tempore. The bill will go over under objection.

The bill (S. 3316) to repeal an act entitled "An act to promote reciprocal trade relations with the Dominion of Canada, and for other purposes," approved July 26, 1911, was announced as next in order.

Mr. POINDEXTER. Let that go over.

The PRESIDENT pro tempore. The bill will go over.

Mr. CULBERSON. Mr. President, how is the calendar being called? It is under Rule VIII?

The PRESIDENT pro tempore. Under Rule VIII—for the consideration of unobjected cases.

Mr. CULBERSON. So that a motion to take up and consider a bill would be in order?

The PRESIDENT pro tempore. It would not be in order.

Mr. CULBERSON. Then we are not proceeding strictly under Rule VIII?

The PRESIDENT pro tempore. The Senator from Utah [Mr. SMOOT] asked unanimous consent to proceed to the calendar for the consideration of unobjected cases.

Mr. CULBERSON. That is not strictly under Rule VIII, then?

The PRESIDENT pro tempore. Not strictly.

Mr. CULBERSON. What I wanted to know particularly was whether a motion would be in order to take up and consider a bill on the calendar, notwithstanding the objection.

The PRESIDENT pro tempore. The Chair will suggest that it would not be, inasmuch as unanimous consent was given to proceed to the consideration of unobjected cases. The Chair was in error in stating that the procedure was strictly under Rule VIII.

PINE RIDGE INDIAN RESERVATION LANDS.

The bill (S. 111) to authorize the sale and disposition of the surplus and unallotted lands in Washabaugh County, in the Pine Ridge Indian Reservation, in the State of South Dakota, and making appropriation to carry the same into effect, was considered as in Committee of the Whole.

The bill had been reported from the Committee on Indian Affairs with amendments.

The first amendment was, in section 1, page 2, line 7, after the word "River," to strike out "and including all islands therein," so as to read:

That the Secretary of the Interior be, and he is hereby, authorized and directed, as hereinafter provided, to sell and dispose of all that portion of the Pine Ridge Indian Reservation, in the State of South Dakota, lying and being in Washabaugh County and described as follows, to wit: Commencing at a point on the eastern boundary line of the Pine Ridge Indian Reservation, in the State of South Dakota, where the same intersects the boundary line between townships 39 and 40; thence west on said last-named boundary line to a point where the same intersects the fifth guide meridian; thence north on the fifth guide meridian to a point where the same intersects the main channel of the White River; thence in an easterly direction down and along the center of the main channel of the White River to a point where the same crosses the eastern boundary line of the Pine Ridge Indian Reservation; thence south on the eastern boundary line of the said Pine Ridge Indian Reservation to the point of beginning, except such portions thereof as have been or may be hereafter allotted to Indians or otherwise reserved, and except lands classified as timberlands, etc.

The amendment was agreed to.

The next amendment was, in section 3, page 4, line 9, after the words "United States," to strike out "; and he is hereby authorized to set apart and reserve for school, park, and other public purposes not more than 10 acres in any town site, and patents shall be issued by the Secretary of the Interior for the lands so set apart and reserved for school, park, and other public purposes to the municipality legally charged with the care and custody of lands donated for such purposes, upon receiving satisfactory evidence that said towns have been duly incorporated"; in line 20, after the word "direct," to strike out ", and he shall cause not more than 20 per cent of the net proceeds arising from such sales to be set apart and expended under his direction in aiding the construction of schoolhouses or other public buildings or in improvements within the town sites in which such lots are located"; and, on page 5, line 2, after the word "aforesaid," to strike out ", less the amount set aside to aid in the construction of schoolhouses or other public buildings or improvements," so as to make the section read:

SEC. 3. That before any of the land is disposed of, as hereinafter provided, and before the State of South Dakota shall be permitted to select or locate any lands to which it may be entitled by reason of the loss of sections 16 or 36, or any portions thereof, by reason of allotments thereof to any Indian or Indians, the Secretary of the Interior is authorized to reserve from said lands such tracts for town-site purposes as in his opinion may be required for the future public interests, and he may cause same to be surveyed into lots and blocks and disposed of under such regulations as he may prescribe, in accordance with section 2381 of the Revised Statutes of the United States. The purchase price of all town lots sold in town sites, as hereinafter provided, shall be paid at such time and in such installments as the Secretary of the Interior may direct. The net proceeds derived from the sale of such lots and lands within the town sites as aforesaid shall be credited to the Indians as hereinafter provided.

The amendment was agreed to.

The next amendment was, in section 7, page 8, line 9, after the word "Indians," to strike out "shall be at all times subject to appropriation by Congress for their education, support, and civilization" and insert "may be expended for their benefit or distributed per capita, in the discretion of the Secretary of the Interior," so as to make the section read:

SEC. 7. That from the proceeds arising from the sale and disposition of the lands aforesaid, exclusive of the customary fees and commissions, there shall be deposited in the Treasury of the United States, to the credit of the Indians belonging and having tribal rights on the said reservation, the sums to which the said tribe may be entitled, which shall draw interest at 3 per cent per annum; that the moneys derived from the sale of said lands and deposited in the Treasury of the United States to the credit of the said Indians may be expended for their benefit or distributed per capita, in the discretion of the Secretary of the Interior.

The amendment was agreed to.

The next amendment was, in section 8, page 8, line 18, after the word "dollars," to strike out "and 50 cents," so as to make the section read:

SEC. 8. That sections 16 and 36 of the land in each township within the tract described in section 1 of this act shall not be subject to entry, but shall be reserved for the use of the common schools, and paid for by the United States at $2 per acre, and the same are hereby granted to the State of South Dakota for such purpose, and in case any of said sections, or parts thereof, are lost to said State by reason of allotments thereof to any Indian or Indians, or otherwise, the governor of said State, with the approval of the Secretary of the Interior, is hereby authorized, within the area described in section 1 of this act, to locate other lands not otherwise appropriated, which shall be paid for by the United States as herein provided, in quantity equal to the loss, and such selections shall be made prior to the opening of such lands to settlement.

The amendment was agreed to.

The next amendment was, in section 9, page 9, line 6, before the word "thousand," to strike out "one hundred and twenty-five" and insert "seventy-six"; in line 9, after the word "act," to insert "and the amount found to be due said Indians shall be deposited to their credit in the Treasury of the United States and subject to expenditure for their benefit as provided in section 7 hereof"; in line 13, before the word "thousand," to strike out "thirty-five" and insert "ten"; and in line 20, after the word "herein," to strike out "or from any money in the Treasury belonging to said Indian tribe," so as to make the section read:

SEC. 9. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of not more than $76,000,

or so much thereof as may be necessary, to pay for the lands granted to the State of South Dakota as provided in section 8 of this act, and the amount found to be due said Indians shall be deposited to their credit in the Treasury of the United States and subject to expenditure for their benefit as provided in section 7 hereof. And there is hereby appropriated the further sum of $10,000, or so much thereof as may be necessary, for the purpose of making the appraisement, classification, and allotment provided for herein: *Provided*, That the latter appropriation, or any further appropriation hereafter made for the purpose of carrying out the provisions of this act, shall be reimbursed to the United States from the proceeds from the sale of the lands described herein.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS PASSED OVER.

The bill (S. 5186) to incorporate the Brotherhood of North American Indians was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDENT pro tempore. It will go over.

The bill (S. 461) conferring jurisdiction on the Court of Claims to hear, determine, and render judgment in claims of the Ponca Tribe of Indians against the United States was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDENT pro tempore. It will go over.

Order of Business No. 506, being the bill (S. 5917) relating to procedure in United States courts was announced as next in order.

Mr. CLARKE of Arkansas. I wish to object to that bill and I wish to include in the objection Order of Business 942, the bill (H. R. 16461) to regulate judicial procedure of the courts of the United States, which is practically a copy of this bill. I think it will be in accordance with the spirit of the rule to be able to object to both at the same time.

Mr. SMOOT. The Senator can object to Order of Business 942 when we reach it.

Mr. CLARKE of Arkansas. It is on the same subject and I thought probably there would be no objection to having both bills included in the same order.

Mr. SMOOT. There will be no objection, I think.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 118) granting an increase of pension to Harriet Pierson Porter was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDENT pro tempore. It will go over.

The bill (S. 1) to establish a department of health, and for other purposes, was announced as next in order.

Mr. SMOOT. Let the same course be taken with this bill.

The PRESIDENT pro tempore. It will go over.

The bill (S. 5169) authorizing the Ponca Tribe of Indians to intervene in the suit of the Omaha Indians in the Court of Claims, and for other purposes, was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 3463) to establish a bureau of national parks, and for other purposes, was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDENT pro tempore. It will go over.

The bill (S. 2371) to amend section 3224 of the United States Compiled Statutes so as to prevent the restraining of the assessment or collection of any tax, State, county, municipal, district, or Federal, was announced as next in order.

Mr. BRADLEY. Let that go over.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 5455) to establish a system of wireless telegraphy in the Philippine Islands was announced as next in order.

Mr. BRISTOW. Let the bill go over.

The PRESIDENT pro tempore. It will go over.

The bill (S. 5955) for the relief of certain retired officers of the Navy and Marine Corps was announced as next in order.

Mr. BRISTOW. Let the bill go over, Mr. President.

The PRESIDENT pro tempore. It will go over.

The bill (H. R. 1332) regulating Indian allotments disposed of by will was announced as next in order.

Mr. SMOOT. The Senator who reported the bill is not present. Let it go over.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 5863) for the retirement of employees in the civil service, and for other purposes, was announced as next in order.

Mr. LODGE. I think the bill had better go over. The Senator reporting the bill is not here, and it will take some debate.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 4654) to regulate contracts for the future delivery of cotton was announced as next in order.

Mr. LODGE. Let that bill go over.

The PRESIDENT pro tempore. It will go over.

The bill (S. 6109) for the protection and increase of State game resources was announced as next in order.

Mr. SHIVELY. Let the bill go over, Mr. President.

The PRESIDENT pro tempore. It will go over.

The joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States was announced as next in order.

Mr. LODGE. Let the joint resolution go over.

The PRESIDENT pro tempore. It will go over.

NAVAL MILITIA.

The bill (S. 4584) to promote the efficiency of the Naval Militia, and for other purposes, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. PERKINS. I ask that the report of the committee be printed in the RECORD.

The report was ordered to be printed in the RECORD, as follows:

[Senate Report No. 781, Sixty-second Congress, second session.]

EFFICIENCY OF THE NAVAL MILITIA.

Mr. THORNTON, from the Committee on Naval Affairs, submitted the following report, to accompany S. 4584:

The Committee on Naval Affairs, to whom was referred the bill (S. 4584) to promote the efficiency of the Naval Militia, and for other purposes, having considered the same, report thereon with a recommendation that it pass.

The bill has the approval of the Navy Department, as will appear by the following communication:

NAVY DEPARTMENT,
Washington, January 19, 1912.

MY DEAR SENATOR: Referring to letter of the 17th instant from the Senate Committee on Naval Affairs, inclosing a bill (S. 4584) to promote the efficiency of the Naval Militia, and for other purposes, and requesting the opinion of the Navy Department thereon for the information of the committee:

The bill (S. 4584) is the same as S. 10379, which was introduced during the third session of the Sixty-first Congress, and favorably reported, but not passed. This bill was agreed upon as mutually satisfactory to the Navy Department and to the Naval Militia.

The strength and efficiency of the Naval Militia organizations will be materially improved by the passage of the Naval Militia bill now before Congress. The Navy Department has carefully considered the question of the organization and training of the Naval Militia, and strongly recommends the passage of this bill.

Faithfully, yours, G. v. L. MEYER.

The CHAIRMAN COMMITTEE ON NAVAL AFFAIRS,
United States Senate.

PERSONNEL OF THE NAVY.

The bill (S. 5069) to promote the efficiency of the enlisted personnel of the United States Navy was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDENT pro tempore. The bill will go over.

BOTANICAL LABORATORY AT DENVER, COLO.

The bill (S. 93) for the establishment of a botanical laboratory at Denver, Colo., was considered as in Committee of the Whole.

The bill had been reported from the Committee on Agriculture and Forestry with an amendment to strike out all after the enacting clause and insert:

That the Secretary of Agriculture is hereby directed to establish and maintain at or near the city of Denver and State of Colorado an institution for botanical and agricultural research.

SEC. 2. That the purpose of said institution shall be to promote the investigation of the flora of the arid region of the United States lying between the ninety-eighth meridian of longitude west from Greenwich and the crest of the Sierra Nevada and Cascade Mountain Ranges, to provide for the study and investigation of plant diseases in said region, and to investigate and by experimental plant breeding to determine the possibility of acclimatizing valuable agricultural plant species to the aridity of the plains, valleys, and plateaus, and to the low temperature of high mountains in said arid part of the United States. It is expressly directed that in its experimental and other investigations said institution shall represent and be in touch with the entire arid region heretofore designated and described.

SEC. 3. That the Secretary of Agriculture is directed to provide suitable buildings in said city of Denver and State of Colorado for the use of said institution, either by purchase of a site and erection of the necessary buildings or by leasing the same, and to equip and furnish said buildings with all the instruments and other apparatus which may be needed in carrying on the work and achieving the purpose of said institution.

SEC. 4. That the said institution for botanical and agricultural research shall be placed in charge of a director, who shall be a botanist of experience and ability, to be appointed by the Secretary of Agriculture. It shall be the duty of said director to outline the investigations to be carried on by said institution in accordance with the provisions of this act and to supervise and direct the work of whatever assistant botanists and employees the Secretary of Agriculture may assign to duty in connection with said institution. It is hereby made the duty of the Secretary of Agriculture to assign to said institution what-

ever number of assistant botanists may be requisite to give force and effect to the purposes of this act.

SEC. 5. That it shall be the duty of the directors of all agricultural experiment stations maintained exclusively by the Federal Government within the area or region defined in the first section of this act to report to and cooperate with the director of said institution for botanical and agricultural research in respect of all matters pertaining to or designed to promote the adaptation of valuable agricultural plant species to the arid climate of the region named or to the low temperature of high mountains. For the purpose of determining the possibility of acclimatizing said valuable agricultural plant species to aridity or to low temperature it shall be the duty of the director of said institution for botanical and agricultural research to establish and maintain, in localities where agricultural experiment stations are not otherwise maintained, whatever experiment stations in his judgment may be requisite to an adequate and speedy solution of said problem: *Provided*, That no such experiment station shall be established except with the approval of the Secretary of Agriculture.

SEC. 6. That, subject to the approval of the Secretary of Agriculture, the director of said institution for botanical and agricultural research shall make proper and needful rules and regulations consistent with the purpose and provisions of this act for the government of said institution and for carrying on its work.

SEC. 7. That so far as may be practicable and desirable it shall be the duty of the director of said institution for botanical and agricultural research to establish cooperative and mutually helpful relations between said institution and State or other institutions engaged in botanical or agricultural research within the region designated in the first section of this act: *Provided*, That whatever action of this kind may be taken shall be consistent with the provisions and purposes of this act and subject to the approval of the Secretary of Agriculture.

SEC. 8. That for the purpose of establishing said institution for botanical and agricultural research and to provide for its maintenance during the first fiscal year after the passage of this act the sum of $50,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. GRONNA. I ask that the report of the committee on the bill may be read.

Mr. SMOOT. I merely wish to ask the Senator reporting the bill whether this same work is not being done by the Carnegie Institute?

Mr. GRONNA. I am not able to say whether it is being done elsewhere, but it is not being done in that particular locality.

Mr. SMOOT. I understand there is a laboratory at Tucson, Ariz., doing this same work.

Mr. GRONNA. I hope, Mr. President, the Senator from Utah will allow the report to be read. I think it will give him the information he desires.

The PRESIDENT pro tempore. The report will be read as requested.

The Secretary read the report submitted by Mr. GRONNA May 28, 1912, as follows:

The Committee on Agriculture and Forestry, having had under consideration Senate bill 93 (and S. 5163 as a substitute for the former) for the establishment and maintenance at or near the city of Denver, Colo., of an institution for botanical and agricultural research, report the same favorably with amendments and as amended recommend that the bill do pass.

In the arid regions within the United States there are, it is estimated, upward of 400,000 square miles, or 250,000,000 acres, of land which at present produce no crops, but which receive enough rainfall to sustain some forms of plant life. From experiments conducted by private individuals there seems reason to believe that with systematic work cereals and other agricultural plants growing in our more humid regions can be acclimatized and that these hitherto unproductive sections of our country can be made to produce agricultural crops. The work contemplated is one which it does not appear that the Agricultural Department is doing at present, and one which will not be done either by private individuals or by agricultural colleges or other institutions of learning. It will not be done by private effort because there will be little, if any, direct pecuniary reward even for successful efforts and because it is a work which must be pursued systematically for a period of years if any results are to be obtained. Institutions of scientific learning would at most experiment with only a very few species, and that more with the idea of discovering the manner in which changes in plant structure and growth may be brought about than with the idea of developing plants which can be cultivated in these dry regions and increase the country's food supply. The proposed institution can also be made a central station, where the work of the other experiment stations in the arid regions can be coordinated and tested, which it appears to the committee would be highly desirable, as this work is obviously impossible in an office located in the city of Washington. The cost will be trifling compared with the value which, it appears to the committee, such a work systematically planned and carried out will have.

The Agricultural Department is at present sending experts to the different countries to discover new plants which may be transplanted to our own country and thus increase our agricultural production, and we believe that the results fully justify our expenditures for this purpose. It appears to the committee that there is even more reason for endeavoring to adapt to the conditions in our arid regions both such agricultural plants as grow in the more humid sections of this country and also such plants as may be brought here from other countries.

In reply to the objection of the Assistant Secretary of Agriculture, the committee would say that while some parts of the work proposed may perhaps be considered as purely scientific work, such results as may be achieved will be of great importance to agriculture in the arid regions, and it is a work that no other agency than the Government can be expected to undertake and prosecute on an adequate scale. So far as the coordination of this work with the other work of the department is concerned, we believe that the measure in its present form allows the Secretary all latitude necessary to effect such coordination, and that no disorganization need result from the establishment of this institution.

The committee believe that an appropriation of $75,000 will be sufficient for the first year and accordingly recommended that the appropriation carried be reduced to this amount.

Mr. SMOOT. Mr. President, I notice in the report read that the Assistant Secretary of Agriculture has made certain objections to the bill. The report does not contain the letter of the Assistant Secretary of Agriculture or the substance of it. I should like to ask the Senator if he remembers what the substance of the objection was?

Mr. GRONNA. Mr. President, it is true that the Assistant Secretary of Agriculture in his letter to the committee did not favor this particular bill, but I believe that it was more because proper attention had not been given to this great subject than for any other reason. I do not want to state to the Senate that the Secretary of Agriculture favors the bill, but it seems to me the bill itself is of such great merit and of such value, not to any particular locality, but to the country at large, that it should be enacted into law.

Mr. SMOOT. I should exceedingly dislike to object to any legislation that would in any way benefit the arid West, but I will ask the Senator if I can secure a copy of the letter of the Assistant Secretary of Agriculture in the committee room?

Mr. GRONNA. Mr. President, the letter written to the committee by the Assistant Secretary of Agriculture is filed in the room of the Committee on Agriculture and Forestry.

Mr. SMOOT. Then I will ask that the bill go over for to-day, and I shall look at the letter in the meantime.

Mr. GRONNA. Very well.

The PRESIDENT pro tempore. The bill goes over. The next bill on the calendar will be stated.

WILLIAM MULLALLY.

The bill (S. 1485) for the relief of William Mullally was announced as next in order.

The PRESIDENT pro tempore. The bill has been reported adversely, and the question is upon its indefinite postponement.

The bill was postponed indefinitely.

BILLS, ETC., PASSED OVER.

The bill (S. 2344) to pay the balance due the loyal Creek Indians on the award made them by the Senate on February 16, 1903, was announced as next in order.

Mr. CLARKE of Arkansas. I object to that bill.

The PRESIDENT pro tempore. The bill goes over.

The bill (S. 2845) to acquire certain land in Washington Heights for a public park, to be known as McClellan Park, was announced as next in order.

Mr. SMOOT. Let that bill go over, Mr. President.

The PRESIDENT pro tempore. The bill goes over.

The next business on the calendar was a motion submitted by Mr. POINDEXTER June 7, 1912, that the Senate Committee on Interstate Commerce be discharged from the further consideration of S. 3297, to abolish the Commerce Court, etc., and that said bill be placed upon the calendar under Rule VIII for consideration by the Senate.

Mr. LODGE. Let that go over, Mr. President.

The PRESIDENT pro tempore. The motion goes over.

The bill (S. 7030) to provide for a permanent supply of coal for the use of the United States Navy and other governmental purposes: to provide for the leasing of coal lands in the Territory of Alaska, and for other purposes, was announced as next in order.

Mr. SMOOT. Let that bill go over, Mr. President.

The PRESIDENT pro tempore. The bill goes over.

The bill (S. 6896) to reopen and extend certain letters patent granted to Richard B. Painton; to insert certain claims in said letters patent dated May 9, 1899, was announced as next in order.

Mr. SMOOT. Let that bill go over, Mr. President.

The PRESIDENT pro tempore. The bill goes over.

Mr. SMOOT. I should like to give notice that the next time we take up the calendar I shall ask that that bill go over under Rule IX.

The bill (S. 2518) to provide for raising the volunteer forces of the United States in time of actual and threatened war was announced as next in order.

Mr. CLARKE of Arkansas. Mr. President, I object to the present consideration of that bill.

The PRESIDENT pro tempore. The bill goes over.

The bill (S. 6172) to regulate the method of directing the work of Government employees was announced as next in order.

Mr. SMOOT. In the absence of the Senator reporting the bill, I ask that it go over.

The PRESIDENT pro tempore. The bill goes over.

The bill (S. 4043) to prohibit interstate commerce in intoxicating liquors in certain cases was announced as next in order.

Mr. LODGE. That bill goes over, being a special order.

The PRESIDENT pro tempore. The bill goes over.

The bill (H. R. 21524) for the relief of Frederick H. Ferris was announced as next in order.

Mr. CLARKE of Arkansas. Mr. President, let that bill go over until the chairman of the Committee on Military Affairs can be present.

The PRESIDENT pro tempore. The bill goes over.

The bill (S. 6812) to amend section 3 of an act entitled "An act to provide for the allotment of land in severalty," etc., approved February 28, 1891, was announced as next in order.

Mr. SMITH of Arizona. Let that bill go over, Mr. President.

The PRESIDENT pro tempore. The bill goes over.

The resolution (S. Res. 362) for an investigation into the expenditures of the Forest Service and the appointment of a committee for that purpose was announced as next in order.

Mr. SMOOT. Let the resolution go over.

The PRESIDENT pro tempore. The resolution will go over.

The bill (H. R. 22913) to create a Department of Labor was announced as next in order.

Mr. SMOOT. Let that bill go over.

The PRESIDENT pro tempore. The bill will be passed over.

CHARLES MEYERS.

The bill (S. 7089) to remove the charge of desertion against Charles Meyers was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment to strike out all after the enacting clause and insert:

That in the administration of the pension laws Charles Meyers, who was a bugler of Company F, Ninth Regiment Wisconsin Volunteer Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said company and regiment on the 19th day of February, 1863: *Provided*, That no pension shall accrue prior to the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Charles Meyers."

WILLIAM WENTWORTH.

The bill (S. 2058) for the relief of William Wentworth was considered as in Committee of the Whole.

The bill was reported from the Committee on Military Affairs with an amendment to strike out all after the enacting clause and insert:

That in the administration of the pension laws and the laws governing the National Home for Disabled Volunteer Soldiers, or any branch thereof, William Wentworth, who was a private of Company E, Fourteenth Regiment Maine Volunteer Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of said company and regiment on the 3d day of April, 1864: *Provided*, That no pension shall accrue prior to the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

INSPECTION AND GRADING OF GRAIN.

The bill (S. 223) to provide for the inspection and grading of grain entering into interstate commerce, and to secure uniformity in standards and classification of grain, and for other purposes, was announced as next in order.

Mr. SMOOT. Let that bill go over.

The PRESIDENT pro tempore. The bill will be passed over.

INTERSTATE COMMERCE COMMISSION.

The bill (S. 6100) appropriating $100,000 for the use of the Interstate Commerce Commission, in addition to the sum or sums already appropriated for their use, was considered as in Committee of the Whole. It proposes to appropriate $100,000 for the use of the Interstate Commerce Commission in compiling a uniform classification of freight applicable to interstate traffic throughout the United States, the amount to be drawn on vouchers signed by the chairman and secretary of the Interstate Commerce Commission, in such sums and at such times as the commission may deem advisable.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LIMIT OF VISITORIAL POWERS.

The bill (H. R. 24153) to amend and reenact section 5241 of the Revised Statutes of the United States was announced as next in order.

Mr. SMOOT. Let that bill go over.

The PRESIDENT pro tempore. The bill will be passed over.

CONTRIBUTIONS OF CORPORATIONS IN POLITICAL CAMPAIGNS.

The bill (S. 3315) to prohibit corporations from making contributions in connection with political elections and to limit the amount of such contributions by individuals or persons was considered as in Committee of the Whole.

The bill was reported from the Committee on Privileges and Elections with an amendment to strike out all after the enacting clause and insert:

That an act entitled "An act to prohibit corporations from making money contributions in connection with political elections," approved January 26, 1907, is amended so as to read as follows:

"SECTION 1. That it shall be unlawful for any national bank or other corporation organized by authority of a law of the United States to contribute any money or other thing of value in connection with any convention, primary, or other election for the nomination or election of any person to any political office. It shall also be unlawful for any corporation whatever to contribute any money or other thing of value in connection with the nomination of electors for President and Vice President or the nomination of President and Vice President, Senator, or Representative in Congress, or in connection with the election of any of said officers. Every corporation which shall make any contribution in violation of this section shall be subject to a fine not to exceed $5,000, and every officer, director, or agent who shall consent to any contribution by the corporation in violation of the provisions of this section shall, upon conviction therof, be punished by a fine not to exceed $1,000, or by imprisonment for a term of not more than one year, or by both such fine and imprisonment, in the discretion of the court.

"SEC. 2. That it shall be unlawful for any individual or person to contribute money or other thing of value exceeding in value $5,000 in connection with the nomination of electors for President and Vice President or the nomination of President and Vice President, Senator, or Representative in Congress, or in connection with the election of any of said officers: *Provided*, That this section shall not apply to individuals or persons who at such convention, primary, or election are candidates for President, Vice President, Representative, or Senator. Every individual or person who shall make any contribution in violation of the provisions of this section shall, upon conviction thereof, be punished by a fine not to exceed $10,000, or by imprisonment for a term not more than two years, or by both such fine and imprisonment, in the discretion of the court.

"SEC. 3. That all laws or parts of laws in conflict herewith are hereby repealed."

The PRESIDENT pro tempore. The amendment heretofore offered by the Senator from Iowa [Mr. KENYON] to the amendment reported by the committee will be stated.

The SECRETARY. On page 4, section 1, line 4, after the word "by," it is proposed to strike out "a fine not to exceed $1,000, or by," and in line 6, after the word "year," to strike out "or by both such fine and imprisonment, in the discretion of the court," so as to make the section read:

SECTION 1. That it shall be unlawful for any national bank or other corporation organized by authority of a law of the United States to contribute any money or other thing of value in connection with any convention, primary, or other election for the nomination or election of any person to any political office. It shall also be unlawful for any corporation whatever to contribute any money or other thing of value in connection with the nomination of electors for President and Vice President or the nomination of President and Vice President, Senator, or Representative in Congress, or in connection with the election of any of said officers. Every corporation which shall make any contribution in violation of this section shall be subject to a fine not to exceed $5,000, and every officer, director, or agent who shall consent to any contribution by the corporation in violation of the provisions of this section shall, upon conviction thereof, be punished by imprisonment for a term of not more than one year.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS PASSED OVER.

The bill (S. 3345) to amend the act of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," was announced as next in order.

Mr. SMOOT. I ask that the bill go over.

The PRESIDENT pro tempore. The bill will go over.

The bill (S. 7288) to authorize the transfer of First Lieut. Sydney Smith from retired to the active list of the Army was announced as next in order.

Mr. SMOOT. Mr. President, there is no report on that bill, and I ask that it go over.

The PRESIDENT pro tempore. The bill will go over.

The resolution (S. Res. 375) discharging the Committee on the Judiciary from further consideration of the concurrent resolution (S. Con. Res. 4) instructing the Attorney General of the United States to prosecute the Standard Oil Co. and the American Tobacco Co. was announced as next in order.

Mr. SUTHERLAND. Let that go over.

The PRESIDENT pro tempore. The resolution will go over.

The bill (H. R. 18787) relating to the limitation of the hours of daily services of laborers and mechanics employed upon a public work of the United States and of the District of Columbia, and of all persons employed in constructing, maintaining, or

improving a river or harbor of the United States and of the District of Columbia was announced as next in order.

Mr. SMOOT. Mr. President, I ask that that bill go over.

The PRESIDENT pro tempore. The bill will be passed over.

The bill (H. R. 16461) to regulate judicial procedure of the courts of the United States was announced as next in order.

Mr. CATRON. I ask that that bill go over.

The PRESIDENT pro tempore. The bill will go over.

The bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and acts supplementary thereto, was announced as next in order.

Mr. SMOOT. Notice has been given that that bill would be considered to-morrow. I ask that it go over.

The PRESIDENT pro tempore. The bill will go over.

The bill (H. R. 25741) amending section 3392 of the Revised Statutes of the United States, as amended by section 32 of the act of August 5, 1900, was announced as next in order.

Mr. SMOOT. Let that go over, Mr. President.

The PRESIDENT pro tempore. The bill will go over.

WATER SUPPLY, COLORADO SPRINGS AND MANITOU, COLO.

The bill (H. R. 23293) for the protection of the water supply of the city of Colorado Springs and the town of Manitou, Colo., was announced as next in order.

Mr. PENROSE. Mr. Chairman, I have no desire to oppose this bill permanently, but some of my constituents in eastern Pennsylvania desire to make a little further investigation of the matter. Therefore I ask the Senator from Colorado if he will consent to let it go over for a few days, until we take up the calendar next time.

Mr. GUGGENHEIM. Mr. President, this is a very meritorious bill. It has passed the House, and has been fully considered by the Senate Committee on Public Lands. For that reason I sincerely trust the Senator will not delay the matter too long. It will come up automatically in the next few days.

Mr. PENROSE. I hope the Senator will not bring it up in my absence, at any rate. I am going away this afternoon for a day.

Mr. GUGGENHEIM. Very well.

The PRESIDENT pro tempore. The bill will be passed over.

CIGARS FURNISHED EMPLOYEES BY MANUFACTURERS.

Mr. FLETCHER. May I inquire of the Senator from Pennsylvania why we should not consider House bill 25741? I am speaking now in reference to the bill that has just been passed over.

Mr. SMOOT. I will say to the Senator that I objected to the consideration of that bill to-day, for the reason that I have asked for certain information from the department, which I expected to get this morning. Just as soon as I receive it I will tell the Senator.

The PRESIDENT pro tempore. The bill has gone over under objection.

Mr. FLETCHER. There is a report of the House committee on the subject.

Mr. PENROSE. Mr. President, I did not hear what the Senator from Utah stated about what is known as the smokers' bill.

Mr. SMOOT. I stated that I had asked for certain information which I desired, and which I expected to receive to-day. It did not come to-day, and I therefore ask that the bill go over until the next call of the calendar.

Mr. PENROSE. Very well. It is a House bill, and there will be ample time to act on it.

QUAGMIRE LANDS IN NEVADA.

The bill (S. 4994) to authorize the inclosure of certain lands in the State of Nevada containing dangerous quagmires was announced as next in order.

Mr. NELSON. Mr. President, let that bill go over. There is some opposition to it.

The PRESIDENT pro tempore. The bill will go over.

PUBLIC BUILDING AT LANCASTER, KY.

The bill (S. 184) for the erection of a public building at Lancaster, Ky., was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Buildings and Grounds with an amendment, in line 10, after the word "of," to strike out "seventy-five" and insert "fifty," and in line 11, after the word "dollars," to strike out "which sum is hereby appropriated out of any money in the Treasury not otherwise appropriated," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to cause to be erected a suitable building, including fireproof vaults, heating and ventilating apparatus, elevators, approaches, and other necessary appurtenances for the use and accommodation of the United States as a post office and other governmental purposes on the site already purchased at Lancaster, Ky., the cost of said building not to exceed the sum of $50,000.

Mr. BRADLEY. I will ask that the Secretary again read the amendment as to the amount.

The SECRETARY. In line 10, before the word "thousand," it is proposed to strike out "seventy-five" and insert "fifty."

Mr. BRADLEY. It should be to strike out "seventy" and insert "fifty-five." It is a misstatement.

The PRESIDENT pro tempore. The amount in the bill is $75,000.

Mr. BRADLEY. The appropriation should be $55,000.

Mr. SUTHERLAND. Mr. President, the Senator from Kentucky is right. The print of the bill is not in accordance with the report. If Senators will turn to the report, they will see that that is the case.

The PRESIDENT pro tempore. The amount stated in the bill is $75,000, and the amendment proposes to strike out that amount and insert $50,000.

Mr. SUTHERLAND. The bill should have been reported for $55,000. I understand it is reported for $50,000.

The PRESIDENT pro tempore. Does the Senator move that amendment to the amendment reported by the committee?

Mr. SUTHERLAND. Yes; I move to amend the amendment in that way. That is the estimate of the Treasury Department.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PUBLIC BUILDING AT MIDDLESBORO, KY.

The bill (S. 4524) to increase the appropriation of $60,000 for the purchase of a site and the erection of a building for the use and accommodation of a post office at Middlesboro, Ky., to $125,000 was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Buildings and Grounds with an amendment to strike out all after the enacting clause and insert:

That the limit of cost for the purchase of a site and the erection of a public building at Middlesboro, Ky., be, and the same is hereby, increased from $60,000 to $85,000.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to increase the limit of cost for the purchase of a site and the erection of a public building at Middlesboro, Ky."

PUBLIC BUILDING AT RIDGWAY, PA.

The bill (S. 7502) for the erection of a public building at Ridgway, Pa., was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Buildings and Grounds with an amendment, in line 11, before the word "thousand," to strike out "seventy-five" and insert "eighty," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to have erected upon the site now owned by the United States Government a suitable building for the accommodation of the post office and other Government offices at the town of Ridgway, Pa.

The plans, specifications, and full estimates of said building shall be previously made and approved according to law and shall not exceed, for the building complete, the sum of $80,000.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PUBLIC BUILDING AT RHINELANDER, WIS.

The bill (S. 7298) for the purchase of a site and the erection thereon of a public building at Rhinelander, Wis., was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Buildings and Grounds with an amendment, on page 2, line 1, before the word "thousand," to strike out "sixty-five" and insert "ninety-one," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to purchase a site or acquire it by condemnation or otherwise, in the city of Rhinelander, Wis., and cause to be erected thereon a suitable building, including fireproof vaults, heating and ventilating apparatus, and approaches, for the use and accommodation of the post office and other offices of the Government.

the cost of said site and building, including said vaults, heating and ventilating apparatus, and approaches, not to exceed $91,000. The said building shall be unexposed to danger from fire by an open space of at least 30 feet on all sides, including streets and alleys.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PUBLIC BUILDING AT MINERAL POINT, WIS.

The bill (S. 7297) for the purchase of a site and the erection thereon of a public building at Mineral Point, Wis., was considered as in Committee of the Whole.

The bill had been reported from the Committee on Public Buildings and Grounds with an amendment, on page 2, line 1, before the word "thousand," to strike out "sixty-five" and insert "sixty," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to purchase a site, or acquire it by condemnation or otherwise, in the city of Mineral Point, Wis., and cause to be erected thereon a suitable building, including fireproof vaults, heating and ventilating apparatus, and approaches, for the use and accommodation of the post office and other offices of the Government, the cost of said site and building, including said vaults, heating and ventilating apparatus, and approaches, not to exceed $60,000. The said building shall be unexposed to danger from fire by an open space of at least 30 feet on all sides, including streets and alleys.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MISSOURI RIVER BRIDGE, NORTH DAKOTA.

The bill (S. 7855) to authorize the Northen Pacific Railway Co. to construct a bridge across the Missouri River, in section 36, township 134 north, range 79 west, in the State of North Dakota, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PENSIONS AND INCREASE OF PENSIONS.

The bill (S. 8178) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, was considered as in Committee of the Whole. It proposes to pension the following-named persons at the rates designated:

Michael Liebhart, late of Company H, Twenty-sixth Regiment Illinois Volunteer Infantry, $24 per month in lieu of that he is now receiving.

William M. Copeland, late of Company D, Seventeenth Regiment Kansas Volunteer Infantry, $20 per month in lieu of that he is now receiving.

E. Belle Platt, widow of Abraham S. Platt, late colonel of the Thirteenth and Thirty-fourth Regiments Ohio Volunteer Infantry, and brigadier general, United States Volunteers, $12 per month.

Charles Stewart, late of U. S. S. *Morse*, United States Navy, $24 per month in lieu of that he is now receiving.

Robert R. Whiteman, late of Company D, Sixth Regiment West Virginia Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Joseph Lasier, jr., late of Company A, Sixtieth Regiment New York Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Stephen Rice, late of Company A, Second Regiment North Carolina Volunteer Mounted Infantry, $20 per month in lieu of that he is now receiving.

Isaac Henninger, late of Company B, Eleventh Regiment Pennsylvania Volunteer Infantry, $40 per month in lieu of that he is now receiving.

Ira Lyle, late of Company K, Thirteenth Regiment Pennsylvania Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

Edgar W. Lauck, late of Company C, Fifteenth Regiment West Virginia Volunteer Infantry, $30 per month in lieu of that he is now receiving.

George Alexander, late of Company G, First Regiment Michigan Volunteer Cavalry, $40 per month in lieu of that he is now receiving.

Frank Laflame, late of Company D, Seventy-sixth Regiment Illinois Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Carrie Kellogg, widow of Luman M. Kellogg, late of Company B, Fifty-third Regiment Wisconsin Volunteer Infantry, $12 per month.

Jerome McWethy, late of Company G, Second Regiment Michigan Volunteer Cavalry, $40 per month in lieu of that he is now receiving.

Mary J. Irwin, widow of George K. Irwin, late of Company E, Third Regiment Pennsylvania Volunteer Heavy Artillery, $20 per month in lieu of that she is now receiving.

Monroe J. Potts, late captain Company G, Thirty-first Regiment Illinois Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Henry D. Jayne, late of Company E, Thirteenth Regiment New York Volunteer Heavy Artillery, $30 per month in lieu of that he is now receiving.

Samuel R. Vose, late of Company B, Sixth Regiment, and Company D, First Regiment, Michigan Volunteer Cavalry, $24 per month in lieu of that he is now receiving.

Jacob Lingenfelter, late of Company B, Two hundred and sixth Regiment Pennsylvania Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Henry B. Spencer, late first lieutenant and adjutant, One hundred and forty-fourth Regiment Indiana Volunteer Infantry, $24 per moth in lieu of that he is now receiving.

Hiram Rhodes, late of Company H, Nineteenth Regiment Illinois Volunteer Infantry, $40 per month in lieu of that he is now receiving.

Ozro M. Hale, late of Company E, Tenth Regiment Michigan Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Dennis McCarty, 2d., late of Company F, Fifteenth Regiment Maine Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Jesse Nott, late of Company G, Fifteenth Regiment Missouri Volunteer Cavalry, $24 per month in lieu of that he is now receiving.

Susan E. Miller, widow of Samuel J. Miller, late of Company G, First Regiment Connecticut Volunteer Heavy Artillery, $20 per month in lieu of that she is now receiving.

Daniel Tracy, late of Company A, Seventy-seventh Regiment Ohio Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Joseph A. Funk, late of Company D, One hundred and thirty-seventh Regiment Illinois Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Andrew W. Stevens, late captain Company K, One hundred and forty-second Regiment Indiana Volunteer Infantry, $30 per month in lieu of that he is now receiving.

John Mallet, late of Company F, One hundred and twenty-ninth Regiment Ohio Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Francis Kramer, late of Company F, One hundred and sixteenth Regiment Pennsylvania Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Martin Ressler, late of Company G, One hundred and sixteenth Regiment New York Volunteer Infantry, $30 per month in lieu of that he is now receiving.

John Scherff, late of Company C, Forty-sixth Regiment Wisconsin Volunteer Infantry, $24 per month in lieu of that he is now receiving.

John Gordon, late of Company E, Fifth Regiment Massachusetts Volunteer Cavalry, $24 per month in lieu of that he is now receiving.

Jackson Truit, late of Company D, Sixty-second Regiment United States Colored Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Joseph Antram, late musician, band, Fifty-ninth Regiment Ohio Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Martha Ann Harvey, widow of George Harvey, late captain Company I, Thirty-first Regiment Indiana Volunteer Infantry, $30 per month in lieu of that she is now receiving.

John Chenoweth, late of Company B, Twenty-first Regiment Missouri Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Joshua Eckman, late of Company K, Eleventh Regiment Pennsylvania Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Charles T. Howard, late of U. S. S. *Ohio*, *Massasoit*, and *North Carolina*, United States Navy, $24 per month in lieu of that he is now receiving.

Frederick Buckmaster, late of Company C, Fourteenth Regiment Iowa Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Emma C. Palmer, widow of Luzerne A. Palmer, late of Company C, Fifth Regiment Connecticut Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Henrietta P. Cowgill, widow of Thomas J. Cowgill, late of Company C, Forty-seventh Regiment Indiana Volunteer Infantry, $12 per month.

Ellen S. Kirkham, widow of Calvin C. Kirkham, late of U. S. S. North Carolina and Satellite, United States Navy, $20 per month in lieu of that she is now receiving.

Cornelia M. Hale, widow of Nathan Hale, late of Company K, Seventeenth Regiment Connecticut Volunteer Infantry, $20 per month in lieu of that she is now receiving.

James J. Hasson, late of Company E, Ninetieth Regiment, and Company A, Eleventh Regiment, Pennsylvania Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Clement F. S. Aimes, late of Company D, Eighty-second Regiment New York Volunteer Infantry, and Company C, Seventh Regiment New Hampshire Volunteer Infantry, $40 per month in lieu of that he is now receiving.

Franklin W. Chapman, late of Company B, Thirty-fourth Regiment Illinois Volunteer Infantry, $36 per month in lieu of that he is now receiving.

Elizabeth A. Fisher, widow of John K. Fisher, late captain Company G, Sixteenth Regiment Pennsylvania Volunteer Cavalry, $20 per month in lieu of that she is now receiving.

James Smith, late of Company A, Ninth Regiment West Virginia Volunteer Infantry, and Company B, First Regiment West Virginia Veteran Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Reuben Cooley, late of Company D, First Regiment Kentucky Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

John T. Craddock, late of Company A, Thirtieth Regiment Kentucky Volunteer Infantry, $36 per month in lieu of that he is now receiving.

Edward Brown, late of Company I, Thirtieth Regiment Kentucky Volunteer Infantry, $30 per month in lieu of that he is now receiving.

William T. Hutton, late of Company G, Thirtieth Regiment Kentucky Volunteer Infantry, $30 per month in lieu of that he is now receiving.

James Hawkins, late of Company B, Third Regiment Tennessee Volunteer Mounted Infantry, $24 per month in lieu of that he is now receiving.

John S. Edwards, late of Company I, Twenty-seventh Regiment Wisconsin Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Samuel C. Planck, late of Company E, One hundred and twenty-ninth Regiment Ohio Volunteer Infantry, and Company H, Thirteenth Regiment Michigan Volunteer Infantry, $30 per month in lieu of that he is now receiving.

David F. Entsler, late of Company A, Eleventh Regiment Iowa Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Jasper Fleener, late of Company C, Twelfth Regiment Indiana Volunteer Infantry, $30 per month in lieu of that he is now receiving

Job S. Sims, late of Company E, Seventy-ninth Regiment Ohio Volunteer Infantry, $36 per month in lieu of that he is now receiving.

John J. Jameson, late of Company D, Second Regiment United States Volunteer Sharpshooters, $30 per month in lieu of that he is now receiving.

Charles T. Knight, late of Company G, Twenty-sixth Regiment Maine Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Cyrus N. Lyons, late of Company B, Twenty-first Regiment, and unassigned, Thirty-fourth Regiment, Iowa Volunteer Infantry, $30 per month in lieu of that he is now receiving.

George W. Jones, late of Company C, One hundred and forty-eighth Regiment Illinois Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Joseph Troyer, late of Company M, Tenth Regiment Indiana Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

Josephine M. Perry, widow of Andrew J. Perry, late of Company A, Third Regiment Rhode Island Volunteer Heavy Artillery, and Company D, Eleventh Regiment Rhode Island Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Oscar B. Vibert, late of Company A, Seventh Regiment Connecticut Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Albert T. Wharton, late of Company F, Fourteenth Regiment Maine Volunteer Infantry, $30 per month in lieu of that he is now receiving.

David L. Denee, late of Company D, Fifteenth Regiment, and Company I, Second Regiment, New Jersey Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Mary A. Bingaman, widow of Joseph A. Bingaman, late second lieutenant Company D, Sixteenth Regiment Missouri Volunteer Cavalry, $20 per month in lieu of that she is now receiving.

Nettie W. Sisson, helpless and dependent daughter of Henry T. Sisson, late colonel Fifth Regiment Rhode Island Volunteer Heavy Artillery, $12 per month.

Emily J. Chambers, former widow of George W. Buffington, late of Company A, Eighth Regiment Iowa Volunteer Infantry, and widow of Thomas J. Chambers, late of Company E, First Regiment Washington Territory Mounted Volunteers, Oregon and Washington Territory Indian War, $12 per month.

Sarah Tout, widow of William H. Tout, late of Company A, Thirty-fourth Regiment Iowa Volunteer Infantry, $12 per month.

Susan J. Littlefield, former widow of Isaac W. Watson, late of Company H, Seventeenth Regiment United States Infantry, $12 per month.

Clinton E. Olmstead, late of Company K, Thirty-ninth Regiment Illinois Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Daniel H. Strout, late of U. S. S. *Sabine*, *Potomac*, and *Kanawha*, United States Navy, $24 per month in lieu of that he is now receiving.

John Miller, late of Company C, One hundred and fiftieth Regiment Indiana Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Julius A. Record, late of Company C, Twenty-third Regiment Maine Volunteer Infantry, $24 per month in lieu of that he is now receiving.

William L. Ham, late of Company B, Ninth Regiment Maine Volunteer Infantry, $36 per month in lieu of that he is now receiving.

Lucretia B. Crockett, widow of Benjamin B. Crockett, late of Company I, Sixteenth Regiment Maine Volunteer Infantry, and former widow of William W. Salisbury, late of Companies H and I, Sixteenth Regiment Wisconsin Volunteer Infantry, $12 per month.

George W. Barrett, late of Company D, Forty-ninth Regiment Wisconsin Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Olive Stull, widow of Jacob H. Stull, late first lieutenant Company D, One hundred and fourth Regiment New York Volunteer Infantry, $20 per month in lieu of that she is now receiving.

John W. Culver, late of U. S. S. *General Sherman*, United States Navy, $24 per month in lieu of that he is now receiving.

Gustaf Swanson, late of Company B, Third Regiment Minnesota Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Sophronia Dixon, widow of Henry C. Dixon, late second lieutenant Company H, Second Regiment Rhode Island Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Eben S. Welch, late of Company G, Twelfth Regiment New Hampshire Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Thomas C. Aldrich, late of band, Sixty-fifth Regiment Ohio Volunteer Infantry, $24 per month in lieu of that he is now receiving.

Emily S. Reader, widow of Charles E. Reader, late of Troop L, Sixth Regiment United States Cavalry, and Company K, One hundred and ninety-fifth Regiment Ohio Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Clara A. Long, widow of Charles A. Long, late of Company G, One hundred and thirty-ninth Regiment Indiana Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Maria L. Mann, widow of Henry P. Mann, late of Company D, Fifth Regiment Missouri State Militia Cavalry, and Company L, Second Regiment Ohio Volunteer Infantry, War with Mexico, $20 per month in lieu of that she is now receiving.

Mary J. Hubbard, widow of James H. Hubbard, late first lieutenant Company C, Thirty-second Regiment Wisconsin Volunteer Infantry, $25 per month in lieu of that she is now receiving.

George W. Sumpter, late of Company K, One hundred and fifteenth Regiment Illinois Volunteer Infantry, $50 per month in lieu of that he is now receiving.

Lurinda P. Barnes, widow of Milton H. Barnes, late of Company K, First Regiment New York Volunteer Light Artillery, $20 per month in lieu of that she is now receiving, and $2 per month additional on account of the minor child of the said Milton H. Barnes until she reaches the age of 16 years.

Electa Marsh, helpless and dependent child of Giles Marsh, late of Company G, Seventeenth Regiment Iowa Volunteer Infantry, $12 per month.

Edward A. Mace, late of Company L, First Regiment Maine Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

Mary J. Van Orden, former widow of Reuben M. Knofsker, late of Company B, Twenty-first Regiment Wisconsin Volunteer Infantry, and widow of James W. Van Orden, late of Company C, Twenty-first Regiment Wisconsin Volunteer Infantry, $20 per month in lieu of that she is now receiving.

Susan M. Wyatt, widow of Otis C. Wyatt, late captain Company B, First Regiment New Hampshire Volunteer Cavalry, $20 per month in lieu of that she is now receiving.

Luke Cassidy, late second lieutenant Company D, Thirty-fifth Regiment Indiana Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Lewis F. Branson, late of Company M, Tenth Regiment, and Company C, Second Regiment, Missouri Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

The name of Amanda E. Glenn, widow of James C. Glenn, late of Company I, Eighth Regiment Missouri State Militia Cavalry, $20 per month in lieu of that she is now receiving.

Solomon Kessinger, late of Company F, Twenty-fourth Regiment, and Company C, Twenty-first Regiment, Missouri Volunteer Infantry, $30 per month in lieu of that he is now receiving.

Peter Binkley, late of Company B, Eleventh Regiment Pennsylvania Volunteer Cavalry, $24 per month in lieu of that he is now receiving.

Edmond Melton, late of Company C, Sixteenth Regiment Missouri Volunteer Cavalry, $30 per month in lieu of that he is now receiving.

Eli W. Pierce, late of Company G, Sixth Regiment Missouri Volunteer Cavalry, and Company B, Second Regiment Missouri Volunteer Light Artillery, $36 per month in lieu of that he is now receiving.

Melissa A. McGowan, widow of Alexander McGowan, late of Company I, First Regiment Wisconsin Volunteer Cavalry, $20 per month in lieu of that she is now receiving.

Hannah Peavey, widow of Daniel Peavey, late of Company A, Seventh Regiment New Hampshire Volunteer Infantry, $20 per month in lieu of that she is now receiving.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

IMPROVED ORDNANCE PROCESSES, ETC.

The bill (H. R. 20193) authorizing the Secretary of the Navy to pay a cash reward for suggestions submitted by civilian employees of the Navy Department for improvement or economy in manufacturing processes or plant, was considered as in Committee of the Whole.

The bill had been reported from the Committee on Naval Affairs with amendments, on page 1, line 7, after the word "plant," to insert "or ordnance material"; on page 2, line 2, before the word "which," to strike out "Navy Department" and insert "said establishments"; and on line 13, after the word "appropriation," to strike out "'Pay, miscellaneous,'" and insert "'Ordnance and ordnance stores,'" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Navy is hereby authorized to offer periodically at such of the establishments of the Ordnance Department as he may select a cash reward for the suggestion, or series of suggestions, for an improvement or economy in manufacturing processes or plant or ordnance material, submitted within the period by one or more of the civilian employees of the said establishments which shall be deemed the most valuable of those submitted and adopted for use: *Provided*, That to obtain this reward the winning suggestion must be one that will clearly effect a material economy in production or increase efficiency or enhance the quality of the product in comparison with its cost, and in the opinion of the Secretary shall be so worthy as to entitle the employee making the same to receive the reward: *Provided further*, That the sums awarded to employees in accordance with this act shall be paid them in addition to their usual compensation and shall be paid out of the appropriation "Ordnance and ordnance stores": *Provided further*, That the total amount paid under the provisions of this section shall not exceed $1,000 for any one month: *And provided further*, That no employee shall be paid a reward under this act until he has properly executed an agreement to the effect that the use by the United States of the suggestion, or series of suggestions, made by him shall not form the basis of a further claim of any nature upon the United States by him, his heirs, or assigns.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

The title was amended so as to read: "An act authorizing the Secretary of the Navy to pay a cash reward for suggestions submitted by civilian employees of ordnance establishments under the Navy Department for improvement or economy in manufacturing processes or plant."

HARRY S. WADE.

The bill (H. R. 15181) for the relief of Harry S. Wade was announced as next in order.

Mr. SMOOT. Let that go over, Mr. President.

The PRESIDENT pro tempore. The bill will go over.

CONNECTICUT RIVER DAM.

The bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut, was announced as next in order.

Mr. NELSON. Mr. President, owing to the absence of the Senator from Alabama [Mr. BANKHEAD], who is opposed to this bill, I ask that it may go over.

Mr. BURTON. I should like to have the bill read.

Mr. NELSON. I object to that, because it might be called up at a later time and the point made that it had been already read, and that would put us off our guard.

Mr. BURTON. I give notice that on Saturday morning next, after the transaction of the routine morning business, I shall call up this bill and ask for its consideration.

The PRESIDENT pro tempore. The bill will go over, under objection.

Mr. SIMMONS. I should like to suggest to the Senator from Ohio that the Senator from Alabama, from the committee, is preparing a minority report on the bill. I presume he will have it ready before Saturday.

Mr. BURTON. The minority report has been filed to-day. The Senator from Alabama is, I believe, aware of my intention to seek to call it up on Saturday. The minority report was filed this morning.

THE PRESIDENTIAL TERM.

The PRESIDENT pro tempore. The hour of 2 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. CUMMINS. I ask unanimous consent that the unfinished business be temporarily laid aside.

The PRESIDENT pro tempore. The Senator from Iowa asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none, and it is so ordered.

PROTECTION OF INTERSTATE SHIPMENTS.

The bill (H. R. 16450) to punish the unlawful breaking of seals of railroad cars containing interstate or foreign shipments, the unlawful entering of such cars, the stealing of freight and express packages or baggage or articles in process of transportation in interstate shipment, and the felonious asportation of such freight or express packages or baggage or articles therefrom into another district of the United States, and the felonious possession or reception of the same, was announced as next in order.

Mr. CLARKE of Arkansas. As it is my intention to object to the present consideration of that bill, in this connection I will ask the Senator from Iowa if it would not suit him to have the bill go to the calendar under Rule IX. It is perfectly evident that the bill is not going to pass here until it has been debated, and by putting it on that calendar we might thereby relieve ourselves of the necessity of constantly watching the calendar.

Mr. CUMMINS. I would prefer that that should not be done, but I will agree that I will not have it brought forward until I have notified the Senator from Arkansas.

Mr. CLARKE of Arkansas. May I also ask the Senator to agree to a continuing objection until such time as we can take it up by some kind of agreement or consent, or at least that he notify some of us who are known not to be in sympathy with the measure?

Mr. CUMMINS. I will consult members of the Judiciary Committee, and the next time the calendar is called I will either say yes or no to that.

Mr. CLARKE of Arkansas. I suggest that the Senator have it set down for some day certain, so that all may take notice. I only want to know when it will be considered. I am quite sure the Senator would not take any advantage of any of us if we are not here.

Mr. CUMMINS. I will see that the bill is not called up for consideration at a time when the Senator from Arkansas is absent.

Mr. CLARKE of Arkansas. That is more than I was prepared to ask. I am very much obliged to the Senator from Iowa.

The PRESIDENT pro tempore. The bill goes over, on objection.

RIGHT OF WAY IN YELLOWSTONE NATIONAL PARK.

The bill (S. 3130) to authorize the Secretary of the Interior to permit the Conrad-Stanford Co. to use certain lands was announced as next in order.

Mr. SMOOT. Let the bill go over.

The PRESIDENT pro tempore. It will go over.

Mr. MYERS. I will say to the Senator from Utah that I should like very much to get the bill up and have it considered on its merits. Of course, I can see that possibly there may be some opposition to it, and I should like, if there be any, to have it thrashed out and have the bill take its chance of passage.

Mr. SMOOT. I call the Senator's attention to a fact he must know, that there are a number of members of the Committee on Public Lands who desire to make a statement upon this particular bill. They are not present in the Chamber at this time, and I know the Senator will not insist upon the consideration of the bill under those circumstances.

Mr. MYERS. Oh, no; certainly not.

Mr. SMOOT. It was for that reason that I objected to its consideration now.

I wish to say to the Senator that I am perfectly willing, as far as I am personally concerned, to state my objection to the bill in the Senate and place myself on record, and then let the Senate vote upon it; and I believe that is the sentiment of all the Senators on the committee who were opposed to the bill. But I know there are two Senators on the committee, who have expressed themselves as I have now done, who are not in the Chamber, and therefore I do not believe that the Senator will ask for the consideration of the bill to-day.

Mr. MYERS. That is agreeable.

I would ask unanimous consent, then, that the bill be made a special order for next Monday, immediately after the close of the morning business. That would give notice to all interested. Would there be any objection to that?

Mr. SMOOT. I really do not believe unanimous consent ought to be asked in the absence of those Senators. I believe the Senator will make just as much headway by letting the Senators have a chance to make their statement and then vote upon the bill. The Senator knows that there is no disposition on the part of any members of the committee to hold up the bill. Everyone expressed himself in committee to that effect. I do not believe the Senator will have any trouble whatever in getting a vote upon the bill.

Mr. MYERS. I want them all to have an opportunity to be heard upon it. I will not ask unanimous consent, then, as that might not be proper under the circumstances, but I will simply give notice that next Monday, at the conclusion of the morning business, I shall call up this bill and ask for its consideration. I do not ask for unanimous consent, but I merely give notice now that I shall at that time call it up and ask to have it considered.

The PRESIDENT pro tempore. The bill goes over under objection.

Mr. LODGE. That concludes the calendar?

The PRESIDENT pro tempore. It concludes the calendar.

Mr. LODGE. I move that the Senate adjourn.

The motion was agreed to; and (at 2 o'clock and 5 minutes p. m.) the Senate adjourned until to-morrow, Friday, January 24, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January 23, 1913.*

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Our Father in heaven, touch the dominant chords of our hearts with Thy skillful hand that they may respond to the music of Thy love and good will, that we may make for peace and happiness to all with whom we come in contact as we pass along the King's highway, and at its end receive Thine approving smile. And songs of praises we will ever give to Thee in the spirit of the Master. Amen.

APPROVAL OF THE JOURNAL.

The SPEAKER. The Clerk will read the Journal.

Mr. MANN. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Illinois makes the point of order that there is no quorum present. Evidently there is no quorum present.

Mr. ASHBROOK. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Aiken, S. C.	George	Lafean	Randell, Tex.
Ames	Gill	Lamb	Redfield
Ansberry	Gillett	Langham	Reyburn
Barchfeld	Glass	Legare	Richardson
Berger	Goeke	Lewis	Rodenberg
Brantley	Goldfogle	Lindsay	Rucker, Colo.
Broussard	Graham	Littleton	Sabath
Burke, Pa.	Gudger	Longworth	Sells
Burnett	Guernsey	Loud	Sheppard
Carlin	Hamill	McGuire, Okla.	Slemp
Carter	Hammond	McKellar	Sloan
Conry	Hardwick	McKinley	Smith, J. M. C.
Copley	Harris	McMorran	Smith, Cal.
Covington	Harrison, N. Y.	Maher	Smith, N. Y.
Crago	Hayes	Martin, Colo.	Speer
Daugherty	Heald	Matthews	Stack
Davis, Minn.	Helgesen	Moon, Pa.	Stephens, Nebr.
De Forest	Henry, Tex.	Needham	Sulloway
Dickson, Miss.	Hill	Oldfield	Thistlewood
Dixon, Ind.	Howard	O'Shaunessy	Tilson
Driscoll, M. E.	Howell	Palmer	Underwood
Dupré	Hughes, W. Va.	Parran	Vreeland
Ellerbe	Hull	Patten, N. Y.	Weeks
Estopinal	Jackson	Payne	Whitacre
Fairchild	James	Pepper	Wilson, Ill.
Fields	Kent	Peters	Wilson, N. Y.
Focht	Kindred	Prouty	Woods, Iowa.
Fordney	Kitchin	Pujo	
Fornes	Konig	Rainey	

The SPEAKER. Two hundred and sixty-nine Members have answered to their names—a quorum.

Mr. FITZGERALD. Mr. Speaker, I move to dispense with further proceedings under the call.

Mr. JOHNSON of Kentucky. Mr. Speaker, I move to dispense with further proceedings under the call.

The SPEAKER. The question is on the motion of the gentleman from Kentucky, to dispense with further proceedings under the call.

Mr. MANN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Gentlemen in the aisles will take their seats and the Sergeant at Arms will keep these aisles clear during this filibuster. [Applause.] The Clerk will call the roll.

The question was taken; and there were—yeas 256, nays 3, answered "present" 4, not voting 120, as follows:

YEAS—256.

Adair	Davenport	Hardy	Maguire, Nebr.
Adamson	Davidson	Harrison, Miss.	Martin, S. Dak.
Ainey	Davis, W. Va.	Hart	Mays
Akin, N. Y.	Dent	Hartman	Miller
Alexander	Denver	Haugen	Mondell
Allen	Dickinson	Hawley	Moon, Tenn.
Anderson	Dickson, Miss.	Hay	Moore, Pa.
Andrus	Dies	Hayden	Moore, Tex.
Anthony	Difenderfer	Heflin	Morgan, La.
Ashbrook	Dodds	Helm	Morgan, Okla.
Austin	Donohoe	Henry, Conn.	Morrison
Ayres	Doremus	Hensley	Moss, Ind.
Barchfeld	Doughton	Higgins	Mott
Barnhart	Draper	Hinds	Murdock
Bartholdt	Driscoll, D. A.	Hobson	Neeley
Bartlett	Dyer	Holland	Norris
Bates	Ellerbe	Houston	Nye
Bathrick	Esch	Howell	Olmsted
Beall, Tex.	Evans	Howland	Padgett
Bell, Ga.	Fairchild	Hughes, Ga.	Page
Blackmon	Faison	Humphrey, Wash.	Parran
Boehne	Farr	Humphreys, Miss.	Patton, Pa.
Booher	Fergusson	Jacoway	Pepper
Borland	Ferris	Johnson, Ky.	Pickett
Brown	Finley	Johnson, S. C.	Plumley
Browning	Fitzgerald	Jones	Porter
Buchanan	Flood, Va.	Kendall	Post
Bulkley	Floyd, Ark.	Kennedy	Pou
Burgess	Foss	Kinkaid, Nebr.	Powers
Burke, S. Dak.	Foster	Kinkead, N. J.	Pray
Burke, Wis.	Fowler	Knowland	Prince
Burleson	Francis	Kopp	Raker
Butler	French	Korbly	Ransdell, La.
Byrnes, S. C.	Fuller	Lafferty	Rauch
Byrns, Tenn.	Gallagher	Langley	Rees
Calder	Gardner, Mass.	Lawrence	Reilly
Callaway	Garner	Lee, Ga.	Riordan
Campbell	Garrett	Lee, Pa.	Roberts, Mass.
Candler	Gill	Lenroot	Roberts, Nev.
Cannon	Godwin, N. C.	Lever	Roddenbery
Cantrill	Good	Levy	Rothermel
Cary	Goodwin, Ark.	Linthicum	Rouse
Clark, Fla.	Gould	Littlepage	Rubey
Claypool	Graham	Lloyd	Rucker, Colo.
Clayton	Gray	Lobeck	Rucker, Mo.
Cline	Greene, Mass.	McCoy	Russell
Collier	Greene, Vt.	McCreary	Saunders
Cooper	Gregg, Pa.	McDermott	Scott
Cox	Gregg, Tex.	McGillicuddy	Scully
Cravens	Griest	McKenzie	Sharp
Cullop	Hamill	McKinney	Sherley
Curley	Hamilton, Mich.	McLaughlin	Sherwood
Currier	Hamilton, W. Va.	Macon	Simmons
Curry	Hamlin	Madden	Sims

Sisson	Stephens, Miss.	Taylor, Ohio	Watkins
Sloan	Stephens, Tex.	Thayer	White
Small	Sterling	Thomas	Wilder
Smith, Saml. W.	Stone	Townsend	Willis
Smith, N. Y.	Sweet	Tribble	Wilson, Pa.
Smith, Tex.	Switzer	Turnbull	Witherspoon
Sparkman	Taggart	Tuttle	Wood, N. J.
Stanley	Talbott, Md.	Underhill	Young, Kans.
Stedman	Talcott, N. Y.	Vare	Young, Mich.
Steenerson	Taylor, Ala.	Volstead	Young, Tex.

NAYS—3.

Dalzell	La Follette	Stevens, Minn.

ANSWERED "PRESENT"—4.

Dwight	McCall	Mann	Murray

NOT VOTING—120.

Aiken, S. C.	George	Langham	Redfield
Ames	Gillett	Legare	Reyburn
Ansberry	Glass	Lewis	Richardson
Berger	Goeke	Lindbergh	Rodenberg
Bradley	Goldfogle	Lindsay	Sabath
Brantley	Green, Iowa	Littleton	Sells
Broussard	Gudger	Longworth	Shackleford
Burke, Pa.	Guernsey	Loud	Sheppard
Burnett	Hammond	McGuire, Okla.	Slayden
Carlin	Hardwick	McKellar	Slemp
Carter	Harris	McKinley	Smith, J. M. C.
Conry	Harrison, N. Y.	McMorran	Smith, Cal.
Copley	Hayes	Maher	Speer
Covington	Heald	Martin, Colo.	Stack
Crago	Helgesen	Matthews	Stephens, Cal.
Crumpacker	Henry, Tex.	Merritt	Stephens, Nebr.
Danforth	Hill	Moon, Pa.	Sulloway
Daugherty	Howard	Morse, Wis.	Taylor, Colo.
Davis, Minn.	Hughes, W. Va.	Needham	Thistlewood
De Forest	Hull	Nelson	Tilson
Dixon, Ind.	Jackson	Oldfield	Towner
Driscoll, M. E.	James	O'Shaunessy	Underwood
Dupré	Kahn	Palmer	Vreeland
Edwards	Kent	Patten, N. Y.	Warburton
Estopinal	Kindred	Payne	Webb
Fields	Kitchin	Peters	Weeks
Focht	Konig	Prouty	Whitacre
Fordney	Konop	Pujo	Wilson, Ill.
Fornes	Lafean	Rainey	Wilson, N. Y.
Gardner, N. J.	Lamb	Randell, Tex.	Woods, Iowa

So the motion was agreed to.

The Clerk announced the following pairs:

Ending February 1:

Mr. SHACKLEFORD with Mr. LONGWORTH.

Until further notice:

Mr. KITCHIN with Mr. FORDNEY.

Mr. RAINEY with Mr. MCCALL.

Mr. GOULD with Mr. HINDS.

Mr. CARTER with Mr. MCGUIRE of Oklahoma.

Mr. GEORGE with Mr. SMITH of California.

Mr. HARRISON of New York with Mr. PAYNE.

Mr. CONRY with Mr. LANGHAM.

Mr. PUJO with Mr. MCMORRAN.

Mr. HULL with Mr. NEEDHAM.

Mr. FIELDS with Mr. LANGLEY.

Mr. EDWARDS with Mr. DE FOREST.

Mr. ANSBERRY with Mr. BURKE of Pennsylvania.

Mr. AIKEN of South Carolina with Mr. DAVIS of Minnesota.

Mr. BRANTLEY with Mr. AMES.

Mr. BROUSSARD with Mr. COPLEY.

Mr. BURNETT with Mr. CRUMPACKER.

Mr. CARLIN with Mr. DANFORTH.

Mr. COVINGTON with Mr. MICHAEL E. DRISCOLL.

Mr. DUPRÉ with Mr. GARDNER of New Jersey.

Mr. ESTOPINAL with Mr. GILLETT.

Mr. GLASS with Mr. SLEMP.

Mr. GOEKE with Mr. GREEN of Iowa.

Mr. GOLDFOGLE with Mr. GUERNSEY.

Mr. GUDGER with Mr. HAYES.

Mr. HAMILL with Mr. CRAGO.

Mr. HARDWICK with Mr. SULLOWAY.

Mr. MURRAY with Mr. HARRIS.

Mr. HENRY with Mr. HUGHES of West Virginia.

Mr. HOWARD with Mr. HELGESEN.

Mr. JAMES with Mr. MCKINLEY.

Mr. KINDRED with Mr. JACKSON.

Mr. KONIG with Mr. LAFEAN.

Mr. KONOP with Mr. LOUD.

Mr. LAMB with Mr. MATTHEWS.

Mr. LEWIS with Mr. KAHN.

Mr. MCKELLAR with Mr. MERRITT.

Mr. MAHER with Mr. MOON of Pennsylvania.

Mr. MARTIN of Colorado with Mr. NELSON.

Mr. OLDFIELD with Mr. PROUTY.

Mr. O'SHAUNESSY with Mr. REYBURN.

Mr. PATTEN of New York with Mr. RODENBERG.

Mr. RANDELL of Texas with Mr. J. M. C. SMITH.

Mr. REDFIELD with Mr. SPEER.

Mr. SABATH with Mr. SELLS.

Mr. SLAYDEN with Mr. TILSON.

Mr. SHEPPARD with Mr. STEPHENS of California.

Mr. STEPHENS of Nebraska with Mr. TOWNER.

Mr. TAYLOR of Colorado with Mr. VREELAND.

Mr. WEBB with Mr. WEEKS.

Mr. WILSON of New York with Mr. WARBURTON.

Mr. WHITACRE with Mr. WILSON of Illinois.

Mr. STACK with Mr. WOODS of Iowa.

Mr. RICHARDSON with Mr. THISTLEWOOD.

For the session:

Mr. PALMER with Mr. HILL.

Mr. LITTLETON with Mr. DWIGHT.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. FORNES with Mr. BRADLEY.

Mr. HOBSON with Mr. FAIRCHILD.

Mr. UNDERWOOD with Mr. MANN.

Mr. MCCALL. Mr. Speaker, I voted "aye," but I am paired with Mr. RAINEY, and I would like to change my vote and answer "present."

The SPEAKER. Call the gentleman's name.

The name of Mr. MCCALL was called, and he answered "Present."

Mr. MURRAY. Mr. Speaker, I would like to inquire whether or not my colleague from Massachusetts, Mr. HARRIS, is recorded.

The SPEAKER. The gentleman is not recorded.

Mr. MURRAY. May I change my vote from "aye" to "present"?

The SPEAKER. Call the gentleman's name.

The name of Mr. MURRAY was called, and he answered "Present."

Mr. MANN. Mr. Speaker, I voted "aye." I am paired with the gentleman from Alabama, Mr. UNDERWOOD, and I desire to withdraw my vote and be recorded as "present."

The SPEAKER. Call the gentleman's name.

The name of Mr. MANN was called, and he answered "Present."

The result of the vote was announced as above recorded.

The SPEAKER. The Doorkeeper will open the doors, and the Clerk will read the Journal.

Mr. GARDNER of Massachusetts. Mr. Speaker, I desire to present a conference report.

Mr. FITZGERALD. I make a point of order against that.

The SPEAKER. The Journal has not been read.

Mr. GARDNER of Massachusetts. I maintain it is in order before the Journal has been read.

The SPEAKER. The Chair maintains that it is not. The Clerk will read the Journal.

Mr. GARDNER of Massachusetts. Will the Speaker listen to a rule of the House?

The SPEAKER. Of course he will.

Mr. GARDNER of Massachusetts. This is Rule XXVIII:

> The presentation of reports of committees of conference shall always be in order, except when the Journal is being read, while the roll is being called, or the House is dividing on any proposition.

Mr. SHERLEY. Mr. Speaker, I call the Chair's attention to the fact that the Journal was just being read. [Cries of "No!"]

The SPEAKER. The Chair will read the first section of Rule I, as follows:

> The Speaker shall take the chair on every legislative day precisely at the hour to which the House shall have adjourned at the last sitting, immediately call the Members to order, and on the appearance of a quorum cause the Journal of the proceedings of the last day's sitting to be read, having previously examined and approved the same.

The Clerk will read the Journal. [Applause.]

The Clerk proceeded with the reading of the Journal.

During the reading,

Mr. MANN. Mr. Speaker, I demand the reading of the Journal in full.

The SPEAKER. Of course, if the gentleman demands it, the Journal will be read in full, and the Clerk will proceed.

The Clerk proceeded with the reading of the Journal.

During the reading,

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent to dispense with the further reading of the Journal.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] asks unanimous consent to dispense with the further reading of the Journal. Is there objection?

Mr. MANN. I object.

The SPEAKER. The gentleman from Illinois [Mr. MANN] objects. The Clerk will proceed with the reading of the Journal.

The Clerk proceeded with the reading of the Journal.

During the reading.

Mr. MANN. Mr. Speaker, I call attention to the fact that the Clerk omitted to read that part of the Journal which relates to the introduction of bills and petitions.

The SPEAKER. The Chair did not understand the first part of the gentleman's statement.

Mr. MANN. The Clerk did not read that part of the Journal which relates to the introduction of petitions, and I think not that part which relates to the introduction of bills.

The SPEAKER. The Clerk just reached it.

Mr. MANN. He did not read it.

The SPEAKER. He could not read it all at once. The Clerk will proceed with the reading of the Journal.

The Clerk proceeded with and completed the reading of the Journal.

Mr. FITZGERALD. Mr. Speaker, I move that the Journal be approved.

Mr. MANN. I offer a preferential motion, Mr. Speaker.

The SPEAKER. The gentleman will suspend a moment. What was the motion of the gentleman from New York [Mr. FITZGERALD]?

Mr. FITZGERALD. I move that the Journal be approved, and on that motion I demand the previous question.

Mr. MANN. I make a preferential motion to amend the Journal where it provides for the reference of executive communications.

Mr. FITZGERALD. I make a point of order that the motion to amend is not in order pending the demand for the previous question on the approval of the Journal.

Mr. MANN. Mr. Speaker, I have a preferential motion.

The SPEAKER. The question at issue is whether the motion is preferential at this stage of the proceedings.

Mr. MANN. That is the question at issue. I find a ruling on that subject, Mr. Speaker.

The SPEAKER. If the gentleman will suspend a moment, the Chair will state to the House that the gentleman from New York [Mr. FITZGERALD] makes a motion to approve the Journal, and upon that he moves the previous question.

Mr. MANN. The motion I offer I claim to be a preferential one.

The SPEAKER. The Chair will hear the gentleman on his point of order and on the point made by the gentleman from New York that his motion is not now in order.

Mr. MANN. In volume 4 of Hinds' Precedents, section 2760——

Mr. FITZGERALD. What page?

Mr. MANN. Section 2760, page 16, of volume 4 of Hinds' Precedents, is this ruling, with the heading of "A motion to amend the Journal takes precedence of a motion to approve it":

On May 30, 1882, Mr. Speaker Keifer held that a motion to amend the Journal took precedence of a motion to approve it.

I think it is perfectly apparent, Mr. Speaker——

The SPEAKER. The Chair will ask the gentleman from Illinois [Mr. MANN] if, when the previous question is moved, he still thinks he has the right to make a motion to amend?

Mr. MANN. This is the situation: The gentleman from New York [Mr. FITZGERALD] and myself rose both at the same time; both addressed the Speaker at the same time.

The SPEAKER. That is true.

Mr. MANN. The gentleman from New York offered a motion, which is in order. I offered a motion, which is preferential.

The SPEAKER. The gentleman from New York offered two motions at one time.

Mr. MANN. If my motion be preferential, the motion offered by the gentleman from New York can not cut it out.

Mr. FITZGERALD. Mr. Speaker, I have an authority for my contention right here. If the gentleman will turn to page 23 of the Manual and Digest, he will find that—

The motion to amend the Journal takes precedence of the motion to approve it (IV, 2760); but the motion to amend may not be admitted after the previous question is demanded on a motion to approve (IV, 2770).

I was recognized by the Chair, and made a motion to approve the Journal and demanded the previous question. Having demanded the previous question the gentleman's motion to amend is not in order unless the previous question be voted down.

In section 2770, volume 4, Hinds' Precedents, is the following:

A motion to amend the Journal may not be admitted after the previous question is demanded on a motion to approve.

The SPEAKER. The Chair will not bother the gentleman from New York [Mr. FITZGERALD] for any more light. The contention of the gentleman from Illinois [Mr. MANN], for whose parliamentary knowledge the Chair has a great deal of respect, would, if sustained, absolutely nullify the previous question, and the previous question is intended to put an end to things.

Mr. FITZGERALD. Mr. Speaker, I ask to put in the RECORD, so that there will be no misunderstanding, the decision of Mr. Speaker Reed on June 21, 1897, when he overruled a similar point of order and said:

The Chair desires to call the attention of the House to a statement made at the last session in regard to the amendment of the Journal. According to the RECORD, the Chair stated that a motion to approve the Journal takes precedence of a motion to amend it. Of course, that statement was made simply with reference to the case which was in hand, and, to be accurate for general purposes, there ought to be added, "if that motion is first made."

I desire to say, concerning the citation made by the gentleman from Illinois of the decision made by Mr. Speaker Keifer, that this matter does not arise in the same way. So far as I have been able to examine the RECORD hurriedly, it does not show that the motion to approve was made and the previous question demanded upon it. But this decision of Mr Speaker Reed is exactly in point.

The SPEAKER. If the gentleman from Illinois [Mr. MANN] desires to be heard further on his point of order, the Chair will hear him, although the Chair has already indicated his opinion about it.

Mr. MANN. I do not desire to detain the Chair, but if there are two motions and either one of them is offered, and one is preferential to the other, the preferential motion can not be cut out by a demand for the previous question, if the motion is preferential to the one that is offered.

The SPEAKER. In the ordinary procedure if the order of the three motions had come right the gentleman's point would be well taken. But the order of the procedure did not come so as to fit his case. The Chair recognized the gentleman from New York [Mr. FITZGERALD], and had a perfect right to do it; and the gentleman from New York made two motions before he sat down, one following right after the other, and the last one was to move the previous question on his first motion. The previous question is of the highest order, and the Chair has no doubt in his own mind but that to maintain the contention of the gentleman from Illinois [Mr. MANN] would practically obliterate and annul the force of the motion for the previous question; and the Chair so rules.

Mr. MANN. Then I move, Mr. Speaker, to lay on the table the motion of the gentleman from New York, which under the rules is a preferential motion to the previous question.

Mr. FITZGERALD. Mr. Speaker, that carries the Journal with it.

Mr. MANN. Very well; I know what it carries.

Mr. FITZGERALD. I make the point of order that the motion is dilatory.

The SPEAKER. The Chair would rather entertain it than rule that it is dilatory. Those in favor of tabling the motion of the gentleman from New York will answer "aye," those opposed "no."

The question being taken, the Speaker announced that the "noes" appeared to have it.

Mr. MANN. I demand the yeas and nays, Mr. Speaker.

The yeas and nays were ordered.

The question was taken; and there were—yeas 2, nays 257, answered "present" 10, not voting 114, as follows:

YEAS—2.

Ainey	Barchfeld	

NAYS—257.

Adair	Butler	Difenderfer	Gill
Adamson	Byrnes, S. C.	Dodds	Gillett
Aiken, S. C.	Byrns, Tenn.	Donohoe	Godwin, N. C.
Allen	Caldec	Doughton	Good
Anderson	Callaway	Draper	Goodwin, Ark.
Andrus	Campbell	Driscoll, D. A.	Gould
Anthony	Candler	Driscoll, M. E.	Graham
Ashbrook	Cannon	Dupré	Gray
Austin	Cantrill	Dyer	Green, Iowa
Ayres	Carlin	Edwards	Greene, Mass.
Barnhart	Cary	Ellerbe	Greene, Vt.
Bartholdt	Clark, Fla.	Esch	Gregg, Pa.
Bartlett	Claypool	Falson	Gregg, Tex.
Bates	Clayton	Farr	Griest
Bathrick	Cline	Fergusson	Gudger
Beall, Tex.	Collier	Ferris	Guernsey
Bell, Ga.	Cooper	Finley	Hamill
Berger	Cox	Fitzgerald	Hamilton, Mich.
Blackmon	Crumpacker	Flood, Va.	Hamilton, W. Va.
Boehne	Cullop	Floyd, Ark.	Hamlin
Booher	Curley	Foss	Harrison, Miss.
Borland	Currier	Foster	Hart
Broussard	Dalzell	Fowler	Haugen
Brown	Davenport	Francis	Hawley
Browning	Davidson	French	Hay
Buchanan	Davis, W. Va.	Fuller	Hayden
Bulkley	De Forest	Gallagher	Heald
Burgess	Dent	Gardner, Mass.	Heflin
Burke, Pa.	Denver	Gardner, N. J.	Helgesen
Burke, S. Dak.	Dickinson	Garner	Helm
Burke, Wis.	Dies	Garrett	Henry, Conn.

Hensley	McGillicuddy	Porter	Stanley
Higgins	McKenzie	Post	Stedman
Hinds	McKinney	Pou	Stephens, Cal.
Holland	McLaughlin	Powers	Stephens, Miss.
Houston	Macon	Pray	Sterling
Howell	Madden	Prince	Stevens, Minn.
Howland	Maguire, Nebr.	Raker	Stone
Hughes, Ga.	Martin, S. Dak.	Ransdell, La.	Switzer
Humphrey, Wash.	Mays	Rees	Talcott, N. Y.
Jacoway	Merritt	Reilly	Taylor, Ala.
Johnson, S. C.	Miller	Roberts, Mass.	Taylor, Ohio
Kendall	Moon, Pa.	Roberts, Nev.	Thomas
Kennedy	Moon, Tenn.	Roddenbery	Towner
Kinkaid, Nebr.	Moore, Pa.	Rothermel	Townsend
Kinkead, N. J.	Moore, Tex.	Rouse	Tribble
Knowland	Morgan, La.	Rubey	Turnbull
Konop	Morgan, Okla.	Rucker, Colo.	Tuttle
Korbly	Morrison	Rucker, Mo.	Underhill
La Follette	Morse, Wis.	Russell	Vare
Lamb	Moss, Ind.	Saunders	Volstead
Langley	Mott	Scott	Watkins
Lawrence	Murdock	Scully	Webb
Lee, Ga.	Neeley	Shackleford	Whitacre
Lee, Pa.	Nelson	Sherley	White
Lever	Norris	Sherwood	Wilder
Levy	Nye	Simmons	Willis
Lindbergh	Olmsted	Sims	Wilson, Pa.
Linthicum	Padgett	Slayden	Witherspoon
Lloyd	Page	Sloan	Young, Kans.
Lobeck	Patton, Pa.	Small	Young, Mich.
Loud	Payne	Smith, Saml. W.	Young, Tex.
McCoy	Pepper	Smith, N. Y.	
McCreary	Pickett	Smith, Tex.	
McDermott	Plumley	Sparkman	

ANSWERED "PRESENT"—10.

Fairchild	Mann	Rainey	Riordan
McCall	Murray	Rauch	Stephens, Tex.
McGuire, Okla.	Parran		

NOT VOTING—114.

Akin, N. Y.	Glass	Langham	Sells
Alexander	Goeke	Legare	Sharp
Ames	Goldfogle	Lenroot	Sheppard
Ansberry	Hammond	Lewis	Sisson
Bradley	Hardwick	Lindsay	Slemp
Brantley	Hardy	Littlepage	Smith, J. M. C.
Burleson	Harris	Littleton	Smith, Cal.
Burnett	Harrison, N. Y.	Longworth	Speer
Carter	Hartman	McKellar	Stack
Conry	Hayes	McKinley	Steenerson
Copley	Henry, Tex.	McMorran	Stephens, Nebr.
Covington	Hill	Maher	Sulloway
Crago	Hobson	Martin, Colo.	Sweet
Cravens	Howard	Matthews	Taggart
Curry	Hughes, W. Va.	Mondell	Talbott, Md.
Danforth	Hull	Needham	Taylor, Colo.
Daugherty	Humphreys, Miss.	Oldfield	Thayer
Davis, Minn.	Jackson	O'Shaunessy	Thistlewood
Dickson, Miss.	James	Palmer	Tilson
Dixon, Ind.	Johnson, Ky.	Patten, N. Y.	Underwood
Doremus	Jones	Peters	Vreeland
Dwight	Kahn	Prouty	Warburton
Estopinal	Kent	Pujo	Weeks
Evans	Kindred	Randell, Tex.	Wilson, Ill.
Fields	Kitchin	Redfield	Wilson, N. Y.
Focht	Konig	Reyburn	Wood, N. J.
Fordney	Kopp	Richardson	Woods, Iowa
Fornes	Lafean	Rodenberg	
George	Lafferty	Sabath	

So the motion to lay on the table was rejected.

The Clerk announced the following additional pairs:

Until further notice:

Mr. AIKEN of South Carolina with Mr. COPLEY.

Mr. ALEXANDER with Mr. DANFORTH.

Mr. BURLESON with Mr. DAVIS of Minnesota.

Mr. COVINGTON with Mr. HAYES.

Mr. DOREMUS with Mr. CURRY.

Mr. ESTOPINAL with Mr. HARTMAN.

Mr. EVANS with Mr. KOPP.

Mr. GOLDFOGLE with Mr. LAFFERTY.

Mr. HARDY with Mr. TILSON.

Mr. HOWARD with Mr. WILSON of Illinois.

Mr. HUMPHREYS of Mississippi with Mr. MONDELL.

Mr. MAHER with Mr. WOODS of Iowa.

Mr. HARRISON of New York with Mr. WEEKS.

Mr. SHARP with Mr. STEENERSON.

Mr. SISSON with Mr. MERRITT.

Mr. MANN. Mr. Speaker, I voted "no"; but because of my pair with the gentleman from Alabama, Mr. UNDERWOOD, I desire to change my vote and answer "present."

The result of the vote was announced as above recorded.

The SPEAKER. The question is on ordering the previous question.

The question being taken, the Speaker announced that the "ayes" appeared to have it.

Mr. MANN. I ask for the yeas and nays.

The question being taken on ordering the yeas and nays, the Speaker, after counting, announced 45 Members voting in favor of ordering the yeas and nays, not a sufficient number.

Mr. MANN. I ask for the other side, Mr. Speaker.

Mr. FITZGERALD. Mr. Speaker, I make the point of order that the roll call having just disclosed 268 Members present, in order to have the yeas and nays it is necessary to have one-fifth of that number, and the other side can not be counted, because that is only for the purpose of determining the number present, which has just been shown by the roll call.

The SPEAKER. That is the presumption, but the gentleman from Illinois has the right to demand the other side to demonstrate the physical fact.

Mr. MANN. Forty-five is more than one-fifth of a quorum, anyhow.

The SPEAKER. The Constitution of the United States provides that the yeas and nays on any question shall, at the desire of one-fifth of those present, be entered on the Journal, and the Chair will preserve all the rights of the gentleman. Those opposed to ordering the yeas and nays will rise and stand until counted. [After counting.] One hundred and four Members have risen in opposition to the demand for the yeas and nays and 45 in favor of ordering the yeas and nays. A sufficient number have demanded the yeas and nays, and the Clerk will call the roll.

The question was taken; and there were—yeas 140, nays 84, answered "present" 10, not voting 149, as follows:

YEAS—140.

Adair	Difenderfer	Helm	Pou
Aiken, S. C.	Dodds	Hensley	Raker
Allen	Donohoe	Hobson	Ransdell, La.
Ashbrook	Doremus	Holland	Rauch
Barnhart	Doughton	Houston	Reilly
Bathrick	Draper	Hughes, Ga.	Riordan
Bell, Ga.	Driscoll, D. A.	Humphreys, Miss.	Roddenbery
Blackmon	Edwards	Jacoway	Rothermel
Boehne	Ellerbe	James	Rouse
Booher	Estopinal	Johnson, S. C.	Rubey
Borland	Faison	Jones	Rucker, Colo.
Brantley	Ferris	Kinkead, N. J.	Rucker, Mo.
Buchanan	Fitzgerald	Konig	Russell
Bulkley	Flood, Va.	Konop	Sherwood
Burgess	Floyd, Ark.	Korbly	Sims
Burke, Wis.	Foster	Lee, Ga.	Slayden
Byrnes, S. C.	Fowler	Lee, Pa.	Smith, Tex.
Byrns, Tenn.	Francis	Lever	Sparkman
Callaway	Gallagher	Linthicum	Stanley
Cantrill	Gardner, Mass.	Littlepage	Stedman
Carlin	Garner	Lobeck	Stephens, Miss.
Cary	Gill	McCoy	Stephens, Tex.
Clark, Fla.	Godwin, N. C.	McDermott	Stone
Claypool	Goodwin, Ark.	McGillicuddy	Sweet
Clayton	Gould	Macon	Taggart
Collier	Gray	Maguire, Nebr.	Thomas
Cox	Gregg, Pa.	Mays	Tribble
Cullop	Gregg, Tex.	Moon, Tenn.	Turnbull
Curley	Hamill	Moore, Tex.	Watkins
Davenport	Hamilton, W. Va.	Morgan, La.	Webb
Dent	Hamlin	Moss, Ind.	Whitacre
Denver	Harrison, Miss.	Neeley	White
Dickinson	Hay	Padgett	Wilson, Pa.
Dickson, Miss.	Hayden	Page	Witherspoon
Dies	Heflin	Pepper	Young, Tex.

NAYS—84.

Ainey	Gardner, N. J.	McCreary	Pray
Anthony	Gillett	McKenzie	Prince
Austin	Good	McKinney	Rees
Barchfeld	Green, Iowa	McLaughlin	Roberts, Mass.
Bartholdt	Greene, Mass.	Madden	Roberts, Nev.
Bates	Griest	Martin, S. Dak.	Scott
Burke, Pa.	Hamilton, Mich.	Miller	Simmons
Burke, S. Dak.	Haugen	Mondell	Sloan
Cannon	Heald	Moore, Pa.	Smith, Saml. W.
Cooper	Helgesen	Morgan, Okla.	Steenerson
Crumpacker	Henry, Conn.	Morse, Wis.	Stephens, Cal.
Currier	Higgins	Murdock	Sterling
Danforth	Howell	Nelson	Switzer
Davidson	Jackson	Norris	Taylor, Ohio
De Forest	Kendall	Nye	Towner
Driscoll, M. E.	Kennedy	Olmsted	Vare
Dyer	Kinkaid, Nebr.	Patton, Pa.	Volstead
Esch	La Follette	Payne	Wilder
Farr	Lawrence	Plumley	Willis
French	Lindbergh	Porter	Young, Kans.
Fuller	Loud	Powers	Young, Mich.

ANSWERED "PRESENT"—10.

Adamson	Dwight	McGuire, Okla.	Murray
Akin, N. Y.	Langley	Mann	Parran
Browning	McCall		

NOT VOTING—149.

Alexander	Calder	Dixon, Ind.	Goldfogle
Ames	Campbell	Dupré	Graham
Anderson	Candler	Evans	Greene, Vt.
Andrus	Carter	Fairchild	Gudger
Ansberry	Cline	Fergusson	Guernsey
Ayres	Conry	Fields	Hammond
Bartlett	Copley	Finley	Hardwick
Beall, Tex.	Covington	Focht	Hardy
Berger	Crago	Fordney	Harris
Bradley	Cravens	Fornes	Harrison, N. Y.
Broussard	Curry	Foss	Hart
Brown	Dalzell	Garrett	Hartman
Burleson	Daugherty	George	Hawley
Burnett	Davis, Minn.	Glass	Hayes
Butler	Davis, W. Va.	Goeke	Henry, Tex.

Hill	Littleton	Rainey	Stevens, Minn.
Hinds	Lloyd	Randell, Tex.	Sullowav
Howard	Longworth	Redfield	Talbott, Md.
Howland	McKellar	Reyburn	Talcott, N. Y.
Hughes, W. Va.	McKinley	Richardson	Taylor, Ala.
Hull	McMorran	Rodenberg	Taylor, Colo.
Humphrey, Wash.	Maher	Sabath	Thayer
Johnson, Ky.	Martin, Colo.	Saunders	Thistlewood
Kahn	Matthews	Scully	Tilson
Kent	Merritt	Sells	Townsend
Kindred	Moon, Pa.	Shackleford	Tuttle
Kitchin	Morrison	Sharp	Underhill
Knowland	Mott.	Sheppard	Underwood
Kopp	Needham	Sherley	Vreeland
Lafean	Oldfield	Sisson	Warburton
Lafferty	O'Shaunessy	Slemp	Weeks
Lamb	Palmer	Small	Wilson, Ill.
Langham	Patten, N. Y.	Smith, J. M. C.	Wilson, N. Y.
Legare	Peters	Smith, Cal.	Wood, N. J.
Lenroot	Pickett	Smith, N. Y.	Woods, Iowa
Levy	Post	Speer	
Lewis	Prouty	Stack	
Lindsay	Pujo	Stephens, Nebr.	

So the previous question was ordered.

The following additional pairs were announced.

For the session:

Mr. BARTLETT with Mr. BUTLER.

Mr. RIORDAN with Mr. ANDRUS.

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. SCULLY with Mr. BROWNING.

Until further notice:

Mr. AYRES with Mr. COPLEY.

Mr. BEALL of Texas with Mr. AMES.

Mr. TOWNSEND with Mr. CALDER.

Mr. BROWN with Mr. CAMPBELL.

Mr. CANDLER with Mr. DALZELL.

Mr. TUTTLE with Mr. KOPP.

Mr. BURNETT with Mr. HARTMAN.

Mr. DAVIS of West Virginia with Mr. FOSS.

Mr. UNDERHILL with Mr. CURRY.

Mr. FINLEY with Mr. GREENE of Vermont.

Mr. FERGUSSON with Mr. GUERNSEY.

Mr. GARRETT with Mr. HINDS.

Mr. GRAHAM with Mr. HAWLEY.

Mr. GUDGER with Mr. HOWLAND.

Mr. JOHNSON of Kentucky with Mr. HUMPHREY of Washington.

Mr. LEVY with Mr. MOTT.

Mr. LLOYD with Mr. MCKINLEY.

Mr. SHERLEY with Mr. KNOWLAND.

Mr. SMALL with Mr. PICKETT.

Mr. TALCOTT of New York with Mr. WOODS of Iowa.

Mr. POST with Mr. LAFEAN.

Mr. MANN. Mr. Speaker, may I inquire if the gentleman from Alabama, Mr. UNDERWOOD, voted?

The SPEAKER. He is not recorded.

Mr. MANN. I voted "no," and I desire to withdraw that vote and be recorded as "present."

Mr. BROWNING. Mr. Speaker, may I inquire if the gentleman from New Jersey, Mr. SCULLY, voted?

The SPEAKER. He is not recorded.

Mr. BROWNING. I desire to withdraw my vote of "no" and answer "present."

The result of the vote was then announced as above recorded.

Mr. MANN. Mr. Speaker, I believe I am entitled to 20 minutes.

The SPEAKER. The gentleman from Illinois is recognized for 20 minutes.

Mr. FITZGERALD. Mr. Speaker, am I not entitled to 20 minutes?

The SPEAKER. The gentleman from New York is entitled to 20 minutes, and entitled to open and close if he chooses.

Mr. MANN. Mr. Speaker, I would be very glad to have the gentleman from New York open the debate.

The SPEAKER. The gentleman from Illinois is recognized for 20 minutes.

Mr. MANN. I understood the Chair to say that the gentleman from New York had the right to open.

The SPEAKER. The Chair was announcing the right of anybody to 40 minutes' debate, and the gentleman from New York took his seat and signified that he did not want to open the debate.

Mr. MANN. Mr. Speaker, yesterday the House adopted an order offered by the gentleman from Texas [Mr. STEPHENS] for the purpose of correcting a mistake made by one of the enrolling clerks, or somebody at the desk, asking the Senate to permit the Clerk of the House to correct an error in the Indian appropriation bill. When the order was presented this colloquy took place:

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I suggest to the gentleman that where the word "section" occurs in the order just read it should read "paragraph."

Mr. STEPHENS of Texas. Mr. Speaker, I think that is correct.

The SPEAKER. Without objection, the change will be made.

There was no objection.

Now, ordinarily one would suppose that with that colloquy and order taking place that where the word "section" appeared erroneously, as it did in the order presented, that that was stricken out and the word "paragraph" inserted, and yet the Journal which the gentleman from New York proposes to approve, without an opportunity to amend, does not make that correction in the order. I do not wonder that when the House can not rely upon the clerks at the desk to properly perform the duties devolving upon them, either through error, which I do not criticize them for especially, the gentleman desires to approve the Journal without an opportunity to amend it. I had proposed this morning to have the Journal corrected in accordance with the facts. The facts were that the House agreed to this order with the word "paragraph" in it in two places instead of the word "section."

But the Journal shows, as it stands, that that change was not made. What reliance have we in the House upon agreements and amendments that are agreed to in the House when they are not made? And now gentlemen propose to approve the Journal without a chance to amend it to conform to the facts in the case. I am surprised that the gentleman from New York [Mr. FITZGERALD] or any other gentleman in the House should desire to approve the Journal without a chance to amend it, when the Journal is not correct and does not state what took place in the House. The House adopted one order under the Speaker's ruling and the Journal shows a different order, and yet the minority are refused an opportunity to correct it because the House has ordered the previous question, and no amendments can be offered to the Journal.

Mr. Speaker, in the Fifty-eighth Congress the House passed a provision in one of the appropriation bills which was offered by the then Democratic leader, Mr. Richardson, of Tennessee. It reads like this:

Provided further, That hereafter no part of the appropriations made for printing and binding shall be used for any illustration, engraving, or photograph in any document or report ordered printed by Congress unless the order to print expressly authorizes the same.

Under the rules of the House in the Sixty-first Congress, as had been the rule for a number of years, there was a rule providing that all documents referred to committees, or otherwise disposed of, shall be printed unless otherwise specially ordered. That was a rule adopted following the passage of the public printing act of 1895, providing that the executive and public documents presented to the House should be printed. Then came along the Richardson amendment providing that no illustration shall be printed unless expressly ordered. Yet in the Journal of to-day there appears this statement:

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of examination and survey of Ashtabula Harbor, Ohio (H. Doc. No. 1295); to the Committee on Rivers and Harbors and ordered to be printed with illustrations.

Clause 2 of Rule XXIV simply provides for the reference of this document. It does not authorize the Speaker or anyone else to order it printed; much less does it authorize the Speaker to order it printed with illustrations. I am not criticizing the Speaker in this connection, I wish the House to understand. When the Richardson amendment was first adopted, there was a quandary presented to the House as to how it would get around it. At the time the Richardson amendment was presented, forbidding the printing of illustrations, I called the attention of the House to the fact that it was either so much waste paper or else it would delay the House on many occasions, because the House could not determine by order offered in the House in regard to the printing of illustrations in all of the executive documents which were presented to the House.

Mr. CLARK of Florida rose.

The SPEAKER. For what purpose does the gentleman rise?

Mr. CLARK of Florida. Mr. Speaker, I desire to ask the gentleman from Illinois a question.

The SPEAKER. Does the gentleman from Illinois yield?

Mr. MANN. Mr. Speaker, I yield for a question.

Mr. CLARK of Florida. Does not the gentleman from Illinois think that it would be very much to the edification of the American people if the proceedings of the House of this day should be published with illustrations?

Mr. MANN. I hope they will be [applause on the Republican side], because up to this time this side of the House has been conducting a filibuster in order to teach a lesson to the other side of the House and to the gentleman from Texas [Mr. GARNER] on the other side of the House, who gave notice that he and others upon that side proposed to filibuster to prevent the

Lincoln Memorial bill coming before the House; and I firmly believe that the country will sustain us in what we are doing. And if it be necessary, as I hope it will not be, to continue the filibuster in order to have the Lincoln Memorial bill presented to the House in regular order, then we will filibuster until the cows come home. [Applause on the Republican side.] The gentleman from Florida may not have been a participant in that filibuster. I do not know, but I take it that he voted yesterday to adjourn, and I do not criticize him for that.

However, Mr. Speaker, the Sixty-first Congress and the other preceding Congresses having in the rules a provision for the printing of executive documents without providing for illustrations, this Congress, when it revised the rules, left out the order of printing, and this statement is made in the Manual:

The old rule on the subject of printing was abolished by the Sixty-second Congress, as the printing statute covered the subject.

The fact is that the printing statute does not cover the subject, and there is not a line in the public printing statute which authorizes the printing of these executive documents which are presented to the House, except certain annual reports and certain other documents which are specified and which are not included in the ones to which I have called attention. The fact is that the old rule providing for the printing was adopted in 1895 for the express purpose of meeting the public printing act of 1895, to which reference is here made.

Now, it may be desirable by the approval of the Journal for the House now to declare that the illegal practice heretofore adopted shall be made legal in the practice of the House and adopt the Journal containing this provision. I think if I had been the Speaker or parliamentary clerk I should have done just what the present Speaker or the parliamentary clerk have done—ordered this document printed with illustrations; but the mistake was when they adopted the rule they did not provide for it. Now we will be asked by a vote on the approval of the Journal to condone the practice, and, so far as the practice of the House is concerned, to validate what has been done and what will be done in the future.

I reserve the balance of my time. [Applause on the Republican side.]

The SPEAKER. The question is on the motion to approve the Journal.

The question was taken; and the Speaker announced the "ayes" seemed to have it.

Mr. MANN. I demand the yeas and nays, Mr. Speaker.

The SPEAKER. The gentleman from Illinois demands the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 149, nays 81, answered "present" 9, not voting 144, as follows:

YEAS—149.

Adair	Dickson, Miss.	Helm	Ransdell, La.
Aiken, S. C.	Dies	Hensley	Reilly
Allen	Difenderfer	Holland	Roddenbery
Ashbrook	Donohoe	Houston	Rothermel
Barnhart	Doremus	Hughes, Ga.	Rouse
Bartlett	Doughton	Humphreys, Miss.	Rubey
Beall, Tex.	Driscoll, D. A.	Jacoway	Rucker, Colo.
Bell, Ga.	Dupré	James	Russell
Blackmon	Edwards	Johnson, S. C.	Saunders
Boehne	Ellerbe	Jones	Scully
Booher	Estopinal	Kinkead, N. J.	Sharp
Borland	Evans	Konig	Sherley
Brantley	Faison	Konop	Sherwood
Buchanan	Fergusson	Lee, Ga.	Small
Bulkley	Ferris	Lee, Pa.	Smith, Tex.
Burgess	Finley	Lever	Sparkman
Burke, Wis.	Fitzgerald	Linthicum	Stedman
Burleson	Flood, Va.	Littlepage	Stephens, Miss.
Byrnes, S. C.	Floyd, Ark.	Lloyd	Stephens, Tex.
Byrns, Tenn.	Foster	Lobeck	Stone
Callaway	Fowler	McCoy	Sweet
Candler	Gallagher	McDermott	Taggart
Cantrill	Garner	McGillicuddy	Talcott, N. Y.
Carlin	Garrett	Macon	Taylor, Colo.
Cary	Godwin, N. C.	Maguire, Nebr.	Thomas
Clark, Fla.	Goodwin, Ark.	Mann	Townsend
Claypool	Gould	Mays	Tribble
Clayton	Graham	Moon, Tenn.	Tuttle
Cline	Gray	Morrison	Underhill
Collier	Gregg, Pa.	Moss, Ind.	Watkins
Cox	Hamill	Neeley	Webb
Cullop	Hamilton, W. Va.	Norris	Whitacre
Curley	Hamlin	Padgett	Wilson, Pa.
Davenport	Harrison, Miss.	Page	Witherspoon
Davis, W. Va.	Hart	Pepper	Young, Tex.
Dent	Hay	Peters	
Denver	Hayden	Pou	
Dickinson	Heflin	Raker	

NAYS—81.

Ainey	Cannon	Dodds	French
Akin, N. Y.	Cooper	Draper	Fuller
Barchfeld	Crumpacker	Driscoll, M. E.	Gardner, Mass.
Bartholdt	Currier	Dyer	Gardner, N. J.
Bates	Danforth	Esch	Gillett
Browning	Davidson	Farr	Good
Campbell	De Forest	Foss	Green, Iowa
Greene, Mass.	La Follette	Murdock	Smith, Saml. W.
Hamilton, Mich.	Lawrence	Nelson	Steenerson
Haugen	Lindbergh	Olmsted	Stephens, Cal.
Hawley	Loud	Patton, Pa.	Sterling
Henry, Conn.	McCreary	Pickett	Switzer
Higgins	McKenzie	Powers	Taylor, Ohio
Hinds	McKinney	Pray	Volstead
Howland	McLaughlin	Prince	Wilder
Jackson	Madden	Rees	Willis
Kahn	Mondell	Roberts, Mass.	Young, Kans.
Kendall	Moore, Pa.	Roberts, Nev.	Young, Mich.
Kennedy	Morgan, La.	Scott	
Kinkaid, Nebr.	Morgan, Okla.	Simmons	
Lafferty	Morse, Wis.	Sloan	

ANSWERED "PRESENT"—9.

Adamson	Langley	Murray	Payne
Anthony	McGuire, Okla.	Parran	Thistlewood
Dwight			

NOT VOTING—144.

Alexander	Glass	Lenroot	Riordan
Ames	Goeke	Levy	Rodenberg
Anderson	Goldfogle	Lewis	Rucker, Mo.
Andrus	Greene, Vt.	Lindsay	Sabath
Ansberry	Gregg, Tex.	Littleton	Sells
Austin	Griest	Longworth	Shackleford
Ayres	Gudger	McCall	Sheppard
Bathrick	Guernsey	McKellar	Sims
Berger	Hammond	McKinley	Sisson
Bradley	Hardwick	McMorran	Slayden
Broussard	Hardy	Maher	Slemp
Brown	Harris	Martin, Colo.	Smith, J. M. C.
Burke, Pa.	Harrison, N. Y.	Martin, S. Dak.	Smith, Cal.
Burke, S. Dak.	Hartman	Matthews	Smith, N. Y.
Burnett	Hayes	Merritt	Speer
Butler	Heald	Miller	Stack
Calder	Helgesen	Moon, Pa.	Stanley
Carter	Henry, Tex.	Moore, Tex.	Stephens, Nebr.
Conry	Hill	Mott	Stevens, Minn.
Copley	Hobson	Needham	Sulloway
Covington	Howard	Nye	Talbott, Md.
Crago	Howell	Oldfield	Taylor, Ala.
Cravens	Hughes, W. Va.	O'Shaunessy	Thayer
Curry	Hull	Palmer	Tilson
Dalzell	Humphrey, Wash.	Patten, N. Y.	Towner
Daugherty	Johnson, Ky.	Plumley	Turnbull
Davis, Minn.	Kent	Porter	Underwood
Dixon, Ind.	Kindred	Post	Vare
Fairchild	Kitchin	Prouty	Vreeland
Fields	Knowland	Pujo	Warburton
Focht	Kopp	Rainey	Weeks
Fordney	Korbly	Randell, Tex.	White
Fornes	Lafean	Rauch	Wilson, Ill.
Francis	Lamb	Redfield	Wilson, N. Y.
George	Langham	Reyburn	Wood, N. J.
Gill	Legare	Richardson	Woods, Iowa

So the Journal was approved.

The Clerk announced the following additional pairs:

Until further notice:

Mr. HARRISON of New York with Mr. PAYNE.

Mr. UNDERWOOD with Mr. MCKINLEY.

Mr. SLAYDEN with Mr. ANTHONY.

Mr. BATHRICK with Mr. AUSTIN.

Mr. BROWN with Mr. BUTLER.

Mr. FRANCIS with Mr. BURKE of Pennsylvania.

Mr. GREGG of Texas with Mr. BURKE of South Dakota.

Mr. GUDGER with Mr. DALZELL.

Mr. SIMS with Mr. GREENE of Vermont.

Mr. LEWIS with Mr. GRIEST.

Mr. KORBLY with Mr. GUERNSEY.

Mr. LAMB with Mr. HEALD.

Mr. MAHER with Mr. HELGESEN.

Mr. POST with Mr. KNOWLAND.

Mr. RAUCH with Mr. MARTIN of South Dakota.

Mr. SLAYDEN with Mr. MILLER.

Mr. SMITH of New York with Mr. MOON of Pennsylvania.

Mr. STANLEY with Mr. NYE.

Mr. TAYLOR of Alabama with Mr. PLUMLEY.

Mr. THAYER with Mr. WEEKS.

Mr. WHITE with Mr. WOODS of Iowa.

Mr. STACK with Mr. VARE.

Mr. LINDSAY with Mr. WOOD of New Jersey.

Mr. THISTLEWOOD. Mr. Speaker, I find I have a general pair with Mr. RICHARDSON, of Alabama. If he was present he would undoubtedly vote "aye." I voted "no," and I desire to withdraw that vote and answer "present."

The SPEAKER. Call the gentleman's name.

The name of Mr. THISTLEWOOD was called, and he answered "Present."

Mr. MANN. Mr. Speaker, how am I recorded?

The SPEAKER. The gentleman is recorded as "present."

Mr. MANN. Mr. Speaker, I desire to vote.

The SPEAKER. Call the gentleman's name.

The name of Mr. MANN was called, and he voted "aye."

The result of the vote was announced as above recorded.

Mr. MANN. I move to reconsider the vote by which the Journal was approved.

Mr. DYER. Mr. Speaker——

Mr. GARDNER of Massachusetts. Mr. Speaker——

Mr. HEFLIN. Mr. Speaker, I move to reconsider the vote by which the Journal was approved.

The SPEAKER. The Chair did not understand the motion of the gentleman from Illinois.

Mr. MANN. I move to reconsider the vote by which the Journal was approved.

Mr. HAY. Mr. Speaker, I make the point of order that that motion is dilatory.

Mr. MANN. Mr. Speaker, I wish to be heard on that. Rule XVIII provides:

> When a motion has been made and carried or lost it shall be in order for any member of the majority, on the same or succeeding day, to move for the reconsideration thereof, and such motion shall take precedence of all other questions except the consideration of a conference report or a motion to adjourn, and shall not be withdrawn after the said succeeding day without the consent of the House—

And so forth. It is a right under the rule that can not be held to be dilatory.

Mr. FITZGERALD. It has been held time and again by the gentleman from Illinois [Mr. MANN] himself that a motion to reconsider may be dilatory. Whenever it is apparent that the purpose of any motion or any action is to unnecessarily retard business or to prevent the House from transacting business, the Speaker has uniformly held that the action is dilatory. The decision that the rule applies to the motion to reconsider is to be found in section 5735, volume 5, of Hinds' Precedents, a ruling made by the distinguished gentleman from Illinois [Mr. CANNON].

The SPEAKER. Does the gentleman from Illinois [Mr. MANN] desire to be heard?

Mr. MANN. I do.

Mr. GARDNER of Massachusetts. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman from Massachusetts rise?

Mr. GARDNER of Massachusetts. To present a motion of higher privilege than a motion to reconsider, under the rules.

Mr. FITZGERALD. Mr. Speaker, I make a point of order that pending this point of order the gentleman can not do so.

Mr. GARDNER of Massachusetts. I was on my feet trying to get recognition when the gentleman was recognized.

The SPEAKER. The power of recognition is lodged in the Chair. All of these rules have to be taken together and considered together, and the intention of all of them is to expedite business instead of retarding it. [Applause.]

So the Chair recognized the gentleman from Illinois [Mr. MANN] to argue this for a reasonable length of time.

Mr. MANN. Very briefly, Mr. Speaker. It is perfectly patent, I think, if the Speaker should now hold my motion to reconsider out of order, the Speaker could not hold it out of order to-morrow.

The SPEAKER. Could not hold what out of order to-morrow?

Mr. MANN. A motion to reconsider out of order to-morrow. The rule is that any member of the majority on the same or succeeding day may move for the reconsideration of the vote. Now, when they say that a motion to reconsider is dilatory, I would state that a motion to reconsider is made on almost every proposition. It is one of the rights to enter the motion immediately or enter it next day under this rule. I do not see how the Speaker can hold that such motion is dilatory when it is in order at any time to-day or at any time to-morrow. Others matters could take precedence of it after it is made, unquestionably, under the rules, but the right to enter a motion to reconsider always has been held a privilege in which the Members had a right to be protected. Take a bill that passes the House, will the Speaker hold that if a motion is made to reconsider that that motion is dilatory? Any Member of the House may make a motion next day, and the delay of a motion may hold up the sending of the bill to the other body.

Mr. FITZGERALD. Mr. Speaker, I call the gentleman's attention to the fact that it is not only possible, but it has been done. Mr. Watson, Speaker pro tempore in 1898, when the gentleman from Illinois [Mr. MANN] was a Member of the House, declined to entertain a motion of Mr. Bailey to reconsider a vote on the ground that the gentleman was making it as a dilatory motion

It is patent to everyone in the House that since 12 o'clock noon to-day a filibuster has been going on. Whenever that becomes apparent, a motion, even though it might serve some useful purpose——

Mr. HELM. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman from Kentucky rise?

Mr. HELM. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HELM. Has it not been over five minutes since the gentleman from Illinois [Mr. MANN], in response to a question by the gentleman from Florida [Mr. CLARK], said that he was conducting a filibuster and intended to conduct it until the cows came home?

Mr. MANN. No; I did not so declare.

The SPEAKER. There is no use to argue it. The motion is dilatory. [Applause on the Democratic side.]

Mr. MANN. I think it ought to be settled by the House. I appeal from the decision of the Chair.

Mr. FITZGERALD. I make the point of order that the motion to appeal is dilatory.

Mr. MANN. It has taken three hours of the House in which to approve the Journal.

Mr. GARDNER of Massachusetts. Mr. Speaker——

The SPEAKER. The gentleman from Massachusetts.

Mr. GARDNER of Massachusetts. I invite the attention of the Speaker to the rule of this House that a conference report can be presented at any time a Member thinks fit.

Mr. SHERLEY. Mr. Speaker, I make the point of order that that is not in order now.

The SPEAKER. That is not the purpose for which the Chair recognized the gentleman.

Mr. GARDNER of Massachusetts. The gentleman, under the rules of this House, presents a conference report on the part of the managers of the House on the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States, and I give notice in behalf of the gentleman from Alabama [Mr. BURNETT], who is indisposed to-day, that he will call it up to-morrow morning on the approval of the Journal.

Mr. FITZGERALD. I hope that will be earlier than to-day. [Laughter.]

QUESTION OF PERSONAL PRIVILEGE.

Mr. CLARK of Florida rose.

The SPEAKER. For what purpose does the gentleman rise?

Mr. CLARK of Florida. I rise to a question of personal privilege. [Laughter.]

The SPEAKER. The House will be in order. Questions of personal privilege are very serious questions.

Mr. CLARK of Florida. I send to the Clerk's desk, Mr. Speaker, a copy of the Washington Herald of date January 10, 1913, and desire to have the Clerk read the article indicated.

The SPEAKER. The Clerk will read.

The Clerk read as follows:

REPRESENTATIVE CLARK NOW A MEMBER OF THE ANANIAS CLUB—HIS STATEMENTS MADE ON THE FLOOR OF THE HOUSE REFUTED BY THE ASSOCIATION UNDER WHOSE AUSPICES HE SPOKE AND SOME OF HIS HEARERS—HERALD'S REPORT OF SPEECH CORRECT.

Representative FRANK CLARK'S futile attempt on the floor of the House to avoid responsibility for statements he made at a mass meeting of the East Washington Democratic Association Monday night, as reported by the Washington Herald, was thwarted last night through a resolution adopted by the East Washington Democratic Association, which practically places Representative CLARK in the Ananias Club.

The East Washington Democratic Association itself adopted a resolution at its meeting last night placing itself on record as declaring the Washington Herald's report to be correct. Additionally, four citizens who heard the speech also declared the Washington Herald's report to be correct.

The following excerpts from the CONGRESSIONAL RECORD of the proceedings of the House for January 8 will show the action of Representative CLARK:

"QUESTION OF PERSONAL PRIVILEGE.

"Mr. CLARK of Florida. Mr. Speaker, I rise to a question of personal privilege and ask that the Clerk will read the article in the Washington Herald of yesterday around which the blue pencil has been marked.

"The SPEAKER. Without objection, the Clerk will read.

"The Clerk read as follows:

"'There are Senators and Representatives occupying seats in Congress to-day who have allied themselves with real estate sharks in this city to fleece the Government of hundreds of thousands of dollars by seeking to sell to it large areas of land in out-of-the-way places for public park purposes, some of which are in ravines so deep that the Capitol could be set in them and you could not see the Indian which surmounts its dome.'

"This was the statement made last night by Representative FRANK CLARK of Florida in a speech at the mass meeting of the East Washington Democratic Association in Donohue's Hall, 314 Pennsylvania Avenue SE.

CHARGE AGAINST HERALD.

"Mr. CLARK of Florida: Mr. Speaker, if this publication referred only to me and reflected only upon me, I think I would not ask the time of the House to mention it. But it puts me in the attitude as a Member of this House of arraigning not only Members of this body but also Members of another branch of the legislative department of this Government and of charging them with the gravest of crimes.

"I desire to state, Mr. Speaker, that not one word of truth is contained in that statement. I desire to say that not a single Washington newspaper was represented at that meeting, save the Washington Star, and the reporter of that paper gave about as accurate an account of the meeting as is usually given by reporters of newspapers. * * *

"What I did say, Mr. Speaker, was this, and I say it now, and the CONGRESSIONAL RECORD supports every word of it: I did say that the District of Columbia has practically no government; that it has three commissioners, appointed by the President, not responsible in any sense to the people of the District. And I say that the real estate sharks, according to my observation, after eight years of service in this city, were controlling the destinies of this city. I did say that frequently in bills there comes before this House propositions to buy waste places in out-of-the-way locations for park purposes, and I instanced one case wherein I said there was a proposition by a real estate concern to un-

load upon the Government for a fabulous price a large tract of land having gullies in it so deep that I believe the Capitol could be planted in the bottom of the gulf and that the head of the Indian that surmounts the dome of this Capitol could not be seen above it."

The Washington Herald, not having the privilege of the floor of the House to reply to Mr. CLARK, requested some of the gentlemen present at the Monday night meeting to state their opinion as to the bulk of the charges made by the gentleman from Florida. The following speaks for itself.

William McMahon, of 620 C Street NE., made the following statement yesterday:

"I was present at the mass meeting held by the East Washington Democratic Association in Donohoe's Hall, 314 Pennsylvania Avenue SE., Monday night, January 6, 1913, heard the speech delivered by Representative FRANK CLARK of Florida, and state that the report of his speech as printed in the Washington Herald on the following morning was correct."

F. H. Arendes, of 610 G Street SE., made the same statement.

A. Weaver, of 1412 Eleventh Street NW., made the same statement.

William S. Riley, of 209 Second Street SE., made the same statement.

In addition to this, the following resolution was adopted by the East Washington Democratic Association at its meeting last night:

"*Be it resolved*, That the East Washington Democratic Association hereby place itself upon record as declaring that the report of speech delivered by Representative FRANK CLARK of Florida at a mass meeting of the East Washington Democratic Association, in Donohoe's Hall, Monday night, January 6, 1913, as printed in the Washington Herald January 7, 1913, was correct.

"WILLIAM S. RILEY, *President*.
"PATRICK KENNEDY, *Secretary*.

"JANUARY 9, 1913."

HERALD WAS REPRESENTED.

Similarly erroneous was Representative CLARK'S statement that the Washington Herald was not represented at the meeting. A reporter for the Washington Herald attended the meeting, as citizens there will testify.

Mr. FITZGERALD. Mr. Speaker, I make the point of order that this does not involve a question of personal privilege.

Mr. CLARK of Florida. I hope the gentleman will not do that.

Mr. FITZGERALD. I have no objection to the gentleman's getting time.

Mr. CLARK of Florida. I hope the gentleman will not make a point of order, because it does involve my character.

Mr. FITZGERALD. How much time does the gentleman desire?

Mr. CLARK of Florida. Twenty minutes.

Mr. FITZGERALD. I ask, Mr. Speaker, that the gentleman be allowed five minutes.

Mr. CLARK of Florida. I will not take five minutes. If I can not get more than that, I do not want it.

Mr. FITZGERALD. I ask unanimous consent, Mr. Speaker, that the gentleman from Florida be given five minutes.

Mr. CLARK of Florida. Mr. Speaker, I do not want five minutes, and I want the Speaker to say whether or not this article involves my character as a Representative in this body.

Mr. FITZGERALD. Mr. Speaker, it is a controversy between the gentleman and a local newspaper as to what he said at some place. We must get the legislative bill into conference. The river and harbor bill is under consideration, and there are a number of appropriation bills that must be disposed of and which must be given some opportunity to be considered.

The SPEAKER. Does the gentleman from New York make the point of order that the question is not privileged?

Mr. FITZGERALD. Yes; it does not affect the gentleman's character.

Mr. CLARK of Florida. Mr. Speaker, I ask unanimous consent to be allowed 20 minutes in which to address this House.

The SPEAKER. The gentleman from Florida asks unanimous consent to address the House for 20 minutes. Is there objection?

Mr. FITZGERALD. I object to 20 minutes. Ten minutes may be sufficient. Will not the gentleman take 10 minutes?

Mr. CLARK of Florida. I would prefer, first, that the Speaker rule on the question of privilege.

The SPEAKER. This Speaker has been very liberal about letting in questions of privilege where a Member of the House claims that he has been lied about. The Chair does not think, upon a consultation of the decisions about it, that the truth or untruth of these newspaper charges constitutes a question of personal privilege if they are not made about the gentleman from Florida in his representative capacity; and that is the rule—that the charge must be made against him in his representative capacity.

Mr. CLARK of Florida. If the Speaker will permit me just a moment, that article refers to statements made by me on this floor in my representative capacity.

The SPEAKER. If so, it does affect the gentleman's character in his representative capacity.

Mr. FITZGERALD. Mr. Speaker, misrepresentations of a gentleman's speech on the floor do not raise questions of personal privilege. That has repeatedly been held.

The SPEAKER. The gentleman will point out the particular passages where he claims his privilege has been invaded.

Mr. CLARK of Florida. This article, Mr. Speaker, undertakes to report what I said upon the floor of this House on the 8th day of January last as a Member of this House, and, commenting upon the statements which I made in my place as a Member, they use this language:

The Washington Herald, not having the privilege of the floor of the House to reply to Mr. CLARK, requested some of the gentlemen present at the Monday night meeting to state their opinion as to the bulk of the charges made by the gentleman from Florida.

And then they quote a number of people, controverting what I said upon this floor.

The SPEAKER. But that is all outside the House. In order to make a thing a question of privilege it must be about the Member in his representative capacity.

Mr. CLARK of Florida. Mr. Speaker, does it not affect a Member in his representative capacity to charge that he is a fit member of the Ananias Club—that he is a liar?

The SPEAKER. Not if the whole transaction is outside of the House, or if it is simply a criticism on a speech delivered in the House.

Mr. CLARK of Florida. Growing out of what the Member has said here?

Mr. RUCKER of Colorado. Mr. Speaker, will you allow me one word?

The SPEAKER. The gentleman from Colorado.

Mr. RUCKER of Colorado. There might be some question about whether this was an item of news, but the first line of this paper says:

Representative CLARK now a member of the Ananias Club.

The SPEAKER. That all took place outside of the House.

Mr. RUCKER of Colorado. It says:

Representative CLARK now a member of the Ananias Club.

That may not be news to the majority of this House, but at the same time it is published as news to the public. [Laughter.]

The SPEAKER. Of course, it is exceedingly unpleasant for any man to be slandered or lied about or misrepresented; but the rule is that the criticism, slander, or whatever it is alleged to be, must be about the Member in his representative capacity.

Mr. CLARK of Florida. Then, Mr. Speaker, I ask unanimous consent of this House that it give me 15 minutes to reply to this statement.

The SPEAKER. The gentleman asks 15 minutes to reply to this statement. Is there objection?

Mr. FITZGERALD. I will object unless the gentleman limits it to 10 minutes. We have already wasted 5 minutes.

Mr. CLARK of Florida. You have wasted it. I have not.

Mr. FITZGERALD. I shall object to 15 minutes.

The SPEAKER. The gentleman from New York objects.

Mr. FITZGERALD. Does the gentleman want to request 10 minutes?

Mr. CLARK of Florida. No; but if some other gentleman requests that I be given 10 minutes I will use the time.

Mr. FITZGERALD. I ask unanimous consent that the gentleman be given 10 minutes to make a statement.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] asks unanimous consent that the gentleman from Florida [Mr. CLARK] have 10 minutes in which to address the House. Is there objection?

There was no objection.

Mr. CLARK of Florida. Mr. Speaker, I ask unanimous consent to have printed in the RECORD an affidavit made by Capt. W. M. Potter, a captain in the Union Army, who was present at that meeting and heard that speech. He gives the lie to every statement in that article.

The SPEAKER. The gentleman asks leave to print this document as a part of his remarks. Is there objection?

There was no objection.

The affidavit referred to is as follows:

WASHINGTON, D. C., *January 10, 1913.*

The following statement is made under oath relative to the controversy between the Washington Herald and the Hon. FRANK CLARK, Representative from the second district of Florida.

At a meeting of the East Washington Democratic Club, held at the East Washington Hall, No. 314 Pennsylvania Avenue SE., Monday evening, January 6, 1913, which meeting was addressed by Mr. CLARK of Florida, after the meeting had adjourned, a young man representing himself as a reporter for the Herald asked me for a statement as to what had transpired at the meeting, telling me that he was engaged at the Capitol and that he could not be present at the club at an earlier hour.

I presented the reporter with some resolutions that were unanimously adopted relative to the police force and the street lights in east Washington, and told him that if the Herald could not publish the resolutions in full not to publish them at all. This reporter asked me who the speakers were who spoke at the meeting. I told him Mr. Price, of Alabama, Mr. CLARK, of Florida, and myself. He wanted to know what Mr. CLARK said, and I gave him a correct account of what Mr. CLARK had said; and I did not tell him that Mr. CLARK said in his speech, "There are Senators and Representatives occupying seats in Congress to-day who have allied themselves with real estate sharks in this city to fleece

the Government of hundreds of thousands of dollars by seeking to sell to it large areas of land in out-of-the-way places for public-park purposes. * * *" I quoted Mr. CLARK to the reporter as having spoken of land deals in the past and not as to any such transaction now pending in Congress.

There was not, to my knowledge, any reporter present at the meeting except Mr. Brooke, of the Star, and the Herald reporter was not present during the meeting and received his matter for publication from me after the meeting had adjourned.

I make this statement without any solicitation upon the part of Mr. CLARK or any other person, but for the purpose of having justice done to all parties. Two Herald reporters called to see me; and I told them to correct their statement of January 7, 1913, to conform with the facts.

Respectfully, W. M. POTTER.

Sworn to before me this January 10, 1913.

[SEAL.] CHARLES M. EMMONS,
Notary Public, District of Columbia.

Mr. CLARK of Florida. Mr. Speaker, I desire to have printed in the RECORD a statement by Mr. Kyle B. Price, who was present and heard every word of that speech and who gives the lie to every statement in the Washington Herald.

The SPEAKER. The gentleman asks unanimous consent to have this document printed in his remarks. Is there objection?

There was no objection.

The document referred to is as follows:

HOUSE OF REPRESENTATIVES,
January 20, 1913.

Hon. FRANK CLARK,
House of Representatives.

DEAR MR. CLARK: I desire to make a statement relative to the articles published in the Washington Herald of January 7 and 10 containing alleged quotations of remarks made by you at the mass meeting on January 6 at 314 Pennsylvania Avenue SE.

As you know, I was present and addressed the meeting. I sat within 3 feet of you through your address. You did not make the statement published under quotations in the Herald of January 7. I called your attention to the article before the statements were made by you on the floor of the House. The Herald reporter approached me on the 8th and I told him that you did not make the statement, and as he was not present when any of the addresses were delivered he should not have published a hearsay statement of so much importance.

The reporter did not attend the meeting, but came in after it was over.

KYLE B. PRICE.

Mr. CLARK of Florida. I desire to have printed in the RECORD a statement signed by Dr. Charles M. Emmons, who presided at the meeting at which I spoke, and by Mr. W. E. Ryan, Mr. Martin J. Madden, Mr. Joseph Reardon, Mr. Thomas Hanlon, and Mr. Robert F. Bradbury, who give the lie to every statement contained in the Washington Herald.

The SPEAKER. The gentleman asks unanimous consent to have that document printed in his remarks. Is there objection?

There was no objection.

The document is as follows:

HOUSE OF REPRESENTATIVES, UNITED STATES,
Washington, D. C., January 20, 1913.

Hon. FRANK CLARK,
House of Representatives, Washington, D. C.

DEAR SIR: Noticing that the Washington Herald of January 7, 1913, purporting to give an account of a mass meeting held at Donohoe's Hall, 314 Pennsylvania Avenue SE., on the night of the 6th of January, 1913, at which meeting you delivered an address, and that the Herald in quoting, or attempting to quote, your remarks on that occasion used this language: "There are Senators and Representatives occupying seats in Congress to-day who have allied themselves with real-estate sharks in this city to fleece the Government of hundreds of thousands of dollars by seeking to sell to it large areas of land in out-of-the-way places for public park purposes, some of which are in ravines so deep that the Capitol could be set in them and you could not see the Indian which surmounts its dome"; also being aware of the fact that on the 8th day of January, 1913, on the floor of the House of Representatives, you denied making any such statement as is attributed to you by the Herald, we take this method of saying that each and every one of us whose name is signed to this communication was present at the meeting of January 6, 1913, and heard every word uttered by you on that occasion. We do not hesitate to say that there is not one word of truth contained in the report so printed in the Washington Herald of January 7, 1913, and that nothing you said on that occasion could be distorted into any such statement as that with which you are charged.

We desire to say further that the Washington Herald did not have at that meeting any reporter or other representative at the reporters' table or at any part of the hall to our knowledge; in fact, it was publicly stated by more than one speaker on that occasion that not a single newspaper of the city of Washington was represented at the meeting save the Washington Star, which was represented by Mr. Brooks.

We desire to say further that we were amazed to see published in the Washington Herald of January 10, 1913, a resolution alleged to have been passed by the East Washington Democratic Association, wherein it is alleged that the report of your speech as published in the Herald of January 7, 1913, was correct. We are informed that only 10 or 11 persons were present at that meeting.

Regardless of how many persons were present at said meeting, and regardless of what influences were brought to bear to impel them to act, the fact remains that the publication of the report of your speech in the Washington Herald of January 7, 1913, was absolutely and unqualifiedly untrue.

CHARLES M. EMMONS, M. D.,
Presided at the Meeting.
W. E. RYAN, *606 G Street NE.*
MARTIN J. MADDEN,
412 Second Street NE.
JOSEPH REARDON,
THOMAS HANLON,
508 East Capitol Street.
ROBERT F. BRADBURY,
2226 Pennsylvania Avenue SE.

Mr. CLARK of Florida. I desire also to have printed in the RECORD a letter from Dr. Charles M. Emmons, the presiding officer of that meeting, who gives the lie to every statement contained in the Washington Herald.

The SPEAKER. The gentleman asks unanimous consent to have printed in the RECORD the document referred to. Is there objection?

There was no objection.

The letter is as follows:

WASHINGTON, D. C., *January 22, 1913.*

Hon. FRANK CLARK,
House of Representatives, Washington, D. C.

DEAR SIR: I desire to say that I was surprised to see you reported so incorrectly in the Washington Herald of January 7, 1913. I presided at the meeting as chairman of the evening and sat within 3 feet of you when you made your speech, and you did not make any statement that reflected in any way upon any Member of the present Congress.

I invited any reporters present to take seats at the table provided, and Mr. Brooks, of the Star, was the only newspaper reporter to respond. I know of my own knowledge that no representative of the Herald was present at our meeting during the time the speeches were made.

Respectfully, CHAS. M. EMMONS, M. D.

Mr. CLARK of Florida. I want to say now, Mr. Speaker, that it is extremely unpleasant to me to again refer to this controversy; that this man Kennedy, who signs that resolution as secretary, was not present at the meeting at which I spoke. He is not secretary of the association, and knew absolutely nothing of what occurred.

I desire to say further that this man Riley, who has signed as president of the association, was present; that three or four nights ago, in company with three other gentlemen, I visited Riley, and Riley admitted to me that the statements of that resolution were absolutely and unqualifiedly lies; and that he begged those present not to pass the resolution; that they stated that the reason for it was that this reporter of the Washington Herald, whose name I do not know, whom I never saw, and do not know anything about, came to them and begged them to have a meeting, because he said that the owners or managers of the Washington Herald had said to him that his position was dependent on his establishing something to sustain the report which he had made of that meeting. And in order to save his job they passed this resolution; that there were about 10 men present.

Riley agreed to furnish me a written statement, that I could file with the other statements; he is an undertaker on Second Street SE.; I have visited his place and talked with him personally and over the telephone. Finally over the telephone Riley said in substance, "I am a citizen of Washington, and I can not afford to enter into any controversy with a newspaper in this city, because I have got to make my living here," and therefore he could not tell the truth.

Mr. Speaker, I want to say that the proprietors or managers of the Washington Herald who forced this young man or old man, whatever he may be, to resort to this method to procure an indorsement of a lie are just as much liars as the reporter who wrote the article, and he is the most infamous liar that I have ever come in contact with.

Now, Mr. Speaker, I am taking no advantage of my privilege here. I said in my first speech, and I say it now, that I am responsible everywhere, at any time, and on all occasions for denouncing this man and these people as a lot of consummate liars, and I would be delighted if they would send any of their cowardly and lying gang to see me. That is all I care to say, sir. [Applause.]

Mr. JOHNSON of South Carolina rose.

The SPEAKER. The gentleman from South Carolina.

Mr. MANN. Mr. Speaker, I ask for the regular order.

The SPEAKER. Will the gentleman withhold for a moment?

INTERNATIONAL CONGRESS ON SCHOOL HYGIENE (S. DOC. NO. 1023).

The SPEAKER laid before the House the following message from the President of the United States, which was read and, with accompanying papers, ordered to be printed and referred to the Committee on Appropriations.

To the Senate and House of Representatives:

On the 19th of August last Congress passed the following resolution:

Resolved, etc., That the President of the United States is hereby requested to direct the Secretary of State to issue invitations to foreign Governments to participate in the Fourth International Congress on School Hygiene, to be held in Buffalo, N. Y., August 25 to 30, 1913: *Provided*, That no appropriation shall be granted at any time hereafter in connection with said congress.

At the time the resolution was passed there were three gentlemen in Buffalo whose means and whose interest in the congress were such that the people of Buffalo had every reason to believe that the expense of the congress would be contributed by these, their citizens. Since that time the three citizens have died,

and there is no written obligation on the part of their estates to meet the necessary expenses.

I recommend the appropriation of $30,000 (to which the citizens of Buffalo will have to add a substantial sum) as a contribution of the Government to the fund necessary to make the reception of the congress accord with what we regard as American hospitality.

Personally I am very much opposed to any invitation of this sort at the instance of the Government in which the Government does not assume all the expenses of entertainment. Other countries much less able than the United States never extend an invitation of this sort without having proper preparation for the reception of the guests of the nation.

In the peculiar circumstances of the present resolution I urgently recommend the appropriation of the sum mentioned to enable the obligation of the invitation to be properly met. The proviso in the resolution was an unfortunate one, in my judgment, but, whether it was so or not, under the circumstances it offers no reason for Congress not to take the proper course.

WM. H. TAFT.

THE WHITE HOUSE, *January 22, 1913.*

PANAMA RAILROAD (S. DOC. NO. 1022).

The SPEAKER also laid before the House the following message from the President of the United States, which was read:

To the Senate and House of Representatives:

I transmit herewith, for the information of Congress, the Sixty-third annual report of the board of directors of the Panama Railroad Co. for the fiscal year ending June 30, 1912.

WM. H. TAFT.

THE WHITE HOUSE, *January 22, 1913.*

The SPEAKER. Ordered printed and referred to the Committee on Appropriations.

Mr. CANNON. That requires unanimous consent, I believe. I have no objection to it, but I want an understanding about it.

The SPEAKER. How does it require unanimous consent?

Mr. CANNON. Because there is nothing I know of that will dispose of it except a motion, in the absence of unanimous consent.

The SPEAKER. The Chair thinks it has been the universal practice for the Speaker to refer it.

Mr. CANNON. My understanding is that it has been the practice of the Speaker to refer it; but when you get the general annual message it goes to the Committee of the Whole House on the state of the Union by the action of the House. My understanding is that a single objection would bring it to the House to dispose of.

The SPEAKER. The rule is that the message of the President shall be referred to the proper committee without debate. That comes as near being automatic as you can have it.

Mr. CANNON. To what committee?

The SPEAKER. To the appropriate committee. The Chair passes on that in the first instance.

Mr. CANNON. I hope the Chair will examine that question before he makes a ruling as a precedent.

Mr. FITZGERALD. Mr. Speaker, the invariable practice has been for the Speaker to refer the message, and if any gentleman believes the Speaker erroneously refers it it is held to be a privileged motion.

Mr. CANNON. That applies to bills only.

Mr. MANN. A privileged motion at the time.

Mr. CANNON. At the time; that is right. Mr. Speaker, I do not desire to interpose an objection.

The SPEAKER. It has been the universal practice for the Speaker to refer the message, and the gentleman himself must have so decided it a hundred times.

Mr. MANN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. If the demand for the regular order should be made—and this is a request for information in the best of faith—and a conference report or some highly privileged matter did not intervene, would the business coming before the House be the unfinished business coming over from yesterday, the bill H. R. 23669, on which the previous question was ordered?

The SPEAKER. This particular question has never been passed upon. The truth is that the matter of Calendar Wednesday has never been construed except under the administration of my immediate predecessor, Mr. CANNON, and by the present occupant of the chair. Both the gentleman from Illinois [Mr. CANNON], when Speaker of the House, and the present occupant of the chair held that when business was unfinished on Calendar Wednesday it went over until the next Calendar Wednesday as unfinished business, and the present occupant of the chair has held, and the ruling has been universally acquiesced in, that on account of the peculiar phraseology of the rule establishing Calendar Wednesday business that was not finished on Tuesday went over until Thursday. But no case like this has heretofore arisen. This is a case where the previous question has been ordered on the bill under consideration on Wednesday. There is no precedent on this particular rule, but there are precedents, and plenty of them, where the same case has arisen with respect to pension matters on Fridays and with reference to matters coming up on Mondays. The rulings seem to have made a differentiation between a bill that was not finished where the previous question was not ordered and a bill that had not been finished but where the previous question had been ordered, and as to unfinished business on Fridays and Mondays where the previous question had been ordered on a bill the ruling has been that it came up as unfinished business on the following legislative day. The Chair is unable to differentiate in his own mind between what ought to happen with respect to the Friday business and what ought to happen about the Calendar Wednesday business where exactly the same circumstances prevail.

Mr. MANN. If the Chair does not desire to rule, I wish to prefer a request for unanimous consent.

The SPEAKER. No; the Chair may as well rule now and be through with it. The Chair holds that where the previous question has been ordered on a bill under consideration on Calendar Wednesday which is unfinished it is the unfinished business on Thursday. As this is the first ruling ever made upon this question, if any gentleman desires to test it, he has the right of appeal.

AMERICAN ACADEMY OF ARTS AND LETTERS.

The SPEAKER laid before the House the following communication:

IN THE SENATE OF THE UNITED STATES,
January 21, 1913.

Resolved, That the Secretary be directed to request the House of Representatives to return to the Senate the bills (S. 4355) incorporating the National Institute of Arts and Letters and (S. 4356) incorporating the American Academy of Arts and Letters.

Attest:

CHARLES G. BENNETT, *Secretary.*

The SPEAKER. Without objection, the request will be granted.

There was no objection.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 6497. An act to protect migratory game and insectivorous birds in the United States.

The message also announced that the Senate had insisted upon its amendment to the bill (H. R. 14053) to increase the pensions of surviving soldiers of Indian wars in certain cases, disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. MCCUMBER, Mr. POINDEXTER, and Mr. GORE as the conferees on the part of the Senate.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 6497. An act to protect migratory game and insectivorous birds in the United States; to the Committee on Agriculture.

LOAN COMPANIES IN DISTRICT OF COLUMBIA.

Mr. DYER. Mr. Speaker, I call up the conference report on the bill (H. R. 8768) known generally as the District of Columbia loan-shark bill.

The SPEAKER. The gentleman from Missouri calls up a conference report, which the Clerk will read.

The Clerk read as follows:

CONFERENCE REPORT (NO. 1290).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8768) to regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 3, 6, 7, 8, 9, 10, 11, and 12.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 4, and 5, and agree to the same.

That the Senate recede from its amendment to the title of the bill.

BEN JOHNSON,
J. A. M. ADAIR,
L. C. DYER,
Managers on the part of the House.

CHARLES CURTIS,
WM. P. DILLINGHAM,
T. H. PAYNTER,
Managers on the part of the Senate.

The statement is as follows:

STATEMENT.

The managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8768) to regulate the business of loaning money on security of any kind, by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia, submit the following written statement in explanation of the effect of the action agreed upon and recommended as to each of the said amendments in the accompanying conference report:

On amendment No. 1: Strikes out the modification, proposed by the Senate, so as to permit individuals to loan their own money at a rate of interest not to exceed 10 per cent per annum, and without being required to obtain a license for engaging in such business.

On amendment No. 2: Inserts the provision, proposed by the Senate, with reference to requiring bonds to be renewed and refiled annually in October of each year.

On amendment No. 3: Strikes out the modification, proposed by the Senate, for the publication of the annual report in at least one newspaper of general circulation in the District of Columbia.

On amendment No. 4: Inserts the provision, proposed by the Senate, as follows:

No such loan greater than $200 shall be made to any one person: *Provided*, That any person contracting, directly or indirectly, for or receiving a greater rate of interest than that fixed in this act, shall forfeit all interest so contracted for or received; and in addition thereto shall forfeit to the borrower a sum of money, to be deducted from the amount due for principal, equal to one-fourth of the principal sum: *And provided further*, That any person in the employ of the Government who shall loan money in violation of the provisions of this act shall forfeit his office or position, and be removed from the same.

On amendment No. 5: Agrees to the provision, proposed by the Senate, striking out section 7 of the House bill and inserting in lieu thereof a new section to be known as section 7. The only effect of this is to provide for a minimum as well as a maximum punishment for violation of the act and does not provide any greater punishment for the second or subsequent violation of the act.

On amendment No. 6: Strikes out the provision, proposed by the Senate, excepting from the act section 6, which section provides that no attorneys' or agents' fees shall be charged or collected in foreclosure of any loan exceeding 10 per cent of the amount found due in such foreclosure proceedings.

On amendment No. 7: Strikes out the provision, proposed by the Senate, that pawnbrokers shall not be included within the provisions of this act.

On amendment No. 8: Strikes out the provision, proposed by the Senate, that section 9 of said bill be stricken out, said section providing that it shall be unlawful to incorporate any provision for liquidated or other damages as a penalty for any default or forfeiture thereunder.

On amendment No. 9: Strikes out the provision, proposed by the Senate, that section 10 be stricken out, said section providing that nothing contained in this act shall be held to apply to the legitimate business of national banks, licensed bankers, trust companies, savings banks, building and loan associations, or real estate brokers, as defined in the act of Congress of July 1, 1902.

On amendments Nos. 10, 11, and 12: Strikes out the provision, proposed by the Senate, for the renumbering of sections 11, 12, and 13.

BEN JOHNSON,
J. A. M. ADAIR,
L. C. DYER,
Managers on the part of the House.

Mr. DYER. Mr. Speaker, the conference report upon this bill, H. R. 8768, leaves it in substantially the same form in which it passed the House. The only changes that are included in this conference report are substantially as follows: First, that the bond given by these companies shall be refiled annually in October of each year; second, that no greater sum than $200 shall be loaned to any one person, and providing further that any person in the employ of the Government who shall loan money in violation of the provisions of this act shall forfeit his office or position; and, third, it changes the punishment provided by the House by simply making a provision for minimum punishment as well as the maximum, and leaves the punishment about as it was. The report of the conferees, with the above unimportant exceptions, therefore leaves the bill practically as it passed this House.

The SPEAKER. The question is on agreeing to the conference report.

Mr. MANN. Mr. Speaker, will the gentleman yield me one minute?

Mr. DYER. I yield the gentleman from Illinois one minute.

Mr. MANN. Mr. Speaker, I do not especially desire to oppose the conference report, though I am absolutely satisfied that no one can afford to loan small amounts of money at a rate of 1 per cent a month and pay the expense of preparing and filing the papers. It will be only a short time before Congress is asked to make further legislation in order to permit some poor man to borrow five or ten dollars when he has to have it.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

AMERICAN HOSPITAL OF PARIS.

Mr. CLAYTON. Mr. Speaker, I call up the conference report on the bill (S. 6380) to incorporate the American Hospital of Paris, and move the adoption of the report. It is printed in the RECORD of January 21, and I would like to have the statement read in lieu of the report.

The SPEAKER. The gentleman from Alabama asks unanimous consent to have the statement read in lieu of the report. Is there objection? [After a pause.] The Chair hears none, and the Clerk will read.

The conference report is as follows:

CONFERENCE REPORT (NO. 1351).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 6380) to incorporate the American Hospital of Paris, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House, and agree to the same.

HENRY D. CLAYTON,
JOHN W. DAVIS,
JOHN A. STERLING,
Managers on the part of the House.

J. H. GALLINGER,
CHARLES CURTIS,
THOMAS S. MARTIN,
Managers on the part of the Senate.

The Clerk read the statement as follows:

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments to the bill (S. 6380) to incorporate the American Hospital of Paris, submit the following detailed statement in explanation of the effect of the action agreed upon and recommended in the conference report, namely:

1. It was agreed that the Senate recede from its opposition to the House amendment in the following words:

Provided, That the total value of the property owned at any one time by the said corporation shall not exceed $2,000,000.

And that the Senate agree to this amendment. (Page 2, line 7.)

2. It was agreed that the Senate recede from its opposition to the House amendment in the following words:

SEC. 9. That this charter shall continue for the term of 50 years: *Provided*, That at no time shall said corporation hold real estate except for the necessary use of officers and hospital purposes of said hospital.

And that the Senate agree to the same.

Page 5, strike out lines 3 and 4 and insert the above.

HENRY D. CLAYTON,
JOHN W. DAVIS,
JOHN A. STERLING,
Managers on the part of the House.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken, and the conference report was agreed to.

LEGISLATIVE, EXECUTIVE, AND JUDICIAL APPROPRIATION BILL.

Mr. JOHNSON of South Carolina. Mr. Speaker, by direction of the Committee on Appropriations I report back the bill H. R. 26080, with Senate amendments, and I ask unanimous consent to consider the bill in the House as in Committee of the Whole House on the state of the Union, to disagree to all the Senate amendments, and ask for a conference. (H. Rept. 1379.)

The SPEAKER. The Clerk will report the bill by title.

The Clerk read as follows:

A bill (H. R. 26080) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes.

Mr. MANN. Mr. Speaker, do I understand the gentleman asks unanimous consent for the immediate consideration of the Senate amendments in the House as in Committee of the Whole House on the state of the Union?

The SPEAKER. Yes; the gentleman asked unanimous consent——

Mr. MANN. I shall ask for a separate vote at the proper time on two amendments.

The SPEAKER. The gentleman from South Carolina asks unanimous consent for the immediate consideration of these amendments in the House as in Committee of the Whole House on the state of the Union. Is there objection? [After a pause.] The Chair hears none.

Mr. MANN. Mr. Speaker, I ask for a separate vote on amendments numbered 31 and 68.

Mr. JOHNSON of South Carolina. Mr. Speaker, I ask unanimous consent to disagree to all the Senate amendments except Nos. 31 and 68.

The SPEAKER. The gentleman from South Carolina asks unanimous consent to disagree to all the Senate amendments except Nos. 31 and 68. Is there objection? [After a pause.] The Chair hears none. The gentleman from Illinois [Mr. MANN] demands a separate vote on amendments numbered 31 and 68, and the Clerk will report amendment numbered 31.

The Clerk read as follows:

Amendment No. 31: Page 15 of the bill, line 4, strike out "$2,500" and insert "$3,000."

Mr. JOHNSON of South Carolina. Now, Mr. Speaker, I move to disagree to Senate amendment numbered 31.

Mr. MANN. Mr. Speaker——

Mr. JOHNSON of South Carolina. Does the gentleman want any time?

Mr. MANN. I think there ought to be some little discussion of this. I only want a moment or so as far as I am concerned.

Mr. FITZGERALD. I would suggest to the gentleman from Illinois that he take some time from the gentleman from South Carolina.

Mr. MANN. It may be I would not want any time if other gentlemen are going to discuss it.

The SPEAKER. Each gentleman who desires to speak is entitled to five minutes, and the gentleman will proceed.

Mr. MANN. Mr. Speaker, I suppose other gentlemen will discuss the amendment. This amendment is one of three Senate amendments increasing the compensation of the clerk, the assistant clerk, and the janitor of the Committee on the Judiciary of the House. This particular amendment is the one which relates to the Clerk.

The clerk now receives $2,500 per annum, and that was the amount carried in the bill as it passed the House. The Senate by amendment has increased or proposes to increase the amount to $3,000. As it seems to me whatever is done with these employees of the Judiciary Committee is likely to be done sooner or later with the employees of the other large committees of the House, it seems to me desirable to have a vote in the House on this subject and not leave it either to the Senate to determine what should be the compensation of House employees or to leave it to go into a final conference report, or even to leave it so that the conferees on the part of the House might be subject to the natural pressure of friends of the clerk who desire the salary increased. If it shall become the intention of the House to increase the salaries of all of these clerks of major committees, I have no complaint to make about it. I am not sure but this salary ought to be increased, but I am quite sure that the Members of the House ought to determine the matter in the House by a vote here.

The SPEAKER. The question is on the motion of the gentleman from South Carolina to disagree to Senate amendment 31.

The question was taken, and the Speaker announced the ayes seemed to have it.

On a division (demanded by Mr. MANN) there were—ayes 133, noes none.

So the motion to disagree was agreed to.

The SPEAKER. The Clerk will report amendment No. 68.

The Clerk read as follows:

Amendment No. 68: On and after October 1, 1913, the whole number of collection districts for the collection of internal revenue and the whole number of collectors of internal revenue shall not exceed 67.

Mr. JOHNSON of South Carolina. Mr. Speaker, I move that the House disagree to the Senate amendment.

Mr. MANN. Mr. Speaker, last year, I think it was, the House in passing one of the appropriation bills cut down the number of internal-revenue collection districts by three. Is not that correct?

Mr. KAHN. Four.

Mr. MANN. Well, whatever the number is; we have often heard in the House how impossible it was to reduce a salary or dispense with a job. I do not know just how it happened that without a terrible contest it has been possible for Congress to agree on the reduction of the number of collection districts from 67 to 63. I think it might be well that they be reduced 50 per cent more. But, however, it was last year. As soon as the reduction is again in force, up comes again the same old war cry against dispensing with a job. The Senate has now proposed an amendment in this bill to restore the number of these collection districts to what it was before the spasm of economy struck Congress. I expect to have, at least, a standing vote on this subject in order to ascertain whether we have the same feeling after election as to reducing economy as we had before.

Mr. JOHNSON of South Carolina. The members of the committee representing the Committee on Appropriations in the House of Representatives in the last session of Congress endeavored to reduce the number of collection districts. We have not changed our position. The bill went to another legislative body, and there the number was increased. I know of no reason why we should not stand by what we did at the last session of Congress.

Mr. RAKER. Will the gentleman yield there?

The SPEAKER. Will the gentleman from South Carolina yield to the gentleman from California?

Mr. JOHNSON of South Carolina. Yes, sir.

Mr. RAKER. In the recommendation of the committee or action of the committee was there any special place named or picked out where these districts should be abandoned or consolidated?

Mr. JOHNSON of South Carolina. No; because the internal-revenue districts are arranged by the executive department of the Government. We simply provided the whole number of districts should not exceed 63. The President, in the exercise of his discretion, discontinued certain internal-revenue districts.

Mr. RAKER. Does the gentleman have the information as to the four that have been discontinued?

Mr. JOHNSON of South Carolina. One was discontinued in Texas, one in Pennsylvania, one in South Carolina, and one, I think, in California. [Laughter.] But the one in South Carolina did not affect me.

Mr. RAKER. Personally, of course, it does not affect me, but it affects the State of California, and that is sufficient to make me interested in this matter; but I want to call the gentleman's attention to the fact—and the House, I think, will consider it—that there was a provision in the bill reducing the number from 67 to 63 last year, but somebody, somewhere, or somehow, went into the most populous and most necessary district in the State of California, the one containing the capital of that State, where it is absolutely necessary there should be a revenue office and a collector, and the office was abandoned and consolidated and sent 100 miles from Sacramento, taking it right out of that great Sacramento and San Joaquin Valley, where they need it.

Mr. FITZGERALD. They did not expect California to get much sympathy from this administration, did they?

Mr. RAKER. It is a question of business and not a question of politics with me.

Mr. FITZGERALD. It is the gentleman's misfortune. [Cries of "Vote!" "Vote!"]

Mr. RAKER. Mr. Speaker, in regard to this matter it seems to me that it is an unwise provision to reduce these collectors, leaving it absolutely undetermined where the cut shall be applied, and to go into a populous district where much work is being done, as in the district of Sacramento in the State of California, a district which is populous and growing all the time, and where a large internal-revenue business is transacted, and remove the office. This order came as a thunderclap from a clear sky, to the effect that on a certain day the revenue office

at Sacramento should be abolished and all the business and books would be transferred to San Francisco, when, as a matter of fact, the Chamber of Commerce at Sacramento, and those interested at Redding, and those at Red Bluff, and at Vina, one of the largest territories in the West, being an internal-revenue district, knew there was too much work for the collector and his assistants in San Francisco at the time of the abandonment of the office at Sacramento and its transfer to San Francisco.

When the Government intends to provide the necessary equipment, including men to do the business, the necessary office force ought to go into the place that needs the work and needs the men, to the end that those who are paying the revenue to the Government, those from whom the Government is receiving revenue and with whom it is doing business should be accommodated, and that particular collection district ought not to be abandoned; one that is doing a good business and is much needed should not be abolished.

Now some of the Members of the House might think this is in my district. It is not. That does not make any difference. The State of California and the people of that district are entitled to consideration. On a question of economy, I stand for economy as well as any man on earth, but when you talk about depriving the citizens of a community of the necessary means by which they do their business, it is not economy. Efficiency is economy; if it costs to have efficiency, expenditure is not wasteful when needed if it give efficiency and service to the public. If you spend a thousand dollars and get back a thousand dollars' worth, that is economy, if it is needed. If you appropriate $100,000 and get only $50 worth back in service, that is waste or graft, if you please, and not economy. While I am a Member on this side of the aisle I shall contend that the necessary money should be supplied wherever that money is needed to advance the conditions of this country, and improve it as it ought to be improved, and keep it virile as this Nation ought to be kept, and that wherever there are places where the citizens of this country require offices and officers necessary for them to do their business, we ought to provide them with those necessary assistants and not cut them out of that consideration that they ought to have.

While I do not know anything about the other three, I can say to this House from personal examination and from discussing it with numbers of men, not only those living in town, but also those out in the country, who have the material put in bond and who deal with this particular revenue office, that they say it will practically, in some instances, injure their business and drive it away from their localities. The testimony in the hearing before the Committee on Appropriations shows that these officers should be restored. The following is what occurred in the hearing:

REDUCTION OF INTERNAL-REVENUE DISTRICTS.

[See also p. 62.]

Mr. JOHNSON. Mr. Cabell, the last legislative bill reduced the number of internal-revenue districts to 63. Have you been embarrassed by that reduction?

Mr. CABELL. Very greatly.

Mr. JOHNSON. I was hoping we could effect a still further reduction.

Mr. CABELL. Practically no saving has resulted from it, and a great inconvenience to the taxpayer has resulted, and also the requirement of a strong-arm policy on the part of the Government. If the Government were willing to stand the criticism and cause the taxpayer as much more inconvenience in cost as the money they collect, they could collect everything from Washington. You could just say: "You must come here. We do not care for your inconvenience or the cost to you." The collector's offices are established primarily for the convenience of the taxpayer and secondarily for closer supervision of the work. Now, there is no question but that the abolition of those offices has cost the taxpayers many times what is the normal saving to the Government. It requires the taxpayers to take long trips to see about their plans for distilleries and breweries and the settlement of technical questions, where they have to personally confer with the collector, and incidentally we lose closer supervision of the service, and there is no question in my mind that the Government has lost by it and that the taxpayers have also greatly lost by it.

Mr. JOHNSON. Mr. Cabell, on page 112 is a table that is furnished under the requirements of the law by a statistician in your bureau, or in whatever bureau of the Treasury Department has to furnish it, which neglects to give us the totals.

Mr. CABELL. The totals of the appropriations or the totals of expenditures?

Mr. JOHNSON. It gives the salaries and then the total salaries of the collectors and the total traveling expenses, but does not show what the balances are.

Mr. CABELL. For 1912 the total appropriation was $2,150,000. The total expenditures were $2,105,472.27. There was a balance of $44,527.73. The reason for that balance is that you have such criminal penalties for running over your allowance in even any one month that nobody is going to take any chances on that. For this year you gave us $2,100,000. We must leave a certain amount of that unallotted to put a buffer between the expenditures and going to jail, and you have got to leave about $50,000 for that. You see we have 63 districts and some 2,000 men paid from this appropriation, and we can not possibly estimate in advance what their traveling expenses, etc., are going to be. We can not possibly estimate in advance how many breweries are going to put in pipe lines, where the law requires us to assign an officer, and for the first time in the history of the Internal Revenue Bureau we have appropriated down below the $10,000 reserve, and both our chief of the Accounts Division and the deputy commissioner in charge of this work have made me give an assurance that I will go to jail and not them. It is probably presumptuous in me, but I take the liberty of repeating what I have said before: You can not draw the line on appropriations for collecting money like you can on appropriations for spending money. In appropriations for spending money every dollar not appropriated is a dollar saved, but when you are collecting money the failure to spend a dollar may lose you $500.

Mr. GILLETT. What do you mean by that?

Mr. CABELL. Suppose you do not send a deputy to canvass a certain territory. Suppose you do not send a man to put a distillery under surveillance, where one can steal $500 a day, and suppose, in order to cut expenses, the collector directs a deputy, in making his monthly trip, that he need not canvass one county because it costs him $15 for livery, and suppose you lose $2,000 from that county in that period. I do not think any person could be familiar with the facts and not know that we lose at least 1 to 2 per cent of the tax a year, one-half of which is collectible if we had the men to go after it. One per cent of the internal-revenue tax is three million two hundred and twenty some thousand dollars.

Mr. GILLETT. You think you do now lose that much? How do you calculate that you lose 2 per cent?

Mr. CABELL. Just on the general principle of how close we canvass, and just figuring on where we put additional men into the field the returns that come from it. So that if you put more men in the field on the same ratio you would get more revenue.

Mr. GILLETT. They evade a certain amount of the tax.

Mr. CABELL. They evade and overlook it. Some of them unconsciously make returns that are in their own favor. Of course, we are a little suspicious of all returns of that kind. In the corporation-tax work alone, for instance, as a result of 15 of our agents examining less than one-third of the country, they have actually turned into the Treasury in two years a million and a half dollars. Now, two-thirds of the country is not touched and three years is the extreme limit in which you can correct any of those returns. I am satisfied there is a million and a half or two million dollars of corporation tax that has not been collected and never will be collected unless the force of agents on this work is increased.

Mr. GILLETT. But if you had had sufficient force you could have collected it?

Mr. CABELL. If we had 20 men more we could have turned in over a million dollars additional.

Mr. GILLETT. So our failure to appropriate enough has cost probably——

Mr. CABELL (interposing). The failure to spend $100,000 has undoubtedly cost from a million and a half to two million dollars in cash. There is no question about that.

[See also p. 59.]

Mr. JOHNSON. Mr. Cabell, I would like to ask you one other question about the reduction in the districts. They were reduced from 67 to 63. You think we can not reduce any more. What process was adopted in the reduction of the four?

Mr. CABELL. That was done by the President at the White House, and I could not tell you.

Mr. JOHNSON. It was done by Executive order?

Mr. CABELL. Yes, sir.

The CHAIRMAN. The time of the gentleman has expired.

Mr. OLMSTED. Mr. Speaker, the bill which was passed last year reducing the number of revenue-collection districts by four was put into operation, and I assume that the Executive in determining which districts should be abolished chose those where the least inconvenience would result to the public and the least detriment to the public service.

Two of the districts consolidated were in the State of Pennsylvania. I can only say that if in the other consolidations there resulted the same inconvenience to the public and the same detriment to the public service the four districts ought to be restored. In abolishing the four districts Republican officeholders went out of office. It is equally true, as we all know, that if these districts are restored Democratic officers will be appointed. But notwithstanding that fact, judging from the experience of the Pennsylvania district that was abolished, I am heartily in favor of restoring the four revenue-collection districts.

Mr. FARR. Mr. Speaker, one of the districts affected by the reduction a year ago in the number of internal-revenue districts is that which I have the honor to represent. The headquarters were in Scranton. In Lackawanna and Luzerne Counties alone there are more than 600,000 people. The revenues of that district, the twelfth district of Pennsylvania, which was merged into the ninth district very unexpectedly, and to the great disappointment and chagrin of the people, increased $818,000 in the five years from June, 1906, to June, 1911. The revenues will continue to increase at a rapid rate in the future.

There were 30 districts or more in the United States with smaller revenues than my district, the twelfth district of Pennsylvania. I want to say to this House that it was against the interest of the public service to abolish any one of these districts, and that originally the thought was not to disturb one of these 4 districts. The President issued an order abolishing 4 other districts. That order was rescinded within a few hours, and 4 other districts than those intended to be abolished were stricken out, one of which was the twelfth Pennsylvania. Now I want to repeat what the gentleman from Pennsylvania my colleague [Mr. OLMSTED] said. We realize as Republican that we are going to lose the patronage of that office, but nevertheless we want that office restored. The question of patronage is immaterial, but it is material for northeastern Penn-

sylvania, with our great interests, to have this district reestablished.

In this connection let me quote from the statement of Mr. Royal E. Cabell, Commissioner of Internal Revenue of the United States, to the subcommittee in charge of the legislative, judicial, and executive appropriation bill:

Mr. JOHNSON. Mr. Cabell, the last legislative bill reduced the number of internal-revenue districts to 63. Have you been embarrassed by that reduction?

Mr. CABELL. Very greatly. Practically no saving has resulted from it, and a great inconvenience to the taxpayers has resulted, and also the requirement of a strong-arm policy on the part of the Government. * * * The collectors' offices are established primarily for the convenience of the taxpayer and secondarily for closer supervision of the work. Now, there is no question but that the abolition of those offices has cost the taxpayers many times what is the normal saving to the Government. It requires the taxpayers to take long trips to see about their plans for distilleries and breweries, and the settlement of technical questions where they have to personally confer with the collector, and incidentally we lose closer supervision of the service, and there is no question in my mind that the Government has lost by it and that the taxpayers have also greatly lost by it.

These statements of Commissioner Cabell apply with particular force to the former twelfth Pennsylvania district, a great and rapidly growing district, comprising the great anthracite producing counties of Lackawanna, Luzerne, and 18 other counties, with a total population, according to the last census, of 1,381,897 persons. The nominal saving of not more than $7,000 a year, caused by the merging of that district in the ninth Pennsylvania, will be small compared with the additional cost to the taxpayers by inconvenience and the actual loss to the Government through lack of the close supervision so essential to best results. Considerable of this nominal saving will be used with additional expense necessary to assemble from the greater distances the field forces, as is customary several times a year, for suggestions and discussion in the interest of the service. I repeat without hesitancy that the abolishment of the twelfth Pennsylvania district has resulted in a detriment to the service, a loss to the Government in revenues, and a great and costly inconvenience to the taxpayers.

The following statement of the twelfth revenue district of Pennsylvania, as per report for fiscal year ending June 30, 1911, will indicate the importance of this district.

Rectifiers		26
Retail liquor dealers		5,364
Wholesale liquor dealers		90
Brewers		46
Retail dealers, malt liquors		147
Wholesale dealers, malt liquors		406
Retail dealers in oleomargarine		226
Wholesale dealers in oleomargarine		3
		6,308
Cigar factories		245
Total		6,553

Statement of receipts from each kind of business.

Spirits	$228,306.22
Tobacco	518,478.37
Beer	1,521,101.18
Oleomargarine	2,030.17
Special excise tax on corporations	241,869.72
Penalties	4,101.90
Total collections for twelfth district	2,515,887.56

Expense of conducting business, 1.58 per cent.

Collections June 30, 1911	2,515,887.56
Collections June 30, 1906	1,626,908.19
Gain	818,979.37

Scranton, where the headquarters for the twelfth district was located, is the immediate center of one of the most densely populated areas on the continent, with the exception of the suburbs of a very few of the greatest cities.

According to a Census Office bulletin issued March 7, 1912, its "metropolitan" population (i. e., within 10 miles) was 314,538. This exceeds the similar populations of such cities as Louisville, Fall River, Lowell, Rochester, Seattle, Indianapolis, New Haven, Worcester, Columbus, Denver, Portland (Oreg.), Birmingham, Atlanta, Omaha, Syracuse, Toledo, Memphis, Richmond, Bridgeport, Dayton, Nashville, Grand Rapids, or Spokane.

These figures (314,538) do not include the important city of Wilkes-Barre, 18 miles south of Scranton, or its enormous suburban population, which would be affected almost equally with Scranton by the removal of the internal-revenue office from this city.

More than 700,000 people reside within 25 miles of Scranton, and a radius of 40 miles would embrace a population probably in excess of 1,000,000.

Scranton and the Lackawanna Valley is one of the richest regions on the globe in the per capita value of its output, and this territory of marvelous growth in population and wealth is justly entitled to all of the conveniences and benefits which the Government can provide.

I contend, Mr. Speaker, that it was an injustice to this great and growing territory to deprive it of the convenience of this revenue district and that it should be restored at the earliest opportunity for the good of the service and the accommodation of taxpayers.

Mr. FITZGERALD. In view of what the gentleman has said, perhaps it will be interesting to have some facts about this situation. Those in charge of this service gave information to Congress that four districts could be abolished. Congress provided that the number of internal-revenue districts should be reduced by four. When it became necessary to reduce the number, four districts were abolished, none of them being of those mentioned as unnecessary when the matter was presented to Congress. It may or may not be somewhat significant that the districts abolished were in California, Texas, South Carolina, and Pennsylvania. Gentlemen who will study the election returns may find the reason for the abolishment of these districts, especially when they read the hearings before the committee with reference to the districts that were then believed by those in charge of the service to be unnecessary.

Mr. RAKER. Will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. RAKER. Now, having found that out, and having the opportunity to correct it, and knowing the necessity for it, ought we not, for the efficiency of proper governmental service, to restore a place like that.

Mr. FITZGERALD. If that were a fact, I would say yes, and I hope that when the 4th of March comes the gentleman will be able to show those in charge of the administration what the facts are, and that he will be able to have the reasons control the establishment or discontinuance of these districts that Congress expected would control when it enacted the legislation.

Mr. RAKER. There is over half a million dollars of business done there. Does not that make it plain that it is necessary for the proper conduct of the public service?

Mr. FITZGERALD. If it be necessary for the conduct of the public service, and the executive department between this time and the next session of Congress will not readjust matters there as they should be for the proper transaction of the public business, I do not believe Congress will have any justification to refuse to create or provide an additional district to take care of that situation, even though some others may exist that are not necessary.

Mr. MANN. Will the gentleman yield for a question?

Mr. FITZGERALD. Yes.

Mr. MANN. Considering the amount of agitation and discussion which has been had with reference to this subject of the abolishing of four internal-revnue districts, I should like to ask the gentleman whether he expects any better results will be attained in the abolishment of a large number of customhouses in accordance with the proposition which he skillfully put through last year?

Mr. FITZGERALD. If the same policy be followed and the same reasons be adopted for abolishing customs districts as it is apparent were followed and adopted in abolishing the internal-revenue districts, I shall not hesitate to ask the Congress to repeal the law authorizing the reorganization of the customs service. Congress expects an administration to carry out laws in the interest of the public service and not in the interest of partisan politics. [Applause.] If that is to control, I do not think there will be any doubt about what will happen.

Mr. BUCHANAN. I should like to ask the chairman of this committee if his attention has been called any further to the question of the piecework that is provided for in this bill? The question was raised by my colleague [Mr. MANN] during the consideration of this bill as to piecework in the office of the Auditor for the Post Office Department. I wish to say to the chairman—who, I believe, was fair about all of these things—that since the time I made the inquiry I have received information which satisfies me that there is a condition there under that piecework system which he himself would not permit to exist if he understood it. The employees there, instead of being satisfied, and their wages being increased, as reported by the head of the department, are being worked long hours for a small wage and under a condition that is impairing their health. If it is not too late, it seems to me this matter ought to be corrected. I ask the gentleman, if it is possible to take this matter up yet, that he give this question a little attention before the conference committee on this bill.

Mr. CANNON. Mr. Speaker, I move to strike out the last word. I have here the official report—the latest I could get—which is for the fiscal year 1911, expiring on the 30th of June, 1912. There seems to be three California districts, one of which

has been consolidated out. The San Francisco district collected almost $7,000,000 in round numbers. Just a little way from San Francisco—I was going to say a stone's throw, but it is farther than that—is Sacramento. There was collected in that district $713,171.09. Down in Los Angeles, the other district, the collections amounted to $948,810.24. I have not had time to examine as to Texas or as to the districts that were consolidated.

Mr. FITZGERALD. Will the gentleman yield?

Mr. CANNON. Certainly.

Mr. FITZGERALD. Will the gentleman read the figures in the two Iowa districts? They are right there in the report, and have not been consolidated.

Mr. CANNON. Oh, it may be that further consolidations are needed.

Mr. KENDALL. Will the gentleman yield?

Mr. CANNON. Yes.

Mr. KENDALL. There is no doubt whatever but that the two revenue districts in Iowa ought to be consolidated.

Mr. FITZGERALD. That is what Congress had in mind, but they have not been consolidated.

Mr. CANNON. The statement of the gentleman from Iowa is honest. There is the district of Peoria, Ill., where they collect forty or fifty million dollars. The Chicago district is a very large one. Now, I just give the facts. How far is it from San Francisco to Sacramento?

Mr. KAHN. Ninety-one miles.

Mr. CANNON. It may be that that district ought to have been consolidated. I have thought for many years that perhaps other districts ought to be consolidated, and while I am talking about it, the law went into effect giving the President power to consolidate customs districts. He has full power. I believe there has not as yet been a report. Rather than to restore these districts, in my judgment, it seems to me that legislation might be in order to force other consolidations. [Applause.]

Mr. JOHNSON of South Carolina. Mr. Speaker, I am very anxious to take a vote, but in view of the question propounded by the gentleman from Illinois [Mr. BUCHANAN] I feel like I ought to make a statement. When this bill was under consideration in the House I was asked if there had been any complaint about piecework. I stated that no complaint had been made to the committee. After the bill passed the House and went to the Senate I saw something in one of the Washington papers to the effect that some people in the Auditor's office for the Post Office Department were dissatisfied.

On the following Sunday after that statement was made I spent several hours in the Auditor's office for the Post Office Department. I examined the pay roll of those who were engaged in piecework. I found that out of 183 people who were employed on piecework, 17 of them are making less money than they made before. All the others are making more, some as high as 95 per cent more than they made when they were on a salary. I asked if it was true that these people were working long hours and under unfavorable conditions. I was assured that no persons doing piecework were allowed to go on before 9 o'clock in the morning or to continue after half past 4 in the afternoon. Mr. Speaker, I ask for a vote.

Mr. MOORE of Pennsylvania. Will the gentleman yield for one question?

Mr. JOHNSON of South Carolina. Yes.

Mr. MOORE of Pennsylvania. I have been unable to learn from a hurried inspection of the report whether it carries the provision with reference to soldiers who are required to make efficiency ratings in establishments other than executive departments.

Mr. JOHNSON of South Carolina. There is such an amendment to the bill.

Mr. MOORE of Pennsylvania. The bill carries that amendment?

Mr. JOHNSON of South Carolina. The bill carries that amendment, and it has been disagreed to.

Mr. MOORE of Pennsylvania. I ask unanimous consent to print in the RECORD as a part of my remarks a letter from Gen. John C. Black on that subject.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to print the letter he refers to. Is there objection?

There was no objection.

The letter is as follows:

UNITED STATES CIVIL SERVICE COMMISSION,
Washington, D. C., January 22, 1913.

Hon. J. HAMPTON MOORE,
House of Representatives.

SIR: Referring further to your letter of December 21, 1912, stating that you have been requested by one of your constituents to inquire as to the interpretation of that portion of the recent amendment of the legislative act pertaining to Civil War veterans, especially as to the departments to which it applies, I have the honor to invite your attention to page 1618 of the CONGRESSIONAL RECORD of January 16, 1913, the amendment offered by Senator SUTHERLAND to the legislative bill to add to the certainty and clearness of the law. He said that he had added, after the word "department," the words "or independent establishments," because there are some establishments that are not under the executive departments. He said also that the original law did not include the word "hereafter"; and he had also added, after the word "rank," the word "class," and after the word "salary" the words "or compensation," so as to embrace the whole subject matter. With these changes he had put in the limitation that it should apply only to soldiers, sailors, and marines who had seen active service in the Civil War, the Spanish-American War, or the Philippine insurrection.

I quote from a recent letter written by me, as follows:

"Section 4 of the legislative act approved August 23, 1912, is as follows:

"'The Civil Service Commission shall, subject to the approval of the President, establish a system of efficiency rating for the classified service in the several executive departments in the District of Columbia based upon records kept in each department and independent establishment with such frequency as to make them as nearly as possible records of fact. Such system shall provide a minimum rating of efficiency which must be attained by an employee before he may be promoted; it shall also provide a rating below which no employee may fall without being demoted; it shall further provide for a rating below which no employee may fall without being dismissed for inefficiency. All promotions, demotions, or dismissals shall be governed by provisions of the civil-service rules. Copies of all records of efficiency shall be furnished by the departments and independent establishments to the Civil Service Commission for record in accordance with the provisions of this section: *Provided*, That in the event of reductions being made in the force in any of the executive departments no honorably discharged soldier or sailor whose record in said department is rated good shall be discharged or dropped or reduced in rank or salary.'

"Manifestly it was the intention of Congress that efficiency ratings should be based upon the records of the individual employees, kept in each executive department and each independent establishment, and that the employees should have the right to have their efficiency ratings established on such records so kept and not upon others or by combining any others.

"It is manifest that the Congress intended to extend the benefits of its laws to each and every one of the properly enrolled employees of the Government, and all of this in regard to the promotion, demotion, or dismissal contemplated by the statute.

"After all this was done, some wise and kind man, having reference to the weakening hold on the public of the veteran soldiers, had added, and the committee reported, that in the event of reductions being made in the force in any of the executive departments no honorably discharged soldier or sailor whose record in said department is rated good shall be discharged or dropped or reduced in rank or salary. I wish he had included 'independent establishments.'

"Inasmuch as this statute established an exception to the general rule, and under our system of interpretations such exceptions are construed strictissimi, it does not appear to me that the soldiers in the independent offices are included within the precise exception named in the statute. If the Congress intended otherwise and inadvertently omitted that statement, remedial legislation is easy; but the fashion of amending statutes by the will or notion of any administrative officer or his conception of what is good is so far-reaching and dangerous that it never ought to be indulged in. I am of opinion that the helping words of the statute do not refer to the honorably discharged soldiers in the Government Printing Office."

Very truly, yours, JOHN C. BLACK.

The SPEAKER. The pro forma amendment of the gentleman from Illinois is withdrawn, and the question is on disagreeing to Senate amendment 68.

The question was taken; and on a division (demanded by Mr. MANN) there were 124 ayes and 11 noes.

So the motion was agreed to.

Mr. JOHNSON of South Carolina. Mr. Speaker, I move that the House ask for a conference and appoint conferees.

The motion was agreed to.

The SPEAKER appointed as conferees on the part of the House Mr. JOHNSON of South Carolina, Mr. BURLESON, and Mr. GILLETT.

THE LATE SENATOR HEYBURN.

Mr. FRENCH. Mr. Speaker, I ask unanimous consent for the present consideration of the order which I send to the desk and ask to have read.

The Clerk read as follows:

Ordered, That Sunday, the 23d day of February, 1913, be set apart for addresses on the life, character, and public services of Hon. WELDON BRINTON HEYBURN, late a Senator from the State of Idaho.

The SPEAKER. The question is on agreeing to the order.

The order was agreed to.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. DOREMUS, for 10 days, on account of important business.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. SPARKMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 28180) making appropriations for construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

Mr. MANN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. If the motion of the gentleman from Florida should prevail and the House should resolve itself into the

Committee of the Whole House on the state of the Union for the further consideration of the river and harbor appropriation bill, would that interfere with the House bill that is now the unfinished business being the unfinished business to-morrow morning? I refer to the reclamation town-site bill, which, with the previous question operating, would naturally come before the House as the unfinished business to-day. If the House should adopt this motion and no point of order be made or no call for the regular order demanded and go on with the consideration of the river and harbor bill this afternoon, would that displace the other bill as the unfinished business whenever that order is reached?

The SPEAKER. It would not.

Mr. MANN. If the Chair so holds, I shall not call for the regular order.

The SPEAKER. The question is on the motion of the gentleman from Florida that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the river and harbor appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the river and harbor bill, with Mr. MOON of Tennessee in the chair.

Mr. SPARKMAN. Mr. Chairman, just before the committee rose on Tuesday an order was made passing over temporarily certain items at the request of the gentleman from Illinois [Mr. FOSTER], with the understanding that we would return to them when the House next resolved itself into the Committee of the Whole House on the state of the Union for the consideration of this bill. Those items appear on page 14 of the bill.

The CHAIRMAN. Without objection, the committee will return to them.

Mr. MOORE of Pennsylvania. Mr. Chairman, why not go back to the beginning? We started to pass these items on page 10 of the bill.

Mr. SPARKMAN. I would have no objection to that.

Mr. MANN. There was a special order that the items in which the gentleman from North Carolina [Mr. SMALL] was interested should come up first, as a matter of personal accommodation.

Mr. MOORE of Pennsylvania. Very well.

Mr. SPARKMAN. Mr. Chairman, the question is pending on the motion of the gentleman from Illinois [Mr. FOSTER] to strike out the paragraph on page 14, from lines 9 to 20, inclusive.

The CHAIRMAN. The Clerk will report the paragraph.

The Clerk read as follows:

Improving inland waterway from Norfolk, Va., to Beaufort Inlet, N. C.; Continuing improvement in accordance with the report submitted in House Document No. 391, Sixty-second Congress, second session, $800,000: *Provided*, That no part of this amount shall be expended until the canal and appurtenant property belonging to the Chesapeake & Albemarle Canal Co. shall have been acquired by the United States by purchase in accordance with the agreement entered into between the Secretary of War and said company under date of February 17, 1912.

Mr. FOSTER. Mr. Chairman, I desire to say a word with reference to this paragraph, beginning on line 9, page 14. On Tuesday I moved that this paragraph be stricken out of the bill. If it is necessary, I will renew that motion at this time. This provides for $800,000 for the improvement of this inland waterway which the Government has authorized to be purchased for the amount of $500,000. In the river and harbor act of 1910 there was an authorization for surveying and estimating with reference to this canal. As the Members here no doubt know, there were two canals, and it was proposed to buy whichever one, in the judgment of the engineers, was the cheapest and best to purchase. After some deliberation it was decided to buy what is known as the Chesapeake and Albemarle Canal. Such an amendment was put on the bill in the Senate. In the river and harbor act of 1912 the appropriation for the purchase of this canal was made and the authorization for its purchase was contained in that bill.

Since that time I understand the Government has been endeavoring to secure a title to this property, but some difficulties have arisen with reference to the title, and that these people up to the present time have been unable to give the Government or to insure to the Government a proper title to this property. For instance, one difficulty was they claimed that a lot of land that was owned along the route of this canal should not be deeded to the Government, and other matters came up so that it has been delayed until to-day the Government does not have title to this property. Now, in the appropriation bill of 1912 there was an appropriation for the improvement of this property to the extent of $100,000. And to-day we are asked to appropriate in this bill $800,000 for improving, and each time in the bill providing that it shall not be paid until, of course, the title to the property is secured. This bill carries something like $40,000,000. I do not know whether the sundry civil bill will carry anything for maintenance of rivers and harbors or not, but I judge it would be in the neighborhood of what it was in the last bill—about $12,000,000—so that the total amount for the new project and maintenance of river and harbor work amounts to more than $50,000,000. I do not object to proper appropriations for rivers and harbors of the country. I believe that it is proper and right that the Government should take whatever care is necessary and appropriate whatever money is necessary for the improvement of rivers and harbors and for the maintenance of the work that has already been completed and to go ahead with the construction that is necessary, but I do believe that here is an item of $800,000 that should be taken out of this bill and the river and harbor work of the country would not be hindered in the least, and all I ask in striking out this paragraph is that we might save $800,000 which is unnecessary to appropriate at this time and wait until a future time if it does become necessary.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FOSTER. I ask for five minutes additional.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois? [After a pause.] The Chair hears none.

Mr. MOORE of Pennsylvania. Mr. Chairman, I would like to ask the gentleman one question if he will yield.

Mr. FOSTER. Certainly.

Mr. MOORE of Pennsylvania. Would the gentleman make the same argument with reference to other projects in this bill he makes against this one particular project along the Atlantic seaboard?

Mr. FOSTER. Well, I will say to the gentleman this, that I am not making promises of what I propose to do until I see what may be done in this.

Mr. MOORE of Pennsylvania. Does the gentleman object to a provision of this kind in projects of national importance in other sections of the country?

Mr. FOSTER. I want to say to the gentleman from Pennsylvania that if there is a meritorious project anywhere I am not objecting to it, and I am not taking it because it is sectional. I would be unfit to represent my constituency in this House should I stand upon this floor and advocate a thing on account of it being sectional.

Mr. MOORE of Pennsylvania. I give the gentleman full credit for that, and I am sure the country does; but if the gentleman knew there was in the country an increase in population and the necessity for a project of this kind would he stand and knock it out of this bill while he permitted other paragraphs to go in not equally meritorious?

Mr. FOSTER. I do not care to answer that question at this time, because I think it is irrelevant to this proposition. I will say to the gentleman from Pennsylvania, I believe every proposition should stand by itself. The great difficulty with projects of this kind and all others that are contained in bills of a similar nature is that I tickle you and you tickle me. [Applause.]

Mr. MOORE of Pennsylvania. That would be the best policy if we are to deal fairly with all sections according to commercial necessity. I can point the gentleman to a great many paragraphs in this bill to which he might object.

Mr. FOSTER. I hope the gentleman with that patriotism that I believe he possesses, when he finds items in this bill that in his judgment are not meritorious and are as unnecessary as this one is, I believe, this year, ought to move to strike them out of the bill, and not because any other section of the country may come here and——

Mr. MOORE of Pennsylvania. Would not the gentleman listen to some argument with regard to statistics and the commercial necessity with regard to life and property involved in this very item?

Mr. FOSTER. Let me say to my friend from Pennsylvania that we have not yet a title to this property—that the Government has no title. I do not know but it may be contended that we are soon to have title, and it may be possible we will get the title. I do not know, nor does the gentleman from Pennsylvania know, that we will have a title to this property in the next 12 months.

Mr. MOORE of Pennsylvania. Surely that being left to the engineers ought to satisfy the gentleman.

Mr. FOSTER. What is the use of this bill carrying large appropriations that are unnecessary and can not be used?

Mr. KOPP. Will the gentleman yield?

Mr. FOSTER. Yes.

Mr. KOPP. The Chesapeake & Albemarle Canal Co. now owns the part which it is wished to improve by this appropriation? Is it operated commercially by this company?

Mr. FOSTER. I suppose it is. The Government does not have any interest in it at all. The gentleman from Florida [Mr. SPARKMAN], the chairman of the committee, day before yesterday, I think, said that the engineers had entered into contracts for the improvement of this canal before we owned one penny of interest in it.

Mr. KOPP. But at the present time it is being operated by this toll company?

Mr. FOSTER. Controlled by the company.

Mr. KOPP. How much tonnage, if the gentleman is advised, went through this canal last year?

Mr. FOSTER. I think it is claimed that something like 600,000 or 700,000 tons. I think the income from tolls amounted to possibly $31,000, or something like that. Possibly it was a little more.

Mr. KOPP. That is about as much as three or four trains would haul, is it not?

Mr. FOSTER. About the same.

Mr. HELM. Will the gentleman yield?

Mr. FOSTER. Yes, sir.

Mr. HELM. Is this a new proposition or the continuation of an old proposition?

Mr. FOSTER. It is a new proposition.

Mr. HELM. Is there any emergency for it?

Mr. FOSTER. None at all.

Mr. SMALL. I beg pardon——

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FOSTER] has again expired.

Mr. SMALL. Mr. Chairman, I ask unanimous consent that the time of the gentleman may be extended for five minutes.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent that the time of the gentleman from Illinois may be extended for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. MONDELL. Mr. Chairman, reserving the right to object, I hope that the extension of the time of the gentleman from Illinois [Mr. FOSTER] will not prevent others discussing this item. I should not want the chairman of the committee and those interested to suggest at the close of the remarks of the gentleman from Illinois [Mr. FOSTER] that a good deal of time had been consumed, and hear an insistence on their part that they should close debate.

Mr. FOSTER. Let me state, Mr. Chairman, that I do not desire to occupy any time unnecessarily.

Mr. MONDELL. I am anxious that the gentleman should have additional time, but I should like to have a little time on the subject in connection with the discussion a little later.

Mr. SMALL. I ask that the gentleman yield to me in order that I may correct an erroneous statement. This was in the river and harbor act of 1912, and it is a continuation of the project.

Mr. FOSTER. The gentleman from Kentucky [Mr. HELM] asked if this was a work in progress. I answered it was not a work in progress, and that there has been no work done on this canal whatever. My statement in that connection was, and I think that the gentleman from North Carolina [Mr. SMALL] will bear me out as being correct, that that committee, as stated by me, authorized $500,000 according to the appropriation act of 1912, but from that time to this we have been unable to get a title to this property, so that no work could be done on this project.

Mr. KOPP. Will the gentleman permit me to ask the gentleman from South Carolina [Mr. SMALL] a question? He says this is a continuing project. How much money has already been spent up to date on this project?

Mr. SMALL. Up to this time there has not been anything spent. A little later I will address the committee a moment and can satisfy the gentleman, I think.

Mr. KOPP. It is true that there has not been a cent spent?

Mr. SMALL. I think that is true.

Mr. FOSTER. I think this item can well afford to go out of the bill at this time. It is true that there are large appropriations pressing on Congress during this session, and I am willing the River and Harbor Committee should be given latitude in what is necessary to keep up this great work; but I do believe, when an item of this kind is placed in a bill, that it is proper and right that it should be stricken out and that we should at least save this $800,000 until a future time when it is necessary to make it and when we can make this appropriation. I do not believe it is the proper time now to go ahead and appropriate an extra $800,000 and tie it up for this project, when we will then have $1,400,000 tied up in it, and not a dollar can be spent until the title of this property is made satisfactory to the Government.

Mr. BYRNS of Tennessee. How much is the entire project to cost?

Mr. FOSTER. Something over $4,000,000. I do not remember the exact amount, but it is something between $4,000,000 and $5,000,000.

Mr. FARR. Mr. Chairman, I ask unanimous consent to extend and revise my remarks on the conference report on the legislative bill.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. SMALL. Mr. Chairman, I will ask the attention of the committee for a short time with reference to the motion that has been made by the gentleman from Illinois [Mr. FOSTER] to strike out this paragraph. This paragraph contains an appropriation of $800,000 additional toward the further improvement and construction of an inland waterway from Norfolk, Va., to Beaufort Inlet, N. C. I do not understand that the gentleman from Illinois [Mr. FOSTER] attempts to controvert the importance of this project, but for fear some gentlemen may be misled I would like to make a brief statement.

There is no more important project than this in the entire river and harbor bill, and I would be willing, if time were given me, to stand before an impartial tribunal anywhere and satisfy them upon that point. However, let me make just a few brief statements as to its importance. There have been three surveys upon this waterway—one authorized in 1902; another one in 1905, I believe; and another one in 1909. Every one of these reports by the engineers, by the Board of Engineers for Rivers and Harbors, known as the "board of review," and by the Chief of Engineers has been entirely and unreservedly favorable to this project. In the report of the engineers in 1904, which is contained in House Document No. 563, at the second session of the Fifty-eighth Congress, they make this statement in regard to the importance of the waterway: They say that the total commerce to be affected by the construction of this waterway will be about 1,100,000 tons annually, valued at $55,000,000. That is on page 33 of the report. They state also that the annual saving in through freight on this commerce will be not less than $600,000, and that the annual saving on local traffic originating in North Carolina will be not less than $200,000.

To-day there are two private canals leading southwardly from Norfolk to Albemarle Sound. The engineer's reports show that there was carried through these two private canals last year, inadequate as they were, a commerce of 700,000 tons, all of which paid tolls amounting to $103,000—an unjust tribute upon the traffic which originates in that section.

Mr. KOPP. Will the gentleman yield?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Wisconsin?

Mr. SMALL. Yes; I yield to the gentleman.

Mr. KOPP. I would like to ask the gentleman how deep are these canals?

Mr. SMALL. They are nominally about 9 feet deep, but actually they are not quite that. They are about 8½ feet deep.

Mr. KOPP. How deep is it proposed that they be made under Government ownership?

Mr. SMALL. They are to be improved to a depth of 12 feet.

Mr. KOPP. What is to become of the other canal that the Government is not purchasing?

Mr. SMALL. I will state to the gentleman that that has been an embarrassing subject before the committee and those who in the interest of the public desire a free waterway. The other canal will have no legal redress. It will depend upon the generosity of Congress.

Mr. MADDEN. Mr. Chairman, will the gentleman from North Carolina yield to me?

Mr. KOPP. Just one moment. Then in reality it is contemplated, is it not, by those in charge of this project, to ask Congress in all fairness to make a donation to this other company after the first project goes through?

Mr. SMALL. I will say that I have no such purpose, and I do not believe such a purpose exists on the part of any single member of the Committee on Rivers and Harbors.

Mr. KOPP. The gentleman does not think it will be fair to take one single line and give another line no compensation?

Mr. SMALL. Well, if the gentleman assumes the championship of the other canal, he is at liberty to do so.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SMALL. Mr. Chairman, I ask unanimous consent to proceed for 10 minutes more.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. SMALL. Now I shall be glad to yield to the gentleman from Illinois [Mr. MADDEN].

Mr. MADDEN. I wish to ask the gentleman from North Carolina whether the Committee on Rivers and Harbors has any information in its possession as to when it is probable that the Government of the United States will get the title to the canal?

Mr. SMALL. If the gentleman will pardon me, I will come to that in just a few minutes.

Now, Mr. Chairman, there is in this last report—the report of the survey that was authorized in 1909—a most illuminating statement as to the commercial importance of this waterway. I will not take the time to read it. It is in House Document 391, Sixty-second Congress, second session, and I call particular attention to page 131.

Mr. HELM. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from North Carolina yield to the gentleman from Kentucky?

Mr. SMALL. I will yield to the gentleman, but I will ask him to be brief.

Mr. HELM. A moment ago the gentleman spoke of the estimated tonnage that will pass through this canal and the value thereof that now moves through a private canal, as I understand. What proportion of the tonnage moving through this private canal now in existence is to be diverted into the channel to be created under this appropriation?

Mr. SMALL. Of course it will all seek the free waterway, and there will be still more.

Mr. HELM. So that your estimates, both as to tonnage and the value and importance of this commerce, is based upon that portion of it that now goes through this private canal.

Mr. SMALL. As a basis simply.

Mr. HELM. That is a portion of it.

Mr. SMALL. That is a portion of it. It will be very greatly increased.

Now, Mr. Chairman, I shall not take up any longer time as to the commercial importance of this, but I wish to say something about the physical characteristics of this waterway. It is 200 miles long, from Norfolk to Beaufort. The engineers divide it into three sections, the first section from Norfolk to Albemarle Sound, a distance of 68 miles. Between Norfolk and Albemarle Sound are these two private canals, one of which, the Chesapeake & Albemarle Canal, has been recommended by the engineers as a part of the route, and which they estimate to be worth $500,000 to the United States. That is only a portion of the waterway.

The second division is from Albemarle Sound to Rose Bay, on Pamlico Sound, a distance of 80 miles, and the third division, from Rose Bay to Beaufort Inlet, is a distance of 51 miles.

So gentlemen of the committee will see that when we are discussing the purchase of this Chesapeake & Albemarle Canal we are discussing a small portion of the total length of this waterway. It simply happens that that is a part of one division. So that this $800,000 may be expended wisely and properly upon other divisions of the waterway even if there should be any delay in the purchase of this private canal. The total cost of the waterway in divisions is estimated as follows:

The first division, from Norfolk to Albemarle Sound, $2,733,300, in which is included the cost of this Chesapeake & Albemarle Canal at $500,000.

Albemarle Sound to Pamlico Sound, a distance of 80.5 miles, $2,216,780.

Brant Shoal cut, a short cut across Pamlico Sound, $54,000.

Pamlico Sound to Beaufort Inlet, via Adams Creek Canal, a distance of 51.6 miles, estimated cost $397,500.

The Adams Creek Canal at the southern end has already been constructed by previous appropriations of Congress at a projected depth of 10 feet, so that it is now only necessary to deepen that to 12 feet in order to correspond with the remainder of the waterway.

The total cost is $5,401,580, as estimated by the engineers.

In the last river and harbor act, approved July 25 last, there was an appropriation of $500,000 for the purchase of this Chesapeake & Albemarle Canal in accordance with a contract which had theretofore been entered into between the Secretary of War and the owners of that canal for its purchase, which contract set forth the width of the right of way and the other particulars necessary in order to make it a satisfactory contract.

It is a fact that the purchase of that canal has not yet been consummated, much to my disappointment and very greatly to the disappointment of the commercial interests that desire this to be made a free waterway in order to relieve them from the burden and the tribute which is laid upon their traffic.

The facts are that when this matter was taken up by the War Department they placed the purchase primarily in the hands of Col. E. E. Winslow, the district engineer at Norfolk, Va. He first required the canal company to make a survey of the right of way and then to place concrete monuments along the right of way indicating the boundaries. This Chesapeake & Albemarle Canal is in two cuts—one known as the Virginia cut, in the State of Virginia, the other known as the North Carolina cut, in the State of North Carolina, the two having an aggregate land cut of 14.1 miles. After the canal company made the survey and placed the concrete monuments, which, as you can imagine, required some time, the engineer sent out field parties to resurvey and check up the other survey and to prepare proper descriptions.

Only within the past few weeks has the engineer office resurveyed it, checked up and adjusted some apparent discrepancies. I have letters here from Col. Winslow, one dated January 15, saying that the discrepancies in the description of the North Carolina cut have been adjusted and that he and the canal company have agreed upon a description, and one dated January 20, stating that the same result has been reached as to the Virginia cut.

The matter of investigating the title was undertaken by the Department of Justice, that for the North Carolina cut was placed in the hands of the United States district attorney for the eastern district of North Carolina, and the Virginia cut in the hands of the United States attorney for the eastern district of Virginia. As to the North Carolina cut the district attorney has reported favorably on the title, and the only thing remaining to do is to carry out some instructions and obtain affidavits which the Department of Justice requires as to long-continued adverse possession by the canal company. The district attorney for Virginia, Mr. D. Lawrence Groner, in a letter dated Norfolk, January 3, says:

> In reply to your recent letter in regard to the present status of the examination of the title to the property of the Chesapeake & Albemarle Canal, which it is proposed to convey to the Government, I beg to advise you that while I have not yet completed the examination and will not be able to do so until the present survey which is now in process is completed and a complete description of the property to be surveyed is given me, I have gone far enough to satisfy myself that there will be no legal obstacles to the conveyance of the property to the Government.

He says later on that he expects to make a final report before the expiration of January.

Now, Mr. Chairman, on yesterday I called at the Department of Justice and asked them if they would not furnish a statement as to the present status of the investigation of the title and as to when it would be completed. I will not take the time to read the entire letter of more than two pages, as it is simply a recital of the things that have been done, but the last paragraph states:

> In view of the matters and things hereinbefore referred to, if the report of the investigation which the United States attorney for the eastern district of Virginia has been directed to make shall be received before the expiration of January and the same shall disclose no legal obstacles to the conveyance of the company's property to the Government, the department sees no reason why the transfer may not be consummated by February 15 next.

Now, I have just read a letter from the district attorney, Mr. Groner, for the eastern district of Virginia, saying that he would have the report in by the expiration of January, and that there would be no obstacle.

Mr. FOSTER. Will the gentleman yield?

Mr. SMALL. I have only a few moments.

Mr. FOSTER. According to that letter, does the gentleman think that it means that they are going to get a title very soon? He seems to make lots of reservations.

Mr. SMALL. I know that the gentleman will accept what I say in good faith.

Mr. FOSTER. Certainly.

Mr. SMALL. I have kept close observation of the preliminary steps preparatory to securing this title. I have not the slightest doubt, in view of the present status, that by the 15th of February the deed will be executed. I state that in the utmost good faith.

Mr. FOSTER. That is the gentleman's opinion; he could not gather it from that letter.

Mr. SMALL. I gather it from the letter and the information that is in my possession.

Mr. FOSTER. I would not take the letter to mean that.

Mr. SMALL. I know the gentleman has confidence in my good faith.

Mr. FOSTER. I certainly have.

Mr. SMALL. May I present another view showing the necessity for this appropriation in this bill? The appropriations

contained in this bill are intended to suffice until the 30th of June, 1914. If this appropriation is not made, and the title is acquired by February 15 or by April 1, the engineers will be able to do nothing toward the further construction of this waterway until after the next river and harbor act shall be passed in the summer of 1914.

Now, just one statement further. This waterway, gentlemen of the committee, is the only outlet for water-borne interstate trade for eastern North Carolina. We have 1,600 miles of navigable rivers there, and we have 2,500 square miles of sound. We are pent up. Give us a free outlet; we are deserving of it. I ask the committee to decline the motion and refuse to strike out the appropriation.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I will not occupy but a minute. I want to reply to the question of the gentleman from Wisconsin [Mr. KOPP]. He asked the gentleman from Illinois what the commerce borne by this canal would be and he was told about 600,000 tons. He remarked that that meant two or three train loads. I suggest that the gentleman has gotten his figures wrong. To haul 600,000 tons annually would require two trains a day through every day in the year, each train consisting of 30 cars and each car carrying 30 tons, a commerce which I submit is not inconsiderable in amount.

Mr. FOSTER. That may be the size of the trains in Mississippi, but I do not think it is the size of trains in Illinois or Wisconsin.

Mr. HUMPHREYS of Mississippi. Yes; 30 freight cars of 60,000 pounds each—a pretty good average train.

Mr. FOSTER. Oh, no; we pull 50 and 60 cars in Illinois.

Mr. HUMPHREYS of Mississippi. Very well; say 60 cars, and, with all due respect to the gentleman from Illinois, I do not believe that freight trains in Illinois or anywhere else average 60 loaded box cars of 60,000 pounds to the car. However, 60 cars to the train would be one train a day throughout the year.

Mr. McKENZIE. Mr. Chairman, will the gentleman yield?

Mr. HUMPHREYS of Mississippi. Yes.

Mr. McKENZIE. Mr. Chairman, the gentleman is undoubtedly familiar with this. I want to ask what were the articles of commerce that made the building of these two canals profitable at the time they were constructed? For what purpose were these canals constructed?

Mr. HUMPHREYS of Mississippi. These canals were constructed to bear a commerce which is very general, all sorts of merchandise. I think the gentleman from North Carolina [Mr. SMALL] could give the gentleman the details of that.

Mr. SMALL. Mr. Chairman, the Chesapeake & Albemarle Canal was begun in 1856 and completed a few years later. It has been in continuous operation since that time. At the time the canal was constructed the larger amount of traffic through it was lumber and naval stores and agricultural products northward and merchandise southward. Naval stores are not now produced in eastern North Carolina. Much lumber is still manufactured in North Carolina, and with the improvements, so that the canal will accommodate a different type of steamers, large quantities of merchandise from the North will be carried. Coal has always been carried through it.

Mr. McKENZIE. Were they not originally constructed for the purpose of handling the timber in those sections?

Mr. SMALL. Very largely.

Mr. McKENZIE. Has the timber been cut off since these canals were constructed?

Mr. SMALL. Of course very much timber has been removed, but there are still large quantities of standing timber in eastern North Carolina, and it is a large industry.

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

Mr. McKENZIE. Mr. Chairman, I ask unanimous consent to ask one or two more questions of the gentleman from North Carolina. I desire to proceed for two minutes.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to proceed for two minutes. Is there objection?

There was no objection.

Mr. McKENZIE. Are there any coal fields adjacent to these canals?

Mr. SMALL. No; there is no coal in eastern North Carolina, but at Norfolk there are two large coal terminals. The terminals I particularly refer to are those of the Norfolk & Western Railway and of the Virginian Railway, and also of the Chesapeake & Ohio at Newport News. Coal is sent by water southward from Norfolk through those canals to a certain extent now, and with the improvement it is anticipated there will be a very large amount of coal sent to southern ports south of the southern terminus of this waterway at Beaufort Inlet. I will say that this waterway avoids the two most dangerous points on the Atlantic coast—Cape Hatteras and Cape Lookout.

Mr. McKENZIE. Are not those points—Norfolk and Beaufort Inlet—deep-water harbors?

Mr. SMALL. Norfolk is a deep-water harbor. Beaufort Inlet is not so deep, but still it has about 20 feet.

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman permit me to read one brief paragraph that answers the gentleman's inquiry?

Mr. SMALL. The gentleman will have to get the consent of the gentleman from Illinois.

Mr. McKENZIE. As soon as I ask one other question. Could not the commerce from Norfolk and the other terminus of this proposed canal be carried now on the deep water of the Atlantic Ocean?

Mr. SMALL. Mr. Chairman, I am glad the gentleman asked that question. I can answer it briefly.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. SMALL. Mr. Chairman, I ask unanimous consent to proceed for one minute.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SMALL. Mr. Chairman, answering the question of the gentleman, on the North Carolina coast is Cape Hatteras, with Diamond Shoals, jutting out into the ocean 20 miles, the most dangerous point in the world. South of that is Cape Lookout. The reports of the engineers show in detail the number of lives lost and the millions of dollars sacrificed by wrecks at these points. The cheapest form of movement by water is by barge. Coastwise navigation by barges around Cape Hatteras is prohibited. The casualties are too numerous, and maximum insurance rates are prohibitory.

The only form of coastwise navigation between southern and northern ports is in very large and expensive steamers, and it so happens there is a community of interest or ownership, so that practically all the steamships between north Atlantic and south Atlantic ports are controlled by the railroads and do not offer real competitive rates.

Mr. MOORE of Pennsylvania. Mr. Chairman, I desire to speak——

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. Mr. Chairman, I think the Chair recognized me awhile ago, and I sat down in order to allow the gentleman from Illinois to submit a question to the gentleman from North Carolina.

The CHAIRMAN. The gentleman from Wyoming yielded to two other gentlemen since then.

Mr. MONDELL. The gentleman requested unanimous consent to ask some questions, and I did not desire to object to them. Of course, if I lose my right to speak by reason of not objecting to unanimous consent, I am content.

The CHAIRMAN. The Chair will recognize the gentleman from Wyoming next.

Mr. MOORE of Pennsylvania. Mr. Chairman, answering the question put by the gentleman from Illinois [Mr. McKENZIE] to the gentleman from North Carolina [Mr. SMALL], I wish to read one of many letters that were sent to the United States engineers while this project was under discussion. Mr. J. B. Blades, president of the J. B. Blades Lumber Co., of Newbern, N. C., which is an inland port at the lower end of the projected canal, among other things, says:

> We are shipping from the various mills here that we are interested in from fifteen to twenty million feet of lumber per year. Nine-tenths of this goes through the Delaware & Chesapeake Canal. The rate on this lumber to Philadelphia from our mills is $2.75 per thousand, and by rail it is about $5.25, so you see that with the present water facilities the saving to us is very great. Now, if the waterways were made sea-level canals, free of tolls—

That is what we ask in this instance—

> we would not only save the amount of the toll, which is about $45,000, but we would be able to ship in larger barges, and by this means save at least 50 cents per thousand, or $75,000. This does not take into account the mills that we are interested in at Elizabeth City, with an output of about 12,000,000 feet of lumber per year, which is all shipped almost wholly by rail, but with the improved and free waterways would move largely by water, and the amount of business done by us is only a small part of the whole amount.

Here is what I want the committee to hear:

> We can not afford to use the part of the canal that is now completed to Beaufort, because this puts us in the ocean south of Cape Hatteras, a very dangerous coast.

And you gentlemen from the West and South do not seem to understand the perils of Cape Hatteras.

Mr. MADDEN. Who states that, you or the man who is writing the letter?

Mr. MOORE of Pennsylvania. I do. The writer goes on:

Besides our lumber carriers are made for inland waters and would not stand the waves of the ocean. This makes a wonderful saving in transportation, because the barges being built for barge traffic—

Do you understand we are building barges constantly for these inside waterways and what they are worth to shippers and the shipping interests of the community?—

do not need to be built too expensively to stand the work, and it is safe to use them almost twice as long as if they were trading in the ocean.

Now, the storms along the Atlantic coast during the last three months have been such as to attract the attention of the country. There has been wreckage all along the coast and loss of life. Do you gentlemen understand what that means to the shippers of the East? Do you understand that it is your property that is also involved; that the cargoes that come in along this eastern coast are intended for the West, the South, and the Northwest? Do you know we have built up a great barge industry along the east coast, and that with the standardization of these waterways the East can meet the problems of transportation as you are trying to do it in the Middle West?

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONDELL. Mr. Chairman, I am glad the gentleman from Pennsylvania [Mr. MOORE] spoke before I did, because he has so illuminated the question. I want to congratulate the gentleman from Illinois [Mr. FOSTER] for having called up this important matter. I can not share the optimism that he seems to feel that he will in any way, no matter how eloquent he may be or what array of facts he may garner, modify this bill. This bill is undoubtedly built to stand. It has a foundation sufficiently and widely planted in congressional districts that nothing so entirely unimportant as facts will in any way affect the character of the bill when it shall finally be passed upon by the House.

The gentleman from North Carolina [Mr. SMALL] has a monument in this item—a monument to his energy and his influence with the committee. Here is a canal owned by private parties doing business at a low rate of toll. It is proposed to buy it. We have appropriated half a million for that purpose. In addition to that we have appropriated $100,000 to use for the building of a dredge for the purpose of dredging out the canal after we shall have acquired it. We have neither acquired the canal nor built the dredge. And from all that we have been told and from what we have learned to-day there is no probability of our immediately acquiring the title to the canal, and we have heard nothing of any prospective early construction of the dredge.

Mr. SMALL. Is the gentleman aware that the engineers, in their report of investigation, state that the rates of toll are very high on this canal—abnormally high—and that in its present condition it is unfitted to meet the demands of commerce upon it?

Mr. MONDELL. Well, there are railways in the country in which I live upon which it is said that the rates are rather high. There are some of them that do not have roadbeds up to highest standard, and we should be very much pleased out there if the Congress would be so kind and considerate and generous as to purchase those lines of railway, reconstruct them, double-track them, and put upon them the latest equipment, and carry our freight over them entirely without charge. That is the illuminating argument made by the gentleman from Pennsylvania [Mr. MOORE] on the subject now before us. People are cutting timber down there in great quantities. They are transporting it through these canals in competition with others and selling their timber, and no doubt making considerable profit. But if we shall buy this canal, enlarge it at an expenditure of several million dollars of the people's money, and open it to the use of these patriotic citizens free of all charge, one firm will make $75,000 per annum. And the gentleman from Pennsylvania [Mr. MOORE] has lived down on the Delaware so long that he actually considers that an absolutely convincing argument. If by the spending of Government money you can save money to an individual or make his business more profitable, forsooth, that settles it. The argument is ended, and the appropriation must be made.

Now, let us assume as a matter of argument that it may be wise and proper to take the money of all the people for the purpose of purchasing a privately owned canal along the Atlantic coast and enlarging it with taxes raised in Ohio, Wyoming, Illinois, California, and elsewhere, and arranging it entirely satisfactory to the people who use it, not for the commerce of the people of the United States, but wholly and entirely for local trade——

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. MONDELL. Mr. Chairman, I ask unanimous consent for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MOORE of Pennsylvania. I just want to ask the gentleman if he holds to that doctrine in regard to the waterway projects throughout the country?

Mr. MONDELL. I do not quite understand the gentleman.

Mr. MOORE of Pennsylvania. The gentleman says we are spending the public money for the purpose of improving one waterway along the east coast. Will he hold to that same doctrine with regard to the 25,000 miles of waterways that are being improved now at Federal expense? Will he hold it in regard to reclamation projects, irrigation projects, and the land project that we passed through the House yesterday? Will he hold generally to that doctrine—that there is a disposition of the public money for some one's benefit?

Mr. MONDELL. I am glad the gentleman suggested something we did yesterday. Here is a proposition to take eight-tenths of a million of dollars of the people's money, raised by taxation, and to spend it for improving something we do not own, which improvement, if it were made, would be for the benefit of the local community, and the gentleman is surprised and astounded beyond measure. Yesterday we had before the House a proposition not to take any public money, a proposition that did not have anything to do with a penny of money that belonged to the people of the United States, but proposed simply as to whether we should take some funds which people pay for raw lots out in a wind-blown town on the Plains, and allow the use of a part of the high price for these lots, having no value in themselves, to be used for the improvement of the town.

The House agonized all day long, all day long, and you would have imagined that there was danger of our tearing the foundations from under this Capitol, tipping over the Washington Monument, and undermining the Constitution, because, forsooth, it was suggested that the people might have their own money, contributed by themselves, for which they receive no value, in the hands of the Government, and the only value of which consisted in the value which they themselves made; because it was suggested that they might have a part of that for making the community fit to live in; and we spent the entire day, and we have a prospect of spending another day, in discussing that highly important question.

Yet we have here eight-tenths of a million dollars of the people's money proposed to be expended for the purpose—putting it in its best light—of providing purely local transportation where there is already local transportation, and I presume at a reasonably fair rate for water-borne commerce. The rate by this canal, as the letter read by the gentleman from Pennsylvania [Mr. MOORE] said, is half the railway rate; and whenever they cut the railway rate in two they are making, I presume, a fairly reasonable rate.

Mr. MOORE of Pennsylvania. When will we get that rate?

Mr. HELM. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Wyoming yield to the gentleman from Kentucky?

Mr. MONDELL. I can not yield, Mr. Chairman. I am sorry I can not. The gentleman from Pennsylvania would remove all charges; he would give these people absolutely free waterways for their local commerce, and that is only a part of it. It is proposed to appropriate $800,000 for doing that in advance of the possibility of its undertaking, because we do not own the canal and we do not know that we ever shall own the canal.

The CHAIRMAN. The time of the gentleman has again expired. [Cries of "Vote!" "Vote!"]

Mr. SPARKMAN. Mr. Chairman, I hope that this amendment will not prevail. In my judgment, the reasons given for striking out the paragraph are not sound. It has been shown here that, so far as can be ascertained now, and I may say so far as it could be ascertained by the Committee on Rivers and Harbors when this bill was being prepared, the title to this canal will be acquired within a very few weeks. In fact, the testimony before our committee was to the effect that it would not be later, at the furthest, than some time in April. That was the maximum limit fixed by the same department officials who were also of the opinion that it would be a much shorter period of time. Now comes the gentleman from North Carolina [Mr. SMALL], and reads from letters received from the Department of Justice—the department having in charge that particular work—stating that it will have the title ready in the next two or three weeks, or by the 15th of next month.

Mr. FOSTER. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Florida yield to the gentleman from Illinois?

Mr. SPARKMAN. Certainly.

Mr. FOSTER. The gentleman does not mean to say that the department in this letter says it is going to have that title in 15 days?

Mr. SPARKMAN. Oh, no. The statement contained in that letter was that the title would, in the opinion of the writer, be settled in the department by the middle of next month, which is a little more, of course, than 15 days.

Mr. FOSTER. Does the gentleman remember hearing that passage read where they talk about a contingency, if certain things are all right, and say in that contingency they will have it? They do not say they are going to have it.

Mr. SMALL. Mr. Chairman, will the gentleman from Illinois pardon me and let me state what the fact is?

Mr. FOSTER. I will ask the gentleman to read the letter.

Mr. SMALL. Unfortunately the reporter has it. He borrowed the letter from me a few moments ago.

Mr. SPARKMAN. Mr. Chairman, that is unnecessary, for, aside from what the Department of Justice says in regard to the date, the engineers did say when they were before us, and the Department of Justice corroborated the statement, that it would not take longer than a date early in April to acquire this title. Then the engineers told us that, that being true, they will not only need the $600,000 that we appropriated in the last bill, but they will also need the $800,000 which this bill undertakes to provide.

Now, I want to say that our committee is controlled, and must be controlled very largely, by the opinion of the engineers on many subjects, and that is one of the subjects upon which we follow somewhat closely their advice. I do not say we follow them blindly in anything; but inasmuch as we must take the opinion of somebody in the matter of the amount of money needed within a given time for a piece of work, we usually take that of the engineers, who not only have knowledge on the subject but have the spending of the money. When we began the preparation of this bill we found several just such items as that, some on the Atlantic, some on the Gulf, some on the Pacific coast, projects adopted upon certain conditions, which conditions had not been complied with; and the committee at once said: "We can not appropriate unless those requirements have been met or will be within a reasonable time."

We had the engineers before us, who told us: "In this particular case we will have the conditions complied with in a certain length of time; in this other case they will be complied with within a certain other length of time," and so on. In all those cases where they said they would have the conditions complied with within a reasonable time we allowed the appropriation, just as we propose to do in this case.

And in no case was an appropriation made where it appeared that the conditions attached would not be complied with in time to make such appropriation available so that the same might be expended by the 30th of June, 1914.

I ask for a vote, Mr. Chairman.

The CHAIRMAN. The question is on the motion of the gentleman from Illinois to strike out all of the paragraph on page 14, beginning with line 9 and ending with line 20.

The question being taken, the motion to strike out was rejected.

The Clerk read as follows:

Improving harbor at Beaufort, N. C.; For maintenance, $5,000.

Mr. FOSTER. Mr. Chairman, I move to strike out this paragraph, and I want simply to say that this bill is probably watertight and that nothing in it can be touched—that every item in it is holy. It is a bill of $40,000,000, and we are expected to vote upon every item in it and give our approval to it. Yet those items are so sacred that we must not question any of them. In view of that fact, I do not desire to take up the time of the committee at this time, and, as far as I am concerned, I desire to withdraw my amendment. [Applause.]

The CHAIRMAN. The gentleman from Illinois asks unanimous consent to withdraw his amendment. Is there objection?

There was no objection.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. In my desire to be informed with regard to this legislation, as I endeavor to be informed with regard to all legislation that comes before the House, I sought the hearings as a source of information, but I sought, alas, in vain. I assumed that there were hearings. I assumed that some things were said and some arguments made in defense of the items of this bill. I assume there are some things that might be said in defense of some of the items. However that may be, the fact is that no line and no word of what occurred has been allowed to reach the printed page, and he who desires information with regard to this measure must go burrowing about and making inquiries in regard to it from the members of the committee; and the members of the committee all being honorable gentlemen, bound by that freemasonry which doth so bind gentlemen who report bills like this, it has been very difficult for me to secure any information whatever in regard to the bill.

Mr. SPARKMAN. Will the gentleman yield for a short statement in connection with what he is saying?

Mr. MONDELL. I prefer to conclude my remarks.

Mr. SPARKMAN. I am sure the gentleman will pardon me when I say that the reports of the engineers are full and complete upon every item in this bill.

Mr. MONDELL. I am aware of that, and I shall call attention to some of them later.

Mr. Chairman, not being able to find any record of the hearings, I turned to the voluminous report of the committee, full as it is of illuminating information, all contained on two printed pages. Appropriations amounting to $40,000,000 are fully explained in less than 4,000 words.

A MEMBER. Five hundred words.

Mr. MONDELL. Rather more than 500 words, but no part of the report having relation to any particular item in the bill. Yet without any information, without any source of information, except as we go to the reports of the engineers, we are asked to pass this bill. In going to the reports of the engineers it is difficult to find particular items, and it is especially embarrassing when that interesting documents reports against an item in the bill.

Mr. HOBSON. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. HOBSON. Has the gentleman estimated the number of words in the report of the engineers and how long it would take the average Member of Congress to read it through if he undertook to?

Mr. MONDELL. I have not; but I am aware of the fact that some of the words in the report of the engineers would be very weighty with the ordinary Member. They do not seem to have had any influence whatever on the members of the committee, for while the report of the engineers may be decidedly adverse to the project and set forth many reasons why it should not be undertaken, the committee proceeds to appropriate just the same.

Mr. YOUNG of Michigan. Mr. Chairman, will the gentleman permit an interruption?

Mr. MONDELL. Yes.

Mr. YOUNG of Michigan. The gentleman is entirely mistaken. There is not a single project in this bill, nor has there been a single project in any river and harbor bill for many years, that has not had the approval of the Chief Engineer of the Army and the board of review.

Mr. MONDELL. I will be glad to present a case on a page or two to the contrary.

Mr. YOUNG of Michigan. The gentleman may find something that was put on in the Senate, but he can not find anything that was reported by the Committee on Rivers and Harbors to the House.

Mr. EDWARDS. Mr. Chairman, I would like to have the gentleman point out any paragraph in the bill that has not the approval of the Board of Engineers.

Mr. MONDELL. I will do so.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. RANSDELL of Louisiana. Mr. Chairman, the gentleman from Wyoming says that we have had no hearings and that there is not anything on which to base our bill, nothing from which Members of the House can get information. The gentleman will surely find more than 5,000 words in the book that I hold in my hand, volume 1 of the Report of the Chief of Engineers, and there are three volumes of this report. These reports describe in detail every matter that was acted upon by us. I hold in my hand the report upon one of the items in this bill, the Tennessee River. I ask the gentleman from Wyoming to look at this report of 192 pages on the Tennessee River. I ask him to look at the reports on every project on which we acted, and if he will examine them as we have examined them he will have to work pretty hard for several months. [Applause.]

There are thousands of pages of these reports, which the members of the Rivers and Harbors Committee have been forced to wade through before taking action on this bill, and in every one of the items we have had the assistance of the Engineer Corps. Why, there is no species of legislation more carefully guarded than this. What is the process? Let me state it very briefly. No project can be taken up until first a survey has

been ordered by act of Congress. The survey is then made by a local United States engineer officer—generally a captain or an officer of higher rank—who reports it to the Board of Engineers for Rivers and Harbors. This board examines the report with great care, and in many instances makes an independent examination of its own in addition to the local examination and report. It sometimes sends a special board of three or four engineers to the locality to look over and report upon the project. Then it gives hearings to all citizens who are interested. Having examined the question in the closest way, the board makes a report upon it, which goes to the Chief of Engineers of the Army. He examines the whole matter again, and if not satisfied with it he does as he did within the past six months in a Louisiana project, sends it back in order that he may get additional information, which it took the local engineer six months to secure and bring before the chief, who then sends his report to Congress. All these reports on each project—that of the local engineer, the Board of Engineers, and the chief—are then published as a public document, which frequently contains several hundred pages, with elaborate maps and the most detailed information on every point. And yet the gentleman from Wyoming would have the House believe that this committee has brought in a $40,000,000 bill without knowing what it is doing. Mr. Chairman, I think I have shown that he did not know what he was talking about when he made that statement. [Applause.]

Mr. MADDEN. Mr. Chairman, I think there is no money better spent than that spent for the improvement of the rivers and harbors of this country. [Applause.] The purpose of the expenditure is to facilitate the movement of the produce of the country so as to give the people the best possible prices. There is no committee of the House more painstaking in its work than the Committee on Rivers and Harbors. This committee is untiring in its efforts to produce the best possible results. They have the cooperation of the Engineer Corps and all of the technical information that can be furnished by those men trained for the work. I happen to know that no project is taken on by this committee except such projects as receive the approval of the Board of Engineers. The greatest care is taken to ascertain the value of the commerce on every project proposed to be entered upon. Whether freight is carried on the waterway or not, the fact remains that the mere development of the waterway insures a lower freight rate. These men serving on this great committee work night and day. They are doing a patriotic work. There is absolutely no logrolling in this committee, and no man on the committee has influence to get that which he ought not to have in the bill. I am surprised that the gentleman from the mountain regions of Wyoming [Mr. MONDELL] should undertake to criticize the work of this great committee, and to say that they act without information or judgment in what they report to this House. This bill does contain recommendations for the appropriation of $40,000,000, and it could well contain recommendations for the appropriation of double that amount without overstepping the lines of propriety. They have been conservative in their recommendations, and perhaps because of their conservatism they have rejected projects which in a large measure would be justified. But that they have recommended any project without merit I do not believe, and for one Member of this House I am willing to follow the judgment of the men who have served and are serving on this great Committee on Rivers and Harbors.

Mr. MOORE of Pennsylvania. Mr. Chairman, in some respects I agree with the two gentlemen who have just spoken, the gentleman from Louisiana [Mr. RANSDELL] and the gentleman from Illinois [Mr. MADDEN]. But I think the gentleman from Wyoming [Mr. MONDELL] is extremely reprehensible in some of his references. [Laughter.] I have been looking through the reports of the engineers and I have found abundant testimony of the activities of this committee. I make no reflection on any member of this committee. They have all been active in the interest of their constituencies. Most of them deserve medals at the hands of their constituents. I will not say that one of these rivers to which I refer is not very far distant from the territory of the gentleman from Wyoming [Mr. MONDELL], but, without mentioning any names, I commend to his consideration one river 500 miles long, for which, since 1874, we have been endeavoring to get a depth of 4 feet—and this to some extent represents the very great urgency of this $40,000,000 bill, which does not take into consideration commerce along certain sections of the country where business is teeming and waiting an opportunity for development. Now, this particular project under which work has continued from 1874 contemplated "the removal of snags, and logs, and wrecks, and leaning timber obstructing navigation"—all to obtain a depth of 4 feet, on which $614,000 was spent in one of the initial stages. As we follow the report a little bit we find, in view of the fact that certain locks and dams were authorized, apparently for the purpose of creating water in the river, there has been expended altogether on this stream to date $2,040,000. Following up the inquiry and the reading of these reports, which is intensely interesting, the gentleman will find that the commerce upon this river and its tributaries—a river 500 miles long in which we are endeavoring for the benefit of commerce and navigation to get a mean low depth of 4 feet——

Mr. EDWARDS. Mr. Chairman, will the gentleman state what river that is?

Mr. MOORE of Pennsylvania. I will not mention it, because there are several of the same kind and I do not want to reflect upon the gentleman from Wyoming.

Mr. EDWARDS. Will the gentleman tell me from what page of the report he is reading?

Mr. MOORE of Pennsylvania. I will if the gentleman insists upon it. But let me finish this interesting tale of the manner in which we develop some rivers and do not develop others. The commerce on this stream and all its tributaries consists principally of the shipment of cotton, cotton seed, lumber, staves, saw logs, and miscellaneous articles, and during the last 22 years—more than two decades—the entire business has amounted to 57,000 tons. Why, Mr. Chairman, little Raccoon Creek, about which the gentleman from Kentucky [Mr. HELM] inquired day before yesterday, does more business in one year than this 500-mile 4-foot stream does in 22 years. Yet the gentleman from Wyoming [Mr. MONDELL] has the effrontery to come into this House and say we are asking too much when we seek an appropriation of $800,000 for a canal and waterway adjacent to territory which contributes 50,000,000 tons of commerce annually to the Nation.

The CHAIRMAN. The pro forma amendment, without objection, will be withdrawn, and the Clerk will read.

The Clerk read as follows:

Improving Beaufort Inlet, N. C.: For maintenance, $10,000.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. Mr. Chairman, I was in hopes that the gentlemen in charge of the bill, some of them, would answer some of the arguments I made. On the contrary, they set up a straw man and then they proceeded to belabor it. I did not say, I never have said, that the committee did not have data which they considered a sufficient basis for their appropriations, and yet the gentlemen one after another have risen here and assailed me because they said I said something I did not say. What I did say was they did not even give a gaping and expectant world, much less the Congress, any information whatever as to the arguments made by or before them on which arguments they based the items in the bill. They may have had any amount of information; they have given absolutely none; and then the gentleman from Pennsylvania [Mr. MOORE] proposes to put me entirely out of business by suggesting because unwise appropriations have been made on the upper Missouri River, never at my request——

Mr. MOORE of Pennsylvania. I did not mention the upper Missouri.

Mr. MONDELL (continuing). That therefore equally unwise appropriations ought to be made on Raccoon Creek. If gentlemen would like to know, I never have believed, and I do not believe now, that the money of the people ought to be spent on the upper Missouri River. I think it is a clear waste of public funds. It does not have the poor, miserable excuse that the improvement of some of the way-back creeks have, that if you improve them the farmers in the localities may be able to transport their potatoes a little more cheaply to some region, or along the line of the argument of the gentleman from Pennsylvania that some rich lumber company may be able to have their profits increased at the expense of the Government. I did not have the time to mention, in referring to the purchase of this canal, that if the timber which was along the line of the canal when it was built, and the transportation of which, or the expected transportation of which, led to the building of the canal, was still there the Government would not be asked to buy it, and probably could not purchase it, but these people having spent a large amount of money for the building of the canal and transporting the lumber and having cleared the country of the lumber, and there being no longer any considerable amount of tonnage, now seek to unload upon the unsuspecting Congress and the river and harbor bill this, to them, comparatively worthless property. It is a very beautiful scheme, and it is defended vehemently by the gentleman from Pennsylvania by the suggestion that we may reduce the rates of transportation by so doing, and he expects that that will also be final and convincing——

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOORE of Pennsylvania. Mr. Chairman, I make the point of order that there is no quorum present.

Mr. SPARKMAN. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. MOON of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 28180) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, and had come to no resolution thereon.

COMMITTEE TO ATTEND FUNERAL EXERCISES OF MR. WEDEMEYER, OF MICHIGAN.

The SPEAKER laid before the House the names of the committee to attend the funeral exercises on Mr. WEDEMEYER, of Michigan.

The Clerk read as follows:

Mr. DOREMUS, Mr. J. M. C. SMITH, Mr. HAMILTON of Michigan, Mr. SWEET, Mr. SAMUEL W. SMITH, Mr. MCMORRAN, Mr. FORDNEY, Mr. MCLAUGHLIN, Mr. LOUD, Mr. DODDS, Mr. KENDALL, Mr. WILLIS, Mr. FOSTER, Mr. HAMMOND, and Mr. SHARP.

EXTENSION OF REMARKS.

Mr. RAKER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD in relation to the consolidation of the Sacramento revenue district.

The SPEAKER. Is there objection. [After a pause.] The Chair hears none.

GRANT OF CERTAIN PERMITS, MARCH 4, 1913.

Mr. GARRETT. Mr. Speaker, I ask unanimous consent for the present consideration of House joint resolution 380.

The SPEAKER. The gentleman from Tennessee asks unanimous consent to consider the resolution named. Of course everybody understands the rule is against it, but it is a matter of public business, and the Chair is disposed to recognize him, unless somebody objects to unanimous consent. The Clerk will report the resolution.

The Clerk read as follows:

House joint resolution (H. J. Res. 380) authorizing the granting of permits to the committee on inaugural ceremonies on the occasion of the inauguration of the President elect on March 4, 1913, etc.

Resolved, etc., That the Secretary of the Interior is hereby authorized and directed to grant a permit to the committee on inaugural ceremonies for the use of the Pension Building in the city of Washington, except such rooms therein as are used and occupied for the payment of pensions, on the occasion of the inauguration of the President elect on the 4th day of March, 1913, subject to such restrictions and regulations and limitations as to space as the said Secretary may prescribe in respect of the period and manner of such use, including all necessary safeguards against fire and for the extinguishing of fire.

SEC. 2. That the Secretary of War is hereby authorized to grant permits, under such restrictions as he may deem necessary, to the committee on inaugural ceremonies for the use of any reservations or other public spaces in the city of Washington on the occasion of the inauguration of the President elect on the 4th day of March, 1913, which, in his opinion, will inflict no serious or permanent injuries upon such reservations or public spaces or statuary thereon; and the Commissioners of the District of Columbia may designate for such and other purposes on the occasion aforesaid such streets, avenues, and sidewalks in said city of Washington as they may deem proper and necessary: *Provided, however,* That all stands or platforms that may be erected on the public spaces aforesaid shall be under the supervision of the said inaugural committee and in accordance with the plans and designs to be approved by the Engineer Commissioner of the District of Columbia, the officer in charge of public buildings and grounds, and the Superintendent of the United States Capitol Building and Grounds: *And provided further,* That the reservations or public spaces occupied by the stands or other structures shall be restored to their original condition before such occupation, and that the inaugural committee shall indemnify the War Department for any damage to structures of any kind whatsoever upon such reservations or spaces.

SEC. 3. That the Commissioners of the District of Columbia are hereby authorized to permit the committee on illumination of the inaugural committee for the inaugural ceremonies, March, 1913, to stretch suitable overhead conductors, with sufficient supports wherever necessary, and in the nearest practicable connection with the present supply of light, for the purpose of effecting the said illumination: *Provided,* That if it shall be necessary to erect wires for illuminating purposes over any park or reservation in the District of Columbia, the work of erection and removal of said wires shall be under the supervision of the official in charge of said park or reservation: *Provided further,* That the said conductors shall not be used for the conveying of electrical currents after March 8, 1913, and shall, with their supports, be fully and entirely removed from the streets and avenues of the said city of Washington on or before March 15, 1913: *And provided further,* That the stretching and removing of the said wires shall be under the supervision of the Commissioners of the District of Columbia, who shall see that the provisions of this resolution are enforced; that all needful precautions are taken for the protection of the public; and that the pavement of any street, avenue, or alley disturbed is replaced in as good condition as before entering upon the work herein authorized: *And provided further,* That no expense or damage on account of or due to the stretching, operation, or removing of the said temporary overhead conductors shall be incurred by the United States or the District of Columbia.

SEC. 4. That $23,000, or so much thereof as may be necessary, payable from any money in the Treasury not otherwise appropriated and from the revenues of the District of Columbia in equal parts, is hereby appropriated to enable the Commissioners of the District of Columbia to maintain public order and protect life and property in said District from the 28th of February to the 10th of March, 1913, both inclusive. Said commissioners are hereby authorized and directed to make all reasonable regulations necessary to secure such preservation of public order and protection of life and property and fixing fares by public conveyance, and to make special regulations respecting the standing, movements, and operating of vehicles of whatever character or kind during said period. Such regulations shall be in force one week prior to said inauguration, during said inauguration, and one week subsequent thereto, and shall be published in one or more of the daily newspapers published in the District of Columbia; and no penalty prescribed for the violation of any of such regulations shall be enforced until five days after such publication. Any person violating any of such regulations shall be liable for each such offense to a fine not to exceed $100, in the police court of said District, and in default of payment thereof to imprisonment in the workhouse of said District for not longer than 60 days. And the sum of $2,000, or so much thereof as may be necessary, is hereby likewise appropriated, to be expended by the Commissioners of the District of Columbia, for the construction, maintenance, and expenses incident to the operation of temporary public-comfort stations and information booths during the period aforesaid.

SEC. 5. That the Secretary of War and the Secretary of the Navy be, and they are hereby, authorized to loan to the committee on inaugural ceremonies such ensigns, flags, etc., belonging to the Government of the United States (except battle flags) that are not now in use and may be suitable and proper for decoration and may, in their judgment, be spared without detriment to the public service, such flags to be used in connection with said ceremonies by said committee under such regulations and restrictions as may be prescribed by the said Secretaries, or either of them, in decorating the fronts of public buildings and other places on the line of march between the Capitol and the Executive Mansion and the interior of the reception hall: *Provided,* That the loan of the said ensigns, flags, signal numbers, etc., to said chairman shall not take place prior to the 24th day of February, and they shall be returned to him by the 10th day of March, 1913: *Provided further,* That the said committee shall indemnify the said departments, or either of them, for any loss or damage to such flags not necessarily incident to such use. That the Secretary of War is hereby authorized to loan to the inaugural committee, for the purpose of caring for the sick, injured, and infirm on the occasion of the inauguration of the President of the United States, March 4, 1913, such hospital tents and camp appliances and other necessaries, hospital furniture, and utensils of all descriptions, ambulances, horses, drivers, stretchers, and Red Cross flags and poles belonging to the Government of the United States as in his judgment may be spared and are not in use by the Government at the time of the inauguration: *And provided further,* That the inaugural committee shall indemnify the War Department for any loss or damage to such hospital tents and appliances as aforesaid not necessarily incident to such use: *And provided further,* That the said inaugural committee shall give bond, with security satisfactory to the Secretary of War, to do the same.

SEC. 6. That the Commissioners of the District of Columbia be, and they are hereby, authorized to permit the Western Union Telegraph Co. and the Postal Telegraph Co. to extend overhead wires into the Pension Building, and to such points along the line of parade as shall be deemed by the chief marshal convenient for use in connection with the parade and other inaugural purposes, the said wires to be taken down within 10 days after the conclusion of the ceremonies on the 4th day of March, 1913.

Also the following committee amendments were reported:

Page 1, strike out all of lines 3, 4, 5, and 6, and all of lines 1, 2, 3, 4, 5, 6, and 7, on page 2.

The SPEAKER. Is there objection to the present consideration of the resolution?

Mr. CANNON. What is it that is stricken out?

Mr. MANN. The section providing for the use of the Pension Building. The amendments which have been read are not all of the amendments. They might as well all be acted on at once, probably.

The SPEAKER. We have not received unanimous consent for consideration of the resolution.

Mr. MANN. It might be easier to get the consent after all the amendments are read.

The SPEAKER. The Clerk will report the balance of the amendments.

The Clerk read as follows:

Line 12 page 2, after the word "Washington," insert the words "under their control."

In the same section, page 2, line 14, strike out the words "which, in his opinion, will inflict no serious or permanent injuries," and insert: "*Provided,* That in his opinion no serious or permanent injury shall be thereby inflicted."

Page 2, line 21, after the word "Washington," insert "under their control."

Page 3, line 6, after the word "be," insert the word "promptly."

Page 3, line 9, strike out the words "to structures."

Page 3, line 10, after the word "spaces," insert "by reason of such use."

Page 3, line 19, after the word "illuminating," insert the words "or other."

Page 4, line 15, strike out section 4.

Page 5, line 21, strike out the numeral "5" after "Sec." and insert the numeral "3."

Page 6, line 12, strike out the words "to him."

Page 7, lines 11 and 12, strike out the words "into the Pension Building."

Mr. MURRAY. Mr. Speaker, reserving the right to object——

Mr. NORRIS. Mr. Speaker, reserving the right to object, I would like to make some inquiry in regard to this.

The SPEAKER. The gentleman from Massachusetts [Mr. MURRAY] reserves the right to object.

Mr. MURRAY. Reserving the right to object, I would like to ask the gentleman from Tennessee [Mr. GARRETT] if there is any urgency for the present consideration of this matter?

Mr. GARRETT. Mr. Speaker, I should like to make this statement. This is a resolution reported from the Committee on Public Buildings and Grounds, of which committee I am not a member. Upon yesterday the gentleman from Texas [Mr. SHEPPARD], the chairman of that committee, after making some inquiries with regard to unanimous consent, went to the gentleman from Texas [Mr. HENRY], chairman of the Committee on Rules, and suggested to him that perhaps a special rule ought to be had for the consideration of this measure. The gentleman from Texas [Mr. HENRY] was compelled to leave the city, and for some reason the resolution was referred to me, being a member of the Committee on Rules. I might say that the gentleman from Georgia [Mr. HARDWICK], who outranks me on that committee, was also absent, as well as the gentleman from Kentucky [Mr. STANLEY]. Another reason the resolution was presented to me was the further one that it seems I was appointed a member of this Joint Inaugural Committee. I suggested to the gentleman that it seemed to be a matter concerning which there ought to be unanimous consent, and that there ought to be an endeavor to obtain that consent before appealing to the Committee on Rules for a special rule for its consideration. And so in that way the matter was left in my hands.

I do not know about the details of the resolution, I will say. This morning I called on the gentleman from Texas [Mr. SHEPPARD], and he informed me it was impossible for him to be here. I then called on the gentleman from Alabama [Mr. BURNETT], who is next in rank as a member of the committee, and he is ill and unable to be here, and in just the last few moments I reached the gentleman from Florida [Mr. CLARK], who is here and is able to explain the details of the resolution. Now, as far as the emergencies detailed in the bill are concerned, I understand it is desired to commence the erection of these stands provided for and the arrangements for the lighting. The bill carries no appropriation.

I yield to the gentleman from Florida [Mr. CLARK].

Mr. CLARK of Florida. Mr. Speaker, I desire to say that the chairman of the inaugural committee represented to the Committee on Public Buildings and Grounds that there was urgent necessity for the passage of this resolution, in order that they might arrange their plans in accordance with the will of Congress. We have cut out of the resolution the use of the Pension Building, and we have cut out of it the appropriation of some $23,000, as that belonged to the Appropriations Committee, and have made some minor changes in order to make it conform to the general plan of this ceremony. I can not see, Mr. Speaker, that there should be any earthly objection to the immediate consideration and passage of the resolution.

The SPEAKER. Is there objection?

Mr. NORRIS. Mr. Speaker, I would like to ask the gentlemen in charge of this resolution why it is that it has been brought in at this late hour, when there are practically no Members of the House here, when they had all day to bring this in, at a time when we had a large attendance here?

Mr. CLARK of Florida. The gentleman has been here, and he certainly knows that we have not had time or opportunity heretofore.

Mr. NORRIS. I will call the gentleman's attention to the fact that he himself spent more time on what he tried to make us believe was a question of special privilege than would have been needed for the consideration of this resolution at a time when there was an immense crowd here. We also had a large crowd here when the river and harbor bill was under consideration.

Now, I would like to say that I have no disposition to interfere with or obstruct any legitimate arrangement that may be made for the inaugural ceremony, but it does not seem right to me that the gentlemen having this in charge should wait until half-past 6 o'clock, after we have been in Committee of the Whole on this appropriation bill, when it was generally understood that an adjournment was going to take place immediately afterwards, and to bring this resolution in now.

Mr. MANN. Mr. Speaker, if the gentleman will yield——

Mr. NORRIS. Yes; I will yield to the gentleman.

Mr. MANN. This resolution was reported in on the 21st, two days ago. I got the resolution when it was reported in, and the suggestion was made that it might be called up yesterday or the day before, maybe yesterday, when it was proposed to ask unanimous consent. I thought it ought to go over further than that time.

Now, as to the resolution, my understanding is that there is no controversy over agreeing to the committee amendments. One of them strikes out the use of the Pension Building, and another one strikes out an appropriation that does not apply to this resolution.

The resolution gives certain authorizations that are necessary. For instance, it authorizes the Superintendent of Public Buildings and Grounds to permit the use of public spaces by the inaugural committee. Though it is not expressly stated, that means permission will be given for the use of the public spaces for the erection of platforms and things of that sort. Then the resolution gives the District Commissioners the same authority to permit the use of public spaces under their control for the erection of platforms and for the connection of electrical conductors to make the illumination. It also permits the use of flags which are not in use in the hands of the Army and Navy by the inaugural committee, and permits the telegraph companies to extend their wires where they may be needed along the line of the inaugural march.

All of these changes are to be made without expense to the Government, and some of the persons or authorities who are to do these things are under bonds, and all of the spaces are to be restored without any damage or injury, they taking the responsibility. It is the usual resolution that has been passed in Congress for a great many years, and I did not myself suppose there could be any objection to it.

Mr. NORRIS. Mr. Speaker, I have no objection to anything that the gentleman has enumerated. I would not object even to appropriating money to pay some of these expenses. That is not the point. It is the method of adopting it that I object to. We have not done it in this way before. Even if we have done the same thing, there has been no snap judgment taken before.

Mr. MANN. It has been done by unanimous consent.

Mr. NORRIS. We then had to consider the question as to whether the Pension Building should be used.

Mr. FITZGERALD. There is no request for that here.

Mr. NORRIS. The resolution has not been printed and has not been reported.

Mr. MANN. Oh, yes; it has.

Mr. NORRIS. What committee reported it?

Mr. CLARK of Florida. The Committee on Public Buildings and Grounds.

Mr. FITZGERALD. I want to say, Mr. Speaker, that the Senate passed another resolution which carries an appropriation and gives the District Commissioners authority to make certain regulations. The appropriation is to enable them to obtain additional police protection. Those provisions were embodied in this resolution, and the Committee on Public Buildings and Grounds have stricken them out. A resolution separate from this has been pending in the Committee on Appropriations, and that committee has been in conference with the District Commissioners and expects to-morrow to report it, because information has been brought to the committee that it is necessary to have prompt action taken on the matter.

Mr. NORRIS. I understand that prompt action is necessary.

Mr. FITZGERALD. What I wanted to say was this: These resolutions were scrutinized not only by one committee, that on Public Buildings and Grounds, but also by the Committee on Appropriations and by members of the District Committee, who are all more or less interested in the matter.

Mr. NORRIS. I have no doubt of that. The gentleman from New York [Mr. FITZGERALD] and the gentleman from Illinois [Mr. MANN] recognize that by just such means as this—getting something through against which there might be no possible objection—a precedent will be set which will be used to get through other things that are objectionable.

Mr. FITZGERALD. I do not know about that. This House is pretty critical.

Mr. MANN. There are three resolutions, if the gentleman will pardon me, that will probably have to be passed; one a general resolution in relation to the electoral count in the House, and one in reference to the subject matter of this resolution, and one in reference to making a slight appropriation and authorizing the District Commissioners to make certain regulations which will not probably involve any particular controversy.

I am frank to say to the gentleman, as I said to the other gentleman, that I should not object to the present consideration of any of these resolutions.

Mr. NORRIS. I would not, either, at any reasonable time.

Mr. MANN. I think no one has any objection to any of them, and I think they do not involve any controversy. Of course, if they did, that would be another matter.

Mr. NORRIS. I will say to the gentleman from Tennessee [Mr. GARRETT] that if no one else objects I will not enter any objection to this, but I wanted to call attention to the fact that it did not seem to me it was the right way to do it.

Mr. GARRETT. I will say to the gentleman from Nebraska that I am in sympathy with his idea that matters of legislation ought not to come up under unanimous consent as a general

proposition, except under a rule which has been fixed for it; but I think the gentleman from Nebraska realizes that this is a peculiar and unusual situation.

Mr. CANNON. But the gentleman has withdrawn his objection, and we are all hungry. Why not pass the joint resolution?

Mr. MURRAY. Mr. Speaker, I withdraw my reservation of the right to object.

The SPEAKER. Is there objection to the present consideration of the joint resolution?

There was no objection.

The SPEAKER. If there be no objection, the Chair will put all these committee amendments at once.

There was no objection.

The committee amendments were agreed to.

Mr. MANN. Mr. Speaker, there is an error in the print on page 6, line 10. The word "chairman" should be "committee." It is evidently an error in the print.

The SPEAKER. If there be no objection that correction will be made.

There was no objection.

The joint resolution as amended was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

Mr. CLARK of Florida. Mr. Speaker, I move to reconsider the vote by which the bill was passed, and I move to lay the motion to reconsider on the table.

Mr. MANN. I hope that will not be considered a dilatory motion.

On motion of Mr. CLARK of Florida, a motion to reconsider the vote by which the joint resolution was passed was laid on the table.

HOUR OF MEETING TO-MORROW.

Mr. SPARKMAN. Mr. Speaker, I ask unanimous consent that when the House adjourn to-day it adjourn to meet to-morrow at 11 o'clock a. m.

The SPEAKER. The gentleman from Florida asks unanimous consent that when the House adjourns to-day it adjourn to meet to-morrow at 11 o'clock a. m. Is there objection?

There was no objection.

ENROLLED BILLS SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolution and bill of the following titles, when the Speaker signed the same:

H. J. Res. 369. House joint resolution authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass.; and

H. R. 27062. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

ADJOURNMENT.

Mr. SPARKMAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 40 minutes p. m.) the House adjourned until to-morrow, Friday, January 24, 1913, at 11 o'clock a. m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. RAKER, from the Committee on the Public Lands, to which was referred the bill (S. 5068) to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, and for other purposes, reported the same without amendment, accompanied by a report (No. 1367), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill (H. R. 26943) to exempt from cancellation certain desert-land entries in the Chuckawalla Valley and Palo Verde Mesa, Riverside County, Cal., reported the same with amendment, accompanied by a report (No. 1368), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. DENT, from the Committee on the Public Lands, to which was referred the bill (S. 3225) providing when patents shall issue to the purchaser or heirs of certain lands in the State of Oregon, reported the same without amendment, accompanied by a report (No. 1369), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. ANTHONY, from the Committee on Military Affairs, to which was referred the bill (H. R. 21178) to reinstate Frank Ellsworth McCorkle as a cadet at United States Military Academy, reported the same without amendment, accompanied by a report (No. 1370), which said bill and report were referred to the Private Calendar.

Mr. BRADLEY, from the Committee on Military Affairs, to which was referred the bill (S. 6176) for the relief of Gibbs Lykes, reported the same without amendment, accompanied by a report (No. 1377), which said bill and report were referred to the Private Calendar.

Mr. CANTRILL, from the Committee on Claims, to which was referred the bill (S. 5137) for the relief of Alice V. Houghton, reported the same with amendment, accompanied by a report (No. 1372), which said bill and report were referred to the Private Calendar.

Mr. LEVY, from the Committee on Claims, to which was referred the bill (S. 2311) for the relief of Bellevadorah Steele, reported the same without amendment, accompanied by a report (No. 1374), which said bill and report were referred to the Private Calendar.

Mr. POU, from the Committee on Claims, to which was referred the bill (H. R. 16895) for the relief of William H. Watt, reported the same without amendment, accompanied by a report (No. 1375), which said bill and report were referred to the Private Calendar.

Mr. HEALD, from the Committee on Claims, to which was referred the bill (S. 7427) for the relief of Edgar Allen, jr., reported the same without amendment, accompanied by a report (No. 1376), which said bill and report were referred to the Private Calendar.

Mr. RUCKER of Colorado, from the Committee on Pensions, to which was referred sundry bills, reported in lieu thereof the bill (H. R. 28379) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, accompanied by a report (No. 1371), which said bill and report were referred to the Private Calendar.

Mr. HEALD, from the Committee on Claims, to which was referred the bill (H. R. 15141) for the relief of Marion B. Patterson, reported the same with amendment, accompanied by a report (No. 1373), which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. MOORE of Pennsylvania: A bill (H. R. 28377) to provide for the construction of a lighthouse and fog-signal station in the vicinity of Goose Island Flats, Delaware River, N. J.; to the Committee on Interstate and Foreign Commerce.

By Mr. MONDELL: A bill (H. R. 28378) authorizing the Northern Arapahoe Tribe of Indians to submit claims to the Court of Claims; to the Committee on Indian Affairs.

By Mr. BYRNS of Tennessee: A bill (H. R. 28380) to amend an act entitled "An act to protect trade and commerce against unlawful restraints and monopolies"; to the Committee on the Judiciary.

By Mr. BARCHFELD: A bill (H. R. 28381) to provide for the retirement and longevity pay for certain medical officers of the Army; to the Committee on Military Affairs.

By Mr. BROUSSARD: Resolution (H. Res. 786) to investigate the activities of Frank C. Lowry and the Federal Sugar Refining Co.; to the Committee on Rules.

By Mr. MACON: Resolution (H. Res. 787), authorizing the payment of a certain sum of money to Gussie A. Swords; to the Committee on Accounts.

By Mr. HUMPHREYS of Mississippi: Resolution (H. Res. 788) providing for printing certain House documents; to the Committee on Printing.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. RUCKER of Colorado: A bill (H. R. 28379) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors; to the Committee of the Whole House.

By Mr. BATHRICK: A bill (H. R. 28382) to amend the muster roll of Company B, Ninth Regiment Pennsylvania Volunteers, so as to include the name of William C. Armstrong thereon; to the Committee on Military Affairs.

By Mr. BROWN: A bill (H. R. 28383) granting a pension to M. M. Sayers; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28384) granting an increase of pension to C. C. Stemple; to the Committee on Invalid Pensions.

By Mr. BYRNS of Tennessee: A bill (H. R. 28385) granting an increase of pension to Margarett A. Bennett; to the Committee on Pensions.

By Mr. CALDER: A bill (H. R. 28386) granting an increase of pension to Annis Jackson; to the Committee on Invalid Pensions.

By Mr. GUERNSEY: A bill (H. R. 28387) granting an increase of pension to Andrew J. Twombly; to the Committee on Invalid Pensions.

By Mr. HENSLEY: A bill (H. R. 28388) granting a pension to Jane Johnson; to the Committee on Invalid Pensions.

By Mr. HOLLAND: A bill (H. R. 28389) for the relief of the heirs or estate of Samuel Tucker, deceased; to the Committee on War Claims.

By Mr. HOUSTON: A bill (H. R. 28390) authorizing the Secretary of War to award the congressional medal of honor to Arnold Delffs, late private Company H, Fifth Tennessee Volunteer Cavalry, United States Army; to the Committee on Military Affairs.

By Mr. JOHNSON of Kentucky: A bill (H. R. 28391) for the relief of the heirs of James B. Farris; to the Committee on War Claims.

Also, a bill (H. R. 28392) for the relief of the heirs of William B. Dodd, deceased; to the Committee on Claims.

By Mr. LAWRENCE: A bill (H. R. 28393) granting an increase of pension to Sarah J. Winters; to the Committee on Invalid Pensions.

By Mr. LINTHICUM: A bill (H. R. 28394) for the relief of the heirs of James and Eliza M. Lewis; to the Committee on War Claims.

By Mr. MACON: A bill (H. R. 28395) granting an increase of pension to Samuel Lehman; to the Committee on Invalid Pensions.

By Mr. MOORE of Pennsylvania: A bill (H. R. 28396) granting an increase of pension to Edgar Duffield; to the Committee on Invalid Pensions.

By Mr. MORRISON: A bill (H. R. 28397) granting an increase of pension to Samuel Dale; to the Committee on Invalid Pensions.

By Mr. NEEDHAM: A bill (H. R. 28398) granting an increase of pension to George A. Clipper; to the Committee on Invalid Pensions.

By Mr. PETERS: A bill (H. R. 28399) granting a pension to Thomas F. Moore; to the Committee on Pensions.

By Mr. ROTHERMEL: A bill (H. R. 28400) granting an increase of pension to George W. Rank; to the Committee on Invalid Pensions.

By Mr. SHERLEY: A bill (H. R. 28401) for the relief of the Louisville Trust Co., administrator of the estate of Emily Oldham, deceased; to the Committee on War Claims.

By Mr. SPARKMAN: A bill (H. R. 28402) granting an increase of pension to Kizzie Gill; to the Committee on Pensions.

By Mr. THISTLEWOOD: A bill (H. R. 28403) granting an increase of pension to John N. Waters; to the Committee on Invalid Pensions.

By Mr. WARBURTON: A bill (H. R. 28404) for the relief of Lewis F. Jones, Frank Jenkins, and Lorenzo L. Broyles; to the Committee on the Public Lands.

By Mr. WILDER: A bill (H. R. 28405) granting an increase of pension to Elijah I. Thompson; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BATHRICK: Petition of growers of ginseng, of Doylestown, Ohio, and Mr. A. H. Hinnman, favoring an appropriation of $5,000 to investigate certain diseases peculiar to ginseng; to the Committee on Agriculture.

By Mr. BROWN: Papers to accompany bill granting a pension to Marshall M. Sayre; to the Committee on Invalid Pensions.

By Mr. BYRNS of Tennessee: Papers to accompany bill granting an increase of pension to Margaret A. Bennett; to the Committee on Pensions.

By Mr. CAMPBELL: Petition of the Methodist Episcopal Church of Mound Valley, Kans., favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. CALDER: Petition of C. H. Van Doren, New York, N. Y., favoring the adoption of the Mall site, as approved by the National Commission of Fine Arts, as a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of New York Chapter of the American Institute of Architects, favoring the adoption of the Mall site, as approved by the National Commission of Fine Arts, as a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of mural painters of New York City, favoring the adoption of the Mall site, as approved by the National Commission of Fine Arts, as a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of Edward C. Schiffmacher, New York, N. Y., favoring the adoption of the Mall site, as approved by the National Commission of Fine Arts, as a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of Brooklyn Chapter of the American Institute of Architects, favoring the adoption of the Mall site, as approved by the National Commission of Fine Arts, as a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of C. H. Caldwell, New York, N. Y., favoring the adoption of the Mall site, as approved by the National Commission of Fine Arts, as a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. CARY: Petition of the Garage Equipment Manufacturing Co., Milwaukee, Wis., favoring the passage of House bill 27567, for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

By Mr. DONOHOE: Petition of the Philadelphia Board of Trade, Philadelphia, Pa., favoring the passage of Senate bill 7503, for 1-cent postage rate; to the Committee on the Post Office and Post Roads.

By Mr. DYER: Petition of the Brecht Co., W. B. Rose Supply & Construction Co., Mr. Sterling E. Edmunds, and Mr. Nathaniel T. Lane, of St. Louis, favoring passage of House bill 25685, which provides for the labeling and tagging of all fabrics and articles of clothing intended for sale which enter into interstate and foreign commerce; to the Committee on Interstate and Foreign Commerce.

Also, papers to accompany bill (H. R. 22056) relative to claim of Clayborn M. Perkins; to the Committee on Claims.

Also, petition of F. E. Kettner, relative to standing by the Uncle Sam Oil Co., for the protection of its stockholders and the right of the people; to the Committee on the Judiciary.

Also, memorial of the Philadelphia Peace Society Association of Friends, favoring the striking out of the clause in the Panama Canal act granting free toll to all vessels engaged in coastwise trade of the United States; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Central Trades and Labor Union of St. Louis and vicinity, relative to facsimile letters signed by L. L. Kensinger, indicating that arrangements for the transportation of the defendants in the Indianapolis dynamite case had been made 40 days before the jury's verdict had been reached; to the Committee on the Judiciary.

Also, petition of Otto Eich Engineering Department, Koerber Brenner Music Co., Rudolph Wurlietzer Co., Bollman Bros. Piano Co., and Mr. W. L. Meyers, of St. Louis, protesting against section 2 of the Oldfield patent bill, for the preventing of the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the National City Neat Lubricating Oil Co., of St. Louis, and the Benoist Aircraft Co., favoring the passage of a certain section of the naval appropriation bill which provides for a sum of $15,000 for an aeronautic laboratory; to the Committee on Naval Affairs.

Also, petition of Corliss, Coon & Co., St. Louis, Mo., protesting against the reduction of the tariff on cuffs and collars; to the Committee on Ways and Means.

Also, petition of Fred Evertz & Sons, St. Louis, and the First National Bank of Kansas City, Mo., favoring passage of House

bill 27567, for 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

By Mr. FULLER: Petition of John W. Davis and others, favoring the passage of House bill 1339, granting an increase of pension to veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

By Mr. HUMPHREYS of Mississippi: Papers to accompany a resolution providing for the printing of certain House documents; to the Committee on Printing.

By Mr. KNOWLAND: Petition of Gen. George A. Custer Council, No. 22, Junior Order United American Mechanics, Oakland, Cal., upholding the position of the United States in the canal controversy; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Bay Cities Church Extension Society of San Francisco, Cal., favoring legislation for an increase in the number of chaplains in the United States Army; to the Committee on Military Affairs.

By Mr. LEE of Pennsylvania: Petition of the Association of Eastern Foresters, Trenton, N. J., protesting against the passage of legislation to transfer the national forests to the States within which they lie; to the Committee on Agriculture.

By Mr. LINDSAY: Petition of C. H. Blackall, of Boston, Mass., favoring the adoption of the Mall site and the design as approved by the National Commission of Fine Arts as a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. MOTT: Petition of mural painters of New York, the Architectural League of New York, and the Illinois Chapter, American Institute of Architects, favoring the adoption of the Mall site as approved by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. REYBURN: Petition of the Art Club of Philadelphia, Pa., favoring the adoption of the site and design as approved by the National Commission of Fine Arts for the memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of the Association of Eastern Foresters, protesting against the passage of legislation transferring the national forests to the States within which they lie; to the Committee on Agriculture.

By Mr. ROBERTS of Massachusetts: Petition of citizens of Everett, Mass., favoring the passage of the Kenyon-Sheppard interstate liquor bill for the prevention of shipping liquor into dry territories; to the Committee on Interstate and Foreign Commerce.

By Mr. SMITH of Michigan: Petition of citizens of Walled Lake, Mich., favoring the passage of Senate bill 4043, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of citizens of Walled Lake, Mich., favoring the passage of the Jones-Works bill for limiting the number of saloons in the city of Washington; to the Committee on the District of Columbia.

By Mr. TILSON: Petition of the Connecticut State Grange, protesting against any change in the present tax on oleomargarine; to the Committee on Agriculture.

By Mr. VARE: Petition of Olva B. Johnston, president Baldwin Locomotive Works; the Philadelphia Electric Manufacturing Co., and 212 other firms and individuals of the city of Philadelphia, Pa., favoring the passage of legislation for the building of the 1,700-foot dry dock at the Philadelphia Navy Yard; to the Committee on Naval Affairs.

By Mr. WILLIS: Petition of Raymond Robbins and 30 other members of the Boy Scouts of America, of Ada, Ohio, favoring the passage of the McLean bill for Federal protection of all migratory birds; to the Committee on Agriculture.

SENATE.

FRIDAY, *January 24, 1913.*

The Chaplain, Rev. Ulysses G. B. Pierce, D. D., offered the following prayer:

Almighty God, our heavenly Father, Thou art our exceeding great reward. Thou knowest the way we take and art acquainted with all our ways. Without Thee we could not live; without Thee we dare not die. There is none on earth that we desire beside Thee, and whom have we in heaven but Thee? Thou art able to deliver us from every fear and to present us before the throne of Thy presence without fault and in exceeding joy. Look with tenderness, we pray Thee, upon the Member of this Senate whose heart has been saddened by death. Uphold him by Thy spirit and comfort him with Thy presence. In the name of Him who abolished death and brought life and immortality to light hear our prayer. Amen.

The Secretary proceeded to read the Journal of yesterday's proceedings when, on request of Mr. CULLOM and by unanimous consent, the further reading was dispensed with and the Journal was approved.

GEORGETOWN BARGE, DOCK, ELEVATOR & RAILWAY CO. (H. DOC. NO. 1303).

The PRESIDENT pro tempore (Mr. GALLINGER) laid before the Senate the annual report of the Georgetown Barge, Dock, Elevator & Railway Co. for the calendar year 1912, which was referred to the Committee on the District of Columbia and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 26080) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, asked for a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. JOHNSON of South Carolina, Mr. BURLESON, and Mr. GILLETT managers at the conference on the part of the House.

The message also announced that the House had returned to the Senate, in compliance with its request, the bill (S. 4355) incorporating the National Institute of Arts and Letters.

The message further returned to the Senate, in compliance with its request, the bill (S. 4356) incorporating the American Academy of Arts and Letters.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8768) to regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 6380) to incorporate the American Hospital of Paris.

The message also announced that the House had passed a joint resolution (H. J. Res. 380) authorizing the granting of permits to the committee on inaugural ceremonies on the occasion of the inauguration of the President elect on March 4, 1913, etc., in which it requested the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the President pro tempore:

H. R. 8768. An act to regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia;

H. R. 27062. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war; and

H. J. Res. 369. Joint resolution authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass.

SENATOR FROM MONTANA.

Mr. DIXON. Mr. President, I have the honor to present the credentials of Hon. THOMAS J. WALSH, elected a Senator of the United States from the State of Montana for the term beginning March 4, 1913.

The PRESIDENT pro tempore. The credentials will be read.

The credentials of THOMAS J. WALSH, chosen by the Legislature of the State of Montana a Senator from that State for the term beginning March 4, 1913, were read and ordered to be filed.

SENATOR FROM NORTH CAROLINA.

Mr. OVERMAN presented the credentials of FURNIFOLD M. SIMMONS, chosen by the Legislature of the State of North Carolina a Senator from that State for the term beginning March 4, 1913, which were read and ordered to be filed.

PETITIONS AND MEMORIALS.

Mr. BRISTOW presented a memorial of sundry citizens of Hutchinson, Kans., remonstrating against the enactment of legislation providing for the parole of Federal life prisoners, which was ordered to lie on the table.

Mr. CULLOM presented a petition of the Trades and Labor Council of Danville, Ill., praying for the enactment of legislation to limit the effect of the regulation of interstate commerce between the States in goods, wares, and merchandise wholly or in part manufactured by convict labor or in any prison or reformatory, which was referred to the Committee on the Judiciary.

He also presented a petition of members of Rebecca Parke Chapter, Daughters of the American Revolution, of Galesburg, Ill., praying for the enactment of legislation to prohibit the desecration of the American flag, which was referred to the Committee on the Judiciary.

He also presented petitions of the Woman's Christian Temperance Union of Will County, the congregations of the Congregational Church of Wyoming, the Methodist Episcopal Church of Bone Gap, and of sundry citizens of Bone Gap and Harrisburg, all in the State of Illinois, praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. DIXON presented the memorial of G. W. Miles, of Miles City, Mont., remonstrating against the enactment of legislation providing for the parole of Federal life prisoners, which was ordered to lie on the table.

Mr. JONES presented resolutions adopted by the grand jury of the northern division of the western district of Washington, with reference to the circulation of spurious bank notes, which were referred to the Committee on Finance, to accompany the bill (S. 8246) forbidding the use of spurious currency, and for other purposes.

He also presented a resolution adopted by the city council of Everett, Wash., accompanied by a report of the city engineer, with reference to the bills S. 2622 and H. R. 11175, relating to the water supply for that city, which was referred to the Committee on Public Lands and to accompany the bill (S. 2622) to authorize the city of Everett, Wash., to purchase certain lands for the securing, establishment, maintenance, and protection of a source of water supply for said city.

He also presented a telegram in the nature of a memorial from the transportation bureau of the Chamber of Commerce of Seattle, Wash., remonstrating against the so-called Nelson bill to amend an act entitled "An act relating to navigation of vessels, bills of lading, and to certain obligations, duties, and rights in connection with the carriage of property," approved February 13, 1893, which was referred to the Committee on Commerce.

Mr. GALLINGER presented a petition of the Men's League of the Central Congregational Church, of Derry, N. H., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

THE PRESIDENTIAL TERM.

Mr. WORKS. I have here some short editorials bearing upon the question of one term for the President of the United States. They have been furnished me by the Business League of America, an organization that is made up largely of business men throughout the country. I ask that the editorials may be printed in the RECORD.

There being no objection, the matter referred to was ordered to lie on the table and to be printed in the RECORD, as follows:

OPINIONS OF THE PRESS, 1904.

[From the Tradesman, Chattanooga, Tenn.]

The executive committee of the National Business League, whose general offices are in Chicago, has taken the initiative in a movement to lengthen the presidential term from four years to six years, making the Chief Executive ineligible for reelection, the principal reasons for the proposed amendment to the Constitution being stated as follows:

1. Presidential campaigns are too frequent, are enormously expensive to business interests, and keep the country in a state of turmoil and uncertainty most of the time, to the great disadvantage of both labor and capital.

2. Presidential years show increase of business failures, decrease of exports, bank clearings, stock sales, and commercial transactions generally.

3. Presidential campaigns indefinitely prevent the beginning and check the growth of industrial enterprises.

4. The President during his first term, naturally being anxious to succeed himself, is kept busy considering the demands of politicians and planning for a second term; meanwhile important legislation for the general good waits.

With reference to this movement we have no hesitancy in expressing the opinion that the frequent presidential elections are great factors in disarranging the business of the country, and any reasonable extension of the term of office for which the President shall serve would naturally tend to curtail the nuisance complained of. It occurs to us that just now is an opportune time to foist this movement, from the fact that a change in the length of term would not work injury to the incumbent and could not be made effective, probably, before the beginning of the term four years from this time. We can not see any possible danger in making the term six years, for in this country it is well-nigh impossible for an unworthy man to successfully aspire to the presidency, and should a corrupt aspirant by any means find his way to the high seat the laws of the land are adequate for the protection of the people from any acts that would be infamous. Under the present method of electing every four years the business of the country is nervous and unsettled for almost one-quarter of the time, and it would be to the interest of the country to effect a reformation.

[From the Tribune, Galveston, Tex.]

At different times during the past 20 years there have been put forth efforts more or less earnest looking toward an amendment to our National Constitution making the presidential term of office six or seven years and prohibiting a second term. Of late the subject has been revived, fathered by the National Business League, of Chicago, and indorsed by leading business men of that city, as well as by commercial concerns and influential firms in diversified lines of trade in many States north, east, west, and south. The grounds upon which the change is sought are purely commercial, beginning and ending with the known fact that for a season before and after national elections trade is more or less disturbed and necessarily the entire country feels the depressing effects of such disturbance, and the oftener the elections the more frequent the periods of hesitating capital and unemployed labor. Reference is made to the years 1872, 1884, 1896, and 1900, when a larger number of business houses were forced to the wall than during the years preceding or following, with no other reason for the increase in failures than the fact that the presidential election caused commercial disturbances. Here in the South, where business is probably conducted along more conservative lines, the full stress of this periodical disturbance is not so forcibly experienced as in the northern business centers, but it is felt and we are not slow to recognize that whatever affects the stability of commerce is a menace to the social life, the home circle, and when that is threatened the foundation of our national prosperity is attacked. Whether a lengthening of the presidential term of office and the elimination of a possible renomination will remove these disturbing elements, it were not well to be hasty in asserting, but that they appear to have a potency in this connection should be sufficient to warrant a study of the matter in all its ramifications, and then, should judgment dictate a course of remedy, it should be sought with a boldness that, while it respects the customs and traditions of our forefathers, is too patriotic to cling to a youthful garb outgrown by the man. That there is promise in the proposed change, that it contains a cure for evils political as well as commercial, is easy to discern, and the correction of error is part of the duty of every American citizen.

[From the Index-Appeal, Petersburg, Va.]

Judge Parker's declared purpose not to be a candidate for reelection to the Presidency at the expiration of his term, in the event he should be elected next November, has stimulated interest in the subject of a constitutional amendment extending the presidential term and making the incumbent ineligible to reelection, or, at least, to succeed himself. If Judge Parker's declaration did not inspire, we have not a doubt that it hastened the action of the National Business League in the movement which it has initiated to amend the Constitution of the United States by making the presidential term six years instead of four and the Chief Executive ineligible to reelection. To test the pulse of public opinion on this subject, the league sent out a circular letter to a great number of distinguished men and organizations in various parts of the country, and of the hundreds of replies not more than 1 per cent are unfavorable or indifferent to the movement. The principal reasons given in the letter for the proposed change are:

1. Presidential campaigns are too frequent, are enormously expensive to business interests, and keep the country in a state of turmoil and uncertainty most of the time, to the great disadvantage of both labor and capital.

2. Presidential years show increase of business failures, decrease of exports, bank clearings, stock sales, and commercial transactions generally.

3. Presidential campaigns indefinitely prevent the beginning and check the growth of industrial enterprises.

4. The President during his first term, naturally being anxious to succeed himself, is kept busy considering the demands of politicians and planning for a second term; meanwhile important legislation for the general good waits.

If there ever was any good reason for a four-year presidential term, the country has long since outgrown it. The necessity for a change, such as the National Business League advocates and Judge Parker favors, was felt and acknowledged more than 50 years ago, but the stirring events then pending and soon precipitated in the Civil War diverted public attention from it and so delayed action in the matter. This change was one of the few made by the Confederate States in the adaptation of the Federal constitution to the Confederate States government, and the change is one which, we are fully persuaded, would meet with practically the unanimous approval of the people. The four reasons given by the National Business League are cogent and unanswerable. The fact that the first term of an incumbent of the presidential office is largely taken up with intrigues for the renomination of the President by his party is a national scandal, which tends to bring the theory of republican government into ridicule and contempt when contrasted with its practice.

[From the Herald, Manitowoc, Wis.]

The movement to amend Article II of the United States Constitution so as to lengthen the presidential term to six years and to make the Chief Executive ineligible for reelection is very generally favored by business men and commercial organizations throughout the country. This is evident from the character of the responses received by the National Business League, which recently sent out inquiries touching this matter.

The coming of a presidential campaign is generally attended by considerable business disturbances and is invariably viewed with no little apprehension by the commercial interests of the country. This was strikingly evident during each of the last two national campaigns, when there was a prospect of sweeping changes in those policies that are of vital concern to the commercial and financial interests of the country. But even when, as now, there is little prospect of a sudden change in the policies affecting the business world, the coming of a presidential campaign is viewed with apprehension by commercial organizations, because of the many serious losses incident to the disturbance occasioned by a political struggle.

While true patriotism, good citizenship, and pure government are infinitely more important than business considerations, the arguments advanced by the business world in favor of lengthening the interim between presidential campaigns are worthy of the hearty support of every citizen in the country; and it seems that the proposed change is finding increasing favor with the people in every State of the Union. But as the change contemplates the ineligibility of the President for reelection it would seem to be better to make the presidential term eight years instead of six years. This would make the

presidential term as long as that now permitted by the unwritten law of the country.

The three years' effort of the present Chief Executive in shaping public policies so as to bring about his renomination and reelection and Judge Parker's declaration of his purpose never to be a candidate again in case of his election have served to emphasize the importance of the amendment to the Federal Constitution advocated by the National Business League.

A six-year or an eight-year presidential term would mean a great saving to the country and promote stability of our governmental policies, which is one of the things desired by business men and commercial organizations. Of course, as stated above, an eight-year term would be much preferable to a six-year one.

The arguments in support of the desired amendment pertain directly to the question of good government and only incidentally to the business advantages that would result from such a change. If the one-term principle were made a part of the supreme law of the land, the powerful temptation to use Federal patronage as an instrument for selfish purposes would at least be removed. This would enable the President "to discharge his duty with an eye single to his country's good" as he might understand that good. It would make him independent of party bosses and self-seeking wire pullers. It would make him independent of Wall Street and its plutocratic ramifications.

[From the News, Macon, Ga.]

The proposal of the National Business League to extend the President's term to six years has created much discussion lately. The opinions of the majority seem to favor the extension with the proviso of "no second term." The National League, in connection with the recommendation that the amendment to the Constitution providing for this extension be adopted, advances some sound reasons why it would be profitable and practical which, according to the Chicago Evening Post, are these: The presidential campaigns now are too frequent, enormously expensive to business interests, and sure creators of turmoil and uncertainty "to the great disadvantage of capital and labor." They "indefinitely prevent the beginning and check the growth of industrial enterprises," and presidential years show a decidedly bad effect on commercial transactions generally.

Such arguments as the foregoing must appeal with peculiar force to the business interests everywhere, but the fourth reason given by the league should have the thoughtful consideration of every citizen: "The President during his first term, naturally being anxious to succeed himself, is kept busy considering the demands of politicians and planning for a second term; meanwhile important legislation for the general good waits."

Commenting on this, Judge Tuley says that such a constitutional amendment "will mean the overthrow of the 'boss' and 'machine' government of the people now existing." Deprived of patronage, the "boss" and the "machine" must cease to exist. Then, in the words of Judge Tuley, "the people will again govern themselves."

Of the hundreds of replies received by the league not more than 1 per cent are unfavorable or indifferent to the movement. It is a plan certain to be indorsed by every business interest in the country. Add to this the desirableness of a return to genuine self-government through freeing the President from the dictation of the political "boss" and the political "machine," and we easily may foresee hearty popular commendation of the initiative taken by the National Business League.

The practical politician may oppose the movement, because he is the only one to be hurt by its success. But let it once be clearly understood, says the Post, that the people and the business interests desire the amendment, that the welfare of the Nation demands it, there will be few States in the Union that will hesitate to give Congress the necessary authority to act finally once the question is submitted to them.

[From the Bulletin, Auburn, N. Y.]

The question of changing the tenure of office of the President of the United States—one that has been as thoroughly discussed without result as any that has come before the people in decades—bids fair now to be effectively settled through the effort principally of the National Business League, of Chicago, backed by the Chicago Evening Post. The Post prints several pages of replies from merchants, bankers, manufacturers, commercial bodies, boards of trade, etc., in answer to a proposal made by the National League regarding a six-year, single-tenure term for the President. These letters show that the efforts of the league are systematic and well organized; but they show with equal force that the business interests of the country are taking up the matter with an earnestness that promises ultimate success.

Prominent among the New York State business men who heartily indorse the proposal of the league is George H. Nye, president of the Nye & Wait Carpet Co. and also of the Cayuga County National Bank, of this city. Mr. Nye says: "The movement inaugurated by the league toward lengthening the presidential term to a period of six years has my hearty approval. I am also in favor of making the Chief Executive ineligible to succeed himself without an interregnum, or, in other words, to prohibit two consecutive terms. It might be wise in case of a second term under such a law to have an age limit, and to provide for the possibility of the Vice President being elevated to the office through the death of the President."

The Post points out that there are many strong arguments in favor of the proposition and very few against it. Here and there a politician objects to lengthening the presidential term, and especially to making an incumbent of the high office ineligible for reelection, but the reasons given are to the Post among the most convincing arguments offered in support of the change—they show so plainly the manifest evils of the present system.

The National Business League is not unmindful of the difficulties that lie in the way of securing any amendment to the National Constitution, but it realizes the vast power and influence that must be wielded by the united business interests of this preeminently commercial Nation. It does not follow, the league holds, that because the only amendments made to the Constitution since its adoption were a result of war that nothing but war can secure an amendment. Great changes have taken place in this country and in the world since the latest additions were made to the fundamental law of the United States, not the least of which is the growing general recognition that the advances due to peaceful agitation are more likely to be safe and permanent than those forced by the sword.

What the business interests of the United States demand they sooner or later succeed in getting. The National Business League is securing the cordial cooperation of other business organizations and of influential men throughout the country. It has announced its determination not to relax its efforts until a satisfactory conclusion is reached. In this fact rests the greatest promise of success. The presidential election seriously disturbs business; the eligibility of the President to reelection is believed by many, the league included, to have a baneful effect upon our political life.

Grover Cleveland, notwithstanding he was thrice a candidate and twice elected, in his letter of 1884, accepting the presidential nomination, said: "When we consider the patronage of this great office, the allurements of power, the temptation to retain public office once again, and, more than all, the availability a party finds in an incumbent whom a horde of officeholders with a zeal born of benefits received and fostered by the hope of favors yet to come, stands ready to aid with money and trained political service, we recognize in the eligibility of the President for reelection a most serious danger to that calm, deliberate, and intelligent action which must characterize government for the people."

In the next paragraph of his letter Mr. Cleveland favors an amendment to the Constitution, limiting the President to a single term of service.

Judge Parker has already promised that, if elected, he will serve but one term. It was the "Old Roman" Thurman who said: "You will never have any genuine reform in the civil service until you adopt the one-term principle in reference to the Presidency."

Business wishes to have these periods of disturbances further apart; the increasing number of independent citizens desire a genuine civil-service reform, cleaner politics, fewer opportunities for corruption in tional amendment advocated by the National Business League, and, once united, the object of their concerted effort seems certain of attainment.

It is a very difficult, but not an impossible thing, to amend the Constitution of the United States, and in this age of unparalleled commercial and industrial activity we can fancy no more likely amendment than one intended primarily to protect and conserve our business interests.

[From the Citizen, Columbus, Ohio.]

Excuse this long editorial. It is about a very important matter, but if you do not want to read it, why, very well. It is about the movement to extend the term of the President of the United States to six years and to give him but a single term. It is one of the live questions of the day.

The idea of a single term for the President is as old as the Government. Many of the framers of the Constitution, as you may learn by reading their debates, were in favor of it. But the idea was beaten down and the four-year term was agreed upon as a compromise. But that did not settle the question. For a hundred and fifteen years there has been more or less agitation about it. There must be merit in the single-term proposition. If it were a fallacy it would have died long ago. It takes a mighty big issue to live a hundred and fifteen years.

Some of the greatest and best men of the Government have favored the single term for the presidential office. Among those who might be mentioned are Washington, Jefferson, Jackson, Clay, Tilden, Thurman, Cleveland, and others. Henry Clay said: "Much observation and deliberate reflection have satisfied me that too much of the time, the thought, the exertion of the incumbent are occupied during the first term in securing his reelection. The public business consequently suffers."

Lately the National Business League, with headquarters at Chicago, has been making a campaign among the business organizations and the influential men of the country to secure an amendment to the Constitution making the presidential office a six-year single tenure. The response from business sources has been vigorous and the movement is growing. It is difficult to amend the Constitution. But the business interests of the country are powerful and usually get what they go after. About the only opposition to the proposal by the league comes from the politicians. But the politicians bow to public opinion quite willingly.

Business men urge, first of all, that political campaigns come too often, that they upset business, that they keep the country in a turmoil, that the uncertainty and excitement hinders the prosperity of both capital and labor. National campaigns decrease the volume of business and increase the number of failures. The tendency in the States is toward fewer elections. A large majority of the States have adopted biennial elections and are pleased with the results. Say the business men: Why disturb business every four years? Why frighten capital by threatened changes of finance or of tariff every four years? Why jeopardize commercial interests so frequently? Why produce a partial paralysis of business activities by taking one year out of every four?

But there are other reasons and better ones why the President's term should be extended to six years and he be made ineligible for a second term. There are higher interests than business interests.

The change would work a reform in our political methods. Free the President of the ambition for a second term and you make him a better President for the whole country. He would put patriotism above party. In those great crises that will come to our Presidents more and more—crises that demand calm judgment, clear conscience, and high patriotism—he will be unhampered by party expediency. As it is now, it takes about two years for a President to get the run of his duties and the other two years are spent more or less in pulling the wires for a reelection.

The late Allen G. Thurman understood this. He said: "My friends, you will never have any genuine reform in the civil service until you adopt the one-term principle in reference to the Presidency. So long as the incumbent can hope for a second term he will use his immense patronage of the Government to procure his renomination and secure his reelection." The single tenure is in the interests of genuine civil-service reform, whiter politics, fewer chances for graft and corruption. When the second term begins to buzz in the Executive bonnet the hungry politicians whet their appetites for political pie.

There are other reasons. A six-year term would serve to dignify the Presidency. At the end of six years the Executive should be satisfied to retire to private life, free from political strife, having attained the highest pinnacle of human ambition. The savings from his salary would prevent the necessity of his entering into business. He could give the country the benefit of his experience and wise advice, thus solving the question, "What shall we do with our ex-Presidents?"

REPORTS OF COMMITTEES.

Mr. SMOOT, from the Committee on Public Lands, to which was referred the bill (S. 6507) to further assure title to lands granted the several States, in place, in aid of public schools, reported it without amendment and submitted a report (No. 1141) thereon.

Mr. CHAMBERLAIN, from the Committee on Public Lands, to which was referred the bill (H. R. 8151) providing for the adjustment of the grant of lands in aid of the construction of the Corvallis and Yaquina Bay military wagon road, and of

conflicting claims to lands within the limits of said grant, reported it without amendment and submitted a report (No. 1142) thereon.

Mr. MARTIN of Virginia, from the Committee on Commerce, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

S. 8248. A bill to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn. (Rept. No. 1143);

S. 8249. A bill to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn. (Rept. No. 1144);

S. 8251. A bill to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn. (Rept. No. 1145);

S. 8250. A bill to extend the time for constructing a bridge across the Mississippi River at Minneapolis, Minn. (Rept. No. 1146); and

H. R. 27157. An act granting an extension of time to construct a bridge across Rock River at or near Colona Ferry, in the State of Illinois (Rept. No. 1147).

Mr. JONES, from the Committee on Public Lands, to which was referred the bill (S. 8190) authorizing settlers on unsurveyed lands to make final proof under laws existing at the time of settlement, reported it with an amendment and submitted a report (No. 1148) thereon.

Mr. CATRON, from the Committee on Military Affairs, to which was referred the bill (H. R. 20385) to reimburse Charles S. Jackson, reported it without amendment and submitted a report (No. 1150) thereon.

He also, from the same committee, to which was referred the bill (S. 7620) for the relief of Ernest C. Stahl, submitted an adverse report (No. 1149) thereon, which was agreed to, and the bill was postponed indefinitely.

Mr. SANDERS, from the Committee on Military Affairs, to which was referred the bill (S. 7422) to remove the charge of desertion from the military record of Conrad Springer, submitted an adverse report (No. 1153) thereon, which was agreed to, and the bill was postponed indefinitely.

He also, from the same committee, to which the subject was referred, submitted a report (No. 1154) accompanied by a bill (S. 8273) authorizing the Secretary of War to make certain donations of condemned cannon and cannon balls, which was read twice by its title.

He also, from the same committee, to which were referred the following bills, reported adversely thereon, and the bills were postponed indefinitely:

S. 7486. A bill to authorize the Secretary of War to deliver to the city of Grand Forks, N. Dak., two brass or bronze condemned cannon and suitable outfit of cannon balls;

S. 7997. An act authorizing the Secretary of War to donate to the city of Lancaster, Pa., two bronze or brass fieldpieces for the use of the General William S. McCaskey Camp, United Spanish War Veterans;

S. 8051. A bill authorizing the Secretary of War, in his discretion, to deliver to the town of Washington, in the State of Mississippi, for the use of Jefferson College, one condemned cannon, with its carriage and outfit of cannon balls;

S. 8052. A bill authorizing the Secretary of War, in his discretion, to deliver to the city of Corinth, in the State of Mississippi, one condemned cannon, with its carriage and outfit of cannon balls;

S. 8079. A bill authorizing the Secretary of War, in his discretion, to deliver to the city of Grand Forks, in the State of North Dakota, one condemned cannon, with its carriage and outfit of cannon balls;

S. 8080. A bill authorizing the Secretary of War, in his discretion, to deliver to the city of Lakota, in the State of North Dakota, one condemned cannon, with its carriage and outfit of cannon balls;

S. 8088. A bill authorizing the Secretary of War, in his discretion, to deliver to the State of North Dakota, for use at the Fort Rice Memorial Park, two condemned cannon, with their carriages and outfits of cannon balls;

S. 8091. A bill authorizing the Secretary of War to make certain donations of cannon;

S. 8110. A bill authorizing the Secretary of War, in his discretion, to deliver to the city of Trinidad, Colo., two condemned bronze or brass cannon, with their carriages and a suitable outfit of cannon balls; and

S. 8111. A bill authorizing the Secretary of War, in his discretion, to deliver to the city of Rocky Ford, Colo., two condemned bronze or brass cannon, with their carriages and a suitable outfit of cannon balls.

Mr. BANKHEAD. I ask leave to submit, from the Committee on Commerce, the views of a minority on the bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River above the village of Windsor Locks, in the State of Connecticut. I ask that the views be printed as part 2 of Senate Report No. 1131.

The PRESIDENT pro tempore. The views of the minority will be received and printed as requested.

Mr. DU PONT, from the Committee on Military Affairs, to which was referred the joint resolution (S. J. Res. 110) for the appointment of three members of the Board of Managers of the National Home for Disabled Volunteer Soldiers, reported adversely thereon, and the joint resolution was postponed indefinitely.

CAPT. FRANK PARKER.

Mr. DU PONT. From the Committee on Military Affairs I report favorably, without amendment, the bill (S. 8183) for the relief of Capt. Frank Parker, and I submit a report (No. 1152) thereon.

Mr. TILLMAN. I ask unanimous consent for the present consideration of the bill.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It provides that nothing contained in the proviso under the heading "Pay of officers of the line" in the act approved August 24, 1912, entitled "An act making appropriation for the support of the Army for the fiscal year ending June 30, 1913, and for other purposes," shall be held to apply to the service of Capt. Frank Parker, United States Army, for the period necessary for him to complete his present tour of duty at L'Ecole de Guerre, France.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS.

Mr. DU PONT. From the Committee on Military Affairs I report favorably, with an amendment, the joint resolution (H. J. Res. 226) for the appointment of three members of the Board of Managers of the National Home for Disabled Volunteer Soldiers, and I submit a report (No. 1151) thereon.

Mr. CURTIS. Mr. President, this is a very short resolution. It is merely for the appointment of members of the Board of Managers of the National Home for Disabled Volunteer Soldiers. I ask unanimous consent that the resolution be now considered. If it takes any time I will withdraw it, but I do not think it will take three minutes.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. BURTON. Mr. President, it is not asked that this joint resolution be immediately considered, is it?

Mr. CURTIS. I will state that unanimous consent is asked for that purpose. It is merely to substitute the name of Mr. Warner for that of Mr. Harris.

Mr. BURTON. This is a matter that concerns an appointment in my own State. I have not heard anything of it before.

The PRESIDENT pro tempore. Is there objection to the request?

Mr. CURTIS. I withdraw the request for present consideration.

The PRESIDENT pro tempore. The joint resolution will be placed on the calendar.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CULLOM:

A bill (S. 8261) to amend proviso in meat-inspection law concerning products prepared according to directions of foreign purchasers (with accompanying papers); to the Committee on Agriculture and Forestry.

By Mr. CUMMINS:

A bill (S. 8262) granting an increase of pension to Nathaniel Little (with accompanying papers); to the Committee on Pensions.

By Mr. BRISTOW:

A bill (S. 8263) granting an increase of pension to Morton A. Pratt; and

A bill (S. 8264) granting a pension to Emma Conkright; to the Committee on Pensions.

By Mr. CATRON:

A bill (S. 8265) supplementary to an act entitled "An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1913," approved August 10, 1912; to the Committee on Agriculture and Forestry.

A bill (S. 8266) for the survey and establishing the boundaries of small holding claims in the State of New Mexico; to the Committee on Public Lands.

By Mr. BRADLEY:

A bill (S. 8267) granting a pension to Pleasant M. Heath (with accompanying papers); to the Committee on Pensions.

By Mr. GARDNER:

A bill (S. 8268) for the relief of Samuel N. Rich (with accompanying papers); to the Committee on Claims.

By Mr. GALLINGER:

A bill (S. 8269) for the elimination of part of Fifteenth Street NE. from the highways plan of the District of Columbia (with accompanying papers); to the Committee on the District of Columbia.

By Mr. JONES:

A bill (S. 8270) relating to coal claimants in Alaska; to the Committee on Public Lands.

By Mr. WETMORE:

A bill (S. 8271) granting a pension to Jennie McCaster (with accompanying papers); to the Committee on Pensions.

By Mr. DU PONT:

A bill (S. 8272) regulating the appointment of general courts-martial in the armies of the United States, including all persons belonging thereto and all persons now or hereafter made subject to military law; to the Committee on Military Affairs.

LINCOLN MEMORIAL.

Mr. CULLOM. I introduce a joint resolution for which I ask immediate consideration.

The joint resolution (S. J. Res. 158) approving the plan, design, and location for a Lincoln memorial, was read the first time by its title and the second time at length, as follows:

Resolved, etc., That the plan, design, and location for a Lincoln memorial, determined upon and recommended to Congress December 4, 1912, by the commission created by the act entitled "An act to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln," approved February 9, 1911, be, and the same are hereby, approved.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. CLARK of Wyoming submitted an amendment proposing to amend the act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1890, and for other purposes," by including, after the word "attorneys" where it appears in that act, the words "or by attorneys especially appointed by the Attorney General of the United States," intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. MYERS submitted an amendment proposing that an additional 25 per cent of all moneys received from the national forests during the fiscal year ending June 30, 1913, shall be available at the end thereof to be expended by the Secretary of Agriculture for the construction and maintenance of roads and trails within the national forests in the States from which such proceeds are derived, etc., intended to be proposed by him to the agricultural appropriation bill, which was referred to the Committee on Agriculture and Forestry and ordered to be printed.

Mr. GRONNA submitted an amendment proposing to appropriate $1,000 for examination of the land embraced in Sullys Hill Park to determine whether it contains valuable minerals, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

He also submitted an amendment proposing to increase the appropriation for the suppression of the traffic in intoxicating liquors among Indians from $75,000 to $125,000, intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. JONES submitted an amendment relative to the promotion of officers of the Quartermaster Corps, etc., intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

He also submitted an amendment proposing to increase the appropriation for the construction and maintenance of military and post roads, bridges, and trails, Alaska, from $100,000 to $155,000, and providing not to exceed $55,000 of this amount be used for the protection of the Signal Corps building and terminal grounds of the Alaska military cable and telegraph system, etc., intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

Mr. CURTIS submitted an amendment providing for the payment of traveling and other expenses incident to the transfer of the clerks of the United States pension agencies to Washington, D. C., etc., intended to be proposed by him to the pension appropriation bill, which was referred to the Committee on Pensions and ordered to be printed.

Mr. O'GORMAN submitted an amendment proposing to appropriate $250,000 for improving the channel opposite anchor grounds, Upper Harbor, New York Harbor, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. FLETCHER submitted an amendment proposing to appropriate $101,000 for improving the channel between St. Johns River, Fla., and Cumberland Sound, Ga. and Fla., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment proposing to appropriate $15,000 for protecting the shore of Anastasia Island, Fla., by groins, intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment providing for the construction of a canal from St. Johns River to Lake Beresford with a view to making a cut-off from the river to Lake Beresford, near De Land River Landing, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment proposing a suitable ship channel to East Pass from Apalachicola River, by way of Crooked Channel, etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. LODGE submitted an amendment proposing to appropriate $25,000 to meet the expenses incident to holding an international rifle shooting competition at Camp Perry, Ohio, in cooperation with the Perry Victory Centennial Celebration, to be held in September, 1913, intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

Mr. GALLINGER submitted an amendment proposing to appropriate $63,400 for improving Pepperells Cove, Me., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

WITHDRAWAL OF PAPERS—MARY REBECCA CARROL.

On motion of Mr. PERCY, it was

Ordered, That the papers in the case of the bill (S. 10722, 61st Cong., 2d sess.) granting an increase of pension to Mary Rebecca Carrol be withdrawn from the files of the Senate, there having been no adverse report thereon.

LAWS RELATING TO ALASKA.

Mr. SMITH of Michigan submitted the following concurrent resolution (S. Con. Res. 38), which was read and referred to the Committee on Printing:

Resolved by the Senate (the House of Representatives concurring), That there be printed —— thousand copies of the laws of the United States applicable to the Territory of Alaska, compiled by the Committee on Territories of the Senate and the Committee on Territories of the House of Representatives in compliance with Public Act No. 334, —— thousand copies of which shall be for the use of the Senate, —— thousand copies for the use of the House of Representatives, and —— copies for each of the committees on Territories of the Senate and House of Representatives.

Mr. SMITH of Michigan submitted the following resolution (S. Res. 441), which was read and referred to the Committee on Printing:

Resolved, That the laws of the United States applicable to the Territory of Alaska, compiled by the Committee on Territories of the Senate and Committee on Territories of the House of Representatives in compliance with Public Act No. 334, be printed as a Senate document.

SURVEY OF WILLAPA HARBOR.

Mr. JONES submitted the following concurrent resolution (S. Con. Res. 37), which was read and referred to the Committee on Commerce:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of War be, and he is hereby, authorized and directed to cause a preliminary survey to be made, and a report to be made thereon to Congress, of Willapa Harbor and the bar entrance thereto.

THE NAVAL OBSERVATORY.

Mr. CUMMINS submitted the following resolution (S. Res. 440), which was read, considered by unanimous consent, and agreed to:

Resolved, That the Committee on Naval Affairs is hereby authorized and directed to investigate the affairs of the Naval Observatory and its relation to the American Ephemeris and Nautical Almanac; and, further, to inquire into the wisdom and propriety of placing the management of the Naval Observatory in the hands of scientists, without regard to their connection with the Navy of the United States.

Resolved further, That the said committee be directed to make report of the matters herein referred to it as soon as practicable.

EIGHT-HOUR LAW.

The PRESIDENT pro tempore. Is there further morning business?

Mr. McCUMBER. I do not know positively whether it would come within morning business, but I asked the other day for a reconsideration of the vote upon House bill 18787, by which the eight-hour law was applied to dredging operations. I should like to bring up that matter at this time.

The PRESIDENT pro tempore. Unquestionably the Senator has a right to make the motion now.

Mr. McCUMBER. I then move to reconsider the vote by which House bill 18787 was passed by the Senate.

The PRESIDENT pro tempore. The Senator from North Dakota moves to reconsider the vote by which the bill he has indicated was passed. It will be read by title.

The SECRETARY. A bill (H. R. 18787) relating to the limitation of the hours of daily service of laborers and mechanics employed upon a public work of the United States and of the District of Columbia, and of all persons employed in constructing, maintaining, or improving a river or harbor of the United States and of the District of Columbia.

Mr. McCUMBER. I do not wish to take any time for its consideration more than is absolutely necessary, and as I have before me some prepared objections to the bill, I should like to have them read by the Secretary.

The PRESIDENT pro tempore. Without objection, the Secretary will read as requested.

The Secretary read as follows:

"EIGHT HOURS FOR DREDGE WORKERS.

"Memorandum on H. R. 18787, now on the calendar of the Senate.

"There are several methods of dredging:

"a. The bucket or clam-shell method, by which the material is dug from the bottom of the channel and dumped into a barge alongside, to be subsequently dumped elsewhere.

"b. The suction method, where the dredge sucks up and discharges the excavated material through a pipe line, oftentimes several miles in length.

"c. The method where the dredged material is sucked up and pumped into bins in the hull of the dredge or into barges alongside and taken to sea and dumped.

"d. The endless-chain and bucket dredge, which is a series of buckets on an endless chain which also dumps the material either into the hull of the dredge or into a barge alongside, which subsequently dumps it elsewhere.

"In all of these cases the work of the dredge workers is necessarily intermittent, they having little or nothing to do except to change the position of the barges or the dredge as the various compartments of the same are filled or the work requires a shifting in the position of the dredge or the floating pipe line, etc.

"The loss of time due to the necessity of these changes is a very considerable matter, and it frequently occurs that the tugboat used in taking away the filled barges and replacing empties is delayed and the dredge has to suspend operations until such time as the tugboat can make the transfer. During such periods dredge workers have nothing to do and can sit around and smoke their pipes in comfort until it becomes necessary for them to handle the lines to make the barges fast in position alongside the dredge or to effect a change in the position of the dredge or the floating pipe line.

"It also frequently occurs that by reason of stress of weather dredging operations have to be suspended, but inasmuch as all dredge workers are paid by the month and are provided with quarters and with subsistence on board, this stress of weather is a direct loss to the dredge owner, as under such conditions no work can be done. The dredge worker therefore renders no service, but at the same time suffers no reduction in pay or loss of quarters or subsistence, and under existing conditions the average day's work, month in and month out, will show that the dredge worker is actually engaged in labor but a comparatively few hours out of the 24; that is to say, his average daily labor every 30 days is less than eight hours per day.

"While it is true that the bill H. R. 18787, as amended by the Senate committee, restricts to eight hours work per day those who are engaged on the dredges in the capacity of engineers, enginemen, laborers, and others who are directly connected with the handling of the machinery and tools of the dredge, yet it remains a fact that these dredge workers, by reason of the fact that they are paid by the month and provided with quarters and subsistence and live on board the dredges, which are anchored offshore and engaged in work in a channel of a river or harbor, that this character of work is substantially the same as that rendered by persons in the field engaged in agriculture, who likewise are paid by the month and provided with quarters and subsistence and who are required to labor and do labor from sunrise to sunset. Yet these favored few dredge workers are by this special act to have what virtually amounts to an increase in pay of 33⅓ per cent, which increase must be paid for out of the pockets of the people, because of the fact that it will result in large increased cost in dredging, which additional cost is therefore a burden upon the very agricultural classes who are required to work from 12 to 16 hours per day.

"There is no doubt but that the reduction of the hours from 12 to 8 will increase the cost of river and harbor improvements; it was so admitted by Gen. Bixby, the Chief of Engineers, at the hearing before the Senate committee in charge of this bill.

"Now, assuming for the sake of argument that the last river and harbor act, which became a law at this session, appropriated $40,000,000, and that subsequent acts which, it is understood, are to be passed annually for river and harbor improvements, carry a like amount, it means that something over $10,000,000 annually will be required to do the same amount of work, or about one-third of the work will have to remain unprovided for in order to keep the bill within the same limit of expenditure—all this to benefit the few at the expense of the many.

"Furthermore, this Congress has already enacted an eight-hour law, which was approved June 19, 1912, and which, like this bill, contains a provision that it shall not apply to contracts that may be entered into under existing appropriations, thus clearly showing that existing appropriations are not sufficient to enable the Government to do the work contemplated by such appropriation act if such work is to be performed under the eight-hour law thus enacted.

"It is safe to say that the law, like that which it is now aimed to enact for the benefit of the dredge workers, will also be an additional charge upon the Government of at least $10,000,000 or $20,000,000 per year, all of which is made necessary because of the unreasonable demands of organized labor, and that this $10,000,000 to $20,000,000 is to be borne largely by the agricultural population, which is to be taxed out of their earnings gleaned from the sweat of their brow in the field from sunrise to sunset, their day's work being almost double that demanded and insisted upon by these dredge workers as a full day's work; thus this special class which, as organized, is holding up the Government at the expense of other labor which is engaged in cultivating products of the soil and which constitutes a large portion of the Nation's wealth."

Mr. McCUMBER. Mr. President, I do not know how this bill got to the committee that reported it. It seems to me that the proper reference would naturally have been to the Committee on Commerce, where one would look for bills of this kind to go; but I do not know that that makes any particular difference.

I have had this little statement read. I do not know how many Senators were paying attention to it, but I think those, if there were any, who paid attention to its reading, can easily see that we are carrying this matter of fixing hours of labor to extremes. I think we will all agree that if a laborer performs eight full hours of good, honest service a day it is perhaps better for him and better for the country at large that his labor should not extend beyond that many hours; but the conditions are such in many vocations that the work must necessarily be intermittent. In this particular case, Mr. President, as shown by the statement just read, which I think is undenied, there is not an average of eight hours a day labor performed by any man in any of the service contemplated. Those men are hired by the month and not by the day. They must necessarily rest at intermittent times and probably sit and smoke; they are imprisoned upon a ship or barge, living there and boarding there. I do not think that any benefit is to be obtained for the laborers themselves by providing that they must sit around the remainder of the few hours in which they might put in a full day's work. By a "full day's work" I mean eight full hours' work a day.

Mr. President, this is not alone an injustice, it seems to me, to all the people of the country, though it must affect very ma-

terially the cost of all Government work in the improvement of our rivers and harbors. Practically 90 per cent, at least, of all the dredging would apply to river and harbor work; and I think it is shown quite conclusively here that the cost would be from a quarter to a third more on account of the enactment of this bill, and that where heretofore we have appropriated $40,000,000 for rivers and harbors we should now have to appropriate $50,000,000 to accomplish the same result.

I speak of it also, however, as an injustice to other labor. To show to what extent such legislation is influencing labor in the agricultural districts, I want to say that we in our State were unable this fall to procure labor at $4 a day, and even $5 per day was offered upon farms. In some sections of our State the crops were ruined; the winter came on and the shocks were covered with snow. Immense losses were sustained by the farmers of my State because they could not get labor. Why? Because in all other lines of industry we have enacted laws that prohibit labor for any greater length of time than eight hours in each working day. The farm day is about 16 hours in each day—all the way from 12 to 16 hours—so that kind of labor will be very much cheaper per day and the laborer will therefore remain in the city rather than go to the farm.

I speak of this simply as an injustice to the farm labor of the country. If we are going to have an eight-hour-a-day system, it ought to apply everywhere; but, Mr. President, you can see how impossible it is to apply a system of that kind in our rural districts, and how those rural districts must necessarily suffer, because the effect of such a law is to drive all labor away from the farm.

But more particularly I object to this proposed legislation, Mr. President, because it would be an injustice to the country, for it really enforces less than eight hours per day labor, and would in effect compel eight-hour pay for five and six hours of actual labor performed.

It seems to me that this matter ought to have a reconsideration and be again at least voted upon after a proper time for a hearing. It was taken up the other day, as I understand, when very few Senators were in the Chamber. It had been objected to by one of the Senators because it was understood that the Senator from Minnesota had some amendments to offer. I made no objection that day, but the next day, while I was absent, the bill was suddenly called up and passed. I make no criticism of the method that was adopted, but merely explain what might be considered lack of diligence on my own part.

Mr. SHIVELY. Mr. President, this is a House bill. On reaching this Chamber it was referred to the Committee on Education and Labor. It relates to the application of the eight-hour-day principle in a certain department of Federal employment. The subject matter of the bill naturally and logically falls within the jurisdiction of that committee, and its reference by the Chair to that committee was manifestly proper. So far from being an improper reference, the bill, without clear impropriety, could not have been referred to any other committee.

On the contention of the senior Senator from North Dakota that the bill has not had adequate consideration, I must appeal from the Senator to the facts disclosed by the record. The bill went to the committee months ago. Hearings were had before the committee. The fullest opportunity was accorded to all interests concerned to be heard on its provisions. The bill was finally reported to the Senate, and for months has been on the Senate calendar. Last week I called it up and secured unanimous consent for its present consideration. The legislative, executive, and judicial appropriation bill was then in the Senate and in process of consideration. I had assured the Senator in charge of that bill that I would not insist on consideration at that time should it become apparent that the measure would lead to extended debate. That was the situation when the Senator from Arkansas [Mr. CLARKE] stated that he wished time to examine the bill further and to prepare an amendment that he had in mind to offer to it, and appealed to me to let the bill go over for that day. On that appeal, and because of the assurance to the Senator in charge of the appropriation bill, I felt constrained to consent to allow the bill to go over until a later day.

On last Monday I again called up the bill, and received the unanimous consent of the Senate for its consideration. There was a series of amendments reported by the committee. Each of these was considered and acted on in its order. Besides the committee amendments the Senator from Arkansas [Mr. CLARKE] offered his amendment and stated its purpose; the amendment was adopted and finally the bill was passed. There was a fair attendance in the Senate; the attendance was not as thin as the words of the Senator from North Dakota might impress us that it was. The bill had received careful consideration in the committee. It received more than the average consideration in the Senate. Nothing unusual or surreptitious occurred in handling the measure, and certainly no advantage was taken of any Senator.

Much of what the Senator from North Dakota [Mr. MCCUMBER] says in regard to this bill would apply equally well as a general objection to the principle of any eight-hour law on Federal work. This bill contemplates no organic change of policy on the part of the Federal Government on the subject of the length of the work day. That policy was projected over 40 years ago. All question on the subject was supposed to be finally foreclosed by the act of 1892, which, after the enacting clause, commences with these words:

SECTION 1. That the service and employment of all laborers and mechanics who are now or may hereafter be employed by the Government of the United States, by the District of Columbia, or by any contractor or subcontractor upon any of the public works of the United States or of the said District of Columbia, is hereby limited and restricted to eight hours in any one calendar day.

The act is in three sections, but the lines I have quoted contain the words to which I direct the attention of the Senate. When that act became law no one dreamed that the words "laborers and mechanics" did not comprehend the dredge workers on Government work. There is certainly no language in the statute expressly excepting dredge workers from the operation of the act and none which would even remotely suggest any purpose to make them the subject of an exception. But when the case of Ellis et al. *v.* United States came on for decision by the United States Supreme Court in 1907, the court held that these dredge workers fall within the category of seamen and are subject to maritime jurisdiction, and do not fall within the description of "laborers and mechanics" under the act of 1892. This was done by regarding the work of the dredgeman in moving the dredge or scow rather than his work of excavation as the paramount function of his employment, thus giving him the character of sailor and excluding him from the benefits of the act. In a minority opinion, three of the justices sharply dissented from the view of the majority on this point and insisted that whatever the dredgeman did in the nature of seaman's work was a mere incident to his employment in the work of excavation. From 1892 to 1907 it was believed by the Federal authorities that dredge workers were covered by the language of the act. It was on this theory that the prosecutions were started which resulted in the decision of the court in 1907. The bill passed by the Senate, and on which reconsideration is now moved, supplies a manifestly unintentional omission in the act of 1892.

Mr. MCCUMBER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Indiana yield to the Senator from North Dakota?

Mr. SHIVELY. Yes.

Mr. MCCUMBER. For information, may I ask the Senator right here if there is not a change proposed in the bill, and that is that the eight hours must be computed in continuous hours, and therefore if only six hours of work were performed—or five hours or four hours or three hours—it must be counted eight hours if it is done, say, between 2 o'clock and 4 o'clock, or between any other hours?

Mr. SHIVELY. The bill prescribes precisely the same conditions for dredge workers as to length of workday as are prescribed by the general eight-hour law for workers on other public works of the United States.

Mr. MCCUMBER. What I want to get at, if the Senator will pardon me, is whether or not dredge workers will actually work eight full hours in any one day if they are covered by this bill?

Mr. SHIVELY. This is simply a bill to extend to dredge workers the same law that now applies to other workers on Government work, and this whatever may be the incidents of that employment. If in the very nature of the employment there are, on occasions, spaces of time when they are not engaged in active physical exertion, that is one of the incidents of the occupation. For this no exception is made, and if the condition is inseparably incident to the employment no exception is practicable.

What the Senator says as to the length of hours of labor in certain other occupations is true. What he says of long hours of labor on the farm is true. I have experience in that respect. As a farm lad in certain seasons of the year I worked on the eight-hour rule—eight hours before noon and eight hours after noon. The exigencies of season and weather are peculiar to farm life. But the consideration which the Senator raises on this point again goes to the whole question of the policy of the Federal Government as to hours of employment on public work and certainly is not special to this bill. It is too late to insist with justice that dredge workers should be exceptions to that policy.

The Senator says that these dredge workers are imprisoned on the dredges, that they virtually live on the dredges, labor under peculiar conditions, and that their case should be considered with reference to these conditions. That conditions on the dredges, scows, and tugs are in certain respects quite different from conditions off of them is true. But the fact that it is a condition of this employment that the men are deprived of the associations, the comforts, the cheer, and consolations of home life hardly furnishes a good reason why they should be deprived of the security and benefits of the act of 1892.

Now, Mr. President, if it is proposed to reverse the policy entered on by the Federal Government over 40 years ago, and imitated by a large number of the States, there is room for an issue. If the wisdom of the policy is conceded, then there is no room for an issue on this bill. Every objection and consideration raised in the communication read from the Clerk's desk was thoroughly thrashed out before the committee. After patient attention to the subject, the bill was reported by the committee and passed by the Senate. While I do not seek to foreclose any Senator who desires to submit further observations to-day on this matter against an opportunity to do so, it must be understood that I shall move to lay the motion to reconsider on the table.

Mr. BURTON. Mr. President, I trust the Senator will withhold that motion until I can make a few remarks on the subject.

The PRESIDENT pro tempore. Does the Senator from Indiana withhold the motion?

Mr. SHIVELY. I withhold it; but I serve notice of my intention to make the motion.

Mr. BURTON. Mr. President, I think this bill should have further and more careful consideration in the Senate. I do not say that I intend to vote against it, nor do I agree with some of the statements made in the paper read at the desk. That statement fails to recognize the legislation recently adopted by Congress, making eight hours a day's work. We have passed some very advanced legislation in this regard. I do not agree with the estimate of the greatly increased cost of river and harbor work. While I am not sure that I heard it exactly, the statement seemed to imply that the cost of river and harbor work would be increased one-fourth or one-third by the passage of this bill, though, no doubt, it would cause a substantial increase.

I do not think any such serious result would follow. A very large share of river and harbor work is in other lines than in dredging, such as in the building of breakwaters and masonry work. But I do think this matter should be considered more fully, because of the intermittent quality of the work of these dredgers. They are oftentimes occupied only for an hour at a time, then there may be an interval of three or four hours, then another hour. So the question arises whether the eight-hour rule should be enforced as suggested in this statute. As it came from the House, it provided:

> Service and employment * * * is hereby limited and restricted to eight hours in any one calendar day, which eight hours shall terminate within nine hours from beginning of workday.

From the beginning of his work to the termination of nine hours, the dredger might not have three or even two or one hour's work to do. It is changed in the Senate—though the change is not very substantial—to read as follows:

> Which eight hours shall be continuous except for customary intervals for meals or rest.

Which would probably be the interpretation of the statute if it were passed in the form in which it came from the House.

As I understand, also, this bill applies to other employees, such as waiters and others on board the boats, whose work necessarily must be at certain hours of the day.

I think this bill should be considered also in connection with the measure now before the Committee on Commerce known as the seamen's bill. That bill, which passed the House of Representatives and which is advocated by the Seamen's Union, does not provide for less than 12 hours' work for an ordinary seaman. The work of the seaman is quite as severe and even more difficult than that of the ordinary employee on one of these dredges. Yet we are asked to pass a law which does not assume to limit the work of the sailor to less than 12 hours, notwithstanding he may be employed in the storm and rain and for much of the time under a constant strain.

There is another provision that was added by amendment here to the effect that this law shall not apply to work upon levees or revetments. What justice is there in making that exception? If you can require a man to work on a levee or on a revetment for 10 or 12 hours and exempt him from the operation of this measure, why should the law be enforced in these other employments?

Mr. President, I think this bill should be reconsidered, though the Senate has already enacted into law the general principle embodied in it.

Mr. SHIVELY. The question is still on the motion to reconsider. I do not propose to enter on a further general discussion of the bill. Not a single new question has been raised. Every phase of the subject presented by Senators was thrashed out before the committee. Some of the considerations raised are provided for by amendments now in the bill. Others will be found on reflection to be more fanciful than real, except as they apply against any legislation whatever on the subject of the Government workday. Enough has been said to suggest doubt of the fate of this legislation at this session should the motion to reconsider carry. I trust, when made, the motion to table will prevail.

Mr. SMOOT. I should like to ask a question of the Senator. Is this not a House bill?

Mr. SHIVELY. It is.

Mr. SMOOT. Then I do not see how it is going to be jeopardized by a reconsideration.

Mr. SHIVELY. There has been a series of amendments to the bill adopted by the Senate. These render it necessary for the bill to go back to the House. To throw the measure back into the Senate will unquestionably hazard final action on it.

Mr. SMOOT. It has not gone to conference yet, has it?

Mr. SHIVELY. It has not. On the day following its passage by the Senate the motion was entered to reconsider the vote by which it was passed. I understand that that motion is keeping it here.

Mr. SMOOT. My point was that it did not go to the House; it was recalled before the conferees met on the bill, was it not?

Mr. SHIVELY. The effect of the motion to reconsider was to keep the bill in the custody of the Senate until the motion to reconsider is disposed of. At all events, that has been the effect of the motion in this case. It is not the case of a bill recalled from the House. The bill not having gone back to the House, of course, the House has had no occasion to appoint conferees.

Mr. SMOOT. Mr. President, this is a matter of great importance. I believe in the principle involved, and perhaps would vote for the bill just as it is; but I believe it ought to be discussed, as stated by the other Senators. I do not believe the Senator ought to object to a reconsideration of it. We can reconsider it within a very few days. I do not believe there will be any objection within that time.

Mr. SHIVELY. I want to observe every obligation of courtesy, but this can not require me to consent to throw this bill back into the Senate and take the chance of its death, not from any lack of merit but from lack of time. Mr. President, I move to lay the motion to reconsider on the table.

Mr. NELSON. Mr. President, I hope the Senator will withhold that motion for a moment.

The PRESIDENT pro tempore. Does the Senator from Indiana yield to the Senator from Minnesota?

Mr. NELSON. I merely desire to make a brief statement.

Mr. SHIVELY. Certainly. I do not want to prevent the Senator making any statement he may desire to make. I withhold the motion for that purpose.

Mr. NELSON. Mr. President, this bill relates particularly to the matter of the operation of Government dredges in connection with our river and harbor improvement work. When the bill was introduced and referred to the Committee on Education and Labor, it escaped my attention. It ought to have gone to the Committee on Commerce. That committee has the consideration of all river and harbor improvements. In that connection, that committee has the consideration of everything pertaining to shipping and navigation. The committee is now engaged in considering two very important bills relating to our merchant marine service and the shipping in connection with it.

Within the next week we will consider the river and harbor bill. As this bill goes to the merits of that question, I think it ought to be reconsidered and referred to the Committee on Commerce for consideration, where a measure of this kind can be considered more carefully than anywhere else in its connection with our river and harbor improvements.

The PRESIDENT pro tempore. The question is upon the motion made by the Senator from Indiana to lay the motion to reconsider on the table.

Mr. SHIVELY. Before the question is put, a further word in reply. If this bill belongs to the Committee on Commerce, then a bill to regulate the hours of labor at the navy yard should go to the Committee on Naval Affairs. A bill to regulate the hours of labor on public buildings should go to the Committee on Public Buildings and Grounds. The bill applies particularly to dredge workers, because this is the only class of laborers on public work that is now deprived of the benefits

of the Federal eight-hour law. The contention of various Senators as to which committee should have charge of the bill only suggests the risk to the bill in the few remaining days of this session should the motion to reconsider prevail.

Mr. BURTON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Indiana yield to the Senator from Ohio?

Mr. SHIVELY. Certainly.

Mr. BURTON. I think I may say that conclusion does not necessarily follow. The reason for the suggestion of the Senator from Minnesota is the exceptional quality of this work in the improvement of rivers and harbors—a reason which would not exist in the case of an ordinary mechanic or other person engaged on public buildings. There is certainly here an exceptional condition, which should receive further consideration from the Senate.

The PRESIDENT pro tempore. The question is upon the motion made by the Senator from Indiana to lay the motion to reconsider on the table. [Putting the question.] The noes appear to have it.

Mr. SHIVELY. I call for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CHILTON (when his name was called). I have a general pair with the Senator from Illinois [Mr. CULLOM] and withhold my vote.

Mr. CLARK of Wyoming (when his name was called). I have a general pair with the Senator from Missouri [Mr. STONE]. In the absence of that Senator, I withhold my vote.

Mr. CURTIS (when his name was called). I am paired with the Senator from Oklahoma [Mr. OWEN] and withhold my vote.

Mr. DU PONT (when his name was called). I am paired with the senior Senator from Texas [Mr. CULBERSON]. As that Senator is not present in the Chamber, I withhold my vote.

Mr. THORNTON (when Mr. FOSTER's name was called). I announce the necessary absence from the Chamber of my colleague [Mr. FOSTER] on account of illness, and also that he is paired with the Senator from Wyoming [Mr. WARREN]. I will let this announcement stand for the day.

Mr. GARDNER (when his name was called). I have a general pair with the Senator from Massachusetts [Mr. CRANE]. In his absence, I withhold my vote.

Mr. LIPPITT (when his name was called). I transfer my pair with the senior Senator from Tennessee [Mr. LEA] to the Senator from New Mexico [Mr. FALL] and vote "nay."

Mr. RICHARDSON (when his name was called). I have a general pair with the Senator from South Carolina [Mr. SMITH] and withhold my vote.

Mr. CHILTON (when Mr. WATSON's name was called). I wish to announce for the day that my colleague [Mr. WATSON] is paired with the Senator from New Jersey [Mr. BRIGGS].

The roll call was concluded.

Mr. DU PONT. As already announced, I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. I will transfer that pair to the junior Senator from Nevada [Mr. MASSEY] and vote. I vote "nay."

Mr. WILLIAMS (after having voted in the affirmative). I have a general pair with the Senator from Pennsylvania [Mr. PENROSE], and therefore I desire to withdraw my vote.

Mr. BRADLEY. I am paired with the Senator from Indiana [Mr. KERN] and therefore withhold my vote.

Mr. STONE. My colleague [Mr. REED] is necessarily absent from the city on important business. I understand that he is paired with the Senator from Michigan [Mr. SMITH].

Mr. SMITH of Georgia. My colleague, the senior Senator from Georgia [Mr. BACON], is detained at home by a bereavement in his family.

Mr. MYERS. I have a general pair with the Senator from Connecticut [Mr. MCLEAN]. I transfer my pair to the Senator from Nevada [Mr. NEWLANDS], and I vote "yea."

Mr. CURTIS. I was requested to announce that the Senator from Maryland [Mr. JACKSON] is paired with the Senator from Oklahoma [Mr. GORE]; the Senator from New York [Mr. ROOT] with the Senator from Georgia [Mr. BACON]; the Senator from New Jersey [Mr. BRIGGS] with the Senator from West Virginia [Mr. WATSON]; and the Senator from Wyoming [Mr. WARREN] with the Senator from Louisiana [Mr. FOSTER].

The result was announced—yeas 31, nays 31, as follows:

YEAS—31.

Ashurst	Hitchcock	Overman	Smith, Ga.
Bryan	Johnson, Me.	Paynter	Smith, Md.
Chamberlain	Johnston, Ala.	Perky	Stone
Clapp	Johnston, Tex.	Poindexter	Swanson
Clarke, Ark.	Martin, Va.	Pomerene	Thomas
Dixon	Martine, N. J.	Shively	Thornton
Fletcher	Myers	Simmons	Tillman
Heiskell	O'Gorman	Smith, Ariz.	

NAYS—31.

Bankhead	Crawford	Jones	Perkins
Bourne	Cummins	Lippitt	Sanders
Brandegee	Dillingham	Lodge	Smoot
Bristow	du Pont	McCumber	Stephenson
Burnham	Gallinger	Nelson	Sutherland
Burton	Gamble	Oliver	Townsend
Catron	Gronna	Page	Wetmore
Clark, Wyo.	Guggenheim	Percy	

NOT VOTING—33.

Bacon	Curtis	Lea	Smith, Mich.
Borah	Fall	McLean	Smith, S. C.
Bradley	Foster	Massey	Warren
Briggs	Gardner	Newlands	Watson
Brown	Gore	Owen	Williams
Chilton	Jackson	Penrose	Works
Crane	Kenyon	Reed	
Culberson	Kern	Richardson	
Cullom	La Follette	Root	

So the Senate refused to lay the motion to reconsider on the table.

The PRESIDENT pro tempore. The question is upon the motion of the Senator from North Dakota [Mr. MCCUMBER] to reconsider the votes whereby the bill was ordered to a third reading, read the third time, and passed.

Mr. MCCUMBER. Mr. President, I suggest the want of a quorum.

The PRESIDENT pro tempore. The Senator from North Dakota suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Bankhead	Dixon	McCumber	Simmons
Bourne	du Pont	McLean	Smith, Ariz.
Bradley	Fletcher	Martin, Va.	Smith, Ga.
Brandegee	Gallinger	Martine, N. J.	Smith, Md.
Bryan	Gamble	Myers	Smoot
Burnham	Gardner	Nelson	Stephenson
Burton	Gronna	O'Gorman	Stone
Catron	Guggenheim	Oliver	Sutherland
Chamberlain	Heiskell	Overman	Swanson
Chilton	Hitchcock	Page	Thomas
Clapp	Johnson, Me.	Percy	Thornton
Clark, Wyo.	Johnston, Ala.	Perkins	Townsend
Clarke, Ark.	Johnston, Tex.	Perky	Wetmore
Cullom	Jones	Poindexter	Williams
Cummins	La Follette	Richardson	
Curtis	Lippitt	Sanders	
Dillingham	Lodge	Shively	

The PRESIDENT pro tempore. On the call of the roll 65 Senators have answered to their names. A quorum of the Senate is present. The question is on the motion made by the Senator from North Dakota [Mr. MCCUMBER] to reconsider the votes whereby the bill was ordered to a third reading, read the third time, and passed.

Mr. POINDEXTER. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. DU PONT (when his name was called). I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. I transfer that pair to the junior Senator from Nevada [Mr. MASSEY] and vote. I vote "yea."

Mr. LIPPITT (when his name was called). I again announce the transfer of my pair with the senior Senator from Tennessee [Mr. LEA] to the Senator from New Mexico [Mr. FALL]. I vote "yea."

Mr. RICHARDSON (when his name was called). I again announce my pair with the junior Senator from South Carolina [Mr. SMITH] and withhold my vote.

Mr. WILLIAMS (when his name was called). I have a pair with the Senator from Pennsylvania [Mr. PENROSE]. I therefore withhold my vote. If he were present, I should vote "nay."

The roll call was concluded.

Mr. CHILTON (after having voted in the negative). I inadvertently voted when my name was called, not knowing that the Senator from Illinois [Mr. CULLOM] is out of the Chamber. I will transfer my pair with the Senator from Illinois [Mr. CULLOM] to the Senator from Nevada [Mr. NEWLANDS] and let my vote stand.

Mr. LODGE. I desire to announce that the Senator from New York [Mr. ROOT] is paired with the Senator from Georgia [Mr. BACON].

Mr. DILLINGHAM (after having voted in the affirmative). I should like to inquire whether the senior Senator from South Carolina [Mr. TILLMAN] has voted.

The PRESIDENT pro tempore. The Chair is informed that that Senator has not voted.

Mr. DILLINGHAM. Then I withdraw my vote, having a general pair with that Senator.

Mr. BRADLEY. I again announce my pair with the Senator from Indiana [Mr. KERN] and withhold my vote.

The result was announced—yeas 27, nays 37, as follows:

YEAS—27.

Bankhead	Crawford	Lippitt	Sanders
Brandegee	du Pont	McCumber	Smoot
Bristow	Gallinger	Nelson	Stephenson
Burnham	Gamble	Oliver	Sutherland
Burton	Gronna	Page	Townsend
Catron	Guggenheim	Percy	Wetmore
Clark, Wyo.	Jones	Perkins	

NAYS—37.

Ashurst	Hitchcock	O'Gorman	Smith, Md.
Bourne	Johnson, Me.	Overman	Smith, Mich.
Bryan	Johnston, Ala.	Paynter	Stone
Chamberlain	Johnston, Tex.	Perky	Swanson
Chilton	La Follette	Poindexter	Thomas
Clapp	Lodge	Pomerene	Thornton
Clarke, Ark.	McLean	Shively	Works
Dixon	Martin, Va.	Simmons	
Fletcher	Martine, N. J.	Smith, Ariz.	
Heiskell	Myers	Smith, Ga.	

NOT VOTING—31.

Bacon	Cummins	Kenyon	Richardson
Borah	Curtis	Kern	Root
Bradley	Dillingham	Lea	Smith, S. C.
Briggs	Fall	Massey	Tillman
Brown	Foster	Newlands	Warren
Crane	Gardner	Owen	Watson
Culberson	Gore	Penrose	Williams
Cullom	Jackson	Reed	

So Mr. McCUMBER's motion to reconsider was not agreed to.

ADJOURNMENT TO MONDAY.

Mr. SMOOT. I move that when the Senate adjourns to-day, it adjourn to meet on Monday, January 27.

The motion was agreed to.

AGRICULTURAL EXTENSION DEPARTMENTS.

Mr. SMITH of Georgia. I move that the Senate proceed to the consideration of House bill 22871 to create extension departments in land-grant agricultural schools.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 22871) to establish agricultural extension departments in connection with agricultural colleges in the several States receiving the benefits of an act of Congress approved July 2, 1862, and acts supplementary thereto.

Mr. SMITH of Georgia. Mr. President, I desire to ask the Senators very briefly to hear me call attention to the differences between the bill as it comes from the House and the substitute which has been offered for it. The House bill carries an appropriation of $3,000,000 only. That appropriation is solely for the purpose of establishing extension departments at the land-grant agricultural colleges. The character of the work of those extension departments is familiar to the Senate, the work being especially to place representatives of the colleges in different parts of the States to demonstrate at the homes of the farmers the truths that have been developed during the past 25 to 50 years in the land-grant colleges and the experiment stations. The substitute which is offered by the Senator from Vermont [Mr. PAGE] proposes to appropriate $16,000,000 annually, instead of $3,000,000. It carries six distinct plans of work in addition to the extension work. What I desire to urge is that the bill of the Senator from Vermont has been assigned for consideration by unanimous consent immediately after the 30th of this month, and it ought to be allowed to come up on its merits for full consideration, rather than to be now substituted for the House bill, which is so different in its character. I wish to call the Senate's attention to the provisions of this proposed substitute that are in addition to the provisions of the House bill.

First, the proposed substitute would appropriate $3,000,000 to schools of secondary grade for instruction in agriculture, in the industries and trades, and in home economics. How many of those schools are there? Over 13,000. Suppose the States add $3,000,000 more, you would have $6,000,000 to be distributed among 13,000 schools to establish departments of agriculture, of industries and trades, and of home economics; you would have a few hundred dollars for each school, and effective work would be impossible; it would be a mere spreading abroad a few hundred dollars at each secondary school throughout the entire land. It would not be sufficient to accomplish the work desired.

The second appropriation is for $3,000,000 for schools of the secondary grade, with distinct departments in which the industries and the trades and home economics are taught. My criticism upon the appropriation is that there should be some requirement as to the amount of investment in the separate departments dedicated to instruction in the industries and the trades and home economics, or else, again, your $3,000,000 might be scattered abroad and do no good.

For practical work it takes a substantial plant to teach the industries or the trades. I think the experience of those cities which have undertaken to introduce special instruction in the industries and trades has demonstrated that a substantial plant is necessary for the conduct of the instruction. Specialists, trained with their hands to conduct the work, and with mental strength enough to teach, are required as instructors, and such men are called to places as superintendents of manufacturing plants. They command good salaries. To make effective even this second appropriation, there ought to be a requirement as to the amount of money invested in the plant and the amount of money spent at each one of the schools conducting an industrial department, lest our money simply be wasted.

There is another criticism as to these two appropriations. They are to be directed by a vocational board, which, in turn, must establish rules subject to the approval of the Secretary of the Interior. It introduces the national control into all of our secondary schools. I am not sure that many of the States are ready to submit their high schools or their schools of secondary grade to the supervision of the National Government. They are home enterprises; they are now controlled largely by home trustees; and I doubt whether many States would make an appropriation to meet an appropriation of this kind by the National Government, if by so doing control of ordinary high schools largely passed to the National Government.

The third appropriation of $3,000,000, under the proposed substitute, is for agricultural high schools. Let us see just what they are to be. They are to be in districts in each State, with not less than five counties nor more than 15 counties. Before they can receive national aid they must be established with a special plant, including quite a large tract of land. So far as I am personally concerned and my own State is concerned, I should be delighted to see this provision pass. We already have in each congressional district an agricultural high school. Each plant has cost us over a hundred thousand dollars. You can not establish a successful agricultural high school of the character contemplated in this bill for less than a hundred thousand dollars for the plant. So, if that $3,000,000 is to be utilized in each one of the States practically for each congressional district, there must be a preliminary investment of something over $100,000 to establish the plant.

As we have already gone to that expense and as we are appropriating $120,000 a year to support these 11 district agricultural schools in the State of Georgia, we are ready to take any part that can come from the National Government. We have already made our appropriation. I would be delighted to see the Senate and the House of Representatives agree to add that measure to the bill as it has passed the House, but I would hesitate to consent to its being substituted here, for the reason that I fear so many of the States have not already gone to this expense, and such hesitation could exist about passing such an appropriation that the entire bill might be stopped if we insisted upon putting that amendment on it.

The next appropriation, for about a million dollars, is for the establishment of branch experiment stations throughout the States, each one of these experiment stations to be located, in accordance with the terms of the bill, at one of the agricultural colleges.

I think that the substitute bill confuses the work of an experiment station and the work of a demonstration farm. I believe in having a demonstration farm at each district agricultural high school; but experimentation is not the proper thing for a high school. Experimentation in agriculture is the work of the trained student, of the scientist in testing out truth. Demonstration is the application of that truth before those, perhaps not scientists, to show them by its practical application that a process claimed is true. The agricultural high schools will all need demonstration farms, but not experiment stations.

That part of the appropriation, I think, might well, when we come to pass upon it, be divided in two ways—one half of the amount to be given to the agricultural high schools for demonstration work and the other half to be given to the experiment stations, which shall select places over the State wherever experimentation is required to test out unknown problems and to change from the unknown to the known and established truths.

Those are the four largest appropriations. It also gives, in round numbers, a million dollars to the colleges of agriculture to establish departments to educate teachers in these specialties, and also to the normal schools a million dollars to train specialists for the work as teachers.

It seems to me, Mr. President and Senators, that substantial modifications must be made in the substitute before we shall be ready to adopt it. What is meant by the first suggestion of $3,000,000 to go to schools of secondary grade for instruction

in agriculture, in trades and industries, and in home economics? Shall each one of these schools have instruction in all three branches? The fund is entirely inadequate to launch out on such a field of work. Instruction in agriculture is not a proper specialty to be introduced into the cities, where the children are not going to engage in agriculture. Instruction in the industries and trades probably would not be suited to some other high schools. There is no plan of division of the work.

If we are trying to reach out for additional work in the line of agriculture to instruct the children beyond the knowledge which is to be given them at the colleges and high schools, I would suggest that along with the demonstrator from the college of agriculture in the different localities of the State there should be a trained agricultural educator who could visit the schools—not the high schools, but the agricultural grammar schools, where 95 per cent of the boys who work on the farm are at school—and explain to those boys in advance what is about to be done in the demonstration field, how the ground shall be prepared, how the seed shall be selected, how the crop shall be cultivated, and spend the money training boys for agriculture by using skilled teachers, covering a considerable area of territory, who would invite the teachers and the scholars to study with them, largely through the utilization of the demonstration farm or the demonstration patches or the demonstration work that is carrying the knowledge of the colleges of agriculture and the experiment stations to the fathers and mothers throughout the various localities alongside their homes.

It might be that the first appropriation of $3,000,000, mixed, as it is, between agriculture, the industries and trades, and home economics, might be so modified as to give half of that sum exclusively to agriculture and let it be spent, not in the high schools all over the land, where the majority of the children are not concerned with agriculture, but be spent by using educational leaders in different areas of territory who will visit and organize agricultural instruction in the rural schools, for 95 per cent of the farm children are in the rural grammar schools and not in the city high schools.

Then, add to the industrial work the million and a half saved and give something like four and a half million dollars to schools that really are doing industrial work, that have a plant, and that are organized for something practical and substantial. Then the limitation should be placed upon it that no money should go to any school that has not a plant certainly worth $5,000, and I should say $10,000, and did not spend as much as $10,000 a year for industrial or trade instruction.

But, Mr. President and Senators, why should you substitute that bill for the bill that has come from the House? I understand that Senators will have an opportunity to vote for it; it will have its day in court in a few days; it will come up regularly for action immediately after the constitutional amendment is disposed of, as it is set by unanimous consent for that time. I have only called attention to its features sufficiently to indicate, if I can, that it is entirely a different measure from the measure which has come from the House. They are not substitutes for each other at all. The measure from the House is simply an appropriation to perfect the work of the Morrill Act and the Hatch Act. It is simply to complete this great work that has been going on for 50 years—first, the agricultural college 50 years ago and, then, the experiment station 25 years ago. Now, as the call is coming to both of these institutions to carry the knowledge they have gathered, to carry the truths they have proved, to the whole people engaged in agriculture, to carry them to the farmer, to the farmer's wife, and to the farmer's child, and let the 49,000,000 people who are on the farm have the benefit of this knowledge, the House of Representatives has sent us a bill which will meet the call. That is the bill that the House sent you; that is all.

That we are ready for it nobody questions. That it ought to pass the friends of the substitute concede, for it is included in not quite so perfect shape in the substitute bill. Not originating with the Senator from Vermont at all, not originating with those of us who have presented it to the Senate and the House, but originating as far back as five years ago from the necessities of the situation, from the demand for the work by the people at home. The demand has been made of the heads of the colleges of agriculture and the experiment stations; it has so pressed upon them that they have already taken steps, to the extent of the funds within their reach, to do something along the line of this work; and where it has been done its beneficial effects to the people touched have been almost beyond what could have been hoped.

That within 10 years the House bill will double the production per acre I have no question. That the application of the knowledge ready for demonstration can make an acre of land yield 75 or 100 bushels of corn where frequently to-day only 15 or 20 are raised I have seen demonstrated and I know from practical experience and from personal observation. I have seen the demonstrated truths from the college of agriculture carried to the field and put on the land, and I have seen the corn product quadrupled and more than quadrupled by the application of the knowledge which their experimentation had demonstrated to be truth. I have seen it applied to the cotton field; I have seen it applied to the oat field; I have seen it applied to the potato field. I have heard from other States of its application. Before our committee we had testimony from all over the land to the wonderful blessings which came to the men to whom these truths were carried and taught by practical demonstration.

We have the assurance of the Director of the Office of Experiment Stations experience has taught that they can not carry these truths to the men who need them simply by pamphlets; that the one great available way is to recognize that agriculture is an art as well as a science, and to go and do this work in the presence of the farmer, so as to bring to the farmer a knowledge of the benefits which they have learned can be conferred upon him.

I have no doubt that the knowledge yet to be learned through our colleges of agriculture and our experiment stations is far greater than that they have already learned. I believe it is still a great book full of unknown knowledge, to be acquired by study and experimentation and to be carried to the field to bless the human race.

My deep interest in this House measure is due to the fact that I do not discuss it without having seen it tried. We had the privilege in the State of Georgia of giving $50,000 for demonstration work to our State college of agriculture, and I have seen the good it has done. I would have the State colleges of agriculture in every State in the Union given funds sufficient to carry to the people the blessings which I am sure they could give if we furnished them the means.

The legislatures are in session. In a number of the States they meet biennially, and another session will not occur for two years. This extension work of the department must be accepted by the various States to bring its full benefit to the people of the States. This bill has been before the Senate now for more than 12 months, and I would have it passed. We have received it from the House. There are one or two small amendments that are suggested—one by the Senator from Ohio, which I am prepared to accept. He desires, at the end of section 2, to strike out the period and to add the words "and farm management work." It seems that in some of the States that is the term used, and it was thought necessary to add that phrase to cover that work. It is entirely acceptable to the friends of the measure.

Another is a suggestion from the Senator from Wyoming that the term "Territories" as well as "States" might be added, so that the beneficial effects of the measure may be felt in our Territories as well as in our States. I have no objection to that. We were considering that matter ourselves. We were not exactly sure how it could be handled, and that was why we did not undertake to put in the Territories. But I understood the Senator from Wyoming to say that he had an amendment which would cover it, and that it would carry the beneficial effects of the bill to the Hawaiian Islands. I am not seeking to limit it so as to exclude the Territories from what I consider the very great benefits of the bill. I wish to say that I appreciate the magnificent work that the Senator from Vermont has done in the study of the problem of vocational education.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER (Mr. NELSON in the chair). Does the Senator from Georgia yield to the Senator from North Carolina?

Mr. SMITH of Georgia. Certainly.

Mr. SIMMONS. On the question of amendment to the bill I have had in mind an amendment which I have not offered and which I may not offer, because in the present state of the law it may not be feasible. I have received communications from my State with reference to the subject to which I am going to call the attention of the Senator, and I wish to ask him whether, in his judgment, it would be feasible to attach such a provision to the bill to meet the situation in my State and, I presume, in some other States.

The bill provides for an appropriation for a college of agriculture and mechanic arts for the purpose of extending agricultural work and home economics. In my State we have an agricultural college, and instruction in that college is confined exclusively to males. Then, we have our State normal schools for the instruction of females. In the agricultural depart-

ment, as I understand from the communications I have received, they have never taught home economics. In the normal schools for females they do teach home economics.

Does the Senator think it would be feasible so to amend the bill as to allow this fund in States situated like mine to be divided up between the agricultural college and the normal schools for women? I merely want to get the Senator's view about it. I presume the difficulty is that this is to carry out a law already in operation and that does not apply to any colleges except agricultural and mechanic colleges. Does the Senator think it would be feasible by a provision of law to make a division of this fund to meet a situation of that kind?

Mr. SMITH of Georgia. I think it would be a great mistake to undertake to divide it. In the first place, the bill requires that 75 per cent of the expenditure shall be used for practical and actual demonstration work. The home economics that will be taught will be largely in the line of dairying and work of that kind. I think it would be a mistake to scatter the fund. I think the $6,000,000 will really be as little as we could hope substantially to cover the States with, and that to undertake to separate the responsibility and transfer any of it to the normal schools would be to defeat the very plan of the bill.

The object of the bill is to carry to the farmers truths that have been and are being worked out by duly constituted organizations which may be regarded as national in their character. Though now supported perhaps not one-fourth by the contribution which comes from the National Government, their existence was the result of the inspiration they derived from the national contribution. The bill is limited in its scope, based upon the recognition of the fact that these two agencies already receiving national aid, and as much national children as State children, have a fund of knowledge and a fund of information and a store of truths that the whole people engaged in farming can not use unless some outlet is furnished to carry those truths to them. It is the entire scheme of the bill to furnish a way to take these truths to the farmer's home and let the farmer and his wife and children have and use them.

Mr. WORKS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from California?

Mr. SMITH of Georgia. Certainly.

Mr. WORKS. The Senator from Georgia has spoken about the futility of expending any part of the money provided under the substitute bill in the city high schools, because it is fair to presume that the boys attending those schools will not become farmers. Does the Senator understand that the use of the money in those schools is compulsory under the bill, or is there a discretion left in the authorities to use it where it will be beneficial?

Mr. SMITH of Georgia. I think there is a discretion. But what I was endeavoring to suggest was that we ought to make a division of the subject ourselves in our plan. What I suggested was that instead of joining in the first appropriation instruction in agriculture, the industries, and the trades, and home economies, and giving $3,000,000 to those three without classification and without separation, it would be far better to make a distinct appropriation for farm instruction to reach the agricultural or rural grammar schools, where the great part of the farm children go, and to spend what we intend to spend for the farm children other than through the agricultural high school by an agricultural instructor assigned to a territory to carry his instruction into the rural grammar schools; and then to use the part that was intended for instruction in the industries and trades, by consolidating it with the second branch of the appropriation, which was $3,000,000, enlarging that appropriation, and undertaking to do that work where there was a plant, I having undertaken to press the fact upon the Senate that it required a plant and required a substantial investment to obtain substantial results from instruction in the trades and industries——

Mr. PAGE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Vermont?

Mr. SMITH of Georgia. Certainly.

Mr. PAGE. The Senator from Georgia is addressing himself to Senate bill No. 3, which is now pending before the Senate. I am violating no confidence when I say that he and I have recently had a number of conferences following a suggestion that some compromise be made between the two bills. In these conferences the features of Senate bill No. 3, which he regarded as objectionable, were thoroughly discussed. I had understood that we had come to a meeting of minds with regard to the criticisms which he is now urging—that they had all been taken care of by a compromise bill which he had approved—and until this afternoon I had understood that we were in perfect accord upon the principal features of the compromise.

The objections which he has just raised on the floor to Senate bill No. 3 were raised by him in previous conversations, and have been met to the satisfaction of the Senator from Georgia, if I understand aright, in the proposed compromise measure containing the present Lever bill and the present Senate bill No. 3 with minor amendments.

He says that he feels that the $3,000,000 given by Senate bill No. 3 for agricultural, industrial, and home economics education in departments of secondary schools would be wasted because of the lack of proper safeguards standardizing the work. This objection has been met in the proposed compromise bill, which would undoubtedly go before a joint conference between the two Houses, should my motion to substitute the Page bill after the enacting clause of the Lever bill, now pending, prevail.

It has been done by confining the instruction in rural schools to agriculture and home economics, leaving the instruction in trades and industries to be given in separate and distinct departments or schools in towns and cities, $4,000,000 being annually appropriated for this purpose.

In addition, the experience and qualifications of the instructors in agriculture and home economics have been prescribed in the bill. Such instructors are required to give all of their time to the school work.

I make the above statement for the purpose of showing clearly that it is no defense of or argument against the motion to substitute the Page bill for the Lever bill to say that there are objectionable features in the Page bill. Such changes in the Page bill as meet with the approval of this Senate could be made either by action upon this floor now or by the committee of conference, as might be deemed advisable after its report had been returned to this body. It is doubtful if any measure in this new and difficult field can otherwise be brought to such perfection as to command the general approval of the Senate.

I believe that the changes which I understood to have been agreed upon with the Senator from Georgia safeguard certain things in the bill and strengthen it in the opinion of those best qualified to pass judgment upon it.

I have the highest regard for the Senator from Georgia as the most profound thinker and student upon this matter of vocational education of any Senator with whom I have ever talked, and I have great respect for his opinions and his ability. I very much regret, however, that after our conferences of the last few days he has thought it necessary to urge upon the Senate action upon a special bill for agricultural education for the adult farmer in such a way as to put in jeopardy the program for widespread vocational education petitioned for by organizations representing a very large majority of our educators, provided for in Senate bill No. 3, and which this Government should adopt and enter upon at once if it is to preserve the prosperity of its people.

Mr. SMITH of Georgia. I understand, then, the Senator desires to offer a substitute for his present substitute. I was discussing the measure as it is still before the Senate, the only substitute that is before the Senate. If the Senator from Vermont intends to present this additional substitute, I would be glad to yield and let it be read.

Mr. PAGE. I would be very glad indeed to present it. I was waiting for an opportunity to do so.

The PRESIDENT pro tempore. The hour of 2 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. CUMMINS. Inasmuch as the time has been fixed to consider and vote upon this measure, I ask that it be temporarily laid aside.

The PRESIDENT pro tempore. The Senator from Iowa asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none.

Mr. SMITH of Georgia. Mr. President, the Senator from Vermont and I have had several conferences recently. I have had conferences both with him and the experts who have been studying these measures, and I know that the question of redrafting in some respects the present substitutes has been considered. If the Senator from Vermont contemplates presenting another substitute for the substitute he now has pending, I think probably I had better suspend and yield to the Senator from Vermont to let that be read first.

Mr. PAGE. Mr. President, I wish to yield absolutely to the wishes of the Senator from Georgia in that regard. If he wishes to finish his remarks, I would be very glad to have him do so.

But I thought I would suggest to him that he was addressing himself to another bill than the one I had supposed he and myself were in perfect accord upon.

Mr. SMITH of Georgia. I have said all I desire to say about the measure that I understand is before the Senate just at this time. I think if the Senator has determined to present another substitute it ought to be presented.

The PRESIDENT pro tempore. Does the Senator from Vermont withdraw the amendment previously offered and submit an amendment in lieu thereof?

Mr. PAGE. I do, Mr. President, with the consent of the Senate.

The PRESIDENT pro tempore. That is the Senator's privilege.

Mr. PAGE. I then ask leave to withdraw the amendment to the bill under discussion which I offered several days ago, and substitute therefor another amendment. I would prefer to explain to the Senate what the substitute means before it is read by the Secretary, if there is no objection.

Mr. SMITH of Georgia. I yield, then, to the Senator from Vermont.

The PRESIDENT pro tempore. The Senator from Vermont will proceed.

Mr. CUMMINS. Mr. President, I am interested in one thing especially stated by the Senator from Vermont. I infer from his statement that he has now a bill which he proposes to substitute for the House bill in which the Senator from Georgia concurs.

Mr. SMITH of Georgia. No; I do not mean that. I have never concurred in the proposition——

Mr. CUMMINS. I understood the Senator from Vermont to say that.

Mr. SMITH of Georgia. I have never concurred in the proposition that any substitute should come in here and stop this bill. The Senator from Vermont called on me with an expert on the subject, and I undertook to point out defects in the bill he had offered as it was then pending. I presented my criticisms, and I understood that they agreed that my criticisms were sound, and they have rewritten their bill. I have been unable to carefully examine it.

I think it is a mistake to try to perfect the vocational bill as a substitute for this House bill. I think we ought to pass the House bill as we have it and perfect the bill of the Senator from Vermont when we reach it on the 30th. But if the substitute of the Senator from Vermont is to be passed instead of the House bill, of course I am anxious to see it just as near the legislation which I think ought to be had as possible.

Mr. CUMMINS. I think I understand better now. I rather inferred from the statement of the Senator from Vermont that he has a bill here that is acceptable both to the Senator from Georgia and the Senator from Vermont and that practically it is to be presented with their joint approval, so that we might consider the controversy at an end so far as they are concerned.

Mr. PAGE. Mr. President, perhaps I ought to make a brief explanation before I go on and state what the substitute is which I propose to offer.

As will be remembered, at the discussion which we had recently in the Senate with reference to the substitution of my bill, the Senator from Georgia said that there were objections to my bill which he thought could be remedied. I thought that there was then a prospect in sight that a bill acceptable both to the Senator from Georgia and myself could be written. Having that supposition in mind, as the Senator said, I went to his home with an expert and said to the Senator, "Tell me the objections which you have to the original Senate bill No. 3." He, with a good deal of elaboration, and, as I think, ability, explained its defects. I said then to the Senator (and I hope the Senator will correct me if I make a mistake), "This bill shall be rewritten in accordance with your suggestions, and it will be submitted to you for your approval; and if when resubmitted there are further objections, I would like to have you name them."

I afterwards saw the Senator, and he said, "The bill seems to me to be very good"; and even as late as this morning I said, "Senator, if there is anything about the bill as rewritten that you think should be changed I should like to have you so state to me, because I think we can probably reach an agreement, since we are in such perfect accord in regard to the fundamentals of this measure."

The Senator, in debating the question this morning, has argued in favor of the Lever bill. The Lever bill is Senate bill No. 3 as to one feature. It is true the Lever bill appropriates $3,480,000 for college extension work, while the Page bill, or Senate bill No. 3, appropriates only $3,000,000 for this particular feature of the bill. I care nothing about that difference. I am very glad indeed to make an amendment to Senate bill No. 3 to meet exactly the Lever bill. So in the amendments submitted to the Senator from Georgia, as I stated, there were incorporated, word for word, without so much as the change of a comma, the provisions of the Lever bill for agricultural extension departments.

So far as the Lever bill is concerned, all debate in favor of that bill by the Senator from Georgia is equally an argument in favor of Senate bill No. 3.

The next provision which was debated by the Senator and myself was the branch-station feature of the bill. One million dollars are appropriated under Senate bill No. 3, known as the Page bill, for branch-station work. I want to say that of all the features of the bill, that, perhaps, has received the greatest criticism. At a meeting held here in Washington in December, 1911, at which Dean Russell, of the Wisconsin University, and Dr. Thompson, of Ohio University, were both present, their position was substantially that they did not approve of any research work at any experiment station connected with district agricultural schools. At their suggestion an amendment was then prepared that made these branch stations, so called, simply testing and breeding stations of cattle, qualities of seeds, and some minor work.

I supposed at that time that this change met the criticism of those who opposed Senate bill No. 3 because of this experiment-station feature; but I am frank to say that in the discussion and correspondence I have had during the past two years that feature of the bill has perhaps been criticized more than any other, and as all measures are somewhat the result of compromise, I cheerfully assented to the suggestion that we eliminate the $1,000,000 for the experiment stations in connection with these district agricultural schools.

The next suggestion of amendment made by the Senator from Georgia, as I remember it, was the impracticability of teaching the industries in rural schools. The Senate will remember, perhaps, that Senate bill No. 3 reads "for the teaching of agriculture, the trades and industries, and home economics in rural schools," and an appropriation of $3,000,000 was made therefor. As I have stated, in order to meet the views of the Senator from Georgia—and I think they are sound—we eliminated the industrial-school feature from the rural schools and reduced the amount appropriated for that purpose to $2,000,000, adding the million dollars taken off at that point to the appropriation made for the benefit of industrial schools in the towns and cities, because under the bill, as it will be amended, agriculture gets $3,480,000 for the college extension work, it gets $3,000,000 for the different agricultural high schools, and it gets $2,000,000 for the district agricultural schools, making $8,480,000 in all as against $4,000,000, as the bill is rewritten, for the industrial schools.

That seemed to be a fair division—$8,480,000 for agriculture and $4,000,000 for industrial schools—although, as is well known, the rural population of our country to-day is only about one-half of our total population.

I think those who favor the appropriations in Senate bill No. 3 for industrial education are content. I believe they are satisfied with $3,000,000, and that they are pleased now to think that industrial education has been taken from the rural schools, where they felt they might not get any substantial benefit from it, and that $1,000,000 has been transferred to industrial education in the city schools.

The next objection urged to this bill at our conference, and it has also been urged by the Senator from Georgia this morning——

Mr. SMOOT. May I ask the Senator a question?

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Utah?

Mr. PAGE. I am very happy to yield.

Mr. SMOOT. I should like to have the Senator explain as to the secondary grade or high schools. There is an appropriation of $3,000,000 for that class of schools, and it is for the purpose of teaching agriculture, industries, trades, and home economics. I understand there are about 13,000 or more such schools. Does the Senator think that that amount of money distributed among 13,000 schools for the teaching of these four subjects will be sufficient to do any particular good? And if not, why not state positively just what that will be expended for—whether it shall be for agriculture, for the industries, for the trades, or for home economics? Because, it seems to me, that with that amount of money divided up into 13,000 schools the amount will be too small and that none of them would get any particular advantage from it.

Mr. PAGE. I wish to say that I am not at all disturbed by these interruptions. I only wish that every Senator here might

interrupt and that we might have a full discussion of this measure, so that all Senators would understand its provisions.

I do not know how many schools will avail themselves of the provisions of this bill. It is not believed that many will do so except in localities where there are consolidated rural schools, so called, and in the larger villages; and there will not, in the judgment of educators, be anything like the number named by the Senator from Utah. All that I can say in regard to the bill is that I have submitted it to the educators of every State. During the last two years I have written to every governor, every board of education, and to every superintendent of public instruction. I have asked them all to suggest amendments to the bill, and, Mr. President, there has been, with scarcely an exception, an approval of the measure. I can say positively that 35 States, and I can give them by name if any Senator desires, have taken the bill under discussion and carefully analyzed it and said it was good.

Mr. CRAWFORD. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from South Dakota?

Mr. PAGE. Certainly.

Mr. CRAWFORD. The bill as I understand it purposes that for every dollar paid by the Federal Government, before it can be made available in any State that State must appropriate and provide an equal amount, so that the Federal appropriation represents only one-half the amount which will be used.

Mr. PAGE. The Senator is mistaken. The bill provides that for every dollar appropriated from the Federal Treasury two dollars shall be added.

Mr. CRAWFORD. So much the better.

Mr. PAGE. I wish to say in this connection that educators say that the way this bill will work out will be this: The Federal Government, for instance, will give $500 for a school, the State will add to it another $500, making $1,000, and then the local community will add another thousand dollars, making $2,000 for every $500 from the Federal Treasury. Indeed, it is said by Dr. Thompson, of the Ohio State University, who has been before our Committee on Agriculture and Forestry, that the amount expended by the State of Ohio for agricultural colleges exceeded by forty times the amount that they drew from the Federal Treasury under the Morrill Act; and I think one of the educators who appeared before our committee from Rhode Island said that in his opinion, on the average, every State of the Union would pay thirteen or fourteen times as much as is contributed by the Federal Treasury.

This bill is not designed to place upon the Federal Government the chief burden of conducting our schools. It is designed to go ahead and blaze the trail, to stimulate and encourage the States to take up this vocational work, and it is designed that they shall bear the greater portion of the burden.

Mr. SMOOT. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield further to the Senator from Utah?

Mr. PAGE. With pleasure.

Mr. SMOOT. In order to get an understanding as to just what the Senator meant by his statement in answer to what I said before, I should like to ask him this question: Suppose there are 100 high schools, or secondary schools as they are called in the bill, in a State and there are only 25 of those schools that desire to avail themselves of this appropriation, will the State receive only an amount pro rata to the number that apply, or will the State receive the full amount pro rata to the high schools in the State?

Mr. PAGE. The State will receive its pro rata, which will be based upon the number of people of Utah, for instance, engaged in agricultural pursuits. Let me say in this connection, that this matter is so adjusted that the State itself can say what constitutes a rural school under this bill. If they wish to say to a rural community, "You must raise $2,000 before you can have the benefit of the Federal appropriation," they can do so. The language of the bill as amended—and I want to say that this amendment was made in accordance with a suggestion by the Senator from Georgia, and is a most excellent one—is this:

> *Provided further*, That the meaning of the words "rural high school" as used in the act shall be determined for each of the States and the District of Columbia by the board of vocational education for each State and the District of Columbia, etc.

Mr. SMOOT. That is just what I was coming to. I wanted to know whether that idea has been incorporated in the amended substitute of the Senator——

Mr. PAGE. It has.

Mr. SMOOT. Because it was not in the original bill. I was going to lead up to that question by asking my former one and then follow it with just what the Senator has spoken of.

Mr. PAGE. I wish to say that in all the suggestions I have received from Senators on this floor or from others none have been more valuable than those suggested by the Senator from Georgia. This is one of his suggestions, and I think it is a most excellent one.

Now, let me proceed, if the Senator from Georgia will permit me, to refer to him in this personal way, and I trust I am giving him no offense. He suggested the danger or liability of having schools established which would waste or fritter away the money we appropriate, and he said, "Before we give any of these industrial schools any money, I want to know that a substantial sum shall be expended by that school."

To meet the Senator's views, the following provision was written:

> And provided that no such separate industrial or home economics school shall receive the benefits of this act which does not expend more than $5,000 annually for maintenance.

The State of New Jersey has this law. Any town or city desiring to avail itself of State aid for industrial education may draw from the State treasury as much as they expend up to $5,000. In other words, under the New Jersey law a $5,000 school must in reality be a $10,000 school, the city raising $5,000 and the State contributing $5,000.

If this plan is adopted with reference to Federal aid, it is hoped that where the Federal Government contributes, for example, $2,500 the State will contribute another $2,500 and the local community will raise $5,000, in this way providing for a $10,000 school.

Another provision of the original bill was this, that in order to avail themselves of the appropriation for the industrial schools in cities a new building must be built and equipped. The Senator from Georgia said, "In my State they have a good many buildings that are ready to take in this work, and it would be wrong to compel cities that already have suitable buildings to build separate buildings. The bill has therefore been so amended that these industrial schools may be conducted either in a separate building or in a separate division of an existing building.

Mr. McCUMBER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from North Dakota?

Mr. PAGE. Certainly.

Mr. McCUMBER. I have been desiring to ask the Senator a question on this point for some time, and as he has just reached it I can with propriety ask it now.

Mr. PAGE. I am very happy to be interrupted by the Senator.

Mr. McCUMBER. I want to know what provision there is in the Lever bill or in the amendment which is proposed to the Lever bill for determining what shall be deemed an agricultural college. What board or faculty or who is to determine that question?

Mr. PAGE. Agricultural colleges in both the Lever and Page bills are those colleges which have been established under what is known as the Morrill Land Grant Act.

Mr. McCUMBER. The point is that in a number of cities we have agricultural colleges that for the most part have a curriculum that will correspond with that of the State university. Some of the branches taught are practically the same as in high schools, and there are some in which the larger proportion of the studies are those pertaining to ordinary branches rather than to agricultural subjects. There ought to be some person empowered to determine what may be properly called agricultural education, and that ought to be made clear and definite in the bill.

I am making the suggestion because I offered an amendment which proposed to provide that no portion of the fund should be paid out by any State until the Secretary of Agriculture of the United States and the governor of the State should jointly certify that they were giving an education in conformity with the spirit of the law.

Mr. PAGE. I am very glad to have the Senator bring up that point. In a conference with the Senator from South Dakota only yesterday he said, "I am fearful that sufficient care has not been taken to safeguard this great fund." I read to him the provisions of section 24 and sections following, and after I had finished reading them he said, "The bill is splendidly safeguarded, and I am thoroughly in accord with what has been done, because it provides what shall be done if any State does not carry out the spirit and purpose of this act."

The bill is safeguarded in the most careful way, and I would be glad to read the particular provisions or the whole of the bill, if the Senator would like—indeed, I think the bill ought to be read after we have concluded our discussion. Is that an answer to the Senator's question?

Mr. McCUMBER. I have proposed a simple amendment, which, it seemed to me, would make that clear:

Provided, That no State shall pay out any part of the appropriation provided in this act to any agricultural college until the governor of said State and the Secretary of Agriculture of the United States shall jointly approve the courses or departments of study that are being or are proposed to be offered in said college or colleges.

Mr. CRAWFORD. Mr. President——

Mr. SMITH of Georgia. If the Senator will allow me——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from South Dakota?

Mr. McCUMBER. I yield.

Mr. CRAWFORD. I simply wanted to suggest to the Senator from North Dakota that I was preparing an amendment when the Senator from Vermont and I had the conversation to which he refers; but after reading those provisions of the bill which seek to safeguard this fund I abandoned the idea of doing it. It seems to me, if the Senator will permit me, that it would be better to have the substitute, which is now being perfected, printed, so that it may be carefully and critically examined before undertaking to suggest such an amendment to it, because upon the examination of the printed copy of this new draft the Senator might feel, as I did, that the point was already covered.

Mr. McCUMBER. Probably the Senator would have no objection to reading that particular portion that is designed to effectuate the same purposes I have mentioned.

Mr. CRAWFORD. I think it runs through a couple of sections.

Mr. PAGE. Let me suggest, in answer——

Mr. McCUMBER. I do not like the idea, I may say, of some department that is not connected directly in the first instance in determining what the course of an agricultural college shall be to determine afterwards whether the money should have been paid out. That ought to be established before the money is paid out in the first instance, and it ought to be established in such a way that any college will know when it is receiving this money that it is receiving it lawfully, and that no question can possibly arise in the future as to its being entitled to its proportionate share of that fund.

Mr. PAGE. Will the Senator allow me to read the section?

Mr. McCUMBER. I should be very glad to have it read.

Mr. PAGE. Let me say, in this connection, that there has been no change in any of the last 10 or 15 sections of the original bill. Such changes as have been made have been made in the earlier portions of the bill to make it conform to the views of the Senator from Georgia [Mr. SMITH]. There have been no changes made, except two or three unimportant ones suggested by the Senator from South Dakota [Mr. CRAWFORD] last evening, and I will mention one of them now. Section 28 reads:

SEC. 28. That whenever it shall appear to the Secretary of the Interior, from the annual statement of receipts and expenditures of the custodian for vocational education of any State or the District of Columbia—

The Senator from South Dakota asked that I insert at that point the words "or otherwise," because if the Secretary of the Interior gets the information from any source he may regard it—

that a portion of the preceding annual disbursement made to such State or the District of Columbia from the rural-school fund, the industrial-school fund, the agricultural high-school fund, the college teachers' training fund, or the teachers' training fund remains unexpended, a sum equal to such portion or amount shall be deducted by him from the next succeeding annual disbursement from such fund to such State or the District of Columbia—

In other words, that fund if paid out for any other purpose than the purposes of this act can not be regarded as a part of their disbursements. It is for the Secretary of the Interior to say what has been properly disbursed, and if not properly disbursed a similar amount will be withheld from the next year's appropriation.

Mr. McCUMBER. Yes; but the Senator himself undoubtedly observes the weakness of that proposition; at least that it does not answer the suggestion I made, in that when it shall appear, after a college has been run for one year or more, that certain funds have not been used, then action may be had. The point that I want to establish is that some proper authority shall determine, in the first instance, whether the course of that particular college is such as to entitle it to the fund, and when that has been established there can be no question but that the college would be entitled to it and would receive it.

Mr. CRAWFORD. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from South Dakota?

Mr. McCUMBER. Yes.

Mr. CRAWFORD. Does the Senator think, taking this whole bill, that it is drawn so that there would be any possibility that the fund would be paid over to an institution that was conducted for the purpose of educating dentists in a State or pharmacists in a State? The whole purpose of this bill is for institutions and branches of such institutions as are conducting this particular type of education. How is it possible to give the money to something else?

Mr. McCUMBER. The Senator knows as well as I do that there is not an agricultural college in the United States that does not teach something besides agriculture.

Mr. CRAWFORD. Certainly.

Mr. McCUMBER. They necessarily are compelled to do so, and should be compelled, of course, to give a course in chemistry, in biology, and in a great many other branches, such as geography, grammar, English, and the other simple branches.

Mr. CRAWFORD. I think the terms of the bill are very plain as to that.

Mr. McCUMBER. I want some authority to determine, in the first instance, definitely whether such a college is really an agricultural college, primarily designed, I might say, for an agricultural college, or whether agriculture is simply one of the branches that is being taught there; and, if it is but one of them, whether it is taught to such an extent that it becomes the important one.

Mr. CUMMINS. Mr. President, I think the Senator from North Dakota has possibly overlooked the fact that there is no appropriation made here for any State agricultural college except for its agricultural extension work. There is no appropriation that any agricultural college can use for its general purposes.

Mr. PAGE. None at all.

Mr. CUMMINS. I think section 18 is the section which really guards the matter. I mean section 18 in the print originally supplied by the Senator from Vermont. I know nothing about the manuscript that he now has before him. Section 18 of that print provides:

That no State shall be entitled to any part or all of its allotment for extension department work until its legislative authority shall, by law, provide for the establishment of an extension department or division in the State college of agriculture and the mechanic arts as herein provided, and shall have provided as an appropriation for that work an amount at least equal to the amount annually allotted to the State for such extension work under this act.

It therefore not only requires the action of the State executive, but requires the action of the State legislature in establishing an extension department in connection with the agricultural college before any part of this money can be drawn; and then it is drawn only for agricultural extension work; it can not be drawn for any of the general purposes of the college.

Take our own agricultural college. Its curriculum is almost as comprehensive as that of the State university. Of course, it requires a vast fund to support it annually, and I take it for granted that the Senator from Vermont has not intended that any part of this contribution shall be used by that college for any other purposes than agricultural extension work.

Mr. PAGE. It certainly could not, as I understand the measure.

Mr. CUMMINS. And it does seem to me, so far as the agricultural colleges are concerned, that the expenditure of the fund is fully provided for. Of course, there are a great many expenditures here for a great variety of schools, but none of them, save the one which I have read, pass under the control or management of the agricultural college. They go through other channels.

Mr. PAGE. Mr. President, it will, perhaps, be observed that this discussion is relative to the administrative features of the measure. I want to assure every Senator that the business end of this proposition has been provided for, I think, with painstaking care. I think the Senator from North Dakota will find it absolutely safe. But, be that as it may, of course no Senator here will object to any amendment that seeks to safeguard the measure in any way. I shall be very glad indeed to have amendments suggested. The whole of this bill, as it has been rewritten, has been submitted to the Senator from Georgia [Mr. SMITH], and I understand he approves of its features. If he does not, I should like him to point out wherein he dissents.

Mr. SMITH of Georgia. If I may interrupt the Senator, I wish to say that I have not been able to examine the bill carefully. I have said to the Senator that, so far as I got with the reading, the bill seemed to me to be upon the proper lines; but I was entirely unable to give it the time and the thought that was necessary to really master it. It impressed me very favorably, so far as I went, but I was not able to reach a conclusion.

Mr. PAGE. I want to thank the Senator from Georgia for that suggestion, and I want to assure him that not only has the bill been drawn with a scrupulous regard to the conversation which he and I had relative to it, but I will say that if I should find that in any particular I had failed to catch the

spirit of his suggestions, which I regard as very good indeed, I should, with great pleasure, modify the bill.

Mr. CUMMINS. Mr. President, it seems to me that, under this rather extraordinary situation, there is nothing to do but to have this new bill printed, so that Senators may examine it. I am not yet able to discover what change is made in section 3. Does the Senator from Vermont still propose to expend part of the appropriation provided in that section for the teaching of agriculture in secondary schools or high schools of the respective States?

Mr. PAGE. The Senator refers to section 3?

Mr. CUMMINS. In section 3 it is proposed to give $3,000,000 to the teaching of agriculture and instruction in the industries and trades and home economics in the secondary schools; that is, the high schools of the various States. Has any change been made in that regard?

Mr. PAGE. There has been. As I explained before the Senator from Iowa entered the Chamber, the Senator from Georgia objected that instruction in trades and industries could not be properly combined with instruction in agriculture in what we call the rural schools, and that——

Mr. CUMMINS. Those are not rural schools; on the contrary, they are practically all city schools. In our State, at least, we do not have any high schools save in the towns of reasonable size.

Mr. PAGE. The construction of the words "rural schools" has, under the amendment offered by me, been left to the discretion or decision of the board of vocational education, but it is supposed that the rural school is a school in the open country or in villages.

Mr. CUMMINS. Section 3, Mr. President, does not refer to those schools. It provides:

> That for the maintenance of instruction in agriculture, the trades and industries, and home economics in departments or divisions of schools of secondary grade, other than the separate industrial or home economics school.

Those are not the rural schools, the schools in the country; those are semicolleges or high schools in the cities or towns. I have not been able to gather just what change, if any, has been made in the appropriation for such schools. The Senator from Georgia says, and he says with absolute truth, that generally these schools are not attended by those whose especial interest is in agricultural training. They are more commonly than otherwise, at any rate, attended by pupils who live in the cities or towns. I merely wanted to know what had been done with that section, in view of the conference which the Senator from Vermont had with the Senator from Georgia.

Mr. PAGE. Mr. President, as I understand, the appropriations originally in the Page bill, or Senate bill No. 3, separated the rural schools from the urban schools. The cities, as has been suggested by the Senator from Georgia, do not want agriculture taught in the city schools, and it is his judgment—and I think it is mine, too—that the States that have high schools in agricultural districts do not, as a rule, want to teach the industries in those schools. The suggestion was made, therefore, that we drop the words "trades and industries" from the second line of section 3 as it appears in the Page bill.

Mr. CUMMINS. Then we would have this situation, that in the secondary schools there would be taught agriculture——

Mr. PAGE. And home economics.

Mr. CUMMINS. And home economics. The pupils in such schools in my State are vastly more interested in the trades and industries than they are in agriculture. I would rather have agriculture taught in the common schools; that is, the grade schools—what the Senator from Georgia calls the grammar schools, I suppose. I would be very sorry to see that part of the bill which relates to instruction in trades and industries stricken from the appropriation in aid of the secondary schools.

Mr. PAGE. Mr. President, I have probably taken up that matter with 500 different persons, and the general view is that, except in towns or cities of 2,500 or more population, it is not wise to seek to do much more in regard to instruction in trades and industries than would be necessary to assist the farmer in taking care of his own machinery, wagons, and so forth, on the farm; but instruction in home economics should be provided. That I confess was conceded to the Senator from Georgia without reluctance on my part, in view of the criticisms that have been made. It may be that in the State of Iowa they have towns of less than 2,500 population that would want to have industries taught in the schools; but the general trend of thought, so far as I have been able to get it, is that in the smaller towns they will want agriculture taught. In North Dakota, for instance, the schools will scarcely teach anything but agriculture, while in the schools of Massachusetts they will want generally to teach the industries. So we have divided it and said that in the larger towns they may have instruction in industries and home economics and in the smaller towns in agriculture and home economics.

Mr. CUMMINS. But, Mr. President, the Senator from Vermont misunderstands the situation, at least in my part of the country. Section 4, to which he referred just a moment ago, though not by number, gives aid only when distinct schools have been established for instruction in the trades and industries and home economics.

Mr. PAGE. If the Senator will allow me, that has been changed, so that there need not be distinct schools. That was changed as a result of the conference with the Senator from Georgia. Aid may now be given to any of the high schools having a suitable room in which to teach industries.

Mr. CUMMINS. Very well. I suggest to the Senator from Vermont that we can not get very far until we know what his bill is to be. I am very deeply interested in the general subject, and, therefore, I suggest both to the Senator from Vermont and the Senator from Georgia that the matter ought to go over until we can know what has finally been determined upon by the Senator from Vermont.

Mr. PAGE. Mr. President, I have with me only one copy of this measure, and I wish to refer to that during the discussion here. It is my purpose, when we close the discussion to-night, to ask that the redrafted bill be printed and laid upon the desks of Senators. Of course, it will be impossible to act upon it in any other manner; but during this discussion I have felt called upon to answer the criticisms of the Senator from Georgia in the way I have. I want now to provoke as much discussion as I can on this measure. It is a great big measure. The great political parties have indorsed it; the President-elect has indorsed it specifically; the present President has indorsed it; others have indorsed it, including, I may say, the candidate of the Progressive Party. It is, as I have said, a great big measure.

Mr. CRAWFORD. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from South Dakota?

Mr. PAGE. Certainly.

Mr. CRAWFORD. So that we may look ahead a little and see what the issue is going to be here, I should like to know, if the Senator from Georgia has no objection to informing me, whether or not in any event he will oppose the incorporation into what is known as the Lever bill of any of the provisions of the vocational educational bill?

I make that inquiry because, Mr. President, as coming from an agricultural State, a State which has no industrial problems, no large cities, no congested centers, and which has very seldom, if ever, in its history had a labor difficulty of any sort within its borders, I am necessarily in most hearty accord with the purposes of the Lever bill and all provisions for agricultural extension work; yet, as a nation-wide problem, there is no feature connected with the whole subject in which I have a more profoundly active and deep sympathy than with the provisions for vocational education. I think that is the biggest question, the most far-reaching question, and that it presses upon us as one of the most necessary of any of the subjects with which we can deal. I should like to know, therefore, whether the Senator from Georgia, even though he may approve in an academical way a bill providing for vocational education, will oppose its being attached to the Lever bill. I make the inquiry so that we may have some idea whether we can reach an agreement on that question.

Mr. SMITH of Georgia. Mr. President, I thought I had made myself perfectly clear upon that subject. I said that it seemed to me to be right that the vocational bill should come up in an orderly manner after the disposition of the constitutional amendment, and be tested out upon its own merits; that I favored vocational education and favored Government aid to vocational education, and would be glad to support a bill when I understood it sufficiently and thought it properly perfected, providing for Government aid to vocational education along industrial lines and trade lines; but that I did not see any reason for attaching measures of that kind to the House bill. The House bill is an entirely different proposition. The House bill is the mere completion of what the Government is now doing. It is involving the Government in no new enterprise; it is simply saying, "We have been preparing for the people this information for these 50 and 25 years, and now we are going to carry it to them." It is itself a species of vocational education; it is a species of vocational education that would reach one-half of the American people.

I would prefer, as that bill has come to us from the House, that it should stand on its own merits and be passed on its own merits. It seems to me vocational education along the

lines of the trades and industries might well stand upon its own merits and the measure be perfected and passed.

We have had the vocational bill with us in the Senate for 12 months and are just beginning to find out what is in it; and on Monday we are going to have a new bill from the Senator from Vermont with reference to it. How can we expect, having taken 12 months upon it here, to send it over as a substitute for or to ingraft it upon the House bill, and expect the House in 30 days to become satisfied with it? How can we hope for such a thing? The so-called Page bill has been on our calendar since February. I do not want to see the House measure jeopardized; I wish to see that much legislation, at any rate, passed at this session. I am not perfectly clear yet as to just what kind of a vocational bill I will vote for. I have been studying the question; I have been giving what time I could to it, and I expect to keep on studying it; but when we pass it we should pass a proper measure; we should be sure we are doing some good and not simply wasting money. I do not think any of us have any doubt about the wisdom of the House bill. To pass that bill is an easier thing to do, because we already have the necessary agents to put it into operation; we have the instrumentalities, and it would be a mere completion of what we are already doing; but in vocational work along the lines of the trades and industries we are going out into a brand-new field; we are going into new territory, and we should first know that we are going right. I would rather have the House bill passed. Then let the vocational bill come up on its merits on the 30th of January and let us see if we can not at this session, so far as we are concerned, at least, complete it also.

Mr. PAGE. Mr. President, may I interrupt the Senator?

Mr. SMITH of Georgia. Certainly.

The PRESIDENT pro tempore. The Senator from Vermont is entitled to the floor.

Mr. PAGE. Does not the Senator understand fully that to pass the Lever bill at this time is to postpone indefinitely or, without question, until January, 1914, the great, broad measure involving vocational education?

Mr. SMITH of Georgia. I have no doubt it will be postponed. I think it is postponed anyway. I think it is utterly unreasonable to expect to send a measure of this kind to the House 30 days before the close of the session, and expect them to become satisfied with it and act on it at this session. I do not believe they will do so. We have had it before us for 12 months, and at the end of that time we find the bill reported by the Committee on Agriculture and Forestry withdrawn by the Senator from Vermont, and a new bill, twice as long and very different, substituted for it. That is the result of his thought and his study during the present year. Then we find, to-day, that as the result of further study and further criticism he is about to present us a new bill, and we must let the matter go over until Monday in order to have it printed and read.

If we in the Senate have found such occasion for change with reference to the measure; if we in the Senate in 12 months' time have abandoned the bill that came from the Committee on Agriculture and Forestry and have substituted another, and then have substituted another for that, and even to-day are finding it necessary to substitute a new bill, how can we expect the Members of the House, when we send this new line of work over to them, to be satisfied in regard to it in 30 days? I think it is utterly impossible for us to perfect a vocational bill as applied to the trades and industries that we can hope the House will accept and pass at this session. We have one measure dealing with agricultural extension work perfected and I wish to see it passed.

Mr. PAGE. Mr. President, the last bill before the one which I have to-day presented was a good measure. I am very glad, indeed, to have the Senator call attention to the fact that measure after measure has been presented here, because every measure that has come here has come as the result of study and labor in the effort to perfect this measure.

Mr. SMITH of Georgia. Will the Senator allow me to ask him a question? Which one of the Page bills?

Mr. PAGE. I will answer any question that is asked in candor. It was the bill I then presented. I have asked that it be allowed to be reported, that it might have a chance for consideration. I understand, however, that that is not likely to be done.

This bill is one that, in my judgment, the Senate ought to pass. The only way it can be passed is to add it to or make it a part of the Lever bill and get it into conference, and when it gets into conference we will then have an opportunity to bring it before the House. In no other way can it be brought there. If we pass it here and take it over to the House it will be referred to the Committee on Agriculture, and there, in my judgment, it will remain.

Let me repeat that the only way we can reach what it is desired to reach is by amending the so-called Lever bill as I have proposed to amend it and let it go into conference, and then I believe there will be action upon it. I have no doubt about it in my own mind. But, at any rate, I hope the Senate will pass this amendment, because it is actually germane.

It has been said that the amendment is foreign in its features to the Lever bill. Senators, the Lever bill proposes to send out experts from the agricultural colleges to the different counties of the country to instruct the adult farmer on the farm—not the boy and the girl—in agricultural extension work. The Page bill provides that there shall be a farmer, a man who has had the equivalent of two years in an agricultural college, who shall take the boy into the school during the winter months and teach him from the books, who shall devote his whole time to farming, and who, when the spring months come, shall go out on the farm and instruct the boy on the farm. In that way he is linked up with the man sent from the agricultural colleges to do the county work. The boy is instructed at the same time that the farmer is instructed. The two bills are not inconsistent. They should go forward together.

I hope the Senate will put this matter in such shape that the House will consider it at this session, because it is a great, big measure and ought not to go over until 1914.

Let me ask, Mr. President, that the amended bill—I do not know but that I might properly call it the Smith-Page bill—be printed and laid before the Senate for its consideration on Monday.

Mr. SMITH of Georgia. I must insist that the Senator retain the entire responsibility for the bill.

Mr. PAGE. I wanted to give the Senator the credit for some excellent amendments in the measure.

Mr. SMITH of Georgia. I am complimented to be associated with the Senator, because I know he has done splendid, hard work. But I want to be able to read the bill before stating whether I approve it or not.

The PRESIDENT pro tempore. The substitute submitted by the Senator from Vermont will be printed.

Mr. CLARK of Wyoming. Before that is done, I should like to make a suggestion to the Senator.

I notice that in both of these bills a very important section of our agricultural country, at least, has been omitted, and that is the Territory of Hawaii. There is no section of the United States or its Territories where either of these bills will be more beneficial and effectual than in that Territory. I hope it has been an oversight, and not intentional.

Mr. SMITH of Georgia. I want to say to the Senator that it has been an oversight.

Mr. CLARK of Wyoming. I suggest to the Senator from Vermont that in the reprint the bill be so printed as to include not only the States but the Territories of the United States—Hawaii being, as I understand, the only distinct Territory that we now have.

Mr. NELSON. Mr. President, the Senator has omitted the great Territory of Alaska.

Mr. CLARK of Wyoming. Sometimes we call Alaska a Territory and sometimes we call it a District.

The PRESIDENT pro tempore. The Chair will inquire of the Senator from Vermont whether his request for printing included printing in the RECORD or simply printing in the usual form?

Mr. PAGE. Mr. President, it occurs to me that if that amendment is included in the bill it may require something more than the bare insertion of the words "and Territories." I wish that matter might be left for future consideration, and that the bill may be printed as it now appears. Personally I feel so generous in regard to any matter of vocational education that I wish it could extend over the whole world.

Mr. CLARK of Wyoming. Mr. President, I see no reason why Hawaii should not be included if the bill is to be favorably considered. There is certainly no reason why the Territory of Hawaii should be omitted from this bill any more than any State in the Union, because there are possibilities there that few States in the Union possess.

Mr. PAGE. Will the Senator please prepare his amendment and have it ready by to-morrow?

Mr. CLARK of Wyoming. Mr. President, there is nothing to which I can present an amendment. It was only a suggestion that in printing the draft which the Senator proposes to offer on Monday it be so arranged that the Territory will be included.

Mr. PAGE. I shall be glad to have the Senator prepare an amendment, and I think I will accept it if he will present it.

Mr. NEWLANDS. Mr. President, I wish to ask the Senator from Vermont whether the amendment which he proposes covers in exact terms the provisions of the Lever bill which comes to us from the House?

Mr. PAGE. Mr. President, I stated at a time when the Senator was not present that we incorporated word for word, without so much as the change of a comma, the provisions of the Lever bill for agricultural extension work. The difference between the two bills is this: The Page bill, or Senate bill No. 3, appropriates $3,000,000 for extension work. The Lever bill appropriates $3,480,000. I do not object to the addition of the $480,000. So I thought it wise, to save any trouble or question, that we should adopt the Lever bill, or the Smith-Lever bill, without the change of a single comma.

Mr. NEWLANDS. Are we to understand, then, that the Lever bill covers simply agricultural work, and that the substitute offered by the Senator covers not only agricultural work, but vocational work?

Mr. PAGE. The Lever bill does not contain a single word or line in regard to industrial education. It provides for conveying knowledge from the experiment stations to the adult farmer on the farm. The Page bill, or Senate bill No. 3, provides for agricultural work in secondary schools and in district agricultural high schools.

Mr. NEWLANDS. Is the amendment which the Senator offers an amendment which covers in express terms not only the provisions of the Lever bill, but also all the provisions of the old Page bill?

Mr. PAGE. Not all of it, because it was amended at the suggestion of the Senator from Georgia, so as to exclude the $1,000,000 appropriation for branch-station work.

Mr. SMITH of Georgia. Mr. President, I desire to correct the statement of the Senator from Vermont. That was done, not at the suggestion but as a result of the criticism of the Senator from Georgia. I think perhaps that is a distinction that I should draw.

Mr. PAGE. Mr. President, I want to say that I went to the Senator's home, and I sat at his feet like Saul at the feet of Gamaliel, and I listened to the wisdom that came from his lips, and this measure was drafted exactly to meet his desires. After it was drafted I took it to him, and said: "Senator, is it all right?" He replied: "Yes; so far as I can see."

Mr. SMITH of Georgia. I think the Senator ought to modify that statement. I said, "I have not had time to study it carefully." The Senator sent me three different bills after the conference. I have not been disposed to state just what happened, but I must. He has sent me three new substitutes—one No. 1, one No. 2, and one No. 3—and each of those three is different. They are long. It would have taken me two or three days with nothing else to do to carefully study and critically master each of the bills. Each of these new bills was nearly as long as the 26-page bill he has just withdrawn. The first of the three I examined more carefully than the others, and I said to the Senator that it seemed to me that that bill was freer from criticism than either of the other two. I told him that I was more impressed with it, and that so far as I had had time to investigate it, I thought it was all right.

That is about the substance of what I said. The Senator certainly does not mean that I committed myself, or affect in any way in his action, except as he had invited criticism of the bill, and I tried to give it just as I gave it on the floor of the Senate. In the discussion we had at my house the criticism I made of the bill was very similar to the criticism I have made of it on the floor of the Senate.

Mr. PAGE. Mr. President, the Senator's argument to-day was addressed to the original bill with all its defects. I want to say that after I had presented the bill to the Senator, he said to me: "Senator, the first provision that you have suggested seems to me practically to eliminate my objections to the bill."

Mr. SMITH of Georgia. I do not think I ever said that.

Mr. PAGE. I withdraw the statement if I misunderstood the Senator. That is as I understood him.

CONNECTICUT RIVER DAM.

Mr. SMITH of Georgia obtained the floor.

Mr. BURTON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Ohio?

Mr. SMITH of Georgia. I yield.

Mr. BURTON. I rose to give notice that on Monday, January 27, following the routine morning business, I would ask the Senate to take up and consider the bill (S. 8033) to authorize the Connecticut River Co. to relocate and construct a dam across the Connecticut River, above the village of Windsor Locks, in the State of Connecticut. I understand, however, that it is desired to finish the agricultural extension bill on Monday, and at the request of the Senator from Utah and the Senator from Georgia I will change the date of the notice to Tuesday, January 28.

AGRICULTURAL EXTENSION DEPARTMENTS.

Mr. SMITH of Georgia. I desire to give notice that on Monday, immediately after the routine morning business, I shall ask the Senate to take up again House bill 22871, providing for agricultural extension work, and shall urge the continued consideration of the measure until we dispose of it.

Mr. POINDEXTER. Mr. President, I did not hear the request of the Senator from Georgia.

Mr. SMITH of Georgia. It was no request, but a notice that on Monday morning, immediately after the morning business, I shall ask the Senate to take up again the agricultural extension measure and continue to consider it until we dispose of it.

Mr. SMOOT. I move that the Senate adjourn.

The motion was agreed to; and (at 3 o'clock and 16 minutes p. m.) the Senate adjourned until Monday, January 27, 1913, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January 24, 1913.*

The House met at 11 a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Almighty Father, we draw near to Thee in the spirit of prayer and devotion, that we may feel the pulsations of Thy loving heart and be reassured in our quest for a life of godliness, the surety of individual and national progress. Inspire us, we beseech Thee, with high ideals, and give us the desire and the strength as individuals and as a people to attain. For Thine is the kingdom and the power and the glory forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

IMMIGRATION.

The SPEAKER. The Chair wishes to state, before the House begins the morning business, that in regard to the conference report on the immigration bill, submitted by the gentleman from Massachusetts [Mr. GARDNER] yesterday for printing in the RECORD, everything was done by the clerks at the desk that it was their duty to do. It was published as a document, which shows conclusively that the conference report reached the Printing Office, and it was no fault of the clerical force of the House that it is not in the RECORD.

Mr. BURNETT. Mr. Speaker, right in line with that statement, would it be in order for me to ask unanimous consent to take up the conference report this morning?

The SPEAKER. Anything on earth is permissible by unanimous consent.

Mr. BURNETT. Then, Mr. Speaker, I ask unanimous consent, while we are upon that subject, to take up the conference report on the immigration bill. I can make a statement of the few changes that were made by the conferees.

Mr. GARDNER of Massachusetts. Will my colleague yield for a minute?

Mr. BURNETT. I will.

Mr. GARDNER of Massachusetts. The gentleman from Kentucky was on his feet to ask for recognition to correct the Journal.

Mr. BURNETT. I simply called it up now because we were upon that subject.

The SPEAKER. The gentleman from Alabama asks unanimous consent that after the Speaker's table is cleared the conference report on the immigration bill be taken up.

Mr. MANN. I suggest to the gentleman from Alabama that he does not make that request until later.

Mr. BURNETT. Very well; I will wait.

OMNIBUS CLAIMS BILL.

Mr. SIMS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 19115) making appropriations for payment of certain claims in accordance with findings of the Court of Claims reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, disagree to the Senate amendments, and agree to the conference asked for by the Senate.

The SPEAKER. The gentleman from Tennessee asks to take from the Speaker's table the bill H. R. 19115, disagree to the Senate amendments, and agree to the conference asked for by the Senate.

Mr. MANN. Mr. Speaker, I would like to ask the gentleman if the bill has been printed with Senate amendments so that the House can have access to it?

Mr. SIMS. It has not, because the bill has remained on the Speaker's table by my request.

Mr. MANN. Then I think I will object.

Mr. SIMS. Will the gentleman withhold his objection?

Mr. MANN. Certainly.

Mr. SIMS. Mr. Speaker, I requested that this bill remain on the table in order that I might make some investigation of the Senate amendments. Mr. Speaker, I find that practically all of the House provisions of the bill were stricken out by amendment in the Senate and a great number of new items were added by amendments, and therefore the conference on the bill will require much time because there are such a great number of items to be considered. It is now getting toward the latter part of the session, and it will be practically impossible for the conferees to consider this bill unless it goes to conference immediately. That is the reason why I am hoping that the gentleman from Illinois will withhold his objection, because if it goes to the Committee on War Claims and that committee reports with recommendation to disagree to the Senate amendments and asks for a conference, it will simply go upon the Private Calendar to be called up only on the day when business on the Private Calendar can be considered under the rules, which may and probably will make it impossible for it to go to conference at the present session.

Mr. MANN. Mr. Speaker, there are a great many Senate amendments. The bill has not been printed to show what those Senate amendments are. It would be a difficult matter to ascertain what they are by an examination of the record of the proceedings in the Senate. If objected to, the bill will be referred to the Committee on War Claims and printed with the Senate amendments numbered. Then the bill will be reported back and the same request can be made after we have had an opportunity of examining the Senate amendments, and therefore I will object.

The SPEAKER. The gentleman from Illinois objects, and the bill will be referred to the Committee on War Claims.

CONTRACT FOR TRANSFERRING FOREIGN MAIL.

Mr. TUTTLE. Mr. Speaker, I ask unanimous consent that the Committee on Rules be discharged from further consideration of House resolution 778, directing the Committee on the Post Office and Post Roads to investigate certain mail contracts, and that the resolution be referred to the Committee on the Post Office and Post Roads.

The SPEAKER. The gentleman from New Jersey asks unanimous consent that the Committee on Rules be discharged from the further consideration of House resolution 778 and that the same be referred to the Committee on the Post Office and Post Roads. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, what is the resolution?

Mr. TUTTLE. Mr. Speaker, this is a resolution providing for the investigation of certain mail contracts which have been let by the Post Office Department. The Committee on Rules, I understand, is so congested with work that it may not receive consideration promptly, and as this affects certain contracts which are to go into effect on the 1st of July, it is thought that the Committee on the Post Office and Post Roads could give it the attention which it deserves at this time.

Mr. MANN. I doubt whether the Committee on Rules has as much work as the Committee on the Post Office and Post Roads. May we not have the resolution reported?

The SPEAKER. The Clerk will report the resolution.

The Clerk will read as follows:

House resolution 778.

Resolved, That the Committee on the Post Office and Post Roads be, and the same is hereby, directed to institute and carry forward an investigation into the letting of contracts for transferring the foreign mail from incoming steamships in New York Bay to the steamship and railway piers, and especially into the making of a contract between the Government of the United States through the Post Office Department and Howard Carroll, of New York, on or about the 19th day of November, 1912, for four years beginning July 1, 1913, for an annual compensation of about $77,000.

The SPEAKER. Is there objection?

Mr. FOSTER. Mr. Speaker, reserving the right to object, I would inquire of the gentleman from New Jersey if this investigation requires an appropriation or will require an appropriation?

Mr. TUTTLE. It will not. It has developed that a certain contract has been let without competition, to the amount of about $300,000, to cover an average of four years from next July.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, I reserve the right to object.

Mr. GOLDFOGLE. Mr. Speaker, reserving the right to object, I want to say that I did not hear the resolution read. I would like to know who is to make the investigation.

Mr. TUTTLE. The Committee on the Post Office and Post Roads.

Mr. GOLDFOGLE. And there will be no expense attached to it?

Mr. TUTTLE. No.

Mr. GOLDFOGLE. No counsel employed?

Mr. TUTTLE. No.

Mr. GOLDFOGLE. The committee is going to make the investigation itself?

Mr. TUTTLE. Yes.

Mr. FOSTER. Mr. Speaker, while I think this resolution, of course, should go to the Committee on Rules, yet, under the circumstances, I believe it is right that the Committee on the Post Office and Post Roads should be permitted to make the investigation.

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to ask a question. Does not the Committee on Expenditures in the Post Office Department have the right under the rule to make the investigation at this time?

Mr. TUTTLE. I believe it has. There is a resolution which provides that it may; but that committee is conducting some extensive investigations at the present time, and we felt that attention could be more properly given to this by the Committee on the Post Office and Post Roads.

Mr. MANN. Does the gentleman from Tennessee [Mr. MOON], the chairman of the Committee on the Post Office and Post Roads, understand this proposition?

Mr. TUTTLE. He does. It was done after consultation with him.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

PENSIONS.

Mr. RICHARDSON. Mr. Speaker, I desire to call the attention of the Speaker to the bill (H. R. 27874) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, a pension bill, to call it up and ask that the House as a Committee of the Whole House take the bill up for consideration, as this is pension day.

The SPEAKER. The Chair will state to the gentleman what the condition of business is.

Mr. MANN. Mr. Speaker, I demand the regular order.

The SPEAKER. The unfinished business, which is the regular order, is the bill H. R. 23669, the reclamation town-site bill, on which the previous question has been ordered.

Mr. RICHARDSON. Mr. Speaker, I will state to the Chair that to-day two weeks ago the Pension Committee was absolutely cut out and had no chance to do business, and we were to be allowed to come first to-day. We are calling our cases up in regular order.

The SPEAKER. We have not yet reached the stage of the proceedings where either the gentleman from Alabama [Mr. RICHARDSON] or the gentleman from Ohio [Mr. SHERWOOD] would have the right of way. The unfinished business is to vote on the bill H. R. 23669, on which the previous question was ordered last Wednesday evening, unless it should be knocked out of joint by a conference report. The gentleman from Alabama [Mr. BURNETT].

IMMIGRATION.

Mr. BURNETT. Mr. Speaker, I ask unanimous consent that the conference report on the immigration bill may be taken up and now acted on.

Mr. RANSDELL of Louisiana. Mr. Speaker, I object.

Mr. BURNETT. Then, Mr. Speaker, I desire to give notice I will call it up in the morning the first thing after the reading of the Journal.

Mr. GOLDFOGLE. Mr. Speaker, I would ask the gentleman from Alabama, in view of the notice he has just now announced, to withhold the consideration of the conference report until Monday. I would like him to modify the notice that he has just now given. The gentleman is acquainted with the fact that some gentlemen in the House are necessarily detained from attendance here, and to-morrow being Saturday they may not arrive in town. Now, under those circumstances, I think the gentleman from Alabama ought to withhold the consideration of this conference report until Monday.

The SPEAKER. That rests entirely in the discretion of the gentleman from Alabama.

Mr. GOLDFOGLE. That is the reason I am making the request.

Mr. MANN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. Without further order the conference report will be printed in to-day's proceedings in the RECORD?

The SPEAKER. The Chair has just directed the reporters to notify the Public Printer to have it printed in the RECORD in the morning. What does the gentleman from Alabama say?

Mr. BURNETT. I will not.

Mr. GOLDFOGLE. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. GOLDFOGLE. If the report is printed in to-morrow's RECORD, will not then the consideration of the conference report be necessarily postponed until Monday? I put that as a parliamentary inquiry.

The SPEAKER. It will not; no.

RECLAMATION TOWN SITES.

The SPEAKER. The Clerk will report the second amendment to the bill H. R. 23669.

Mr. MANN. Mr. Speaker, I ask unanimous consent that the amendments may be submitted en bloc.

The SPEAKER. The gentleman from Illinois asks unanimous consent that all these amendments be submitted in gross. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the amendments.

The question was taken, and the amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken, and the Speaker announced the ayes seemed to have it.

Mr. MANN. Mr. Speaker, I ask for a division.

The SPEAKER. The gentleman from Illinois [Mr. MANN] demands a division.

The House divided; and there were—ayes 31, noes 21.

Mr. FOSTER. Mr. Speaker, I make the point of order there is no quorum present.

Mr. MOORE of Pennsylvania. Mr. Speaker, I demand the yeas and nays.

The SPEAKER. The gentleman from Illinois [Mr. FOSTER] makes the point of order that there is no quorum present, and the gentleman from Pennsylvania [Mr. MOORE] demands the yeas and nays, and both things are accomplished at one time. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll. Evidently there is no quorum present.

The question was taken; and there were—yeas 107, nays 152, answered "present" 14, not voting 110, as follows:

YEAS—107.

Ainey	Farr	Konop	Pou
Allen	Foss	Kopp	Powers
Anderson	French	Lafferty	Prince
Anthony	Fuller	La Follette	Prouty
Austin	Gallagher	Langham	Rees
Bartholdt	Godwin, N. C.	Lawrence	Roberts, Mass.
Bates	Good	Lenroot	Roberts, Nev.
Buchanan	Green, Iowa	Lindbergh	Rodenberg
Burke, S. Dak.	Greene, Mass.	Linthicum	Rucker, Colo.
Burke, Wis.	Griest	Lobeck	Scott
Butler	Hamilton, Mich.	McCreary	Simmons
Calder	Hartman	McKenzie	Sloan
Campbell	Hawley	McKinney	Smith, Saml. W.
Cannon	Hayden	Madden	Stephens, Cal.
Cary	Hayes	Martin, S. Dak.	Sterling
Copley	Helgesen	Miller	Sweet
Crumpacker	Henry, Conn.	Mondell	Switzer
Curry	Higgins	Moore, Pa.	Taylor, Colo.
Dalzell	Hinds	Morgan, Okla.	Thistlewood
Davidson	Howell	Morse, Wis.	Towner
De Forest	Howland	Murdock	Volstead
Dodds	Humphrey, Wash.	Neeley	Warburton
Donohoe	Jackson	Nelson	Willis
Draper	Kennedy	Norris	Wood, N. J.
Dyer	Kent	Nye	Young, Kans.
Esch	Kinkaid, Nebr.	Patton, Pa.	Young, Mich.
Evans	Knowland	Pickett	

NAYS—152.

Adair	Collier	Fowler	James
Aiken, S. C.	Cooper	Gardner, Mass.	Johnson, S. C.
Akin, N. Y.	Cox	Garner	Jones
Alexander	Cravens	Garrett	Kendall
Ashbrook	Cullop	Gill	Kinkead, N. J.
Barnhart	Curley	Gillett	Korbly
Bartlett	Davenport	Glass	Lafean
Bathrick	Davis, W. Va.	Goldfogle	Lee, Ga.
Beall, Tex.	Dent	Goodwin, Ark.	Lee, Pa.
Bell, Ga.	Denver	Gould	Lever
Blackmon	Dickinson	Graham	Lewis
Boehne	Dickson, Miss.	Gray	Littlepage
Booher	Dies	Gregg, Pa.	Lloyd
Borland	Difenderfer	Gregg, Tex.	McCoy
Broussard	Doughton	Gudger	McDermott
Brown	Driscoll, D. A.	Hamill	McGillicuddy
Bulkley	Dupré	Hamilton, W. Va.	Macon
Burgess	Edwards	Hamlin	Maguire, Nebr.
Burnett	Ellerbe	Hardy	Mays
Byrnes, S. C.	Estopinal	Harrison, Miss.	Moon, Tenn.
Byrns, Tenn.	Faison	Hart	Moore, Tex.
Callaway	Fergusson	Heflin	Morgan, La.
Candler	Ferris	Helm	Morrison
Cantrill	Fitzgerald	Hensley	Moss, Ind.
Claypool	Flood, Va.	Holland	Padgett
Clayton	Floyd, Ark.	Houston	Page
Cline	Foster	Jacoway	Pepper
Post	Russell	Sparkman	Tribble
Raker	Saunders	Stedman	Turnbull
Ransdell, La.	Sharp	Stephens, Miss.	Tuttle
Rauch	Sherley	Stephens, Tex.	Underhill
Redfield	Sherwood	Stone	Watkins
Reilly	Sims	Taggart	Webb
Roddenbery	Sisson	Talcott, N. Y.	Whitacre
Rothermel	Slayden	Taylor, Ala.	White
Rouse	Small	Thayer	Wilson, Pa.
Rubey	Smith, N. Y.	Thomas	Witherspoon
Rucker, Mo.	Smith, Tex.	Townsend	Young, Tex.

ANSWERED "PRESENT"—14.

Adamson	Hobson	McGuire, Okla.	Richardson
Browning	Humphreys, Miss.	Mann	Riordan
Driscoll, M. E.	Langley	Murray	
Dwight	McCall	Parran	

NOT VOTING—110.

Ames	Francis	Littleton	Sabath
Andrus	Gardner, N. J.	Longworth	Scully
Ansberry	George	Loud	Sells
Ayres	Goeke	McKellar	Shackleford
Barchfeld	Greene, Vt.	McKinley	Sheppard
Berger	Guernsey	McLaughlin	Slemp
Bradley	Hammond	McMorran	Smith, J. M. C.
Brantley	Hardwick	Maher	Smith, Cal.
Burke, Pa.	Harris	Martin, Colo.	Speer
Burleson	Harrison, N. Y.	Matthews	Stack
Carlin	Haugen	Merritt	Stanley
Carter	Hay	Moon, Pa.	Steenerson
Clark, Fla.	Heald	Mott	Stephens, Nebr.
Conry	Henry, Tex.	Needham	Stevens, Minn.
Covington	Hill	Oldfield	Sulloway
Crago	Howard	Olmsted	Talbott, Md.
Currier	Hughes, Ga.	O'Shaunessy	Taylor, Ohio
Danforth	Hughes, W. Va.	Palmer	Tilson
Daugherty	Hull	Patten, N. Y.	Underwood
Davis, Minn.	Johnson, Ky.	Payne	Vare
Dixon, Ind.	Kahn	Peters	Vreeland
Doremus	Kindred	Plumley	Weeks
Fairchild	Kitchin	Porter	Wilder
Fields	Konig	Pray	Wilson, Ill.
Finley	Lamb	Pujo	Wilson, N. Y.
Focht	Legare	Rainey	Woods, Iowa
Fordney	Levy	Randell, Tex.	
Fornes	Lindsay	Reyburn	

And so the bill was rejected.

The Clerk announced the following pairs:

For the session:

Mr. HOBSON with Mr. FAIRCHILD.

Mr. SCULLY with Mr. BROWNING.

Mr. UNDERWOOD with Mr. MANN.

Mr. FORNES with Mr. BRADLEY.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. LITTLETON with Mr. DWIGHT.

Mr. PALMER with Mr. HILL.

Mr. RIORDAN with Mr. ANDRUS.

Mr. ADAMSON with Mr. STEVENS.

Until further notice:

Mr. HARDWICK with Mr. SULLOWAY.

Mr. FIELDS with Mr. LANGLEY.

Mr. HULL with Mr. NEEDHAM.

Mr. PUJO with Mr. MCMORRAN.

Mr. GEORGE with Mr. SMITH of California.

Mr. RAINEY with Mr. MCCALL.

Mr. KITCHIN with Mr. FORDNEY.

Mr. RICHARDSON with Mr. THISTLEWOOD.

Mr. HARRISON of New York with Mr. PAYNE.

Mr. CARTER with Mr. MCGUIRE of Oklahoma.

Mr. ANSBERRY with Mr. BARCHFELD.

Mr. AYRES with Mr. BURKE of Pennsylvania.

Mr. BRANTLEY with Mr. CRAGO.

Mr. BURLESON with Mr. DANFORTH.

Mr. CARLIN with Mr. DAVIS of Minnesota.

Mr. CLARK of Florida with Mr. MICHAEL E. DRISCOLL.

Mr. CONRY with Mr. FOCHT.

Mr. COVINGTON with Mr. GARDNER of New Jersey.

Mr. FINLEY with Mr. CURRIER.

Mr. DIXON of Indiana with Mr. GREENE of Vermont.

Mr. DOREMUS with Mr. GUERNSEY.

Mr. FRANCIS with Mr. HAUGEN.

Mr. GOEKE with Mr. HEALD.

Mr. HAMMOND with Mr. HUGHES of West Virginia.

Mr. HAY with Mr. LOUD.

Mr. HENRY of Texas with Mr. MCKINLEY.

Mr. MURRAY with Mr. HARRIS.

Mr. HOWARD with Mr. MCLAUGHLIN.

Mr. HUMPHREYS of Mississippi with Mr. MATTHEWS.

Mr. JOHNSON of Kentucky with Mr. MERRITT.

Mr. HUGHES of Georgia with Mr. KAHN.

Mr. KINDRED with Mr. MOON of Pennsylvania.

Mr. KONIG with Mr. MOTT.

Mr. LAMB with Mr. OLMSTED.

Mr. MCKELLAR with Mr. PLUMLEY.

Mr. MAHER with Mr. PORTER.

Mr. OLDFIELD with Mr. PRAY.

Mr. O'SHAUNESSY with Mr. SELLS.
Mr. PETERS with Mr. J. M. C. SMITH.
Mr. SABATH with Mr. SPEER.
Mr. SHEPPARD with Mr. TAYLOR of Ohio.
Mr. STANLEY with Mr. TILSON.
Mr. STEPHENS of Nebraska with Mr. VARE.
Mr. WILSON of New York with Mr. VREELAND.
Mr. MARTIN of Colorado with Mr. WEEKS.
Mr. LINDSAY with Mr. WILDER.
Mr. STACK with Mr. WILSON of Illinois.
Mr. LEGARE with Mr. WOODS of Iowa.
Mr. RANDELL of Texas with Mr. AMES.
Until February 1:
Mr. SHACKLEFORD with Mr. LONGWORTH.

Mr. McGUIRE of Oklahoma. Mr. Speaker, I voted "yea." I am paired with my colleague from Oklahoma, Mr. CARTER, and I desire to change my vote and vote "present."

The name of Mr. McGUIRE of Oklahoma was called, and he voted "Present."

Mr. MANN. Mr. Speaker, I voted "yea." I am paired with the gentleman from Alabama, Mr. UNDERWOOD, and I desire to withdraw my vote and vote "present."

The name of Mr. MANN was called and he voted "Present."

The result of the vote was announced as above recorded.

The SPEAKER. A quorum is present, and the Doorkeeper will open the doors.

Mr. GARNER. Mr. Speaker, I ask unanimous consent to address the House for five minutes.

The SPEAKER. The gentleman from Texas asks unanimous consent to address the House for five minutes. Is there objection?

There was no objection.

FILIBUSTERING.

Mr. GARNER. Mr. Speaker, the gentleman from Illinois [Mr. MANN] saw proper to conduct a filibuster and delay the approval of the Journal for three hours and a half on yesterday. In discussing his reasons for conducting that filibuster he said that he wanted to teach this side of the House, and especially the gentleman from Texas [Mr. GARNER], how to conduct a filibuster, and in the same statement said that I had on the previous day undertaken to filibuster in this House. There is not the slightest foundation in fact, nor is there the slightest indication in the RECORD, to justify the gentleman from Illinois in that statement. As a matter of fact, the RECORD shows in the proceedings of Wednesday that the "gentleman from Texas" specifically stated to the gentleman from Illinois [Mr. MANN] that he was not conducting a filibuster. I call attention, Mr. Speaker, to the proceedings on page 1901, in which this colloquy occurred:

Mr. MANN. This is not the only bill that can be filibustered on, I will say to the assistant whip.
Mr. GARNER. I am not filibustering. I think it is full time that we took out. I have heard the gentleman from Illinois say that many times at this hour in the day.

I call attention to the fact, Mr. Speaker, that often when that clock has shown it was 10 minutes of 6 o'clock I have heard the gentleman from Illinois rise in his place and suggest to the gentlemen who were in charge of legislation on this side of the House that the committee had better rise. I have at the same time seen these gentlemen cast their eyes over the empty seats in this Hall and realize that they were helpless to keep the gentleman from Illinois from making a point of no quorum, and agree to his dictation. Moreover, I refer to the RECORD to show that I inquired of the Speaker as to what the parliamentary status of the legislation we had just voted on would be in case the previous question was ordered. On page 1903 of the RECORD this colloquy occurred:

Mr. GARNER. Mr. Speaker, a parliamentary inquiry.
The SPEAKER. The gentleman will state it.
Mr. GARNER. As the previous question has been ordered, and a separate vote is demanded on each amendment adopted by the committee, when will the vote be taken on each amendment?
The SPEAKER. Next Wednesday morning.

Now, Mr. Speaker, I submit to the Speaker himself and to this House that when I asked that question I had a right to conclude that on next Wednesday morning this identical question would come up in this House for consideration. I had certainly gone to the highest authority that I know of in this House on parliamentary law, especially since he occupies the chair now—the Speaker himself—to determine what the parliamentary status of this legislation was. I have no quarrel with the Speaker for his ruling. It may be correct, but I do deem it my duty to call the attention of this House to the fact that whenever you adopt this rule that the Speaker laid down as permanent you give to the Calendar Wednesday of this House not only one day, but possibly three days in each week.

For instance, Calendar Wednesday business has taken up two hours of to-day's work. To illustrate, suppose we had called for the yeas and nays on each one of these amendments. These amendments would have taken not all of to-day only, but to-morrow, or at least 12 hours, for there are twenty and odd amendments. So, I say that I have no quarrel with the Speaker for this ruling, because it may be technically correct, but I believe I should call the attention of the House to the effect of this rule.

The SPEAKER. The time of the gentleman has expired.

Mr. GARNER. Mr. Speaker, I ask for five minutes more.

The SPEAKER. The gentleman asks unanimous consent to proceed for five minutes more. Is there objection?

There was no objection.

Mr. GARNER. Now, Mr. Speaker, I think that the gentleman from Illinois [Mr. MANN] did me an injustice, he did himself an injustice, and he did the membership of this House an injustice when he created the impression yesterday not only in remarks made on the floor of the House, but in remarks to his colleagues, that I was the cause of this filibuster.

Mr. Speaker, if I was the cause of bringing on a filibuster that took three hours and a half to approve the Journal, I did wrong. But I invoke the RECORD here and place in the mouth of the gentleman from Illinois the statement that he "did not blame the gentleman from Texas for making the point of no quorum and asking that the House adjourn" on Wednesday evening last. If the gentleman did not blame me, then certainly I could have done no wrong. The gentleman must blame me for some wrong or else he himself is not justified in bringing on a filibuster, because I moved that the House adjourn on Wednesday evening.

The truth of the matter is that the gentleman from Illinois has been so accustomed to dictating to this side of the House that he has got to the point where, if you cross his wishes, he will see that no business in this House is accomplished. [Applause.] The gentleman from Illinois is an efficient legislator; he is an accommodating gentleman; but in the detail of his work and in the multiplicity of it he has got to the point where he overlooks the larger things in legislation, and the result is that he is making himself ridiculous, as he did yesterday in undertaking to organize a filibuster here for no purpose. [Applause.] I think the gentleman himself made a spectacle by undertaking to give as an excuse for conducting the filibuster the fact that I on the day previous had said that I wanted the parliamentary status of this bill preserved until next Wednesday, it then being 6 o'clock in the afternoon, and asked that we adjourn.

We got a roll call to-day. That is all I asked for on Wednesday. We got it to-day, and we have defeated the bill. Did I not have the right on Wednesday at 6 o'clock to ask that this legislation remain until I could get an opportunity to record my vote, knowing that there was not a quorum here?

Mr. Speaker, I care nothing about the amendments. I never try to play in this House other than in the open, but the gentleman from Illinois appears rather to conduct his game under concealed hands.

Mr. MARTIN of South Dakota. Mr. Speaker, will the gentleman yield?

The SPEAKER. The time of the gentleman has again expired.

Mr. GARNER. I must confess that the method of the gentleman from Illinois is most effective, but I prefer to play mine as I have done, and I think the American people prefer that kind. [Applause.]

The SPEAKER. The time of the gentleman from Texas has expired.

Mr. MANN. Does the gentleman desire more time?

Mr. GARNER. No.

Mr. MANN. Mr. Speaker, I ask unanimous consent to address the House for five minutes.

The SPEAKER. The gentleman from Illinois [Mr. MANN] asks unanimous consent to address the House for five minutes. Is there objection?

There was no objection.

Mr. MANN. Mr. Speaker, there will be two more Calendar Wednesdays at this session of Congress besides the Wednesday which will be required to count the electoral vote. On last Calendar Wednesday a bill was pending before the House which had been agreed to by the Committee of the Whole House on the state of the Union and reported back to the House with about 20 amendments. If a separate vote were demanded on each amendment and a yea-and-nay vote were taken on each amendment, it would have consumed the entire two days on Calendar Wednesdays yet remaining at this session of Congress and would have prevented any other bill being called up

for consideration. The next bill which will be called up for consideration on Calendar Wednesday will be a bill called up by the Committee on the Library. I understand that the Lincoln memorial bill will be that bill. So that it was quite possible, if the bill that was under consideration last Wednesday went over until next Wednesday and a separate vote was had by yeas and nays on each of the amendments, that the Lincoln memorial bill could not be reached at this session of Congress. I was notified by gentlemen all over the House that that was the intention of certain gentlemen in the House. When the bill was reported from the committee back to the House, this is a portion of the proceedings:

Mr. GARNER. I will say to the gentleman from Illinois [Mr. CANNON] that we can not pass the bill to-night, because there are a number of us on this side who propose to have a yea-and-nay vote on this bill to its final passage.

I take it there is but one construction of that language, and that is a yea-and-nay vote on each of the 20 amendments. Further, the gentleman from Texas [Mr. GARNER] said:

I will say to the gentleman from Illinois [Mr. MANN] that I understand his anxiety and the anxiety of the other gentleman from Illinois [Mr. CANNON] with reference to this particular bill being gotten out of the way. I speak for myself. I am not in accord with that movement, and there are a number of others over here who are in the same attitude, and I think it is perfectly legitimate to ask, at least for the present, that all the rights of Members with respect to this bill may be preserved from the parliamentary standpoint in order that we may take advantage of it to fight a bill that is to come up later.

[Laughter on the Republican side.]

If I misunderstood the gentleman, if he did not mean that he expected to demand a roll call on each of those amendments, to consume two days, and thereby prevent the Lincoln memorial bill coming up, I am willing to apologize to the gentleman. I would not have used such language unless I had intended what it meant. I thought then that I was justified, and I think now that I was justified, in demanding all the rights of a Member on the floor, in order to demonstrate to the House that the majority side of the House can never afford to filibuster against the consideration of a proposition which ought legitimately to come before the House. [Applause.] I was willing then, as I would be willing now, to filibuster against any other measure if it was intended on the other side to filibuster in order to prevent this Government at this late hour from giving a proper expression of its love, affection, and veneration for Abraham Lincoln. [Applause.]

Mr. CANNON. Mr. Speaker, I ask unanimous consent to address the House for 10 minutes.

Mr. EDWARDS and Mr. BORLAND objected.

The SPEAKER. Objection is made.

Mr. CANNON. Who objected, Mr. Speaker? Did the gentleman from Kentucky [Mr. SHERLEY] object?

Mr. SHERLEY. I did not object, but I want to find out how long this is to proceed. We have two of the big supply bills waiting for consideration; and without desiring to be discourteous to anybody, it occurs to me that the public business is at present of the first importance.

Mr. GARNER. It is only 10 minutes. I hope no one will object.

Mr. CANNON. I only desire to know who objected.

The SPEAKER. The Chair does not know.

Mr. MANN. We are entitled to know who objected.

The SPEAKER. The gentleman from Illinois [Mr. CANNON] asks unanimous consent to address the House for 10 minutes. Is there objection?

Mr. SHERLEY. Mr. Speaker, reserving the right to object, I desire to serve notice that I will object to any similar request hereafter.

Mr. BORLAND. Mr. Speaker, I was one of those who objected, and I reserve the right now to object, simply to state that this request will be the last one that will go unobjected to, to the delay of the public business.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The gentleman from Illinois [Mr. CANNON] is recognized for 10 minutes. [Applause.]

Mr. CANNON. Mr. Speaker, I was one of the high privates in the rear rank who followed the lead of the gentleman from Illinois [Mr. MANN] in the filibuster yesterday. I have rarely resorted to filibustering during my service. I have no apology to offer. I indorse what the gentleman from Illinois [Mr. MANN] has said.

Now, I want to say just a word about the Lincoln memorial. There is a difference of opinion in the House. Some of us believe that the memorial ought to be erected in Washington. Others believe that there ought to be a highway, to be called the Lincoln highway, built from Washington to Gettysburg. I am on that commission, and as a member of it did not get my way entirely. I would have located the memorial out in the Soldiers' Home, but the Arts Commission and an almost unanimous House and Senate commission chose the other site.

I am willing that it should be discussed. I desire that it should be considered, and when it is considered I will be content with what the majority of the House may say touching the proposed legislation.

Much has been said in the newspapers. I have not gone to the newspapers. It is said that many Members are holding frequent councils, either in the Capitol or the Office Building, organizing, and that great pressure is being brought to bear throughout the country. I will not criticize that. It is the right of the American citizen to promote as best he can that which he is in favor of, whether a Member of Congress, or automobile owners, or others are behind him—many men of many minds.

Now, a word as to the Lincoln Monument. There were four great characters in that great contest for the preservation of the Union—Abraham Lincoln, Gen. Grant, Gen. Lee, and Jefferson Davis. It is all behind us. Arlington, the home of Lee, is now the burial place for Union soldiers and Confederate soldiers—a monument that will stand forever across the Potomac in the State of Virginia. Oh, Mr. Speaker, I stand here a Representative from Illinois. I had a personal acquaintance with Abraham Lincoln when I was a young man and came on to the sphere of action. I loved Abraham Lincoln personally. I loved his magnificent service in the preservation of the Union—the great, wise, strong, charitable, patriotic man. Speaking respectfully, to my mind it is the prostitution of that great man's name when you speak of using it as an argument for the promotion and construction of goods roads. [Applause.]

I am willing to assist, and have the Federal Treasury assist properly, toward their construction as post roads, or in aid of their construction. With the Washington Monument standing there, as it will stand through the ages, is there a man within the sound of my voice, is there a man in Congress, is there a man North or South, that would purchase the construction of a road from here to Gettysburg or from here to Richmond, the price thereof being the pulling down of the Washington Monument? [Applause.] Not one; not one. Talk about utility, there are certain great characters that will dwell in the history of the country. First, and barely first, Washington; second, Lincoln; third, Grant; fourth, Lee, a great man, a great general who did his duty from his patriotic standpoint; fifth, Jefferson Davis, a great man performing a great service for a proposed new republic as he saw his duty.

A hundred years from now the ordinary reader will recall this period, and there will be in the mouths of the school children the names of Washington, Lincoln, Grant, Lee, and Jefferson Davis. But you will have to search the CONGRESSIONAL RECORD and the encyclopædias to find out about the balance of us, who have been Speakers, ex-Speakers, Members of Congress in the House and Senate. Take Mr. CANNON, for instance. I have been Speaker for eight years. They will say, "It does appear that there was a man from Illinois by the name of CANNON, but I don't know much about him. There was another man by the name of Cannon in Congress from Utah, and it was said that he had seven wives." [Laughter and applause.]

And, gentlemen, I trust that the Washington Monument and the Lee home at Arlington, holding the hallowed dust of the Union and Confederate dead, in the fullness of time will be connected with the site of the proposed Lincoln Monument by a bridge across to that great burial place.

I have no quarrel with anybody, but as I pass out of this Congress I hope that a memorial will be provided for the memory of this, the second greatest man, if not the first, that ever lived upon this continent, that ever lived in the history of the race. [Applause.]

ORDER OF BUSINESS.

Mr. RICHARDSON. Mr. Speaker, I desire to call up the bill H. R. 27874, a pension bill on the Private Calendar. And I move that the House go into Committee of the Whole on the Private Calendar.

Mr. SPARKMAN rose.

The SPEAKER. For what purpose does the gentleman from Florida rise?

Mr. SPARKMAN. I move to go into Committee of the Whole House on the state of the Union for the further consideration of the river and harbor bill.

Mr. POU rose.

The SPEAKER. For what purpose does the gentleman from North Carolina rise?

Mr. POU. I rise to present a conference report on the bill H. R. 24121 for printing in the RECORD under the rule.

Mr. ROBERTS of Massachusetts rose.

The SPEAKER. For what purpose does the gentleman from Massachusetts rise?

Mr. ROBERTS of Massachusetts. Mr. Speaker, I desire to have a correction made in the RECORD and the Journal.

The SPEAKER. The gentleman from Alabama [Mr. RICHARDSON] calls up a pension bill.

Mr. MANN. Mr. Speaker, what became of the conference report submitted by the gentleman from North Carolina [Mr. POU]?

The SPEAKER. The Chair is going to state the situation, and his statement of it will answer the gentleman's question. The gentleman from Alabama calls up a pension bill, this being pension day. The gentleman from Florida [Mr. SPARKMAN] makes a preferential motion that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the river and harbor appropriation bill. The gentleman from North Carolina [Mr. POU] submits for printing under the rule a conference report, and the gentleman from Massachusetts [Mr. ROBERTS] desires to correct the RECORD. The Chair will take up these matters in the following order: First, the gentleman from Massachusetts, then the gentleman from North Carolina, and then the motion of the gentleman from Florida.

SENATE BILLS AND JOINT RESOLUTIONS REFERRED.

Under clause 2 of Rule XXIV, Senate bills and joint resolutions of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. J. Res. 158. Joint resolution approving the plan, design, and location for a Lincoln memorial; to the Committee on the Library.

S. J. Res. 143. Joint resolution authorizing the Secretary of War to loan certain tents for use at the meeting of the Imperial Council of the Ancient Arabic Order of the Nobles of the Mystic Shrine to be held at Dallas, Tex., in May, 1913; to the Committee on Military Affairs.

S. 111. An act to authorize the sale and disposition of the surplus and unallotted lands in Washabaugh County, in the Pine Ridge Indian Reservation, in the State of South Dakota, and making appropriation to carry the same into effect; to the Committee on Indian Affairs.

S. 184. An act for the erection of a public building at Lancaster, Ky.; to the Committee on Public Buildings and Grounds.

S. 2058. An act for the relief of William Wentworth; to the Committee on Military Affairs.

S. 3315. An act to prohibit corporations from making contributions in connection with political elections and to limit the amount of such contributions by individuals or persons; to the Committee on Election of President, Vice President, and Representatives in Congress.

S. 4524. An act to increase the limit of cost for the purchase of a site and the erection of a public building at Middlesboro, Ky.; to the Committee on Public Buildings and Grounds.

S. 4584. An act to promote the efficiency of the Naval Militia, and for other purposes; to the Committee on Naval Affairs.

S. 5076. An act to promote instruction in forestry in States and Territories which contain national forests; to the Committee on Agriculture.

S. 6100. An act appropriating $100,000 for the use of the Interstate Commerce Commission in addition to the sum or sums already appropriated for their use; to the Committee on Appropriations.

S. 7089. An act for the relief of Charles Meyers; to the Committee on Military Affairs.

S. 7297. An act for the purchase of a site and the erection thereon of a public building at Mineral Point, Wis.; to the Committee on Public Buildings and Grounds.

S. 7298. An act for the purchase of a site and the erection thereon of a public building at Rhinelander, Wis.; to the Committee on Public Buildings and Grounds.

S. 7502. An act for the erection of a public building at Ridgway, Pa.; to the Committee on Public Buildings and Grounds.

S. 7522. An act for the purchase of a site and the erection of a public building at the city of Greenville, Ala.; to the Committee on Public Buildings and Grounds.

S. 7855. An act to authorize the Northern Pacific Railway Co. to construct a bridge across the Missouri River in section 36, township 134 north, range 79 west, in the State of North Dakota; to the Committee on Interstate and Foreign Commerce.

S. 8178. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors; to the Committee on Invalid Pensions.

S. J. Res. 153. Joint resolution granting to the Fifth Regiment Maryland National Guard the use of the corridors of the courthouse of the District of Columbia upon such terms and conditions as may be prescribed by the marshal of the District of Columbia; to the Committee on the District of Columbia.

ENROLLED BILL SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 8768. An act to regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed with amendments bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 18787. An act relating to the limitation of the hours of daily service of laborers and mechanics employed upon a public work of the United States and of the District of Columbia, and of all persons employed in constructing, maintaining, and improving a river or harbor of the United States and of the District of Columbia.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills:

H. J. Res. 369. A joint resolution authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass.;

H. R. 27062. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War, and certain widows and dependent children of soldiers and sailors of said war; and

H. R. 8768. An act to regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. SPARKMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the river and harbor appropriation bill.

Mr. RUSSELL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RUSSELL. Mr. Speaker, this being pension day, I desire to ask if this motion to go into the Committee of the Whole should prevail——

Mr. SHERLEY. Mr. Speaker, I suggest that is not a parliamentary inquiry.

The SPEAKER. The gentleman will complete his question.

Mr. RUSSELL. If this motion to go into Committee of the Whole should prevail, will there be any other opportunity to call up and consider pension bills on the Private Calendar until the second Friday in February, which is the 14th day of February?

Mr. SHERLEY. Mr. Speaker, I suggest that is not a parliamentary inquiry.

The SPEAKER. If the motion prevails, it will dispense with private business for the day and pension bills will not be in order until the next day set for them. The question is on the motion of the gentleman from Florida, that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the river and harbor appropriation bill.

The question was taken; and on a division (demanded by Mr. NORRIS and Mr. ADAIR) there were—ayes 80, nays 86.

Mr. EDWARDS. Mr. Speaker, I demand the yeas and nays.

The SPEAKER. The gentleman from Georgia demands the yeas and nays. Those in favor of ordering the yeas and nays will rise and stand until counted. [After counting.] Thirteen members have risen, not a sufficient number, and the yeas and nays are refused.

So the motion was rejected.

PENSIONS.

Mr. RICHARDSON. Mr. Speaker, I desire again to call attention to the bill (H. R. 27874) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, and

I move that the House resolve into the Committee of the Whole House to consider this and other bills on the Private Calendar.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House for the consideration of bills on the Private Calendar, with Mr. SHEFLEY in the chair.

Mr. RICHARDSON. Mr. Chairman, I call up the bill H. R. 27874.

The CHAIRMAN. The Clerk will report the bill.

The Clerk proceeded to read the bill.

Mr. MANN (interrupting the reading). Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. What has become of the bill S. 7160, calendar No. 275?

The CHAIRMAN. The gentleman from Alabama suggested the calling up of a case from the Committee on Pensions. The call rests with a case from the Committee on Invalid Pensions. It is within the power of the committee to determine otherwise, if it sees fit. In the absence of such determination, the Clerk will report the bill referred to by the gentleman from Illinois [Mr. MANN].

Mr. RICHARDSON. Mr. Chairman, I move to take up the bill the number of which I gave. This is the course we have always pursued.

The CHAIRMAN. The gentleman from Alabama moves to take up the bill H. R. 27874.

The question was taken, and the motion was agreed to.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 27874) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

Mr. RICHARDSON. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

The CHAIRMAN. The gentleman from Alabama asks unanimous consent to dispense with the first reading of the bill. Without objection, it is so ordered. [After a pause.] The Chair hears none. The Clerk will read the bill for amendment.

The Clerk read as follows:

A bill (H. R. 27874) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Joshua B. Hartzog, late of Battery E, First Regiment United States Artillery, and pay him a pension at the rate of $20 per month.

The name of William Bennett, late of Capt. Hart's independent company, Florida Mounted Volunteers, Florida war with Seminole Indians, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of William F. Slack, late of Company K, Nineteenth Regiment United States Infantry, and pay him a pension at the rate of $12 per month.

The name of Sarah H. David, widow of Jacob David, late of Company A (Capt. William Torry), First Regiment New York Volunteers, War with Mexico, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of William J. Allmand, late of Company I, Thirty-second Regiment Michigan Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The name of Olaus Anderson, late of Company E, First Regiment Alabama Volunteer Infantry, War with Spain, and pay him a pension at the rate of $20 per month.

The name of Thomas F. Moore, late of Company A, First Regiment Maine Volunteer Heavy Artillery, War with Spain, and pay him a pension at the rate of $10 per month.

The name of George W. Lyons, late of Capt. N. P. Willard's company, First Regiment Florida Mounted Volunteers, Florida Seminole Indian war, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of John E. Jones, late of the Hospital Corps, United States Army, War with Spain, and pay him a pension at the rate of $15 per month.

The name of John A. White, late of the steamship Hornet, United States Navy, War with Spain, and pay him a pension at the rate of $10 per month.

The name of John E. Zoucks, late of Capt. G. U. Ellis's company, Florida Volunteers, Florida Seminole Indian war, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Sarah A. Gray, widow of George W. Gray, late of Company D, First Regiment Arkansas Mounted Volunteers, War with Mexico, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Russell F. Oliver, late of Company M, Eighth Regiment United States Infantry, and pay him a pension at the rate of $24 per month.

The name of Bishop Karshner, late of Company G, Twenty-third Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $30 per month.

The name of Michael F. Gaygan, late of Company G, Twentieth Regiment United States Infantry, and pay him a pension at the rate of $30 per month.

The name of Elizabeth Weems, widow of Joseph Weems, late of Company A, First Regiment Tennessee Volunteer Infantry, War with Mexico, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Fannie J. Raiford, widow of Philip H. Raiford, late lieutenant colonel, Battalion Alabama Volunteers, War with Mexico, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Mary Ann Thompson, widow of William R. Thompson, late of Troop I, Third Regiment United States Dragoons, War with Mexico, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Katherine O. Hactor, widow of John M. Hactor, late post quartermaster sergeant, United States Army, and pay her a pension at the rate of $12 per month.

The name of Robert P. Prescott, late of Capts. Jernigan and Rutland's independent company, Florida Mounted Volunteers, Florida war with Seminole Indians, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Josiah J. Sikes, late of Capt. Brady's company, First Regiment Florida Mounted Volunteers, Florida war with Seminole Indians, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Rosalia Spohr, widow of Mathias Spohr, late of Capt. Sommers's company, Louisiana Volunteers, Florida war with Seminole Indians, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Cynthia C. Pickard, widow of John S. Pickard, late of Company K, Third Regiment Tennessee Volunteer Infantry, War with Mexico, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The foregoing bill is a substitute for the following House bills referred to the Committee on Pensions:

H. R. 4880. Joshua B. Hartzog.	H. R. 21600. Russell F. Oliver.
H. R. 6816. William Bennett.	H. R. 21639. Bishop Karshner.
H. R. 10797. William F. Slack.	H. R. 23313. Michael F. Caygan.
H. R. 12440. Sarah H. David.	H. R. 24311. Elizabeth Weems.
H. R. 13749. William J. Allmand.	H. R. 24474. Fannie J. Raiford.
H. R. 14317. Olaus Anderson.	H. R. 25367. Mary Ann Thompson.
H. R. 14371. Thomas F. Moore.	H. R. 25415. Katherine O. Hactor.
H. R. 15438. George W. Lyons.	H. R. 26095. Robert P. Prescott.
H. R. 16489. John E. Jones.	H. R. 26179. Josiah J. Sikes.
H. R. 16638. John A. White.	H. R. 26580. Rosalia Spohr.
H. R. 19436. John E. Zoucks.	H. R. 26627. Cynthia C. Pickard.
H. R. 19454. Sarah A. Gray.	

Mr. BARTLETT. Mr. Chairman, I desire to offer the following amendment.

The CHAIRMAN. The gentleman from Georgia offers an amendment, which the Clerk will report.

Mr. RICHARDSON. The amendment will be accepted by the committee.

The Clerk read as follows:

Amend, page 3, by adding, after line 9, the following:

"The name of Charles Myer, late of Company E, First Regiment Georgia Volunteer Infantry, War with Spain, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving."

Mr. BARTLETT. Mr. Chairman, I understand the Committee on Pensions authorizes this amendment, and all I desire to do is to put in evidence the report they made upon it at the last session of this Congress.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia? [After a pause.] The Chair hears none.

The report is as follows:

H. R. 20999. Charles Myer, of Macon, Ga., is pensioned under the general law at the rate of $6 per month on account of malarial poisoning incurred as an artificer in Company E, First Regiment Georgia Volunteer Infantry, in which he served from May 2 to November 18, 1898, during the War with Spain.

The pension was allowed December 11, 1903, commencing February 21, 1899.

A claim for increase, filed December 18, 1911, was rejected January 26, 1912, on the ground that the degree of disability shown from the pensioned cause did not warrant an increased rating; that no disability was shown from stomach trouble independent of that covered by the rate allowed for malarial poisoning, and alleged loss of sight was not accepted as a result of the pensioned disability.

In support of the claim for increase, A. Moody Burt, M. D., testified December 14, 1911, that the pensioner had been under his professional care a considerable part of the time during the past four or five years, and that—

"At first the said Myer was suffering from an obscure, obstinate, chronic intestinal indigestion; that for the past year optic neuritis has supervened and has finally developed complete blindness of both eyes, and the said Myer is totally blind, and is now totally incapacitated for any ordinary avocation of life."

The medical examination on which the adverse action was taken was made by the board of surgeons at Macon, Ga., January 3, 1912. The board reported: Age, 45 years; height, 5 feet 6½ inches; and weight, 146 pounds. They said:

"General appearance healthy; tongue clean; skin clear; heart negative; lungs negative; urine negative; conjunctiva slightly injected; pupils react slowly to light; can not discern objects; can tell light from darkness; no disease of rectum; liver, spleen, abdominal organs negative. Don't know cause of loss of vision; board not in position to make opthalmoscopic examination. No evidence of vicious habits or excessive use of intoxicants. Claimant is so disabled from blindness as to be incapacitated for performing any manual labor and is entitled to $30 a month."

In an affidavit accompanying the bill the petitioner states that he is wholly disabled by malarial poisoning and resulting total blindness; that he is without property of any kind and is solely dependent upon his pension and the charity of acquaintances.

The gentleman who introduced the bill states from his own personal knowledge that the pensioner is blind, has no property other than his pension of $6 per month, is an object of charity, and is being supported by a benevolent order and by friends.

The evidence, your committee thinks, shows an increased degree of disability from the pensioned cause and results, and they respectfully recommend the allowance of pension at the rate of $24 per month in lieu of that he is now receiving.

The question was taken, and the amendment was agreed to.

Mr. RICHARDSON. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The question was taken, and the motion was agreed to.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. ROUSE having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed with amendments bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 20193. An act authorizing the Secretary of the Navy to pay a cash reward for suggestions submitted by civilian employees of the Navy Department for improvement or economy in manufacturing processes or plant.

The message also announced that the Senate had passed joint resolution and bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. J. Res. 158. Joint resolution approving the plan, design, and location for a Lincoln memorial;

S. 111. An act to authorize the sale and disposition of the surplus and unallotted lands in Washabaugh County, in the Pine Ridge Indian Reservation, in the State of South Dakota, and making appropriations to carry the same into effect;

S. 184. An act for the erection of a public building at Lancaster, Ky.;

S. 2058. An act for the relief of William Wentworth;

S. 3315. An act to prohibit corporations from making contributions in connection with political elections and to limit the amount of such contributions by individuals or persons;

S. 4524. An act to increase the limit of cost for the purchase of a site and the erection of a public building at Middlesboro, Ky.;

S. 4584. An act to promote the efficiency of the Naval Militia, and for other purposes;

S. 5076. An act to promote instructions in forestry in States and Territories which contain national forests;

S. 6100. An act appropriating $100,000 for the use of the Interstate Commerce Commission in addition to the sum or sums already appropriated for their use;

S. 7089. An act for the relief of Charles Meyers;

S. 7297. An act for the purchase of a site and the erection thereon of a public building at Mineral Point, Wis.;

S. 7298. An act for the purchase of a site and the erection thereon of a public building at Rhinelander, Wis.;

S. 7502. An act for the erection of a public building at Ridgway, Pa.;

S. 7522. An act for the purchase of a site and the erection thereon of a public building at the city of Greenville, Ala.;

S. 7855. An act to authorize the Northern Pacific Railway Co. to construct a bridge across the Missouri River in section 36, township 134 north, range 79 west, in the State of North Dakota;

S. 8178. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. J. Res. 143. Joint resolution authorizing the Secretary of War to loan certain tents for use at the meeting of the Imperial Council of the Ancient Arabic Order of the Nobles of the Mystic Shrine to be held at Dallas, Tex., in May, 1913; and

S. J. Res. 153. Joint resolution granting to the Fifth Regiment Maryland National Guard the use of the corridors of the courthouse of the District of Columbia upon such terms and conditions as may be prescribed by the marshal of the District of Columbia.

PENSIONS.

The committee resumed its session.

WILLIAM P. CLARK.

The next business on the Private Calendar was the bill (S. 2666) granting an increase of pension to William P. Clark.

The Clerk read as follows:

An act (S. 2666) granting an increase of pension to William P. Clark.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of William P. Clark, late second lieutenant Thirty-seventh Company Philippine Scouts, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The CHAIRMAN. The Clerk will read the bill for amendment.

The bill was read for amendment.

Mr. RICHARDSON. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The question was taken, and the motion was agreed to.

The CHAIRMAN. The Clerk will report the next bill.

The next business on the Private Calendar was the bill (S. 8035) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

Mr. RICHARDSON. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will read the bill for amendment.

The Clerk read the bill for amendment, as follows:

An act (S. 8035) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Caroline M. Anthony, late nurse Medical Department, United States Volunteers, War with Spain, and pay her a pension at the rate of $12 per month.

The name of Arthur F. Shepherd, late of Company H, First Regiment Nebraska Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Walter L. Donahue, late of Company I, Thirty-third Regiment Michigan Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The name of Calvin R. Lockhart, late of Company G, Twenty-third Regiment United States Infantry, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Albert J. Wallace, late of Company E, Tenth Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Thomas M. F. Delaney, late of Company G, Fourth Regiment Wisconsin Volunteer Infantry, War with Spain, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Joseph Hurd, late of Company G, First Regiment Maine Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The name of John D. Sullivan, late of Company F, Third Regiment United States Volunteer Engineers, War with Spain, and pay him a pension at the rate of $46 per month.

The name of Mary E. Maher, widow of John A. Maher, late of Company D, First Regiment District of Columbia Volunteer Infantry, War with Spain, and pay her a pension at the rate of $12 per month and $2 per month additional on account of each of the minor children of the said John A. Maher until they reach the age of 16 years.

The name of George W. James, late of Company E, Fourth Regiment United States Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The name of George G. Thirlby, late of Company M, Thirty-fourth Regiment Michigan Volunteer Infantry, War with Spain, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Lansing B. Nichols, late of Company C, First Regiment South Dakota Volunteer Infantry, War with Spain, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Jacob Korby, late of Company C, Thirty-sixth Regiment United States Volunteer Infantry, War with Spain, and pay him a pension at the rate of $10 per month.

The name of John J. Ledford, late of Company F, Fourth Regiment Missouri Volunteer Infantry, War with Spain, and pay him a pension at the rate of $24 per month.

The name of Deborah H. Riggs, widow of Ashley C. Riggs, late of Capt. James M. Morgan's company, Iowa Mounted Volunteers, War with Mexico, and pay her a pension at the rate of $12 per month.

The name of Elmer E. Rose, late of Companies I and H, Twenty-third Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $12 per month in lieu of that he is now receiving.

The name of Cyrenius Mulkey, late of Capt. Bailey's Company A, Second Regiment Oregon Mounted Volunteers, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Patrick J. Whelan, late of Company E, First Regiment Connecticut Volunteer Infantry, War with Spain, and pay him a pension at the rate of $17 per month in lieu of that he is now receiving.

The name of John F. Burton, late of Company B, Fifth Regiment Missouri Volunteer Infantry, War with Spain, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Ephraim W. Baughman, late of Capt. Nathan Olney's Company B, Oregon Volunteers, Oregon and Washington Territory Indian war, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of James J. Blevans, late of Company B, Second Regiment Oregon Mounted Volunteers, Oregon and Washington Territory Indian war, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Henry H. Woodward, late of Capt. Chapman's Company I, Second Regiment Oregon Mounted Volunteers, Rogue River Indian war, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Bertie L. Wade, late of Company L, Twenty-second Regiment United States Infantry, and pay him a pension at the rate of $30 per month.

The name of Charlotte R. Wynne, widow of James W. Wynne, late of Capt. Blackmore's company, First Regiment Tennessee Volunteer Infantry, War with Mexico, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Otto Weber, late of Company B, Sixteenth Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $16 per month in lieu of that he is now receiving.

The name of Carl W. Carlson, late of Company B, Third Regiment United States Volunteer Cavalry, War with Spain, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The foregoing bill is a substitute for the following Senate bills referred to the Committee on Pensions:

S. 1915. Caroline M. Anthony.	S. 6898. John J. Ledford.
S. 2465. Arthur F. Shepherd.	S. 6921. Deborah H. Riggs.
S. 3615. Walter L. Donahue.	S. 6998. Elmer E. Rose.
S. 3726. Calvin R. Lockhart.	S. 7021. Cyrenius Mulkey.
S. 3920. Albert J. Wallace.	S. 7032. Patrick J. Whelan.
S. 4691. Thomas M. F. Delaney.	S. 7036. John F. Burton.
S. 6091. Joseph Hurd.	S. 7065. Ephraim W. Baughman.
S. 6101. John D. Sullivan.	S. 7135. James J. Blevans.
S. 6107. Mary E. Maher.	S. 7281. Henry H. Woodward.
S. 6193. George W. James.	S. 7305. Bertie L. Wade.
S. 6276. George G. Thirlby.	S. 7328. Charlotte R. Wynne.
S. 6764. Lansing B. Nichols.	S. 7368. Otto Weber.
S. 6883. Jacob Korby.	S. 7460. Carl W. Carlson.

The following committee amendments were severally considered and severally agreed to:

On page 2, strike out lines 1, 2, and 3.
On page 2, strike out lines 15, 16, 17, and 18.
On page 3, strike out lines 22, 23, and 24.
On page 4, strike out lines 17, 18, 19, and 20.
On page 5, strike out lines 19, 20, 21, 22, 23, 24, and, on page 6, strike out lines 1 and 2.

Mr. RICHARDSON. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. The gentleman from Alabama moves that the bill be laid aside with a favorable recommendation. Without objection, it is so ordered.

There was no objection.

The next business on the Private Calendar was the bill (H. R. 28379) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The CHAIRMAN. Without objection, the first reading of the bill will be dispensed with.

There was no objection.

The bill was read in full for amendment, as follows:

A bill (H. R. 28379) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Elizabeth A. Whittaker, widow of William T. Whittaker, late of Company I, Twenty-eighth Regiment United States Infantry, and pay her a pension at the rate of $12 per month, and $2 per month additional on account of one minor child of the soldier until such child attains the age of 16 years.

The name of Cornelia A. Mobley, widow of William L. Mobley, late of Capts. Martin's and G. W. Smith's companies, Florida Volunteers, Florida Seminole Indian war, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James L. Herod, late of Company A, Second Regiment Mississippi Volunteer Infantry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of John Soucek, late of band, Fourth Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of John H. Woodruff, late of Company M, Fifth Regiment Missouri Volunteer Infantry, War with Spain, and pay him a pension at the rate of $10 per month.

The name of Peter A. Fitzpatrick, late of Troop A, Eighth Regiment United States Cavalry, and pay him a pension at the rate of $6 per month.

The name of Edward M. Yochem, late of Troop K, Eleventh Regiment United States Volunteer Cavalry, War with Spain, and pay him a pension at the rate of $15 per month in lieu of that he is now receiving.

The name of Carrie E. Gibson, widow of David Gibson, late of Company H, Fifth United States Infantry, and pay her a pension at the rate of $12 per month, and $2 per month additional on account of one minor child of the soldier until it reaches the age of 16 years.

The name of James H. Swallum, alias James H. Shields, late of Troop H, Seventh Regiment United States Cavalry, and pay him a pension at the rate of $8 per month.

The name of Jesse Crawford, late of Company L, First Regiment United States Infantry, and pay him a pension at the rate of $15 per month.

The name of Emily Ford, widow of William Ford, late of Capt. Tracy's company, Georgia Volunteers, and Capt. Bird's company, Florida Volunteers, Florida war with Seminole Indians, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Mary Lois Wriston, widow of John P. Wriston, late of Company A, Mormon Battalion, Iowa Volunteers, War with Mexico, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Albert McMichaels, late of Troop K, First Regiment United States Cavalry, War with Spain, and pay him a pension at the rate of $12 per month.

The name of Aminda Space, dependent mother of William H. Space, late of Battery K, First Regiment United States Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Thomas Hartman, late of Company H, Third Regiment United States Infantry, and pay him a pension at the rate of $18 per month.

The name of Thomas Smith, late of Company B, First Regiment New Jersey Volunteer Infantry, War with Spain, and pay him a pension at the rate of $18 per month.

The name of Chris Sletteland, late of Company C, Third Regiment United States Infantry, and pay him a pension at the rate of $15 per month.

The name of Louisa Margaret Brown, helpless and dependent daughter of Joseph B. Brown, late colonel and surgeon, United States Army, and pay her a pension at the rate of $12 per month.

The name of Karl C. Wettstein, late of Company G, Fourth Regiment Wisconsin Volunteer Infantry, War with Spain, and pay him a pension at the rate of $10 per month.

The name of John G. Vantrump, late of Company G, Twentieth Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $15 per month in lieu of that he is now receiving.

The name of Charles L. Welteroth, late of Company D, Twelfth Regiment Pennsylvania Volunteer Infantry, and Company E, Ninth Regiment United States Infantry, War with Spain, and pay him a pension at the rate of $10 per month.

The name of Ellen Wecker, widow of Charles Wecker, late of Troop D, Third Regiment United States Cavalry, and pay her a pension at the rate of $12 per month.

The name of Henry Moore, late of Troop B, Ninth Regiment United States Cavalry, and pay him a pension at the rate of $10 per month.

The name of Sarah J. Wood, widow of Buzzilla Wood, late of Capt. Stewart's company, First Regiment Florida Mounted Volunteers, Florida Seminole Indian war, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John E. Karns, late of Company B, First Regiment Colorado Volunteer Infantry, War with Spain, and pay him a pension at the rate of $6 per month.

The name of Edward M. Deegan, late of Company G, Two hundred and second Regiment New York Volunteer Infantry, War with Spain, and pay him a pension at the rate of $6 per month.

The name of Henry H. Lord, late of Hospital Corps, United States Army, and pay him a pension at the rate of $30 per month.

The bill was ordered to be laid aside with a favorable recommendation.

The foregoing bill is a substitute for the following House bills referred to the Committee on Pensions:

H. R. 4630. Elizabeth A. Whittaker.	H. R. 20363. Aminda Space.
	H. R. 20425. Thomas Hartman.
H. R. 6266. Cornelia A. Mobley.	H. R. 20731. Thomas Smith.
H. R. 11492. James L. Herod.	H. R. 21930. Chris Sletteland.
H. R. 11546. John Soucek.	H. R. 22631. Louisa Margaret Brown.
H. R. 12434. John H. Woodruff.	
H. R. 13259. Peter A. Fitzpatrick.	H. R. 23847. Karl C. Wettstein.
H. R. 13816. Edward M. Yochem.	H. R. 24810. John G. Vantrump.
H. R. 14840. Carrie E. Gibson.	H. R. 25218. Charles L. Welteroth.
H. R. 15799. James H. Swallum, alias James H. Shields.	H. R. 25450. Ellen Wecker.
	H. R. 25537. Henry Moore.
	H. R. 26096. Sarah J. Wood.
H. H. 16535. Jesse Crawford.	H. R. 26287. John E. Karns.
H. R. 18311. Emily Ford.	H. R. 26505. Edward M. Deegan.
H. R. 19446. Mary Lois Wriston.	H. R. 27799. Henry H. Lord.
H. R. 19488. Albert McMichaels.	

Mr. RICHARDSON. Mr. Chairman, I yield all the time I have left to the gentleman from Wisconsin [Mr. BURKE].

The CHAIRMAN. The gentleman from Alabama has no time to yield. If the gentleman from Wisconsin desires, he can be heard on some later bill.

Mr. RUSSELL. Mr. Chairman, I desire to call up the bill (S. 7160) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The CHAIRMAN. The Clerk will report the bill.

Mr. RUSSELL. Mr. Chairman, I move that the first reading of the bill be dispensed with.

The motion was agreed to.

The bill was read as follows for amendment:

An act (S. 7160) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Susannah Roberts, widow of Evan Roberts, late of Company E, Fourteenth Regiment Michigan Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John Hedge, late of Company I, Fortieth Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Albert Whitehead, late of Company B, Thirty-seventh Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Henry Ackerman, late of Company F, One hundred and fourth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Edward S. Clithero, late of Company D, One hundred and sixteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Almond Partridge, late of Company B, Sixty-fourth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Gustavus A. Kindblade, late of Company G, Fourth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Martin Parker, late of Company H, Eleventh Regiment Kansas Volunteer Cavalry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Benjamin F. Adams, alias Franklin B. Adams, late of Company H, Second Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Augustus A. Nauman, late of Company A, Thirty-first Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Mary Byrne, widow of John Byrne, late major and lieutenant colonel One hundred and fifty-fifth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The name of Mary C. Smith, widow of George A. Smith, late of Company B, Twenty-first Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of E. Leora Norris, widow of David H. Norris, late of Company E, Eleventh Regiment Michigan Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Augustus C. D. Wilson, late of Company A, Seventh Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Alice O. Lord, widow of Frederick C. Lord, late captain Company L, Thirteenth Regiment New York Volunteer Cavalry, and Company C, Third Regiment New York Provisional Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of Julius T. Morse, late of Company E, Fifth Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Henrietta V. Hawley, widow of Willis C. Hawley, late of Company K, Seventeenth Regiment Vermont Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Charles E. Sherman, late of Company G, Twelfth Regiment Rhode Island Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Jennie M. Smalley, widow of Edward F. Smalley, late of Company A, Sixth Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Samuel N. West, late of Company G, Twenty-sixth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of James V. D. Ten Eyck, late of Company A, Thirtieth Regiment New Jersey Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Nellie L. Davis, widow of Jared M. Davis, late of Company E, Fifth Regiment New Hampshire Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Jerome S. Pinney, late of Company G, Battalion, First Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James E. C. Sawyer, late of Company I, Fourth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $18 per month.

The name of Julius E. Henderson, late of Company B, Sixtieth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William L. Baird, late second lieutenant Company L, Fourth Regiment Massachusetts Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The following amendments were read, severally considered, and agreed to:

Page 1, strike out lines 6 to 9, inclusive. (This is the case of Susannah Roberts (S. 449).)

Page 2, strike out lines 17 to 20, inclusive. (This is the case of Almond Partridge (S. 2978).)

Page 2, line 23, strike out the word "fifty" and insert in lieu thereof the word "forty." (This is the case of Gustavus A. Kindblade (S. 3786).)

Page 3, strike out lines 1 to 4, inclusive. (This is the case of Martin Parker (S. 4063).)

Page 3, strike out lines 5 to 8, inclusive. (This is the case of B. F. Adams (S. 4072).)

Page 3, line 16, strike out the word "thirty" and insert in lieu thereof the word "twenty." (This is the case of Mary Byrne, widow of John Byrne, late major and lieutenant colonel, One hundred and fifty-fifth New York Volunteer Infantry (S. 4187).)

Page 4, strike out lines 7 to 11, inclusive. (This is the case of Alice O. Lord (S. 5509).)

Page 4, line 14, strike out the word "forty" and insert in lieu thereof the word "thirty-six." (This is the case of Julius T. Morse (S. 5590).)

Page 5, line 9, strike out the word "forty" and insert in lieu thereof the word "thirty-six." (This is a bill for the relief of James V. D. Ten Eyck (S. 6660).)

Mr. RUSSELL. Mr. Chairman, I move that the bill as amended be laid aside with a favorable recommendation.

The SPEAKER. Is there objection?

There was no objection.

The foregoing bill is a substitute for the following Senate bills referred to the Committee on Invalid Pensions:

S. 449. Susannah Roberts.
S. 1531. John Hedges.
S. 1777. Albert Whitehead.
S. 2614. Henry Ackerman.
S. 2640. Julius E. Henderson.
S. 2739. Edward S. Clithero.
S. 2978. Almond Partridge.
S. 3786. Gustavus A. Kindblade.
S. 4063. Martin Parker.
S. 4082. Augustus A. Nauman.
S. 4072. Benjamin F. Adams (alias Franklin B. Adams).
S. 4187. Mary Byrne.
S. 4491. Mary C. Smith.
S. 4556. E. Leora Norris.
S. 5411. Augustus C. D. Wilson.
S. 5509. Alice O. Lord.
S. 5590. Julius T. Morse.
S. 5647. Henrietta V. Hawley.
S. 6038. Charles E. Sherman.
S. 6290. Jennie M. Smalley.
S. 6324. Samuel N. West.
S. 6660. James V. D. Ten Eyck.
S. 6947. Nellie L. Davis.
S. 6985. Jerome S. Pinney.
S. 7066. James E. C. Sawyer.
S. 6861. William L. Baird.

The next business on the Private Calendar was the bill (S. 8034) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The CHAIRMAN. Without objection, the first reading of the bill will be dispensed with.

There was no objection.

The bill was read for amendment as follows:

An act (S. 8034) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Ellen B. Kittredge, widow of Perry Kittredge, late hospital steward, Third Regiment New Hampshire Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Thomas W. Dickey, late scout, United States Army, and pay him a pension at the rate of $12 per month.

The name of Mary E. McDermott, widow of John E. McDermott, late captain Company G, One hundred and eighth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Henry Frink, late of Company I, Eighteenth Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Christian C. Bradymeyer, late of Company E, Seventieth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of George M. Pierce, late of Company I, Second Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Joseph C. Trickey, late of Company B, First Regiment Maine Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James M. Kinnaman, late of Company G, Twelfth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Addie Roof, widow of Daniel P. Roof, late of Twenty-first Battery, Indiana Volunteer Light Artillery, and pay her a pension at the rate of $12 per month.

The name of Leeman Underhill, late of Company D, First Regiment Wisconsin Volunteer Heavy Artillery, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Charles W. Morgan, late of Company E, Tenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Alphonso L. Stasy, late of Company G, Twenty-first Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Jeramiah Lushbough, late of Company I, One hundred and fourteenth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James B. Sales, late of Company C, Eighty-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Mary E. Rikard, widow of James M. Rikard, late of Company B, First Regiment Alabama Volunteer Cavalry, and Company A, One hundred and forty-fifth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Minnie V. Rikard, helpless and dependent child of said James M. Rikard, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Mary E. Rikard the name of the said Minnie V. Rikard shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month, from and after the date of death of said Mary E. Rikard.

The name of Margaret H. Benjamin, widow of Edson A. Benjamin, late of the U. S. S. Ohio, United States Navy, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Benjamin F. Ferris, late of Company K, Fifty-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Hiram Ferrier, late of Company G, Sixty-seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Henry B. Leach, late of Company I, Sixty-sixth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of John Bell, late of Company I, Twelfth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Elizabeth Lile, widow of Lewis Lile, late of Company C, Tenth Regiment Kansas Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of George M. Conner, late of Companies F and M, First Regiment Vermont Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The names of Lola B. Hendershott and Louise Hendershott, helpless and dependent children of Henry B. Hendershott, late captain, Second Regiment United States Artillery, and major, United States Army, retired, and pay each of said children a pension at the rate of $12 per month.

The name of Daniel H. Grove, late of Company H, Sixty-fourth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charlotte R. Coe, widow of Edward D. Coe, late second lieutenant Company B, First Regiment Alabama Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Caroline M. Packard, widow of William H. Packard, late of Company G, First Regiment, and Company E, Eleventh Regiment, Rhode Island Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Benjamin C. Smith, late of Company A, One hundred and fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of George R. Griffith, late second lieutenant Company B, Two hundred and eleventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Rolly Wright, late of Battery A, First Regiment West Virginia Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles J. Higgins, late of Company C, First Regiment Maine Volunteer Cavalry, and Eighty-first Company, Second Battalion, Veteran Reserve Corps, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Joseph Letzkus, late of Company G, First Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Israel H. Phillips, late of Company C, Ninety-seventh Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John E. Woodward, late captain Company F, Eighteenth Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Josephine A. Davis, former widow of James H. Sackett, late of Company K, Ninth Regiment Minnesota Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Osmer C. Coleman, late of Company D, One hundred and eightieth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Hugh McLaughlin, late of Company F, Seventh Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Joseph Striker, late of Company E, Eighty-third Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary Glancey, widow of James Glancey, late of Company D, Ninth Regiment Connecticut Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Joby A. Howland, late of Company F, Fifty-first Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Andrew King, late of Company A, Sixth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary S. Hull, widow of John P. Hull, late of Company C, Seventeenth Regiment Illinois Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Sarah E. Haskins, widow of John A. Haskins, late of Company D, First Regiment Connecticut Volunteer Heavy Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Ira Waldo, late of Company I, Sixth Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Ellis C. Howe, late of Company D, Fifty-third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Thomas M. Dixon and Joanna L. Dixon, helpless and dependent children of Barton S. Dixon, late captain Company F, Eighth Regiment Kentucky Volunteer Infantry, and pay them each a pension at the rate of $12 per month.

The name of Solomon Wilburn, late of Company H, Thirty-second Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William O. Sutherland, late of Company A, Eighth Regiment Michigan Volunteer Infantry, and Company B, Battalion United States Engineers, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Annie H. Ross, widow of D. Laning Ross, late of U. S. S. Peri, United States Navy, and pay her a pension at the rate of $12 per month.

The name of John Dixon, late of Company A, Fiftieth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Arnold Bloom, late of Company K, Forty-second Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John D. Perkins, late of Company B, Second Regiment, and Company F, Twenty-ninth Regiment, Maine Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Harrison, late of Company H, Twenty-sixth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Sarah E. Johnson, widow of Absalom Y. Johnson, late lieutenant colonel Twenty-eighth Regiment Kentucky Volunteer Infantry, and colonel Seventh Regiment Veteran Reserve Corps, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Willis Dobson, late of Company B, Fiftieth Regiment, and Company A, Fifty-second Regiment, Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Zachariah T. Fortner, late of Company G, Fifty-third Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jesse A. Moore, late of Company H, Sixth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James Moynahan, late second lieutenant Company B, and first lieutenant Company D, Twenty-seventh Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Dustin Barrow, late of Company F, First Regiment United States Volunteer Sharpshooters, and Company G, Fourth Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Sarah J. Viall, widow of Horace T. Viall, jr., late of Company B, Second Regiment Rhode Island Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James Luther Justice, late of Company L, Twentieth Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary A. Crocker, widow of George A. Crocker, late captain Company A, Sixth Regiment New York Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Winfield S. McGowan, late of Company B, Eighth Regiment New Jersey Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Martha J. Stephenson, widow of Ferdinand D. Stephenson, late captain Company B, Forty-eighth Regiment, and colonel One hundred and fifty-second Regiment, Illinois Volunteer Infantry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The name of George E. Smith, late of Company B, First Regiment Rhode Island Volunteer Light Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Roscoe B. Smith, late of Company I, Fifteenth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Mate Fulkerson, widow of Alexander C. Fulkerson, late of Company A, Seventy-sixth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Fred D. Bryan, late of Company C, Thirtieth Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Ada M. Wade, widow of Charles O. Wade, late of Company I, Seventh Regiment Michigan Volunteer Infantry, and Companies I and L, Second Regiment Missouri Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of Charlotte M. Snowball, widow of Edwin R. Snowball, late of Company C, Second Regiment California Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Franklin M. Snowball, helpless and dependent child of said Edwin R. Snowball, the additional pension herein granted shall cease and determine.

The name of Albert White, late of Company H, Seventeenth Regiment United States Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of William W. Lane, late of Company B, Thirty-fourth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Lydia M. Jacobs, widow of William H. Jacobs, late of Company G, Thirty-ninth Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Albert Burgess, late of Company C, Seventeenth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Rosa L. Couch, widow of Simon A. Couch, late first lieutenant Company D, Thirteenth Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John Cook, alias Joseph Moore, late of Company C, Sixth Regiment New Hampshire Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Amanda Barrett, former widow of Austin M. Kay, late of Company B, Ninth Regiment New Hampshire Volunteer Infantry, and Ninety-first Company, Second Battalion Veteran Reserve Corps, and pay her a pension at the rate of $12 per month.

The name of Aivah S. Howes, late of Company H, Sixtieth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of George C. Rider, late of Company G, Forty-fourth Regiment New York Volunteer Infantry, and Company G, Eighteenth Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Charles C. Littlefield, late of Company D, Forty-sixth Regiment Massachusetts Militia Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Martha Dye, widow of John H. Dye, late of Company H, Fourteenth Regiment, and Company M, Eighth Regiment, Missouri State Militia Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Carrie Hitchcock, widow of James W. Hitchcock, late captain Company K, Thirty-seventh Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Sarah McLaury, widow of George S. McLaury, late of Company I, One hundred forty-fourth Regiment, New York Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of William H. Frederick, late of Company F, First Regiment Ohio Volunteer Light Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Joseph D. Iler, late of Company K, One hundred and thirty-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Rodney S. Vaughan, late of Company A, Sixteenth Regiment New York Volunteer Cavalry, and Company C, Ninety-first Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Isaac A. Sharp, late of Company G, Eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Turner S. Bailey, late of Company A, Third Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Alpheus K. Rodgers, late of Company B, One hundred and forty-second Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The nameof Christina Higgins, widow of Asa T. Higgins, late of Company B, Twenty-fourth Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Josiah B. Hall, late of Company B, Fifty-seventh Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Ellen Tyson, former widow of Almon B. Gardner, late of Company B, Forty-sixth Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of William Hoover, late of Company G, Fifth Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Abby E. Carpenter, widow of Charles A. Carpenter, late first lieutenant Company H, Twenty-ninth Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Sarah Gross, widow of Henry S. Gross, late assistant surgeon, Twenty-sixth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Nelson Taylor, late of Company K, One hundred and second Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Carrie Crockett, widow of Hugh T. Crockett, late of Company A, Forty-sixth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Lucy H. Collins, widow of Oscar Collins, late of Company L, Third Regiment Ohio Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Royal H. Stevens, late of Company A, First Regiment Michigan Volunteer Infantry, and first lieutenant Company B, First Regiment Michigan Veteran Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Araminta G. Sargent, widow of George G. Sargent, late of Company C, Seventy-fourth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Sidney P. Jones, late of Company B, Twelfth Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ann T. Smith, widow of William W. Smith, late captain Company G, Twenty-fourth Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Ellen E. Clark, widow of John Clark, late of Company I, Twenty-first Regiment Iowa Volunteer Infantry, and former widow of Joseph Kirk, late of Company B, One hundredth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Sarah B. Paden, widow of Thomas F. Paden, late of Company A, Third Regiment Pennsylvania Volunteer Heavy Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Edmund P. Banning, late second lieutenant of Marines, U. S. S. Powhatan, United States Navy, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Winchester E. Moore, late acting third assistant engineer, United States Navy, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Mary P. Pierce, widow of Edwin S. Pierce, late lieutenant colonel, Third Regiment Michigan Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of John B. Ladeau, late of Company D, First Regiment Vermont Volunteer Heavy Artillery, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Christopher P. Brown, late of Company D, Second Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Allen Price, late of Company F, Tenth Regiment Tennessee Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Delphine R. Burritt, widow of Loren Burritt, late major, Eighth Regiment United States Colored Volunteer Infantry, and pay her a pension at the rate of $40 per month in lieu of that she is now receiving.

The following committee amendments were read, severally considered, and agreed to:

Page 2, strike out lines 1 to 3, inclusive. (This is the bill (S. 300) of Thomas W. Dickey.)

Page 3, strike out lines 5 to 7, inclusive. (This is a bill (S. 2379) for the relief of Addie Roof.)

Page 8, line 19, strike out "$30" and insert in lieu thereof "$24." (This is the bill (S. 5657) of Andrew King.)

Page 12, line 5, strike out "$30" and insert in lieu thereof "$24." (This is the bill (S. 6968) of James Luther Justice.)

Page 12, line 19, strike out "$30" and insert in lieu thereof "$20." (This is the bill (S. 7025) of Martha J. Stephenson.)

Page 13, strike out lines 3 to 6, inclusive. (This is the bill (S. 7084) for the relief of Mate Fulkerson.)

Page 14, strike out lines 7 to 10, inclusive. (This is the bill (S. 7173) of Lydia M. Jacobs.)

Page 14, strike out lines 19 to 22, inclusive. (This is the bill (S. 7214) of John Cook.)

Page 16, strike out lines 1 to 4, inclusive. (This is a bill (S. 7363) for the relief of Sarah McLaury.)

Page 20, line 20, strike out "$40" and insert in lieu thereof "$30." (This is the bill (S. 7805) of Delphine R. Burritt.)

Mr. RUSSELL. Mr. Chairman, I move that the bill as amended be laid aside with a favorable recommendation.

The motion was agreed to.

The foregoing bill is a substitute for the following Senate bills referred to the Committee on Invalid Pensions:

S. 33. Ellen B. Kittredge.
S. 300. Thomas W. Dickey.
S. 437. Mary E. McDermott.
S. 921. Henry Frink.
S. 1115. Christian C. Bradymeyer.
S. 1223. George M. Pierce.
S. 2106. Joseph C. Trickey.
S. 2293. James M. Kinnaman.
S. 2379. Addie Roof.
S. 2490. Leeman Underhill.
S. 2563. Charles W. Morgan.
S. 2634. Alphonso L. Stasy.
S. 2948. Jeramiah Lushbough.
S. 3178. James B. Sales.
S. 3304. Mary E. Rikard.
S. 3370. Margaret H. Benjamin.
S. 3490. Benjamin F. Ferris.
S. 3522. Hiram Ferrier.
S. 3573. Henry B. Leach.
S. 3597. John Bell.
S. 3665. Elizabeth Lile.
S. 3666. George M. Conner.
S. 3673. Lola B. Hendershott and Louise Hendershott.
S. 3748. Daniel H. Grove.
S. 3993. Charlotte R. Coe.
S. 4123. Caroline M. Packard.
S. 4255. Benjamin C. Smith.
S. 4656. George R. Griffith.
S. 4802. Rolly Wright.
S. 4819. Charles J. Higgins.
S. 4989. Joseph Letzkus.
S. 5033. Israel H. Phillips.
S. 5136. John E. Woodward.
S. 5171. Josephine A. Davis.
S. 5329. Osmer C. Coleman.
S. 5339. Hugh McLaughlin.
S. 5514. Joseph Striker.
S. 5528. Mary Glancey.
S. 5562. Joby A. Howland.
S. 5657. Andrew King.
S. 5852. Mary S. Hull.
S. 6012. Sarah E. Haskins.
S. 6169. Ira Waldo.
S. 6270. Ellis C. Howe.
S. 6452. Thomas M. Dixon and Joanna L. Dixon.
S. 6606. Solomon Wilburn.
S. 6651. William O. Sutherland.
S. 6664. Annie H. Ross.
S. 6739. John Dixon.
S. 6750. Arnold Bloom.
S. 6759. John D. Perkins.
S. 6787. William Harrison.
S. 6791. Sarah E. Johnson.
S. 6875. Willis Dobson.
S. 6878. Zachariah T. Fortner.
S. 6931. Jesse A. Moore.
S. 6938. James Moynahan.
S. 6955. Dustin Berrow.
S. 6966. Sarah J. Viall.
S. 6968. James Luther Justice.
S. 6973. Mary A. Crocker.
S. 7060. Winfield S. McGowan.
S. 7025. Martha J. Stephenson.
S. 7047. George E. Smith.
S. 7076. Roscoe B. Smith.
S. 7084. Mate Fulkerson.
S. 7100. Fred D. Bryan.
S. 7108. Ada M. Wade.
S. 7136. Charlotte M. Snowball.
S. 7137. Albert White.
S. 7164. William W. Lane.
S. 7173. Lydia M. Jacobs.
S. 7190. Albert Burgess.
S. 7200. Rosa L. Couch.
S. 7214. John Cook, alias Joseph Moore.
S. 7215. Amanda Barrett.
S. 7216. Alvah S. Howes.
S. 7219. George C. Rider.
S. 7224. Charles C. Littlefield.
S. 7276. Martha Dye.
S. 7282. Carrie Hitchcock.
S. 7363. Sarah McLaury.
S. 7376. William H. Frederick.
S. 7460. Joseph D. Iler.
S. 7510. Rodney S. Vaughan.
S. 7526. Isaac A. Sharp.
S. 7529. Turner S. Bailey.
S. 7547. Alpheus K. Rodgers.
S. 7556. Christina Higgins.
S. 7557. Josiah B. Hall.
S. 7569. Ellen Tyson.
S. 7581. William Hoover.
S. 7587. Abby E. Carpenter.
S. 7588. Sarah Gross.
S. 7595. Nelson Taylor.
S. 7596. Carrie Crockett.
S. 7615. Lucy H. Collins.
S. 7624. Royal H. Stevens.
S. 7628. Araminta G. Sargent.
S. 7661. Sidney P. Jones.
S. 7664. Ann T. Smith.
S. 7677. Ellen E. Clark.
S. 7701. Sarah B. Paden.
S. 7717. Edmund P. Banning.
S. 7719. Winchester E. Moore.
S. 7730. Mary P. Pierce.
S. 7775. John B. Ladeau.
S. 7781. Christopher P. Brown.
S. 7791. Allen Price.
S. 7805. Delphine R. Burritt.

Mr. BURKE of Wisconsin. Mr. Chairman, I call up Private Calendar 313, it being House bill 28282.

The CHAIRMAN. The Clerk will report the bill by title.

The Clerk read the title of the bill, as follows:

A bill (H. R. 28282) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

Mr. BURKE of Wisconsin. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. Without objection, the first reading of the bill will be dispensed with.

There was no objection.

Mr. BURKE of Wisconsin. Before the reading of the bill, Mr. Chairmain, if I may be allowed to do so, I would like to make a brief statement of its contents.

The CHAIRMAN. The gentleman from Wisconsin is recognized.

Mr. BURKE of Wisconsin. This bill, Mr. Chairman, has received most careful consideration at the hands of your Committee on Invalid Pensions. We have endeavored to present a bill that would be unobjectionable to the Members of this House, and yet that is a matter that is almost impossible to do. Still we have done our level best. Our committee since the session began in December has been somewhat crippled. There are two or three vacancies on our committee, and there have been several absentees since the last election. Our subcommittees are somewhat crippled by reason of there being sometimes only one member of a subcommittee present to work with us, and it is barely possible that under such circumstances some objectionable bills may have crept through. I have noticed that some subcommittees that have been fully represented at all times have presented bills here that were without objection, and if there are cases in this bill that are objectionable I think it is on account of there being an inefficient force on the subcommittee.

I desire to explain that in this bill there are 468 claimants, 332 being soldiers, 120 being widows, 14 being children, and 2 mothers. The bill carries a total appropriation of $148,296. This is a total increase of $48,048 per year on the part of the 332 soldiers; an increase of $14,928 per year on the part of the 120 widows, of $2,016 per year on the part of the 14 children, and of $288 on the part of the 2 mothers, thus making about $68,000 increase altogether. The average amount allowed per year under this bill is but $361 to a person. Of course, some are receiving a larger amount per year and some less.

This, in brief, is our explanation of the present bill.

We hope that it will be the last one that we shall present at this session. If it is not the last one that we shall present at this session, it will probably be the last one that we shall call up for passage.

Mr. MANN. That is, the gentleman means House bills?

Mr. BURKE of Wisconsin. Yes.

Now, Mr. Chairman, I ask unanimous consent that at this time the gentleman from Ohio [Mr. SHERWOOD] be allowed to address the House on this subject for 15 minutes.

Mr. MANN. It does not require unanimous consent.

The CHAIRMAN. The gentleman from Wisconsin [Mr. BURKE] is entitled to an hour, and the Chair understands he yields 15 minutes to the gentleman from Ohio [Mr. SHERWOOD], who is recognized for that time.

Mr. SHERWOOD. Mr. Chairman, as has already been stated by the gentleman from Wisconsin [Mr. BURKE], this is probably the last bill that will be reported from the Committee on Invalid Pensions during the life of this Congress. There may be a few bills reported for desperate cases.

This bill was prepared under a resolution that each Member who had his evidence prepared should be allowed three bills.

Now I have in my district 4,000 living soldiers. I have to-day bedridden soldiers to the number of 50, and you can see from that statement what proportion of adequate relief we have in this bill when you consider the whole body of over 500,000 surviving soldiers.

I have some statistics here, part of which have been stated by the gentleman from Wisconsin, but I think it is due the House to know how many pension bills have been introduced in this Congress. There has been introduced in this Congress 15,151 private pension bills.

Now, it is the presumption that every Member on this floor who introduces a bill thinks that bill has some merit. Of that number we reported and passed 3,000 bills. That is only 1 out of 5 introduced.

I stated on the floor of this House when the so-called dollar-a-day pension bill was under discussion that if that bill should pass the House it would largely dispense with private pensions. That was true; but, as you will remember, during the four days' consideration of that bill on this floor amendments were added to the bill which increased the aggregate between eleven and twelve million dollars. Then the bill went over to the Senate. There another and an entirely different bill was substituted. That was a pauper pension bill largely, and not a bill based upon service or upon sacrifice like the House bill.

The conferees on the part of the House and the conferees on the part of the Senate had a contest lasting over four months, in order that our conferees, representing this House, could secure a bill partly based upon service and upon sacrifice, and we had to submit to a new classification in order to get any bill at all. Under this law a soldier who is totally disabled, who was wounded in battle, if he has not reached the age of 70 years, can only get a maximum of $19 per month, whereas a soldier who is 75 years old, under this law, whether he was in the service for only 90 days, will get $21, and if he was in 2 years, $30 per month, without regard to his service or disability.

Let me illustrate why these private bills are necessary. I went into the Army at the age of 26 years, when I was at full maturity. The boys who went into the Army at 16 and 18 and who served through the war are older men than I am to-day. If I had gone into the Army at 16 or 18 years of age and had gone through the same service in that war, I would probably have been in the cemetery by this time or a physical wreck, utterly incapacitated for manual labor.

So that this law which passed in May last does not take care adequately of those who are disabled and who have not reached the age of 70 years. That is the reason why these private bills are necessary now. I have a table here showing the increases in this bill, referred to by the gentleman from Wisconsin The increases in this bill, should it become a law, will be $5,472 a month, or $65,704 a year, should all the beneficiaries live that long. That is the total increase for the 467 cases involved in this bill, but the death rate will reduce the aggregate to less than $40,000. So you will concede that the increases are very moderate and in many cases not as liberal as they should be.

Now, my friends, a good many men on this floor, and more outside, do not appreciate or understand the magnitude of this great war. Do you know that more men lost their lives in one great battle—the Battle of Gettysburg—than in the entire American Revolution and in the two years' war with Mexico and the War with Spain, all combined, covering a period of 10 years?

In the War of the American Revolution, lasting 7 years, there were 56 battles fought, or 8 battles a year. In the Civil War there were over 2,000 battles fought, and 400 battles in which more men lost their lives than in the bloodiest battle of the War of the Revolution—the Battle of the Brandywine. In the whole War of the American Revolution 1,735 men were killed in battle. In the War with Mexico, where 105,000 soldiers were recruited in 2 years, 1,049 men lost their lives. In the War with Spain, including the terrible slaughter at San Juan Hill, according to the official report, 247 men lost their lives in battle. In the Battle of Gettysburg there were 3,070 killed on the battle field or died on the battle field from wounds.

Now, you can figure up your 1,735 in the War of the American Revolution, 1,049 in the War with Mexico, and 247 in the War with Spain, and you will find that 41 more men were killed in that one Battle of Gettysburg than in all these three great wars.

Let me call your attention to another fact. There were more men killed on the Union side in that war than all the wars of England—the greatest imperial Empire and the most warlike of any nation around the world—for 350 years, including the 43 wars of conquest under Queen Victoria. I have not the statistics of the loss on the Confederate side, for they are not so available.

Now, it does not seem to me to be beyond patriotic duty to bring in a bill here for these deserving and destitue old soldiers staggering to a nearby grave and only carrying an aggregate increase of $65,000 a year.

Let me make another statement that may seem startling. Considering the size of the armies, considering the battle fatalities of these armies, the American people have provided more pensions, more benefits, more bounties to the soldiers of the American Revolution than we have up to this date for the soldiers of the Civil War. And now I will prove it.

Take Virginia—only one of the thirteen original Colonies—for illustration: In a speech made by Representative Smith, of South Carolina, in January, 1828, quoted in Thomas H. Benton's Abridgment of the Debates of Congress, is a statement of the amount of lands, the amount of bounty, and the amount of money given to the soldiers of Georgia and South Carolina by these Commonwealths for the services of their volunteer soldiers in the War of the Revolution. Congressman Smith, of South Carolina, said:

> The truth is that the officers of your Revolutionary army had been more liberally provided for than any other class of men in this or any other country. In addition to their pay during their time of actual service they were promised half pay for life after they should retire from the Army, which was commuted for five years' full pay—which was a mighty stretch for a Government at the dawn of its struggle for freedom—and were promised and received large tracts of valuable lands. Each officer, from a major general down to an ensign, had his lands, and that placed upon the most fertile spots. In addition to this, the Southern States gave their officers large tracts of the finest land in the world. Virginia gave largely and liberally in lands to her officers. South Carolina did the same. North Carolina gave to each brigadier general 12,000 acres; to a colonel 7,200; to a captain 3,500; and to Gen. Greene that State gave 25,000 acres that were said at one time to be worth $500,000. To that meritorious officer Georgia gave $22,500 in money, and South Carolina gave him $45,000 in money. These were free-will offerings after the war was ended, which those States were prompted to make to exalted merit for distinguished services, and surely they would redeem the Carolinas and Georgia from the crying sin of ingratitude.

In 1828 the Congress of the United States passed a law retiring all soldiers of the War of the Revolution and all officers on full pay for life (on the maximum pay of a captain) who served for two years in the continental line. Four years later, in 1832, the Congress of the United States passed a law retiring for life on full pay (limited to the full pay of a captain) all the minute men, all the militia, and all the militia officers who served on and off for two years. In 1833, a year later, Congress modified and liberalized that law. The second section of the act of 1832 required the reduction of all invalid and other pensions and a total relinquishment thereof before receiving its benefits; but Congress, on the 19th of February, 1833, removed this restriction; so that, since that time, the soldiers of that war received two pensions, where their service has been of sufficient duration to admit them to pensions under the act of 1832. Congress also made the law retroactive two years, to date back to 1830.

Here is something very substantial that Virginia did for her soldiers. In chapter 21 of the act of October, 1779, it is provided that—

> Officers who shall serve in the Virginia line on the continental establishment * * * to the end of the present war, and noncommissioned officers, soldiers, sailors, etc., shall * * * receive land * * * following:

	Acres.
Every colonel	5,000
Every lieutenant colonel	4,500
Every major	4,000
Every captain	3,000
Every noncommissioned officer	400
Every soldier	200

And so forth.

In the act of October, 1780, chapter 3, it was provided—

> And each recruit, and all our soldiers now in service, * * * or who may enlist by the 1st of April next to serve during the war, and who shall serve to the end thereof, SHALL THEN RECEIVE A HEALTHY NEGRO between the ages of 10 and 30 years,

That is most startling news—more startling than Hannibal brought back from Africa.

> Or he shall receive £60 ($300) in gold or silver, at the option of the soldier, in lieu thereof, and moreover be entitled to 300 acres of land.

Here are a few cases where the United States paid Revolutionary War officers money under the half pay originally promised by Virginia:

Laban Bailey, sailing master	$2,021.50
Charles S. Bonoch, lieutenant, Navy	5,066.00
John Bailey, captain	10,548.16
Robert Andrews, chaplain	7,284.88
James Barron, commodore	32,382.50
John Bailey, Bardstown, Ky	9,480.68
Corbin Griffin, captain	10,970.10
John Cox, captain	13,715.22

And many others.

These payments were made good by the United States to redeem promises made by Virginia and were in addition to the full pay and pensions provided by Congress.

Again, officers of the Regular Army—not more than 5 per cent of whom have any chance to see any battle service—are now retired at 64 years of age on three-fourths pay for life, and those Regular officers who served in the Civil War, if for a day only, are paid the salary of one rank above their rank at retirement. They receive three-fourths pay which, after five years, ranges from $1,400 for a second lieutenant to $4,500 for a brigadier general.

And quite recently 10 per cent increase in pay was voted the officers and soldiers of the Regular Army, aggregating some $10,000,000 annually of our hard-earned tax money. And this was followed by a 10 per cent increase in pay of the officers and sailors of the Navy, aggregating $6,000,000 more per year. All this for the benefit of men always well paid, well housed, and well fed, who produce nothing, earn nothing, improve nothing, and who have suffered no hardships, compelling every wage-worker to carry a soldier upon his back in addition to the tremendous burden of onerous taxation on everything he wears, eats, or consumes.

Congress provides liberally for the Navy in time of peace. The official pamphlet entitled "The Making of a Man-of-War's Man," issued by the Navy Department, May, 1910, to induce young men to enlist in the Navy, shows that a man may enlist at 18 years of age, spend half his wages, lay up the remainder, and at the age of 48 have savings of $27,486. I quote a paragraph from this official pamphlet:

FINANCIAL BENEFITS OF A LIFE IN THE NAVY.

Regarding financial benefits we will suppose, for example, that a man enlisting at the age of 18, reaches the rank of petty officer by the end of his first enlistment (four years more). Any man can do this if he is willing to work. If he saves half his pay during 30 years, from the age of 18 to 48, and he invests it in the Navy Savings Bank at 4 per cent interest and reenlists immediately on the expiration of each enlistment those 30 years, at the end of that time he will have in cash $27,486, and may retire on three-fourths of his pay, which will be about $105 a month, or $1,260 a year. Thus he will have $27,476 in cash, which he can invest at 4½ per cent, which will bring him in over $1,236 a year. Add this to his retirement pay and you will readily see that he would have $2,496 per year income from the early age of 48 for the balance of his life.

And yet we have great metropolitan journals and magazines claiming to be in a moral and patriotic uplift who utter no word of protest against the six hundred millions a year spent on militarism. But when it is proposed to spend a few thousand dollars on the seared and sorrowed remnant of that great army of veterans of the Civil War these same journals and magazines do not hestitate to denounce the surviving veteran soldiers as grafters, seeking to bankrupt the Federal Treasury. Verily are we not, ethically speaking, on the toboggan slide?

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. KENDALL. I ask unanimous consent that the gentleman's time be extended five minutes.

Mr. BURKE of Wisconsin. I yield five minutes more to the gentleman from Ohio.

Mr. SHERWOOD. Other instances might be cited showing the vast amount of land rewarded other officers of the Revolution. I will cite only one case, which is perhaps a marked one. Lafayette was first given 11,520 acres of land; afterwards he was given a full township, 36 square miles of land, to be selected by himself, and also $200,000 in gold.

All these vast rewards were in addition to the pension and full pay given to Revolutionary officers, according to their rank, by the Congress of the United States.

Again, 40 years after the Mexican War, we pensioned every soldier who served 60 days in that war, and those who enlisted north of Texas could not reach the Army in Mexico at that time in 60 days. So these soldiers of the Mexican War were pensioned because they were soldiers who enlisted in that war and not because of actual service at the front or any disability whatever.

I invite your careful scrutiny to this bill. No soldier is pensioned without service or without disability and unless he is in destitute circumstances. It is our patriotic duty to care for these grizzled, battle-scarred veterans.

We can not call back from 70 national cemeteries our valiant dead. They are forever beyond recall. But we can do something for the living, who in that terrible four years' war offered their lives in battle to preserve the Republic. Let us see to it that the last sad remnant of that Army, now passing rapidly away, shall have their last days on earth made comfortable and free from biting want. Let us give to the fast-fading remnant of the men who stood behind the guns, who did the hardest work of war, a small token of our sense of gratitude to cheer their worn-out, weary lives. [Applause.]

The CHAIRMAN. Does the gentleman from Wisconsin [Mr. BURKE] desire to occupy any more of his time?

Mr. BURKE of Wisconsin. Not now.

Mr. RODDENBERY. Mr. Chairman, in the course of the remarks of the distinguished ex-Speaker [Mr. CANNON] this morning he made reference to the location and type of memorial that the Government should erect to Abraham Lincoln.

I do not propose now to discuss what type of memorial would be most fitting for the Government to undertake, but I venture to suggest that if the policy or plan to be adopted is that of a great national highway reaching from one point of the country to another, rather than have it from Washington to Gettysburg, it would be more appropriate to construct it from Washington to Richmond, Va.—Richmond, as the seat of that virile young government that thrived for a season and perished forever, and Washington, as the seat of that Government which has survived and will survive forever [applause]; or, rather still, discard the seat of government altogether, for there is, as the gentleman from Illinois [Mr. CANNON] stated, or should be, a higher purpose than the construction of this memorial as the occasion of emphasizing any great project. Appeasing the esthetic taste and love of appropriations is a great Washington project. It is equally true that it should be for a still higher purpose than gratifying the ambitions and desires of many to make it chiefly a factor that goes to make the Capital of the Union the most beautiful and most attractive of all the cities of the world.

I should rather go to Illinois, whence came the immortal Lincoln to assume the Presidency of the Republic in the most crucial period of its existence, and there with enduring arches begin the consecration of the memorial, letting it stretch southward across the plains, from which thousands and tens of thousands of soldiers went forth from their homes, both to the Union and to the Confederate lines, and let it reach to Mississippi, there to connect the home of Abraham Lincoln and the home of Jefferson Davis, the two Presidents of the respective Governments in this great and trying period, both of whom died martyrs for their country's good, as country's good each thought it. Either of these, it seems to me, would be more fitting than the proposition to connect Washington, with its grandeur, with Gettysburg, nigh by, with its memory and record of fratricidal strife and fraternal destruction. The only sound reason that makes the plan to construct a highway to Gettysburg of equal importance with either of the plans that I have suggested—to construct it from Washington to Richmond or from Illinois to Mississippi—is that on one occasion Lincoln repaired to Gettysburg, and there, in a few words and in brief speech, gave deliverance to expression of patriotic thought that, for the time consumed in their utterance, are equaled in no age and in no language yet spoken by man. [Applause.]

Mr. Chairman, we have digressed from the purpose for which we arose to address the House. On January 10, 1913, when the preceding omnibus pension bill was under consideration, I took occasion, without knowing Capt. King, without knowing Commissioner Davenport, to read into the RECORD a letter that Capt. King, past commander in chief of the Grand Army of the Republic, had written, in which letter Capt. King called attention to the fact that the Commissioner of Pensions is now and for several years had been drawing a fair salary of $5,000 a year as such commissioner, and was at the same time, and had been for more than 20 years, drawing a pension as a disabled soldier because of disease contracted during his service in the war. Capt. King also took occasion to say that the Commissioner of Pensions saw no active battle and sustained no injury in his service; that he procured himself to be placed upon the pension roll at a time when he was an employee in connection with and in service of the Pension Bureau. Other remarks were made touching this question. On that occasion, my distinguished colleague, the gentleman from Massachusetts [Mr. CURLEY], took occasion, after I had concluded my remarks, to say:

I made it my business to telephone the Pension Commissioner, and he informed me that he endeavored on three occasions to enlist in the Union Army in his native section in New Hampshire, but was rejected because of his youthfulness. He was less than 18 years of age, and in order that he might serve his country, in order that he might assist in keeping this Union whole, he left home, a boy under 18 years of age, and worked his way westward to Wisconsin, and was finally accepted and enlisted in Wisconsin; that he served five months in the Civil War in Mississippi and in Tennessee, and that he participated in the Battle of Memphis, on August 5, 1864.

My colleague said further:

In the light of the testimony of the commissioner himself, who would not dare state an untruth as far as his record is concerned, because it could be easily discovered by an investigation of the records at the War Department, I believe it is not only unjust, but it is unwarranted, it is unfair, and it should be condemned.

I accept the statement of the gentleman from Massachusetts as correct. I mean to say by that that the gentleman from

Massachusetts undoubtedly correctly and truthfully reported what the Commissioner of Pensions had said to him over the telephone.

If what the Commissioner of Pensions said to the gentleman from Massachusetts is true, then it undoubtedly follows that the statements were unwarranted, unfair, and should be condemned. Any remarks I now make in no way bring into question either the good faith, the accuracy, or the propriety of my colleague's statement just quoted. But I assert again that I assume that, fresh from the telephone, he quoted the commissioner correctly—that is, that Commissioner Davenport told him that he undertook to enlist in his native State three times, and because he was under 18 he was too young and could not; next, that he went westward and finally enlisted and served five months in the Army; next, that in addition to that service in the Army, after it had ended he was in such a condition as to be entitled to a pension; and, further, that during that service he was engaged in the battle at Memphis on the 5th of August, 1864. Mr. Chairman, I lay down the proposition that neither statement is true. I not only lay it down, but I propose in my time here to prove it by the record and incontrovertible fact. On that occasion my friend very properly, as he thought, said:

I can very readily conceive that some joker has been indulging in the very pleasing task of writing letters.

Let me read this letter, Mr. Chairman:

25 WEST MOUNT ROYAL AVENUE,
Baltimore, Md., January 13, 1913.

Hon. JAMES M. CURLEY,
House of Representatives, Washington, D. C.

DEAR SIR: I was interested, if not amused, at your defense of Commissioner Davenport, Friday last, in the House.

Mr. Davenport informed you over the telephone that he was less than 18 years of age when he enlisted (presumably in the summer of 1864), and the "fairy" tale that he had made three attempts to do so in New Hampshire and was obliged to make his way to far Wisconsin before he succeeded.

About a year ago four ex-Union soldiers were at lunch together—Davenport and the writer were of the number. The question of age came up, and it was disclosed that all of us were born in 1845. I was the youngest of the four, being some two or three months Davenport's junior (he likes to repeat this incident). Now, Davenport claims to have enlisted in the summer of 1864; 1845 from 1864 leaves 19 plus 6 months—nearly 20 years instead of less than 18. Has Mr. Davenport told you the truth? I was born June 24, 1845, and on the 15th day of August, 1862, was mustered into the service of the United States in Company H, Sixth Regiment Maryland Volunteers; served until the close of the war (2 years 10 months); wounded three times, used crutches for nearly 12 months after the war, and had the honor of commanding my company in the Wilderness campaign. Again, Mr. Davenport told you in that telephonic conversation that he served 5 months and was in the Battle of Memphis, August 5, 1864. As my entire service was in the Army of the Potomac, in the famous Sixth Corps (Keifer's brigade), I am not very familiar with the battles fought in the Southwest. As I had never heard of the Battle of Memphis, August 5, 1864, I have looked through Strait's Alphabetical List of Battles, 1754 to 1900, and it fails to disclose any such engagement. This book is accepted as authentic in the Pension Bureau. Now, Mr. CURLEY, did Mr. Davenport tell you the truth? You can verify his statement by a call on the Adjutant General of the Army for his record and of the Battle of Memphis. If there was such a battle, it must have been disastrous to this gallant soldier, who was so anxious to "keep the Union whole," as 21 years thereafter, while holding a position in the Pension Bureau, had himself placed on the pension rolls at $16 per month for "chronic diarrhea," and under the law that wasting disease must still be present or be dropped from the rolls. Does he look it?

I have on my desk a late photograph of the Commissioner of Pensions, and he does not look it. Capt. King goes on to say:

I have served several years on the Grand Army of the Republic national pension committee, have always urged the most liberal pensions for my comrades who deserved them, but have never favored those "chocolate" soldiers who never saw the front or felt the shock of battle. We read in Holy Writ that those who went into the vineyard at the eleventh hour received the same pay, but nowhere do we read in that sacred volume that they received more than those who bore the whole heat and burden of the day.

Now, Mr. CURLEY, it was not a "joker" who wrote to Mr. RODDENBERY. I pride myself on having been a real soldier, and you are at liberty, and I court the inquiry, to call on The Adjutant General of the Army for my record, or to my dear old commander, Gen. J. Warren Keifer.

Respectfully, yours, JOHN R. KING.

Now, Mr. Chairman, my distinguished colleague said that it would be easy to obtain from the War Department the military record of the Commissioner of Pensions, and that the Commissioner of Pensions would not dare misstate it. I read:

WASHINGTON, *D. C., January 14, 1913.*

THE ADJUTANT GENERAL,
Care of War Department, Washington, D. C.

MY DEAR SIR: Please cause to be forwarded to me the military record of James L. Davenport as a private in Company B, Fortieth Wisconsin Regiment, 1864–65.

Yours, truly, S. A. RODDENBERY.

This is the reply from The Adjutant General's Office:

WASHINGTON, D. C., *January 15, 1913.*

Hon. S. A. RODDENBERY,
House of Representatives:

The records show that James L. Davenport was enrolled May 23, 1864, at Beloit, Wis., and was mustered into service June 7, 1864, as a private of Company B, Fortieth Regiment Wisconsin Infantry, to serve 100 days, and that he was mustered out with the company as a private September 20, 1864, to date September 16, 1864.

GEO. ANDREWS, *Adjutant General.*

So the record of the department shows that the distinguished Commissioner of Pensions served less than three months and a half in this great war and that his arduous sacrifices and services nowhere approximated five months. I also addressed a communication to the Surgeon General of the Army, which was referred to The Adjutant General, under the same date, as to Mr. Davenport's confinement in hospital from disease or injury. The reply is:

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
January 16, 1913.

Hon. S. A. RODDENBERY,
House of Representatives:

Inviting attention to the letter addressed to him to-day by this office, from which it will be seen that nothing has been found in the hospital records to show that the said Davenport was wounded or received any injury while in service, or that he was under treatment in hospital for any disability while a member of the regiment mentioned.

GEO. ANDREWS,
The Adjutant General.

Gentlemen, the record is speaking for itself. This is no telephone conversation. The correctness and truth of the commissioner's telephone statements are not supported by the official record. But I proceed.

Capt. King referred to Strait's Alphabetical List of Battles. So that the record may be complete, I supplement him by saying that on page 85 of that volume it shows what transpired in the nature of battles, engagements, sieges, or skirmishes at or near Memphis, and nowhere does it appear that any battle, engagement, or skirmish took place at any time during the war at Memphis on August 5 or thereabouts, so the commissioner who gave his record over the telephone fought in a battle of which nobody has a record except himself. Either Davenport is wrong or the war records are falsified. The record is speaking now, not the Commissioner of Pensions. His enlistment in the Fortieth Wisconsin Regiment—I read from Love, Wisconsin in the Rebellion, "Roster of Union Soldiers," not only recognized as an authority but accepted as such by the Pension Department, and it so appears in the volume quoted and it so appears in the records of the Pension Bureau; not only that, but it appears in the preface of Strait's Alphabetical List of Battles that the Commissioner of Pensions then accepted and now accepts it as authentic record of the battles. From this authority, "the men of the Fortieth Wisconsin were principally students of the Wisconsin colleges and seminaries and members of the several professions." That is evident from the fact that when the college term was out the latter part of May these young men, patriotic and valiant, engaged for 100 days in the war, and for perhaps longer if occasion should require. They enlisted, went forward to Tennessee, and there served, returning to their State and their colleges in ample time for the fall term. The Commissioner of Pensions seems to have abandoned his business of soldier-broker long enough then and thereafter to go to Tennessee with the college boys. The record from the official roster, on page 858 et sequentia, says that but three soldiers in the entire regiment received a wound of any kind, and that no soldier, officer or private, of Commissioner Davenport's company received an injury of any kind.

It further appears on page 1119 of the roster that the entire Fortieth Wisconsin Regiment, composed of 776 privates, mostly college boys, was mustered out in Wisconsin, where they enlisted, and that when the roll was called every soldier, every boy who went forward with the regiment, answered present except 13. The names of the 13 who did not answer present are there recorded. Every one of them is reported to have died from disease, and of the company in which the Commissioner of Pensions was a member only two are reported to have been fatally afflicted with disease of any kind, and no record in the War Department that the Commissioner made a charge upon the hospital. That is the Wisconsin regiment in which he served, and because of which service for nearly 30 years while he has served as an employee of the Pension Department he has been drawing $16 a month, when these old veterans that Gen. Sherwood was talking about were receiving $8, $10, and $12, although they fought where lives of men were swallowed up by blood and death.

Mr. LANGLEY. Will the gentleman yield for a question?

Mr. RODDENBERY. Certainly.

Mr. LANGLEY. The gentleman has stated heretofore that there are several ex-soldiers who are drawing pensions and who are receiving high salaries from the Government at the same time. Why does not he give some more of those cases instead of confining all of his remarks and criticisms to Commissioner Davenport, who happens to be a Republican official?

If he desires to be fair and impartial and to help correct what he regards as an abuse, why does he not refer to the cases of some Democratic officials as well? Why not give the cases of some others, like that of Gen. Black, for instance, who, to my knowledge, has been drawing a pension of $100 a month for nearly 30 years on the theory that he is and has been all along a physical wreck, and yet nearly all of that time he has been serving the Government in some capacity or other, and has received much more salary and pension, too, than Commissioner Davenport has? He has been a Member of Congress. He was Commissioner of Pensions for a number of years and is now president of the Civil Service Commission, and has been a member of the commission for many years. I have no objection to all this. Gen. Black was a distinguished soldier and has been a faithful public official. I am his personal friend, and am not seeking to criticize him, but why does not the gentleman refer to some of these other cases instead of continually hammering at Commissioner Davenport and talking about him getting a fat salary and drawing a pension at the same time, just as if that is a crime and he the only man who ever committed it?

Mr. RODDENBERY. I am glad the gentleman from Kentucky [Mr. LANGLEY] has again called attention to Gen. Black, and it is very appropriate in this connection; but if my friend will read the RECORD, and I am sure he usually does, he will find that my colleague [Mr. TRIBBLE] drew attention on the floor to Gen. Black's pension, and not only stated his salary, but the whole amount he has drawn in pensions and the whole amount he has drawn in his respective high public offices. The reason I call attention to Commissioner Davenport now is that I received a letter from Past Commander in Chief John R. King, giving me facts which I would not otherwise have known and which should be brought to the attention of the House. I immediately verified them and presented them to the House. Then the correctness of the statements were brought into question by Commissioner Davenport in conversation over the phone with my colleague [Mr. CURLEY], who accurately and correctly repeated on the floor what the commissioner said; that is, that he served five months; and I have proved by the War Department and the war records that he did not.

He stated that he was in the Battle of Memphis on August 5, 1864, and I have proved by the War Department records that he was not. In fact, have shown there was no such battle; that he tried to enlist and could not because he was under 18 years of age; and I have proved by the record, and now prove by his own autobiography in Who's Who in America that he was born on January 27, 1845, and that he could have entered nearly two years before he did and been clear of the age that he gave to my friend Mr. CURLEY.

I will also call attention to facts that seem appropriate when we are about to consider this commissioner's sad disappointment at not being able to break into the Army. On the first page of the bill we are now considering, on the first page of the report, and the first bill in the report, and the first item in the bill, is a paragraph authorizing a pension for a soldier who enlisted in the Union Army when he was 15 years old. Was this young American more diligent than the distinguished Commissioner of Pensions?

Mr. TRIBBLE. Did the gentleman notice the second page, where the pensioner was only 13 years of age when he enlisted?

Mr. RODDENBERY. I thank the gentleman. Yes; just 13 years of age, and, lo and behold, he comes from Wisconsin, the State in which the commissioner enlisted.

Mr. AUSTIN. May I ask the gentleman a question?

Mr. RODDENBERY. I will be glad to yield later, but let me finish just now. I turn to page 11 of the report and find that a young lad from Illinois, according to this report, enlisted in the Army at the age of 13 and rendered service on the battle field. What was the reason Commissioner Davenport could not get in at 16, 17, or 18 years of age?

In the same report, on page 15, we find young Hughey, of Ohio, who enlisted and served at the age of 14. What was the matter over in New Hampshire, that the Commissioner of Pensions could not get in after three futile efforts? Why, my God, if he had been as expeditious in getting into the war as he was in getting onto the pension roll, John C. Black and old Gen. SHERWOOD would be pigmies in battle by the side of him. [Applause.]

Turn to page 21 of the record and there you find another Ohio lad who, according to the record, was accepted and enlisted in the Army at 13 years of age. Where was the commissioner then? This young Ohio man was younger than the Commissioner of Pensions.

We find again, on page 32, out in Wisconsin, where the gentleman finally broke in to save the country, a lad who at 16 years of age enlisted and participated in the service of his country. We turn to page 54 and find that Bradley W. Hill, now 67 years old, entered the service at the age of 16. And, gentlemen, does it not astound you that this soldier enlisted in New Hampshire, where the Commissioner of Pensions made three fatal and futile efforts to enlist? So he says. I wonder what they had against him.

On page 57 of the record we find that Charles D. Jones, now 65, enlisted in the Army at 16 years of age; and, behold, this lad also was from New Hampshire. Where was the commissioner? He was over 18 years old at that time. But he contented himself by trying to explain to my friend from Massachusetts [Mr. CURLEY] how he strove in New Hampshire to get into the Army and crossed the American Continent to the State of Wisconsin in order that he might do service to save the Republic and get upon the pension roll. [Laughter.]

On page 86 we find a 16-year-old lad from Wisconsin gets upon the fighting roll. We find on page 98 another 16-year-old lad; on page 100 another 14-year-old lad. We find on page 119, also from Wisconsin, a 16-year-old lad. But Commissioner Davenport, whose record, being questioned upon the floor of the House, sends by telephone from his luxurious office in the Pension Building, where he is drawing now $5,000 a year from the people's Treasury, a demonstrated false statement in the despefate effort to exculpate himself from the charge made by his old comrade, Capt. King, saying over the phone to my colleague, "Tell the Congress I would have got there quicker but I was too young and they would not take me." Was he of sound mind and was he of fighting disposition? I can not tell you.

On page 121 another lad of 15 was able to get into the Army, and so on all through the report. On page 138 we find young Thurston at 17 years enlists and is accepted in the State of New Hampshire. He is four years younger than Davenport, but he went out to fight—not for a pension but for his country. I call your attention to it because my friend says that he knows the Commissioner of Pensions would not make a statement that was not correct, because the records would show it, and we have resorted to authentic sources and produced the records. They show what the facts are. Let Members now judge this man. What an incident, that Commissioner Davenport was the only 16 or 17 year old boy who could not enlist in New Hampshire.

Now, Mr. Chairman, I will yield to the gentleman from Tennessee [Mr. AUSTIN].

Mr. AUSTIN. I want to ask the gentleman from Georgia if Capt. King, whose name has been used here, or whose statement was used in this House to make an assault upon the worthy and efficient Commissioner of Pensions, is the same Capt. King who was pension agent in the city of Washington before the consolidation of the pension agencies?

Mr. RODDENBERY. Lately?

Mr. AUSTIN. Yes.

Mr. RODDENBERY. I do not know. Gen. SHERWOOD can tell you.

Mr. AUSTIN. Is it not a fact that his pension was granted and increased while holding the office of pension agent in this city, and that his fight on the Commissioner of Pensions grows out of the fact that the Commissioner of Pensions declined or refused to place him in the office of disbursing agent after the consolidation of the pension agencies?

Mr. RODDENBERY. So far as I know, it may be entirely true, and, again, so far as I know, it may be entirely incorrect.

Mr. AUSTIN. How long has he been pension agent—this man who now uses his position in the public service to assault his superior officer, a man of such splendid efficiency as Commissioner Davenport?

Mr. RODDENBERY. I do not know that Capt. King is now in the service. I do not know that he ever has been in the service; but I do know that according to his card he is past commander in chief of the Grand Army of the Republic of the United States. I do know that according to his card he was a member of the Sixth Missouri Volunteers; that he is past commander of the Department of Maryland; that he is District of Columbia commander of the Loyal Legion; that he is president of the Grand Army Club of Maryland. I do know that according to the records of the War Department this lad entered the war at about 17; that he stayed with it 2 years and 10 months; that he was in Gen. Keifer's brigade; that in the terrific Battle of the Wilderness, where America met America, he commanded his company; that when he came out of the war he had left flesh, blood, muscle, and bone on the field where he did battle for his country; and I know that for years he drew $10 a month in this infirm condition when the Commissioner of Pensions was drawing $16 a month, and never stumped his toe or had

the colic, so far as his military or hospital record shows. If Capt. King is not getting a liberal, fair pension, he ought to have it, and if Davenport is getting any it is a fraud on the Government. [Applause on the Democratic side.]

Mr. LANGLEY. Will the gentleman yield?

Mr. RODDENBERY. Certainly.

Mr. LANGLEY. Does the gentleman from Georgia know that Capt. King made a personal appeal to the Commissioner of Pensions, Mr. Davenport, to have his pension increased beyond what the evidence in the case warranted, and that Mr. Davenport declined to increase it, and that that is probably the beginning of the animus he has displayed in this matter, and that it was probably aggravated later on when he blamed Mr. Davenport for not getting a place he wanted?

Mr. RODDENBERY. I do not know.

Mr. LANGLEY. Well, I do. I have been so informed, and, I think, reliably.

Mr. RODDENBERY. But before I have finished I will show you that applicants and influences have appealed to Mr. Davenport for pensions contrary to law, contrary to the findings of the examiners, and that he has granted them in the face of both the law and the facts.

Mr. LANGLEY. That is a pretty serious charge, and it should be sustained or withdrawn.

Mr. RODDENBERRY. I will show it, and don't you doubt it. In further answer to my friend from Tennessee [Mr. AUSTIN] in this connection, he says Mr. Davenport is a faithful, valiant, and efficient Commissioner of Pensions. I will make direct reference to it presently.

Mr. AUSTIN. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Georgia yield to the gentleman from Tennessee?

Mr. RODDENBERY. Certainly.

Mr. AUSTIN. Capt. King calls attention to the fact that the Commissioner of Pensions, while drawing a large salary, secured a pension.

Mr. RODDENBERY. Yes.

Mr. AUSTIN. Capt. King himself, while drawing a large salary as pension agent in this city, had his pension increased, and, I understand, then became displeased with the Commissioner of Pensions because he would not give him a further increase and would not recommend or appoint him disbursing clerk.

Mr. RODDENBERY. Yes; and Capt. King was entitled to his and Davenport was not, and I will prove both those statements. When Capt. King walks along the street you can see him limp, and if you will lift his trousers, you will see where braces of steel, knit around his muscles, strengthen his wounded limbs, where the bullets of the enemy tore away his bones to rot on the field of battle. Davenport is drawing a pension on the ground of chronic diarrhea that renders him permanently disabled for physical labor, and yet day after day he goes to the Pension Office, and at high functions he revels, in spite of his wasting disease, and cuts fantastic steps in "turkey-trot society." [Laughter.]

Mr. AUSTIN. Mr. Chairman——

The CHAIRMAN. Does the gentleman from Georgia yield to the gentleman from Tennessee?

Mr. RODDENBERY. In a moment. If my friend from Tennessee [Mr. AUSTIN] would call on Commissioner Davenport at the Pension Office some day about 1 or 2 o'clock, when he has returned from luncheon, I have no doubt the commissioner would recognize him; but if the gentleman from Tennessee, who habitually fashions his attire in the humble style which is characteristic of the country people, should see Davenport riding along in his limousine, with a silk plug hat on as high as a churn, and with a long-tailed coat that puts to shame the plumage of a peafowl, and with studs that sparkle like the eyes of a toad, the commissioner would know him not. [Laughter.]

Mr. AUSTIN. As I remember the gentleman from Georgia has stood on the floor and criticized Government officials for drawing large salaries and at the same time drawing and enjoying a pension. In the King case, where he was pension agent in Washington City and drawing a salary of $4,000 a year, the gentleman from Georgia says he is not only entitled to a pension but entitled to have the pension increased. I thought the gentleman from Georgia was consistent and I thought he was sincere in opposing Government officials drawing high salaries and pensions at the same time. Now he indorses that theory himself in King's case.

Mr. RODDENBERY. Mr. Chairman, there is nothing in principle, there is nothing in policy, there is nothing in any statement ever made by me on a pension policy that will justify the conclusion that a soldier who draws a pension because he has lost his arm, because he has lost a segment of his limb, caused by actual wounds or injuries sustained in the service, that on that ground he is not entitled to a pension. There is nothing to bar him from obtaining the salary, the highest in the Republic, and drawing his pension at the same time; because the pension he is drawing for the wounds received or the injuries he sustained in a measure compensates his loss, and the salary he draws from the Government is for the service rendered to the Government.

But there is a principle and policy in my utterance, which I now reassert. I announce that a soldier who draws a pension from the Government on the ground that he is suffering from disease—chronic, incurable—which physically and totally disables him from service to the Government, lives a lie when he draws his pension and at the same time does full time in the employ of the Government. A soldier draws a pension because he is totally incapacitated from incurable disease; if that be true and he at the same time draws a salary from the Government, he is getting the salary for which he can not render service, because the rendition of service and incapacity to serve are paradoxical and inexplicably contradictory. It can not be.

If it is true that the Commissioner of Pensions is drawing a pension since 1886, obtained on the ground that he contracted a chronic disease that permanently and totally and physically disables and incapacitates him for labor, and therefore he was entitled to a pension, one of two things is true, either he obtained his pension on false grounds or he is drawing a salary in the perpetration of a fraud on the Government, because the propositions are absolutely irreconcilable and incompatible. He who works for the Government and earns a salary of $5,000 can not at the same time be entitled to draw $16 a month pension on the ground of incapacity and permanent disability from wasting, chronic, and incurable disease.

Mr. BATES. Will the gentleman yield?

Mr. RODDENBERY. I will.

Mr. BATES. The gentleman believes in a pension under certain circumstances, or I so understand from his remarks?

Mr. RODDENBERY. Proceed.

Mr. BATES. Has the gentleman appeared before the Committee on Invalid Pensions, or any of its subcommittees, or attended the hearings, as a result of which they have reported this bill to the House carrying increase of pensions? In other words, I have listened to some strictures on the judgment of the Commissioner of Pensions, and I ask the gentleman how that is involved in this bill when this bill is a report of the Committee on Invalid Pensions carrying increases, and in a few instances original pensions, but all reflecting the judgment, not of the Commissioner of Pensions, but of a committee of this House, the gentleman's colleagues, sitting in their capacity as a committee to make up their reports from the testimony that is adduced before them as any other committee of this House is bound to do? Has the gentleman attended and asked to be heard on any single case that is provided for in this report or bill?

Mr. RODDENBERY. Before answering the gentleman I will say this, that if his question was inspired and was incorporated in the Bible we would have to correct the catechism which teaches the Sunday school children where the longest verse of the Scripture appears.

Mr. BATES. No; I asked the question in a spirit of fairness.

Mr. RODDENBERY. The remarks I am making have nothing to do with this bill.

Mr. BATES. Have your criticisms of Mr. Davenport anything to do with this bill?

Mr. RODDENBERY. Not a thing; I am directing these remarks at the conduct of the Commissioner of Pensions.

Mr. BATES. The gentleman is not confining his remarks to the bill under discussion, as the rules require.

Mr. RODDENBERY. My remarks deal with Commissioner Davenport drawing $5,000 a year salary for hard labor, who is at the same time drawing $16 a month pension obtained on the ground that he is not able to work at all. That is the proposition. He either is not qualified for a pension or not qualified for the office. He may be wanting in both. He can not be entitled to the two.

I want to say to the gentlemen you have now before you the war record of Mr. Davenport. Gentlemen have suggested that I am attacking Mr. Davenport. What I say is based on the writings of his comrades, on the records of the War Department, on his autobiography, on the records of the Wisconsin regiments, in one of which he served, on the authentic record of the battles of the country, on documents now pending before the House. I say to you, gentlemen, do not answer here by crying that it is a shame and an outrage for a Member to stand on the floor and assail a faithful servant. Go down yonder to the Pension Office, by telephone or otherwise, and bring to the

floor of this House the application of the commissioner for his pension, the examiner's testimony as to his abilities and disabilities, the evidence of the witnesses upon which he drew the pension, the statement of the surgeons that passed him, and let the Congress see, and, if general debate is still in progress, it will leave here full of holes faster than some of the spectators from the city of Washington left the hill down here in the early days of the war when they went forward to see it ended in a few minutes. Bring in the commissioner's record. He is getting a pension. He is not denying that. He had to get out papers to get the pension on. Bring them in here. I do not command them.

I have given you the War Department's record showing that he never participated in any fighting, and that he did not serve for five months. I have given you the Surgeon General's statement that there is no record of his illness. I give you the record of the regiment, which shows that he was not reported as sick. I have shown you that thousands of 16 and 17 year old boys got into the Army. Let sensible men say whether he could have done so if he had tried. Why was it that the commissioner, in 1864, when 19 years old, when there was more than one year of the war and six months of terrible fighting left—why is it that he went back to Wisconsin with the soldier college boys and did not stay down about Memphis, where in a few weeks afterwards there was bloody battle? The commissioner told my colleague that he tried to get in and on account of extreme youth they would not admit him, that finally he went to Wisconsin and was accepted, and that he served his country. The record shows he went where the fighting was, but when the schoolboys' vacation was over in the fall of 1864 he went back to Wisconsin with them. Why did not he enlist with some of the other depleted companies around Memphis when the siege was there, when the great batteries of the respective sides were in action, when a few weeks later a terrific and bloody fight took place? If the commissioner was too young in New Hampshire, he was not too young at Memphis and in Tennessee to be taken in. Why, Mr. Chairman, his own statement of inability to enlist stamps him as a fraud and an imposter on the pension rolls of the country. I make the statement upon the record. I did not say that he tried to get in and that he could not. He said that. I now say that if he wanted to get in in 1864, instead of going back and being mustered out, and rushing back to New Hampshire and later on to Washington for a pension, he could have gone to the front. Thousands of men perished between September, 1864, and June, 1865. Where was the Commissioner of Pensions in his yearning desire to fight for his country then?

But I made some promises to my friends just now. Under the rules of the House there are certain committees. One of those committees is the Committee on Expenditures in the Interior Department. The rule says that committee shall inquire into the honesty, the justness, and the legality of the expenditures made in the Interior Department. The Pension Bureau is under the Interior Department. The Interior Department expends money. The pension laws of the country are statutes. They are carried into execution by appropriations. I will ask for the benefit of my friend from Kentucky [Mr. LANGLEY] and the gentleman from Tennessee [Mr. AUSTIN] that the chairman of the Committee on Expenditures in the Interior Department convene his committee, summon witnesses, and make inquiry into the Interior Department and find out whether or not one pensioner, who draws a pension on certificate No. 1088170, did not take an examination under the law of 1890, and if he was not turned down by the examining board because his case was not meritorious. Then let them ascertain if a little later he was not again on application examined and turned down for the same reason. Then inquire if again he was not examined for the same case and turned down the third time in the Pension Department and by the examiners.

If the records of the Commissioner of Pensions do show that, then let this Committee on Expenditures in the Interior Department find out if about November, 1911, when it looked as though Mr. Roosevelt was going to take the Republican nomination away from Mr. Taft, and when everyone, from Taft's first lieutenant, the Postmaster General, down to the private in the Pension Department, was trembling lest Roosevelt might grab the nomination and sweep the country and plunge them out of office—find out if about that time Mr. Roosevelt did not address to Mr. Davenport a communication and tell him to reopen that particular claim, reinvestigate it, and allow it. Then find out if it was not reopened—I could not tell you about its being reinvestigated—and see if the packet on which the pension is entered, if it is not destroyed, will not show that immediately in reply the Commissioner of Pensions wrote to Mr. Roosevelt that he would at once order it reopened and have the pensioner allowed his pension. Finally, ascertain if he did not get a back pension, including a future pension, under the act of 1890, after having been rejected three times nearly seven years before.

Then see if in fact it was not so allowed and if he did not get more than $500 back pension, and if that pension was not granted without new evidence, without new showing in any way different from what appears in the three hearings in which he was turned down. Now, gentlemen, if you want to find out whether or not Davenport is a faithful servant let your Committee on Expenditures in the Interior Department make an inquiry and ascertain. I make the statement on the floor. It will not take any appropriation nor a resolution for a special commission to make the inquiry. Under the rules you can do it now. I suggest for the benefit of my friends of the committee that they can go further. Under the law we passed last summer appropriation and provision was made that extra clerks might be obtained by the Commissioner of Pensions, appointed and paid for the purpose of expediting the auditing, approval, and payment of the pensions to the old soldiers under the Sherwood law. Now, the Constitution, if I remember it rightly, states that no person convicted of a felony or high crimes or crimes involving moral turpitude, or words to that effect, shall hereafter enjoy or receive an office of trust or emolument from the Government. There is some such provision in the Constitution.

Let the Committee on Expenditures inquire if since we passed that law an applicant has not been appointed to one of these positions; also if the appointee had not been convicted of embezzling and defrauding the Government, served his sentence, and completed it. Further, ascertain if, with the stigma of the offense and the inhibition of the Constitution upon him, the Commissioner of Pensions has not as a personal appointment placed him in office on the pay roll and in the service, and if he is not on the pay roll now, when did they fire him and why? See how the Commissioner of Pensions will show up. Gentlemen, I am not through yet. Go to the telephone and answer now. Let the Committee on Expenditures investigate it. I give you the facts sufficient to base it upon, and, gentlemen, as the days go by we shall present some others. We have called attention to this matter at this time for reasons that have been already stated. No man is further than I from casting obliquy upon a man who does not deserve it. No man has greater antipathy and less respect for that reckless creature who will make a common traffic of another's conduct and without justification hold it up to public gaze. He who does it without cause, he who dares it without justification, will justly merit the execration and scorn of his fellows and of his countrymen. But he who points out corruption or malfeasance and does it justly has, in some measure, rendered a service to decency and done something toward promoting the virtues of honesty and integrity, both in public and private position. On what the outcome, judged by these standards, will be, without fear of the result of the issue, I now take my stand. The fittest will survive.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LANGLEY. Mr. Chairman, will the gentleman from Wisconsin yield to me——

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. LANGLEY. I know that. The Chair misunderstands me. I am asking the gentleman from Wisconsin to——

Mr. BURKE of Wisconsin. I yield the gentleman a minute.

Mr. LANGLEY. The gentleman from Wisconsin [Mr. BURKE] yields to me for the purpose of making a request to extend my remarks in the RECORD by including, among other matters, a copy of a letter of an ex-commander in chief of the Grand Army of the Republic, bearing on the subject matter that the gentleman from Georgia has been discussing.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent to extend his remarks in the RECORD by the inclusion of the letter which he has indicated. Is there objection?

Mr. MURRAY. Mr. Chairman, reserving the right to object, I would like to know what the letter is. I could not hear the gentleman's statement.

Mr. LANGLEY. The letter is from Ex-Commander in Chief Torrance, of the Grand Army of the Republic, addressed to Capt. King. The gentleman from Massachusetts is familiar——

Mr. MURRAY. What is it? Let us hear it. Will not the gentleman read it or have it read?

Mr. LANGLEY. I will send it to the Clerk's desk to be read in my own time.

The CHAIRMAN. Does the gentleman from Wisconsin yield to the gentleman from Kentucky; and if so, how much time?

Mr. BURKE of Wisconsin. I yield to the gentleman from Kentucky three minutes.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent to have read at the Clerk's desk the letter indicated. Is there objection? [After a pause.] The Chair hears none.

Mr. LANGLEY. Being entitled to the floor for three minutes, I could, of course, have it read in my own time without unanimous consent, but it does not matter, so I get it read. I have no prejudice whatever against Capt. King, nor have I the slightest desire to injure him in any way. On the contrary, I have been his friend for many years, and I admire his excellent military record. But the gentleman from Georgia has quoted him repeatedly and seems to rely upon him as his chief witness. Therefore, in justice to all concerned, I think this letter from one of his distinguished comrades, himself an ex-commander in chief of the Grand Army of the Republic, should go in the RECORD in connection with this debate, since it bears upon the credibility of the witness, so to speak. I therefore ask that it be read in my time.

The Clerk read as follows:

JANUARY 14, 1913.

Comrade JOHN R. KING, *Baltimore, Md.*

DEAR SIR: I have just read in the CONGRESSIONAL RECORD the debate in the House of Representatives last Friday, when the pension bill (H. R. 27475) was under consideration, and was astonished beyond measure to read your letter of the 2d instant to Mr. RODDENBERY.

Knowing, as I do, your long, intimate, and confidential relations with Commissioner Davenport and your oft-professed friendship for him and your frequent tributes to his worth and good qualities, I can not conceive of any honest or manly justification for your discreditable treatment of him, and I feel that you have forfeited the confidence and respect of every decent comrade of the Grand Army of the Republic.

Not content with besmirching your own friend to the limit, your perpetual egotism had to assert itself in contrasting your own military record with that of Comrade Davenport. I am not a special friend of Davenport, but I have always regarded him as a gentleman, and I would a thousand times prefer his record to yours, with the spirit you possess. I do not care what provocation you may have had for writing such a letter, but I will guarantee that you will soon be able to count your friends on your two thumbs.

Yours, truly,

ELL TORRANCE.

Mr. RODDENBERY. Mr. Chairman, I make the point of order on the letter that it is not in order for any person to read into the RECORD a derogatory article on an old soldier of the Union who for over two years fought for his country and left his limbs on the battlefield——

The CHAIRMAN. The point of order of the gentleman is overruled.

Mr. SIMS. Mr. Chairman, I rise for the purpose of placing in the RECORD a great number of letters and extracts from letters of eminent and well-known men, and also extracts from editorials in newspapers and magazines and other periodicals regarding the exemption of American vessels engaged in the coastwise trade of the United States from Panama Canal tolls:

[From Hon. George F. Edmunds, formerly United States Senator from Vermont.]

941 SOUTH ORANGE GROVE AVENUE,
Pasadena, Cal., January 6, 1913.

ROBERT UNDERWOOD JOHNSON, Esq.,
The Century, 33 East Seventeenth Street, New York.

DEAR MR. JOHNSON: I have received your note of inquiry upon the subject, and have no hesitation in saying that I think the so-called Panama Canal bill exempting the coastwise trade of the United States from payment of tolls in passing the canal ought to be immediately repealed: First, because I believe that both the language and spirit of the Hay-Pauncefote treaty compel us to subject our own coastwise vessels to the same tolls established for the commerce of all other nations making use of the canal. Such equality was, as everybody knows, the consideration made to Great Britain for her releasing us from the supposed obligations of the Clayton-Bulwer treaty of 1850. Although I am sure from the careful examination by the Senate Committee on Foreign Relations when the treaty made by President Arthur with the Republic of Nicaragua was under consideration that the United States was no longer bound by the stipulations of the treaty of 1850 and our engagement not to build a canal through the Isthmus had become entirely inoperative, the Hay-Pauncefote treaty was made in language so clear for universal equality that it is impossible to successfully construe it in any other way. If we have made a bad bargain we are bound by every consideration, as well of expediency as of justice, to stand by it; second, if as a matter of expediency alone we withdraw the favor proposed to our own constwise commerce, although we might have the right to grant it, the way will be left open to deal with the subject in future in such a way as the public interest should require.

Very truly, yours,

GEO. F. EDMUNDS.

THE "COASTWISE EXEMPTION."

I. OPINIONS OF THE PRESS.

[Clarence Poe, president and editor the Progressive Farmer and Southern Farm Gazette, Birmingham, Ala.; Raleigh, N. C.; and Memphis, Tenn.]

The repeal of the constwise exemption in the Panama bill, I think, is the best way out of a blunder that has already damaged our reputation throughout the rest of the world.

[William H. Robson, publisher the Indianapolis Trade Journal.]

I have always considered the passing of the bill exempting the constwise trade of the United States from paying tolls as a most unnecessary and altogether shameful action.

[Clinton B. Evans, editor the Economist, Chicago.]

Irrespective of any obligation under the treaty, we should require the payment of tolls by American vessels simply out of self-respect and to show that we are not disposed to take any advantage of other nations, even if we have the power to do so.

[Editor of the Evening Herald, Norwalk, Ohio.]

While the Herald has not expressed itself editorially so far, I can say that personally I am very much in favor of the United States obeying to the letter a treaty that seems to have been made in good faith and with the eyes of our representatives wide open.

[F. Arford, editor Western Trade Journal, Chicago.]

The Western Trade Journal has from the first been opposed to the coastwise exemption in the Panama bill and is doing everything within its power to bring about the repeal of this section.

[Saginaw (Mich.) Daily News.]

We have no right to grant preferences to our shipping in the use of the canal. The obligation of good faith carried in this treaty provision is of greater international consequence to the United States than all the benefits it might possibly reap by violating it.

[Levi M. Wise, Butler (Pa.) Eagle.]

We can not afford to trifle with this matter, and we must carry out the agreement as it was understood by the parties to it. Otherwise we will suffer national disgrace.

[Richard W. Knott, editor Evening Post, Louisville, Ky.]

Trusting to a return of reason—not to the people, but to Congress, that has been misrepresenting the people.

[William Barnes, jr., editor Albany Evening Journal.]

I heartily favor the repeal by Congress of the coastwise exemption provision in the Panama Canal bill. There should not be the slightest confusion in the mind of anyone on this proposition.

[George T. Lincoln, editor Banker and Tradesman, Boston.]

I am in favor of the repeal by Congress of the provision of the Panama Canal bill exempting the coastwise trade of the United States. I do not see how any Senator or Representative can vote to retain on our statute books a law which they are afraid to submit to arbitration.

[J. L. Doyle, editor New Britain Record.]

No man or company should be given the use of the canal free.

[Lafayette Young, publisher the Des Moines Capital, Des Moines, Iowa.]

I think every vessel, regardless of ownership, should pay the same rate for going through the Panama Canal. There should be no favoritism.

[The Independent, New York, N. Y.]

The act of August 24, 1912, contained the clause: "No tolls shall be levied upon vessels engaged in the coastwise trade of the United States."

The Hay-Pauncefote treaty, ratified by the Senate December 16, 1901, contains this clause: "The canal shall be free and open to the vessels of commerce and war of all nations on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect of the conditions of traffic or otherwise."

Can even a Philadelphia lawyer make these two clauses agree? No wonder Great Britain protests. We protested when Canada attempted to rebate a part of the tolls on Canadian freight through the Welland Canal, and Canada conceded the point.

[A. S. Johnston, editor and publisher the Monroe Watchman, Union, W. Va.]

I favor the repeal of this provision, primarily because it is, in its present form, a violation of the plighted faith of this country as proclaimed in the Hay-Pauncefote treaty.

[Norris G. Osborn, editor Morning Journal-Courier, New Haven, Conn.]

I think it—the Panama Canal bill—is a monstrous evasion, if not violation, of the Nation's honor. I did all in my power to defeat its passage and should welcome any movement that would promise its undoing.

[Merchant and Manufacturer, Nashville, Tenn.]

The Government must set an example to its citizens. If it breaks faith with other countries, as it unequivocally does when it gives preference to our coastwise vessels in canal rates, it tends to vitiate and weaken public standards of conduct everywhere.

The necessity for the repeal of the coastwise vessel preferential rates provision by Congress is so urgent that extensive argument favoring it is not needed.

[Maurice L. Muhleman, The Banking Law Journal, New York.]

Your circular letter on the subject of the repeal of the coastwise exemption in the Panama Canal bill was duly received.

The Banking Law Journal confines itself to subjects which do not include the matter.

The writer desires, however, to express his personal views. The clause in the bill exempting coastwise trade from tolls is not only in contravention of the Hay-Pauncefote treaty, but also in conflict with the treaty under which we obtained title to the Panama Zone.

[Utica Daily Press, Utica, N. Y.]

The United States can not afford to take the position before the world that it does not intend to observe every last letter of its agreement. A business man who does not keep his word is lightly thought of and the same is true of any government.

[Worcester Evening Post, Worcester, Mass.]

Can it be possible that this [arbitration of the canal-toll question] will be refused?

Certainly this question of subsidy to a special interest does not come within the excepted cases, and there is nothing in good faith for our Government to do except to comply with Great Britain's proposal.

[Virginian-Pilot, Norfolk, Va.]

The national honor is, of course, the most important consideration involved in connection with the proposal to repeal the provision of the Panama Canal act granting exemption from tolls to American bottoms engaged in the intercoastal trade. There are material reasons of a compelling nature why Congress should be prompt to undo the mistake committed in the enactment of the provision in question.

[Utica Herald-Dispatch and Daily Gazette.]

To exempt coastwise vessels from payment of tolls will be simply to lay so much greater a burden on other shipping and on the Nation.

Particularly, it will be to impose heavy tolls upon our foreign commerce, which can ill afford them, for the sake of remitting tolls upon coastwise commerce, which can well afford them. Seeing also that our right to remit tolls on our shipping is seriously challenged by another nation under our treaty relations, it may well be asked if it is wise to raise such an issue of right for the sake of doing something which is neither necessary nor expedient.

[Every Evening, Wilmington, Del.]

It is certain the British minister has made out a good case against this country, on account of the gross violation of treaty faith involved in the discrimination of free use of the canal for vessels of the United States engaged in the coastwise trade.

We are wrong in two very important respects—in violating a treaty obligation by unfair discrimination and in imposing a financial burden upon our people thereby. The sooner we retrace our steps and get back to the solid ground of fair and square dealing the better it will be.

[The Gazette-Times, Pittsburgh, Pa.]

Great Britain's formal protest against exemption of American coastwise shipping from tolls for passing through the Panama Canal is a comprehensive and temperate statement, exhaustive in its analysis. There ought to be no hesitancy or delay on the part of our Government in opening negotiations either for adjustment of differences by mutual agreement or their reference for settlement by arbitration.

[Pittsburgh Christian Advocate.]

The suggestion that the ships of the United States are exempt from that provision (of equality under the Hay-Pauncefote treaty) because we built the canal must be regarded as little short of puerile.

[Robert Adams Suffern (Suffern's Quarterly).]

I am very strongly opposed to the present bill, and hope that the objectionable matter will be repealed.

[Christian Science Monitor, Boston, Mass.]

A just interpretation of the clause must finally be reached. Nations no more than individuals may profitably stand upon technicalities when common honesty is the main question.

[The Sioux City Journal, Sioux City, Iowa.]

The remission of tolls on American coastwise traffic through the Panama Canal amounts to subsidy where subsidy is not needed, and can not be justified.

[St. Joseph Gazette, St. Joseph, Mo.]

We base opposition to free passage for American coasters upon the fact that that privilege would be a gift of $1.30 to them for every ton of freight they carried, it being a proven fact that they now pay $4 a ton for having their freight railroaded across the Isthmus.

This subject deserves considerable space and honest reasoning, because it is liable to involve us in bitter controversy and serious trouble with perhaps more nations than Great Britain.

[The Argus-Leader, Sioux Falls, S. Dak.]

No country is so great that it can afford to break its treaties, and certainly a great Republic like the United States, which has done more for the cause of arbitration than any other country in the world, can not refuse to submit a business question, involving the construction of a treaty, to arbitration.

[The Daily News, Chicago, Ill.]

The sooner Congress undertakes to revise the Panama Canal toll act and eliminate certain of its provisions, that ought never to have been incorporated in that measure, the better it will be for all concerned.

[Boston Globe, Boston, Mass.]

If the United States should offer to adopt measures providing that the Federal Treasury would regularly transfer to the canal account an amount sufficient to make up for the loss of tolls on the coastwise trade the main point in the British note would be met.

[Evening Post, Louisville, Ky.]

Keep the letter and spirit of the Hay-Pauncefote treaty; keep open the canal on equal terms to the whole world.

Then, if you will, gentlemen of the predatory callings, exact your blood money of the American consumer and producers alike.

[The Baltimore News, Baltimore, Md.]

Without regard to other features of the case, a good many people will feel less regret about the disagreement over the treaty if the result is to make us pause in a hastily arranged plan to tap the public till for the benefit of the owners of coastwise vessels.

[The Dispatch, Pittsburgh, Pa.]

The United States has therefore, in the term of a single Congress, been brought down from its high position as the leader in establishing fair and honest arbitration to the position of the one that repudiates that advanced and beneficial principle rather than let its own pet jobs be inquired into. And the grim irony of the case is heightened by the fact that it is done to support a favor to the interest which least of all needs any such favor.

The greatest offense is against the United States, since it takes from a project that can not be self-sustaining for years a part of its proper revenue to give to an interest that has no claim either of justice or need. But it is a rank discredit to the United States that in that domestic job it took the pains to advertise to the world that when the whim takes it to carry out such a job treaty compacts are simply waste paper.

[Evening Post, New York.]

The straight and manly course would be to repeal the dubious and offensive clause of the canal act. By outright and speedy repeal we should at once avoid any international difficulty and escape from a domestic blunder. If Congress refuses to give heed, then it will, indeed, be necessary to submit the dispute to arbitration.

[The Rochester Herald, Rochester, N. Y.]

An arbitration of the points in dispute is asked for, and the United States can not in decency refuse. If it does refuse this reasonable and proper demand, no future treaty we may enter into should be considered worth the paper upon which it is written. The country is too old to begin the policy of playing chuck-a-luck with the rest of the world.

[Suffern's Quarterly and Foreign Trade Journal.]

Whether the treaty prohibits us from offering free registry to American ships or not, it certainly was very unwise for this country to arouse foreign antagonism as did the action of the Government in the matter. The future will show that we made a serious diplomatic blunder, and one which did incredible injury to the commerce of the United States.

[The Post Express, Rochester, N. Y.]

Secretary Stimson recommends the repeal of the law of August last exempting from Panama Canal tolls our vessels in the coastwise trade, arguing that it is an unsound business policy which would increase the profits of a shipping monopoly. The British Government also protests against this discrimination in favor of American vessels as in derogation of the clear rights of England under the treaties of 1850 and 1891.

There is only one law of equity and just dealing, and it is the same for men and for groups of men or nations. Heretofore a lower standard of honor has prevailed in diplomacy, and it has been argued that a nation might properly do what would be shameful and dishonest in an individual. Against this theory we have fervently protested, and to fall back upon it now would be to convict ourselves of duplicity and hypocrisy.

[Boston Evening Transcript, Boston, Mass.]

The granting of free tolls to American vessels or its equivalent in rebates to the amount of such tolls would certainly be bad enough. It would make us guilty of what is known as sharp practice, and such a course with respect to solemn treaties could win for us neither the world's approval nor yet its respect. We have taken a position untenable in national honor and should promptly retrace our steps.

[The Chicago Journal, Chicago, Ill.]

The national honor of the United States is involved in Panama Canal tolls, but not in the way some ranting jingoes proclaim.

National honor depends on keeping national faith. The faith of this Nation was pledged to a canal open on equal terms to ships of all countries.

If we keep that pledge, keep it without quibbling, with caviling, and without waiting to be nagged into doing our duty, our national honor will be secure.

The Panama Canal bill should be amended by striking out the provisions of free tolls to the coastwise shipping, or by abolishing tolls altogether. This should be done, not because England wants it done, but because it is the only fair thing to do.

[The Record-Herald, Chicago, Ill.]

The progressive, sane position is this: That the arbitration treaty should be renewed, and even improved upon, and the toll-exemption provision repealed.

[Brooklyn Eagle, Brooklyn, N. Y.]

It is better to settle out of court a case there is not the slightest chance of winning. That is one way to save something besides expense. It is one way to escape humiliation.

And the way to settle a case in or out of court is to settle it right. In this matter the right way is to repeal the exemption clause. In this matter strength is a poor substitute for honor.

[The New York World, New York.]

In spite of sophistry and bluster, there can be no doubt that if we persist in our discrimination at Panama we shall presently be compelled to meet justice, honor, and civilization at The Hague or accept the consequences of world-wide contempt and condemnation. We are powerful enough to do almost anything except to find profit in bad faith.

[The Duluth Herald, Duluth, Minn.]

This Nation has pledged its word that the canal will be opened to all nations on equal terms. In the interest of a concealed ship syndicate our pledged word has been broken by the law giving American vessels special privileges.

Perhaps we should not have made this promise. Perhaps it would be to our material advantage to break it. But we did make it, and we can not break it in honor.

[The Post-Standard, Syracuse, N. Y.]

That the advocates of the bill as it stands talk seriously of refusing to submit the treaty to the tribunal at The Hague is evidence of their doubt about the validity of their position. We do not believe that America would refuse to submit it. Such action would give the lie to all our professions of faith in the principle of international arbitration.

[H. F. Bliss, managing editor, the Janesville Gazette, Janesville, Wis.]

I am in hearty sympathy with the efforts being made to influence the repeal of the Panama Canal bill, and am at a loss to understand why Congress ever passed the measure. The honor of the Nation was entirely ignored.

[Allen Walker, publisher, the Index Co., Pittsburgh, Pa.]

We already have published editorials urging that the United States shall not repudiate her obligations in regard to the Panama Canal and that there be no violation of the Hay-Pauncefote treaty.

Personally we are unable to see how it will be possible for the Federal Government to repudiate such an agreement under the circumstances.

[John P. Bowman, editor Loudonville (Ohio) Democrat.]

We would be for repeal of any provisions which might be in conflict with the Hay-Pauncefote treaty or mitigate against arbitration.

[The Sun, New York.]

There is no duty before the Congress more urgent than the repeal of the act of August 24, 1912, so far as it specifically exempts American shipping engaged in the coastwise trade from the payment of tolls at the Panama Canal.

[The Springfield Leader, Springfield, Mo.]

The idea seems to be slowly coming about that the United States has taken the wrong position in our Panama Canal controversy with Great Britain. It is really difficult to see how we can avoid the plain obligations of the treaty now existing.

[W. W. Screws, editor the Advertiser, Montgomery, Ala.]

The Advertiser hasn't the slightest doubt that if this case were taken before The Hague the United States would lose. Unbiased judges from other countries could hardly reach any other conclusion than that in seeking to exempt its own steamers from toll duty, the United States was violating the terms of an honorable treaty. It would be seriously embarrassing to our country for this matter to be decided against us. It would be far better, far more honorable, should we acknowledge the error into which some of our national representatives had fallen.

[The Bridgeport Standard, Bridgeport, Conn.]

The shortest way out of the last-named difficulty is through the repeal by Congress of the exemption provision in the Panama Canal bill. That would take the whole business out of the way and leave the conditions clear, as they should be.

[The Christian Work and Evangelist, continuing the New York Observer.]

If our Nation can so lightly break a treaty, who can trust her with any new ones? If the United States should refuse to arbitrate the question when Great Britain demands it, it will be impossible for her ever to say anything about arbitration again.

It is greatly to be desired that the United States should let this go to The Hague, if Congress does not rescind its action.

[Newark Evening News, Newark, N. J.]

The dispute should be taken to The Hague directly—if diplomacy fails—provided, of course, that we have a good case. And if the case is as dead open and shut against us as Mr. ROOT and some others think, it should be abandoned without subjecting this country to the humiliation of an adverse arbitral award. Nothing can be more "galling" to right-minded patriots than to have their case thrown out of court, exposing them to the shame of the world.

[Paul E. More, editor the Nation, New York.]

The Nation has been steadily against the exemption of coastwise trade of the United States from the Panama tolls. I agree heartily with the arguments brought forward in favor of repealing the provision of the Panama Canal bill exempting our coastwise trade.

[The Dayton Journal, Dayton, Ohio.]

The protest of the British foreign office simply calls attention to the fact that the proposed exemption of American vessels contravenes the specific agreement of the United States in the Hay-Pauncefote treaty that the canal shall be open to the merchant vessels of all nations on equal terms without discrimination in the matter of tolls or terms.

Difference of opinion, if it can not be settled in conference between the diplomatic representatives of the United States and of Great Britain, should certainly be proper matter for submission to The Hague tribunal.

A refusal of such submission on our part would place us in the lamentable position of attempting to cast discredit on the integrity of motive of a tribunal we helped to create and have always stoutly advocated.

[Rollin E. Smith, editor the Commercial West, Minneapolis, Minn.]

I am most decidedly in favor of the repeal of the provision of the Panama Canal bill exempting the coastwise trade from toll.

[The Lewiston Daily Sun, Lewiston, Me.]

That theory that the United States by getting title to the canal strip absolves itself from its treaty with England is too thin. The land of brotherhood and equal rights becomes the gobbler-up of everything in sight, and the millions of people, in this country and others, who have only what they earn, robbed.

More worthy of the great, richest Nation to let the ships of all nations through without any charge.

[The Youth's Companion, Boston, Mass.]

Perhaps the most of us will think that, all things considered, the best thing to do is to keep faith with England, keep our pennies in our pockets, and let our shipowners pay their tolls themselves.

[Stuart H. Perry, publisher the Adrian Daily Telegram, Adrian, Mich.]

We can only take our choice between repealing the law voluntarily and going into The Hague court to face almost certain defeat.

[The Daily News, Burlington, Vt.]

The important obligation now under discussion is not ownership, but the solemn promise of our Nation that the canal would be operated on the same basis for all nations, which would naturally include the United States. This agreement is in the treaty, and it can not honorably be removed except by the consent of the nations which signed the treaty. Lacking that unison, the question then, in honor, must be sent to arbitration at the nations' court at The Hague.

[Decatur Herald, Decatur, Ill.]

Congress must either rescind its action on canal tolls or agree to arbitration.

This is not lack of patriotism; it is patriotism of the highest kind; the demand that this country shall take a course now that will save it from shame in years to come.

[Scientific American.]

The fact is that this whole free-toll business has been engineered by powerful interests, who hope to fatten their bank accounts with the millions that rightly should go to the United States Treasury. England has protested, and rightly. The wording of the treaty that she calls to our attention is perfectly plain, and for any true American to try to interpret it differently is to invite suspicion and scorn from all civilized nations.

[The New York Times.]

The honorable way out is the repeal of the act remitting the tolls, as the Secretary [Stimson] recommends.

Sir Edward expresses the hope that a reference of the question to arbitration may be made unnecessary by some steps taken on the part of the United States to remove the objections urged against the act by the British Government. If no such steps are taken, arbitration will be inevitable, for we can not decline it without adding to the causes of reproach which we have already piled up against ourselves.

[Courier-Journal, Louisville, Ky.]

The exemption of the coastwise trade of the United State from tolls through the Panama Canal was, to begin with, flagrant and dishonest, a violation of the treaty obligations of the Nation, and, to end with, a gigantic and perpetual subsidy to a shipping trust quite as objectionable as the Sugar Trust or the Steel Trust.

[American Exporter, New York.]

Great Britain protests against proposed congressional acts freeing American vessels from tolls in the Panama Canal. However much we may want to foster American shipping, however strongly we may feel that the United States has built the canal on its own property, however great a sacrifice our expenditure on the canal may seem, however bitter our enmity against great railways, and however anxious we may be to impress our constituents with the idea that we are simon-pure American through and through, and what care we for the British lion or anyone else, yet there is no getting away from the plain and simple language of the Hay-Pauncefote treaty. No more plain, simple, and unmistakable language was ever written into a treaty solemnly signed by two nations. There is but one question before the people of the United States to-day, and that question is, Shall we or shall we not live up to our bargain—honor our signature? If we do not, we insure for ourselves the scorn and contempt of the nations of the world. That price no country can afford to pay.

[The Evening Press, Grand Rapids, Mich.]

The truth is—and this truth is more generally realized than it was a few months ago—that we were wrong when we attempted, against the plain obligations of the Hay-Pauncefote treaty, to give a subsidy to American coastwise shipping by exempting it from tolls.

Now it is our duty to keep our word. This can be done by repealing the exemption clause of the canal bill.

[The Congregationalist.]

The way is still open for Congress to repeal the clause in the Panama bill which has brought us into evil odor with all the maritime nations of the world.

[The Grand Rapids Press.]

The canal is ours and we purchased possession of it by surrendering the right to do exactly as we pleased in the matter of canal tolls. In the Hay-Pauncefote treaty, which superseded the Clayton-Bulwer guaranteeing British cooperation in building and protection, we gave a pledge to treat all nations, including ourselves, alike. This pledge was given in return for Great Britain's relinquishment of the right to help us build and boss the canal.

The time to have protested against its provisions was when it was signed, not after the lapse of years. The quibble that coastwise traffic, being a national monopoly, is not involved in our pledge is unworthy of a great nation.

[The Century Magazine.]

But there remains for us another chance—or will, if Great Britain shall a little longer pursue her friendly and forbearing course of waiting for our public opinion to assert itself. The coastwise exemption should be repealed. And, our obligations aside, why should we enter upon a policy of subsidizing our ships just at the time when apparently we are giving up the policy of subsidizing our manufactures? Are we never to get away from the inequality of privilege that has already corrupted the sources of government by the "vicious circle," creating and feeding by legislation agencies whose natural interest it thus becomes to destroy the principle of equality? Why subsidize ships any more than subsidize railways, or newspapers, or authorship? But if we must subsidize our ships, let it be done outright, in bills for that purpose, and not through the violation of the plain words of a solemn treaty.

[Troy (N. Y.) Record.]

If the United States should refuse either to modify its law or to arbitrate, it would place itself on record as unworthy of its present position of moral leadership in the world.

[Sioux City Tribune.]

England has been wronged and all Europe offended in order that the United States may pay a bonus to her shipping interests.

[Mining and Scientific Press, San Francisco.]

What is important is that we have apparently blundered into a position that we seem afraid to defend before an international court of arbitration. This is serious. If Congress is not sufficiently sure of its position to warrant going into court, by all means repeal the law. The matter itself is not important, but the good faith and good name of the country must be preserved.

[Milwaukee Times.]

The movement which is now on foot to further the repeal by Congress of the provision of the Panama Canal bill exempting the coastwise trade of the United States is one which ought to receive the hearty support of both the press and the public in general.

[Epworth Herald (Methodist), Chicago.]

We got power to dig the canal only through a treaty in which we agreed to certain conditions. The other party to the treaty protests that our new toll law does not harmonize with those conditions, by which we are pledged to stand. Therefore, the other party asks that the matter be arbitrated, but it seems that we are getting ready to say, "There is nothing to arbitrate." If, when the time comes, we actually do say that, we ought to tear up all our treaties with other nations, and frankly take our national place with the countries which do not believe in any law but that "they should take who have the power, and they should keep who can."

[New York Evening Post.]

What Congress has voted not to collect the shipowners will coolly put in their pockets as a subsidy, and a vicious kind of one at that. Prof. Johnson's whole argument is well worth studying, and it should help along the movement to induce Congress to undo its blunder by repeal.

[Edmund F. Merriam, editor the Watchman, Boston.]

John Hay was an honest man. In international diplomacy he substituted frank and fair dealing for the traditional tricks of diplomats. In agreeing to the terms of the Hay-Pauncefote treaty no one can doubt that Mr. Hay meant just what he said—that the ships of all nations should use the Panama Canal on exactly the same terms. The action of Congress is a descent from the high plane of John Hay's diplomacy.

[Charles E. George, editor the Lawyer and Banker, San Francisco.]

There is nothing left for the United States in honor to do but to repeal the discriminative acts passed by a mixed Congress in favor of our own coasting ships. Not to do this, we at best force a submission of the matter to arbitration in The Hague Tribunal. An adverse decision there is certain. We regard the exemption of the coastwise trade of the United States from tolls through the Panama Canal as a political measure without color of law, in every sense flagrant and dishonest, a violation of the treaty obligations of this Nation which in the end will amount to a gigantic and perpetual subsidy to a shipping trust.

[W. C. Deming, editor Wyoming Tribune, Cheyenne.]

If it is good that individuals should avoid the appearance of evil, it is a thousandfold more important that a great nation should suffer no blot upon its honor. The exemption of American coastwise trade in the Panama Canal bill is inexcusable as a domestic policy. It is flagrantly pernicious as a violation of the spirit of our treaty with Great Britain. Let us rescind a hasty error, conceived in materialism and born in dishonor, by repealing the offensive clause or by submitting

it to arbitration in the same big broad spirit that Great Britain has met the United States in the past.

[Howard C. Rowley, managing editor California Fruit Grower, San Francisco, Cal.]

The Panama Canal bill, in so far as it provides for coastwise shipping exemption and in any other way differentiates between any one nation's vessels and those of any other, is about the most humiliating piece of work that has been done by our national authorities in recent years. Let us amend this Panama Canal act and make it an entirely international affair, and then go to work and argue out our own national problems on their own merits.

[The New York Tribune.]

It would be inappropriate, to use no stronger term, for either party to a controversy which is practically in course of adjudication, or which is about to be submitted to adjudication, to declare by legislation that its side is right and to proceed to act upon that theory. That portion of last year's canal law which pertains to the disputed point should therefore be repealed pending agreement between the two powers.

[Henry Mills Alden, editor of Harper's Magazine.]

Arbitration obviously can lead to but one result, and it involves useless delay and expense. The shortest way out of the situation in which we have placed ourselves is to repeal promptly the legislation exempting from canal tolls our coastwise shipping. This legislation, moreover, confers an unreasonable privilege upon the owners of such shipping, and is an unjust discrimination against the great body of American taxpayers.

II. OPINIONS OF COLLEGE PRESIDENTS.

[Francis Brown, president Union Theological Seminary.]

I have always been opposed to the provision of the Panama Canal bill which exempts the coastwise trade of the United States on the grounds that it violates treaty obligation.

[Elmer E. Brown, office of the chancellor, New York University, Washington Square, New York.]

I hope Congress will repeal the exemption of our coastwise trade rather than stand by a contention which, at best, hangs upon a narrow and unexpected interpretation of the terms of the treaty.

[Robert L. Kelly, president Earlham College, Richmond, Ind.]

This country entered into a solemn contract that there should be no discrimination in tolls or conditions in the management of the Panama Canal. Under the present circumstances the least humiliating thing Congress can do is to repeal the provisions of the Panama Canal bill exempting the coastwise trade of the United States.

[George Rice Hovey, president Virginia Union University, Richmond, Va.]

It gives me unusual pleasure to add my word in favor of a repeal by Congress of the provision of the Panama Canal bill exempting the coastwise trade of the United States. I believe that this provision is in contravention of the Hay-Pauncefote treaty.

[John Grier Hibben, president Princeton University, Princeton, N. J.]

Concerning the repeal by Congress of the provision of the Panama Canal bill exempting the coastwise trade of the United States, I am very glad to join in efforts to bring to the attention of Congress the imperative need of the immediate repeal of this bill.

I feel that this is not merely a matter of wisdom, but also of national honor, and I am glad to have any part, however humble, in helping to forward this cause.

[William Alfred Mielis, president Hanover College, Hanover, Ind.]

It has seemed to me that the "coastwise exemption" clause of the Panama Canal bill is clearly in contravention of the Hay-Pauncefote treaty, and that for this reason its enactment was a mistake and its retention impossible.

[Louis Edward Holden, president University of Wooster, Ohio.]

To my mind the exemption is a penny-wise and pound-foolish measure and not in accord with our historic and generous treatment of other nations. It is my judgment that the proper and most graceful way to answer England's just protest is to repeal the bill by a unanimous vote, if that be possible.

[W. D. Agnew, president Hedding College, Abingdon, Ill.]

The "coastwise exemption" in the Panama bill—I am most heartily in favor of the repeal of this provision.

[E. J. Goodwin, principal of the Packer Collegiate Institute, Brooklyn, N. Y.]

I am very positive in my belief that the Congress should repeal the provision of the Panama Canal bill, which exempts the coastwise trade of the United States.

[J. C. Williams, president Westminster College, Tehuacana, Tex.]

I am heartily and earnestly in favor of the repeal of the coastwise exemption bill, because we now stand in an undesirable position before the world—more undesirable by far than after we have repealed the measure.

[F. W. McNair, president Michigan College of Mines, Houghton, Mich.]

Relative to the toll provision of the Panama Canal bill, I would say that I am heartily in favor of its repeal.

[Henry S. Drinker, president Lehigh University, South Bethlehem, Pa.]

The effect of exemption in reducing or keeping down transcontinental railway rates may be gains dearly bought at the cost of the discredit which will be reflected on us if we refuse Great Britain's request for arbitration in a matter which is wholly arbitrable, and which we can not refuse to arbitrate without discredit and a clear repudiation of our previous steady and consistent advocacy of arbitration.

[A. W. Harris, president Northwestern University, Chicago, Ill.]

The United States can not afford to make any regulation or enact any law which raises justly a serious doubt in regard to the proper observance of treaty obligations. Coastwise exemption does raise such a doubt. I therefore favor its repeal.

[J. P. Greene, president William Jewell College, Liberty, Mo.]

I am in favor of repealing the bill. If it is in controvention of our treaty contract, we certainly ought to repeal it. But I think it ought to be repealed on general principles.

[Frederick D. Kershner, president Texas Christian University, Fort Worth, Tex.]

I need scarcely say that I am most heartily in favor of the proposed repeal. I fail to see why the same standards of morality which obtain among individuals should fail to obtain among nations. There ought to be but one opinion upon the subject.

[Fred W. Atkinson, president The Polytechnic Institute, Brooklyn, N. Y.]

I am glad of the opportunity afforded to place myself on record as being opposed to the provision of the Panama Canal bill exempting the coastwise trade of the United States.

[Aug. Seifert, St. Joseph's College, Rensselaer, Collegeville P. O., Ind.]

It has always been incomprehensible to me how Congress could pass the Panama Canal bill, exempting the coastwise trade from its toll provisions. I do hope that Congress will rectify its mistake and save us from further humiliation.

[Leroy Weller, president Beaver College, Beaver, Pa.]

I am in favor of the repeal of the coastwise exemption in the Panama bill. This enactment has impeached the honor of the United States in the eyes of many Europeans.

[Rev. B. W. Valentine, president Benedict College, Columbia, S. C.]

I sincerely hope for the repeal of the coastwise exemption in the Panama bill. We can not be the moral force in world affairs as a Nation if we do such things as will cause the world to believe that we are not sincere.

[Mary E. Woolley, president Mount Holyoke College, South Hadley, Mass.]

Concerning the proposed repeal of the coastwise exemption in the Panama bill, may I say that I am heartily in favor of the repeal.

[Silas Evans, president Ripon College, Ripon, Wis.]

I believe that our discrimination and tolls in favor of our coastwise vessels is a violation in letter and in spirit of the Hay-Pauncefote treaty.

I have yet to find among my friends any one cognizant with the facts who does not take this point of view.

[John M. Thomas, president Middlebury College, Middlebury, Vt.]

I am in favor of the repeal of the coastwise exemption in the Panama bill. The open canal of the Hay-Pauncefote treaty was right and the proposed discrimination is doubly wrong—wrong in principle and wrong in departure from treaty obligation.

[T. M. Hodgman, president Macalester College, St. Paul, Minn.]

I most cordially indorse the effort to secure the repeal by Congress of the prevention of the Panama Canal bill exempting the coastwise trade of the United States.

[Wm. De W. Hyde, Bowdoin College, Brunswick, Me.]

I beg to say that I am heartily in favor of the repeal by Congress of the provisions of the Panama Canal bill exempting coastwise trade of the United States.

[John Hanson Thomas Main, president Grinnell College, Grinnell, Iowa.]

I am heartily in favor of the repeal of this provision by Congress. It is my opinion that the action of Congress and of President Taft in approving that action is in contravention of our contract in the Hay-Pauncefote treaty, both in its letter and in its spirit.

[S. Avery, chancellor the University of Nebraska, Lincoln, Nebr.]

I have always regarded the provision of the Panama Canal bill exempting the coastwise trade of the United States as a very grave mistake on the part of Congress. As an American citizen with quite a large acquaintance among prominent men in Europe I feel humiliated whenever the subject is mentioned.

[Nicholas Murray Butler, president Columbia University, in the city of New York.]

In my judgment the provision of the Panama Canal act exempting the coastwise trade of the United States from canal tolls is unwise as a matter of domestic policy, as well as in flat contravention of the provisions of the Hay-Pauncefote treaty. No public act in recent years has so affected our national prestige abroad as this. The prompt repeal of this provision is the easy and honorable way out of the difficulty in which we now find ourselves. To insist upon this exemption means that we must go before the world with a bad case and be subjected to the humiliation of certain defeat before any court of arbitral justice, however constituted or of whomsoever composed.

Indeed, the trial of this issue before any one of our own national courts of high standing would, in my judgment, lead just as certainly to the defeat of the contention to which our Government is for the moment committed as would a trial before The Hague Tribunal.

[R. E. Blackwell, president Randolph-Macon College, Ashland, Va.]

I am heartily in favor of the repeal by Congress of the provision of the Panama Canal bill exempting the coastwise trade of the United States. The provision seems to be in contravention of our contract in the Hay-Pauncefote treaty.

[Eugene R. Long, president Arkansas College, Batesville, Ark.]

A reputation for smart twisting may be a desirable twentieth century possession for a great Nation. But a high-toned conformity to the spirit of solemn treaty obligations and "a decent respect for the opinions of mankind" we believe to be a much more valuable possession.

[H. A. Garfield, president Williams College, Williamstown, Mass.]

The spirit of the treaty forbids that we discriminate in favor of our vessels, and any construction contrary thereto, though justified by the letter, is unconscionable.

[Robert J. Aley, president University of Maine, Orono, Me.]

Our Government should play fair. Other nations have a right to expect this, because of our attitude in international affairs in the past. Congress should do whatever is necessary to bring our laws into conformity with international agreements.

[Charles Alexander Richmond, president Union College, Schenectady, N. Y.]

Responding to your request for a brief statement with respect to the "coastwise exemption" in the Panama bill, I will say that I consider it a breach of national good faith. Such a policy, if pursued, will inevitably react to our disadvantage.

[Alexander C. Humphreys, president Stevens Institute of Technology, Hoboken, N. J.]

I am firmly of the opinion that our contract with Great Britain, as covered by the Hay-Pauncefote treaty, should not be violated. We should recede promptly from the unfortunate position we have taken.

[Robert S. Brookings, president Washington University, St. Louis.]

I am clearly of the opinion that the action taken by Congress on that portion of the Panama Canal bill exempting our coastwise trade was a mistake, and that such action should be repealed at the earliest possible date.

[E. C. Kellogg, president Walla Walla College.]

As I view the matter the action taken was a mistake, and I am in favor of a repeal.

[Samuel Hart, dean Berkeley Divinity School.]

I sincerely hope and would urge that the provision be repealed.

[William C. Daland, president Milton College, Milton, Wis.]

I believe that the repeal of the provision of the Panama Canal bill exempting the coastwise trade of the United States would enhance our reputation for fidelity and justice, and that in the end it would benefit our commerce and advance the interests of international comity and peace.

[Carl G. Doney, president West Virginia Wesleyan College, Buckhannon, W. Va.]

As a Christian and a patriot I believe the United States should carefully observe all its treaty obligations. Therefore it seems to me that we are bound in honor to make no discrimination in tolls on vessels passing through the Panama Canal.

[Edwin S. Todd, department of economics, Miami University.]

It is my own opinion, and I believe the opinion of the leading men on our faculty, that that part of the law relating to exemption of tolls for coastwise traffic is in direct contravention of the Hay-Pauncefote treaty and that it should be repealed.

[James G. K. McClure, president McCormick Theological Seminary, Chicago, Ill.]

With reference to the repeal by Congress of the provision of the Panama Canal bill exempting the coastwise trade of the United States, I am obliged to say that so far as I understand the case my opinion is in favor of the repeal.

[C. A. Duniway, president the University of Wyoming, Laramie.]

I believe that a candid examination of the circumstances of the negotiation of the Hay-Pauncefote treaty, and also a reasonable interpretation of the language used in the instrument should convince a reasonable man that the existing exemption in favor of coastwise trade with the United States is contrary to our international engagements.

The best way of escape from the predicament in which we now find ourselves as a Nation seems to me to be the proposed repeal of this special exemption.

[S. F. Kerfoot, president Hamline University, St. Paul, Minn.]

My own judgment is that this matter should be submitted to arbitration.

[R. W. McGranahan, president Knoxville College, Knoxville, Tenn.]

I agree most heartily with the statement of the reasons that are set forth as to why the act should be repealed. I am exceedingly rejoiced in the effort that is being put forth to secure this repeal before it puts the United States in a position of embarrassment or in any way will throw the influence of the United States against the great fundamental principle of arbitration.

[Carleton B. Gibson, president Mechanics Institute, Rochester, N. Y.]

I am very glad to express myself as being very strongly opposed to the coastwise exemption of American vessels passing through the Panama Canal, and heartily in favor of the repeal of the recent legislation, which seems to be in conflict with the provisions of the Hay-Pauncefote treaty and in opposition to the spirit of international fraternity which seems to have been developing in recent years.

[Virginia C. Gildersleeve, dean Barnard College, Columbia University, N. Y.]

I approve most heartily of the proposed repeal of the coastwise exemption in the Panama bill.

[Hill M. Bell, Drake University, Des Moines, Iowa.]

I consider the provision of the Panama Canal bill exempting the coastwise trade of the United States the most unfortunate enactment of the present generation. I am sure that it will discount the prestige of our country in every part of the world. The only sane thing to do is to repeal that provision.

[Isaac Sharpless, president Haverford College, Haverford, Pa.]

It is impossible for me, without a more careful study of the Hay-Pauncefote treaty than I have been able to give, to form a judgment as to the violation of its provisions by the recent Panama Canal bill. It is certain, however, that it is a doubtful question, and that a good American would feel that our country was disgraced if we should refuse to submit the matter to arbitration.

[W. E. Stern, president Purdue University, Lafayette, Ind.]

My feeling about the Hay-Pauncefote treaty is that the United States must keep faith absolutely and literally with everybody, and no evasion, technical or otherwise, is to be tolerated no matter at how much disadvantage it may place us.

[A. W. Meyer, president St. Johns College, Winfield, Kans.]

I have never favored ignoring, or rather violating, the Hay-Pauncefote treaty. The moral effects of such an act on the young American or on our standing as a Nation must be disastrous.

[A. R. Taylor, president the James Millikin University, Decatur, Ill.]

I most heartily favor the repeal of the Panama exemption law. It has seemed to me from the first as breaking faith with the other nations, even though limited to the coastwise trade of the United States.

[M. L. Burton, president Smith College, Northampton, Mass.]

I believe that absolutely no consideration should stand in the way of our guarding most jealously our honor in all treaty obligations. If the exemption of coastwise trade of the United States is in contravention to the definite agreement of the Hay-Pauncefote treaty, then there is but one conclusion, and that is its repeal. If our most able statesmen and best jurists believe that the Panama bill is no violation of our treaty obligations, then certainly there is but one honorable thing to do, and that is to refer it to The Hague tribunal.

[C. A. Cockayne, president Toledo University, Toledo, Ohio.]

Since a serious difference of opinion has arisen as to whether coastwise exemption is contrary to the terms of the Hay-Pauncefote treaty, I hesitate to express judgment without a copy of the treaty before me. However, the proper course would seem to be to submit the matter for arbitration.

[R. F. Stevenson, vice president Ohio Wesleyan University, Delaware, Ohio.]

While not sure in my own mind upon all the legal processes involved, I am very much impressed with the fact that a nation tied up as ours is with the spirt of The Hague conference and its efforts at practical amelioration of the distresses of war between nations can and ought to say of itself as Phillips Brooks once said of men: "No man has a right to all his rights."

[G. Leland Green, principal Vermont State School of Agriculture, Randolph Center, Vt.]

My position concerning same is that there is no need of any discrimination in tolls. I furthermore believe that the United States should pass no bill which will throw us out of harmony with the great nations of the earth and thus injure our trade.

[R. C. H. Lenski, president pro tempore Capital University, Columbus, Ohio.]

I agree in full with your summing up of the situation and second your proposal heartily in my double capacity as president (pro tempore) of Capital University and as editor in chief of the Lutherische Kirchenzeitung, the German organ of the joint synod of Ohio and other States (Evangelical Lutheran).

[M. Woolsey Stryker, president Hamilton College.]

Loving my country, I long that she may not plunge, out of mere commercial lust, into violation of the solemn treaty with England upon the Panama tolls.

[D. H. Hill, president the North Carolina College of Agriculture and Mechanic Arts, West Raleigh, N. C.]

Nations, like individuals, live up to the best that is in them when they make contracts carefully and then live up to them scrupulously. In view of this fact, it seems to me that we ought to observe every line of the Hay-Pauncefote treaty.

[Alston Ellis, president Ohio University, Athens, Ohio.]

We, as a Nation, can not afford to violate our treaty obligations. I have always been of the opinion that legislation making discrimination, in the way of tolls, in favor of our coastwise trade was in contravention of the provisions of the Hay-Pauncefote treaty.

[John B. Vanmeter, Goucher College, Baltimore, Md.]

I heartily favor the repeal by Congress of that provision of the Panama Canal bill which exempts the coastwise trade of the United States from tolls to which other shipping is subject.

[George C. Chase, president Bates College, Lewiston, Me.]

I earnestly hope, for the sake of the good name of our country, and of the maintenance of a national honor, which alone can insure it a worthy name, that our Congress will repeal, at the earliest practicable date, the provision of the Panama Canal bill exempting the coastwise trade of the United States.

[Anderson Sledd, president Southern University, Greensboro, Ala.]

I beg to say that I am firmly convinced that the coastwise exemption provision in the Panama Canal bill ought, by all means, to be repealed. Candor in dealing with a great friendly power, and national good faith in observing the plain obligations of our treaties, seem to me to demand such action.

[Thos. C. Blaisdell, president Alma College, Alma, Mich.]

From the beginning of the discussion my conclusion has been that it would be a mistake to exempt the coastwise trade of the United States from the Panama Canal toll. Our Nation can not afford to put itself into a place where it must refuse arbitration, of which it has been a foremost advocate, or face almost certain defeat if it consents to arbitration in this matter.

[Henry Louis Smith, president Washington and Lee University, Lexington, Va.]

The provision of the canal bill, exempting the coastwise trade of the United States, I have always believed to be in direct contravention of the treaty. I believe also that our refusal to submit this matter to arbitration would convict us of insincerity and be a national dishonor.

I am, therefore, most heartily in favor of the repeal by Congress of this exemption.

[John S. Nollen, president Lake Forest College, Lake Forest, Ill.]

It seems to me that the question is not at all whether we have a technical right to make the exemption provided for in the present bill. The question is not one of legal technicalities, but simply of national self-respect and international good faith. We owe it to ourselves as well as to our reputation abroad to repeal the present bill at the earliest possible moment.

[J. M. P. Metcalf, president Talladega College, Talladega, Ala.]

I am very heartily in favor of the proposed repeal, believing it to be a contravention of our contract in the Hay-Pauncefote treaty.

[Simeon H. Bing, president Rio Grande College, Rio Grande, Ohio.]

I am heartily opposed to that part of the Panama Canal bill that exempts our coastwise trade, and shall be glad to add my own opinion to that of a large and growing sentiment in this part of the Union for its repeal.

[H. C. Culberson, president The College of Emporia, Emporia, Kans.]

I heartily favor the repeal of the exemption clause in the Panama Canal bill. It certainly seems to me that the spirit if not the letter of the Hay-Pauncefote treaty compels us to avoid all discrimination between American and English vessels in the matter of canal tolls.

[Edmund C. Sanford, president Clark College, Worcester, Mass.]

I am glad of the opportunity of putting on record my earnest hope that the provision of the Panama Canal bill exempting the coastwise trade of the United States from the payment of tolls will be repealed.

[Palmer C. Ricketts, president Rensselaer Polytechnic Institute.]

I am strongly of the opinion that the provision of the Panama Canal bill exempting the owners of vessels engaged in the coastwise trade of the United States from the payment of tolls should be repealed. This provision, in my opinion, is not in accordance with the intent of the Hay-Pauncefote treaty.

[Frank K. Sanders, president Washburn College, Topeka, Kans.]

I take pleasure in expressing a protest against the passage by Congress of the provision of the Panama Canal bill exempting the coastwise trade of the United States.

I can not see how as a country we can decline to arbitrate a question like this. Furthermore, it seems clear to me that such arbitration will result in a humiliating decision against the United States. I sincerely hope that Congress may be induced to repeal this objectionable provision.

[William F. Slocum, president Colorado College, Colorado Springs, Colo.]

In regard to the provision of the Panama Canal bill exempting the coastwise trade of the United States, I think with the largest possible interpretation that it is in contravention of our contract in the Hay-Pauncefote treaty, and that it has seriously injured our prestige abroad. I am sure that the best sentiment of the country is in favor of a repeal.

[Paul Shorey, The University of Chicago.]

I am opposed to the exemption of the coastwise trade of the United States from Panama Canal dues. Such action is in apparent contravention of the spirit of our contract in the Hay-Pauncefote treaty, and will be so regarded by international public opinion. It is a special privilege at the cost of taxpayers, and most of the problems with which the statesmanship of to-day is wrestling arise out of special privileges recklessly granted in the past.

[Levi T. Pennington, president Pacific College, Newberg, Oreg.]

I see no reason why American vessels, privately owned, should not pay the Government for the use of a canal provided at the expense of the whole people. I certainly do not see any excuse for the violation of our treaty.

[D. C. Reber, president Elizabethtown College, Elizabethtown, Pa.]

I am heartily in favor of such repeal as proposed. I think that the Panama Canal is of such national and cosmopolitan interest and the United States is performing such a noble and unselfish act. I trust, that it would be only fair to place all nations on an equality as we have already agreed to in a national treaty.

[Enoch A. Bryan, president the State College of Washington.]

It seems to me that as I read the treaty agreements we are, in passing the exemption bill, contravening the spirit if not the letter of the agreement.

[C. H. Stockton, rear admiral, U. S. N., retired, president the George Washington University, Washington, D. C.]

I feel ashamed of the action of Congress and of the President in this matter.

[J. A. Marquis, president Coe College, Cedar Rapids, Iowa.]

On the surface it looks as though we solemnly guaranteed not to give the ships of our own or any other country a preference. If this is true, we ought to by all means to stand by it.

[Henry Churchill King, president Oberlin College, Oberlin, Ohio.]

I am glad to say that my own belief is that the provision of the Panama Canal bill exempting the coastwise trade of the United States ought to be repealed both as unwise in itself and as setting us in a wrong light in the eyes of other nations. It seems to me to have been a serious blunder.

[Edward D. Eaton, president Beloit College, Beloit, Wis.]

It seems to me of great importance that our Congress should reconsider the provisions of the Panama Canal bill exempting the coastwise trade of the United States, in the light of the judgment of eminent students of international affairs that the bill is in violation of our contract in the Hay-Pauncefote treaty.

[H. H. Wright, dean Fisk University, Nashville, Tenn.]

It seems to me that the common people would interpret the meaning of the language of the treaty in accordance with the view expressed in paragraph No. 1, and that the action of Congress contravenes the treaty. Therefore the previous action of Congress should be repealed.

[Benjamin I. Wheeler, president University of California.]

I hope either that Congress will repeal that provision of the Panama Canal bill exempting the coastwise trade of the United Staes, or that we may submit the matter immediately to arbitration. The former is far the better course to take.

[Arthur H. Wilde, president University of Arizona.]

In my judgment, this Nation can not afford to be in its present position regarding this treaty. If we are sure the treaty does not concern coastwise trade, we ought to invite arbitration with confidence; if we are not sure of it, we should give Great Britain the benefit of the doubt.

[James Fraser, president New Windsor College, New Windsor, Md.]

I have your communication in reference to the proposed repeal of the coastwise exemption in the Panama bill, and I very heartily approve of the movement looking toward the repeal by Congress of this exemption in that bill.

[Arthur A. Hammerschlag, director Carnegie Institute of Technology, Pittsburgh, Pa.]

No immediate benefit or hardship to accrue to any interest temporarily should weigh against the duty of safeguarding our national belief in the sacredness of international treaties.

[Ernest Fox Nichols, president Dartmouth College, Hanover, N. H.]

As an American citizen who respects the moral integrity of his National Government, I favor a suitable amendment to the Panama Canal act in Congress.

[W. O. Thompson, president Ohio State University, Columbus, Ohio.]

The Hay-Pauncefote treaty should be submitted to The Hague Court for interpretation, and, if necessary, the terms of the law governing tolls should be trusted to the interpretation.

[James M. Taylor, president Vassar College, Poughkeepsie, N. Y.]

The Panama legislation was in defiance of our treaty and a dishonor to our Nation and should be repealed. Failing that, we can not refuse arbitration without discrediting our record for the advantage of a few. We are inviting the just condemnation of the world.

[Ethelbert D. Warfield, president Lafayette College, Easton, Pa.]

I favor the immediate repeal of the recent act of Congress, the scrupulous fulfillment of our pledge, and such steps as shall redeem our national honor from all reproach as a breaker of treaties.

[George C. Chase, president Bates College, Lewiston, Me.]

The honor of our Nation requires direct and unequivocal action to this end.

[Isaac Sharpless, president Haverford College, Haverford, Pa.]

It seems that the act is in violation of the treaty. If so, Congress should amend it. If it does not, the question should be submitted to arbitration. The honor of the Nation seems to be involved.

[F. S. Luther, president Trinity College, Hartford, Conn.]

It seems to me that the question is one for arbitration.

[W. P. Darfee, acting president Hobart College, Geneva, N. Y.]

I think the act should be amended so that all nations shall be treated alike.

[Booker T. Washington, president Tuskegee Institute, Tuskegee, Ala.]

The Panama Canal question, it appears to me, is purely a moral one. As to the arbitration treaty agreement it most clearly seems to me that we can not in honor refuse to submit the question to The Hague for settlement.

[H. D. Hoover, president Carthage College.]

According to the terms of the Hay-Pauncefote treaty it does seem entirely wrong for the United States to take the position she has taken with reference to Panama Canal tolls, and I should be heartily in favor of a repeal of the act exempting coastwise trade vessels from paying toll.

[Rush Rhees, president the University of Rochester, Rochester, N. Y.]

I most earnestly favor the repeal of the legislation providing for the exemption of the American coastwise vessels from the payment of tolls in the use of the Panama Canal.

[M. Friedman, superintendent Carlisle Indian School.]

The Panama Canal act should be amended so that the high ideals which were declared to the world when we commenced the gigantic task of building the canal shall find fruition by our keeping faith with the world when the canal is completed, even when it touches the national pocketbook.

[Alexander C. Humphreys, president Stevens Institute of Technology, Hoboken, N. J.]

We should recede promptly from the unfortunate position we have taken.

[Chancellor Day, Syracuse University, Syracuse, N. Y.]

If we made a bad bargain we should nevertheless stick to it. We should not repudiate the contract.

[Lyon G. Tyler, president William and Mary College, Williamsburg, Va.]

I have read the Hay-Pauncefote treaty and I can not see that the United States has any excuse to except its coast trade from tolls.

[David Starr Jordan, president Leland Stanford University, Palo Alto, Cal.]

By all means amend the Panama act to make it free to all or free to none. It is wretched statesmanship to violate a treaty or even to appear to do so, and wretched policy to grant ship subsidy in such form, needlessly creating a new privilege, when we are trying to eliminate old ones. Cut it out.

[J. A. Aasgaard, president Concordia College, Moorhead, Minn.]

I am entirely in favor of the repeal of the coastwise exemption in the Panama bill. First, I believe it is a direct breach of contract in the Hay-Pauncefote treaty, and, second, it is an indirect way of voting ship subsidy which has been defeated so often in Congress.

[John J. Hattstaedt, president American Conservatory of Music, Chicago, Ill.]

The selfishness and rapacity displayed by great civilized nations has become so pronounced that no other policy is expected any more. I suppose the United States wished to contribute its mite in that direction when its Congress voted to exempt its coastwise trade from toll. I sincerely hope that the above-mentioned section of the Panama Canal regulations will be repealed.

[H. B. Hutchins, University of Michigan, Ann Arbor.]

I beg to say that, in my judgment, the provision of the Panama Canal bill exempting the coastwise trade of the United States should be repealed.

[L. J. Corbly, president Marshall College, Huntington, W. Va.]

I unhesitatingly recommend that the interpretation of the treaty be submitted to The Hague tribunal for interpretation without further delay or quibble.

[M. S. Wildman, professor (executive of economics), Leland Stanford Junior University.]

I am strongly in favor of the repeal of the coastwise exemption feature of the Panama Canal law.

[Thomas McClelland, president Knox College, Galesburg, Ill.]

I trust Congress may be wise enough to undo as far as possible the injury which we have already sustained by repealing their action with regard to exempting our coastwise trade.

[Dr. Charles F. Thwing, president Western Reserve University and Adelbert College, Cleveland, Ohio.]

You have marked out the proper method: "Repeal the exemption." Let us keep our covenants. Gentlemen do; why should not nations?

[A. W. Harris, president Northwestern University, Evanston-Chicago.]

In my opinion the United States can not afford to make any regulation or enact any law which raises justly any serious doubt in regard to proper observance of treaty obligations. Coastwise exemption does raise such a doubt. I therefore favor its repeal.

[Dr. James B. Angell, former president of the University of Michigan, late American minister to Turkey, Ann Arbor.]

I regard the passage of the bill exempting the coastwise trade of the United States from Panama Canal tolls as a violation of our treaty stipulations, and therefore reflecting most discreditably on our national honor.

[Stephen F. Weston, secretary Intercollegiate Peace Association, Yellow Springs, Ohio.]

Let us hope that upon second thought Congress will undo the wrong and retrieve the fair name that we have maintained in acting openly, honestly, and justly in our dealings with other nations. It is not a question of dollars, but of sincerity of pretensions, of squaring our national conduct with our national ideal of applying the doctrine of

truth, not the doctrine of hypocrisy, in our international dealings. I believe the sentiment of all those who are connected with our work is substantially in agreement with the views I have expressed.

[S. C. Mitchell, president University of South Carolina, Columbia.]

It seems plain to me that we violate the letter and spirit of the Hay-Pauncefote treaty with Great Britain by exempting American coastwise shipping from Panama tolls. Hence I favor an immediate repeal of the coastwise exemption. That is a straightforward way out of the difficulty, and American character has been so high and strong in international dealings hitherto that we can afford to take the manly and clean course. All commercial considerations aside, let Congress repeal that exemption and set ourselves straight with other nations.

[W. M. Pearce, president Ogden College, Bowling Green, Ky.]

I am heartily in favor of the repal of the coastwise exemption in the bill named.

[Frank Clare English, president William and Vashti College, Aledo, Ill.]

I am in hearty concurrence with you concerning the proposed repeal of the coastwise exemption in the Panama bill. I most earnestly trust that Congress will reverse its action. If the recent action of Congress stands, it must rebound upon the heads of American citizens and upon our national honor.

[A. B. McCormick, chancellor the University of Pittsburgh.]

The United States Government must arbitrate the provision of the Panama Canal bill exempting coastwise trade of the United States, or it must change this provision so that arbitration will become unnecessary. If any reason exists whereby the United States should hesitate to submit the question to the Hague tribunal, then obviously it is the duty of Congress so to change the act as that its fairness and propriety will be universally recognized.

[A. J. Burrows, president St. Louis University.]

I am certainly in favor of living up to our contracts, especially if they have been made with due deliberation and we have reaped the benefit mainly through a concession we wish now to repudiate. This is the honorable mode of acting which befits nations as well as individuals.

[William I. Hull, professor, Swarthmore College, Pa.]

In view of its past history and its present leadership in the cause of international peace and justice, it would be a national and international calamity for the United States to refuse to arbitrate the Panama Canal tolls question. Every consideration of fair play and wise policy demands that this question shall be submitted to arbitration; and if we desire to reassure the rest of the word as to our absolute sincerity in our advocacy of international justice, we should submit this question to the jurisdiction of the permanent court at The Hague and should reject any compromise short of that step, whatsoever it may be.

[E. G. Bauman, superintendent of schools, Quincy, Ill.]

In my opinion, based upon what I have read with regard to the Panama Canal situation, action should be taken against the coastwise exemption.

[Prof. J. Laurence Laughlin, department of political economy, University of Chicago.]

I regard the provision of the Panama Canal bill exempting the coastwise trade of the United States as an unjustifiable attempt to favor some particular interest at the expense of our treaty obligations and the good faith of the United States. It has been a grief to many fair-minded citizens who care for the good repute of their country. The only right and honorable course to be pursued is to repeal that special provision of the bill. I earnestly hope Congress will be led to take this point of view.

A PETITION FROM CALIFORNIA.

To His Excellency, William Howard Taft, President of the United States:

SIR: The undersigned citizens of the United States, resident in California, would respectfully petition that, since portions of the Panama Canal act seem to many persons both in the United States and in England a violation of the Hay-Pauncefote treaty, the administration seek an amicable and honorable settlement of this matter, either through diplomatic negotiation or by recommending to Congress the amendment of such parts of its recent act as may be questionable.

The matter at issue is whether our country is observing an international pledge. Even were it clear to all our people that the action of Congress is entirely consistent with our treaty, yet our Government can not with self-respect take the position that one party to a solemn covenant has the right independently to interpret that covenant. Such a position taken by a foreign power we should certainly resent.

We believe that our Government should be ready and willing, as a last resort, to submit this matter to arbitration. But our pride compels us to urge that our Nation itself hasten to correct any wrong that may have been committed rather than await the formal award of a tribunal of arbitration. It is our most earnest conviction that as a people we can better suffer some limitation of our freedom of legislation and some commercial disadvantage rather than disregard or appear to disregard a treaty negotiated in good faith and solemnly ratified.

Benj. Ide Wheeler, president of the University of California; David Starr Jordan, president of the Stanford University; Patrick William Riordan, archbishop of San Francisco; John L. Howard, president of the Western Fuel Co., of San Francisco; Warren Olney, of the San Francisco bar, formerly mayor of Oakland, Cal.; Wm. A. Thorsen, president of the West Side Lumber Co., of Tuolumne and San Francisco; Anson L. Blake, president of the Oakland Paving Co.; James K. Moffitt, cashier of the First National Bank of San Francisco; Herbert C. Moffitt, dean of the College of Medicine, University of California; Edward Robeson Taylor, dean of the Hastings College of Law, formerly mayor of San Francisco; Martin A. Meyer, rabbi Temple Emanu El, San Francisco; Charles W. Slack, of the San Francisco bar, formerly judge of the Superior Court; Horace Davis, president of the board of trustees of Stanford University, formerly Member of Congress from California; P. J. Van Loben Sels, of Oakland, Cal.; Wm. Carey Jones, head of the School of Jurisprudence, University of California; Frederick C. Woodward, professor of law, head of the Law School, Stanford University; W. T. Reid, of Belmont, Cal.; David P. Barrows, professor of political science, University of California; William Kent, Member of Congress from California.

III. OPINIONS OF CLERGYMEN AND MINISTERS.

[W. M. Anderson, D. D., minister First Presbyterian Church, Dallas, Tex.]

I think it very important that the coastwise exemption of the Panama bill be repealed.

[John Balcom Shaw, pastor Second Presbyterian Church, Chicago.]

I am strongly of the opinion that the recent action of Congress regarding the coastwise trade of the United States should be at once repealed. The honor and the good faith of our Nation are involved.

[Harry R. Miles, pastor First Congregational Church, Berkeley, Cal.]

The Panama treaty guarantees the Clayton-Bulwer treaty, which accords the same treatment to British and American ships.

The action of Congress seems to me to put in question our good faith, and I earnestly hope that Congress will reconsider and put the integrity of our treaty above consideration of commercial gain.

[A. W. Vernon, pastor Harvard Church, Brookline, Mass.]

It is exceedingly unfortunate that any question should arise in connection with the use of the canal that would seem to put no occupation of territory in the same class with the nefarious obligations of the European powers. We should lift a treaty obligation to a higher place in international codes of honor.

[Henry Kingman, pastor Claremont Congregational Church, Claremont, Cal.]

There seems no reason why a nation should not have as keen a sensitiveness to honor as an individual. For a trifling material gain—even if it were proved to be a gain—we can not afford to put ourselves in the estimation of the nations of the world in the class of those who repudiate honorable obligations. For the sake of every citizen of the United States the objectionable provision should be repealed.

[Charles E. Diehl, minister First Presbyterian Church, Clarksville, Tenn.]

Not only in the interests of the Hay-Pauncefote treaty, but in the interests of justice and right, should Congress repeal the provision of the Panama Canal bill exempting the coastwise trade of the United States.

[Bunyan McLeod, pastor First Presbyterian Church, Harrodsburg, Ky.]

The proposed repeal of the coastwise exemption in the Panama bill is a consummation devoutly to be wished by all fair-minded Americans.

[W. H. Pennhallegon, D. D., pastor First Presbyterian Church, Decatur, Ill.]

In the interest of national honor and international peace, I am strongly in favor of the repeal by Congress of that provision of the Panama Canal bill which exempts the coastwise trade of the United States.

[Murray Hefley Howland, pastor Lafayette Avenue Presbyterian Church, Buffalo, N. Y.]

I am in hearty sympathy with the movement to repeal the coastwise exemption bill. I know from my touch with many men that there is a deep feeling of shame that for the sake of pecuniary advantage our country should stultify its position in favor of arbitration and should stoop to repudiation of its treaty obligations.

[A. B. Curry, pastor Second Presbyterian Church, Memphis, Tenn.]

I am decidedly in favor of the proposed repeal. To exempt the coastwise vessels would be simply favoring a certain class of citizens, and a comparatively small class, at the expense of the whole body of citizens.

[J. C. Molloy, D. D., pastor First Presbyterian Church, Columbia, Tenn.]

I think our Government should run the canal as a business firm would—receiving from all craft, save Government vessels, the toll due for the privilege of using it.

[Henry Stiles Bradley, pastor Piedmont Congregational Church, Worcester, Mass.]

I sincerely hope that Congress will remedy as speedily as possible the wrong it has already done in placing our country before the nations as one unfaithful to its pledges.

[Rev. John Archibald MacCallum, minister Walnut Street Presbyterian Church, Philadelphia.]

It is my very earnest hope that Congress will repeal the provision of the Panama Canal bill exempting the coastwise trade of the United States.

[Thomas Cummins, pastor First Presbyterian Church, Henderson, Ky.]

I hasten to say that the provisions of the Panama Canal bill exempting the coastwise trade of the United States ought to be repealed. Fair play demands it. Justice demands it. The honor and good name of the country demand it. The passage of the bill was, in my judgment, the most unfair, unjust, dishonorable, and the most high-handed iniquitous thing Congress has ever done. A palpable fraud in the interest of the interests. A veiled ship-subsidy measure with so thin a veil that all the people of the United States, who are not blinded because the "interests" have blinded them, must see through the veil as they have come to see through the protective tariff veil; the high-handed fraud, the broad daylight robbery that regards neither God nor man nor justice nor honor—all for the "interests."

[Washington Gladden, pastor First Congregational Church, Columbus, Ohio.]

I most heartily agree with the protest against that coastwise exemption. I am ashamed of it. It puts this Nation in the wrong. It cripples the Nation in its advocacy of international arbitration.

[William Pierson Merrill, pastor The Brick Presbyterian Church, New York City.]

It seems to me quite clear that the exemption specified does not contravene the contract in the Hay-Pauncefote treaty. I do feel, however, that the main issue is the upholding of arbitration. I should consider it an international sin if the United States should refuse to refer such a matter to arbitration.

I also feel very strongly that our Nation can not afford to put itself in a doubtful position with regard to its honor. Far better waive assumed or real rights than appear dishonorable in the eyes of other nations. For these reasons I am inclined to favor the repeal of the coastwise exemption.

[David Beaton, pastor Congregational Church, Janesville, Wis.]

I am earnestly in favor of the repeal of the coastwise exemption in the Panama bill.

[A. M. C. Covert, pastor Forty-first Street Presbyterian Church, Chicago.]

I am glad to indicate to you my sincere opposition to the coastwise exemption clause in the Panama bill, on the ground that it seems to me to be a contravention of the Hay-Pauncefote treaty and to set us against a forward movement for amicable international relations.

[Rev. D. Clay Lilly, pastor Grace Street Presbyterian Church, Richmond, Va.]

I heartily favor the repeal of the provision of the Panama Canal bill exempting the coastwise trade of the United States. It violates the plain provision of the Hay-Pauncefote treaty.

[A. Edwin Keigwin, pastor West End Presbyterian Church, New York.]

We shall only invite dishonesty if the Panama Canal bill remains as at present.

[S. Parkes Cadman, pastor Central Congregational Church, Brooklyn, N. Y.]

It is certainly the bounden duty and obligation of the United States Government to submit to arbitration this entire matter concerning the proposed repeal of the coastwise exemption in the Panama bill. I am strongly convinced that the whole action as it now stands is unfortunate for the honor and reputation of our Government.

[Samuel Charles Black, D. D., pastor Collingwood Avenue Presbyterian Church, Toledo, Ohio.]

I sincerely hope that the provision of the Panama Canal bill exempting the coastwise trade of the United States will be repealed.

[Rev. George H. Cornelson, jr., D. D., pastor First Presbyterian Church, New Orleans, La.]

So far as I have been able to formulate an opinion in regard to the coastwise exemption in the Panama bill, I am persuaded that the wisest action that can be taken by our country would be to have Congress repeal the provision exempting the coastwise trade of the United States.

[Ernest L. Wismer, minister First Congregational Church, Bristol, Conn.]

Every self-respecting American ought to blush for shame at the sophistry offered in defense of a plain violation of a treaty. The only manly thing to do is to repeal the clause that exempts coastwise vessels from toll.

[Russell Cecil, pastor Second Presbyterian Church, Richmond, Va.]

The movement to further the repeal by Congress of the provision of the Panama Canal bill exempting the coastwise trade of the United States accords with my conviction on the subject. In my judgment the position of our Government is untenable, and the sooner it is receded from the more creditable it will be to us.

[John Lewis Clark, minister the Bushwick Avenue Congregational Church, Brooklyn, N. Y.]

The coastwise exemption seems to be in direct violation of the Hay-Pauncefote treaty. One should hesitate to violate even the spirit of the treaty.

[Rockwell Harmon Potter, D. D., minister the First Church of Christ, Center Congregational, Hartford, Conn.]

I am glad to go on record as in favor of the proposed repeal of the coastwise exemption in the Panama bill.

[W. Bristow Gray, minister First Presbyterian Church, Greenville, Miss.]

Allow me to express my unqualified disapproval of the provision in the Panama Canal bill exempting the coastwise trade.

Common honesty and a square deal demands that we repeal the measure.

[Robert S. Boyd, pastor James Lees Memorial Presbyterian Church, Louisville, Ky.]

I wish to express myself as deeply in sympathy with the effort to secure the repeal of the coastwise exemption of the Panama bill by Congress.

[Charles M. Sheldon, minister at large, Central Church, Topeka, Kans.]

I am heartily in favor of repeal. As the bill stands now, it is a dishonor to our treaty.

[J. Keir G. Fraser, minister Second Presbyterian Church, Charleston, S. C.]

It is difficult for me to understand how there can be a doubt in the mind of anyone that that part of the Panama Canal bill which exempts American coastwise ships from the payment of tolls is in violation of the Hay-Pauncefote treaty. Congress ought to repeal the act, or, at least, submit to arbitration.

[Rt. Rev. L. J. Coppin, D. D., presiding bishop second Episcopal district, Philadelphia, Pa.]

After careful study of the question concerning the appeal of the coastwise exemption in the Panama bill, I am firmly of the opinion that the repeal will be wise and just, and is the way to save the United States from very unnecessary humiliation, to say the least.

[Frederick Burgess, bishop of Long Island.]

I am heartily in favor of the arbitration movement, and believe that our country will be justified in submitting this whole question to arbitration as soon as practicable.

[Harmon H. McQuilkin, pastor First Presbyterian Church, San Jose, Cal.]

In common with multitudes of my fellow countrymen, I deeply deplore the patent injustice of the coastwise exemption feature in the Panama Canal bill, and sincerely trust that our Nation may be rescued from the humiliation of its consequences by a speedy repeal of the unjust discriminative provision.

[John Scarborough, bishop of New Jersey.]

I hope the Government will keep good faith with promises made, without any reference to loss or gain. National honor must be maintained at any cost.

[Junius B. Remensnyder, D. D., LL. D., president of Commission on Practicability of the Federal Council of Churches and president of the general synod of the Lutheran Church in the United States.]

Our country stands doubly pledged by its original declaration of equal terms to all nations and, by its agreement, to submit such differences to The Hague arbitration court, not to take the decision violently in its own hands. It is an amazing fact that when our journals of highest tone, practically without exception, and our foremost citizens of character and influence in the world of religion, letters, and business voice their strongest protest against a course of such moral reaction.

[Geo. W. Sandt, D. D., editor The Lutheran.]

Quote me as being in favor of the only proper ethical position which this country can take if it is to maintain its correct position and self-respect among nations. There are some things worth more than dollars, and this is one of them.

[Rev. Daniel S. Tuttle, bishop of Missouri, St. Louis.]

The Cuba page of our country's international doings is one of fair, unsoiled altruism. I should be sorry to think that the canal page should be one of studied egoism.

[Rev. Earl Cranston, resident bishop Methodist Episcopal Church, Washington, D. C.]

My sympathies are strongly with the movement for the repeal of the provision of the canal bill exempting our own ships from charges for use of the canal. Our national honor is at stake. We are in danger of reversing our record on a most important point—open and square dealing with all nations on all international questions. After paying twenty millions for islands already won in war, and returning other millions of the Chinese indemnity unasked, we can not afford to send to arbitration even, much less to persist in the violation of the plain agreement of the Hay-Pauncefote treaty.

[Rev. Walter L. Caldwell, Nashville, Tenn.]

I am glad to learn that there is a movement on foot seeking the repeal of the provision of the Panama Canal bill exempting the coastwise trade of the United States. I regard the provision as unwise and unjust. It is a species of class legislation, to which I am opposed always. This is the age of fair play, and I do not believe the people of the United States will stand for the aforesaid provision.

[Right Rev. Charles T. Olmsted, bishop of central New York, Utica.]

My first thought, when the act of exemption was adopted by Congress, was that it was only fair, because the United States had borne the expense of building the canal. But when I learned that it was contrary to the treaty, I saw at once that we could not honorably insist upon it. It would be far better to repeal the bill; but if that be not done, then of course the case should be submitted to arbitration. That we Americans, who have done so much for the cause of peace in general, should reject the principle of arbitration because it might bear heavily upon our own pockets would be intolerable.

[Rev. William Burt, bishop of the Methodist Episcopal Church, Buffalo.]

I most heartily favor the repeal of the coastwise exemption in the Panama bill. We should offer the world an example of equality for all and of a generosity that will promote peace and harmony among the nations. The present arrangement, if continued, will be a constant source of irritation. If we would command the respect and admiration of the civilized world, we must open the canal for all on equal terms.

[Bishop Benjamin Tucker Tanner, Philadelphia.]

America is too strong to ever take an advantage, howsoever well it may be authorized.

[Rev. W. Moore Scott, Savannah, Ga.]

I should very much regret to see the United States take any step in this or any other matter which would be in the least open to criticism or at all disturb the close relation between us and England. We might be within our strict legal rights in this matter, and yet courtesy, policy, and our best interests be seriously offended thereby. I trust that we shall move in this vital matter with great care and unselfishness.

[Rev. Willard Brown Thorp, San Diego, Cal.]

I am in hearty sympathy with the efforts that are being made to secure the repeal of the unfortunate action of Congress exempting the coastwise trade of the United States from Panama Canal tolls. Our standing and influence among the nations of the world would be immeasurably injured if that apparent violation of treaty obligations should be permitted to stand.

[Right Rev. Arthur C. A. Hall, bishop of Vermont, Burlington.]

I most earnestly trust that either by a repeal of the coastwise exemption in the Panama Canal bill or by a submission of the matter to arbitration Congress will free our country from the disgrace, which I fear we must otherwise accept, of dishonesty in international dealings.

[Right Rev. Frederick F. Reese, bishop of Georgia, Savannah.]

I cordially approve the effort to secure the repeal by Congress of the provision of the Panama Canal bill exempting the coastwise trade of the United States from the payment of tolls: First, because I believe it to be a violation of the Hay-Pauncefote treaty; and, second, because I believe it to be an indirect form of subsidy to a special interest.

[Right Rev. Samuel Cook Edsall, D. D., bishop of Minnesota, Minneapolis.]

It is clear to my mind that Congress should repeal the provision exempting coastwise trade of the United States. Our country can not afford to be placed in the position of insisting on a matter of doubtful legality or of not submitting it to arbitration.

[Right Rev. John N. McCormick, bishop of Western Michigan, Grand Rapids.]

In regard to the repeal by Congress of the coastwise exemption in the Panama bill, I beg to say that I am in favor of such repeal and hope that it may be passed. It appears to me that this would be at once the most honorable and the most expedient course to pursue.

[Right Rev. G. Mott Williams, bishop of Marquette, Mich.]

As I understand it, America has proclaimed to the world that by completing the Panama Canal she was aiming to do the world an unselfish service. Quite independently of the Hay-Pauncefote treaty, therefore, we were estopped from a selfish use of the canal. The treaty, of course, ought to govern, and the discrimination in behalf of our coastwise shipping ought to be repealed. There is no other honest course.

[Right Rev. Thomas F. Gailor, bishop of Tennessee, Memphis.]

I sincerely hope that the exemption will be repealed, because it is in every way unworthy of us as true Americans. This exemption in favor of our own coastwise trade is an exhibition of an ungenerous and selfish spirit, which is just as vulgar in a nation as it is in an individual; it is a species of jingoism—"might makes right"—that would put a cheap, commercial stain upon our great canal enterprise, an enterprise the conduct of which ought to go down in history as a noble and splendid contribution by a great people not to their own aggrandizement, but to the closer intercourse and the friendlier relationship of all the nations of the world.

[Rev. Le Roy G. Henderson, Americus, Ga.]

Any movement that makes for the cause of true arbitration, as you point out in your letter, meets with my heartiest approval.

[Right Rev. Arthur L. Williams, bishop of Nebraska, Omaha.]

I am for world-wide competition, a free canal, and against coastwise exemption.

[Rev. I. S. McElroy, Columbus, Ga.]

If the coastwise exemption is in violation of the Hay-Pauncefote treaty beyond any reasonable doubt, then it should be repealed, for nations no less than individuals should keep faith with each other. If there be room for a reasonable doubt, then the question should be submitted for arbitration, not to The Hague, but to a board selected by the two governments interested.

[Rev. Eugene Russell Hendrix, bishop of the Methodist Episcopal Church South, Kansas City, Mo.]

I must express the hope that the Congress of the United States will so modify its action in exemption the coastwise trade of the United States from tolls in passing through the Panama Canal as to save us from humiliation in the event of an adverse decision at The Hague conference, should the matter be submitted to arbitration, which we can not refuse. The immense cost of the canal does not leave us in position to ignore the considerable revenue which our coastwise trade should pay, while our refusal to submit to arbitration the questions involved in the Hay-Pauncefote treaty puts our Nation, the special friend and advocate of arbitration, at a grave disadvantage in every way before the other nations of the earth. A treaty, "the solemn oath of a nation," can not be set aside for personal advantage save to our immense discredit as a Christian Nation.

[Right Rev. Cortlandt Whitehead, bishop of Pittsburgh.]

Any citizen of the United States who has a patriotic pride in his country and wishes to continue it must repudiate with emphasis the action of Congress in the matter of the coastwise exemption in the Panama bill. In every possible way I desire to express and emphasize the sentiment that the United States should speedily repudiate and rescind the action taken by Congress and should proclaim to the world hearty appreciation of what is due from a generous and high-minded people.

[Rev. J. H. Jones, A. M., D. D., presiding bishop Ninth Episcopal District African Methodist Episcopal Church, comprising the States of Tennessee and Alabama, Wilberforce, Ohio.]

As an American I feel keenly the desire to encourage our own steamship trade, but far above that feeling is our national honor, by which honor we are bound to live. No nation can afford to disrespect its contracts and be false to its promises. To do so is to stand discredited, dishonored as hypocrites. Above all things the Nation must be fundamentally honest and must maintain itself in righteousness. I therefore humbly and sincerely beg our Government to repeal the Panama Canal coastwise exemption bill and bring to a close the contention between our Government and Great Britain without arbitration and with honor and dignity to ourselves.

[Rev. Joseph Silverman, Temple Emanu-El, New York.]

The only logical action for all concerned to take is to submit the differences to arbitration.

[Rev. C. T. Dole, First Congregational Society, Jamaica Plain, Mass.]

I wish to be counted among those who are earnestly petitioning Congress to reverse what we all know was hasty action in passing the Panama Canal Act. This measure was never supported by any popular demand; it has put a stain of dishonor upon our conduct, touching our sister nation of Great Britain, and it threatens, unless repealed, to lay a burden of expense upon all our people in favor of a class already privileged.

[Right Rev. Chauncey B. Brewster, bishop of Connecticut, Hartford.]

The stronger the ground for the claim that the provision contravenes our solemn contract (and to me that ground seems very strong), the more imperative reason is there for repealing the provision in order to save this country from dishonor and disgrace. I count it a privilege, so far as in me lies, to further this movement, and I earnestly hope that Congress will take the action which under the circumstances is reasonable and honorable and repeal the provision referred to.

[Rev. J. W. Bachman, Chattanooga, Tenn.]

The United States is rich enough to lose, but it can not afford to break its word.

[Rev. F. T. McFaden, Richmond, Va.]

I do not see how our Government can make any discrimination in tolls or conditions in favor of the coastwise or any other trade of this country in the use of the Panama Canal. To do so, in view of all our former actions, and especially the Hay-Pauncefote treaty, would be to stultify ourselves in the estimation of all the Governments of the world.

IV. OPINIONS OF SUPERINTENDENTS OF PUBLIC SCHOOLS.

[Duncan MacKinnon, San Diego, Cal.]

If we are to retain our self-respect and national honor, Congress must repeal the provision of the Panama bill exempting the coastwise trade of the United States.

[C. W. Mickens, Adrian, Mich.]

The submission to arbitration of the proposed difficulty in question would be a proper solution.

[C. H. Young, Lebanon, Ohio.]

I am in favor of repealing the Panama Canal bill exempting coastwise trade of the United States.

[F. T. Appleby, president Lafayette College, Lafayette, Ala.]

I feel that the clause should be repealed, that our splendid standing before all the nations of the world may not in any way be weakened.

[E. O. Holland, Louisville, Ky.]

The question of "Panama tolls" was discussed at a meeting of a number of the leading business and professional men of this city on last Saturday, December 28, 1912. After a careful analysis of the Hay-Pauncefote treaty, it was the unanimous conviction of this group of men that Congress owes it to the American people to repeal the provision of the Panama Canal bill which exempts the coastwise trade of the United States.

The honor of a country should be as sacred as the honor of an individual. Therefore a contract solemnly entered into by the accredited representatives of our country should be held inviolate.

[S. D. Largent, superintendent board of education, Great Falls, Mont.]

I believe that this Nation should stand strictly for the spirit as well as the letter of every treaty entered into with any other nation.

I am not in sympathy with the coastwise exemption of tolls. I see no good reason for it, and I do not believe that it is right.

[William O. Riddell, superintendent Board of Education, Des Moines.]

It is my individual opinion that whoever uses the Panama Canal should pay toll at the same rate that every other user pays; that there should be no discrimination whatever in tolls or conditions in favor of coastwise trade or any other special interest.

[H. M. Comins, superintendent Ripon public schools, Ripon, Wis.]

I incline to the "Independent" rather than the "Outlook" view in the matter of our coastwise shipping in connection with our Panama Canal. It seems to me we can hardly refuse to arbitrate the question, and in that event the decision must be adverse to the United States.

[Francis A. Soper, superintendent department of education, Baltimore, Md.]

I am decidedly opposed to the exemption of the coastwise trade of the United States as contained in the Panama Canal bill.

[G. J. Graham, superintendent of schools, Xenia, Ohio.]

I most assuredly feel that our Government has made a very grave mistake in the Panama Canal bill, in making an exception of the coastwise trade of the United States, as it is a direct violation of the Hay-Pauncefote treaty.

[R. O. Stoops, superintendent of city schools, Joliet, Ill.]

I heartily favor the proposed repeal of the coastwise exemption in the Panama bill.

[J. N. Adee, superintendent Johnstown public schools, Johnstown, Pa.]

I sincerely believe it will be better for our Nation's future and world-wide peace for us to observe the Hay-Pauncefote treaty which treats the vessels of all countries alike in respect to tolls on the Panama Canal.

[N. Winton Palmer, superintendent public schools, Penn Yan, N. Y.]

It is my candid opinion that the provision of the so-called Panama Canal bill exempting coastwise trade of the United States should be repealed.

[Henry P. Emerson, superintendent department of public instruction, Buffalo, N. Y.]

I am in favor of the repeal by Congress of the provision of the Panama Canal bill exempting the coastwise trade of the United States on the ground that it is a violation of the Hay-Pauncefote treaty.

[H. O. Sluss, superintendent of public schools, Covington, Ky.]

I have not had the time to look into the various phases of the proposed repeal of the provision of the Panama Canal bill exempting the coastwise trade of the United States. However, the objections seem to me valid.

[F. H. Beede, superintendent of schools, New Haven, Conn.]

I favor the repeal of the bill.

[J. A. C. Chandler, superintendent public schools, Richmond, Va.]

I favor a repeal of the Panama Canal bill exempting the coastwise trade of the United States on the grounds that it should not be said that the United States of America in any way violated the contract that it had made with Great Britain.

[Richard E. Clement, superintendent of public schools, Elizabeth, N. J.]

If given an opportunity I should certainly vote for the repeal of the law relative to tolls to be charged for the use of the Panama Canal, and the enactment of such law as would enable every American citizen to hold his head high and look the whole world straight in the face.

[William H. Maxwell, superintendent of schools, New York City.]

I regard the action of Congress in exempting the coastwise trade of the United States from tolls and conditions to which the ships of other nations are subjected as a violation of the treaty into which we entered with England.

I earnestly hope that Congress will repeal the obnoxious provision.

[R. E. Laramy, superintendent Phoenixville school district, Phoenixville, Pa.]

I feel personally that in this matter of exemption from tolls the moral tone of our Nation is in danger. This is of more importance than shekels.

[J. H. Van Sickle, superintendent of schools, Springfield, Mass.]

By all means the coastwise exemption in the Panama Canal bill should be repealed.

[H. P. Lewis, superintendent of public schools, Worcester, Mass.]

I have made no serious study of the subject, but I am inclined to the belief that our contract in the Hay-Pauncefote treaty requires us to place all vessels passing through the Panama Canal upon an equality.

I think that the maintenance of the national honor is of far greater importance than the securing of some financial advantage.

[J. A. Whiteford, superintendent of schools, school district of St. Joseph, Mo.]

Replying to yours in reference to repeal of coastwise exemption in Panama bill, will say that from what I know of the situation I should be pleased to learn that this clause of the bill has been set aside by Congress. Its repeal would do much toward relieving an embarrassing situation.

[S. C. Hutchinson, superintendent of schools, Montpelier, Vt.]

I regret extremely the action of Congress in exempting the coastwise trade of the United States in the Panama bill. I am correspondingly glad that a movement is on foot to bring about its repeal.

[R. F. Hight, superintendent public schools, Lafayette, Ind.]

I am in favor of the repeal of the coastwise exemption in the Panama bill.

[Jonathan Fairbanks, city superintendent of schools, Springfield, Mo.]

In response to your circular just received, I will say that in consequence of our treaty we should tax our coastwise ships passing through the canal same as foreign ships. Show no favors to any—our vessels as well as foreign.

While we built the canal, and the territory through which it passes is ours also, yet it would be well to make our ships pay the same as others. Then our relations with foreign countries would be much

strengthened or much more harmonious. I trust that the present canal bill will be repealed.

[G. A. Stuart, superintendent school department, Rockland, Me.]

I think that if we wish to be regarded as honorable in our international dealings and live up to treaty obligations we can do no less than repeal the provision mentioned.

V. OPINIONS OF OTHER PROMINENT MEN.

[A. Barton Hepburn, New York.]

I am clearly of the opinion that the recent act of Congress exempting the coastwise trade of the United States from the payment of tolls is an infringement of our treaty obligations.

[William Lyon Phelps, professor of English literature, Yale University, New Haven.]

I believe that Congress should repeal the provision of the Panama Canal bill exempting the coastwise trade of the United States, because I think such a clause is really a contravention of our plain contract made in the Hay-Pauncefote treaty.

[E. R. L. Gould.]

Sticking to a bargain freely made characterizes an honorable man. National honor demands similar conduct from the Government.

[Oscar S. Straus.]

I would deem it advisable if the Senate could be prevailed upon to amend the Panama act by eliminating that section which frees from toll our coastwise shipping, and I think every effort should be made to bring about that result. Failing in that, I know of no valid reason why we should not, if requested by Great Britain, arbitrate that clause of the Hay-Pauncefote treaty above referred to.

[George McLean Harper, Princeton, N. J.]

I hope Congress will repeal the provision of the Panama Canal bill exempting the coastwise trade of the United States, because it is plainly a violation of the Hay-Pauncefote treaty. No amount of word juggling can make it appear otherwise.

[Andrew F. West, Princeton University.]

The coastwise exemption provisions in the Panama Canal bill are bad from the standpoint of our national honor and also bad from the business point of view. If our coastwise trade through the canal needs special consideration in view of international competition, this should not be given in the form of lower tolls, against one well-understood pledge to the world of equal tolls, but by some form of compensating allowance made by the United States.

I hope the coastwise-exemption provision will be repealed promptly. If this can not be secured, it would be disgraceful not to submit the matter to arbitration.

[William Morton Payne, Chicago.]

I can hardly find words to express my abhorrence of the legislation which exempts any American shipping from the payment of canal tolls.

[George Burnham, jr., Philadelphia.]

For a totally unnecessary subsidy to a particular industry, granted in a moment of sentimental enthusiasm, we are going to barter away our honor and our standing among the nations.

[A. C. Stratford, president Board of Trade, Jersey City.]

The United States Government should arbitrate the matter of Panama Canal tolls. I can not see any other way honorably out of the controversy.

[David Davis, attorney at law, Cincinnati.]

I take this opportunity to protest against Congress of the United States interfering with the Hay-Pauncefote treaty, and as earnestly request that Congress repeal the exemption act.

I voice the sentiment that the people of Ohio are in favor of adhering to our solemn contract, and if there can be any difference that such difference be submitted to the highest and most useful court in the world—The Hague.

[H. C. Phillips, secretary Lake Mohonk Conference on International Arbitration, Mohonk Lake, Ulster County, N. Y.]

It certainly seems to me that the United States can not afford to refuse to arbitrate the construction of the Hay-Pauncefote treaty with reference to the recent Panama Canal act.

[A. B. Farquhar, York, Pa.]

Let the American flag be planted on Panama as a symbol of justice and righteousness in dealing with other nations, and not in the protection of partiality to petty interests at home and international shame. The word "all" in the treaty means all.

[Henry Van Dyke, Princeton, N. J.]

It is already evident that the coastwise exemption clause in the Panama Canal bill comes in a questionable shape and is likely to lead to misunderstanding with Great Britain and with other friendly nations. Why create a necessity for arbitration? The simplest way out of the impending difficulty would seem to be the repeal of the confusing clause.

[Paul Fuller, New York City.]

I see no justification for such an exemption.

[J. Bishop Putnam.]

Every American citizen with the slightest regard for the dignity of his country can have but one opinion as to the course that we should take in connection with this matter, and the thought that we could honorably refuse to arbitrate a question of this kind is humiliating.

[Charles Francis Adams.]

In regard to the proposed repeal of the "coastwise exemption" in the Panama bill, I have merely this to say: "A man's self-respect is worth something, and what is true of the individual is true of the community."

[Robert Erskine Ely, director, League for Political Education.]

The American people ought not to permit any doubt as to whether or not they propose to live up to their treaty obligations.

[William Jay Schieffelin.]

The reputation for fair dealing which our country has earned in the past will deservedly suffer unless we are true to the agreement that there shall be no discrimination in the Panama Canal tolls.

[Robert C. Ogden.]

In my judgment, there is only one honorable course for Congress to pursue concerning the provision in the Panama Canal bill exempting the coastwise trade of the United States and that is promptly to repeal it.

[Seth Low.]

If the United States and Great Britain fail to adjust their differences of opinion on the subject of Panama Canal tolls, I am very earnestly of opinion that the difference between the two countries on the interpretation of the treaty should be arbitrated.

My own personal opinion is that the game is not worth the candle, and I am sorry that this discrimination has been made.

[Alton B. Parker.]

Believing our country should faithfully fulfill, in both letter and spirit, every treaty obligation, I am necessarily heartily anxious that the provisions of the Panama Canal bill exempting the coastwise trade of the United States should be repealed.

[Daniel C. French.]

It gives me pleasure to express myself as heartily in favor of the repeal by Congress of the provision of the Panama Canal bill exempting the coastwise traffic of the United States from payment of tolls. The United States can not afford to run the risk of an accusation of unfairness or breach of faith in regard to this point.

[Alfred E. Marling, New York.]

I hope Congress will repeal the provision of the Panama Canal bill exempting the coastwise trade of the United States.

[Cleveland H. Dodge, New York.]

I sincerely trust that the effort to bring about the repeal may be successful.

[Charles De Kay, New York.]

Regarding repeal of the coastwise exemption in the Panama Canal bill by Congress, I hope Congress will see this matter from a higher outlook and correct what I believe to be a strategic and diplomatic mistake.

[John Burroughs, West Park, N. Y.]

I think that to fail to keep faith with Great Britain in the matter of the Panama Canal treaty or to refuse to submit the question in dispute to arbitration, would be a stigma upon our honor as a Nation.

[William Roscoe Thayer, Cambridge, Mass.]

In the Hay-Pauncefote treaty the United States solemnly agreed to do a certain thing and it is bound, like every honest man, to keep its pledge.

[Brooks Adams, Boston, Mass.]

I consider the Panama Canal bill a breach of faith and in the last degree disgraceful to the country.

[James Schouler, Intervale, N. H.]

I favor a repeal by Congress of the United States coastwise-trade exemption.

[John Luther Long.]

Concerning the national iniquity compounded in the coastwise-exemption clause of the Panama Canal bill, I am very glad to raise my voice against it.

[Edward S. Martin, New York.]

I would like to see the coastwise trade clause of the canal bill repealed.

If that can not be done, I should like to see it arbitrated.

[James Ford Rhodes, Boston, Mass.]

My first bias was favorable to the bill as passed by Congress. But a careful historical examination of the Clayton-Bulwer treaty of 1850 and of the present Hay-Pauncefote treaty, ratified by the Senate on December 16, 1901, has convinced me beyond any question that the words "free and open to the vessels of commerce * * * of all nations" mean all merchant vessels, including vessels in our coastwise trade. I think that if the bill had not been passed at the close of a long and exhausting session the undesirable coastwise provision would not have been included. The wise thing for Congress now to do is to repeal the provision of the Panama Canal bill exempting the coastwise trade of the United States.

[Montgomery Schuyler, New Rochelle, N. Y.]

Regarding the question of the exemption from tolls provision as primarily one of national honor, it is necessary for me to say that I am warmly in sympathy with repeal. The adverse arguments seem to me properly describable as "pettifogging."

[H. D. Sedgwick, New York City.]

American good faith is wounded by the provision of the Panama Canal bill exempting our coastwise trade from tolls; that provision should be repealed.

[Robert E. Telford, Abbeville, S. C.]

My sentiments are very strongly in favor of the proposed repeal for the sake of our national honor and in justice to all concerned.

[Basil L. Gildersleeve, Baltimore, Md.]

A strict constructionist in all matters that pertain to personal and national honors, I consider any evasion of our treaty obligations a disgrace to the country.

[Andrew D. White, Cornell University, Ithaca, N. Y.]

I have steadily been and remain a supporter of the idea of submitting the Panama Canal matter to arbitration at The Hague.

[Henry U. Johnson, ex-Member of Congress, Richmond, Ind.]

The coastwise provision of the Panama Canal act should be promptly repealed by Congress. Every consideration of national honor demands that this shall be done. It is also an expedient step to take, and will prove to be a profitable one in the long run.

[John G. Milburn, New York.]

I beg to say that I feel very strongly that the provision of the Panama Canal bill exempting the coastwise trade of the United States should be repealed by Congress.

[W. D. Howells.]

As to the repeal of the coastwise exemption in the Panama bill, I have only to say that I like a nation that keeps its word, even though it loses by its good faith, just as I like a man that sweareth to his hurt and changeth not. I am not concerned so much for our shame before the world as for our shame before ourselves if we break the promise we made in the Hay-Pauncefote treaty.

[Everett P. Wheeler, New York.]

I am very clear that that clause in the bill ought to be repealed.

[George Foster Peabody.]

I beg to say that I am very heartily in sympathy with the proposition that this exemption should be repealed.

It seems to me a case where the public sentiment should be aroused to express its faith in the doctrine that "righteousness exalteth a nation."

[Frank T. Bayley, Denver, Col.]

I earnestly hope for the repeal by Congress of the coastwise exemption feature of the canal bill. I believe its retention will cost us heavily in moral prestige and national influence.

[Edward A. Reed, Holyoke, Mass.]

I am heartily in favor of the repeal of the coastwise exemption in the Panama Canal bill, simply because it is a breach of good faith.

[Selden P. Spencer, St. Louis, Mo.]

For the United States, accepting as it does the principle of international arbitration, to be reluctant to admit the application of that principle to an honest and important difference of opinion between it and Great Britain in regard to the provisions of a treaty between them (to say nothing of the express provision of the separate treaty which we have with Great Britain, by which each undertakes to submit to arbitration disputed questions arising out of treaties between the two nations) is to invite the suspicion of the civilized world as to the integrity and honesty of the United States, thus hesitant, and speaking for peace with the voice of Jacob but in action extending the fraudulent hands of Esau.

[Samuel B. Capen, Boston.]

If there is any necessity to subsidize our shipping which uses the canal, we ought to do it directly and in the open, and not jeopardize our honor and our leadership in the peace movement at the same time. I trust that before the present Congress adjourns legislation may be enacted so that there shall be no discrimination in tolls or conditions among all nations.

[A. W. Hazen, Middletown, Conn.]

I am in hearty sympathy with the movement to further the repeal of the coastwise exemption in the Panama Canal bill. It has been a matter of deep regret to me that the Nation was so dishonored by its Congress as in the passing of that section of the bill.

[Charles L. Hutchinson, Chicago.]

I sincerely hope that Congress may repeal the provision of the Panama Canal bill exempting the coastwise trade of the United States. It was, in my opinion, a mistake ever to exempt the coastwise trade, and I hope that Congress may rectify the error before called upon to arbitrate the question.

[Charles Matteson, Providence, R. I.]

I am heartily in sympathy with the movement to obtain a recession by Congress of this exemption, believing as I do that all vessels passing through the canal should be treated alike and that all should pay tolls. If this can not be accomplished, I believe that the interpretation of the Hay-Pauncefote treaty should be referred to The Hague Tribunal.

[Fred S. Ball, Montgomery, Ala.]

In my judgment the matter in controversy should be adjusted, and it seems clear from the language of the treaty that the act of Congress is without justification.

[J. H. Moores, Lansing, Mich.]

If the agreement in the Hay-Pauncefote treaty is that "there shall be no discrimination in tolls or conditions as among all nations," then I say let our coast-line shipping be on the same footing as that of all other nations. Let us keep our contract.

[Samuel T. Dutton, American Peace Society, New York.]

The United States can well afford to subsidize its coastwise ships if necessary, but can not afford to get a reputation for sharp practice or loose dealings with other nations.

[From a letter to a citizen who requested his eminence's opinion on the Panama tolls question.]

CARDINAL'S RESIDENCE,
408 NORTH CHARLES STREET,
Baltimore, Md., January 18, 1913.

* * * * * * *

I am most anxious that in this all-important matter the honor and prestige of our country be preserved. This I feel can be reached if the matter is given serious consideration and is carefully debated in both branches of Congress. Furthermore, this would result in a just settlement of the matter without having to have recourse to arbitration, for we most certainly can not refuse arbitration once it is proposed without placing ourselves in a most humiliating position before the world, and if arbitration is accepted it would undoubtedly result in our defeat. Hence I feel that the matter should be settled in Congress.

Very sincerely, yours,

J. CARDINAL GIBBONS,
Archbishop of Baltimore.

Mr. BURKE of Wisconsin. Mr. Chairman, if there is no desire by anyone else to be heard, I move that general debate be now closed.

The CHAIRMAN. It is not in order to close the general debate, but, unless somebody desires the floor, the Clerk will read the bill.

The bill was read for amendment, as follows:

A bill (H. R. 28282) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws—

The name of Alban G. Knode, late of Company H, Fifty-first Regiment Pennsylvania Volunteer Infantry, and Company C, Nineteenth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of David Lloyd, late of Company K, Thirty-ninth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Jesse A. Linn, late of Company K, Twelfth Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John T. Chiles, late of Company H, First Regiment Tennessee Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James Taylor, second, late of Company E, First Regiment Arkansas Volunteer Cavalry, and Company H, Fifteenth Regiment Missouri Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Milton Lee, late of Company D, Fortieth Regiment Iowa Volunteers, and Company L, Ninth Regiment Iowa Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Betsey Ann Phelps, widow of Elias Phelps, late of Company E, Thirty-sixth Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of George Hobbs, late of Company G, Seventh Regiment Kansas Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Pressley R. Baldridge, musician, late of Fifty-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John C. Martin, late of Company F, Forty-second Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Hugh Baker, late of Company C, Fourth Regiment Wisconsin Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John A. Peterson, late of Company B, Sixty-seventh Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William D. Wood, late of Company K, Forty-fourth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Patrick Fitzpatrick, late of Company C, Fifty-first Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Stephen Vogel, late of Company G, Two hundred and fourteenth Regiment Pennsylvania Volunteer Infantry, and Company B, One hundred and seventy-ninth Regiment Pennsylvania Drafted Militia, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ezekiel Justice, late of Company F, One hundred and thirtieth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George W. Gallagher, late of Company D, Fourteenth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Solomon D. Sturtz, late of Company E, One hundred and sixtieth Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of George Goodpastor, late of Company F, First Battalion Nevada Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ruben Driskill, helpless and dependent son of William Driskill, late of Company H, Third Regiment Missouri State Militia Cavalry, and pay him a pension at the rate of $12 per month.

The name of Lottie Menefee, widow of John Menefee, late of Company B, Thirty-third Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of John T. Bates, late of Fourth Battery Wisconsin Volunteer Light Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Jacob Schumacher, late of Company I, Twenty-third Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles W. Wood, late of Company E, Thirteenth Regiment United States Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Frank D. Morse, helpless and dependent child of Martin K. Morse, late of Company G, First Regiment Michigan Volunteer Light Artillery, and pay him a pension at the rate of $12 per month.

The name of Anna M. Haysmer, widow of James Haysmer, late of Company F, First Regiment Michigan Volunteer Engineers and Mechanics, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of William J. Chinn, late of Company H, Forty-second Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Isaac B. Hughey, late of Company E, Eleventh Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Orlando A. Hays, late of Company H, Twenty-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Francis H. Turner, late of Company H, Eighty-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James H. Brown, late of Company E, Fifty-second Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Lewis Quillen, late of Company I, First Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John B. Whisler, late of Company E, One hundred and thirty-fourth Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Henry Wilber, late of Company B, One hundred and eighth Regiment New York Volunteer Infantry, and Company F, Eighteenth Regiment Veteran Reserve Corps, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of William Green, late of Company K, Twenty-first Regiment Iowa Volunteer Infantry, and unassigned Thirty-fourth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Frank Kirkey, late of Company L, Sixth Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of David Blubaugh, late of Company K, Forty-third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Andrew B. Keith, late of Company F, One hundred and twentiteth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of James F. Rowley, late of Company C, Eighth Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John S. Bell, late of Company B, One hundred and ninety-third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel McQuate, late of Company G, Twenty-first Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William G. Shute, late of Company E, Ninety-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Henderson, late of Company F, First Regiment Arkansas Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Morgan T. Williams, late of Company E, Fourteenth Regiment Kansas Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John Hoffman, late of Company B, Forty-third Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Richard H. Robertson, late of Company G, Twenty-third Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Adam Lichty, late of Company C, One hundred and eighty-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Anna O. Stanton, widow of Clark Stanton, late of Company A, First Regiment New York Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of John M. Hines, late of Company I, Thirty-third Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Erwin M. Bergstresser, now Harley, late of Company G, Twenty-fifth Regiment Ohio Volunteer Infantry, and Company E, One hundred and ninety-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Josiah Gough, late of Company B, Fourth Battalion Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Thomas J. Gustin, late of Company G, One hundred and seventy-second Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Frank L. Dunlap, late of Company F, Eighty-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Josiah Ketchum, late of Company A, Eightieth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Philip Kohler, late of Company B, Two hundred and seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of David McClintock, late of Company B, Seventh Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Clayton P. White, late of United States Marine Corps, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Francis Westerfield, late of Company F, Eleventh Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James H. Dorrance, late of Company F, Fourth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Benjamin M. Curtis, late of Company H, Forty-third Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John J. Dillon, late of Company E, Sixth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Gardiner Roberts, jr., late of Company E, Twenty-fourth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John W. Randels, late of Company G, One hundred and seventy-ninth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles Torrey Phillips, late of Company I, Sixty-third Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Rosaline V. Cook, widow of Thomas W. Cook, late of Company C, Seventh Battalion District of Columbia Militia Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Jacob L. Batchelder, late of Company C, Twenty-fifth Regiment Massachusetts Volunteer Infantry, and musician in Company F, Thirty-sixth Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Sarah Demree, widow of David P. Demree, late of Company C, Eighty-fourth Regiment Indiana Volunteer Infantry, and Company G, Sixteenth Veteran Reserve Corps, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Lafayette Cook, late of Company F, Ninety-first Regiment Indiana Volunteer Infantry, and Company B, One hundred and twenty-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Daniel D. Murphy, late of Company I, Third Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Thomas J. Thorp, late of Company E, Eighty-fifth Regiment New York Volunteer Infantry, and lieutenant colonel in One hundred and thirtieth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of John Muster, late of Company H, Twenty-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Emma Schuette, helpless and dependent daughter of Frederick Schuette, late of Company E, Second Regiment Missouri Volunteer Light Artillery, and pay her a pension at the rate of $12 per month.

The name of Henry Vasterling, late of Company E, Second Regiment Missouri Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William V. Fish, late of Company H, Seventeenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Elexander Tittle, late of Company D, Third Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Thomas E. Smith, late of Company H, First Regiment Arkansas Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Joseph D. Fulmer, late of Company A, One hundred and seventy-eighth Regiment Pennsylvania Drafted Militia Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Henry C. Adams, late of Company E, Second Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Nahum A. Reed, late of Company K, Seventh Regiment Massachusetts Volunteer Infantry, and Company I, Second Regiment Massachusetts Volunteer Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Eliza Holbrook, former widow of Frederick H. Boynton, late of Company F, One hundred and sixth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $17 per month.

The name of Henry Selover, late of Company G, Eighth Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Marion Ridgley, late of Company E, Seventy-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Michael Normile, late of Company D, Fourth Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James Mansfield, late of Company K, One hundred and ninety-third Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Thomas Kenney, late of Forty-fourth Company, Second Battalion, Veteran Reserve Corps, and Company I, Twenty-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Thomas Stevenson, late of Independent Battery G, Pennsylvania Volunteer Light Artillery, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Lyman A. Babcock, late of Company E, Tenth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James M. Abney, late of Company C, Eleventh Regiment Missouri State Militia Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Joel L. Cudworth, late of Company H, Fourteenth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Daniel W. Bressler, late of Company C, One hundred and thirty-seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Charles H. Webber, late of Company F, First Regiment United States Artillery, and Company I, Fourteenth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Sepin, late of Company C, Ninth Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Perry S. Grindle, late landsman on U. S. S. Chillicothe, United States Navy, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William H. Harrison, late of Company M, Thirteenth Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John S. Davidson, late of Company I, Ninety-third Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Keis Risner, late of Company F, Fourteenth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Maynard, late of Company A, Fifth Regiment Tennessee Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Harvey Mahannah, late of Company G, One hundred and sixteenth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of David C. Cass, late of Company E, One hundred and twenty-second Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Oscar F. Maynard, late of Company F, Ninety-third Regiment New York Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Thomas Mead, late landsman, U. S. S. Canandaigua, United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of David J. Chinn, late of Company B, Second Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Mary E. Farrell, widow of Andrew Farrell, late of Company I, Seventh Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Caleb Crotzer, late of Company I, One hundred and ninth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George W. Peterson, late of Company F, Seventy-second Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of John A. Felton, late of Company H, Twenty-second Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Maston G. Strong, late of Company G, Fifty-third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William H. Bates, late of Company D, Sixth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John S. Hufford, late of Company F, Fourta Regiment Pennsylvania Reserve Volunteers, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Martin Lovett, late of Company K, Forty-seventh Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel A. Gibson, late of Company B, Fifteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Isaac N. Strickler, late of Company B, Sixteenth Regiment Illinois Volunteer Infantry, and in band Fiftieth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Zimmerman, late of Company F, Seventy-seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William J. Aylsworth, late of Company D, Twenty-seventh Regiment New York Volunteer Infantry, and Company A, Fifth Regiment New York Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Margaret E. Fickle, widow of Isaac E. Fickle, late of Company H, Ninth Regiment Ohio Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of Joseph Scharborough, late of Company B, First Regiment Michigan Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Osmus F. Devault, late of Company A, Eleventh Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Edwin F. Miller, late of Company F, Ninety-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Edward M. Drohan, late of Company A, Eighty-fifth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Bacon, late of Company D, Twenty-eighth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Clementine Richards, widow of Charles F. Richards, late of Company F, Fourth Regiment New Hampshire Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Margaret J. Brophy, widow of James H. Brophy, late of Company C, Second Regiment Rhode Island Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Orman P. Babb, late of Twelfth Battery Indiana Volunteer Light Artillery, and Company E, Seventieth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John T. Ferguson, late of Company F, Eighty-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Martin V. B. Cross, late of Company K, Third Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Y. Lambert, late of Company G, One hundred and forty-seventh Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Stephen H. Haley, late of Company I, Fiftieth Regiment Pennsylvania Volunteer Infantry, and Company H, Eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George W. Enslow, late of Company G, Ninety-seventh Regiment Illinois Volunteer Infantry, and Company I, Thirty-seventh Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Slick, late of Company H, Fifty-fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of David Stevens, late of Company D, Thirty-third Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Lucy Ann Harper, widow of Hamilton Harper, late of Company G, Thirteenth Regiment Indiana Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of William M. Anderson, late of First Battery Kansas Volunteer Light Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James McGrade, late of Company E, First Regiment New York Veteran Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Benjamin White, late of Company E, One hundred and thirty-fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of William Galligan, alias William Calligham, late of Company F, Sixth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John C. Lewis, late of Company E, Sixtieth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Ida Newcomer, helpless child of Henry Newcomer, late of Company K, Two hundred and third Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of William B. Heinbach, late of Company G, One hundred and sixteenth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Jason Johnson, late of Company B, Fourth Regiment Vermont Volunteer Infantry, and Company D, First Regiment United States Veteran Volunteers, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John N. Conely, late of Company I, First Regiment West Virginia Volunteer Infantry, and Company A, Second Regiment West Virginia Veteran Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Oliver C. Stringer, late of Company A, First Regiment West Virginia Volunteer Infantry, and Company G, Second Regiment West Virginia Veteran Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Bradley W. Hill, late of Company F, Fifth Regiment New Hampshire Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Asa H. Patrey, late of Company E, Ninety-fifth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Samuel F. Garrett, late of Company I, Thirty-ninth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jeptha Pierson, late of Company G, One hundredth Regiment Illinois Volunteer Infantry, and One hundred and fifty-second Company, Second Battalion Veteran Reserve Corps, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Chauncey Cronk, late of Company B, Ninth Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Albert Kinnear, late of Company F, One hundred and forty-seventh Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Harrison T. Ficenor, late of Company C, Thirtieth Regiment Iowa Volunteer Infantry, and Company C, Sixth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James P. Farmer, late of Company A, Third Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles D. Jones, late of Company H, First Regiment New Hampshire Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Michael Shuppert, late of Company C, One hundred and first Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Steward P. Powers, late of Company E, One hundred and eighty-fifth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Lucy C. Andes, widow of Daniel Andes, late of Company H, Seventh Regiment Illinois Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John M. Carson, late of unassigned Fifth Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Calvin Musser, late of Company F, One hundred and eleventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Henry C. Smith, late of Company C, Twelfth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John M. Shirley, late of Company G, Thirteenth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Mary A. Pfister, widow of Reinhard Pfister, late of detachment of Artillery, United States Military Academy, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Charles Parker, late of Company A, One hundred and fifty-fourth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Frances A. Ayers, widow of Benjamin S. Ayers, late of Company K, Twelfth Regiment Indiana Volunteer Infantry, and Company G, One hundred and forty-sixth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $17 per month.

The name of Jesse M. Silvers, late of Company L, First Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Phillipine Steins, widow of Gustavus A. Steins, late acting ensign, United States Navy, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Rosa Prentiss, widow of Leander P. Prentiss, late of Company E, Fifth Regiment Maine Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Elizabeth Phillips, widow of William C. Phillips, late of Company F, Fortieth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Mary J. Chase, widow of Charles Chase, late of Company H, Sixth Regiment Maine Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Joseph N. Wilson, late of Company C, Sixtieth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William Graham, late of Company I, Fourteenth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Peter F. Dixon, late of Company E, Eighth Regiment Tennessee Mounted Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Georgina Jonas, widow of George B. Jonas, late of Company C, Tenth Regiment New York Volunteer Heavy Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Henry Milton Babcock, helpless and dependent child of William J. Babcock, late of Companies E and B, Second Regiment Rhode Island Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Isabella H. Watson, widow of William N. Watson, late of Company A, Seventh Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Isaac J. Nichols, late of Company A, First Regiment Alabama Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of James W. Mayfield, late of Company I, Eleventh Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Daniel Hilliard, late of Company C, Fifty-third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John H. Ruff, late of Company H, First Regiment Arkansas Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Henry A. Grove, late of Company B, Forty-seventh Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George W. Short, late of Company B, Third Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William H. Brown, late of Company E, Thirty-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Jacob Row, late of Company F, Second Regiment Iowa Volunter Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Ellen G. Frame, widow of John O. Frame, late of Company F, Forty-seventh Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Washington McCartney, late of Company A, Eighth Regiment Pennsylvania Reserve Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Seiler, late of Company G, Fifty-seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Severyn T. Bruyn, late of Company K, One hundred and forty-third Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Eliza Wolf, widow of Abraham Wolf, late unassigned, One hundred and forty-fourth Regiment New York Volunteer Infantry, and Company I, First Regiment New York Engineers, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James C. McClay, late of Company G, Sixth Regiment United States Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of John Gray, late of Company K, Eighth Regiment Vermont Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Thomas Sheehan, late of Company L, Eleventh Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William H. Fenton, late of Company G, Nineteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Finley Branstetter, late of Company C, Thirty-ninth Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Phebe J. Horton, widow of Orange O. Horton, late of Company H, Third Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Joseph McKenzie, late of Company D, Fourteenth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of James K. Cyphert, late of Company C, One hundred and fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of John L. Nebergall, late of Company B, Third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Thresia De Long, widow of Jacob De Long, late of Company I, One hundred and forty-fifth Regiment Ohio National Guard Infantry, and pay her a pension at the rate of $12 per month.

The name of Harriett Gale, widow of Rufus Gale, late first lieutenant and commissary Eighth Regiment Indiana Volunteer Cavalry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Charles E. Burmaster, late third class musician, band First Regiment Nebraska Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Edward O. Williams, late of Company M, Second Regiment United States Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of George W. Proctor, late of Company A, First Regiment Maine Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Jonas Siegrist, late of Company K, Fifty-third Regiment New York Volunteer Infantry, and Company F, One hundred and sixty-second Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John B. Barlow, late of Company E, Forty-sixth Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Daniel Walter, late of Company B, Twenty-fourth Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John W. Lynch, late of Company A, Thirteenth Regiment Maryland Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Joseph Lethcho, late of Company H, Ninth Regiment Missouri State Militia Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Benjamin F. Scott, late of Company G, Twelfth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Amos J. Henry, late of Company G, Tenth Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Josephine Hall, widow of Merrick Hall, late of Company E, One hundred and eighty-sixth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Elizabeth H. Ball, widow of John E. Ball, late of Company E, Forty-ninth Regiment Missouri Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of William Frisbie, late of Company D, Eighth Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Adaline Beaver, widow of Edward Beaver, late of Company C, One hundred and twenty-eighth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Almeda Cosberry, widow of Dudley Cosberry, late of Company F, Twenty-seventh Regiment United States Colored Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Harriet A. Glasscock, former widow of John B. Trimble, late of Company I, First Regiment West Virginia Volunteer Infantry, and pay her a pension at the rate of $20 per month.

The name of John H. Civits, late of Company C, Forty-fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $60 per month in lieu of that he is now receiving.

The name of Laura A. Fowler, former widow of Josiah L. Wellington, late of Company D, Fifth Regiment Michigan Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Malcolm Dunning, late of Company A, Second Regiment Michigan Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Elizabeth Terry, former widow of Charles E. Smith, late of Company C, Twelfth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Lydia A. Norton, widow of James I. Norton, late of Company B, Twenty-eighth Regiment Maine Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Clara V. Weaver, widow of James B. Weaver, late colonel Second Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The name of William B. Fleming, late of Campany D, Fifteenth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Elenor McCully, widow of James McCully, late of Company B, Fourth Regiment Pennsylvania Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of William Come, late of Company K, Eleventh Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of James Giddy, late of Company F, Eighth Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James Miller, late of Company F, Second Regiment Pennsylvania Volunteer Cavalry, and Company F, First Regiment Pennsylvania Provisional Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Frances D. Cadamus, former widow of Robert Phillips, late of Company D, Ninety-third Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of William McDermott, late of Company F, Fifty-fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James A. Love, late of Company F, Twelfth Regiment Missouri Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John Akridge, late of Company H, Thirteenth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Emma F. Berry, widow of Charles S. Berry, late of Company G, Twelfth Regiment Maine Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of William Lathrop, alias William Lapher, late of Company D, Fifty-fourth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles E. Stamm, late of Company A, One hundred and thirty-ninth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Irene M. Gary, widow of David S. Gary, late of Company K, One hundred and fifth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Philo Buckley, late of Company A, One hundred and forty-third Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel M. Baker, late of Company I, Seventh Regiment Provisional Enrolled Missouri Militia, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Thomas P. Degman, late of Company H, Fifty-fourth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary Bruce, widow of Thomas H. Bruce, late engineer on transport, and pay her a pension at the rate of $12 per month.

The name of Morrison Hunter, late of Company G, Eleventh Regiment, and Company I, Forty-sixth Regiment, Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William W. Potter, late of Company F, Twenty-seventh Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William P. Underwood, late of Company B, Twenty-second Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary A. Odell, widow of Joseph Odell, late of Company M, Seventh Regiment West Virginia Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Daniel Caswell, late of Company E, Fourth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of John McKone, late of Company H, Eighty-sixth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Whitney C. Monson, late of Company F, Sixth Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of John W. Hill, late of Company F, Sixty-ninth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Q. Thomas, late of Company D, Eighty-seventh Regiment Indiana Volunteer Infantry, and Company D, Forty-second Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Thomas R. Lamison, late of Company B, Two hundred and sixth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Jacob P. Reichert, late of Company G, One hundred and ninety-third Regiment Pennsylvania Volunteer Infantry, and served in Pennsylvania Militia, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Andrew W. McCullough, late of Company E, Eleventh Regiment Pennsylvania Reserve Volunteer Infantry, and Company A,

Fifty-fourth Regiment Pennsylvania Militia Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Nelson Holcomb, late of Battery D, First Regiment Ohio Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Humphrey D. Gifford, late of Third Battery Iowa Volunteer Light Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of David Sypher, late landsman on U. S. S. Clara Dolsen and Great Western, United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jacob Jones, late of Company C, Forty-fifth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William F. Whitmore, late of Company D, One hundred and fourth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charles Schroder, late of Company C, One hundred and tenth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Charles W. Webster, late of Company G, Forty-fifth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Usner, helpless and dependent child of Adam Usner, late of Company E, Two hundred and fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Alexander B. Henderson, late of Company E, Eighty-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Poley C. Sites, late of Company H, One hundred and fifty-fourth Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John P. Harris, late of Company M, Fifth Regiment Iowa Volunteer Cavalry, and Company A, Osage County Battalion Missouri Home Guards, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Benjamin Puckett, late of Company I, Fourteenth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Alice M. McCoy, widow of Robert J. McCoy, late of Company E, Thirty-sixth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of William R. Gladman, late of Company A, Ninth Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John S. Martin, late of Company H, Fifth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John B. Williams, late of Company M, Twenty-fourth Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John W. Sidle, late of Company G, Ninety-seventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Fannie M. Campbell, widow of Henry C. Campbell, late of Company F, Seventieth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of George De Garmo, late of Company E, One hundred and thirty-seventh Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Jennie Riggs, widow of Allen Riggs, late of Company E, Tenth Regiment West Virginia Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Ophelia L. Reynolds, widow of Hezekiah J. Reynolds, late of Company E, One hundred and forty-third Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of George H. Beckwith, late of Company H, Tenth Regiment Michigan Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Finetta L. Wood, widow of Enoch Wood, late of Company F, Seventeenth Regiment Connecticut Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Charles A. Lee, late of Company A, First Regiment Michigan Volunteer Light Artillery, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Charles Logan, late of Company D, Third Regiment Michigan Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Emma J. Winchell, widow of George W. Winchell, late of Company B, Ninth Regiment New York Volunteer Infantry, and Company E, Thirty-seventh Regiment New York State Militia Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of John D. Reed, late acting master's mate, United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Hiram W. Partlow, late of Company I, Twenty-sixth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Harriet G. Sangster, former widow of Charles M. Long, late of Company H, Forty-seventh Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John W. Williams, late of Company B, One hundred and thirty-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Augustus Schoenwald, late of Company E, One hundred and Eighty-seventh Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William J. Sutton, late of Company A, One hundred and twenty-fourth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Elizabeth N. Brand, widow of George J. Brand, late seaman, U. S. S. Grampus and Reindeer, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Charles Alfred Brand, helpless and dependent son of said George J. Brand, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Elizabeth N. Brand, the name of said Charles Alfred Brand shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Elizabeth N. Brand.

The name of John Schroeder, late of Company B, One hundred and eighty-seventh Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Hervey A. Humphrey, late of Company A, Eighth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Michael Hartman, late of Company O, Sixth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Margaret A. Ramage, former widow of Josephus Miller, late of Company A, Ninety-eighth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Lydia L. Clark, widow of Calvin W. Clark, late of Company G, Thirtieth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Franklin D. Green, late of Company F, Thirty-sixth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Lucy K. Simons, widow of Luther A. Simons, late of Company D, Second Regiment Massachusetts Volunteer Heavy Artillery, and pay her a pension at the rate of $12 per month.

The name of Daniel J. Haynes, late of Company A, Thirty-third Regiment Kentucky Volunteer Infantry, and Company F, Twenty-sixth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Irving D. Hull, late of Company E, Twenty-fourth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Catherine Daly, widow of John M. Daly, late of Company C, Eleventh Regiment Maine Volunteer Infantry, and Company K, Twelfth Regiment Maine Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Albert S. Bloomer, late of Company G, Fifty-fifth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Julia B. Russell, widow of Albirtus Russell, late of Company G, Tenth Regiment Ohio Volunteer Cavalry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Leonard Thorton Russell, helpless and dependent child of said Albirtus Russell, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Julia B. Russell the name of said Leonard Thorton Russell shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Julia B. Russell.

The name of Daniel H. Woodruff, late of Company D, Twenty-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving.

The name of Alpheus Danley, late of Company A, Seventh Regiment West Virginia Volunteer Infantry, and Independent Company B, West Virginia Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James S. Strother, late of Company C, Thirty-ninth Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Sarah M. Kinley, widow of John A. Kinley, late of Company K, Eighth Regiment Illinois Volunteer Cavalry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Leora R. Maxon, helpless and dependent child of Jonathan H. Maxon, late of Company D, Twenty-fourth Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Mary L. Merchant, widow of Silas B. Merchant, late of Company G, Forty-fourth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Catharine M. Schryver, widow of John R. Schryver, late of Company C, One hundred and twenty-eighth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John M. Culver, late second-class boy, United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William A. S. Welch, late of Company G, Fifth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Ellen V. N. Wilson, widow of Cornelius V. N. Wilson, late of Company E, Fifteenth Regiment New Jersey Volunteer Infantry, and Company C, Twenty-second Regiment Veteran Reserve Corps, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Laura F. Culbertson, widow of William M. Culbertson, late of Company L, Eighth Regiment Ohio Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of Sarah Ann Wamsley, widow of Lawrence Wamsley, late of Company B, One hundred and eighty-second Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Mary Elizabeth Wamsley, helpless and dependent child of said Lawrence Wamsley, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Sarah Ann Wamsley, the name of said Mary Elizabeth Wamsley shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Sarah Ann Wamsley.

The name of Augusta Batdorf, former widow of John C. Sanders, late of Company A, One hundred and twenty-eighth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Lucy A. Rose, widow of Abner W. Rose, late of Company E, Third Regiment Tennessee Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John H. Steele, late of Company E, Sixty-sixth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Celestia Sprague, widow of Orrin C. Sprague, late of Company H, One hundred and forty-fourth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Katharine A. Weyant, widow of William B. Weyant, late of Companies M and A, Sixth Regiment New York Volunteer Heavy Artillery, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of Maria J. Stevens, widow of Charles H. Stevens, late of Company H, One hundred and twenty-fourth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John Marx, late of Company A, Fourth Regiment United States Reserve Corps, Missouri Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Asa Jenkins, late of Company D, Fifty-third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Franklin Bryson, late of Company I, Twenty-first Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate $30 per month in lieu of that he is now receiving.

The name of William M. McArthur, late colonel Eighth Regiment Maine Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of William V. Walker, late of Company L, Ninth Regiment, and Company L, Second Regiment, New York Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Stickle, late of Troop F, Fifth Regiment United States Cavalry, and Company A, Thirty-third Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Francis M. Whittecar, late of Company K, Ninety-fifth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Catharine Ann Bartelle, former widow of Alexander H. Edwards, late of Company I, Fifteenth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Jacob Peffer, late of Company F, Ninth Regiment Pennsylvania Volunteer Cavalry, and Company F, Forty-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Louisa I. Baldwin, widow of William H. Baldwin, alias William Dunlap, late of Company I, Ninth Regiment New Hampshire Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Luther B. Grover, late of Company I, Thirtieth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James Youell, alias James Moses, late of Company I, Fifth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John H. Yarger, late of Company K and first lieutenant Company G, Forty-ninth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of James C. Boyd, late of Company E, Thirty-third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Homer Hoover, helpless and dependent child of James Hoover, late of Company G, One hundred and seventy-third Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Harriet P. Hale, dependent mother of Edward C. Hale, late of Company K, Ninth Regiment New Jersey Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Thomas P. Wentworth, late of Company H, Twenty-first Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Mary F. Deane, widow of Charles H. Deane, late first lieutenant and quartermaster Eighty-sixth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Almyra Vancil, widow of John Vancil, late of Company B, Second Regiment Illinois Volunteer Light Artillery, and pay her a pension at the rate of $12 per month.

The name of Horatio D. Elliott, late of Company D, First Regiment Wisconsin Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Levi Boysel, late of Company H, Sixty-ninth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Alexander Fleming, late of Company A, One hundred and eightieth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Dorothy E. Bacon, widow of Francis H. Bacon, late acting ensign, United States Navy, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of Mary M. Jones, widow of Charles Jones, late of Company D, Fifty-seventh Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Simon Hoafmyre, late of Company B, Forty-ninth Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William H. Hinckley, late of Company B, Thirty-seventh Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Frank T. Sickler, late of Company C, Fifty-eighth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel C. Robertson, late of Company C, Third Regiment North Carolina Mounted Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Sterrett McClellan, late of Company B, One hundred and fifty-second Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Austin P. Walker, late of Company F, Sixty-fifth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Sylvester Cary, late of Company B, Twenty-ninth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary O'Brien, widow of Timothy O'Brien, late of Company H, Ninth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Henry B. Frey, late of Company G, First Regiment Pennsylvania Volunteer Cavalry, and Company G, First Regiment Pennsylvania Provisional Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Emma C. Weinhold, widow of William S. Weinhold, late of Company G, Ninetieth Regiment Pennsylvania Volunteer Infantry, and Company E, Fourteenth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Isaac Byers, late of Company G, One hundred and third Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel Webb, late of Company E, Second Regiment Ohio Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary Bartlett Taylor, widow of Isaac Taylor, late of Company H, Third Regiment Minnesota Volunteer Infantry, and pay her a pension at the rate of $30 per month in lieu of that she is now receiving.

The name of Helen Archibald, widow of Frederick A. Archibald, late of Company C, One hundred and thirty-seventh Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Sarah A. Bland, widow of Francis M. L. Bland, late of Company D, Ninety-ninth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Alvacinda Tyler, widow of Benjamin R. Tyler, late acting assistant surgeon, United States Army, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of Robert Shay, late of Company E, Third Regiment Maryland Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Victoria S. Hill, widow of Adoniram J. Hill, late of Company H, Eighty-ninth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $25 per month in lieu of that she is now receiving.

The name of Cinderella B. McClure, widow of Robert A. McClure, late of Company F, Sixteenth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Joseph L. Bostwick, late of Company L, Ninth Regiment New York Volunteer Heavy Artillery, and Company M, Second Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Dennis P. Parker, late of Company C, Twentieth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Bateman Zoll, late of Company H, One hundred and ninety-second Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Walter Mason, late of Company E, Twenty-second Regiment Connecticut Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Addison D. Madeira, late chaplain Fifth Regiment Iowa Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William H. Barton, late of Company H, First Regiment West Virginia Volunteer Cavalry, and Company A, Twenty-third Regiment Veteran Reserve Corps, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Fred Babcock, late of Company A, Fourteenth Regiment Illinois Volunteer Cavalry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Hannah M. Brewer, widow of Benjamin Brewer, late of Company C, Sixty-ninth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Henry Boiner, late of Company B, Twenty-sixth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of James E. Crane, late of Company D, Fifth Regiment Missouri State Militia Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Kate D. Linsley, widow of James H. Linsley, late of Company C, Tenth Regiment Connecticut Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Charles H. Crandall, late of Company B, Forty-second Regiment Ohio Volunteer Infantry, and Company I, Nineteenth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Lizzie S. Williams, widow of Henry E. Williams, late of Company B, Thirty-first Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Virginia W. Reed, widow of James M. Reed, late of Company C, Forty-fifth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Daniel W. Brown, late of Company B, First Regiment Michigan Volunteer Engineers and Mechanics, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Elizabeth Farley, widow of John H. Farley, late of Companies K and B, Third Regiment Rhode Island Volunteer Heavy Artillery, and pay her a pension at the rate of $12 per month.

The name of Stephen G. Lindsey, late of Company B, Eighty-ninth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Marie Soucie, former widow of Augustus Fancher, late of Companies K and A, Fourth Regiment Illinois Volunteer Cavalry, and pay her a pension at the rate of $12 per month.

The name of Jesse M. Pirkle, late of Company G, Third Regiment Tennessee Volunteer Cavalry ,and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Joseph L. Evans, late of Company K, Fourteenth Regiment Pennsylvania Volunteer Infantry, and Company D, One hundred and fifth Regiment Pennsylvania Volunteer Infantry, and pay him a pesion at the rate of $36 per month in lieu of that he is now receiving.

The name of Benjamin M. Clark, late of Company I, Third Regiment United States Veteran Infantry, and Company F, Independent Regiment

Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Charlotte E. Crowell, widow of James H. Crowell, late of Company D, One hundred and eighty-ninth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James N. Light, late of Company G, One hundred and fifteenth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of James H. Langley, late of Company M, Second Regiment Massachusetts Volunteer Heavy Artillery, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Reuben Brink, late of Company A, Ninth Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Elenora B. Petty, widow of George W. Petty, late of Company L, Second Regiment New York Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of George P. Smiley, late assistant surgeon Forty-second Regiment Missouri Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Annie Schott, widow of Bernard Schott, late of Company E, Fourth Regiment Ohio Volunteer Cavalry, and pay her a pension at the rate of $2 per month in lieu of that she is now receiving.

The name of Clara Ward, helpless and dependent child of Michael Ward, late of Company F, Forty-third Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Nancy Walton, widow of Jacob Walton, late of Company H, Seventy-seventh Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Edward H. Crandall, late of Company K, One hundred and eleventh Regiment New York Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of John P. Thurston, late of Company F, Fourth Regiment New Hampshire Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Eli C. Lowe, late of Third Battery Kansas Light Artillery, and Company K, First Regiment Indian Home Guards Kansas Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John W. Swanson, late of Company H, Thirteenth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James Bartholomew, late of Company H, One hundred and twenty-fourth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jennie McMurtrie, widow of Rudolph McMurtrie, late private United States Marine Corps, and of Company C, One hundred and twenty-fifth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of James B. Kellogg, late landsman on U. S. S. Ohio, Princeton, and Mohican, United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Rachel Castell, now Robbins, widow of Hiram Castell, late of Company C, Seventh Regiment Kentucky Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of George M. Rood, late of Company E, Twentieth Regiment New York Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Jane L. Gettins, widow of Edwin T. Gettins, late of Company K, Sixty-fifth Regiment New York Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Matilda Louise Gettins, helpless and dependent child of said Edwin T. Gettins, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Jane L. Gettins the name of said Matilda Louise Gettins shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Jane L. Gettins.

The name of John H. Scott, late of Company C, Sixth Regiment Michigan Volunteer Cavalry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Julia A. Kendall, widow of George H. Kendall, late of Company B, Thirty-seventh Regiment New York State Militia, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Edson A. Cook, late of Company H, Thirty-seventh Regiment Massachusetts Volunteer Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of William Welch, late of Company M, Sixteenth Regiment New York Volunteer Heavy Artillery, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Mary E. Hughes, widow of Joseph A. Hughes, late of Company E, Twenty-ninth Regiment Missouri Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Emma Frymire, widow of Jasper Frymire, late of Company G, Eighty-seventh Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James H. Ross, late landsman, United States Navy, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Elizabeth Willett, widow of George Willett, late of Company D, First Regiment Iowa Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of Henry Cooper, late of Company C, Sixtieth Regiment United States Colored Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Annie M. Regan, widow of Patrick Regan, late of Battery L, Third Regiment United States Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Isaiah Ellwood, late of Company H, Fifteenth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Martha Rogers, widow of William H. Rogers, late of Company B, Sixteenth Regiment Vermont Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Frederick Sachsenheimer, late of Company K, Twenty-ninth Regiment Pennsylvania Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Caroline Seib, widow of Jacob Seib, late of Company F, Fourth Regiment Ohio Volunteer Cavalry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of Michael Fogarty, helpless and dependent child of Patrick Fogarty, late of Company G, First Regiment Minnesota Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Smith McCallister, late of Company L, Thirteenth Regiment Indiana Volunteer Cavalry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving.

The name of Horace W. Hunt, late of Twenty-first Battery Ohio Light Artillery, and Company A, Eighty-fourth Regiment Ohio Volunteer Infantry, and Company E, Ninth Regiment Ohio Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Lusenah Fuller, widow of Amasa Fuller, late of Company A, Sixty-third Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Ida B. Fuller, helpless and dependent child of said Amasa Fuller, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Lusenah Fuller the name of said Ida B. Fuller shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Lusenah Fuller.

The name of Joseph W. Jeroleman, alias William Wood, late of Company A, Eighty-second Regiment, and Company E, Fifty-ninth Regiment, New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Sarah C. Gross, widow of Reuben Gross, late of Company F, Sixth Regiment Michigan Volunteer Cavalry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James M. Emmons, late of Company E, One hundred and forty-eighth Regiment, and Company H, One hundred and thirty-second Regiment, Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Frank B. Doran, late of Company I, Fifty-second Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Sarah J. Benton, widow of James P. Benton, late of Company I, Sixty-third Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Noah M. Diehl, late of Company G, One hundred and sixty-ninth Regiment Ohio National Guard Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Catharine Hayden, widow of James B. Hayden, late of Company I, Eighty-sixth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Hoyt Hayden, helpless and dependent child of said James B. Hayden, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Catharine Hayden, the name of said Hoyt Hayden shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Catharine Hayden.

The name of Carrie D. Colman, widow of John T. Colman, late of Company C, Sixty-fifth Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of Lewis Pugh, late of Company H, Fifth Regiment Pennsylvania Volunteer Heavy Artillery, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Jane Burton, widow of Ira Burton, late of Company K, Fifth Regiment West Virginia Volunteer Infantry, and Company K, First Regiment West Virginia Veteran Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Nannie Yocum, widow of Lucian S. Yocum, late of Company G, Sixteenth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of Alice M. Ham, widow of Fielding B. Ham, late of Company D, One hundred and seventy-third Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of William L. Duncan, late of Company D, Fortieth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George W. Lawson, late of Company E, Fortieth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of John Woods, late of Company C, Eighty-ninth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving.

The name of Rebecca Johnson, widow of John Johnson, late of Company E, Thirty-ninth Regiment Kentucky Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Isaac Smith, late of Company L, Fourteenth Regiment Kentucky Volunteer Cavalry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Eva Buhler, widow of John Buhler, late of Company C, Twenty-eighth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Mordecai F. Riley, late of Company E, Fiftieth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Gertrude Meloy, helpless and dependent child of John Meloy, late of Company G, Eighth Regiment Massachusetts Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of George W. Haney, late of Company I, Sixty-second Regiment Pennsylvania Volunteer Infantry, and One hundred and nineteenth Company, Second Battalion, Veteran Reserve Corps, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of James F. Hubbard, late of Company G, Fifty-eighth Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Elizabeth Hoon, widow of James Hoon, late of Company C, Seventy-second Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving: *Provided*, That in the event of the death of Nellie J. Hoon,

helpless and dependent child of said James Hoon, the additional pension herein granted shall cease and determine: *And provided further*, That in the event of the death of Elizabeth Hoon the name of said Nellie J. Hoon shall be placed on the pension roll, subject to the provisions and limitations of the pension laws, at the rate of $12 per month from and after the date of death of said Elizabeth Hoon.

The name of Newton Ridgway, late of Company K, Fifty-third Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Roxanna Starkey, dependent mother of William H. Starkey, late of Company E, Seventeenth Regiment Wisconsin Volunteer Infantry, and pay her a pension at the rate of $12 per month.

The name of George M. Thomas, late of Company D, Sixty-third Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Edward Gifford, late of Company F, Twenty-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Sarah F. Meade, widow of Greenville Meade, late of Company F, One hundred and eighteenth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Kate S. Blodgett, widow of Morris R. Blodgett, late of Company H, One hundred and twenty-ninth Regiment New York Volunteer Infantry, and Company H, Fourth Regiment New York Volunteer Heavy Artillery, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of William Smith, late of Company K, Fourteenth Regiment Kentucky Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of William R. Sheeler, late of Company E, One hundred and thirty-ninth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John McLeod, late of Company C, Forty-seventh Regiment Indiana Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of George Merrill, late of Company I, One hundred and forty-second Regiment New York Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of William H. Thomas, late of Company D, Eighth Regiment Missouri Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Elizabeth Whitestine, widow of John A. Whitestine, late of Company F, Forty-seventh Regiment Indiana Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of James G. Hagamen, late of Company F, Thirtieth Regiment New Jersey Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of John Johnson, helpless and dependent child of Joseph C. Johnson, late of Company C, One hundred and twenty-first Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $12 per month.

The name of Wickliff Loomis, late of Company D, One hundred and seventy-seventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Andrew W. Cochran, late of Company I, Eighty-third Regiment Illinois Volunteer Infantry, and Company I, Sixty-first Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of George Gray, late of Company K, Thirty-eighth Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of Nancy Stutesman, now Olmstead, widow of James Stutesman, late of Company H, One hundredth Regiment Ohio Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of John Scott, late of Company L, Ninth Regiment Pennsylvania Volunteer Cavalry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Margarita S. Salazar, widow of Tomas Salazar, late of Company A, Fourth Regiment New Mexico Volunteer Infantry, and pay her a pension at the rate of $24 per month in lieu of that she is now receiving.

The name of Elno Hattie Abells, former widow of Charles A. Sikes, late of First Independent Battery, Connecticut Volunteer Light Artillery, and pay her a pension at the rate of $12 per month.

The name of John L. Foster, late musician, Fourteenth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Araminta Ward, widow of Isaac J. Ward, late of Company I, Fourteenth Regiment Kentucky Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of William Malony, late of Company B, Denver City (Colorado) Home Guards, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving.

The name of Rachel Stewart, widow of William Stewart, late of Companies D and H, Sixty-fifth Regiment Illinois Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of Sophia M. Davis, widow of Robert E. Davis, late of Company E, Ninth Regiment Pennsylvania Reserve Volunteer Infantry, and Company K, One hundred and ninetieth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The name of James Russell, late of Company H, One hundred and eleventh Regiment Ohio Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of David Amos, late of Company D, Ninth Regiment West Virginia Volunteer Infantry, and Company B, First Regiment West Virginia Veteran Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Thomas Cooper, late of Company D, Fourteenth Regiment West Virginia Volunteer Infantry, and pay him a pension of $30 per month in lieu of that he is now receiving.

The name of Isaac Ayres, late of Company B, Sixty-fifth Regiment New York Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Samuel Williamson, late of Company I, Eleventh Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of David R. Beavers, late of Company K, Sixth Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The name of Nellie McMillan, helpless and dependent child of Daniel McMillan, late of Company F, One hundred and fifty-fourth Regiment Ohio National Guard Infantry, and pay her a pension at the rate of $12 per month.

The name of William Ashton, late of Company D, Fifth Regiment Wisconsin Volunteer Infantry, and pay him a pension at the rate of $36 per month in lieu of that he is now receiving.

The name of James Anderson, late of Company C, One hundred and thirteenth Regiment Illinois Volunteer Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

The foregoing bill is a substitute for the following House bills referred to the Committee on Invalid Pensions:

H. R. 139. Alban G. Knode.
H. R. 525. David Lloyd.
H. R. 923. Jesse A. Linn.
H. R. 953. John T. Chiles.
H. R. 1762. James Taylor (2d).
H. R. 1914. Milton Lee.
H. R. 1915. Betsey Ann Phelps.
H. R. 1922. George Hobbs.
H. R. 2011. Pressley R. Baldridge.
H. R. 2020. John C. Martin.
H. R. 2119. Hugh Baker.
H. R. 2128. John A. Peterson.
H. R. 2130. William D. Wood.
H. R. 2378. Patrick Fitzpatrick.
H. R. 2379. Stephen Vogel.
H. R. 2525. George W. Gallagher.
H. R. 2549. Ezekiel Justice.
H. R. 2626. Solomon D. Sturtz.
H. R. 2748. George Goodpastor.
H. R. 3047. Ruben Drisklll.
H. R. 3270. Lottie Menefee.
H. R. 3451. John T. Bates.
H. R. 3457. Jacob Schumacher.
H. R. 3463. Charles W. Wood.
H. R. 3566. Frank D. Morse.
H. R. 3567. Anna M. Haysmer.
H. R. 3849. William J. Chinn.
H. R. 3932. Isaac B. Hughey.
H. R. 4092. Orlando A. Hays.
H. R. 4096. Francis H. Turner.
H. R. 4119. James H. Brown.
H. R. 4129. Lewis Quillen.
H. R. 4211. John B. Whisler.
H. R. 4250. Henry Wilber.
H. R. 4256. William Green.
H. R. 4352. Frank Kirkey.
H. R. 4557. David Blubaugh.
H. R. 4619. Andrew B. Keith.
H. R. 4640. James F. Rowley.
H. R. 4756. John S. Bell.
H. R. 5105. Samuel McQuate.
H. R. 5661. William G. Shute.
H. R. 5715. William Henderson.
H. R. 5807. John Hoffman.
H. R. 5813. Morgan T. Williams.
H. R. 5844. Richard H. Robertson.
H. R. 5983. Adam Lichty.
H. R. 6167. Anna O. Stanton.
H. R. 6354. Erwin M. Bergstresser, now Harley.
H. R. 6430. Josiah Gough.
H. R. 6436. Thomas J. Gustin.
H. R. 6439. Frank L. Dunlap.
H. R. 6563. Josiah Ketchum.
H. R. 6616. Philip Kohler.
H. R. 6682. David McClintock.
H. R. 6693. Clayton P. White.
H. R. 6835. John M. Hines.
H. R. 7198. Francis Westerfield.
H. R. 7201. James H. Dorrance.
H. R. 7563. Benjamin M. Curtis.
H. R. 7621. John J. Dillon.
H. R. 7638. Gardiner Roberts, jr.
H. R. 7682. John W. Randels.
H. R. 7748. Charles Torrey Phillips.
H. R. 8354. Rosaline V. Cook.
H. R. 8548. Jacob L. Batchelder.
H. R. 8728. Sarah Demree.
H. R. 9233. Lafayette Cook.
H. R. 9265. Daniel D. Murphy.
H. R. 9311. Thomas J. Thorp.
H. R. 9351. John Muster.
H. R. 9398. Emma Schuette.
H. R. 9685. Henry Vasterling.
H. R. 10015. William V. Fish.
H. R. 10025. Alexander Tittle.
H. R. 10133. Thomas E. Smith.
H. R. 10373. Joseph D. Fulmer.
H. R. 10637. Henry C. Adams.
H. R. 10705. Nahum A. Reed.
H. R. 10745. Eliza Holbrook.
H. R. 10767. Henry Selover.
H. R. 10799. Marion Ridgley.
H. R. 10871. Michael Normile.
H. R. 10932. James Mansfield.
H. R. 10933. Thomas Kenney.
H. R. 10975. Thomas Stevenson.
H. R. 11056. Lyman A. Babcock.
H. R. 11116. James M. Abney.
H. R. 11198. Joel L. Cudworth.
H. R. 11279. Daniel W. Bressler.
H. R. 11324. Charles H. Webber.
H. R. 11344. John Sepin.
H. R. 11497. Perry S. Grindle.
H. R. 11502. William H. Harrison.
H. R. 11504. John S. Davidson.
H. R. 11536. Kels Risner.
H. R. 11565. William Maynard.
H. R. 11844. Harvey Mahannah.
H. R. 11910. David C. Cass.
H. R. 11946. Oscar F. Maynard.
H. R. 12000. Thomas Mead.
H. R. 12067. David J. Chinn.
H. R. 12269. Mary E. Farrell.
H. R. 12348. Caleb Crotzer.
H. R. 12402. George W. Peterson.
H. R. 12556. John A. Felton.
H. R. 12574. Maston G. Strong.
H. R. 12740. William H. Bates.
H. R. 12968. John S. Hufford.
H. R. 12990. Martin Lovett.
H. R. 13033. Samuel A. Gibson.
H. R. 13189. Isaac N. Strickler.
H. R. 13266. William Zimmerman.
H. R. 13538. William J. Aylsworth.
H. R. 14164. Margaret E. Fickle.
H. R. 14196. Joseph Scharborough.
H. R. 14210. Osmus F. Devault.
H. R. 14345. Edwin F. Miller.
H. R. 14409. Edward M. Drohan.
H. R. 14447. John Bacon.
H. R. 14467. Clementine Richards.
H. R. 14469. Margaret J. Brophy.
H. R. 14520. Orman P. Babb.
H. R. 14576. John T. Ferguson.
H. R. 14598. Martin V. B. Cross.
H. R. 14795. John Y. Lambert.
H. R. 14848. Stephen H. Haley.
H. R. 14910. George M. Enslow.
H. R. 15016. William Slick.
H. R. 15072. David Stevens.
H. R. 15092. Lucy Ann Harper.
H. R. 15099. William M. Anderson.
H. R. 15281. James McGrade.
H. R. 15390. Benjamin White.
H. R. 15412. William Galligan, alias William Calligham.
H. R. 15443. John C. Lewis.
H. R. 15510. Ida Newcomer.
H. R. 15533. William B. Heinbach.
H. R. 15610. Jason Johnson.
H. R. 15667. John N. Conely.
H. R. 15670. Oliver C. Stringer.
H. R. 15816. Bradley W. Hill.
H. R. 15936. Asa H. Patrey.
H. R. 16010. Samuel F. Garrett.
H. R. 16043. Jeptha Pierson.
H. R. 16056. Chauncey Cronk.
H. R. 16068. Albert Kinnear.
H. R. 16081. Harrison T. Fleenor.
H. R. 16201. James P. Farmer.
H. R. 16267. Charles D. Jones.
H. R. 16396. Michael Shuppert.
H. R. 16404. Steward P. Powers.
H. R. 16520. Lucy C. Andes.
H. R. 16589. John M. Carson.
H. R. 16573. Calvin Musser.
H. R. 16588. Henry C. Smith.
H. R. 16631. John N. Shirley.
H. R. 16697. Mary A. Pfister.
H. R. 16726. Charles Parker.
H. R. 16762. Frances A. Ayers.
H. R. 16771. Jesse M. Silvers.
H. R. 16864. Phillipine Steins.
H. R. 16975. Rosa Prentiss.
H. R. 16913. Elizabeth Phillips.
H. R. 16920. Mary J. Chase.
H. R. 17149. Joseph N. Wilson.
H. R. 17318. William Graham.
H. R. 17431. Peter F. Dixon.
H. R. 17506. Georgiana Jonas.
H. R. 17579. Henry Milton Babcock.
H. R. 17630. Isabella H. Watson.
H. R. 17650. Isaac J. Nichols.
H. R. 17655. James W. Mayfield.
H. R. 17873. Daniel Hilliard.
H. R. 17887. John H. Ruff.
H. R. 17894. Henry A. Grove.
H. R. 17980. George W. Short.
H. R. 18080. William H. Brown.
H. R. 18121. Jacob Row.
H. R. 18696. Ellen G. Frame.
H. R. 18870. Washington McCartney.
H. R. 18876. John Seller.
H. R. 19021. Severyn T. Bruyn.
H. R. 19107. Eliza Wolf.
H. R. 19202. James C. McClay.
H. R. 19248. John Gray.
H. R. 19257. Thomas Sheehan.
H. R. 19486. William H. Fenton.
H. R. 19492. Finley Branstetter.
H. R. 19564. Phebe J. Horton.
H. R. 19680. Joseph McKenzie.
H. R. 19824. James K. Cypherf.
H. R. 19876. John L. Nebergall.
H. R. 20009. Thresia De Long.
H. R. 20121. Harriett Gale.
H. R. 20246. Charles E. Burmaster.
H. R. 20290. Edward O. Williams.
H. R. 20329. George W. Proctor.
H. R. 20354. Jonas Siegrist.
H. R. 20383. John B. Barlow.
H. R. 20467. Daniel Walter.

H. R. 20780. John W. Lynch.
H. R. 20845. Joseph Lethcho.
H. R. 20940. Benjamin F. Scott.
H. R. 20960. Amos J. Henry.
H. R. 21348. Josephine Hall.
H. R. 21381. Elizabeth H. Ball.
H. R. 21558. William Frisbie.
H. R. 21691. Adaline Beaver.
H. R. 21724. Almeda Cosberry.
H. R. 21839. Harriet A. Glasscock.
H. R. 21846. John H. Civits.
H. R. 21846. Laura A. Fowler.
H. R. 21848. Malcolm Dunning.
H. R. 21863. Elizabeth Terry.
H. R. 22121. Lydia A. Norton.
H. R. 22176. Clara V. Weaver.
H. R. 22239. William B. Fleming.
H. R. 22275. Elenor McCully.
H. R. 22322. William Come.
H. R. 22385. James Giddy.
H. R. 22428. James Miller.
H. R. 22449. Frances D. Cadamus.
H. R. 22475. William McDermott.
H. R. 22476. James A. Love.
H. R. 22485. John Akridge.
H. R. 22541. Emma F. Berry.
H. R. 22549. William Lathrop, alias William Lapher.
H. R. 22604. Charles E. Stamm.
H. R. 22632. Irene M. Gary.
H. R. 22633. Philo Buckley.
H. R. 22806. Samuel M. Baker.
H. R. 22886. Thomas P. Degman.
H. R. 22923. Mary Bruce.
H. R. 23134. Morrison Hunter.
H. R. 23269. William W. Potter.
H. R. 23361. William P. Underwood.
H. R. 23426. Mary A. Odell.
H. R. 23435. Daniel Caswell.
H. R. 23453. John McKone.
H. R. 23523. Whitney C. Monson.
H. R. 23566. John W. Hill.
H. R. 23584. John Q. Thomas.
H. R. 23870. Thomas R. Lamison.
H. R. 23916. Jacob P. Reichert.
H. R. 23922. Andrew W. McCullough.
H. R. 23923. Nelson Holcomb.
H. R. 23938. Humphrey D. Gifford.
H. R. 23944. David Sypher.
H. R. 23946. Jacob Jones.
H. R. 24053. William F. Whitmore.
H. R. 24158. Charles Schrober.
H. R. 24164. Charles W. Webster.
H. R. 24165. John Usner.
H. R. 24295. Alexander B. Henderson.
H. R. 24329. Poley C. Sites.
H. R. 24408. John P. Harris.
H. R. 24504. Benjamin Puckett.
H. R. 24547. Alice M. McCoy.
H. R. 24583. William R. Gladman.
H. R. 24628. John S. Martin.
H. R. 24665. John B. Williams.
H. R. 24733. John W. Sidle.
H. R. 24849. Fanny M. Campbell.
H. R. 24900. George De Garmo.
H. R. 24950. Jennie Riggs.
H. R. 24978. Ophelia L. Reynolds.
H. R. 25042. George H. Beckwith.
H. R. 25123. Finetta L. Wood.
H. R. 25265. Charles A. Lee.
H. R. 25326. Charles Logan.
H. R. 25354. Emma J. Winchell.
H. R. 25358. John D. Reed.
H. R. 25382. Hiram W. Partlow.
H. R. 25434. Harriet G. Sangster.
H. R. 25491. John W. Williams.
H. R. 25521. Augustus Schoenwald.
H. R. 25530. William J. Sutton.
H. R. 25565. Elizabeth N. Brand.
H. R. 25604. John Schroeder.
H. R. 25659. Hervey A. Humphrey.
H. R. 25871. Michael Hartman.
H. R. 25915. Margaret A. Ramage.
H. R. 25921. Lydia L. Clark.
H. R. 25932. Franklin D. Green.
H. R. 25953. Lucy K. Simons.
H. R. 26090. Daniel J. Haynes.
H. R. 26156. Irving D. Hull.
H. R. 26196. Catherine Daly.
H. R. 26241. Albert S. Bloomer.
H. R. 26273. Julia B. Russell.
H. R. 26274. Daniel H. Woodruff.
H. R. 26322. Alpheus Danley.
H. R. 26347. James S. Strother.
H. R. 26471. Sarah M. Kinley.
H. R. 26481. Leora R. Maxon.
H. R. 26488. Mary L. Merchant.
H. R. 26489. Catharine M. Schryver.
H. R. 26504. John M. Culver.
H. R. 26517. William A. S. Welch.
H. R. 26519. Ellen V. N. Wilson.
H. R. 26521. Laura P. Culbertson.
H. R. 26522. Sarah Ann Wamsley.
H. R. 26526. Augusta Ratdorf.
H. R. 26527. Lucy A. Rose.
H. R. 26572. John H. Steele.
H. R. 26576. Celestia Sprague.
H. R. 26579. Katharine A. Weyant.
H. R. 26581. Maria J. Stevens.
H. R. 26582. John Marx.
H. R. 26591. Asa Jenkins.
H. R. 26592. Franklin Bryson.
H. R. 26597. William M. McArthur.
H. R. 26598. William U. Walker.
H. R. 26624. John Stickle.
H. R. 26626. Francis M. Whittecar.
H. R. 26633. Catharine Ann Bartelle.
H. R. 26650. Jacob Peffer.
H. R. 26654. Louisa I. Baldwin.
H. R. 26688. Luther B. Grover.
H. R. 26690. James Youell, alias James Moses.
H. R. 26703. John H. Yarger.
H. R. 26707. James C. Boyd.
H. R. 26719. Homer Hoover.
H. R. 26720. Harriet P. Hale.
H. R. 26762. Thomas P. Wentworth.
H. R. 26763. Mary F. Dean.
H. R. 26764. Almyra Vancil.
H. R. 26767. Horatio D. Elliott.
H. R. 26770. Levi Boysel.
H. R. 26776. Alexander Fleming.
H. R. 26779. Dorothy E. Bacon.
H. R. 26782. Mary M. Jones.
H. R. 26783. Simon Hoafmyre.
H. R. 26784. William H. Hinckley.
H. R. 26785. Frank T. Sickler.
H. R. 26790. Samuel C. Robertson.
H. R. 26796. Sterrett McClellan.
H. R. 26803. Austin P. Walker.
H. R. 26805. Sylvester Cary.
H. R. 26807. Mary O'Brien.
H. R. 26829. Henry B. Frey.
H. R. 26839. Emma C. Weinhold.
H. R. 26842. Isaac Byers.
H. R. 26858. Samuel Webb.
H. R. 26862. Mary Bartlett Taylor.
H. R. 26863. Helen Archibald.
H. R. 26884. Sarah A. Bland.
H. R. 26920. Alvacinda Tyler.
H. R. 26934. Robert Shay.
H. R. 26935. Victoria S. Hill.
H. R. 26951. Cinderella B. McClure.
H. R. 26988. Joseph L. Bostwick.
H. R. 26992. Dennis P. Parker.
H. R. 26996. Bateman Zoll.
H. R. 26998. Walter Mason.
H. R. 26999. Addison D. Madeira.
H. R. 27019. William H. Barton.
H. R. 27026. Fred Babcock.
H. R. 27042. Hannah M. Brewer.
H. R. 27045. Henry Bolner.
H. R. 27048. James E. Crane.
H. R. 27053. Kate D. Linsley.
H. R. 27061. Charles H. Crandall.
H. R. 27088. Lizzie S. Williams.
H. R. 27122. Virginia W. Reed.
H. R. 27126. Daniel W. Brown.
H. R. 27131. Elizabeth Farley.
H. R. 27165. Stephen G. Lindsey.
H. R. 27168. Marie Soucie.
H. R. 27182. Jesse M. Pirkle.
H. R. 27184. Joseph L. Evans.
H. R. 27188. Benjamin M. Clark.
H. R. 27189. Charlotte E. Crowell.
H. R. 27197. James N. Light.
H. R. 27213. James H. Langley.
H. R. 27220. Reuben Brink.
H. R. 27221. Eleanora B. Petty.
H. R. 27227. George P. Smiley.
H. R. 27233. Annie Schott.
H. R. 27240. Clara Ward.
H. R. 27245. Nancy Walton.
H. R. 27246. Edward H. Crandall.
H. R. 27247. John P. Thurston.
H. R. 27256. Eli C. Lowe.
H. R. 27269. John W. Swanson.
H. R. 27270. James Bartholomew.
H. R. 27274. Jennie McMurtrie.
H. R. 27291. James B. Kellogg.
H. R. 27293. Rachel Castell, now Robbins.
H. R. 27299. George M. Rood.
H. R. 27302. Jane L. Gettins.
H. R. 27314. John H. Scott.
H. R. 27318. Julia A. Kendall.
H. R. 27319. Edson A. Cook.
H. R. 27326. William Welch.
H. R. 27340. Mary E. Hughes.
H. R. 27349. Emma Frymire.
H. R. 27350. James H. Ross.
H. R. 27368. Elizabeth Willett.
H. R. 27385. Henry Cooper.
H. R. 27386. Annie M. Regan.
H. R. 27393. Isaiah Elwood.
H. R. 27403. Martha Rogers.
H. R. 27414. Frederick Sachsenheimer.
H. R. 27417. Caroline Seib.
H. R. 27423. Michael Fogarty.
H. R. 27448. Smith McCallister.
H. R. 27455. Horace W. Hunt.
H. R. 27470. Lusenah Fuller.
H. R. 27512. Joseph W. Jeroleman, alias William Wood.
H. R. 27518. Sarah C. Gross.
H. R. 27521. James M. Emmons.
H. R. 27522. Frank B. Doran.
H. R. 27554. Sarah J. Benton.
H. R. 27579. Noah M. Diehl.
H. R. 27582. Catharine Hayden.
H. R. 27585. Carrie D. Colman.
H. R. 27587. Lewis Pugh.
H. R. 27589. Jane Burton.
H. R. 27597. Nannie Yocum.
H. R. 27598. Alice M. Ham.
H. R. 27599. William L. Duncan.
H. R. 27600. George W. Lawson.
H. R. 27601. John Woods.
H. R. 27602. Rebecca Johnson.
H. R. 27613. Isaac Smith.
H. R. 27616. Eva Buhler.
H. R. 27631. Mordecai F. Riley.
H. R. 27643. Gertrude Meloy.
H. R. 27669. George W. Haney.
H. R. 27671. James F. Hubbard.
H. R. 27679. Elizabeth Hoon.
H. R. 27680. Newton Ridgway.
H. R. 27682. Roxanna Starkey.
H. R. 27685. George M. Thomas.
H. R. 27696. Edward Gifford.
H. R. 27714. Sarah F. Meade.
H. R. 27718. Kate S. Blodgett.
H. R. 27735. William Smith.
H. R. 27760. William R. Sheeler.
H. R. 27763. John McLeod.
H. R. 27797. George Merrill.
H. R. 27802. William H. Thomas.
H. R. 27805. Elizabeth Whitestine.
H. R. 27870. James G. Hagamen.
H. R. 27873. John Johnson.
H. R. 27915. Wickliff Loomis.
H. R. 27917. Andrew W. Cochran.
H. R. 27930. George Gray.
H. R. 27934. Nancy Stutesman (now Olmstead).
H. R. 27935. John Scott.
H. R. 27978. Margarita S. Salazar.
H. R. 28003. Elno Hattie Abells.
H. R. 28011. John L. Foster.
H. R. 28029. Araminta Ward.
H. R. 28119. William Malony.
H. R. 28083. Rachel Stewart.
H. R. 28153. Sophia M. Davis.
H. R. 28169. James Russell.
H. R. 12083. David Amos.
H. R. 2636. Thomas Cooper.
H. R. 4139. Isaac Ayres.
H. R. 14171. Samuel Williamson.
H. R. 22317. David P. Beavers.
H. R. 25350. Nellie McMillan.
H. R. 26511. William Ashton.
H. R. 27736. James Anderson.
H. R. 27808.

During the reading of the bill:

Mr. TRIBBLE. Mr. Chairman, I would like to make an inquiry of the gentleman from Wisconsin [Mr. BURKE], chairman of the subcommittee in charge of this bill. Where is the full report of these cases which are mentioned in the bill?

Mr. BURKE of Wisconsin. The evidence that accompanies each case can be found with the secretary of the Committee on Invalid Pensions, if that is what the gentleman means by the words "full report."

Mr. TRIBBLE. That is what I mean. How many cases are presented here to-day in this bill?

Mr. BURKE of Wisconsin. I read the number some time ago. There are 468.

Mr. TRIBBLE. Does the gentleman think that the committee has carefully investigated all of these cases?

Mr. BURKE of Wisconsin. As fully as was possible for us to do so, and as I stated before, the committee has been crippled since the December vacation, inasmuch as there are three or four vacancies on the committee, and inasmuch as several Members who received unpleasant news on election day have not been present. It is possible that some of these matters have crept through where it would otherwise have been prevented.

Mr. TRIBBLE. Now, Mr. Chairman, I have frequently called for these full reports here on cases and have never been accorded the courtesy of the production of them. The first bill that was presented to the House at this session has been returned from the Senate and a conference has been held. I make note of two or three entries in that conference report. At the time when this bill passed the House I strenuously opposed several cases included in it. Now, I note to-day the case of Phoebe Cosgriff. The Senate fully exposed her record and refused to pass her bill, as is shown by the conference report. This woman for many years, as this report will show, had been drawing a pension on the pretense that her husband was dead. She has personated herself as the wife of James Cosgriff and secured pension as his widow, claiming he died in December, 1882. This House recently increased her pension by special act. The report I hold in my hand exposes this fraud. The soldier, James Cosgriff, is living and is in the Soldiers' Home at Leavenworth, Kans.

The dates that she gave of her husband's entry, his death, and his service are false, and the man to-day, as shown by this report, is in an old soldiers' home, alive. I don't suppose the imposter wife ever saw him. He was selected from a list of soldiers supposed to be dead, for pension purpose. The report says:

It is clearly evident that claimant was never the wife or widow of this soldier and has no status on account of the service rendered by him.

As long as the people of my district keep me in this House I expect to continue protesting against pension graft. This committee is not as careful as it should be. Such claims as this should never reach this House. In that same conference report is stricken another case; and while I protested against the passage of the bill, the evidence in the case was not accessible to me then. The full report was not here, but I have the facts to-day in this report. I read from the report:

Case of Sarah J. Kelley (H. R. 14851). In this case the House report is rather meager. From a reading of the House report it would appear that this claimant is entitled to pension through the regular channels, as the Pension Bureau, and that no necessity exists for the consideration of her case by Congress. As a matter of fact, however, it is shown that the claimant has been guilty of open and notorious adulterous cohabitation since soldier's death, and that beginning in 1882, shortly after his death, she has kept houses of ill-fame for many years in New York City, in Newark, Trenton, and Atlantic City, N. J., and Scranton, Pa. It is on this account that her applications for pension at the bureau have been denied.

Mr. Chairman, the Pension Bureau had on file this woman's record, and I contend the committee investigating this pension

should have known the facts and presented them to the House. The Pension Bureau rejected her, and this House should not put on the pension roll such characters. I do not believe that a woman who has dishonored the name of her soldier husband, as this applicant has done, should be pensioned and have more pension than those who saw service as war widows. The country will not stand for women of this class receiving more pension by special acts than pure wives of soldiers receive.

Forty-eight years have rolled over our heads since the last gun was fired at Appromattox. To-day there are 497,263 survivors of the Civil War on the pension roll. This does not include widows and children of soldiers. There are 860,294 pensioners on the roll of 1912. There were 660,000 soldiers who saw service in the Confederate Army. Think of it, Mr. Chairman, 200,000 more people drawing pensions than enlisted in that army of the South of four years' duration.

I desire to call especial attention to the fact that there are now on the pension roll 321,932 children of soldiers and widows of soldiers. Where and when will this thing end, if the children of soldiers must now be cared for? Pensions of all wars in the year 1866, two years after the Civil War, amounted to $15,857,714.88; in the year 1886, 20 years later, $67,336,159.51; in the year 1913, about $185,000,000. During last Congress this House passed 9,000 special bills increasing amounts of individual pensions and placing on pension list ineligibles. By this special pension method pensions were increased for favored ones to $30, $50, $75, and $100 per month. The present Congress has not passed one-half so many, although the three previous terms had increased them by thousands. By a hard contest the original Sherwood bill which was slated to pass this Congress was defeated. It gave $30 per month without regard to age or length of service. That bill would have increased the pension roll some $75,000,000. It has been estimated that in the year 1911 there were paid in pensions $159,000,000 or $1.73 per capita. At this per capita Georgia paid in the year 1911, $4,513,779.33. Georgia received in return pension money only $543,353.41, thereby paying an excess of $3,970,426.92. Compare Georgia's burden to Ohio's pension harvest for the year 1911. Ohio paid $8,247,110.33 and received from the fund $15,638,286.83; therefore you can see that Ohio receives for her citizens $7,391,167.50 more than she paid into the pension fund.

The CHAIRMAN (Mr. MURRAY). The time of the gentleman from Georgia [Mr. TRIBBLE] has expired.

Mr. TRIBBLE. I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent to extend his remarks in the RECORD. Is there objection? There is no objection.

Mr. TRIBBLE. The Committee on Pensions has finally decided to cut down the number of special pensions, and I insert part of the resolution under leave to print. I also insert the general pension act. The special pensions passed by the thousands every term are increases over and above the general law, including deserters, bounty jumpers, and negroes who are not entitled to pension under the general law.

Resolution of committee.

Resolved, That it is the sense of this committee that hereafter, on account of the liberal provisions of the Sherwood bill passed by this Congress, we should only report favorably private bills for increases for those who are beneficiaries under the said law, or any other general law, where the evidence shows that the applicant needs the assistance of an attendant, and only in cases where it is shown that the applicant has little or no income.

ACT OF 1912.

This act grants pensions according to the length of service to persons who served 90 days or more in the military or naval service of the United States during the Civil War and were honorably discharged, who have reached certain ages, at rates as indicated in the following table:

Length of service.

Age.	90 days.	6 months.	1 year.	1½ years.	2 years.	2½ years.	3 years.
62.....	$13.00	$13.50	$14.00	$14.50	$15.00	$15.50	$16.00
66.....	15.00	15.50	16.00	16.50	17.00	18.00	19.00
70.....	18.00	19.00	20.00	21.50	23.00	24.00	25.00
75.....	21.00	22.50	24.00	27.00	30.00	30.00	30.00

It also grants pensions at the maximum rate, $30 per month, without regard to age or length of service, to persons who served in the military or naval service during the Civil War and received honorable discharges, and who were wounded in battle or in line of duty and are now unfit for manual labor by reason thereof, or who from disease or other causes incurred in line duty resulting in their disabilities are now unable to perform manual labor.

Mr. TAGGART. Mr. Chairman, I suggest the presence of an error in the bill and ask that the following amendment be inserted in the description of the soldier's service.

The CHAIRMAN. At what place does the gentleman suggest that?

Mr. TAGGART. On line 19, page 67. The service as described in the original bill is in the First Battery Kansas Light Artillery. That is as it was described in the original bill introduced, which is correct. In this bill it reads "Third Battery Kansas Light Artillery."

The CHAIRMAN. The gentleman from Kansas [Mr. TAGGART] moves to amend, at line 19, page 67, by striking out the word "Third" and substituting the word "First." The Clerk will report the amendment offered by the gentleman from Kansas.

The Clerk read as follows:

Amend, line 19, page 67, by striking out the word "Third" and substituting in lieu thereof the word "First."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BURKE of Wisconsin. Mr. Chairman, on behalf of the committee I move that, in line 15, page 69, in the name of Julia A. Kendall the initial "A" be stricken out and the initial "J" inserted.

The CHAIRMAN (Mr. SHERLEY). The Clerk will report the amendment offered by the gentleman from Wisconsin [Mr. BURKE].

The Clerk read as follows:

Amend, page 69, line 15, by striking out the initial "A" and inserting in lieu thereof the initial "J."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk resumed and completed the reading of the bill.

Mr. BURKE of Wisconsin. Mr. Chairman, I move that the bill, with amendments, be reported favorably and laid aside for the present.

The CHAIRMAN. The gentleman from Wisconsin [Mr. BURKE] moves that the bill, with the amendments, be laid aside with a favorable recommendation. The question is on agreeing to that motion.

The motion was agreed to.

JOHN R. FUGILL.

Mr. RUSSELL. Mr. Chairman, I call up the bill H. R. 3967, Private Calendar No. 314.

The Clerk read the bill, as follows:

A bill (H. R. 3967) granting an increase of pension to John R. Fugill.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of John R. Fugill, late of Company E, Second Regiment New York Mounted Volunteer Riflemen, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving.

Mr. RUSSELL. Mr. Chairman, I move that the bill be read a second time for amendment.

The bill was read the second time.

Mr. RUSSELL. Mr. Chairman, I move that the bill be laid aside with a favorable report.

The CHAIRMAN. The gentleman from Missouri [Mr. RUSSELL] moves that the bill be laid aside with a favorable recommendation. Without objection, it will be so ordered.

There was no objection.

MARY MACARTHUR.

Mr. RUSSELL. Mr. Chairman, I call up the bill H. R. 27806, Private Calendar No. 315, granting a pension to Mary MacArthur.

The CHAIRMAN. The Clerk will report the title of the bill.

The title of the bill was read.

Mr. RUSSELL. Mr. Chairman, I move that the first reading of the bill be dispensed with.

The motion was agreed to.

The CHAIRMAN. Without objection, the bill will be read for amendment.

There was no objection.

The bill was read for amendment, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mary MacArthur, widow of Arthur MacArthur, late lieutenant general, United States Army, and pay her a pension at the rate of $2,500 per year.

The following committee amendments were read and agreed to:

Amend, line 8, by striking out the figures "$2,500" and inserting the figures "$100."

Amend, line 8, by striking out the word "year" and inserting the word "month."

Mr. RUSSELL. Mr. Chairman, I will state that this bill was introduced and referred to our committee, asking for $2,500 a year. The committee reduced the amount to $100 per month,

or $1,200 a year. This was done in accordance with the action of the committee in similar cases heretofore.

The House passed a bill granting $100 a month to Gen. Bragg's widow, and Gen. MacArthur was equally as distinguished a soldier. If there is any objection to this bill, I will ask its author, the gentleman from Wisconsin [Mr. ESCH], to further explain its provisions. If there is no objection, I move that it be laid aside with a favorable recommendation.

Mr. ANTHONY. Mr. Chairman, I would like to ask the gentleman a question.

Mr. RUSSELL. Very well.

Mr. ANTHONY. Why is it that you give the widow of a lieutenant general $100 per month and decline to give the widow of a major general more than $30 a month?

Mr. RUSSELL. I do not know that that is so. I do not think it has ever been done by our committee. To what case does the gentleman refer?

Mr. ANTHONY. To the case of the widow of Gen. Wint. That bill, however, was not before your committee.

Mr. RUSSELL. This bill provides that the widow of Gen. MacArthur shall receive $100 per month. The committee has, as a general rule, recommended that amount to widows of those who were generals during the Civil War, but not to such as were made generals since the war.

I move, Mr. Chairman, that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. Without objection, it will be so ordered.

There was no objection.

INJURIES TO GOVERNMENT EMPLOYEES.

Mr. POU. Mr. Chairman, I call up the bill (H. R. 23451) to pay certain employees of the Government for injuries received while in the discharge of their duties, and other claims for damages to and loss of private property. This is a House bill with Senate amendments. I ask that the Senate amendments be reported. The bill has already passed the House.

The CHAIRMAN. The gentleman from North Carolina asks that the Senate amendments be reported. If there be no objection that will be done.

The first Senate amendment was read.

Mr. POU. I move to concur in the Senate amendment.

The motion was agreed to.

The CHAIRMAN. The Clerk will report the second amendment of the Senate.

Mr. MANN. Will not the gentleman ask unanimous consent to have all the Senate amendments reported?

Mr. POU. I ask unanimous consent that all the Senate amendments be reported, and that they all be concurred in.

The CHAIRMAN. If there be no objection they will all be reported.

The Senate amendments were read.

Mr. POU. I move that all the Senate amendments be concurred in.

The motion was agreed to.

Mr. POU. I move that the bill be laid aside with a favorable recommendation.

The motion was agreed to.

Mr. POU. I move that the committee do now rise and report these sundry bills to the House, with the recommendation that the amendments be agreed to and that the bills do pass, and that the Senate amendments to the bill H. R. 23451 be concurred in.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SHERLEY, Chairman of the Committee of the Whole House, reported that that committee had had under consideration sundry bills on the Private Calendar, and had instructed him to report the same with various amendments, with the recommendation that the amendments be agreed to and that the bills do pass; also that the Committee of the Whole had had under consideration the bill H. R. 23451 with Senate amendments, and had instructed him to report the same back to the House with the recommendation that the Senate amendments be concurred in.

BILLS PASSED.

The SPEAKER. The Clerk will report the first bill.

The first business was the bill (H. R. 27874) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, reported from the Committee of the Whole with sundry amendments.

The SPEAKER. The Clerk will report the amendments.

Mr. FITZGERALD. It is not necessary to read the amendments.

Mr. MANN. It is not customary to read the amendments unless somebody demands a separate vote on some amendment.

The SPEAKER. That is true. The question is on agreeing to the amendments.

The amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

The next business was the bill (S. 2666) granting an increase of pension to William P. Clark.

The bill was ordered to a third reading, and was accordingly read the third time and passed.

The next business was the bill (S. 8035) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and of wars other than the Civil War, and to certain widows and dependent relatives of such soldiers and sailors, reported from the Committee of the Whole with amendments.

The amendments were agreed to.

The bill as amended was ordered to a third reading, and was accordingly read the third time, and passed.

The next business was the bill (H. R. 28379) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The bill was ordered to be engrossed and read a third time, and was accordingly read the third time, and passed.

The next business was the bill (S. 7160) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, reported from the Committee of the Whole with amendments.

The amendments were agreed to.

The bill as amended was ordered to a third reading, was accordingly read the third time, and passed.

The next business was the bill (S. 8034) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, reported from the Committee of the Whole with amendments.

The amendments were agreed to.

The bill as amended was ordered to a third reading, and was accordingly read the third time, and passed.

The next business was the bill (H. R. 28282) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, reported from the Committee of the Whole with amendments.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The next business was the bill (H. R. 3967) granting an increase of pension to John R. Fugill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The next business was the bill (H. R. 27806) granting a pension to Mary McArthur, reported from the Committee of the Whole with an amendment.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, and was read the third time.

Mr. RODDENBERY. Mr. Speaker, before making a request for the reading of the engrossed bill, I ask if I can make an inquiry of the gentleman from Missouri [Mr. RUSSELL] touching the action of the committee on these matters?

The SPEAKER. By unanimous consent, the gentleman can propound the inquiry. Is there objection? [After a pause.] The Chair hears none.

Mr. RODDENBERY. The question I want to ask the gentleman at this juncture, purely for the information of the House, is as to what action the Committee on Invalid Pensions has taken indicative of the future policy of the committee in regard to these special pension bills?

Mr. RUSSELL. Mr. Speaker, I will say to the gentleman that the committee has ever since the Sherwood bill passed—realizing that it is a liberal bill—have felt that we should not amend that bill by the passing of special bills, except in cases where the applicant is shown to be so afflicted as to need an attendant, or in cases where the applicant is helpless, poor, and needy. At the last meeting of the committee we passed a resolution to that effect. With the permission of the House, I will ask to have that resolution read by the Clerk.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read as follows:

Resolved, That it is the sense of this committee that hereafter, on account of the liberal provisions of the Sherwood bill passed by this Congress, we should only report favorably private bills for increases for those who are beneficiaries under the said law, or any other general law, where the evidence shows that the applicant needs the assistance of an attendant, and only in cases where it is shown that the applicant has little or no income.

We further believe that hereafter where any bill is reported for any applicant shown to have any income, the amount of pension recommended should be reduced below what would otherwise be reasonable by the amount of such income.

And further resolved, That where an applicant has heretofore obtained a pension by special bill, a second special bill should not be passed, unless it is clearly shown by the evidence that he has grown much worse in physical condition than when the former bill was enacted.

The SPEAKER. The question is, Shall the bill pass?

The question was taken, and the bill was passed.

The next business was the bill (H. R. 23451) to pay certain employees of the Government for injuries received while in the discharge of their duty, and other claims for damages for the loss of private property, with Senate amendments.

The SPEAKER. The question is on agreeing to the Senate amendments.

The Senate amendments were agreed to.

INAUGURAL CEREMONIES.

Mr. FITZGERALD, chairman of the Committee on Appropriations, by direction of that committee, reported Senate joint resolution 145 to provide for the maintenance of public order and the protection of life and property in connection with the presidential inaugural ceremonies in 1913, which was read, and with accompanying report (No. 1383) was referred to the Committee of the Whole House on the state of the Union.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent that this resolution may be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The resolution is as follows:

Senate joint resolution 145.

Joint resolution (S. J. Res. 145) to provide for the maintenance of public order and the protection of life and property in connection with the presidential inaugural ceremonies in 1913.

Resolved, etc., That $23,000, or so much thereof as may be necessary, payable from any money in the Treasury not otherwise appropriated and from the revenues of the District of Columbia in equal parts, is hereby appropriated to enable the Commissioners of the District of Columbia to maintain public order and protect life and property in said District from the 28th of February to the 10th of March, 1913, both inclusive. Said commissioners are hereby authorized and directed to make all reasonable regulations necessary to secure such preservation of public order and protection of life and property and fixing fares by public conveyance, and to make special regulations respecting the standing, movements, and operating of vehicles of whatever character or kind during said period and fixing fares to be charged for the use of the same. Such regulations shall be in force one week prior to said inauguration, during said inauguration, and one week subsequent thereto, and shall be published in one or more of the daily newspapers published in the District of Columbia; and in such other manner as the commissioners may deem best to acquaint the public with the same; and no penalty prescribed for the violation of any of such regulations shall be enforced until five days after such publication. Any person violating any of such regulations shall be liable for each such offense to a fine not to exceed $100 in the police court of said District, and in default of payment thereof to imprisonment in the workhouse of said District for not longer than 60 days. And the sum of $2,000, or so much thereof as may be necessary, is hereby likewise appropriated, to be expended by the Commissioners of the District of Columbia, for the construction, maintenance, and expenses incident to the operation of temporary public-comfort stations and information booths during the period aforesaid.

Mr. FITZGERALD. Mr. Speaker, I give notice that it is my purpose to ask the House to consider this resolution some time to-morrow.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. HOWARD, for one week, on account of illness.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. SPARKMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the river and harbor appropriation bill (H. R. 28180).

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the river and harbor appropriation bill, with Mr. MOON of Tennessee in the chair.

Mr. MOORE of Pennsylvania. Mr. Chairman, I would ask the gentleman from Florida [Mr. SPARKMAN] if he is prepared to take up the amendments pending, or whether he would prefer to have them go over for a time. I am prepared to offer them now.

Mr. SPARKMAN. Mr. Chairman, I think we may as well go ahead with the reading of the bill for a while.

Mr. MOORE of Pennsylvania. Very well.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Improving Altamaha, Oconee, and Ocmulgee Rivers, Ga.: Continuing improvement in accordance with the report submitted in House Document No. 443, Sixty-second Congress, second session, $40,000.

Mr. BARTLETT. Mr. Chairman, I move to strike out the last word. I would like to ask the gentleman from Florida if the $40,000 carried in this item is all that has been recommended by the Board of Engineers and the Chief of Engineers for this project?

Mr. SPARKMAN. It is the entire amount recommended by the chief and by the board.

Mr. BARTLETT. I have in my hand the document to which the paragraph refers, numbered 443, of the second session of the Sixty-second Congress. Of course the gentleman from Florida is familiar with that document, and he will remember that that contained a resurvey of all these three rivers by Maj. Kingman and others engaged in the work and familiar with it, in which a recommendation was made to inaugurate a different project from that which has been carried on for some years. The gentleman remembers that document and the report of Maj. Kingman, does he not?

Mr. SPARKMAN. Yes.

Mr. BARTLETT. Mr. Chairman, the recommendation of Maj. Kingman was not approved by the Board of Engineers, and after it was reviewed by the board of review at the instance of those who were interested in the proposed change in the project, it was adversely acted upon by them and reported to the Chief of Engineers and not approved. That is true. That happened in October, 1912. Does the gentleman consider that the $40,000 is all that is necessary to maintain the three rivers in accordance with the project that has been carried for the past several years?

Mr. SPARKMAN. That would depend on how rapidly we may desire to go ahead with the work. Of course, if we propose to move more rapidly than we have been moving for some years past, it would require more money. The trouble with our committee, so far as the appropriation is concerned, is that the engineers have only recommended that amount of expenditure each year.

Mr. BARTLETT. The gentleman means the Board of Engineers and not the local engineers?

Mr. SPARKMAN. Yes; the board in its recent report went over the whole situation, coming practically to the same conclusion as in the original report, namely, that the work be prosecuted with a view to obtaining eventually 4 feet of water instead of 3. It had stated the same thing before, but seemed to be a little more definite in the last report.

Mr. BARTLETT. That is the report of Maj. Kingman?

Mr. SPARKMAN. That is the report of the board.

Mr. BARTLETT. If that is the report of the board, then this recommendation of the Chief of Engineers or the board does not carry out the suggestion made along that line by Maj. Kingman, for which this committee appropriated $40,000 to carry out the suggestions of the report as contained in these papers which I hold in my hand.

Mr. SPARKMAN. That was a project recommended upon a survey ordered by Congress itself.

Mr. BARTLETT. Yes; in 1909.

Mr. SPARKMAN. And the parties interested. Members of Congress from that State, thinking the report did not go far enough and that it might be reexamined with profit, came to the Committee on Rivers and Harbors and asked for a committee resolution requesting the reexamination of the report, which was granted, and a reexamination made with about the same result except, as I said, the recommendation is a little stronger perhaps in favor of the 4-foot project than the other was.

Mr. BARTLETT. The $40,000 would not aid in obtaining the 4-foot project.

Mr. SPARKMAN. The engineers seem to think so.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

Mr. BARTLETT. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SPARKMAN. In this report of the Board of Engineers containing their recommendations, the board says—the gentleman will find it on page 3 of the report, the latter part, second paragraph: "The annual expenditure of $40,000 proposed by the board"——

Mr. BARTLETT. I have not the same report as that from which the gentleman is reading.

Mr. SPARKMAN (reading)—

As being justified is sufficient to keep these rivers clear of snags and the worse obstructions and perhaps to increase the depth some-

what over the most obstructive shoals. This will provide for light-draft navigation at a cost fairly commensurate with the commerce involved; and such navigation is all that practically could be obtained except at prohibitive expense. The board therefore adhers to its former recommendation that such an annual appropriation be made for these streams, to be expended in securing and maintaining such depth as is practicable within the proposed limit of 4 feet.

By the use of the words "within the proposed limit of 4 feet" they perhaps make the language a little bit stronger than it was before.

Mr. BARTLETT. But the present project for which money has been spent has not been for 4 feet but for 3 feet.

Mr. SPARKMAN. No; I think the gentleman is mistaken about that.

Mr. BARTLETT. No.

Mr. SPARKMAN. They go on in the report the gentleman has in his hand, the report adopted in the bill of 1912, and suggest that an expenditure of $40,000 per year be made for the maintenance of this depth of 3 feet with the ultimate purpose of obtaining a greater depth.

Mr. BARTLETT. Now I want to say to the gentleman and the committee that the action of the Board of Engineers upon this last hearing we had in October has not been accessible to me, and I have not been able to procure it in order to present what they say in reference to it. It had not been printed on Tuesday last, when I called at the office of the Chief of Engineers.

Mr. SPARKMAN. Well, I have it here, what might be called the original print of it. We have not formally printed it yet. Would the gentleman like to have it?

Mr. BARTLETT. If it is not too long to put in the RECORD—some of it at least—I would desire to have that done. I have not been able to see it for the reason it had not been printed on last Tuesday.

Mr. SPARKMAN. Well, the gentleman will find it practically the same recommendation that was made by the board and chief engineer on the project which we adopted.

Mr. BARTLETT. I want to state I applied for it several times, and last Tuesday I went to the Chief Engineer's office and read it in manuscript, but it had not then been sent to the printer and had not been printed where it was accessible so as to be used. Would the gentleman be willing to have this put in the RECORD, or certain portions of it?

Mr. SPARKMAN. It is quite lengthy.

Mr. BARTLETT. I simply want to put in the RECORD the first three pages.

Mr. SPARKMAN. I have no objection to that.

Mr. BARTLETT. Will the gentleman include that in his remarks?

Mr. SPARKMAN. Mr. Chairman, I ask that the report of the Chief of Engineers transmitting a report of the Board of Engineers for Rivers and Harbors on the Altamaha, Oconee, and Ocmulgee Rivers, Ga., being Rivers and Harbors Committee Document No. 10, be printed in the RECORD as part of my remarks at this point.

The CHAIRMAN. The gentleman from Florida asks unanimous consent to print the matter mentioned in the RECORD as part of his remarks. Is there objection? [After a pause.] The Chair hears none.

The matter referred to is as follows:

[Committee on Rivers and Harbors, House of Representatives, United States. Document No. 10, Sixty-second Congress, third session.]

WAR DEPARTMENT,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, December 23, 1912.

Hon. S. M. SPARKMAN,
Chairman Committee on Rivers and Harbors,
United States House of Representatives.

SIR: (1) Acknowledging receipt of letter dated July 19, 1912, from the chairman of the Committee on Rivers and Harbors of the House of Representatives, transmitting resolution of the committee, dated July 10, 1912, relative to a reconsideration of the reports on examination and survey of Altamaha, Oconee, and Ocmulgee Rivers, Ga., printed in House Document No. 443, Sixty-second Congress, second session, there are transmitted herewith copies of reports dated October 11, 1912, by Col. Dan C. Kingman, Corps of Engineers, and December 16, 1912, by the Board of Engineers for Rivers and Harbors, in response thereto.

(2) I concur in the opinion expressed by the board that a change in the previous recommendation is not warranted or advisable at the present time.

Very respectfully,
W. H. BIXBY,
Chief of Engineers, United States Army.

WAR DEPARTMENT,
BOARD OF ENGINEERS FOR RIVERS AND HARBORS,
Washington, D. C., December 16, 1912.

From: The Board of Engineers for Rivers and Harbors.
To: The Chief of Engineers, United States Army.
Subject: Altamaha, Oconee, and Ocmulgee Rivers, Ga.

1. The board has the honor to submit its report in response to the following resolution:

"*Resolved by the Committee on Rivers and Harbors of the House of Representatives*, That the Board of Engineers for Rivers and Harbors created under section 3 of the river and harbor act approved June 13, 1902, be requested to reconsider report on preliminary examination and survey of Altamaha, Oconee, and Ocmulgee Rivers, Ga., printed in House Document No. 443, Sixty-second Congress, second session."

2. To assist in determining present conditions and any changes, physical or commercial, that have taken place since the date of the report referred to in the resolution the board requested and received a report covering these matters from the district officer, which is forwarded herewith. In addition to information thus secured, a hearing was given in the office of the board October 21, 1912, which was attended by Hon. W. G. BRANTLEY, M. C., Hon. D. M. HUGHES, M. C., the district officer, and a delegation of citizens from the principal towns on the rivers. Much interest in the subject was displayed, and a recommendation was urged for a definite project of larger scope than the existing one.

3. The present project was authorized by the river and harbor act of July 25, 1912, which adopted the plan of improvement recommended by the Chief of Engineers in the House document under consideration. This project, as stated in the annual report for 1912, provides for maintenance of 3-foot depth during ordinary summer low water up to Milledgeville and Macon, and to the gradual increase of channel depths, so far as practicable, without sacrificing the maintenance work. There seems to be some misapprehension as to the method of improvement that may be followed in securing the increased depths referred to. This has been interpreted by some to require a progressive deepening at each shoal in order to secure first a slight increase of depth throughout the entire length under improvement and then successive enlargements of the depths so obtained, thus involving frequent operations and largely increased cost for providing the ultimate depth at any locality. The board understands, however, that the project imposes no such limitation, but is intended to permit the radical treatment of any shoal in one operation so as to obtain such increased depth within the 4-foot limit as may be considered practicable and most advantageous whenever funds are available in excess of what is necessary for purposes of maintenance.

4. The district officer states that a depth of 3 feet is not sufficient to enable commerce to be carried 300 or 400 miles; that a boat can not carry enough freight to pay expenses; that the work done thus far has rather tended to permit light-draft boats to act as feeders to the railroads and has not yet led to the development of a through service.

5. In years past traffic was carried on many shallow streams for long distances because there were no other means of transportation. Since the advent of railroads the tendency has been to do what the district officer cites in this case—use light-draft navigation for short distances to connect with railroads and not compete with them on long hauls. The same argument would apply with a 4-foot depth as with a 3-foot depth, only to a less degree. When a depth of 4 feet is available, the demand is for 5 or 6 feet, usually the latter, it being claimed that the increase is necessary to bring about the desired results. What is now urged has been tried elsewhere with disappointing results. No instance is known where a stream having the characteristics of these rivers has been improved by open-channel methods such as are now proposed by the district officer so as to provide a continuous 4-foot navigation, and it is not believed that such a depth would be secured with the estimated expenditure. Moreover, experience elsewhere indicates that these streams should not be expected to develop a large and important commerce on a depth of 4 feet, even if such depth were feasible within reasonable limits of cost.

6. The board fully appreciates the great resources of the section of country through which these streams flow, as was ably brought out at the hearing, and it realizes that a commodious and continuously navigable waterway would be of great value to the community.

7. It is faced, however, with certain physical data relative to slope, discharge, and character of bottom and banks that must be given consideration, and when this is done it leads to the conclusion that it is not advisable to undertake to develop within specified lines a project depth of 4 feet on these streams, as it believes the cost, even if such project were feasible, would be out of reasonable proportion to the amount of commerce that would be benefited. The annual expenditure of $40,000 proposed by the board as being justified is sufficient to keep these rivers clear of snags and the worst obstructions and perhaps to increase the depth somewhat over the most obstructive shoals. This will provide for light-draft navigation at a cost fairly commensurate with the commerce involved, and such navigation is practically all that could be obtained except at prohibitive expense. The board therefore adheres to its former recommendation that such an annual appropriation be made for these streams, to be expended in securing and maintaining such depth as is practicable within the proposed limit of 4 feet.

For the board:

WM. T. ROSSELL,
Colonel, Corps of Engineers,
Senior Member of the Board.

Mr. BARTLETT. There is one more question I would like to ask the gentleman from Florida, if he will indulge me for a moment. That is, from the funds on hand from the unexpended balance of the last appropriation and the appropriation made in this bill of $40,000 there will be then for the purposes of this maintenance——

The CHAIRMAN. The time of the gentleman from Georgia has again expired.

Mr. BARTLETT. Mr. Chairman, I ask for two minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia? [After a pause.] The Chair hears none.

Mr. BARTLETT. There will be on hand, according to the report of the Chief of Engineers, for the maintenance of this project, $62,000. Am I correct?

Mr. SPARKMAN. I do not recall the figures, but there is a balance on hand——

Mr. BARTLETT. It was $22,377.33; and so with the present appropriation——

Mr. SPARKMAN. According to the last report there will be $102,000.

Mr. BARTLETT. That would be ample for all the present needs?

Mr. SPARKMAN. I should think so; certainly.

The CHAIRMAN. Without objection, the pro forma amendment of the gentleman from Georgia [Mr. BARTLETT] will be withdrawn, and the Clerk will read.

The Clerk read as follows:

Improving Coosa River, Georgia and Alabama: Completing construction of lock and dam at Mayos Bar, near Rome, Ga., $30,000; continuing improvement and for maintenance between Rome, Ga., and Dam No. 4, Alabama, $25,000; and completing construction of lock in Dam No. 4 and the construction of Dam No. 5, in the State of Alabama, $81,000; in all, $136,000.

Mr. MOORE of Pennsylvania. Will the gentleman from Florida [Mr. SPARKMAN] tell us whether this dam construction is for purposes of navigation or is it for purposes of water power?

Mr. SPARKMAN. It is a navigation proposition.

Mr. TAYLOR of Alabama. It has nothing to do with water power; but this improvement was made for a dam, and the report was made by the engineer before the question of water power was taken up.

The Clerk read as follows:

Improving St. Lucie Inlet, Fla., in accordance with the smaller project recommended by the Chief of Engineers in the report submitted in House Document No. 675, Sixty-second Congress, second session, $100,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, I move to strike out the last word. I notice there are about 25 items coming up from the State of Florida for rivers or streams which, I presume, are needing improvement. I want to ask the chairman of the committee if any of these streams are intended for purposes of drainage or to connect with the drainage system of the Everglades?

Mr. SPARKMAN. No.

Mr. MOORE of Pennsylvania. The State of Florida is taking care of the expense of the drainage system?

Mr. SPARKMAN. Yes.

Mr. MOORE of Pennsylvania. Of course, Florida is a waterways State and has a great many rivers, and I am very glad the committee has taken care of those rivers, and particularly of the inlet which we are considering at this time, but the improvement of none of these rivers contemplates any connection with the existing Florida State drainage canal system?

Mr. SPARKMAN. No.

The Clerk read as follows:

Improving St. Johns River, Fla.: Continuing improvement and for maintenance from Jacksonville to the ocean, $550,000; completing improvement and for maintenance from Jacksonville to Palatka, $19,600; completing improvement from Palatka to Lake Harney, $42,200; in all, $611,800.

Mr. MOORE of Pennsylvania. Mr. Chairman, I move to strike out the last word. Of what depth is this project—26 feet?

Mr. SPARKMAN. The one from Jacksonville to the ocean?

Mr. MOORE of Pennsylvania. Yes.

Mr. SPARKMAN. Thirty feet.

Mr. MOORE of Pennsylvania. Is the commerce of Jacksonville increasing constantly?

Mr. SPARKMAN. It is increasing quite rapidly.

Mr. MOORE of Pennsylvania. Is it not true an inland waterway is complete now from Jacksonville via St. Augustine and all the way down to Key West, a distance of 500 miles?

Mr. SPARKMAN. Practically so; yes.

Mr. MOORE of Pennsylvania. A small boat can traverse the entire distance inland without being in danger of storms outside?

Mr. SPARKMAN. Practically so, as I understand.

Mr. MOORE of Pennsylvania. There is only one railroad traversing the east coast of Florida?

Mr. SPARKMAN. Only one.

Mr. MOORE of Pennsylvania. And all the commerce, from Tampa to Key West, is bound to go over that road?

Mr. SPARKMAN. Yes; so far as railroad transportation is concerned. Tampa is, however, on the west side of Florida, while this railroad is on the east side.

Mr. MOORE of Pennsylvania. And there is no railway competition from Jacksonville south on the east coast of Florida?

Mr. SPARKMAN. There is none south; no.

Mr. MOORE of Pennsylvania. There is a continuous inland waterway that has been recently opened up between St. Augustine and Jacksonville, thus connecting with Key West, which, if improved, might furnish a means of transporting commerce?

Mr. SPARKMAN. That is an improved waterway belonging to private parties for a part of the distance.

Mr. MOORE of Pennsylvania. With capital put in there from the outside, some of it being foreign capital?

Mr. SPARKMAN. I will say further that there is a survey pending, I believe, for the entire distance.

Mr. MOORE of Pennsylvania. Can the gentleman tell me whether the city of Jacksonville extends on both sides of the St. Johns River?

Mr. SPARKMAN. The city, I believe, is entirely on one side. There is a small town on the south or east side.

Mr. MOORE of Pennsylvania. Ferryboats run across, do they?

Mr. SPARKMAN. Yes.

Mr. MOORE of Pennsylvania. Ferryboats run across from one city to the other, do they not?

Mr. SPARKMAN. Oh, yes.

Mr. MOORE of Pennsylvania. And the two sides of the city of Jacksonville represent but one authority? There is but one municipality?

Mr. SPARKMAN. I could not say as to that. Perhaps the gentleman is correct.

Mr. MOORE of Pennsylvania. In other words, the St. Johns River does bisect the city of Jacksonville?

Mr. SPARKMAN. No; I would not say that. It may be that the municipality of Jacksonville extends its jurisdiction to the other side, but I could not say positively, as I am not familiar with the limits of the city.

Mr. MOORE of Pennsylvania. Would not the mayor have jurisdiction on the other side?

Mr. SPARKMAN. If the city limits extend there, I fancy the jurisdiction of the mayor would extend there also; but I am not sure that the city limits extend to the south side.

Mr. MOORE of Pennsylvania. I think the gentleman understands what I am after.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Improving Black Warrior, Warrior, and Tombigbee Rivers, Ala.: Completing improvement from Mobile to Sanders Shoals on the Mulberry Fork and to Nichols Shoals on the Locust Fork of Black Warrior River by the construction of locks and dams, including the 63-foot dam at Lock No. 17, authorized by act of Congress approved August 22, 1911, $1,338,500.

Mr. MOORE of Pennsylvania. Mr. Chairman, I would like to ask the gentleman in charge of the bill whether this 63-foot dam is to be constructed for water-power purposes?

Mr. SPARKMAN. The gentleman from Alabama [Mr. TAYLOR] may answer that.

Mr. TAYLOR of Alabama. Mr. Chairman, that improvement that is under discussion now is the one that we thrashed out so thoroughly and in which we took such a prominent and active and useful part in 1911, when we adopted the project for the 63-foot channel. It does not now contemplate water power because it was thrown out in that act. It covers only navigation.

Mr. MOORE of Pennsylvania. The committee brings it in purely as a matter of navigation?

Mr. TAYLOR of Alabama. Yes; purely as a matter of navigation, except this, that under the act the engineers were required so to erect the dam that power would in time be furnished for future disposal if the Government saw proper to develop it in the future.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Improving harbor at Pascagoula, Miss.: For maintenance of improvement of channel at the mouths of Pascagoula and Dog Rivers, and for continuing improvements and extending said channel through Mississippi Sound and Horn Island Pass to the Gulf of Mexico in accordance with the report submitted in House Document No. 682, Sixty-second Congress, second session, and subject to the conditions set forth in said document, $110,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, a great deal of comment has been indulged in in this House from time to time about Raccoon Creek, and representatives of that section have been called upon to explain the commerce there, which they can very readily do. I would like to know something about the commerce on Dog River. Here is an appropriation of $110,000 to improve the harbor at Pascagoula, Miss., and also to fix up the mouth of the Dog River. If this is a matter of commerce and navigation, of course I have no objection to it. But I should like to know just what warrant there is for making an appropriation of $110,000 for this purpose at this time. Is it urgent, as we are told in the report, all of these paragraphs are?

Mr. HUMPHREYS of Mississippi. Mr. Chairman, Dog River is really a part of the harbor at Pascagoula. It simply marks the northern limits of it. But I yield to my colleague from Mississippi [Mr. HARRISON], who represents the Pascagoula section.

Mr. HARRISON of Mississippi. What is the gentleman's question?

Mr. MOORE of Pennsylvania. I was inquiring what there is of commerce on the Dog River, present or prospective.

Mr. HARRISON of Mississippi. Well, the commerce on the Dog River, or that part of it that together with Pascagoula River form the harbor at Pascagoula, last year was six and one-half million dollars. The commerce on the Leaf and Chick-

asawhay Rivers, which run into and form the Pascagoula River, was about $1,000,000 last year. On the Dog River proper, excepting that part embodied in this project, there is no commerce except in logs, but they approximate it at about a million dollars. This proposition here is a new project which the gentleman may be attacking——

Mr. MOORE of Pennsylvania. I am not attacking it. I am asking questions for information.

Mr. HARRISON of Mississippi. I am very glad to hear that. Have I given the gentleman the information he desires?

Mr. MOORE of Pennsylvania. I wanted to know about it because the appropriation is fixed at $110,000, and it is reported as being urgent. Raccoon Creek, which is the subject of critical comment, gets in this bill $13,000. The tonnage on Raccoon Creek was in excess of 58,000 last year. I wanted to know what the commerce of the Dog River was.

Mr. MANN. Mr. Chairman, may I ask the gentleman a question?

Mr. MOORE of Pennsylvania. Yes.

Mr. MANN. What would happen if Raccoon Creek and Dog River came into close proximity? [Laughter.]

Mr. MOORE of Pennsylvania. I am afraid Dog River would get the bulk of the appropriation. [Laughter.]

Mr. HARRISON of Mississippi. I want to say to the gentleman, if he will permit, that this is an urgent project. It was recommended by the Army Board of Engineers some time ago. It is to increase the depth of Pascagoula Harbor, which includes part of the Dog River, from 17 feet, its present depth, to a depth of 22 feet. The original estimate of the Army Board of Engineers for a 17-foot depth at Pascagoula Harbor was for approximately the amount that the 22-foot depth is going to cost.

In this connection I might say that the Army Board of Engineers and this Rivers and Harbors Committee have placed a condition upon this project that the people of this locality shall not only furnish public wharves at Moss Point and at Pascagoula that will cost approximately $50,000, but they are to put up $100,000 in addition thereto, notwithstanding the fact that the estimated cost of the project is only $383,000.

Mr. MOORE of Pennsylvania. Will the gentleman from Mississippi permit me to say that it is a great tribute to his ability as a Member of Congress and as a Representative of this district that he can take out of this bill $110,000 for Dog River when we can get only $13,000 for Raccoon Creek. [Laughter.]

Mr. HARRISON of Mississippi. Mr. Chairman, this $110,000 is not for Dog River, as I have stated. It is for the harbor at Pascagoula, that goes up Dog River only a part of the way. It is for the improvement of that great harbor that we hope in the course of time to rival the magnificent harbor in the gentleman's city of Philadelphia.

Mr. DAVIDSON. This is for only a part of the Dog. [Laughter.]

The Clerk read as follows:

Removing the water hyacinth, Florida, Mississippi, Louisiana, and Texas: For the removal of the water hyacinth from the navigable waters in the States of Mississippi, Louisiana, and Texas, so far as it is or may become an obstruction to navigation, $15,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, I reserve a point of order on that paragraph.

Mr. YOUNG of Michigan. Will the gentleman make it?

Mr. MOORE of Pennsylvania. I will make it. I was perfectly willing to reserve it in order to have the item explained. If the chairman of the committee does not care to explain the item, I will make the point of order.

Mr. SPARKMAN. If the gentleman from Pennsylvania is going to make the point of order, I hope he will make it now.

Mr. MOORE of Pennsylvania. I think it is subject to the point of order.

The CHAIRMAN. What is the gentleman's point of order?

Mr. HARRISON of Mississippi. I hope the gentleman will reserve it.

Mr. MOORE of Pennsylvania. I shall be very glad to reserve it.

Mr. SPARKMAN. What is the point of order?

Mr. MOORE of Pennsylvania. I reserve the point, in order that the gentleman may explain the item.

Mr. SPARKMAN. This is an item that has been carried in this bill for several years—I do not remember just how long. Some years ago it was ascertained that the water hyacinth in many of the navigable rivers of Florida, Mississippi, Louisiana, and Texas had become a serious obstruction to navigation in those streams, and in one of the river and harbor bills—perhaps in that of 1902—Congress began the appropriations for the removal of this obstruction, and we have continued to carry them in the bills from that time until now. I think every bill since then has had an item for that purpose in it. I will say, further, for the benefit of the gentleman, that while great headway has been made in relieving the rivers from this pest, there is a great deal yet to be done. In fact, I do not know that we will ever see the time when the water hyacinth will disappear entirely from these southern streams. Perhaps some more effective method of destruction will be found, but at present I can see no end to the necessity for these appropriations.

Mr. MOORE of Pennsylvania. Mr. Chairman, I contend that there is no law warranting this appropriation. The gentleman states that it has grown up as a matter of custom, and has been carried in this bill for years. It can not be regarded as the continuation of a work in the course of construction, on which many rulings have been made in this House. I cite for the benefit of the Chair that paragraph of the Manual to be found in section 820. It has been held frequently by chairmen since then that by public works or objects already in progress, under the Holman rule, are meant tangible matters like buildings, roads, and so forth, and not the duties of officials in executive departments, or the continuance of a work indefinite as to completion and intangible in nature, like the gauging of streams.

I think the Chair is familiar with a variety of rulings that have confirmed this proposition.

The CHAIRMAN. What does the gentleman say as to the proposition that the general law authorizes appropriations to remove obstructions to navigation?

Mr. LAWRENCE. Mr. Chairman, I would like to ask the gentleman from Pennsylvania a question.

Mr. MOORE of Pennsylvania. I will yield.

Mr. LAWRENCE. I would like to ask the gentleman if he is opposed to this on the ground that it is legislation on an appropriation bill?

Mr. MOORE of Pennsylvania. On that ground and on the other ground that it is not a continuation of a public work.

Mr. LAWRENCE. Let me call the gentleman's attention to the fact that the rivers and harbors bill is not considered to be a general appropriation bill, and that legislation, as a matter of fact, is in order upon it. Of course, the Chair is familiar with that fact. The engineers have certified that vegetation is an obstruction to navigation, and in providing for it we are providing for the removal of obstructions to navigation, which is clearly within the jurisdiction of the committee.

Mr. BARTLETT. I call the attention of the Chair to this decision, that "the river and harbor bill is not one of the general appropriation bills and is not subject to their restrictions as to legislation."

The CHAIRMAN. The point of order is not well taken, and the Chair overrules it. The Clerk will read.

The Clerk read as follows:

Improving Bayou Teche, La.: Completing improvement and for maintenance, $40,000.

Mr. RANSDELL of Louisiana. Mr. Chairman, I offer the following committee amendment, to be introduced as an additional paragraph.

The Clerk read as follows:

On page 25, between lines 10 and 11, insert the following:
"Improving Bayou Terrebonne, La.: The proviso in the river and harbor act approved July 25, 1912, for improving Bayou Terrebonne, La., be, and the same is hereby, amended to read as follows: '*Provided*, That no expense shall be incurred by the United States for acquiring any land required for the purpose of this improvement.'"

The amendment was agreed to.

The Clerk read as follows:

Improving Brazos River, Tex.: Continuing improvement from Old Washington to Waco by the construction of locks and dams heretofore authorized and commencing the construction of two additional locks and dams, $250,000; continuing improvement and for maintenance by open-channel work from Velasco to Old Washington, $25,000; in all, $275,000.

Mr. FOSTER. Mr. Chairman, I move to strike out the last word. I would like to ask the chairman of the committee if the sum appropriated for the improvement of the Brazos River is expected to be used within the next year?

Mr. SPARKMAN. Yes; that is the expectation. In fact, I think that if the engineers were asked about it they would say that they could expend more money this year.

Mr. FOSTER. Have not they got more money there now than they can take care of in the building of the dam?

Mr. SPARKMAN. No. Last June there were $237,000 on hand, but I fancy some of that has been expended since then.

Mr. BURGESS. I will say to the gentleman that this is the estimate made by the Board of Engineers of the amount that is necessary and required before the ensuing year has expired.

Mr. FOSTER. What is the $25,000 for maintenance by open-channel work?

Mr. BURGESS. That is the open-channel work carried in all river and harbor bills, removal of snags, and so forth.

Mr. FOSTER. Improving the mouth of the Brazos River?

Mr. BURGESS. That is the maintenance of the harbor.
Mr. FOSTER. How much commerce is there there now?
Mr. BURGESS. There is not much now.
Mr. FOSTER. Is there likely to be much when they get through?
Mr. BURGESS. I think so, undoubtedly.
Mr. FOSTER. How much commerce passes over it in a year?
Mr. BURGESS. Very little passes over it, for the want of the completion of the locks and dams.
Mr. EDWARDS. It is in such shape that commerce can not now pass over it.
Mr. FOSTER. Does the gentleman think it ever will?
Mr. EDWARDS. Oh, yes; there are great opportunities there.
Mr. BURGESS. Undoubtedly.
Mr. FOSTER. Is this a better proposition than Trinity River in Texas in reference to navigation?
Mr. SPARKMAN. Probably the gentleman from Texas would not like to answer that question.
Mr. FOSTER. Then I will withdraw the question. But I would say that if it was not better than Trinity River it would not amount to much and would be money thrown away.
Mr. SPARKMAN. I think the two rivers are on a par as to importance.
Mr. FOSTER. Then I would not think much of any of it.
Mr. SPARKMAN. I differ with the gentleman about that. I know there has been some criticism as to these rivers and the scheme of improvement; especially is it true with regard to Trinity River. I have never concurred in those criticisms. I have studied the situation and have been somewhat impressed with the possibilities of developing a large commerce on each stream.

I should be very much deceived if the future does not bear out that opinion of mine. Both of those rivers flow through a very fertile section of country. They extend up into the interior quite a distance. I can not see myself why, when the lock and dam system is completed——

Mr. FOSTER. Mr. Chairman, I should like to get the opinion of the gentleman from Florida whether the Brazos River, in Texas, has about the same commercial importance as the Trinity River, in Texas. I think he stated a moment ago that that was his opinion. I want to get it now, so that it will be understood that that is the case.
Mr. SPARKMAN. Is that the question?
Mr. FOSTER. Yes.
The CHAIRMAN. The time of the gentleman from Illinois has expired.
Mr. FOSTER. Mr. Chairman, I ask unanimous consent to proceed for one minute.
The CHAIRMAN. Is there objection?
There was no objection.
Mr. SPARKMAN. Does the gentleman insist upon an answer?
Mr. FOSTER. Yes; that they are of about the same commercial importance.
Mr. SPARKMAN. I think so. That is my judgment.
Mr. FOSTER. I do not believe there is anyone in the House who would seriously contend that all of the money that we have expended on the Trinity River has been of any very great practical benefit to commerce, and if that is also true of the Brazos River, then what we are expending on these two rivers is so much money thrown away.
Mr. EDWARDS. But does the gentleman take into consideration the fact that the Trinity, like the Brazos, has not yet been completed; that the improvements have not gone far enough to develop whether a commerce can be developed there?
Mr. FOSTER. I would state that the Trinity River has been under improvement for a great many years. I think it was stated at one time that we are in the process of drilling wells down there to pump water so as to make the Trinity River navigable. I do not know whether that is true or not, but I am trying to get some information about those rivers down there for which Congress is asked to appropriate money each year. If one is not of very much more importance than the other, then neither is of very great importance.
Mr. SIMS. Does the gentleman think that lack of water in a river is a detriment to its improvement?
Mr. FOSTER. Of course I do not, but there ought to be some chance for improvement.
Mr. MOORE of Pennsylvania. Mr. Chairman, I move to strike out the last two words. I think I can say to the gentleman from Illinois [Mr. FOSTER], having made some investigation of this matter—and I think this will be supported by the gentleman from Florida [Mr. SPARKMAN] and the gentleman from Texas [Mr. BURGESS]—there is no commerce of any consequence upon either the Brazos or the Trinity River. Each is about 500 miles long, and the project contemplates that in certain seasons of the year there will be a possible depth of 4 feet of water.
Mr. FOSTER. May I ask the gentleman if that is at a certain season when they have more rain than at another season that they will have a channel of 4 feet?
Mr. MOORE of Pennsylvania. At certain seasons of the year they have more water than at other seasons of the year.
Mr. FOSTER. And it is during the flood season that they have a 4-foot channel?
Mr. MOORE of Pennsylvania. I think there is something in that.
Mr. SPARKMAN. Mr. Chairman, I would say to the gentleman that the project depth of the Trinity River is 6 feet.
Mr. MOORE of Pennsylvania. And of the Brazos 4?
Mr. SPARKMAN. I believe that is correct.
Mr. MOORE of Pennsylvania. Mr. Chairman, I want to repeat what I have said on one or two occasions, that I think the Member of Congress who works as assiduously for his district and for the people he represents as do some of the members of the Committee on Rivers and Harbors is entitled to very great praise on the part of those whom he represents, and I know of no man in Congress who has done so much for his people and is so much entitled to their thanks as the gentleman from Texas [Mr. BURGESS]. In the matter of the Trinity and Brazos Rivers, it does not appear that we are making these improvements, running up into millions of dollars as the projects read, solely for the purposes of navigation. It does appear that we are building locks and dams to create water as we go along. We are creating pools, as it were, and thus establishing the basis for that ultimate commerce and navigation which is expected in the course of time. The projects indicate that up to the present time those who have been employed in making improvements on these streams have been engaged very largely in digging out the logs that obstruct the boats, in cutting the branches of overhanging trees, in removing snags (and that is a very large and important part of the work), and I have no objection to it, because it helps to irrigate the country, and perhaps it is important in the way of sanitation and assists in the reclaiming of the very fertile lands that border these streams. The only point I am making is this, that if the gentleman from Texas [Mr. BURGESS] and the other members of the committee are to receive large appropriations which their constituents demand that they shall get for the purpose of removing snags and cutting down the limbs of trees that hang over the streams that interfere with the bateaux that come and go, then when the question of commerce and navigation is really under consideration they ought to give cheerful thought to the need of commerce where it exists.

Now, I am not going to oppose the paragraph. You will see this is a very large appropriation; in the instance of the Brazos it is $275,000 for the next year, a sum which will be used not only for the removal of the snags but to pay the storage of some materials that are needed for the construction of locks and dams when the time shall come for the construction of locks and dams. Of course, we have everything on the ground and are prepared to proceed with this work of construction. I am not opposing that, but I am drawing the attention of these influential gentlemen upon this highly influential committee to the fact that there are real live commercial projects in the country that are being held back and that commerce itself is being delayed, and that the railroad companies are continuing their monopoly upon transportation while these gentlemen are spending money in accordance with the wishes of their constituents upon these minor streams.
Mr. HUMPHREYS of Mississippi. Will the gentleman yield?
Mr. MOORE of Pennsylvania. Certainly.
Mr. HUMPRHEYS of Mississippi. The Trinity River, for instance, and the Brazos both have as much commerce upon them now as the Panama Canal, have they not?
Mr. MOORE of Pennsylvania. Oh, yes; because the Panama Canal is not open.
Mr. HUMPHREYS of Mississippi. Exactly, and for the same reason these rivers are not open.
Mr. MOORE of Pennsylvania. That is true.
The CHAIRMAN. The time of the gentleman has expired.
Mr. BURGESS. Mr. Chairman, I am very much obliged to the gentleman from Pennsylvania [Mr. MOORE] for the tribute he paid me for looking after the interests of my people, but I think he overdraws the picture. The Brazos and Trinity Rivers were on the books of the Rivers and Harbors Committee when I became a member of the committee 10 years ago and I have been struggling along to bring them somewhere near completion. They are not yet anywhere near completion, and at the

rate we are going it will be 15 years before they are completed. The facts about both of those rivers are these: They both extend north from the Gulf into the heart of as good a country as the United States possesses. Thousands of bales of cotton are raised on both sides of both rivers and so are other products. The railroads traverse that country. But we are in the worst state in Texas of any State in the Union on the question of rates, and the improvement of both of these rivers will do more than anything this Congress can do to relieve that situation. Now the Trinity River before I came to Congress was on the books. There was talk made and it was believed by a great many people that there was not water enough in section 1—that is, the Dallas section—to make a canalization of the river. When I came on the committee I found a serious contention about that matter. Mr. BURTON was in doubt about it. I said, "Well, we are pursuing the policy of improving rivers generally from the mouth up, and I think that is right," but I suggested with reference to the Trinity River that we ought to make an exception of that matter as we have with the improvement of the Ohio. We have spent more on the improvement of the Ohio River 23 miles below Pittsburgh than in all the 800 other miles of that river. Why? Because there is where commerce originates; there is where commerce is to be benefited; and so with the Trinity River, reaching 500 miles through a rich territory to Dallas, a great distributing center of agricultural machinery and everything of that sort. It is the greatest distributing center of agricultural machinery in the world, I will say in passing, but the freight rates are enormous, and to develop that river down to the sea will bring an immense benefit to all this country.

Mr. BURTON finally agreed to begin to improve the Trinity River in section 1. Now we have not quite got section 1 improved, but we have got enough improved to forever shut the mouths of those who talked about "wells for water." There is water enough and to spare to canalize the river. That has been demonstrated by what work has been accomplished; and I tell you now that if we go on in this work it will be one of the best investments that the River and Harbor Committee makes. I am disposed to repel the compliment the gentleman paid me; I am disposed to say I do not believe Texas has got enough money to improve these rivers; I believe other rivers have gotten more than my rivers have. There are other rivers in the country; the Brazos is not the only river, the Trinity is not the only river, but we have to do the best we can and that is what I have tried to do.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONDELL. Mr. Chairman, I think it was rather unkind for the gentleman from Illinois to compare the Brazos with the Trinity.

The Trinity River enjoys the unique distinction as the stream with regard to which the Army engineers reported that it would aid largely in making it navigable if a large number of artesian wells were sunk near the head of the stream. Now, no such report has been made as that of the noble Brazos, though it has been suggested, and there is no doubt but that there is much sound sense in the suggestion, that it would be infinitely cheaper to macadamize the Brazos than to canalize it, which is the term, I believe, used by the gentleman from Texas. He encourages us, however, to believe that we may some day be able to complete the work now contemplated on this stream, innocent as yet of any navigation whatever or of any seeming disposition on the part of the people in the locality to use it. He says, however, that it will require 15 years at the present rate of progress to canalize the Brazos, and, taking the gentleman's own figures, $4,130,000 must be spent in addition to the one or two million of dollars which we have already placed on this noble stream or sunk in its infrequent pools before we have reached a point where the Brazos might have water enough in the channels between the numerous locks to float a flatboat, provided anyone desired so to do.

Mr. EDWARDS. Will the gentleman yield for a question?

Mr. MONDELL. I will be glad to do so.

Mr. EDWARDS. The gentleman seems to be so thoroughly familiar with this stream——

Mr. MONDELL. Everybody knows about the Brazos.

Mr. EDWARDS (continuing). But I would like to know something of these artesian wells to which he has referred, that have been sunk.

Mr. MONDELL. I was told yesterday the committee always followed the report of the engineers, and I want to ask the gentleman if they have followed the report and recommendation of the engineers in that matter of artesian wells for watering the noble Trinity.

Mr. EDWARDS. We considered that, as we frequently consider the gentleman from Wyoming, as somewhat of a joke on rivers and harbors matters, and did not follow it out.

Mr. MONDELL. Of course, if the Army engineers are given to joking in regard to these matters, that explains many of the jokes perpetrated on the American people in appropriations like this, for the purpose of digging out snags, cutting down the overhanging cypress, felling the weeping willow that hangs over the bank, and making an earnest endeavor by the expenditure of large sums of money to bring the water from the numerous pools at intervals along in the streams, trickling across the dry stretches that intervene.

This is a noble work. It is worthy of a great committee. More than all, it is monumental of the energy and of the influence of the gentleman from Texas [Mr. BURGESS], a member of this committee. How unfortunate it will be for the Brazos and for the Trinity should the time ever come that those noble highways of commerce will fail to have a representative upon this committee.

Mr. EDWARDS. Will the gentleman yield?

The CHAIRMAN. Does the gentleman from Wyoming yield to the gentleman from Georgia?

Mr. MONDELL. I will be glad to yield.

Mr. EDWARDS. The gentleman from Wyoming [Mr. MONDELL] recognizes that ex-Chairman BURTON, of Ohio, is an excellent authority on waterways, does he not?

Mr. MONDELL. I think so.

Mr. EDWARDS. Does the gentleman not know that this item went on the bill when Mr. BURTON was chairman of the Rivers and Harbors Committee of the House, and has been voted under Republican administrations since then?

Mr. MONDELL. I do not think it went on while Mr. BURTON was chairman, because the gentleman from Texas [Mr. BURGESS] has just informed us they began to do business on the Brazos away yonder before BURTON came here. But I do know that even so great a man——

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. MONDELL. Mr. Chairman, I ask unanimous consent that I may have five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SPARKMAN. What is before the House?

The CHAIRMAN. The gentleman from Wyoming has just received an extension of five minutes. The question before the House is the motion of the gentleman from Wyoming, to strike out the last two words.

Mr. MOORE of Pennsylvania. Will the gentleman yield to one question?

Mr. MONDELL. I will.

Mr. MOORE of Pennsylvania. He does not think the business of the Brazos and Trinity originated with Mr. BURTON without the assistance of the present Representative?

Mr. MONDELL. No one would suggest that, because that would take all the credit from the gentleman who represents the district. Mr. BURTON is an honorable man and a conscientious gentleman, but, like all that have had to do with rivers and harbors appropriations, he has felt the compelling force of the aggregations of influences in and out of Congress under which a river and harbor bill is finally put together.

Mr. BURGESS. What I said was, that the present improvement of the Trinity River was under Mr. BURTON's administration when he was chairman of the committee.

Mr. MONDELL. Oh, the present improvement, the gentleman tells us——

Mr. BURGESS. And he agreed to it——

Mr. MONDELL (continuing). Went on while Mr. BURTON was there, and Mr. BURTON often confessed, and for the good of his soul, on the floor of this House that he did not approve all the items in the bill.

Mr. BURGESS. I never heard him confess that.

Mr. MONDELL. The Brazos and the Trinity are perhaps the most illuminating examples of how gentlemen, members of the Committee on Rivers and Harbors, may find a necessity, a compelling demand, for the expenditure of public money in the pulling of stumps, in the cutting down of overhanging trees, in the removal of dry and sun-baked sandbars, which occur along what are, in times of flood, the channels of so-called streams. Of course no one expects that up to the crack of doom there will ever be business enough go down the Trinity and the Brazos to in any way repay any portion of the moneys which have been expended on them.

But while that is true, and while that is known to be true by all who have ever investigated the matter, I am again reminded that no such trivial and inconsequential things as facts can in any way influence any item in this carefully prepared, properly proportioned, and perfectly buttressed piece of legislation. [Laughter.]

Mr. EDWARDS. Facts apply only to irrigation and pasturage propositions in Wyoming. [Laughter.]

Mr. MONDELL. No one ever suggests the impropriety of spending millions of the people's money for the purpose of keeping some gentleman's constituents employed and happy but that some one rises up and suggests that we ought not to use money secured not by taxation but by sale of lands for the purpose of building works the cost of which is returned by the people who are ultimately to purchase and own them; and if the gentlemen can not see the difference between the two propositions, I am sorry for them. [Cries of "Read!" "Read!"]

The CHAIRMAN. The time of the gentleman has expired. Without objection, the pro forma amendment will be withdrawn.

There was no objection.

[Mr. BEALL of Texas addressed the committee. See Appendix.]

Mr. MONDELL. Mr. Chairman, the gentleman from Texas [Mr. BEALL] prefaced his remarks with the statement that it was very apparent that the gentleman from Wyoming could not be expected to support appropriations for rivers and harbors.

Of course, the gentleman from Texas I do not expect will keep track of my legislative activities or keep himself informed in regard to matters I have supported. I have served here nearly eight terms. During that time I have voted for every river and harbor bill save one that has passed either on a roll call or by viva voce vote, if I was here. I have often done so, however, with much mental reservation. I have done so because I believe in legitimate river and harbor work, and not because I was enamored of every item in the bills. I shall vote for this bill, but with regret as to many items.

During the time I have been a member of this House we have appropriated $452,384,782.11 for river and harbor improvement. The good State of Texas has participated in these appropriations to the extent of $24,302,529.60. One harbor alone in that imperial Commonwealth has had from the Treasury, of the money collected from the people, over $10,000,000. I have voted for all the bills carrying these appropriations; yet the gentleman from Texas suggests that the gentleman from Wyoming can be depended upon to oppose river and harbor appropriations.

Because I do believe in river and harbor appropriations, because I am in favor of liberal river and harbor appropriations, because those people whom I have the honor to represent favor river and harbor appropriations, I shall expect to support river and harbor bills in the future as in the past; and yet every man who has served in this House who took the trouble to inquire knows that many appropriations for rivers and harbors in the past have had no justification whatever from any standpoint; that millions of dollars of the public money have been wasted; that many improvements have been undertaken where there was neither present nor prospective commerce. There has been an improvement in this regard in the past few years. It is not so long ago that the river and harbor bill smelled so strong, its stench so rose to heaven, that for a time there was a question as to whether the people of the country generally would not be inclined to disregard the demands that were made for appropriations of this character, except for the great seaports of the Nation. Then came something of a reform. Gentlemen all know when it came and how it came. A man was placed at the head of the committee who had knowledge and courage, and, so far as it was possible for him to do it, aided by his colleagues, he brought about a better condition.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. MONDELL. Mr. Chairman, I ask unanimous consent to proceed for 10 minutes.

Mr. SPARKMAN. Mr. Chairman, we must make some headway. I dislike very much to object to these extensions.

Mr. MONDELL. I trust I may have as much time as the gentleman from Texas [Mr. BEALL] had.

Mr. SPARKMAN. I should like very much to accommodate the gentleman.

Mr. MONDELL. I will say to the gentleman that I can get the time later, but I prefer to have it now.

Mr. SPARKMAN. We must get through.

The CHAIRMAN. Does the gentleman from Florida object?

Mr. SPARKMAN. I shall not object now, but I give notice at this time that I am going to try to induce the Chairman to hold each gentleman down to the subject matter when he moves to strike out the last word.

The CHAIRMAN. The gentleman from Wyoming is recognized for 10 minutes.

Mr. MONDELL. Mr. Chairman, better conditions came. Many items that had long been carried by sufferance and toleration were stricken from the bill, and many others that should have been stricken from the bill were not so stricken. I shall not say that either the Brazos or the Trinity River should have been permanently eliminated. I do not claim that detail of information for which the genial gentleman from Texas [Mr. BEALL] gives me credit, but one does not have to be well informed upon this subject to know these streams. They have been discussed so much and their extraordinary character is so widely known that one who does not know about them is ignorant indeed.

The Constitution gives the Federal Government control over rivers and harbors, and the people of the United States long since embarked upon the policy of improving our great harbors and our great rivers. I am now and always have been and always expect to be in harmony with that work. I stand ready to vote at any time all the money that may be needed for the purpose of making available to the commerce of our country and the world the great rivers and harbors of the Nation; that is a national work. I go further than that. I do not object to that policy which we have inaugurated, entered upon, and pursued—though the gentlemen who are supporting this bill largely refuse to acknowledge it—of spending the money of the people for purely local purposes, for local transportation, with a view to affording water transportation for small communities; and while I doubt constitutional authority for that, we long since adopted the policy, and far be it from me to say that we shall absolutely discontinue it.

But while we are possibly justified in doing that for the benefit of local communities, I do think that this committee ought to see to it that when such expenditures are made they are so made that there is some hope that at some time there will be sufficient commerce to in some small way repay the enormous expenditure. My opinion is—and it is my opinion only, and it is no better than the opinion of any other gentleman here—that there never will come a time when there will be commerce enough on the Brazos or the Trinity Rivers to warrant the enormous expenditure heretofore made and contemplated for the future. This is a great country. In other localities of the country there are streams the improvement of which would afford local opportunities for transportation. They are largely overlooked because, perchance, we began our improvements on these streams, and, perchance, the gentlemen who happened to represent those particular districts are active, forceful, making a specialty, a profession, if you please, of securing river and harbor improvements.

Mr. TAGGART. Mr. Chairman, will the gentleman yield?

Mr. MONDELL. In a moment. The gentleman from Texas [Mr. BEALL] talked about the high freight rates, the monopoly under which they are suffering. Mr. Chairman, I have always given the great State of Texas credit for being, of all the Commonwealths of the Union, the one which had more completely than any other solved the problem of reducing its great railway corporations to a condition of proper service of the people at reasonable rates.

Mr. HUMPHREYS of Mississippi. Will the gentleman yield?

Mr. MONDELL. In just a moment. Out in the country in which I live we have some streams which might be dredged to 4 feet. Why, we have streams that have 4 feet of water without any dredging, and we might ask the Federal Government to make them navigable. We are dependent on the railroads. We must protect ourselves against high rates, and yet we do not expect that the Federal Government shall furnish us with transportation from one end of our Commonwealth to the other, and least of all would we base a request or demand for such assistance on the plea that we have not the courage or the ability to control our own railway corporations.

Mr. HUMPHREYS of Mississippi. Will the gentleman yield?

Mr. MONDELL. I will be glad to do so.

Mr. HUMPHREYS of Mississippi. The gentleman understands that the shipment of cotton referred to by the gentleman from Texas is on through bills of lading from Texas points either to European points or from Texas points to the East; does the gentleman think that the railway commission of Texas has the right to fix those rates or regulate them?

Mr. MONDELL. We have an Interstate Commerce Commission.

Mr. HUMPHREYS of Mississippi. Yes; but the gentleman criticizes the State of Texas for its failure to regulate these railroads. Does the gentleman believe, under the Constitution, that the State of Texas has the power?

Mr. MONDELL. That is only one small feature of this proposition; in fact, there is little commerce of any kind——

Mr. HUMPHREYS of Mississippi. But that is one feature of the criticism made by the gentleman from Wyoming.

Mr. MONDELL (continuing). Over the swelling bosom of the Brazos.

Mr. HUMPHREYS of Mississippi. Is that the only answer the gentleman has to my question?

Mr. MONDELL. What?

Mr. HUMPHREYS of Mississippi. The one the gentleman has just made to the question, that the State of Texas was a proper subject of the criticism aimed at it because the railroad commission of Texas failed to regulate interstate rates.

Mr. MONDELL. I have not criticized the State of Texas; I have defended the State of Texas against the gentleman who preceded me. I believe Texas and its people can and will and measurably do protect themselves in all these matters; and it amazes me greatly that the gentleman from Texas was pleading for the expenditure of Federal money to canalize streams that ought to be macadamized [laughter], on the theory that Texas can not protect herself from her railroads——

The CHAIRMAN. The time of the gentleman has expired. [Cries of "Read"!]

The Clerk read as follows:

Improving Trinity River, Tex.: Continuing improvement with a view to obtaining a depth of 6 feet between the mouth and Dallas by the construction of locks and dams heretofore authorized and commencing the construction of two additional locks and dams, $255,000; continuing improvement and for maintenance by open-channel work, $15,000; in all, $270,000.

Mr. TAYLOR of Colorado. Mr. Chairman, I move to strike out the last word. Mr. Chairman, I have always been in favor of improving every portion of the United States. I believe that every Member of this House ought to be broad enough to legislate for the entire country and be broad minded and patriotic enough to be pleased with the development of every portion of this great country. This is the first time during the four years that I have been a Member of this House that I have said a word on the river and harbor bill. But it does seem to me, in view of the colloquy between the gentleman from Wyoming [Mr. MONDELL] and these gentlemen from Texas, that it is appropriate at this time to call the attention of the gentlemen from Texas to the fact that it does appear to us of the West that their magnanimity and patriotism hardly reaches out as broadly over this country of ours as it should. When we of the West, representing the new States struggling for development, with a representation of only about 5 per cent of the membership on the floor of this House; when we are outrageously hindered and wrongfully retarded in our development by the action of this Government in withdrawing and hermetically sealing up hundreds of millions of acres of public land that ought to be open to settlement, thereby driving hundreds of thousands of our best people to Canada for homes; when Canada is pursuing a sane and common-sense public-land policy and is tremendously prosperous; and when we of the West, who can never get a dollar or any direct benefit from all these hundreds of millions of dollars appropriated out of the Treasury for alleged rivers and harbors, come before this House, as we did this morning, and ask that we be allowed merely to use, not one dollar out of the Government Treasury, but to use some of our own money toward improving the struggling municipalities established by the Government upon several of the reclamation projects, to help people get homes out there, the gentleman from Texas [Mr. SMITH] leads the fight against us, and the other gentleman from Texas [Mr. GARNER], the deputy whip on this side, as I understand, stationed himself and others at the door and warned the Democratic Members as they came in to vote against this measure, it does seem to me that it comes with ill grace when we always loyally support your measures that you should be so exceedingly hostile and almost vicious in your opposition to our efforts to secure an absolutely honest and sorely needed development in the Western States. I feel that when we assist you gentlemen of all the coast States, but especially of the South, as loyally as we do, and when we are asking nothing from Uncle Sam but merely to be allowed temporarily to use a small part of our own money and then return it back into the Treasury after we have used it for this development purpose, it does look to me as though the public spirit of some of the Members of this House does not reach very far into the interior of the country. The patriotic spirit of national development does not seem with some of you gentlemen to reach even as far north as Mason and Dixon's line, and with others it appears never to reach beyond the Missouri River. There is no portion of this grand Republic that is nearer to us of the West than you people of the South, and especially the inhabitants of Texas. We are proud of your splendid empire State. But your actions to-day certainly warrant me in calling your attention in a friendly way to your utter lack of what we believe to be fair treatment to the people we represent on the floor of this House. [Applause.]

The Clerk read as follows:

Improving Ouachita River, Ark. and La.: Continuing improvement by the construction of Lock and Dam No. 3, $175,000; for maintenance of improvement by open-channel work up to Camden, $25,000, and from Camden to Arkadelphia, $2,500; in all, $202,500.

Mr. MOORE of Pennsylvania. Mr. Chairman, I would like to ask the chairman of the Committee on Rivers and Harbors if there has been any adverse reports on this project?

Mr. SPARKMAN. I could not state just now that there never had been any adverse reports, but certainly not on this particular project, or it it would not be in here.

The Clerk read as follows:

Improving Arkansas River, Ark.: For maintenance of improvement, including works at Pine Bluff and the operation of dredging plant, $48,000.

Mr. DAVENPORT. Mr. Chairman, I desire to offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Oklahoma offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amend line 17, page 29, by adding the words "and Oklahoma," and after the word "Arkansas" and before the colon, so that the paragraph will read, "Improving the Arkansas River, Ark. and Okla."

Mr. SPARKMAN. I hope that amendment will not prevail. I am not certain that we authorized any project for that, but if there is a project for the river above there it can be taken care of under this item. I may say I believe there is a project above there. In fact, I was so informed from the office of the Chief of Engineers, as I recall, but there may be some doubt. The point I make is that it is either unnecessary, or else it ought not to be done. If there is a project covering that stretch of the river the amendment is unnecessary, because the engineers will take care of the work. In other words, they will spend a portion of this appropriation for the purpose desired by the gentleman. If there is no project for it, then it ought not to be done until there is one.

Mr. DAVENPORT. I would like to ask the gentleman what harm could result from the words being added, if he has no objections to it?

Mr. SPARKMAN. As I said a moment ago, Mr. Chairman, a great deal of harm can result from it if there is no project for it. We had this matter before the committee, and it was thought best to leave it for the present where it is.

The way to reach it, if there is any doubt, is to order a survey in the bill so as to remove all doubt.

Mr. DAVENPORT. Will the gentleman yield?

Mr. SPARKMAN. Certainly.

Mr. DAVENPORT. I will ask the gentleman from Florida if it is a fact that the Chief of Engineers in Part I of his report, on page 783, at the bottom, does not say that by the act of February 27, 1911, the project to improve the Arkansas River, as far as Fort Smith, and improve the Arkansas River to Tulsa, Okla., have not been consolidated and merged into one project?

If the gentleman had left that word "Arkansas" out, I would not have objected. As it is, the word "Arkansas" without "Oklahoma" excludes that part of the project between Fort Smith and Tulsa, Okla.

Mr. LAWRENCE. I would like to ask the gentleman from Oklahoma if the project, on which we are now at work, does not cover an extent of 461 miles, and does not extend into the State of Oklahoma? Is not that the project that is recognized in the books, on which we are at work?

Mr. DAVENPORT. The project is recognized, but your words are definitive, and——

Mr. LAWRENCE. I understand that, but going under the report of the engineers the improvement covers an extent of 461 miles and does cover a part of the river in Oklahoma.

Mr. DAVENPORT. I do not so understand there is anything of the kind in the engineer's report. He says there are 375 miles in Arkansas and 340 miles in Oklahoma, according to his report here, and there are 157 miles of the part that is in Oklahoma that are navigable.

Mr. SPARKMAN. The project we have, Mr. Chairman, seems to go up as high as navigation. The act of 1902 merged those two into one, which makes the general existing project in substance: "The improvement of the river from its mouth to the head of navigation by snagging operations, by dredging operations, and by contraction work, holding the improved channel by revetment when necessary."

Now, if the head of navigation carries it to the point to which the gentleman's amendment would carry it——

The CHAIRMAN. The time of the gentleman has expired.

Mr. DAVENPORT. I would ask the Chairman not to take out of my time the time used by the chairman of the committee.

Mr. SPARKMAN. Mr. Chairman, did the Chair state my time had expired?

The CHAIRMAN. Yes; according to the record kept by the timekeeper, the gentleman's time has expired.

Mr. DAVENPORT. Mr. Chairman, I want it to be understood that I would not have presented my amendment if the gentleman had not inserted the word "Arkansas." That is the ground upon which I rely in support of my amendment.

Mr. SPARKMAN. Mr. Chairman, I ask unanimous consent to be allowed to proceed for one minute.

The CHAIRMAN. The gentleman from Florida [Mr. SPARKMAN] asks unanimous consent to proceed for one minute. Is there objection?

There was no objection.

Mr. SPARKMAN. I want to say again that if the project extends to the head of navigation, as the engineers say it does, there is certainly no necessity for the amendment unless it is proposed to carry the work beyond that point, and in that event it ought not to be done. I understand the gentleman does not want to go beyond the project.

Mr. DAVENPORT. Mr. Chairman, if the gentleman will pardon me, I hope the committee will not insist upon a vote before I have presented the arguments which I desire to present in support of the amendment.

We claim that we are entitled to such phraseology in the drafting of this amendment as will secure the improvement of that portion of the Arkansas River in Oklahoma which needs improvement. All the reports that have been made in recent years provide for certain improvements in that part of the Arkansas River. The act of February 27, 1911, merged the two projects that have heretofore been prosecuted on the Arkansas River into one.

Now, if the gentleman from Florida [Mr. SPARKMAN], the chairman of the Committee on Rivers and Harbors, thinks that a provision properly drawn and placed in the bill will take charge of the entire work to the head of navigation, he could have accomplished that object by leaving out the word "Arkansas." But my contention is that that word in the paragraph as it now stands defines the scope of the work and limits it to the improvement of the Arkansas River within the State of Arkansas only.

I contend that by that language you confine it exclusively to that part of the Arkansas River that flows through the State of Arkansas. If I had not thought so, I would not have offered this amendment. But we believe we should have the desired improvements there, inasmuch as our country is rapidly developing along that part of the Arkansas River.

Now, in order to show what the engineers thought of it when they filed their report with the Speaker of the House on the 25th day of June, 1909, I want to read a part of their report. On page 7 of their report the engineers say:

With the projects and estimates just outlined this board practically agrees. Although some reduction might perhaps be made in the estimated cost of the slack-water improvement, it would not be a radical one, and for all practical purposes the cost given may be taken as approximately correct. In the opinion of the board the only way in which a radical and permanent improvement of the Arkansas River can be obtained is by constructing locks and dams from Muskogee to Little Rock and providing open-channel navigation from Little Rock to the mouth by means of dredging done in connection with extensive bank revetment. Such an improvement, however, is exceedingly expensive and would require many years to complete, even with liberal and continuous appropriations. For this reason, while the project is entirely feasible, in the opinion of the board it is not at this time desirable. Although recognizing that the construction of locks and dams offers the only means of obtaining permanent improvement between Muskogee and Little Rock, the board is of opinion that by means of hydraulic dredging it is feasible to obtain a considerably improved channel between these points as well as from Little Rock to the mouth, one that will prolong the period of navigation and possibly extend such period to include, generally, times of ordinary low water. This method of improvement has proved quite successful on the Mississippi and other rivers, and the physical characteristics of the Arkansas River are such as to lead the board to believe that equally favorable results may be obtained by adopting a similar method for its improvement.

Now, the board, going further, on page 8 of this report to Congress, says:

The country in the valley of the river, especially between Fort Smith and Muskogee, contains much coal and asphalt. Over 400,000 acres of coal and asphalt lands have been segregated and reserved from allotment. This coal has been practically untouched, except where the mines have easy access to a railroad. Such mines have been profitably producing a high-grade bituminous coal. Much of the land containing these deposits lies right on the bank of the river, and if water transportation were provided, the mining of the coal would undoubtedly develop into a very large industry, possibly sufficient in itself to justify the improvement. In addition to the coal there are valuable growths of timber and increasingly productive agricultural lands, which are being gradually extended as the timber is cleared. The chief agricultural product is cotton, and although most of this would undoubtedly move by rail, a great deal of it could certainly be more conveniently hauled by water. Even that moved by rail would necessarily benefit from the reduced freight rates which would result from water competition.

Now, Mr. Chairman, that is what the engineers say.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

Mr. DAVENPORT. I would like to have five minutes more, Mr. Chairman.

The CHAIRMAN. The gentleman from Oklahoma [Mr. DAVENPORT] asks unanimous consent to proceed for five minutes more. Is there objection?

There was no objection.

Mr. DAVIDSON. Mr. Chairman, will the gentleman advise the committee whether any work has been done in the portion of the Arkansas River in Oklahoma during the last season from the appropriation made a year ago?

Mr. DAVENPORT. I understand no work has been done. There has been very little work done for several years.

Mr. DAVIDSON. The language in the bill of last year was identical, in the title of the paragraph, with the language contained in this bill, and the substitution of the word "Oklahoma" could not possibly affect the project, it seems to me.

Mr. DAVENPORT. That may possibly be true, that the language used in this bill is identical with the language used in the last bill, but the gentleman certainly does not think the language of the present bill would permit the improvement to be extended clear to the head of navigation in Oklahoma.

Mr. DAVIDSON. I certainly do.

Mr. DAVENPORT. This is a matter of vital importance to the people of Oklahoma, as much so as any project to the people of any State in the Union; and I join hands with every man who has an honest project and who is endeavoring to reduce freight rates for the people in his section. We are paralleled for the entire distance the Arkansas River is navigable in Oklahoma by a railroad on each side of the Arkansas River, from Fort Smith to the head of navigation, at Tulsa, Okla.; and since that has been so we have had trouble in getting recommendations from the local corps of engineers for the improvement of that part of the river which runs through Oklahoma, although they have gone this far all the time, they have recommended improvements in the way of removing snags and dredging, and we are not now asking an amendment to this bill to increase the appropriation above what is now in it. We are simply asking to be placed where we can be recognized as a part of the project of improving the Arkansas River, and not be excluded, as, in my judgment, the language of the bill now does exclude us. I hope that this amendment will be adopted.

I should like to go into details as to the advantages which would accrue to the people, but I have not the time. I do urge that the bill ought to be in such language that that part of the Arkansas River in Oklahoma will get some benefit of the improvement as the engineers insist should be done, if nothing more than snagging and dredging the stream. I trust that the members of this committee on this floor will be willing to give us that benefit. The words used certainly do not diminish the right to improve that part of the Arkansas River in Arkansas, and they do make it clear that it is intended to include the entire project and improve the Arkansas River from its mouth to the head of navigation, in the State of Oklahoma.

The CHAIRMAN. The question is on the amendment of the gentleman from Oklahoma [Mr. DAVENPORT].

The question being taken, on a division (demanded by Mr. DAVENPORT), there were—ayes 27, noes 22.

Accordingly the amendment was agreed to.

Mr. MONDELL. Mr. Chairman, I move to strike out the paragraph as amended. I do this for the purpose of keeping the promise I made last evening to call attention to the fact that this bill does contain items in regard to which there are adverse reports of the Board of Engineers, or at least of the local engineers. For instance, take the Winyah Bay improvement, which was passed a short time ago. There is a very strong report against it. There is a proposition there to dredge out a thousand acres to form a basin, in order to form an anchorage and provide terminals—I suppose for some railroad—and while it may be said that the committee have not provided for that particular improvement, I have no doubt that the appropriation of $120,000 herein made will be so expended as to make this other improvement inevitable in the future, and that some engineer will later be found who will make a favorable report.

I also call attention to Fishing Creek, N. C., in regard to which there is an adverse report. I call attention to Alligator Creek, and other items if I had the time.

Mr. SPARKMAN. Mr. Chairman, I make the point of order that the gentleman from Wyoming is not discussing his amendment.

Mr. MONDELL. I could call attention to many other items in regard to which there is no favorable recommendation, at least by the men on the ground, who know the most about them.

The CHAIRMAN. The gentleman from Florida makes the point of order that the gentleman from Wyoming is not discussing his amendment.

Mr. MONDELL. Very well; I will discuss my amendment. It relates to the Arkansas River, one of the branches of which is the Ouachita. The Ouachita is a noble stream, on which we have already expended $1,800,000. Besides the dam improvement, the work done has consisted chiefly of the removal of snags, stumps, and overhanging trees.

Mr. DAVENPORT. I will inform the gentleman that the Ouachita empties into the Red River, and not into the Arkansas.

Mr. MONDELL. Then these "snags, stumps, logs, wrecks, leaning and sliding trees" go into the Red and not into the Arkansas. This money is being spent for the removal of these obstructions which I have mentioned. This is the condition of this noble stream: There is a gravel bar about 20 miles above Trinity, where there is an available depth at low water of from 15 to 40 inches. The maximum draft that can be carried at mean low water is 3½ feet to Harrisonburg, La., 1¼ feet to Monroe, La., and 8 inches to Camden, Ark.

This is one of the noble highways of commerce for which we are spending large sums of the people's money. It would not be so bad if these expenditures would actually provide transportation. If I felt sure they would, without regard to their local character, I would gladly support every item in the bill, but I think a perusal of the reports on many items will prove to the satisfaction of any reasonable person that many of these streams can never be permanently improved; that it will be a never-ending work of placing in wing dams and having them washed out, pulling out snags, cutting down overhanging trees, dredging sand bars, and after the entire population of the vicinity has engaged for years in this work for the alleged improvement of commerce there will be no commerce to be carried and no opportunity to carry it, because it will be impossible to maintain conditions under which commerce could be carried successfully or profitably.

These funds are to be expended in many instances, in my opinion, on works that can never be of permanent value, and the only good purpose they serve is to distribute the Federal cash in the community and to keep some of our colleagues' constituents at work.

The CHAIRMAN. The question is on the motion of the gentleman from Wyoming to strike out the paragraph as amended.

The question was taken, and the motion was rejected.

The Clerk read as follows:

Improving mouth of Brazos River, Tex.: For maintenance, $25,000.

Mr. BYRNS of Tennessee. Mr. Chairman, I move to strike out the last word for the purpose of asking the chairman of the committee a question. I notice the bill carries no appropriation or authorization for work upon either the upper or lower Cumberland River. I want to ask if in the gentleman's opinion and in the opinion of the committee the amount of money heretofore appropriated and now subject to the use of the local engineer is considered entirely sufficient to carry on the work on Locks B, C, and D in the lower Cumberland River without delay?

Mr. SPARKMAN. Yes; that together with the amount carried in the sundry civil bill, which, I think, is $200,000.

Mr. BYRNS of Tennessee. I have observed in the report of the Chief of Engineers that while he makes no specific recommendation that additional funds will be necessary during the ensuing fiscal year, he does make a suggestion that if Congress would make a contract or authorization for the completion of these three locks and dams in their entirety, the work could probably be carried on much more economically and advantageously. Has the committee considered that phase of the suggestion made by the Chief of Engineers?

Mr. SPARKMAN. We did consider that phase of it. I have not any doubt myself but that a great many of the works could be more economically carried on and prosecuted if larger sums of money were appropriated. But, as the gentleman understands, this is a big country; we have many projects to take care of, and it would be impracticable to take care of all of them at once. In other words, the committee thought it would be impracticable to carry out the suggestions of the engineer in regard to this entire contract. The authorizations are not necessary in some instances, because we are having annual bills, and hence it is not so necessary with annual bills to provide authorizations in a river and harbor bill as when the bills only came along once in two or three years. We are now morally certain that in a year, or perhaps a little more, additional amounts will be furnished in river and harbor bills, the bills now being annual instead of triennial.

Mr. BYRNS of Tennessee. I want to say that, of course, the statement made by the gentleman from Florida must be entirely satisfactory, in so far as the necessity for any additional appropriation or authorization is concerned for the ensuing fiscal year, but I do regret that this bill does not carry either for the lower or the upper Cumberland River something by the way of authorization or appropriation.

That great river, according to a recent investigation, carries annually a commerce of more than 600,000 tons, valued at approximately $16,000,000. When you consider the amount of commerce carried, when you consider the section of the country through which it flows, when you consider the resources at the head of the river and all along the Cumberland Valley, and the fact that a portion of it is not contiguous to a railroad, I do not hesitate to say that there is not a project of river improvement in the bill that is more meritorious than the improvement of the Cumberland River. For some years my colleague, Judge HULL, has been earnestly and energetically trying to secure the restoration of the scheme of improvement for the upper Cumberland River which was in existence before he became a Member of Congress. The district which I have the honor to represent, and particularly the city of Nashville, where I live, is also directly interested in the improvement of the upper as well as the lower section of the river, and I have been rendering him all the assistance in my power.

Only recently facts have been submitted to the Board of Engineers which have caused them to come to the conclusion that an injustice has been done to the upper Cumberland River by recent reports as to the amount of commerce carried. In saying this I intend no reflection on Maj. Burgess, our local engineer. He is admittedly one of the most capable and efficient engineers in the service and is exceedingly fair, and is certainly disposed to do his duty not only by the Government but also by the people of our section, but he must depend for the facts stated in his report upon others, and in some way these mistakes have occurred and incorrect information has been furnished him without the least fault on his part.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. BYRNS of Tennessee. Mr. Chairman, I ask unanimous consent to proceed for one minute.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BYRNS of Tennessee. Mr. Chairman, on account of the facts shown by these investigations the Board of Engineers has called for detailed estimates and plans with a view to determining whether or not the upper Cumberland River shall be restored to its former plan of improvement. These facts were called for so recently that they have not been received in time for the consideration of the board and this committee, but they will be received in ample time for consideration by the committee in the preparation of its next bill, and I merely call attention to this fact for the purpose of expressing the hope to the distinguished chairman and his most capable committee that when they come to prepare their next bill they will prove liberal to the lower and upper Cumberland River, in view of the fact that this bill carries nothing for either section. [Applause.]

The Clerk read as follows:

Improving harbor at Cleveland, Ohio: For maintenance, $25,000.

Mr. FOWLER. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amend, page 31, line 2, after the figures "$25,000," by adding the following as a separate paragraph:

"Improving Saline River, Ill., $50,000."

Mr. FOWLER. Mr. Chairman, I do not know what attention was given to the improvements of this river by the committee in its recent investigations. Last session of Congress the bill carried a provision for the purpose of making a survey thereof. During the interim between the last session and this session I tried very hard to find out what the War Department was doing with reference to making a bona fide survey of this river. I was unable to learn through the engineer that any real effort had been made for the purpose of investigating the feasibility of improving this river for the benefit of navigation.

I want to say to the committee that this river passes through one of the richest countries that ever fell from the plastic hand of nature. It is walled by the foothills of the Ozarks, hills laden with iron ore, zinc, lead, silver, and fluorspar. It taps at Equality a coal field the like of which has never before been known to man, the richest in the world. [Applause.] I dare say, Mr. Chairman, if this committee, through the engineering

force of the War Department, would take the pains to make an investigation, it would find that a few thousand dollars expended in its improvement would give Illinois an opportunity to feed the furnaces of the South with the finest coal and coke in the world.

I do not know whether there is a disposition on the part of the War Department to make that character of investigation which I sought during the last session of Congress. It is idle to talk about an investigation unless it be bona fide and for the purpose of determining the feasibility of improvement; and I say, Mr. Chairman, I am not asking for the investigation of this river for the purpose of any notoriety for my district, but for the relief of the people, who are among the most industrious and deserving of any in the world. [Applause.]

I desire to say that if this river were improved it would give a competing line with railroads, which now charge a greater rate for a short haul than they do for a long haul. It would give an opportunity to bring to the people that character of relief which is so necessary in these unjust discriminating times.

Mr. SPARKMAN. Mr. Chairman, I hope the amendment will not prevail, because there is no project for the work which is proposed in the amendment. We ordered a survey in the last river and harbor bill for that river, but no report has been as yet received by Congress. Whether it will be a favorable one I do not know.

Mr. FOWLER. Mr. Chairman, I would ask the chairman of the committee if he is willing to allow that survey to be made bona fide?

Mr. SPARKMAN. Mr. Chairman, if I understand what the gentleman means, I would say yes.

Mr. FOWLER. Is the gentleman willing, then, to allow the continuance of this survey by a provision in this bill?

Mr. SPARKMAN. Oh, no; it will be unnecessary, because in due time the survey will undoubtedly be made, if it is not already made, and we will receive the report in Congress from the engineers.

Mr. FOWLER. Well, I am not able up to this good hour to learn whether there ever was an engineer who set foot nearer the banks of that river than the city of Washington.

Mr. SPARKMAN. Well, that may be true, but I can assure the gentleman that in my opinion the engineers will make that survey expeditiously. I do not think they will unduly delay it, indeed I have no idea they will. The gentleman must remember that a large number was ordered in the last river and harbor bill——

Mr. FOWLER. That is true.

Mr. SPARKMAN. Which became a law July of last year. The engineers have not had time to make them all, in fact they have made very few up to this time, but they are constantly reporting them to this House, many of them adversely, some of them favorably. I have no doubt in a very short time the gentleman's survey will be here, whether favorably reported or unfavorably of course we can not say.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. FOWLER].

The question was taken, and the amendment was rejected.

The Clerk read as follows:

Improving harbor at Conneaut, Ohio: Continuing improvement, $200,000.

Mr. FOWLER. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, page 31, line 4, after the figures $200,000, by adding the following as a separate paragraph: "Improving levee and harbor at Shawneetown, Ill., $15,000."

Mr. BORLAND. Mr. Chairman, I make the point of order that that does not seem to apply at that portion of the bill, but seems to apply, if at all, on page 36 of the bill. Rivers relating to Illinois are on page 36.

Mr. FOWLER. This is on page 31, that is true, but we have reached the point indicated in the bill for this amendment.

Mr. BORLAND. Page 31 relates to rivers in Ohio; rivers in Illinois are on page 36.

The CHAIRMAN. The Chair holds that to be immaterial if the amendment is in order, and the Chair thinks it is.

Mr. FOWLER. Mr. Chairman, there is a pressing necessity for this appropriation. I received a communication from the people of Shawneetown requesting that a strong and successful effort be made for the purpose of getting enough money to secure their levee against the high water that is now in that section of the country. In my opinion, Mr. Chairman, there is no more needed legislation in this country. It is one of the richest pieces of territory in the Ohio Valley. The people at that place have been almost destroyed heretofore by virtue of the breaking of the levee. At one time a few years ago the levee broke and came through the town with such force that it carried with it the business houses, the dwelling houses with the people therein, and many of them were drowned. Mr. Chairman, this is the oldest town in the State of Illinois, and it ought to be preserved. It is one of the best towns in that State. It has been the policy of Congress to appropriate money for the purpose of building and strengthening levees and repairing the same when breaches therein have been made.

Now, Mr. Chairman, there has been such a universal rain within the last 36 hours in the Ohio Valley that the Ohio River will undoubtedly receive such an impetus and force and accumulation of water that it will not only put this town in great jeopardy of loss of life and property, but some of the other towns along in my State, and I repeat, Mr. Chairman, that the people of this town are extremely anxious that this appropriation should be made. I understand from the communication that they are working there day and night, without sleep, except like soldiers sleeping on their arms, for the purpose of preserving life and property. I trust, Mr. Chairman, in the wisdom of the Members of this Congress, for the good of the people of this town, that this appropriation will be made. It will do me no good personally. I will derive no benefit from it either directly or indirectly.

The CHAIRMAN. The time of the gentleman has expired. [Cries of "Vote!"]

Mr. FOWLER. Mr. Chairman, I ask for an extension of my time for two minutes.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that his time may be extended for two minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. FOWLER. Mr. Chairman, during the high water of last winter there was a considerable damage done to the levee at that place which has not yet been repaired. If there is any provision anywhere in this bill for the purpose of making such repairs I have not been able to discover it, and for this reason, Mr. Chairman, I have seen fit to offer the amendment for the purpose which this amendment carries.

I trust, Mr. Chairman, and I beg all the gentlemen here, in their wisdom and in their magnanimity, to give to the people, who are in such great danger, as I have depicted, and more, this relief. My words are inadequate, my vocabulary too small, to properly describe the magnitude of the situation of danger at this place. I trust, Mr. Chairman, that the committee will support this amendment and give these people what I have asked, namely, the small sum of $15,000.

Mr. SPARKMAN. Mr. Chairman, I hope this amendment will not prevail. There is no project for it and no recommendation before the engineers for it at all.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. FOWLER].

The amendment was rejected.

The Clerk read as follows:

Improving harbor at Toledo, Ohio: Completing improvement, $105,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, I make the point that there is no quorum present.

Mr. SPARKMAN. I will ask the gentleman from Pennsylvania if we could not go on for 15 minutes more.

Mr. MOORE of Pennsylvania. I think there will have to be discussion on this next item.

Mr. AUSTIN. I suggest that we pass over this item, and then go on.

Mr. SPARKMAN. I ask that this item be passed over, and that we return to it later.

Mr. MOORE of Pennsylvania. If the gentleman wants to pass over this item, and adjourn in 15 minutes, I will have no objection.

Mr. SPARKMAN. Mr. Chairman, I ask unanimous consent that this item be passed over.

The CHAIRMAN. The point of no quorum has been made. Is it withdrawn?

Mr. MOORE of Pennsylvania. I will withdraw it for 15 minutes.

The Clerk read as follows:

Improving harbor at Saugatuck, and Kalamazoo River, *Mich.*: For maintenance, $3,000.

Mr. HAMILTON of Michigan. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The gentleman from Michigan [Mr. HAMILTON] offers an amendment which the Clerk will report.

The Clerk read as follows:

Page 31, line 22, strike out "$3,000" and insert: "$10,000, of which so much as may be necessary shall be allotted for revetment of the north bank of said river eastward from the east end of the said river connecting Lake Michigan."

Mr. HAMILTON of Michigan. Mr. Chairman, I approach this committee in the most respectful and conciliatory attitude. I have heard other gentlemen criticize this committee. I would not think of doing it. I have not a word to say about the Brazos, or the Trinity, or the Albemarle Canal, or the Ouachita, or the Arkansas, or anything else. All I am interested in just at this moment is Saugatuck, Mich. I appeared before the Committee on Rivers and Harbors, and I never was treated more courteously in my life than when I was there, and after presenting my case to the committee I went out under the impression that everybody except the chairman was for my amendment, and I thought it likely he would yield to his better impulses. But I discovered that appearances were deceptive. A good many members of the committee expressed themselves openly in favor of this improvement, and then Col. Taylor was called in, and after advising with him the committee concluded that they would postpone this improvement until after they could have a survey, which would take a year.

I have here a map, which I prepared myself, and I want to show the situation to you. This [indicating] is the Kalamazoo River. It flows northward parallel with Lake Michigan, and then doubles back upon itself and flows into Lake Michigan, or did until the construction of this cut which you see up here. That was constructed some four or five years ago. A lady by the name of Margaret Cook, who lives in Elgin, Ill.—and I hope I shall have the support of every Illinois Member for this improvement—contributed to the Government the land through which this cut is made. After the cut was constructed, it was found that by reason of the conflict between the current of the river and the waves of the lake, an erosion of the north bank of the river was caused which is washing away the land owned by Mrs. Cook and has compelled her to go to the expense of moving some of her buildings back. Not only that but it has washed part of the highway into the river. Mrs. Cook has already paid out more than $4,000 for the construction of a revetment there to protect her property, but the revetment must be extended to be effectual.

In the construction of this revetment she found it necessary to acquire an adjoining piece of ground, so that she has so far been obliged to pay out over $8,000 for the protection of that property.

Now, I am not permitted to ask this improvement primarily to protect a private owner, but I am insisting that the commerce at Saugatuck ought to be protected against the possibility of this lady's buildings being rolled into the river from time to time and having to be scooped out by the Government. [Laughter.] The highway has been carried into the river; the buildings have been almost carried into the river; and this lady has been compelled to squander large sums of money to protect her property, but I am told that I am not permitted to ask the Government to protect private owners from the effects of public improvements. I doubt that, but I have no time to discuss it now. After conference with the engineers' office, gentlemen of the committee assured me that they regarded this as a very meritorious case, but they said, "We think there ought to be a survey." Every man on the committee knows what is going on there.

The engineers' office knows what is going on. Everybody knows that this highway has been washed away and that this lady's buildings are in danger of being washed into the river, but still you want a survey and a report, which will postpone action a year. It appears that I am not permitted to ask action on account of the private interests involved here, but I am permitted to ask action on account of the public interests involved, and I ask you, gentlemen, not to insist upon a survey to find out something that you know all about now.

What is the use of it? It is like the celebrated case of the man who applied for an injunction concerning a cargo of ice, and long before the case was decided the ice melted. This whole property may be washed into the Kalamazoo River before you can get a survey and a report.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SPARKMAN. Mr. Chairman, as the gentleman from Michigan [Mr. HAMILTON] stated, he did come before our committee and presented very earnestly the proposition that he has presented here, but upon examination we found that there was no project for it; the engineers had not investigated it so as to be able to tell us what it was going to cost; and we know nothing about it except from hearsay. So, of course, the proper, the business-like thing to do was and is to have a survey and let the engineers tell us whether the work is advisable, whether it is in the interest of navigation, and what it is going to cost.

Now, we have inserted in the bill a provision for a survey, and if the bill passes and becomes a law the survey will be made in due time, and we will obtain a report upon which action may be taken, likely at the next session of Congress.

Mr. HAMILTON of Michigan. May I ask the gentleman how long that will be?

Mr. SPARKMAN. Congress will meet in December next. I should have said, perhaps, that we can act upon it at the next regular session.

Mr. HAMILTON of Michigan. The gentleman means by that that possibly nearly a year from now we might get action?

Mr. SPARKMAN. It does not take quite a year to get a report. It will not be quite a year until we shall have assembled here again in regular session, at which time I hope we will begin the preparation of another bill. But whether it is 2 months or 12 months or 14 months, Mr. Chairman, we can not afford to treat this project differently from what we treat others. We must treat them all alike.

Mr. HAMILTON of Michigan. I wish you would.

Mr. SPARKMAN. The gentleman says he wishes we would. But if the gentleman will call to my attention any case where the present committee or any other Committee on Rivers and Harbors has in recent years unjustly discriminated, I will be obliged to him. We have not done so in any case.

Mr. HAMILTON of Michigan. Mr. Chairman, I would like to have one minute in which to say a word to my friend.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. HAMILTON of Michigan. The gentleman from Florida [Mr. SPARKMAN] says there is no project. The gentleman is chairman of the Committee on Rivers and Harbors, and he knows that the project under which that cut was made calls for revetments on the banks of that river, and that work has not yet been finished.

Mr. SPARKMAN. I beg the gentleman's pardon. On the contrary, I know, as well as I can know anything from reading the reports and talking with the engineers, that there is no project whatever for this work. The only way to get one is to have the engineers pass upon it, as we have provided in this bill that they shall do. If the bill becomes a law, they will do it; and when we have that before us we will know whether we ought to make the improvement or not. I do not know what it is going to cost. The gentleman can not tell us what it is going to cost. No one else can tell us in advance of an investigation.

Mr. HAMILTON of Michigan. Mr. Chairman, just a word in answer to the gentleman. He says I can not tell how much this will cost. I can tell him how much it will cost. I have submitted the figures to the gentleman's committee, to the effect that the 400 feet of revetment which this lady has already constructed cost her $4,000. I have submitted figures to the effect that 700 feet will be needed, and that it will cost somewhere near $7,000, possibly a little less. The Corps of Engineers have informed themselves fully and have been able to tell you how much it would cost and just how many feet of revetment are needed there. The Engineer's Office knows all about it. They have had reports from the Grand Rapids corps of engineers. They are fully informed.

Mr. SPARKMAN. Mr. Chairman, only a few words more. If any engineer has stated to the River and Harbor Committee what that work would cost, I have no knowledge of it. But even if he had done so, his estimate would have been made outside of and independent of any action by Congress; and, as I said a moment ago, we are not accustomed to make such improvements or to authorize them until a report has been made by the engineers and a project recommended by them.

Mr. HAMILTON of Michigan. Why not break over your custom occasionally?

Mr. SPARKMAN. When you break over a custom like that you get on very dangerous ground.

Mr. HAMILTON of Michigan. Why not authorize improvements that are so obviously necessary?

Mr. SPARKMAN. We are importuned very often to do that very thing, to violate the rules under which we frame our river and harbor bills, but the House committee has not done it in recent years. Nor has this House done so in many years.

The CHAIRMAN. The question is on the amendment of the gentleman from Michigan [Mr. HAMILTON].

The question being taken, on a division (demanded by Mr. HAMILTON of Michigan) there were—ayes 12, noes 21.

Accordingly the amendment was rejected.

Mr. MOORE of Pennsylvania. Mr. Chairman, I renew the point of no quorum.

Mr. SPARKMAN. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. MOON of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 28180) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, and had come to no resolution thereon.

HOUR OF MEETING TO-MORROW.

Mr. SPARKMAN. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock a. m. to-morrow.

The SPEAKER. The gentleman from Florida asks unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock a. m. to-morrow. Is there objection?

Mr. MANN. Reserving the right to object, if we meet at 11 o'clock to-morrow, Saturday, will it not be practicable to adjourn by half past 5 or 6 o'clock?

Mr. SPARKMAN. I have no objection, so far as I am concerned, if we can get through with this bill, as I hope we will be able to do.

Mr. MANN. Whether we get through with the bill or not.

The SPEAKER. Is there objection?

There was no objection.

ADJOURNMENT.

Mr. SPARKMAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 30 minutes p. m.) the House adjourned until to-morrow, Saturday, January 25, 1913, at 11 o'clock a. m.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the assistant clerk of the Court of Claims, transmitting the findings of the court in the case of Emmetta Humphreys, administratrix de bonis non of John Sevier, sr., and John Sevier, jr., *v.* The United States (H. Doc. No. 1302); to the Committee on the Public Lands and ordered to be printed.

2. A letter from the counsel of the Georgetown Barge, Dock, Elevator & Railway Co., transmitting the annual report of said company (H. Doc. No. 1303); to the Committee on the District of Columbia and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. SLAYDEN, from the Committee on the Library, to which was referred the joint resolution (S. J. Res. 156) to appoint George Gray a member of the Board of Regents of the Smithsonian Institution, reported the same without amendment, accompanied by a report (No 1381), which said bill and report were referred to the House Calendar.

Mr. SWEET, from the Committee on Military Affairs, to which was referred the bill (S. 1589) to authorize the exchange of conveyances between the Florida East Coast Railway Co. and the United States, reported the same without amendment, accompanied by a report (No. 1382), which said bill and report were referred to the Committtee of the Whole House on the state of the Union.

Mr. FITZGERALD, from the Committee on Appropriations, to which was referred the joint resolution (S. J. Res. 145) to provide for the maintenance of public order and the protection of life and property in connection with the presidential inaugural ceremonies in 1913, reported the same without amendment, accompanied by a report (No. 1383), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. HINDS: A bill (H. R. 28406) to increase the limit of cost for increased quarantine facilities at the port of Portland, Me.; to the Committee on Interstate and Foreign Commerce.

By Mr. WICKERSHAM: A bill (H. R. 28407) to amend an act entitled "An act to encourage the development of coal deposits in the Territory of Alaska," approved May 28, 1908, and for other purposes; to the Committee on the Territories.

By Mr. SMITH of Texas: A bill (H. R. 28408) authorizing the payment of damages to persons for injuries inflicted by Mexican Federal or insurgent troops within the United States during the insurrection in Mexico in 1911, making appropriation therefor, and authorizing and directing the Secretary of State to proceed in conformity with diplomatic usage and international law to secure reimbursement therefor from Mexico; to the Committee on Foreign Affairs.

By Mr. STEENERSON: A bill (H. R. 28409) to empower the United States district court for the district of Minnesota to establish the status of the allottees on the White Earth Indian Reservation in said State; to the Committee on Indian Affairs.

By Mr. STANLEY: Joint resolution (H. J. Res. 389) authorizing the Secretary of War to use tents and rations for the relief of destitute persons in the district overflowed by the Ohio River and its tributaries; to the Committee on Appropriations.

By Mr. SIMMONS: Joint resolution (H. J. Res. 390) to provide for the appointment of a commission to investigate and report upon the advisability, feasibility, and cost of transportation from Panama to Alaska of parts of the plant, machinery, and equipment now in use at the Isthmus of Panama in the construction of the Isthmian Canal, and its use in Alaska in building a railroad from the coast to United States coal lands and the mining of coal and transporting same to the seaboard; to the Committee on Interstate and Foreign Commerce.

By Mr. MANN: Concurrent resolution (H. Con. Res. 68) providing for the printing of Report No. 98, Department of Agriculture; to the Committee on Printing.

By Mr. POU: Resolution (H. Res. 789) to amend section 6 of Rule XXIV, Sixty-second Congress; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CANNON: A bill (H. R. 28410) granting a pension to Eva A. Winder; to the Committee on Invalid Pensions.

By Mr. CANTRILL: A bill (H. R. 28411) for the relief of Thomas B. Lawrence; to the Committee on War Claims.

Also, a bill (H. R. 28412) for the relief of Oldham County, Ky.; to the Committee on War Claims.

By Mr. DYER: A bill (H. R. 28413) granting a pension to Josephine C. Nixon; to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 28414) for the relief of heirs of Emanuel Aycock; to the Committee on War Claims.

By Mr. FIELDS: A bill (H. R. 28415) granting a pension to W. T. Mobley; to the Committee on Invalid Pensions.

By Mr. FOCHT: A bill (H. R. 28416) granting a pension to John F. De Wire; to the Committee on Invalid Pensions.

By Mr. FOWLER: A bill (H. R. 28417) granting a pension to William F. McRill; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28418) granting an increase of pension to John I. Keel; to the Committee on Invalid Pensions.

By Mr. GRAHAM: A bill (H. R. 28419) granting an increase of pension to Susan H. Cole; to the Committee on Invalid Pensions.

By Mr. GREGG of Pennsylvania: A bill (H. R. 28420) to promote on the retired list of the United States Army Brig. Gen. David S. Gordon; to the Committee on Military Affairs.

By Mr. GUERNSEY: A bill (H. R. 28421) granting a pension to Elvira Fuller; to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 28422) granting a pension to Charles W. James; to the Committee on Pensions.

By Mr. HINDS: A bill (H. R. 28423) granting a pension to Frederick A. Spring; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28424) granting a pension to Nora H. Williamson; to the Committee on Invalid Pensions.

By Mr. JACOWAY: A bill (H. R. 28425) granting an increase of pension to Edward S. Banister; to the Committee on Pensions.

By Mr. KORBLY: A bill (H. R. 28426) granting an increase of pension to George W. Fox; to the Committee on Invalid Pensions.

By Mr. McKINLEY: A bill (H. R. 28427) granting a pension to William E. Fidler; to the Committee on Invalid Pensions.

By Mr. PATTON of Pennsylvania: A bill (H. R. 28428) granting an increase of pension to Marshall C. Conroe; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28429) granting an increase of pension to James T. Herrington; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28430) to remove the charge of desertion from the military record of Zora B. Custer; to the Committee on Military Affairs.

By Mr. REES: A bill (H. R. 28431) granting a pension to Louisa Hicklin; to the Committee on Invalid Pensions.

By Mr. SISSON: A bill (H. R. 28432) granting an increase of pension to Mary Rebecca Carroll; to the Committee on Pensions.

By Mr. SWEET: A bill (H. R. 28433) for the relief of William Finn; to the Committee on Military Affairs.

By Mr. HAMILTON of West Virginia: A bill (H. R. 28434) granting an increase of pension to Samuel N. Black; to the Committee on Invalid Pensions.

By Mr. REILLY: A bill (H. R. 28435) for the relief of the legal representatives or heirs of Paul Noyes, deceased; to the Committee on War Claims.

By Mr. NEELEY: A bill (H. R. 28436) granting an increase of pension to James M. White; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BATES: Petition of the Ministerial Body of Erie, Pa., Rev. Robert Clements, president; Rev. E. M. Vickers, secretary, favoring the passage of the Kenyon "red-light" bill, Kenyon-Webb interstate liquor bill, and the Lea-Sims anti-gambling bill; to the Committee on the District of Columbia.

Also, petition of the Retail Merchants' Association, A. M. Howes, secretary; and the Business Men's Exchange, A. M. Howes, secretary, of Erie, Pa., favoring passage of the Weeks bill (H. R. 27567), providing universal 1-cent letter postage; to the Committee on the Post Office and Post Roads.

Also, petition of Edward Jones, Albert Jones, and the Maple Grove Stock Farm, Frank Jones, manager, of Centerville, Pa., favoring the passage of the Haugen oleomargarine bill, to prevent the sale of colored imitation of butter; to the Committee on Agriculture.

By Mr. CALDER: Petition of the United States Live Stock Sanitary Association, Chicago, Ill., favoring an increase of the Federal appropriation for tick eradication; to the Committee on Agriculture.

Also, petition of the International Stationery Co., New York, favoring the passage of House bill 27567, for a 1-cent postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of the Eastern Talking Machine Co., New York, protesting against the passage of section 2 of the Oldfield patent bill preventing the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

By Mr. CANNON: Papers to accompany bill granting a pension to Eva A. Winter; to the Committee on Invalid Pensions.

By Mr. CANTRILL: Papers to accompany bill for the relief of Thomas B. Lawrence, Winchester, Ky.; to the Committee on War Claims.

By Mr. CARY: Petition of the National Civic Federation, New York, favoring the passage of legislation granting pension to employees of the Government incapacitated by old age; to the Committee on Pensions.

Also, petition of the Optenberg Iron Works, Sheboygan, Wis., favoring the passage of House bill 27567, for a 1-cent postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of Bernhard Stern & Co., Milwaukee, Wis., favoring the passage of Senate bill 7208, for amending the Harter Act so that the foreign shipowners can not exempt themselves from merchandise lost through carelessness; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Moisant International Aviators, New York, favoring the passage of legislation for appropriating sufficient funds for the proper equipment and maintenance of aerial vessels or for the abolishment of same in the Army and Navy; to the Committee on Military Affairs.

Also, petition of the Wisconsin Association of Outlying Waters Fishermen, Two Rivers, Wis., favoring the passage of legislation for the protection of the fish industry by having a closed season, beginning October 15 and lasting from four to six weeks; to the Committee on the Merchant Marine and Fisheries.

By Mr. CLARK of Florida: Petition of William T. Glynn and numerous other citizens of Florida, protesting against any reduction of tariff on citrus fruits; to the Committee on Ways and Means.

By Mr. DALZELL: Petition of citizens of Pittsburgh, Pa., favoring the passage of legislation for Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. DANFORTH: Petition of teachers and pupils of West Webster, N. Y., and of No. 16 School of Rochester, N. Y., favoring the passage of the McLean bill granting Federal protection to migratory birds; to the Committee on Agriculture.

Also, petition of the F. A. Smith Manufacturing Co., Rochester, N. Y., protesting against any change of tariff on thorium and gas mantles; to the Committee on Ways and Means.

By Mr. DAVIS of Minnesota: Petition of the State Butter and Cheese Association of Minnesota, favoring the passage of the Haugen bill and protesting against the passage of the Lever oleomargarine bill; to the Committee on Agriculture.

Also, petition of the Federation of Women's Clubs of Minnesota, favoring the passage of House bill 25685, providing for the tagging and labeling of all fabrics and goods to sell under interstate commerce; to the Committee on Interstate and Foreign Commerce.

By Mr. DRAPER: Petition of the National Association of Railroad Commissioners, favoring the passage of Senate bill 6099, for a uniform freight classification and rate; to the Committee on Interstate and Foreign Commerce.

By Mr. FOCHT: Petition of citizens of McConnellsburg, Pa., favoring the passage of the Kenyon "red-light" injunction bill for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. FOSS: Petition of the First Methodist Episcopal Church, Waukegan, Ill., favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. FULLER: Petition of Henry Ford, president of the Ford Motor Co., favoring the passage of Senate bill 6497, to protect migratory birds; to the Committee on Agriculture.

By Mr. GALLAGHER: Petition of the Miehle Printing Press & Manufacturing Co., Chicago, Ill., protesting against the reduction of the present tariff on printing presses; to the Committee on Ways and Means.

By Mr. GARDNER of Massachusetts: Petition of the Association of Eastern Foresters, protesting against the passage of any legislation to transfer the national forests to the control and ownership of the individual States; to the Committee on Agriculture.

By Mr. GUERNSEY: Petition of Maine State Grange, Kenduskeag, Me., favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

By Mr. HINDS: Papers to accompany bill granting a pension to Frederick A. Spring; to the Committee on Invalid Pensions.

By Mr. LINDSAY: Petition of the Brainerd Manufacturing Co., East Rochester, N. Y., favoring the passage of House bill 27567, for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of the National Association of Railway Commissioners, favoring the passage of Senate bill 6099, for the establishment of a uniform classification of freight; to the Committee on Interstate and Foreign Commerce.

Also, petition of Thomas A. Morrison, Smethport, Pa., favoring the passage of House bill 1339, granting an increase of pension to the veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

By Mr. LOBECK: Petition of the agricultural-development committee of the Nebraska Bankers' Association, favoring the passage of the Lever agriculture-extension bill for the betterment of agricultural works; to the Committee on Agriculture.

Also, petition of the North Platte Valley Water Users' Association, protesting against the canceling of homestead entries for the nonpayment of charges under reclamation projects, etc.; to the Committee on the Public Lands.

Also, petition of the Lincoln (Nebr.) Chamber of Commerce, favoring the passage of House bill 25106, granting a Federal charter to the Chamber of Commerce of the United States of America; to the Committee on the Judiciary.

Also, petition of the System of Federation of the Harriman Lines, asking that Congress see to it that the inspection of railroad equipment is enforced; to the Committee on Interstate and Foreign Commerce.

By Mr. MOORE of Pennsylvania: Petition of the Philadelphia (Pa.) Board of Trade, favoring the passage of Senate bill 122, known as the Newlands regulation bill; to the Committee on Rivers and Harbors.

Also, petition of the Philadelphia Board of Trade, favoring the passage of legislation making an appropriation for the erection of a new customhouse at Philadelphia; to the Committee on Public Buildings and Grounds.

By Mr. NEELEY: Petition of the Methodist Episcopal Church of Medicine Lodge, Kans., favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

Also, petition of the Kansas Academy of Science, favoring the passage of the McLean bill granting Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of the New Haven Post, Grand Army of the Republic, protesting against the use of the Pension Building for an inaugural ball; to the Committee on the District of Columbia.

By Mr. REILLY: Petition of the Board of Agriculture of the State of Connecticut, favoring the passage of the Lever agriculture-extension bill for the advancement of agriculture; to the Committee on Agriculture.

Also, petition of the National Association of Railway Commissioners, favoring the passage of Senate bill 6099, for the establishment of a uniform classification of freight; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Association of Eastern Foresters, Trenton, N. J., protesting against the passage of legislation to transfer the national forests to the control and ownership of the individual States within which they lie; to the Committee on Agriculture.

By Mr. ROBERTS of Massachusetts: Petition of citizens of Somerville, Mass., favoring the passage of the McLean bill, for granting Federal protection to migratory birds; to the Committee on Agriculture.

By Mr. SCULLY: Petition of the New Jersey Chapter of the American Institute of Architects, favoring the adoption of the Mall site and design, as approved by the National Commission of Fine Arts, for the memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of the Association of Eastern Foresters, Trenton, N. J., protesting against the passage of legislation transferring the ownership of national forests to the States within which they lie; to the Committee on Agriculture.

By Mr. UNDERHILL: Petition of citizens of New York State, favoring the passage of the McLean bill granting Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. WILSON of New York: Petition of the Brooklyn Chapter of the American Institute of Architects and the American Group of the Société des Architectes Diplômés par le Gouvernement Français, New York, favoring the adoption of the Mall site and the design, as approved by the National Commission of Fine Arts, for the memorial to Abraham Lincoln; to the Committee on the Library.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January 25, 1913.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We bless Thee, infinite Spirit, our heavenly Father, for the precepts enunciated and exemplified in the life of Thy servants, especially for those great precepts enunciated by the Jesus of Nazareth and exemplified in His incomparable life and character, the earnest for all who strive for the mastery of self in perfected manhood which fits us for the here and the there, the now and the then. And we most fervently pray for the victory for ourselves and all men, that we may satisfy the longings of our better self and reflect Thy glory in an unblemished character. This we ask in the spirit of the Master. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Stuart, one of its clerks, announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 8183. An act for the relief of Capt. Frank Parker.

SENATE BILL AND JOINT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate bill and joint resolution of the following title were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 8183. An act for the relief of Capt. Frank Parker; to the Committee on Military Affairs.

S. J. Res. 157. Joint resolution to enable the Secretary of the Senate and the Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States on March 4, 1913; to the Committee on Appropriations.

NEW JERSEY-NEW YORK JOINT HARBOR LINE COMMISSION.

Mr. TOWNSEND. Mr. Speaker, I ask unanimous consent to take from the Speaker's table House joint resolution 210, authorizing the President to appoint a member of the New York-New Jersey Joint Harbor Line Commission, with the Senate amendment thereto, and consider the same at this time.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the Senate amendment.

The Clerk read the Senate amendment.

Mr. TOWNSEND. Mr. Speaker, I move to concur in the Senate amendment.

The motion was agreed to.

SPEAKER PRO TEMPORE FOR SUNDAY, JANUARY 26, 1913.

The SPEAKER appointed Mr. FITZGERALD to preside as Speaker pro tempore at the memorial exercises to be held Sunday, January 26, 1913.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. TAGGART to attend the memorial exercises in honor of the late Representative W. W. WEDEMEYER.

CALL OF THE HOUSE.

Mr. STANLEY. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. Evidently there is no quorum present.

Mr. FITZGERALD. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Aiken, S. C.	Gardner, N. J.	Lafean	Prouty
Ames	George	Lamb	Pujo
Ansberry	Gill	Langley	Rainey
Ayres	Gillett	Legare	Randell, Tex.
Barchfeld	Glass	Levy	Redfield
Bates	Goeke	Lindsay	Reyburn
Berger	Green, Iowa	Linthicum	Rodenberg
Bradley	Greene, Mass.	Littleton	Rucker, Colo.
Brantley	Griest	Longworth	Sabath
Brown	Gudger	Loud	Scully
Browning	Guernsey	McCall	Selis
Burke, Pa.	Hamilton, Mich.	McGuire, Okla.	Sheppard
Candler	Hardwick	McKinley	Sherley
Cantrill	Harris	McLaughlin	Slemp
Carter	Harrison, Miss.	Martin, Colo.	Small
Clark, Fla.	Harrison, N. Y.	Martin, S. Dak.	Smith, J. M. C.
Cline	Hartman	Matthews	Smith, Cal.
Conry	Hayes	Merritt	Smith, N. Y.
Cooper	Heald	Moon, Pa.	Speer
Copley	Higgins	Moore, Tex.	Stack
Crago	Hill	Mott	Stephens, Nebr.
Cravens	Hinds	Murdock	Sulloway
Crumpacker	Hobson	Needham	Talbott, Md.
Cullop	Howard	Nelson	Taylor, Colo.
Curry	Howell	Oldfield	Tilson
Danforth	Hull	Olmsted	Underwood
Davis, Minn.	Humphrey, Wash.	O'Shaunessy	Vare
Davis, W. Va.	Jackson	Palmer	Vreeland
De Forest	James	Patten, N. Y.	Watkins
Dickson, Miss.	Johnson, Ky.	Patton, Pa.	Weeks
Difenderfer	Jones	Payne	Whitacre
Dixon, Ind.	Kennedy	Peters	Wilder
Doremus	Kent	Plumley	Wilson, N. Y.
Fields	Kindred	Porter	Wood, N. J.
Focht	Kitchin	Pou	Woods, Iowa
Fordney	Konig	Pray	

The SPEAKER. On this call 240 gentlemen have answered to their names, a quorum.

Mr. FITZGERALD. Mr. Speaker, I move to dispense with further proceedings under the call.

The question was taken, and the motion was agreed to.

The SPEAKER. The Doorkeeper will open the doors.

WITHDRAWAL OF PAPERS.

By unanimous consent, Mr. RIORDAN was granted leave to withdraw from the files of the House, without leaving copies, the papers in the case of Henrietta Sherman, Fifty-eighth Congress, third session, no adverse report having been made thereon.

IMMIGRATION.

Mr. BURNETT. Mr. Speaker, I desire to call up the conference report on the bill S. 3175, the immigration bill, and move the adoption of the report, and on that I demand the previous question.

Mr. FITZGERALD. Mr. Speaker, I make the point of order that until the report is read the gentleman is a little previous.

The SPEAKER. The gentleman from Alabama [Mr. BURNETT] calls up the conference report on the immigration bill, which the Clerk will report.

The Clerk began the reading of the report.

Mr. BURNETT. Mr. Speaker, I ask unanimous consent that the statement may be read in lieu of the report.

The SPEAKER. The gentleman from Alabama asks unanimous consent that the statement be read in lieu of the report. Is there objection?

Mr. GOLDFOGLE. Mr. Speaker, reserving the right to object, I would ask the gentleman from Alabama whether, if the

unanimous consent now asked for be given, he will, notwithstanding that, move the previous question?

Mr. MANN. Mr. Speaker, could not we, pending that, reach an agreement as to time?

Mr. BURNETT. If the previous question is adopted, there will be 20 minutes on a side, I understand.

Mr. MANN. Mr. Speaker, if the report should be read and the previous question be adopted, there would be 40 minutes' debate. I take it it will take a half an hour—I do not remember how long—to read the conference report.

The SPEAKER. It will take an hour.

Mr. MANN. Why not make an agreement to save that time and use it in debate instead of reading the report?

Mr. BURNETT. And then agree that the previous question may be considered as ordered?

Mr. MANN. By agreement——

Mr. BURNETT. Would this kind of an agreement satisfy the gentleman, that the debate on the previous question by unanimous consent instead of being confined to 40 minutes be for an hour? I would not want the 40 minutes' debate on the previous question and the hour besides.

Mr. MANN. I understand.

Mr. MOORE of Pennsylvania. Let us have an hour's debate.

Mr. BURNETT. If that agreement can be reached it will be perfectly satisfactory to us.

The SPEAKER. That will be done if anybody will ask for it and nobody objects to it.

Mr. MANN. Ask unanimous consent that the statement may be read in lieu of the report and that we have one hour's debate, and at the end of that time the previous question be considered as ordered——

Mr. BURNETT. Yes; I ask that.

Mr. MANN. The time to be equally divided.

Mr. GOLDFOGLE. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. GOLDFOGLE. For the purpose of asking a modification of the request that is submitted by the gentleman from Illinois. I would have it an hour and fifteen minutes, in which case I will not make any objection, the time to be divided between the gentleman from Alabama [Mr. BURNETT] and myself, one-half to be controlled by the gentleman from Alabama and one-half by myself.

Mr. BURNETT. That is satisfactory.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the statement be read in lieu of the report and that there shall be an hour and fifteen minutes of debate, at the end of which time the previous question shall be considered as ordered, the time to be divided equally between the gentleman from Alabama [Mr. BURNETT] and the gentleman from New York [Mr. GOLDFOGLE].

Mr. MOORE of Pennsylvania. Now, Mr. Speaker, that arrangement is entirely satisfactory to me if some agreement can be had with regard to time for this side. The peculiar situation here is that the gentlemen controlling the time are really upon the same side of the House. There are gentlemen over here who desire some time.

Mr. MANN. I take it that the gentleman from Pennsylvania will receive time from the gentleman from New York.

Mr. MOORE of Pennsylvania. How much time does the gentleman from New York expect to get out of this 1 hour and 15 minutes?

Mr. GOLDFOGLE. Half of it.

Mr. MOORE of Pennsylvania. How much time will the gentleman from New York concede to me?

Mr. GOLDFOGLE. How much time does the gentleman want?

Mr. MOORE of Pennsylvania. I think I ought to have one-half of the time the gentleman takes to himself.

Mr. MANN. For use on this side of the House?

Mr. MOORE of Pennsylvania. For use on this side of the House.

The SPEAKER. Is the gentleman from Illinois [Mr. MANN] or the gentleman from Pennsylvania [Mr. MOORE] to control the time on their side?

Mr. MOORE of Pennsylvania. The gentleman concedes 20 minutes to this side.

Mr. GOLDFOGLE. There seems to be so many on this side of the House who want to talk that I can not concede to the gentleman from Pennsylvania as much time as he wants.

Mr. MOORE of Pennsylvania. Then I shall be compelled to object.

The SPEAKER. How much time will the gentleman yield to the gentleman from Pennsylvania [Mr. MOORE], if any?

Mr. MOORE of Pennsylvania. This is a tripartite arrangement——

The SPEAKER. Is there objection to the request of the gentleman from Illinois [Mr. MANN]?

Mr. MOORE of Pennsylvania. Mr. Speaker, I reserve the right to object until we get this question of time settled. If the gentleman from New York [Mr. GOLDFOGLE] is willing to concede 15 minutes of his time to this side of the House, to be controlled by me, I will not object.

Mr. SHERLEY. How much time does the gentleman want?

Mr. MOORE of Pennsylvania. I want to control 15 minutes.

Mr. SHERLEY. That is just it. There is no more reason why you should control time than some other Republicans should control time who are not in favor of it.

Mr. MANN. The gentleman is not only the ranking member of the committee but is a Member on this side of the House. I think there can be no objection to giving him 15 minutes' time.

Mr. BURNETT. We have hardly had any requests for our time, and we will give the gentleman 10 minutes of it.

The SPEAKER. Is there objection?

Mr. GOLDFOGLE. Will the gentleman from Alabama [Mr. BURNETT] yield to the gentleman from Pennsylvania [Mr. MOORE] 10 minutes of time?

Mr. BURNETT. Ten minutes of time.

Mr. GOLDFOGLE. Then I will yield 10 minutes, inasmuch as the gentleman from Alabama is willing to yield 10 minutes to the gentleman from Pennsylvania [Mr. MOORE].

Mr. MOORE of Pennsylvania. Very well. I am satisfied.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and it is so ordered. The Clerk will read the statement.

The conference report is as follows:

CONFERENCE REPORT (NO. 1378).

The committee of conference on the disagreeing votes of the two Houses to the bill (S. 3175) entitled "An act to regulate the immigration of aliens to and the residence of aliens in the United States" having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: Strike out the text inserted by the House amendment and insert in lieu thereof the following:

"That the word 'alien' wherever used in this act shall include any person not a native born or naturalized citizen of the United States, or who has not declared his intention of becoming a citizen of the United States in accordance with law; but this definition shall not be held to include Indians not taxed or citizens of the islands under the jurisdiction of the United States. That the term 'United States' as used in the title as well as in the various sections of this act shall be construed to mean the United States and any waters, territory, or other place subject to the jurisdiction thereof, except the Isthmian Canal Zone; but if any alien shall leave the Canal Zone and attempt to enter any other place under the jurisdiction of the United States, nothing contained in this act shall be construed as permitting him to enter under any other conditions than those applicable to all aliens. That the term 'seaman' as used in this act shall include every person signed on the ship's articles and employed in any capacity on board any vessel arriving in the United States from any foreign part or place.

"That this act shall be enforced in the Philippine Islands by officers of the General Government thereof designated by appropriate legislation of said Government.

"SEC. 2. That there shall be levied, collected, and paid a tax of $5 for every alien, including alien seamen regularly admitted as provided in this act, entering the United States. The said tax shall be paid to the collector of customs of the port of customs district to which said alien shall come, or, if there be no collector at such port or district, then to the collector nearest thereto, by the master, agent, owner, or consignee of the vessel, transportation line, or other conveyance or vehicle bringing such alien to the United States, or by the alien himself if he does not come by a vessel, transportation line, or other conveyance or vehicle. The tax imposed by this section shall be a lien upon the vessel or other vehicle of carriage or transportation bringing such aliens to the United States, and shall be a debt in favor of the United States against the owner or owners of such vessel or other vehicle, and the payment of such tax may be enforced by any legal or equitable remedy. That the said tax shall not be levied on account of aliens who shall enter the United States after an uninterrupted residence of at least one year, immediately preceding such entrance, in the Dominion of Canada, Newfoundland, the Republic of Cuba, or the Republic of Mexico, nor on account of otherwise admissible residents of

any possession of the United States, nor on account of aliens in transit through the United States, nor upon aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided*, That the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor, by agreement with transportation lines, as provided in section 23 of this act, may arrange in some other manner for the payment of the tax imposed by this section upon any or all aliens seeking admission from foreign contiguous territory: *Provided further*, That said tax, when levied upon aliens entering the Philippine Islands, shall be paid into the treasury of said islands, to be expended for the benefit of such islands: *Provided further*, That in the cases of aliens applying for admission from foreign contiguous territory and rejected, the head tax collected shall upon application be refunded to the alien: *Provided further*, That the provisions of this section shall not apply to aliens arriving in Guam or Hawaii; but if any such alien, not having become a citizen of the United States, shall later arrive at any port or place of the United States on the North American Continent the provisions of this section shall apply.

"SEC. 3. That the following classes of aliens shall be excluded from admission into the United States: All idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane within five years previous; persons who have had one or more attacks of insanity at any time previously; paupers; persons likely to become a public charge; professional beggars; vagrants; persons afflicted with tuberculosis in any form or with a loathsome or dangerous contagious disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living; persons who have committed a felony or other crime or misdemeanor involving moral turpitude; polygamists, or persons who admit their belief in the practice of polygamy; anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all forms of law, or who disbelieve in or are opposed to organized government, or who advocate the assassination of public officials; persons who are members of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocate or teach the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character; prostitutes, or women or girls coming into the United States for the purpose of prostitution or for any other immoral purpose; persons who procure or attempt to bring in prostitutes or women or girls for the purpose of prostitution or for any other immoral purpose; persons who are supported by or receive in whole or in part the proceeds of prostitution; persons hereinafter called contract laborers, who have been induced, assisted, encouraged, or solicited to migrate to this country by offers or promises of employment, whether such offers or promises are true or false, or in consequence of agreements, oral, written or printed, express or implied, to perform labor in this country of any kind, skilled or unskilled; persons who have come in consequence of advertisements for laborers printed, published, or distributed in a foreign country; persons who have been deported under any of the provisions of this act, and who may again seek admission within one year from the date of such deportation, unless prior to their reembarkation at a foreign port, the Secretary of Commerce and Labor shall have consented to their reapplying for admission; persons whose ticket or passage is paid for with the money of another, or who is assisted by others to come, unless it is affirmatively and satisfactorily shown that such person does not belong to one of the foregoing excluded classes; persons whose ticket or passage is paid for by any corporation, association, society, municipality, or foreign Government, either directly or indirectly; stowaways, except that any such stowaway may be admitted in the discretion of the Secretary of Commerce and Labor; all children under 16 years of age, unaccompanied by one or both of their parents, at the discretion of the Secretary of Commerce and Labor or under such regulations as he may from time to time prescribe; persons who can not become eligible, under existing law, to become citizens of the United States by naturalization, unless otherwise provided for by existing agreements as to passports, or by treaties, conventions, or agreements that may hereafter be entered into. The provision next foregoing, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, and travelers for curiosity or pleasure, nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section 19 of this act.

"That after four months from the approval of this act, in addition to the aliens who are by law now excluded from admission into the United States, the following persons shall also be excluded from admission thereto, to wit:

"All aliens over 16 years of age, physically capable of reading, who can not read the English language, or some other language or dialect, including Hebrew or Yiddish: *Provided*, That any admissible alien or any alien heretofore or hereafter legally admitted, or any citizen of the United States, may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to enter. That for the purpose of ascertaining whether aliens can read the immigrant inspectors shall be furnished with slips, of uniform size, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than 30 nor more than 40 words in ordinary use, printed in plainly legible type in the various languages and dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made, and shall be required to read the words printed on the slip in such language or dialect. No two aliens coming in the same vessel or other vehicle of carriage or transportation shall be tested with the same slip. That the following classes of persons shall be exempt from the operation of the illiteracy test, to wit: All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious persecution; all aliens in transit through the United States; all aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided*, That nothing in this act shall exclude, if otherwise admissible, persons convicted of an offense purely political, not involving moral turpitude: *Provided further*, That the provisions of this act relating to the payments for tickets or passage by any corporation, association, society, municipality, or foreign Government shall not apply to the tickets or passage of aliens in immediate and continuous transit through the United States to foreign contiguous territory: *Provided further*, That skilled labor, if otherwise admissible, may be imported if labor of like kind unemployed can not be found in this country, and the question of the necessity of importing such skilled labor in any particular instance may be determined by the Secretary of Commerce and Labor upon the application of any person interested, such application to be made before such importation, and such determination by the Secretary of Commerce and Labor to be reached after a full hearing and an investigation into the facts of the case; but such determination shall not become final until a period of 30 days has elapsed. Within 3 days after such determination the Secretary of Commerce and Labor shall cause to be published a brief statement reciting the substance of the application, the facts presented at the hearing and his determination thereon, in three daily newspapers of general circulation in three of the principal cities of the United States. At any time during said period of 30 days any person dissatisfied with the ruling may appeal to the district court of the United States of the district into which the labor is sought to be brought, which court, or the judge thereof in vacation, shall have jurisdiction to try de novo such question of necessity, and the decision in such court shall be final. Such appeals shall operate as a supersedeas: *Provided further*, That the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, ministers of any religious denomination, professors for colleges or seminaries, persons belonging to any recognized learned profession, or persons employed strictly as personal or domestic servants: *Provided further*, That whenever the President shall be satisfied that passports issued by any foreign Government to its citizens or subjects to go to any country other than the United States or to any insular possession of the United States or to the Canal Zone are being used for the purpose of enabling the holder to come to the continental territory of the United States to the detriment

of labor conditions therein, the President shall refuse to permit such citizens or subjects of the country issuing such passports to enter the continental territory of the United States from such other country or from such insular possessions or from the Canal Zone: *Provided further*, That nothing in this act shall be construed to prevent, hinder, or restrict any alien exhibitor, or holder of a concession or privilege for any fair or exposition authorized by act of Congress, from bringing into the United States, under contract, such alien mechanics, artisans, agents, or other employees, natives of his country, as may be necessary for installing or conducting his exhibit or for preparing for installing or conducting any business authorized or permitted under any concession or privilege which may have been or may be granted by any such fair or exposition in connection therewith, under such rules and regulations as the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may prescribe both as to the admission and return of such persons: *Provided further*, That nothing in this act shall be construed to apply to accredited officials of foreign Governments nor to their suites, families, or guests: *Provided further*, That nothing in this act shall exclude the wife or minor children of a citizen of the United States.

"SEC. 4. That the importation into the United States of any alien for the purpose of prostitution, or for any other immoral purpose, is hereby forbidden; and whoever shall, directly or indirectly, import, or attempt to import, into the United States any alien for the purpose of prostitution or for any other immoral purpose, or shall hold or attempt to hold any alien for any such purpose in pursuance of such illegal importation, or shall keep, maintain, control, support, employ, or harbor in any house or other place, for the purpose of prostitution or for any other immoral purpose, any alien, in pursuance of such illegal importation, shall in every such case be deemed guilty of a felony, and on conviction thereof shall be punished by imprisonment for a term of not more than 10 years and by a fine of not more than $5,000. Jurisdiction for the trial and punishment of the felonies hereinbefore set forth shall be in any district to or into which said alien is brought in pursuance of said importation by the person or persons accused, or in any district in which a violation of any of the foregoing provisions of this section occur. That any alien who shall, after he has been excluded and deported or arrested and deported in pursuance of the provisions of this act which relate to prostitutes, procurers, or other like immoral persons, attempt thereafter to return to or to enter the United States shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not more than two years. In all prosecutions under this section the testimony of a husband or wife shall be admissible and competent evidence against a wife or husband.

"SEC. 5. That it shall be unlawful for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation or in any way to induce, assist, encourage, or solicit the importation or migration of any contract laborer or contract laborers into the United States, unless such contract laborer or contract laborers are exempted under the provisions of section 3 of this act, and for every violation of any of the provisions of this section the person, partnership, company, or corporation violating the same shall forfeit and pay for every such offense the sum of $1,000, which may be sued for and recovered by the United States, or by any person who shall first bring his action therefor in his own name and for his own benefit, including any such aliens thus offered or promised employment as aforesaid, as debts of like amount are now recovered in the courts of the United States; or for every violation of the provisions hereof the person violating the same may be prosecuted in a criminal action for a misdemeanor, and on conviction thereof shall be punished by a fine of $1,000, or by imprisonment for a term of not less than six months nor more than two years; and under either the civil or the criminal procedure mentioned separate suits or prosecutions may be brought for each alien thus offered or promised employment as aforesaid.

"SEC. 6. That it shall be unlawful and be deemed a violation of section 5 of this act to induce, assist, encourage, or solicit any alien to come into the United States by promise of employment through advertisements printed, published, or distributed in any foreign country, whether such promise is true or false, and either the civil or the criminal penalty imposed by said section shall be applicable to such a case: *Provided*, That States or Territories, the District of Columbia, or places subject to the jurisdiction of the United States may advertise, and by written or oral communication with prospective alien settlers make known, the inducements they offer for immigration thereof, respectively.

"SEC. 7. That it shall be unlawful for any person, association, society, company, partnership, corporation, or others engaged in the business of transporting aliens to the United States, including owners, masters, officers, and agents of vessels, directly or indirectly, by writing, printing, or oral representation, to solicit, invite, or encourage any alien to come into the United States, and anyone violating any provision hereof shall be subject to either the civil or the criminal prosecution prescribed by section 5 of this act; or if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any owner, master, officer, or agent of a vessel has brought or caused to be brought to a port of the United States any alien so solicited, invited, or encouraged to come by such owner, master, officer, or agent, such owner, master, officer, or agent shall pay to the collector of customs of the customs district in which the port of arrival is located or in which any vessel of the line may be found the sum of $400 for each and every such violation; and no vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, or while the fine imposed remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such questions upon the deposit with the collector of customs of a sum sufficient to cover such fine: *Provided further*, That whenever it shall be shown to the satisfaction of the Secretary of Commerce and Labor that the provisions of this section are persistently violated by or on behalf of any transportation company, it shall be the duty of said Secretary to deny to such company the privilege of landing alien immigrant passengers of any or all classes at United States ports for such a period as in his judgment may be necessary to insure an observance of such provisions: *Provided further*, That this section shall not be held to prevent transportation companies from issuing letters, circulars, or advertisements, confined strictly to stating the sailings of their vessels and terms and facilities of transportation therein.

"SEC. 8. That any person, including the master, agent, owner, or consignee of any vessel, who shall bring into or land in the United States, by vessel or otherwise, or shall attempt, by himself or through another, to bring into or land in the United States, by vessel or otherwise, or shall conceal or harbor, or attempt to conceal or harbor, or assist or abet another to conceal or harbor in any place, including any building, vessel, railway car, conveyance, or vehicle, any alien not duly admitted by an immigrant inspector or not lawfully entitled to enter or to reside within the United States under the terms of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $1,000, or by imprisonment for a term not exceeding two years, or by both such fine and imprisonment for each and every alien so landed or brought in or attempted to be landed or brought in.

"SEC. 9. That it shall be unlawful for any person, including any transportation company other than railway lines entering the United States from foreign contiguous territory, or the owner, master, agent, or consignee of any vessel, to bring to the United States any alien afflicted with idiocy, insanity, imbecility, epilepsy, tuberculosis in any form, or a loathsome or dangerous contagious disease, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any alien so brought to the United States was afflicted with any of the said diseases or disabilities at the time of foreign embarkation, and that the existence of such disease or disability might have been detected by means of a competent medical examination at such time, such person or transportation company, or the master, agent, owner, or consignee of any such vessel, shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $200 for each and every violation of the provisions of this section. It shall also be unlawful for any such person to bring to any port of the United States any alien afflicted with any mental or physical defect of a nature which may affect his ability to earn a living, as contemplated in section 3 of this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that any alien so brought to the United States was so afflicted at the time of foreign embarkation, and that the existence of such mental or physical defect might have been detected by means of a competent medical examination at such time, such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $25 for each and every violation of this provision. It shall also be unlawful for any such person to bring to any port of the United States any alien who is excluded by the provisions of section 3 of this act because unable to read or who can not become eligible, under existing law, to become a citizen of the United States by naturalization, as provided in section 3 of this act, and if it shall appear to the satisfaction of the Sec-

retary of Commerce and Labor that these disabilities might have been detected by the exercise of reasonable precaution prior to the departure of such aliens from a foreign port such person shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $100 for each and every violation of this provision. And no vessel shall be granted clearance papers pending the determination of the question of the liability to the payment of such fine, or while the fine remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such questions upon the deposit of a sum sufficient to cover such fine and costs, such sum to be named by the Secretary of Commerce and Labor.

"SEC. 10. That it shall be the mandatory and unqualified duty of every person, including owners, officers, and agents of vessels or transportation lines, other than those lines which may enter into a contract as provided in section 23 of this act, bringing an alien to any seaport or land border port of the United States, to prevent the landing of such alien in the United States at any time or place other than as designated by the immigration officers, and the failure of any such owner, officer, or agent to comply with the foregoing requirements shall be deemed a misdemeanor and on conviction thereof shall be punished by a fine in each case of not less than $100 nor more than $1,000 or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment; or, if in the opinion of the Secretary of Commerce and Labor it is impracticable or inconvenient to prosecute the owner, master, officer, or agent of any such vessel, a pecuniary penalty of $1,000 shall be a lien upon the vessel whose owner, master, officer, or agent violates the provisions of this section, and such vessel shall be libeled therefor in the appropriate United State court.

"SEC. 11. That whenever he may deem such action necessary the Secretary of Commerce and Labor may, at the expense of the appropriation for the enforcement of this act, detail immigrant inspectors and matrons of the United States Immigration Service for duty on vessels carrying immigrant or emigrant passengers, or passengers other than first and second cabin passengers, between ports of the United States and foreign ports. On such voyages said inspectors and matrons shall remain in that part of the vessel where immigrant passengers are carried. It shall be the duty of such inspectors and matrons to observe such passengers during the voyage, and report to the immigration authorities in charge at the port of landing any information of value in determining the admissibility of such passengers under the laws regulating immigration of aliens into the United States. It shall further be the duty of such inspectors and matrons to observe violations of the provisions of such laws and the violation of such provisions of the 'passenger act' of August 2, 1882, as amended, as relate to the care and treatment of immigrant passengers at sea, and report the same to the proper United States officials at ports of landing. Whenever the Secretary of Commerce and Labor so directs, a surgeon of the United States Public Health Service, detailed to the Immigration Service, not lower in rank than a passed assistant surgeon, shall be received and carried on any vessel transporting immigrant or emigrant passengers, or passengers other than first and second cabin passengers, between ports of the United States and foreign ports. Such surgeon shall be permitted to investigate and examine the condition of all immigrant and emigrant passengers in relation to any provisions of the laws regulating the immigration of aliens into the United States and such provisions of the 'passenger act' of August 2, 1882, as amended, as relate to the care and treatment of immigrant passengers at sea, and shall immediately report any violation of said laws to the master or commanding officer of the vessel, and shall also report said violations to the Secretary of Commerce and Labor within 24 hours after the arrival of the vessel at the port of entry in the United States. Such surgeon shall accompany the master or captain of the vessel in his visits to the sanitary officers of the ports of call during the voyage, and, should contagious or infectious diseases prevail at any port where passengers are received, he shall request all reasonable precautionary measures for the health of persons on board. Such surgeon on arrival at ports of the United States shall also, if requested by the examining board, furnish any information he may possess in regard to immigrants arriving on the vessel to which he has been detailed. While on duty such surgeons shall wear the prescribed uniform of their service and shall be provided with first-class accommodations on such vessel at the expense of the appropriation for the enforcement of this act. For every violation of this section any person, including any transportation company, owning or operating the vessel in which such violation occurs shall pay to the collector of customs of the customs district in which the next United States port of arrival is located the sum of $1,000 for each and every day during which such violation continues, the term 'violation' to include the refusal of any person having authority so to do to permit any such immigrant inspector, matron, or surgeon to be received on board such vessel, as provided in this section, and also the refusal of the master or commanding officer of any such vessel to permit the inspections and visits of any such surgeon, as provided in this section, and no vessel shall be granted clearance papers pending the determination of the question of the liability of such fine, or while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of all such questions upon the deposit of a sum sufficient to cover such fine and costs, such sum to be named by the Secretary of Commerce and Labor.

"SEC. 12. That upon the arrival of any alien by water at any point within the United States on the North American Continent from a foreign port or a port of the Philippine Islands, Guam, Porto Rico, or Hawaii, or at any port of the said insular possessions from any foreign port, from a port in the United States on the North American Continent, or from a port of another insular possession of the United States, it shall be the duty of the master or commanding officer, owners, or consignees of the steamer, sailing, or other vessel having said alien on board to deliver to the immigration officers at the port of arrival lists or manifests made at the time and place of embarkation of such alien on board such steamer or vessel, which shall, in answer to questions at the top of said list, contain full and accurate information as to each alien as follows: Full name, age, and sex; whether married or single; calling or occupation, personal description (including height, complexion, color of hair and eyes, and marks of identification); whether able to read; nationality; country of birth; race; country of last permanent residence; name and address of the nearest relative in the country from which the alien came; seaport for landing in the United States; final destination, if any, beyond the port of landing; whether having a ticket through to such final destination; by whom passage was paid; whether going to join a relative or friend, and if so, what relative or friend, and his or her name and complete address; whether ever before in the United States, and if so, when and where; whether ever in prison or almshouse or an institution or hospital for the care and treatment of the insane or supported by charity; whether a polygamist; whether an anarchist; whether a person who believes in or advocates the overthrow by force or violence of the Government of the United States or of all forms of law, or who disbelieves in or is opposed to organized government, or who advocates the assassination of public officials, or is a member of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character; whether coming by reason of any offer, solicitation, promise, or agreement, express or implied, to perform labor in the United States; the alien's condition of health, mental and physical; whether deformed or crippled, and if so, for how long and from what cause; and such master or commanding officer, owners, or consignees shall also furnish information in relation to the sex, age, class of travel, and the foreign port of embrakation of arriving passengers who are United States citizens. That it shall further be the duty of the master or commanding officer of every vessel taking passengers from any port of the United States on the North American Continent to a foreign port or a port of the Philippine Islands, Guam, Porto Rico, or Hawaii, or from any port of the said insular possession to any foreign port, to a port of the United States on the North American Continent, or to a port of another insular possession of the United States to file with the immigration officials before departure a list which shall contain full and accurate information in relation to the following matters regarding all alien passengers, and all citizens of the United States or insular possessions of the United States departing with the stated intent to reside permanently in a foreign country, taken on board: Name, age, and sex; whether married or single; calling or occupation; whether able to read; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States or insular possessions thereof; if a citizen of the United States or of the insular possessions thereof, whether native born or naturalized; intended future permanent residence; and time and port of last arrival in the United States, or insular possessions thereof; and such master or commanding officer shall also furnish information in relation to the sex, age, class of travel, and port of debarkation of the United States citizens departing who do not intend to reside permanently in a foreign

country; and no master of any such vessel shall be granted clearance papers for his vessel until he has deposited such list or lists with the immigration officials at the port of departure and made oath that they are full and complete as to the name and other information herein required concerning each person of the classes specified taken on board his vessel; and any neglect or omission to comply with the requirements of this section shall be punishable as provided in section 14 of this act: *Provided*, That in the case of vessels making regular trips to ports of the United States the Commissioner General of Immigration, with the approval of the Secretary of Commerce and labor, may, when expedient, arrange for the delivery of such lists of outgoing aliens at a later date: *Provided further*, That it shall be the duty of immigration officials to record the following information regarding every resident alien and citizen leaving the United States by way of the Canadian or Mexican borders for permanent residence in a foreign country: Name, age, and sex; whether married or single; calling or occupation; whether able to read; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States; intended future permanent residence; and time and port of last arrival in the United States; and if a United States citizen, whether native born or naturalized.

"SEC. 13. That all aliens arriving by water at the ports of the United States shall be listed in convenient groups, the names of those coming from the same locality to be assembled so far as practicable, and no one list or manifest shall contain more than 30 names. To each alien or head of a family shall be given a ticket on which shall be written his name, a number or letter designating the list in which his name, etc., is contained, and his number on said list, for convenience of identification on arrival. Each list or manifest shall be verified by the signature and the oath or affirmation of the master or commanding officer, or the first or second below him in command, taken before an immigration officer at the port of arrival, to the effect that he has caused the surgeon of said vessel sailing therewith to make a physical and oral examination of each of said aliens, and that from the report of said surgeon and from his own investigation he believes that no one of said aliens is of any of the classes excluded from admission into the United States by section 3 of this act, and that also according to the best of his knowledge and belief, the information in said lists or manifests concerning each of said aliens named therein is correct and true in every respect. That the surgeon of said vessel sailing therewith shall also sign each of said lists or manifests and make oath or affirmation in like manner before an immigration officer at the port of arrival, stating his professional experience and qualifications as a physician and surgeon, and that he has made a personal examination of each of the said aliens named therein, and that the said list or manifest, according to the best of his knowledge and belief, is full, correct, and true in all particulars relative to the mental and physical condition of said aliens. If no surgeon sails with any vessel bringing aliens the mental and physical examinations and the verifications of the lists or manifests shall be made by some competent surgeon employed by the owners of the said vessels, and the manifests shall be verified by such surgeon before a United States consular officer.

"SEC. 14. That it shall be unlawful for the master or commanding officer of any vessel bringing aliens into or carrying aliens out of the United States to refuse or fail to deliver to the immigration officials the accurate and full manifests or statements or information regarding all aliens on board or taken on board such vessel required by this act, and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that there has been such a refusal or failure, or that the lists delivered are not accurate and full, such master or commanding officer shall pay to the collector of customs at the port of arrival or departure the sum of $10 for each alien concerning whom such accurate and full manifest or statement or information is not furnished, or concerning whom the manifest or statement or information is not prepared and sworn to as prescribed by this act. No vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine, or while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine.

"SEC. 15. That upon the arrival at a port of the United States of any vessel bringing aliens it shall be the duty of the proper immigration officials to go or to send competent assistants to the vessel and there inspect all such aliens, or said immigration officials may order a temporary removal of such aliens for examination at a designated time and place, but such temporary removal shall not be considered a landing, nor shall it relieve the transportation lines, masters, agents, owners, or consignees of the vessel upon which said aliens are brought to any port of the United States from any of the obligations which, in case such aliens remain on board, would, under the provisions of this act, bind the said transportation lines, masters, agents, owners, or consignees: *Provided*, That where removal is made to premises owned or controlled by the United States, said transportation lines, masters, agents, owners, or consignees, and each of them, shall, so long as detention there lasts, be relieved of responsibility for the safe-keeping of such aliens. Whenever a temporary removal of aliens is made the transportation lines which brought them and the masters, owners, agents, and consignees of the vessel upon which they arrive shall pay all expenses of such removal and all expenses arising during subsequent detention pending decision on the aliens' eligibility to enter the United States and until they are either allowed to land or returned to the care of the line or to the vessel which brought them, such expenses to include those of maintenance, medical treatment in hospital or elsewhere, burial in the event of death, and transfer to the vessel in the event of deportation, excepting only where they arise under the terms of any of the provisos of section 18 thereof; any refusal or failure to comply with the provisions hereof to be punished in the manner specified in section 18 of this act.

"SEC. 16. That the physical and mental examination of all arriving aliens shall be made by medical officers of the United States Public Health Service who shall have had at least two years' experience in the practice of their profession since receiving the degree of doctor of medicine, and who shall certify, for the information of the immigration officers and the boards of special inquiry hereinafter provided for, any and all physical and mental defects or diseases observed by said medical officers in any such alien; or, should medical officers of the United States Public Health Service be not available, civil surgeons of not less than four years' professional experience may be employed in such emergency for such service, upon such terms as may be prescribed by the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor. Medical officers of the United States Public Health Service who have had especial training in the diagnosis of insanity and mental defect shall be detailed for duty or employed at all large ports of entry, and such medical officers shall be provided with suitable facilities for the detention and examination of all arriving aliens in whom insanity or mental defect is suspected, and the services of interpreters shall be provided for such examination. That the inspection, other than the physical and mental examination, of aliens, including those seeking admission or readmission to or the privilege of passing through or residing in the United States, and the examination of aliens arrested within the United States under this act, shall be conducted by immigrant inspectors, except as hereinafter provided in regard to boards of special inquiry. Immigrant inspectors are hereby authorized and empowered to board and search for aliens any vessel, railway car, conveyance, or vehicle in which they believe aliens are being brought into the United States. Said inspectors shall have power to administer oaths and to take and consider evidence touching the right of any alien to enter, reenter, pass through, or reside in the United States, and, where such action may be necessary, to make a written record of such evidence; and any person to whom such an oath has been administered, under the provisions of this act, who shall knowingly or willfully give false evidence or swear to any false statement in any way affecting or in relation to the right of any alien to admission, or readmission to, or to pass through, or to reside in the United States shall be deemed guilty of perjury and be punished as provided by section 125 of the act approved March 4, 1909, entitled 'An act to codify, revise, and amend the penal laws of the United States.' Any commissioner of immigration or inspector in charge shall also have power to require the attendance and testimony of witnesses before said inspectors and the production of books, papers, and documents touching the right of any alien to enter, reenter, reside in, or pass through the United States, and to that end may invoke the aid of any court of the United States; and any district court within the jurisdiction of which investigations are being conducted by an immigrant inspector may, in the event of neglect or refusal to respond to a subpœna issued by any commissioner of immigration or inspector in charge or refusal to testify before said immigrant inspector, issue an order requiring such person to appear before said immigrant inspector, produce books, papers, and documents if demanded, and testify; and any failure to obey such order of the court shall be punished by the court as a contempt thereof. That any person, includ-

ing employees, officials, or agents of transportation companies, who shall assault, resist, prevent, impede, or interfere with any immigration official or employee in the performance of his duty under this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not less than six months nor more than two years, or by a fine of not less than $200 nor more than $2,000; and any person who shall use any deadly or dangerous weapon in resisting any immigration official or employee in the performance of his duty shall be deemed guilty of a felony and shall on conviction thereof be punished by imprisonment for not less than 1 nor more than 10 years. Every alien who may not appear to the examining immigrant inspector at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for examination in relation thereto by a board of special inquiry. In the event of rejection by the board of special inquiry, in all cases where an appeal to the Secretary of Commerce and Labor is permitted by this act, the alien shall be so informed and shall have the right to be represented by counsel or other advisor on such appeal. The decision of an immigrant inspector, if favorable to the admission of any alien, shall be subject to challenge by any other immigrant inspector, and such challenge shall operate to take the alien whose right to land is so challenged before a board of special inquiry for its investigation.

"SEC. 17. That boards of special inquiry shall be appointed by the commissioner of immigration or inspector in charge at the various ports of arrival as may be necessary for the prompt determination of all cases of immigrants detained at such ports under the provisions of the law. Each board shall consist of three members, who shall be selected from such of the immigrant officials in the service as the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, shall from time to time designate as qualified to serve on such boards. When in the opinion of the Secretary of Commerce and Labor the maintenance of a permanent board of special inquiry for service at any sea or land border port is not warranted, regularly constituted boards may be detailed from other stations for temporary service at such port, or, if that be impracticable, the Secretary of Commerce and Labor shall authorize the creation of boards of special inquiry by the immigration officials in charge at such ports, and shall determine what Government officials or other persons shall be eligible for service on such boards. Such boards shall have authority to determine whether an alien who has been duly held shall be allowed to land or shall be deported. All hearings before such boards shall be separate and apart from the public. Such boards shall keep a complete permanent record of their proceedings and of all such testimony as may be produced before them; and the decision of any two members of a board shall prevail, but either the alien or any dissenting member of the said board may appeal through the commissioner of immigration at the port of arrival and the Commissioner General of Immigration to the Secretary of Commerce and Labor, and the taking of such appeal shall operate to stay any action in regard to the final disposal of any alien whose case is so appealed until the receipt by the commissioner of immigration at the port of arrival of such decision, which shall be rendered solely upon the evidence adduced before the board of special inquiry. In every case where an alien is excluded from admission into the United States, under any law or treaty now existing or hereafter made, the decision of a board of special inquiry if adverse to the admission of such alien shall be final, unless reversed on appeal to the Secretary of Commerce and Labor: *Provided*, That the decision of a board of special inquiry, based upon the certificate of the examining medical officer, shall be final as to the rejection of aliens affected with tuberculosis in any form or with a loathsome or dangerous contagious disease, or with any mental or physical disability which would bring such aliens within any of the classes excluded from admission to the United States under section 3 of this act.

"SEC. 18. That all aliens brought to this country in violation of law shall, if practicable, be immediately sent back, in accommodations of the same class in which they arrived, to the country whence they respectively came on the vessels bringing them. The cost of their maintenance while on land, as well as the expense of the return of such aliens, shall be borne by the owner or owners of the vessels on which they respectively came. That it shall be unlawful for any master, purser, person in charge, agent, owner, or consignee of any such vessel to refuse to receive back on board thereof, or on board of any other vessel owned or operated by the same interests, such aliens; or to fail to detain them thereon; or to refuse or fail to return them in the manner aforesaid to the foreign port from which they came; or to pay the cost of their maintenance while on land; or to make any charge for the return of any such alien; or to take any security from him for the payment of such charge; or to take any consideration to be returned in case the alien is landed; or knowingly to bring to the United States at any time within one year from the date of deportation any alien rejected or arrested and deported under any provision of this act, unless prior to reembarkation the Secretary of Commerce and Labor has consented that such alien shall reapply for admission, as required by section 3 hereof; and if it shall appear to the satisfaction of the Secretary of Commerce and Labor that such master, purser, person in charge, agent, owner, or consignee has violated any of the foregoing provisions such master, purser, person in charge, agent, owner, or consignee shall pay to the collector of customs of the customs district in which the port of arrival is located, or in which any vessel of the line may be found, the sum of $300 for each and every violation of any provision of this section; and no vessel shall have clearance from any port of the United States while any such fine is unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine. If the vessel by which any alien ordered deported came has left the United States and it is impracticable for any reason to deport the alien within a reasonable time by another vessel owned by the same interests, the cost of deportation may be paid by the Government and recovered by civil suit from any agent, owner, or consignee of the vessel: *Provided further*, That the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may suspend, upon conditions to be prescribed by the Commissioner General of Immigration, the deportation of any alien found to have come in violation of any provision of this act if, in his judgment, the testimony of such alien is necessary on behalf of the United States Government in the prosecution of offenders against any provision of this act; and the cost of maintenance of any person so detained resulting from such suspension of deportation, and a witness fee in the sum of $1 per day for each day such person is so detained, may be paid from the appropriation for the enforcement of this act, or such alien may be released under bond, in the penalty of not less than $500, with security approved by the Secretary of Commerce and Labor, conditioned that such alien shall be produced when required as a witness and for deportation. No alien certified, as provided in section 16 of this act, to be suffering from tuberculosis in any form, or from a loathsome or dangerous contagious disease other than one of quarantinable nature, shall be permitted to land for medical treatment thereof in any hospital in the United States, unless with the express permission of the Secretary of Commerce and Labor: *Provided further*, That upon the certificate of a medical officer of the United States Public Health Service to the effect that the health or safety of an insane alien would be unduly imperiled by immediate deportation, such alien may, at the expense of the appropriation for the enforcement of this act, be held for treatment until such time as such alien may, in the opinion of such medical officer, be safely deported: *Provided further*, That upon the certificate of a medical officer of the United States Public Health Service to the effect that a rejected alien is helpless from sickness, mental or physical disability, or infancy, if such alien is accompanied by another alien whose protection or guardianship is required by such rejected alien, such accompanying alien may also be excluded, and the master, agent, owner, or consignee of the vessel in which such alien and accompanying alien are brought shall be required to return said alien and accompanying alien in the same manner as vessels are required to return other rejected aliens.

"SEC. 19. That any alien, at any time within three years after entry, who shall enter the United States in violation of law; any alien who within three years after entry becomes a public charge from causes existing prior to the landing; except as hereinafter provided, any alien who is hereafter sentenced to imprisonment for a term of one year or more because of conviction in this country of a crime involving moral turpitude, committed within three years after the entry of the alien to the United States; any alien who shall be found an inmate of or connected with the management of a house of prostitution or practicing prostitution after such alien shall have entered the United States, or who shall receive, share in, or derive benefit from any part of the earnings of any prostitute; any alien who is employed by, in, or in connection with any house of prostitution or music or dance hall or other place of amusement or resort habitually frequented by prostitutes, or where prostitutes gather, or who in any way assists, protects, or promises to protect from arrest any prostitute; any alien who shall import or attempt to import any person for the purpose of prostitution

or for any other immoral purpose; any alien who, after being excluded and deported or arrested and deported as a prostitute, or as a procurer, or as having been connected with the business of prostitution or importation for prostitution or other immoral purposes in any of the ways hereinbefore specified shall return to and enter the United States; any alien convicted and imprisoned for a violation of any of the provisions of section 4 hereof; any alien, at any time within three years after entry, who shall enter the United States by water at any time or place other than as designated by immigration officials, or by land at any place other than one designated as a port of entry for aliens by the Commissioner General of Immigration, or at any time not designated by immigration officials, shall, upon the warrant of the Secretary of Commerce and Labor, be taken into custody and deported: *Provided*, That the provision of this section respecting the deportation of aliens convicted of a crime involving moral turpitude shall not apply to one who has been pardoned, nor shall such deportation be made or directed if the court sentencing such alien for such crime shall, at the time of imposing judgment or passing sentence, make a recommendation to the Secretary of Commerce and Labor that such alien shall not be deported in pursuance of this act; nor shall any alien convicted as aforesaid be deported until after the termination of his imprisonment: *Provided further*, That the provisions of this section, with the exceptions hereinbefore noted, shall be applicable to the classes of aliens therein mentioned irrespective of the time of their entry into the United States. In every case where any person is ordered deported from the United States under the provisions of this act or of any law or treaty now existing, the decision of the Secretary of Commerce and Labor shall be final.

"SEC. 20. That the deportation of aliens provided for in this act shall, at the option of the Secretary of Commerce and Labor, be to the country whence they came or to the foreign port at which such aliens embarked for the United States; or, if such embarkation was for foreign contiguous territory, to the foreign port at which they embarked for such territory; or, if such aliens entered foreign contiguous territory from the United States and later entered the United States, or if such aliens are held by the country from which they entered the United States not to be subjects or citizens of such country, and such country refuses to permit their reentry or imposes any condition upon permitting reentry, then to the country of which such aliens are subjects or citizens, or to the country in which they resided prior to entering the country from which they entered the United States. If effected at any time within five years after the entry of the alien, such deportation, including one-half of the entire cost of removal to the port of deportation, shall be at the expense of the contractor, procurer, or other person by whom the alien was unlawfully induced to enter the United States, or, if that can not be done, then the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this act, and the deportation from such port shall be at the expense of the owner or owners of such vessels or transportation line by which such aliens respectively came, or, if that is not practicable, at the expense of the appropriation for the enforcement of this act. If such deportation is effected later than five years after the entry of the alien, or if the deportation is made by reason of causes arising subsequent to entry, the cost thereof shall be payable from the appropriation for the enforcement of this act. A failure or refusal on the part of the masters, agents, owners, or consignees of vessels to comply with the order of the Secretary of Commerce and Labor to take on board, guard safely, and transport to the destination specified any alien ordered to be deported under the provisions of this act shall be punished by the imposition of the penalties prescribed in section 18 of this act: *Provided*, That when in the opinion of the Secretary of Commerce and Labor the mental or physical condition of such alien is such as to require personal care and attendance, he may employ a suitable person for that purpose, who shall accompany such alien to his or her final destination, and the expense incident to such service shall be defrayed in like manner. Pending the final disposal of the case of any alien so taken into custody he may be released under a bond in the penalty of not less than $500 with security approved by the Secretary of Commerce and Labor, conditioned that such alien shall be produced when required for a hearing or hearings in regard to the charge upon which he has been taken into custody, and for deportation if he shall be found to be unlawfully within the United States.

"SEC. 21. That any alien liable to be excluded because likely to become a public charge or because of physical disability other than tuberculosis in any form or a loathsome or dangerous contagious disease may, if otherwise admissible, nevertheless be admitted in the discretion of the Secretary of Commerce and Labor upon the giving of a suitable and proper bond or undertaking, approved by said Secretary, in such amount and containing such conditions as he may prescribe, to the United States and to all States, Territories, counties, towns, municipalities, and districts thereof, holding the United States and all States, Territories, counties, towns, municipalities, and districts thereof harmless against such alien becoming a public charge. The admission of such alien shall be a consideration for the giving of such bond or undertaking. Suit may be brought thereon in the name and by the proper law officers either of the United States Government or of any State, Territory, District, county, town, or municipality in which such alien becomes a public charge.

"SEC. 22. That wherever an alien shall have taken up his permanent residence in this country, and shall have filed his declaration of intention to become a citizen, and thereafter shall send for his wife or minor children to join him, if said wife or any of said children shall be found to be affected with any contagious disorder, such wife or children shall be held, under such regulations as the Secretary of Commerce and Labor shall prescribe, until it shall be determined whether the disorder will be easily curable or whether they can be permitted to land without danger to other persons; and they shall not be either admitted or deported until such facts have been ascertained; and if it shall be determined that the disorder is easily curable and the husband or father or other responsible person is willing to bear the expense of the treatment, they may be accorded treatment in hospital until cured and then be admitted, or if it shall be determined that they can be permitted to land without danger to other persons, they may, if otherwise admissible, thereupon be admitted.

"SEC. 23. That the Commissioner General of Immigration shall perform all his duties under the direction of the Secretary of Commerce and Labor. Under such direction he shall have charge of the administration of all laws relating to the immigration of aliens into the United States, and shall have the control, direction, and supervision of all officers, clerks, and employees appointed thereunder; he shall establish such rules and regulations, prescribe such forms of bond, reports, entries, and other papers, and shall issue from time to time such instructions, not inconsistent with law, as he shall deem best calculated for carrying out the provisions of this act and for protecting the United States and aliens migrating thereto from fraud and loss, and shall have authority to enter into contract for the support and relief of such aliens as may fall into distress or need public aid, and to remove to their native country, at any time within three years after entry, at the expense of the appropriations for the enforcement of this act, such as fall into distress or need public aid from causes arising subsequent to their entry and are desirous of being so removed; he shall prescribe rules for the entry and inspection of aliens along the borders of Canada and Mexico, so as not to unnecessarily delay, impede, or annoy persons in ordinary travel between the United States and said countries, and shall have power to enter into contracts with transportation lines for the said purpose; it shall be the duty of the Commissioner General of Immigration to detail officers of the Immigration Service from time to time as may be necessary, in his judgment, to secure information as to the number of aliens detained in the penal, reformatory, and charitable institutions (public and private) of the several States and Territories, the District of Columbia, and other territory of the United States and to inform the officers of such institutions of the provisions of law in relation to the deportation of aliens who have become public charges. He may, with the approval of the Secretary of Commerce and Labor, whenever in his judgment such action may be necessary to accomplish the purposes of this act, detail immigration officers, and also surgeons of the United States Public Health Service employed under this act for service in foreign countries. The duties of commissioners of immigration and other immigration officials in charge of districts, ports, or stations shall be of an administrative character, to be prescribed in detail by regulations prepared under the direction or with the approval of the Secretary of Commerce and Labor: *Provided*, That for the purpose of making effective the provisions of this section relating to the protection of aliens from fraud and loss, and also the provisions of section 30 of this act, relating to the distribution of aliens, the Secretary of Commerce and Labor shall establish and maintain immigrant stations at such interior places as may be necessary, and, in the discretion of the said Secretary, aliens in transit from ports of landing to such interior stations shall be accompanied by immigrant inspectors.

"SEC. 24. That immigrant inspectors and other immigration officers, clerks, and employees shall hereafter be appointed and

their compensation fixed and raised or decreased from time to time by the Secretary of Commerce and Labor, upon the recommendation of the Commissioner General of Immigration and in accordance with the provisions of the civil-service act of January 16, 1883: *Provided*, That said Secretary, in the enforcement of that portion of this act which excludes contract laborers, may employ, without reference to the provisions of the said civil-service act, or to the various acts relative to the compilation of the official register, such persons as he may deem advisable and from time to time fix, raise, or decrease their compensation. He may draw annually from the appropriation for the enforcement of this act $50,000, or as much thereof as may be necessary, to be expended for the salaries and expenses of persons so employed and for expenses incident to such employment; and the accounting officers of the Treasury shall pass to the credit of the proper disbursing officer expenditures from said sum without itemized account whenever the Secretary of Commerce and Labor certifies that an itemized account would not be for the best interests of the Government: *Provided further*, That nothing herein contained shall be construed to alter the mode of appointing commissioners of immigration at the several ports of the United States as provided by the sundry civil appropriation act approved August 18, 1894, or the official status of such commissioners heretofore appointed.

"SEC. 25. That the district courts of the United States are hereby invested with full and concurrent jurisdiction of all causes, civil and criminal, arising under any of the provisions of this act. That it shall be the duty of the United States district attorney of the proper district to prosecute every such writ when brought by the United States under this act. Such prosecutions or suits may be instituted at any place in the United States at which the violation may occur or at which the person charged with such violation may be found. That no suit or proceeding for a violation of the provisions of this act shall be settled, compromised, or discontinued without the consent of the court in which it is pending, entered of record, with the reasons therefor.

"SEC. 26. That all exclusive privileges of exchanging money, transporting passengers or baggage, or keeping eating houses, and all other like privileges in connection with any United States immigrant station, shall be disposed of after public competition, subject to such conditions and limitations as the Commissioner General of Immigration, under the direction or with the approval of the Secretary of Commerce and Labor, may prescribe, and all receipts accruing from the disposal of such exclusive privileges shall be paid into the Treasury of the United States. No intoxicating liquors shall be sold at any such immigrant station.

"SEC. 27. That for the preservation of the peace and in order that arrests may be made for crimes under the laws of the States and Territories of the United States where the various immigrant stations are located, the officers in charge of such stations, as occasion may require, shall admit therein the proper State and municipal officers charged with the enforcement of such laws, and for the purpose of this section the jurisdiction of such officers and of the local courts shall extend over such stations.

"SEC. 28. That any person who knowingly aids or assists any anarchist or any person who believes in or advocates the overthrow by force or violence of the Government of the United States, or who disbelieves in or is opposed to organized government or all forms of law, or who advocates the assassination of public officials, or who is a member of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, to enter the United States, or who connives or conspires with any person or persons to allow, procure, or permit any such anarchist or person aforesaid to enter therein shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine of not more than $5,000 or by imprisonment for not more than five years, or both.

"SEC. 29. That the President of the United States is authorized, in the name of the Government of the United States, to call, in his discretion, an international conference, to assemble at such point as may be agreed upon, or to send special commissioners to any foreign country, for the purpose of regulating by international agreement, subject to the advice and consent of the Senate of the United States, the immigration of aliens to the United States; of providing for the mental, moral, and physical examination of such aliens by American consuls or other officers of the United States Government at the ports of embarkation, or elsewhere; of securing the assistance of foreign Governments in their own territories to prevent the evasion of the laws of the United States governing immigration to the United States; of entering into such international agreements as may be proper to prevent the immigration of aliens who, under the laws of the United States, are or may be excluded from entering the United States, and of regulating any matters pertaining to such immigration.

"SEC. 30. That there shall be maintained a division of information in the Bureau of Immigration and Naturalization; and the Secretary of Commerce and Labor shall provide such clerical and other assistance as may be necessary. It shall be the duty of said division to promote a beneficial distribution of aliens admitted into the United States among the several States and Territories desiring immigration. Correspondence shall be had with the proper officials of the States and Territories, and said division shall gather from all available sources useful information regarding the resources, products, and physical characteristics of each State and Territory, and shall publish such information in different languages and distribute the publications among all admitted aliens at the immigrant stations of the United States and to such other persons as may desire the same. When any State or Territory appoints and maintains an agent or agents to represent it at any of the immigrant stations of the United States, such agents shall, under regulations prescribed by the Commissioner General of Immigration, subject to the approval of the Secretary of Commerce and Labor, have access to aliens who have been admitted to the United States for the purpose of presenting, either orally or in writing, the special inducements offered by such State or Territory to aliens to settle therein. While on duty at any immigrant station such agents shall be subject to all the regulations prescribed by the Commissioner General of Immigration, who, with the approval of the Secretary of Commerce and Labor, may, for violation of any such regulations, deny to the agent guilty of such violation any of the privileges herein granted.

"SEC. 31. That any person, including the owner, agent, consignee, or master of any vessel arriving in the United States from any foreign port or place, who shall knowingly sign on the ship's articles, or bring to the United States as one of the crew of such vessel, any alien, with intent to permit such alien to land in the United States in violation of the laws and treaties of the United States regulating the immigration of aliens, or who shall falsely and knowingly represent to the immigration authorities at the port of arrival that any such alien is a bona fide member of the crew, shall be liable to a penalty not exceeding $5,000, for which sum the said vessel shall be liable and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

"SEC. 32. That no alien excluded from admission into the United States by any law or treaty of the United States regulating the immigration of aliens, and employed on board any vessel arriving in the United States from any foreign port or place, shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to regulations prescribed by the Secretary of Commerce and Labor providing for the ultimate removal or deportation of such alien from the United States, and the negligent failure of the owner, agent, consignee, or master of such vessel to detain on board any such alien after notice in writing by the immigration officer in charge at the port of arrival, and to deport such alien, if required by such immigration officer or by the Secretary of Commerce and Labor, shall render such owner, agent, consignee, or master liable to a penalty not exceeding $1,000, for which sum the said vessel shall be liable, and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

"SEC. 33. That it shall be unlawful and be deemed a violation of the preceding section to pay off or discharge any alien employed on board any vessel arriving in the United States from any foreign port or place, unless duly admitted pursuant to the laws and treaties of the United States regulating the immigration of aliens: *Provided*, That in case any such alien intends to reship on board any other vessel bound to any foreign port or place he shall be allowed to land for the purpose of so reshipping, and may be paid off, discharged, and permitted to remove his effects, anything in such laws or treaties or in this act to the contrary notwithstanding, provided due notice of such proposed action first be given to the principal immigration officer in charge at the port of arrival.

"SEC. 34. That any alien seaman who shall desert his vessel in a port of the United States or who shall land therein contrary to the provisions of this act shall be deemed to be unlaw-

fully in the United States and shall, at any time within three years thereafter, upon the warrant of the Secretary of Commerce and Labor, be taken into custody and brought before a board of special inquiry for examination as to his qualifications for admission to the United States, and if not admitted said alien seaman shall be deported at the expense of the appropriation for this act as provided in section 20 of this act.

"SEC. 35. That it shall be unlawful for any vessel carrying passengers between a port of the United States and a port of a foreign country, upon arrival in the United States, to have on board employed thereon any alien afflicted with idiocy, imbecility, insanity, epilepsy, tuberculosis in any form, or a loathsome or dangerous contagious disease, if it appears to the satisfaction of the Secretary of Commerce and Labor, from an examination made by a medical officer of the United States Public Health Service, and is so certified by such officer, that any such alien was so afflicted at the time he was shipped or engaged and taken on board such vessel and that the existence of such affliction might have been detected by means of a competent medical examination at such time; and for every such alien so afflicted on board any such vessel at the time of arrival the owner, agent, consignee, or master thereof shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $25; and no vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine and while it remains unpaid: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine: *Provided further*, That such fine may, in the discretion of the Secretary of Commerce and Labor, be mitigated or remitted.

"SEC. 36. That upon arrival of any vessel in the United States from any foreign port or place it shall be the duty of the owner, agent, consignee, or master thereof to deliver to the principal immigration officer in charge of the port of arrival lists containing the names of all aliens employed on such vessel, stating the positions they respectively hold in the ship's company, when and where they were respectively shipped or engaged, and specifying those to be paid off and discharged in the port of arrival; or lists containing so much of such information as the Secretary of Commerce and Labor shall by regulation prescribe; and after the arrival of any such vessel it shall be the duty of such owner, agent, consignee, or master to report to such immigration officer, in writing, as soon as discovered, all cases in which any such alien has deserted the vessel, giving a description of such alien, together with any information likely to lead to his apprehension; and before the departure of any such vessel it shall be the duty of such owner, agent, consignee, or master to deliver to such immigration officer a further list containing the names of all alien employees who were not employed thereon at the time of the arrival, but who will leave port thereon at the time of her departure, and also the names of those, if any, who have been paid off and discharged, and of those, if any, who have deserted or landed or been duly admitted; and in case of the failure of such owner, agent, consignee, or master so to deliver either of the said lists of such aliens arriving and departing, respectively, or so to report such cases of desertion, or landing, such owner, agent, consignee, or master shall, if required by the Secretary of Commerce and Labor, pay to the collector of customs of the customs district in which the port of arrival is located the sum of $10 for each alien concerning whom correct lists are not delivered or a true report is not made as above required; and no such vessel shall be granted clearance pending the determination of the question of the liability to the payment of such fine and, in the event such fine is imposed, while it remains unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon deposit of a sum sufficient to cover such fine.

"SEC. 37. The word 'person' as used in this act shall be construed to import both the plural and the singular, as the case may be, and shall include corporations, companies, and associations. When construing and enforcing the provisions of this act, the act, omission, or failure of any director, officer, agent, or employee of any corporation, company, or association acting within the scope of his employment or office shall in every case be deemed to be the act, omission, or failure of such corporation, company, or association, as well as that of the person acting for or in behalf of such corporation, company, or association.

"SEC. 38. That this act, except as otherwise provided in section 3, shall take effect and be enforced from and after July 1, 1913. The act of March 26, 1910, amending the act of February 20, 1907, to regulate the immigration of aliens into the United States; the act of February 20, 1907, to regulate the immigration of aliens into the United States, except section 34 thereof; the act of March 3, 1903, to regulate the immigration of aliens into the United States, except section 34 thereof; and all other acts and parts of acts inconsistent with this act are hereby repealed on and after the taking effect of this act: *Provided*, That this act shall not be construed to repeal, alter, or amend existing laws relating to the immigration or exclusion of Chinese persons or persons of Chinese descent, nor to repeal, alter, or amend section 6, chapter 453, third session Fifty-eighth Congress, approved February 6, 1905, or the act approved August 2, 1882, entitled 'An act to regulate the carriage of passengers by sea,' and amendments thereto: *Provided*, That nothing contained in this act shall be construed to affect any prosecution, suit, action, or proceedings brought, or any act, thing, or matter, civil or criminal, done or existing at the time of the taking effect of this act, except as mentioned in the last proviso of section 19 hereof; but as to all such prosecutions, suits, actions, proceedings, acts, things, or matters, the laws or parts of laws repealed or amended by this act are hereby continued in force and effect."

JOHN L. BURNETT,
AUGUSTUS P. GARDNER,
Managers on the part of the House.
H. C. LODGE,
WM. P. DILLINGHAM,
LE ROY PERCY,
Managers on the part of the Senate.

The Clerk read the statement, as follows:

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the House to the Senate bill (S. 3175) regulating the immigration of aliens, submit the following detailed statement in explanation of the effect agreed upon and recommended in the conference report:

The Senate having disagreed to the entire House amendment, which in its turn had stricken out the entire Senate bill, the whole subject of immigration came before the conference committee.

The bill as it passed the House contained no features except the illiteracy test. The Senate bill contemplated many changes in the law and an illiteracy test substantially similar to that proposed in the House, the principal difference being that the Senate included "writing" in its test and differed somewhat from the House as to the admissibility of illiterate relatives of qualified immigrants. On all substantial matters of difference between the Senate and the House touching the illiteracy test the Senate receded.

The changes made in conference since the last conference report was accepted by the House on January 17 are as follows:

First. In section 1 the definition of the word "alien" has been somewhat changed by exempting from its scope persons who have declared their intention of becoming citizens of the United States.

Second. The clause relating to penal certificates and certificates of character has been stricken from the bill. This clause was formerly in section 3.

Third. In section 3 an appeal is provided from the decisions of the Secretary of Commerce and Labor touching the necessity of importing skilled contract labor.

Fourth. In section 7 a mistake has been corrected with regard to the penalty imposed for soliciting immigration.

Fifth. In section 9 the reading is slightly changed so as to make it clear that certain excepted illiterates may lawfully be brought to the United States.

The principal changes in existing law proposed by the Senate and agreed to by the managers on the part of the House, as set forth in the conference report of January 16, 1913, and retained in this conference report, are as follows:

First. An increase of the head tax from $4 to $5 per alien.

Second. The exclusion of aliens not eligible for naturalization.

Third. Making it permissible for the Secretary of Commerce and Labor to decide beforehand as to the necessity of importing such skilled contract labor as is now admissible under the existing contract-labor law.

Fourth. Providing more severe penalties for transportation lines which violate the law against advertising for immigrants and which bring to the United States aliens who are ineligible to enter.

Fifth. Providing for matrons, inspectors, and surgeons on immigrant ships at the discretion of the Secretary of Commerce and Labor.

Sixth. Providing machinery for compelling the attendance and testimony of witnesses before the immigration authorities when required.

Seventh. Providing for the deportation of aliens who become criminals within three years subsequent to entry.

Eighth. Providing for interior immigrant stations.

Ninth. Providing against the illegal entry of seamen and stowaways.

Tenth. Permitting aliens to be represented by counsel in the case of appeals from the decisions of boards of special inquiry.

Eleventh. Providing experts in insanity at large ports of entry.

Twelfth. A definition of the meaning of the word "alien" where it appears in the bill.

JOHN L. BURNETT,
AUGUSTUS P. GARDNER,
Managers on the part of the House.

Mr. BURNETT. Mr. Speaker——

The SPEAKER. The gentleman from Alabama [Mr. BURNETT] is recognized for 37½ minutes, and out of that he yields to the gentleman from Pennsylvania [Mr. MOORE] 10 minutes.

[Mr. BURNETT addressed the House. See Appendix.]

Mr. DIES. Mr. Speaker, I am exceedingly gratified that this bill is to pass the House and will shortly pass the body at the other end of the Capitol and become a law of this Nation.

Opponents of this bill have never attempted to argue or contend that the 250,000 immigrants to be excluded by the provisions of this bill are capable of self-government. They could not have taken that position without having been driven from it upon the floor of the House. They shield their opposition to this bill behind the statement that they want more labor in this country to develop its natural resources. My friend from New York, Mr. GOLDFOGLE, who is one of those occupying that position, was asked if the importation of large numbers of cheap laborers from the poorly paid labor district of the south and east of Europe would not depress the labor market of the United States. He unfolded a new doctrine of political economy before the House by saying that the importation of cheap laborers into this labor market would not reduce the price of labor here.

Mr. GOLDFOGLE. I said nothing of the kind. That is altogether a misstatement.

The SPEAKER. The gentleman from New York must not interrupt the gentleman from Texas without his consent.

Mr. DIES. My friend from New York, Mr. GOLDFOGLE, in the discussion heretofore seemed to feel that I was not properly in sympathy with his constituents. I assure the gentleman that there is no constituency in this country for whose misfortunes my heart goes out in more tender commiseration. I believe I am a better friend of the constituents of the gentleman from New York, who represents the East Side of that crowded city, than he is himself. I would close the ports to the ignorant, illiterate masses who come to dump themselves into his district, an unlettered, struggling, pitiable people who are already oppressed sufficiently.

Mr. Speaker, there is another phase of this question. We talk about wanting to be relieved from the high cost of living. This illiterate quarter of a million people who come from the south and east of Europe do not go to the farms to till the untilled acres, to build homes, and grow food with which to feed the people. They go into the crowded cities, like the East Side of New York, and while I admit that they do not demand very much in the shape of food from the markets, still what little they get to live on adds to the high cost of living in this country.

Moreover, if that question were not involved, I should still be in favor of this bill, because I am not one of those who believe that all the resources and opportunities of this country should be developed in a decade, a half century, or a century. I would leave some railroads to be built, some mines to be worked, some natural resources of this country to be developed by your children and your children's children in the generations yet unborn. I think no more cruel thing could be done by the American people in their mad race to make money than to develop all of the resources of this country in this age and generation, and leave this country as barren of opportunities as are the countries in the south and east of Europe from which these people come. [Applause.]

Mr. BURNETT. Mr. Speaker, I will ask the gentleman from New York [Mr. GOLDFOGLE] to use some of his time now.

The SPEAKER. The gentleman from New York [Mr. GOLDFOGLE] has 37½ minutes minus 10 minutes.

Mr. GOLDFOGLE. I yield to the gentleman from Massachusetts [Mr. MURRAY].

Mr. MURRAY. Mr. Speaker, I interrupted the remarks of the gentleman from Alabama [Mr. BURNETT], not because I desired to intrude upon him at all but simply because I wanted to satisfy myself by questions properly directed to him with regard to his point of view concerning the pending legislation.

He magnified the fact that he had accepted the point of view of the Secretary of Commerce and Labor with regard to certain features of the pending conference report.

And when I asked him whether the Secretary of Commerce and Labor had communicated any views, officially or unofficially, in regard to the main proposition contained in his conference report, he evaded the question with the skill he usually shows when he does not desire to meet squarely a question propounded to him.

Mr. Speaker, I shall continue to vote against this conference report because the main proposition in it is the adoption or rejection of the illiteracy test of immigrants coming to this country. I do not believe now, I never have believed, and I do not think I shall ever believe in any kind of test that requires a person coming into this country shall show an inspector of immigration that he is able to read. I think it is a false test; I think it is un-American; I think it is undemocratic; and because of this main proposition contained in the report, skillfully concealed by the recodification of the laws and the reenactment of certain provisions of existing law about which there is no difference of opinion between Members of this Congress, I believe the illiteracy test is the main proposition, and therefore I shall withhold my assent to this conference report.

Now, in the second paragraph of the statement of the managers on the part of the House you will find the keynote to my opposition:

> The Senate having disagreed to the entire House amendment, which in its turn had stricken out the entire Senate bill, the whole subject of immigration came before the conference committee.

There is the fact, Mr. Speaker, frankly admitted in the second paragraph in the statement of the managers on the part of the House. The whole subject of immigration was opened up and these men, three on the part of the House and three on the part of another legislative Chamber, these six men sat down and revised and codified the entire immigration laws of this Nation.

The SPEAKER. The time of the gentleman from Massachusetts has expired.

Mr. BURNETT. Mr. Speaker, I yield one-half minute to the gentleman from Ohio [Mr. WILLIS].

Mr. WILLIS. Mr. Speaker, I am a member of a committee which must necessarily leave here before the vote can be had on this bill. I simply want to say that if it were possible for me to be here when the roll is called I should vote to concur in this conference report, as I have voted for the bill at every stage. I believe, Mr. Speaker, the time is at hand when it is absolutely necessary, if we would maintain the high standard of citizenship in this Republic, that there should be some further restrictions on immigration, and I believe that this bill provides for such restrictions in accordance with the report of the Immigration Commission.

Mr. MOORE of Pennsylvania. Mr. Speaker, I yield one minute to the gentleman from Illinois [Mr. CANNON].

Mr. CANNON. Mr. Speaker, the agitation against immigration has existed for long over a generation. From 1854 to 1860 the hurricane of protests against immigration from Ireland and somewhat from Germany might be compared then with the gentle breeze of protest against immigration now. [Applause.] I can not, of course, in a minute discuss this question. I am but little over a century old from the other side when some of my forbears came to this country with accommodations inferior to steerage accommodations now, but I am ready to welcome any man that is willing to live in the sweat of his face, of the Caucasian race, who comes here to cast his lot with us. I had rather have one man of that kind who can not read or write, ready to work, than a whole hundred men who can read and write who will not work. [Applause.] I shall vote against this conference report. [Applause.]

Mr. MOORE of Pennsylvania. I yield three minutes to the gentleman from California [Mr. KAHN].

Mr. KAHN. Mr. Speaker, my objection to the bill is to the illiteracy test. Let us see how that will work out in the Territory of Hawaii. There the working population in the sugar plantations is composed of Chinese and Japanese almost exclusively. The Japanese laborers outnumber all others there by many thousands. Within recent years the Hawaiian planters have gone to Europe to induce white labor to come to those islands. They brought many shiploads of Spaniards and Portuguese and paid them one-third more in salary than they were paying the Japanese and Chinese. They are largely illiterates who can not read or write. They work in the cane fields. The educated white men are not willing to do that kind of work.

Yet this bill will prevent the Hawaiian planters from building up a Caucasian civilization in these islands and will compel them to continue Japanese labor in the sugar fields.

I apprehend that there is not a Member on the floor who desires to orientalize these islands, and yet under the terms of this bill Caucasian labor will be excluded and planters will be compelled again to resort to the local cheap labor of Japan.

There is another provision of the bill which excludes all those immigrants who can not become citizens under our naturalization laws. That provision will affect all Asiatics, so that the sugar producers of Hawaii will not be able to bring Caucasians from Europe or orientals from Asia to work their plantations. It is a remarkable condition of affairs. And yet this bill creates that very condition.

Mr. Speaker, it is a strange fact that the most insistent advocates of this measure come from those sections of the Union where there is the most illiteracy and the least immigration. In that section of the Union from which I come we need hundreds of miles of electric railroads to bring the products of our orchards and vineyards to the seaboard. The educated native American will not do the rough, hard work of digging trenches, ballasting roadways, and laying rails. The men who do that class of work are, for the most part, illiterates. Our experience has been that they are frugal and hard-working Greeks and Italians. These immigrants readily embrace the opportunity to educate themselves, and their children become progressive, cultured, patriotic American citizens. I believe that the adoption of an illiteracy test will not keep out undesirable immigrants, but it will keep out thousands of "hewers of wood and drawers of water" whose labor would add materially to the prosperity of our country.

Mr. GOLDFOGLE. Mr. Speaker, I yield one-half minute to the gentleman from Missouri [Mr. DYER].

Mr. DYER. Mr. Speaker, I send to the Clerk's desk a letter from the archbishop of St. Louis, and ask to have it read in my time.

[During the reading of the letter the time of the gentleman from Missouri expired, and he was granted sufficient time to have the reading of the letter completed.]

The Clerk read as follows:

ARCHBISHOP'S HOUSE,
St. Louis, January 15, 1913.

Congressman L. C. DYER,
House of Representatives, Washington, D. C.

MY DEAR CONGRESSMAN: * * * I am quite opposed to the literacy test; it is not the people who do not read that compose the criminal class—they do not furnish murderers for our Presidents, anarchists for our cities, nor Socialists for our universities. Furthermore, in Missouri our poor but honest immigrant farmer is graudally building up a decent country life, a practically new life and better life in our western country. I am surprised that any western Representatives would be in favor of this test.

The real test for the immigrant should be character, and character can exist without the accident of literary knowledge. The man who will live decently, and who has a working knowledge of the Ten Commandments and the Golden Rule, who is physically and mentally sound, is an acquisition really worth having. The man who knows how to read but is not mentally honest is, in his coming, a menace rather than a blessing. * * *

I remain, with excellent good wishes,
Sincerely, yours,

JOHN J. GLENNON,
Archbishop of St. Louis.

Mr. DYER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by the inclusion of the telegram which I send to the desk.

The SPEAKER. Is there objection?

There was no objection.

The telegram is as follows:

ST. LOUIS, MO., *January 24, 1913.*

Hon. L. C. DYER,
House of Representatives, Washington, D. C.:

Southwestern Railroad and farmers are much interested that immigration bill shall contain exception as to illiterate Mexican laborers. This class of laborers is largely employed in the track work for railroads and furnishes cheap labor, especially for cotton growers. They are capable men, and their exclusion would seriously handicap these interests. Please give this matter consideration, and if consistent, act in favor of said exception.

LEE W. HAGERMAN.

Mr. MOORE of Pennsylvania. Mr. Speaker, I yield five minutes to the gentleman from Iowa [Mr. TOWNER].

Mr. TOWNER. Mr. Speaker, it is to be hoped that Members of the House will not deceive themselves with regard to the character of this bill. This is not the House bill, nor is it anything like it. Our own committee, headed by the gentleman from Alabama, as able and honorable a Member as sits in this House, after a most careful and exhaustive consideration, which extended over a year, decided to report a modest bill, with only the literacy test as a change in our immigration laws. That bill passed this House and was sent to the Senate. Instead of a single provision upon a single subject, we have returned to us an elaborate code of 38 sections, 58 pages in length, which, in my judgment, contains many objectionable features. It is said we must give up the well-considered judgment of the committee and of the House or there will be no legislation. I am opposed to submitting to that sort of coercion, and I think it would be vastly better that no legislation should be enacted than that the present substitute bill should become a law.

Indeed, Mr. Speaker, our present law is sufficient for our present needs. Vigorously enforced it will be amply protective under existing conditions. Under our present laws we exclude all idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane within five years previous or had two or more attacks of insanity, paupers and persons likely to become a public charge, professional beggars, persons afflicted with tuberculosis or with a loathsome or dangerous contagious disease, persons mentally or physically defective, persons convicted of or who admit committing a crime, polygamists, anarchists, prostitutes or those coming for the purpose of prostitution or any other immoral purpose, procurers, contract laborers, those previously deported within one year, those whose passage is paid for by another for gain or as wages, all children of 16 years unaccompanied by one or both of their parents. This list does not embrace all of the excluded classes, but it gives a fair idea of our present law. Our exclusionary list was not made up by theorists. It is the result of more than a century of experience. It is intended to keep from our shores the undesirable classes, and does so fairly well. Administration improvement and a stricter enforcement of the law is possible and should be secured. But it may well be doubted if it will be wise or safe to go much farther. Indeed, it is frankly admitted by some of the advocates of the present measure that we have gone as far as we can to sift and select the desirable and to protect ourselves from the undesirable immigrant. The present bill is not so much to protect immigration as to restrict. It is intended not to better its character but to stop it as far as possible.

A NATION OF IMMIGRANTS.

We are a nation of immigrants. Our forebears were all foreigners. In our earlier years colonizing companies induced a large immigration. In spite of the discomforts, the dangers, and the sufferings of those early voyages; in spite of shipwreck, smallpox, scurvy, and ship fever, between 1607 and 1660 about 80,000 persons were landed in America. During the century following immigrants came not only from the British Isles but from France, Spain, Holland, Germany, and Switzerland. And when our westward migration began America became a melting pot of races. The earlier colonists settled in communities—the Dutch in New York, the Germans and Quakers in Pennsylvania, the Puritans in Massachusetts—but when their sons and daughters moved west across the Alleghenies into the great valley of the Mississippi these races were commingled, their racial characteristics were soon lost, and the American citizen was created.

Methinks—

Said Tocqueville—

I see the destiny of America embodied in the first Puritan who landed on these shores, just as the human race was represented by the first man.

But proud as we are of the influence of Puritan characteristics—his religious independence, his indomitable courage, his unconquerable energy—in our national type, it can not now be claimed that the Puritan was an exemplar of American citizenship. It was by a fusion of the characteristics of all these immigrants that the American type was created. In this laboratory of American democracy American liberty was evolved, American ideals were formed, and American types created.

OUR IMMIGRATION HISTORY.

Up to 1810 the annual immigration was about 6,000. It fell to almost nothing on account of our war with England, but as soon as peace was restored it increased in 1817 to 20,000. In 1840 it was 84,000. It rose rapidly, until in 1854 it amounted to 427,000. Then, under the influence of business depression and the threatened Civil War, it fell in 1861 to 91,000. In 1873 it had again risen to nearly half a million. Business depression again checked it until under better conditions it rose in 1882 to more than three-quarters of a million. In 1893 and the years following it decreased, but since 1897 it has materially increased. The variation from year to year is considerable, but the average immigration as compared with population has been singularly uniform. In 1860 foreigners amounted to 15 per cent of our population; in 1870, 14.4 per cent; 1880, 13.3 per cent; 1890, 14.8 per cent; 1900, 13.6 per cent; 1910, about 15 per cent.

As an argument for restriction it is argued that the older immigration was of a high character and therefore advantageous, while the newer immigration is of a lower grade and should be repressed.

A short excursion into our history may be useful in determining the truth of this assertion and the value of this argument.

Prof. Commons estimated that one-half of all the immigrants of the colonial period landed as indentured servants. To pay for their passage money, which was exorbitant, they were sold, usually at auction, after their arrival into servitude. The shipowners derived enormous profit from this traffic in human flesh, while the suffering of the immigrants was terrible. On an average, adult men and women had to serve from 3 to 6 years, and children from 10 to 15 years. In case no buyers came to the ships the passengers were sold to agents, who chained them together and peddled them through the towns and villages. As late as 1819 there was a sale of immigrants in Philadelphia.

In the same year the annual report of the Society for the Prevention of Pauperism in the City of New York spoke thus of the immigrant of that day:

> They are frequently found destitute in our streets; they seek employment at our doors; they are found in our almshouses and in our hospitals; they are found in our * * * State prisons; and we lament to say they are too often led by want and by habit to form a phalanx of plunder and depredations.

In 1845 the delegates to the Native American National Convention published an address in which they discussed the immigration of that day as "of an ignorant and immoral character. The almshouses of Europe are emptied upon our coasts."

The rise of the Know-Nothing Party, whose principal article of faith was opposition to foreigners, constitutes an interesting chapter in our history. In 1856 it held a national convention which adopted a platform containing the following plank:

> Americans must rule America, and to this end native-born citizens should be selected for all State, Federal, and municipal offices of the Government employment in preference to all others.

It nominated Millard Fillmore for President. Nearly 1,000,000 votes were cast for him, and one State—Maryland—gave him its electoral vote. But the party was short lived. As Horace Greeley predicted, it lasted through one campaign only.

Benjamin Franklin opposed the coming of the Germans to Pennsylvania. Referring to them he said:

> Those who come hither are generally the most stupid of their own nation, and as ignorance is often attended with great credulity when knavery would mislead it, it is almost impossible to remove any prejudice they may entertain.

As early as 1789, for the avowed purpose of discouraging immigration, the period of naturalization was extended from 5 to 14 years. During the same session of Congress the odious alien and sedition laws were passed, which conferred upon the President the power to exclude at his will any foreigner found upon American territory. Our only consolation in contemplating this dishonorable chapter of our history lies in the fact that as soon as the sober judgment and sense of justice of the people could find expression these laws were repealed.

It will be seen from this review that the same objections that are being urged against our immigration to-day have been urged throughout our history. The past immigrant is always a good immigrant and the present immigrant is always a bad immigrant, no matter where he may come from. The same objections that are now being made against the Italians, the Greeks, and the Jews were made in former years against the Irish, the Swedes, and the Germans. As those objections were unfounded it is not a violent presumption that these are. It is certainly true that the average immigrant who comes here is among the most enterprising, thrifty, and courageous of the community from which he came, instead of being the "most stupid" as Franklin asserted. It requires energy, prudence, and foresight to conduct the inquiries, to arrange passage, to accumulate the necessary means, and to find a way across the Atlantic. The accomplishment of this no inconsiderable endeavor is in itself an earnest of those characteristics which make for useful citizenship.

UNFOUNDED PREJUDICE.

Strange indeed it is what prejudice may do in blinding men's minds to all the lessons of the past. We must keep out the Jews, the Greeks, and the Italians, say these objectors. And yet if you take from the past the contributions these people have made to civilization, you would blot out Christianity, you would blot out literature, art, poetry, eloquence, science, philosophy, government, and law. Nevertheless it is urged that it is dangerous to allow these people to come to our shores. I was told but the other day by the principal of one of the high schools that his honor students of foreign extraction outnumber those of the native born proportionately more than two to one.

The best orator in one of our State universities last year was a Jew. The most promising pupil in one of our largest art schools is an Italian. The leading students in one of our best technical schools are two Greeks. An acute foreigner, giving his observation of American traits, says:

> It is in fact astonishing to look at the classes in the New York schools down on the east side where there is not a child of American parentage, and yet not one who will admit he is an Italian, Russian, or Armenian. All these small people declare themselves passionately to be "American," with American patriotism and American pride.

It may not be an unhappy circumstance that we are thus able to infuse some of this passionate American patriotism into our national life which seems to have grown cold and captiously critical of everything American.

It may not be an idle thought that Providence in leading the Nation gave us first the sturdy energy, the practical industry, and the deliberate determination of the people from Great Britain, Germany, Norway, and Sweden; and that now it is adding to perfect the commingling of racial characteristics the poetry, the artistic temperament, and the passionate devotion of the southern countries.

From the first we have pursued a liberal policy, and we can not but believe it has given us a better and a higher type of manhood and womanhood. It has brought to us a greater national strength, a more rapid progress, a fuller development, a larger liberty, and a more perfect democracy. There is nothing in our experience during all the years of our history that would warrant the conclusion that it would have been better for us in the past, or that it would be better for us in the future, to adopt a restrictive policy.

IMMIGRATION AND CRIME.

It is argued in this debate that immigration ought to be checked because it increases crime and lawlessness. It is strange how persistent is the delusion that foreigners are naturally and inherently lawless and criminal. The charge has been made throughout our history whenever the antiforeign spirit was stirred that immigration was the mother of crime. As a matter of fact, there has never been any reliable evidence to show that the foreigner was any more lawless than the native born.

In truth the big criminals, the men who have stolen millions, have not been foreigners. The organized plunderers who have brought disgrace upon our Nation and our age have not been foreigners. The bankers and trustees and guardians who have stolen the property of widows and orphans have not been foreigners. The sharper, the swindler, the "gold-brick" crook, and the "blue-sky" fraud, the gambler, the pickpocket, the bank and train robber—these have not been foreigners.

It should be remembered that the periods of the largest immigration show the least proportion of crime, and the periods when immigration is least are the periods showing the greatest percentage of crime. According to a census report published in 1904, foreign-born persons between 15 and 19 years of age committed to prisons were nearly 1 per cent less in proportion than native born. Of the total number of white males 21 years of age and upward 26 per cent were foreign born and 74 per cent were native born; but the proportion of foreign-born major offenders was but 21.7 per cent, while the native whites was 78.3 per cent. In New York State, which has the largest foreign population, the native born were 61.7 per cent and the foreign born were 38.3 per cent; but of those in prison 68 per cent were native born and only 32 per cent were foreign born. The native white population of the country increased from 71.8 per cent in 1890 to 76.3 per cent in 1904. During the same period the percentage of foreign criminals decreased from 28.3 per cent to 23.7 per cent.

These statistics are sufficient to show that the charge that the foreigner is inherently bad and criminal is untrue, and what is of great significance, that our foreign population is not becoming more lawless as the years go on, but, on the contrary, less so. These statistics also show that the immigrant who is now coming is not a dangerous and criminal type. The immigrant of to-day is not a beggar or a tramp. He is a worker. He is industrious and willing to work and to work hard; and he does so as soon as he comes and as long as he stays. That type of man is rarely a criminal.

THE LABOR PROBLEM.

It is argued that immigration reduces wages and the demand for labor. This also is an old objection. The same argument was made when we had but 5,000,000 population. It was repeated when we had 25,000,000, and again when we had 50,000,000; and now when we approach 100,000,000 it is again urged. But the demand for labor was never so great as now and never before were wages so high. Notwithstanding the "floods" of foreigners and the "hordes" of immigrants that our friends say have been coming to drive out our home labor and reduce wages, every American laborer is holding his job and many are striking for more wages. It is a significant fact that the demand for labor has been greatest and the wages

highest when immigration has been largest. This does not prove that immigration increases wages, but it does prove that the fears of those who believe that labor is in danger from immigration are groundless. Under our present laws the laborer comes when he is needed and there is a job for him, and he goes when he is not needed. The immigrant when he first comes does the hard, undesirable, although absolutely necessary, work. He digs the ditches; he cleans the streets; he does the lowest grade of manual labor. After a few years he is promoted to an easier job and better wages and the newer immigrant takes his place. It is manifest that if you shut out the immigrant you shut out this supply for the lower grades of labor. Somebody must do this work at the bottom of the scale. It is good work, it is honorable work, but it is not the most desired nor the best paid. But it must be done by somebody. We have a great and growing country. We shall continue to dig ditches, to canalize rivers, to tunnel our mountains, to grade our railroads, to clean streets, to build bridges, to fell forests, and to clear and cultivate our lands.

We have but begun to develop our resources. We have as yet but scratched the surface of our soil. We have under contemplation great works where more labor than can now be supplied will be needed. The demand for this rough labor exceeds the supply. Railroads can not find men enough to make contemplated improvements and extensions. Public works of great importance and magnitude have to be deferred on account of lack of labor. It is said that 200,000 farm hands could be immediately placed. One hundred thousand domestic servants could find work in New York City alone. We are entering upon great river improvements, and the "good roads" work will require a new supply of laborers. There is no danger the labor market will be oversupplied.

The Canadian Parliament appropriates over $1,000,000 yearly to encourage immigration. Canada pays a premium of $5 for every laborer who will come. She sends agents to distribute literature to every European nation. She grants money to the Salvation Army to induce recruits to come over. She aids poor and homeless children to come to her shores. Australia is doing everything in her power to encourage immigration. Argentina is doing the same. These countries are our competitors in the production of food products in the markets of the world. Is what is a good policy for them bad for us?

But it is suggested that our population is already large. It is true that our numbers are large, but so is our area and so is our productive capacity. Large as are our numbers our population is but 31 to the square mile. In Germany it is over 300. In Belgium it is over 600. As has been shown in this debate, if the United States was as thickly populated as Belgium we would support a population of 2,342,000,000 people. We could move all the population of the United States into the State of Texas, and then Texas would not be so densely populated as Belgium to-day.

It is a remarkable fact that this bill allows the entrance freely of the nonproducing classes—lawyers, doctors, preachers, teachers—those whom we do not need, because these professions are already overcrowded, and it keeps out the producing classes, whose labor and productive energy the Nation needs most. Our policy in the past has been that any good, strong, honest man who was willing to come here, earn an honest living, and make a home was welcome. That policy has approved itself in our success as a Nation, in our growth and development, and in the character of our citizenship. It will not be wise to abandon this policy now.

Since what date has numbers in our population ceased to be considered an advantage and a thing to be desired? What State or city or town is endeavoring to discourage increase in its population? Are any of the gentlemen who deplore the condition of an overcrowded Nation willing to apply exclusionary laws to their own State or city? Are they willing to say their city is so overcrowded that further increase is not desired? It is the proudest boast of an American citizen that his city grows. His happiest hour is when he recites by decades its percentage of increase, and can thus show that it stands high among the cities of the Nation. It would be a most singular anomaly if it could be made to appear that that which was good for a State or city was bad for a nation.

THE LITERACY TEST.

It is proposed in this bill to exclude anyone who desires to come to this country unless he or she can stand a literacy test. No one has attempted to justify this as a test of character. It is supported merely because it is desired to make our exclusionary laws as drastic as possible, and the application of this test will decrease the number of immigrants. All of us favor the strongest laws and the strictest enforcement against the entrance to our ports of the criminal, the vicious, the immoral, and the diseased. But these laws we have already. The literacy test will not keep out the undesirable and admit the desirable immigrant. It will exclude the unfortunate who have lived in countries where education was the privilege of the few and not the right of the many. But it will not keep out the Mafia, the Camorra, the Black Hander, the anarchist, the nihilist, the dynamiter—for all these can read. From the unfortunate, poor man who with difficulty secures money enough to pay his passage, who loves liberty enough to come, who has energy enough to break away from home ties, who brings here but two strong arms, an open mind, and an honest heart—from such as these this country has nothing to fear, even if he can not read.

When a bill providing a literacy test passed a preceding Congress, President Cleveland vetoed it on the ground that such a test was not a true, a fair, or a just test of character or citizenship. And he was justified in so doing. The uneducated European who comes here is so from lack of opportunity, rather than from inclination. The free school for everybody is not there prevalent. By the application of this test it is his misfortune and not his fault we will punish. Want of education is deplorable, but it is not criminal. It involves no moral turpitude. It is a misfortune and not a crime. We have all known honorable men, and virtuous, lovable women, faithful wives, and devoted mothers, who would have been classed as "undesirable citizens" under the application of this law. A Senator said during the debate on this bill that under its provisions his own mother would have been excluded. The mother of Abraham Lincoln would have been barred.

This act can not be defended on the ground of patriotism. It opposes our whole past history, which opened the doors of liberty to those who fled from oppression and tyranny. It can not be defended on the ground of humanity, for it shuts the door of opportunity and of hope to the unfortunate and the poor. To the unfortunate, our brothers in blood, it says: "Smug and secure in this land of promise and comfort, I am determined to keep it all for myself. It is true there is plenty of room for you, indeed there is actual need for you, but I am afraid you may get something I may want. Back, then, to the land from whence you and I both came. Your mistake is that you did not start soon enough."

Lowell in his Commemoration Ode wrote of our country:

> She that lifts up the manhood of the poor,
> She of the open soul and open door,
> With room about her hearth for all mankind.

It is well he penned those patriotic lines before this act was passed. For if it shall become a law we can no longer boast the "open soul and open door."

When our country was in danger, when it was calling for volunteers to save its very existence, it did not suggest a literacy test for enlistment. It welcomed every helping hand and every loyal heart to save the Nation. Our foreign-born population vied with the native born in service and sacrifice. Indeed, it has been shown that the proportion of foreigners in the ranks was much greater than their proportion of our population.

One of the distinguished advocates of this bill said he favored it because it would check immigration. He admits we are a nation of immigrants and that immigration has greatly stimulated our growth and been the cause of our greatness. But he says that now there is an attempt to abolish constitutions and let the "momentary will of the people" prevail, and under these circumstances he thinks it necessary to restrict immigration. This belief and fear implies both lack of capacity and want of inclination on the part of the immigrant to learn and love American institutions. Against that belief and fear I am pleased to put the opinion of James Bryce, who in his American Commonwealth, speaking of the younger foreigners who have learned English, imbibed the sentiments, and assimilated the ideas of the country, says:

> They are more American than the American in their desire to put on the character of their new country.

It is not the foreigner who is attacking our institutions and proposing to abolish constitutions. It is our native born. And when the struggle to save American liberty and constitutional government shall come, the foreigner will be found foremost in defending that which he sacrificed so much to secure.

It has always been our proud boast that we have here established a free land, in which there has always been a welcome for every man struggling for liberty, for religious freedom, for a chance in life, for a home, for education for his children, for an opportunity to carve out for himself a career of dignity as an American citizen. To take the step now contemplated is to belie all this, is to shatter these ideals, is to destroy this hope. For we are most truly American when we are most generous to others, when we are most considerate of the unfortunate, when

we most earnestly strive to make our country foremost in the cause of justice, of humanity, and of righteousness.

Mr. BURNETT. Mr. Speaker, I yield two minutes to the gentleman from Wisconsin [Mr. LENROOT].

Mr. LENROOT. Mr. Speaker, when the previous conference report was before this House I objected to certain provisions in it relating to certificates of character. Those provisions have been eliminated, and I shall now vote to agree to the conference report, although if it were open for amendment I would like to see some amendments made respecting immigrants charged with crime.

But I rise, Mr. Speaker, for the purpose chiefly of making this observation: Last week when this conference report was before the House, containing this provision with respect to certificates of character—a provision that was so un-American, so vicious, so indefensible, that in another body not one voice was raised to champion it when it was rejected by that body—it was agreed to here by a vote of 149 to 70, and out of those 149 votes, Mr. Speaker, 102 were Democrats.

The Democratic majority in this House has therefore made a record here that they must face in the future of favoring legislation compelling immigrants coming to this country to produce certificates of character whenever the country from which they come issues such certificates. In other words, the Democrats in this House have taken the position that in addition to the excluded classes named in the bill foreign Governments should have the right to determine who else should be excluded. Putting it another way, they declare that no Russian Hebrew shall be admitted to our shores if Russia objects, and no citizen or subject of any other country, fleeing to us from religious or political persecution, shall be admitted here if that other country objects.

Mr. Speaker, it is a matter of sincere congratulation that this vicious provision has been eliminated, but if this Democratic House had had its way it still would have been in the bill, and the country must thank the Republican Senate alone for its elimination.

From a partisan standpoint I might rejoice over this situation in which the Democratic majority in this House have placed themselves, but I am much more interested in securing legislation that is wise and just than I am in securing party advantage, and I am calling attention to this matter now in this way solely in the hope that in the future our Democratic friends will not be so ready to follow leadership blindly without regard to the merits of the questions involved. If they shall fail to heed this lesson in the future, then they can be sure that this will not be the only instance of their making a record of which they should be thoroughly ashamed.

Mr. BURNETT. Mr. Speaker, I yield one minute to the gentleman from Massachusetts [Mr. GARDNER].

Mr. GARDNER of Massachusetts. Mr. Speaker, I wish to take my share of the responsibility with those 142 Democrats. I had as much part as anyone in putting that provision into the conference report. I still believe that it was wise. But discretion is the better part of valor, Mr. Speaker, and I joined in the glad throng which ran away.

Mr. GOLDFOGLE. Mr. Speaker, I yield four minutes to the gentleman from Massachusetts [Mr. CURLEY].

Mr. CURLEY. Mr. Speaker, there has been but about three full minutes of discussion of the points that should be discussed in the consideration of a measure so vital in its bearing on the country's future, and the three minutes were devoted by the chairman of the committee the last time the bill was before the House to the consideration of the economic aspects of this important legislation. The question of restricted immigration is in no sense a new question. As far back as May 9, 1753, Benjamin Franklin, in a letter to a friend, protested against the large number of Germans coming here, in the following terms:

> Those who come hither are generally the most stupid of their own nation, and as ignorance is often attended with great credulity, when knavery would mislead it * * * it is almost impossible to remove any prejudice they may entertain * * *. Not being used to liberty, they know not how to make modest use of it * * *. I remember when they modestly declined intermeddling with our elections; but now they come in droves and carry all before them, except in one or two counties.
>
> Few of their children know English. They import only books from Germany, and of the six printing houses in the Province two are entirely German, two half German, half English, and but two are entirely English.
>
> They have one German newspaper and one half German. Advertisements intended to be general are now printed in Dutch and English. The signs in our streets (Philadelphia) have inscriptions in both languages, and some places only in German. They begin, of late, to make all their bonds and other legal instruments in their own language, which (though I think it ought not to be) are allowed in our courts, where the German business so increases that there is continued need of interpreters, and I suppose in a few years they will be necessary in the assembly, to tell one half of our legislators what the other half says. In short, unless the stream of importation could be turned from this to other Colonies, as you very judiciously propose, they will soon outnumber us; that all the advantages we will have will, in my opinion, be not able to preserve our language, and even our Government will become precarious.

And for more than 115 years the agitation has gone on to put restrictive immigration upon the statute books, but the good sense and manhood and Americanism of the Representatives of the American people in Congress have always been such as to prevent the adoption of restrictive legislation of this character. What is the condition that confronts us to-day? The men of the House have been bombarded with petitions favoring restriction, stating that the foreigners are going to overrun the country. What is the actual fact?

In the last fiscal year the net gain in population by immigration was only 400,000 and the year before that only 500,000. In the calendar year just closed about 500,000 aliens went back home. In 1908, it will be remembered, the outflow was actually larger than the inflow, and we lost population by the homeward movement of immigrants.

In five years our net gain has been about two and a half millions; so that the average annual increase of population by immigration has amounted to about one-half of 1 per cent—by no means an alarmingly large admixture of aliens. Immigration from 1840 to 1850 and from 1850 to 1860 and from 1880 to 1890 amounted to more than 10 per cent of the total population at the beginning of each period. Relatively it was twice as great as the immigration of the last five years.

The gentleman from Texas [Mr. DIES] has stated during debate that the Greeks and the South Italians are unassimilable, incapable of conforming to customs in a free republic, and so forth.

I want to quote from Daniel Webster, who in 1823, speaking in favor of recognizing the independence of Greece in the old House of Representatives, now Statuary Hall, said:

> An occasion which calls the attention to a spot so distinguished, so connected with interesting recollections as Greece may naturally create something of warmth and enthusiasm. In a grave political discussion, however, it is necessary that those feelings should be chastised. I shall endeavor properly to repress them, although it is impossible that they should be altogether extinguished. We must, indeed, fly beyond the civilized world; we must pass the dominion of law and the boundaries of knowledge; we must more especially withdraw ourselves from this place and the scenes and objects which here surround us if we would separate ourselves entirely from the influence of all those memorials of herself which ancient Greece has transmitted for the admiration and the benefit of mankind. This free form of government, this popular assembly, the common council held for the common good—where have we contemplated its earliest models? This practice of free debate and public discussion, the contest of mind with mind, and that popular eloquence which, if it were now here, on a subject like this would move the stones of the Capitol—whose was the language in which all these were first exhibited? Even the edifice in which we assemble, these proportioned columns, this ornamented architecture, all remind us that Greece has existed and that we, like the rest of mankind, are greatly her debtors.
>
> [Applause.]

Now they say we should increase the head tax. And I am reminded of the story of an Irish orator, who was a candidate for Congress, addressing a majority of his countrymen in New York, and he said at that time—some 20 years ago: "They want to make our head tax $25. My friends, could you picture a man leaving the old country if he had $25." [Laughter.]

The complaint has been frequently heard during the debate upon this bill that the class of emigrants coming from southern Europe has been largely responsible for the falling off of emigration from western Europe, yet no statistics have been presented by which this contention might be sustained.

On the contrary, many nations are spending large sums of money to encourage what we seek to destroy. A bonus of £1 is paid to the booking agent on each ticket to Canada sold to a British subject who is engaged in the occupation of farmer, farm laborer, gardener, stableman, carter, railway surface man, navvy, or miner, and who signifies his intention to follow farming or railway construction work in Canada.

Not content with the work of regular immigration agents, Canada has been sending agricultural delegates to Great Britain. The Salvation Army is also utilized as an agency to promote emigration to Canada, and grants of money are made to the army for that purpose. Canada annually receives a considerable number of English immigrants, who have been sent by private or State aid from the mother country.

Canada also encourages the immigration of poor and homeless British children to her borders. This immigration is chiefly recruited from the orphan or industrial homes of the British Isles.

An increase in the head tax is proposed in this bill which, while it does not entail a great hardship, is so entirely at variance with methods now in vogue in other countries as to be worthy of serious thought.

The Australian Government furnishes land to settlers at a nominal price, payable in small installments. Moreover, in all

the States except Tasmania allowances are made to settlers for improving their holdings. By way of further inducements, the States pay the passage, wholly or in part, of immigrants from the United Kingdom whose purpose it is to settle on the land or to engage in farming or other work of a similar nature. Assistance is also offered to domestic servants and other persons who can satisfy the Australian agent in London that they would make desirable settlers in Australia. The policy of assisting immigration has been pursued by the several States of Australia for a greater part of the time since their settlement. According to official information 653,698 State-aided immigrants have been admitted to the Australian States.

That all these efforts should have diverted from the United States a part of the British emigration was inevitable, irrespective of any causes originating in the United States. The rise of land values in the United States and the agricultural opportunities of the Canadian Northwest have during the past decade resulted in an emigration of American farmers to Canada.

UNEMPLOYMENT.

Members have laid great stress upon the unsupported assertion that immigration has restricted opportunities for employment and has been a contributing factor in the establishment of a low wage scale.

Wages are higher in most industries and workday hours are shorter than ever known in the history of this country, and the majority of men in the labor organizations are either immigrants or the children of immigrants.

Unemployment and immigration are the effects of economic forces working in opposite directions; that which produces business expansion reduces unemployment and attracts immigration; that which produces business depression increases unemployment and reduces immigration.

Yet it may be said that while immigration is not a contributory cause of unemployment, restriction of immigration would nevertheless reduce unemployment. An answer to this argument is furnished by the example of Australia, where immigration does not keep up with emigration, and yet unemployment is an ever-present problem, precisely as in the United States. Australia is a new country, with abundant natural resources. Its area is as great as that of the United States—exclusive of Alaska—while its population at the census of 1906 was a million short of the United States figures for 1800. The Australian statistics of unemployment essentially differ from ours. The Twelfth Census counted all breadwinners who were idle at any time during the 12 months preceding the date of enumeration. The statistics of the New York bureau of labor comprise all wage earners who were unemployed during the first or the third quarter of the year.

The Australian statistics, on the other hand, give the number unemployed on the date of enumeration. A comparison of the Australian ratio of unemployment with the New York ratio must therefore be favorable to Australia and unfavorable to New York. Still the comparison is highly instructive. The Australian ratio in 1901 varied from 3.96 per cent for South Australia to 6.73 per cent for New South Wales. In the State of New York the total amount of unemployment for the three summer months—July, August, and September—fluctuated during the years 1897–1907 between 1.9 per cent and 6.5 per cent. It thus appears that Australia, with an excess of emigration over immigration, is suffering from unemployment at least as much as the State of New York, which is teeming with immigrants.

We are told that the tendency of emigrants to herd in the cities creates a condition worthy of grave apprehension and constitutes in itself a menace, yet the American farmer finds it impossible to keep his own children on the farm.

Labor-saving inventions have so reduced farm labor as to make it unnecessary to employ large numbers of men, except at planting and harvesting seasons, and in consequence employment for a longer period than six months annually is almost unheard of.

The hours of labor on the farms are longer than even in the mills of the United States Steel Co., the prevailing custom being to work from sunrise to sunset, and while it may be argued that this is true only of harvesting and planting time, it is equally true that this is the only season when additional help is required.

Long hours, small pay, and irregular employment are what the immigrant can expect on a farm. His preference for other employment seems to call for no explanation by special racial characteristics; it is merely another illustration of the rule that immigration follows the demand for labor.

In the settlement of agricultural districts a point is reached beyond which any considerable growth of agricultural population is possible only if there is a change to more intensive forms of agriculture. * * * If there is no such change, the further growth of population must consist in the development of urban or nonagricultural communities.

This point has been reached in the United States. The public domain has practically all passed into private occupation. Land values during the past decade have climbed to unheard-of heights. At the same time western Canada offers to settlers vast areas of public land practically free.

It seems that for some time to come the Canadian Northwest will furnish the same opportunities for extensive agriculture as the Western States did a generation ago. Western farmers find it profitable to dispose of their land in the United States and to take up public land in western Canada. The emigration of American farmers to Canada has reached considerable proportions. In the United States a market for agricultural labor may grow up in the future with the eventual spread of intensive agriculture. But this is a problem for the American farmer to solve. The immigrant should not be burdened with the mission to reform the methods of American agriculture.

At no time in the history of the Republic has prosperity been greater in our agricultural communities than during the last two decades, yet a perusal of statistics discloses the fact that in certain agricultural States there has been a marked falling off in population.

Decrease of the population of rural territory, 1900–1910.

State.	Number.	Per cent.
Illinois	111,963	7.0
Indiana	132,266	9.5
Iowa	152,673	12.1
Kansas	4,919	.5
Michigan	9,946	.8
Missouri	133,489	8.0
Ohio	93,055	5.3
Wisconsin	8,201	.7

Even where the rural population of a State has increased since 1900 the maps given in the census bulletins show a few agricultural counties with a declining population.

This depopulation of rural territory is due to emigration of native Americans of native stock. The figures for 1910 are not as yet available; the census of 1900 recorded in Kansas a loss of 2.8 per cent of the native population of native parentage in settlements of less than 2,500 inhabitants, and in Nebraska a loss of 1.3 per cent of the same element. In New England, New York, and New Jersey the loss was still greater; the maximum was reached in Connecticut, viz, 16.7 per cent.

This bill makes provisions for the entry of the nonproducing class, preachers, teachers, and so forth, and aims to restrict admission of the producing class, despite the fact that the true source of national wealth and prosperity results from the work of those who toil with their hands and brains rather than brains alone.

The population of the continental United States increased between 1890 and 1910 from 63,000,000 to 92,000,000, i. e., 46 per cent. During the same period the production of coal in the United States more than trebled, the increase being from 140,000,000 to 448,000,000 long tons. As the exports of coal from the United States are insignificant these figures indicate that to-day three times as much coal is consumed in this country as 20 years ago. Coal is the foundation of modern industry. The increased consumption of coal indicates that the consumption of steam has increased threefold, i. e., that the whole American industry has grown in proportion. The production of steel, another basic article of modern industry, increased during the 20-year period, 1889–1909, sevenfold, from 3,400,000 to 24,000,000 long tons. The production of copper more than quadrupled, viz., from 101,000 to 488,000 tons. The number of ton-miles of freight carried over American railways nearly trebled from 1890 to 1909, the increase being from seventy-seven billions to two hundred and nineteen billions.

The total amount of bank clearings in the United States likewise nearly trebled in the 20-year period between 1890 and 1910, having grown from $58,000,000,000 to $169,000,000,000. The increase in the amount of bank clearings may be accepted as a fair index of the aggregate industrial expansion. Thus, while the economic activities of the people of the United States have trebled during the last 20 years, population has increased by less than one-half.

The introduction of labor-saving machinery has lessened the potential demand for new laborers, yet the pace of industrial development has been faster than the progress, i. e., exactly 100 per cent. The average number of wage earners employed in manufactures increased between 1889 and 1909 from 4,200,000 to 6,600,000, i. e., 57 per cent.

The unbiased testimony of figures shows that the demand for labor within the last 20 years has outrun the growth of population, both through natural increase and through immigration. The investigators of the Immigration Commission sought to ascertain from employers of labor the "reason for employing immigrants," and were told that "they found it necessary either to employ immigrant labor or delay industrial advancement." A number of specific instances are quoted in the commission's reports. In the Birmingham iron and steel district, Alabama, where the number of immigrants is insignificant, "the largest employers of labor state that under normal conditions, at the present stage of the industrial development of the district, the ordinary labor supply which may be relied upon continuously affords about 50 per cent of the total necessary to operate all plants and mines at their full capacity."

In the centers of immigration, on the other hand, the clothing manufacturers likewise claim "that the industry has developed faster than the number of clothing workers has increased." With the revival of business after the depression of 1908, they found it almost "impossible to keep their pay rolls full."

I have here petitions representing the united protest of Irish, Germans, Hebrews, Poles, Italians, Lithuanians, Hungarians, Bohemians, Greeks, Finns, Slavs, and other citizens, representing nearly 500,000 signatures, which I shall present to his excellency, the President, Hon. William Howard Taft. His courageous stand for justice and true American ideals will in my opinion result in a veto of this iniquitous measure, which the good though recently dormant sense of Congress should uphold.

The SPEAKER. The time of the gentleman has expired.

Mr. CURLEY. Mr. Speaker, I ask leave to extend my remarks in the RECORD.

The SPEAKER. The gentleman from Massachusetts asks leave to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. BURNETT. Mr. Speaker, may I ask how much time we have used?

The SPEAKER. The gentleman from Pennsylvania [Mr. MOORE] has used 9 minutes, the gentleman from New York [Mr. GOLDFOGLE] 8½ minutes, and the gentleman from Alabama [Mr. BURNETT] has used 15 minutes and has 12½ minutes left.

Mr. GOLDFOGLE. Is the gentleman from Pennsylvania [Mr. MOORE] about to use some of his time?

Mr. MOORE of Pennsylvania. I yield five minutes to the gentleman from Missouri [Mr. BARTHOLDT].

The SPEAKER. The gentleman from Missouri [Mr. BARTHOLDT] is recognized for five minutes.

Mr. BARTHOLDT. Mr. Speaker, I am glad that the voice of true Americanism has at last been heard in this House. It has been voiced by that eminent statesman who has been Speaker of this House for four successive terms, and whose leadership on most questions I have had the honor to follow for 20 years. He has just demonstrated by the words he has spoken that he is worthy of leadership even on the question of immigration. [Applause.]

I want to bring out one fact, Mr. Speaker, that has not been stated in this debate, and that is that those districts which receive little or no immigration are voting almost solidly to exclude it, while, upon the other hand, all the districts of the country which receive immigrants are voting almost solidly to continue to receive them. If immigration were an evil would it not, I ask you, find expression in this House on the part of Representatives in the districts which receive immigrants? The great trouble with those who are proposing restrictive measures is that this question is really so little understood. You forget, my friends, that an immigrant is not only a producer but also a consumer, and it was that fact which caused another great Speaker of this House—Thomas B. Reed—to say that every immigrant practically brings his job with him. Whatever vocation he may have, he has a job for those in other vocations, and consequently he practically solves the problem himself, if immigration were still a problem. I claim, however, that it is not. If we get 800,000 immigrants a year do you not know, according to the figures published by the Department of Commerce and Labor, that 400,000 return every year, and that of the 400,000 remaining about 200,000 are women and children, so that practically there is an annual addition of only 200,000 to the population of this country, and that is about the addition that even the most densely populated countries of the earth, such as Germany and England, receive from the outside. Here we have a country with only 25 people to the square mile, while Germany has 386 and Belgium 576.

Talk about stopping immigration at a time when all the industries of the country are crying out for labor! I say that there is no economic reason for this bill, and I can not discover any motives, except unworthy ones, behind this kind of legislation. I congratulate my friends, the managers of this bill, however, for having seen the error of their ways. When I offered an amendment providing that immigrants should be required to read any language, they insisted it must be the language of some country. They voted my amendment down, but in conference they saw that the amendment was justified. They also voted down my motion to strike out the so-called certificate provision of the bill, but now they present their report with that provision eliminated. If more time were given us, Mr. Speaker, we could probably convince them that the whole bill should be stricken out because its spirit is un-American and vicious and because it is a great blunder from an economic as well as from a moral standpoint.

The SPEAKER. The time of the gentleman from Missouri [Mr. BARTHOLDT] has expired.

Mr. BARTHOLDT. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. BURNETT. Mr. Speaker, will the gentleman from New York [Mr. GOLDFOGLE] use some of his time?

Mr. GOLDFOGLE. I prefer that the gentleman from Alabama use his time.

Mr. BURNETT. We have used more than our share.

Mr. GOLDFOGLE. Then I will yield to the gentleman from Illinois [Mr. GALLAGHER].

Mr. GALLAGHER. Mr. Speaker, I simply want to protest with all the force I possess against the passage of this measure. "America for Americans" is an old and familiar cry. I have heard it ever since I have been able to listen to anything going on about me. I was born in New England, and I know the intention of the measure now before the House and the people back of it. It is not to shut out a few unfortunate people who have been deprived of an opportunity to learn to read in the country from which they come. It is simply an entering wedge to bring forth other legislation that has for its object the shutting out of immigrants altogether. And the gentleman from Massachusetts [Mr. GARDNER] told the truth when he said it was only a question of time, in his opinion, until legislation to wholly restrict immigration ought to be brought forward. The fact is that this is a step in that direction. The argument in favor of this bill does not come from people who know anything about immigrants. It comes from people who have no immigration to their districts whatever.

This is a fact, and the further fact is that a lobby representing so-called patriotic organizations has been maintained here in Washington for several years working in every direction that they knew how to bring about restrictive legislation, and this bill is a result of it. I know that the liberty-loving people of America are not in favor of this kind of legislation. I know that the thoroughgoing American interested in the progress and prosperity of our Nation is not in sympathy with any such a movement, and I feel certain that when the motives back of this legislation are fully known by the American people there will be a protest against it from one end of the country to the other.

I represent a district the population of which is made up mostly of immigrants and the children of immigrants. They are industrious, prosperous, law-abiding citizens. They come here to make this country their home, and they are just as much interested in the general welfare of our country as any other class of our citizens. I regret that we are departing from the principles of our forefathers, who proclaimed this to be the land of liberty and freedom, where the oppressed of all nations could find a home. I am sure if the men advocating the passage of this bill lived among these people as I have lived nearly all of my life, knowing them as I do, knowing the efforts they have made to better their conditions, to become upright and honorable citizens, I feel certain they would not be active in advocating the passage of such restrictive legislation. Because men are deprived of an opportunity to gain an education in the country from which they come is it a reason they should be denied admittance here? Will it be contended because a man can not read he will not make a good citizen?

If the object is to shut out undesirable citizens, let us pass legislation that will restrict such immigration. The cunning and crafty schemers will be admitted, but the poor, honest, upright immigrant, because he is unable to read, will be deprived of admittance. Do you wonder, then, that I am opposed to the passage of this bill? I hope and trust it will be defeated. It is un-American; it is undemocratic. It is against those principles that have made this Nation what it is. Has America ceased to be the land of hope, the land of asylum for the unfortunate and oppressed who are seeking liberty and freedom?

If so, pass this bill, and the hour will come when you gentlemen who vote for this measure will be hurled from power with a greater force than that which speeds the waters over the falls of Niagara. [Applause.]

Mr. BURNETT. Mr. Speaker, I yield seven minutes to the gentleman from Kentucky [Mr. POWERS].

Mr. POWERS. Mr. Speaker, it has been said by one of America's most distinguished sons, ex-President Theodore Roosevelt, that next to the conservation of our natural resources immigration was our most important national problem. In the minds of many immigration is even more important than conservation, because it goes a long way in settling the kind of people who make up the population of this country now and in the future; and the kind of people there are in a country inevitably determines the kind of citizenship, the kind of government, and the kind of civilization the country has; and the kind of citizenship determines the liberty, the sort of happiness, and the measure of progress which prevail in it. The importance, therefore, of the subject of immigration to this country can readily be appreciated by every thoughtful American. A little history of immigration legislation may not be amiss.

From the first settlement of this country at St. Augustine, Fla., in 1565 down to 1875—more than 300 years—immigrants came here as a matter of course, so far as Federal legislation was concerned. Congress was forbidden by the Constitution of the United States to interfere, prior to 1808, with any State's right to admit all the immigrants it saw fit, except Congress might impose a tax or duty not to exceed $10 on each person admitted. Practically up to 1835 the only legislation enacted by the Federal Government, and practically all that was proposed, was the law of 1819, regulating steerage passengers at sea and making provision for recording statistics relative to immigrants to this country. None was kept before this. Profs. Jenks and Lauck, in their book, the Problem of Immigration, say, on page 41:

> In earlier days neither the Federal Government nor State governments had passed any laws to protect the United States against the immigration of undesirable persons of whatsoever kind. Even the energetic action of those promoting the so-called "Native American," or "Know Nothing," movement from 1835 to 1860 resulted in no protective legislation. In 1866 a joint resolution [of Congress] condemned the action of Switzerland and other nations pardoning persons convicted of murder or other infamous crimes on condition that they would emigrate to the United States.

So up to this time all that was done to prevent even murderers from coming to this country was just to pass a resolution condemning such things; but that did not prevent them from coming.

From 1835 to 1860 the subject of immigration to this country was much discussed, and there sprang up what was known as the "Native American" and "Know-Nothing" movements, largely basing their opposition to immigrants to this country who embraced the Catholic faith. These movements soon assumed the form of a political organization known in history as the American Republican Party, and later the Know-Nothing Party. As a result of these organizations—organizations in the main later affiliating with the new political movement—the United States Senate in 1836 passed a resolution directing the Secretary of State to collect information respecting the immigration of foreign paupers and criminals to the United States.

The House of Representatives in 1838 agreed to a resolution instructing the Judiciary Committee of the House to consider the propriety of passing a law prohibiting the importation of vagabonds and paupers into this country, as well as to consider the expediency of making our loose naturalization laws more stringent. This resolution was referred to a committee of seven members, and their favorable report was the first congressional report ever made concerning any phase of the immigration question. A bill was introduced in Congress, upon the recommendation of the majority report of the committee, which provided that any master of a vessel who took on board an alien passenger who was an idiot, lunatic, maniac, or one afflicted with an incurable disease, or one convicted of an infamous crime, with the intention of transporting such person to the United States should, upon conviction, be fined $1,000 or be imprisoned from one to three years. This bill was not even considered by Congress, and then for some 10 years following little attempt was made to secure immigration legislation; but the great increase in immigration to this country from Europe from 1848 to 1850 put new life and fears in the breasts of those fighting immigration, and it is recorded that in 1855 both the governors and legislatures of New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, California, and Kentucky were "Know-Nothings." The slogan of the "Know-Nothing" Party was that Americans must rule America, and their greatest strength was in the Thirty-fourth Congress, from 1854 to 1856, when they claimed 43 Representatives and 5 Senators. Ten years later, however, in the Thirty-eighth Congress, from 1864 to 1866, there was not a "Know-Nothing" Representative in the House, and the "Know-Nothing" Party disappeared without having accomplished anything against immigration. The truth is that in 1864 Congress passed a law to encourage immigration, especially the importation of contract labor. This law was repealed, however, in 1868, leaving on the statute books the act of 1819, amended slightly by the acts of 1847 and 1848, providing improved conditions in the steerage of immigration ships. The law of 1864 stands out as the only attempt on the part of the National Government to promote immigration. New York in 1824 passed a law requiring all masters of vessels arriving at the port of entry to make a written report giving the name, age, and last residence of every person on board during the voyage, and whether any of the passengers had gone on board any other vessel, with a view of proceeding to New York.

Another section of the law gave the mayor of New York City the power to require bond of every master of a vessel to indemnify the mayor and the overseer of the poor from any expense incurred for passengers brought in and not reported. This law was held to be constitutional by the Supreme Court of the United States, and in 1829 the State of New York passed another law, which provided that the master of every vessel arriving from a foreign port should pay to the health commissioner $1.50 for every cabin passenger, $1 for every steerage passenger, mate, sailor, or marine, and 25 cents for every person on a coasting vessel.

In 1837 Massachusetts passed a law requiring the owner of a vessel to pay $2 for each alien passenger brought to her ports and to give bond that certain immigrants should not become a public charge. Both the New York and the Massachusetts statutes were later held in part to be unconstitutional. California and Louisiana passed statutes looking to the limitation of immigration, which were held to be unconstitutional. In California the question of Chinese immigration became so acute that recourse was had to the Federal Government, which resulted in the Burlingame treaty, which was proclaimed on July 28, 1868, and which was the first treaty to deal with Chinese immigration to the United States. The attitude of the United States in this treaty toward Chinese immigration was not popular in the Pacific Coast States, and they continued their agitation for further restriction of Chinese immigrants, which resulted in the Congress of the United States passing the act of March 3, 1875, aimed at immigrants from China, Japan, and other oriental countries. This law prohibited the importation of convicts, women for immoral purposes, coolie labor, and Chinese and Japanese subjects without their free and voluntary consent, and fixed heavy penalties for a violation of the provisions of the statute. Later other treaties and Chinese and Japanese exclusion acts forbade the immigration of Chinese and Japanese to this country, as well as Korean laborers, skilled or unskilled. And that is the way the matter stands to-day. So the bill now before the House is not intended to exclude Chinese, Japanese, or Korean laborers, skilled or unskilled, as that is already provided for.

From the unsatisfactory attempt of State legislation on the immigration question it became apparent that the subject was too big for State control, and in a very unusual decision of the Supreme Court of the United States on March 20, 1876, that court decreed:

> We are of the opinion that this whole subject [of immigration] has been confided to Congress by the Constitution; that Congress can more appropriately and with more acceptance exercise it than any other body known to our laws, State or national; that by providing a system of laws in these matters applicable to all parts and to all vessels a serious question which has long been a matter of contest and complaint may be effectually and satisfactorily settled.

This decision virtually put the subject of immigration under Federal control, and on July 6, 1876, following the decision of the Supreme Court in March of that year, Senator Conkling and Representative Cox of New York introduced bills in Congress for the national regulation of immigration. No legislation, however, of this sort was put on the statute books until August 3, 1882. This law provided, among other things, that a head tax of 50 cents each be levied on all aliens entering the ports of the United States to defray expenses of regulating immigration and caring for needy immigrants after landing; that lunatics, idiots, convicts (except for political offenses), and persons likely to become public charges should not be permitted to land, and that the Secretary of the Treasury be charged with executing the provisions of the act, and that he be empowered to enter into contracts with such States officers as the governor of any State might designate to take charge of the local affairs of immigration within such State.

On February 26, 1885, the first act of Congress was approved, forbidding the importation of contract labor to the United

States. This law was defective in that no arrangement was made for its general execution, no inspection of the alien was provided for, nor deportation of the contract laborer, if found so to be. This act, however, was amended by an act of February 23, 1887, which gave the Secretary of the Treasury authority to deport within one year from landing any alien who had come to this country contrary to the provisions of the contract-labor act.

In 1889 a standing Committee on Immigration was established in the Senate of the United States and a select Committee on Immigration and Naturalization was established in the House.

In 1890 these committees were authorized to make a joint investigation of the immigration question, and especially to look into the various State laws on the subject. These committees, in making their report, suggested that while no very radical changes in the immigration laws were at that time advisable, still they found that throughout the country there existed a strong sentiment for a stricter enforcement of these laws.

The fact is that in the year 1890 one or more political parties in 23 different States demanded additional regulation of immigration. Responsive to this demand for stricter immigration laws and regulations the Congress of the United States passed, and it was approved on March 3, 1891, an additional immigration act amendatory of previous acts. This act added to the list of aliens heretofore excluded those "suffering from a loathsome or contagious disease," "polygamists," and those "whose ticket or passage is paid for with the money of another or who is assisted by others to come," except, however, that any person living in the United States could pay the way of a relative or friend, provided, of course, that the relative or friend did not belong to some of the excluded classes. This act strengthened further the existing contract-labor law by prohibiting the encouragement of immigration by promises of employment through advertisements published in any foreign country, and steamship companies were forbidden under penalty to solicit or encourage immigration.

The law of 1891 also created the office of Superintendent of Immigration, and instead of some State officer, by appointment of the governor, having charge of the execution of the immigration laws in that State, as provided for in the act of 1882, the whole question of immigration for the first time was completely under Federal control.

This act also provided that the commanding officer of every vessel carrying aliens to our shores should furnish to the proper immigration officials the name, nationality, last residence, and destination of all immigrants on board; that medical examination of immigrants at United States ports should be made by surgeons of the United States Marine-Hospital Service, and within one year after arrival any immigrant might be returned who had come to this country in violation of law, and that, too, at the expense of the transportation company that brought him. It was not until 1907, however, that steamship companies were required to keep a record of outgoing passengers.

For the first time inspection of immigrants on the Mexican and Canadian borders was established. While this was the most stringent immigration act passed by Congress up to this time still the subject of immigration continued to be much discussed, and a strong movement for further restriction developed, owing largely to the industrial depression from 1890 to 1896. Investigations more or less extensive were conducted by joint committees of Congress and also by the Industrial Commission. In 1894 an act was passed raising the head tax from 50 cents to $1, but President Cleveland vetoed another bill passed by both branches of Congress providing for a literacy test.

Based upon the report of the Industrial Commission made to Congress February 20, 1902, a bill was introduced in the House providing for a complete codification and rearrangement of all immigration acts from March 3, 1875, to the act of 1894. An amendment was offered to this bill and passed by the House by a vote of 86 to 7 providing that all persons over 15 years of age who were unable to read the English language or some other language should be excluded, making an exception in favor of wives, parents, grandparents, and children under 18 years of age. The bill so amended passed the House May 27, 1902. When it reached the Senate it elminated the educational test, raised the head tax from $1 to $2, and made it unlwful for any person to assist in the entry or naturalization of alien anarchists. The House agreed to these amendments, and the bill was approved by the President March 3, 1903.

It was not until February 20, 1907, that any other immigration act of much import was passed by Congress, although by an act of February 14, 1903, the Department of Commerce and Labor was established and the Commissioner General of Immigration was placed under that department, his official position being that of a head of a bureau. On June 29, 1906, the Bureau of Immigration was changed to the Bureau of Immigration and Naturalization; a uniform rule for the naturalization of aliens was provided for, and the administration of the new naturalization law was charged to this bureau.

A little history of the immigration act of February 20, 1907, the latest now on the statute books (with a small amendment of March 26, 1910), and the one sought to be amended by the bill we are now considering, may not be amiss:

A bill introduced by Senator DILLINGHAM, of Vermont, was favorably reported by the Senate committee on March 29, 1906. This bill sought to amend the immigration act of 1903 by increasing the head tax from $2 to $5. Imbeciles, feeble-minded persons, children under 17 years of age unaccompanied, and persons "who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of such a nature which may affect the ability of such alien to earn a living," were added to the excluded classes. The section of existing law excluding prostitutes was amended by adding: "Women or girls coming into the United States for the purpose of prostitution or for any other immoral purpose."

A division of information was created in the Bureau of Immigration and Naturalization, and steamship companies were for the first time required to furnish to the proper immigration officials lists of outgoing passengers. In the Senate the bill was amended by the insertion of a literacy test very similar to the one this House is now considering and which I will later quote, and the Senate bill as amended by the literacy test passed the Senate May 23, 1906. When the bill reached the House it was referred to the Committee on Immigration and Naturalization, and they amended it by substituting one of their own in many respects similar to it, including the literacy test. In the conference between the House and Senate conferees the head tax was made $4 and the other amendments were agreed to except the literacy test was eliminated, and a commission composed of nine members was authorized to make a complete investigation of the immigration question and report its findings to Congress. The bill as amended became a law February 20, 1907. Composing this commission, which I have referred to, were to be three Members of the House appointed by the Speaker, three Members of the Senate appointed by the President of the Senate, and the other members of the commission to be appointed by the President of the United States. This commission, after an extensive investigation both in this country and in Europe, costing $1,000,000 and covering a period of four years, made a voluminous report, embracing 42 volumes of printed matter, covering all phases of the immigration question. This commission, after a most thorough investigation of the immigration question, found certain facts to exist and made some specific recommendations to Congress.

In the first place, the commission found that there were too many immigrants coming to this country; that there is now an oversupply of unskilled labor in the basic industries of the United States; that restrictive legislation ought to be passed by Congress; and that the literacy test was the best single method of accomplishing the desired end. Let me quote the exact words of the commission:

> The investigations of the commission show an oversupply of unskilled labor in basic industries to an extent which indicates an oversupply of unskilled labor in industries of the country as a whole, a condition which demands legislation restricting the further admission of such unskilled labor. It is desirable in making the reduction that a sufficient number be debarred to produce a marked effect upon the present supply of unskilled labor.

Even the Hon. William S. Bennet, the only dissenting member from any of the findings of the commission, concurred in this in his minority report. He said:

> A slowing down of the present rate of the immigration of unskilled labor is justified by the report.

And after enumerating more than a half dozen ways by which this reduction could be brought about the commission added:

> A majority of the commission—eight out of the nine—favor the reading-and-writing test as the most feasible single method of restricting undesirable immigration.

And this is not a partisan political report for political purposes. It is a report by men of both parties after a most careful and painstaking investigation. The fact is that the question of immigration is not a political one.

I have briefly reviewed the legislation on this question, and before taking up and beginning to discuss the merits of the bill now pending before this House I want to adduce some proof to show that the question is nonpolitical and that restrictive legislation has been demanded in the national platforms of the two dominant political parties in this country. Away back in

1896, more than an eighth of a century ago, when the evils of immigration were not so great and not so well known as now, the Republican Party, in its national platform of that year, not only demanded a restriction of immigration but specifically indorsed the reading-and-writing test as a means to accomplish that end. The plank in the platform to which I refer is as follows:

For the protection of the quality of our American citizenship and of the wages of our workingmen against the fatal competition of low-priced labor, we demand that the immigration laws be thoroughly enforced and so extended as to exclude from entrance to the United States those who can neither read nor write.

This is one of the planks in the platform upon which the beloved McKinley was elected, and in his inaugural address he specifically indorsed the immigration plank and recommended an educational test to alien immigrants, to the end that American citizenship be protected and American institutions preserved.

In the Republican national platform of 1900 we find this language:

In the further interests of American workmen we favor a more effective restriction of the immigration of cheap labor from foreign lands—

And so forth.

In his first message to Congress, in 1901, ex-President Roosevelt indorsed unequivocally the restriction of immigration and an educational test. He used this pointed language:

The second object of a proper immigration law ought to be to secure a careful, and not merely perfunctory, educational test—some intelligent capacity to appreciate American institutions and act sanely as American citizens.

The Republican national platform this year—1912—the latest expression of the party on the subject, reads as follows:

We pledge the Republican Party to the enactment of appropriate laws to give relief from the constantly growing evil of induced or undesirable immigration, which is inimical to the progress and welfare of the people of the United States.

That the Republican Party stands for a restriction of immigration there is no room to doubt.

The Democratic Party, too, has put itself on record in regard to this great question. In its national platform of 1896 it uses this language:

We hold that the most efficient way of protecting American labor is to prevent the importation of foreign pauper labor to compete with it in the home market.

In its national platform of 1900 the Democratic Party, while inserting no plank upon the general subject of immigration, indorsed the Chinese exclusion law and recommended its application to the same classes of all Asiatic races.

The Democratic national platform of 1904 contained no plank upon the general subject of immigration, but did specially oppose the admission of Asiatic immigrants, in this language:

We are opposed to the admission of Asiatic immigrants who can not be amalgamated with our population.

The Democratic national platform of this year—1912—indorses more stringent immigration laws.

This is the latest expression of the Democratic Party on this important subject of immigration. Not only have the two dominant political parties in this country repeatedly expressed themselves in their national platforms in favor of restricting immigration, but the Republican platform of 1896 and the Republican President elected upon the Republican platform of 1900 have in express terms favored the literacy test; such a literacy test, in substance, that we are now considering, which is the crux of the bill before us, although it contains many other salutary provisions. And what is that literacy test and what are the terms of the bill now before us? Before the adjournment of the second session of the Sixty-second Congress the Senate of the United States passed, on April 19, 1912, an immigration bill known as the Dillingham bill, which covered many phases of the immigration question. That bill was sent over to the House on April 20, 1912, and referred to the Committee on Immigration and Naturalization. For reasons which will appear later the House committee amended the Senate bill by striking out all of it except the enacting clause and substituted and passed the Burnett literacy bill. The matter went to conference the second time, and a majority of the second conferees, both on the part of the House and the Senate, agreed upon a report which was made to the House on yesterday eliminating the penal certificate, or certificate of character, test as embodied in the first report.

In the statement accompanying the report to the House is found this language:

The Senate having disagreed to the entire House amendment, which in its turn had stricken out the entire Senate bill, the whole subject of immigration came before the conference committee.

The conference committee has rearranged and recodified the entire immigration laws, all of which are now before the House for consideration. Other than adding the literacy test as contained, in substance, in the Burnett bill, which lately passed the House, the other most important amendments are as follows:

First. The head tax per alien immigrant has been increased from $4 to $5.

Second. The exclusion of aliens not eligible for naturalization.

Third. The deportation of aliens who become criminals within three years subsequent to entry.

Fourth. Providing for interior immigrant stations.

Fifth. Providing against the illegal entry of seamen and stowaways.

Sixth. Providing more severe penalties for transportation lines which violate the law against advertising for immigrants and which bring to the United States aliens who are ineligible to enter.

The literacy-test provision is the most important change proposed in the law, most of the others being administrative changes. For the purpose of getting clearly before the House just the class of aliens who will be excluded from admission into the United States if the conference report becomes a law, I will quote section 3 of the report, amendatory of previous acts, which now embraces all the classes intended to be excluded:

SEC. 3. That the following classes of aliens shall be excluded from admission into the United States: All idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane within five years previous; persons who have had one or more attacks of insanity at any time previously; paupers; persons likely to become a public charge; professional beggars; vagrants; persons afflicted with tuberculosis in any form or with a loathsome or dangerous contagious disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living; persons who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude; polygamists, or persons who admit their belief in the practice of polygamy; anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all forms of law, or who disbelieve in or are opposed to organized government, or who advocate the assassination of public officials; persons who are members of or affiliated with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocate or teach the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character; prostitutes, or women or girls coming into the United States for the purpose of prostitution or for any other immoral purpose; persons who procure or attempt to bring in prostitutes or women or girls for the purpose of prostitution or for any other immoral purpose; persons who are supported by or receive in whole or in part the proceeds of prostitution; persons hereinafter called contract laborers, who have been induced, assisted, encouraged, or solicited to migrate to this country by offers or promises of employment, whether such offers or promises are true or false, or in consequence of agreements, oral, written or printed, express or implied, to perform labor in this country of any kind, skilled or unskilled; persons who have come in consequence of advertisements for laborers printed, published, or distributed in a foreign country; persons who have been deported under any of the provisions of this act, and who may again seek admission within one year from the date of such deportation, unless prior to their reembarkation at a foreign port, the Secretary of Commerce and Labor shall have consented to their reapplying for admission; persons whose ticket or passage is paid for with the money of another, or who is assisted by others to come, unless it is affirmatively and satisfactorily shown that such person does not belong to one of the foregoing excluded classes; persons whose ticket or passage is paid for by any corporation, association, society, municipality, or foreign Government, either directly or indirectly; stowaways, except that any such stowaway may be admitted in the discretion of the Secretary of Commerce and Labor; all children under 16 years of age, unaccompanied by one or both of their parents, at the discretion of the Secretary of Commerce and Labor or under such regulations as he may from time to time prescribe; persons who can not become eligible, under existing law, to become citizens of the United States by naturalization, unless otherwise provided for by existing agreements as to passports, or by treaties, conventions, or agreements that may hereafter be entered into. The provision next foregoing, however, shall not apply to persons of the following status or occupations: Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, and travelers for curiosity or pleasure, nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section 19 of this act.

That after four months from the approval of this act, in addition to the aliens who are by law now excluded from admission into the United States, the following persons shall also be excluded from admission thereto, to wit:

All aliens over 16 years of age, physically capable of reading, who can not read the English language, or some other language or dialect, including Hebrew or Yiddish: *Provided*, That any admissible alien or alien heretofore or hereafter legally admitted, or any citizen of the United States, may bring in or send for his father or grandfather over 55 years of age, his wife, his mother, his grandmother, or his unmarried or widowed daughter, if otherwise admissible, whether such relative can read or not; and such relatives shall be permitted to enter. That for the purpose of ascertaining whether aliens can read the immigrant inspectors shall be furnished with slips, of uniform size, prepared under the direction of the Secretary of Commerce and Labor, each containing not less than 30 nor more than 40 words in ordinary use, printed in plainly legible type in the various languages and dialects of immigrants. Each alien may designate the particular lan-

guage or dialect in which he desires the examination to be made, and shall be required to read the words printed on the slip in such language or dialect. No two aliens coming in the same vessel or other vehicle of carriage or transportation shall be tested with the same slip. That the following classes of persons shall be exempt from the operation of the illiteracy test, to wit: All aliens who shall prove to the satisfaction of the proper immigration officer or to the Secretary of Commerce and Labor that they are seeking admission to the United States solely for the purpose of escaping from religious persecution; all aliens in transit through the United States; all aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: *Provided*, That nothing in this act shall exclude, if otherwise admissible, persons convicted of an offense purely political, not involving moral turpitude: *Provided further*, That the provisions of this act relating to the payments for tickets or passage by any corporation, association, society, municipality, or foreign government shall not apply to the tickets or passage of aliens in immediate and continuous transit through the United States to foreign contiguous territory: *Provided further*, That skilled labor, if otherwise admissible, may be imported if labor of like kind unemployed can not be found in this country, and the question of the necessity of importing such skilled labor in any particular instance may be determined by the Secretary of Commerce and Labor upon the application of any person interested, such application to be made before such importation, and such determination by the Secretary of Commerce and Labor to be reached after a full hearing and an investigation into the facts of the case, but such determination shall not become final until a period of 30 days has elapsed. Within three days after such determination the Secretary of Commerce and Labor shall cause to be published a brief statement reciting the substance of the application, the facts presented at the hearing, and his determination thereon, in three daily newspapers of general circulation in three of the principal cities of the United States. At any time during said period of 30 days any person dissatisfied with the ruling may appeal to the district court of the United States of the district into which the labor is sought to be brought, which court or the judge thereof in vacation shall have jurisdiction to try de novo such question of necessity, and the decision in such court shall be final. Such appeal shall operate as a supersedeas: *Provided further*, That the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, ministers of any religious denomination, professors for colleges or seminaries, persons belonging to any recognized learned profession, or persons employed strictly as personal or domestic servants: *Provided further*, That whenever the President shall be satisfied that passports issued by any foreign government to its citizens or subjects to go to any country other than the United States, or to any insular possession of the United States or to the Canal Zone, are being used for the purpose of enabling the holder to come to the continental territory of the United States, to the detriment of labor conditions therein, the President shall refuse to permit such citizens or subjects of the country issuing such passports to enter the continental territory of the United States from such other country or from such insular possessions or from the Canal Zone: *Provided further*, That nothing in this act shall be construed to prevent, hinder, or restrict any alien exhibitor, or holder of a concession or privilege for any fair or exposition authorized by act of Congress, from bringing into the United States, under contract, such alien mechanics, artisans, agents, or other employees, natives of his country, as may be necessary for installing or conducting his exhibit, or for preparing for installing or conducting any business authorized or permitted under any concession or privilege which may have been or may be granted by any such fair or exposition in connection therewith, under such rules and regulations as the Commissioner General of Immigration, with the approval of the Secretary of Commerce and Labor, may prescribe both as to the admission and return of such persons: *Provided further*, That nothing in this act shall be construed to apply to accredited officials of foreign governments nor to their suites, families, or guests: *Provided further*, That nothing in this act shall exclude the wife or minor children of a citizen of the United States.

Nor shall it apply to persons of the following status or occupations:

Government officers, ministers or religious teachers, missionaries, lawyers, physicians, chemists, engineers, teachers, students, authors, editors, journalists, merchants, bankers, and travelers for curiosity or pleasure, nor to their legal wives or their children under 16 years of age who shall accompany them or who subsequently may apply for admission to the United States, but such persons or their legal wives or foreign-born children who fail to maintain in the United States a status or occupation placing them within the excepted classes shall be deemed to be in the United States contrary to law, and shall be subject to deportation as provided in section 19 of this act.

It will be noted that this bill adds to the classes heretofore excluded—

Aliens over 16 years of age, physically capable of reading, who can not read the English language, or some other language or dialect, including Hebrew or Yiddish.

Provision is made, however, that any alien legally, or hereafter legally, admitted to the United States may send for his father or mother, grandfather or grandmother, wife or daughter, whether they can read or write or not. "Vagrants" and "stowaways" are added to the excluded lists. So are those "who disbelieve in or are opposed to organized government"; also "persons who are members of or affiliate with any organization entertaining and teaching disbelief in or opposition to organized government, or who advocate or teach the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals, or officers generally, of the Government of the United States or of any other organized Government because of his or their official character."

Also contract laborers who have been "assisted" or "encouraged" to migrate to this country by offers or promises of employment, "whether such offers or promises are true or false"; also "persons who have come in consequence of advertisements for laborers printed, published, or distributed in a foreign country"; also "persons who have been deported under any of the provisions of this act and who may again seek admission within one year from the date of such deportation," unless the Secretary of Commerce and Labor gives his consent thereto. The act of February 20, 1907, applied only to contract laborers who had been deported.

Also "persons who can not become eligible under existing law to become citizens of the United States by naturalization, unless otherwise provided for by existing agreements as to passports or by treaties, conventions, or agreements that may hereafter be entered into."

It will be seen that this proposed new measure adds quite materially to the excluded classes of aliens under the provisions of the act of February 20, 1907. As to the justice of the most of them, however, there is not much room for argument or contention. Most of the opposition argument on the floor of this House has raged around the literacy test.

And since the literacy test is the one most objected to, and since it is conceded to be more efficacious in restricting immigration to this country than all the other new provisions put together, I will address myself first to its consideration—or, rather, to a resumption of its consideration—together with the general subject of restriction of immigration.

This literacy test, for the purpose of preventing objectionable foreigners from coming to this country, is not a new proposition, as I have already observed. Not only have political parties in their national platforms especially declared for it, but Congress itself has several times unequivocally indorsed it.

The House, in the Fifty-fourth Congress, passed such a measure by the decisive vote of 195 to 20, while the Senate passed it by a vote of 52 to 10.

That literacy test bill would have become a law but for the veto of President Cleveland.

In the Fifty-fifth Congress an immigration bill again passed the Senate, which carried a literacy test provision, by a vote of 45 to 28.

In the Fifty-seventh Congress an illiteracy test amendment to an immigration bill passed the House by the sweeping majority of 87 to 7.

The fact is that at no time in the history of the country has a literacy test provision in any immigration bill ever been defeated by either House of Congress. Upon the contrary, such a provision has invariably been passed by decisive majorities when the question was submitted to a vote.

And the various votes by both Houses of Congress on this subject is but a reflection of public opinion on the question.

Not all the newspapers, periodicals, and magazines of the country favor this legislation, but I think I am safe in saying that the bulk of the press do favor it. At any rate, a majority of the people favor it.

Resolutions, petitions, and memorials have poured in upon Congress expressing their views and making known the wishes of large and representative bodies of our citizenship on this momentous and far-reaching question.

The legislatures of the great States of Ohio, Pennsylvania, Tennessee, Vermont, and others have specifically indorsed the literacy test, while twenty and odd others have memoralized Congress to pass more stringent immigration laws.

The various farmers' organizations throughout the length and breadth of the land, the great labor organizations all over the country, the patriotic societies, powerful bodies representing charity, commerce, and the like have upon divers occasions passed resolutions memorializing Congress to enact a law embodying an educational test and more stringent immigration laws.

There are a greater number of the people of the United States engaged in agriculture than in any other calling. At the last National Farmers' Congress they passed the following resolution:

Whereas the Congressional Immigration Commission's report of 40 volumes has just been published, and recommends the very measures which this organization has been advocating in its resolutions for years to judiciously restrict undesirable immigration:

Resolved, That we enthusiastically approve the commission's legislative recommendations that the head tax be increased, the illiteracy test be enacted, that foreign steamships be fined for bringing undesirables, and that other judicious measures be adopted, which are hereby urged upon the Congress of the United States.

The Farmers' Educational and Cooperative Union has a membership of over three million. This is possibly the most powerful in point of members and influence of any of the farmers' organizations in this country. This organization has been much interested in restrictive immigration laws and has frequently indorsed the literacy test.

The American Federation of Labor, the largest labor organization in this country, has for years at its annual gatherings

been passing resolutions and petitioning Congress to pass more strict immigration laws, and it has specifically indorsed the educational test—in substance the test we are now considering.

The grand International Brotherhood of Locomotive Engineers, the Junior Order of United American Mechanics, the Knights of Labor, and other organizations have repeatedly passed resolutions specifically indorsing the literacy test and memoralizing Congress to make it a law.

In 1909 the American Federation of Labor at its annual gathering passed the following resolution:

Whereas the illiteracy test is the most practical means of restricting the present stimulated influx of cheap labor, whose competition is so ruinous to the workers already here, whether white or foreign born:

Resolved by the American Federation of Labor in twenty-ninth annual convention assembled, That we demand the enactment of the illiteracy test, an increased head tax, and the abolition of the distribution bureau.

Samuel Gompers is the president of this organization. He appeared before the House Committee on Immigration and Naturalization on February 29, 1912, and among other things declared that the American Federation of Labor had advocated the literacy test for years and years; that the Immigration Commission had but emphasized the foresight of their organization in taking such position; that most of the immigration to this country is not of its own free will and accord, but that it is "stimulated" by "the captains of industry" and by the "allurements of the shipping companies"; that the "captains of industry" wanted "low-priced, docile labor" and the shipping companies wanted transportation—wanted business; that something "must be done to further limit immigration"; that the great horde of "docile illiterate" immigrants coming yearly to our shores, especially those willing to work for most any wage, was largely responsible for many of the untoward conditions and serious problems now confronting the American wage earner; that "in the iron and steel industry"—that is, in the making of iron and steel—the percentage now of foreign workers is about 75 per cent; that "they work 7 days in the week, 12 hours a day, and 365 days in the year," and that "the percentage of foreign-born workers in the woolen trade is 85 per cent"; that they displaced the American laborer, reduced the American wage, and lowered the standard of American life; that a large percentage of them when employed would for years "suffer indignities and privations and then in sheer desperation, disregarding all rules of order and precedence in the orderly conduct of relations between employers and employees, rush out on a strike."

I have quoted at length the views of Mr. Gompers on immigration, because he is the president of the most effective and powerful labor organization in this country, and is known and regarded as one of the truest and most able champions of labor in the Western Hemisphere, if not in the entire world. Mr. Gompers knows, as few men know, what this tremendous and never-ceasing flow of alien immigrants means to the American wage earner, both native and foreign born.

John Mitchell, formerly head of the mine workers in the United States, and at present one of the vice presidents of the American Federation of Labor, and widely known for his breadth and depth of thought on labor and social problems, said:

The American workingman recognizes the necessity of reasonable restriction upon the admission of future immigrants. He fails to see the consistency of a legislative protective policy which does not at the same time it protects industries give equal protection to American labor.

That is sound argument; that is good Republicanism.

And what are the reasons for this widespread interest in favor of stricter immigration laws? Why has the American Congress from 1819 to 1907, as I have pointed out, been adding one restriction after another to the continued stream of immigrants flocking to our shores? Why have the framers of the Burnett and Dillingham bills, the conference report we are now considering, added very materially to the excluded classes of aliens as provided for in the act of February 20, 1907? It is because the people of this great country have slowly but surely been waking up to the imminent dangers to themselves and their institutions lurking in the ever-increasing tide of undesirable immigrants drifting to our shores.

Even under the operation of what was called "the stringent immigration act" of February 20, 1907, there have reached the United States every year since its enactment in the neighborhood of 1,000,000 alien immigrants, from 30 to 40 per cent of whom can neither read nor write.

Mr. Speaker, the gentleman from Massachusetts [Mr. CURLEY] said that this was largely an economic question. I am glad to be able to agree with the gentleman in part on that proposition. It is largely an economic, social, and moral question. The truth is that immigrants have been flocking to the American shores, as I have said, at the rate of about 1,000,000 a year, and now in the great basic industries of the country foreign labor is largely employed. In the iron and steel industry of the United States there is now employed 75 per cent of foreign-born laborers. In the woolen industry of this country there is employed 75 per cent of foreign-born laborers. In the oil refineries of this country 75 per cent of the wage earners are of the immigrant class. In the slaughtering and meat-packing business of the United States 75 per cent of the wage earners are of foreign birth. In the furniture factories, in the leather tanneries, in the woolen and worsted trades, in the bituminous coal mines, and in railroad and construction work 75 per cent of the men now employed in those industries in the United States are not merely of foreign descent, but actually born abroad, and in a large part of these industries there is now less than 10 per cent of native Americans employed.

Mr. BARTHOLDT. Mr. Speaker, will the gentleman yield for a question?

Mr. POWERS. I yield.

Mr. BARTHOLDT. Are not the facts that the gentleman cites really an argument against this bill? Do they not show that these men are earning their bread in the sweat of their brows and by honest employment?

Mr. TOWNER. And adding to the wealth of the country?

Mr. POWERS. An argument against this bill? They show conclusively that native Americans have been crowded out of employment by the immigrants from foreign shores; that native Americans have not been able to compete with the wages and standard of living that is brought in here from abroad and practiced by the immigrants, especially from southern and eastern Europe, who work at a low wage and live largely—many of them—on bologna sausages, bread, and macaroni, as is stated by Profs. Jenks and Lauck, high authorities on this question. The American standard of living and of wages have been lowered to such an extent that an American can not compete with that sort of business.

If it is all right and proper for alien immigrants to crowd our native American wage earners and laborers out of employment by low wages and low standards of living, it would be equally all right and proper for them to crowd all other Americans out of their places, and let this country be turned over to foreigners to own, rule, and control.

With all due respect for the opinion of the able Member from Missouri, I can not concur in that character of logic. As has been suggested, the industrial phase of the immigration question is one of far-reaching importance. It is indisputably true that in many of the basic industries in this country the native-born American wage earners have been driven out of employment by the illiterate, non-English-speaking immigrants from southern and eastern Europe, while the American standard of living has received a staggering blow at their hands.

The Commissioner General of Immigration in his annual report for 1911 said:

A large proportion of the southern and eastern European immigration of the past 25 years has entered the manufacturing and mining industries of the Eastern and Middle States, mostly in the capacity of unskilled laborers. There is no basic industry in which they are not largely represented, and in many cases they compose more than 50 per cent of the total number of persons employed in such industries.

Profs. Jenks and Lauck, who were appointed by the President on the Immigration Commission and who have given much study to this question, and who boiled down the substance of the commissions report and investigations in their splendid volume entitled "The Immigration Problem," said on page 135:

In most of the principal branches of the industries the native American and immigrant employees from Great Britain have, to a large extent, especially in the unskilled occupations, been displaced by recent immigrants from southern and eastern Europe and the Orient.

On page 126, same book:

It was found that only one-fifth of the total number of wage earners in 38 of the principal branches of industry were native white Americans, while three-fifths were of foreign birth. Almost one-half of all the wage earners were from southern and eastern European countries.

On page 137, same book, they say:

More than three-fourths of the iron and steel workers, employees of oil refineries, slaughtering and meat-packing establishments, furniture factories, leather tanneries and finish establishments, and woolen and worsted goods and cotton-mill operatives, together with two-fifths of the glass workers, one-third of the silk-mill operatives, and glove factory employees—

were of foreign birth.

On page 140, same book:

The reason for the employment of recent immigrant wage earners in the United States was primarily the inability of the manufacturers and mine operators to secure such labor at the same wages.

On the same page:

It may be said in general that the recent immigrant wage earners from the south and east of Europe are found on the lowest level of the industrial scale.

On page 167, same book:

Disregarding geographical lines, it may be said in general that foreign-born wage earners constitute slightly more than three-fourths of the entire number of persons engaged in railway and other construction work. Native white Americans and native negroes each make up about one-tenth of the working forces.

On page 168:

In all sections of the country the south Italians form the highest proportion of laborers employed on railroad-construction work.

On page 270, same book:

The great mass of foreign-born workmen remain in the ranks of unskilled laborers.

Mr. John A. Fitch, in his book "The Steel Workers," says that at the Carnegie Steel Co. plants, where there are employed 23,337 men, only 5,705 were native-born white Americans, the remainder being foreigners, of whom over 14,000 were unnaturalized, and about 8,000 of whom could not speak English.

In the great cities of New York, Chicago, Baltimore, Philadelphia, and Rochester there is manufactured about 70 per cent of the total product of men's ready-made clothing in the United States. More than 50 per cent of the workers engaged in this industry in these cities are women. Less than 10 per cent of them are native-born Americans, and 75 per cent of them can not speak English. The average weekly wage of these workers is $3.72.

Seventy-five per cent of the wage earners employed in the basic industries of this country are either foreigners or foreign born. Profs. Jenks and Lauck, in their book "The Immigration Problem," on page 283, say:

A number of cities show a very high percentage of pupils with foreign-born fathers. In New York City 71.5 per cent have foreign-born fathers; in Chicago 67.3 per cent; in Boston 63.5 per cent.

This shows to what extent foreign immigrants have taken possession of our large cities.

Lawrence, Mass., is the center for the manufacture of woolens and worsteds. It has a population of 85,000. More than 73,000 of its inhabitants are foreigners and less than 12,000 are Americans. There are employed in the manufacture of woolens and worsteds in this city about 30,000 workers, 92 per cent of whom are foreign born. They live in segregated colonies, separate and apart from our people. Fifty per cent of them not only can not read English but can neither read nor write in any other language.

In an article written not long ago by the Secretary of the United States Immigration Commission and published in the North American Review is found this language:

The term American wage earner is rapidly becoming a misnomer. Almost three-fourths of the employees of the principal branches of manufacturing and mining in the United States at the present time are of foreign birth.

This does not include those born in this country, but of foreign parentage. The secretary of the commission continues:

Only about one-fifth of the total number of wage earners were born in this country. * * * Among bituminous coal and iron mine workers less than one-tenth are native Americans. The fact of great import in connection with the situation is that about one-half of the industrial workers of foreign birth are southern and eastern Europeans and Asiatics, principally representatives of the north and south Italians, Poles, Greeks, Slovenians, etc. There is no manufacturing city or town or any mining community of any importance in the Middle West, New England, and the Middle States which has not a foreign section made up of industrial workers from southern and eastern Europe. * * * There has been a distinct segregation of the immigrant and the native American population, and there is little contact or association beyond that rendered necessary by business or working relations.

This statement on the part of the secretary of the Immigration Commission is merely corroborative of the data and facts gathered on this subject from a good many sources.

Mr. BARTHOLDT. Mr. Speaker, will the gentleman yield for a further question?

The SPEAKER. Does the gentleman yield?

Mr. POWERS. I yield.

Mr. BARTHOLDT. Does the gentleman know of any native Americans who are out of employment? If he does, I wish he would send them to St. Louis, where employment will be found for all of them. [Applause.]

Mr. POWERS. In answer to the question of the distinguished Member from Missouri [Mr. BARTHOLDT], I will say that the act of February 20, 1907, created an Immigration Commission to study this question from every conceivable standpoint, and after having devoted four years to extensive investigation, both in this country and in Europe, at an expenditure of $1,000,000 that commission came to the unanimous conclusion that there was an oversupply of unskilled labor in this country. [Applause.] Even the Hon. William S. Bennet, the only member of the commission who handed down a dissenting opinion at all, agreed with the majority that there was an oversupply of unskilled labor in this country, and it is indeed a very cheap labor and goes largely to our industrial centers.

Profs. Jenks and Lauck, in their book, page 26, speaking of the immigrants coming to this country, say:

They find that our supply of free agricultural land is practically taken up, that there is a strong demand for their labor, especially in our mining and manufacturing centers, at wages much higher than any that they have known in their own country, although they may be low when compared with the American standard.

On page 169, same book, they say:

A study of more than 5,000 wage earners in all sections of the country showed that the average daily earnings of native white Americans were $2.43 and of immigrants $1.68.

Respecting the cost of living the same authors, on page 174 of their book, say:

The cost of living is about $10 per man for the Croatians for a month and the same for the Slovaks, and from $5 to $7 for the Italians. The Italians live mainly upon bread and macaroni and bologna sausage, which accounts for the extremely low cost of their maintenance.

Speaking of the amount of money brought into this country by the south and east European immigrant per person and his necessity to take employment at low wage in this country these same authors, on page 183 of their book, say:

During the past eight years the average amount per person among these immigrants has been about one-third as much as among immigrants from northern and western Europe. Consequently, finding it absolutely imperative to engage in work at once, they have not been in a position to take exception to wages or working conditions, but must obtain employment on the terms offered or suffer from actual want.

On page 195 of the same book is found the following:

The low standards of the southern and eastern European, his ready acceptance of a low wage and existing working conditions, his lack of permanent interest in the occupation and community in which he has been employed, his attitude toward labor organizations, his slow progress toward assimilation, and his willingness seemingly to accept indefinitely without protest certain wages and conditions of employment have rendered it extremely difficult for the older classes of employees to secure improvements in conditions or advancement in wages since the arrival in considerable numbers of southern and eastern European wage earners.

America is being filled up with people from other countries in such numbers and in late years of immigrants of such a character that it is impossible to assimilate them, and America is gradually but surely being foreignized.

It will be remembered that there were no statistics kept of alien immigrants to this country until 1819. From that year down to now the increase has been tremendous and the character of the immigrants has undergone a marked change. Let us first look into the number and then the character of the immigrants that have been coming to this country.

From 1820 to 1830 there arrived on our shores 143,439 immigrants; from 1830 to 1840, 599,125; from 1840 to 1850, 1,713,351; from 1850 to 1860, 2,589,214; from 1860 to 1870, 2,314,824; from 1870 to 1880, 2,812,191; from 1880 to 1890, 5,246,613; from 1890 to 1900, 3,844,420; from 1900 to 1910, 8,795,386, while in 1911 there arrived in that one year 878,587. A glance at these figures will show the tremendous increase in immigration to this country. The first decade that has any record of immigrants coming to this country, the decade from 1820 to 1830, shows that there were only 143,439 immigrants admitted to the United States, while during the last decade, the decade from 1900 to 1910, there were 8,795,386, more than five times as many, although from 1820 to 1830 there was no Federal law on the statute books really seeking to restrict immigration and no law on the statute books really attempting to regulate it or any part of it, except the act of 1819, which regulated in a way the steerage passengers at sea.

From 1900 to 1910, when nearly 9,000,000 alien immigrants were admitted to this country, there were on the statute books pretty stringent immigration laws, as is shown by an examination of the immigration acts of March 3, 1891, and February 20, 1907, the one now sought to be amended. The passage of the literacy test bill will curtail annually by some 200,000 the influx of immigrants to our shores. The Immigration Commission in a unanimous report—those in favor of the literacy test and those opposed to it—declared that there were too many immigrants coming to this country, and that their number ought to be materially curtailed. The question is, How should it be done?

As I said in a speech a few days ago, the immigration to this country naturally divides itself into two great groups: Those coming before the year 1880 and those coming after that time. Up to 1880 the bulk of the immigrants to this country came from western and northwestern Europe, from such countries as Great Britain, Germany, Norway, and Sweden. Since 1880 the character of the white immigrants to this country changed so

rapidly that in 1907 71.3 per cent of such immigrants came from southern and southeastern Europe and western Asia.

Profs. Jenks and Lauck, in their book, on page 128, say:

The members of the old immigration, generally speaking, came much more generally in families, with the evident purpose of making America their permanent home, than do the members of the new immigration.

And on page 272 of the same book is found this statement:

Of the total number of industrial workers studied by the Immigration Commission who had a residence of five years to nine years [in the United States], only 6.2 per cent were fully naturalized, as compared with a degree of citizenship of 56.9 per cent of those with a period of residence from 10 years or over.

They go on to say that only 30.1 per cent of the southern Italians have either been naturalized or have taken out first papers looking to that end.

The bulk of the old immigration was similar in instincts and civilization to our own, and readily assimilated with it, and at once became a splendid type of American citizenship. Profs. Jenks and Lauck, speaking of the characteristics of the recent immigrants, say, on page 170 of their book:

Fifty-five per cent of the immigrant wage earners were married, but more than three-fourths of these had left their wives and families in their native countries.

On the same page they say:

As regards the small extent to which the southern and eastern Europeans exhibit any tendency toward progress and assimilation, it was found that practically all of the recent immigrants, except the north and south Italians, and one and one-tenth of these, were fully naturalized. Moreover, only about one-third of the southern and eastern European wage earners could speak English.

On page 197 of their book is found this statement:

Owing to the rapid expansion in industry which has taken place during the past 30 years and the constantly increasing employment of southern and eastern Europeans, it has been impossible to assimilate newcomers, politically or socially, or to educate them to American standards of compensation, efficiency, or conditions of employment.

On page 265, same book, they say:

The coming in of people who will not be assimilated creates discord and makes separate classes or castes in a community.

The chief motive in coming to America of the old immigrant class was to escape religious or political persecution and to found for themselves a permanent home here. The bulk of the immigrants coming to this country after the year 1880, and known as the "new immigrants," have not sought homes here, have not assimilated readily if at all with our people and things American, but the tendency has been to settle in colonies in the industrial centers of our country, separate and apart from American citizens, and to continue to speak their own language or dialect and virtually to establish while here foreign customs and conditions and even foreign cities here on American soil.

Profs. Jenks and Lauck in their book (p. 67) say:

The widespread existence of immigrant industrial communities or colonies in the United States at the present time may be realized when it is stated that in the territory east of the Mississippi and north of the Ohio and Potomac Rivers there is no town or city of industrial importance, with the exception of the lead and zinc mining localities of Missouri, which does not have its immigrant colony or section composed of Slavs, Magyars, North and South Italians, or members of other races of recent immigration from southern and eastern Europe. In the South and Southwest, because of the large areas devoted almost exclusively to agriculture, the immigrant community is less frequently met with than in the Middle West or East. In the bituminous coal-mining territories of West Virginia, Virginia, Alabama, Arkansas, and Oklahoma immigrant colonies in large numbers have been developed in the same way as those in the coal-mining regions of Pennsylvania.

The new immigrants to this country have not fled from their country to seek safety in ours from religious or political persecution. That has not been their motive in coming here. Their reasons for coming have been largely economic. They have sought to take advantage of the high-priced wage in this country—to make a competence and then to return to their former homes. Profs. Jenks and Lauck in their book (p. 12) say:

The money wages in southern Europe, from which more than 80 per cent of our present immigrants are coming, are indeed very low as compared with those in the United States—often not over one-third as much. Moreover, the assertion often made that, owing to lower prices in Europe, the low wages will furnish practically as good living conditions as those in the United States is a mistaken one. The standard is far below that of the United States. They come to this country with the intention of making some money and then returning to their homes. This is shown by the fact that they send back to their mother country each year from $300,000,000 to $400,000,000 in money earned here, and by the further fact that 40 per cent of those who do come here do return to their own country after a little sojourn with us.

The old immigrants, in the main, come here for the purpose of making America their home, and but a small per cent of them return.

For the purpose of showing that the class of immigrants coming to this country have undergone a marked change; that they are not what they used to be; that before the year 1880—yes, beginning with the year 1869—there was less than 1 per cent of the new immigration coming here and at that time nearly 75 per cent of the old. I want to submit this table:

Comparison of certain national groups.

	Per cent of immigrants from Austria-Hungary, Italy, and Russia in total immigration.[1]	Per cent of immigrants from United Kingdom, France, Germany, and Scandinavia in total immigration.
1869	0.9	73.8
1880	8.5	64.5
1890	34.0	57.7
1891	39.6	52.1
1892	44.8	53.9
1893	42.7	48.2
1894	42.6	47.9
1895	39.8	52.9
1896	53.9	38.5
1897	53.0	37.6
1898	57.9	33.3
1899	64.4	27.8
1900	66.7	25.3
1901	68.6	22.5
1902	70.6	20.3
1903	66.8	22.4
1904	63.4	25.0
1905	66.4	24.2
1906	68.5	18.3
1907	71.3	17.1

[1] Includes Poland to 1898.

It will be noted that in 1869 the immigrants from Italy, Poland, Russia, and Austro-Hungary—whence come the new immigration—were about one hundred times less than the number from the United Kingdom, Germany, France, and Scandinavia—from whence have come the old immigration; in 1880 it was only about ten times less; in 1894 it was about equal to it; and in 1907 it was four times greater; and at the present time the proportion is still much larger. The old immigration has been supplanted by the new. The old immigration came to stay, and a large proportion of it sought homes on the farm. A large per cent of the new immigration comes to return, and to settle while here in colonies in the industrial centers of the country. Only about 15 per cent of it goes to the farms.

The Immigration Commission in its report says:

The old and the new immigration differ in many essentials. The former was, from the beginning, largely a movement of settlers who came from the most enlightened sections of Europe for the purpose of making for themselves homes in the New World. * * * Many of them entered agricultural pursuits. They mingled freely with native Americans and were quickly assimilated. On the other hand, the new immigration has been largely a movement of unskilled laboring men who have come in large part temporarily from the less enlightened and advanced countries of Europe in response to the call for industrial workers in the Eastern and Middle Western States. They have almost entirely avoided agricultural pursuits, and in cities and industrial communities have congregated together in sections apart from native Americans and the older immigration. The new immigration as a class is far less intelligent than the old, more than one-third of all those over 14 years of age being illiterate when admitted. * * * They are actuated in coming by different ideals from the old immigration, for it came to be a part of the country, while the new, in a large measure, comes with the intention of profiting in a pecuniary way by the superior advantages of the New World and then returning to the old country. The old immigration movement in recent years has rapidly declined, both numerically and relatively, and under present conditions there are no indications that it will materially increase. The new immigration movement is very large, and there are few, if any, indications of its natural abatement.

The fact is that statistics show that in more than 30 of our largest cities the foreign population is larger than the native born. Take New York City, for example: Its foreign population, including those born abroad and those born here but of foreign parentage, is 3,757,856, while the native-born Americans of native parents number only 1,012,027, including the negroes. Chicago has 1,693,988 of foreign parentage and birth, while it has less than half a million of native-born Americans, including the negroes. Milwaukee, another one of our large cities, has 293,986 foreign born and native born of foreign parentage, while it has less than 80,000 native-born Americans. And so the story goes. In a number of Atlantic seaboard cities it is even larger.

The literacy-test bill we are now considering will not cure all the evils of immigration, but it will cure a part of them. It will materially lessen the number of immigrants coming to this country, and it will lessen the illiteracy. It is generally agreed that there are too many immigrants coming to this country, but the opponents of the illiteracy test maintain that that is not the way to cure the evil. They point out that it will not shut

out the idiots, anarchists, criminals, professional beggars, prostitutes, black handers, or forgers; that it will not exclude the educated criminal. Nobody contends that it will. The bill was not framed primarily for that purpose. The present law excludes all these classes of undesirables, or is intended to do so, and the argument that a literacy test will not exclude them is beside the mark. Such argument, if not intended to deceive the public, is at least calculated to. But while the literacy test does not have as its primary object the exclusion of such people, yet in its practical operation it will exclude 21 per cent of our foreign-born criminals, 18 per cent of our foreign-born insane, and 30 per cent of our foreign-born paupers.

The argument is further made that the literacy test would exclude the honest, though illiterate, laboring man—the very man we need—and would admit the educated theif and scoundrel, the very men we do not need. That character of argument is unfair. Nobody contends that a dishonest educated man is a better citizen than an honest uneducated man. No law can be framed that would not in some instances work a hardship. In dealing with matters like immigration we deal with large classes of people; and the question with the literacy-test part of this bill is whether an education fits or unfits men for American citizenship.

Few men, I take it, would care to affirm that it would be better for our country if the millions of immigrants that arrive yearly upon our shores were uneducated rather than educated people. If it be true that ignorance adds to the true conception and ideals of American citizenship, and is a valuable asset for any people to possess, we had better abolish our public schools and tear down our institutions of learning. They are maintained at great cost.

For the scholastic year ending June 30, 1910, we expended on the 25,000,000 students in our public schools $426,250,434, to say nothing of what was expended on the 125,000 students who attended our colleges and universities. If to fit our own American boys and girls for proper and efficient American citizenship we expend annually on them in tuition alone some $500,000,000, have not we a right to demand that immigrants coming to this country who are over 16 years of age shall at least be able to read some language or dialect? The consensus of opinion in America is that the American fathers and mothers who have not educated their sons and daughters who are over 16 years of age, at least to the point of being able to read in some language, have fallen far short of their duty in fitting their children for wholesome and efficient American citizenship, to say nothing of citizenship in some foreign land, about whose Government and institutions they know nothing, and whose language they can not speak. The American citizen who can not even read or write, but who has been reared in America, surrounded by Americans, and who has observed the workings of its Government, caught the spirit of its institutions, imbibed its lofty ideals, and inherited its progress, is infinitely better prepared for wholesome American citizenship than any illiterate foreigner could be; and yet America feels that young Americans must be educated not merely to read, but must be really educated to properly prepare them for the great struggle for existence and to fit them and train them for wholesome American citizenship. What does the alien immigrant who can not read know of America or the duties and responsibilities of American citizenship? What can he know?

Profs. Jenks and Lauck, in their book, page 32, say:

> At the time they are admitted into the United States as immigrants, judging from conditions in Europe, the percentage of illiteracy among the races composing the new immigration is much greater than that among the old, the difference being that of 35.6 per cent to 2.7 per cent, as shown by the following tables.

In the tables referred to, among other things, they show that 54.2 per cent of the south Italian immigrants over 14 years of age can neither read nor write.

Ours is a representative Government. Every citizen is a sovereign, and as such is called upon by his vote and otherwise to intelligently maintain that sovereignty, to uphold the ideals and institutions of the country of which he is a part. How can he maintain them when he knows nothing of them? How can he maintain them when he does not read, even in his own language; has never caught the spirit of our civilization, but upon the other hand crowds with others in colonies that do not know a word of English and are far removed from the better influences of our national life?

Profs. Jenks and Lauck, in their book, page 290, say:

> Inability to speak English, as a matter of fact, is the greatest obstacle to the proper distribution of the recent immigration population. It causes segregation of the immigration races in industrial towns and large cities and prevents proper contact with American life and institutions.

How can an immigrant be fit for citizenship in a country like ours, where the people rule, when he knows nothing of the duties and responsibilities of that citizenship, and where his whole training and environment from youth up have incapacitated him from properly exercising or duly appreciating them? How can he be expected to appreciate, prize, or value freedom and liberty when he knows nothing of either, and especially when the form of government from which he comes is so radically different from our own? How can we expect to assimilate him and make him a part of us when the native Americans and the old immigrants shun and avoid him and feel disgraced to be caught in his company? How could we, if we would, take him up and make him a part and parcel of American life and character when the bulk of the new immigration that reaches our shores isolate themselves when here, introduces debased standards of living and ideals of life, stays but a short time in one place and then returns—40 per cent of them—to the land of their birth and the bosom of their families whom, when coming here, they left behind?

The reason why but a small percentage of the old immigration, as compared to 40 per cent of the new, returned to their old haunts was the difference in motive that prompted their coming from that which prompted the coming of the new. The old immigration, as I have said, sought homes in America, the new immigration seek jobs; the old expected to remain, the new expect to return. The old immigration in the main represented a sturdy, intelligent, lofty-minded, and high-spirited citizenship, who would not tamely submit to political and religious persecution and other forms of tyranny as practiced in the countries of their home, and therefore fled here and cast their lives and fortunes with us. Only 2.7 per cent of them were illiterate, as compared with 40 per cent of the new. The new immigration in coming to America is actuated by no such ideals, inspired by no such motives as those which inspired the old. They do not come to America even on their own initiative or on their own accord. Their coming here is stimulated, inspired, induced. The great steamship companies, the great railway companies, the large employers of labor find profit in the business.

Thousands of immigration agents are employed by these large concerns and industries and operate in the countries of southern and eastern Europe and the western part of Asia, and are largely instrumental in corralling a large part of the immigrants who come to our shores, and that, too, in violation of both the spirit and the letter of the law. Profs. Jenks and Lauck in their admirable work, "The Problem of Immigration," say:

> A good authority stated that two of the leading steamship lines had 5,000 or 6,000 ticket agents in Galicia alone, and that there is "a great hunt" for immigrants, and that the work is very successful there.

The Immigration Commission in its report and speaking of the causes of immigration to the United States uses this language:

> A large number of immigrants are induced to come by quasi labor agents in this country, who combine the business of supplying laborers to large employers and contractors with the so-called immigrant banking business and the selling of steamship tickets. * * * Another important agency in promoting immigration from Europe to the United States is the many thousands of steamship ticket agents and subagents operating in the immigrant furnishing districts of southern and eastern Europe. Under the terms of the United States immigration law, as well as the laws of most European countries, the promotion of immigration is forbidden, but nevertheless the steamship agent propaganda flourishes everywhere.

The Commissioner General of Immigration in his annual report of June 30, 1911, uses this language:

> Much of the immigration which we now receive is artificial, in that it is induced or stimulated and encouraged by persons and corporations whose principal interest is to increase the steerage passenger business of their lines, to introduce into the United States an overabundant and therefore cheap supply of common labor, or to exploit the poor, ignorant immigrant to their own advantage by loaning him money at usurious rates.

The new immigration, much of it, is induced to come to this country. During the fiscal year 1911, 850,000 immigrants reached our shores, while only 16,000 were deported. There are too many coming here. The Immigration Commission has said so.

Mr. BARTHOLDT. Mr. Speaker, will the gentleman again yield?

Mr. POWERS. I yield.

Mr. BARTHOLDT. I venture to say that there is not 1 Member out of 100 in this House who has read the report of that commission, and I venture to say, further, that this legislation that is pending is not in any way justified by the findings of that commission and by the facts elicited by that investigation.

Mr. POWERS. I did not yield for a speech. I am not responsible for the Members reading or failing to read that report. The facts are as I have stated them to be.

If the distinguished Member himself has read the report of the Immigration Commission, he would know that the commission used this language in making its report:

The commission as a whole recommends restriction as demanded by economic, moral, and social considerations. * * * A majority of the commission favor the reading and writing test as the most feasible single method of restricting undesirable immigration. * * * The investigations of the commission show an oversupply of unskilled labor in basic industries to an extent which indicates an oversupply of unskilled labor in the industries of the country as a whole, and therefore demand legislation which will at the present time restrict the further admission of such unskilled labor. * * * The commission also recommended a "material increase in the head tax."

So the gentleman from Missouri [Mr. BARTHOLDT] is mistaken in the facts when he says that the legislation now under consideration is not "in any way justified by the findings of that commission." It is not only justified by it but is specifically recommended by it. The Immigration Commission recommends an increase in the head tax. The bill now before us increases it from $4 to $5. The commission recommends restriction as demanded by economic, moral, and social considerations, and specifically indorses the reading and writing test. The bone of contention, the reading test, is embodied in the bill now before us. This and the other new restrictions I have pointed out in my remarks will lessen the number of immigrants coming to this country, and all in accord with the findings and recommendations of the Immigration Commission and not in opposition to it, as the gentleman from Missouri would have us believe.

I have no bitterness in my heart toward the peoples of other lands and countries.

I am not opposed to the right sort of immigrants coming to this country. In fact, we welcome them to our shores. Human nature is pretty much the same the world over among all races and nationalities. There is not a land or country in the civilized world—no race or nationality—that the sun sees that can not proudly boast of the brilliancy and accomplishments of at least some of its own distinguished fellow citizens.

I hope the American people will never fail to recognize merit wherever it may be found, nor neglect to pay due homage to the greatness and deeds of achievement of the races and peoples of other lands and countries.

America is under a debt of gratitude to and has not failed to show her appreciation of the desirable immigrants who have sought refuge and homes on her friendly coasts. Our history is full of instances of both. I will cite but a few. Carl Schurz, the "political offender" in Germany, escaped from that country and came to the United States as an alien immigrant. His merits were soon made manifest and were duly appreciated and recognized. He was elected to the United States Senate from Missouri, made a major general in Union Army during the Civil War, and was Secretary of the Interior in the Cabinet of President Hayes, and he deserved them all and more.

D. B. Henderson was an immigrant from Scotland. This country was not slow to appreciate his worth. He was made a general in the Union Army during the Civil War, was later sent to Congress for several terms, and became one of the ablest Speakers that has ever presided over the deliberations of this House.

Andrew Carnegie was an immigrant to this country. He borrowed the money to come on, but he does not have to borrow the money now to go back on.

William Kelly, a Kentuckian, by the way, discovered in 1851, I believe, an improved process of making steel. Andrew Carnegie purchased that process and through his foresight and industry has amassed his millions.

William Marconi, the young Italian, now less than 40 years of age, the inventor of wireless telegraphy, has added a boon and blessing to mankind by that remarkable achievement and discovery. The world is his debtor. He is an Italian. To such as these the United States opens wide her hospitable doors. The intelligent, the industrious, the thrifty, whether in high stations or in low, of all lands and countries, who are seeking homes here and who are assimilable with our people, have received, at least in the past, a welcome to our shores. That is the position of our country now. The literacy test excludes only those who can not read. The ability to read does not make out of a bad man a good man. He is good or bad, regardless of that fact. His failure to be able to read does not make out of an honest man a dishonest man nor vice versa. Men are either honest or dishonest, regardless of that fact. Some of the truest and best men I have ever known could neither read nor write. The failure to be able to read and write is no impeachment of a man's integrity, but it is a great handicap to him in the race of life.

The alien immigrants who seek our shores and who are thus handicapped are but poorly prepared to add to the intelligence or real greatness of our Nation or improve the standard of its citizenship. At tremendous cost we try to educate our own people to fitly prepare them for enlightened and wholesome American citizenship. Why not, then, require alien immigrants who seek American citizenship for the purpose of partaking of its blessings to at least possess education enough to read in some language or dialect, so that in time, if they desire to do it, they can acquire some knowledge of our freedom and form of government, appreciate to some extent our free institutions, and exercise to some good advantage the glorious responsibilities of the citizenship they seek?

Mr. GOLDFOGLE. Mr. Speaker, I now yield two minutes to the gentleman from New Jersey [Mr. HAMILL].

The SPEAKER. The gentleman from New Jersey [Mr. HAMILL] is recognized for two minutes.

Mr. HAMILL. Mr. Speaker, we witness again in these days a clamor, of which we may well doubt the sincerity, about the supposed evils of immigration. We have heard the same protest go up at different times in our history. We know its meaning, and we are thoroughly familiar with the motives of those who are making it. It proceeds from a class of our citizenship that seems unable to comprehend and, at any rate, is reluctant to be guided by the true spirit that underlies the Government we live under.

Keep out immigration, cry they, and preserve America for Americans. The slogan is catchy, but it is insincere. Those using it can not give proper reasons to justify its enforcement, and when we consider the subject it refers to we find that there are no valid reasons why it should be enforced.

Hitherto it has been our unbroken policy to encourage to this continent the influx of sturdy and industrious foreigners. From the beginning of our national existence the stream of immigration has been steady and uninterrupted. The downtrodden of all lands, however oppressed, whether politically, religiously, or industrially, were taught to reverence our flag as the symbol of a people ardently attached to the doctrine that all men are created equal, and who would, because of this belief, give the industrious immigrant the opportunity to reap the rewards to which good character and patient toil would entitle him. So he came here hopefully and confidently became naturalized and cast his lot among us. He became the fulcrum of the lever of American enterprise and genius, which built up the country across the continent from the Atlantic to the Pacific. He lifted the lusty young Nation to a high and commanding plane of wealth and power. But, of course, he was of the "old immigration," and the advocates of this bill hasten to tell us that with this class of foreigners they have no objection. It is extremely fortunate for them that they feel this way about the matter, because the descendants of this "old immigration" have multiplied very rapidly, and in many places are politically strong enough to resent any aspersions on their hard-working forefathers by cutting short the official careers of such Members of Congress as might be guilty of making them. But nevertheless these old immigrants had their struggles. They were opposed everywhere by the prejudiced and unreasoning, a class who, if living to-day, would, I am satisfied, be numbered, in spite of disproving experience, among the advocates of this proposed literacy test. As an instance of what they had to bear with, just listen to this liberal and discriminating observation that emanated in this broad land of enlightenment in 1835. A pamphlet issued in that year by "An American," Mr. I. F. B. Morse, in drawing a comparison between what was then the previous immigration and that of the day the writer lived in, contained this statement:

Then we were few, feeble, and scattered. Now we are numerous, strong, and concentrated. Then our accessions of immigration were real accessions of strength from the ranks of the learned and the good, from enlightened mechanic and artisan and intelligent husbandman. Now, immigration is the accession of weakness, from the ignorant and vicious, or the priest-ridden slaves of Ireland and Germany, or the outcast tenants of the poorhouses and prisons of Europe.

But immigration still continued to grow, and very luckily for the country.

The Civil War broke out, and the patriotism of the foreign-born citizen was put to the supreme test. The test, however, was not literacy but loyalty. The recruiting officers carried no slips containing 40 words. The only requirement was whether he would fight for "liberty and union," and how well he proved his devotion to this doctrine needs no eulogy from me, although I may take occasion to remark that his achievements during the conflict effectually silenced the carping of his critics. The immigrant of to-day would, if put to the same trial, prove equally worthy as his predecessor.

Abraham Lincoln realized the need and the value of immigration. His message to Congress of December 6, 1864, contained this recommendation:

I regard our immigrants as one of the principal replenishing streams which are appointed by Providence to repair the ravages of internal war and its waste of national strength and health. All that is necessary is to secure the flow of that stream in its present fullness, and to that end the Government must in every way make it manifest that it neither needs nor designs to impose involuntary military service upon those who come from other lands to cast their lot in our country.

As a result of this friendly and wisely foreseeing policy the period which has elapsed since the close of the Civil War has been specially characterized by immigration, and this period has also been the most glorious in our economic history. It has been notable for gigantic strides and progress in all the arts and industries. It has at the same time been distinguished for high wages and national prosperity. Immigrant industry constructed our railroads, opened our mines, leveled our forests, toiled in our mills and factories, in our shops and on our farms, and kept the furnaces of production burning and the wheels of industry turning.

The gentleman from Texas [Mr. DIES], when confronted with this undeniable record, graciously admitted the truth of it, but said we ought to leave some of these railroads and mines to be developed by our descendants. It is fortunate for the gentleman, so far as his convenience is concerned, that those who lived before him did not adopt his sagacious view of waiting until the railroads would be built by the then native labor, for if they had I am afraid the gentleman in coming to this Capitol to discharge his duties as a Representative would be compelled to travel from Texas to Washington on horseback.

The gentleman from Kentucky [Mr. POWERS] gives us a specimen of a similar kind of logic used in advocating this bill. He regrets that about 75 per cent of the operatives engaged in the woolen business are immigrants or their descendants and that there is a great percentage of immigrant labor employed in other industries. Does it never occur to the gentleman that when these people are working they are heaping up and have heaped up a wealth cornered and monopolized, not by immigrants, but by keen and shrewd Americans of long residence in this country?

When the gentleman from Massachusetts [Mr. GARDNER] stands up and with a willingness amounting almost to flippancy gives his assent and voices his perfect satisfaction at being numbered among those who are in favor of this measure, he forgets that the mills and manufactories of Massachusetts, his own State, are a standing protest against his action and an eloquent tribute to the industry and effectiveness of immigrants and their descendants.

Now, what does this bill provide. It excludes—

All aliens over 16 years of age, physically capable of reading, who can not read the English language or some other language or dialect, including Hebrew or Yiddish.

In other words, it makes education the standard and measure of good citizenship. It would close the gates of the country to the moral and industrious immigrant who has been denied the opportunity of education at home, whose vigorous body would add value to the country's power of production, but open them wide to the idle and worthless but somewhat educated foreigner whose presence here is unnecessary and whose purpose is often to stir up agitation against the Government. On this point let me read a most pertinent editorial taken from the Jersey Journal, of New Jersey, issue of May 11, 1912. It says:

THE LITERACY TEST.

The proposed literacy test would keep out a great many immigrants, but it is doubtful if it would exclude the really undesirable aliens, the proletariat that produces social ferment in dense alien populations.

Criminals are not the illiterates, as a rule. Some education is required to write Black Hand letters, and some degree of intelligence is needed to make bombs.

Another editorial, taken from the Boston Morning Herald of June 3, 1912, comprehensively deals with the contention of the advocates of this bill, as follows:

ILLITERACY AND IMMIGRATION.

One honest, hard-working illiterate who lives clean and raises a decent family is worth a hundred of the inefficients our schools turn out annually, who can read and write, but who are too fine to work and who are utterly useless in the civilization they live in. We place too high an estimation upon mere literacy, but if we paid more attention to teaching children that morality which comprehends respect for parents and law and the necessity of earning bread by the sweat of their face, we would not be troubled so much with the envy and discontent which are the outgrowth of laziness and inefficiency.

The literacy test for the exclusion of immigrants is the sheerest humbug. Had such a law been in force since the early seventeenth century America would still be a howling wilderness. The American troubles of the twentieth century are not the fruits of illiteracy and immigration; they are made right here on the soil by those born on the soil, by the lazy, the inefficient, the envious, the unsuccessful—all the products of our public schools. Go to your prisons some time and learn how many of the inmates are illiterates. When literacy has become a synonym for sanity, honesty, industry, and physical soundness it will be time enough to make illiteracy a barrier for admission to the Republic. I would rather have an illiterate who can steer a plow, wield a sledge, roof a house, lay brick, or dig a good sewer than a dozen half-baked chaps who can write dog and read cat and who are willing to live on the labor of a father and mother. Let Congress face the question fairly, and let the Government back up the immigration authorities in enforcing the laws we have. The illiterate test is pure punk, just plain flapdoodle.

Mr. REILLY. Is the gentleman aware that over 75 per cent of the inmates of prisons in this country can read and write?

Mr. HAMILL. The gentleman is correct in his assertion. It is only another proof that literacy is not a synonym for good citizenship and that a man who is industrious will make a better citizen than a man who has a smattering of knowledge but who is not industrious or of good moral character.

But the authors of the bill want the immigrant excluded because he keeps down American wages and lowers the American standard of living. A good many of those who urge this charge never before evinced such a tender solicitude for the wages of the American workingman, and it is to be regretted they did not have time to consult the statistics on the subject from which they would with certainty learn that wages in this country are highest in those places where immigration is heaviest and lowest in localities where immigration is most sparse. It is not the honest hard-working illiterate laborer that the American workingman has reason to fear, but the prison-made products that come from the skilled hands of those who could always pass a literacy test.

But it appears that some of the immigrants after working here a certain period return to their own country and thus carry with them a portion of the country's wealth. Is not this argument directly fatal to the charge that he disturbs wages in America? The truth is that he remains here while work is plentiful and then departs when it is scarce. So, therefore, the head and front of the poor immigrant's offending consists in yielding to an admirable natural sentiment to visit the home of his fathers. Dear, dear, how dreadful! But how about our own precious self-expatriated plutocrats, who carry out millions they never earned to enable them to live in foreign lands amid more agreeable European society? How about the fortunes with which they dower their daughters to make them eligible in marriage to scions of foreign nobility—fortunes spent in discharging mortgages and repairing the estates of gentlemen who could probably pass a literacy test, but not invariably a character test? There is this difference between the two classes that go out. When the immigrant returns he carries with him and spreads the grateful story of America's grandeur and goodness to all who live beneath the flag and causes America to be cherished in the hearts of the world's millions. When the plutocrat goes abroad, if ever we hear about him, it is generally in making among his new neighbors some obsequious reference in disparagement of America as compared to the land he then lives in. No; we should not restrict immigration. We need the immigrant here. We can easily assimilate him and there is plenty of room to receive him.

The present immigration laws are more than stringent enough to keep out unworthy applicants for residence. They are a more than sufficient sifting process and will keep out all undesirables if the gatekeepers of the country properly enforce them. If, perchance, a small number of unworthy immigrants have found entrance, it was owing to the lax enforcement of the laws, the remedy for which is not restriction. It is unjust to attempt to shut off the entire stream of foreign population merely because a small and impure rivulet trickles through.

The safety of this country demands that the supply should be drawn from different sources, whereby the various nationalities are blended and a high type of physical strength combined with intellectual and moral excellence is obtained. This alone would give us an ideal American citizenship. No country ever did or ever could succeed in this policy of exclusion. This was attempted by China when, lured by the siren cry of "China for the Chinese," she raised prohibition barriers against immigration and severed all voluntary relations with the outside world. From then onward the star of her career steadily waned. A similar fate would befall us if ever, in an evil moment, we should adopt the policy insisted upon by the oriental sagacity of the advocates of this bill.

America owes to the immigrant too great a debt to be repudiated by restriction. He has been closely identified with her history in the most perilous as well as the most prosperous periods of her history. The future welfare and supremacy of this country will depend in no small part on her immigrant citizen, and to now close the avenues of the country against his entrance would be in the highest degree ungrateful and unwise. [Applause.]

Mr. GALLAGHER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

Mr. CANNON. I ask unanimous consent that all gentlemen who have spoken on this measure to-day have leave to extend their remarks in the RECORD.

The SPEAKER. The gentleman from Illinois [Mr. CANNON] asks unanimous consent that all gentlemen who have spoken on this measure or who may speak upon it to-day have leave to extend their remarks in the RECORD.

Mr. MANN. Not those who may speak.

The SPEAKER. The gentleman from Illinois [Mr. CANNON] asks unanimous consent that those who have spoken on this measure have leave to extend their remarks. Is there objection?

There was no objection.

Mr. BURNETT. I will ask the gentleman from New York [Mr. GOLDFOGLE] to use some further time. He has quite a little time left.

Mr. GOLDFOGLE. Does the gentleman from Pennsylvania desire to use any more time?

Mr. MOORE of Pennsylvania. How many more speakers has the gentleman from New York?

Mr. GOLDFOGLE. I have one.

Mr. MOORE of Pennsylvania. I yield five minutes to the gentleman from Minnesota [Mr. NYE].

The SPEAKER. The gentleman from Minnesota [Mr. NYE] is recognized for five minutes. [Applause.]

Mr. NYE. Mr. Speaker, immigration should be wisely regulated, and we do not attempt to oppose wise restrictions; but the question is so presented that it becomes of vast and mighty importance to our civilization.

Much is said about education. What is it? The gentleman from Kentucky [Mr. POWERS] seems to think that it is everything. Education is power, if it is education founded upon morality and right; but if it is top-heavy, if it is merely an education of intellect divorced from usefulness, from honesty, from virtue, it is a danger in this country. [Applause.]

I wonder what this Nation would be to-day if you should eliminate from it all the men and women who can not read and write? My judgment is you would weaken it; that there is much of virtue in the simple and unlearned of our land. Virtue is the foundation of all that is permanent in our national life. The unlearned men of the past, who could neither read nor write, have been a power in usefulness, and usefulness is the test. We want men who come here and add to the daily virtue of this Republic by usefulness. Those are the men we want; and when the gentleman from Kentucky [Mr. POWERS] recites, as I am glad he did, the important fact that a very large proportion of our useful industries are served by people of foreign birth, he adds an argument that is unanswerable in favor of the usefulness and the virtue of the foreign population as a whole who come to this country. Learning without industry is of little profit and often an injury. Virtue is the test, and virtue springs largely from useful industry. Robert Burns, after picturing the rugged beauty and simplicity of the poor cotter's life in his native land, says:

> From scenes like these, old Scotia's grandeur springs,
> That makes her lov'd at home, rever'd abroad:
> Princes and lords are but the breath of kings,
> "An honest man's the noblest work of God;"
> And certes, in fair virtue's heavenly road,
> The cottage leaves the palace far behind;
> What is a lordling's pomp? A cumbrous load,
> Disguising oft, the wretch of human kind,
> Studied in arts of hell, in wickedness refin'd!
> O Scotia! my dear, my native soil!
> For whom my warmest wish to heaven is sent!
> Long may thy hardy sons of rustic toil
> Be blest with health, and peace, and sweet content!
> And O! may heaven their simple lives prevent
> From luxury's contagion, weak and vile!
> Then howe'er crowns and coronets be rent,
> A virtuous populace may rise the while,
> And stand a wall of fire around their much-lov'd isle.

Ah, the menace to this Republic is not from the poor men of the cabin and the hut who have not learned to read. The apostles in olden times could not read or write, some of them, and yet the world took notice of the fact that they had been in the presence of a great Teacher. Inspiration and power may come from education, but it is the education of the soul. [Applause.] It is the education that is inspirational; it is not the scholastic learning of this country that constitutes our greatness.

Mr. POWERS. Will the gentleman yield?

Mr. NYE. I have not the time.

The SPEAKER. The gentleman from Minnesota has a half a minute remaining.

Mr. NYE. Then I will yield to the gentleman.

Mr. POWERS. Under the illiteracy test, if it is put into the law, there would be excluded some 200,000 of alien immigrants who could not read. Does the gentleman think the position of this country would be better if those people who could not read should be admitted?

The SPEAKER. The time of the gentleman from Minnesota has expired.

Mr. GOLDFOGLE. Mr. Speaker, how much time is remaining?

The SPEAKER. The gentleman from New York has 16 minutes, the gentleman from Pennsylvania 1 minute, and the gentleman from Alabama 5½ minutes.

Mr. GOLDFOGLE. I yield 1 minute more to the gentleman from Minnesota [Mr. NYE].

Mr. NYE. Mr. Speaker, the literacy test is absolutely no test at all. I do not remember exactly the question put by the gentleman from Kentucky because I did not suppose I would have time to answer it, but the educational test does not go to the question of our real citizenship. The foreigners in my county and my city, whether from Italy or Scandinavia, are the people whose children are the first to learn, and foremost many times in taking prizes in the schools. [Applause.]

The children of the poor, unfortunate men who come to this country and who have been unable to get an education are invariably foremost in our schools, I think, throughout the country. That is true of all nationalities.

Yes, to answer the gentleman's question more specifically, I really believe the country would be better for the 200,000 immigrants, notwithstanding their illiteracy. Illiteracy is not incompatible with good citizenship.

[Mr. GOLDFOGLE addressed the House. See Appendix.]

The SPEAKER. The time of the gentleman has expired.

Mr. GOLDFOGLE. Mr. Speaker, I ask leave to extend my remarks in the RECORD.

The SPEAKER. The gentleman from New York asks leave to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none. The gentleman from Pennsylvania has one minute remaining and the gentleman from Alabama five and a half minutes.

Mr. BURNETT. I yield to the gentleman from Kentucky [Mr. LANGLEY].

[Mr. LANGLEY addressed the House. See Appendix.]

Mr. BURNETT. I ask the gentleman from Pennsylvania to use his time.

Mr. MOORE of Pennsylvania. Mr. Speaker, I have one minute?

The SPEAKER. Yes.

Mr. MOORE of Pennsylvania. Mr. Speaker, in that time I want to refer to the industrial and political economy of my friend from Texas, Mr. DIES, who complained of the congestion of the East Side of New York and to commend to him the testimony of Joseph Barondess, who does not agree with Samuel Gompers upon this question, that there are no better paid garment workers in the United States now than those on the East Side of the city of New York, and in a Democratic district, who receive two or three times as much pay as they do abroad. Secondly, as to the gentleman's economy with reference to the increased cost of living in connection with immigration, the gentleman ought to know that every immigrant who comes to this country, which enjoys the greatest home market in the world, consisting of more than 90 per cent of all we produce, brings in his own skin a customer for at least 90 per cent of the products of the farm. That is all, Mr. Speaker. I ask permission to extend my remarks in the RECORD. [Applause.]

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

The communications are as follows:

PHILADELPHIA, PA., *January 23, 1913.*

Hon. J. HAMPTON MOORE,
House of Representatives, Washington, D. C.:

Pennsylvanians who still have faith in freedom and love our country for what it stands for look to you and your colleagues to continue fight against narrow immigration laws. Lack of letters is misfortune, but not crime. To turn back liberty seekers because of that misfortune is like returning victims of Russian tyranny to Siberia and the knout because of their fetter bruises and their scars.

SOLOMON SOLIS COHEN, *Chairman.*

THE AMERICAN JEWISH COMMITTEE,
New York, January 22, 1913.

Hon. J. HAMPTON MOORE,
House of Representatives, Washington, D. C.

DEAR SIR: Permit me to draw your attention to the inclosed copy of a letter we have sent to the conferees on the immigration bill in which serious defects in the bill are pointed out. I would ask you further to consider the inconsistency between the provisions of section 3 and section 9 pointed out by Senator STONE in his argument, which may be found on page 1788 of the CONGRESSIONAL RECORD for January 20, 1913. As Senator STONE showed, the clause in section 9 prohibiting steamship

companies or their agents under penalty of $100 fine from bringing in persons who can not read practically nullifies the provision in section 3, which permits an alien to bring his grandfather and other relatives, even if they can not read. An immigrant domiciled in this country may be separated from his family because of the unwillingness of the steamship company to incur the penalty by bringing in persons who can not read. This is a hardship which plainly was not intended and may be remedied by inserting the exceptions mentioned in section 3, also in section 9.

I trust you will find it possible to use your influence with the conferees to have the amendments referred to incorporated in the bill.

Assuring you of our appreciation of the splendid fight you have made against the enactment of this unnecessary, restrictive measure, I am,

Very truly, yours,

HERBERT FRIEDENWALD, *Secretary.*

JANUARY 21, 1913.

DEAR SIR: In the debate in the Senate on the 20th instant a number of defects in the conference immigration bill were pointed out, and there are several to which I especially wish to direct your attention.

1. A provision still remaining in the conference report is as un-American as the certificate section to which the Senate unanimously objected. Its evils, however, require a little study in order to make them apparent. The provision referred to is made up of three portions of the bill, viz, in section 3, among the excluded classes are "persons who have committed a felony or other crime or misdemeanor involving moral turpitude." In section 16 the immigration officials are given the right to secure through United States courts subpœnas to compel the attendance of witnesses and the production of books and documents, while no such power is conferred upon the accused or detained alien; and in section 18 there is the clause: "In every case where any person is ordered deported from the United States under the provisions of this act or of any law or treaty now existing the decision of the Secretary of Commerce and Labor shall be final." The provisions in sections 16 and 19 are new. The present law as to criminals is that those are excluded "who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude."

As will be seen at a glance, the amended law confers upon boards of special inquiry and upon immigration inspectors the right to try aliens for alleged crimes. There are no rules of evidence; there is no right of counsel; the immigration officials have the right to subpœna witnesses, but the alien has not. Many European countries try defendants in their absence, and, of course, the production of a properly authenticated judgment convicting a person might be held to be conclusive proof that he had committed the crime therein mentioned. Under the present act it would not be sufficient to deport, as the courts have held such convictions are not the character of convictions which the statute contemplates; but under the amended law such a conviction might be held to be absolute proof of the commission of the crime, which is all that would be required for deportation.

If an alien is ordered excluded or deported, he has only the right of appeal to the Secretary, and the decision of the Secretary is made final. This means that even the courts have no right to admit an alien whom the immigration inspectors have declared to have been guilty in his own country of a crime involving moral turpitude. (Lou Wah Suey v. Backus, 225 U. S., 460.) In other words, foreign governments, as, for instance, Russia, who hereafter desire to have returned to them their citizens or subjects in this country will not resort to extradition proceedings under treaties, where an alien has a right to go to court and where he has the right to remain in this country if he can show that he is a political refugee, but the alien will be accused of the commission of some crime. He can not plead that he is a political refugee, as the statute makes no exception but simply provides for the exclusion or deportation of persons who have committed a crime involving moral turpitude. Surely, the American public has not so soon forgotten the cases of Pouren and Rudowitz, the Lettish revolutionists, whom Russia tried to extradite only two or three years since and who were permitted to remain in this country by the order of Secretary ROOT, because the crimes which they undoubtedly committed were political crimes in connection with a revolution. If this statute had been in force, Russia would never have gone into extradition proceedings against them, but would have accused them of larceny or murder and proved it, and they would have gone to Russia as men who had committed those crimes in that country, and when they arrived there would have been shot as having taken part in a revolution.

Unless our Congress has lost all touch with American ideals it will not put into the hands of the secretar agents of foreign countries the right to have deported, upon proof of some minor crime in connection with revolutionary activities, those who unsuccessfully engaged in revolutions in foreign countries and thereafter fled to this country. If this had been the law in our country in 1849, Carl Schurz would have been deported to Germany and shot.

2. In the bill as it passed the Senate, page 31, section 16, lines 17 and 19, the following appears:

"On such examinations by the board of special inquiry the alien shall have the right to be represented by counsel or other adviser."

In the conference report the above clause is omitted, and in its place is inserted, page 14, lines 12–21, a clause requiring the board of special inquiry to inform the alien of his right of appeal to the Secretary of Commerce and Labor and giving him the further right to be represented by counsel or other adviser on such appeal. This last clause is practically meaningless, as the alien has always had this right. (See Immigration Rules, Nov. 15, 1911, rule 17, subdivisions 1 and 2.)

In the conference report, page 14, section 17, lines 20 and 21 of that section, is reproduced the provision of existing law that "all hearings before such boards shall be separate and apart from the public." This gives to the proceedings of the boards of special inquiry an inquisitorial and star-chamber character, which is against the spirit of our institutions. Practically the first contact, therefore, which an alien has with American institutions is with secret administrative processes which he has left his native land to avoid.

There is no reason, therefore, why an immigrant should not have the same right to be represented as is conferred upon the meanest criminal. Frequently the immigrants are so dazed when they come before boards of inquiry, being unfamiliar with the language and procedure, that they are practically speechless, some of them having come from countries like Russia and Roumania, where a public official is looked upon as a public enemy. I have heard of many cases where immigrants were possessed of considerable means, who, fearing that they would be stripped of their belongings if they admitted that they had money, have denied that they had any, and were only saved from deportation by subsequent disclosure of the fact.

Proper regulations can be adopted by the boards of inquiry which would prevent any abuses that might be feared from the presence of advisers and counsel. Nobody should be prevented from coming into this country without a proper opportunity of being represented by counsel.

I therefore suggest that the words stricken out be reinserted, and that the words in section 17 requiring all hearings before boards of inquiry to be separate and apart from the public be stricken out.

Will you not have these amendments made in conference? They are altogether in accord with the spirit of American traditions.

LOUIS MARSHALL,
President American Jewish Committee.

The SPEAKER. The gentleman from Alabama [Mr. BURNETT] is recognized for five and a quarter minutes.

Mr. BURNETT. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. FARR].

[Mr. FARR addressed the House. See Appendix.]

Mr. BURNETT. Mr. Speaker, I am glad to know this is coming to an end, and that after six years of struggle petitions, not of the 450,000 whose petition the gentleman from Massachusetts [Mr. CURLEY] referred to but the petitions of 3,000,000 of workingmen, are about to be heeded by the American Congress. Thousands and thousands of them are themselves foreigners, who came to this country for the purpose of obtaining their living by their daily toil. I am glad that after long, weary waiting years in response to the petitions of 3,000,000 farmers all over this country and of thousands of members of patriotic organizations you are about to cast the vote for which the country has so long besought you in vain. One gentleman said there had been a lobby maintained here. Who are the lobbyists, Mr. Speaker? None of them hired and paid by the steamship companies to do their work. The only ones that I know of are those who are legislative agents of those who toil and who do know something about these conditions. [Applause.] Right there I want to read from a letter that has no doubt been going into the hands of Members of Congress during this debate, signed by L. H. Hammerling, president of the American Association of Foreign Language Newspapers. He says:

If the bill becomes a law, not only will it hamper the interests referred to, but, no doubt, by reason of the limitation of labor, further increase the cost of living and give more power to the labor agitators to make trouble.

Here is what that man said. That is the kind of lobbyist, Mr. Speaker, that is being maintained all over the country, not only here, for the purpose of stirring up sentiment against this bill. That man was before our committee, and here is the statement he made as the president of the Foreign Language Newspapers Association:

As an ex-member of a union I know something about their doings, and I hope it will be taken down as I say it. The labor leaders have realized to-day that the foreign-speaking population can not be managed by them in their own way, as was done 20 years ago. We have advanced, become acquainted with American institutions, and have educated ourselves. When they could use us they were satisfied to have us come, but they have found we object to some of their methods.

That is the kind of man who has been filling the mails with base slanders of the officials of the great labor organizations of the country, the purpose of which is to ameliorate the conditions of those who earn their living by the sweat of their face.

When President Gompers was before our committee and that statement of Hammerling's was called to his attention he said:

I do not think Mr. Hammerling would have made that statement seriously in the presence of Mr. Mitchell and myself.

And then went on to state that foreigners who were members of these organizations had themselves joined in these petitions. They have prayed to you to take this cup from them in order that they may be relieved of those who come like birds of passage and beat down the price of the wages of laboring men and then, like Arabs, fold their tents and silently steal away and take everything they can with them.

Over against the petition referred to by Mr. CURLEY, of the authenticity of the signatures to which we know nothing, I present the following letter of Mr. Frank Morrison, secretary of the American Federation of Labor:

AMERICAN FEDERATION OF LABOR,
Washington, D. C., March 18, 1912.

Hon. F. M. SIMMONS,
United States Senate, Washington, D. C.

DEAR SIR: I see by the CONGRESSIONAL RECORD that you will speak before the United States Senate on the amendment offered by yourself to the immigration bill, S. 3175, and that you will deal specifically with the subject of the restriction by means of the illiteracy test.

In order that you may also know the latest action of the American Federation of Labor on the subject of immigration, I hand you herewith copy of the proceedings of the thirty-first annual convention, held at Atlanta, Ga., last November (1911), on page 66 of which you will find a statement by President Gompers on the subject of immigration, showing the Immigration Commission to have completely indorsed the attitude of the American Federation of Labor upon the general subject matter of immigration, particularly that of the requirement of an educational test. On page 287 of the same report you will find the report of the committee on president's report, reaffirming former actions of

the conventions of the American Federation of Labor, and instructing the legislative committee to continue their efforts to secure the passage of either the Gardner or the Burnett bill, or, for that matter, any other suitable measure providing for the educational test. This report was unanimously adopted by the convention.

Hoping that this may be of service, and with best wishes for your every success on this important question, I remain,

Yours, very truly,

FRANK MORRISON,
Secretary American Federation of Labor.

A resolution of the same purport was again adopted at the recent annual meeting of the representatives of the American Federation of Labor. I also present a resolution recently adopted by the National Grange, and a letter from the general counsel of the Farmers' Union containing resolutions passed a few weeks ago by the Farmers' Union of the State of Texas:

Resolution adopted by the National Grange of Patrons of Husbandry in national session, 1912.

Whereas the Senate has passed an excellent bill, S. 3175, containing the legislation recently recommended by a congressional investigating commission as necessary to exclude undesirable immigration, and the House leaders have announced that the measure will be considered "the first thing in December," and as we have recommended that the head tax be increased, the illiteracy test be enacted, the foreign steamships be fined for bringing undesirables, and that other judicious measures be adopted by the Congress of the United States: Therefore be it

Resolved by the National Grange, forty-sixth annual session, That we urge this needed legislation.

—

FARMERS' EDUCATIONAL AND COOPERATIVE
UNION OF AMERICA,
January 25, 1913.

Hon. JOHN T. WATKINS, M. C.,
House Office Building, Washington, D. C.

CONGRESSMAN WATKINS: I am in receipt of a letter under date of the 19th instant from the State president, Mr. I. N. McCollister, of the Louisiana Division of the Farmers' Educational and Cooperative Union, pointing out that a few farmers are being hoodwinked by certain mercenary interests and selfish influences into asking for the disapproval of the immigration bill, S. 3175, unless special provision is made for the free admission of "cotton pickers" from Mexico, directing me to call the matter to your attention and the attention of the other Members of the Louisiana congressional delegation, and informing me that he had sent you a telegram in which he stated, among other things, "I hope that you will * * * urge the passage of the immigration bill."

These same interests and influences have been industriously at work in Texas with specious arguments and half-truth statements trying to inveigle members of the farmers' union to write and telegraph their Congressman in opposition to the approval of the immigration conferees' report. A number of their letters and newspaper articles have been sent to me. In fact, Mr. Peter Radford, State president of the Texas division, is now in Washington attending a conference of farmers, and he says that the matter was thrashed out at a State meeting last week in Fort Worth, at which there were over 1,500 delegates, the following resolutions being unanimously adopted:

"Whereas the House and Senate have passed an immigration bill (S. 3175) containing the very legislation urged for years by the Farmers Educational and Cooperative Union of America in local, State, and national meetings, and recently recommended by a congressional immigration commission, after a four years' searching investigation: Therefore be it

"Resolved by the Texas Division of the Farmers' Educational and Cooperative Union of America in State session assembled this 15th day of January, 1913, That we urge upon the President the approval of this excellent bill, and point with pride to the fact that every one of the Congressmen from this State, except one, were in favor of the measure, a number of them taking the floor and ably arguing for its passage; and be it further

"Resolved, That the State secretary send forthwith a copy of this resolution to each one of our 16 Congressmen, each of our Senators at Washington, give a copy to the newspapers for publication, and transmit a certified copy to the President, the White House, Washington, D. C."

Thanking you for permitting this intrusion upon your busy time, I am, knowing your genuine interest in and sympathetic support of all measures looking to the betterment of farm life in particular, and the promotion of the general welfare of all the people and the country in general, instead of the service of certain special interests and selfish influences,

Very truly, yours,

J. H. PATTEN,
General Counsel Farmers' Educational and Cooperative Union of America.

I could pile up resolutions of patriotic organizations, labor brotherhoods, and others until they would fill a book.

Gentlemen, these are the ones in whose behalf I appeal to you to-day. The Hammerling clans have sung their swan songs. The attorneys and agents of steamship companies have been for months gumshoeing through these corridors. The voice of the country comes to you in clarion notes, and if you fail to heed it they may refuse to heed your voice when you come before them again.

This is the day I long have sought,
And mourned because I found it not.

[Applause.]

Mr. Speaker, I ask for a vote.

Mr. LENROOT. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

Mr. BURNETT. Mr. Speaker, I make the same request.

The SPEAKER. The gentleman from Wisconsin [Mr. LENROOT] and the gentleman from Alabama [Mr. BURNETT] ask unanimous consent to extend their remarks in the RECORD. Is there objection?

There was no objection.

Mr. MOORE of Pennsylvania. Mr. Speaker, several gentlemen have spoken since the unanimous request was made some time ago, and I ask that those gentlemen who have spoken since that time on this bill be given unanimous consent to extend their remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The question is on agreeing to the conference report.

Mr. GOLDFOGLE. Division, Mr. Speaker.

Mr. BURNETT. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 167, nays 72, answered "present" 13, not voting 131, as follows:

YEAS—167.

Adair	Dies	Howland	Patton, Pa.
Adamson	Doughton	Hughes, Ga.	Pepper
Aiken, S. C.	Draper	Hughes, W. Va.	Post
Ainey	Edwards	Humphrey, Wash.	Pou
Akin, N. Y.	Ellerbe	Humphreys, Miss.	Powers
Alexander	Evans	Jackson	Pray
Allen	Faison	Jacoway	Prince
Anderson	Farr	James	Raker
Ashbrook	Finley	Johnson, S. C.	Rauch
Austin	Flood, Va.	Jones	Rees
Bartlett	Floyd, Ark.	Kent	Roberts, Nev.
Bathrick	Fordney	Kinkaid, Nebr.	Roddenbery
Beall, Tex.	Foss	Knowland	Rothermel
Bell, Ga.	Fowler	La Follette	Rouse
Blackmon	French	Lamb	Rubey
Borland	Gardner, Mass.	Langham	Rucker, Colo.
Brantley	Garner	Langley	Rucker, Mo.
Buchanan	Gillett	Lawrence	Russell
Burke, S. Dak.	Glass	Lenroot	Saunders
Burnett	Godwin, N. C.	Lindbergh	Shackleford
Butler	Good	Littlepage	Simmons
Byrnes, S. C.	Goodwin, Ark.	Lloyd	Smith, Tex.
Byrns, Tenn.	Gray	Longworth	Sparkman
Callaway	Greene, Vt.	McKellar	Stedman
Candler	Gregg, Pa.	McKenzie	Stephens, Cal.
Cantrill	Gregg, Tex.	McKinney	Stephens, Miss.
Carlin	Gudger	Macon	Stephens, Tex.
Cary	Guernsey	Maguire, Nebr.	Sterling
Claypool	Hamilton, W. Va.	Martin, S. Dak.	Switzer
Collier	Hart	Mays	Taylor, Colo.
Copley	Haugen	Mondell	Taylor, Ohio
Cox	Hay	Moon, Tenn.	Thomas
Cravens	Heflin	Moore, Tex.	Tribble
Cullop	Helgesen	Morgan, Okla.	Turnbull
Currier	Helm	Morrison	Underhill
Dalzell	Henry, Conn.	Morse, Wis.	Watkins
Daugherty	Henry, Tex.	Moss, Ind.	White
Davenport	Hensley	Murdock	Wilson, Pa.
Davis, Minn.	Higgins	Neeley	Witherspoon
Davis, W. Va.	Hinds	Nelson	Young, Kans.
Dent	Holland	Padgett	Young, Tex.
Dickinson	Houston	Page	

NAYS—72.

Barchfeld	De Forest	Kahn	Reilly
Barnhart	Denver	Kinkead, N. J.	Roberts, Mass.
Bartholdt	Donohoe	Konop	Rodenberg
Bates	Driscoll, D. A.	Korbly	Scott
Berger	Dupré	Lee, Pa.	Sherley
Boehne	Dyer	Lobeck	Sherwood
Booher	Esch	McCoy	Sloan
Broussard	Estopinal	McCreary	Smith, N. Y.
Bulkley	Fergusson	McDermott	Stevens, Minn.
Burke, Wis.	Fitzgerald	McGillicuddy	Stone
Burleson	Fuller	Madden	Talcott, N. Y.
Cannon	Gallagher	Moore, Pa.	Thayer
Cline	Goldfogle	Morgan, La.	Towner
Cooper	Green, Iowa	Murray	Tuttle
Crumpacker	Hamill	Nye	Volstead
Curley	Hardy	O'Shaunessy	Wilder
Curry	Hawley	Pickett	Wilson, Ill.
Davidson	Howell	Ransdell, La.	Young, Mich.

PRESENT—13.

Andrus	Greene, Mass.	Palmer	Thistlewood
Burgess	Kopp	Parran	
Fairchild	Mann	Sisson	
Fornes	Norris	Steenerson	

NOT VOTING—131.

Ames	Dixon, Ind.	Hamlin	Konig
Ansberry	Dodds	Hammond	Lafean
Anthony	Doremus	Hardwick	Lafferty
Ayres	Driscoll, M. E.	Harris	Lee, Ga.
Bradley	Dwight	Harrison, Miss.	Legare
Brown	Ferris	Harrison, N. Y.	Lever
Browning	Fields	Hartman	Levy
Burke, Pa.	Focht	Hayden	Lewis
Calder	Foster	Hayes	Lindsay
Campbell	Francis	Heald	Linthicum
Carter	Gardner, N. J.	Hill	Littleton
Clark, Fla.	Garrett	Hobson	Loud
Clayton	George	Howard	McCall
Conry	Gill	Hull	McGuire, Okla.
Covington	Goeke	Johnson, Ky.	McKinley
Crago	Gould	Kendall	McLaughlin
Danforth	Graham	Kennedy	McMorran
Dickson, Miss.	Griest	Kindred	Maher
Difenderfer	Hamilton, Mich.	Kitchin	Martin, Colo.

Matthews	Pujo	Slemp	Tilson
Merritt	Rainey	Small	Townsend
Miller	Randell, Tex.	Smith, J. M. C.	Underwood
Moon, Pa.	Redfield	Smith, Sami. W.	Vare
Mott	Reyburn	Smith, Cal.	Vreeland
Needham	Richardson	Speer	Warburton
Oldfield	Riordan	Stack	Webb
Olmsted	Sabath	Stanley	Weeks
Patten, N. Y.	Scully	Stephens, Nebr.	Whitacre
Payne	Sells	Sulloway	Willis
Peters	Sharp	Sweet	Wilson, N. Y.
Plumley	Sheppard	Taggart	Wood, N. J.
Porter	Sims	Talbott, Md.	Woods, Iowa
Prouty	Slayden	Taylor, Ala.	

So the conference report was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. MAHER (against) with Mr. TILSON (in favor).

Mr. CONRY (against) with Mr. CAMPBELL (in favor).

Mr. FRANCIS (for) with Mr. LAFFERTY (against).

Mr. WEBB (for) with Mr. PATTEN of New York (against).

Mr. COVINGTON (for) with Mr. WILSON of New York (against).

Mr. SABATH (against) with Mr. HARRIS (for).

Mr. STACK (against) with Mr. PORTER (for).

Mr. SLAYDEN (for) with Mr. GREENE of Massachusetts (against).

Mr. SISSON (for) with Mr. KENDALL (against).

Mr. DIFENDERFER (for) with Mr. LEVY (against).

Mr. STANLEY (in favor) with Mr. CALDER (against).

Mr. HAMLIN (for) with Mr. GRAHAM (against).

Mr. TAGGART with Mr. NORRIS.

For the session:

Mr. UNDERWOOD with Mr. MANN.

Mr. SCULLY with Mr. BROWNING.

Mr. LITTLETON with Mr. DWIGHT.

Mr. TALBOTT of Maryland with Mr. PADGAN.

Mr. HOBSON with Mr. FAIRCHILD.

Mr. PALMER with Mr. HILL.

Mr. RIORDAN with Mr. ANDRUS.

Until further notice:

Mr. SMALL with Mr. VREELAND.

Mr. STEPHENS of Nebraska with Mr. SLEMP.

Mr. TAYLOR of Alabama with Mr. WARBURTON.

Mr. TOWNSEND with Mr. WEEKS.

Mr. LINTHICUM with Mr. OLMSTED.

Mr. OLDFIELD with Mr. PLUMLEY.

Mr. PETERS with Mr. PROUTY.

Mr. RANDELL of Texas with Mr. REYBURN.

Mr. SHARP with Mr. SELLS.

Mr. SHEPPARD with Mr. SPEER.

Mr. SIMS with Mr. VARE.

Mr. RICHARDSON with Mr. THISTLEWOOD (either to be released when the other would vote the same way).

Mr. CARTER with Mr. MCGUIRE of Oklahoma.

Mr. HULL with Mr. NEEDHAM.

Mr. CLAYTON with Mr. WOOD of New Jersey.

Mr. HARDWICK with Mr. SULLOWAY.

Mr. GEORGE with Mr. SMITH of California.

Mr. LEGARE with Mr. WOODS of Iowa.

Mr. BURGESS with Mr. MICHAEL E. DRISCOLL.

Mr. DOREMUS with Mr. WILLIS.

Mr. HOWARD with Mr. SAMUEL W. SMITH.

Mr. PUJO with Mr. MCMORRAN.

Mr. RAINEY with Mr. MCCALL.

Mr. HARRISON of New York with Mr. PAYNE.

Mr. WHITACRE with Mr. MCKINLEY.

Mr. BROWN with Mr. AMES.

Mr. CLARK of Florida with Mr. ANTHONY.

Mr. DICKSON of Mississippi with Mr. CRAGO.

Mr. ANSBERRY with Mr. BURKE of Pennsylvania.

Mr. AYRES with Mr. DANFORTH.

Mr. DIXON of Indiana with Mr. FOCHT.

Mr. FIELDS with Mr. DODDS.

Mr. GARRETT with Mr. HAMILTON of Michigan.

Mr. GOEKE with Mr. HARTMAN.

Mr. GOULD with Mr. HAYES.

Mr. HAMMOND with Mr. HEALD.

Mr. HARRISON of Mississippi with Mr. KENNEDY.

Mr. HAYDEN with Mr. LAFEAN.

Mr. JOHNSON of Kentucky with Mr. MCLAUGHLIN.

Mr. KINDRED with Mr. MATTHEWS.

Mr. KITCHIN with Mr. MERRITT.

Mr. LEVER with Mr. MOON of Pennsylvania.

Mr. LEWIS with Mr. MOTT.

Mr. LEE of Georgia with Mr. MILLER.

Mr. SWEET with Mr. LOUD.

Ending February 1:

Mr. SHACKLEFORD with Mr. LONGWORTH.

Ending Tuesday:

Mr. FOSTER with Mr. KOPP.

Mr. CLAYTON. Mr. Speaker, I would like to know how I am recorded.

The SPEAKER. The gentleman is not recorded.

Mr. CLAYTON. Mr. Speaker, I desire to know how the gentleman from New Jersey, Mr. WOOD, voted.

The SPEAKER. He did not vote.

Mr. CLAYTON. I voted "present" on the first call, but I am paired with the gentleman from New Jersey, Mr. WOOD. If he had voted, I would vote "yea," but he not having voted, I desire to vote "present."

The SPEAKER. Call the gentleman's name.

The Clerk called the name of Mr. CLAYTON, and he answered "Present."

Mr. PALMER. Mr. Speaker, has the gentleman from Connecticut, Mr. HILL, voted?

The SPEAKER. He has not.

Mr. PALMER. I voted "yea" on this proposition. I am paired with the gentleman from Connecticut, Mr. HILL, and therefore I withdraw my vote and vote "present."

The SPEAKER. Call the gentleman's name.

The Clerk called the name of Mr. PALMER, and he answered "Present."

Mr. GREENE of Massachusetts. Mr. Speaker, I am paired with the gentleman from Texas, Mr. SLAYDEN. I desire to withdraw my vote. I voted "nay."

The SPEAKER. The Clerk will call the gentleman's name.

The Clerk called the name of Mr. GREENE of Massachusetts, and he answered "Present."

Mr. MANN. Are gentleman entitled to vote unless they are present?

The SPEAKER. Not unless they are paired with another gentleman and try to change their vote.

Mr. MANN. Mr. Speaker, I am paired with the gentleman from Alabama, Mr. UNDERWOOD. I desire to withdraw my vote and vote "present."

The SPEAKER. Call the gentleman's name.

The Clerk called the name of Mr. MANN, and he answered "Present."

Mr. KOPP. Mr. Speaker, I voted "yea." I have a general pair with the gentleman from Illinois, Mr. FOSTER. I wish to withdraw my vote and vote "present."

The SPEAKER. Call the gentleman's name.

The Clerk called the name of Mr. KOPP, and he answered "Present."

Mr. SISSON. Mr. Speaker, I voted "aye" on the roll call, but I am paired with the gentleman from Iowa, Mr. KENDALL, and desire to change my vote and answer "present."

The SPEAKER. Call the gentleman's name.

The Clerk called the name of Mr. SISSON, and he answered "Present."

Mr. STEENERSON. Mr. Speaker, how am I recorded?

The SPEAKER. In the affirmative

Mr. STEENERSON. I wish to withdraw my vote and answer "present."

The SPEAKER. Call the gentleman's name.

The Clerk called the name of Mr. STEENERSON, and he answered "Present."

The result of the vote was announced as above recorded.

On motion of Mr. BURNETT, a motion to reconsider the vote whereby the conference report was adopted was laid on the table.

CITIZENS OF THE DISTRICT OF COLUMBIA SUFFRAGE LEAGUE.

Mr. O'SHAUNESSY. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman rise?

Mr. O'SHAUNESSY. I ask unanimous consent to have printed in the RECORD a memorial of the Citizens of the District of Columbia Suffrage League.

The SPEAKER. The gentleman from Rhode Island asks unanimous consent to have printed in the RECORD a memorial. Is there objection?

Mr. MANN. Reserving the right to object, I do not know what the memorial is, but a great many memorials are presented to Congress every day. If we intend to print them in full in the RECORD, we shall have a big job on our hands. Is there a special reason for printing this in the RECORD?

The SPEAKER. What is the memorial about?

Mr. O'SHAUNESSY. It is a memorial signed by a body of citizens who seek suffrage in the District of Columbia.

The SPEAKER. Is there objection?

Mr. CANNON. Mr. Speaker, I give notice that I hope in the end to object, because otherwise when memorials are sent to me and I am called to account because I can not have them printed in the RECORD I should be at a disadvantage.

Mr. MANN. Mr. Speaker, I will object, to save time.

The SPEAKER. Objection is made.

YAKIMA INDIANS—IRRIGATION OF LANDS (H. DOC. NO. 1304).

Mr. STEPHENS of Texas. Mr. Speaker, I desire to have put in the basket and printed as a House document a memorandum from the Yakima Indians relative to the irrigation of their lands.

The SPEAKER. The gentleman from Texas [Mr. STEPHENS] desires unanimous consent to print as a House document a memorandum from the Yakima Indians. Is there objection?

There was no objection.

RIVER AND HARBOR APPROPRIATION BILL.

Mr. SPARKMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the river and harbor appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 28180) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, with Mr. MOON of Tennessee in the chair.

The CHAIRMAN. The Clerk will proceed with the reading of the bill under the five-minute rule.

The Clerk read as follows:

Improving Calumet River, Ill. and Ind.: For maintenance, $20,000: *Provided*, That the portion of the old channel of the Calumet River in sections 18 and 19, township 37 north, range 15 east, of the third principal meridian, in Cook County, Ill., which lies outside of the new channel lines established by the United States and shown on "Map of the Calumet River, Ill., from Lake Michigan to Calumet Lake, to accompany report of W. G. Ewing, United States attorney, to the Attorney General, respecting cession of right of way for improvement of said river under the act of Congress approved July 5, 1884," and which lies outside of the exterior limits of the turning basin to be established on said Calumet River in said sections, is hereby abandoned as navigable water of the United States from and after the time when the United States shall have secured title to the land necessary for the establishment of the turning basin at some point, to be approved by the Chief of Engineers, between One hundred and thirteenth Street and One hundred and seventeenth Street in the city of Chicago.

Mr. MOORE of Pennsylvania. Mr. Chairman, I move to strike out the last word. I desire to ask whether the Calumet River is wholly within the municipality of Chicago at the place where these improvements are contemplated?

Mr. MANN. The Calumet River is not wholly within the limits of Chicago or of the State of Illinois. It rises in the State of Indiana.

Mr. MOORE of Pennsylvania. I should like to get an answer to my question whether at the point where these improvements are to be made the city of Chicago extends on both sides of the Calumet River?

Mr. MANN. Where this turning basin is to be located, which is one of five proposed turning basins, it is wholly within the limits of Chicago.

Mr. MOORE of Pennsylvania. Wholly within the limits of the city?

Mr. MANN. The turning basin is.

Mr. MOORE of Pennsylvania. May I ask what will become of that part of the channel which is to be abandoned as navigable water of the United States, after the United States has acquired certain other parts of the land for a turning basin?

Mr. MANN. Under the project adopted a number of years ago for the improvement of the Calumet River in Illinois and Indiana, it was provided that the property owners might donate property, or might be required to donate property to straighten the river. At that particular place there was a bend in the river running out some distance from a straight line. The property owners donated property for the straightening of the river 200 feet in width. The title was accepted and the channel has long since been constructed. As a part of the project it was provided in a subsequent act of Congress that five turning basins should be located on this river. The Government desires to locate a turning basin at the lower end of where this bend formerly was, and the property owners there are expected, or somebody is expected, to furnish the land necessary for that.

In the original project is was stated that the old bend of the river should be abandoned as navigable water whenever the channel was straightened. That has been done. Of course the people there are to furnish the land necessary for the turning basin. This is for that purpose.

Mr. MOORE of Pennsylvania. Then the abandoned navigable water reverts to some one. To whom does it revert? That is what I want to get at.

Mr. MANN. The property owners there claim that it has already reverted to them.

Mr. MOORE of Pennsylvania. The channel which was acquired was acquired from somebody. From whom was it acquired?

Mr. MANN. It was acquired by donation.

Mr. MOORE of Pennsylvania. Mr. Chairman, I think it is worthy of note that the gentleman from Illinois [Mr. MANN], who is somewhat lax upon other great subjects, seems to be fairly well posted on this particular matter affected by the river and harbor bill. Later on I want to make some comments on that. I think my time under the five-minute rule has expired.

The Clerk read as follows:

Improving harbor at Chicago, Ill.: Of the amount appropriated in the river and harbor act approved July 25, 1912, for improving harbor at Chicago, Ill., $100,000, or so much there of as shall be necessary, may be allotted, in the discretion of the Secretary of War, for the repair of the existing outer breakwater and for maintenance dredging in the harbor; and the said sum, if so allotted, is hereby made immediately available.

Mr. MOORE of Pennsylvania. Mr. Chairman, I move to strike out the last word. For a great many years the city of Philadelphia has endeavored to have written into this bill a provision for the survey of Frankford Creek and the Schuylkill River, both streams within the limits of the city of Philadelphia, upon which a business, national and international in character, is done. Frankford Creek penetrates a portion of the city and reaches an arsenal of the Government. It is in a deplorable state. Time and time again we have asked that that creek be opened and developed by the Government because of its navigability and because of the national and international commerce that passes over it. But in one or two instances the Government engineers reported that while the project is worthy they can not recommend an appropriation because it is wholly within the limits of the city of Philadelphia. In the case of the Schuylkill River it does more export business in the petroleum trade than any other part of the country, with the possible exception of Galveston, which has been coming along rapidly within recent years. We formerly had an appropriation for dredging, as we ought to have had, but under the recent policies of the River and Harbor Committee or under the Board of Engineers, with the concurrence of the committee, we have been denied any support whatever for the Schuylkill River. I can produce statistics, and shall ask to put them in the RECORD, which will show the vast amount of business of all kinds that is done on that stream.

I have shown by the chairman of the committee and other distinguished Members of the House that in many other instances when streams bisect the city the Government makes appropriations. It develops in Boston where Chelsea Creek is to be improved at the expense of the Government, although it bisects the city and is within the limits of the municipality. I have shown by the gentleman from Florida that the city of Jacksonville is situated on both sides of the River St. John, and the Government makes improvement of the channel, and properly so. Now, I come to the distinguished leader on the Republican side, who out of the abundance of his knowledge says that the Calumet River, upon which he seems to be thoroughly posted, bisects the city of Chicago and is within the city limits.

Mr. MANN. Oh, no; no.

Mr. MOORE of Pennsylvania. That portion which is to be improved by the appropriation.

Mr. MANN. I beg the gentleman's pardon; there is no appropriation in this bill for the improvement of Calumet River.

Mr. MOORE of Pennsylvania. But the committee has sanctioned and authorized work to be done on the Calumet River, which is bounded by the limits of the municipality.

Mr. MANN. Not in this bill.

Mr. MOORE of Pennsylvania. Well, jurisdiction is being exercised by the committee over this stream within the limits of the city of Chicago.

Mr. MANN. Will the gentleman pardon me for a question?

Mr. MOORE of Pennsylvania. Certainly.

Mr. MANN. Here is an item in the bill, "Improving Calumet River, Ill. and Ind.: For maintenance, $20,000." That project runs into Indiana. Do I understand the gentleman maintains that where a river runs into two States, the project covering the improvement in two States, that we can not spend the money in Illinois because it is within the city limits, and because it is within the city limits of some city in Indiana we can not spend it there; that although it is an interstate stream they could not spend the money on it at all?

Mr. MOORE of Pennsylvania. I do not object to the Government spending money on any navigable stream. That is what I am advocating; but I do object to spending it within the limits of a certain municipality and then refusing a Government appropriation to certain other streams in other municipalities.

Mr. MANN. The gentleman will have to give a better illustration than the Calumet River.

Mr. DAVIDSON. Will the gentleman yield?

Mr. MOORE of Pennsylvania. Yes.

Mr. DAVIDSON. Is Frankford Creek in Philadelphia a navigable stream?

Mr. MOORE of Pennsylvania. Yes; it has a depth of water of 9 or 10 feet and coastwise vessels go in and come out.

Mr. SPARKMAN. Mr. Chairman, the gentleman from Pennsylvania [Mr. MOORE] is quite likely correct in so far as the failure of the Government up to the present time to go inside of the corporate limits of the city of Philadelphia for the purpose of doing river and harbor work; but I want to say that there is no hard and fast rule on the subject; in fact, no rule at all. It so happens, maybe, that it has not been done in Philadelphia, and if it has not the reason no doubt is that the engineers have given no projects for work there.

As I have said, there is no rule on the subject, because there are many instances throughout the country—several that I know of—where work is being done or has been done on navigable channels extending into the limits of cities—improvements made within such limits. It is not confined to Chicago nor to Boston; it is not confined to any other city in the country. Whenever the engineers furnish a project for work inside the corporate limits of a city, the River and Harbor Committee considers such recommendation, and if found to be worthy we do not hesitate to recommend an appropriation, even though a part should be within the corporate limits of a municipality.

Mr. MOORE of Pennsylvania. Mr. Chairman, does not the Government make appropriations for the improvement of the Willamette River, which bisects the city of Portland, Oreg.?

Mr. SPARKMAN. It has been making appropriations for that river; yes.

Mr. MOORE of Pennsylvania. Mr. Chairman, I appeal to the gentleman and to the members of the Committee on Rivers and Harbors whether it is a fair proposition that in numerous instances appropriations should be made for the improvement and development of rivers that bisect cities, and then deny the same right to other cities that make application therefor.

Mr. SPARKMAN. That is not a question for our consideration here to-day. It is purely an academic question.

Mr. MOORE of Pennsylvania. But it is a very practical one.

Mr. SPARKMAN. If I were to answer the gentleman's question, I would answer it as I did a moment ago, that we can not lay down any hard and fast rule. I do not know why the engineers have not recommended a project for the rivers or creeks in the city of Philadelphia. I do happen, however, to remember this: That some years ago I think the then chairman of the Committee on Rivers and Harbors, Mr. BURTON, had some kind of an agreement, oral perhaps, with the officials in the city of Philadelphia by which it was understood that if Congress would do the work from the ocean up to the city, the city would take care of the work inside its limits.

Mr. MOORE of Pennsylvania. That was an understanding made with one mayor of the city; I remember it very well; but it grew out of the desire of Mr. BURTON to hold the appropriations for rivers and harbors in check as well as he could, and constantly the illustration of the Cuyahoga River, which bisects Cleveland, was used, and that has been the only precedent which the Board of Engineers has given, so far as I am informed.

Mr. SPARKMAN. I would say that I do not know anything about the merits of the proposition. It may not have been an equitable arrangement or it may have been; but assuming that it was unjust to the people of Philadelphia, yet the agreement does not necessarily lay down any rule for our action in the future. And I will say again, if a project is recommended to Congress for work inside the corporate limits of Philadelphia, it will receive fair consideration at the hands of the Committee on Rivers and Harbors.

Mr. MOORE of Pennsylvania. That is a fair statement from the gentleman, and I thank him. That gives us some hope.

Mr. MADDEN. Mr. Chairman, I am very sorry to see the gentleman from Pennsylvania trying to compare Frankford Creek, which is a meandering stream where the people owning the abutting property own to the middle of the stream, with the Calumet River. Frankford Creek is wholly within the city limits, it does not run into navigable waters, it is not navigable, and still the gentleman undertakes to compare it with the Calumet River!

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. MADDEN. Not now.

Mr. MOORE of Pennsylvania. The gentleman knows that the Government would not permit a bridge to be built across Frankford Creek.

Mr. MADDEN. The Calumet River is an interstate stream, 200 feet wide, having a navigable depth of 22 feet, through which the great ships of the Lakes sail, and the gentleman complains about this all because he thinks appropriations are being made within the city of Chicago. There is no appropriation for the improvement of the Calumet River within the city of Chicago in this section of the bill, none whatever. There is simply a provision to abandon the navigability of a piece of land that formerly was the stream, in which there is now no water, and which it is intended to use as a turning basin. Frankford Creek! It is wholly within the city of Philadelphia. Trying to make it navigable!

Mr. DONOHOE. Mr. Chairman, will the gentleman yield?

Mr. MADDEN. Trying to have the Government place itself in the position of having lawsuits brought against it by the owners of property who own title into the middle of the stream.

Mr. MOORE of Pennsylvania. We will absolve the Government from that at once.

Mr. MADDEN. I yield to the gentleman from Pennsylvania [Mr. DONOHOE.]

Mr. DONOHOE. Mr. Chairman, I want to call the gentleman's attention to the fact that Frankford Creek is in my district, and I would like him to speak as kindly of it as he possibly can. [Laughter.]

Mr. MADDEN. Mr. Chairman, I have a great deal of veneration for Philadelphia and all its creeks, and I hope that Frankford Creek is sleeping as peacefully as Philadelphia is. The gentleman from Pennsylvania [Mr. MOORE] seems to have overdone himself in his efforts to call attention to Frankford Creek. But if he had compared Frankford Creek with any of the smaller streams anywhere——

Mr. MOORE of Pennsylvania. I will be very glad to compare the condition of the commerce of Frankford Creek with almost any inland water you may mention.

Mr. MADDEN (continuing). But by comparing it with a great river like the Calumet, why that makes the gentleman from Pennsylvania ridiculous.

Mr. MANN. The gentleman from Pennsylvania says he desires to compare the commerce of this creek, or whatever it is, with any stream in Illinois. Why, this little Calumet River has a commerce of between 5,000,000 and 6,000,000 tons every year.

Mr. MOORE of Pennsylvania. I think I can show for one or two of the creeks—I know the Calumet River fairly well——

Mr. MANN. But the gentleman will find it very difficult to show any place in the eastern part of Pennsylvania that has the same amount of commerce.

Mr. MOORE of Pennsylvania. I said I would compare the commerce of Frankford Creek with any inland stream of Illinois.

Mr. DONOHOE. Mr. Chairman, I hope our friends over in Philadelphia will not get the impression from this debate that Frankford Creek or other waterways in that locality are being neglected by the Member from Philadelphia on the committee. I have done everything in my power to induce the Government engineers to recommend Frankford Creek for improvement, but they have failed to do so up to this time, and until they do so everyone here must know that this committee can not recommend an appropriation for that purpose. [Applause.]

Mr. MOORE of Pennsylvania. Mr. Chairman, I desire to ask the chairman of the committee [Mr. SPARKMAN] a question.

The CHAIRMAN. The Chair recognized the gentleman from Illinois [Mr. FOWLER].

Mr. FOWLER. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment. Does the gentleman from Pennsylvania withdraw his pro forma amendment?

Mr. MOORE of Pennsylvania. I withdraw the pro forma amendment.

The Clerk read as follows:

Amend, page 36, line 7, after the word "available" by adding a new paragraph as follows:

"Improvement and repair of levee at Shawneetown, Ill., $10,000."

Mr. SPARKMAN. Mr. Chairman, I think that was a matter we passed upon here yesterday afternoon which the committee refused to adopt.

The CHAIRMAN. The amendment was $15,000.

Mr. FOWLER. Mr. Chairman, the chairman is right about the amount. Now, Mr. Chairman, and gentlemen of the River and Harbor Committee, I did my best to induce you to consent to an amendment to give relief to the people in my district at Shawneetown in the sum of $15,000. I have studied the question over and have concluded that if you will consent to give an appropriation of $10,000 that you will exemplify the old adage, "A stitch in time saves nine." If we fail to do this, I have no doubt, gentlemen, that the time will come when the great ravages of the mighty Ohio River will produce such havoc and destruction at that place that some Member of Congress from that district will come before your committee with a much

larger scheme of appropriation and you will consent then to the sum of $50,000 or $100,000, which might be saved here by a timely appropriation of $10,000.

Mr. MANN. Mr. Chairman——

Mr. FOWLER. You did this some time ago——

Mr. MANN. Will my colleague yield?

Mr. FOWLER. Yes.

Mr. MANN. I do not wish to interrupt him in the middle of a sentence, but last year, when we made the appropriation at the time of the flood, was it not understood or expressly provided we would do something for Shawneetown?

Mr. FOWLER. I so understood it at that time.

Mr. MANN. Was not that in the nature of an adoption of the project for the protection of that locality?

Mr. SPARKMAN. There was so much confusion I did not hear the gentleman.

Mr. MANN. Last year, when we made the emergency appropriation on account of the floods in the Mississippi River and extended it up more or less to the Ohio and Illinois, I know my colleague either introduced a resolution or offered an amendment——

Mr. FOWLER. It was a resolution.

Mr. MANN (continuing). In reference to Shawneetown, and it was understood when we passed that emergency appropriation a portion of it might be made available for this sort of purpose. Is not that in the nature of an adoption of the project for that purpose?

Mr. HUMPHREYS of Mississippi. No. If the gentleman will pardon me, the emergency resolution that we passed simply anticipated an appropriation that was to come in the general rivers and harbors act then pending. It provided that this money—a million and a half of dollars—should be spent for the construction and repair of levees on the Mississippi River and its tributaries. The places where it was to be spent were to be selected, of course, by the Mississippi River Commission, and allotments made by that commission in such amount as in their judgment seemed necessary. I am not advised how much the Mississippi River Commission allotted to Shawneetown. Perhaps the gentleman from Illinois [Mr. FOWLER] can state.

Mr. MADDEN. Was it not allowed to Mound City?

Mr. FOWLER. It was allowed to Mound City and, as I recollect, a portion to Cairo.

Mr. HUMPHREYS of Mississippi. There was no provision that any particular place along the river should have the allotments made, but the whole matter was to be left in the discretion of the Mississippi River Commission in such places as in their opinion were entitled to it.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FOWLER] has expired.

Mr. MANN. Mr. Chairman, I ask unanimous consent that my colleague have five minutes more. We have taken up most of his time.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. FOWLER. Mr. Chairman, the gentleman from Illinois [Mr. MANN] is quite right in his reference to the disposition of the resolution which I had the honor to offer about a year ago for the improvement of the levee at Shawneetown. Then, as now, there was a very high stage of water in the river, with immense danger to the life and property of the people of that town and that section. The resolution provided for the immediate appropriation of $25,000. It was considered by the House, and the gentleman from Illinois [Mr. MANN] gave his wisdom and his assistance to the adjustment of the emergency fund which had been provided for in the rivers and harbors bill, or in a special bill—I believe it was—or a special resolution. In that adjustment it was considered and agreed, as I recollect, that it should apply to the city of Shawneetown. I think that the gentleman from Illinois [Mr. MANN] is quite right in saying that that created a project. In fact, there was a project. In fact, there was a project created before that time, because the United States Congress had appropriated money for the purpose of aiding in the construction of that levee. An immense gap or break had been made in it some time before, whereby property and lives were destroyed. An appropriation of $25,000 was made by Congress for the purpose of repairing it. The danger to-day is so great that, in my opinion, the levee is likely to break at any time. A few dollars spent now will save to the Government, in my opinion, in the future many thousands of dollars. I hope and trust, Mr. Chairman, that the Committee of the Whole House on the state of the Union will assent to this proposition, because it is not much in comparison with the amount of work which may be done or which may be required to be done in the future.

I know that there is a disposition on the part of Members of this House to allow no appropriations which have not been provided for in the bill, but this seems to me to be a case of emergency. We may read in to-morrow morning's paper, or in the paper a few mornings hereafter, of an immense break in that levee requiring the expenditure of thousands of dollars to repair. But if it should stand the high water for this season, $10,000 could be used next summer for its repair and the strengthening thereof, and put it in a condition where it would be able to protect the lives and property of the people of that section of the country.

Mr. MOORE of Pennsylvania. Does the gentleman think it is a wise policy on the part of the Government to enter into the construction of broken levees for the purpose of commerce and navigation?

Mr. FOWLER. I will say to the gentleman in reply, that I am not questioning the wisdom of Congress in its past action in this respect.

Mr. MOORE of Pennsylvania. If a dam should break, does the gentleman think the Government ought to appropriate money to repair the dam?

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FOWLER] has expired.

Mr. MOORE of Pennsylvania. I ask unanimous consent that the gentleman may have five minutes more.

Mr. SPARKMAN. I shall have to object to that.

Mr. FOWLER. Mr. Chairman, I ask unanimous consent for an extension of three minutes of my time.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. FOWLER. Mr. Chairman, I am aware of the fact that it is not good policy to run off after every idle dream for the improvement of creeks and small streams of this country, not navigable, like the one that flows through the city of the gentleman from Pennsylvania [Mr. MOORE], but when it affects a great thoroughfare like the Ohio River, then the importance is of such great value——

Mr. MOORE of Pennsylvania. That would take about all the money that the Government can afford to raise for all purposes.

Mr. FOWLER. I think one that would question the improvement of a river of that character ought to have his name written upon the scroll that I am told will be dropped down by the archangel of heaven on the great day of judgment, on which will be written the names of those who have committed crimes against mankind on earth. I trust, Mr. Chairman, that the gentlemen will give me this little appropriation, so that "a stitch in time may save nine." [Applause.]

Mr. SPARKMAN. Mr. Chairman, I would not concede that this would be a wise expenditure or a proper expenditure of public money, even if there was a project for it, or a project upon which it might be predicated. But there is really no project for this work. The fact that in an emergency last year that particular portion of the stream may have been embraced within the terms of the bill making appropriations for the Mississippi River and its tributaries would not furnish a project for any appropriation this year. The law under which that appropriation was made reads as follows:

That the sum of $300,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of War in accordance with the plans and specifications and recommendations of the Mississippi River Commission, as approved by the Chief of Engineers, for the purpose of maintaining and protecting against the impending flood the levees on the Mississippi River and tributaries thereto.

That was intended—whether wisely or unwisely I shall not stop now to say—to meet a particular emergency, which emergency has passed. Now, if we are to make an appropriation every time a flood is threatened, every time an individual becomes frightened in regard to rising waters, then we shall soon reach the bottom of the United States Treasury. I hope this amendment will not be adopted.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. FOWLER].

The amendment was rejected.

Mr. FOWLER. Mr. Chairman, I ask for a division.

The CHAIRMAN. The vote has been announced, and it is too late for a division. The Clerk will read.

The Clerk read as follows:

Improving Mississippi River from Head of Passes to the mouth of the Ohio River, including salaries, clerical, office, traveling, and miscellaneous expenses of the Mississippi River Commission: Continuing improvement with a view to securing a permanent channel depth of 9 feet, $6,000,000, which sum shall be expended under the direction of the Secretary of War in accordance with the plans, specifications, and recommendations of the Mississippi River Commission, as approved by the Chief of Engineers, for the general improvement of the river, for the building of levees between the Head of Passes and Cape Girardeau, Mo., and for surveys, including the survey from the Head of Passes to the headwaters of the river, in such manner as in their opinion shall best improve navigation and promote the interests of commerce at all stages of the river: *Provided*, That of the money hereby appropriated so much as may be necessary shall be expended in the construction of suit-

able and necessary dredge boats and other devices and appliances and in the maintenance and operation of the same: *Provided further*, That the watercourses connected with said river and the harbors upon it, now under the control of the Mississippi River Commission and under improvement, may, in the discretion of said commission, upon approval by the Chief of Engineers, receive allotments for improvements now under way or hereafter to be undertaken, to be paid for from the amount herein appropriated.

Mr. MOORE of Pennsylvania. Mr. Chairman, I make a point of order against this paragraph. This is a very important item, involving questions similar to those raised by the gentleman from Illinois [Mr. FOWLER] a moment ago.

The CHAIRMAN. Against the entire paragraph?

Mr. MOORE of Pennsylvania. The entire paragraph.

The CHAIRMAN. Beginning on line 14, page 36?

Mr. MOORE of Pennsylvania. Page 36, beginning on line 12, and ending with line 14, page 37.

I make this point of order, Mr. Chairman, in order that there may be a ruling on the question. I shall not discuss the merits of the proposition except in one or two instances as I go along.

The rules provide that "existing law may be repeated verbatim in an appropriation bill (Hinds, IV, 3814 and 3815), but the slightest change of the text causes it to be ruled out." I think the point is entirely different from the point raised yesterday. Here is a positive change of existing law.

The basis for the appropriation was the act of July 25, 1912, in which, among other things, it was provided that there should be an appropriation of $6,000,000, similar to the appropriation made here, for a purpose which shall be considered extraordinary work. Now what was the purpose of the appropriation? It was to be considered extraordinary work, due to an emergency that prevailed at that time, which Congress intended to relieve.

Now the bill that come before us changes that law, removes the emergency entirely, and writes into the law an appropriation of the enormous sum of $6,000,000 for a permanent and fixed purpose. My contention, Mr. Chairman, is that you can not write into a bill of this kind an appropriation involving a tremendous sum of money for a permanent improvement when the original provision of law was that the appropriation was made and was to be considered as for an extraordinary emergency work.

What are the facts? That in 1912 there were floods upon the Mississippi River, and the newspapers reported great loss of property and inundation of vast acreages, involving plantations upon which there were cotton and other products, and we read occasionally that lives had been lost, although there is very little specific information as to that. There is nothing obtainable in the hearings before the River and Harbor Committee indicating that there was any loss of life, and we have very little, except through the newspapers, as to the loss of property. But the War Department, in the annual report of the Secretary of War, throws some upon the subject of the floods upon the Mississippi River for which this emergency appropriation was made.

In the annual report for 1912 the Secretary of War gives us this first authentic information concerning these floods in the Mississippi for which this Congress last year spent about one-fourth of the entire appropriations made for commerce and navigation throughout all of the States of the Union. The Secretary of War reports:

> In the latter part of March and early April of 1912 most disastrous floods occurred in the Mississippi River and its tributaries, the flooded area covering 15,000 square miles, or a tract larger than the combined area of the States of Maryland and Delaware or of Vermont and New Hampshire. Appropriations amounting to about $1,240,000 were made by Congress—

I do not know just where those figures come from. The appropriation for emergency work was $6,000,000, but he says—

> Appropriations amounting to about $1,240,000 were made by Congress for the purpose of providing tents, rations, and other necessities and services to alleviate the distress of sufferers in the flooded district. The work of distributing this relief was organized and carried out by the Quartermaster's and Subsistence Departments of the Army, under the general direction of Maj. J. E. Normoyle, of the Quartermaster's Department. The department was assisted in the work of relief by naval, revenue, and militia officers, by the Red Cross, and by local citizens' committees. The work was handled so quietly and efficiently that it has not attracted the public attention which it deserves. But it was directly instrumental in preventing a very large amount of suffering in what has proved to be one of the worst floods in the history of the Mississippi River. For a considerable period of time 185,000 persons were furnished daily rations, 20,000 persons were furnished shelter, and 50,000 head of live stock were provided with forage. I believe that the work was accomplished with an unusually small amount of wastage.

I call attention to the fact that this is not for the purpose of commerce and navigation, as contemplated by the river and harbor appropriation bill.

Mr. HUMPHREYS of Mississippi. The particular appropriation to which the gentleman refers there was not contained in any bill reported by the river and harbor committee, but was appropriated for by the Committee on Appropriations for the specific purpose there mentioned.

Mr. MOORE of Pennsylvania. Then this $1,240,000——

Mr. HUMPHREYS of Mississippi. That is not included in the $6,000,000 at all. It is an entirely different matter.

Mr. MOORE of Pennsylvania. This $1,240,000 is in addition to the $6,000,000, and in addition to the $2,500,000 additional that was granted last year for work upon the Mississippi River.

Mr. HUMPHREYS of Mississippi. No; the bill last year carried $6,000,000 for the Mississippi River.

Mr. MOORE of Pennsylvania. Plus two and one-half million dollars.

Mr. HUMPHREYS of Mississippi. No; it carried three and one-half million plus two and one-half million.

Mr. MOORE of Pennsylvania. For Mississippi River work—I beg the gentleman's pardon.

Mr. HUMPHREYS of Mississippi. I suppose the gentleman is talking about the Mississippi River from the Head of Passes to Cape Girardeau.

Mr. MOORE of Pennsylvania. Yes.

Mr. HUMPHREYS of Mississippi. That was $6,000,000, and this particular appropriation of $1,240,000, to which the gentleman is now referring, was made by the Appropriations Committee not for the purposes of navigation at all but for the purpose of caring for about 150,000 people, who were rendered homeless and shelterless and who were without food or raiment. It had nothing whatever to do with the amount carried in this particular item or in the similar item which was carried in the last bill.

Mr. MOORE of Pennsylvania. This was in addition to the $6,000,000 that was specifically appropriated for this emergency work. Then, leaving out the smaller appropriations, that would make $6,000,000 plus $1,240,000, which would make $7,240,000 appropriated for emergency work.

Mr. DAVIDSON. Why does the gentleman persist in using the word "emergency" all the time, when, as a matter of fact, this appropriation is a general one, just the same as previous appropriations? It was only considered as emergency work in order that it might be carried on more expeditiously under the eight-hour law.

Mr. MOORE of Pennsylvania. That is the very point I am making, that the reason we were induced to appropriate $6,000,000 last year was that it was represented to Congress that there was an emergency; and it was so written in the bill, because the gentlemen did not dare ask for $6,000,000 to build levees along the Mississippi River without having an emergency. And that emergency has now passed.

In the present bill the line "which shall be considered extraordinary emergency work" is eliminated, and now we are introducing a permanent project on the strength of a law that passed last year, which is existing law, providing that there was an emergency.

The reason for the enactment of the law, the basic law upon which this bill is based, was the representation to the House that an emergency existed in the Mississippi Valley.

Mr. SPARKMAN. Will the gentleman yield?

Mr. MOORE of Pennsylvania. Yes.

Mr. SPARKMAN. The gentleman's objection is that we have departed from the language of the bill last year?

Mr. MOORE of Pennsylvania. That is my point.

Mr. SPARKMAN. The emergency having passed, we are justified in departing from the language. That was to meet the emergency.

Mr. MOORE of Pennsylvania. My point is that the representations made to the House upon which it appropriated $6,000,000 last year was that there was an emergency, and that this year the committee has taken language out of the bill and has undertaken to write into the law that we shall hereafter appropriate $6,000,000, or whatever amount is agreed upon hereafter for the permanent construction of levees along the Mississippi River.

Mr. HUMPHREYS of Mississippi. Will the gentleman yield?

Mr. MOORE of Pennsylvania. Yes.

Mr. HUMPHREYS of Mississippi. Does the gentleman believe that making the appropriation of $6,000,000 would render the paragraph more subject to a point of order than it would have been if the amount carried had been $4,000,000?

Mr. MOORE of Pennsylvania. I think the fact that you have followed in this bill the exact amount—attempted to follow the exact language of the bill of last year—vitiates the paragraph in the bill this year because you have eliminated the emergency part of it.

Mr. HUMPHREYS of Mississippi. The language is the same that has been in the bill for 20 years except in amount. Some-

times it has been three million, sometimes three and a half million, sometimes four million, and sometimes six million has been carried. The rest of the language is the same, except that last year, in view of the decision of the Supreme Court, which was rendered just before the reporting of the bill, which declared that this was not emergency work, and as always before that we assumed that it was, we put in the provision last year that that should be considered emergency work.

Now we have reverted to the language that we have adopted for the past 10 or 15 years. If this paragraph is subject to a point of order, then all of the paragraphs that have appeared for the last 15 or 20 years were subject to a point of order, because they are identical in language except that we carry an appropriation of six millions, and heretofore sometimes it was two millions, sometimes three, and sometimes four.

The fact that it was put in last year making it emergency work has no bearing whatever upon the propriety of this particular legislation under the rule, because the gentleman will note that this money is being expended under the direction of the Secretary of War in accordance with the plans, specifications, and recommendations of the Mississippi River Commission, as approved by the Chief of Engineers, for the general improvement of the river, and so forth, "in such manner as, in their opinion, shall best improve navigation and promote the interest of commerce at all stages of the river."

The expenditure of the $6,000,000 is limited to that particular purpose, but the emergency which confronted us last year, in the opinion of the committee, had passed, and therefore this work was not taken out from the operation of the eight-hour law. That is all there is to it.

Mr. MOORE of Pennsylvania. I want to answer the gentleman, if the Chair will indulge me a moment. I am not contending against the appropriation of public money for the construction of levees, for the improvement of private property, if Congress shall determine that that is the wise thing to do. But I say to the gentleman that this $6,000,000 written into the law last year because of an emergency was never written in before.

Mr. HUMPHREYS of Mississippi. But $4,000,000 was written in before and three and a half million dollars was written in, and the language of the law—take, for instance, the bill of 1911—is identical with the language contained in this bill, except that the bill of 1911 said three millions and this says six.

Mr. MOORE of Pennsylvania. Was the emergency work mentioned in the bill of 1911?

Mr. HUMPHREYS of Mississippi. It was not, and has never been mentioned except in the bill for 1912.

Mr. MOORE of Pennsylvania. The appropriation for $6,000,000 was written in for emergency work and only because there was an emergency?

Mr. HUMPHREYS of Mississippi. If the appropriation for last year had been for $3,000,000, the words exempting it from the operation of the eight-hour law would no doubt have been put in, because it was desired by Congress that the commission might be able to repair these breaks before another flood came. I am very sorry indeed to say that although it was written in as an emergency we were not able to repair the levees. In my own district, having worked day and night in an effort to close that breach, we to-day have been notified by telegrams from that country that the flood that is now in the river has broken through this crevasse that we were not able to close, and the country is now being overflowed.

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

Mr. MOORE of Pennsylvania. Mr. Chairman, I will ask the Chair to indulge me for a moment or two. Suppose a dam should break in Pennsylvania, as one did at Johnstown in 1889, and 5,000 lives or thereabouts should be destroyed and millions of dollars of property lost, I question whether Congress would consider reconstructing that dam or whether it would consider making reparation for those lives and that property lost. I am simply saying to the gentleman, in answer to his proposition as to the Mississippi, much as I deplore the breaking of levees there, it seems to me he is putting into this river and harbor appropriation bill, intended for the promotion of commerce and navigation, a clause that has no business here. If he would take this question up as an entirely new question, eliminate the Mississippi Commission altogether from this bill, or give it a separate department, I care not which, then we would have the proposition before us in such a way that we could discuss it fairly. But here, on the pretense of an emergency last year, the gentleman comes in this year for exactly the same appropriation, when the emergency is passed, and he asks Congress to bind itself to a project that will cost $100,000,000 and postpone for a long time work on other projects.

Mr. HUMPHREYS of Mississippi. Always with these words of limitation, heretofore and now:

In such manner as in their opinion shall best improve navigation and promote the interests of commerce at all stages of the river.

Mr. MOORE of Pennsylvania. Mr. Chairman, I am not going to press this matter unduly. I base the point of order on the ground that there has been a distinct change in the text of the law in the submission of this bill. On that I rest the point.

Mr. LAWRENCE. Mr. Chairman, I want to be heard a moment upon the point of order. I think it will expedite the consideration of the bill if there is a ruling on the point of order before we discuss the merits of the question. The gentleman from Pennsylvania [Mr. MOORE] makes the point of order that this paragraph changes existing law and therefore is not in order in this bill. It is true that we can not change existing law in a general appropriation bill, but it is also true, and it has been held over and over again, that river and harbor bills are not general appropriation bills.

The CHAIRMAN. There is no question about that.

Mr. LAWRENCE. Legislation is in order in a river and harbor bill. The only question, then, is whether the Committee on Rivers and Harbors has exceeded its jurisdiction. This is a paragraph relative to the improvement of a river, and it is therefore within the jurisdiction of the committee, so even if it were new legislation, which I do not concede, it would be in order.

The CHAIRMAN. The gentleman from Pennsylvania makes the point of order against the whole paragraph which provides for the improvement of the Mississippi River from Head of Passes to the mouth of the Ohio River, and so forth, and for continuing improvement with a view to securing a permanent channel depth of 9 feet, $6,000,000, which sum shall be expended under the direction of the Secretary of War in accordance with the plans, specifications, and so forth.

The point the gentleman makes, as the Chair understands it, is that it changes existing law, and that the language of this paragraph is at variance with the general law authorizing the appropriation. That, of course, raises the question of the jurisdiction of the committee. It has been held time and again that the River and Harbor Committee is not one of the general appropriation committees, and that the restrictions as to legislation provided by the rule to which the gentleman refers do not apply to this bill. The question then left, and the only question for decision is, is the subject matter of the paragraph within the jurisdiction of the Committee on Rivers and Harbors. The Chair thinks it is, and the point of order is overruled.

Mr. MONDELL. Mr. Chairman, I move to strike out the last word. I think the Chair is entirely correct in holding this paragraph is not subject to a point of order so far as the language in the paragraph itself is concerned, but I am inclined to believe that if the paragraph clearly indicated the class of work which is largely done under it, it would be held subject to a point of order, for this is a bill for the improvement of rivers and harbors in the interest of navigation, and it is not a bill for the protection of private property from inundation. Yet everyone who is at all acquainted with the facts knows that the work that is being done, and has been done on the Mississippi River, for which large portions of these appropriations are used, are for the building and repair of levees whose primary object and purpose is to protect private property from inundation.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I would like for the gentleman to quote some authority for that statement, which runs counter to the judgment and the reports of the engineers and the Mississippi River Commission—all of them.

Mr. MONDELL. No one in the country—no one I can think of—more fully understands and appreciates the truth of what I have just said than the gentleman from Mississippi.

Mr. HUMPHREYS of Mississippi. Does the gentleman quote me, then, as his authority? Am I the only authority the gentleman can quote to support that? If so, I would like to testify.

Mr. MONDELL. I think if the gentleman from Mississippi would here and now admit—which he will not do, and which he might do at some other time and some other place—that these funds are used for that purpose, I think he would be held to be a very high authority on that subject.

Mr. MOORE of Pennsylvania. Will the gentleman yield?

Mr. MONDELL. In a moment. I think it is about time for us to begin to be honest with ourselves and fair with the country. If the expenditure contemplated was writ in plain language in the bill, the item would go out on the point of order. Now I will yield to the gentleman from Pennsylvania.

Mr. MOORE of Pennsylvania. Mr. Chairman, is the gentleman aware of the fact that bills have been introduced at this session of Congress providing for the payment of damages for riparian rights done by floods along the lower Mississippi?

Mr. MONDELL. I was not aware there had been any recent proposed legislation on the subject, but I know there have been propositions for legislation of that sort. The gentleman from Illinois [Mr. FOWLER] eloquently, forcibly, vehemently appealed to us for an appropriation admittedly for the purpose of protecting an old historic town in his district, and no member of the committee suggested that they refused to appropriate on the ground that it did not come within the purview of the bill, but because, forsooth, some engineer had not reported favorably upon it. There will be vast sums of this $6,000,000 spent on works that can have no other real object or purpose than to protect private property along the lower Mississippi. I am not here to quarrel with that policy; I am here to ask gentlemen to acknowledge it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONDELL. I ask that I may have five minutes additional, Mr. Chairman.

The CHAIRMAN. The gentleman from Wyoming asks unanimous consent to proceed for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. MONDELL. I am here to ask gentlemen who live along the Mississippi to be honest and frank and fair about these things and admit that we have long entered upon the work of spending the people's money to protect the property of individuals. We have spent $121,000,000 upon the Mississippi River, not taking into consideration the sums spent on the various harbors along that river, on which many millions have been spent.

That $121,000,000 has been largely spent for the purpose of protecting private property, and yet the bills carrying these appropriations have contained no word or suggestion of this purpose for which the money was largely being spent. And gentlemen at this late day, when it is known to all the world that this is what we are doing, ask upon what information I base that statement. Levees are constructed and repaired. Many miles of them are for the purpose of protecting private property or they have no value. This is a great river, the greatest in all the earth, draining an immense basin, having great tributaries hundreds of miles in length, and the people of the States and communities bordering these streams and tributaries have for many years been draining their swamps and their lowlands, adding to these annual floods, carrying devastation to the lower river. I would be the last to say that there was not a responsibility on the part of the American people to do something for the protection of the property and the rich lands along that river from the devastating floods that flow into it from the Missouri, the Ohio, the Red, and all the great streams that flow into it. The only complaint I have is, first, that you are not fair and frank about it, that you are not honest in regard to it with yourselves and with the country, and, secondly, that, refusing to be frank and honest and fair about it, the system under which the work is being done is wasteful, and in the long run must be the most gigantic failure ever undertaken by man.

Mr. DYER. Will the gentleman yield?

Mr. MONDELL. The constant building up of levees on either side of this mighty stream and attempting to control its flood waters, which rise higher and higher and higher until they will overtop any levee you may build, though you drain the Treasury. You can not confine within a narrow channel the enormous floods that are increasing rather than decreasing as the years go by——

Mr. DYER. Mr. Chairman——

The CHAIRMAN. Does the gentleman yield to the gentleman from Missouri?

Mr. MONDELL. In just a moment.

Mr. DYER. The gentleman's time has not expired, but I just wanted to ask a question. I want to ask what plan the gentleman would recommend to Congress to save the great overflow of this river and protect the land adjacent thereto?

Mr. MONDELL. I see many men before me who are better qualified to formulate and recommend proper plans.

The CHAIRMAN. The time of the gentleman from Wyoming [Mr. MONDELL] has again expired.

Mr. MONDELL. May I have five minutes more?

Mr. SPARKMAN. Mr. Chairman, I ask that all debate on this paragraph close in 10 minutes.

The CHAIRMAN. The gentleman from Florida asks unanimous consent that all debate on this paragraph close in 10 minutes. Is there objection? [After a pause.] The Chair hears none. Without objection, the gentleman from Wyoming [Mr. MONDELL] will proceed for five minutes.

There was no objection.

Mr. NYE. Will the gentleman give me just a second?

Mr. MONDELL. Yes.

Mr. NYE. On the subject of floods I ask unanimous consent to print a letter from a friend and a man well known in Washington, a scientific investigator, Mr. Freeman Thorp. I do not know that he has written anything before for Congress on the subject, but this correspondence is entirely germane. Without stopping to read it I ask unanimous consent to print it in the RECORD.

The CHAIRMAN. Is there objection?

There was no objection.

The following is the letter referred to:

HUBERT, MINN., *January 20, 1913.*

Hon. F. M. NYE,
Washington, D. C.

DEAR SIR: I see that the House is to discuss what to do with the Mississippi River for its improvement and the control of its floods. Why not consider the subject broadly? I live near the headwaters of the Mississippi where the floods start, and I can from my own researches suggest a practical method of ultimately eliminating the danger factor from the Mississippi flood problem and at the same time solving other important problems closely allied to it. Scientific investigation, conducted along the same lines by the late Prof. W J McGee and myself for many years, shows that on all the great central plateaus of the North American Continent we are slowly but surely losing our groundwater supply because more of the precipitation runs away to the oceans than ever comes back as floating vapor, the only way it can come back. The enormous surface run-off that causes the floods, great as it is, is only two-thirds as great as what goes to the oceans by seepage and underground currents. The underground part we can have little control of except to a limited extent by artesian wells. But the direct surface run-off we can and for many reasons of vital importance ought to prevent. First, because on all the uplands of the Northwest it is all needed in the soil that it falls upon; second, because in its run-off it carries with it by soil erosion some of the best soil to swell the floods to a dangerous height with muddy water. This is a constantly increasing waste and danger, as we bring more and more of the land under cultivation by the mistaken old methods that proceeded on the assumption that good farming required surface drainage that would run the rainfall off as direct and quickly as possible. Hence the greater the floods, and as we build necessary levees to prevent flooding the lower Mississippi Valley, the channel of the River between the levees receives an annual deposit of mud at the bottom, making it necessary to raise the levees higher and higher to insure safety, and in time the lower Mississippi is going to be up in the air. When by stopping this surface run-off from all the dry upland cultivated fields, pastures, meadows, and forests, as I have been doing for years on my own land and as it is thoroughly practical to do on 400,000,000 acres in the upper watershed of the Mississippi, we can hold back a hundred times as much of what would otherwise be flood waters as can be held back by all the big reservoirs that can be practically made in that territory. All this except on forest lands can be done by present and prospective farmers by the method I have worked out without any cost to the farmer and no other cost to the Government than to show the farmer how to do it with great benefit to himself in greatly increased crop yields and in preventing soil erosion, preserving and increasing the fertility of his soil and preventing on prairie lands the waste of soil drifting, which my method does. The method in brief is for all the semiarid and dry sandy upland fields under cultivation a system of contour plowing and disking that leaves the surface of the field with horizontal parallel ridges that hold all of the precipitation exactly where it falls, preventing soil drifting and the usual run-off with its attendant soil erosion, and in practice these ridges do not interfere with cultivation and harvesting to any material extent, and it costs no more to prepare a field for a crop by this method than by the old methods, and when prepared by this new method there will be no run-off, and these ridges remain to hold all the precipitation when these fields in the rotation of crops become meadow and pasture land. With very little labor lands that are now and are to remain in permanent pasture or forest can be put in condition to hold nearly all the precipitation and thereby double the grazing capacity and forest growth. I have sandy land prepared in this way from which not one drop of water has run off in 17 years, the average precipitation being about 30 inches, and there are many million acres of just such land in Minnesota to which this method can be applied and it will hold back more water than all the many reservoirs in our State which contains nearly all the reservoirs that hold back the Mississippi River waters except the irrigation reservoirs, practically none of which are in Minnesota. I do not antagonize reservoirs wherever practical to hold back flood waters, especially in humid regions, but holding the precipitation on and in the soil of nearly half a billion acres of land in the upper Mississippi watershed is of such vastly greater importance that any plans for the improvement of this great river should take into account this practical method of lessening its floods and eliminating a deposit of mud in its channel that scientific investigation has brought to our hands.

With great respect,
Respectfully,

FREEMAN THORP.

Mr. MONDELL. Mr. Chairman, the gentleman from my native State, for I was born on the banks of the Mississippi, asked me what plan I would propose. I do not pretend to be a river expert, but this must be patent to anyone who has given attention to the subject at all, namely, first, that the floods of the Mississippi, with the draining of the lands along its border, increase rather than decrease; and, second, that there can be no system of storage reservoirs, no matter how large they may be, on the upper ranges of the river which will to any considerable extent reduce the volume of its mighty floods, particularly when various branches rise in flood at the same time; third, the building of parallel lines of levees leaving but a

narrow channel can have no other effect than to confine these volumes until they rise and overtop any levees you may build.

The only way, in my opinion, to control the Mississippi River is to abandon to overflow in high flood a reasonable amount of the lowland along the stream. Build such low levees as may be helpful for navigation and protect those lowlands from ordinary rises, but not high enough to protect them from great rises. Further back from the river, at reasonable distances, build your lines of levees that will preserve the lands lying on either side of them from all the mighty floods of the stream. That means that in the intermediate territory it will not be possible to build as permanent structures as people owning those lands might desire to do. That would require that those lands should be utilized for the growth of certain classes of crops, but it would fix and make certain their values. Back of the outer lines of levees the country would be perpetually protected from inundation.

But we are not doing that. We are not attempting to do anything of the sort. We are patching here and there. We are making appropriations in times of great floods which we call "emergency appropriations," simply for the purpose of making a bad matter worse, and after we have piled up all these mighty mounds of earth and stone, and the Missouri, the upper Mississippi, the Ohio, the Red, and the Platte hurl their mighty floods into the lap of the Father of Waters. At the same time these great works, built at the expense of hundreds of millions of dollars, are as absolutely ineffectual and valueless as though they were built of straw, and lands that might be protected, and lands lying back from the river at some distance that might be made perfectly safe from this inundation, are frequently and periodically swept by these swelling floods.

I will join the Committee on Rivers and Harbors in doubling those six millions if that committee will frankly state its purpose to protect the lands along this great river and adopt a plan under which that can be effectively done.

Mr. RANSDELL of Louisiana. I have listened with a great deal of interest, Mr. Chairman, as I always do, to the very learned and eloquent discourse of the gentleman from Wyoming [Mr. MONDELL]. I fear that he has been led into some errors in regard to this measure to-day, as he undoubtedly was guilty of making some mistakes in his statements yesterday in regard to certain other projects. He tries to impress upon the House the idea that we are building levees on the Mississippi River without any warrant for the same, entirely for the purpose of protecting private property and without any reports of engineers or anyone else in favor thereof.

Now, Mr. Chairman and gentlemen of the committee, it is a fact that more than 30 years ago all works on the Mississippi River south of Cairo were placed in charge of a great commission known as the Mississippi River Commission, composed of three Army officers of the Engineer Corps, one officer from the Coast and Geodetic Survey, two of the greatest engineers that could be found in civil life, and one lawyer. The lawyer, let me say, for many years has been Judge Robert S. Taylor, of Fort Wayne, Ind., who lives many miles from the nearest part of the Mississippi River.

This great commission, created by act of law in 1879, and since then given additional authority in every river and harbor act passed since that time, has studied the various problems connected with the Mississippi River, and under authority given to it by law has expended considerable sums of money in building levees, on the theory that those levees were of material aid to commerce and were necessary to improve the navigation of the river.

Mr. MONDELL. Mr. Chairman——

Mr. RANSDELL of Louisiana. I decline to be interrupted, Mr. Chairman, as I have only five minutes. Those reports have been printed year after year along with the reports of the Chief of Engineers of the Army. Anyone can find them.

There has been some little difference of opinion, I admit, among the members of that commission, but ever since its creation a majority of its members have held, and to-day hold, that it is necessary to build levees along the banks of the lower Mississippi River in order to promote navigation, and that levees are material aids to commerce. So in that particular the gentleman is entirely wrong. The paragraph in question provides that the commission shall expend the sums at their disposal "in such manner as in their opinion shall best improve navigation and promote the interests of commerce at all stages of the river."

Could legislation be better safeguarded than that? Could a better plan be adopted than to commit the expenditure of this money to such a commission as I have described? Can higher-grade men be found anywhere in this United States, and more disinterested men?

The CHAIRMAN. The time of the gentleman has expired.

Mr. RANSDELL of Louisiana. I ask unanimous consent to proceed for five miuntes more.

The CHAIRMAN. The committee has already had 10 minutes on this paragraph.

Mr. RANSDELL of Louisiana. I move to strike out the last two words of the next paragraph.

The CHAIRMAN. The gentleman moves to strike out the last two words.

Mr. DYER. Mr. Chairman, I would like to offer an amendment as a new section to this paragraph.

Mr. GARRETT. Mr. Chairman, I make the point of order that the debate was closed only on the paragraph. If the gentleman moves to strike out the last two words, that is an amendment. He is entitled to it.

The CHAIRMAN. Debate has been closed on the paragraph.

Mr. GARRETT. But not on all amendments thereto.

Mr. RANSDELL of Louisiana. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. The gentleman from Louisiana [Mr. RANSDELL] asks unanimous consent to proceed for five minutes. Is there objection?

There was no objection.

Mr. RANSDELL of Louisiana. Now, Mr. Chairman, I shall try not to detain the House long.

Mr. MANN. Mr. Chairman, I will ask unanimous consent if the gentleman desires five minutes, but it is perfectly patent that when you close debate on a paragraph that is not subject to debate at all except in the way of amendment——

The CHAIRMAN. The gentleman proposes to proceed by unanimous consent.

Mr. RANSDELL of Louisiana. I asked unanimous consent.

Mr. MANN. Oh, I beg the gentleman's pardon.

Mr. RANSDELL of Louisiana. Gentlemen, it is a fact that considerable sums of money have been expended on this river for levees, and I assume that considerable other sums are going to be expended for levees on that river. But it presents a unique situation, different from any that exists anywhere else in this Union.

Let me remind the gentlemen of this House that the three political parties that held their conventions last summer all recognized this river as presenting an entirely different problem from those presented by any other waterway in the Republic. All of them declared that the control of floods on the Mississippi River was a national problem. The accumulated waters of 24 States flow down into that river. It is a greater burden than the local people can possibly bear, but they have struggled nobly.

Within the last 30 years the National Government has expended about $26,000,000 to aid in the construction of levees along the banks of the Mississippi for the purpose of protection against floods and for assisting navigation and commerce. The National Government would not have expended it if the commission had not thought it was going to aid commerce. At the same time the local people, whose property was frequently overflowed and whose losses were very severe, have expended more than twice that sum—have expended on these great levees over $60,000,000. My own State of Louisiana every year pays out fully a million and a half dollars for levees.

The gentleman from Wyoming [Mr. MONDELL] says that these levees do not protect the adjacent lands from floods. This is a mistake. There are occasionally great floods which these levees are inadequate to control, but in the main, gentlemen of the House, the levees do furnish protection. Between 1903 and 1912 we had no disastrous overflows. From 1897 to 1903 there were no overflows. But if we did not have the levees there would be a serious overflow every spring. It is necessary to have the levees in order to protect our lands against the freshets that come down the river every year.

The gentleman suggests a second line of levees. That is probably all right, and I will be glad to join him on it. Why did he not say what was in his mind? Why did he not tell us to impound the rainfall at the headwaters of the various streams in order to use those waters for irrigation?

I was delighted to make a speech for the gentleman's irrigation project when it was up here several years ago, and I will gladly vote any reasonable sums to irrigate the arid lands anywhere and everywhere in this Nation which belong to the public. But, Mr. Chairman and gentlemen, let me say to the Members of this House that when a gigantic problem confronts them and only one effective measure of solving it has been suggested by the greatest engineers in the world, they will naturally adopt

that means. The levee system may not be effective in all instances, but it is the best that can be done. We have been following it for 200 years with a great measure of success. The reservoir system which is advocated by some has not met general approval from the engineering world. Mr. M. O. Layton, its chief exponent, says it would cost from $500,000,000 to $1,000,000,000 for reservoirs on the Ohio and upper Mississippi alone, without considering the many other streams which form other floods down the lower Mississippi.

The CHAIRMAN. Are the pro forma amendments withdrawn?

Mr. RANSDELL of Louisiana. I withdraw the one I made.

The CHAIRMAN. The amendment of the gentleman from Tennessee [Mr. MCKELLAR] will be reported.

The Clerk read as follows:

Amend by adding after the word "appropriated" in line 13, page 37, the following: "*And provided further*, That waters wholly or partially within municipalities along said Mississippi River and on watercourses connected with it may be improved upon paying one-half of the cost thereof to said commission, the other half of the cost thereof to be paid from the amount herein appropriated."

Mr. McKELLAR. Mr. Chairman and gentlemen of the committee, that amendment is offered on behalf of the city of Memphis, in the State of Tennessee. That city is situated at the junction of Wolf River and the Mississippi River. Nonconnah Creek is just south of the city. For all time the city of Memphis has been on a bluff high enough not to be injured by the flood waters of the Mississippi River until the building of levees on the Arkansas side. Since those levees have been built the waters have come up higher and higher each year until the floods of 1912 submerged the northern part of our city on Wolf River and all of the lower part of the city. The engineer in charge reported to the Mississippi River Commission, and it is to be found in the report, that last year there was destruction of property of the value of about eleven hundred thousand dollars in the city of Memphis by reason of these floods. It destroyed or put out of commission our gas system, it put out of commission our artesian water system in part, drove hundreds of families from their homes, and caused the greatest loss of property and injury for a time to the health of our city.

Practically no moneys have been expended for a period of more than 16 years in the Memphis Harbor, except some five or six thousand dollars perhaps, and now the object of this amendment is to get a reasonable proportion of protection for this city from the ravages of the river. We do not come here and ask you to give us entire protection, although we believe our damage is due to the building of these levees. I do not say that we are against this project, because I am heartily in favor of building levees along the Mississippi River. [Applause.]

But while we build them surely it is not the desire of any fair-minded man to permit the destruction of property in any city by reason of the building of the levees, and surely we ought to be protected in part, and that is all we ask in this matter. By this amendment it is provided that this work shall not be done until such municipality shall put up one-half of the cost of improvement of this harbor. Is not that a fair proposition? Has any other applicant in any other portion of this bill come before you with a similar proposition? I appeal to you, gentlemen. I was not here during the deliberations of the committee, I am sorry to say, and did not have the privilege of a hearing before the committee on this amendment, but I now appeal to members of the full committee to do an act of simple justice to the city of Memphis.

Mr. CALLAWAY. Will the gentleman yield?

Mr. McKELLAR. I will.

Mr. CALLAWAY. The gentleman says the damage that was done was due to the building of levees put in by the Government on the other side.

Mr. McKELLAR. I did.

Mr. CALLAWAY. And the gentleman thinks the Government ought to bear one-half the expense?

Mr. McKELLAR. I do.

Mr. CALLAWAY. If the Government is liable for the damage, why should it not be liable for the whole expense?

Mr. McKELLAR. If the gentleman will allow me——

Mr. CALLAWAY. Let me finish. If the Government is liable for the damage done, why should not the gentleman ask for protection for the whole sum?

Mr. McKELLAR. I would be very glad to do it, but I felt that that was as much as I could get. I am asking for what I think the committee will give me.

Mr. CALLAWAY. The gentleman is not asking for justice; he is only asking for what money he can get.

Mr. McKELLAR. I am asking that Congress will do Memphis justice in part; if they could not do it in whole, I ask it for half of it.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. McKELLAR. I ask for five minutes more.

Mr. MANN. Reserving the right to object, Mr. Chairman, although I shall not object, the debate on the paragraph is exhausted and can only proceed by unanimous consent.

The CHAIRMAN. An amendment is pending.

Mr. MANN. If the Chairman will permit me to read the rule on the subject he will see that if debate is closed on the paragraph it is closed on all amendments.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. MANN. Paragraph 6 of Rule XXIII says:

The committee may, by the vote of a majority of the members present, at any time after the five minutes' debate has begun upon proposed amendments to any section or paragraph of a bill, close all debate upon such section or paragraph, or, at its election, upon the pending amendments only (which motion shall be decided without debate); but this shall not preclude further amendment to be decided without debate.

The CHAIRMAN. The Chair thinks the gentleman from Illinois is correct.

Mr. MANN. I do not object to the gentleman's request to proceed by unanimous consent.

Mr. McKELLAR. I ask unanimous consent for five minutes more.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to proceed for five minutes more. Is there objection?

There was no objection.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I ask unanimous consent that debate on this paragraph and all amendments thereto close in 10 minutes.

The CHAIRMAN. The committee has already ordered that debate shall be closed, and the gentleman from Tennessee is only proceeding by unanimous consent.

Mr. McKELLAR. Mr. Chairman, the gentleman from Texas [Mr. CALLAWAY] has asked why I do not ask for all of these improvements. I want to be fair with this committee. It will take a very considerable sum of money to protect the northern part of our city, which is on Wolf River, as well as on the Mississippi, from these overflows, if there is another one like that of last year. A simple dirt levee will not do the work, because there is a bayou, as we call them down there, but which are commonly known as creeks, that runs through the entire city, and some arrangement will have to be made to take care of that water. The city of Memphis is not responsible for this visitation of floods. That city had never been overflowed until the building of these levees.

Mr. CALLAWAY rose.

Mr. McKELLAR. Mr. Chairman, I have only five minutes, and I trust the gentleman will excuse me. I stated to him the position I have taken in my appeal to the committee.

Mr. CALLAWAY. I want to ask just a simple question.

Mr. McKELLAR. Very well, I yield for a question.

Mr. CALLAWAY. I understood the gentleman to say that he was in favor of the levee system and that the levees were the cause of the injury, and that now he wanted the Government to protect them against the injury by the levees that he was in favor of.

Mr. McKELLAR. I will answer the gentleman's question. I am in favor of levees, absolutely, unequivocally, beyond the shadow of a doubt, but I am not in favor of building the levees on one side to protect the people on that side of the river, without giving at least a measure of protection to the people on the other side of the river. Is not that a fair proposition? Anyone who is familiar with that great river and the territory through which it flows, and anyone who is familiar with the project, knows that we have to have levees along its banks.

All that I am asking is that provision be made to protect, in part at least, the cities along that river. I appeal to you in the name of fair play. As I say, this city was up and beyond any overflow whatever, by its natural position along the banks and along those high bluffs, until the Government and the levee districts together have built up these levees on the other side, thereby raising the stage of the water until it overflowed our city. I ask you for help because of the injury that it did to our city. It can hardly be imagined, and the Mississippi River Commission has reported that about eleven hundred thousand dollars' worth of property was destroyed in the city of Memphis last year, that the gas works were put out of commission, and that the waterworks in the northern part of the city were put out of commission. Hundreds of families were driven from their homes, and every species of property destroyed. We had to haul water around the city in carts for the people until we got relief because of the backing up of the sewers into the water mains. It seems to me that this amendment ought to pass.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. All debate has been closed on this amendment. The gentleman from Mississippi asks unanimous consent to address the committee for five minutes. Is there objection?

There was no objection.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, I would like to call the attention of the gentleman from Tennessee [Mr. McKELLAR] and of the committee to the fact that the bill now contains a provision almost identical with the one that he offered, beginning on line 8, page 37, as follows:

Provided further, That the watercourses connected with said river and the harbors upon it, now under the control of the Mississippi River Commission and under improvement, may, in the discretion of said commission, upon approval by the Chief of Engineers, receive allotments for improvements now under way or hereafter to be undertaken, to be paid for from the amount herein appropriated.

The only difference in this proviso and the amendment offered by the gentleman from Tennessee is that his amendment leaves out the words "in the discretion of said commission," and makes it read, in substance, that the Mississippi River Commission may make these allotments, provided the community contributes one-half of the amount. Under the rule which has always obtained, under the interpretation put upon the statutes universally by the Chief of Engineers when the language of the statute is that they "may" make such improvements, it is interpreted to be mandatory that the work be done.

Mr. McKELLAR. Mr. Chairman, will the gentleman yield?

Mr. HUMPHREYS of Mississippi. Yes.

Mr. McKELLAR. If the municipality is willing to put up one-half of the funds, might it not be reasonably supposed that the commission ought to do it?

Mr. HUMPHREYS of Mississippi. I will answer that. Under the gentleman's amendment the Mississippi River Commission will be compelled to contribute half of the money whether in their judgment the work ought to be done or not. Under the law as it stands to-day, and as it will be under this bill as now written, they may contribute not only half but all of it, if they think it ought to be done.

But if the city of Memphis thinks that her waterworks or her gas plant is in danger, without any reference on earth to the interest of navigation, without reference to any interest the Federal Government may have in the matter; if the city of Memphis, under the gentleman's amendment, sees fit to put up the money necessary to protect her waterworks or gas house, they will come to the Mississippi River Commission and compel the Federal Government to come in and make an appropriation to bear half the expense. I submit, Mr. Chairman, that that is no concern whatever of Congress and that it is in a spirit of unfairness, it is an ungenerous spirit on the part of the city of Memphis that sits upon a high hill, surrounded by these deltas from which it draws its trade and its prosperity, and for the upkeep of the levees which protect them she pays not one nickel in taxes. I say, it is an ungenerous spirit for that city to ask those people who have, as Mr. RANSDELL has just told you, contributed out of their own pockets and out of their taxes $60,000,000 of money to maintain these levees, to share her municipal burdens, or to ask that the Federal Government take from those people the money that will otherwise be spent for levees, in order to help the city of Memphis, where the assessed value of taxable property exceeds the assessed value of property in all those deltas combined, in order to help that city build or protect her gas plant or her waterworks. So, I hope, Mr. Chairman, that the amendment will not prevail.

Mr. McKELLAR. Will the gentleman yield for a question?

The CHAIRMAN. The time of the gentleman has expired. The question is on the amendment offered by the gentleman from Tennessee.

The question was taken, and the Chairman announced the "noes" seemed to have it.

On a division (demanded by Mr. McKELLAR), there were—ayes 6, noes 41.

So the amendment was rejected.

Mr. MOORE of Pennsylvania. Mr. Chairman, I desire to offer an amendment to the paragraph just read.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amend, line 23, page 36——

Mr. MANN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MANN. Has that paragraph been read?

Mr. MOORE of Pennsylvania. This is an amendment to the Mississippi River paragraph.

Mr. MANN. The gentleman puts in an amendment ahead of what has been read.

Mr. LAWRENCE. Mr. Chairman, I suggest the Clerk read the next paragraph.

Mr. MOORE of Pennsylvania. Mr. Chairman, I did not want to lose my place, that is all.

Mr. MANN. We have not reached the gentleman's place yet.

Mr. DYER. Mr. Chairman, I desire to offer an amendment in the nature of a new paragraph at the end of this paragraph.

The CHAIRMAN. The committee has under consideration the amendment offered by the gentleman from Pennsylvania [Mr. MOORE].

Mr. MOORE of Pennsylvania. I think the amendment comes in properly here; it is an amendment to the paragraph on page 36.

Mr. EDWARDS. Mr. Chairman, I make the point of order that that paragraph has been already passed.

The CHAIRMAN. The whole paragraph is pending, the Chair understands.

Mr. DYER. Mr. Chairman, I offer an amendment as a new paragraph at the end of the paragraph just read.

The CHAIRMAN. The gentleman from Pennsylvania offers an amendment which the Clerk will report.

The Clerk read as follows:

Amend, line 23, page 36, by inserting, after the word "levees," the following: "which shall be considered extraordinary emergency work."

Mr. MOORE of Pennsylvania. Mr. Chairman, is that debatable?

The CHAIRMAN. It is not. The question is on the amendment offered by the gentleman from Pennsylvania.

The question was taken, and the amendment was rejected.

Mr. DYER. Mr. Chairman, I offer this as a new paragraph.

The CHAIRMAN. The Clerk will report the amendment of the gentleman from Missouri.

The Clerk read as follows:

After line 14, page 37, insert as a new paragraph:

"That the sum of $20,000,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be expended, or so much thereof as may be necessary, under the direction of the Secretary of War in accordance with the plans, specifications, and recommendations of the Mississippi River Commission, as approved by the Chief of Engineers, for the purpose of maintaining, raising, and protecting against the impending and possible future floods the levees on the Mississippi River, as well as the rivers tributary thereto."

[Cries of "Regular order!"]

Mr. DYER. Mr. Chairman, I submit to the Chair that this is not an amendment, but is a new paragraph.

The CHAIRMAN. The gentleman from Missouri [Mr. DYER] does not offer it as an amendment, but an independent section.

Mr. DYER. This is the substance of a bill which I introduced into the House on the 6th of last May, and it is in substance a law that will have to be enacted if Congress is to cover this situation on the Mississippi River and the floods that come from time to time. It has been stated here that appropriating money piecemeal from Congress to Congress to protect the people and property is not satisfactory. The engineers of the Government have decided that the levees can be raised to protect the property and to prevent overflows, and if that can be done, Mr. Chairman, it certainly ought to be done, and it ought to be done by the United States. The vast amount of property involved in the protection and raising of the levees to prevent overflows is of so vast importance that it must and will come in the near future. I present this to the committee for its consideration, with the hope that I may bring it to their attention and to the attention of the Committee on Rivers and Harbors in such a way that they will begin a careful and scientific investigation of this project, with the hope that in the near future we may secure a law and sufficient appropriation to raise the levees for good. [Applause.]

Mr. Chairman, the raising of the levees of the Mississippi River so as to prevent overflows affects many of the great States of this Union. Within its watershed, in whole or in great part, are the following States: Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, West Virginia, Wisconsin, and Wyoming. The Chief of Engineers of the Army stated to me that for substantially the amount carried in this amendment the levees can be raised to prevent overflows. When the levees have been raised to prevent overflows then the swamp and overflowed land can be drained and made healthy and fit for agriculture. There are 77,000,000 acres of this land, and divided into farms of 40 acres it would provide homes for 1,925,000 families. Swamp lands, when drained, are extremely fertile, requiring but little commercial fertilizer, and yield abundant crops. They are adapted to the growth of a wide range of products, and in most instances are convenient to good markets. While an income of $15 to $20 per acre in the grain-producing States of the

Middle West is considered profitable, much of the swamp lands in the East and South would, if cultivated in cabbages, onions, celery, tomatoes, and other vegetables, yield a net income of more than $100 per acre.

In addition to the immediate benefits that accrue from the increased productiveness of these lands, a greater and more lasting benefit would follow their reclamation. The taxable value of the Commonwealth would be permanently increased, the healthfulness of the community would be improved, mosquitoes and malaria would be banished, and the construction of good roads made possible. Factories, churches, and schools would open up, and instead of active young farmers from the Mississippi Valley emigrating to Canada to seek cheap lands, they would find better homes within our own borders.

The following is substantially an accurate estimate of the number of acres of swamp and overflowed lands, by States, that may be reclaimed for agriculture if the levees of the Mississippi are raised sufficiently to prevent overflows, which can and will be accomplished through the enactment of the amendment I have presented to this bill, to wit:

	Acres.
Alabama	1,479,200
Arkansas	5,911,300
California	3,420,000
Connecticut	30,000
Delaware	127,200
Florida	19,800,000
Georgia	2,700,000
Illinois	925,000
Indiana	625,000
Iowa	930,500
Kansas	359,380
Kentucky	444,600
Louisiana	10,196,605
Maryland	192,000
Maine	156,520
Massachusetts	59,500
Michigan	2,947,459
Minnesota	5,832,308
Mississippi	5,760,200
Missouri	2,439,000
Nebraska	512,100
New Hampshire	12,700
New Jersey	326,400
New York	529,100
North Carolina	2,748,160
North Dakota	200,000
Ohio	155,047
Oklahoma	31,500
Oregon	254,000
Pennsylvania	50,000
Rhode Island	8,064
South Carolina	3,122,120
South Dakota	617,480
Tennessee	639,600
Texas	2,240,000
Vermont	23,000
Virginia	800,000
Washington	20,500
West Virginia	23,900
Wisconsin	2,360,000

These lands, after they have been drained and made fit for agriculture, will be worth from $60 to $100 per acre. Taking the lowest estimate of $60 per acre, the cash value of these 77,000,000 acres of land would be $4,620,000,000. These lands as they now stand are not worth to exceed $8 per acre. You can therefore see the greatness of this project and that it is worth while for Congress to give it serious consideration.

Mr. BARTHOLDT. Mr. Chairman, I wish to reply briefly to some statements made here a little while ago by the gentleman from Louisiana [Mr. RANSDELL]. I trust my friend from Louisiana did not intend to convey the impression to the country that there is an antagonism between the friends of the levee system and the friends of another system, namely, the reservoir system, to protect the lands of the South.

Mr. RANSDELL of Louisiana. Mr. Chairman, I wish to say to the gentleman that I had no such idea at all. I was simply trying to convey the idea that the only two systems I had heard suggested were levees and reservoirs, and the cost of the reservoirs, as laid down, was $500,000,000 to $1,000,000,000, and it was impractical.

Mr. BARTHOLDT. Mr. Chairman, at ordinary times there is no question but that the levee system is sufficient to protect the lands, but when the floods of all the rivers that are tributary to the Mississippi come together, as they did last year, it is demonstrated that the levee system is not entirely sufficient to protect them. And therefore, as supplementary to the levee system——

Mr. SPARKMAN. Mr. Chairman, I make the point of order that the gentleman is not talking to the amendment. He is talking upon an entirely different subject.

Mr. BARTHOLDT. I am coming to that. My remarks will have relation to the amendment offered by the gentleman from Missouri [Mr. DYER].

I wish to make this point clear, that we do not oppose the levee system, but are heartily in favor of it, but it is only the question of a vast amount of money that perhaps prevents this country from embarking upon a new policy for more efficiently protecting the lands of the South from floods such as we had last year.

Mr. SPARKMAN. Mr. Chairman, I do not wish to appear discourteous to any gentleman, but it is very important we must get this bill through very soon, and to get it to the Senate as early as possible, and we hope to finish it this afternoon.

Mr. BARTHOLDT. These are the only five minutes I have consumed on this bill, and I thought the remarks of the gentleman from Louisiana were important enough to justify the consumption of five minutes, which I did.

Mr. MOORE of Pennsylvania. Mr. Chairman, I wish to speak against the amendment. At this point, Mr Chairman, let us note that $30,000,000, in addition to what is already appropriated in this bill, is suggested by the amendment for the construction of levees along the Mississippi River, and it seems appropriate now to say one or two things that ought to be said with regard to the Mississippi River appropriation. I have a table of statistics here, prepared by Emory R. Johnson for the White House conference in 1907, showing just what has been spent on the rivers and harbors in this country since the first appropriation.

In that time, up to 1907, Congress had expended altogether a total of $552,000,000. I will put the accurate figures in the RECORD. On the Atlantic coast, since the year 1802, for all the great commerce of this country for more than 100 years, there was expended $141,000,000 of this total.

The statement of Prof. Johnson is as follows:

Congressional appropriations for the survey, improvement, and maintenance of harbors and waterways of the United States, by periods and divisions.

Division.	Date of earliest appropriation.	Appropriations.			
		Total.	Up to and including 1890.	1891 to 1906, inclusive.	Mar. 2, 1907.
Atlantic coast	1802	$141,162,391	$56,448,541	$73,821,326	$10,892,524
Gulf of Mexico	1826	64,292,362	21,065,470	38,027,940	5,198,952
Pacific coast	1852	34,061,782	10,248,592	21,204,544	2,608,346
Great Lakes	1823	97,791,108	37,522,937	50,980,283	9,287,888
Mississippi Valley	1819	209,484,720	84,211,783	115,457,054	8,815,883
Lake Champlain	1836	1,347,910	1,133,660	211,750	2,500
General	1824	[1] 5,802,752	3,408,903	1,743,849	650,000
Total		[2] 552,943,025	214,039,886	301,447,046	37,456,093

[1] Includes general appropriation items for removal of wrecks, examinations, surveys, and contingencies which are not capable of being segregated according to divisions.

[2] Does not include appropriations for the following: California Débris Commission, Permanent International Commission of Congresses of Navigation, International Waterway Commission, improvement of harbors and waterways in insular possessions, prevention of deposits in New York Harbor, bridge construction.

Up to and including 1890 the congressional appropriations amounted to 38.7 per cent of the total shown in this table. From 1891 to 1906, inclusive, 54.5 per cent of the total was appropriated, while the rivers and harbors act of March 2, 1907, authorized the expenditure of 6.8 per cent. The waterways of the Mississippi Valley, including the Red River (of the North), have received 37.7 per cent of all congressional appropriations for the improvement and maintenance of harbors and waterways; the harbors and streams of the Atlantic coast, 25.5 per cent; those of the Great Lakes, 17.7 per cent; the Gulf of Mexico, including the delta and passes of the Mississippi, 11.6 per cent; the Pacific coast, 6.2 per cent; and Lake Champlain, two-tenths of 1 per cent.

Mr. MANN. Mr. Chairman, will the gentleman yield to me for a question?

The CHAIRMAN. Does the gentleman from Pennsylvania yield?

Mr. MOORE of Pennsylvania. No; I regret I can not. I have not the time. The Gulf of Mexico received $64,000,000; the Pacific coast only $34,000,000; the Great Lakes $97,000,000; Lake Champlain a little over a million; miscellaneous about five millions; and Mississippi Valley $211,000,000. This out of the total of $552,000,000.

Now, since these figures were prepared and published, indicating the manner in which the money for rivers and harbors has been distributed for commerce and navigation in the country, statistics have been prepared by the National Rivers and Harbors Congress for the five years intervening between 1907 and 1912. In those five years Congress has expended, in addition to the $552,000,000 up to 1907, a total of $179,000,000.

Now, of that additional total of $179,000,000, the Pacific coast has received $19,000,000; the Atlantic seaboard, with its tremendous commerce, has received $50,000,000; and the Mississippi River, the Great Lakes, and the Gulf territory have taken $110,000,000. In this bill you have provided for the Missouri

River legislation which will take $20,000,000 before you can complete the work or before you have proven that the work can be done. In this bill you have also a project for the improvement of the Mississippi River levees that will run up to $100,000,000 more. You also have inserted a provision for the Ohio River that will spell $63,000,000 before it is accomplished.

Now, while I am on this topic I want to say that the customs receipts of this country, which are not exclusive to the Atlantic seaboard, but which are representative of the business of the entire country, amounted to $311,000,000 for the year 1912, and of that total $265,000,000 came in substantially at four ports on the Atlantic seaboard that are here begging for improvements, while the rest of the country contributed of those customs revenues only $46,000,000. The Atlantic coast gets 25 per cent of the appropriations you make for the improvement of rivers, and on the Atlantic coast are held back other important projects that would prove to be revenue producers; and yet the Mississippi Valley in five years takes, out of a total of $179,000,000, $110,000,000. Still you put in the law a provision for a $100,000,000 Mississippi improvement, and gentlemen come in here for $30,000,000 more. It does not seem to me a reasonable or fair distribution of the revenues of this country.

Mr. MADDEN. Who consumes the merchandise on which the duties are paid at the port of New York?

Mr. MOORE of Pennsylvania. The people.

Mr. MADDEN. Yes; the people of the whole country. I just wanted to elicit that information from the gentleman by that question.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Missouri [Mr. DYER].

Mr. MANN. Mr. Chairman, I do not know how much of the $265,000,000 collected at the four ports on the Atlantic seaboard is collected at Philadelphia. May I ask the gentleman from Pennsylvania how much it is?

Mr. MOORE of Pennsylvania. Twenty-one million dollars.

Mr. MANN. It was a very nice thing to say that $265,000,000 had been collected "at four ports."

Mr. Chairman, ever since I have served in this House alongside of my distinguished friend from Philadelphia I have recognized him as an exponent of the proposition that the Government ought to improve rivers and harbors. In fact, there was a time when I was led to believe that my distinguished friend from Pennsylvania was really trying to appropriate too much money for the improvement of rivers and harbors. But to-day my idol is shattered and falls to the ground.

The gentleman from Pennsylvania for the last two or three days, while this bill has been up for consideration, has done everything he could to prevent its passage, opposing various propositions that are in the bill, while assuming and assuring the House that he really was in favor of them. Think of my friend from Pennsylvania, whom we had placed upon a pedestal as being in the lead in the way of river and harbor improvement, now standing and fighting each of the items as they become a law. Why, I thought my friend from Pennsylvania was the president of half a dozen different associations designed to extract money out of the Treasury for the improvement of rivers and harbors. I have heard the gentleman time and again ask leave to extend his remarks in the RECORD for the purpose of inserting something in favor of great appropriations for rivers and harbors.

Mr. MOORE of Pennsylvania. And they have been denied.

Mr. MANN. Yet the gentleman is doing his best now to prevent the passage of this river and harbor bill in time for it to be considered at the other end of the Capitol so that it may become a law. I fear that in the future I may not be able blindly to follow my friend from Philadelphia along the lines in favor of river and harbor improvements, because I shall never know when he is going ahead and when he is backing up. [Laughter.]

The CHAIRMAN. The question is on the motion of the gentleman from Missouri [Mr. DYER].

The question being taken, the amendment was rejected.

The Clerk read as follows:

Any funds which have been, or may hereafter be, appropriated by Congress for improving the Mississippi River between the Head of Passes and the mouth of the Ohio River, and which may be allotted to levees, may be expended, under the direction of the Secretary of War, in accordance with the plans, specifications, and recommendations of the Mississippi River Commission, as approved by the Chief of Engineers, for levees upon any part of said river between the Head of Passes and Rock Island, Ill.

Mr. FOWLER. I reserve a point of order against this paragraph.

Mr. YOUNG of Michigan. Will not the gentleman make it?

Mr. FOWLER. I want to ask the gentleman from Florida [Mr. SPARKMAN] why there is an effort in this paragraph to place a limitation upon what future Congresses may do?

Mr. SPARKMAN. In what respect are we trying to do that?

Mr. FOWLER. This paragraph reads:

Any funds which have been or may hereafter be appropriated.

Mr. SPARKMAN. We wish to limit this appropriation and all other similar appropriations in so far as we can limit them to the purposes mentioned. Of course, I understand, and everyone else understands, that we can not limit the actions of future Congresses. Any other Congress, like this, can do as it pleases; but so far as future Congresses are concerned, we want to emphasize the fact that we do not desire to extend the jurisdiction of the Mississippi River Commission over levees beyond the point where it now reaches or permit that commission to expend money on levees except for the purposes herein contemplated.

Mr. FOWLER. Why not strike out the words "or may hereafter be"?

Mr. SPARKMAN. Because the River and Harbor Committee thought those words should be in the bill.

Mr. FOWLER. Have they been carried before?

Mr. SPARKMAN. They do no harm, and they may do some good. We think they serve a good purpose there.

The CHAIRMAN. What is the gentleman's point of order?

Mr. SPARKMAN. He has not made any point of order. He has simply reserved it.

Mr. FOWLER. I reserve the point of order, Mr. Chairman.

The CHAIRMAN. What is it?

Mr. FOWLER. I was trying to get information from the chairman of the committee, to see whether the point of order should be made or not.

The CHAIRMAN. Very well.

Mr. YOUNG of Michigan. Regular order!

Mr. FOWLER. The point of order is that the words in line 1 appear to place a limitation upon the action of future Congresses, which I do not believe this House has the right to do.

Mr. YOUNG of Michigan. Will the Chair rule?

The CHAIRMAN. The point of order is not well taken.

Mr. GARRETT. Mr. Chairman, I move to strike out the last word. This paragraph does, of course, extend the power of the Mississippi River Commission very much and takes in a considerable stretch of river which has not heretofore been under the jurisdiction of that commission.

When the Mississippi River Commission was created 30 years ago or more it was given jurisdiction from the mouth of the Ohio to the Head of Passes. This makes a very great departure. It extends its jurisdiction—and I really think there ought to be an explanation from the committee, to go into the RECORD, as to why that is done. It seems to me it would not be amiss to have a five-minute explanation, at least, of the reason for the extension of the jurisdiction of the commission.

Mr. SPARKMAN. If the gentleman had been present the other day during general debate on this bill, he would have heard as clear an explanation of that matter as I am capable of making. It was gone into quite fully then. But I will again briefly explain. There had been for some time quite a demand for the partial extension of the jurisdiction of the Mississippi River Commission from Cape Girardeau up to Rock Island, so as to place that section of the river, in the matter of levee construction, on the same footing with that below, the claim being that there was no difference between the two sections in that particular, a claim which appeared to be well founded. So after considering the matter carefully the committee concluded to meet that demand, which it thought had considerable merit, by inserting this paragraph, which has the effect of thus extending the jurisdiction of the Mississippi River Commission up to Rock Island, Ill., in so far as the construction of levees is concerned, but only in the interests of navigation, not for the purpose of protecting private property or anything of that kind, the committee considering any matter other than that of navigation foreign to the purposes of a river and harbor bill. It will be observed that the whole matter is left to the discretion of the Mississippi River Commission and the Chief of Engineers to say whether any expenditure is for the benefit of navigation.

The CHAIRMAN. The pro forma amendment is withdrawn, and the Clerk will read.

Mr. MONDELL. Mr. Chairman, I move to strike out the paragraph. Mr. Chairman, this paragraph enlarges the power of the Mississippi River Commission. The gentleman from Louisiana [Mr. RANSDELL] eulogizes that commission. I have no doubt but that they are high-minded, patriotic gentlemen, but I think if we had in our employ men who had spent as much

money as these men have spent, or as has been spent under their direction, and secured so little benefit from the expenditure we would discharge them rather than enlarge their powers.

The trouble is these gentlemen are circumscribed in their efforts, cribbed and confined in their opportunities to do the right thing by reason of the fact that the gentlemen who are in control of these matters refuse to acknowledge the truth, and that is that we are protecting, and we desire to protect, private property. The commission is proceeding on the theory—and I use the word advisedly, because the gentleman from Louisiana used it when he said the appropriations were all on the theory that they aid navigation, and if they were not on that theory they would not be made, he said. Why, certainly not. What is the theory in face of an established policy which we have been following for years against which there is no opportunity for anyone to do more than protest, as I have been trying to do. My protest is not against the real object of the expenditure, but against the smug hypocrisy which refuses to acknowledge what we are attempting to do. It is that which makes the expenditure largely futile, because the commission can not recommend the expenditures in such a way as to make them really effective. They must pretend they aid navigation.

If they could recommend expenditures for levees, leaving such channels as would carry the floods of the river, then the expenditures would be of some permanent benefit. So far as aiding navigation, we all know that last year it cost about $30 a ton in expenditure for every ton of freight that went over certain reaches of the river. We all know that after the expenditure of over a hundred millions there is much less navigation on the river than there was years ago.

Now, gentlemen, let us acknowledge what we are doing and proposing to do. Acknowledge the national responsibility for the floods of the Mississippi River, for protecting property along the stream, and let us do it in an intelligent and effective way, and in doing it improve as much as we may the navigation of that great stream. So long as we continue to try to fool ourselves and the American people that we are building levees wholly in the interest of navigation we must so build them that they will have some appearance of being in the interest of navigation and, consequently, so build them in many instances, as the gentleman from Tennessee has just pointed out, that they do harm rather than good by confining the waters of the river in too narrow a channel. Let us so build them as to give free passage for floods, and thus effectually accomplish the protection of property and at the same time improve the river navigation.

Mr. SPARKMAN. Mr. Chairman, I ask unanimous consent that all debate on the pending paragraph and amendments thereto be closed in five minutes.

The CHAIRMAN. The gentleman from Florida asks that all debate on the paragraph and amendments thereto close in five minutes. Is there objection?

There was no objection.

Mr. AUSTIN. Mr. Chairman, I want to appeal to my colleagues on this side of the House to give us an opportunity, in the interest of public business, to go forward with the consideration of this bill. [Applause.] We have 31 working days before the final adjournment of this Congress. There are 11 supply or appropriation bills. There are 4 of them that have not been reported to this House, and only 1 of the 11 has passed both Houses of Congress, and that bill has not so far received the approval of the President of the United States.

Here is a calendar with thirty-odd pages of general and private bills. More than 400 or 500 general and private bills and 11 supply bills of the Government awaiting us, and here we are killing time—making motions and objecting and wasting valuable time.

This bill is a meritorious measure. This great committee that has brought it in is deserving of commendation on both sides of this House. It is not deserving of the unjust criticisms that have been made. This bill is practically above criticism and condemnation. No appropriation committee in this House is hedged about with more safeguards in the interest of the legitimate expenditure of public moneys than the Committee on Rivers and Harbors. The chairman of it is a Member of long standing in this House, competent, worthy, and deserving the confidence of all his colleagues. The men who are associated with him in the preparation of this bill, Republicans and Democrats, have the interest of our country at heart. They have brought in for our consideration this measure which awaits our approval. Do not let us trifle away any more of the valuable time that belongs to the people of this great country. Here we have spent almost an entire afternoon on less than 3 pages of a great measure which runs into 60 pages. It is not creditable to the membership of this House. We can not change the paragraphs in this bill, for the Members are determined to sustain this committee, and I appeal to my Republican colleagues to let us proceed in an orderly and creditable manner, in the interest of the American Congress and to our own honor and credit. [Applause.]

The CHAIRMAN. The question is on the motion of the gentleman from Wyoming to strike out the paragraph.

The question was taken; and the motion was rejected.

The Clerk read as follows:

Improving Mississippi River from the mouth of the Ohio River to and including the mouth of the Missouri River: Continuing improvement and for maintenance, $1,000,000.

Mr. MOORE of Pennsylvania. Mr. Chairman, I move to strike out the last word. I presume I am one of those gentlemen on this side who is subject to the strictures of my very good friend from Tennessee [Mr. AUSTIN]. I note with great concern how gentlemen sometimes get anxious toward the close of the day for the passage of an undigested bill that contains large appropriations for their benefit. [Applause on the Republican side.] I am surprised that a Democratic House should insist upon pushing through a measure carrying $40,000,000 without a fair opportunity to debate some new problems that are being injected into the legislation of the country through this measure. Surely my friend from Tennessee does not want us to pass through this bill and bind ourselves to a policy with regard to the construction and taking over of dams and the assignment of water-power rights? That is being done in this measure. Why not let us discuss it here? Surely my friend does not want to drive us incidentally into the business of building levees along great rivers without an opportunity to discuss whether or not we should embark upon so important a policy. That ought to be fairly considered as new matter in the House.

My friend from Louisiana [Mr. RANSDELL], eloquent and forceful as he always is on these waterway propositions, has referred to the fact that the great national conventions have approved this levee system.

Mr. SPARKMAN. Mr. Chairman, the gentleman asserts that this bill has provisions in it for the purpose of taking over water-power rights and all that class of things. I would like to have him point out that provision.

Mr. MOORE of Pennsylvania. Mr. Chairman, I do not care to go any further into a discussion of that than is warranted in the five minutes of time which I have.

Mr. SPARKMAN. Mr. Chairman, I want to say that I know of no such provision in the bill.

Mr. MOORE of Pennsylvania. Mr. Chairman, I want to say with reference to the gentleman from Louisiana [Mr. RANSDELL], whom I highly respect as one of the most conscientious men in this House, that if he were to tell all he knows about the planks put into the platforms of my party and his party he would probably tell us a story that could be boiled down to the brain and ingenuity of one man. I am getting a little tired of planks in platforms, whether in the Democratic or Republican Parties, for too often they mean only what one man says.

The gentleman from Wyoming [Mr. MONDELL] has discussed the Mississippi River Commission. I grant that it is made up of strong and earnest men. It was created by act of Congress, June 28, 1879. They have been in business 34 years. Their business when created in 1879, with an appropriation of $175,000, was—

To direct and complete such survey of said river between the Head of Passes, near its mouth, to its headwaters as may now be in progress, and to make such additional surveys—

And so forth.

That identical language is given in this bill as an excuse for their expenditure of over $9,000,000 this coming year. When is the work of the Mississippi River Commission to cease? They have been at it since 1879. They have been working on this river—which only five years ago, when the engineers were forced to report upon the commerce of the stream, had but 4,300,000 tons of commerce, or one-sixth of the commerce upon the 60 miles of the Delaware River alone; and yet gentlemen resist our right to speak of these things when amendments are being brought in adding $30,000,000 more to $100,000,000 contemplated to be expended by this commission. Take it out of this bill; put the Mississippi River Commission on a basis of its own. Treat that problem apart from commerce and navigation, because it does not concern it, and make it what it is. Do what the gentleman from Wyoming suggests—make this a separate service, and attend to it as it should be attended to, and let commerce and navigation have the benefit of these appropriations.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

The Clerk read as follows:

Improving Osage River, Mo.: Continuing improvement and for maintenance, $15,000.

Mr. MONDELL. Mr. Chairman, I move to strike out the paragraph. Mr. Chairman, I do not like to talk about the Gasconade and Osage in disparagement; they are down there in Missouri, where I lived as a boy. I am kindly disposed to the people who occupy that territory in their desire to secure appropriations. I find from the report of the engineers on the Osage—it is about the same on the Gasconade—we have spent very large sums on both rivers:

The original condition was one of alternate pools and shoals, with snags and overhanging trees. The first project or plan was general in its nature—

It certainly had to be general.

The first appropriation was made in 1871, and no estimate of cost or time limit was adopted.

There has been no time limit; they have kept it up ever since.

The removal of obstructions under this plan contemplates maintenance—

Certainly we must maintain these improvements, because the people have no use for them in navigation, and otherwise they would go to destruction.

The obstructions will form anew, and while the cross and wing dams have a degree of permanency, they must receive frequent repair and extension to keep up their efficiency.

However, by the expenditure of, I think, a little less than $1,000,000 on this beautiful little stream, the Osage, they have accomplished this result:

The result of the expenditure has been to increase the depth over the shoals, remove obstructions, and keep open navigation—

Not that there is any to keep open. [Laughter.]

The least depth at low water over shoals is 1½ to 2 feet, while in the pools the depth ranges from 5 to 15 feet.

There are some beautiful swimming holes down on the Osage [laughter and applause] and the Gasconade, and long may they be a delight to boyhood, as they were to me and my companions in my early days down there in Missouri. While these improvements can be of no special aid to commerce, I hope they will not destroy the swimming holes. Mr. Chairman, I withdraw my amendment. [Laughter and applause.]

The Clerk read as follows:

Improving harbor at Coos Bay, Oreg.: For maintenance of the completed channels in Coos Bay and equipping and operating the bar dredge heretofore authorized, $80,000.

Mr. SPARKMAN. Mr. Chairman, I desire to offer a committee amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 40, at the end of line 21, insert the following:

"And the Secretary of War is authorized and directed to use any additional money that may be placed at his disposal by the board of Coos Bay or by any other organization or individuals for the improvement of the inner harbor of Coos Bay, and the said Secretary is also authorized, in his discretion, to use any Government plant available in connection therewith at such times as it may not be needed and employed on other work authorized by Congress."

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

SEC. 2. That for examinations, surveys, and contingencies for rivers and harbors, for which there may be no special appropriation, the sum of $250,000 is hereby appropriated: *Provided*, That no preliminary examination, survey, project, or estimate for new works other than those designated in this or some prior act or joint resolution shall be made: *Provided further*, That after the regular or formal reports made as required by law on any examination, survey, project, or work under way or proposed are submitted no supplemental or additional report or estimate shall be made unless ordered by a concurrent resolution of Congress: *And provided further*, That the Government shall not be deemed to have entered upon any project for the improvement of any waterway or harbor mentioned in this act until funds for the commencement of the proposed work shall have been actually appropriated by law.

Mr. WATKINS. Mr. Chairman, I desire to offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

On page 44, section 2, line 17, after the word "appropriated," add the following: "of which sum $40,000, or so much thereof as may be necessary, is to be used to protect the caving banks of Red River at Coushatta, La."

Mr. WATKINS. Mr. Chairman, I would like at least an opportunity of explaining the situation which prevails there before the vote is taken. The situation is the same as it was or is at Pine Bluff, Ark., for which there is an appropriation on page 20 in the amount of $48,000, part of which is to protect the caving banks at Pine Bluff. The town of Coushatta is situated on the Red River, La. The banks have been caving there and are liable at any time in the night to go into the river. A surveyor went there, Capt. Smith, some time ago, and his report is in, and I suppose the committee has had access to it, because I filed a bill here (H. R. 27204) in which I asked that Coushatta be protected from the caving banks. Capt. Smith was to be at Coushatta at some time, but the citizens did not know at what time he was to come. He was sent there by the War Department—by the Chief of Engineers. He got there in the night, the train being late—about 2 o'clock in the morning. When he got to Coushatta he was not met by anyone and did not know where the hotel was, so he states he spent the time from the time he arrived there at 2 o'clock in the morning on the store galleries waiting to see some one to tell him where the hotel was. He was to leave early in the morning. He met the mayor of the town, and he went and looked at the caving banks, and his report, on a casual examination and opinion, was that the town will not be destroyed by this caving bank; but if it should be, that it will not be in the interest of navigation to remedy the trouble.

The situation there is identical with that at Pine Bluff. It may be, and in all possibility is, a fact that navigation will not be seriously injured, or, at least, not be destroyed by the caving in of these banks at Coushatta. But since Capt. Smith's report was made a large part of the town has gone into the river. Several houses have caved into the river. The district attorney's residence, one of the handsomest in the town, has had to be removed recently, as well as the Baptist Church. The House of the superintendent of education and the mayor's house will have to be moved soon. The people are watching the river, and the Army engineer is making a report that it is not in the interests of navigation and commerce that relief be had. There is a brick store on the bank of the river which it appears will cave in in a short time if this relief is not granted. It is supposed that in the neighborhood of $20,000 to $40,000 is needed to protect the situation.

Mr. HUMPHREYS of Mississippi. He asked that $40,000 be diverted——

Mr. WATKINS. Or so much thereof as may be necessary.

Mr. HUMPHREYS of Mississippi. Has the gentleman any information at all as to what will be necessary?

Mr. WATKINS. The engineer's report stated that it would take 20 cents a foot, and he was not certain as to the exact distance up and down the river, but that at the utmost it would not take more than $40,000, and probably that $20,000 would afford relief.

Mr. CALLAWAY. Will the gentleman yield?

Mr. WATKINS. I will.

Mr. CALLAWAY. I understand the engineer's report on that is that it would not help commerce and navigation at all, but simply protect the property, and that the rule of the Committee on Rivers and Harbors is that no business will be considered except that which protects commerce and navigation?

Mr. WATKINS. But there was the same condition at Pine Bluff.

Mr. CALLAWAY. That was prior to the time this great committee had this salutary rule that we should not spend money except for commerce and navigation.

Mr. WATKINS. All of us joined, and were glad to join, last spring in voting to contribute millions of dollars to protect the sufferers from overflow of the levees on the Mississippi River.

Mr. CALLAWAY. But that is the only time this great committee has ever violated this salutary rule, is it not?

Mr. WATKINS. I think not; no.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. WATKINS] has expired.

Mr. CALLAWAY. Mr. Chairman, I move to strike out the paragraph. I want to find out about this thing. Is not that the only time this great committee ever departed from this salutary rule?

Mr. WATKINS. I think not. My impression is that in the State of Louisiana, the city of Alexandria, the same proposition was favorably acted on and relief was granted.

Mr. CALLAWAY. Your opinion is that they never have regarded the rule at all except when it suited the interested parties backing the bills?

Mr. WATKINS. I say as a general rule it is a safe one. But there are exceptions. Here we find a whole town tumbling into the river, and people are at the mercy of the engineers, because they decide that under the technicalities it would not affect commerce and navigation. The banks at Coushatta are caving in, and when those banks are caved in the river will be diverted and the navigation will be very seriously injured, if not destroyed, at that point.

Mr. CALLAWAY. Was not the objection the committee made in considering the motion of the gentleman from Tennessee that

it did not affect commerce and navigation? Were you in here when the committee turned down the amendment offered by the gentleman from Tennessee [Mr. MCKELLAR] saying that private property there was being injured by the levee? He needed help to protect this private property, the electric-light plant, and so forth.

Mr. WATKINS. I was here at the time and heard the argument, and was present during the vote; but the committee voted that proposition down. As to why they did I am not prepared to say.

Mr. CALLAWAY. You do not think the reason given by the gentleman from Mississippi [Mr. HUMPHREYS] was the real reason for the committee's action at all?

Mr. WATKINS. I am not responsible for the reason that each member of the committee had for voting. Personally, I did not vote on it at all.

Mr. CALLAWAY. The thing I am trying to get at is the rule on which this committee acts in shoveling out this forty millions of public money. I would like to find some man to give a rule by which they appropriate it. The members of this committee have been told that their pretensions were hypocritical, and they sit as silent as the tomb and make no reply, but the grim determination on their faces shows they intend passing this bill just as it comes from the committee. They have adjusted the balances. Each has got his share in the bill.

Mr. SPARKMAN. The gentleman from Louisiana [Mr. WATKINS] gives two good reasons why his amendment should not be adopted. In the first place he admits there is no project for it.

Mr. CALLAWAY. What does the gentleman call a "project"?

Mr. SPARKMAN. "A project" is a plan for an improvement with estimates furnished by the engineers, so as to advise Congress just what the proposition is likely to cost, with a recommendation at least by the Chief of Engineers that the work be undertaken. That is to say——

Mr. CALLAWAY. Does the gentleman mean to say——

Mr. SPARKMAN. If the gentleman wants an answer, he should let me finish the sentence. If he does not want an answer, all right.

Mr. CALLAWAY. Let me proceed slowly, so that I can digest it. Does the gentleman mean to say that he has an engineer located at each point, who makes a report showing what it will cost the Government to complete each project?

Mr. SPARKMAN. That is what I mean to say.

Mr. CALLAWAY. Does the gentleman mean to say he has got that all in this little committee report—all the information he proposes to give to the House in justification of the expenditure of $40,000,000?

Mr. SPARKMAN. My eyes are not good enough at this distance to enable me to identify what the gentleman holds in his hand, but if it is the report of the Committee on Rivers and Harbors, of course it does not contain all of those things. The gentleman would find most of them, however, in a volume of this size, a volume such as I am now exhibiting, but of course not all of them.

Mr. CALLAWAY. The House has not got that. The House is not in possession of the reasons why the committee is acting in this way, advising the House to spend $40,000,000.

Mr. SPARKMAN. If the gentleman will exercise the power which his commission as a Representative in Congress gives him, and will go out to the document room yonder, he can procure this document, and then, if he is industrious enough, as I presume he is, and patriotic enough, as I assume he is, he will read and digest all those things, and in that way he may become possessed of the desired information.

The CHAIRMAN. The time of the gentleman from Texas [Mr. CALLAWAY] has expired. The question is on the amendment to the amendment.

Mr. FOWLER. Mr. Chairman, I move to amend the amendment by adding——

The CHAIRMAN. A proposition to amend the amendment has already been made.

Mr. FOWLER. By adding the following:

And the falling banks of the Wabash River at Maunie, Ill.

The CHAIRMAN. There is an amendment to the amendment already pending. The gentleman from Illinois [Mr. FOWLER] offers an amendment in the third degree, which is not in order. The question is on agreeing to the amendment offered by the gentleman from Texas [Mr. CALLAWAY] to the amendment of the gentleman from Louisiana [Mr. WATKINS].

Mr. FOWLER. Mr. Chairman——

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Texas to the amendment offered by the gentleman from Louisiana. That amendment to the amendment is to strike out the paragraph.

Mr. FOWLER. Mr. Chairman, there was no point of order made against my amendment to the amendment by any gentleman on the floor of this House.

The CHAIRMAN. The Chair is aware of that, but that is the rule of the House. An amendment in the third degree can not be entertained. The Chair is simply enforcing the rule.

Mr. FOWLER. Is it true, Mr. Chairman, that this amendment can not be offered to the amendment which is pending?

The CHAIRMAN. There is already an amendment pending to the original proposition, and there is an amendment to that pending. That is all that can be entertained by the House at once.

Mr. FOWLER. I did not understand, Mr. Chairman, that there was an amendment to the amendment pending——

The CHAIRMAN. The gentleman from Illinois is mistaken——

Mr. FOWLER (continuing). Which was a pro forma amendment to strike out the last word.

The CHAIRMAN. That was not the amendment.

Mr. FOWLER. And that was withdrawn.

The CHAIRMAN. No; the amendment was to strike out the paragraph, and that was not withdrawn. The question is on agreeing to the amendment offered by the gentleman from Texas [Mr. CALLAWAY] to the amendment of the gentleman from Louisiana [Mr. WATKINS].

The question was taken, and the amendment to the amendment was rejected.

Mr. FOWLER. Now, Mr. Chairman, I renew my amendment to the amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Illinois [Mr. FOWLER].

The Clerk read as follows:

Add to the amendment the following: "And the falling banks of the Wabash at Maunie, Ill."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. FOWLER].

Mr. FOWLER. Mr. Chairman, I desire to be heard on the amendment.

The CHAIRMAN. The gentleman will be heard if he desires.

Mr. FOWLER. Mr. Chairman, the falling of the banks or the caving of the banks at Maunie, Ill., has been going on for a number of years to such an extent that they are filling up the channel of that river, which is one of the greatest rivers in the Mississippi River system. A few thousand dollars could be well expended there, the same as in the case of the gentleman who offered the original amendment, as I understand, and it would relieve the situation and thereby give a better chance for navigation.

I believe, Mr. Chairman, that this committee is made up of a number of the wisest men in this Congress. [Applause.] I have great respect for the opinion of that committee and of each member thereof, and I believe that they have sought to give justice to every proposition which has come before them. But I believe that there are propositions which are not provided for in this bill which are just as meritorious as some of those which have been provided for. I understand that the river provided for in the original amendment as well as the river whose navigation I have offered to protect by my amendment to his amendment is of such high importance that it demands the attention of Congress, in order that navigation may be properly protected. I trust that my amendment to the amendment may carry and that the original amendment as amended may then carry.

The CHAIRMAN. The question is on the amendment to the amendment proposed by the gentleman from Illinois [Mr. FOWLER].

The amendment to the amendment was rejected.

The CHAIRMAN. The question now is on the amendment offered by the gentleman from Louisiana [Mr. WATKINS].

The amendment was rejected.

The Clerk read as follows:

The Secretary of War is hereby authorized and directed to cause preliminary examinations and surveys to be made at the following-named localities, and a sufficient sum to pay the cost thereof may be allotted from the amount provided in this section.

Mr. CALLAWAY. Mr. Chairman, I move to strike out the last word, for the purpose of asking the chairman of the committee with reference to these reports of the Army engineers, which he has told me I can look to for information. Is that where the chairman gets his information on which he bases these bills, and is that where the committee get their information on which they pass these bills appropriating millions and millions of the people's money?

Mr. SPARKMAN. I am glad to answer that question and to say that we get a great deal of the information, perhaps the

most of it, through the reports of the engineers. In addition to that, when we can visit localities and talk with individuals, we obtain some information in that way. Often we have an engineer before us, either a district or a division engineer, but more frequently either the chief or one of his assistants. We glean a good deal of information from them, and also some from the hearings, from questioning persons who come before the River and Harbor Committee. Often we have hearings, and we listen very patiently to those who come before us, the desire always being to get all the information that we can possibly gain upon these important subjects.

Mr. CALLAWAY. Mr. Chairman, I wanted to know where this information came from, because I am on an investigating committee whose duty it has been to look into some of the reports of these engineers and the expenditures made on their reports. I went down to Phoenix, Ariz., where this House had appropriated $540,000 on the report of the engineer at the head of the Indian Bureau. I want to give the House this information, in order that they may know how much the reports of some engineers are worth. We went down there to look at the outlay of $540,000 made by this House on an irrigation project for the Pima Indians over the repeated protests of the Indians themselves and found that it was not worth a cent on earth. It was made, presumably, for the benefit of the Pima Indians, and it is not worth a cent to them, to the people of Arizona, nor to anybody in God's world. Yet this House appropriated $540,000 on the advice of W. H. Code, one of these Government engineers.

I want to call the attention of the House to another investigation that was made by the Insular Affairs Committee with reference to an outlay on a road 10 miles long, based on a report of Army engineers, in the Philippine Islands. That road ran from Manila up to Bagio. Some said it was 10 miles long and some said it was 12. These Army engineers estimated it would cost $75,000. It did cost $3,000,000, stayed there four and one-half years, was washed away, and Gen. Edwards, before the committee, said it was not worth rebuilding. After this experience with Army engineers' reports and reclamation engineers' reports and Indian Bureau engineers' reports, and seeing how absolutely worthless they are, I have got no kind of confidence in these engineers' reports; and I have no confidence in the bills brought into this House by committees based on such reports. They ought to be kicked out through the ceiling.

I have found another thing, Mr. Chairman, that when we call these people before the committee to find out what they base their estimates on we have to corkscrew everything out of them as we would a criminal on the stand testifying in his own behalf. So far as I am concerned, I will never vote to appropriate a dollar unless the men who bring in the bills here can give to this House some definite and accurate information on which to base the appropriation. We know that this river and harbor proposition is a hoax and an extravagant waste of the people's money.

Mr. EDWARDS. Will the gentleman yield?

Mr. CALLAWAY. Yes.

Mr. EDWARDS. What particular project does the gentleman want information about?

Mr. CALLAWAY. I do not want information about any particular project. We have had a whole lot of gush about the Mississippi River and levees built on each side to improve navigation and to benefit commerce, and there is not a 10-year old schoolboy in the country that does not know that it is all rot.

Mr. EDWARDS. Referring to the gentleman's inquiry about matters in the report, I have three volumes of the engineers' report——

Mr. CALLAWAY. If the gentleman had a hundred volumes, and they were engineers' reports, they would not be worth a cent to me, with my experience with engineers' reports.

The CHAIRMAN. The time of the gentleman from Texas has expired.

The Clerk read as follows:

Boston Harbor, Mass., with a view to securing increased width and depth of channel from Mystic River to President Roads.

Mr. MOORE of Pennsylvania. Mr. Chairman, I would like to inquire of the chairman of the committee what this item contemplates.

Mr. LAWRENCE. Mr. Chairman, perhaps I can answer the gentleman. We are just completing in Boston Harbor a 35-foot channel from the Charlestown Navy Yard to President Roads and then to the sea. At the suggestion of the engineers a survey was included in the last bill looking for an increased depth from the roads to the outer harbor, because in a severe storm, when the 35-foot channel is complete, they will not actually have the use of the entire 35 feet. The survey was ordered and no report was made, but it has been suggested that it would be well to have the report also from President Roads to the navy yard.

Mr. MOORE of Pennsylvania. What is the depth?

Mr. LAWRENCE. There is no stipulation as to the depth, but it is left to the engineers.

Mr. MOORE of Pennsylvania. New York has 40 feet, Baltimore has 35 feet, and it has been reported that Boston is moving to obtain a 40-foot channel, and I wanted to know if this survey was in contemplation of that?

Mr. LAWRENCE. We hope to get a favorable report on a project for 40 feet, but we do not limit the engineers to that, but give them discretion to report on any additional depth they see fit.

Mr. MOORE of Pennsylvania. Boston, then, wants more than 35 feet?

Mr. LAWRENCE. Boston does; yes.

The Clerk read as follows:

Connecticut River from Hartford, Conn., to Holyoke, Mass.

Mr. GILLETT. Mr. Chairman, I trust this provision for a survey of the Connecticut River between Hartford and Holyoke will be approved by the House. Members will doubtless be surprised to find that another survey is desired, for I doubt if there is any similar length of river in the United States on which so much money has been expended for surveys, and yet there has been so far hardly any appropriation for the improvement of navigation, and I did not suppose that any further survey would ever be necessary. The previous surveys have all originated with the Congressman, but the need of this survey was brought to my attention by the engineers of the War Department. They said that the outlook seemed favorable for legislation this winter which would finally insure the long-awaited navigation by the charter of a power company which would build the dam and the lock, and that in connection with the plans of that company, and to adapt the Government dredging thereto, some supplementary investigation was necessary, and it is to supply that and bring the Government plans into conformity with this new enterprise that this survey is necessary.

I hope it will be adopted by the House and that the expectation of the War Department will be realized, and that this Congress will enact the bill now pending which will open to navigation this river.

The Clerk read as follows:

New York Harbor, N. Y., with a view to securing additional width in Bay Ridge and Red Hook Channels.

Mr. SPARKMAN. Mr. Chairman, I offer the following committee amendment.

The Clerk read as follows:

On page 46, between lines 16 and 17, insert the following:
"Plattsburg Harbor and vicinity on Lake Champlain: For the deep-water connections with suitable terminals that are to be established at Plattsburg, N. Y., in connection with the New York State Barge Canal."

The amendment was agreed to.

The Clerk read as follows:

Broadkill River, Del.

Mr. MOORE of Pennsylvania. Mr. Chairman, I move to insert, on page 46, after line 24, the words "Frankford Creek, Pa."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 46, after line 24, insert "Frankford Creek, Pa."

Mr. MOORE of Pennsylvania. Mr. Chairman, I submit that that should go in for a survey, because it is a creek that does an international business. The engineers have found on several occasions that it was worthy of improvement, but have held that inasmuch as it is within the municipality of Philadelphia the city should pay for the improvement.

Mr. HUMPHREYS of Mississippi. Will the gentleman yield?

Mr. MOORE of Pennsylvania. Yes.

Mr. HUMPHREYS of Mississippi. When was the last survey?

Mr. MOORE of Pennsylvania. In 1911.

Mr. HUMPHREYS of Mississippi. So the survey was ordered in 1911 and a report has been made.

Mr. MOORE of Pennsylvania. It has been made to the effect that commercially it was worthy and commendable, but owing to the fact that it was within the limits of the municipality it ought not to be included in a Federal bill.

Mr. HUMPHREYS of Mississippi. Have the conditions changed any since then?

Mr. MOORE of Pennsylvania. To this extent: An effort was made by the War Department to obtain an appropriation of $15,000 in the last sundry civil bill in order to make the improvement with a view to reaching the Frankford Arsenal, which employs a great many hands and from which the Government makes shipments of a large amount of goods.

Mr. HUMPHREYS of Mississippi. The conditions are the same as they were a year ago. Congress ordered a survey a year ago, and the engineers made an investigation and made their report. What further could the engineers do if a survey was ordered in this bill?

Mr. MOORE of Pennsylvania. Mr. Chairman, I say to the gentleman very frankly that the engineers did what precedent evidently required them to do, but in bringing the matter up before the House a little while ago I learned from the chairman of the Committee on Rivers and Harbors that if this matter were brought up again it would have fair consideration. I think there is no question about the merits. It is simply a question whether, in view of the fact that you admit surveys of other streams that bisect cities, you will now admit Frankford Creek and the Schuylkill River on the same ground.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, the gentleman must admit that that is a matter for Congress to pass upon with the light that is now before us. There is no occasion to send this back to the engineers and put the Government to the expense of having the engineers make an investigation which they have just made in order to report to Congress the facts they have already reported to Congress. If Congress wants to put the creek on the bill with an appropriation, Congress is in a position to do that now. We have all of the information that the engineers can give us, and I submit to the gentleman it is an utterly useless waste of money, and the gentleman has made some remarks upon the waste of the public moneys.

Mr. MOORE of Pennsylvania. I have not said anything about the waste of public moneys. Somebody else used those words.

Mr. HUMPHREYS of Mississippi. I submit it would be an utter waste of the public funds to call for a survey when we have just had one, and I submit to the gentleman that the thing to do is to ask Congress to appropriate for this creek and not ask for an additional survey. We have all the information necessary, and all we have to do now is to put the matter on the bill for appropriation.

Mr. MOORE of Pennsylvania. Mr. Chairman, I urge the passage of the amendment, which is entirely meritorious.

Mr. HUMPHREYS of Mississippi. I want to make this statement: That if we do this we will be discriminating in favor of this creek.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania.

The question was taken; and on a division (demanded by Mr. MOORE of Pennsylvania) there were—ayes 3, noes 31.

So the amendment was rejected.

Mr. MOORE of Pennsylvania. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 46, after line 24, insert:
"The Schuylkill River, Pa."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania.

The question was taken; and on a division (demanded by Mr. MOORE of Pennsylvania) there were—ayes 1, noes 21.

So the amendment was rejected.

Mr. MOORE of Pennsylvania. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 47, line 2, after the word "Delaware," add:
"With a view to removing shoals by dredging."

Mr. MOORE of Pennsylvania. Mr. Chairman, I should like the committee to carefully consider this amendment. I understand the Delaware River question fairly well, and believe the amendment the best thing possible for the interests which I in part represent. The Delaware River has been impeded from time to time, and the admission is just made here on this floor that Boston, a city one-third the size in population of Philadelphia, is now advancing to the 40-foot-channel stage, which New York already has. The Delaware River is being held down to the present depth of 30 feet, with a limited appropriation in this bill for 35 feet, which may continue for 10 years.

Mr. MURRAY. Mr. Chairman, will the gentleman yield?

Mr. MOORE of Pennsylvania. I can not yield now. It is all a part of an unfortunate system of postponement for the Delaware River; whether suggested by large interests or railroad competition, which sometimes is referred to by the Representatives of "the real people" upon this floor, I do not know; but five or six years ago there was injected into this bill a provision for a harbor of refuge at Cold Spring Inlet, N. J., 14 miles around from the Delaware Breakwater, and after a debate, which was in some respects sensational, Congress voted to build this harbor of refuge 14 miles away in spite of the great Delaware Bay, which is a natural harbor of refuge for vessels in distress at sea. Gentlemen on this committee in eloquent periods had the vessels turned out of the Delaware Breakwater by ice, all in defense of a proposition that a million and a quarter of dollars be expended around the corner to make a pinhole in the ocean.

Your Cold Spring Inlet has been built. It has retarded the progress of the Delaware River for five years. You spent a million and a quarter in the sands. Now, I want to know what you are going to do with the construction of the breakwater and the institution of a survey which means another expenditure of perhaps a million dollars to connect up the existing breakwater and ice breaks with the land and increase the shoals in that harbor of refuge.

Mr. HUMPHREYS of Mississippi. Will the gentleman state what particular item he is speaking to?

Mr. MOORE of Pennsylvania. I am speaking of the Cold Spring Inlet.

Mr. HUMPHREYS of Mississippi. At Cape May?

Mr. MOORE of Pennsylvania. Yes. It may be of some interest to construction companies and of some interest to railroads more than it is to navigation on the Atlantic seaboard. It is one instance of real waste about which we may comment, if you please.

Mr. HUMPHREYS of Mississippi. The gentleman was in Congress at the time.

Mr. MOORE of Pennsylvania. I was, and opposed to Cold Spring Inlet.

Mr. HUMPHREYS of Mississippi. Has the gentleman concluded?

Mr. MOORE of Pennsylvania. Not yet. I have offered an amendment here which proposes to be of service to the Delaware River. It is that inasmuch as shoals have grown up in the harbor of refuge at the Delaware Breakwater and around the breakwater you shall survey for an estimated cost of dredging out the shoals. If you do that I am satisfied, but I have before me a petition which was circulated in the district I represent where the large shipping interests are, where pilots and masters of vessels are, and it is so skillfully drawn that it looks as if some expert had prepared it in the interest of construction companies. It asks people to sign for a project connecting the northern end of the existing breakwater with the Delaware shore by joining up the ice piers and the construction of additional breakwaters.

To do a thing like that now would simply mean another holdup on channel appropriations; it would mean that some construction company would take your money and do a useless thing. If you pass my amendment, you will do something that the shipping interests would really like to have done. They want the breakwater harbor dredged.

Mr. BURGESS. Will the gentleman state his amendment again? I did not understand it.

Mr. MOORE of Pennsylvania. My amendment is that this survey shall be limited to an estimate for the removal of shoals by dredging.

Mr. HUMPHREYS of Mississippi. Mr. Chairman, a few years ago a proposition was brought into this House for the improvement of Cold Spring Inlet, Cape May. Innuendoes, insinuations such as we have just heard, were put forth then by certain gentlemen who love to exploit themselves and their honesty in the newspapers [applause], and it was charged that a job was being put up by the Committee on Rivers and Harbors in the improvement proposed at Cape May. A number of gentlemen had much to say in the public press at the time. When the bill came before the House, in order that no gentleman might be able to say the next morning in the headlines that it was slipped through Congress, the chairman of the Committee on Rivers and Harbors himself, when that item was reached, rose and addressed the Chair and announced to all the House, including the distinguished gentleman from Pennsylvania, that "We have now reached the item which has been so severely criticized in the papers, and if any gentleman on the floor now wishes to strike that item from the bill let him arise in his place and make the motion and we are ready to debate it."

Mr. Chairman, it was then up to all gentleman who believed the slander that had been circulated about the Rivers and Harbors Committee to speak or forever after hold their peace, but when that proposition was offered on the floor the gentleman from Pennsylvania failed to rise and meet that challenge. I was on the subcommittee that reported the Cape May proposition to the full committee. I was on the committee that reported it to the House. I was on this floor ready then to debate it with any gentleman who chose to strike it from the bill, but nobody

made such an offer. If it was a job, it was the duty of every Member who so believed to stand in his place and make the motion. The gentleman from Pennsylvania says he was here at the time. Where was he upon that occasion?

Where, where was Roderick then?
One blast upon his bugle horn
Were worth a thousand men.

But he failed to toot his horn. [Laughter and applause.]

[Mr. MURRAY addressed the committee. See Appendix.]

Mr. MOORE of Pennsylvania. Mr. Chairman, the gentleman from Massachusetts has barked up the wrong tree. I made no reflection upon his city whatever. I stated what is the fact, that we had three times the population in Philadelphia that they have in Boston. No one has heralded more than I have the virtues of that great city; no one has preached more the municipal liberality of Boston in regard to this $9,000,000 appropriation for the improvement of its own harbor than I have, and no one here has preached more the deplorable condition of Boston and New England in regard to transportation, in view of the fact that the Boston Chamber of Commerce, the most acute body of commercial men in this country, admits that it pays $70,000,000 per annum to get $30,000,000 worth of coal.

Mr. MURRAY. Why do you protest against the 40-foot channel?

Mr. MOORE of Pennsylvania. I say that if Boston gets a 40-foot channel and Philadelphia is held to 30, that Philadelphia ought to get a move on.

Mr. MURRAY. It ought to get some commerce before it tries to do that.

Mr. MOORE of Pennsylvania. It is not second to Boston in that respect. The gentleman entirely understands me. As to the gentleman from Mississippi——

Mr. BOEHNE. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman from Indiana [Mr. BOEHNE] makes a parliamentary inquiry. The gentleman will state it.

Mr. BOEHNE. Are we discussing the river and harbor bill or are we discussing a fuss between Boston and Philadelphia? I think it about time that we were getting down to busniess.

Mr. MURRAY. I was trying to discuss the amendment of the gentleman from Pennsylvania.

Mr. MOORE of Pennsylvania. Mr. Chairman, I ask unanimous consent that I may have three minutes in which to reply to the gentleman from Mississippi [Mr. HUMPHREYS]. I would like to have five minutes.

The CHAIRMAN. The gentleman's time has not yet expired.

Mr. MOORE of Pennsylvania. Mr. Chairman, I respectfully submit to my distinguished friend from Mississippi [Mr. HUMPHREYS] that what he states about my being in Congress when the Cold Spring Inlet improvement was authorized is true. I was here, a brand-new man, coming down from the country, as it were, and meeting the great representatives of the Committee on Rivers and Harbors for the first time. I had gone to the members of that committee and submitted my complaint to them. I had indicated to at least some of the leaders that the Cold Spring Inlet proposition was not good, and did not have the real sympathy of the shipping interests of the city of Philadelphia, and that it was in opposition to the Delaware River proposition.

I remember the occasion when that committee brought in its bill just as well as if it were yesterday, so firmly is that theatrical scene impressed upon my memory. The galleries were full to the utmost tier, and the Members of the House were all present, keenly interested in the 500 separate items contained in the bill for every one of the 47 States of the Union. Every man was insistent that the bill should go through, with no opportunity for discussion. The philosophic and eloquent chairman of that committee, one of the most powerful and forceful men who ever sat in this House, rose, and after the gentleman from Illinois [Mr. MADDEN] had told of the building lots to be sold at Cold Spring Inlet dramatically inquired, "Is there any man on that side [indicating] or is there any man on this side [indicating] who is opposed to it?" And I, a young and innocent and diffident Member from bucolic Philadelphia [laughter], did not have the courage or the self-possession to rise up and object. But as time went on apace and I learned to know intimately and to love these distinguished members of the Committee on Rivers and Harbors I have taken occasion to interrupt my friends at times, even though it might test the temper of some. And even in this instance have risen in my place to make some slight objections to their bill. [Applause.]

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Pennsylvania [Mr. MOORE].

The question was taken; and the Chairman announced that the "noes" seemed to have it.

Mr. MOORE of Pennsylvania. A division, Mr. Chairman.

The committee divided; and there were—ayes 2, noes 24.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

Mr. DONOHOE. Mr. Chairman, while we are on the subject I feel it would be well for me to say a word or two as to the Delaware Breakwater proposition, for which we have asked a survey. I would state to the members of the committee that I have received petitions from various public bodies urging the adoption of the project which was approved by the engineers several years ago.

Inasmuch as the recommendation of the engineers was of some years' standing, the committee deemed it advisable to have a new survey, and this is the cause, or, rather, the direct occasion, for the tempest to which we have just listened.

The fact of the matter is, Mr. Chairman, that my distinguished colleague from Philadelphia [Mr. MOORE] was for several years regarded in that great city as the chief exponent of waterway matters. Since I have come here there has been a division of responsibility on that subject, with the result that quite a large number of the people of our city look to me to do some little things. [Laughter.] Some are so unkind as to say of my distinguished colleague that he is a little jealous. I should not think so at all. He is too big a man to be jealous. He would not claim credit for anything that he does not do himself. I am sure of that. And in that connection I will ask the Clerk to read this particular news item about which my colleague from Philadelphia, I believe, knows something.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

MOORE WINS FIGHT FOR NEW WATERWAY—NORFOLK-BEAUFORT LINK APPROPRIATION IS INCLUDED IN RIVERS AND HARBORS BILL.

[Special to the Inquirer.]

WASHINGTON, D. C., *January 23, 1912.*

The rivers and harbors bill was again up for discussion in the House to-day, and at the instance of Representative J. HAMPTON MOORE, of Philadelphia, the Philadelphia items which were temporarily laid aside on Tuesday were again postponed in order that the Norfolk-Beaufort link of the inland waterway might be taken up. After a lively fight, headed by Congressman SMALL, of North Carolina, backed up by Mr. MOORE, the item remained in the bill. It was objected to by Mr. FOSTER, of Illinois, and others, which brought on a lively discussion, in which Mr. MOORE took an active part in the interest of eastern waterways.

Mr. MOORE instanced one of many western rivers which he said was 500 miles long and for which appropriations of over $2,000,000 had been obtained since 1874. "The commerce on this stream," said Mr. MOORE, "for 22 years was 57,000 tons."

"And yet you are objecting to an $800,000 appropriation for a waterway on the eastern coast involving the tremendous overflow of congested cities while asking for and obtaining appropriations of $2,000,000 on one of the many streams of this kind. In this bill are contained items amounting to more than $8,500,000 for the Mississippi River."

It is expected that the Delaware River item will be reached to-morrow, the House adjourning at 6 o'clock, when Mr. MOORE made a point of no quorum.

Mr. DONOHOE. Mr. Chairman, the fight that my colleague [Mr. MOORE] won the other day in this House was really won in the committee more than a year ago by the gentleman from North Carolina [Mr. SMALL] and the other members of that committee. [Laughter.] This bill provides a liberal appropriation for the canal project in question, and my friend has had sufficient experience here to know that there was no danger of it being knocked out by an amendment.

Mr. DIES. The gentleman does not mean to leave the impression that the gentleman from Philadelphia [Mr. MOORE] is guilty of having palmed off this misrepresentation on the country?

Mr. DONOHOE. I ask the gentleman to deny it if he did not do it.

Mr. MOORE of Pennsylvania. If the gentleman would like to know whether I wrote those headlines I would say "no."

Mr. DONOHOE. The article?

Mr. MOORE of Pennsylvania. No; the gentleman is entirely mistaken. I did not write the article. Will the gentleman consent to my having a moment or two after he has concluded his remarks?

Mr. DONOHOE. I surely will if I can have a little more time.

Mr. MOORE of Pennsylvania. I do not control the time.

Mr. DONOHOE. Now, Mr. Chairman, my good friend has not denied that he is the author of that article.

Mr. MOORE of Pennsylvania. I beg the gentleman's pardon I have denied it in toto.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. DONOHOE] has expired.

Mr. DONOHOE. I ask for additional time.

Mr. MOORE of Pennsylvania. I ask that the gentleman have five minutes in which to explain this painful situation. [Laughter.]

Mr. MANN. Reserving the right to object, I should like to ask how much more time will be wanted on both sides. We had an understanding that we would not run until half past 6.

Mr. MOORE of Pennsylvania. I will gladly divide my time with my friend.

Mr. SPARKMAN. Mr. Chairman, I am loath to object to this discussion or any discussion between these gentlemen, but we must make headway, and I would suggest to both of these gentlemen that when we return to the Delaware item later, where the appropriation is made, then each of them can have an opportunity.

Mr. MOORE of Pennsylvania. If the gentleman from Florida will permit the gentleman from Philadelphia to go on now, he will save time on the Philadelphia item. I do not want to discuss it very long, but I really would like a little time now.

Mr. SPARKMAN. All right, go ahead.

Mr. MANN. Can we not have an understanding about the length of time to be spent on this item, and then that the committee shall rise?

The CHAIRMAN. Unanimous consent has been asked that the gentleman from Pennsylvania [Mr. DONOHOE] be allowed to proceed for five minutes.

Mr. MANN. Reserving the right to object, I should like to see if we can not fix a limit to this.

Mr. DONOHOE. I should like five minutes.

Mr. MANN. How much time does the gentleman from Pennsylvania [Mr. MOORE] desire?

Mr. MOORE of Pennsylvania. I should like eight minutes.

Mr. DONOHOE. Then I should have eight minutes. [Laughter.]

Mr. MANN. I ask unanimous consent that the gentleman from Pennsylvania on my left [Mr. DONOHOE] and the gentleman from Pennsylvania on my right [Mr. MOORE] each have five minutes.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] asks unanimous consent that the two gentlemen from Pennsylvania have five minutes each. Is there objection?

There was no objection.

Mr. DONOHOE. Mr. Chairman, my good friend and colleague [Mr. MOORE of Pennsylvania] has made repeated attempts of late to show that the appropriation provided in this bill for the improvement of the Delaware River is inadequate, and that he has discovered a "joker" in the bill, inasmuch as the period covered by these appropriations is unusually long. I want to ask the chairman of the Rivers and Harbors Committee a few questions in that connection: First, are the appropriations in this bill to cover a longer period than was covered by the appropriations in the bill of 1911?

Mr. SPARKMAN. The estimates of the engineers, which were followed here, were intended to cover and do cover a period of about 16 months.

Mr. DONOHOE. And that was so in the bill of 1911?

Mr. SPARKMAN. Yes; in 1911 that was so.

Mr. DONOHOE. Is the sum covered in this bill for the improvement and maintenance of the Delaware 35-foot project the full amount asked by the engineer?

Mr. SPARKMAN. The entire amount; yes.

Mr. DONOHOE. It would be inaccurate for anyone to say that the sum was inadequate, then, since the Government engineers say it is all that can profitably be expended until June 30, 1914?

Mr. SPARKMAN. The engineers do not say it is inadequate, and our committee were of the opinion that it is adequate.

Mr. DONOHOE. Has any river and harbor bill in the last 10 or 12 years carried as large an amount for this purpose?

Mr. SPARKMAN. This is the largest appropriation for this purpose that I know anything about.

Mr. DONOHOE. I send to the Clerk's desk an editorial from one of the great Philadelphia papers commenting upon my work here. That editorial results from statements furnished to the several Philadelphia newspapers by my kind friend [Mr. MOORE of Pennsylvania].

The Clerk read as follows:

[From the Philadelphia Inquirer.]

AND WHERE IS MICHAEL DONOHOE?

So it seems that Philadelphia has been badly treated in the matter of appropriations for the Delaware River. The House Committee on Appropriations can find money in plenty for every other project that anybody may see fit to mention. The Mississippi River, with no commerce to speak of, can come in for tremendous sums. Mud flats can claim their "pork." But the great Delaware River, with its already big commerce—the Delaware River which needs only fair treatment to enable it to increase tremendously its payments to the United States Treasury through customs duties—is slighted.

An appropriation of $1,700,000 looked fairly well on paper, but when Representative MOORE drew the confession of the committee that $400,000 was to go for maintenance and that the remainder would be stretched over 16 months instead of over 12, it was found that the appropriation for the year available for practical work had been reduced to a beggarly $1,000,000.

At that rate of progress we should be digging the channel 10 years from now, whereas we ought to have the 35 feet in half that time.

It is a serious disappointment that the Democratic committee has given us. And where, it might be asked, is the Hon. MICHAEL DONOHOE in hiding? For surely this gallant statesman of the Democratic faith, chosen from a Philadelphia district because of his supposedly vast influence with his fellow Democrats, can not be "on the job."

Mr. DONOHOE. Now, Mr. Chairman, that is a very illuminating editorial from a great daily which circulates among a million and a half of people. It is the result of inaccurate information furnished the newspapers by a Member of this House, that the Delaware River was getting a smaller appropriation than it ought to get, and various other statements that are not true. I am glad to be able to convince the Members present—and I trust it will reach Philadelphia in the course of time—that the Delaware River is being well taken care of this year; that in this Congress, in this Democratic House, the appropriations for the improvement of that worthy project will amount to $3,750,000 before March 4, whereas the total sum appropriated for the six years before I was elected to Congress amounted to only $3,900,000. In other words, this Democratic House has given almost as much in two years as the Republican Houses gave for that improvement at Philadelphia in six years. [Applause on the Democratic side.]

But the serious part of it all is this: Members may smile and pretend to be good fellows, but cold statements reach a multitude at home, and I consider it manifestly unjust for any Member of this House to lower himself to the point of giving misstatements to the press that will reflect upon the work of any other Member. [Applause on the Democratic side.]

The only extension of these remarks that I desire to make at this time is to quote the words uttered by two distinguished Republican Members while the bill was under consideration on last Saturday. Mr. MANN, the worthy leader of the minority, said:

Mr. Chairman, ever since I have served in this House alongside of my distinguished friend from Philadelphia I have recognized him as an exponent of the proposition that the Government ought to improve rivers and harbors. In fact, there was a time when I was led to believe that my distinguished friend from Pennsylvania was really trying to appropriate too much money for the improvement of rivers and harbors. But to-day my idol is shattered and falls to the ground.

The gentleman from Pennsylvania for the last two or three days, while this bill has been up for consideration, has done everything he could to prevent its passage, opposing various propositions that are in the bill, while assuming and assuring the House that he really was in favor of them. Think of my friend from Pennsylvania, whom we had placed upon a pedestal as being in the lead in the way of river and harbor improvement, now standing and fighting each of the items as they become a law. Why, I thought my friend from Pennsylvania was the president of half a dozen different associations designed to extract money out of the Treasury for the improvement of rivers and harbors. I have heard the gentleman time and again ask leave to extend his remarks in the RECORD for the purpose of inserting something in favor of great appropriations for rivers and harbors.

Mr. MOORE of Pennsylvania. And they have been denied.

Mr. MANN. Yet the gentleman is doing his best now to prevent the passage of this river and harbor bill in time for it to be considered at the other end of the Capitol so that it may become a law. I fear that in the future I may not be able blindly to follow my friend from Philadelphia along the lines in favor of river and harbor improvements, because I shall never know when he is going ahead and when he is backing up. [Laughter.]

Mr. AUSTIN, one of the ablest and most painstaking Members on his side of the House, said:

Mr. AUSTIN. Mr. Chairman, I want to appeal to my colleagues on this side of the House to give us an opportunity, in the interest of public business, to go forward with the consideration of this bill. [Applause.] We have 31 working days before the final adjournment of this Congress. There are 11 supply or appropriation bills. There are 4 of them that have not been reported to this House, and only 1 of the 11 has passed both Houses of Congress, and that bill has not so far received the approval of the President of the United States.

Here is a calendar with thirty-odd pages of general and private bills. More than 400 or 500 general and private bills and 11 supply bills of the Government awaiting us, and here we are killing time—making motions and objecting and wasting valuable time.

This bill is a meritorious measure. This great committee that has brought it in is deserving of commendation on both sides of this House. It is not deserving of the unjust criticisms that have been made. This bill is practically above criticism and condemnation. No appropriation committee in this House is hedged about with more safeguards in the interest of the legitimate expenditure of public moneys than the Committee on Rivers and Harbors. The chairman of it is a Member of long standing in this House, competent, worthy, and deserving the confidence of all his colleagues. The men who are associated with him in the preparation of this bill, Republicans and Democrats, have the interest of our country at heart. They have brought in for our consideration this measure which awaits our approval. Do not let us trifle away any more of the valuable time that belongs to the people of this great country. Here we have spent almost an entire afternoon on less than 3 pages of a great measure which runs into 60 pages. It is not creditable to the membership of this House. We can not change the paragraphs in this bill, for the Members are determined to sustain this committee, and I appeal to my Republican colleagues to let us proceed in an orderly and creditable manner, in the interest of the American Congress and to our own honor and credit. [Applause.]

Mr. MOORE of Pennsylvania. Mr. Chairman and gentlemen, I must bear up under the hallucinations of my friend, who seems to lie awake nights thinking of things to send the newspapers. I have been accustomed to this since he has arrived in the House, and I observe that when correspondents are outside he is busy going and coming. I do not think I have a monopoly of the business of getting my name in the newspaper, as I shall submit. Indeed, I have given points to the gentleman from the fifth district, which he has not been slow to accept. The gentleman is busy, as I observe, and is encouraging others to help him in the good work he undertakes to do. I hold in my hand a letter which I would like to have the Clerk read. It is addressed to one of my constituents, but how it got into my district I do not know.

The Clerk read as follows:

JANUARY 2, 1913.

——— ———, *Philadelphia, Pa.*

GENTLEMEN: Having been so decidedly successful in my recent election to represent the fifth district of Pennsylvania in the Sixty-third session of Congress of the United States, and having been so exceptionally successful at the last session in securing the largest appropriation ever known for the betterment of the Delaware River from Philadelphia to the ocean, it has been determined that I still further endeavor to have an appropriation for the improvement of the present incomplete harbor of refuge at the Delaware Breakwater, and some of my constituents have had prepared a petition, copy herewith inclosed, and you are requested to sign said petition and secure additional signatures, sending same to me at Washington.

Without reference to political conditions, it will be my great pleasure to seek the aid and influence of the powerful Rivers and Harbors Committee, of which I am a member, for this much-needed improvement at Delaware Bay.

Requesting your early cooperation, I remain,

Very truly, yours,

MICH'L DONOHOE.

Mr. MOORE of Pennsylvania. You see, Mr. Chairman, that the gentleman has observed that he has received numerous petitions from citizens desiring him to do certain things, and now I give you an insight into the manner in which the petitions are collected. It will be a useful pointer to those who want to be extremely popular in their districts.

Mr. DONOHOE. Will the gentleman yield?

Mr. MOORE of Pennsylvania. I will if the gentleman will get me more time. Now, Mr. Chairman, in the matter of press notices, I notice that a press agency is working in Washington and sending to newspapers in Philadelphia information in relation to the matter of the Delaware River. I have occasionally read that the gentleman got an appropriation of $1,300,000 last year, when, as a matter of fact, the committee left him with $500,000 until I aided him to get $1,000,000; after which I went to the Senate and secured $300,000 more. But the gentleman is dealing with millions—two millions he now claims—although your bill cuts down the total for the next fiscal year to one million, when the engineers recommended two millions and a half. But the Democratic millions are still being reported to Philadelphia, as the following inspired article sent out by the gentleman's friends, will show:

The Clerk read as follows:

DEPARTMENT OF WHARVES AND DOCKS, PHILADELPHIA—$2,000,000 TO PUSH PORT DEVELOPMENT—CONGRESS WILL DO ITS SHARE IF STATE DOES LIKEWISE—CONFIDENCE IN PRESENT ADMINISTRATION OF PHILADELPHIA PORT LED TO RECOMMENDATION FOR RECORD APPROPRIATION.

PHILADELPHIA, PA.

With a recommendation of $2,000,000, the largest sum ever appropriated by the National Government to the Delaware River channel, Congress has placed its stamp of approval upon the projected greater port of Philadelphia, and within four years, it is estimated, the 35-foot channel will be complete, providing ample depth for the largest vessels built.

* * * * * * *

Describing the attitude of Congress toward the port of Philadelphia and explaining the Rivers and Harbors Committee's reasons for indorsing the full sum requested by the Government engineers for channel work, Congressman MICHAEL DONOHOE, member of the committee, and, with Representative LEE, of Pottsville, indefatigable worker for the river and port, said:

"GOVERNMENT WILL COOPERATE.

"It is becoming the settled policy of Congress that money for the improvement of waterways shall be appropriated only where those waterways lead to ample terminal facilities, controlled not by private interests but by the municipality or State, for the benefit of all the people. By ample terminal facilities, I mean not merely a sufficient number of public wharves and docks, but also sufficient railroad connections."

As the legislature will hardly ignore conditions which have been the Federal Government's incentive for a $2,000,000 appropriation, although the Federal Government's interest is only general, while that of the State is local and particular, Director Norris feels that the appropriations from the State will be forthcoming and also that he will not be refused the legislation by which he hopes ultimately to place the port of Philadelphia under public administration.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOORE of Pennsylvania asked for and received unanimous consent to extend his remarks in the RECORD.

Mr. DONOHOE, by unanimous consent, was given leave to extend remarks in the RECORD.

Mr. SPARKMAN. Mr. Chairman, do I understand the gentleman to say that there is only $1,000,000 appropriated in this bill?

Mr. MOORE of Pennsylvania. If the gentleman cares to discuss that now, I will take it up; but I thought we would take it up when we get back to the Delaware item. I want to help the gentleman to get through with his bill.

Mr. MANN. I hope the gentleman will now move to rise and ask that the House meet at 11 o'clock Monday morning.

Mr. SPARKMAN. Mr. Chairman, I would like to go on for a little while yet.

Mr. GARNER. Why, Mr. Chairman, it is not yet 6 o'clock. Why should the gentleman want to rise now?

Mr. MANN. Mr. Chairman, if the gentleman from Texas wants to be facetious, well and good. If he wants to ascertain the reason, I will tell him.

Mr. GARNER. Oh, I do not want to inquire into the reasons.

Mr. MANN. The gentleman from Illinois is not seeking to filibuster. If the gentleman from Texas wants him to, he will.

Mr. GARNER. Oh, I am not desirous about the conduct of the gentleman from Illinois, and I was simply asking why it was that at this late day in the session, when we must meet at 11 o'clock in the morning, it is necessary to rise before 6 o'clock. I think that is a legitimate question, and if the gentleman from Illinois thinks that is a facetious question or a question calculated to bring on a filibuster, of course he can construe it as he may wish.

Mr. FITZGERALD. I have a resolution that I should be glad to pass to-night if we can rise.

The CHAIRMAN. Does the Chair understand the gentleman from Illinois to make a motion?

Mr. MANN. Mr. Chairman, I did not make any motion. If the gentleman does not desire to pay any attention to my suggestion, he does not need to.

Mr. DYER. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD upon this bill.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SPARKMAN. Mr. Chairman, I do not wish to unnecessarily prolong the session to-day, but I would like to finish the reading of the bill if we can.

Mr. MANN. Then we will not meet at 11 o'clock Monday morning, and the gentleman may as well understand that now as at any other time.

Mr. MURRAY. Mr. Chairman, it is clear that the gentleman from Illinois [Mr. MANN] desires to have the committee rise at this time. I believe that it is better to rise now than to take three and one-half hours to approve the Journal on next Monday. Therefore I suggest the absence of a quorum.

The CHAIRMAN. The gentleman from Massachusetts makes the point of no quorum. The Chair will count. [After counting.] Seventy-nine Members are present, not a quorum.

Mr. SPARKMAN. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. MOON of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 28180, the river and harbor appropriation bill, and had come to no resolution thereon.

COMMITTEE ON MILEAGE.

Mr. PALMER. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution that I send to the Clerk's desk and ask to have read.

The Clerk read as follows:

House resolution 794.

Resolved, That the following assignment of room in the House Office Building be, and the same is hereby, made:

To the Committee on Mileage, the room on the second floor of the House Office Building, No. 292, heretofore assigned to the special committee on the investigation of the United States Steel Corporation for its use until its report shall be made to the House.

Mr. MANN. Is that the room that the gentleman from Pennsylvania [Mr. LAFEAN] formerly had?

Mr. PALMER. I think he had it once. This room 292 was used by the committee on the investigation of the Steel Trust, to be used by them until they should make their report to the House. That report has now been made. Since that time the room has been used by the Committee on Expenditures in the Post Office Department. That committee is now about through or will be in a day or so. The purpose of this resolution is to give the room to the Committee on Mileage, which has never had a committee room.

Mr. MANN. It is not quite fair to say that.

Mr. PALMER. That is, since I have been here.

Mr. MANN. It has always had a committee room, but it was given just the same room that a Member was given.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The question is on agreeing to the resolution.

The resolution was agreed to.

PROTECTION OF LIFE AND PROPERTY, ETC., PRESIDENTIAL INAUGURAL CEREMONIES, 1913.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent for the present consideration of Senate joint resolution 145.

The SPEAKER. The Clerk will report the Senate joint resolution.

The Clerk read as follows:

Senate joint resolution (S. J. Res. 145) to provide for the maintenance of public order and the protection of life and property in connection with the presidential inaugural ceremonies in 1913.

Resolved, etc., That $23,000, or so much thereof as may be necessary, payable from any money in the Treasury not otherwise appropriated and from the revenues of the District of Columbia in equal parts, is hereby appropriated to enable the Commissioners of the District of Columbia to maintain public order and protect life and property in said District from the 28th of February to the 10th of March, 1913, both inclusive. Said commissioners are hereby authorized and directed to make all reasonable regulations necessary to secure such preservation of public order and protection of life and property and fixing fares by public conveyance, and to make special regulations respecting the standing, movements, and operating of vehicles of whatever character or kind during said period and fixing fares to be charged for the use of the same. Such regulations shall be in force one week prior to said inauguration, during said inauguration, and one week subsequent thereto, and shall be published in one or more of the daily newspapers published in the District of Columbia and in such other manner as the commissioners may deem best to acquaint the public with the same; and no penalty prescribed for the violation of any of such regulations shall be enforced until five days after such publication. Any person violating any of such regulations shall be liable for each such offense to a fine not to exceed $100 in the police court of said District, and in default of payment thereof to imprisonment in the workhouse of said District for not longer than 60 days. And the sum of $2,000, or so much thereof as may be necessary, is hereby likewise appropriated, to be expended by the Commissioners of the District of Columbia, for the construction, maintenance, and expenses incident to the operation of temporary public-comfort stations and information booths during the period aforesaid.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, how much will we have to pay for cab hire during the inaugural time?

Mr. FITZGERALD. I hope the gentleman will find it convenient to walk; I will say to him I am not familiar——

Mr. MANN. Well, when the gentleman attempted to walk it was not convenient at all.

Mr. FITZGERALD. I am not familiar with the regulations made by the commissioners, but this gives the usual authority given to regulate cab hire, and so forth.

Mr. MANN. I thought probably the gentleman could tell us in advance so we could get it by small doses.

Mr. FITZGERALD. Perhaps the gentleman from Illinois will help me out by permitting me to ride in his limousine.

Mr. MANN. I will when I have one.

Mr. FITZGERALD. Mr. Speaker, this is a resolution based on the usual lines. The committee had the superintendent of police before it and inquired with some care into the purpose for which the $23,000 and the $2,000 were to be used, and the explanation was entirely satisfactory to every member of the committee. We believe that the money is properly expended and expended for a very necessary and beneficial purpose.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The joint resolution was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. FITZGERALD, a motion to reconsider the vote by which the joint resolution was passed was laid on the table.

ADJOURNMENT.

Mr. SPARKMAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 51 minutes p. m.) the House adjourned to meet at noon to-morrow, Sunday, January 26, 1913, at 12 o'clock.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. JOHNSON of Kentucky, from the Committee on the District of Columbia, to which was referred the joint resolution (S. J. Res. 153) granting to the Fifth Regiment Maryland National Guard the use of the corridors of the courthouse of the District of Columbia upon such terms and conditions as may be prescribed by the marshal of the District of Columbia, reported the same without amendment, accompanied by a report (No. 1389), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (S. 7162) to amend section 801 of the Code of Law for the District of Columbia, reported the same without amendment, accompanied by a report (No. 1390), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (S. 7508) to amend an act entitled "An act to reincorporate and preserve all the corporate franchises and property rights of the de facto corporation known as the German Orphan Asylum Association of the District of Columbia, reported the same without amendment, accompanied by a report (No. 1391), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (S. 1072) to amend section 895 of the Code of Law for the District of Columbia, reported the same without amendment, accompanied by a report (No. 1392), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (S. 6919) to amend subchapter 2 of chapter 19 of the Code of Law for the District of Columbia, reported the same without amendment, accompanied by a report (No. 1393), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (S. 2600) to authorize the Commissioners of the District of Columbia to prevent the exhibition of obscene, lewd, or vulgar pictures in public places of amusement in the District of Columbia, reported the same without amendment, accompanied by a report (No. 1394), which said bill and report were referred to the House Calendar.

Mr. EVANS, from the Committee on the Library, to which was referred the joint resolution (S. J. Res. 158) approving the plan, design, and location for a Lincoln memorial, reported the same without amendment, accompanied by a report (No. 1396), which said bill and report were referred to the House Calendar.

Mr. VOLSTEAD, from the Committee on the Public Lands, to which was referred the bill (S. 7448) restoring to the public domain certain lands heretofore reserved for reservoir purposes at the headwaters of the Mississippi River and tributaries, reported the same without amendment, accompanied by a report (No. 1397), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. HUGHES of Georgia, from the Committee on Military Affairs, to which was referred the bill (H. R. 24953) to authorize the appointment of John W. Hyatt to the grade of second lieutenant in the Army, reported the same with amendment, accompanied by a report (No. 1384), which said bill and report were referred to the Private Calendar.

Mr. SIMS, from the Committee on War Claims, to which was referred the bill (H. R. 19115) making appropriations for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and Tucker Acts, with Senate amendments, reported the same (No. 1385), which said bill and report were referred to the Private Calendar.

Mr. LEE of Georgia, from the Committee on War Claims, to which was referred the bill H. R. 20403, reported in lieu thereof a resolution (H. Res. 791) referring to the Court of Claims the papers in the case of Milton S. Cabell, accompanied by a report (No. 1386), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill H. R. 25999, reported in lieu thereof a resolution (H. Res. 792) referring to the Court of Claims the papers in the case of heirs of Lindley Abel, deceased, accompanied by a report (No. 1387), which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill H. R. 27844, reported in lieu thereof a resolution (H. Res. 793) referring to the Court of Claims the papers in the case of

E. De Atley & Co., accompanied by a report (No. 1388), which said resolution and report were referred to the Private Calendar.

Mr. JOHNSON of Kentucky, from the Committee on the District of Columbia, to which was referred the bill (H. R. 23939) to legalize titles in the District of Columbia to certain citizens, reported the same without amendment, accompanied by a report (No. 1395), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Invalid Pensions was discharged from the consideration of the bill (H. R. 15581) granting an increase of pension to Christopher S. Alvord, and the same was referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. EVANS: A bill (H. R. 28437) to prevent the contamination of the water of Lake Michigan; to the Committee on the Judiciary.

By Mr. CLARK of Florida: A bill (H. R. 28438) to provide for the erection of a public building at Lake City, Fla.; to the Committee on Public Buildings and Grounds.

By Mr. EVANS: Resolution (H. Res. 790) calling on Secretary of War for information; to the Committee on Military Affairs.

By Mr. LEE of Georgia: Resolution (H. Res. 791) referring the bill (H. R. 20403) for the relief of Milton S. Cabell to the Court of Claims; to the Committee of the Whole House.

Also, resolution (H. Res. 792) referring the bill (H. R. 25999) for the relief of the heirs of Lindley Abel, deceased, to the Court of Claims; to the Committee of the Whole House.

Also, resolution (H. Res. 793) referring the bill (H. R. 27844) for the relief of E. De Atley & Co. to the Court of Claims; to the Committee of the Whole House.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. AUSTIN: A bill (H. R. 28439) granting a pension to Nancy E. Devault; to the Committee on Invalid Pensions.

By Mr. BATHRICK: A bill (H. R. 28440) granting a pension to Sarah Ann Reynolds; to the Committee on Invalid Pensions.

By Mr. BUTLER: A bill (H. R. 28441) granting an increase of pension to William T. Smith; to the Committee on Invalid Pensions.

By Mr. CANTRILL: A bill (H. R. 28442) granting an increase of pension to Hugh Clements; to the Committee on Pensions.

By Mr. HAMLIN: A bill (H. R. 28443) granting a pension to Austin Watson; to the Committee on Invalid Pensions.

By Mr. HELM: A bill (H. R. 28444) for the relief of William R. Ballard; to the Committee on War Claims.

By Mr. HINDS: A bill (H. R. 28445) granting a pension to Andrew F. Sanborn; to the Committee on Invalid Pensions.

By Mr. MORRISON: A bill (H. R. 28446) granting an increase of pension to Daniel Spangler; to the Committee on Invalid Pensions.

By Mr. PORTER: A bill (H. R. 28447) granting a pension to Gertrude M. Coffin and minor child; to the Committee on Pensions.

By Mr. POST: A bill (H. R. 28448) granting an increase of pension to J. R. Stroup; to the Committee on Invalid Pensions.

Also, a bill (H. R. 28449) granting an increase of pension to William C. Smith; to the Committee on Invalid Pensions.

By Mr. THISTLEWOOD: A bill (H. R. 28450) granting an increase of pension to Lucinda Kennedy; to the Committee on Invalid Pensions.

By Mr. WHITE: A bill (H. R. 28451) granting a pension to Caroline Bast; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Petition of the Italian-American Bank and the Italian-Swiss Colony, San Francisco, Cal., and 123 local societies of the Italian-American Alliance of America in and around Philadelphia, Pa., all protesting against the passage of the Burnett immigration bill for the restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. ASHBROOK: Petition of Nashville Grange, No. 1851, Lakeville, Ohio, protesting against the reduction of the present tax of 10 cents per pound on colored oleomargarine; to the Committee on Agriculture.

By Mr. CALDER: Petition of the Tide-Water Building Co., New York City; Charles M. Higgins & Co., Brooklyn, N. Y.; and C. H. Blackall, Boston, Mass., favoring adoption of the Mall site and design, as approved by the National Commission of Fine Arts, for the memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of the German-American Peace Society, New York, protesting against the passage of House bill 8141, placing the State militia on the national pay roll; to the Committee on Military Affairs.

Also, petition of the Ford Motor Co., Detroit, Mich., favoring the passage of the McLean bill giving Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of the American Talking Machine Co., Brooklyn, N. Y., protesting against the passage of section 2 of the Oldfield patent bill, preventing the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the Earl & Wilson Co., New York, favoring the passage of the Weeks bill (H. R. 27567) for 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

By Mr. CARY: Petition of the Ford Motor Co., Detroit, favoring passage of legislation for the Federal protection of migratory game birds; to the Committee on Agriculture.

Also, petition of captains and masters of the smaller class of vessels of the Great Lakes, protesting against the passage of the Hardy-Wilson bills relating to the employment of a greater number of men as seamen on all vessels; to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Chicago Peace Society, Chicago, Ill., relative to the exemption of American coastwise vessels from Panama Canal tolls, asking an international arbitration on the question if it can not be settled otherwise; to the Committee on the Merchant Marine and Fisheries.

Also, petition of the Milwaukee Corrugating Co., Milwaukee, Wis., favoring passage of the Weeks bill (H. R. 27567) for a 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

By Mr. DALZELL: Petition of the Philadelphia Bourse, Philadelphia, Pa., favoring passage of the Weeks bill (H. R. 27567) for 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of sundry citizens of Pittsburgh, favoring the passage of legislation for Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of sundry citizens of Wilkinsburg, Pa., favoring the passage of the Kenyon-Sheppard bill, preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. DYER: Petition of the National Drainage Congress, St. Louis, Mo., asking that certain changes be made in the river and harbor bill for the improvement of the Mississippi River and tributaries; to the Committee on Rivers and Harbors.

Also, papers to accompany bill (H. R. 28703) granting a pension to John G. Hunt; to the Committee on Invalid Pensions.

Also, papers to accompany bill (H. R. 28413) granting a pension to Josephine C. Nixon; to the Committee on Invalid Pensions.

Also, petition of J. C. Sartalle, St. Louis, Mo., favoring the passage of House bill 19115, for the payment of claims for longevity pay and allowances on account of services of officers in the Regular Army; to the Committee on War Claims.

Also, petition of the Wesco Supply Co., the Lungstras Dyeing & Cleaning Co., and the Broderick & Bascom Rope Co., of St. Louis, Mo., favoring the passage of the Weeks bill (H. R. 27567) providing for 1-cent letter postage; to the Committee on the Post Office and Post Roads.

Also, petition of John A. Stewart, New York, favoring the passage of legislation creating a commission to represent the United States Government in the celebration of the Ghent treaty; to the Committee on Foreign Affairs.

Also, petition of the Ford Motor Co., Detroit, Mich., and George F. Tatum, St. Louis, Mo., favoring the passage of the McLean bill for Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of the National Association of Railway Commissioners, favoring the passage of the bill (S. 6099) establishing a uniform classification of freight; to the Committee on Interstate and Foreign Commerce.

By Mr. FORNES: Petitions of the Waterbury Felt Co., Skaneateles Falls, N. Y.; the Brainerd Manufacturing Co., East Rochester, N. Y.; R. F. Lang, New York; and the Dutchess

Manufacturing Co., Poughkeepsie, N. Y., favoring passage of the Weeks bill (H. R. 27567) for 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petitions of the American Group of the Société des Architectes Diplômés par le Gouvernement Français, New York; mural painters, New York; C. H. Caldwell, New York; and John F. Carew, favoring adoption of the Mall site and design as approved by the National Commission of Fine Arts for the memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of the Consolidated Dental Manufacturing Co., New York, favoring the passage of legislation for the control of the sale of poisons adn to regulate the practice of pharmacy in the District of Columbia; to the Committee on the District of Columbia.

Also, petition of the National Association of Railway Commissioners, favoring passage of Senate bill 6099, for the establishment of a general or uniform classification of freight; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Brighton Heights Reformed Church Men's Club, Staten Island, favoring the passage of the Kenyon "red-light" injunction bill for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

By Mr. FULLER: Petition of John Burroughs, favoring the passage of legislation for Federal protection to all migratory birds; to the Committee on Agriculture.

Also, petition of W. J. Shafer, Mount Ephraim, Ohio, favoring the passage of House bill 1339, granting an increase of pension to the veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

By Mr. HINDS: Papers to accompany bill granting a pension to Andrew F. Sanborn; to the Committee on Invalid Pensions.

By Mr. LEE of Pennsylvania: Petition of the Philadelphia Bourse, favoring passage of Senate bill 7503, for 1-cent letter postage rate; to the Committee on the Post Office and Post Roads.

By Mr. LINDSAY: Petition of the Waterbury Felt Co., Skaneateles Falls, N. Y., favoring passage of the Weeks bill (H. R. 27567) for 1-cent letter-postage rate; to the Committee on the Post Office and Post Roads.

Also, petition of James T. Bathurst, Philadelphia, and W. J. Shafer, Mount Ephraim, Ohio, favoring passage of House bill 1339, granting an increase of pension to the veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

Also, petition of the Ford Motor Co., Detroit, Mich., and John Burroughs, New York City, favoring the passage of the McLean bill granting Federal protection to all migratory birds; to the Committee on Agriculture.

By Mr. MOORE of Pennsylvania: Petition of the board of directors of the Philadelphia Bourse, favoring the passage of Senate bill 7803, for a 1-cent parcel-post rate; to the Committee on the Post Office and Post Roads.

By Mr. O'SHAUNESSY: Petition of the District of Columbia Suffrage League, favoring the passage of legislation granting the residents of the District of Columbia the right of voting; to the Committee on the District of Columbia.

By Mr. PICKETT: Petition of Jacob Krapfl and 26 other citizens of Dyersville, Iowa, protesting against the passage of the Lever oleomargarine bill for reducing the tax on oleomargarine; to the Committee on Agriculture.

By Mr. POWERS: Petition of the watch force of the National Museum, together with letter and statement from the secretary and assistant secretary of the National Museum, favoring an increase in salaries of the watchmen of the National Museum; to the Committee on Appropriations.

By Mr. SPEER: Petition of sundry citizens of the twenty-eighth congressional district of Pennsylvania, favoring passage of legislation to validate leases between Uncle Sam Oil Co. and the Osage National Council; to the Committee on Indian Affairs.

Also, petition of the First Presbyterian Church of Oil City, Pa., favoring the passage of the Kenyon "red-light" injunction bill for the cleaning up of Washington for the inauguration; to the Committee on the District of Columbia.

Also, petition of the First Presbyterian Church of Oil City, Pa., favoring the passage of the Kenyon-Sheppard bill preventing the shipment of liquor into dry territory; to the Committee on the Judiciary.

UNIV. OF MICHIGAN,

DEC 4 1913